18.2.5 must not take part in the consideration of the matter, except to the extent contemplated in paragraphs 18.2.2 and 18.2.3;

18.2.6 while absent from the meeting in terms of this paragraph:

- is to be regarded as being present at the meeting for the purpose of determining a quorum; and
- is not to be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted, and

18.2.7 must not execute any document on behalf of Transnet in relation to the matter unless specifically requested or directed to do so by the Board of Transnet.

18.3 To be completed: At each key meeting

18.4 To be submitted: to the applicable Committee Secretary

18.5 The relevant forms for completion: Annexure 'C'.

POLICY STATEMENT

19 Transnet is committed to complying with the relevant requirements of the Companies Act No 71 of 2008 ("the Companies Act") and the principles of corporate governance.

20 This policy is intended to highlight the duties of the employees towards Transnet, and to specify guidelines for all employees to declare and manage conflicts of interests and conduct themselves in a transparent, responsible, fair and ethical manner.

ROLES AND RESPONSIBILITIES

21 Group Exco is responsible and accountable for the implementation of this policy.

22 The Group Company Secretary/Governance Officer is responsible for ensuring that the declarations referred to in this policy are distributed and received timeously

23 It is the responsibility of each employee to declare their interest as referred to in this policy, as and when it arises

RELATED INFORMATION AND REFERENCE

24 The policy must be read in conjunction with the following related internal and external documents

25.1 Internal Documents:

25.1.1 Transnet Code of Ethics, Disciplinary Code and relevant employment contracts

25.1.2 Policy on Non-Executive Directorship and Trusteeship of Transnet employees

TRANSNET-REF-BUNDLE-02954

25.1.3 Transnet Gifts Policy.

25.1.4 Transnet Anti-Fraud Policy.

25.1.5 Transnet Procurement Procedures Manual.

25.1.6 Transnet Recruitment & Selection Policy.

25.1.7 Supplier Code of Conduct.

25.2 External Documents:

25.2.1 The Companies Act No.71 of 2008,

25.2.2 The Public Finance Management Act No.1 of 1999;

25.2.3 The King Report on Governance for South Africa, and the King Code of Governance Principles 2009 (King III); and

25.2.4 International Accounting Standard 24 Related Party Disclosures

EXCLUSIONS

26. There are no exclusions to this Policy.

REQUEST TO DEVIATE FROM POLICY

27. In cases where material and compelling circumstances merit deviation(s) from particular provision(s) of a policy, written submissions shall be sent to the Group Chief Executive, who shall have full authority to grant such request, in whole or in part, or to refuse same.

WARNING

28. Non-compliance with this policy and the procedures is considered to be misconduct and employees will be subjected to disciplinary action that could lead to dismissal as well as criminal/civil action.

29 All suspected incidents of contraventions of this policy should be reported to senior management, Transnet Tip-offs Anonymous Hotline or Transnet Internal Audit.

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Group Company Secretariat

TRANSNET

Annexure A

DECLARATION OF INTERESTS IN CONTRACTS

Surname		Residential Address	
First Names			
Nationality			
Identity Number		Business Address	
Date of Birth			
Occupation/Position		Postal Address	
Employer/Division			

1. Please identify all existing or potential contracts or Related Party Transactions, in so far as they relate or may relate to Transnet, in which you may have a direct/indirect interest, or where you may have significant participation or involvement.

Name of contract/ transaction	Details	Name of third party	Registered address	Registration Number	Nature of interest/ participation

2. Please identify all existing or potential contracts or Related Party Transactions, in so far as they relate or may relate to Transnet, in which a related person may have a direct/indirect interest, or where a related person may have significant participation or involvement.

Name of contract/ transaction	Details	Name of related person	Registered address	Registration Number	Details of Relation to you and nature of interest/ participation

3. I confirm that I have read the Transnet declaration of interest and related party disclosures policy, and I confirm that I have made full and proper disclosure (to the best of my knowledge and belief) of all interests which I have or which a related person has in respect of any contracts relating to Transnet.

Employee Signature _____ Employee Number_____

Date _____

Group Company Secretariat

Annexure B

TRANSNET SOC LTD

ANNUAL DECLARATION OF INTERESTS

Surname		Residential Address	
First Names			
Nationality			
Identity Number		Business Address	
Date of Birth			
Occupation/Position		Postal Address	
Employer/Division			

1. Directorships and other financial interests (Please incicate all companies of which you are a director, close corporations of which you are a member, partnerships, trusts, sole proprietorships and other entities in which you have an interest and include all entities that are Controlled/Significantly Influenced by you, and list all entities in which you have a shareholding or similar interest and indicate with an asterisk those interests which constitute a Conflict of Interests.

Name of entity *(e.g XYZ(Pty) Limited)*	Registered address *(e.g Transnet SOC Ltd, 47th Floor, Carlton Centre, 150 Commissioner Street, Johannesburg)*	Registration number *(e.g 1995/000661/07)*	Nature of Interest *(e.g Non-Executive Director/Shareholder)*	Date of Appointment or Acquisition of Interest *(e.g 13 July 1999)*	% held *(e.g NIL)*

Employee Signature _____ Employee Number _____

Date _____

Group Company Secretariat

TRANSNET SOC Ltd

RELATED PARTY DISCLOSURES

2. Family members (Please identify all your close family members)

Close family members include your spouse or domestic partner (if not married), your children or your domestic partner's children, and your dependants or dependants of your spouse or domestic partner

Full names and Surname	Relationship with Employee

Employee Signature _____ Employee Number _____

Date _____

TRANSNET

Group Company Secretariat

TRANSNET SOC Ltd

RELATED PARTY DISCLOSURES

3. Directorships and other financial interests of the family members as identified on page 2 (Please identify every company, close corporations, partnerships, trusts, sole proprietorships and other entities of which any close family member of yours is a director or manager, or which is controlled/jointly controlled/significantly influenced by any such close family member, or in which any such close family member has a shareholding or other similar interest)

Full names and Surname of close family relative	Entity where financial Interest held	Nature of financial interest	% held
(a)Spouse/Domestic partner			
1			
b)Children (Own, or those of spouse/domestic partner)			
1.			
2			
3			
c)Dependents (Own, or those of spouse of domestic partner)			
1.			
2			
3.			
d) Juristic Persons Related to you			
1.			
2.			
3.			

I confirm that I have read the Transnet declaration of interest and related party disclosures policy, and I confirm that I have made full and proper disclosure (to the best of my knowledge and belief) of all interests which I have or which a related person has in respect of any contracts relating to Transnet.

Employee Signature _____ Employee Number_____

Date _____

TRANSNET SOC Ltd

RELATED PARTY DISCLOSURES

Declaration by Employee

I _____

(Full names and surname printed)

declare that the aforesaid information is to the best of my knowledge true, and, that I fully understand the contents of this declaration. I also undertake that I will immediately notify the relevant Company Secretary/Governance Officer should it come to my attention that any information provided above may not be true, accurate or complete.

_____ _____

SIGNATURE OF EMPLOYEE EMPLOYEE NUMBER

DATE : _____

PLACE : _____

Group Company Secretariat

TRANSNET SOC LTD

DECLARATION OF INTERESTS AND REGISTER OF EXECUTIVE MANAGEMENT FORM

Certification by a Transnet SOC Ltd representative - Group Company Secretary

I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration.

_____

(Signed. For and on behalf of Transnet SOC Ltd) by Divisional CEO/Group Company Secretary

Full first names and surname:

_____

(Block letters)

Designation Employee Number

Date _____ Place _____

NOTE

Remember that a copy of the completed form must be submitted by the employee to the company secretary for purposes of recording it in the Register of Designated Employee's Interests.

Annexure C

DECLARATION OF INTEREST (MEETINGS)

Reference: Pack for the _____, meeting number _____ to be held/held on _____20___.

I, the undersigned, _____declare that:

(a) I am not in any way, whether directly or indirectly, save in my capacity as an employee of Transnet/representative of _____, interested in any contract or proposed contract, which has been or is to be entered into by the Company, and which is to be discussed at the abovementioned meeting;

(b) I am not in any way, whether directly or indirectly, save in my capacity as an employee of Transnet/representative of _____, interested in any other matter which is to be discussed at the abovementioned meeting;

(c) I do not have any relationship, whether of a family, business, social or other nature, with any person who has any interest, whether direct or indirect, in any contract or other matter to be discussed at the abovementioned meeting;

(d) Should I at any stage before, during or after the abovementioned meeting become aware of the existence of an interest or relationship of the nature described above, I will immediately disclose such interest or relationship to Transnet; and

(e) If I have a conflict of interest in respect of a matter to be considered at this meeting or know that a related person has a personal financial interest in the matter, I will disclose the interest before the matter is considered at the meeting and recuse myself from the meeting.

SIGNED AT _____ ON THE ____ DAY OF _____ 20___.

_____ _____

COMMITTEE MEMBER/ATTENDEE EMPLOYEE NUMBER

TO BE COMPLETED BY THE COMMITTEE/SECRETARY

Name : _____

OD/Specialist Unit/Subsidiary : _____

_____

COMMITTEE SECRETARY

1075

EXHIBIT 11

INTEGRATED SUPPLY CHAIN MANAGEMENT

TRANSNET PROCUREMENT
PROCEDURES MANUAL
[PPM]

Incorporating Procedures for General Procurement & Construction Procurement

Version 2
October 2013

PROCUREMENT PROCEDURES MANUAL

SECTION A Background and Context

SECTION B Procurement Planning

SECTION C Go To Market

SECTION D Evaluation and Adjudication

SECTION E Contract Management

SECTION F Governance Structures

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DOCUMENT CONTROL

Revision History:

Description	Effective Date	Version
Procedures Manual re-written to provide more comprehensive guidance and renamed Procurement Procedures Manual	26 May 2009	0
Procedures Manual re-written to align to approved Supply Chain Policy	01 October 2012	1
Procedures Manual re-written to align to revised Supply Chain Policy and the Preferential Procurement Policy Framework Act. Procedures relating to construction procurement incorporated into the PPM	01 October 2013	2

This document has been reviewed by the relevant governance structures and approved by the Board Acquisitions & Disposals Committee.

Issued by:

Garry Pita
Group Chief Supply Chain Officer
Date: 11/9/13

SECTION A:

BACKGROUND AND CONTEXT

Chapter 1: Introduction

Chapter 2: Definitions, Abbreviations and Acronyms

Chapter 3: Scope and Exclusions

Chapter 4: Applicable Legislation and Policies

Chapter 5: Code of Ethics

Chapter 6: Delegation of Authority for Procurement Processes

CHAPTER 1 : INTRODUCTION

Transnet SOC Ltd ("**Transnet**") is fully owned by the South African government and operates as a corporate entity. It is aimed at supporting and contributing to the country's freight logistics network by developing South African industry, reducing the cost of doing business, ensuring efficient and profitable operations, whilst at the same time promoting critical developmental and empowerment objectives.

Section 217 of the Constitution Act 108 of 1996 and section 51(1)(a)(iii) of the Public Finance Management Act 1 of 1999 ("**PFMA**") stipulate that Transnet must have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.

Transnet's Supply Chain Policy and this Procurement Procedures Manual ("**PPM**") give effect to these statutory requirements. The aim of the Supply Chain Policy is to ensure that Transnet gets value for money in the procurement of Goods and Services in order to fulfil its mandate whilst redressing the economic imbalances that have been caused by unfair discrimination in the past. Transnet shall therefore carry out its procurement processes as cost-effectively as possible whilst meeting its commercial, regulatory and socio-economic goals. The Policy ensures a coherent framework within which procurement principles and compliance controls are applied across Transnet.

The PPM seeks to operationalise the objectives of the Supply Chain Policy.

1.1 NATIONAL OBJECTIVES

The Transnet supply chain function should firstly be seen in the national context. Government's economic development policies such as the New Growth Path ("**NGP**"), the New Development Plan ("**NDP**") and the Industrial Policy Action Plan ("**IPAP**") emphasise the role that State Owned Companies ("**SOCs**") should play as key agents in a developmental state to accelerate national development by leveraging their procurement spend to ensure that key goals such as job creation, poverty alleviation, skills transfer and empowerment are achieved. As one of the major State Owned Companies, Transnet has a pivotal role to play in ensuring that Government's economic development policy goals are met.

1.2 INTEGRATED SUPPLY CHAIN MANAGEMENT ("iSCM") PROCUREMENT OBJECTIVES

1.2.1 Transnet's procurement objectives which are aligned to Transnet's objectives, particularly the Market Demand Strategy ("**MDS**"), are ensuring security of supply of goods and services that Transnet requires to fulfil its mandate, and achievement of key socio-economic goals, eg. job creation, empowerment. All Transnet's procurement activities shall be implemented in line with the following best practice principles:

1.2.2 Fairness and Transparency:

- equal treatment of bidders;
- openness and accountability; and
- ethical conduct.

1.2.3 Social Equity:

- Broad-Based Black Economic Empowerment ("B-BBEE"), Preferential Procurement and Enterprise and Supplier Development.

1.2.4 Value for money:

- competitiveness; and
- cost effectiveness.

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1.2.5 Due regard must be given to the importance of:

a) the promotion of Interdivisional Procurement as well as the moving of excess stock between Divisions; and

b) the development, promotion and support of Transnet's Supply Chain Code of Ethics, which requires that all commercial conduct be based on ethical and moral values and sound business practice. This value system governs all commercial behaviour within Transnet.

1.2.6 Transnet will strive to procure Goods and Services which contribute to its mission: To anticipate and satisfy the requirements of its customers for a highly responsive and cost-effective transportation Service. In order to achieve this, Transnet is committed to working with suppliers who share its goals of continuous improvement in service, Quality and reduction of Total Cost of Ownership (TCO).

1.2.7 Transnet prefers not to do business with any agents ("middlemen"), who do not add significant value to the supply chain. Transnet would rather contract directly with the overseas and/or local Original Equipment Manufacturers (OEMs). In the case of dealing with overseas OEMs for relevant SD targeted commodities such as rolling stock and port equipment, Transnet will negotiate meaningful SD local capability and capacity building initiatives as part of their supply agreements with Transnet.

1.2.8 Transnet commits to clarity in its communication of requirements. It furthermore commits to being professional, courteous, fair, factual and responsive in its business dealings.

1.2.9 Transnet supports good corporate governance by ensuring the preservation of the highest standards of integrity, objectivity, fairness, efficiency and professionalism.

1.2.10 The purpose of one Supply Chain Policy and a uniform set of procedures for the whole Transnet Group is to facilitate a uniform interpretation internally, whilst complying with the requirements of Section 51(1) (a) of the PFMA and Section 217 of the Constitution.

1.3 iSCM CONTROL OBJECTIVES

Transnet's iSCM function is aimed at achieving the following control objectives:

- To ensure only goods and services required by the organisation are acquired;
- To ensure that demand is appropriately defined and supply is structured/executed in accordance with the needs of the business;
- Tenders enable efficient/economical procurement from appropriate vendors considering legislative requirements;
- To ensure that policies and procedures exist for the Contract Management process and are standardised across Transnet;
- To employ and retain adequately skilled and sufficient contract management resources;
- To ensure that contract management is planned adequately and efficiently to enable Transnet to achieve its business objectives;
- To ensure that all goods and services are properly and efficiently delivered against the agreed standards and targets set out in the contract / SLA;
- To effectively and efficiently manage and maintain all supplier relationships;
- To ensure that all contracts are adequately retained and maintained on SAP or filed manually;
- To ensure that all contracts have been properly approved, finalised and archived.

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- To ensure integrity of master data which will enable efficient, effective and economical procurement decision making;
- To ensure that there is appropriate source of supply to meet demand requirements timeously and that accurate and timeous payments are made to correct suppliers;
- Inventory is re-ordered promptly, at an appropriate level, to ensure availability when required. Material items are appropriately defined and set-up with correct specification. Inventory is appropriately safeguarded and secure; and
- To ensure fairness and diligence in the conduct and accounting of all scrap business practices that are adopted and is supported by duly documented, approved and accessible policies and procedures.

NOTE: The detailed Business Critical Activities (BCAs) derived from the above iSCM Control Objectives are attached hereto as Appendix A *(Business Critical Activities)*.

CHAPTER 2 : DEFINITIONS, ABBREVIATIONS AND ACRONYMS

TERM	DEFINITION, ABBREVIATION OR ACRONYM
Acceptable Bid	Any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document
Acquisition Council [AC]	The main Acquisition Council of an Operating Division, Specialist Unit or Business. Unless specifically stated otherwise "AC" also includes sub-Acquisition Councils operating under the auspices of the ACs and which caters for transactions falling below the minimum threshold of the main AC, e.g. Acquisition Councils operating on a local or regional basis, as well as the TAC catering for Corporate Head Office and transversal contracts
Advance Payment Guarantees [APGs]	is a guarantee issued by a financial institution, on behalf of a supplier to a buyer, in relation to any advance payment that is made by the buyer to the supplier to allow the work to commence. The guarantee protects the buyer against the risk of non-performance as the buyer can claim reimbursement of the advance payment against the guarantee in such a case
Advertisement	A public invitation to submit bids for the provision of Goods or Services
Alternative Bid	Is a bid that purports to satisfy a stated need but does not fully comply with the laid down specification of the RFX. Alternative Bids are allowed at the discretion of Transnet
B-BBEE	Broad-Based Black Economic Empowerment
B-BBEE Enterprise	Any supplier or contractor who has been rated anything from a Level 8 (10 % recognition level) to a Level 1 (135% recognition level), as defined in the B-BBEE Act and Codes of Good Practice issued by the DTI
B-BBEE Improvement Plan	A plan requested from bidders/preferred bidders on the extent to which they commit to improving or sustaining their B-BBEE performance over the contract period. These criteria focus on ownership, management control, employment equity, preferential procurement, skills development and enterprise development.
Bid	A written offer in a prescribed form in response to an invitation by Transnet for the provision of Services, works or Goods, through price quotations, advertised open bids, approved lists, confinements or proposals
Bidder	a natural or juristic person or partnership who submits a bid offer or an expression of interest to perform a contract in response to an invitation to do so
Black People	is a generic term which means Africans, Coloureds and Indians
Board Acquisitions & Disposals Committee [BADC]	A sub-committee of the Transnet Board of Directors tasked with providing oversight and approval for acquisitions and disposals falling within its delegation of authority
Board of Directors [BOD]	The Board of Directors of Transnet SOC Ltd
Buyer	Any person in Procurement or iSCM in any Transnet entity, who has the

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
	necessary delegated powers to undertake specific procurement functions with regard to transactions falling within his/her DoA, i.e. the R-value of the transaction
Carrier	Any person who, in a contract of carriage of goods, undertakes to perform or to procure the performance of carriage, by rail, road, sea, air, inland waterway or by a combination of such modes (used in definitions of Incoterms)
Centre(s) of Excellence [COE(s)]	Cross-divisional teams strategically focusing on a particular functional area. They focus on tactical issues relating to the functional area, and are aimed at identifying and leveraging on the areas of excellence in Transnet. Key strategic objectives will be executed through the COEs with a risk mitigation plan supported by Enterprise Risk Management (ERM)
Chief Executive Officer [CEO]	The Chief Executive Officer at the head of a Transnet Division with appropriate delegated authorities which are in line with the Transnet Group Delegation of Authority (Group Limits of Authority)
Chief Financial Officer [CFO]	A Chief Financial Officer in an Operating Division of Transnet including Transnet Capital Projects
Construction Industry Development Board [CIDB]	Any construction related bid/contract, as defined in, and regulated by the Construction Industry Development Board, by virtue of the CIDB Act. This includes new construction activities as well as the maintenance of existing civil, mechanical or electrical structures
bid/contract	
Confinement	A procurement process restricted to one or a limited number of Bidders
Consultant	A person, company or a close corporation that provides expert or specialised advisory skills / services. A consultant does not supply the ultimate end product, but provides a recommendation of the best solution to a specific need based on his/her expertise.
Chief Procurement Officer [CPO]	The Chief Procurement Officer of a Division of Transnet or a Specialist Unit
Cross Functional Evaluation Team [CFET]	A team that is involved in the evaluation of bids regarding transactions of a high value or where the quality / functionality criteria is complex and a simple yes /no answer on technical compliance is not possible or viable.
Cross Functional Sourcing Team [CFST]	A team that is involved in the procurement of transactions of a high value or where the quality / functionality criteria are complex. As they represent various functions, a holistic overview over the process will be ensured.
Delegation of Authority [DoA]	The extent of authority required in order to implement certain actions by or on behalf of the company, including any sub-delegation of authority where permitted. This includes the power to retrospectively authorise, condone or rescind a decision already taken by a sub-delegate.
Exempted Micro Enterprise [EME]	An enterprise with an annual turnover of less than R5 million, as defined by the DTI's Codes of Good Practice
Expression of Interest [EOI]	Means a request for Bidders to register their interest in providing specified Goods or Services and to submit their credentials so they may be invited to submit a Bid should they qualify or are selected to do so.
Enterprise	A trading business (a company, close corporation, partnership or any other

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
	form of business) external to Transnet.
Entity	Used in the Transnet context to describe an internal Transnet Operating Division, Specialist Unit, Transnet business or the various Group Functions comprising the Corporate Centre
Fronting	A deliberate circumvention or attempted circumvention of the BBBEE Act and the Codes. Fronting commonly involves reliance on data or claims of compliance based on misrepresentations of facts, whether made by the party claiming compliance or by any other person
Fruitless and Wasteful Expenditure	Expenditure that was made in vain and could have been avoided had reasonable care been taken. The paying of exorbitant prices which are not market related is also regarded as fruitless and wasteful expenditure
Goods	Any physical object or objects which has value, whether raw or processed, movable or immovable
Group	All Operating Divisions, Specialist Units, Businesses as well as the various different Group Functions comprising the Corporate Centre
Group Chief Executive [GCE]	The person in the Corporate Centre appointed as the Transnet Group Chief Executive, duly appointed by the Minister of Public Enterprises, or the person acting in his/her stead, at any given time, in terms of a proper mandate
Group Chief Financial Officer [GCFO]	The Group Chief Financial Officer in the Group Corporate Head Office, who reports directly to the GCE, or the person acting in his/her stead, at any given time, in terms of a proper mandate
Group Chief Supply Chain Officer [GCSCO]	The General Manager who heads up the integrated Supply Chain Management function in the Corporate Head Office, or the person acting in his/her stead, at any given time, in terms of a proper mandate
High Value Tender Process [HVTP]	A process that is used in the procurement of high value goods/services. This process includes a number of gateway reviews during key steps of the tender process, in order to ensure that any flaws in the process are detected timeously
IC^3 Supplier Development Matrix	A framework utilised to categorise SD opportunities on a matrix based on their value, extent of industrial leverage and strategic importance to Transnet. The matrix is adapted from the DPE Supplier Classification Matrix focused on **I**ncreased **C**ompetitiveness, **C**apability and **C**apacity
Imported content	That portion of the Bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry
Incoterms	(ICC Incoterms 2010) means, in relation to international trade (sale and purchase of Goods), the globally accepted purchase terms for Goods, used to indicate the costs to be incurred by the seller and the buyer and the point at which the risk of the Goods passes from the seller to the buyer See Appendix C for detailed definitions of all Incoterms
Integrated Supply Chain Management [iSCM]	The Integrated Supply Chain Management function as a whole including all Operating Divisions and Centres of Excellence

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
Irregular Expenditure	Expenditure incurred in contravention of, or that is not in accordance with a requirement of any applicable legislation, including the PFMA
Letter of Award	Is issued when a Bidder is selected as the Successful Bidder. The letter of award informs the Successful Bidder unequivocally that he/she was awarded the business
Letter of Intent (LOI)	Is issued when a Bidder is selected as the Preferred Bidder. The LOI informs the Preferred Bidder of Transnet's intention to negotiate and conclude a contract with it
Local Content (LC)	The portion of the Bid price or quotation which is not included in the Imported Content, provided that local manufacture does take place
Manager	Means any employee in Transnet, by whatever designation he/she is known, who has been delegated certain specific powers in terms of a proper Delegation of Authority
Material Amendment	An amendment which increases the scope, cost or risk of a contract by more than 10% of the original contract value
Market Demand Strategy (MDS)	The Transnet strategy to invest in capital infrastructure in order to meet market demands for increased efficiency and effectiveness in delivery of Transnet's services
Non-Disclosure Agreement [NDA]	A confidentiality agreement between two or more parties
Open Bid	A public request to do business which has been properly advertised and to which any member of the public can submit a Bid
Operating Division [OD]	An operating division of Transnet, namely TFR, TPT, TNPA, TPL and TRE
Parcelling	When the full scope of work is known at a point in time and business is deliberately split into smaller portions to keep the transaction value within one's own Delegation of Authority, or to keep it below the threshold of an AC or a person with higher Delegation of Authority
Parent Company Guarantee	A guarantee by a parent company of a supplier's performance under its contract with a buyer, where the supplier is a subsidiary of the parent company.
Performance Bonds (PBs)	A performance bond from a bank guarantees performance under a contract from commencement to completion. The bank issuing the performance bond undertakes to pay a specified sum of money to the buyer if the supplier does not fulfil its contractual obligations.
Post Tender Negotiation [PTN]	Negotiations between Transnet and one or more shortlisted Bidders after the Bids have been evaluated, but before the business has been awarded
Preferred Bidder	Means a Bidder that has been identified through an evaluation process as the Bidder with whom Transnet intends to conclude a contract subject to the successful completion of contract negotiations
Prequalification Criteria	These are criteria that have to be met for a Bid to be deemed as responsive, e.g. registration with a specific professional body, specific accreditation, etc
Qualifying Small Enterprise [QSE]	An enterprise with a turnover between R5m and R35m, as defined by the DTI's Codes of Good Practice

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
Quality (Functionality)	means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder
Rental or Lease	The use of Goods and/or moveable assets for a period and for consideration (compensation)
Request for Information [RFI]	An invitation to a broad base of potential suppliers to provide written information about their capabilities to meet a stated Transnet need. An RFI is primarily used in instances where Transnet is not clear about the precise specifications and/or scope of work required to meet its needs for specified Goods or Services. The information received through an RFI process is typically used to pre-qualify suppliers for consideration before an RFP for the Goods/Services is issued
Request for Quotation [RFQ]	Request for Quotation is used for transactions <R2m. However, CEOs may at their discretion lower the quotation limit
Request for Proposal [RFP]	Request for Proposal is used on the open Bid process i.e. for transactions > R2 million. However, CEOs may at their discretion lower the minimum threshold for open Bids
Request for ... [RFX]	A generic term which can be used interchangeably with either RFI, RFQ or RFP
Service	The provision of labour or work, including knowledge-based expertise, carried out by hand, or with the assistance of equipment and plant
SOC	State Owned Company
Supplier Development (SD)	Improving the socio-economic environment as required by the NGP by creating competitive local suppliers via Enterprise Development, the Competitive Supplier Development Programme and other initiatives such as Preferential Procurement. This results in a reduction in capital leakage and creates a supply base that can be competitive to market its Goods on the international market leading to increased exports.
Successful Bidder	Means a Bidder that has been identified as the Bidder to which business has been awarded
Tender Evaluation and Recommendation Report [TEAR]	A report that must be submitted by the evaluation team to the AC setting out an overview of the bid evaluation process, evaluation methodology, reasons for elimination of Bidders, a recommendation for the award of the tender as well as all supporting evaluation scorecards
Transnet Acquisition Council [TAC]	Acquisition Council catering for Corporate Head Office procurement and Centre-led transversal procurement
Transnet Capital Projects [TCP]	Transnet Capital Projects - a Specialist Unit of Transnet
Transnet Engineering [TE]	Transnet Engineering - an Operating Division of Transnet
Transnet Freight Rail [TFR]	Transnet Freight Rail - an Operating Division of Transnet

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
Transnet National Ports Authority [TNPA]	Transnet National Ports Authority - an Operating Division of Transnet
Transnet Pipelines [TPL]	Transnet Pipelines - an Operating Division of Transnet
Transnet Port Terminals [TPT]	Transnet Port Terminals - an Operating Division of Transnet
Transnet Properties(TP)	Transnet Properties – a Specialist Unit of Transnet
Transnet Corporate Centre [TCC]	The Head Office of Transnet SOC Ltd
Transnet SOC Ltd	Transnet SOC Ltd, Registration No. 1990/000900/30 incorporated in terms of the Companies Act 71 of 2008, as amended which includes all Operating Divisions, Specialist Units and/or subsidiaries
Unsolicited Bid	A unilateral request from a person or enterprise to do business with Transnet without Bids or quotations having been invited by Transnet
Working day	Any day other than a Saturday, Sunday or public holiday
Year	Any defined period of 12 (twelve) consecutive months
"Z" Clause	Refers to any additional clauses/special conditions mentioned in the Contract Data, Part 1 of the NEC3 Suite of Contracts

Notes:

- Words capitalised in the document have been defined in this Chapter.
- The terms "bid" and "bidder" in the context of this Procurement Procedures Manual are synonymous with the terms "tender" and "tenderer" respectively.

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CHAPTER 3 : SCOPE AND EXCLUSIONS

The PPM is applicable to all acquisitions across the Transnet Group regardless of the value of the transaction, save for the exclusions mentioned in Table 1 below. The PPM has been aligned to the Construction Industry Development Board (**"CIDB"**) Act and Standard for Uniformity in Construction Procurement (Standard for Uniformity) and applies to all construction procurement across Transnet as indicated in paragraph 3.4. below.

The PPM sets minimum standards for compliance, however, CEOs and their duly appointed Acquisition Councils (**"ACs"**) may impose more stringent rules and thresholds than those laid down in the PPM.

3.1 PROCUREMENT PROCEDURES

Transnet's Procurement Procedures as encapsulated in this document (the **PPM**), aim to establish the framework within which all procurement activities are to be conducted at Transnet. These procedures are derived from the Transnet Supply Chain Policy, and should be read in conjunction with delegated powers granted in terms of the Delegation of Authority Framework. Other formal procedural manuals, directives, circulars or practice notes may be issued from time to time, either from iSCM, or from an Operating Division (**"OD"**), AC or Group Function and these should be read in conjunction with this Manual. However, it must be noted that any directive that changes any substantive principles of the PPM will be issued only on approval from the BADC. Where any conflict arises between such directives and the **PPM**, the **later dated document** shall prevail.

3.2 COMPLIANCE WITH THE PPM

Subject to paragraph 3.5 below, all procurement within Transnet must be conducted by supply chain officials within Transnet in accordance with the PPM.

3.2.1 Non-compliance with the PPM will be regarded in a serious light as it could result in Irregular Expenditure and/or Fruitless and Wasteful Expenditure in terms of the PFMA.

3.2.2 Section 51(1)(e) of the PFMA places an obligation on Transnet to take the necessary appropriate action regarding acts of financial misconduct.

Failure to comply with the provisions of the PPM will lead to disciplinary action and depending on the severity of the non-compliance, possible dismissal and/or legal action. As a general rule, condonation of non compliance with procurement policies and procedures is not permitted in terms of the PPM.

3.3 PURCHASING PROCEDURES

These procedures cover the purchasing and supply of all Goods, Services (tangible and intangible), fixed assets, construction-related procurement and the appointment of consultants. The aforementioned are in respect of both Operational and Capital expenditure.

3.3.1 Ferrous and non-ferrous scrap

The process of appointing contractors for the disposal of ferrous scrap (steel) and non-ferrous scrap is subject to the PPM. Due to the high value income-generating nature of such disposals as well as the high risk of theft, the disposal of scrap is in addition governed by a separate, detailed "Scrap Disposal Policy and Procedures". This policy is available on the Transnet Intranet.

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3.4 CONSTRUCTION PROCUREMENT PROCEDURES

This PPM has been aligned to the Construction Industry Development Board ("CIDB") Act and Standard for Uniformity and applies to all construction-related acquisitions across Transnet. In relation to construction procurement, to the extent that there is any conflict between the PPM and legislation related to construction procurement, the legislation shall prevail.

Where different procedures apply to general procurement and construction procurement, the CIDB logo will appear next to the procedures relating to construction procurement only

Other formal procedural manuals, directives, circulars or practice notes relating to Construction Procurement may be issued from time to time and these should be read in conjunction with this Manual.

At the start of every Chapter following this Chapter there will be an indication regarding the applicability of the Chapter to construction procurement.

3.5 PPM EXCLUSIONS

The transactions and processes tabled below are excluded from this Procurement Procedures Manual:

TABLE 1

• Individuals (temporary staff), including contract workers employed by Transnet Human Resources. (However, the appointment of a recruitment agency, Consultant, consultancy firm or a firm providing a Service to Transnet must follow the **PPM**)
• Petty cash purchases, subject to such instructions as issued from time to time
• Inspection Services in connection with the procurement / sale of Goods / assets
• Media advertising (excluding campaigns involving professional advertising agencies)
• Income generating transactions (i.e. where Transnet's infrastructure, etc. is utilised to provide a Service; including instances where cross-divisional support is engaged for strategic or other reasons. However, procurement relating to such income-generating contracts must follow the PPM - see Chapter 9 *(Contract Options)*
• Water and electricity which is supplied to Transnet, including the provision of Services, as well as the relocation of such Services as a result of Transnet's activities (e.g. the relocation of power lines or water mains due to the construction of a new railway line)
• Rates and taxes and other levies raised by local authorities or provincial administrations, both of which are excluded from these procedures, by virtue of the fact that they can only be obtained from the particular local authority, but which are for purposes of good corporate governance, paid by means of blanket orders, or other approved methods
• Purchase of Goods at auctions
• Sale of Goods at auctions but excluding the appointment of auctioneers
• Letting and hiring of dwellings, and acquisition and alienation of houses or acquisition of land for houses in terms of prescribed housing policy
• Letting and hiring, and acquisition and disposal of all immovable assets. Refer to the Transnet Group Delegation of Authority, available on the Transnet Intranet.
• Sponsorships and donations, which are strictly governed by Delegated Powers

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• Disposal of non-core businesses by the Transnet Restructuring Department. Such disposals are on the strict proviso that any employee of the Transnet Restructuring Department, a Transnet Board member or a senior Manager (or higher) in the Transnet Group or any of its divisions will be disqualified from the Bidding process for the said non-core businesses for a period of 18 months from the date of his/her exit from Transnet
• The disposal of all movable assets, e.g. the disposal of redundant PC equipment, cell phones, office equipment and furniture must be properly controlled in terms of the individual policies/procedures governing such disposals. These policies and procedures are available on the iSCM Transnet Intranet.
• The provision of degree or diploma certificates by tertiary institutions, attendance of training courses, seminars and conferences which are required on a once-off basis and are under R2 million in value, provided that such transactions are approved by the person with the required DoA. Such quotes must be sourced and processed by the end user department requiring the training.
• Any such exclusions which a Transnet Division may apply for through iSCM and which have been duly approved by the Transnet Group Chief Executive ("**GCE**") or the Transnet Group Chief Financial Officer ("**GCFO**") in accordance with guidelines which may be issued from time to time.

3.6 APPLICATION

This version of the PPM applies to all new procurement processes which have been initiated on or after the commencement date of this document. Procurement processes initiated prior to the commencement date must be dealt with in accordance with the rules that were applicable at the time [i.e. the October 2012 version of the PPM in relation to general procurement and the Transnet Capital Projects ("TCP") Construction Procurement Policy, Processes, Procedures and Methods Manual (the Construction Manual), Revision 1 in relation to construction procurement].

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CHAPTER 4 : APPLICABLE LEGISLATION AND POLICIES

4.1 CONSTRUCTION-RELATED LEGISLATION

In terms of legislation, Construction procurement must be in compliance with the requirements of the Construction Industry Development Board Act (CIDB Act), 38 of 2000 including the CIDB Regulations and Standard for Uniformity, as amended. With regard to Transnet's policies on Preferential Procurement and Supplier Development, these must be pursued in construction procurement but only to the extent allowed by the CIDB legislation. Construction Procurement methods to support Supplier Development are covered in the methods for evaluation.

4.2 GENERAL LEGISLATION

The Government of the Republic of South Africa, through the Department of Public Enterprise, is the sole shareholder of Transnet. The following legislation has been taken into consideration in the formulation of this document:

TABLE 2

LEGISLATION AND GOVERNMENT POLICY
• The Administrative Adjudication of Road Traffic Offences Act, 46 of 1998
• The Arbitration Act, 42 of 1965
• The Broad-Based Black Economic Empowerment Act, 53 of 2003 as amended, including the Department of Trade & Industry's Codes of Good Practice
• The Companies Act, 71 of 2008 as amended
• The Competition Act, 89 of 1998 as amended
• The Competitive Supplier Development Programme (CSDP)
• The Constitution of the Republic of South Africa Act, 108 of 1996
• The Construction Industry Development Board Act (CIDB Act), 38 of 2000 including the CIDB Regulations and Standard for Uniformity, as amended
• The Conventional Penalties Act, 15 of 1962
• The Copyright Act, 98 of 1978
• The Currency and Exchange Act, 9 of 1933
• The Designs Act, 195 of 1993
• The Electronic Communications and Transaction Act, 25 of 2002
• The Framework for the Operationalisation of Government's Procurement Policies in State Owned Enterprises (dated 31 July 2001)
• The Income Tax Act, 58 of 1962
• The Industrial Policy Action Plan II
• The King III Report on Corporate Governance
• The Local Procurement Accord

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LEGISLATION AND GOVERNMENT POLICY
• The National Development Plan (NDP)
• The National Ports Act, 12 of 2005
• The National Railway Safety Regulator Act, 16 of 2002
• The New Growth Path (NGP)
• The Occupational Health and Safety Act, 85 of 1993
• The Patents Act, 57 of 1978
• The Preferential Procurement Policy Framework Act (PPPFA), 5 of 2000 as amended, Regulations of 2011 - effective 7 December 2012
• The Prevention and Combating of Corrupt Activities Act, 12 of 2004 as amended
• The Promotion of Access to Information Act (PAIA), 2 of 2000 as amended
• The Promotion of Administrative Justice Act, 3 of 2000
• Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000
• The Public Finance Management Act (PFMA), 1 of 1999 as amended (Transnet is not bound by the Supply Chain regulations issued in terms of this Act)
• The Promotion of Administrative Justice Act (PAJA), 3 of 2000 as amended
• The Second-Hand Goods Act, 6 of 2009
• The Standards Act, 8 of 2008
• The Trade Marks Act, 194 of 1993
• The Value Added Tax Act, 89 of 1991

4.3 POLICIES

4.3.1 General Overview of Transnet Policies

The following policies and procedures which are available on the Transnet Intranet are supplementary to the PPM and should be taken into consideration, where applicable. Persons using the PPM must apply the most recent edition of the documents listed in Table 3 below

TABLE 3

TRANSNET POLICIES AND PROCEDURES	LOCATION
• Transnet Code of Ethics	Company Secretary Intranet portal
• Cell phone Policy	ICT Intranet Portal
• Contract Management Policy	Policies Intranet Portal
• Counterparty Risk Management Policy	Finance Intranet Portal
• PC Disposal Policy	ICT Intranet Portal
• Declaration of Interest and Related Party Disclosure Policy	Company Secretary Intranet portal
• Delegation of Authority Framework	Company Secretary Intranet portal
• Group Compliance Policy	Group Compliance

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TRANSNET POLICIES AND PROCEDURES	LOCATION
	Intranet Portal
• Gifts Policy	Company Secretary Intranet portal
• Supply Chain Policy	iSCM Intranet portal
• Procure to Pay Procedures(P2P)	iSCM Intranet portal
• High Value Tender Process	iSCM Intranet portal
• Records Management Policy	Company Secretary Intranet portal
• Reverse Logistics Procedure	iSCM Intranet portal
• Scrap Policy	iSCM Intranet portal
• Supplier Development Plan	iSCM Intranet portal
• Transnet Broad-Based Black Economic Empowerment Policy	Group Compliance Intranet portal

4.3.2 Preferential Procurement

a) Strategic Intent

Patterns of racial inequality (as well as other forms of social inequality) stubbornly persist almost two decades after the demise of apartheid. There is also a huge disparity in income distribution between social groupings. Transnet will therefore act as a responsible corporate citizen in the context of its B-BBEE endeavours, by utilising various strategies to promote empowerment more vigorously. Such strategies must be applied subject to the discipline of our constitutional framework to ensure that the overall objectives of a non-racial and non-sexist society are achieved. Transnet will also apply these strategies in a manner as to ensure that the constitutional principles of fairness, equity, transparency, competitiveness and cost-effectiveness are not materially undermined.

The strategies referred to above include (but are not limited to) the following:

- allocating either 10 or 20 preference points in accordance with the PPPFA based on the B-BBEE status of an enterprise in terms of its valid B-BBEE scorecard;
- requesting an enterprise to commit to **improving or sustaining its B-BBEE performance** over the contract period in the following areas: ownership, management control, employment equity, preferential procurement and enterprise development (This will be referred to as a B-BBEE Improvement Plan);
- encouraging bidders to form Joint Ventures (JVs) with black owned entities, alternatively to sub contract a minimum percentage of the contract to black owned companies;
- stipulating that an Enterprise will not be awarded points for its B-BBEE status level if it has indicated in its Bid response that it intends sub-contracting more than 25% of the value of the contract to any other Enterprise that does not qualify for at least the points that such a Bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the sub-contract;
- stipulating that an Enterprise who has been awarded a contract may not sub-contract more than 25% of the value of the contract to any other Enterprise that does not have an equal or higher BBBEE status level than the Enterprise concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the sub-contract;

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- stipulating that an Enterprise awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- Requiring winning bidders to take steps to ensure:
  - management and daily operational involvement by Black professionals and managers as prescribed in the different sector charters;
  - skills transfer and training; and
  - employment creation and employment equity.

The underlying objective of the Preferential Procurement methodology is to create an enabling environment for B-BBEE Enterprises to access available procurement opportunities within Transnet and to add value to the supply chain. B-BBEE Enterprises will therefore be engaged as:

- principal contractors;
- joint venture partners;
- professional service providers;
- subcontractors, suppliers and/or manufacturers.

b) Scope and applicability

(i) Transnet's approach to Preferential Procurement applies to all purchases of Goods and Services and will apply to all QSEs, EMEs as well as to large enterprises.

(ii) The approach shall apply to and impact on all levels (Rand value) and types of Bids. It will also apply to the acquisition or granting of any right for and on behalf of Transnet. The objective is to design innovative ways to promote Black Economic Empowerment. This will be dealt with in terms of the legislation and policies applicable to that area of Transnet's operation.

(iii) Bid documents must specifically state that B-BBEE preference in terms of the DTI Codes of Good Practice and/or other relevant Charters will apply.

c) Objectives

(i) Transnet encourages and will recognise all improvement in current and future supplier ratings.

(ii) Transnet will encourage value-adding joint ventures with B-BBEE Enterprises. Bidders may develop joint ventures in order to comply with Transnet's B-BBEE requirements. The following documents shall form part of their submission:

- ownership documents showing the status of the partners to the joint venture;
- Joint Venture Agreement;
- Joint Venture Declaration Form; and
- any other documents as may be required by Transnet.

(iii) Transnet accepts that bidders often create JVs for a specific project, on the basis that the JV will only be formalised if they are successful in winning the business and a contract is awarded to them. This is known as an unincorporated JV. A JV will qualify for points as an unincorporated entity provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated scorecard is prepared for every separate tender. The Bidders must also submit a Joint Venture Agreement for the unincorporated JV.

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d) Preferential procurement targets and reporting

(i) To promote preference in the procurement of Goods and Services, targets will be set by the B-BBEE Forum and implemented by all the ODs.

(ii) The overriding principle in the setting of such targets is that a sectoral approach will be adopted. Thus for sectors where there is a high probability of finding B-BBEE Enterprises or where there is a need to accelerate transformation, the target may be set higher.

Transnet's approach to preferential procurement is dealt with in more detail in Chapter 10.

4.3.3 Supplier Development – Strategic Intent

a) Background

Government economic development policies such as the New Growth Path (NGP) and IPAP II have increased the focus on how procurement at SOCs such as Transnet can be leveraged to achieve the national goals of reducing unemployment, ensuring industrialisation and developing local suppliers.

Transnet strives to provide a competitive Service, while at the same time, creating opportunities for new entrants to the market and stimulating job creation through the implementation of its SD mission.

Transnet's mission is to transform its supplier base by engaging in targeted SD or B-BBEE initiatives to support local capability and capacity building and industrialisation whilst providing meaningful opportunities for South Africans with particular emphasis on:

- Black youth;
- Black women;
- small businesses;
- people with disabilities; and/or
- rural integration, upliftment and development.

Leveraging procurement to influence the development of the local supplier industry is key to realising Government's objectives relating to growth, employment creation and equality. Achieving SD objectives will provide the following key benefits for Transnet and the broader South African society:

- Acceleration of local capability and capacity building and transformation of local business by promoting technology transfer, skills development and job creation;
- Focused regional development and upliftment of rural communities;
- Increase in Local Content – security of supply, reduced cycle times, reduced exposure to foreign currency and reduction of supply chain costs (over time);
- Transformation of supplier dominance from large international or national monopolies in order to create more opportunities for locally owned and/or Black owned suppliers; and
- Improved B-BBEE rating for Transnet.

A Transnet SD strategy and SD plan forms the framework within which Transnet will implement its SD initiatives.

b) Applicability

All transactions involving SD should be evaluated against the IC[3] Supplier Development Matrix. This matrix (*Figure [1]* below) categorises transactions according to three principles:

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- **Value leverage** refers to transactions where the financial scale of the transaction allows the buyer the opportunity to negotiate SD.
- **Industrial leverage** refers to transactions whereby the nature of the procurement is such that the scale and the industrial complexity of the item being purchased allow for local supply chain development around a particular industry.
- **Strategic importance** to Transnet refers to the extent to which the Goods to be procured has an impact on Transnet's core business.

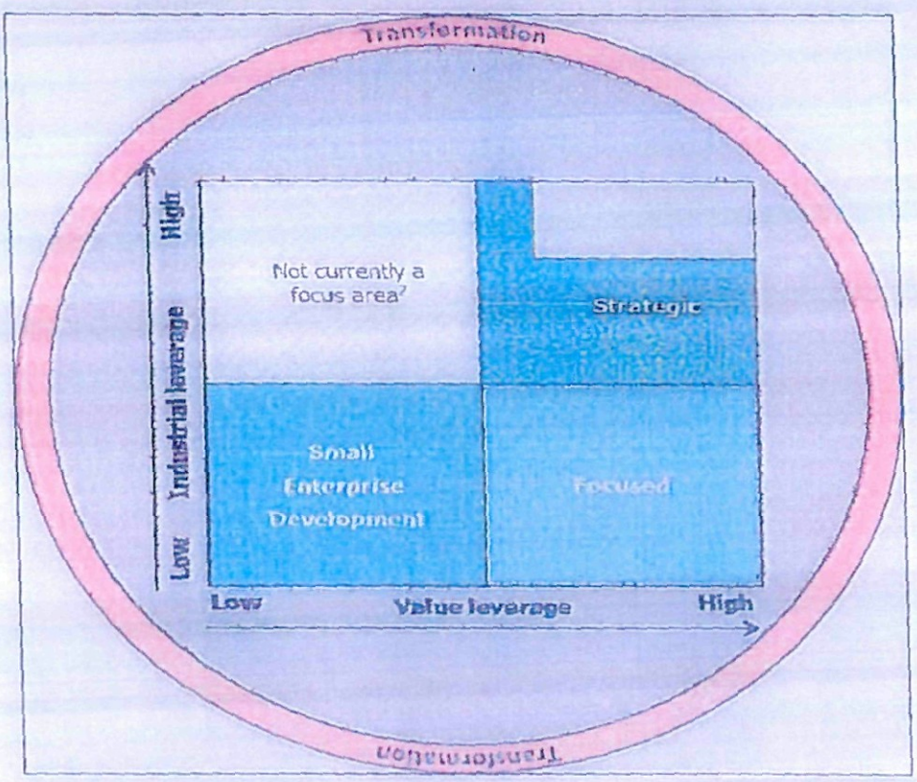

Figure [1] – IC³ SD Classification Matrix

The IC³ Supplier Development Classification Matrix (refer Figure [I] above) assists in categorising opportunities according to their industrial leverage, value leverage and strategic importance to Transnet.

Once opportunities are identified it will be possible to identify the tools that should be implemented to maximise the full supplier development potential from these opportunities.

Based on the classification of a specific transaction, there will be certain SD objectives that Transnet will strive to meet. These objectives are all aligned to national objectives, and explained in more detail in Chapter 12 *(Determining SD Approach and Desired Outcomes)*.

4.3.4 Enterprise Development - Strategic Intent

a) Background

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Enterprise Development (ED) is an element of the B-BBEE scorecard aimed at supporting government socio-economic initiatives and has a strong link with procurement. ED is achieved by leveraging government procurement and other government projects e.g. state owned companies procurement programs.

Enterprise development is defined as a program of developing Small and Medium enterprises, called beneficiaries, by investing time, money, and capital in order to contribute to the development, sustainability, financial independence, and operational independence of those beneficiaries. Enterprise Development Contributions consist of initiatives in favour of a beneficiary by a measured entity in these forms i.e. Monetary: money; Non-Monetary: time and capital; recoverable and non-recoverable.

There are two categories of beneficiaries i.e.

- Category A: Exempted Micro-Enterprises or Qualifying Small Enterprises which are 50% black owned or black woman owned.

- Category B: Any other entities that are 50% black owned or black woman owned, or 25% black owned or black woman owned with a B-BBEE Status of between Level One and Level Six.

When implementing Enterprise Development Transnet will achieve the following objectives:

- Enable or accelerate the development of a beneficiary;
- Achieve beneficiary sustainability;
- Achieve beneficiary financial independence; and
- Achieve beneficiary operational independence.

Transnet's ED approach will address both financial and non-financial ED initiatives which provide ED beneficiaries with, inter alia, support as listed below:

- Mentorship support
  - Business Development
  - Tendering skills support
  - Technical support
  - Business compliance
- Capacity Building
  - Building and finance (Shorter payment terms)
  - On site mentoring
  - Learnership through Transnet School of Academy

b) **Applicability**

Unless a particular Enterprise Development initiative involves the procurement of goods or services, Enterprise Development initiatives fall outside the ambit of the PPM.

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CHAPTER 5 : CODE OF ETHICS

This Chapter is applicable in totality to construction procurement and general procurement activities. Please refer to paragraph 5.4. regarding the difference between bidders' prior involvement in general procurement and construction procurement.

5.1 SUPPLY CHAIN CODE OF ETHICS

5.1.1 Transnet's Code of Ethics sets ethical standards for business practice and individual business conduct. It assists all Transnet stakeholders with their ethical deliberations and decisions. The objective of the Code of Ethics as it relates specifically to the Supply Chain environment is to set the standard by which all Transnet Board members and employees (including employees employed on fixed term contracts and temporary employees) are expected to act when engaging in any supply chain related activities. This will earn Transnet the reputation of being:

a) transparent and fair in all dealings and disclosures;
b) politically unbiased;
c) committed to providing Quality Goods and Services;
d) committed to transformation and empowerment;
e) proud of its integrity and credibility;
f) consistent in honouring its social, legal and moral obligations;
g) responsible and accountable; and
h) reliable and aware of the need to foster loyalty and long enduring relationships with all its stakeholders.

5.1.2 All Transnet employees should uphold the following key values:

a) act with integrity and professionalism at all times;
b) be honest;
c) be committed and dedicated to high Quality performance;
d) be customer orientated;
e) respect and maintain the confidentiality of sensitive information gained through association with Transnet;
f) maintain accurate, honest and complete records in appropriate detail;
g) protect Transnet's assets;
h) treat all suppliers with respect and dignity and foster a productive environment free of harassment, intimidation and discrimination;
i) refrain from using a position of authority and / or facilities provided by Transnet to further their own interests or that of friends and relatives;
j) desist from allowing personal interests to influence business decisions or tasks and disclose any actual or potential conflict of interest;
k) honour the content and spirit of all business transactions and not abuse Transnet's name; and
l) maintain an attitude of zero tolerance toward any form of bribery, corruption and inducements.

5.1.3 While considering the advantages of maintaining a continuing relationship with a supplier, Transnet SCM must avoid any arrangement which in the long term might compromise fair competition or prevent Transnet from achieving optimal value.

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5.1.4 No sale to or purchase from a Transnet employee is permitted under any circumstances. This excludes sales by auction or such other exceptions as may be authorised by management from time to time.

5.1.5 Former employees of Transnet shall not be restricted from doing business with Transnet unless they have been restricted from doing so in terms of paragraph 5.1.6 below. Due diligence should be exercised by evaluation teams to determine whether any undue influence/unfair advantage could have been possible between any Transnet employees and the former employee. This should be brought to the AC's attention, and should be stated clearly in submissions to the AC or to the delegated Manager for transactions falling below the AC's jurisdiction.

5.1.6 Former employees of Transnet who were dismissed following disciplinary action or who had resigned to circumvent disciplinary action following charges relating to dishonesty (e.g. bribery, corruption, theft, etc.) shall be formally excluded from future business dealings with Transnet. They will be blacklisted for a specific period and their names shall appear on Transnet's List of Excluded Bidders (see Chapter 23 on *Blacklisting*).

5.2 CONFIDENTIAL INFORMATION AND TRADE SECRETS

5.2.1 Employees have access to information related to Transnet's business strategies and contractual relationships with third parties. This information must be regarded as trade secrets. It includes intellectual property, know-how, processes, techniques, technical detail, methods of operating, cost and source of material, pricing and purchasing policies, systems design and development information. It also includes the contractual and financial arrangements between Transnet and its customers and suppliers. In this regard, all employees have a duty of trust and confidence and a duty to act at all times in the best interests of Transnet. The disclosure of trade secrets or any other confidential information could cause serious damage to Transnet, and possibly claims of damages for breach of contract against Transnet.

5.2.2 No employee may discuss or disclose prices which have been quoted or charged to Transnet.

5.2.3 No employee may disclose information which would, or could be perceived to place a Bidder in a better position than its competitors, or which would put Transnet at a disadvantage against Bidders or suppliers.

5.2.4 Where it is necessary to disclose confidential information to potential suppliers in order to solicit Bids, Non-Disclosure Agreements ("NDAs") must form part of the bid documentation. The NDAs must be signed by all Bidders.

5.3 INTELLECTUAL PROPERTY RIGHTS OF SUPPLIERS/TRANSNET

5.3.1 Transnet will acknowledge and respect suppliers' intellectual property (IP) rights. Transnet will also seek to promote fair competition.

5.3.2 It is recommended that in cases where the IP of suppliers is at stake, Transnet should hold clarification sessions with potential Bidders in order to clarify the position regarding IP rights. Furthermore, before concluding a contract, Transnet should ensure that all issues of IP are properly addressed in the contract and that both parties understand the nature of the agreement.

5.3.3 Depending on the merits of each case, one of the following approaches will be followed and must be stipulated upfront in the Request for Proposal ("RFP") document:-

a) Transnet may choose to pay the supplier outright for its IP in the Goods and purchase the Goods with its IP. In such instances, the supplier relinquishes its rights to the IP and Transnet acquires all rights to the Goods. This applies to all specifications, drawings and/or prototypes. Transnet will disclose this at RFP stage and all aspects pertaining to IP will be negotiated and captured in the contract between the parties. Transnet shall have the right to procure its

future requirements via an Open Bid process and the original designer/developer will be free to participate.

b) Transnet may choose to share the IP with the supplier where Goods were jointly developed by Transnet and the supplier. In this scenario, Transnet shares the IP and the royalties emanating from the development of the Goods. This must be clearly set out in the contract between the parties.

c) Where an existing patented article is required by Transnet, it is preferable that Transnet issue an Open Bid stating that the patented item or "anything similar" is required. Alternatively, Transnet may choose to confine the tender to the manufacturer concerned. In this instance the supplier remains the owner of the IP in respect of the article.

5.4 BIDDERS' PRIOR INVOLVEMENT IN PROCUREMENT

As a general rule, service providers or contractors that were involved in the preparation of a scope of work or in prior stages of a particular procurement project shall be precluded from submitting bid offers for that procurement project. This is due to the unfair advantage they may gain as a result of prior knowledge of the project. This rule applies unless there are grounds for confinement as indicated in paragraph 15.1.2 of the PPM. It does not apply to a 2-stage RFX process.

South African National Standard (SANS) 294:2004 on Construction Procurement Processes, Methods and Procedures, paragraph 6.1.1 (which is incorporated in the best practice guidelines published by the CIDB and the Standard for Uniformity in Construction Procurement) states that as a general rule, agents and contractors that are commissioned to prepare a scope of work for a particular procurement shall be precluded from submitting tender offers for that procurement. The Note to this paragraph, however, states the following: "*Agents and contractors who prepare the scope of work for engineering and construction works contracts where the design and build contracting strategy is adopted, may submit tender offers to perform such work*".

Contractors who prepare a procurement document or part thereof for engineering and construction works contracts may submit a bid for work associated with such documents provided that:

a) Transet states in the tender data that such a contractor is a potential bidder;

b) all the information which was made available to, and the advice provided by, that contractor which is relevant to the tender, will equally be made available to all potential bidders upon request, if not already included in the scope of work;

c) the relevant CPO is satisfied that the bid document is objective and unbiased having regard to the role and recommendations of that contractor; and

d) the contractor has signed a declaration of interest.

5.5 GIFTS AND GRATUITIES

5.5.1 All business decisions and transactions must be made with uncompromised integrity, honesty and objective judgment. Transnet does recognise that in executing its business and applying industry norms, employees may be required to

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accept or give gifts as a token of appreciation. The Transnet Gifts Policy regulates and controls the acceptance and giving of gifts.

5.5.2 The acceptance and giving of gifts exceeding the value (currently R750.00) stipulated in the Transnet Gifts Policy, as amended from time to time is prohibited.

5.5.3 The occasional exchange of gifts not exceeding this value may be accepted, provided that such gifts are not specifically intended to influence any procurement or sales decisions and are:

a) Declared to the employee's immediate Manager; and

b) Recorded in a Declaration of Gifts Register.

5.5.4 Under no circumstances should gifts be accepted from prospective suppliers, regardless of value, during any bid evaluation period including a period of 12 months after such bid has been awarded. This may be perceived as undue and improper influence over the bid process.

5.5.5 Gratuities, bribes or kickbacks of any kind must never be solicited, accepted or offered, either directly or indirectly. This includes money, loans, equity, special privileges, personal favours, benefits or Services. Such favours will be considered bribery. This is unlawful and the appropriate criminal / civil action will be enforced. If a supplier or employee offers or accepts such "favours" or bribes, it must immediately be reported to the Manager in charge of the function for appropriate action. In accordance with the ordinary principles of delictual liability, Transnet is entitled to recover all damages suffered as a result of the employee's corrupt or negligent conduct from that employee. Any person who has offered a bribe to a Transnet employee may also face criminal or civil action and/or exclusion from future Transnet business.

5.5.6 Employees are not permitted to accept gifts or buy Goods or Services at artificially low prices, not available to the public. Employees are also not allowed to accept personal favours and hospitality which might be deemed by others, to impinge upon the employee's sound business judgment.

5.5.7 Overseas visits on invitation by and at the expense of prospective suppliers will under no circumstances be permitted. Should an overseas visit be deemed necessary for the purposes of evaluating the supplier, this should be for Transnet's own account. All overseas visits have to be fully motivated in terms of the normal procedures for overseas visits. If current suppliers offer to pay for Transnet employees to travel to their offices or plants overseas, these requests need to be properly motivated and approved by the GCE or the relevant divisional CEO or Group Executive.

5.5.8 The following business courtesies are allowed, provided that the cost per instance does not exceed the amount as stipulated in the Gifts Policy:

a) entertainment;

b) advertising material of small intrinsic value such as pens, paper-knives (letter opener), diaries, calendars, etc.

5.5.9 A monetary limit will not be placed on the following:

a) business meals; and

b) hospitality packages to sports, arts and culture events held in the Republic of South Africa, with the objective of enhancing business relationships. Gifts received while on overseas business trips and from foreign delegates, which exceed the limit set in the Transnet Gifts Policy, should be accepted, entered into the gifts register and submitted to the Group Company Secretariat for disposal in terms of the Gifts Policy.

5.5.10 In addition to the procedure for accepting gifts set out in the Gifts Policy, Supply Chain staff may only accept gifts after approval from their Manager. Supply Chain staff must declare all gifts irrespective of value. Supply Chain Managers must keep a proper gift register of all gifts and hospitality offered to their employees by

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suppliers and contractors, and vice versa. Unauthorised gifts that have not been accepted (e.g. exceeding the abovementioned limit) should also be entered into the gift register with an indication that they have been returned to the supplier or surrendered to Transnet or any other appropriate action that may have been taken.

5.5.11 All Supply Chain gift registers must be submitted to the relevant AC Chairperson for review on a quarterly basis. A Gift Register Template is attached to the Transnet Gifts Policy and must be used at all times to ensure that all relevant information and signatures of approval are captured.

5.6 DECLARATION OF INTEREST

5.6.1 In terms of the Companies Act 71 of 2008, directors or officers of a company have a duty to disclose their interests in contracts.

5.6.2 For the purposes of the Transnet Declaration of Interest and Related Party Disclosure Policy the requirement to disclose interests in contracts is extended to include all employees.

5.6.3 The Transnet Declaration of Interest and Related Party Disclosure Policy defines a conflict of interest to include inter alia, a situation in which:

- "An Employee has a personal financial interest;
- An employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his/her judgment in acting in the best interests of Transnet, or could corrupt the employee's motivation for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism;
- An employee uses his/her position, or privileges or information obtained while acting in the capacity as an employee for:
  - Private gain or advancement; or
  - The expectation of private gain, or advancement, or any other advantage accruing to the employee or any member of his/her family, or friends or business associates."

5.6.4 The Transnet Declaration of Interest and Related Party Disclosure Policy places a duty on all employees who have an interest, either directly or indirectly, in any new or existing contracts with an entity external to Transnet which may conduct, or does conduct business with Transnet, to declare such interest.

5.6.5 A direct interest in a bid includes the following:

a) Where the employee or Transnet Board member is a shareholder, member or director of -
   (i) a bidding enterprise;
   (ii) the holding company of a bidding enterprise; or
   (iii) a subsidiary of a bidding enterprise.

b) Where the employee or Transnet Board member is related (as defined in the Declaration of Interest and Related Party Disclosures Policy) to a person who is a shareholder, member or director of -
   (i) a bidding enterprise;
   (ii) the holding company of a bidding enterprise; or
   (iii) a subsidiary of a bidding enterprise.

5.6.6 Declaration of a direct interest will result in automatic recusal of an employee.

5.6.7 An indirect interest may include, but is not limited to:

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a) being involved with the drafting of the specification or bid documents;

b) being involved with issuing / advertising of the bid; or

c) being involved in the evaluation, and subsequently being involved in the adjudication of the bid (applicable to members and/or alternates serving on the relevant AC).

5.6.8 Any indirect interest of an employee in a bid or offer must be declared and the Manager concerned will determine whether the employee should recuse him/herself. The reasons for this decision must be officially recorded and kept on file.

5.6.9 Bid documents must always contain a clause for prospective Bidders to declare any possible direct family or business relationship with a Transnet employee. Direct family or business relationships includes husband/wife, children (own and step), parents and grandparents (own and in-law), brothers and sisters (own, step and in-laws) and business associates.

5.6.10 Although business with Enterprises that have relationships with Transnet employees in terms of 5.6.9 above is not prohibited, it is imperative that it be properly declared and explicitly pointed out in the submission to the AC. This will allow the AC to consider all relevant facts and decide whether such involvement by a Transnet employee could be regarded as fair or whether other prospective Bidders will be prejudiced or may be perceived to have been prejudiced thereby. Bidders failing to declare such relationship(s) will be disqualified from the bid process. Contracts concluded without adherence to this rule, will be terminated and disciplinary action will be taken against the relevant Transnet employee(s). The company or companies involved will be placed on Transnet's List of Excluded Bidders.

5.6.11 All Transnet employees / board members involved in procurement activities are under a duty to declare their interests as soon as they become aware that they have a direct or indirect interest in a particular matter. If any doubt arises as to whether an interest should be declared or not, the employee concerned shall seek guidance from the office of the Company Secretary. The following must be noted with regard to the duty to declare interests:

a) in terms of the "Declaration of Interest and Related Party Disclosures Policy" all employees are required to submit an annual declaration of interest. These declarations are kept by the Group Company Secretary for employees at Group. Depending on the specific OD, declarations are kept by the OD Company Secretary, Compliance officer or the Legal department in respect of OD employees;

b) in addition to annual declarations, all employees involved in procurement should make a quarterly declaration of interest which must be kept by the relevant Manager;

c) all employees involved in the evaluation, Post Tender Negotiation ("PTN") or adjudication of Bids must sign a declaration of interest certificate indicating whether or not they have an interest in the matter at hand. This declaration must be placed on the relevant bid file; and

d) employees involved in procurement activities other than evaluation, post tender negotiation, or adjudication (such as buyers) will only be required to declare an interest if they in fact have an interest in a particular matter. Should such an employee not make any declaration in a particular matter, he/she will be deemed not to have an interest in the matter. If it is later discovered that an employee did have an interest which he/she failed to declare, such

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employee will be found to have failed to comply with the duty to declare conflicts of interests.

e) A proper register of Declarations of Interest should also be kept by Managers responsible for departments involved in purchasing and disposal functions as well as by the Secretariats of the relevant ACs.

5.7 FRAUD AND CORRUPTION

5.7.1 Transnet insists on honesty, integrity and acting beyond reproach at all times and will not tolerate any form of improper influencing, bribery, corruption, fraud or any other unethical conduct on the part of Bidders / Transnet employees.

5.7.2 If Transnet's GCFO (or a duly authorised person) has determined that a Bidder / contractor / supplier has or has caused to be promised, offered or given to any Transnet employee, any bribe, commission, or any unauthorized gift, loan, advantage or other consideration, Transnet shall be entitled to revoke the bid / contract by following the process that governs the Exclusion of Bidders. Upon approval by the GCFO or duly authorized delegate, Transnet will be entitled to place any Bidder / contractor / supplier who has contravened the provisions of Transnet's business ethics on its List of Excluded Bidders. Furthermore, in terms of section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2001, Transnet will refer all matters of suspected corruption to the South African Police Services (SAPS) for further investigation.

5.7.3 Transnet reserves the right to exclude a Bidder from further business and/or to cancel all existing contracts, should a Bidder/supplier be found to have acted in bad faith or engaged in misconduct towards Transnet. Furthermore, no part of a contract may be subcontracted to an Excluded Bidder.

5.7.4 Bid documents should always contain a clause indicating that any suspected fraud, corruption or other unethical activities should be reported to Transnet Tip-offs Anonymous at any of the following addresses and contact numbers. Confidentiality is guaranteed at all times.

- *Toll-free anonymous hotline : 0800 003 056*
- *Email : Transnet@tip-offs.com*
- *Fax number : 0800 007 788*
- *Freepost DN 298, Umhlanga Rocks, 4320*

5.8 SANCTION

Non-compliance with the Code of Ethics is considered to be misconduct and employees may be subject to disciplinary procedures that could lead to dismissal as well as criminal and/or civil action.

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CHAPTER 6 : DELEGATION OF AUTHORITY FOR PROCUREMENT PROCESSES

This Chapter is applicable in totality to construction procurement and general procurement activities.

6.1. HOW DELEGATION OF AUTHORITY WORKS

Figure 2 below explains how authority is delegated from the Minister of Public Enterprise to the various structures and persons within Transnet via a series of sub-delegations:

How Delegation of Authority works within the context of Procurement

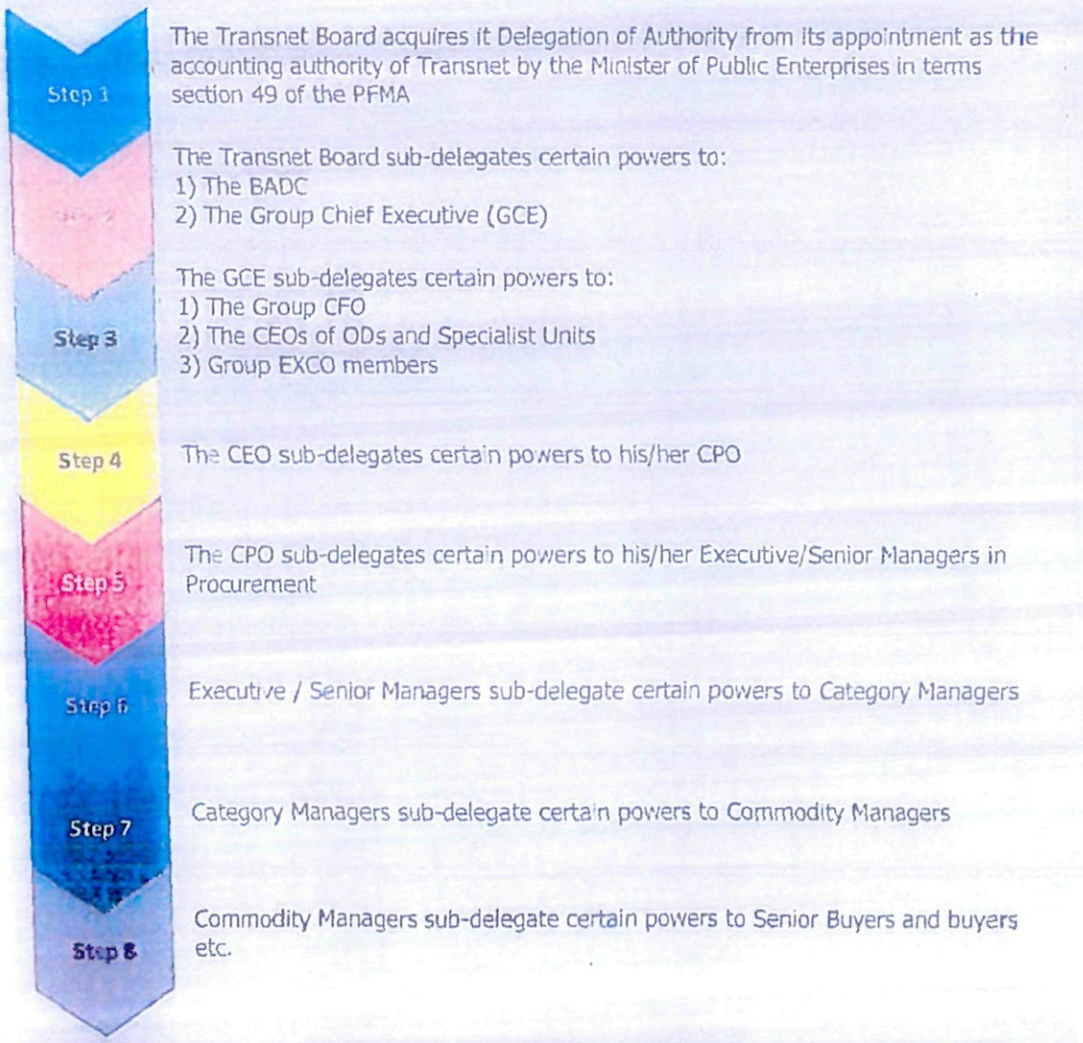


Figure [2] – Delegation of Authority

6.2. DELEGATION OF AUTHORITY FRAMEWORK

The Transnet Delegation of Authority (DoA) Framework sets out the powers delegated to certain officials (e.g. GCE, GCFO, OD CEO, etc) to perform specified tasks in relation to various areas of operation (e.g. finance, treasury, procurement, etc). The following powers, depicted in Table 4 below, are derived from the Transnet Delegation of Authority Framework effective 1 June 2013. **However, please note that these monetary limits are amended from time to time. Employees are therefore required to familiarise themselves with the monetary limits contained in the current DoA Framework.**

TABLE 4

APPROVAL AUTHORITY	PROCUREMENT DELEGATION					
	Approval to approach the market			Management's intervention to address non-compliance with procurement policies & procedures	Enter into & signing of contracts & award of business (including scrap sales)	Procurement process (governance structure) approval
	Open tenders	Confined tenders	Consultants			
Transnet Board	>R 2 000m	>R 1000m	>R300m	>R 1000m	>R 2 000m	>R 2 000m
BADC	≤R 2 000m	≤R 1000m	≤R300m	≤R 1000m	≤R2 000m	≤R2 000m
Group EXCO	Nil	Nil	≤R200m	Nil	Nil	Nil
GCE	≤R1 000m	≤R250m	≤R200m	≤R50m	≤R1 000m	Nil
GCFO	≤R750 m	Nil	≤R50m	Nil	≤R750m	Nil
GCSCO	≤R525 m	Nil	Nil	Nil	≤R525m	Nil
OD CE (including TCP)	≤R450 m	Nil	≤R25m (per annum)	Nil	≤R450m	Nil
OD/SU Main AC	Nil	Nil	Nil	Nil	Nil	≤R450m
CEO/ HOD (budget owner) of Specialist Unit, excl. TCP	≤R75 m	Nil	Nil	Nil	≤R5m subject to the contract period not exceeding 5 Years	Nil
Group Exco Members (Specialist Units, excl.TCP)	Nil	Nil	≤R10m	Nil	≤R30m	Nil

6.3. POWERS VESTED IN TRANSNET OFFICIALS

It is important to bear in mind that not all powers vested in Transnet officials are contained in the DoA Framework. In the procurement context, certain powers are also vested in officials in terms of this PPM whilst other powers are inherent to the job function e.g. the day to day running of the procurement function. Figure 3 below explains the powers vested in Transnet officials in terms of the DoA Framework, the PPM and their job function, respectively:

Delegatee	From Whom	Delegation in terms of Transnet DoA Framework	Powers acquired in terms of the PPM	Delegation in terms of a "general blanket" delegation
BOARD	Transnet Board	•Approve Contracts ≤R250m •Consultants ≤R200m •Condonations ≤ R50m •Going to market on open tender & sign contracts ≤ R1 000m	Final arbiter for appeals on blacklisting	Responsible for the day-to-day running of Transnet
GCFO	GCE	•Consultants ≤R50m •Going to market on open tender & sign contracts ≤ R750m	Approve decision to blacklist	N/A to procurement
OD CEOs	GCE	•Approve consultants ≤ R25m p.a •Going to market on open tenders & sign contracts ≤ R450m	Approve OD Approved Lists Appoint AC & Chair members Mediate disagreements between AC and line procurement etc.	Responsible for the day-to-day running of the operating division
CPO	OD CEO	Going to market on open tenders & sign contracts depending on the value delegated by the OD CEO	Delegate powers to CFSTs, CFET & PTN teams empower procurement to utilise quotation system & emergency purchases and initiate blacklisting proceedings	Responsible for the day-to-day running of the OD procurement function
Procurement	OD CPO	Going to market on open tenders & sign contracts depending on the value delegated by the OD CPO	Facilitate CFSTs, CFET & PTN teams Utilise quotation system and emergency purchases, issue open tenders and initiate blacklisting cases	Responsible for the day-to-day procurement tasks and functions

Figure [3] – Types of Delegated Authorities

6.4. DOA SUMMARY

Figures 4 to 10 below collectively represent a summary of the Delegations of Authority required for various procurement approval processes and thresholds effective 1 June 2013. However, please note that these monetary limits are amended from time to time. Employees are therefore required to familiarise themselves with the monetary limits contained in the current DoA Framework.

Procurement approval processes at Transnet

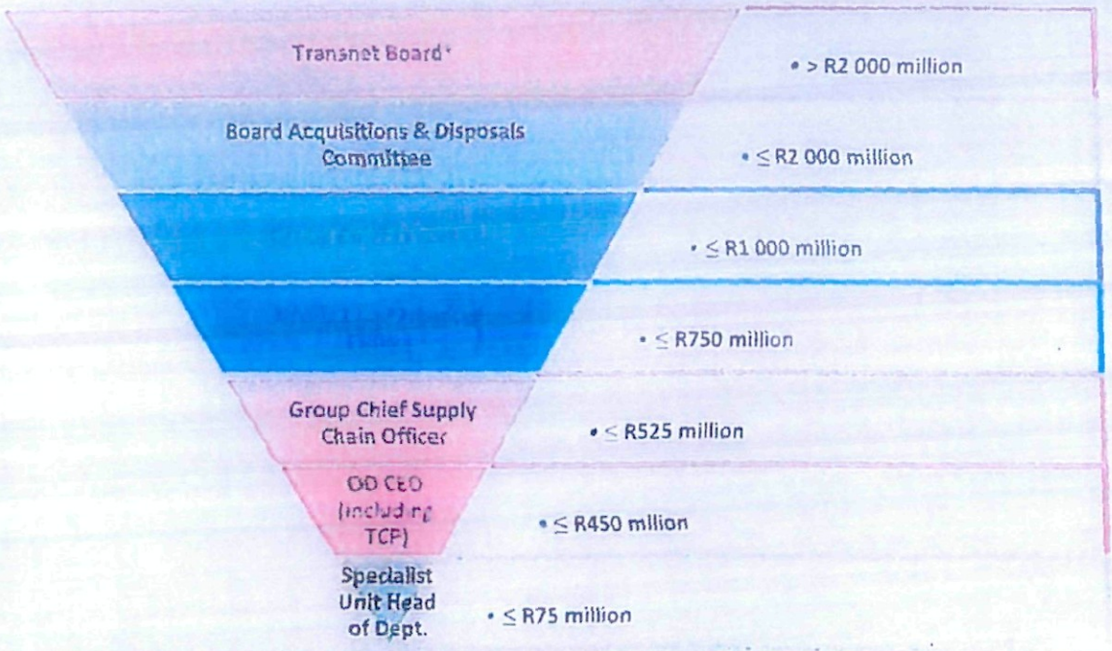
Going to market	Process approval	Contract sign off / award of business
• Prior approval of chosen procurement mechanism and strategy. • Differing thresholds for open tenders, confinements and consultants.	• Once the procurement process is complete, a recommendation must be made to the relevant governance structure (an Acquisition Council or higher) to approve the process followed. • Once the process is approved, the contract must be concluded by the person/structure with the appropriate delegation of authority.	• After approval of the process followed, the person/structure with the appropriate delegation of authority must award the business to the successful bidder and sign the contract.

Figure [4] – Procurement approval processes

The thresholds applicable to the various approval steps are depicted in the diagrams below.

(a) Approval to approach the market for open tenders

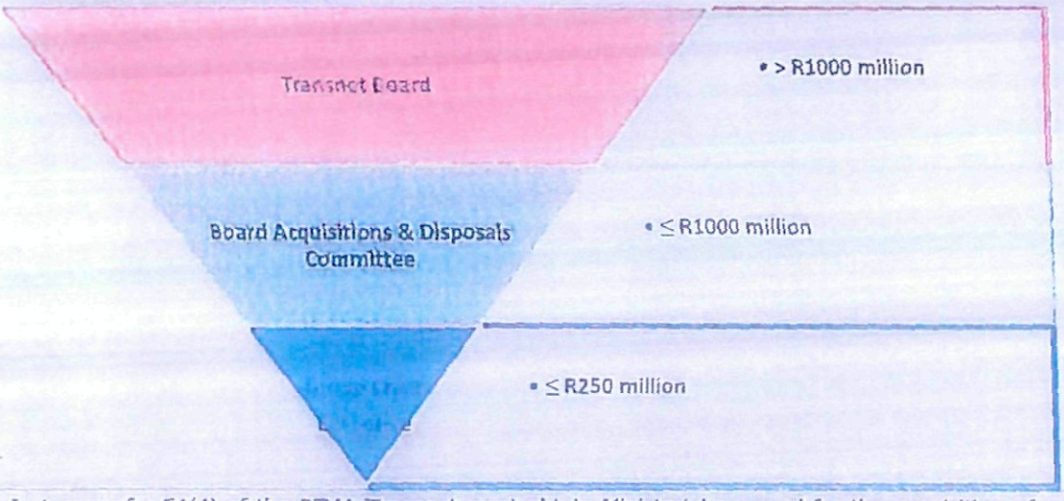
Approving the approach to market strategy involves approving the sourcing strategy as well as the critical aspects of what will be contained in the bid document i.e. the evaluation methodology and at a high level, the evaluation criteria and weightings.



*In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [5] – Approval to approach the market for open tenders

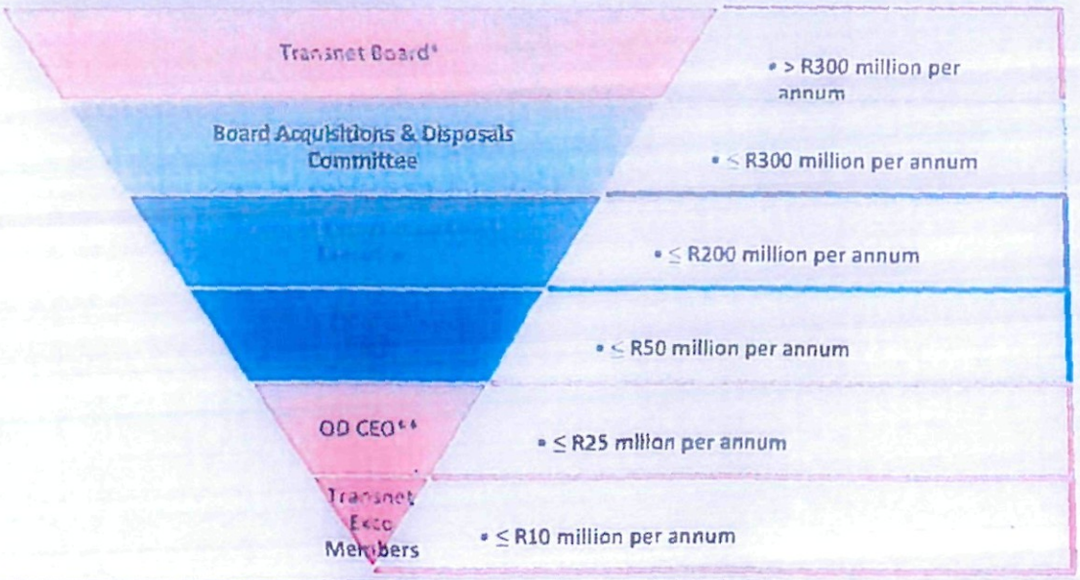
(b) Approval to approach the market for confined tenders



In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [6] – Approval to approach the market for confined tenders

(c) Appointment of consultants

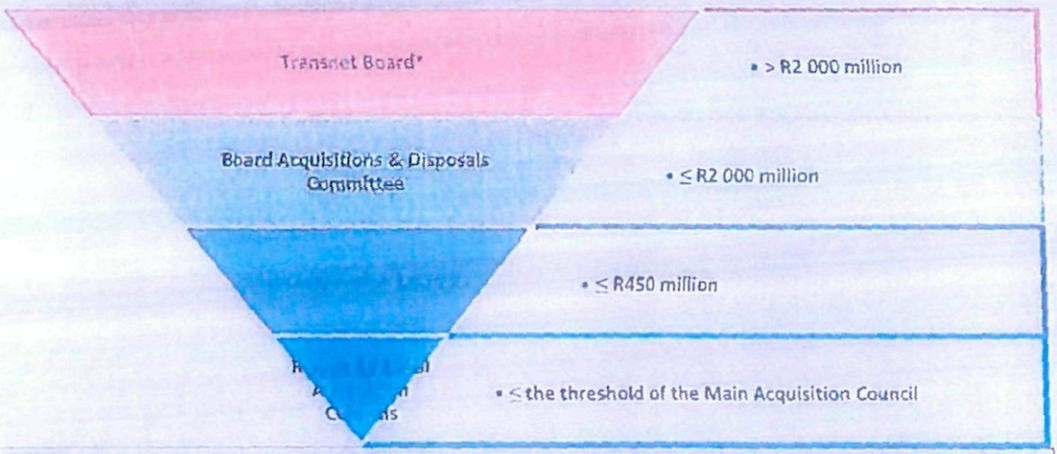


**NB: Approval limits are cumulative per annum
*In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [7] – Appointment of consultants

(d) Procurement Process Approval

Procurement process approval involves a validation of the entire procurement process followed before contract sign off can take place. Approval of the procurement process involves scrutiny of the fairness, transparency, legality and general commerciality of the tender award.

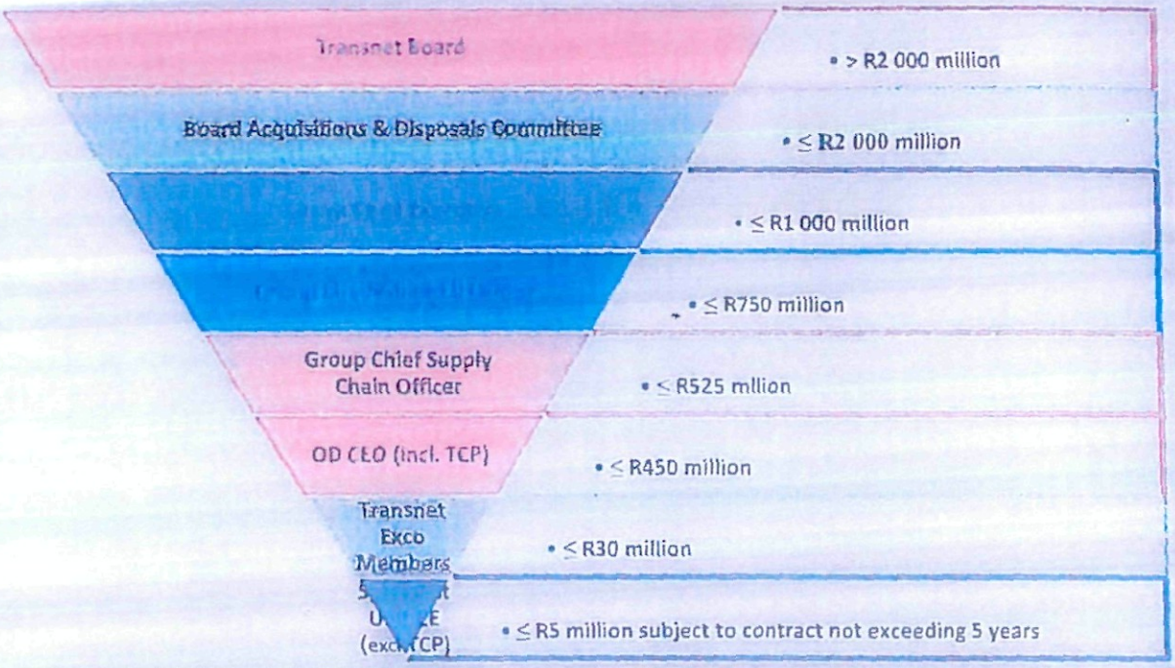


NOTE: Should any approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or remotivation
Recommendations: The RAC, main AC and the BADC will support the recommendation for transactions above their thresholds. Local/Regional AC normally only consider transactions <R2m but OD CEOs may at their discretion increase these thresholds.
* In terms of s 54(2)(d) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion of the value of Transnet's asset base as per the 2013/2014 version of the Shareholder's compact) before proceeding with the acquisition

Figure [8] – Thresholds for governance structure approval of process

(e) Enter into and signing of contracts/agreements and award of business

Contract sign off approval involves the final award of business based on a Procurement Process Approval. This approval carries with it the power to sign and enter into contracts on behalf of Transnet for procurement transactions.



In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [9] – Thresholds for contract sign off / award of business

(i) **Contracts greater than R500 million**

Prior to entering into a high value (greater than R500m) / highly complex contract (especially for Transnet's top 60% value opex items as dealt with by Transnet iSCM Strategic Sourcing commodity teams), any authorised official must first liaise with a multi-disciplinary team of experts at Transnet Corporate Office, who should each sign off on the following parts of any agreement/contract or other binding document:

- Group Legal Services - entire document
- Transnet GCFO to sign-off after sign-off from the finance departments (Group Finance/Reporting, Financial Planning, Tax and Treasury).
- Contracts less than R450m within the OD's limit of authority, require a similar process as set out above to be followed by the relevant OD.

(ii) **International Contracts/Agreements (all contracts)**

Approval to enter into an agreement/contract or other binding document involving foreign currency (FX) exposure (including international agreements) may not be sub-delegated lower than to the Chief Procurement Officer (CPO) of an OD. Approval of the divisional CFO is required to enter into the contracts that may result in foreign currency exposure.

The duly authorised official must obtain prior written approval in respect of foreign exchange agreements above R50m from Group Legal, Group Treasury, Group Tax and Group Reporting, both where the contract will be concluded in foreign currency and especially in such cases where foreign contracts will be concluded in South African Rand, as this may expose Transnet to, *inter alia*, an embedded derivative. All FX agreements above R100m must apart from the above also obtain written approval from the GCFO.

(f) Management's intervention to address non-compliance with procurement policies and procedures (Condonations)

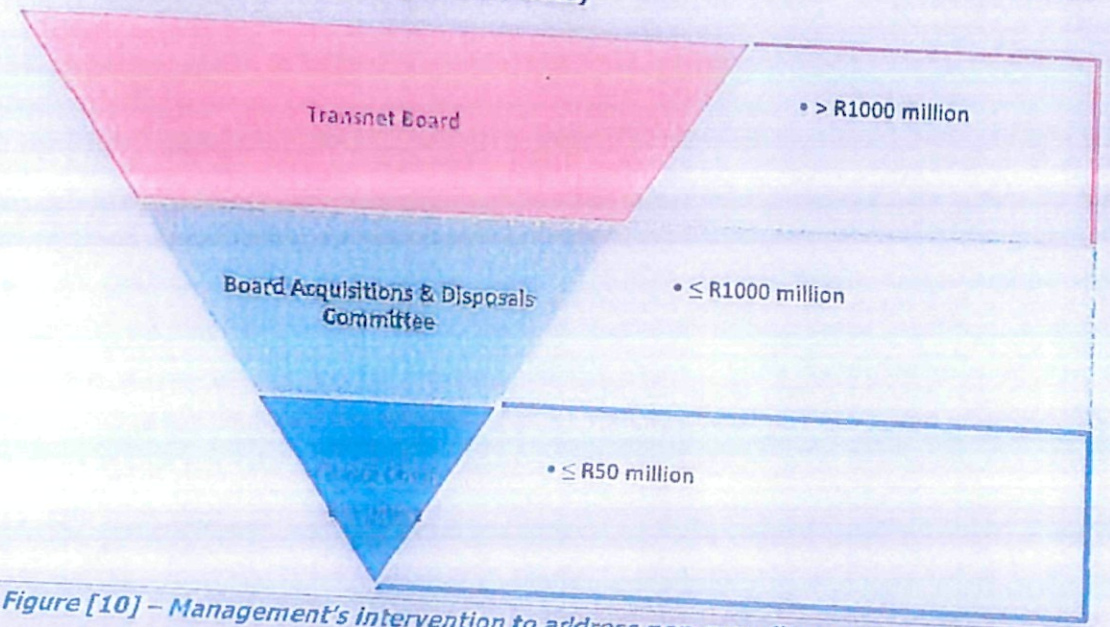


Figure [10] – Management's intervention to address non-compliance with procurement policies & procedures

SECTION B: PROCUREMENT PLANNING

Chapter 7: Demand Planning & Demand Management

Chapter 8: Internal Procurement / Interdivisional Support

Chapter 9: Contract Options

Chapter 10: Preferential Procurement Approach

Chapter 11: Local Content

Chapter 12: Supplier Development Approach

Chapter 13: Determining Evaluation Criteria

Chapter 14: Main Procurement Mechanisms

Chapter 15: Special Cases

TYPICAL PROCUREMENT CYCLE

Figure 11 below depicts a typical procurement cycle. Comprehensive guidance on each of these steps is dealt with in the Chapters that follow:

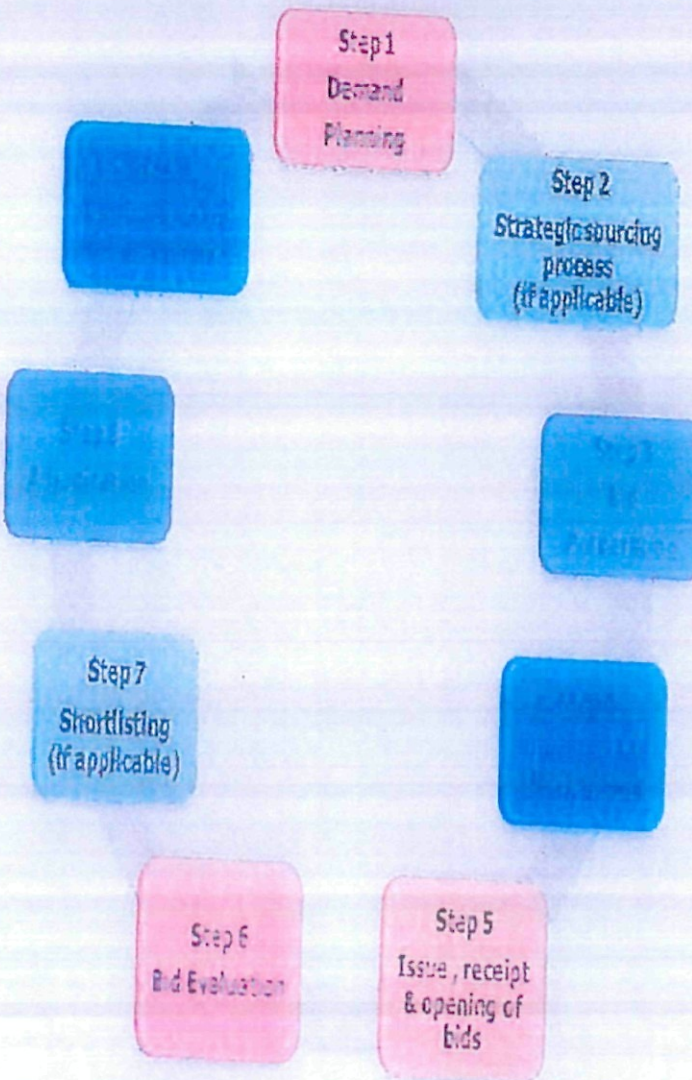


Figure [11] – The Procurement Cycle

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CHAPTER 7 : DEMAND PLANNING & DEMAND MANAGEMENT

This Chapter is equally applicable in construction procurement and general procurement activities. For all construction projects a procurement package plan (PPP) is required. A procurement package plan is a collection of procurement events from a project. This package plan requires approval prior to commencement of a go to market strategy.

7.1. PREFACE

7.1.1. Demand is a business requirement for Goods/Services raised by the business/OD and received by the procurement department for further processing, such as sourcing and payment. There are 2 areas of demand i.e. demand planning and demand management.

7.1.2. Demand Planning is the first step in the procurement process, where:

7.1.2.1. the business needs are assessed in order to ensure that the required Goods/Services are procured so as to meet the business requirements of Transnet;

7.1.2.2. specifications are precisely determined;

7.1.2.3. requirements are linked to budget; and

7.1.2.4. the supplying industry has been analysed and constraints identified and assessed.

7.1.3. Demand planning is a medium term and cross functional planning process supported by a series of meetings that promote alignment, decision making and coordinated action towards achievement of financial budgets and organizational strategy.

7.1.4. Demand management is about understanding the factors that drive demand for Goods/Services and about using this knowledge to identify and implement new and innovative ways to eliminate, reduce or serve demand more efficiently and to support robust demand planning – and in so doing optimise value and quality by enabling suppliers to have a forward looking view of requirements expected of them and adequately plan production and by enabling the procurement department to adequately prepare itself and work more efficiently and effectively. Demand management therefore involves the reviewing, monitoring and improving of demand.

7.1.5. Demand review is a strategic decision process ensuring that all stakeholders are fully aware and agree to the Goods/Services that are to be procured, why it is to be procured, how it is to be procured, and the cost.

7.1.6. Demand monitoring is a tactical process ensuring that only the required quantity and Quality of Goods/Services are sourced from the right suppliers.

7.1.7. Demand improvement is a strategic and a tactical process ensuring that the quality of demand improves continuously as the demand management

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process matures, with initiatives such as reducing the demand and rationalising the Goods/Service portfolio.

7.1.8. Therefore, the purpose of demand planning and management is to ensure that the resources required to fulfil the requirements identified in Transnet's Corporate Plan are delivered at the correct price, time and place and that the delivered quantity and quality will satisfy those requirements.

7.1.9. The intention of demand planning is to:

7.1.9.1. to have a clear view of the demand requirements for major strategic commodities;

7.1.9.2. to ensure that end-users and the procurement department are brought closer together in order to enhance efficiency and achieve value for money; and

7.1.9.3. to foster an improved working relationship of openness between Transnet and its suppliers and/or service providers.

7.2. DEMAND LEVERS

A demand consists of various demand levers that are managed by the demand planning and management process. These levers are:

TABLE 5

SOURCE	The origin of the demand such as the initiating department or OD
REASON	The motivation for the demand such as why these Goods/Services need to be sourced
QUANTITY	Review the number/scope of the Goods/Services required
SPECIFICATION	Opportunity to simplify/standardise specifications
TIMEFRAME	Reduce demand frequency
COST	The indicative cost of the Goods/Services that need to be sourced
PREFERRED SUPPLIER	The preferred supplier (if any) for the requested Goods/Services Other potential suppliers who could also be in a position to supply the same Goods/Services

7.3. ROLE OF PROCUREMENT IN MANAGING DEMAND

Procurement needs to manage the demand for Goods/Services by:

- analysing demand levers and sourcing data that will enable a more accurate view/prediction of demand;;
- identifying opportunities for improvement of the entire demand management function;
- short-listing and prioritising improvement initiatives;
- developing and implementing an action plan for identified initiatives;
- monitoring the progress of improvement of the initiatives; and
- conducting regular assessment of the effectiveness and relevance of improvement initiatives.

7.4. DEMAND PROCESS

Figure 12 below gives an outline of the main steps in the demand management process.

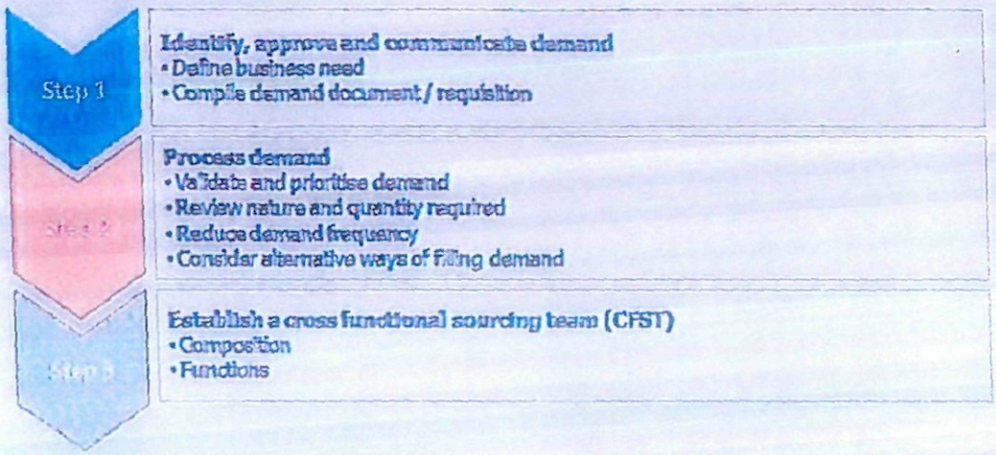

Figure [12] – Demand Steps

For sourcing events falling within the threshold for High Value Tenders, refer to the "High Value Tender Process (HVTP)" available on the iSCM Transnet Intranet.

OPERATIONS (end users) are responsible for completing

STEP 1

Identify, approve and communicate demand
Define business need
Compile demand document / requisition

7.4.1. STEP 1 : Identify, approve and communicate demand

a) Definition of business need

The end users in the business (operations) need to follow the steps outlined below, in order to ensure that there is a clearly defined need in the business:-

(i) conduct a needs analysis to establish requirements relating to the business, taking into account all required capital acquisitions, planned maintenance, and other operational needs – this will be informed by both future requirements (based upon Transnet's Corporate Plan); as well as market demand forecasts (based upon Transnet's current client base demand and/or commitments made by Transnet's sales department);

(ii) establish and consolidate the reasons for the need;

(iii) ratify the need irrespective of whether it is a CAPEX or OPEX acquisition and apply for and obtain budget approval; and

(iv) draw up an annual procurement plan.

b) Compilation of demand document (per transaction)

The end users in the business (operations) are responsible to provide procurement with a detailed demand requisition. This should provide a clear description of the function, required specifications, drawings, and where applicable it should:-

(i) indicate the quantities required;
(ii) indicate the frequencies required;
(iii) indicate the quality required;
(iv) indicate the unit of measure;
(v) indicate packaging, if applicable;
(vi) attach the relevant specification/drawing, where applicable;
(vii) provide previous price or estimated costs and budgetary requirements;
(viii) indicate the expected delivery date(s) and delivery address(es);
(ix) indicate any logistical and/or storage requirements;
(x) any material obsolescence risks; and
(xi) suggest potential source/s of supply and a brief analysis of the supplier industry landscape, if available.

The demand document should first be approved at an operational level. Once that is completed, it should be submitted to procurement. Operations should submit this document timeously, and allow sufficient time to acquire the Goods/Services, given lead times and governance processes.

PROCUREMENT is responsible for completing

STEP 2 and STEP 3

Process demand

Validate and prioritise demand
Review nature and quantity required
Reduce demand frequency
Consider alternative ways of filling demand

7.4.2. STEP 2 : Processing Demand

a) Validate and prioritise demand

Procurement shall establish the following:

(i) Is the demand document/requisition duly approved by operations?
(ii) Is this a critical demand? ("Critical" is defined as having an impact on the Service provided by Transnet or the profit made by Transnet).
(iii) What would be the impact on operations if the procurement did not occur?

b) Review nature and quantity required

Procurement shall establish and review the following:

(i) Establish whether this is a requirement for Goods or a Service?
(ii) If Goods are required, whether the demand will be on-going or once-off?
(iii) If Goods are required, determine how many types of items and quantity of each item are required in total by operations at present

time and going forward? What are the options (if any) for reducing volume?

(iv) If a Service is required, determine for what length of time the Service is required? (Indicate length of Transnet's previous use (if any) of the specific Service). Could this be reduced or extended?

(v) Determine the estimated value of the sourcing event (if not provided by operations) to establish which sourcing process must be followed:

- if below R2 million, or lower threshold set by the OD CEO for Open Bids, use the quotation system (see Chapter 14);
- if over R2 million use an "open RFX", approach (see Chapter 14); and
- if within the threshold for High Value Tenders, use the High Value Tender process (see iSCM Transnet Intranet portal).

c) **Reduce demand frequency**

Procurement shall establish and review the following:-

(i) If the Goods to be purchased will require additional purchases going forward, is it reasonable for an "as- and-when call off" contract to be established? State reasons either for or against an "as-and-when call off" contract.

(ii) If a Service is required, what is the length of the anticipated contract? Explain rationale for this time period.

d) **Consider alternative ways of fulfilling demand**

Procurement shall establish and review the following whether:-

(i) the required Goods can be re-engineered or reclaimed from existing assets or Goods;

(ii) any other OD can manufacture the required Goods or provide the required Service;

(iii) the Goods are currently available in another OD with spare capacity;

(iv) this is a stock item; or

(v) this item is available on a current contract– even if it is potentially at another OD.

Establish a cross functional sourcing team (CFST)

Composition

Functions

7.4.3. **STEP 3 : Establish a Cross Functional Sourcing Team ("CFST") in the case of acquisitions greater than R5 million or where the quality criteria must be determined**

a) **Rationale for the formation of a CFST**

Demand management shall be a cross-functional exercise with a view to ensuring that end users, procurement and all stakeholders are brought together in order to enhance efficiency and achieve value.

b) **Composition of the CFST**

Procurement shall establish a CFST, consisting of at least the following roles: Procurement, operations (end users/technical), SD (including B-BBEE) and risk/compliance. Other possible representatives are finance, treasury, maintenance, logistics/warehousing, disposal and legal or governance.

In instances where the sourcing event is uncomplicated and the risk to Transnet is low, the CFST can be comprised of only procurement and Quality (technical) representatives.

Procurement must ensure that the CFST consists of the relevant expertise; and that the size of the team is not of such a nature that it cannot function effectively. Nonetheless, in all instances, procurement and operations must reach agreement on the composition of the CFST.

In order for the CFST to be effective, consistent attendance by the same members is required for continuity.

c) **Functions of the CFST**

(i) Determining specifications:-

"Specification" is the terminology used to describe the requirement for goods.

If Goods are being sourced, consider whether there is any opportunity to purchase standard "off-the-shelf" Goods.

If there are technical specifications:-

- these must be compiled with a view to promoting the broadest possible competition, whilst still assuring that critical elements of performance or other requirements are achieved;
- ascertain whether similar (albeit not identical) Goods are currently in use elsewhere in Transnet, which could enable standardisation;
- interrogate the specification, i.e. determine whether it is possible to provide a functional/performance-based specification rather than a detailed specification;
- determine whether the specification has been over-engineered; and
- verify that the specification is not biased in favour of a particular brand or type of Goods.
- If a functional specification is the chosen option, the following must be observed and described in detail:
- functions and characteristics;
- desired performance and/or result parameters, based on both inputs and outputs;
- method statement templates on how outputs will be reached; and
- inclusion of relevant KPIs.

If a detailed specification will be issued, ensure that the latest specification is used, and that the quality standards (e.g. SANS, ISO) are included where applicable. In addition, ensure that the drawings are up to date and that detailed descriptions of manufacturing processes, workmanship and/or materials are indicated.

The following must be observed and indicated in the RFX in respect of functional as well as detailed specifications:

- the location(s) of required provision;
- details of qualifications required where appropriate;
- details of the conditions in which the Goods must operate;
- environmental and safety features;
- packaging, marking and labelling requirements;
- inspection or testing requirements;
- documentation required, i.e. manuals, user guides, licenses, test certificates, etc.;
- size/dimensions;
- integration with other Goods/Services;
- security requirements;
- health, safety, electrical, environmental requirements;
- training requirements, if applicable;
- timing considerations; and
- interfaces with other systems.

(ii) Determining Terms of Reference

"Terms of Reference" (ToR) is the terminology used to describe the requirement for services.

The following must be observed and indicated in respect of the ToR:

- project title;
- background;
- objective of the project
- expected outcomes/deliverables;
- competency and expertise requirements;
- timeframes;
- reporting requirements;
- whether a site inspection or information session are required with date, time and venue stated;
- available documentation; and
- minimum requirements.

(iii) Reduce portfolio or range complexity:

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- Options for rationalisation of the range of Goods/Services must be considered.
- Implications for users if choice options are reduced must be considered.

(iv) Identify and mitigate risks:

- All risks to Transnet associated with the demand must be identified and addressed in the eventual RFX;
- It should be ascertained whether suitable skills are available within procurement to address the demand and its management process.

(v) Establish the evaluation methodology to be employed – See Chapter 13 on Determining bid Evaluation Criteria.

(vi) Establish evaluation criteria and weightings – See Chapter 13 on Determining Evaluation Criteria. Clear evaluation criteria must be established, as bids may only be evaluated according to the criteria stipulated in the bid documents.

(vii) Oversee preparation and sign off of the bid documentation – See Chapter 16 on Bid Preparation.

(viii) Determine who should serve on the evaluation committee – See Chapter 18 on Evaluation.

(ix) Handover the sourcing event to procurement

7.5. CHECKLIST FOR DEMAND PLANNING & MANAGEMENT

The following checklist could be used as a template to identify the progress with respect to the Demand Management process:

TABLE 6

Demand Planning & Management Focus	Responsible
Is there a business case and approval of the demand?	Business
Has the demand been identified in the annual Procurement Plan? (The Procurement plan forms the basis of demand management)	Business & Procurement
Is there a budget allocated for this demand?	Business
Is there an approval as per the associated DoA?	Business
Have the options of fulfilling the demand (such as existing contracts and critical items) been assessed?	Business & Procurement
What is the outcome of reviewing the quantity required (i.e. are the Goods/Services required on an on-going or once-off basis)?	Procurement
Has the possibility of reducing the demand frequency, such as further purchasing or call-off, been assessed?	Business & Procurement
Have the options of alternate ways of fulfilling this demand, such as whether other Transnet ODs could manufacture these Goods, been assessed?	Procurement
Have the options of re-use been assessed? (e.g. re-engineered	Business & Procurement

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Demand Planning & Management Focus	Responsible
Goods from existing Goods or whether the Goods are available from other Transnet ODs) Have the 3 Rs (Reduce-Reuse-Recycle) been considered?	
Has the possibility of standardising the Goods and its specifications, such as off-the-shelf and customised, been assessed?	Business
Has the opportunity of reducing the Goods portfolio, such costing and risk implications associated with it, been identified?	Procurement
Have the strategic risks associated with this demand, such as strategic nature of this demand been identified?	Business
Has internal availability been assessed, i.e. • Can the needed Goods be re-engineered / reclaimed from existing assets/Goods? • Can any OD of Transnet manufacture the required Goods or provide the required Service? • Are these Goods currently available in another OD with spare capacity? • Is this a stock item? • Is this item available on a current contract?	Business & Procurement Business & Procurement Business & Procurement Business & Procurement Business & Procurement
Was the CFST properly constituted?	Procurement
Have the risks associated with the CFST working on this demand, such as capacity and capability not available within the Transnet been identified?	Procurement
Does the CFST represent all the necessary disciplines for identifying the risks associated with the event?	Procurement
Did the CFST members sign confidentiality agreements and declarations of interest?	CFST
Did the CFST properly interrogate the specification?	CFST
Were all risks identified and included in the RFX?	CFST
Has it been considered whether this should be a transversal event in the interests of Transnet as a whole?	CFST
Has an 'As-and When' contract option been investigated, in order to cater for future demand?	CFST
Was the appropriate evaluation method chosen?	CFST
Were thresholds set for SD and Quality/Functionality?	CFST
Were proper evaluation criteria set for: • SD • Functionality • Preference • Price / TCO?	CFST
Were appropriate weightings allocated to each criterion?	CFST

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7.6. SOURCING STRATEGY

Once a CFST has been established, the next step is to determine the sourcing strategy. The methodology for determining a sourcing strategy is depicted in the figure below. Please refer to the Strategic Sourcing Standard Operating Procedures (SOP) which provides .detailed guidance on the strategic sourcing process. The SOP can be downloaded from the iSCM Transnet Intranet.

METHODOLOGY FOR DEVELOPING A SOURCING STRATEGY

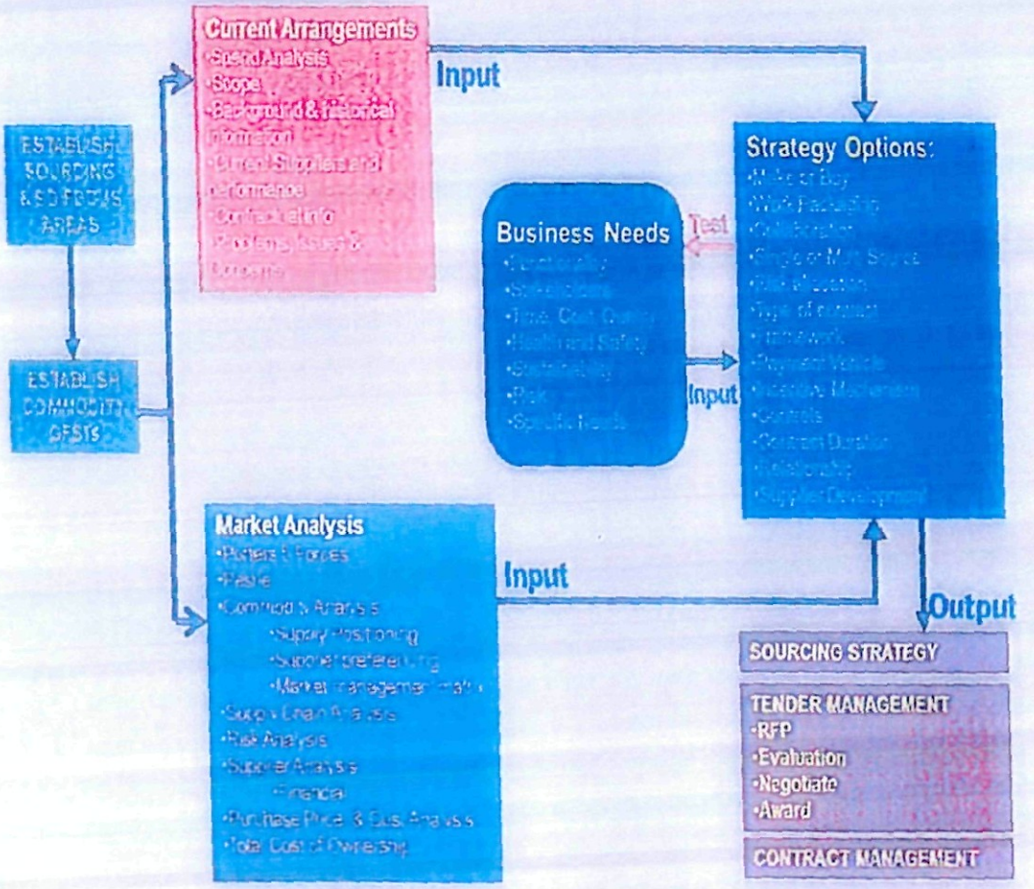

Figure [13] – Methodology for developing a sourcing strategy

CHAPTER 8 : INTERNAL PROCUREMENT/INTERDIVISIONAL SUPPORT

This Chapter is equally applicable in construction procurement and general procurement activities.

8.1 INTERDIVISIONAL RELATIONSHIPS

Transnet Entities are required to develop trust and a sound interdivisional working relationship with one another in the interest of Transnet. To achieve this, such entities **must** be afforded the right of first refusal in the procurement of Goods and Services.

8.2 STRATEGIC SPECIALIST UNITS

The following Specialist Units have been identified as strategically important to the Transnet Group:

TABLE 7

Division / Specialist Unit	Goods and/or Services Provided
Transnet Engineering ("**TE**", a specialist core Division)	TE is responsible for: • heavy engineering including locomotive, wagon and coach repairs, upgrades and maintenance • component manufacture, locomotive manufacture and assembly • port equipment, and is being positioned for maintenance and repairs thereof
Transnet Capital Projects ("**TCP**")	TCP is responsible for: • multi-disciplinary design Services • project management and construction management Services Construction projects >R300 million **must** be carried out by TCP. In the case of construction related projects <R300 million, the following rules apply: • The project may be carried out by the OD itself if the OD has the necessary in-house resources according to the requirements of the NEC3 suite of contracts and the CIDB Standard for Uniformity in Construction Procurement; and • If the OD decides not to run the project itself, TCP must be given the first right of refusal before the external market can be approached
Transnet Fuel Solutions (TFS, previously known as HSA)	TFS is responsible for: • Transnet-wide fuel acquisition, distribution and management
Transnet Freight Rail ("**TFR**") School of Rail	TFR School of Rail is responsible for: • training tailored exclusively for core businesses, e.g.

Division / Specialist Unit	Goods and/or Services Provided
	School of Rail, train drivers, train control officers, • software training in general, etc.
Transnet National Ports Authority ("**TNPA**") School of Ports	TNPA School of Ports is responsible for: • Facilitation of knowledge transfer as the provider of marine training programmes in South Africa • Planning to position itself as Africa's training leader in Marine Operations, Port Management and Port Engineering.
Transnet Property (TP)	TP is responsible for: • Property management • Facilities management • Property development • Property valuations • Property surveying

8.3 ABILITY OF TRANSNET ODS TO PERFORM

Before considering which procurement mechanism would be most appropriate, it is important that the end-user and procurement department consider whether another Transnet OD is able to provide the required Goods or Services.

8.4 COMPULSORY UTILISATION OF SPECIALIST UNITS

The Specialist Units mentioned above must be utilised by other Transnet Entities for required Goods and Services falling within their scope. The external market may not be approached for Goods and Services falling within the strategic Specialist Units' or Division's core-competency areas. This would also include specialist services that are required which may be performed by a particular internal functional area e.g. Group Treasury and Group Tax. The only exception to this rule is if the Specialised Unit indicates in writing that they do not have the ability or capacity to provide the required Goods or Services.

8.5 INTERDIVISIONAL SUPPORT

Internal contracts (Memoranda of Understanding) between ODs and Specialist Units are dealt with in the terms of the Delegation of Authority Framework. Such contracts do not require AC approval. However, any external contracts which may be required by the internal Specialist Unit are subject to these procedures and require AC approval.

8.6 MEMORANDA OF UNDERSTANDING

The business relationship between Transnet Divisions and Specialist Units must be governed by an overarching Memorandum of Understanding (MOU) between the parties. The MOU must be signed by the CEs of the relevant ODs or Specialist Units and Service Level Agreements should be signed where appropriate.

8.7 DISPUTES

Any disputes must be resolved in terms of the agreed MOU. If the OD CEs are unable to resolve the dispute, the matter must be escalated to the GCE who shall make a final decision on the matter.

8.8 SERVICE LEVEL AGREEMENT

ODs will need to enter into a project-specific agreement (SLA) in relation to each individual project. This agreement will set out in details the rights, duties and obligations of each OD in that specific project. Contracts between divisions such as SLAs and project specific agreements may be entered into between OD CEs in terms of paragraph 5.5.4 of the DoA Framework.

8.9 INTERDIVISIONAL PRICING

Transnet entities undertaking work on behalf of other entities should reciprocate by pricing and carrying out their Services in a way that promotes and develops a culture of interdivisional support. The pricing must be based on appropriate market analysis to benchmark fair and reasonable prices. Should there be a dispute regarding pricing, the matter is to be escalated to the CEs of the relevant Divisions for resolution. Should the CEs not reach consensus, the matter must be escalated to the GCE who shall make a final decision on the matter.

8.10 NON-CORE BUSINESSES

Non-core businesses which have already exited Transnet, such as Freightdynamics and Autopax (Pty) Ltd will enjoy no interdivisional support.

8.11 AC INVOLVEMENT

Interdivisional transactions between Transnet Entities and Specialist Units fall outside the scope of the AC. However, in any case where the external market is approached, normal procurement procedures must be followed, and if relevant, the AC must approve the transaction.

CHAPTER 9 : CONTRACT OPTIONS

This Chapter applies to both general procurement and construction procurement. Table 9 below provides a summary of the types of contracts available for construction-related procurement.

9.1 CHOICE OF CONTRACT

This chapter contains a list of contractual choices and options available. The following factors, amongst others, will assist in determining the appropriate type of contract:

- the duration of the contract;
- the type of Goods, Services or Works to be acquired;
- the frequency of demand; and
- the availability of the Goods or Services.

Table 8 below outlines the various contract options for general procurement and provides a guideline as to when those options may best be utilised. Table 9 provides a summary of the types of contracts available for construction-related procurement.

TABLE 8

Ref	Contract Options	Description	Characteristics	Best Suited For
1	"As and When" contracts	Short or medium-term contracts entered into for a fixed period against which call-offs are made as and when required by the customer	• Shorter contract periods (1-2 Years) • Estimated quantities • Specific period/volume/value ceiling or a combination.	• Continuous but unpredictable and irregular demand for Goods/Services • Volumes cannot be accurately determined upfront • Demand cannot be anticipated • Generally off-the-shelf items
2	Fixed quantity contracts	Contracts entered into for once-off purchases	• Demand is known • Once-off purchase • Once-off or staggered delivery	• Planned programmes
3	Long-term contracts	Contracts entered into for a fixed period typically for five-Years or more	• Long term demand signal • Emphasis on SD • Suppliers' recoupment of investment is long-term • Restricts other market players for a period of time	• Purchase of high value Goods/Services • Goods/Services of strategic importance • Goods with long lead time

Ref	Contract Options	Description	Characteristics	Best Suited For
4	Transversal contracts	A contract that services more than one internal consumer (an internal shared service arrangement) entered into for a fixed period. A transversal contract may be entered into for the benefit of the entire Group, a particular OD and/or just a region. Below is a list of the types of Transversal contract options:	• Emanates from a formal strategic sourcing event • Fixed-contract period Optimising economies of scale through consolidation of demand/purchasing power	
		• Group-wide Transversal contracts		Consolidation of Goods / Services used Group wide
		• Transversal between ODs/Corporate		Consolidation of Goods / Services used between ODs
		• OD-wide Transversal contracts		Consolidation of Goods / Services used within an OD
		• Regional Transversal contracts		Consolidation of Goods / Services used within a region by one or more than one OD
5	Lease/Rental contracts for movable assets	Lease contract for the use of moveable assets entered into for a fixed period	• Specified/unspecified period • Agreed Rental • Option of renewal	• Goods/Services where it would be more economically viable to lease than to purchase
6	Inter-Divisional Memoranda of Understanding (MOUs)	A 'contract' to govern the service performance agreed between ODs	• Not a formal contract • It governs the internal relationship between the ODs	• Governing the performance as agreed between the ODs
7	Income-generating (revenue) contracts	Although excluded from the PPM, associated procurements fall within the ambit of the PPM (See paragraph 15.6)	• Listed as a process excluded from PPM • Associated procurement must follow the PPM	• As per OD requirements

**Any of the above-mentioned contract options can originate from any of the defined general procurement mechanisms and/or special mechanisms for procurement.*

TABLE 9 TYPES OF CONTRACTS FOR CONSTRUCTION PROCUREMENT

Table 9 below provides a summary of the types of contracts available for construction-related procurement.

Contract Option	Best suited for
Engineering and Construction Contract (ECC)	Is used for the appointment of a Contractor for Engineering and Construction work, including any level of design responsibility.
Professional Services Contract (PSC)	Is used for the appointment of a Consultant to provide professional services.
Term Service Contract (TSC)	This contract should be used for the appointment of a Service Provider for a fixed term to manage and provide a service.
Supply Contract (SC)	This contract should be used for local and international procurement of high-value goods and related services including design.
Engineering and Construction Short Contract (ECSC)	This contract is an alternative to the ECC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks
Supply Short Contract (SSC)	This contract should be used for local and international procurement of goods under a single order or on a batch order basis and is for use with contracts which do not require sophisticated management techniques, and impose only low risks on both the Purchaser and the Supplier.
Framework Contract	This contract should be used for the appointment of one or more Suppliers to carry out Construction work or to provide design and advisory services on an "as instructed" basis over a set term.
Adjudicator's Contract	This contract should be used for the appointment of an Adjudicator to decide disputes under the NEC3 family of contracts. It may also be used for the appointment of an Adjudicator under other forms of contract.

**Any of the above-mentioned contract options can originate from any of the CIDB procurement mechanisms. These contract options are available for use for construction procurement and any procurement associated with the construction industry e.g. Professional services related to construction projects.*

9.2 CONTRACTS FOR A PERIOD LONGER THAN TWO YEARS

Contracts for a period longer than two Years require prior AC approval. However, if the RFP provides for a number of bid options including a period of up to two Years and more than two Years, prior AC approval is not required. (Also see paragraph 21.8). Irrespective of which of the two options above is followed, the award of the business has to be approved by the relevant AC in the normal manner.

9.3 STANDARD TRANSNET TERMS AND CONDITIONS OF CONTRACT

Standard templates must be used unless there are cogent reasons why such standard agreements cannot be used in a particular instance. Refer to the Standardised Transnet Templates available on the iSCM Transnet Intranet, including but not limited to:

- Standard Terms and Conditions of Contract
- Master Agreements

Any additions or deletions from the above-mentioned templates must be contained in a Special Conditions Schedule. (Also see paragraph 21.6.2)

9.4 CONSOLIDATION OF CONTRACTS

Refer to paragraph 15.5 for the process to be followed when there is an opportunity to consolidate two or more existing contracts in the best interest of Transnet rather than engaging the market anew.

9.5 CHOICE OF SALES/PURCHASE TERMS FOR IMPORTED GOODS (INCOTERMS)

The Incoterms rules or International Commercial terms are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) widely used in international commercial transactions. A series of three-letter trade terms related to common sales practices, the Incoterms rules are intended primarily to clearly communicate the responsibilities, costs and risks associated with the transportation and delivery of Goods. The Incoterms rules are accepted by governments, legal authorities and practitioners worldwide for the interpretation of most commonly used terms in international trade. They are intended to reduce or remove uncertainties arising from different interpretation of the rules in different countries. First published in 1936, the Incoterms rules have been periodically updated, with the eighth version (Incoterms 2010) having been published and made effective on January 1, 2011. "**Incoterms**" is a registered trademark of the ICC[1].

Refer to Appendix C for a detailed explanation of all Incoterms.

[1] *Source: Wikipedia*

CHAPTER 10 : PREFERENTIAL PROCUREMENT APPROACH AND DESIRED OUTCOMES

This Chapter applies to both general procurement and construction procurement. This is dealt with in more detail in paragraphs 10.3.2 of this Chapter.

10.1 TARGETS

In accordance with its vision of being a significant agent of empowerment within the South African society, Transnet has adopted the following plan to achieve its B-BBEE targets. These targets are more ambitious than those prescribed in the DTI Code of Good Practice:

TABLE 10

Sub Element	DTI Generic Targets	Transnet Target 2013/2014
B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition level as a percentage of total measured procurement spend	70%	90%
B-BBEE procurement spend from QSEs or from EMEs based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend.	10%	17.5%
B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: • Suppliers who are more than 50% Black-owned (3 out of 5 points); and	Consolidated target of 15% for both	17.5%
• Suppliers who are more than 30% Black women-owned (2 out of 5 points)		8%

10.2 MECHANISMS

Transnet must apply the provisions of the PPPFA regulations in determining its preferential procurement framework.

Transnet conducts an assessment of bidders' B-BBEE performance based on the following:

- bidders' past B-BBEE performance based on the B-BBEE scorecard as required in terms of the PPPFA.

10.3 MEASUREMENT OF B-BBEE STATUS

10.3.1 Measurement as per scorecard

Bid documents must specifically state that all Suppliers will be measured in accordance with the DTI Generic Scorecard provided for in the Codes of Good Practice or the applicable Sector Code.

Transnet prefers doing business with enterprises that share its values, and are prepared to contribute to meaningful B-BBEE initiatives (e.g. subcontracting, JV's etc.) as part of their Bid responses. Transnet will accordingly allow a preference to companies who provide a B-BBEE Verification Certificate.

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Transnet requires prospective Bidders to have themselves verified by any verification agency accredited by the South African National Accreditation System ("SANAS") or Registered Auditors approved by the Independent Regulatory Board of Auditors ("IRBA") in accordance with the approval granted by the Department of Trade and Industry. Please refer to Appendix G regarding determining the validity of B-BBEE cerificates. Enterprises will be rated by verification agencies/registered auditors based on the following:

TABLE 11

Type of Enterprise	Annual Turnover	Number of Elements Scored on the B-BBEE Generic Scorecard
Large	In excess of R35 million	All 7 elements
Qualifying Small Enterprise (QSE)	Between R5 million and R35 million	Any 4 elements (equal weighting of 25% each)
Exempted Micro Enterprise (EME)	R5 million or less	Deemed to be 100% compliant. Automatic Level 4 rating irrespective of race of ownership

a) Exempted Micro Enterprises (EMEs) are defined by the Codes as companies with an annual total turnover of R5 million or less. EMEs enjoy a deemed BBBEE recognition of a Level 4 contributor. EMEs which are more than 50% Black owned are promoted to a Level 3 contributor.

b) Sufficient evidence of qualification as an EME is an auditor's certificate (auditors need not meet the prerequisite for Independent Regulatory Board of Auditors ("IRBA") approval to provide B-BBEE assurance services for the purpose of conducting verification and issuing EME B-BBEE certificates), a certificate issued by an accounting officer as contemplated in the Closed Corporations Act 69 of 1984, or a certificate issued by a Verification Agency accredited by SANAS. The certificate issued by an auditor or accounting officer to an EME may be in the form of a letter.

10.3.2 Construction industry B-BBEE requirements

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Construction Sector Codes Targets thresholds differ from the general codes, The table below illustrates the construction sector thresholds for EMEs, QSEs and Large Enterprises:

TABLE 12

Type of Enterprise	Annual Turnover Contractor	Annual Turnover Built Environment Professional (BEP)	Number of Elements Scored on the B-BBEE Generic Scorecard
Large	In excess of R35 million	Larger than R11.5 million	All 7 elements
Qualifying Small Enterprise (QSE)	Between R5 million and R35 million	Larger than R1,5 million and equal to or less than R11,5 million	Any 4 elements (equal weighting of 25% each)
Exempted Micro Enterprise (EME)	R5 million or less	R1.5 million rand or less	Deemed to be 100% compliant. Automatic Level 4 rating irrespective of race of ownership

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10.3.3 In addition to the above, Bidders who wish to enter into a Joint Venture or sub-contract portions of the contract to B-BBEE companies, must state in their bids the percentage of the total contract value that will be allocated to such B-BBEE companies should they be successful in being awarded any business. A rating certificate in respect of such B-BBEE JV-partners and / or sub-contractor/s, as well as a breakdown of the distribution of the aforementioned percentage must also be furnished. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.

10.3.4 Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.

10.3.5 Verification certificates are only valid for one Year from the date of issue. Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims. A B-BBEE certificate will be regarded as valid provided that the closing date of the bid falls within the expiry date of the certificate.

If the RFP specifically requires the bidder to provide a valid B-BBEE certificate, it will be incumbent upon the bidder to do so, failing which the non compliant bidder/s will score zero for B-BBEE. However, if Transnet officials are aware of the fact that Transnet is currently in possession of a valid B-BBEE certificate from the bidder that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE Status Level Verification Certificate each time a bid is submitted from the specific bidder, provided that the B-BBEE certificate remains valid at the closing date and time of the bid.

10.3.6 In terms of the PPPFA regulations, based on the overall performance of a supplier in terms of its B-BBEE verification, it receives a B-BBEE status and a point out of 10 or 20 is awarded therefor depending on the value of the transaction. This is in accordance with the preference point systems stipulated in the PPPFA regulations. The 80/20 preference point system is applicable to bids up to R1 million in value (all applicable taxes included). The 90/10 preference point system is applicable to bids above R1 million in value (all applicable taxes included). In terms of the PPPFA, the estimated costs and the appropriate preference point system (i.e. 80/20 or 90/10) must be determined upfront prior to advertising a bid and must be stipulated in the invitation to bid. It is important to note that the thresholds for petty cash, the quotation system and open bid process is not affected by the thresholds mentioned above.

10.3.7 Points must be awarded to bidders based on their B-BBEE status as indicated in Figure [14] below:

BEE Status	Qualification	Recognition level	Twenty Preference Points based on scorecard for transactions below R1 million	Ten Preference Points based on scorecard for transactions above R1 million
Level **One** Contributor	≥ 100 points on the Generic Scorecard	135%	20	10
Level **Two** Contributor	≥85 but <100 points on the Generic Scorecard	125%	16	9
Level **Three** Contributor	≥75 but <85 on the Generic Scorecard	110%	16	8
Level **Four** Contributor	≥65 but <75 on the Generic Scorecard	100%	12	6
Level **Five** Contributor	≥55 but <65 on the Generic Scorecard	80%	8	4
Level **Six** Contributor	≥45 but <55 on the Generic Scorecard	60%	6	3
Level **Seven** Contributor	≥40 but <45 on the Generic Scorecard	50%	4	2
Level **Eight** Contributor	≥30 but <40 on the Generic Scorecard	10%	2	1
Non-Compliant Contributor	<30 on the Generic Scorecard	0%	0	0

Figure [14] – B-BBEE Scorecard

10.3.8 B-BBEE points must be claimed by Bidders utilising the B-BBEE Preference Points Claim Form. This Claim Form must be listed as a returnable document. Please refer to the iSCM Intranet Portal for a copy of the B-BBEE Preference Points Claim Form.

10.3.9 Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for BBBEE but should not be disqualified from the bidding process. They will score zero (0) points out of 10 or 20 for B-BBEE.

10.4 B-BBEE IMPROVEMENT PLAN

10.4.1 Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Transnet may request that prospective bidders submit a B-BBEE Improvement Plan with their bid submission. Bidders will be requested to indicate the extent to which their ownership, management control, employment equity, preferential procurement, skills development and enterprise development will be maintained or improved over the contract period. The B-BBEE Improvement Plan

will not be requested as a mandatory or essential returnable document but as an additional document. The B-BBEE Improvement Plan will not be evaluated and bidders will not be disqualified for failure to submit the Plan.

10.4.2 Should the preferred bidder/s submit a B-BBEE Improvement Plan, the final details of the Improvement Plan will be negotiated at contract negotiation phase. Even if an Improvement Plan is not requested at the bid stage or the preferred bidder does not submit a Plan at bid stage, preferred bidders may be requested to submit a B-BBEE improvement plan at contract negotiation stage, where appropriate. In instances where the Improvement plan has been negotiated and agreed upon, the contract concluded with the successful bidder will incorporate its B-BBEE improvement commitments as a material term of the contract.

10.4.3 In addition, the contract with the Successful Bidder must contain a penalty clause which stipulates the penalties that will be imposed by Transnet, should the Bidder fail to meet the preference targets in the contract. Please refer to paragraph 22.3.9 regarding penalties.

10.4.4 Furthermore, failure to achieve the Improvement Plan targets will result in breach of contract and provide Transnet with cause to terminate/cancel the contract. Milestones in terms of achievement of Improvement Plan targets per year must be stipulated in suppliers' contracts so that penalty/breach of contract clauses may be invoked if required.

10.4.5 Monitoring and evaluation will be conducted by the SD department as a standard requirement to ensure tracking and successful delivery of the commitments. Refer to the iSCM Intranet portal for the template for a B-BBEE Improvement Plan.

CHAPTER 11 : LOCAL CONTENT

Should construction procurement include a minimum local content threshold, either in terms of the designation of a sector or in non designated sectors, the requirements of this Chapter and any Instruction Notes issued by National Treasury must be adhered to.

11.1 INTRODUCTION

11.1.1 Increased Local Production and Content ("LC") forms an integral component of Transnet's Supply Chain Strategy. This is aligned to Government's vision as articulated in IPAP 2 and the NGP as well as Transnet's Supply Chain Policy. Transnet Entities are therefore required to actively promote local content and production in their bidding processes.

11.2 DESIGNATED SECTORS

11.2.1 The PPPFA Regulations, 2011 which came into effect on 7 December 2011, prescribe how Local Production and Content is to be measured in public sector Bids. In accordance with Regulation 9(1), when issuing bids involving "designated sectors" Transnet must advertise such bids with a specific Bid condition that only locally produced goods, services or works which meet a **stipulated minimum threshold** for Local Production and Content will be considered.

11.2.2 Designated sectors are those sectors which have been designated by the Department of Trade and Industry ("DTI") for Local Production and Content. National Treasury has issued Instruction Notes in terms of how to implement the designation of the sectors for Local Content. The Instruction Notes issued by National Treasury on designated sectors must always be strictly adhered to when tenders related to designated sectors are issued. The following table indicates the designated sectors and minimum threshold for local content as determined by the Department of Trade and Industry and National Treasury:

TABLE 13

Sector	Minimum threshold for local content
Buses (Bus Body)	70% – 80%
Textile, Clothing, Leather and Footwear	100%
Steel Power Pylons & substations	100%
Canned / Processed Vegetables	80%
Furniture Products	
Office Furniture	85%
School Furniture	100%
Base and mattress	90%
Rail Rolling Stock	
Diesel locomotives	55%
Electric locomotives	60%
Electric Multiple Units (EMUs)	65%
Wagons	80%
Set Top Boxes (STB)	30%
Electrical and Telecom Cable Products	90%
Solar Water Heater Components	70%

11.2.3 Further to the overall designations mentioned in the table above, please refer to the Instruction Notes issued by NT as certain sectors have designated sub-sectors/components in addition to the overall thresholds.

11.2.4 Please refer to National Treasury's website for an up-to-date list of designated sectors on: http://www.treasury.gov.za/divisions/sf/sc/PracticeNotes/default.aspx.

11.3 NON DESIGNATED SECTORS

11.3.1 Organs of state are allowed to impose similar conditions for local content when issuing tenders in sectors that have not been designated by DTI, but this must be done in accordance with specific directives issued by National Treasury. National Treasury is still in the process of finalizing such directives. Please note that until such time as the directives are issued, bid documents should not include a minimum threshold for local content in respect of non-designated sectors. Paragraphs 11.3.2 and 11.3.3 will apply once National Treasury issues such directives.

11.3.2 When issuing bids in sectors that have not been specifically designated for Local Production and Content ("non designated sectors"), Transnet will actively promote Local Production and Content where possible. Therefore, before approaching the

market, Transnet Entities are required to conduct proper market analysis to determine on a case by case basis whether opportunities for Local Production and Content exist. Where opportunities do exist, this must be reflected in the procurement strategy. Furthermore, in accordance with Regulation 9(3), the RFP must reflect the minimum threshold for LC that must be met by bidders to qualify for further consideration. Bidders who fail to achieve the set minimum thresholds will be disqualified from the bidding process.

11.3.3 In this regard Transnet must consciously look for ways to incorporate local content in its tenders, where appropriate, particularly where the tender falls within one of the sectors clusters identified in IPAP II. These sector clusters are as follows in terms of the IPAP 2012/2013 – 2014/2015:

a) **Cluster 1 Qualitatively New Areas of Focus**
   - Metal fabrication, capital and transport equipment sectors;
   - Oil and gas sectors;
   - 'Green' and energy saving industries;
   - Agro-processing linked to food pricing and security; and
   - Boatbuilding.

b) **Cluster 2 Scaled up and Broadened Interventions in Existing IPAP Sectors**
   - Automotive products and components;
   - Plastics, pharmaceuticals and chemicals;
   - Biofuels;
   - Forestry, paper, pulp and furniture;
   - Strengthening of links between cultural industries and tourism; and
   - Business processing.

c) **Cluster 3 Sectors with Potential for Long Term Advanced Capabilities**
   - Nuclear;
   - Advanced Materials; and
   - Aerospace.

11.4 DEFINITION OF LC

11.4.1 Local Content is defined as that portion of the Bid price which is not included in the Imported Content, provided that local manufacture actually does take place. Local Production and Content is therefore determined as a percentage of the Bid price. For example, if the stipulated minimum threshold for Local Production and Content is 60%, this means that 60% of the Bid price must be spent on Local Production and Content (i.e. everything that is not included in Imported Content.) "Imported Content" has a specific meaning in the regulations: It means "*that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry.*"

11.5 EVALUATION OF LC

11.5.1 The calculation of LC can therefore be expressed in the following simple formula:

Bid price-value of Imported Content (cost of components, parts & materials)
= value of Local Production & Content

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The value of the Local Content must be reflected as a percentage of the bid price to determine whether it meets the stipulated minimum threshold.

11.5.2 National Treasury requires that the value of Local Production and Content be calculated according to the following formula:

$$LC = \left(1 - \frac{x}{y}\right) \times 100$$

Where

x imported content

y bid price excluding VAT

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank at 12:00p.m on the date, one week (7 calendar days) prior to the closing date of the Bid.

11.6 LC VS SD

It is important to note that LC does not form part of SD evaluation and must be evaluated as the first threshold in the evaluation process. The evaluation of LC must not overlap or be duplicated in the evaluation of "local capability and capacity building" which forms part of the SD evaluation. LC is purely concerned with the percentage of the bid price that will be spent locally. "Local capability and capacity building" on the other hand also takes non monetary measurements into account, such as the number of local suppliers to be utilised, etc.

11.7 NATIONAL TREASURY LC REQUIREMENTS

It is a requirement of National Treasury that the Declaration Certificate for Local Content (SBD 6.2) form part of the RFP, whenever a minimum threshold for LC is required. In such instances, SBD 6.2 must be listed as a compulsory returnable document. Please refer to the iSCM Intranet portal for a full suite of RFX templates to be used for bids involving Local Content and Production including a copy of SBD 6.2.

Note: LC will always be the first threshold – i.e. LC will always be evaluated as a first step, to determine whether bids comply with the minimum stipulated threshold for that particular designated sector or non designated sector where Transnet intends to set a minimum threshold for LC. Bidders that do not meet the set minimum threshold for LC must be rejected at this stage.

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CHAPTER 12 : DETERMINING SD APPROACH AND DESIRED SD OUTCOMES

This Chapter is applicable to both general procurement and construction procurement.

SD (including CSDP and/or B-BBEE) should form an integral part of the procurement strategy in every procurement transaction. The nature and extent of the SD opportunities will depend on the nature of the transaction.

Increased Competitiveness, Capability and Capacity (IC^3) matrix:

Transnet's SD approach is to leverage the MDS infrastructure programme to foster economic growth and promote transformation

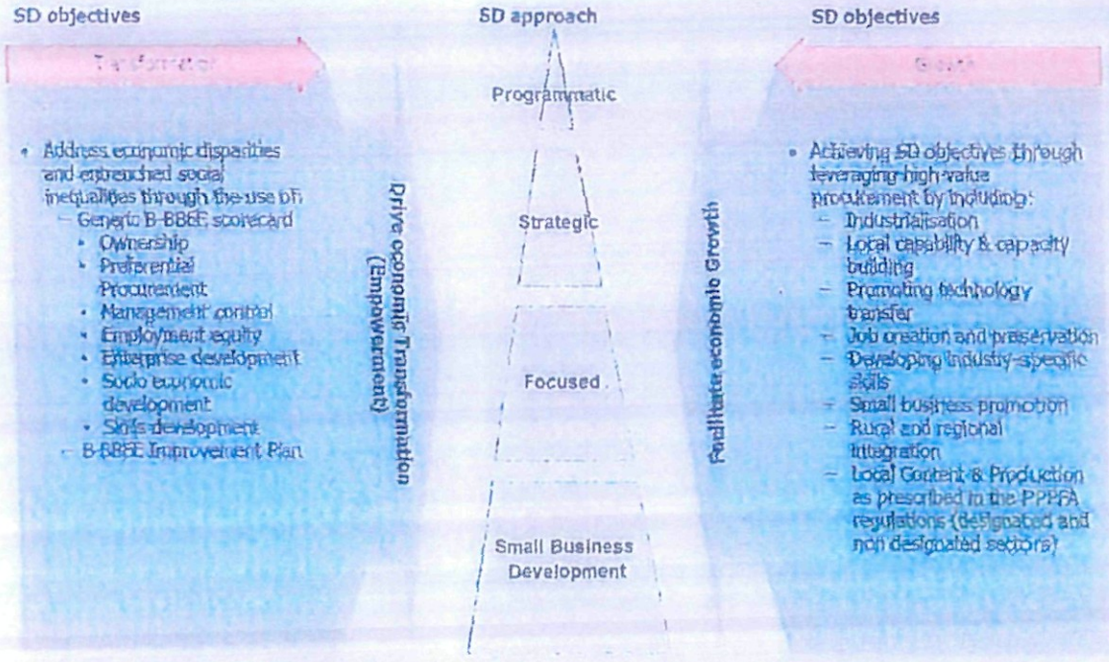


Figure [15] – SD Approach

The Figure referred to above, categorises SD opportunities based on their value, extent of industrial leverage and strategic importance to Transnet.

12.1 SD CATEGORIES

All transactions involving SD should be evaluated against the IC^3 Supplier Development Matrix. The IC^3 Supplier Development Classification Matrix assists in categorising opportunities according to their industrial leverage, value leverage and strategic importance to Transnet. Once opportunities are identified it will be possible to identify the tools that should be implemented to maximise the full SD potential from these opportunities.

The categories of SD identified in the Matrix are as follows:

12.1.1 Programmatic

Programmatic initiatives follow a longer than normal planning horizon and generally exceed the funding capacity of Transnet's balance sheet. They are identified either in IPAP II or through Transnet as a strategic fleet. Collaboration between the SOC and Government is achieved through focused task teams whereby infrastructural development and industrialisation are attained through joint support and in some cases public spending.

Investment is focused in plant, technology and skills in both intermediate and advanced capabilities to develop competitive advantage. An example is the Transnet locomotives fleet.

12.1.2 Strategic

Strategic initiatives follow a 3 to 5 Year planning horizon, involving investment in technology and/or skills in intermediate capabilities to achieve local capability and capacity building. This ensures that multinational corporations, original equipment manufacturers (OEMs) and service providers develop a certain percentage of their Goods locally. Strategic initiatives can therefore be used to achieve local capability and capacity building objectives by increasing the competitiveness, capability and efficiency of local suppliers. Strategic initiatives can sometimes focus on advanced capabilities but will in most cases require government support to develop local capability.

12.1.3 Focused

Focused initiatives include all medium to high value transactions with limited industrial leverage and medium to low strategic importance. These initiatives address short to medium term contracts that can be leveraged to encourage supplier and product development. The focus on investment in technology or skills enhances existing local industrial capability and/or the ability to supply strategic Services. Emphasis will largely be placed on benefiting previously disadvantaged individuals. The overall result improves the socio-economic environment by creating competitive local suppliers. It furthers the objectives of empowerment, transformation, regional development and rural upliftment.

12.1.4 Small Enterprise Development

Small Enterprise Development transactions are typically of low value and have no industrial leverage as it is characterised by low complexity Goods and high competition. These initiatives concentrate on increasing the capability of small local suppliers and are targeted toward previously disadvantaged individuals and communities, providing basic skills development and improving local employment and quality job creation. It includes a wide range of financial and non-financial Services that help entrepreneurs to start new businesses and to grow existing ones.

12.2 CATEGORISATION OF TRANSACTIONS INTO THE RIGHT SD QUANDRANT

Transnet has designed a focused four-step process for identifying high value generating SD opportunities (see *Figure [16]* below). The process takes Transnet's CAPEX and OPEX spend and then filters specific commodities by value to identify significant spend items. Significant spend items are likely to have the most leverage for SD opportunities. The industrial leverage analysis provides a view on the risk and the complexity of the commodity to understand the risk to the supplier and to Transnet. The process needs to be conducted in its entirety in order to determine the true nature of the opportunity as there are various elements which impact on the categorisation of opportunities. Each transaction must be analysed on a "case

by case" basis, taking cognisance of the nature and complexity that is involved in that particular SD activity.

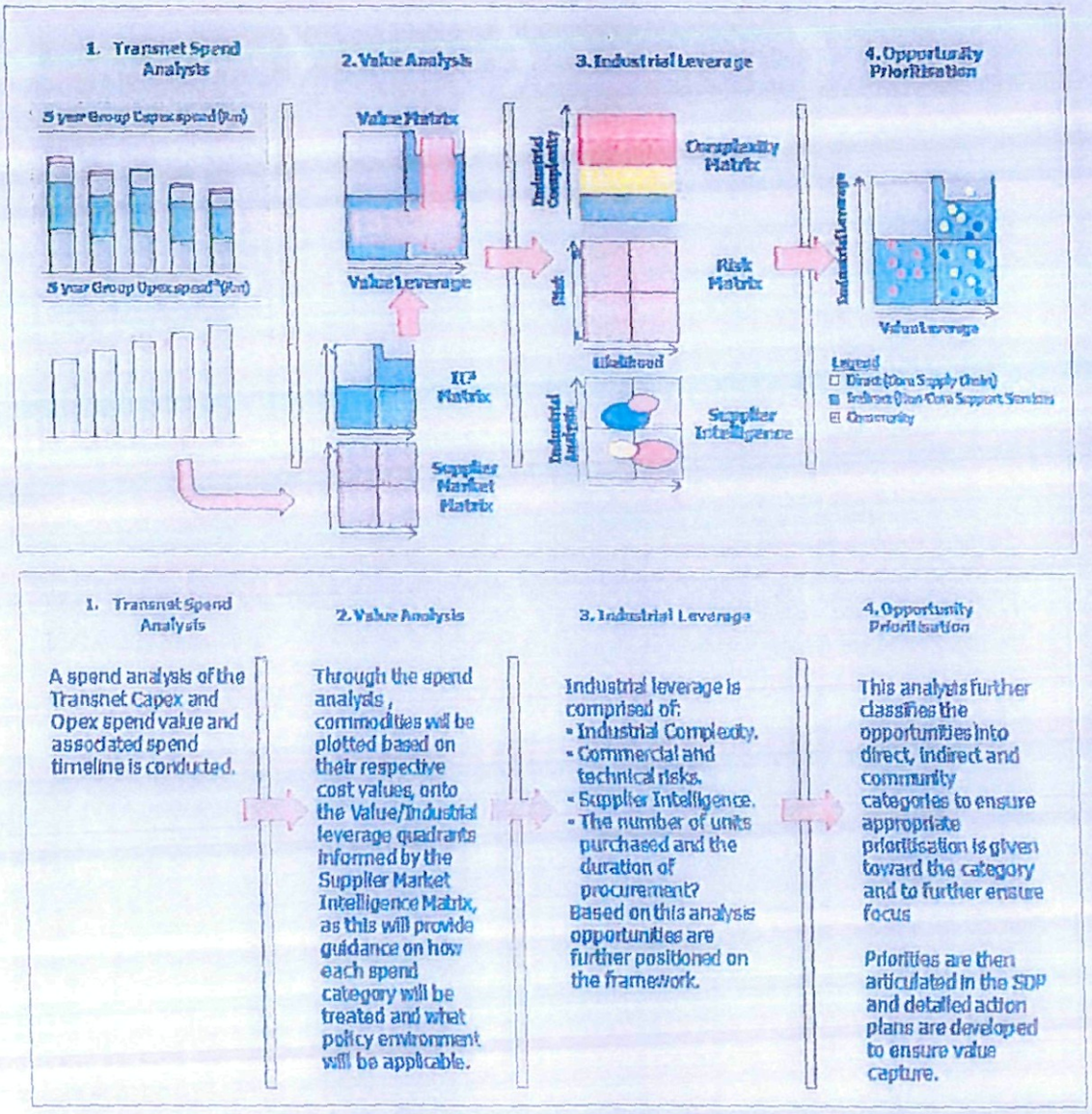


Figure [16] – 4 Step Process

This process is briefly described above, but a detailed description can be obtained in the Transnet Supplier Development Plan.

12.3 SUPPLIER DEVELOPMENT (SD) MECHANISMS

If a specific commodity has been earmarked as a SD commodity, SD should be included either as a threshold or prequalification criteria or both if it is justified that further value will be extracted using a combination of these two mechanisms. A rigid "one size fits all" approach cannot be implemented as each procurement transaction will need to be evaluated on its own merits based on the nature of the transaction with specific focus areas. The assistance and guidance of the SD COE must always be sought when developing SD criteria.

Depending on the supplier market and what is feasible and achievable on a specific bid, SD criteria will differ on a case by case basis. For example, in one case local manufacture, local assembly, industrialisation may be feasible, whilst in another the focus may fall on skills transfer, job creation/preservation and skills development (*Figure [17]* below).

The IC³ framework developed by the DPE was adopted to assist in the prioritisation of SD opportunities and includes transformation

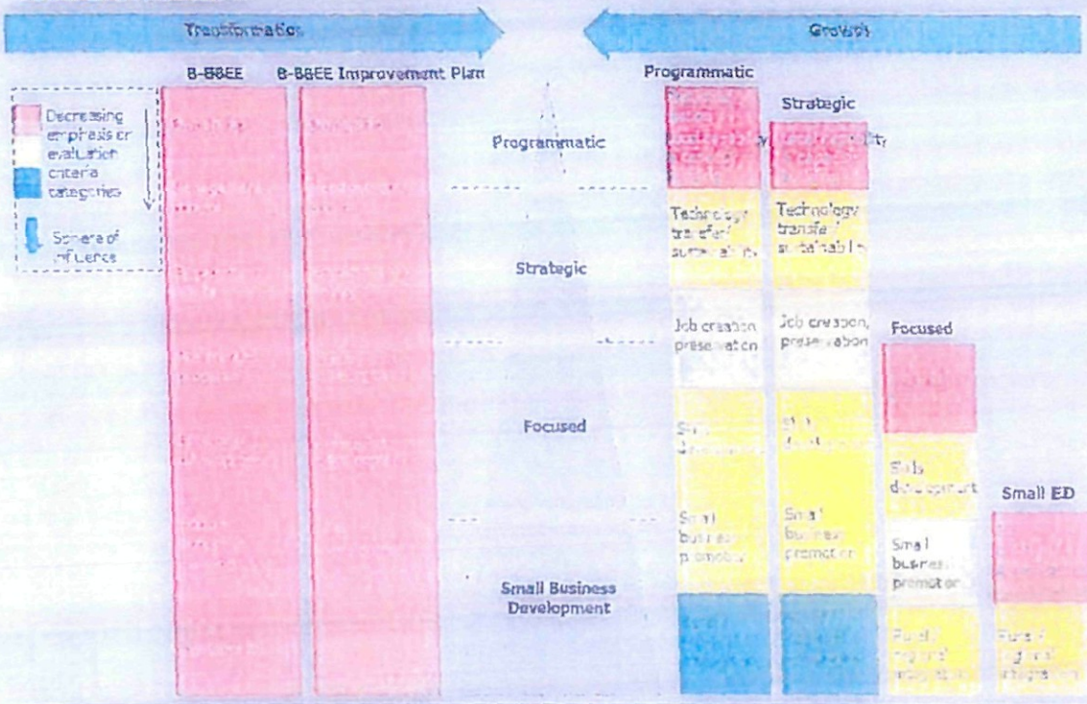


Figure [17] – SD Criteria

The table below serves as a guideline to determine the opportunities for SD and transformation based on the value of a particular transaction and the duration of the contract:

TABLE 14

Transaction value and contract duration	SD	B-BBEE Improvement Plan	BBBEE certificate
▪ **R0 – R1 million** ▪ Contract **duration more than** one (1) year	**Applicable through the B-BBEE scorecard**	**Applicable**	**Applicable**

• Greater than R1million – but less than R2million • Contract **duration (Once-off and less than one year)**	**Applicable through the B-BBEE scorecard**	**Not Applicable**	**Applicable**
• Greater than R2 million • Contract **duration more than** one (1) year	**Applicable as per paragraphs 12.3.1, 12.3.2 and 12.3.3 below**	**Applicable**	**Applicable**

The SD criteria that were developed during the planning phase, should be broken down into specific measurable components and incorporated in the bid documents. This is shown in the table below:

TABLE 15

SD criteria	Measurable areas	Further explanation
Industrialisation	• Value of investment in plant • Reduction in import leakage • Potential increase in export content	• Quantification of the monetary value invested in machinery, equipment, buildings • A percentage indication of the increase in locally supplied Goods and therefore the resultant decrease in imports as a result of the contract • The % increase in exports that will result from increased industrial capability developed in relation to the award of the contract
Capability & capacity building	• % Local parts • Value of local parts in relation to the bill of materials • Value spent on local suppliers • Number of local suppliers in the supply chain of the Bidder	• Planned use of local parts as a percentage of the total contracted items • Planned monetary value of the parts utilised in the bill of materials (as a percentage of the total spend) • Planned percentage monetary value spend on procurement of Goods and Services procured from SA suppliers • Number of South African suppliers that are to be utilised in the fulfilment of the contract
Technology transfer and sustainability	• Technology transfer including: o Methods of manufacturing o Introduction of new technologies o IP transfer (no.	• Introduction of a new/improved method of manufacturing o Provision of new technologies o For processes o ICT o The transfer of patents, trademarks and

SD criteria	Measurable areas	Further explanation
	and value)	copyrights
Skills development	• Number company employees to be trained including: o Number of artisans o Number of technicians o Number of Black People o Total number of people • Number of downstream individuals to be trained, including o Number of artisans o Number of technicians o Number of Black People o Total number of people • Certified training • Rand value on training to be spent in the industry • Number of bursaries / scholarships (specify field of study) • Number of apprentices (specify industry) • Investment in schools in specific sectors (e.g. engineering)	• No. of individuals within the company (in South Africa) that the supplier plans to train over the contract period; training undertaken in the previous Year will not be taken into account as past employee training appears in the skills development pillar of the BBBEE scorecard; criteria broken down as for industry training above • No. of individuals that the supplier plans to train in the industry over the contract period; training undertaken in the previous Year will be taken into account to make allowance for suppliers who have just completed a training drive within the industry • What percentage of training for 1 and 2 above complies with local and/or international skills accreditation • Total planned monetary value spend (as a % of contract value) on skills development/training for the contract period within the industry; money spent in the previous Year will be included in Year 1 to make allowance for suppliers who have just completed a training drive within the industry • The number of higher education bursaries/scholarships provided in the previous Year and planned for the duration of the contract • The number of apprentices that the company plans to enlist during the course of the contract • The monetary value that the supplier is prepared to invest in the development and running of schools to increase technical skills development
Small business promotion	• % of planned procurement from QSEs • % of planned procurement from EMEs • % of planned procurement from start-ups • Non-financial support provided to small business • Joint ED initiatives with Transnet	• Refers to the planned procurement from small business as a % of the total planned procurement spend • Suppliers will be given a point for each non-financial ED support that they are planning to give to small business e.g. Professional support; employee time allocated to assisting small business • Suppliers will be given a point for each financial ED support initiative that they are planning to undertake during the contract period e.g. Shorter payment terms; interest free loans • The number of ED initiatives that the supplier

SD criteria	Measurable areas	Further explanation
		will jointly run with Transnet: • That are aligned to Transnet's objectives • That are financial or non-financial in nature
Local Economic Development (Rural/Regional Development)	• Number of local employees • Value spent on local business • Proximity of business to operations • Number of rural businesses to be developed • CSI spend	• Number of people to be employed from within the town / city of operation • Monetary value to be spent on business within the town / city of operation • The locality of the bidder's business in relation to operations. Preference is given to regional (provincial) locality • The monetary value of CSI to be spent on rural community development projects

12.3.1 SD as a threshold

The use of SD as a threshold involves scoring bidders against pre-determined criteria (e.g. job creation, job preservation, skills transfer, small business promotion, rural development and localisation) stipulated in the RFX. The threshold which bidders are required to meet must also be clearly communicated in the RFX document e.g. an overall SD score of 60%. SD will be utilised as a threshold only where market analysis on SD opportunities justifies it. Bidders failing to achieve the set threshold will be excluded from the bid process, whilst bidders who meet this requirement will be evaluated in terms of the PPPFA methodology. It is important to note that different SD thresholds may be set for Large Enterprises on the one hand and QSEs / EMEs on the other provided that there is an underlying justification for the differentiation. For example Large Enterprises may be required to meet a 60% threshold for SD while EMEs and QSEs may only be expected to meet a 40% threshold. It is reasonable to expect Large Enterprises to do more to promote SD as opposed to QSEs and EMEs, many of whom are themselves in need of development and upliftment.

12.3.2 SD as a prequalification criterion

SD will be incorporated as a prequalification criterion when the market analysis indicates that it is not viable to include SD as a threshold. Where SD is used as a prequalification criterion, bidders will not be scored for SD but will instead be requested to provide a commitment that the monetary value of all SD initiatives to be undertaken by them will not be less than a certain stipulated percentage of the contract value e.g. bidders may be asked to provide an undertaking that no less than 20% of contract value will be spent on SD initiatives. The percentage stipulated must be informed by market analysis in order to ensure that it is not set at an unreasonably low or high level. Bidders failing to provide this undertaking will be excluded from the bid process, whilst bidders who meet this requirement will be evaluated in terms of the PPPFA methodology. In addition, Bidders may be required to provide a minimum commitment in relation to specific SD criteria e.g. job creation or skills development. It is important to note that different pre-qualification criteria may be set for Large Enterprises (LEs), QSEs and EMEs provided that there is an underlying justification for the differentiation.

12.3.3 Threshold versus prequalification criterion

It is advisable that where possible, SD be incorporated as a threshold rather than a pre-qualification criterion. This is because the setting of a threshold will involve a detailed assessment of the bidders' SD commitments whereas a set prequalification criterion will be assessed simply based on whether the bidders agree to the stipulated percentage SD

commitment required. It is therefore critical that the SD department be involved at the pre-procurement / demand stage so that a proper market analysis can be conducted and maximum SD value derived from a particular procurement process. As indicated in paragraph 12.3 above, it is also possible to utilise a combination of a threshold as well as prequalification criteria if it is justified that further value will be extracted as a result thereof.

Irrespective of whether SD is to be included in a bid as a threshold or a prequalification criterion, bidders must be requested to complete an SD plan and value summary as part of their bid submission. The SD Plan represents additional detail in relation to the SD Plan providing an explicit breakdown of the nature, extent, timelines and monetary value of the SD commitments which the Supplier proposes to deliver during the term of the contract.

SD must not be incorporated as part of weighted evaluation criteria. In terms of the PPPFA, bids must be evaluated on the basis of Price and Preference only. SD must only be used as a prequalification criterion, a threshold or both.

12.4 INCORPORATING SD AS A MATERIAL TERM OF THE CONTRACT

During contract negotiations, SD may be further negotiated with the preferred bidder/s. Specific milestones, timelines and targets will be recorded to ensure that the SD Plan is in line with Transnet's SD objectives and that implementation thereof is completed within the term of the contract.

The contract concluded with the successful bidder will incorporate the final SD plan as a material term of the contract. The contract must also contain a penalty clause which stipulates the penalties that will be imposed by Transnet, should the Bidder fail to meet the SD targets in the contract. It is important to note that such penalties must be reasonable and not out of proportion to the prejudice suffered. In terms of the Conventional Penalties Act 15 of 1962, a court may reduce a penalty if it is unreasonable, disproportionate and inequitable. Different penalties may be imposed on LEs as opposed to QSEs and EMEs for failure to achieve SD initiatives. For example, a penalty of 10% of undelivered SD value be imposed on LEs, 5% on QSEs and 2.5% on EMEs. Please refer to paragraph 22.3.9 for more information on when penalties may be imposed.

Furthermore, failure to achieve SD targets will result in breach of contract and provide Transnet with cause to terminate/cancel the contract with the successful bidder or implement other remedial measures. Milestones in terms of achievement of SD targets per year must be stipulated in suppliers' contracts so that penalty/breach of contract clauses may be invoked if required.

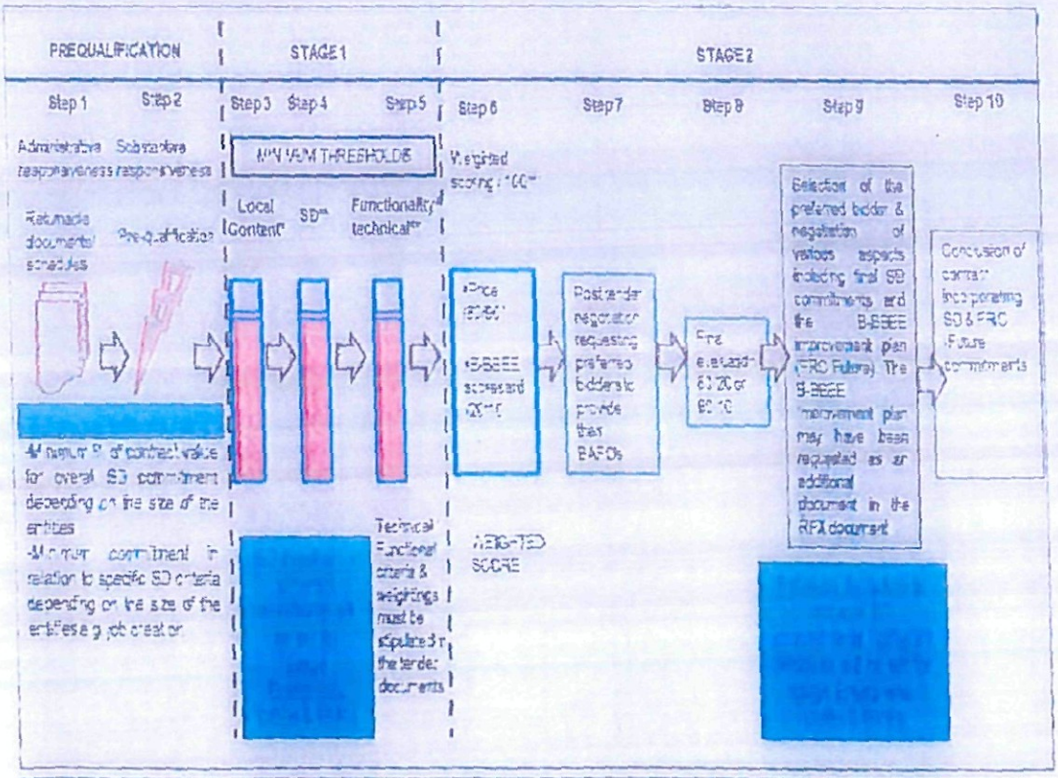
Monitoring and evaluation will be conducted by the SD department as a standard requirement to ensure tracking and successful delivery of the commitments.

CHAPTER 13 : DETERMINING BID EVALUATION CRITERIA

The CIDB prescribes 4 standard evaluation methods for construction procurement. In the Transnet context, historically Method 2 and 4 were utilised. However, Method 4 is not aligned to the requirements of the PPPFA. As a result, only Method 2 of the CIDB methods is to be utilised until further notice. CIDB Method 2 is dealt with in detail in paragraph 13.6 below.

13.1 TRANSNET'S EVALUATION METHODOLOGY

Transnet's evaluation methodology is aligned to the prescripts of the Preferential Procurement Regulations, 2011. It is also designed to achieve Transnet's SD objectives. The methodology follows a two-stage evaluation process where minimum thresholds are set for Local Content (where applicable – designated sectors), SD and Quality/Functionality. Only those bidders that meet (or exceed) the relevant minimum thresholds, advance to the next evaluation phase (step 6 in diagram below, where Price/TCO, and B-BBEE scorecard are scored using either the 80/20 or 90/10 preference point system depending on the value of the transaction. Figure 18 below depicts the evaluation methodology:



* Indicative stipulated minimum threshold as prescribed by National Treasury (if applicable). If the sector is not designated localisation must be incorporated into SD

** Indicative threshold not prescribed (if applicable

*** Point system dependent on value of transaction

Figure [18]: Transnet's evaluation methodology

13.2 STAGES OF THE EVALUATION METHODOLOGY

13.2.1 Prequalification

Bidders are required to meet the requirements of the administrative responsiveness and substantive responsiveness tests in order to be considered further. Administrative responsiveness will be tested based on returnable documents submitted and signatures on the Bid documents. Substantive responsiveness will be tested against whether a Bid conforms to all the terms, conditions, scope and/or specifications of the bid documents without material deviation or qualification. This will include an assessment of whether all pre-qualification eligibility criteria set, either Functionality or SD related, have been met.

13.2.2 Stage 1

A minimum threshold must be set for Local content, SD and Quality/Functionality (where applicable). These are separate thresholds, and the Bidder must meet the minimum criteria for all of these in order to proceed to stage two.

13.2.3 Stage 2

The bidders who meet the minimum threshold for Local content, SD and/or Quality (Stage 1) will then be evaluated against each other using only price and B-BBEE scorecard based on the applicable preference point system. In terms of the preference point system, proposals will be evaluated on price which will be allocated 80 or 90 points and preference which will be allocated 20 or 10 points, dependent on the value of the Goods. The 80/20 preference point system applies where the acquisition of the Goods, Services or Works will be less than R1 000 000.00. The 90/10 preference point system applies where the acquisition of the Goods will exceed R1 000 000.00.

13.3 CHOOSING APPROPRIATE EVALUATION CRITERIA

13.3.1 General principles

Evaluation criteria must be:

- **Unambiguous.** The bid documents must provide a complete explanation of the scope of work as well as the criteria and sub-criteria that will be used in the evaluation of bids. Care should be taken to ensure that the RFP does not contain any contradictory clauses. Where drawings are included as part of the RFP, such drawings must be completely aligned to the written description of the Goods or Services required.
- **Rational and justifiable.** Evaluation criteria must be rationally linked to the projected procurement outcomes.
- **Quantifiable.** If a criterion cannot be measured, it should not be included as an evaluation criterion.
- **Predetermined.** Evaluation criteria must be stated upfront in the RFP document. No evaluation criteria should be used in the evaluation process that were not stipulated in the RFP document.
- **Objective.** Evaluation criteria should not be written with a specific product in mind, but should rather describe functional (as opposed to product specific) characteristics.

13.3.2 Functional criteria

Should functionality be included in a bid as a threshold, the bid documents must clearly state the minimum score to be achieved if bidders are to be further evaluated on price and preference. Only those bidders who achieve the minimum threshold for functionality must be further evaluated for price and preference. Functionality may only be included as a threshold but not as an evaluation criterion.

Please note that not all bids have to include functionality as a threshold. Bids involving low value and low technical requirements (e.g. bottled water) do not have to include functionality and should be decided on the basis of price and preference only.

Functional/Quality criteria must be determined taking into account the needs and expectations of the end user with regard to functional outcomes of Goods or Service, i.e. conformance to stated requirements. It is important to note that only necessary quality/technical criteria must be included as evaluation criteria. Quality evaluation criteria must not be drafted in an exclusionary manner e.g. requesting 10 years experience in an industry when actually 5 years experience would suffice. In developing Quality criteria, it is necessary to consider how these items are to be measured, verified and evaluated in Bid submissions.

a) Quality criteria may include criteria such as[2]:-

(i) technical merit;
(ii) aesthetic and functional characteristics;
(iii) safety characteristics;
(iv) environmental characteristics (including green economy, energy conservation and climate control);
(v) quality control practices;
(vi) reliability;
(vii) durability;
(viii) method statement (including organization, logistics and support resources) relevant to the scope of work;
(ix) qualifications and demonstrated experience of key staff in relation to the scope of work;
(x) demonstrated experience of the Bidder with regard to specific aspects of the project/comparable projects;
(xi) running costs;
(xii) after sales Service and technical assistance;
(xiii) delivery date;
(xiv) delivery period or period of completion;
(xv) inspection or testing requirements;
(xvi) integration with other Goods / Services; and
(xvii) training requirements.

b) Additional Quality considerations in construction procurement is as follows:

[2] *This section on quality is largely based on clause 4.3 of the CIDB Standard For Uniformity in Construction Procurement*

Quality criteria shall not include:

(i) social considerations, such as the composition of workforces in terms of race, gender;
(ii) or disability; or
(iii) matters relating to the basic capability or capacity of the tendering entity to execute the contract.

c) Where Functionality/Quality is of critical importance, at least 2 persons of the CFST who are conversant with the technical aspects of the bid shall set the evaluation criteria and weightings. These persons shall also determine the prompts or qualitative indicators for judgment, with fixed scores assigned to each prompt. Quality must be scored in terms of such prompts for judgment, individually and then averaged, subject to moderation.

d) It should also be determined whether a due diligence exercise, interviews, site visits and presentations should form part of the scoring, and if so, the relative weights assigned to each of these must be determined. These aspects must be clearly dealt with in the RFP. It is important to note that due diligence, interviews, site visits and presentations should only form part of the scoring if there are aspects of the bid that cannot be evaluated based on the responses to the RFP document or if the due diligence, interviews, site visits and/or presentations are required to validate the responses to the RFP document. If interviews, presentations or site visits are required in order to assess Quality, this should be stated in the RFP. The specific purpose and outcomes of the interviews, presentations or site visits and the associated scoring should also be included. It is permissible to set two separate thresholds for functionality in this regard i.e. one threshold for the desktop assessment and another for the interview, site visit or presentation.

e) The evaluation of bids shall be based only on the information contained in Bid submissions, and where relevant from a due diligence exercise, interviews, presentations and site visits.

13.3.3 Price criteria

a) Price will be evaluated strictly in terms of the prescripts of the PPPFA. When dealing with more complex bids, the evaluation of price must involve an evaluation of the Total Cost of Ownership (TCO). In such cases, Bidders must be requested to provide all information relevant to the evaluation of TCO. It is recommended that Bidders be provided with a comprehensive pricing schedule to ensure that they all follow a standardised approach with pricing. This will facilitate uniformity in the evaluation of price. The evaluation of TCO includes, but is not limited to, factors such as:

- Installation costs;
- Warranties;
- Service and maintenance costs;
- Operating supplies;
- Storage costs;
- Commercial discounts;
- Incoterms;
- Price adjustment conditions; and

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- Exchange rate fluctuations.

b) When calculating prices, only discounts which have been made unconditionally must be taken into account during evaluation. However, where a discount is made conditionally, such discount must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.

13.3.4 Preference criteria

All Bids should be evaluated against the applicable preference point system as prescribed in the Preferential Procurement Regulations, 2011. The preference criteria, as set out in Chapter 10, should be included in the bid document.

13.3.5 Supplier development (SD) criteria

If a specific commodity has been earmarked as a SD commodity, then SD should be included in the bid either as a threshold or prequalification criteria or a combination of these 2 mechanisms. The SD criteria, as developed in Chapter 12, should be included in the bid document.

13.3.6 Evaluation of counter party risk

Depending on the type of Goods/Services being procured, it may be important that the counter party risk of Bidders be assessed based on one or all of the following:

- their audited financial statements;
- key financial ratios. For example: Current Ratio, Turnover/Contract Value, Interest cover, Gearing and financial performance of bidder relative to peers;
- perform media searches of bidders to identify any key risks that have not been disclosed in bid submissions. For example: Poor financial results which impacts the going concern of the customer / supplier;
- review analyst reports and gauge overall market sentiment of bidders;
- review geographical, political and economic risks based on the location of the bidder;
- review the bidders business continuity plans; and or
- Perform a review of the security / collateral by reviewing parent company guarantees and/or performance bonds (if applicable).

Depending on the importance of the financial stability of the successful Bidder/s, financial stability may either be included as a pre-qualification criterion or a due diligence exercise may be performed on the preferred bidders at the end of the evaluation process prior to recommendation. It is important to note that the evaluation of financial stability will not feature in every bid, particularly those which seek to advance Start-up and emerging enterprises. Financial stability may also be evaluated at the discretion of the AC in terms of paragraph 20.3.

13.4 DETERMINING THE PREQUALIFICATION CRITERIA & THRESHOLDS

13.4.1 Prequalification criteria

Prequalification criteria may be set in respect of Functionality, SD and financial stability. Such criteria must be determined with circumspection as bidders may not be considered further should they fail to meet any of the set prequalification criteria. Furthermore, prequalification criteria must not be set in an exclusionary manner and must prescribe the

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minimum requirements that Transnet requires particularly with regard to Functionality and financial stability.

13.4.2 Thresholds

While the Local Content threshold in designated sectors is prescribed, the determination of thresholds for Functionality and SD must be considered on a case by case basis as each procurement event will differ. It is important that these thresholds be determined upfront and included in the RFX document. Once included in the RFX document one cannot deviate from that and the evaluation has to be done strictly in accordance with what was stated in the RFX document.

Ideally, the thresholds set must be based on Transnet's minimum requirements i.e. the minimum Transnet requires in order to satisfy its needs/objectives. It, however, sometimes transpires that despite this exercise, all the responses received do not meet the set threshold/s. Transnet may decide that if no Bidders pass the SD and/or Functionality threshold, it will reserve the right to lower the threshold by a certain pre-determined percentage. The decision to utilise such a disclaimer must be carefully considered. The disclaimer must be clearly specified in the RFP, provided it is in Transnet's best interests to do so and there is concurrence between the end user and Procurement. In addition, with regard to the SD threshold, concurrence is also required from the SD Department. The use of this disclaimer is designed to mitigate the risk of a bid requiring cancellation even though there was an adequate response from the market.

The weighting of the Functionality/Quality threshold as a whole, as well as the sub-requirements within this threshold, need to be carefully determined to ensure that the end product/service is optimal and fit for purpose.

Similarly, as indicated in Chapter 12, the setting of the SD threshold must be based on market analysis of the SD opportunities in a particular sector.

13.5 WHEN TO DETERMINE THE EVALUATION METHODOLOGY

All of the above should be carefully considered by the CFST and included in the sourcing strategy, the RFX and RFX sign-off template prior to issuing the RFX to the market, as neither the evaluation criteria, nor the weightings may be changed during the evaluation phase.

13.6 CIDB EVALUATION METHODOLOGY

13.6.1 The CIDB register of contractors shall be applied in all construction works contracts. The manner in which the CIDB register of contractors is to be applied is established in the CIDB Regulations which are issued in terms of the CIDB Act and the CIDB Standard for Uniformity in Construction Procurement.

Determining the correct CIDB grading:

- Step 1: Identify preferably one, but not more than two class(es) of construction works that best describes the works to be performed.
- Step 2: Estimate the tender value including value added tax and identify the tender value range designation within which this value falls. Where the estimated value is not more than 20 percent above the lower limit of a tender value range, base the contractor grading designation on the tender value range immediately below the tender value range within which the estimate falls.

- NOTE: Invitations to tenderers should indicate as accurately as possible the registration requirements and not be misleading; hence the requirement in the regulations to base the estimate on the lower designation in borderline circumstances.
- In certain cases, where the contract for construction works takes place over several years (term contract), the contractor grading designation may be based on the annual estimated value of the contract.
- Step 3: Determine the approximate contractor grading designation and, where applicable, the alternative designation, based on the class(es) of construction works selected in Step 1 and the tender value range identified in Step 2. Where the employer has a targeted development programme in place that provides the necessary support to enable the contractor to successfully execute the contract, contractors who are registered as potentially emerging contractors in one designation lower than required, may also be permitted to submit tender offers.
- Step 4: State the requirements for contractor grading designation in the Tender Data in the form of eligibility criteria in using the wording prescribed in the Standard for Uniformity in Construction Procurement.

13.6.2 Pre-qualification criteria may be used as eligibility criterion in the bid. The framing of quality criteria as eligibility criteria is a simple, yet effective, means of ensuring that only those bidders who are likely to deliver the required quality submit bids and compete for the award of a contract.

Example 1: An engineering and construction works contract may contain the following eligibility criteria:

Where the works required involves the removal and disposal of asbestos cement sheeting, the eligibility criteria should state that the contractor must be a Registered Asbestos Contractor with the Department of Labour.

Example 2: A professional service contract may contain the following eligibility criteria:

The eligibility criteria for bidders are that they complete the Competent Persons Declaration and have in their full time employ a person satisfying the relevant requirements for a competent person for the required service.

13.6.3 As indicated above, only CIDB Method 2 is to be utilised within Transnet until further notice. Method 2 is explained in more detail below:

CIDB Method 2: Financial offer and preferences

Firstly, Quality/Technical is to be evaluated as a prequalification criterion.

a) Reduce each responsive tender offer to a comparative offer. A comparative offer is defined under F.1.3.3 of the CIDB Standard Conditions of Tender as contained in Annex F of the Standard for Uniformity in Construction Procurement.

b) Score bid evaluation points for financial offer.

c) Confirm that tenderers are eligible for the preferences claimed and if so, score bid evaluation points for preferencing

d) Calculate total bid evaluation points.

e) Rank bid offers from the highest number of bid evaluation points to the lowest.

f) Recommend bidder with the highest number of bid evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

CHAPTER 14 : MAIN PROCUREMENT MECHANISMS

This Chapter applies to both general and construction procurement. Additional CIDB procurement mechanisms are detailed in paragraph 14.8 below.

14.1 FACTORS TO CONSIDER WHEN SELECTING THE APPROPRIATE PROCUREMENT MECHANISM

Sourcing/procurement strategies are closely linked to the strategic importance and value of the Goods/Services. The first step is to classify Goods/Services on a risk/value matrix. In order to determine the importance of Goods/Services to Transnet as well as the appropriate procurement mechanism to be used, the commodity should be plotted on the four quadrant matrix below:

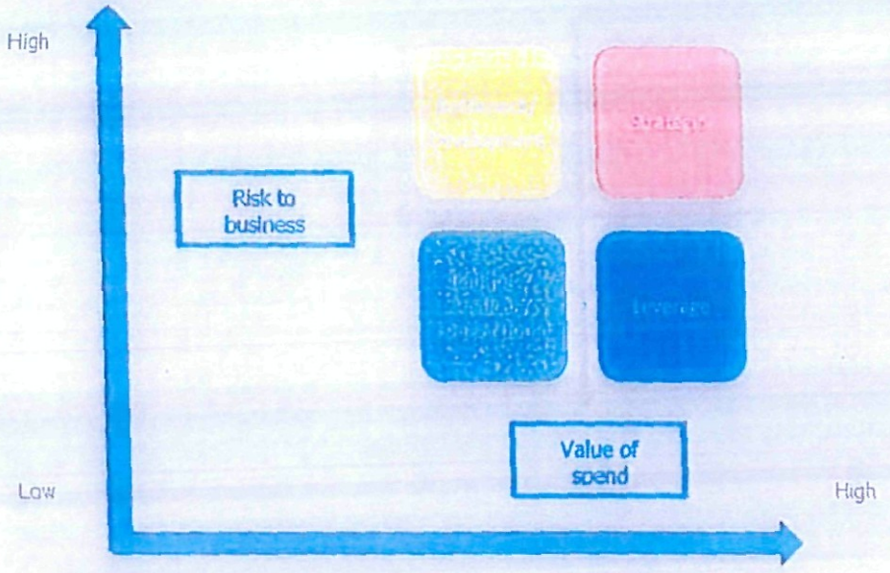

Figure [19] – Risk / Value Matrix

The following guidelines will assist in determining the correct procurement mechanism to use depending on where in the matrix particular the Goods/Services are placed:

TABLE 16

Type	Characteristics	Appropriate procurement mechanism/s	Possible contract options
Routine/ Tactical Transactional	• Low risk; low spend • Non-critical items • Many suppliers in the market • Objective is to minimise spending significant time and effort on obtaining these Goods / Services through 'as	• Open Bid • Quotation system (only when non repetitive and under R2 million)	• "As and when" contract for short and medium term • Transversal contract

Type	Characteristics	Appropriate procurement mechanism/s	Possible contract options
	and when' contracts		
Leverage	• Low risk; high spend • Non-critical items • Many suppliers in the market • Objective is to leverage economies of scale	• Open Bid	• Transversal contract • "As and when" contract for short and medium term
Bottleneck/ Development	• High risk; low spend • Limited suppliers • These are items that Transnet must have but which are difficult to obtain • Critical items • Includes specialised equipment, instrumentation or software from proprietary suppliers • Objective is to secure supply	• Two stage bidding system • Approved list • Confinement • Framework Agreement	• "As and when" contract for medium term • Fixed quantity
Strategic	• High risk; high spend • These are items that are critical to Transnet's business	• Open Bid • Two stage bidding system • Approved list • Confinement • Framework Agreement	• Medium to long term contract • Transversal contract

Depending on the circumstances of each requirement for the procurement of Goods or Services, any one of the following main procurement mechanisms or procurement paths may be utilised:

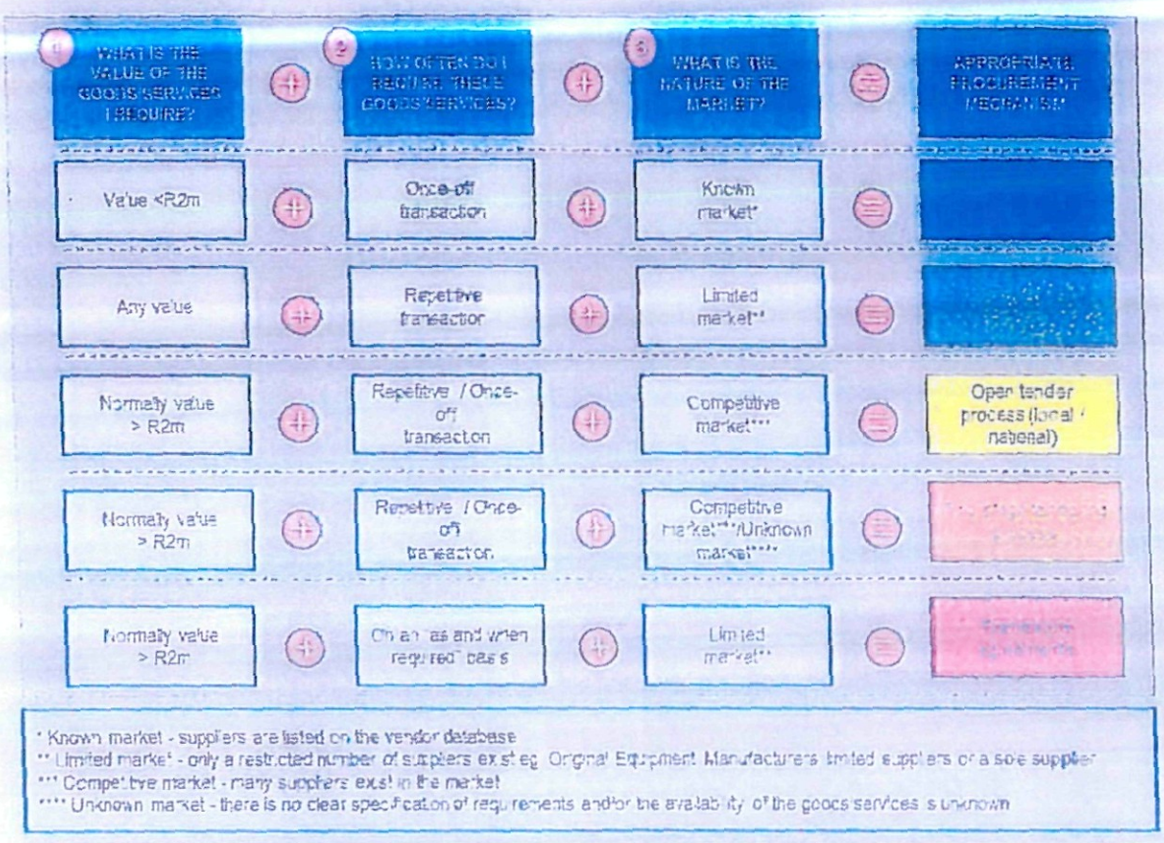

Figure [20] – Procurement Mechanisms

14.2 PROHIBITED PRACTICES

14.2.1 As a general rule, the quotation / bidding system must not be used merely to obtain market related prices for budget or benchmarking purposes.

14.2.2 In cases where it is absolutely necessary to obtain test bids for budget purposes only, the request to the market must clearly and unambiguously state that the request for a quote is for budget purposes only and that no business will be awarded against this invitation. Care should, however, be exercised that such budget pricing exercise is not abused merely to give certain contenders advance notification of a new project in the pipeline. It would be advisable to rather obtain test quotes from more than one, or even better, all the known suppliers so as not to run the risk of being perceived to have given only one contender advance notification.

14.2.3 When the full scope of work is known at a point in time, requirements may not be deliberately split into parts or items of lesser value in order to keep the transaction value within a particular Delegation of Authority level or to keep it below the threshold of an AC or a person with higher Delegation of Authority. This is considered to be Parcelling and will be regarded in a serious light as it amounts to non compliance with procurement procedures.

14.2.4 Specifications should be functional and fit for purpose, rather than brand- or product-specific. Specifications must not include any exclusionary terms. Compiling a specification around one supplier's product is unfair and not allowed. Where it is necessary to specify a particular brand or product, the RFX document must request the particular brand/product "or similar".

14.3 THE QUOTATION SYSTEM - REQUEST FOR QUOTATION ("RFQ") / CIDB QUOTATION PROCEDURE

- Only used for transactions below R2 million in value
- The Goods or Services must be required on a non-repetitive basis
- The market should be known
- A minimum of three quotes must be obtained, where possible

14.3.1 Definition

The quotation system is a procurement system used for transactions below R2 million that are required on a non-repetitive basis.

14.3.2 When to use the quotation system

b) The quotation system is intended for non-frequent purchases of fairly low value. It should not be used on a continual / repetitive basis for the same commodity i.e. instances where the same commodity is purchased (sometimes even from the same supplier), but on different purchase orders/requisitions. This will be regarded as Parcelling.

c) The quotation system is best suited in the following circumstances where:

(i) transactions are valued at less than R2 million;

(ii) the purchase is not required on a repetitive basis. Where the same purchase is regularly made, consider a fixed term as-and-when-required contract. If market prices of the commodity are volatile and it is impossible to obtain firm prices for a specific period (even with price review mechanisms included), consider a short term as-and-when-required contract. Such a contract may be concluded following either an open tender process or a quotation process;

(iii) the value of the transaction would make it impossible, impractical or economically unviable to call for Open Bids; or

(iv) there are opportunities to develop suppliers in order to achieve transformational objectives. This mechanism is considered to be the best avenue to facilitate entry to the market for emerging small B-BBEE companies.

14.3.3 Advantages and disadvantages of the quotation system

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Advantages	Disadvantages
Quick turn-around times in the case of non-repetitive purchases	• This procurement mechanism is not the most cost-effective as the benefit of volume discount is lost • Turnaround time is longer when using the quotation system as opposed to an 'as and when' contract, in the case of repetitive purchases • Risk of limiting competition to only certain service providers

14.3.4 The authority to obtain quotes

CEOs may at their own discretion decide to allocate different levels of authority to different Managers in terms of their Delegation of Authority. The CEO [and ultimately the Chief Procurement Officer ("**CPO**")] will delegate specific powers to specific Managers in the procurement function to invite quotations up to a certain value and secondly for the award of the business resulting from the quotation system.

Furthermore, the CEO of a Division may at his/her own discretion and within the Transnet DoA framework, introduce OD specific control mechanisms for these "low" value transactions (e.g. Petty Cash policies, etc).

Depending on the value of transactions falling within the quotation system, appropriate control measures must be implemented from low value quotes to high value quotes:

TABLE 17

Transaction value	Mechanism for obtaining quote	No. of quotes
Less than R5 000.00	Fax/email quotes	1
R5 000.00 – R50 000.00	Fax/email quotes	2
Greater than R50 000.00 – R250 000.00	Fax/email quotes	3
Greater than R250 000.00 – R1000 000.00	Short form RFQ request (receipt of bids at the tender box)	3 or more
Greater than R1000 000.00 – R2 000 000.00	Formal RFQ process (receipt of bids at the tender box)	3 or more

14.3.5 Number of quotes to be requested

a) As a general rule, a minimum of three quotations should be requested. However, a buyer may request more than three quotes if necessary.

b) Where it is impossible to request three quotes e.g. patented articles, OEM spares etc., one or two quotes will suffice. However, a submission must be prepared with the reasons for not being able to request at least three quotations. This must be approved by the CPO or his/her delegate, depending on the value of the transaction and the delegated authority of the procurement

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official. Since OEM spares and components will in all probability be required on a regular basis, consideration should be given to either the framing of an Approved List, or the conclusion of an "As-and-when required" term contract.

c) It is important to note that once a request for quotations has been made to prospective Bidders, a buyer cannot subsequently request further quotes if only some Bidders approached have responded to the request by the closing date. This rule applies even where a Bidder has responded to the RFQ with a "no quote".

14.3.6 **Transnet Vendor Portal**

a) An automated Transnet wide Vendor Portal (TVP) has been created for all potential suppliers wishing to do business with Transnet to register and update their company profiles. The web address is https://vendorportal.transnet.net.

b) Potential suppliers should provide full details of the Goods/Services on offer, their tax clearance certificate, their BBBEE level, including % Black ownership and area of operation. Suppliers will be classified accordingly on the TVP.

c) Buyers who wish to obtain quotations must proceed to search the TVP and/or the OD's own vendor database for potential Bidders.

d) The TVP should ultimately have the functionality to invite quotes from potential suppliers on a rotational system to ensure an equitable spread of opportunities among all potential suppliers.

14.3.7 **Process**

a) As indicated above, the buyer will request quotes from at least 3 or more potential Bidders on the TVP where possible.

b) For relatively low value, simple Goods/Services, the RFQ should ideally be open for 3 to 4 Working Days in order to afford Bidders a reasonable opportunity to respond. For higher value, more complex Goods/Services, the RFQ should be open for a minimum of seven Working Days.

c) The bids must be received in a controlled environment, e.g. a dedicated email address, dedicated fax number or a tender box.

d) As a general rule, quotations are to be evaluated on the basis of price and B-BBEE. Where there are opportunities to include SD either as a threshold or prequalification criterion or a combination of both, SD should also be included in the bid. In the event that technical evaluation is also necessary, the technical evaluation criteria must be pre-determined and included in the RFQ document. The highest scoring Bidder is to be selected as the Successful Bidder unless there is objective criteria justify the award to another bidder.

e) In instances where quotes are invited from potential new bidders, the prices quoted should, where possible, be benchmarked against previous prices paid, to ensure that Transnet obtains optimal value for money, whilst achieving its social obligation.

f) As indicated in paragraph 14.3.6 (d) above, quotations should be invited from potential bidders on the TVP on a rotational basis so as to ensure an equitable spread of opportunity among all potential suppliers.

g) Please refer to paragraph 17.2.1 (d) regarding matters that were anticipated to fall below the AC's threshold but when quotes are received they are over R2 million in value. Furthermore, please refer to paragraph 22.5.7 (a) regarding contract amendments in this regard.

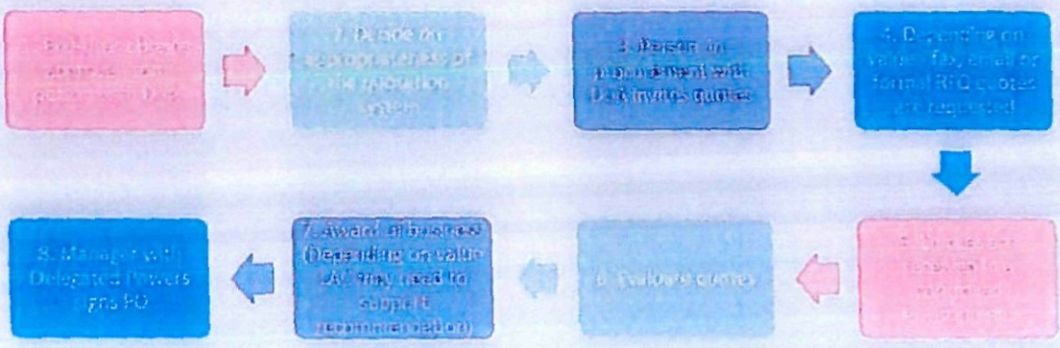

Figure [21] – Quotation Process

14.4 THE OPEN BID PROCESS (RFP)/CIDB OPEN PROCEDURE

- Generally used for transactions greater than R2 million in value
- There must be a competitive market and a clear detailed specification available to which many prospective Bidders are able to respond
- Bids may be advertised in local, national and / or international media as well as the Transnet website depending on the market
- Note that for construction procurement, the advertisement must, in addition be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.

14.4.1 Definition

The Open Bid Process (RFP) is a competitive process where the general public is approached with an invitation to bid that is published in the media. All interested parties are granted an equal opportunity to bid for Transnet's business. Once the bid has closed, the winning Bid is selected by means of a transparent evaluation, recommendation and adjudication process.

14.4.2 When to use the open bid process

The Open Bid system is the procurement/disposal mechanism best suited to the following circumstances:

a) the monetary value of the purchases is in excess of R2 million;

b) even if the bid value is less than R2 million, an Open Bid should be issued if the market is not known or the Goods or Services are required on a repetitive basis;

c) the market is competitive (i.e. many potential suppliers are able to provide the required Goods/Services);

d) there are clear and unambiguous specifications to ensure that all potential suppliers bid for the same product;

e) there is enough time available;

f) the value of the transaction must warrant the cost, time and effort taken to use an Open Bid process; and

g) in cases where Transnet's needs / specifications etc. are still too vague to issue a formal bid, the two-stage Bid system (RFI) should be followed.

14.4.3 Advantages and disadvantages of the open bid process

Advantages	Disadvantages
The Open Bid system is regarded as the procurement mechanism which best ensures open and fair competition.	The Open Bid process is time consuming. In order to ensure that Goods / Services are delivered to the business when they are needed, the need for the Goods / Services needs to be anticipated well in advance. Requires significant resources (cost, time, etc.)

14.4.4 Process

a) Before any bid document may be issued to the market, the person with the necessary delegated authority must provide written authority to approach the market. This must include approval of the evaluation methodology, evaluation criteria and the availability of funds. The evaluation team is also to be decided on at this point.

b) The bid document should be compiled according to the guidelines set out in Chapter 16 *(Bid Preparation)*.

c) Bids may be advertised in local, national and / or international media as well as the Transnet internet website depending on the market and value of the bid. Note that for construction procurement, the advertisement must, in addition be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.

d) Bids should be kept open for a reasonable period. Refer to paragraph 16.3 for more detail.

e) Bids are to be finalised as soon as possible after the closing date of the bid.

See process below to be followed in the case of an Open Bid process

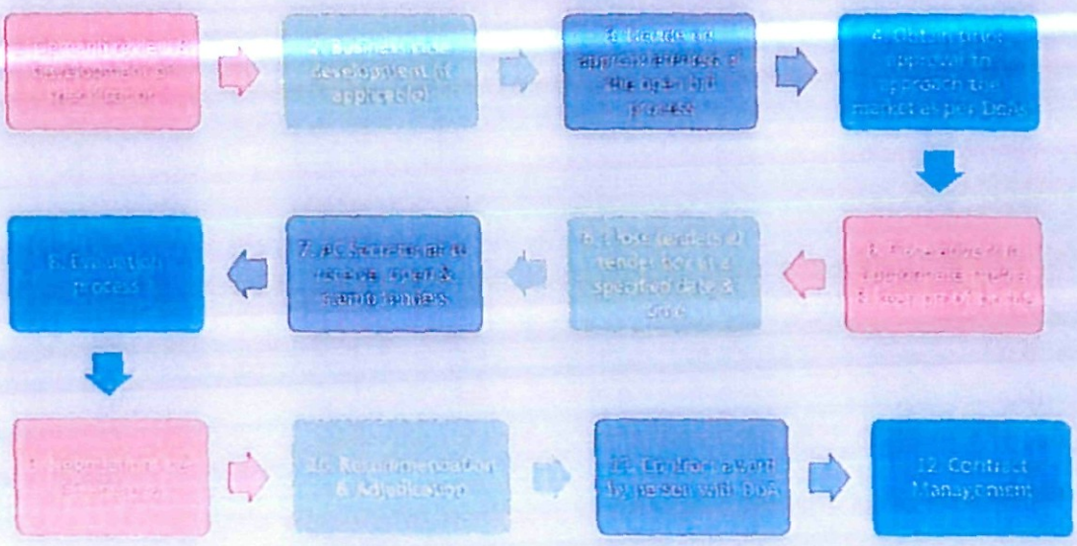

Figure [22] – Open Bid Process

14.5 APPROVED LIST PURCHASES

14.5.1 Definition

An approved list is essentially a "standing authority to confine" and may be framed and utilised either where:

- Goods or Services are required according to unique specifications, on a continual ("as and when required") basis and from a limited number of suppliers; or
- In a competitive market there is a need to prequalify suppliers, as well as to limit the need to continuously evaluate large numbers of bids.

14.5.2 General principles

a) In order to qualify for inclusion on any approved list a supplier must be able to supply Goods or Services of the quantity and quality required. Furthermore, if so required, the supplier must have submitted samples or delivered Goods which have satisfactorily passed Transnet's quality tests.

b) Approved supplier status cannot be acquired merely by being on a Division's Vendor Master or on a B-BBEE Manager's List of EMEs or QSEs for specific Goods or Services. Approved supplier status can only be obtained after following the process stipulated below.

c) Specifications must be drawn up to promote fair competition.

d) ODs and Specialist Units must attempt as far as possible to procure off-the-shelf Goods as opposed to drawing up their own specifications.

e) An Open Bid may not be issued for Goods/Services appearing on an approved list unless it is in the best interests of Transnet.

f) Information regarding Transnet's Approved Lists may not be disclosed to anyone outside Transnet without the written approval of the GCSCO.

g) The standard template for approved lists must be used.

14.5.3 When to use the approved list process

This procurement mechanism is ideally suited for the following transactions:

a) strategic, high-value, high-risk items, non-standard items which are not available "off-the shelf";

b) where equipment can only be obtained from Original Equipment Manufacturers (OEMs) or limited suppliers;

c) Goods and specialised Services that cannot be sourced from non-approved suppliers because of Transnet's own unique specifications, Quality standards, or safety requirements i.e. commodities that are not freely available in the market from a range of suppliers; or

d) Competitive market where there is a need to prequalify suppliers, as well as to limit the need to continuously evaluate large numbers of bids

14.5.4 Advantages and disadvantages of the approved list process

Advantages	Disadvantages
• Reduces administrative burden as there is no need to approach the open market every time there is a requirement for Goods/Services. • Bidders are pre-qualified and need not be evaluated on technical aspects every time there is a requirement. • New entrants can be accommodated at any time.	Delays between identifying and approving new entrants into the market due to stringent testing requirements.

14.5.5 Types of Approved Lists

a) **Evergreen Approved Lists**

(i) This type of approved list is to be used for situations as described in paragraph 14.5.3a) - c).

(ii) Evergreen Approved Lists remains valid indefinitely, subject to the proviso that they must be advertised every 6 months to afford new suppliers an opportunity to be included onto the list.

(iii) Although the list remains valid indefinitely, the suppliers on the list will be subject to periodic quality testing in order to maintain their name on the list. Should suppliers fail to meet quality standards,

their names may be removed from the approved list as per paragraph 14.5.8.

(iv) This type of approved list may be framed by following one of the two procurement processes outlined below:

- After public Advertisement of the intention to frame an approved list in a notice requesting all prospective suppliers to formally apply.
- By framing an initial approved list of suppliers based on previous experience and/or tests carried out. The list will nevertheless be advertised publicly thereafter to invite new entrants to the market.

(v) Testing: Bidders are entitled to a full explanation of the testing process that was/is to be carried out on their product. Bidders may, upon request, be allowed to observe the testing process carried out by Transnet. Those Bidders who's Goods fail the relevant tests, must be provided with detailed reasons why their Goods failed the tests and should be afforded an opportunity to resubmit their Goods for testing once the necessary improvements have been made.

(vi) In either of the two processes listed above, aspirant suppliers may apply for inclusion after the approved list has been established. Such suppliers may be provisionally included on the approved list where it is not practical to test their product/sample beforehand e.g. overhaul of traction motors; reconditioning of transformers for electric substations, etc. Potential suppliers in this category will be subjected to a quality check e.g. ISO certification, previous experience on work of a similar nature and complexity, quality control systems etc. Qualifying suppliers will then, subject to AC and CPO/GCSCO approval, be placed on the approved list as "aspiring suppliers". When obtaining bids from suppliers already appearing on the approved list, the aspiring prospective suppliers must also be invited to submit bids. If an aspiring applicant is awarded a contract or portion of the contract for testing purposes and performs satisfactorily, their name must be placed on the approved list by following the normal approval process i.e. AC and CPO/GCSCO approval must be obtained.

(vii) A list of all approved lists with their respective specifications, contact details of technical expert, etc. must be displayed on the notice/bulletin boards in bid issuing offices so that potential new entrants are made aware of its existence.

(viii) Although the evergreen approved list remains valid for an indefinite period, it must be advertised every 6 months in order to afford new suppliers an opportunity to be included. However, such approved lists can be updated at any time. It is not necessary to wait for the 6 month interval to include a new name on the approved list. After a new entrant's product has successfully passed the quality tests, AC and CPO/GCSCO approval must be obtained and the list must be updated accordingly.

(ix) New entrants may apply at any time for inclusion on the approved list. Any new applications received outside of the 6 month advertising intervals must be dealt with immediately and not held over until the next Advertisement.

(x) Award of business on the approved list is subject to approval from the person/body with the necessary DoA, as well as the relevant AC if such transaction falls within its jurisdiction.

(xi) It is important to note that the names on the evergreen approved list will remain on the list unless their names are removed for one or other reason.

b) **Fixed Period Approved Lists**

Fixed Period Approved Lists are typically used in the following circumstances:

- Competitive market where there is a need to prequalify suppliers, as well as to limit the need to continuously evaluate large numbers of bids

(i) "Fixed period approved lists" are publicly advertised and framed for a fixed period. The validity period of the list must be clearly stated in the Advertisement, as well as in the subsequent letter informing successful applicants of their inclusion on the Approved List.

(ii) The nature of the Goods/Services will inform the decision on whether to make use of this type of approved list. Typically, a competitive market must exist in order to use this type of approved list. Examples of such "approved lists" are the Transnet Legal Panel and the Transnet List of Approved Security Service Providers.

(iii) Unlike the evergreen approved list, no new applications for inclusion on the list may be considered during the period that the existing list is in force.

(iv) The manner in which the approved list is to be structured and implemented must be fully motivated and submitted to the relevant AC for prior consideration and approval by the CPO/GCSCO.

(v) At the end of the fixed period, the list must be re-advertised and a new list must be framed, if there is still a need for such an approved list. Suppliers who were included on the previous approved list must re-apply for inclusion onto the new list, and they must be made aware of this when the new list is being advertised.

14.5.6 Authority to frame an approved list

a) The framing of an approved list or any amendment thereto must be approved by the OD CPO or in respect of Transnet Corporate Centre ("TCC") requirements or transversal contracts, the GCSCO, upon recommendation from the AC.

b) The AC will be responsible for the distribution of the List within the particular entity and to Group iSCM.

c) Any person or Enterprise whose application for inclusion on the approved list has been refused or whose name has been removed from the list, may make representations to the relevant CPO. Should the person/Enterprise not be satisfied with an OD CPO's ruling, an appeal may be made to the Group Chief Supply Chain Officer ("GCSCO") whose decision shall be final. In respect of TCC, an appeal may be made to the GCFO whose decision shall be final.

14.5.7 Process

a) The OD AC must first provide "in principle" approval for the framing of an approved list.

b) The Advertisement for an approved list must only make reference to the Goods/Services for which the list is being framed and not the names of the approved suppliers.

c) The manner in which the approved list will operate must be stipulated upfront in the RFX to frame the list. In this regard bidders must be made aware as to which criteria will be evaluated to frame the list and whether further evaluation will take place when the list is utilised. If the approved list (whether evergreen or fixed period) is framed on the basis of a technical evaluation only then when the list is utilised all bidders should be invited to submit bids as bidders will then evaluated on price and preference. Where the framing of the approved list involves a complete evaluation including an evaluation of price and preference, business should be awarded on a rotational basis. This is in order to ensure fairness and an equal distribution of business to those on the list. The next business requirements must be awarded to the supplier with the lowest spend on the list. As indicated these options are available for both types of approved lists. However, it is recommended that for fixed period approved lists a complete evaluation is conducted when framing the list. The decision on the manner in which to frame and utilise the approved list must be decided on a case by case basis and approved by the OD CPO in the case of ODs and the GCSC® in respect of TCC.

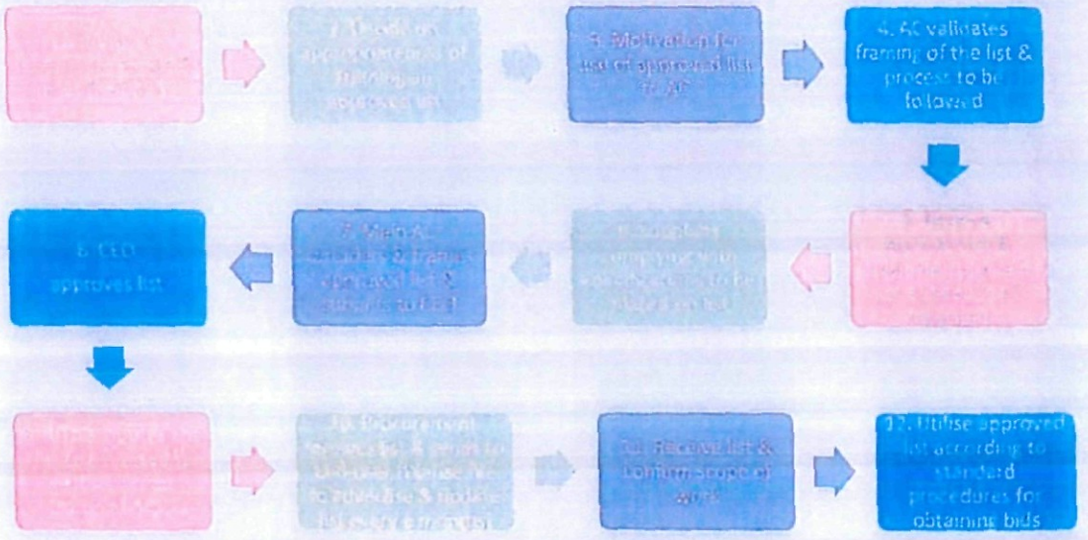

Figure [23] – Process to frame Approved List

14.5.8 **Removal of names from the approved list**

a) The name of an Enterprise may be removed from an approved list at any time if the Enterprise:

b) has been convicted of any offence under any law relating to wages, hours of work or other conditions of employment;

c) fails or ceases to comply with the requirements of such approved list;

d) continues to perform unsatisfactorily after having been informed accordingly when measured on any of the following criteria: timeliness, Quality, price escalation and service;

e) sub-contracts the whole or any portion of a contract for the supply of Goods or Services in respect of an approved list to an Enterprise or person whose name does not appear on that list;

f) otherwise acts in a manner which, in the opinion of Transnet, is construed to nullify the object of framing an approved list;

g) has ceased to carry on business under the name on the approved list and has not informed Transnet of this change;

h) has been dealt with in terms of Transnet's List of Excluded Bidders;

i) has shown little interest over a reasonable period to submit quotations when invited to do so; or

j) has not been awarded any business over a reasonable period due to non-competitive prices;

Before a name is removed from an approved list, the Enterprise concerned shall be notified in writing of the intention to remove it from the list including reasons. The Enterprise shall be afforded the opportunity to make representations as to why its name should not be removed from the list.

14.6 TWO-STAGE BIDDING SYSTEM (RFI/RFP PROCESS))/CIDB PROPOSAL PROCEDURE USING THE TWO-STAGE SYSTEM

This procurement mechanism is appropriate under the following circumstances:

- where the suitability of service providers must first be determined prior to them being invited to bid for Goods / Services;
- when assessing the availability of Goods / Services where there is no clear specification of requirements; or
- there could be solutions available in the market unknown to Transnet.

14.6.1 Principles

This procurement mechanism is appropriate under the following circumstances as it takes into account the most satisfactory solution to Transnet's specific procurement needs:

a) where due to the nature of the Goods / Services being acquired, the suitability of service providers must first be determined prior to them being invited to bid for the Goods / Services (pre-qualification);

b) where Transnet would like to obtain information from prospective bidders regarding the SD opportunities in a particular market in order to determine its go to market strategy;

c) where there is no clear specification of requirements and it is not feasible/possible for Transnet to formulate detailed specifications for the Goods or Services required; or

d) where Transnet seeks first to establish the various possible solutions available in the market in order to determine the best solution for Transnet.

In scenarios (a) and (c) above Transnet may draw up a functional specification in the RFP based on the responses received to a Request for Information ("**RFI**") taking into account its specific needs. It is critical that the specification not be drafted around a particular supplier's response to the RFI. Intellectual property issues must be taken into account prior to proceeding to stage two of the process.

14.6.2 When to use the two-stage bidding process

a) This mechanism is used in assessing the availability of Goods/Services where there is no clear specification of requirements or where the suitability of service providers must first be determined prior to the undertaking of any development work.

b) The use of this mechanism is appropriate where there are various possible means of meeting the need.

c) The RFI process is ideally suited to projects involving research, development, studies or experiments. In such instances it is not in the best interests of either Transnet or the prospective Bidders to develop a detailed plan when it has not yet been determined as to whether implementation is feasible.

d) The RFI process can be utilised to determine the availability of Goods and different suppliers' specifications in order for Transnet to draft its own specifications in such a way that accommodates as many potential suppliers as possible that are able to provide a product of acceptable quality.

e) To obtain Expressions of Interest (EOI) from the market before stage 2 of the two-stage bidding process is embarked upon.

14.6.3 Advantages & disadvantages of the two-stage bidding process

Advantages	Disadvantages
• Allows Transnet to obtain an indication of what is available in the market before approaching the market with a firm invitation to bid. • Allows Transnet to draft a clear specification when it approached the market	• The two stage bidding process is a time consuming process • There is a risk of possible infringement of IP

14.6.4 Process

A two stage bidding process involves the following steps:

a) **Stage 1 (RFI stage):**

(i) Prospective Bidders are invited to submit their proposals via an open RFI after approval to approach the market has been obtained.

(ii) The evaluation criteria in the first stage may include criteria such as technical, Quality, contractual terms, conditions of supply and the professional and technical competence of the suppliers. Transnet may wish to request rough costing estimates during this first stage. However, price would typically not be requested at this stage.

(iii) The RFI must clearly indicate Transnet's intention during the second stage of the process: i.e. whether:

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- suppliers will be subjected to pre-qualification criteria and be short listed in order to proceed to the second stage;
- Transnet will issue an Open Bid based on the responses and specifications received in the first stage; or
- Transnet will approach one or a shortlist of Bidders based on the responses and specifications received in the first stage.

(iv) The RFIs received must be evaluated in terms of pre-determined criteria which have been made available to all contenders in the RFI.

(v) A recommendation is made to the AC or relevant authority regarding the outcome of the first stage, and the eligibility of the bidders to participate in the second stage.

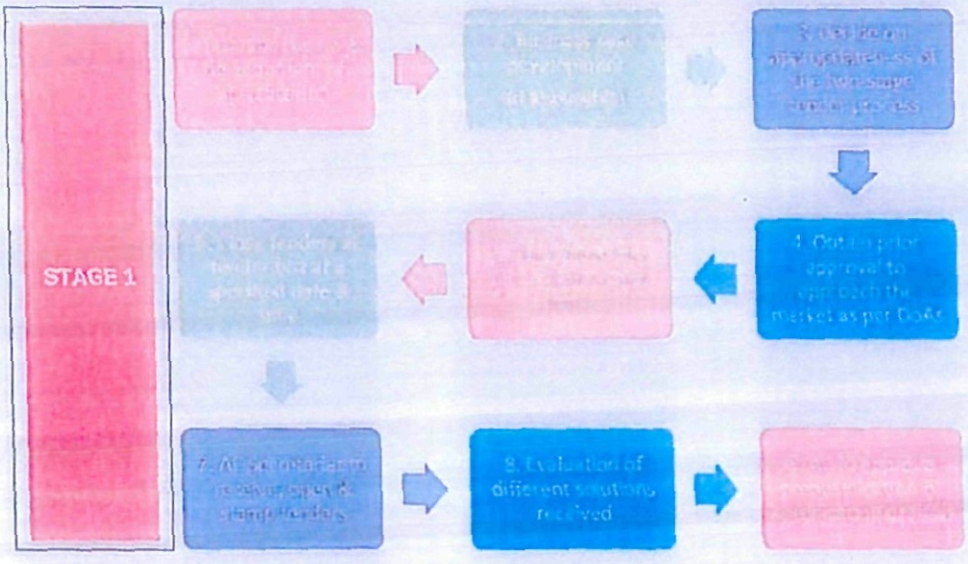
(vi) AC agreement with the recommendation effectively authorises the second stage of the process.

b) **Stage 2 (RFP stage)**

(i) Depending on the option exercised in stage 1, Transnet may either issue an Open Bid or limit the second stage to only one or a shortlist of Bidders, as approved by the AC.

(ii) Bidders are invited to bid in the normal manner.

(iii) The bids are evaluated and awarded in the normal manner.



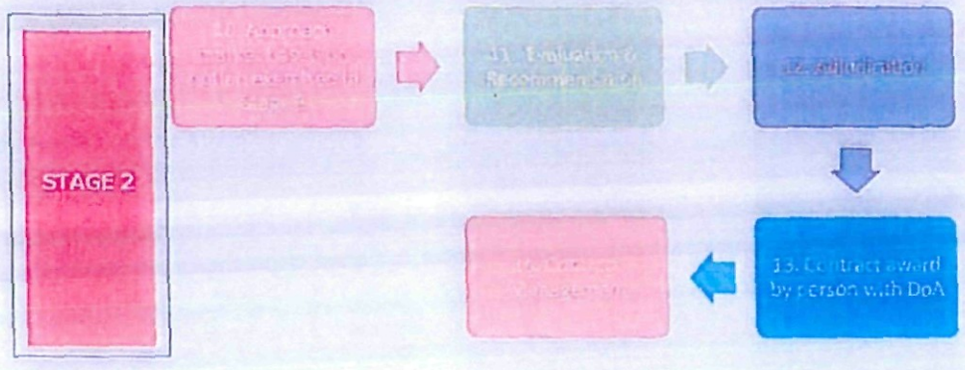


Figure [24] – Two stage bidding process

14.7 FRAMEWORK AGREEMENTS

14.7.1 What is a framework agreement?

The market may be approached using any one of Transnet's procurement mechanisms with the object of concluding framework agreements with one or more bidders for Goods, Services or Works required on an "as and when required" basis. The purpose of a framework agreement is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. This is one of the main distinguishing factors between an approved list and a framework agreement. The framework agreement establishes a contractual relationship upfront whereas there is no contractual relationship between Transnet and a supplier on the approved list until such time as the list must be utilised.

14.7.2 How to enter into framework agreements

Framework agreements, subject to prior approval from the Acquisition Council, may be entered into:

a) inviting tender offers to enter into a suitable contract for the term, using stringent eligibility and evaluation criteria to ensure that contracts are entered into with only those contractors who have the capability and capacity to provide the required services; and

b) entering into a limited number of contracts based on the projected demand and geographic location for such services.

The cumulative value of all the framework agreements to be entered into will inform the delegation of authority approvals required. Approval of amendments to such framework agreements will however be dealt with per individual contract.

14.7.3 How to utilise framework agreements

Where a particular scope of work falls within an existing framework agreement, it must be drawn-off from that framework. A rotational system shall be utilised in order to balance spend across suppliers on that framework and ensure an equitable opportunity for all. Where a rotational system is not utilised then all suppliers on a particular

framework are to be approached to tender/price on all requirements/task orders issued against that framework.

14.7.4 Guidelines For Concluding Framework Agreements

a) The scope of work of a framework agreement needs to identify the extent and location of the work covered by the contract. Instructing suppliers to perform work outside of the scope of work of a framework agreement is not permitted.

b) The contract period for Framework Agreements should not exceed 3 years. Any work commenced before the end of the term of a framework contract may continue until the end date provided in the batch / task / package order.

c) Prior to issuing a bid, the number of suppliers/consultants/contractors required per panel must be ascertained and stated in the bid documents. Where possible the numbers should be broken down into sub-categories (see below). It is recommended that a maximum number of 5 suppliers be selected.

d) Frameworks must be separated into more categories/panels to allow smaller suppliers to compete e.g. Framework Agreements for Civil Engineering Services may consist of the following Panels (Consultants/Built Environment Professionals):

- Panel A - Targeting Large Enterprises
- Panel B - Targeting Qualifying Small Enterprises
- Panel C - Targeting Exempted Micro Enterprises

Note: Turnover values must be in accordance with B-BBEE values or the Built Environment Professionals for all construction related projects. Quality and eligibility criteria for Panel B and C needs to specifically accommodate QSEs and EMEs to allow these suppliers to effectively compete for these tenders.

14.7.5 Selection after award of framework contract where the rates are the same with all suppliers

In order to ensure fairness and an equal share of the spend, where possible a rotational system must be used. The next task order must be awarded to the supplier with the lowest spend.

14.7.6 Selection after award of framework contract where the rates varies among the suppliers/contractors/consultants

When the need to draw-off the framework contract arises an RFQ must be issued to all suppliers on the list. Where quality or any other criteria has already been agreed upon on the main framework only pricing and possibly B-BBEE status needs to be obtained. Where quality checks and other contract related information has not been ascertained then a full RFQ with tender data etc. must be issued as per the DOA framework.

14.8 ADDITIONAL MECHANISMS FOR CONSTRUCTION PROCUREMENT

For construction procurement the following additional negotiation methods are utilised. Minutes of such negotiations and the reasons for pursuing such procedures shall be kept for record and audit purposes.

14.8.1 Negotiated Procedure for Construction Procurement

This procedure is utilised when a bid offer is solicited from a single bidder only. This applies to those transactions below and above R2 million in value. Please see paragraph 15.1 of the PPM on Confinements in this regard.

14.8.2 Competitive Negotiation Procedure

This procurement procedure reduces the number of bidders competing for the contract through a series of negotiations until the remaining bidders are invited to submit final offers. Bidders shall be informed of the competitive negotiation process and notified of the evaluation criteria and associated weightings in the RFX. The evaluation criteria associated with each successive round of negotiations shall not be varied.

This procedure should only be used where :

a) There are a number of options or ways of satisfying procurement needs
b) The technical character of the works warrants the use of competitive negotiations
c) The purpose is stated in the bid document
d) It is not feasible to formulate detailed specifications
e) If the contract is research, experiment, study or development related
f) All bids received in a competitive selection procedure are non-responsive and the calling for fresh bids is likely to result in a similar outcome (only allowed if the bid document specifically provides for this)
g) Interactions with bidders are essential to refine aspects of the proposed approach to the scope of work in order to arrive at a best value outcome or most advantageous offer.

This method shall be applied as follows:

a) Negotiations take place through one or more rounds of competitive negotiations conducted with responsive and qualified bidders.
b) At each round of competitive negotiations, responsive and qualified bidders are evaluated on the chosen bid evaluation method
c) Bidders are eliminated based on their rankings or bid evaluation scores until remaining bidders are invited to submit final offers.
d) Negotiations are based on equal treatment and confidentiality.
e) Negotiations must not restrict or distort competition or have a discriminatory effect. Dialogue with bidders close when a solution or solutions capable of meeting the organisation's needs are identified. Bidders are informed and invited to submit "best and final offers". Only the weighting attached to each category or subcategory of evaluation criteria can be changed for each round of competitive negotiations. The evaluation criteria cannot be varied.

CHAPTER 15 : SPECIAL CASES

15.1 CONFINEMENTS

Confinements are to be used under the following circumstances:

- for transactions over the value of R2 million
- usually when Goods/Services are required on a once-off basis
- when the nature of the Goods/Services fall within one of the grounds for Confinement

In the context of construction procurement, a "Confinement" to one Bidder is referred to as a negotiation procedure.

15.1.1 Definition

A Confinement is a mechanism where permission is sought from the person with the appropriate Delegation of Authority to "**confine**" enquiries for required Goods/Services to one or a limited number of Bidders.

A Confinement is a departure from the norm of an open, competitive bidding process and as such must be treated with great circumspection. The misuse of confinements has the potential to entrench monopolies and as such is at odds with the imperatives of the New Growth Path. The NGP seeks to encourage open competition and the introduction of new entrants into the market, particularly those from previously disadvantaged communities.

It is important to note that confinements only apply to transactions over R2m. These rules therefore do not apply to transactions falling below R2m. The quotation system applies to such transactions regardless of the number of quotations the buyer is able to obtain.

15.1.2 Grounds

Confinements will only be considered under the following circumstances:

a) where a genuine unforeseeable urgency has arisen. Such urgency should not be attributable to a lack of proper planning. In such cases appropriate action must be taken against the individual(s) responsible for the bad planning.

b) the Goods/Services are only obtainable from one/limited number of suppliers. For instance, patented/proprietary Goods or OEM spares and components. Operating divisions are however required to provide evidence that there are no new entrants to the market who could also be approached;

c) for reasons of standardisation or compatibility with existing Goods and Services. A case must be made that deviation from existing standardized Goods or Services will cause major operational disruption. If not, confinements based on "standardisation" will not be considered; or

d) when the Goods or Services being procured are highly specialized and largely identical to those previously executed by that supplier and it is not in the interest of the public or the organization to solicit other offers, as it would result in wasted money and/or time for Transnet. When this particular ground

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is intended to be used as a ground for Confinement, it is important to note that all pre-requisites must be satisfied: The Goods or Services must be highly specialised, almost identical to previous work done and approaching the market again would result in wasted money and time.

15.1.3 Types of confinements

Depending on the circumstances one of the following two Confinement routes will be applicable:-

a) The normal Confinement route:
- prior authority to confine must be obtained from the person with the relevant delegation;
- bids will close at the relevant AC (relevant AC to be indicated in the submission for approval); and
- the relevant AC will consider the award of business.

b) Confine and award which is only to be used in cases where there is a sole supplier and/or cases of extreme urgency:
- prior authority to confine and award must be obtained;
- the submission to the person with Delegated Powers must fully motivate the reason for the urgency and provide an indicative / benchmark price;
- bids will close at the relevant AC (relevant AC to be indicated in the submission for approval);
- the business will be awarded by the person with the delegation to the relevant Bidder provided that the final price is within the benchmark as initially approved by the person with the delegation to approve the Confinement; and
- the AC must be informed after award.

15.1.4 Delegation of authority

a) Depending on the value of the transaction, only the GCE, BADC and the Transnet Board have the authority to authorise a Confinement.

b) The relevant monetary thresholds for authorising confinements in terms of the DoA Framework effective 1 June 2013 are as follows:

(i) GCE – up to but not exceeding R250 million;

(ii) BADC – up to but not exceeding R1 000 million; and

(iii) The Board – exceeding R1 000 million.

c) In instances where a confinement is confidential the GCE may approve such confinement without the confinement request being routed via any other authority.

15.1.5 Process

a) The submission for Confinement must be fully motivated in writing by the end-user and the OD CPO to the OD's main AC and the OD's CEO for prior written support of the recommendation to confine. It is important to properly motivate submissions taking into account all relevant factors. Poorly motivated submissions will be referred back to the OD concerned for re-motivation. The submission should be submitted on the relevant template under cover of a memo to the GCE.

b) Only if the reasons advanced for the proposed Confinement are supported and considered to be in the best interest of Transnet, should the Confinement of business to one or more contenders be escalated to Group.

c) The Confinement request must be considered by the Transnet GCSCO and the Group CFO each of whom shall indicate whether or not they support the request.

d) The matter must then be submitted to the GCE, the BADC or to the Board itself for final approval depending on the value of the transaction.

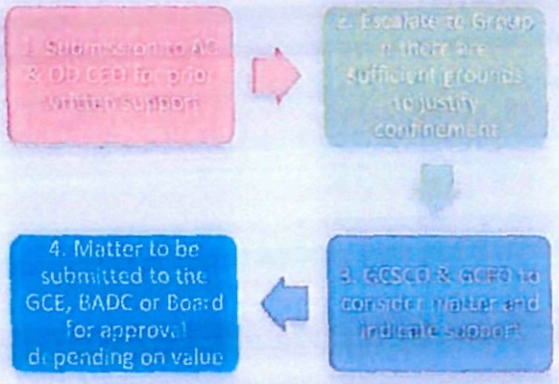


Figure [25] – The Confinement process

15.1.6 Confinement divided between more than one Bidder

Should it be decided to divide the total requirement of a Confinement between more than one Bidder, the total value of the business and not the individual contracts shall determine the level of approval required for the Confinement. Only after the necessary approval has been obtained, may the individual contracts be signed by the Manager with the necessary delegated contractual powers.

15.1.7 Amendment to contracts awarded via Confinement

a) Where a Material Amendment (i.e. the price, duration or scope is increased by more than 10%) to a contract awarded via Confinement is required, the matter must be sent to the relevant AC for support. The AC must submit the amendment to the original approver of the Confinement for prior approval of the amendment. The same principle applies where the cumulative value of amendments equals or exceeds 10% of the original contract value.

b) Where an amendment increases the price, duration or scope by less than 10%, this should be submitted to the AC for approval.

c) Where an amendment to a contract results in the value of the Confinement reaching a higher approval level, the matter must be sent to the original approver for review and recommendation. Approval must then be sought from the person with the delegated authority to approve the higher value of the Confinement.

d) Please refer to paragraph 22.5.7 for the general principles relating to contract amendments.

15.2 EMERGENCY PROCUREMENT PROCEDURE

The emergency procurement procedure is to be used under the following circumstances:

- Where the circumstances giving rise to the emergency were unforeseeable;
- Where engaging in normal bidding procedures or any other methods of procurement would be impractical; and
- Where the occurrence requires immediate action

The concept of retrospective authority applies only in the context of emergencies. Where an emergency process is followed correctly, condonation is not required.

15.2.1 Definition

a) The following circumstances would normally be regarded as sufficient grounds for invoking the emergency procedure i.e. a situation has arisen where there is an imminent risk of:
   - human injury or death;
   - human suffering;
   - serious business disruption that could not have been reasonably foreseen;
   - interruption of essential services;
   - serious damage to property or financial loss;
   - suffering or death of livestock or other animals; or
   - serious environmental damage or degradation.

b) The concept of an "emergency" must be applied restrictively and should not be used as an excuse for bad planning. As such, in order to qualify for the emergency procedure:
   - the circumstances giving rise to the emergency must not have been foreseeable;
   - engaging in bidding procedures or any other methods of procurement would be impractical; and
   - the occurrence requires immediate action.

An emergency should not be attributable to a lack of proper planning. In such instances appropriate action must be taken against the individual(s) responsible for the bad planning.

15.2.2 Process to institute the emergency process

a) The end-user requests authority from the person with the necessary delegation of authority to institute the emergency procurement procedure. If possible, the end user must notify procurement of the emergency requirement telephonically followed by email.

   NB: Each Entity is responsible for developing its own Emergency Procedural Manual, covering all the relevant disciplines in the entity, and assigning specific persons and value thresholds, for the different roles (i.e. to institute the emergency procedure). Please see attached Appendix D for the Matrix for Approval of Emergency Procedures.

b) The duly authorised Manager to invoke the emergency process will consider the request and decide on whether to grant such authority. He/she will notify

the requestor in the form of an email, SMS or even verbally. If by SMS or verbally, this must be confirmed in writing or by e-mail afterwards.

c) Procurement will invite a Bid(s) from a supplier(s) best able to deal with the emergency immediately. Alternatively, if the emergency occurs after office hours or it is not possible to contact procurement, the end user, after having received the required approval as per sub-paragraph (a) above, may invite the Bid/s directly from suppliers and/or issue instructions to commence the work.

d) Retrospective authority must be obtained as soon as possible thereafter.

15.2.3 Retrospective authority for the emergency procedure

a) Thereafter the AC or higher in terms of the Procurement Process Approval Delegations must be approached for retrospective authority for the emergency provided the transaction is within the AC's threshold. The AC must consider the motivation and provide retrospective authority if the emergency is validated. The AC is required to be vigilant with regard to exercising this power as the emergency procurement procedure must be adequately justified. The AC must furthermore consider any amendments to emergency transactions with circumspection.

b) Retrospective authority must be sought using the standard template.

c) The concept of retrospective authority applies only in the context of emergencies and does not apply to the condonation process.

d) If an emergency procedure is followed correctly, condonation is not required. It is also important to note that a correctly followed emergency procedure also falls outside the ambit of the Confinement process. However, if the use of the emergency procedure was not justified, it will equate to non compliance with procurement processes and condonation would have to be sought.

15.3 HIGH VALUE TENDER PROCESS (HVTP)

- The High Value Tender Process (HVTP) subjects all transactions falling within the High Value Tender threshold to independent scrutiny and validation of all commercial, contractual, process and governance aspects of the Bid process.
- The process enables Supply Chain to detect any shortcomings at key gateways in the Bid process and to make appropriate corrections before any award of business is made.

15.3.1 Principles

a) The HVTP applies to all transactions falling within the High Value Tender threshold. The HVTP offers an opportunity for peer review, guidance, advice and the sharing of good practice and experience. The HVTP subjects all high value bids to independent scrutiny and validation of all commercial, contractual, process and governance aspects of the bid process.

b) The process enables Supply Chain to detect any shortcomings at key gateways and to make appropriate corrections. This further reduces Transnet's risk on larger value acquisitions as any inefficiencies are addressed before any award of business is made.

The gateways that are reviewable in the process are as follows:

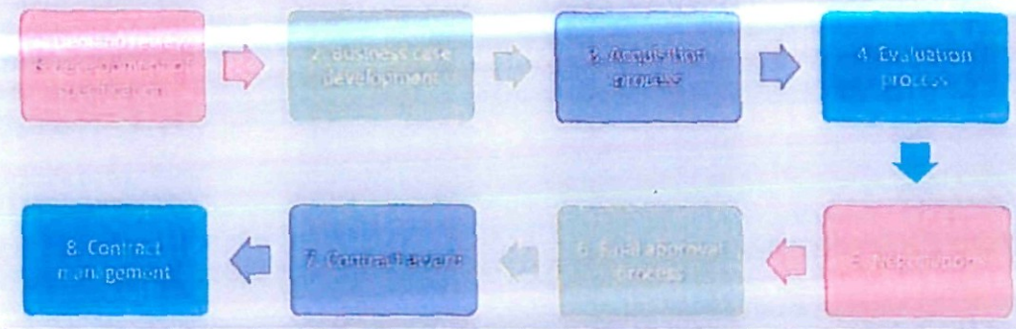


Figure [26] – The HVT process

15.3.2 **The HVT Process**

The following steps must be followed for any transactions falling within the High Value Tender threshold:

Entities must contact and involve the HVT team from the outset of the bidding process i.e. at the demand review stage;

The HVT team must attend to all procurement processes and advise Entities during each phase of the process as follows:

- Review the demand and business cases.
- Review the RFX document for accuracy and correctness before going to market.
- Assess the adequacy of the procurement proposed mechanism used i.e. RFP/RFI/Confinement and determine if governance is being followed by ensuring that the approval process has been complied with.
- Ensure that in all high value bids, a CFST contains at least Technical, Financial, Operational and Legal Support.
- Advise on the scoring methodology and governance issues related to the evaluation process.
- Advise the teams during the evaluation process on all bids;
- Advise and support teams during the moderation process of scores on all bids;
- Review AC documents for accuracy and correctness.
- Advise teams during the negotiation process and also determine if governance processes have been followed.
- Advise teams during the contracting process and also determine if governance processes have been followed.
- During each gateway review the HVT team will raise questions and/or concerns. The teams may not continue with the process until all the HVT team's concerns have been addressed.
- The HVT team must report significant process breaches to Transnet management. Firstly at Entity level, and if still not satisfied with the outcome / corrective action, such matters must be reported to the OD CPO before being escalated to the Group iSCM.
- The HVT team must document lessons learnt throughout the process and provide feedback so that processes may be improved.

A detailed description of the HVTP and associated templates can be found on the iSCM Transnet Intranet.

15.4 UNSOLICITED BIDS

- An Unsolicited Bid is an offer unilaterally submitted by a potential supplier of its own accord and received by Transnet outside of its normal procurement process.
- Transnet is not obliged to consider Unsolicited Bids received outside its normal bidding process.
- These rules do not apply to Bidders who merely seek to be registered on Transnet's Potential Vendor Portal (TPVP) in order to be considered as potential suppliers for future business. When Goods or Services are to be acquired from such Bidders, the normal procurement mechanisms are to be used

15.4.1 Definition

An Unsolicited Bid is an offer unilaterally submitted by a potential supplier of its own accord and received by Transnet outside of its normal procurement process.

Transnet does not encourage the consideration of Unsolicited Bids. Furthermore, Transnet is not obliged to accept Unsolicited Bids.

15.4.2 Risks

There are a number of risks related to the consideration of Unsolicited Bids:

a) It potentially undermines fair and competitive bidding processes.

b) It can result in purchasing Goods/Services at higher than market-related prices.

c) Transnet runs the risk of being accused of infringing on the Unsolicited Bidder's intellectual property if it uses the concepts used in the Unsolicited Bid to approach the market.

d) There is also danger that an Unsolicited Bid may be received, evaluated and regarded as an excellent proposal and accepted, only to ascertain afterwards that there were many suppliers in the market supplying the same or better goods or technology at much better / similar prices.

15.4.3 Criteria for consideration of unsolicited bids[3]

Transnet may only consider an Unsolicited Bid if the following requirements are met:

a) the product or service offered is a demonstrably or proven unique and innovative concept;

b) a need for the service or product has been established;

c) the product or service will be exceptionally beneficial to Transnet or have exceptional cost advantages for Transnet;

d) the Bidder is the sole supplier of the service or product; and

e) the reasons for not using one of the normal bidding processes have to be found to be sound by the person with the necessary delegation of authority.

15.4.4 Unacceptable unsolicited bids

Transnet must reject an Unsolicited Bid if the Bid:

[3] *This section is largely based on the Municipal Finance Management Act Regulations and National Treasury's Practice Note 11 of 2008/2009 on Unsolicited Proposals*

a) relates to known institutional requirements which can, within reasonable and practicable limits, be acquired by conventional competitive bidding methods;

b) relates to goods or services which are generally available; or

c) does not comply substantially with the requirements of paragraph 15.4.3 above.

15.4.5 **Rejection of unsolicited bids**

Should Transnet decide to reject an Unsolicited Bid, the following steps must be followed:

a) The Bidder must be notified of the decision;

b) All documents received in the Unsolicited Bid must be returned to the Bidder; and

c) Transnet must ensure that it does not make use of any intellectual property or data that was contained in the Unsolicited Bid.

15.4.6 **Process for consideration of unsolicited bids**

a) The Unsolicited Bid must be considered by an evaluation team. The minutes of the evaluation meeting must be recorded.

b) The evaluation team should investigate and verify whether there are no other suppliers in the market.

c) In the event that the evaluation team has resolved to procure the Goods or Services, depending on the contract value, the Confinement or quotation process must be followed and thereafter a recommendation made to the AC, Manager or person with the relevant authority to approve the award.

d) All copies of Unsolicited Bids, records of discussions, records of deliberations and copies of correspondence relating to it, will be kept by the procurement official who led the process, and the AC secretary for record purposes.

15.4.7 **Information to accompany the recommendation for award of the unsolicited Bid**

The following information must be contained in the recommendation:

a) A detailed description of the goods or services;

b) A detailed description of benefits Transnet is to derive from the envisaged acquisition;

c) The costs associated with the acquisition of the service or product;

d) The validity period of the Unsolicited Bid;

e) Proof of certification that the Bid was submitted by the person who holds the intellectual property rights in the goods or service; and

f) Certification by the evaluation team that there are no other suppliers who can provide the goods or services.

15.5 CONTRACT CONSOLIDATION

Contract consolidation may represent optimal value for Transnet in the following circumstances:

- where more than one Entity have existing contracts for the same Goods / Service with the same or different suppliers with significant price variations and differing contract terms; or

- Where one or more Transnet Entity become aware that another Entity has already concluded a contract for the Goods /Services required by it and wish to utilise the existing contract ('piggybacking').

15.5.1 Principles

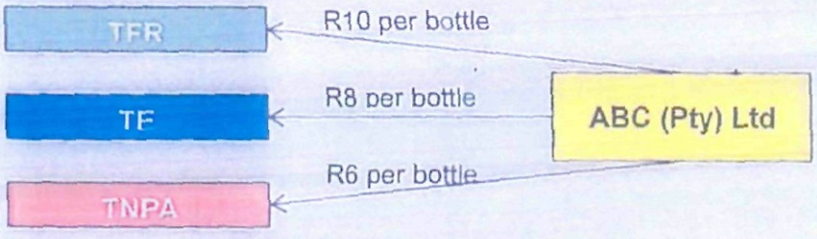
Consolidation of existing contracts is potentially problematic from a governance and operational perspective. For this reason, Transnet must endeavour to approach the market with a consolidated demand signal clearly outlined in a single RFP, rather than having each Entity approach the market in a piecemeal fashion and thereafter seeking to consolidate a number of different contracts. Therefore, when an Entity identifies the need to acquire goods/services that are common to more than one entity, it is imperative that they first ascertain whether it is feasible and advantageous to approach the market with the consolidated requirements of all Entities that require the goods / services.

Transnet can gain significantly from consolidating its demand. Due to economies of scale, it will be in a better position to negotiate price and contractual advantages. In addition, it will lessen the administrative burden on Transnet to manage a multiplicity of contracts.

15.5.2 Triggers for consolidation

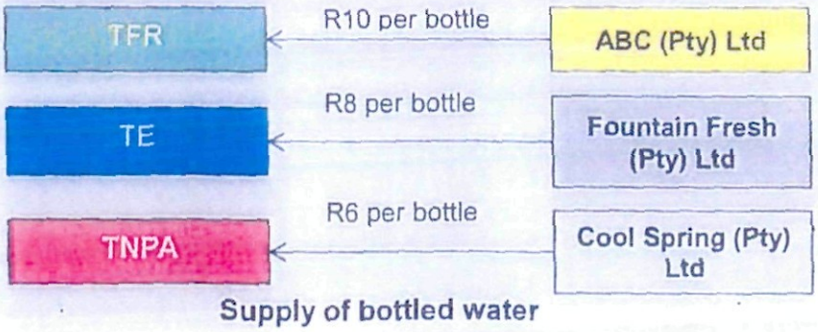
One of the following circumstances should trigger the need for consolidation of existing contracts:

a) The same commodities or categories of commodities are being purchased by more than one entity from the same supplier but with differing prices and contract terms. For example:



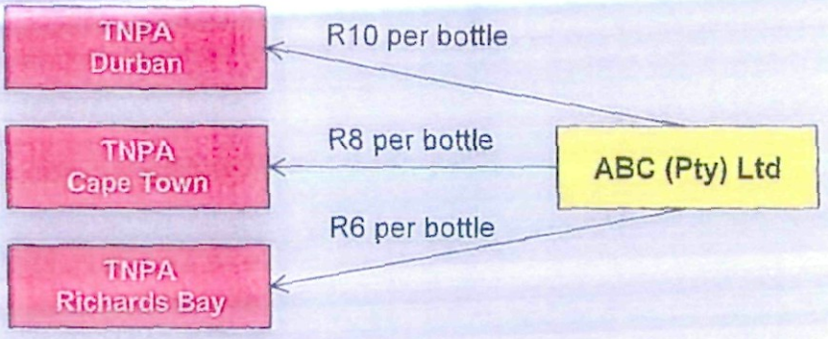
Supply of bottled water

b) The same commodities or categories of commodities are being purchased by more than one entity from different suppliers with differing prices and contract terms. For example:



Supply of bottled water

c) The same commodities are being purchased by one OD from the same or different suppliers, with significant price variations. For example:



Supply of bottled water

15.5.3 Factors to consider when consolidating

The following factors need to be considered when consolidating existing contracts:

a) The probable increase in volumes required from the preferred suppliers (expressed in %) if contracts were to be consolidated;

b) Whether the existing contracts allow volume changes, and what the contract terms and conditions regarding volume changes are;

c) Price differentials between various contracts;

d) Other key contractual differences (e.g. specifications, delivery, payments, volume discounts etc.);

e) Whether the contracts allow for cancellation 'without cause';

f) The expiry dates of the various contracts;

g) The cost of termination (penalty for breach); and

h) Current contract management and monitoring.

The merits of each case should be evaluated based on the factors above in order to determine the feasibility of consolidation. Once the feasibility of contract consolidation has been determined, a decision will be made on whether to renegotiate one of the existing contracts or issue a new bid.

The cost of termination of existing contracts must be calculated and then weighed against potential benefits of consolidation in terms of cost and Quality. It is important to note that existing contract periods must be adhered to where financially viable. Paying high penalties due to the cancellation of existing contracts should be avoided as far as possible.

Where it is clear that there is no financial benefit for Transnet to renegotiate the existing contracts then the process to be followed would be to issue a new bid for the consolidated spend, when the existing contract(s) terminate.

15.5.4 Deciding on which contract to consolidate

Once a decision has been made to consolidate, the next issue is to determine which contract is the most favourable for consolidation. In arriving at this decision, the following factors must be considered:

a) Identify the contract that entails the biggest spend or usage;

b) The OD and/or region contributing the largest volume;

c) Whether one supplier can meet all Transnet's requirements;

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d) The perception regarding potential market challenges (type of commodity and potential suppliers);

e) The competitive landscape of these Goods and Services; and

f) New suppliers in the market.

15.5.5 Process for consolidation of a number of existing contracts

a) Where it is considered feasible to consolidate spend to one of the existing contracts, all other contracts must be terminated. The most favourable existing contract would be increased to include other Transnet Entities' requirements after negotiation. The Transnet Entity originally managing that contract will be responsible to initiate the approval process for the increase of contract value.

b) Where the increase in value is below 10% of the original contract value, the matter must be submitted to the relevant Entity AC for noting.

c) If the increase in contract value is above 10%, the matter must be submitted to the relevant Transnet Entity's AC for approval.

d) Once the relevant Transnet Entity has approved the increase, the matter must be submitted to the other Transnet Entities' ACs for information.

e) Where consolidation would result in a substantial increase in the scope and value of the contract (more than 50% of the original estimated contract value as approved by the AC), it would be peremptory to embark upon a new bid process for the consolidated spend.

f) Inclusion of entities into the consolidated contract may be on a staggered basis. For example, where a current Transnet Entity's contract expires 3 months after the consolidated contract commences, that contract can be allowed to run its full period. Thereafter, the entity will be included in the new transversal agreement, with a sliding-scale volume discount structure being coupled to the pricing.

g) Contract "owners" must notify all Transnet users of the new transversal contracts that are in place to ensure maximum advantage for Transnet. However, please note that this mechanism is to be regarded as almost an interim measure. Ideally all entities must be approached during the demand planning stage already to obtain their estimated requirements beforehand for inclusion in the consolidated RFX document.

h) Note that the process to be followed for the normal increase of contract values and cancellation of contracts will still apply.

15.5.6 "Piggybacking"

a) "Piggybacking" arises when an existing contract has been identified, which one Transnet Entity has concluded for specific goods/services, and which another entity would like to utilise for their requirements.

b) The Transnet Entity who wishes to "piggyback" off an existing contract should obtain prior approval from the AC of the Transnet Entity that concluded the contract. Once approval from that AC is obtained, the supplier should be approached to indicate whether he/she is able to meet the increased volume as well as any price discounts that may be offered.

c) Where the increase in value is below 10% of the original contract value, the matter must be re-submitted to the relevant AC for noting. If the increase in contract value is above 10%, the matter must be re-submitted to the relevant Entity AC for final approval.

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d) Once the relevant Entity has approved the increase, the matter must be submitted to the other ACs of Entities who want to make use of this contract for information.

e) The respective Transnet Entities must make satisfactory arrangements between themselves regarding the apportionment or recovery of costs for goods / services, if applicable.

f) Where consolidation would result in a substantial increase in the scope and value of the contract (more than 50%), it would be prudent to embark upon a new bid process for the consolidated spend.

15.6 ACQUISITIONS ASSOCIATED WITH INCOME GENERATING CONTRACTS

15.6.1 Although income generating contracts are in principle excluded from this Procurement Procedure Manual, all associated expenditure contracts necessary to fulfil such contracts (i.e. procurement contracts to acquire the necessary Goods or Services), falls within the ambit of the PPM.

15.6.2 For example, TFR negotiates an income generating contract to transport fuel from the Port of Durban to Zimbabwe. This would be a pure income generating contract and although it might require approval from the TFR Exco or even Transnet Board of Directors, it would fall outside the scope of the PPM and AC approval would not be necessary.

15.6.3 However, if TFR needs to purchase 2 additional locomotives and 90 rail tank wagons to provide this Service (fulfil the contract); such associated expenditure / procurement contracts would fall within the ambit of the PPM and would also require AC approval.

15.6.4 The only exception to this rule would be in circumstances where a Transnet Division or Specialist Unit needs to respond to an external bid invitation (e.g. TRE responding to a bid invitation issued by PRASA for the supply of suburban coaches). In such instances Transnet would need to prepare its bid for the income generating contract taking into consideration any goods/services that it would need to acquire in order to respond to the bid. The limited time available to respond to such bid invitation would not allow the Transnet Division or Specialist Unit to invite bids in the normal manner for goods/services required.

15.6.5 In such cases, irrespective of the monetary value of such transaction(s), the CEO, BADC or the Board may authorise such "confined" requests for bids from potential suppliers and/or approve the selection of possible joint venture partners/subcontractors, etc., without AC approval, provided that the matter(s) be reported for the AC's information as soon as possible after the Transnet OD has lodged its bid. When obtaining bids in respect of goods and services required in order to respond to an external bid invitation, the Transnet Entity must clearly state that the award of any business pursuant to such bids cannot be guaranteed and is conditional on the Transnet Entity being selected as the Successful Bidder.

15.6.6 Such transaction(s) need not be submitted for approval again, should the Transnet Entity be selected as the Successful Bidder, as this could lead to delays in the execution of such external income generating contract.

15.6.7 On completion of the project, the AC should be informed of the outcome in detail, e.g. how the selected subcontractors/JV Partners performed, whether the project was completed on time, what income was derived from the income generating contract after all outsourced parts have been accounted for, etc.

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Background and Context

Procurement planning

SECTION C:

GO TO MARKET

Chapter 16: Bid Preparation

Chapter 17: Bid Administration

Evaluation and Adjudication

Contract Management

Functions of Governance Structures

Appendices

CHAPTER 16 : BID PREPARATION

Construction procurement documents for engineering and construction works contract, supply contracts that involve the purchase of construction materials and equipment, services relating to any aspect of construction including professional services, disposals of surplus materials and equipment and disposals in the form of demolitions shall be formatted and compiled in accordance with the CIDB Standard for Uniformity in Construction Procurement. These requirements are addressed in the standard construction procurement templates and NEC3 templates available on the Transnet Intranet and these must be utilised for all construction procurement.

16.1 COMPILING BIDS - GENERAL

Bid documents define the rights, risks and obligations of the parties involved in the bidding process and subsequent contract. Documents must therefore clearly and precisely spell out all relevant aspects of the bid such as the work to be carried out, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements and the warranty and maintenance requirements.

Accordingly, such documentation should be legally and technically sound and should assign risk in an appropriate manner. The bid documents must provide Bidders with clear and comprehensive information necessary to enable them to submit responsive bids. The specifications, including the evaluation criteria and weightings, must be determined upfront as indicated in Chapter 13 above *(Determining Bid Evaluation Criteria)*, as bids may only be evaluated according to the criteria stipulated in the bid documentation. Bid documents must be drafted with care and precision so as to reduce the risk of legal challenge by unsuccessful bidders and avoid unintended consequences.

16.2 EVALUATION CRITERIA IN BID DOCUMENTS

The bid documents must make it clear that, where applicable [4], Bidders will be assessed in two stages:

16.2.1 STAGE 1

a) **Test for administrative responsiveness**

Inform Bidders of the minimum requirements for responsiveness, and the consequences of not being responsive.

b) **Test for substantive responsiveness (Prequalification criteria)**

Indicate Prequalification Criteria, if any. These criteria must be minimum requirements in terms of technical, SD or financial stability.

c) **Thresholds**

(i) Indicate that there are thresholds that have to be met before a Bidder can be considered for further evaluation in the following order: Local Content/Production threshold if applicable, SD threshold and Functionality (Quality) threshold.

[4] This is the default position but will not necessarily be applicable in all instances, e.g. low value transactions or approved list purchases where the quality of the product has already been pre-approved.

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(ii) State what these thresholds are, as well as the minimum score that has to be met to pass the threshold.

(iii) Ideally, the thresholds set must be based on Transnet's minimum requirements i.e. the minimum Transnet requires in order to satisfy its needs/objectives. It, however, sometimes transpires that despite this exercise, all the responses received do not meet the set threshold/s. The RFP may also state that if no Bidders pass the SD and/or Functionality threshold Transnet reserves the right to lower the threshold by a certain pre-determined percentage. The decision to utilise such a disclaimer must be carefully considered. The disclaimer must be clearly specified in the RFP, provided it is in Transnet's best interests to do so and there is concurrence between the end user and Procurement. In addition, with regard to the SD threshold, concurrence is also required from the SD Department. The use of this disclaimer is designed to mitigate the risk of a bid requiring cancellation even though there was an adequate response from the market.

(iv) Kindly note that since the LC thresholds are laid down in terms of legislation, the lowering of such minimum thresholds as determined by the DTI is not allowed and bidders who fail to meet the laid down minimum thresholds for LC, will be disqualified.

(v) Functionality threshold:

Transnet must indicate in the invitation to submit a bid if that bid will be evaluated on functionality. The evaluation criteria for measuring functionality must be objective. When evaluating bids on functionality, the following must be clearly specified in the invitation to submit a bid:

- evaluation criteria for measuring functionality;
- weight of each criterion;
- applicable values that will be utilised when scoring each criterion; and
- minimum qualifying score/threshold for functionality.

No bid must be regarded as an acceptable bid if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.

Specifications should be functional and fit for purpose, rather than brand- or product-specific. Specifications must not include any exclusionary terms. Compiling a specification around one supplier's product is unfair and not allowed. Where it is necessary to specify a particular brand or product, the RFX document must request the particular brand/product "or similar".

(vi) Supplier development threshold:

The SD criteria that were developed during the planning phase should be incorporated in the bid document. These typically include a combination of the following:

- Industrialisation
- Capability and capacity building
- Technology transfer/ sustainability
- Skills development
- Job creation/ preservation
- Small business promotion
- Rural development/upliftment and regional integration

16.2.2 **STAGE 2**

(vii) **Price**

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The following issues are frequently included in price to assess TCO:

- Installation costs
- Warranties
- Service and maintenance costs
- Operating supplies
- Storage costs
- Commercial discounts
- Incoterms
- Price adjustment conditions
- Exchange rate fluctuations
- Lead times

It is necessary to provide Bidders with a comprehensive pricing schedule to enable proper and uniform submission from Bidders and to enable a uniform approach to evaluation.

(viii) **Preference (B-BBEE)**

The applicable preference point system must be stated in the bid document. In terms of the preference point system, proposals will be evaluated on price which will be allocated 80 or 90 points and preference which will be allocated 20 or 10 points, dependent on the value of the Goods. The 80/20 preference point system applies where the acquisition of the Goods, Services or Works will be less than R1 000 000.00 (all applicable taxes included). The 90/10 preference point system applies where the acquisition of the Goods will exceed R1 000 000.00 (all applicable taxes included).

16.2.3 Alternative Bids

The RFP should indicate clearly if Alternative Bids would be accepted. If Alternative Bids are acceptable, the RFP must state that an Alternative Bid will only be considered if a Bidder also submits a main offer strictly in accordance with all the requirements stated in the RFP. Such alternative bids will be evaluated as separate bids and included in a schedule that compares the requirements of the RFP with the Alternative Bid that is proposed.

In instances where the RFP did not invite alternative bids, alternative bids will as a general rule not be considered, as that could prejudice bidders who did not provide alternative bids and also on the basis that the RFP did not state clearly that alternative bids will also be considered. The CFST therefore has to consider this aspect carefully when preparing the bid documents.

16.3 TIMEFRAMES

16.3.1 Submission of Bids

Suppliers must be afforded sufficient time to prepare and submit Bids. Below are guidelines to determine the minimum timeframes:

a) **Off-the-shelf type of purchases:** a minimum of two weeks should be allowed, if possible.

b) **More complex bids** (such as construction works which involve quantity surveying, national bids, etc): a minimum of 3 weeks should be allowed.

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c) **When international responses are anticipated**, more than 3 weeks should be allocated to ensure a sufficient response.

16.4 VALIDITY PERIOD

The validity period must allow ample time for the evaluation, drafting of the recommendation and approval by all the necessary governing structures for each bid. Unless circumstances require a longer or shorter period, bid documents must state that the Bids must hold good for at least 90 days from the closing date.

It is important to note that for the purposes of adjudication, bids are required to remain valid only until the matter is considered by the AC provided that the AC approves the process. Should the AC not approve the matter, the validity period must be timeously extended.

16.5 ESSENTIAL REQUIREMENTS IN BID DOCUMENT

The standard RFX template, available on the iSCM Transnet intranet, must be used when Goods and Services are procured.

16.5.1 Inclusions

When preparing the bid documentation based on the standard RFP template, the following must be considered:

a) Name and address of the Transnet Entity/ies procuring the goods/services.

b) Manner and place for the submission of proposals.

c) Deadline for submission of proposals.

d) Validity period of submitted Bids.

e) Bid reference number (see paragraph 17.1.1).

f) Instructions for preparing Bids.

g) Consecutively indexed and numbered pages of the bid documents in order that both Bidder and contract administrator can easily check the completeness of the bid document.

h) The rules governing communication between the Bidder and Transnet during the bidding process.

i) The name and contact details of the Transnet employee who is authorised to communicate directly with and to receive communications directly from suppliers in connection with the bid invitation, including clarifications of the bid.

j) An indication as to whether or not Transnet intends to convene a compulsory briefing session.

k) Standard terms and conditions of contract and the General Bid Conditions.

l) Transnet's Integrity Pact.

m) Requirements of the CIDB in the case of a bid relating to construction, upgrading or refurbishment of buildings and infrastructure.

n) Any criteria required by other applicable legislation.

o) Obligation on Bidders to declare any conflict of interest they may have in respect of the Bid that is to be submitted. In particular, Bidders must state whether they have any personal or business relationship with any employees or directors of Transnet.

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p) An indication of whether or not suppliers are permitted to submit proposals for only a portion of the goods/services to be procured and if so, a description of the portion(s) for which such proposals may be submitted. Bid documents must be specific as in certain instances Transnet may require that the whole contract be completed by the same contractor in order to establish responsibility.

q) Bid documents must state that Transnet reserves the right to accept a complete Bid, even if it is not the lowest, provided it is in the best interest of Transnet.

r) Whether the process may involve post tender negotiations.

s) Anticipated date(s) for starting delivery and/or completion of delivery of the Goods/Services.

t) Conditions regarding shipping, if applicable.

u) Currency and the manner in which the proposal price is to be formulated or expressed.

v) A notice to Bidders that Bids must be submitted by the Bidder in a sealed envelope. The envelope must indicate the bidder's name, a contact person and details, the bid number, the subject and closing date, time and venue so that there is no need to open the document and risk the possibility of prices being leaked.

w) Terms of payment.

x) Where Bidders are required to insert prices on price lists supplied by Transnet, they must be advised to delete items for which they do not wish to bid if they have this option. If the price has been included elsewhere in the price list, this must be indicated. After Bids have been opened, Bidders may not supplement their original offer if it was incomplete.

y) A list of the required returnable documents, e.g. tax clearance certificates, industry-specific certificates, etc. The list should indicate clearly which returnable documents must be submitted by the closing date, failing which bidders will be eliminated.

z) Bid documentation must state that Transnet shall not be obliged to accept the lowest, any bid or an alternative bid.

aa) Bid documentation must stipulate that disputes regarding the bidding process must be settled by the Procurement Ombudsman.

bb) A space on each page where the Bidder must append his signature plus name of company and company stamp.

cc) A certificate of acquaintance with the RFP documents, as well as a certificate of attendance for a compulsory site inspection/tender briefing session (if applicable).

16.5.2 A CD containing pricing spreadsheets may be requested in order to simplify the copying of information for comparison purposes. This CD should be supplementary and should contain no information that is not in the hard copy of the Bid submission.

16.5.3 **Transnet's Disclaimers**

The standard RFP documents should state that Transnet is not committed to any course of action as a result of its issuance of the RFP and/or its receipt of a proposal in response to it. The RFP should also state that Transnet will not be bound by an interim step in the procurement process such as the selection of a preferred bidder/s. In particular, Transnet reserves the right to:

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a) modify the RFP's Goods/Services or other terms and conditions and request respondents to re-bid on any changes;

b) reject any proposal which does not conform to the detailed instructions and specifications;

c) disqualify proposals submitted after the stated submission deadline;

d) not necessarily accept the lowest priced proposal;

e) reject all proposals, if it so decides;

f) award a contract in connection with the RFP at any time after the RFP's closing date;

g) award only a portion of the proposed goods/services which are reflected in the scope of the RFP;

h) split the award of the contract between more than one supplier; or

i) make no award of a contract.

Bidders who submit Bids subject to certain qualifications which are in conflict with certain bid conditions must be advised to withdraw such qualification, failing which the Bid may be disqualified.

16.5.4 Transnet's standard terms and conditions of contract

When issuing any RFP, Transnet's standard terms and conditions must be used. Please note that a standard contract template has been prepared for Market Demand Strategy related projects. This template is available on the Transnet Intranet. For any additional terms and conditions, a schedule detailing these must be added to the standard terms and conditions. The reason for this is that the terms and conditions that accompany the RFP document will become the terms and conditions of any master agreement that is concluded with a supplier in terms of the RFP.

16.5.5 NEC3 conditions of contract and CIDB Standard for Uniformity

When issuing any RFP for construction procurement, the NEC3 conditions of contract must be used. Please note that a standard contract template/standard construction procurement templates has been prepared for Construction related projects. For any additional terms and conditions, Group Legal must be approached via the OD/SU Legal Department.

Should the need arise for additional clauses in terms of the NEC3 Z clauses, these must be carefully drafted and approved by the Group/OD Legal Department.

16.6 SIGN-OFF OF BID DOCUMENTATION AND GO-TO-MARKET STRATEGY

Once the bid documentation has been compiled, the bid document together with the media advert must be reviewed and signed off as correct by the CPO or person to whom the power has been delegated, as a quality control measure.

CHAPTER 17 : BID ADMINISTRATION
(issue, receipt, opening of bids and communication)

cidb

This Chapter applies to both general procurement and construction procurement.

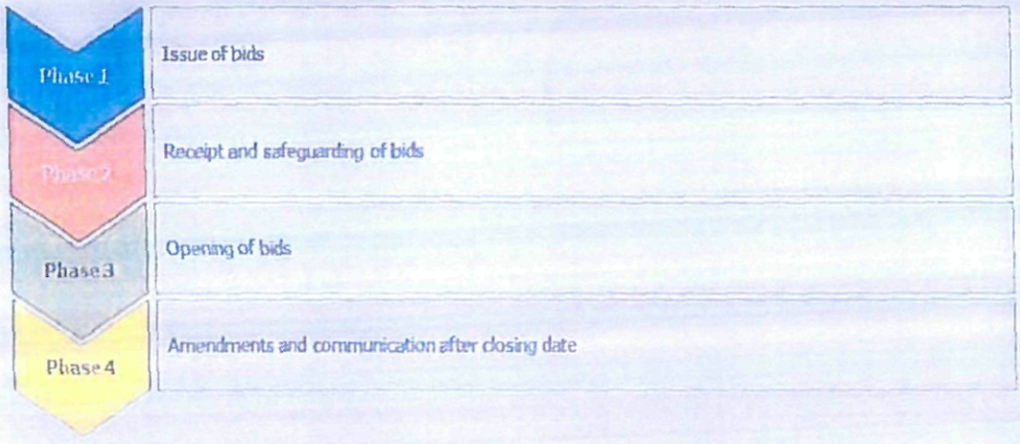

Figure [27] – Four phases of bid administration

17.1 PHASE 1: ISSUE OF BIDS

17.1.1 Bid reference numbers and short descriptions

At this stage in the process, the RFX document, the evaluation criteria and weightings, the evaluation methodology, as well as the going to market strategy has already been signed off by the person or governance structure with the appropriate DoA.

Prior to advertising, each RFX must be issued with a business-unique consecutive number. The issuing of RFX numbers must be controlled by a responsible person, e.g. the AC Secretary. The RFX number must clearly indicate the following:

- whether it was an Open Bid or a quotation; e.g. RFX No, Quotation No, or Approved List No.;
- the entity which issued the bid;
- in the case of a CIDB bid, allocated a prefix to the bid number to indicate that it is a CIDB-bid;
- a specific digit/character can be allocated to indicate whether a bid will close at the AC or at Regional/depot level e.g. BID NO: TPT/CT/11/01/138/CIDB; and

- a short description of the requirement must be added after the unique number, e.g. "CONSTRUCTION OF NEW ELECTRIC SUB-STATION AT THE CONTAINER TERMINAL AT PIER NO 2, PORT OF SALDANHA".

17.1.2 All notices and adverts to be issued in the name of Transnet SOC Ltd

All documentation relating to bids shall be issued in the name of Transnet SOC Ltd and shall be published (advertised) in the Republic of South Africa,(nationally and/or regionally), and abroad if necessary. The name of the relevant OD requiring the service shall be clearly indicated, e.g. Transnet Freight Rail, a Division of Transnet SOC Ltd (Reg. No. 1990/000900/30). The rationale for issuing notices in the name of Transnet is that every legal document must reflect the registered company name i.e. the legal persona of the company which will be contracted with.

17.1.3 Important information to be included in notices and Advertisements

The format of the Advertisement is prescribed by Group Communications guidelines. This format has been adapted for Supply Chain purposes and must be used for all Advertisements. The advertisement template can be obtained on the iSCM Intranet Portal.

The advert should be as short as possible but nevertheless should contain all relevant information. Notices and Advertisements calling for Bids must include the following information pertaining to the collection and lodging of bid documents:

- RFX number;
- brief description of the goods / services required;
- where the prescribed forms may be obtained and the cost to purchase them (if any)
- the closing date for collection of bid documents (in this regard adequate time must be given to bidders to collect the bid documents);
- closing date and time for submission of the bid document;
- place where Bids must be lodged;
- information pertaining to site inspections or pre-bid briefing sessions;
- contact person's business address, telephone/fax number and email address; and
- details of Transnet's fraud line.

17.1.4 Issuing of open bids

Where appropriate open bids, particularly for transversals and national bids) must be made available at every OD site across the country. A central electronic Issue Register must be maintained on a Shared Portal as per paragraph 17.1.7.

17.1.5 Bid document fees

a) A Manager with the necessary Delegated Authority for a particular contract may decide, at his/her own discretion, that a non-refundable fee be charged to Bidders for bid documents. This fee must only reflect the administrative costs of preparing and issuing the bid documents. The price to be charged for the bid documentation must be stated in the advertisement and invitation to bid. The decision to charge a document fee must be taken with circumspection as small companies may be unfairly excluded from the process due to the prohibitive costs of the bid documents.

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Should the Manager decide to charge for the bid document, the following bid document fees structure must be used to determine a fee for bid documents:

TABLE 18

Value of bid	Bid fee (guideline)
<R5 million	no charge
R5million to <R20 million	R200
R20million to <R50 million	R500
R50million to <R100 million	R750
>R100 million	R1000 or higher (discretion of CPO) but not exceeding R5 000.

b) Consideration should also be given to issuing RFPs in digital format on CDs at no charge. Should it be decided that a bid fee be charged for the CD, this fee must not exceed R100.

c) Where a document fee is to be charged, the advert must clearly state the payment method. Due to the risks involved in handling cash, the sale of bid documents at site meetings should be avoided. Strict control over cash received should be exercised and documentary proof of documents sold and receipts issued should be kept on the appropriate files.

d) Should cash payment be one of the chosen payment methods, bid documents must clearly stipulate that payments be made to the finance office (or another office independent from the office that issued the bid).

e) The finance office must ensure that the RFX number is clearly reflected on the receipt. Bid documents may only be issued to Bidders producing a valid original receipt clearly indicating the relevant RFX number. A copy of the receipt with the signatures of the issuing officer and the Bidder who purchased the document must be kept on the appropriate file. A copy of this documentation must be sent to the Secretary of the AC before the closing date.

f) In the event of the bid being cancelled the fee must be refunded. Please refer to paragraphs 20.6.7 and 20.6.8 in this regard.

17.1.6 Publication of notice / advert

a) The notice/advert must be published on or before the day of issuing of the bids. Bids may be published in the appropriate media for the Goods/Services being procured, e.g. the Transnet internet site, trade magazines, newspapers which are distributed locally or wider, in electronic bid bulletins, other media which specifically targets specific markets or small business enterprises, whichever is best suited to reach the potential Bidders.

b) In order to facilitate accessability to Transnet tenders, the following guidelines should be followed regarding advertising:

- Transversal bids should be advertised in national media as well as regional media where it is intended that the business will be split regionally;
- National bids should be advertised in all national media as well as all major regional media where it is intended that the business will be split regionally;
- Regional bids should be advertised regionally only;

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c) Copies of the notice and prescribed forms shall be furnished to the AC secretariat if the bid is expected to fall within the jurisdiction of such an AC. This would be the case if the bid is expected to be over the laid-down limit or longer than two Years or where there is uncertainty as to whether it will fall within the jurisdiction of a Manager.

d) Any subsequent amendments to notices inviting Bids (e.g. extension of the closing date) shall be communicated in the same media as the initial bid. The AC Secretariat must be notified timeously of such amendments. The office responsible for placing the adverts shall retain copies of all adverts as placed by the relevant media, for audit purposes.

cidb

d) Advertisements for bidders to submit offers in respect of engineering and construction works contracts, shall be placed on the CIDB website using the i-Tender@cidb service at least 10 working days before the closing date for submissions and at least 5 working days before any compulsory site meeting.

17.1.7 RFX Issue Register

The following important information pertaining to all bid documents issued must be entered into the RFX Issue Register, which is compiled by the RFX Issuing Office:

- RFX number and description;
- receipt number and date of purchase if a bid document fee was charged;
- document number e.g. 'Document 3' sold to 'Potential Bidder x';
- name and contact particulars of person who collected documents;
- bidder's (company) name; and
- closing date.

A record must be kept of all the names, contact particulars of the persons or enterprises to which bid documents have been issued, as well as the document number sold to the potential Bidder. This is necessary in case there is a clarification or amendment, and all Bidders need to be informed.

17.1.8 Queries from bidders / amendments before the closing date

Employees/persons listed in bid notices as contact persons must be available to answer requests for clarification from the prospective Bidders. This is because a Bidder may only communicate with the person listed on the bid document on any matter regarding his Bid prior to the closing date of the bid. Ideally, this person should be the tender administrator.

Without identifying which bidder sought the clarification, the clarification provided must be communicated simultaneously in writing to all Bidders who obtained bid documents. The response to such a request must be effected within a reasonable time prior to the deadline of the bid to enable the Bidders to make timely submissions of their Bids, considering the clarification. If necessary, the deadline should be extended.

cidb

Bidders may seek clarification in writing at least 5 working days before the closing time stated in the bid and all bidders who purchased bid documents must be notified accordingly.

respondents, prices paid on previous contracts, number of bid documents issued to date, etc.

17.1.9 **Amendments before the closing date**

a) Transnet is entitled to amend any bid condition, validity period, specification or plan; or extend the closing date before the closing date, or in the case of a compulsory briefing session, before the scheduled session.

However, such amendments or extensions must be advertised and/or all Bidders who obtained bid documents must be advised in writing per fax or email of such amendment or extension a minimum of three Working Days before the scheduled date. The new closing date and time must be clearly reflected.

b) Where the closing date of a bid is extended, the notice of extension shall also state that Bids already received will be retained unopened in the tender box and be duly considered after the expiry of the extended period. However, the Bidder may request that such Bid be returned to him/her. The Bidder may also cancel the existing Bid by submitting a later dated Bid before the extended closing date. For amendments after the closing date refer to paragraph 17.4.1.

c) In the event of a Material Amendment to the specification or scope of work, to which other new Bidders could possibly respond, the bid must be cancelled and a revised RFX must be advertised. This would give all other potential Bidders the opportunity to respond. This can only be done after approval by the person who signed off the RFX document (refer paragraph 16.6 above), has been obtained. The cancellation must be advertised in the relevant media. If the cancellation and reissue happen simultaneously, they may be advertised together where the re-issue makes reference to the cancellation.

cidb

A bid may not be re-issued covering substantially the same scope of work within a period of six months unless only one bid was received and such tender was returned unopened The CIDB must be informed via the i-Tender system of any non-awards or cancellation of tenders after approval from the respective delegation of authority has been obtained.

Addendas may be issued to each bidder during the period from the date that the bid documents were made available until 3 days before the bid closing time.

17.1.10 **Compulsory Site Inspection / Briefing Sessions**

a) A compulsory site inspection or briefing session has to be held in cases where it is necessary for the Bidders to view the site in order to prepare their Bids, or where Transnet deems it necessary to provide Bidders with further information to allow them to complete their Bids properly.

b) If a compulsory site inspection/briefing session is convened, minutes of the meeting must be recorded together with an attendance register. The minutes must include the queries/requests raised for clarification at the meeting, together with the responses to those requests without identifying the sources of the requests. It is recommended that questions be submitted in writing by Bidders and that Transnet respond in writing to all bidders within 48 hours of

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the briefing session. The minutes must be forwarded to all Bidders who attended the meeting so as to ensure that the same information is provided to all Bidders. This would enable the Bidders to take the minutes into account in preparing their Bids.

c) Bidders are obliged to attend scheduled compulsory briefing sessions, as failure to do so will result in disqualification of the Bids. The bid notices must clearly indicate this. Discretion must therefore be exercised in deciding whether or not a compulsory site inspection or briefing session is absolutely necessary.

d) If a compulsory briefing session is not considered absolutely essential, consideration could be given to having a non-compulsory briefing session. In such instances, attendance at such a meeting would be on a voluntary basis. The RFX documents must clearly state this. The RFX should also state that Transnet will not be held responsible if any Bidder who did not attend the non-compulsory session subsequently feels disadvantaged as a result thereof.

e) Latecomers to any briefing session should be allowed to attend. However, no information should be repeated for the benefit of latecomers. They must be advised that the information should be made available to them by means of the minutes of the briefing session. The minutes will be made available to all attendees who completed the attendance register. Details of latecomers (e.g. company name and names of their representatives, as well as approximate time of (late) arrival) must be recorded on the site register, so as to ensure that Transnet's interest is protected.

17.1.11 Electronic issuing and receipt of Bids

ODs may at their discretion, and provided that they have introduced sufficient controls to prevent abuse, make use of electronic technology to:

- advertise bids (e.g. website);
- issue bid documents;
- enable payment for bid documents where applicable; and/or
- receipt of Bids.

This will only be allowed **provided** that the following basic requirements are complied with:

a) Potential Bidders who are not in a position to access electronic media must also be accommodated;

b) There is an option for potential Bidders to obtain either electronic or hard copies of the bid document;

c) Where applicable, bid documents must be paid for, irrespective of whether the bid documents are obtained in hard copy or electronically;

d) Appropriate measures must be taken to protect electronic versions of the bid document;

e) Bids must be received in a controlled environment, and may only be accessed /downloaded from the dedicated 'Electronic Tender Box' (ETB) after the closing date and time;

f) The ETB should be able to send an automated acknowledgment confirming date and time of delivery;

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g) There should be a backup system in case of server failure;

h) The ETB may not accept late Bids. A Bid is late if it is received at Transnet after the closing date and time. Bidders must be advised that server issues outside of the Transnet electronic environment will not be considered as a reason for acceptance of late Bids.

i) The ETB should be able to send a message to the sender to inform him/her that the Bid was received late and will not be considered;

j) The ETB should be able to handle unlimited numbers of last minute Bids. It should be impossible to overload;

k) ETBs need to be able to cater for different bids closing on different dates;

l) It will be allowed to receive scanned original documents e.g. Tax and BBBEE certificates; Transnet may however at its discretion decide to subsequently call for hard copy certified originals if deemed necessary;

m) Documents must be write protected; and

n) There must be no file size constraints with regard to mail attachments.

Receipt and safeguarding of bids

17.2 PHASE 2: RECEIPT AND SAFEGUARDING OF BIDS

The RFX document should clearly indicate what must be stated on the outside of the sealed envelope containing the Bid. Refer to paragraph 16.5.1v) in Chapter 16 on *Bid Preparation*.

17.2.1 Bids are to be kept in a controlled environment

a) All bids falling within the jurisdiction of the AC must clearly indicate the physical (and courier address, if not the same), and/or ETB address (if electronic Bids will be allowed) of the AC where the Bids will be received.

b) Where the Bid price is reasonably expected to fall within the jurisdiction of a Manager, (i.e. below the jurisdiction of the AC), the bid document must clearly indicate to whom the Bids are to be addressed, the closing venue, date and time.

c) If upon receipt it is found that such Bids do fall within the AC's jurisdiction, they are to be dealt with in exactly the same manner as if it had closed at the AC. The award of such business must be referred to the AC for consideration in the normal manner, together with an explanation as to why the bid did not close at the AC.

d) As a general rule, such bids should not be cancelled and re-issued. Furthermore, condonation is not required. However, when the matter serves at the AC, the AC will consider whether the price was reasonably anticipated to fall below the AC jurisdiction. If it is apparent that this was not the case, the AC may recommend

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that the matter be non awarded. This rule must be applied taking into account the rules relating to cancellation of bids as indicated in paragraphs 20.6.7 and 20.6.8.

e) Bids that were anticipated to fall within the AC threshold, and which therefore closed at the AC, but were subsequently found to fall below the AC threshold, must be dealt with by the relevant Manager. The matter must be reported to the AC for information.

f) Where some Bids fall below the AC jurisdiction and some are within the AC jurisdiction, the lowest priced responsive bid will determine where the matter must be dealt with.

g) The tender box must be fitted with two locks, and the keys kept separately by two nominated officials. No single person must be allowed to open a tender box on his/her own. Both officials shall be present when the box is opened on the stipulated closing date and time.

17.2.2 Unsealed Bids/Bids without sufficient cover information

a) If a Bid is received unsealed or without the relevant information on the envelope, the contents shall be ascertained and then sealed with a note made on the envelope indicating:

- date of receipt and by whom (name, designation and contact number);
- the state in which the Bid had been received;
- number and description of Bid; and
- correct closing date, time and venue.

It will then be placed in the correct tender box for opening at the appropriate closing time.

b) When finally opened, such envelopes shall be kept on the appropriate files as a record. The bid list compiled by the officer responsible for the bid opening should also indicate that such Bid was received open, so that the evaluation team can consider whether or not there is evidence of possible manipulation of the process. However, such Bids should not be summarily disqualified.

17.2.3 Receipt of quotes via fax or e-mail

a) No Bid received by e-mail or fax must be considered unless the bid document specifically provides for it.

b) Where the bid document specifically provides for the receipt of Bids via e-mail or fax, provision must be made in the bid document to indemnify Transnet against any claims which may arise as a result of a Bidder not being able to transmit his/her quote to Transnet for any reason whatsoever before the closing time.

c) Faxed or e-mailed offers must be received by a person who has not been involved in the development of the bid documents and/or will not be involved in the evaluation of submissions.

d) Strict control measures must be exercised over fax machines used for the receipt of low value Bids. Once received, the person responsible for receiving the Bids must seal the respective Bids in separate envelopes and keep them in a controlled environment until the closing date.

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e) On the closing date and time, the Bids must be opened and stamped. A register of the quotes requested and received must also be kept. No additional quotes are to be requested or considered after the closing date and time.

17.2.4 Late Bids

a) Transnet will not accept any late Bids. A Bid is late if it is not placed in the relevant Tender Box, ETB or delivered by hand by the bidder or his courier to the relevant responsible person indicated in the bid document by the closing time for such bid. A late Bid shall not be admitted for consideration and where feasible shall be kept unopened. A letter explaining the reasons for not considering the late Bids must be sent to all late Bidders. The Bidders must be notified that they may collect their late Bids if they wish to do so.

b) A Bidder must, however, not be penalised if a Bid is received late due solely to a fault on the part of Transnet.

c) Where it is necessary to open a late Bid to obtain the contact details of the sender, each page of the document shall be stamped "Late Bid" before the Bid is placed on the appropriate files. The exact time and date that the Bid was received must be recorded. The envelope must be stamped, initialled and retained for record purposes on the appropriate files.

d) However, the Chairperson of the AC has the discretion to decide whether a late Bid may be considered where exceptional circumstances arise. The decision to consider a late Bid should be taken with great circumspection. All documentary evidence leading to such decisions as well as proof of the decision itself must be kept on the appropriate file as part of the record. Hereunder follows a non-exhaustive list of circumstances where an AC Chairperson may decide to exercise discretion and accept a late Bid in cases where:-

- Transnet was solely to blame for his Bid being late e.g. a labour strike action in front of the building, or an evacuation drill effectively denying the bidder access to the tender box;
- Only one Bid is received and such Bid is received late. In such cases, no prejudice is suffered by anyone if the late Bid is accepted. Consideration must, however, be given to whether the process could have been manipulated to favour the one and only late Bidder.
- It was an RFI process and the purpose of the RFI was merely to gauge what is available in the market, or to compile a specification; and
- Where the Bidder provides compelling reasons for being late, indicating that the lateness of the submission is not due to any fault or bad planning on his or her part.

e) Bidders who submit late Bids must be informed of their right to petition the Chairman of the AC should they believe that they have valid grounds for inclusion. The motivation for acceptance of a late Bid, plus the chairperson's ruling on the matter, must be retained on the relevant files.

f) Late Bids that are not considered must be retained for a period of at least 6 months before being destroyed. Record of destruction must be recorded on the relevant file.

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Phase 3 Opening of bids

17.3 PHASE 3: OPENING OF BIDS

17.3.1 Time and manner of opening of bids

a) Bids shall be opened promptly after the deadline for the receipt of Bids, or as soon as possible thereafter.

b) Bids shall be opened by a duly authorised senior employee in the presence of at least one other employee. The persons must declare their interest. In the event of a conflict of interest they must recuse themselves from the opening of the Bids. In addition, the persons opening the Bid documents must not be involved in the issuing, evaluation or adjudication of that bid as they are perceived to have an indirect interest in the bid.

c) There should be a check to verify that Bidders had paid bid fees, where applicable. If bid fees had not been paid, the Bid must be endorsed accordingly, and an explanation obtained from the Bidder by the AC Secretary. If no reasonable explanation can be provided by the Bidder, the Bid must be disqualified. A record of this decision must be kept by the Secretary.

17.3.2 Stamping of Bids

a) An employee shall date stamp/punch the Bid and all attachments to the bid document to signify that such documents were part of the original bid document. Bids must be numbered in the sequence in which they have been opened and the words "and last" must be endorsed on the last Bid. Where only one Bid has been received, the words "and only" must be endorsed on such Bid.

b) Where Bidders are required to insert prices on price lists supplied by Transnet and prices have not been inserted in all the relevant spaces on the forms or have not been deleted by Bidders, such spaces shall be stamped "no price" by the employee who opens the Bids. All pages indicating prices, delivery times, special conditions, etc., that will be regarded as crucial during the evaluation process must be stamped and initialled by the opening official.

c) Likewise, in instances where the Bidder has deleted prices and inserted new prices, or where prices have been corrected with correction fluid, the opening official must endorse the correct amount in words, initial next to it, make a copy of the relevant page, and retain it on the bid file. When the matter eventually serves at the AC for the award of the business, the AC Secretary must verify that Bid prices or other crucial information have not been tampered with.

d) Where Bidders were requested to submit their Bids in duplicate (or more copies) all duplicate documents must be stamped "Duplicate" on the cover page after the opening official has verified that all the crucial information in the different documents are identical.

e) The employee in charge of the bid opening will record particulars of all Bids received in duplicate in a Bid Opening Register. The original list of Bids received must accompany the original Bid documents when forwarded to the department

that invited the Bids. The name, contact details and signature of the person collecting the Bid documents must be obtained and the duplicate list with the signature will be kept by the bid opening office, either on the appropriate file or in a register as part of the record.

Phase 4

Amendments and communication after closing date

17.4 PHASE 4: AMENDMENTS AND COMMUNICATION AFTER CLOSING DATE

17.4.1 Amendments after the closing date

Transnet is entitled to amend any bid condition, validity period, specification or plan **after** the closing date of a bid. However, all parties who obtained bid documents and submitted valid Bids must be advised thereof in writing by fax or e-mail and be given the opportunity of bidding on the amended basis by an extended closing date and time. Proof of such written communication must be kept for record purposes. Bidders who did not submit valid Bids (e.g. submitted their Bids late, or who did not attend the compulsory briefing session/site inspection) cannot participate in the extended invitation. Authority for such communication must be obtained and is dealt with in paragraph 17.4.3.d) below.

In the event of a material amendment to the specification or scope of work, to which other new Bidders could possibly respond, the RFX must be cancelled and a revised RFX must be advertised. This would give all other potential Bidders the opportunity to respond. This can only be done after approval had been obtained from both the person who signed off the RFX document (refer paragraph 16.6 above), and the relevant AC. The cancellation must be advertised in the same media where the initial advert was placed. If the cancellation and reissue happen simultaneously, they may be advertised together where the re-issue makes reference to the cancellation. In such instances it will not be necessary to obtain AC approval for a non-award as this will delay the matter unnecessarily at this critical stage. However, full details of this 'intervention' must be disclosed to the AC when the final award of business recommendation is made. Also refer to paragraph 17.1.8(c) in this regard.

17.4.2 Extension of validity periods

If a bid cannot be evaluated and awarded within the stated validity period, a motivated request for an extension of the validity period should be made to the appropriate AC Chairperson (or his/her delegate) to request an extension of the validity period. This request should explain the reasons for the delay, and include the revised timeline for the completion of the bidding process. Should there be a need for a further extension to the validity period, this must be approved by the appropriate AC as a whole. The AC must be provided with all the information relating to the previous extension including the reasons therefore as well as the reasons for the second extension. With regard to matters that fall below the AC threshold, a manager with the delegation of authority will consider and approve any request for extension of the validity period. Authority to communicate the extension of a validity period must be obtained from the AC Chairperson or the Manager with the delegation of authority for matters below the AC threshold.

NB: Validity periods must be extended BEFORE expiry. Bids in respect of which the validity periods have already expired cannot be revived. In such instances the process must be started afresh after having obtained the necessary AC approval for the non-award of the expired RFP.

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Requests for the extension of validity period must be submitted at least 10 Working days before the expiry of the validity period.

If an avoidable delay occurs with adjudication, Bidders must be requested to extend the validity period of their Bids on the same terms and conditions **before** the expiry of the validity period. In such instances, Bidders will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change/s is as a direct and unavoidable consequence of the extension of the validity period e.g. price changes due to changes in the market which have impacted major cost components of their price. If a need arises to extend the validity period of the bid, this must be done BEFORE the validity date expires since a bid process automatically terminates on the validity date unless timeously extended.

It is important to note that for the purposes of adjudication, bids are required to remain valid only until the matter is considered by the AC provided that the AC approves the process. Should the AC not approve the matter, the validity period must be timeously extended.

17.4.3 Communication after the closing date

a) After the closing date of a bid (i.e. during the evaluation period) a Bidder may only communicate with the chairperson and the secretary of the relevant AC.

b) No communication relating to the specific bid is allowed between a Bidder (or any other party who has an interest in a bid), and any employee of Transnet after the closing date and before award, except as provided for in paragraph 17.4.3 (c) below. Every case of unauthorised communication must immediately be reported to the Chairperson of the AC. The Bidder that is associated with an unauthorised communication may be disqualified from the process.

c) It is accepted that in certain cases Bidders might have existing contracts with Transnet, where communication regarding the existing contract is unavoidable. However, any communication during the evaluation period of another bid, should be limited where at all possible, and under no circumstances should socialising, e.g. golf days, product launches, lunch/dinner invitations, sporting events, etc., be entertained during this period. Even if no discussion about the bid being evaluated is entertained during such social events, other competing Bidders may form a perception of bias and it may lead to claims of an unfair bidding process.

d) The chairperson, the secretary of the AC, or the Manager with the delegated power for matters below the AC's threshold, may subject to the provisions of paragraphs 17.4.3e), f) and g) below, authorise an employee in writing (including by fax or email) to communicate with a Bidder after the closing date for the purpose of:

(i) Explaining and verifying declarations made in Bid response;

(ii) Confirming that a quoted price is correct, or requesting a breakdown of the pricing without altering the price;

(iii) Confirming technical particulars and the compliance thereof with specifications;

(iv) Determining whether there will be any change in price if only a portion of the work is awarded to a Bidder;

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(v) Requesting an explanation for an unreasonable price increase when it is compared with a previous price and the interim movement of a relevant price index;

(vi) Clarifying delivery times, quantities, etc;

(vii) Amending any bid condition, specification, etc. after the closing date;

(viii) Clarifying any other commercial aspect;

(ix) Carrying out site inspections of the bidder's premises;

(x) Requesting presentations by all Bidders. If only certain shortlisted Bidders are invited for presentations, the relevant AC's prior approval of the shortlist must be obtained; and

(xi) Requesting returnable documents erroneously omitted from the original Bid.

e) During communication after the closing date, no change in a matter of substance of the Bid, including changes in price, terms or changes aimed at making an unresponsive Bid responsive must be sought, offered or permitted. Also note that the abovementioned communication issues covered in paragraph 17.4.3 (d) do not include post-tender negotiation. This topic is covered in Chapter 19 (Post Tender Negotiation) below.

f) Where the bid is managed by a Specialist Unit with a specific strategic focus on behalf of the user OD, the Specialist Unit shall coordinate all communication of a technical, financial or commercial nature between Transnet and the Bidder.

g) In all cases where authority to communicate with Bidders has been granted in terms of paragraph 17.4.3(d) above, the submission to the AC must clearly state the nature of the communication as well as who granted the authority to communicate and the outcome thereof. Documentary evidence of all authorisations to communicate, the actual communication as well as the outcome thereof (bidder's response) are to be kept on the appropriate files as part of the record.

Background and Context

Procurement planning

Go to Market

SECTION D:

EVALUATION AND ADJUDICATION

Chapter 18: Evaluation and Recommendation

Chapter 19: Post Tender Negotiations (PTN)

Chapter 20: Adjudication

Contract Management

Functions of Governance Structures

Appendices

CHAPTER 18 : EVALUATION AND RECOMMENDATION

This Chapter applies to both general procurement and construction procurement. Please refer to paragraph 18.6 for the rules relating to construction procurement.

SUMMARY OF BID EVALUATION

It is the responsibility of the evaluation committee to ensure that the evaluation takes place within the validity period. If there are delays, the validity date(s) of the bids should be extended, using the process described in Chapter 17 *(Bid Administration)*.

The following are the key steps to be followed during the evaluation of Bids.

Step 1 – Test for administrative responsiveness

- Procurement conducts test for administrative responsiveness
- Highlights non-responsive bids for consideration and ratification by evaluation committee

Step 2 – Preparation for evaluation

- Constitute a cross functional evaluation committee (CFET)
- Sign Declaration of interest / Confidentiality agreements
- Set ground rules for evaluation committee

Step 3 – Test for substantive responsiveness

- Evaluation committee confirms results of initial administrative test for responsiveness conducted by procurement and conducts test for substantive responsiveness

Step 4 – Evaluation of the bid against pre-determined criteria

- Study bid responses against the criteria listed upfront in the RFP
- Clarify bid uncertainties (bid clarification)
- Make notes against each criteria to inform the eventual scores
- Use the appropriate evaluation method determined at bid preparation phase
- Reduce bid offers to a comparative basis
- Capture the scores of each bid against all criteria
- Submit completed score sheets to chairperson of evaluation committee for averaging
- Moderate outlying scores
- Apply relevant weightings to determine final weighted scores

Step 5 – Final evaluation

- Eliminate bidders who did not make all the relevant thresholds
- Populate the relevant automated scorecard based on the evaluation methodology
- Determine final ranking of bidders

Step 6 – Recommendation

- Prepare TEAR report containing recommendation to the AC or person with delegated authority
- Record proper minutes of all the proceedings

Figure [28] – 6 Steps for Bid Evaluation

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Step 1

Test for administrative responsiveness

Procurement conducts test for administrative responsiveness
Highlights non-responsive bids for consideration and ratification by evaluation committee

18.1 TEST FOR ADMINISTRATIVE RESPONSIVENESS

18.1.1 Test for responsiveness based on returnable documents submitted and signatures on the Bid documents:

a) Check the Bid document to see whether all returnable documents called for in the bid documents and which are required for evaluation purposes and/or incorporation into the contract have been received.

b) The RFP must clearly identify those material returnable documents which must be submitted upfront with the bid submission. Such documents would include those critical documents that will be utilised to evaluate bidders e.g. the the Bidders' pricing schedule and technical submission. Although the B-BBEE certificate is used to evaluate bids, it will not be requested as a mandatory returnable document as in terms of the PPPFA disqualification is not allowed for failure to submit a B-BBEE certificate. Bidders will simply score zero for preference should they fail to submit their B-BBEE certificates by the closing date and time of the bid. If any such mandatory returnable documents are not provided upfront, the bid must be regarded as non-responsive e.g. the pricing schedule, etc.

c) Certain other returnable documents, although essential, may not result in automatic elimination if not provided upfront e.g. a tax clearance certificate. In such instances, a reasonable grace period (about 5 Working Days) may be afforded to the Bidders to supply the required documents. If the Bidder does not provide the document(s) by the end of the grace period, the Bid(s) must be regarded as non-responsive.

d) A third category of returnable documents (i.e. additional documents) are those that may be requested but which are not material or essential to the bid e.g. a completed B-BBEE Improvement Plan. The failure to submit such documents for the purpose of evaluating and awarding the business will not result in the bid being regarded as non-responsive, but could be requested at a later stage.

e) If a Bidder had omitted to sign certain pages of the Bid documentation, he/she may be requested to do so within a reasonable period of time (about 5 Working Days). If the signature is not provided within the timeframe provided, the Bid must be regarded as non-responsive.

18.1.2 A schedule must be drawn by Procurement to indicate whether the Bids received are administratively responsive or not, and the efforts expended to obtain any outstanding information (see example in Figure [29] below):

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Returnable Document Comparative Schedule (add fields for all returnable

RFX Number _____

Bidder	Correctly Recorded by AC Secretary	Tax Clearance Certificate	VAT Registration Certificate	PSIRA Certificate	Due date for responses after grace period	Docs received by due date	Returnable Document outstanding after dat	Bid responsive	Remarks
A	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
B	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
C	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
D	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
E	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	

Figure [29] – Schedule to record Bid compliance

Preparation for evaluation

Constitute an cross functional evaluation committee (CFET)
Sign Declaration of interest / Confidentiality agreements
Set ground rules for evaluation committee

18.2 PREPARATION FOR EVALUATION

18.2.1 Composition of Evaluation Committee / Panel

The composition of the evaluation committee would vary depending on the nature and/or value of the particular Goods/Services being procured. As a guide, evaluation committees should be determined as follows:

a) **Low complexity evaluations**

There are very limited criteria for consideration due to the absence of complexity. Typically, criteria can be assessed through a 'yes' or 'no' question. There must be at least two members on the committee - one from the procurement department and the other from the user department.

b) **Complex evaluations**

Where a number of criteria are evaluated on a weighted point system method, the evaluation committee should be cross-functional and should be composed of procurement personnel and officials from the department/s requiring the goods/services.

There must be at least three members, one of which must be a subject matter expert. When it is deemed necessary, independent experts may also be invited to a bid evaluation committee in an advisory capacity.

It is recommended that the people who serve on the CFST do not also serve on the bid evaluation committee. Only if separation of duties is not possible

due to a lack of resources/expertise, may the CFST and the evaluation committee be allowed to have the same membership. If the same people served on both the CFST and evaluation committee, this must be recorded in the minutes, and be disclosed to the relevant AC.

c) **Highly complex evaluations**

A properly appointed multi-disciplinary evaluation team must be utilized. The evaluation committee may comprise sub-committees. Each sub-committee must be composed of at least 3 or more specialists in that field of expertise. A sub-committee will evaluate Bids only in the field that they are tasked with, e.g. Quality, commercial, SD, preference, etc.

(For bids falling within the threshold for High Value Tenders also refer to the High Value Tender Process available on iSCM Transnet Intranet).

cidb

In terms of paragraph 4.3.5 of the CIDB SFU Where quality is evaluated, at least three persons who are fully conversant with the technical aspects of the procurement shall undertake such evaluation.
Paragraph F.3.11.1 of the Standard Conditions of Tender (Annex F) indicates that an evaluation panel of not less than three persons must be appointed.

18.2.2 **Declaration of Interest / Confidentiality**

a) Prior to commencing with the evaluation all members of the evaluation panel must sign a Declaration of Interest form, indicating whether or not they have an interest in the particular bid or any of the Bidders. Also refer to the Code of Ethics (paragraph 5.6 above) for further information on Declaration of Interest.

b) Information relating to the evaluation of Bids shall not be disclosed to suppliers or to any other person not officially involved in the evaluation or adjudication process. A confidentiality agreement must therefore be signed by all members at the start of every meeting of the evaluation committee.

18.2.3 **Setting the ground rules for evaluation and rules of conduct**

At the onset of the initial meeting, the Chairperson of the evaluation committee must indicate to the members that the following scoring methodology is to be used:

a) Confirm the evaluation methodology that will be followed as well as the weighting per category and thresholds as set out in the RFP (See Chapter 13 – Determining Evaluation Criteria);

b) Confirm whether scoring will be done in terms of a desktop evaluation only, or whether it will also include a due diligence exercise, site visits, presentations and/or interviews. This should be indicated in the RFP;

c) Validate scorecard, including the prompts for judgment;

d) Members of the evaluation committee must score each Bid individually, i.e. each member must score every Bid without consulting any other members;

e) Thereafter, the raw scores given by each evaluator in respect of every criterion and sub criterion are populated onto a comparative score sheet;

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f) The Chairperson of the evaluation committee identifies any numerical outliers (if any) and follows a process of moderation;

g) After moderation, the scores given by each of the evaluators in respect of each Bidder are averaged and allocated per Bidder; and

h) The weightings for each criterion and sub criterion are then allocated against the average score for each Bidder, to determine the final weighted score per Bidder.

18.2.4 Rules of Conduct

a) Consistency throughout the whole bid evaluation process is essential. All members of the evaluation team must evaluate all the bid responses. This also entails having a kick-off meeting where the entire evaluation team is present and all aspects of the evaluation process is agreed upon to ensure that everyone is aligned.

b) Although it would be ideal, the evaluation of all bids need not necessarily be completed at one sitting of the CFET.

c) It is important that all members are present at the moderation session, be it in person or via teleconference. All members must sign off on all the relevant score sheets, including the final automated scorecard.

d) Minutes must be kept of all decisions and important deliberations taken at each meeting of the evaluation team.

e) Document security must be maintained at all times.

18.2.5 Evaluation criteria

Bids may only be evaluated in accordance with the criteria specified in the bid documentation (such as specific returnable documents, pricing, quality, commercial, SD, preference, financial stability, etc.).

a) In cases where an evaluation criterion was unclear and it resulted in divergent and incomparable responses being received from the Bidders, the criterion should be clarified and sent to all Bidders. They will then be required to resubmit Bids only in respect of such amended criterion/criteria.

b) In cases where a critical factor was not included in the evaluation criteria, an addendum to the RFP should be issued and sent to all Bidders to provide information pertaining to the additional criteria. The CPO must approve the inclusion of the additional criteria as well as the amendment to the RFP.

c) However, if the required clarity in respect of a) above or the introduction of new criteria in respect of b) above, introduces a substantive change to the RFP then, in the interest of fairness, an amended RFP should be issued by issuing a new tender to the market.

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Step 3

Test for substantive responsiveness

Evaluation committee confirms results of initial administrative test for responsiveness conducted by procurement and conducts test for substantive responsiveness

18.3 TEST FOR SUBSTANTIVE RESPONSIVENESS

The evaluation committee is required to confirm the result of the administrative test for responsiveness undertaken by Procurement.

A Bid is substantively responsive if it conforms to all the terms, conditions, scope and/or specifications of the bid documents without material deviation or qualification. A Bid is regarded as substantively responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in the bid documents. Any such deviations must be quantified as far as possible. These deviations must be considered during the evaluation and comparison of Bids.

Before evaluating the Bids, members of the evaluation team are required to:

18.3.1 Verify the names of the entities appearing on the bid documents against the correspondence (copy of the bid register) received from the AC Secretariat (i.e. check that only those Bids received through the AC Secretariat, are being considered);

18.3.2 Check that all the pages of the respective Bids had been date-stamped by the AC Secretariat;

18.3.3 Check that each Bid reflects a consecutive stamped number, consistent with the Secretariat's correspondence. (This normally forms part of the AC Secretariat's bid date stamp).

18.3.4 Check that all pages of the bidder's covering letter (if any) and all pages containing pricing, delivery and any other conditions, which may have a direct influence on the evaluation process, have also been initialled by the AC Secretariat;

18.3.5 Check that the last (highest numbered) Bid also reflects the stamp "and last" (or "and only", in respect of instances where only one Bid was received) on all its pages;

18.3.6 Any deviation from the above must be brought to the attention of the AC Secretariat. A memo explaining such deviation must be compiled by the AC Secretariat and submitted to the evaluation team. Copies of this memo shall be kept on the Secretary's file as well as the evaluation file. The memo shall also be included in the AC agenda pack. The evaluation committee shall express an opinion on such deviation in their final report to the AC; and

18.3.7 Confirm the results of the initial test for administrative responsiveness conducted by Procurement.

18.3.8 Reject Bids that do not pass the test for substantive responsiveness.

A Bid is considered substantively non responsive if it:

(i) does not contain pricing or response to any other crucial aspect stated in the RFP document;

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(ii) does not meet minimum pre-qualification criteria;

(iii) materially departs from the scope, or specification of the Goods/Services requested; and

(iv) would affect the competitive position of other Bidders presenting responsive Bids, if it were to be rectified.

Non-responsive Bids must be rejected and Bidders shall not be allowed to modify their Bids once they have been rejected as non-responsive. Exclusion of a Bid as non-responsive must be defensible based upon objective and justifiable grounds.

Step 4

Evaluation of the bid against pre-determined criteria

Study bid responses against the criteria listed upfront in the RFP
Clarify bid uncertainties (bid clarification) in terms of 17.4.3
Make notes against each criteria to inform the eventual scores
Use the appropriate evaluation method determined at bid preparation phase
Reduce bid offers to a comparative basis
Capture the scores of each bid against all criteria
Submit completed score sheets to chairperson of evaluation committee for averaging
Moderate outlying scores
Apply relevant weightings to determine final weighted scores

18.4 EVALUATE THE BID AGAINST PRE-DETERMINED CRITERIA

Evaluate the Bid against pre-determined criteria using comparative schedules or score-sheets as follows:

18.4.1 Ensure that the evaluation process is strictly aligned with the evaluation methodology outlined in the bid documents (see Chapter 13 – Determining Evaluation Criteria). If certain Bidders have not met the thresholds for Stage 1, no further scoring in respect of those Bidders takes place in Stage 2.

The evaluation of Bids shall be based on the information contained in Bid submissions, and where relevant from interviews, presentations and site visits. **Bids should not be evaluated on the basis of speculation or the personal knowledge or subjective experience which an evaluator has of any particular Bidder.**

a) **Local Content Threshold**

If the transaction falls within one of the designated sectors as determined by DTI, and it was stated as such in the RFX document, Local Content/Production (LC) will always be evaluated as a first step, to determine whether such Bid complies with the stipulated minimum threshold for that particular designated sector. Bidders that do not meet the stipulated minimum threshold for LC do not progress any further and are rejected at this stage. The threshold as determined by the DTI is not negotiable and bidders who do not meet the minimum set thresholds will be disqualified and will not be evaluated any further.

b) **Supplier Development Threshold**

(i) Evaluating each Bid individually

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Each member of the evaluation committee is required to study Bid responses and record observations. The evaluator must first get an overall view of each Bid. This is done by studying each Bid individually, and then comparing it to the evaluation criteria.

The prompts that were provided for judgment or qualitative indicators relating to all SD criteria and any sub-criteria that are linked to a specific score should be used in assessing the Bids.

The evaluator must record observations on the bidder's response to each specific evaluation criterion on the score sheet. References to page numbers should be added where applicable.

At this stage, no scoring is done.

Score-sheet 1 (*Figure [30]* below is an example of the sheet used for such observations).

Sheet 1	Working scoresheet
RFP Number	(Insert RFP Number)
Name of evaluation committee member	(insert name of evaluation committee member

CRITERIA (Supplier Development	BIDDER NO.1		BIDDER NO.2		BIDDER NO.2	
	Score	COMMENTS	Score	COMMENTS	Score	COMMENTS
Value of investment in plant	Do not complete score at this stage	Evaluate entire bid before progressing to next bid Make comments on the bidder's response to various evaluation criteria	Do not complete at this stage	Evaluate entire bid before progressing to next bid Make comments on the bidder's response to various evaluation criteria	Do not complete at this stage	Evaluate entire bid before progressing to next bid Make comments on the bidder's response to various evaluation criteria
Reduction in import leakage						
Potential increase in export content						
Number company employees to be trained						
Number of downstream supply chain individuals to be trained						
Certified training						
Rand value on training to be spent in the industry						
% of planned procurement from QSEs						

Figure [30] – Score-sheet 1

(ii) Scoring

The next step is to allocate scores on Score-sheet 1 above. This is done by scoring one evaluation criterion at a time for all Bidders. E.g. compare and score the responses to 'Value of investment in plant' for all Bidders before moving on to the next criterion.

All scores must preferably be out of 10 (i.e. the 1 to 10 scale, although a 1 to 5 scale can also be used if specific objective measuring criteria has been set).

Finally, each member's individual scores in respect of each bidder must be carried over from Sheet 1 and inserted on score sheet 2 – see below.

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Sheet 2	Final member scoresheet			
RFP Number	(Insert RFP Number)			
Name of evaluation committee member	(Insert name of evaluation committee member			
CRITERIA (Supplier Development)	BIDDER NO. 1	BIDDER NO 2	BIDDER NO. 3	BIDDER NO. 4
	Score	Score	Score	Score
Value of investment in plant	5	7	5	7
Reduction in import leakage	4	6	5	6
Potential increase in export content	5	6	4	6
Number company employees to be trained	5	8	5	8
Number of downstream supply chain individuals to be trained	4	5	4	7
Certified training	5	6	3	8
Rand value on training to be spent in the industry	4	7	5	7
% of planned procurement from QSEs	5	6	4	6
Total	37	51	35	55

Figure [31] – Score-sheet 2

(iii) Moderating scores

The Chairperson of the evaluation committee transcribes all the individual members' scores from the respective score sheets (Sheet 2) onto the consolidated score-sheet. (Score-sheet 3, see example (*Figure [32]*) below. These scores should be regarded as provisional and subject to moderation.

In the event of significant variances in individual scores, the scores must be moderated at the discretion of the Chairperson of the evaluation committee. An outlying score/s should as a general guideline be determined where there is a point differential of more than 4 points on the 10 point scale as compared to the other scores. The outlying scorer (Nivan, in the example of Sheet 3 below) must be asked to motivate his/her score(s). If the score can be rationally explained, the score can remain unchanged. Other scorers should be afforded the opportunity to reconsider their scores, in light of the explanation provided by the outlier. If the outlier cannot rationally explain his/her score, he/she must be asked to reconsider the score. If the outlier refuses to reconsider the score, the chairperson of the evaluation committee may approach the AC Chairperson for a ruling on whether the outlier should be replaced with a different scorer or not.

The process followed with moderation of scores must be recorded in the minutes of the evaluation committee. Any changes to a score sheet due to the moderation must be countersigned by both the scorer and the Chairperson. This should also be cross-referenced with the relevant minute/resolution.

(iv) Weighting scores

The following provides an explanation on how weighted scores are arrived at. However, there is an automated score sheet available on the iSCM Transnet Intranet, where the weighted scores are automatically calculated based on the raw scores.

Step 1

The Chairperson calculates the average scores per criterion per Bidder (after moderation). This is done by dividing the sum by the number of evaluators to arrive at an average score for each particular criterion per Bidder.

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Sheet 3 Combined score sheet

RFP Number (Insert RFP Number)

CRITERIA (Supplier Development)	Bidder No. 1 Evaluation Member Scores					Bidder No. 2 Evaluation Member Scores				
	Nomble	Thulani	Bill	Nivan	Average	Nomble	Thulani	Bill	Nivan	Average
Value of investment in plant	4	5	3	8	5	6	7	7	1	5.25
Reduction in import leakage	3	4	4	8	4.75	5	6	5	1	4.25
Potential increase in export content	4	5	3	9	5.25	5	6	6	2	4.75
Number company employees to be trained	4	5	4	8	5.25	5	8	5	4	5.5
Number of downstream supply chain individuals to be trained	5	4	5	7	5.25	6	5	7	3	5.25
Certified training	4	5	4	8	5.25	5	6	6	2	4.75
Rand value of training to be spent in the industry	3	4	4	7	4.5	5	7	6	2	5
% of planned procurement from QSEs	4	5	3	8	5	6	6	5	1	4.5
Total	31	37	30	63	40.25	43	51	47	16	33.25

Figure [32] – Score-sheet 3

Step 2

The Chairperson must now calculate the weighted scores against each criterion to determine the total weighted score against each Bidder. (See example in Score-sheet 4 - Figure [33] below)

For example, a score of 8 out of 10 for a particular criterion that has a weighting of 20 will be calculated as follows:

$$\frac{8}{10} \times 20 = 16$$

Sheet 4 Final weighted scoresheet

RFP Number (Insert RFP Number)

CRITERIA (Supplier Development)	Weighted maximum	Bidder Number							
		No. 1		No. 2		No. 3		No. 4	
		Score	Weighted	Score	Weighted	Score	Weighted	Score	Weighted
Value of investment in plant	20	5	10	7.5	15	4	8	7	14
Reduction in import leakage	10	4.75	4.75	6	6	5	5	6	6
Potential increase in export content	10	5.25	5.25	6	6	4.5	4.5	6	6
Number company employees to be trained	20	5.25	10.5	8	16	5.5	11	8	16
Number of downstream supply chain individuals to be trained	10	5.25	5.25	5	5	4	4	7	7
Certified training	5	5.25	2.625	6	3	3	1.5	8	4
Rand value of training to be spent in the industry	10	4.5	4.5	7	7	5	5	7	7
% of planned procurement from QSEs	15	5	7.5	5	7.5	4.5	6.75	6	9
Total	100	40.25	50.375	50.5	65.5	35.5	45.75	55	69

Figure [33] – Score-sheet 4

The total weighted score above represents the scoring of each Bidder in respect of the SD threshold.

Points must be rounded off to the nearest 2 decimal places.

c) **Quality / functionality Threshold**

For the purpose of evaluation, Quality is considered to comprise all the criteria set out in the RFP, except price (or TCO), SD, financial stability and preference (B-BBEE).

As with the evaluation of the SD offer, the Quality/Functionality proposal must be evaluated against the criteria as stipulated in the RFP. Repeat the process as stipulated in paragraph b), utilising the Quality/Functionality criteria and component weightings.

Final evaluation

Eliminate bidders who did not make both the thresholds
Populate the relevant automated scorecard, based on the evaluation methodology

18.5 FINAL EVALUATION

The final evaluation will involve the following depending on what was stated in the RFX document (Refer to paragraph 0).

18.5.1 **Stage 1** (Refer paragraph 13.2.2 above)

All Bids which have failed to achieve the minimum qualifying threshold for LC (where applicable), SD or Quality must be rejected. All Bids which attain or exceed the minimum qualifying threshold for quality are regarded as *'equally technically compliant'* irrespective of the margin by which they exceed the threshold.

All Bids that have achieved or exceeded the minimum qualification thresholds for firstly, LC (if applicable), SD and Quality/Functionality proceed to Phase 2. They must now be evaluated further in terms Preference and Price.

18.5.2 **Stage 2** (Refer paragraph 13.2.3 above)

Only the Bidders who had met the predetermined thresholds for firstly LC (if applicable) and both SD and Quality progress to this stage.

(v) Score for Price

Before conducting a mathematical evaluation of price, a cognitive evaluation will be conducted in order to determine the reasonableness of the price quoted. All bidders will be required to provide supporting documentation motivating their price e.g. complete a checklist indicating which aspects of their bids have been quoted for. Such a checklist will be included as a returnable document in Transnet tenders and will allow Transnet to conduct a comparative analysis in terms of pricing. Bidders who fail to quote on all Transnet mandatory requirements will be declared non responsive. In addition, Transnet has an obligation to clarify unreasonably low or high prices with bidders. If a bidder is unable to justify their price, Transnet may declare their bid non-responsive.

Next, select and utilise the automated scorecard based on the applicable preference point system i.e. 80/20 or 90/10 depending on the value of the transaction.

In accordance with the PPPFA Regulations, the following formulae have been built into the automated score sheet to calculate the score for price:

80 / 20 Point System (for transactions not exceeding R1 million)	**90 / 10 Point System** (for transactions in excess of R1 million)

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$Ps = 80\left(1 - \frac{Pt - Pmin}{Pmin}\right)$	$Ps = 90\left(1 - \frac{Pt - Pmin}{Pmin}\right)$
Where: Ps = Points scored for comparative price of tender or offer under consideration Pt = Comparative price of bid under consideration Pmin = Comparative price of lowest acceptable bid	

Points must be rounded off to the nearest 2 decimal places.

It is important to note that bidders whose prices are more than double the lowest price will obtain a negative score for price.

A bidder's score for price must be added to its score for Preference / B-BBEE scorecard as calculated in terms of paragraph 10.3.7 above.

Pricing Offer

All Bid pricing offers must be reduced to a common base in a comparative schedule in order to facilitate a fair comparative analysis. In order to facilitate a fair comparison between Bids, it is necessary to distinguish between the bid price and comparative price as the Bid price may not include certain factors impacting on cost. As stated in Chapter 16 above on Bid Preparation, it is necessary to provide all Bidders with a uniform pricing schedule to ensure all Bidders include not only the base price, but all other factors that may influence total cost of ownership (TCO). If a comprehensive pricing schedule is provided by all Bidders, it will ensure that prices received are already on a common basis. Failing this, Bidders must be asked to re-submit prices in accordance with a clear pricing schedule. Alternatively, prices must be reduced to a comparative schedule as follows:

- Whether the cost of transport has been factored into the Bid price.
- Incoterm-related costs, i.e. all other transit-related costs in respect of Goods supplied from abroad, must be added to the Bid price. These include: inspection costs, freight and insurance (from the place where the Goods have been offered to the destination where it shall be delivered), landing charges, customs duties, import duties, wharfage, etc.
- Unconditional discounts must be subtracted from the Bid price, where applicable.
- Other considerations which affect a non-fixed Bid price such as price adjustment factors, currency, etc. that affect the prices over the full period or part of the contract period.
- Time value of money where cash flow implications differ, e.g. when upfront or staggered payments are required rather than a lump sum payment at the end of the contract.
- Differences in Quality which can be expressed in monetary value, e.g. if one bidder's brake blocks guarantees a 20% more useful lifespan than another bidder's.
- Any other incidental costs which may arise from the acceptance of an offer.

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Any modification to the bidder's original Bid price due to the process of reaching comparative pricing must be validated with the Bidder him/herself.

Arithmetical errors, i.e. obvious arithmetical errors, must be pointed out to the Bidder (with permission from the AC Secretary) and corrected figures utilised for comparative purposes.

The comparative schedule should reflect the comparison of prices under the following headings (delete where not applicable):

- Tendered prices
- Arithmetical corrections
- Comparative prices
- Projected prices
- TCO adjustments
- Total comparative price

(vi) Score for Preference

Preference is scored according to the B-BBEE scorecard in the final evaluation stage.

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EXAMPLE 1 (Automated score sheet)

PURCHASE OF GOODS/SERVICES (Lowest Price) (90/10 system)

NB: Please ensure that only all unshaded fields are populated. All the shaded fields will be populated automatically

If Supplier Development (SD) or Technical / Functionality is included as a minimum qualifying score, those bids that fail to meet the set threshold/s must be disqualified. Only those bids which meet the respective thresholds will be evaluated further on price and preference.

SD threshold	40%

Name of Bidder	Bidder's score	
BIDDER A	65%	QUALIFIED
BIDDER B	48%	QUALIFIED
BIDDER C	63%	QUALIFIED
BIDDER D	51%	QUALIFIED
BIDDER E	55%	QUALIFIED
BIDDER F	42%	QUALIFIED
BIDDER G	38%	DISQUALIFIED
BIDDER H	35%	DISQUALIFIED
BIDDER I	20%	DISQUALIFIED

Technical threshold	60%

Name of Bidder	Bidder's score	
BIDDER A	60%	QUALIFIED
BIDDER B	71%	QUALIFIED
BIDDER C	90%	QUALIFIED
BIDDER D	95%	QUALIFIED
BIDDER E	64%	QUALIFIED
BIDDER F	100%	QUALIFIED
BIDDER G	48%	DISQUALIFIED
BIDDER H	55%	DISQUALIFIED
BIDDER I	37%	DISQUALIFIED

Formula for Price: $Ps = 90\left(1 - \frac{Pt - Pmin}{Pmin}\right)$

Where:
Ps = The score for the bid under consideration
Pt = Comparative Price for bid under consideration
Pm = The comparative price of the lowest priced bid passing the functionality test (i.e technically acceptable)
NOTE: Negative values will result in the formula above where P > 2 x Pm.

BASIS FOR COMPARATIVE OFFER

PRICE:	90%
PREFERENCE:	10%

Name of Tenderer : Ranked lowest to highest	Financial Offer (P)	Comparative Offer (Pm)	Points for Financial Offer (Formula*)	BBBEE Level of Contribution (Level 1 to 9)	BBBEE Point out of 10 (90/10)	Total point out of 100. Price 90 & BBBEE 10	Ranked price and BBBEE	% Premium payable	Premium payable in Rands
TENDERER G	NON-RESPONSIVE								
TENDERER H	NON-RESPONSIVE								
TENDERER I	NON-RESPONSIVE								
TENDERER A	R 3 700 000	R 3 700 000	90.00	Level 9	0	90.00	3	0	R 0
TENDERER B	R 4 000 000	R 3 700 000	82.70	Level 3	8	90.70	1	8	R 300 000
TENDERER C	R 4 090 000	R 3 700 000	80.51	Level 1	10	90.51	2	11	R 390 000
TENDERER D	R 5 500 000	R 3 700 000	46.22	Level 1	10	56.22	4	49	R 1 800 000
TENDERER E	R 6 400 000	R 3 700 000	24.32	Level 4	5	29.32	5	73	R 2 700 000
TENDERER F	R 7 100 000	R 3 700 000	7.30	Level 1	10	17.30	6	92	R 3 400 000

Figure [34] – Example of the automated scorecard

From *Figure [34]* above, Bidder B becomes the Preferred Bidder as he has attained the highest score out of 100. The recommendation to the AC will therefore be in favour of B.

18.6 TENDER EVALUATION FOR CONSTRUCTION PROCUREMENT

General

The following are steps for the evaluation of Bid offers. Bid offers must be evaluated in accordance with the parameters stated in the RFX.

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Communications with bidders should as a general rule only take place for the purpose of clarification and not for negotiation, except where the negotiations form an integral part of the procurement procedure.

Step 1 Determine whether or not bid offers are complete

1) Compare bid submission against the List of Returnable Documents contained in the bid document and identify schedules and component documents that have not been returned or are incomplete.
2) Request bidders to furnish incomplete bid documents (only where the competitive position is not affected), within a reasonable period of time.
3) Record what is incomplete in each bid submission.

Step 2 Determine whether or not bid offers are responsive

1) Determine, on opening and before detailed evaluation, whether each bid offer properly received:
   - meets the requirements of the Conditions of Tender,
   - has been properly and fully completed and signed, and
   - is responsive to the other requirements of the bid documents.

2) A responsive bid is one that conforms to all the terms, conditions, and specifications of the bid documents without material deviation or qualification. A material deviation or qualification is one which would detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work, change the Employer's or the bidder's risks and responsibilities under the contract, or affect the competitive position of other bidders presenting responsive bidders, if it were to be rectified. Reject a non-responsive bid offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.
   Confirm compliance with all the requirements of the Standard Conditions of Tender, viz:
   - Confirm if eligibility criteria are complied with.
   - Clarification meeting - confirm that bidder attended any compulsory site / clarification meetings.
   - Pricing the tender offer - confirm that bidder has observed pricing instructions.
   - Alterations to documents - confirm that alteration, if any, comply with instructions.
   - Alternative bid offers - confirm, where alternative bids have been submitted, that conditions attached to alternative bid offers have been met.
   - Submitting a bid offer -confirm that the bid offer covers the scope of work contained in the procurement document

3) Declare bid offers non-responsive should the bid:
   - fail to comply with the bid requirements;
   - fail to provide additional information that is requested by the due date;
   - not be fully completed to the extent that the bid can be evaluated;
   - contain material deviations or qualifications; or
   - not be signed
4) Record reasons for declaring a tender to be non-responsive.

Step 3: Evaluate quality as a threhold

Scoring quality	Score each of the criteria and subcriteria for quality in accordance with the provisions of the Tender Data. Calculate the total number of evaluation points for quality using the following formula: $NQ = W2 \times SO / MS$

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	where: *SO* is the score for quality allocated to the submission under consideration; MS is the maximum possible score for quality in respect of a submission; and *W2* is the maximum possible number of evaluation points awarded for the quality as stated in the tender data

1) Score quality for each of the categories stated in the Tender Data, calculate total score for quality and record.
2) Eliminate bids that do not score the minimum qualifying score for quality stated in the Tender Data.

Step 4: Evaluate bid submissions

Step 4.1 Reduce bids to comparative offers

Comparative Offer means the bidder's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration.

A discount which is dependent on Transnet adhering to the contractual obligations, e.g. to pay on time, must be regarded as an unconditional discount.

Arithmetical errors

- Check responsive bids for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.
- Check the highest ranked bid with the highest number of evaluation points after the evaluation of bids
  - the gross misplacement of the decimal point in any unit rate;
  - omissions made in completing the pricing schedule or bills of quantities; or
  - arithmetic errors in:
    - line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
    - the summation of the prices.
- Notify the bidder of all errors or omissions that are identified in the bid offer and invite the bidder to either confirm the bid offer as tendered or accept the corrected total of prices.
- Where the bidder elects to confirm the bid offer as tendered, correct the errors as follows:
  - If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
  - Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the bidder's addition of prices, the total of the prices shall govern and the bidder will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

1) Review financial offer and correct discrepancies between totals and calculations / summations in accordance with the provisions of the Tender Data.
2) Identify parameters included in the Returnable Documents that have a bearing on the financial offer eg life cycle costs, contract period, requirement for price escalation etc and quantify their impact on the financial offer.

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3) Reduce all bids to a common base i.e to comparative offers.

Do not include preferences at this stage.

Step 4.2 Determine the reasonableness of bid offers

Judge the reasonableness of financial offers and reject all bids with unrealistic financial offers. It is important that the offer receiving the highest number of points for price is realistically priced. Unrealistic financial offers (i.e., where it is not economically possible to execute the contract at that price) distort the scoring of price. In cases where a bidder has tendered a favourable unrealistic financial offer, the evaluator should ascertain as to whether or not there is a valid reason for the bid price being unrealistic. This may necessitate that the bidder be interviewed. If there is no valid reason, the bid must be eliminated from further consideration.

Step 4.3 Review Claim for Preferences

- Confirm that bidders are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where bidders are not eligible for such preferences.
- Confirm that bidders are eligible for the preferences claimed in the Preference Schedule / the reasonableness of any tendered contract participation goal.
- whether or not the enterprise in question satisfies the definition provided for a Targeted Enterprise.

Step 4.4 Award points for financial offer

Scoring financial offers

Score the financial offers of remaining responsive tender offers using the following formula:

$NFO = W1 \times A$

Where:
NFO is the number of tender evaluation points awarded for the financial offer.
W1 is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the RFX
A is a number calculated using the formula and option as stated in the RFX

Formula	Comparison aimed at achieving	Option 1	Option 2
1	Highest price or discount	$A = (1 + (\frac{P - Pm}{Pm}))$	$A = P/Pm$
2	Lowest price or percentage commission/fee	$A = (1 - (\frac{P - Pm}{Pm}))$	$A = Pm/P$

where:
Pm is the comparative offer of the most favourable tender offer.
P is the comparative offer of tender offer under consideration

Method	Formula for financial offer
2 Financial offer and preferences	Highest price or discount: $W1 \times A = (1 + (\frac{P - Pm}{Pm}))$

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	Lowest price or percentage commission/ fee W1 x A = (1 - (P - Pm) / Pm) Where W1 is equal to 80 or 90 Pm is the comparative offer of the most favourable tender offer. P is the comparative offer of tender offer under consideration.

Score the financial offer of all responsive bids received to two decimal points using the appropriate formulae.

1) Bids may only be evaluated in accordance with the evaluation criteria stipulated in the RFX.
2) The involvement of women and black persons in contracts should not be evaluated in the form of quality criteria in public contracts. This must be addressed in the preferencing points in accordance with the PPPFA.
3) Any eligibility criteria introduced into the Tender Data should generally be based on the demonstration of the following, as necessary:
   - professional and technical qualifications;
   - professional and technical competence;
   - financial resources;
   - equipment and other physical facilities;
   - managerial capacity, reliability, experience; and
   - reputation.
4) Quality should only be introduced into the evaluation of bids where it is required to achieve policy objectives in terms of an organization's procurement policy or it is justifiable in terms of procurement outcomes. Quality measures must not promote captive markets and should result in quality that is appropriate to comply with user requirements as opposed to the best quality available.
5) Bid evaluation criteria need to be disclosed to bidders in a fair, equitable and transparent procurement system.

Example 1: Financial offer and preference

- *Bidder A tenders an amount of R 1 000 000 to construct houses for the public sector and is the lowest financial offer received.*
- *Bidder B tenders an amount of R 1 050 000,*
- *Bidder C an amount of R 1 100 000,*
- *Bidder D an amount of R 1 070 000 and*
- *Bidder E an amount of R 1 030 000.*

What are the evaluation points for financial offer that these tenderers receive, if the value for W1 provided for in the Tender Data is 90 and method 2 (financial offer and preferences) is to be used in the evaluation of bids?

Formula 2 is selected because the tenderer with the lowest financial offer is the most favourable offer.

- *Bidder A gets 90 points (i.e. the maximum), as this is this most favourable financial offer received.*
- *Bidder B obtains*

90 x (1 - (P - Pm)) = 90 x (1-(1 050 000 – 1 000 000) = 90 x (1-0.05) = 90 x 0,95 = 85,50 points,

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- *Pm 1 000 000*

- *Bidder C obtains 90 x (1- (1 100 000 – 1 000 000) / 1 000 000)) = 81,00 points*
- *Bidder D obtains 90 x (1- (1 070 000 – 1 000 000) / 1 000 000)) = 83,70 points*
- *Bidder E obtains 90 x (1- (1 030 000 – 1 000 000) / 1 000 000)) = 87,30 points*

Step 4.5: Award points for preferences

Calculate the total number of evaluation points for preferences claimed in accordance with the provisions of the tender data.

Step 4.6: Total points and rank tenders

Method 2: Financial offer and Preferences	b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula: *TEV = NFO* + NP where: *NFO* is the number of tender evaluation points awarded for the financial offer NP is the number of tender evaluation points awarded for preferences claimed c) Rank bids from the highest number of evaluation points to the lowest.

Step 5 Acceptance of bid offer

1) Accept the bid offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the bidder:
   a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
   b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
   c) has the legal capacity to enter into the contract,
   d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
   e) complies with the legal requirements, if any, stated in the tender data (e.g. Bidders who submit bids for public contracts must be in good standing with SARS in so far as their tax obligations are concerned), and
   f) does not have conflicts of interest which may impact on his / her ability to perform the contract in the best interests of the employer.

2) An employer must, before awarding a construction works contract, satisfy him or herself that the contractor concerned -
   a) is registered in terms of the CIDB Regulations;
   b) is not prohibited in terms of any legislation from submitting bids or expressions of interest to an organ of state; and
   c) has demonstrated that-
      (i) he or she has the resource capacity or capability specific to the contract concerned;
      (ii) his or her capacity to perform the construction works concerned will not be unduly compromised on the award of the contract concerned.

3) Most banks can be approached for a recommendation relating to the financial

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capability of a contractor to finance a proposed contract. Typically they require a contract amount and a contract period and provide the following ratings:

A- undoubted / excellent
B- good for amount quoted
C- average/ good if strictly in the line of business
D- fair trade risk
E- figure considered too high
F- financial position unknown
G- paper occasionally dishonoured
H- paper frequently dishonoured
A" to C" rating is generally acceptable.

4) Perform a risk analysis on the bidder having the highest ranking / number of points to ascertain if any of the following, as relevant, present an unacceptable commercial risk to the employer:
   a) unduly high or unduly low tendered rates or amounts in the bid;
   b) contract data provided by the employer; or
   c) the contents of the bid returnables which are to be included in the contract.

Note: 1 The reasonableness of the data provided by bidders in the Contract Data also needs to be considered. In particular, the following needs to be carefully scrutinized, and if necessary adjusted through process of negotiation as they serve the basis for the assessment of the cost component of compensation events / variation orders:

- Professional service contracts: The staff rates.
- Engineering and Construction Works contracts: The hourly rates for Actual cost of manufacture or fabrication outside of the Working Area; the percentage for manufacture or fabrication overheads; the hourly rates for Actual Cost of design outside of the Working Areas; the percentage for design overheads; the percentage for Equipment depreciation and maintenance of special and non-special items; and the percentage for Working Overheads.

The percentage for overheads and profit added to the Contractor's Cost for people and the percentage for overheads and profit added to other Contractor's costs.

Note: 2 Unreasonably high rates, which a bidder refuses to rectify can also be sufficient ground for the overlooking of a bidder.

5) Approach bidder to amend any part of the bid submission that presents an unacceptable commercial risk, if relevant.

6) Recommend highest ranked bidder / bidder with the most evaluation points for the award of the contract or if found to be unsatisfactory, undertake an analysis on the next highest ranked bidder and so on until such time as a bidder satisfies the risk assessment.

Recommendation

- Prepare TEAR report containing recommendation to the AC or person with delegated authority
- Record proper minutes of all the proceedings

18.7 RECOMMENDATION

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18.7.1 Tender Evaluation and Recommendation Report (TEAR)

After a bid is evaluated a TEAR report should be completed by the Chairman of the evaluation committee setting out how all relevant evaluation criteria were measured and how Bidders were ranked as a result of the evaluation process. The motivation for the award of business must be supported by the evaluation score sheets as well as a copy of the automated scorecard. These documents must accompany the AC submission regarding the final award of business or the submission to short-list for post-tender negotiation.

The TEAR report must substantiate the results of the evaluation. This includes reasons why a Bidder was eliminated, for example, due to non-responsiveness or failure to meet any minimum technical qualifying criteria.

18.7.2 The recommendation to the AC

a) A recommendation for the award of the business must be drafted for submission to the relevant AC. This must be accompanied by the evaluation report motivating how all the relevant selection criteria have been evaluated. The evaluation panel may be called upon by the AC to clarify any uncertainties.

b) When for whatever reason, it is considered in Transnet's best interest to award only a portion of the scope of requirements, Transnet should consider giving an opportunity to all participants in the bid process to re-bid on the amended scope by a new closing date and time. This is because a reduction in scope may impact on pricing / discounts offered by Bidders which in turn could affect their competitive position.

18.7.3 Reasons for recommendation

a) The reasons for recommending a particular Bid(s) must be clearly stated by the recommending officers.

b) The Bid with the highest score must be selected unless there are objective criteria other than the criteria used to evaluate the bid that justify the award to another Bidder. This discretion must be exercised sparingly. Examples which would justify the award to a bidder other than the highest ranked bidder includes the following:

- instances where the highest ranked bidder's price is above budget;
- instances where the highest ranked bidder has just been fined a huge amount by the Competition Commission which impacts on its ability to deliver on the contract; or
- notice has just been received from iSCM Governance that the company has been placed on Transnet's List of Excluded Bidders.

If a Bid other than the Bid with the overall highest score is selected, the recommending committee shall provide a full explanation for this decision, and state which objective criteria are relied upon to justify the recommendation of such Bid.

c) Where two or more Bids have scored the highest equal points based on Price and Preference, the Successful Bid must be the one with the highest score on preference.

d) If two or more bids have equal points, including equal preference points for BBBEE, the successful bid must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.

e) Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

f) When only one technically Acceptable Bid is received and recommended for acceptance, it shall be indicated whether the prices are fair and reasonable and how this has been determined using supporting documentation (e.g. benchmarking against previous prices etc.).

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CHAPTER 19 : POST TENDER NEGOTIATION

This Chapter applies to both general procurement and construction procurement. However, for construction procurement, communications with bidders should only take place for the purpose of clarification and not for negotiation, except where the negotiations form an integral part of the procurement procedure.

19.1 POST TENDER NEGOTIATION (PTN)

19.1.1 Post Tender Negotiation is an effective tool to drive down cost or extract further value for Transnet and can be used very effectively in conjunction with any procurement mechanism. PTN is used after the evaluation process has been completed and the Preferred Bidder/s have been identified and approved by the relevant AC, based on the criteria as set out in the RFX. PTN is normally reserved for high-value, strategic commodities, but it may also be used in lower value transactions where it is considered that further value for Transnet can be extracted from this process. Depending on the circumstances, this tool can be used either with all technically compliant Bidders, or a selected short-list, or even with the Preferred Bidder only, but subject to the following requirements to ensure good corporate governance.

a) In order to ensure that PTN is conducted in a fair manner, shortlisted Bidders should be negotiated with individually. The negotiation process should follow the same agenda for all Bidders. After negotiation the Bidders should submit their best-and-final offers, in the relevant tender box, by a specified closing date and time. It is important to note that although negotiations may take place in respect of a number criteria including price, technical, SD, delivery terms, etc, the final evaluation criteria against which the best-and-final Bids will be scored will be strictly on price and preference in terms of the applicable preference point system (i.e. either 80/20 or 90/10).

19.1.2 PTN may only take place if the RFX document contained a clause stating that 'Transnet reserves the right to enter into post tender negotiations with a Preferred Bidder or any number of shortlisted bidders'.

19.1.3 Before PTNs are conducted with the Preferred Bidder or short-listed Bidders, it must be approved by the relevant AC. The R-value of the proposed contract to be negotiated will determine within which AC's jurisdiction the matter falls. (Refer to paragraph 19.3 below for instances where PTN is envisaged for transactions falling below the AC jurisdiction.) The submission requesting authority to negotiate should include the following:

- list of Preferred Bidders (or Bidder) and how the list has been determined including the threshold set for qualification for PTN;
- the composition of the negotiating team;
- the roles and responsibilities of negotiation members;
- the targeted price reduction;
- the increase in SD commitment;
- B-BBEE commitment;
- the motivation for PTN; and
- other aspects that will be negotiated to achieve a "win-win" situation, e.g. payment terms, minimum order size and frequency, delivery, lead times, etc.

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19.2 AUTHORITY TO ENGAGE IN PTN (transactions falling within AC jurisdiction)

19.2.1 Matters falling within the jurisdiction of the AC (i.e. above the minimum R-threshold of the AC), should be submitted for the approval of the AC in the normal manner, indicating in detail the process followed in determining the shortlist of Bidders to be negotiated with, details of the agenda that will be negotiated, etc. (refer to paragraph 19.4 below).

a) Upon receiving AC approval, and completion of the PTN process, and the resultant evaluation and scoring of the best-and-final Bids, full details of the best-and-final offers, must be provided when a recommendation on the final award of the business is made to the relevant AC

b) On these higher value transactions, the negotiating team to be appointed by the relevant AC, shall comprise of procurement, SD, technical, financial and commercial (marketing) and legal disciplines, (where appropriate), to facilitate unity of purpose from Transnet's perspective and to enable the Bidder to deal with all relevant matters before making a final offer.

19.3 STANDING AUTHORITY TO PTN (transactions falling below AC jurisdiction)

19.3.1 It would also be acceptable, especially in respect of transactions falling below the AC minimum Rand thresholds, for certain officials (preferably in procurement), to be given specific standing Delegated Powers to conduct and/or authorise PTN, without the necessary prior AC approval as contemplated in paragraph 19.2 above.

a) This authority must be obtained from the Manager or CPO and must be included in the Delegation of Authority of the relevant official. Copies of this should be filed with the AC Secretariat. The standing Delegation of Authority must clearly reflect the maximum transaction value for which the official may conduct or approve PTNs, without prior AC approval. Full details of all such PTN transactions undertaken, should be reported to the AC at regular intervals.

b) A standing authority to negotiate is different from a standing authority to communicate (refer to paragraph 17.4.3) and separate PTN authority must be obtained. Standing Delegated Powers to negotiate will be granted with great circumspection and only to employees who have demonstrated the necessary negotiation skills.

c) Detailed records must be kept in the relevant files of the Bidders who have been negotiated with, how their eligibility for PTN was determined, including their best-and-final offers received. Copies of such standing authority must also be kept on the relevant files. Standing authority to conduct/approve PTN should not exceed the minimum R-value thresholds of the AC. In such cases the process as outlined in paragraph 19.2 above detailing the AC's involvement in the various stages, must be followed.

19.4 PTN PROCESS

19.4.1 Under no circumstances may prices of one Bidder be disclosed to another with the request to improve on such price in order to be awarded the business. This is considered as 'horse-trading' and is considered an unfair business practice. Such misconduct will not be tolerated and will result in disciplinary action.

19.4.2 It is important that all members of the PTN team sign declarations of interest and non-disclosure or confidentiality agreements when appointed to such teams. These forms must be kept on the appropriate files as an audit trail.

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19.4.3 Negotiations must be preceded by thorough research and a caucus discussion by the cross-functional negotiation team to be able to obtain a co-ordinated approach.

a) To ensure fairness, the same agenda must be used with all short-listed Bidders to ensure that all Bidders are provided with the same information and the same opportunity to improve their Bid in all respects. The agenda must be made known in advance to all shortlisted Bidders so that they can prepare for the negotiations. It is important to note that although negotiations may take place in respect of a number criteria including price, technical, SD, delivery terms, etc, the final evaluation criteria against which the best-and-final Bids will be scored will be strictly on price and preference in terms of the applicable preference point system (i.e. either 80/20 or 90/10).

b) The objectives of the negotiating team must be recorded in consultation with the relevant disciplines concerned (e.g. financial, SD, technical and commercial).

c) The objectives should be approved by the relevant AC. The financial advantages, or other objectives sought (e.g. B-BBEE commitment, Enterprise Development initiatives, faster delivery, etc.), must be quantified and no negotiation will be regarded as final until all the approved objectives have been properly negotiated by the negotiating team. After receipt and evaluation of the best-and-final offers, the results must be recorded against the envisaged objectives.

d) Under no circumstances should a Preferred Bidder be informed that he has been awarded a contract prior to the PTN process, as that would jeopardise Transnet's negotiation power.

e) Where PTNs are conducted with a duly approved short-list of Preferred Bidders, all such Bidders must be requested to deposit their "best-and-final offer" in the tender box by a set closing date.

f) This method may also be employed in the single Preferred Bidder scenario, if there is reason to believe that this may yield a further price reduction, or extract further value for Transnet, subsequent to the negotiation session.

g) Although PTN offers shortlisted Bidders the opportunity to improve upon their Bid in areas such as price, quantity, etc., care should be exercised to ensure that the final contract negotiated does not differ substantially from the terms and conditions of tender set out in the original RFP document.

19.5 APPROVAL TO AWARD BUSINESS AFTER PTN

19.5.1 Business may be awarded to one of the shortlisted Bidders or split between any number of shortlisted Bidders.

19.5.2 It is possible and permissible for the ranking of shortlisted Bidders to change from the first evaluation stage when the shortlist was determined, to the final ranking after PTN was conducted and the best-and-final Bids were evaluated, provided that PTN was conducted strictly in terms of the rules as stipulated above.

19.5.3 In instances where the relevant AC has authorised PTN with a shortlist of Preferred Bidders, the ultimate award of the business, whether awarded to one or more than one shortlisted contender (i.e. a split-award) should again be presented to the relevant AC which approved the Preferred Bidder/short-list.

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19.5.4 In instances where the relevant AC has authorised PTN with a single Preferred Bidder, the ultimate award of the business must also be presented to the relevant AC for approval to ensure that the final contract is substantially the same as the terms indicated in the RFP, unless the AC approved the preferred bidder and the subsequent award of the contract, upfront, due to operational requirements, (urgency etc), in which case the final negotiated terms, and contract value needs to be reported to the AC for information purposes only.

CHAPTER 20 : BID ADJUDICATION

cidb

This Chapter applies to both general procurement and construction procurement. The rules governing cancellation of CIDB bids differs from the cancellation of general procurement bids and is dealt with in paragraph 20.7 below.

20.1 GENERAL PRINCIPLES

Adjudication can best be described as the validation of the process leading to the recommendation of the Successful or Preferred Bidder/s. It is important to note that there are two different elements to this and these are often confused.

20.1.1 The ACs do not have any contracting powers and as such do not actually conclude the contract in the name of Transnet. The AC validates the process of selecting the Successful / Preferred Bidder.

20.1.2 When an AC has approved a submission, it clearly does so subject to the provisos listed in paragraph 21.2.1, one of which is that the person with the necessary DoA has to sign the actual contract. Likewise, the person with the necessary DoA may not execute his DoA and sign the contract, without the relevant AC approval of the process.

20.2 THE ROLE OF THE AC DURING ADJUDICATION

The function of the AC is to validate both the process related aspects as well as the commercial aspects of the bid process. The AC is required to satisfy itself that all Bidders were treated fairly in the bidding process and that the process was conducted in accordance with the applicable regulatory framework and Transnet's internal rules. The AC is also required to determine that the price to be paid by Transnet is market related, that the commercial terms and conditions are fair and reasonable and that the award of business is in the best interests of Transnet.

Factors to be considered during adjudication include whether:

20.2.1 the bid was advertised for a reasonable period of time and in the appropriate media;

20.2.2 all Bids are still valid i.e. still within the validity period. It is important to note that for the purposes of adjudication, bids are required to remain valid only until the matter is considered by the AC provided that the AC approves the process. Should the AC not approve the matter, the validity period must be timeously extended;

20.2.3 communication with Bidders after the closing date was properly authorised and conducted in a fair manner;

20.2.4 Bidders were evaluated against the evaluation criteria stated in the RFP;

20.2.5 the scoring of Bidders was reasonable, rational and in accordance with the scoring methodology;

20.2.6 the recommended Bidder scored the highest points overall. If not, whether the recommendation to award the contract to another Bidder is based on other objective criteria

20.2.7 the recommended Bidder is not on the Transnet List of Excluded Bidders, the Treasury list of Bid Defaulters or the Treasury database of Restricted Suppliers;

20.2.8 the recommended Bidder has legal capacity to enter into a contract;

20.2.9 the contract is to be awarded to the same business enterprise as the one which submitted the Bid;

20.2.10 the recommended Bidder submitted a valid and original tax clearance certificate, VAT certificate (where applicable) and whether the recommended Bidder complies fully with all legal requirements stated in the RFP. Note that in terms of the Preferential Procurement Regulations 2011 no business may be awarded to a person whose tax matters have not been declared to be in order by SARS;

20.2.11 the recommended Bidder is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or judicial officer, has suspended his business activities or is subject to legal proceedings in respect of the aforegoing;

20.2.12 the award of business to the recommended Bidder would not be harmful to Transnet's image. In this regard, it must be borne in mind that Transnet is a public company and its sole shareholder is the Government of the Republic of South Africa. For this reason, business transactions with entities that could harm Transnet's image should be avoided;

20.2.13 price and other commercial terms are market related; and

20.2.14 The award of business does not pose any other legal or material risks to Transnet that has not been mitigated.

20.3 RISK EVALUATION

Upon receiving a recommendation to award business to a particular Bidder, the AC may at its own discretion call for a risk evaluation on the Bidder if it is of the opinion that this was not considered at the evaluation stage. If on reasonable grounds it is determined that there is a material risk involved in awarding the business to that particular Bidder, the AC may, depending on the likelihood and consequence of the risk materialising recommend one of the following:

- not awarding to the Bidder;
- awarding part of the business to the Bidder; or
- splitting the business between the Bidder and another Bidder.

The concept of material risk must be interpreted restrictively and be limited to instances where Transnet would be severely prejudiced by the award of business to a particular Bidder.

20.4 SPLITTING OF BUSINESS

The AC should enquire whether the splitting of the award of business was considered during evaluation, as this is a feasible mechanism to promote the development of new entrants into the market. Transnet's standard bid conditions allow for the selection of multiple suppliers or the award of the whole, or any part of a Bid to any particular Bidder. Transnet may also choose not to make an award if there are valid grounds for doing so.

Bidders who qualify their Bids on the basis that the whole Bid should be accepted (in conflict with the bid conditions) must be advised that the restriction must be withdrawn before their Bid can be considered.

20.5 DISAGREEMENT REGARDING AWARD OF BUSINESS

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20.5.1 Should a dispute arise between the recommending officer(s) and the AC regarding a submission after the AC has referred the matter back to the recommending officer for re-motivation, the matter must be escalated to the Entity's CEO for a final decision.

20.5.2 Where the recommendation of the evaluation team conflicts with the opinion of the end user, the matter must be referred to the AC for a ruling.

20.6 NON AWARD / CANCELLATION OF BIDS

20.6.1 Non award of business must be approved by the relevant AC. A motivation for non award may be considered by the AC at any stage of the process before the Successful Bidder is finally selected and informed about the bid award. Once a Successful Bidder has been selected and informed about the outcome of the bid process (i.e. he/she was awarded the bid), Transnet is said to be *functus officio* and can no longer cancel the bid process without an order of court authorizing it to do so.

20.6.2 It should be noted that a Bidder can only be regarded as the Successful Bidder when he/she was unequivocally informed that the bid was awarded to him/her. An award that is made subject to further negotiation or qualification cannot be regarded as a final and unequivocal award. Thus the award of "Preferred Bidder status", subject to the successful negotiation and conclusion of a subsequent contract does not amount to being selected as the "Successful Bidder" as the award is conditional and subject to the outcome of the negotiation process.

20.6.3 Group legal / the OD Legal department should be consulted before a decision to cancel a bid is taken to advise on the legal risk associated with cancellation and also whether Bidders should be invited to make representations before a final decision can be taken.

20.6.4 The decision not to award business must as far as possible be taken timeously. Bidders must be advised of this decision as soon as possible after the decision has been approved.

20.6.5 Non-award of business (as a result of Transnet's bad planning) should for obvious reasons be minimised as far as possible as Bidders expend a significant amount of time, effort and money when preparing and lodging Bids. Non award has the effect of cancelling a bid and the AC must therefore act judiciously when authorising a non award so as to minimize prejudice to Bidders.

20.6.6 When no Bid can be recommended for acceptance, the Manager concerned shall provide a motivation to the AC clearly stating the reasons why no Bid can be recommended and give an indication as to how need for the required Goods/Services will now be met.

20.6.7 In terms of the Preferential Procurement Regulations, 2011, if it is stipulated that the 80/20 preference point system is applicable to a particular bid process and all bids received exceed R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R1 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system. Similarly, if it is stipulated that the 90/10 preference point system is applicable to a particular bid process and all bids received are equal to or below R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R1 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system. If a bid is cancelled in terms of this paragraph, the correct preference point system must be stipulated in the bid documents of the re-invited bid.

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20.6.8 The AC may approve a non award under the following circumstances:

a) Where due to changed circumstances, there is no longer a need for the goods, services, works requested. [ACs must ensure that only goods, services or works that are required to fulfil the needs of the institution are procured]; or

b) funds are no longer available to cover the total envisaged expenditure. [ACs must verify that the budgetary provisions exist]; or

c) no acceptable bids are received. [If all bids received are rejected, Transnet must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].

When the AC authorises a non award on the grounds of a) or b) above, all Bidders should be reimbursed for the bid document fee, if bid documents were sold.

20.6.9 The decision to cancel a bid in terms of paragraph 20.6.8 must be published in the media in which the original bid invitation was advertised.

20.7 CANCELLATION OF CONSTRUCTION RELATED BIDS

cidb

A bid may not be re-issued covering substantially the same scope of work within a period of six months unless only one bid was received and such bid was returned unopened.

This does not prevent an employer from immediately calling for fresh bids should:

- the employer change the contracting strategy or restructure the work covered by the proposed contract;
- all bids received are found to be non-responsive; or
- only one bid was received and such bid was returned unopened to the bidder.

The bidder must be informed in writing of non-awards and cancellations and upon written request reasons for such cancellations must be given.

The CIDB must be informed via the i-Tender system of any non-awards or cancellation of bids after approval from the respective delegation of authority has been obtained.

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SECTION E:

CONTRACT MANAGEMENT

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Chapter 23: Blacklisting

Functions of Governance Structures

Appendices

CHAPTER 21 : AWARD OF BUSINESS AND CONTRACTING PROCESS

This Chapter is applicable to general procurement and construction procurement.

21.1 APPROVAL OF ACCEPTANCE OF BIDS NOT TO BE ANTICIPATED

No employee shall anticipate the approval of acceptance of bids. Therefore, no employee may enter into contracts verbally or in writing or place orders before the prescribed adjudication process has been performed and authority has been duly granted by a Manager with the appropriate DoA.

21.2 DECISION TO ACCEPT BIDS OR OFFERS

21.2.1 A Manager may only communicate the acceptance of a Bid i.e. issue a Letter of Award and proceed to conclude the contract if the following provisos have been adhered to:

a) he/she has complied with all internal policies and procedures and obtained the delegated Manager's signature or AC's concurrence by means of an AC resolution or (if applicable) approved AC minutes;

b) he/she has confirmed that there is still a need for the Goods/Service(s);

c) he/she has confirmed that the appropriate funds are still available;

d) the value of business awarded is within the level of his/her powers to contract in terms of his DoA;

e) where the value exceeds his/her powers, he/she shall obtain a mandate from higher authority to conclude and administer the contract; and

f) where the value of business exceeds the relevant OD CEO's Delegated Powers to contract, the relevant higher authority (e.g. Transnet GCSCO, GCFO, GCE, BADC or Transnet Board) must conclude the contract. Alternatively, a mandate must be sought from the relevant higher authority in Group in favour of the OD CEO to conclude and administer the contract. The award can be to one or more specified contractors for a specific amount/s, but the cumulative value of the business (not the individual contracts) shall determine the approval authority required. As stipulated in the Transnet DoA Framework, it is advisable to obtain a written mandate from that Approval Authority (as defined) to administer the contract and to effect amendments to it not exceeding 10% of the initially approved contract value. Such mandate must be in writing and kept on the appropriate file for record purposes.

21.3 NOTICES OF ACCEPTANCE AND NON-ACCEPTANCE OF BIDS TO BE FINALISED

21.3.1 As soon as possible after approval to award a contract has been received, the OD which invited the Bids shall arrange to inform the Successful or Preferred Bidder(s) of the acceptance of his Bid. This notice may only be communicated by a person with the necessary DoA, or a person with a written mandate for a specific contract. Unsuccessful Bidders shall be advised in writing of the name of the Successful Bidder. On award of business to the Successful Bidder all unsuccessful Bidders must be informed of the reason as to why their Bids had been unsuccessful, e.g.

price, delivery period, Quality, SD, preference or any other applicable reason. Please refer to the standard regret letter templates available on the iSCM Transnet Intranet. It is essential that the reasons for not accepting a Bid are factually correct, as the regret letter could form the basis for litigation against Transnet.

For construction procurement the successful bidder is notified by means of the signing and returning one copy of the Form of Offer and Acceptance.

21.3.2 The details of the contract award must be placed on the Transnet internet site. These details must include:

a) bid number and description;

b) name(s) of the Successful Bidder(s) and preferences claimed;

c) the contract price(s); and

d) the duration of the contract.

21.4 APPLICATIONS RECEIVED IN TERMS OF PAIA

Should an application be received in terms of the Promotion of Access to Information Act (PAIA) or the Promotion of Administrative Justice Act (PAJA), the matter should be referred to either the OD Legal Department or Group Legal. It is important to note that all requests received in terms of PAIA or PAJA must be dealt with immediately, as there are deadlines within which to respond to the requestor.

21.5 DELIVERY OF ACCEPTANCE TO BIDDER

21.5.1 When a Bidder has been advised by letter of the acceptance of his Bid, the South African Post Office shall be regarded as the agent of the Bidder and delivery of such notice of acceptance to the abovementioned offices shall be considered as delivery to the Bidder.

21.5.2 Where a Bidder has been informed per fax of the acceptance of his Bid, the acknowledgement of receipt transmitted by his fax machine shall be regarded as proof of delivery to the Bidder.

21.5.3 Where a Bidder has been informed by e-mail of the acceptance of his Bid, the "delivered message" on the sender's mailbox will be regarded as proof of delivery. Where the bidder's mailbox is set to allow for "Read messages" to be transmitted to the sender, these should also be kept as an audit trail.

21.6 FORMAL WRITTEN CONTRACT INCLUDING THE LETTER OF AWARD

A formal commitment in the form of a written contract is entered into with the Successful Bidder.

Contracts provide the framework to mitigate risks and to measure operational and financial performance as well as compliance with business obligations and regulatory requirements.

A contract arises when an offer made by the Bidder is accepted. The Bid submitted by the Successful Bidder, read together with Transnet's letter of award and terms and conditions of the RFP, constitute a binding contract between Transnet and the Bidder. Usually, this constitutes an "interim" contract until such time as Transnet and the Successful Bidder have been able to conclude a written contract to formalise their contractual relationship.

Although a verbal contract is equally binding on the parties, it is Transnet's policy that only formal written contracts shall be entered into with the Successful Bidder unless the Goods or Services are for immediate delivery or execution, in which case a formal order must be processed.

For construction procurement the signing and returning one copy of the Form of Offer and Acceptance replaces the Letter of Award.

21.6.1 Letter of Intent (LOI)

a) A Letter of Intent is issued when a Bidder has been selected as a Preferred Bidder. The LOI informs the Preferred Bidder of Transnet's intention to negotiate and conclude a contract with it. The LOI also makes it clear that if a contract cannot be agreed upon, Transnet reserves the right not to award the business to the Bidder. No contractual or other legal rights are vested in a Bidder purely by virtue of having been issued a LOI.

b) The validity of such LOI should be for a limited period only and every effort must be made to finalise the signing of the contract within the shortest possible period. The extension of the validity period of a LOI should be avoided and only considered in exceptional circumstances.

c) Only if the Goods/Services are critical for operations, will it be permissible to draw off a LOI, whilst the negotiation process is underway. In such cases the LOI serves as a proxy for the binding legal agreement and under its authority Transnet may place orders on the supplier for its interim requirements, during which period the final agreement will be negotiated and finalised between the parties. Should negotiations between the parties break down for any reason, the supplier may immediately invoice Transnet for all reasonable costs for Goods/Services delivered (based on proof of delivery). Such amounts shall become due and payable by Transnet.

d) It is important to note that the longer the LOI is allowed to continue, the less likely it will be that Transnet will be able to leverage its negotiating power to change a contract condition to benefit Transnet.

e) When issuing an LOI, one of the approved standard templates available on the Intranet must be used.

21.6.2 Use of Transnet's Standard Agreements

Where Transnet has standard agreements or terms and conditions in place, it is imperative that the standard template (available on iSCM Transnet Intranet) be used unless there are cogent reasons why such standard agreements cannot be used in a particular instance. Any omissions or additional clauses to such standard agreements must be captured in a schedule of special conditions. Should it not be possible to utilise a standard agreement, any non-standard agreement must be vetted and signed off by the relevant OD's Legal Department or Group Legal. The deviation from the standard agreement must be properly motivated.

It is always advisable to include Transnet's standard requirements/terms and conditions/agreements in the bid documents and/or RFPs. The respondent(s) will therefore be made aware of Transnet's requirements/expectations in advance.

21.6.3 NEC3 conditions of contract and CIDB Standard for Uniformity

When issuing any RFP for construction procurement the NEC3 must be used. Please note that a standard contract template/standard construction procurement templates has been prepared for Construction related projects. For any additional terms and conditions, OD/Group Legal must be approached via the OD/SU Contract/Compliance Department.

Should the need arise for additional clauses in terms of the NEC3 Z clauses, these must be carefully drafted and approved by OD/Group Legal Department

21.6.4 Process for expediting contracts

On award of the bid, the following process must be followed in expediting a formal contract:

a) The employee responsible must draft the contract using the appropriate Standard Template plus a schedule and service level agreement (SLA) (where applicable).

b) He/she must present the draft contract and SLA to the Transnet representative with the requisite DoA and obtain his/her approval of the contract and SLA in principle.

c) Two duplicate originals of the contract and SLA must then be presented to the external party for signature.

d) Once the external party has signed, the duplicate original contracts and SLA must be returned to the Transnet representative with the DoA for signature. One original must be forwarded to the external party and the other must be kept by Transnet.

e) The contract and a copy of the SLA must be stored in a secure repository and be readily available when reference to it is required.

21.6.5 Non adherence to existing contracts ('Maverick Spend')

a) As a general rule, Transnet is required to acquire the relevant Goods/Services only from the contracted supplier. Transnet is exposed to legal risk if it purchases Goods/Services outside of the contract.

b) If any person wishes to buy outside of a contract, the prior approval of the relevant Manager is required.

21.6.6 Formal contracts are to be entered into in the name of Transnet SOC Ltd

All contracts shall be concluded, as soon as possible after the award of the business to the Successful Bidder, in the name of Transnet SOC Ltd, according to guidelines issued. It shall be signed for and on behalf of Transnet by a Manager with the appropriate DoA.

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21.6.7 **Transnet may insist on a suitable security/guarantee for fulfilment of contract**

a) When security has to be provided by Successful Bidders in terms of the contract, the delegated Manager entering into a contract shall ensure that adequate security is obtained for the fulfilment of the contract. It shall preferably be in the form of a guarantee by a bank or a financial institution approved by Group Treasury, or a cash deposit with Transnet. All securities shall be safely held by the OD concerned which shall keep a register thereof and shall ensure that the security does not lapse before the contract is completed.

b) Cash deposits or a "guarantee" in the personal name of an official of a bank or other institution is not acceptable.

c) Provided that the contract document allows for that, one can also retain part of the payment as retention money. Retention money (performance guarantees), normally 5 to 10% of the individual payments, is held back by Transnet as a guarantee for the satisfactory completion of the project. When such amounts have accumulated sufficiently, consideration is normally given to the refunding of the guarantees or sureties. Retention money is only refunded after completion of the guarantee period (normally 6 to 12 months, depending on the risk of latent defects).

d) Depending on the risk to Transnet, these measures may be relaxed to facilitate Transnet's B-BBEE objectives to develop small or emerging black companies.

e) The following principles are applicable to the acceptance of all types of guarantees issued under supply agreements. ODs must demonstrate to Group Treasury how the guaranteed notional values are calculated. ODs must obtain sign off on the legal acceptance of the guarantees directly, whilst the notional and issuer acceptance will be facilitated through the Treasury Department. The issuing of Advance payment guarantees (APGs) and Performance bonds (PBs) is governed by the DoA Framework as follows:

	OD CFO	Treasury	Group CFO
Notional Value	**Up to but not exceeding R25m**	**Up to but not exceeding R75m**	**Exceeding R75m**
Issuer Acceptance		**All issuers**	**All Issuers**

- The limits are cumulative per annum
- The OD CFO is required to obtain legal acceptance from the Divisional Legal Department and/or Group Legal in respect of all APGs and PBs
- APGs and PBs should be written in a manner that they become payable on demand
- The minimum long term credit rating requirements may not be less than:
  - A- from Fitch Ratings or Standard and Poors or
  - A3 from Moody's
  - Issuers not rated will not be accepted
  - Group Treasury may also consider an equivalent rating from other recognised rating agencies as contained in the Financial Risk Management Framework (FRMF).

The following additional wording must be incorporated in supply agreements in so far as guarantees are concerned:

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"Should the minimum credit rating of the Issuer of the guarantee drops below the stipulated minimum requirement before expiry, the Supplier will have to replace the guarantee at own cost with an issuer that meets the minimum rating criteria".

21.6.8 Foreign Exchange (FX) Risk Management

The following principles should be applied within the Group when supplier agreements are concluded. These are critical to ensure that foreign currency risk exposures are minimised on the day of origin.

- Whenever possible foreign currency risk exposures should be eliminated by entering into **fixed RAND** contracts with both local and/or international based suppliers. Where an international and or local supplier does the hedging, the pricing needs to be compared with Treasury's pricing to ensure that the hedge is reasonable and market related. The acceptance of pricing needs to be done in accordance with the DOA.

- Where the cost of the hedge by the international supplier is deemed excessive, Transnet will accept the FX risk and hedge itself accordingly. This will ensure that Transnet has a fixed RAND liability.

- If locally registered suppliers are used where imported components are involved, invoices can only be issued in RAND as exchange control regulations prohibit local suppliers from invoicing Transnet in a foreign currency. Transnet Entities must request the local supplier to hedge the imported portion where ever practical, possible and or to fix the price in RAND for minimum periods as these indirect FX exposures cannot be hedged by Transnet due to South African Reserve Bank (SARB) regulations. There will be some exceptions where small business enterprises do not have sufficient credit lines to accommodate FX hedging on their balance sheet and or if their cost of hedging is unacceptable to Transnet. For these exceptions, specific SARB approval needs to be obtained by the local supplier to allow them to issue FX invoices to Transnet, after which Transnet will hedge on it's own balance sheet.

- If locally registered incorporated/un-incorporated JVs are utilised, SARB's approval should be obtained by the JV for permission to issue invoices in a foreign currency. This approach should be followed if RAND contracting cannot be achieved.

- All contracts/funding agreements with a foreign currency component of more than R50m should be reviewed by Group Treasury, Group Finance and Group Tax during the establishment process and ODs should get the sign off from all the respective sections before agreements are concluded. Contracts with a foreign currency component of more than R100m should also get the sign off by the GCFO.

- A foreign currency exposure will arise once an agreement/letter of acceptance and or purchase order has been concluded and signed by both parties and agreement on FX cash flows and delivery dates have been agreed upon.

- The OD is expected to submit approved FX cash flows to Treasury within 10 business days after the agreement/purchase order is signed to enable Treasury to arrange hedging within the approvals of DOA.

21.6.9 Export Credit Agency (ECA) Supported Finance

- The following wording must be incorporated in supply agreements in so far as ECA supported finance is concerned:

"In order to finance its payment obligations under a future contract where foreign transactions are involved, Transnet may consider raising debt financing [an "ECA Facility"] from one or more banks and financial institutions, with the benefit of export credit agency [ECA] credit support to be provided by an ECA. Under such circumstances the successful Respondent undertakes:

- to provide [and/or cause the Parent/OEM to provide, as applicable] to Transnet and the banks and financial institutions that may participate in the ECA Facility all such assistance as an importer of Goods and/or Services, which are eligible for ECA credit supported finance by an ECA, is generally required to provide for the purposes of obtaining ECA support;
- not to do or [as Supplier of the relevant eligible Goods or services] omit to do anything, which may adversely affect Transnet's prospects of qualifying for or, once obtained, maintaining ECA credit support by an ECA in respect of an ECA Facility.

All cost, expenses, charges and liabilities incurred by Transnet in establishing an ECA Facility with credit support from an Export Credit Agency, may be for the account of Transnet."

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All contracts exceeding R30 000.00 must be registered with the CIDB I-Tender service within 21 working days from the date in when the contract was accepted in writing.

The CIDB must further be informed on the following:

- Any arbitration entered into or litigation initiated in relation to a construction works contract registered in terms of these Regulations, within one calendar month from the starting date of that arbitration or litigation.
- An award of any contract to an emerging enterprise who has a contractor grading designation lower than that required for the contract
- Non-award and/or cancellation of tenders.

Copies of all of the above notifications/registrations must be placed on the contract file.

21.7 CONTRACTING WITH SECOND-RANKED BIDDER

In the following cases Transnet will be allowed, at its sole discretion, to consider accepting the second most favourable Bid, provided that this option is exercised within a reasonable period after the initial award:

21.7.1 when a Successful Bidder, after having been informed of the acceptance of its Bid, fails to sign a contract within a reasonable period after being called upon to do so;

21.7.2 when a Successful Bidder has failed to provide the necessary security, if required;

21.7.3 when a Successful Bidder fails to meet a condition precedent for the award of business (e.g. to obtain the necessary funding, provide valid and/or original tax clearance certification, etc.), or

21.7.4 when final contract negotiations with a Preferred Bidder fails and a contract is not agreed upon; and

21.7.5 it is not practical within the time available to call for fresh Bids.

The award of business to the second ranked Bidder must be approved by the relevant AC.

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21.8 APPROVAL OF CONTRACTS FOR PERIODS EXCEEDING TWO YEARS

The Main AC is to approve all contracts for periods exceeding two Years

No contract shall be entered into for a period longer than two Years without the main AC's (or the person with DoA) written approval, except for large construction contracts where the period allowed will be the completion period of the project. The same principle also applies with respect to the extensions of contracts, i.e. the initial period of the contract together with the extension may not exceed 2 Years without the main AC's (or the person with DoA) approval.

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CHAPTER 22 : POST AWARD CONTRACT MANAGEMENT

Although the PPM provides general guidance with regard to Contract Management Policy and Contracts Management Procedures, please refer to the Contracts Management Manual for comprehensive guidance in this regard available on the iSCM Transnet Intranet

cidb

The NEC3 Contracts are managed and administered outside the Procurement Process.

22.1 WHAT IS CONTRACT MANAGEMENT?

Contract Management is an end-to-end process to ensure that:

- contracts entered into by Transnet are managed in a manner which minimises business risk and maximises intended benefits;
- contractual obligations are fulfilled;
- roles and responsibilities are clearly defined; and
- social value is realised.

Table 18 below sets out the 8 core sub-processes of Contract Management which are addressed in the Contract Management Manual:

TABLE 19: 8 core sub-processes of Contract Management

Governance	**Ensuring that the contract life cycle management process is implemented within each site/OD in accordance with a clear set of norms and standards.**
Human Capital	Ensuring that adequately skilled and sufficient contract management human resources are available.
Planning	Ensuring the effective and efficient planning for the transition from the tender phase to the contract phase.
Delivery Management	Ensuring that the Goods and/or Services are being delivered in accordance with agreed performance, costs and quality levels set out in the contract.
Supplier Relationship Management	Ensuring that relationships with suppliers are managed in order to develop and maintain open and constructive associations.
Contract Administration	Ensuring that the formal contractual processes and obligations are complied with.
Contract Review / Close Out	Ensuring that the contract is closed out in an orderly manner, that all the elements of the contract have been adhered to and that lessons learnt have been properly recorded.
Electronic Management Tools	This is a system or process that enables Transnet to manage contracts electronically.

22.2 POST-AWARD FUNCTIONS

The immediate post-award contract management activities establish the basic awareness and procedures required to initiate Transnet's on-going contract management obligations. These include:

- Ensuring that all relevant parties are aware of their roles and responsibilities in the immediate implementation and transition process;
- Checking that the agreed processes for contract management are in place by both parties;
- That knowledge transfer from the procurement or project team (which may not have included members of the contract management team) to the contract management team takes place to ensure successful management of the contract
- That, where necessary, the continuity plans for the seamless transition of the Service from the previous supplier to the new supplier will be carried out as agreed.

22.3 DELIVERY MANAGEMENT

This activity is concerned with Transnet's ability to measure the supplier's performance in terms of the contract, whilst managing the associated risks. It is important that the performance measures selected provide clear and demonstrable evidence of the success (or otherwise) of the contractual deliverables. In principle, issues such as the following should typically be considered:

- cost and value obtained;
- performance and customer satisfaction;
- delivery improvement and added value;
- Supplier Development (SD), Empowerment and Local Content (LC) where applicable;
- delivery capability;
- benefits realised; and/or
- supplier responsiveness.

22.3.1 Service Level Agreements (SLAs)

Contracts with suppliers will normally define the service levels and terms under which Services are to be provided. Service level management includes assessing and managing the performance of suppliers to ensure value for money.

It is generally beneficial to establish an SLA, since an SLA creates a common understanding about services, priorities and responsibilities of both parties. Transnet must decide in each instance whether or not it is appropriate to utilise an SLA. However, the default position should be to establish an SLA.

Where applicable, an SLA must be put in place with the Successful Bidder to ensure proper performance management and to mitigate any financial, operational, safety, environmental or reputational risks which may arise during the term of the contract.

The SLA shall, at the very least, govern the following aspects:

- representative(s) from both parties who will attend the meetings;
- schedule of meetings;
- venue(s) for meetings;
- party responsible for taking minutes (to be approved by both parties prior to circulation);
- risk areas to be measured (refer sub-paragraph 22.3.11 below);
- size of the samples to be tested in terms of performance management;
- key performance indicators (KPI);
- required outcomes;
- commitment to remedial actions, when needed;
- reporting on the results; and

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- dispute resolution procedure in the event of disagreement or deadlock between the representatives of the parties (dispute resolution procedures are normally set out in the contract, failing which it is the Transnet Relationship Manager's responsibility to set out the procedures to be adopted).

22.3.2 Performance Scorecard

Service levels should be agreed and benchmarked for both Transnet and the supplier and should be:

- established at a reasonable level; if they are set too high they will attract additional charges from the supplier;
- prioritised by Transnet in order of importance and on agreed scales, for example; critical, major, urgent, important, minor;
- easily monitored (objective, tangible and quantifiable);
- unambiguous and understandable; and
- open to renegotiation at any time.

A performance management scorecard reflecting the performance of both parties should form an integral part of the SLA.

(See table below for a typical example of a scorecard for the purchase of Goods)

TABLE 20

KPA	Sample	KPI	Acceptable	Assessment	Remedial Action
DELIVERY	*Daily* all deliveries	On time	99% on time	*88%*	*Supplier to improve to 92%*
	Daily all deliveries	Accurate	99% accurate	*100%*	*N/A*
	Daily 1 in 5 deliveries	Lead-times met	99% lead-times met	*40%*	*Supplier to improve to 70%*
	Daily all deliveries	Paperwork in order	100% paperwork correct	*100%*	*N/A*
QUALITY	*Daily* 1 in 5 deliveries	No. of items rejected by GR	<2% Items rejected	*0*	*N/A*
	Weekly all deliveries	No of items rejected by production	0 items rejected	*0*	*N/A*
	Weekly 1 in 2 deliveries	Items properly packed	<3% items incorrectly packaged	*0*	*N/A*
PRICE REVIEW	*Monthly* 10 prices	Price charged vs. market	95% of items in market pricing range	*91%*	*Supplier to improve to 95%*
PAYMENT	All payments	Payment within 30 days	90% payments on time	*40%*	*Transnet to improve to 80%*

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22.3.3 Performance review meetings

The following must be observed by the Relationship Manager prior to and/or during the performance review meetings between Transnet and the supplier:

- ensure that performance review meetings are convened at intervals as agreed upon with the supplier;
- ensure that tangible proof of the supplier's performance against all the KPAs is obtained prior to the meeting;
- proper minutes shall be kept of all performance meetings; and
- over and above the requirement that minutes should be kept, a specific record (paper trail) shall be kept of recurring instances of poor performance by the supplier. Such record shall reflect the various performance assessments, interventions by the contract Manager, the remedial actions agreed upon, and the results thereof.

22.3.4 Performance monitoring

a) A process for monitoring the delivery of the suppliers must be set up by management to ensure continuing adherence to the supplier contract and service level agreements. Suppliers must be monitored against agreed performance metrics defined in service level agreements and contracts, it must be confirmed that suppliers are meeting current business requirements.

b) Contracted fees must be in line with fees specified in the contracts.

c) Performance metrics must be periodically reviewed to ensure that they continue to support business requirements. Improvements in price, Quality or service must be sought and, where possible and built into the contract terms.

d) Benchmarking against similar organisations, appropriate international standards or recognised industry best practices must be undertaken. Benchmarking results must be used to evaluate and compare supplier prices and services. Results of benchmarking must be used to make adjustments to current supplier contracts and agreements.

e) Independent audits must be undertaken with key suppliers and recommendations obtained from independent audits must be reviewed by Transnet management for subsequent use to improve delivery.

22.3.5 Adherence to contractual sourcing (Goods)

For Goods manufactured in South Africa:

When a contract is placed for Goods to be manufactured in South Africa, the supplier may not be permitted to substitute imported Goods without the AC's prior written approval. For contracts of values below the AC's jurisdiction, the Manager concerned may decide whether imported Goods can be substituted. Where the supplier has secured the business by reason of the Local Content offered, it shall not be allowed to substitute imported Goods for those to be supplied from South African sources. An exception to this ruling may only be considered when the supply from the South African source has been curtailed due to reasons beyond the supplier's control.

22.3.6 Conformance with specifications and delivery instructions (Goods)

a) Inspection and shipment/delivery of Goods:

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All Goods are to be delivered strictly in accordance with the contract. Timeous arrangements must be made by Transnet for the inspection and/or shipment and delivery arrangements, as indicated by the contract terms.

(i) In the case of imported Goods:

The supplier must notify Transnet or its nominated clearing and forwarding agent as to when consignments are to be ready for inspection and/or shipment in order that arrangements may be made for inspection and/or shipment, except in instances where it has been specified that the Goods shall be inspected at destination. (Refer *Appendix C – ICC Incoterms 2010* for further details relating to alternative purchase terms and related responsibilities of seller and buyer).

(ii) In the case of locally manufactured Goods:

- where Quality is not assured by means of SANS, ISO or other standards, suitable Quality assurance mechanisms must be provided for in the contract e.g. inspections during manufacturing process, inspections at point of despatch or delivery. A suitable clause should be included in the relevant contract to the effect that Transnet reserves the right to return defective Goods for replacement in accordance with specifications;
- where Goods are of such a nature that Quality inspections are not deemed necessary, a suitable clause should be included in the relevant contract to the effect that Transnet reserves the right to return defective Goods for replacement in accordance with specifications.

b) Acceptance of Goods received:

Transnet employees responsible for the receipt of delivered Goods must ensure that all Goods are provided:

(i) strictly in terms of the contract, i.e. the delivery note may not differ from what was required in terms of the contract or purchase order; and

(ii) that the Goods delivered correspond exactly with the delivery note, i.e. short supplies should be clearly endorsed on the delivery note and over-supplies should be returned to the company, with the delivery note clearly endorsed as such.

22.3.7 Remedies – General

In terms of the regulations issued in terms of the PPPFA, Transnet must act against the bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.

Transnet may, in addition to any other remedy that it may have against the bidder or person:

a) Disqualify the bidder or person from the bidding process;

b) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;

c) Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

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d) Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after applying the *audi alteram partem* (hear the other side) rule; and

e) Forward the matter for criminal prosecution.

Group/OD Legal Departments should be consulted in deciding on any of the remedies that are to be applied.

22.3.8 Remedy for repetitive instances of poor performances

Where poor performances have been recorded and when no improvement in performance has been demonstrated by the supplier after several interventions on the part of the Transnet representative (including the imposition of penalties, where applicable – refer sub-paragraph 22.3.9 below), the following remedies should apply:

a) Should the contract Manager believe that the supplier is unlikely to improve its performance, the Manager must approach OD Legal or Group Legal to obtain direction regarding cancellation of the contract; and thereafter

b) Procurement is to initiate the blacklisting process, if appropriate.

It is of utmost importance that the specific additional record (a paper trail) of recurring instances of poor performance by the supplier is available to inform the recommendation to cancel the contract and/or to blacklist (see Chapter 23, paragraph 23.4 for Blacklisting protocols).

It must be remembered that poor performance amounts to breach of contract. Transnet's contracts contain a standard "breach clause" in terms of which a defaulting supplier must be notified of the breach and afforded an opportunity to remedy the breach. Only if this fails may steps be taken to cancel a contract.

22.3.9 Imposition of penalties

a) A penalty is a stipulation in a contract (a "penalty clause") providing that a party who acts in conflict with its contractual obligations must pay a sum of money to the other party. Where a contract provides for penalties in the event of breach such penalty should be enforced.

b) However, unless a contract expressly provides for a penalty, a penalty may not be imposed. Where a contract does not contain a penalty clause Transnet must sue for damages arising from breach of contract. Damages must be recovered by way of litigation and only after the amount of damages is proven and awarded by a court.

c) Transnet cannot recover both penalties as well as damages. Furthermore, Transnet cannot claim damages in lieu of penalties unless the contract states so specifically.

d) Penalties should be reasonable and not out of proportion to the prejudice suffered. In terms of the Conventional Penalties Act 15 of 1962, a court may reduce a penalty if it is unreasonable, disproportionate and inequitable.

22.3.10 Failure by a supplier to perform - liability for additional expenses

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The bid documents (as well as the eventual contract) shall make provision for the Bidder to undertake that if, after it has been notified of the acceptance of its Bid, it fails to perform, whether by not entering into a contract or by not undertaking any steps when requested to do so within a period stipulated in the bid conditions or within such extended period as Transnet may allow, the supplier will be held liable for any additional expense which Transnet may incur in having to call for Bids afresh and/or accepting any less favourable Bid to complete the whole or remaining portion of the contract. In addition, consideration can also be given to placing such a contractor on Transnet's List of Excluded Bidders (See Chapter 23).

22.3.11 Risk Management

Risk can be defined as 'the probability of an unwanted outcome happening".

It is advisable to seek to remove or at least mitigate risk whenever possible before contract award. The obligations placed upon buyers to analyse, assess and mitigate risk during the pre-award stages of contract management are dealt with in previous chapters of this PPM. These pre-award activities can be collectively summarised as follows:

Analysis	The process of identifying all potential issues that can go wrong with an activity and estimating the probability of each happening
Assessment	The process of assessing the likely impact of a risk on Transnet
Mitigation	Having assessed the risks and identified those requiring action, responsibility for managing and mitigating them is allocated, which allocation must be dependent on the assessment of the likelihood and consequence of the risk

Contracts provide the framework to mitigate risks and to measure operational and financial performance as well as compliance with business obligations and regulatory requirements.

Post-award risk management undertaken during the contract period comprises those activities associated with identifying and controlling the risks that may potentially affect the successful fulfilment of the contract. Risks to the contract include such issues as:

- lack of capacity of the supplier, particularly if there are significant increases in demand;
- reduction in demand leading to higher unit costs borne by the supplier;
- an event which causes an increase in the total price to Transnet;
- an event which causes a programme delay;
- supplier staff changes;
- changes to the supplier's business objectives;
- deterioration in the supplier's financial standing;
- demand changes that cannot be met by the supplier;
- deterioration of Quality;
- *force majeure* issues;
- market fluctuations for commodities; and/or
- labour unrest.

When a risk is anticipated or perceived, to manage this involves the parties working together to identify *who* has the responsibility for the risk, the *method* of minimising it and *how* the risk will be managed. In order to do so the contract Managers must undertake the following actions:

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- establish a binding process to encourage early warning system for issues such as those mentioned above;
- identify the party best able to control the situation leading to the risk occurring;
- identify the party best able to control the risk itself;
- identify who should be responsible if the risk cannot be controlled; and
- if the risk is transferred to the supplier, establish whether or not this cost will fall to Transnet, whether transfer will introduce new risks and the legal position of any such transfer.

Finally it should be considered that business risk cannot be transferred to the supplier and that the ultimate responsibility will always remain with Transnet for any failure in the fulfilment of a contract.

22.4 SUPPLIER RELATIONSHIP MANAGEMENT

In addition to the achievement of the contractual and commercial aspects of the contract, a healthy relationship between Transnet and its contractors must be maintained as this underpins the overall successful and effective management of a contract. Management structures for contracts need to be designed to facilitate such a healthy relationship. There must be set procedures for raising and handling issues, so that these are dealt with as early as possible and at the appropriate level within the organisations.

The value, risk and strategic nature of a contract will dictate the appropriate degree of supplier relationship management to be established per contract. This decision must be made by the OD's CPO in consultation with the contract manager and recorded accordingly in the contractor's contract file. Establishing a sound relationship with a contractor will help in building a strong relationship and to provide constructive and positive feedback. All strategic contracts must have a supplier relationship manager, which should ideally be a person other than the Contract Manager/Administrator. A supplier relationship manager must have an appropriate level of seniority. For highly strategic contracts, this may be a CPO, GM or the OD's CE.

22.4.1 Sound Relationship Management

A sound basis for the relationship must be established in the earlier contracting phases, e.g. by having clear and well written terms and conditions, SLAs and regular monitoring and evaluation mechanisms. If the supplier relationship manager is new to the contractual arrangement, efforts will need to be made to understand the relationship that exists between the supplier and Transnet and to develop a specific relationship for this phase as soon as possible. It is particularly important for the manager to understand the background to the relationship and be aware of any problems or issues that have arisen at earlier stages of the procurement process.

The type of contract, its size and duration as well as the culture of the parties and the personalities of the people involved will influence the relationship between the parties.

It is of particular importance to Transnet that contractors not only fulfil the technical and financial aspects of the contracts, but also the socio-economic (Supplier Development, Localisation and Empowerment) aspects. As part of SRM, Transnet and the contractor should constantly look for ways to improve the socio-economic benefits of the contract.

22.4.2 Communication with the contractor

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It is important to establish and maintain a constructive relationship through regular communication. In particular, problems that have arisen must be identified and every effort must be made to resolve such problems at an early stage. Problems which are not dealt with timeously can easily become exacerbated resulting in poor relations with the contractor. Escalation procedures must be put in place to deal with any unresolved problems. Providing positive and constructive feedback will assist in maintaining healthy relationships.

Effective SRM will enable Transnet to identify early warning signals and thus indicate whether alternative contractors or products should be identified.

Payments should be made without unnecessary delays in line with Transnet's procedures. To this end Transnet must pay suppliers within 30 days of submission of an undisputed invoice.
It is also important to listen to the contractor's side of the story, to identify any problems, address them promptly and explain decisions in an impartial way. This particularly applies to contracts that involve on-going service delivery that extend over a considerable period of time. In such contracts the management of the relationship with the contractor could consist of:

- Informal, day-to-day discussions;
- Interactions between the supplier and the nominated Transnet Supplier Relationship Manager and Transnet's staff; and
- Formal meetings at pre-determined intervals with nominated personnel from both Transnet and the supplier.

22.5 CONTRACT ADMINISTRATION

This activity is concerned with the practicalities of the relationship between Transnet and the supplier and the operation of the routine administrative and clerical functions. The typical functions included under post-award contract administration responsibilities are:

- Change control;
- Charges and cost monitoring;
- Ordering and payment procedures;
- Budget controls;
- Contract meeting schedules and minutes;
- Resource management and planning; and
- Contract termination or extension/renewal.

The Contract Manager must ensure that s/he thoroughly understands all the components of a contract, including:

- Expected outcome measure – significant deliverables should be tied to the payment schedule; and
- Acceptance / Rejection Terms – Transnet's right to inspect and accept or reject the goods and/or services and the conditions of acceptance or rejection.

22.5.1 Change control procedures

Changes will almost inevitably occur during the period of a contract and managing these changes is a particularly important activity. Formal change control procedures should be designed and set out in the original contract documentation to avoid misunderstanding and ambiguity about roles, responsibilities and the actions to be taken in any given situation.

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The procedures need to be comprehensive but also flexible and straight forward and should cover such issues as:

- How to request changes, including additional demands placed on the supplier
- Assessing the impact including contractual implications
- Prioritisation and authorisation levels
- Agreement on methodology
- Controls for implementation

22.5.2 Amendments to contracts

Contracts may be amended by:

a) Extending/reducing the period of the contract;
b) Increasing/decreasing the value of the contract;
c) Changing the scope of work;
d) Changing the contracting parties; and
e) Changing any other terms and conditions of the contract.

Extension of contracts, additional work, increase in quantities, price or time by more than 10%, cession and assignments, waiving of penalties, etc., are all examples of material amendments to contracts, and need prior AC approval.

A decision to amend a contract should not be taken lightly. Amendments to contracts must be properly motivated by the end-user in consultation with the contract manager and if approved, must be signed off by the person with delegated authority. Please note that the cumulative value of the contract (i.e. the original value together with the value of any previous amendments plus the value of the current amendment) will determine the level of delegated authority required for sign off of the amendment. However, as stated in the PPM, if the contract came about by way of confinement or if it is a consultancy agreement, the amendment must first be approved by the original approver (e.g. GCE) before it is sent to the delegated authority for sign off.

22.5.3 Extension of contracts

The relevant legal principles are explained as follows:

a) A contract may be extended before its expiry date. This will involve an agreed Material Amendment to the existing terms and conditions of the contract. Where the contract expressly allows for an option to extend or renew, such prescribed extension or renewal process must be followed before the termination date.

b) A contract that has lapsed or expired cannot be extended. The purported "extension" of an expired contract either for a given period (e.g. 1 Year) or on a month-to-month basis has inherent risk, because the terms and conditions safeguarding Transnet would have expired with the original contract itself. Transnet would have effectively entered into a "new" contract without the safeguards of the initial contract. This could also give rise to irregular expenditure in terms of the PFMA.

22.5.4 In view of the principles set out above, the practice of extending a contract after its termination date is considered to be irregular.

The following approach with regard to the extension of contracts must be followed:

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a) Any request for the extension of a contract must be submitted to the AC at least 60 to 90 Working Days before the contract is due to expire. This is to ensure that the AC may consider the request before the expiry date.

b) A request for the extension of a contract must indicate whether such extension is as a result of exercising an option to extend or whether the extension sought amounts to an amendment to the contract.

c) Any request for the extension of a contract for a given period (e.g. 1 Year) or on a month-to-month basis should contain proof that the supplier is willing to extend the contract based on the same or better terms and conditions for Transnet.

d) No request for the extension or renewal of a contract after the expiry date of the contract shall be entertained and any proposed continuation of business shall be regarded as a new sourcing event, i.e. open RFX, Confinement or to be effected under laid down emergency procedures.

e) In the event that the contract has been allowed to exceed its termination date, such irregular "extension" shall be submitted to the AC for a recommendation to the GCE or higher that the condonation of the action taken.

f) Should a supplier request extension of the contract completion date, the relevant circumstances must be considered in order to reach a fair decision in response to such a request, as follows:

(i) Where the bid document or contract stipulates that completion of the works, services, project or delivery of the Goods has to take place by a specified date and the supplier completed it / handed it over only after the contractual completion date, penalties may be raised under the terms of the contract.

(ii) A supplier may apply for an extension of the contract completion date if it considers that the reasons for late completion were/are:

- beyond its control (e.g. *Force majeure* events such as acts of God, rain, floods or earthquakes);
- whereas the supplier had exercised reasonable control, the late completion could not have been foreseen, minimised or prevented; and/or
- or the delay(s) had been attributable to Transnet

(iii) The supplier's claims in terms of (ii) above may be lodged at any time during the course of the contract or after the expiry date and must be substantiated by means of site diary entries, etc. Transnet then has to consider the reasoning and if considered to be valid, shall recommend to the AC the refund of some or all penalties already levied in terms of the contract or the waiving of some or all penalties.

(iv) Late completion of the contract due to valid reasons will require an extension of the contractual completion date. This would constitute a Material Amendment to the contract and would require AC approval. Should the extension of time be granted, i.e. approved by the AC, the supplier shall be entitled to price escalation over the extended period only if escalation has been provided for in the original contract.

(v) If Transnet does not consider the supplier's claim for an extension of time to be valid, the contract completion date may nevertheless be extended but penalties may be imposed in terms of the contract. Price escalation will also not be payable after the official completion date. However, Transnet is not obliged to grant the supplier's request for an extension of time and may

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(especially in instances where time is of the essence) decide to cancel the contract.

(vi) A waiver or reduction of penalties would constitute a Material Amendment to the contract and would require AC approval.

22.5.5 Exercising options

a) If Transnet wishes to reserve the right to extend a contract period, this should be stipulated upfront in the RFX. Furthermore, the inclusion of this option must be brought to the attention of the AC (or the person with DoA) when the initial recommendation to award the business is made.

b) Should it be decided to exercise the option during the course of the contract, the recommendation to exercise the option must be submitted to the AC for prior written approval in the normal manner. An indication must be given at that stage that the exercise of the option is still the best value in the market place (also see paragraph 9.2 and 22.4.3(b)).

22.5.6 Involvement of AC in material contract amendments

The AC must approve all Material Amendments to contracts within their threshold and recommend those above their threshold. This applies even if the initial award had only been submitted for the information of the AC, e.g. an emergency procedure or business awarded via the 'confine and award' process.

A Manager may approve any increases or decreases in quantities or additions or additional work of which the total value does not exceed 10% (10 per cent) of the original value of the contract, and must inform the AC accordingly.

This provision does not include price escalations not provided for in the contract, i.e. the same goods to be provided at an increased price. Such matters should be presented to the AC for prior approval regardless of the value of the proposed increase in price.

22.5.7 General amendment principles

a) Where the original value of the contract falls below the AC's jurisdiction, a Manager may approve additions, increases or decreases provided the total value of the contract does not exceed his/her Delegated Powers. However, if the original contract value is below the AC's jurisdiction but amendments bring it within the AC's jurisdiction, the matter must be submitted to the AC provided the cumulative amendments are greater than 10% of the original contract value.

b) Matters within the AC's jurisdiction where there are non-material amendments to contracts and contract amendments where the increase in value and/or the extension of period represents less than 10% of the original contract value or contract period will be dealt with as follows:

In such cases the Manager with the delegation of authority may effect such amendment and is only required to inform the AC of such amendment as soon as possible thereafter. The Manager who approves the amendment may be the original signatory of the contract if the cumulative value of the amended contract is still within his/her delegation of authority. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority and the original signatory must be informed thereof.

Example: A R999 000 increase on a R10m contract, or a 1 month extension on a 12 month contract.

c) Material amendments in excess of 10% of the original contract value or contract period, up to 40% of the original contract value will be dealt with as follows:

In such cases the Manager with the delegation of authority may not effect such amendments without the PRIOR approval of the relevant AC first of such amendment.

A recommendation must be submitted for AC consideration together with supporting documentation indicating that the proposed amendment to the contract is in the best interest of Transnet, that it represents the optimal value for Transnet, and how this has been determined.

Following AC approval such amendment needs to be signed off by the original signatory (i.e. the person with delegation of authority who signed the initial contract or the person mandated to do so) provided the cumulative value of the contract and subsequent amendment(s) still falls within his/her delegations. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.

Example: R350m contract increased by R70m (i.e. 20%) to R420m: Obtain PRIOR approval from main OD AC (e.g. TREDAC) and then the OD CEO.

d) NOTE: As a general rule, contracts may be amended by not more than 40% of the original contract value. Any deviation in excess of this threshold will only be allowed in terms of paragraph (e) below. Whilst provision is made for deviations, it is imperative to note that requests for such deviations may only be submitted for approval in exceptional circumstances.

e) Amendments in excess of 40% of the original contract value or contract period will be dealt with as follows:

In such cases PRIOR review and recommendation must be obtained from the appropriate AC first, as well as the original signatory. Thereafter the matter must be submitted for approval to the person with delegations one level higher than the original contract signatory (provided the cumulative value is still within his/her delegations of authority). This rule applies regardless of whether the amendment is still within the original signatory's delegation of authority. On approval, the amended contract will be signed off by the person with the delegation of authority to sign off the contract value concerned.

However, this rule does not apply to amendments falling within the GCE, Board Acquisitions and Disposals Committee (BADC) or the Board's delegation of authority. For such contract amendments, the matter will be submitted to the GCE, BADC or the Board regardless of the value of the contract amendment (provided the cumulative value is still within their delegations of authority).

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Example: R320m contract increased by R144m (i.e. 45%) to R464m: Obtain PRIOR approval of the main OD AC (still below R500m main AC threshold) and then the GCFO (R464m actually falls within the GCSCO's delegation, but because the amendment is in excess of 40% of the original contract value, it has to go one level higher, which brings it to that of the GCFO).

f) The rules relating to contract amendment stated above apply to contracts awarded via open tender as well as those awarded via confinement and the appointment of consultants.

g) Furthermore, the 40% rule will also be applicable to construction/CIDB related contracts.

22.5.8 Contract closure

This stage concerns the activities associated with finalising the close-out or termination of a contract, whether in accordance with the expiry date or as a result of early contract cancellation. Depending on the nature of the contract, such activities may include the following:

- Complete all administrative matters;
- Record all technical issues have been resolved;
- Determine the extent of any liquidated damages to be deducted from the contract price made against or received from the supplier;
- Record the end of retention and guarantee periods, plus date of final inspection;
- Record the date of release of retention and/or bank guarantees;
- Agree to limits on any on-going obligations, including warranties;
- Record any material reconciliations;
- Transfer any assets, including data, intellectual property and loan items;
- Transfer operating systems (as applicable) to new/replacement supplier;
- Conclude final contract payments;
- Summarise claims made against or received from the supplier; or
- Ensure retention of records.

On completion of the above activities agreement should have been reached between Transnet and the supplier on all technical and commercial aspects of the contract.

22.5.9 Safe custody of Bid documentation, contracts and contract files

a) Each OD shall arrange for the safe custody of Bid documentation and contracts at a suitable, approved, centralised or regional location.

b) Related documents which should be kept on contract files as part of the contract records include, but are not limited to, documents such as

- RFP (requisition);
- the going to market strategy and approval;
- bid Advertisements (if applicable);
- authorisations to confine (if applicable);
- minutes of relevant meetings/briefings;
- evaluation methodology and score-sheets;

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- TEAR reports;
- declaration of interest documents signed by members of evaluation teams and post bid negotiation teams;
- certificates authorising communication with Bidders;
- agendas and minutes of post bid negotiation meetings;
- correspondence with Bidders;
- RFX offer from Successful Bidder;
- letters of award and non-award;
- Letter of Intent (if applicable);
- Approvals of draft contract (sign off schedule);
- Executed original copy of contract;
- Vendor Application Form;
- Insurance details (if applicable);
- Original and valid SARS VAT and Tax Clearance Certificate (to be updated annually);
- B-BBEE Verification Certificate;
- Contract Addendums (if any); and
- Confirmation of expiry or extension to contract.

Refer to the iSCM Transnet Intranet for the checklist template of documents and signoffs which should be kept on contract files.

22.5.10 **Document Retention**

The following may be used as guidelines as to how long records should be retained:

a) Unsuccessful Bids must be kept for 5 Years after completion of the contract, and thereafter may be destroyed.

b) Successful Bidder's Bid/contract document, as well as the contract file and related general correspondence must be kept on site in a proper and safe archiving facility for a period of 5 Years after completion of the contract, and thereafter may be archived in an off-site archiving facility in compliance with normal archiving procedures.

These files should be properly archived and recorded by means of a formal register so that they can be easily traced when required for audit investigations and/or litigation purposes.

22.6 CONTRACT LIFECYCLE MANAGEMENT METHODOLOGY

SAP CLM has been identified by Transnet Group as the Contract Management System to be used as the Contract Management Process enabler. At present the system serves mainly as repository of contracts but is in the process of being upgraded to include further functionality. It is imperative that each and every supply chain contract entered into by Transnet is loaded onto SAP CLM. Failure to do so will be considered to be a breach of protocol.

The Contract Manager must ensure that Transnet's SAP CLM system is utilised to manage the contract through its lifecycle. The SAP CLM system ensures enhanced visibility, control and performance monitoring of contracts. It will also be used for purposes of audits and analysis of contract transactions. SAP CLM extends from pre-bidding activities, bidding activities, drafting, negotiations and contract management processes. Modules for all activities should be used and/or made

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available. **(Drafting note: this functionality will be added when upgrades of SAP CLM are effected)**

22.7 INDICATIONS OF SUCCESSFUL CONTRACT MANAGEMENT

Successful contract management will achieve benefits by:

Managing Transnet's own responsibilities during the contract

Ensuring the supplier meets the minimum performance criteria, such as compliance

Allowing the achievement of both short and long term supplier performance improvement through developing effective supplier relationships

Ensuring that suppliers deliver Goods/Services of the agreed quality and price

B-BBEE and SD commitments are closely monitored and enforced

Reduction of costs and continuity of supply

Roles, responsibilities, rights, obligations of all stakeholders are clearly communicated and understood

Early identification and resolution of poor performance and disputes thereby minimising risks

Eliminating unethical practices within Transnet

Enhanced Supplier relationships through the visualisation and establishment of win-win scenarios

Entrenching uniformity of managing contracts and the principle of fairness

Creating a database of lessons learnt to aid future planning through the dissemination of good practices

Increased competitive and strategic advantages through effective control and visibility of contracts

Evaluation of the specification against contract performance and identification of contract changes or variations

In summary, successful contract management is indicated if:

The arrangements for service delivery continue to be satisfactory to both parties

The expected business benefits and value for money are being achieved

The supplier is co-operative and responsive

Transnet understands its obligation under the contract

There are no disputes

There are no surprises

A professional and objective debate over changes and issues arising can be had

Efficiencies are being realised

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CHAPTER 23 : BLACKLISTING PROCEDURES AND GUIDELINES

This Chapter of the PPM applies in both construction procurement and general procurement activities. However, where suppliers are blacklisted for construction procurement the CIDB must be informed of this in writing within 21 days.

23.1 DEFINITION

Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist must be based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.

The Transnet GCFO or his delegate may, upon a recommendation by the relevant AC and the Group Chief Supply Chain Officer decide that no Bid from that person or Enterprise be considered/accepted for any new contracts concluded for a specified period as may be determined.

Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company /person from future business, Transnet may decide to terminate some or all existing contracts with the company /person as well.

A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.

23.2 GROUNDS FOR BLACKLISTING

23.2.1 Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:

a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;

b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;

c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;

d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;

e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;

f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:

(i) he made the statement in good faith honestly believing it to be correct; and

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(ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;

g) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;

h) has litigated against Transnet in bad faith.

23.2.2 Transnet recognizes that trust and good faith are pivotal to its relationship with its suppliers. When a dispute arises between Transnet and its supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

(iii) Vexatious proceedings. These are frivolous proceedings which have been instituted without proper grounds;

(iv) Perjury. Where a supplier commits perjury either in giving evidence or on affidavit;

(v) Scurrilous allegations. Where a supplier makes allegations regarding a senior Transnet employee which are without a proper foundation, scandalous, abusive or defamatory.

(vi) Abuse of court process. When a supplier abuses the court process in order to gain a competitive advantage during a bid process.

23.2.3 Where any person or Enterprise has been found guilty by a court of law, tribunal or other administrative body of a serious breach of any law, during the preceding 5 Years, such person/Enterprise may also be blacklisted. Serious breaches of the law would include but are not limited to corruption, fraud, theft, extortion, or contraventions of the Competition Act 89 of 1998 (e.g. collusive tendering). This process excludes minor convictions such as traffic offences or personal disagreements between parties which have no bearing on the business operations of the person or Enterprise.

a) When issuing RFXs, prospective Bidders must be requested to disclose whether the company or any of its directors were found guilty of a serious breach of the law during the preceding 5 Years.

b) Should any prospective Bidder declare a conviction of a serious nature, the blacklisting process should be considered based on paragraph 23.4 below. If considered appropriate, the blacklisting process should be instituted without delay and dealt with expeditiously, whilst the evaluation of the bidder's Bid continues.

c) Under no circumstances may any prospective Bidder be excluded from the evaluation process or overlooked for the award of business until such time as a final decision to blacklist has been made.

23.2.4 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Tender Defaulters.

23.3 WHO MAY BE BLACKLISTED?

The following persons / entities may be considered for blacklisting:

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23.3.1 any person/company who has submitted a Bid in response to a bid request issued by Transnet;

23.3.2 any person/company who has concluded a contract/s with Transnet;

23.3.3 any person who has acted in the capacity of subcontractor to a supplier of Transnet;

23.3.4 any agent or employee of the company concerned, or his/her spouse who may be conducting the same business but under a different name;

23.3.5 Transnet employee found to be involved in fraudulent or corrupt activities;

23.3.6 companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons); and/or

23.3.7 any companies subsequently formed by the person(s) guilty of the misconduct or where such person(s) acquires a controlling stake in an existing company.

23.4 FACTORS TO CONSIDER BEFORE TAKING THE DECISION TO BLACKLIST

23.4.1 A decision to blacklist has far reaching implications for the company/person concerned. Therefore, Transnet must act fairly, reasonably and rationally whenever it decides to blacklist a company/person. The decision to blacklist must be considered on a case-by-case basis and must be based on the merits of the particular matter.

The following factors must be taken into account in deciding whether to blacklist a company/person:

a) the gravity / seriousness of the offence/misconduct/breach;

b) any previous offence/misconduct on the part of the company/person;

c) any remedial action taken by the company, including steps to ensure that the misconduct will not be repeated;

d) the seniority of the person(s) who acted in bad faith;

e) the impact of the proposed blacklisting of the company on Transnet's operations;

f) the reasonableness of the explanation for the misconduct;

g) whether the company/person has received direct or indirect benefit as a result of the misconduct; and

h) whether Transnet suffered actual or potential prejudice.

23.4.2 The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet and must be carefully considered. Associated companies must not be blacklisted by default. The merits of each case will inform the decision as to whether a particular associated company will be blacklisted or not. In addition to considering the factors mentioned above, as a general rule the blacklist should only be extended to associated companies where the directors/members common to both entities were either directly involved in the misconduct against Transnet, or failed to take remedial action for a serious offence. Furthermore, it is important to

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consider whether the blacklisted director/member plays an active role in the associated company or has a controlling stake in the associated company.

23.5 GUIDELINES FOR DETERMINING AN APPROPRIATE PERIOD FOR BLACKLISTING

Blacklisting cannot be imposed for an indefinite period. The following is a general guideline on the number of Years of blacklisting to impose on suppliers found guilty of misconduct against Transnet:

TABLE 21

Grounds for Blacklisting	Suggested Period
Offences involving bad faith / dishonesty (e.g. theft, corruption, fraud, Fronting, misrepresentation, etc.)	Not less than 5 Years, and not exceeding 10 Years
Other misconduct (e.g. breach of contract, poor performance, etc.)	1 – 5 Years (However, Transnet reserves the right to impose a longer period of restriction to a maximum of 10 Years, depending on the gravity of the misconduct.)

23.6 BLACKLISTING PROCEDURE

The following procedure must be followed in order to blacklist any person/company:

23.6.1 As soon as an OD detects misconduct by a person/company falling within one of the grounds for blacklisting, the matter must immediately be reported to the procurement division of the OD concerned.

23.6.2 Procurement will review the motivation for the blacklisting. If possible grounds for blacklisting exist; a forensic audit may be conducted to establish whether the grounds for blacklisting are valid.

23.6.3 Should the forensic report establish that possible grounds for blacklisting exist; the OD AC shall be approached for approval to proceed with the blacklisting in principle.

23.6.4 Transnet Internal Audit will be requested to conduct ITC searches on the Company and its members/directors in order to ascertain the identity of all companies associated with such members/directors.

23.6.5 The matter must be referred to the relevant AC to have the blacklisting approved in principle.

23.6.6 The matter must then be referred to the OD legal department or Group Legal where an OD does not have its own legal department, who will be responsible for the following:

a) The company, its directors and all associated entities are to be informed both by registered and hand delivered mail of the intention to blacklist, as well as reasons for the proposed blacklisting. The letter should also indicate whether Transnet intends to cancel any existing contracts with the supplier. Proof of delivery should be obtained. The companies/persons must be afforded a period of 14 Working Days within which to make representations as to why they should not be blacklisted or why existing contracts should not be cancelled.

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b) After the 14-day period the Legal Department must consider the responses (if any) from the companies/persons. The motivation must then be completed and signed off by the Legal Department, Management and procurement.

23.6.7 The matter must then be submitted to the AC to consider whether or not to proceed with the blacklisting. Should the AC support the blacklisting motivation, the matter shall be forwarded with all supporting documentation to Group iSCM for further action where the GCSCO will consider the matter. If blacklisting is no longer recommended, the relevant Legal Department is to inform the OD and the relevant entity concerned of this decision.

23.6.8 If supported, Group iSCM will draft the final submission and attach all original documents including the relevant AC minutes for consideration by the GCFO.

23.6.9 Final approval for blacklisting will be made by GCFO.

23.6.10 Group iSCM will then notify all companies/persons by registered (or hand delivered) mail of the blacklisting. Group iSCM will also update and circulate the List of Excluded Bidders.

23.6.11 Group iSCM will notify the Transnet Content Bureau to update the RAMIS and SAP CLM system to either:

a) block the blacklisted company(ies) on the system altogether if all existing contracts have been terminated and ensure that all payments already incurred have been settled; or

b) ensure that no new contract may be loaded on the system if existing contracts with the company have not been terminated so that payments on the existing contracts may still be effected, and

c) Publish the blacklist on Transnet's external website so that blacklisted entities may not be used as subcontractors or JV partners.

23.7 APPEAL AGAINST DECISION TO BLACKLIST

Any company/person against whom a decision with regard to exclusion from future business has been taken may make representations to the GCE whose decision shall be final.

23.8 RESCISSION OF A DECISION TO BLACKLIST

The Transnet GCFO or his duly authorised delegate may at any time, on good cause shown, rescind a decision taken or reduce the period of exclusion as initially determined.

23.9 ENFORCEMENT OF THE TRANSNET LIST OF EXCLUDED BIDDERS

Prior to the approval of the award of business by any AC, the Secretary of the AC shall verify that no business is awarded to companies or persons appearing on Transnet's List of Excluded Bidders. This will include verifying the identity numbers of the directors/members of the recommended Bidder against the identity numbers of the restricted persons on the List. The Secretary and Chairperson of the AC shall sign off a certificate stating that no business is awarded to entities or persons appearing on Transnet's List of Excluded Bidders. The certificate should be retained by the Secretary of the AC.

23.10 ANCILLARY ACTIONS

Furthermore, in cases of corruption or fraud, theft, extortion and forgery involving R100, 000.00 or more, Transnet must:

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a) act in terms of section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and report the matter to the South African Police Services for further investigation.

b) in addition to subparagraph (a) above Transnet may also, at its sole discretion, decide to institute criminal and/or civil action.

23.11 THE BLACKLISTING PROCESS

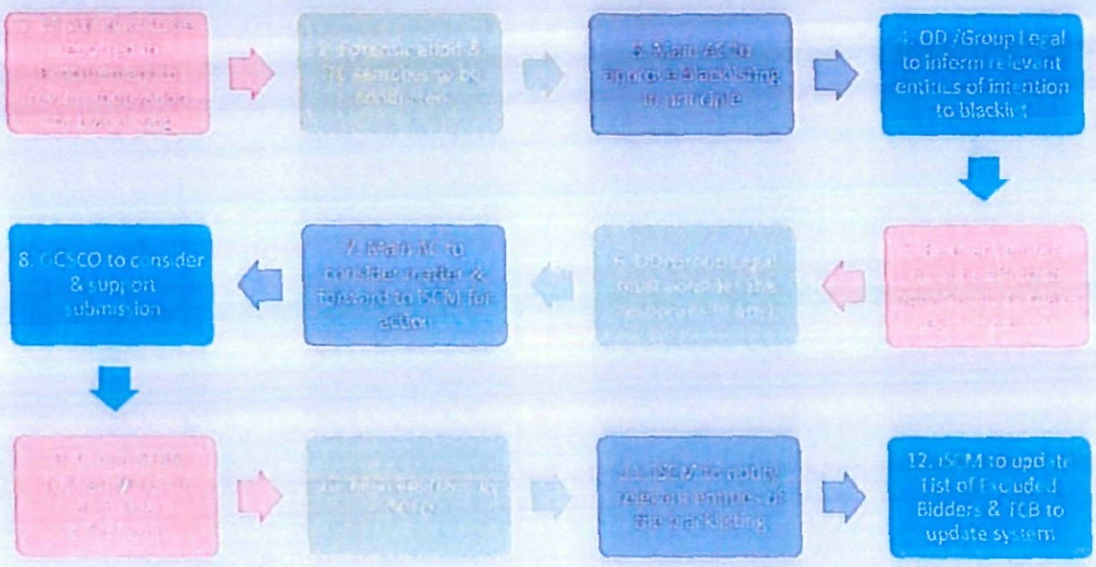

Figure [35] – The blacklisting process

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Background and Context

Procurement planning

Go to Market

Evaluation and Adjudication

Contract Management

SECTION F:

GOVERNANCE STRUCTURES

Chapter 24: Functions of Governance Structures and Departments

Appendices

CHAPTER 24 : FUNCTIONS OF GOVERNANCE STRUCTURES AND DEPARTMENTS

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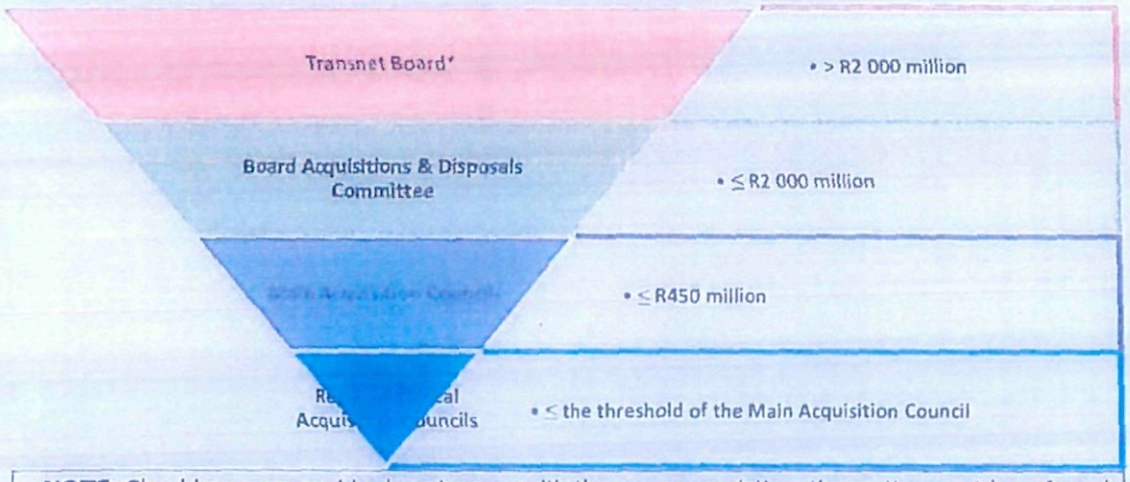
This Chapter of the PPM applies equally to both construction procurement and general procurement activities

24.1 MAIN ACQUISITION COUNCILS (Main AC)

Each division must have its own main AC which must consider and approve all procurement processes, as well as the disposal of scrap, falling within its jurisdiction from R2 million, but not exceeding R450 million. This is subject to the discretion of the OD CEO to lower the R2 million threshold, or to create secondary ACs. Transactions exceeding the CEO's Delegated Powers will still be considered by the OD's main AC. If it concurs with the recommendation, the matter will be referred to the relevant governance structure for approval.



NOTE: Should any approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or remotivation
Recommendations: The RAC, main AC and the BADC will support the recommendation for transactions above their thresholds. Local/Regional AC normally only consider transactions <R2m but OD CEOs may at their discretion increase these thresholds.
* In terms of s 54(2)(d) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion of the value of Transnet's asset base as per the 2013/2014 version of the Shareholder's compact) before proceeding with the acquisition

Figure [36] – Thresholds for process approval

The **Transnet Acquisition Council** ("**TAC**") has similar roles and responsibilities to that of the ODs' main ACs but it caters for the Group Corporate Head Office requirements, as well as centre led transversal contracts. The TAC has no higher status than the ODs' main ACs.

24.1.1 Composition of the Main AC

The main AC is constituted as a governance committee of the OD CEO and shall consist of senior management members within the OD. The main AC or CEO shall have the discretion to create regional and/or local ACs, hereinafter referred to as secondary ACs. An AC shall be comprised of the following persons:

a) A Chairperson, who will either be the CEO, or an executive or senior management member, shall be appointed by the CEO of the OD. The Chairpersons of secondary ACs will likewise be appointed by the main AC or CEO.

b) A Deputy Chairperson, who shall be one of the members mentioned in paragraph (c) below and who shall be appointed by the OD CEO or elected by the AC at a properly constituted meeting.

c) Members, all of whom are senior Transnet employees in the particular OD or where applicable seconded from Transnet Group, selected by virtue of their specific expertise or business focus, appointed by the CEO, with the clear proviso that the heads of Procurement, Finance, Legal and Risk in the OD will be mandatory appointments.

(i) Members must be capable of exercising sound, unbiased judgement and offer constructive comment.

(ii) It is a minimum requirement for members and appointed alternates to attend the annual training course on AC Roles and Responsibilities, Procurement and Bid Evaluation, presented by the Group Governance Function.

d) ACs may, at the discretion of the OD CEO or Chairperson, opt to appoint alternates for its members. Should the AC opt to appoint alternates, each member may, in writing, nominate one alternate. Alternates must be formally appointed by the CEO. Should the member be unable to attend a scheduled meeting, the appointed alternate should attend in his/her stead. All alternates are to be of suitable seniority to represent the member adequately and to make decisions on the member's behalf.

e) ACs may, at the discretion of the CEO/Chairperson, opt to appoint members on an ex officio basis. Such members shall not be counted to constitute a quorum and shall have no vote.

f) Secretary: The CEO or duly authorised delegate shall appoint an employee of Transnet as secretary to the AC. The incumbent must have extensive procurement and governance knowledge and experience, and should ideally be part of the procurement structure of the particular OD. However, to ensure a proper segregation of duties, the Secretary should report directly to the chairperson for purposes of day-to-day operations and performance management. This is to avoid any perceived conflict of interest which may jeopardise the objectiveness of the Secretary, as procurement will inevitably be tabling the vast majority of submissions.

24.1.2 Primary Mandate (Main AC)

To consider all recommendations from the OD with regard to the award of external contracts for the procurement of Goods and Services, or the disposal of scrap, where the total value of the business exceeds R2 million (subject to the discretion of the CEO to lower such threshold, or to create secondary ACs – see paragraph 24.1.3 below). Likewise such ACs will also consider any subsequent amendments to the contracts falling within their jurisdiction.

24.1.3 Secondary Acquisition Councils

The Main AC or the CEO of an OD may at their discretion decide to lower the limit set in paragraph 24.1.2 above and/or introduce similar secondary structures on local or regional level, to cater for matters falling below the jurisdiction of the main AC. The Terms of Reference of all ACs have been standardised, except for the ambits and

delegations applicable to secondary ACs. The thresholds must be clearly stipulated in the relevant appendices to the Terms of Reference of the respective Main and secondary ACs. It is also a requirement that the Divisional Delegation of Authority, applicable to the signing authorities of individuals (similar to the Transnet DOA Framework) be included as part of the relevant main and secondary ACs' Terms of Reference so as to ensure that there is no uncertainty as to the approval thresholds.

(Refer to DOA Summary Section A, Chapter 6)

24.2 MATTERS FALLING BELOW THE MAIN/SECONDARY AC JURISDICTION

As a general rule, the powers that are normally exercised by the AC will vest in the Manager with the delegation of authority for matters falling below the main AC jurisdiction if a particular Transnet Entity has no secondary ACs or for matters falling below the secondary AC/s jurisdiction if the Entity does have secondary ACs. These include but are not limited to the following:

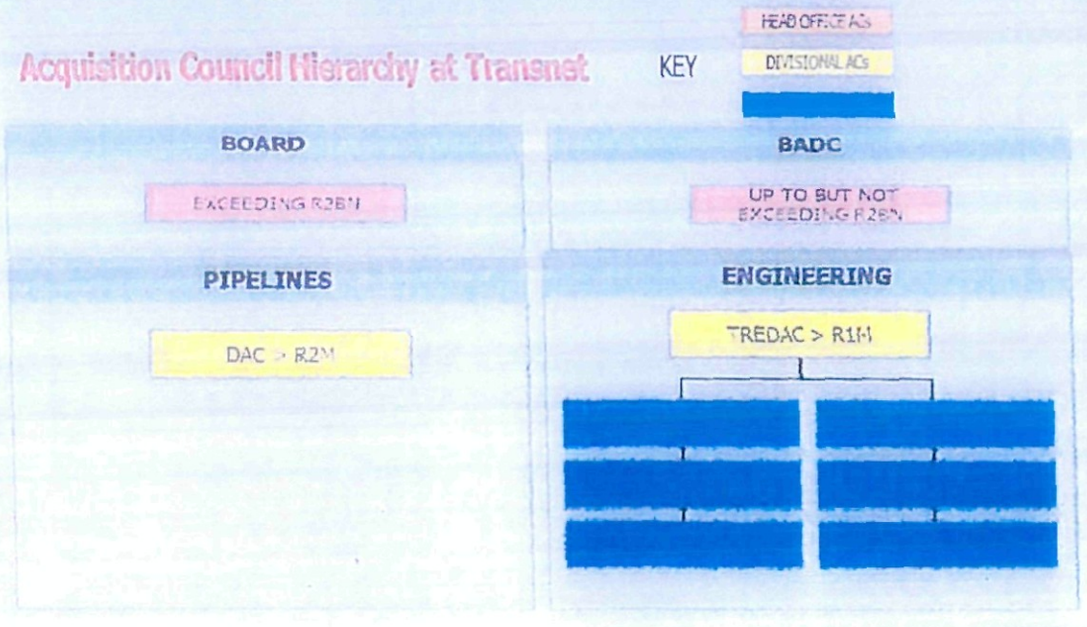
24.2.1 Extension of the validity period of bids;

24.2.2 Any contract amendments up to 40% of the original contract value provided the increase is still within the Manager's delegation of authority. For amendments greater than 40%, the matter must be submitted to the relevant AC even if it is still below the AC's threshold. Where the amendment to a contract brings a matter that was initially below the AC's threshold to a value within the AC's jurisdiction, the contract amendment must be submitted to the AC for approval prior to signature by the person with the delegation of authority; and

24.2.3 Cancellation/Non award of bids.

24.3 ACQUISITION COUNCIL HIERARCHY

Figure [37] below illustrates the current AC hierarchy within the Transnet Group.



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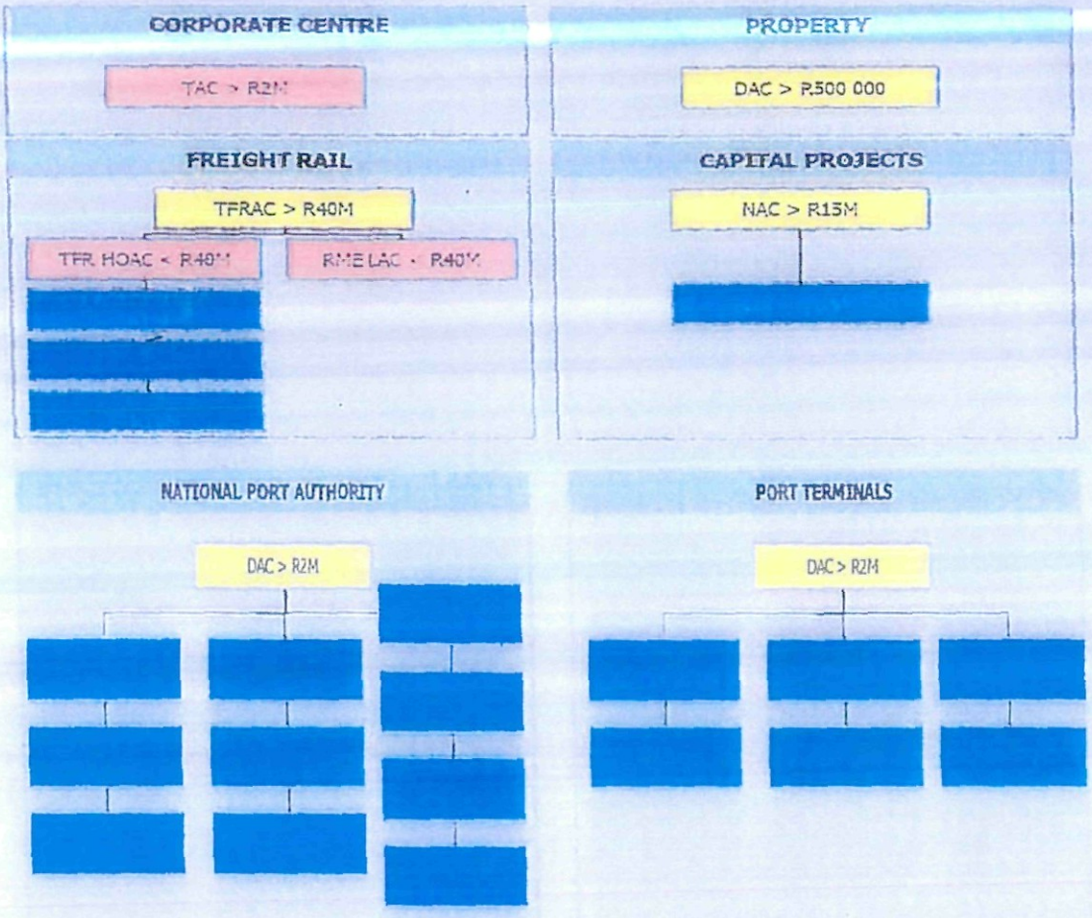

Figure [37] – Acquisition Council Hierarchy at Transnet

24.3.1 **Term**

Members and alternates will be appointed for a specific term. The letter of appointment shall clearly state the term of appointment (start and end dates) and also whether the appointee is a full member or an alternate to a specific member. The OD CEO shall have the power to, at any time, remove any member from the AC and fill the resulting vacancy.

24.3.2 **Confidentiality**

Members are required to treat all information they receive as AC members/alternates as strictly confidential. A confidentiality agreement shall be signed by the member at the start of his/her tenure. Information shall not be divulged without proper and specific authority.

Should a member wish to have anything clarified or explained prior to a scheduled meeting or during circulation of a matter, such query should be referred to the AC Secretary.

All AC records shall be kept securely in the custody of the Secretary of the AC. These records shall not be disclosed without proper approval. Likewise, third party confidential information shall not be disclosed unless required by legislation or a court of law.

24.3.3 **Conflict of Interest**

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Instances may arise when a member of the AC or an alternate has a direct or indirect interest in a particular transaction/project or has been or can be deemed to have been personally involved in the RFX process or business decision which gave rise to a recommendation to the AC. In such cases, he/she shall declare such interest by means of a standard declaration of interest form before the meeting commences and also when the AC deliberates the specific matter. Declaration of a **direct interest** will result in automatic recusal. Should an AC member declare an **indirect interest** in a matter before the AC, he/she must declare his/her interest and the Chairman will determine whether the member should recuse him/herself. Should the Chairman have an Indirect interest in a matter, the Deputy Chairman will decide on whether he/she should recuse him/herself from a particular matter. The reasons for this decision must be officially recorded and kept on file. This will also apply to circulation ('Round Robin' items).

24.3.4 Meetings / Attendance

The AC shall meet at predetermined intervals. Where there is the need, special meetings may be convened by the Chairperson.

Members are required to attend all meetings of the AC. For this reason, AC meetings shall be scheduled well in advance. Should a member not be able to attend a specific meeting, his/her alternate must attend. Attendance and participation by members should be a SPO or at least a KPI, on the member's performance management scorecard. This should be measured by the Chairperson of the AC.

Should a member be absent for more than three consecutive meetings, the Chairperson shall pursue the matter with the member concerned and may recommend to the OD CE in the case of ODs and the GCFO in the case of TCC that such member vacates his/her position on the AC.

Individuals who are not members or alternates may, at the invitation of the Chairperson, attend a meeting of the AC in an *ex officio* capacity or to provide clarification on a specific matter(s). Such individual(s) shall be informed that the information which they will be providing will be formally recorded as part of the minutes of the meeting.

24.3.5 Quorum

A majority of the members/alternates appointed at any given time shall form a quorum.

Should exceptional circumstances necessitate that, both a member and his/her alternate attend the same proceeding, both votes may be taken into consideration to form a quorum as members. Their alternates shall then be appointed on the AC by virtue of their own specific expertise. The provisions of paragraph 24.3.4 above should however be observed.

24.3.6 Voting and deliberation

The Chairperson shall submit any matter to the vote of the members of the AC in the event of a difference of opinion or when requested to do so by a member of the AC.

In the event of a tie, the Chairperson shall have a casting vote in addition to his/her deliberative vote.

24.3.7 Duties of the AC

a) **Chairperson**

The Chairperson of the AC shall chair the proceedings at the meetings and exercise the powers vested in him in terms of these procedures and any other DoA.

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b) **Deputy Chairperson**

In the absence of the Chairperson, the Deputy Chairperson shall act in his/her stead and shall be empowered to perform all the duties and exercise all the powers vested in the Chairperson under the laid-down procedures and any other DOA.

In the absence of, both, the Chairperson and the Deputy Chairperson from a meeting of the AC, a Chairperson shall be elected out of the members/alternates who are present.

c) **Secretary**

The Secretary shall undertake the tasks as imposed upon him/her by the Transnet Supply Chain Policy and Procurement Procedures Manual (PPM) and other relevant directives, or by the Chairperson of the AC or the GISCM Function or the CEO of the OD.

The Secretary is regarded as the "gatekeeper" of the AC and he/she has to be a person with impeccable integrity and honesty, who has the assertiveness to make a positive contribution to the effective functioning of the AC. The Secretary:-

(i) has the duty to act in good faith, duty of care, with skill and diligence and avoid conflicts of interest;

(ii) shall keep a central bid (RFX) register and shall be responsible for the issuing of RFP, RFQ and RFI numbers in respect of all bids issued by the OD to the external market, falling within the monetary ambit of the AC. He/she will report on progress with regards to completion of the process. (Register template available on the iSCM Transnet Intranet);

(iii) shall give impartial advice and act in the best interests of Transnet and hence should not be subject to undue influence by any of the AC Members. The integrity of the Secretary's position must be protected as it is one of the most effective internal controls available in governance;

(iv) shall be the only person, apart from the AC Chairperson, to consider authorising procurement staff to communicate with Bidders in the period between the closing of the bids and the award of the business;

(v) shall keep the AC members abreast of the latest policies and procedures and any amendments thereto;

(vi) shall provide the AC, as a whole and members individually, with comprehensive, practical support and guidance as to how their responsibilities should be properly discharged in the best interest of Transnet;

(vii) has an important role to play in the induction of new or inexperienced members and shall assist the chairperson in determining the annual AC meeting schedule, training plan and administration of other issues relevant to the AC; and

(viii) provides a central source of guidance and advice to bid and contract administrators throughout the OD, end users and the bidding public.

Other responsibilities of the Secretary are to:

(ix) plan and arrange meetings of the AC, formulate and distribute proper agenda packs (submissions in the prescribed format) for the meetings of the AC. (Standardised submission templates are available on the iSCM Transnet Intranet);

(x) ensure that all members attending a specific meeting of the AC are provided with the necessary forms to declare any interest in matters serving before the AC in that meeting;

(xi) ensure that a proper register of these declarations of interest is kept with the minutes of that particular meeting;

(xii) arrange for and securely keep a voice recording of the proceedings and, in writing, record proper minutes of the proceedings, deliberations, decisions and resolutions of the AC. He/she should furthermore obtain the signature of the Chairperson on each individual resolution during or as soon as possible after the meeting, communicate such resolutions to the relevant role-players and securely keep copies thereof for record purposes.

The minutes shall contain -

- an outline of material proceedings and deliberations by the AC; and
- all recommendations, decisions, resolutions, provisional approvals and directives issued by the AC.

A draft copy of the minutes shall be circulated to members of the AC prior to the next scheduled meeting.

Before the next scheduled meeting, a member may request that the draft minutes be amended to include certain specific deliberations, etc. and such proposed amendments shall be included by the Secretary.

The Secretary shall table the draft minutes at the next meeting of the AC, for confirmation by the AC and signature by the Chairperson;

(xiii) ensure that, by means of a proper certificate as per the prescribed format (template, available on the Transnet ISCM Intranet), duly signed by the Secretary and the Chairperson of the AC, that no business is being recommended for award to an entity(ies) or person(s) appearing on Transnet's List of Excluded Bidders/Contractors(Blacklist). Such certificate should be kept and securely filed with the minutes of each meeting of the AC;

(xiv) be responsible for the receipt, opening and stamping of Bids where this duty has been assigned to the AC Secretary. (Refer to Chapter 17 for the rules and procedures pertaining to the bid opening process);

In respect of AC submissions:

(xv) verify the comparative schedule/evaluation, plus all the facts stipulated in submissions to the AC;

(xvi) ensure that authorities for all communication and negotiation are indicated in the submission to the AC, and the outcome of such communication/negotiation is stipulated in detail in the submission;

(xvii) ensure that documentary evidence is available (copies to be kept on AC file) in respect of all facts presented and statements made in the submission;

(xviii) proactively pursue the clarification of uncertainties prior to the meeting, so that matters are not referred back unnecessarily;

(xix) edit* submissions to ensure that all requirements are met before the matter is tabled at the meeting of the AC. (*Submissions are not physically edited but an annexure must reflect all corrections and queries resolved by the Secretary); and

(xx) draft "AC circulars" on behalf of the AC in respect of directives to be issued by the AC.

(xxi) ensure that members are provided with an agenda at least 3 Working Days before any scheduled AC meeting, in order for them the do the necessary preparation before the meeting. Should a member have any queries on a matter on the agenda, he/she should raise these with the Secretary timeously, in order that the Secretary may obtain clarity before the meeting.

24.3.8 Responsibilities and Obligations of Members

a) Members take collective and individual responsibility for processes followed, decisions taken and resolutions carried by the AC.

b) In performing their legal duties, each AC member shall -

(i) act honestly and in good faith, whilst taking into account the policies and business objectives of the company with a view to fostering the best interests of Transnet;

(ii) exercise the duty of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;

(iii) act fairly, impartially and objectively, and not allow prejudice or bias or influence of others to override objectivity;

(iv) have the right to have a dissenting voice and have the reasons therefore recorded; and

(v) act professionally at all times.

c) Duty of care and diligence:

(i) Members owe a common law duty towards Transnet to act with due care and diligence. Members are consequently liable for any prejudice suffered through such Member's failure to carry on the business with the degree of care and diligence that may reasonably be expected from a person of his/her knowledge and experience. Hence, Members must fully inform themselves of all material information available in the AC Pack so as to ensure that they act with due care in the discharge of their duties.

(ii) Members shall study the AC pack and properly prepare for a meeting of the AC prior to AC meetings to ensure that they familiarise themselves with the matters so that there is optimum participation in deliberation and decision making. They shall also make every effort to attend all meetings of the AC.

d) Members shall:

(i) understand and weigh alternative courses of action;

(ii) weigh benefits versus potential harm when considering specific courses of action; and

(iii) ensure that there is no breakdown in effective corporate governance and no impairment in their ability to carry out their responsibilities.

e) Duty to act honestly, ethically and in good faith:

(i) Members shall always act honestly, ethically and in good faith with a view to the best interests of Transnet. Members shall avoid a conflict between the interest of Transnet and their own and, in particular, shall not derive any personal benefit from matters submitted to the AC for consideration.

(ii) Members shall not act in bad faith due to bad judgement or negligence.

e.g. Members do not act in good faith when they know they are making material decisions without adequate preparation and deliberation and simply do not care if their decisions cause breach of governance principles and promote Fruitless and Wasteful Expenditure and consequent financial loss to Transnet.

24.3.9 Functions of the AC

a) To consider all recommendations from the OD with regard to the award of external contracts for the procurement of Goods and Services, or the disposal of scrap metal, where the total value of the business exceeds R2 million (subject to the discretion of the CEO to lower such threshold).

b) To consider all subsequent amendments to material provisions (i.e. which have a cost or risk implication) of contracts exceeding R2 million or where the original value of the contract plus the cumulative value of the amendments will exceed R2 million.

c) To consider and approve the non-award of business against any RFX falling within its ambit.

d) To consider recommendations to approach the market to solicit Bids in respect of a contract with a period of more than two Years, regardless of the value (alternatively RFX to provide for different options).

e) The AC must be proactive and clarify uncertainties emanating from submissions, prior to the meeting. This will ensure that matters are not referred back unnecessarily, causing delays. Under no circumstances should matters be referred back by ACs for trivialities.

f) To consider all recommendations in respect of bids as well as any extension of existing contracts of which the original period, or the original period plus the extension of the period together is/are longer than two Years regardless of monetary value, and all subsequent amendments of material provisions to such contracts.

g) With regard to paragraphs 24.3.9 a) and b) above, ACs or the CEO may at their discretion lower these limits and/or introduce similar structures on local or regional level, to cater for matters falling below the jurisdiction of the AC.

h) To consider and approve the framing of the OD's Lists of Approved Suppliers/Goods, as well as any amendments to such Approved Lists, and to administer such Approved Lists utilised within the OD. This function may not be delegated to Local / Regional ACs.

i) To consider and make recommendations to the Group ISCM regarding all aspects pertaining to Transnet's List of Excluded Bidders. The GISCM shall administer the List on behalf of the Transnet Group.

j) Secondary ACs to refer recommended exclusion matters to the main OD AC (where applicable), which will consider and if supported, refer to Group ISCM for finalisation and onward transmission to the GCFO for approval. Refer to Chapter 23 for Blacklisting procedure.

k) To monitor/administer the opening of all bids irrespective of the value. ACs may at its own discretion and depending on internal structures, delegate the opening of bids under a certain monetary value, to procurement offices or secondary

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ACs, provided that it has satisfied itself that proper procedures and controls as specified in the PPM are in place and are monitored on an on-going basis.

l) To obtain statistics and review, at regular intervals, details of all transactions falling below the AC's jurisdiction (See template available on the Transnet GISCM Intranet). Any alleged irregularities or trends that may arise out of the purchase, sale, hiring or letting of Goods and the procurement of Services, shall be investigated and corrective measures recommended by the AC if deemed necessary.

m) To refer to the Governance COE, (GISCM) for guidance/direction, any policy and/or legal question/s which arise out of the laid-down procedures or out of a bid, contract or contract amendment.

n) To exercise such powers and perform such duties as may be conferred or imposed by the laid-down procedures.

o) To perform other functions as the BADC, the GCE, the Governance COE (Group ISCM) or the OD CEO may determine or deem necessary from time to time.

Notes:

- Purely income generating contracts fall outside the scope of this document. However, the acquisition of Goods and Services to give effect to such income generating contract, fall within the scope of the PPM.
- The AC may refer a matter back only for reconsideration or re-motivation. It may under no circumstances change a submission or change the award of the business. On receipt of a revised/re-motivated submission the AC will again consider the matter. Refer to paragraph 24.3.13d) below for the procedure to be followed in instances where the AC still does not agree with the revised/re-motivated submission of the Manager/procurement.

24.3.10 **Powers of the AC**

When considering any new transaction or any Material Amendment/s to an existing contract, the AC has the power to, at its discretion:-

a) call for any files or papers dealing with offers, enquiries, the invitation and evaluation of Bids in the procurement of Goods and Services;

b) request any information which any employee may have at his disposal relating to the supply of, and/or payment for Goods or Services;

c) require any employee to provide information/advice or to attend any AC meeting in an advisory capacity;

d) invite any Consultant from the private sector to provide additional skills to the AC when necessary;

e) consider and recommend the condonation of any non-compliance with the laid down policies, procedures or directives for sign-off by the CEO en-route to the GCE or higher in terms of the Transnet DoA Framework;

f) offer comments, or note matters submitted for information;

g) refer any submission back for reconsideration/re-motivation;

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h) withdraw an item from the agenda of any meeting of the AC, provided that the reasons for such withdrawal are duly recorded in the minutes of the meeting and communicated to the submitter by the Secretary;

i) report any anomalies, irregularities or non-compliance with laid-down policies, procedures or directives to the CEO (should the AC not be chaired by the CEO himself / herself);

j) exercise a discretion in those instances not explicitly provided in the laid-down procedures or as may be entrusted to it by the relevant policies and procedures or the Board Acquisitions and Disposals Committee, the Governance COE (Group iSCM) or the OD's CEO;

k) refer any matter or issue arising from the exercise of the powers or the performance of the aforementioned duties to the Governance COE (Group iSCM);

l) issue 'AC Circulars' to address any trends or issues arising from matters serving before the AC; and

m) periodically review copies of procurement gift registers.

24.3.11 **AC approvals and provisos**

a) The AC does not possess any executive authority to award external contracts for the procurement of Goods and Services or disposal of assets.

b) All AC approvals are subject to the following provisos:

(i) there is still the need for the purchase, sale, hiring, or letting of Goods and procurement of Services before the non-acceptance/regret letters to the unsuccessful Bidder/s and the acceptance of the winning Bid to the Successful Bidder are communicated by a Manager with the appropriate delegation of authority to sign the contract;

(ii) the financial provision is adequate;

(iii) the best interest of Transnet is being served at the time of concluding the contract, and

(iv) the contract is signed by the Manager with the appropriate delegation of authority.

24.3.12 **Recording of votes via circulation ('Round Robin')**

a) In urgent cases where the OD would be substantially prejudiced if a submission is held over until the next scheduled meeting of the AC, the papers relating to the specific matter may be circulated to the members of the AC. This will be at the discretion of the Chairperson, but subject to the right of any member to demand a meeting. There should be a pre-determined deadline by which all members respond (depending on the urgency). The members who respond by the deadline must record their votes in writing.

(i) Unanimous approval by a quorum of members so made by the stipulated deadline shall be deemed to constitute a resolution of the AC. Such resolution shall be communicated to the recommending officer by the Secretary as soon as possible thereafter.

(ii) The Secretary may extend the deadline should a quorum of votes not be attained by the initial deadline. Alternatively, a special meeting of the AC must

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be called by the Secretary, with the consent of the Chairperson. Members have the right to cast their vote until the deadline, irrespective of whether a quorum has already been attained.

(iii) If the deadline has lapsed, and a unanimous vote by a quorum of members has been attained, no further votes will be considered.

(iv) A resolution taken in such manner shall be officially noted and recorded in the minutes of the next scheduled meeting of the AC.

b) In exceptional circumstances and only due to the non-availability of members, the votes of a member and alternate may be taken into account in order to attain a quorum. The stipulation contained in paragraph 24.3.4, should, however, be observed.

24.3.13 **Disagreement with a decision of the AC**

a) In the event of a matter being referred back by the AC for reconsideration of the recommendation made by the recommending officer/evaluation panel, the recommending officer/evaluation panel shall:-

b) make a revised submission to the AC; or

c) should he/she disagree with the reasoning of the AC he/she shall, with the concurrence of his/her executive officer, re-motivate the recommendation and resubmit to the AC, whereafter the AC shall reconsider the matter; and

d) should the AC still not concur in the revised recommendation, the recommending officer shall refer the matter to the CEO, who shall rule on the matter.

24.3.14 **Interpretation of PPM and Government Policy**

In cases where the AC requires guidance on Government policy matters and in terms of interpretation of the PPM, guidance must be sought from the GCSCO.

24.3.15 **Submissions to the AC (Précis)**

a) All submissions to the AC shall be in the required format. The Secretariat may provide assistance to draw up a précis. (Refer to SAP CLM and the Transnet Group iSCM Intranet for the generic templates).

b) The Governance Function of Group iSCM is the custodian of all submission templates and any suggested changes thereto must be recommended to that office for consideration and implementation.

c) All submissions to the AC must be accompanied by all the relevant supporting documentation, e.g. original bid documents (if practical), authority to communicate or negotiate, etc.

d) All submissions should be submitted to the secretariat well before the scheduled meeting, to afford the secretariat enough time to properly vet the submissions. It is suggested that submissions are handed in by 12h00, seven Working Days before a scheduled meeting of the AC.

24.3.16 **Reporting/Monitoring**

a) The main OD AC reports to the CEO through its chairperson.

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b) Secondary ACs report to the main ACs, and are responsible to monitor transactions falling below their minimum thresholds, except for TCP, where the Local ACs act autonomously.

c) Reports of all the ACs must include the following:

(i) statistics required for the compilation of the Group iSCM Governance dashboard;

(ii) updates about the council's activities, as appropriate;

(iii) sensitisation on trends, irregularities and other anomalies or matters that may significantly impact on the management of contracts and bids of the OD or cause reputational harm to Transnet.

d) The performance of the main OD AC shall be monitored by the CEO.

e) Local / Regional ACs' performance will be monitored by the main OD AC.

f) The performance of the individual members and secretariat shall be monitored by the chairperson of the AC.

24.4 TRANSNET ACQUISITION COUNCIL (TAC)

24.4.1 Role and Functions of the TAC

The TAC has similar roles and responsibilities to that of the OD main AC's. It will cater for the Group Corporate Head Office requirements, as well as centre led transversal contracts. OD-led transversal contracts will be dealt with by the leading OD main AC. The TAC will have no higher status than the ODs' main AC's.

24.4.2 Refer to section 24.1 regarding the main OD AC as this paragraph is also applicable to the TAC. Any powers assigned to a CEO with regard to the Main AC will apply to the GCFO (or his delegate) as far as the TAC is concerned.

24.4.3 Composition of the TAC

a) The TAC shall consist of senior management members within Group Corporate Head Office who shall be appointed by the GCFO for a specific term:

(i) A Chairperson, who will either be the GCFO or an executive or senior management member appointed by the GCFO;

(ii) A Deputy Chairperson, who shall be one of the members mentioned in paragraph c) hereof;

(iii) Members with alternates, all of whom are Transnet employees in the Group Corporate Head Office, selected by virtue of their specific expertise or business focus. They must be capable of exercising sound, unbiased judgement and offer constructive comment.

(iv) The Heads of Procurement, Legal, Financial Planning, Tax and Risk in the TCC shall be mandatory appointments.

24.5 PROCUREMENT OMBUDSMAN

The Transnet Procurement Ombudsman (the Ombudsman) is appointed to provide Bidders as well as Transnet with a fair, expeditious, and effective dispute resolution process. The Ombudsman acts independently and objectively in resolving disputes and is not influenced by anybody in making his or her decisions.

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(v) abide by the decision of the CPO and the CEO of the relevant OD of Transnet regarding the implementation of the Ombudsman's recommendation.

b) Transnet's ODs shall not:

(i) prevent a Bidder from making use of the services of the Ombudsman;

(ii) provide the Ombudsman with any misleading information; or

(iii) act vindictively toward a Bidder who made use of the services of the Ombudsman.

24.6 CAPITAL INVESTMENT COMMITTEE (CAPIC)

24.6.1 Purpose

The CAPIC shall ensure that the resources that Transnet SOC Ltd ("**the Group**") invests for the development of capital projects are strategically managed and shall to this end-

a) Ensure that decisions relating to capital expenditure are consistent with the strategic focus of the Group; and

b) Ensure that capital expenditure complies with the budget and business plans approved by the Board.

24.6.2 Composition

CAPIC is constituted as a committee of the Transnet SOC Ltd Group Executive Committee:

- *Chairperson* - GCFO
- *Secretary* - Group Company Secretary

The following shall be members of CAPIC:

- GCFO (Chairperson)
- GCE (*ex officio*)
- Group Executive - Transnet Capital Projects
- Chief Executive Officers - TNPA, TPT, TFR, TRE and Pipelines
- Chief Information Officer
- Group Treasurer
- General Manager - Group Financial Planning
- Group Chief Supply Chain Officer

The GCE may at any time change the composition of this Committee or determine that a person other than the GCFO chair meetings of CAPIC.

The Committee may invite such other officers of the Group as it deems fit to be in attendance at CAPIC meetings.

24.6.3 Terms of Reference

CAPIC shall:

a) Ensure that investment in respect of capital projects is consistent with the strategic focus of the Group and deals with the business of the Group in an integrated manner;

b) Ensure that capital expenditure is in accordance with the budget and business plans approved by the Board;

c) Determine the factors that shall inform the prioritisation of any capital expenditure project over another;

d) Monitor the implementation of project plans to ensure that approved capital expenditure projects are carried out with minimum delays;

e) Review and amend, subject to the limitations of the Board approved budget, expenditure plans in respect of any project should it, as a result of any unforeseen and unavoidable circumstances, it be necessary to effect such amendment;

f) Ensure that in respect of each capital investment project proposed for consideration by CAPIC, certification is given that there was proper compliance with applicable processes relating to amongst others, risk management and that such projects reflect optimum value for money; and

g) Conduct post-implementation reviews through, amongst others, external auditors, to determine, amongst other things, whether value has indeed been derived by the Group as a result of the relevant capital investment.

24.7 BOARD ACQUISITIONS AND DISPOSALS COMMITTEE (BADC)

24.7.1 Purpose

To ensure that the Board's composition and structure enables it to fulfil the obligations of the Board mandate and advance and maintain the Group's acquisition and disposal policies.

24.7.2 Composition

a) The Group Acquisition and Disposal Committee ("the Committee") is constituted as a committee of the Transnet Limited Board.

b) At least four directors of the Group shall be members of this Committee, the majority of whom must be independent non-executive directors. The GCFO and the GCE shall be ex officio members of the Committee.

c) The members of the Committee will be selected by virtue of their specific expertise or business focus, but with a preference to members with specific experience in procurement practices, law and finance. They must be capable of exercising sound, unbiased judgment in order to fulfil their duties.

d) The Secretary shall be the Group Company Secretary.

e) The remuneration of the Chairperson and Committee members will be determined by the Group Remuneration Committee and approved by the Board in accordance with the fee structure approved by the Shareholder.

The following shall attend by invitation:

a) The Group Chief Supply Chain Officer; and

b) Such other persons determined by the Committee, who may include, where deemed necessary by the Committee, members of senior management and independent acquisition and disposal experts.

24.5.3 Roles and Responsibilities

a) The Committee has an independent role, operating as an overseer of the acquisition and disposal function within Transnet. The Committee will also have the power to consider and approve acquisitions and disposals in terms of its mandate from the Board.

b) The Committee does not assume the functions of management, which remain the responsibility of the executive directors, officers and other members of senior management.

24.5.4 Authority

a) The Committee has authority to:-

(i) have access to any information it needs to fulfil its responsibilities;

(ii) seek independent advice at the Group's expense, subject to Transnet's procurement policies and procedures;

(iii) have direct access to any executive of the Group or its subsidiaries; and

(iv) make amendments to the mandate subject to approval by the Transnet SOC Ltd Board.

b) The Committee may form, and delegate authority to, committees and may delegate authority to one or more designated members of the Committee.

c) The Committee shall make the recommendations to the Board that it deems appropriate on any area within the ambit of its terms of reference where action or improvement is required.

24.5.5 Terms of reference

The Committee shall:

a) Oversee an annual review of Transnet's Procurement Procedures Manual and the Construction Procurement Policy, Processes, Procedures and Methods within Transnet Capital Projects and ratify any amendments thereto;

b) Pre approve bids within its delegated authority up to the maximum of investment decision/budget, before the bids are issued to market. This includes acquisition and disposal of movable and immovable property, capital investments, operational expenditure, the provision and acquisition of Services, maintenance, refurbishment and the establishment of infrastructure, purchasing of fuel, but excludes guarantees, indemnities and securities;

c) Monitor trends in general procurement spend;

d) Monitor trends in SD spend and progress on plan (includes support of National Growth Plan, SD, preferential procurement, and Enterprise development);

e) Monitor compliance with PFMA and related supply chain management norms and standards and advise the Board of potential risks in relation to irregular as well as Fruitless and Wasteful Expenditure emanating from procurement practices;

f) Consider strategic acquisitions and disposals and make recommendations to the Board;

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g) Consider, for recommendation to the Board, potential private sector participation models;

h) Approve, where so delegated by the Board of Directors, the award of bids in accordance with the Company's Delegation of Authority Framework. The Committee may approve modifications to bid awards where the cumulative value of the contract plus the modification does not exceed the limits of its delegation of authority as stated in the Delegation of Authority Framework document.

i) In considering the approval of a bid or Confinement, the Committee shall have regard to any recommendation made by the relevant AC or senior official within Transnet.

j) The Committee shall submit a list of all bids falling within its delegated authority and approved by it to the Board for information purposes only. With regards to matters above its maximum threshold, it will consider such matters in the normal manner, and then make a recommendation to the Transnet Board.

k) When considering any Bid or any amendments thereto, the Committee may:-

(i) investigate any activity within its Mandate;

(ii) ask questions and request information or advice from any person;

(iii) request any employee to appear before the Committee;

(iv) refer the submission back for reconsideration;

(v) note matters presented to it for information, and/or offer comments; and

(vi) reserve a decision pending further information or clarification of a specific matter.

l) The Committee shall also approve disposals in line with the Delegation of Authority Framework document.

24.6 INTEGRATED SUPPLY CHAIN MANAGEMENT (ISCM)

24.6.2 Composition

Using best practice principles, and undertaking a collaborative approach across all ODs and Group, an integrated 'one supply chain management (iSCM)' strategy and operating model has been developed with centre led Centres of Excellence (COEs) with cross-functional teams, comprised of divisional and corporate task team members, to deliver value through improved efficiencies and compliance to the regulatory environment. The iSCM Governance hierarchy is depicted in the flow chart below:

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Supply chain governance structures

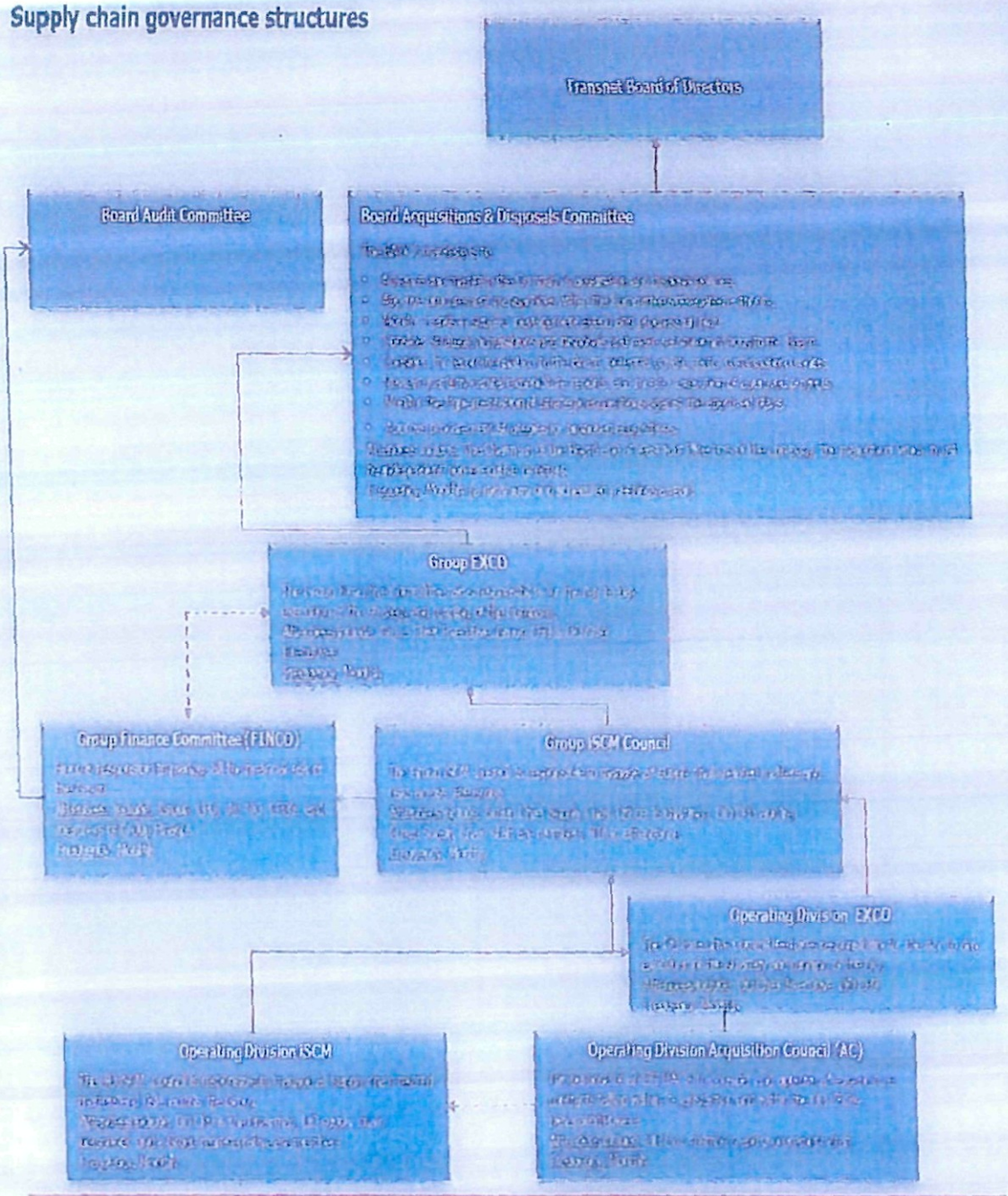

Figure [38] – iSCM Governance hierarchy

24.6.3 Centres of Excellence

a) Centres of Excellence (COEs) are cross-divisional teams focusing on a particular functional area. They focus on tactical issues relating to the functional area, and are aimed at identifying and leveraging on the areas of excellence in Transnet. Key strategic objectives will be executed through the COEs with a risk mitigation plan supported by Enterprise Risk Management (ERM).

The current COEs within iSCM are as follows (*Figure [39]*):

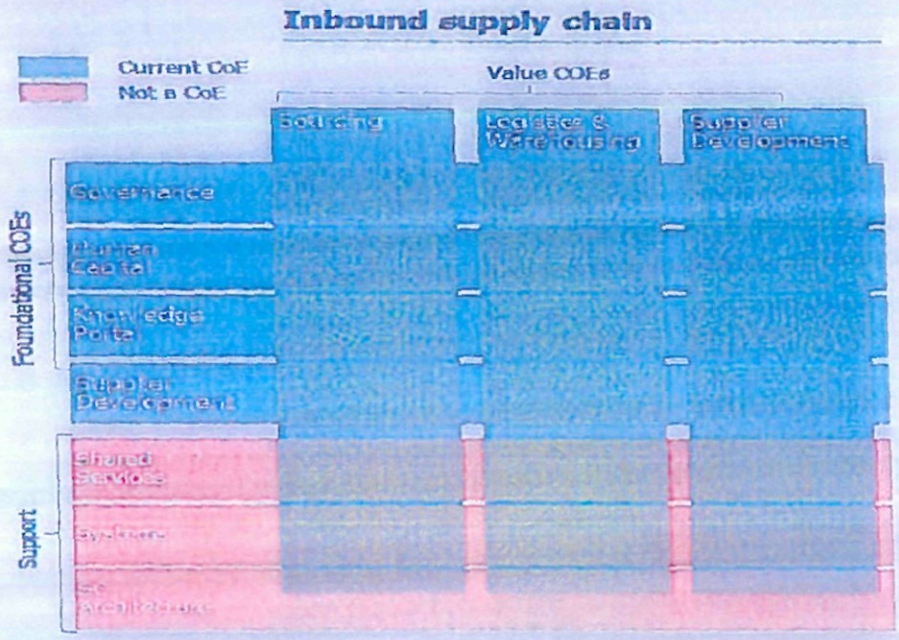

Figure [39] – Centres of Excellence

24.6.4 Integrated Supply Chain Management (ISCM) Strategic Themes

The following are the key strategic iSCM themes:

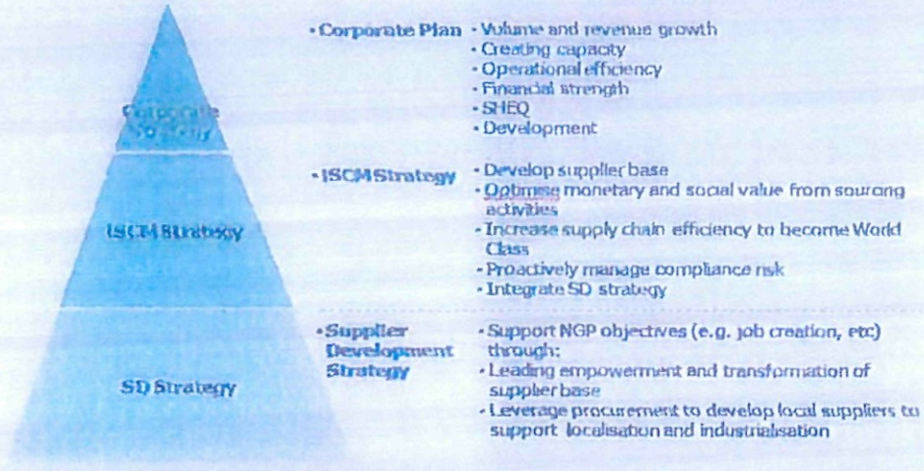

Figure [40] – iSCM themes

24.6.5 Group iSCM Governance

The Group iSCM governance function is the author and custodian of the Transnet Supply Chain Policy and the PPM.

Some of its key functions are to:-

a) issue and review the Transnet Supply Chain Policy and PPM (including standard bid documents and templates);

b) monitor correct interpretation/adherence to policies and control measures in collaboration with audit;
c) conduct research and development applicable to compliance;
d) maintain the iSCM Transnet Intranet as well as update the external website in respect of procurement policies, procedures and bid related matters;
e) continuously build capacity at OD level;
f) administer Transnet's List of Excluded Bidders; and
g) provide assistance and expertise on all governance related issues.

24.6.6 Role and Function of Group Chief Supply Chain Officer (GCSCO)

The GCSCO is the head of the Group iSCM Function. He/she is responsible for the whole of the supply chain function within the Transnet Group. Although the OD CPOs report directly to the OD CEOs, collaboration and synergies between the relevant supply chain functions are achieved via the iSCM Council. This forum meets at predetermined intervals and has representation from all the OD CPOs.

Apart from chairing the iSCM Council, the GCSCO is responsible to vet and recommend all supply chain related submissions requiring Group approval (e.g. confinements, condonations, new contracts and amendments exceeding the DoA of the OD CEOs).

24.6.7 Terms of Reference of the iSCM Council

Group iSCM has been mandated to effectively integrate all supply chain management (SCM) activities across Transnet's core businesses, to ensure that the efficiency and effectiveness of doing business in South Africa is drastically improved through SCM best practices. The iSCM Council is a structure set up to ensure that the iSCM mandate is carried out effectively and efficiently.

The Council will develop the Supply Chain Management Strategy for Transnet, based on consolidation of the individual ODs critical paths.

The Council will ensure alignment of all Operating Divisions' SCM functions in terms of:

- Processes and Procedures;
- Systems;
- Human Capital Development;
- Strategic Sourcing;
- Contract and Supplier Management;
- Capital Procurement;
- Demand Planning & Management;
- Warehousing and Logistics Management;
- Policy, Governance and Standards; and
- Knowledge Management.

The Council will also ensure a uniform strategy with regard to Broad-Based Black Economic Empowerment. It will drive the implementation of B-BBEE initiatives with regard to Preferential Procurement and Enterprise and Supplier Development in terms of the Government's New Growth Path strategy, to ensure that Transnet's obligations in terms of these important issues are met.

In addition, the Council will be the custodian/guarantor of world class standards in supply management, professionalism, ethics and the proper implementation of related policies and procedures throughout Transnet. It will also identify commodity groups where standardisation across the Transnet Group, or the consolidation of spend on commonly used Goods and Services can lead to financial and other benefits for Transnet as a whole – transversal contracts.

TRANSNET-REF-BUNDLE-03182

24.6.8 Composition of iSCM Council

The Forum will consist of the following members:

- Group Chief Supply Chain Officer, (Chairperson)
- Executive Manager (Supply Chain)
- Executive Manager (Strategy & Execution)
- Executive Manager (Supplier Development)
- Executive Manager (Strategic Sourcing)
- Executive Manager (Governance)
- CPO – Transnet Freight Rail
- CPO – Transnet Engineering
- CPO – Transnet Port Terminals
- CPO – Transnet National Ports Authority
- CPO – Transnet Pipelines
- CPO – Transnet Capital Projects
- CPO - Transnet Properties
- CPO – Transnet Corporate Centre

The following Managers will attend meetings of the Forum on an ex officio basis as and when required:

- All COE Leads.
- Manager: Policy, Governance & Standards, iSCM.
- Manager: Compliance & Risk, iSCM
- Manager: Contracts, iSCM.

For the complete iSCM Council Terms of Reference please refer to the Group iSCM Intranet website)

24.6.9 Role and Function of the Chief Procurement Officers (CPOs)

The CPOs of the Transnet ODs are the heads of procurement (see Section A, Chapter 6, for the role's detailed delegation).

He/she is also responsible for the day-to-day procurement activities of the OD. The role of the CPO is also to ensure that the procurement function runs according to accepted world best practice and that optimal value is achieved when procuring Goods/Services for his/her OD.

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EXHIBIT 12 1295

TRANSNET

Transnet SOC Ltd

Supply Chain Policy

Policy Reference Number	TG/iSCM I5/1P
Version Number	3
Effective Date	To be advised 1/10/2013
Review Date	Annually
Policy Owner	Group Chief Supply Chain Officer
Signature	
Policy Sponsor	Group Chief Financial Officer
Signature	17/09/13.
Date Approved	SEPTEMBER 2013

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Stakeholders

	Name	Designation	Approval Signature	Date	E-Mail	Contact Number
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Other Stakeholder Involvement						
Human Capital(Incl. Labour Consultation)						
IT						
"Other"(Please specify)						

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Recommended by Policy Owner and Policy Sponsor:

I hereby acknowledge that a search has been conducted and that the Policy is not duplicated or in conflict with any other Transnet Policies.

	Name	Designation	Approval Signature	Date	E-Mail	Contact Number
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Final Approval

_____

Transnet Board of Directors

_____

Date Approved

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Transnet Supply Chain Policy

Summary of Version Control

Version Number	Effective Date	Summary of Changes
3	To be advised	Policy amended to • align to the latest version of the policy template • include specific reference to the manner in which Transnet will deal with Capital Procurement • comply with the Preferential Procurement Policy Framework Act No. 5 of 2000, its Regulations & Instruction Notes

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PREAMBLE

1. This document lays down Transnet's Supply Chain Policy ("The Policy"). It establishes the policy framework within which the acquisition of all goods, services and works are to be procured within Transnet. Care has been taken to make sure that it is consistent with Transnet's vision, corporate strategy, other Transnet policies and pertinent national legislation. However, where inconsistencies arise it shall be reviewed to ensure alignment.

BACKGROUND

2. According to Section 217 of the South African Constitution,

> (1) 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 or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
>
> (2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for;
>
> *(a)* categories of preference in the allocation of contracts; and
>
> *(b)* the protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination;
>
> (3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

3. Transnet shall apply section 217 of the Constitution of the Republic of South Africa, (Act No 108 of 1996, as amended) by contracting for goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

4. Transnet shall reform all its procurement activities in order to align them in an integrated manner with national developmental goals, relevant legislation that enforces the goals and relevant governmental supply chain management approaches that are cost-effective. Transnet shall also provide for a preferential procurement system in line with the Constitution and the Preferential Procurement Policy Framework Act No. 5 of 2000 (PPPFA).

PURPOSE

5. The aim of this Policy is to ensure that Transnet obtains value for money in the procurement of goods and services in order to fulfil its mandate while redressing the economic imbalances that have been caused by unfair discrimination in the past. Additionally, Transnet must enhance the overall effectiveness of the procurement system and thus carry out its procurement processes as cost-effectively as possible while meeting its commercial, regulatory and socio-economic goals.

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5.1. Implementation of the policy must therefore result in the following outcomes:

- a constant supply of goods and services that Transnet requires to fulfil its mandate, and
- reduction in economic imbalances that have been caused by unfair discrimination of certain persons or groups of persons in South Africa.

DEFINITIONS

6. **"Acquisition Council" (AC)** The main Acquisition Council of an Operating Division, Specialist Unit or Business. Unless specifically stated otherwise "AC" also includes sub-Acquisition Councils operating under the auspices of the ACs and which caters for transactions falling below the minimum threshold of the main AC.

7. **"B-BBEE"** Broad-Based Black Economic Empowerment.

8. **"Bid"** A written offer in a prescribed form in response to an invitation by Transnet for the provision of Services, works or Goods, through price quotations, advertised open bids, approved lists, confinements or proposals.

9. **"Bidder"** Any person/Enterprise which has submitted a Bid to Transnet.

10. **"EME"** Exempted Micro Enterprise as defined in the BBBEE Act, No. 53 of 2003, as amended with an annual turnover of below R5 million.

11. **"FEL"** Front End Loading.

12. **"Local Content" (LC)** The portion of the Bid price or quotation which is not included in the Imported Content, provided that local manufacture does take place.

13. **"QSE"** Qualifying Small Enterprise as defined in the BBBEE Act, No. 53 of 2003, as amended with an annual turnover of between R5 million and R35 million.

14. **"Supplier Development"** The Supplier Development (SD) Programme is an initiative of the Department of Public Enterprises (DPE) supported by Transnet. The aim of SD is to increase the competitiveness, capability and capacity of the South African supply base where there are comparative advantages and potential for local or regional supply. This can be achieved through skills transfer, as well as building new capability and capacity in the South African supply base. In addition, SD has its roots grounded firmly around the transformation of South Africa and the empowerment of previously disadvantaged individuals and enterprises.

SCOPE

15. The Policy is applicable to all procurement activities at Transnet. The Policy will apply to Transnet and all its Operating Divisions and Specialist Units. The Policy is intended to

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cover all Transnet subsidiaries, affiliates or joint ventures where Transnet has a controlling interest. The principles outlined in the Policy are applicable to all procurement transactions, regardless of their nature or value.

CAPITAL PROCUREMENT / INFRASTRUCTURE

16. Transnet's planned capital expenditure forms the bulk of Transnet's procurement spend. As a result, Transnet shall ensure that most of its Capital Expenditure results in the creation of enterprise development opportunities as well as long term and sustainable job opportunities.

    16.1. Expansion, operation and maintenance of Transnet's ports, rail and pipelines infrastructure presents a major opportunity for job creation. The provision of infrastructure also serves to enhance efficiency across the economy, laying the basis for stepped-up growth and employment creation in every industry. It can also significantly advance social equity goals and address inequalities in the society.

    16.2. Transnet has adopted the Project Lifecycle Process (PLP) as the standard methodology for the development and execution / implementation of all its capital projects. The various phases of the PLP are detailed below:

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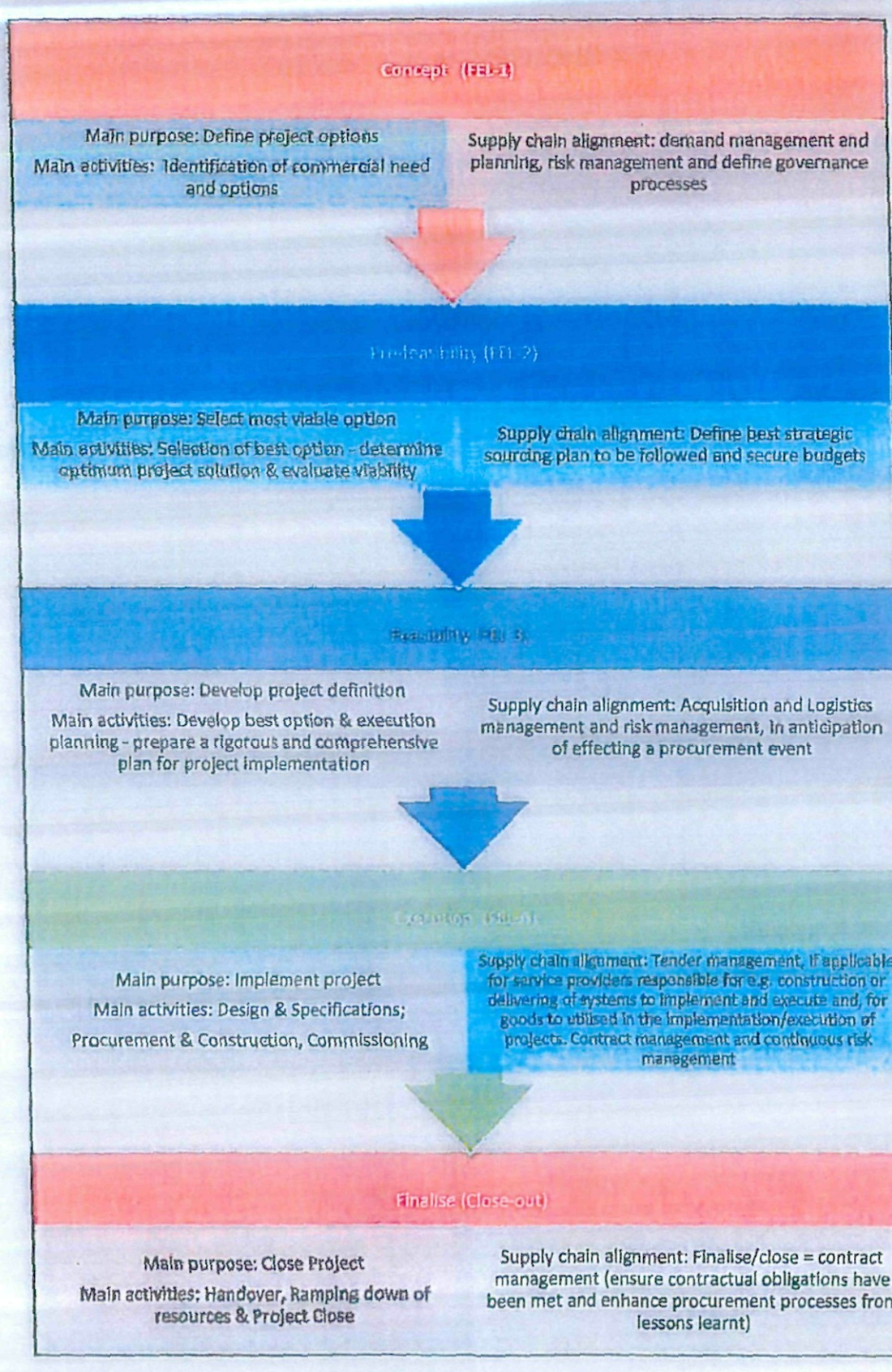
Concept (FEL 1)
Main purpose: Define project options
Main activities: Identification of commercial need and options
Supply chain alignment: demand management and planning, risk management and define governance processes
Pre-feasibility (FEL 2)
Main purpose: Select most viable option
Main activities: Selection of best option - determine optimum project solution & evaluate viability
Supply chain alignment: Define best strategic sourcing plan to be followed and secure budgets
Feasibility (FEL 3)
Main purpose: Develop project definition
Main activities: Develop best option & execution planning - prepare a rigorous and comprehensive plan for project implementation
Supply chain alignment: Acquisition and Logistics management and risk management, in anticipation of effecting a procurement event
Execution (FEL 4)
Main purpose: Implement project
Main activities: Design & Specifications;
Procurement & Construction, Commissioning
Supply chain alignment: Tender management, if applicable for service providers responsible for e.g. construction or delivering of systems to implement and execute and, for goods to utilised in the implementation/execution of projects. Contract management and continuous risk management
Finalise (Close-out)
Main purpose: Close Project
Main activities: Handover, Ramping down of resources & Project Close
Supply chain alignment: Finalise/close = contract management (ensure contractual obligations have been met and enhance procurement processes from lessons learnt)

Policy Statement

16.3. Where necessary an Engineering, Procurement and Construction Management (EPCM) service provider will be appointed at FEL-1. It is not necessary that the same EPCM service provider be utilised over the entire lifecycle of the PLP. However, the same service provider is generally utilised for FEL-2 to FEL-4 in order to minimise the risk to Transnet. In such instances management is required to demonstrate why the same EPCM service provider is required for all FEL phases, e.g the need for an integrated approach. The selection of an EPCM service provider must follow an open, competitive process. Furthermore, there must be a strong emphasis on the creation of Joint Ventures (JVs) and/or sub-contracting to accelerate transformation.

16.4. Transnet shall ensure that procurement of construction related works, goods or services for expansion of its ports, rail and pipelines infrastructure happens in a manner that creates sustainable jobs for South Africans. Procurement of operation and maintenance services of the infrastructure shall be done in a manner that supports sustainable job creation particularly among the previously disadvantaged members of the South African society.

COMPETITION

17. It is imperative that Transnet ensure vigorous competition, particularly with regard to infrastructure projects, in order to ensure that it obtains value for money for the goods, services or works it procures. When competition is curtailed, for example through bid rigging, the constitutional principles of fairness, competitiveness and cost-effectiveness are undermined.

Policy Statement

17.1. Transnet shall ensure, through its procedures and bid documentation that all bidders not only in relation to infrastructure projects, but all procurement activities, commit to avoiding all anti-competitive practices including collusive bidding.

17.2. Furthermore, Transnet shall not tolerate any collusive practices by requiring bidders to declare whether they have recently been found guilty of such practices and instituting blacklisting proceedings against such bidders.

PROCUREMENT PRINCIPLES

18. All Transnet's procurement activities shall be implemented in line with the following best practice principles:

- Fairness and Transparency:
  - equal treatment of bidders
  - openness and accountability

- ethical conduct

- Social Equity:
  - Broad-Based Black Economic Empowerment (B-BBEE) and preferential procurement

- Value for money:
  - competitiveness
  - cost effectiveness

POLICY STATEMENTS

Transnet as a Public Entity

19. In a free market economy, allocation of resources is determined by the principles of demand and supply. Free market economies can range from hypothetically pure "laissez-faire" variants to an assortment of real-world mixed economies. In a mixed economy government can intervene and offer products and services that the private sector is not able to offer. Government can also intervene in order to regulate certain economic activities that may hamper overall economic growth or to direct economic activity to follow a particular direction. South Africa is a unique type of a mixed economy given its history of apartheid where the majority of citizens were deliberately discriminated against. As a result, government has adopted the concept of a "developmental state", which means that government can intervene in the economy in order to influence economic activity in a direction that redresses economic imbalances caused by apartheid.

Policy Statement

19.1. Transnet is a form of government intervention in the South African economy. This means that Transnet has to follow government's development agenda. Therefore, given its nature as a public entity, Transnet commits itself to the prescripts of Section 217 of the Constitution and shall undertake all its procurement activities in a manner that protects and advances persons, or categories of persons disadvantaged by unfair discrimination, whilst at the same time undertaking procurement in a manner that is fair, equitable, transparent, competitive and cost-effective.

Value for Money

20. Value for money is the cornerstone of an effective public procurement system. It is therefore imperative that Transnet ensures that the goods and services that it procures are fit for purpose and are competitively priced, based on Total Cost of Ownership.

Policy Statement

20.1. Transnet shall promote open competitive bidding as its default procurement mechanism as this is the best means of obtaining value for money. All Transnet procurement shall be done in a way that ensures that Transnet obtains quality goods and services at competitive prices. Where possible, Transnet will look for

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opportunities to leverage economies of scale in its procurement activities e.g. by concluding transversal contracts for the entire Transnet Group.

Transformation and Empowerment

21. In order to address economic imbalances which have been caused by unfair discrimination, government developed the Broad-Based Black Economic Empowerment (B-BBEE) Policy. In order to implement the B-BBEE Policy, government developed the Black Economic Empowerment Strategy.

21.1. The Black Economic Empowerment Strategy is underpinned by four key principles:

- it is broad-based;
- it is an inclusive process;
- it is associated with good governance; and
- it is part of the country's growth strategy.

21.2. Government uses a number of instruments to achieve Black Economic Empowerment, including a 'balanced scorecard' to measure progress made in achieving B-BBEE objectives by enterprises and sectors.

21.3. An analysis of Transnet's procurement in the past 16 years reveals a considerable effort that the company has made in advancing the objectives of Black Economic Empowerment through setting of B-BBEE conditionality as part of the criteria for tender award. Transnet also realizes the importance of using procurement as a tool to promote transformation particularly with regard to the promotion of Black Owned companies, Black Women Owned companies, etc.

Policy Statement

21.4. In evaluating and awarding tenders for procurement of goods and services, Transnet shall award preference points based on the B-BBEE scorecard which measures performance in the following areas:

- Ownership;
- Management Control;
- Skills Development;
- Employment Equity;
- Preferential Procurement;
- Enterprise Development; and
- Socio-economic Development.

21.5. In bidding for Transnet tenders, all domestic suppliers (with the exception of EMEs) shall be required to submit a B-BBEE certificate approved either by a Verification Agency accredited by the South African National Accreditation System [SANAS] or by Registered Auditors approved by the Independent Regulatory Board of Auditors [IRBA], in accordance with the approval granted by the Department of Trade and Industry showing the supplier's level of contribution towards B-BBEE objectives.

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21.6. Furthermore, Transnet will encourage bidding entities to form Joint Ventures (JVs) with black owned/black women owned or to sub contract a minimum percentage of a contract to black owned/black women companies.

21.7. Transnet shall also set B-BBEE targets in order to monitor and evaluate its performance towards achievement of B-BBEE objectives. The targets will be based on the applicable/relevant Sector Charters.

21.8. At contract negotiation stage, where appropriate, Transnet will request preferred bidders to submit a B-BBEE improvement plan as to how they will improve their B-BBEE status over the contract period. Transnet shall ensure that empowerment targets are monitored and evaluated throughout the contract.

21.9. Enterprise development is a key strategic enabler to unlocking opportunities for small enterprises through support contributing to their operational, financial stability and growth. Transnet shall conduct market analysis in order to identify opportunities for Enterprise Development.

Main Economic Sectors

22. Industrial policy and the IPAP form part of a larger set of inter-related policies and strategies, which make up government's NGP. It is an integral component of the NGP. The IPAP II constitutes a central tool in the NGP's job-creation strategy. It is anticipated that IPAP II 2012/13 – 2014/15 interventions will lead to significant job creation.

22.1. The key sectors that the IPAP II 2012/13 – 2014/15 focuses on are clustered into three groups:

- **Cluster 1** – Qualitatively New Areas of Focus
- **Cluster 2** – Scaled-Up and Broadened Interventions in Existing IPAP Sectors
- **Cluster 3** – Sectors with Potential for Long-Term Advanced Capabilities

22.2. The Preferential Procurement Regulations, 2011 require that an organ of state must, in the case of designated sectors, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content be considered. In the case of non-designated sectors, organs of state have the discretion to include minimum local content as a bid condition.

Policy Statement

22.3. Based on the guidance from IPAP II and in line with the PPPFA and Preferential Procurement Regulations, 2011, Transnet shall specify tendering conditions that will ensure that the objectives of localisation are achieved.

Unemployment, Poverty and Inequality

23. Despite significant development strides made in the past 16 years in many areas of the South African economy, South Africa still remains one of the most unequal economies in the world. Deep inequalities are associated with joblessness, social inequalities and the legacy of apartheid geography. In sum, the economy has not yet created sufficient employment for many South Africans.

Policy Statement

23.1. Transnet is fully committed to the objectives of the NGP and the IPAP II which aims to improve growth and employment conditions in South Africa. Transnet must be a major contributor to job creation. Therefore, Transnet's procurement shall focus consistently on areas that have the potential for creating employment on a large scale in order to contribute substantially to the national employment creation effort.

Rural/Regional Development

24. Part of Transnet's infrastructural network passes through rural areas of the country. This presents an opportunity for Transnet to procure goods and services in those areas. Procuring from rural suppliers will stimulate this relatively undeveloped sector of our economy, resulting in further employment creation. Furthermore, there are also opportunities to procure goods and services required in a particular region from suppliers of that particular region.

Policy Statement

24.1. Transnet shall explore opportunities to encourage the procurement of goods and services in rural/regional areas with the aim of creating employment.

Localisation of Supply, Economic Growth and Development Initiatives

25. The Department of Public Enterprises (DPE) has initiated a Competitive Supplier Development Programme (CSDP), the aims of which are indicated in Figure 1 below.

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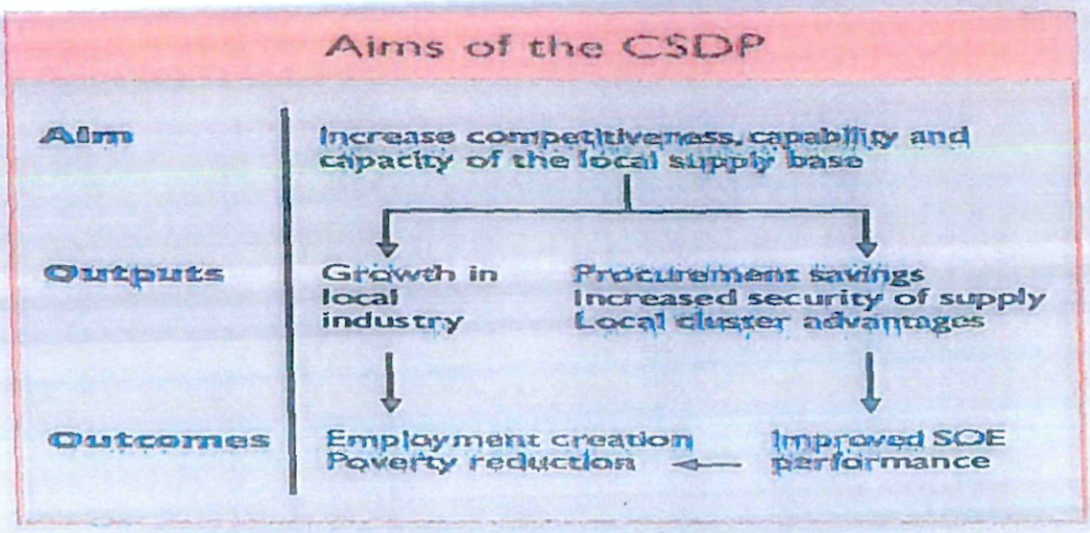

Source: Introduction to the Competitive Supplier Development Programme, Department of Public Enterprises, 2007

25.1. The CSDP consists of demand-side and supply-side measures aimed at increasing the competitiveness, capacity and capability of the local supply base. State Owned Companies (SOCs) are largely responsible for the demand-side measures. Industry and government are largely responsible for the supply-side measures.

25.2. On the demand side, the focus of the programme is on fostering a culture in the SOC that focuses on long term supply network development and win-win partnerships with suppliers to achieve best value for money over the product life-cycle rather than lowest initial cost.

25.3. The primary demand-side measures are:

a) the development by SOCs of supplier development plans which identify items for which local supply could be expanded or developed or improved, and

b) the use of planning, specification, procurement and strategic sourcing by SOCs as instruments to achieve the objectives in the supplier development plans and to create a conducive environment for the development of local supply networks.

25.4. The supply-side measures involve mobilising and providing support to the supplier industries targeted in the supplier development plans, to assist them to develop the capacity and capability to respond competitively to the SOC demand.

25.5. A healthy economy is one that is a net exporter. Exporting of goods is an indication that the economy has reached a significantly mature level of manufacturing and is thus able to meet both local and international demand for goods.

25.6. Despite improvements from 2005 to 2008, recent fixed investment in South Africa has been driven primarily by public capital expenditure of the SOCs and government and much of the tradable content of public infrastructure investment as well as other large components of public procurement are being imported. At the micro-economic level, the failure to adequately leverage public procurement represents a huge lost opportunity to resuscitate key sectors of the economy, raise their competitiveness and reposition them as exporting sectors of the future, such as the metal fabrication, capital equipment and transport equipment sectors. At the same time, South Africa is facing an unemployment crisis with unemployment levels being estimated at least 25 percent of the population. Improving entrepreneurial activity and elevating the role of small business in the country is critical to addressing this social challenge.

25.7. At a macroeconomic level, high levels of imports have a potential to increase the country's current account deficit that could lead to balance of payment problems, and as a result threaten the macroeconomic sustainability of SOCs and government CAPEX programmes.

25.8. Procurement within SOCs reflects a number of weaknesses:

- A number of large on-going procurement processes are conducted on an ad-hoc basis rather than on a long term basis. There is generally no long term procurement planning which seeks to achieve optimal procurement size and opportunities for domestic localisation and competitive supplier development.
- There is little alignment with key objectives such as industrial policy imperatives in particular and to a lesser extent B-BBEE.
- There is no alignment between industrial financing and public procurement.

26. The New Growth Path (NGP) is government's response to insufficient job growth and the need to accelerate employment creation, income growth and reduction of inequality and poverty. It focuses on promoting localisation, industrialisation, small business promotion, technology transfer and sustainability, upliftment of rural areas and regional integration as well as investment in plant and machinery locally.

26.1. The NGP knits together the Industrial Policy Action Plan (IPAP) II as well as policies and programmes in rural development, agriculture, science and technology, education and skills development, labour, mining and beneficiation, tourism, social development and other areas.

26.2. The NGP has identified six priority areas for job creation: infrastructure development, agriculture, mining, manufacturing, the "green" economy and tourism.

26.3. The NGP identifies a number of job drivers, led by agriculture, mining, manufacturing, tourism and other high-level services, which can create substantial employment. It proposes both sector interventions and a package of macro-economic and microeconomic policies designed to ensure that the economy becomes more competitive and more employment friendly. Government has set a target of creating 5 million jobs by 2020 through the NGP.

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Policy Statement

26.4. Transnet's procurement shall be conducted in a manner that is inclusive (through increased participation of SMMEs and black-owned firms in general) and builds industry capacity around its build programmes. Transnet shall identify programmatic/strategic procurement and develop long-term procurement and local content plans. Tender requirements shall include local procurement and supplier development which will also address the transformation agenda and aim to achieve industrialisation and localisation objectives.

26.5. In line with the supplier development requirements placed on SOCs by the DPE, Transnet has developed and will implement a supplier development plan in order to ensure local supply of goods and services.

26.6. The supplier development plan will aim to:

- increase procurement from black-owned firms;
- contribute to economic growth through employment creation, rural development and skills development (preferential procurement);
- provide achievable SD targets backed by an analysis of commodities with potential SD opportunities
- develop technologies locally and create sustainability;
- develop local small and medium industries in order to enable them to supply Transnet with high-quality, globally-competitive goods and services (enterprise development);
- improve the quality, efficiency and cost-effectiveness of services provided by Transnet, as a result of it obtaining more competitive goods and services from local suppliers;
- improve the competitiveness of Transnet as a result of procurement savings from engaging innovative, responsive and more competitive suppliers;
- establish collaborative relationships with public and private entities to ensure sustainable supplier development/domestic procurement opportunities;
- utilise the SD strategic approach to focus on OEM/Multinational suppliers in order to influence them to engage lower tier black suppliers; and
- ensure that an effective monitoring, evaluation and reporting system is in place to maximise SD value.

26.7. Transnet shall put in place a pre-tender process in relation to strategic procurements with the following elements:

- A detailed breakdown of demand, identifying, *inter alia*, areas of repeat procurement and opportunities for standardisation.
- A detailed supply analysis which identifies existing domestic supply capacity and transformation/empowerment opportunities.
- A gap analysis which identifies areas for domestic procurement based on both existing capacity and capacity that can be built through active supplier development.
- Inclusion up-front in the tender of domestic procurement requirements and transformation/empowerment.

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26.8. In terms of the Regulations issued in terms of the Preferential Procurement Policy Framework Act 5 of 2000, Transnet shall also apply a stipulated minimum threshold for local production and content in designated and non-designated sectors to eliminate the practice of "import fronting". In such instances, only suppliers providing domestically produced goods and services will be considered.

The Green Economy

27. Business, labour and government have committed to building a green industrial base in South Africa by increasing investment in the green economy, enhancing renewable energy procurement, the development of bio-fuels, clean coal initiatives, promoting energy efficiency across the economy, waste recycling, reducing carbon emissions through improved public transport and a shift in moving freight from road to rail.

Policy Statement

27.1. Transnet's contribution to the green economy objectives shall be achieved through the concept of green procurement which is the purchase of environmentally friendly products and services. By setting environmental requirements in its RFP and contract templates, Transnet will ensure that it achieves this policy objective.

Social Economy

28. Companies can no longer do business for the sole purpose of making profit. If a company does not invest in the community within which it is located, its future sustainability will not be guaranteed. The outcomes of the World Summit on Sustainable Development (WSSD) held in 2002 in Johannesburg resulted in the Johannesburg Plan of Implementation (JPOI). One of the key outcomes of the WSSD and the JPOI is the establishment of public-private partnerships and other forms of partnership that give priority to addressing the needs of the poor. Specifically, it also endorses the notion that industry be encouraged to improve social and environmental performance through voluntary initiatives, and encourages dialogue between industry and communities. Governments are also encouraged to support these partnerships to help with the implementation of the JPOI's objectives.

Policy Statement

28.1. The outcomes of the WSSD have set a platform through which Transnet can use procurement to achieve sustainable development goals. Where feasible, Transnet shall, in bid documents, promote subcontracting and Joint Ventures with Small Micro Medium Enterprises (SMMEs) and with B-BBEE enterprises where the B-BBEE or SMME enterprises will be unable to fulfil all bid requirements itself due to the size or nature of the requirement.

POLICY IMPLEMENTATION

Implementation Strategy

29. Transnet's Supply Chain Management Unit shall develop a strategy for the implementation of the policy.

Systems

30. Transnet shall undertake a review of its current procurement implications for institutional arrangements in order to ensure development and implementation of an effective and efficient supply chain management framework/system for procurement of goods and services and the disposal of assets and goods that are no longer needed. The supply chain system for procurement of goods and services and the disposal of assets must be fair, equitable, transparent, competitive and cost-effective. The framework/system shall include at a minimum the following aspects:

- Demand management and Planning;
- Acquisition management;
- Contract management
- Logistics management;
- Disposal management;
- Risk management; and
- Regular assessment of supply chain performance.

30.1. **Demand Management and Planning**

Business has a clear understanding of the possible sourcing and supplier development initiatives that a transaction could offer by understanding at the onset what is required. It is thus important for iSCM to integrate with business users earlier to fully understand the potential opportunities that may exist. The identification of sourcing and SD opportunities occurs too late during the sourcing process and needs to be addressed from the outset of the planning phase. SD needs to be incorporated into the "business as usual activities" as opposed to being viewed in isolation as this decreases the value that can be derived from the available opportunities.

30.2. **Acquisition Management**

The system being put in place must also provide for:

- Bidding procedures;
- The establishment, composition and functioning of bid specification, bid evaluation and bid adjudication committees;
- Selection of bid committee members;
- Adjudication of bids through a bid adjudication committee; and
- Approval of bid evaluation and/or bid adjudication committee recommendations.

The system must have the minimum of the supply chain management system aspects reflected below prescribed by government customised to Transnet's procurement environment.

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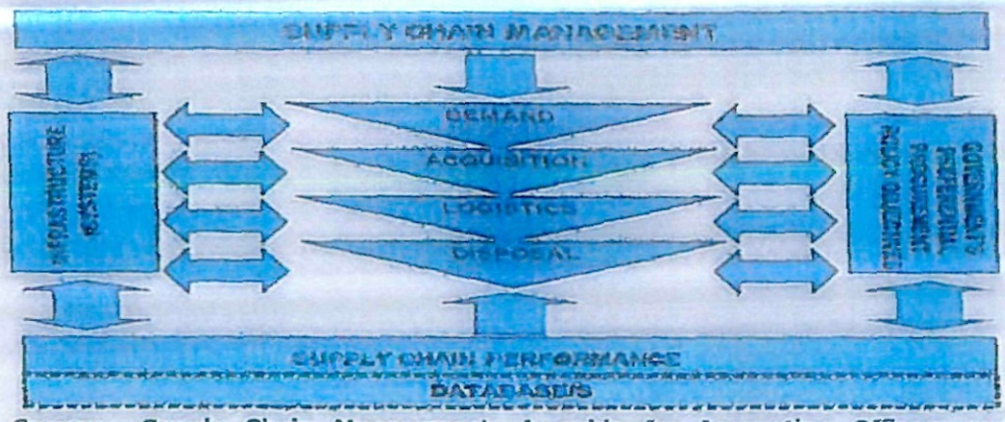

Source: Supply Chain Management: A guide for Accounting Officers and Accounting Authorities, Treasury

In addition, Transnet will introduce e-procurement tools in line with national and international best practice and make use of best of breed systems so as to ensure efficient and effective supply chain processes are in place.

30.3. **Contract management**

Transnet will ensure that policies and procedures exist for the Contract Management process and are standardised across Transnet. Contract management will be planned adequately and efficiently to enable Transnet to achieve its business objectives. Contracts will be managed in a manner that ensures that all goods and services are properly and efficiently delivered against the agreed standards and targets set out in the contract. Transnet will ensure that it effectively and efficiently manages and maintains all supplier relationships. All contracts will be adequately retained and maintained on SAP or filed manually. Transnet will ensure that all contracts have been properly approved, finalised and archived.

30.4. **Logistics management**

Transnet will ensure that Inventory is re-ordered promptly, at an appropriate level, to ensure availability when required. Material items will be appropriately defined and set-up with correct specifications. Transnet will implement appropriate controls to ensure that inventory is appropriately safeguarded and secured.

30.5. **Disposal management**

Transnet will ensure fairness and diligence in the conduct and accounting of all scrap disposal business practices that are adopted and will ensure that all processes are supported by duly documented, approved and accessible policies and procedures.

30.6. **Risk management**

Transnet has adopted the Enterprise Risk Management (ERM) methodology in managing risk within iSCM. iSCM will ensure continuous identification, assessment, mitigation and management of risks on a regular basis in order to deliver on its mandate.

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30.7. **Regular assessment of supply chain performance**
Refer to paragraph 37 below on Compliance Monitoring and Evaluation.

Policy Implementation Procedures

31. The current Transnet Procurement Procedures Manual shall be regularly reviewed in order to ensure alignment with this policy.

Evaluation methodology

32. The standard evaluation methodology that is followed within Transnet is depicted in Annexure A.

Skill Capacity of the Supply Chain Management Team

33. Transnet shall ensure that the current staff and newly recruited staff are well qualified and trained to ensure successful implementation of the Policy.

Roles and Responsibilities

34. The roles and responsibilities for this policy is as follows:

Accountable	: Group Executives and Chief Executive Officers
Responsible	: General Managers and Senior Managers
Informed	: All Employees involved in Supply Chain activities
Supports	: All departments involved/interacting with Supply Chain
Monitors & maintains	: Group Integrated Supply Chain Management
Policy Owner	: Group Chief Supply Chain Officer
Policy Sponsor	: Group Chief Financial Officer

35. The roles and responsibilities of all the structures hereunder are defined only from the perspective of Supply Chain Management.

35.1. **Board Acquisitions and Disposals Committee (BADC)**

The Transnet Board comprises of Board members appointed from time to time by the Minister of Public Enterprises. For the acquisition and disposal of Transnet assets, the Board has delegated powers to the BADC. The Committee must have and maintain:

(i) An appropriate Supply Chain Management system, which is fair, equitable, transparent, competitive and cost-effective; and
(ii) Effective, efficient and transparent systems of financial and risk management and internal control.

The BADC members must:

(i) Act with fidelity, honesty, integrity and in the best interest of the Transnet in managing its financial affairs, including the avoidance of conflict of interest and provide safeguards against favouritism, improper practices and opportunities for fraud, theft and corruption;
(ii) Prevent any prejudice to the financial interests of Transnet or the State;
(iii) Take effective and appropriate steps to prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct and expenditure not complying with the operational policies of Transnet;
(iv) Ensure that expenditure of Transnet is procured in accordance with the approved budget; and
(v) Approve certain bids not delegated to any other Acquisition Council.

The BADC may delegate powers and duties or instruct specific officials in Transnet to perform any of the duties assigned to it.

35.2. Group Chief Financial Officer (GCFO), Group Chief Supply Chain Officer (GCSCO) and Chief Procurement Officer (CPO)

The GCFO/OD CFO, GCSCO and OD CPO shall ensure that an effective internal monitoring system is in place and implemented in order to determine that the outlined processes are being adhered to and the expected deliverables are being achieved.

The GCFO and GCSCO must report to the BADC at prescribed reporting times on the following aspects among others:

- Total procurement spend as well as procurement strategies;
- Performance relating to B-BBEE targets;
- Performance in relation to the SD Programme including the NGP;
- Process disputes and information regarding deviation of processes followed; and
- Any other pertinent information required on tenders, procurement policies and procedures.

35.3. iSCM Council

iSCM Council members shall ensure that the Policy is implemented uniformly across all Transnet Divisions.

35.4. Acquisition Councils

Acquisition Council members shall ensure that procurement processes are aligned to the Policy across the various Transnet Divisions.

35.5. Specific Officers' Roles and Responsibilities

Specific officers' roles and responsibilities shall be aligned with Transnet's effective Delegation of Authority Framework.

RELATED INFORMATION AND REFERENCE

36. This policy should be read in conjunction with the following supporting guidelines:

36.1. **Internal Documents:**

- Code of Ethics
- Declaration of Interest and Related Party Dislosures Policy
- Gifts Policy
- Delegation of Authority Framework
- Broad Based Black Economic Empowerment Policy
- Group Compliance Policy
- Counterparty Risk Management Policy
- Procurement Procedures Manual
- Contract Management Policy

36.2. **External Documents**

Applicable government policies including:

- The New Growth Path
- Local Procurement Accord
- Industrial Policy Action Plan

36.3. **Regulatory Requirements:**

Transnet recognises the importance of complying with all applicable regulatory requirements as reflected in the Transnet regulatory universe. Transnet's procurement activities are guided by various pieces of legislation and regulations. Transnet shall ensure full compliance with all legislation that is pertinent to its functions, in particular relevant procurement legislation. Specific reference is made to:

- The Preferential Procurement Policy Framework Act No. 5 of 2000;
- The Public Finance Management Act No. 1 of 1999;
- The Promotion of Administrative Justice Act No. 3 of 2000;
- The Broad-Based Black Economic Empowerment Act No. 53 of 2003 and Codes of Good Practice; and
- The Construction Industry Development Board Act No. 38 of 2000.

Ethics

37. Transnet's Code of Ethics sets ethical standards for business practice and individual business conduct. It assists all Transnet stakeholders with their ethical deliberations and decisions. The objective of the Code of Ethics as it relates specifically to the Supply

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Chain environment is to set the standard by which all Transnet Board members and employees (including employees employed on fixed term contracts and temporary employees) are expected to act when engaging in any supply chain related activities. This will earn Transnet the reputation of being:

a) transparent and fair in all dealings and disclosures;

b) politically unbiased;

c) committed to providing quality products and services;

d) proud of its integrity and credibility;

e) consistent in honouring its social, legal and moral obligations;

f) responsible and accountable; and

g) reliable and aware of the need to foster loyalty and long enduring relationships with all its stakeholders.

38. All Transnet employees should uphold the following key values:

a) treat people with respect and dignity;

b) act with integrity and professionalism at all times;

c) be honest;

d) be committed and dedicated to high quality performance;

e) be customer orientated;

f) be fair;

g) respect and maintain the confidentiality of sensitive information gained through association with Transnet;

h) maintain accurate, honest and complete records in appropriate detail;

i) protect Transnet's assets;

j) treat all colleagues, customers and suppliers with respect and dignity and foster a productive environment free of harassment, intimidation and discrimination;

k) trust each other and be professional in conduct both within and outside the work environment such that the conduct will not reflect negatively upon Transnet's image and reputation;

l) refrain from using a position of authority and / or facilities provided by Transnet to further their own interests or that of friends and relatives;

m) desist from allowing personal interests to influence business decisions or tasks and disclose any actual or potential conflict of interest;

n) honour the content and spirit of all business transactions and do not abuse or harm Transnet's reputation or assets or interests;

o) be honest and transparent in all actions and promote a corporate image of integrity, honesty and stringent business ethics;

p) maintain an attitude of zero tolerance toward any form of bribery, corruption and inducements;

q) exceed internal and external customer expectations through superior service and quality in all tasks performed which is free of all prejudice and dishonesty;

r) listen to customers. Understand their needs and propose customized solutions and services that meet their requirements;

s) respect and maintain the confidentiality of sensitive information gained through association with Transnet;

t) maintain all records in appropriate detail, and conform to the application of regulations and to Transnet's internal control systems;

u) utilise Transnet's assets for work purposes and not for personal benefit; and

v) not expose Transnet's assets to loss, damage, misuse or theft.

COMPLIANCE MONITORING AND EVALUATION

39. Monitoring involves the systematic, regular collection and analysis of information to identify and possibly measure changes over a period of time. Monitoring is a management function that guides behaviour in the intended direction and to check performance against pre-determined plans. Monitoring involves watching the progress of a project against time, resources and performance schedules during the execution of the project and identifying lagging areas requiring timely attention and action. Monitoring involves the collection of data about what is happening.

40. Evaluation involves the analysis of the effectiveness and direction of an activity and involves making a judgement about progress and impact. Evaluation is about why things are happening. It looks at the long term effects of a project.

40.1. There are five criteria for evaluation:

(i) **Relevance** (Did the project solve the problem that was identified?)
(ii) **Efficiency** (Do the benefits of the project outweigh its costs?)
(iii) **Effectiveness** (Did the project achieve its intended objectives and outcomes?)
(iv) **Impact** (Has the project made any difference in the lives of the intended beneficiaries?)
(v) **Sustainability** (Will the project continue to give benefits long after the initial investment without having to invest more money into it?)

40.2. Monitoring and evaluation are done in order to:

- Assess results to find out if and how objectives are being met and resulting in desired changes;
- Improve management and process planning;
- Promote learning;
- Ensure accountability; and

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- Inform policy analysis and development.

Policy Statement

41. Treasury Regulation 29.2.2 directs that:

> "The shareholder's compact must document the mandated key procedures for quarterly reporting to the Executive Authority in order to facilitate effective performance monitoring, evaluation and corrective action."

41.1. To this end, Transnet shall establish a monitoring and evaluation system in order to ensure overall performance monitoring and evaluation of the use of procurement as an economic transformation and developmental tool.

41.2. Development of the monitoring and evaluation system shall involve undertaking of a situational analysis of the supplier landscape in order to establish a baseline, development of performance indicators, identification of data sources and setting of performance targets on the basis of the baseline.

FINANCIAL IMPLICATIONS

42. An annual training programme will be implemented in order to ensure proper implementation of the Supply Chain Policy and Procedures. There is a budget of R590 000,00 available for this purpose.

EXCLUSIONS

43. There are no exclusions to this policy.

REQUEST TO DEVIATE FROM THE POLICY

44. In cases where material and compelling circumstances merit deviation(s) from particular provision(s) of a policy, written submissions shall be sent to the BADC, who shall have full authority to grant such request, in whole or in part, or to refuse same.

NON-COMPLIANCE

45. Breaches of this Policy will be seen in a very serious light. Employees who do not comply with the Policy may be subject to disciplinary action in terms of the applicable Transnet disciplinary processes and procedures.

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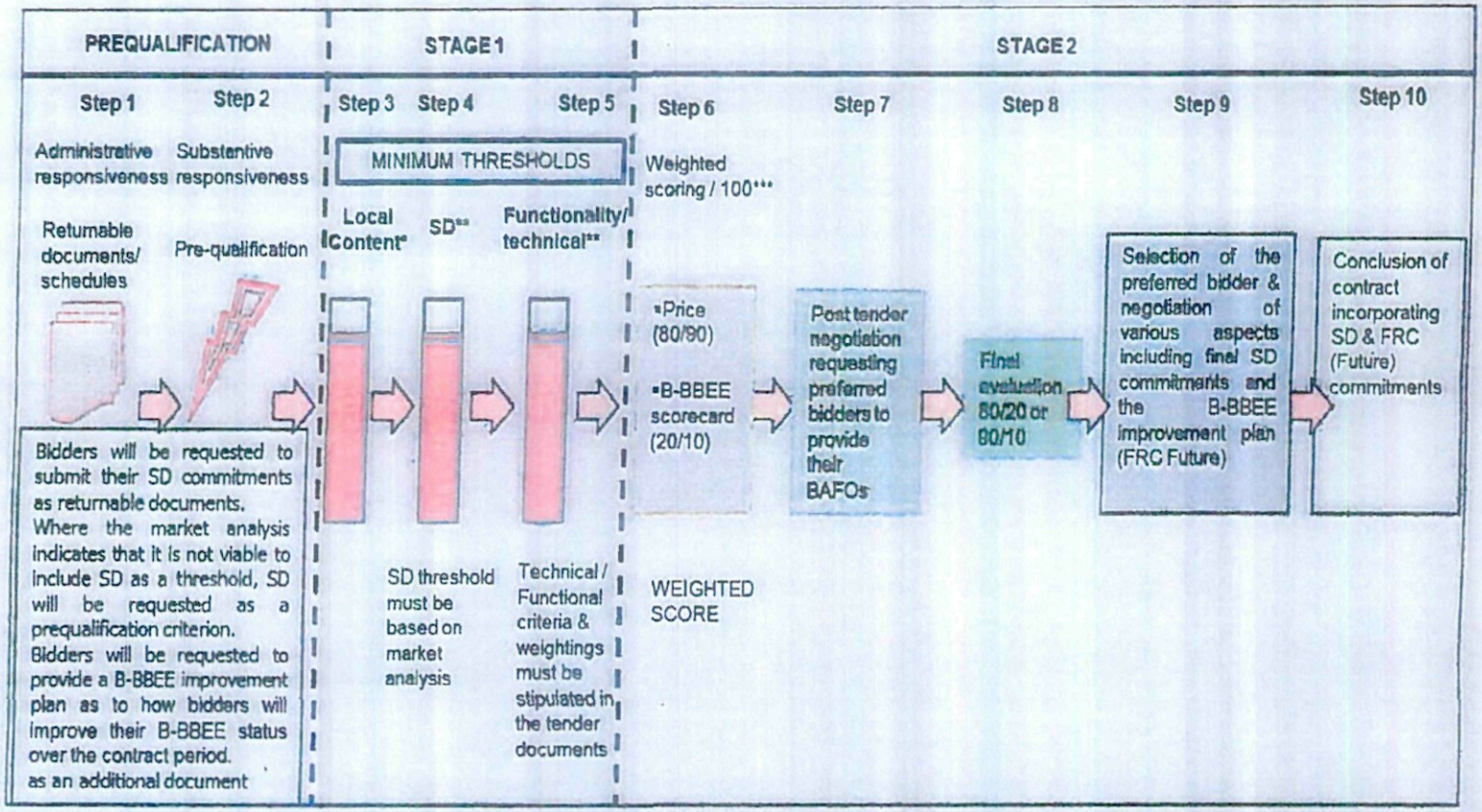
ANNEXURE A: EVALUATION METHODOLOGY



* Indicative stipulated minimum threshold as prescribed by National Treasury (if applicable). If the sector is not designated localisation must be incorporated into SD

** Indicative threshold , not prescribed (if applicable)

*** Point system dependent on value of transaction

EXHIBIT 13

1322

TRANSNET

ANNEXURE "B"

DELEGATION OF AUTHORITY FRAMEWORK

(EFFECTIVE FROM 1 SEPTEMBER 2014)

APPROVED BY THE BOARD OF DIRECTORS ON

28 AUGUST 2014

UNDER RESOLUTION 14/5/5

0058-0374-0001-0258

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1 Interpretation and Definitions

The following words and expressions bear the following meanings, unless the context indicates otherwise:-

1.1 **"Alternative Dispute Resolution" (ADR)** refers to the process of resolving disputes among parties without necessarily resorting to court action, although the agreements and outcomes may be legally binding. ADR processes include conciliation, mediation, adjudication and arbitration.

1.2 **"Board"** means the Board of Directors of the Company and includes the Board when it acts in the capacity as the Divisional Board of the deemed Authority under the National Ports Act No. 12 of 2005;

1.3 **"Board Reserved Matters"** means matters reserved by the Board as set out in Annexure "A "of the Delegation of Authority Framework approved by the Board.

1.4 **"CAPIC"** means the Capital Investment Committee, a committee of the Group Executive Committee which has been established to make decisions regarding capital expenditure;

1.5 **"CE"** means Chief Executive of an Operating Division;

1.6 **"Chairperson"** means the person who is appointed as the Chairperson of the Board as per the MOI;

1.7 **"Company"** means Transnet SOC Ltd including its Operating Divisions and Specialist Units, with registration number 1990/000900/30 and **"Transnet"** shall have a corresponding meaning;

1.8 **"Company Strategy"** means the strategy for the Company as approved from time to time by the Board;

1.9 **"Consultant"** means a person, or partners in a firm, or a company or a close corporation who can provide expert or specialised advisory skills, but excludes anyone who also carries out the physical work or provides the end product for Transnet based on his own professional or expert advice. Such consultancy service normally pertains to a specific project and therefore non-repetitive in nature and confined to design work, investigation, or advice on management, financial, business or technical matters;

In short, a consultant does not supply the ultimate end product, but merely gives a recommendation, based on his expertise, of the best solution to a specific problem. That proposed solution, if acceptable to Transnet, still has to be acquired, built or erected by another party and may or may not be connected with the consultant. Excludes any professional services procurement package included in the approved asset procurement package plan for and approved physical asset project.

1.10 **"Delegation of Authority Framework "** means this document, recording the nature and extent of authorities required in order to implement certain actions by or on behalf of the company, including any sub-delegation of authority where permitted and **"Delegation"** shall have a corresponding meaning;

1.11 **"FRMF"** mean Financial Risk Management Framework;

1.12 **"GCE"** means Group Chief Executive;

1.13 **"GCFO"** means Group Chief Financial Officer;

1.14 **"GCSCO"** means Group Chief Supply Chain Officer;

1.15 **"Group Executive Committee"** or **"Group Exco"** means the executive committee established to take responsibility for the day-to-day execution of strategy and running of the Company;

1.16 **"Group Executive (GE) or Group Executive nominee"** refers to the Group Executive responsible for the supporting business or his/her nominee;

1.17 **"Head of Legal" refers to the most senior employee with a Legal qualification in the respective Legal Department;**

1.18 **"International agreements"** means agreements which are required to be construed in accordance with the laws of a foreign jurisdiction including the neighbouring countries;

1.19 **"Memorandum of Incorporation"** or **"MOI"** means the constitutive documents of the Company, as amended;

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1.20 **"Neighbouring Countries"** means countries sharing a border with the Republic of South Africa;

1.21 **"Operating Divisions"** means the Operating Divisions of Transnet, namely, Transnet Freight Rail, Transnet Engineering, Transnet National Ports Authority, Transnet Port Terminals and Transnet Pipelines;

1.22 **"PFMA"** means the Public Financial Management Act 1 of 1999 (as amended), read together with its regulations' including Treasury Regulations;

1.23 **"Prescribed Officer"** means a person who, within a company, performs any function that has been designated by the Minister of Trade and Industry in terms of section 66(10) of the Companies Act, Act 71 of 2008, read with Regulation 38. Within the Company, members of Group Exco are designated Prescribed Officers;

1.24 **"Rental"** means money payable for the hire of movable and immovable property in terms of a lease agreement, but excludes the payment of operational expenses and costs.

1.25 **"Shareholder"** means the Government of the Republic of South Africa represented by the Shareholder Minister.

1.26 **"Shareholder Minister"** means the Minister of Public Enterprises as defined in the MOI;

1.27 **"Shareholder's Compact"** means the shareholder's compact being an agreement entered into pursuant to section 52 of the PFMA between the Shareholder representative and the Board from time to time;

1.28 **"Specialist Unit"** mean all business units of Transnet which have been deemed 'supporting businesses' in terms of the Company Strategy, these include Transnet Property, Transnet Foundation, Transnet Capital Projects and Transnet Corporate Centre. Where a Specialist Unit GE is not a member of the Group Exco, the Group Exco member responsible for such Specialist Unit shall sub-delegate powers to the Specialist Unit's GE;

1.29 **"Subsidiary"** means subsidiary as defined in the Companies Act 71 of 2008 (as amended) and Subsidiaries shall have a corresponding meaning;

1.30 **"Transnet"** means the Company with its Subsidiaries and Operating Divisions/Specialist Units as stated in clause 1.7 above.

1.31 **"Treasury Regulations"** means the regulations issued in terms of section 76 of the PFMA, amended from time to time;

1.32 **"Transnet Total Asset Base":** refers to the total value of the assets in Transnet and is set at the asset value indicated in the integrated report for the year; and

1.33 "VAT" means Value Added Tax. All amounts indicated in the document are exclusive of VAT.

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2 Scope

This Delegation of Authority Framework records the nature and extent of the authorities delegated by the GCE to certain employees and members of the Group Exco and other authorities delegated in order to implement certain actions by or on behalf of the Company. It includes, to the extent necessary and/or incidental thereto, the authority to discharge all of the duties, obligations and powers imposed upon the deemed Authority under the National Ports Act 12 of 2005.

3 Application

3.1 This Delegation of Authority Framework applies to all employees of the Company, including its Operating Divisions and Specialist Units. It does not apply to any of the Company's subsidiaries. The respective Boards of Directors of the Company will prepare the requisite delegations of authority for those subsidiaries.

3.2 The persons set out in clause 5 below are granted the power and /or authority to perform their functions and responsibilities subject to the limits of authority outlined in clause 5 below, provided that the exercise of such power and/or authority in terms of this delegation is not in conflict with the following:

- PFMA;
- Board Reserved Matters;
- Memorandum of Incorporation;
- Company Strategy;
- Shareholder's Compact;
- the Corporate Plan, Annual Budget and Borrowing Strategy and/or Funding Plan of the Company as approved by the Board from time to time;
- Project and Programme Frameworks;
- Enterprise Risk Management Framework; and
- Any approvals by the Board and the Minister of Finance for the delegation of the power to borrow money or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind the Company to any future financial commitment in terms of section 66 of the PFMA.

3.3 This Delegation supersedes any prior Delegations of Authority Framework and takes effect upon the date determined by the Board of Directors.

3.4 The Delegation of Authority Framework shall be sub-delegated to Group Exco and Extended Exco within 30 days from the date of signature by the GCE.

3.5 Any proposal for amendments to this Delegation or to the authorities or the authorities delegated in this Delegation must be submitted in writing to the Transnet Company Secretary for consideration and approval by the Board of Directors.

4 Delegating Powers

4.1 A person authorised to exercise any of the authorities set out in clause 5 below ("original bearer of authority") may, in writing, sub-delegate to his/her subordinate ("designate") during his/her temporary absence or for an indefinite period, provided:

4.1.1 the authority is conferred by way of a certificate signed by the original bearer of authority, naming and identifying the designate, and the extent of the authority which is sub-delegated to the designate;

4.1.2 the sub-delegated authority shall only be exercised within the original bearer of authority's respective area of responsibility;

4.1.3 the powers delegated by the original bearer of authority cannot be sub-delegated further by the designate unless explicitly stated in the certificate signed by the original bearer of authority; and

4.1.4 the sub-delegated authority may be revoked in writing, at any time by the original bearer of authority.

4.2 Unless otherwise specifically indicated, approval of any of the matters listed in clause 5 below may be granted by a designate.

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4.3 With respect to all matters and authorities specifically listed in clause 5 below, the delegated authority by the GCE to bind the Company is in regard to any business activity or transaction (or a series of related transactions) and is subject to the value in the aggregate of all payments or any consideration made or to be made for any such business activity or transaction(s) being complied with.

4.4 The original bearer of authority or designate must ensure that all the necessary procedures and/or approvals have been fulfilled prior to exercising any of the matters and authorities listed in clause 5 below.

4.5 All delegations of authority, signed by the original bearer of authority and accepted by the designate, must be filed with the Office of the Group Secretariat prior to the effective date.

5 Company Authorities

Limits of authority have been delegated by the Board of Directors to the Group Chief Executive. In the interest of good corporate governance, approval structures have been established in the Company. Requests for approval must follow the approved governing processes and structures for recommendation but the final approval vests with the delegated individual (for example CE, GCFO, GCE) as reflected in the specific delegations set out in this document.

In cases where business requirements necessitate that approval be obtained from the delegated authority without the review and recommendation by the relevant governance structures (CAPIC, Group Exco, etc.) this must be reported to the relevant governance structures immediately thereafter.

The authority to approve the Corporate Plan and Budget of the Company vests with the Board of Directors, provided that it must be submitted to the Shareholder in terms of Section 52 of the PFMA.

5.1 Capital Expenditure

NOTE 1: Capital expenditure may only be authorised if the project has been so approved by CAPIC or the relevant divisional CAPIC in accordance with the limits set out in this Delegation of Authority Framework and capital funds have been allocated in the annual Budget of the Company.

NOTE 2: Capital expenditure may only be authorised if the project has been approved and a warrant number has been issued by the relevant authority. All requests for capital expenditure exceeding the Divisional CE's limit must be submitted to the Principal Specialist: Governance and Assurance.

5.1.1 CAPEX in approved budget/Corporate Plan: To commence projects

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	CAPIC/GCFO	Group Exco /GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Operating Divisions	Up to but not exceeding R200m	Up to but not exceeding R400m	Up to but not exceeding R800m	Up to but not exceeding R1200m	Up to but not exceeding R2000m	Up to but not exceeding R4400m	Exceeding R4400m
Approval Authority →	Group Exco Member		CAPIC/GCFO	Group Exco /GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Specialist Units	Up to but not exceeding R20m		Up to but not exceeding R800m	Up to but not exceeding R1500m	Up to but not exceeding R2000m	Up to but not exceeding R4400m	Exceeding R4400m

*Refer to Materiality and Significance Framework. If the set limit (R4400m) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- Approval limits are per individual project, reported on a monthly basis to Group Financial Planning.
- Amounts indicated above exclude the capitalisation of borrowing costs.
- All ICT projects requiring approval must be signed off by the Group Executive: EIMS.
- Acquisitions and Disposals Committee refers to the Acquisitions and Disposal Committee of the Board. Group Exco/GCE to be the final approval gate for all capitalisations of maintenance projects (COPEX) irrespective of the value of the project provided that it has been included in the Corporate Plan. It is mandatory that submissions to the Group Exco/GCE have been recommended by the approval bodies leading up to the Group Exco/GCE i.e. OD CAPIC and Group CAPIC.
- Front end loading (FEL) studies are to be submitted to CAPIC based on the value of the underlying asset on which the study is based. e.g. If the FEL study is for an asset that exceeds R200m (R400m for TFR) then the

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FEL study irrespective of its stage requires approval from Group CAPIC Please refer to the Accounting Policy for Conceptual, Pre-feasibility and Feasibility Studies when capitalising FEL studies.

- Approvals exceeding R2000m but less than R4400m in ETC are to be reported to the Shareholder Minister

5.1.2 Unforeseen CAPEX (not included in budget/Corporate Plan)

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	CAPIC/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Operating Divisions	Up to but not exceeding R50m	Up to but not exceeding R75m	Up to but not exceeding R400m	Up to but not exceeding R700m	Up to but not exceeding R1000m	Up to but not exceeding R4400m	Exceeding R4400m
Approval Authority →	Group Exco Member		CAPIC/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Specialist Units	Up to but not exceeding R20m		Up to but not exceeding R400m	Up to but not exceeding R700m	Up to but not exceeding R1000m	Up to but not exceeding R4400m	Exceeding R4400m

*Refer to Materiality and Significance Framework. If the set limit (R4400m) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- All unforeseen Capex approved by Operating Divisions/Specialist Units within their delegated authority, must be reported on a quarterly basis to Group Financial Planning.
- Amounts indicated above exclude the capitalisation of borrowing costs.
- All ICT projects requiring Transnet approval must be signed off by the Group Executive: Enterprise Information Management Services
- Approval limits are per project at Operating Divisional level subject to an aggregate divisional limit of R200m per annum and R400m for TFR on condition that divisions remain within their annual approved capital budget (refer to 5.1.3.1).
- Divisional Investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to Transnet if the respective OD limits are reached.
- If an unforeseen project will result in the divisional 7 year investment plan being increased then Group Exco needs to be approached for approval.

5.1.3 Increase in Estimated Total Cost (ETC) of Existing/Approved Projects

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	CAPIC/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Operating Divisons	ETC may be increased to a maximum of R200m, increases beyond this amount may only be approved at Transnet Level	ETC may be increased to a maximum of R400m, increases beyond this amount may only be approved at Transnet Level	Up to but not exceeding R800m	Up to but not exceeding R1200m	Up to but not exceeding R1400m	Exceeding R1400m
Approval Authority →	Group Exco Member		CAPIC/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	ETC may be increased to a maximum of R20m, increases beyond this amount may only be approved at Transnet Level		Up to but not exceeding R800m	Up to but not exceeding R1200m	Up to but not exceeding R1400m	Exceeding R1400m

- Increase in ETC of projects already approved by the Shareholder Minister must be reported to the Shareholder Minister if the increase is in excess of 15%.
- All ICT projects requiring approval must be signed off by the GE: EIMS.
- All cost increases in excess of 25% of the approved budget for a project must be reported to Transnet CAPIC/GCFO.

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- Amounts indicated above exclude the capitalisation of borrowing costs. Increases in ETC of a project solely due to the capitalisation of borrowing costs may be approved by the OD Exco/CE. Project costs and capitalisation of borrowing costs are to be managed separately and may not be expended on projects interchangeably.
- Increases in ETC of a project that results in the project exceeding a specific committee's approval limit needs to be submitted to the next approval body. If CAPIC approved a project at ETC of R700m, and the increase required is R200m then the final approval body for the increase will be Group Exco as the new ETC of R900m is beyond CAPIC's limit.
- Requests for increases in ETC need to be submitted to the approval body that originally approved the project. If Board approved a project to the value of R2100m, any increases to this project will require Board approval.

5.1.3.1 Any increase in excess of the annual approved capital investment budget must be submitted to CAPIC/GCFO for approval. Where the GCFO has approved an increase, the submission should be tabled at the subsequent CAPIC meeting for information purposes.

5.1.4 **Asset Write-off/Scrapping: Movable Assets**

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R50m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R700m	Exceeding R700m
Approval Authority →	Group Exco Member		Capic/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Up to but not exceeding R5m		Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R700m	Exceeding R700m

*Refer to Materiality and Significance Framework. If the set limit (currently R4400m) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- The above amounts refer to net book value and are a cumulative annual limit. Write-offs above R10m and above R50m in the case of TFR must be reported to CAPIC/GCFO quarterly.
- Divisional investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to Transnet if the respective OD limits are reached.

5.1.5 **Asset write-off/Scrapping/Demolition of Immovable Assets (excluding land) e.g. buildings, structures**

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board*
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R50m	Up to but not exceeding R150m	Up to but not exceeding R250m	Up to but not exceeding R300m	Exceeding R300m
Approval Authority →	Group Exco Member		Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board*
Specialist Units	Up to but not exceeding R5m		Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R300m	Exceeding R300m

*Refer to Materiality and Significance Framework. If the set limit (currently R4400m) is exceeded then the Board need to consider and recommend to the Shareholder Minister for approval.

- The above amounts refer to an estimated market value at that point in time and are a cumulative annual limit.
- Divisional investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to CAPIC if the respective OD limits are reached
- Write-offs below R10m and below R50m in the case of TFR must be reported to CAPIC/GCFO quarterly.

5.1.6 **Disposal of Movable Assets (excluding sale of scrap)**

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Approval Authority →	OD Exco/CE*	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Operating Divisions	Up to but not exceeding R50m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R700m	Exceeding R700m
Approval Authority →	Group Exco Member	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Specialist Units	Up to but not exceeding R5m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R700m	Exceeding R700m

*The above amounts refer to an estimated market value and are subject to a cumulative annual limit of R200m. For sale of scrap please refer to 5.5.1.

- Divisional investment committees are to monitor limits pertaining to their OD, and to escalate submissions to CAPIC once the respective OD limits are reached.

**Refer to Materiality and Significance Framework. If the set limit (currently R4400m) is exceeded, then the Board need to consider and recommend to the Shareholder Minister for approval.

5.1.7 Management's intervention in addressing non-compliance with regard to the approval of capital projects

Approval Authority →	OD CE	GCFO	GCE
Operating Divisions	Nil	Nil	Unlimited
Approval Authority →	Group Exco Member	GCFO	GCE
Specialist Units	Nil	Nil	Unlimited

- Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.
- If the approval of non-compliance results in the annual divisional budget being exceeded, then the request must be submitted to CAPIC for approval (refer to 5.1.3.1).

5.1.8 Alienation/acquisition of immovable property (land and servitudes)

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R50m	Up to but not exceeding R200m	Up to but not exceeding R350m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority →	Group Exco Member		Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Specialist Units	Up to but not exceeding R1m		Up to but not exceeding R200m	Up to but not exceeding R350m	Up to but not exceeding R500m	Exceeding R500m

*Refer to Materiality and Significance Framework. If the set limit (R4400m) is exceeded then the Board need to consider and recommend to the Shareholder Minister for approval.

- Approval limits are per transaction and are with reference to market value
- All transactions entered into in terms of the above must be reported to CAPIC/GCFO
- Only immovable property on the non-core list, may be disposed of (refer to 5.1.8.1), such disposal may only be done through the Transnet Property.
- Amounts indicated above exclude the capitalisation of borrowing costs.

5.1.8.1 Newly identified properties to be included on the non-core list (Book value of individual properties)

GE: Transnet Property	GCFO	GCE	Acquisitions and Disposals Committee	Board
Up to but not exceeding R50m	Up to but not exceeding R100m*	Up to but not exceeding R200m	Up to but not exceeding R300m	Exceeding R300m

* These disposals must be reported to Capic//Group Exco/Acquisitions and Disposals Committee/ Board.

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5.2 Treasury

Treasury Policies

Approval Authority →	Group Treasurer	GCFO	GCE	Risk	Audit Committee	Board
Financial Risk Management Framework	Recommend	Recommend	Recommend	Noting	Recommend	Approve

NOTE 1: Only approved financial instruments as approved in terms of the applicable Treasury Financial Risk Management Framework approved by the Board and subject to such limits determined in accordance with such framework may be utilised in the Treasury operations.

5.2.1 InterTransnet Debt (Treasury Inter Transnet debt write-off)

Approval Authority →	Deputy Treasurer: Operations	Group Treasurer	GCFO	GCE
Operating Divisions	Up to but not exceeding R5m	Up to but not exceeding R10m	Up to but not exceeding R20m	Exceeding R20m
Specialist Units	Up to but not exceeding R2m	Up to but not exceeding R10m	Up to but not exceeding R20m	Exceeding R20m

All breaches of the above limits to be reported to the Audit Committee.
External debt write-off on financial instruments due to counter-party liquidation may only be approved by the GCE.

5.2.2 Maximum annual loss on all repo activities (Realised and unrealised)

Approval Authority →	Traders and Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	GCFO	GCE
Group	Up to but not exceeding R1m	Up to but not exceeding R1.5m	Up to but not exceeding R2.5m	Up to but not exceeding R5m	Exceeding R5m

All breaches of the above limits to be reported to the Audit Committee
Note: The above limits are aggregate desk limits

5.2.3 Buy and sell back and sell and buyback transactions (Expressed in nominal terms)

Approval Authority →	Traders and Senior Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	GCFO
Group	Up to but not exceeding R250m	Up to but not exceeding R500m	Up to but not exceeding R750m	Up to but not exceeding R1 000m	Exceeding R1 000m
Duration Limit	2 weeks	3 weeks	1 month	1 month	> 1 month

All breaches of the above limits (amount or tenure) to be reported to the Audit Committee.
Approval limits are per transaction/event.

5.2.4 Foreign Exchange Spot Transactions Operational payments, not related to hedging, early take ups or extensions (expressed in USD equivalent)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	GCFO
Group	Up to but not exceeding an aggregate equivalent of $20m per day (desk total)	Up to but not exceeding an aggregate equivalent of $40m per day (desk total)	Up to but not exceeding an aggregate equivalent of $100m per day (desk total)	Up to but not exceeding an aggregate of $250m per day (desk total)	Exceeding a daily equivalent of $250m (desk total)

All breaches of the above limits to be reported to the Audit Committee.

5.2.5 Foreign Exchange Hedging Transactions New hedges or re-alignment of existing hedges (expressed in USD equivalent)

Approval Authority →	Deputy Treasurer Middle Office	Group Treasurer	GCFO
Group	Submissions not exceeding $10m	Submissions not exceeding $100m	Submissions exceeding $100m
Tenure	Not exceeding 18 Months	Not exceeding 3 years	Exceeding 3 years

All breaches of the above limits (amount or tenure) to be reported to the Audit Committee.

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5.2.6 Foreign Exchange Hedging Transactions: Extensions, early take ups (expressed in USD equivalent)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer
Group	Not exceeding an aggregate equivalent of $20m per day (desk total)	Not exceeding an aggregate equivalent of $50m per day (desk total)	Not exceeding an aggregate equivalent of $100m per day (desk total)	Exceeding an aggregate of $100m per day (desk total)

All breaches of the above limits to be reported to the Audit Committee.
Note: Where no specific limit is mentioned, the FRMF policy on foreign exchange rate risk will apply.

5.2.7 Approval of FX hedges to be hedged by external suppliers on their balance sheet for goods/services to be delivered to Transnet in respect of Rand agreements involving foreign content

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer
Group	Not exceeding $10m	Not exceeding $25m	Not exceeding $50m	Exceeding $50m

All breaches of the above limits to be reported to the Audit Committee for noting.
The above limits are applicable per agreement.
Note: The Business Units must always obtain quotes on FX forward rates and liaise with the Treasury Trading desk that will verify the rates to ensure it is market related. The Business Units can only enter into the FX hedges with the supplier once the rates are accepted by the Treasury Trading desk via e mail. Once the above approvals are obtained, the Treasury Traders will provide sign off on the rate acceptance.

5.2.8 Interest Rate Risk Hedging

Approval Authority →	Notional Amounts	Group Treasurer	GCFO
Group	Notional amount of hedge expressed in USD or equivalent in RAND (FX loans and leases)	Up to but not exceeding $100m or equivalent in RAND	Exceeding $100m or equivalent in RAND
Tenure		Not exceeding 5 years	Exceeding 5 years

All breaches of the above limits to be reported to the Audit Committee.
Note: Where no specific limit is mentioned, the FRMF policy on interest rate risk will apply.
The above limits are applicable per hedging submission.

5.2.9 Hedging of fuel risk exposures (RAND and USD)

Approval Authority →	Group Treasurer	GCFO
Tenure	Not exceeding 6 months	Not exceeding 18 months
Notional hedge expressed in USD or equivalent in RAND	Not exceeding $25m or equivalent in RAND	Exceeding $25m or equivalent in RAND

All breaches of the above limits to be reported to the Audit Committee.
Note: The maximum hedge should not exceed 75% of annual budgeted consumption inclusive of energy levy income.
The first priority will be to fix the contract through ZAR based agreement. If not then exposure to be taken on Balance Sheet, subject to hedged accounting. This will limit volatility and bring certainty in terms of the Rand.
The above limits are applicable per hedging submission.
Note: Where no specific limit is mentioned, the FRMF policy on commodity (fuel) risk will apply.

5.2.10 Hedging of commodity risk exposures in supply agreements, including escalation (other than fuel) in FX or RAND

Approval Authority →	Group Treasurer	GCFO
Tenure	Not exceeding 24 months	Exceeding 24 months
Notional hedge expressed in RAND	Not exceeding R100m	Exceeding R100m
Notional hedge expressed in USD	Not exceeding $10m	Exceeding $10m

All breaches of the above limits to be reported to the Audit Committee.
The above limits are applicable per hedging submission.
Note: Where no specific limit is mentioned, the FRMF policy on commodity risk will apply.

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5.2.11 **Granting of InterTransnet Loans (Interest-bearing only) to divisions/specialist units**

Approval Authority →	Deputy Treasurer: Front Office	Group Treasurer	GCFO
Operating Division	Up to but not exceeding R750m	Up to but not exceeding R1 000m	Exceeding R1 000m
Specialist Unit	Up to but not exceeding R10m	Up to but not exceeding R25m	Exceeding R25m

These above limits are cumulative per OD/ SU per financial year.

5.2.12 **Letters of Credit**

Approval Authority →	Deputy Treasurer: Front Office	Group Treasurer	GCFO	GCE
Transnet	Up to but not exceeding R100m	Up to but not exceeding R200m	Not exceeding R300m	Exceeding R300m

All breaches of the above limits to be reported to the Audit Committee.
The above limits are per letter of credit.

Funding Portfolio

NOTE 1: Only derivatives approved in terms of the applicable Financial Risk Management Framework and subject to such limits determined in accordance with such framework may be utilised to hedge any risks.

NOTE 2: The total nominal funding amount per financial year in respect of Bonds and any other funding transactions shall be as determined per Board approved/Board amended Funding/Borrowing Plan.

NOTE 3: A. Signatories mean, subject to such approvals by the Board and the Minister of Finance in terms of section 66 of the PFMA as may be applicable, the Group Treasurer and any other officer so designated in writing by the GCFO.

B. Signatories mean, subject to such approvals by the Board and the Minister of Finance in terms of section 66 of the PFMA as may be applicable, persons so designated in writing by the Group Treasurer.

5.2.13 **Loan/Funding documentation approvals per instrument per financial year**

Approval Authority →	Group Treasurer	GCFO	GCE
Tapping of bonds	-	Not exceeding R5bn (Electronic signatures are utilised on pricing supplements as per standing approval)	Exceeding R5bn (Electronic signatures are utilised on pricing supplements as per standing approval)
Bank Loans (including overnight facilities)	Up to but not exceeding R1bn	Up to but not exceeding R2.5bn	Exceeding R2.5bn
Commercial Paper		Not exceeding R5bn (Electronic signatures are utilised on pricing supplements as per standing approval)	Exceeding R5bn (Electronic signatures are utilised on pricing supplements as per standing approval)
ECA supported funding	Up to but not exceeding R250m	Up to but not exceeding R1bn	Exceeding R1bn
New bond issues (in approved funding plan)	-	Up to but not exceeding R1bn	Exceeding R1bn
Development finance institution funding	Up to but not exceeding R250m	Up to but not exceeding R1bn	Exceeding R1bn
Foreign funding	-	Up to but not exceeding R1bn	Exceeding R1bn
Any other source of funding not stipulated above	-	Up to but not exceeding R1bn	Exceeding R1bn
The above is further subjected to the following annual aggregate limit			
	R1.5bn	R10bn	Limited to the annual Board approved borrowing plan

The above is subject to the following:

- Be executed in accordance with the approved strategy as incorporated in the Corporate Plan (including any approved amendments).
- Be within the laid down cash holding limits of Transnet.
- All breaches of the above limits to be reported to the Audit Committee.
- * The GCE can increase funding requirements up to 10% of Board approved borrowing plan and needs to be ratified by Board.
- If loan documentation was approved and signed by either GCFO and/or GCE, the Group Treasurer can approve all drawdowns and sign any ancillary transaction related documentation required from time to time, irrespective of the amounts involved.

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- The Group Treasurer is authorised to sign any and all Debt listing/placing documents as well as any ancillary documents related thereto that may be required from time to time.

5.2.14 **Signing of legally binding agreements in respect of Treasury related activities (Including ISDA, ISMA agreements and Bank facilities)**

Only the GCE and/or the GCFO have authority to sign. The Group Treasurer may sign with a specified delegation of authority.

5.2.15 **Counterparty Limits: Setting of Limits**

Approval Level			
Group Treasurer	GCFO	GCE	Audit Committee
			Counter Party Risk Limits[1]
Price Risk Limits ≤ R25m[3]	Price Risk Limits ≤ R250 m[3]	Price Risk Limits ≥ R250 m[3]	Overall counterparty limit (as calculated in line with FRMF)
Recommendation of Bond Issue and Bond Issuer Limits	Approval of Bond Issue and Bond Issuer Limits		
Recommendation of Settlement Limits[2]	Approval of Settlement Limits[2]		
Recommendation of limits where the Company is exposed to counterparty issuer risk as a result of advance payment guarantees, performance bonds, retention bonds etc. issued under supplier agreement/contracts[3]	Approval of limits where the Company is exposed to counterparty issuer risk as a result of advance payment guarantees performance bonds, retention bonds etc issued under supplier agreement/contracts[3]		

Note: Where no specific limit is mentioned, the FRMF policy on Counter Party Risk will apply.

Note[1]: The approved counterparty limit may be utilised for price risk, investment risk as well as issuer risk (in respect of advance payment guarantees, performance bonds, retention bonds etc.) as long as the sum of the individual exposures remains within the overall Audit Committee approved risk limit.

Note[2]: Settlement risk limits are set at 1.5 times the approved counterparty limit as stipulated in the FRMF and will be approved with the counterparty limit.

Note [3]: In respect of counterparties not approved by Audit Committee

5.2.16 **Appointment of Commercial Bankers and the Opening of Bank Accounts**

	Group Treasurer	GCFO
All OD/SU	Recommendation to open bank accounts and the appointment of bankers	Approval of new bank accounts and the appointment of bankers and the approval of all documentation relating to such accounts including electronic banking documentation.
Process to follow	There is no delegation to any OD/SU to appoint commercial bankers or to open bank accounts domestically or internationally only the GCFO may make such appointments	

5.2.17 **Authorisation of cheque signatories, Test keys and EFT's**

Signing Cheques	Two A signatories or one A and one B signatory
Signing Test keys for paying/receiving	Two A signatories or one A and one B signatory
Electronic transfer of funds	Two A signatories or one A and one B signatory

5.2.18 **Payment instructions and confirmation notes**

Signing payment instructions/ receipts/ settlement instructions:	Two A signatories or one A and one B signatory
Signing confirmation notes in respect of approved financial transactions executed	One A signatory

5.2.19 **Approval of Annual Borrowing Plan**

	Board
Companywide	Approve the annual borrowing plan for execution by Treasury

Annual borrowing plan to be recommended by the Audit Committee for approval by the Board.

5.2.20 **Authorisation to enter into binding transactions**

	Group Treasurer
Companywide	Authorise Treasury employees to enter into binding financial transactions on behalf of the Transnet

5.2.21 **Issuing of Guarantees (subject to requirements of section 66 of the PFMA)**

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	Group Treasurer	GCFO	GCE	Board
Companywide	Up to but not exceeding 25m	Up to but not exceeding R200m	Up to but not exceeding R500m	Exceeding R500m

All breaches of the above limits to be reported to the Audit Committee.
The Limits are per transaction.

5.2.22 **Issuing Letters of Support**

	Board
Companywide	Only the Board of Directors has authority to issue letters of support

5.2.23 **Issuing of security per transaction (subject to section 66 of the PFMA)**

	Group Treasurer	GCFO	GCE	Board
Companywide	Up to but not exceeding R250m	Up to but not exceeding R500m	Up to but not exceeding R1 000m	Exceeding R1 000m

All breaches of the above limits to be reported to the Audit Committee. The limits are per transaction.

5.2.24 **Advance Payment Guarantees (APG) and Performance Bonds (PB) in Supplier Agreements**

	OD CFO	Deputy Treasurer Middle Office[4]	Group Treasurer[5]	Group CFO[3]
Notional Value per OD per financial year	Up to but not exceeding R200m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Issuer Acceptance	May accept if included in pre-approved issuer list obtained from Group Treasury	All issuers	All issuers	All issuers

- The limits are cumulative per OD/SU per annum.
- The OD is required to obtain legal acceptance from the Divisional Legal Department and or Group Legal in respect of all APGs and PBs.
- APGs and PBs should be constructed in a manner that they become payable on de
- The minimum long-term credit rating requirements may be acceptable under the following:-
  - A- from Fitch Rating Investor Services or Standard & Poor's Rating Services or A3 from Moody's Investor Services;
  - Issuers not rated by a recognised credit rating agency will not be accepted, unless specific approval has been obtained from GCFO that internally developed credit rating of the Issuer is acceptable;
  - Group Treasury may also consider an equivalent rating from other recognised rating agencies as contained in the FRMF.

Note: The approvals of [1][2][3] are additional and do not include the amount of lower level authority.

5.3 **Finance**

5.3.1 **Bad Debt Write-off**

Trade Debtors

Approval Authority →	OD Exco/CE* excluding TFR	TFR Exco/CE	GCFO	Group Excol GCE	Audit Committee	Board**
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R20m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority →	Group Exco Member		Caplc/GCFO	Group Excol GCE	Audit Committee	Board*
Specialist Units	Up to but not exceeding R5m		Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m

**Approval limits are R10m and R20m for TFR per transaction subject to an annual cumulative limit of R50m and R100m for TFR. Specialist Unit limit is R5m cumulative per annum.

5.3.2 **Setting of limits for credit facilities (Trade debtors)**

Approval Authority	Divisional CFO excluding TFR	OD Exco/CE* excluding TFR	TFR CFO	TFR CE	GCFO	GCE

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→						
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R20m	Up to but not exceeding R100m	Up to but not exceeding R150m	Up to but not exceeding R300m	Exceeding R300m
Specialist Units	Up to but not exceeding R5m	Up to but not exceeding R10m	n/a	n/a	Up to but not exceeding R300m	Exceeding R300m

Limits are per individual customer/client. Credit limits are to be reviewed on an annual basis. The limits are applicable subject to the division following the credit evaluation process.
Internal limits between ODs are not applicable.

5.3.3 Issuing of Credit notes

Approval Authority →	Divisional CFO	OD Exco*	GCFO	GCE
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R20m	Up to but not exceeding R300m	Exceeding R300m
Specialist Units	Up to but not exceeding R5m	Up to but not exceeding R10m	Up to but not exceeding R300m	Exceeding R300m

Limits are per individual credit note and relates to external parties. Issuing of credit notes regarding internal/interdivisional transactions must be within the control of the divisional CFOs.

* Excludes the product reconciliation process at Transnet Pipelines where the Divisional CFO and Divisional COO approve transactions arising out of the product reconciliation process.

5.3.4 Exceeding the operational expenditure budget in total for the year (Operating Divisions/Specialist Units)

The Board of Directors to be informed at every meeting of the financial status and latest estimates of the Company

Approval Authority →	OD CE*	GCFO	GCE	Board
Operating Divisions	Up to but not exceeding 5% of approved budget	Up to but not exceeding 7.5% of approved budget	Exceeding 7.5% of approved budget to a maximum of 10%	>10%
Specialist Units	Up to but not exceeding 5% of approved budget	Up to but not exceeding 7.5% of approved budget	Exceeding 7.5% of approved budget to a maximum of 10%	> 10%

* To be reported quarterly to the GCFO and GCE together with mitigating action plans to ensure that key financial metrics are maintained or met.

Delegations for operational transactions that are too detailed to include in the Delegations of Authority Framework will be determined and applied in terms of the details set out by the CE/GE in conjunction with the CFO of the respective OD/SU.

5.3.5 Establishing financial policy with regard to insurance

Approval Authority →	GCFO	Risk Committee
Authority Level	GCFO after consulting with Chief Risk Officer to recommend to the Risk Committee	Final approval

5.3.6 Inventory Write-off

Approval Authority →	OD Exco/CE* excluding TFR	TFR Exco/CE	GCFO	Group Exco/ GCE	Audit Committee	Board**
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R20m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority →	Group Exco Member		CAPIC/GCFO	Group Exco/ GCE	Audit Committee	Board*
Specialist Units	Up to but not exceeding R5m		Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m

**Approval limits are R10m and R20m for TFR per transaction, subject to an annual cumulative limit of R50m and R100m for TFR. Specialist Unit limit is R5m cumulative per annum.

5.4 Procurement, Enterprise Development and Supplier Development

All procurement transactions (including reverse logistics – selling of goods) must fully comply with the approved Supply Chain Policy and Procurement Procedures Manual (PPM),) where applicable – Any commercial agreement (for the purchase of goods or services) must be signed off by an authorised employee of Supply Chain Management

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(Procurement) prior to signing of the contract to indicate that all the steps as per Clause 5.5 below have been followed and that all procurement related governance has been adhered to.

5.4.1 Appointment of Consultants

Approval Authority →	OD CE and TCP GE*	GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Up to but not exceeding R25m	Up to but not exceeding R50m	Up to but not exceeding R200m	Up to but not exceeding R300m	Exceeding R300m
Approval Authority →	Group Exco Members	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units excluding TCP	R10m	Up to but not exceeding R50m	Up to but not exceeding R200m	Up to but not exceeding R300m	Exceeding R300m

*Approval limits are cumulative per annum. Excludes appointment of consultants to perform feasibility studies for capital projects.

- Consultants may only be remunerated at set rates as follows:
  - Guideline for fees as determined by the South African Institute of Chartered Accountants.
  - Guide on Hourly Fee Rates for Consultants by the Department of Public Service and Administration.
  - Prescribed by the body regulating the profession of the consultant.
  - In instances of consultants being unregulated ,e.g. Forensics are unregulated a reasonable fee should be approved Prescribed in the Service Level Agreement concluded with lawyers on the Transnet legal panel.

5.4.2 Approval to approach the market for Open Tenders

Approval Authority →	OD CE and TCP GE	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Up to but not exceeding R450m	Up to but not exceeding R525m	Up to but not exceeding R750m	Up to but not exceeding R1000m	Up to but not exceeding R2000m	Exceeding R2000m
Approval Authority →	Specialist Unit GE (budget owner)	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units excluding TCP	Up to but not exceeding R75m	Up to but not exceeding R525m	Up to but not exceeding R750m	Up to but not exceeding R1000m	Up to but not exceeding R2000m	Exceeding R2000m

*The OD CE may only delegate these powers to go to market with Open Tenders to Heads of Procurement. The Requisition (or Request to Purchase) issued to Procurement must be approved by the OD's Budget Owner or GE in the case of Specialist Units or his duly authorised delegate. Such approved requisition or Request to Purchase will signify that the acquisition has been approved and that the necessary funds are available.
Submissions requiring approval of the GCSCO or higher must also include a procurement strategy document, signed off by the person with the delegated authority.

5.4.3 Approval to approach the market for confined tenders: Confinement of tenders (applicable to transactions above R2m in value)

Approval Authority →	OD CE and TCP GE	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Nil	Nil	Nil	Up to but not exceeding R250m	Up to but not exceeding R1000m	Exceeding R1000m
Approval Authority →	Group Exco Members	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units excluding TCP	Nil	Nil	Nil	Up to but not exceeding R250m	Up to but not exceeding R1000m	Exceeding R1000m

The limits are per transaction/confinement. All requests for approval of confinements must be made by the OD CE/Group Exco Member through the GCSCO and the GCFO to the GCE. The OD/SU shall prepare the submission in collaboration with integrated Supply Chain Management (iSCM) to ensure that the motivation for confinement contains sufficient information to meet one or more of the grounds for confinement as stipulated in the PPM. In instances where a confinement is confidential, the GCE may approve such confinement without the confinement request being routed through any other authority.

Note: Confinement must only be used in respect of transactions above R2m in value. For transactions below R2m, the quotation system must be used. The quotation system is a procurement mechanism that may only be used:

- For transactions below R2m in value.
- Relates to goods or services required on a non-repetitive basis.

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- Market is known.
- Minimum of 3 quotes must be obtained where possible.

5.4.4. **Management's intervention to address non-compliance with procurement policies and procedures**

Approval Authority →	OD CE and TCP GE	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Nil	Nil	Up to but not exceeding R250m	Up to but not exceeding R1000m	Exceeding R1000m
Approval Authority →	Group Exco Members	GCFO	GCE	Acquisitions and Disposals Committee	Board
SU excluding TCP	Nil	Nil	Up to but not exceeding R250m	Up to but not exceeding R1000m	Exceeding R1000m

Note: All requests for approval of non-compliance must be made by the OD CE/Group Exco member to the GCE. The OD/SU shall prepare the submission in collaboration with iSCM to ensure that the rules for the addressing of non-compliance are met. Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.

5.4.5 **Establishing Procurement policy (opex, capex and disposals)**

Authority Level	Acquisitions and Disposals Committee

5.4.6 **Procurement process approval**

NOTE: Each OD/SU will have its own main Acquisition Council (AC) which will consider and approve all procurement processes, as well as the disposal of scrap, falling within its jurisdiction from R2m, but not exceeding R450m. This is subject to the discretion of the OD/SU CE to lower the R2m thresholds, or to create Secondary Regional/Local Acquisition Councils. The OD/SU CE may also delegate certain process approval powers to the relevant Manager for matters below the Secondary Acquisition Councils' delegation. Transactions exceeding the OD/SU CE's Delegated Powers will also be considered by the OD's main AC for recommendation to the higher approval body (e.g. the Acquisitions and Disposal Committee). If it concurs with the recommendation, the matter will be referred to the relevant person/structure with the delegation of authority for approval. Should any process approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or re-motivation.

Approval Authority →	ODs, TCP and TCC (Secondary and/or Main) Acquisition Councils	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions (including TCP and TCC)	Up to but not exceeding R450m	Up to but not exceeding R525m	Up to but not exceeding R750m	Up to but not exceeding R1000m	Up to but not exceeding R2000m	Exceeding R2000m
Approval Authority	Specialist Unit (excluding TCP and TCC)(Secondary and/or Main) Acquisition Councils	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units (excluding TCP and TCC)	Up to but not exceeding R5m subject to the contract period not exceeding 5 years	Up to but not exceeding R525m	Up to but not exceeding R750m	Up to but not exceeding R1000m	Up to but not exceeding R2000m	Exceeding R2000m

5.4.7 Enterprise and Supplier Development

Approval Authority →	OD CE	iSCM Council/ GCSCO	GCFO	Group EXCO/ GCE	Acquisitions and Disposals Committee	Board*
Operating Divisions (including TCP and TCC)	Up to but not exceeding R5m	Up to but not exceeding R25m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Approval	Group EXCO	iSCM Council/	GCFO	Group EXCO/	Acquisitions and	Board

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Authority	Members/CE	GCSCO		GCE	Disposals Committee	
Specialist Units (excluding TCP and TCC)	Up to but not exceeding R2m	Up to but not exceeding R25m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Any amount exceeding R500m

*RemSEC to note all Enterprise and Supplier Development transactions.

5.5 **Contracts/Agreements**

NOTE 1: Any person who has been authorised to execute any legal documents including deeds, leases, assignments, contracts, applications, financial instruments, external submissions to or on behalf of the Company and/or its OD's or SU's or any other legal documents may only do so with the prior advice of the relevant Legal Services department as set out in the Legal Policy.

NOTE 2: Unless otherwise indicated in the authorities below, the authority to execute a contract or other binding document carries with it like authority to cancel or modify it, but only with the prior written advice of the relevant Legal Services department as set out in the Legal Policy and if it relates to Procurement Contracts, the process prescribed in the Procurement Procedures Manual must be adhered to.

NOTE 3: Any person authorised to enter into an agreement/contract or other binding document involving capital expenditure must have obtained prior financial approval in terms of the procedures set out in 5.1 prior to entering into such a CAPEX contract.

NOTE 4: Approval limits are per transaction/contract.

NOTE 5: The authority to execute a contract or other binding document carries with it the understanding that an authorised payment required thereby will be made once proof of receipt has been obtained. No person is authorised to obligate the company to an amount greater than such payment or create more onerous obligations than those contained in the contract or other binding document. Increases to the original scope of the binding document must be supported by authorised amendment.

NOTE 6: The PPM prescribes the process that must be followed in terms of approving procurement contract amendments:

- Non-material amendments (i.e. where the scope, value and/or period of the contract is less than 10% of the original contract value): the manager with the delegation of authority may effect such amendment and is only required to inform the AC of such amendment as soon as possible thereafter. The manager who approves the amendment may be the original signatory of the contract if the cumulative value of the amended contract is still within his/her delegation of authority. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority and the original signatory must be informed thereof.
- Material amendments (i.e., where the scope, value and/or period of the contract is greater than 10% of the original contract value): the manager with the delegation of authority may not effect such amendments without the PRIOR approval of the relevant AC first of such amendment. Following AC approval such amendment needs to be signed off by the original signatory (i.e. the person with delegation of authority who signed the initial contract or the person mandated to do so) provided the cumulative value of the contract and subsequent amendment(s) still falls within his/her delegations. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.
- NOTE: As a general rule, contracts may be amended by not more than 40% of the original contract value. Any deviation (as provided for in the paragraph below) in excess of this threshold will only be allowed in exceptional circumstances.
- Amendments in excess of 40% of the original contract value or contract period will be dealt with as follows: In such cases, PRIOR review and recommendation must be obtained from the appropriate AC first, as well as the original signatory. Thereafter, the matter must be submitted for approval to the person with delegations one level higher than the person with the delegation of authority to approve the amended value. This rule applies regardless of whether the

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amendment is still within the original signatory's delegation of authority or above it. On approval, the amended contract will be signed off by the person with the delegation of authority to sign off the contract value concerned. However, this rule does not apply to amendments falling within the GCE, Acquisitions and Disposals Committee or the Board's delegation of authority. For such contract amendments, the matter will be submitted to the GCE, Acquisitions and Disposal Committee or the Board regardless of the value of the contract amendment (provided the cumulative value is still within their delegations of authority).

- For higher value contracts (i.e. those signed by the operating division's GE, the GCFO or GCE), it is advisable to obtain a written mandate from that official empowering a delegate to administer such contract and to effect changes to such contract not exceeding 10% of the initially approved contract value.

5.5.1 Enter into and signing of Contracts/Agreements and award of business: (including the sale of scrap)

Approval Authority →	OD CE and GE:TCP		GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions (including TCP)	Up to but not exceeding R450m		Up to but not exceeding R525m	Up to but not exceeding R750m	Up to but not exceeding R1000m	Up to but not exceeding R2000m	Exceeding R2000m
Approval Authority →	Specialist Unit GE	Group Exco members	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist units (excluding TCP)	Up to but not exceeding R5m subject to the contract period not exceeding 5 years	Up to but not exceeding R30m	Up to but not exceeding R525m	Up to but not exceeding R750m	Up to but not exceeding R1000m	Up to but not exceeding R2000m	Exceeding R2000m

Values are per contract for the full term of the contract (Total value of contract excluding VAT) on condition that approval has been obtained for the related expenditure over the period. Please refer to the conditions stipulated below. Payments: Once the decision to contract has been issued, contract execution will be governed by the Operating Divisions or Specialist Units, including the payment process provided that the contract amount is not exceeded.

5.5 1.1 Contracts > R500m, including Transnet's top 60% value opex items and capex contracts

Prior to entering into a high value (greater than R500m) / highly complex contract (especially for the top 60% value opex items as dealt with by ISCM Strategic Sourcing commodity teams), any authorised official must first liaise with a multi-disciplinary team of experts at Corporate Centre, who should each sign off on any agreement/contract or other binding document:

- Group ISCM.
- Group Legal Services – entire document.
- GCFO to sign-off after sign-off from the Finance Departments (Group Finance Reporting Financial Planning Tax and Treasury).
- Group Risk.
- Group Insurance.
- Contracts less than R450m within the OD's limit of authority, require a similar process as set out above to be followed by the relevant OD.

5.5.1.2 Contracts with foreign exchange exposure

- Approval to enter into an agreement/contract or other binding document involving foreign currency exposure (including ***international agreements***) may not be sub-delegated lower than to the Chief Procurement Officer (CPO) of an OD. Approval of the divisional CFO is required to enter into the contracts that may result in foreign currency exposure.

- The duly authorised official must obtain prior written approval in respect of FX agreements above R50m from Group ISCM, Group Legal, Group Treasury, Group Tax, Group Risk, Group Insurance and Group Reporting, both where the contract will be concluded in foreign currency and especially in such cases where foreign contracts will be concluded in South African Rand, as this may expose the Company to an embedded derivative. All FX agreements above R100m must apart from the above also obtain written approval from the GCFO. The GCFO to sign-off after sign-off from Group Treasury, Group Tax, Group Risk, Group Insurance, the Finance Departments

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(Group Finance/Reporting and Financial Planning), Group Legal Services (the entire document) and Group iSCM.

5.5.2 **Enter into and Signing of Revenue Contracts/Agreements and authority to issue binding quotes locally: (excluding lease contracts and the sale of scrap)**

Approval Authority →	OD CE/GE: Commercial Limit per Annum per contract up to but not exceeding 5 years	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Operating Divisions	Up to but not exceeding R300m but not exceeding R1.5 bn for the total contract	Up to but not exceeding R500m	From R1.5bn but not exceeding R2bn unlimited	From R2bn but not exceeding R 3bn	Exceeding R3bn
Approval Authority →	Specialist Unit CE Limit per Annum per contract up to but not exceeding 5 years	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Specialist Units	Up to but not exceeding R10m	Up to but not exceeding R500m	From R501m up to but not exceeding R1bn	From R1001m up to but not exceeding R3bn	Exceeding R3bn

- Integrated customer agreements where a service incorporates more than one division must be signed off by the Group Executive: Legal and Compliance, GCFO and the Group Executive: Commercial in addition to sign off by the OD CE's, up to but not exceeding revenue of R500m per annum not exceeding 5 years.
- If the contract period is below 12 months the contract value is to be annualised and the delegated authority required to approve the transaction will be determined by the annualised amount.
- All limits indicated above are exclusive of VAT
- Board approval is required if ANY one of the following limits are exceeded:
  - The contract period exceeds 5 years.
  - The annual value of the contract exceeds R3000m.
  - The total value of the contract over the contract life exceeds R15000m.

5.5.3 **Enter into and Signing of Revenue Contracts/Agreements and authority to issue binding quotes internationally including cross border contracts: (excluding lease contracts and the sale of scrap)**

Approval Authority →	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Operating Divisions	Up to but not exceeding R500m	Up to but not exceeding R1000m	Up to but not exceeding R3000m	Exceeding R3000m
Approval Authority →	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Specialist Units	Up to but not exceeding R500m	Up to but not exceeding R1000m	Up to but not exceeding R3000m	Exceeding R3000m

5.5.4 **Internal Contracts**

Contracts between OD and or SU's such as service level agreements and project specific agreements may be entered into between OD CE's or SU GE's.

5.5.5 **Property and Lease Agreements**

All internal and external Property Lease Agreements including revenue generating leases and expenditure leases (excluding vacant land).

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Approval Authority →	OD CE and GE:TCP	GE: Transnet Property	GCFO	GCE	Acquisitions and Disposals Committee
Operating Divisions	Up to but not exceeding R20m per lease per annum	Up to but not exceeding R50m annualised	Up to but not exceeding R200m full term	Up to but not exceeding R500m full term	Exceeding R500m full term
	Tenure not exceeding 5 years	Tenure not exceeding 5 years	Tenure not exceeding 10 years	Tenure not exceeding 15 years	Tenure exceeding 15 years

- Tenders that include alienation/leasing out of land for a period longer than 5 years must be submitted to the GCE for approval prior to going out on tender or RFP.
- Cession of leases: All cession or assignment of Lease agreements shall be approved by the GCFO or Group Executive: Transnet Property. For cession of leases at OD level, the CE of the respective OD/SU may approve cession or assignment of lease agreements.
- Cession of lease agreements, renewals and extensions of lease agreements with a change to material terms of the existing lease e.g. extension or shortening of the lease period, change of rental terms etc. may be approved in terms of the above limits i.e. where the original lease was approved in terms of the delegated authority above, changes of material terms to be approved by the same approval body.
- All external Lease Agreements (> 5 years) of properties on land/properties adjacent to other land/properties of ODs and/or belonging to Transnet Property, must be communicated and agreed with the relevant division/Transnet Property before entering into any Lease Agreements.
- All leases for vacant land may only be approved by the GCE with the above limits for the GCE applicable i.e. if the lease value exceeds R500m or the tenure exceeds 15 years then Acquisitions and Disposals Committee approval is required. For the purposes of this transaction vacant land is considered to be undeveloped land.
- In cases where vacant land is leased out with its own rental premium applicable to it and a separate rental premium for improvements located on the portion of the same leased site, although part of one lease transaction – to the extent that the proposed lease has lettable vacant land, the GCE shall approve such lease transactions in line with his limits of authority as stated in the table above.
- Interdivisional leases for vacant land may be entered into and signed by the respective OD CEs/GE: TCP/GE: Transnet Property.
- Leases for vacant land exclude the leasing in of land to be used for lay down areas and borrow pits for projects.
- Special Delegation to apply to the CE of TNPA in compliance with the National Ports Act of 2005 as amended.
- Internal leases between Transnet Property and the ODs/SUs may be signed by the CEs or GE's of the respective ODs/SUs.
- Revenue Generating Leases: Lease agreements concluded by Transnet in its capacity as lessor for purposes of generating revenue.
- Expenditure Lease: Lease agreements concluded by Transnet in its capacity as a Lessee.

5.6 Legal Services

NOTE: The provision of legal services must be in accordance with the Legal Policy. In respect of all litigation the bearer of the authority may, after taking legal advice from Group or Divisional Legal Services, as the case may be, execute all documents and do all things necessary to give effect to his/her authorisation including submission through governance structures.

5.6.1 Settling any litigation, arbitration and other forms of Alternative Dispute Resolution

Approval Authority →	Divisional Head: Legal	OD CE, GE: Transnet Property and GE:TCP	GE: Legal and Compliance	GCFO	GCE
Operating Divisions	Up to but not exceeding R2m	Up to but not exceeding R10m Greater than R10m but less than R35m with concurrence of GE Legal and Compliance	Up to but not exceeding R50m	Up to but not exceeding R100m with concurrence of GE Legal and Compliance	Exceeding R100m

Approval limits are per litigation matter and relate to the settlement amount of that particular matter.

5.6.2 Disputes with Government and matters posing a reputational risk to the Company

Approval Authority →	Risk Committee	Board
	Matters which pose a reputational risk to the	Any disputes with government entities or where the outcome of

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	Company should be submitted for consideration.	any litigation, arbitration or similar proceedings is likely to have a material effect on the business, financial condition or prospects of the Company

5.6.3 **Defending matters in court or any other competent forum**

Approval Authority →	Legal Manager
	Defending, subject to the Legal Policy, any litigation (actions or applications) in court or any other competent forum, including the appointment of attorneys and/or advocates for such proceedings

5.6.4 **Commencing any litigation in court or any other competent forum**

Approval Authority →	GCE
	Commencing, subject to Legal Policy, any litigation (actions or applications) in court or any other competent forum, including the appointment of attorneys and/or advocates for such proceedings.

NOTE: the Standard Operating Procedures for Litigation Matters prescribes the following:

- Upon receipt of instructions, the Legal Advisor must ascertain from the facts of the case and in law whether.
  - Transnet has legal grounds to pursue litigation and whether it would be financially viable to pursue litigation bearing in mind the quantum of the matter and the costs of pursuing the matter;
  - it would be more advisable to settle the matter;
  - there is any reputational or other risk to Transnet in proceeding with the litigation;
  - whether there is any precedence that needs to be created by the company for future similar matters.
  - Should the Legal Advisor be satisfied that, on the facts presented, Transnet should institute legal action, the Legal Advisor must submit a written request to the person duly authorised, in terms of the Delegations of Authority Framework, for approval:
    - to institute litigation on behalf or Transnet, and
    - to appoint an external attorney from the Transnet approved panel of attorneys

5.6.5 **Subject to the Legal Policy, the appointment of external advisors, attorneys, advocates and any other external legal advisors including adjudicators, mediators, arbitrators for purposes of alternative dispute resolution process under NEC3 contracts or any other contract.**

Approval Authority →	OD CE	GE: Legal and Compliance	GCE
OPERATING DIVISION	Up to but not exceeding R10m	Up to but not exceeding R50m	Exceeding R50m
	Specialist Units GEs and Heads of Legal	Legal and Compliance	GCE
Specialist Units GEs and Heads of Legal	Up to but not exceeding R5m	Up to but not exceeding R50m	Exceeding R50m

- The amounts indicated relates to the claim amount in the case of commencing litigation, and the estimated legal fees to be charged in all other matters

5.7 **Human Resources**

INTRODUCTION

The Delegation of Authority for Human Resources provides for controls and good governance in the following areas:

- Organisation Management
- Personnel Appointments and Remuneration
- Appointment of Fixed Term Contract Employees
- Interim / Ad-hoc Remuneration Adjustments
- Rewards / Awards / Exceptional Payments / *Ex-gratia* Awards
- Suspension of Employees
- Dismissal of Employees

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- Mutual Separation Agreements
- Collective Bargaining and Trade Union Recognition
- Deviation from approved Human Resources Policies

PRINCIPLES

1. Any approval in the Human Resources environment must be obtained from a manager who is at least two hierarchical reporting levels higher than the employee for whom authorization is required.
2. When acting in a higher capacity, decision for own portfolio or department that will ordinarily be recommended by the acting incumbent must be referred to one level higher.
3. Where an incumbent acts for a period of longer than three months, the full powers of delegation of the position in which the person is acting, may be transferred to the acting incumbent.
4. Each OD/SU may implement stricter delegations and increase the level of authority above those set out in the document. Any such change must be in writing.
5. Board approval is required for the appointment and remuneration of the GCE and GCFO.
6. The Remuneration, Social and Ethics Committee (RemSEC) provides final approval for the annual reward allocation including the salary mandate.
7. All matters relating to the position of the GCE and GCFO are reserved for the Board and Shareholder Minister in line with the Company's governing legislation and mandates

ABBREVIATIONS

The abbreviations used in the Human Resources Delegation of Authority are set out in the table below:

FA	Final Approval
FA:CC	Final Approval for Corporate Centre
R	Recommendation
A	Has provided advice
C	Consultation
N	Noting
GE: HR	Group Executive: Human Resources
CE, GE	Chief Executive of OD or relevant Group Executive of the Corporate function
GM: HRE	General Manager: Human Resources Enablement
GM: ER	General Manager: Group Employee Relations
OD/SU HR GM	General Manager: Human Resources at the OD/SU
LM: GM	Line Management - General Manager

The table below sets out the delegation framework for Human Resources.

1	Organisation Management: Creation of New Positions / Change in Positions / Restructuring • No permanent or fixed term contract position can be created or the grade level changed unless the approved Organisation Management governance was followed in respect of the evaluation of positions and ratification of grade levels.

HUMAN RESOURCES		Board (on behalf of the Shareholder)	RemSEC	GCE	GE: HR	OD/SU CE/ GE	OD/SU HR GM	LM:G M
1.1	Executive Directors	*FA						
1.2	Group Exco (A level excluding executive directors)		FA	R				
1.3	General Managers (B level)			FA	R	R		
1.4	Executive Managers (C level)				A	FA	R	R
1.5	Senior Management (D level and below)						FA	R

*In consultation with the Shareholder Minister

2	Personnel Remuneration • The RemSEC reviews the GCE's assessment of performance and recommends the remuneration of Prescribed Officers and Extended Exco to the Board for approval by the Shareholder • The remuneration of the abovementioned category of employees shall be in terms of the DPE Remuneration Standards • The appointment and remuneration of all management level employees (levels A to F) will be guided by the Guidelines and Salary

	Bands issued by the Group Remuneration Office. These Guidelines and Salary Bands will take into account the occupational specific categories. • For managers in levels A and B the Group Remuneration Office will recommend the appropriate remuneration bands based on market information and internal parity. Approval of the final appointment and remuneration package will be in terms of the delegations below. • Each OD will apply the Guidelines and Salary Bands when appointing and structuring the packages of management employees in levels C and below. Approval of the final appointment and remuneration package will be in terms of the delegations below. • After salary adjustments and before a mandate is sought for the next financial year, the Group Remuneration Office will conduct a comparative analysis of salaries across ODs to inform the Group Guidelines and Salary Bands of managers for the new financial year. Affordability and the need for internal and external parity will inform these guidelines.

HUMAN RESOURCES	Board* (on behalf of the Shareholder)	RemSEC & CORP GOV	GCE	GE: HR	OD/SU CE/ GE	OD/SU HR GM	LM:G M
2.1 Executive Directors	*FA						
2.2 Group Exco (A level excluding executive directors)		C	*FA	R			
2.3 General Managers (B level)			FA	R	R		
2.4 Executive Managers (C level)				A	FA	R	R
2.5 Senior Management (D level and below)						FA	R

* The Chairpersons of Remuneration, Social and Ethics and the Corporate Governance and Nominations Committees will be consulted by the GCE for the appointment of Group Exco Members (other than executive directors). The *consultation* will be through a memorandum submitted to the Chairpersons of the Committees

*In consultation with the Shareholder Minister.

3	Appointment of Fixed-Term Contract Employees A person appointed on a fixed-term contract (for a specific period of time or to perform a specific project) must be appointed into a graded position.

HUMAN RESOURCES	Board (on behalf of the shareholder)*	REMSEC	GCE	GE: HR	OD/SU CE/GE	OD/SU HR GM	LM: GM
3.1 Executive Directors	*FA						
3.2 Group Exco (A Level excluding executive directors)		FA	R				
3.3 General Managers (B level)			FA	R	R		
3.4 Executive Managers (C level)					FA	R	R
3.5 Senior Management (D level and below)						FA	R

4	Counter Offers and Interim Salary Adjustments • In line with the Group Remuneration Philosophy approved by the REMSEC, there will be no interim / ad-hoc remuneration adjustments If an employee produces a written and current counter offer of employment with details of the remuneration package, and the Company seeks to retain the employee based on the criticality of the employee's skill, an interim adjustment of the employee's current remuneration package may be offered in terms of the delegations below. Any counter offer must be in accordance with the Group Guidelines and Salary Bands issued by Group Remuneration

HUMAN RESOURCES	Board (on behalf of the Shareholder)*	REMSEC	GCE	GE: HR	OD/SU CE/ GE	OD/SU HR GM	GM:HR	LM:G M
4.1 Executive Directors	*FA							
4.2 Group Exco (A excluding executive directors)		FA	R	N			R	
4.3 General Managers (B level)			FA	R	R		R	
4.4 Executive Managers (C level)				FA	R	R	R	R
4.5 Senior Management (D level and below)						FA	FA;CC	R

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5	Internal Rewards / Awards / Exceptional Payments / *Ex-gratia* Awards The amounts reflected below are per initiative (not per individual employee payment) per annum

HUMAN RESOURCES		Board	RemSEC	GCE	GE: HR	GCFO	OD/SU CE/ GE	HR GM	GM:HR	LM: GM
5.1	R10m and above	FA	R	R	R				R	
5.2	Between R5m but not exceeding R10m		FA	R	R				R	
5.3	Between R50 000 but not exceeding R5m			FA	R		R		R	
5.4	Between R20 000 but not exceeding R50 000				FA		FA	R	R	R
5.5	Up to but not exceeding R 10 000						FA	R	R	R

*In consultation with the Shareholder Minister

6	Suspension of Employees • The suspension of all employees is per the delegations of authority below. • In the case of the suspension of a bargaining unit employee, the relevant OD Employee Relations Manager must recommend the suspension based on the merits of the case.

HUMAN RESOURCES		Board (on behalf of the Shareholder)*	GCE	GE: HR	OD/SU CE/ GE	OD/SU HR GM	GM: ER	LM: GM	LM	ER Manager
6.1	Executive Directors	*FA								
6.2	Group Exco (A level excluding executive directors)		FA	R			R			
6.3	General Managers (B level)		FA	R	R		R			
6.4	Executive Managers (C level)			FA	R	R	A	R		
6.5	Senior Management (D level to F level)					R	A	FA	R	A
6.6	Bargaining unit employees								FA	R

7	Dismissal of Employees • The dismissal of any employee for reasons of discipline or incapacity must be preceded by a fair hearing in line with Company policies • The dismissal of an employee for operational requirements must be preceded by a fair consultation process

HUMAN RESOURCES		Board (on behalf of the Shareholder)*	GCE	GE: HR	OD/SU CE/GE	OD/SU HR GM	GM: ER	LM: GM	LM	ER Manager
7.1	Executive Directors	*FA								
7.2	Group Exco (A level excluding executive directors)		FA	R			R			
7.3	General Managers (B level)		FA	R	R		A			
7.4	Executive Managers (C level)			A	FA	R	R	R		A
7.5	Senior Management (D level to F level)				A	R	R	FA	R	A
7.6	Bargaining unit employees								FA	R

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8	Mutual Separation Terms and conditions and financial settlement amounts of mutual separation agreements for A – D Roles will be guided by the Guidelines issued by the Group Remuneration Office.

HUMAN RESOURCES		Board (on behalf of the Shareholder)*	RemSEC	GCE	GE: HR	OD/SU CE/GE	OD/SU HR GM	GM:ER	LM:GM
8.1	Executive Directors	FA							
8.2	Group Exco (A level excluding executive directors)		FA	R	R			R	
8.3	General Managers (B level)			FA	R	R		R	
8.4	Executive Managers (C level and below)				FA	R	R	R	R

9	Collective Bargaining and Trade Union Recognition							
HUMAN RESOURCES		RemSEC	GCE	GE: HR	OD/SU CE/ GE	OD/SU HR GM	GM:ER	LM:GM
9.1	Conclusion of any Collective Agreements with Labour excluding shift patterns			FA	R	R	R	
9.2	Mandate for salary and wage negotiations	FA	R	R			R	
9.3	Recognition of Labour and Signing of Recognition Agreement	N	N	FA			R	

10	Deviation from Approved Human Resources Policies								
HUMAN RESOURCES		Group Exco	GCE*	GCFO	GE: HR	OD/SU CE/GE	OD/SU HR GM	GM: ER	LM: GM
10.1	Any deviation from a Transnet HR Policy		FA		R	R	R	R	R
10.2	Approval of HR policies	FA							
10.3	Report all human capital risks				R				

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5.8 General Delegations

5.8.1 Chartering of Aircraft

Authority Level	OD CE/SU GE	GCFO	GCE
Chartering of Aircraft	NIL	Up to but not exceeding R3m	Exceeding R3m
Chartering of helicopters for operations	R250 000*	Up to but not exceeding R1m	Exceeding R1m

* The limits for OD CEs/SU GE are cumulative per aircraft per month.

5.8.2 Mobile phones: Authorising payments exceeding monthly limits (reflected in mobile phone contract)

Companywide	Group Exco Member	GCFO	GCE
	Up to but not exceeding R10 000 per month	Up to but not exceeding R20 000 per month	Exceeding R20 000 per month

5.8.3 Entertainment Expenditure

Authority Level	OD CE	Group Executives	GCE
	Up to but not exceeding R50 000 per occasion	Up to but not exceeding R50 000 per occasion	Amounts exceeding R50 000 per occasion

Costs incurred by any person on behalf of the Company must be authorised by that person's superior and must be within the approved budgetary limits. Supporting documentation should be marked cancelled to prevent re-use thereof. All entertainment expenses must be business related expenses.

5.8.4 Rewards/Awards/Exceptional Payments to external parties: (Examples: Ex-*gratia* awards, exceptional performance, recognition payments)

	OD CE	GCFO	GCE	REMSEC	Board
Operating Divisions	Up to but not exceeding R50000	Up to but not exceeding R100000	Up to but not exceeding R5m	Up to but not exceeding R10m	Exceeding R10m
	Group Exco Members	**GCFO**	**GCE**	**REMSEC**	**Board**
Specialist units	Up to but not exceeding R50000	Up to but not exceeding R100000	Up to but not exceeding R5m	Up to but not exceeding R10m	Exceeding R10m

5.8.5 Sponsorships and Donations

Approval Authority →	OD CE	GCFO	GCE	REMSEC	Board
Operating Divisions	Up to but not exceeding R5m	Up to but not exceeding R7m	Up to but not exceeding R10m	Up to but not exceeding R20m	Exceeding R20m
Approval Authority →	**Group Exco Members**	**GCFO**	**GCE**	**REMSEC**	**Board**
Specialist Units	Up to but not exceeding R2m	Up to but not exceeding R7m	Up to but not exceeding R10m	Up to but not exceeding R20m	Exceeding R20m

Approval limits are cumulative per annum e.g. the OD CE can approve a total amount of R5m per annum for sponsorships and donations.

5.8.6 Annual filing of tariff applications with Regulators

- Policy and Regulation Committee will approve the OD tariff increase applications.
- The OD CE in concurrence with the GCFO are delegated to file the Tariffs applications with relevant Regulatory body.

5.8.7 International Business Travel (including travel to African countries)

	Approval Authority
Below CE level at Operating Division*	GCE
CE of Operating Division	GCE
Corporate Centre	GCE
Specialist Units	GCE
Group Executives	GCE
GCE and Chairperson	User – Retrospective review by GCE or Chairperson and vice versa

*CE of OD must recommend and the GCE to approve

5.8.8 Domestic Business Travel

	Approval Authority
Chairperson/GCE/Group Exco Members	User

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CE of Specialist Unit	Group Exco member responsible
General Managers/Extended Exco	OD CE/OD CFO/Group Executives
All other levels	Extended Exco

All travel must be in line with the approved Travel Policy as amended in accordance with the provisions of National Treasury instruction Note 1 of 2013/14. Extended Exco Members at an OD/SU may sub-delegate to the appropriate lower level.

5.8.9 **Communication**

	Approval Authority
External communication on strategy and operations	GM Public and Corporate Affairs or GCE or his Designate
Communication on operational issues relating to an OD	Group Exco Member responsible for OD
Communication with the Shareholder Minister	Office of the GCE or Chairperson of the Board of Directors

Approval to attend seminars and or conduct presentations to external parties which may result in indirect communication may be approved by a OD CE/SU GE or the GCE.

5.8.10 **Establishment of Special Purpose Vehicles (SPVs), Public Private Partnerships (PPPs), Private Sector Participation (PSP) and Trusts**

	Approval Authority
Establishment of SPVs, PPPs PSPs and Trusts	Board to approve after recommendation by ADC, the GCE, GCFO, GE: Legal and Compliance as per the Materiality and Significance Framework contained in the Compact with the Shareholder if the transaction is specified in the Corporate Plan if not specified in the Corporate Plan then Board may approve the transaction up to but not exceeding capital risk of R100m. Capital risk in excess of R100m are to be recommended by the Board for Shareholder approval.

The Company shall not without the prior written approval of the Shareholder enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the Significance and Materiality Framework.

5.8.11 **Establishment of Joint Ventures or Consortia with Entities Incorporated in foreign jurisdictions**
To be read in conjunction with 5.8.10 above.

	Approval Authority
Establishment of Joint Ventures or Consortia with Entities Incorporated in foreign jurisdictions	Approval to enter into an agreement or other binding document establishing a joint venture or consortium with an entity incorporated in foreign jurisdiction requires approval from the Shareholder Minister on recommendation from the Board and in addition, if it also contains foreign currency exposure, approval must be sought and obtained as per the monetary thresholds indicated in the second bullet under item 5 5 1.2 above If capital risk is R100m or below, Board approval is required as per the Materiality and Significance Framework contained in the Compact with the Shareholder. Capital risk in excess of R100m for this transaction are to be recommended by the Board of Directors for approval by the Shareholder.

The Company shall not without the prior written approval of the Shareholder enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the Significance and Materiality Framework (SMF)

5.8.11 **Restructuring and sale of business**

	Approval Authority
Restructuring or sale of business	Board in accordance with Section 54 of the PFMA

5.8.12 **Pension Fund and Medical Fund Rule Amendments as recommended by the Board of Trustees of the Funds**

	Approval Authority
Changes to the rules of the pension and medical fund that do not require Ministerial approval	GCE and GCFO
Rule amendments that require Ministerial approval	Board to recommend to the Minister of Public Enterprises for approval

5.8.13 **Application for Environmental Authorisation**

- All environmental impact assessment or basic assessment applications must be prepared by a competent independent environmental assessment practitioner/consultant, unless exemption from this provision has been obtained in writing by the Department of Environmental Affairs and under the supervision of the Environmental Department in the OD/SU.
- The application for environmental authorisation must be signed as per the approval authority below.

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	Approval authority to act as applicant for an environmental authorisation for Transnet SOC Ltd
Operating Division	Project Manager/ Operations Manager/Environmental Manager
Specialist Unit (Transnet Property)	Chief Operations Officer of Property
Specialist Unit (Transnet Capital Projects)	Project Director

- The applicant remains legally responsible for the compliance with the environmental authorisation throughout the implementation of the authorisation.
- Should an authorisation for new capital projects contain operational elements after formal handover of the project by TCP, the DEA needs to be informed in writing of the change in names and acknowledgement from DEA be filed.
- Should any of the above applicants leave the Company, the DEA needs to be informed in writing of the new person responsible for the implementation of the environmental authorisation.

5.8.14 Recommendation on Board-approved Policies

Deviation from Policy	Board	Audit	Risk	ADC	Corporate Governance and Nominations Committee	RemSEC	Group Exco
Governance and Ethics Management Policies	FA					R	
HR related (succession planning excluding executive directors)						FA	
HR related (succession planning for executive and non-executive directors)	R				R		
HR related (performance management)						FA	
Procurement related	FA			R			
Property related				FA			
Risk related			FA				
Treasury Related		FA					
Tax related		FA					
CSI related	FA					R	
Compliance related	FA	R					
Marketing	FA					R	
Advertising	FA					R	
Sustainability (Energy and Water)	FA					R	
B-BBEE	FA					R	
PSP	FA			R			
Financial Policy w.r.t. Insurance		N	FA				R

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EXHIBIT 14

TRANSNET

INTEGRATED SUPPLY CHAIN MANAGEMENT

TRANSNET PROCUREMENT PROCEDURES MANUAL [PPM]

Incorporating Procedures for General Procurement & Construction Procurement

Version 3
1 June 2015

PROCUREMENT PROCEDURES MANUAL

SECTION A Background and Context

SECTION B Procurement Planning

SECTION C Go To Market

SECTION D Evaluation and Adjudication

SECTION E Contract Management

SECTION F Governance Structures

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DOCUMENT CONTROL

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Procedures Manual re-written to provide more comprehensive guidance and renamed Procurement Procedures Manual	26 May 2009	0
Procedures Manual re-written to align to approved Supply Chain Policy	01 October 2012	1
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This document has been reviewed by the relevant governance structures and approved by the Acquisitions & Disposals Committee on 23 February 2015.

Issued by:

Garry Pita
Group Chief Supply Chain Officer
Date: 26/2/15

SECTION A:

BACKGROUND AND CONTEXT

Chapter 1: Definitions, Abbreviations & Acronyms

Chapter 2: Introduction

Chapter 3: Scope and Exclusions

Chapter 4: Applicable Legislation and Policies

Chapter 5: Code of Ethics

Chapter 6: Delegation of Authority for Procurement Processes

Procurement planning

Go to Market

Evaluation and Adjudication

Contract Management

Functions of Governance Structures

Appendices

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CHAPTER 1 : DEFINITIONS, ABBREVIATIONS AND ACRONYMS

TERM	DEFINITION, ABBREVIATION OR ACRONYM
Acceptable Bid	Any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document.
Acquisition Council [AC]	The main Acquisition Council of an Operating Division, Specialist Unit or Business. Unless specifically stated otherwise "AC" also includes higher approval bodies such as the Acquisitions and Disposals Committee as well as sub-Acquisition Councils operating under the auspices of the ACs and which caters for transactions falling below the minimum threshold of the main AC, e.g. Acquisition Councils operating on a local or regional basis, as well as the TAC catering for Corporate Head Office and transversal contracts.
Acquisitions & Disposals Committee [ADC]	A sub-committee of the Transnet Board of Directors tasked with providing oversight and approval for acquisitions and disposals falling within its delegation of authority.
Advance Payment Guarantees [APGs]	Is a guarantee issued by a financial institution, on behalf of a supplier to a buyer, in relation to any advance payment that is made by the buyer to the supplier to allow the work to commence. The guarantee protects the buyer against the risk of non-performance as the buyer can claim reimbursement of the advance payment against the guarantee in such a case.
Advertisement	A public invitation to submit bids for the provision of Goods/Construction Works/Services.
Alternative Bid	Is a bid that purports to satisfy a stated need but does so by proposing alternatives to the approach laid down in the RFX. Alternative Bids are allowed at the discretion of Transnet.
B-BBEE	Broad-Based Black Economic Empowerment.
B-BBEE Enterprise	Any supplier or contractor who has been rated anything from a Level 8 (10 % recognition level) to a Level 1 (135% recognition level), as defined in the B-BBEE Act and Codes of Good Practice issued by the DTI.
B-BBEE Improvement Plan	A plan requested from bidders/preferred bidders on the extent to which they commit to improving or sustaining their B-BBEE performance over the contract period. The B-BBEE Improvement Plan typically focuses on improving ownership, management control, preferential procurement, supplier development and enterprise development.
Bid	A written offer in a prescribed form in response to an invitation by Transnet for the provision of Services, Construction Works or Goods, through price quotations, advertised open bids, approved lists, confinements or proposals.
Bidder	a natural or juristic person or partnership who submits a bid offer or an expression of interest to perform a contract in response to an invitation to do so.
Black People	Is a generic term which means Africans, Coloureds and Indians as defined in the B-BBEE Act and amended Codes of Good Practice issued by the DTI.
Board of Directors [BOD]	The Board of Directors of Transnet SOC Ltd.
Buyer	Any person in Procurement or ISCM in any Transnet entity, who has the necessary delegated powers to undertake specific procurement functions with regard to transactions falling within his/her DoA, i.e. the R-value of the transaction.
Carrier	Any person who, in a contract of carriage of goods, undertakes to perform or to procure the performance of carriage, by rail, road, sea, air, inland waterway or by a combination of such modes (used in definitions of Incoterms).

TERM	DEFINITION, ABBREVIATION OR ACRONYM
Centre(s) of Excellence [COE(s)]	Cross-divisional teams strategically focusing on a particular functional area. They focus on tactical issues relating to the functional area, and are aimed at identifying and leveraging on the areas of excellence in Transnet. Key strategic objectives will be executed through the COEs with a risk mitigation plan supported by Enterprise Risk Management (ERM).
Chief Executive	The Chief Executive at the head of a Transnet Division with appropriate delegated authorities which are in line with the Transnet Group Delegation of Authority (Group Limits of Authority).
Chief Financial Officer [CFO]	A Chief Financial Officer in an Operating Division of Transnet including Transnet Capital Projects.
Construction Industry Development Board [CIDB] bid/contract	Any construction related bid/contract, as defined in, and regulated by the Construction Industry Development Board, by virtue of the CIDB Act. This includes new construction activities as well as the maintenance of existing civil, mechanical or electrical structures.
Condonation	A condonation is a mechanism used to regularise a transgression of the Supply Chain Policy or an irregular step in a procurement process.
Confinement	A procurement process restricted to one or a limited number of Bidders.
Consultant	A consultant means a professional person appointed to provide technical and specialist advice or to assist with the design and implementation of projects and/or programmes. The legal status of this person can be an individual, a partnership, a corporation or a company.
Consulting Services	Refers to those specialist services and skills that are required for the achievement of a specific objective with the aim of providing expert and professional advice on a time and adhoc basis. These professional services may include the rendering of expert advice, obtaining relevant information from Transnet to draft a proposal for the execution of specific tasks that are of a technical or intellectual nature, business and advisory services, infrastructure and planning services, laboratory services and science and technology.
Chief Procurement Officer [CPO]	The Chief Procurement Officer of a Division of Transnet or a Specialist Unit.
Cross Functional Evaluation Team [CFET]	A team that is involved in the evaluation of bids regarding transactions of a high value or where the quality / functionality criteria is complex and a simple yes /no answer on technical compliance is not possible or feasible.
Cross Functional Sourcing Team [CFST]	A team that is involved in the procurement of transactions of a high value or where the quality / functionality criteria are complex. As they represent various functions, a holistic overview over the process will be ensured.
Construction Works	The provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure.
Day	See definition of Working Day
Delegation of Authority [DoA]	The extent of authority required in order to implement certain actions by or on behalf of the company, including any sub-delegation of authority where permitted. This includes the power to retrospectively authorise, condone or rescind a decision already taken by a sub-delegate, where appropriate.
Exempted Micro Enterprise [EME]	An enterprise with an annual turnover of less than R5 million in terms of the 2007 DTI's Codes of Good Practice and an enterprise with an annual turnover of less than R10 million in terms of the 2013 Codes of Good Practice.
Expression of Interest [EOI]	Means a request for Bidders to register their interest in providing specified Goods/Construction Works/Services and to submit their credentials so they may be invited to submit a Bid should they qualify or are selected to do so.

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
Enterprise	A trading business (a company, close corporation, partnership or any other form of business) external to Transnet.
Enterprise Development Contributions	Means monetary and non-monetary contributions carried out for the following beneficiaries with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries: Enterprise development contributions to EMEs or QSEs which are at least 51% Black owned or Black women owned.
Entity	Used in the Transnet context to describe an internal Transnet Operating Division, Specialist Unit, Transnet business or the various Group Functions comprising the Corporate Centre.
Fronting Practice	Means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the B-BBEE Act or the implementation of any of the provisions of the Act, including but not limited to practices in connection with a B-BBEE initiative as outlined in the B-BBEE Amendment Act 46 of 2013.
Fruitless and Wasteful Expenditure	Expenditure that was made in vain and could have been avoided had reasonable care been taken. The payment of exorbitant prices which are not market related is also regarded as fruitless and wasteful expenditure.
Goods	Any physical object or objects which have value, whether raw or processed, movable or immovable.
Group	All Operating Divisions, Specialist Units, Businesses as well as the various different Group Functions comprising the Corporate Centre.
Group Chief Executive [GCE]	The person in the Corporate Centre appointed as the Transnet Group Chief Executive, duly appointed by the Minister of Public Enterprises, or the person acting in his/her stead, at any given time, in terms of a proper mandate.
Group Chief Financial Officer [GCFO]	The Group Chief Financial Officer in the Group Corporate Head Office, who reports directly to the GCE, or the person acting in his/her stead, at any given time, in terms of a proper mandate.
Group Chief Supply Chain Officer [GCSCO]	The General Manager who heads up the integrated Supply Chain Management function in the Corporate Head Office, or the person acting in his/her stead, at any given time, in terms of a proper mandate.
Group Executive [GE]	Head of a Specialist Unit or Group Function within Transnet
High Value Tender Process [HVTP]	A process that is used in the procurement of high value goods/services. This process includes a number of gateway reviews during key steps of the tender process, in order to ensure that any flaws in the process are detected timeously.
IC^3 Supplier Development Matrix	A framework utilised to categorise SD opportunities on a matrix based on their value, extent of industrial leverage and strategic importance to Transnet. The matrix is adapted from the DPE Supplier Classification Matrix focused on Increased Competitiveness, Capability and Capacity.
Imported content	That portion of the Bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry.
Incoterms	(ICC Incoterms 2010) means, in relation to international trade (sale and purchase of Goods), the globally accepted purchase terms for Goods, used to indicate the costs to be incurred by the seller and the buyer and the point at which the risk of the Goods passes from the seller to the buyer See Appendix C for detailed definitions of all Incoterms.
Integrated Supply Chain Management	The Integrated Supply Chain Management function as a whole including all

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
[iSCM]	Operating Divisions and Centres of Excellence.
Irregular Expenditure	Expenditure incurred in contravention of, or that is not in accordance with a requirement of any applicable legislation, including the PFMA.
Joint venture (or consortium)	Means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.
Letter of Award	The letter that is issued to inform the Successful Bidder unequivocally that it was awarded the business.
Letter of Intent (LOI)	The letter that is issued when a Bidder is selected as the Preferred Bidder. The LOI informs the Preferred Bidder of Transnet's intention to negotiate and conclude a contract with it.
Local Content (LC)	The portion of the Bid price or quotation which is not included in the Imported Content, provided that local manufacture does take place.
Manager	Means any employee in Transnet, by whatever designation he/she is known, who has been delegated certain specific powers in terms of a proper Delegation of Authority.
Material Amendment	An amendment which increases the scope, cost or risk of a contract by more than 10% of the original contract value.
Market Demand Strategy (MDS)	The Transnet strategy to invest in capital infrastructure in order to meet market demands for increased efficiency and effectiveness in delivery of Transnet's services.
NEC3 Engineering and Construction Contract (NEC3)	This form of contract can be used for all projects regardless of value type or complexity and has specifically defined project management principles.
Non-Disclosure Agreement [NDA]	A confidentiality agreement between two or more parties.
Open Bid	A public request to do business which has been properly advertised and to which any member of the public can respond.
Operating Division [OD]	An operating division of Transnet, namely TFR, TPT, TNPA, TPL and TE.
Parcelling	When the full scope of work is known at a point in time and business is deliberately split into smaller portions to keep the transaction value within one's own Delegation of Authority, or to keep it below the threshold of an AC or a person with higher Delegation of Authority.
Parent Company Guarantee	A guarantee by a parent company of a supplier's performance under its contract with a buyer, where the supplier is a subsidiary of the parent company.
Performance Bonds (PBs)	A performance bond from a bank guarantees performance under a contract from commencement to completion. The bank issuing the performance bond undertakes to pay a specified sum of money to the buyer if the supplier does not fulfil its contractual obligations.
Post Tender Negotiation [PTN]	Negotiations between Transnet and one or more shortlisted Bidders after the Bids have been evaluated, but before the business has been awarded.
Preferred Bidder	Means a Bidder that has been identified through an evaluation process as the Bidder with whom Transnet intends to conclude a contract subject to the successful completion of contract negotiations.
Prequalification Criteria	These are criteria that have to be met for a Bid to be deemed as responsive, e.g. registration with a specific professional body, specific accreditation, etc.
Qualifying Small Enterprise [QSE]	An enterprise with a turnover between R5m and R35m, as defined by the DTI's 2007 Codes of Good Practice and an enterprise with an annual turnover of between

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
	R10 million and R50 million in terms of the 2013 Codes of Good Practice.
Quality (Functionality)	means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder.
Rental or Lease	The use of Goods and/or moveable assets for a period and for consideration (compensation).
Request for Information [RFI]	An invitation to a broad base of potential suppliers to provide written information about their capabilities to meet a stated Transnet need. An RFI is primarily used in instances where Transnet is not clear about the precise specifications and/or scope of work required to meet its needs for specified Goods/Construction Works or Services. The information received through an RFI process is typically used to pre-qualify suppliers for consideration before an RFP for the Goods /Construction Works /Services is issued.
Request for Quotation [RFQ]	Request for Quotation is used for transactions <R2million. However, CEs of ODs may at their discretion lower the quotation limit.
Request for Proposal [RFP]	Request for Proposal is used on the open Bid process i.e. for transactions > R2 million. However, CEs of ODs may at their discretion lower the minimum threshold for open Bids.
Request for "X" [RFX]	A generic term which can be used interchangeably with either RFI, RFQ or RFP.
Service	The provision of labour or work, including knowledge-based expertise, carried out by hand, or with the assistance of equipment and plant.
SOC	State Owned Company.
Supplier Development (SD)	Improving the socio-economic environment as required by the NGP by creating competitive local suppliers via Skills Development, Small Business Promotion, the Competitive Supplier Development Programme and other initiatives. This results in a reduction in capital leakage and creates a supply base that can be competitive to market its Goods on the international market leading to increased exports.
Successful Bidder	Means a Bidder that has been identified as the Bidder to which business has been awarded.
Sustainable Procurement	The procurement of goods and services in a manner that promotes environmental, social and economic sustainability.
Tender Evaluation and Recommendation Report [TEAR]	A report that must be submitted by the evaluation team to the AC setting out an overview of the bid evaluation process, evaluation methodology, reasons for elimination of Bidders, a recommendation for the award of the tender as well as all supporting evaluation scorecards.
Transnet Acquisition Council [TAC]	Acquisition Council catering for Corporate Head Office procurement and Centre-led transversal procurement.
Transnet Capital Projects [TCP]	Transnet Capital Projects - a Specialist Unit of Transnet.
Transnet Corporate Centre [TCC]	The Head Office of Transnet SOC Ltd
Transnet Engineering [TE]	Transnet Engineering - an Operating Division of Transnet.
Transnet Freight Rail [TFR]	Transnet Freight Rail - an Operating Division of Transnet.

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TERM	DEFINITION, ABBREVIATION OR ACRONYM
Transnet National Ports Authority [TNPA]	Transnet National Ports Authority - an Operating Division of Transnet.
Transnet Pipelines [TPL]	Transnet Pipelines - an Operating Division of Transnet.
Transnet Port Terminals [TPT]	Transnet Port Terminals - an Operating Division of Transnet.
Transnet Property [TP]	Transnet Property – a Specialist Unit of Transnet.
Transnet SOC Ltd	Transnet SOC Ltd, Registration No. 1990/000900/30 incorporated in terms of the Companies Act 71 of 2008, as amended which includes all Operating Divisions, Specialist Units and/or subsidiaries.
Unincorporated joint venture	Means a joint venture between two or more enterprises effected by agreement without incorporation as a corporate body.
Unsolicited Bid	A unilateral request from a person or enterprise to do business with Transnet without Bids or quotations having been invited by Transnet.
VAT	Value Added Tax
Working day	Any day other than a Saturday, Sunday or public holiday.
Year	Any defined period of 12 (twelve) consecutive months.
"Z" Clause	Refers to any additional clauses/special conditions mentioned in the Contract Data, Part 1 of the NEC3 Suite of Contracts.

Notes:

- Words capitalised in the document have been defined in this Chapter.
- The terms "bid" and "bidder" in the context of this Procurement Procedures Manual are synonymous with the terms "tender" and "tenderer" respectively.

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CHAPTER 2: INTRODUCTION

Transnet SOC Ltd ("**Transnet**") is fully owned by the South African government through the Department of Public Enterprise and operates as a corporate entity. Its purpose is to support and contribute to the country's freight logistics network by developing South African industry, reducing the cost of doing business, ensuring efficient and profitable operations, whilst at the same time promoting critical developmental and empowerment objectives.

Section 217 of the Constitution Act 108 of 1996 read with section 51(1)(a)(iii) of the Public Finance Management Act 1 of 1999 ("**PFMA**") stipulate that Transnet must have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.

Transnet's Supply Chain Policy and this Procurement Procedures Manual ("**PPM**") give effect to these statutory requirements. The purpose of one Supply Chain Policy and a uniform set of procedures for the whole Transnet Group is to facilitate a uniform interpretation internally, whilst complying with the requirements of Section 217 of the Constitution and Section 51(1) (a) of the PFMA. The aim of the Supply Chain Policy is to ensure that Transnet gets value for money in the procurement of Goods, Construction Works and Services in order to fulfil its mandate whilst redressing the economic imbalances that have been caused by unfair discrimination in the past. Transnet shall therefore carry out its procurement processes as cost-effectively as possible whilst meeting its commercial, regulatory and socio-economic goals. The Policy ensures a coherent framework within which procurement principles and compliance controls are applied across Transnet.

The PPM is a Procedure document which seeks to operationalise the objectives of the Supply Chain Policy.

2.1 NATIONAL OBJECTIVES

The Transnet supply chain function should be understood within the national context. Government's economic development policies such as the New Growth Path ("**NGP**"), the National Development Plan ("**NDP**") and the Industrial Policy Action Plan ("**IPAP**") emphasise the role that State Owned Companies ("**SOCs**") should play as key agents in a developmental state to accelerate national development by leveraging their procurement spend to ensure that key goals such as job creation, poverty alleviation, skills transfer and empowerment are achieved. As one of the major State Owned Companies, Transnet has a pivotal role to play in ensuring that Government's economic development policy goals are met.

2.2 INTEGRATED SUPPLY CHAIN MANAGEMENT ("iSCM") PROCUREMENT OBJECTIVES

2.2.1 Transnet's procurement objectives which are aligned to Transnet's objectives, particularly the Market Demand Strategy ("**MDS**"), are ensuring security of supply of goods and services that Transnet requires to fulfil its mandate, and achievement of key socio-economic goals, e.g. job creation and empowerment. All Transnet's procurement activities shall be implemented in line with the following best practice principles:

2.2.2 Fairness and Transparency:

- equal treatment of bidders;
- openness and accountability; and
- ethical conduct.

2.2.3 Social Equity:

- Broad-Based Black Economic Empowerment ("B-BBEE"), Preferential Procurement and Enterprise and Supplier Development.

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2.2.4 Value for money:
- competitiveness; and
- cost effectiveness.

2.2.5 Due regard must be given to the importance of:

a) the promotion of Interdivisional Procurement as well as the moving of excess stock between Divisions; and

b) the development, promotion and support of Transnet's Supply Chain Code of Ethics, which requires that all commercial conduct be based on ethical and moral values and sound business practice. This value system governs all commercial behaviour within Transnet.

2.2.6 Transnet will strive to procure Goods, Construction Works and Services which contribute to its mission: To anticipate and satisfy the requirements of its customers for a highly responsive and cost-effective transportation Service. In order to achieve this, Transnet is committed to working with suppliers who share its goals of continuous improvement in service, Quality and reduction of Total Cost of Ownership (TCO) and empowerment.

2.2.7 Transnet prefers not to do business with any agents ("middlemen"), who do not add significant value to the supply chain. Transnet would rather contract directly with the overseas and/or local Original Equipment Manufacturers (OEMs). In the case of dealing with overseas OEMs for relevant SD targeted commodities such as rolling stock and port equipment, Transnet will negotiate meaningful SD local capability and capacity building initiatives as part of their supply agreements with Transnet.

2.2.8 Transnet commits to clarity in its communication of requirements. It furthermore commits to being professional, courteous, fair, factual and responsive in its business dealings.

2.2.9 Transnet supports good corporate governance by ensuring the preservation of the highest standards of integrity, objectivity, fairness, efficiency and professionalism.

2.2.10 Transnet will look for opportunities to collaborate with other organs of state and SOCs in the procurement of its requirements. Transnet will consider the feasibility of consolidating its requirements for specific Goods/Construction Works/Services with other organs of state and SOCs. Where appropriate, Transnet will engage with the relevant stakeholders to initiate such a process.

2.2.11 Sustainable Procurement: Transnet will source in a manner that promotes environmental, social and economic sustainability. Sustainable Procurement is about:
- Improving environmental performance building a green industrial base in South Africa by increasing investment in the green economy, enhancing renewable energy procurement, the development of bio-fuels, clean coal initiatives, promoting energy efficiency across the economy, waste recycling, reducing carbon emissions through improved public transport and a shift in moving freight from road to rail;
- Cost savings including recognition of non-tangible benefits and costs;
- Promoting respect for human rights;
- Social economy considerations including job creation, empowerment, poverty reduction and transfer of skills; and
- Robust action against corruption.

Table 1 below indicates the elements of Sustainable Procurement:

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TABLE 1

Environmental Considerations/ Green Economy	Social Considerations	Economic Considerations
• Recycle; • Reuse; • Refurbishment; • Efficient energy consumption; • Reduced noise levels; and • Water conservation.	• Human rights protection; • Zero tolerance for corruption; • Anti-child labour; • Empowerment; and • Good governance, accountability and transparency.	• Cost effective (savings); • Job creation; and • Local supplier development;

2.3 iSCM CONTROL OBJECTIVES

Transnet's iSCM function is aimed at achieving the following control objectives:

- To ensure that only goods and services required by the organisation are acquired;
- To ensure that goods and services are acquired in a manner that is fair, equitable, transparent, competitive and cost effective;
- To ensure that demand is appropriately defined and supply is structured/executed in accordance with the needs of the business;
- Tenders enable efficient/economical procurement from appropriate vendors considering legislative requirements;
- To ensure that policies and procedures exist for the contract management process and are standardised across Transnet;
- To employ and retain adequately skilled and sufficient supply chain and contract management resources;
- To ensure that contract management is planned adequately and efficiently to enable Transnet to achieve its business objectives;
- To ensure that all goods and services are properly and efficiently delivered against the agreed standards and targets set out in the contract / SLA;
- To effectively and efficiently manage and maintain all supplier relationships;
- To ensure that all contracts are adequately retained and maintained on SAP CLM or filed manually;
- To ensure that all contract documents have been properly approved, finalised, filed and archived either manually or electronically;
- To ensure integrity of master data which will enable efficient, effective and economical procurement decision making;
- To ensure that there is appropriate source of supply to meet demand requirements timeously and that accurate and timeous payments are made to correct suppliers;
- Inventory is re-ordered promptly, at an appropriate level, to ensure availability when required. Material items are appropriately defined and set-up with correct specification. Inventory is appropriately safeguarded and secure; and
- To ensure fairness and diligence in the conduct and accounting of all scrap business practices that are adopted and is supported by duly documented, approved and accessible policies and procedures.

NOTE: The detailed Business Critical Activities (BCAs) derived from the above iSCM Control Objectives are attached hereto as Appendix A *(Business Critical Activities)*.

2.4 CONTROL SELF ASSESSMENTS

While the iSCM Control Objectives and BCAs form the basis for the Control Framework auditing process, an additional tool used to assess the effectiveness of risk management and control

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processes are quarterly automated Control Self Assessments (CSAs). The ratings of controls are completed by staff whose normal day-to-day responsibilities fall within the ambit of the Control Framework being assessed. CSAs are therefore regarded as the Transnet Entity's own assessment of the maturity of its controls in a particular process.

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CHAPTER 3: SCOPE AND EXCLUSIONS

The PPM is applicable to all acquisitions across the Transnet Group regardless of the value of the transaction, save for the exclusions mentioned in Table 2 below. The PPM has been aligned to the Construction Industry Development Board ("**CIDB**") Act, Regulations and Standard for Uniformity in Construction Procurement (Standard for Uniformity) and applies to all construction procurement across Transnet as indicated in paragraph 3.5 below.

The PPM sets minimum standards for compliance, however, CEs and their duly appointed Acquisition Councils ("**ACs**") may impose more stringent rules and thresholds than those laid down in the PPM.

3.1 PROCUREMENT PROCEDURES

Transnet's Procurement Procedures as detailed in this document (the **PPM**), aim to establish the framework within which all procurement activities are to be conducted at Transnet. These procedures are derived from the Transnet Supply Chain Policy, and should be read in conjunction with delegated powers granted in terms of the Delegation of Authority Framework.

3.2 DIRECTIVES AND INSTRUCTIONS

Other formal procedural manuals, directives, circulars or practice notes may be issued from time to time, either from iSCM (the GCSCO), or from an Operating Division ("**OD**"), AC or Group Function and these should be read in conjunction with this Manual. The GCSCO may issue directives which have application Group wide. An OD CPO or CE may issue directives within the framework of the PPM which are only applicable within that particular OD. An OD AC may issue directives to further regulate the functioning of its AC/s but within the framework prescribed by the PPM. Directives issued by Group and those that are issued by ODs must, as far as possible, be read harmoniously in order to avoid conflicting instructions. In the event of a conflict between directives that cannot be reconciled through harmonious interpretation, the directive issued by Group shall prevail.

It must be noted that any directive that changes any substantive principles of the PPM will be issued only on approval from the ADC. Where any conflict arises between such directives and the **PPM**, the **later dated approved document** shall prevail. For a list of the current applicable PPM Directives, please refer to Appendix G.

3.3 COMPLIANCE WITH THE PPM

3.3.1 Subject to paragraph 3.6 below, all procurement within Transnet must be conducted by supply chain officials within Transnet in accordance with the PPM.

3.3.2 The PPM also includes recommendations/guidelines which do not require mandatory compliance. These are clearly marked as "Guidance Notes" throughout the document.

3.3.3 Non-compliance with the Supply Chain Policy and material provisions of the PPM will be regarded in a serious light as it could result in Irregular Expenditure and/or Fruitless and Wasteful Expenditure in terms of the PFMA.

3.3.4 Section 51(1)(e) of the PFMA places an obligation on Transnet to take the necessary appropriate action regarding acts of financial misconduct.

3.3.5 Failure to comply with the Supply Chain Policy and material provisions of the PPM will lead to disciplinary action and depending on the severity of the non-compliance, possible dismissal and/or legal action. As a general rule, condonation of non-compliance with procurement policies and procedures will only be granted in exceptional circumstances.

3.4 PURCHASING PROCEDURES

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These procedures cover the purchasing and supply of all Goods, Services (tangible and intangible), fixed assets, construction-related procurement and the appointment of consultants. The aforementioned are in respect of both Operational and Capital expenditure.

3.4.1 Ferrous and non-ferrous scrap

The process of appointing contractors for the disposal of ferrous scrap (steel) and non-ferrous scrap is subject to the PPM. Due to the high value income-generating nature of such disposals as well as the high risk of theft, the disposal of scrap is in addition governed by a separate, detailed Transnet Disposal and Scrap Directive for movable assets, components, production materials and scrap metal.

3.5 CONSTRUCTION PROCUREMENT PROCEDURES

This PPM has been aligned to the Construction Industry Development Board ("CIDB") Act, Regulations and Standard for Uniformity and applies to all construction procurement across Transnet. In relation to construction procurement, to the extent that there is any conflict between the PPM and legislation related to construction procurement, the legislation shall prevail unless Transnet has received any specific exemptions from the CIDB legislation.

Where different procedures apply to general procurement and construction procurement, the CIDB logo will appear next to the procedures relating to construction procurement only.

Other formal procedural manuals, directives, circulars or practice notes relating to Construction Procurement may be issued from time to time and these should be read in conjunction with this Manual.

At the start of every Chapter following this Chapter there will be an indication regarding the application of the Chapter to construction procurement procedures.

3.6 PPM EXCLUSIONS

The transactions and processes tabled below are excluded from this Procurement Procedures Manual:

TABLE 2

• The selection of Enterprise Development (ED) beneficiaries. The selection of ED beneficiaries is conducted in terms of the ED Policy as well as the ED Procedures Manual. However, the award of any contracts to ED beneficiaries must follow the PPM.
• Individuals (temporary staff), including contract workers employed by Transnet Human Resources. (However, the appointment of a recruitment agency, Consultant, consultancy firm or a firm providing a Service to Transnet must follow the PPM).
• Petty cash purchases, subject to such instructions as issued from time to time.
• Inspection Services, testing and certification mandated to certain entities by legislation e.g. The South African Bureau of Standards and the Perishable Products Export Control Board.
• Advertising in newspaper/magazine publications (excluding campaigns involving professional advertising agencies).
• Income generating transactions (i.e. where Transnet's infrastructure, etc. is utilised to provide a Service; including instances where cross-divisional support is engaged for strategic or other reasons. However, procurement relating to such income-generating contracts must follow the PPM - see Chapter 9 *(Contract Options)*.
• Water and electricity which is supplied to Transnet, including the provision of related Services,

as well as the relocation of such Services as a result of Transnet's activities (e.g. the relocation of power lines or water mains due to the construction of a new railway line)
• Rates and taxes and other levies raised by local authorities or provincial administrations, both of which are excluded from these procedures, by virtue of the fact that they can only be obtained from the particular local authority, but which are for purposes of good corporate governance, paid by means of blanket orders, or other approved methods.
• Purchase of Goods at auctions.
• Sale of Goods at auctions but excluding the appointment of auctioneers.
• The sale and lease-out of immovable property. Refer to the Transnet Group Delegation of Authority Framework and relevant Transnet Property policy/policies.
• As a general rule, the hiring of immovable property (lease-in) by Transnet from a landowner must follow a procurement process in terms of the PPM. The only exception to this rule (i.e. the only exclusion) would be a situation where there is only 1 possible landowner from which Transnet can lease the property due to its specific location e.g. if Transnet needs to lease a specific small area of land from a farmer to erect a communication tower. In such a situation, the CPO or his/her delegate may approve such a transaction.
• The purchase of immovable property by Transnet must also follow a procurement process until such time as the Transnet Group Property Acquisition Policy has been approved. The only exception to this rule (i.e. the only exclusion) until the Transnet Group Property Acquisition Policy has been approved, would be a situation where there is only 1 possible landowner from which Transnet can purchase the property due to its specific location e.g. if Transnet needs to purchase a specific small area of land from a farmer to erect a communication tower. In such a situation, the CPO or his/her delegate may approve such a transaction.
• Sponsorships and donations by Transnet, which are strictly governed by the Transnet Group Delegation of Authority Framework.
• Restructuring and sale of businesses which is governed by the Delegation of Authority Framework.
• The disposal of all movable assets, e.g. the disposal of redundant PC equipment, cell phones, office equipment and furniture must be properly controlled in terms of the individual policies/procedures governing such disposals. These policies and procedures are available on the ISCM Transnet Intranet.
• The provision of degree or diploma certificates by tertiary institutions, attendance of training courses, seminars and conferences which are required on a once-off basis and are under R2 million in value, provided that such transactions are approved by the person with the required DoA. Such quotes must be sourced and processed by the end user department requiring the training.
• Renewal of software licenses or network updates that can only be done by the original appointed Service Provider.
• The award of permits and licences e.g. the award of a licence to operate a port terminal or provide a port service in terms of the National Ports Act.
• Treasury transactions related specifically to the appointment of service providers for Transnet's funding and hedging requirements are not subject to the PPM.
• Any such exclusions which a Transnet Division may apply for through ISCM and which have been duly approved by the Transnet Group Chief Executive ("**GCE**") or the Transnet Group Chief Financial Officer ("**GCFO**") in accordance with guidelines which may be issued from time to time.

3.7 APPLICABLE TRANSACTION VALUES

When considering transaction values throughout the PPM, the following must be taken into

account:

3.7.1 the PPPFA requires that the 80/20 and 90/10 preference point system be determined based on the R1 million threshold (all applicable taxes included). In terms of the regulations issued in terms of the PPPFA, "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies. Therefore the evaluation process must be conducted inclusive of all applicable taxes;

3.7.2 the approval of budgets is determined exclusive of VAT;

3.7.3 delegation of authority values are also exclusive of VAT as per the Group Delegation of Authority Framework; and

3.7.4 the determination of whether a transaction is above or below the R2 million threshold for the purposes of determining whether the open tender/ confinement or quotation system is applicable is assessed excluding applicable taxes.

3.8 APPLICATION

This version of the PPM applies to all new procurement processes which have been initiated on or after the commencement date of this document i.e. 1 June 2015. Procurement processes initiated prior to the commencement date must be dealt with in accordance with the rules that were applicable at the time [i.e. the October 2013 version of the PPM].

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CHAPTER 4 : APPLICABLE LEGISLATION AND POLICIES

4.1 CONSTRUCTION-RELATED LEGISLATION

Construction procurement must be in compliance with the requirements of the Construction Industry Development Board Act (CIDB Act), 38 of 2000 including the CIDB Regulations and Standard for Uniformity, as amended. With regard to Transnet's policies on Preferential Procurement and Supplier Development, these must be pursued in construction procurement but only to the extent allowed by the CIDB legislation. Construction Procurement methods to support Supplier Development are covered in the methods for evaluation.

4.2 GENERAL LEGISLATION

The following legislation forms part of the regulatory universe of Transnet's Supply Chain function and has been taken into consideration in the formulation of this document:

TABLE 3

LEGISLATION AND GOVERNMENT POLICY
• The Arbitration Act, 42 of 1965
• The Broad-Based Black Economic Empowerment Act, 53 of 2003 as amended, including the Department of Trade & Industry's 2007 and 2013 Codes of Good Practice
• The Companies Act, 71 of 2008 as amended
• The Competition Act, 89 of 1998 as amended
• The Competitive Supplier Development Programme (CSDP)
• The Constitution of the Republic of South Africa Act, 108 of 1996
• The Construction Industry Development Board Act (CIDB Act), 38 of 2000 including the CIDB Regulations and Standard for Uniformity, as amended
• The Conventional Penalties Act, 15 of 1962
• The Currency and Exchange Act, 9 of 1933
• The Customs and Excise Act, 91 of 1964
• The Electronic Communications and Transaction Act, 25 of 2002
• The Framework for the Operationalisation of Government's Procurement Policies in State Owned Enterprises (dated 31 July 2001)
• The Industrial Policy Action Plan II
• The Local Procurement Accord
• The National Development Plan (NDP)
• The National Environmental Management Act, 107 of 1998
• The New Growth Path (NGP)
• The Occupational Health and Safety Act, 85 of 1993
• The Preferential Procurement Policy Framework Act (PPPFA), 5 of 2000 as amended,

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LEGISLATION AND GOVERNMENT POLICY-
Including the Preferential Procurement Regulations of 2011 - effective 7 December 2012
• The Prevention and Combating of Corrupt Activities Act, 12 of 2004 as amended
• The Promotion of Access to Information Act (PAIA), 2 of 2000 as amended
• The Promotion of Administrative Justice Act (PAJA), 3 of 2000 as amended
• The Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 33 of 2004
• The Public Finance Management Act (PFMA), 1 of 1999 as amended (Transnet is not bound by the Supply Chain regulations issued in terms of this Act)
• Directives and Instruction Notes including Guidelines issued by National Treasury (and other government agencies) from time to time which are applicable to entities listed in Schedule 2 of the PFMA.
• United Nations Global Compact

4.3 POLICIES

4.3.1 General Overview of Transnet Policies

The following policies and procedures which are available on the Transnet Intranet are supplementary to the PPM and should be taken into consideration, where applicable. Persons using the PPM must apply the most recent version of the documents listed in Table 4 below

TABLE 4

TRANSNET POLICIES AND PROCEDURES	POLICY OWNER
• Transnet Code of Ethics	Company Secretariat
• Cell phone Policy	ICT
• Contract Management Policy	Group Legal
• Counterparty Risk Management Policy	Finance
• PC Disposal Policy	ICT
• Declaration of Interest and Related Party Disclosure Policy	Company Secretariat
• Delegation of Authority Framework	Company Secretariat
• Group Compliance Policy	Group Compliance
• Gifts and Hospitality Policy	Company Secretariat
• Supply Chain Policy	ISCM
• Procure to Pay Procedures(P2P)	ISCM
• High Value Tender Process	ISCM
• Records Management Policy	Company Secretary
• Transnet Disposal and Scrap Directive for movable assets, components, production materials and scrap metal	ISCM
• Supplier Development Plan, 2012-2015	ISCM
• Transnet Broad-Based Black Economic Empowerment Policy	Group Compliance
• Finance Risk Management Framework	Treasury
• The Public Finance Management Act Policy	Finance

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TRANSNET POLICIES AND PROCEDURES	POLICY OWNER
• The Supplier Development Policy (to be approved)	iSCM
• Enterprise Development Strategy (to be approved)	iSCM
• Enterprise Development Procedures Manual (to be approved)	iSCM

4.3.2 Preferential Procurement

a) Strategic Intent

Patterns of racial inequality (as well as other forms of social inequality) stubbornly persist two decades after the demise of apartheid. There is also a huge disparity in income distribution between social groupings. Transnet will therefore act as a responsible corporate citizen in the context of its B-BBEE endeavours, by utilising various strategies to promote empowerment more vigorously. Such strategies must be applied subject to the discipline of our constitutional framework to ensure that the overall objectives of a non-racial and non-sexist society are achieved. Transnet will also apply these strategies in a manner as to ensure that the constitutional principles of fairness, equity, transparency, competitiveness and cost-effectiveness are not materially undermined.

The strategies referred to above include (but are not limited to) the following:

- allocating either 10 or 20 preference points in accordance with the PPPFA based on the B-BBEE status of an enterprise in terms of its valid B-BBEE scorecard;
- requesting an enterprise to commit to improving or sustaining its B-BBEE performance over the contract period in terms of priority elements which are as follows: ownership, employment equity, skills development, enterprise and supplier development (This will be referred to as a B-BBEE Improvement Plan);
- encouraging bidders to form Joint Ventures (JVs) with black owned entities, alternatively to sub contract a minimum percentage of the contract to black owned companies;
- promoting the procurement of Goods, Construction Works and Services from EMEs and QSEs where practically possible;
- stipulating that an Enterprise will not be awarded points for its B-BBEE status level if it has indicated in its Bid response that it intends sub-contracting more than 25% of the value of the contract to any other Enterprise that does not qualify for at least the points that such a Bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the sub-contract;
- stipulating that an Enterprise who has been awarded a contract may not sub-contract more than 25% of the value of the contract to any other Enterprise that does not have an equal or higher BBBEE status level than the Enterprise concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the sub-contract;
- stipulating that an Enterprise awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- Requiring winning bidders to take steps to ensure:
  - management and daily operational involvement by Black professionals and managers as prescribed in the different sector charters;
  - skills transfer and training; and
  - employment creation and employment equity.

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The underlying objective of the Preferential Procurement methodology is to create an enabling environment for B-BBEE enterprises to access available procurement opportunities within Transnet and to add value to the supply chain.

b) Scope and applicability

(i) Transnet's approach to Preferential Procurement applies to all purchases of Goods, Construction Works and Services and will apply to all QSEs, EMEs as well as to large enterprises.

(ii) The approach shall apply to and impact on all levels (Rand value) and types of Bids. It will also apply to the acquisition or granting of any right for and on behalf of Transnet. The objective is to design innovative ways to promote Black Economic Empowerment. This will be dealt with in terms of the legislation and policies applicable to that area of Transnet's operation.

(iii) Bid documents must specifically state that B-BBEE preference in terms of the DTI Codes of Good Practice and/or other relevant Charters will apply.

c) Objectives

(i) Transnet encourages and will recognise all improvement in current and future supplier ratings.

(ii) Transnet will encourage value-adding joint ventures with B-BBEE Enterprises. Bidders may develop joint ventures in order to comply with Transnet's B-BBEE requirements.

(iii) To promote preference in the procurement of Goods, Construction Works and Services, targets will be set and implemented by all the ODs.

Transnet's approach to preferential procurement is dealt with in more detail in Chapter 10.

4.3.3 Transnet's Supplier Development Programme – Strategic Intent

a) Background

Government economic development policies such as the National Development Plan, New Growth Path (NGP) and IPAP have increased the focus on how procurement at SOCs such as Transnet can be leveraged to achieve the national goals of reducing unemployment, ensuring industrialisation and developing local suppliers.

Transnet strives to provide a competitive Service, while at the same time, creating opportunities for new entrants to the market and stimulating job creation through the implementation of its SD mission.

Transnet's mission is to transform its supplier base by engaging in targeted SD or B-BBEE initiatives to support local capability and capacity building and industrialisation whilst providing meaningful opportunities for South Africans with particular emphasis on:

- Black youth;
- Black women;
- Black small businesses;
- Black people living with disabilities; and/or
- rural integration, upliftment and development.

Leveraging procurement to influence the development of the local supplier industry is key to realising Government's objectives relating to growth, employment creation and equality. Achieving SD objectives will provide the following key benefits for Transnet and the broader South African society:

- Acceleration of local capability and capacity building and transformation of local business by promoting technology transfer, skills development and job creation;
- Focused regional development and upliftment of rural communities;
- Increase in Local Content – security of supply, reduced cycle times, reduced exposure to foreign currency and reduction of supply chain costs (over time);
- Transformation of supplier dominance from large international or national monopolies in order to create more opportunities for locally owned and/or Black owned suppliers; and
- Improved B-BBEE rating for Transnet.

A Transnet SD strategy and SD plan forms the framework within which Transnet will implement its SD initiatives.

Transnet will achieve its SD objectives by:

- Requiring winning bidders to take steps to ensure that Supplier Development commitments are implemented as per their finalised SD Implementation Plan

b) Applicability

All transactions involving SD should be evaluated against the IC[3] Supplier Development Matrix. This matrix (*Figure [1]* below) categorises transactions according to three principles:

- **Value leverage** refers to transactions where the financial scale of the transaction allows the buyer the opportunity to negotiate SD.
- **Industrial leverage** refers to transactions whereby the nature of the procurement is such that the scale and the industrial complexity of the item being purchased allow for local supply chain development around a particular industry.
- **Strategic importance** to Transnet refers to the extent to which the Goods to be procured has an impact on Transnet's core business.

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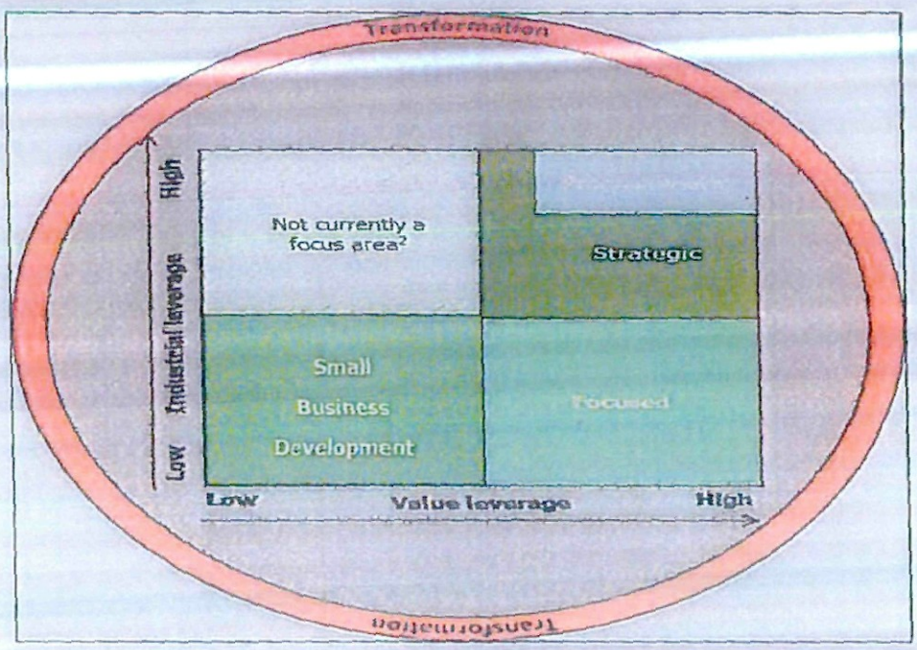

Figure [1] – IC³ SD Classification Matrix

The IC³ Supplier Development Classification Matrix (refer Figure [I] above) assists in categorising opportunities according to their industrial leverage, value leverage and strategic importance to Transnet.

Once opportunities are identified it will be possible to identify the tools that should be implemented to maximise the full supplier development potential from these opportunities.

Based on the classification of a specific transaction, there will be certain SD objectives that Transnet will strive to meet. These objectives are all aligned to national objectives, and explained in more detail in Chapter 12 *(Determining SD Approach and Desired Outcomes)*.

4.3.4 Enterprise Development & Supplier Development (ESD) as per the B-BBEE Codes - Strategic Intent

a) Background

This element of the B-BBEE scorecard measures specific initiatives in favour of QSEs and EMEs which are at least 51% black owned (beneficiaries) to meet the following objectives:

- Enable or accelerate the development of a beneficiary;
- Achieve beneficiary sustainability;
- Achieve beneficiary financial independence; and
- Achieve beneficiary operational independence.

ESD is defined as a program of developing Small and Medium enterprises, called beneficiaries, by investing time, money, and capital in order to contribute to the development, sustainability, financial independence, and operational independence of those beneficiaries. Enterprise Development Contributions consist of initiatives in favour of a beneficiary by a measured entity in these forms i.e. Monetary: money; Non-Monetary: time and capital; recoverable and non-recoverable.

Transnet's ESD approach will address both financial and non-financial ESD initiatives which provide ED beneficiaries with, inter alia, support as listed below:

- Mentorship support
  - Business Development
  - Tendering skills support
  - Technical support
  - Business compliance
- Capacity Building
  - Building and finance (Shorter payment terms)
  - On site mentoring
  - Learnership through Transnet School of Academy

b) Applicability

It is important to differentiate between ESD within the context of the B-BBEE scorecard and Transnet's Supplier Development Initiatives. The former relates to monetary or non-monetary contributions carried out for the benefit of value-adding suppliers to a particular company with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries. The latter relates to improving the socio-economic environment through initiatives that are committed to as part of a contract award that contribute to the development of a competitive supplier base in relation to a particular industry. ESD initiatives within the context of the B-BBEE scorecard fall outside the ambit of the PPM. Unless a particular Enterprise Development initiative involves the procurement of Goods, Construction Works or Services, ESD initiatives fall outside the ambit of the PPM. Once approved, please refer to the Enterprise Development Procedures Manual for information regarding ESD initiatives.

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CHAPTER 5 : CODE OF ETHICS

This Chapter is applicable in totality to construction procurement and general procurement activities. Please refer to paragraph 5.4. regarding the difference between bidders' prior involvement in general procurement and construction procurement.

5.1 SUPPLY CHAIN CODE OF ETHICS

5.1.1 Transnet's Code of Ethics sets ethical standards for business practice and individual business conduct. It assists all Transnet stakeholders with their ethical deliberations and decisions. The objective of the Code of Ethics as it relates specifically to the Supply Chain environment is to set the standard by which all Transnet Board members and employees (including employees employed on fixed term contracts and temporary employees) are expected to act when engaging in any supply chain related activities. This will earn Transnet the reputation of being:

a) transparent and fair in all dealings and disclosures;
b) politically unbiased;
c) committed to providing Quality Goods, Construction Works and Services;
d) committed to transformation and empowerment;
e) proud of its integrity and credibility;
f) consistent in honouring its social, legal and moral obligations;
g) responsible and accountable; and
h) reliable and aware of the need to foster loyalty and long enduring relationships with all its stakeholders.

5.1.2 All Transnet employees should uphold the following key values:

a) act with integrity and professionalism at all times;
b) be honest;
c) be committed and dedicated to high quality performance;
d) be customer orientated;
e) respect and maintain the confidentiality of sensitive information gained through association with Transnet;
f) maintain accurate, honest and complete records in appropriate detail;
g) protect Transnet's assets;
h) treat all suppliers with respect and dignity and foster a productive environment free of harassment, intimidation and discrimination;
i) refrain from using a position of authority and / or facilities provided by Transnet to further their own interests or that of friends and relatives;
j) desist from allowing personal interests to influence business decisions or tasks and disclose any actual or potential conflict of interest;
k) honour the content and spirit of all business transactions and not abuse Transnet's name; and
l) maintain an attitude of zero tolerance toward any form of bribery, corruption and inducements.

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5.1.3 While considering the advantages of maintaining a continuing relationship with a supplier, Transnet iSCM must avoid any arrangement which in the long term might compromise fair competition or prevent Transnet from achieving optimal value.

5.1.4 No sale to or purchase from a Transnet employee is permitted under any circumstances. This excludes sales by auction or such other exceptions as may be authorised by management from time to time.

5.1.5 Former employees of Transnet shall not be restricted from doing business with Transnet unless they have been restricted from doing so in terms of paragraph 5.1.6 below. Due diligence should be exercised by evaluation teams to determine whether any undue influence/unfair advantage could have been possible between any Transnet employees and the former employee. This should be brought to the AC's attention, and should be stated clearly in submissions to the AC or to the delegated Manager for transactions falling below the AC's jurisdiction.

5.1.6 Former employees of Transnet who were dismissed following disciplinary action or who had resigned to circumvent disciplinary action following charges relating to dishonesty (e.g. bribery, corruption, theft, etc.) shall be formally excluded from future business dealings with Transnet. They will be blacklisted for a specific period and their names shall appear on Transnet's List of Excluded Bidders (see Chapter 23 on *Blacklisting*).

5.2 CONFIDENTIAL INFORMATION AND TRADE SECRETS

5.2.1 Employees have access to information related to Transnet's business strategies and contractual relationships with third parties. This information must be regarded as trade secrets. It includes intellectual property, know-how, processes, techniques, technical detail, methods of operating, cost and source of material, pricing and purchasing policies, systems design and development information. It also includes the contractual and financial arrangements between Transnet and its customers and suppliers. In this regard, all employees have a duty of trust and confidence and a duty to act at all times in the best interests of Transnet. The disclosure of trade secrets or any other confidential information could cause serious damage to Transnet, and possibly claims of damages for breach of contract against Transnet.

5.2.2 No employee may discuss or disclose prices which have been quoted or charged to Transnet.

5.2.3 No employee may disclose information which would, or could be perceived to place a Bidder in a better position than its competitors; or which would put Transnet at a disadvantage against Bidders or suppliers.

5.2.4 Where it is necessary to disclose confidential information to potential suppliers in order to solicit Bids, Non-Disclosure Agreements ("NDAs") must form part of the bid documentation. The NDAs must be signed by all Bidders. In appropriate instances, Transnet may require that NDAs be signed with prospective bidders before issuing the bid documentation to them.

5.3 INTELLECTUAL PROPERTY RIGHTS OF SUPPLIERS/TRANSNET

5.3.1 Transnet will acknowledge and respect suppliers' intellectual property (IP) rights. Transnet will also seek to promote fair competition.

5.3.2 It is recommended that in cases where the IP of suppliers is at stake, Transnet should hold clarification sessions with potential Bidders in order to clarify the position regarding IP rights. Furthermore, before concluding a contract, Transnet should ensure that all issues of IP are properly addressed in the contract and that both parties understand the nature of the agreement.

5.3.3 Depending on the merits of each case, one of the following approaches will be followed and must be stipulated upfront in the Request for Proposal ("RFP") document:-

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a) Transnet may choose to pay the supplier outright for its IP in the Goods and purchase the Goods with its IP. In such instances, the supplier relinquishes its rights to the IP and Transnet acquires all rights to the Goods. This applies to all specifications, drawings and/or prototypes. Transnet will disclose this at RFP stage and all aspects pertaining to IP will be negotiated and captured in the contract between the parties. Transnet shall have the right to procure its future requirements via an Open Bid or a Confinement process and the original designer/developer will be free to participate.

b) Transnet may choose to share the IP with the supplier where Goods were jointly developed by Transnet and the supplier. In this scenario, Transnet shares the IP and the royalties emanating from the development of the Goods. This must be clearly set out in the contract between the parties.

c) Where an existing patented article is required by Transnet, it is preferable that Transnet issue an Open Bid stating that the patented item or "anything similar" is required. Alternatively, Transnet may choose to confine the tender to the manufacturer concerned. In this instance the supplier remains the owner of the IP in respect of the article.

5.4 BIDDERS' PRIOR INVOLVEMENT IN PROCUREMENT

As a general rule, service providers or contractors that were involved in the preparation of a scope of work or in prior stages of a particular procurement project shall be precluded from submitting bid offers for that procurement project. This is due to the unfair advantage they may gain as a result of prior knowledge of the project. This rule applies unless there are grounds for confinement as indicated in paragraph 15.1.2 of the PPM. It does not apply to a 2-stage RFX process as detailed in paragraph 14.6 of the PPM.

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South African National Standard (SANS) 294:2004 on Construction Procurement Processes, Methods and Procedures, paragraph 6.1.1 (which is incorporated in the best practice guidelines published by the CIDB and the Standard for Uniformity in Construction Procurement) states that as a general rule, agents and contractors that are commissioned to prepare a scope of work for a particular procurement shall be precluded from submitting tender offers for that procurement. The Note to this paragraph, however, states the following: "*Agents and contractors who prepare the scope of work for engineering and construction works contracts where the design and build contracting strategy is adopted, may submit tender offers to perform such work*".

Contractors who prepare a procurement document or part thereof for engineering and construction works contracts may submit a bid for work associated with such documents provided that:

a) Transnet states in the tender data that such a contractor is a potential bidder;

b) all the information which was made available to, and the advice provided by, that contractor which is relevant to the tender, will equally be made available to all potential bidders upon request, if not already included in the scope of work;

c) the relevant CPO is satisfied that the bid document is objective and unbiased having regard to the role and recommendations of that contractor; and

d) the contractor has signed a declaration of interest.

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5.5 GIFTS AND GRATUITIES

5.5.1 All business decisions and transactions must be made with uncompromised integrity, honesty and objective judgment. Transnet does recognise that in executing its business and applying industry norms, employees may be required to accept or give gifts and/or hospitality packages as a token of appreciation. The Transnet Gifts and Hospitality Policy regulates and controls the acceptance and giving of gifts/invitations to hospitality events.

5.5.2 The acceptance and giving of gifts exceeding the retail value (currently R1 000.00) stipulated in the Transnet Gifts Policy, as amended from time to time is prohibited.

5.5.3 The acceptance and giving of many low retail value gifts which cumulatively exceed the retail value (currently R1 000.00) stipulated in the Transnet Gifts Policy, within a 12 month period is prohibited.

5.5.4 The provision and acceptance of hospitality packages exceeding R 5000.00 in value and the acceptance and giving of many low value hospitality packages which cumulatively exceed R5 000.00, within a 12 month period is prohibited.

5.5.5 The exchange of gifts not exceeding R1 000.00 and hospitality packages not exceeding R 5000.00 in retail value may be given or accepted, limited to 4 events per employee per financial year, provided that such gifts/hospitality packages are not specifically intended to influence any procurement or sales decisions and are:

a) Declared to the employee's immediate Manager; and

b) Recorded in the Declaration of Gifts Received and Given System.

5.5.6 Under no circumstances should gifts, business courtesies or hospitality packages be accepted from prospective suppliers participating in a bid process at the respective employee's Operating Division, regardless of retail value, from the inception of the transparent procurement process including a period of 12 months after such bid has been awarded. This may be perceived as undue and improper influence over the bid process.

5.5.7 Gratuities, bribes or kickbacks of any kind must never be solicited, accepted or offered, either directly or indirectly. This includes money, loans, equity, special privileges, personal favours, benefits or Services. Such favours will be considered to constitute corruption. This is unlawful and the appropriate criminal / civil action will be enforced. If a supplier or employee offers or accepts such "favours" or bribes, it must immediately be reported to the Manager in charge of the function for appropriate action. In accordance with the ordinary principles of delictual liability, Transnet is entitled to recover all damages suffered as a result of the employee's corrupt or negligent conduct from that employee. Any person who has offered a bribe to a Transnet employee may also face criminal or civil action and/or exclusion from future Transnet business.

5.5.8 Employees are not permitted to accept gifts or buy Goods, Construction Works or Services at artificially low prices not available to the public. Employees are also not allowed to accept personal favours and hospitality which might be deemed by others, to impinge upon the employee's sound business judgment.

5.5.9 Overseas visits on invitation by and at the expense of prospective suppliers will under no circumstances be permitted. Should an overseas visit be deemed necessary for the purposes of evaluating the supplier, this should be for Transnet's own account and be fully motivated in terms of the DoA Framework. All overseas visits have to be fully motivated in terms of the normal procedures for overseas visits. If current suppliers need to pay for employees to travel to their offices or plants overseas, these requests need to be properly motivated and approved by the GCE.

5.5.10 In terms of the National Treasury Instruction Note 01 of 2013/2014 on Cost Containment Measures, Transnet must ensure that team building exercises and

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social functions, including year end functions (i.e. any social, recreational or entertainment events) are not financed by any suppliers or sponsors.

5.5.11 The following business courtesies are allowed, provided that the cost per instance does not exceed the amount as stipulated in the Gifts and Hospitality Policy within a 12 month period:

a) entertainment;

b) advertising material of small intrinsic value such as pens, paper-knives (letter opener), diaries, calendars, etc.

5.5.12 A monetary limit will not be placed on business meals.

5.5.13 The employee must disclose the acceptance of any gift or business courtesy as soon as practically possible, but within 14 days of receipt or giving of the gift and delare electronically through the Electronic Gifts Registry System (EGRS) or manually declare as set out in the Policy.

5.5.14 An employee may not accept more than 2 gifts from the same supplier within a 12 month period irrespective of the retail value.

5.5.15 In addition to the procedure for accepting gifts set out in the Gifts and Hospitality Policy, Supply Chain staff may only accept gifts after approval from their Manager. Supply Chain staff must declare all gifts irrespective of value. Supply Chain Managers must keep a proper gift register of all gifts and hospitality offered to their employees by suppliers and contractors, and vice versa. Unauthorised gifts that have not been accepted (e.g. exceeding the abovementioned limit) should also be entered into the gift register with an indication that they have been returned to the supplier or surrendered to Transnet or any other appropriate action that may have been taken.

5.5.16 All Supply Chain gift registers must be submitted to the relevant AC Chairperson for review on a quarterly basis. A Gift Register Template is attached to the Transnet Gifts and Hospitality Policy and must be used at all times to ensure that all relevant information and signatures of approval are captured.

5.6 DECLARATION OF INTEREST

5.6.1 In terms of the Companies Act 71 of 2008, directors or officers of a company have a duty to disclose their interests in contracts.

5.6.2 The Transnet Declaration of Interest and Related Party Disclosure Policy for Directors provides guidance in a non-exhaustive manner on: the duties of Directors to avoid a conflict of interest and the disclosure of directorships held in other companies; the duties of Directors to disclose a conflict of interest in accordance with legislation and Transnet's policies; and provides guidelines to all directors as to how to disclose and manage conflicts of interests.

5.6.3 For the purposes of the Transnet Declaration of Interest and Related Party Disclosure Policy the requirement to disclose interests in contracts is extended to include all employees of Transnet.

5.6.4 The Transnet Declaration of Interest and Related Party Disclosure Policy defines a conflict of interest to include inter alia, a situation in which:

- "An Employee has a personal financial interest;
- An employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his/her judgment in acting in the best interests of Transnet, or could corrupt the employee's motivation for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism;
- An employee uses his/her position, or privileges or information obtained while acting in the capacity as an employee for:
  - Private gain or advancement; or

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- The expectation of private gain, or advancement, or any other advantage accruing to the employee or any member of his/her family, or friends or business associates."

5.6.5 The following definitions must be read with the definition of conflict of interest as per the Transnet Declaration of Interest and Related Party Disclosure Policy:

- **Affiliation:** Involvement with a vendor, service provider or competitor of Transnet on the part of an employee, a person related to the employee or the employee's family, or friends or business associates, including serving as a shareholder, board member, employee, consultant or advisor to the aforementioned entities.
- **Nepotism:** The appointment, employment, promotion or advancement of a related party in a position or the advocacy of such actions by any employee where that employee is able to influence, directly or indirectly, the decisions relating to these specified actions.
- **Favouritism:** An inclination in attitude or behaviour to show preferential treatment towards a certain person, group or entity.
- **Involvement:** Business, social or family connection which may contribute to any undue influence in favour of a third party.
- **Personal Financial Interest:** A direct material interest of a person of a financial, monetary or economic nature or to which a monetary value may be attributed.
- **Material:** when used as an adjective means significant in the circumstances of a particular matter to a degree that:
  - Is of consequence in determining the matter; or
  - Might reasonably affect a person's judgment or decision-making in the matter; or
  - Could influence the economic decisions taken in a matter.
- **Related:** When used in respect of two persons, means persons who are connected to one another in any manner contemplated below:
  - An individual is related to another individual if they-
    - are married or live together in a relationship similar to a marriage; or
    - Are separated by no more than two degrees of natural or adopted consanguinity or affinity;
  - An individual is related to a juristic person if the individual directly or indirectly controls the juristic person as determined in accordance with the definition of Control; and
  - A juristic person is related to another juristic person if-
    - Either of them directly or indirectly controls the other, or the business of the other, as determined in the definition of Control;
    - Either is a subsidiary of the other; or
    - A person directly or indirectly controls each of them, or the business of each of them, as determined in accordance with the definition of Control as defined in the Transnet Declaration of Interest and Related Party Disclosure Policy.

5.6.6 The Transnet Declaration of Interest and Related Party Disclosure Policy places a duty on all employees who have an interest, either directly or indirectly, in any new or existing contracts with an entity external to Transnet which may conduct, or does conduct business with Transnet, to declare such interest.

5.6.7 Declaration of a direct conflict of interest as defined in paragraphs 5.6.3 and 5.6.4 will result in automatic recusal of an employee.

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5.6.8 An Indirect Interest may include, but is not limited to being involved in:

a) the drafting of the specification or bid documents;

b) the issuing / advertising of the bid; or

c) the evaluation, and subsequently being involved in the adjudication of the bid (applicable to members and/or alternates serving on the relevant AC).

5.6.9 Any indirect interest of an employee in a bid or offer must be declared and the Manager concerned will determine whether the employee should recuse him/herself. The reasons for this decision must be officially recorded and kept on file.

5.6.10 Bid documents must always contain a clause for prospective Bidders to declare any possible direct family or business relationship or affiliation with a Transnet employee as defined in paragraph 5.6.5 above and in the Transnet Declaration of Interest and Related Party Disclosure Policy.

5.6.11 Although business with Enterprises that have relationships with Transnet employees in terms of 5.6.10 above is not prohibited, it is imperative that it be properly declared and explicitly pointed out in the submission to the AC. This will allow the AC to consider all relevant facts and decide whether such involvement by a Transnet employee could be regarded as fair or whether other prospective Bidders will be prejudiced or may be perceived to have been prejudiced thereby. Bidders failing to declare such relationship(s) will be disqualified from the bid process. Contracts concluded without adherence to this rule, will be terminated and disciplinary action will be taken against the relevant Transnet employee(s) if they are found to have been complicit in the concealment of their relationship with the Bidder. The company or companies involved will be placed on Transnet's List of Excluded Bidders.

5.6.12 All Transnet employees / board members involved in procurement activities are under a duty to declare their interests as soon as they become aware that they have a direct or indirect interest in a particular matter. If any doubt arises as to whether an interest should be declared or not, the employee concerned shall seek guidance from the office of the Company Secretary. The following must be noted with regard to the duty to declare interests:

a) In terms of the "Declaration of Interest and Related Party Disclosures Policy" all employees are required to submit an annual declaration of interest. These declarations are kept by the Group Company Secretary for employees at Group. Depending on the specific OD, declarations are kept by the OD Company Secretary, Compliance officer or the Legal department in respect of OD employees;

b) In addition to annual declarations, all employees involved in procurement should make a quarterly declaration of interest which must be kept by the relevant Manager;

c) all employees involved in the evaluation, Post Tender Negotiation ("PTN") or adjudication of Bids must sign a declaration of interest certificate indicating whether or not they have an interest in the matter at hand. This declaration must be placed on the relevant bid file; and

d) employees involved in procurement activities other than evaluation, post tender negotiation, or adjudication (such as buyers) will only be required to declare an interest if they in fact have an interest in a particular matter. Should such an employee not make any declaration in a particular matter, he/she will be deemed not to have an interest in the matter. If it is later discovered that an employee did have an interest which he/she failed to declare, such

employee will be found to have failed to comply with the duty to declare conflicts of interests.

e) A proper register of Declarations of Interest should also be kept by Managers responsible for departments involved in purchasing and disposal functions as well as by the Secretariats of the relevant ACs.

5.7 FRAUD AND CORRUPTION

5.7.1 Transnet insists on honesty, integrity and acting beyond reproach at all times and will not tolerate any form of improper influencing, bribery, corruption, fraud or any other unethical conduct on the part of Bidders / Transnet employees.

5.7.2 If Transnet's GCFO (or a duly authorised person) has determined that a Bidder / contractor / supplier has or has caused to be promised, offered or given to any Transnet employee, any bribe, commission, or any unauthorized gift, loan, advantage or other consideration, Transnet shall be entitled to revoke the bid / contract by following the process that governs the Exclusion of Bidders. Upon approval by the GCFO or duly authorized delegate, Transnet will be entitled to place any Bidder / contractor / supplier who has contravened the provisions of Transnet's business ethics on its List of Excluded Bidders. Furthermore, in terms of section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2001, Transnet will refer all matters of suspected corruption to the South African Police Services (SAPS) for further investigation.

5.7.3 Transnet reserves the right to exclude a Bidder from further business and/or to cancel all existing contracts, should a Bidder/supplier be found to have acted in bad faith or engaged in misconduct towards Transnet. Furthermore, no part of a contract may be subcontracted to an excluded Bidder.

5.7.4 Bid documents should always contain a clause indicating that any suspected fraud, corruption or other unethical activities should be reported to Transnet Tip-offs Anonymous at any of the following addresses and contact numbers. Confidentiality is guaranteed at all times.

- *Toll-free anonymous hotline : 0800 003 056*
- *Email : Transnet@tip-offs.com*
- *Fax number : 0800 007 788*
- *Freepost DN 298, Umhlanga Rocks, 4320*

5.8 BID RIGGING

5.8.1 Bid rigging or collusive tendering is a form of prohibited restrictive horizontal practice in which companies effectively inflate prices in markets where the customer acquires goods or services through soliciting bids. Bid rigging can take many informs including, but not limited, to the following:

a) cover quoting where companies in a bid process will agree on who will place the winning bid and the others submit non-competitive bids as a way of giving the customer a false impression of competition in the bidding process;

b) bid rotation where conspiring companies continue to bid, but they agree to take turns being the winning bidder; and

c) bid suppression where one or more companies agree to refrain from bidding or to withdraw a previously submitted bid.

5.8.2 It is important to note that indications of possible bid rigging may have innocent explanations. For example, two companies may share a common holding company but they may be completely independent of each other and may participate as

legitimate competitors in a bid process. It is important not to make assumptions about suspected bid rigging until an investigation has been conducted.

5.8.3 The Competition Commission may investigate any restrictive horizontal practice including price fixing, market allocation and collusive bidding amongst firms who submit bids and this includes and is not limited to agreements amongst competing bidders to rotate bids, fix prices and engage in cover pricing.

5.8.4 If a particular bidder/s is/are suspected of bid rigging, the matter must be reported to the Group iSCM Governance department. Governance, in consultation with the Group Legal department will decide on whether the matter must be reported to the Competition Commission for further investigation or whether the matter will be investigated internally and addressed through other remedies including Transnet's Blacklisting process as outlined in Chapter 23.

5.9 TRANSNET'S SUPPLIER INTEGRITY PACT

5.9.1 Transnet's Supplier Integrity Pact requires a commitment from suppliers and Transnet that they will not engage in any:

a) Corrupt and fraudulent practices;
b) Anti-competitive practices; and
c) Act in bad faith towards each other.

5.9.2 The Integrity Pact also serves to communicate Transnet's Gift Policy to suppliers as well as the remedies available to Transnet where a Bidder contravenes any provision of the Integrity Pact.

5.9.3 All Transnet Bidders must be required to familiarise themselves with the contents of the Integrity Pact and agree to the terms thereof which is available on the Transnet Internet site. In addition, the Supplier Integrity Pact must be incorporated by reference in the contract with suppliers/service providers.

5.10 PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST TERRORIST AND RELATED ACTIVITIES ACT

5.10.1 The abovementioned Act provides for measures to suppress terrorism and the financing of terrorist activities. Transnet will need to ensure that it does not transact with countries, entities or individuals who engage in terrorist related activities.

5.10.2 The President has published for information a notification in respect of entities identified by the United Nations Security Council, (UNSC)in terms of section 25 of the Protection of Constitutional Democracy against terrorist Act. In terms of this Notice the UNSC has updated the consolidated list with regards to entities which have been identified as being;

a) An entity which commits or attempt to commit any terrorist and related action, or
b) An entity against whom Member States of the United Nations must take the actions specified in the Resolutions of the UNSC, in order to combat or prevent terrorist and related activities.

5.10.3 Impact on Transnet: The Notice provides for the list of entities, identified as those entities which commit terrorist activities, thus Transnet will have to consider the consolidated list, with regard to same when interacting or engaging with other entities. The updated list is available electronically on the following websites:

- http://www.un.org/sc/committees/1267/AQIist.html
- http://www.un.org/sc/committees/1988/List.html

- http://www.saps.gov.za

5.11 SANCTION

Non-compliance with Transnet's Code of Ethics is considered to be misconduct and employees may be subject to disciplinary procedures that could lead to dismissal as well as criminal and/or civil action.

CHAPTER 6 : DELEGATION OF AUTHORITY FOR PROCUREMENT PROCESSES

This Chapter is applicable in totality to construction procurement and general procurement activities.

6.1. HOW DELEGATION OF AUTHORITY WORKS

Figure 2 below explains how authority is delegated from the Minister of Public Enterprise to the various structures and persons within Transnet via a series of sub-delegations:

How Delegation of Authority works within the context of Procurement

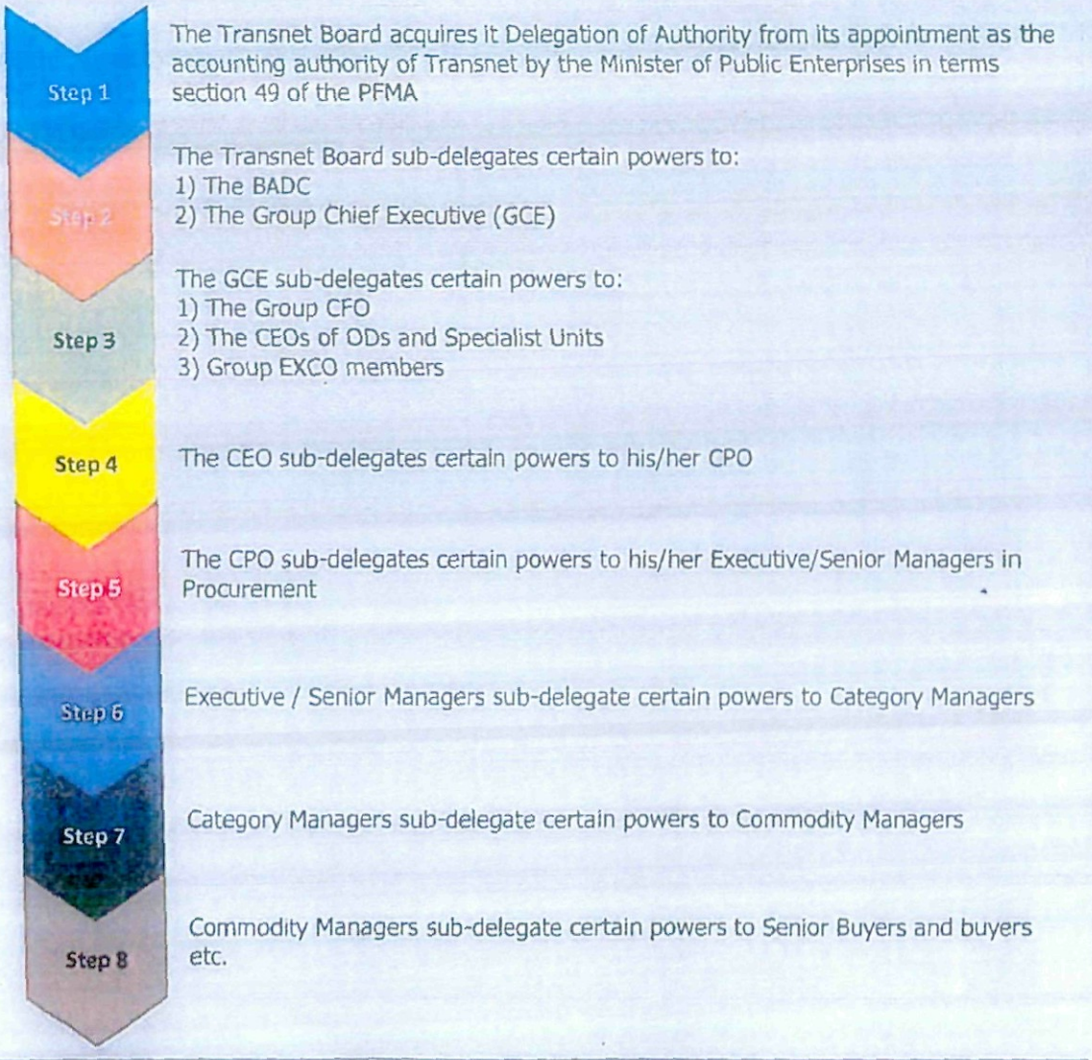

Figure [2] – Delegation of Authority

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6.2. DELEGATION OF AUTHORITY FRAMEWORK

The Transnet Delegation of Authority (DoA) Framework sets out the powers delegated to certain officials (e.g. GCE, GCFO, OD CE, etc.) to perform specified tasks in relation to various areas of operation (e.g. finance, treasury, procurement, etc.). As per the Framework the applicable monetary limits are exclusive of VAT. The following powers, depicted in Table 5 below, are derived from the Transnet Delegation of Authority Framework effective 1 September 2014. **However, please note that these monetary limits are amended from time to time. Employees are therefore required to familiarise themselves with the monetary limits contained in the current DoA Framework.**

For delegation of authority of Procurement delegations for the monetary limits indicated in Table 5 and monetary limits below this level, a specific written sub-delegation of authority must be given by the original bearer of authority to his/her subordinate/designate. Please refer to paragraph 4 of the Transnet Delegation of Authority Framework effective 1 September 2014 in this regard.

TABLE 5

APPROVAL AUTHORITY	PROCUREMENT DELEGATION					
	Approval to approach the market			Management's intervention to address non-compliance with procurement policies & procedures	Enter into & signing of contracts & award of business (including scrap sales)	Procurement process (governance structure) approval
	Open tenders	Confined tenders	Consultants			
Transnet Board	>R 2 000m	>R 1000m	>R300m	>R 1000m	>R 2 000m	>R 2 000m
ADG	≤R 2 000m	≤R 1000m	≤R300m	≤R 1000m	≤R2 000m	≤R2 000m
Group EXCO	Nil	Nil	≤R200m	Nil	Nil	Nil
GCE	≤R1 000m	≤R250m	≤R200m	≤R250m	≤R1 000m	≤R1 000m
GCFO	≤R750 m	Nil	≤R50m	Nil	≤R750m	≤R750m
GCSCO	≤R525 m	Nil	Nil	Nil	≤R525m	≤R525m
OD GE including TCP GE	≤R450 m	Nil	≤R25m (per annum)	Nil	≤R450m	Nil
OD/SU Main AC	Nil	Nil	Nil	Nil	Nil	≤R450m

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GE/ HOD (budget owner) of Specialist Unit, excl. TCP	≤R75 m	Nil	Nil	Nil	≤R5m subject to the contract period not exceeding 5 Years	Nil
Group Exco Members (Specialist Units, excl.TCP)	Nil	Nil	≤R10m	Nil	≤R30m	Nil

6.3. POWERS VESTED IN TRANSNET OFFICIALS

It is important to bear in mind that not all powers vested in Transnet officials are contained in the DoA Framework. In the procurement context, certain powers are also vested in officials in terms of this PPM whilst other powers are inherent to the job function e.g. the day to day running of the procurement function. Figure 3 below explains the powers vested in Transnet officials in terms of the DoA Framework, the PPM and their job function, respectively:

Delegatee	From Whom	Delegation in terms of Transnet DoA Framework	Powers acquired in terms of the PPM	Delegation in terms of a "general blanket" delegation
GCE	Transnet Board	•Approve Confinements ≤R250m •Consultants ≤R200m •Condonations ≤ R250m •Going to market on open tender & sign contracts ≤ R1 000m	Final arbiter for appeals on blacklisting	Responsible for the day-to-day running of Transnet
GCFO	GCE	•Consultants ≤R50m •Going to market on open tender & sign contracts ≤ R750m	Approve decision to blacklist	N/A to procurement
OD CEOs	GCE	•Approve consultants ≤ R25m p.a •Going to market on open tenders & sign contracts ≤ R450m	Approve OD Approved Lists Appoint AC & Chair/ members Mediate disagreements between AC and line/procurement, etc.	Responsible for the day-to-day running of the operating division
CPO	OD CEO	Going to market on open tenders & sign contracts depending on the value delegated by the OD CEO	Delegate powers to CFSTs, CFET & PTN teams, empower procurement to utilise quotation system & emergency purchases and initiate blacklisting proceedings	Responsible for the day-to-day running of the OD procurement function
Procurement	OD CPO	Going to market on open tenders & sign contracts depending on the value delegated by the OD CPO	Facilitate CFSTs, CFET & PTN teams Utilise quotation system and emergency purchases, issue open tenders and initiate blacklisting cases	Responsible for the day-to-day procurement tasks and functions

Figure [3] – Types of Delegated Authorities

6.4. DOA SUMMARY

Figures 4 to 10 below collectively represent a summary of the Delegations of Authority required for various procurement approval processes and thresholds effective 1 June 2013. However, please note that these monetary limits are amended from time to time. Employees are therefore required to familiarise themselves with the monetary limits contained in the current DoA Framework.

3 Step Procurement Approval Process for procurement at Transnet

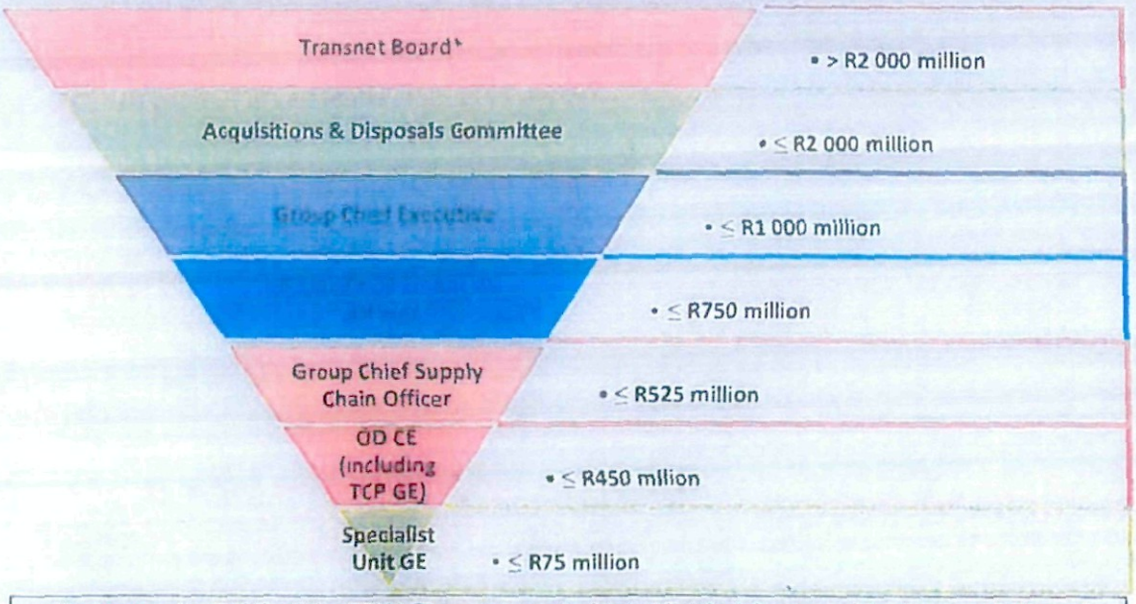
Going to market	Process approval	Contract sign off / award of business
• Approving the approach to market strategy involves approving: • the sourcing strategy • The chosen procurement mechanism • the critical aspects of what will be contained in the bid document i.e. the evaluation methodology and at a high level, the evaluation criteria and weightings • Differing thresholds for open tenders, confinements and consultants.	• Once the procurement process is complete, a recommendation must be made to the relevant governance structure to approve the process followed. • A validation of the entire procurement process followed before contract sign off can take place. • Approval of the procurement process involves scrutiny of the fairness, transparency, legality and general commerciality of the tender award.	• After approval of the process followed, the person/structure with the appropriate delegation of authority must award the business to the successful bidder • Contract sign off approval involves the final award of business based on a Procurement Process Approval. • This approval carries with it the power to sign and enter into contracts on behalf of Transnet for procurement transactions.

Figure [4] – Procurement approval processes

The thresholds applicable to the various approval steps are depicted in the diagrams below.

(a) Approval to approach the market for open tenders

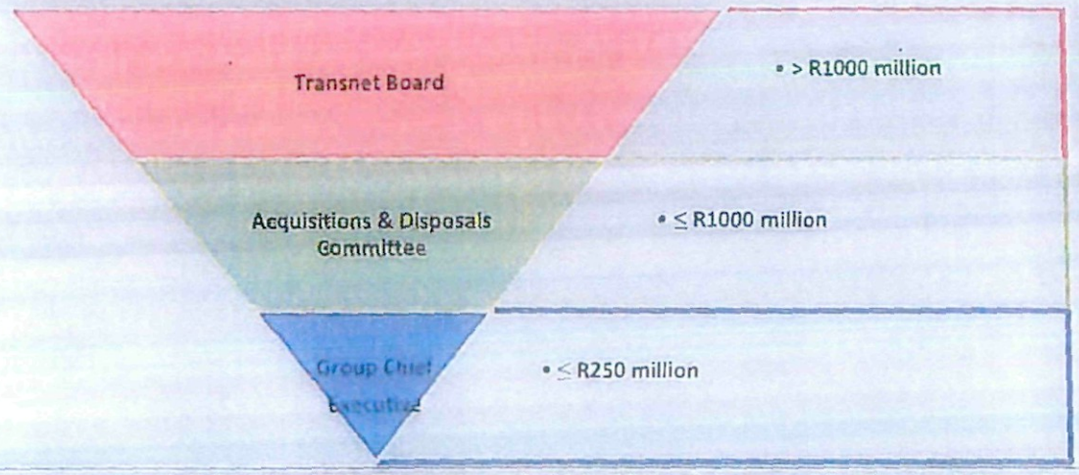
Approving the approach to market strategy involves approving the sourcing strategy as well as the critical aspects of what will be contained in the bid document i.e. the evaluation methodology and at a high level, the evaluation criteria and weightings.



*In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [5] – Approval to approach the market for open tenders

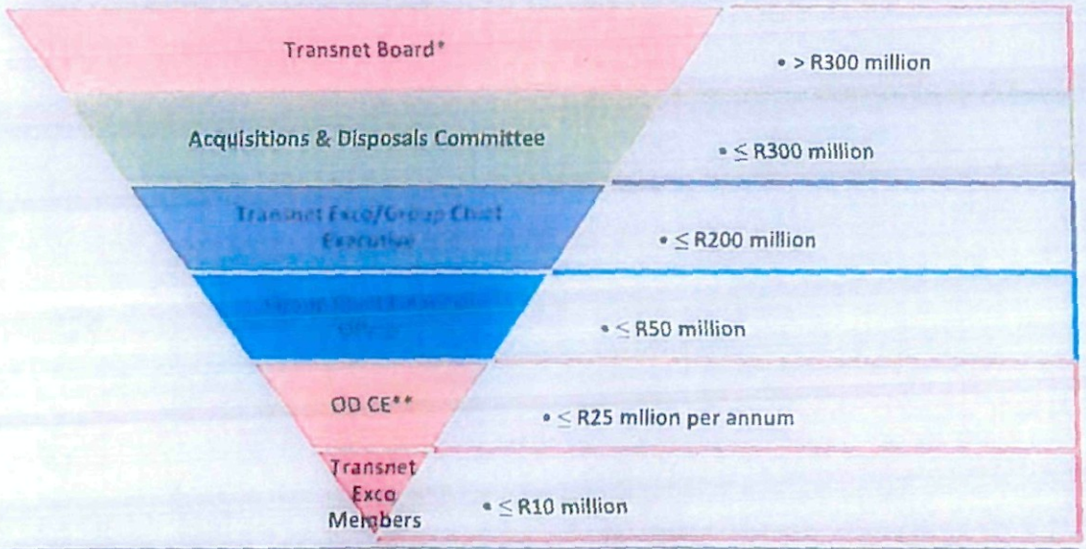
(b) Approval to approach the market for confined tenders



In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [6] – Approval to approach the market for confined tenders

(c) Appointment of consultants

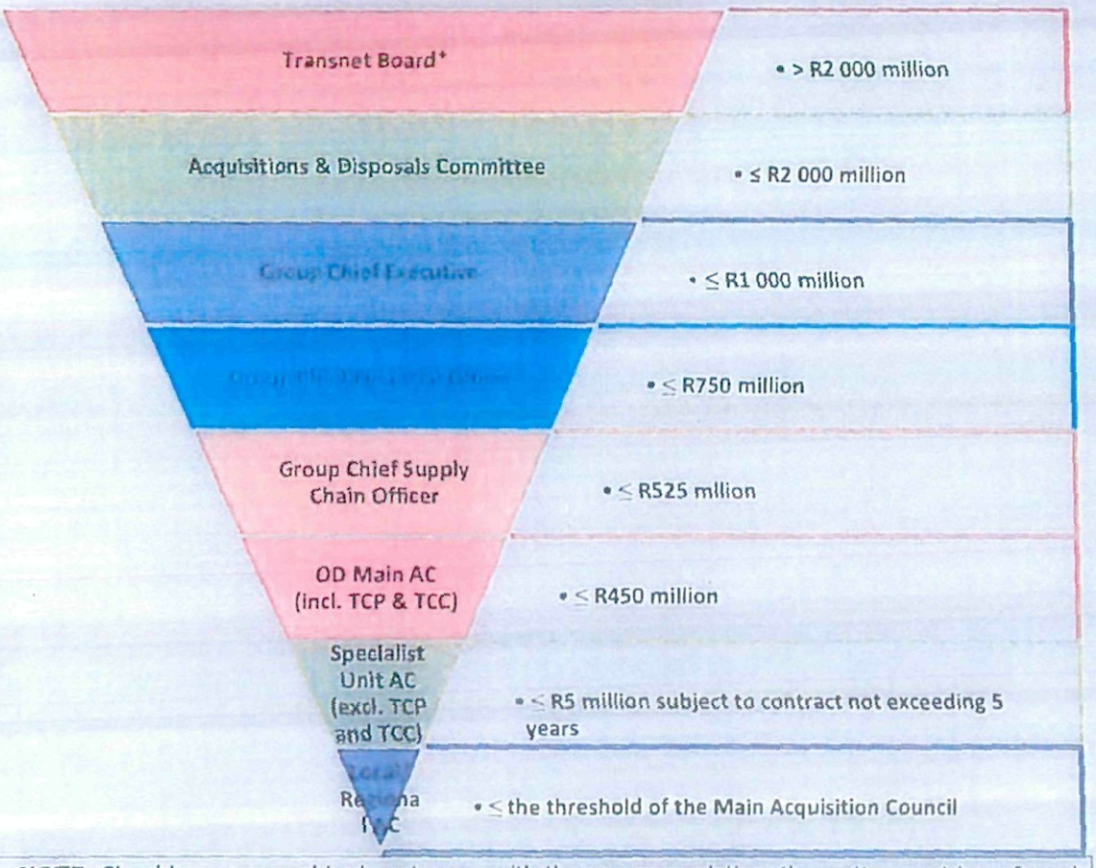


**NB: Approval limits are cumulative per annum for OD CEs only.
*In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.
Consultants may only be remunerated at the rates prescribed in terms of Instruction Note 01 of 2013/2014 issued by National Treasury on Cost Containment Measures and the Guideline document thereto.

Figure [7] – Appointment of consultants

(d) Procurement Process Approval

Procurement process approval involves a validation of the entire procurement process followed before contract sign off can take place. Approval of the procurement process involves scrutiny of the fairness, transparency, legality and general commerciality of the tender award.



NOTE: Should any approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or remotivation
Recommendations: The RAC, main AC and the ADC will support the recommendation for transactions above their thresholds. Local/Regional AC normally only consider transactions <R2m but OD CEs may at their discretion increase these thresholds.
* In terms of s 54(2)(d) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion of the value of Transnet's asset base as per the 2013/2014 version of the Shareholder's compact) before proceeding with the acquisition

Figure [8] – Thresholds for governance structure approval of process

For transactions between R450 million in value and R1 000 million in value, the following provisos apply bearing in mind that process approval should ideally involve collective input from a multi-disciplinary team:

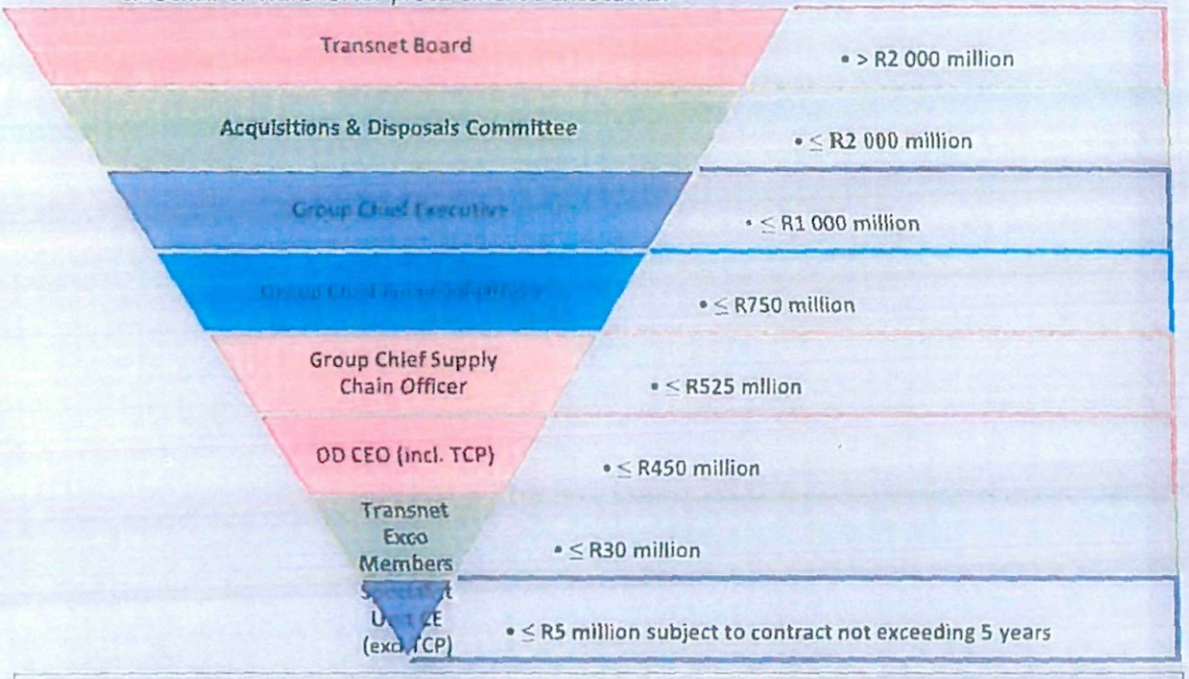
- The matter must first serve before the relevant Main AC to validate the process followed;

- Thereafter, the relevant OD CE or SU Group Executive must validate and sign off on the process;
- Compulsory validation and sign off of the process by the following Heads of Department:
  - Group iSCM;
  - Group Risk; and
  - Group Legal.

For matters within the GCE's delegation, the GCFO's validation and sign off is also required prior to the matter being submitted to the GCE for final process approval.

(e) Enter into and signing of contracts/agreements and award of business

Contract sign off approval involves the final award of business based on a Procurement Process Approval. This approval carries with it the power to sign and enter into contracts on behalf of Transnet for procurement transactions.



In terms of s 54(4) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion as per the 2013/2014 Shareholder's Compact) before proceeding with the acquisition.

Figure [9] – Thresholds for contract sign off / award of business

(i) **Contracts greater than R500 million as per the Group Delegation of Authority Framework**

Prior to entering into a high value (greater than R500m) / highly complex contract (especially for Transnet's top 60% value opex items as dealt with by Transnet iSCM Strategic Sourcing commodity teams), any authorised official must first liaise with a multi-disciplinary team of experts at Transnet Corporate Office, who should each sign off on the following parts of any agreement/contract or other binding document:

- Group Legal Services - entire document;
- Transnet GCFO to sign-off after sign-off from the finance departments (Group Finance/Reporting, Financial Planning, Tax and Treasury); and

- Contracts less than R450m within the OD's limit of authority, require a similar process as set out above to be followed by the relevant OD.

(ii) **Contracts with foreign exchange exposure**

Approval to enter into an agreement/contract or other binding document involving foreign currency exposure (including international agreements) may not be sub-delegated lower than to the Chief Procurement Officer (CPO) of an OD. Approval of the divisional CFO is required to enter into the contracts that may result in foreign currency exposure.

The duly authorised official must obtain prior written approval in respect of foreign exchange agreements above R50m from Group iSCM, Group Legal, Group Treasury, Group Tax, Group Risk, Group Insurance and Group Reporting, both where the contract will be concluded in foreign currency and especially in such cases where foreign contracts will be concluded in South African Rand, as this may expose Transnet to an embedded derivative. All foreign exchange agreements above R100m must apart from the above also obtain written approval from the GCFO. The GCFO may only sign-off after sign-off from Group Treasury, Group Tax, Group Risk, Group Insurance, the Finance Departments (Group Finance/Reporting and Financial Planning), Group Legal Services (the entire document) and Group iSCM.

(f) Management's intervention to address non-compliance with procurement policies and procedures (Condonations)

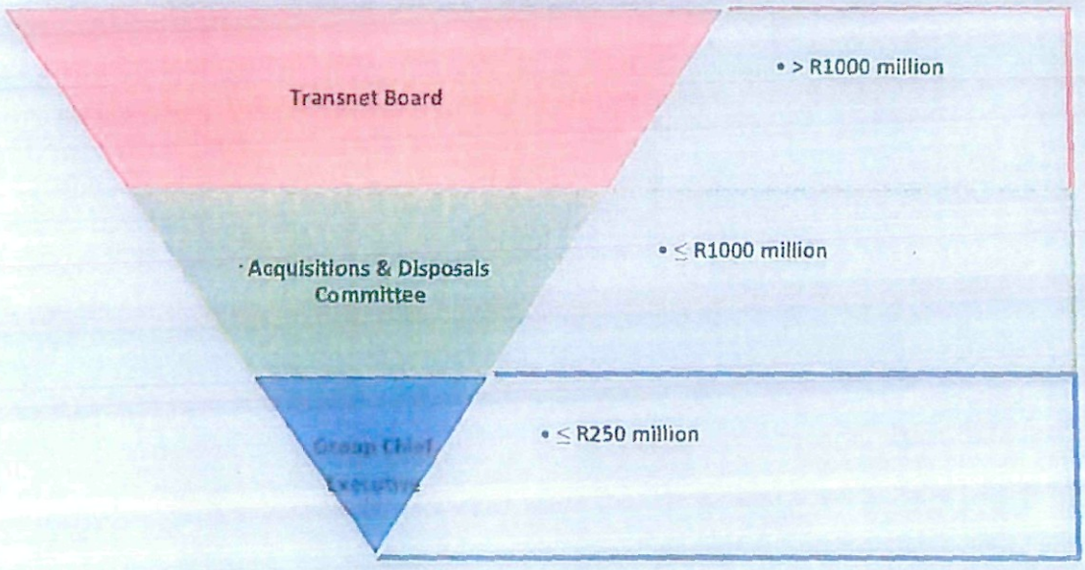


Figure [10] – Management's intervention to address non-compliance with procurement policies & procedures

6.5. **FRAMEWORK FOR SUB-DELEGATION OF THE ADC & BOARD DOAs**

6.5.1. In exercising the delegations referred to in Figures 5 to 9 above, the ADC/Board exercises the following powers:

- Approval to go to market/ approval of the strategy;
- Approval of the RFI or RFP document;
- Approval of negotiations;
- Approval of the procurement process followed;
- Approval of contract award;

- Contract sign off; and
- Approval of contract amendments.

6.5.2. Sub delegation from Board/ADC to the GCE

The following explains the framework for sub delegation to the GCE:

6.5.2.1. The approval of the RFP document and the signing of the contracts should as a general rule always be sub delegated by the Board/ADC to the GCE. This should apply irrespective of the value of the RFP or contract as one would expect this to be a management function and not expect the Board members to be involved in such detailed tasks unless they feel the need to do so.

6.5.2.2. In instances where the GCE approves the RFP document, the RFP must first be reviewed and recommended by:

(a) The CE of the relevant Operating Division
(b) The Group Chief Supply Chain Officer; and
(c) The Group Chief Financial Officer.

6.5.2.3. Where the GCE signs a contract, the contract must first be reviewed and recommended by the officials referred to in paragraph 6.5.2.2 and in addition by the following persons:

(a) Group Executive: Legal Services;
(b) Chief Risk Officer.

6.5.2.4. For Opex or Capex contracts greater than R1 billion but not exceeding R5 billion in value, the Board/ADC may decide to sub delegate any of the following additional responsibilities to the GCE:

(a) Approval to go to market/approval of strategy;
(b) Approval of contract award; and
(c) Approval of contract amendments.

6.5.2.5. In determining whether to sub delegate any powers to the GCE, the Board/ADC must take into account the following factors, inter alia:

(a) The degree of public interest in the award of the contract;
(b) The reputational risk to Transnet associated with the contract;
(c) Whether all other risks associated with the contract have been adequately mitigated;
(d) Whether lessons learnt from previous contracts have been taken into account;
(e) Whether PFMA approval is required.

6.5.3. Sub delegation from Board to ADC

6.5.3.1. For Opex or Capex contracts greater than R5 billion but not greater than R15 billion, the Board may sub delegate all its

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responsibilities listed above to the ADC. The ADC may in turn sub delegate any of these responsibilities to a person or body within Transnet, including the GCE.

6.5.3.2. As indicated above, the authority to approve the RFP or sign the contract should as a general rule be sub delegated to the GCE.

6.5.3.3. As a general rule, the Board will not sub delegate any of its functions for any contracts exceeding R15 billion in value, unless it decides otherwise.

6.5.4. In all instances where powers are delegated by the Board/ADC to the GCE, or by the Board to the ADC, such powers must be exercised only when the advice and sign off of the following functional areas have been obtained:

6.5.4.1. Group ISCM;
6.5.4.2. Group Risk;
6.5.4.3. Group Legal;
6.5.4.4. Group Treasury; and
6.5.4.5. Group Tax.

6.5.5. **Subdelegation of Process Approval**

For transactions exceeding R1 000 million, the Board/ADC will not sub delegate process approval to the GCE or lower. In instances where approval of the contract award and contract sign off have been sub delegated to the GCE, the Board/ADC may sub delegate the approval of the process to Group EXCO. In such instances, the matter will first serve before the relevant Divisional Acquisition Council (DAC) to recommend the award of business to Group EXCO. The GCE will only exercise his powers to approve the award of contract and sign the contract after Group EXCO has granted process approval.

6.5.6. **Monitoring and Reporting**

The GCFO and GCSCO shall on a quarterly basis report to the Board and the ADC on all matters sub delegated by the Board/ADC to the GCE as well as all matters sub delegated by the Board to the ADC.

The report must include the following:

- The number of tenders issued;
- The current stage of the procurement process;
- Progress made with contract negotiations;
- Process approvals granted by Group EXCO;
- the number of contracts concluded with suppliers, including details pertaining to:
  - the name of the supplier;
  - the nature of the contract;
  - the value of the contract;
  - the duration of the contract;

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- the BBBEE level of the supplier;
- Supplier Development and Empowerment obligations of the supplier;
- Key contractual risks and details of the risk mitigation plan.

- the number and value of contract amendments.

6.6. SUBMISSIONS REQUIRING GROUP SIGN OFF

6.6.1. When any submission requires Group sign off, it must first be sent to Group ISCM for review in draft form. Once ISCM and the relevant Transnet Entity has agreed on the contents of the submission, only then must the Transnet Entity submit the required documents for Group sign off with signatures from the OD CPO, CE, etc. This is to prevent situations where OD CEs / SU GEs sign documents but certain changes are required in terms of inputs from ISCM, which means that the submission must be re-done and re-submitted for the CE/GE's signature.

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Background and Context

SECTION B: PROCUREMENT PLANNING

Chapter 7: Demand Planning & Demand Management

Chapter 8: Internal Procurement / Interdivisional Support

Chapter 9: Contract Options

Chapter 10: Preferential Procurement Approach

Chapter 11: Local Content

Chapter 12: Supplier Development Approach

Chapter 13: Determining Evaluation Criteria

Chapter 14: Main Procurement Mechanisms

Chapter 15: Special Cases

Go to Market

Evaluation and Adjudication

Contract Management

Functions of Governance Structures

Appendices

TYPICAL PROCUREMENT CYCLE

Figure 11 below depicts a typical procurement cycle. Comprehensive guidance on each of these steps is dealt with in the Chapters that follow:

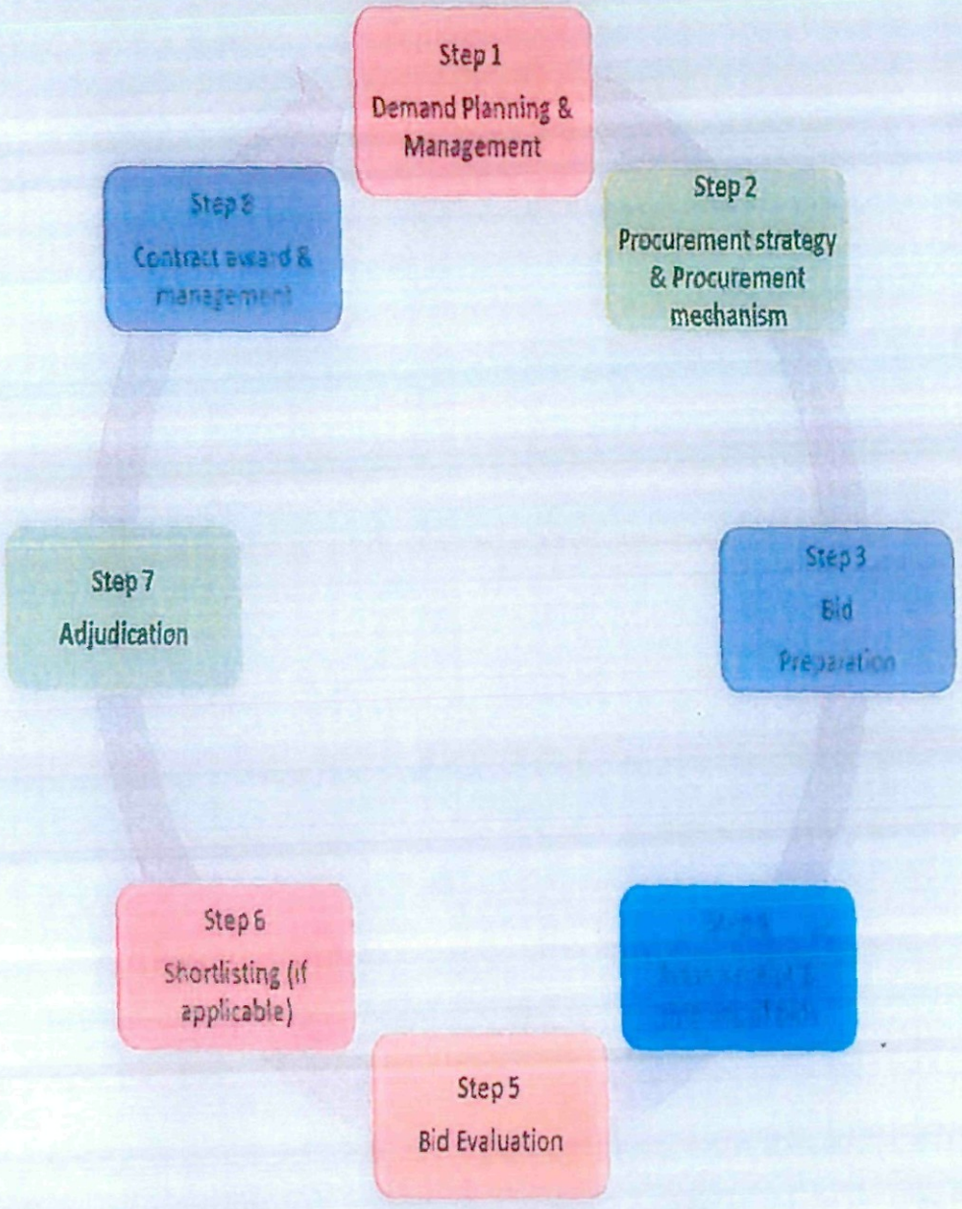

Figure [11] – The Procurement Cycle

The following detailed flowchart depicts the entire procurement process:

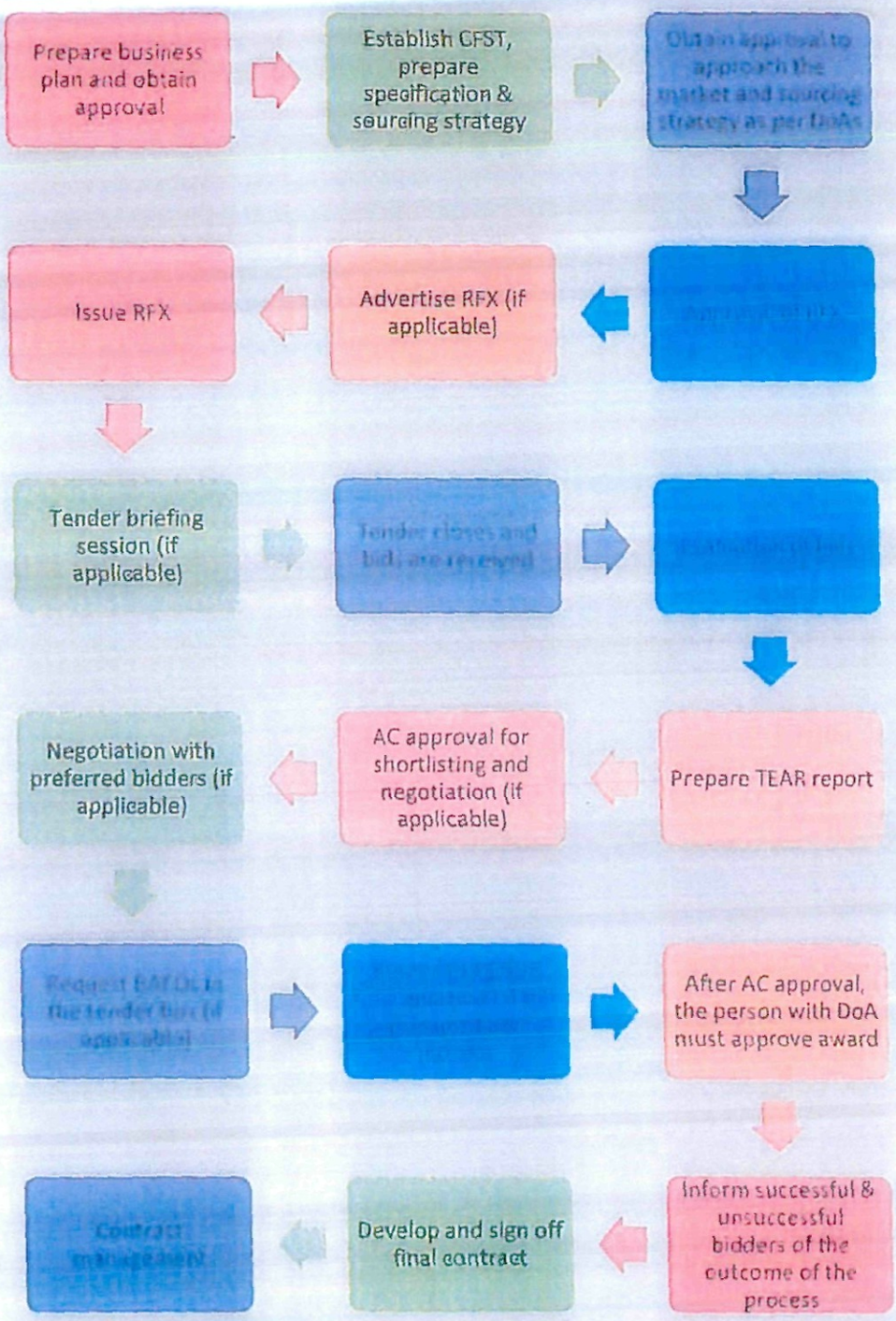

Figure [12] – Detailed Procurement Process

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CHAPTER 7: DEMAND PLANNING & DEMAND MANAGEMENT

This Chapter is equally applicable in construction procurement and general procurement activities. For all construction projects a procurement package plan (PPP) is required. A procurement package plan is a collection of procurement events from a project. This package plan requires approval prior to commencement of a go to market strategy.

7.1. PREFACE

7.1.1. Demand is a business requirement for Goods/Construction Works /Services raised by the business/OD and received by the procurement department for further processing, such as sourcing and payment. There are 2 areas of demand i.e. demand planning and demand management.

7.1.2. Demand Planning is the first step in the procurement process, where:

7.1.2.1. the business needs are assessed in order to ensure that the required Goods/Construction Works/Services are procured so as to meet the business requirements of Transnet;

7.1.2.2. specifications are precisely determined;

7.1.2.3. requirements are linked to budget; and

7.1.2.4. the supplying industry has been analysed and constraints identified and assessed.

7.1.3. Demand planning is a medium term and cross functional planning process supported by a series of meetings that promote alignment, decision making and coordinated action towards achievement of financial budgets and organizational strategy.

7.1.4. Demand management is about understanding the factors that drive demand for Goods/Construction Works/Services and about using this knowledge to identify and implement new and innovative ways to eliminate, reduce or serve demand more efficiently and to support robust demand planning – and in so doing optimise value and quality by enabling suppliers to have a forward looking view of requirements expected of them and adequately plan production and by enabling the procurement department to adequately prepare itself and work more efficiently and effectively. Demand management therefore involves the reviewing, monitoring and improving of demand.

7.1.5. Demand review is a strategic decision process ensuring that all stakeholders are fully aware and agree to the Goods/Construction Works /Services that are to be procured, why it is to be procured, how it is to be procured, and the cost.

7.1.6. Demand monitoring is a tactical process ensuring that only the required quantity and Quality of Goods/Construction Works/Services are sourced from the right suppliers.

7.1.7. Demand improvement is a strategic and a tactical process ensuring that the quality of demand improves continuously as the demand management

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process matures, with initiatives such as reducing the demand and rationalising the Goods/Construction Works/Service portfolio.

7.1.8. Therefore, the purpose of demand planning and management is to ensure that the resources required to fulfil the requirements identified in Transnet's Corporate Plan are delivered at the correct price, time and place and that the delivered quantity and quality will satisfy those requirements.

7.1.9. The intention of demand planning is to:

7.1.9.1. to have a clear view of the demand requirements for major strategic commodities;

7.1.9.2. to ensure that end-users and the procurement department are brought closer together in order to enhance efficiency and achieve value for money; and

7.1.9.3. to foster an improved working relationship of openness between Transnet and its suppliers and/or service providers.

7.2. INTRODUCTION & OBJECTIVES OF DEMAND MANAGEMENT

7.2.1. Demand management is the planning methodology used to define, forecast and manage demand. Through this process demand is defined, agreed and mapped to supply to ensure that what is demanded is relevant, accurate and related to the ability to supply.

7.2.2. The objectives of demand management are to:

- Gather and analyse information about customer, products and markets as a basis for defining demand;
- Establish an accurate demand profile through broad demand inputs and forecasting accuracy;
- Align organisational capabilities to meet demand requirements;
- Share and use the information about market dynamics, product information and logistical challenges with all stakeholders including the end users/ business and other functional areas within ISCM;
- Establish cross functional consensus and responsibility of supply to fulfill the demand requirement;
- Ensure that demand information is shared across the planning levels from strategic to tactical through to operational planning;
- Ensure that the Contract Manager documents all relevant contractual requirements relevant to the demand; and
- Proactively manage demand variability through accurate forecasting, demand shaping, scenario modeling and the delivery of plan to actual.

7.3. THE DEMAND MANAGEMENT CYCLE

Demand management is a continuous cycle ensuring the accurate definition and alignment of business demand:

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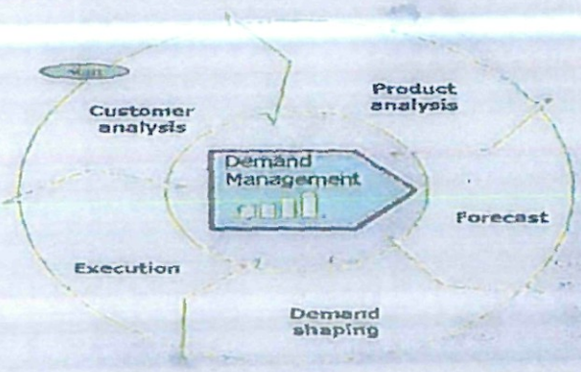

Figure [13] – The Demand Management Cycle

7.4. ROLE OF PROCUREMENT IN MANAGING DEMAND

Procurement needs to manage the demand for Goods/Construction Works/Services by:

- identifying, analysing, validating and prioritising identified demand;
- compiling an annual procurement plan based on the demands identified by the end user (operations);
- processing the demand accordingly; and
- lead the process to fulfil the demand requirements

7.5. THE ANNUAL PROCUREMENT PLAN

An annual procurement plan is required for capital expenditure, operational expenditure, services and planned maintenance. The Procurement plan forms the basis of demand management.

Once the end users (operations) have identified their individual annual business needs and there has been approval of the budget by Finance and any other applicable approvals (e.g. CAPIC approval), the end user must forward their approved requirements for the forthcoming financial year to Procurement. The individual annual business needs must be forwarded to Procurement by the end of January each year. Procurement must consolidate the business needs of the various end users in order to validate and prioritise the identified demands appropriately by determining which demands are critical to Transnet.

After Procurement has validated and prioritised the demand from its various end users, Procurement will develop an annual procurement plan. This plan must be approved by the CPO, CFO and CE of the relevant Transnet entity by the end of February each year for implementation in the subsequent financial year. In addition, the plan must be reviewed every quarter throughout the year. Any changes made to the plan after review must indicate the reasons for the change and must be approved by the CPO, CFO and CE of the relevant Transnet entity.

7.6. DEMAND PROCESS

Figure 14 below gives an outline of the main steps in the demand management process.

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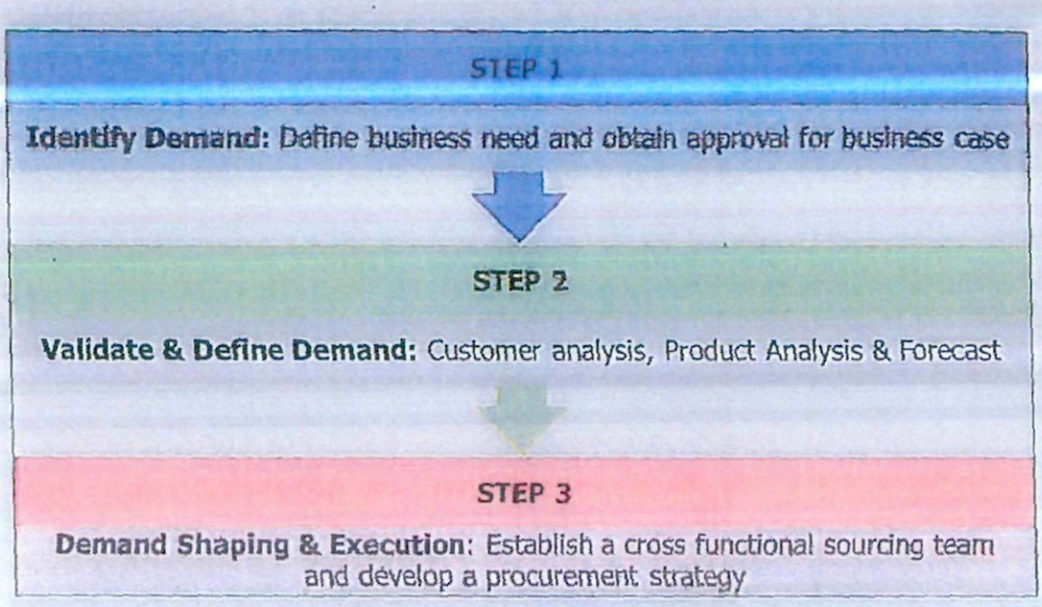
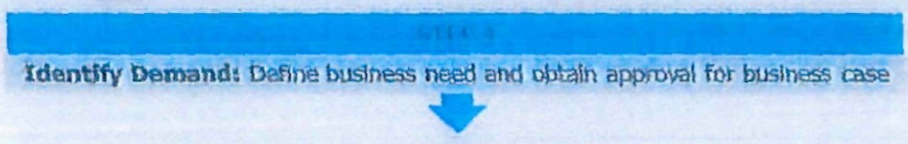


Figure [14] – Demand Steps

7.6.1. **STEP 1 : Define business need and obtain approval for business case**



a) **Definition of business need**

The responsibility for completing Step 1 lies with the end user/operations. The end users in the business (operations) need to follow the steps outlined below, in order to ensure that there is a clearly defined need in the business:-

(i) conduct a needs analysis to establish requirements relating to the business, taking into account all required capital acquisitions, planned maintenance, and other operational needs – this will be informed by both future requirements (based upon Transnet's Corporate Plan); as well as market demand forecasts (based upon Transnet's current client base demand and/or commitments made by Transnet's sales department);

(ii) establish and consolidate the reasons for the need; and

(iii) ratify the need irrespective of whether it is a CAPEX or OPEX acquisition and apply for and obtain budget approval.

(iv) ensure that the need is validated and prioritised by Procurement in the annual procurement plan.

b) **Compilation of demand document (per transaction)**

The end users in the business (operations) are responsible to provide procurement with a detailed demand requisition. This should provide a clear description of the function, required specifications, drawings, and where applicable it should indicate:-

(i) the quantities required;

(ii) the frequencies required;

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(iii) the quality required;
(iv) the unit of measure;
(v) the required packaging, if applicable;
(vi) the relevant specification/drawing, where applicable;
(vii) the previous price or estimated costs and budgetary requirements;
(viii) the expected delivery date(s) and delivery address(es);
(ix) any logistical and/or storage requirements;
(x) any material obsolescence risks; and
(xi) suggest potential source/s of supply and a brief analysis of the supplier industry landscape, if available.

The demand document should first be approved at an operational level. Once final approval has been obtained, it should be submitted to procurement. Operations should submit the approved document timeously, and allow sufficient time to acquire the Goods/Construction Works/Services, given lead times and governance processes.

7.6.2. STEP 2 : Validate & Define Demand

STEP 2
Validate & Define Demand: Customer analysis, Product Analysis & Forecast

The responsibility for completing Step 2 lies with Procurement.

a) **Validate demand**
(i) Procurement shall establish: whether the demand document/requisition has been duly approved by operations;
(ii) whether this is a critical demand that has been identified in the annual procurement plan; ("Critical" is defined as having an impact on the Service provided by Transnet or the profit made by Transnet); and
(iii) the impact on operations if the procurement did not occur.

b) **Review nature and quantity required**

Procurement shall establish and review the following:
(i) Establish whether this is a requirement for Goods or a Service?
(ii) If Goods are required, whether the demand will be on-going or once-off?
(iii) If Goods are required, determine how many types of items and quantity of each item are required in total by operations at present time and going forward? What are the options (if any) for reducing volume?
(iv) If a Service is required, determine for what length of time the Service is required? (Indicate length of Transnet's previous use (if any) of the specific Service). Could this be reduced or extended?
(v) Determine the estimated value of the sourcing event (if not provided by operations) to establish which sourcing process must be followed:

- if below R2 million, or lower threshold set by the OD CE for Open Bids, use the quotation system (see Chapter 14);

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- if over R2 million use an "open RFX", approach (see Chapter 14); and
- if within the threshold for High Value Tenders, use the High Value Tender process.

c) **Reduce demand frequency**

Procurement shall establish and review the following:-

(i) If the Goods to be purchased will require additional purchases going forward, is it reasonable for an "as-and-when call off" contract as explained in Ref 1 of Table 8 in paragraph 9.2 of the PPM) to be established? State reasons either for or against an "as-and-when call off" contract.

(ii) If a Service is required, what is the length of the anticipated contract? Explain rationale for this time period.

d) **Customer analysis/Organisational needs**

- Establish the following:
- the extent of Transnet's needs/requirement for the Goods/Construction Works/Services;
- whether a long term contract (at least three years) is appropriate in the circumstances taking into account *inter alia* developmental goals; and
- Transnet's Supplier Development objectives in relation to this transaction.

e) **Product/Commodity/Scope of work & market analysis**

- Establish projected demands, historic demand, demand estimates;
- Establish understanding of product characteristics such as its Total Cost of Ownership (TCO), lead times, inventory levels, complexity;
- Conduct research of industry/market capacity and capability; and
- Establish an understanding of the industry to identify opportunities for socio-economic development.

f) **Forecast**

- Establish initial forecast;
- Collaborate with operations; and
- Develop demand plan in line with approved budget.

7.6.3. **STEP 3 : Demand Shaping & Execution**

STEP 3
Demand Shaping & Execution: Establish a cross functional sourcing team and develop a procurement strategy

The responsibility for co-ordinating Step 3 lies with Procurement.

a) **Demand shaping (balancing)**

- Adjust demand to market conditions;
- Complete what-if scenario modelling;
- Establish input from supplier planning; and
- Allocate demand to supply.

b) **Execution**

- Fulfil demand requirement;
- Manage plan to actual; and
- Measure forecast error, inventory, margin & profitability.

c) **Establish a CFST**

Demand management shall be a cross-functional exercise with a view to ensuring that end users, procurement and all stakeholders are brought together in order to enhance efficiency and achieve value.

Procurement shall establish a CFST, consisting of at least the following roles: Procurement, operations (end users/contract manager/technical), SD (including B-BBEE) and risk/compliance. The end user department will be responsible for nominating only the technical committee members. Other possible representatives are finance, treasury, maintenance, logistics/warehousing, disposal and legal or governance.

In instances where the sourcing event is uncomplicated and the risk to Transnet is low, the CFST can be comprised of only procurement and Quality (technical) representatives.

Procurement must ensure that the CFST is formally appointed and consists of the relevant expertise; and that the size of the team is not of such a nature that it cannot function effectively. Nonetheless, in all instances, procurement and operations must reach agreement on the composition of the CFST. Transnet Entities may at their own discretion decide to either appoint a standing CFST or to appoint individual CFSTs for each and every procurement event. However, whichever of these two options is selected, in order for the CFST to be effective, consistent attendance by the same members is required for continuity.

d) **Functions of the CFST**

(i) Determine specifications/scope of work

If Goods are being sourced, consider whether there is any opportunity to purchase standard "off-the-shelf" Goods.

If there are technical specifications:-

- these must be compiled with a view to promoting the broadest possible competition, whilst still assuring that critical elements of performance or other requirements are achieved;
- ascertain whether similar (albeit not identical) Goods are currently in use elsewhere in Transnet, which could enable standardisation;
- interrogate the specification, i.e. determine whether it is possible to provide a functional/performance-based specification rather than a detailed specification;
- ensure that the latest specification is used, and that the quality standards (e.g. SANS, ISO) are included where applicable. In addition, ensure that the drawings are up to date and that

detailed descriptions of manufacturing processes, workmanship and/or materials are indicated;

- ensure that the specification is not over-engineered; and
- verify that the specification is not biased in favour of a particular brand or type of Goods.

If a functional specification is the chosen option, the following must be observed and described in detail:

- functions and characteristics;
- desired performance and/or result parameters, based on both inputs and outputs;
- method statement templates on how outputs will be reached; and
- inclusion of relevant KPIs.

The following must be observed and indicated in the RFX in respect of functional as well as detailed specifications:

- the location(s) of required provision;
- details of qualifications required where appropriate;
- details of the conditions in which the Goods must operate;
- environmental and safety features;
- packaging, marking and labelling requirements;
- inspection or testing requirements;
- documentation required, i.e. manuals, user guides, licenses, test certificates, etc.;
- size/dimensions;
- integration with other Goods/Construction Works/Services;
- security requirements;
- any applicable regulatory requirements;
- health, safety, electrical, environmental requirements;
- training requirements, if applicable;
- timing considerations; and
- interfaces with other systems.

If Services are being procured, the following must be observed and indicated in the scope of work:

- project title and background;
- objective of the project
- expected outcomes/deliverables;
- competency and expertise requirements;
- timeframes;
- reporting requirements;
- any applicable regulatory requirements;

- whether a site inspection or information session are required with date, time and venue stated;
- available documentation; and
- minimum requirements.

Once the technical specification/scope of work has been finalised, the end user department or head of the technical specification sub-committee must sign off specifically confirming that the specification is:

- Fit for purpose;
- objective; and
- unbiased and not slanted in favour of any bidder.

(ii) Determine SD objectives:

- conduct market analysis to determine the opportunities for SD; and
- determine the most appropriate SD mechanism.

(iii) Reduce portfolio or range complexity:

- Options for rationalisation of the range of Goods/Construction Works/Services must be considered.
- Implications for users if choice options are reduced must be considered.

(iv) Identify and mitigate risks:

- All risks to Transnet associated with the demand must be identified and addressed in the eventual RFX;
- It should be ascertained whether suitable skills are available within procurement to address the demand and its management process.

e) Develop the procurement strategy including the following:

- market analysis and historical spend;
- the appropriate procurement mechanism;
- the evaluation methodology including the evaluation criteria and weightings – See Chapter 13 on Determining Evaluation Criteria. Clear evaluation criteria must be established, as bids may only be evaluated according to the criteria stipulated in the bid documents; and
- envisaged award allocation e.g. single or split award.

f) Oversee preparation and sign off of the bid documentation – See Chapter 16 on Bid Preparation.

g) Determine who should serve on the evaluation committee – See Chapter 18 on Evaluation.

h) Handover the sourcing event to procurement

7.7. CHECKLIST FOR DEMAND PLANNING & MANAGEMENT

The following checklist could be used as a template to identify the progress with respect to the Demand Management process:

TABLE 6

Demand Planning & Management Focus	Responsible
Is there a business case and approval of the demand?	Business
Has the demand been identified in the annual Procurement Plan?	Business & Procurement
Is there a budget allocated for this demand?	Business
Is there an approval as per the associated DoA?	Business
Have the options of fulfilling the demand (such as existing contracts and critical items) been assessed?	Business & Procurement
What is the outcome of reviewing the quantity required (i.e. are the Goods/Construction Works/Services required on an on-going or once-off basis)?	Procurement
Has the possibility of reducing the demand frequency, such as further purchasing or call-off, been assessed?	Business & Procurement
Have the options of alternate ways of fulfilling this demand, such as whether other Transnet ODs could manufacture these Goods, been assessed?	Procurement
Have the options of re-use been assessed? (e.g. re-engineered Goods from existing Goods or whether the Goods are available from other Transnet ODs) Have the 3 Rs (Reduce-Reuse-Recycle) been considered?	Business & Procurement
Has the possibility of standardising the Goods and its specifications, such as off-the-shelf and customised, been assessed?	Business
Has the opportunity of reducing the Goods portfolio, such costing and risk implications associated with it, been identified by considering TCO and putting a risk register in place?	Procurement
Have the strategic risks associated with this demand, such as strategic nature of this demand been identified?	Business
Has internal availability been assessed, i.e. • Can the needed Goods be re-engineered / reclaimed from existing assets/Goods? • Can any OD of Transnet manufacture the required Goods or provide the required Service? • Are these Goods currently available in another OD with spare capacity? • Is this a stock item? • Is this item available on a current contract?	 Business & Procurement Business & Procurement Business & Procurement Business & Procurement Business & Procurement
Was the CFST properly constituted?	Procurement
Have the risks associated with the CFST working on this demand, such as capacity and capability not available within the Transnet been identified?	Procurement
Does the CFST represent all the necessary disciplines for identifying the risks associated with the event?	Procurement

Demand Planning & Management Focus	Responsible
Did the CFST members sign confidentiality agreements and declarations of interest? Have any conflicts of interest been dealt with in terms of Chapter 6 hereof?	CFST
Did the CFST properly interrogate the specification?	CFST
Were all risks identified and included in the RFX?	CFST
Has it been considered whether this should be a transversal event in the interests of Transnet as a whole?	CFST
Has an 'As-and When' contract option been investigated, in order to cater for future demand?	CFST
Was the appropriate evaluation method chosen?	CFST
Were thresholds set for SD and Quality/Functionality?	CFST
Were proper evaluation criteria set for: • Local Content (if applicable); • SD (if applicable); • Functionality (if applicable); • Preference; and • Price / TCO?	CFST
Were appropriate weightings allocated to each criterion?	CFST

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CHAPTER 8 : INTERNAL PROCUREMENT/INTERDIVISIONAL SUPPORT

This Chapter is equally applicable in construction procurement and general procurement activities.

8.1 INTERDIVISIONAL RELATIONSHIPS

Transnet Entities are required to develop trust and a sound interdivisional working relationship with one another in the interest of Transnet. To achieve this, such entities **must** be afforded the right of first refusal in the procurement of Goods, Construction Works and Services.

8.2 STRATEGIC SPECIALIST UNITS

The following Specialist Units have been identified as strategically important to the Transnet Group:

TABLE 7

Division/Specialist Unit/Function	Goods, Construction Works and/or Services Provided
Transnet Engineering (**TE**, a specialist core Division)	TE is responsible for: • heavy engineering including locomotive, wagon and coach repairs, upgrades and maintenance; • component manufacture, locomotive manufacture and assembly; and • port equipment, and is being positioned for maintenance and repairs thereof.
Transnet Capital Projects (**TCP**)	TCP is responsible for: • multi-disciplinary design Services; and • project & construction management Services. Construction projects >R300 million **must** be carried out by TCP. In the case of construction projects <R300 million, the following rules apply: • The project may be conducted by the OD itself if it has the necessary in-house resources according to the requirements of the NEC3 suite of contracts and the CIDB Standard for Uniformity in Construction Procurement; and • If the OD decides not to run the project itself, TCP must be given the first right of refusal before the external market can be approached.
Transnet Fuel Solutions (TFS)	TFS is responsible for Transnet-wide fuel acquisition, distribution and management.
TFR School of Rail	TFR School of Rail is responsible for training tailored exclusively for core businesses, e.g. School of Rail, train drivers, train control officers, software training in general, etc.
TNPA School of Ports	TNPA School of Ports is responsible for: • Facilitation of knowledge transfer as the provider of marine training programmes in South Africa • Planning to position itself as Africa's training leader in Marine Operations, Port Management and Port Engineering.

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Division/Specialist Unit/Function:	Goods, Construction Works and/or Services Provided
Transnet Property (TP)	TP is responsible for: property management, facilities management, property development, property valuations, and property surveying.
TFR's Rehabilitation, Maintenance & Emergency (RME) Division	RME provides rehabilitation, maintenance and emergency services.

8.3 COMPULSORY UTILISATION OF SPECIALIST UNITS

Before considering which procurement mechanism would be most appropriate, it is important that the end-user and procurement department consider whether another Transnet Entity is able to provide the required Goods, Construction Works or Services.

The Specialist Units mentioned above must be utilised by other Transnet Entities for required Goods, Construction Works and Services falling within their scope. The external market may not be approached for Goods, Construction Works and Services falling within the strategic Specialist Units' or Division's core-competency areas. This would also include specialist services that are required which may be performed by a particular internal functional area e.g. Group Treasury and Group Tax.

The only exception to this rule is if the Specialised Unit indicates in writing that they do not have the ability or capacity to provide the required Goods, Construction Works or Services.

8.4 INTERNAL CONTRACTS

ODs will need to enter into internal contracts in relation to each individual project. This agreement will set out in detail the rights, duties and obligations of each OD in that specific project. Internal contracts between Transnet Entities are dealt with in the terms of the Delegation of Authority Framework. Contracts between divisions such as service level agreements and project specific agreements may be entered into between OD CEs. Such contracts do not require AC approval. However, any external contracts which may be required by the internal Specialist Unit are subject to these procedures and require AC approval.

8.5 **Guidance Notes:** where there is an ongoing interdivisional relationship between two Transnet Entities it is recommended that the business relationship be governed by an overarching Memorandum of Understanding (MOU) between the parties. The MOU should be signed by the CEs of the relevant ODs or Specialist Units.

8.6 DISPUTES

Any disputes must be resolved in terms of the agreed MOU/internal contract. If the OD CEs are unable to resolve the dispute, the matter must be escalated to the GCE who shall make a final decision on the matter.

8.7 INTERDIVISIONAL PRICING

Transnet entities undertaking work on behalf of other entities should reciprocate by pricing and carrying out their Services in a way that promotes and develops a culture of interdivisional support. The pricing must be based on appropriate market analysis to benchmark fair and reasonable prices. Should there be a dispute regarding pricing, the matter is to be escalated to the CEs of the relevant Divisions for resolution. Should the CEs not reach consensus, the matter must be escalated to the GCE who shall make a final decision on the matter.

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CHAPTER 9 : CONTRACT OPTIONS

This Chapter applies to both general procurement and construction procurement. . Paragraph 9.3 below provides a summary of the types of contracts available for construction-related procurement.

9.1 CHOICE OF CONTRACT

This chapter contains a list of contractual choices and options available. The following factors, amongst others, will assist in determining the appropriate type of contract:

- the duration of the contract;
- the type of Goods, Services or Construction Works to be acquired;
- the frequency of demand; and
- the availability of the Goods, Construction Works or Services.

9.2 CONTRACT OPTIONS FOR GENERAL PROCUREMENT

Table 8 below outlines the various contract options for general procurement and provides a guideline as to when those options may best be utilised. Paragraph 9.3 provides a summary of the types of contracts available for construction-related procurement.

TABLE 8

Ref	Contract Options	Description	Characteristics	Best Suited For
1	"As and When" contracts	Short or medium-term contracts entered into for a fixed period against which call-offs are made as and when required by the customer	• Shorter contract periods (1-2 Years) • Estimated quantities • Specific period/volume/value ceiling or a combination.	• Continuous but unpredictable and irregular demand for Goods/Construction Works/Services • Volumes cannot be accurately determined upfront • Demand cannot be anticipated • Generally off-the-shelf items
2	Fixed quantity contracts	Contracts entered into for once-off purchases	• Demand is known • Once-off purchase • Once-off or staggered delivery	• Planned programmes
3	Long-term contracts	Contracts entered into for a fixed period typically for five-Years or more	• Long term demand signal • Emphasis on SD • Suppliers' recoupment of investment is long-term	• Purchase of high value Goods/Construction Works/Services • Goods/Construction Works/Services of strategic

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Ref	Contract Options	Description	Characteristics	Best Suited For
			• Restricts other market players for a period of time	Importance • Goods with long lead time
4	Transversal contracts	A contract that services more than one internal consumer (an internal shared service arrangement) entered into for a fixed period. A transversal contract may be entered into for the benefit of the entire Group, a particular OD and/or just a region. Below is a list of the types of Transversal contract options:	• Emanates from a formal strategic sourcing event • Fixed-contract period Optimising economies of scale through consolidation of demand/purchasing power	
		• Group-wide Transversal contracts		Consolidation of Goods / Services used Group wide
		• Transversal between ODs/Corporate		Consolidation of Goods / Services used between ODs
		• OD-wide Transversal contracts		Consolidation of Goods / Services used within an OD
		• Regional Transversal contracts		Consolidation of Goods / Services used within a region by one or more than one OD
5	Lease/Rental contracts for movable assets	Lease contract for the use of moveable assets entered into for a fixed period	• Specified/unspecified period • Agreed Rental • Option of renewal	• Goods/Construction Works/Services where it would be more economically viable to lease than to purchase
6	Inter-Divisional Memoranda of Understanding (MOUs)	A 'contract' to govern the service performance agreed between ODs	• Not a formal contract • It governs the internal relationship between the ODs	• Governing the performance as agreed between the ODs
7	Income-generating (revenue) contracts	Although excluded from the PPM, associated procurements fall within the ambit of the PPM (See paragraph a))	• Listed as a process excluded from PPM • Associated procurement must follow the PPM	• As per OD requirements

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**Any of the above-mentioned contract options can originate from any of the defined general procurement mechanisms and/or special mechanisms for procurement.*

9.3 CONTRACT OPTIONS FOR CONSTRUCTION PROCUREMENT

This Paragraph addresses contract options available for Construction Procurement

9.3.1 The CIDB SFU prescribes four standard industry forms of contract:

- Conditions of Contract for Construction, Conditions of Contract for Plant and Design – Build, Conditions of Contract for FIDIC EPC/Turnkey Projects, Conditions of Contract for Design, Build and Operate Projects or Short Form of Contract (FIDIC). The FIDIC form of contract can be used for high value, multidisciplinary construction projects and for lower value less complex projects;
- NEC3 Engineering and Construction Short Contract or NEC3 Engineering and Construction Contract (NEC3). This form of contract can be used for all projects regardless of value type or complexity and has specifically defined project management principles;
- The JBCC series 2000 Building Agreement or Minor Works Agreement (JBCC) is restricted to building projects only; and
- The General Conditions of Contract for Construction Works (GCC) can be used for lower value, less complex projects and where the outsourcing of these functions is not feasible.

9.3.2 Transnet has taken a decision to retain the NEC3 suite of contracts as its primary contracting option but include the FIDIC, JBCC and GCC suite of contracts as secondary options. The use of one of the secondary options may be justified through a deviation motivation to the GCSCO which requires support from the relevant Legal Department. The motivation must address whether the relevant Transnet Entity has the capacity and capability to manage the chosen form of contract.

Table 9 below provides a summary of the types of contracts available for Construction Procurement.

TABLE 9 TYPES OF CONTRACTS FOR CONSTRUCTION PROCUREMENT

Contract Option	Best suited for
Engineering and Construction Contract (ECC)	Is used for the appointment of a Contractor for Engineering and Construction work, including any level of design responsibility.
Professional Services Contract (PSC)	Is used for the appointment of a Consultant to provide professional services.
Term Service Contract (TSC)	This contract should be used for the appointment of a Service Provider for a fixed term to manage and provide a service.
Supply Contract (SC)	This contract should be used for local and international procurement of

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	high-value goods and related services including design.
Engineering and Construction Short Contract (ECSC)	This contract is an alternative to the ECC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks
Supply Short Contract (SSC)	This contract should be used for local and international procurement of goods under a single order or on a batch order basis and is for use with contracts which do not require sophisticated management techniques, and impose only low risks on both the Purchaser and the Supplier.
Framework Contract	This contract should be used for the appointment of one or more Suppliers to carry out Construction work or to provide design and advisory services on an "as instructed" basis over a set term.
Adjudicator's Contract	This contract should be used for the appointment of an Adjudicator to decide disputes under the NEC3 family of contracts. It may also be used for the appointment of an Adjudicator under other forms of contract.

**Any of the above-mentioned contract options can originate from any of the CIDB procurement mechanisms. These contract options are available for use for construction procurement and any procurement associated with the construction industry e.g. Professional services related to construction projects.*

9.4 FRAMEWORK AGREEMENTS

9.4.1 What is a framework agreement?

The market may be approached using any one of Transnet's procurement mechanisms with the object of concluding framework agreements with one or more bidders for Goods, Services or Construction Works required on an "as and when required" basis. The purpose of a framework agreement is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

9.4.2 How to enter into framework agreements

Framework agreements, subject to prior approval from the Acquisition Council, may be entered into:

a) inviting tender offers to enter into a suitable contract for the term, using stringent eligibility and evaluation criteria to ensure that contracts are entered into with only those contractors who have the capability and capacity to provide the required services; and

b) entering into a limited number of contracts based on the projected demand and geographic location for such services.

The cumulative value of all the framework agreements to be entered into will inform the delegation of authority approvals required. Approval of amendments to such framework agreements will however be dealt with per individual contract.

9.4.3 How to utilise framework agreements

Where a particular scope of work falls within an existing framework agreement, it must be drawn-off from that framework. A rotational system may be utilised in order to balance spend across suppliers on that framework and ensure an equitable opportunity for all. Where a rotational system is not utilised then all suppliers on a particular

framework are to be approached to tender/price on all requirements/task orders issued against that framework.

9.4.4 Guidelines For Concluding Framework Agreements

a) The scope of work of a framework agreement needs to identify the extent and location of the work covered by the contract. Instructing suppliers to perform work outside of the scope of work of a framework agreement is not permitted.

b) The contract period for Framework Agreements should not exceed 3 years. Any work commenced before the end of the term of a framework contract may continue until the end date provided in the batch / task / package order.

c) Prior to issuing a bid, the number of suppliers/consultants/contractors required per framework panel must be ascertained and stated in the bid documents. Where possible the numbers should be broken down into sub-categories (see below). It is recommended that a maximum number of 5 suppliers be selected.

d) Frameworks must be separated into more categories/panels to allow smaller suppliers to compete e.g. Framework Agreements for Civil Engineering Services may consist of the following Panels (Consultants/Built Environment Professionals):

- Panel A - Targeting Large Enterprises
- Panel B - Targeting Qualifying Small Enterprises
- Panel C - Targeting Exempted Micro Enterprises

Note: Turnover values must be in accordance with B-BBEE values or the Built Environment Professionals for all construction related projects. Quality and eligibility criteria for Panel B and C needs to specifically accommodate QSEs and EMEs to allow these suppliers to effectively compete for these tenders.

9.4.5 Selection after award of framework contract where the rates are the same with all suppliers

In order to ensure fairness and an equal share of the spend, where possible a rotational system must be used.

9.4.6 Selection after award of framework contract where the rates varies among the suppliers/contractors/consultants

When the need to draw-off the framework contract arises an RFQ must be issued to all suppliers on the list. Where quality or any other criteria has already been agreed upon on the main framework only pricing and possibly B-BBEE status needs to be obtained. Where quality checks and other contract related information has not been ascertained then a full RFQ with tender data etc. must be issued as per the DOA framework.

9.5 LONG TERM CONTRACTS

Where one of the objectives of a particular transaction is to promote developmental goals, consideration should be given to conclude longer term contracts of at least five years. Nevertheless, contracts for a period longer than three Years (excluding Confinements) require prior AC approval before the bid is issued to the market. However, if the RFP provides for a number of bid options including a period of up to three Years and more than three Years, prior AC approval is not required. (Also see paragraph 21.8). Irrespective of which of the two options above is followed, the award of the business has to be approved by the relevant AC in the normal manner.

9.6 STANDARD TRANSNET TERMS AND CONDITIONS OF CONTRACT

Standard templates must be used unless there are cogent reasons why such standard agreements cannot be used in a particular instance. Refer to the Standardised Transnet Templates available on the ISCM Transnet Intranet, including but not limited to:

- Standard Terms and Conditions of Contract
- Master Agreements

Any additions or deletions from the above-mentioned templates must be contained in a Special Conditions Schedule. (Also see paragraph 21.6.3)

9.7 CONSOLIDATION OF CONTRACTS

Refer to paragraph 15.5 for the process to be followed when there is an opportunity to consolidate two or more existing contracts in the best interest of Transnet rather than engaging the market anew.

9.8 CHOICE OF SALES/PURCHASE TERMS FOR IMPORTED GOODS (INCOTERMS)

The Incoterms rules or International Commercial terms are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) widely used in international commercial transactions. A series of three-letter trade terms related to common sales practices, the Incoterms rules are intended primarily to clearly communicate the responsibilities, costs and risks associated with the transportation and delivery of Goods. The Incoterms rules are accepted by governments, legal authorities and practitioners worldwide for the interpretation of most commonly used terms in international trade. They are intended to reduce or remove uncertainties arising from different interpretation of the rules in different countries. First published in 1936, the Incoterms rules have been periodically updated, with the eighth version (Incoterms 2010) having been published and made effective on January 1, 2011. "**Incoterms**" is a registered trademark of the ICC[1].

Refer to Appendix C for a detailed explanation of all Incoterms.

[1] *Source: Wikipedia*

TRANSNET-REF-BUNDLE-03312

CHAPTER 10: PREFERENTIAL PROCUREMENT APPROACH AND DESIRED OUTCOMES

This Chapter applies to both general procurement and construction procurement. This is dealt with in more detail in paragraphs 10.3.2 of this Chapter.

10.1 TARGETS

In accordance with its vision of being a significant agent of empowerment within the South African society, Transnet has set the following B-BBEE targets for itself. These targets are more ambitious than those prescribed in the DTI Code of Good Practice:

TABLE 10

Key Performance Indicator	Transnet Target 2014/2015
B-BBEE procurement spend	90%
Black Women Owned	8%
Black Owned	20%
Black Youth Owned	5%
QSE	13%
EME	7%
Value Small business promotion (EME & QSE)	20%
People Living with Disability	1.5%

10.2 MECHANISMS

Transnet must apply the provisions of the PPPFA regulations in determining its preferential procurement framework.

Transnet conducts an assessment of bidders' B-BBEE performance based on the bidders' past B-BBEE performance based on the B-BBEE scorecard as required in terms of the PPPFA.

10.3 MEASUREMENT OF B-BBEE STATUS

10.3.1 Measurement as per the 2007 and 2013 B-BBEE Codes of Good Practice

Bid documents must specifically state that all Suppliers will be measured in accordance with the DTI Generic Scorecard provided for in the Codes of Good Practice or the applicable Sector Code.

When Transnet invites prospective suppliers to submit Bids for its various expenditure programmes, it requires Respondents to have their B-BBEE status verified in compliance with the Codes of Good Practice issued in terms of the Broad Based Black Economic Empowerment Act No. 53 of 2003.

The Department of Trade and Industry recently revised the Codes of Good Practice on 11 October 2013 [Government Gazette No. 36928]. The Revised Codes will replace the Black Economic Empowerment Codes of Good Practice issued on 9 February 2007. The Revised Codes provide for a transitional period starting 11 October 2013 and ending 30 April 2015. During the transitional period, companies may elect to be measured in terms of the Revised Codes or the 2007 version of the Codes. After 30 April 2015, B-BBEE compliance will be measured in terms of the Revised Codes without any discretion. Companies which are governed by Sector-specific Codes will be measured in terms of those Sector Codes.

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As such, during the transitional period Transnet will accept B-BBEE certificates issued based on the Revised Codes. Transnet will also continue to accept B-BBEE certificates issued in terms of the 2007 version of the Codes provided it was issued before 1 May 2015. Thereafter, with effect from 1 May 2015, Transnet will only accept B-BBEE certificates issued based on the Revised Codes.

The B-BBEE Status of companies will be verified/confirmed as follows:

TABLE 11

Elements Scored on the 2007 B-BBEE Generic Scorecard	Elements Scored on the 2013 B-BBEE Generic Scorecard
1. Ownership	1. Ownership
2. Employment Equity	
3. Management Control	2. Management Control
4. Skills Development	3. Skills Development
5. Preferential Procurement	4. Enterprise and Supplier Development
6. Enterprise Development	
7. Socio-economic Development	5. Socio-economic Development

TABLE 12

Type of Enterprise	Annual Turnover on 2007 Codes	Number of Elements Scored on the 2007 B-BBEE Generic Scorecard	Annual Turnover on 2013 Codes	Number of Elements Scored on the 2013 B-BBEE Generic Scorecard
Large	In excess of R35 million	All 7 elements	In excess of R50 million	All 5 elements
Qualifying Small Enterprise (QSE)	Between R5 million and R35 million	Any 4 elements (equal weighting of 25% each)	Between R10 million and up to R50 million	All 5 elements. 100% Black ownership qualifies for a Level 1 rating and 51% Black ownership a Level 2 rating*
Exempted Micro Enterprise (EME)	R5 million or less	Deemed to be 100% compliant. Automatic Level 4 rating irrespective of race of ownership. EMEs which are more than 50% Black owned are promoted to a Level 3 contributor.	R10 million or less	Deemed to be 100% compliant. Automatic Level 4 rating irrespective of race of ownership. 100% Black ownership qualifies for a Level 1 rating and 51% Black ownership a Level 2 rating*

* QSEs that are 100% Black owned or at least 51% Black owned and all EMEs are only required to obtain a sworn affidavit on an annual basis confirming their annual total revenue and level of Black ownership. The RFX document must therefore contain a clause to the effect that Transnet reserves the right to request evidence or documentation from Bidders in order to verify their B-BBEE recognition claimed.

10.3.2 Construction Industry B-BBEE requirements

cidb

Construction Sector Codes Targets thresholds differ from the general codes, The table below illustrates the construction sector thresholds for EMEs, QSEs and Large Enterprises:

TABLE 13

Type of Enterprise	Annual Turnover Contractor	Annual Turnover Built Environment Professional (BEP)	Number of Elements Scored on the B-BBEE Generic Scorecard
Large	Larger than R35 million	Larger than R11.5 million	All 7 elements
Qualifying Small Enterprise (QSE)	Larger than R5 million and equal to or less than R35 million	Larger than R1,5 million and equal to or less than R11,5 million	Any 4 elements (equal weighting of 25% each)
Exempted Micro Enterprise	R5 million or less	R1.5 million rand or less	Deemed to be 100% compliant. Automatic Level 4 rating irrespective of race of ownership

10.3.3 Public entities and tertiary institutions

Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.

10.3.4 Joint ventures (JVs)

(i) Incorporated JVs: A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

(ii) Unincorporated JVs: Transnet accepts that bidders often create JVs for a specific project, on the basis that the JV will only be formalised if they are successful in winning the business and a contract is awarded to them. This is known as an unincorporated JV. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.

(iii) Bidders who wish to enter into a Joint Venture (whether incorporated or unincorporated), must state their intention to do so in their bid submission. Such Bidders must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If such a JV or consortium agreement is unavailable, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by. Transnet through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to Transnet.

(iv) The following documents shall form part of a JV's submission:

- ownership documents showing the status of the partners to the joint venture;
- Joint Venture Agreement;
- Joint Venture Declaration Form; and
- any other documents as may be required by Transnet.

10.3.5 Sub-contracting

(i) Transnet fully endorses Government's transformation and empowerment objectives and when contemplating subcontracting Bidders must be requested to give preference to companies which are Black Owned, Black Women Owned, Black Youth Owned, owned by Black People with Disabilities, EMEs and QSEs including any companies designated as B-BBEE Facilitators2.

(ii) If contemplating subcontracting, a Bidder will not be awarded points for B-BBEE if it is indicated in its Bid that it intends subcontracting more than 25% of the value of the contract to an entity/entities that do not qualify for at least the same points that the Bidder qualifies for, unless the intended subcontractor is an EME with the capability to execute the contract.

(iii) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

(iv) Bidders must be required to indicate the percentage of the contract that will be sub-contracted as well as the B-BBEE status of the sub-contractor/s.

10.3.6 Validity of B-BBEE Certificates

Verification certificates are only valid for one Year from the date of issue. Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims. A B-BBEE certificate will be regarded as valid provided that the closing date of the bid falls within the expiry date of the certificate.

Please refer to Appendix F regarding determining the validity of B-BBEE certificates.

If the RFP specifically requires the bidder to provide a valid B-BBEE certificate, it will be incumbent upon the bidder to do so, failing which the non-compliant bidder/s will score zero for B-BBEE. However, if Transnet officials are aware of the fact that Transnet is currently in possession of a valid B-BBEE certificate from the bidder that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE Status Level Verification Certificate each time a bid is submitted from the specific bidder, provided that the B-BBEE certificate remains valid at the closing date and time of the bid.

10.3.7 Evaluation of B-BBEE Certificates

In terms of the PPPFA regulations, based on the overall performance of a supplier in terms of its B-BBEE verification, it receives a B-BBEE status and a point out of

[2] The Minister of the Department of Trade and Industry has the power to designate certain Organs of State or Public Entities as B-BBEE Facilitators. For example, the South African National Military Veterans' Association (SANMVA) has been designated as a B-BBEE Facilitator. As such they will be treated as having rights of ownership held 100% by Black People, 40% by Black Women and 20% by Black designated groups.

10 or 20 is awarded therefor depending on the value of the transaction. This is in accordance with the preference point systems stipulated in the PPPFA regulations. The 80/20 preference point system is applicable to bids from R30 000 to R1 million in value (all applicable taxes included). For transactions below R30 000, only one quote needs to be obtained. However, if more than one quote is requested, the 80/20 system may also be applied but Transnet Entities have a discretion to increase the preference point system within the range of 80/20 to 60/40. The 90/10 preference point system is applicable to bids above R1 million in value (all applicable taxes included). In terms of the PPPFA, the estimated costs and the appropriate preference point system (i.e. 80/20 or 90/10) must be determined upfront prior to advertising a bid and must be stipulated in the invitation to bid. It is important to note that the thresholds for petty cash, the quotation system and open bid process is not affected by the thresholds mentioned above.

Points must be awarded to bidders based on their B-BBEE status as indicated in Table [14] below:

TABLE 14

B-BBEE Status		Qualification		B-BBEE Recognition Level		Preference Point System	
2007 Codes	2013 Revised Codes	2007 Codes	2013 Revised Codes	2007 Codes	2013 Revised Codes	Total of 20 preference points on 80/20 system	Total of 10 preference points on 90/10 system
Level One Contributor	Level One Contributor	≥100 points on the Generic Scorecard	≥100 points on the Generic Scorecard	135%	135%	20	10
Level Two Contributor	Level Two Contributor	≥85 but <100 points on the Generic Scorecard	≥95 but <100 points on the Generic Scorecard	125%	125%	18	9
Level Three Contributor	Level Three Contributor	≥75 but <85 points on the Generic Scorecard	≥90 but <95 points on the Generic Scorecard	110%	110%	16	8
Level Four Contributor	Level Four Contributor	≥65 but <75 points on the Generic Scorecard	≥80 but <90 points on the Generic Scorecard	100%	100%	12	6
Level Five Contributor	Level Five Contributor	≥55 but <65 points on the Generic Scorecard	≥75 but <80 points on the Generic Scorecard	80%	80%	8	4
Level Six Contributor	Level Six Contributor	≥45 but <55 points on the Generic Scorecard	≥70 but <75 points on the Generic Scorecard	60%	60%	6	3
Level Seven	Level Seven	≥40 but	≥55 but	50%	50%	4	2

Contributor	Contributor	<45 points on the Generic Scorecard	<70 points on the Generic Scorecard				
Level Eight Contributor	Level Eight Contributor	≥30 but <40 points on the Generic Scorecard	≥40 but <55 points on the Generic Scorecard	10%	10%	2	1
Non-Compliant Contributor	Non-Compliant Contributor	<30 points on the Generic Scorecard	<40 points on the Generic Scorecard	0%	0%	0	0

B-BBEE points must be claimed by Bidders utilising the B-BBEE Preference Points Claim Form. This Claim Form must be listed as a returnable document. Please refer to the iSCM Intranet Portal for a copy of the B-BBEE Preference Points Claim Form.

Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for BBBEE but should not be disqualified from the bidding process. They will score zero (0) points out of 10 or 20 for B-BBEE. This also applies to Bidders who submit letters or expired certificates indicating that their B-BBEE status is in the process of being verified.

10.4 B-BBEE IMPROVEMENT PLAN

10.4.1 Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Transnet will request that prospective bidders submit a B-BBEE Improvement Plan with their bid submission. Bidders will be requested to indicate the extent to which the priority elements which are as follows: ownership, skills development, enterprise and supplier development will be maintained (if the Bidder has achieved the "set threshold targets") or improved over the contract period. The B-BBEE Improvement Plan will be requested as an essential returnable document. The B-BBEE Improvement Plan will not be evaluated as a threshold or as part of the preference point system (i.e. 80/20 and 90/10).

10.4.2 Should the preferred bidder/s submit a B-BBEE Improvement Plan, the final details of the Improvement Plan will be negotiated at contract negotiation phase. Even if an Improvement Plan is not requested at the bid stage or the preferred bidder does not submit a Plan at bid stage, preferred bidders may be requested to submit a B-BBEE improvement plan at contract negotiation stage, where appropriate. In instances where the Improvement plan has been negotiated and agreed upon, the contract concluded with the successful bidder will incorporate its B-BBEE improvement commitments as a material term of the contract. Refer to the iSCM Intranet portal for the template for a B-BBEE Improvement Plan

10.4.3 In addition, the contract with the Successful Bidder must contain a penalty clause which stipulates the penalties that will be imposed by Transnet, should the Bidder fail to meet the preference targets in the contract. Please refer to paragraph 22.3.9 regarding penalties.

10.4.4 Furthermore, failure to achieve the Improvement Plan targets will result in breach of contract and provide Transnet with cause to terminate/cancel the contract.

Milestones in terms of achievement of Improvement Plan targets per year must be stipulated in suppliers' contracts so that penalty/breach of contract clauses may be invoked if required.

10.4.5 Monitoring and evaluation will be conducted by the SD department as a standard requirement to ensure tracking and successful delivery of the commitments.

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CHAPTER 11: LOCAL CONTENT

Should construction procurement include a minimum local content threshold, either in terms of the designation of a sector or in non-designated sectors, the requirements of this Chapter and any Instruction Notes issued by National Treasury must be adhered to.

11.1 INTRODUCTION

11.1.1 Increased Local Production and Content (LC) form an integral component of Transnet's Supply Chain Strategy. This is aligned to Government's vision as articulated in IPAP 2 and the NGP as well as Transnet's Supply Chain Policy. Transnet Entities are therefore required to actively promote LC in their bidding processes.

11.2 DEFINITION OF LC

11.2.1 Local Content is defined as that portion of the Bid price which is not included in the Imported Content, provided that local manufacture actually does take place. LC is therefore determined as a percentage of the Bid price.

11.2.2 "Imported Content" has a specific meaning in the regulations: It means "*that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry.*"

11.3 DESIGNATED SECTORS

11.3.1 The PPPFA Regulations, 2011 which came into effect on 7 December 2011, prescribe how Local Production and Content is to be measured in public sector Bids. In accordance with Regulation 9(1), when issuing bids involving "designated sectors" Transnet must advertise such bids with a specific Bid condition that only locally produced Goods, Services or Construction Works which meet a **stipulated minimum threshold** for Local Production and Content will be considered. For example, if the stipulated minimum threshold for LC is 60%, this means that 60% of the Bid price must be spent on LC (i.e. everything that is not included in Imported Content.)

11.3.2 Designated sectors are those sectors which have been designated by the Department of Trade and Industry (DTI) for Local Production and Content. National Treasury (NT) has issued Instruction Notes in terms of how to implement the designation of the sectors for Local Content. The Instruction Notes issued by NT on designated sectors must always be strictly adhered to when bids in these sectors are issued. The following table indicates the designated sectors and minimum threshold for local content as determined by the DTI and NT:

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TABLE 15

Sector	Minimum threshold for local content
Buses (Bus Body)	70% – 80%
Textile, Clothing, Leather and Footwear	100%
Steel Power Pylons & substations	100%
Canned / Processed Vegetables	80%
Furniture Products	
Office Furniture	85%
School Furniture	100%
Base and mattress	90%
Rail Rolling Stock (amended)	
Diesel locomotives	55%
Electric locomotives	60%
Electric Multiple Units (EMUs)	65%
Wagons	80%
Set Top Boxes (STB)	30%
Electrical and telecom cable products	90%
Solar water heater components (amended)	70%
Valve products and actuators	70%
Residential electricity meters	70%
Working vessels (boats)	60%

11.3.3 Further to the overall designations mentioned in the table above, please refer to the Instruction Notes issued by NT as certain sectors have designated sub-sectors/components in addition to the overall thresholds.

11.3.4 Refer to NT's website for an up-to-date list of designated sectors on: http://www.treasury.gov.za/divisions/ocpo/sc/PracticeNotes/default.aspx.

11.4 NON DESIGNATED SECTORS

11.4.1 Organs of state are allowed to impose similar conditions for LC when issuing bids in sectors that have not been designated by DTI, but this must be done in accordance with specific directives issued by NT. NT has not yet issued such directives. Note that until such time as the directives are issued, bid documents should not include a minimum threshold for LC in respect of non-designated sectors. Paragraphs 11.4.2 and 11.4.3 will apply once NT issues such directives. NT has however indicated that it will consider issuing directives for non-designated sectors on a case by case basis. ODs/SUs are therefore required to continuously search for opportunities to promote localisation in non-designated sectors. Where such opportunities are identified, they are required to submit a

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request to NT to issue a directive for that particular transaction. Such requests must be submitted via the office of the GCSCO.

11.4.2 Once the relevant directive has been issued by NT, the inclusion of LC in the bid must be reflected in the procurement strategy. Furthermore, in accordance with Regulation 9(3), the RFP must reflect the minimum threshold for LC in the non-designated sector that must be met by bidders to qualify for further consideration. Bidders who fail to achieve the set minimum thresholds will be disqualified from the bidding process.

11.4.3 In this regard Transnet must consciously look for ways to incorporate LC in its bids, where appropriate, particularly where the bid falls within one of the sectors clusters identified in IPAP II. These sector clusters are as follows in terms of the IPAP 2012/2013 – 2014/2015:

Cluster 1 Qualitatively New Areas of Focus	Cluster 2 Scaled up and Broadened Interventions in Existing IPAP Sectors	Cluster 3 Sectors with Potential for Long Term Advanced Capabilities
• Metal fabrication, capital and transport equipment sectors • Oil and gas sectors • 'Green' and energy saving industries • Agro-processing linked to food pricing and security • Boatbuilding	• Automotive products and components • Plastics, pharmaceuticals and chemicals • Biofuels • Forestry, paper, pulp and furniture • Strengthening of links between cultural industries and tourism • Business processing	• Nuclear • Advanced Materials • Aerospace

11.5 LC THRESHOLD

11.5.1 LC will always be evaluated as the first threshold in any applicable evaluation process i.e. LC will always be evaluated as a first step, to determine whether bids comply with the minimum stipulated threshold for that particular designated sector or non-designated sector where Transnet intends to set a minimum threshold for LC.

11.6 LC REQUIREMENTS IN BID DOCUMENTS

11.6.1 It is a requirement that the following documents be listed as mandatory returnable documents, whenever a minimum threshold for LC is required:

- Declaration Certificate for Local Production and Content [SBD 6.2]; and
- Annexure C – Local Content Declaration: Summary Schedule.

11.6.2 **Guidance Notes:** The following documents are supporting schedules and may be requested as essential returnable documents if Transnet would like to verify them for a particular bid:

- Annexure D – Imported Content Declaration: Supporting Schedule to Annexure C; and
- Annexure E – Local Content Declaration: Supporting Schedule to Annexure C.

11.6.3 Please refer to the iSCM Intranet portal for a full suite of RFX templates to be used for bids involving Local Content and Production.

11.7 EVALUATION OF LC

11.7.1 LC can be calculated using the following simple formula:

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Bid price-value of Imported Content (cost of components, parts & materials)
= value of Local Production & Content

The value of the LC must be reflected as a percentage of the bid price to determine whether it meets the stipulated minimum threshold.

11.7.2 NT requires that the value of LC be calculated according to the following formula:

$$LC = \left(1 - \frac{x}{y}\right) \times 100$$

Where x = imported content and y = bid price excluding VAT

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank at 12:00p.m on the date, one week (7 calendar days) prior to the closing date of the Bid.

11.7.3 In terms of SBD 6.2. Bidders are required to declare that their LC declaration templates (i.e. Annexures C, D and E) have been audited and certified as correct. Transnet's obligations in terms of the evaluation of LC are to verify that the LC declaration templates are audited as well as to verify whether the stipulated minimum threshold has been met as per the declaration templates. Bidders that do not meet the set minimum threshold for LC must be disqualified at this stage. This evaluation should be conducted by the SD department of the relevant Transnet Entity.

11.8 POST AWARD LC OBLIGATIONS

11.8.1 A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the LC of the overall value of the contract is reduced to below the stipulated minimum threshold.

11.8.2 Once the bid has been awarded, Transnet must provide the DTI with the following:

- the names of the successful bidders and the value of the contracts; and
- copies of the contracts, the SBD 6.2 certificate together with Annexure C submitted by the successful bidders.

The abovementioned information must be furnished to the DTI as per the contact details of the applicable unit of DTI indicated in the relevant Instruction Note. The purpose of this requirement is for the DTI and/or the SABS (which has been appointed by DTI as the verification authority for local content) to conduct compliance audits with a view to monitor the implementation of the industrial development strategies. In this regard, Transnet Entities must report to the Group SD Department with the abovementioned requirements as soon as a bid in a designated sector has been awarded.

11.9 LC VS SD

It is important to note that LC does not form part of SD evaluation and must be evaluated as the first threshold in the evaluation process. The evaluation of LC must not overlap or be duplicated in the evaluation of "local capability and capacity building" which forms part of the SD evaluation. LC is purely concerned with the percentage of the bid price that will be spent locally. "Local capability and capacity building" on the other hand also takes non-monetary measurements into account, such as the number of local suppliers to be utilised, etc.

CHAPTER 12: DETERMINING SD APPROACH AND DESIRED SD OUTCOMES

This Chapter is applicable to both general procurement and construction procurement.

Transnet, as one of the major SOCs with significant buying power, has an important role to play in ensuring that Government's economic development policies (i.e. NGP, NDP and IPAP) goals are met. The Supplier Development (SD) Programme is an initiative of the Department of Public Enterprises (DPE) designed to achieve these developmental goals and is supported by Transnet. The aim of SD is to increase the competitiveness, capability and capacity of the South African supply base where there are comparative advantages and potential for local or regional supply. In addition, SD seeks to ensure the transformation of South Africa and the empowerment of previously disadvantaged individuals and enterprises. SD (including CSDP and/or B-BBEE) should form an integral part of the procurement strategy in every procurement transaction. The nature and extent of the SD opportunities will depend on the nature of the transaction.

Increased Competitiveness, Capability and Capacity (IC^3) matrix:

Transnet's SD approach is to leverage the MDS infrastructure programme to foster economic growth and promote transformation

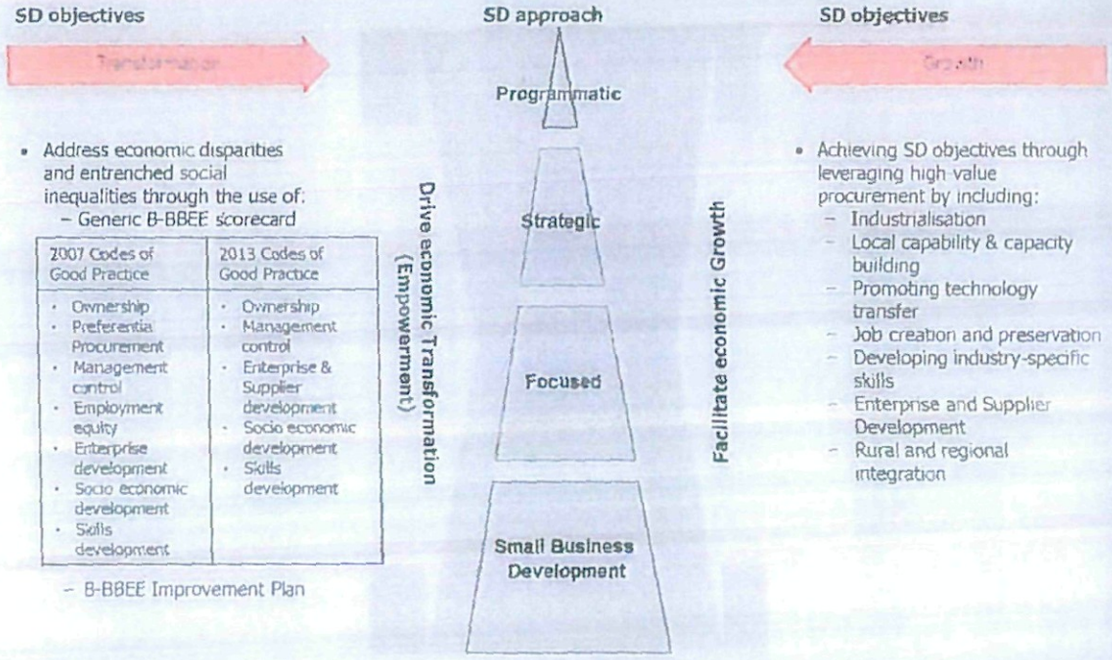

Figure [15] – SD Approach

The Figure referred to above, categorises SD opportunities based on their value, extent of industrial leverage and strategic importance to Transnet.

12.1 SD CATEGORIES

All transactions involving SD should be evaluated against the IC^3 Supplier Development Matrix. The IC^3 Supplier Development Classification Matrix assists in categorising opportunities according

to their industrial leverage, value leverage and strategic importance to Transnet. Once opportunities are identified it will be possible to identify the tools that should be implemented to maximise the full SD potential from these opportunities.

The categories of SD identified in the Matrix are as follows:

12.1.1 Programmatic

Programmatic initiatives follow a longer than normal planning horizon and generally exceed the funding capacity of Transnet's balance sheet. They are identified either in IPAP II or through Transnet as a strategic fleet. Collaboration between the SOC and Government is achieved through focused task teams whereby infrastructural development and industrialisation are attained through joint support and in some cases public spending.

Investment is focused in plant, technology and skills in both intermediate and advanced capabilities to develop competitive advantage. An example is the Transnet locomotives fleet.

12.1.2 Strategic

Strategic initiatives follow a 3 to 5 Year planning horizon, involving investment in technology and/or skills in intermediate capabilities to achieve local capability and capacity building. This ensures that multinational corporations, original equipment manufacturers (OEMs) and service providers develop a certain percentage of their Goods locally. Strategic initiatives can therefore be used to achieve local capability and capacity building objectives by increasing the competitiveness, capability and efficiency of local suppliers. Strategic initiatives can sometimes focus on advanced capabilities but will in most cases require government support to develop local capability.

12.1.3 Focused

Focused initiatives include all medium to high value transactions with limited industrial leverage and medium to low strategic importance. These initiatives address short to medium term contracts that can be leveraged to encourage supplier and product development. The focus on investment in technology or skills enhances existing local industrial capability and/or the ability to supply strategic Services. Emphasis will largely be placed on benefiting previously disadvantaged individuals. The overall result improves the socio-economic environment by creating competitive local suppliers. It furthers the objectives of empowerment, transformation, regional development and rural upliftment.

12.1.4 Small Business Development

Small Business Development transactions are typically of low value and have no industrial leverage as it is characterised by low complexity Goods and high competition. These initiatives concentrate on increasing the capability of small local suppliers and are targeted toward previously disadvantaged individuals and communities, providing basic skills development and improving local employment and quality job creation. It includes a wide range of financial and non-financial Services that help entrepreneurs to start new businesses and to grow existing ones.

12.2 CATEGORISATION OF TRANSACTIONS INTO THE RIGHT SD QUANDRANT

Transnet has designed a focused four-step process for identifying high value generating SD opportunities (see *Figure [16]* below). The process takes Transnet's CAPEX and OPEX spend and then filters specific commodities by value to identify significant spend items. Significant

spend items are likely to have the most leverage for SD opportunities. The industrial leverage analysis provides a view on the risk and the complexity of the commodity to understand the risk to the supplier and to Transnet. The process needs to be conducted in its entirety in order to determine the true nature of the opportunity as there are various elements which impact on the categorisation of opportunities. Each transaction must be analysed on a "case by case" basis, taking cognisance of the nature and complexity that is involved in that particular SD activity.

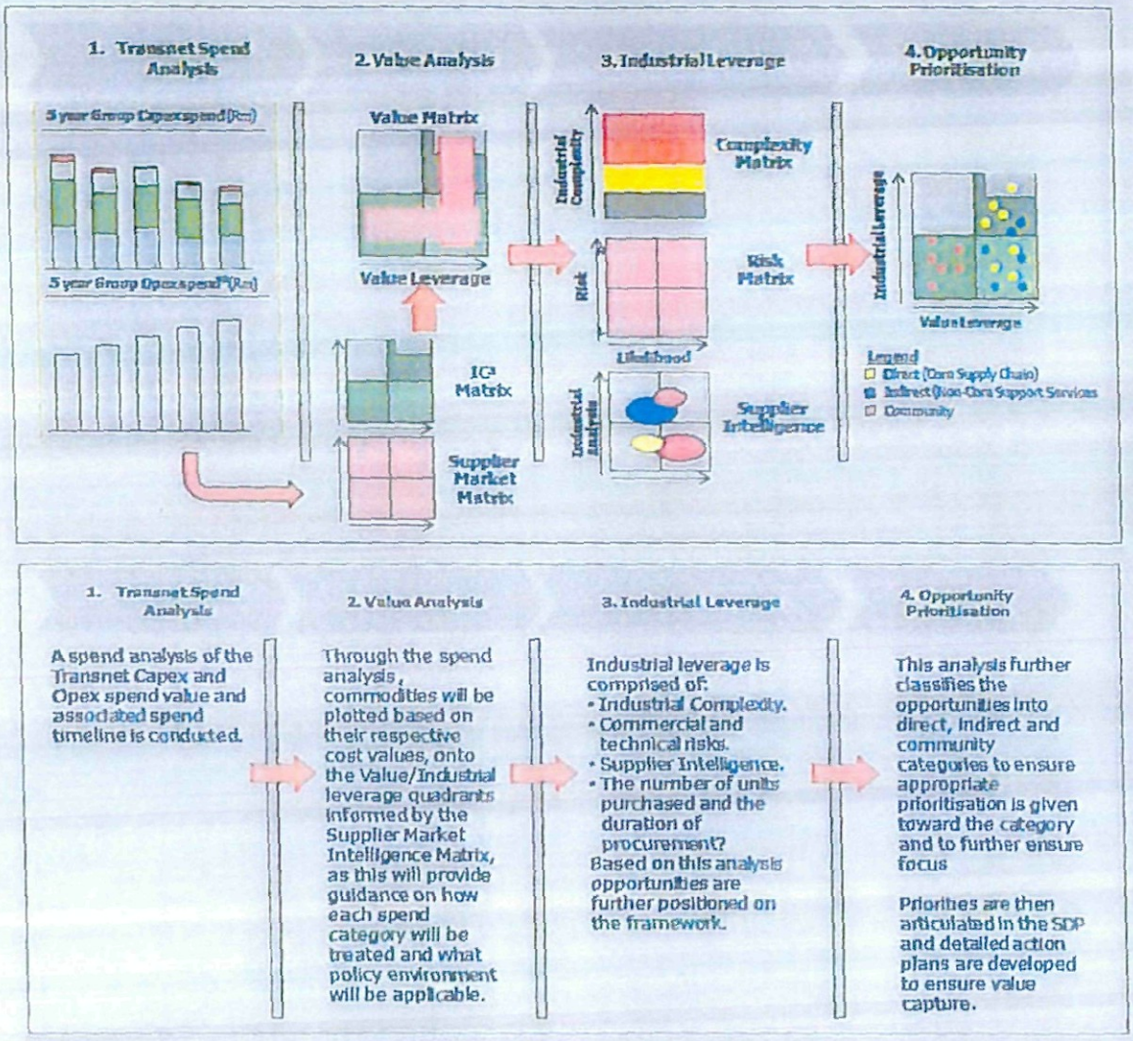

Figure [16] – 4 Step Process

This process is briefly described above, but a detailed description can be obtained in the Transnet Supplier Development Plan.

12.3 SUPPLIER DEVELOPMENT (SD) MECHANISMS

The two main mechanisms to be used to incorporate SD into a particular transaction is either using SD as an "objective criterion" or a prequalification criterion. In exceptional circumstances, where one is able to identify exactly which specific SD opportunities are being targeted, SD may be incorporated into the bid as a threshold. A rigid "one size fits all" approach cannot be implemented as each procurement transaction will need to be evaluated

on its own merits based on the nature of the transaction with specific focus areas. The assistance and guidance of the SD COE must always be sought when developing SD criteria.

SD must not be incorporated as part of the final 80/20 or 90/10 evaluation. In terms of the PPPFA, bids must be evaluated on the basis of Price and Preference only at this stage. SD may only be used either as an objective criterion, a prequalification criterion or a threshold (in exceptional circumstances, where one is able to identify exactly which specific SD opportunities are being targeted)in the evaluation process.

Depending on the supplier market and what is feasible and achievable on a specific bid, SD criteria will differ on a case by case basis. For example, in one case local manufacture, local assembly, industrialisation may be feasible, whilst in another the focus may fall on skills transfer, job creation/preservation and skills development (*Figure [17]* below).

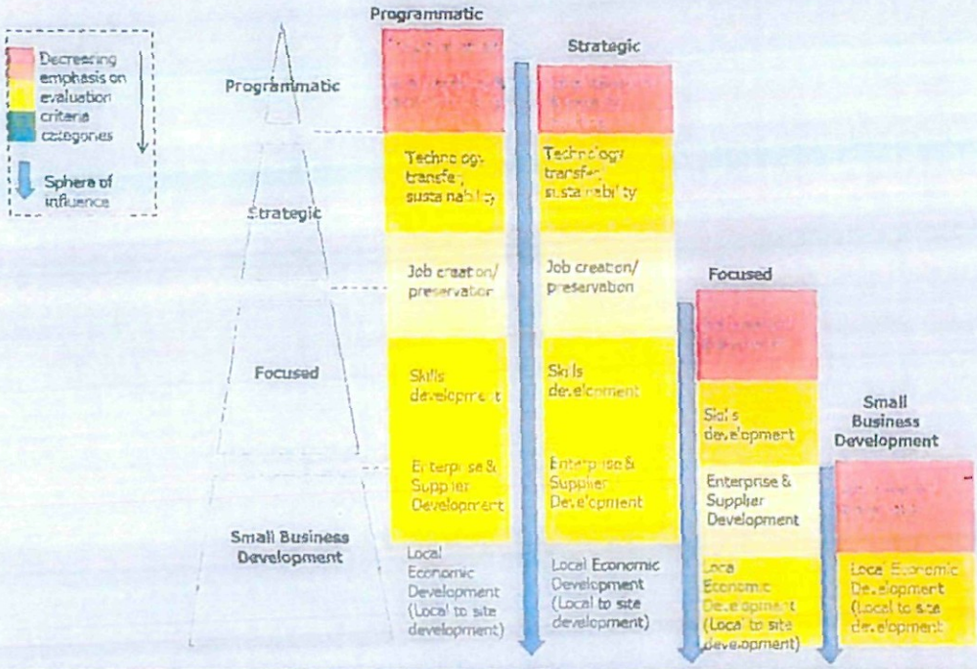

Figure [17] – SD Criteria

The table below serves as a guideline to determine the opportunities for SD and transformation based on the value of a particular transaction and the duration of the contract:

TABLE 16

Transaction value and contract duration	SD Options	B-BBEE Improvement Plan	B-BBEE certificate
▪ R0 – R5 million ▪ Contract duration less than two (2) years and a once off requirement	▪ SD threshold/prequalification criterion; or ▪ use only the Local Economic Development ("local to site" development) criteria indicated in Table 17 where appropriate	Not applicable	Applicable
▪ R0 – R5 million ▪ Contract duration more than two (2) years	▪ SD threshold/prequalification criterion; ▪ SD as an objective criterion; or ▪ use only the Local Economic	Applicable	Applicable

	Development ("local to site" development) criteria indicated in Table 17 where appropriate		
▪ Greater than R5 million ▪ Contract duration less than two (2) years and a once off requirement	▪ SD threshold/prequalification criterion; ▪ SD as an objective criterion; or ▪ use only the Local Economic Development ("local to site" development) criteria indicated in Table 17 where appropriate	Applicable	Applicable
▪ Greater than R5 million ▪ Contract duration more than two (2) years	▪ SD threshold/prequalification criterion; or ▪ SD as an objective criterion	Applicable	Applicable

12.3.1 SD as an "objective criterion"

The PPPFA provides that the contract must be awarded to the bidder who scores the highest points unless objective criteria justify the award to another bidder. SD may be used as such an objective criterion in the following circumstances:

- provided that SD does not feature in the evaluation of the bid i.e. either as a threshold or a prequalification criterion;
- even if SD does feature in the evaluation process, the specific SD criterion/criteria relied upon as objective criteria do not form part of the evaluation of SD. For example, the Bid may prescribe that the SD prequalification criterion set must be discharged through job creation/preservation and skills development but state that technology transfer may be used as an objective criterion; or
- if SD is used as a prequalification criterion then the extent to which bidders commit to SD in excess of that set prequalification criterion may be used as an objective criterion. For example, if the SD prequalification criterion is set at 20% of contract value then the extent to which bidders exceed the 20% may be used as an objective criterion to justify award of the business to a bidder other than the highest scoring bidder.

This is to ensure that no double counting takes place. The bid document must specifically indicate upfront that Transnet may use SD or any other objective criteria as a basis to award business to a Bidder other than the highest scoring Bidder. In order to enable Transnet to utilise SD as an objective criterion, Bidders may be requested to provide a SD value summary/SD plan as an essential returnable document.

While there is no applicable threshold for the use of SD as an objective criterion, it will be particularly effective to use it for lower value transactions where the opportunities for SD are limited.

In order to ensure that adequate controls are in place, the decision to use SD as an objective criterion must be determined up front before issuing the bid and must be approved by the SD department. Should Transnet wish to exercise this discretion once Bids have been received, an objective assessment must be conducted on the SD value summary/SD plan of the highest scoring bidder (if submitted) and the recommended Bidder. Generally speaking, business must be awarded to the Bidder with the superior SD commitment provided that price and empowerment objectives are not materially compromised. This must be approved by the head of the SD department. As a general rule, if there is a price premium to be paid for overlooking the highest scoring Bidder where the 90/10 preference point system is applicable, the recommended Bidder should not exceed 10% of the price of the highest scoring Bidder. If the premium exceeds 10% the

Acquisition Council has a discretion to still use SD as an objective criterion provided that it is of the view that the SD benefit outweighs the price premium. Similarly, if there is a price premium to be paid for overlooking the highest scoring Bidder where the 80/20 preference point system is applicable, the recommended Bidder should not exceed 20% of the price of the highest scoring Bidder. If the premium exceeds 20% the Acquisition Council has a discretion to still use SD as an objective criterion provided that it is of the view that the SD benefit outweighs the price premium.

12.3.2 SD as a prequalification criterion

Where SD is used as a prequalification criterion, Bidders will not be scored for SD but will instead be requested to provide a commitment that the monetary value of all SD initiatives to be undertaken by them will not be less than a certain stipulated percentage of the contract value e.g. bidders may be asked to provide an undertaking that no less than 20% of contract value will be spent on SD initiatives. The percentage stipulated must not be set at an unreasonably low or high level. Where possible, the prequalification criterion set should be informed by market analysis. For this reason, it is important that the SD department be engaged at the planning stage of the transaction, so that proper market research can be done upfront before the procurement process starts. Bidders failing to provide this undertaking will be excluded from the bid process, whilst Bidders who meet this requirement will be evaluated in terms of the PPPFA methodology. It is possible to require that Bidders discharge the abovementioned stipulated percentage in respect of specific SD criteria e.g. the 20% SD commitment must be discharged through job creation and/or skills development. It is important to note that different pre-qualification criteria may be set for Large Enterprises (LEs), QSEs and EMEs provided that there is an underlying justification for the differentiation.

12.3.3 SD as a threshold

As indicated above, SD may be used as a threshold in exceptional circumstances, particularly where specific SD opportunities are known, based on market research being conducted. The use of SD as a threshold involves scoring bidders against pre-determined criteria (e.g. job creation, job preservation, skills transfer, small business promotion, rural development and localisation) stipulated in the RFX. The threshold which bidders are required to meet must also be clearly communicated in the RFX document e.g. an overall SD score of 60%. SD will be utilised as a threshold only where market analysis on SD opportunities justifies it. Bidders failing to achieve the set threshold will be excluded from the bid process, whilst bidders who meet this requirement will be evaluated in terms of the PPPFA methodology. It is important to note that different SD thresholds may be set for Large Enterprises on the one hand and QSEs / EMEs on the other provided that there is an underlying justification for the differentiation. For example, Large Enterprises may be required to meet a 60% threshold for SD while EMEs and QSEs may only be expected to meet a 40% threshold. It is reasonable to expect Large Enterprises to do more to promote SD as opposed to QSEs and EMEs, many of whom are themselves in need of development and upliftment.

12.3.4 Threshold versus prequalification criterion

The decision on whether to use SD as a threshold or prequalification criterion must be decided on a case by case basis. As indicated above, a threshold is only to be used in exceptional circumstances. The setting of a threshold will involve a detailed assessment of the bidders' SD commitments. A set prequalification criterion will be assessed based on whether the Bidders agree to the stipulated percentage SD commitment required e.g. 20% of contract value. Bidders may also be required to agree to discharge the stipulated percentage SD commitment through prescribed SD criteria e.g. 20% of contract value discharged through job creation or skills development. It is therefore critical that the SD department be involved at the pre-procurement / demand stage so that a proper market analysis can be conducted if possible and maximum SD value can be derived from a particular procurement process.

Irrespective of whether SD is to be included in a bid as a threshold or a prequalification criterion, Bidders must be requested to complete an SD plan and value summary as part of their bid submission. The SD Plan represents additional detail in relation to the SD Plan providing an explicit breakdown of the nature, extent, timelines and monetary value of the SD commitments which the Supplier proposes to deliver during the term of the contract.

12.3.5 Evaluation of SD

The Group SD department is in the process of developing a scoring methodology to be used to evaluate SD either as a prequalification criterion or as a threshold. Once finalised, this document will replace the SD Value Summary and will facilitate the evaluation of SD. It will be issued with the RFX templates once approved.

Where the SD department assesses the SD commitments made by a particular Bidder and is of the view that the SD commitments are unreasonably high when compared to the contract value and/or the possible SD opportunities relating to a particular transaction, clarity must be obtained from the Bidder before commencing the evaluation of SD. The rules relating to clarifications as detailed in paragraph 17.4.3d) must be adhered to.

The SD criteria that were developed during the planning phase should be broken down into specific measurable components and incorporated in the bid documents. An indicative but non exhaustive list is indicated in the table below:

TABLE 17

SD criteria	Measurable areas	Further explanation
Industrialisation	• Value of investment in plant (New) • Historical expenditure in investment in plant • Expenditure on expansion in plant	• Quantification of the monetary value invested in machinery, equipment, buildings • Quantification of the monetary value already invested in machinery, equipment, buildings • Quantification of the monetary value invested in the expansion of machinery, equipment, buildings
Local capability & capacity building	• Value spent on local suppliers • Number of local suppliers in the supply chain of the Bidder	• Planned percentage monetary value spend on procurement of Goods, Construction Works and Services procured from SA suppliers • Number of South African suppliers that are to be utilised in the fulfilment of the contract
Technology transfer and sustainability	• Technology transfer including: o Methods of manufacturing o Introduction of new technologies o IP transfer (no. and value)	• Introduction of a new/improved method of manufacturing o Provision of new technologies o For processes o ICT o The transfer of patents, trademarks and copyrights
Skills development	• Number company employees to be trained: o Number of Black People o Total number of	• No. of individuals within the company (in South Africa) that the supplier plans to train over the contract period; training undertaken in the previous Year will not be taken into account as past employee training appears in the skills development pillar of the BBBEE scorecard; criteria broken down as for

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SD criteria)	Measurable areas	Further explanation
	people • Number of downstream individuals to be trained: o Number of Black People o Total number of people • Certified training • Rand value on training to be spent in the industry • Number of bursaries / scholarships (specify field of study) • Number of apprentices (specify industry) • Investment in schools in specific sectors (e.g. engineering)	industry training above • No. of individuals that the supplier plans to train in the industry over the contract period; training undertaken in the previous Year will be taken into account to make allowance for suppliers who have just completed a training drive within the industry • What percentage of training for 1 and 2 above complies with local and/or international skills accreditation • Total planned monetary value spend (as a % of contract value) on skills development/training for the contract period within the industry; money spent in the previous Year will be included in Year 1 to make allowance for suppliers who have just completed a training drive within the industry • The number of higher education bursaries/scholarships provided in the previous Year and planned for the duration of the contract • The number of apprentices that the company plans to enlist during the course of the contract • The monetary value that the supplier is prepared to invest in the development and running of schools to increase technical skills development
Enterprise and Supplier Development	• % of planned procurement from QSEs • % of planned procurement from EMEs • % of planned procurement from start-ups • Non-financial support provided to small business • Joint ED initiatives with Transnet	• Refers to the planned procurement from small business as a % of the total planned procurement spend • Suppliers will be given a point for each non-financial ED support that they are planning to give to small business e.g. Professional support; employee time allocated to assisting small business • Suppliers will be given a point for each financial ED support initiative that they are planning to undertake during the contract period e.g. Shorter payment terms; interest free loans • The number of ED initiatives that the supplier will jointly run with Transnet: • That are aligned to Transnet's objectives • That are financial or non-financial in nature
Local Ecomonic Development (Local to site development)	• Number of local employees • Value spent on local business • Proximity of business to operations	• Number of people to be employed from within the town / city of operation • Monetary value to be spent on business within the town / city of operation • The locality of the bidder's business in relation to operations. Preference is given to regional

SD criteria	Measurable areas	Further explanation
	• Number of rural businesses to be developed (if applicable) • CSI spend	(provincial) locality • The monetary value of CSI to be spent on rural community development projects
Job creation/ preservation	• Number of jobs preserved	• Number of jobs which would be preserved through Award of Contract
	• Number of jobs created including: – New skilled jobs created	• Number of jobs to be created during the period of the contract – Jobs for people in a specialised field of work requiring a defined training path and / or requisite level of experience in order for them to perform that role. These people could be in possession of a certificate, diploma or degree from a higher education institution.
	– New unskilled jobs created	– Jobs for people where the field of work does not require extensive formal training or from whom no minimum level of education is required
	– Number of jobs created for youth – Number of jobs created for Black youth	– Jobs created for individuals aged 16 – 35 years – Jobs created for Black individuals aged 16 – 35 years

12.4 INCORPORATING SD AS A MATERIAL TERM OF THE CONTRACT

12.4.1 During contract negotiations, SD may be further negotiated with the preferred bidder/s. Specific milestones, timelines and targets will be recorded to ensure that the SD Plan is in line with Transnet's SD objectives and that implementation thereof is completed within the term of the contract. The contract concluded with the successful bidder will incorporate the final SD plan as a material term of the contract.

12.4.2 The contract must also contain a penalty clause which stipulates the penalties that will be imposed by Transnet, should the Bidder fail to meet the SD targets in the contract. It is important to note that such penalties must be reasonable and not out of proportion to the prejudice suffered. In terms of the Conventional Penalties Act 15 of 1962, a court may reduce a penalty if it is unreasonable, disproportionate and inequitable. Different penalties may be imposed on LEs as opposed to QSEs and EMEs for failure to achieve SD initiatives. For example, a penalty of 10% of undelivered SD value may be imposed on LEs, 5% on QSEs and 2.5% on EMEs. Please refer to paragraph 22.3.9 for more information on when penalties may be imposed.

12.4.3 Furthermore, failure to achieve SD targets will result in breach of contract and provide Transnet with cause to terminate/cancel the contract with the successful bidder or implement other non-punitive remedial measures. Milestones in terms of achievement of SD targets per year must be stipulated in suppliers' contracts so that penalty/breach of contract clauses may be invoked if required. Furthermore, both the RFP and the contract must stipulate that there must be no financial

interest or affiliation between the successful Bidder and any of its SD beneficiaries.

12.5 MONITORING AND EVALUATION OF SD COMMITMENTS

12.5.1 To ensure that SD objectives are met, there must be effective contract management specifically in relation to the SD commitments made by Suppliers/Service Providers/Contractors. It is critical that monitoring and evaluation takes place as a standard requirement in terms of the delivery of SD commitments.

12.5.2 For transactions below or equal to R450 million, the relevant Transnet Entity must monitor and evaluate SD commitments in conjunction with the Group SD department to ensure tracking and successful delivery of the commitments. Transnet Entities must report to the Group SD department in this regard on at least a quarterly basis.

12.5.3 For transactions above R450 million, over and above the normal internal SD monitoring and evaluation (both OD/SU and Group), there must be a separate independent Service Provider appointed by Group SD to monitor and evaluate SD commitments made. This Service Provider will report to and be accountable to the Group SD Monitoring and Evaluation department. For this purpose, as soon as the contract has been concluded, the Group SD department must be informed and be given access to a copy of the contract.

12.6 SD IMPLICATIONS FOR CONTRACT AMENDMENTS

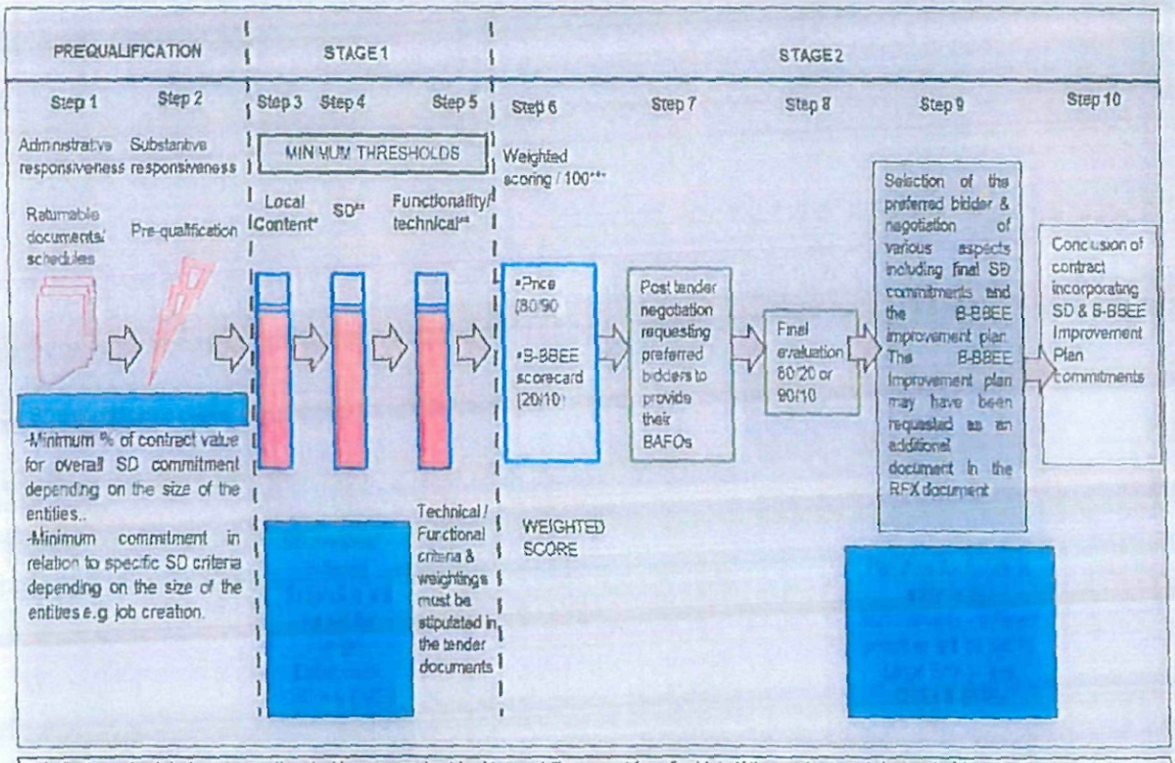
Where there is a contract amendment that increases the value or period of a contract, SD must either be introduced (if not in the initial contract) or be re-negotiated based on the cumulative value and/or period of the contract.

CHAPTER 13: DETERMINING BID EVALUATION CRITERIA

The CIDB prescribes 4 standard evaluation methods for construction procurement. In the Transnet context, historically Method 2 and 4 were utilised. However, Method 4 is not aligned to the requirements of the PPPFA. As a result, only Method 2 of the CIDB methods is to be utilised until further notice. CIDB Method 2 is dealt with in detail in paragraph 13.13 below.

13.1 TRANSNET'S EVALUATION METHODOLOGY

Transnet's evaluation methodology is aligned to the prescripts of the Preferential Procurement Regulations, 2011. It is also designed to achieve Transnet's SD objectives. The methodology follows a two-stage evaluation process where minimum thresholds are set for Local Content (where applicable – designated sectors), SD and Quality/Functionality. Only those bidders that meet (or exceed) the relevant minimum thresholds, advance to the next evaluation phase (step 6 in diagram below, where Price/TCO, and B-BBEE scorecard are scored using either the 80/20 or 90/10 preference point system depending on the value of the transaction. Figure 18 below depicts the evaluation methodology:



* Indicative stipulated minimum threshold as prescribed by National Treasury (if applicable). If the sector is not designated localisation must be incorporated into SD

** Indicative threshold , not prescribed (if applicable)

*** Point system dependent on value of transaction

Figure [18]: Transnet's evaluation methodology

13.2 STAGES OF THE EVALUATION METHODOLOGY

13.2.1 Prequalification

Bidders are required to meet the requirements of the administrative responsiveness and substantive responsiveness tests in order to be considered further.

Step 1: Administrative responsiveness will be tested based on returnable documents submitted and signatures on the Bid documents.

Returnable documents: At this stage, it must be determined what documents are required to be returned by Bidders. Returnable documents are categorised as follows:

- Mandatory returnable documents – These are material documents that must be submitted by the closing date and time of the bid. The selection of documents as mandatory returnable documents must be considered carefully and limited to those critical documents that will be used to evaluate bidders e.g. the pricing schedule and technical submission. However, it is important to note that although the B-BBEE certificate is used in the evaluation process, it will not be requested as a mandatory returnable document but as an essential returnable document (see next bullet point in this regard). Furthermore, it is not a requirement that all technical documents impacting on the evaluation be regarded as mandatory returnable documents. There may be certain technical documents that can be requested as essential returnable documents. If such a document is not submitted by the closing date and time of the bid, it will result in a score of zero being allocated for that technical criterion as opposed to disqualification of the bid. For this purpose, a distinction must be made between technical documents that are so critical that failure to submit them will result in disqualification (i.e. mandatory technical returnable documents) and those technical documents that if not submitted are not fatal to the responsiveness of the bid (i.e. essential technical returnable documents). If any mandatory returnable documents are not provided upfront, the bid must be regarded as non-responsive.

- Essential returnable documents – These are other required documents which may not result in automatic elimination if not provided upfront e.g. audited financial statements and the B-BBEE Improvement Plan. Depending on the nature of the document being requested, Transnet will choose one of the following options in relation to essential returnable documents not submitted:

  - A reasonable grace period may be afforded to the Bidders to supply the outstanding required documents. The documents that are requested here must not have an impact on the evaluation of the bid. Should they fail to comply by the extended deadline, they may be disqualified from the process provided that they are informed of the consequences of non-compliance when they are afforded the grace period.;
  - Transnet may take a decision to disqualify Bidders from the bidding process without affording them a grace period to submit the outstanding documents. If this option is exercised, Transnet must have clear and compelling reasons why it could not afford bidders a grace period to submit the outstanding documents e.g. the need to award the bid urgently; or
  - Transnet may elect not to request the documents by an extended grace period but choose to further consider Bidders in the next evaluation step despite their failure to submit the requested essential documents. As explained above under Mandatory returnable documents, a good example of when this option will be

exercised is when technical documents are requested as essential returnable documents. If Bidders fail to submit such a document by the closing date and time of the Bid, they will not be afforded a grace period to submit the outstanding document nor will their Bid be disqualified. Failure to submit will simply result in a score of zero being allocated for that technical evaluation criterion.

Whichever of the above options are elected, it is critical to the integrity of the bid process that consistency and uniformity prevail. All bidders must be treated fairly and in the same manner in relation to essential returnable documents. For the sake of clarity, one cannot use one of the above options on certain Bidders and a different option on other Bidders in the same Bid process.

As indicated above, the B-BBEE certificate will be requested as an essential returnable document. Bidders will however not be afforded a grace period but will score zero for failure to submit by the closing date and time of the bid.

Step 2: Substantive responsiveness will be tested against whether a Bid conforms to all the terms, conditions, scope and/or specifications of the bid documents without material deviation or qualification. This will include an assessment of whether the bid contains a priced offer and whether all pre-qualification eligibility criteria set, either Functionality or SD related, have been met. At this stage, one should determine what requirements, if any, are so critical to the Bid that they need to be met before one can regard a bid as responsive/acceptable for further evaluation. These must be kept to a minimum as they tend to have an exclusionary effect on the bidding process.

13.2.2 Stage 1

A minimum threshold must be set for Local content, SD and Quality/Functionality (where applicable). These are separate thresholds, and the Bidder must meet the minimum criteria for all of these in order to proceed to stage two.

13.2.3 Stage 2

The bidders who meet the minimum threshold for Local content, SD and/or Quality (Stage 1) will then be evaluated against each other using only price and B-BBEE scorecard based on the applicable preference point system. In terms of the preference point system, proposals will be evaluated on price which will be allocated 80 or 90 points and preference which will be allocated 20 or 10 points, dependent on the value of the requirements. The 80/20 preference point system applies where the acquisition of the Goods, Services or Construction Works will be between R30 000.00 and R1 000 000.00. For transactions below R30 000, only one quote needs to be obtained. However, if more than one quote is requested, the 80/20 system may also be applied but Transnet Entities have a discretion to increase the preference point system within the range of 80/20 to 60/40. The 90/10 preference point system applies where the acquisition of the requirements will exceed R1 000 000.00.

13.3 CHOOSING APPROPRIATE EVALUATION CRITERIA

13.3.1 General principles

Evaluation criteria must be:

- **Unambiguous.** The bid documents must provide a complete explanation of the scope of work as well as the criteria and sub-criteria that will be used in the evaluation of bids. Care should be taken to ensure that the RFP does not contain any contradictory clauses. Where drawings are included as part of the RFP, such drawings must be completely aligned to the written description of the Goods, Construction Works or Services required.
- **Rational and justifiable.** Evaluation criteria must be rationally linked to the projected procurement outcomes.
- **Quantifiable.** If a criterion cannot be measured, it should not be included as an evaluation criterion.
- **Predetermined.** Evaluation criteria must be stated upfront in the RFP document. No evaluation criteria should be used in the evaluation process that were not stipulated in the RFP document.
- **Objective.** Evaluation criteria should not be written with a specific product in mind, but should rather describe functional (as opposed to product specific) characteristics.

13.4 DETERMINING THE PREQUALIFICATION CRITERIA

Prequalification criteria may be set in respect of Functionality, SD and financial stability. Such criteria must be determined with circumspection as bidders may not be considered further should they fail to meet any of the set prequalification criteria. Furthermore, prequalification criteria must prescribe the minimum requirements that Transnet requires particularly with regard to Functionality and financial stability. As pre-qualification criteria involves a "Yes" or "No" assessment, verifiable evidence to substantiate the prequalification criteria should also be requested where possible.

13.5 DETERMINING THE THRESHOLDS

While the Local Content threshold in designated sectors is prescribed, the determination of thresholds for Functionality and SD must be considered on a case by case basis as each procurement event will differ. It is important that these thresholds be determined upfront and included in the RFX document. Once included in the RFX document one cannot deviate from that and the evaluation has to be conducted strictly in accordance with what was stated in the RFX document.

Ideally, the thresholds set must be based on Transnet's minimum requirements i.e. the minimum Transnet requires in order to satisfy its needs/objectives. It, however, sometimes transpires that despite this exercise, all the responses received do not meet the set threshold/s. Transnet may decide that if no Bidders pass the SD and/or Functionality threshold, it will reserve the right to lower the threshold by a certain pre-determined percentage. The decision to utilise such a disclaimer must be carefully considered. The disclaimer must be clearly specified in the RFP, provided it is in Transnet's best interests to do so and there is concurrence between the end user and Procurement. In addition, with regard to the SD threshold, concurrence is also required from the SD Department. The use of this disclaimer is designed to mitigate the risk of a bid requiring cancellation even though there was an adequate response from the market.

13.5.1 Local Content threshold

If the transaction falls within one of the designated sectors, Local Content must be included as the first threshold, to determine whether bids comply with the stipulated minimum threshold for that particular designated sector. Bids that do not meet the stipulated minimum threshold do not progress further.

13.5.2 Supplier development (SD) threshold

At this stage, a decision must be made as to whether to include SD as a threshold. The SD threshold, SD criteria, weightings and scoring methodology must be determined at this stage. Bids that do not meet the threshold for SD will not progress further. If a specific commodity has been earmarked as a SD commodity, then SD should be included in the bid either as an objective criterion, a threshold or prequalification criterion. If SD is included as a threshold, the setting of the SD threshold must be based on market analysis of the SD opportunities in a particular sector. The SD criteria, as developed in Chapter 12, should be included in the bid document.

13.5.3 Functional criteria

Should functionality be included in a bid as a threshold, the bid documents must clearly state the minimum score to be achieved if bidders are to be further evaluated on price and preference. Only those bidders who achieve the minimum threshold for functionality must be further evaluated for price and preference. Functionality may only be included as a threshold but not as an evaluation criterion. The technical threshold, technical criteria, weightings and scoring methodology must be determined at this stage. Bids that do not meet the threshold for technical will not progress further.

Please note that not all bids have to include functionality as a threshold. Bids involving low value and low technical requirements (e.g. bottled water) do not have to include functionality and should be decided on the basis of price and preference only.

Functional/Quality criteria must be determined taking into account the needs and expectations of the end user with regard to functional outcomes of Goods, , Construction Works or Service, i.e. conformance to stated requirements. It is important to note that only necessary quality/technical criteria must be included as evaluation criteria. Quality evaluation criteria must not be drafted in an exclusionary manner e.g. requesting 10 years' experience in an industry when actually 5 years' experience would suffice. In developing Quality criteria, it is necessary to consider how these items are to be measured, verified and evaluated in Bid submissions. The weighting of the Functionality/Quality threshold as a whole, as well as the sub-requirements within this threshold, need to be carefully determined to ensure that the end product/service is optimal and fit for purpose.

The minimum threshold for functionality must not be prescribed so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the bid.

a) Quality criteria may include criteria such as[3]:-
   - (i) technical merit;
   - (ii) aesthetic and functional characteristics;
   - (iii) safety characteristics;
   - (iv) environmental characteristics (including green economy, energy conservation and climate control);
   - (v) quality control practices;
   - (vi) reliability and/or durability;
   - (vii) method statement (including organization, logistics and support resources) relevant to the scope of work;
   - (viii) qualifications and demonstrated experience of key staff in relation to the scope of work;
   - (ix) demonstrated experience of the Bidder with regard to specific aspects of the project/comparable projects;

[3] *This section on quality is largely based on clause 4.3 of the CIDB Standard For Uniformity in Construction Procurement*

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(x) running costs;
(xi) after sales Service and technical assistance;
(xii) delivery date, delivery period or period of completion;
(xiii) inspection or testing requirements;
(xiv) integration with other Goods / Services; and
(xv) training requirements.

b) Additional Quality considerations in construction procurement is as follows:

Quality criteria shall not include:
(i) social considerations, such as the composition of workforces in terms of race, gender;
(ii) or disability; or
(iii) matters relating to the basic capability or capacity of the tendering entity to execute the contract.

c) Where Functionality/Quality is of critical importance, at least 2 persons of the CFST who are conversant with the technical aspects of the bid shall set the evaluation criteria and weightings. These persons shall also determine the prompts or qualitative indicators for judgment, with fixed scores assigned to each prompt. Quality must be scored in terms of such prompts for judgment, individually and then averaged, subject to moderation.

d) Including Presentations, Interviews or Site visits as part of the technical assessment

It should also be determined whether a due diligence exercise, interviews, site visits and presentations should form part of the scoring, and if so, the relative weights assigned to each of these must be determined. These aspects must be clearly dealt with in the RFP. It is important to note that due diligence, interviews, site visits and presentations should only form part of the scoring if there are aspects of the bid that cannot be evaluated based on the responses to the RFP document or if the due diligence, interviews, site visits and/or presentations are required to validate the responses to the RFP document. If interviews, presentations or site visits are required in order to assess Quality, this should be stated in the RFP. The specific purpose and outcomes of the interviews, presentations or site visits and the associated scoring should also be included. It is permissible to set two separate thresholds for functionality in this regard i.e. one threshold for the desktop assessment and another for the interview, site visit or presentation.

13.6 DETERMINING THE PRICE CRITERIA

Price will be evaluated strictly in terms of the prescripts of the PPPFA. When dealing with more complex bids, the criteria for the evaluation of price must involve an evaluation of the Total Cost of Ownership (TCO). In such cases, Bidders must be requested to provide all information relevant to the evaluation of TCO. It is recommended that Bidders be provided with a comprehensive pricing schedule to ensure that they all follow a standardised approach with pricing. This will facilitate uniformity in the evaluation of price. In determining what to include as part of the price/TCO criteria, it is important to note that the evaluation of TCO includes, but is not limited to, factors such as:

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- Installation costs;
- Warranties;
- Service and maintenance costs;
- Operating supplies;
- Storage costs;
- Commercial discounts;
- Incoterms;
- Price adjustment conditions; and
- Exchange rate fluctuations.

13.7 PREFERENCE CRITERIA

All Bids must be evaluated against the applicable preference point system as prescribed in the Preferential Procurement Regulations, 2011. The preference criteria, as set out in Chapter 10, should be included in the bid document.

13.8 EVALUATION OF COUNTER PARTY RISK

Depending on the type of Goods/Construction Works/Services being procured, it may be important that the counter party risk of Bidders be assessed based on one or all of the following:

- their audited financial statements;
- key financial ratios. For example: Current Ratio, Turnover/Contract Value, Interest cover, Gearing and financial performance of bidder relative to peers;
- perform media searches of bidders to identify any key risks that have not been disclosed in bid submissions. For example: Poor financial results which impacts the going concern of the customer / supplier;
- review analyst reports and gauge overall market sentiment of bidders;
- review geographical, political and economic risks based on the location of the bidder;
- review the bidders business continuity plans; and or
- Perform a review of the security / collateral by reviewing parent company guarantees and/or performance bonds (if applicable).

Depending on the importance of the financial stability of the successful Bidder/s, financial stability may either be included as a pre-qualification criterion or a due diligence exercise may be performed on the preferred bidders at the end of the evaluation process prior to recommendation. Where a decision has been made to include financial stability as a prequalification criterion, it is important that minimum requirements for the prequalification test be determined at this stage.

Below are some of the options that may be included for this assessment. Depending on the particular transaction, Transnet may choose one or more of these options.

- Credit Rating- Moody Rating, Fitch Rating Standard or Poor;
- Guarantees- Parent Company Guarantee (PCG), Advance Payment Guarantee, Performance Bonds in Supplier Agreements;
- Cash-flows- minimum that the bidders must have, in order to qualify;
- Financial Stability- as a standard requirement the following ratios may be used:
  (i) Liquidity Ratios- Current ratio, Quick ratio, Cash ratio.

(ii) Gearing Ratios- Long term debt to Equity ratio, Debt to Equity, long term debt to Total Assets.
(iii) Profitability- Net profit, Return on Equity, Return on Assets, Operating Margin.
(iv) Efficiency Ratios- Asset turnover ratio, Inventory turnover ratio.

The OD Finance team must be consulted to determine how to evaluate financial stability in the Bid and must provide guidance in determining what should be in the RFP. Subject matter experts must conduct these evaluations. For complex high value transactions it may be necessary to consult Group Finance or even appoint external consultants to assist in the development and assessment of this requirement by Transnet.

It is important to note that the evaluation of financial stability will not feature in every bid, particularly those which seek to advance Start-up and emerging enterprises. Financial stability may also be evaluated at the discretion of the AC in terms of paragraph 20.3.

13.9 EVALUATION OF FINANCING OPTIONS

Transnet may in certain instances require respondents to submit separate financing proposals. Transnet may review these options at its discretion at various stages of the evaluation. Depending on the nature of the contract, Transnet will stipulate in the RFP at what stage the financing options will be assessed. There are two main options that Transnet could choose to determine how the Bidders' financing proposal will be assessed, namely:

13.9.1 Financing options as an Objective Criterion

This option is used after the evaluation process when the preferred bidder has already been selected. Financing options may be used as an objective criterion, provided that it does not feature in the evaluation criteria of the bids. However, a clause to this effect will have to be included in the RFP. This practice must be limited to instances where a finance option is critical.

13.9.2 Financing options as a Pre-qualification Evaluation Criteria

This option is used when Transnet would not be in a position to award the contract WITHOUT such financing proposals having been included in the Bid. When a financing option is included in the pre-qualification criterion, Bidders who have submitted and committed to a financing proposal will advance to the next evaluation stage. Transnet must develop evaluation criteria and this must be included in the RFP so that Bidders may be evaluated in order to determine whether their finance proposal is acceptable or not.

The OD Finance team must be consulted to determine how to incorporate financing options in the Bid and must provide guidance in determining what should be in the RFP. Subject matter experts must conduct these evaluations. For complex high value transactions it may be necessary to consult Group Finance or even appoint external consultants to assist in the development and assessment of this requirement by Transnet.

13.10 DETERMINING THE EVALUATION SCORECARD

Once the evaluation criteria has been determined, the evaluation scorecard must be developed including the minimum thresholds, weightings and scoring methodology.

13.10.1 Minimum thresholds

As indicated above, functionality thresholds must be determined taking into account Transnet's minimum requirements. SD thresholds must be determined based on market analysis. Thresholds should be determined separately for each bid on a case by case basis.

13.10.2 Weightings for functionality and SD threshold

The weightings must be determined taking into account the relative importance of the various evaluation criteria.

13.10.3 Prompts for judgment (scoring methodology)

The prompts for judgment used for evaluating each criterion must be objective. Where possible the prompts for judgment should request verifiable evidence in order for a Bidder to earn their scores. These prompts for judgment must be determined in advance.

For example, the following prompts for judgment taken from the CIDB templates may be used to evaluate a Bidder's technical approach and methodology:

	Technical approach and methodology
Poor (score 40)	The technical approach and / or methodology is poor / is unlikely to satisfy project objectives or requirements. The tenderer has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of the project.
Satisfactory (score 70)	The approach is generic and not tailored to address the specific project objectives and methodology. The approach does not adequately deal with the critical characteristics of the project. The quality plan, manner in which risk is to be managed etc is too generic.
Good (score 90)	The approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The quality plan and approach to managing risk etc is specifically tailored to the critical characteristics of the project.
Very good (score 100)	Besides meeting the "good" rating, the important issues are approached in an innovative and efficient way, indicating that the tenderer has outstanding knowledge of state-of-the-art approaches. The approach paper details ways to improve the project outcomes and the quality of the outputs

13.11 THE TWO ENVELOPE SYSTEM

Consideration should be given to using a two envelope system to receive bids. Bidders will be required to submit technical and financial (price) proposals in two separate envelopes at the closing date and time of the bid. If SD is applicable to the bid, the SD proposal must be submitted together with the technical proposal. The objective of using such a system is to ensure that the technical proposal is evaluated purely on its merits and its ability to meet Transnet's requirements as detailed in the RFX document without the possibility of undue inferences being made due to knowledge of the Bidders' pricing. Where a two-envelope system is required in terms of the RFX, Bidders will be required to place and seal the returnable documents listed in the Bid in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical (and SD) proposal". The financial proposal is only opened and considered should the technical (and SD) proposal be found to be acceptable.

The Bid document must indicate if the two envelope system is applicable and state that failure to comply will lead to disqualification of the Bid [i.e. if the Bidder fails to submit the technical (and SD) proposal and a financial offer in two separate sealed envelopes, the bid will be disqualified].

Guidance Note: As the two envelope system is designed to enhance the objectivity of the evaluation process, it is recommended that it be used where possible, particularly for high value, complex bids.

13.12 WHEN TO DETERMINE THE EVALUATION METHODOLOGY

All of the above should be carefully considered by the CFST and included in the sourcing strategy, the RFX and RFX sign-off template prior to issuing the RFX to the market, as neither the evaluation criteria, nor the weightings may be changed during the evaluation phase.

13.13 CIDB EVALUATION METHODOLOGY

cidb

13.13.1 The CIDB register of contractors shall be applied in all Construction Works contracts. The manner in which the CIDB register of contractors is to be applied is established in the CIDB Regulations which are issued in terms of the CIDB Act and the CIDB Standard for Uniformity in Construction Procurement.

Determining the correct CIDB grading:

- Step 1: Identify preferably one, but not more than two class(es) of Construction Works that best describes the works to be performed.
- Step 2: Estimate the tender value including VAT and identify the tender value range designation within which this value falls. Where the estimated value is not more than 20 percent above the lower limit of a tender value range, base the contractor grading designation on the tender value range immediately below the tender value range within which the estimate falls.
- NOTE: Invitations to tenderers should indicate as accurately as possible the registration requirements and not be misleading; hence the requirement in the regulations to base the estimate on the lower designation in borderline circumstances.
- In certain cases, where the contract for Construction Works takes place over several years (term contract), the contractor grading designation may be based on the annual estimated value of the contract.

- Step 3: Determine the approximate contractor grading designation and, where applicable, the alternative designation, based on the class(es) of Construction Works selected in Step 1 and the tender value range identified in Step 2. Where the employer has a targeted development programme in place that provides the necessary support to enable the contractor to successfully execute the contract, contractors who are registered as potentially emerging contractors in one designation lower than required, may also be permitted to submit tender offers.
- Step 4: State the requirements for contractor grading designation in the Tender Data in the form of eligibility criteria in using the wording prescribed in the Standard for Uniformity in Construction Procurement.

13.13.2 Pre-qualification criteria may be used as eligibility criterion in the bid. The framing of quality criteria as eligibility criteria is a simple, yet effective, means of ensuring that only those bidders who are likely to deliver the required quality submit bids and compete for the award of a contract.

Example 1: An engineering and Construction Works contract may contain the following eligibility criteria:

Where the works required involves the removal and disposal of asbestos cement sheeting, the eligibility criteria should state that the contractor must be a Registered Asbestos Contractor with the Department of Labour.

Example 2: A professional service contract may contain the following eligibility criteria:

The eligibility criteria for bidders are that they complete the Competent Persons Declaration and have in their full time employ a person satisfying the relevant requirements for a competent person for the required service.

13.13.3 As indicated above, only CIDB Method 2 is to be utilised within Transnet until further notice. Method 2 is explained in more detail below:

CIDB Method 2: Financial offer and preferences

Firstly, Quality/Technical is to be evaluated as a prequalification criterion.

a) Reduce each responsive tender offer to a comparative offer. A comparative offer is defined under F.1.3.3 of the CIDB Standard Conditions of Tender as contained in Annex F of the Standard for Uniformity in Construction Procurement.

b) Score bid evaluation points for financial offer.

c) Confirm that tenderers are eligible for the preferences claimed and if so, score bid evaluation points for preferencing

d) Calculate total bid evaluation points.

e) Rank bid offers from the highest number of bid evaluation points to the lowest.

f) Recommend bidder with the highest number of bid evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

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CHAPTER 14 : MAIN PROCUREMENT MECHANISMS

This Chapter applies to both general and construction procurement. Additional CIDB procurement mechanisms are detailed in paragraph 14.7 below.

14.1 FACTORS TO CONSIDER WHEN SELECTING THE APPROPRIATE PROCUREMENT MECHANISM

Sourcing/procurement strategies are closely linked to the strategic importance and value of the Goods/Construction Works/Services. The first step is to classify Goods/Construction Works /Services on a risk/value matrix. In order to determine the importance of Goods/Construction Works/Services to Transnet as well as the appropriate procurement mechanism to be used, the commodity should be plotted on the four quadrant matrix below:

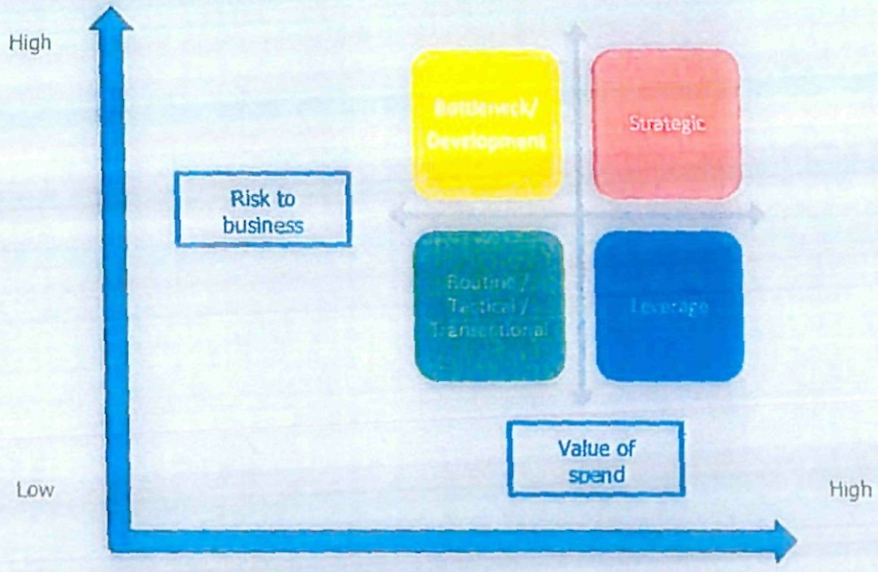

Figure [19] – Risk / Value Matrix

The following guidelines will assist in determining the correct procurement mechanism to use depending on where in the matrix particular the Goods/Construction Works/Services are placed:

TABLE 18

Type	Characteristics	Appropriate procurement mechanism/s	Possible contract options
Routine/ Tactical Transactional	• Low risk; low spend • Non-critical items • Many suppliers in the market • Objective is to minimise spending significant time and effort on obtaining these Goods / Services through 'as	• Open Bid • Quotation system (only when non repetitive and under R2 million)	• "As and when" contract for short and medium term • Transversal contract

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Type;	Characteristics;	Appropriate procurement mechanism/s	Possible contract options
	and when' contracts		
Leverage	• Low risk; high spend • Non-critical items • Many suppliers in the market • Objective is to leverage economies of scale	• Open Bid	• Transversal contract • "As and when" contract for short and medium term
Bottleneck/ Development	• High risk; low spend • Limited suppliers • These are items that Transnet must have but which are difficult to obtain • Critical items • Includes specialised equipment, instrumentation or software from proprietary suppliers • Objective is to secure supply	• Two stage bidding system • Approved list • Confinement • Framework Agreement	• "As and when" contract for medium term • Fixed quantity
Strategic	• High risk; high spend • These are items that are critical to Transnet's business	• Open Bid • Two stage bidding system • Approved list • Confinement • Framework Agreement	• Medium to long term contract • Transversal contract

Depending on the circumstances of each requirement for the procurement of Goods, Construction Works or Services, any one of the following main procurement mechanisms or procurement paths may be utilised:

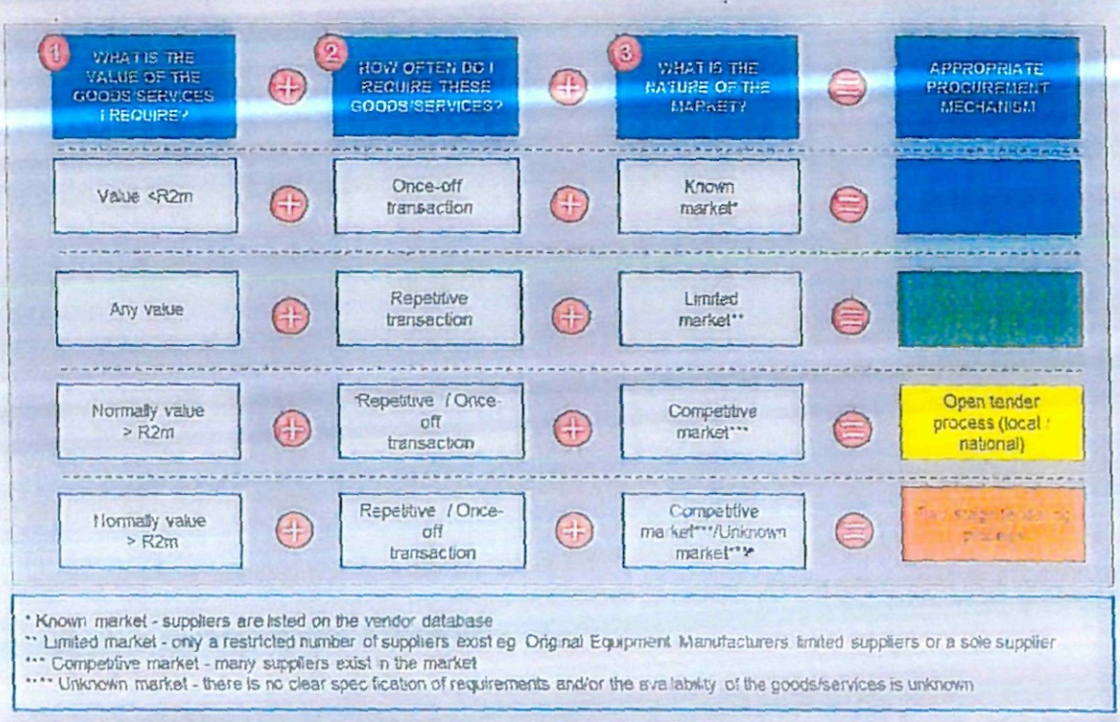

Figure [20] – Procurement Mechanisms

14.2 PROHIBITED PRACTICES

14.2.1 As a general rule, the quotation / bidding system must not be used merely to obtain market related prices for budget or benchmarking purposes.

14.2.2 In cases where it is absolutely necessary to obtain test bids for budget purposes only, the request to the market must clearly and unambiguously state that the request for a quote is for budget purposes only and that no business will be awarded against this invitation. Care should, however, be exercised that such budget pricing exercise is not abused merely to give certain contenders advance notification of a new project in the pipeline. It would be advisable to rather obtain test quotes from more than one, or even better, all the known suppliers so as not to run the risk of being perceived to have given only one contender advance notification.

14.2.3 When the full scope of work is known at a point in time, requirements may not be deliberately split into parts or items of lesser value in order to keep the transaction value within a particular Delegation of Authority level or to keep it below the threshold of an AC or a person with higher Delegation of Authority. This is considered to be Parcelling and will be regarded in a serious light as it amounts to non-compliance with procurement procedures.

14.2.4 Specifications should be functional and fit for purpose, rather than brand- or product-specific. Specifications must not include any exclusionary terms. Compiling a specification around one supplier's product is unfair and not allowed. Where it is necessary to specify a particular brand or product, the RFX document must request the particular brand/product "or similar".

14.3 THE QUOTATION SYSTEM - REQUEST FOR QUOTATION ("RFQ") / CIDB QUOTATION PROCEDURE

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- Only used for transactions below R2 million in value
- The Goods, Construction Works or Services must be required on a non-repetitive basis
- The market should be known
- Where possible, at least three quotes should be obtained for transactions between R250 000 and R2 million in value

14.3.1 **Definition**

The quotation system is a procurement system used for transactions below R2 million (exclusive of VAT) that are required on a non-repetitive basis.

14.3.2 **When to use the quotation system**

b) The quotation system is intended for non-frequent purchases of fairly low value. It should not be used on a continual / repetitive basis for the same commodity i.e. instances where the same commodity is purchased (sometimes even from the same supplier), but on different purchase orders/requisitions. This will be regarded as Parcelling.

c) The quotation system is best suited in the following circumstances where:

(i) transactions are valued at less than R2 million;

(ii) the purchase is not required on a repetitive basis. Where the same purchase is regularly made, consider a fixed term as-and-when-required contract. If market prices of the commodity are volatile and it is impossible to obtain firm prices for a specific period (even with price review mechanisms included), consider a short term as-and-when-required contract. Such a contract may be concluded following either an open tender process or a quotation process;

(iii) the value of the transaction would make it impossible, impractical or economically unviable to call for Open Bids; or

(iv) there are opportunities to develop suppliers in order to achieve transformational objectives. This mechanism is considered to be the best avenue to facilitate entry to the market for emerging small B-BBEE companies.

14.3.3 **Advantages and disadvantages of the quotation system**

Advantages	Disadvantages
Quick turn-around times in the case of non-repetitive purchases	• This procurement mechanism is not the most cost-effective as the benefit of volume discount is lost • Turnaround time is longer when using the quotation system as opposed to an 'as and when' contract, in the case of repetitive purchases • Risk of limiting competition to only certain service providers

14.3.4 **The authority to obtain quotes**

CEOs may at their own discretion decide to allocate different levels of authority to different Managers in terms of their Delegation of Authority. The CE [and ultimately the Chief Procurement Officer ("**CPO**")] will delegate specific powers to specific

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Managers in the procurement function to invite quotations up to a certain value and secondly for the award of the business resulting from the quotation system.

Furthermore, the CE of a Division may at his/her own discretion and within the Transnet DoA framework, introduce OD specific control mechanisms for these "low" value transactions (e.g. Petty Cash policies, etc.).

14.3.5 Number of quotes to be requested

a) As a general rule, for transactions above R250 000.00 in value a minimum of three quotations should be requested. However, a buyer may request more than three quotes if necessary.

b) It is important to note that once a request for quotations has been made to prospective Bidders, a buyer cannot subsequently request further quotes if only some Bidders approached have responded to the request by the closing date. This rule applies even where a Bidder has responded to the RFQ with a "no quote". If only one or two bidders have responded to the request for a quote, these must be considered accordingly.

c) Depending on the value of transactions falling within the quotation system, appropriate control measures **must** be implemented from low value quotes to high value quotes:

TABLE 19

Transaction value	Mechanism for obtaining quote	Minimum number of quotes
Less than R30 000.00	Fax/email quotes	1
R30 000.00 – R100 000.00	Fax/email quotes	2
Greater than R100 000.00 – R250 000.00	Fax/email quotes	3
Greater than R250 000.00 – R2000 000.00	RFQ process (receipt of bids at the tender box/electronic tender box)	3 or more

14.3.6 Obtaining less than the minimum number of quotes

a) Where it is impossible to request the minimum number of quotes for transactions over R30 000 in value e.g. for patented artides, OEM spares, sole provider, urgency, etc., one or two quotes will suffice.

b) However, a submission must be prepared with the reasons for not being able to request at least three quotations. The reasons should be aligned to the grounds for Confinement mentioned in paragraph 15.1.2 of the PPM. This must be approved by the CPO or his/her delegate, depending on the value of the transaction and the delegated authority of the procurement official. Since OEM spares and components will in all probability be required on a regular basis, consideration should be given to either the framing of an Approved List, or the conclusion of an "As-and-when required" term contract.

14.3.7 Minimum requirements for issuing RFQs

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a) As indicated in Table 19, for transactions below R250 000, fax/email quotes can be used. Although it is recommended that the standard RFQ template be used where possible for such transactions, it is not an absolute requirement. Should a buyer choose to issue an RFQ via a simple fax or email, the following should be included in the request:
   - the closing date and time and validity period;
   - the specification of the Goods/Construction Works/Services or Construction Works including delivery requirements;
   - the evaluation methodology; and
   - Transnet's standard disclaimers as indicated in the RFQ template.

b) For transactions between R250 000 and R2 million, the standard RFQ template must be used.

14.3.8 Transnet Vendor Portal

a) An automated Transnet wide Vendor Portal (TVP) has been created for all potential suppliers wishing to do business with Transnet to register and update their company profiles. The web address is https://vendorportal.transnet.net.

b) Potential suppliers should provide full details of the Goods/Construction Works/Services on offer, their tax clearance certificate, their B-BBEE level, including % Black ownership and area of operation. Suppliers will be classified accordingly on the TVP.

c) Buyers who wish to obtain quotations must proceed to search the TVP and/or the OD's own vendor database for potential Bidders.

d) The TVP should ultimately have the functionality to invite quotes from potential suppliers on a rotational system to ensure an equitable spread of opportunities among all potential suppliers.

14.3.9 Process

a) As indicated above, the buyer will request quotes from at least 3 or more potential Bidders on the TVP and/or the OD's vendor database where possible.

b) For relatively low value, simple Goods/Construction Works/Services, the RFQ should ideally be open for 3 to 4 Working Days in order to afford Bidders a reasonable opportunity to respond. For higher value, more complex Goods/Construction Works/Services, the RFQ should be open for a minimum of seven Working Days.

c) The bids must be received in a controlled environment, e.g. a dedicated email address, dedicated fax number or a tender box.

d) As a general rule, quotations are to be evaluated on the basis of price and B-BBEE. Where there are opportunities to include SD either as an objective criterion, a threshold or prequalification criterion, SD should also be included in the bid. In the event that technical evaluation is also necessary, the technical evaluation criteria must be pre-determined and included in the RFQ document. The highest scoring Bidder is to be selected as the Successful Bidder unless there is objective criteria justify the award to another bidder.

e) In instances where quotes are invited from potential new bidders, the prices quoted should, where possible, be benchmarked against previous prices paid,

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to ensure that Transnet obtains optimal value for money, whilst achieving its social obligation.

f) As indicated in paragraph 14.3.8d) above, quotations should be invited from potential bidders on the TVP and/or the OD's vendor database on a rotational basis so as to ensure an equitable spread of opportunity among all potential suppliers.

g) Please refer to paragraph 17.2.1 (d) regarding matters that were anticipated to fall below the AC's threshold but when quotes are received they are over R2 million in value. Furthermore, please refer to paragraph 22.5.7 (a) regarding contract amendments in this regard.

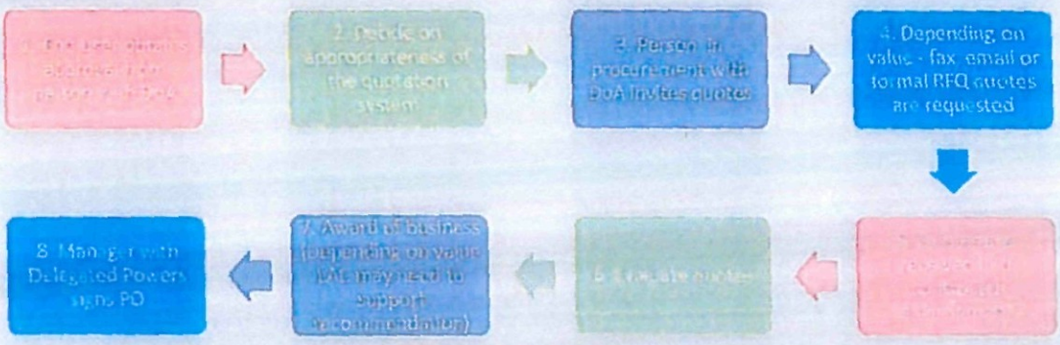

Figure [21] – Quotation Process

14.4 THE OPEN BID PROCESS (RFP)/CIDB OPEN PROCEDURE

- Generally used for transactions greater than R2 million in value
- There must be a competitive market and a clear detailed specification available to which many prospective Bidders are able to respond
- Bids may be advertised in local, national and / or international media as well as the Transnet website depending on the market
- Note that for construction procurement, the advertisement must, in addition be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting. The threshold for advertising on the CIDB website is aligned to Transnet's threshold for issuing open tenders i.e. R2 million.

14.4.1 Definition

The Open Bid Process (RFP) is a competitive process where the general public is approached with an invitation to bid that is published in the media. All interested parties are granted an equal opportunity to bid for Transnet's business. Once the bid has closed, the winning Bid is selected by means of a transparent evaluation, recommendation and adjudication process.

14.4.2 When to use the open bid process

The Open Bid system is the procurement/disposal mechanism best suited to the following circumstances:

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a) the monetary value of the purchases is in excess of R2 million (exclusive of VAT);

b) even if the bid value is less than R2 million, an Open Bid should be issued if the market is not known or the Goods/Construction Works/Services are required on a repetitive basis;

c) the market is competitive (i.e. many potential suppliers are able to provide the required Goods/Construction Works/Services);

d) there are clear and unambiguous specifications to ensure that all potential suppliers bid for the same product;

e) there is enough time available;

f) the value of the transaction must warrant the cost, time and effort taken to use an Open Bid process; and

g) in cases where Transnet's needs / specifications etc. are still too vague to issue a formal bid, the two-stage Bid system (RFI) should be followed.

14.4.3 Advantages and disadvantages of the open bid process

Advantages	Disadvantages
The Open Bid system is regarded as the procurement mechanism which best ensures open and fair competition.	The Open Bid process is time consuming. In order to ensure that Goods / Services are delivered to the business when they are needed, the need for the Goods / Services needs to be anticipated well in advance. Requires significant resources (cost, time, etc.)

14.4.4 Process

a) Before any bid document may be issued to the market, the person with the necessary delegated authority must provide written authority to approach the market. This must include approval of the evaluation methodology, evaluation criteria and the availability of funds. The evaluation team is also to be decided on at this point.

b) The bid document should be compiled according to the guidelines set out in Chapter 16 *(Bid Preparation)*.

c) Bids may be advertised in local, national and / or international media as well as the Transnet internet website depending on the market and value of the bid. Note that for construction procurement, the advertisement must, in addition be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.

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The threshold for advertising on the CIDB website is aligned to Transnet's threshold for issuing open tenders i.e. R2 million.

d) Bids should be kept open for a reasonable period. Refer to paragraph 16.4 for more detail.

e) Bids are to be finalised as soon as possible after the closing date of the bid.

See process below to be followed in the case of an Open Bid process

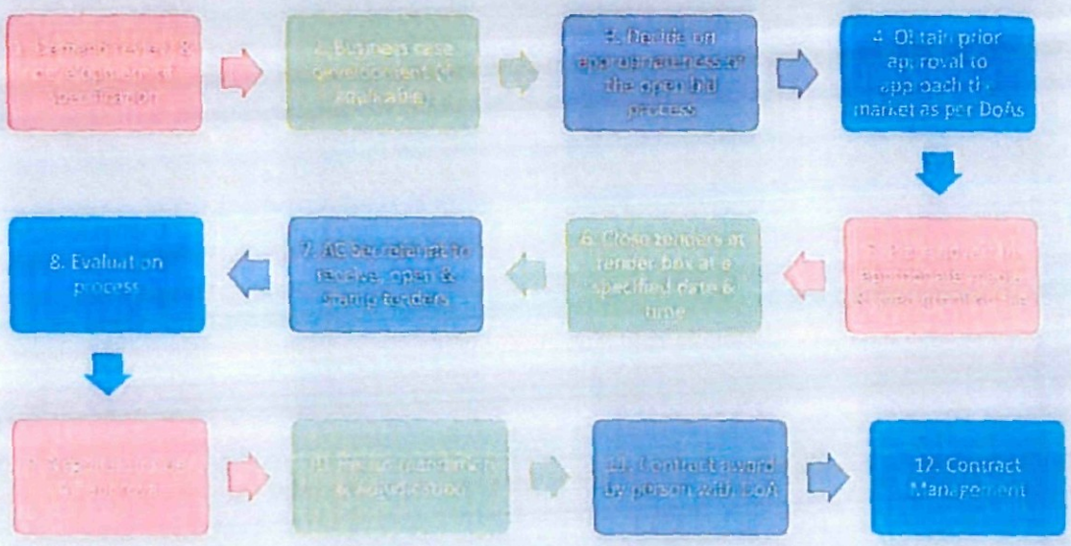

Figure [22] – Open Bid Process

14.4.5 Open bid award divided between more than one Bidder

Should it be decided to divide the total requirement of an open bid between more than one Bidder, the total value of the business and not the individual contracts shall determine the level of approval required for the open bid. Only after the necessary approval has been obtained, may the individual contracts be signed by the Manager with the necessary delegated contractual powers. For the rules relating to amendments to contracts, please refer to paragraph 22.5.7.

14.5 APPROVED LIST PURCHASES

14.5.1 Definition

An approved list is essentially a "standing authority to confine" and may be framed and utilised either where:

- Goods/Construction Works/Services are required according to unique specifications, on a continual ("as and when required") basis and from a limited number of suppliers (evergreen approved lists); or
- In a competitive market there is a need to prequalify suppliers, as well as to limit the need to continuously evaluate large numbers of bids (fixed period approved lists).

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14.5.2 General principles

a) In order to qualify for inclusion on any approved list a supplier must be able to supply Goods/Construction Works/Services of the quantity and quality required. Furthermore, if so required, the supplier must have submitted samples or delivered Goods which have satisfactorily passed Transnet's quality tests.

b) Approved supplier status cannot be acquired merely by being on a Division's Vendor Master or on a B-BBEE Manager's List of EMEs or QSEs for specific Goods/Construction Works/Services. Approved supplier status can only be obtained after following the process stipulated below.

c) Specifications must be drawn up to promote fair competition.

d) ODs and Specialist Units must attempt as far as possible to procure off-the-shelf Goods as opposed to drawing up their own specifications.

e) An Open Bid or quotation process may not be followed for Goods/Construction Works/Services appearing on an approved list unless it is provided for in the framing of the list and/or in the contract with the successful Bidders to the list, if applicable.

f) Information regarding Transnet's Approved Lists may not be disclosed to anyone outside Transnet without the written approval of the GCSCO or in terms of a PAIA request.

g) The standard template for approved lists must be used.

14.5.3 When to use the approved list process

This procurement mechanism is ideally suited for the following transactions:

a) strategic, high-value, high-risk items, non-standard items which are not available "off-the shelf";

b) where equipment can only be obtained from Original Equipment Manufacturers (OEMs) or limited suppliers;

c) Goods and specialised Services that cannot be sourced from non-approved suppliers because of Transnet's own unique specifications, Quality standards, or safety requirements i.e. commodities that are not freely available in the market from a range of suppliers; or

d) Competitive market where there is a need to prequalify suppliers, as well as to limit the need to continuously evaluate large numbers of bids

14.5.4 Advantages and disadvantages of the approved list process

Advantages	Disadvantages
• Reduces administrative burden as there is no need to approach the open market every time there is a requirement for Goods/Construction Works/Services. • Bidders are pre-qualified and need not be evaluated on technical aspects every time there is a requirement. • New entrants can be accommodated at any time.	Delays between identifying and approving new entrants into the market due to stringent testing requirements.

14.5.5 Types of Approved Lists

a) **Evergreen Approved Lists**

(i) This type of approved list is to be used for situations as described in paragraph 14.5.3a) - c) i.e. for specialised goods and equipment.

(ii) Evergreen Approved Lists remains valid indefinitely, subject to the proviso that they must be advertised every 12 months to afford new suppliers an opportunity to be included onto the list.

(iii) Although the list remains valid indefinitely, the suppliers on the list will be subject to periodic quality testing in order to maintain their name on the list. Should suppliers fail to meet quality standards, their names may be removed from the approved list as per paragraph 14.5.7.

(iv) This type of approved list may be framed by following the procurement process outlined below:

- After public Advertisement of the intention to frame an approved list in a notice requesting all prospective suppliers to formally apply.

(v) Testing: Bidders' products may be subjected to testing in order to determine their suitability for inclusion on the Approved List. Such Bidders may be placed on the Approved List provisionally pending the outcome of the testing process. During this period, if required, a separate procurement process may be followed in order to procure the Bidders' product so that Transnet may conduct the required tests. Bidders are entitled to a full explanation of the testing process that was/is to be carried out on their product. Bidders may, upon request, be allowed to observe the testing process carried out by Transnet. Those Bidders whose Goods fail the relevant tests, must be provided with detailed reasons why their Goods failed the tests and should be afforded an opportunity to resubmit their Goods for testing once the necessary improvements have been made.

(vi) Where it is not practical to test aspirant suppliers' products/samples beforehand e.g. overhaul of traction motors; reconditioning of transformers for electric substations, etc, potential suppliers in this category will be subjected to a quality check e.g. ISO certification, previous experience on work of a similar nature and complexity, quality control systems etc. Qualifying suppliers will then, subject to AC and CPO/GCSCO approval, be placed on the approved list as "aspiring suppliers". When obtaining bids from suppliers already

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finally placed on the approved list, the aspiring prospective suppliers must also be invited to submit bids. If an aspiring applicant is awarded a contract or portion of the contract for testing purposes and performs satisfactorily, their name must be placed on the approved list by following the normal approval process i.e. AC and CPO/GCSCO approval must be obtained.

(vii) A list of all approved lists with their respective specifications, contact details of technical expert, etc. (and not the details of the companies on the list) must be displayed on the notice/bulletin boards in bid issuing offices so that potential new entrants are made aware of its existence.

(viii) Although the evergreen approved list remains valid for an indefinite period, it must be advertised every 12 months in order to afford new suppliers an opportunity to be included. However, such approved lists can be updated at any time. It is not necessary to wait for the 12 month interval to include a new name on the approved list. After a new entrant's product has successfully passed the quality tests, AC and CPO/GCSCO approval must be obtained and the list must be updated accordingly.

(ix) New entrants may apply at any time for inclusion on the approved list. Any new applications received outside of the 12 month advertising intervals must be dealt with immediately and not held over until the next Advertisement.

(x) Award of business on the approved list is subject to approval from the person/body with the necessary DoA, as well as the relevant AC if such transaction falls within its jurisdiction.

(xi) It is important to note that the names on the evergreen approved list will remain on the list unless their names are removed for one or other reason.

b) **Fixed Period Approved Lists**

Fixed Period Approved Lists are typically used in the following circumstances:

- Competitive market where there is a need to prequalify suppliers, as well as to limit the need to continuously evaluate large numbers of bids

(i) "Fixed period approved lists" are publicly advertised and framed for a fixed period. The validity period of the list must be clearly stated in the Advertisement, as well as in the subsequent letter informing successful applicants of their inclusion on the Approved List.

(ii) The nature of the Goods/Construction Works/Services will inform the decision on whether to make use of this type of approved list. Typically, a competitive market must exist in order to use this type of approved list. Examples of such "approved lists" are the Transnet Legal Panel and the Transnet List of Approved Security Service Providers.

(iii) Unlike the evergreen approved list, no new applications for inclusion on the list may be considered during the period that the existing list is in force.

(iv) The manner in which the approved list is to be structured and implemented must be fully motivated and submitted to the CPO/GCSCO for approval of the framing of the list.

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(v) At the end of the fixed period, the list must be re-advertised and a new list must be framed, if there is still a need for such an approved list. Suppliers who were included on the previous approved list must re-apply for inclusion onto the new list, and they must be made aware of this when the new list is being advertised.

14.5.6 Process

a) The framing of an approved list or any amendment thereto must be approved in principle by the OD CPO or in respect of TCC requirements or transversal contracts, the GCSCO.

b) The Advertisement for an approved list must only make reference to the Goods/Construction Works/Services for which the list is being framed and not the names of the approved suppliers.

c) The manner in which the approved list will operate must be stipulated upfront in the RFX to frame the list. In this regard bidders must be made aware as to which criteria will be evaluated to frame the list and whether further evaluation will take place when the list is utilised. If the approved list (whether evergreen or fixed period) is framed on the basis of a technical evaluation only then when the list is utilised all bidders should be invited to submit bids as bidders will then evaluated on price and preference. Where the framing of the approved list involves a complete evaluation including an evaluation of price and preference, business should be awarded on a rotational basis if the rates are the same for all companies on the list. This is in order to ensure fairness and an equal distribution of business to those on the list. The next business requirements must be awarded to the supplier with the lowest spend on the list. Where the framing of the approved list involves a complete evaluation including an evaluation of price and preference but there are varying rates, it may be prudent to still evaluate price and preference when utilising the approved list. In certain instances it may even be necessary to evaluate technical again depending on the type of Goods/Services being procured. As indicated these options are available for both types of approved lists. However, it is recommended that for fixed period approved lists a complete evaluation is conducted when framing the list. It may also be necessary to make allowance in the procurement strategy, RFX and contracts (if applicable) with the Bidders for stepping outside of the approved list if those on the list are unable to meet Transnet's requirements when called upon to do so. The decision on the manner in which to frame and utilise the approved list must be decided on a case by case basis and approved by the OD CPO in the case of ODs and the GCSCO in respect of TCC.

d) Bids must be received and evaluated in the normal manner. Suppliers complying with specifications must be recommended to be placed on the list.

e) The Main AC must then consider the recommendation and validate the process followed to frame the approved list.

f) The CPO/GCSCO must then be approached to approve the list.

g) Once the list has been framed, the AC will be responsible for the distribution of the List within the particular entity and to Group ISCM.

h) Any person or Enterprise whose application for inclusion on the approved list has been refused or whose name has been removed from the list, may make representations to the relevant CPO. Should the person/Enterprise not be satisfied with an OD CPO's ruling, an appeal may be made to the GCSCO whose decision shall be final. In respect of TCC, an appeal may be made to the GCFO whose decision shall be final.

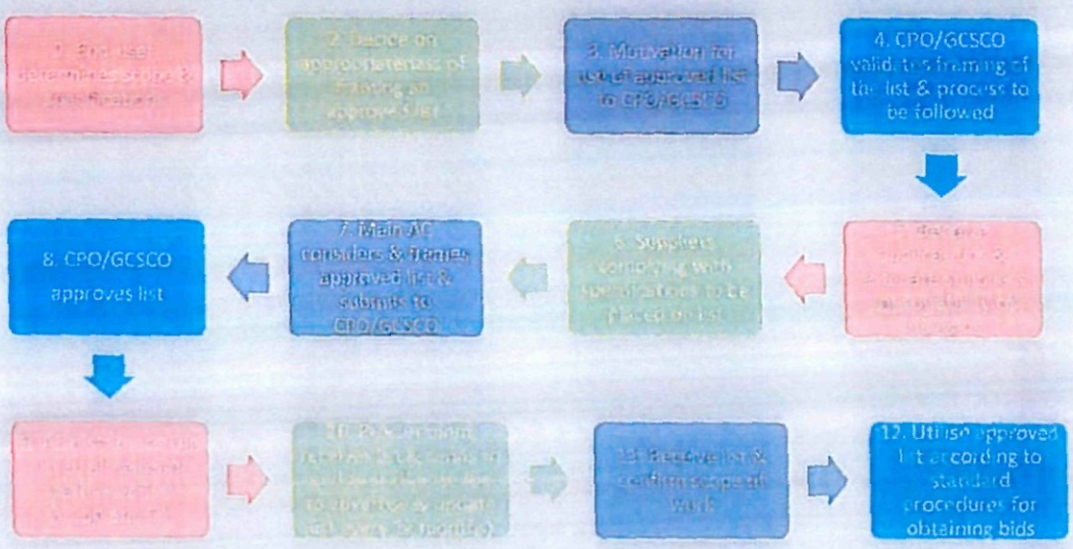

Figure [23] – Process to frame Approved List

14.5.7 Utilising an approved list

There are two possible outcomes of the framing of an approved list:

a) There is no contractual relationship until such time as the list needs to be utilised. When there is a need, Bidders are invited to submit a bid and are evaluated or a rotational system is used where rates are the same for all Bidders on the Approved List; or

b) Framework agreements could be concluded with all/some or one of Bidders on the Approved List.

In either scenario, consideration should be given to allow Transnet to step outside of the Approved List or the Framework Agreement if the Bidders that have been placed on the List are unable to deliver in terms of Transnet's requirements at a particular point in time. If it is felt that such a clause would be useful in a particular situation, Bidders must be advised of this possibility in the Bid document and/or this must be stipulated in the letter of appointment to the Approved List/the Framework Agreement.

14.5.8 Removal of names from the approved list

The name of an Enterprise may be removed from an approved list at any time if the Enterprise:

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a) has been convicted of any offence under any law relating to wages, hours of work or other conditions of employment;

b) fails or ceases to comply with the requirements of such approved list;

c) continues to perform unsatisfactorily after having been informed accordingly when measured on any of the following criteria: timeliness, Quality, price escalation and service;

d) sub-contracts the whole or any portion of a contract for the supply of Goods/Construction Works/Services in respect of an approved list to an Enterprise or person whose name does not appear on that list;

e) has ceased to carry on business under the name on the approved list and has not informed Transnet of this change;

f) has been dealt with in terms of Transnet's List of Excluded Bidders;

g) has shown little interest over a reasonable period to submit quotations when invited to do so;

h) has not been awarded any business over a reasonable period due to non-competitive prices;

i) has requested that its name be removed from the approved list; or

j) otherwise acts in a manner which, in the opinion of Transnet, is construed to nullify the object of framing an approved list.

Before a name is removed from an approved list, the Enterprise concerned shall be notified in writing of the intention to remove it from the list including reasons. The Enterprise shall be afforded the opportunity to make representations as to why its name should not be removed from the list. Approval for the removal of an Enterprise from the approved list must be supported by the relevant AC and approved by the CPO/GCSCO.

14.6 TWO-STAGE BIDDING SYSTEM (RFI/RFP PROCESS))/CIDB PROPOSAL PROCEDURE USING THE TWO-STAGE SYSTEM

This procurement mechanism is appropriate under the following circumstances:

- where the suitability of service providers must first be determined prior to them being invited to bid for Goods / Services;
- when assessing the availability of Goods / Services where there is no clear specification of requirements; or
- there could be solutions available in the market unknown to Transnet.

14.6.1 Principles

This procurement mechanism is appropriate under the following circumstances as it takes into account the most satisfactory solution to Transnet's specific procurement needs:

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a) where due to the nature of the Goods / Services being acquired, the suitability of service providers must first be determined prior to them being invited to bid for the Goods / Services (pre-qualification);

b) where Transnet would like to obtain information from prospective bidders regarding the SD opportunities in a particular market in order to determine its go to market strategy;

c) where there is no clear specification of requirements and it is not feasible/possible for Transnet to formulate detailed specifications for the Goods/Construction Works/Services required; or

d) where Transnet seeks first to establish the various possible solutions available in the market in order to determine the best solution for Transnet.

In scenarios (a) and (c) above Transnet may draw up a functional specification in the RFP based on the responses received to a Request for Information (RFI) taking into account its specific needs. It is critical that the specification not be drafted around a particular supplier's response to the RFI. Intellectual property issues must be taken into account prior to proceeding to stage two of the process.

14.6.2 When to use the two-stage bidding process

a) This mechanism is used in assessing the availability of Goods/Construction Works/Services where there is no clear specification of requirements or where the suitability of service providers must first be determined prior to the undertaking of any development work.

b) The use of this mechanism is appropriate where there are various possible means of meeting the need.

c) The RFI process is ideally suited to projects involving research, development, studies or experiments. In such instances it is not in the best interests of either Transnet or the prospective Bidders to develop a detailed plan when it has not yet been determined as to whether implementation is feasible.

d) The RFI process can be utilised to determine the availability of Goods and different suppliers' specifications in order for Transnet to draft its own specifications in such a way that accommodates as many potential suppliers as possible that are able to provide a product of acceptable quality.

e) To obtain Expressions of Interest (EOI) from the market before stage 2 of the two-stage bidding process is embarked upon.

14.6.3 Advantages & disadvantages of the two-stage bidding process

Advantages	Disadvantages
• Allows Transnet to obtain an indication of what is available in the market before approaching the market with a firm invitation to bid. • Allows Transnet to draft a clear specification when it approached the market	• The two stage bidding process is a time consuming process • There is a risk of possible infringement of IP

14.6.4 Process

A two stage bidding process involves the following steps:

a) **Stage 1 (RFI stage):**

(i) Prospective Bidders are invited to submit their proposals via an open RFI after approval to approach the market has been obtained.

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(ii) The evaluation criteria in the first stage may include criteria such as technical, Quality, contractual terms, conditions of supply and the professional and technical competence of the suppliers. Transnet may wish to request rough costing estimates during this first stage. However, price would typically not be requested at this stage.

(iii) The RFI must clearly indicate Transnet's intention during the second stage of the process: i.e. whether:

- suppliers will be subjected to pre-qualification criteria and be short listed in order to proceed to the second stage;
- Transnet will issue an Open Bid based on the responses and specifications received in the first stage; or
- Transnet will approach one or a shortlist of Bidders based on the responses and specifications received in the first stage.

(iv) The RFIs received must be evaluated in terms of pre-determined criteria which have been made available to all contenders in the RFI.

(v) A recommendation is made to the AC or relevant authority regarding the outcome of the first stage, and the eligibility of the bidders to participate in the second stage.

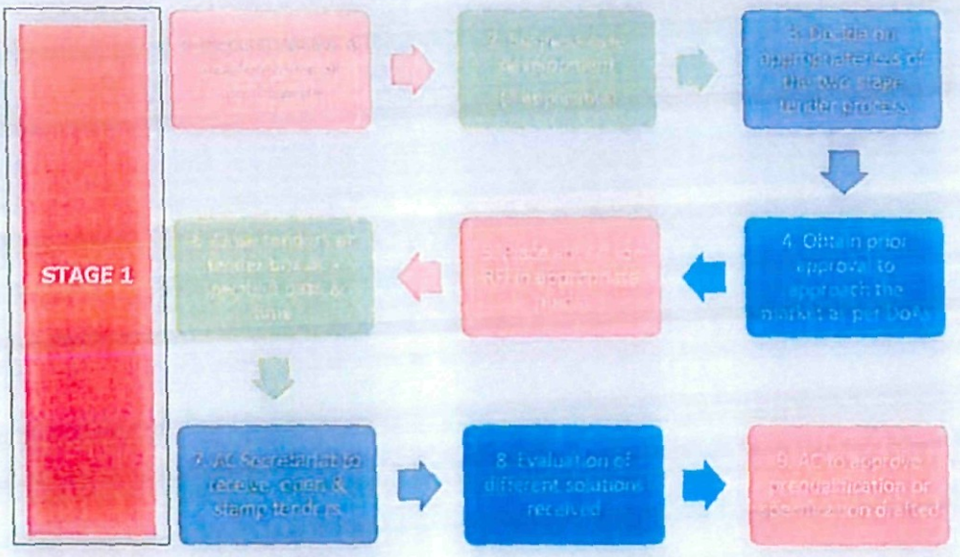
(vi) AC agreement with the recommendation effectively authorises the second stage of the process.

b) **Stage 2 (RFP stage)**

(i) Depending on the option exercised in stage 1, Transnet may either issue an Open Bid or limit the second stage to only one or a shortlist of Bidders, as approved by the AC.

(ii) Bidders are invited to bid in the normal manner.

(iii) The bids are evaluated and awarded in the normal manner.



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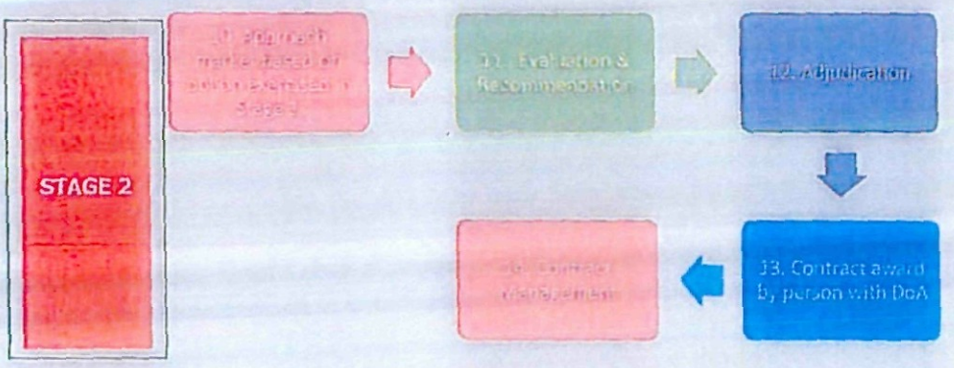

Figure [24] – Two stage bidding process

14.7 ADDITIONAL MECHANISMS FOR CONSTRUCTION PROCUREMENT

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For construction procurement the following additional negotiation methods are utilised. Minutes of such negotiations and the reasons for pursuing such procedures shall be kept for record and audit purposes.

14.7.1 Negotiated Procedure for Construction Procurement

This procedure is utilised when a bid offer is solicited from a single bidder only. This applies to those transactions below and above R2 million in value. Please see paragraph 15.1 of the PPM on Confinements in this regard. Single Source transactions < 2million are procured as per paragraph 14.3.5**Error! Reference source not found.** of the PPM.

14.7.2 Competitive Negotiation Procedure

This procurement procedure reduces the number of bidders competing for the contract through a series of negotiations until the remaining bidders are invited to submit final offers. Bidders shall be informed of the competitive negotiation process and notified of the evaluation criteria and associated weightings in the RFX. The evaluation criteria associated with each successive round of negotiations shall not be varied.

This procedure should only be used where :

a) There are a number of options or ways of satisfying procurement needs
b) The technical character of the works warrants the use of competitive negotiations
c) The purpose is stated in the bid document
d) It is not feasible to formulate detailed specifications
e) If the contract is research, experiment, study or development related
f) All bids received in a competitive selection procedure are non-responsive and the calling for fresh bids is likely to result in a similar outcome (only allowed if the bid document specifically provides for this)
g) Interactions with bidders are essential to refine aspects of the proposed approach to the scope of work in order to arrive at a best value outcome or most advantageous offer.

This method shall be applied as follows:

a) Negotiations take place through one or more rounds of competitive negotiations conducted with responsive and qualified bidders.
b) At each round of competitive negotiations, responsive and qualified bidders are evaluated on the chosen bid evaluation method
c) Bidders are eliminated based on their rankings or bid evaluation scores until remaining bidders are invited to submit final offers.
d) Negotiations are based on equal treatment and confidentiality.
e) Negotiations must not restrict or distort competition or have a discriminatory effect. Dialogue with bidders close when a solution or solutions capable of meeting the organisation's needs are identified. Bidders are informed and invited to submit "best and final offers". Only the weighting attached to each category or subcategory of evaluation criteria can be changed for each round of competitive negotiations. The evaluation criteria cannot be varied.

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CHAPTER 15: SPECIAL CASES

15.1 CONFINEMENTS

Confinements are to be used under the following circumstances:

- for transactions over the value of R2 million
- usually when Goods/Construction Works/Services are required on a once-off basis
- when the nature of the Goods/Construction Works/Services fall within one of the grounds for Confinement

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In the context of construction procurement, a "Confinement" to one Bidder is referred to as a negotiation procedure.

15.1.1 Definition

A Confinement is a mechanism where permission is sought from the person with the appropriate Delegation of Authority to "**confine**" enquiries for required Goods/Construction Works/Services to one or a limited number of Bidders.

A Confinement is a departure from the norm of an open, competitive bidding process and as such must be treated with great circumspection. The misuse of confinements has the potential to entrench monopolies and as such is at odds with the imperatives of the New Growth Path. The NGP seeks to encourage open competition and the introduction of new entrants into the market, particularly those from previously disadvantaged communities.

It is important to note that confinements only apply to transactions over R2m (exclusive of VAT). These rules therefore do not apply to transactions falling below R2m (exclusive of VAT). The quotation system applies to such transactions regardless of the number of quotations the buyer is able to obtain.

15.1.2 Grounds

Confinements will only be considered under the following circumstances:

a) where a genuine unforeseeable urgency has arisen. The submission to the person with Delegated Powers must fully motivate the reason for the urgency and provide an indicative / benchmark price where possible. Such urgency should not be attributable to a lack of proper planning. In such cases appropriate action must be taken against the individual(s) responsible for the bad planning. The following criteria, amongst other factors, must be taken into account when selecting a Supplier/Service Provider to confine to on the basis of urgency:

   - the technical ability of the company must be established (proven track record);
   - where possible, the company should have previously carried out similar work for Transnet and the work must have been done to Transnet's satisfaction; and
   - the company must be able to respond to Transnet's requirements immediately or as soon as reasonably possible in view of the urgency.

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b) the Goods/Construction Works/Services are only obtainable from one/limited number of suppliers. For instance, patented/proprietary Goods or OEM spares and components. Operating divisions are however required to provide evidence that there are no new entrants to the market who could also be approached;

c) for reasons of standardisation or compatibility with existing Goods, Construction Works and Services. A case must be made that deviation from existing standardized Goods/Construction Works/Services will cause major operational disruption. If not, confinements based on "standardisation" will not be considered; or

d) when the Goods/Construction Works/Services being procured are highly specialized and largely identical to those previously executed by that supplier and it is not in the interest of the public or the organization to solicit other offers, as it would result in wasted money and/or time for Transnet. When this particular ground is intended to be used as a ground for Confinement, it is important to note that all pre-requisites must be satisfied: The Goods/Construction Works/Services must be highly specialised, almost identical to previous work done and approaching the market again would result in wasted money and time.

15.1.3 Types of confinements

Depending on the circumstances one of the following two Confinement routes will be applicable:-

a) The normal Confinement route; and

b) Confine and award which is only to be used in cases where there is a sole supplier and/or cases of extreme urgency.

The following rules apply to the two types of Confinement Routes:

TABLE 20

Process	Normal Confinements	Confine and award
Prior in-principle approval of the confinement	Recommendation by CPO, CE, AC, GCSCO and CFO before sent to person with delegation in terms of the DoA Framework.	Recommendation by CPO, CE, GCSCO and CFO before sent to person with delegation in terms of the DoA Framework. The AC need not be approached for support beforehand. A benchmarked/indicative price must be indicated in the submission for approval. The matter may be sent to the AC for noting thereafter.
Closing of confinement bids	Bids will close at the relevant AC (relevant AC to be indicated in the submission for approval)	Bids will close at the relevant AC (relevant AC to be indicated in the submission for approval)
Award of business	The relevant AC will consider the award of business before the person with DOA can conclude the	The business will be awarded by the person with the delegation for contract award to the relevant Bidder provided that the final price is within the benchmark as initially approved by the

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	contract	person with the delegation to approve the Confinement and the AC must be informed after award. Should the final price exceed the benchmarked price, the matter must be submitted to the person who originally approved the Confinement (provided the final price is still within his/her DoA to approach the market via Confinement) for approval before the person with DoA to award the business may exercise his/her DoA. However, if the final price is higher than the original approver's DoA, the matter must be approved by the higher authority with DoA to approach the market via Confinement before the person with DoA to award the business may exercise his/her DoA.

15.1.4 Delegation of authority

a) Depending on the value of the transaction, only the GCE, ADC and the Transnet Board have the authority to authorise a Confinement.

b) The relevant monetary thresholds for authorising confinements in terms of the DoA Framework effective 1 September 2014 are as follows:

(i) GCE – up to but not exceeding R250 million;

(ii) ADC – up to but not exceeding R1 000 million; and

(iii) The Board – exceeding R1 000 million.

c) In instances where a confinement is confidential the GCE may approve such confinement without the confinement request being routed via any other authority.

d) Note that the rule relating to prior AC approval for long term contracts as explained in paragraphs 9.5 and 21.8 do not apply to Confinements.

15.1.5 Process

a) All Confinement submissions must be routed via the relevant Procurement department. End users must be cautioned that they are not allowed to engage with the Bidder/s before the Confinement is approved. The submission for Confinement must be fully motivated in writing by the end-user and the OD CPO to the OD's main AC and the OD's CE for prior written support of the recommendation to confine. It is important to properly motivate submissions taking into account all relevant factors. Poorly motivated submissions will be referred back to the OD concerned for re-motivation. Please note the requirements of paragraph 6.6 of the PPM in this regard. The submission should be submitted on the relevant template under cover of a memo to the GCE.

b) Only if the reasons advanced for the proposed Confinement are supported and considered to be in the best interest of Transnet, should the Confinement of business to one or more contenders be escalated to Group.

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c) The Confinement request must be considered by the Transnet GCSCO and the Group CFO each of whom shall indicate whether or not they support the request.

d) The matter must then be submitted to the GCE, the ADC or to the Board itself for final approval depending on the value of the transaction.

e) It is important to note that obtaining authorisation to confine is nothing more than an authorisation to follow a confined/closed bid process. As such, after approval to confine has been obtained, a proper RFX document must be compiled by Procurement and sent out to the relevant Bidder/s. Such RFX must close at the relevant AC. A proper evaluation of the RFX must be conducted. End users must be advised that they cannot approach Bidders directly to request a quote and/or to commence work based on the approved Confinement. Furthermore, the practice of approaching companies for proposals or pricing before obtaining authorisation to confine is not allowed.

f) For normal Confinements, the relevant AC will consider the award of business before the person with DOA can conclude the contract.

g) For "confine and award" Confinements, the business will be awarded by the person with the delegation for contract award to the relevant Bidder provided that the final price is within the benchmark as initially approved by the person with the delegation to approve the Confinement and the AC must be informed after award. Should the final price exceed the benchmarked price, the matter must be submitted to the person who originally approved the Confinement (provided the final price is still within his/her DoA to approach the market via Confinement) for approval before the person with DoA to award the business may exercise his/her DoA. However, if the final price is higher than the original approver's DoA, the matter must be approved by the higher authority with DoA to approach the market via Confinement before the person with DoA to award the business may exercise his/her DoA.

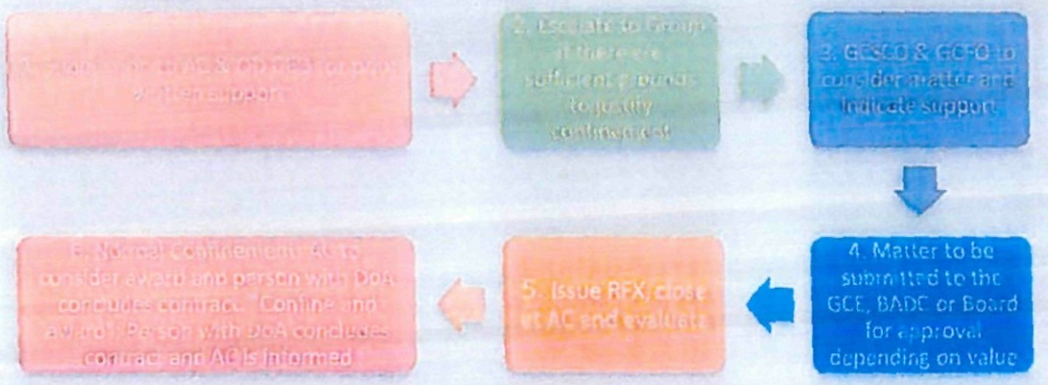

Figure [25] – The Confinement process

15.1.6 Confinement divided between more than one Bidder

Should it be decided to divide the total requirement of a Confinement between more than one Bidder, the total value of the business and not the individual contracts shall determine the level of approval required for the Confinement. Only after the necessary approval has been obtained, may the individual contracts be signed by the Manager with the necessary delegated contractual powers. For the rules relating to amendments to contracts awarded via Confinement, please refer to paragraph 22.5.7.

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15.2 EMERGENCY PROCUREMENT PROCEDURE

The emergency procurement procedure is to be used under the following circumstances:

- Where the circumstances giving rise to the emergency were unforeseeable;
- Where engaging in normal bidding procedures or any other methods of procurement would be impractical; and
- Where the occurrence requires immediate action

The concept of retrospective authority applies only in the context of emergencies. Where an emergency process is followed correctly, condonation is not required.

15.2.1 Definition

a) The following circumstances would normally be regarded as sufficient grounds for invoking the emergency procedure i.e. a situation has arisen where there is an imminent risk of:
   - human injury or death;
   - human suffering;
   - serious business disruption that could not have been reasonably foreseen;
   - interruption of essential services;
   - serious damage to property or financial loss;
   - suffering or death of livestock or other animals; or
   - serious environmental damage or degradation[4].

b) The concept of an "emergency" must be applied restrictively and should not be used as an excuse for bad planning. As such, in order to qualify for the emergency procedure:
   - the circumstances giving rise to the emergency must not have been foreseeable;
   - engaging in bidding procedures or any other methods of procurement would be impractical; and
   - the occurrence requires immediate action.

An emergency should not be attributable to a lack of proper planning. In such instances appropriate action must be taken against the individual(s) responsible for the bad planning.

15.2.2 Process to institute the emergency process

a) The end-user requests authority from the person with the necessary delegation of authority to institute the emergency procurement procedure. If possible, the end user must notify procurement of the emergency requirement telephonically followed by email.

NB: Each Entity is responsible for developing its own Emergency Procedural Manual, covering all the relevant disciplines in the entity, and assigning specific persons and value thresholds, for the different roles (i.e. to institute the emergency procedure). Please see attached Appendix D for the Matrix for Approval of Emergency Procedures.

[4] An emergency procedure initiated as a result of environmental risks must comply with the prescripts of any applicable environmental legislation relating to emergency situations/measures.

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b) The duly authorised Manager to invoke the emergency process will consider the request and decide on whether to grant such authority. He/she will notify the requestor in the form of an email, SMS or even verbally. If by SMS or verbally, this must be confirmed in writing or by e-mail afterwards.

c) Procurement will invite a Bid(s) from a supplier(s) best able to deal with the emergency immediately. Alternatively, if the emergency occurs after office hours or it is not possible to contact procurement, the end user, after having received the required approval as per sub-paragraph (a) above, may invite the Bid/s directly from suppliers and/or issue instructions to commence the work.

d) Retrospective authority must be obtained as soon as possible thereafter.

15.2.3 Retrospective authority for the emergency procedure

a) Thereafter the AC or higher in terms of the Procurement Process Approval Delegations must be approached for retrospective authority for the emergency provided the transaction is within the AC's threshold. The AC must consider the motivation and provide retrospective authority if the emergency is validated. The AC is required to be vigilant with regard to exercising this power as the emergency procurement procedure must be adequately justified. The AC must furthermore consider any amendments to emergency transactions with circumspection.

b) Retrospective authority must be sought using the standard template.

c) The concept of retrospective authority applies only in the context of emergencies and does not apply to the condonation process.

d) If an emergency procedure is followed correctly, condonation is not required. It is also important to note that a correctly followed emergency procedure also falls outside the ambit of the Confinement process. However, if the use of the emergency procedure was not justified, it will equate to non-compliance with procurement processes and condonation would have to be sought.

15.3 HIGH VALUE TENDER PROCESS (HVTP)

- The High Value Tender Process (HVTP) subjects all transactions falling within the High Value Tender threshold (i.e. R50 million as at the date of this document) to independent scrutiny and validation of all commercial, contractual, process and governance aspects of the Bid process.
- The process enables Supply Chain to detect any shortcomings at key gateways in the Bid process and to make appropriate corrections before any award of business is made.

15.3.1 Principles

a) The HVTP applies to all transactions falling within the High Value Tender threshold. The HVTP offers an opportunity for peer review, guidance, advice and the sharing of good practice and experience. The HVTP subjects all high value bids to independent scrutiny and validation of all commercial, contractual, process and governance aspects of the bid process.

b) The process enables Supply Chain to detect any shortcomings at key gateways and to make appropriate corrections. This further reduces Transnet's risk on larger value acquisitions as any inefficiencies are addressed before any award of business is made.

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The gateways that are reviewable in the process are as follows:

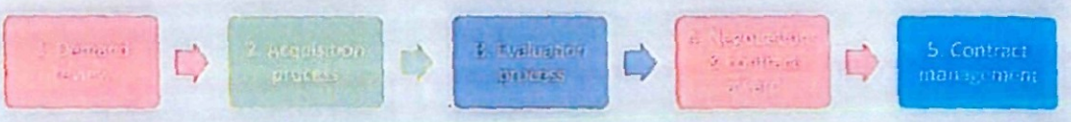


Figure [26] – The HVT process

15.3.2 The HVT Process

The following steps must be followed for any transactions falling within the High Value Tender threshold:

Entities must contact and involve the HVT team from the outset of the bidding process i.e. at the demand review stage. In order to ensure that the HVT team is able to provide complete assurance, Entities must ensure that the HVT team is present at all meetings/discussion relating to the high value tender. In cases where it is impractical for the HVT team to attend, where applicable approval must be obtained from iSCM Governance to conduct a review of the related documents thereafter.

The HVT team must attend to all procurement processes and advise Entities during each phase of the process. The following is a non-exhaustive list of the areas of review and may include best practice advice:

Demand Review and Acquisition Gateways

- Review the demand and business cases prior to final approval.
- Review the RFX document for accuracy and correctness before going to market.
- Assess the adequacy of the procurement proposed mechanism used i.e. RFP/RFI/Confinement and determine if governance is being followed by ensuring that the approval process has been complied with.
- Ensure that in all high value bids, a CFST contains at least Technical, Financial, Operational and Legal Support.
- Advise on the scoring methodology and governance issues related to the evaluation process.
- Ensure bid opening procedures are followed (including appropriate document security.

Evaluation Gateway

- Advise the teams during the evaluation process on all bids.
- Advise and support teams during the moderation process of scores on all bids.
- Review evaluation scorecards for accuracy and completeness and to ensure input by relevant parties has been included and signed off.
- Review AC documents for accuracy and correctness.

Negotiation & Contract Award Gateway

- Advise teams during the negotiation process and also determine if governance processes have been followed.
- Advise teams during the contracting process and also determine if governance processes have been followed.

Contract Management

- Ensure that contracts are correctly loaded and adequately managed.
- Ensure document retention procedures are followed.

General

- The HVT team must document lessons learnt throughout the process and provide feedback so that processes may be improved.
- It is important to note that the HVT team serves as an advisory function and does not in any way assume responsibility for business involvement in the procurement process.
- Please refer to PPM Directive 06/2014 regarding the timeframes for producing an HVT report and the methodology used to rate the various steps within each gateway [i.e. what constitutes a red (unsatisfactory), amber (requires improvement) and green (satisfactory) finding].

15.4 UNSOLICITED BIDS

- An Unsolicited Bid is an offer unilaterally submitted by a potential supplier of its own accord and received by Transnet outside of its normal procurement process.
- Transnet is not obliged to consider Unsolicited Bids received outside its normal bidding process.
- These rules do not apply to Bidders who merely seek to be registered on Transnet's Potential Vendor Portal (TPVP) in order to be considered as potential suppliers for future business. When Goods/Construction Works/Services are to be acquired from such Bidders, the normal procurement mechanisms are to be used

15.4.1 Definition

An Unsolicited Bid is an offer unilaterally submitted by a potential supplier of its own accord and received by Transnet outside of its normal procurement process.

Transnet does not encourage the consideration of Unsolicited Bids. Furthermore, Transnet is not obliged to accept Unsolicited Bids.

15.4.2 Risks

There are a number of risks related to the consideration of Unsolicited Bids:

a) It potentially undermines fair and competitive bidding processes.
b) It can result in purchasing Goods/Construction Works/Services at higher than market-related prices.
c) Transnet runs the risk of being accused of infringing on the Unsolicited Bidder's intellectual property if it uses the concepts used in the Unsolicited Bid to approach the market.
d) There is also danger that an Unsolicited Bid may be received, evaluated and regarded as an excellent proposal and accepted, only to ascertain afterwards that there were many suppliers in the market supplying the same or better goods or technology at much better / similar prices.

15.4.3 Criteria for consideration of unsolicited bids[5]

Transnet may only consider an Unsolicited Bid if the following requirements are met:

a) the product or service offered is a demonstrably or proven unique and innovative concept;
b) a need for the service or product has been established;
c) the product or service will be exceptionally beneficial to Transnet or have exceptional cost advantages for Transnet;
d) the Bidder is the sole supplier of the service or product; and
e) the reasons for not using one of the normal bidding processes have to be found to be sound by the person with the necessary delegation of authority.

15.4.4 Unacceptable unsolicited bids

Transnet must reject an Unsolicited Bid if the Bid:

a) relates to known institutional requirements which can, within reasonable and practicable limits, be acquired by conventional competitive bidding methods;
b) relates to goods or services which are generally available; or
c) does not comply substantially with the requirements of paragraph 15.4.3 above.

15.4.5 Rejection of unsolicited bids

Should Transnet decide to reject an Unsolicited Bid, the following steps must be followed:

a) The Bidder must be notified of the decision;
b) All documents received in the Unsolicited Bid must be returned to the Bidder; and
c) Transnet must ensure that it does not make use of any intellectual property or data that was contained in the Unsolicited Bid.

15.4.6 Process for consideration of unsolicited bids

a) The Unsolicited Bid must be considered by an evaluation team constituted of technical subject matter experts. The minutes of the evaluation meeting must be recorded.
b) The evaluation team should investigate and verify whether there are no other suppliers in the market.
c) In the event that the evaluation team has resolved to procure the Goods/Construction Works/Services, depending on the contract value, the Confinement or quotation process must be followed and thereafter a recommendation made to the AC, Manager or person with the relevant authority to approve the award.
d) All copies of Unsolicited Bids, records of discussions, records of deliberations and copies of correspondence relating to it, will be kept by the procurement official who led the process, and the AC secretary for record purposes.

15.4.7 Information to accompany the recommendation for award of the unsolicited Bid

The following information must be contained in the recommendation:

a) A detailed description of the goods or services;
b) A detailed description of benefits Transnet is to derive from the envisaged acquisition;
c) The costs associated with the acquisition of the service or product;
d) The validity period of the Unsolicited Bid;

[5] This section is largely based on the Municipal Finance Management Act Regulations and National Treasury's Practice Note 11 of 2008/2009 on Unsolicited Proposals

e) Proof of certification that the Bid was submitted by the person who holds the intellectual property rights in the goods or service; and

f) Certification by the evaluation team that there are no other suppliers who can provide the goods or services.

15.5 CONTRACT CONSOLIDATION

Contract consolidation may represent optimal value for Transnet in the following circumstances:

- where more than one Entity have existing contracts for the same Goods / Service with the same or different suppliers with significant price variations and differing contract terms; or
- where one or more Transnet Entity become aware that another Entity has already concluded a contract for the Goods /Services required by it and wish to utilise the existing contract ('piggybacking').

15.5.1 Principles

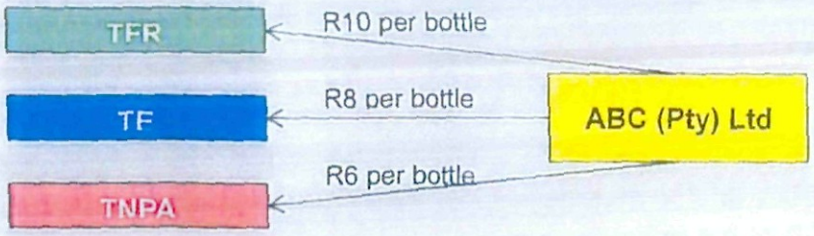
Consolidation of existing contracts is potentially problematic from a governance and operational perspective. For this reason, Transnet must endeavour to approach the market with a consolidated demand signal clearly outlined in a single RFP, rather than having each Entity approach the market in a piecemeal fashion and thereafter seeking to consolidate a number of different contracts. Therefore, when an Entity identifies the need to acquire goods/services that are common to more than one entity, it is imperative that they first ascertain whether it is feasible and advantageous to approach the market with the consolidated requirements of all Entities that require the goods / services.

Transnet can gain significantly from consolidating its demand. Due to economies of scale, it will be in a better position to negotiate price and contractual advantages. In addition, it will lessen the administrative burden on Transnet to manage a multiplicity of contracts.

15.5.2 Triggers for consolidation

One of the following circumstances should trigger the need for consolidation of existing contracts:

a) The same commodities or categories of commodities are being purchased by more than one entity from the same supplier but with differing prices and contract terms. For example:



Supply of bottled water

b) The same commodities or categories of commodities are being purchased by more than one entity from different suppliers with differing prices and contract terms. For example:

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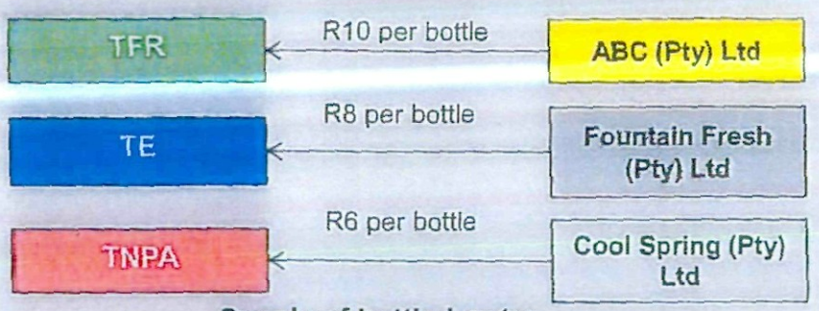
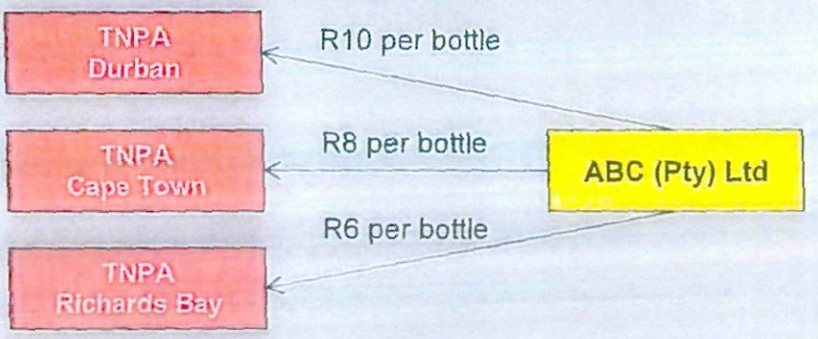


Supply of bottled water

c) The same commodities are being purchased by one OD from the same or different suppliers, with significant price variations. For example:



Supply of bottled water

15.5.3 Factors to consider when consolidating

The following factors need to be considered when consolidating existing contracts:

a) The probable increase in volumes required from the preferred suppliers (expressed in %) if contracts were to be consolidated;

b) Whether the existing contracts allow volume changes, and what the contract terms and conditions regarding volume changes are;

c) Price differentials between various contracts;

d) Other key contractual differences (e.g. specifications, delivery, payments, volume discounts etc.);

e) Whether the contracts allow for cancellation 'without cause';

f) The expiry dates of the various contracts;

g) The cost of termination (penalty for breach); and

h) Current contract management and monitoring.

The merits of each case should be evaluated based on the factors above in order to determine the feasibility of consolidation. Once the feasibility of contract consolidation has been determined, a decision will be made on whether to renegotiate one of the existing contracts or issue a new bid.

The cost of termination of existing contracts must be calculated and then weighed against potential benefits of consolidation in terms of cost and Quality. It is important to note that existing contract periods must be adhered to where financially viable.

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Paying high penalties due to the cancellation of existing contracts should be avoided as far as possible.

Where it is clear that there is no financial benefit for Transnet to renegotiate the existing contracts then the process to be followed would be to issue a new bid for the consolidated spend, when the existing contract(s) terminate.

15.5.4 Deciding on which contract to consolidate

Once a decision has been made to consolidate, the next issue is to determine which contract is the most favourable for consolidation. In arriving at this decision, the following factors must be considered:

a) Identify the contract that entails the biggest spend or usage;

b) The OD and/or region contributing the largest volume;

c) Whether one supplier can meet all Transnet's requirements;

d) The perception regarding potential market challenges (type of commodity and potential suppliers);

e) The competitive landscape of these Goods, Construction Works and Services; and

f) New suppliers in the market.

15.5.5 Process for consolidation of a number of existing contracts

a) Where it is considered feasible to consolidate spend to one of the existing contracts, all other contracts must be terminated. The most favourable existing contract would be increased to include other Transnet Entities' requirements after negotiation. The Transnet Entity originally managing that contract will be responsible to initiate the approval process for the increase of contract value.

b) Where the increase in value is below 10% of the original contract value, the matter must be submitted to the relevant Entity AC for noting.

c) If the increase in contract value is above 10%, the matter must be submitted to the relevant Transnet Entity's AC for approval.

d) Once the relevant Transnet Entity has approved the increase, the matter must be submitted to the other Transnet Entities' ACs for information.

e) Where consolidation would result in a substantial increase in the scope and value of the contract (more than 50% of the original estimated contract value as approved by the AC), it would be peremptory to embark upon a new bid process for the consolidated spend.

f) Inclusion of entities into the consolidated contract may be on a staggered basis. For example, where a current Transnet Entity's contract expires 3 months after the consolidated contract commences, that contract can be allowed to run its full period. Thereafter, the entity will be included in the new transversal agreement, with a sliding-scale volume discount structure being coupled to the pricing.

g) Contract "owners" must notify all Transnet users of the new transversal contracts that are in place to ensure maximum advantage for Transnet. However, please note that this mechanism is to be regarded as almost an interim measure. Ideally all entities must be approached during the demand planning stage already to obtain their estimated requirements beforehand for inclusion in the consolidated RFX document.

h) Note that the process to be followed for the normal increase of contract values and cancellation of contracts will still apply.

15.5.6 "Piggybacking"

a) "Piggybacking" arises when an existing contract has been identified, which one Transnet Entity ("the **main OD**") has concluded for specific goods/services, and which another entity ("the **piggybacking OD**") would like to utilise for their requirements.

b) The procurement teams of the relevant two entities need to negotiate and agree on one of the following two strategies, depending on the R-value of the intended piggybacking in relation to the original contract value;

i. Estimated increase in the original contract value as a result of the piggybacking is 20% or less.

Upon approval of the CPO of the Main OD, the AC of the Piggybacking OD who wishes to "piggyback" off the existing contract may grant approval for the proposed contract increase, and inform the Main OD AC holding the original contract. In this instance the original contracted unit price/s will in all probability remain unchanged.

ii. Estimated increase in the original contract will be >20%, but not exceeding 50%.

The AC of the Main OD which concluded the original contact must be approached for approval to piggyback. In such instances one should ideally be able to negotiate more favourable prices or volume discounts as a result of the increased volumes.

c) Once approval from the relevant AC is obtained, the supplier should be approached to indicate whether he/she is able to meet the increased volume as well as any price discounts that may be offered.

d) Where the increase in value is estimated to be 20% or less of the original contract value, the Piggybacking OD will approach the supplier directly and the matter must be re-submitted to the AC of the Piggybacking OD for final approval and thereafter to the AC of the Main OD, for noting.

e) If the increase in contract value is above 20%, the procurement team of the Main OD who concluded the original contract must approach the supplier and negotiate a more favourable price for Transnet, whereupon the final approval of the AC of the main OD must be sought. In this instance the Main OD AC's approval will be submitted to the AC of the piggybacking OD, for noting.

f) The respective Transnet Entities must make satisfactory arrangements between themselves regarding the apportionment or recovery of costs for goods / services, if applicable.

g) Where consolidation would result in a substantial increase in the scope and value of the contract (more than 50%), it would be prudent to embark upon a separate process for the "piggybacking requirement". In the interest of economies of scale going forward, it would be advisable to time the expiry of the different OD contracts that they expire at the same time, so that it will be possible to embark on a new transversal bid process for the consolidated spend across all the ODs.

h) The normal requirement regarding contract amendments in excess of 40% requiring approval by the person with DoA one level higher, will also apply to piggybacking contracts.

15.6 ACQUISITIONS ASSOCIATED WITH INCOME GENERATING CONTRACTS

15.6.1 Although income generating contracts are in principle excluded from this Procurement Procedure Manual, all associated expenditure contracts necessary to

fulfil such contracts (i.e. procurement contracts to acquire the necessary Goods/Construction Works/Services), falls within the ambit of the PPM.

15.6.2 For example, TFR negotiates an income generating contract to transport fuel from the Port of Durban to Zimbabwe. This would be a pure income generating contract and although it might require approval from the TFR Exco or even Transnet Board of Directors, it would fall outside the scope of the PPM and AC approval would not be necessary.

15.6.3 However, if TFR needs to purchase 2 additional locomotives and 90 rail tank wagons to provide this Service (fulfil the contract); such associated expenditure / procurement contracts would fall within the ambit of the PPM and would also require AC approval.

15.6.4 The only exception to this rule would be in circumstances where a Transnet Division or Specialist Unit needs to respond to an external bid invitation (e.g. TRE responding to a bid invitation issued by PRASA for the supply of suburban coaches). In such instances Transnet would need to prepare its bid for the income generating contract taking into consideration any goods/services that it would need to acquire in order to respond to the bid. The limited time available to respond to such bid invitation would not allow the Transnet Division or Specialist Unit to invite bids in the normal manner for goods/services required.

15.6.5 In such cases, irrespective of the monetary value of such transaction(s), the GCE, ADC or the Board may authorise such "confined" requests for bids from potential suppliers and/or approve the selection of possible joint venture partners/subcontractors, etc., without AC approval, provided that the matter(s) be reported for the AC's information as soon as possible after the Transnet OD has lodged its bid. When obtaining bids in respect of goods and services required in order to respond to an external bid invitation, the Transnet Entity must clearly state that the award of any business pursuant to such bids cannot be guaranteed and is conditional on the Transnet Entity being selected as the Successful Bidder.

15.6.6 Such transaction(s) need not be submitted for approval again, should the Transnet Entity be selected as the Successful Bidder, as this could lead to delays in the execution of such external income generating contract.

15.6.7 On completion of the project, the AC should be informed of the outcome in detail, e.g. how the selected subcontractors/JV Partners performed, whether the project was completed on time, what income was derived from the income generating contract after all outsourced parts have been accounted for, etc.

15.7 CONDONATIONS

Condonations are used to regularise an irregular step in a procurement process. They are to be granted in exceptional cases under the following circumstances:

- where inadvertent non-compliance with policies and procedures has been discovered; and
- the transactions associated with the non-compliance need to be regularized.

15.7.1 Principles

a) Non-compliance with laid down procurement policies and procedures carries with it huge legal, financial and reputational risk for Transnet. Transnet employees involved in any procurement activity are required to familiarize themselves with all relevant policies and procedures. They need to adhere

strictly to those prescripts, as lack of knowledge regarding procurement processes will not be considered a valid excuse for condonation. Therefore all instances of non-compliance will be regarded in a serious light and the power to grant condonations must be sparingly exercised.

b) It is important to distinguish between a transgression of a policy or procedure which may be condoned and a situation falling within the definition of an emergency. The occurrence of an emergency necessitates the appointment of a supplier without following a normal bidding process. Thereafter, retrospective approval is sought from the person with the necessary delegation. As such, invoking the emergency procedure does not require condonation.

15.7.2 When will condonations be granted?

As a general rule condonations will be granted in instances where:

- the person seeking condonation was acting in the best interest of Transnet or in the public interest at the time;
- Transnet did not suffer substantial financial loss or reputational harm;
- the conduct requiring condonation did not contravene any applicable legislation; and/or
- the non-compliance did not undermine the integrity of the bidding process.

15.7.3 When will condonations not be granted?

As a general rule condonations will not be granted in instances where the non-compliance:

- undermined the integrity of the procurement process;
- undermined the fairness, equity, transparency, competitiveness or cost effectiveness of the procurement process;
- resulted in Fruitless and Wasteful Expenditure;
- is attributable to inexcusable conduct on the part of any employee e.g. gross negligence or wilful disregard of procurement policies and procedures; and/or
- the conduct requiring condonation contravened any applicable legislation.

15.7.4 Information to be contained in a condonation submission

The following information must be provided in the submission, by either the person seeking condonation, his / her Manager or the relevant General Manager / HOD:

- When did the business first become aware of the non-compliance?
- The nature of the non-compliance/transgression;
- The provision of the PPM that was not complied with;
- A full explanation for the non-compliance i.e. why was the correct process not followed?
- What steps will be taken to ensure that the non-compliance will not occur again?
- Did Transnet suffer any financial loss due to the non-compliance? If yes, indicate the amount and substantiate;
- Has any corrective action (training, discipline, etc.) been taken? If so, provide full details; and
- Whether the matter would have been approved had due process been followed.

15.7.5 Process

a) Requests for condonation must be compiled and submitted by the employee who had transgressed the policy / procedure, using the approved standard template. This template should be submitted under cover of a memo to the

GCE. This submission must be accompanied by the relevant documentation that should have been submitted had due process been followed.

b) The request for condonation should first be submitted to the Manager of the employee who shall indicate to his/her General Manager whether he or she supports the request. The General Manager shall also indicate whether he/she supports the request.

c) Appropriate remedial action must be recommended taking into account all relevant factors such as the severity of the transgression, impact on Transnet and previous transgressions of a similar nature.

d) The matter must then be considered by the OD CPO, the AC, OD CE, the Transnet GCSCO and the Group CFO, each of whom shall indicate whether or not they support the request.

e) The matter must be submitted to the GCE, the ADC or to the Board itself for final approval, depending on the value of the transaction.

f) The decision of the relevant approval body shall be reported to the relevant OD CPO. The CPO will then ensure that the matter is reported to all relevant functional areas including the main OD AC, OD Compliance Manager / PFMA Champion, Human Resources (for information), and PFMA reporting, where applicable.

g) The Entity's AC shall report to the ISCM Governance COE on a monthly basis in the standard template on the number of matters condoned or not condoned including reasons and details of the transgressions. This information will be consolidated on a dashboard and will be tabled at the ISCM Council on a monthly basis.

h) Finally, if condonation is not granted, the instance of non-compliance must be reported as either Irregular or Fruitless and Wasteful Expenditure in terms of the PFMA, depending on the circumstances. Corrective or disciplinary action must be considered and taken in terms of Transnet's Disciplinary Code and Procedure and/or the PFMA.

Note: Consideration should be given to settling any claims against Transnet by suppliers who were not responsible in any way for the irregularity and who have provided the goods/works/services required. It is prejudicial to suppliers when Transnet withholds payment as a consequence of an internal irregularity. The Head of the Entity's Legal Department should be approached for approval in terms of paragraph 5.6.1 of the Transnet DoA Framework to authorise the required payments, as the "settling of a dispute".

15.7.6 Guiding principles

a) The discretion which the person with Delegated Powers has to grant condonations must be exercised sparingly on a case by case basis taking into account all relevant factors. These include the following:

- the extent and cause of the non-compliance;
- the seriousness of the non-compliance;
- the reasonableness of the explanation for the non-compliance;
- the effect of the non-compliance on the fairness of the procurement process;
- whether the matter would in all likelihood have been approved, had the proper processes been followed;
- whether condonation was requested as soon as possible after business became aware of the non-compliance. Note that condonations should be submitted to Group within 30 days after the Entity became aware of the non-compliance. It is accepted that there may be instances where it could take in

excess of 30 days to submit a condonation to Group. Grounds for such an extended period could be attributable to any of the related processes being delayed e.g. audit/forensic investigation, disciplinary process, ACs (matter referred back), etc;

b) Any expenditure following an irregular increase in contract value is considered to be equally irregular up until the date that such irregular action is condoned. If the irregular action is condoned, the expenditure is no longer considered to be irregular and normal expenditure against such a contract may continue, contract administrative processes and procedures applying. If the irregular action is, however, not condoned all expenditure since the irregular action occurred is regarded as irregular expenditure. This in effect means that if the condonation is not approved, no further increase may be made to the contract nor may the contract period be extended even if there is no increase to the initial value of the contract.

c) If there is an intention to extend/increase a contract after an irregularity has been discovered, such new extension/increase can only be considered if the condonation is granted. Such recommended increase/extension must consequently be presented to the AC for the consideration at the time when the condonation is submitted to the AC for support prior to the submission to Group. Should the AC concur in the recommendation to increase/extend the contract after/beyond the date of condonation, such increase/extension shall be made conditional subject to the condonation being granted. Should the condonation and/or subsequent increase of the contract not be granted by Group, the contract may not be increased/extended and should be cancelled. Should the AC not support the condonation, the matter is not submitted to Group and all irregular expenditure will be reported as such.

15.8 APPOINTMENT OF CONSULTANTS

The appointment of Consultants is regulated by the National Treasury's Instruction Note 01 of 2013/2014 on Cost Containment Measures.

In order to justify the appointment of consultants, the purpose for making use of consulting services must be fully understood and well-motivated. In all instances, the first check is to determine whether the Services can be sourced internally (i.e. are these skills available within Transnet). It is important that there is a justifiable reason and purpose for using external consultants. Consultants may be appointed under the following circumstances:

- where there is a need for specialist advice;
- the Services are non-repetitive in nature; and
- the need for the appointment of a Consultant is justified, i.e. it is necessary and appropriate.

15.8.1 Definition

Consulting services refer to those specialist services and skills that are required for the achievement of a specific objective with the aim of providing expert and professional advice on a time and adhoc basis. These professional services may include:

a) the rendering of expert advice;
b) obtaining relevant information from the institution to draft a proposal for the execution of specific tasks that are of a technical or intellectual nature;
c) business and advisory services;
d) infrastructure and planning services;
e) laboratory services; and

f) science and technology.

15.8.2 Approval to appoint consultants

The engagement of consultants is to be strictly controlled and appropriately approved. Transnet may only contract with a consultant after a gap analysis[6] has confirmed that Transnet does not have the requisite skills or resources in its full time employ to perform the services in question. A gap analysis would be conducted to identify any gaps between current available human resources and human resources required to complete a specific project. This means that Transnet should first conduct a skills gap analysis within its structures prior to seeking the use of consultants. Based on a business case[7] the appointment of a consultant may only be approved by the person with delegation of authority. In this regard, the motivation to appoint a consultant should provide a concise overview of the type of consulting services which are required and why the proposal/motivation for appointment of consultants should be supported.

The appointment of consultants should by default follow the Open bid process to ensure fair competition. In exceptional cases one may motivate the Confinement route, or the quotation route for low value consultancy appointments. Irrespective of the value, consultants may only be approached for quotations AFTER the necessary prior in-principle approval has been obtained from the appropriate person/body with the required DoA.

15.8.3 Justifiable reasons for Consultant services may be:

- Only an external Consultant can offer the skills and expertise that are not available within Transnet;
- Employees within Transnet who do have the skills do not have the time to get involved in the particular project. Consultants, guided by experience and expertise, can get the job done more quickly as they do not have to continue with business functions;
- The initiative cannot be assigned to anyone in-house due to confidentiality or sensitivity;
- An outside perspective is required. A Consultant can view the situation objectively, without the filters and existing paradigms that internal employees may have;
- Exposure to best practices is required. Due to larger consulting houses having a breadth of research and experience from different organisations, including international exposure, a Consultant can provide the requisite intellectual property and provide essential skills development; and/or
- There may be other justified reasons to obtain an external view.

15.8.4 Remuneration of consultants

Consultants may only be remunerated at the rates:

- determined in the "Guideline for fees" issued by the South African Institute of Chartered Accountants (SAICA);

[6] Refer to the Guideline on the Cost Containment Measures National Treasury Instruction Note 01 of 2013/2014 issued in August 2014 for more guidance on the gap analysis.

[7] Refer to the Guideline on the Cost Containment Measures National Treasury Instruction Note 01 of 2013/2014 issued in August 2014 for more guidance on the requirements of the business case.

- set out in the "Guide on Hourly Fee Rates for Consultants" by the Department of Public Service and Administration (DPSA); or
- prescribed by the body regulating the profession of the consultant.

Hotel accommodation and related costs in respect of consultants may not exceed R1300[8] per night per person (including dinner, breakfast and parking), air travel must be limited to economy class and claims for kilometres may not exceed the rates approved by the Automobile Association of South Africa.

15.8.5 **Process**

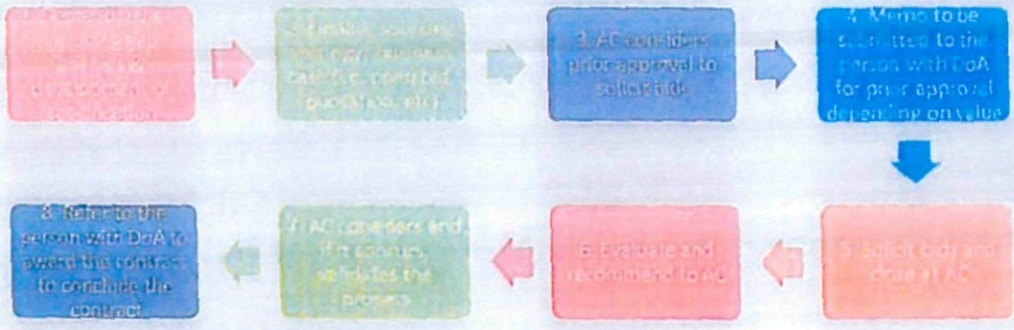
a) The submission for the appointment of a Consultant (business case) must be fully motivated in writing by the end-user and the OD CPO, to the OD's main AC for PRIOR written support of the recommendation to appoint a Consultant. It is important to properly motivate submissions taking into account all relevant factors. The submission should be submitted under cover of a memo to the relevant person with the necessary delegation to approve the appointment (Refer to the Transnet Group Delegation of Authority) using the required template. The motivation to appoint a Consultant must be properly justified taking into account whether the skill is available within Transnet (i.e. a gap analysis must be conducted for this purpose). The submission must also include the gap analysis and business case as explained in paragraph 15.8.2.

b) The submission must also motivate the reasons for the use of the proposed procurement mechanism (e.g. Confinement, Open Bid, or quotation system).

c) Where Group approval is required, (i.e. matters exceeding the Entity's CE's DoA), the matter must be considered by the Transnet GCSCO, who would indicate whether or not he/she supports the request.

d) The matter must be submitted to the person/body with the necessary DoA for final prior approval depending on the value of the transaction.

e) After prior approval has been obtained, the recommendation for the award of business must be submitted to the relevant AC, in the normal manner. The award and conclusion of the subsequent contract is dealt with in terms of the normal DoA for signing contracts.



15.8.6 **Consultancy reduction plans**

[8] As per National Treasury Instruction Note 01 of 2013/2014 on Cost Containment

Transnet is required to develop consultancy reduction plans by 31 March each year for implementation in the subsequent financial year. As such, CEs of all Transnet Entities are required to develop their respective consultancy reduction plans in consultation with their CPOs and submit it to the GCFO's office by the end of February each year.

15.8.7 Contract management of Consultancy agreements

a) It is important to ensure that deliverables are clear, specific and measurable to easily measure project outcomes and to ensure that Transnet receives value for money.

b) Contracts with consultants must contain clearly defined roles and responsibilities of Transnet and the consultant to enable effective project management and to facilitate oversight during the course of the project.

c) There should be a proper contract management and oversight process to prevent differences between the approved bid prices and the signed contract amounts. If changes in the scope of a project necessitate a change in the contract, it should be properly motivated, documented and approved in accordance with the same rules that apply to amendments to contracts awarded via Confinement as detailed in paragraph 22.5.7.

d) Contracts and payments should be monitored properly to ensure that the work done meets the contractual deliverables. This includes monitoring compliance with service level agreements, detailed payment advices and supporting evidence. All contracts of consultants must include penalty clauses for poor performance and in this regard, these clauses must be invoked where deemed necessary.

Background and Context

Procurement planning

SECTION C:

GO TO MARKET

Chapter 16: Bid Preparation

Chapter 17: Bid Administration

Evaluation and Adjudication

Contract Management

Functions of Governance Structures

Appendices

CHAPTER 16: BID PREPARATION

Construction procurement documents for engineering and construction works contract, supply contracts that involve the purchase of construction materials and equipment, services relating to any aspect of construction including professional services, disposals of surplus materials and equipment and disposals in the form of demolitions shall be formatted and compiled in accordance with the CIDB Standard for Uniformity in Construction Procurement. These requirements are addressed in the standard construction procurement templates and NEC3 templates available on the Transnet Intranet and these must be utilised for all construction procurement.

16.1 COMPILING BIDS - GENERAL

Bid documents define the rights, risks and obligations of the parties involved in the bidding process and subsequent contract. Documents must therefore clearly and precisely spell out all relevant aspects of the bid such as the work to be carried out, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements and the warranty and maintenance requirements.

Accordingly, such documentation should be legally and technically sound and should assign risk in an appropriate manner. The bid documents must provide Bidders with clear and comprehensive information necessary to enable them to submit responsive bids. The specifications, including the evaluation criteria and weightings, must be determined upfront as indicated in Chapter 13 above *(Determining Bid Evaluation Criteria)*, as bids may only be evaluated according to the criteria stipulated in the bid documentation. Bid documents must be drafted with care and precision so as to reduce the risk of legal challenge by unsuccessful bidders and avoid unintended consequences.

16.2 SPECIFICATIONS/SCOPE OF WORK IN BID DOCUMENTS

Transnet must ensure that its specifications/scope of work in bid documents are clear and concise so that Bidders are able to understand and respond to the Bid adequately. Specifications should be functional and fit for purpose, rather than brand- or product-specific. Specifications must not include any unfair exclusionary terms. Compiling a specification around one supplier's product is unfair and not allowed. Where it is necessary to specify a particular brand or product, the RFX document must request the particular brand/product "or similar". Specifications must also incorporate any applicable regulatory requirements. Sustainability criteria (e.g. environmental considerations) should also be included in the specification, where possible. There should be a rational link between the specification/scope of work and the functional evaluation criteria.

Once the technical specification/scope of work has been finalised, the end user department or head of the technical specification sub-committee must sign off specifically confirming that the specification is:

- Fit for purpose;
- objective; and
- unbiased and not slanted in favour of any bidder.

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16.3 EVALUATION CRITERIA IN BID DOCUMENTS

The bid documents must make it clear that, where applicable [9], Bidders will be assessed in two stages:

CRITERION	EXPLANATION
STAGE 1	
Test for Administrative responsiveness	Inform Bidders of the minimum requirements for responsiveness (i.e. the completeness of response and returnable documents), and the consequences of not being responsive
Test for Substantive responsiveness	Indicate the requirements for substantive responsiveness including whether the Bid materially complies with the scope and/or specification given. Prequalification Criteria, if any, must also be indicated. These criteria must be minimum mandatory requirements in terms of technical, SD or financial stability.
INDICATE APPLICABLE MINIMUM THRESHOLDS (IN THE FOLLOWING ORDER)	
Local Content Threshold	Indicate if the RFX is subject to regulation 9 (1) of the PPPFA as a designated sector for local production and content as well as the applicable stipulated minimum threshold as stipulated in the relevant Instruction Note issued by National Treasury. As The LC thresholds are laid down in terms of legislation, the lowering of such minimum thresholds is not allowed and bidders who fail to meet the laid down minimum thresholds for LC will be disqualified.
Supplier Development Threshold	The SD minimum threshold, criteria and weightings that were developed during the planning phase should be incorporated in the bid document. If applicable, a disclaimer regarding the lowering of the SD threshold must be included in the bid document as indicated in paragraph 13.5. No bid must be regarded as an acceptable bid if it fails to achieve the minimum qualifying score for SD as indicated in the bid.
Functionality Threshold	Transnet must indicate in the invitation to submit a bid if that bid will be evaluated on functionality. The evaluation criteria for measuring functionality must be objective. When evaluating bids on functionality, the following must be clearly specified in the invitation to submit a bid: • evaluation criteria for measuring functionality; • weight of each criterion; • applicable values that will be utilised when scoring each criterion; and • minimum qualifying score/threshold for functionality. If applicable, a disclaimer regarding the lowering of the Functionality threshold must be included in the bid document as indicated in paragraph 13.5. No bid must be regarded as an acceptable bid if it fails to achieve the minimum qualifying score for functionality as indicated in the bid.

[9] This is the default position but will not necessarily be applicable in all instances, e.g. low value transactions or approved list purchases where the quality of the product has already been pre-approved.

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CRITERION	EXPLANATION
STAGE 2	
FINAL WEIGHTED EVALUATION ON THE APPLICABLE PREFERENCE POINT SYSTEM	The applicable preference point system must be stated in the bid document. In terms of the preference point system, proposals will be evaluated on price which will be allocated 80 or 90 points and preference which will be allocated 20 or 10 points, dependent on the value of the Goods. The 80/20 preference point system applies where the acquisition of the Goods, Services or Works will be between R30 000 and R1 000 000.00 (all applicable taxes included). For transactions below R30 000, only one quote needs to be obtained. However, if more than one quote is requested, the 80/20 system may also be applied but Transnet Entities have a discretion to increase the preference point system within the range of 80/20 to 60/40. The 90/10 preference point system applies where the acquisition of the Goods will exceed R1 000 000.00 (all applicable taxes included).
Price	It is necessary to provide Bidders with a comprehensive pricing schedule to enable proper and uniform submission from Bidders and to enable a uniform approach to the evaluation of price. The following issues are frequently included in price to assess TCO: • Installation costs • Warranties • Service and maintenance costs • Operating supplies • Storage costs • Commercial discounts • Incoterms • Price adjustment conditions • Exchange rate fluctuations • Lead times
Preference	Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the regulations issued in terms of the PPPFA.

16.4 TIMEFRAMES

16.4.1 Submission of Bids

Suppliers must be afforded sufficient time to prepare and submit Bids. Below are guidelines to determine the minimum timeframes:

a) **Off-the-shelf type of purchases below R2 million:** between 3 to 5 working days.

b) **Formal RFQs below R2 million:** between 7 to 21 working days depending on the type of transaction.

c) **Off-the-shelf type of purchases:** a minimum of two weeks should be allowed, if possible.

d) **More complex bids** (such as Construction Works which involve quantity surveying, national bids, etc.): a minimum of 3 weeks should be allowed.

e) **When international responses are anticipated**, more than 3 weeks should be allocated to ensure a sufficient response.

16.5 VALIDITY PERIOD

The validity period must allow ample time for the evaluation, drafting of the recommendation and approval by all the necessary governing structures for each bid. Unless circumstances require a longer or shorter period, bid documents must state that the Bids must hold good

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for at least 90 working days (i.e. any day other than a Saturday, Sunday or public holiday) from the closing date.

It is important to note that for the purposes of adjudication, bids are required to remain valid only until the matter is considered by the AC provided that the AC approves the process. Should the AC not approve the matter, the validity period must be timeously extended.

Where the AC has approved the process that the Bid be awarded to the Preferred Bidder, the Bids of the Preferred Bidder as well as the second and third ranked Bidder (where the first/second ranked Bidder is unable or unwilling to conclude a contract as per paragraph 21.7) will be regarded as being valid until the final contract is concluded. The RFX document must include a term to the effect that it will be automatically presumed that Bids of Preferred Bidders as well as second and third ranked bidders will remain valid until the conclusion of a contract with the Successful Bidder. The reason why the validity period of the 2nd and 3rd ranked Bidders remain valid is the following: should contract negotiations with the Preferred Bidder not result in the conclusion of a contract, Transnet would reserve the right to approach the second or third ranked bidder to award the business.

Where the AC has merely authorised Post Tender Negotiation, the Bids must remain valid during the negotiation process until the AC has finally approved the process. For this purpose, Bidders must be requested to extend the validity period of their bid when submitting their best and final offers.

cidb

The CIDB SFU provides that the tender offer validity period provided for in the Tender Data shall generally not exceed eight weeks and in exceptional circumstances, not exceed 12 weeks.

16.6 ESSENTIAL REQUIREMENTS IN BID DOCUMENT

The standard RFX template, available on the iSCM Transnet intranet, must be used when Goods, Construction Works and Services are procured.

16.6.1 Inclusions

When preparing the bid documentation the following must be considered in addition to the requirements as per the standard RFP template:

a) An indication as to whether the two envelope system is applicable to the Bid – refer to paragraph 13.11;

b) Name and address of the Transnet Entity/ies procuring the goods/services.

c) Manner and place for the submission of proposals.

d) Deadline for submission of proposals.

e) Validity period of submitted Bids.

f) Bid reference number (see paragraph 17.1.1).

g) Instructions for preparing Bids.

h) Consecutively indexed and numbered pages of the bid documents in order that both Bidder and contract administrator can easily check the completeness of the bid document.

l) The rules governing communication between the Bidder and Transnet during the bidding process.

j) The name and contact details of the Transnet employee who is authorised to communicate directly with and to receive communications directly from suppliers in connection with the bid invitation, including clarifications of the bid.

k) An indication as to whether or not Transnet intends to convene a compulsory briefing session.

l) Standard terms and conditions of contract and the General Bid Conditions.

m) Transnet's Integrity Pact.

n) Requirements of the CIDB in the case of a bid relating to construction, upgrading or refurbishment of buildings and infrastructure.

o) Any criteria required by other applicable legislation.

p) Obligation on Bidders to declare any conflict of interest they may have in respect of the Bid that is to be submitted. In particular, Bidders must state whether they have any personal or business relationship with any employees or directors of Transnet.

q) An indication of whether or not suppliers are permitted to submit proposals for only a portion of the goods/services to be procured and if so, a description of the portion(s) for which such proposals may be submitted. Bid documents must be specific as in certain instances Transnet may require that the whole contract be completed by the same contractor in order to establish responsibility.

r) Bid documents must state that Transnet reserves the right to accept a complete Bid, even if it is not the lowest, provided it is in the best interest of Transnet.

s) Whether the process may involve post tender negotiations.

t) Anticipated date(s) for starting delivery and/or completion of delivery of the Goods/Construction Works/Services.

u) Conditions regarding shipping, if applicable.

v) Currency and the manner in which the proposal price is to be formulated or expressed.

w) A notice to Bidders that Bids must be submitted by the Bidder in a sealed envelope. The envelope must indicate the bidder's name, a contact person and details, the bid number, the subject and closing date, time and venue so that there is no need to open the document and risk the possibility of prices being leaked.

x) Terms of payment.

y) Where Bidders are required to insert prices on price lists supplied by Transnet, they must be advised to delete items for which they do not wish to bid if they have this option. If the price has been included elsewhere in the price list, this must be indicated. After Bids have been opened, Bidders may not supplement their original offer if it was incomplete.

z) A list of the required returnable documents, e.g. industry-specific certificates, etc. The list should indicate clearly which returnable documents must be submitted by the closing date, failing which bidders will be eliminated.

aa) Alternative Bids: The RFP should indicate clearly if Alternative Bids would be accepted. If Alternative Bids are acceptable, the RFP must state that an Alternative Bid will only be considered if a Bidder also submits a main offer strictly in accordance with all the requirements stated in the RFP. Such alternative bids will be evaluated as separate bids and included in a schedule

that compares the requirements of the RFP with the Alternative Bid that is proposed. In instances where the RFP did not invite alternative bids, alternative bids will as a general rule not be considered, as that could prejudice bidders who did not provide alternative bids and also on the basis that the RFP did not state clearly that alternative bids will also be considered. The CFST therefore has to consider this aspect carefully when preparing the bid documents.

bb) Bid documentation must state that Transnet shall not be obliged to accept the lowest, any bid or an alternative bid.

cc) Bid documentation must stipulate that disputes regarding the bidding process must be settled by the Procurement Ombudsman.

dd) A space on each page where the Bidder must append his signature plus name of company and company stamp.

ee) A certificate of attendance for a compulsory site inspection/tender briefing session (if applicable).

16.6.2 A CD containing pricing spreadsheets may be requested in order to simplify the copying of information for comparison purposes. This CD should be supplementary and should contain no information that is not in the hard copy of the Bid submission.

16.6.3 **Transnet's Disclaimers**

The standard RFP documents should state that Transnet is not committed to any course of action as a result of its issuance of the RFP and/or its receipt of a proposal in response to it. The RFP should also state that Transnet will not be bound by an interim step in the procurement process such as the selection of a preferred bidder/s. In particular, Transnet reserves the right to:

a) modify the RFP's Goods/Construction Works/Services or other terms and conditions and request respondents to re-bid on any changes;

b) reject any proposal which does not conform to the detailed instructions and specifications;

c) disqualify proposals submitted after the stated submission deadline;

d) not necessarily accept the lowest priced proposal;

e) reject all proposals, if it so decides;

f) award a contract in connection with the RFP at any time after the RFP's closing date;

g) award only a portion of the proposed goods/services which are reflected in the scope of the RFP;

h) split the award of the contract between more than one supplier; or

i) make no award of a contract.

Bidders who submit Bids subject to certain qualifications which are in conflict with certain bid conditions must be advised to withdraw such qualification, failing which the Bid may be disqualified.

The RFX documents must also contain a disclaimer to the effect that Transnet will regard the original Bid as the legal binding Bid and that Transnet will not be held liable for discrepancies between the original Bid and duplicate copies of the Bid.

16.6.4 **Transnet's standard terms and conditions of contract**

When issuing any RFX, Transnet's standard terms and conditions must be used. There are separate templates for standard terms and conditions for RFPs and RFQs.

Please note that a standard contract template has been prepared for Market Demand Strategy related projects. This template is available on the Transnet Intranet. For any additional terms and conditions, a schedule detailing these must be added to the standard terms and conditions. The reason for this is that the terms and conditions that accompany the RFP document will become the terms and conditions of any master agreement that is concluded with a supplier in terms of the RFP. Alternatively, if the final terms of the contract have been finalised at the RFP issue stage, the Master Agreement may be issued with the RFP as opposed to the standard terms and conditions of contract.

16.6.5 NEC3 conditions of contract and CIDB Standard for Uniformity

cidb

When issuing any RFP for construction procurement, the NEC3 conditions of contract must be used unless deviation is justified as provided for in Paragraph 9.3.2 of the PPM. Please note that a standard contract template/standard construction procurement template has been prepared for Construction related projects. For any additional terms and conditions, Group Legal must be approached via the OD/SU Legal Department.

Should the need arise for additional clauses in terms of the NEC3 Z clauses, these must be carefully drafted and approved by the Group/OD Legal Department.

16.7 SIGN-OFF OF BID DOCUMENTATION AND GO-TO-MARKET STRATEGY

Once the bid documentation has been compiled, the bid document together with the media advert must be reviewed and signed off as correct by the CPO or person to whom the power has been delegated, as a quality control measure.

Guidance Note: The RFP is normally only developed and submitted for approval once the Sourcing Strategy has been developed and approved. Where possible, the Sourcing Strategy and RFX document may be developed in parallel. This may reduce timelines as both documents may be approved at the same time.

CHAPTER 17: BID ADMINISTRATION

This Chapter applies to both general procurement and construction procurement.

Note: At this stage in the process, the RFX document, the evaluation criteria and weightings, the evaluation methodology, as well as the going to market strategy has already been signed off by the person or governance structure with the appropriate DoA.

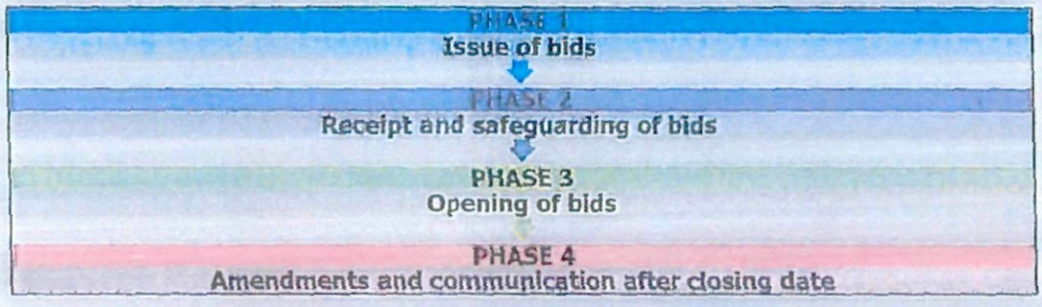

Figure [27] – Four phases of bid administration

17.1 PHASE 1: ISSUE OF BIDS

17.1.1 Bid reference numbers and short descriptions

Prior to advertising, each RFX must be issued with a business-unique consecutive number. The issuing of RFX numbers must be controlled by a responsible person, e.g. the AC Secretary. The RFX number must clearly indicate the following:

- whether it was an Open Bid or a quotation; e.g. RFX No, Quotation No, or Approved List No.;
- the Entity which issued the bid;
- in the case of a CIDB bid, a prefix to the bid number must be included to indicate that it is a CIDB-bid;
- a specific digit/character can be allocated to indicate whether a bid will close at the AC or at Regional/depot level e.g. BID NO: TPT/CT/11/01/138/CIDB; and
- a short description of the requirement must be added after the unique number, e.g. "CONSTRUCTION OF NEW ELECTRIC SUB-STATION AT THE CONTAINER TERMINAL AT PIER NO 2, PORT OF SALDANHA".

17.1.2 All notices and adverts to be issued in the name of Transnet SOC Ltd

All documentation relating to bids must be issued in the name of Transnet SOC Ltd and be advertised in the Republic of South Africa, (nationally and/or regionally), and

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abroad if necessary. The name of the relevant OD requiring the service must be clearly indicated, e.g. Transnet Freight Rail, a Division of Transnet SOC Ltd (Reg. No. 1990/000900/30). The reason for this requirement is that every legal document must reflect the company's registered name i.e. the legal persona of the company which will be contracted with.

17.1.3 Important information in notices and Advertisements

The format of the Advertisement is prescribed by Group Communications guidelines. This format has been adapted for Supply Chain purposes and must be used for all Advertisements. The advertisement template can be obtained on the iSCM Intranet Portal.

The advert should be as short as possible but should contain all relevant information. Notices and Advertisements calling for Bids must include the following information pertaining to the collection and lodging of bid documents:

- the RFX number and a brief description of the goods / services required;
- where the bid documents may be obtained and the cost to purchase them (if any);
- the closing date for collection of bid documents (in this regard adequate time must be given to bidders to collect the bid documents);
- closing date, time and venue for submission of the bid document;
- information pertaining to site inspections or pre-bid briefing sessions;
- contact person's business address and contact details; and
- details of Transnet's fraud line.

17.1.4 Issuing of open bids

Where appropriate, open bids (particularly for transversals and national bids) must be issued from at least every major region that Transnet has presence across the country. A central electronic Issue Register must be maintained on a Shared Portal as per paragraph 17.1.7.

17.1.5 Bid document fees

a) A Manager with the necessary Delegated Authority for a particular contract may decide, at his/her own discretion, that a non-refundable fee be charged to Bidders for bid documents. This fee must only reflect the administrative costs of preparing and issuing the bid documents. The price to be charged for the bid documentation must be stated in the advertisement and invitation to bid. The decision to charge a document fee must be taken with circumspection as small companies may be unfairly excluded from the process due to the prohibitive costs of the bid documents.

Should the Manager decide to charge for the bid document, the following bid document fees structure **must** be used to determine a fee for bid documents:

TABLE 21

Value of bid	Bid fee
<R5 million	no charge
R5million to <R20 million	R200
R20million to <R50 million	R500
R50million to <R100 million	R750

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>R100 million	R1000 or higher (at the discretion of CPO) but not exceeding R5 000.

b) Despite the waiver of bid fees for transactions below R5 million, only one Bid must be issued per Bidder. The details of the Bidder must be recorded in the RFX Issue Register as per paragraph 17.1.7. Bidders are therefore not allowed to collect more than one RFX document. The names of the Bidders that submit Bids must then be verified against the names on the RFX Issue Register.

c) **Guidance Note:** Consideration should also be given to issuing RFPs in digital format on CDs at no charge. Should it be decided that a bid fee be charged for the CD, this fee must not exceed R100.

d) Where a bid document fee is to be charged, the advert must clearly state the payment method. The sale of bid documents at site meetings is not permitted.

e) Should cash payment be one of the chosen payment methods, bid documents must clearly stipulate that payments be made to the finance office (or another office independent from the office that issued the bid). There must be strict control over cash received and documentary proof of documents sold and receipts issued must be kept on the appropriate files.

f) The finance office must ensure that the RFX number is clearly reflected on the receipt. Bid documents may only be issued to Bidders producing a valid original receipt clearly indicating the relevant RFX number. A copy of the receipt with the signatures of the issuing officer and the Bidder who purchased the document must be kept on the appropriate file. A copy of this documentation must be sent to the Secretary of the AC before the closing date.

g) In the event of the bid being cancelled the fee must be refunded. Please refer to paragraph 20.6 in this regard.

17.1.6 Publication of notice / advert

a) The notice/advert must be published on or before the day of issuing of the bids. Bids may be published in the appropriate media for the Goods/Construction Works/Services/Construction Works being procured, e.g. the Transnet Internet site, trade magazines, newspapers which are distributed locally or wider, in electronic bid bulletins, other media which specifically targets specific markets or small business enterprises, whichever is best suited to reach the potential Bidders.

b) In order to facilitate accessibility to Transnet tenders, the following guidelines should be followed regarding advertising:
- Transversal bids should be advertised in national media as well as regional media where it is intended that the business will be split regionally;
- National bids should be advertised in all national media as well as all major regional media where it is intended that the business will be split regionally;
- Regional bids should be advertised regionally only;

c) Copies of the notice and bid documents must be furnished to the AC secretariat if the bid is expected to fall within the jurisdiction of such an AC.

d) Any subsequent amendments to notices inviting Bids (e.g. extension of the closing date) shall be dealt with in terms of paragraph 17.1.9a) below. The AC Secretariat must be notified timeously of such amendments. The office

responsible for placing the adverts must keep copies of all adverts as placed by the relevant media.

e) **Guidance Note:** Consideration should also be given to advertising bids at Transnet's ED Hubs, through Transnet's ED initiatives and 1 online Tender Bulletin for all Transnet entities.

f) cidb Advertisements for bidders to submit offers in respect of engineering and Construction Works contracts, shall be placed on the CIDB website using the i-Tender@cidb service at least 10 working days before the closing date for submissions and at least 5 working days before any compulsory site meeting. The threshold for advertising on the CIDB website is aligned to Transnet's threshold for issuing open tenders i.e. R2 million.

17.1.7 **RFX Issue Register**

The following important information pertaining to all bid documents issued must be entered into the RFX Issue Register, which is compiled by the RFX Issuing Office:

- RFX number and description;
- receipt number and date of purchase if a bid document fee was charged;
- document number e.g. 'Document 3' sold to 'Potential Bidder x';
- name and contact particulars of person who collected documents;
- bidder's (company) name; and
- closing date.

A record must be kept of all the names, contact details of the persons and enterprises to which bid documents have been issued, as well as the document number sold to the potential Bidder. This is necessary in case there is a clarification or amendment, and all Bidders need to be informed.

17.1.8 **Queries from bidders / amendments before the closing date**

Employees/persons listed in bid notices as contact persons must be available to answer requests for clarification from prospective Bidders. This is because a Bidder may only communicate with the person listed on the bid document on any matter regarding his Bid prior to the closing date of the bid. Ideally, this person should be the tender administrator.

Without identifying which bidder sought the clarification, the clarification provided must be communicated simultaneously in writing to all Bidders who obtained bid documents. The response to such a request must be effected within a reasonable time prior to the deadline of the bid to enable the Bidders to make timely submissions of their Bids, considering the clarification. If necessary, the deadline should be extended.

cidb

Bidders may seek clarification in writing at least 5 working days before the closing time stated in the bid and all bidders who purchased bid documents must be notified accordingly.

17.1.9 **Amendments before the closing date**

a) Transnet is entitled to amend any bid condition, validity period, specification or plan or extend the closing date before the closing date, or in the case of a compulsory briefing session, before the scheduled session.

Such amendments or extensions must be advertised in the same media as the initial advert if the amendment is made prior to the deadline for collection of bid documents or the compulsory briefing session. If the amendment occurs after the deadline for collection of documents or briefing session, all Bidders who obtained bid documents must be advised in writing of such amendment or extension a minimum of three Working Days before the scheduled closing/briefing date. The new closing date and time must be clearly reflected.

b) Where the closing date of a bid is extended, the notice of extension must also state that Bids already received will be retained unopened in the tender box and be duly considered after the expiry of the extended period. However, the Bidder may request that such Bid be returned to him/her. The Bidder may also cancel the existing Bid by submitting a later dated Bid before the extended closing date. For amendments after the closing date refer to paragraph 17.4.1.

c) In the event of a Material Amendment to the specification or scope of work, to which other new Bidders could possibly respond, the bid must be cancelled and a revised RFX must be advertised. This would give all other potential Bidders the opportunity to respond. This can only be done after approval by the person who signed off the RFX document (refer paragraph 16.7 above), has been obtained. The cancellation must be advertised in the relevant media. If the cancellation and re-issue happen simultaneously, they may be advertised together provided the necessary approvals have been obtained.

cidb

A bid may not be re-issued covering substantially the same scope of work within a period of six months unless only one bid was received and such tender was returned unopened The CIDB must be informed via the i-Tender system of any non-awards or cancellation of tenders after approval from the respective delegation of authority has been obtained.

Addendas may be issued to each bidder during the period from the date that the bid documents were made available until 3 days before the bid closing time.

17.1.10 **Compulsory Site Inspection / Briefing Sessions**

a) Discretion must be exercised in deciding whether a compulsory site inspection or briefing session is necessary. A compulsory site inspection or briefing session should only be held in cases where it is absolutely necessary for Bidders to view the site in order to prepare their Bids, or where highly complex requirements need to be explained to Bidders to enable them to complete their Bids properly. Bidders are obliged to attend scheduled compulsory briefing sessions, as failure to do so will result in disqualification of the Bids. The bid notices must clearly indicate this.

b) **Guidance Note:** Bidders are often required to have a valid RFX in their possession at the briefing session so that specific clauses of the document may be referenced during discussions. In such cases the RFX document should emphasise this. Should Bidders have purchased the bid documents but simply do not have the documents in their possession at the briefing session, they should not be disqualified. Attention should be drawn to the requirement of the

RFX and that the onus is on the Bidders to come prepared. Bidders must be advised that Transnet will not be held responsible if any Bidder who did not have a RFX document and was unable to follow the discussion at the compulsory session subsequently feels disadvantaged as a result thereof.

c) If a compulsory site inspection/briefing session is convened, minutes of the meeting must be recorded. The minutes must include the queries/requests raised for clarification at the meeting, together with the responses to those requests without identifying the sources of the requests. The minutes must be forwarded to all Bidders who attended the meeting to ensure that the same information is provided to all Bidders. This would enable Bidders to take the minutes into account in preparing their Bids.

d) Attendance at a compulsory site inspection/briefing session must be recorded in an attendance register and verified against the RFX Issue Register.

e) **Guidance Note:** It is recommended that questions be submitted in writing by Bidders and that Transnet respond in writing to all bidders within 48 hours of the briefing session. If a compulsory briefing session is not considered absolutely essential, consideration could be given to having a non-compulsory briefing session. In such instances, attendance at such a meeting would be on a voluntary basis. The RFX documents must clearly state this. The RFX should also state that Transnet will not be held responsible if any Bidder who did not attend the non-compulsory session subsequently feels disadvantaged as a result thereof.

f) Latecomers to any briefing session should be allowed to attend. However, no information should be repeated for the benefit of latecomers. They must be advised that the information will be made available to them in the minutes of the briefing session. The minutes will be made available to all attendees who completed the attendance register. Details of latecomers (e.g. company name and names of their representatives, as well as approximate time of (late) arrival) must be recorded on the site register, so as to ensure that Transnet's interest is protected.

g) **Guidance Note:** For transversal and national tenders, briefing sessions should be held at least at all the major centres where Transnet has offices. Consideration should also be given to the possibility of using video conferencing facilities in order to conduct one briefing session nation-wide.

17.1.11 Electronic issuing and receipt of Bids

ODs may at their discretion, and provided that they have introduced sufficient controls to prevent abuse, make use of electronic technology to:

- advertise bids (e.g. website);
- issue bid documents;
- enable payment for bid documents where applicable; and/or
- receive Bids.

This will only be allowed **provided** that the following basic requirements are complied with:

a) Potential Bidders who cannot access electronic media must also be accommodated. There must be an option for potential Bidders to obtain either electronic or hard copies of the bid document;

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b) Where applicable, bid documents must be paid for, irrespective of whether the bid documents are obtained in hard copy or electronically;

c) Appropriate measures must be taken to protect electronic versions of the bid document;

d) Bids must be received in a controlled environment, and may only be accessed /downloaded from the dedicated 'Electronic Tender Box' (ETB) after the closing date and time;

e) The ETB should be able to send an automated acknowledgment confirming date and time of delivery;

f) There should be a backup system in case of server failure;

g) The ETB may not accept late Bids. A Bid is late if it is received at Transnet after the closing date and time. Bidders must be advised that server issues outside of the Transnet electronic environment will not be considered as a reason for acceptance of late Bids.

h) The ETB should be able to send a message to the sender to inform him/her that the Bid was received late and will not be considered;

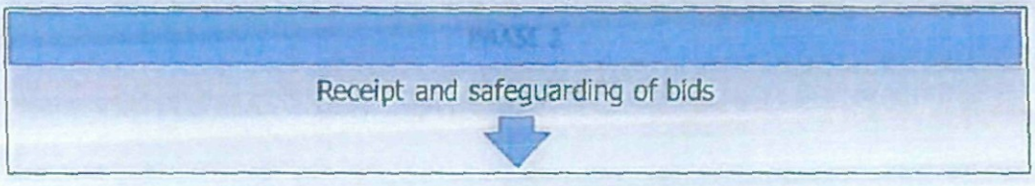
i) The ETB should be able to handle unlimited numbers of last minute Bids. It should be impossible to overload;

j) ETBs need to be able to cater for different bids closing on different dates;

k) It will be allowed to receive scanned original documents e.g. B-BBEE certificates. Transnet may however at its discretion decide to subsequently call for hard copy originals or certified copies if deemed necessary;

l) Documents must be write protected; and

m) There must be no file size constraints with regard to mail attachments.



17.2 PHASE 2: RECEIPT AND SAFEGUARDING OF BIDS

The RFX document must clearly indicate what must be stated on the outside of the sealed envelope containing the Bid. Refer to paragraph 16.6.1w) in Chapter 16 on *Bid Preparation.*

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If the two envelope system is utilised, Bidders will be required to submit technical and financial (price) proposals in two separate envelopes at the closing date and time of the bid. If SD is applicable to the bid, the SD proposal must be submitted together with the technical proposal. Where a two-envelope system is required in terms of the RFX, Bidders will be required to place and seal the returnable documents listed in the Bid in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical (and SD) proposal". The financial proposal is only opened and considered should the technical (and SD) proposal be found to be acceptable.

The Bid document must indicate if the two envelope system is applicable and state that failure to comply will lead to disqualification of the Bid [i.e. if the Bidder fails to submit the technical (and SD) proposal and a financial offer in two separate sealed envelopes, the bid will be disqualified].

17.2.1 Bids are to be kept in a controlled environment

a) All bids falling within the jurisdiction of the AC must clearly indicate the physical (and courier address, if not the same), and/or ETB address (if electronic Bids will be allowed) of the AC where the Bids will be received.

b) Where the Bid price is reasonably expected to fall within the jurisdiction of a Manager, (i.e. below the jurisdiction of the AC), the bid document must clearly indicate to whom the Bids are to be addressed, the closing venue, date and time.

c) If upon receipt it is found that such Bids do fall within the AC's jurisdiction, the matter must be submitted to the AC in order to determine the way forward. The AC must be provided with an explanation as to why the bid did not close at the AC in the first place. As a general rule, such bids should not be cancelled and re-issued. Furthermore, condonation is not required. However, when the matter serves at the AC, the AC will consider whether the price was reasonably anticipated to fall below the AC jurisdiction. If it is apparent that this was not the case, the AC may recommend that the matter be non-awarded and re-issued. This rule must be applied taking into account the rules relating to cancellation of bids as indicated in paragraphs 20.6.7 and 20.6.9.

d) Bids that were anticipated to fall within the AC threshold, and which therefore closed at the AC, but were subsequently found to fall below the AC threshold, must be dealt with by the relevant Manager. The matter must be reported to the AC for information.

e) Where some Bids fall below the AC jurisdiction and some are within the AC jurisdiction, the lowest priced responsive bid will determine where the matter must be dealt with.

f) The tender box must be fitted with two locks, and the keys kept separately by two nominated officials. No single person must be allowed to open a tender box on his/her own. Both officials must be present when the box is opened at the stipulated closing date and time.

17.2.2 Unsealed Bids/Bids without sufficient cover information

a) If a Bid is received unsealed or without the relevant information on the envelope, the contents shall be ascertained and then sealed with a note made on the envelope indicating:

- date of receipt and by whom (name, designation and contact number);
- the state in which the Bid had been received;

- number and description of Bid; and
- correct closing date, time and venue.

It will then be placed in the correct tender box for opening at the appropriate closing time.

b) When finally opened, the bid list compiled by the officer responsible for the bid opening should indicate that such Bid was received open, so that the evaluation team can consider whether or not there is evidence of possible manipulation of the process. However, such Bids should not be summarily disqualified.

17.2.3 Bids lodged at the incorrect venue

a) Bids lodged at the incorrect venue that reach the correct venue late will be regarded as late and the bid documents should contain a disclaimer to this effect.

17.2.4 Receipt of quotes via fax or e-mail

a) No Bid received by e-mail or fax must be considered unless the bid document specifically provides for it.

b) Where the bid document specifically provides for the receipt of Bids via e-mail or fax, provision must be made in the bid document to indemnify Transnet against any claims which may arise as a result of a Bidder not being able to transmit his/her quote to Transnet for any reason whatsoever before the closing time.

c) Faxed or e-mailed offers must be received by a person who has not been involved in the development of the bid documents and/or will not be involved in the evaluation of submissions.

d) Strict control measures must be exercised over fax machines used for the receipt of low value Bids as per the quotation system explained in Table 21 of paragraph 14.3.4. Once received, the person responsible for receiving the Bids must seal the respective Bids in separate envelopes and keep them in a controlled environment until the closing date.

e) On the closing date and time, the Bids must be opened and stamped. A register of the quotes requested and received must also be kept. No additional quotes are to be requested or considered after the closing date and time.

17.2.5 Late Bids

a) Transnet will not accept any late Bids. A Bid is late if it is not placed in the relevant Tender Box, ETB or delivered by hand by the bidder or his courier to the relevant responsible person indicated in the bid document by the closing time for such bid. A late Bid shall not be admitted for consideration and where feasible shall be kept unopened. A letter explaining the reasons for not considering the late Bids must be sent to all late Bidders. The Bidders must be notified that they may collect their late Bids if they wish to do so.

b) Where it is necessary to open a late Bid to obtain the contact details of the sender, each page of the document shall be stamped "Late Bid" before the Bid is placed on the appropriate files. The exact time and date that the Bid was received must be recorded.

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c) The Chairperson of the AC does have the discretion to decide whether a late Bid may be considered where exceptional circumstances arise. The decision to consider a late Bid must be taken with great circumspection. All documentary evidence leading to such decisions as well as proof of the decision itself must be kept on the appropriate file as part of the record. Hereunder follows a non-exhaustive list of circumstances where an AC Chairperson may decide to exercise discretion and accept a late Bid in cases where:-

- Transnet was solely to blame for his Bid being late e.g. a labour strike action in front of the building, or an evacuation drill effectively denying the bidder access to the tender box;
- Only one Bid is received and such Bid is received late. In such cases, no prejudice is suffered by anyone if the late Bid is accepted. Consideration must, however, be given to whether the process could have been manipulated to favour the one and only late Bidder.
- It was an RFI process and the purpose of the RFI was merely to gauge what is available in the market, or to compile a specification; and
- Where the Bidder provides compelling reasons for being late, indicating that the lateness of the submission is not due to any fault or bad planning on his or her part.

d) Bidders who submit late Bids must be informed of their right to petition the Chairperson of the AC should they believe that they have valid grounds for inclusion. The motivation for acceptance of a late Bid, plus the Chairperson's ruling on the matter, must be retained on the relevant files.

e) Late Bids that are not considered (and which have not been collected by the Bidder) must be retained for a period of at least 6 months before being destroyed. Record of destruction must be recorded on the relevant file.

PHASE 3

Opening of bids

17.3 PHASE 3: OPENING OF BIDS

17.3.1 Time and manner of opening of bids

a) Bids must be opened promptly after the deadline for the receipt of Bids, or as soon as possible thereafter.

b) Bids must be opened by a duly authorised senior employee in the presence of at least one other employee. The persons must declare their interest. In the event of a conflict of interest they must recuse themselves from the opening of the Bids. In addition, the persons opening the Bid documents must not be involved in the evaluation or adjudication of that bid as they are perceived to have an indirect interest in the bid.

c) There must be a check to verify that Bidders had paid bid fees, where applicable. If bid fees had not been paid, the Bid must be endorsed accordingly, and an explanation obtained from the Bidder by the AC Secretary. If no reasonable explanation can be provided by the Bidder, the Bid must be disqualified. A record of this decision must be kept by the Secretary.

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17.3.2 **Stamping of Bids**

a) An employee must date stamp/punch the Bid and all attachments to the bid document to signify that such documents were part of the original bid document. Bids must be numbered in the sequence in which they have been opened and the words "and last" must be endorsed on the last Bid. Where only one Bid has been received, the words "and only" must be endorsed on such Bid.

b) Where Bidders are required to insert prices on price lists supplied by Transnet and prices have not been inserted in all the relevant spaces on the forms or have not been deleted by Bidders, such spaces shall be stamped "no price" by the employee who opens the Bids. All pages indicating prices, delivery times, special conditions, etc., that will be regarded as crucial during the evaluation process must be stamped and initialled by the opening official.

c) In instances where the Bidder has deleted prices and inserted new prices, or where prices have been corrected with correction fluid, the opening official must endorse the correct amount in words, initial next to it, make a copy of the relevant page, and retain it on the bid file. When the matter eventually serves at the AC for the award of the business, the AC Secretary must verify that Bid prices or other crucial information have not been tampered with.

d) Where Bidders were requested to submit their Bids in duplicate (or more copies) all duplicate documents must be stamped "Duplicate" on the cover page. The opening official must stamp the pages of the duplicate copies containing all the crucial information after he/she has verified that all the crucial information in the different documents are identical. The RFX documents must contain a disclaimer to the effect that Transnet will regard the original Bid as the legal binding Bid and that Transnet will not be held liable for discrepancies between the original Bid and duplicate copies of the Bid.

e) The employee in charge of the bid opening will record particulars of all Bids received in duplicate in a Bid Opening Register. The original list of Bids received must accompany the original Bid documents when forwarded to the department that invited the Bids. The name, contact details and signature of the person collecting the Bid documents must be obtained and the duplicate list with the signature will be kept by the bid opening office, either on the appropriate file or in a register as part of the record.

PHASE 4

Amendments and communication after closing date

17.4 PHASE 4: AMENDMENTS AND COMMUNICATION AFTER CLOSING DATE

17.4.1 Amendments after the closing date

Transnet is entitled to amend any bid condition, validity period, specification or plan (excluding evaluation criteria) **after** the closing date of a bid. However, all parties who obtained bid documents and submitted valid Bids must be advised thereof in writing by fax or e-mail and be given the opportunity of bidding on the amended basis by an extended closing date and time. Proof of such written communication must be kept for record purposes. Bidders who did not submit valid Bids (e.g. submitted their Bids late, or who did not attend the compulsory briefing session/site inspection) cannot participate in the extended invitation. Authority for such communication must be obtained and is dealt with in paragraph 17.4.3.d) below.

In the event of a material amendment to the specification or scope of work, to which other new Bidders could possibly respond, the RFX must be cancelled and a revised RFX must be advertised. This would give all other potential Bidders the opportunity to respond. This can only be done after approval had been obtained from both the person who signed off the RFX document (refer paragraph 16.7 above), and the relevant AC. The cancellation must be advertised in the same media where the initial advert was placed. If the cancellation and reissue happen simultaneously, they may be advertised together but only after the necessary approvals have been obtained. Also refer to paragraph 17.1.9c) in this regard.

17.4.2 Extension of validity periods

a) Validity periods must be extended BEFORE expiry since a bid process automatically terminates at the end of the validity period unless there is a timeous extension. Bids in respect of which the validity periods have already expired cannot be revived by agreement between Transnet and the Bidders. In such instances the process must be started afresh after having obtained the necessary AC approval for the non-award of the expired RFP.

b) If an unavoidable delay occurs with adjudication, all Bidders must be requested to extend the validity period of their Bids on the same terms and conditions before the expiry of the validity period. In such instances, Bidders will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change/s is as a direct and unavoidable consequence of the extension of the validity period e.g. price changes due to changes in the market which have impacted major cost components of their price.

c) If a bid cannot be evaluated and awarded within the stated validity period, a motivated request for an extension of the validity period should be made to the appropriate AC Chairperson or the CPO (or their duly authorised delegate) to request an extension of the validity period. This request should explain the reasons for the delay, and include the revised timeline for the completion of the bidding process. Should there be a need for a further extension, this must be approved by the appropriate AC as a whole. The AC must be provided with all the information relating to the previous extension including the reasons therefore as well as the reasons for the second extension. For matters that fall below the AC threshold, a manager with the delegation of authority will consider and approve any request for extension of the validity period. Authority to communicate the extension of a validity period must be obtained from the AC Chairperson or the Manager with the delegation of authority for matters below the AC threshold. Requests for the extension of validity period must be submitted at least 10 Working days before the expiry of the validity period.

d) It is important to note that for the purposes of adjudication, bids are required to remain valid only until the matter is considered by the AC provided that the AC approves the process. Should the AC not approve the matter, the validity period must be timeously extended.

e) Where the AC has approved the process that the Bid be awarded to the Successful Bidder, the Bids of the Successful Bidder as well as the second and third ranked Bidder (where the first/second ranked Bidder is unable or unwilling to conclude a contract as per paragraph 21.7) will be regarded as being valid until the final contract is concluded. The RFX document must include a term to the effect that it will be automatically presumed that Bids of Preferred Bidders as well as second and third ranked bidders will remain valid until the conclusion of a contract with the Successful Bidder.

f) Where the AC has merely authorised Post Tender Negotiation, the Bids must remain valid during the negotiation process until the AC has finally approved the process. For this purpose, Bidders must be requested to extend the validity period of their bid when submitting their best and final offers.

Guidance Note: It is recommended that the AC Secretariat function of each Transnet Entity maintain and monitor a register of bid validity dates to pro-actively manage the expiration of validity periods.

17.4.3 Communication after the closing date

a) After the closing date of a bid (i.e. during the evaluation period) a Bidder may only communicate with the chairperson and the secretary of the relevant AC.

b) No communication relating to the specific bid is allowed between a Bidder (or any other party who has an interest in a bid), and any employee of Transnet after the closing date and before award, except as provided for in paragraph 17.4.3 c) and d) below. Every case of unauthorised communication must immediately be reported to the Chairperson of the AC. The Bidder that is associated with an unauthorised communication may be disqualified from the process.

c) It is accepted that in certain cases Bidders may have existing contracts with Transnet, where communication regarding the existing contract is unavoidable. However, any communication during the evaluation period of another bid, should be avoided or limited where possible. Under no circumstances should socialising, e.g. golf days, product launches, lunch/dinner invitations, sporting events, etc., be entertained during this period. Even if no discussion about the bid being evaluated takes place during such social events, other competing Bidders may form a perception of bias and it may lead to claims of an unfair bidding process.

d) The chairperson, the secretary of the AC, or the Manager with the delegated power for matters below the AC's threshold, may subject to the provisions of paragraphs 17.4.3e), g), h) and h) below, authorise an employee in writing to communicate with a Bidder after the closing date for the purpose of:

(i) Explaining and verifying declarations made in Bid response;

(ii) Confirming that a quoted price is correct, or requesting a breakdown of the pricing without altering the price;

(iii) Confirming technical particulars and the compliance thereof with specifications;

(iv) Determining whether there will be any change in price if only a portion of the work is awarded to a Bidder;

(v) Requesting an explanation for an unreasonable price increase/decrease when it is compared with a previous price and the interim movement of a relevant price index;

(vi) Requesting an explanation for an unrealistically high SD commitment when compared with the contract value and/or the possible SD opportunities;

(vii) Clarifying delivery times, quantities, etc;

(viii) Amending any bid condition, specification, etc. after the closing date;

(ix) Clarifying any other commercial aspect;

(x) Carrying out site inspections of the bidder's premises;

(xi) Requesting presentations by all Bidders. If only certain shortlisted Bidders are invited for presentations, the relevant AC's prior approval of the shortlist must be obtained; and

(xii) Requesting essential returnable documents omitted from the original Bid.

e) Such authority to communicate will only be granted on a case by case basis. When requesting authority to communicate, a draft copy of the proposed communication must be forwarded to the AC Secretariat for approval. If necessary, the AC Secretariat may request the OD/SU Governance function to vet the communication before it is sent out to the Bidders.

f) During communication after the closing date, no change in a matter of substance of the Bid, including changes in price, terms or changes aimed at making an unresponsive Bid responsive must be sought, offered or permitted. Also note that the abovementioned communication issues covered in paragraph 17.4.3 (d) do not include post-tender negotiation which is covered in Chapter 19 below.

g) Where the bid is managed by a Specialist Unit with a specific strategic focus on behalf of the user OD, the Specialist Unit shall coordinate all communication of a technical, financial or commercial nature between Transnet and the Bidder.

h) In all cases where authority to communicate with Bidders has been granted in terms of paragraph 17.4.3(d) above, the submission to the AC must clearly state the nature of the communication as well as who granted the authority to communicate and the outcome thereof. Documentary evidence of all authorisations to communicate, the actual communication as well as the outcome thereof (Bidder's response) must be kept on the appropriate files.

Background and Context

Procurement planning

Go to Market

SECTION D:

EVALUATION AND ADJUDICATION

Chapter 18: Evaluation and Recommendation

Chapter 19: Post Tender Negotiations (PTN)

Chapter 20: Adjudication

Contract Management

Functions of Governance Structures

Appendices

CHAPTER 18 : EVALUATION AND RECOMMENDATION

This Chapter applies to both general procurement and construction procurement. Please refer to paragraph 18.6 for the rules relating to construction procurement.

SUMMARY OF BID EVALUATION

It is the responsibility of the evaluation committee to ensure that the evaluation takes place within the validity period. If there are delays, the validity date(s) of the bids should be extended, using the process described in Chapter 17 *(Bid Administration)*.

The following are the key steps to be followed during the evaluation of Bids.

Test for administrative responsiveness

Procurement conducts test for administrative responsiveness
Highlights non-responsive bids for consideration and ratification by evaluation committee

Preparation for evaluation

Constitute a cross functional evaluation committee (CFET)
Sign Declaration of interest / Confidentiality agreements
Set ground rules for evaluation committee

Test for substantive responsiveness

Evaluation committee confirms results of initial administrative test for responsiveness conducted by procurement and conducts test for substantive responsiveness

Evaluation of the bid against pre-determined criteria

Study bid responses against the criteria listed upfront in the RFP
Clarify bid uncertainties (bid clarification)
Make notes against each criteria to inform the eventual scores
Use the appropriate evaluation method determined at bid preparation phase
Reduce bid offers to a comparative basis
Capture the scores of each bid against all criteria
Submit completed score sheets to chairperson of evaluation committee for averaging
Moderate outlying scores
Apply relevant weightings to determine final weighted scores

Final evaluation

Eliminate bidders who did not make all the relevant thresholds
Populate the relevant automated scorecard based on the evaluation methodology
Determine final ranking of bidders

Recommendation

- Prepare TEAR report containing recommendation to the AC or person with delegated authority

Record proper minutes of all the proceedings

Figure [28] – 6 Steps for Bid Evaluation

Step 1

Test for administrative responsiveness

Procurement conducts test for administrative responsiveness
Highlights non-responsive bids for consideration and ratification by evaluation committee

18.1 TEST FOR ADMINISTRATIVE RESPONSIVENESS

18.1.1 Test for responsiveness based on returnable documents submitted and signatures on the Bid documents:

a) Check the Bid document to see whether all returnable documents called for in the bid documents and which are required for evaluation purposes and/or incorporation into the contract have been received. The test for administrative responsiveness must be conducted in accordance with the returnable documents listed in the RFX.

b) Mandatory returnable documents would include those critical documents that will be utilised to evaluate bidders e.g. the Bidders' pricing schedule and technical submission. Although the B-BBEE certificate is used to evaluate bids, it is not be requested as a mandatory returnable document as in terms of the PPPFA disqualification is not allowed for failure to submit a B-BBEE certificate. Bidders will simply score zero for preference should they fail to submit their B-BBEE certificates by the closing date and time of the bid. If any mandatory returnable documents are not provided upfront, the bid must be regarded as non-responsive e.g. the pricing schedule, etc.

c) Essential returnable documents– These are other required documents which may not result in automatic elimination if not provided upfront e.g. audited financial statements and the B-BBEE Improvement Plan. Transnet has a discretion to choose one of the following options in relation to essential returnable documents not submitted:

- A reasonable grace period (for example, 5 Working days) may be afforded to the Bidders to supply the outstanding required documents. A reasonable timeframe must also be determined taking into account whether the bid involves foreign Bidders. Should they fail to comply by the extended deadline, they may be disqualified from the process provided that they are informed of the consequences of non-compliance when they are afforded the grace period;
- Transnet may take a decision to disqualify Bidders from the bidding process without affording them a grace period to submit the outstanding documents; or
- Transnet may elect not to request the documents by an extended grace period but choose to further consider Bidders in the next evaluation step despite their failure to submit the requested essential documents.

Whichever of the above options are elected, it is critical to the integrity of the bid process that consistency and uniformity prevail. All bidders must be treated fairly and in the same manner in relation to essential returnable documents. For the sake of clarity, one cannot use one of the above options on certain Bidders and a different option on other Bidders in the same Bid process.

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As indicated above, although the B-BBEE certificate is requested as an essential returnable document, Bidders will not be afforded a grace period but will score zero for failure to submit by the closing date and time of the bid.

d) If a Bidder had omitted to sign certain pages of the Bid documentation, he/she may be requested to do so within a reasonable period of time (about 5 Working Days). If the signature is not provided within the timeframe provided, the Bid must be regarded as non-responsive.

18.1.2 A schedule must be drawn by Procurement to indicate whether the Bids received are administratively responsive or not, and the efforts expended to obtain any outstanding information (see example in Figure [29] below):

Returnable Document Comparative Schedule (add fields for all returnable

RFX Number _____

Bidder	Correctly Recorded by AC Secretary	Tax Clearance Certificate	VAT Registration Certificate	PSIRA Certificate	Due date for responses after grace period	Docs received by due date	Returnabl Document outstandin after dat	Bid responsive	Remarks
A	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
B	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
C	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
D	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	
E	Yes / No	Yes / No	Yes / No	Yes / No	Date	Yes / No	Indicat outstandin document	Yes / No	

Figure [29] – Schedule to record Bid compliance

18.1.3 **Guidance Note:** It is strongly recommended that the test for administrative responsiveness be completed within 2 to 3 days at the most.

Preparation for evaluation

Constitute an cross functional evaluation committee (CFET)
Sign Declaration of interest / Confidentiality agreements
Set ground rules for evaluation committee

18.2 PREPARATION FOR EVALUATION

18.2.1 Evaluation Committees

a) **High Complexity Evaluations**

There should be a standing, cross functional evaluation committee for complex transactions which should be constituted as indicated below:

Where possible, ODs/SUs should establish a standing, cross functional evaluation committee comprised of standing members with alternates for the evaluation of

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SD, Price and Preference. A separate standing committee should also be established to assess functionality, wherever possible. The members and alternates must be formally appointed by the CE of the Transnet Entity or his/her delegate. The committee should meet regularly in order to perform Bid evaluations, Where not feasible, evaluation committees may be established per Bid. The evaluation committee may comprise sub-committees. Each sub-committee must be composed of at least 3 or more specialists in that field of expertise. A sub-committee will evaluate Bids only in the field that they are tasked with, e.g. Price, SD and preference.

b) **Low complexity evaluations**

There are very limited criteria for consideration due to the absence of complexity. Typically, criteria can be assessed through a 'yes' or 'no' question. There must be at least two members on the committee - one from the procurement department and the other from the user department.

(For bids falling within the threshold for High Value Tenders also refer to the High Value Tender Process available on iSCM Transnet Intranet).

cidb

In terms of paragraph 4.3.5 of the CIDB SFU Where quality is evaluated, at least three persons who are fully conversant with the technical aspects of the procurement shall undertake such evaluation.
Paragraph F.3.11.1 of the Standard Conditions of Tender (Annex F) indicates that an evaluation panel of not less than three persons must be appointed.

18.2.2 Declaration of Interest / Confidentiality

a) Prior to commencing with the evaluation all members of the evaluation panel must sign a Declaration of Interest form, indicating whether or not they have an interest in the particular bid or any of the Bidders. The Chairperson of the evaluation committee shall decide on whether a person should recuse him/herself based on a declaration of an indirect interest. Also refer to the Code of Ethics (paragraph 5.6 above) for further information on Declaration of Interest.

b) Information relating to the evaluation of Bids shall not be disclosed to suppliers or to any other person not officially involved in the evaluation or adjudication process. A confidentiality agreement must therefore be signed by all members at the start of every meeting of the evaluation committee.

18.2.3 Setting the ground rules for evaluation

At the onset of the initial meeting, the Chairperson of the evaluation committee must indicate to the members that the following scoring methodology is to be used:

a) Confirm the evaluation methodology that will be followed as well as the weighting per category and thresholds as set out in the RFP (See Chapter 13 – Determining Evaluation Criteria);

b) Confirm whether scoring will be done in terms of a desktop evaluation only, or whether it will also include a due diligence exercise, site visits, presentations and/or interviews. This should be indicated in the RFP. Presentations and site

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visits should not be used as an opportunity to introduce new evaluation criteria.;

c) Validate scorecard, including the prompts for judgment;

d) Members of the evaluation committee must not deviate from the scoresheet, evaluation criteria or prompts for judgment stipulated in the RFX document;

e) Members of the evaluation committee must score each Bid individually, i.e. each member must score every Bid without consulting any other members;

f) Scoring must be done fairly, objectively, without prejudice or bias;

g) Members are required to study bid proposals properly and make their notes on the scoresheet before giving a final score;

h) Thereafter, the raw scores given by each evaluator in respect of every criterion and sub criterion are populated onto a comparative score sheet. These scores allocated are provisional and subject to moderation;

i) The Chairperson of the evaluation committee identifies any numerical outliers (if any) and follows a process of moderation;

j) After moderation, the scores given by each of the evaluators in respect of each Bidder are averaged and allocated per Bidder; and

k) The weightings for each criterion and sub criterion are then allocated against the average score for each Bidder, to determine the final weighted score per Bidder.

l) **Guidance Note:** The evaluation committee should agree to a project plan for the finalisation of the evaluation process. The committee must ensure that the project plan dates are aligned to the validity period of the bid taking into account the adjudication process. It is therefore strongly recommended that the evaluation process not exceed 60 days.

18.2.4 Rules of Conduct

a) Consistency throughout the whole bid evaluation process is essential. All members of the evaluation team must evaluate all the bid responses. This also entails having a kick-off meeting where the entire evaluation team is present and all aspects of the evaluation process is agreed upon to ensure that everyone is aligned.

b) Although it would be ideal, the evaluation of all bids need not necessarily be completed at one sitting of the CFET.

c) Members must arrive on time and complete the entire evaluation process.

d) It is important that all members are present at the moderation session, be it in person or via teleconference. All members must sign off on all the relevant score sheets, including the final automated scorecard.

e) Minutes must be kept of all decisions and important deliberations taken at each meeting of the evaluation team.

f) Document security must be maintained at all times.

18.2.5 Parallel evaluations

Evaluation of the various stages should ideally take place in a sequential manner. However, it may be necessary to consider parallel evaluations in order to expedite the process. If parallel evaluations are deemed appropriate, the following must be taken into account:

a) Parallel evaluations may only be conducted if it was communicated to the Bidders in the RFX document

b) If absolutely necessary, administrative responsiveness and substantive responsiveness can be tested in parallel. In such a situation the outcome of the substantive responsiveness test must be provisional pending the outcome of the administrative responsiveness test.

c) The evaluation of the LC, SD and Technical thresholds may also be done in parallel. The outcome of each stage of the evaluation must be conditional on the outcome of the previous stage.

d) Price may be reduced to a common basis in parallel with the evaluation of Preference. The final Price and Preference evaluation based on 80/20 or 90/10 can also be conducted in parallel and consolidated on the automated scorecard.

e) The Governance function of the relevant Transnet Entity must ensure that adequate checks are done thereafter to ensure that, where applicable, bidders are disqualified at the correct stage of the evaluation process. For example, if the SD and Technical evaluations were being conducted in parallel and a particular bidder did not meet the SD threshold but did meet the Technical threshold, the bidder must be disqualified at the SD stage. The final Technical evaluation scorecard must be amended to indicate that the bidder's technical score must be disregarded as it failed to meet the SD threshold.

f) It is important that the confidentiality of the outcome of each evaluation process be maintained.

g) Where parallel evaluation processes are envisaged, the RFX must contain a disclaimer to the effect that Transnet reserves the right to conduct the evaluation process in parallel. The evaluation of Bidders at any given stage must therefore not be interpreted to mean that Bidders have necessarily passed any previous stage(s).

18.2.6 Evaluation criteria

Bids may only be evaluated in accordance with the criteria specified in the bid documentation (such as specific returnable documents, pricing, quality, commercial, SD, preference, financial stability, etc.).

a) In cases where an evaluation criterion was unclear and it resulted in divergent and incomparable responses being received from the Bidders, the criterion should be clarified and sent to all Bidders. They will then be required to resubmit Bids only in respect of such amended criterion/criteria.

b) In cases where a critical factor was not included in the evaluation criteria, an addendum to the RFP should be issued and sent to all Bidders to provide information pertaining to the additional criteria. The CPO must approve the inclusion of the additional criteria as well as the amendment to the RFP.

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c) However, if the required clarity in respect of a) above or the introduction of new criteria in respect of b) above, introduces a substantive change to the RFP then, in the interest of fairness, an amended RFP should be issued by issuing a new tender to the market.

Test for substantive responsiveness

Evaluation committee confirms results of initial administrative test for responsiveness conducted by procurement and conducts test for substantive responsiveness

18.3 TEST FOR SUBSTANTIVE RESPONSIVENESS

The evaluation committee is required to confirm the result of the administrative test for responsiveness undertaken by Procurement.

A Bid is substantively responsive if it conforms to all the terms, conditions, scope and/or specifications of the bid documents without material deviation or qualification. A Bid is regarded as substantively responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in the bid documents. Any such deviations must be quantified as far as possible. These deviations must be considered during the evaluation and comparison of Bids.

Before evaluating the Bids, members of the evaluation team are required to:

18.3.1 Verify the names of the entities appearing on the bid documents against the correspondence (copy of the bid register) received from the AC Secretariat (i.e. check that only those Bids received through the AC Secretariat, are being considered);

18.3.2 Check that all the pages of the respective Bids had been date-stamped by the AC Secretariat;

18.3.3 Check that each Bid reflects a consecutive stamped number, consistent with the Secretariat's correspondence. (This normally forms part of the AC Secretariat's bid date stamp).

18.3.4 Check that all pages of the bidder's covering letter (if any) and all pages containing pricing, delivery and any other conditions, which may have a direct influence on the evaluation process, have also been initialled by the AC Secretariat;

18.3.5 Check that the last (highest numbered) Bid also reflects the stamp "and last" (or "and only", in respect of instances where only one Bid was received) on all its pages;

18.3.6 Any deviation from the above must be brought to the attention of the AC Secretariat. A memo explaining such deviation must be compiled by the AC Secretariat and submitted to the evaluation team. Copies of this memo shall be kept on the Secretary's file as well as the evaluation file. The memo shall also be included in the AC agenda pack. The evaluation committee shall express an opinion on such deviation in their final report to the AC; and

18.3.7 Confirm the results of the initial test for administrative responsiveness conducted by Procurement.

18.3.8 Reject Bids that do not pass the test for substantive responsiveness.

A Bid is considered substantively non responsive if it:

(i) does not contain pricing or response to any other crucial aspect stated in the RFP document;

(ii) does not meet minimum pre-qualification criteria;

(iii) materially departs from the scope, or specification of the Goods/Construction Works/Services requested; and

(iv) would affect the competitive position of other Bidders presenting responsive Bids, if it were to be rectified.

Non-responsive Bids must be rejected and Bidders shall not be allowed to modify their Bids once they have been rejected as non-responsive. Exclusion of a Bid as non-responsive must be defensible based upon objective and justifiable grounds.

18.3.9 Prequalification criteria: While it is recommended that the entire relevant sub-committee of the evaluation committee (e.g. SD, Technical or Finance) conduct the test as to whether Bidders meet a particular pre-qualification criterion, this is not an absolute requirement. A sub-committee may decide to nominate 2 or more members to conduct the evaluation of the pre-qualification criterion and the entire sub-committee is then only required to confirm their evaluation.

18.3.10 **Guidance Note:** It is strongly recommended that the test for substantive responsiveness be completed within 2 to 3 days.

Step 4

Evaluation of the bid against pre-determined criteria

- Study bid responses against the criteria listed upfront in the RFP
- Clarify bid uncertainties (bid clarification) in terms of 17.4.3
- Make notes against each criteria to inform the eventual scores
- Use the appropriate evaluation method determined at bid preparation phase
- Reduce bid offers to a comparative basis
- Capture the scores of each bid against all criteria
- Submit completed score sheets to chairperson of evaluation committee for averaging
- Moderate outlying scores
- Apply relevant weightings to determine final weighted scores

18.4 EVALUATE THE BID AGAINST PRE-DETERMINED CRITERIA

Evaluate the Bid against pre-determined criteria using comparative schedules or score-sheets as follows:

18.4.1 Ensure that the evaluation process is strictly aligned with the evaluation methodology (i.e. the criteria, weightings and prompts for judgment) outlined in the bid documents (see Chapter 13 – Determining Evaluation Criteria). If certain Bidders have not met the thresholds for Stage 1, no further scoring in respect of those Bidders takes place in Stage 2.

The evaluation of Bids shall be based on the information contained in Bid submissions, and where relevant from interviews, presentations and site visits.

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Presentations and site visits should not be used as an opportunity to introduce new evaluation criteria. **Bids should not be evaluated on the basis of speculation or the personal knowledge or subjective experience which an evaluator has of any particular Bidder.**

a) **Local Content Threshold**

If the transaction falls within one of the designated sectors as determined by DTI, and it was stated as such in the RFX document, Local Content/Production (LC) will always be evaluated as a first step, to determine whether such Bid complies with the stipulated minimum threshold for that particular designated sector. Bidders that do not meet the stipulated minimum threshold for LC do not progress any further and are rejected at this stage. The threshold as determined by the DTI is not negotiable and bidders who do not meet the minimum set thresholds will be disqualified and will not be evaluated any further. Please refer to paragraph 11.7 of the PPM in relation to the requirements for evaluating LC.

b) **Supplier Development & Functionality Thresholds**

(i) Evaluating each Bid individually

Each member of the evaluation committee is required to study Bid responses and record observations. The evaluator must first get an overall view of each Bid. This is done by studying each Bid individually, and then comparing it to the evaluation criteria.

The prompts that were provided for judgment or qualitative indicators relating to all SD/technical criteria and any sub-criteria that are linked to a specific score should be used in assessing the Bids.

The evaluator must record observations on the bidder's response to each specific evaluation criterion on the score sheet. References to page numbers should be added where applicable.

At this stage, no scoring is done.

Score-sheet 1 (*Figure [30]* below is an example of the sheet used for such observations).

Sheet 1	Working scoresheet
RFP Number	(insert RFP Number)
Name of evaluation committee member	(insert name of evaluation committee member

CRITERIA (Supplier Development	BIDDER NO.1		BIDDER NO.2		BIDDER NO.2	
	Score	COMMENTS	Score	COMMENTS	Score	COMMENTS
Value of investment in plant	Do not complete score at this stage	Evaluate entire bid before progressing to next bid Make comments on the bidder's response to various evaluation criteria	Do not complete at this stage	Evaluate entire bid before progressing to next bid Make comments on the bidder's response to various evaluation criteria	Do not complete at this stage	Evaluate entire bid before progressing to next bid Make comments on the bidder's response to various evaluation criteria
Reduction in import leakage						
Potential increase in export content						
Number company employees to be trained						
Number of downstream supply chain individuals to be trained						
Certified training						
Rand value on training to be spent in the industry						
% of planned procurement from QSEs						

Figure [30] – Score-sheet 1

(ii) Scoring

The next step is to allocate scores on Score-sheet 1 above. This is done by scoring one evaluation criterion at a time for all Bidders. E.g. compare and

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score the responses to 'Value of Investment in plant' for all Bidders before moving on to the next criterion.

All scores must preferably be out of 10 (i.e. the 1 to 10 scale, although a 1 to 5 scale can also be used if specific objective measuring criteria has been set).

Finally, each member's individual scores in respect of each bidder must be carried over from Sheet 1 and inserted on score sheet 2 – see below.

Sheet 2	Final member scoresheet			
RFP Number	(Insert RFP Number)			
Name of evaluation committee member	(Insert name of evaluation committee member			
CRITERIA (Supplier Development)	BIDDER NO. 1	BIDDER NO 2	BIDDER NO. 3	BIDDER NO. 4
	Score	Score	Score	Score
Value of investment in plant	5	7	5	7
Reduction in import leakage	4	6	5	6
Potential increase in export content	5	6	4	6
Number company employees to be trained	5	8	5	8
Number of downstream supply chain individuals to be trained	4	5	4	7
Certified training	5	6	3	8
Rand value on training to be spent in the industry	4	7	5	7
% of planned procurement from QSEs	5	6	4	6
Total	37	51	35	55

Figure [31] – Score-sheet 2

(iii) Moderating scores

The Chairperson of the evaluation committee transcribes all the individual members' scores from the respective score sheets (Sheet 2) onto the consolidated score-sheet. (Score-sheet 3, see example (*Figure [32]*) below. These scores should be regarded as provisional and subject to moderation.

In the event of significant variances in individual scores, the scores must be moderated at the discretion of the Chairperson of the evaluation committee. An outlying score/s should as a general guideline be determined where there is a point differential of more than 4 points on the 10 point scale as compared to the other scores. The outlying scorer (Nivan, in the example of Sheet 3 below) must be asked to motivate his/her score(s). If the score can be rationally explained, the score can remain unchanged. Other scorers should be afforded the opportunity to reconsider their scores, in light of the explanation provided by the outlier. If the outlier cannot rationally explain his/her score, he/she must be asked to reconsider the score. If the outlier refuses to reconsider the score, the chairperson of the evaluation committee may approach the AC Chairperson for a ruling on whether the outlier should be replaced with a different scorer or not.

The person appointed as moderator should be independent and not be involved in the actual evaluation of the bid. Ideally, the person appointed as the moderator of the technical evaluation should have sufficient knowledge of the item being procured.

The process followed with moderation of scores must be recorded in the minutes of the evaluation committee. Any changes to a score sheet due to the

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moderation must be countersigned by both the scorer and the Chairperson. This should also be cross-referenced with the relevant minute/resolution.

(iv) Weighting scores

The following provides an explanation on how weighted scores are arrived at.

Step 1

The Chairperson calculates the average scores per criterion per Bidder (after moderation). This is done by dividing the sum by the number of evaluators to arrive at an average score for each particular criterion per Bidder.

Sheet 3	Combined score sheet									
RFP Number	(Insert RFP Number)									
CRITERIA (Supplier Development)	Bidder No. 1 Evaluation Member Scores					Bidder No. 2 Evaluation Member Scores				
	Nomble	Thulani	Bill	Nivan	Average	Nomble	Thulani	Bill	Nivan	Average
Value of investment in plant	4	5	3	8	5	6	7	7	1	5.25
Reduction in import leakage	3	4	4	8	4.75	5	6	5	1	4.25
Potential increase in export content	4	5	3	9	5.25	5	6	6	2	4.75
Number company employees to be trained	4	5	4	8	5.25	5	8	5	4	5.5
Number of downstream supply chain individuals to be trained	5	4	5	7	5.25	6	5	7	3	5.25
Certified training	4	5	4	8	5.25	5	6	6	2	4.75
Rand value on training to be spent in the industry	3	4	4	7	4.5	5	7	6	2	5
% of planned procurement from QSEs	4	5	3	8	5	6	6	5	1	4.5
Total	31	37	30	63	40.25	43	51	47	15	39.25

Figure [32] – Score-sheet 3

Step 2

The Chairperson must now calculate the weighted scores against each criterion to determine the total weighted score against each Bidder. (See example in Score-sheet 4 - Figure [33] below)

For example, a score of 8 out of 10 for a particular criterion that has a weighting of 20 will be calculated as follows:

$$\frac{8}{10} \times 20 = 16$$

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Sheet 4	Final weighted scoresheet							
RFP Number	(Insert RFP Number)							
CRITERIA (Supplier Development)	Weighted maximum	Bidder Number						
		No. 1		No. 2		No. 3		No. 4	
		Score	Weighted	Score	Weighted	Score	Weighted	Score	Weighted
Value of investment in plant	20	5	10	7.5	15	4	8	7	14
Reduction in import leakage	10	4.75	4.75	6	6	5	5	6	6
Potential increase in export content	10	5.25	5.25	6	6	4.5	4.5	6	6
Number company employees to be trained	20	5.25	10.5	8	16	5.5	11	8	16
Number of downstream supply chain individuals to be trained	10	5.25	5.25	5	5	4	4	7	7
Certified training	5	5.25	2.625	6	3	3	1.5	8	4
Rand value on training to be spent in the industry	10	4.5	4.5	7	7	5	5	7	7
% of planned procurement from QSEs	15	5	7.5	5	7.5	4.5	6.75	6	9
Total	100	40.25	50.375	50.5	65.5	35.5	45.75	55	69

Figure [33] – Score-sheet 4

The total weighted score above represents the scoring of each Bidder in respect of the SD threshold.

Final scores achieved at the threshold stages must be rounded off to the nearest whole number. After all evaluators have scored on the relevant threshold and the scores have been averaged based on the number of evaluators, rounding to the nearest whole number must be effected

Final evaluation

Eliminate bidders who did not make both the thresholds

Populate the relevant automated scorecard, based on the evaluation methodology

18.5 FINAL EVALUATION

The final evaluation will involve the following depending on what was stated in the RFX document.

18.5.1 **Stage 1** (Refer paragraph 13.2.2 above)

All Bids which have failed to achieve the minimum qualifying threshold for LC (where applicable), SD or Quality must be rejected. All Bids which attain or exceed the minimum qualifying threshold for quality are regarded as *'equally technically compliant'* irrespective of the margin by which they exceed the threshold.

All Bids that have achieved or exceeded the minimum qualification thresholds for firstly, LC (if applicable), SD and Quality/Functionality proceed to Phase 2. They must now be evaluated further in terms Preference and Price.

18.5.2 **Stage 2** (Refer paragraph 13.2.3 above)

Only the Bidders who had met the predetermined thresholds for firstly LC (if applicable) and both SD and Quality progress to this stage.

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(v) Score for Price

Before conducting a mathematical evaluation of price, a cognitive evaluation will be conducted in order to determine the reasonableness of the price quoted. All bidders will be required to provide supporting documentation motivating their price e.g. complete a checklist indicating which aspects of their bids have been quoted for. Such a checklist will be included as a returnable document in Transnet tenders and will allow Transnet to conduct a comparative analysis in terms of pricing. Bidders who fail to quote on all Transnet mandatory requirements will be declared non responsive. In addition, Transnet has an obligation to clarify unreasonably low or high prices with bidders. If a bidder is unable to justify their price, Transnet may declare their bid non-responsive.

Next, select and utilise the automated scorecard based on the applicable preference point system i.e. 80/20 or 90/10 depending on the value of the transaction.

In accordance with the PPPFA Regulations, the following formulae have been built into the automated score sheet to calculate the score for price:

80 / 20 Point System (for transactions between R30 000 and R1 million)	**90 / 10 Point System** (for transactions in excess of R1 million)
$Ps = 80\left(1 - \frac{Pt - Pmin}{Pmin}\right)$	$Ps = 90\left(1 - \frac{Pt - Pmin}{Pmin}\right)$
Where: Ps = Points scored for comparative price of tender or offer under consideration Pt = Comparative price of bid under consideration Pmin = Comparative price of lowest acceptable bid	

Regulation 11(4) of the Preferential Procurement Regulations stipulates that points scored must be rounded off to the nearest 2 decimal places. This regulation applies to the final weighted evaluation of price and preference.

It is important to note that bidders whose prices are more than double the lowest price will obtain a negative score for price.

A bidder's score for price must be added to its score for Preference / B-BBEE scorecard as calculated in terms of paragraph 0 above.

Pricing Offer

All Bid pricing offers must be reduced to a common base in a comparative schedule in order to facilitate a fair comparative analysis. In order to facilitate a fair comparison between Bids, it is necessary to distinguish between the bid price and comparative price as the Bid price may not include certain factors impacting on cost. As stated in Chapter 16 above on Bid Preparation, it is necessary to provide all Bidders with a uniform pricing schedule to ensure all Bidders include not only the base price, but all other factors that may influence total cost of ownership (TCO). If a comprehensive pricing schedule is provided by all Bidders, it will ensure that prices received are already on a common basis. Failing this, Bidders must be asked to re-submit prices in accordance with a clear pricing schedule. Alternatively, prices must be reduced to a comparative schedule as follows:

- Whether the cost of transport has been factored into the Bid price.

- Incoterm-related costs, i.e. all other transit-related costs in respect of Goods supplied from abroad, must be added to the Bid price. These include: inspection costs, freight and insurance (from the place where the Goods have been offered to the destination where it shall be delivered), landing charges, customs duties, import duties, wharfage, etc.

- Unconditional discounts must be subtracted from the Bid price, where applicable. When calculating prices, only discounts which have been made unconditionally must be taken into account during evaluation. However, where a discount is made conditionally, such discount must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.

- Other considerations which affect a non-fixed Bid price such as price adjustment factors, currency, etc. that affect the prices over the full period or part of the contract period.

- Time value of money where cash flow implications differ, e.g. when upfront or staggered payments are required rather than a lump sum payment at the end of the contract.

- Differences in Quality which can be expressed in monetary value, e.g. if one bidder's brake blocks guarantees a 20% more useful lifespan than another bidder's.

- Any other incidental costs which may arise from the acceptance of an offer.

Any modification to the bidder's original Bid price due to the process of reaching comparative pricing must be validated with the Bidder him/herself.

Arithmetical errors, i.e. obvious arithmetical errors, must be pointed out to the Bidder (with permission from the AC Secretary) and corrected figures utilised for comparative purposes. This is not applicable to construction procurement which is dealt with in terms of Step 4.1 of paragraph 18.6 of the PPM.

The comparative schedule should reflect the comparison of prices under the following headings (delete where not applicable):

- Tendered prices
- Arithmetical corrections
- Comparative prices
- Projected prices
- TCO adjustments
- Total comparative price

(vi) Score for Preference

Preference is scored according to the B-BBEE scorecard in the final evaluation stage.

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EXAMPLE 1 (Automated score sheet)

PURCHASE OF GOODS/SERVICES (Lowest Price) (90/10 system)

NB: Please ensure that only all unshaded fields are populated. All the shaded fields will be populated automatically

If Supplier Development (SD) or Technical / Functionality is included as a minimum qualifying score, those bids that fail to meet the set threshold/s must be disqualified. Only those bids which meet the respective thresholds will be evaluated further on price and preference.

SD threshold	40%

Name of Bidder	Bidder's score	
BIDDER A	65%	QUALIFIED
BIDDER B	48%	QUALIFIED
BIDDER C	63%	QUALIFIED
BIDDER D	51%	QUALIFIED
BIDDER E	55%	QUALIFIED
BIDDER F	42%	QUALIFIED
BIDDER G	38%	DISQUALIFIED
BIDDER H	35%	DISQUALIFIED
BIDDER I	20%	DISQUALIFIED

Technical threshold	60%

Name of Bidder	Bidder's score	
BIDDER A	60%	QUALIFIED
BIDDER B	71%	QUALIFIED
BIDDER C	90%	QUALIFIED
BIDDER D	95%	QUALIFIED
BIDDER E	64%	QUALIFIED
BIDDER F	100%	QUALIFIED
BIDDER G	48%	DISQUALIFIED
BIDDER H	55%	DISQUALIFIED
BIDDER I	37%	DISQUALIFIED

Formula for Price: $Ps = 90\left(1 - \frac{Pt - Pmin}{Pmin}\right)$

Where:
Ps = The score for the bid under consideration
Pt = Comparative Price for bid under consideration
Pm = The comparative price of the lowest priced bid passing the functionality test (i.e technically acceptable)
NOTE: Negative values will result in the formula above where P > 2 x Pm.

BASIS FOR COMPARATIVE OFFER

PRICE:	90%
PREFERENCE:	10%

Name of Tenderer : Ranked lowest to highest	Financial Offer (P)	Comparative Offer (Pm)	Points for Financial Offer (Formula*)	BBBEE Level of Contribution (Level 1 to 9)	BBBEE Point out of 10 (90/10)	Total point out of 100 Price 90 & BBBEE 10	Ranked price and BBBEE	% Premium payable	Premium payable in Rands
TENDERER G	NON-RESPONSIVE								
TENDERER H	NON-RESPONSIVE								
TENDERER I	NON-RESPONSIVE								
TENDERER A	R 3 700 000	R 3 700 000	90.00	Level 9	0	90.00	3	0	R 0
TENDERER B	R 4 000 000	R 3 700 000	82.70	Level 3	8	90.70	1	8	R 300 000
TENDERER C	R 4 090 000	R 3 700 000	80.51	Level 1	10	90.51	2	11	R 390 000
TENDERER D	R 5 500 000	R 3 700 000	46.22	Level 1	10	56.22	4	49	R 1 800 000
TENDERER E	R 6 400 000	R 3 700 000	24.32	Level 4	5	29.32	5	73	R 2 700 000
TENDERER F	R 7 100 000	R 3 700 000	7.30	Level 1	10	17.30	6	92	R 3 400 000

Figure [34] – Example of the automated scorecard

From *Figure [34]* above, Bidder B becomes the Preferred Bidder as he has attained the highest score out of 100. The recommendation to the AC will therefore be in favour of B.

18.6 TENDER EVALUATION FOR CONSTRUCTION PROCUREMENT

cidb

General

The following are steps for the evaluation of Bid offers. Bid offers must be evaluated in accordance with the parameters stated in the RFX.

Communications with bidders should as a general rule only take place for the purpose of clarification and not for negotiation, except where the negotiations form an integral part of the procurement procedure.

Step 1 Determine whether or not bid offers are complete

1) Compare bid submission against the List of Returnable Documents contained in the bid document and identify schedules and component documents that have not been returned or are incomplete.
2) Request bidders to furnish incomplete bid documents (only where the competitive position is not affected), within a reasonable period of time.
3) Record what is incomplete in each bid submission.

Step 2 Determine whether or not bid offers are responsive

1) Determine, on opening and before detailed evaluation, whether each bid offer properly received:
   - meets the requirements of the Conditions of Tender,
   - has been properly and fully completed and signed, and
   - is responsive to the other requirements of the bid documents.

2) A responsive bid is one that conforms to all the terms, conditions, and specifications of the bid documents without material deviation or qualification. A material deviation or qualification is one which would detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work, change the Employer's or the bidder's risks and responsibilities under the contract, or affect the competitive position of other bidders presenting responsive bidders, if it were to be rectified. Reject a non-responsive bid offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.
   Confirm compliance with all the requirements of the Standard Conditions of Tender, viz:
   - Confirm if eligibility criteria are complied with.
   - Clarification meeting - confirm that bidder attended any compulsory site / clarification meetings.
   - Pricing the tender offer - confirm that bidder has observed pricing instructions.
   - Alterations to documents - confirm that alteration, if any, comply with instructions.
   - Alternative bid offers - confirm, where alternative bids have been submitted, that conditions attached to alternative bid offers have been met.
   - Submitting a bid offer -confirm that the bid offer covers the scope of work contained in the procurement document

3) Declare bid offers non-responsive should the bid:
   - fail to comply with the bid requirements;
   - fail to provide additional information that is requested by the due date;
   - not be fully completed to the extent that the bid can be evaluated;
   - contain material deviations or qualifications; or
   - not be signed
4) Record reasons for declaring a tender to be non-responsive.

Step 3: Evaluate quality as a threshold

Scoring quality	Score each of the criteria and sub criteria for quality in accordance with the provisions of the Tender Data. Calculate the total number of evaluation points for quality using the following formula: $NQ = W2 \times SO / MS$

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	where: *SO* is the score for quality allocated to the submission under consideration; MS is the maximum possible score for quality in respect of a submission; and *W2* is the maximum possible number of evaluation points awarded for the quality as stated in the tender data

1) Score quality for each of the categories stated in the Tender Data; calculate total score for quality and record.
2) Eliminate bids that do not score the minimum qualifying score for quality stated in the Tender Data.

Step 4: Evaluate bid submissions

Step 4.1 Reduce bids to comparative offers

Comparative Offer means the bidder's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration.

A discount which is dependent on Transnet adhering to the contractual obligations, e.g. to pay on time, must be regarded as an unconditional discount.

Arithmetical errors

- Check responsive bids for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.
- Check the highest ranked bid with the highest number of evaluation points after the evaluation of bids
  - the gross misplacement of the decimal point in any unit rate;
  - omissions made in completing the pricing schedule or bills of quantities; or
  - arithmetic errors in:
    - line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
    - the summation of the prices.
- Notify the bidder of all errors or omissions that are identified in the bid offer and invite the bidder to either confirm the bid offer as tendered or accept the corrected total of prices.
- Where the bidder elects to confirm the bid offer as tendered, correct the errors as follows:
  - If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
  - Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the bidder's addition of prices, the total of the prices shall govern and the bidder will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

1) Review financial offer and correct discrepancies between totals and calculations / summations in accordance with the provisions of the Tender Data.
2) Identify parameters included in the Returnable Documents that have a bearing on the financial offer e.g. life cycle costs, contract period, requirement for price escalation etc. and quantify their impact on the financial offer.

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3) Reduce all bids to a common base i.e. to comparative offers.

Do not include preferences at this stage.

Step 4.2 Determine the reasonableness of bid offers

Judge the reasonableness of financial offers and reject all bids with unrealistic financial offers. It is important that the offer receiving the highest number of points for price is realistically priced. Unrealistic financial offers (i.e., where it is not economically possible to execute the contract at that price) distort the scoring of price. In cases where a bidder has tendered a favourable unrealistic financial offer, the evaluator should ascertain as to whether or not there is a valid reason for the bid price being unrealistic. This may necessitate that the bidder be interviewed. If there is no valid reason, the bid must be eliminated from further consideration.

Step 4.3 Review Claim for Preferences

- Confirm that bidders are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where bidders are not eligible for such preferences.
- Confirm that bidders are eligible for the preferences claimed in the Preference Schedule / the reasonableness of any tendered contract participation goal.
- whether or not the enterprise in question satisfies the definition provided for a Targeted Enterprise.

Step 4.4 Award points for financial offer

Scoring financial offers

Score the financial offers of remaining responsive tender offers using the following formula:

$NFO = W1 \times A$

Where:
NFO is the number of tender evaluation points awarded for the financial offer.
W1 is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the RFX
A is a number calculated using the formula and option as stated in the RFX

Formula	Comparison aimed at achieving	Option 1	Option 2
1	Highest price or discount	$A = (1 + (\frac{P - Pm}{Pm})$	$A = P/Pm$
2	Lowest price or percentage commission/fee	$A = (1 - (\frac{P - Pm}{Pm})$	$A = Pm/P$

where:
Pm is the comparative offer of the most favourable tender offer.
P is the comparative offer of tender offer under consideration

Method	Formula for financial offer
2 Financial offer and	Highest price or discount: $W1 \times A = (1 + (\frac{P - Pm}{Pm})$

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preferences	Lowest price or percentage commission/ fee $W1 \times A = (1 - (P - Pm)/Pm)$ Where W1 is equal to 80 or 90 Pm is the comparative offer of the most favourable tender offer. P is the comparative offer of tender offer under consideration.

Score the financial offer of all responsive bids received to two decimal points using the appropriate formulae.

1) Bids may only be evaluated in accordance with the evaluation criteria stipulated in the RFX.
2) The involvement of women and black persons in contracts should not be evaluated in the form of quality criteria in public contracts. This must be addressed in the preferencing points in accordance with the PPPFA.
3) Any eligibility criteria introduced into the Tender Data should generally be based on the demonstration of the following, as necessary:
   - professional and technical qualifications;
   - professional and technical competence;
   - financial resources;
   - equipment and other physical facilities;
   - managerial capacity, reliability, experience; and
   - reputation.
4) Quality should only be introduced into the evaluation of bids where it is required to achieve policy objectives in terms of an organization's procurement policy or it is justifiable in terms of procurement outcomes. Quality measures must not promote captive markets and should result in quality that is appropriate to comply with user requirements as opposed to the best quality available.
5) Bid evaluation criteria need to be disclosed to bidders in a fair, equitable and transparent procurement system.

Example 1: Financial offer and preference

- *Bidder A tenders an amount of R 1 000 000 to construct houses for the public sector and is the lowest financial offer received.*
- *Bidder B tenders an amount of R 1 050 000,*
- *Bidder C an amount of R 1 100 000,*
- *Bidder D an amount of R 1 070 000 and*
- *Bidder E an amount of R 1 030 000.*

What are the evaluation points for financial offer that these tenderers receive, if the value for W1 provided for in the Tender Data is 90 and method 2 (financial offer and preferences) is to be used in the evaluation of bids?

Formula 2 is selected because the tenderer with the lowest financial offer is the most favourable offer.

- *Bidder A gets 90 points (i.e. the maximum), as this is this most favourable financial offer received.*
- *Bidder B obtains*

$90 \times (1 - (P - Pm)) = 90 \times (1-(1\,050\,000 - 1\,000\,000) = 90 \times (1-0.05) = 90 \times 0{,}95 = 85{,}50$ points,

  - *Pm 1 000 000*
- *Bidder C obtains $90 \times (1- (1\,100\,000 - 1\,000\,000) / 1\,000\,000)) = 81{,}00$ points*

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- *Bidder D obtains 90 x (1- (1 070 000 – 1 000 000) / 1 000 000)) = 83,70 points*
- *Bidder E obtains 90 x (1- (1 030 000 – 1 000 000) / 1 000 000)) = 87,30 points*

Step 4.5: Award points for preferences
Calculate the total number of evaluation points for preferences claimed in accordance with the provisions of the tender data.

Step 4.6: Total points and rank tenders

Method 2: Financial offer and Preferences	b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula: *TEV = NFO* + NP where: *NFO* is the number of tender evaluation points awarded for the financial offer NP is the number of tender evaluation points awarded for preferences claimed c) Rank bids from the highest number of evaluation points to the lowest.

Step 5 Acceptance of bid offer

1) Accept the bid offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the bidder:
   a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
   b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
   c) has the legal capacity to enter into the contract,
   d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
   e) complies with the legal requirements, if any, stated in the tender data (e.g. Bidders who submit bids for public contracts must be in good standing with SARS in so far as their tax obligations are concerned), and
   f) does not have conflicts of interest which may impact on his / her ability to perform the contract in the best interests of the employer.

2) An employer must, before awarding a Construction Works contract, satisfy him or herself that the contractor concerned -
   a) is registered in terms of the CIDB Regulations;
   b) is not prohibited in terms of any legislation from submitting bids or expressions of interest to an organ of state; and
   c) has demonstrated that-
      (i) he or she has the resource capacity or capability specific to the contract concerned;
      (ii) his or her capacity to perform the Construction Works concerned will not be unduly compromised on the award of the contract concerned.

3) Most banks can be approached for a recommendation relating to the financial capability of a contractor to finance a proposed contract. Typically they require a contract amount and a contract period and provide the following ratings:

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A- undoubted / excellent
B- good for amount quoted
C- average/ good if strictly in the line of business
D- fair trade risk
E- figure considered too high
F- financial position unknown
G- paper occasionally dishonoured
H- paper frequently dishonoured
A" to C" rating is generally acceptable.

4) Perform a risk analysis on the bidder having the highest ranking / number of points to ascertain if any of the following, as relevant, present an unacceptable commercial risk to the employer:
   a) unduly high or unduly low tendered rates or amounts in the bid;
   b) contract data provided by the employer; or
   c) the contents of the bid returnables which are to be included in the contract.

Note: 1 The reasonableness of the data provided by bidders in the Contract Data also needs to be considered. In particular, the following needs to be carefully scrutinized, and if necessary adjusted through process of negotiation as they serve the basis for the assessment of the cost component of compensation events / variation orders:

- Professional service contracts: The staff rates.
- Engineering and Construction Works contracts: The hourly rates for Actual cost of manufacture or fabrication outside of the Working Area; the percentage for manufacture or fabrication overheads; the hourly rates for Actual Cost of design outside of the Working Areas; the percentage for design overheads; the percentage for Equipment depreciation and maintenance of special and non-special items; and the percentage for Working Overheads.

The percentage for overheads and profit added to the Contractor's Cost for people and the percentage for overheads and profit added to other Contractor's costs.

Note: 2 Unreasonably high rates, which a bidder refuses to rectify, can also be sufficient ground for the overlooking of a bidder.

5) Approach bidder to amend any part of the bid submission that presents an unacceptable commercial risk, if relevant.

6) Recommend highest ranked bidder / bidder with the most evaluation points for the award of the contract or if found to be unsatisfactory, undertake an analysis on the next highest ranked bidder and so on until such time as a bidder satisfies the risk assessment.

Step 6

Recommendation

- Prepare TEAR report containing recommendation to the AC or person with delegated authority
- Record proper minutes of all the proceedings

18.7 RECOMMENDATION

18.7.1 Tender Evaluation and Recommendation Report (TEAR)

After a bid is evaluated a TEAR report should be completed by the Chairman of the evaluation committee setting out how all relevant evaluation criteria were measured and how Bidders were ranked as a result of the evaluation process. The motivation for the award of business must be supported by the evaluation score sheets as well as a copy of the automated scorecard. These documents must accompany the AC submission regarding the final award of business or the submission to short-list for post-tender negotiation.

The TEAR report must substantiate the results of the evaluation. This includes reasons why a Bidder was eliminated, for example, due to non-responsiveness or failure to meet any minimum technical qualifying criteria.

Guidance Note: The TEAR report should be prepared within 2 to 3 days of the finalisation of the evaluation process and should serve at the next AC meeting.

18.7.2 The recommendation to the AC

a) A recommendation for the award of the business must be drafted for submission to the relevant AC. This must be accompanied by the evaluation report motivating how all the relevant selection criteria have been evaluated. The evaluation panel may be called upon by the AC to clarify any uncertainties.

b) When for whatever reason, it is considered in Transnet's best interest to award only a portion of the scope of requirements, Transnet should consider giving an opportunity to all participants in the bid process to re-bid on the amended scope by a new closing date and time. This is because a reduction in scope may impact on pricing / discounts offered by Bidders which in turn could affect their competitive position.

c) Should the recommendation be to split the award of the business, the recommendation must be aligned to the strategy and be rational. Criteria to consider in recommending a split award (which must be addressed in the recommendation) include, but are not limited to:
- a close point differential between the top ranked Bidders;
- the geographical location of the Bidders;
- the geographical location of where the Goods/Services or Works are required;
- security of supply; and
- Transnet's operational needs.

18.7.3 Reasons for recommendation

a) The reasons for recommending a particular Bid(s) must be clearly stated by the recommending officers.

b) The Bid with the highest score must be selected unless there are objective criteria other than the criteria used to evaluate the bid that justify the award to another Bidder. This discretion must be exercised sparingly. Examples which would justify the award to a bidder other than the highest ranked Bidder includes the following:

- where SD is envisaged as an objective criterion as indicated in paragraph 12.3.1;

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- where a risk assessment indicates that there is a material risk involved in awarding the business to highest ranked Bidder as indicated in paragraph 20.3;
- instances where the highest ranked bidder's price is above budget but not the lowest priced bid;
- instances where the highest ranked bidder has just been fined a huge amount by the Competition Commission which impacts on its ability to deliver on the contract; or
- notice has just been received from ISCM Governance that the company has been placed on Transnet's List of Excluded Bidders.

If a Bid other than the Bid with the overall highest score is selected, the recommending committee shall provide a full explanation for this decision, and state which objective criteria are relied upon to justify the recommendation of such Bid. As a general rule, where the overall highest scoring Bid is overlooked based on objective criteria, the second ranked bidder must be considered for recommendation thereafter.

c) Where two or more Bids have scored the highest equal points based on Price and Preference, the Successful Bid must be the one with the highest score on preference.

d) If two or more bids have equal points, including equal preference points for BBBEE, the successful bid must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.

e) Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

f) When only one technically Acceptable Bid is received and recommended for acceptance, it shall be indicated whether the prices are fair and reasonable and how this has been determined using supporting documentation (e.g. benchmarking against previous prices etc.).

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CHAPTER 19: POST TENDER NEGOTIATION

This Chapter applies to both general procurement and construction procurement. However, for construction procurement, communications with bidders should only take place for the purpose of clarification and not for negotiation, except where the negotiations form an integral part of the procurement procedure.

19.1 POST TENDER NEGOTIATION (PTN)

19.1.1 Post Tender Negotiation is an effective tool to drive down cost or extract further value for Transnet and can be used very effectively in conjunction with any procurement mechanism. PTN is used after the evaluation process has been completed and the Preferred Bidder/s have been identified and approved by the relevant AC, based on the criteria as set out in the RFX.

19.1.2 PTN is normally reserved for high-value, strategic commodities, but it may also be used in lower value transactions where it is considered that further value for Transnet can be extracted from this process. Depending on the circumstances, this tool can be used either with all technically compliant Bidders, or a selected short-list, or even with the Preferred Bidder only.

19.1.3 PTN may only take place if the RFX document contained a clause stating that 'Transnet reserves the right to enter into post tender negotiations with a Preferred Bidder or any number of shortlisted bidders'.

19.1.4 **Guidance Notes:** While face to face negotiations is considered the most effective, email or telephonic negotiations are permissible provided that the fairness of the process is maintained as indicated in paragraphs 19.4.5 and 19.4.6 below.

19.2 AUTHORITY TO ENGAGE IN PTN (transactions falling within AC jurisdiction)

19.2.1 Matters falling within the relevant AC's threshold must first be submitted for the approval of the AC, indicating the detailed process followed in determining the shortlist of Bidders to be negotiated with, details of the agenda that will be negotiated, etc. (refer to paragraph 19.4 below).

19.2.2 On these high value transactions, the negotiating team to be appointed by the relevant AC, shall comprise of procurement, SD, technical, financial and commercial and legal disciplines, (where appropriate), to facilitate unity of purpose from Transnet's perspective and to enable the Bidder to deal with all relevant matters before making a final offer.

19.3 STANDING AUTHORITY TO PTN (transactions falling below AC jurisdiction)

19.3.1 For transactions falling below the ACs' minimum thresholds, certain officials in procurement may be given specific standing Delegated Powers to conduct and/or authorise PTN without prior AC approval.

19.3.2 Standing authority to negotiate must be obtained from the Manager or CPO and must be included in the Delegation of Authority of the relevant official. Copies of this should be filed with the AC Secretariat. The standing Delegation of Authority must clearly reflect the maximum transaction value for which the official may conduct or approve PTNs, without prior AC approval. The standing authority to

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conduct/approve PTN must not exceed the minimum thresholds of the relevant AC. Full details of all such PTN transactions undertaken, should be reported to the AC at regular intervals.

19.3.3 A standing authority to negotiate is different from a standing authority to communicate (refer to paragraph 17.4.3) and separate PTN authority must be obtained. Standing Delegated Powers to negotiate must be granted with circumspection and only to employees who have demonstrated the necessary negotiation skills.

19.3.4 Detailed records must be kept in the relevant files of the Bidders who have been negotiated with, how their eligibility for PTN was determined, including their best-and-final offers received. Copies of such standing authority must also be kept on the relevant files.

19.4 THE PTN PROCESS

19.4.1 Before PTNs are conducted with the Preferred Bidder or shortlisted Bidders, it must be approved by the relevant authority as indicated in paragraphs 19.2 and 19.3. The value of the proposed contract to be negotiated will determine the level of approval required. The submission requesting authority to negotiate should include the following:

- the Preferred Bidder or list of Preferred Bidders and how the list has been determined including the threshold set for qualification for PTN;
- the composition of the negotiating team;
- the roles and responsibilities of negotiation members;
- the objectives of the PTN including, for example, the targeted price reduction and/or the increase in SD and/or B-BBEE commitment; and

19.4.2 other aspects that will be negotiated to achieve a "win-win" situation, e.g. payment terms, minimum order size and frequency, delivery, lead times, etc.All members of the PTN team must sign declarations of interest and confidentiality agreements when appointed to such teams. These forms must be kept on the appropriate files as an audit trail.

19.4.3 Negotiations must be preceded by thorough research and a caucus discussion by the cross-functional negotiation team to ensure a co-ordinated approach. The objectives of the negotiating team must be recorded in consultation with the relevant disciplines concerned (e.g. financial, SD, technical and commercial).

19.4.4 The financial advantages, or other objectives sought (e.g. B-BBEE commitment, Enterprise Development initiatives, faster delivery, etc.), must be quantified and no negotiation will be regarded as final until all the approved objectives have been properly negotiated by the negotiating team. After receipt and evaluation of the best-and-final offers, the results must be recorded against the envisaged objectives.

19.4.5 In order to ensure that PTN is conducted in a fair manner, shortlisted Bidders should be negotiated with individually. The same agenda must be used with all shortlisted Bidders and all Bidders must be provided with the same information and the same opportunity to improve their Bid in all respects. The agenda must be made known in advance to all shortlisted Bidders so that they can prepare for the negotiations. Detailed minutes of the negotiations must be kept.

19.4.6 Under no circumstances may prices of one Bidder be disclosed to another with the request to improve on such price in order to be awarded the business. This is considered as 'horse-trading' and is considered an unfair business practice. Such misconduct will not be tolerated and will result in disciplinary action. Furthermore, a Preferred Bidder must not be informed that he has been awarded a contract prior to the PTN process, as that would jeopardise Transnet's negotiation power.

19.4.7 After PTNs has been conducted with an approved shortlist of Preferred Bidders, all such Bidders must be requested to submit their "best-and-final offer" in the tender box by a set closing date. This method may also be used with a single Preferred Bidder subsequent to the negotiation session if it is considered that it may yield a further price reduction or extract further value for Transnet.

19.4.8 It is important to note that although PTN may take place in respect of a number criteria including price, technical, SD, delivery terms, etc., the final evaluation criteria against which the best-and-final Bids will be scored will be strictly on price and preference in terms of the applicable preference point system (i.e. either 80/20 or 90/10).

19.4.9 While PTN offers shortlisted Bidders the opportunity to improve on their Bid in areas such as price, quantity, etc., care should be taken to ensure that the final contract negotiated does not deviate significantly from the scope of work, terms and conditions of the bid as set out in the original RFX document.

19.5 APPROVAL TO AWARD BUSINESS AFTER PTN

19.5.1 Business may be awarded to one of the shortlisted Bidders or split between any number of shortlisted Bidders.

19.5.2 It is possible and permissible for the ranking of shortlisted Bidders to change from the first evaluation stage when the shortlist was determined, to the final ranking after PTN was conducted and the best-and-final Bids were evaluated, provided that PTN was conducted strictly in terms of the rules as stipulated above.

19.5.3 Where the relevant AC has authorised PTN with a shortlist of Preferred Bidders, the full details of the best-and-final offers and the evaluation thereof must again be presented to the AC when a recommendation on the final award of the business is made. This applies to a situation where it is anticipated that business will be awarded to either one or more than one shortlisted contender (i.e. a split-award).

19.5.4 Where the relevant AC has authorised PTN with a single Preferred Bidder, the ultimate award of the business must also be presented to the relevant AC for approval to ensure that the final contract is substantially the same as the terms indicated in the RFP. However, the AC may choose to approve the preferred bidder and the subsequent award of the contract upfront due to operational requirements (urgency etc.). In such a case the final negotiated terms and contract value must be reported to the AC for information purposes only.

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CHAPTER 20: BID ADJUDICATION

This Chapter applies to both general procurement and construction procurement. The rules governing cancellation of CIDB bids differs from the cancellation of general procurement bids and is dealt with in paragraph 20.7 below.

20.1 GENERAL PRINCIPLES

Adjudication can best be described as the validation of the process leading to the recommendation of the Successful or Preferred Bidder/s. It is important to note that there are two different elements to this and these are often confused.

20.1.1 The ACs do not have any contracting powers and as such do not actually conclude the contract in the name of Transnet. The AC validates the process of selecting the Successful / Preferred Bidder.

20.1.2 When an AC has approved a submission, it clearly does so subject to the provisos listed in paragraph 21.2.1, one of which is that the person with the necessary DoA has to sign the actual contract. Likewise, the person with the necessary DoA may not execute his DoA and sign the contract, without the relevant AC approval of the process.

20.2 THE ROLE OF THE AC DURING ADJUDICATION

The function of the AC is to validate both the process related aspects as well as the commercial aspects of the bid process. The AC is required to satisfy itself that all Bidders were treated fairly in the bidding process and that the process was conducted in accordance with the applicable regulatory framework and Transnet's internal rules. The AC is also required to determine that the price to be paid by Transnet is market related, that the commercial terms and conditions are fair and reasonable and that the award of business is in the best interests of Transnet.

Factors to be considered during adjudication include whether:

20.2.1 the bid was advertised for a reasonable period of time and in the appropriate media;

20.2.2 all Bids are still valid i.e. still within the validity period as indicated in paragraphs **Error! Reference source not found.** and 17.4.2;

20.2.3 communication with Bidders after the closing date was properly authorised and conducted in a fair manner;

20.2.4 Bidders were evaluated against the evaluation criteria stated in the RFP;

20.2.5 the scoring of Bidders was reasonable, rational and in accordance with the scoring methodology;

20.2.6 the recommended Bidder scored the highest points overall. If not, whether the recommendation to award the contract to another Bidder is based on other objective criteria

20.2.7 the recommended Bidder is not on the Transnet List of Excluded Bidders, the Treasury list of Bid Defaulters or the Treasury database of Restricted Suppliers;

20.2.8 the recommended Bidder has legal capacity to enter into a contract;

20.2.9 the contract is to be awarded to the same business enterprise as the one which submitted the Bid;

20.2.10 the recommended Bidder's tax matters have been declared to be in order by SARS, VAT certificate (where applicable) and whether the recommended Bidder complies fully with all legal requirements stated in the RFP. Note that in terms of the Preferential Procurement Regulations 2011 no business may be awarded to a person whose tax matters have not been declared to be in order by SARS;

20.2.11 the recommended Bidder is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or judicial officer, has suspended his business activities or is subject to legal proceedings in respect of the aforegoing;

20.2.12 the award of business to the recommended Bidder would not be harmful to Transnet's image. In this regard, it must be borne in mind that Transnet is a public company and its sole shareholder is the Government of the Republic of South Africa. For this reason, business transactions with entities that could harm Transnet's image should be avoided;

20.2.13 price and other commercial terms are market related; and

20.2.14 The award of business does not pose any other legal or material risks to Transnet that has not been mitigated.

Refer to Appendix E for the AC Terms of Reference including the comprehensive AC Checklist to be utilised during the adjudication of bids.

20.3 RISK EVALUATION

Upon receiving a recommendation to award business to a particular Bidder, the AC may at its own discretion call for a risk evaluation on the Bidder if it is of the opinion that this was not considered at the evaluation stage. Should a material risk be detected, the Bidder must be afforded an opportunity to indicate how the risk will be mitigated before making a final decision in this regard. If on reasonable grounds it is determined that the Bidder cannot adequately mitigate the risk and there is a material risk involved in awarding the business to that particular Bidder, the AC may, depending on the likelihood and consequence of the risk materialising recommend one of the following

- not awarding to the Bidder;
- awarding part of the business to the Bidder; or
- splitting the business between the Bidder and another Bidder.

The concept of material risk must be interpreted restrictively and be limited to instances where Transnet would be severely prejudiced by the award of business to a particular Bidder.

20.4 SPLITTING OF BUSINESS

The AC should enquire whether the splitting of the award of business was considered during evaluation, as this is a feasible mechanism to promote the development of new entrants into the market. Transnet's standard bid conditions allow for the selection of multiple suppliers or the award of the whole, or any part of a Bid to any particular Bidder. Transnet may also choose not to make an award if there are valid grounds for doing so.

Bidders who qualify their Bids on the basis that the whole Bid should be accepted (in conflict with the bid conditions) must be advised that the restriction must be withdrawn before their Bid can be considered.

20.5 DISAGREEMENT REGARDING AWARD OF BUSINESS

20.5.1 Should a dispute arise between the recommending officer(s) and the AC, regarding a submission after the AC has referred the matter back to the recommending officer for re-motivation, the matter must be escalated to the Entity's CE for matters below R450 million for a final decision.

20.5.2 Should a dispute arise between the recommending officer(s) and the person with the DoA for process approval (i.e. the GCSCO and GCFO) for matters above R450 million but below R750 million, after the person with the DoA for process approval has referred the matter back to the recommending officer for re-motivation, the matter must be escalated to the GCE for consideration.

20.5.3 Should a dispute arise between the recommending officer(s) and the GCE for matters above R750 million but below R1 000 million, after the GCE has referred the matter back to the recommending officer for re-motivation, the matter must be escalated to the ADC for consideration.

20.5.4 Should a dispute arise between the recommending officer(s) and the ADC for matters above R1 000 million but below R2 000 million, after the ADC has referred the matter back to the recommending officer for re-motivation, the matter must be escalated to the Board for consideration.

20.5.5 Where the recommendation of the evaluation team conflicts with the opinion of the end user, the matter must be referred to the AC for a ruling.

20.6 NON AWARD / CANCELLATION OF BIDS

20.6.1 Non award of business must be approved by the relevant AC for matters within their jurisdiction. For matters below the AC's threshold, the Manager with the delegated authority must approve the non-award. A motivation for non-award may be considered by the AC at any stage of the process before the Successful Bidder is finally selected and informed about the bid award. Once a Successful Bidder has been selected and informed about the outcome of the bid process (i.e. he/she was awarded the bid), Transnet is said to be *functus officio* and can no longer cancel the bid process without an order of court authorizing it to do so.

20.6.2 It should be noted that a Bidder can only be regarded as the Successful Bidder when he/she was unequivocally informed that the bid was awarded to him/her. An award that is made subject to further negotiation or qualification cannot be regarded as a final and unequivocal award. Thus the award of "Preferred Bidder status", subject to the successful negotiation and conclusion of a subsequent contract does not amount to being selected as the "Successful Bidder" as the award is conditional and subject to the outcome of the negotiation process.

20.6.3 Group legal / the OD Legal department should be consulted before a decision to cancel a bid is taken to advise on the legal risk associated with cancellation and also whether Bidders should be invited to make representations before a final decision can be taken.

20.6.4 The decision not to award business must as far as possible be taken timeously. Bidders must be advised of this decision as soon as possible after the decision has been approved.

20.6.5 Non-award of business (as a result of Transnet's bad planning) should for obvious reasons be minimised as far as possible as Bidders expend a significant amount of time, effort and money when preparing and lodging Bids. Non award has the effect

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of cancelling a bid and the AC must therefore act judiciously when authorising a non-award so as to minimize prejudice to Bidders.

20.6.6 When no Bid can be recommended for acceptance, the Manager concerned shall provide a motivation to the AC clearly stating the reasons why no Bid can be recommended and give an indication as to how need for the required Goods/Construction Works/Services will now be met.

20.6.7 Where no bids have been received, the matter need not be submitted to the AC for approval as indicated in paragraph 20.6.9 below. The market may be approached immediately but the AC must be informed of the non-award including the reason therefore. The AC must satisfy itself that the non-award was not due to poor planning, a poor specification or unreasonable evaluation criteria.

20.6.8 In terms of the Preferential Procurement Regulations, 2011, if it is stipulated that the 80/20 preference point system is applicable to a particular bid process and all bids received exceed R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R1 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system. Similarly, if it is stipulated that the 90/10 preference point system is applicable to a particular bid process and all bids received are equal to or below R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R1 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system. If a bid is cancelled in terms of this paragraph, the correct preference point system must be stipulated in the bid documents of the re-invited bid. Where the incorrect preference point system is stipulated for transactions up to R2 million in value (i.e. the quotation threshold) which necessitates a cancellation, the new RFQ must be re-issued only to the bidders who were approached in the original bid to mitigate the risk of a cancellation due to the same reason again.

20.6.9 In terms of the regulations issued in terms of the PPPFA, the AC may approve a non-award under the following circumstances:

a) Where due to changed circumstances, there is no longer a need for the Goods, Services, Construction Works requested. [ACs must ensure that only Goods, Services or Construction Works that are required to fulfil the needs of the institution are procured]; or

b) funds are no longer available to cover the total envisaged expenditure. [ACs must verify that the budgetary provisions exist]; or

c) no acceptable bids are received. [If all bids received are rejected, Transnet must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].

When the AC authorises a non-award on the grounds of a) or b) above, all Bidders should be reimbursed for the bid document fee, if bid documents were sold.

20.6.10 In addition to paragraph 20.6.9 other grounds for non-award include but are not limited to:

a) The expiry of the validity period before award;

b) A material irregularity in the process has compromised the integrity of the bid; and

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c) Where an RFQ was issued only to find that the bids received are well in excess of the open tender threshold and could not reasonably have been anticipated to fall below R2 million.

20.6.11 After obtaining the AC's approval, the CPO or his/her delegate may write to the Bidders that responded to the Bid to communicate the cancellation of the Bid. For matters below the AC's threshold, the Manager with the DoA may perform this function.

20.6.12 In addition, the decision to cancel a bid in terms of paragraph 20.6.9 must be published in the media in which the original bid invitation was advertised.

20.7 CANCELLATION OF CONSTRUCTION RELATED BIDS

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A bid may not be re-issued covering substantially the same scope of work within a period of six months. The six month period commences from the time that the cancelled bid was made available to the Bidders.

This does not prevent an employer from immediately calling for fresh bids should:

- the employer change the contracting strategy or restructure the work covered by the proposed contract;
- all bids received are found to be non-responsive; or
- only one bid was received and such bid was returned unopened to the bidder.

The bidder must be informed in writing of non-awards and cancellations and upon written request reasons for such cancellations must be given.

The CIDB must be informed via the i-Tender system of any non-awards or cancellation of bids after approval from the respective delegation of authority has been obtained.

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SECTION E: CONTRACT MANAGEMENT

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CHAPTER 21: AWARD OF BUSINESS AND CONTRACTING PROCESS

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This Chapter is applicable to general procurement and construction procurement.

21.1 APPROVAL OF ACCEPTANCE OF BIDS NOT TO BE ANTICIPATED

No employee shall anticipate the approval of acceptance of bids. Therefore, no employee may enter into contracts verbally or in writing or place orders before the prescribed adjudication process has been performed and authority has been duly granted by a Manager with the appropriate DoA.

21.2 DECISION TO ACCEPT BIDS OR OFFERS

21.2.1 A Manager may only communicate the acceptance of a Bid i.e. issue a Letter of Award and proceed to conclude the contract if the following provisos have been adhered to:

a) he/she has complied with all internal policies and procedures and obtained the delegated Manager's signature or AC's concurrence by means of an AC resolution or (if applicable) approved AC minutes;

b) he/she has confirmed that there is still a need for the Goods/Service(s);

c) he/she has confirmed that the appropriate funds are still available;

d) the value of business awarded is within the level of his/her powers to contract in terms of his DoA;

e) where the value exceeds his/her powers, he/she shall obtain a mandate from higher authority to conclude and administer the contract; and

f) where the value of business exceeds the relevant OD CE's Delegated Powers to contract, the relevant higher authority (e.g. Transnet GCSCO, GCFO, GCE, ADC or Transnet Board) must conclude the contract. Alternatively, a mandate must be sought from the relevant higher authority in Group in favour of the OD CE to conclude and administer the contract. The award can be to one or more specified contractors for a specific amount/s, but the cumulative value of the business (not the individual contracts) shall determine the approval authority required. As stipulated in the Transnet DoA Framework, it is advisable to obtain a written mandate from that Approval Authority (as defined) to administer the contract and to effect amendments to it not exceeding 10% of the initially approved contract value. Such mandate must be in writing and kept on the appropriate file for record purposes.

21.3 NOTICES OF ACCEPTANCE & NON ACCEPTENCE OF BIDS

21.3.1 As soon as possible after approval to award a contract has been received, the OD which invited the Bids shall arrange to inform the Successful or Preferred Bidder(s) of the acceptance of his Bid either by way of a Letter of Award or Letter of Intent. This notice may only be communicated by a person with the necessary DoA, or a person who has been sub-delegated with a written mandate for a specific contract.

21.3.2 Unsuccessful Bidders must be advised in writing that their bids were unsuccessful and of the name of the Successful Bidder. On award of business to the Successful

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Bidder all unsuccessful Bidders must be informed of the reason as to why their Bids had been unsuccessful, e.g. price, delivery period, Quality, SD, preference or any other applicable reason. Please refer to the standard regret letter templates available on the iSCM Transnet Intranet. It is essential that the reasons for not accepting a Bid are factually correct, as the regret letter could form the basis for litigation against Transnet. A person with the necessary DoA, or a person who has been sub-delegated with a written mandate for a specific contract has the authority to issue letters of regret.

Guidance Note: In order to expedite the process, the person with the DoA should be requested to sub-delegate the authority to issue Letters of Regret.

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For construction procurement the successful bidder is notified by means of the signing and returning one copy of the Form of Offer and Acceptance.

21.3.3 The details of the contract award must be placed on the Transnet internet site. These details must include:

a) bid number and description;

b) name(s) of the Successful Bidder(s) and preferences claimed;

c) the contract price(s); and

d) the duration of the contract.

21.4 APPLICATIONS RECEIVED IN TERMS OF PAIA

Should an application be received in terms of the Promotion of Access to Information Act (PAIA) or the Promotion of Administrative Justice Act (PAJA), the matter should be referred to either the OD Legal Department or Group Legal. It is important to note that all requests received in terms of PAIA or PAJA must be dealt with immediately, as there are deadlines within which to respond to the requestor.

21.5 DELIVERY OF ACCEPTANCE TO BIDDER

21.5.1 When a Bidder has been advised by letter of the acceptance of his Bid, the South African Post Office shall be regarded as the agent of the Bidder and delivery of such notice of acceptance to the abovementioned offices shall be considered as delivery to the Bidder.

21.5.2 Where a Bidder has been informed per fax of the acceptance of his Bid, the acknowledgement of receipt transmitted by his fax machine shall be regarded as proof of delivery to the Bidder.

21.5.3 Where a Bidder has been informed by e-mail of the acceptance of his Bid, the "delivered message" on the sender's mailbox will be regarded as proof of delivery. Where the bidder's mailbox is set to allow for "Read messages" to be transmitted to the sender, these should also be kept as an audit trail.

21.6 FORMAL WRITTEN CONTRACT

A formal commitment in the form of a written contract is entered into with the Successful Bidder.

Contracts provide the framework to mitigate risks and to measure operational and financial performance as well as compliance with business obligations and regulatory requirements.

A contract arises when an offer made by the Bidder is accepted. The Bid submitted by the Successful Bidder, read together with Transnet's letter of award and terms and conditions of the RFP, constitute a binding contract between Transnet and the Bidder. Usually, this constitutes an "interim" contract until such time as Transnet and the Successful Bidder have been able to conclude a written contract to formalise their contractual relationship.

Although a verbal contract is equally binding on the parties, it is Transnet's policy that only formal written contracts shall be entered into with the Successful Bidder unless the Goods/Construction Works/Services are for immediate delivery or execution, in which case a formal order must be processed.

21.6.1 Letter of Award (LOA)

The LOA is the letter that is issued to inform the Successful Bidder unequivocally that it has been awarded the business. An LOA is to be issued where there are no further issues to be clarified or negotiated.

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For construction procurement the signing and returning one copy of the Form of Offer and Acceptance replaces the Letter of Award.

21.6.2 Letter of Intent (LOI)

a) A Letter of Intent is issued when a Bidder has been selected as a Preferred Bidder. The LOI informs the Preferred Bidder of Transnet's intention to negotiate and conclude a contract with it. The LOI also makes it clear that if a contract cannot be agreed upon, Transnet reserves the right not to award the business to the Bidder. No contractual or other legal rights are vested in a Bidder purely by virtue of having been issued a LOI. If applicable, the SD requirements of the RFP must also be included in the LOI.

b) The validity of such LOI should be for a limited period only and every effort must be made to finalise the signing of the contract within the shortest possible period. The extension of the validity period of a LOI should be avoided and only considered in exceptional circumstances. Notwithstanding this, even if an LOI does expire then it can be re-instated provided this is agreed by both parties. This is because the LOI does not impact on the contract as it is only an intention to contract. Furthermore the procurement process is also not affected as it has already ended.

c) Only if the Goods/Construction Works/Services are critical for operations, will it be permissible to draw off a LOI, whilst the negotiation process is underway. In such cases the LOI serves as a proxy for the binding legal agreement and under its authority Transnet may place orders on the supplier for its interim requirements, during which period the final agreement will be negotiated and finalised between the parties. Should negotiations between the parties break down for any reason, the supplier may immediately invoice Transnet for all reasonable costs for Goods/Construction Works/Services delivered (based on proof of delivery). Such amounts shall become due and payable by Transnet.

d) It is important to note that the longer the LOI is allowed to continue, the less likely it will be that Transnet will be able to leverage its negotiating power to change a contract condition to benefit Transnet.

e) When issuing an LOI, one of the approved standard templates available on the Intranet must be used.

f) **Guidance Note:** Every effort should be made to ensure that the final contract is concluded within 30 days of the issue of the LOI.

21.6.3 Use of Transnet's Standard Agreements

Where Transnet has standard agreements or terms and conditions in place, it is imperative that the standard template (available on iSCM Transnet Intranet) be used unless there are cogent reasons why such standard agreements cannot be used in a particular instance. Any omissions or additional clauses to such standard agreements must be captured in a schedule of special conditions. Should it not be possible to utilise a standard agreement, any non-standard agreement must be vetted and signed off by the relevant OD's Legal Department or Group Legal. The deviation from the standard agreement must be properly motivated.

It is always advisable to include Transnet's standard requirements/terms and conditions/agreements in the bid documents and/or RFPs. The respondent(s) will therefore be made aware of Transnet's requirements/expectations in advance.

21.6.4 NEC3 conditions of contract and CIDB Standard for Uniformity

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When issuing any RFP for construction procurement the NEC3 must be used. Please note that a standard contract template/standard construction procurement template has been prepared for Construction related projects. For any additional terms and conditions, OD/Group Legal must be approached via the OD/SU Contract/Compliance Department.

Should the need arise for additional clauses in terms of the NEC3 Z clauses, these must be carefully drafted and approved by OD/Group Legal Department

21.6.5 Process for expediting contracts

On award of the bid, the following process must be followed in expediting a formal contract:

a) The employee responsible must draft the contract using the appropriate Standard Template plus a schedule and service level agreement (SLA) (where applicable).

b) He/she must present the draft contract and SLA to the Transnet representative with the requisite DoA and obtain his/her approval of the contract and SLA in principle.

c) Two duplicate originals of the contract and SLA must then be presented to the external party for signature.

d) Once the external party has signed, the duplicate original contracts and SLA must be returned to the Transnet representative with the DoA for signature.

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One original must be forwarded to the external party and the other must be kept by Transnet.

e) The contract and a copy of the SLA must be stored in a secure repository and be readily available when reference to it is required.

21.6.6 Non adherence to existing contracts ('Maverick Spend')

a) As a general rule, Transnet is required to acquire the relevant Goods/Construction Works/Services only from the contracted supplier. Transnet is exposed to legal risk if it purchases Goods/Construction Works/Services outside of the contract.

b) If any person wishes to buy outside of a contract, the prior approval of the relevant Manager is required.

21.6.7 Formal contracts are to be entered into in the name of Transnet SOC Ltd

All contracts shall be concluded, as soon as possible after the award of the business to the Successful Bidder, in the name of Transnet SOC Ltd, according to guidelines issued. It shall be signed for and on behalf of Transnet by a Manager with the appropriate DoA.

21.6.8 Transnet may insist on a suitable security/guarantee for fulfilment of contract

a) When security has to be provided by Successful Bidders in terms of the contract, the delegated Manager entering into a contract shall ensure that adequate security is obtained for the fulfilment of the contract. It shall preferably be in the form of a guarantee by a bank or a financial institution approved by Group Treasury, or a cash deposit with Transnet. All securities shall be safely held by the OD concerned which shall keep a register thereof and shall ensure that the security does not lapse before the contract is completed.

b) Cash deposits or a "guarantee" in the personal name of an official of a bank or other institution is not acceptable.

c) Provided that the contract document allows for that, one can also retain part of the payment as retention money. Retention money (performance guarantees), normally 5 to 10% of the individual payments, is held back by Transnet as a guarantee for the satisfactory completion of the project. When such amounts have accumulated sufficiently, consideration is normally given to the refunding of the guarantees or sureties. Retention money is only refunded after completion of the guarantee period (normally 6 to 12 months, depending on the risk of latent defects).

d) Depending on the risk to Transnet, these measures may be relaxed to facilitate Transnet's B-BBEE objectives to develop small or emerging black companies.

e) Where credit risk arises due to guarantees issued by external parties (banks, financial institutions, insurance companies etc) as a risk mitigation in supplier agreements (advance payment guarantees (APG), performance bonds (PB), retention bonds (RB) etc, the criteria mentioned in paragraph 9.3.8 of the Financial Risk Management Framework will apply.

Please refer to the Financial Risk Management Framework (FRMF) and ensure that the FRMF is read in conjunction with the approved Delegations of Authority Framework (DOA). Where necessary, Group Treasury must be consulted.

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21.6.9 Commodity Risk Management – Supply Agreements

In terms of the Financial Risk Management Framework (FRMF) commodity risk refers to the potential variability in Transnet's financial conditions owing to the changes in commodity prices such as Brent crude oil, steel, iron ore, electricity and others used in the operations of Transnet. The strategic emphasis on commodity risk management is to protect budgeted levels at both capital expenditure and operational level. The MDS will require continuous establishment and conclusion of supply agreements to procure goods and services for both capital and operational risk purposes. The majority of supply agreements will contain price escalation clauses that need to be managed as part of the procurement process.

The following processes should be followed to mitigate the financial risk exposures as a result of price escalation clauses:

- Wherever possible the preference should always be to establish a fixed rate Rand contract to avoid any price escalation over the tenor of the contract.
- This should be done by transferring the cost of price escalation to the balance sheet of the supplier.
- The above should not be done at all cost to Transnet and an analysis should be done to establish reasonability of difference between the variable price quoted and by fixing the price with the supplier.
- Only if no agreement can be reached with supplier to fix the pricing and or the cost of fixing appears to be unacceptable high, a floating price should be accepted and the potential expected variable costs over the duration of the contract should be disclosed under the risk analysis and included under the estimated total cost of the project.

Group Treasury should be engaged, where necessary, to assist with historical information of the required indices.

For the commodity risk policy for fuel, please refer to the FMRF.

21.6.10 Foreign Exchange (FX) Risk Management

The principles contained in paragraph 15.2 of the Financial Risk Management Framework (FRMF) (read together with the DoA Framework) should be applied when supplier agreements are concluded to ensure that foreign currency risk exposures are minimised on the day of origin.

- All contracts/funding agreements with a foreign currency component of more than R50m should be reviewed by Group Treasury, Group Finance and Group Tax during the establishment process and ODs should get the sign off from all the respective sections before agreements are concluded. Contracts with a foreign currency component of more than R100m should also get the sign off by the GCFO.

- The Operating Division is expected to submit approved FX cash flows to Treasury within 10 business days after the agreement/purchase order are signed to enable Treasury to arrange hedging within the approvals of DOA.

21.6.11 Foreign Exchange Hedging

All direct committed foreign currency in respect of capital projects and operational expenses (Opex) should be hedged, subject to the limits in the FRMF.

Exchange Control: In the past foreign exchange hedging could only be implemented once a firm and ascertainable commitment was established as required by Exchange Control Regulations. A commitment, from an exchange control perspective, is established once a

purchase order/supplier contract/letter of acceptance has been signed by both Transnet and the supplier. During the middle of 2010 the SARB granted permission to allow local companies/residents/corporates to actively manage currency hedging facilities, in line with international best practice. As such, Transnet can now manage currency hedging facilities itself including the restructuring of economically inefficient hedges with residual maturities shorter than six months. These changes can only be considered and implemented by Transnet Treasury once there is a high degree of certainty that the hedge accounting process will still be highly effective, the FX risk is not jeopardised and with the specific approval from the GCFO and in line with the DOA.

All foreign currency hedges may only be entered into with local authorised dealers unless specific approval has been obtained from the SARB to deviate from this ruling. Proof of documentation is now only required by the bank doing the cross-border pay away and not the bank that establishes the contract. Currency contracts that do not result in a physical pay away under existing exchange control rulings, or contracts that are cancelled, may only be settled locally in RAND.

Transnet Treasury is the only Business Unit within the Group that is allowed to action foreign currency payments.

All requests from Operating Divisions to the SARB to obtain certain approvals/exemptions should only be done by Treasury.

21.6.12 **Export Credit Agency (ECA) Supported Finance**

The following wording must be incorporated in supply agreements in so far as ECA supported finance is concerned:

> "In order to finance its payment obligations under a future contract where foreign transactions are involved, Transnet may consider raising debt financing [an "ECA Facility"] from one or more banks and financial institutions, with the benefit of export credit agency [ECA] credit support to be provided by an ECA. Under such circumstances the successful Respondent undertakes:
>
> - to provide [and/or cause the Parent/OEM to provide, as applicable] to Transnet and the banks and financial institutions that may participate in the ECA Facility all such assistance as an importer of Goods and/or Services, which are eligible for ECA credit supported finance by an ECA, is generally required to provide for the purposes of obtaining ECA support;
> - not to do or [as Supplier of the relevant eligible Goods or services] omit to do anything, which may adversely affect Transnet's prospects of qualifying for or, once obtained, maintaining ECA credit support by an ECA in respect of an ECA Facility.
>
> All cost, expenses, charges and liabilities incurred by Transnet in establishing an ECA Facility with credit support from an Export Credit Agency, may be for the account of Transnet."

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Every project consisting of a single Construction Works contract exceeding R10 000 000.00 must be registered on the CIDB Register of Projects (CIDB i-Tender service) within 21 working days from the date on which a contractor's offer has been accepted in writing.

The CIDB must further be informed on the following:

- Any arbitration entered into or litigation initiated in relation to a Construction Works contract registered in terms of these Regulations, within one calendar month from the starting date of that arbitration or litigation.
- An award of any contract to an emerging enterprise who has a contractor grading designation lower than that required for the contract
- Non-award and/or cancellation of tenders.

Copies of all of the above notifications/registrations must be placed on the contract file.

21.7 CONTRACTING WITH SECOND/THIRD-RANKED BIDDER

In the following cases Transnet will be allowed, at its sole discretion, to consider accepting the second most favourable Bid, provided that this option is exercised within a reasonable period after the initial award:

21.7.1 when a Successful Bidder, after having been informed of the acceptance of its Bid, fails to sign a contract within a reasonable period after being called upon to do so;

21.7.2 when a Successful Bidder has failed to provide the necessary security, if required;

21.7.3 when a Successful Bidder fails to meet a condition precedent for the award of business (e.g. to obtain the necessary funding), or

21.7.4 when final contract negotiations with a Preferred Bidder fails and a contract is not agreed upon; and

21.7.5 it is not practical within the time available to call for fresh Bids.

In such circumstances the bids of the second and third ranked Bidders will automatically be regarded as valid, irrespective of whether or not they were issued with a letter of regret.

As a general rule, the second ranked bidder must be considered for recommendation after the first ranked bidder is unable/unwilling to conclude a contract. Only if the second ranked Bidder is also unable/unwilling, may Transnet proceed to the third ranked bidder. The award of business to the second/third ranked Bidder must be approved by the relevant AC or by the Manager with DoA for matters below the AC jurisdiction. Once this approval has been obtained, the person with the DoA will issue a Letter of Award/Intent to the second/third ranked bidder rescinding the letter of regret that was issued to it (if such a letter had already been issued) and informing him/her of his/her Successful/Preferred Bidder status.

21.8 APPROVAL OF LONG TERM CONTRACTS

The Main AC is to approve all contracts (excluding Confinements) for periods exceeding three Years.

Where one of the objectives of a particular transaction is to promote developmental goals, consideration should be given to conclude longer term contracts of at least five years. Nevertheless, no contract shall be entered into for a period longer than three Years without the main AC's written approval, except for large construction contracts where the period allowed will be the completion period of the project. The same principle also applies with respect to the extensions of contracts, i.e. the initial period of the contract together with the extension may not exceed 3 Years without the main AC's approval.

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CHAPTER 22 : POST AWARD CONTRACT MANAGEMENT

Although the PPM provides general guidance with regard to Contract Management Policy and Contracts Management Procedures, please refer to the Contracts Management Manual for comprehensive guidance in this regard available on the iSCM Transnet Intranet

The NEC3 Contracts are managed and administered outside the Procurement Process. The PPM provides general guidance in this regard and as a result, certain NEC terms of references will not be identifiable in the PPM.

22.1 WHAT IS CONTRACT MANAGEMENT?

Contract Management is an end-to-end process to ensure that:

- contracts entered into by Transnet are managed in a manner which minimises business risk and maximises intended benefits;
- contractual obligations are fulfilled;
- roles and responsibilities are clearly defined; and
- social value is realised.

Contract management also includes a planning phase during which the:

- contract type should be selected;
- contract should be drafted, approved and signed by all the relevant stakeholders; and
- budget should be set up front in order to manage the financial aspects of the contract effectively.

Table 22 below sets out the 8 core sub-processes of Contract Management which are addressed in the Contract Management Manual:

TABLE 22: 8 core sub-processes of Contract Management

Governance	**Ensuring that the contract life cycle management process is implemented within each site/OD in accordance with a clear set of norms and standards.**
Human Capital	Ensuring that adequately skilled and sufficient contract management human resources are available.
Planning	Ensuring the effective and efficient planning for the transition from the tender phase to the contract phase.
Delivery Management	Ensuring that the Goods and/or Services are being delivered in accordance with agreed performance, costs and quality levels set out in the contract.
Supplier Relationship Management	Ensuring that relationships with suppliers are managed in order to develop and maintain open and constructive associations.
Contract Administration	Ensuring that the formal contractual processes and obligations are complied with.
Contract Review / Close Out	Ensuring that the contract is closed out in an orderly manner, that all the elements of the contract have been adhered to and that lessons learnt have been properly recorded.
Electronic	This is a system or process that enables Transnet to manage

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Management Tools contracts electronically.

22.2 POST-AWARD FUNCTIONS

The immediate post-award contract management activities establish the basic awareness and procedures required to initiate Transnet's on-going contract management obligations. These include:

- Ensuring that all relevant parties are aware of their roles and responsibilities in the immediate implementation and transition process;
- Checking that the agreed processes for contract management are in place by both parties;
- That knowledge transfer from the procurement or project team (which may not have included members of the contract management team) to the contract management team takes place to ensure successful management of the contract; and
- That, where necessary, the continuity plans for the seamless transition of the Service from the previous supplier to the new supplier will be carried out as agreed.

22.3 DELIVERY MANAGEMENT

This activity is concerned with Transnet's ability to measure the supplier's performance in terms of the contract, whilst managing the associated risks. It is important that the performance measures selected provide clear and demonstrable evidence of the success (or otherwise) of the contractual deliverables. In principle, issues such as the following should typically be considered:

- cost and value obtained;
- performance and customer satisfaction;
- delivery improvement and added value;
- Supplier Development (SD), Empowerment and Local Content (LC) where applicable;
- delivery capability;
- benefits realised; and/or
- supplier responsiveness.

22.3.1 Service Level Agreements (SLAs)

Contracts with suppliers will normally define the service levels and terms under which Services are to be provided. Service level management includes assessing and managing the performance of suppliers to ensure value for money.

It is generally beneficial to establish an SLA, since an SLA creates a common understanding about services, priorities and responsibilities of both parties. Transnet must decide in each instance whether or not it is appropriate to utilise an SLA. However, the default position should be to establish an SLA.

Where applicable, an SLA must be put in place with the Successful Bidder to ensure proper performance management and to mitigate any financial, operational, safety, environmental or reputational risks which may arise during the term of the contract.

The SLA shall, at the very least, govern the following aspects:

- representative(s) from both parties who will attend the meetings;
- schedule of meetings;
- venue(s) for meetings;
- party responsible for taking minutes (to be approved by both parties prior to circulation);

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- risk areas to be measured (refer sub-paragraph 22.3.11 below);
- size of the samples to be tested in terms of performance management;
- key performance indicators (KPI);
- required outcomes;
- commitment to remedial actions, when needed;
- reporting on the results; and
- dispute resolution procedure in the event of disagreement or deadlock between the representatives of the parties (dispute resolution procedures are normally set out in the contract, failing which it is the Transnet Relationship Manager's responsibility to set out the procedures to be adopted).

22.3.2 Performance Scorecard

Service levels should be agreed and benchmarked for both Transnet and the supplier and should be:

- established at a reasonable level; if they are set too high they will attract additional charges from the supplier;
- prioritised by Transnet in order of importance and on agreed scales, for example; critical, major, urgent, important, minor;
- easily monitored (objective, tangible and quantifiable);
- unambiguous and understandable; and
- open to renegotiation at any time.

A performance management scorecard reflecting the performance of both parties should form an integral part of the SLA.

(See table below for a typical example of a scorecard for the purchase of Goods)

TABLE 23

KPA	Sample	KPI	Acceptable	Assessment	Remedial Action
DELIVERY	*Daily* all deliveries	On time	99% on time	*88%*	*Supplier to improve to 92%*
	Daily all deliveries	Accurate	99% accurate	*100%*	*N/A*
	Daily 1 in 5 deliveries	Lead-times met	99% lead-times met	*40%*	*Supplier to improve to 70%*
	Daily all deliveries	Paperwork in order	100% paperwork correct	*100%*	*N/A*
QUALITY	*Daily* 1 in 5 deliveries	No. of items rejected by GR	<2% Items rejected	*0*	*N/A*
	Weekly all deliveries	No of items rejected by production	0 items rejected	*0*	*N/A*
	Weekly 1 in 2	Items properly packed	<3% items incorrectly packaged	*0*	*N/A*

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KPA	Sample	KPI	Acceptable	Assessment	Remedial Action
	deliveries				
PRICE REVIEW	*Monthly* 10 prices	Price charged vs. market	95% of items in market pricing range	*91%*	*Supplier to improve to 95%*
PAYMENT	All payments	Payment within 30 days	90% payments on time	*40%*	*Transnet to improve to 80%*

22.3.3 Performance review meetings

The following must be observed by the Relationship Manager prior to and/or during the performance review meetings between Transnet and the supplier:

- ensure that performance review meetings are convened at intervals as agreed upon with the supplier;
- ensure that tangible proof of the supplier's performance against all the KPAs is obtained prior to the meeting;
- proper minutes shall be kept of all performance meetings; and
- over and above the requirement that minutes should be kept, a specific record (paper trail) shall be kept of recurring instances of poor performance by the supplier. Such record shall reflect the various performance assessments, interventions by the Contract Manager, the remedial actions agreed upon, and the results thereof.

22.3.4 Performance monitoring

a) A process for monitoring the delivery of the suppliers must be set up by management to ensure continuing adherence to the supplier contract and service level agreements. Suppliers must be monitored against agreed performance metrics defined in service level agreements and contracts, it must be confirmed that suppliers are meeting current business requirements.

b) Contracted fees must be in line with fees specified in the contracts.

c) Performance metrics must be periodically reviewed to ensure that they continue to support business requirements. Improvements in price, Quality or service must be sought and, where possible and built into the contract terms.

d) Benchmarking against similar organisations, appropriate international standards or recognised industry best practices must be undertaken. Benchmarking results must be used to evaluate and compare supplier prices and services. Results of benchmarking must be used to make adjustments to current supplier contracts and agreements.

e) Independent audits must be undertaken with key suppliers and recommendations obtained from independent audits must be reviewed by Transnet management for subsequent use to improve delivery.

22.3.5 Adherence to contractual sourcing (Goods)

For Goods manufactured in South Africa:

When a contract is placed for Goods to be manufactured in South Africa, the supplier may not be permitted to substitute imported Goods without the AC's prior

written approval. For contracts of values below the AC's jurisdiction, the Manager concerned may decide whether imported Goods can be substituted. Where the supplier has secured the business by reason of the Local Content offered, it shall not be allowed to substitute imported Goods for those to be supplied from South African sources. An exception to this ruling may only be considered when the supply from the South African source has been curtailed due to reasons beyond the supplier's control.

22.3.6 Conformance with specifications and delivery instructions (Goods)

The Supplier must be required to supply the goods as per the required specification or works information. Should there be any deviation, the Supplier must timeously inform Transnet and mutually agree on such deviation. Should there be any benefit of time and money as a result of the deviation Transnet must benefit without compromising quality of the supplied goods.

a) Inspection and shipment/delivery of Goods:

All Goods are to be delivered strictly in accordance with the contract. Timeous arrangements must be made by Transnet for the inspection and/or shipment and delivery arrangements, as indicated by the contract terms.

(i) In the case of imported Goods:

The supplier must notify Transnet or its nominated clearing and forwarding agent as to when consignments are to be ready for inspection and/or shipment in order that arrangements may be made for inspection and/or shipment, except in instances where it has been specified that the Goods shall be inspected at destination. (Refer *Appendix C – ICC Incoterms 2010* for further details relating to alternative purchase terms and related responsibilities of seller and buyer).

(ii) In the case of locally manufactured Goods:

- where Quality is not assured by means of SANS, ISO or other standards, suitable Quality assurance mechanisms must be provided for in the contract e.g. inspections during manufacturing process, inspections at point of despatch or delivery. A suitable clause should be included in the relevant contract to the effect that Transnet reserves the right to return defective Goods for replacement in accordance with specifications;
- where Goods are of such a nature that Quality inspections are not deemed necessary, a suitable clause should be included in the relevant contract to the effect that Transnet reserves the right to return defective Goods for replacement in accordance with specifications.

b) Acceptance of Goods received:

Transnet employees responsible for the receipt of delivered Goods must ensure that all Goods are provided:

(i) strictly in terms of the contract, i.e. the delivery note may not differ from what was required in terms of the contract or purchase order; and

(ii) that the Goods delivered correspond exactly with the delivery note, i.e. short supplies should be clearly endorsed on the delivery note and over-supplies should be returned to the company, with the delivery note clearly endorsed as such.

22.3.7 Remedies – General

In terms of the regulations issued in terms of the PPPFA, Transnet must act against the bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.

Transnet may, in addition to any other remedy that it may have against the bidder or person:

a) Disqualify the bidder or person from the bidding process;

b) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;

c) Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

d) Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after applying the *audi alteram partem* (hear the other side) rule; and

e) Forward the matter for criminal prosecution.

Group/OD Legal Departments should be consulted in deciding on any of the remedies that are to be applied.

22.3.8 Remedy for repetitive instances of poor performances

Where poor performances have been recorded and when no improvement in performance has been demonstrated by the supplier after several interventions on the part of the Transnet representative (including the imposition of penalties, where applicable – refer sub-paragraph 22.3.9 below), the following remedies should apply:

a) Should the Contract Manager believe that the supplier is unlikely to improve its performance, the Manager must approach OD Legal or Group Legal to obtain direction regarding cancellation of the contract; and thereafter

b) Procurement is to initiate the blacklisting process, if appropriate.

It is of utmost importance that the specific additional record (a paper trail) of recurring instances of poor performance by the supplier is available to inform the recommendation to cancel the contract and/or to blacklist (see Chapter 23, paragraph 23.4 for Blacklisting protocols).

It must be remembered that poor performance amounts to breach of contract. Transnet's contracts contain a standard "breach clause" in terms of which a defaulting supplier must be notified of the breach and afforded an opportunity to remedy the breach. Only if this fails may steps be taken to cancel a contract.

22.3.9 Imposition of penalties

a) A penalty is a stipulation in a contract (a "penalty clause") providing that a party who acts in conflict with its contractual obligations must pay a sum of money to

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the other party. Where a contract provides for penalties in the event of breach such penalty should be enforced.

b) However, unless a contract expressly provides for a penalty, a penalty may not be imposed. Where a contract does not contain a penalty clause Transnet must sue for damages arising from breach of contract. Damages must be recovered by way of litigation and only after the amount of damages is proven and awarded by a court.

c) Transnet cannot recover both penalties as well as damages. Furthermore, Transnet cannot claim damages in lieu of penalties unless the contract states so specifically.

d) Penalties should be reasonable and not out of proportion to the prejudice suffered. In terms of the Conventional Penalties Act 15 of 1962, a court may reduce a penalty if it is unreasonable, disproportionate and inequitable.

22.3.10 Failure by a supplier to perform - liability for additional expenses

The bid documents (as well as the eventual contract) shall make provision for the Bidder to undertake that if, after it has been notified of the acceptance of its Bid, it fails to perform, whether by not entering into a contract or by not undertaking any steps when requested to do so within a period stipulated in the bid conditions or within such extended period as Transnet may allow, the supplier will be held liable for any additional expense which Transnet may incur in having to call for Bids afresh and/or accepting any less favourable Bid to complete the whole or remaining portion of the contract. In addition, consideration can also be given to placing such a contractor on Transnet's List of Excluded Bidders (See Chapter 23).

22.3.11 Risk Management

Risk can be defined as 'the probability of an unwanted outcome happening".

It is advisable to seek to remove or at least mitigate risk whenever possible before contract award. The obligations placed upon buyers to analyse, assess and mitigate risk during the pre-award stages of contract management are dealt with in previous chapters of this PPM. These pre-award activities can be collectively summarised as follows:

Analysis	The process of identifying all potential issues that can go wrong with an activity and estimating the probability of each happening
Assessment	The process of assessing the likely impact of a risk on Transnet
Mitigation	Having assessed the risks and identified those requiring action, responsibility for managing and mitigating them is allocated, which allocation must be dependent on the assessment of the likelihood and consequence of the risk

Contracts provide the framework to mitigate risks and to measure operational and financial performance as well as compliance with business obligations and regulatory requirements.

Post-award risk management undertaken during the contract period comprises those activities associated with identifying and controlling the risks that may potentially affect the successful fulfilment of the contract. Risks to the contract include such issues as:

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- lack of capacity of the supplier, particularly if there are significant increases in demand;
- reduction in demand leading to higher unit costs borne by the supplier;
- an event which causes an increase in the total price to Transnet;
- an event which causes a programme delay;
- supplier staff changes;
- changes to the supplier's business objectives;
- deterioration in the supplier's financial standing;
- demand changes that cannot be met by the supplier;
- deterioration of Quality;
- *force majeure* issues;
- market fluctuations for commodities; and/or
- labour unrest.

When a risk is anticipated or perceived, to manage this involves the parties working together to identify *who* has the responsibility for the risk, the *method* of minimising it and *how* the risk will be managed. In order to do so the Contract Managers must undertake the following actions:

- establish a binding process to encourage early warning system for issues such as those mentioned above;
- identify the party best able to control the situation leading to the risk occurring;
- identify the party best able to control the risk itself;
- identify who should be responsible if the risk cannot be controlled; and
- if the risk is transferred to the supplier, establish whether or not this cost will fall to Transnet, whether transfer will introduce new risks and the legal position of any such transfer.

Finally it should be considered that business risk cannot be transferred to the supplier and that the ultimate responsibility will always remain with Transnet for any failure in the fulfilment of a contract.

22.4 SUPPLIER RELATIONSHIP MANAGEMENT

In addition to the achievement of the contractual and commercial aspects of the contract, a healthy relationship between Transnet and its contractors must be maintained as this underpins the overall successful and effective management of a contract. Management structures for contracts need to be designed to facilitate such a healthy relationship. There must be set procedures for raising and handling issues, so that these are dealt with as early as possible and at the appropriate level within the organisations.

The value, risk and strategic nature of a contract will dictate the appropriate degree of supplier relationship management to be established per contract. This decision must be made by the OD's CPO in consultation with the Contract Manager and recorded accordingly in the contractor's contract file. Establishing a sound relationship with a contractor will help in building a strong relationship and to provide constructive and positive feedback. All strategic contracts must have a supplier relationship manager, which should ideally be a person other than the Contract Manager/Administrator. A supplier relationship manager must have an appropriate level of seniority. For highly strategic contracts, this may be a CPO, GM or the OD's CE.

22.4.1 Sound Relationship Management

A sound basis for the relationship must be established in the earlier contracting phases, e.g. by having clear and well written terms and conditions, SLAs and regular monitoring and evaluation mechanisms. If the supplier relationship manager is new to the contractual arrangement, efforts will need to be made to understand the relationship that exists between the supplier and Transnet and to develop a specific relationship for this phase as soon as possible. It is particularly important for the manager to understand the background to the relationship and be aware of any problems or issues that have arisen at earlier stages of the procurement process.

The type of contract, its size and duration as well as the culture of the parties and the personalities of the people involved will influence the relationship between the parties.

It is of particular importance to Transnet that contractors not only fulfil the technical and financial aspects of the contracts, but also the socio-economic (Supplier Development, Localisation and Empowerment) aspects. As part of SRM, Transnet and the contractor should constantly look for ways to improve the socio-economic benefits of the contract.

22.4.2 Communication with the contractor

It is important to establish and maintain a constructive relationship through regular communication. In particular, problems that have arisen must be identified and every effort must be made to resolve such problems at an early stage. Problems which are not dealt with timeously can easily become exacerbated resulting in poor relations with the contractor. Escalation procedures must be put in place to deal with any unresolved problems. Providing positive and constructive feedback will assist in maintaining healthy relationships.

Effective SRM will enable Transnet to identify early warning signals and thus indicate whether alternative contractors or products should be identified.

Payments should be made without unnecessary delays in line with Transnet's procedures. To this end Transnet must pay suppliers within 30 days of submission of an undisputed invoice.
It is also important to listen to the contractor's side of the story, to identify any problems, address them promptly and explain decisions in an impartial way. This particularly applies to contracts that involve on-going service delivery that extend over a considerable period of time. In such contracts the management of the relationship with the contractor could consist of:

- Informal, day-to-day discussions;
- Interactions between the supplier and the nominated Transnet Supplier Relationship Manager and Transnet's staff; and
- Formal meetings at pre-determined intervals with nominated personnel from both Transnet and the supplier.

22.5 CONTRACT ADMINISTRATION

This activity is concerned with the practicalities of the relationship between Transnet and the supplier and the operation of the routine administrative and clerical functions. The typical functions included under post-award contract administration responsibilities are:

- Change control;
- Charges and cost monitoring;
- Ordering and payment procedures;
- Budget controls;
- Contract meeting schedules and minutes;
- Resource management and planning; and

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- Contract termination or extension/renewal.

The Contract Manager must ensure that s/he thoroughly understands all the components of a contract, including:

- Expected outcome measure – significant deliverables should be tied to the payment schedule; and
- Acceptance / Rejection Terms – Transnet's right to inspect and accept or reject the goods and/or services and the conditions of acceptance or rejection.

22.5.1 Change control procedures

Changes will almost inevitably occur during the period of a contract and managing these changes is a particularly important activity. Formal change control procedures should be designed and set out in the original contract documentation to avoid misunderstanding and ambiguity about roles, responsibilities and the actions to be taken in any given situation.

The procedures need to be comprehensive but also flexible and straight forward and should cover such issues as:

How to request changes, including additional demands placed on the supplier

Assessing the impact including contractual implications

Prioritisation and authorisation levels

Agreement on methodology

Controls for implementation

22.5.2 Amendments to contracts

Contracts may be amended by:

a) Extending/reducing the period of the contract;
b) Increasing/decreasing the value of the contract;
c) Changing the scope of work;
d) Changing the contracting parties; and
e) Changing any other terms and conditions of the contract.

Extension of contracts, additional work, increase in quantities, price or time by more than 10%, cession and assignments, waiving of penalties, etc., are all examples of material amendments to contracts, and need prior AC approval.

A decision to amend a contract should not be taken lightly. Amendments to contracts must be properly motivated by the end-user in consultation with the Contract Manager and if approved, must be signed off by the person with delegated authority. Please note that the cumulative value of the individual contracts (i.e. the original value together with the value of any previous amendments plus the value of the current amendment) and not the total business value if there was a split award will determine the level of delegated authority required for sign off of the amendment unless the amendment is to a Consultant Agreement or a contract awarded via a Confinement (see paragraph 22.5.7h) in this regard).

22.5.3 Extension of contracts

The relevant legal principles are explained as follows:

a) A contract may be extended before its expiry date. This will involve an agreed Material Amendment to the existing terms and conditions of the contract. Where the contract expressly allows for an option to extend or renew, such prescribed extension or renewal process must be followed before the termination date.

b) A contract that has lapsed or expired cannot be extended. The purported "extension" of an expired contract either for a given period (e.g. 1 Year) or on a month-to-month basis has inherent risk, because the terms and conditions safeguarding Transnet would have expired with the original contract itself. Transnet would have effectively entered into a "new" contract without the safeguards of the initial contract. This could also give rise to irregular expenditure in terms of the PFMA.

22.5.4 In view of the principles set out above, the practice of extending a contract after its termination date is considered to be irregular.

The following approach with regard to the extension of contracts must be followed:

Fixed term contracts for Goods/Services

a) Any request for the extension of a contract must be submitted to the AC at least 45 Working Days before the contract is due to expire. This is to ensure that the AC may consider the request before the expiry date.

b) A request for the extension of a contract must indicate whether such extension is as a result of exercising an option to extend or whether the extension sought amounts to an amendment to the contract.

c) Any request for the extension of a contract for a given period (e.g. 1 Year) or on a month-to-month basis should contain proof that the supplier is willing to extend the contract based on the same or better terms and conditions for Transnet.

d) No request for the extension or renewal of a contract after the expiry date of the contract shall be entertained and any proposed continuation of business shall be regarded as a new sourcing event, i.e. open RFX, Confinement or to be effected under laid down emergency procedures.

e) In the event that the contract has been allowed to exceed its termination date, such irregular "extension" shall be submitted to the AC for a recommendation to the GCE or higher that the condonation of the action taken.

Project-type contracts

f) Should a contractor/service provider request extension of the contract completion date, the relevant circumstances must be considered in order to reach a fair decision in response to such a request, as follows:

(i) Where the bid document or contract stipulates that completion of the Construction Works, Services, project or delivery of the Goods has to take place by a specified date and the contractor/service provider completed it / handed it over only after the contractual completion date, penalties may be raised under the terms of the contract.

(ii) A contractor/service provider may apply for an extension of the contract completion date if it considers that the reasons for late completion were/are:

- beyond its control (e.g. *Force majeure* events such as acts of God, rain, floods or earthquakes);
- whereas the supplier had exercised reasonable control, the late completion could not have been foreseen, minimised or prevented; and/or
- or the delay(s) had been attributable to Transnet

(iii) The contractor/service provider's claims in terms of (ii) above may be lodged at any time during the course of the contract or after the completion date and must be substantiated by means of site diary entries, etc. Transnet then has to consider the reasoning and if considered to be valid, shall recommend to the AC the refund of some or all penalties already levied in terms of the contract or the waiving of some or all penalties.

(iv) Late completion of the contract due to valid reasons will require an extension of the contractual completion date. This would constitute a Material Amendment to the contract and would require AC approval. Should the extension of time be granted, i.e. approved by the AC, the supplier shall be entitled to price escalation over the extended period only if escalation has been provided for in the original contract.

(v) If Transnet does not consider the contractor/service provider's claim for an extension of time to be valid, the contract completion date may nevertheless be extended but penalties may be imposed in terms of the contract. Price escalation will also not be payable after the official completion date. However, Transnet is not obliged to grant the contractor/service provider's request for an extension of time and may (especially in instances where time is of the essence) decide to cancel the contract.

(vi) A waiver or reduction of penalties would constitute a Material Amendment to the contract and would require AC approval.

22.5.5 Exercising options

a) If Transnet wishes to reserve the right to extend a contract period, this should be stipulated upfront in the RFX. Furthermore, the inclusion of this option must be brought to the attention of the AC (or the person with DoA) when the initial recommendation to award the business is made.

b) Should it be decided to exercise the option during the course of the contract, the recommendation to exercise the option must be submitted to the AC for prior written approval in the normal manner. An indication must be given at that stage that the exercise of the option is still the best value in the market place (also see paragraph 9.2 and 22.4.3(b)).

22.5.6 Involvement of AC in material contract amendments

The AC must approve all Material Amendments to contracts within their threshold and recommend those above their threshold. This applies even if the initial award had only been submitted for the information of the AC, e.g. an emergency procedure or business awarded via the 'confine and award' process.

A Manager may approve any increases or decreases in quantities or additions or additional work of which the total value does not exceed 10% (10 per cent) of the original value of the contract, and must inform the AC accordingly.

This provision does not include price escalations not provided for in the contract, i.e. the same goods to be provided at an increased price. Such matters should be

presented to the AC for prior approval regardless of the value of the proposed increase in price.

22.5.7 General amendment principles for general procurement

a) Where the original value of the contract falls below the AC's jurisdiction, a Manager may approve additions, increases or decreases provided the total value of the contract does not exceed his/her Delegated Powers. However, if the original contract value is below the AC's jurisdiction but amendments bring it within the AC's jurisdiction, the matter must be submitted to the AC provided the cumulative amendments are greater than 10% of the original contract value.

b) Matters within the AC's jurisdiction where there are non-material amendments to contracts and contract amendments where the increase in value and/or the extension of period represents less than 10% of the original contract value or contract period will be dealt with as follows:

In such cases the Manager with the delegation of authority may effect such amendment and is only required to inform the AC of such amendment as soon as possible thereafter. The Manager who approves the amendment may be the original signatory of the contract if the cumulative value of the amended contract is still within his/her delegation of authority. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority and the original signatory must be informed thereof.

Example: A R999 000 increase on an R10m contract, or a 1 month extension on a 12 month contract.

c) Material amendments in excess of 10% of the original contract value or contract period, up to 40% of the original contract value will be dealt with as follows:

In such cases the Manager with the delegation of authority may not effect such amendments without the PRIOR approval of the relevant AC first of such amendment.

A recommendation must be submitted for AC consideration together with supporting documentation indicating that the proposed amendment to the contract is in the best interest of Transnet, that it represents the optimal value for Transnet, and how this has been determined.

Following AC approval such amendment needs to be signed off by the original signatory (i.e. the person with delegation of authority who signed the initial contract or the person mandated to do so) provided the cumulative value of the contract and subsequent amendment(s) still falls within his/her delegations. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.

Example: R350m contract increased by R70m (i.e. 20%) to R420m: Obtain PRIOR approval from main OD AC (e.g. TREDAC) and then the OD CE.

d) NOTE: As a general rule, contracts may be amended by not more than 40% of the original contract value. Any deviation in excess of this threshold

will only be allowed in terms of paragraph (e) below. Whilst provision is made for deviations, it is imperative to note that requests for such deviations may only be submitted for approval in exceptional circumstances.

e) Amendments in excess of 40% of the original contract value or contract period will be dealt with as follows:

In such cases PRIOR review and recommendation must be obtained from the appropriate AC first, as well as the original signatory. Thereafter the matter must be submitted for approval to the person with delegations one level higher than the original contract signatory (provided the cumulative value is still within the original signatory's delegations of authority) or to the person with the delegation of authority if the cumulative value brings the contract within a higher level of authority than the original signatory. In the former scenario, after approval, the amended contract will be signed off by the person with the delegation of authority to sign off the contract value concerned. In the latter scenario, the person with the delegation of authority may approve the contract amendment and sign off the amended contract at the same time.

However, this rule does not apply to amendments falling within the GCE, ADC or the Board's delegation of authority. For such contract amendments, the matter will be submitted to the GCE, ADC or the Board regardless of the value of the contract amendment (provided the cumulative value is still within their delegations of authority).

Example: R300m contract increased by R125m (i.e. 41.6%) to R425m: Obtain PRIOR approval of the main OD AC (still below R450m main AC threshold) and then the GCFO (R464m actually falls within the GCSCO's delegation, but because the amendment is in excess of 40% of the original contract value, it has to go one level higher, which brings it to that of the GCFO).

f) The rules relating to contract amendment stated in paragraphs 22.5.7a) - e) above apply to contracts awarded via open tender. These rules also apply to "as-and-when" contracts. Although such contracts do not have a stipulated contract value, the original estimated value of the contract that was initially presented to the AC (or other delegated authority) should be used to determine the percentage increase of the contract and the applicable contract amendment rules.

g) Furthermore, the 40% rule will also be applicable to construction/CIDB related contracts.

h) Contract amendments to Consultancy agreements and contracts awarded via a Confinement:

- Where an amendment increases the price, duration or scope of the original contract by less than 10%, this should be submitted to the AC for approval and the proposed amendment does not need to go to original approver.

- Where a Material Amendment more than 10% but less than 40% of the original contract value is required, the matter must first be sent to the relevant AC for support. If supported by the AC, the proposed amendment must be submitted to the original approver for prior

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approval of the amendment. The person with the DoA may only then sign the contract amendment.

- Amendments more than 40% of the original contract value must first be considered by the AC for consideration and support. Since the 40% rule does not apply to the GCE, ADC or Board, the original approver of a Confinement must approve the amendment to the confinement, where after the contract amendment is signed by the Manager who signed the original contract, provided it is still within his DoA. For Consultant Agreements, the 40% rule as detailed in paragraph 22.5.7e) apply as-is save for the requirement that the original approver of the Consultancy Agreement must also approve such an amendment after the AC has supported it.

- Where an amendment to a contract results in the value of the contract reaching a higher approval level, the matter must be sent to the relevant AC and then to the original approver for review and recommendation. Approval must then be sought from the person with the delegated authority to approve the higher value e.g. the original confinement of R240m was approved by the GCE; if it needs to be increased by R12m to R252m, it will require the support of both the AC and the GCE, but will require the ADC's approval because it exceeds the GCE's limit for confinements of R250m.

22.5.8 General amendment principles for construction procurement

- It is recommended that Transnet Entities put in place "Project Commercial Levels of Authority Framework" (DOA), which assigns a cumulative commercial value (Approved Contract Budget = DCV) as stipulated in the Delegated Consent Form (DCF) for the approval of compensation events by the appointed NEC3 representative such as the Project Manager in the Engineering and Contruction Contract (ECC), the Supply Manager in the Supply Contract (SC), etc. The DCV is made up of the original contract value plus an allowance for potential compensation events.
- In accordance with the Project Commercial Levels of Authority Framework, the 10% threshold mentioned in paragraph 22.5.7b) is based on the DCV and not on the original value of the contract. Also, any increase exceeding the DCV but within a 10% threshold must be approved by the DOA that signed the original contract.
- In accordance with the Project Commercial Levels of Authority Framework, if the contract value plus the cumulative total of compensation events is expected to exceed the Approved Contract Budget (as per the DCF) plus 10% (as mentioned in paragraph 22.5.7c) then "a submission explaining the contract increase together with an application for an increase in the contract budget and associated DCF must be submitted to the relevant Acquisition Council for approval before the contract budget is exceeded by 10%".

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22.5.9 Contract closure

This stage concerns the activities associated with finalising the close-out or termination of a contract, whether in accordance with the expiry date, the exhaustion of the contract value or as a result of early contract cancellation. Depending on the nature of the contract, such activities may include the following:

- Complete all administrative matters;
- Record all technical issues have been resolved;
- Determine the extent of any liquidated damages to be deducted from the contract price made against or received from the supplier;
- Record the end of retention and guarantee periods, plus date of final inspection;
- Record the date of release of retention and/or bank guarantees;
- Record the date should there be any claim of calling up the bank guarantee or retention (in the event of breach of contractor);
- Agree to limits on any on-going obligations, including warranties;
- Record any material reconciliations;
- Transfer any assets, including data, intellectual property and loan items;
- Transfer operating systems (as applicable) to new/replacement supplier;
- Conclude final contract payments;
- Summarise claims made against or received from the supplier; or
- Ensure retention of records.

On completion of the above activities agreement should have been reached between Transnet and the supplier on all technical and commercial aspects of the contract.

22.5.10 Safe custody of Bid documentation, contracts and contract files

a) Each OD shall arrange for the safe custody of Bid documentation and contracts at a suitable, approved, centralised or regional location.

b) Related documents which should be kept on contract files as part of the contract records include, but are not limited to, documents such as
   - RFP (requisition);
   - the going to market strategy and approval;
   - bid Advertisements (if applicable);
   - authorisations to confine (if applicable);
   - minutes of relevant meetings/briefings;
   - evaluation methodology and score-sheets;
   - TEAR reports;
   - declaration of interest documents signed by members of evaluation teams and post bid negotiation teams;
   - certificates authorising communication with Bidders;
   - agendas and minutes of post bid negotiation meetings;
   - correspondence with Bidders;
   - RFX offer from Successful Bidder;
   - letters of award and non-award;
   - Letter of Intent (if applicable);

- Approvals of draft contract (sign off schedule);
- Executed original copy of contract;
- Vendor Application Form;
- Insurance details (if applicable);
- Original and valid SARS VAT (to be updated annually);
- Tax Clearance Certificate;
- B-BBEE Verification Certificate/sworn affidavit;
- SD Implementation Plan (if applicable);
- B-BBEE Improvement Plan (if applicable);
- Contract Addendums (if any); and
- Confirmation of expiry or extension to contract.

Refer to the ISCM Transnet Intranet for the checklist template of documents and signoffs which should be kept on contract files.

22.5.11 Document Retention

The following may be used as guidelines as to how long records should be retained:

a) Unsuccessful Bids must be kept for 5 Years after completion of the contract, and thereafter may be destroyed.

b) Successful Bidder's Bid/contract document, as well as the contract file and related general correspondence must be kept on site in a proper and safe archiving facility for a period of 5 Years after completion of the contract or after the expiry of any applicable warranty periods (if the warranties are still valid 5 Years after the completion of the contract). Thereafter the documents may be archived in an off-site archiving facility in compliance with normal archiving procedures.

These files should be properly archived and recorded by means of a formal register so that they can be easily traced when required for audit investigations and/or litigation purposes.

22.6 CONTRACT LIFECYCLE MANAGEMENT METHODOLOGY

SAP CLM has been identified by Transnet Group as the Contract Management System to be used as the Contract Management Process enabler. At present the system serves mainly as repository of contracts but is in the process of being upgraded to include further functionality. It is imperative that each and every supply chain contract entered into by Transnet is loaded onto SAP CLM. Failure to do so will be considered to be a breach of protocol.

The Contract Manager must ensure that Transnet's SAP CLM system is utilised to manage the contract through its lifecycle. The SAP CLM system ensures enhanced visibility, control and performance monitoring of contracts. It will also be used for purposes of audits and analysis of contract transactions. SAP CLM extends from pre-bidding activities, bidding activities, drafting, negotiations and Contract Management processes. Modules for all activities should be used and/or made available. **(Drafting note: this functionality will be added when upgrades of SAP CLM are effected)**

22.7 INDICATIONS OF SUCCESSFUL CONTRACT MANAGEMENT

Successful Contract Management will achieve benefits by:

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Managing Transnet's own responsibilities during the contract

Ensuring the supplier meets the minimum performance criteria, such as compliance

Allowing the achievement of both short and long term supplier performance improvement through developing effective supplier relationships

Ensuring that suppliers deliver Goods/Construction Works/Services of the agreed quality and price

B-BBEE and SD commitments are closely monitored and enforced

Reduction of costs and continuity of supply

Roles, responsibilities, rights, obligations of all stakeholders are clearly communicated and understood

Early identification and resolution of poor performance and disputes thereby minimising risks

Eliminating unethical practices within Transnet

Enhanced Supplier relationships through the visualisation and establishment of win-win scenarios

Entrenching uniformity of managing contracts and the principle of fairness

Creating a database of lessons learnt to aid future planning through the dissemination of good practices

Increased competitive and strategic advantages through effective control and visibility of contracts

Evaluation of the specification against contract performance and identification of contract changes or variations

In summary, successful Contract Management is indicated if:

The arrangements for service delivery continue to be satisfactory to both parties

The expected business benefits and value for money are being achieved

The supplier is co-operative and responsive

Transnet understands its obligation under the contract

There are no disputes

There are no surprises

A professional and objective debate over changes and issues arising can be had

Efficiencies are being realised

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CHAPTER 23: BLACKLISTING PROCEDURES AND GUIDELINES

cidb

This Chapter of the PPM applies in both construction procurement and general procurement activities. However, where suppliers are blacklisted for construction procurement the CIDB must be informed of this in writing within 21 days.

23.1 DEFINITION

Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist must be based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.

The Transnet GCFO or his delegate may, upon a recommendation by the relevant AC and the Group Chief Supply Chain Officer decide that no Bid from that person or Enterprise be considered/accepted for any new contracts concluded for a specified period as may be determined.

Depending on the seriousness of the misconduct and the strategic importance of the Goods/Construction Works/Services, in addition to blacklisting a company /person from future business, Transnet may decide to terminate some or all existing contracts with the company /person as well.

A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.

The Blacklisting provisions of the PPM must be agreed to by Bidders as part of the General Bid Conditions and must also be contractually committed to by Transnet's suppliers/service providers in the Standard Terms and Conditions of contract.

23.2 GROUNDS FOR BLACKLISTING

23.2.1 Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:

a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;

b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;

c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;

d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;

e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;

f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:

(i) he made the statement in good faith honestly believing it to be correct; and

(ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;

g) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;

h) has litigated against Transnet in bad faith.

23.2.2 Transnet recognizes that trust and good faith are pivotal to its relationship with its suppliers. When a dispute arises between Transnet and its supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

(iii) Vexatious proceedings. These are frivolous proceedings which have been instituted without proper grounds;

(iv) Perjury. Where a supplier commits perjury either in giving evidence or on affidavit;

(v) Scurrilous allegations. Where a supplier makes allegations regarding a senior Transnet employee which are without a proper foundation, scandalous, abusive or defamatory.

(vi) Abuse of court process. When a supplier abuses the court process in order to gain a competitive advantage during a bid process.

23.2.3 Where any person or Enterprise has been found guilty by a court of law, tribunal or other administrative body of a serious breach of any law, during the preceding 5 Years, such person/Enterprise may also be blacklisted. Serious breaches of the law would include but are not limited to corruption, fraud, theft, extortion, or contraventions of the Competition Act 89 of 1998 (e.g. collusive tendering). This process excludes minor convictions such as traffic offences or personal disagreements between parties which have no bearing on the business operations of the person or Enterprise.

a) When issuing RFXs, prospective Bidders must be requested to disclose whether the company or any of its directors were found guilty of a serious breach of the law during the preceding 5 Years.

b) Should any prospective Bidder declare a conviction of a serious nature, the blacklisting process should be considered based on paragraph 23.4 below. If considered appropriate, the blacklisting process should be instituted without delay and dealt with expeditiously, whilst the evaluation of the bidder's Bid continues.

c) Under no circumstances may any prospective Bidder be excluded from the evaluation process or overlooked for the award of business until such time as a final decision to blacklist has been made.

23.2.4 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Tender Defaulters.

23.3 WHO MAY BE BLACKLISTED?

The following persons / entities may be considered for blacklisting:

23.3.1 any person/company who has submitted a Bid in response to a bid request issued by Transnet;

23.3.2 any person/company who has concluded a contract/s with Transnet;

23.3.3 any person who has acted in the capacity of subcontractor to a supplier of Transnet;

23.3.4 any agent or employee of the company concerned, or his/her spouse who may be conducting the same business but under a different name;

23.3.5 Transnet employee found to be involved in fraudulent or corrupt activities;

23.3.6 companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons); and/or

23.3.7 any companies subsequently formed by the person(s) guilty of the misconduct or where such person(s) acquires a controlling stake in an existing company.

23.4 FACTORS TO CONSIDER BEFORE TAKING THE DECISION TO BLACKLIST

23.4.1 A decision to blacklist has far reaching implications for the company/person concerned. Therefore, Transnet must act fairly, reasonably and rationally whenever it decides to blacklist a company/person. The decision to blacklist must be considered on a case-by-case basis and must be based on the merits of the particular matter.

The following factors must be taken into account in deciding whether to blacklist a company/person:

a) the gravity / seriousness of the offence/misconduct/breach;

b) any previous offence/misconduct on the part of the company/person;

c) any remedial action taken by the company, including steps to ensure that the misconduct will not be repeated;

d) the seniority of the person(s) who acted in bad faith;

e) the impact of the proposed blacklisting of the company on Transnet's operations;

f) the reasonableness of the explanation for the misconduct;

g) whether the company/person has received direct or indirect benefit as a result of the misconduct; and

h) whether Transnet suffered actual or potential prejudice.

23.4.2 The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet and must be carefully considered. Associated companies must not be blacklisted by default. The merits of each case will inform the decision as to whether a particular associated company will be blacklisted or not. In addition to considering the factors mentioned above, as a general rule the blacklist should only be extended to associated companies where the directors/members common to both entities were either directly involved in the misconduct against Transnet, or failed to take remedial action for a serious offence. Furthermore, it is important to consider whether the blacklisted director/member plays an active role in the associated company or has a controlling stake in the associated company.

23.5 GUIDELINES FOR DETERMINING AN APPROPRIATE PERIOD FOR BLACKLISTING

Blacklisting cannot be imposed for an indefinite period. The following is a general guideline on the number of Years of blacklisting to impose on suppliers found guilty of misconduct against Transnet:

TABLE 24

Grounds for Blacklisting	Suggested Period
Offences involving bad faith / dishonesty (e.g. theft, corruption, fraud, Fronting, misrepresentation, etc.)	Not less than 5 Years, and not exceeding 10 Years
Other misconduct (e.g. breach of contract, poor performance, etc.)	1 – 5 Years (However, Transnet reserves the right to impose a longer period of restriction to a maximum of 10 Years, depending on the gravity of the misconduct.)

23.6 BLACKLISTING PROCEDURE

The following procedure must be followed in order to blacklist any person/company:

23.6.1 As soon as an OD detects misconduct by a person/company falling within one of the grounds for blacklisting, the matter must immediately be reported to the procurement division of the OD concerned.

23.6.2 Procurement will review the motivation for the blacklisting. If possible grounds for blacklisting exist; a forensic audit may be conducted to establish whether the grounds for blacklisting are valid.

23.6.3 Should the forensic report establish that possible grounds for blacklisting exist; the OD AC shall be approached for approval to proceed with the blacklisting in principle.

23.6.4 Transnet Internal Audit will be requested to conduct ITC searches on the Company and its members/directors in order to ascertain the identity of all companies associated with such members/directors.

23.6.5 The matter must be referred to the relevant AC to have the blacklisting approved in principle.

23.6.6 The matter must then be referred to the OD legal department or Group Legal where an OD does not have its own legal department, who will be responsible for the following:

a) The company, its directors and all associated entities are to be informed both by registered and hand delivered mail of the intention to blacklist, as well as

reasons for the proposed blacklisting. The letter should also indicate whether Transnet intends to cancel any existing contracts with the supplier. Proof of delivery should be obtained. The companies/persons must be afforded a period of 14 Working Days within which to make representations as to why they should not be blacklisted or why existing contracts should not be cancelled.

b) After the 14-day period the Legal Department must consider the responses (if any) from the companies/persons. The motivation must then be completed and signed off by the Legal Department, Management and procurement.

23.6.7 The matter must then be submitted to the AC to consider whether or not to proceed with the blacklisting. Should the AC support the blacklisting motivation, the matter shall be forwarded with all supporting documentation to Group ISCM for further action where the GCSCO will consider the matter. If blacklisting is no longer recommended, the relevant Legal Department is to inform the OD and the relevant entity concerned of this decision.

23.6.8 If supported, Group ISCM will draft the final submission and attach all original documents including the relevant AC minutes for consideration by the GCFO.

23.6.9 Final approval for blacklisting will be made by GCFO.

23.6.10 Group ISCM will then notify all companies/persons by registered (or hand delivered) mail of the blacklisting. Group ISCM will also update and circulate the List of Excluded Bidders.

23.6.11 Group ISCM will notify the Transnet Content Bureau to update the RAMIS and SAP CLM system to either:

a) block the blacklisted company (ies) on the system altogether if all existing contracts have been terminated and ensure that all payments already incurred have been settled; or

b) ensure that no new contract may be loaded on the system if existing contracts with the company have not been terminated so that payments on the existing contracts may still be effected, and

c) Publish the blacklist on Transnet's external website so that blacklisted entities may not be used as subcontractors or JV partners.

23.7 APPEAL AGAINST DECISION TO BLACKLIST

Any company/person against whom a decision with regard to exclusion from future business has been taken may make representations to the GCE whose decision shall be final.

23.8 RESCISSION OF A DECISION TO BLACKLIST

The Transnet GCFO or his duly authorised delegate may at any time, on good cause shown, rescind a decision taken or reduce the period of exclusion as initially determined.

23.9 ENFORCEMENT OF THE TRANSNET LIST OF EXCLUDED BIDDERS

Prior to the approval of the award of business by any AC, the Secretary of the AC shall verify that no business is awarded to companies or persons appearing on Transnet's List of Excluded Bidders. This will include verifying the identity numbers of the directors/members of the recommended Bidder against the identity numbers of the restricted persons on the List. The Secretary and Chairperson of the AC shall sign off a certificate stating that no business is awarded to entities or persons appearing on Transnet's List of Excluded Bidders. The certificate should be retained by the Secretary of the AC.

23.10 ANCILLARY ACTIONS

Furthermore, in cases of corruption or fraud, theft, extortion and forgery involving R100, 000.00 or more, Transnet must:

a) act in terms of section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and report the matter to the South African Police Services for further investigation.

b) in addition to subparagraph (a) above Transnet may also, at its sole discretion, decide to institute criminal and/or civil action.

23.11 THE BLACKLISTING PROCESS

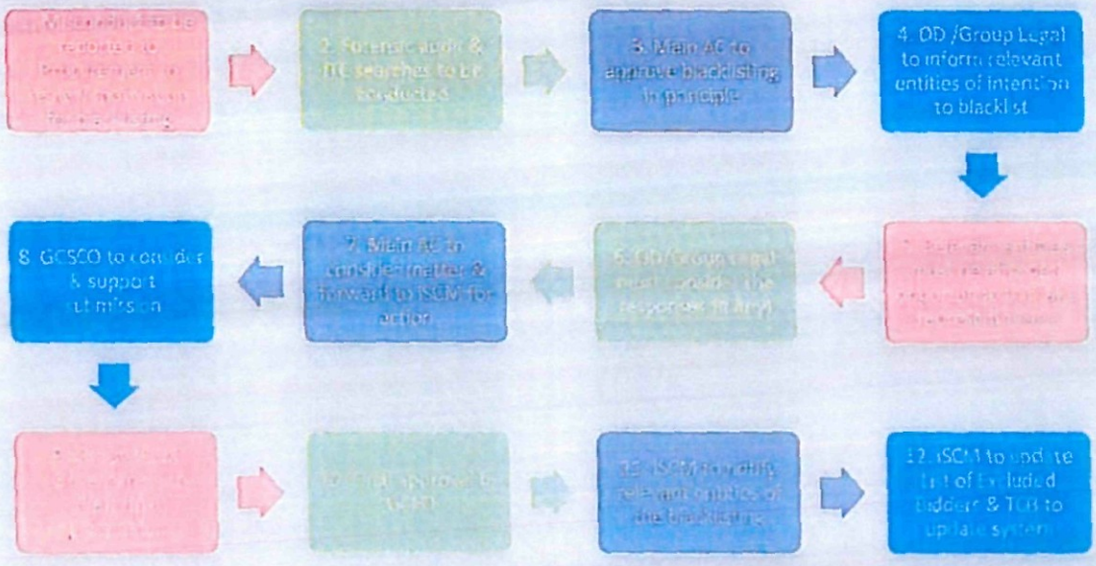

Figure [35] – The blacklisting process

Background and Context

Procurement planning

Go to Market

Evaluation and Adjudication

Contract Management

SECTION F:

GOVERNANCE STRUCTURES

Chapter 24: Functions of Governance Structures and Departments

Appendices

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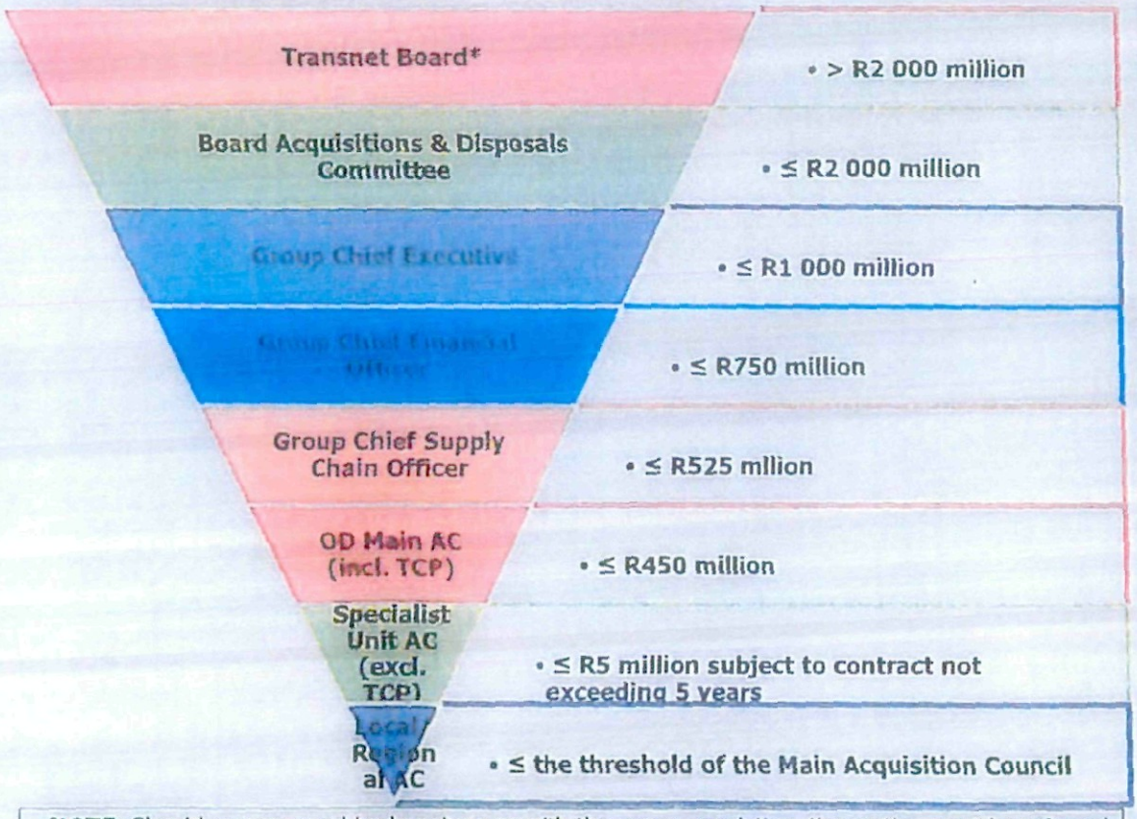
CHAPTER 24: FUNCTIONS OF GOVERNANCE STRUCTURES AND DEPARTMENTS

This Chapter of the PPM applies equally to both construction procurement and general procurement activities

24.1 ACQUISITION COUNCILS

Each division must have its own main AC which must consider and approve all procurement processes, as well as the disposal of scrap, falling within its jurisdiction from R2 million, but not exceeding R450 million. This is subject to the discretion of the OD CE to lower the R2 million threshold, or to create secondary ACs. Where a particular Transnet Entity chooses to create a secondary AC/s, the jurisdiction of the Secondary AC/s will start below the R2 million threshold. ODs have the discretion to set the maximum threshold/s of such secondary ACs to a value higher than R2 million. This value will then become the minimum threshold of the main AC of the Transnet Entity. Transactions exceeding the CE's Delegated Powers will still be considered by the OD's main AC. If it concurs with the recommendation, the matter will be referred to the relevant governance structure for approval.



NOTE: Should any approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or remotivation

Recommendations: The RAC, main AC and the ADC will support the recommendation for transactions above their thresholds. Local/Regional AC normally only consider transactions <R2m but OD CEs may at their discretion increase these thresholds.

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* In terms of s 54(2)(d) of the PFMA Transnet must obtain Ministerial approval for the acquisition of a significant asset (exceeding R3,9 billion of the value of Transnet's asset base as per the 2013/2014 version of the Shareholder's compact) before proceeding with the acquisition

Figure [36] – Thresholds for process approval

24.1.1 Primary Mandate (Main AC)

For transactions greater than R450 million in value, the Main AC of a Transnet Entity is required to review and recommend the procurement strategy for approval before it can be submitted to Group for review and approval. Furthermore, the main AC is required to consider all recommendations from the Entity with regard to the award of external contracts for the procurement of Goods, Construction Works and Services, or the disposal of scrap, where the total value of the business exceeds R2 million (subject to the discretion of the CE to lower such threshold, or to create secondary ACs – see paragraph 24.1.2 below). Likewise such ACs will also consider any subsequent amendments to the contracts falling within their jurisdiction.

24.1.2 Secondary Acquisition Councils

The Main AC or the CE of an OD may at their discretion decide to lower the limit set in paragraph 24.1.1 above and/or introduce similar secondary structures on local or regional level, to cater for matters falling below the jurisdiction of the main AC. Where a particular Transnet Entity chooses to create a secondary AC/s, the jurisdiction of the Secondary AC/s will start below the R2 million threshold. ODs have the discretion to set the maximum threshold/s of such secondary ACs to a value higher than R2 million. This value will then become the minimum threshold of the main AC of the Transnet Entity.The Terms of Reference of all ACs have been standardised, except for the ambits and delegations applicable to secondary ACs. The thresholds must be clearly stipulated in the relevant appendices to the Terms of Reference of the respective Main and secondary ACs. It is also a requirement that the Divisional Delegation of Authority, applicable to the signing authorities of individuals (similar to the Transnet DOA Framework) be included as part of the relevant main and secondary ACs' Terms of Reference so as to ensure that there is no uncertainty as to the approval thresholds.

(Refer to DOA Summary Section A, Chapter 6)

24.1.3 Functions of the AC

a) To consider all recommendations from the OD with regard to the award of external contracts for the procurement of Goods, Construction Works and Services, or the disposal of scrap metal, where the total value of the business exceeds R2 million (subject to the discretion of the CE to lower such threshold).

b) To consider all subsequent amendments to material provisions (i.e. which have a cost or risk implication) of contracts exceeding R2 million or where the original value of the contract plus the cumulative value of the amendments will exceed R2 million.

c) To consider and approve the non-award of business against any RFX falling within its ambit.

d) To consider recommendations to approach the market to solicit Bids (excluding Confinements) in respect of a contract with a period of more than three Years, regardless of the value (alternatively RFX to provide for different options).

e) The AC must be proactive and clarify uncertainties emanating from submissions, prior to the meeting. This will ensure that matters are not referred back

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unnecessarily, causing delays. Under no circumstances should matters be referred back by ACs for trivialities.

f) To consider all recommendations in respect of bids as well as any extension of existing contracts of which the original period, or the original period plus the extension of the period together is/are longer than three Years regardless of monetary value, and all subsequent amendments of material provisions to such contracts.

g) With regard to paragraphs 24.1.3 a) and b) above, ACs or the CE may at their discretion lower these limits and/or introduce similar structures on local or regional level, to cater for matters falling below the jurisdiction of the AC.

h) To consider and approve the framing of the OD's Lists of Approved Suppliers/Goods, as well as any amendments to such Approved Lists, and to administer such Approved Lists utilised within the OD. This function may not be delegated to Local / Regional ACs.

i) To consider and make recommendations to the Group ISCM regarding all aspects pertaining to Transnet's List of Excluded Bidders. The GISCM shall administer the List on behalf of the Transnet Group.

j) Secondary ACs to refer recommended exclusion matters to the main OD AC (where applicable), which will consider and if supported, refer to Group ISCM for finalisation and onward transmission to the GCFO for approval. Refer to Chapter 23 for Blacklisting procedure.

k) To monitor/administer the opening of all bids irrespective of the value. ACs may at its own discretion and depending on internal structures, delegate the opening of bids under a certain monetary value, to procurement offices or secondary ACs, provided that it has satisfied itself that proper procedures and controls as specified in the PPM are in place and are monitored on an on-going basis.

l) To obtain statistics and review, at regular intervals, details of all transactions falling below the AC's jurisdiction (See template available on the Transnet GISCM Intranet). Any alleged irregularities or trends that may arise out of the purchase, sale, hiring or letting of Goods and the procurement of Services, shall be investigated and corrective measures recommended by the AC if deemed necessary.

m) To refer to the Governance COE, (GISCM) for guidance/direction, any policy and/or legal question/s which arise out of the laid-down procedures or out of a bid, contract or contract amendment.

n) To exercise such powers and perform such duties as may be conferred or imposed by the laid-down procedures.

o) To perform other functions as the ADC, the GCE, the Governance COE (Group ISCM) or the OD CE may determine or deem necessary from time to time.

Notes:

- Purely income generating contracts fall outside the scope of this document. However, the acquisition of Goods, Construction Works and Services to give effect to such income generating contract, fall within the scope of the PPM.
- The AC may refer a matter back only for reconsideration or re-motivation. It may under no circumstances change a submission or change the award of the business. On receipt of a revised/re-motivated submission the AC will again

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consider the matter. Refer to paragraph 24.1.6c) below for the procedure to be followed in instances where the AC still does not agree with the revised/re-motivated submission of the Manager/procurement.

24.1.4 AC Terms of Reference

Transnet has standardised the terms of reference across all ACs in order to enhance uniformity in the Company's approach to Corporate Governance. Please refer to Appendix E to the PPM for the AC Terms of Reference including the Hierarchy of ACs across the Transnet Group and the AC Checklist to be utilised during the adjudication of bids.

24.1.5 AC approvals and provisos

a) The AC does not possess any executive authority to award external contracts for the procurement of Goods, Construction Works and Services or disposal of assets.

b) All AC approvals are subject to the following provisos:

(i) there is still the need for the purchase, sale, hiring, or letting of Goods and procurement of Services before the non-acceptance/regret letters to the unsuccessful Bidder/s and the acceptance of the winning Bid to the Successful Bidder are communicated by a Manager with the appropriate delegation of authority to sign the contract;

(ii) the financial provision is adequate;

(iii) the best interest of Transnet is being served at the time of concluding the contract, and

(iv) the contract is signed by the Manager with the appropriate delegation of authority.

24.1.6 Disagreement with a decision of the AC

In the event of a matter being referred back by the AC for reconsideration of the recommendation made by the recommending officer/evaluation panel, the recommending officer/evaluation panel shall:-

a) make a revised submission to the AC; or

b) should he/she disagree with the reasoning of the AC he/she shall, with the concurrence of his/her executive officer, re-motivate the recommendation and resubmit to the AC, whereafter the AC shall reconsider the matter; and

c) should the AC still not concur in the revised recommendation, the recommending officer shall refer the matter to the CE, who shall rule on the matter.

24.1.7 Interpretation of PPM and Government Policy

In cases where the AC requires guidance on Government policy matters and in terms of interpretation of the PPM, guidance must be sought from the GCSCO.

24.1.8 Submissions to the AC (Précis)

a) All submissions to the AC shall be in the required format. The Secretariat may provide assistance to draw up a précis. (Refer to SAP CLM and the Transnet Group ISCM Intranet for the generic templates).

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b) The Governance Function of Group ISCM is the custodian of all submission templates and any suggested changes thereto must be recommended to that office for consideration and implementation.

c) All submissions to the AC must be accompanied by all the relevant supporting documentation, e.g. original bid documents (if practical), authority to communicate or negotiate, etc.

d) All submissions should be submitted to the secretariat well before the scheduled meeting, to afford the secretariat enough time to properly vet the submissions. It is suggested that submissions are handed in by 12h00, seven Working Days before a scheduled meeting of the AC.

24.2 TRANSNET ACQUISITION COUNCIL (TAC)

24.2.1 Role and Functions of the TAC

The TAC has similar roles and responsibilities to that of the OD main AC's. It will cater for the Group Corporate Head Office requirements, as well as centre led transversal contracts. OD-led transversal contracts will be dealt with by the leading OD main AC. The TAC will have no higher status than the ODs' main AC's.

24.2.2 Refer to section 24.1 regarding the main OD AC as this paragraph is also applicable to the TAC. Any powers assigned to a CE with regard to the Main AC will apply to the GCFO (or his delegate) as far as the TAC is concerned.

24.3 MATTERS FALLING BELOW THE MAIN/SECONDARY AC JURISDICTION

As a general rule, the powers that are normally exercised by the AC will vest in the Manager with the delegation of authority for matters falling below the main AC jurisdiction if a particular Transnet Entity has no secondary ACs or for matters falling below the secondary AC/s jurisdiction if the Entity does have secondary ACs. These include but are not limited to the following:

24.3.1 Extension of the validity period of bids;

24.3.2 Any contract amendments up to 40% of the original contract value provided the increase is still within the Manager's delegation of authority. For amendments greater than 40%, the matter must be submitted to the relevant AC even if it is still below the AC's threshold. Where the amendment to a contract brings a matter that was initially below the AC's threshold to a value within the AC's jurisdiction, the contract amendment must be submitted to the AC for approval prior to signature by the person with the delegation of authority; and

24.3.3 Cancellation/Non award of bids.

24.4 PROCUREMENT OMBUDSMAN

The Transnet Procurement Ombudsman (the Ombudsman) is appointed to provide Bidders as well as Transnet with a fair, expeditious, and effective dispute resolution process. The Ombudsman acts independently and objectively in resolving disputes and is not influenced by anybody in making his or her decisions.

Below is a short summary of the role of the Ombudsman. For more information, refer to the Terms of Reference of the Procurement Ombudsman, available on the Transnet Internet site.

24.4.1 The role of the Procurement Ombudsman

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a) The role of the Ombudsman is to enhance the integrity and fairness of Transnet's procurement processes by providing an independent and objective assessment of complaints which are lodged by unsuccessful Bidders regarding any aspect of Transnet's bid process.

b) As a general rule, the Ombudsman will only consider complaints pertaining to bids valued at R5 million and above.

c) Complaints involving bids below R5m must be sent to the CPO of the relevant Transnet OD for review.

24.4.2 Powers of the Ombudsman

a) The Ombudsman has the power to conduct a full investigation of a complaint and to make appropriate recommendations to the CPO and the CE of the relevant OD of Transnet regarding the appropriate remedial measures to be undertaken.

b) Such measures may include, but are not limited to the following:

(i) cancelling a bid if there is a material irregularity;

(ii) referring a bid back for re-evaluation;

(iii) amending a bid decision;

(iv) recommending that letters of censure be sent to any Transnet official; and/or

(v) the institution of disciplinary, civil or criminal proceedings where appropriate.

c) The Ombudsman may also on his own initiative launch a review of any bid award, regardless of whether a formal complaint was received or not.

d) An investigation by the Ombudsman of any bid award may also be initiated by an internal referral.

e) In most instances the Ombudsman will conduct the investigation without the need for a formal, oral hearing. However, in highly exceptional circumstances, the Ombudsman may in his sole discretion conduct an oral hearing if it would assist with the resolution of the matter.

24.4.3 The obligations of Transnet's Operating Divisions

a) Transnet's ODs shall:-

(i) immediately refer any complaints received over the threshold referred to in paragraphs 24.4.1b) and 24.4.1c) above to the Ombudsman;

(ii) act within these Terms of Reference;

(iii) expeditiously comply with requests made by the Ombudsman in terms of the Terms of Reference and Operational Procedures;

(iv) provide the Ombudsman with unrestricted access to relevant information, documentation or persons in relation to an investigation; and

(v) abide by the decision of the CPO and the CE of the relevant OD of Transnet regarding the implementation of the Ombudsman's recommendation.

b) Transnet's ODs shall not:

(i) prevent a Bidder from making use of the services of the Ombudsman;

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(ii) provide the Ombudsman with any misleading information; or

(iii) act vindictively toward a Bidder who made use of the services of the Ombudsman.

24.5 CAPITAL INVESTMENT COMMITTEE (CAPIC)

24.5.1 Purpose

The CAPIC shall ensure that the resources that Transnet SOC Ltd investments for the development of capital projects are strategically managed and shall to this end-

a) Ensure that decisions relating to capital expenditure are consistent with the strategic focus of the Group; and

b) Ensure that capital expenditure complies with the budget and business plans approved by the Board.

24.5.2 Terms of Reference

CAPIC shall:

a) Ensure that investment in respect of capital projects is consistent with the strategic focus of the Group and deals with the business of the Group in an integrated manner;

b) Ensure that capital expenditure is in accordance with the budget and business plans approved by the Board;

c) Determine the factors that shall inform the prioritisation of any capital expenditure project over another;

d) Monitor the implementation of project plans to ensure that approved capital expenditure projects are carried out with minimum delays;

e) Review and amend, subject to the limitations of the Board approved budget, expenditure plans in respect of any project should it, as a result of any unforeseen and unavoidable circumstances, it be necessary to effect such amendment;

f) Ensure that in respect of each capital investment project proposed for consideration by CAPIC, certification is given that there was proper compliance with applicable processes relating to amongst others, risk management and that such projects reflect optimum value for money; and

g) Conduct post-implementation reviews through, amongst others, external auditors, to determine, amongst other things, whether value has indeed been derived by the Group as a result of the relevant capital investment.

24.6 ACQUISITIONS AND DISPOSALS COMMITTEE (ADC)

24.6.1 Purpose

To ensure that the Board's composition and structure enables it to fulfil the obligations of the Board mandate and advance and maintain the Group's acquisition and disposal policies.

24.6.2 Roles and Responsibilities

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a) The Committee has an independent role, operating as an overseer of the acquisition and disposal function within Transnet. The Committee will also have the power to consider and approve acquisitions and disposals in terms of its mandate from the Board.

b) The Committee does not assume the functions of management, which remain the responsibility of the executive directors, officers and other members of senior management.

24.6.3 Authority

c) The Committee has authority to:-

(i) have access to any information it needs to fulfil its responsibilities;

(ii) seek independent advice at the Group's expense, subject to Transnet's procurement policies and procedures;

(iii) have direct access to any executive of the Group or its subsidiaries; and

(iv) make amendments to the mandate subject to approval by the Transnet SOC Ltd Board.

d) The Committee may form, and delegate authority to, committees and may delegate authority to one or more designated members of the Committee.

e) The Committee shall make the recommendations to the Board that it deems appropriate on any area within the ambit of its terms of reference where action or improvement is required.

24.6.4 Terms of reference

The Committee shall:

f) Oversee an annual review of Transnet's Procurement Procedures Manual and the Construction Procurement Policy, Processes, Procedures and Methods within Transnet Capital Projects and ratify any amendments thereto;

g) Pre approve bids within its delegated authority up to the maximum of investment decision/budget, before the bids are issued to market. This includes acquisition and disposal of movable and immovable property, capital investments, operational expenditure, the provision and acquisition of Services, maintenance, refurbishment and the establishment of infrastructure, purchasing of fuel, but excludes guarantees, indemnities and securities;

h) Monitor trends in general procurement spend;

i) Monitor trends in SD spend and progress on plan (includes support of National Growth Plan, SD, preferential procurement, and Enterprise development);

j) Monitor compliance with PFMA and related supply chain management norms and standards and advise the Board of potential risks in relation to irregular as well as Fruitless and Wasteful Expenditure emanating from procurement practices;

k) Consider strategic acquisitions and disposals and make recommendations to the Board;

l) Consider, for recommendation to the Board, potential private sector participation models;

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m) Approve, where so delegated by the Board of Directors, the award of bids in accordance with the Company's Delegation of Authority Framework. The Committee may approve modifications to bid awards where the cumulative value of the contract plus the modification does not exceed the limits of its delegation of authority as stated in the Delegation of Authority Framework document.

n) In considering the approval of a bid or Confinement, the Committee shall have regard to any recommendation made by the relevant AC or senior official within Transnet.

o) The Committee shall submit a list of all bids falling within its delegated authority and approved by it to the Board for information purposes only. With regards to matters above its maximum threshold, it will consider such matters in the normal manner, and then make a recommendation to the Transnet Board.

p) When considering any Bid or any amendments thereto, the Committee may:-

(i) investigate any activity within its Mandate;

(ii) ask questions and request information or advice from any person;

(iii) request any employee to appear before the Committee;

(iv) refer the submission back for reconsideration;

(v) note matters presented to it for information, and/or offer comments; and

(vi) reserve a decision pending further information or clarification of a specific matter.

q) The Committee shall also approve disposals in line with the Delegation of Authority Framework document.

24.7 INTEGRATED SUPPLY CHAIN MANAGEMENT (ISCM)

24.7.1 Composition

Using best practice principles, and undertaking a collaborative approach across all ODs and Group, an integrated 'one supply chain management (iSCM)' strategy and operating model has been developed with centre led Centres of Excellence (COEs) with cross-functional teams, comprised of divisional and corporate task team members, to deliver value through improved efficiencies and compliance to the regulatory environment. The iSCM Governance hierarchy is depicted in the flow chart below:

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Supply chain governance structures

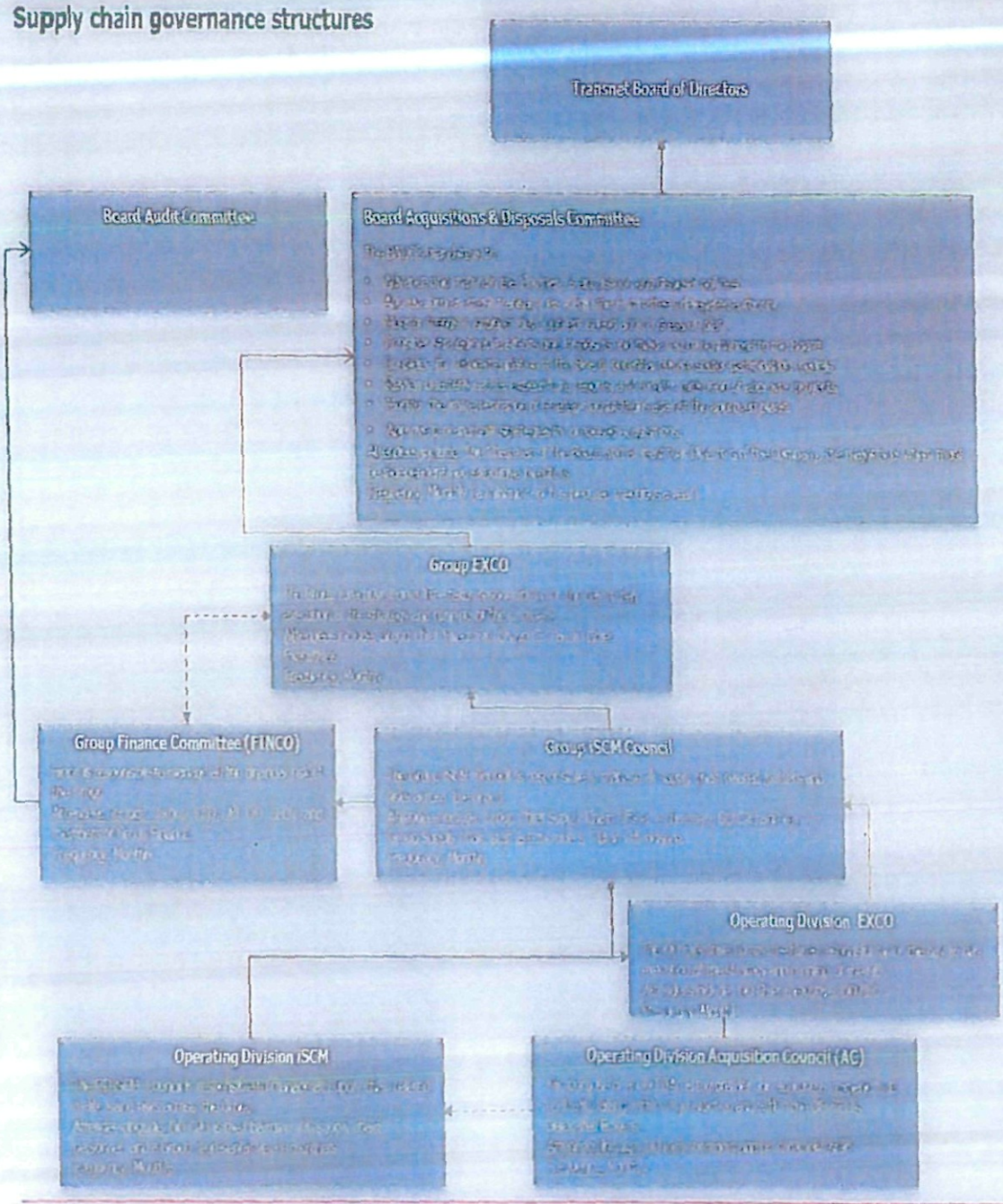

Figure [37] – iSCM Governance hierarchy

24.7.2 Centres of Excellence

Centres of Excellence (COEs) are cross-divisional teams focusing on a particular functional area. They focus on tactical issues relating to the functional area, and are aimed at identifying and leveraging on the areas of excellence in Transnet. Key strategic objectives will be executed through the COEs with a risk mitigation plan supported by Enterprise Risk Management (ERM).

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The current COEs within iSCM are as follows (*Figure [38]*):

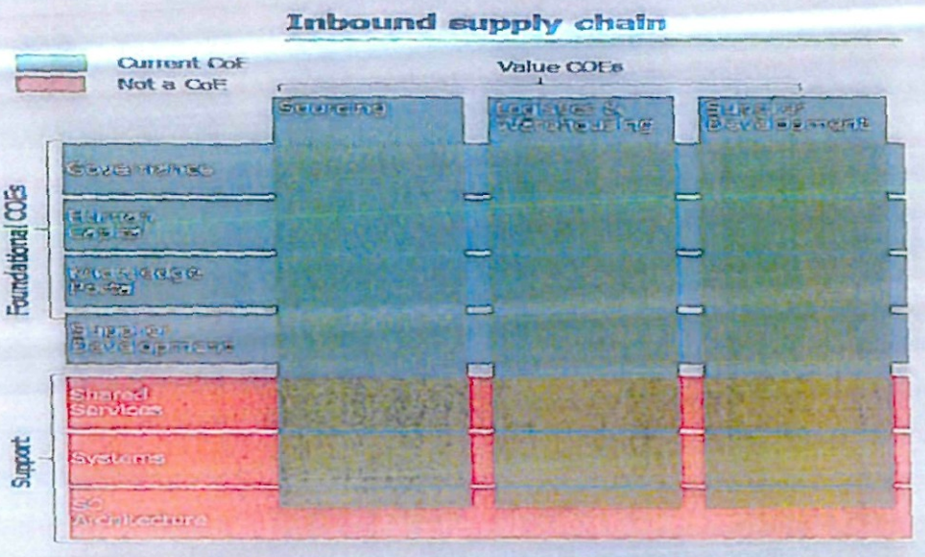

Figure [38] – Centres of Excellence

24.7.3 Integrated Supply Chain Management (ISCM) Platinum Standard Framework

The iSCM Platinum Standard framework combines the three levels of supply chain including the strategic, functional and enabling elements

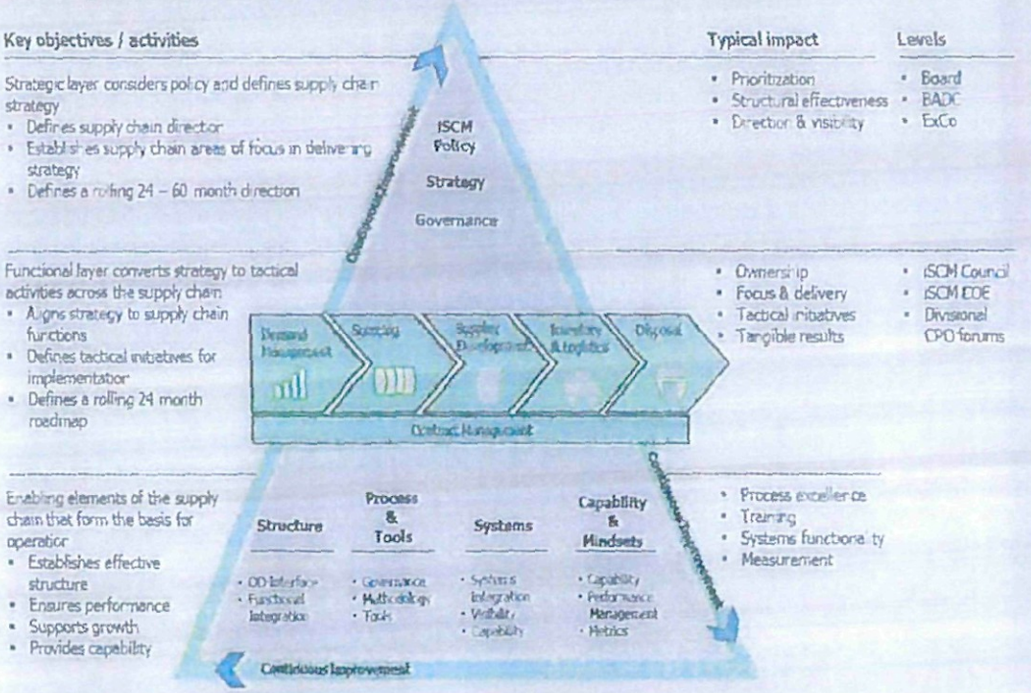

Figure [39] – iSCM Platinum Standard Framework

24.7.4 Role and Function of Group Chief Supply Chain Officer (GCSCO)

The GCSCO is the head of the Group iSCM Function. He/she is responsible for the whole of the supply chain function within the Transnet Group. Although the OD CPOs

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report directly to the OD CEs, collaboration and synergies between the relevant supply chain functions are achieved via the ISCM Council. This forum meets at predetermined intervals and has representation from all the OD CPOs.

Apart from chairing the ISCM Council, the GCSCO is responsible to vet and recommend all supply chain related submissions requiring Group approval (e.g. confinements, condonations, new contracts and amendments exceeding the DoA of the OD CEs).

24.7.5 The ISCM Council

Group ISCM has been mandated to effectively integrate all supply chain management (SCM) activities across Transnet's core businesses, to ensure that the efficiency and effectiveness of doing business in South Africa is drastically improved through SCM best practices. The ISCM Council is a structure set up to ensure that the ISCM mandate is carried out effectively and efficiently.

The Council will develop the Supply Chain Management Strategy for Transnet, based on consolidation of the individual OD/SU critical paths.

The Council will ensure alignment of all Operating Divisions' SCM functions in terms of:

- Processes and Procedures;
- Systems;
- Human Capital Development;
- Strategic Sourcing;
- Contract and Supplier Management;
- Capital Procurement;
- Demand Planning & Management;
- Warehousing and Logistics Management;
- Policy, Governance and Standards; and
- Knowledge Management.

The Council will also ensure a uniform strategy with regard to Broad-Based Black Economic Empowerment. It will drive the implementation of B-BBEE initiatives with regard to Preferential Procurement and Enterprise and Supplier Development in terms of the Government's New Growth Path strategy, to ensure that Transnet's obligations in terms of these important issues are met.

In addition, the Council will be the custodian/guarantor of world class standards in supply management, professionalism, ethics and the proper implementation of related policies and procedures throughout Transnet. It will also identify commodity groups where standardisation across the Transnet Group, or the consolidation of spend on commonly used Goods, Construction Works and Services can lead to financial and other benefits for Transnet as a whole (i.e. through transversal contracts).

For the complete iSCM Council Terms of Reference please refer to the Group iSCM Intranet website.

24.7.6 Role and Function of the Chief Procurement Officers (CPOs)

The CPOs of the Transnet ODs/SUs are the heads of procurement (see Section A, Chapter 6, for the role's detailed delegation).

He/she is also responsible for the day-to-day procurement activities of the OD. The role of the CPO is also to ensure that the procurement function runs according to accepted world best practice and that optimal value is achieved when procuring Goods/Construction Works/Services for his/her OD.

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EXHIBIT 15

TRANSNET

ANNEXURE "B"

DELEGATION OF AUTHORITY FRAMEWORK

(EFFECTIVE FROM 1 DECEMBER 2015)

APPROVED BY THE BOARD OF DIRECTORS ON

25 NOVEMBER 2015

UNDER RESOLUTION

10-15/16FY/8

0058-0374-0001-0531

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1 Interpretation and Definitions

The following words and expressions bear the following meanings, unless the context indicates otherwise:-

1.1 "Alternative Dispute Resolution" (ADR) refers to the process of resolving disputes among parties without necessarily resorting to court action, although the agreements and outcomes may be legally binding. ADR processes include conciliation, mediation, adjudication and arbitration.

1.2 "Board" means the Board of Directors of the Company and includes the Board when it acts as the deemed Authority under the National Ports Act No. 12 of 2005;

1.3 "Board Reserved Matters" means matters reserved by the Board as set out in Annexure "A "of the Delegation of Authority Framework approved by the Board.

1.4 "CAPIC" means the Capital Investment Committee, a sub-committee of the Group Executive Committee which has been established to make decisions regarding capital expenditure;

1.5 "CE" means Chief Executive of an Operating Division;

1.6 "Chairperson" means the person who is appointed as the Chairperson of the Board as per the MOI;

1.7 "Company" means Transnet SOC Ltd including its Operating Divisions and Specialist Units, with registration number 1990/000900/30 and "Transnet" shall have a corresponding meaning;

1.8 "Company Strategy" means the strategy for the Company as approved from time to time by the Board;

1.9 "Consultant" means a person, or partners in a firm, or a company or a close corporation who can provide expert or specialised advisory skills, but excludes anyone who also carries out the physical work or provides the end product for Transnet based on his own professional or expert advice. Such consultancy service normally pertains to a specific project and therefore non-repetitive in nature and confined to design work, investigation, or advice on management, financial, business or technical matters;

In short, a consultant does not supply the ultimate end product, but merely gives a recommendation, based on his expertise, of the best solution to a specific problem. That proposed solution, if acceptable to Transnet, still has to be acquired, built or erected by another party and may or may not be connected with the consultant. Excludes any professional services procurement package included in the approved asset procurement package plan for and approved physical asset project.

1.10 "Delegation of Authority Framework " means this document, recording the nature and extent of authorities required in order to implement certain actions by or on behalf of the company, including any sub-delegation of authority where permitted and "Delegation" shall have a corresponding meaning;

1.11 "Estimated Total Cost" (ETC)" means costs planned to bring the project into operation. These include costs such as:

- Direct activities relating to the project such as building materials, delivery cost thereof;
- Project management fees;
- Gate review costs (FEL3 and 4);
- Transnet Internal Audit Costs;
- Group Capital Integration & Assurance;
- Preliminaries and general; and
- Contingencies.

Typical accounting entry type transactions such as capitalisation of borrowing costs and allocated costs are excluded from ETC;

1.12 "FRMF" means Financial Risk Management Framework;

1.13 "GCE" means Group Chief Executive;

1.14 "GCFO" means Group Chief Financial Officer;

1.15 "GCSCO" means Group Chief Supply Chain Officer;

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1.16 "Group Executive Committee" or "Group Exco" means the executive committee established to take responsibility for the day-to-day execution of strategy and running of the Company;

1.17 "Group Executive (GE) or Group Executive nominee" refers to the Group Executive responsible for the supporting business or his/her nominee;

1.18 "Head of Legal" refers to the most senior employee with a Legal qualification in the respective Legal Department;

1.19 "International agreements" means agreements which are required to be construed in accordance with the laws of a foreign jurisdiction including the neighbouring countries;

1.20 "Memorandum of Incorporation" or "MOI" means the constitutive documents of the Company, as amended;

1.21 "Memorandum of Understanding" means a formal agreement between two or more parties. Companies and organizations can use MOUs to establish official partnerships. MOUs are not legally binding but they carry a degree of seriousness and mutual respect, stronger than a gentlemen's agreement.

1.22 "Neighbouring Countries" means countries sharing a border with the Republic of South Africa;

1.23 "Non-Disclosure Agreement/Confidentiality Agreement" means a contract by which one or more parties agree not to disclose confidential information that they have shared with each other as a necessary part of doing business together.

1.24 "Operating Divisions" means the Operating Divisions of Transnet, namely, Transnet Freight Rail, Transnet Engineering, Transnet National Ports Authority, Transnet Port Terminals and Transnet Pipelines;

1.25 "PFMA" means the Public Financial Management Act 1 of 1999 (as amended), read together with its regulations' including Treasury Regulations;

1.26 "Prescribed Officer" means a person who, within a company, performs any function that has been designated by the Minister of Trade and Industry in terms of section 66(10) of the Companies Act, Act 71 of 2008, read with Regulation 38. Within the Company, members of Group Exco are designated Prescribed Officers;

1.27 "Rental" means money payable for the hire of movable and immovable property in terms of a lease agreement, but excludes the payment of operational expenses and costs.

1.28 "Shareholder" means the Government of the Republic of South Africa represented by the Shareholder Minister.

1.29 "Shareholder Minister" means the Minister of Public Enterprises as defined in the MOI;

1.30 "Shareholder's Compact" means the shareholder's compact being an agreement entered into pursuant to section 52 of the PFMA between the Shareholder representative and the Board from time to time;

1.31 "Specialist Unit" mean all business units of Transnet which have been deemed 'supporting businesses' in terms of the Company Strategy, these include Transnet Property, Transnet Foundation, Transnet Capital Projects and Transnet Corporate Centre. Where a Specialist Unit GE is not a member of the Group Exco, the Group Exco member responsible for such Specialist Unit shall sub-delegate powers to the Specialist Unit's GE;

1.32 "Subsidiary" means subsidiary as defined in the Companies Act 71 of 2008 (as amended) and Subsidiaries shall have a corresponding meaning;

1.33 "Transnet" means the Company with its Subsidiaries and Operating Divisions/Specialist Units as stated in clause 1.7 above.

1.34 "Treasury Regulations" means the regulations issued in terms of section 76 of the PFMA, amended from time to time;

1.35 "Transnet Total Asset Base": refers to the total value of the assets in Transnet and is set at the asset value indicated in the integrated report for the year; and

1.36 "VAT" means Value Added Tax. All amounts indicated in the document are exclusive of VAT.

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2 Scope

This Delegation of Authority Framework records the nature and extent of the authorities delegated by the Board of Directors to the Group Chief Executive, and in turn, by the Group Chief Executive to the members of the Group Executive Committee, in order to implement certain actions by or on behalf of the Company. It includes, to the extent necessary and/or incidental thereto, the authority to discharge all of the duties, obligations and powers imposed upon the deemed Authority under the National Ports Act 12 of 2005.

3 Application

3.1 This Delegation of Authority Framework applies to all employees of the Company, including its Operating Divisions and Specialist Units. It does not apply to any of the Company's subsidiaries. The respective Boards of Directors of the Company will prepare the requisite delegations of authority for those subsidiaries.

3.2 The persons set out in clause 5 below are granted the power and /or authority to perform their functions and responsibilities subject to the limits of authority outlined in clause 5 below, provided that the exercise of such power and/or authority in terms of this delegation is not in conflict with the following:

- PFMA;
- Board Reserved Matters;
- Memorandum of Incorporation;
- Company Strategy;
- Shareholder's Compact;
- the Corporate Plan, Annual Budget and Borrowing Strategy and/or Funding Plan of the Company as approved by the Board from time to time;
- Project and Programme Frameworks;
- Enterprise Risk Management Framework; and
- Any approvals by the Board and the Minister of Finance for the delegation of the power to borrow money or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind the Company to any future financial commitment in terms of section 66 of the PFMA.

3.3 This Delegation supersedes any prior Delegations of Authority Framework and takes effect upon the date determined by the Board of Directors.

3.4 The Delegation of Authority Framework shall be sub-delegated to Group Exco and Extended Exco within 30 days from the date of signature by the GCE.

3.5 Any proposal for amendments to this Delegation or to the authorities or the authorities delegated in this Delegation must be submitted in writing to the Transnet Company Secretary for consideration and approval by the Board of Directors.

4 Delegating Powers

4.1 A person authorised to exercise any of the authorities set out in clause 5 below ("original bearer of authority") may, in writing, sub-delegate to his/her subordinate ("designate") during his/her temporary absence or for an indefinite period, provided.

4.1.1 the authority is conferred by way of a certificate signed by the original bearer of authority, naming and identifying the designate, and the extent of the authority which is sub-delegated to the designate;

4.1.2 the sub-delegated authority shall only be exercised within the original bearer of authority's respective area of responsibility;

4.1.3 the powers delegated by the original bearer of authority cannot be sub-delegated further by the designate unless explicitly stated in the certificate signed by the original bearer of authority; and

4.1.4 the sub-delegated authority may be revoked in writing, at any time by the original bearer of authority.

4.2 Unless otherwise specifically indicated, approval of any of the matters listed in clause 5 below may be granted by a designate.

4.3 With respect to all matters and authorities specifically listed in clause 5 below, the delegated authority by the GCE to bind the Company is in regard to any business activity or transaction (or a series of related transactions) and is subject to the value in the aggregate of all payments or any consideration made or to be made for any such business activity or transaction(s) being complied with.

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4.4 The original bearer of authority or designate must ensure that all the necessary procedures and/or approvals have been fulfilled prior to exercising any of the matters and authorities listed in clause 5 below.

4.5 All delegations of authority, signed by the original bearer of authority and accepted by the designate, must be filed with the Office of the Group Secretariat prior to the effective date.

5 Company Authorities

Limits of authority have been delegated by the Board of Directors to the Group Chief Executive. In the interest of good corporate governance, approval structures have been established in the Company. Requests for approval must follow the approved governing processes and structures for recommendation but the final approval vests with the delegated individual (for example CE, GCFO, GCE) as reflected in the specific delegations set out in this document.

In cases where business requirements necessitate that approval be obtained from the delegated authority without the review and recommendation by the relevant governance structures (CAPIC, Group Exco, etc.) this must be reported to the relevant governance structures immediately thereafter.

The authority to approve the Corporate Plan and Budget of the Company vests with the Board of Directors, provided that it must be submitted to the Shareholder in terms of Section 52 of the PFMA.

Management's Intervention in addressing non-compliance with the DOA

Approval Authority →	OD CE	GCFO	GCE
Operating Divisions	Nil	Nil	Unlimited
Approval Authority →	Group Exco Member	GCFO	GCE
Specialist Units	Nil	Nil	Unlimited

Note: All requests for approval of non-compliance must be made by the OD CE/Group Exco member to the GCE. Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.

5.1 Capital Expenditure

NOTE 1: Capital expenditure may only be authorised if the project has been so approved by CAPIC or the relevant divisional CAPIC in accordance with the limits set out in this Delegation of Authority Framework and capital funds have been allocated in the annual Budget of the Company.

NOTE 2: Capital expenditure may only be authorised if the project has been approved and a warrant number has been issued by the relevant authority. All requests for capital expenditure exceeding the Divisional CE's limit must be submitted to the Principal Specialist: Governance and Assurance.

5.1.1 CAPEX in approved budget/Corporate Plan: To commence projects (execution funding)

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	CAPIC/GCFO	Group Exco /GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Operating Divisions	Up to but not exceeding R250million	Up to but not exceeding R450million	Up to but not exceeding R800million	Up to but not exceeding R1.5billion	Up to but not exceeding R2billion	Up to but not exceeding R5.2 billion	Exceeding R5 2billion
Approval Authority →	Group Exco Member	GE: Transnet Property	CAPIC/GCFO	Group Exco /GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Specialist Units	Up to but not exceeding R20million	Up to but not exceeding R50million	Up to but not exceeding R800million	Up to but not exceeding R1 5billion	Up to but not exceeding R2billion	Up to but not exceeding R5.2billion	Exceeding R5.2billion

Refer to Materiality and Significance Framework. If the set limit (R5.2billion) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- Approval limits are per individual project, reported on a monthly basis to Group Financial Planning.
- Amounts indicated above exclude the capitalisation of borrowing costs.
- All ICT projects requiring approval must be signed off by the Group Executive: EIMS.

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- Acquisitions and Disposals Committee refers to the Acquisitions and Disposal Committee of the Board.
- Group Exco/GCE to be the final approval gate for all capitalisation of maintenance projects (COPEX) single or multi-year irrespective of the value of the project provided that it has been included in the Corporate Plan.
- It is mandatory that submissions to the Group Exco/GCE have been recommended by the approval bodies leading up to the Group Exco/GCE i.e. OD CAPIC and Group CAPIC.
- Front end loading (FEL) studies are to be submitted to CAPIC based on the value of the underlying asset on which the study is conducted. e.g. If the FEL study is for an asset that exceeds R250million (R450million for TFR) then the FEL study irrespective of its stage requires approval from Group CAPIC Please refer to the Accounting Policy for Conceptual, Pre-feasibility and Feasibility Studies when capitalising FEL studies.
- Approvals exceeding R2billion but less than R5.2billion in ETC are to be reported to the Shareholder Minister

5.1.2 Unforeseen CAPEX (not included in budget/Corporate Plan)

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	CAPIC/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Operating Divisions	Up to but not exceeding R50million	Up to but not exceeding R75million	Up to but not exceeding R400million	Up to but not exceeding R800million	Up to but not exceeding R1billion	Up to but not exceeding R5.2billion	Exceeding R5.2billion
Approval Authority →	Group Exco Member	GE: Transnet Property	CAPIC/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Specialist Units	Up to but not exceeding R20million	Up to but not exceeding R50million	Up to but not exceeding R400million	Up to but not exceeding R800million	Up to but not exceeding R1billion	Up to but not exceeding R5.2billion	Exceeding R5.2billion

Refer to Materiality and Significance Framework. If the set limit (R5.2billion) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- All unforeseen Capex approved by Operating Divisions/Specialist Units within their delegated authority, must be reported on a quarterly basis to Group Financial Planning.
- Amounts indicated above exclude the capitalisation of borrowing costs.
- All ICT projects requiring Transnet approval must be signed off by the Group Executive: Enterprise Information Management Services
- Approval limits are per project at Operating Divisional level and Transnet Property level subject to an aggregate divisional limit of R250million per annum (for ODs and Transnet Property) and R450million for TFR on condition that divisions remain within their annual approved capital budget (refer to 5.1.3.1).
- Divisional investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to Transnet if the respective OD limits are reached.
- If an unforeseen project will result in the divisional 7 year investment plan being increased then Group Exco needs to be approached for approval.

5.1.3 Increase in Estimated Total Cost (ETC) of Existing/Approved Projects

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	CAPIC/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	ETC may be increased to a maximum of R250million, increases beyond this amount may only be approved at Transnet Level	ETC may be increased to a maximum of R450million, increases beyond this amount may only be approved at Transnet Level	ETC may be increased to a maximum of R800million	ETC may be increased to a maximum of R1.2billion.	ETC may be increased to a maximum of R2billion	Exceeding R2billion
Approval Authority →	Group Exco Member	GE: Transnet Property	CAPIC/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	ETC may be increased to a maximum of R20million, increases beyond	ETC may be increased to a maximum of R50million, increases beyond this amount may only be approved at Transnet Level		ETC may be increased to a maximum of R1.2billion.	ETC may be increased to a maximum of R2billion.	Exceeding R2billion

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• I n c	this amount may only be approved at Transnet Level					

rease in ETC of projects already approved by the Shareholder Minister must be reported to the Shareholder Minister if the increase is in excess of 15%.

- All ICT projects requiring approval must be signed off by the GE: EIMS.
- All cost increases in excess of 25% of the approved budget for a project must be reported to Transnet CAPIC/GCFO.
- Amounts indicated above exclude the capitalisation of borrowing costs. Increases in ETC of a project solely due to the capitalisation of borrowing costs may be approved by the OD Exco/CE. Project costs and capitalisation of borrowing costs are to be managed separately and may not be expended on projects interchangeably.
- Increases in ETC of a project that results in the project exceeding a specific committee's approval limit needs to be submitted to the next approval body. If CAPIC approved a project at ETC of R700million, and the increase required is R200million then the final approval body for the increase will be Group Exco as the new ETC of R900million is beyond CAPIC's limit.
- Requests for increases in ETC need to be submitted to the approval body that originally approved the project. If Board approved a project to the value of R2.1billion, any increases to this project will require Board approval.

5.1.3.1 Any increase in excess of the annual approved capital investment budget must be submitted to CAPIC/GCFO for approval. Where the GCFO has approved an increase, the submission should be tabled at the subsequent CAPIC meeting for information purposes.

5.1.4 Approval of Front-End Loading (FEL) Studies

Front end loading (FEL) studies are to be submitted to CAPIC based on the value of the underlying asset on which the study is conducted e.g. If the FEL study is for an asset that exceeds R250million (R450million for TFR) then the FEL study irrespective of its stage requires approval from Group CAPIC . The following limits apply in instances of the FEL study itself.

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	FEL studies conducted on assets not exceeding R250 million	FEL studies conducted on assets not exceeding R450 million	Up to but not exceeding R800million	Up to but not exceeding R1.2billion	Up to but not exceeding R2billion	Exceeding R2billion
Approval Authority →	Group Exco Member	GE: Transnet Property	Capic/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	FEL studies conducted on assets not exceeding R20 million	FEL studies conducted on assets not exceeding R50 million	Up to but not exceeding R800million	Up to but not exceeding R1.2billion	Up to but not exceeding R2billion	Exceeding R2billion

- Limits are per FEL study
- The study to be managed along the same principles as a project
- FEL studies to be managed and controlled by an appointed project manager to ensure efficient utilisation of Transnet resources

5.1.5 Matters pertaining to the Scope of a Project

Schedule:

- Project timelines may not exceed the end date contained in the business case by more than 12 months with no cost increases
- Approval to be sought from the original approval body at the earliest discovery that the 12 month limit is going to be exceeded.

Physical progress:

- Scope changes of more than 10% of the original scope requires approval from the original approval body.
- Funds allocated for future scope items may NOT be utilised to fund current items that have depleted their budgets and contingencies provided specifically for the item

5.1.6 Asset Write-off/Scrapping: Movable Assets

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R10million	Up to but not exceeding R50million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R700million	Exceeding R700million

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Approval Authority →	Group Exco Member	Capic/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Up to but not exceeding R5million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R700million	Exceeding R700million

Refer to Materiality and Significance Framework. If the set limit (currently R5.2billion) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- The above amounts refer to net book value and pertains to the cost actually paid for the asset (revaluations are excluded) and are a cumulative annual limit. Write-offs below R10m and above R50m in the case of TFR must be reported to CAPIC/GCFO quarterly.
- Divisional Investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to Transnet if the respective OD limits are reached.

5.1.7 Asset write-off/Scrapping/Demolition of Immovable Assets (excluding land) e.g. buildings, structures

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/ GCE	Acquisitions and Disposals Committee	Board*
Operating Divisions	Up to but not exceeding R10million	Up to but not exceeding R50million	Up to but not exceeding R150million	Up to but not exceeding R250million	Up to but not exceeding R300million	Exceeding R300million
Approval Authority →	Group Exco Member		Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board*
Specialist Units	Up to but not exceeding R5million		Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R300million	Exceeding R300million

*Refer to Materiality and Significance Framework. If the set limit (currently R5.2billion) is exceeded then the Board need to consider and recommend to the Shareholder Minister for approval.

- The above amounts refer to an estimated market value at that point in time and are a cumulative annual limit.
- Divisional Investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to CAPIC if the respective OD limits are reached.
- Write-offs below R10million and below R50million in the case of TFR must be reported to CAPIC/GCFO quarterly.

5.1.8 Disposal of Movable Assets (excluding sale of scrap)

Approval Authority →	OD Exco/CE*	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Operating Divisions	Up to but not exceeding R50million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R700million	Exceeding R700million
Approval Authority →	Group Exco Member	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Specialist Units	Up to but not exceeding R5million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R700million	Exceeding R700million

The above amounts refer to an estimated market value and are subject to a cumulative annual limit of R200million. For sale of scrap please refer to 5.5.1.

- Divisional Investment committees are to monitor limits pertaining to their OD, and to escalate submissions to CAPIC once the respective OD limits are reached.

**Refer to Materiality and Significance Framework. If the set limit (currently R5.2billion) is exceeded, then the Board need to consider and recommend to the Shareholder Minister for approval.

5.1.9 Management's intervention in addressing non-compliance with regard to the approval of capital projects

Approval Authority →	OD CE:OD	GCFO	GCE
Operating Divisions	Nil	Nil	Unlimited
Approval Authority →	Group Exco Member	GCFO	GCE
Specialist Units	Nil	Nil	Unlimited

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- Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.
- If the approval of non-compliance results in the annual divisional budget being exceeded, then the request must be submitted to CAPIC for approval (refer to 5.1.3.1).

5.1.10 Alienation/acquisition of immovable property (land and servitudes)

Approval Authority →	OD Exco/CE excluding TFR	TFR Exco/CE	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Operating Divisions	Up to but not exceeding R10million	Up to but not exceeding R50million	Up to but not exceeding R200million	Up to but not exceeding R350million	Up to but not exceeding R500million	Exceeding R500million
Approval Authority →	Group Exco Member	GE: Transnet Property	Capic/GCFO	Group Exco/GCE	Acquisitions and Disposals Committee	Board**
Specialist Units	Up to but not exceeding R1million	Up to but not exceeding R10million	Up to but not exceeding R200million	Up to but not exceeding R350million	Up to but not exceeding R500million	Exceeding R500million

**Refer to Materiality and Significance Framework. If the set limit (R5.2billion) is exceeded then the Board need to consider and recommend to the Shareholder Minister for approval.

- Approval limits are per transaction and are with reference to market value
- All transactions entered into in terms of the above must be reported to CAPIC/GCFO
- Only immovable property on the non-core list, may be disposed of (refer to 5.1.8.1), such disposal may only be done through the Transnet Property.
- Amounts indicated above exclude the capitalisation of borrowing costs.

5.1.10.1 Newly identified properties to be included on the non-core list (Book value of individual properties)

GE: Transnet Property	GCFO	GCE	Acquisitions and Disposals Committee	Board
Up to but not exceeding R50million	Up to but not exceeding R100million*	Up to but not exceeding R200million	Up to but not exceeding R300million	Exceeding R300million

These disposals must be reported to Capic/Group Exco/Acquisitions and Disposals Committee/ Board.

5.2 Treasury

Treasury Policies

Approval Authority →	Group Treasurer	GCFO	GCE	Risk	Audit Committee	Board
Financial Risk Management Framework	Recommend	Recommend	Recommend	Noting	Recommend	Approve

NOTE 1: Only approved financial instruments as approved in terms of the applicable Treasury Financial Risk Management Framework approved by the Board and subject to such limits determined in accordance with such framework may be utilised in the Treasury operations.

5.2.1 InterTransnet Debt (Treasury inter Transnet debt write-off)

Approval Authority →	Deputy Treasurer: Operations	Group Treasurer	GCFO	GCE
Operating Divisions	Up to but not exceeding R5million	Up to but not exceeding R10million	Up to but not exceeding R20million	Exceeding R20million
Specialist Units	Up to but not exceeding R2million	Up to but not exceeding R10million	Up to but not exceeding R20million	Exceeding R20million

All breaches of the above limits to be reported to the Audit Committee.
External debt write-off on financial instruments due to counter-party liquidation may only be approved by the GCE.

5.2.2 Maximum annual loss on all repo activities (Realised and unrealised)

Approval Authority →	Traders and Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	GCFO	GCE
Group	Up to but not exceeding R1million	Up to but not exceeding R1.5million	Up to but not exceeding R2.5million	Up to but not exceeding R5million	Exceeding R5million

All breaches of the above limits to be reported to the Audit Committee
Note: The above limits are aggregate desk limits

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5.2.3 Buy and sell back and sell and buyback transactions (Expressed in nominal terms)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	GCFO
Group	Up to but not exceeding R250million	Up to but not exceeding R500million	Up to but not exceeding R750million	Up to but not exceeding R1 billion	Exceeding R1 billion
Duration Limit	2 weeks	3 weeks	1 month	1 month	> 1 month

All breaches of the above limits (amount or tenure) to be reported to the Audit Committee.
Approval limits are per transaction/event.

5.2.4 Foreign Exchange Spot Transactions Operational payments, not related to hedging, early take ups or extensions (expressed in USD equivalent)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	GCFO
Group	Up to but not exceeding an aggregate equivalent of $20million per day (desk total)	Up to but not exceeding an aggregate equivalent of $40million per day (desk total)	Up to but not exceeding an aggregate equivalent of $100million per day (desk total)	Up to but not exceeding an aggregate of $250million per day (desk total)	Exceeding a daily equivalent of $250million (desk total)

All breaches of the above limits to be reported to the Audit Committee.

5.2.5 Foreign Exchange Hedging Transactions New hedges or re-alignment of existing hedges (expressed in USD equivalent)

Approval Authority →	Deputy Treasurer Middle Office	Group Treasurer	GCFO
Group	Submissions not exceeding $10million	Submissions not exceeding $100million	Submissions exceeding $100million
Tenure	Not exceeding 18 Months	Not exceeding 3 years	Exceeding 3 years

All breaches of the above limits (amount or tenure) to be reported to the Audit Committee.

5.2.6 Foreign Exchange Hedging Transactions: Extensions, early take ups (expressed in USD equivalent)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer
Group	Not exceeding an aggregate equivalent of $20million per day (desk total)	Not exceeding an aggregate equivalent of $50million per day (desk total)	Not exceeding an aggregate equivalent of $100million per day (desk total)	Exceeding an aggregate of $100million per day (desk total)

All breaches of the above limits to be reported to the Audit Committee.
Note: Where no specific limit is mentioned, the FRMF policy on foreign exchange rate risk will apply.

5.2.7 Approval of FX hedges to be hedged by external suppliers on their balance sheet for goods/services to be delivered to Transnet in respect of Rand agreements involving foreign content

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer
Group	Not exceeding $10million	Not exceeding $25million	Not exceeding $100million	Exceeding $100million

All breaches of the above limits to be reported to the Audit Committee for noting.
The above limits are applicable per agreement.
Note: The Business Units must always obtain quotes on FX forward rates and liaise with the Treasury Trading desk that will verify the rates to ensure it is market related. The Business Units can only enter into the FX hedges with the supplier once the rates are accepted by the Treasury Trading desk via e mail. Once the above approvals are obtained, the Treasury Traders will provide sign off on the rate acceptance.

5.2.8 Interest Rate Risk Hedging

Approval Authority →	Notional Amounts	Group Treasurer	GCFO
Group	Notional amount of hedge expressed in RAND or equivalent in USD (FX loans and leases)	Up to but not exceeding R1billion or equivalent in USD	Exceeding R1billion or equivalent in USD
Tenure		Not exceeding 5 years	Exceeding 5 years

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All breaches of the above limits to be reported to the Audit Committee.
Note: Where no specific limit is mentioned, the FRMF policy on interest rate risk will apply.
The above limits are applicable per hedging submission.

5.2.9 Hedging of fuel risk exposures (RAND and USD)

Approval Authority →	Group Treasurer	GCFO
Tenure	Not exceeding 6 months	Not exceeding 18 months
Notional hedge expressed in USD or equivalent in RAND	Not exceeding $50million or equivalent in RAND	Exceeding $50million or equivalent in RAND

All breaches of the above limits to be reported to the Audit Committee.
Note: The maximum hedge should not exceed 75% of annual budgeted consumption.
The above limits are applicable per hedging submission.
Note: Where no specific limit is mentioned, the FRMF policy on commodity (fuel) risk will apply.

5.2.10 Hedging of commodity risk exposures in supply agreements, including escalation (other than fuel) in FX or RAND

Approval Authority →	Group Treasurer	GCFO
Tenure	Not exceeding 24 months	Exceeding 24 months
Notional hedge expressed in RAND	Not exceeding R100million	Exceeding R100million
Notional hedge expressed in USD	Not exceeding $10million	Exceeding $10million

All breaches of the above limits to be reported to the Audit Committee.
The above limits are applicable per hedging submission.
Note: Where no specific limit is mentioned, the FRMF policy on commodity risk will apply.

5.2.11 Granting of InterTransnet Loans (interest-bearing only) to divisions/specialist units

Approval Authority →	Deputy Treasurer: Front Office	Group Treasurer	GCFO
Operating Division	Up to but not exceeding R750million	Up to but not exceeding R1 billion	Exceeding R1 billion
Specialist Unit	Up to but not exceeding R10million	Up to but not exceeding R25million	Exceeding R25million

These above limits are cumulative per OD/ SU per financial year.

5.2.12 Letters of Credit

Approval Authority →	Deputy Treasurer: Front Office	Group Treasurer	GCFO	
Transnet	Up to but not exceeding R250million	Up to but not exceeding R500million	Exceeding R500million	

All breaches of the above limits to be reported to the Audit Committee.
The above limits are per Letter of Credit.

Funding Portfolio

NOTE 1: The total nominal funding amount per financial year in respect of Bonds and any other funding transactions shall be as determined per Board approved/Board amended Funding/Borrowing Plan.

NOTE 2: A. Signatories mean, subject to such approvals by the Board and the Minister of Finance in terms of section 66 of the PFMA as may be applicable, the Group Treasurer and any other officer so designated in writing by the GCFO.

B Signatories mean, subject to such approvals by the Board and the Minister of Finance in terms of section 66 of the PFMA as may be applicable, persons so designated in writing by the Group Treasurer.

5.2.13 Limits for approval and signing of funding agreements per financial year

Approval Authority →	Group Treasurer	GCFO	GCE
Tapping of bonds (in accordance with the approved Funding Plan or as approved by the Board)		Not exceeding R5billion	Exceeding R5billion
Bank facilities		No limit applies	No limit applies
Drawdown on Overnight facilities including Revolving Credit Facilities **	Up to but not exceeding R3billion	Exceeding R3billion	Exceeding R3billion
Commercial Paper			
		Not exceeding R5billion	Exceeding R5billion
Loans	Up to but not exceeding R1billion	Up to but not exceeding R2.5billion	Exceeding R2.5billion

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Export Credit Agency supported funding			
Up to but not exceeding R1billion			
New domestic bond issues (in accordance with the approved Funding Plan or as approved by the Board)		Up to but not exceeding R2billion	Exceeding R2billion
Development Finance Institution Funding	Up to but not exceeding R1billion	Up to but not exceeding R2.5billion	Exceeding R2.5billion
Foreign funding	Up to but not exceeding $100million	Up to but not exceeding $250million	Exceeding $250million
Any other source of funding not stipulated above	Up to but not exceeding R1billion	Up to but not exceeding R2billion	Exceeding R2billion
The above is further subjected to the following annual aggregate limit			
	R5billion	R12.5billion	Limited to the annual Board approved funding plan

The above is subject to the following:

- Be executed in accordance with the approved funding strategy as incorporated in the Corporate Plan (including any approved amendments).
- All breaches of the above limits to be reported to the Audit Committee.
- The GCE can increase funding requirements up to 10% of Board approved Borrowing Plan and this needs to be ratified by Board. Any funding increase above the 10% can only be approved by the Board.
- Any increase in the funding requirement beyond what was included in Corporate Plan is to be notified to the Shareholder and the Ministry of Finance.
- * Bank facilities must be approved and signed by either the GCFO or GCE.
- ** Applicable on outstanding balances.
- The Group Treasurer must sign all Funding Agreements within their delegated authority limits, together with the GCFO signing as co-signatory
- The Group Treasurer can approve all drawdowns and sign any ancillary transaction related documentation required from time to time irrespective of the amounts involved.
- Pricing Supplements for new listings, existing bonds and commercial paper to be listed on any exchanges must be signed by the GCFO and GCE.
- Final Terms for new listings on international exchanges must be signed by the GCFO and GCE.
- The Group Treasurer is authorised to sign all ancillary documents related to listings in local and international exchanges.

5.2.14 **Signing of legally binding agreements in respect of Treasury related activities not listed in 5.2.13 above. (Such as ISDA, ISMA, JSE client agreements, data subscription agreements)**

Only the GCE or the GCFO have authority to sign. The Group Treasurer may sign with a specified delegation of authority.

5.2.15 **Counterparty Limits: Setting of Limits**

Approval Level			
Group Treasurer	GCFO	GCE	Audit Committee
			Counter Party Risk Limits[1]
Price Risk Limits ≤ R25m[3]	Price Risk Limits ≤ R250million[3]	Price Risk Limits ≥ R250million[3]	Overall counterparty limit (as calculated in line with FRMF)
Recommendation of Bond Issue and Bond Issuer Limits	Approval of Bond Issue and Bond Issuer Limits		
Recommendation of Settlement Limits[2]	Approval of Settlement Limits[2]		
Recommendation of limits where the Company is exposed to counterparty issuer risk as a result of advance payment guarantees, performance bonds, retention bonds etc. issued under supplier agreement/contracts[3]	Approval of limits where the Company is exposed to counterparty issuer risk as a result of advance payment guarantees, performance bonds, retention bonds etc. issued under supplier agreement/contracts[3]		

Note: Where no specific limit is mentioned, the FRMF policy on Counter Party Risk will apply.

Note[1]: The approved counterparty limit may be utilised for price risk, investment risk as well as issuer risk (in respect of advance payment guarantees, performance bonds, retention bonds etc.) as long as the sum of the individual exposures remains within the overall Audit Committee approved risk limit.

Note[2]: Settlement risk limits are set at 1.5 times the approved counterparty limit as stipulated in the FRMF and will be approved with the counterparty limit.

Note[3]: In respect of counterparties not approved by Audit Committee

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5.2.16 Appointment of Commercial Bankers and the Opening of Bank Accounts

	Group Treasurer	GCFO
All OD/SU	Recommendation to open bank accounts and the appointment of bankers.	Approval of new bank accounts and the appointment of bankers and the approval of all documentation relating to such accounts, including electronic banking documentation.
Process to follow	There is no delegation to any OD/SU to appoint commercial bankers or to open bank accounts, domestically or internationally; only the GCFO may make such appointments.	

5.2.17 Authorisation of cheque signatories, Test keys and EFT's

Signing Cheques	Two A signatories or one A and one B signatory
Signing Test keys for paying/receiving	Two A signatories or one A and one B signatory
Electronic transfer of funds	Two A signatories or one A and one B signatory

5.2.18 Payment Instructions and confirmation notes

Signing payment instructions/ receipts/ settlement instructions	Two A signatories or one A and one B signatory
Signing confirmation notes in respect of approved financial transactions executed:	One A signatory

5.2.19 Approval of Annual Borrowing Plan

	Board
Companywide	Approve the annual Borrowing Plan for execution by Treasury

Annual Borrowing Plan to be recommended by the Audit Committee for approval by the Board.

5.2.20 Authorisation to enter into binding transactions

	Group Treasurer
Companywide	Authorise Treasury employees to enter into binding financial transactions on behalf of Transnet

5.2.21 Issuing of Guarantees (subject to requirements of section 66 of the PFMA)

	Group Treasurer	GCFO	GCE	Board
Companywide	Up to but not exceeding 25million	Up to but not exceeding R200million	Up to but not exceeding R500million	Exceeding R500million

All breaches of the above limits to be reported to the Audit Committee.
The Limits are per transaction.

5.2.22 Issuing Letters of Support

	Board
Companywide	Only the Board of Directors has authority to issue letters of support

5.2.23 Issuing of security per transaction (subject to section 66 of the PFMA)

	Group Treasurer	GCFO	GCE	Board
Companywide	Up to but not exceeding R250million	Up to but not exceeding R500million	Up to but not exceeding R1 billion	Exceeding R1billion

All breaches of the above limits to be reported to the Audit Committee. The limits are per transaction.

5.2.24 Guarantees resulting from Supplier Agreements

	CFO:OD	Deputy Treasurer Middle Office[1]	Group Treasurer[2]	Group CFO[3]
Notional Value per OD per financial year	Up to but not exceeding R200million	Up to but not exceeding R250million	Up to but not exceeding R500million	Exceeding R500million
Issuer Acceptance		All issuers	All issuers	All issuers

- The limits are cumulative per OD/SU per annum.
- The OD is required to obtain legal acceptance from the Divisional Legal Department and or Group Legal in respect of all Guarantees.
- Guarantees should be constructed in a manner that they become payable on demand
- The minimum long-term credit rating requirements may be acceptable under the following:-
  - A- from Fitch Rating Investor Services or Standard & Poor's Rating Services or A3 from Moody's Investor Services;
  - Issuers not rated by a recognised credit rating agency will not be accepted, unless specific approval has been obtained from GCFO that internally developed credit rating of the issuer is acceptable;

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- Group Treasury may also consider an equivalent rating from other recognised rating agencies as contained in the FRMF.

Note: The approvals of ** are additional and do not include the amount of lower level authority.

5.3 Finance

5.3.1 Bad Debt Write-off

Trade Debtors

Approval Authority →	OD Exco/CE* excluding TFR	TFR Exco/CE	GCFO	Group Exco/ GCE	Audit Committee	Board**
Operating Divisions	Up to but not exceeding R10million	Up to but not exceeding R20million	Up to but not exceeding R100 million	Up to but not exceeding R250 million	Up to but not exceeding R500million	Exceeding R500 million
Approval Authority →	Group Exco Member		Capic/GCFO	Group Exco/ GCE	Audit Committee	Board
Specialist Units	Up to but not exceeding R5 million		Up to but not exceeding R100 million	Up to but not exceeding R250million	Up to but not exceeding R500million	Exceeding R500 million

**Approval limits are R10million and R20million for TFR per transaction subject to an annual cumulative limit of R50 million and R100m for TFR. Specialist Unit limit is R5million cumulative per annum.

5.3.2 Setting of limits for credit facilities (Trade debtors)

Approval Authority →	Divisional CFO excluding TFR	OD Exco/CE* excluding TFR	TFR CFO	TFR CE	GCFO	GCE
Operating Divisions	Up to but not exceeding R10 million	Up to but not exceeding R20 million	Up to but not exceeding R100 million	Up to but not exceeding R150million	Up to but not exceeding R300 million	Exceeding R300mTon
Specialist Units	Up to but not exceeding R5 million	Up to but not exceeding R10 million	n/a	n/a	Up to but not exceeding R300 million	Exceeding R300mTon

Limits are per individual customer/client. Credit limits are to be reviewed on an annual basis. The limits are applicable subject to the division following the credit evaluation process

Internal limits between ODs are not applicable.

5.3.3 Issuing of Credit notes

Approval Authority →	Divisional CFO	OD Exco*	GCFO	GCE
Operating Divisions	Up to but not exceeding R10million	Up to but not exceeding R20million	Up to but not exceeding R300million	Exceeding R300million
Specialist Units	Up to but not exceeding R5million	Up to but not exceeding R10million	Up to but not exceeding R300million	Exceeding R300million

Limits are per individual credit note and relates to external parties. Issuing of credit notes regarding internal/interdivisional transactions must be within the control of the divisional CFOs.

Excludes the product reconciliation process at Transnet Pipelines where the Divisional CFO or General Manager: Strategy and Commercial recommend to the OD CE the approval of transactions arising out of the product reconciliation process.

5.3.4 Exceeding the operational expenditure budget in total for the year (Operating Divisions/Specialist Units)

The Board of Directors to be informed at every meeting of the financial status and latest estimates of the Company

Approval Authority →	CE:OD *	GCFO	GCE	Board
Operating Divisions	Up to but not exceeding 5% of approved budget	Up to but not exceeding 7.5% of approved budget	Exceeding 7.5% of approved budget to a maximum of 10%	>10%
Specialist Units	Up to but not exceeding 5% of approved budget	Up to but not exceeding 7.5% of approved budget	Exceeding 7.5% of approved budget to a maximum of 10%	> 10%

* To be reported quarterly to the GCFO and GCE together with mitigating action plans to ensure that key financial metrics are maintained or met.

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Delegations for operational transactions that are too detailed to include in the Delegations of Authority Framework will be determined and applied in terms of the details set out by the CE/GE in conjunction with the CFO of the respective OD/SU.

5.3.5 Establishing financial policy with regard to Insurance

Approval Authority →	GCFO	Risk Committee
Authority Level	GCFO after consulting with Chief Risk Officer to recommend to the Risk Committee	Final approval

5.3.6 Inventory Write-off

Approval Authority →	OD Exco/CE* excluding TFR	TFR Exco/CE	GCFO	Group Excol GCE	Audit Committee	Board
Operating Divisions	Up to but not exceeding R10million	Up to but not exceeding R20million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R500million	Exceeding R500million
Approval Authority →	Group Exco Member		CAPIC/GCFO	Group Excol GCE	Audit Committee	Board
Specialist Units	Up to but not exceeding R5million		Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R500million	Exceeding R500million

* Approval limits are R10million and R20million for TFR per transaction, subject to an annual cumulative limit of R50million and R100million for TFR. Specialist Unit limit is R5million cumulative per annum.

5.4 Procurement, Enterprise Development and Supplier Development

All procurement transactions (including reverse logistics – selling of goods) must fully comply with the approved Supply Chain Policy and Procurement Procedures Manual (PPM),) where applicable – Any commercial agreement (for the purchase of goods or services) must be signed off by an authorised employee of Supply Chain Management (Procurement) prior to signing of the contract to indicate that all the steps as per Clause 5.5 below have been followed and that all procurement related governance has been adhered to. In addition to the other exclusions specifically mentioned in the PPM, Treasury transactions related specifically to the appointment of service providers for Transnet's funding and hedging requirements are not subject to the PPM.

5.4.1 Appointment of Consultants

Approval Authority →	CE:OD and GE:TCP	GCFO	Group Excol GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Up to but not exceeding R25million	Up to but not exceeding R50million	Up to but not exceeding R200million	Up to but not exceeding R300million	Exceeding R300million
Approval Authority →	Specialist Unit GE (i.e. Foundation & Property) Group Exco Members	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units excluding TCP	R10million	Up to but not exceeding R50million	Up to but not exceeding R200million	Up to but not exceeding R300million	Exceeding R300million

*Approval limits are cumulative per annum. Excludes appointment of consultants to perform feasibility studies for capital projects.

- Consultants may only be remunerated at set rates as follows:
  - Guideline for fees as determined by the South African Institute of Chartered Accountants
  - Guide on Hourly Fee Rates for Consultants by the Department of Public Service and Administration
  - Prescribed by the body regulating the profession of the consultant (for this purpose the *Guideline on Cost Containment Measures Issued in terms of National Treasury's Instruction Note 01 of 2013/14* must be followed).

Prescribed in the Service Level Agreement concluded with lawyers on the Transnet legal panel.

5.4.2 Approval to approach the market for Open Tenders

Approval Authority →	CE:OD and GE:TCP	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Up to but not exceeding R700million	Up to but not exceeding R750million	Up to but not exceeding R1billion	Up to but not exceeding R1.5billion	Up to but not exceeding R2.5billion	Exceeding R2.5billion
Approval Authority →	Specialist Unit(i.e. Foundation and Property Group Exco Members					
Specialist Units excluding TCP	GE Up to but not exceeding R100million	Up to but not exceeding R750million	Up to but not exceeding R1billion	Up to but not exceeding R1.5billion	Up to but not exceeding R2.5billion	Exceeding R2.5billion

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The CE: OD may only delegate these powers to go to market with Open Tenders to Heads of Procurement. The Requisition (or Request to Purchase) issued to Procurement must be approved by the OD's Budget Owner or GE in the case of Specialist Units or his duly authorised delegate. Such approved requisition or Request to Purchase will signify that the acquisition has been approved and that the necessary funds are available.
Submissions requiring approval by the person with delegated authority must also include a procurement strategy document which includes Supplier Development.

5.4.3 Approval to approach the market for confined tenders: Confinement of tenders (applicable to transactions above R2m in value)

Approval Authority →	CE:OD and GE:TCP	GCSCO		GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Nil	Nil		Up to but not exceeding R500m	Up to but not exceeding R1.5billion	Exceeding R1.5billion
Approval Authority →	Specialist Unit GE (i.e. Foundation & Property) Group Exco Members	GCSCO		GCE	Acquisitions and Disposals Committee	Board
Specialist Units excluding TCP	Nil	Nil		Up to but not exceeding R500m	Up to but not exceeding R1.5billion	Exceeding R1.5 billion

The limits are per transaction/confinement. All requests for approval of confinements must be made by the CE:OD /Group Exco Member through the GCSCO and the GCFO to the GCE. The OD/SU shall prepare the submission in collaboration with Integrated Supply Chain Management (iSCM) to ensure that the motivation for confinement contains sufficient information to meet one or more of the grounds for confinement as stipulated in the PPM. In instances where a confinement is confidential, the GCE may approve such confinement without the confinement request being routed through any other authority.

Note: Confinement must only be used in respect of transactions above R2million in value. For transactions below R2million, the quotation system must be used. The quotation system is a procurement mechanism that may only be used:

- For transactions below R2million in value that.
- Relates to goods or services required on a non-repetitive basis
- Market is known.
- Minimum of 3 quotes must be obtained where applicable (greater than R100 000 but less than R2million).

5.4.4. Management's intervention to address non-compliance with procurement policies and procedures

Approval Authority →	CE:OD/and GE:TCP	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions including TCP	Nil	Nil	Up to but not exceeding R500million	Up to but not exceeding R1.5billion	Exceeding R1.5billion
Approval Authority →	Specialist Unit GE (i.e. Foundation & Property) Group Exco Members	GCFO	GCE	Acquisitions and Disposals Committee	Board
SU excluding TCP	Nil	Nil	Up to but not exceeding R500million	Up to but not exceeding R1.5billion	Exceeding R1.5billion

Note: All requests for approval of non-compliance must be made by the CE: OD/Group Exco member to the GCE. The OD/SU shall prepare the submission in collaboration with iSCM to ensure that the rules for the addressing of non-compliance are met. Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.

5.4.5 Establishing Procurement policy (opex, capex and disposals)

Authority Level	Acquisitions and Disposals Committee

5.4.6 Procurement process approval

NOTE: Each OD/SU will have its own main Acquisition Council (AC) which will consider and approve all procurement processes, as well as the disposal of scrap, falling within its jurisdiction from R2million, but not exceeding R700million. This is subject to the discretion of the CE: OD/GE: SU to lower the R2million thresholds, or to create Secondary Regional/Local Acquisition Councils. Where a particular Transnet Entity chooses to create a secondary AC/s, the jurisdiction of the Secondary AC/s will start below the R2 million threshold. ODs have the discretion to set the maximum threshold/s of such secondary ACs to a value higher than R2 million. This

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value will then become the minimum threshold of the main AC of the Transnet Entity. The CE: OD/GE: SU may also delegate certain process approval powers to the relevant Manager for matters below the Secondary Acquisition Councils' delegation. Transactions exceeding the CE: OD's/GE: SU's delegated authority will also be considered by the OD's main AC for recommendation to the higher approval body (e.g. the Acquisitions and Disposal Committee). If it concurs with the recommendation, the matter will be referred to the relevant person/structure with the delegation of authority for approval. Should any process approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or re-motivation.

Approval Authority →	ODs, TCP and TCC (Secondary and/or Main) Acquisition Councils	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions (including TCP and TCC)	Up to but not exceeding R700million	Up to but not exceeding R750million	Up to but not exceeding R1billion	Up to but not exceeding R1.5billion	Up to but not exceeding R2.5billion	Exceeding R2.5 billion
Approval Authority	Specialist Unit (excluding TCP and TCC)(Secondary and/or Main) Acquisition Councils	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units (excluding TCP and TCC)	Up to but not exceeding R20million subject to the contract period not exceeding 5 years	Up to but not exceeding R750 million	Up to but not exceeding R1billion	Up to but not exceeding R1.5 billion	Up to but not exceeding R2.5 billion	Exceeding R2.5 billion

5.4.7 Enterprise and Supplier Development

Approval Authority →	CE:OD	ISCM Council/ GCSCO	GCFO	Group EXCO/ GCE	Acquisitions and Disposals Committee	Board*
Operating Divisions (including TCP and TCC)	Up to but not exceeding R5m	Up to but not exceeding R25million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R500million	Exceeding R500million
Approval Authority	Specialist Unit GE (i.e. Foundation & Property) Group Exco Members	ISCM Council/ GCSCO	GCFO	Group EXCO/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units (excluding TCP and TCC)	Up to but not exceeding R2million	Up to but not exceeding R25million	Up to but not exceeding R100million	Up to but not exceeding R250million	Up to but not exceeding R500million	Any amount exceeding R500million

The abovementioned delegations are per transaction.
*RemSEC to note all Enterprise and Supplier Development transactions.

5.5 Contracts and/or Agreements

NOTE 1: Any person who has been authorised to execute any legal documents including deeds, leases, assignments, contracts, applications, financial instruments, external submissions to or on behalf of the Company and/or its OD's or SU's or any other legal documents may only do so with the prior advice of the relevant Legal Services department as set out in the Legal Policy.

NOTE 2: Unless otherwise indicated in the authorities below, the authority to execute a contract or other binding document carries with it like authority to cancel or modify it, but only with the prior written advice of the relevant Legal Services department as set out in the Legal Policy and if it relates to Procurement Contracts, the process prescribed in the Procurement Procedures Manual must be adhered to.

NOTE 3: Any person authorised to enter into an agreement/contract or other binding document involving capital expenditure must have obtained prior financial approval in terms of the procedures set out in 5.1 prior to entering into such a CAPEX contract.

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NOTE 4: Approval limits are per transaction/contract.

NOTE 5: The authority to execute a contract or other binding document carries with it the understanding that an authorised payment required thereby will be made once proof of receipt has been obtained. No person is authorised to obligate the company to an amount greater than such payment or create more onerous obligations than those contained in the contract or other binding document. Increases to the original scope of the binding document must be supported by authorised amendment.

NOTE 6: The PPM prescribes the process that must be followed in terms of approving procurement contract amendments: Non-material amendments (i.e. where the scope, value and/or period of the contract is less than 10% of the original contract value): the manager with the delegation of authority may effect such amendment and is only required to inform the AC (if within the AC jurisdiction) of such amendment as soon as possible thereafter. The manager who approves the amendment may be the original signatory of the contract if the cumulative value of the amended contract is still within his/her delegation of authority. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.

- Material amendments within the AC threshold (i.e., where the scope, value and/or period of the contract is greater than 10% of the original contract value): the manager with the delegation of authority may not effect such amendments without the PRIOR approval of the relevant AC first of such amendment. Following AC approval such amendment needs to be signed off by the original signatory (i.e. the person with delegation of authority who signed the initial contract or the person mandated to do so) provided the cumulative value of the contract and subsequent amendment(s) still falls within his/her delegations. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.
- NOTE: As a general rule, contracts may be amended by not more than 40% of the original contract value. Any deviation (as provided for in the paragraph below) in excess of this threshold will only be allowed in exceptional circumstances.
- Amendments in excess of 40% of the original contract value or contract period will be dealt with as follows: In such cases, PRIOR review and recommendation must be obtained from the appropriate AC first, as well as the original signatory. Thereafter, the matter must be submitted for approval to the person with delegations one level higher than the person with the delegation of authority to approve the amended value. This rule applies regardless of whether the amendment is still within the original signatory's delegation of authority or above it. On approval, the amended contract will be signed off by the person with the delegation of authority to sign off the contract value concerned. However, this rule does not apply to amendments falling within the GCE, Acquisitions and Disposals Committee or the Board's delegation of authority. For such contract amendments, the matter will be submitted to the GCE, Acquisitions and Disposal Committee or the Board regardless of the value of the contract amendment (provided the cumulative value is still within their delegations of authority).
- For higher value contracts (i.e. those signed by the operating division's GE, the GCFO or GCE), it is advisable to obtain a written mandate from that official empowering a delegate to administer such contract and to effect changes to such contract not exceeding 10% of the initially approved contract value.

5.5.1 Entering into and/or signing of Contracts and/or Agreements and award of business: (including the sale of scrap)

Approval Authority →	CE:OD and GE:TCP		GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions (including TCP)	Up to but not exceeding R700 million		Up to but not exceeding R750million	Up to but not exceeding R1billion	Up to but not exceeding R1.5billion	Up to but not exceeding R2.5billion	Exceeding R2.5billion
Approval Authority →	GE: Specialist Unit GE (i.e. Foundation & Property	Group Exco Members	GCSCO	GCFO	GCE	Acquisitions and Disposals Committee	Board
Specialist units (excluding TCP)	Up to but not exceeding R5m subject to the contract period not exceeding 5 years	Up to but not exceeding R30 million subject to the contract period not exceeding 5 years	Up to but not exceeding R750million	Up to but not exceeding R1billion	Up to but not exceeding R1.5billion	Up to but not exceeding R2.5billion	Exceeding R2.5billion

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Contract award delegation carries with it the authority to issue letters of intent, letters of award, letters of regret and signing of the final contract. Values are per contract for the full term of the contract (Total value of contract excluding VAT) on condition that approval has been obtained for the related expenditure over the period. Please refer to the conditions stipulated below.
Payments: Once the decision to contract has been issued, contract execution will be governed by the Operating Divisions or Specialist Units, including the payment process provided that the contract amount is not exceeded.

5.5.1.1 **Contracts > R700 million, including Transnet's top 70% value opex items and capex contracts**
Prior to entering into a high value (greater than R700 million) / highly complex contract (especially for the top 60% value opex items as dealt with by iSCM Strategic Sourcing commodity teams), any authorised official must first liaise with a multi-disciplinary team of experts at Corporate Centre, who should each sign off on any agreement/contract or other binding document:

- Group iSCM.
- Group Legal Services – entire document.
- GCFO to sign-off after sign-off from the Finance Departments (Group Finance/Reporting Financial Planning, Tax and Treasury).
- Group Risk.
- Group Insurance.
- Contracts less than R700 million within the OD's limit of authority, require a similar process as set out above to be followed by the relevant OD.

5.5.1.2 **Contracts with foreign exchange exposure**

- Approval to enter into an agreement/contract or other binding document involving foreign currency exposure (including *international agreements*) may not be sub-delegated lower than to the Chief Procurement Officer (CPO) of an OD. Approval of the divisional CFO is required to enter into the contracts that may result in fore'gn currency exposure.

- The duly authorised official must obtain prior written approval in respect of FX agreements above R50million from Group iSCM, Group Legal Services, Group Treasury, Group Tax, Group Risk, Group Insurance and Group Reporting, both where the contract will be concluded in foreign currency and especially in such cases where foreign contracts will be concluded in South African Rand, as this may expose the Company to an embedded derivative. All FX agreements above R100million must apart from the above also obtain written approval from the GCFO. The GCFO to sign-off after sign-off from Group Treasury, Group Tax, Group Risk, Group Insurance, Group /Reporting, Group Legal Services (the entire document) and Group iSCM.

5.5.2 **Entering into and/or Signing of Revenue Contracts/Agreements and authority to issue binding quotes locally: (excluding lease contracts and the sale of scrap)**

Approval Authority →	CE:OD/GE:SU Commercial Limit per Annum per contract up to but not exceeding 5 years	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Operating Divisions	Up to but not exceeding R500 million but not exceeding R2.5 billion for the total contract	Up to but not exceeding R700 million but not exceeding R3.5 b'lion for the total contract	Up to R2.5billion per annum but not exceeding R12.5billion for total contract value	Up to R3 billion per annum, unlimited total contract value	Exceeding R3 billion per annum and unlimited total contract value
Approval Authority →	Specialist Unit CE Limit per Annum per contract up to but not exceeding 5 years	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Specialist Units	Up to but not exceeding R10 million	Up to but not exceeding R700 million but not exceeding R3.5 billion for the total contract	Up to R1 billion but not exceeding R5 billion for the total contract	Up to R3 billion per annum, unlimited total contract value	Exceeding R3billion per annum and unlimited total contract value

- Integrated customer agreements where a service incorporates more than one division must be signed off by the Group Executive: Legal and Compliance, GCFO and the Group Executive: Commercial in addition to sign off by the CE: ODs, up to but not exceeding revenue of R500million per annum not exceeding 5 years.

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- If the contract period is below 12 months the contract value is to be annualised and the delegated authority required to approve the transaction will be determined by the annualised amount.
- All limits indicated above are exclusive of VAT
- Board approval is required if the annual value of the contract exceeds R3 billion..

5.5.3 Entering into and/or Signing of Revenue Contracts/Agreements and authority to issue binding quotes Internationally including cross border contracts: (excluding lease contracts and the sale of scrap)

Approval Authority →	CE:OD Limit per Annum per contract up to but not exceeding 3 years	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Operating Divisions	Up to but not exceeding R300 million	Up to but not exceeding R500 million	Up to but not exceeding R1 billion	Up to but not exceeding R3billion	Exceeding R3 billion
Approval Authority →	GE:SU Group Exco Members Limit per Annum per contract up to but not exceeding 3 years	GCFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Specialist Units	Up to but not exceeding R200 million	Up to but not exceeding R500 million	Up to but not exceeding R1 billion	Up to but not exceeding R3 billion	Exceeding R3 billion

5.5.4 Internal Contracts

Contracts between OD and/or SUs such as service level agreements and project specific agreements may be entered into between CE:ODs or GE:SUs.

5.5.5 Property and Lease Agreements

All internal and external Property Lease Agreements including revenue generating leases and expenditure leases (excluding vacant land).

Approval Authority →	CE:OD and GE:TCP	GE: Transnet Property	GCFO	GCE	Acquisitions and Disposals Committee
Operating Divisions	Up to but not exceeding R100 million per lease per annum	Up to but not exceeding R200 million annualised	Up to but not exceeding R200 million full term	Up to but not exceeding R500 million full term	Exceeding R500 million full term
	Tenure not exceeding 5 years	Tenure not exceeding 10 years	Tenure not exceeding 10 years	Tenure exceeding 10 years	Tenure exceeding 15 years

- Tenders that include alienation/leasing out of land for a period longer than 5 years must be submitted to the GCE for approval prior to going out on tender or RFP.
- Cession of leases: All cession or assignment of Lease agreements shall be approved by the GCFO or Group Executive: Transnet Property. For cession of leases at OD level, the CE of the respective OD/SU may approve cession or assignment of lease agreements.
- Cession of lease agreements, renewals and extensions of lease agreements with a change to material terms of the existing lease e.g extension or shortening of the lease period, change of rental terms etc. may be approved in terms of the above limits i.e. where the original lease was approved in terms of the delegated authority above, changes of material terms to be approved by the same approval body.
- All external Lease Agreements (> 5 years) of properties on land/properties adjacent to other land/properties of ODs and/or belonging to Transnet Property, must be communicated and agreed with the relevant division/Transnet Property before entering into any Lease Agreements
- All leases for vacant land may only be approved by the GCE with the above limits for the GCE applicable i.e. if the lease value exceeds R500million or the tenure exceeds 15 years then Acquisitions and Disposals Committee approval is required. For the purposes of this transaction vacant land is considered to be undeveloped land.
- In cases where vacant land is leased out with its own rental premium applicable to it and a separate rental premium for improvements located on the portion of the same leased site, although part of one lease transaction – to the extent that the

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proposed lease has lettable vacant land, the GCE shall approve such lease transactions in line with his limits of authority as stated in the table above.

- Interdivisional leases for vacant land may be entered into and signed by the respective CE: ODs/GE: TCP/GE: Transnet Property.
- Leases for vacant land exclude the leasing in of land to be used for lay down areas and borrow pits for projects.
- Special Delegation to apply to the CE of TNPA in compliance with the National Ports Act of 2005 as amended.
- Internal leases between Transnet Property and the ODs/SUs may be signed by the CEs or GE's of the respective ODs/SUs.
- Revenue Generating Leases: Lease agreements concluded by Transnet in its capacity as lessor for purposes of generating revenue.
- Expenditure Lease: Lease agreements concluded by Transnet in its capacity as a Lessee.
- Properties on DPE approved Transnet non-core list may only be leased out for a maximum period of 10 years. Any leases of these non-core properties for longer than 10 years require s 54 (2) of the PFMA approval by the DPE.

5.5.6 Non-Disclosure Agreements

Non-Disclosure Agreements can, with the authority to sub-delegate, be signed by the CE: ODs or GE: SU provided there are no direct monetary obligations created for Transnet

5.5.7 Memorandum of Understanding

A Memorandum of Understanding must be signed by the Group Chief Executive, with the authority to sub-delegate, to the CE: OD or GE: SU.

5.6 Legal Services

NOTE: The provision of legal services must be in accordance with the Legal Policy. In respect of all litigation the bearer of the authority may, after taking legal advice from Group or Divisional Legal Services, as the case may be, execute all documents and do all things necessary to give effect to his/her authorisation including submission through governance structures.

5.6.1 Commencing and settling any litigation, arbitration and other forms of Alternative Dispute Resolution

Approval Authority →	Divisional Head: Legal	CE:OD, GE: Transnet Property and CE:TCP	GE: Legal and Compliance	GCFO	GCE
Operating Divisions	Up to but not exceeding R2million	Up to but not exceeding R10 million Greater than R10 million but less than R35 million with concurrence of GE: Legal and Compliance	Up to but not exceeding R50 million	Up to but not exceeding R100million with concurrence of GE: Legal and Compliance	Exceeding R100 million

Approval limits are per litigation matter and relate to the settlement amount of that particular matter.

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5.6.2 Disputes with Government and matters posing a reputational risk to the Company

Approval Authority →	Risk Committee	Board
	Matters which pose a reputational risk to the Company should be submitted for consideration.	Any disputes with government entities or where the outcome of any litigation, arbitration or similar proceedings is likely to have a material effect on the business, financial condition or prospects of the Company

5.6.3 Defending matters in court or any other competent forum

Approval Authority →	Legal Manager
	Defending, subject to the Legal Policy, any litigation (actions or applications) in court or any other competent forum, including the appointment of attorneys and/or advocates for such proceedings

NOTE: the Standard Operating Procedures for Litigation Matters prescribes the following:

- Upon receipt of instructions, the Legal Advisor must ascertain from the facts of the case and in law whether:
  - Transnet has legal grounds to pursue litigation and whether it would be financially viable to pursue litigation bearing in mind the quantum of the matter and the costs of pursuing the matter;
  - It would be more advisable to settle the matter;
  - There is any reputational or other risk to Transnet in proceeding with the litigation;
  - Whether there is any precedence that needs to be created by the company for future similar matters.
  - Should the Legal Advisor be satisfied that, on the facts presented, Transnet should institute legal action, the Legal Advisor must submit a written request to the person duly authorised, in terms of the Delegations of Authority Framework, for approval:
    - To institute litigation on behalf or Transnet, and
    - To appoint an external attorney from the Transnet approved panel of attorneys.

5.6.4 Subject to the Legal Policy, the appointment of external advisors, attorneys, advocates and any other external legal advisors including adjudicators, mediators, arbitrators for purposes of alternative dispute resolution process under NEC3 contracts or any other contract.

Approval Authority →	CE:OD	GE: Legal and Compliance	GCE
OPERATING DIVISION	Up to but not exceeding R25 million	Up to but not exceeding R50 million	Exceeding R50 million
	Specialist Units GEs and Heads of Legal	GE: Legal and Compliance	GCE
Specialist Units GEs and Heads of Legal	Up to but not exceeding R10 million	Up to but not exceeding R50 million	Exceeding R50 million

- The amounts indicated relates to the claim amount in the case of commencing litigation, and the estimated legal fees to be charged in all other matters.

5.6.5 Pleading to criminal charges and payment of penalties imposed by Regulators.

Approval Authority →	CE:OD	GE: Legal and Compliance	GCE
OPERATING DIVISION	Up to but not exceeding R25 million	Up to but not exceeding R50 million	Exceeding R50 million
	Specialist Units GEs and Heads of Legal	GE: Legal and Compliance	GCE
Specialist Units GEs and Heads of Legal	Up to but not exceeding R10 million	Up to but not exceeding R50 million	Exceeding R50 million

- The amounts indicated relate to the amount of fine or penalty competent or imposed against the Company..

5.7 Human Resources

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INTRODUCTION

The Delegation of Authority for Human Resources provides for controls and good governance in the following areas:

- Organisation Management
- Personnel Appointments and Remuneration
- Appointment of Fixed Term Contract Employees
- Interim / *Ad hoc* Remuneration Adjustments
- Rewards / Awards / Exceptional Payments / *Ex-gratia* Awards
- Suspension of Employees
- Dismissal of Employees
- Mutual Separation Agreements
- Collective Bargaining and Trade Union Recognition
- Deviation from approved Human Resources Policies

PRINCIPLES

1. Any approval in the Human Resources environment must be obtained from a manager who is at least one hierarchical reporting level higher than the employee for whom authorisation is required
2. When acting in a higher capacity, decision for own portfolio or department that will ordinarily be recommended by the acting incumbent must be referred to one level higher.
3. Where an incumbent acts in a higher position, the full powers of delegation of the position in which the person is acting, may be transferred to the acting incumbent. The incumbent's immediate line manager must agree to the appointment of the acting person. The powers delegated to the person acting must be clearly set out in a written document and the person delegated the powers must sign written acceptance of the powers.
4. Each OD may implement stricter delegations and increase the level of authority above those set out in the document. Any such change must be in writing.
5. The HR delegations contained herein cannot be sub-delegated except when delegating to an acting incumbent acting in the roles specified therein.
6. Board recommendation and approval is required for the appointment and remuneration of the Transnet GCE and GCFO.
7. The Remuneration, Social and Ethics Committee (REMSEC) provides final approval for the annual reward allocation including the salary mandate

All matters relating to the position of the GCE and GCFO are reserved for the Board and Shareholder Minister in line with the Company's governing legislation and mandates.

ABBREVIATIONS

The abbreviations used in the Human Resources Delegation of Authority are set out in the table below:

FA	Final Approval
FA:CC	Final Approval for Corporate Centre
FA:OD	Final Approval for Operating Division
R	Recommendation
R:OD	Recommendation by Operating Division
A	Has provided advice
A:OD	Advice provided by Operating Division
C	Consultation
N	Noting
I	Initiation
GE: HR	Group Executive: Human Resources
CE, GE	Chief Executive of OD or relevant Group Executive of Corporate Staff Department
GM: HRE	General Manager: Human Resources Enablement
GM:HR,CC	General Manager: Human Resources, Corporate Centre
GM: ER	General Manager: Group Employee Relations
OD HR: GM	General Manager: Human Resources at the Operating Division
LM: GM	Line Management - General Manager

The table below sets out the delegation framework for Human Resources

1	Organisation Management: Creation of New Positions / Changes in Positions / Restructuring • No permanent or fixed term contract position can be created or the grade level changed unless the approved Organisation Management governance was followed in respect of the evaluation of positions and ratification of grade levels.							
HUMAN RESOURCES	Shareholder	Board	RemSEC	GCE	GE: HR	OD/SU CE/ GE	OD HR GM/OD CDO	1 N-GM
1.1 Group Exec (A level) Executive Directors	FA	R						
1.2 Group Exec A Level			C	FA	I			
1.3 General Managers (B level)					R	FA		
1.4 Executive Managers (C level)						FA	FA	I
1.5 Senior Management (D level and below)								FA
1.6 Organisational Structure of ODs/SUs/TCC				FA	R			

2	Personnel Remuneration • The RemSEC reviews the GCE's assessment of performance. The remuneration of the abovementioned category of employees shall be based on the Remuneration Policy. • The appointment and remuneration of all management level employees (levels A to F) will be guided by the Guidelines and Salary Bands issued by the Group Remuneration Office. These Guidelines and Salary Bands will take into account the occupational specific categories. • For managers in levels A and B the Group Remuneration Office will recommend the appropriate remuneration bands based on market information and internal parity. Approval of the final appointment and remuneration package will be in terms of the delegations below. • Each OD will apply the Guidelines and Salary Bands when appointing and structuring the packages of management employees in levels C and below. Approval of the final appointment and remuneration package will be in terms of the delegations below. • After salary adjustments and before a mandate is sought for the next financial year, the Group Remuneration Office will conduct a comparative analysis of salaries across ODs to inform the Group Guidelines and Salary Bands of managers for the new financial year. Affordability and the need for internal and external parity will inform these guidelines.

HUMAN RESOURCES	Shareholder	Board	RemSEC & CORP GOV	GCE	GE: HR	OD/SU CE/GE	OD/HR GM
2.1 Group Exec (A level) Executive Directors	FA	R			I		
2.2 Group Exec (A Level)			C	FA	R		
2.3 General Managers (B level)				FA	R	R	
2.4 Executive Managers (C level)					A	FA	R
2.5 Senior Manager (D level and below)						FA	FA
2.6 I							

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3	Appointment of Employees (Indefinite Contract and Fixed-Term Contract Employees) • A person appointed on an indefinite contract or fixed-term contract (for a specific period of time or to perform a specific project) must be appointed into an approved graded position. • Once the appointment has been approved, the person delegated to approve the appointment may sub-delegate the signing of the contract of employment. • Any appointment of a person on an indefinite or fixed term contract for employment outside of the borders of South Africa must be approved by the Group Chief Executive on recommendation from the Chief Executive of the Operating Division or the Group Executive of Human Resources for Transnet Corporate Centre, including Transnet property and Transnet Capital Projects.

HUMAN RESOURCES	Shareholder Approval	Board	RemSEC/ Corp Gov	GCE	GE: HR	OD/ CE/GE	GM:HR, CC	OD/SU HR GM	LM: GM	OD:HR Manager
3.1 Group Exco (A Level) Executive Directors	FA	R	C							
3.2 Group Exco (A Level)			C	FA	R					
3.3 General Managers (B level)					R	FA	I	I		
3.4 Executive Managers (C level)							R	FA	I	
3.5 Senior Management (D level and below)								R	FA	
3.6 Manager (E level and below)									FA	I
3.7 Bargaining Unit									FA	I

* The Chairpersons of Remuneration, Social and Ethics and the Corporate Governance and Nominations Committees will be consulted by the GCE for the appointment of Group Exco Members (other than executive directors). The consultation will be through a memorandum submitted to the Chairpersons of the Committees

4	Counter Offers If an employee produces a written and current counter offer of employment with details of the remuneration package, and the Company seeks to retain the employee based on the criticality of the employee's skill, an interim adjustment of the employee's current remuneration package may be offered in terms of the delegations below. Any counter offer must be in accordance with the Group Guidelines and Salary Bands issued by Group Remuneration.

HUMAN RESOURCES	Shareholder	Board	RemSEC/ Corp Gov	GCE	GE: HR	OD/SU CE/ GE	OD/ HR GM	GM:HRE	LM:GM
4.1 Group Exco (A level)Executive Directors	FA	R	C						
4.2 Group Exco (A level)			FA	R	R			I	
4.3 General Managers (B level)				FA	R	R	I	I	
4.4 Executive Managers (C level)						FA	R	R	I
4.5 Senior Management (D level to Level F)						FA	R	R	I
4.6 Bargaining Level employees (in accordance with the applicable Collective Agreement)							FA	FA;CC	R

5	Interim Salary Adjustments • In line with the Group Remuneration Philosophy approved by the REMSEC there will be no interim / ad-hoc remuneration adjustments

5	*Internal Rewards / Awards / Exceptional Payments / Ex-gratia Awards* • *The amounts reflected below are per initiative (not per individual employee payment) per annum*

HUMAN RESOURCES	Board	RemSEC	GCE	GE: HR	OD CE/ GE	HR GM	GM: HRE	GM Line Manager
5.1 R15m and above	FA	R	R	I			R	
5.2 Between R10m but not exceeding R15m		FA	R	I				
5.3 Between R50 000 but not exceeding R10m			FA	R	R	I	I	
5.4 Between R20 000 but not exceeding R50 000					FA	R	R	I
5.5 Up to but not exceeding R20 000					FA	R	R	I
5.6 Up to but not exceeding R 10 000					FA	R	R	I

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6	Suspension of Employees • The suspension of all employees is per the delegations of authority below. • In the case of the suspension of a bargaining unit employee, the relevant OD Employee Relations Manager must recommend the suspension based on the merits of the case.										
HUMAN RESOURCES	Shareholder	Board	RemSEC/ Corp Gov	GCE	GE: HR	OD/SU CE/GE	OD/SU HR GM	GM: ER	LM: GM	LM	ER Manager
6.1 Group Exco (A level Executive Directors	FA	R	C/N								
6.2 Group Exco (A level excluding executive directors)			N	FA	R	R			R		
6.3 General Managers (B level)				N	R	FA		R			
6.4 Executive Managers (C level)						FA	R	A	R		
6.5 Senior Management (D level to F level)							R		FA	R	A
6.6 Bargaining unit employees							A			FA	R

7	Dismissal of Employees • The dismissal of any employee for reasons of discipline or incapacity must be preceded by a fair hearing/process in line with Company policies. • The required authority to seek a dismissal of an employee at a disciplinary or incapacity hearing must be obtained prior to the hearing. • The dismissal of an employee for operational requirements must be preceded by a fair consultation process.									
HUMAN RESOURCES	Shareholder	Board	GCE	GE: HR	OD/SU CE/GE	OD/ HR GM	GM: ER	LM: GM	LM	ER Manager
7.1 Group A level Executive Directors	FA	R								
7.2 Group Exco (A level excluding executive directors)		N	FA	R			I			
7.3 General Managers (B level)			FA/N	R	FA		I			
7.4 Executive Managers (C level)					FA	R	I R:CC	R		I
7.5 Senior Management (D level to F level)					N	R		FA	R	R
7.6 Bargaining unit employees									FA	R

8	Mutual Separation • Terms and conditions and financial settlement amounts of mutual separation agreements for A – D Roles will be guided by the Guidelines issued by the Group Remuneration Office									
HUMAN RESOURCES	Shareholder	Board	RemSEC	GCE	GE: HR	OD/SU CE/GE	OD/SU HR GM	GM:HR, CC	GM:ER	LM:G M
8.1 Group Exco (A level) Executive Directors	FA	R								
8.2 Group Exco (A level)			FA	R	R			I	I	
8.3 General Managers (B level)			N	FA	R	R		I	I	
8.4 Executive Managers (C level and below)						FA	R		R	I

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9	Settlement of Legal Disputes of Employees and Arbitration The settlement of labour disputes at a disciplinary hearing, at the Transnet Bargaining Council, the CCMA, the Labour Court or High Court is subject to approvals in terms of the delegations below								
HUMAN RESOURCES	Shareholder	Board	GCE	GE: HR	OD CE/ GE	OD HR GM	GM: ER	GM Line Manager	ER Manager
9.1 Group Exco (A level) Executive Directors	FA	R							
9.2 Group Exco (A level) excluding Executive Directors		N	FA	R			I		
9.3 General Managers (B level)		N	FA	R	R		I		
9.4 Executive Managers (C level)					FA	R	A	R	I
9.5 Management (D levels and below)						FA		R	I
9.6 Bargaining unit employees					FA	R			I

10	Collective Bargaining and Trade Union Recognition • Collective agreements shall only be concluded where a collective agreement as required by law • Shift patterns and working arrangements are matters for consultation and not collective agreement						
HUMAN RESOURCES	RemSEC	GCE	GE: HR	OD/SU CE/ GE	OD HR GM	GM:ER	LM:GM
10.1 Conclusion of any Collective Agreements with Labour excluding shift patterns and matters for consultation			FA	R	R	I	
10.2 Mandate for salary and wage negotiations	FA	R	R			I	
10.3 Recognition of Trade Union and Signing of Recognition Agreement	N	N	FA			I	

11	Report all human Capital Risks					
	Board	Risk Committee	Corp Gov	RemSEC	GCE	GE:HR
	FA	C	N	C	R	I

12	Deviation from Approved Human Resources Policies and recommendation of policies								
HUMAN RESOURCES	Risk Committee	Group Exco	GCE		GE: HR	OD/SU CE/GE	OD HR GM	GM: ER	GM:HR,CC
12.1 Any deviation from a Transnet HR Policy*			FA		R	R	R	I	I
12.2 Approval of HR policies*		FA			R				

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* Excluding Board approved policies.

5.8 General Delegations

5.8.1 Chartering of Aircraft

Authority Level	OD / GE:SU	GCFO	GCE
Chartering of Aircraft	NIL	Up to but not exceeding R3 million	Exceeding R3 million
Chartering of helicopters for operations	R250 000*	Up to but not exceeding R1 million	Exceeding R1 million

* The limits for CE:ODs/ GE: SUs are cumulative per helicopter per month.

5.8.2 Mobile phones: Authorising payments exceeding monthly limits (reflected in mobile phone contract)

Companywide	Group Exco Member	GCFO	GCE
	Up to but not exceeding R10 000 per month	Up to but not exceeding R20 000 per month	Exceeding R20 000 per month

5.8.3 Entertainment Expenditure

Authority Level	OD: CE/ Group Executives	GCE
	Up to but not exceeding R50 000 per occasion	Amounts exceeding R50 000 per occasion

Costs incurred by any person on behalf of the Company must be authorised by that person's superior and must be within the approved budgetary limits. Supporting documentation should be marked cancelled to prevent re-use thereof. All entertainment expenses must be business related expenses.

5.8.4 Rewards/Awards/Exceptional Payments to external parties: (Examples: *Ex-gratia* awards, exceptional performance, recognition payments)

	CE:OD	GCFO	GCE	REMSEC	Board
Operating Divisions(Incl TP and TCP)	Up to but not exceeding R50 000	Up to but not exceeding R100 000	Up to but not exceeding R5million	Up to but not exceeding R10million	Exceeding R10million
	Group Executive	GCFO	GCE	REMSEC	Board
Specialist units	Up to but not exceeding R50 000	Up to but not exceeding R100 000	Up to but not exceeding R5million	Up to but not exceeding R10million	Exceeding R10million

5.8.5 Sponsorships and Donations

Approval Authority →	OD CE	GCFO	GCE	REMSEC	Board
Operating Divisions	Up to but not exceeding R5million	Up to but not exceeding R7million	Up to but not exceeding R15million	Up to but not exceeding R20million	Exceeding R20million
Approval Authority →	Group Executive	GCFO	GCE	REMSEC	Board
Specialist Units	Up to but not exceeding R2million	Up to but not exceeding R7million	Up to but not exceeding R15million	Up to but not exceeding R20million	Exceeding R20million

Approval limits are cumulative per annum e.g. the CE:OD can approve a total amount of R5m per annum for sponsorships and donations.

5.8.6 Annual filing of tariff applications with Regulators

- OD tariff increase applications to be submitted to Exco for approval.
- The CE: OD in concurrence with the GCFO are delegated to file the Tariffs applications with relevant Regulatory bodies.

5.8.7 International Business Travel (including travel to African countries)

	Approval Authority
Below CE:OD level at Operating Division	GCE
CE:OD	GCE
Corporate Centre	GCE
Specialist Units	GCE
Group Executives	GCE
Travel to SADC Countries	CE: TFR / CE: TE / GE: Planning and Sustainability

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GCE and Chairperson	User – Retrospective review by GCE or Chairperson and vice versa

Business benefits, analysis and purpose to be demonstrated in the application to the respective approval authority.
Post travel a report back on the achievement of the above to be submitted to the respective approval authority.

5.8.8 **Domestic Business Travel**

	Approval Authority
Chairperson/GCE/Group Exco Members	User
GE of Specialist Unit	Group Exco member responsible
General Managers/Extended Exco	CE:OD/CFO:OD/SU/Group Executives
All other levels	Extended Exco

All travel must be in line with the approved Travel Policy as amended in accordance with the provisions of National Treasury Instruction Note 1 of 2013/14. Extended Exco Members at an OD/SU may sub-delegate to the appropriate lower level.

5.8.9 **Communication**

	Approval Authority
External communication on strategy and operations	GM: Public and Corporate Affairs or GCE or his Designate
Communication on operational issues relating to an OD	Group Exco Member responsible for OD or any delegated appointee
Communication with the Shareholder Minister	Office of the GCE or Chairperson of the Board of Directors

Approval to attend seminars and or conduct presentations to external parties which may result in indirect communication may be approved by a CE:OD GE:SU or the GCE.

5.8.10 **Establishment of Special Purpose Vehicles (SPVs), Public Private Partnerships (PPPs), Private Sector Participation (PSP) and Trusts**

	Approval Authority	
Establishment of SPVs, PPPs, PSPs and Trusts	Board to approve after recommendation by ADC, the GCE, GCFO, GE: Legal and Compliance as per the Materiality and Significance Framework contained in the Compact with the Shareholder if the transaction is specified in the Corporate Plan if not specified in the Corporate Plan then Board may approve the transaction up to but not exceeding capital risk of R100million. Capital risk in excess of R100million are to be recommended by the Board for Shareholder approval.	
	GE: Commercial	GCE
Commencement of due diligence/feasibility studies for PSPs, PPPs and SPVs	Up to but not exceeding R5m for the study	Exceeding R5m for the study

The Company shall not without the prior written approval of the Shareholder Minister enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the Significance and Materiality Framework.

5.8.11 **Establishment of Joint Ventures or Consortia with Entities Incorporated in foreign jurisdictions**
To be read in conjunction with 5.8.10 above.

	Approval Authority
Establishment of Joint Ventures or Consortia with Entities incorporated in foreign jurisdictions	Approval to enter into an agreement or other binding document establishing a joint venture or consortium with an entity incorporated in foreign jurisdiction requires approval from the Shareholder Minister on recommendation from the Board and in addition, if it also contains foreign currency exposure, approval must be sought and obtained as per the monetary thresholds indicated in the second bullet under item 5.5.1.2 above If capital risk is R100million or below, Board approval is required as per the Materiality and Significance Framework contained in the Compact with the Shareholder. Capital risk in excess of R100million for this transaction are to be recommended by the Board of Directors for approval by the Shareholder.

The Company shall not without the prior written approval of the Shareholder Minister enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the Significance and Materiality Framework (SMF)

5.8.12 **Restructuring and sale of business**

	Approval Authority
Restructuring or sale of business	Board in accordance with Section 54 of the PFMA

5.8.13 **Pension Fund and Medical Fund Rule Amendments as recommended by the Board of Trustees of the Funds**

	Approval Authority
Changes to the rules of the pension and medical fund that do not require Ministerial approval	GCFO and GCE
Rule amendments that require Ministerial approval	Board to recommend to the Minister of Public Enterprises for approval

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5.8.14 Application for Environmental Authorisation

- All environmental impact assessment or basic assessment applications must be prepared by a competent independent environmental assessment practitioner/consultant, unless exemption from this provision has been obtained in writing by the Department of Environmental Affairs and under the supervision of the Environmental Department in the OD/SU.
- The application for environmental authorisation must be signed as per the approval authority below.

	Approval authority to act as applicant for an environmental authorisation for Transnet SOC Ltd
Operating Division	Project Manager/ Operations Manager/Environmental Manager
Specialist Unit (Transnet Property)	Chief Operations Officer of Property
Specialist Unit (Transnet Capital Projects)	Project Director

- The applicant remains legally responsible for the compliance with the environmental authorisation throughout the implementation of the authorisation.
- Should an authorisation for new capital projects contain operational elements after formal handover of the project by TCP, the DEA needs to be informed in writing of the change in names and acknowledgement from DEA be filed.
- Should any of the above applicants leave the Company, the DEA needs to be informed in writing of the new person responsible for the implementation of the environmental authorisation.

5.8.15 Application for Liquor Licences (all types)

	Approval authority to act as applicant for application for liquor licences for Transnet SOC Ltd
Operating Division	Chief Executive
Specialist Unit (Transnet Property and Transnet Capital Projects and Foundation)	Group Executive
Corporate Centre	Group Chief Executive

5.8.16 Company Membership of Industry Associations or International Organisations

Approval Authority	CE:OD or GE:SU	GCE	Remunerations, Social and Ethics Committee
	Up to but not exceeding R5 million	Between R5 million and R20 million	Above R20 million.

The relevance of such membership shall be reviewed annually by the OD/SU concerned

5.8.17 Enterprise Information Management Systems (EIMS) Governance Framework and Charter
The Group Executive: EIMS is delegated to approve exemptions to the Framework.

5.8.18 Recommendation on Board-approved Policies

Deviation from Policy	Board	Audit	Risk	ADC	Corporate Governance and Nominations Committee	RemSEC	Group Exco
Governance and Ethics Management Policies	FA				R	N	
HR related (succession planning, excluding executive directors)						FA	R
HR related (succession planning for executive and)	R				R		R
HR related (performance management)						FA	R
Procurement related	FA			R			R
Property related				FA			R
Risk related			FA/R				R
Treasury Related		FA					R
Tax related		FA					R
CSI related	FA					R	
Compliance related	FA	R					
Marketing and Advertising	FA					R	
Sustainability (Energy and Water)						FA	R
B-BBEE	FA					R	
PSP	FA			R			
Financial Policy w.r.t. Insurance		N	FA				R

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EXHIBIT 16

TRANSNET

Transnet Group

Supply Chain Policy

Policy Reference Number	TG/iSCM I5/1P
Version Number	5.0
Effective Date	01 April 2016
Review Date	01 April 2021
Policy Owner	Group Chief Supply Chain Officer
Signature	
Policy Sponsor	Group Chief Financial Officer
Signature	
Date Approved	29 February 2016

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Stakeholders

	Name	Designation	Approval Signature	Date	E-Mail	Contact Number
Compulsory Stakeholder Involvement						
Subject Matter Expert	Peter Volmink	Executive Manager: Governance		14/3/16	Peter.Volmink@transnet.net	011 308 2527
Risk Management	Eddie Lindeque	General Manager		14/03/16	Eddie.Lindeque@transnet.net	011 308 2472
Group Compliance	Indira Reddy	General Manager		05 04 16	Indira.Reddy@transnet.net	011 308 3590
Group Legal Services	Stanley Mamaregane	General Manager		17/3/2016	Stanley.Mamaregane@transnet.net	011 308 4245
Other Stakeholder Involvement						
Human Resources (incl. Labour consultation)	~~Sue Albertyn~~ INBAM PILLAY	General Manager: Employee Relations p.p		15/03/16	Sue.albertyn@transnet.net inbam.pillay@transnet.net	011 308 2330
EIMS	Disebo Moephuli	Acting Group Executive: EIMS		11/04/2016	Disebo.Moephuli@transnet.net	011 308 2600

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Internal Audit	**Mmathabo Sukati**	**Chief Audit Executive**		26/09/2016	**Mmathabo.Sukati@transnet.net**	**011 308 3626**

Recommended by Policy Owner and Policy Sponsor:

I hereby acknowledge that a search has been conducted and that the Policy is not duplicated or in conflict with any other Transnet Policies.

	Name	Designation	Approval Signature	Date	E-Mail	Contact Number
Policy Owner	Edward Thomas	Acting Group Chief Supply Chain Officer		11/3/16	Edward.Thomas@transnet.net	011 308 1282
Policy Sponsor	Garry Pita	Group Chief Financial Officer		18/4/16	Garry.Pita@transnet.net	011 308 2250

Final Approval:

Acquisitions and Disposals Committee

Date Approved: 29 February 2016

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Summary of Version Control

Version Number	Effective Date	Summary of Changes
5	01 April 2016	Alignment to latest approved Company Policy Framework and policy template.
		Inserted definition of: • Front End Loading (paragraph 4.6); • Large Enterprise (paragraph 4.7); • Project Lifecycle Process (paragraph 4.9); and • Qualifying Small Enterprises (paragraph 4.10).
		Paragraph 10: Transformation and Empowerment - Included the options of using the following as prequalification criteria: • minimum B-BBEE thresholds; and/or • a required commitment by bidders to increase their B-BBEE score over the duration of the contract.
		Paragraph 11: Policy Framework for Socio-Economic Development – • Consolidated and restructured policy statements in a manner that facilitates understanding of the complete policy framework; and • Updated references to latest versions of Government policies such as the Black Industrialists Policy, IPAP, NGP and NDP.
		Paragraph 19.1: Related Information and Reference (Internal Documents) - Inserted Contract Management Policy.
		Paragraph 19.2: Related Information and Reference (External Documents) - Inserted the Black Industrialists Policy.
		Paragraph 19.3: Related Information and Reference (Regulatory Requirements) - Added specific reference to: • The Constitution of the Republic of South Africa, Act 108 of 1996; • The Companies Act, 71 of 2008;
		Inserted paragraph 22 on upholding the principles of the Transnet Culture Charter.
		Inserted paragraph 23 on Policy Review to take place every 5 years or as circumstances required based on Company Policy Framework.
		Updated Appendix A.

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PREAMBLE

1. This document ("The Policy") establishes the policy framework within which the acquisition of all goods, services and works are to be procured within Transnet. Care has been taken to ensure that it is consistent with Transnet's vision, corporate strategy, other Transnet policies and pertinent national legislation.

BACKGROUND

2. According to Section 217 of the South African Constitution Act No 108 of 1996, as amended (the Constitution),

> (1) 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 or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
>
> (2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for;
>
> *(a)* categories of preference in the allocation of contracts; and
>
> *(b)* the protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination;
>
> (3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

Transnet shall apply section 217 of the Constitution by contracting for goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

Transnet shall align all its procurement activities in an integrated manner with national developmental goals, relevant legislation that enforces those goals and relevant governmental supply chain management approaches that are cost-effective. Transnet shall also implement a preferential procurement system in line with the Constitution and the Preferential Procurement Policy Framework Act No. 5 of 2000 ("PPPFA").

PURPOSE

3. The aim of this Policy is to ensure that Transnet fulfils its mandate and obtains value for money in the procurement of goods and services while redressing the economic imbalances that have been caused by unfair discrimination in the past. Additionally, Transnet must enhance the overall effectiveness of the procurement system and thus carry out its procurement processes as competitively and cost-effectively as possible while meeting its commercial, regulatory and socio-economic goals.

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Implementation of the policy must therefore result in the following outcomes:

- a reliable supply of goods and services of the right quality and price that Transnet requires to fulfil its mandate, and
- transformation, empowerment and economic development in South Africa.

DEFINITIONS

4. For ease of reference, the following words used in the policy are defined below:

4.1. **"Acquisition Council" (AC)** The Main Acquisition Council of an Operating Division, Specialist Unit or Business. Unless specifically stated otherwise "AC" also includes Secondary Acquisition Councils operating under the auspices of the ACs and which caters for transactions falling below the minimum threshold of the main AC.

4.2. **"B-BBEE"** Broad-Based Black Economic Empowerment.

4.3. **"Bid"** A written offer in a prescribed form in response to an invitation by Transnet for the provision of Services, works or Goods, through price quotations, advertised open bids, approved lists, confinements or proposals.

4.4. **"Bidder"** Any person/Enterprise which has submitted a Bid to Transnet.

4.5. **"EME"** Exempted Micro Enterprise as defined in the B-BBEE Codes of Good Practice issued in terms of the B-BBEE Act No. 53 of 2003, as amended.

4.6. **"Front End Loading" (FEL)** This terminology is commonly used in the context of the Project Lifecycle Process where a capital project is still in the conceptual or planning phase prior to execution and construction of the project.

4.7. **"Large Enterprise"** Large Enterprise as defined in the B-BBEE Codes of Good Practice issued in terms of the B-BBEE Act No. 53 of 2003, as amended.

4.8. **"Local Content" (LC)** The portion of the Bid price or quotation which is not included in the Imported Content, provided that local manufacture does take place.

4.9. **"Project Lifecycle Process" (PLP)** An industry developed methodology for the development of large capital projects.

4.10. **"QSE"** Qualifying Small Enterprise as defined in the B-BBEE Codes of Good Practice issued in terms of the B-BBEE Act No. 53 of 2003, as amended.

4.11. **"Supplier Development"** The Supplier Development (SD) Programme is an initiative of the Department of Public Enterprises (DPE) supported by Transnet. The aim of SD is to increase the competitiveness, capability and capacity of the South African supply base where there are comparative advantages and potential for local or regional supply. This can be achieved through skills transfer, as well as building new capability and capacity in the South African supply base. In addition, SD has

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its roots grounded firmly around the transformation of South Africa and the empowerment of previously disadvantaged individuals and enterprises.

SCOPE

5. The Policy is applicable to all procurement activities at Transnet. The Policy will apply to Transnet and all its Operating Divisions and Specialist Units. The Policy is intended to cover all Transnet subsidiaries, affiliates or joint ventures where Transnet has a controlling interest. The principles outlined in the Policy are applicable to all procurement transactions, regardless of their nature or value.

PROCUREMENT PRINCIPLES

6. All Transnet's procurement activities shall be implemented in line with the following best practice principles:

- Fairness and Transparency:
  - equal treatment of bidders
  - openness and accountability
  - ethical conduct
- Social Equity:
  - Broad-Based Black Economic Empowerment ("B-BBEE") and preferential procurement
  - localisation
- Value for money:
  - competitiveness
  - cost effectiveness

POLICY STATEMENTS

Capital Procurement / Infrastructure

7. Transnet's planned capital expenditure forms the bulk of Transnet's procurement spend. As a result, Transnet shall ensure that its capital expenditure results in the creation of enterprise development opportunities as well as long term and sustainable job opportunities.

7.1. Expansion, operation and maintenance of Transnet's ports, rail and pipelines infrastructure presents a major opportunity for job creation. The provision of infrastructure also serves to enhance efficiency across the economy, laying the basis for stepped-up growth and employment creation in every industry. It can also significantly advance social equity goals and address inequalities in the society.

7.2. Transnet has adopted the Project Lifecycle Process ("PLP") as the standard methodology for the development and execution / implementation of all its capital projects. The various phases of the PLP are detailed below:

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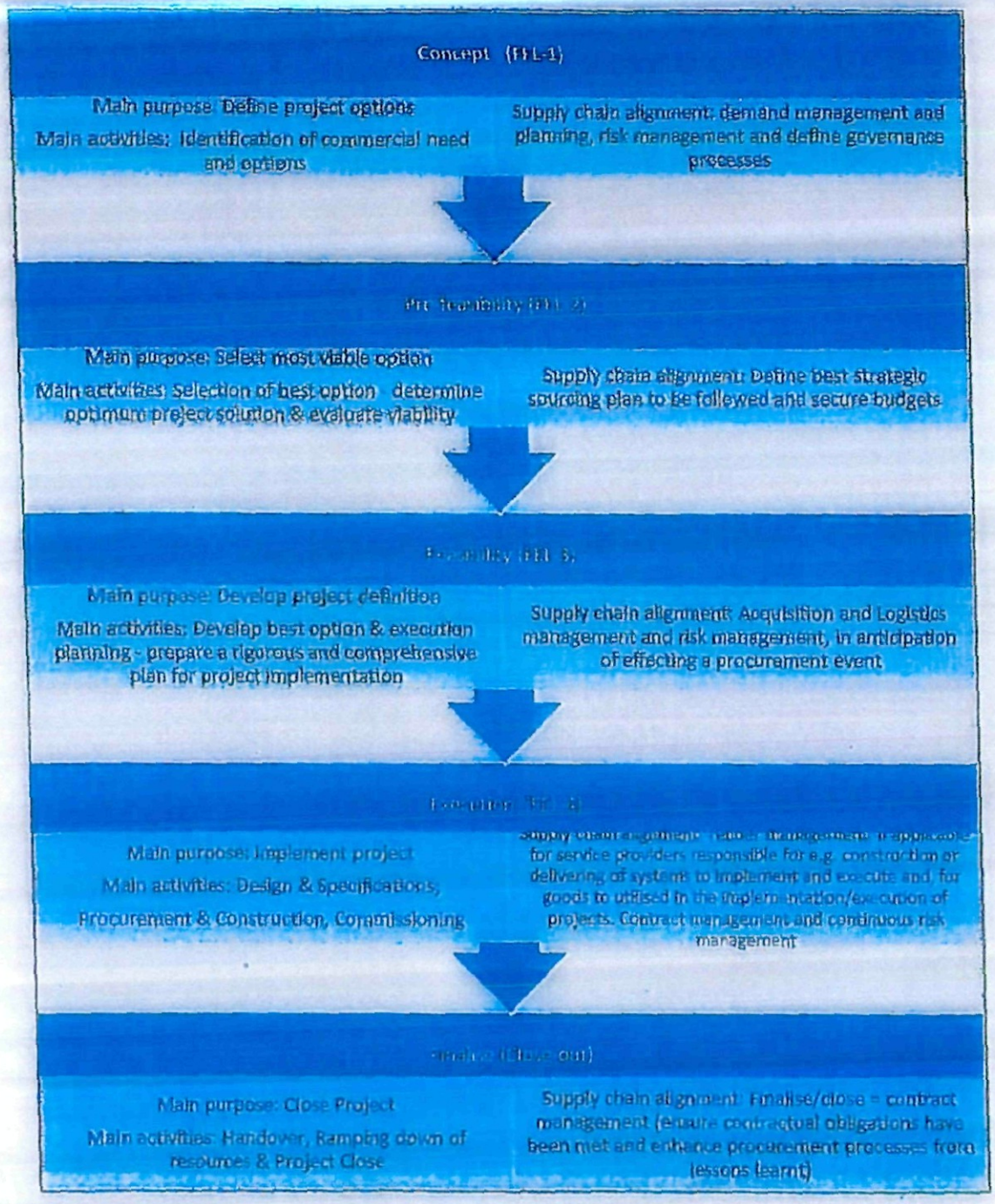

Policy Statement

7.3. Where necessary an Engineering, Procurement and Construction Management ("EPCM") service provider will be appointed at FEL-1. It is not always required that the same EPCM service provider be utilised over the entire lifecycle of the PLP. However, the same service provider is generally utilised for FEL-2 to FEL-4 in order

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to minimise the risk to Transnet. Management must determine whether the same EPCM service provider is required for all FEL phases e.g where there is a need for an integrated approach or whether different service providers may be utilised for each phase and must demonstrate the reason for the chosen approach. The selection of an EPCM service provider must follow an open, competitive process. Furthermore, there must be a strong emphasis on creating opportunities for EMEs and QSEs through the creation of Joint Ventures (JVs) and/or sub-contracting to accelerate transformation and empowerment.

7.4. Transnet shall ensure that procurement of construction related works, goods or services for expansion of its ports, rail and pipelines infrastructure happens in a manner that creates sustainable jobs for South Africans. Procurement of operation and maintenance services of the infrastructure shall be done in a manner that supports sustainable job creation particularly among the previously disadvantaged members of the South African society.

Transnet as a Public Entity

8. South Africa is a unique type of mixed economy given its history of apartheid where the majority of citizens were deliberately excluded from meaningful economic participation. As a result, Government has adopted the concept of a "developmental state", which means that it can implement mechanisms in the economy to influence economic activity in a direction that ensures sustainable transformation, empowerment and supplier development.

As a State Owned Company ("SOC"), Transnet is required to carry out the statutory duties, responsibilities and liabilities imposed on its Board of Directors by the Companies Act, 71 of 2008 (as amended). This legislative obligation is further augmented by those obligations contained in the Public Finance Management Act, 1 of 1999, as amended by Act 29 of 1999 ("PFMA"). Transnet is also guided by the principles of the King Code of Corporate Practices and Conduct contained in the King Report on Corporate Governance for South Africa 2009 (King III Report).

Policy Statement

8.1. As a major public entity, Transnet has a key role to play in the Government's development agenda. Transnet commits itself to the prescripts of Section 217 of the Constitution and shall undertake all its procurement activities in a manner that protects and advances persons, or categories of persons disadvantaged by unfair discrimination, whilst at the same time undertaking procurement in a manner that is fair, equitable, transparent, competitive and cost-effective.

Value for Money

9. Value for money is the cornerstone of an effective public procurement system. It is therefore imperative that Transnet ensures that the goods, works and services that it procures are fit for purpose and are competitively priced, based on Total Cost of Ownership.

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Policy Statement

9.1. Transnet shall promote open competitive bidding as its default procurement mechanism as this is the best means of obtaining value for money. All Transnet procurement shall be done in a way that ensures that Transnet obtains quality goods, works and services at competitive prices. Where possible, Transnet will look for opportunities to leverage economies of scale in its procurement activities e.g. by concluding transversal contracts for the entire Transnet Group.

Transformation and Empowerment

10. In order to achieve transformation and empowerment, Government developed the B-BBEE Policy and the Black Economic Empowerment Strategy.

10.1. The Black Economic Empowerment Strategy is underpinned by four key principles:

- it is broad-based;
- it is an inclusive process;
- it is associated with good governance; and
- it is part of the country's growth strategy.

10.2. Government uses a number of instruments to achieve Black Economic Empowerment, including a 'balanced scorecard' to measure progress made in achieving B-BBEE objectives by enterprises and sectors with the objective of enhancing long-term economic sustainability. The scorecard allows government departments, state-owned enterprises, and other public agencies, to align their own procurement practices.

Policy Statement

10.3. Transnet recognises the importance of using procurement as a tool to promote transformation particularly with regard to the promotion of Black-Owned companies, Black Women-Owned companies, etc.

10.4. In evaluating and awarding bids for procurement of goods and services, Transnet shall award preference points to all EMEs based on either a sworn affidavit or a certificate issued by CIPC and to those QSEs that are greater than 51% black owned based on a sworn affidavit. Transnet shall award preference points based on the B-BBEE scorecard for QSEs that are less than 50% black owned and Large Enterprises which measures performance in the following areas:

2007 Codes of Good Practice	2013 Amended Codes of Good Practice
Ownership	Ownership
Management Control	Management Control
Skills Development	Skills Development
Employment Equity	Enterprise & Supplier Development

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Preferential Procurement	Socio-economic Development
Enterprise Development	
Socio-economic Development	

10.5. In bidding for Transnet bids, all suppliers shall be required to submit sufficient proof of B-BBEE compliance as prescribed by the B-BBEE Act and applicable Codes of Good Practice as well as the regulations issued in terms of the PPPFA.

10.6. Furthermore, Transnet will encourage bidding entities to form Joint Ventures (JVs) with black-owned/black women-owned or to sub-contract a minimum percentage of a contract to black-owned/black women-companies.

10.7. Transnet shall also set B-BBEE targets in consultation with its shareholder in order to monitor and evaluate its performance towards achievement of B-BBEE objectives. The targets will be based on the applicable/relevant Sector Charter Codes. Transnet will endeavour to do business with Empowering Suppliers as defined in the revised Codes of Good Practice.

10.8. Transnet will request preferred bidders to submit a B-BBEE improvement plan as part of their bid submission as to how they will improve their B-BBEE status over the contract period. Transnet shall ensure that empowerment targets are monitored and evaluated throughout the contract and failure to meet these contractual obligations will lead to termination of the contract at Transnet's sole discretion.

10.9. Enterprise and Supplier development is a key strategic enabler to unlocking opportunities for small enterprises through support contributing to their operational, financial stability and growth. Transnet shall conduct market analysis in order to identify opportunities for Enterprise and Supplier Development that will transform business and enable Black Owned Companies to participate in the main stream economy.

10.10. On a case by case basis, Transnet will set minimum B-BBEE thresholds as pre-qualification criteria to participation in its bidding process in instances where it is considered that the application of the normal preference point system will not bring about the required transformation.

10.11. Where deemed appropriate, Transnet may also include pre-qualifying criteria that stipulate that bidders are required to provide a commitment to increase their B-BBEE score over the duration of the contract.

Policy Framework for Socio-Economic Development

11. The Government developed a number of economic developmental policies that form the basis for addressing unemployment, poverty, inequality as well as stimulation of economic growth. The implementation of the following policies (amongst others) will enable the

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restructuring of the South African economy to achieve sustainable economic growth and transformation:

11.1. Despite significant development strides made in the past 20 years in many areas of the South African economy, South Africa still remains one of the most unequal economies in the world. Deep inequalities are associated with joblessness, social inequalities and the legacy of apartheid geography. In sum, the economy has not yet yielded sufficient benefit for many South Africans. The National Development Plan ("NDP") is a policy framework geared towards the improvement of South Africa's economic growth and prospects. It aims to fulfil its objectives of reducing poverty and inequality in South Africa by 2030. The main economic objectives of the NDP are: job creation, a more equitable distribution of wealth and improving education. The NDP also recognises the importance of improving the economy for the purposes of both sustainability and inclusiveness. The NDP objectives are being incorporated into the existing activities of organs of state to ensure consistency and coherence in its implementation.

11.2. The National Industrial Policy Framework ("NIPF") articulates South Africa's overarching approach to industrial development. The NIPF highlights the need to promote a broader-based industrialisation path characterised by deeper levels of participation in the mainstream industrial economy by historically disadvantaged economic citizens.

11.3. The Industrial Policy Action Plan ("IPAP") is the mechanism used to implement the NIPF. The re-industrialisation trajectory is implemented through successive IPAP iterations that respond to changes in global and domestic economic opportunities and dynamics. The IPAP guides South Africa's industrial development path towards sectors and capabilities, which will provide sustained inclusive growth and increase participation of marginalised citizens and regions.

11.4. The New Growth Path ("NGP") sets out the government's plan to foster growth, create employment and equity by reducing the dependencies of South African industries on imports, and promoting the development of skills and capabilities that are in short supply within the country. It identifies strategies that will enable South Africa to grow in a more equitable and inclusive manner and promotes the development of new industry to attain South Africa's developmental agenda. The NGP knits together the IPAP as well as policies and programmes in rural development, agriculture, science and technology, education and skills development, labour, mining and beneficiation, tourism, social development and other areas. The NGP identifies six priority areas for job creation: infrastructure development, agriculture, mining, manufacturing, the "green" economy and tourism. It proposes both sector interventions and a package of macro-economic and microeconomic policies designed to ensure that the economy becomes more competitive and more employment friendly. Government has set a target of creating 5 million jobs by 2020 through the NGP.

11.5. The Black Industrialists Policy ("BIP") is a key part of Government's broad industrialisation initiatives to expand the industrial base and encourage entrepreneurism in the economy. It calls for bolder policy interventions on the part

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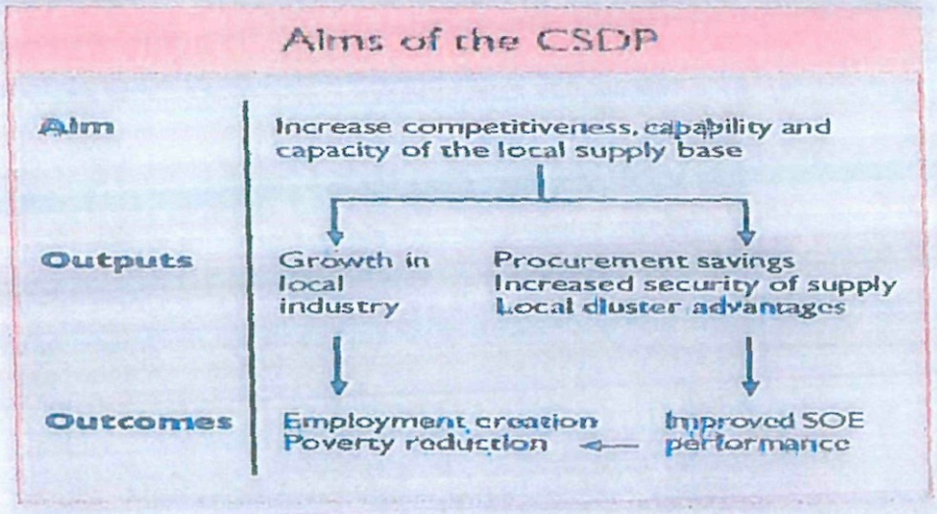
of the state to expand the industrial base of the country and grow the economy through dedicated support to black industrialists, as highlighted in the latest iteration of the IPAP. This policy proposes focused efforts to facilitate the inclusion and participation of Black Industrialists in manufacturing activities. State-Owned Companies such as Transnet provide the means of Government delivery across strategic sectors of the economy and can be anchors of the Black Industrialists Policy through procurement and supplier development mechanisms.

11.6. The Competitive Supplier Development Programme ("CSDP") is an initiative of the Department of Public Enterprises ("DPE"), the aims of which are indicated below:



11.7. The CSDP contributes toward competitiveness by leveraging SOC procurement spend to develop a local supplier base indirectly by placing influence on the supplying company or OEM (international and/or national) to develop downstream South African suppliers. The CSDP focuses on long term supply network development and win-win partnerships with suppliers to achieve best value for money over the product life-cycle rather than lowest initial cost. The primary measures of the CSDP are:

- the development by SOCs of supplier development plans which identify items for which local supply could be expanded or developed or improved;
- the use of planning, specification and sourcing by SOCs as instruments to achieve the objectives in the supplier development plans and to create a conducive environment for the development of local supply networks; and
- mobilising and providing support to the supplier industries targeted in the supplier development plans to assist them to develop the capacity and capability to respond competitively to the SOC demand.

11.8. The Preferential Procurement Regulations, 2011 issued in terms of the PPPFA require that an organ of state must, in the case of designated sectors, advertise such bids with a specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content be considered. In the case of non-designated sectors,

organs of state have the discretion to include minimum local content as a bid condition. As a result, public procurement can be leveraged to target specific manufacturing sectors for targeted development.

11.9. Procurement within SOCs needs to address the following considerations:

- Long term and sustainable procurement planning is critical in achieving developmental objectives and optimal procurement size as well as opportunities for domestic localisation and competitive supplier development. This will create the potential to stimulate markets for sustainability in economies of scale.
- Alignment with key objectives such as industrial policy imperatives and B-BBEE.
- Alignment between industrial financing and public procurement.

Policy Statement

11.10. Transnet commits to developing its procurement procedures and mechanisms within the framework of the law in order to promote Governmental policy objectives.

11.11. Unemployment, poverty and inequality: Transnet is fully committed to the objectives of improving growth and employment conditions in South Africa and must be a major contributor to job creation. Transnet's procurement shall focus consistently on areas that have the potential for creating employment on a large scale in order to contribute substantially to the national employment creation effort.

11.12. Rural/Regional Development: Part of Transnet's infrastructural network passes through rural areas of the country. This presents an opportunity for Transnet to procure goods and services in those areas. Procuring from rural suppliers will stimulate this relatively undeveloped sector of our economy, resulting in further employment creation. Furthermore, there are also opportunities to procure goods and services required in a particular region from suppliers of that particular region. Organs of state are required to support and promote local to site purchases by looking beyond the conventional criteria methods for the selection of suppliers. Transnet shall look for opportunities to procure goods, works and services in rural/regional areas with the aim of creating employment. Where applicable, Transnet will ensure that if the goods, works or services cannot be procured directly from suppliers in a particular region, these suppliers will still benefit from sub-contracting requirements or downstream supply to the main suppliers.

11.13. Localisation, Industrialisation & Economic Growth: Based on the guidance from the relevant policy framework and in line with the PPPFA, Transnet shall specify bidding conditions that will ensure that the objectives of localisation and industrialisation are achieved. In terms of the Preferential Procurement Regulations, 2011, issued in terms of the PPPFA, Transnet shall also apply a stipulated minimum threshold for local production and content in designated and non-designated sectors to eliminate the practice of "import fronting". In such instances, only suppliers providing domestically produced goods and services will be considered.

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Transnet's procurement shall be conducted in a manner that is inclusive (through increased participation of EMEs as well as QSEs and black-owned firms in general) and builds industry capacity around its build programmes. Transnet shall identify programmatic/strategic procurement and develop long-term procurement and local content plans. Bid requirements shall include local procurement and supplier development which will also address the transformation agenda and aim to achieve industrialisation and localisation objectives.

11.14. Supplier Development: In line with the supplier development requirements placed on SOCs by the DPE, Transnet has developed and will implement a supplier development plan in order to ensure local supply of goods and services.

The supplier development plan will aim to:

- increase procurement from black-owned firms;
- contribute to economic growth through employment creation, rural development and skills development (preferential procurement);
- provide achievable SD targets backed by an analysis of commodities with potential SD opportunities
- develop technologies locally and create sustainability;
- develop local small and medium industries in order to enable them to supply Transnet with high-quality, globally-competitive goods and services (enterprise development);
- improve the quality, efficiency and cost-effectiveness of services provided by Transnet, as a result of it obtaining more competitive goods and services from local suppliers;
- improve the competitiveness of Transnet as a result of procurement savings from engaging innovative, responsive and more competitive suppliers;
- establish collaborative relationships with public and private entities to ensure sustainable supplier development/domestic procurement opportunities;
- utilise the SD strategic approach to focus on OEM/Multinational suppliers in order to influence them to engage lower tier black suppliers; and
- ensure that an effective monitoring, evaluation and reporting system is in place to maximise SD value.

11.15. Transnet shall put in place a pre-bid process in relation to strategic procurements with the following elements:

- A detailed breakdown of demand, identifying, *inter alia*, areas of repeat procurement and opportunities for standardisation.
- A detailed supply analysis which identifies existing domestic supply capacity and transformation/empowerment opportunities.
- A gap analysis which identifies areas for domestic procurement based on both existing capacity and capacity that can be built through active supplier development.
- Inclusion up-front in the bid of domestic procurement requirements and transformation/empowerment.

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Sustainable Procurement

12. Sustainable Procurement is about:
    - Improving environmental performance building a green industrial base in South Africa by increasing investment in the green economy, enhancing renewable energy procurement, the development of bio-fuels, clean coal initiatives, promoting energy efficiency across the economy, waste recycling, reducing carbon emissions through improved public transport and a shift in moving freight from road to rail;
    - Cost savings including recognition of non-tangible benefits and costs;
    - Promoting respect for human rights;
    - Social economy considerations including job creation, empowerment, poverty reduction and transfer of skills;
    - Robust action against corruption;
    - sustainable 'green' procurement in enabling organizations to maintain profitability while taking on the responsibility for the environment and looking after its consumers while complying with government regulations;
    - Value Chain Integration as an essential element for a best-in-class procurement organization as it embraces sustainable 'green' practices; and
    - Transparent formalized measurement and metrics of sustainability across the entire supply chain that focuses on product and process innovation emphasizing reduction of the overall total cost of ownership (TCO) in order to have sustainability leadership focus on maintaining strong supplier partnerships.

Elements of Sustainable Procurement:

Environmental Considerations/ Green Economy	Social Considerations	Economic Considerations
• Recycle; • Reuse; • Refurbishment; • Efficient energy consumption; • Reduced noise levels; and • Water conservation.	• Human rights protection; • Zero tolerance of corruption; • Anti-child labour; • Empowerment; and • Good governance, accountability and transparency.	• Cost effective (savings); • Job creation; and • Local supplier development;

Policy Statement

12.1. Transnet will source goods/works/services in a manner that promotes environmental, social and economic sustainability. Where applicable, these environmental, social and economic considerations will be included in the bid requirements of a particular procurement process.

12.2. Where feasible, Transnet shall, in bid documents, promote subcontracting and Joint Ventures with EMEs and/or QSEs and with B-BBEE enterprises where the B-BBEE or EMEs/QSEs will be unable to fulfil all bid requirements itself due to the size or nature of the requirement.

12.3. Transnet's contribution to environmental considerations/green economy objectives shall be achieved through the concept of green procurement which is the purchase

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of environmentally friendly products and services. By setting environmental requirements in its bid document and contract templates, Transnet will ensure that it achieves this policy objective.

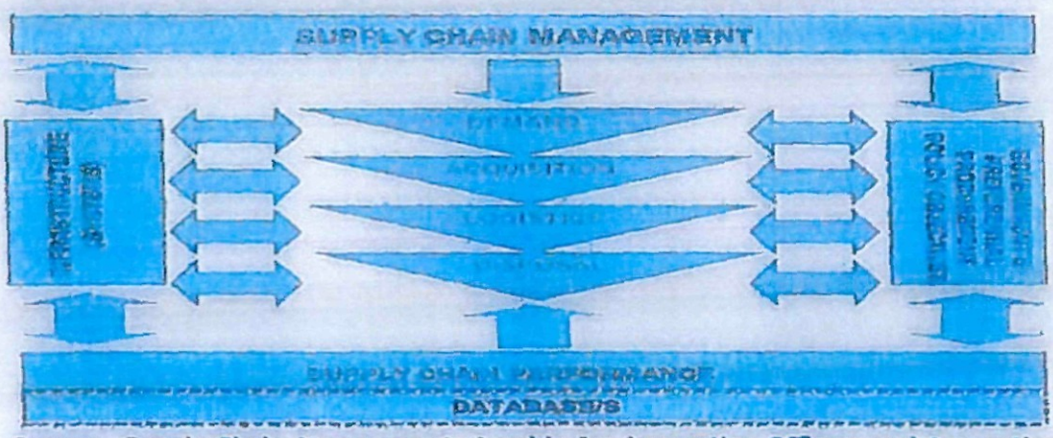
POLICY IMPLEMENTATION

Implementation Strategy

Transnet's Supply Chain Management Unit shall develop a strategy for the implementation of the policy using a holistic approach in the organization to address the economic, social, and environmental elements of every procurement decision and results in outcomes that positively benefits the rest of the company and creates the framework for sustainability.

Systems

13. Transnet's supply chain system for procurement of goods and services and the disposal of assets must be fair, equitable, transparent, competitive and cost-effective. The system must have the minimum of the supply chain management system aspects reflected below prescribed by government customised to Transnet's procurement environment:



Source: Supply Chain Management: A guide for Accounting Officers and Accounting Authorities, Treasury

Transnet's framework/system includes the following aspects:

- Demand management and Planning;
- Acquisition management;
- Logistics management;
- Disposal management;
- Risk management;
- Regular assessment of supply chain performance; and
- Contract management.

In addition, Transnet will introduce e-procurement tools in line with national and international best practice and make use of best of breed systems to ensure efficient and

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effective supply chain processes are in place. Transnet has already implemented National Treasury's eTender Publication Portal which automates the advertising and publishing of bids. Transnet's desired end state in this regard is end to end automation of the procurement process.

13.1. **Demand Management and Planning**

Business must have a clear understanding of the possible sourcing and supplier development initiatives that a transaction could offer by understanding at the onset what is required. iSCM must integrate with business users early to fully understand the potential opportunities that may exist. The identification of sourcing and SD opportunities occurs too late during the sourcing process and needs to be addressed from the outset of the planning phase. SD needs to be incorporated into the "business as usual activities" as opposed to being viewed in isolation as this decreases the value that can be derived from the available opportunities.

13.2. **Acquisition Management**

The system in place must provide for:

- Bidding procedures;
- The establishment, composition and functioning of bid specification, bid evaluation and bid adjudication committees;
- Selection of bid committee members;
- Adjudication of bids through a bid adjudication committee; and
- Approval of bid evaluation and/or bid adjudication committee recommendations.

13.3. **Logistics management**

Transnet will ensure that Inventory is re-ordered promptly, at an appropriate level, to ensure availability when required. Material items will be appropriately defined and set-up with correct specifications. Transnet will implement appropriate controls to ensure that inventory is appropriately safeguarded and secured.

13.4. **Disposal management**

Transnet will ensure fairness and diligence in the conduct and accounting of all scrap disposal business practices that are adopted and will ensure that all processes are supported by duly documented, approved and accessible policies and procedures.

13.5. **Risk management**

Transnet has adopted the Enterprise Risk Management (ERM) methodology in managing risk within iSCM. iSCM will ensure continuous identification, assessment, mitigation and management of risks on a regular basis in order to deliver on its mandate.

13.6. **Regular assessment of supply chain performance**

Refer to paragraphs 23, 24 and 25 below on Compliance Monitoring and Evaluation.

13.7. **Contract Management**

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Contract Management principles are dealt with comprehensively in the Contract Management Policy.

Policy Implementation Procedures

14. The Transnet Procurement Procedures Manual shall be regularly reviewed in order to ensure alignment with this policy.

Evaluation methodology

15. The standard evaluation methodology that is followed within Transnet is depicted in Appendix A.

Skill Capacity of the Supply Chain Management Team

16. Transnet shall ensure that the current staff and newly recruited staff are well qualified and trained to ensure successful implementation of the Policy.

ROLES AND RESPONSIBILITIES

17. The roles and responsibilities for this policy is as follows:

Accountable	: Group Executives and Chief Executive Officers
Responsible	: General Managers and Senior Managers
Informed	: All Employees involved in Supply Chain activities
Supports	: All departments involved/interacting with Supply Chain
Monitors & maintains	: Group Integrated Supply Chain Management
Policy Owner	: Group Chief Supply Chain Officer
Policy Sponsor	: Group Chief Financial Officer

18. The roles and responsibilities of all the structures hereunder are defined only from the perspective of Supply Chain Management.

18.1. **Acquisitions and Disposals Committee (ADC)**

The Transnet Board comprises of Board members appointed from time to time by the Minister of Public Enterprises. For the acquisition and disposal of Transnet assets, the Board has delegated powers to the ADC. The Committee must have and maintain:

(i) An appropriate Supply Chain Management system, which is fair, equitable, transparent, competitive and cost-effective; and
(ii) Effective, efficient and transparent systems of financial and risk management and internal control.

The ADC may delegate powers and duties or instruct specific officials in Transnet to perform any of the duties assigned to it.

18.2. **Group Chief Financial Officer (GCFO), Group Chief Supply Chain Officer (GCSCO) and Chief Procurement Officer (CPO)**

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The GCFO/OD CFO, GCSCO and OD CPO shall ensure that an effective internal monitoring system is in place and implemented in order to determine that the outlined processes are being adhered to and the expected deliverables are being achieved.

The GCFO and GCSCO must report to the ADC at prescribed reporting times on the following aspects among others:

- Total procurement spend as well as procurement strategies;
- Performance relating to B-BBEE targets;
- Performance in relation to the SD Programme including the NGP;
- Process disputes and information regarding deviation of processes followed; and
- Any other pertinent information required on bids, procurement policies and procedures.

18.3. iSCM Council

iSCM Council members shall ensure that the Policy is implemented uniformly across all Transnet Divisions.

18.4. Acquisition Councils

Acquisition Council members shall ensure that procurement processes are aligned to the Policy across the various Transnet Divisions.

18.5. Specific Officers' Roles and Responsibilities

Specific officers' roles and responsibilities shall be aligned with Transnet's effective Delegation of Authority Framework.

RELATED INFORMATION AND REFERENCE

19. This policy should be read in conjunction with the following supporting guidelines:

19.1. Internal Documents:

- Code of Ethics
- Declaration of Interest and Related Party Disclosures Policy
- Declaration of Interest and Related Party Disclosures Policy for Directors
- Gifts and Hospitality Policy
- Delegation of Authority Framework
- Broad Based Black Economic Empowerment Policy
- Group Compliance Policy
- Counterparty Risk Management Policy
- Procurement Procedures Manual
- The Public Finance Management Act Policy
- Contract Management Policy

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19.2. **External Documents**

Applicable government policies including:

- The New Growth Path
- The National Development Plan
- Local Procurement Accord
- Industrial Policy Action Plan
- The Black Industrialists Policy

19.3. **Regulatory Requirements:**

Transnet recognises the importance of complying with all applicable regulatory requirements as reflected in the Transnet regulatory universe. Transnet's procurement activities are guided by various pieces of legislation and regulations. Transnet shall ensure full compliance with all legislation that is pertinent to its functions, in particular relevant procurement legislation. Specific reference is made to:

- The Constitution of the Republic of South Africa, Act 108 of 1996;
- The Companies Act, 71 of 2008;
- The Preferential Procurement Policy Framework Act No. 5 of 2000;
- The Public Finance Management Act No. 1 of 1999;
- The Promotion of Administrative Justice Act No. 3 of 2000;
- The Broad-Based Black Economic Empowerment Act No. 53 of 2003 and the applicable Code of Good Practice; and
- The Construction Industry Development Board Act No. 38 of 2000.

Ethics & Transnet's Culture Charter

20. Transnet's Code of Ethics sets ethical standards for business practice and individual business conduct. It assists all Transnet stakeholders with their ethical deliberations and decisions. The objective of the Code of Ethics as it relates specifically to the Supply Chain environment is to set the standard by which all employees (including employees employed on fixed term contracts and temporary employees) and non-executive directors are expected to act when engaging in any supply chain related activities. This will earn Transnet the reputation of being:

a) transparent and fair in all dealings and disclosures;

b) politically unbiased;

c) committed to providing quality products and services;

d) proud of its integrity and credibility;

e) consistent in honouring its social, legal and moral obligations;

f) responsible and accountable; and

g) reliable and aware of the need to foster loyalty and long enduring relationships with all its stakeholders.

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21. All Transnet employees should uphold the following key values:

a) treat people with respect and dignity;
b) act with integrity and professionalism at all times;
c) be fair and honest;
d) be committed and dedicated to high quality performance;
e) be customer orientated;
f) respect and maintain the confidentiality of sensitive information gained through association with Transnet;
g) maintain accurate, honest and complete records in appropriate detail;
h) protect Transnet's assets;
i) trust each other and be professional in conduct both within and outside the work environment such that the conduct will not reflect negatively upon Transnet's image and reputation;
j) refrain from using a position of authority and / or facilities provided by Transnet to further their own interests or that of friends and relatives;
k) desist from allowing personal interests to influence business decisions or tasks and disclose any actual or potential conflict of interest;
l) honour the content and spirit of all business transactions and do not abuse or harm Transnet's reputation or assets or interests;
m) be honest and transparent in all actions and promote a corporate image of integrity, honesty and stringent business ethics;
n) maintain an attitude of zero tolerance toward any form of bribery, corruption and inducements;
o) utilise Transnet's assets for work purposes and not for personal benefit; and
p) not expose Transnet's assets to loss, damage, misuse or theft.

22. All Supply Chain activities are also to be conducted in a manner that gives effect to the principles in Transnet's Culture Charter:

a) Having a safety mindset;
b) Being business focussed;
c) Delivering on promises;
d) Treating each other with dignity and respect;
e) Having good communication;
f) Recognition and reward for good work; and
g) Empowerment of people to perform in their jobs.

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POLICY REVIEW, COMPLIANCE MONITORING AND EVALUATION

23. Policy Review: This Policy will be reviewed every five (5) years or as circumstances warrant it and a report submitted to the relevant governance structure.

24. Monitoring involves the systematic, regular collection and analysis of information to identify and possibly measure changes over a period of time. Monitoring is a management function that guides behaviour in the intended direction and to check performance against pre-determined plans. Monitoring involves watching the progress of a project against time, resources and performance schedules during the execution of the project and identifying lagging areas requiring timely attention and action. Monitoring involves the collection of data about what is happening.

25. Evaluation involves the analysis of the effectiveness and direction of an activity and involves making a judgement about progress and impact. Evaluation is about why things are happening. It looks at the long term effects of a project.

25.1. There are five criteria for evaluation:

(i) **Relevance** (Did the project solve the problem that was identified?)
(ii) **Efficiency** (Do the benefits of the project outweigh its costs?)
(iii) **Effectiveness** (Did the project achieve its intended objectives and outcomes?)
(iv) **Impact** (Has the project made any difference in the lives of intended beneficiaries?)
(v) **Sustainability** (Will the project continue to give benefits long after the initial investment without having to invest more money into it?)

25.2. Monitoring and evaluation are done in order to:

- Assess results to find out if and how objectives are being met and resulting in desired changes;
- Improve management and process planning;
- Promote learning;
- Ensure accountability; and
- Inform policy analysis and development.

Policy Statement

26. Treasury Regulation 29.2.2 directs that:

> "The shareholder's compact must document the mandated key procedures for quarterly reporting to the Executive Authority in order to facilitate effective performance monitoring, evaluation and corrective action."

26.1. To this end, Transnet shall establish a monitoring and evaluation system in order to ensure overall performance monitoring and evaluation of the use of procurement as an economic transformation and developmental tool.

26.2. Development of the monitoring and evaluation system shall involve undertaking of a situational analysis of the supplier landscape in order to establish a baseline,

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development of performance indicators, identification of data sources and setting of performance targets on the basis of the baseline.

FINANCIAL IMPLICATIONS

27. Continuous training will be implemented in line with procurement planning and budgeting processes in order to ensure proper implementation of the Supply Chain Policy and Procedures. Sufficient budget will be made available for this purpose.

EXCLUSIONS

28. There are no exclusions to this policy.

REQUEST TO DEVIATE FROM THE POLICY

29. In cases where material and compelling circumstances merit deviation(s) from particular provision(s) of this policy, written submissions shall be sent to Group Chief Executive, who shall have full authority to grant such request, in whole or in part, or to refuse same.

NON-COMPLIANCE

30. Breaches of this Policy will be seen in a very serious light. Employees who do not conform to the Policy or Principles and Standards may be subject to disciplinary action in terms of the applicable Transnet disciplinary processes and procedures.

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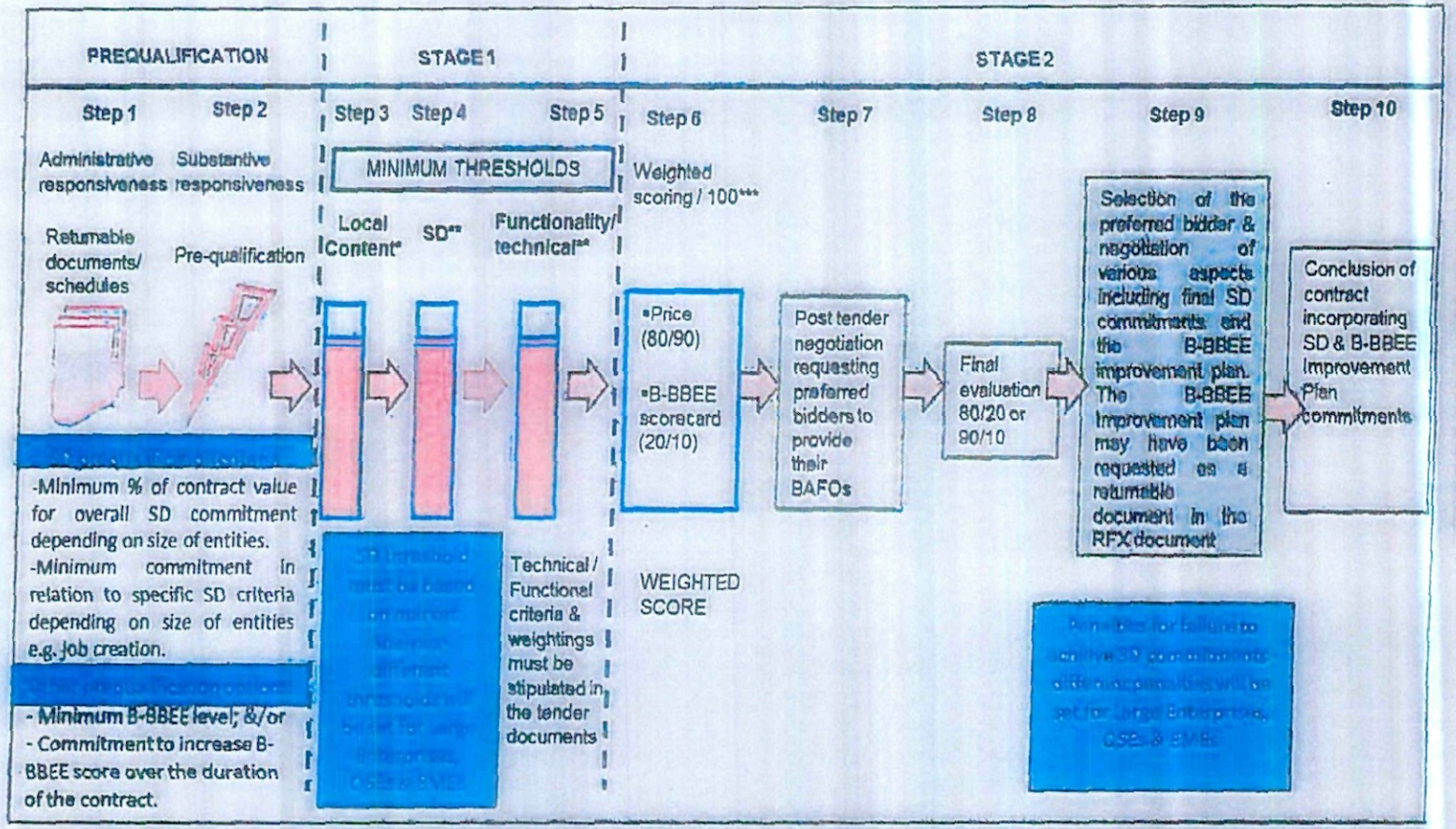
APPENDIX A: EVALUATION METHODOLOGY



* Indicative stipulated minimum threshold as prescribed by National Treasury (if applicable). If the sector is not designated localisation must be incorporated into SD

** Indicative threshold , not prescribed (if applicable)

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EXHIBIT 17

TRANSNET

ANNEXURE "B"

DELEGATION OF AUTHORITY FRAMEWORK
(EFFECTIVE FROM 1 SEPTEMBER 2016)

APPROVED BY THE BOARD OF DIRECTORS ON
31 AUGUST 2016
UNDER RESOLUTION
3-16/17FY/2

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1 Interpretation and Definitions

The following words and expressions bear the following meanings, unless the context indicates otherwise:-

1.1 **"Alternative Dispute Resolution" (ADR)** refers to the process of resolving disputes among parties without necessarily resorting to court action, although the agreements and outcomes may be legally binding. ADR processes include conciliation, mediation, adjudication and arbitration.

1.2 **"Board"** means the Board of Directors of the Company and includes the Board when it acts as the deemed Authority under the National Ports Act No. 12 of 2005, as amended;

1.3 **"Board Reserved Matters"** means matters reserved by the Board as set out in Annexure "A "of the Delegation of Authority Framework approved by the Board.

1.4 **"CBDO"** means the Chief Business Development Officer;

1.5 **"CCO"** means Chief Capital Officer;

1.6 **"CCRO"** means the Chief Corporate and Regulatory Officer of Transnet SOC Ltd;

1.7 **"CE"** means Chief Executive of an Operating Division or Specialist Unit;

1.8 **"CFO"** means Chief Financial Officer;

1.9 **"Chairperson"** means the person who is appointed as the Chairperson of the Board as per the MOI;

1.10 **"CHRO"** means the Chief Human Resources Officer;

1.11 **"CIO"** means the Chief Information Officer;

1.12 **"COAM"** means the Chief Officer, Advanced Manufacturing;

1.13 **"Company"** means Transnet SOC Ltd including its Operating Divisions, and Specialist Units, with registration number 1990/000900/30;

1.14 **"Company Strategy"** means the strategy for the Company as approved from time to time by the Board,

1.15 **"Consultant"** means a professional person appointed to provide technical and specialist advice or to assist with the design and implementation of projects and/or programmes. The legal status of this person can be an individual, a partnership, a corporation or a company;

1.16 **"Consulting Services"** means those specialist services and skills that are required for the achievement of a specific objective with the aim of providing expert and professional advice on a time and ad hoc basis These professional services may include the rendering of expert advice, obtaining relevant information from Transnet to draft a proposal for the execution of specific tasks that are of a technical or intellectual nature, business and advisory services, infrastructure and planning services, laboratory services and science and technology.

1.17 **"COO"** means the Chief Operating Officer;

1.18 **"CSCO"** means Chief Supply Chain Officer;

1.19 **"Delegation of Authority Framework "** means this document, recording the nature and extent of authorities required in order to implement certain actions by or on behalf of the company, including any sub-delegation of authority where permitted and **"Delegation"** shall have a corresponding meaning;

1.20 **"Digital"** means technology enablement of the Transnet workplace (HR, Finance, and Procurement etc.), Transnet product and Transnet channel (customer, sales marketing).

1.21 **"Estimated Total Cost" (ETC)"** means costs planned to bring the project into operation. These include costs such as:
- Direct activities relating to the project such as building materials, delivery cost thereof,
- Project management fees;
- Gate review costs (FEL3 and 4);

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- Transnet Internal Audit Costs;
- Group Capital Integration and Assurance;
  - Preliminaries and general; and
  - Contingencies.

Typical accounting entry type transactions such as capitalisation of borrowing costs and allocated costs are excluded from ETC;

1.22 **Extended Leadership Team or "ELT"** refers to a layer of Management which comprises of Direct Reports to the GLT as defined below.

1.23 **"FRMF"** means Financial Risk Management Framework;

1.24 **"GE"** means Group Executive;

1.25 **"GCE"** means Group Chief Executive of Transnet SOC Ltd;

1.26 **"Group Leadership Team" or "GLT"** refers to the Group Leadership Team responsible for leadership, implementation of the strategy, and day to day management of the Company. This is made up of GLT Members;

1.27 **"Head of Legal"** refers to the most senior employee with a Legal qualification in the respective Legal Department;

1.28 **"International agreements"** means agreements which are required to be construed in accordance with the laws of a foreign jurisdiction including the neighbouring countries;

1.29 **"Memorandum of Incorporation" or "MOI"** means the constitutive documents of the Company, as amended;

1.30 **"Memorandum of Understanding"** means a formal agreement between two or more parties. Companies and organizations can use MOUs to establish official partnerships. MOUs are not legally binding but they carry a degree of seriousness and mutual respect, stronger than a gentlemen's agreement.

1.31 **"Neighbouring Countries"** means countries sharing a border with the Republic of South Africa;

1.32 **"Non-Disclosure Agreement/Confidentiality Agreement"** means a contract by which one or more parties agree not to disclose confidential information that they have shared with each other as a necessary part of doing business together.

1.33 **"Operating Divisions"** means the Operating Divisions of Transnet, namely, Transnet Freight Rail, Transnet Engineering, Transnet National Ports Authority, Transnet Pipelines, and Transnet Port Terminals;

1.34 **"PFMA"** means the Public Financial Management Act 1 of 1999 (as amended), read together with its regulations' including Treasury Regulations;

1.35 **"Prescribed Officer"** means a person who, within a company, performs any function that has been designated by the Minister of Trade and Industry in terms of section 66(10) of the Companies Act, Act 71 of 2008, read with Regulation 38. Within the Company, members of GLT Members are designated Prescribed Officers;

1.36 **"Rental"** means money payable for the hire of movable and immovable property in terms of a lease agreement, but excludes the payment of operational expenses and costs.

1.37 **"Shareholder"** means the Government of the Republic of South Africa represented by the Shareholder Minister.

1.38 **"Shareholder Minister"** means the Minister of Public Enterprises as defined in the MOI;

1.39 **"Shareholder's Compact"** means the shareholder's compact being an agreement entered into pursuant to section 52 of the PFMA between the Shareholder representative and the Board from time to time;

1.40 **"Specialist Unit"** mean all business units of Transnet which have been deemed 'supporting businesses' in terms of the Company Strategy, these include Transnet Capital Projects, Transnet Foundation, Transnet Property and Transnet Corporate Centre;

1.41 **"Subsidiary"** means subsidiary as defined in the Companies Act 71 of 2008 (as amended) and Subsidiaries shall have a corresponding meaning;

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1.42 **"Trader" means** an Employee who engages in the buying and selling of financial assets in any financial market on behalf of the Company.

1.43 **"Transnet"** means the Company with its Subsidiaries.

1.44 **"Treasury Regulations"** means the regulations issued in terms of section 76 of the PFMA, amended from time to time;

1.45 **"Transnet Total Asset Base"** refers to the total value of the assets in Transnet and is set at the asset value indicated in the integrated report for the year; and

1.46 **"VAT"** means Value Added Tax. All amounts indicated in the document are exclusive of VAT.

2 Scope

This Delegation of Authority Framework records the nature and extent of the authorities delegated by the Board of Directors to the Group Chief Executive, and in turn, by the Group Chief Executive to the members of the Group Leadership Team, in order to implement certain actions by or on behalf of the Company. It includes, to the extent necessary and/or incidental thereto, the authority to discharge all of the duties, obligations and powers imposed upon the deemed Authority under the National Ports Act 12 of 2005.

3 Application

3.1 This Delegation of Authority Framework applies to all employees of the Company, including its Operating Divisions and Specialist Units. It does not apply to any of the Company's subsidiaries. The respective Boards of Directors of the Company will prepare the requisite delegations of authority for those subsidiaries.

3.2 The persons set out in clause 5 below are granted the power and /or authority to perform their functions and responsibilities subject to the limits of authority outlined in clause 5 below, provided that the exercise of such power and/or authority in terms of this delegation is not in conflict with the following:

- PFMA;
- Board Reserved Matters;
- Memorandum of Incorporation;
- Company Strategy;
- Shareholder's Compact;
- the Corporate Plan, Annual Budget and Borrowing Strategy and/or Funding Plan of the Company as approved by the Board from time to time;
- Project and Programme Frameworks;
- Enterprise Risk Management Framework; and
- Any approvals by the Board and the Minister of Finance for the delegation of the power to borrow money or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind the Company to any future financial commitment in terms of section 66 of the PFMA.

3.3 This Delegation supersedes any prior Delegations of Authority Framework and takes effect upon the date determined by the Board of Directors.

3.4 The Delegation of Authority Framework shall be sub-delegated to GLT and Extended GLT within 30 days from the date of signature by the GCE.

3.5 Any proposal for amendments to this Delegation or to the authorities or the authorities delegated in this Delegation must be submitted in writing to the Office of the Group Company Secretary for consideration and approval by the Board of Directors.

4 Delegating Powers

4.1 A person authorised to exercise any of the authorities set out in clause 5 below ("original bearer of authority") may, in writing, sub-delegate to his/her subordinate ("designate") during his/her temporary absence or for an indefinite period, provided:

4.1.1 the authority is conferred by way of a certificate signed by the original bearer of authority, naming and identifying the designate, and the extent of the authority which is sub-delegated to the designate;

4.1.2 the sub-delegated authority shall only be exercised within the original bearer of authority's respective area of responsibility;

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4.1.3 the powers delegated by the original bearer of authority cannot be sub-delegated further by the designate unless explicitly stated in the certificate signed by the original bearer of authority; and

4.1.4 the sub-delegated authority may be revoked in writing, at any time by the original bearer of authority.

4.2 Unless otherwise specifically indicated, approval of any of the matters listed in clause 5 below may be granted by a designate.

4.3 With respect to all matters and authorities specifically listed in clause 5 below, the delegated authority by the GCE to bind the Company is in regard to any business activity or transaction (or a series of related transactions) and is subject to the value in the aggregate of all payments or any consideration made or to be made for any such business activity or transaction(s) being complied with.

4.4 The original bearer of authority or designate must ensure that all the necessary procedures and/or approvals have been fulfilled prior to exercising any of the matters and authorities listed in clause 5 below.

4.5 All delegations of authority, signed by the original bearer of authority and accepted and signed by the designate, must be filed with the Office of the Group Company Secretary prior to the effective date.

5 Company Authorities

Limits of authority have been delegated by the Board of Directors to the Group Chief Executive. In the interest of good corporate governance, approval structures have been established in the Company. Requests for approval must follow the approved governing processes and structures for recommendation, but the final approval vests with the delegated individual (for example CE, CFO, GCE) as reflected in the specific delegations set out in this document.

In cases where business requirements necessitate that approval be obtained from the delegated authority without the review and recommendation by the relevant governance structures (CAPIC, GLT, etc.) this must be reported to the relevant governance structures immediately thereafter.

The authority to approve the Corporate Plan and Budget of the Company vests with the Board of Directors, provided that it must be submitted to the Shareholder in terms of Section 52 of the PFMA.

Management's intervention in addressing non-compliance with the DOA

Approval Authority →	COO	CFO	GCE
Operating Divisions	Nil	Nil	Unlimited
Approval Authority →	GLT Member	CFO	GCE
Specialist Units	Nil	Nil	Unlimited

Note: All requests for approval of non-compliance must be made by the GLT Member to the GCE. Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.

5.1 Capital Expenditure

NOTE 1: Capital expenditure may only be authorised if the project has been so approved by CAPIC or the relevant divisional CAPIC in accordance with the limits set out in this Delegation of Authority Framework and capital funds have been allocated in the annual Budget of the Company.

NOTE 2: Capital expenditure may only be authorised if the project has been approved and a warrant number has been issued by the relevant authority

NOTE 3: It is mandatory that submissions to the GLT/GCE have been recommended by the approval bodies leading up to the GLT/GCE

5.1.1 CAPEX in approved budget/Corporate Plan: To commence projects (execution funding)

Approval Authority →	COO and COAM	CAPIC/CFO	GLT /GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Operating Divisions	Up to but not exceeding R500m and R500m respectively	Up to but not exceeding R600m	Up to but not exceeding R2bn	Up to but not exceeding R3bn	Up to but not exceeding R5 5bn	Exceeding R5 5bn

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Approval Authority →	GLT Member	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Specialist Units	Up to but not exceeding R200m	Up to but not exceeding R500m	Up to but not exceeding R2bn	Up to but not exceeding R3bn	Up to but not exceeding R6.5bn	Exceeding R6.5bn

Refer to Materiality and Significance Framework. If the set limit (R5.5bn) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- Approval limits are per individual project, reported on a monthly basis to Group Financial Planning
- Amounts indicated above exclude the capitalisation of borrowing costs.
- All ICT and digital projects requiring approval must be signed off by the Chief Information Officer.
- GLT/GCE to be the final approval gate for all capitalisation of maintenance projects (COPEX) single or multi-year irrespective of the value of the project provided that it has been included in the Corporate Plan.
- It is mandatory that submissions to the GLT/GCE have been recommended by the approval bodies leading up to the GLT/GCE.
- Front end loading (FEL) studies are to be submitted to CAPIC based on the value of the underlying asset on which the study is conducted. e.g. If the FEL study is for an asset not exceeding R600m and R500m respectively then the FEL study irrespective of its stage requires approval from Group CAPIC Please refer to the Accounting Policy for Conceptual, Pre-feasibility and Feasibility Studies when capitalising FEL studies.
- Approvals exceeding R2bn but less than R6.5bn in ETC are to be reported to the Shareholder Minister

5.1.2 Unforeseen CAPEX (not included in budget/Corporate Plan)

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Operating Divisions	Up to but not exceeding R100m and R20m respectively	Up to but not exceeding R400m	Up to but not exceeding R1bn	Up to but not exceeding R1.5bn	Up to but not exceeding R5.5bn	Exceeding R5.5bn
Approval Authority →	GLT Member	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board	Shareholder Minister
Specialist Units	Up to but not exceeding R50m	Up to but not exceeding R400m	Up to but not exceeding R1bn	Up to but not exceeding R1.5bn	Up to but not exceeding R6.5bn	Exceeding R6.5bn

Refer to Materiality and Significance Framework. If the set limit (R6.5bn) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- All unforeseen Capex approved by Operating Divisions/Specialist Units within their delegated authority, must be reported on a quarterly basis to Group Financial Planning.
- Amounts indicated above exclude the capitalisation of borrowing costs
- All ICT and digital projects requiring Transnet approval must be signed off by the Chief Information Officer
- Approval limits are per project subject to an aggregate of R600m for the COO
- Divisional Investment committees are to monitor the limits pertaining to the respective OD and to escalate submissions to Transnet if the respective OD limits are reached.
- If an unforeseen project will result in the divisional 7 year investment plan being increased then GLT needs to be approached for approval.
- Cumulative value of annual unforeseen approvals cannot exceed the overall delegation of authority.

5.1.3 Increase in Estimated Total Cost (ETC) of Existing/Approved Projects

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	ETC may be increased to a maximum of R500m and R500m respectively Increases beyond this amount may only be approved at CAPIC Level	ETC may be increased to a maximum of R800m	ETC may be increased to a maximum of R1.2bn	ETC may be increased to a maximum of R2bn	Exceeding R2bn

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Approval Authority →	GLT Member	CAPIC/CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	ETC may be increased to a maximum of R50m, increases beyond this amount may only be approved at CAPIC Level	ETC may be increased to a maximum of R900m	ETC may be increased to a maximum of R1.2bn	ETC may be increased to a maximum of R2bn	Exceeding R2bn

- Increase in ETC of projects already approved by the Shareholder Minister must be reported to the Shareholder Minister if the increase is in excess of 15%.
- All ICT and digital projects requiring approval must be signed off by the Chief Information Officer.
- All ETC increases above the approved budget for a project/programme must be reported to CAPIC.
- Amounts indicated above exclude the capitalisation of borrowing costs. Increases in ETC of a project solely due to the capitalisation of borrowing costs may be approved by the OD Exco/CE. Project costs and capitalisation of borrowing costs are to be managed separately and may not be expended on projects interchangeably.
- Increases in ETC of a project that results in the project exceeding a specific committee's approval limit needs to be submitted to the next approval body. If CAPIC approved a project at ETC of R700m, and the increase required is R200m then the final approval body for the increase will be GLT as the new ETC of R900m is beyond CAPIC's limit.
- Cumulative value of annual ETC approvals cannot exceed the overall delegation of authority.
- Requests for increases in ETC need to be submitted to the approval body that originally approved the project. If Board approved a project to the value of R2.1bn, any increases to this project will require Board approval
- Cumulative increases in ETC should be limited to the approved portfolio as per Corporate Plan. Trade-off decisions implemented to remain within the approved Corporate Plan will have to be demonstrated to the next approval body for all increases in ETC.

5.1.3.1 Any increase in excess of the annual approved capital investment budget must be submitted to CAPIC/CFO for approval. Where the CFO has approved an increase, the submission should be tabled at the subsequent CAPIC meeting for information purposes.

5.1.4 **Approval of Front-End Loading (FEL) Studies**

Front end loading (FEL) studies are to be submitted to CAPIC based on the value of the underlying asset on which the study is conducted e.g. If the FEL study is for an asset not exceeding R600m and R500m respectively, then the FEL study irrespective of its stage requires approval from CAPIC . The following limits apply in instances of the FEL study itself:

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	FEL studies conducted on assets not exceeding R600m and R500m respectively	Up to but not exceeding R900m	Up to but not exceeding R1.2bn	Up to but not exceeding R2bn	Exceeding R2bn
Approval Authority →	GLT Member	CAPIC/CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	FEL studies conducted on assets not exceeding R250m	Up to but not exceeding R900m	Up to but not exceeding R1.2bn	Up to but not exceeding R2bn	Exceeding R2bn

- Limits are per FEL study.
- The study to be managed along the same principles as a project.
- FEL studies to be managed and controlled by an appointed project manager to ensure efficient utilisation of Transnet resources.

5.1.5 **Matters pertaining to the Scope of a Project Schedule:**

- Project timelines may not exceed the end date contained in the business case by more than 12 months with no cost increases
- Approval to be sought from the original approval body at the earliest discovery that the 12 month limit is going to be exceeded.

Physical progress:

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- Scope changes of more than 10% of the original scope requires approval from the original approval body.
- Funds allocated for future scope items may NOT be utilised to fund current items that have depleted their budgets and contingencies provided specifically for the item.

5.1.6 Asset Write-off/Scrapping: Movable Assets

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R75m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R700m	Exceeding R700m
Approval Authority →	GLT Member	CAPIC/CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Up to but not exceeding R5m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R700m	Exceeding R700m

Refer to Materiality and Significance Framework. If the set limit (currently R6.5bn) is exceeded then the Board has to consider and recommend to Shareholder Minister for approval.

- The above amounts refer to net book value and pertains to the cost actually paid for the asset (revaluations are excluded) and are a cumulative annual limit. Write-offs below R50m to be reported to CAPIC/CFO quarterly.
- COO is to monitor the limits pertaining to asset write off/scrapping of movable assets and to escalate submissions to CAPIC once limits are reached.

5.1.7 Asset write-off/Scrapping/Demolition of Immovable Assets (excluding land) e.g. buildings, structures

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board*
Operating Divisions	Up to but not exceeding R100m	Up to but not exceeding R150m	Up to but not exceeding R250m	Up to but not exceeding R300m	Exceeding R300m
Approval Authority →	GLT Member	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board*
Specialist Units	Up to but not exceeding R5m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R300m	Exceeding R300m

*Refer to Materiality and Significance Framework. If the set limit (currently R6.5bn) is exceeded then the Board need to consider and recommend to the Shareholder Minister for approval.

- The above amounts refer to an estimated market value at that point in time and are a cumulative annual limit.
- COO is to monitor the limits of asset write off/scrapping/demolition of immovable assets and to escalate submissions to CAPIC once limits are reached.
- Write-offs below R50m are to be reported to CAPIC/CFO quarterly.

5.1.8 Disposal of Movable Assets (excluding sale of scrap)

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board**
Operating Divisions	Up to but not exceeding R75m	Up to but not exceeding R150m	Up to but not exceeding R500m	Up to but not exceeding R750m	Exceeding R750m
Approval Authority →	GLT Member	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board**
Specialist Units	Up to but not exceeding R30m	Up to but not exceeding R150m	Up to but not exceeding R500m	Up to but not exceeding R750m	Exceeding R750m

The above amounts refer to an estimated market value and are subject to a cumulative annual limit of R200m. For sale of scrap please refer to 5.5.1.

- COO to monitor limits and to escalate submissions to CAPIC once limits are reached.

**Refer to Materiality and Significance Framework. If the set limit (currently R6.5bn) is exceeded, then the Board need to consider and recommend to the Shareholder Minister for approval.

5.1.9 Management's Intervention in addressing non-compliance with regard to the approval of capital projects

Approval Authority →	COO and COAM	CFO	GCE
Operating Divisions	Nil	Nil	Unlimited
Approval Authority →	GLT Member	CFO	GCE
Specialist Units	Nil	Nil	Unlimited

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- Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered.
- If the approval of non-compliance results in the annual divisional budget being exceeded, then the request must be submitted to CAPIC for approval (refer to 5.1.3.1).

5.1.10 Alienation/acquisition of immovable property (land and servitudes)

Approval Authority →	COO and COAM	CAPIC/CFO	GLT/GCE	Acquisitions and Disposals Committee	Board**
Operating Divisions	Up to but not exceeding R150m	Up to but not exceeding R300m	Up to but not exceeding R500m	Up to but not exceeding R1bn	Exceeding R1bn
Approval Authority →	**GLT member**	**CAPIC/CFO**	**GLT/GCE**	**Acquisitions and Disposals Committee**	**Board****
Specialist Units	Up to but not exceeding R50m	Up to but not exceeding R300m	Up to but not exceeding R500m	Up to but not exceeding R1bn	Exceeding R1bn

** Refer to Materiality and Significance Framework. If the set limit (currently R6.5bn) is exceeded then the Board need to consider and recommend to the Shareholder Minister for approval.

- Approval limits are per transaction and are with reference to market value.
- All transactions entered into in terms of the above must be reported to CAPIC/CFO.
- Only immovable property on the non-core list, may be disposed of (refer to 5.1.8), such disposal may only be done through the Transnet Property.
- Amounts indicated above exclude the capitalisation of borrowing costs.

5.1.10.1 Newly identified properties to be included on the non-core list (Book value of individual properties)

COO	CFO	GCE	Acquisitions and Disposals Committee	Board
Up to but not exceeding R75m	Up to but not exceeding R100m	Up to but not exceeding R200m	Up to but not exceeding R300m	Exceeding R300m

These disposals must be reported to CAPIC//GLT/Acquisitions and Disposals Committee/ Board.

5.2 Treasury

Treasury Policies

Approval Authority →	Group Treasurer	CFO	GCE	Risk	Audit Committee	Board
Financial Risk Management Framework	Recommend	Recommend	Recommend	Noting	Recommend	Approve

NOTE 1: Only approved financial instruments as approved in terms of the applicable Treasury Financial Risk Management Framework approved by the Board and subject to such limits determined in accordance with such framework may be utilised in the Treasury operations.

5.2.1 InterTransnet Debt (Treasury Inter Transnet debt write-off)

Approval Authority →	Deputy Treasurer: Operations	Group Treasurer	CFO	GCE
Operating Divisions	Up to but not exceeding R5m	Up to but not exceeding R10m	Up to but not exceeding R20m	Exceeding R20m
Specialist Units	Up to but not exceeding R2m	Up to but not exceeding R10m	Up to but not exceeding R20m	Exceeding R20m

All breaches of the above limits to be reported to the Audit Committee
External debt write-off on financial instruments due to counter-party liquidation may only be approved by the GCE.

5.2.2 Maximum annual loss on all repo activities (Realised and unrealised)

Approval Authority →	Traders and Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	CFO	GCE
Group	Up to but not exceeding R1m	Up to but not exceeding R1.5m	Up to but not exceeding R2.5m	Up to but not exceeding R5m	Exceeding R5m

All breaches of the above limits to be reported to the Audit Committee.
Note: The above limits are aggregate desk limits

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5.2.3 Buy and sell back and sell and buyback transactions (Expressed in nominal terms)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	CFO
Group	Up to but not exceeding R250m	Up to but not exceeding R500m	Up to but not exceeding R750m	Up to but not exceeding R1bn	Exceeding R1bn
Duration Limit	2 weeks	3 weeks	1 month	1 month	> 1 month

All breaches of the above limits (amount or tenure) to be reported to the Audit Committee.
Approval limits are per transaction/event.

5.2.4 Foreign Exchange Spot Transactions Operational payments, not related to hedging, early take ups or extensions (expressed in USD equivalent)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer	CFO
Group	Up to but not exceeding an aggregate equivalent of $20m per day (desk total)	Up to but not exceeding an aggregate equivalent of $40m per day (desk total)	Up to but not exceeding an aggregate equivalent of $100m per day (desk total)	Up to but not exceeding an aggregate of $250m per day (desk total)	Exceeding a daily equivalent of $250m (desk total)

All breaches of the above limits to be reported to the Audit Committee.

5.2.5 Foreign Exchange Hedging Transactions New hedges or re-alignment of existing hedges (expressed in USD equivalent)

Approval Authority →	Deputy Treasurer Middle Office	Group Treasurer	CFO
Group	Submissions not exceeding $10m	Submissions not exceeding $100m	Submissions exceeding $100m
Tenure	Not exceeding 18 months	Not exceeding 3 years	Exceeding 3 years

All breaches of the above limits (amount or tenure) to be reported to the Audit Committee.

5.2.6 Foreign Exchange Hedging Transactions: Extensions, early take ups (expressed in USD equivalent)

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer
Group	Not exceeding an aggregate equivalent of $20m per day (desk total)	Not exceeding an aggregate equivalent of $50m per day (desk total)	Not exceeding an aggregate equivalent of $100m per day (desk total)	Exceeding an aggregate of $100m per day (desk total)

All breaches of the above limits to be reported to the Audit Committee.
Note: Where no specific limit is mentioned, the FRMF policy on foreign exchange rate risk will apply.

5.2.7 Approval of FX hedges to be hedged by external suppliers on their balance sheet for goods/services to be delivered to Transnet in respect of Rand agreements involving foreign content

Approval Authority →	Traders	Chief Trader	Deputy Treasurer: Front Office	Group Treasurer
Group	Not exceeding $10m	Not exceeding $25m	Not exceeding $100m	Exceeding $100m

All breaches of the above limits to be reported to the Audit Committee for noting
The above limits are applicable per agreement.
Note: The Business Units must always obtain quotes on FX forward rates and liaise with the Treasury Trading desk that will verify the rates to ensure it is market related. The Business Units can only enter into the FX hedges with the supplier once the rates are accepted by the Treasury Trading desk via e mail. Once the above approvals are obtained, the Treasury Traders will provide sign off on the rate acceptance.

5.2.8 Interest Rate Risk Hedging

Approval Authority →	Notional Amounts	Group Treasurer	CFO
Group	Notional amount of hedge expressed in RAND or equivalent in USD (FX loans and leases)	Up to but not exceeding R1bn or equivalent in USD	Exceeding R1bn or equivalent in USD
Tenure		Not exceeding 5 years	Exceeding 5 years

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All breaches of the above limits to be reported to the Audit Committee.
Note: Where no specific limit is mentioned, the FRMF policy on interest rate risk will apply.
The above limits are applicable per hedging submission.

5.2.9 Hedging of fuel risk exposures (RAND and USD)

Approval Authority →	Group Treasurer	CFO
Tenure	Not exceeding 6 months	Not exceeding 18 months
Notional hedge expressed in USD or equivalent in RAND	Not exceeding $50m or equivalent in RAND	Exceeding $50m or equivalent in RAND

All breaches of the above limits to be reported to the Audit Committee.
Note: The maximum hedge should not exceed 75% of annual budgeted consumption.
The above limits are applicable per hedging submission.
Note: Where no specific limit is mentioned, the FRMF policy on commodity (fuel) risk will apply.

5.2.10 Hedging of commodity risk exposures in supply agreements, including escalation (other than fuel) in FX or RAND

Approval Authority →	Group Treasurer	CFO
Tenure	Not exceeding 24 months	Exceeding 24 months
Notional hedge expressed in RAND	Not exceeding R100m	Exceeding R100m
Notional hedge expressed in USD	Not exceeding $10m	Exceeding $10m

All breaches of the above limits to be reported to the Audit Committee.
The above limits are applicable per hedging submission.
Note: Where no specific limit is mentioned, the FRMF policy on commodity risk will apply.

5.2.11 Restructuring of hedges (Treasury)

Approval Authority →	Group Treasurer	CFO	GCE
Group	Recommendation	Approval by CFO Notional amount <R2bn and tenure <10 years	Approval by GCE Notional amount > R2bn and or tenure > 10 years

Note: Restructuring of commodity, index linked, credit linked, interest rate and or foreign exchange related hedges can only be approved by the above authority.

5.2.12 Granting of InterTransnet Loans (interest-bearing only) to divisions/specialist units

Approval Authority →	Deputy Treasurer: Front Office	Group Treasurer	CFO
Operating Division	Up to but not exceeding R750m	Up to but not exceeding R1bn	Exceeding R1bn
Specialist Unit	Up to but not exceeding R10m	Up to but not exceeding R25m	Exceeding R25m

These above limits are cumulative per OD/ SU per financial year.

5.2.13 Letters of Credit

Approval Authority →	Deputy Treasurer: Front Office	Group Treasurer	CFO
Transnet	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m

All breaches of the above limits to be reported to the Audit Committee.
The above limits are per Letter of Credit.

Funding Portfolio

NOTE 1: The total nominal funding amount per financial year in respect of Bonds and any other funding transactions shall be as determined per Board approved/Board amended Funding/Borrowing Plan.

NOTE 2: A. Signatories mean, subject to such approvals by the Board and the Minister of Finance in terms of section 66 of the PFMA as may be applicable, the Group Treasurer and any other officer so designated in writing by the CFO.

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B. Signatories mean, subject to such approvals by the Board and the Minister of Finance in terms of section 66 of the PFMA as may be applicable, persons so designated in writing by the Group Treasurer.

5.2.14 Limits for approval and signing of funding agreements per financial year (Treasury)

Approval Authority →	Group Treasurer	CFO	GCE
Tapping of bonds (in accordance with the approved Funding Plan or as approved by the Board)	-	Not exceeding R5bn	Exceeding R5bn
Bank facilities		No limit applies	No limit applies
Drawdown on Overnight facilities including Revolving Credit Facilities **	Up to but not exceeding R1.5bn	Up to but not exceeding R3bn	Exceeding R3bn
Commercial Paper		Up to but not exceeding R3bn	Exceeding R3bn
Loans	Up to but not exceeding R2.5bn	Up to but not exceeding R 5bn	Exceeding R5 bn
Export Credit Agency supported funding	-	Up to but not exceeding R5 bn	Exceeding R5 bn
Export Credit Agency supported funding			
Up to but not exceeding R1bn			
New domestic bond issues (in accordance with the approved Funding Plan or as approved by the Board)		Up to but not exceeding R2bn	Exceeding R2bn
Development Finance Institution Funding	Up to but not exceeding R1bn	Up to but not exceeding R2.5bn	Exceeding R2.5bn
Foreign funding	Up to but not exceeding $100m	Up to but not exceeding $250m	Exceeding $250m
Any other source of funding not stipulated above	Up to but not exceeding R1bn	Up to but not exceeding R2bn	Exceeding R2bn
The above is further subjected to the following annual aggregate limit			
	R5bn	R12.5bn	Limited to the annual Board approved funding plan

The above is subject to the following:

- Be executed in accordance with the approved funding strategy as incorporated in the Corporate Plan (including any approved amendments).
- All breaches of the above limits to be reported to the Audit Committee.
- The GCE can increase funding requirements up to 10% of Board approved Borrowing Plan and this needs to be ratified by Board. Any funding increase above the 10% can only be approved by the Board.
- Any increase in the funding requirement beyond what was included in Corporate Plan is to be notified to the Shareholder and the Ministry of Finance.
- * Bank facilities must be approved and signed by either the CFO or GCE.
- ** Applicable on outstanding balances.
- The Group Treasurer must sign all Funding Agreements within their delegated authority limits, together with the CFO signing as co-signatory.
- The Group Treasurer can approve all drawdowns and sign any ancillary transaction related documentation required from time to time irrespective of the amounts involved.
- Pricing Supplements for new listings, existing bonds and commercial paper to be listed on any exchanges must be signed by the CFO and GCE.
- Final Terms for new listings on international exchanges must be signed by the CFO and GCE.
- The Group Treasurer is authorised to sign all ancillary documents related to listings in local and international exchanges.

5.2.15 Restructuring of Existing Debt

Approval Authority →	Group Treasurer	CFO	GCE
Group	Recommendation	Approval by CFO Notional amount <R2bn and tenure <10 years	Approval by GCE Notional amount > R2bn and or tenure > 10 years

Note: Restructuring of debt instruments can only be approved by the above authority. This could be the result of a change in business strategy, pressure on financial ratios of the Group, and or change in the macro economic environment. Such change to be reported at the subsequent of the GLT or to GCE.

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5.2.16 Signing of legally binding agreements in respect of Treasury related activities not listed in 5.2.13 above. (Such as ISDA, ISMA, JSE client agreements, and data subscription agreements)

Only the GCE, the CFO and the Group Treasurer have authority to sign.

5.2.17 Counterparty Limits: Setting of Limits

Approval Level			
Group Treasurer	CFO	GCE	Audit Committee
			Counter Party Risk Limits[1]
Price Risk Limits ≤ R25m[3]	Price Risk Limits ≤ R250m[3]	Price Risk Limits ≥ R250m[3]	Overall counterparty limit (as calculated in line with FRMF)
Recommendation of Bond Issue and Bond Issuer Limits	Approval of Bond Issue and Bond Issuer Limits		
Recommendation of Settlement Limits[2]	Approval of Settlement Limits[2]		
Recommendation of limits where the Company is exposed to counterparty issuer risk as a result of advance payment guarantees, performance bonds, retention bonds etc issued under supplier agreement/contracts[3]	Approval of limits where the Company is exposed to counterparty issuer risk as a result of advance payment guarantees, performance bonds, retention bonds etc. issued under supplier agreement/contracts[3]		

Note: Where no specific limit is mentioned, the FRMF policy on Counter Party Risk will apply.

Note[1]: The approved counterparty limit may be utilised for price risk, investment risk as well as issuer risk (in respect of advance payment guarantees, performance bonds, retention bonds etc.) as long as the sum of the individual exposures remains within the overall Audit Committee approved risk limit.

Note[2]: Settlement risk limits are set at 1.5 times the approved counterparty limit as stipulated in the FRMF and will be approved with the counterparty limit.

Note[3]: In respect of counterparties not approved by Audit Committee.

5.2.18 Appointment of Commercial Bankers and the Opening of Bank Accounts

	Group Treasurer	CFO
All OD/SU	Recommendation to open bank accounts and the appointment of bankers.	Approval of new bank accounts and the appointment of bankers and the approval of all documentation relating to such accounts, including electronic banking documentation.
Process to follow	There is no delegation to any OD/SU to appoint commercial bankers or to open bank accounts, domestically or internationally only the CFO may make such appointments	

5.2.19 Authorisation of cheque signatories, Test keys and EFT's

Signing Cheques	Two A signatories or one A and one B signatory
Signing Test keys for paying/receiving	Two A signatories or one A and one B signatory
Electronic transfer of funds	Two A signatories or one A and one B signatory

5.2.20 Payment Instructions and confirmation notes

Signing payment instructions/ receipts/ settlement instructions:	Two A signatories or one A and one B signatory
Signing confirmation notes in respect of approved financial transactions executed	One A signatory

5.2.21 Approval of Annual Borrowing Plan

	Board
Companywide	Approve the annual Borrowing Plan for execution by Treasury

Annual Borrowing Plan to be recommended by the Audit Committee for approval by the Board

5.2.22 Authorisation to enter into binding transactions

	Group Treasurer
Companywide	Authorise Treasury employees to enter into binding financial transactions on behalf of Transnet

5.2.23 Issuing of Guarantees (subject to requirements of section 66 of the PFMA)

	Group Treasurer	CFO	GCE	Board
Companywide	Up to but not exceeding R25m	Up to but not exceeding R200m	Up to but not exceeding R500m	Exceeding R500m

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All breaches of the above limits to be reported to the Audit Committee.
The Limits are per transaction.

5.2.24 Issuing Letters of Support

	Board
Company-wide	Only the Board of Directors has authority to issue letters of support

5.2.25 Issuing of security per transaction (subject to section 66 of the PFMA)

	Group Treasurer	CFO	GCE	Board
Company-wide	Up to but not exceeding R250m	Up to but not exceeding R500m	Up to but not exceeding R1bn	Exceeding R1bn

All breaches of the above limits to be reported to the Audit Committee. The limits are per transaction.

5.2.26 Guarantees resulting from Supplier Agreements

	CFO:OD	Deputy Treasurer Middle Office[1]	Group Treasurer[2]	CFO[3]
Notional Value per OD per financial year	Up to but not exceeding R200m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Issuer Acceptance		All issuers	All issuers	All issuers

- The limits are cumulative per OD/SU per annum.
- The OD is required to obtain legal acceptance from the Divisional Legal Department and or Group Legal in respect of all Guarantees.
- Guarantees should be constructed in a manner that they become payable on demand
- The minimum long-term credit rating requirements may be acceptable under the following:-
  - A- from Fitch Rating Investor Services or Standard & Poor's Rating Services or A3 from Moody's Investor Services;
  - Issuers not rated by a recognised credit rating agency will not be accepted, unless specific approval has been obtained from CFO that internally developed credit rating of the Issuer is acceptable;
  - Group Treasury may also consider an equivalent rating from other recognised rating agencies as contained in the FRMF.

Note: The approvals of [1,2,3] are additional and do not include the amount of lower level authority.

5.3 Finance

5.3.1 Bad Debt Write-off

Trade Debtors

Approval Authority →	COO and COAM**	CFO	GLT/GCE	Audit Committee	Board
Operating Divisions	Up to but not exceeding R50m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority →	GLT Member**	CFO	GLT/GCE	Audit Committee	Board
Specialist Units	Up to but not exceeding R20m	Up to but not exceeding R100m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m

**Approval limits are per transaction subject to an annual cumulative limit of R100m. Specialist Unit limit is R5m cumulative per annum.

5.3.2 Setting of limits for credit facilities (Trade debtors)

Approval Authority	COO and COAM	CFO	GCE
Operating Divisions	Up to but not exceeding R50m	Up to but not exceeding R100m	Exceeding R100m
Specialist Units	Up to but not exceeding R5m	Up to but not exceeding R100m	Exceeding R100m
Approval Authority –Key Customers		CFO	GCE
Operating Divisions		Up to but not exceeding R100m	Exceeding R100m

Limits are per individual customer/client. Credit limits are to be reviewed on an annual basis. The limits are applicable subject to the division following the credit evaluation process.
Internal limits between ODs are not applicable

5.3.3 Issuing of Credit notes

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Approval Authority →	COO and COAM	CFO	GCE
Operating Divisions	Up to but not exceeding R75m and R20m respectively	Up to but not exceeding R300m	Exceeding R300m
Approval Authority →	**GLT Member**	**CFO**	**GCE**
Specialist Units	Up to but not exceeding R10m	Up to but not exceeding R300m	Exceeding R300m

Limits are per individual credit note and relates to external parties. Issuing of credit notes regarding internal/interdivisional transactions must be within the control of the divisional CFOs.
Excludes the product reconciliation process at Transnet Pipelines where the CE: OD may approve transactions arising out of the product reconciliation process.

5.3.4 Exceeding the operational expenditure budget in total for the year (Operating Divisions/Specialist Units)

The Board of Directors to be informed at every meeting of the financial status and latest estimates of the Company

Approval Authority →	COO and COAM	CFO	GCE	Board
Operating Divisions	Up to but not exceeding 5% of approved budget	Up to but not exceeding 7.5% of approved budget	Exceeding 7.5% of approved budget to a maximum of 10%	>10%
Approval Authority →	**GLT Member**	**CFO**	**GCE**	**Board**
Specialist Units	Up to but not exceeding 5% of approved budget	Up to but not exceeding 7.5% of approved budget	Exceeding 7.5% of approved budget to a maximum of 10%	> 10%

- To be reported quarterly to the CFO and GCE together with mitigating action plans to ensure that key financial metrics are maintained or met

Delegations for operational transactions that are too detailed to include in the Delegations of Authority Framework will be determined and applied in terms of the details set out by the CE/GE in conjunction with the CFO of the respective OD/SU.

5.3.5 Establishing financial policy with regard to Insurance

Approval Authority →	CFO	Risk Committee
Authority Level	CFO after consulting with CCRO to recommend to the Risk Committee	Final approval

5.3.6 Inventory Write-off

Approval Authority →	COO and COAM*	CFO	GLT/ GCE	Audit Committee	Board
Operating Divisions	Up to but not exceeding R50m and R75m respectively	Up to but not exceeding R100m	Up to but not exceeding R350m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority →	**GLT Member***	**CAPIC/CFO**	**GLT/ GCE**	**Audit Committee**	**Board**
Specialist Units	Up to but not exceeding R30m	Up to but not exceeding R100m	Up to but not exceeding R350m	Up to but not exceeding R500m	Exceeding R500m

* Approval limits are subject to an annual cumulative limit of R250m.

5.4 Procurement, Enterprise Development and Supplier Development

All procurement transactions (including reverse logistics – selling of goods) must fully comply with the approved Supply Chain Policy and Procurement Procedures Manual (PPM),) where applicable – Any commercial agreement (for the purchase of goods or services) must be signed off by an authorised employee of Supply Chain Management (Procurement) prior to signing of the contract to indicate that all the steps as per Clause 5.5 below have been followed and that all procurement related governance has been adhered to. In addition to the other exclusions specifically mentioned in the PPM, Treasury transactions related specifically to the appointment of service providers for Transnet's funding and hedging requirements are not subject to the PPM. However separate procedures will be developed for such transactions to ensure fairness and transparency

5.4.1 Appointment of Consultants

Approval Authority →	COO and COAM	CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R100m	Up to but not exceeding R150m	Up to but not exceeding R300m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority →	**GLT Member**	**CFO**	**GCE**	**Acquisitions and Disposals Committee**	**Board**
Specialist Units	R20m	Up to but not exceeding R150m	Up to but not exceeding R300m	Up to but not exceeding R500m	Exceeding R500m

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*Approval limits are cumulative per annum. Excludes appointment of consultants to perform feasibility studies for capital projects.

- Consultants may only be remunerated at set rates as follows:
  - Guideline for fees as determined by the South African Institute of Chartered Accountants.
  - Guide on Hourly Fee Rates for Consultants by the Department of Public Service and Administration.
  - Prescribed by the body regulating the profession of the consultant (for this purpose the *Guideline on Cost Containment Measures issued in terms of National Treasury's Instruction Note 01 of 2013/14* must be followed).
  - Prescribed in the Service Level Agreement concluded with lawyers on the Transnet legal panel.

5.4.2 Approval to approach the market for Open Tenders, Quotations and the Emergency Procurement Procedures

Approval Authority →	CSCO	CCO, COO and COAM	CFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R500m	Up to but not exceeding R750m	Up to but not exceeding R1bn	Up to but not exceeding R2bn	Up to but not exceeding R3bn	Exceeding R3bn
Approval Authority →	CSCO	GLT Members	CFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Up to but not exceeding R500m	Up to but not exceeding R300m	Up to but not exceeding R1bn	Up to but not exceeding R2bn	Up to but not exceeding R3bn	Exceeding R3bn

Open Tenders: The COO or COAM may delegate these powers to go to market with Open Tenders to CE: ODs/SUs who may in turn only delegate these powers to the relevant Head of Procurement. The Requisition (or Request to Purchase) issued to Procurement must be approved by the OD's Budget Owner or his duly authorised delegate. Such approved requisition or Request to Purchase will signify that the acquisition has been approved and that the necessary funds are available.
Submissions requiring approval by the person with delegated authority must also include a procurement strategy document approved by the respective OD/SU Procurement Head which includes Supplier Development and empowerment.

Quotation (transactions up to but not exceeding R2m): The COO or COAM may delegate these powers to obtain quotations to the CE: OD/SU who will in turn delegate these powers to the relevant Head of Procurement. CPO will further delegate specific powers to certain managers in the procurement function to invite quotations up to a certain value and secondly for the award of business resulting from quotation system.

Approval to invoke the emergency procurement procedure: The COO OR COAM may delegate these powers to go to the market with Open Tenders to the OD/SU who may in turn delegate these powers to the relevant Head of Procurement. Each OD/SU is responsible for assigning specific persons and value thresholds for authority to invoke the emergency procurement procedure for transactions below T8-00m in value. As soon as possible after the emergency procurement procedure has been instituted, retrospective authority for the emergency procedure must be obtained. In terms of the Procurement Process Approval Delegations (paragraph 5.4.6), the relevant AC or higher will have the authority to retrospectively approve an emergency.

5.4.3 Approval to approach the market for confined tenders: Confinement of tenders (applicable to transactions exceeding R2m in value)

Approval Authority →	CCO, COO and COAM	CSCO	CFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Nil	Nil	Nil	Up to but not exceeding R500m	Up to but not exceeding R1.5bn	Exceeding R1.5bn
Approval Authority →	GLT Members	CSCO	CFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Nil	Nil	Nil	Up to but not exceeding R500m	Up to but not exceeding R1.5bn	Exceeding R1.5bn

The limits are per transaction/confinement. All requests for approval of confinements must be made by the GLT Member through the CSCO and the CFO to the GCE. The OD/SU shall prepare the submission in collaboration with Integrated Supply Chain Management (ISCM) to ensure that the motivation for confinement contains sufficient information to meet one or more of the grounds for confinement as stipulated in the PPM and National Treasury's Instruction 03 of 2016/2017. In terms of the Instruction Note Transnet may only approve a deviation from a competitive bidding process in the case of an emergency or a sole supplier status. Any other deviation may only be allowed in exceptional cases subject to the prior written approval form National Treasury.

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In instances where a confinement is confidential, the GCE may consider such confinement internally without the confinement request being routed through any other internal authority. On the GCE's support of the confinement, the confidential confinement will thereafter be submitted to National Treasury for final approval, if required.

Note: Confinement must only be used in respect of transactions above R2m in value. For transactions up to but not exceeding R2m, the quotation system must be used as per paragraph 5.4.2 above.

5.4.4. Management's intervention to address non-compliance with procurement policies and procedures

Approval Authority →	CCO, COO and COAM	CFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Nil	Nil	Up to but not exceeding R500m	Up to but not exceeding R1.5bn	Exceeding R1.5bn
Approval Authority →	GLT Members	CFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Nil	Nil	Up to but not exceeding R500m	Up to but not exceeding R1.5bn	Exceeding R1.5bn

Note: All requests for approval of non-compliance must be made by the COO/GLT member to the GCE. The OD/SU shall prepare the submission in collaboration with ISCM to ensure that the rules for the addressing of non-compliance are met. Together with the application for approval of non-compliance, the requestor must advise on the steps/corrective measures taken to avoid a repeat of the transgression within 30 days of the transgression being discovered

5.4.5 Establishing Procurement policy (opex, capex and disposals)

Authority Level	Acquisitions and Disposals Committee

5.4.6 Procurement process approval

Note: Each OD/SU will have its own main Acquisition Council (AC) which will consider and approve all procurement processes, as well as the disposal of scrap, falling within its jurisdiction from R2m, but not exceeding R50m. This is subject to the discretion of the CE: OD/SU to lower the R2m thresholds, or to create Secondary Regional/Local Acquisition Councils. Where a particular Transnet Entity chooses to create a secondary Acquisition Councils, the jurisdiction of the Secondary Acquisition Councils will start below the R2m threshold. ODs have the discretion to set the maximum threshold/s of such secondary Acquisition Councils to a value higher than R2m. This value will then become the minimum threshold of the main Acquisition Council of the Transnet Entity. The CE: OD/SU may also delegate certain process approval powers to the relevant Manager for matters below the Secondary Acquisition Councils' delegation. Transactions exceeding the CE: ODs/SUs delegated authority will also be considered by the OD's main Acquisition Council for recommendation to the higher approval body (e.g. the Acquisitions and Disposal Committee). If it concurs with the recommendation, the matter will be referred to the relevant person/structure with the delegation of authority for approval. Should any process approval body not agree with the recommendation, the matter must be referred back to the recommending officer(s) for reconsideration or re-motivation.

Approval Authority →	CSCO	CCO,COO AND COAM	CFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R500m	Up to but not exceeding R750m	Up to but not exceeding R1bn	Up to but not exceeding R2bn	Up to but not exceeding R3bn	Exceeding R3bn
Approval Authority	CSCO	GLT Member	CFO	GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Up to but not exceeding R500m	Up to but not exceeding R300m subject to the contract period not exceeding 5 years	Up to but not exceeding R1bn	Up to but not exceeding R2bn	Up to but not exceeding R3bn	Exceeding R3bn

Notes: *Procurement process approval exceeding R750m, for sign-off by CFO and/or GCE as per above limits
*Procurement process approval ought to be cleared by the respective OD/SU Procurement Head.

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5.4.7 Enterprise and Supplier Development (approval of initiatives/beneficiaries)

Approval Authority →	ISCM Council/ CSCO	COO and COAM	CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board*
Operating Divisions	Up to but not exceeding R25m	Up to but not exceeding R50m	Up to but not exceeding R150m	Up to but not exceeding R250m	Up to but not exceeding R500m	Exceeding R500m
Approval Authority	ISCM Council/ CSCO	GLT Members	CFO	GLT/ GCE	Acquisitions and Disposals Committee	Board
Specialist Units	Up to but not exceeding R25m	Up to but not exceeding R50m	Up to but not exceeding R150m	Up to but not exceeding R250m	Up to but not exceeding R500m	Any amount exceeding R500m

The abovementioned delegations are per transaction.
*REMSEC to note all Enterprise and Supplier Development transactions.

5.4.8 Approval of Procurement Plans

National Treasury Instruction 02 of 2016/2017 requires that Transnet must submit an approved annual procurement plan to the National Treasury by 31 March of each year. Transnet must submit quarterly reports on the procurement plans by the 15th of the Month following the end of the quarter. Transnet must table the quarterly reports in Parliament on a quarterly basis. Any amendments to the original procurement plan must be approved and submitted to the National Treasury within 10 calendar days from approval.

	Authority Level
Approval of Annual Procurement Plan	Acquisitions and Disposals Committee
Approval of quarterly reports to the National Treasury and any amendments to the original procurement plan	GCE

5.4.9 Approval of Restriction of Suppliers

National Treasury Instruction 02 of 2016/2017 requires that Transnet must follow a process of restriction where suppliers have acted with misconduct towards Transnet. On finalisation of this process and approval internally, Transnet must inform National Treasury of the restriction within 7 days with the details of the restriction. National Treasury will then load the details on its Database of Restricted Suppliers

Authority Level	CFO
To note all Enterprise and Supplier Development transactions	REMSEC

5.5 **Contracts and/or Agreements**

NOTE 1: Any person who has been authorised to execute any legal documents including deeds, leases, assignments, contracts, applications, financial instruments, external submissions to or on behalf of the Company and/or its OD's or SU's or any other legal documents may only do so with the prior advice of the relevant Legal Services department as set out in the Legal Policy.

NOTE 2: Unless otherwise indicated in the authorities below, the authority to execute a contract or other binding document carries with it like authority to cancel or modify it, but only with the prior written advice of the relevant Legal Services department as set out in the Legal Policy and if it relates to Procurement Contracts, the process prescribed in the Procurement Procedures Manual must be adhered to.

NOTE 3: Any person authorised to enter into an agreement/contract or other binding document involving capital expenditure must have obtained prior financial approval in terms of the procedures set out in 5.1 prior to entering into such a CAPEX contract.

NOTE 4: Approval limits are per transaction/contract.

NOTE 5: The authority to execute a contract or other binding document carries with it the understanding that an authorised payment required thereby will be made once proof of receipt has been obtained. No person is authorised to obligate the company to an amount greater than such payment or create more onerous obligations than those contained in the contract or other binding document. Increases to the original scope of the binding document must be supported by authorised amendment.

NOTE 6: In terms National Treasury Instruction 3 of 2016/2017 Transnet must ensure that contracts are not varied by more than 20% or R20m (including VAT) for construction related to goods, works and/or services and 15% or R15M (including VAT) for all the goods and/or services of the original contract value, whichever is the greater. Any deviation in excess of the prescribed thresholds will only be in exceptional case prior written approval from National Treasury.

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The PPM prescribes the process that must be followed in terms of approving procurement contract amendments:
Non-material amendments (i.e. where the scope, value and/or period of the contract is less than 10% of the original contract value): the manager with the delegation of authority may effect such amendment and is only required to inform the Acquisition Council (if within the Acquisition Council jurisdiction) of such amendment as soon as possible thereafter. The manager who approves the amendment may be the original signatory of the contract if the cumulative value of the amended contract is still within his/her delegation of authority. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.

- Material amendments within the Acquisition Council threshold (i.e. where the scope, value and/or period of the contract is greater than 10% of the original contract value but less than 20% or R20m (whichever is the greater) for construction related goods, works and/or services and less than 15% or R15m (whichever is the greater) for all other goods and/or services): the manager with the delegation of authority may not effect such amendments without the PRIOR approval of the relevant Acquisition Council first of such amendment. Following Acquisition Council approval such amendment needs to be signed off by the original signatory (i.e. the person with delegation of authority who signed the initial contract or the person mandated to do so) provided the cumulative value of the contract and subsequent amendment(s) still falls within his/her delegations. However, if the cumulative value of the amended contract is above the original signatory's delegation, the amendment must be approved by the next level of authority on review and recommendation of the original signatory.

- Amendments to contracts within the AC threshold and in excess of the National Treasury prescribed thresholds of the original contract value will be dealt with as follows: In such cases, PRIOR review and recommendation must be obtained from the appropriate AC first, as well as the original signatory. The matter will be submitted for consideration to the person with delegated authority if the amendment brings the contract above the original signatory's delegation of authority. The CPO of the OD/SU or his/her delegate will then forward the submission to the office of the CSCO for internal review. Once internal support from the CSCO's office has been obtained and support from the person with the delegation of authority to sign the final contract value, the submission can then be sent by the relevant OD/SU CPO to National Treasury for final approval. On approval, the amended contract will be signed off by the person with the delegation of authority to sign off the contract value concerned.

- For higher value contracts (i.e. those signed by the CE: OD, the CFO or GCE), it is advisable to obtain a written mandate from that official empowering a delegate to administer such contract and to effect changes to such contract not exceeding 10% of the initially approved contract value.

5 5 1 Entering into and/or signing of Contracts and/or Agreements and award of business: (including the sale of scrap)

Approval Authority →	CSCO	COO and COAM	CFO	GCE	Acquisitions and Disposals Committee	Board
Operating Divisions	Up to but not exceeding R500m	Up to but not exceeding R750m	Up to but not exceeding R1 5bn	Up to but not exceeding R2 5bn	Up to but not exceeding R3 5bn	Exceeding R3 5bn
Approval Authority →	CSCO	GLT Members	CFO	GCE	Acquisitions and Disposals Committee	Board
Specialist units	Up to but not exceeding R500m	Up to but not exceeding R500m subject to the contract period not exceeding 5 years	Up to but not exceeding R1 5bn	Up to but not exceeding R2.5bn	Up to but not exceeding R3 5bn	Exceeding R3 5bn

Contract award delegation carries with it the authority to issue letters of intent, letters of award, letters of regret and signing of the final contract. Values are per contract for the full term of the contract (Total value of contract excluding VAT) on condition that approval has been obtained for the related expenditure over the period. Please refer to the conditions stipulated below.

Payments: Once the decision to contract has been issued, contract execution will be governed by the Operating Divisions or Specialist Units, including the payment process provided that the contract amount is not exceeded.

5.5.1.1 Contracts > R700 m, including Transnet's top 70% value opex items and capex contracts

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Prior to entering into a high value (greater than R700m) / highly complex contract (especially for the top 70% value opex items as dealt with by ISCM Strategic Sourcing commodity teams), any authorised official must first liaise with a multi-disciplinary team of experts at Corporate Centre, who should each sign off on any agreement/contract or other binding document.

- CSCO.
- Chief Legal Counsel – entire document.
- CFO to sign-off after sign-off from the Finance Departments (Group Finance/Reporting Financial Planning, Tax and Treasury).
- CCRO.
- Contracts less than R700 m within the OD's limit of authority, require a similar process as set out above to be followed by the relevant OD/SU.

5.5.1.2 Contracts with foreign exchange exposure

- Approval to enter into an agreement/contract or other binding document involving foreign currency exposure (including *international agreements*) may not be sub-delegated lower than to the Chief Procurement Officer (CPO) of an OD/SU. Approval of the divisional CFO is required to enter into the contracts that may result in foreign currency exposure.
- The duly authorised official must obtain prior written approval in respect of FX agreements above R50m from CSCO, Chief Legal Counsel, Group Treasurer, Group Tax, CCRO, CFO, both where the contract will be concluded in foreign currency and especially in such cases where foreign contracts will be concluded in South African Rand, as this may expose the Company to an embedded derivative. All FX agreements above R100m must apart from the above also obtain written approval from the CFO. The CFO to sign-off after sign-off from Group Treasurer, CFO, CCRO, and Chief Legal Counsel (the entire document).

5.5.2 Entering into and/or Signing of Revenue Contracts/Agreements and authority to issue binding quotes locally: (excluding lease contracts and the sale of scrap)

Approval Authority →	COO and COAM Limit per Annum per contract up to but not exceeding 5 years	CBDO Limit per Annum per contract up to but not exceeding 5 years	CFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Operating Divisions	Up to but not exceeding R1bn for the total contract	Up to but not exceeding R3.5bn for the total contract	Up to but not exceeding R2.5bn for the total contract	Up to but not exceeding R4.5bn for total contract value	Up to R5bn per annum, unlimited total contract value	Exceeding R5bn per annum and unlimited total contract value
Approval Authority →	Limit per Annum per contract up to but not exceeding 5 years	GLT Member Limit per Annum per contract up to but not exceeding 5 years	CFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Specialist Units	Up to but not exceeding R1bn for the total contract	Up to but not exceeding R50m	Up to but not exceeding R2.5bn for the total contract	Up to R4.5bn for the total contract	Up to R5bn per annum, unlimited total contract value	Exceeding R5bn per annum and unlimited total contract value

- Integrated customer agreements where a service incorporates more than one division must be signed off by the Chief Legal Counsel, CFO and the CBDO in addition to sign off by the CE: OD/SUs, up to but not exceeding revenue of R500m per annum not exceeding 5 years.
- If the contract period is below 12 months the contract value is to be annualised and the delegated authority required to approve the transaction will be determined by the annualised amount
- All limits indicated above are exclusive of VAT.
- Board approval is required if the annual value of the contract exceeds R5bn.

5.5.3 Entering into and/or Signing of Revenue Contracts/Agreements and authority to issue binding quotes internationally including cross border contracts: (excluding lease contracts and the sale of scrap)

Approval Authority →	COO and COAM Limit per Annum per contract up to but not exceeding 5 years	CBDO Limit per Annum per contract up to but not exceeding 5 years	CFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and	Board Limit per Annum per contract and contracts exceeding 5 years

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					contracts exceeding 5 years	
Operating Divisions	Up to but not exceeding R1bn	Up to but not exceeding R1.75bn	Up to but not exceeding R1.2bn	Up to but not exceeding R2bn	Up to but not exceeding R4bn	Exceeding R4bn
Approval Authority →	GLT Members Limit per Annum per contract up to but not exceeding 3 years	GLT Members Limit per Annum per contract up to but not exceeding 5 years	CFO Limit per Annum per contract up to but not exceeding 5 years	GCE Limit per Annum per contract up to but not exceeding 5 years	Acquisitions and Disposals Committee Limit per Annum per contract and contracts exceeding 5 years	Board Limit per Annum per contract and contracts exceeding 5 years
Specialist Units	Up to but not exceeding R500m	Up to but not exceeding R750m	Up to but not exceeding 500m	Up to but not exceeding R2bn	Up to but not exceeding R4bn	Exceeding R4bn

5.5.4 **Internal Contracts**

Contracts between OD and/or SUs such as service level agreements and project specific agreements may be entered into between the respective GLT Members.

5.5.5 **Property and Lease Agreements**

All internal and external Property Lease Agreements including revenue generating leases and expenditure leases (excluding vacant land).

Approval Authority →	GLT Member	COO	CFO	GCE	Acquisitions and Disposals Committee
Operating Divisions	Up to but not exceeding R100m per lease per annum	Up to but not exceeding R200m annualised	Up to but not exceeding R200m full term	Up to but not exceeding R500m full term	Exceeding R500m full term
	Tenure not exceeding 5 years	Tenure not exceeding 10 years	Tenure not exceeding 10 years	Tenure exceeding 10 years	Tenure exceeding 15 years

- Tenders that include alienation/leasing out of land for a period longer than 5 years must be submitted to the GCE for approval prior to going out on tender or RFP.
- Cession of leases: All cession or assignment of Lease agreements shall be approved by the CFO or COO. For cession of leases at OD level, the CE of the respective OD/SU may approve cession or assignment of lease agreements.
- Cession of lease agreements, renewals and extensions of lease agreements with a change to material terms of the existing lease e.g. extension or shortening of the lease period, change of rental terms etc. may be approved in terms of the above limits i.e. where the original lease was approved in terms of the delegated authority above, changes of material terms to be approved by the same approval body.
- All external Lease Agreements (> 5 years) of properties on land/properties adjacent to other land/properties of ODs and/or belonging to Transnet Property, must be communicated and agreed with the relevant division/Transnet Property before entering into any Lease Agreements.
- All leases for vacant land may only be approved by the GCE with the above limits for the GCE applicable i.e. if the lease value exceeds R500m then Acquisitions and Disposals Committee approval is required. For the purposes of this transaction vacant land is considered to be undeveloped land.
- In cases where vacant land is leased out with its own rental premium applicable to it and a separate rental premium for improvements located on the portion of the same leased site, although part of one lease transaction – to the extent that the proposed lease has lettable vacant land, the GCE shall approve such lease transactions in line with his limits of authority as stated in the table above.
- Interdivisional leases for vacant land may be entered into and signed by the respective GLT Members.
- Leases for vacant land exclude the leasing in of land to be used for lay down areas and borrow pits for projects
- Special Delegation to apply to the CE of TNPA in compliance with the National Ports Act of 2005 as amended
- Internal leases between Transnet Property and the ODs/SUs may be signed by the CEs or GE's of the respective ODs/SUs
- Revenue Generating Leases: Lease agreements concluded by Transnet in its capacity as lessor for purposes of generating revenue.
- Expenditure Lease: Lease agreements concluded by Transnet in its capacity as a Lessee.
- Properties on DPE approved Transnet non-core list may only be leased out for a maximum period of 10 years Any leases of these non-core properties for longer than 10 years require s 54 (2) of the PFMA approval by the DPE.

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5.5.6 **Non-Disclosure Agreements**
Non-Disclosure Agreements can, with the authority to sub-delegate, be signed by the COO and may be sub-delegated to CE: OD provided there are no direct monetary obligations created for Transnet. Group Legal should vet all agreements.

5.5.7 **Memorandum of Understanding**
A Memorandum of Understanding must be signed by the GCE, with the authority to sub-delegate. The COO, CFO, COAM, CCRO and CBDO have full authority to implement any such transactions. Group Legal must recommend to the GLT member concerned.

5.6 **Legal Services**

NOTE: The provision of legal services must be in accordance with the Legal Policy. In respect of all litigation the bearer of the authority may, after taking legal advice from Group or Divisional Legal Services, as the case may be, execute all documents and do all things necessary to give effect to his/her authorisation including submission through governance structures.

5.6.1 **Commencing and settling any litigation, arbitration and other forms of Alternative Dispute Resolution**

Approval Authority →	GLT Member	COO	CCRO	CFO	GCE
Operating Divisions	Up to but not exceeding R2m	Up to but not exceeding R35m with concurrence of Chief Legal Counsel	Up to but not exceeding R50m	Up to but not exceeding R100m with concurrence of CCRO	Exceeding R100m

Approval limits are per litigation matter and relate to the settlement amount of that particular matter.

5.6.2 **Disputes with Government and matters posing a reputational risk to the Company**

Approval Authority →	Risk Committee	Board
	Matters which pose a reputational risk to the Company should be submitted for consideration.	Any disputes with government entities or where the outcome of any litigation, arbitration or similar proceedings is likely to have a material effect on the business, financial condition or prospects of the Company

5.6.3 **Defending matters in court or any other competent forum**

Approval Authority →	Legal Manager
	Defending subject to the Legal Policy, any litigation (actions or applications) in court or any other competent forum, including the appointment of attorneys and/or advocates for such proceedings

NOTE: the Standard Operating Procedures for Litigation Matters prescribes the following:

- Upon receipt of instructions, the Legal Advisor must ascertain from the facts of the case and in law whether:
  - Transnet has legal grounds to pursue litigation and whether it would be financially viable to pursue litigation bearing in mind the quantum of the matter and the costs of pursuing the matter.
  - It would be more advisable to settle the matter.
  - There is any reputational or other risk to Transnet in proceeding with the litigation
  - Whether there is any precedence that needs to be created by the company for future similar matters
  - Should the Legal Advisor be satisfied that, on the facts presented, Transnet should institute legal action, the Legal Advisor must submit a written request to the person duly authorised, in terms of the Delegations of Authority Framework, for approval:

- To institute litigation on behalf or Transnet; and
- To appoint an external attorney from the Transnet approved panel of attorneys

5.6.4 **Subject to the Legal Policy, the appointment of external advisors, attorneys, advocates and any other external legal advisors including adjudicators, mediators, arbitrators for purposes of alternative dispute resolution process under NEC3 contracts or any other contract.**

Approval Authority →	COO	CCRO	GCE
OPERATING DIVISION	Up to but not exceeding R35m	Up to but not exceeding R50m	Exceeding R50m
	GLT Members	CCRO	GCE
Specialist Units GEs and Heads of Legal	Up to but not exceeding R10m	Up to but not exceeding R50m	Exceeding R50m

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- The amounts indicated relate to the claim amount in the case of commencing litigation, and the estimated legal fees to be charged in all other matters.

5.6.5 Pleading to criminal charges and payment of penalties imposed by Regulators and Government Departments.

Approval Authority →	COO	CCRO	GCE
OPERATING DIVISION	Up to but not exceeding R35m	Up to but not exceeding R50m	Exceeding R50m
	GLT Members	CCRO	GCE
Specialist Units GEs and Heads of Legal	Up to but not exceeding R15m	Up to but not exceeding R50m	Exceeding R50m

- The amounts indicated relate to the amount of fine or penalty competent or imposed against the Company.

5.7 Human Resources

INTRODUCTION

The Delegation of Authority for Human Resources provides for controls and good governance in the following areas:

- Organisation Management
- Personnel Appointments and Remuneration
- Appointment of Fixed Term Contract Employees
- Interim / Ad hoc Remuneration Adjustments
- Rewards / Awards / Exceptional Payments / *Ex-gratia* Awards
- Suspension of Employees
- Dismissal of Employees
- Mutual Separation Agreements
- Collective Bargaining and Trade Union Recognition
- Deviation from approved Human Resources Policies

PRINCIPLES

1. Any approval in the Human Resources environment must be obtained from a manager who is at least one hierarchical reporting level higher than the employee for whom authorisation is required
2. When acting in a higher capacity, decision for own portfolio or department that will ordinarily be recommended by the acting Incumbent must be referred to one level higher.
3. Where an incumbent acts in a higher position, the full powers of delegation of the position in which the person is acting, may be transferred to the acting incumbent. The incumbent's immediate line manager must agree to the appointment of the acting person. The powers delegated to the person acting must be clearly set out in a written document and the person delegated the powers must sign written acceptance of the powers.
4. Each OD/SU may implement stricter delegations and increase the level of authority above those set out in the document. Any such change must be in writing.
5. The HR delegations contained herein cannot be sub-delegated except when delegating to an acting incumbent acting in the roles specified therein.
6. Board recommendation and approval is required for the appointment and remuneration of the GCE and CFO
7. The Remuneration, Social and Ethics Committee (REMSEC) provides final approval for the annual reward allocation including the salary mandate.

All matters relating to the position of the GCE and CFO are reserved for the Board and Shareholder Minister in line with the Company's governing legislation and mandates.

ABBREVIATIONS

The abbreviations used in the Human Resources Delegation of Authority are set out in the table below:

FA	Final Approval
FA:CC	Final Approval for Corporate Centre
FA:OD	Final Approval for Operating Division

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R	Recommendation
R:OD	Recommendation by Operating Division
A	Has provided advice
A:OD.	Advice provided by Operating Division
C	Consultation
N	Noting
I	Initiation
CHRO	Chief Human Resources Officer
GLT Member, CE, GE	Group Leadership Member, Chief Executive of OD or relevant Group Executive
GM: HR,TT	General Manager: Human Resources, Talent and Transformation
GM:HR,CC	General Manager: Human Resources, Corporate Centre
GM. LR	General Manager: Labour Relations
OD HR: GM	General Manager: Human Resources at the Operating Division
LM: GM	Line Management - General Manager

The table below sets out the delegation framework for Human Resources.

1			Organisation Management: Creation of New Positions / Change in Positions / Restructuring/Change of organisational structure • No permanent or fixed term contract position can be created or the grade level changed unless the approved Organisation Management governance was followed in respect of the evaluation of positions and ratification of grade levels.							
HUMAN RESOURCES		Shareholder	Board	REMSEC	GCE	CHRO	GLT Member	CE:OD/SU	OD HR GM & OD COO	LM:GM
1.1	GLT (A Level) Executive Directors	FA	R							
1.2	GLT and Group Executives A Level		N	C	FA	R				
1.3	General Managers (B Level)				FA	R	R	I	I	
1.4	Executive Managers (C Level)						*FA	R	R	I .
1.5	Senior Management (D Level)							R	R	FA
1.6	E Level and below					R	I	A	FA	

*This approval applies only to TCC positions

2		Personnel Remuneration • The REMSEC reviews the GCE's assessment of performance. The remuneration of the abovementioned category of employees shall be based on the Remuneration Policy. • The appointment and remuneration of all management level employees (levels A to F) will be guided by the Guidelines and Salary Bands issued by the Group Remuneration Office. These Guidelines and Salary Bands will take into account the occupational specific categories. • For managers in levels A and B the Group Remuneration Office will recommend the appropriate remuneration bands based on market information and internal parity. Approval of the final appointment and remuneration package will be in terms of the delegations below. • Each OD will apply the Guidelines and Salary Bands when appointing and structuring the packages of management employees in levels C and below. Approval of the final appointment and remuneration package will be in terms of the delegations below • After salary adjustments and before a mandate is sought for the next financial year, the Group Remuneration Office will conduct a comparative analysis of salaries across ODs to inform the Group Guidelines and Salary Bands of managers for the new financial year. Affordability and the need for internal and external parity will inform these guidelines.							
HUMAN RESOURCES		Shareholder	Board	REMSEC & CORP GOV	GCE	CHRO	GLT Member	CE:OD/SU	Line GM	ODHR GM
2.1	GLT (A Level) Executive Directors	FA	R	C		I .				
2.2	GLT and Group Executives (A Level)			C	*FA	R				
2.3	General Managers (B Level)				FA	R	R			
2.4	Executive Managers (C Level)					A	**FA	FA	R	R
2.5	Senior Manager (D Level and below)						**FA		FA	R

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* The proposed remuneration for GLT Members (other than executive directors) will be noted by the Remuneration, Social and Ethics Committee.
** This approval only applies to TC

3	Appointment of Employees (Indefinite Contract and Fixed-Term Contract Employees) • A person appointed on an indefinite contract or fixed-term contract (for a specific period of time or to perform a specific project) must be appointed into an approved graded position. • Once the appointment has been approved, the person delegated to approve the appointment may sub-delegate the signing of the contract of employment. • Any appointment of a person on an indefinite or fixed term contract for employment outside of the borders of South Africa must be approved by the Group Chief Executive on recommendation from the Chief Executive of the Operating Division or the Group Executive of Human Resources for Transnet Corporate Centre, including Transnet property and Transnet Capital Projects								
HUMAN RESOURCES	Shareholder Approval	Board	REMSEC & CORP GOV	GCE	CHRO	GLT Member	CE:OD/SU GE	OD/SU HR GM	LM: GM
3.1 GLT (A Level) Executive Directors	FA	R	C						
3.2 GLT and Group Executives (A Level)			C	FA	R				
3.3 General Managers (B Level)					R	*FA		R	
3.4 Executive Managers (C Level)						**FA	FA	R	I
3.5 Senior Management (D Level and below)								R	FA
3.6 Manager (E Level and below)								R	FA
3.7 Bargaining Unit								R	FA

* The Chairpersons of Remuneration, Social and Ethics and the Corporate Governance and Nominations Committees will be consulted by the GCE for the appointment of GLT Members (other than executive directors) The *consultation* will be through a memorandum submitted to the Chairpersons of the Committees
* The appointment of General Managers will be noted by the GLT
** This approval only applies to TCC positions.

4		Counter Offers If an employee produces a written and current counter offer of employment with details of the remuneration package, and the Company seeks to retain the employee based on the criticality of the employee's skill, an interim adjustment of the employee's current remuneration package may be offered in terms of the delegations below. Any counter offer must be in accordance with the Group Guidelines and Salary Bands issued by Group Remuneration.								
HUMAN RESOURCES	Shareholder	Board	REMSEC & Corp Gov	GCE	CHRO	GLT Member	CE:OD/SUGE	OD/HR GM	GM:HR,IT	LM:GM
4.1 GLT (A Level) Executive Directors	FA	R	C							
4.2 GLT and Group Executives (A Level)				FA	R				R	
4.3 General Managers (B Level)					R	FA	I	I	R	
4.4 Executive Managers (C Level)							FA	R	R	I
4.5 Senior Management (D to Level F)								FA	R	I
4.6 Bargaining Level employees (in accordance with the applicable Collective Agreement)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

5	Interim Salary Adjustments • Any interim adjustments, including requests for adjustments related to lateral transfers, requires the approval of the GCE Any counteroffers must be noted by the GLT.
6	*Internal Rewards / Awards / Exceptional Payments / Ex-gratia Awards* *The amounts reflected below are per initiative (not per individual employee payment) per annum*

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HUMAN RESOURCES	Board	REMSEC	GCE	CHRO	GLT Member	HR GM	GM: HR,TT	CE:ODs	GM Line Manager
6.1 R15m and above	FA	R	R	I			R		
6.2 Between R10m but not exceeding R15m		FA	R	I					
6.3 Between R5 000 but not exceeding R10m			FA	R	R	I	I		
6.4 Between R20 000 but not exceeding R5 000					FA	R	R		I
6.5 Up to but not exceeding R20 000						R	R	FA	I
6.6 Up to but not exceeding R10 000						FA	A		R

7	Suspension of Employees • The suspension of all employees is per the delegations of authority below • In the case of the suspension of a bargaining unit employee, the relevant OD Employee Relations Manager must recommend the suspension based on the merits of the case • OD:CE's final approval for levels D to F can be sub-delegated to GM:LR and OD HR:GM.

HUMAN RESOURCES	Shareholder	Board	REMSEC & Corp Gov	GCE	CHRO	GLT Member	OD/SU HR GM	GM: LR	LM: GM	LM	LR Manager
7.1 GLT (A Level Executive Directors)	FA	R	C								
7.2 GLT and Group Executives (A Level excluding executive directors)			N	FA	R	R			R		
7.3 General Managers (B Level)				N	R	FA		R			
7.4 Executive Managers (C Level)						FA	R	A	R		
7.5 Senior Management (D to F Level)							R		FA	R	A
7.5 Bargaining Unit Employees							A			FA	R

8	Dismissal of Employees • The dismissal of any employee for reasons of discipline or incapacity must be preceded by a fair hearing process in line with Company policies • The required authority to seek a dismissal of an employee at a disciplinary or incapacity hearing must be obtained prior to the hearing • The dismissal of an employee for operational requirements must be preceded by a fair consultation process • OD: CE's final approval for levels D to F can be sub-delegated to GM:LR and OD HR:GM.

HUMAN RESOURCES	Shareholder	Board	REMSEC	GCE	CHRO	OD/SU CE/GE	GLT Member	GM: LR	LM: GM	LM	LR Manager
8.1 Group A Level Executive Directors	FA	R	N								
8.2 GLT and Group Executives (A Level excluding executive directors)		A	N	FA	R			I			
8.3 General Managers (B Level)				FA	R		R	I			
8.4 Executive Managers (C Level)					C	F	FA	R:CE	R	I	C
8.5 Senior Management (D to F Level)						FA	R		A	R	R
8.6 Bargaining Unit Employees										FA	R

9	Mutual Separation • Terms and conditions and financial settlement amounts of mutual separation agreements for A – D Roles will be guided by the Guidelines issued by the Group Remuneration Office.

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HUMAN RESOURCES	Shareholder	Board	REMSEC	GCE	CHRO	GLT Member	OD/SU HR GM/CE/GE	GM:HR,CC	GM:LR	LM:GM
9.1 GLT (A Level) Executive Directors	FA	R								
9.2 GLT and Group Executives (A Level)			R	FA	R					
9.3 General Managers (B Level)				FA	R	R				
9.4 Executive Managers (C Level and below)						FA	R		R	I

13	Settlement of Legal Disputes of Employees and Arbitration • The settlement of labour disputes at a disciplinary hearing at the Transnet Bargaining Council, the CCMA, the Labour Court or High Court is subject to approvals in terms of the delegations below. • OD CE could do final approval for Levels D to F.

HUMAN RESOURCES	Shareholder	Board	GCE	CHRO	GLT Member	OD HR GM	GM: LR	GM Line Manager	LR Manager
13.1 GLT (A Level) Executive Directors	FA	R							
13.2 GLT and Group Executives (A Level excluding Executive Directors)		R	FA	R			A		
13.3 General Managers (B Level)			FA	R	R		A		
13.4 Executive Managers (C Level)					FA	R	A	R	A
13.5 Management (D Levels and below)						FA		R	A
13.6 Bargaining Unit Employees				FA					I

11	Collective Bargaining and Trade Union Recognition • Collective agreements shall only be concluded where a collective agreement as required by law. • Shift patterns and working arrangements are matters for consultation and not collective agreement.

HUMAN RESOURCES	REMSEC	GCE	CHRO	GLT Member	OD HR GM	GM LR	LM:GM
11.1 Conclusion of any Collective Agreements with Labour excluding shift patterns and matters for consultation			FA	R	R	A	
11.2 Mandate for salary and wage negotiations	FA	R	R			A	
11.3 Recognition of Trade Union and Signing of Recognition Agreement	A	N	FA			A	

12	Recommendations on Human Capital Risks					
	Board	Risk Committee	Corp Gov	REMSEC	GCE	CHRO
	N	N	A	C	FA	I

13	Deviation from approved Human Resources Policies and recommendation of policies

HUMAN RESOURCES	Risk Committee	REMSEC	HR Leadership Team	GCE	CHRO	GLT Member	OD HR GM	GM: LR
13.1 Any deviation from a Transnet HR Policy		N		FA	R	R	R	A
13.2 Approval of HR policies		N	FA		R			A

5.6 General Delegations

5.6.1 Chartering of Aircraft

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Authority Level	GLT Member	COO	CFO	GCE
Chartering of Aircraft	NIL	Up to but not exceeding R5m	Up to but not exceeding R3 m	Exceeding R3 m
Chartering of helicopters for operations	R250 000*	Up to but not exceeding R1m	Up to but not exceeding R1 m	Exceeding R1 m

* The limits for CE: ODs' GE: SUs are cumulative per helicopter per month.

5.8.2 Mobile phones: Authorising payments exceeding monthly limits (reflected in mobile phone contract)

Companywide	GLT Member	CFO	GCE
	Up to but not exceeding R15 000 per month	Up to but not exceeding R20 000 per month	Exceeding R20 000 per month

5.8.3 Entertainment Expenditure

Authority Level	GLT Member	GCE
	Up to but not exceeding R50 000 per occasion	Amounts exceeding R50 000 per occasion

Costs incurred by any person on behalf of the Company must be authorised by that person's superior and must be within the approved budgetary limits. Supporting documentation should be marked cancelled to prevent re-use thereof. All entertainment expenses must be business related expenses

5.8.4 Rewards/Awards/Exceptional Payments to external parties: (Examples: Ex-gratia awards, exceptional performance, recognition payments)

	COO and COAM	CFO	GCE	REMSEC	Board
Operating Divisions	Up to but not exceeding R100 000	Up to but not exceeding R100 000	Up to but not exceeding R5m	Up to but not exceeding R10m	Exceeding R10m
	GLT Member	CFO	GCE	REMSEC	Board
Specialist units	Up to but not exceeding R100 000	Up to but not exceeding R100 000	Up to but not exceeding R5m	Up to but not exceeding R10m	Exceeding R10m

5.8.5 Sponsorships and Donations

Approval Authority →	COO and COAM	CFO	GCE	REMSEC	Board
Operating Divisions	Up to but not exceeding R10m	Up to but not exceeding R7m	Up to but not exceeding R20m	Up to but not exceeding R25m	Exceeding R25m
Approval Authority →	GLT Member	CFO	GCE	REMSEC	Board
Specialist Units	Up to but not exceeding R2m	Up to but not exceeding R7m	Up to but not exceeding R20m	Up to but not exceeding R25m	Exceeding R25m

Approval limits are cumulative per annum e.g. the COO can approve a total amount of R10m per annum for sponsorships and donations

5.8.6 Annual filing of tariff applications with Regulators

- OD tariff increase applications to be submitted to GLT for approval
- The COO in concurrence with the CFO are delegated to file the Tariffs applications with relevant Regulatory bodies

5.8.7 International Business Travel (including travel to African countries)

	Approval Authority
Below CE CO level in Operating Division	COO
CE:OD	COO
Corporate Centre	CFO
Specialist Units	COO/CCO
GLT Members and Group Executives	GCE
Travel to African Countries	GE Strategy, CCO and COAM
GCE and Chairperson	User – Retrospective review by GCE or Chairperson and vice versa

Business benefits, analysis and purpose to be demonstrated in the application to the respective approval authority
Post travel a report back on the achievement of the above to be submitted to the respective approval authority

5.8.8 Domestic Business Travel

	Approval Authority
Chairperson/GCE/GLT Member	User
CE: CO or GE of Specialist Unit	COO
General Managers/Extended GLT	CE:COI, or CFO:OD/SU or Group Executive
All other levels	General Managers/Extended GLT

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All travel must be in line with the approved Travel Policy as amended in accordance with the provisions of National Treasury Instruction Note 1 of 2013/14. Extended GLT Members at an OD/SU may sub-delegate to the appropriate lower level

5.8.9 Communication

	Approval Authority
External communication on strategy and operations	GM: Public and Corporate Affairs or GCE or his Designate
Communication on operational issues relating to an OD	COO, COAM and CE of OD
Communication with the Shareholder Minister	Office of the GCE or Chairperson of the Board of Directors

Approval to attend seminars and or conduct presentations to external parties which may result in indirect communication may be approved by a CE: OD/SU or the GCE.

5.8.10 Establishment of Special Purpose Vehicles (SPVs), Public Private Partnerships (PPPs), Private Sector Participation (PSP) and Trusts

	Approval Authority	
Establishment of SPVs PPPs, PSPs and Trusts	Board to approve after recommendation by ADC, the GCE, CFO GE: Legal and Compliance as per the Materiality and Significance Framework contained in the Compact with the Shareholder if the transaction is specified in the Corporate Plan If not specified in the Corporate Plan then Board may approve the transaction up to but not exceeding capital risk of R100m. Capital risk in excess of R100m are to be recommended by the Board for Shareholder approval.	
	CBDO, COO,COAM and GE: Strategy	GCE
Commencement of due diligence/ feasibility studies for PSPs PPPs and SPVs	Up to but not exceeding R5m for the study	Exceeding R5m for the study

The Company shall not without the prior written approval of the Shareholder Minister enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the Significance and Materiality Framework.

5.8.11 Establishment of Joint Ventures or Consortia with Entities Incorporated in foreign jurisdictions
To be read in conjunction with 5.8.10 above.

	Approval Authority
Establishment of Joint Ventures or Consortia with Entities incorporated in foreign jurisdictions	Approval to enter into an agreement or other binding document establishing a joint venture or consortium with an entity incorporated in foreign jurisdiction requires approval from the Shareholder Minister on recommendation from the Board and in addition, if it also contains foreign currency exposure, approval must be sought and obtained as per the monetary thresholds indicated in the second bullet under Item 5.5.1.2 above. If capital risk is R100m or below, Board approval is required as per the Materiality and Significance Framework contained in the Compact with the Shareholder. Capital risk in excess of R100m for this transaction are to be recommended by the Board of Directors for approval by the Shareholder.

The Company shall not without the prior written approval of the Shareholder Minister enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the Significance and Materiality Framework ("SMF")

5.8.12 Restructuring and sale of business

	Approval Authority
Restructuring or sale of business	Board in accordance with Section 54 of the PFMA

5.8.13 Pension Fund and Medical Fund Rule Amendments as recommended by the Board of Trustees of the Funds

	Approval Authority
Changes to the rules of the pension and medical fund that do not require Ministerial approval	CFO and GCE
Rule amendments that require Ministerial approval	Board to recommend to the Minister of Public Enterprises for approval

5.8.14 Application for Environmental Authorisation

- All environmental impact assessment or basic assessment applications must be prepared by a competent independent environmental assessment practitioner/consultant, unless exemption from this provision has been obtained in writing by the Department of Environmental Affairs and under the supervision of the Environmental Department in the OD SU
- The application for environmental authorisation must be signed as per the approval authority below

	Approval authority to act as applicant for an environmental authorisation for Transnet SOC Ltd
Operating Division	Project Manager Operations Manager/Environmental Manager

0058-0374-0001-0618

Specialist Unit (Transnet Property)	Chief Operations Officer of Property
Specialist Unit (Transnet Capital Projects)	Project Director

- The applicant remains legally responsible for the compliance with the environmental authorisation throughout the implementation of the authorisation.
- Should an authorisation for new capital projects contain operational elements after formal handover of the project by TCP, the DEA needs to be informed in writing of the change in names and acknowledgement from DEA be filed.
- Should any of the above applicants leave the Company, the DEA needs to be informed in writing of the new person responsible for the implementation of the environmental authorisation.

5.8.15 Application for Liquor Licences (all types)

	Approval authority to act as applicant for application for liquor licences for Transnet SOC Ltd
Operating Division	COO/COAM
Specialist Unit (Transnet Property and Transnet Capital Projects and Foundation)	GLT Member or COO
Corporate Centre	CFO

5.8.16 Company Membership of Industry Associations or International Organisations

Approval Authority	GLT Member	GCE	Remunerations, Social and Ethics Committee
	Up to but not exceeding R5m	Between R5m and R20m	Above R20m.

The relevance of such membership shall be reviewed annually by the COO

5.8.17 Enterprise Information Management Systems (EIMS) Governance Framework and Charter

The CIO is delegated to approve exemptions to the Framework.

5.8.18 Recommendation on Board-approved Policies

Deviation from Policy	Board	Audit	Risk	ASC	Corporate Governance and Nominations Committee	PEMSEC	GLT
Governance and Ethics Management Policies	FA				R	R	
HR related (succession planning excluding executive directors)						FA	R
HR related (succession planning for executive and)	R				R		R
HR related (performance management)						FA	R
Procurement related	FA			R			R
Property related				FA			R
Risk related			FAR				R
Treasury Related		FA					R
Tax related		FA					R
CS related	FA					R	
Compliance related	FA	R					
Marketing and Advertising	FA					R	
Sustainability (Energy and Water)						FA	R
B-BBEE	FA					R	
FSP	FA			R			
Financial Policy with insurance		N	FA				R

NEK