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# **EXHIBIT MM 1**

**PIETER JOHANNES  
PRETORIUS**



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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**STATEMENT**

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I, the undersigned,

**PIETER JOHANNES PRETORIUS**

do hereby say:

- 1 I am an adult male, with identity number 6210215094086. I am employed by Eskom as the Acting General Manager: Strategic Marketing and Branding. My work address is situated at Eskom Megawatt Park, 1 Maxwell Drive, Sunninghill, Sandton.
- 2 The facts to which I depose are within my personal knowledge except where it is apparent from the context that they are not, and are both true and correct.

**THE PURPOSE OF THIS AFFIDAVIT**

- 3 This affidavit provides my account of Eskom's business relationship with TNA Media (Pty) Ltd ("TNA").
- 4 TNA was a media company, which published The New Age newspaper ("TNA newspaper"), and hosted business breakfasts at which South Africa's political,

business and sport leaders spoke. These business breakfasts were sponsored by various state-owned companies, and were broadcast by the SABC on the Morning Live programme on SABC 2.

5 Eskom was one of the sponsors of business breakfasts. Eskom also purchased advertising space in TNA newspapers.

6 In this affidavit, I do the following:

6.1 First, I describe the proper processes by which sponsorship and media buying ought to have occurred at Eskom, with a focus on:

6.1.1 Media buying through agencies in general, and Eskom's appointed agency, The Media Shop, in particular; and

6.1.2 Eskom's sponsorship policy.

6.2 Second, I describe the chronology of events that led to the conclusion of three consecutive contracts for the sponsorship by Eskom of TNA business breakfasts and advertising in TNA newspapers, and detail my concerns with the lack of value and the failure to comply with proper processes.

6.3 Third, I tabulate the total amount spent by Eskom under its contracts with TNA.

6.4 Lastly, I address the responses that Eskom has provided to parliamentary questions and the Public Protector.



## ESKOM'S SPONSORSHIP, ADVERTISING AND MARKETING PROCESSES

### ***Media buying through agencies***

- 7 I am responsible for strategic marketing at Eskom.
- 8 Simply put, strategic marketing is marketing that is related to a cause within the business. When Eskom has a strategic initiative, it will run a campaign to drive that initiative, and a component of the campaign will be a marketing drive. This distinguishes strategic marketing from the marketing of goods and services in other companies. It is driven, in the first instance, by a cause, rather than by a desire to increase sales.
- 9 Eskom uses agencies for its strategic marketing. It has appointed various agencies at different points in time, pursuant to procurement processes. Agencies are appointed in order to enter into contracts with media owners on Eskom's behalf.
- 10 Agencies are used so that Eskom does not itself need to enter into individual contracts for every newspaper, radio station or billboard advertisement. Placing advertisements often happens on an *ad hoc* and urgent basis. In the absence of an agency, Eskom would need to run a cumbersome new procurement process for each and every advertisement. Instead, the agency is given a mandate value (the total that may be spent), which is determined by the Eskom Tender Committee, and its actual spend is then determined by the budget that is allocated at the beginning of each financial year. Media agencies work either on the basis of a commission or a fee.

- 11 Strategic marketing begins with a business problem. That is, a problem is identified within the business for which a solution is needed. Amongst the solutions might be a marketing solution.
- 12 Once a problem is identified within the business, and marketing is identified as a means to address it, the strategic marketing team prepares a briefing document explaining the objectives, the background information, the target audience and so on – and provides this to the agency.
- 13 The agency then carries out the necessary market research, analyses the problem, and advises Eskom on how it can best secure its messaging effectively – based on the campaign, what it seeks to achieve, and who it seeks to reach. This process is intensely research-driven. The agency might, for example, identify the LSM group into which the target market falls and determine the appropriate media on that basis. Or it might use Target Group Index (“TGI”), which provides information on consumer demographics, behaviour, product and brand usage.
- 14 On the basis of the briefing document, and in consultation with Eskom, the agency develops a “core creative idea”. An example of such an idea, which is particularly relevant to this affidavit, is the 49M campaign – a marketing and business initiative, which created awareness about energy efficiency and encouraged all South Africans to adopt energy efficient practices. It was initiated as a result of the shortage of electricity supply in the country, as against the high demand.
- 15 If Eskom agrees to the core creative idea, then it is developed by the agency into a strategy. The strategy will include a proposal plan, which suggests the

specific media (publications, TV channels, radio station, and billboards for example), and a purchasing plan, which specifies details such as time slots, discounts, commissions and other cost implications.

- 16 These plans are taken to Exco as a firm proposal of what the Strategic Marketing Department intends to do, and, if Exco approves them, they can then be executed and a purchase order can be created on SAP and sent to the agency.
- 17 Throughout this process, two factors feature particularly importantly for Eskom: frequency and reach. Eskom needs to be sure that it connects with as many people in the identified target market as possible, and that it does so regularly.
- 18 The process described above has three important implications, which – as I detail later in this affidavit – are relevant to Eskom's relationship with TNA.
- 19 The first implication is that, generally speaking, the Eskom strategic marketing team would be sceptical about entering into any long-term contract, or spending a significant sum of money, on a new publication with unproven reach. One requirement upon which Eskom ordinarily insists is that any proposed newspaper has an Accredited Bureau of Circulation ("ABC") certification, which certifies the circulation of the particular newspaper. While we may be willing to conclude smaller, or shorter-term contracts with lesser known entities in order to give them an opportunity, it is ordinarily subject to a requirement that they obtain the necessary accreditation before the contract is renewed or extended.
- 20 The second implication is that Eskom does not generally deal directly with media owners. When I am contacted by a media owner with a proposal, I refer

them to the media buying agency. I do so because the proposal must be business driven, and must respond to a properly conceptualised business problem of Eskom. I do so also because it is the agency, and not Eskom, that has the expertise, the resources and the data to determine the suitability of the proposed medium, its effectiveness at reaching the target market, and the like.

- 21 The third implication is that if Eskom does not do media buying through an agency, then it is required to follow a proper procurement process.
- 22 For the period 2012 to 2015, Eskom's third-party media buying agency was The Media Shop. The agreement between Eskom and The Media Shop, which I attach marked "PP1", covered all media buying at Eskom. The Media Shop was contracted to negotiate and purchase media space and to contract with all media houses on Eskom's behalf.

### ***Sponsorship***

- 23 Eskom regards sponsorships as commercial agreements between Eskom, as the sponsor, and the sponsored party. A sponsorship is a form of marketing communications where financial or other support is given to an organisation, entity or event, in return for rights to use the sponsor's name and logo in connection with a sponsored organisation, activity or event, in order to obtain specific communication and sponsorship objectives promote the association and/or granting of certain agreed direct or indirect benefits.

### **Eskom's Sponsorship Policy**

- 24 I attach Eskom's sponsorship policy marked "PP2". Eskom's sponsorship policy objectives are to ensure that sponsorship programmes:

- 24.1 are aligned with Eskom's strategic business objectives;
  - 24.2 contribute to an increase in Eskom's brand equity as a company and/or that of its other brands (such as 49M);
  - 24.3 yield a tangible return on investment; and
  - 24.4 are clearly distinguished from stakeholder relations initiatives, donations, grants and corporate social investment programmes.
- 25 In terms of the Sponsorship Policy, initiatives should only be considered if they meet at least 5 or more of the following specific objectives:
- 25.1 reposition the Eskom brand in support of the organization's strategic intent;
  - 25.2 demonstrate global and continental (African) commitment and involvement;
  - 25.3 provide an opportunity to increase market share;
  - 25.4 provide an opportunity to enhance stakeholder relationships, goodwill and loyalty;
  - 25.5 enhance shareholder value;
  - 25.6 enhance customer value;
  - 25.7 create platforms to form strategic alliances with existing and potential partners; and
  - 25.8 instil organisational pride.
- 26 The selection criteria for sponsorships are as follows:
- 26.1 Primary selection criteria weighting - 70% weighting:



- 26.1.1 World class international appeal and participation (image compatibility);
- 26.1.2 African passion and priority (relevance);
- 26.1.3 Ability to secure free television coverage in main markets;
- 26.1.4 Partners must be able to deliver (resources and experience – track record of success);
- 26.1.5 Affordability of property and cost to leverage (price vs value);
- 26.2 Secondary Selection Criteria - 30% weighting:
  - 26.2.1 Ease of administration;
  - 26.2.2 Sponsorship clutter eliminated;
  - 26.2.3 Ability to leverage and integrate into overall communication mix;
  - 26.2.4 Measurability;
  - 26.2.5 Meaningful (put back into the community as well).
- 27 Sponsorships that meet the above selection criteria are presented to the Sponsorship Committee for final approval.
- 28 Only once sponsorships have been approved by the Sponsorship Committee are contracts then entered into between Eskom and the relevant organization. The sponsorship contract will determine the deliverables and payment terms.



## BACKGROUND TO THE NEW AGE PROPOSAL

### ***Approaches made by The New Age to Eskom***

- 29 I first became aware of an approach to Eskom by TNA on 22 March 2011, when Mr Jacques Roux of TNA sent a meeting request to Mr Chose Choeu, the then Divisional Executive for Corporate Affairs. Mr Choeu, in turn, forwarded the request to Ms Ra'eesah Waja, the General Manager for Corporate Communication, copying me, in which he said *"Please find the time to meet with Jacques Roux – preferably some time this week"*. I attach this correspondence marked "PP3".
- 30 I am not certain of Mr Roux's position at TNA, but his email was sent from an "@jic" email, which I understand to be a reference to JIC Mining Services – a subsidiary of Tegeta Exploration and Resources.
- 31 Attached to the email from Mr Roux was a proposal from TNA for advertising space. The proposal indicated that TNA distributed 100 000 newspapers per day and was growing, promised to tell the positive and optimistic news about South Africa as much as the negative, and described its various marketing initiatives. It concluded by setting out the rates for advertising space in the newspaper.
- 32 I understand that the proposed meeting took place as scheduled, but I did not attend.
- 33 During September 2011, a TNA representative (whose name I do not recall) contacted John McArdle (who worked for me in the Strategic Marketing department, but is now retired) and myself to discuss a potential business



relationship between Eskom and TNA. We were requested both to support TNA's business breakfasts and to use the TNA newspaper for advertisements. Business breakfasts were events sponsored by state owned companies, at which Ministers would address an audience on matters within their portfolios, and which would be televised live on the Morning Live programme on SABC 2.

34 John McArdle arranged the meeting, and he and I both attended. At this meeting, I informed the TNA representative that Eskom does not generally support non-accredited publications, and that it is wary of new publications. I therefore indicated that we would be unable to sponsor the business breakfasts, but that we could, at most, support them with limited advertising spend (although I did not commit to any amount). Eskom had, in the past, provided similar limited support to new entrants – for example, by supporting Hot FM and other small community radio stations and newspapers.

35 I could see no real benefit to Eskom in the business breakfasts. I told Mr Choeu that, in my view, the TNA proposals were not cost-effective compared to other options in the marketing mix, and that we had in any event not received a formal proposal. My view was that it made no marketing sense either to sponsor the TNA business breakfasts, or to advertise in TNA newspapers, particularly because the newspaper did not have audited circulation figures (an issue which I address below). I was also of the view that the cost was too much in comparison with similar offerings. For example, Eskom had previously supported a business breakfast with the Mail & Guardian in Durban, for which it had paid in the region of R300 000, and where it received significant value for money through exposure.

10 

36 When I raised these concerns with Mr Choeu, he told me that the instruction to conclude the contract with TNA had come to him directly from Mr Brian Dames (then the Eskom CEO) and the Minister of Public Enterprises, Mr Malusi Gigaba.

37 I also told Mr Choeu that it would be necessary for the proposal, because it was a sponsorship, to be taken to the Sponsorship Committee for approval. However, Mr Choeu told me that the contract needed to be concluded quickly, because Mr Gigaba had already been secured for the first breakfast on 12 April 2012. It was therefore decided that we should ask The Media Shop to do the negotiation and procurement of the media.

38 The instructions from Mr Choeu described above were always verbal. While I asked for these instructions to be given to me in writing, this never happened.

#### ***The first contract with TNA***

##### The conclusion of the first contract

39 On 20 March 2012, Mr Choeu emailed me asking me to meet with Mr Roux, in order to “close the deal” on the TNA 49M business breakfasts “as part of the Minister’s National Campaign”. In response, I asked Mr Roux to put together a sales proposal.

40 Mr Choeu sent another email on 21 March 2012, explaining that the Eskom-supported business breakfasts would be in support of, and should thus be tailored to, the 49M campaign – Eskom’s campaign aimed at alerting consumers on the most energy efficient methods to operate appliances, and how, in general, to reduce electricity use.

*Mr.*

- 41 For the first time in the correspondence, Mr Choeu copied the Gmail address of Mr Mzwandile Radebe, who worked in the office of the Minister of Public Enterprises.
- 42 I attach this chain of correspondence marked "PP4".
- 43 On 23 March 2012, Mr Roux came to Eskom's offices to see me. He informed me that the contract had to be concluded urgently, because TNA and the Department of Public Enterprises had already agreed that Minister Malusi Gigaba would speak at a business breakfast on 12 April 2012.
- 44 On 26 March 2012, Mr Roux emailed me a sponsorship budget request, which I immediately forwarded to Mr Donald Liphoko – then the Business Unit Director of The Media Shop. I informed Mr Liphoko that we wanted to conclude a formal contract with TNA, in terms of which there should be a clear segregation of duties: TNA should be responsible for selling tables, organising the event, the SABC broadcast, organising guest speakers and selling tables; and Eskom should be responsible for branding, guest lists, and providing guest speakers as appropriate.
- 45 The instruction to Mr Liphoko was that he should conclude the contract with TNA, and allocate the advertising spend to the various Eskom programmes.
- 46 The following day, Mr Liphoko responded indicating Mr Kheepe Moremi, (then my immediate superior, the General Manager of Strategic Marketing) had emphasised the importance of finalising the proposal, and had committed R10 million to TNA. The day after, Mr Liphoko put together a proposal document, which set out the advertising amounts to be spent per campaign on six business breakfasts.



47 I attach this chain of correspondence marked "PP5".

48 On 13 April 2012, the contract was concluded between The Media Shop and TNA. I attach the contract marked "PP6". It was signed by Ms Virginia Hollis on behalf of The Media Shop and by Mr Jacques Roux on behalf of TNA.

49 The contract comprised:

49.1 an advertising commitment, in terms of which Eskom committed to spend R4 000 000 during the period 1 April 2012 – 31 March 2013 with TNA Media in the form of advertising to be placed in TNA newspapers; and

49.2 an event sponsorship commitment, in terms of which Eskom committed to spend R7 185 628.74 to sponsor six TNA business breakfasts for the period 1 April 2012 – 31 March 2013.

50 The first breakfast took place on 12 April 2012, with Minister Malusi Gigaba as the guest speaker. I set out in the table below the other business breakfasts sponsored by Eskom, and the guest speaker at each.

Date	Guest Speaker	
12 April 2012	Malusi Gigaba	Sponsorship
17 May 2012	Jacob Zuma	Sponsorship
31 May 2012	Dipuo Peters	Sponsorship
31 July 2012	Ace Magashule	Sponsorship
3 September 2012	Susan Shabangu	Sponsorship
22 October 2012	SALGA - Thabo Manyoni	Sponsorship

51 There was, in fact, no budget within the strategic marketing department allocated for the breakfasts. I therefore used my departmental cost centre budget to finance the first three TNA breakfasts, which cost approximately R4 million.

52 But the use of my cost centre was not sustainable, and a budget needed to be sourced for the TNA sponsorships.

53 During May 2012, I prepared a document for additional funding, for presentation to the Eskom Investment and Finance Committee ("IFC"). I attach this submission marked "PP7". The primary purpose of the submission to IFC was to obtain an increase of the marketing budget for the 49M campaign. However, the submission also included a request for the sponsorship of six TNA business breakfasts, for which there had been no budget.

54 As far as I am aware, the IFC convened on 22 June 2012, and the R6 million budget request for business breakfasts was approved.

My concerns regarding lack of value and absence of proper process

55 The contract with TNA did not make any financial sense to me. I set out below the reasons that I say this.

56 First, there was very little value in what the business breakfasts provided to Eskom or to its 49M campaign.

56.1 In terms of clause 2 of the contract, the media exposure from the TNA agreements was said to include:

56.1.1 coverage on SABC2 Morning live between 07:00 to 09:00;



- 56.1.2 radio spots on SABC radio stations during the event;
  - 56.1.3 ten (10) advertisements in the TNA newspaper marketing the business breakfast and identifying Eskom as the sponsor;
  - 56.1.4 two (2) editorial pages with the Eskom logo reporting on the breakfast;
  - 56.1.5 two (2) tables of 10 guests at each breakfast;
  - 56.1.6 banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za);
  - 56.1.7 the use of social media;
  - 56.1.8 logos on invitations;
  - 56.1.9 six pull up banners at events;
  - 56.1.10 two guests at the main table; and
  - 56.1.11 a speech by an Eskom representative before the keynote address.
- 56.2 In my view, the value of these benefits was nowhere close to R1 million per breakfast.
- 56.3 The Ministers that spoke at the events bore little or no relation to Eskom, and said nothing about its 49M campaign. The focus of discussion was on an aspect of government policy related to the portfolio of the invited Minister. Therefore, if the Minister of Sport and Recreation was on the programme, the focus of the discussion would be on an aspect of sport and recreation. This did not benefit Eskom at all.
- 56.4 In addition, while an Eskom representative would be provided with a speaking opportunity at the event, as far as I am aware, this was always off





air. Speeches would be given by the editor of the New Age and by an Eskom representative in the period before the programme crossed over to broadcast. They were not aired on Morning Live.

56.5 As for the ten adverts in TNA, these were of meaningless value if TNA did not have circulation and readership – an issue I address below.

56.6 Moreover, some of the items described above were simply never provided. To the best of my knowledge, the radio segments never occurred, six pull up banners were not provided or displayed, and social media was not used to Eskom's benefit.

56.7 The only benefit to Eskom was the fact that the banner used as a backdrop had a 49M logo on it, together with the TNA logo, which provided some visibility to the 49M brand. 49M was, however, in its infancy at that stage, and without any explanation as to what it was, most people did not know what the logo referred to.

57 Second, the benefit of the brand visibility was questionable, because, while Morning Live had high viewership numbers, it did not necessarily target the audience that Eskom sought to reach with the 49M campaign.

57.1 It was important for Eskom, through its 49M campaign, to reach audiences in the higher LSMs, as these tend to be the people that are higher consumers of electricity. 49M was never intended to focus primarily on the lower LSM's, because they are not the highest consumers of electricity.

57.2 I attach marked "PP8" an audience profile of Morning Live conducted by The Media Shop, which demonstrates that, in 2012:

- 57.2.1 Morning Live had an average of 600 000 adults who viewed the program;
- 57.2.2 of the total viewership, only 28% of were in LSM 8-10, while the vast majority (72%) were in the lower LSM's;
- 57.2.3 half of the audience were not active "money earners"; and
- 57.2.4 only 21% of the audience were working adults.

58 Third, the cost that Eskom were being charged bore no relation to TNA's apparent overheads. It appeared that ticket sales alone – which cost R7 130 per table of 10 – would have covered the cost of the breakfast and the venue hire. I was aware that the SABC provided free broadcasting to TNA, so it incurred no broadcasting costs. It was therefore not clear to me where the R1 million that Eskom was paying per breakfast was going.

59 Fourth, as far as I am aware, TNA had never applied for and had never received accredited circulation figures from ABC.

59.1 This meant that, insofar as advertising in TNA newspapers was concerned, Eskom had no idea of its actual reach. It also meant that the apparent benefit of having a reporter from TNA present at the business breakfasts taking photographs and writing stories was unverifiable.

59.2 While TNA always claimed distribution numbers in the region of 100 000, it was well known that more than half of these were simply dropped off for free, in bulk, to various state owned entities. Therefore, in addition to the figures being unverified, Eskom could not determine with any confidence the actual level of interest in the publication.



59.3 According to the Media Shop, during 2013, TNA only reached 0.5% of the total population of LSM 6-10 – which was the primary target market for the 49M campaign.

59.4 Moreover, according to circulation and readership figures compiled by the Media Shop, daily newspapers had the following circulation and readership levels during 2012 (circulation figures did not exist for TNA and, for the reasons given above, the readership figures were inherently unreliable):

DAILY NEWSPAPERS	CIRCULATION JUL - SEPT '12	READERSHIP AMPS 2012BA	CPT - READERSHIP
Beeld	70 070.00	426 000.00	46.01
Die Burger	61 817.00	471 000.00	36.35
Business Day	35 828.00	68 000.00	276.47
Cape Argus	33 006.00	288 000.00	64.49
Cape Time	34 523.00	261 000.00	57.33
The Citizen	66 116.00	519 000.00	22.66
Daily Dispatch	26 390.00	237 000.00	41.52
Daily News	31 698.00	342 000.00	41.33
Daily Sun	336 319.00	5 669 000.00	6.60
Daily Voice	-	493 000.00	27.22
Diamond Fields Advertiser	9 557.00	76 000.00	52.66
The Herald	22 563.00	242 000.00	46.61
Isolezwe	107 628.00	867 000.00	10.89
The Mercury	30 040.00	237 000.00	50.79
The New Age	-	87 000.00	317.24
Pretoria News	19 235.00	147 000.00	58.80
Son	94 610.00	1 058 000.00	17.92
Sowetan	101 155.00	1 651 000.00	16.04
The Star	105 686.00	683 000.00	43.41
The Times	138 626.00	342 000.00	55.91
Volksblad	21 810.00	148 000.00	54.59
The Witness	18 374.00	118 000.00	71.05

60 I repeatedly raised these concerns with Mr Choeu. I explained that I did not see value in the arrangement, that Eskom was not deriving any benefit, and that I was not comfortable with the arrangement continuing. I was also of the view that the contract was concluded without following proper processes –

having never been presented to the Sponsorship or Corporate Affairs Division (“CAD”) Manco committees for approval.

61 If Eskom needed a business breakfast arrangement, and it was not going to go via the aforementioned committees, then it ought either to have gone out to tender, or Eskom should have approached The Media Shop to develop a strategy for such breakfasts. In the latter event, Eskom’s marketing team would have performed a proper evaluation of the proposals, and would have made a decision based on the best and most cost-effective proposal in support of its campaign objectives.

62 While my objections to the process were all raised verbally, I note that, on 9 July 2012, when Mr Moremi forwarded me correspondence between Mr Choeu and Ms Wiedaad Taliep of TNA regarding a proposal to purchase additional print advertising in TNA newspapers, I responded to Mr Moremi saying TNA lacked the following which Morning Live has, and that “[t]his is simply wrong”. I attach this correspondence marked “PP9”.

63 As I illustrate below, these flaws were repeated and exacerbated in the second and third contracts with TNA. As I result, I became ever less involved in the negotiation and execution of the contracts as time went by.

***The second contract with TNA***

64 Under the first contract, the payment term between TNA and The Media Shop was 45 days. However, TNA alleged that The Media Shop had been late on payment and threatened litigation.



- 64.1 I attach in this regard, marked "PP10", a letter from TNA's attorneys dated 10 September 2012 demanding overdue payment from The Media Shop.
- 64.2 I attach marked "PP11", the response from Mr Sean Clarke of The Media Shop dated 12 September 2012, in which he explains how the payment terms operate, and resists TNA's threatened litigation.
- 64.3 I attach marked "PP12", an email from Mr Clarke on 16 September 2012 appealing to Mr Choeu to intervene, and requesting that, because of Mr Choeu's "close relationship with The New Age", he should intervene to assist the parties to reach an amicable solution. Also attached is Mr Choeu's response of 18 September 2012, confirming that he had met with TNA, and that an amicable solution would soon be reached.
- 65 Mr Nazeem Howa of TNA was not satisfied with these payment terms. He therefore requested that the subsequent contract should be directly with Eskom, and not with The Media Shop. I explained verbally to Mr Howa that this would not be possible; if procurement of media did not take place through The Media Shop, it would have to go out to open tender.
- 66 As a compromise, Eskom was included as a counter-party to the contract together with The Media Shop.
- 67 The second contract was entered into between Eskom, TNA and The Media Shop on 5 November 2012. I was asked by Mr Choeu to sign the agreement on Eskom's behalf, but I refused on principle, because I did not believe Eskom should be entering into it. The contract was ultimately signed by Mr Choeu on behalf of Eskom, by Mr Howa on behalf of TNA and by Laiza Zikalala on behalf of The Media Shop. I attach the second contract marked "PP13".



68 The contract provided for the sponsorship of four further business breakfasts during the period 1 November 2012 to 31 March 2013 (i.e. it did not extend the contract period of the first contract), at a total cost of R4 million. This contract did not include an advertising component.

69 As with the first contract:

69.1 the instruction did not form part of a campaign, and no briefing document was compiled or given to The Media Shop;

69.2 the second contract had not been not budgeted for, and Mr Choeu instructed me to rework the general 49M budget, so that the additional business breakfasts could be included.

70 The business breakfasts under the second contract were as follows:

Date	Guest Speaker	
26 November 2012	Tina Joemat Pettersson	Sponsorship
14 December 2012	Jeff Radebe & Gwede Mantashe	Sponsorship
24 January 2013	Blade Nzimande	Sponsorship

71 In the end, Eskom sponsored a total of 9 breakfasts in the 2012/13 financial year.

#### ***The third contract with TNA***

72 The third contract with TNA did not include The Media Shop. The contract was negotiated directly between Eskom and TNA. It was signed by the Interim

*M<sub>21</sub>*

Chief Executive of Eskom, Mr Collin Matjila, and by Mr Howa on behalf of TNA. I attach the contract marked "PP14".

- 73 The marketing team, including myself, was not involved in the third contract at all. I felt that I had been forced into the negotiations with TNA in the first two contracts, and I was concerned that Eskom had not followed a proper process by not going to the market.
- 74 When meetings took place in Mr Choeu's office between him and Mr Howa, I was often asked to leave, which made me deeply uncomfortable. I had also recently learnt that TNA was a Gupta-owned company. I declared that neither I nor my team would execute the contracts, and that I no longer wanted to be part of this initiative.
- 75 The third contract with TNA was for a duration of three years, from 1 May 2014 to 30 April 2017. The contract price was R43 200 000 for 36 business breakfasts, at a cost of R1,2 million per breakfast. The contract allowed for termination only in the event that one party was declared insolvent.
- 76 Although I was not involved in the negotiation or conclusion of the third contract, I am aware that, like the first two contracts, it was not submitted for approval by the Sponsorship or CAD Manco committees. It was also not properly budgeted for. While the Draft 2014/2015 sponsorship budget had a line item for TNA, this was only for R14,4 million. I attach the draft budget marked "PP15".
- 77 In this regard, I am aware that Sizwe Ntsaluba Gobodo ("SNG") conducted a review of the process undertaken in awarding the third contract to TNA. I attach





the SNG report, together with its annexures, marked "PP16". On 6 November 2014, SNG concluded that:

- 77.1 Mr Matjila was not authorised to conclude the contract and had exceeded his delegation of authority, in that, because it was a sponsorship contract, he was required to approve the contract in consultation with Exco, and was only entitled to conclude the contract with an approved budget in place;
- 77.2 Mr Choeu had removed the termination clause despite the legal department's recommendation that the clause should be retained.
- 78 The report accordingly recommended that appropriate corrective action be taken against Mr Matjila and Mr Choeu.
- 79 However, as far as I am aware, no disciplinary consequences followed from the SNG report.
- 80 On 3 February 2015, the Eskom Board, by a Round Robin Resolution, resolved to ratify the third contract, and instructed CAD to ensure that maximum value is derived. The ratification enabled the payment of three outstanding invoices for business breakfasts held in August and September 2014 which totalled R4 104 000,00, and for which payment had not yet been made.
- 81 As far as I am aware, under the third contract there were 20 business breakfasts sponsored from April 2015 to February 2016, 12 from March 2016 to March 2017, and the final breakfast was on 26 April 2017. These breakfasts, including the three which took place in 2014, brought the number of briefings under the third contract to 36 at a cost of R43,2m (excluding Vat).





**TOTAL SPEND**

82 Under the three contracts described above, Eskom spent a total of R58 385 628.74, broken down as follows.

1 April 2012 – 31 March 2013	Eskom (Pty) LTD through The Media Shop (Pty) LTD committed to spend the sum of R11 185 628.74 to sponsor 6 TNA Business briefing breakfasts and supporting newspaper advertising in The New Age, for the period 01 April 2012 – 31 March 2013.	R11 185 628.74
1 November 2012 – 31 March 2013	Eskom (Pty) LTD through The Media Shop (Pty) LTD committed to spend the sum of R4 000 000 to sponsor 4 TNA Business briefing breakfasts for the period 01 November 2012 – 31 March 2013.	R4 000 000.00
1 May 2014 – 30 April 2017	Eskom Holdings SOC Limited and TNA Media (Pty) Ltd	R43 200 000.00
	<b>TOTAL</b>	<b>R58 385 628.74</b>

83 I note that, in addition to the three contracts above, Eskom had previously concluded a newspaper subscription contract with TNA for the period 3 October 2011 to 30 November 2011, to the value of R1 389 480. However this contract was not the responsibility of CAD or Strategic Marketing, and I played no role in it.

**QUERIES FROM PARLIAMENT AND THE PUBLIC PROTECTOR**Parliamentary questions

84 During the course of 2012 and 2013, Eskom received various inquiries from Parliament, the Public Protector and journalists. I detail these below.

85 On 14 November 2012, the Department of Public Enterprises received a parliamentary question regarding the amounts that had been spent on advertising with TNA since its inception, and the details of any independent analysis done to ascertain whether TNA is read by the target audience or its effectiveness. I attach the parliamentary question marked “PP17”.

85.1 The parliamentary question was forwarded by Ms Pindi Mabena, the General Manager in the Office of the CEO to the Strategic Marketing Department, and Mr Moremi asked me to deal with it. I attach this correspondence marked “PP18”.

85.2 On 14 November 2012, I emailed Ms Laiza Zikalala of The Media Shop requesting a breakdown of the adverts placed in TNA since its inception. Ms Zikalala responded on 15 November 2012, attaching a spreadsheet including the spend breakdown as well as insertion dates. Ms Zikalala also confirmed that Mr Liphoko’s advice from the outset was not to advertise in TNA, because it did not have verified ABC circulation data, but he was instructed to do so anyway. I attach this correspondence, including the spreadsheet, marked “PP19”.

85.3 On 16 November 2012, I provided the response to the parliamentary question to Mr Moremi, which he in turn sent to Mr Choeu and Ms Mabena. I attach this email, together with its annexures, marked “PP20”. The response indicated that when TNA was initially launched, an analysis could not be performed because it was not measured by the ABC, or by the All Media and Products Study (“AMPS”); that since then the newspaper had



been measured by AMPS which indicated it has 39,000 readers; and that an independent analysis was not conducted.

85.4 On 18 November 2012, Ms Mabena circulated the draft response to the parliamentary question, recommending that it be approved subject to concerns that the figures may be inaccurate, and that previous responses to parliament may have excluded sponsorship figures. I attach this correspondence, together with its annexures, marked "PP21". I note that, in this version, the following had been added: "The findings confirm that the paper reaches Eskom's intended target market".

85.5 I attach the final response provided by the Minister to parliament marked "PP22".

86 On 21 November 2012, the Department of Public Enterprises received a parliamentary question regarding the details of sponsorship of events hosted by TNA since its establishment (whereas the focus of the prior question was advertisements). I attach the parliamentary question marked "PP23".

86.1 Ms Mabena sent the question to the Strategic Marketing Department, and Mr Moremi asked me (together with Ms Zikalala) to prepare the response. Ms Zikalala provided her draft answers to the questions the same day, setting out the dates and costs of each breakfast, and details regarding the purpose of the events.

86.2 On 22 November 2012, Mr Moremi asked for a campaign analysis to be conducted on each of the breakfasts, for attendance figures to be obtained, and asked me whether any additional benefits attached to the breakfasts other than exposure.



- 86.3 I provided the draft answers to the parliamentary question to Mr Moremi the same day.
- 86.4 I attach this chain of correspondence, including the draft answers attached to my email, marked "PP24".
- 86.5 On 23 November 2012, the final response was submitted to Parliament. It recorded that "the main benefit for Eskom and the Department of Public Enterprises was brand awareness and highlighting the need to conserve electricity. Furthermore, the breakfasts created opportunities for engagement between Government and the private sector". I attach this response marked "PP25".
- 87 On 24 May 2013, Mr Dames, the Eskom CEO, provided a response to the Department of Public Enterprise, in order to answer a parliamentary question regarding the amounts that had been spent on advertising between 2009 and 2013, in which media, and at what cost. On 27 August 2013, Mr Lakmeeharan, the Acting Group Executive for Technology and Commercial, forwarded the response to Mr Choeu and me, asking us to clarify whether the spend in the newspaper section was on advertising or subscriptions, and how the adverts had been allocated. I attach the correspondence from Mr Lakmeeharan, attaching the parliamentary question and answer, marked "PP26".
- 88 In 2015, the Minister of Public Enterprises received a parliamentary question regarding the details of any contracts between SOEs and various Gupta-owned entities. Eskom's Assurance & Forensic Department was requested to perform a verification of the response, and made some minor corrections, including specifying various one-time payments of R7 130.70 made by Eskom

  
27

to purchase tables at business breakfasts sponsored by other SOEs. I attach the memorandum from Assurance & Forensic, dated 11 May 2015, which includes the parliamentary question and response, marked "PP27".

- 89 On 6 November 2015, Mr Brian Molefe (then CEO of Eskom) provided a draft response to a parliamentary question to the Department of Public Enterprises, in response to a question as to whether the Minister would take action against the fruitless and wasteful expenditure under the third contract. The response, which I attach marked "PP28", indicated that no action was required as there had been no fruitless and wasteful expenditure, as the Eskom Board had recognised the value of using platforms to interact with the public.
- 90 On 14 April 2016, Mr Brian Molefe (then CEO of Eskom) provided a draft response to a parliamentary question to the Department of Public Enterprises, which detailed the contracts between Eskom and TNA, and the total contract value of each. I attach the draft response, which includes the parliamentary question itself, marked "PP29".

#### Public Protector investigation

- 91 On 3 June 2013, the Public Protector wrote to the Department of Public Enterprises, requesting information regarding the TNA business breakfasts, as she had received a complaint that these constituted fruitless and wasteful expenditure. I attach the letter from the Public Protector marked "PP30".
- 92 On 30 August 2013, the Minister of Public Enterprises, Mr Malusi Gigaba, in turn, wrote to the Chairman of the Eskom Board, Mr Zola Tsotsi, asking him to provide an explanation and to cooperate by making all documents available. I attach the letter from Mr Gigaba to Mr Tsotsi marked "PP31".



93 I was asked to assist with the response to the Public Protector's inquiries. I initially refused, because I felt that I could not in good conscience provide a response that sought to defend something I do not believe in.

94 However, I eventually folded under pressure from Mr Mohammed Adam, Eskom's Corporate Counsel, and Mr Choeu, and I compiled a response. Mr Adam and Mr Choeu were not satisfied with this response, and they told me to work together with Mr Willie du Plessis (Head of Legal in Eskom at the time) to prepare the response. Mr Adam made clear to me that the response needed to portray Eskom in a positive light.

95 On 9 September 2013, Mr Moremi circulated a draft response, and indicated that in his view Mr Choeu needed to sign off. In response, Mr du Plessis identified the outstanding information and documentation, and Mr McArdle provided his responses, in red, indicating where the missing information could be obtained. Mr Howa and Ms Taliep were also contacted for their responses to two questions.

96 On 22 October 2013, I responded to the chain of correspondence, and indicated that I had not been privy to the conversation regarding the breakfasts, and was thus not in possession of a proposal from TNA. I also confirmed that I had been instructed by Mr Choeu to enter into the agreement.

97 I attach this chain of correspondence marked "PP32".

98 On 21 October 2013, Mr du Plessis ~~and~~ circulated the draft response that he and I had worked on. In response, Mr Choeu called a meeting to finalise the response. I attach the correspondence, including the draft response, marked "PP33".

- 99 The final version of the response to the Public Protector, which I attach marked “PP34”, was signed by Mr du Plessis on 19 November 2013 and delivered to the Public Protector’s office, together with files, on the same day. I never had sight of the files.

DATED AT Waterfall ON THIS 7<sup>th</sup> DAY OF October 2019.



PIETER JOHANNES PRETORIUS



ANNEXURE PP 1







## NEC3 Professional Services Contract (PSC3)

Contract between Eskom Holdings SOC Limited  
(Reg No. 2002/015527/06)

and The Media Shop(PTY) Ltd  
(Reg No. 1997/013488/07 )

for Media Buying and Planning Services

### Contents:

No of  
pages

Part C1 Agreements & Contract Data

[16]

Part C2 Pricing Data

[9]

Part C3 Scope of Work: The Scope

[7]

CONTRACT No. [Insert at award stage]

46500 1 3571

11038835

ESKOM HOLDINGS SOC LTD  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

**PART C1:     AGREEMENTS & CONTRACT DATA**

Document reference	Title	No of pages
C1.1	Form of Offer & Acceptance	[3]
C1.2a	Contract Data provided by the Employer	[11]
C1.2b	Contract Data provided by the Consultant	[2]

CONTRACT

- ii -

LM

PSC3 COVER PAGES

ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

## C1.1 Form of Offer & Acceptance

### Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of.

### Media Buying and Planning Services

The tenderer, identified in the Offer signature block, has

examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Consultant* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	R
Value Added Tax @ 14% is	R
The offered total of the Prices inclusive of VAT is	R
(in words)	

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Consultant* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

For the  
tenderer:

Name &  
signature of  
witness

*Sean Glanbe*  
*Operations Director*  
*The Media Shop (Pty) Ltd*  
(insert name and address of organisation)

Date

*15 August 2011*

*Donald Lipford*

ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

### Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Consultant the amount due in accordance with the conditions of contract identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- |         |  |
|---------|--|
| Part C1 | Agreements and Contract Data, (which includes this Form of Offer and Acceptance) |
| Part C2 | Pricing Data   |
| Part C3 | Scope of Work: The Scope   |

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any).

Signature(s)

Name(s)

Capacity

for the  
Employer

Name &  
signature of  
witness

Date

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance

K.M

80

16/8/2011

PT. Pretorius

ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

### Schedule of Deviations

Note

1. To be completed by the Employer prior to award of contract. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, the Employer and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement

For the tenderer:

Signature

Name

Capacity

On behalf of

Name & signature of witness

Date

*Sean Clarke*

Operations Director

The Media Shop (Pty) Ltd  
(Insert name and address of organisation)

*Donald Liphard*  
DONALD LIPHARD

15 August 2011

For the Employer

*Khepe Moremi*

KHEPE MOREMI

Acting Divisional Executive  
(Insert name and address of organisation)

ESKOM HOLDINGS LIMITED SOC.

*P.J. Pretorius*  
P.J. PRETORIUS

16 August 2011

ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

## C1.2 PSC3 Contract Data

### Part one - Data provided by the Employer

Clause	Statement	Data
1	<b>General</b>	
	The conditions of contract are the core clauses and the clauses for main Option dispute resolution Option and secondary Options	<p>A: Priced contract with activity schedule</p> <p>W1: Dispute resolution procedure</p> <p>X1: Price adjustment for inflation</p> <p>X2: Changes in the law</p> <p>X7: Delay damages</p> <p>X9: Transfer of rights</p> <p>X10: Employer's Agent</p> <p>X11: Termination by the Employer</p> <p>X18: Limitation of liability</p> <p>Z: Additional conditions of contract</p>
	of the NEC3 Professional Services Contract (June 2005) <sup>1</sup> with amendments June 2006	
10.1	The Employer is (Name):	Eskom Holdings SOC Limited (Reg No: 2002/015527/06), a juristic person incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	011 800 8111
	Fax No.	
11.2(9)	The services are	Development of media strategy, media planning, media buying and media trend research and analysis (media buying agency).
11.2(10)	The following matters will be included in the Risk Register	None
11.2(11)	The Scope is in	Part 3: Scope of Work

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009

k.m

*[Handwritten signature]*

ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

12.2	The law of the contract is the law of	the Republic of South Africa
13.1	The language of this contract is	English
13.3	The period for reply is	Maximum 5 days
13.6	The period for retention is	5 years following Completion or earlier termination.

## 2 The Parties' main responsibilities

25.2	The Employer provides access to the following persons, places and things	access to	access date
		1 To be arranged with project stakeholders	To be arranged with project stakeholders

## 3 Time

31.2	The starting date is.	17 August 2011	
11.2(3)	The completion date for the whole of the services is.	16 August 2016	
11.2(6)	The key dates and the conditions to be met are:	Condition to be met	key date
		1 As per Service Level Agreement (See Addendum 1)	As per Service Level Agreement (See Addendum 1)
31.1	The Consultant is to submit a first programme for acceptance within	As agreed with the stakeholders	

32.2	The Consultant submits revised programmes at intervals no longer than	As per Service Level Agreement (See Addendum 1)
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## 4 Quality

40.2	The quality policy statement and quality plan are provided within	As per Service Level Agreement (See Addendum 1)
42.2	The defects date is	As per Service Level Agreement (See Addendum 1)

## 5 Payment

50.1	The assessment interval is	Is from the 25 <sup>th</sup> of each month to the 25 <sup>th</sup> of the subsequent month	
50.3	The expenses stated by the Employer are	Item	Amount
		As per activity schedule	As included in agree fee in activity schedule

K.M

*[Handwritten signature]*




ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

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51.1	The period within which payments are made is	30 days from date of invoice
51.2	The currency of this contract is the	South African Rand
51.5	The interest rate is	<p>(i) zero percent above the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.</p>
6	Compensation events	No data required for this section of the conditions of contract.
7	Rights to material	No data required for this section of the conditions of contract.
8	Indemnity, insurance and liability	
81.1	The amounts of insurance and the periods for which the Consultant maintains insurance are	
	Event	Cover
		Period following Completion of the whole of the services or earlier termination

K.M





ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

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Liability for failure by the *Consultant* to use the skill and care normally used by professionals providing services similar to the services

**Whatever the *Consultant* deems fit and necessary in respect of each claim, without limit to the number of claims.**

The amount of the cover, without derogating from or limiting the *Consultant's* liability to the Employer shall be determined by the *Consultant*. Although this amount is at the discretion of the *Consultant*, the Employer recommends that the Limit of the Cover should at least be R5,000,000.00 (five million Rand)

Effective from the starting date to the completion date or the termination date  
And, following completion or termination of the services for a period the *Consultant* deems fit and necessary

The period of the cover, without derogating from or limiting the *Consultant's* liability to the Employer shall be determined by the *Consultant*. Although this period is at the discretion of the *Consultant*, the Employer recommends that the period following completion of the whole of the services or earlier termination be not less than 7 (Seven) years

death of or bodily injury to a person (not an employee of the *Consultant*) or loss of or damage to property arising from or in connection with the *Consultant's* Providing the Services.

**Whatever the *Consultant* deems necessary for any occurrence or series of occurrences arising out of one event but unlimited whilst the *Consultant* is Providing the Services and during the period of insurance.**

The amount of the cover, without derogating from or limiting the *Consultant's* liability to the Employer shall be determined by the *Consultant*. Although this amount is at the discretion of the *Consultant*, the Employer recommends that the Limit of the Cover should at least be R10,000,000.00 (ten million Rand)

Effective from the starting date to the completion date or the termination date  
And, following completion or termination of the services for a period the *Consultant* deems fit and necessary

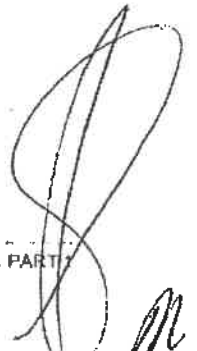
K.M

ESKOM HOLDINGS SOC LIMITED  
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	death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Consultant's</i> common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000-00 (five hundred thousand) in respect of each claim, without limit to the number of claims	As <i>Consultant</i> deems necessary
81.1	The <i>Employer</i> provides the following insurances	Refer to Annexure A for details of insurance provided by the <i>Employer</i> .	
82.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The total of the Prices	
	The <i>Consultant</i> provides these additional insurances.		
	1 Insurance against:	Whatever the <i>Consultant</i> deems necessary including cover provided for payment of deductibles	
9	<b>Termination</b>	No data required for this section of the conditions of contract.	
10	<b>Data for main Option clause</b>		
A	<b>Priced contract with activity schedule</b>		
21.3	The <i>Consultant</i> prepares forecasts of the total of the expenses at intervals of no longer than	As per Service Level Agreement (See Addendum 1	
11	<b>Data for Option W1</b>		
W1.1	The <i>Adjudicator</i> is (Name)	The person selected from the Eskom Panel of Adjudicators listed in Annexure B to this Contract Data by the Party intending to refer a dispute to him.	

K.M



FSKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

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W1.2(3) The adjudicator nominating body is: The Chairman of the Joint Civils Division of the South African Institution of Civil Engineering. (See [www.jointcivils.co.za](http://www.jointcivils.co.za)).

W1.4(2) The tribunal is: arbitration

W1.4(5) The arbitration procedure is the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.

The place where arbitration is to be held is South Africa

The person or organisation who will choose an arbitrator

- if the Parties cannot agree a choice or
  - if the arbitration procedure does not state who selects an arbitrator, is
- The Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.

## 12 Data for secondary Option clauses

X1 Price adjustment for inflation To be negotiated annually upon anniversary but will not be more than CPI

X1.1 The index is CPI

The staff rates are (state whether "Fixed at the Contract Date and are not variable with changes in salary paid to individuals" or "Variable with changes in salary paid to individuals") Variable with changes in salary paid to individuals at maximum of CPI

X2 Changes in the law

X2.1 The law of the project is The Law of the Republic of South Africa

X7 Delay damages

X7.1 Delay damages for late Completion of the whole of the services are Refer to the Service Level Agreement

X9 Transfer of rights The Employer owns the Consultant's rights over material prepared for this contract by the Consultant except as stated otherwise in the Scope. The Consultant obtains other rights for the Employer as stated in the Scope and obtains from a Subconsultant equivalent rights for the Employer over the material prepared by the Subconsultant. The Consultant provides to the Employer the documents which transfer these rights to the Employer

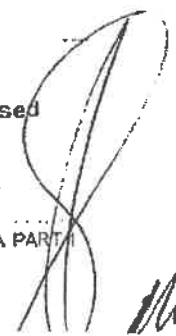
X10 The Employer's Agent

X10.1 The Employer's Agent is

Name

Lillian Karuri-Magero or her duly authorised representative(s).

K.M



ESKOM HOLDINGS SOC LIMITED  
PROJECT AND CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

Address

Eskom  
Megawatt Park, Maxwell Drive, Sandton

The authority of the *Employer's Agent* is

To carry out all the actions of the Employer in this contract

**X18 Limitation of liability**

X18.1 The *Consultant's* liability to the *Employer* for indirect or consequential loss is limited to: **LIMITED TO THE ANNUAL VALUE OF REMUNERATION RECEIVED BY CONSULTANT**

X18.2 The *Consultant's* liability to the *Employer* for Defects that are not found until after the *defects date* is limited to: **The total of the Prices**

X18.3 The *end of liability date* is **Five years after Completion of the whole of the services.**

**Z The Additional conditions of contract are** **Z1 to Z11 always apply.**

**Z1 Cession delegation and assignment**

Z1.1 The *Consultant* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*.

Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Consultant* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry and the Electricity Distribution Industry

**Z2 Joint ventures**

Z2.1 If the *Consultant* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.

Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Employer* within two weeks of the Contract Date of the key person who has the authority to bind the *Consultant* on their behalf.

Z2.3 The *Consultant* does not substantially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Consultant* in writing.

**Z3 Change of Broad Based Black Economic Empowerment (B-BBEE) status**

Z3.1 Where a change in the *Consultant's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Consultant's* B-BBEE status, the *Consultant* notifies the *Employer* within seven days of the change.

Z3.2 The *Consultant* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.

Z3.3 Where, as a result, the *Consultant's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Consultant's* obligation to Provide the Services.

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- Z3.4 Failure by the *Consultant* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.

#### Z4 Ethics

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Consultant* which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Consultant's* obligation to Provide the Services or taking any other action as appropriate against the *Consultant* (including civil or criminal action).

- Z4.2 The *Employer* may terminate the *Consultant's* obligation to Provide the Services if the *Consultant* (or any member of the *Consultant* where the *Consultant* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Employer* or other people or organisations and including in circumstances where the *Consultant* or any such member is removed from the an approved vendor data base of the *Employer* as a consequence of such practice.

- Z4.3 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.

#### Z5 Confidentiality

- Z5.1 The *Consultant* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* at the time of disclosure (evidenced by written records in existence at that time). Should the *Consultant* disclose information to Others in terms of clause 23.1, the *Consultant* ensures that the provisions of this clause are complied with by the recipient.

- Z5.2 If the *Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.

- Z5.3 In the event that the *Consultant* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Consultant*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Consultant* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

- Z5.4 The taking of images (whether photographs, video footage or otherwise) of the *Employer's* project works or any portion thereof, in the course of Providing the Services and after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests exclusively in the *Employer*.

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**Z6 Waiver and estoppel: Add to core clause 12.3:**

- Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

**Z7 Provision of a Tax invoice and interest. Add to core clause 51**

- Z7.1 The *Consultant* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

**Z8 Notifying compensation events**

- Z8.1 Delete from the last sentence in core clause 61.3, "unless the *Employer* should have notified the event to the *Consultant* but did not".

**Z9 Employer's limitation of liability**

- Z9.1 The *Employer's* liability to the *Consultant* for the *Consultant's* indirect or consequential loss is limited to R0.00 (zero Rand)

**Z10 Termination: Add to core clause 90.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":**

- Z10.1 or had a judicial management order granted against it.

**Z11 Delay damages: Addition to secondary Option X7 Delay damages (if applicable in this contract)**

- Z11.1 If the *Consultant's* payment of delay damages reaches the limits stated in this Contract Data for Option X7 or Options X5 and X7 used together, the *Employer* may terminate the *Consultant's* obligation to Provide the Services.
- Z11.2 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.

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## Annexure A: Notes to Consultants

*This is guidance to Consultants to assist their decision making about what cover to arrange in the insurance to be provided by the Consultant. The guidance is not part of the contract and the Employer carries no liability for it.*

1. For the purpose of works contracts, insurance provided by Eskom (the Employer) has been arranged on the basis of "project" or "contract" value, where the value is the total of the Prices at Completion of the whole of the works including VAT.

A "project" is a collection of contracts or work packages to be undertaken as part of a single identified capital expansion or refurbishment of a particular asset or facility.

A "contract" is a single contract not linked to or being part of a "project".

2. There are three main "formats" of cover and deductible structure: Format A, Format B and Format Dx.

**Format A** is for a project or contract value less than or equal to R350M (three hundred and fifty million Rand) inclusive of VAT.

**Format B** is for a project or contract value greater than R350M (three hundred and fifty million Rand) inclusive of VAT.

In the case of contracts / packages within a project:

- For a contract / package of R50M which is part of a R400M project, Format B will apply
- For a contract / package of R250M which is part of a R6 billion project, Format B will apply;
- For a contract / package of R120M which is part of a R350M project Format A will apply.

For a contract which is not part of a project the same limits apply:

- For a contract of R50M, Format A will apply
- For a contract of R355M, Format B will apply.

**Format Dx** applies only to Distribution Division projects and contracts. If a Distribution Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover. Cover and deductibles for Distribution Division are per the relevant policy available on the internet web link given below.

**Format A** generally applies to Transmission Division projects and contracts. If a Transmission Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover.

3. Further information and full details of all Eskom provided policies and procedures may be obtained from:

[http://www.eskom.co.za/live/content.php?Item\\_ID=9248](http://www.eskom.co.za/live/content.php?Item_ID=9248)

4. The Insurance which the Consultant is to provide against his liability for claims made against him arising out of his failure to use reasonable skill and care (first row in the Insurance Table of clause 81.1 in the PSC3) should also indemnify the Consultant for those sums which he could become legally liable to pay as damages arising from any claim first made against him and reported to Insurers some time after Completion of the whole of the services. Hence the Consultant needs to ensure that his cover is in place at least until all his liabilities under the contract have expired. Such claims could arise out of any negligent act, error or omission committed or alleged to have been committed by the Consultant in the conduct of professional services in connection with the contract.

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## Annexure B: The Employer's Panel of Adjudicators

The following persons listed in alphabetical order of their surname have indicated their willingness to be included in the Eskom Panel of Adjudicators. Their CV's may be obtained by using the contact details provided.

Name	Location	Contact details (phone & e mail)
Nigel ANDREWS	Gauteng	+27 11 836-6760 nigela@quoin.net
Andrew BAIRD	Gauteng	+27 11 803 3008 andrewbaird@ecsconsult.co.za
Christopher BINNINGTON	Gauteng	+27 11 888-6141 cdlx@bca.co.za
Peter HIGGINS	UK	+44 1293 873 868 peterhiggins@pdconsult.co.uk
Bruce LEECH	Gauteng	+27 11 290 4000 leech@counsel.co.za
Nigel NILEN	Gauteng	+27 11 465 3601; nilences@global.co.za
Robert St. LEGER	Cape Town	+27 21 794 7488 bobst@lafira.com
Peter THURLOW	Gauteng	+27 11 787 6226 info@thurlowassoc.com

Information about the Panel and appointment of the selected *Adjudicator* is available from Eskom Supply Chain Operations management, by contacting Leighton Itholeng (Tel: +27 (0)11 800 4031) (Fax :+27 (0)86 668 0419) E-mail: [Leighton.Itholeng@eskom.co.za](mailto:Leighton.Itholeng@eskom.co.za)

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11.2(13) The staff rates are: 

name/designation	rate
Either complete here or cross refer to a schedule in Part C2.2	

25.2 The Employer provides access to the following persons, places and things 

access to	access date
1	
2	
3	

31.1 The programme identified in the Contract Data is

50.3 The expenses stated by the Consultant are 

item	amount
	

A Priced contract with activity schedule

11.2(14) The activity schedule is in

11.2(18) The tendered total of the Prices is 

(in figures)
(in words), excluding VAT

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**PART 2: PRICING DATA**  
PSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	[4]
C2.2	The activity schedule	[3]



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## C2.1 Pricing assumptions: Option A

### 1. How work is priced and assessed for payment

Clause 11 in NEC3 Professional Services Contract, June 2005 (PSC3) Option A states:

Identified and defined terms	11	
	11.2	(14) The Activity Schedule is the <i>activity schedule</i> unless later changed in accordance with this contract.
		(15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defects which would delay immediately following work.
		(18) The Prices are the lump sum prices for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

This confirms that Option A is a lump sum form of contract where the work is broken down into activities, each of which is priced by the tendering consultant as a lump sum. Only completed activities are assessed for payment at each assessment date; no part payment is made if the activity is not completed by the assessment date.

### 2. Function of the Activity Schedule

Clause 53.1 in Option A states: "Information in the Activity Schedule is not Scope." This confirms that instructions to do work or how it is to be done are not included in the Activity Schedule but in the Scope. This is further confirmed by Clause 21.1 which states, "The Consultant Provides the Services in accordance with the Scope". Hence the Consultant does not provide the Services in accordance with the Activity Schedule. The Activity Schedule is only a pricing document.

### 3. Link to the programme

Clause 31.4 states that "The Consultant provides information which shows how each activity on the Activity Schedule relates to the operations on each programme which he submits for acceptance". Hence when compiling the *activity schedule*, the tendering consultant needs to show each activity on the programme he submits with his tender.

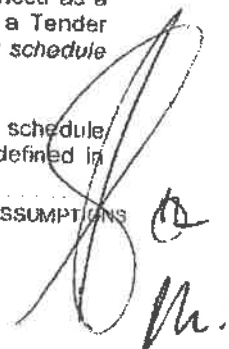
### 4. Preparing the activity schedule

The tendering consultant prepares the *activity schedule* and should study the PSC3 Guidance Notes pages 2 and 24 before doing so. The Employer may have instructed the tendering consultant to include particular activities which he has specified and requires the Consultant to identify them in his *activity schedule*.

1 Generally it is the Consultant who prepares the Activity Schedule as part of his tender by breaking down the work described within the Scope into suitable activities which can be well defined, priced as a lump sum and shown on the programme. The Employer, in his Conditions of Tender or in a Tender Schedule, may have listed some items that he requires the Consultant to include in his *activity schedule* and be priced accordingly.

2 The Prices are defined in clause 11.2(18) as the lump sum for each activity in the activity schedule and the Price for Services Provided to Date (PSPD) (the amount due to the Consultant) is defined in

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clause 11.2(15) as the total of the Prices for each activity that has been completed. Hence activities in the activity schedule should be structured so as to provide an acceptable monthly cash flow as they are only assessed for payment on the assessment date if they have been completed.

3 As the *Consultant* has an obligation to correct Defects (core clause 41) the lump sum Prices must also include for the correction of Defects except if the Defect is one for which the *Consultant* is not liable which is compensation event 60.1(12).

4 If the *Consultant* has decided not to identify a particular activity, the cost to the *Consultant* of doing the work must be included in, or spread across, the other Prices in order to fulfil the obligation to complete the services for the tendered total of the Prices.

5 There is no adjustment to the lump sum activity schedule price if the amount, or quantity, of work within that activity later turns out to be different to that which the *Consultant* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event. See Clause 60.1.

6 Hence the Prices tendered by the *Consultant* in the activity schedule are inclusive of everything necessary and incidental to providing the Services in accordance with the Scope, as it was at the time of tender, as well as correct any Defects except those for which he is not liable.

7 However, the *Consultant* does not have to allow in his Prices for matters that may arise as a result of a compensation event.

## 5. Expenses

Expenses are not included in the activity schedule items and are assessed separately at each assessment date.

Expenses associated with employing a staff member in Providing the Services are listed separately either by the Employer in Contract Data provided by the Employer or by the *Consultant* in Contract Data provided by the *Consultant*. As only the expenses listed may be claimed by the *Consultant*, all other cost to the *Consultant* associated with providing the Services must be included within the activity schedule or staff rates.

Rate adjustment for inflation of expenses is explained on page 13 of the Guidance Notes.

## 6. Staff rates

When a compensation event occurs changes to the affected Activity Schedule Item or new priced items in the Activity Schedule are assessed as the actual Time Charge for work already done and the forecast Time Charge for work not yet done. (See clause 63.1 and 63.14 in Option A)

The Time Charge is the sum of the products of each of the staff rates multiplied by the total staff time appropriate to that rate properly spent on work in this contract. (Clause 11.2(13))

Tendering consultants are advised to consult the NEC3 Professional Services Contract (June 2005) Guidance Notes and Flow Charts page 28 before entering staff rates into Contract Data, or in C2.2 below

This is because staff rates can be established in one of three ways:

- rates for named staff,
- rates for categories of staff or
- rates related to salaries paid to staff.

Rate adjustment for inflation, if necessary, can be based either on actual salary adjustments or by using Option X1. Price adjustment for inflation. See pages 13, 14 and 28 of the Guidance Notes.

The parties agree of the following pricing terms.

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**1. All Inclusive Fee**

**1.1. For the period 1 July 2011 to 30 June 2012**

1.1.1. For the period 1 July 2011 to 30 June 2012 the *Consultant* will be entitled to total monthly remuneration of R 286,904 (Two hundred and eighty six thousand nine hundred and four rand only) for the provision of the services listed in The Scope and Activity Schedule.

1.1.2. The Eskom Programmes and Gross Media Budgets used to determine the retainer fee is as follows:

The Media portfolio is split amongst the Eskom programmes as follows.

• Corporate	R 53,760,000
• Integrated Demand Management	R 46,160,000
• Public Safety	R 11,356,800
• ELP (Energy Loss Programme)	R 19,200,000
• eta	R 1,440,000
• EEYS (Expo for Young Scientists)	R 1,440,000
• Development Foundation	R 3,360,000
• Tender advertisements	R 7,968,000
• Generation division	R 768,000
• Distribution	R 1,632,000
• Eskom Enterprises	R 2,611,200
• Group Commercial (Primary Energy Division)	R 2,400,000
• Nuclear	R 288,000
	<b>R182,624,000</b>

1.1.3. Based on the budgets in clause 1.1.2, the *Consultant* has allocated the following key persons to the *Employer's* account and the parties have agreed that material changes to the resources listed below shall be mutually agreed by the parties:

Name	Level of Seniority	% time
Managing Director	Executive	5
Group Head (Strategy)	Executive	40
Senior Strategist	Senior	30
Media Planner	Senior	100
Media Buyer	Senior	30
Implementer/Buyer	Middle	100
Media Implementer	Middle	20
Media Buyer	Junior	100
Finance/Admin	Middle	100

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1.1.4. The *Consultant* undertakes to utilise the key personnel set out above, and all additional human resources that may be required to ensure delivery of Services in accordance with the time constraints and level of service required by the *Employer* in terms of this Agreement.

1.1.5. The *Consultant* shall reasonably notify the *Employer* of any changes to the list of personnel in clause 1.1.3. The *Consultant* undertakes to ensure that any staff member removed from the list will be replaced with an alternate staff member of equivalent skill and experience and the *Employer* shall be required to approve any substituted or additional personnel.

1.1.6. All discounts and commissions negotiated on behalf of *Employer* are to be reinvested into the *Employer's* campaigns.

## 2. Variable Remuneration – Media Services outside Territory

2.1. The *Consultant* is entitled to earn the following commission on all Gross media amounts (defined as rate card minus discount, but including agency commission at 16,5%) to provide service outside the Territory:

2.1.1. Media Strategy and Planning Services	2,5% (two comma five percent)
2.1.2. Media Buying Services	1,0% (one percent)

## 3. Variable Remuneration – Power Alert

Power Alert budget is R 33,600,000

3.1. The consultant is entitled to earn the following commission on all Gross Media Amounts (defined as rate card minus discount, but including agency commission at 16,5%) spent on power alert

3.1.1. Media Strategy, Planning and buying services	3% (three percent)
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### Notes:

- The prices exclude VAT.
- In July 2011 and thereafter annually, the annual basis for the fixed and firm fee for the next year will be negotiated, based on the budgets available for that year.
- The budgets to the respective Eskom programmes and Corporate Positioning Programme vary from year to year as indeed do the programmes themselves. To this end, a precise value cannot be attached to the contract as the fee charged by the agency is dependant on the scope of work required.
- Any production handled by a third party via the consultant will be quoted to and approved by Employer. The consultant will levy 10% handling fee on all work of this nature and it will be clearly stated on the Cost Estimate.

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## C2.2 the activity schedule

No	Service	Frequency	Included in fee
	Develop IDM Communication Strategy	Ongoing	Included in fee
<b>MANAGEMENT OF THE ACCOUNT</b>			
1	Attend Client meetings, workshops, information gathering and brainstorming sessions	As required	Included in Fee
2	Perform media reviews, including competitor reviews (strategies, activity, investment)	Quarterly	Included in Fee
3	Obtain and verify Client briefs	Ongoing	Included in Fee
4	Provide advice and guidance on media strategies and participate in media strategy development.	Ongoing	Included in Fee
5	Issue contact reports	Within 24 hours	Included in Fee
6	Attend status meetings	Weekly	Included in Fee
7	Issue status reports for all projects that include but are not limited to project number, description, current status, next steps, timeline and due date	Weekly	Included in Fee
8	Screen media plans and schedules before presentation to Client (on brief and strategy, accurate, etc.)	Per brief	Included in Fee
9	Submit media strategies, plans and schedules for approval by Client	Per brief	Included in Fee
10	Prepare and submit campaign timing plans	Per brief	Included in Fee
11	Obtain sign-off from authorised Client representative	Ongoing	Included in Fee
12	Issue invoices, statements and any other proof of performance functions.	Monthly	Included in Fee
13	Manage and resolve financial queries associated with payments	Ongoing	Included in Fee
14	Manage third party suppliers and give semi-annual reports on ASGISA	Bi-annually	Included in Fee
15	Coordinate and project manage all media projects	Ongoing	Included in Fee
16	Issue reports highlighting media spend, committed spend, reach, frequency, value-added, normal discounts and additional discounts achieved	Quarterly	Included in Fee

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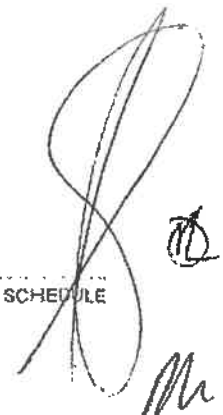
17	Develop and implement media measurement templates for the purposes of measuring ROI for Media and Sponsorships	Quarterly	Included in Fee
18	Conduct campaign evaluations, including TV post buying analysis	After every campaign	Included in Fee
19	Provide spot summary reports on all campaigns for media auditing purposes	Bi-annually	Included in Fee
20	Apply all media planning and implementation tools and resources for optimum results	Ongoing	Included in Fee
21	Keep Client informed about and abreast of changes and improvements in the local and global media industry	Ongoing	Included in Fee
22	Integrate with creative agencies	Ongoing	Included in Fee
23	Monthly audit files containing Client invoices, for Radio and TV proof request will be on query and a Cost Estimate will be submitted	Monthly	Included in Fee
24	<b>MEDIA STRATEGY AND PLANNING SERVICES (LOCAL AND INTERNATIONAL)</b>		
25	Analyse market and operating environment from a media perspective	Quarterly	Included in Fee
26	Interact with media owners, evaluate and advise Client on suitable traditional and non-traditional media opportunities	Ongoing	Included in Fee
27	Propose, coordinate and interpret third party market and media research	Ongoing	Included in Fee
28	Interpret, and provide insights and knowledge on standard agency research, such as but not limited to Adex, AMPS, Telmar, FutureFact	Quarterly	Included in Fee
29	Analyse competitor strategies and contribute to brand reviews and benchmarking of the industry ie. SOEs locally, continentally and globally	Bi-annually	Included in Fee
30	Evaluate marketing trends in the media by monitoring all media and provide interpretation, insights and knowledge	Quarterly	Included in Fee
31	Evaluate programmes or opportunities and packages for all consumer touch-points	Per brief	Included in Fee
32	Evaluate media costs and provide guidance and input into the planning process	Per brief	Included in Fee
33	Develop media strategies and plans to optimise benefits across channels (including digital)	Per brief	Included in Fee
34	Innovatively develop ad-hoc and/or tactical media strategies	Ad-hoc	Included in Fee
35	Maintain media flow -plans	Ongoing	Included in Fee

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36	Other:		
36	<b>MEDIA BUYING SERVICES (LOCAL AND INTERNATIONAL)</b>		
37	Provide full media implementation planning and buying services	Ongoing	Included in Fee
38	Negotiate for optimal discounts, position in break and value add (including partner / supplier leverages, approved strategies and plans, etc.) and monitor all discounts	Ongoing	Included in Fee
39	Sourcing, evaluation, advice and implementation on media sponsorship / partnership opportunities and agreements	Ongoing	Included in Fee
40	Advise and negotiate special media and broadcast packages (e.g. sponsorships)	Per brief	Included in Fee
41	Advice, guidance and value add in negotiations of sponsorship deals	Ongoing	Included in Fee
42	Provision of tear sheets to Eskom, As for outdoor or out of home media photographs/site bibles will be provided. For Radio and TV proof request will be on query and a Cost Estimate will be submitted.	After every placement	Included in Fee
43	Amalgamate Client's media buying and negotiate strategically on behalf of Client as a Group	Annually	Included in Fee
44	Advise Client on Agency volume deals and changes thereto	Ongoing	Included in Fee
45	<b>MEDIA MEASUREMENT (LOCAL AND INTERNATIONAL)</b>		
46	Work with data, do analyses, perform modeling and critically evaluate the media performance of executions	Ongoing	Included in Fee
47	Build media models showing effectiveness of media versus investment (TV outdoor, radio and print)	Ongoing	Included in Fee
48	Verify outdoor buying and placement	Bi-annually	Included in Fee

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### PART 3: SCOPE OF WORK

Document reference	Title	No of pages
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C3.1	Employer's Scope
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7

Total number of pages 7

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## C3.1: EMPLOYER'S SCOPE

### Contents

1. Description of the services
2. Specification and description of the services
3. Constraints on how the *Consultant* Provides the Services
  - 3.1. Management meetings
  - 3.2. Consultant's key persons
  - 3.3. Invoicing and payment
  - 3.4. Contract change management
  - 3.5. Inclusions in the programme
  - 3.6. Quality management
  - 3.7. Health and safety
  - 3.8. Procurement
  - 3.9. Working on the *Employer's* property
  - 3.10. Cooperating with and obtaining acceptance of Others

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## 1 Description of the services

### 1.1 Executive overview

- Account Management
- Media strategy and planning (local and international)
- Media buying (local and international)
- Media negotiations
- Media campaign evaluation
- Media sponsorship evaluations
- Develop IDM Communication Strategy

## 2 Specification and description of the services

No	Service	Frequency	Included in fee
	Develop IDM Communication Strategy	Ongoing	Included in fee
	<b>MANAGEMENT OF THE ACCOUNT</b>		
1	Attend Client meetings, workshops, information gathering and brainstorming sessions	As required	Included in Fee
2	Perform media reviews, including competitor reviews (strategies, activity, investment)	Quarterly	Included in Fee
3	Obtain and verify Client briefs	Ongoing	Included in Fee
4	Provide advice and guidance on media strategies and participate in media strategy development.	Ongoing	Included in Fee
5	Issue contact reports	Within 24 hours	Included in Fee
6	Attend status meetings	Weekly	Included in Fee
7	Issue status reports for all projects that include but are not limited to project number, description, current status, next steps, timeline and due date	Weekly	Included in Fee
8	Screen media plans and schedules before presentation to Client (on brief and strategy, accurate, etc.)	Per brief	Included in Fee
9	Submit media strategies, plans and schedules for approval by Client	Per brief	Included in Fee
10	Prepare and submit campaign timing plans	Per brief	Included in Fee
11	Obtain sign-off from authorised Client representative	Ongoing	Included in Fee
12	Issue invoices, statements and any other proof of performance functions.	Monthly	Included in Fee

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*[Handwritten signature]*

ESKOM HOLDINGS SOC LIMITED  
PROJECT OR CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

13	Manage and resolve financial queries associated with payments	Ongoing	Included in Fee
14	Manage third party suppliers and give semi-annual reports on ASGISA	Bi-annually	Included in Fee
15	Coordinate and project manage all media projects	Ongoing	Included in Fee
16	Issue reports highlighting media spend, committed spend, reach, frequency, value-added, normal discounts and additional discounts achieved	Quarterly	Included in Fee
17	Develop and implement media measurement templates for the purposes of measuring ROI for Media and Sponsorships	Quarterly	Included in Fee
18	Conduct campaign evaluations, including TV post buying analysis	After every campaign	Included in Fee
19	Provide spot summary reports on all campaigns for media auditing purposes	Bi-annually	Included in Fee
20	Apply all media planning and implementation tools and resources for optimum results	Ongoing	Included in Fee
21	Keep Client informed about and abreast of changes and improvements in the local and global media industry	Ongoing	Included in Fee
22	Integrate with creative agencies	Ongoing	Included in Fee
23	Monthly audit files containing Client invoices. For Radio and TV proof request will be on query and a Cost Estimate will be submitted.	Monthly	Included in Fee
24	<b>MEDIA STRATEGY AND PLANNING SERVICES (LOCAL AND INTERNATIONAL)</b>		
25	Analyse market and operating environment from a media perspective	Quarterly	Included in Fee
26	Interact with media owners, evaluate and advise Client on suitable traditional and non-traditional media opportunities	Ongoing	Included in Fee
27	Propose, coordinate and interpret third party market and media research	Ongoing	Included in Fee
28	Interpret, and provide insights and knowledge on standard agency research, such as but not limited to Adex, AMPS, Telmar, FutureFact	Quarterly	Included in Fee
29	Analyse competitor strategies and contribute to brand reviews and benchmarking of the industry ie. SOEs locally, continentally and globally	Bi-annually	Included in Fee
30	Evaluate marketing trends in the media by monitoring all media and provide interpretation, insights and knowledge	Quarterly	Included in Fee

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ESKOM HOLDINGS SOC LIMITED  
PROJECT OR CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

31	Evaluate programmes or opportunities and packages for all consumer touch-points	Per brief	Included in Fee
32	Evaluate media costs and provide guidance and input into the planning process	Per brief	Included in Fee
33	Develop media strategies and plans to optimise benefits across channels (including digital)	Per brief	Included in Fee
34	Innovatively develop ad-hoc and/or tactical media strategies	Ad-hoc	Included in Fee
35	Maintain media flow -plans	Ongoing	Included in Fee
36	Other:		
36	<b>MEDIA BUYING SERVICES (LOCAL AND INTERNATIONAL)</b>		
37	Provide full media implementation planning and buying services	Ongoing	Included in Fee
38	Negotiate for optimal discounts, position in break and value add (including partner / supplier leverages, approved strategies and plans, etc.) and monitor all discounts	Ongoing	Included in Fee
39	Sourcing, evaluation, advice and implementation on media sponsorship / partnership opportunities and agreements	Ongoing	Included in Fee
40	Advise and negotiate special media and broadcast packages (e.g sponsorships)	Per brief	Included in Fee
41	Advice, guidance and value add in negotiations of sponsorship deals	Ongoing	Included in Fee
42	Provision of tear sheets to Eskom. As for outdoor or out of home media photographs/site bibles will be provided. For Radio and TV proof request will be on query and a Cost Estimate will be submitted.	After every placement	Included in Fee
43	Amalgamate Client's media buying and negotiate strategically on behalf of Client as a Group	Annually	Included in Fee
44	Advise Client on Agency volume deals and changes thereto	Ongoing	Included in Fee
45	<b>MEDIA MEASUREMENT (LOCAL AND INTERNATIONAL)</b>		
46	Work with data, do analyses, perform modeling and critically evaluate the media performance of executions	Ongoing	Included in Fee
47	Build media models showing effectiveness of media versus investment (TV outdoor, radio and print)	Ongoing	Included in Fee
48	Verify outdoor buying and placement	Bi-annually	Included in Fee

ESKOM HOLDINGS SOC LIMITED  
PROJECT OR CONTRACT TITLE

CONTRACT NUMBER \_\_\_\_\_

### 3 Constraints on how the *Consultant* Provides the Services.

#### 3.1 Management meetings

As per Service Level Agreement (See Addendum 2)

#### 3.2 Consultant's key persons

Name	Level of Seniority
Managing Director	Executive
Group Head (Strategy)	Executive
Senior Strategist	Senior
Media Planner	Senior
Media Buyer	Senior
Implementer/Buyer	Middle
Media Implementer	Middle
Media Buyer	Junior
Finance/Admin	Middle

#### 3.3 Invoicing and payment

The following details shall be shown on or attached to each Invoice to show how the amount due has been assessed:

The *Consultant* shall address the tax invoice to Eskom Holdings SOC Limited and include on it the following information:

- Name and address of the *Consultant* and the *Employer's Agent*;
- The contract number and title;
- *Consultant's* VAT registration number;
- *Consultant's* vendor number
- *Consultant's* contact information
- The *Employer's* VAT registration number 4740101508;

#### 3.4 Contract change management

As per Service Level Agreement (See Addendum 2)

#### 3.5 Inclusions in the programme

As per Service Level Agreement (See Addendum 2)

#### 3.6 Quality management

##### 3.6.1 System requirements

As per Service Level Agreement (See Addendum 2)

##### 3.6.2 Information in the quality plan

As per Service Level Agreement (See Addendum 2)

#### 3.7 Health and safety

The *Consultant* shall at all times comply with the health and safety requirements prescribed by law as they may apply to the services as well Eskom's health and safety requirements.

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ESKOM HOLDINGS SOC LIMITED  
PROJECT OR CONTRACT TITLE:

CONTRACT NUMBER \_\_\_\_\_

### 3.8 Procurement

#### 3.8.1 BBBEE and Preferencing scheme

Eskom agreed as tendered and negotiated to increase spend with BWO from 2% to 5% over 5 years

#### 3.9 Working on the *Employer's* property

As per Service Level Agreement (See Addendum 2)

#### 3.10 Cooperating with and obtaining acceptance of Others

As per Service Level Agreement (See Addendum 2)




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ANNEXURE PP 2



T

ESKOM POLICY		
TITLE	Sponsorship	
REFERENCE	ESK ADAAV7	
REVISION	2	
DATE	September 2000	
REVISION DATE	September 2001	
COMPILED BY	FUNCTIONAL RESPONSIBILITY	AUTHORISED BY
 Zahn Matthee Corporate Manager	 Riana Smith Corporate Communication Manager	 Joe Matsau Executive Director Office of the Chief Executive

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<b>Eskom Sponsorship Policy</b>	<b>Revision 2</b>
<b>Reference ADAAV7</b>	<b>Date September 2000</b>
<b>Page 1 of 6</b>	<b>Revision date September 2001</b>

## 1. PURPOSE

The purpose of this policy is to provide a framework for the selection, management, co-ordination and integration of sponsorship programmes in Eskom.

## 2. DEFINITIONS

There is often confusion between sponsorship and donations. The distinction becomes clear in their respective definitions:

### a) Sponsorship

- Sponsorship is defined as a form of marketing communications whereby a sponsor contractually provides financial and/or other support to an organisation, individual, team, activity, event and/or broadcast in return for rights to use the sponsor's name and logo in connection with a sponsored event, activity, team, individual, organisation or broadcast in order to attain specific communication and sponsorship objectives.

### a) Donation

- Donations are defined as the philanthropic or charitable activities where corporations decide, as a matter of policy or as part of a social responsibility programme, to give funds to certain causes.

The difference between the two lies in the motivation of Eskom's involvement. With sponsorship Eskom's involvement is essentially commercial. It will exploit the sponsorship investment to its full potential by using all the elements of the marketing communication mix.

The motivation behind a donation is essentially charitable and seldom is commercial gain sought.

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To determine whether a request of financial (or other) support should be regarded as a donation or a sponsorship, consider the following:

- If the request for support is for a charitable or social cause, it is a donation
- If Eskom will not derive any true and substantial commercial value (e.g. extra sales, substantial media publicity, measurable brand value), it is a donation
- If there is no need to sign a contract which will guarantee Eskom certain rights and returns, it is a donation
- If it does not support or contribute to one of Eskom's marketing objectives (as reflected in the corporate business plan), it is a donation
- Requests for support of small business development or community development or educational development activities are regarded as donations

### 3. FUNCTIONAL RESPONSIBILITY

From the above it should be clear that whilst corporate patronage and charitable donations have a valid and valuable place in corporate activity, they should not be viewed as a marketing activity, but rather as an Eskom Development Foundation activity.

Sponsorship, on the other hand, is entirely commercial and while it is an essential source of funding for many activities, as with all commercial interests, a viable return on the sponsorship is critical which could be measured during or at the end of the sponsorship.

### 4. DIRECTIVE: SPONSORSHIP

#### 4.1 Scope of approval

- All corporate proposals exceeding R20 000-00 must be submitted to the corporate sponsorship panel whom will screen and evaluate the request and make a recommendation on supporting the request. The sponsorship panel will consist of representatives from Corporate Communication, the Eskom Development Foundation (ESDEF) and core line groups. Executive Directors from the respective groups will nominate candidates from their groups to serve on the committee.
- The corporate sponsorship panel may refer sponsorship requests to the relevant Eskom line group or subsidiary for consideration who may approve the sponsorship in accordance with the financial parameters listed below.
- E-band managers may approve sponsorships up to, and including, an amount of R50 000-00.
- Executive Directors may approve sponsorships up to, and including, an amount of R500 000-00.

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- a. The Management Board may approve sponsorships up to, and including, an amount of R10 million.
- b. Sponsorships exceeding R10 million may only be approved by the Electricity Council.
- c. Any sponsorship initiative exceeding a contractual commitment of two (2) years, irrespective of the financial investment required, must be approved by the Management Board.

#### 4.2 Responsibility for budget

Executive Directors will ensure budget provision within their groups to fund those sponsorship initiatives, which they wish to invest in.

#### 4.3 Reporting

- a. Each Executive Director shall submit a sponsorship report at the end of each financial year but not later than 25 January to the Corporate Communication Manager who will co-ordinate the information and submit an integrated sponsorship report to the Management Board and the Electricity Council by no later than 28 February.
- b. The report should contain the following minimum information:
  - Amount of sponsorship
  - Date/time frame of the sponsorship
  - Recipient of sponsorship
  - Purpose of sponsorship
  - Sponsorship objectives
  - Selection criteria
  - Benefits accrued and recognition received
  - Programme auditing and evaluation

#### 4.4 Sponsorship Objectives

- Primary Focus

To position Eskom in line with its new strategic intent, i.e. a pre-eminent African business of global stature that provides energy and related services.

- Secondary Focus

To retain Eskom's position as a model corporate citizen in South Africa.

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Sponsorship initiatives should only be considered if they meet at least 5 or more of the following specific objectives:

- reposition the Eskom brand in support of the organization's strategic intent
- demonstrate global and continental (African) commitment and involvement
- provide an opportunity to increase market share
- provide an opportunity to enhance stakeholder relationships, goodwill and loyalty
- enhance shareholder value
- enhance customer value
- create platforms to form strategic alliances with existing and potential partners
- instill organisational pride

#### 4.5 Main target markets

- South African Government
- Key Customers
- African: government, utilities, industry
- Investors

#### 4.6 Selection Criteria

Taking cognisance of the new brand positioning, the typical characteristics associated with it, the target market and the required perception the following selection criteria has been identified.

##### 4.6.1 Primary selection criteria 70% weighting

- World class international appeal and participation (image compatibility)
- African passion and priority (relevance)
- Ability to secure free Television coverage in main markets
- Partners must be able to deliver (resources and experience – track record of success)
- Affordability of property and cost to leverage (price vs value)

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#### 4.6.2 Secondary Selection Criteria

30% weighting

- Ease of administration
- Sponsorship clutter eliminated
- Ability to leverage and integrate into overall communication mix
- Measurability
- Meaningful (put back into the community as well)

#### 4.7 Leveraging the sponsorship

The leveraging of the sponsorship must always link back to the selection criteria based on the AIMED model

##### **A** Awareness and Activation

- generating positive brand awareness and association
- reaching the target market through multiple mediums and mechanisms

##### **I** Innovation and Integration

- creative means of leveraging the sponsorship
- integrating the sponsorship into the business of the target market

##### **M** Meaningful and Measured

- demonstrating credible and sincere involvement
- showing measurable results

##### **E** Experiential

- adding value to the target market through their experience with the brand

##### **D** Driven

- using the sponsorship to positively impact on the bottom line

#### 5. REFERENCES

ESDFD01 – Eskom Development Foundation donations policy

#### 6. ANNEXURES

The following guidelines are available on request

- Sponsorship objectives
- Sponsorship selection
- Sponsorship contract
- Sponsorship pitfalls
- Sponsorship measurement
- Sponsorship checklist



## ANNEXURE 1

### SPONSORSHIP OBJECTIVES

#### Why are you entering into a Sponsorship?

The diverse range of objectives that sponsorship can be used to address illustrates its highly flexible nature. Sponsorship can be applied directly to the bottom line, for example, generation of sales, and is often designed to augment other marketing communication with objectives such as to create brand awareness, enhance corporate and brand image, build relationships and develop goodwill in the community.

#### Points to consider in setting Sponsorship Objectives

- Sponsorship objectives must be clearly defined
- Sponsorship objectives must match overall marketing objectives to ensure that they will aid in attaining marketing objectives.
- Clearly defined quantifiable sponsorship objectives provide the best guidance in selecting events or activities to sponsor, enabling you to develop a clear selection criteria
- Strategies for leverage of the sponsorship can be developed directly from sponsorship objectives.
- Clear and measurable sponsorship objectives allows for adherence to them during implementation and enables effective evaluation of whether sponsorship “success” has been achieved.
- Always ensure that sponsorship objectives are clearly articulated and understood by all involved, internally and externally
- Ensure that the objectives are realistic and in fact achievable, considering aspects such as budget allocation and types of events or activities available for sponsorship. It is also advisable to consider external factors such as your competitor’s activity (are they involved in sponsorship, what are their sponsorship objectives, what events or activities do they sponsor?) and government requirements regarding GEAR.

#### Typical sponsorship objectives cited by companies include:

- Corporate objectives
  - Change target market perceptions or attitudes
  - Develop an involvement with the community
  - Increase (or maintain) awareness
  - Enhance or change corporate image

- Build business/trade relations
- Enhance staff relations and motivation
- Build “goodwill” amongst customers, business contacts and key influences

▪ **Product/Brand Objectives**

- Increase sales/market share
- Increase target market awareness
- Identify/build product image
- Strengthen brand preference

**Setting sponsorship objectives**

1. **Corporate Policy & Objectives**
2. **Review Overall Marketing Strategy**

- |                                   |
|-----------------------------------|
| * <b>Marketing objectives</b>     |
| * <b>Communication objectives</b> |
| * <b>Budget allocation</b>        |

1. **Set Sponsorship Objectives**

- |                                 |
|---------------------------------|
| * <b>Corporate</b>              |
| * <b>Product/Brand specific</b> |

4. **Define selection criteria**
5. **Sponsorship Selection**

### Proposal response flow chart. (See next page)

The following diagram shows the general response flow when a company receives a sponsorship proposal.

General promoter/Rights owner/Government official/Community leaders/AE at sports event marketing company contacts  
Senior management or sponsorship manager in a corporation

Response process options

Proposal is referred to appropriate division and reviewed to determine value

#### Declining

If event falls outside the corporate sponsor's selection criteria (as determined by sponsorship objectives) a standard turn down letter is sent. Declining a proposal is important because a proposal declined today could well be of future strategic importance, therefore you do not want to alienate yourself from proposals.

#### Accepting

If the proposal meets a number of selection criteria (as determined by sponsorship objectives) for the corporate sponsor, an in-depth evaluation is initiated. If the corporate sponsor supports the proposal, a contract is drawn-up and the deal is closed.

Setting clear sponsorship objectives and conforming strictly to them in the implementation of the sponsorship, enables the development of clear selection criteria, strategies for leverage of the sponsorship and effective evaluation of sponsorship success.

## ANNEXURE 2

### SPONSORSHIP SELECTION

The event or activity selected must stand out from the crowd and avoid being seen as a “me too” sponsorship. Sponsorship selection is a critical phase, requiring thorough consideration and investigation of many different factors before the selection of a particular event or activity to sponsor is made and a sponsorship contract is signed.

#### Sponsorship selection criteria

The sponsorship selection criteria consists of those factors which have direct bearing on your decision of the type of event or activity to sponsor. The selection criteria is developed from the sponsorship objectives and will differ slightly depending on each company's sponsorship objectives. Usually, however, the selection qualities of a particular sponsorship is based on the following criteria; (basic research into each of the areas listed can make the difference between a successful sponsorship association or a significant marketing failure).

- **Target group/market coverage** – A fundamental requirement is that the sponsorship reaches the consumer with whom you wish to communicate. If possible, get information on the sporting (or arts) interest/involvement vis-à-vis product ownership, purchase patterns or usage enabling a demographic matching of product and sport/arts.

Establish the degree to which media coverage of the event will reach some people (i.e. demographic match) (e.g. does your target audience own TV sets?)

Media coverage projections through an assessment of previous or similar events can also be examined to determine if these will be accessible to your target market and that adequate transmission time will be devoted to the event, thereby giving your sponsorship branding a reasonable chance of being seen and noted.

- **Timing/seasonality** – Consider your corporate market needs, product seasonality, other promotional strategies, etc. Establish that your event does not take place on the same day as the African Cup of Nations, for example, as your media coverage may then only consist of a few minutes or column centimetres.
- **Competitor activity** - Involves general market intelligence gathering to get information on your competitor's sponsorship involvement. If you decide to sponsor an activity or event similar to your competitor, ensure that your event is high profile enough to result in a dominant association with the relevant event or activity.

- **Communication factors** - Examine the “type” of sponsorship on offer, i.e. title sponsorship, presenting sponsorship, co-sponsorship, etc or Federation, League event, Team, individual, Facility or Broadcast. These types of sponsorship convey very different messages and the status and type of sponsorship will determine communication strategies and leverage as well as media interest.
- **Event profile** (history, previous sponsors): consider the degree to which the previous sponsor created a lasting bond with the sponsorship and if you can displace the equity built up by the previous sponsor in that target market.
- **Potential media exposure**: consider likely level of media exposure you will receive through on-site branding at the event. Generally TV exposure is one of the most important features of a sports sponsorship. Potential on-screen branding can be established through timing analysis of previous editions of the event or similar events.
- **Product relevance**: the perceived synergy between sponsor and sponsorship. This need not be direct, but if it is, it is generally more advantageous. Direct product link (e.g. sports shoe manufacturer, indirect link (e.g. soft drink manufacturer sponsoring a cricket event), product image link (e.g. cigarette manufacturer sponsoring a rock concert) or a corporate image link (e.g. bank sponsoring an arts festival).
- **Image** - consider the image you wish to project. The sponsorship must fit the corporate and brand image. This is also influenced by the sponsorship policy of your company – i.e. what your company will and will not sponsor, as a rule. “Brand fit” is essential for an effective sponsorship.
- **Budget/costs** – is the sponsorship affordable, and if so, does it represent value for money? Consider the relative value of media delivery, focusing on TV; analysing a range of events (previous sponsorship or packages on offer) to establish a cost versus media valuation relationship. This calculation involves sponsor exposure time per hour, hours of broadcast, audience delivery and the normal costs of reaching that audience through 30 second spot advertising (either sport costs or cost per thousand or cost per gross rating point). Results can be plotted to establish whether the sponsorship offer appears to be good, average or bad value in comparison with other events, media coverage and audience data is often collated by the event marketing agency as a service to sponsors. This information is also available from your advertising agency.

When considering budgets and costs of the sponsorship, remember to include the cost of leverage of the sponsorship investment. The ratio for this is usually 1:1 (matching every Rand of sponsorship investment with at least a Rand for leverage).

It is also advisable to ensure you have sufficient funds or that your budget is flexible enough to allow for contingencies and unforeseen expenses.

- **Hospitality opportunities** - Consider the hospitality that the event sponsored my offer to influential VIP guests which you would wish to invite to the event. Examine factors as the suitability of the event to entertaining VIP guests and VIP facilities at the event.

A sponsorship opportunity should also be evaluated in terms of creative issues such as:

- ◆ Will an association with sport or event “X” be readily accepted by the target audience?
- ◆ Will it have the necessary synergy to “stand out” from competitors activities?
- ◆ Will it project the desired image?

These questions, among others, are important in regard to long-term strategic considerations and your answers to them must fit defined marketing and corporate objectives.

#### **Other considerations in selecting a sponsorship**

In selecting the type of sponsorship you wish to be involved in, based on the requirements on selection criteria, prospective sponsors should be aware of the following considerations:

- **Levels of sponsorship in sport**

There are various levels within sport where a sponsor can get involved. The sponsorship rights-fee and rights afforded to the sponsor may differ at each level and the level of sport sponsorship selected will depend on the requirements you have specified in your selection criteria and on your sponsorship and marketing objectives. A sponsor may select one or a combination of the following levels:

- ◆ National team sponsorship, e.g. Lion Lager sponsors the Springbok rugby team
- ◆ Provincial team sponsorship, e.g. Xerox sponsors the Gauteng Lions rugby team
- ◆ League sponsorship, e.g. Castle Lager sponsors the Premier Soccer league
- ◆ Individual club sponsorship, e.g. Sasol sponsors the Sasol Super Squad U23 soccer
- ◆ Individual athlete sponsorship, e.g. ABSA sponsors Penny Heyns
- ◆ Development sponsorship, e.g. PPC Cement sponsors cricket development

In selecting a combination of levels in sport sponsorship, a sponsor may, for example, decide to sponsor a national team as their primary sponsorship programme and then get added value by sponsoring development in that sport as well.



It is advisable to have a development component as part of your company's RDP programme. Creative leverage of a development sponsorship can yield many benefits for sponsors even though it naturally would not receive the same coverage as any of the other levels in sports sponsorship.

- Technical sponsors in sport

Apart from the primary sponsorship (e.g. National team sponsorship with naming rights), there are technical sponsors – entitled to secondary sponsorship rights. Technical sponsors supply the team's kit and may differ for all aspects of the kit. For example, Adidas may be the official shoe supplier, KAPPA may be the official clothing supplier (on and off the field), Lucozade may be the official drink supplier. There may be different suppliers for balls, bats, racquets, caps, sunglasses, sunscreen, etc, all entitled to different rights and depending on the sport, different branding rights on items of the kit.

Technical suppliers and secondary sponsors **must be approved** by the primary sponsor, otherwise the door is wide open to ambush marketing, for example, Nike may be the primary sponsor but they could be ambushed by Reebok if Reebok are technical sponsors and supply the soccer boots.

- Licensing and merchandising

This is an important aspect in selecting a sponsorship. It can be immensely profitable and provide added value to the leverage of your sponsorship. It is critical that the Naming Right Holder (primary sponsor) makes use of this licensing option otherwise the door is open to ambush marketing.

As a means of generating funds, many codes will award a licensing contract or develop a licensing programme. You should take up this licensing option and state your rights that because you have registered with the trade mark or theme mark, you may on-sell it to licensees.

You may sell merchandising rights to an official supplier or merchandiser to carry full stock of event related merchandise with your logo and theme piece (e.g. T-shirts, caps, etc.) The merchandiser then pays you royalties for the use of your logo and your event theme piece.

It is essential, whether you decide to take up the licensing option or not, to approve all material manufactured and sold with your logo on. You must state this right in your contract. If you do not and the merchandise is of a poor quality, or if your logo is wrongly printed, it will reflect badly on your company and your sponsorship programme.

There are three types of merchandising agreements:



1. You do your own licensing by sourcing your own official licensees who purchase the right to stock event-related material and pay you royalties for using your logo, brand name, theme piece or trade mark.
2. One official licensee is sought (similar to a central buyer) who will retail all event-related merchandise.
3. Multiple licensees are sourced and split by various industry categories, for example:

- # stone ashtrays
- # glass ashtrays
- # T-shirts
- # shirts
- # metal pins
- # plastic buttons, etc

In your contract, add a control mechanism to state that anything printed or made outside must be approved and signed-off by the primary sponsor. This will ensure that your logo and identity is not damaged, incorrect or abused in any way.

- International considerations

If you decide to sponsor a national team, for example, and the team is invited to a fixture abroad, you must be aware of your rights as they stand internationally

- Exclusivity: This aspect can be illustrated by using the following example. With the Olympic Games, there are two levels of rights for purchase. Firstly, World Rights, sold by the IOC giving the sponsor rights to use their association to the Olympics throughout the world (in any country), e.g. 1996 Olympics, Coca Cola held world rights. Secondly, National Olympic Sponsorship Rights, sold by the NOC to national sponsors who purchase the right to use their association to the Olympics (the rings, etc) nationally, i.e. throughout South Africa only. In the 1996 Olympic Games a conflict arose whereby VISA held worldwide rights, giving any banking institution who held the VISA franchise in any country in the world to use their association to the Olympics Games. The problem arose when Nedbank became national Olympic sponsors and had it not been for their exclusivity clause, which precluded VISA or any VISA franchise from using their association to the Olympics in South Africa, Nedbank's investment would have been wasted. Any other bank with a VISA franchise could have (legally) ambushed Nedbank's association to the Olympics.

Therefore, in selecting your sponsorship it is vital to return to your criteria and check who the other sponsors are and if they are competitors. We will return to exclusivity rights later on.

- If you intend to sponsor an event outside SA you must know exactly what you are buying. You can get this information by asking the code you are dealing with (for example BMW SA would not want to be involved in an international event called the Nissan Shield).
- Check branding and signage opportunities – will purchasing signage give added value to your sponsorship or will it be of no significance to the international market?
- South African copyrights may be of no consequence internationally as they are only registered within the confines of South Africa.
- Maximise your team sponsorship by ensuring that the international event is being covered by local press and manage publicity campaigns accordingly.

#### **Sponsoring an existing event vs creating your own event**

- Sponsoring an existing event

You may be approached by an agent wishing to sell you the rights to an existing event on behalf of the right owners (usually sporting codes). Agents and intermediaries tend to seek out regional and national companies to sell an event first, as these companies have bigger brands and budgets and can spend more on an event. Agents generate their own revenue through.

#	Sponsor fees (commission)
#	Tickets to the event
#	Concessions
#	Merchandise royalties
#	TV revenue

### Knowing this will prepare you during negotiations

- The success of an existing event depends on:
  - ♦ The organiser's experience and skill
  - ♦ How you answer the following questions
    - # Who is responsible for promoting the event, you or the organiser?
    - # Are you confident that spectators will come to the event?
    - # How can you maximise attendance of the event?
    - # Do you understand rights-fees and admin costs?
    - # Budget analysis: once you have paid the rights-fees what budget do you have for leverage of the sponsorship? Consider the 1:1 ration for leverage, for every Rand you invest in the sponsorship itself you must be able to match it with a Rand for promoting the sponsorship-this is essential to get a return on your sponsorship investment.
- ♦ Strategic considerations in selecting an existing client.
 

You must be able to provide answers for the following questions:

  - # Who are the other sponsors? (for example, an Olympic sponsorship is a multiple sponsorship consisting of many sponsors – are any of these sponsors your competitors?)
  - # How many sponsors are there at each sponsorship level?
  - # What are the other sponsors' rights and how do they differ from your rights?
  - # Did the other sponsors' gain rights commensurate with their payment? Did you?
  - # How did the agent or federation or broadcaster arrive at their asking price?
  - # What is included in the rights-fee?
  - # Other sponsors – is their business compatible with yours or is it in conflict with yours, e.g. "MacDonalds" and "Weigh-Less". The core business of these two companies is incompatible and they should not sponsor the same event. If this situation arises, check if contact (signage, location, etc) between conflicting business can be kept to a minimum – ensure you have negotiated an exclusivity clause in your contract, in which case the agent would have to replace the conflicting sponsor.
- # Cluttered events: if the event is cluttered (i.e. a lot of different sponsors), you will need to be creative and find ways of ensuring your branding is visible. This requires considerable incremental spending. Leading brands (e.g. Coco Cola & SAB) can negotiate limitations on the type and number of additional

sponsors. They can also negotiate “clean stadia” i.e. limits to signage in and around the stadium. Signage is usually negotiated with the stadia itself.

- # What opportunities are there for hospitality and are these suitable for your VIP guests?
- # If the event was sponsored by another company, are you confident that you can build up enough of your brand association to the event to dilute and eventually overpower the brand association built up by the previous sponsor? This will require significant expenditure for leverage and promotion of the event.

#### ◆ Creating your own event

Creating your own event will give you a degree of control over:

- # How your company is positioned (branding, image etc)
- # How your customers and VIPs are treated (hospitality)
- # How much you spend
- # Number and types of other sponsors
- # Quality of the event

However, bear in mind that creating your own event involves increased risk and therefore it is advisable to:

- Seek the advice of lawyers and insurance professionals
- Contract with a professional event or sports marketing company
- Work very closely with everyone involved.

Regardless of whether you decide to sponsor an existing event or to create your own, the following considerations are vitally important and we suggest that you follow them to the letter:

- Insist on full disclosure among all parties. This should be stipulated in your contract
- Work together with an accountant to ensure that there is full accountability of all funds enabling you to prove where the funds have gone.
- The entire sponsorship must be very carefully managed. This requires a committed approach which is why we recommend a dedicated sponsorship department, staffed with skilled professionals to ensure that each and every aspect of the sponsorship is conscientiously addressed.

In selecting the appropriate sponsorship for your company, the decision on whether or not to get involved in broadcast sponsorship is important. Broadcast sponsorship provides the

best coverage of the widest possible audience and the most successful sponsorship programmes are where the sponsor is involved in sponsoring the event and the broadcast of that event. This is the most balanced approach.

In recent years a clear distinction between event sponsorship and broadcast sponsorship has developed separating them into two categories. The most likely reason for this is that broadcast sponsorship is extremely costly and it is the most expensive component of the total sponsorship cost. Therefore many sponsorships consist of the event sponsor who owns the rights to the event itself, and the broadcast sponsor, who own the rights to the broadcast of that event.

Broadcast sponsorship is appealing to marketers because communicating to consumers via an independent third party (the media) results in a more subtle selling message than the direct approach of traditional advertising. Broadcast sponsorship is the only form of marketing communication that provides the marketer with an opportunity to dominate the stage entirely (e.g. for 90 minutes) without having to share it with competitors and therefore has the ability to break through the promotional clutter which traditional advertising is often able to do.

The media, especially television, is well aware of this power and its ability to attract audiences. It must be remembered, however that without the event sponsor, there would be no event to broadcast.

**The following issues must be taken into account when deciding to sponsor the broadcast of an event:**

- Coverage and exposure
  - Market coverage: Know the market coverage of the event broadcast and ensure that your key markets are included in the coverage.
  - Estimate audience: Get a clear picture of the estimated audience and know how those numbers were developed, including audience guarantees. You can check this by examining the previous years ratings for similar programming. Factors these audience estimate into any competing programming.
  - Logo visibility: Carefully assess the placement and value of your logo's exposure during the broadcast. Logo visibility during a broadcast can create a cost effective impression.
  - Advertising space: When advertising space is included in the broadcast sponsorship, review your sponsorship objectives and evaluate how the event advertising would:
    - ◆ Coincide with your advertising flighting pattern
    - ◆ Expand your brand reach against its core target
    - ◆ Enable your brand to reach a new target audience
    - ◆ Support your brand and/or corporate image

The media best able to decide on the level of commercial exposure acceptable to its audience and the sponsor will decide whether the exposure opportunities on offer represent good value for money.

- Assessing the cost effectiveness of the broadcast sponsorship package.

To assess if the amount you are being asked to pay for the broadcast of the event is worth it, calculate the cost per thousand viewers (CPM) or cost per rating point (CRP). Weigh these factors against a typical advertising buy, see how much of a premium you are being asked to pay and then determine if the incremental cost is worth it. It is advisable to rely on experienced media buyers from your ad agency or a specialised media buying service.

Actual audience delivery is a critical component in the evaluation process and in determining success of the broadcast sponsorship. To determine the total impression, you would need to do a post-event broadcast evaluation of publicity and broadcast ratings.

- Problems and complexities surrounding broadcast sponsorship

It is advisable to consider the following problems and complexities surrounding broadcast sponsorship before entering into a broadcast sponsorship.

- ✓ Ambush marketing : Should you decide not to purchase the broadcast rights to your event, the televised coverage of the event could be sponsored by a competitor, which, in effect amounts to ambush marketing. This is extremely detrimental to your event sponsorship investment and to the sport or arts sponsored. Ambush marketing also occurs when the broadcaster allows competitive advertising to be placed during your broadcast of the event.
- ✓ Broadcast sponsorship only (usually short-term): Sponsors who only sponsor broadcast of events often use it as a short-term tactical tool to create awareness. This results in less funds, if any, going back into the event or activity televised which may well be in danger of losing that event sponsor if they are not offered television exposure. Consideration should therefore be given to finding ways of ensuring that a proportion of the revenue generated by broadcast sponsorship is ploughed back into the televised event or activity (sport or art).
- ✓ Provision of event related services: Some complexities arise in the sponsor/media relationship with the providers of services as timing, results, and result analyses by watch and computer companies. These can supplement media coverage and provide enhanced information for spectators that would not otherwise be affordable.



- ✓ Broadcast sponsorship is expensive. Broadcast sponsorship is high profile and important too many sponsors, but it can lack the flexibility and targeted communications available through other media at lower cost.
- ✓ Some sponsors may feel that sponsoring television coverage of a major event on a small budget means that they can only be small fish in a very big pond and therefore prefer to sponsor minority sports enabling a closer, more recognisable link.

#### ▪ Broadcast sponsorship contracts

The broadcast sponsorship contract will differ from the event sponsorship contract.

**The following important aspects should be taken into account when considering entering into a broadcast sponsorship contract.**

- ✓ Broadcast rights: The sports codes, or an agent acting on behalf of the sports codes, sell the rights to broadcast the event to a broadcaster (usually the highest bidder). This broadcaster then on-sells the broadcast rights to a sponsor. Therefore, broadcast rights must be negotiated with the broadcaster who holds the rights. Do not assume when you sign an event sponsorship contract that broadcast rights are included in the sponsorship package (often the agent will lead you to believe that they are). If you wish to sponsor the event and the broadcast, broadcast rights can only be negotiated directly with the broadcaster who own the rights.
- ✓ Tri-party negotiations : If you wish to sponsor the event and the broadcast of the event, it is advisable that all right holders are present at the same time during negotiations, i.e. the sporting code plus the sponsor plus the broadcaster. This will ensure that all parties are aware of their rights and obligations under the event and the broadcast sponsorship contract.
- ✓ Advertising space : When advertising is included in the contract, negotiate broadcast guarantees to cover the placing of ads. You must be able to answer the following questions:
  - ✓ If there are shortfalls in flighting your ads, how will you be compensated? Specify if compensation will be via a cash rebate, advertising provided in other properties or extra broadcasts of the programme.
  - ✓ Is there a floor to this guarantee and if so, what does it involve?
  - ✓ You should stipulate the following in the broadcast sponsorship contract:
    - Opening and closing of billboards



- ❑ Incidental logos-logo on the corner of the screen during the event broadcast
- ❑ Classical airtime to the value of “x” the value depends on the size of the broadcast. Airtime is usually allocated to you in shoulder or unsold inventory time.
- ❑ Stings
- ❑ Squeeze backs
- ❑ Ribbons and crawls
- ❑ Audience guarantees, which should include; audience delivery ratings? CPM, percentage of national coverage, key market clearances and station line-up
- ❑ The broadcast sponsor must ask for and specify the following:
  - ❑ Studio banding
  - ❑ That presenters and continuity announcers fulfil and carry the naming rights to the event correctly.
  - ❑ Facilities for press and media at the stadium, although this is the stadia’s responsibility.

In summary, the sponsorship selection criteria, directed by your sponsorship objectives, contains the most critical aspects of what your sponsorship should offer in order to achieve its objectives. Sponsorship “success” is ultimately measured against your sponsorship objectives.

## ANNEXURE 3

### THE SPONSORSHIP CONTRACT

This incorporates the legal aspects of sponsorship and at this stage, it is advisable to consult with an attorney to guard your interests and ensure that you fully comprehend the legal terms (rights and obligations) of the contractual relationship surrounding the sponsorship.

A contract is a legal, written agreement between two or more parties created when anything of value is exchanged, detailing the terms, conditions, and rights of all the parties involved.

Prof JTR Gibson (South African Mercantile & Company Law 6<sup>th</sup> Edition) states that: “a valid contract must contain the following essentials:

- ◆ The agreement must be lawful
- ◆ The agreement must be made within the parties' contractual capacity
- ◆ The parties must be seriously intent to contract
- ◆ The parties must communicate their intentions to each other
- ◆ The agreement must not be vague
- ◆ The parties must be of the same mind as to the subject matter
- ◆ Performance must be possible”

It is not advisable and in fact extremely foolish to enter into a sponsorship without a written contract between all the parties concerned. It is the sponsor's responsibility to ensure that the parties understand and agree to the sponsorship rights, and to ensure that these rights are legally protected under a written contract, before any payments are made and before implementing any aspect of the sponsorship.

#### Sponsorship Contract Consideration

After you have decided to sponsor a particular event and before entering into the sponsorship contract, carefully consider the following important aspects as they relate to aspects such as your marketing and sponsorship objectives, budget, corporate policy etc. These considerations can then be translated into your requirements in the sponsorship contract.

- Decide on the length or duration of the contract

This is primarily dependent on short-term and long-term business objectives, budgets, competitive activity and the number and size of other sponsorship agreements.

- **Short-term (1 year) contracts:** These are attractive as they don't tie up company funds and provide marketers with flexibility to react to marketplace conditions. A disadvantage of short-term annually renewable contracts is that annual fees are often higher than that of long-term contracts.
- **Long-term contracts:** Although they tend to tie up company funds, they compensate sponsors by:
  - ❖ Locking in lower annual fees
  - ❖ Building brand association with the event
  - ❖ Barring competition from taking over the sponsorship
  - ❖ Providing ample opportunity for full leverage of the sponsorship investment
  - ❖ Encouraging relationship building with the organiser

Organisers tend to prefer long-term contracts because they spend less time and money replacing sponsors and are able to devote more time and money to the event and partnership. Organisers are aware that the longer a company sponsors an event, the more equity they have in it and the more likely they are to renew.

- **Decide on and define the payment schedule**

It is not advisable, ever, to pay the entire fee up-front. Payment may be made in instalments and the final payment (at least 10% of the total fee) should be paid only 30 days after the event is over and you are fully satisfied that obligations and responsibilities have been thoroughly carried out.

- **Check organiser's credentials**

Legal council should investigate the financial stability of the organiser. This should be done regardless of the size of the event or sponsorship. Background checks can reveal a variety of problems, which you should be aware of before signing a contract with the singer.

- **Identify and define each party's roles and responsibilities**

This should be done for each stage in the sponsorship programme. Identify who is responsible for vital tasks such as providing research, handling logistics, celebrity appearances etc.

- **Identify and define cancellation terms and performance clauses**

Aspects such as rain, failure to deliver artists, damage to persons and properties, etc. Clearly define who is liable in the case of such eventualities. It is advisable to investigate insurance over for damages and “acts of God” – although this is usually the organiser’s responsibility. If something should go wrong, it will impact negatively on the sponsor – your company’s name and image are at stake.

- Define working relationship

Discuss forming a committee consisting of members from all parties to meet regularly to discuss and monitor progress. Identify main contact people and alternates and issues such as protocol. An effective mechanism for open communication between parties is essential.

- Determine the size and placement of signage

This includes on-site and off-site signage and all promotional material where your logo and the event logo will be used, also involving licensing and merchandising possibilities. Ensure you have a procedure whereby all material and display your logo is approved by you beforehand, this would include a quality control mechanism. Determine what branding opportunities. Ensure you have a procedure whereby all material that displays your logo is approved by you beforehand, this would include a quality control mechanism. Determine what branding opportunities are on offer and if they are sufficient.

- Determine your rights to exclusivity

If there is more than one sponsor involved in the event, clearly define the product categories and ensure that there are no competing products in the same category as yours, sponsoring the event. An exclusivity clause is a contractual guarantee from the rights-holder to the sponsor, prohibiting competitors from associating with that event. If you negotiate exclusivity, the agent is forced to replace any conflicting sponsors. Exclusivity will also minimise “clutter” at the event. It is also advisable to get agreement on how other sponsors will be identified, i.e. their rights to the event. You must be able to answer the following questions before signing the contract:

- Determine and define your hospitality requirements

This would include quantifying free tickets, parking, seating arrangements, catering etc, for VIP guests. It is essential to stipulate and communicate your requirements for hospitality and to check that the venue is suitable.

- Define your option to renew the contract

This should include a “right to refusal clause” stating that at renewal time you should be offered the option to renew the contract before any other sponsor is approached. Here, the wording in this clause is critical because if you state that you should be given “first right of refusal” or just “option to renew” and the code offers the sponsorship at a price higher than you are prepared to pay, there is no room for negotiation because when you turn down the offer, you have used your “first light” or option and the code is free to offer the sponsorship to another company.

- Who are the sponsors?
- Who hold the rights to teams
- Who are the secondary sponsors (or technical suppliers)?

- Get contractual protection from ambush marketing

The contract can afford the sponsor a certain amount of protection from ambush marketing. To do this, the sponsor must be aware of and take advantage of the full “A to Z” rights available to them, including licensing and merchandising rights. A comprehensive exclusivity clause also offers a degree of protection.

- Determine what will happen to gate revenue

It is advisable to stipulate in your contract who receives revenue from tickets.

Ensure that renewal negotiations begin a few months before the contract expires when stipulating dates at which renewal negotiations will begin. This will allow the code enough time to find another sponsor or expiry of your contract, should you decide not to renew. Or, if you wish to renew, it will give you enough time to renegotiate the terms of the new contract and fees.

- Negotiating the contract

In negotiating the contract, avoid overly general phrases such as “best effort” as they tend to leave too much room for interpretation.

- Individual sportsmen contracts

Clearly lay down the conditions they will need to observe as a beneficiary of sponsorship and what their position will be if they are selected as part of the national team.

If you are a sponsor of a national team you should insert a clause stating that the instant a person becomes part of the national team you sponsor, their individual contractual obligations may fall away and they are then sponsored by you, under your contract as part of the team. You should also insert a clause preventing any members of the team from appearing in any advertisements, except yours, and from participating in any other promotional campaigns besides yours, during the duration of your sponsorship.

#### Branding considerations

Many sporting codes stipulate the amount and placing of branding of the team's kit, e.g. with World Cup Soccer no branding is allowed on the national jersey during the actual event except the technical sponsor's logo, but off-the-field attire (e.g. tracksuits) may have the primary sponsors branding. With rugby sponsorship, you are given "x" space on the national jersey for your branding, as well as the technical sponsor's branding, therefore, if SAB are the primary sponsors (with naming rights), they may have branding on the team jersey along with Nike, if they are the technical sponsor.

National teams tend to wear only the technical sponsor's logo, e.g. Springboks – Nike's "swoosh". With multi-sponsorship e.g. the Olympic and Commonwealth Games, the technical sponsor tends to be the only logo worn.

#### Fundamental Elements of the Sponsorship Contract

The contract considerations highlighted above can be translated into specific clauses under the following fundamental heading of the sponsorship contract.

The sponsorship contract should contain the following:

##### 1. The identity of the parties

All parties should be identified by name and the sponsor must be defined by industry category sector, e.g. Nedbank – "a financial institution as is defined in the Financial Institutions (Investment of Funds), Act 39 of 1984". Clearly defined product categories minimises clutter and you should include an exclusivity clause identifying your core business and direct competitors. This will give the other party an indication of who they may and may not approach for secondary sponsorship or for sponsorship on another level.

If the sponsorship involves more than one primary sponsor, e.g. an Olympic sponsorship, get agreement as to how the other sponsors will be identified.



## 2. Benefits accruing to the parties

This includes the benefits and obligations of both parties and the package of rights to which the sponsor is entitled.

Due to the various levels in sports sponsorship, it is important to differentiate between the primary sponsor (or naming sponsor – in terms of the event) and the team sponsor (although it is possible to be both the primary and the team sponsor).

### 2.1 Rights of the primary sponsor

The greater the sponsorship investment the longer the list of demands and stipulations a sponsor may make. The following rights must be stipulated by the sponsor and clearly defined in the sponsorship contract:

2.1.1 Naming rights : This is the most important right of the primary sponsor. The name of the event and the sponsor must be clearly stated e.g:

- ✓ “The Nedbank Million Dollar Golf Challenge:
- ✓ “The Rothmans Durban July”
- ✓ “Benson and Hedges Series Cricket”

### 2.1.2 Rights of association

These rights involve the title and style of presentation specification, defining what the sponsorship includes, e.g. television coverage, and all signage, advertising and/or other promotional material where the sponsor's trade mark or log is used and should be approved by both parties. Rights of Association include:

- (a) Signage : Ensure you negotiate with the correct body controlling signage, e.g. it may happen that you enter into negotiations with the United Cricket Board and they find that the stadia where the event will be stages has a completely different set of negotiated rights and the United Cricket Board has no jurisdiction over them.

Clear stadia requirements : If your event is big enough and the stadia want it, it is possible to negotiate for no other competing signage in and around the stadia, (i.e clean stadia). Some sporting codes insist on clean stadia at their events and do not allow signage or have strict controls, e.g. the Olympic Games.

- (b) Publicity, advertising and promotions: it is the sponsor's responsibility to market the event and they must stipulate the methods they will use and the part the sporting codes must play. The sporting codes may need assistance in organising the event and both parties should form a joint committee to meet regularly to



ensure no element is neglected. Poor organisation will reflect badly on your company.

- (c) Vending rights : clearly specify your rights to sell and promote your product or brand at the event.
- (d) Hospitality : These rights must be clearly specified as they pertain to venues, facilities, catering, staffing etc. You may specify in your contract that your required 30 or 50 VIP tickets and 10% stadium capacity normal stand tickets which can be given away in competitions or other promotions. This clause could be stated a “allocate the naming sponsor between the two, 22 lines 50 tickets”- the manner in which you specify your hospitality right will depend on the type of sponsorship.
- (e) Incidental exposure: This includes every item to be printed with your logo and brand association. This right includes aspects such as the right to association on the front and cover of the programme, the right to insert and ad with predominant placing into the programme, and the right to insert a message from your Chairman into the programme, supporters’ club includes logos, theme pieces, naming rights, etc. All articles associated with the sponsorship and event that carry any association to your company and the event, must be clearly specified in the contract.

## 2.2 Rights of technical suppliers and secondary sponsors

Technical suppliers and secondary sponsors must be approved by the primary sponsor.

- 2.2.1 Technical sponsors : There may be different technical sponsors for each item of the team’s kit. The branding rights for each of the technical sponsors differ depending on the particular code concerned. The technical sponsor is important because it affects the naming right holder’s brand exposure. You must stipulate that your branding is applied to all the technical equipment that they supply. They cannot refuse unless the controlling body of the sport prohibits this e.g. as with the Olympic Games (IOC) or World Cup Soccer.
- 2.2.2 Official supplier : These suppliers must be approved by the primary sponsor. These suppliers supply all the apparel worn off-the-field and also include those such as the official drink supplier, the official sunscreen supplier, etc.

2.2.3 Official merchandiser/licensee: As a means to generate funds, many major codes award a licensing contract or develop a licensing programme. Should you take up this licensing option, state under your rights that because you have registered the trademark or theme piece, you may on-sell it to licensees (who will then pay you royalties for the use of your logo and/or theme piece)? If you do not take up the licensing option, you must be aware of the distribution methodology to be used, as stated in the licensing agreements. Quality control is essential and whether or not you take up the licensing option, you must state in the contract that you have the right to approve or sign-off any article where use has been made of your logo or theme piece. The quality of the merchandise and communications must be up to the standard of your organisation.

### 3. Media coverage/Broadcast sponsorship

This contract must be negotiated directly with the media concerned and your rights must be clearly stated.

#### 3.1 Depending on the scope of your broadcast sponsorship contract, you should stipulate the following:

- ✓ Opening and closing billboards
- ✓ Incidental logos
- ✓ Classical commercial airtime in and around the broadcast of the event
- ✓ Stings
- ✓ Squeeze-backs
- ✓ Ribbons and crawls
- ✓ Audience guarantees from the broadcaster must be included in the contract.

#### 3.2 To protect yourself from ambush marketing, stipulate the following in your contract:

- ✓ No other body, institution, sponsor, etc. is entitled to place any form of squeeze-back, crawl or sting during your broadcast and that they may only place ads in classical airtime.
- ✓ The amount of airtime you will receive for advertising, over and above the broadcast
- ✓ Exclusively : state that there is to be no competitive advertising in and around the broadcast of the event and what the compensation be if competitive advertising does slip in
- ✓ That there is to be no electronic or manual manipulation of live event signage during the event broadcast.

- 3.3 Press and media facilities: Most stadia staging an event have facilities for press and media. You should, however, stipulate that it is the stadia's or organising committee's responsibility to ensure that there are facilities for the media.

#### 4. Trade Marks and Copyright protection

The sponsor must register all trademarks, logos, theme pieces and any marketing device associated to the sponsored event. Register every permutation of the event's name as well as the product classes associated with it. This will help protect you from ambush marketing.

The relevant Acts of which you should be aware are the Trade Marks Act, the Licensing and Merchandising Act and the copyright Act (work with an attorney).

#### 5. Duration, renewal and extension

It is essential that the legal terminology used in specifying these is definitive.

- 5.1 Duration : This depends on the nature of the sponsorship. Usually, however, sponsorship contracts range from one to three years. Parties should agree to regular reviews and appraisals during the term of the contract.
- 5.2 Extension: Include options to extend the level of your sponsorship, (e.g from team sponsorship to include a development component).
- 5.3 Renewal : Stipulate the conditions of renewal and carefully consider the financial implications. If you are the event and broadcast sponsor, ensure that whatever terms of renewal affected in your broadcast sponsorship contract, are also affected in your event sponsorship contract. Specify the date of termination, e.g. Termination date is (date), however, the negotiations of terms of renewal will begin on (date)," (usually 180 days before the contract expires to allow for time for re-negotiations or to give the code time for finding another sponsor, should you decide not to renew).
- #### 6. Payments
- Clearly specify all financial aspects of the contract. Specifically state the amount and the date on which payments are due.
- 6.1 Incremental scale or review period: This should be considered for long term contracts and is usually specified in terms of an escalation clause, operating on the CPI (including issues such as forward buying and forward insurance, should it be needed).

- 6.2 Payment in kind : This must be very clearly stated, specifying whether goods supplied will be at cost or retail.
- 6.3 Gate revenue : Clearly specify what will happen to the gate revenue. You may wish to state, "Gate revenue will be used to off-set on-the-day expenses and the shortfall will be paid by the sponsor.
- 6.4 Other
  - 6.4.1 Sponsors must always retain a portion of the payment ( $\pm 10\%$ ) until the event is concluded to their satisfaction.
  - 6.4.2 With three year contracts, payments are usually made in 6 monthly instalments. The dates of these instalments must be stated.
  - 6.4.3 You should stipulate where any remaining funds are to be spent, e.g. trust funds, books, etc.
  - 6.4.4 Stipulate where any remaining funds are to be spend, e.g. trust funds, books etc

## 7. Geographic and territorial consideration

The functional areas covered by the sponsorship i.e., regional or international, must be clearly stated.

- 7.1 National : Defined as the Republic of South Africa.
  - 7.1.1 Team sponsors : The contract must be internationally based, otherwise your team may find another sponsor for events outside South Africa.
  - 7.1.2 Exclusively : National sponsors (e.g. for the Olympic Games), must state and define their territorial rights and the rights that international sponsors will be permitted in South Africa.
  - 7.1.3 Copyrights : It is important to note that copyrights registered in South Africa may be of no consequence internationally.

## 8. Insurance and Public Liability

It is the sponsor's responsibility to ensure that the event and/or broadcast is adequately covered by insurance to protect your brand and company should something go wrong.

- 8.1 Public liability : It is essential to include a clause refuting any claim for public liability, loss or damage. Retain a copy of the organiser's insurance policy and if this is not adequate, decide if you are going to take out additional cover.
- 8.2 Acts of God : Insurance must be considered to cover aspects such as weather, which could seriously affect the event especially if your are broadcasting live.

- 8.3 Other Insurance : Consider insurance to cover aspects such as strikes and on other issues. This can however, be very expensive and therefore most companies carry the risk and don't insure against them.



## 9. Operating the sponsorship

The contract must clearly specify and identify both parties' responsibility, authority and roles in the organisation and the running of the event. It is essential to form a committee from both parties to meet regularly to discuss sponsorship plans and liaise on all relevant matters.

- 9.1 Delivery of event-related marketing activities : The sponsor's responsibility and to maximise sponsorship potential.
- 9.2 Defining responsibilities : Ensure that the responsibilities and those responsible for them are clearly specified and understood. Ensure that the deliverables are in fact deliverable.
- 9.3 Record Keeping : Work with an accountant to ensure that funds and invoices are accounted for, enabling proof of expenditure.
- 9.4 Disclosure : All negotiations must have full disclosure between parties. Insist on transparency in all negotiations especially those where outside companies, such as caterers, will be profiting from the sponsorship. The code must keep your fully informed regarding all dealings.

## 10. Confidentiality

The contract must specify the confidentiality required from each party in terms of aspects such as:

- ✓ the agreement itself
- ✓ the nature and extent of the sponsorship
- ✓ the rights provided under the contract
- ✓ the right-fees as stipulated under the contract

- 10.1 Official spokesperson : Nominate and stipulate the name of the official spokesperson who is the only person who may be quoted in the media.

## 11. Goodwill

This should be a standard clause to ensure that all parties make every effort to be consistent with, and enhance the image and goodwill of the sponsor.

## 12. Dispute resolution

An arbitration clause must be included in the contract, naming a mutually agreed-upon mediator should a dispute arise. This will enable parties to resolve matters behind closed doors.

### 13. Evaluation of contractual performance

This should stipulate how you intend the sponsorship to be fulfilled and the means by which it will be measured and evaluated according to your investment and other performance criteria, e.g. rating, publicity, sales, conventional market research etc.

### 14. The sponsorship code of practice

Precepts of the code of practice should be referred to, using the following paragraph – “This sponsorship is to be conducted according to the sponsorship code of practice, a copy of which is appended and both parties agree to respect and abide by that code of practice”.

### A model sponsorship Contract

**Please note:** The clauses set out in the following model contract are intended entirely as examples. Actual agreements will differ depending on the nature and scope of each individual sponsorship.

#### 1. Identity of the parties

Sponsorship agreement entered into by and between

**(full name of sponsored party/beneficiary)**

and

**(full name of sponsor defined by industry category sector)**

Now therefore, the parties agree as follows:

#### 2. Definitions

In this agreement, except where the context otherwise requires, the following expressions have their meaning hereby respectively assigned to them:

“this Agreement/Contract” shall mean the Agreement as recorded herein and any annexures hereto.

“Event” shall mean **(name/description of the event)**

“Effective date” shall mean **(date of commencement of contract, etc.)**



### 3. Terms of agreement

#### 3.1 Duration

Notwithstanding date of signature of this agreement, this agreement shall commence on **(day) (month) (year)** and shall terminate on **(day) (month) (year)**.

#### 3.2 Extension

Options to extend the level of the sponsorship, e.g. from a team sponsorship to include a development component.

#### 3.3 Renewal

Termination date is **(day) (month) (year)**, however negotiations of terms of renewal will begin on **(day) (month) (year)**, usually 180 days before termination date.

**(Sponsor)** shall exercise the option to renew in writing on or before **(date renewal negotiations begin)**, failing which the terms and conditions of this agreement will prevail until the parties enter into a new agreement.

### 4. Benefit accruing to parties

Detailed as per agreement to include the rights and obligations of the parties such as:

- Naming rights
- Rights of association
- Licensing rights
- Rights of technical suppliers and secondary sponsors
- Exclusivity
- Hospitality
- Signage
- Promotions
- Warranties
- Promotional appearances.

### 5. Media coverage/Broadcast rights

Stipulate the rights and obligations of both parties – the rights owner and the sponsor.

## 6. Suspensive conditions

Any conditions that performance of either party's obligations are subject to.

## 7. Payment

7.1 (Sponsor) will sponsor (sponsored party) the (event name) with an amount of (amount).

7.2 The sponsorship monies payable by (sponsor) are payable by way of (e.g. six 6 monthly) instalments of (amount). (Specify date that each instalment will be paid,)

7.3 (Sponsor) will pay a performance bonus of (amount) to (conditions of performance bonus).

7.4 Stipulate all payments in kind, e.g. fuel, etc, specifying whether goods supplied will be at cost or retail.

7.5 (Amount, e.g. 10%) will be retained until the agreement is concluded to (sponsor's) satisfaction.

7.6 Any remaining funds will be used for (e.g. trust funds, etc.)

7.7 (Sponsor) will review the (sponsored party's) audited balance sheets and reports regarding allocation of funds.

## 8. Geographic and territorial considerations

Specify the functional areas covered by the sponsorship

### 8.1 National

Define as the Republic of South Africa (state and define your territorial rights and the rights which international sponsors will be permitted in South Africa).

### 8.2 International

For team sponsors, the contract must be internationally based, otherwise your team may find another sponsor for events outside South Africa.

## 9. Operating the sponsorship

Clearly identify and specify the roles, responsibilities and authority of each party in organising and running the sponsorship.

### 9.1 Delivery of event-related marketing activities

### 9.2 Record keeping

### 9.3 Disclosure

### 9.4 Working committee (formed between the sponsor and sponsored party.)

## 10. Indemnity

**(Sponsor)** and **(sponsored party)** will separately contract to indemnify all claims of whatsoever nature for public liability, loss or damage by event participants, organisers of any events and members of the public.

## 11. Force Majeure (Acts of God)

11.1 Should either party be prevented, by sabotage, any government action, strike, riot, insurrection, civil commotion, viz major or any other Act of God, or any circumstances beyond its control, from performing its obligations under this agreement, then in any such cases, it shall be exonerated from liability to the extent to which it shall have prevented thereby from carryout out such obligations.

11.2 Should a force majeure situation arise the party which is affected shall immediately inform the other party in writing. The parties will then use their best efforts to mitigate the effects of any such contingency.

## 12. Promotions

**(Sponsor)** shall be entitled to use, in their sole discretion, any video footage and/or photographs relating to the event for their own benefit and promotional applications.

## 13. Goodwill

**(Sponsored party)** will at all times use their best endeavours to further promote **(sponsor's)** affairs to the media or any individual other than their respective legal or financial advisors without prior written consent of **(sponsor)**.

#### 14. Confidentiality

All information of a technical or financial nature which is obtained by any one party to this agreement shall be treated at all times as strictly confidential.

#### 15. Dispute resolution

(Name of mutually agreed upon mediator) is appointed as arbitrator should a dispute arise. (This clause should also include the right to vet venues of which you do not approve.)

#### 16. Evaluation of contractual performance

16.1 The parties agree that (the sponsored party) through (name of designated person), shall provide (the sponsor) with a written report of every event covering the results plus any details of problems encountered. This report is to reach (the sponsor) within three working days after such event.

16.2 (The sponsor) shall measure and evaluate the sponsorship performance according to conventional market research, performance criteria, return on investment, sales etc.

#### 17. Notices and domicile

17.1 Domicilium citandi et executandi is hereby chosen by the respective parties at their addresses herein supplied all purposes arising out of, or in connection with, this agreement at which addresses, all notices, and/or processes arising out of, or in connection with, this agreement may validly be delivered to or served upon the parties, respectively.

(Sponsored party's name : Physical address)

(Sponsor's name : Physical address)

17.2 Any party to this agreement may change its domicile to another address within the Republic of South Africa on notice in writing to all parties thereto.

17.3 Any notice addressed by any part to any other party shall:

17.3.1 If delivered by hand to the address of his domicile in terms of this clause, be deemed to have been duly received by the addressee on the date of delivery; or

17.3.2 If posted by pre-paid registered post to the addressee's domicile in terms of this clause, be deemed to have been received by the addressee on the eight day following that date of such posting.

17.4 Notwithstanding anything to the contrary herein contained, written notice or communication actually received by one of the parties from another shall be an adequate written notice or communication to such party, notwithstanding that it was not sent or delivered to its chosen domicile.

18. The sponsorship code of practice

This sponsorship is to be conducted according to the sponsorship code of practice, a copy of which is appended and both parties agree to respect and abide by the code of practice.

19. Whole agreement

19.1 This agreement constitutes the whole agreement between the parties as to the subject matter hereof and no agreements representations or warranties between the parties other than those set out herein are binding on the parties.

19.2 No addition to or variation from, consensual cancellation or motivation of this agreement and no waiver of any right arising from this agreement or its breach of termination shall be of any force or effect unless reduced to writing and signed by both parties or their duly authorised representatives.

20. Relaxation

No latitude, extension of time or other indulgence which may be given or allowed by either party to any other in respect of performance of any obligation hereunder or the enforcement of any right arising from this agreement and no single or partial exercise of any right by any party shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a notation of or otherwise affect any of that party's rights in terms of, or arising from, the agreement, or to stop such party from enforcing at any time and without notice strict and punctual compliance with each and every provision in terms thereof.

SIGNED AT ..... ON THIS ..... DAY

OF ..... 200.....

(Signature)

(Signature)

(Full name of sponsoring company)

(Full name of sponsored party)

Witnesses

1. (Signature)

2. (Signature)

Before you sign the contract, ensure that you can adequately answer the following questions:

- ⇒ What are the fees for the sponsorship?
- ⇒ What are the contractual benefits and rights of the sponsor?
- ⇒ What guarantees are afforded to the sponsor?
- ⇒ Does the sponsor have category exclusivity?
- ⇒ Can the promoter make overtures to your competition?
- ⇒ What is the duration of the contract and what are your renewal rights?
- ⇒ Are you able to measure the effectiveness of your sponsorship investment?

### **Your Contract can initiate and guide Planning your Sponsorship Programme**

As well designed, well thought-out sponsorship contract not only protects your rights, but can also initiate and guide your sponsorship programme by:

- ⇒ Providing value for your Rands with tangible, measurable benefits, including the assurance of strong on-site branding.
- ⇒ Ensuring the sponsorship is consistent with your objectives, image and brand positioning.
- ⇒ Offering protection from ambush marketing
- ⇒ Providing a strong sponsorship marketing plan that include advertising, sales promotion and public relations for leverage of your sponsorship investment.





## ANNEXURE 4

### POTENTIAL SPONSORSHIP PITFALLS

Sponsorship requires specialised skills and expertise. It must be very carefully managed. Any aspect that is overlooked could result in devastating consequences for the company.

An awareness of the following potential pitfalls will enable sponsors to anticipate them and thereby limit the possibility of their occurrence.

- **Ambush marketing** – This is defined as the attempt of an organisation to create the impression of being an official sponsor of the event or activity by affiliating itself with that event without having paid the sponsorship rights-fee or being a party to the sponsorship contract.

The ambush marketing tactics that can be and have been used are seemingly limitless. For example, a company may use tag lines in their advertising such as “We support the South African Team”, or they may use symbols commonly associated with the event, such as the Olympic flame. This creates confusion in the market as to who the sponsor is and dilutes the sponsorship investment. For example; the official sponsors of the 1996 comrades Marathon, (paid for the right to use their name and logo at the event) were ambushed by another company. The publicity that the “ambusher” received from this completely overshadowed the sponsor’s involvement and as a result their sponsorship investment became virtually worthless.

Ambush marketing is extremely destructive. Why should a company bother to invest money in sport or arts if they can still have their logo, name and surrounding publicity at the event without paying a cent of the rights-fee? This practice would be extremely detrimental to the future of sponsorable events and activities in South Africa. It is essential that the sports or arts should benefit financially from the sponsorship as this enables their future growth and development, without which, these events and activities would not exist.

Sponsors can protect themselves and the event from ambush marketing, to a certain degree, by ensuring they are fully aware of their A to Z of rights to the event and by taking full advantage of these rights, such as, naming rights, branding rights, exclusivity rights, broadcast rights, licensing rights under the contract will afford some protection as well as Trade Mark registration and licensing. The Merchandising Marks Act is being modified to offer protection against blatant ambush marketing.

- Ignorance of contractual rights – It is essential that sponsors are completely “au fait” with the legal aspects of the sponsorship and, particularly, their rights as they pertain to the sponsorship contract. The rights are the basis of the sponsorship and therefore to know what you are buying in terms of your sponsorship investment is a critical aspect and an area where many sponsors make mistakes –purely out of ignorance. It is advisable to work together with an attorney when negotiating the contract to ensure your rights are specified under the contract and that you are fully aware of what your rights package includes.
- Broadcast rights – Many sponsors make the mistake, when negotiating an event sponsorship contract, in believing that broadcast rights are included in the rights package (often the event rights owner or promoter will lead you to believe this). Broadcast rights can be bought only from the broadcaster who holds the rights to broadcast that event. Broadcast rights are not included as part of the event sponsorship contract and in some cases, an event sponsor may not even be offered first right of refusal of the broadcast rights. Therefore, if you wish to be the event and broadcast sponsor (the most effective sponsorship programme), it is advisable to negotiate with all the parties concerned at the same time, i.e. the event rights owner (sporting federation in most cases) and the broadcast rights owner (SABC, M-Net, etc), and thereby enter into tri-party negotiations that will eliminate any confusion and ensure that you have a rounded, balanced sponsorship programme (even if it is somewhat expensive). This can also prevent the eventuality of a competitor purchasing the broadcast rights and thereby ambushing your event sponsorship and drastically diluting your sponsorship investment. If you wish to be the broadcast sponsor it is also advisable to consider advertising space in and around the broadcast. You could find yourself in a situation where the top and tail and squeeze-backs, etc are sold to your opposition during the broadcast of your event, i.e. you could have the Benson & Hedges cricket brought to you by Rothmans. This can be used as a blackmail clause to get you to pay extra monies over and above what you believe your broadcast right covered.
- Adequately trained staff – It has been stressed that sponsorship is an extremely complex and specialised form of marketing communication and is essential that those managing the sponsorship have the appropriate skills to ensure that the sponsorship runs smoothly. Sponsorships high profile by nature and therefore any mistake or omissions of even the smallest aspect can have potentially devastating consequences for the company. Ensure your personnel are adequately qualified and trained.

- Sponsorship is expensive –Do not make the mistake of paying the rights-fee and believing that that is the sum total of your sponsorship investment. It is essential to maximise your investment, therefore ideally for every Rand you put into your physical sponsorship, you will need a minimum of a Rand for leverage of that investment for advertising and promotional activity, otherwise you will not get a return on your investment.
- Agents – Concerns to be aware of when dealing with agents:
  - ❖ Double dealing : selling the sponsorship rights to more than one sponsor and leading the sponsor to believe that they are buying exclusive rights to the event or activity. Agencies can mislead you in to believing that they have the broadcast rights and sell you the event on the back of this promise. Often this is not true; they first get the sponsorship commitment from you then attempt to negotiate rates.
  - ❖ Exorbitant mark-ups and commissions: the result is that very little funds go back into the sport or event sponsored. To prevent this pitfall ensure that you work together with an accountant and a lawyer and attempt to get as much information as you can on the event or activity the agent is selling and the credibility of the agent concerned.
  - ❖ Agency commissions : make sure if you negotiate directly with the media, that your advertising agency does not claim commission without your knowledge.
 

It must be clearly specified, particularly on broadcast sponsorship, whether agency commission is included in the negotiated figure or not. If the sponsor deals directly with the media there should be no agency commission included in the fee.
- The media – Concerns to be aware of when dealing with the media.
  - ❖ Event sponsors are not given first right of refusal of, or an option to purchase, the broadcast rights to the event and instead the event sponsor's competitors are approached to purchase these rights. This encourages ambush marketing.
  - ❖ Broadcasters sell advertising time to the broadcast sponsor's competitor's during the broadcast of the event. This also encourages ambush marketing.
  - ❖ Press tend to abbreviate or omit the names of events in their editorial. The sponsor own the naming rights to that event and therefore the name must be used correctly.
  - ❖ Ensure that ad breaks do not contain competitive advertising. This needs to be negotiated upfront during broadcast rights negotiations.
  - ❖ Ensure that your are clear about top and tail conditions and squeezebacks and ribbons are specified.
  - ❖ Make sure that OB unit costs are included in your contract.

These guidelines are designed to make sponsorship more effective in achieving marketing objectives by creating awareness of how sponsorship can be used successfully with minimum potential for the pitfalls illustrated above.

## ANNEXURE 5

### Measuring the sponsorship

Sponsorship “success” refers primarily to whether or not a return on the sponsorship investment was obtained. Did you achieve your objectives?

The post-event measurement and evaluation process must be developed from the beginning, focusing on the objectives – the reasons you got involved in sponsorship. The results will enable you to make critical decisions.

The main steps in the measurement process are:

- ❖ Identify internal and external resources. You will need to use a combination of internal and external researchers with experience in evaluating sponsorship.
- ❖ Identify the measurement methodology and determine timing and cost.
- ❖ Identify the decisions that will be made with the research results.
- ❖ Identify who needs the results

### What should be measured

All event-related programmes need to be measured. Traditional quantitative and quantitative research can be used to measure awareness, attitudes and perceptions and combined with broadcast delivery, publicity and sales results to provide answers as to the effectiveness of sponsorship programmes and whether or not sponsorship objectives have been achieved.

Four key areas need to be measured:

Those who bought the brand

The ability of the sponsorship to change your image or consumer's attitudes

Those aware of the sponsorship

Those exposed to the sponsorship

- ❖ A large group of your target market may have been exposed to the sponsorship
- ❖ A smaller group of your target market may remember your sponsorship.
- ❖ An even smaller group of your target may have changed their attitudes and become positively influenced by your sponsorship.

- ❖ The smallest group of your targets will actually change their purchasing pattern and buy your brand.

### Key questions that research can answer

The illustration above leads to the following important questions:

- ❖ How visible was the sponsorship? (media exposure)
- ❖ Did anyone in the target market notice it?
- ❖ Did it change their brand perceptions?
- ❖ Did you increase sales as a result?
- ❖ Should you continue to sponsor the event?

Media exposure and effect on sales can be measured by using quantitative data from your event marketing agency or ad agency and sales figures from the sales manager. The impact of the sponsorship on customer relations is more difficult to measure and it is advisable to use a research consultant for qualitative research into attitudes, perceptions and behaviour of your target market.

### Measuring Media Exposure

Media exposure includes Television, Radio, Outdoor and Print Media.

Measuring media exposure requires:

- ❖ Coverage data: Broadcast details and press article collation.
- ❖ Viewership and/or readership data.
- ❖ Measuring the sponsor's name exposure time or space within the broadcast or article.
- ❖ Television coverage: For larger events this data is usually collated by the marketing agency or your ad agency. This data enables media delivery to be compared in viewing numbers (audience) and profile in relation to other similar events. An analysis of on-screen exposure time can be linked to this and a combination of television coverage and audience and exposure rates provide a relative measure of on-screen branding.
- ❖ Press evaluation: This involves a collation of press articles on the event. Points are awarded to each appearance of the sponsor's name within an article and then weighted by favourability (i.e. positive or negative tone of the article).

- ❖ Measure and recall and association to your brand or company.

These measures indicate how many people may have seen your sponsorship branding, who they were, and for how long.

### **Measuring the effects of the sponsorship**

This investigation requires qualitative survey research and should:

- ❖ Cover all target groups of the sponsorship;
- ❖ Measure the success of the sponsorship in achieving its objectives;
- ❖ Measure the sponsorship's potential for influencing sales;
- ❖ Be conducted by a researcher with experience in this area, enabling well informed interpretations and conclusions.

#### **Other facets of the sponsorship that should be evaluated.**

There may be other areas you may wish to include in the evaluation order to provide a guide for improvement. The following should therefore be incorporated in the measurement process,"

- ❖ Community and Public Relations
- ❖ Product sampling
- ❖ Customer hospitality experience
- ❖ Communication of product/service attributes.
- ❖ Distribution levels
- ❖ New distribution channel
- ❖ Links with opinion leaders
- ❖ Employee morale
- ❖ Ticket revenue
- ❖ Merchandise royalties

#### **Sponsorship post-mortem**

It is essential that a "post-mortem" be held with all parties after the sponsorship. This will enable mistakes to be rectified for the future and the incorporation of experienced gained.

#### **Reporting results**



Consider who would need information about the results. It is essential to recognise the needs and expectations of internal stakeholders who have invested in the event and are therefore expecting a return.

Once you receive final results, present them as soon as possible to those concerned, including those aspects in need of improvement and strategies for their improvement. Future investment will depend on the results of the research.





## ANNEXURE 6

### Sponsorship checklist

Answering the following question will provide a guide to ensure each and every aspect of the sponsorship has been carefully considered and actioned.

1. Why are you entering into sponsorship?
2. Do your sponsorship objectives match and aid in achieving marketing objectives?
3. Does everyone involved in the sponsorship (internally and externally) clearly understand the sponsorship objectives?
4. Are your objectives realistic and achievable in light of factors such as"
  - Your budget allocation?
  - The types of events and activities available to sponsor?
  - Your competitor's activities
5. Is your company fully committed to making the most of the sponsorship in the short term and in the long terms.
6. Do your sponsorship objectives provide clear benchmarks by which you can effectively measure sponsorship "success"?
7. Do you have a clear sponsorship Selection Criteria?
8. Does the proposed sponsorship reach the target consumer with whom you wish to communicate?
9. Will your sponsorship branding have a reasonable chance of being seen and noted during the broadcast.
10. How does the proposed sponsorship fit in with your corporate marketing needs, product seasonality and existing or planned promotional strategies?
11. Are your competitors involved in sponsorship? To what extent?
12. Is your event high profile enough to result in a dominant association?
13. What is the Event Profile of the proposed sponsorship (history, previous sponsors)? Can you displace the equity built up by the previous sponsor?
14. How relevant is the proposed sponsorship to your product/service? Is there synergy between the sponsor and sponsorship?
15. Does the proposed sponsorship convey the image you wish to project? If there "band fit"?
16. Is the company prepared to fully market the proposed sponsorship?
17. Is the sponsorship affordable? If so, does it represent value for money?
18. Have you included leverage costs into your budgetary calculations? Does your budget for leverage at least match your sponsorship investment?
19. Have you added at least 10% to allow for contingencies and unforeseen expenses?
20. What hospitality opportunities does the proposed sponsorship offer? Are these conducive to entertaining your VIP guests?

21. If the proposed sponsorship involves sport, what level of sports sponsorship does it involve – national team, provincial, league, club, individual, athlete or development sponsorship?
22. Who are the technical sponsors involved in the proposed sponsorship offer? What are their branding rights? Will you be able to approve all technical sponsors involved?
23. What licensing and merchandising options are being offered as part of the proposed sponsorship? Do you have a control mechanism in place allowing you to approve all material manufactured with your logo or theme piece?
24. What rights to exclusivity will be afforded to you nationally and internationally?
25. If you intend to sponsor a broadcast, what coverage and exposure opportunities are on offer?
  - Are your key markets included in the coverage?
  - Have you got a clear picture of estimated audience?
  - Are audience guarantees included?
  - How visible will your logo be during the broadcast? Have you assessed the placement and value of your logo's exposure during the broadcast?
  - Is there advertising space included in the broadcast sponsorship?
  - Are there guarantees regarding the placement of your ads?
  - Does the broadcaster allow the placement of your competitor's ads in and around your event broadcast?
  - What allowances does the broadcast sponsorship contract make for categories of product exclusivity?
  - What rights are you entitled to under the broadcast sponsorship contract.
26. Who owns the rights to the event?
27. Have you thoroughly investigated the event/sports marketing agent's credentials? Are you fully satisfied with their credentials?
28. Has a working committee been formed between you and the event organiser? Is there clear identification and agreement on each party's roles and responsibilities in operating the sponsorship?
29. What are the fees involved in the sponsorship and what rights are you entitled to under the contract?
30. What is the duration of the sponsorship and what are your rights to extension and renewal of the contract?
31. Does the contract offer protection from ambush marketing?
32. What is the payment schedule as specified in the contract?
33. Does your contract stipulate the means by which you will measure performance?
34. What cancellation terms of performance clauses are specified in your contract?
35. What geographic and territorial considerations are specified under the contract?
36. What contractual stipulations are there regarding dispute resolution?
37. What efforts have you made to build internal support and agreement across the marketing departments, i.e. with the advertising manager, the sales manager, the public relations manager, etc?
38. How do you intend to gain and maintain the support of senior management and stakeholders in your company?

39. How do you intend to account for and record all expenditure?
40. How do you intend to leverage your sponsorship involvement – what are your leverage objectives and tactics?
41. Have you taken all the considerations into account with planning hospitality at the event? (Consider budget, venue, contingency planning, and finishing touches.)
42. Do you have a detailed contingency plan?
43. Is your contingency plan funded?
44. Can you plan for any of the possible contingencies in your sponsorship contract?
45. What guarantees do the organisers provide against contingencies?
46. What measurement procedures will you use to evaluate the sponsorship?
47. What key areas will you evaluate?
48. What decisions will you need to make base on the results?
49. Who needs information about the results?

If you can provide satisfactory answers to these questions, you will be taking the skilful, well-managed approach to sponsorship enabling you to answer the ultimate question:

**Has a return on investment been achieved?**



ANNEXURE PP 3



**Palesa Tswai**

---

**From:** Chose Choeu  
**Sent:** 22 March 2011 11:34 AM  
**To:** Raeesah Waja; Jacques.roux@jic.co.za  
**Cc:** Pieter Pretorius  
**Subject:** FW: Meeting request - The New Age newspaper  
**Attachments:** image003.jpg; Eskom.pptx

Hi Raeesah,

Please find time to meet with Jacques Roux – preferably sometime this week.

Thank you.

Chose

**From:** Jacques.roux@jic.co.za [mailto:Jacques.roux@jic.co.za]  
**Sent:** 22 March 2011 09:11 AM  
**To:** Chose Choeu  
**Cc:** santosh@sahara.co.za  
**Subject:** Meeting request - The New Age newspaper

*Dear Chose,*

Pursuant to our telephonic conversation we request a meeting during the week if possible to introduce The New Age newspaper to you.

I attach hereto a brief overview of the product for your perusal.

We appreciate how busy your schedule is and will avail ourselves at any time for the meeting as per your convenience.

Jacques Roux

071 859 7120



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**Please consider the environment before printing this e-mail.**

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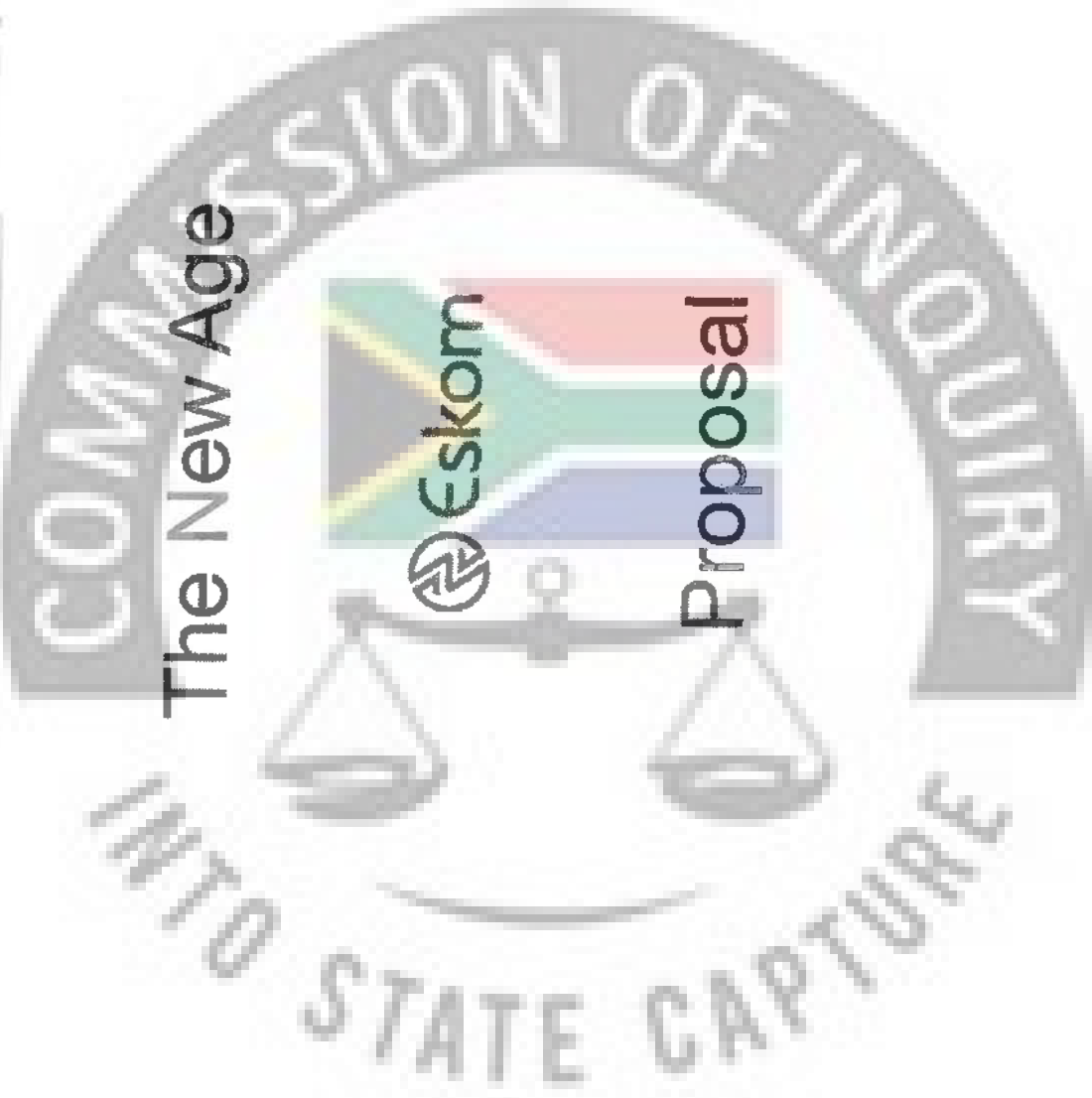
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**THE NEW AGE**  
media & communications

The New Age



Eskom

Proposal



## Dawn of THE NEW AGE

Extra, Extra Read All About It

- The New Age launched successfully on 6 December 2010
- Available at all leading retailers nationwide
- Current print-order: 100 000 per day
- Growing steadily in terms of print-order, circulation and copy sales

THE NEW AGE is here to stay!

## What are We offering?

- The New Age offers the South African media landscape a new vision
- One where reporting is not handled from one dimension, but from multiple
- One where positive news receives as much focus as the negative
- One where the larger context takes precedent over the minute
- One that acknowledges that the news, like life, is not black and white, but full colour
- One that is proud to be South African and to believe in the potential and opportunity of our beautiful country

- South Africa's newest national daily newspaper
- Monday-Friday
- Narrow International Broadsheet Size (54cm x 8col) or commute paper
- Affordable: R3.50
- Breaking news, politics, sport, business, entertainment and lifestyle
- Regional pages: Hometown news from all nine provinces.
- 32 full colour pages
- Relevant, easy to read, to the point
- Balanced Reporting

## Who are our readers?

- Our readers are proud to be South African
- They are the readers and leaders of the future
- They have an optimistic view of our beautiful beloved country
- They are the maturing portion of the current daily readers
- They are tired of Stale and negative news
- They embrace a diverse, but united South Africa
- They are upwardly mobile, aspirational, urban, but still in touch with their roots
- They are a predominantly black audience within LSM 5-8
- They are the proud results of on-going empowerment in SA

## The Mediums at a glance

### Print

- Launched on the 6th of December 2010
- Currently Distributing over a 100 000 copies p/Day
- Full National distribution

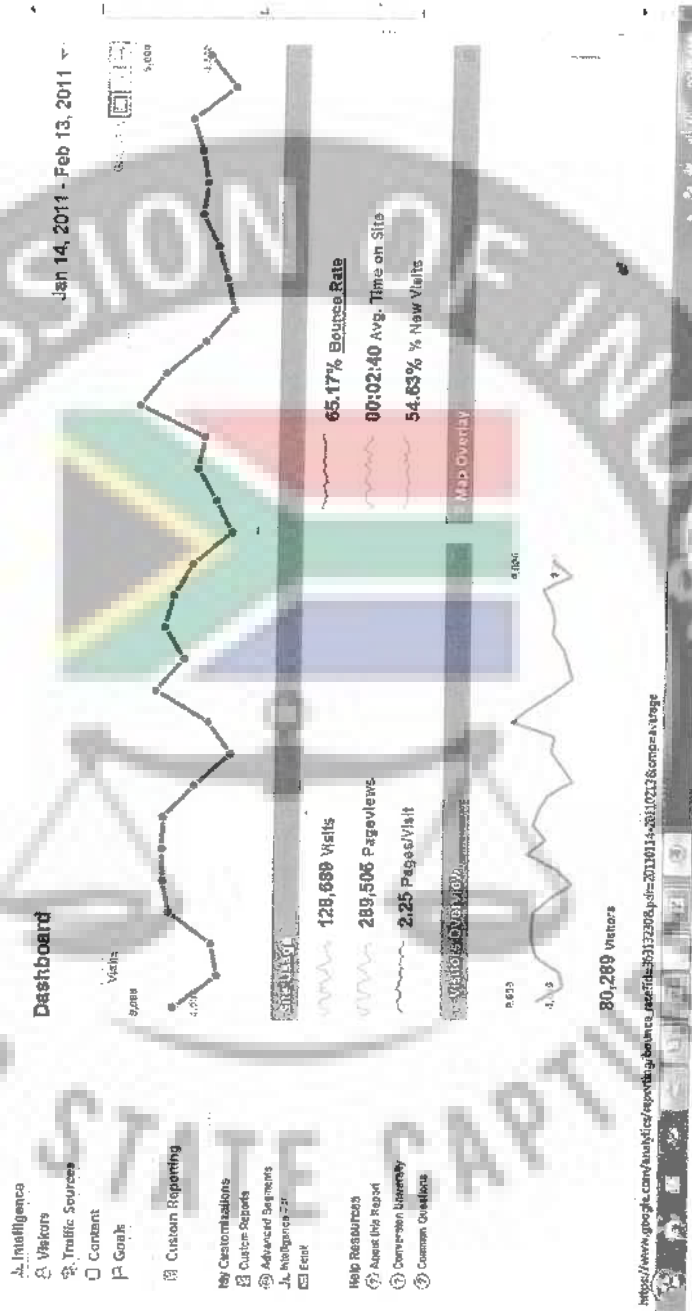
### Online

- Launched on the 2<sup>nd</sup> of September 2010
- Currently serving 290 000 page views
- 80 000 unique

Visitors a month

- Growth rate of 90%

www.thenewage.co.za



THE NEW AGE  
NEWS SERVICE

Marketing

- Pre launch campaign with over 200 billboards
- Brand activations at malls, Heritage day gatherings, school, taxi ranks, malls, homes and more.
- 50 000 audience sample at the New Age Friendship celebrations on the 9<sup>th</sup> of January
- News quotes on Radio and TV stations
- Subscription drive and Home sampling



TNA  
THE NEW AGE  
THOUGHTS AND IDEAS

# The Readers

TNA well received  
People impressed by pictures/  
colours and layout  
Still perceived by many as an



# Brand activations



## Taxi Rank Activation

- JHB – Major
- PTA – Major
- CT – Major



## Traffic Intersections

- 06:00
- JHB – North, South, East and West
- PTA – North, South, East and West
- CT – North, South, East and West



## Mall Activation

- JHB – Major
- PTA – Major
- CT – Major



COMMISSION OF INQUIRY

# Print Rates

## Full National Edition

ROP 100 000 copies • R299.00 (per col.cm) or • R78,68 (per sq.cm)

## Regional Pages:

• Gauteng (One Local page only) 80 000 copies

R199.00 (per col.cm)

R52,37 (per sq.cm)

• Western Cape (One Local page only) 20 000 copies

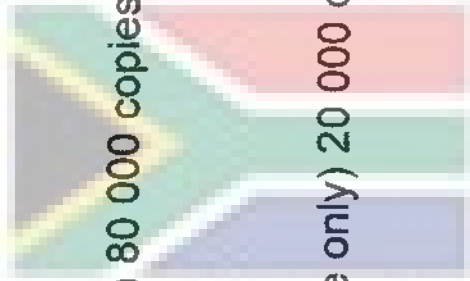
R159.00 (per col.cm)

R41,89 (per sq.cm)

• Kwa-Zulu Natal (One Local page only) 20 000 copies

R149.00 (per col.cm)

R39,21 (per sq.cm)



ANNEXURE PP 4



**From:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Sent:** Tuesday, 01 October 2019 07:28  
**To:** Rohan R. Hiles  
**Subject:** FW: The TNA 49M Breakfasts

Another one on the e-mail addresses.



**From:** Jacques.roux@jic.co.za <Jacques.roux@jic.co.za>  
**Sent:** Thursday, 22 March 2012 07:43  
**To:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Cc:** mzwandile.radebe@gmail.com; Chose Choeu <ChoeuC@eskom.co.za>; Kheepe Moremi <MoremiKL@eskom.co.za>  
**Subject:** Re: The TNA 49M Breakfasts

Hi Pieter,

I hope that we could meet tomorrow to take this discussion further if your & Kheepe's diary allows?

Regards  
 Jacques

**From:** Jacques Roux  
**Sent:** Wednesday, March 21, 2012 07:11 PM  
**To:** 'ChoeuC@eskom.co.za' <ChoeuC@eskom.co.za>; 'PretorJP@eskom.co.za' <PretorJP@eskom.co.za>; 'MoremiKL@eskom.co.za' <MoremiKL@eskom.co.za>  
**Cc:** 'mzwandile.radebe@gmail.com' <mzwandile.radebe@gmail.com>  
**Subject:** Re: The TNA 49M Breakfasts

Thank you Sir, I will be in touch with Pieter & Kheepe tomorrow.

Regards  
 Jacques

**From:** Chose Choeu [mailto:ChoeuC@eskom.co.za]  
**Sent:** Wednesday, March 21, 2012 02:21 PM  
**To:** Jacques Roux; Pieter Pretorius <PretorJP@eskom.co.za>; Kheepe Moremi <MoremiKL@eskom.co.za>  
**Cc:** mzwandile.radebe@gmail.com <mzwandile.radebe@gmail.com>  
**Subject:** RE: The TNA 49M Breakfasts

Hi Jacques Roux,

You will work with Pieter and Kheepe. I will be away until the 30<sup>th</sup> March: representing Eskom on a State Visit to India.

Thank you,

Chose

**From:** Jacques.roux@jic.co.za [mailto:Jacques.roux@jic.co.za]  
**Sent:** 21 March 2012 12:32 PM  
**To:** Chose Choeu  
**Subject:** Re: The TNA 49M Breakfasts

Hi Chose

Thanks for the update - it is an exiting opportunity that we will certainly be keen to explore with you.

May I suggest that we close the initial deal of the 4 breakfasts first this week. These can tie in with our planned schedule and then setup a workshop discussion for next between our teams to strategise on the dedicated 49M campaign and plan that in detail?

Regards  
 Jacques

**From:** Chose Choeu [mailto:ChoeuC@eskom.co.za]  
**Sent:** Wednesday, March 21, 2012 08:14 AM  
**To:** Jacques Roux; Pieter Pretorius <PretorJP@eskom.co.za>; mzwandile.radebe@gmail.com  
 <mzwandile.radebe@gmail.com>  
**Subject:** RE: The TNA 49M Breakfasts

Dear Jacques Roux,

The 49M Breakfast that we are proposing here are "the breakfast" that would be aligned to the Minister's 49M National Campaign. Their style and design will be similar but different from your normal TNA Breakfast (sui generis). DPE working with Eskom and TNA will conceptualise and design the breakfast using the TNA Breakfasts as a framework/template.

Best regards,

Chose

**From:** Jacques.roux@jic.co.za [mailto:Jacques.roux@jic.co.za]  
**Sent:** 20 March 2012 03:45 PM  
**To:** Pieter Pretorius  
**Cc:** Chose Choeu  
**Subject:** RE: The TNA 49M Breakfasts

*Hi Pieter*

Thanks for the mail – I look forward to meeting with you to close this deal.

As we understood that Eskom would only look at a maximum of 4 breakfasts we have gone ahead and sold out the balance of what was available for the year ahead.

We have kept 4 pending our agreement on the sponsorship from you. I'm sorry that we would not be able to accommodate 12 breakfasts any more.

I will send you a presentation soon to peruse and then we could meet to close this positively!



**Best regards**  
**Jacques Roux**  
 071 859 7120



**From:** Pieter Pretorius [mailto:PretorJP@eskom.co.za]  
**Sent:** 20 March 2012 02:00 PM  
**To:** Jacques Roux  
**Subject:** Re: The TNA 49M Breakfasts

Hi Jacques

Perhaps, in preparation for our meeting you could put a sales proposal together. If Eskom commits to a 12 month sponsorship we would be looking at some discounts and added value.

If you can send this to me before the meeting it will help to speed up the process. We would need to sign a contract between the parties and as you know the legal people will also have to look at this.

Regards

Pieter

Sent from my iPad

On 20 Mar 2012, at 11:21 AM, "Jacques.roux@jic.co.za" <Jacques.roux@jic.co.za> wrote:

*Dear Chose*

Thank you for suggested meeting.

*Dear Pieter*

Please advise when will be a suitable time for us to meet?

**Jacques Roux**  
 071 859 7120  
 <image002.jpg>

**From:** Chose Choeru [mailto:ChoeruC@eskom.co.za]  
**Sent:** 20 March 2012 11:16 AM  
**To:** Pieter Pretorius; Jacques Roux  
**Subject:** The TNA 49M Breakfasts

Hi Pieter,

Please meet with Jacques so you could close the deal on the TNA 49M Breakfasts as part of the Minister's National Campaign.

Chose Choeru  
 Divisional Executive: Corporate Affairs  
 P O Box 1091  
 Johannesburg, 2000  
 082 783 7302 or 011 800 3852  
 <image003.jpg>



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ANNEXURE PP 5



**Palesa Tswai**

**From:** Donald Liphoko <Donald.Liphoko@mediashop.co.za>  
**Sent:** 28 March 2012 03:59 PM  
**To:** Pieter Pretorius; Sibusiso Duma  
**Subject:** FW: The New Age Proposal for BB  
**Attachments:** Eskom TNA Proposed Commitment 2012 to 2013.xls

**Importance:** High

Hi Pieter

See attached TNA proposal. Please note that they need to quote the contract value including 16,5% commission. There are 6 breakfasts in total – as opposed to 4 breakfasts per your sms. Is this correct?

Regards

**Donald Liphoko**  
 Board Director

This is the  
**MediaShop**

Phone: +27 (11) 258 4002  
 Fax: +27 (11) 258 4102  
 Cell: +27 (82) 901 0766  
 E-mail: Donald.Liphoko@mediashop.co.za  
 Web: <http://www.mediashop.co.za>  
 Twitter: <http://twitter.com/mediashopza>

**From:** Donald Liphoko  
**Sent:** 27 March 2012 09:49 PM  
**To:** 'Pieter Pretorius'  
**Subject:** RE: The New Age Proposal for BB  
**Importance:** High

Good evening Pieter

Khepe has impressed on me the importance of finalising this proposal with TNA, and he has committed R10m (see attachment) to TNA. I have reverted with a proposal on how this can be structured across the Eskom programme portfolio. I have committed to get TNA to revert with a combined advertising and events contract as proposed by 29<sup>th</sup> March, we will bill the advertising placements and the business breakfasts, and rebate the full media commission as per normal.

I absolutely agree with your comments below, and propose that the events are shared as 3 x Brand, 1 x eta Awards, 1x Eskom Development Foundation, 1 x 49M to coincide with key dates on each programmes marketing calendar.

Can we chat about this further tomorrow please.

Thanks

**Donald Liphoko**  
Board Director



Phone: +27 (11) 258 4002  
Fax: +27 (11) 258 4102  
Cell: +27 (82) 901 0766  
E-mail: [Donald.Liphoko@mediashop.co.za](mailto:Donald.Liphoko@mediashop.co.za)  
Web: <http://www.mediashop.co.za>  
Twitter: <http://twitter.com/mediashopza>

**From:** Pieter Pretorius [mailto:PretorJP@eskom.co.za]  
**Sent:** 26 March 2012 08:43 AM  
**To:** Donald Liphoko  
**Subject:** The New Age Proposal for BB

Hi Donald

Please have a look at the attached. I would like to have a formal contract signed between the 3 parties.

I also would like to include TNA's responsibilities in the contract. For example

Selling of tables

Organising the event - all logistics

SABC 2 broadcast

Organising the guest speakers and notifying Eskom in time say at least 8 weeks' notice

Provide Eskom with a schedule for 6 months

Ensuring attendance of invitees - all reasonable efforts to sell tables.

Eskom responsibilities

Provide branding x days before the time

Provide guest lists where applicable

Provide a guest speaker at the event as appropriate

Please let me know what you think.

Pieter

**From:** Jacques.roux@jic.co.za [mailto:Jacques.roux@jic.co.za]  
**Sent:** 26 March 2012 08:02 AM  
**To:** Pieter Pretorius  
**Subject:** The New Age Proposal for BB.pptx

*Hi Pieter*

2463

Thank you for the engaging discussion on Friday regarding the proposed sponsorship of our very exciting Business Briefing breakfast!

Herewith please find attached a presentation on the event as well as an estimate of the investment breakdown. The cost of sponsorship is based on a net rate / direct booking.

We are planning to host the next briefing on the 12<sup>th</sup> of April 2012 in Johannesburg featuring Minister Malusi Gigaba. This event will certainly have a very direct link to the initiatives that Eskom is working on and as such we strongly recommend that you sponsor this event.

Given the timelines we would request a firm answer from you ASAP to enable the advertising to commence at the earliest!

Best regards  
Jacques Roux  
071 859 7120



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**Proposed TNA Advertising & Events Commitment**

Eskom Programme	*% Share	Contribution
Eskom Development Foundation	4%	R 160 000.00
Energy Losses Programme	20%	R 800 000.00
Integrated Demand Management	20%	R 800 000.00
Public Safety	8%	R 320 000.00
Recruitment	5%	R 200 000.00
Tenders	5%	R 200 000.00
Brand	18%	R 720 000.00
49M	20%	R 800 000.00
TNA Advertising Commitment 1st April 2012-31st March 2013		
		R 4 000 000.00
Brand	100%	R 7 185 628.74
**eta Awards	0%	R -
**Eskom Development Foundation	0%	R -
**49M	0%	R -
TNA Business Breakfast (6) Commitment 1st April 2012 - 31st March 2013		
		R 7 185 628.74
Total Gross TNA Commitment (including 16.5% media agency rebate)		
		R 11 185 628.74
Total Nett TNA Commitment (excluding 16.5% media agency rebate)		
		R 9 340 000.00

\* Adjusted % share based on weighting of total advertising April 2011 - March 2012

\*\* 3 Business Breakfasts to be allocated to Brand, 3 to be allocated to flagship programmes

ANNEXURE PP 6





## Commitment letter

between

The Media Shop (Pty) LTD

and

**TNA MEDIA (PTY) LTD Media (Pty) Ltd**

Effective Date: 01 April 2012

MADE and ENTERED into by and BETWEEN –

**TNA MEDIA (PTY) LTD**

Herein represented by Jacques Roux, he being duly authorized hereto

And

**THE MEDIA SHOP (PTY) LTD**

The Media Shop (Pty) LTD herein represented by

\_\_\_\_\_  
(The Media Shop)

he being duly authorized hereto and who warrants his authority to enter into this agreement.

*[Handwritten signature]*

## Overview

This document confirms the commitment for the provision of advertising space in The New Age newspaper and sponsorship of TNA Media (Pty) LTD business briefing breakfasts between TNA Media (Pty) Ltd and The Media Shop (Pty) LTD

### 1. Advertising commitment

- The Media Shop (Pty) LTD commits to spend the sum of R4 000 000 Excluding VAT during the period of 01 April 2012 – 31 March 2013 with TNA Media (Pty) LTD in the form of advertising to be placed with the newspaper as per annexure A.
- The current rate card will at all times be applicable.

### 2. Event sponsorship commitment

- The Media Shop (Pty) LTD commits to spend the sum of R7 185 628.74 to sponsor 6 x TNA Business briefing breakfasts during the period of 01 April 2012 – 31 March 2013 as per Annexure A. This amount excludes vat.
- The sponsor will receive the following exposure:
  - SABC2 - Morning LIVE broadcast between 7H00 to 9H00
  - Radio spots on SABC Radio Stations (event only)
  - Advertisements in The New Age
  - 2 x table of 10 guests each
  - Banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za)
  - Use of social media
  - Logos on all invitations
  - 6 pull up banners at event
  - 2 guests to be placed at main table
  - Sponsor speech from podium before key note address
- An investment breakdown for the above elements (Annexure B), is attached.

TNA Media (Pty) LTD undertakes to ensure attendance of such events through reasonable ticket sales (corporate tables, and individuals), and will organise all logistics in a manner befitting the established profile of the Business Breakfast, the stature of the speakers, and the sponsors exacting standards.

TNA Media (Pty) LTD is solely responsible for all issues relating to the broadcast partner SABC 2. SABC 2 shall have no claim on The MediaShop (Pty) LTD in the event of non-performance arising from the execution of the Business Breakfast.

TNA Media (Pty) LTD undertakes to secure and manage speakers itineraries, and will notify ESKOM Holdings SOC LTD of confirmed speakers 3 weeks prior to each Business Breakfast. In the course of planning the speaker line-up, TNA Media (Pty) shall inform ESKOM Holdings SOC LTD timeously to assist ESKOM Holdings SOC LTD in planning their respective stakeholder communications.

### 3. Duration

- This commitment shall be applicable for the period 1st April 2012 – 31 March 2013.

### 4. Breach

The Media Shop (Pty) Ltd shall be entitled to terminate its relationship with TNA Media (Pty) LTD by written notice if – TNA Media (Pty) LTD commits any material breach of its material obligations under 2. Event sponsorship commitment, and fails to remedy that breach within 21 (twenty one) days of it being given written notice to do so; TNA Media (Pty) LTD is wound up in any of the circumstances contemplated in Sections 344 and/or 345 of the Companies Act, No. 61 of 1973 (as amended); any person or entity successfully institutes any proceedings for the winding-up or judicial management of TNA Media (Pty) LTD, of any similar proceedings, (including any bankruptcy proceedings). TNA Media (Pty) LTD shall be entitled to terminate its relationship with the and The Media Shop (Pty) Ltd by written notice if The Media Shop (Pty) Ltd fail to make payment of any amount due by it to TNA Media (Pty) LTD within 45 (fourty five) days; or if The Media Shop (Pty) Ltd commit any material breach of their material obligations under these Terms and Conditions and fails to remedy that breach within 7 (seven) days of them being given written notice to do so; If The Media Shop (Pty) Ltd is wound up in any of the circumstances contemplated in Sections 344 and/or 345 of the Companies Act, No. 61 of 1973 (as amended). General terms

### 5. General terms


- Payment terms will be 45 days from invoice
- THE MEDIA SHOP (PTY) LTD hereby warrants that the person (s) signing this commitment on behalf of THE MEDIA SHOP (PTY) LTD has the required authority and has been mandated by the THE MEDIA SHOP (PTY) LTD to enter into this agreement on its behalf.

- THE MEDIA SHOP (PTY) LTD warrants that it has made this commitment voluntarily on its own volition and has not been induced or influenced in any manner to do so as a result of any representations or warranties made by TNA MEDIA (PTY) LTD to The Media Shop (Pty) LTD or to any person acting on the latter's behalf.

SIGNED at STANDTON on this 13 day of APRIL 2012.

  
Jacques Roux

For TNA MEDIA (PTY) LTD

  
Name: VIRGINIA HOLLIS

For The Media Shop (Pty) LTD





## ANNEXURE A

**Proposed TNA Advertising & Events Commitment**

Eskom Programme	% Share	Contribution
Eskom Development Foundation	4%	R 160 000.00
Energy Losses Programme	20%	R 800 000.00
Integrated Demand Management	20%	R 800 000.00
Public Safety	8%	R 320 000.00
Recruitment	5%	R 200 000.00
Tenders	5%	R 200 000.00
Brand	18%	R 720 000.00
49M	20%	R 800 000.00
<b>TNA Advertising Commitment 1st April 2012 - 31st March 2013</b>		
		R 4 000 000.00
Brand	100%	R 7 185 628.74
** eta Awards	0%	-
** Eskom Development Foundation	0%	-
** 49M	0%	-
<b>TNA Business Breakfast (6) Commitment 1st April 2012 - 31st March 2013</b>		
		R 7 185 628.74
<b>Total Gross TNA Commitment (including 16.5% media agency rebate)</b>		
		R 11 185 628.74
<b>Total Nett TNA Commitment (excluding 16.5% media agency rebate)</b>		
		R 9 340 000.00

\* Adjusted % share based on weighting of total advertising April 2011 - March 2012

\*\* 3 Business Breakfasts to be allocated to Brand, 3 to be allocated to flagship programmes

## ANNEXURE B

	R 2 133 034		
	R 1 000 000		
<b>SABC 2 live coverage:</b>	<b>R 627 000</b>	<b>Advertising coverage</b>	<b>R 376 800</b>
<p>With viewership numbers as high 3,000,000+ and on average in excess of 2, 7000, 000; The New Age Business Briefing is indeed a phenomenal platform for showcasing our sponsor's brands! With an average audience share percentage as high as 36.38% this event has clearly captured the imagination of audiences across the country! Average airtime coverage for this event is 57 minutes. April 2012 rates for SABC2, Morning Live is quoted at R367/second. The estimated value is based on the exposure the sponsor's logo will enjoy during the total airtime at an estimated 50% viewability rate.</p>		<p>A minimum of 15 adverts (10x8) in The New Age newspaper prime page positions to ensure that the event is well promoted. The logo of the event sponsor is featured prominently in these adverts.</p>	
		<b>Editorial coverage</b>	<b>R 406 944</b>
		<p>A full page editorial follow up will be featured on the following the event. This feature will establish the link the sponsor wherever possible including a dedicated</p>	
<b>Venue hire:</b>	<b>R 50 000</b>	<b>Catering</b>	<b>R 150 000</b>
<p>High profile locations are selected in line with the corporate profile of the event as well as the guest speakers and esteemed guests. Examples of venues used: Sandton convention centre, Cape Town exhibition centre, Durban ICC.</p>		<p>Guests are welcomed with a selection of teas and coffee followed by a 5 star selection of pastries, fruits and yoghurt served on the tables to enjoy during the live television debate. This is followed by a scrumptious hot breakfast which is served after the live TV coverage is completed.</p>	
<b>Branding and naming:</b>	<b>R 300 000</b>	<b>Subscriptions</b>	<b>R 207 000</b>
<p>Event sponsor is given brand exposure in all print advertising, online banners, invitations, menus on the table and on the back drop used for the debate. Sponsors may also place up to 6 pull up banners in the event area and their logo is featured on the electronic big screens used at the event.</p>		<p>Every guest receives a complimentary 6 months subscription to the New Age newspaper!</p>	
		<b>Tables</b>	<b>R 15 290</b>
		<p>The event sponsor is allocated 2 tables seating 10 guests each + 2 seats for their VIP guests at the main table.</p>	

INTO STATE CAPTURE

ANNEXURE PP 7



	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	CCGTE
		Revision	4
		Effective Date	November 2010
		Regulation and Legal	

## EXECUTIVE SUMMARY

### SUBMISSION TO BOARD INVESTMENT AND FINANCE COMMITTEE

#### 1. TITLE OF THE SUBMISSION

49M Mass Mobilisation Campaign for DPE Minister and the Corporate Brand Positioning Campaign

#### 2. RESOLUTION REQUIRED

ICAS recommend the following resolutions to IFC:

1. Approval for R45 million for the 2012/13 financial year in order for Eskom to assist the Minister of DPE in his countrywide implementation of the 49M campaign. (Not in current financial year plan).
2. Approval for R150 million for the 2012/13 financial year in order for Eskom to roll out its Corporate Brand Positioning Campaign. (Not in current financial year plan).
3. Approval for an additional R18 million for a 49M partnership programme
4. Authorisation of the Divisional Executive (Corporate Affairs), with the power to delegate further, to take all the necessary steps to execute the project including signing or approval of any documentation and give effect to the accelerated implementation of the 49M Ministerial Campaign and the Corporate Brand Positioning Campaign.

#### 3. SUMMARY OF FACTS

##### 3.1 Salient Facts: Ministers 49M Mobilisation Campaign

- 3.1.1 Whilst the Deputy President of the Republic of South Africa is the 49M champion, the Minister of the DPE has taken up the challenge of actively campaigning across the country to ensure that all sectors are aware of the necessity to save electricity in this current time.
- 3.1.2 The Ministers strategy seeks to endorse what is essentially a "social movement" for all South Africans. This "social movement" will be continuously fed through introductions of a) new "participants" i.e. residential, industrial and commercial markets and b) benefit-driven advertising messages and c). the various Ministerial road shows and activations.
- 3.1.3 The 49M campaign was approved by Exco and Board for implementation in November 2009
- 3.1.4 R50,8 million for 49M was previously approved through the PFMA proposal made by the Generation Maintenance Strategy and "keeping the lights on". This excludes the R63 million in this proposal. The Eskom Board approved various initiatives as part of the strategy. The initiative relating to the intensified stakeholder engagement and

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		Revision	4
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partnerships driving energy savings is the 49M campaign, the Ministerial activations are an extension of this campaign.

- 3.1.5 The campaign was launched on 18 March 2011 by the Deputy President Kgalema Motlante.
- 3.1.6 48 corporate supporters have signed on to date as part of the 49M campaign ranging from NGOs, private sector to Government departments.
- 3.1.7 An intensified partner and ambassador programme is required as part of the success of the 49M campaign. Support for partners in terms of management of partner interaction, providing marketing support such as exhibitions, material, etc. identifying and appointing of ambassadors per target market to further popularise the 49M movement.
- 3.1.8 The strategic intent of the 49M campaign is to create awareness of the "energy gap" and to articulate the initiatives Eskom and Government has undertaken to mitigate against the possible risks and to seek and obtain willing participation across a range of social partners (benefactors, patrons, environmentalists, allies and supporters, etc.)

### 3.2 Salient Facts: Eskom Corporate Brand Positioning Campaign

- 3.2.1 The Corporate Brand Positioning Campaign is the end game to turn Eskom into a world class, trusted and highly valued brand that is seen as an integral part of Africa's heritage and destiny.
- 3.2.2 The current reality is that the Eskom brand has a weak and vulnerable reputation, has a low share of voice, the brand ambition is for it to be as previously stated, measured by resilience, brand health, brand value and an eminence on brand league tables.

### 3.3 Key assumptions NA

### 3.4 Financial implications

- 3.4.1 No budget provision has been made for an intensified partner and ambassador programme.
- 3.4.2 No provision has been made in any of the CAD budgets for the corporate positioning campaign as this was only planned for 2015/16. However, due to the change in the market it has become necessary to expedite this positioning, especially in the light of the MYPD3 process.
- 3.4.3 The current budget does not have sufficient funds for a sustained national positioning campaign during this period.
- 3.4.4 The current 49M marketing communication campaign is targeted specifically at the higher end consumer and does not allow for mass mobilisation to the extent that the minister is requiring.
- 3.4.5 The current 49M campaign is aimed at mass communication through advertising, public relations, and digital communication.

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#### 49M DPE Ministerial Campaign

Cost element	Total Estimated Project Costs FY 12/13	Actual May 2012	Year-end Projection
<b>Production costs</b>			
Advertising: TV, radio, print, out of home, digital and on-line, community activations, collateral,	5 100 000.00	3 765 187	5 100 000.00
<b>Media costs: buying of media space and air time</b>	11 923 200.00	0	11 923 200.00
<b>Public relations</b>	13 979 487.00	0	13 979 487.00
<b>New Age Breakfasts</b>	6 000 000.00	1 000 000	6 000 000.00
<b>20% Contingency</b>	7 400 537.40	0	7 400 537.40
<b>Total</b>	<b>44 403 224.40</b>	<b>0</b>	<b>44 403 224.40</b>

#### Partner and ambassadors programme

Cost element	Total Estimated Project Costs FY 12/13	Actual May 2012	Year-end Projection
<b>Production costs</b>			
Marketing material and tool kits for partners and ambassadors	6 000 000.00	0	6 000 000.00
Management of partner relationships	4 000 000.00	0	4 000 000.00
<b>Ambassadors programme</b>	6 000 000.00	0	6 000 000.00
<b>Social Media</b>	2 000 000.00	0	2 000 000.00
<b>Total</b>	<b>18 000 000.00</b>	<b>0</b>	<b>18 000 000.00</b>



	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	CCGTE
		Revision	4
		Effective Date	November 2010
		Regulation and Legal	

### Brand Positioning Campaign

Cost element	Total Estimated Project Costs FY 12/13	Actual May 2012	Year-end Projection
<b>Production costs</b>			
Advertising: TV, radio, print, out of home, digital and on-line, community activations, collateral,	15 000 000.00	0	15 000 000.00
Media costs: buying of media space and air time	75 000 000.00	0	75 000 000.00
Public relations	35 000 000.00	0	35 000 000.00
Internal	10 000 000.00	0	10 000 000.00
Digital	15 000 000.00	0	15 000 000.00
<b>Total</b>	<b>150 000 000.00</b>	<b>0</b>	<b>150 000 000.00</b>

#### 3.5 Human Resource implications

No impact on human resources is foreseen.

#### 3.6 Risks (including Environment, Legal or Contractual risks)

- 3.6.1 Since the 49M campaign enjoys wide support there are no material risks in implementing the accelerated campaign.
- 3.6.2 Since the population census has taken place in October 2011 there could be some pressure from government to change the name when the results are announced.
- 3.6.3 This risk will be mitigated in the longer-term strategy for 49M where intense conversations will take place with all stakeholders on the naming convention of the 49M brand.
- 3.6.4 There is limited to no risk in implementing a brand positioning campaign.

#### 3.7 Verification by independent party (if applicable)


- 3.7.1 Financial costs are verified by our Media Buying, Advertising and PR agencies.
- 3.7.2 Eskom has drawn experts from various divisions within the company as well as its own suppliers and stakeholders to form part of the project team that is responsible for the implementation of 49M and the Eskom positioning campaign.



	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	CCGTE
		Revision	4
		Effective Date	November 2010
		Regulation and Legal	

4. OTHER APPROVALS REQUIRED  
NA

SIGNED

  
10/05/12

DIVISIONAL EXECUTIVE

Who hereby represents that the above  
Information is correct.

10/5/12  
DATE

Submission prepared by: \_\_\_\_\_

Contact Number: \_\_\_\_\_



	SUBMISSION CHECKLIST	Unique Identifier	221-221
		Document Type	CCGFM
		Revision	3
		Effective Date	November 2010
		Regulation and Legal	

Annexure B

## CHECKLIST 1

## TITLE OF SUBMISSION:

## Please note:

The headings should **NOT** be deleted if it is not applicable to the project, the sequence of the headings should not be changed.

Tick the applicable box (✓).

	N/A	Yes	No
<b>1. INTERNAL PROCESS</b>			
<b>1.1 BUSINESS PLAN</b>			
Has the project/issue been included in the business plan? (If no, information/explanation to be highlighted in documentation/ presentation/attachment.)		✓	
<b>1.2 BUDGET</b>			
If financial approval is required, is the project/matter within the approved budget? (If no, information/explanation to be highlighted in documentation/ presentation/attachment.)			✓
<b>1.3 HUMAN RESOURCE IMPLICATIONS</b>			
Does the project have any HR implications? (If yes, information/explanation to be highlighted in document-tation/presentation/attachment.)			✓
<b>1.4 FINANCIAL EVALUATION</b>			
- Has the project/issue undergone a financial evaluation? (If yes, by whom)			✓
- Has the evaluation been verified?			✓
- By whom (internally or independent)?			✓
<b>1.5 LEGAL/CONTRACTUAL ISSUES</b>			
- Are there legal implications?			✓
- Has Corporate legal department input been obtained?			✓
- If so, is the approval sought consistent with the legal input?			✓

Annexure B\_EXCO ICAS Checklist - ICAS SUBMISSION.doc STRICTLY CONFIDENTIAL

<b>1.6 TAX IMPLICATIONS</b> <ul style="list-style-type: none"> <li>- Are there tax implications?</li> <li>- Has Corporate tax department input been obtained?</li> <li>- If so, is the approval sought consistent with the tax input?</li> </ul>			
<b>1.7 CAPITAL PROJECTS</b>	N/A	Yes	No
If the project is of a capital nature the checklist 2 (attached) for the evaluation of capital projects should be completed as well.			✓
<b>1.8 TECHNICAL EVALUATION</b>			
<ul style="list-style-type: none"> <li>- Has the project/issue undergone a technical evaluation? (If yes, by whom)</li> <li>- Has the evaluation been verified?</li> <li>- By whom (internally or independent)?</li> </ul>	✓		
<b>1.8.1 PROJECT DEFINITION READINESS ASSESSMENT</b>			
<ul style="list-style-type: none"> <li>- Has the project undergone a Project Definition Readiness Assessment (PDRA)?</li> <li>- If yes, what is the Project Definition Readiness Index (PDRI) score?</li> <li>- When was the PDRA done?</li> </ul>	✓		
<b>1.9 BLACK ECONOMIC EMPOWERMENT IMPLICATIONS</b>			
Does the project have any BEE implications? Positively increased spend with agencies		✓	
<b>1.10 EMPLOYMENT EQUITY</b>			
Was due consideration given to employment equity in terms of the following:			
<ul style="list-style-type: none"> <li>- Project team</li> <li>- Drafting of submission documentation</li> <li>- Individual(s) presenting to EXCO</li> </ul>	✓	✓	✓
<b>2. ADDITIONAL APPROVALS</b>			
<b>2.1 NERSA</b>			
<ul style="list-style-type: none"> <li>- Is NERSA approval/consultation required?</li> <li>- If approval or consultation is required, provide details and also highlight the time lines, deadlines, etc.</li> </ul>	✓		
<b>2.2 PUBLIC FINANCE MANAGEMENT ACT (PFMA)</b>			
<ul style="list-style-type: none"> <li>- Is any PFMA approval required?</li> </ul>			✓

2.3 ARE THERE ANY OTHER APPROVALS REQUIRED?  
IN PARTICULAR

- Reserve Bank
- Competition Commission
- National Treasury

		✓
		✓
		✓

*[Signature]*  
10/05/12

SIGNATURE:

*[Signature]*  
DIVISIONAL/GROUP EXECUTIVE

DATE: 10/5/2012

CAPACITY:

Who hereby confirms that all of the above requirements have been complied with.


3. PLANNING

Explanations for variances between project cashflows and the approved 6 year plan, MYPD must be included in Annexure D

4M - YEAR and AMOUNT INCLUDED IN APPROVED (Business plan, MYPD and Budget)						
	2013	2014	2015	2016	2107	Total
Project cashflows	R63 M	R68 M	R73 M	R79 M	R86 M	R369 M
6 Year Plan						
NERSA/MYPD 3 (3 year period)	R130 M	R94 M	R90 M			
BUDGET (Current period)	R150,4 M					

ESKOM CORPORATE BRAND POSITIONING YEAR and AMOUNT INCLUDED IN APPROVED (Business plan, MYPD and Budget)						
	2013	2014	2015	2016	2107	Total
Project cashflows	R150 M	R162 M	R175 M	R189 M	R204 M	R880 M
6 Year Plan						
NERSA/MYPD 3 (3 year period)						
BUDGET (Current period)	R0 M					

SIGNATURE:

  
 FINANCE BUSINESS PARTNER

DATE: 10/5/2012

CAPACITY:

  
 Who hereby confirms that all of the above requirements have been complied with.

Transactions requiring ministerial approval in terms of the Public Finance Management Act (PFMA)

1. Does the transaction involve any of the following?

(please tick the appropriate box Yes or No)

A1	Establishment (or participation in the establishment) of a company?	54(2a)	N
A2	Establishment (or participation in the establishment) of any new entity?	51(1g)	N
B1	Participation in a partnership?	54(2b)	N
B2	Participation in a trust?	54(2b)	N
B3	Participation in an unincorporated joint venture?	54(2b)	N
B4	Participation in any arrangement similar to a partnership, trust or unincorporated joint venture?	54(2b)	N
B5	A change in the nature of the existing interest in B1, B2, B3 or B4?	54(2f)	N
B6	A change in the extent of the existing interest in B1, B2, B3 or B4?	54(2f)	N
C1	Acquisition of a shareholding in a company?	54(2c)	N
C2	Disposal of a shareholding in a company?	54(2c)	N

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D1	Acquisition/construction of an asset more than R 500-million?	54(2d)		N
D2	Disposal of an asset more than R 500-million?	54(2d)		N
E1	Commencement of a new business activity?	54(2e)		N
E2	Cessation of an existing business activity?	54(2e)		N

NB: A "Yes" answer to any of the above questions (or any uncertainty) requires consultation with at least the Corporate PFMA office or the Legal Department to confirm if ministerial approval for the transaction is indeed required:

<u>Consulted with:</u>	<u>Comments</u>	<u>Ministerial approval required (Yes or No)</u>	<u>Signature &amp; Name</u>
PFMA Office			AA Leher
Legal Dept			WJ du Plessis

If yes, unique no. allocated to transaction for tracking purposes: \_\_\_\_\_

### Checklist 2

(Refer to the section on "Criteria for evaluating Capital projects")

NAME OF PROJECT: \_\_\_\_\_

<u>CRITERIA</u>	<u>COMMENTS/ RECOMMENDATION</u>	<u>SIGNATURE</u>	<u>DATE</u>
Finance	Refurbishment:	DCF:	
	Electrification:	Quality of Supply:	
	Mandatory:	Other:	

Annexure B\_EXCO ICAS Checklist - ICAS SUBMISSION.doc **STRICTLY CONFIDENTIAL**

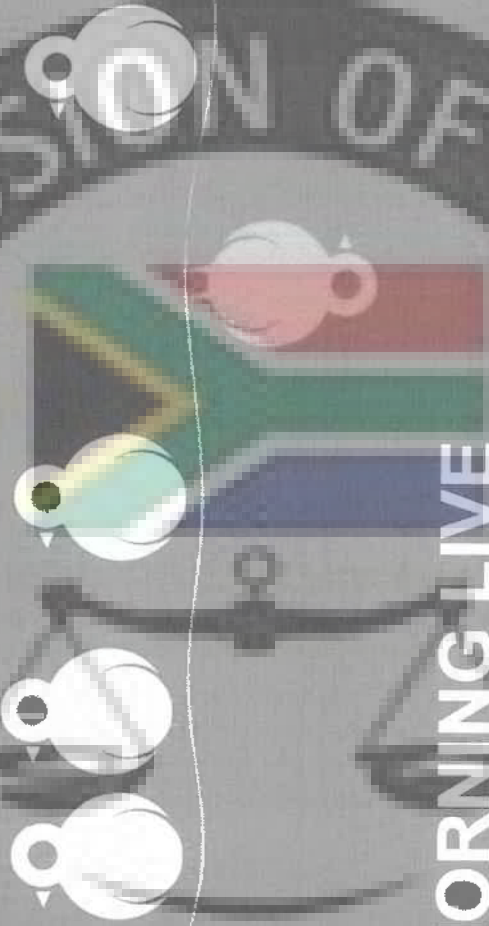
		Ismail Mulla	
<b>Sustainability</b>			
		Wendy Poulton	
<b>Statutory Requirements</b>	<b>Safety:</b>		
		Kerseri Pather	
<b>Insurance</b>			
		Mabaeti Molelekoa	
<b>Taxation</b>			
		Jacqui Kilani	
<b>Funding</b>			
		Caroline Henry	
<b>Technical Review</b>			
		Matshela Koko	



ANNEXURE PP 8



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**ESKOM / MORNING LIVE**  
**2012 PERFORMANCE ANALYSIS**  
**1 OCTOBER 2019**



## AVERAGE RATING AND AUDIENCE FOR MORNING LIVE IN 2012

Description	Adults 15+ years			Adults 15+ years LSM 5-7			Adults 15+ years LSM 8-10		
	Average Cost for 30" Spot	Average Rating	Viewers	CPP	TVR	Viewers	CPP	TVR	Viewers
Jan 2012	R 9,000	2.59	789,600	R 3,474	2.71	485,973	R 3,319	2.37	187,392
Feb 2012	R 11,000	2.71	798,200	R 4,062	2.82	503,872	R 3,905	2.98	234,240
Mar 2012	R 10,570	2.35	680,800	R 4,505	2.23	395,978	R 4,730	2.98	234,240
Apr 2012	R 9,260	1.9	582,400	R 4,865	1.78	323,982	R 5,198	2.25	171,776
May 2012	R 12,000	1.93	562,400	R 6,209	1.98	359,980	R 6,070	2.27	179,584
Jun 2012	R 12,000	1.88	562,400	R 6,390	2.02	359,980	R 5,946	1.89	148,352
Jul 2012	R 12,000	1.58	473,800	R 7,578	1.75	305,983	R 8,868	1.49	117,120
Aug 2012	R 12,000	1.78	532,800	R 6,754	1.85	341,981	R 6,475	2.15	163,968
Sep 2012	R 12,000	1.91	582,400	R 6,268	2.17	395,978	R 5,542	2.13	163,968
Oct 2012	R 11,630	2.02	582,000	R 5,751	2.16	395,978	R 5,373	2.26	179,584
Nov 2012	R 12,000	2.19	651,200	R 5,490	2.52	449,975	R 4,755	2.21	171,776
Dec 2012	R 7,430	1.51	444,000	R 4,911	1.77	323,982	R 4,168	1.25	93,696
<b>Total</b>	<b>R 10,640</b>	<b>2.03</b>	<b>599,400</b>	<b>R 5,522</b>	<b>2.15</b>	<b>388,979</b>	<b>R 5,197</b>	<b>2.18</b>	<b>170,475</b>
<b>Percentage</b>						<b>65%</b>			<b>28%</b>

■ In 2012 – Morning Live had an average of 600,000 adults who viewed their program.

■ Of the total viewership, only 28% of them were in LSM 8-10 (170,745 people). The majority (72%) of viewers were in the lower LSM's.

■ The average spot cost for a 30" commercial was R10,640.



MORE PROFILE INFORMATION ON "MORNING LIVE"

% OF AUDIENCE THAT IS A "MONEY EARNER".



# AVERAGE RATING AND AUDIENCE FOR MORNING LIVE IN 2012

Description	Adults 15+ years			Adults 15+ years - Earns Money			Adults 15+ years - Doesn't earn money		
	Average Rating	Viewers	CPP	Average Rating	Viewers	CPP	TVR	Viewers	CPP
Jan 2012	2.59	769,600	R 3,474	2.72	333,195	R 3,308	2.35	393,366	R 3,825
Feb 2012	2.71	799,200	R 4,062	2.78	339,649	R 3,957	2.48	420,801	R 4,442
Mar 2012	2.35	680,800	R 4,505	2.61	321,266	R 4,215	2.14	361,708	R 5,131
Apr 2012	1.9	562,400	R 4,865	2.24	269,413	R 4,511	1.71	293,915	R 5,891
May 2012	1.93	562,400	R 6,209	2	243,361	R 6,004	1.78	303,439	R 6,741
Jun 2012	1.86	562,400	R 6,390	2.1	256,476	R 5,703	1.65	281,340	R 7,261
Jul 2012	1.58	473,600	R 7,578	1.76	227,105	R 6,818	1.47	252,583	R 8,148
Aug 2012	1.78	532,800	R 6,754	2.28	295,181	R 5,258	1.31	223,866	R 9,167
Sep 2012	1.91	562,400	R 6,269	2.63	343,294	R 4,563	1.29	219,795	R 9,272
Oct 2012	2.02	592,000	R 5,751	2.59	341,494	R 4,637	1.56	263,181	R 7,667
Nov 2012	2.19	651,200	R 5,490	2.58	343,412	R 4,644	1.75	293,942	R 6,840
Dec 2012	1.51	444,000	R 4,911	2.19	294,945	R 4,802	1.53	253,560	R 6,576
Total	2.03	598,400	R 5,522	2.37	300,733	R 4,852	1.75	296,781	R 6,747
Percentage					50%			50%	

- In 2012, of the 600,000 people that viewed "Morning Live" –half of them were not active "money earners".
- Only 300,733 viewers earned some sort of income through work, pension or some other means.

The graphic is a vertical poster. At the top, it features the South African flag. Below the flag, the text 'COMMISSION OF INQUIRY' is written in a large, bold, sans-serif font, with 'COMMISSION' on the left and 'OF INQUIRY' on the right. In the center, the text 'MORNING LIVE IN 2012' is written in a smaller, bold, sans-serif font. Below this, the text '% AUDIENCE THAT IS FULL TIME / PART TIME EMPLOYED - OR UNEMPLOYED.' is written in a bold, sans-serif font. At the bottom, the text 'INTO STATE CAPTURE' is written in a large, bold, sans-serif font, with 'INTO' on the left and 'STATE CAPTURE' on the right. The background is a solid dark grey.

**COMMISSION OF INQUIRY**

**MORNING LIVE IN 2012**

**% AUDIENCE THAT IS FULL TIME / PART TIME  
EMPLOYED - OR UNEMPLOYED.**

**INTO STATE CAPTURE**

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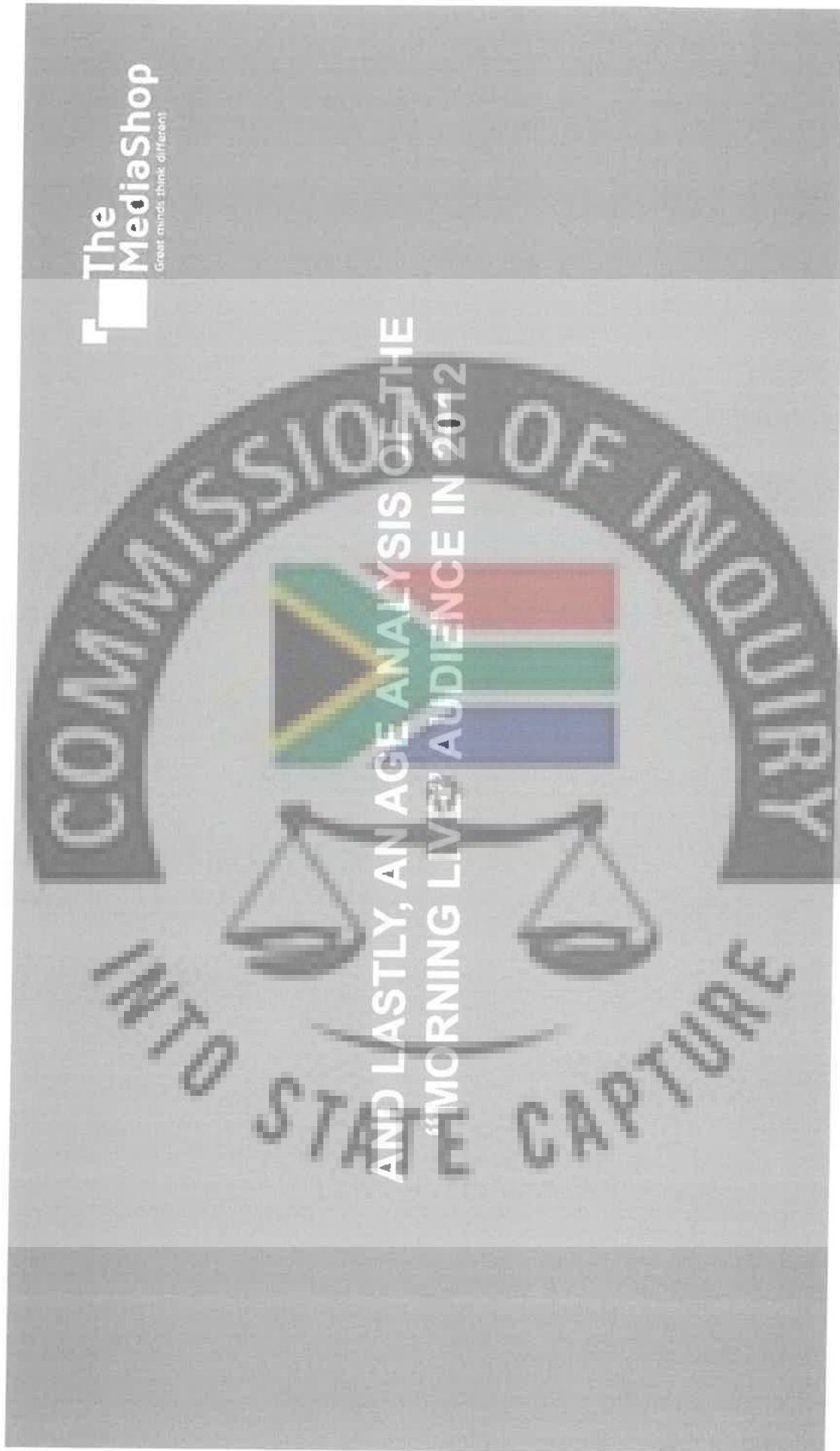
## AVERAGE RATING AND AUDIENCE FOR MORNING LIVE IN 2012



Description	Adults 15+ years			Adults 15+ years - Full time employed			Adults 15+ years - Part time employed		
	Average Cost for 30" Spot	Average Rating	Viewers	CPP	Average Rating	Viewers	CPP	Viewers	CPP
Jan 2012	R 9,000	2.59	769,600	R 3,474	2.06	118,068	R 4,329	26,715	R 4,822
Feb 2012	R 11,000	2.71	799,200	R 4,062	1.76	97,924	R 6,239	38,988	R 4,200
Mar 2012	R 10,570	2.35	680,800	R 4,505	1.97	113,121	R 5,968	38,927	R 4,356
Apr 2012	R 9,280	1.9	562,400	R 4,895	1.7	94,891	R 5,937	25,873	R 5,989
May 2012	R 12,000	1.93	562,400	R 6,209	1.67	94,489	R 7,194	23,885	R 7,657
Jun 2012	R 12,000	1.88	562,400	R 6,390	1.56	87,830	R 7,762	25,155	R 7,148
Jul 2012	R 12,000	1.58	473,600	R 7,578	1.16	65,267	R 10,303	22,034	R 8,735
Aug 2012	R 12,000	1.78	532,800	R 6,754	1.38	75,780	R 8,999	23,173	R 8,001
Sep 2012	R 12,000	1.91	562,400	R 6,289	1.71	96,528	R 6,998	25,343	R 7,389
Oct 2012	R 11,630	2.02	592,000	R 5,751	1.79	99,837	R 6,705	25,162	R 7,449
Nov 2012	R 12,000	2.19	651,200	R 5,490	1.98	108,625	R 6,067	30,887	R 6,017
Dec 2012	R 7,430	1.51	444,000	R 4,911	1.38	77,283	R 7,304	22,290	R 6,859
Total	R 10,640	2.03	599,400	R 5,522	1.68	94,145	R 8,925	27,368	R 6,552
Percentage						16%		5%	

In 2012, of the 600,000 people that viewed "Morning Live" – only 121,493 people were either full time or part time employed.

That means that only 21% of the audience who viewed the show were working adults. The majority of the audience was unemployed, retired, housewives, or students. This segment made up 79% of the audience of the show.



# AVERAGE RATING AND AUDIENCE FOR MORNING LIVE IN 2012



Description	Adults 15+ years				Age 15-24				Age 25-34				Age 35-49				Age 50+			
	Average Cost for 30" Spot	Average Rating	Viewers	CPP	Average Rating	Viewers	CPP	TVR	Viewers	CPP	TVR	Viewers	TVR	Viewers	CPP	TVR	Viewers	TVR	Viewers	CPP
Jan 2012	R 9,000	2.69	768,600	R 3,474	1.27	106,235	R 7,102	2.75	150,730	R 3,275	2.74	200,762	3.278	268,739	R 2,183	4.12	268,739	4.12	268,739	R 2,183
Feb 2012	R 11,000	2.71	799,200	R 4,062	1.4	119,269	R 7,898	2.63	176,603	R 4,179	2.67	216,572	3.836	276,777	R 2,571	4.25	276,777	4.25	276,777	R 2,571
Mar 2012	R 10,570	2.35	699,800	R 4,505	1.09	90,047	R 10,037	2.05	137,953	R 5,350	3.01	227,612	3.646	248,617	R 2,050	3.66	248,617	3.66	248,617	R 2,050
Apr 2012	R 9,260	1.9	652,400	R 4,665	1.17	99,235	R 8,638	1.62	109,007	R 6,211	2.03	183,326	4,908	227,366	R 2,051	3.53	227,366	3.53	227,366	R 2,051
May 2012	R 12,000	1.03	626,400	R 6,209	1.3	110,373	R 9,240	1.6	107,448	R 7,497	2.03	153,410	5,008	198,520	R 3,963	3	198,520	3	198,520	R 3,963
Jun 2012	R 12,000	1.88	762,400	R 6,390	1.25	106,871	R 9,543	1.77	119,033	R 6,767	1.68	126,000	7,159	198,552	R 3,966	3.03	198,552	3.03	198,552	R 3,966
Jul 2012	R 12,000	1.56	478,000	R 7,578	1.32	110,547	R 9,106	1.43	98,239	R 8,400	1.22	82,544	8,065	198,552	R 3,966	2.76	198,552	2.76	198,552	R 3,966
Aug 2012	R 12,000	1.76	532,900	R 6,754	0.78	65,642	R 15,362	1.24	86,419	R 8,617	1.78	138,948	9,745	248,562	R 3,462	3.47	248,562	3.47	248,562	R 3,462
Sep 2012	R 12,000	1.91	552,900	R 6,269	0.89	73,612	R 13,676	1.4	97,409	R 8,558	1.63	146,820	8,219	276,579	R 3,323	3.61	276,579	3.61	276,579	R 3,323
Oct 2012	R 11,630	2.02	552,900	R 5,751	0.82	68,936	R 14,593	1.74	121,011	R 6,884	1.83	146,889	8,208	266,079	R 3,009	3.95	266,079	3.95	266,079	R 3,009
Nov 2012	R 12,000	2.19	551,200	R 5,480	0.98	81,793	R 12,307	2	136,068	R 5,994	2.41	190,304	5,855	212,793	R 3,200	3.75	212,793	3.75	212,793	R 3,200
Dec 2012	R 7,450	1.51	444,000	R 4,911	1.09	91,761	R 9,205	1.7	117,953	R 5,900	1.97	142,076	5,391		R 3,957	3		3		R 3,957
Total	R 10,640	2.03	599,400	R 5,522	1.11	94,093	R 10,556	1.93	124,312	R 5,558	2.10	159,531	5,749		R 3,262	3.53	238,876	3.53	238,876	R 3,262

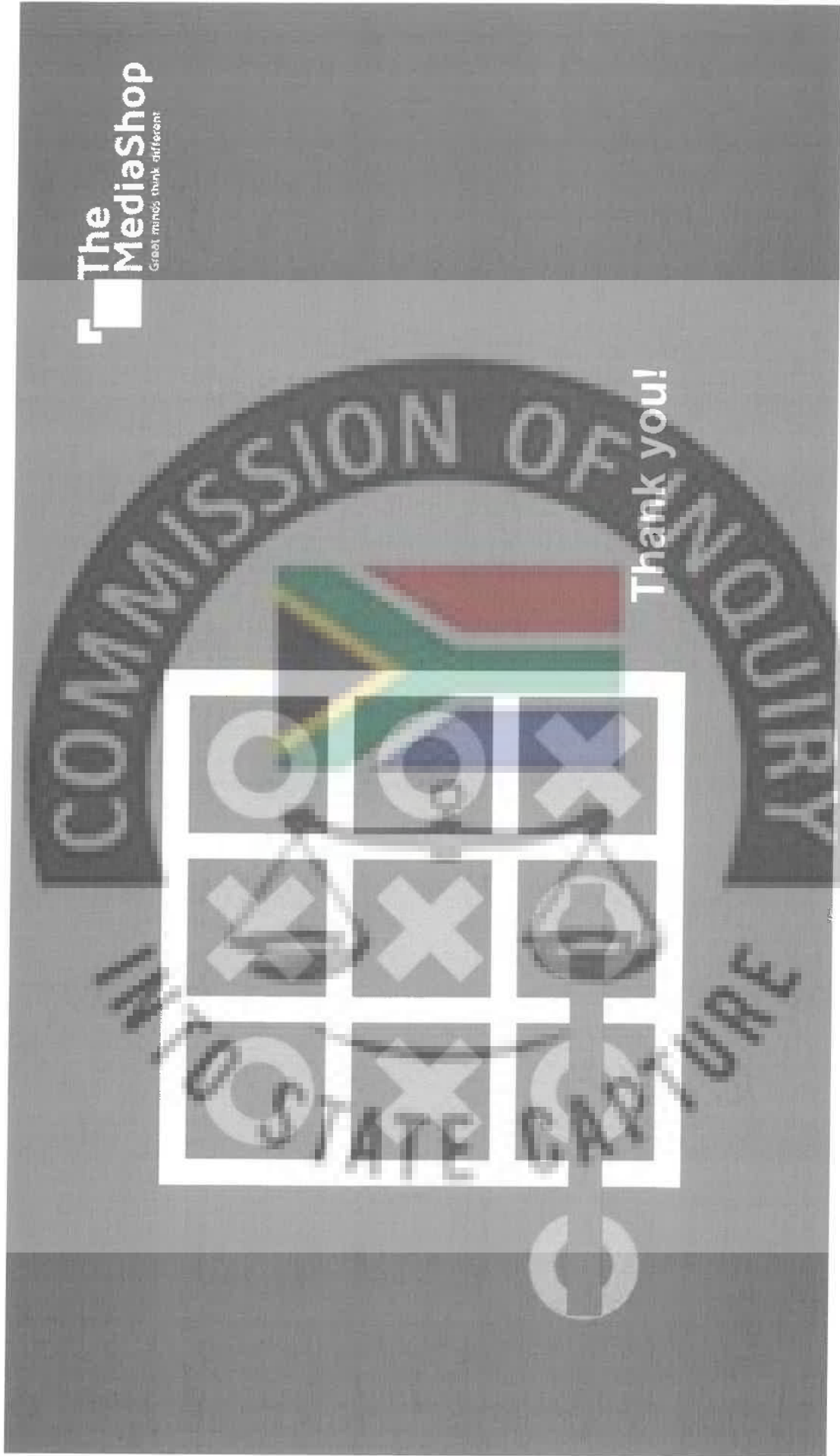
Percentage

16%

26%

40%

- From the above table, we can see that 40% of the audience viewing the program is older than 50 years of age.
- The breakdown above gives us a view of how the program performed against a variety of age audiences.



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Thank you!

ANNEXURE PP 9



---

**From:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Sent:** Monday, 09 July 2012 09:37  
**To:** Kheepe Moremi  
**Subject:** RE: TNA - Eskom Proposal

Hi Kheepe

It is simply not the same, S2 has an infinitely larger and different target audience and surely a different profile. Added to this Morning Live has a very particular follower which I don't believe TNA has.

This is simply wrong.

Regards

Pieter

---

**From:** Kheepe Moremi  
**Sent:** 07 July 2012 05:55 PM  
**To:** Pieter Pretorius  
**Subject:** FW: TNA - Eskom Proposal

FYI

---

**From:** Chose Choeu  
**Sent:** 07 July 2012 11:20 AM  
**To:** Wiedaad Taliep; Kheepe Moremi  
**Subject:** RE: TNA - Eskom Proposal

Hi Wiedaad,

Please let us meet on Monday afternoon at Eskom at 16h30 to finalise the proposed agreement.

Thank you,

Chose

---

**From:** Wiedaad Taliep [mailto:WiedaadT@tnamedia.co.za]  
**Sent:** 06 July 2012 03:22 PM  
**To:** Chose Choeu  
**Cc:** Nazeem Howa  
**Subject:** TNA - Eskom Proposal

Greetings Mr Chose,

As discussed with Nazeem, please find below The New Age Proposal:

The 49m initiative is a campaign that speaks to South Africa as a nation. It appeals to all South Africans to take both the right and responsibility of access to basic services to heart. Electricity is the lifeblood of a nation – our economic success and growth; our personal standard of living and the future of our nation depend on our attitude towards responsible electricity consumption.

The New Age Business Briefings have received unprecedented success – amongst business leaders and also amongst ordinary South Africans. It is a forum and platform that aims to bring policy and decision makers to the people. It creates the opportunity for everyday citizens to not only pose questions to industry leaders, but also to understand what the impacts of our actions are on our country's future.

The New Age remains committed in both our editorial positioning and actions as a newspaper that wants to make a difference. To make a difference in the way we portray our beautiful country, and also in the way that we solve problems. Problems are best solved by keeping our ideals on the end results of what it is we want to achieve. The New Age Business Briefings thus serve as the ideal platform for Eskom to do just that – getting a nation behind the ideals of our end result – a secure future!

In order to achieve this, The New Age has put together the following proposal to replace the lack of television coverage as agreed between us:

Advert	Date	Size	Recurrence	Rate	Total ex Vat	Loading
Print Advertising	18-Jul-12	4 pg. wrap	1	R 314.00	R 542 592.00	R 162 777.00
Pre - event advertising	10 to 16 July 2012	10 x 8	5	R 314.00	R 125 600.00	R 37 680.00
Post Event advertising	18 to 24 July 2012	10 x 8	5	R 314.00	R 125 600.00	R 37 680.00
					R 793 792.00	R 238 137.00
					R	1 031 929.60

**THE NEW AGE BUSINESS BRIEFING**  
brings  
**Dr Robin Petersen**  
CEO of SAFA  
&  
**Gordon Igesund**

**LIVE ON SABC 2**  
Date: 12 July 2012  
Time: 06h30-09h30  
Venue: Sandton

**THE NEW AGE BUSINESS BRIEFING**  
Book your appointment with  
**Lindiwe Mazibuko**  
Parliamentary Leader of the DA  
Date: 25 July 2012  
Time: 06h30-09h30  
Venue: Grand West Casino, Cape Town

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ANNEXURE PP 10





van der Merwe  
&  
Associates Incorporated

Attorneys • Notaries • Conveyancers • Prokureurs • Notarisse • Aktevervaardigers

Our Ref: **MR J SCHALKWYK/Id/TNA006**  
You ref: **THE MEDIA SHOP (PTY) LTD**

Date: 10-09-2012

**URGENT**

The Media Shop (Pty) Ltd  
138 Kelvin Drive  
Morningside  
2057

PER EMAIL: [sean.clarke@mediashop.co.za](mailto:sean.clarke@mediashop.co.za)

Dear Sirs

**TNA BUSINESS BREAKFAST: TNA MEDIA (PTY) LTD / THE MEDIA SHOP (PTY) LTD**

With reference to the above mentioned matter.

We hereby confirm that we act on behalf of our client TNA Media (Pty) Ltd in this matter and address this letter to you on their behalf.

We confirm that you are due and indebted to our client in the amount of R4 771 616.76, being in respect of services rendered on your special insistence and request in terms of an agreement concluded between our client and The Media Shop (Pty) Ltd on or about 13 April 2012.

Paragraph 5 of the aforesaid agreement concluded clearly states that The Media Shop will make payment of any amounts due to our client within 45 (FORTY-FIVE) days after receiving an invoice to the effect. Our client furnished you with an invoice in terms of the agreement on the 18<sup>th</sup> of April 2012 in the amount of R 8 191 616.76 and have you subsequently made payment to our client in the amount of R3 420 000.00.

Directors / Direkteure: Gert van der Merwe (BLC LLB), Pieter van der Merwe (LLB)  
Assisted by / Bygestaan deur: Ilze van der Merwe (LLB), Ilanie Loots (LLB), Marike Piennar (B.Com, LLB), Stephan Deetlefs (LLB),  
Johann Schalkwyk (LLB) (Midrand)  
Reg no: 2006/015908/21  
Street & Postal address / Straat- & Posadres:  
Ivystraat 41 Ivy Street, Clydesdale, Pretoria, 0002  
Tel: (012) 343 5432 • Fax/Faks: (012) 343 5435  
Also at/Ook te Midrand

Our client now therefore formally requests payment of the outstanding amount being R4 771 616.76 within 7 (SEVEN) days after receipt of this letter.

Demand is therefore made upon you in terms of Section 345 of the Companies Act, 61 of 1973, as amended, that you, within 7(SEVEN) days, calculated from date of receipt by you of this letter, pay, or secure, or compound for payment of the aforementioned sum to the reasonable satisfaction of our client, failing which you will in terms of Section 344 F of the Act be deemed to be unable to pay your debts and be liable to place under compulsory liquidation by order of the High Court of South Africa.

The time period specified in preceding paragraph is not be construed as a waiver of any of our client's rights to proceed against you, prior to the expiry thereof, or to launch the contemplated application on any of the grounds which might, in the intervening period present themselves.

We request that you furnish our offices with a copy of the proof of payment indicating payment to our client of the aforementioned amount due and owing by sending a copy thereof to [lucy@vdmass.co.za](mailto:lucy@vdmass.co.za).

We further take this opportunity to mention that should you fail to make payment of the amount mentioned herein above you will be liable for any costs incurred by our client in its attempts to recover the amount due and owing.

We trust you find the above in order and confirm that our client's rights remain strictly reserved.

Yours faithfully

  
**VAN DER MERWE & ASSOCIATES**

Midrand Branch

Per: J Schaalkwyk

[lucy@vdmass.co.za](mailto:lucy@vdmass.co.za)

ANNEXURE PP 11



**From:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Sent:** Tuesday, 01 October 2019 10:56  
**To:** Rohan R. Hiles  
**Subject:** FW: The New Age / The MediaShop



**From:** Sean Clarke <Sean.Clarke@ParkAdvertising.co.za>  
**Sent:** Tuesday, 01 October 2019 10:37  
**To:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Subject:** FW: The New Age / The MediaShop

Hi Pieter

Herewith an email to Nazeem at TNA.

Kind regards

Seán

**Sean Clarke**

Operations Director

T: +27 (11) 061 0339

C: +27 (83) 326 9461

E: [Sean.Clarke@ParkAdvertising.co.za](mailto:Sean.Clarke@ParkAdvertising.co.za)

**From:** Sean Clarke  
**Sent:** 12 September 2012 20:20 PM  
**To:** Nazeem Abrahams <[Nazeem.Abrahams@mediashop.co.za](mailto:Nazeem.Abrahams@mediashop.co.za)>  
**Cc:** Wiedaad Taliep ([wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za)) <[wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za)>; Laiza Zikalala <[Laiza.Zikalala@mediashop.co.za](mailto:Laiza.Zikalala@mediashop.co.za)>  
**Subject:** The New Age / The MediaShop

Dear Nazeem

I certainly hope after today's meeting with Chose Choeu and the rest of the Eskom team that we can get our business dealings back onto a normal trading basis. Firstly regarding the new contract. Once you have agreed with Eskom the costing please forward the draft contract to me for review. Please note that I will be travelling overseas on Saturday morning so if I could get the draft by Friday morning first thing I would appreciate it. There are a few basic principles that are important to the agreement which I would think appropriate to note in advance so as to speed up the process of approval.

- As with the revised agreement I received recently for the second contract please ensure that The MediaShop's role as Eskom's media agency is adequately covered.
- Please also ensure that the payment terms are noted as 45 days as per normal media industry terms, i.e. that The MediaShop will settle on the 15<sup>th</sup> of the month 45 days from the month of appearance of the placement or in this case the date the business breakfast was held. So for example should TNA Media hold a business breakfast for Eskom on the 22<sup>nd</sup> September The MediaShop will bill Eskom with the September account. The MediaShop guarantees payment to TNA Media on the 15<sup>th</sup> November regardless of whether Eskom has paid The MediaShop. Should TNA Media require payment on an upfront basis (which Eskom has not agreed to in any case) then client will be required to pay The MediaShop prior to paying TNA Media upfront. The simple principal is that The MediaShop will make payment on the 15<sup>th</sup> at 45 days. Please note that The MediaShop is not to be invoiced in advance of the BB being held as this will not speed up the payment.

And now regarding the letter from TNA Media attorneys. The facts are as follows;

- The MediaShop signed the original agreement on the 13<sup>th</sup> April 2012.
- The terms stated on the contract is that payment is due 45 days from date of invoice. It was not stated in the agreement that TNA Media would raise a single invoice for the entire amount in advance.
- The total value of the contract for the six business breakfasts with associated media spend came to R7,185,628.74 (excl vat). This amount did include agency commission of 16.5% as correctly stated by you. The MediaShop would therefore deduct agency commission of 16.5% from this amount when making payment.
- To date five breakfasts have been held. The dates The MediaShop has on record is 16<sup>th</sup> April, 14<sup>th</sup> May, 28<sup>th</sup> May, 31 July and 3<sup>rd</sup> September with one BB still to be held. We are not aware if a date has been confirmed or not for this sixth BB.
- TNA Invoiced The MediaShop for the entire contract on 18<sup>th</sup> April on invoice number 2300000061. The value of the invoice being R7,185,628.74 excluding vat.
- To date The MediaShop has made the following payments to TNA Media;
  - R1,140,000.00 was paid on the 18<sup>th</sup> June for the first BB that was held on the 16<sup>th</sup> April. This payment was in fact 3 days late caused by miscommunication at the time between various individuals.
  - A payment of R2,280,000 was made on the 20<sup>th</sup> June for the second and third BB held on the 14<sup>th</sup> and 28<sup>th</sup> May. Please note that the due date for the payment of these two BB was in fact the 15<sup>th</sup> July, i.e. 45 days from the end of May. The MediaShop however paid these two BB amounts early as a sign of good faith because of the problems experienced with the first payment and the original communication mix up.
- The fourth BB was held on the 31<sup>st</sup> July and the payment for this is due on the 15<sup>th</sup> September. This payment will be made this Saturday the 15<sup>th</sup> September as per normal media industry terms.



- The fifth BB was held on the 3<sup>rd</sup> September and this will be paid on the 15<sup>th</sup> November as per the correct 45 day terms.
- The sixth BB has not yet been held so no payment is due for this event.

On the basis of these facts The MediaShop is not behind on payment as per normal media industry standards and as per standards accepted and understood by our client Eskom. The fact that TNA Media chose to bill The MediaShop for the entire project in April is of no concern to either The MediaShop or Eskom. Therefore the letter dated 10<sup>th</sup> September from TNA Media attorneys demanding payment in the amount of R4,771,616.76 is rejected as factually and legally incorrect and without basis. The MediaShop does not wish to engage in legal proceedings and therefore requests that TNA Media withdraw this threat of action after due consideration of the facts noted above. We therefore request that a formal letter of withdrawal of action is received from TNA Media attorneys by close of business on Friday afternoon the 14<sup>th</sup> September 2012 otherwise The MediaShop will have no choice but to oppose the action and proceed with appropriate legal action in response.

I sincerely hope that we can resolve this matter which I believe is based on a misunderstanding of the facts. I am looking forward to your positive response.

Yours sincerely

Sean Clarke  
Operations Director  
The MediaShop (Pty) Ltd  
Tel: +27(11)2584003  
Fax: +27(11)2584103  
Mobile: +27(83)3269461  
Email: [sean.clarke@mediashop.co.za](mailto:sean.clarke@mediashop.co.za)



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ANNEXURE PP 12



**From:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Sent:** Tuesday, 01 October 2019 10:56  
**To:** Rohan R. Hiles  
**Subject:** FW: threat of legal action from The New Age



**From:** Sean Clarke <Sean.Clarke@ParkAdvertising.co.za>  
**Sent:** Tuesday, 01 October 2019 10:38  
**To:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Subject:** FW: threat of legal action from The New Age

Hi Pieter

Herewith an email from Chose.

Kind regards

Seán

Sean Clarke  
 Operations Director

Phone: +27 (11) 061 0339  
 Fax: +27 (11) 258 4103  
 Cell: +27 (83) 326 9461  
 E-mail: [Sean.Clarke@ParkAdvertising.co.za](mailto:Sean.Clarke@ParkAdvertising.co.za)  
 Web: <http://www.parkadvertising.co.za>

-----Original Message-----

**From:** Chose Choeu [<mailto:ChoeuC@eskom.co.za>]  
**Sent:** 18 September 2012 15:52 PM  
**To:** Sean Clarke <[Sean.Clarke@mediashop.co.za](mailto:Sean.Clarke@mediashop.co.za)>  
**Cc:** Pieter Pretorius <[PretorJP@eskom.co.za](mailto:PretorJP@eskom.co.za)>; John Mcardle <[McArdIJ@eskom.co.za](mailto:McArdIJ@eskom.co.za)>; Laiza Zikalala <[Laiza.Zikalala@mediashop.co.za](mailto:Laiza.Zikalala@mediashop.co.za)>  
**Subject:** RE: threat of legal action from The New Age

Hi Sean,

Apology for delayed response. I have and are engaging with TNA on this matter. I just had a meeting with TNA and are soon to reach an amicable solution.

Best regards,

Chose

-----Original Message-----

From: Sean Clarke [mailto:Sean.Clarke@mediashop.co.za]

Sent: 16 September 2012 10:12 PM

To: Chose Choeu

Cc: Pieter Pretorius; John Mcardle; Graham Vivian; Laiza Zikalala; Chris Botha; Kheepe Moremi

Subject: threat of legal action from The New Age

Dear Chose

The New Age has not agreed to withdraw its pending legal action against The MediaShop. Unfortunately The MediaShop is left with few options and therefore appeals to you to assist with the threat of legal action by The New Age against The MediaShop. At our meeting at your offices on Wednesday where the letter from TNA attorneys was discussed it was agreed that a settlement was required and that this legal action was not needed. Nazeem and I subsequently also met to discuss this legal action. As agreed at that subsequent meeting a detailed email presenting the facts re payments was sent to Nazeem confirming what payments The MediaShop has already made to TNA and what payments would still be made for the outstanding Business Breakfasts.

A request was made of The New Age that by close of business on Friday that their attorneys would confirm in writing that the threat of legal action would be withdrawn after due consideration of the facts as presented. Unfortunately The New Age has not instructed its attorneys to withdraw this pending action threatening liquidation of The MediaShop. The MediaShop is therefore now forced to prepare for a defence of this impending legal action. We therefore request that Eskom please intercede in this matter with The New Age as this dispute is not of The MediaShop making. The demands of payment being made by The New Age are not acceptable to Eskom and therefore The MediaShop cannot be prejudiced as a result. The MediaShop has always stated that payment will be made to The New Age should Eskom choose to pay in advance, and this option has clearly been rejected by Eskom.

We request therefore that because of your close relationship with The New Age that you assist in The New Age withdrawing this legal action against The MediaShop.

I am currently overseas but I am available on my cell phone at all time so please call me should you require any additional information.

yours sincerely

Sean Clarke  
Operations Director  
The MediaShop

Sean Clarke  
Mobile: +27(83) 326 9461  
Tel: +27(11) 258 4003  
Fax: +27(11) 258 4103  
sent from my iPad

#####

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ANNEXURE PP 13





# Commitment letter

between Eskom (Pty) LTD

and

The Media Shop (Pty) LTD

and

**TNA MEDIA (PTY) LTD Media (Pty) Ltd**

Effective Date: 01 November 2012

MADE and ENTERED into by and BETWEEN –

TNA MEDIA (PTY) LTD

Herein represented by Nazeem Howa, he being duly authorized hereto

And

ESKOM (PTY) LTD & THE MEDIA SHOP (PTY) LTD

Eskom (Pty) LTD & The Media Shop (Pty) LTD herein represented by

Chuse Choea

(Eskom) & Laiza Zikalala (The Media Shop)

he being duly authorized hereto and who warrants his authority to enter into this agreement.

*Lot A*  
*Signature*



## Overview

This document confirms the commitment for the provision of advertising space in The New Age newspaper and sponsorship of TNA Media (Pty) LTD business briefing breakfasts between TNA Media (Pty) Ltd and Eskom (Pty) LTD and The Media Shop (Pty) LTD

### Event sponsorship commitment

- Eskom (Pty) LTD & The Media Shop (Pty) LTD commits to spend the sum of 4 000 000 to sponsor 4 x TNA Business briefing breakfasts during the period of 01 November 2012 – 31 March 2013. This amount excludes vat and agency commission.
- The sponsor will receive the following exposure:
  - SABC2 - Morning LIVE broadcast between 7H00 to 9H00
  - Radio spots on SABC Radio Stations (event only)
  - 10 Advertisements in The New Age marketing with breakfast with recording Eskom as sponsor
  - Two editorial pages, with Eskom logo, reporting back on the breakfast.
  - 2 x table of 10 guests each
  - Banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za)
  - Use of social media
  - Logos on all invitations
  - 6 pull up banners at event
  - 2 guests to be placed at main table
- Sponsor speech from podium before key note address

TNA Media (Pty) LTD undertakes to ensure attendance of such events through reasonable ticket sales (corporate tables, and individuals), and will organise all logistics in a manner befitting the established profile of the Business Breakfast, the stature of the speakers, and the sponsors exacting standards.

TNA Media (Pty) LTD is solely responsible for all issues relating to the broadcast partner SABC 2. SABC 2 shall have no claim on ESKOM Holdings SOC LTD and The MediaShop (Pty) LTD in the event of non-performance arising from the execution of the Business Breakfast.

TNA Media (Pty) LTD undertakes to secure and manage speakers itineraries, and will notify ESKOM Holdings SOC LTD of confirmed speakers two weeks prior to each Business Breakfast. In the course of planning the speaker line-up, TNA Media (Pty) shall inform ESKOM Holdings SOC LTD timeously to assist ESKOM Holdings SOC LTD in planning their respective stakeholder communications.

### 4. Breach.

*[Handwritten signatures and initials]*

ESKOM Holdings SOC LTD and The Media Shop (Pty) Ltd shall be entitled to terminate its relationship with TNA Media (Pty) LTD by written notice if – TNA Media (Pty) LTD commits any material breach of its material obligations under 2. Event sponsorship commitment, and fails to remedy that breach within 21 (twenty one) days of it being given written notice to do so; TNA Media (Pty) LTD is wound up in any of the circumstances contemplated in Sections 344 and/or 345 of the Companies Act, No. 61 of 1973 (as amended); any person or entity successfully institutes any proceedings for the winding-up or judicial management of TNA Media (Pty) LTD, of any similar proceedings, (including any bankruptcy proceedings). TNA Media (Pty) LTD shall be entitled to terminate its relationship with the ESKOM Holdings SOC LTD and The Media Shop (Pty) Ltd by written notice if - ESKOM Holdings SOC LTD and The Media Shop (Pty) Ltd fail to make payment of any amount due by it to TNA Media (Pty) LTD within 45 (fourty five) days; or if ESKOM Holdings SOC LTD and The Media Shop (Pty) Ltd commit any material breach of their material obligations under these Terms and Conditions and fails to remedy that breach within 7 (seven) days of them being given written notice to do so; if ESKOM Holdings SOC LTD or The Media Shop (Pty) Ltd is wound up in any of the circumstances contemplated in Sections 344 and/or 345 of the Companies Act, No. 61 of 1973 (as amended).

#### 1. Duration

- This commitment shall be applicable for the period **1st November 2012 – 31 March 2013**.

#### 2. General terms

- Payment terms will be 45 days from invoice
- ESKOM (PTY) LTD & THE MEDIA SHOP (PTY) LTD hereby warrants that the person (s) signing this commitment on behalf of ESKOM (PTY) LTD & THE MEDIA SHOP (PTY) LTD has the required authority and has been mandated by the ESKOM (PTY) LTD & THE MEDIA SHOP (PTY) LTD to enter into this agreement on its behalf.
- ESKOM (PTY) LTD & THE MEDIA SHOP (PTY) LTD warrants that it has made this commitment voluntarily on its own volition and has not been induced or influenced in any manner to do so as a result of any representations or warranties made by TNA MEDIA (PTY) LTD to Eskom (Pty) LTD or The Media Shop (Pty) LTD or to any person acting on the latter's behalf.

SIGNED at M.O RAND on this 5th day of November 2012.

Nazeem Howa

For TNA MEDIA (PTY) LTD  
(Pty) LTD.

Name: E.A.K. CHOEI

For Eskom (Pty) Ltd

Name: Leiza Zikalala

For The Media Shop

ANNEXURE PP 14



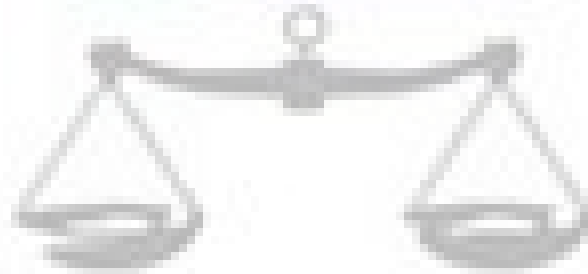
## AGREEMENT

Between

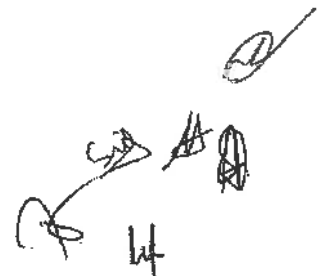
**TNA Media (PTY) LTD**  
Registration Number: 2010/006669/07

And

**ESKOM HOLDINGS SOC LIMITED**  
Registration Number: 2002/125527/06  
(hereinafter referred to as "Eskom")



INTO STATE CAPTURE

Handwritten signatures and initials, including a large 'R' and several other marks, located in the bottom right corner of the page.

## BACKGROUND

1. TNA Media was established in June 2010 and released its first publication, The New Age on 6 December 2010. The New Age is the only truly South African newspaper. In addition to its mission of being Proudly South African, with its positive positioning around the future of our country, The New Age is ideally positioned to partner Eskom in disseminating its message to ordinary South African's across the length and breadth of South Africa. It is also the only newspaper to dedicate specific space to each province every day, and copies are distributed daily in each of the provinces containing content generated by staff based locally.
2. Eskom wishes to participate in the aims and objectives of TNA Media (PTY) LTD through the sponsorship of the business briefings.
3. The parties have agreed on the terms and conditions applicable to such sponsorship, which agreement the parties wish to record in writing.

## IT IS THEREFORE AGREED AS FOLLOWS:

### 1 DEFINITIONS

- 1.1. Clause headings are for convenience only and shall not be taken into account when interpreting the agreement.
- 1.2. Unless the contract indicates the contrary, any expression which denotes
  - 1.2.1 The singular shall include the plural and vice versa.
  - 1.2.2 Any gender includes the other gender.
- 1.3 When any number of days are prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.4 When figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.5 Unless the context in the agreement clearly indicates a contrary intention, the following expressions shall bear the meanings set out below: -
  - 1.5.1 "The Agreement" means this agreement including all annexures; attached from time to time and signed by both parties.
  - 1.5.2 "Effective Date" means 1<sup>st</sup> of May 2014;

Handwritten signatures and initials are present at the bottom right of the page, including what appears to be a signature starting with 'SJD' and other initials.

1.5.3 "TNA Media " shall mean TNA Media Pty Ltd, a company duly incorporated in accordance with the company laws of the Republic of South Africa, registration number (2010/006569/07) with its office at 52 Lechwe Street, Corporate Park South, Midrand, Old Pretoria Main Road, Midrand 1685.

1.5.4 "Eskom" shall mean Eskom Holdings SOC Limited, a company duly incorporated in accordance with the company laws of the Republic of South Africa, Registration No: 2002/125527/06, with its registered office at Megawati Park, Maxwell Drive, Sunninghill Ext 3, and Sandton

1.5.5 "Parties" shall mean Eskom and TNA Media.

## 2 DURATION

2.1 This Agreement shall commence on the Effective Date, and shall continue for a period of 3 (three) years and terminate on 30 April 2017.

2.2 Eskom reserves the right to withdraw its sponsorship at any time in the event of a breach by TNA Media of any of the terms of this agreement as per clause 9.

## 3 THE BUSINESS BRIEFINGS

3.1 TNA Media is the rights holder in respect of the business briefings.

3.2 TNA Media will manage the marketing campaign and activities of the business briefings

3.3 TNA Media will in consultation with Eskom decide, on all guests speakers for the business briefing. TNA Media will determine the dates, times, and venues for the activities of the business briefing events

## 4 SPONSORSHIP FEE

In consideration for the rights granted in terms of this agreement,

4.1 Eskom shall pay TNA Media an amount of R 43, 200 000 00 (Forty three Million, Two Hundred Thousand Rand only), excluding VAT for 36 business briefing events, at the cost of R 1,200 000 (One Million and Two Hundred Thousand Rand only) each, as the sponsorship fee.

4.2 The sponsorship fee shall be payable as follows:

4.2.1 An amount of R 1.200 000 (One Million and Two Hundred Thousand Rand only) for each business briefing event and with

*Handwritten signatures and initials:*  
 C. J. ...  
 ...  
 ...

each payment of R 1.200 000 (One Million and Two Hundred Thousand Rand only) payable within 30 (thirty) days after each business briefing event and receipt of tax invoice;

4.3 The sponsorship fee shall be payable, by Electronic Funds Transfer (EFT):

4.3.1 the following bank details will be used to effect payment:

TNA Media Pty Ltd  
ABSA Bank  
Account number: 4086462329  
Branch code: 331155

4.4 TNA shall use the sponsorship fee as set out above for the business briefings.

## 5. TNA's RESPONSIBILITIES

5.1 TNA Media will grant Eskom the following:

- 5.1.1 Live broadcasts of the event for at least 60 minutes
- 5.1.2 Advertisements in The New Age
- 5.1.3 2 x tables of 10 guests each
- 5.1.4 Banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za)
- 5.1.5 Use of Social Media
- 5.1.6 Logo's on all invitations
- 5.1.7 6 pull up banners at event
- 5.1.8 2 guests to be placed on the main table
- 5.1.9 Sponsor speech from podium before event broadcast

## 6 INDEMNITY AND LIABILITY

6.1 TNA Media undertakes that during the currency of this Agreement;

6.1.1 It will take all necessary steps to ensure that no act by any of its officials, volunteers, agents or nominees will be detrimental or harmful to the "Eskom" name or will bring Eskom into disrepute. Further TNA Media indemnifies Eskom against any claim and costs payable due to negligence or fault of TNA Media, its officials, volunteers, agents or nominees and arising out of an infringement by TNA Media of the rights of others.

6.1.2 It will act in good faith and support all matters relating to the advertising, promotion and participation by Eskom in the business briefings.

6.3 Eskom undertakes during the currency of this Agreement that:

*[Handwritten signatures and initials]*



6.3.1 It will take steps to ensure that no act by any of its employees, representatives or nominees will be detrimental or harmful to the business briefings events or will bring TNA Media into disrepute. Further Eskom indemnifies TNA against any claim due to negligence or fault of Eskom, its employees, representatives or nominees arising from the infringement of the rights of others ; and

6.3.2 It will act in good faith and support all matters relating to the activities of TNA Media associated with the business briefings.

## 7 TRADE MARK

7.1 TNA Media shall not use any Eskom trademark, symbol, logo or design get up or branding without Eskom's prior written consent. Eskom hereby grants to TNA Media revocable and non-exclusive approval to use its name, logo and any other artwork or other items of intellectual property, which Eskom may make available to TNA Media for the purposes described in this agreement, in any and all media. The approval is valid for the duration of this agreement and may be revoked at any time by written notice from Eskom to TNA Media.

7.2 The revocation of the approval referred to in 7.1 above shall apply prospectively to future use and/or publication of such material, but shall not apply to any material already published and/or printed.

7.3 The approval herein shall survive the termination of this agreement in relation to any published and/or printed material that exist at the time of such termination.

7.4 TNA Media shall not be entitled to cede, assign or in any way, avail the approval granted in terms of this clause to any third party without Eskom's written consent.

7.5 All intellectual property rights of any nature whatsoever whether capable of registration or not (whether registered or not) in the Eskom name. Eskom marks, logo, image and all other matters relating to Eskom shall remain the sole property of Eskom and TNA Media shall not acquire any right in relation to such intellectual property

## 8 CONFIDENTIALITY

The parties agree that all details relating to the sponsorship by Eskom in terms hereof shall remain confidential and shall not be made known unless Eskom gives written consent.

*[Handwritten signatures and initials]*

## 9 BREACH

9.1 Either party shall be entitled to cancel this Agreement in the event of the other party being guilty of a breach of any of the terms of this Agreement and failing to remedy such breach within 14 (fourteen) days of having been called upon in writing by the other party to do so.

9.2 Should the business briefings cease and the marketing campaign be cancelled for any reason whatsoever or should Eskom withdraw its sponsorship, TNA Media shall ensure that the Eskom name, logo or symbols are not used or associated in any way with TNA Media activities as governed by this agreement.

## 10 FORCE MAJEURE

10.1 TNA Media shall not be responsible for the cancellation or postponement of the business briefings in the event that such cancellation is caused by acts of God and/or acts beyond the reasonable control of TNA Media such as war, civil disturbance and such non-performance will not be a default under this agreement nor a ground for termination of this Agreement.

10.2 In the event of any one of the acts mentioned in 12.1 above arising, TNA Media shall notify Eskom in writing within 48 hours of having knowledge of such act.

## 11. CESSION

11.1 Neither party may cede and delegate any of its rights and obligations (including liabilities) under this agreement to any person without the written consent of the other party.

11.2 Notwithstanding the above, Eskom may on written notice to the other party cede and delegate its rights and obligations under this agreement to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the electrical supply industry and the Electricity distribution industry.

*[Handwritten signatures and initials]*

## 12 TERMINATION

12.1 Notwithstanding anything to the contrary set out in this Agreement, either party shall have the right to terminate this Agreement by notice in writing to the other, within 15 (fifteen) of the date upon which it becomes aware of the occurrence of the events, if:

12.1.1 the other party shall be declared bankrupt or, or go into liquidation, either compulsory or voluntary (other than for the purposes of reconstruction or amalgamation); or other party passes a resolution to be placed under business rescue or any application is threatened or lodged for its placement into business rescue or under business rescue supervision.

12.1.2 Any administrative receiver or similar officer is appointed in respect of the whole or part of its assets or if either party shall make any voluntary arrangement or composition with its creditors generally or any similar actions shall be taken or enforced against either party.

## 13 ARBITRATION

13.1 Should any dispute or difference arise out of or in connection with this agreement, or its interpretation, the parties shall endeavour to resolve such dispute or difference in an amicable manner. In the event that the dispute or difference is not resolved, either party may at any time by written notice inform the other that such dispute remains unresolved and request that the matter be determined by a third party (arbitrator), in terms of what is set out below, unless otherwise agreed in writing between the parties

13.2 The parties shall within 30 (thirty) days of the notice referred to above agree on a person or persons to act as arbitrator in the matter.

13.3 In the event that the parties are unable to agree on the arbitrator within 30 (thirty) days of the date of the notice referred to above, then in such an event either party may in writing request that the President of the Arbitration Foundation of Southern Africa (AFSA) appoint a suitable arbitrator to act therein.

13.4 The proceedings shall be held at a venue within the area of Johannesburg or Pretoria and unless otherwise agreed by the parties, in accordance with the formalities and the procedures determined by the arbitrator.

13.5 Unless the parties agree on terms of reference, procedures for the arbitration and any other matter relating to the arbitration within 14 (fourteen) days of the appointment of the arbitrator, a meeting shall forthwith be convened by the arbitrator with the parties to:

13.5.1 Determine the terms of reference for the arbitration;

13.5.2 Determine the procedures for the conduct of the arbitration;

13.5.3 Determine any other matter necessary.

13.4 In the event that the parties fail or are unable to agree on any of the matters referred to above, the arbitrator shall be entitled to make a determination on such issues, subject to clause 13.7 below.

13.5 Unless otherwise agreed to by the parties, the rules of the Arbitration Foundation of Southern Africa (AFSA) shall apply to the arbitration proceedings and any other matter related thereto.

#### 14 DOMICILE

14.1 Each party chooses its domicilium citandi et executandi ("domicilium") for all purposes under this Agreement, whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement ("notice"), as follows:

Eskom:	Megawatt Park, Maxwell Drive, Sunninghill
Postal address:	PO Box 1091, Johannesburg 2000, RSA
Tel No.:	+27 11 800 4585
Fax No.:	+27 11 800 5803
Attention:	Collin Matjila
E-mail:	MatjilMC@eskom.co.za
Website:	www.eskom.co.za

TNA Media:	52 Lechwe Street, Corporate Park South, Midrand
Postal address:	5728 Halfway House, Midrand, 1685
Tel No.:	011 542 1222
Attention:	Nazeem Howa
Email:	nazeemh@tnamedia.co.za
Website:	www.thenewage.co.za

14.2 Any notice required or permitted to be given under this Agreement shall be valid and effective only if in writing and shall:

14.2.1 If delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

14.2.2 If posted by pre-paid registered post be deemed to have been duly received by the addressee on the 7<sup>th</sup> (seventh) day following the date of such posting; or

14.2.3 If successfully transmitted by facsimile be deemed to have been received by the addressee 1 (one) day after dispatch.

14.3 Notwithstanding anything to the contrary contained in this Agreement, written notice of communication actually received by one party from the other party including by way of facsimile transmission shall be adequate written notice of communication to such party.

14.4 Any party may by notice to the other party change its domicile to another physical address and such change shall take effect on the 7<sup>th</sup> (seventh) day after the date of receipt by the party who last receives the notice.

#### 15 GENERAL

15.1 This Agreement constitutes the sole record of the agreement between the parties with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein

15.2 No addition to or variation of, or agreed cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.

15.3 No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of that party and shall preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

15.4 This agreement shall be governed by the laws of the Republic of South Africa.

15.5 The parties shall in their dealings with each other display good faith.

Signed at MIDRAND on this 30 day of APRIL 2014.

AS WITNESSES:

*[Handwritten signatures and initials]*

1. [Signature] [Signature]  
for TNA Media (PTY) LTD  
he/she being duly authorised

2. [Signature]

Signed at Johannesburg on this 30<sup>th</sup> day of APRIL 2014

AS WITNESSES:

1. [Signature] [Signature]  
for ESKOM HOLDINGS SOC  
LIMITED  
he/she being duly authorised

2. [Signature]

[Signature]

ANNEXURE PP 15





SPONSORSHIP BUDGETS 2014/15						
GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Eskom Sponsorship	Skill Development	Eskom Expo for Young Scientists	R 8 220 000.00	The Eskom Expo is the country's largest school-level science fair. It aims to encourage young South Africans to explore and develop science projects leading to careers entering the country's energy sector in the fields of science, technology, engineering, maths and innovation (STEM), while also developing problem-solving skills, teamwork.	YES	Phumi Dlamini / Esiwe Ngwenya
	Energy efficiency	Job Awards	R 6 000 000.00	Eskom has the lead in energy efficiency in the field of energy efficiency. The purpose of the award is to recognize exceptional efforts in the move towards energy efficiency.	YES	Phumi Dlamini / Annette Muty
		TOTAL	R 14 220 000.00			
Chief Financial Officer (Group Financial)	Categories	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
	ARM Media Campaign	"The New Age" / "The New Age" / "The New Age"	R 14 400 000.00	Eskom through its partnership with the New Age and SA-ESG, a joint project to build a local level is intended to create an engagement platform between the general public and Eskom's renewable energy generation in a strategic manner.	YES	Phumi Dlamini
	Skill Development and Academic	White Paper on Public Enterprises (CPE) (including with Eskom)	R 9 500 000.00	To underline Eskom's leading and growing position, Eskom is a leader in the challenges of the economy, and their impact on socio-economic issues. To underline Eskom's commitment to the public, Eskom is a leader in the energy sector, the public sector and international one partner.	YES	Phumi Dlamini
	Local Government	(South African Local Government Association - (SALGA))	R 2 000 000.00	SALGA is one of our key stakeholders given the issues around Eskom's commitment to the public sector, Eskom is a leader in the energy sector, the public sector and international one partner.	YES	Phumi Dlamini
Group Capital		TOTAL	R 26 900 000.00			
Group Information Technology	Categories	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
				No Sponsorship for only community projects	YES	Phumi Dlamini
Group Technology & Commercial	Categories	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
	Association Duty	Information and Supplier Development Association (ISDA)	R 1 200 000.00	Eskom provides material and financial support for the set up of a "Supply of IT" equipment, for Eskom to be leading in the field of Eskom's supply of IT equipment.	YES	Phumi Dlamini
	Conference	Phumi Dlamini and Eskom's Tech	R 2 000 000.00	Eskom is the host of the conference. This gives Eskom the ability to showcase its technology and innovation in the field of Eskom's supply of IT equipment.	YES	Phumi Dlamini
		TOTAL	R 3 200 000.00			
Distribution	Categories	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
				No Sponsorship for only community projects	YES	Phumi Dlamini
Regulation & Legal	Categories	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
				No Sponsorship for 2014	YES	Phumi Dlamini
Transmission	Categories	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
				No Sponsorship for 2014	YES	Phumi Dlamini

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Eskom Development Foundation	Corporate Social Investment	Triologize: Making CSDI Matter Conference	R 500 000.00	This is the planned CSDI conference where CSDI grant makers meet to share information and discuss the challenges of CSDI. The conference is held once a year at the location of the grant making.		Chris Borman
	Corporate Social Investment	Tribe Reiz: Business Opportunities & Franchise Expo	R 540 000.00	The Foundation creates a platform for the African Business Revolution Competition finalists (Black-owned enterprises, Senzangu Ruzo specialists (high school entry level), and Black, women-owned enterprises to market their goods and services.		Chris Borman
		TOTAL	R 1 070 000.00			

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Group Customer Services				Cancelled all sponsorships		

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Human Resources	Events relating to Human Resources	ADKIDD sponsors	R 120 000.00	ADKIDD sponsoring table at events with media coverage and many other benefits for staff.		John Du Plessis
	Association Body	Annual Human Resource Institute of People Management (IHRM) Convention	R 400 000.00	HR sponsor the annual HR IHRM Convention and some of the benefits are media coverage and many other benefits for staff. Sponsorships at the Awards function. In 2013 Eskom HR sponsored HR Manager's award.		John Du Plessis
		TOTAL	R 520 000.00			

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Generation	Education	University of Cape Town (final year nuclear student bursary)	R 1 500 000.00	The bursary will be utilized for the funding of the programme including hiring of a lecturer, field trip and various courses for Eskom engineers in support of their CDP studies. Three year sponsorship.		Chris Hammond / Vanessa Corpet
	Green Energy	RI's Gateway Partnership Programme	R 350 000.00	The bursary will be utilized for capacity building courses and in field and social media platforms. Promoting Eskom and making it easier to work for Eskom. Eskom's Green Energy initiative. Three year sponsorship.		Chris Hammond / Vanessa Corpet
	Education	National Science Week 2014 In Engenwale Wits	R 100 000.00	Eskom was invited for the first three years. There has been a 30% increase in the number of Eskom staff at the high schools. Eskom's engineering and science content at tertiary institutions.		Chris Hammond / Vanessa Corpet
		TOTAL	R 1 850 000.00			

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	SUGGESTED FOR YES / NO	PROJECT MANAGER
Corporate Affairs Sponsorships (Stakeholder Relations Management)	Government	Department of Public Enterprises	R 600 000.00	Budget one speech, youth projects and various exhibitions.		Linda Khulane
	Government	Department of Public Enterprises	R 500 000.00	Edison takes part in their annual strategic events, projects and exhibitions as a State Owned Company. This proposed budget will cover for the RPE budget for the coming year, including exhibitions, youth projects and other requests for the year.		Linda Khulane
	Government	Department of Energy	R 150 000.00	Budget one speech, youth projects and various exhibitions.		Linda Khulane
	Government	Department of Energy	R 250 000.00	Edison is the Policy Ministry but we should still be on Electricity Policy related projects. Edison's support to various of their strategic engagements, events and projects.		Linda Khulane
	Government	Department of International Relations and Cooperation (DIRCO)	R 500 000.00	Edison supports DIRCO's own donor engagement strategy. This is a need in Cape Town in February, after the State of the Nation Address. This is a need of strategic support to DIRCO.		Linda Khulane
	Government	The Presidency	R 500 000.00	Edison is a Post Youth Initiative planned for later in the year, after the State of the Nation Address. This is a need of strategic support to DIRCO.		Linda Khulane
	Government and Business	Centre for Public Service & Innovation (CPSI)	R 400 000.00	This is a strategic partnership with regards to innovation issues and innovation is one of Edison's values.		Justice Mkhungu
	Civil Society	Edison in collaboration with Civil Society and the Private Sector	R 200 000.00	Edison through its on the relationships with the civil and business organizations go to all provinces and have made stakeholders engagement to address issues such as re-utilization, energy and the environment. How to do business with Edison (R&D, USA, and others).		Justice Mkhungu
	Organised Business	Business Unity South Africa (BUSA)	R 200 000.00	Edison is a member of BUSA, that pays its annual membership fee. But we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	Black Business Council (BBC)	R 200 000.00	Edison is a member of BBC, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	Black Management Forum (BMF)	R 100 000.00	Edison is a member of BMF, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	International Chamber of Commerce South Africa (ICCSA)	R 100 000.00	Edison is a member of ICC, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	South African Chamber of Commerce and Industry (SACCI)	R 200 000.00	Edison is a member of SACCI, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	Regional Chambers of Commerce, Industry, Agriculture, Forestry, Transport and Logistics (RCCIAT)	R 200 000.00	Edison is a member of RCCIAT, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	International Technology Association (ITA)	R 100 000.00	Edison is a member of ITA, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	European Chamber of Commerce (ECC)	R 100 000.00	Edison is a member of ECC, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	American Chamber of Commerce (AMCCSA)	R 100 000.00	Edison is a member of AMCCSA, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu
	Organised Business	Business Leadership South Africa (BLSA)	R 200 000.00	Edison is a member of BLSA, that pays its annual membership and we partner with them on some of their major events such as annual conference or policy conference depending on what would be deemed to be strategic.		Justice Mkhungu

ANNEXURE PP 16



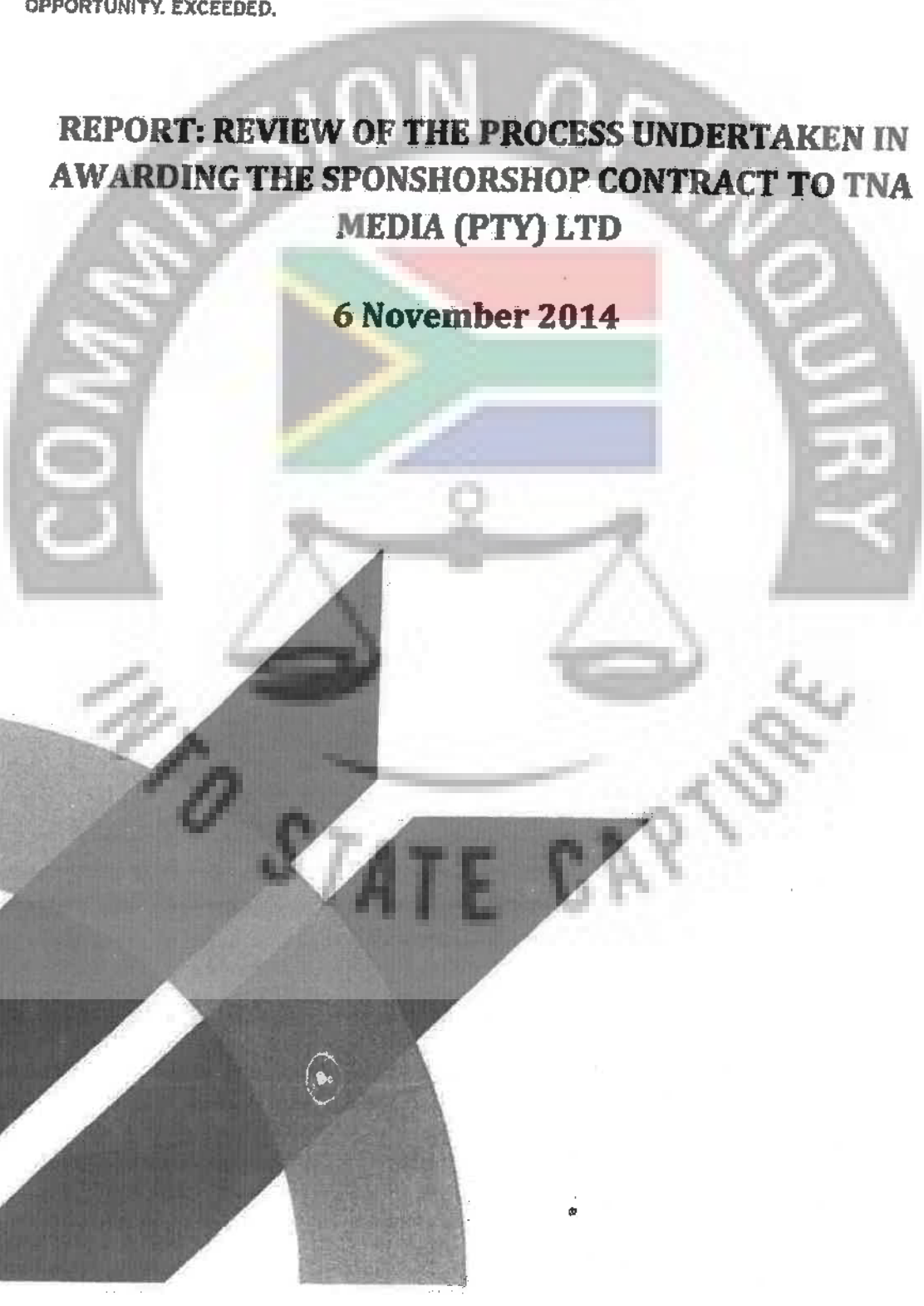


AUDIT • ADVISORY • FORENSICS

OPPORTUNITY. EXCEEDED.

**REPORT: REVIEW OF THE PROCESS UNDERTAKEN IN  
AWARDING THE SPONSORSHIP CONTRACT TO TNA  
MEDIA (PTY) LTD**

**6 November 2014**



06 November 2014

Ms Bajabulile Luthuli  
Audit and Risk Committee Chairperson  
Eskom Holdings Soc Ltd  
Megawatt Park  
Maxwell Drive  
Sunninghill  
Sandton

Dear Ms Luthuli,

**REPORT: REVIEW OF THE PROCESS UNDERTAKEN IN AWARDING THE SPONSORSHIP  
CONTRACT TO TNA MEDIA (PTY) LTD ("TNA MEDIA")**

Attached hereto please find our report in respect of the above mentioned matter.

Our report is set out under the following headings:

1. Background and mandate;
2. Qualifications and Limitations;
3. Procedures performed;
4. Findings and conclusions; and
5. Recommendations.

Should you require further information, please do not hesitate to contact Vusmuzi Masilela on (086) 117 6782 or 071 889 2245.

Yours faithfully,



Vusmuzi Masilela CA (SA)

Director: Forensic Services & Specialist Forensic Accounting Leader

SizweNtsalubaGobodo Advisory Services (Pty) Ltd

Email: vusmuzim@sng.za.com

HEAD OFFICE  
20 Morris Street East, Woodmead, 2191  
P.O. Box 2939, Sandton, 2132  
Tel: +27 (0) 11 231 0600  
Fax: +27 (0) 11 234 0933

Monkuteleko Gobodo (Executive Chairman), Victor Sekase (Chief Executive)  
A comprehensive list of all Directors is available at the company offices or registered office.  
SizweNtsalubaGobodo Advisory (PTY) Ltd. Registration Number: 2005/012996/07

## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

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## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

## LIST OF ANNEXURES

Annexure 1	Copy of letter of engagement dated 11 August 2014 between Eskom and SNG
Annexure 2	Copy of contract dated 30 April 2014 between TNA Media and Eskom Version 8
Annexure 3	Copy of Delegation of Authority Policy dated 3 June 2013
Annexure 4	Copy of Procurement and Supply Chain Management Procedure approved on 19 May 2014
Annexure 5	Copy of Procurement and Supply Chain Management Policy approved on 19 May 2014
Annexure 6	Copy of minutes of the special EXCOPS meeting dated 9 September 2013
Annexure 7	Copy of submission to EXCO dated 19 May 2014 in respect of Eskom Sponsorship Practice Note
Annexure 8	Copy of submission to EXCO dated 30 July 2014 in respect of Eskom Sponsorship Practice Note
Annexure 9	Copy of contract dated 30 April 2014 between TNA Media and Eskom Version 9
Annexure 10	Copies of emails between Legal, Corporate Affairs, CE's office and TNA Media relating to the sponsorship contract
Annexure 11	Copy of submission dated 9 April 2014 addressed to the Mr Matjila by Mr Choeu in respect of the TNA Media Business Briefing Breakfast
Annexure 12	Copy of a report addressed to Adv Madonsela by Mr Du Plessis dated 19 November 2013 as well as annexures thereto
Annexure 13	Copy of EXCO Build Programme Review sub-committee TOR approved on 3 October 2013
Annexure 14	Copy of undated and unsigned MANCO terms of reference
Annexure 15	Copy of unsigned submission dated 1 February 2013 addressed Enterprise Development to EXCO with regards to Sponsorship Framework
Annexure 16	Copies of revised sponsorship budgets of Group and Divisional executives for 2014/2015 financial year
Annexure 17	Copies of letters dated 9 April 2014 addressed by Ms Johnson to various Divisional Executives requesting them to consider reducing their budgets
Annexure 18	Copy of memorandum dated 23 July 2014 addressed by Ms Dhlomo to Mr Venner relating to the approval of the revised sponsorship budgets
Annexure 19	Copies of letters dated 9 June 2014 addressed by Ms Dhlomo to various Divisional Executives requesting them to further consider reducing their budgets
Annexure 20	Copy of email correspondence dated from 11 July 2014 to 12 September 2014 between Ms Diamini, Mr Mdakane, Ms Doubell and Mr Le Roux
Annexure 21	Copy of power point document dated February 2013 titled "Eskom's Delegation of Authority"
Annexure 22	Copies of three (3) invoices from TNA Media totalling R3.6 million (R1.2 million each) for the business briefings pertaining to the contract under review
Annexure 23	Sponsorship Policy dated 15 August 2013
Annexure 24	Memorandum dated 26 August 2014 from Mr Adam responding to a discussion he had with the CE on whether the TNA Media transaction could be classified as an investment or sponsorship

## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

## GLOSSARY OF TERMS AND ABBREVIATIONS

1.1 The following terms and abbreviations apply throughout this report:

## Terms and abbreviations

Adv	Advocate
BEE	Black Economic Empowerment
Board	Eskom Board of Directors
BPR	Exco Build-Programme Review sub-committee
CE /CEO	Chief Executive /Officer
DCF	Delegation Consent Form
DE	Divisional Executive
DFI	Development Finance Institution
ESDEF	Eskom Development Foundation
Eskom	Eskom SOC Ltd
EXCO	Executive Committee
EXCOPS	Executive Committee Procurement Sub-Committee
FD	Finance Director
FE	Finance Executive
GE	Group Executive
HR	Human Resources
ICAS	Investment and Capital Assurance Subcommittee
LTD	Limited
MANCO	Management Committee
MYPD3	Multi Year Price Determination
NERSA	The National Energy Regulator of South Africa
PFMA	Public Finance Management Act, Act 1 of 1999
PPFEA	Preferential Procurement Policy Framework Act, Act 5 of 2000
PR	Purchase Requisition
PTC	Procurement Tender Committee
Pty	Propriety
SAP	Systems, Applications & Products
SCM	Supply Chain Management
SNG	SizweNtsalubaGobodo Advisory Services (Pty) Ltd
SOC	State Owned Company
TNA Media	The New Age Media ( Pty) Ltd
TOR	Terms of reference
VAT	Value added tax

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## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

## Individuals

<b>Adv Madonsela</b>	<b>Adv Thuli Madonsela: Public Protector South Africa</b>
<b>Mr Adam</b>	<b>Mr Mohammed Adam: Divisional Executive, Regulation &amp; Legal</b>
<b>Mr Choeu</b>	<b>Mr Chose Choeu: Divisional Executive, Corporate Affairs</b>
<b>Mr Dames</b>	<b>Mr Brian Dames: Chief Executive</b>
<b>Mr Dhlomo</b>	<b>Mr Phumi Dhlomo: Senior Manager, Marketing Services</b>
<b>Mr Du Plessis</b>	<b>Mr Willie Du Plessis: General Manager (Legal Specialist)</b>
<b>Mr Lakmeharan</b>	<b>Mr Kannan Lakmeharan: Acting Group Executive, Technology and Commercial</b>
<b>Mr Le Roux</b>	<b>Mr Pieter Le Roux: General Manager, Project Sourcing</b>
<b>Mr Matjila</b>	<b>Mr Collin Matjila: Former Acting Chief Executive</b>
<b>Mr Mdakane</b>	<b>Mr Thulani Mdakane: Manager, Procurement and SCM</b>
<b>Mr Phukubje</b>	<b>Mr Malesela Phukubje: Company Secretary</b>
<b>Mr Tsholanku</b>	<b>Mr Neo Tsholanku, Head of Legal Services</b>
<b>Mr Venner</b>	<b>Mr Wayne Venner: Senior Advisor Secretariat</b>
<b>Ms Dlamini</b>	<b>Ms Philile Dlamini: Junior legal Advisor, Corporate Affairs</b>
<b>Ms Doubell</b>	<b>Ms Grietjie Doubell: Senior Consultant, Project Sourcing, DFI</b>
<b>Ms Johnson</b>	<b>Ms Erica Johnson: Group Executive: Enterprise Development</b>
<b>Ms Koor</b>	<b>Ms Fehmidah Koor: Chief Legal Advisor</b>
<b>Ms Molefe</b>	<b>Ms Tsholofelo Molefe: Finance Director</b>



## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd**1. BACKGROUND AND MANDATE**

- 1.1** We understand that Eskom entered into a contract with TNA Media on 30 April 2014 and that the contract was signed by the former acting CE, Mr Collin Matjila.
- 1.2** In terms of the letter of engagement dated 11 August 2014 (Annexure 1) between Eskom and SNG, the Audit and Risk Committee of Eskom requested SNG to conduct a review of the said contract entered into between Eskom and TNA Media, in order to:
- (a) Determine whether the SCM process described as per the PFMA and all relevant prescripts have been followed in awarding the contract;
  - (b) Determine whether delegations of authority were adhered to in awarding the contract; and
  - (c) Determine whether there were any deviations and whether these were approved in line with the relevant prescripts.
- 1.3** Based on the findings, SNG is to recommend appropriate corrective action to be considered by Eskom.

## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

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**2. QUALIFICATIONS AND LIMITATIONS**

- 2.1 SNG was not required to, and therefore did not undertake an audit in terms of the international Standards on Auditing. The scope of SNG's work was limited to a review of the documentation and information provided to us during the course of our review. SNG has not authenticated the relevant records and documentation provided to us.
- 2.2 The purpose of SNG's forensic review was to consider and review the available documents, financial records and other relevant information obtained during our review and ultimately to prepare a report on the factual findings in relation thereto.
- 2.3 SNG has attempted to include all information relevant to the execution of our mandate. However, it is possible that documents and information exist which have not been made available to us or that SNG was unable to locate. Any documents or information brought to our attention subsequent to the date of our fieldwork which could affect our findings may require our findings to be adjusted and qualified accordingly.
- 2.4 This report is neither designed nor intended to provide legal advice and/or a legal opinion and should not, and cannot, be so construed as such.
- 2.5 This report was prepared solely for the purposes of reporting on our findings to date to Eskom. No part may be quoted, referred to or disclosed in whole or in part, by any party, without our prior written consent.

## Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

### 3. PROCEDURES PERFORMED

3.1 We obtained and reviewed the following policies, procedures and legislative prescripts as part of the review of the awarding of the TNA contract:

- a) Eskom Delegation of Authority Policy dated 3 June 2013;
- b) Eskom Procurement and Supply Chain Management Policy dated 19 May 2014;
- c) Eskom Procurement and Supply Chain Management Procedure dated 19 May 2014;
- d) Eskom Sponsorship Practice Notes dated 19 May 2014 and 30 July 2014;
- e) Eskom Sponsorship policy dated 15 August 2013;
- f) Eskom Sponsorship framework dated 19 August 2013; and
- g) Public Finance Management Act, Act 1 of 1999.

3.2 We consulted with the following relevant parties amongst others:

- (a) Mr Adam;
- (b) Mr Choeu;
- (c) Ms Dlamini;
- (d) Ms Doubell;
- (e) Ms Koor;
- (f) Mr Le Roux;
- (g) Mr Matjila;
- (h) Ms Molefe; and
- (i) Mr Phukubje.

3.3 We further obtained and reviewed copies of the following documentation:

- (a) Agreement between TNA Media and Eskom dated 30 April 2014;
- (b) Minutes of the special EXCOPS 05/2013-2014 meeting held on 9 September 2013;
- (c) Minutes of EXCO meetings from September 2013 to May 2014;
- (d) Minutes of Board meetings from September 2013 to May 2014;
- (e) Minutes of the EXCO Procurement sub-committee meeting held on 9 September 2013;
- (f) Submission relating to Eskom Sponsorship Practice Notes dated 19 May and 30 July 2014;
- (g) Undated and unsigned terms of reference of the Management Committee;
- (h) Submission letter dated 9 April 2014 addressed by Mr Choeu to Mr Matjila in respect of TNA Media contract;

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- (l) Memorandum dated 26 August 2014 from Mr Adam responding to a discussion he had with the CE on whether the TNA Media transaction could be classified as an investment or sponsorship;
- (j) Letter dated 21 October 2013 addressed by Mr Du Plessis to Adv Madonsela;
- (k) Submission dated 19 November 2013 addressed to Adv Madonsela along with the relevant supporting documentation;
- (l) Memorandum dated 23 July 2014 relating to the approval of revised sponsorship budget for 2014/2015 addressed by Ms Dhlomo to Mr Venner;
- (m) Submission of proposed sponsorship framework document dated 1 February 2013 addressed to EXCO for approval;
- (n) Copies of email correspondence between the Legal Division, Corporate Affairs Division, CE's office and TNA Media; and
- (o) Power Point slides dated February 2013 titled "Eskom's Delegation of Authority".



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**4. FINDINGS AND CONCLUSIONS****4.1 Our findings are set out under the following headings:**

- A. ALLEGED CANCELLATION OF TNA MEDIA CONTRACT BY THE BOARD;
- B. PROCESS FOLLOWED IN AWARDING THE SPONSORSHIP CONTRACT TO TNA MEDIA; AND
- C. PAYMENTS IN RESPECT OF THE TNA MEDIA CONTRACT.

**A. ALLEGED CANCELLATION OF TNA MEDIA CONTRACT BY THE BOARD**

**4.2** We were informed by Eskom during the briefing session of an allegation that the Board of Eskom had sanctioned the cancellation of the TNA Media contract and that, despite the above, Eskom entered into a three year contract with TNA Media on 30 April 2014.

**4.3** This background formed the basis of our request for the minutes of the decision allegedly made by the Board, in this regard from Mr Phukubje. We reviewed the minutes of Board and EXCO meetings for the period September 2013 to May 2014 and there was no mention of the TNA Media sponsorship contract.

**4.4** Mr Phukubje further provided us with a copy of the minutes of meeting of Special EXCOPS 05/2013-14 held on 09 September 2013 (Annexure 6). The minutes captured interaction by EXCO related to the newspaper contract with TNA Media, which had apparently expired in August 2012. These minutes are therefore not relevant to the TNA Media sponsorship contract under review.

**4.5** During our consultation with Mr Choeu, he informed us that EXCO requested all Divisional and Group Executives to reduce their marketing (which included sponsorships) budgets. This was communicated across all divisions and the prerogative was with the divisional executives to decide on the specific marketing and sponsorship items in respect of which budgets would be reduced. According to with Mr Choeu, in this regard, the TNA Media sponsorship contract was not specifically mentioned.

**4.6** Mr Choeu provided us with copies of letters dated 9 April 2014 (Annexure 17) which were addressed by Ms Johnson to various Group and Divisional Executives. The letters (Annexure 17) state that "Following NERSA's determination on MYPD3 and subsequent cost-saving measures in Eskom, a step-change in the awarding of

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*sponsorships was required given the financial constraints. In 2013 the Sponsorship Practice Note was formulated with the objective of providing the business with a more focussed and efficient approach to managing sponsorships for each financial year, in terms of what will be sponsored and what will be declined in line with current financial constraints. This Practice Note was subsequently ratified as an Exco resolution."*

- 4.7 According to the letters (Annexure 17), "The Sponsorship Practice Note aims to:
- *Develop a firm and clear position on managing sponsorship for the next 5 years.*
  - *Assist with cost controlling within the business in terms of ad hoc sponsorships.*
  - *Communicate an Eskom-wide principle decision on how sponsorships outside the proposed structure will be addressed going forward.*
  - *Execute only flagship sponsorships and business imperative sponsorship programmes approved by EXCO.*
  - *Allow the sponsorship desk to decline all sponsorship requests outside the proposed and approved list of flagship and Exco approved sponsorships.*
  - *Eliminate ad-hoc, unplanned sponsorships."*
- 4.8 The letters (Annexure 17) further state "In line with the practice note ratified by Exco, please submit a list of planned sponsorships for your group/division, including amounts, for the 2014/15 fiscal year. The list will then be added to the list of flagship sponsorships and as such will be the only sponsorships to be executed by Eskom for this fiscal year."
- 4.9 Mr Choeu informed us that a second request was made to all the Group and Divisional Executives to further consider revising their sponsorship budgets for 2014/2015 financial year. In this regard, Mr Choeu provided us with copies of the letters (Annexure 19) dated 9 June 2014 addressed by Ms Dhlomo to various Group and Divisional Executives. The letters (Annexure 19) state that "The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted" and that "Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval."
- 4.10 Mr Choeu also informed us that EXCO decided to centralise the sponsorship budget reduction and that he was tasked to implement this. According to Mr Choeu, this is the reason the second letter dated 9 June 2014 (Annexure 19) came from his office.

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- 4.11 We obtained and reviewed memoranda containing three versions of the Group and Divisional budgets (Annexure 16 and 18) after they were revised by the Group and Divisional Executives as instructed in the letters from Ms Johnson dated 9 April 2014 and Ms Dhlomo dated 9 June 2014 (Appendices 17 and 19). The table below reflects the said three versions of the consolidated Eskom sponsorship budgets:

Table 1: Sponsorship Budgets

Budget A – Presented to EXCO on 26 May 2014 -prior to reduction ( R )	Budget B – Presented to EXCO on 27 June 2014 - after reduction ( R )	Budget C – Presented to EXCO on 30 July 2014 letter for EXCO ( R )
46 976 567	30 676 567	53 446 567

- 4.12 It appears from Table 1 above that the budget submitted to EXCO on 26 May 2014 was reduced from R46 976 567 to a new figure of R30 676 567 submitted to EXCO on 27 June 2014. This figure was however adjusted upwards to a total amount of R53 446 567 which was submitted to EXCO on 30 July 2014.
- 4.13 During our consultation with Mr Choeu, he stated that the fluctuation of the sponsorship budgets as illustrated in Table 1 above was due to on-going consultations within the divisions as to which budget items to reduce in line with the instruction from EXCO. According to Mr Choeu, this was work in progress and the final "revised budget" had not yet been finalised and approved by EXCO.
- 4.14 A copy of a memorandum (Annexure 18) dated 23 July 2014 addressed by Mr Venner to Ms Dhlomo and copied to Mr Choeu titled "Approval of the revised Sponsorship Budget 2014/15 list" states that "This memo serves as a request for approval by Exco (to be held on 30 July 2014) of the sponsorship listed in the attached revised Sponsorship Budget 2014/15 spread sheet. The spread sheet consists of both budgeted for and not budgeted for sponsorships. The resolution required is for the approval of the sponsorships budgeted for and a decision to be made with regards to the sponsorships not budgeted for."
- 4.15 According to the memorandum (Annexure 18), the said total sponsorship budget amounted to R53 446 567 which comprised of budgeted sponsorships amounting to R52 278 000 and sponsorships not budgeted for amounting to R1 168 567. According to Mr Choeu, although he was not present at the said meeting, he is aware that the revised budget of R53 446 567 was not approved at the EXCO meeting held on 30 July 2014 as planned. This was confirmed by Mr Adam, who stated that the discussion of the sponsorship contract that had been concluded with TNA Media,

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according to the submission that had been made to EXCO, took priority and that the revised sponsorship budget was therefore not deliberated upon as planned.

- 4.16 During our consultation with Mr Choeu, he informed us that the TNA Media contract in respect of the sponsorship was part of the CE budget. He stated that included in the budgeted amounts in Table 1 above were the budgeted amounts for the office of the CE, which include the TNA Media contract. We reviewed the CE's budget and confirmed that it included the TNA Media sponsorships budget. This is illustrated in Table 2 below:

Table 2: Sponsorship budget for office of CE

Description	Budget A – Presented to EXCO on 26 May 2014 - prior to reduction (R)	Budget B – Presented to EXCO on 27 June 2014 - after reduction (R)	Budget C – Presented to EXCO on 30 July 2014 letter for EXCO (R)
The New Age/SABC Breakfast Session	14 400 000	14 400 000	14 400 000
Wits Centre for Public Enterprises	8 500 000	8 500 000	8 500 000
South African Local Government Association	2 000 000	0.00	2 000 000
<b>TOTAL</b>	<b>24 900 000</b>	<b>22 900 000</b>	<b>24 900 000</b>

### Conclusions

- 4.17 Based on our discussions with relevant parties within Eskom and review of relevant documentation including, *inter alia*, memoranda, minutes of EXCO meetings and email correspondence, a decision was taken by EXCO to reduce Group and Divisional sponsorship budget across the board and not to, necessarily, cancel TNA Media sponsorship contract or budget. This was apparently in line with NERSA's determination on MYPD3 and cost-saving measures in Eskom.
- 4.18 The evidence available indicates that Group and various Divisional Executives attempted to reduce their sponsorship budgets as requested and that the said revised budgets were to be presented to EXCO on 26 May 2014, 27 June 2014 and on 30 July 2014. However, although the revised consolidated sponsorship budget apparently presented to EXCO on 27 June 2014 was 35% (R46 976 567 – R30 676 675) less than that apparently presented on 26 May 2014, the consolidated sponsorship budget that was to be presented to EXCO on 30 July 2014 was 14% (R53 446 567 – R46 976 567) and 74% (R53 446 567 – R30 676 675) more than the budget apparently



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presented to EXCO on 26 May 2014 and 27 June 2014 respectively. Based on our discussion with the relevant parties, this was due to the fact that various Divisional Executives continued updating their budget on an ongoing basis.

- 4.19 Based on the available evidence, the revised budgets were presented to EXCO after the TNA Media sponsorship contract was concluded, as this contract was signed on 30 April 2014.
- 4.20 Based on our discussions with relevant parties, the revised sponsorship budget has not yet been approved by EXCO.

## B. PROCESS FOLLOWED IN AWARDING THE SPONSORSHIP CONTRACT TO TNA MEDIA

- 4.21 The table below reflects the policies and procedures in respect of the procurement and contracting process that were provided for purpose of our review:

**Table 3: Procurement and delegation of authority policies**

Number	Policy	Date of approval	Annexure
1	Delegation of Authority policy	03 June 2013	Annexure 3
2	Procurement and Supply Chain Management Procedure	19 May 2014	Annexure 4
3	Procurement and Supply Chain Management Policy	19 May 2014	Annexure 5
4	Sponsorship Policy	15 August 2013	Annexure 23

- 4.22 However, as captured in Section A of this report, the sponsorship contract entered into between TNA and Eskom was concluded on 30 April 2014. The procurement and supply chain management policy and procedure provided are therefore not applicable for the period under review.
- 4.23 The delegation of authority policy (Annexure 3) was signed by Mr Dames on 3 June 2013 as CE of Eskom and authorised by the Chairman of the Board, Mr Tsotsi. A date was not appended next to his signature. Based on the signature date of the CE, the delegation of authority policy was applicable for the period under review.
- 4.24 The purpose of the policy (Annexure 3) is to provide Eskom with a guideline to the powers and authorities delegated by the Board. It prescribes the scope, conditions and parameters within which the powers can be exercised by executives and all employees. We have summarised below the relevant sections of the policy:

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- a) Paragraph 2.2.7.1.4 of the policy provides that, *"Except for procurement matters, an authorised Delegee is entitled at its discretion to make any decision without the need for a recommendation from any party"*
- b) According to paragraph 2.2.7.1.5: *"Any submission to the Board or a Board committee must be authorised by the CE, EXCO or an EXCO subcommittee, where applicable"*
- c) Furthermore, paragraph 2.2.7.1.6 provides that, *"In the event of any doubt regarding an authorised signatory, the Chief Executive is authorised to sign any document to give effect to a transaction authorised by the appropriate approval authority. The CE may also sign any document, notwithstanding a specific mandate given to any executive"*.

4.25 In our consultation with Mr Le Roux and Ms Doubell, they informed us that the sponsorships do not fall under SCM and /or procurement. Mr Le Roux then referred us to Mr Choeu as head of Eskom Development Fund.

4.26 We reviewed the sponsorship policy dated 15 August 2013 (Annexure 23). The policy defines a sponsorship as follows *"A sponsorship is any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsors image, brands or products and sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits"*.

4.27 Paragraph 3.10 of the policy deals with the return on investments from sponsorship transaction. This therefore means it was envisaged that sponsorship transactions will invariably have an element of investment.

The submission for the TNA business briefing breakfasts

4.28 A submission dated 09 April 2014 (Annexure 11) was prepared by Mr Choeu for the attention of the Acting CE, Mr Matjila. The submission was with regards to the 49M Campaign: Investment in TNA Media (Pty) Ltd business briefing breakfasts.

4.29 The submission (Annexure 11) captures the strategic context, justification, project scope, costs, main risks, contracting strategy and key assumptions.

4.30 Under the heading of the main risks, *"public scrutiny"* was highlighted. This was apparently because Eskom was involved in a previous investigation by the Public Protector for allegations of fruitless and wasteful expenditure. According to the

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submission (Annexure 11) all relevant documentation were submitted to the Public Protector. Eskom had apparently not yet received any further communication regarding the investigation.

4.31 The submission (Annexure 11) states that Eskom has been using the TNA Media breakfast platform as part of the 49M campaign. According to the submission, the contents of the TNA Media Sponsorship contract have been summarised as follows:

- (a) The previous contract was entered through an agency, The Media Shop, as stipulated in the "Contracting Strategy" paragraph of the submission;
- (b) The TNA business breakfast sponsorship proposal received from TNA Media was also attached for Mr Matjila's consideration as stipulated in the "Background" paragraph of the submission;
- (c) In the "Justification" paragraph, Mr Choeu states that *"Sponsorship is a form of marketing communication in which a brand is aligned with an activity or entity in order to exploit the commercial potential created by association, thereby positively impacting brand image and/or sales among the sponsor's target markets in order to attain marketing and corporate objectives". "Sponsorships are embarked upon for business reasons and therefore need to be leveraged, tracked and measured to ascertain the return on investment that they are providing. Sponsorships is (sic) thus an investment which creates the expectation of future returns."*

4.32 The submission to Mr Matjila further states that *"Eskom will enjoy the following benefits:*

- (a) *Enhance its standing with all Stakeholders around the country as well as emphasise key issues that affect Eskom;*
- (b) *High level networking opportunities exist where executives from Eskom will be able to interact with senior government officials and executives at the Business Briefing Breakfasts; and*
- (c) *Business Briefing Breakfasts will bring Eskom executives and representatives closer to the organisations and individuals with decision making powers in the respective Government; Statutory Bodies; Regulators and Legislators in a congenial environment conducive to dialogue and engagement."*

4.33 In the submission (Annexure 11) Mr Choeu also refers to a contracting strategy which states *"Eskom has received a proposal to use an agency The Media Shop to access the TNA Business Breakfast platform with an additional 17% agency fee per event. We are proposing that we engage directly with TNA Media and contract directly. This will save Eskom the additional 17% agency fee".*



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- 4.34 On the basis of the above, it was recommended that *"you approve the investment in the sponsorship request of R43 200 000 for 36 business briefings for a period of 36 months."*
- 4.35 The submission was signed by Mr Choeu and approved by Mr Matjila. The dates of signature were not appended next to their signatures and we could therefore not establish when these parties signed the submission.
- 4.36 The submission (Annexure 11) stated what the amount of the sponsorship was (i.e. R43 200 000 for a period of 36 months). It however did not indicate if there was budget available for the said sponsorship and whether the same was approved by EXCO. As already indicated in Sections A above, the available evidence indicates that, although the 2014/2015 sponsorship budget might have been presented to EXCO for approval, this has not yet been approved.
- 4.37 During our consultation with Mr Matjila, he informed us that he understood the TNA Media contract to fall within the ambits of an "investment" transaction and not sponsorship. Mr Matjila stated that he approved the contract based on his delegated investment transactions approval of R75 million. He showed us what appeared to have been power point slides dated February 2013 titled *"Eskom's delegation of Authority"* (Annexure 21) which referred to the said investment delegation of R75 million. We compared this document to the Delegation of Authority policy (Annexure 3) approved on 03 June 2013 referred to above which also makes reference to the said threshold of R75 million in respect of investments.
- 4.38 Mr Adam informed us that he drafted a memorandum dated 26 August 2014 in response to a discussion he had with the CE on whether the TNA Media transaction could be classified as an investment or sponsorship (Annexure 24). Mr Adam stated in the said memorandum that in terms of Eskom's Sponsorship Policy, a sponsorship is defined as follows *"A sponsorship is any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsors image, brands or products and sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits"*. We reviewed the sponsorship policy dated 15 August 2013 (Annexure 23) and confirmed this was the definition of sponsorship according to the said policy.
- 4.39 Mr Adam further stated in the said memorandum that paragraph 3.10 of the policy envisages the management of return on investment for sponsorships and he

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understands this means Eskom contemplates returns or some benefits associated with sponsorship. This is in line with our understanding of what is envisaged by paragraph 3.10 of the said policy.

- 4.40 Mr Adam also addressed the relevant provisions of the delegation of authority on the matter. He stated that in interpreting the delegation of authority, any specific powers or conditions must take precedence over any general powers or conditions. He further stated that even if the transaction could be classified as an investment transaction, the specific provisions relating to the transaction in question takes precedence over general delegation of authority. He stated that sponsorships are dealt with specifically in the delegations of authority and this serves to limit the general provisions. In conclusion, Mr Adam stated that it is clear that the agreement with TNA Media is a sponsorship as contemplated in the delegations of authority and its approval should have been in consultation with EXCO.
- 4.41 Paragraph 2 of the TNA contract states *"Eskom wishes to participate in the aims and objectives of TNA Media (Pty) Ltd through the sponsorships of the business briefings"*. The contract refers to the transaction as a sponsorship and no reference is made to an "investment" in this contract.
- 4.42 In addition, the following factors confirm that Eskom considered the contract to be sponsorship and not "investment":
- (a) The budget amount for the TNA Media contract was included in the budgets for Group and Divisional Executives' sponsorship budgets;
  - (b) During our consultations with other parties on the matter, it was never mentioned that the transaction was considered to be an "investment" and not sponsorship; and
  - (c) By his own admission, Mr Matjila stated that the "investment" he is referring to is not an investment as defined in accounting terms that would constitute an asset to be reflected on the Statement of Financial Position, but rather an "investment" in that Eskom expected to derive some returns in the form of enhanced brand image and awareness. However, it would appear that the investments envisaged in the delegation of authority are indeed investments as defined in accounting terms representing an asset to Eskom. Consequently, the fact that the provisions relating to investments in the delegation of authority were utilised by Mr Matjila to justify the approval of "investments" other than those envisaged in the delegation of authority appears to be irregular.

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- 4.43 Based on our review of a copy of the submission to EXCO dated 1 February 2013 (Annexure 15), the objectives of the sponsorship framework are outlined as follows:
- To provide an opportunity by brand awareness, attribute association, networking, and/or customer relations to enhance goodwill and loyalty;
  - To create opportunities and platforms to form strategic alliances with existing and potential partners;
  - To present opportunities to develop properties that Eskom could own and leverage cost effectively on a sustainable basis;
  - To ensure good governance of the process and ensure consistency.
- 4.44 The submission dated 9 April 2014 addressed by Mr Choeu to Mr Matjila mentions the following as benefits to Eskom from the TNA Media contract:
- Enhance its standing with all stakeholders around the country as well as emphasise key issues that affect Eskom;
  - High level networking opportunities exist where executives from Eskom will be able to interact with senior government officials and executives at the Business Briefing Breakfasts;
  - Business briefing breakfast will bring Eskom executives and representatives closer to the organisation and individuals with decision making powers in the respective Government; Statutory Bodies; Regulators and Legislators in a congenial environment conducive to dialogue and engagement.
- 4.45 Based on the various factors discussed above, the sponsorship framework objectives as outlined above as well as the purported benefits that would be derived from the contract as per the submission from Mr Choeu, the contract concluded with TNA Media is a sponsorship contract and not an investment contract
- 4.46 Table 4 illustrates the delegation of authority applicable to Eskom sponsorships (Annexure 3).

Table 4: Delegation of authority: Corporate Social Investment

Paragraph ref	Powers & Authority	Approvals Authority	Recommends
12.2	Up to R50K	Sponsorships	
		CE/FE/GE/DE in consultation with Corporate Sponsorship Committee established by the DE Corporate Affairs	Relevant Manager

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	Up to R3m	CE/Sponsorship Committee established by the GE Corporate Affairs	Relevant Manager
	Above R3m and subject to approved budget	CE (in consultation with EXCO) or he may delegate to ICAS	Relevant Manager

- 4.47 The TNA Media contract (Annexure 2) was valued at R43.2 million and as such should have been approved by the CE in consultation with EXCO.
- 4.48 The said contract between TNA and Eskom in the amount of R43.2 million was signed by the authorised signatory, Mr Collin Matjila, who was the Acting Chief Executive as prescribed by section 2.2.7.1.6 of the policy.
- 4.49 However, Mr Matjila confirmed that he did not approve the contract in consultation with EXCO as he did not consider this to be a sponsorship but an "investment". Furthermore, as discussed in section A above, the revised 2014/2015 sponsorship budget has not yet been approved by EXCO. The first letter addressed to the Group and Divisional Executives requesting them to reduce their sponsorship budgets was sent on 9 April 2014, before the signing of the TNA Media contract. Based on this and the fact that Mr Matjila was part of EXCO, Mr Matjila was aware of the decision by EXCO to revise the sponsorship budgets.
- 4.50 Based on the above findings, the approval of the TNA Media sponsorship contract was done by Mr Matjila in contravention of the delegation of authority policy which required Mr Matjila to approve the contract in consultation with EXCO and subject to approved budget.

The Contract between Eskom and TNA Media

- 4.51 Eskom entered into a sponsorship contract with TNA Media (Annexure 2) signed on 30 April 2014 by the Acting CE, Mr Collin Matjila. We summarise below the salient features of the contract:
- This is a three year agreement which shall commence on the effective date and terminate on 30 April 2017;
  - The agreement is in respect of breakfast/ business briefings; and
  - Eskom shall pay TNA Media an amount of R43, 200,000.00 for 36 breakfast/ business briefing events at a cost of R1, 200,000.00 each as a sponsorship fee.



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- 4.52 The agreement in paragraph 4.2 sets out how the sponsorship fee shall be paid and the bank account into which it shall be paid while paragraph 5 covers the responsibilities of TNA Media.
- 4.53 In our interview with Mr Adam, he stated that upon his review of the contract as a Divisional Executive for Legal, he noted that there was no termination clause and made a suggestion (Annexure 9) that the contract be amended to include a termination clause. The exit clause was subsequently factored in in paragraph 2.1 and paragraph 12.2 as follows: *"Eskom will have the right to terminate this agreement on 30 (thirty) days written notice of its intention to terminate, which Eskom will be entitled to exercise for any reason whatsoever at its sole discretion"*
- 4.54 Mr Adam informed us that this recommendation was mainly due to Eskom's cash constraints and also taking into account the envisaged duration of the contract of 36 months.
- 4.55 We reviewed the email correspondence between Legal, Corporate Affairs Division, CE's office and TNA Media (Annexure 10) with regards to the TNA Media contract. We summarise the correspondence in table 5 below:

Table 5: Summary of the email correspondence

Date	Time	Sender	Recipients	Contents of the email
24 April 2014	11:08 AM	Mr Adam	Ms Koor and Mr Tsholanku	<i>"Fehmidah perhaps the best way to deal with the notice is to say that the agreement is for 3 years unless terminated by either party on 30 days written notice. Then align the other sections and you build in the discretion by either party etc."</i>
24 April 2014	12:02 PM	Ms Koor	Ms Dlamini and cc'd Mr Tsholanku	<i>"I have revised the payment clause to link it to each event and strengthen the right to cancel in terms of clause 12.2. I have enclosed version 9 of the draft agreement"</i>
24 April 2014	12:10 PM	Ms Dlamini	Ms Koor and cc'd Mr Tsholanku	<i>"The contract version 8 was sent to the CE earlier. I think I will wait and see what he says now. There was a strong preference for the "year one", "year two" and "year three" payment per version 8. Is there a significant difference between the two versions?"</i>

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24 April 2014	12:13 PM	Ms Koor	Ms Dlamini and cc'd Mr Tsholanku	"I mad (sic) changes as per Mohammed Instructions on payment and the issue relating to cancellation for convenience"
29 April 2014	1:26 PM	Mr Howa	Mr Choeu	"Thank you for taking my call earlier about the current draft which is little bit different to the one agreed between us previously. On reading it, the changes noted include: Paragraph 2.1 in which a termination clause has been added. Our understanding is that paragraph 2.2 with its breach conditions would cover termination. Paragraph 12.2. We are 100% behind termination based on breach, but have some difficulty with the introduction of this kind of clause which was not included in the previous versions or agreements. "I am sure this is an oversight in drafting and is easily correctable after which I would be happy to receive a corrected version".
29 April 2014	1:39 PM	Mr Choeu	Mr Adam, Mr Tsholanku and Ms Koor	"Refer to mail from TNA below and assist respond (sic)"
29 April 2014	2:19 PM	Mr Adam	Mr Choeu, Mr Tsholanku and Ms Koor	"Chose, you need to make a call on the commercial need. It was not an oversight – it was deliberately drafted to allow for cancellation on 30 days notice. I would recommend retaining our wording"

4.56 According to Ms Koor, an email (Annexure 10) dated 29 April 2014 at 11:51 AM sent by Mr Adam to Mr Choeu included the last version of the contract that the legal department sent to Mr Chose and Ms Dlamini and contained the termination clause. Ms Dlamini also confirmed that the last version she received from Ms Koor contained the termination clause. Ms Dlamini further informed us that she did not remove the said clause nor was she requested to remove same by anyone.

4.57 The fact that a contract without a termination clause was ultimately concluded, despite the fact that the Legal Department recommended this clause to be factored

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In the final contract, appears to be irregular and exposes Eskom to an undue risk of being unable to terminate the contract when a need to do so arises.

- 4.58 During our consultation with Mr Matjila, he informed us that Mr Choeu mentioned to him that TNA Media indicated during the contract negotiations that they were not comfortable with the 30 days termination clause. Mr Matjila stated that he then enquired with Mr Choeu as to whether this was a standard clause for similar contracts and the response from Mr Choeu was that there were other similar contracts which were concluded without the clause in question.
- 4.59 Mr Matjila informed us that he then requested Mr Choeu to consult with the legal department and discuss this clause. Mr Matjila stated that he was of the view that the clause rendered the contract very onerous to TNA Media and defeated the objective of the contract as it granted Eskom permission to cancel for any reason with only 30 days' notice. It is not clear why Mr Matjila would seemingly be this concerned about an onerous clause on the part of TNA Media when he would be expected to negotiate this contract in the best interest of Eskom.
- 4.60 Based on our review of the email correspondence it appears that the termination clause was removed after the email dated 29 April 2014 (2:19 PM) addressed to Mr Choeu by Mr Adam stating "Choeu, you need to make a call on the commercial need. It was not an oversight – it was deliberately drafted to allow for cancellation on 30 days notice. I would recommend retaining our wording". According to email correspondence we reviewed, this email was the last correspondence from the legal department on the matter. Mr Adam also confirmed that this was the last time he engaged with Mr Choeu on the said termination clause and that he never followed up on what decision was subsequently taken on this matter by Mr Choeu. The final version which was signed on the 30 April 2014 did not have the termination clause in question.

#### Conclusions

- 4.61 We conclude as follows, based on our consultations with relevant parties within Eskom and review of documentary evidence available:
- (a) Mr Matjila signed the contract with TNA Media as prescribed by the delegation of authority policy. However, the evidence available indicates that the 2014/2015 sponsorship budget has not yet been approved by EXCO. According to the delegation of authority policy, the CE may approve sponsorship expenditure above R3 million subject to budget approval. Additionally, the



## Report

## Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

delegation of authority policy requires expenditure above R3 million to be approved by the CE in consultation with EXCO;

- (b) Mr Matjila confirmed that he did not approve this contract in conjunction with EXCO as he did not view the TNA Media contract as sponsorship, but as an "investment". However, based on our discussions with various relevant parties with in Eskom and review of documentary evidence available, including the TNA Media contract, sponsorship budgets and submission to Mr Matjila in respect to this contract, the TNA Media contract concluded on 30 April 2014 relates to sponsorships and not "investment" as alleged by Mr Matjila. This contract was therefore irregularly approved by Mr Matjila;
- (c) The fact that a contract without the termination clause was ultimately concluded, despite the fact that the Legal Department recommended this clause to be factored in the final contract, appears to be irregular and exposes Eskom to an undue risk of being unable to terminate the contract when a need to do so arises; and
- (d) Based on our review of the email correspondence and consultations with relevant parties as indicated above, it appears that the termination clause was removed after the email dated 29 April 2014 (2:19 PM) addressed to Mr Choeu by Mr Adam.

#### C. PAYMENTS IN RESPECT OF THE TNA MEDIA CONTRACT

- 4.62 In our discussion with Mr le Roux, he referred us to the email discussion below regarding the process that should be followed for loading sponsorship projects on SAP to enable payment.
- 4.63 We reviewed email correspondence between Ms Dlamini from Corporate Affairs and Mr Mdakane, dated 11 July 2014 (Annexure 20), with regards to the loading of the TNA sponsorship contract on SAP for payment. The email stated *"as discussed earlier, kindly outline the process of loading this contract on SAP"*.
- 4.64 Mr Mdakane responded to the email, copying Mr Le Roux, on 21 July 2014 (Annexure 20) and stated *"please discuss your request with our Eskom procurement policy and process custodian (Risk and Governance) Ms Tshavhungwe Mamphiswana or Mr Pieter Le Roux in terms of the correct process to be followed. Am not allowed to load such agreement on SAP without proper approval"*
- 4.65 Mr Le Roux referred this request to Ms Doubell on 23 July 2014 according to the attached Annexure 20.

## Report

## Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

4.66 On 23 July 2014 (Annexure 20) Ms Doubell advised that *"Hi, let me see what the procedure on the Donations says and if it covers sponsorships. Our procedure is silent about sponsorships"*.

4.67 Further to the email above, Ms Doubell sent another email dated 24 July 2014 to Mr Le Roux. The email states

*"...Since this sponsorship is in the same category of ESDEF support, I recommend below based on the assumption:*

*Since there is an agreement signed between Eskom and TNA, I take it that approval has been granted by an authorised person(s). I also assume TNA is on our vendor database.*

*Because of this assumption and the high number of money (sic), I suggest the following:*

- The end users to create a PR in the system*
- The buyer to create a 46 contract on SAP*

*Once done, the end users can do a 45 to release the task orders as per the contract.*

*If TNA is not registered on the database then unfortunately it will delay the creation on (sic) the contract".*

4.68 According to our consultation with Ms Doubell, no payment was effected as at the date of our report. This was confirmed by an email request from SNG to Mr Phukubje for the list of payments made and supporting payment documentation. Mr Phukubje replied in an email dated 11 September 2014 that to date no payment have been effected in respect of this contract. He confirmed however that invoices have been received.

4.69 We were provided with copies of three invoices totalling R3.6 million (R1.2 million each - excluding VAT) (Annexure 22) from TNA Media in relation to the contract under review.

4.70 According to Mr Le Roux, SCM would be involved once all the proper authorisations have been granted. Their role is to load the contract on SAP. The procurement team would then manage the approved budgets and ensure that payment occurs within the budget.

## Report

## Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

## 4.71 The PFMA defines irregular expenditure as follows:

*"Irregular expenditure" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—*

- (a) this Act; or*
- (b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or*
- (c) any provincial legislation providing for procurement procedures in that provincial government;*

*[Definition of "irregular expenditure" amended by s. 1 (d) of Act No. 29 of 1999.]*

- 4.72 As at the date of report, Eskom had incurred irregular expenditure of R3.6 million (excluding VAT) relating to the TNA Media sponsorship.

#### Conclusions

- 4.73 As at the date of our report, although invoices totalling R3.6 million (excluding VAT) had been issued by TNA Media, no payments had been made to TNA Media in respect of the sponsorship contract.

- 4.74 Irregular expenditure amounting to R3.6 million as defined by the PFMA has been incurred in relation to the sponsorship contract with TNA Media, as the contract was irregularly approved by the then Acting Chief Executive in contravention of the delegation of authority.

## 5. RECOMMENDATIONS

- 5.1 Based on our findings as discussed above, we recommend that Eskom considers taking appropriate corrective action against the following parties for:

#### Mr Matjila

- (a) Approving the TNA Media sponsorship contract in contravention of the delegation of authority which required him to approve the contract in consultation with EXCO. Mr Matjila confirmed that he did not consult with EXCO in approving this contract; and
- (b) Approving the TNA Media sponsorship contract in contravention of the delegation of authority which required him to approve the contract in consultation with EXCO and subject to approved budget. The 2014/2015 TNA

**Report****Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd**

Media sponsorship budget of R14.4million has not as yet been approved by EXCO. The TNA Media contract amount concluded amounted to R43.2million.

**Mr Choeu**

- (c) His involvement in the removal of the termination clause in the contract with TNA Media, despite the recommendation by the legal department to include and retain the said clause.

- 5.2 We further recommend that Eskom considers seeking legal advice on what would be appropriate corrective action to consider in respect of the parties indicated above as well as how to proceed with the TNA Media sponsorship contract.

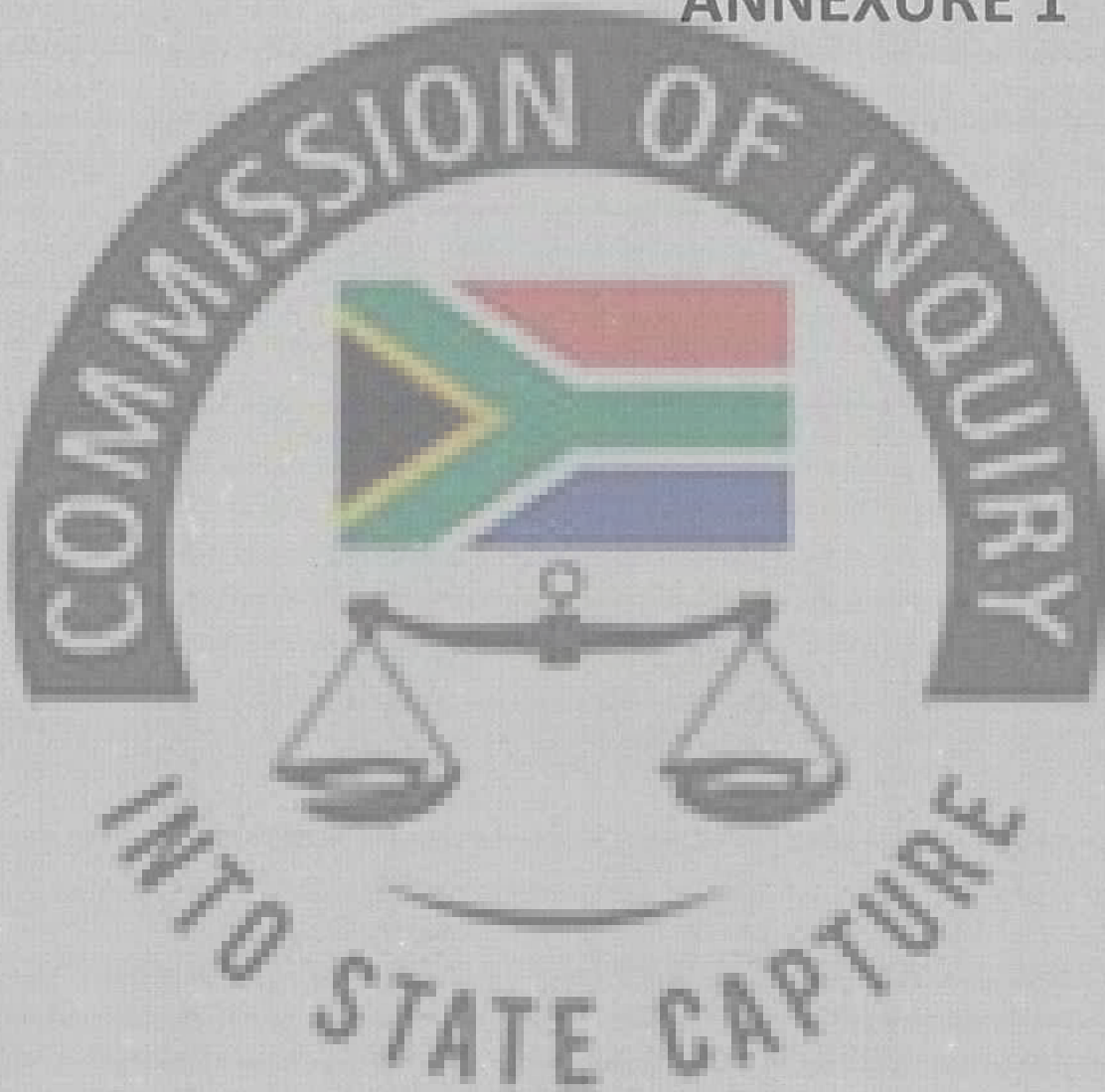


**Sizwe  
Ntsaluba  
Gobodo**



AUDIT · ADVISORY · FORENSICS

## ANNEXURE 1







AUDIT • ADVISORY • FORENSICS

OPPORTUNITY. EXCEEDED.



ESKOM HOLDINGS SOC LIMITED (ESKOM)

PRELIMINARY REVIEW INTO PROCESS UNDERTAKEN IN  
AWARDING THE SPONSORSHIP CONTRACT TO TNA MEDIA  
(PTY) LTD

AUGUST 2014

## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

11 August 2014



AUDIT • ADVISORY • FORENSICS

OPPORTUNITY EXCEEDED.

Audit and Risk Committee Chairperson  
 Eskom Holdings Soc Ltd  
 Megawatt Park  
 Maxwell Drive  
 Sunninghill  
 Sandton

Dear Madam,

SCOPE LETTER: PRELIMINARY REVIEW INTO PROCESS UNDERTAKEN IN AWARDING THE SPONSORSHIP CONTRACT TO TNA MEDIA (PTY) LTD ("TNA MEDIA")

## 1. INTRODUCTION

Thank you for affording us the opportunity to provide you with our proposal to conduct a review of the sponsorship contract between ESKOM and TNA Media. We have elected to present our quotation and scope of work in the form of our proposed standard letter of engagement in order to enable you to expedite the appointment process. Should this letter be acceptable to you, provision is made for your acceptance of our scope of work on page 9.

## 2. MANDATE

You require us to review the sponsorship contract for compliance with the relevant policies and procedures.

## 3. OUR UNDERSTANDING OF YOUR REQUIREMENTS

It has come to our attention that you require us to conduct a review of the contract with TNA Media in order to:

- a) Determine whether procurement processes, contract management and related controls were in place to ensure a fair, equitable, transparent, competitive and cost effective supply chain management ("SCM") system in the awarding of the sponsorship contract to TNA Media;
- b) Determine whether the SCM process prescribed as per the PFMA and all relevant prescripts have been followed in awarding of the contract;
- c) Determine whether delegations of authority were adhered to in awarding of the contract;
- d) Determine whether there were any deviations and whether these were approved in line with the relevant prescripts; and
- e) Recommend appropriate correction actions that should be considered by ESKOM.

20 Morris Street East, Woodmead, 2191  
 P.O. Box 2939, Saxonworld, 2132  
 Tel: +27 (0) 11 231 0600  
 Fax: +27 (0) 11 234 0933



## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

### 4. OUR APPROACH AND METHODOLOGY

We will conduct the following steps in reviewing the sponsorship contract with TNA Media:

- a) Obtain and review the ESKOM's SCM policies and procedures, whilst at the same time being mindful of the terms of the PFMA and Treasury;
- b) Review the SCM policies and procedures to ascertain whether they are adequate to ensure that there is equity, fairness, transparency, competitiveness in the SCM process;
- c) Obtain and review the bid documents pertaining to the contract in question to determine whether the process followed complied with the relevant policies and prescripts;
- d) Obtain and review minutes of meeting of the relevant SCM committee's;
- e) Review the SCM documentation to ascertain whether there were any deviations, amendments or extension of contracts and determine whether those complied with the relevant policies and prescripts;
- f) Review the procurement documents including the contract with TNA Media for compliance with ESKOM's delegation of authority;
- g) Conduct interviews with ESKOM's official(s) or parties involved in the awarding of the contract; and
- h) Recommend appropriate correction actions that should be considered by ESKOM.

### 5. PROJECT TEAM

The SNG team has developed key skills in the provision of forensic services for large-scale projects in complex environments. This capability, when combined with SNG's traditional record of accomplishment and skills base, positions us as an ideal partner to provide required services to you.

#### Our Core Team

Aligned to your brief, we have selected a core team to support ESKOM according to the following categories:

#### Client Relationship and Project Director

**Peter Goss:** Director and our Public Sector Leader. Peter Goss has more than 20 years of experience in managing and directing special reviews of this nature. He will be responsible for

## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

managing and directing our team. He will leverage the appropriate skills and resources to support this assignment conducted on behalf of ESKOM.

**Project Manager**

**Itumeleng Serithi:** Senior manager. He is a chartered accountant championing our specialist review into CSM. He will serve as project manager on this assignment.

**6. PROFESSIONAL FEES**

Our overriding philosophy is to provide you with a high quality, value for money service. You will find our fees are market-related and competitive. We estimate that our fee for the engagement will be R202,216.39 (inclusive of disbursements and VAT).

We have tabulated below fees in respect of the assignment.

Staff Level	Rate (R)	Hours	Fees (R)
Director	2 309	24	55 416,00
Senior Manager	1 854	40	74 160,00
Assistant Manager	984	40	39 360,00
<b>Sub-total</b>			<b>168 936,00</b>
Disbursements @ 5%			8 446,80
<b>Sub-total</b>			<b>177 382,80</b>
VAT @ 14%			24 833,59
<b>Total</b>			<b>202 216,39</b>

Our invoices will be rendered at appropriate intervals during the course of the assignment and are due on presentation thereof.

Notwithstanding anything to the contrary contained herein, should our accrued fees reach a level which we consider to be material, such accrued fees will become due and payable immediately upon presentation of our invoice, failing which, the rendering of all further professional services will be suspended pending receipt of payment. In the event of your appointing an alternative firm in our stead, or otherwise terminating our mandate, we will be entitled to raise a fee upon receipt of such notification for an amount adequate to cover all work done to date and not yet billed, at our agreed charge out rates, including disbursements incurred. In such event you

**TNA MEDIA SPONSORSHIP CONTRACT REVIEW**

undertake to settle our account in full prior to our handing over of books and records to you or to our successor.

Our fees will be inclusive of VAT which will rank for deduction as input tax by registered vendors.

Subject to the foregoing, our fees are payable on presentation. We will be entitled to charge interest on all amounts outstanding, for whatsoever reason, for more than 15 days from the date of presentation of our invoice at the maximum rate allowed by law. Such interest will be calculated on a monthly basis. All payments will be allocated first to interest, then to outlays, then to the longest fee outstanding.

Without prejudice to any other rights that we may have in law, we reserve the right to suspend or terminate the performance of the services or any part thereof to you immediately, at any time, with or without notice, should payment of any of our fees become overdue.

Under no circumstances (excluding our willful misconduct), will we be liable for any costs or penalties levied against ESKOM relating to the late delivery of any report(s) that may be required by your respective regulator or third parties requiring us to issue any such report(s) relating to the affairs of ESKOM. Accordingly, you will not deduct or set off such costs against our fees due to us.

**7. STAFF**

Our staff members undergo periodic training and this, together with the taking of annual leave, may lead to staff turnover and lack of continuity. We will use our best endeavors to avoid any disruption to an engagement's progress.

**8. ELECTRONIC COMMUNICATION**

We may choose to communicate with you by electronic mail or internet where an authorised person wishes us to do so, on the basis that in consenting to this method of communication, you accept the inherent risks of such communications (including the security risks of interception of or unauthorised access to such communications, the risks of corruption of such communications, the risk of errors or loss of information and the risks of viruses or other harmful devices) and that

**TNA MEDIA SPONSORSHIP CONTRACT REVIEW**

you will perform virus checks. We will use commercially reasonable procedures to check for the most commonly known viruses before sending information electronically.

We recognize that systems and procedures cannot be a guarantee that transmissions will be unaffected by such hazards.

We confirm that we, ESKOM and SNG, each accept the risks of and authorise electronic communications between us. We each agree to use commercially reasonable procedures to check for the most commonly known viruses before sending information electronically and to safeguard the security and confidentiality of the information transmitted, but we cannot guarantee that the transmission will be free of infection nor its security and confidentiality.

We shall each be responsible for protecting our own systems and interests in relation to electronic communications and we (in each case including our respective partners/directors, employees or agents) shall have no liability to each other on any basis, whether in contract, delict (including negligence) or otherwise, in respect of any error, damage, loss or omission arising from or in connection with the electronic communication of information between us and our reliance on such information.

The exclusion of liability in the previous clause shall not apply to the extent that any liability arises out of acts, omissions or misrepresentations which are in any case criminal, dishonest or fraudulent on the part of our respective partners/directors, employees, or agents.

If our communication relates to a matter of significance on which you wish to rely and you are concerned about the possible effects of electronic transmission, you should request a hard copy of such transmission from us. If you wish us to password protect all or certain documents transmitted, you may request us to do so.

**9. QUALITY OF SERVICE**

We will seek to ensure that our service is satisfactory at all times and delivered with reasonable skill and care. If at any time you would like to discuss with us how the service can be improved, or if you are dissatisfied with the service you are receiving please contact Mveleli Boozi on (011) 231 0600.



## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

**10. CONFIDENTIALITY AND INDEPENDENCE**

We will discuss client confidential matters and documents only with members of our staff directly concerned with this engagement. We are bound by our policies and professional standards not to disclose to any persons who are not members of the firm, any information relating to a client's business acquired in the course of our duties. This limitation will not apply if we are required to disclose such information in compliance with any order of court, subpoena or other judicially enforceable directive. Furthermore, the firm and its employees maintain complete independence of interest and mental attitude in relationships with clients.

However, in terms of certain statutes we are obliged to report client confidential matters to certain regulatory bodies. These obligations would override the professional ethics rules of confidentiality, which we observe.

**11. FINANCIAL INTELLIGENCE CENTRE ACT (FICA)**

In terms of Section 29 of the Financial Intelligence Centre Act, 38 of 2001, as amended ("FICA") we are required by law to report to the Financial Intelligence Centre certain suspicious or unusual transactions, such as those which may involve money laundering, which have no apparent business or lawful purpose, or which may be relevant to an investigation of evasion or attempted evasion of tax. This statutory requirement which applies to both prospective and existing clients, overrides the professional ethics rules of confidentiality, which we observe.

**12. WORKING FOR OTHER CLIENTS**

We will not be prevented or restricted by virtue of our relationship with you, including anything in this engagement letter, from providing services to other clients. Our standard internal procedures are designed to ensure that confidential information communicated to us during the course of this assignment will be maintained confidentially.

## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

**13. RELIANCE ON DRAFT REPORTS OR ORAL COMMENTS**

To keep you informed of our progress and to facilitate discussion during the engagement, we may provide comments, reports or letters in oral or draft form. As these represent work in progress and not our final opinions or conclusions, we do not assume a duty of care to you (or anyone else) in respect of their content. The final results of our work and our definitive conclusions will be set out in our final written reports or letters and nowhere else.

Any oral comments or explanations we may give in relation to our final written reports and letters are not intended to be a substitute for a proper reading of our reports and letters and are not intended to have any greater significance than explanations of matters contained in the final written reports or letters.

**14. AGREEMENT OF TERMS**

This letter of engagement is signed for and on behalf of each undertaking referred to below, including their directors and members personally. Such signature constitutes:

- a) authority for any organisation to utilise our services on behalf of each other or on behalf of its directors or members on the terms and conditions set out above;
- b) consent to arbitration by an independent practicing chartered accountant nominated by the President of The South African Institute of Chartered Accountants, acting as an expert and whose decision will be final and binding, should we in our absolute discretion wish to refer to arbitration a dispute arising from this proposal, in terms of the Arbitration Act, No 42 of 1965, as amended;
- c) consent to the jurisdiction of the Magistrates' Court, should we in our absolute discretion resolve not to refer a dispute to arbitration; and
- d) a renunciation of the benefits of:
  - error calculi (error of calculation);
  - division and revision of accounts;
  - division and revision of accounts;
  - debate of accounts; and

## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

- binds each signatory, jointly and severally, as surety and co-principal debtor with each company and/or close corporation and/or entity or juristic person, to and in favour of ourselves in respect of all amounts due according to this engagement letter. If a signatory does not accept being bound as surety as aforementioned, the signatory agrees to providing security for the applicable fees, in a form to be mutually agreed upon between us.

No variation of the terms and conditions of this engagement will be of any force or effect, unless reduced to writing and signed by all of the signatories hereto.

Please contact Peter Goss (details below) to discuss any aspect of this document.

Yours faithfully

Peter Goss

Director

Telephone: (011) 718 8770

Mobile: 082 652 0024

Email: [peterg@sng.za.com](mailto:peterg@sng.za.com)



## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

## 15. CONCLUSION

Authorisation is hereby requested from ESKOM to proceed with the proposed project plan as set out above.

We trust that this project proposal meets with your approval.

Compiled by: **Peter Goss**

Approved by: \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Title: **Director**

Title: \_\_\_\_\_

Date: **11 August 2014**

Date: \_\_\_\_\_

## TNA MEDIA SPONSORSHIP CONTRACT REVIEW

## 15. CONCLUSION

Authorisation is hereby requested from ESKOM to proceed with the proposed project plan as set out above.

We trust that this project proposal meets with your approval.

Compiled by: Peter Goss

Approved by: Bajabulile Luthuli

Signature

Title: Director

Date: 11 August 2014

Signature

Title: Chairman Audit & Risk

Date: 12 August 2014



## ANNEXURE 2



## AGREEMENT

Between

**TNA Media (PTY) LTD**  
Registration Number: 2010/008569/07

And

**ESKOM HOLDINGS SOC LIMITED**  
Registration Number: 2002/125527/06  
(hereinafter referred to as "Eskom")



*[Handwritten signatures and initials]*


## BACKGROUND

1. TNA Media was established in June 2010 and released its first publication, The New Age on 6 December 2010. The New Age is the only truly South African newspaper. In addition to its mission of being Proudly South African, with its positive positioning around the future of our country, The New Age is ideally positioned to partner Eskom in disseminating its message to ordinary South African's across the length and breadth of South Africa. It is also the only newspaper to dedicate specific space to each province every day, and copies are distributed daily in each of the provinces containing content generated by staff based locally.
2. Eskom wishes to participate in the aims and objectives of TNA Media (PTY) LTD through the sponsorship of the business briefings.
3. The parties have agreed on the terms and conditions applicable to such sponsorship, which agreement the parties wish to record in writing.

## IT IS THEREFORE AGREED AS FOLLOWS:

### 1 DEFINITIONS

- 1.1. Clause headings are for convenience only and shall not be taken into account when interpreting the agreement.
- 1.2. Unless the contract indicates the contrary, any expression which denotes
  - 1.2.1 The singular shall include the plural and vice versa.
  - 1.2.2 Any gender includes the other gender.
- 1.3 When any number of days are prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.4 When figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.5 Unless the context in the agreement clearly indicates a contrary intention, the following expressions shall bear the meanings set out below: -
  - 1.5.1 "The Agreement" means this agreement including all annexures; attached from time to time and signed by both parties.
  - 1.5.2 "Effective Date" means 1<sup>st</sup> of May 2014;


1.5.3 "TNA Media" shall mean TNA Media Pty Ltd, a company duly incorporated in accordance with the company laws of the Republic of South Africa, registration number (2010/006569/07) with its office at 52 Lechwe Street, Corporate Park South, Midrand, Old Pretoria Main Road, Midrand 1685.

1.5.4 "Eskom" shall mean Eskom Holdings SOC Limited, a company duly incorporated in accordance with the company laws of the Republic of South Africa, Registration No: 2002/125527/06, with its registered office at Megawatt Park, Maxwell Drive, Sunninghill Ext 3, and Sandton

1.5.5 "Parties" shall mean Eskom and TNA Media.

## 2 DURATION

- 2.1 This Agreement shall commence on the Effective Date, and shall continue for a period of 3 (three) years and terminate on 30 April 2017.
- 2.2 Eskom reserves the right to withdraw its sponsorship at any time in the event of a breach by TNA Media of any of the terms of this agreement as per clause 9.

## 3 THE BUSINESS BRIEFINGS

- 3.1 TNA Media is the rights holder in respect of the business briefings.
- 3.2 TNA Media will manage the marketing campaign and activities of the business briefings
- 3.3 TNA Media will in consultation with Eskom decide, on all guests speakers for the business briefing. TNA Media will determine the dates, times, and venues for the activities of the business briefing events

## 4 SPONSORSHIP FEE

In consideration for the rights granted in terms of this agreement,

- 4.1 Eskom shall pay TNA Media an amount of R 43, 200 000 00 (Forty three Million, Two Hundred Thousand Rand only), excluding VAT for 36 business briefing events, at the cost of R 1,200 000 (One Million and Two Hundred Thousand Rand only) each, as the sponsorship fee.

- 4.2 The sponsorship fee shall be payable as follows:

- 4.2.1 An amount of R 1,200 000 (One Million and Two Hundred Thousand Rand only) for each business briefing event and with

*[Handwritten signatures and initials]*



each payment of R 1.200 000 (One Million and Two Hundred Thousand Rand only) payable within 30 (thirty) days after each business briefing event and receipt of tax invoice;

- 4.3 The sponsorship fee shall be payable, by Electronic Funds Transfer (EFT):

4.3.1 the following bank details will be used to effect payment:

TNA Media Pty Ltd  
ABSA Bank  
Account number: 4066462329  
Branch code: 331155

- 4.4 TNA shall use the sponsorship fee as set out above for the business briefings.

## 5. TNA's RESPONSIBILITIES

- 5.1 TNA Media will grant Eskom the following:

- 5.1.1 Live broadcasts of the event for at least 60 minutes
- 5.1.2 Advertisements in The New Age
- 5.1.3 2 x tables of 10 guests each
- 5.1.4 Banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za)
- 5.1.5 Use of Social Media
- 5.1.6 Logo's on all invitations
- 5.1.7 6 pull up banners at event
- 5.1.8 2 guests to be placed on the main table
- 5.1.9 Sponsor speech from podium before event broadcast

## 6. INDEMNITY AND LIABILITY

- 6.1 TNA Media undertakes that during the currency of this Agreement;

- 6.1.1 It will take all necessary steps to ensure that no act by any of its officials, volunteers, agents or nominees will be detrimental or harmful to the "Eskom" name or will bring Eskom into disrepute. Further TNA Media indemnifies Eskom against any claim and costs payable due to negligence or fault of TNA Media, its officials, volunteers, agents or nominees and arising out of an infringement by TNA Media of the rights of others.

- 6.1.2 It will act in good faith and support all matters relating to the advertising, promotion and participation by Eskom in the business briefings.

- 6.3 Eskom undertakes during the currency of this Agreement that:

*[Handwritten signatures and initials]*



6.3.1 It will take steps to ensure that no act by any of its employees, representatives or nominees will be detrimental or harmful to the business briefings events or will bring TNA Media into disrepute. Further Eskom indemnifies TNA against any claim due to negligence or fault of Eskom, its employees, representatives or nominees arising from the infringement of the rights of others ; and

6.3.2 It will act in good faith and support all matters relating to the activities of TNA Media associated with the business briefings.

## 7 TRADE MARK

7.1 TNA Media shall not use any Eskom trademark, symbol, logo or design get up or branding without Eskom's prior written consent. Eskom hereby grants to TNA Media revocable and non-exclusive approval to use its name, logo and any other artwork or other items of intellectual property, which Eskom may make available to TNA Media for the purposes described in this agreement, in any and all media. The approval is valid for the duration of this agreement and may be revoked at any time by written notice from Eskom to TNA Media.

7.2 The revocation of the approval referred to in 7.1 above shall apply prospectively to future use and/or publication of such material, but shall not apply to any material already published and/or printed.

7.3 The approval herein shall survive the termination of this agreement in relation to any published and/or printed material that exist at the time of such termination.

7.4 TNA Media shall not be entitled to cede, assign or in any way, avail the approval granted in terms of this clause to any third party without Eskom's written consent.

7.5 All intellectual property rights of any nature whatsoever whether capable of registration or not (whether registered or not) in the Eskom name. Eskom marks, logo, image and all other matters relating to Eskom shall remain the sole property of Eskom and TNA Media shall not acquire any right in relation to such intellectual property

## 8 CONFIDENTIALITY

The parties agree that all details relating to the sponsorship by Eskom in terms hereof shall remain confidential and shall not be made known unless Eskom gives written consent.

*[Handwritten signatures and initials]*

**9 BREACH**

9.1 Either party shall be entitled to cancel this Agreement in the event of the other party being guilty of a breach of any of the terms of this Agreement and failing to remedy such breach within 14 (fourteen) days of having been called upon in writing by the other party to do so.

9.2 Should the business briefings cease and the marketing campaign be cancelled for any reason whatsoever or should Eskom withdraw its sponsorship, TNA Media shall ensure that the Eskom name, logo or symbols are not used or associated in any way with TNA Media activities as governed by this agreement.

**10 FORCE MAJEURE**

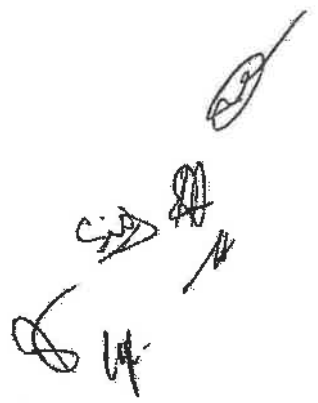
10.1 TNA Media shall not be responsible for the cancellation or postponement of the business briefings in the event that such cancellation is caused by acts of God and/or acts beyond the reasonable control of TNA Media such as war, civil disturbance and such non-performance will not be a default under this agreement nor a ground for termination of this Agreement.

10.2 In the event of any one of the acts mentioned in 12.1 above arising, TNA Media shall notify Eskom in writing within 48 hours of having knowledge of such act.

**11. CESSION**

11.1 Neither party may cede and delegate any of its rights and obligations (including liabilities) under this agreement to any person without the written consent of the other party.

11.2 Notwithstanding the above, Eskom may on written notice to the other party cede and delegate its rights and obligations under this agreement to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the electrical supply industry and the Electricity distribution Industry.



## 12 TERMINATION

12.1 Notwithstanding anything to the contrary set out in this Agreement, either party shall have the right to terminate this Agreement by notice in writing to the other, within 15 (fifteen) of the date upon which it becomes aware of the occurrence of the events, if:

12.1.1 the other party shall be declared bankrupt or , or go into liquidation, either compulsory or voluntary (other than for the purposes of reconstruction or amalgamation); or other party passes a resolution to be placed under business rescue or any application is threatened or lodged for its placement into business rescue or under business rescue supervision.

12.1.2 Any administrative receiver or similar officer is appointed in respect of the whole or part of its assets or if either party shall make any voluntary arrangement or composition with its creditors generally or any similar actions shall be taken or enforced against either party.

## 13 ARBITRATION

13.1 Should any dispute or difference arise out of or in connection with this agreement, or its interpretation, the parties shall endeavour to resolve such dispute or difference in an amicable manner. In the event that the dispute or difference is not resolved, either party may at any time by written notice inform the other that such dispute remains unresolved and request that the matter be determined by a third party (arbitrator), in terms of what is set out below, unless otherwise agreed in writing between the parties

13.2 The parties shall within 30 (thirty) days of the notice referred to above agree on a person or persons to act as arbitrator in the matter.

13.3 In the event that the parties are unable to agree on the arbitrator within 30 (thirty) days of the date of the notice referred to above, then in such an event either party may in writing request that the President of the Arbitration Foundation of Southern Africa (AFSA) appoint a suitable arbitrator to act herein.

13.4 The proceedings shall be held at a venue within the area of Johannesburg or Pretoria and unless otherwise agreed by the parties, in accordance with the formalities and the procedures determined by the arbitrator.

13.5 Unless the parties agree on terms of reference, procedures for the arbitration and any other matter relating to the arbitration within 14 (fourteen) days of the appointment of the arbitrator, a meeting shall forthwith be convened by the arbitrator with the parties to:

13.5.1 Determine the terms of reference for the arbitration;

13.5.2 Determine the procedures for the conduct of the arbitration;

13.5.3 Determine any other matter necessary.

13.4 In the event that the parties fail or are unable to agree on any of the matters referred to above, the arbitrator shall be entitled to make a determination on such issues, subject to clause 13.7 below.

13.5 Unless otherwise agreed to by the parties, the rules of the Arbitration Foundation of Southern Africa (AFSA) shall apply to the arbitration proceedings and any other matter related thereto.

#### 14 DOMICILE

14.1 Each party chooses its domicilium citandi et executandi ("domicilium") for all purposes under this Agreement, whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement ("notice"), as follows:

Eskom:	Megawatt Park, Maxwell Drive, Sunninghill
Postal address:	PO Box 1091, Johannesburg 2000, RSA
Tel No.:	+27 11 800 4585
Fax No.:	+27 11 800 5803
Attention:	Collin Matjila
E-mail:	MatjilMC@eskom.co.za
Website:	www.eskom.co.za

TNA Media:	52 Lechwe Street, Corporate Park South, Midrand
Postal address:	5728 Halfway House, Midrand, 1685
Tel No.:	011 542 1222
Attention:	Nazeem Howa
Email:	nazeemh@tnamedia.co.za
Website:	www.thenewage.co.za

14.2 Any notice required or permitted to be given under this Agreement shall be valid and effective only if in writing and shall:



14.2.1 If delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

14.2.2 If posted by pre-paid registered post be deemed to have been duly received by the addressee on the 7<sup>th</sup> (seventh) day following the date of such posting; or

14.2.3 If successfully transmitted by facsimile be deemed to have been received by the addressee 1 (one) day after dispatch.

14.3 Notwithstanding anything to the contrary contained in this Agreement, written notice of communication actually received by one party from the other party including by way of facsimile transmission shall be adequate written notice of communication to such party.

14.4 Any party may by notice to the other party change its domicile to another physical address and such change shall take effect on the 7<sup>th</sup> (seventh) day after the date of receipt by the party who last receives the notice.

## 15 GENERAL

15.1 This Agreement constitutes the sole record of the agreement between the parties with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein

15.2 No addition to or variation of, or agreed cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.

15.3 No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of that party and shall preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

15.4 This agreement shall be governed by the laws of the Republic of South Africa.

15.5 The parties shall in their dealings with each other display good faith.

Signed at MIDRANA on this 30 day of APRIL 2014.

AS WITNESSES:

1 April 2014

1. [Signature]

[Signature]  
for TNA Media (PTY) LTD  
he/she being duly authorised

2. [Signature]

Signed at Johannesburg on this 30<sup>th</sup> day of APRIL 2014

AS WITNESSES:

1. [Signature]

[Signature]  
for ESKOM HOLDINGS SOC  
LIMITED  
he/she being duly authorised

2. [Signature]

[Signature]

→ Chose. Chenu

[Signature]

Sizwe  
Ntsaluba  
Gobodo



AUDIT · ADVISORY · FORENSICS

## ANNEXURE 3





 <b>Eskom</b>	<b>Policy</b>	
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Title: **The Eskom Delegation of Authority Policy** Document Identifier: **240-62072907**

Alternative Reference Number: **N/A**

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Functional Area: **Office of the Company Secretary**

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Compiled by



**M. Adam**

**Corporate Counsel/Divisional Executive – Regulation and Legal**

Date: **31/8/2012**

Functional Responsibility



**B. Dames**

**Chief Executive - Eskom**

Date: **31.1.13**

Authorized by



**Z. Tsotsi**

**Chairman – Eskom Board**

Date:

SG/EDC/Formatted/08.05.2013/ TR published 10.07.2013  
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**1. Introduction**

The Eskom Delegation of Authority Framework (Framework) is codified in two parts, namely the Eskom Delegation of Authority Policy (Principles) and Annexure A the Delegation of Authority (Delegation). The Policy sets out the principles and conditions upon which the Delegation is based, whereas the Delegation records the nature, extent and financial limits of the authorities delegated by the Eskom board of directors ("the Board") to Delegees. For ease of reference, the principles and specific conditions are also set out in the Delegation.

**2. Policy Content****2.1 Policy Statement**

This policy sets out the DOA powers and authorities delegated by the Board. It prescribes the scope, conditions and parameters within which the powers can be exercised by executives and all employees.

The powers of the Eskom Board shall be exercised subject to the provisions of –

- the Memorandum and Articles of Association ("Articles");
- the Shareholder Compact;
- the Companies Act No. 71 of 2008 ("Companies Act");
- the Public Finance Management Act No. 1 of 1999 (PFMA); and
- any other legislation applicable to Eskom.

The Board hereby delegates the powers and authorities as set out, subject to the principles and conditions set out herein, which may be amended from time to time and the policies and guidelines that may be applicable

**2.2 Principles and Conditions of the Delegation of Authority****2.2.1 Shareholder approval, consultation and reporting**

2.2.1.1 The Companies Act and PFMA set out the matters that require shareholder approval. Inter alia, the following matters shall require shareholder approval:

- a) Entering into any transaction or the purchasing or disposing of any asset other than in the ordinary, regular and normal course of business;
- b) making a decision falling beyond the scope of the mandate and authority of Eskom;
- c) the sale or alienation of the company or the whole or a substantial part of the assets of the company;
- d) the appointment of directors to the Board; appointment of the Chief Executive or Chairman;
- e) the policy and framework for the remuneration of executive and non-executive directors;
- f) the issuing or approval of the transfer of Eskom shares;
- g) an alteration of share capital, the allotment or issue of shares, or share buy-backs;
- h) certain aspects of the business plan, namely:
  - strategic intent, and
  - key performance indicators for the shareholder compact.

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- i) matters provided for in section 54(2) of the PFMA;
- j) the provision of financial assistance to any party as contemplated in sections 44 and 45 of the Companies Act.

2.2.1.2 In terms of the Public Auditors (Audit or Auditors) Act 25 of 2004, an auditor may not be discharged prior to the expiry of that auditor's term of appointment except with the consent of the executive authority (shareholder) and the Auditor-General.

2.2.1.3 The shareholder shall be consulted, *inter alia*, with regard to the following:

- a) the development of an appropriate dividend policy and framework; and
- b) the appointment of directors to the boards of Main Subsidiaries.

2.2.1.4 The shareholder shall be provided with reports on the following matters:

- a) a projection of revenue, expenditure and borrowings for the financial year in the prescribed format;
- b) a corporate plan, in the prescribed format, covering the affairs of Eskom for the following three financial years and, if it has subsidiaries, also the affairs of the subsidiaries; and
- c) quarterly reports on the performance of Eskom.

2.2.1.5 In terms of section 54(1) of the PFMA, the Board must submit to the relevant treasury or the Auditor-General such information, returns, documents, explanations and motivations as prescribed or as may be required.

2.2.1.6 In terms of section 55 of the PFMA, the Board must –

- a) submit financial statements within two months after the end of the financial year to the auditors for auditing;
- b) submit within five months of the end of the financial year to the shareholder, relevant treasury and the Auditor-General –
  - I. an annual report on its activities;
  - II. the financial statements for that financial year; and
  - III. the report of the auditors.

2.2.1.7 In terms of section 66 of the PFMA, Eskom as a public entity is authorised to borrow money and –

- a) must annually submit to the Minister of Finance a borrowing programme for the year;
- b) may not borrow money in a foreign currency above a prescribed limit, and
- c) may only exercise these powers through the board unless specifically authorised by the Minister of Finance to delegate such powers.

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## 2.2.2 Powers and authorities of the Board of Directors

2.2.2.1 The Board is empowered to exercise all powers and authorities to lead, control and ensure the effective management of Eskom and to delegate any or all of such powers to an official(s), employee(s), any other person and/or to a committee(s) of Eskom, subject to the provisions set out herein.

2.2.2.2 The approval of the Board shall be obtained for all matters that are beyond the authority delegated.

2.2.2.3 The Board shall comply with its obligations in terms of the company laws of the Republic of South Africa and the PFMA and in particular with the fiduciary duties and the general responsibilities of the Board as set out in the PFMA.

2.2.2.4 The following matters, inter alia, are specifically reserved for approval by the Board:

- a) the corporate/business plan (including the financial plan), and budgets.
- b) performance objectives and the strategic direction for Eskom.
- c) decisions regarding additional or new generation capacity, or the recommissioning of mothballed plants.
- d) annual reports, integrated reports and financial statements.
- e) key policies that are not delegated to a specific Board committee, and in particular the –
  - i. investment policy; and
  - ii. risk management policy.
- f) appointment of auditors in the event that the Auditor-General does not perform the audit (Board Audit and Risk Committee function).
- g) financial lease transactions as contemplated in the PFMA.
- h) succession planning for executives.
- i) mechanisms to monitor the performance of executives.
- j) recommendations regarding matters requiring shareholder approval.
- k) the restructuring of Eskom (this refers to any restructuring that results or could result in a change in the ownership of significant assets or a significant business, the establishment of a new entity, the transfer of significant assets out of Eskom, or any internal planning or preparation that is initiated as a first step towards the implementation of initiatives in this regard).
- l) any other matter that the Board may from time to time reserve for decision/approval by the Board.

2.2.2.5 The powers and/or authorities delegated have to be exercised subject to the terms and conditions set out hereunder and the delegation of such authorities –

- a) does not divest the Board of its accountability relating to the exercising of the delegated authority or the performance of the assigned duty;
- b) may be given to a specific individual or to the holder of a specific position or to a committee;
- c) is subject to the statutory and legal limitations recorded herein, and such other lawful limitations as may be applicable to Eskom from time to time;
- d) is subject to any limitations, conditions, policies and/or directives that the Board, or executive management may from time to time prescribe; and
- e) may at any time be revoked or varied by the Board.

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2.2.2.6 The Board may confirm, vary or revoke any decision taken by a Delegee as a result of a delegation in terms hereof, subject to any rights that may have become vested as a consequence of the decision.

2.2.2.7 The Board shall ensure that notwithstanding the delegation of its powers, it reviews the key policies, including investment, procurement and risk management, and the control policies and systems on a regular basis.

### 2.2.3 General conditions

2.2.3.1 Unless otherwise specified, the Delegees referred to herein are hereby authorised, in writing –

- a) to delegate further any powers and authority delegated to such Delegee to an officer, employee, any person or committee and to allow the sub-delegation of such powers in exceptional cases only once and where necessary, in terms of the needs of the business; and
- b) to impose any limits or conditions in such Further Delegation to ensure good governance and controls with regard to the exercising of such powers.

2.2.3.2 The Chief Executive or EXCO may delegate such authorities to another person or committee in terms hereof, even if such powers were not delegated to such other Delegee by the Board in terms of the Delegation.

2.2.3.3 The Chief Executive and EXCO shall be responsible for the management of all delegations and authorisations granted in terms hereof to all Executives and other employees and shall ensure that Delegees act –

- lawfully;
- within the scope of their powers and authorisation, and in terms of the rules, policies directives and procedures

2.2.3.4 Any power not expressly delegated by the Board shall remain vested in the Board, unless such power can be regarded as necessary or incidental to a power that is delegated.

2.2.3.5 It is hereby recorded that the Chief Executive is, in general terms and subject to what is set out herein, delegated with the full authority to manage and run the Eskom's business; and

- a) The provisions hereof shall not be construed as in any way limiting the authority of the Chief Executive, subject to the overall limitations set out herein, to manage the day-to-day operations of the business in accordance with his/her performance compact.
- b) In particular, the Chief Executive is authorised to prescribe the manner in which authority is exercised by Delegees, and is entitled to act in any matter even where authority is delegated to another Delegee, and to revoke or amend any Delegation granted to any Delegee, provided that any such amendment shall not grant to any Delegee any higher authority than that granted by the Board for that level of Delegee. The authority of the Chief Executive as set out in this clause extends to EXCO subcommittees but does not extend to the Board Committees.
- c) The Chief Executive shall be entitled to implement or give effect to a Board mandate in the manner he deems most effective and efficient for Eskom, and he shall not require Board approval for each aspect of a transaction or the structuring of transactions, falling within a Board mandate.

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2.2.3.6 Where power is delegated to more than one Delegee, it shall be on the basis of a different functional responsibility and financial limits.

2.2.3.7 In keeping with the approval of the Minister of Finance in terms of section 66(6) of the PFMA, the Further Delegation regarding Eskom's Treasury activities, as set out in the Delegation, is hereby approved.

2.2.3.8 Absence of the Chief Executive, Finance Director, Group Executive/Divisional Executive or other Delegee.

- a) Should the Chief Executive, Finance Director, Group Executive/Divisional Executive or any other Delegee be absent from office he/she may, in writing, appoint a manager to act in his/her stead with full or limited delegated authority. Where such Delegee is the Chief Executive, the person appointed so to act shall be a member of EXCO and where the Delegee is the Finance Director or a Group Executive/Divisional Executive, the person appointed so to act shall not be lower than the level of a General Manager. Where there is no Senior General Manager or General Manager in a particular division, the appointment of an appropriate E Band employee will be acceptable. Where such absence or delegation is for a period longer than three working days (even if to different persons), the approval of the next level of authority shall be obtained. In the case of the Chief Executive the approval of the Chairman of the Board shall be obtained if required for more than one month, subject to a maximum of three months.

2.2.3.9 Allocation and reallocation of responsibilities:

- a) The Finance Director, Group Executives/Divisional Executives or any other person with delegated powers may only exercise those powers in respect of the responsibilities and functions allocated to them from time to time, in terms of a performance agreement (compact) or specific instructions or mandates. The Chief Executive is authorised to define the scope and functional area of responsibility of the Finance Director, Group Executives/Divisional Executives and Divisional Executive Committees and in this regard may revoke, amend or vary any delegation granted by the Board to any Delegee, provided that such amendment does not result in any higher authority than that granted to that level of Delegee by the Board.
- b) In the event of any reallocation of responsibilities to any other person, or the appointment of additional Group Executives/Divisional Executives, all powers delegated in terms hereof shall vest in such appointees in respect of the functions to be carried out by such appointees. The Chief Executive shall in such instance confirm in writing the particular functions to be carried out by such appointees and provide for any additional conditions that may be applicable to the exercising of such delegated authority, and shall be entitled to delegate any other powers to such appointees.
- c) The Chief Executive shall be entitled to appoint any executives, in addition to EXCO members, to report directly to him/her, and to allocate responsibilities to such executives, provided that the appointment of EXCO members and Group Executives/Divisional Executives shall be approved by the People and Governance Committee.

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## 2.2.3.10 Signing authorities

- a) All signing authorities are subject to the limitations and directives in respect of the specific delegation to which the signed agreement or document relates. A Delegee may sign all documents relating to a delegated authority exercised by the Delegee. A Delegee may also authorise any Eskom official or appointed agent to sign any documents, the principal terms of which have been approved by the Delegee.
- b) The delegation of signing authorities is subject to the proviso that any contract that is approved or within the authorisation limits of the EXCO Procurement Subcommittee, Board Tender Committee (BTC) or the Board itself shall only be delegated to the level of a Senior General Manager or General Manager and where such Senior General Manager or General Manager does not exist within a division, a delegation to an appropriate E Band employee will be acceptable.

## 2.2.3.11 In the absence of any Delegee within whose authority a matter falls, and if there is no

specific resolution in this regard, the Chief Executive is empowered to sign any document or agreement to give effect to any decision of the Board, any of its committees, or any other Delegee.

## 2.2.3.12 Where Board approval is required, the Board may authorise committees of the Board to

exercise such authority on its behalf, provided that such authority is set out in the terms of reference of the said committee or that a specific mandate is provided by the Board to such committee.

## 2.2.4 The Chairman of the Board

## 2.2.4.1 The Chairman of the Board is authorised to sign any document, memorandum of understanding or contract, which –

- a) is within the decision-making powers of the Board, and approved by the Board;
- b) is within the decision-making powers of the CE and approved by the CE; and
- c) is within the decision-making powers of a Group Executive/Divisional Executive or any other Delegee, and approved by the Group Executive/Divisional Executive or such Delegee.

## 2.2.4.2 Donations may also be made by the Chairman of the Board in terms of what is approved by the Board as part of the budget for the year.

## 2.2.4.3 The Chairman is authorised to approve any travel (domestic and overseas), training, conference and subsistence claims in respect of the Chief Executive and Non-Executive Directors.

- a) Approval of the Chairman's travel (domestic and overseas), training, conference and subsistence claims shall be subject to the policies approved by the Board's People and Governance Committee.

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2.2.4.4 The Chairman may appoint consultants, or purchase, or lease movable assets or approve contracts for any services up to the maximum financial amount approved as part of the annual budget for the Chairman. The financial limit applicable shall be R15 million per transaction and for a period of five years, subject to the procurement and other policies that are applicable to Eskom.

## 2.2.5 Board committees

2.2.5.1 The Board has various Board committees. The powers delegated to the Board committees are set out in the Delegation and must be read together with the terms of reference of such committees.

## 2.2.6 Urgent /Emergency powers

2.2.6.1 It is hereby recorded in case of an emergency or if there is an urgent matter, the Board authorises that it can be dealt with at a special meeting convened as follows:

2.2.6.1.1 The convening of the meeting must be approved by the Chairman, and in his absence the Chairman of the IFC and the Chief Executive.

2.2.6.1.2 The meeting may be convened at three hours' notice to all members.

2.2.6.1.3 All members shall be invited.

2.2.6.1.4 A quorum (urgent/emergency special meeting quorum) shall be met if the following members are present in person or otherwise:

- I. the Chairman or Chairman of the IFC,
- II. the Chief Executive or the Finance Director
- III. three additional members of the Board.

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**2.2.7 Specific conditions and principles****2.2.7.1 Specific overall conditions**

- 2.2.7.1.1 The following are specific additional conditions applicable to the entire delegation of authority:
- 2.2.7.1.2 Where no financial limit is specified, the authority is subject to the general financial limit set out herein. All delegated amounts exclude VAT.
- 2.2.7.1.3 All limits are per transaction unless otherwise stated. Any higher authority may exercise any power delegated to a lower level authority.
- 2.2.7.1.4 Except for procurement matters, an authorised Delegee is entitled at its discretion to make any decision without the need for a recommendation from any party.
- 2.2.7.1.5 Any submission to the Board or a Board committee must be authorised by the CE, EXCO or an EXCO subcommittee, where applicable.
- 2.2.7.1.6 In the event of any doubt regarding an authorised signatory, the Chief Executive is authorised to sign any document to give effect to a transaction authorised by the appropriate approval authority. The CE may also sign any document, notwithstanding a specific mandate given to any executive.
- 2.2.7.1.7 The powers delegated in terms hereof may be delegated further by the Delegee, including in terms of the standard group /divisional delegation.
- 2.2.7.1.8 Any power delegated to any EXCO subcommittee may be reallocated to any other subcommittee or other Delegee by the Chief Executive after consultation with EXCO.
- 2.2.7.1.9 Any power to be exercised in consultation with another party means by agreement with the party to be consulted and acting after consultation with another party means obtaining that party's input.
- 2.2.7.1.10 Where any power needs to be exercised in or after consultation with EXCO, the CE may delegate such power to any other Delegee or to a subcommittee of EXCO in consultation with EXCO or after consultation with EXCO, as required by the relevant condition.
- 2.2.7.1.11 The exercising of any powers delegated in terms hereof to the FD/GE/DE or management is subject to any additional limitations or also conditions that the CE may in writing prescribe. The exercising of the powers of DEs is subject to the conditions imposed by the GEs to whom they report. The authority delegated includes the power to sign any document or agreement to give effect to the authority, subject to any legal restrictions set out in the legal section of Part 2 of the DOA.

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**2.2.8 Investment/Capex**

- 2.2.8.1 In order to expedite decision making, the Financial/Business Plans, including all major investments and projects, should be tabled at IFC and the Board at the beginning of each financial year.
- 2.2.8.2 Where co-approval is applicable, any other disinterested EXCO member may approve in the absence of the CE or FD, provided that at least one of them (i.e. CE or FD) approves as well.
- 2.2.8.3 The CE (or EXCO or ICAS if delegated by him) is authorised to reallocate budgets or allow over-expenditure at Group/Divisional level, provided that under no circumstances will the Eskom Financial Plan/Budget be exceeded, without the approval of the IFC or Board, as applicable.
- 2.2.8.4 In any matter where FD approval is required and the FD is the proposing party, another disinterested EXCO member shall approve together with the CE.
- 2.2.8.5 Planned means that the project is included in the approved five-year Financial/Business Plan and the cash flows are within the cash flows for the approved three-year MYPD period as well as for the balance of the six years of the plan. Alternatively, the five-year plan and the annual budget at Group/Divisional/OU level and/or at Eskom level have been revised to include a project that was not originally included in the plan.
- 2.2.8.6 SMF means the Significance and Materiality Framework.
- 2.2.8.7 The Group/Divisional/Regional Committees shall include members with technical and financial skills.
- 2.2.8.8 Investments as referred to herein include authority in respect of disposals or divestitures, subject to any specific limitations set out.

**2.2.9 Reallocation of investments**

- 2.2.9.1 Approval is required for reprioritisation above the limits delegated.
- 2.2.9.2 Each Group/ Division is permitted to reprioritise its approved Plan every three months, subject to the approval limitations as stipulated, provided that the total value of both year one and the total five-year approved Plan is not exceeded. Once approved, the delegation will apply to this revised / reprioritised Plan for the remainder of that financial year.
- 2.2.9.3 The revised Plan must be reported to the IFC at its earliest meeting, if not approved by the IFC.
- 2.2.9.4 The reallocation or reprioritisation will not trigger an over-expenditure on a budget if it is within the approved total budget.

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**2.2.10 Indemnities/Guarantees**

2.2.10.1 With regard to an indemnity that forms part of a contract, the Delegee that has the transactional authority to conclude the contract is authorised to provide the indemnity, security or guarantee.

2.2.10.2 The additional conditions that will be applicable include the following:

2.2.10.2.1 No further delegation shall be permitted other than that specified herein.

2.2.10.2.2 All guarantees, indemnities and securities must be reported to the Eskom Treasury, Finance Director and Board.

2.2.10.2.3 The above authority is limited to guarantees, indemnities, securities or any other transactions that bind the company to any future financial commitment, in relation to the Eskom Group's ordinary course of business and within the functional accountability of Delegees.

2.2.10.2.4 Only the Eskom Treasury Department and CE/FD shall have the power to issue guarantees, indemnities and securities related to trading in financial markets.

2.2.10.2.5 The delegations herein regarding PFMA section 66 transactions are subject to the underlying transaction's being part of a pre-approved budget and approved Corporate Plan.

**2.2.11 Leases**

2.2.11.1 The entering into of leases and rental agreements is also subject to the procurement processes as prescribed.

2.2.11.2 The SGM Treasury must be notified of all leases and rental agreements, excluding property rental agreements above R1 million, to ascertain exposure to financial leases.

**2.2.12 Procurement**

2.2.12.1 The commercial processes should be fair, equitable, transparent, competitive and cost-effective. All authority set out herein can only be exercised after an appropriate procurement process has been executed by a Procurement Practitioner assigned by Group Commercial.

2.2.12.2 The Technology and Commercial Group is responsible for the procurement process and execution.

2.2.12.3 All Sole Source, Condonation, Ratification and Modifications exceeding 20% in terms of time/value must be approved by the appropriate Procurement Committees and reported to the EXCO Procurement Committee if within the group/divisions. All Sole Source Transactions must be reviewed by the Supplier Development and Localisation Department.

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- 2.2.12.4 Proof that the expenditure is budgeted for or approved must accompany the recommendation for approval.
- 2.2.12.5 All procurement is subject to alignment with the Corporate Plan targets, or any procurement framework developed by the GE Technology and Commercial.
- 2.2.12.6 All disposals must be executed via an authorised representative of the Investment Recovery Department and all disposals of fixed assets other than in the ordinary and normal course of business must be reported to EXCO and the Board.
- 2.2.12.7 With regard to the appointment of consultants, the Internal Consulting Department must be consulted prior to any appointment and ensure that empowerment and transformation are taken into account.
- 2.2.12.8 Regional or Site Tender Committee means a committee established for procurement within a Group/Division by the CE/FD/GE/DE, consisting of at least three members, collectively with technical, commercial and finance representatives/skills, to approve procurement for a site/BU (Site Committee) or across sites (Regional Committees) and must include a representative from the Commercial Department and take into account equity and transformation in its composition.
- 2.2.12.9 Corporate Opex or Capex Procurement Committee means a committee established at head office by the GE (Technology and Commercial) for procurement matters.
- 2.2.12.10 The Board IFC and BTC are authorised to delegate any higher authority to EXCO or management in this regard.
- 2.2.12.11 Auditor fees must be approved by the Audit and Risk Committee subject to the approved budget.
- 2.2.12.12 All transactions within Dual and Triple Adjudication –
- must be reported to the Committee authorised to deal with that level of decision for oversight.
  - Transactions trends must be analysed and investigated by Group Commercial Risk & Governance to identify and manage risks and compliance on transactions below R5 million (including SD&L).
- 2.2.12.13 All transactions to procurement committees below the EXCO subcommittee must be reported to the next level committee for oversight.
- 2.2.12.14 Project Sourcing and Commodity Sourcing Procurement Strategies must be submitted to the relevant committees as a whole for the project, not merely the individual packages.

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2.2.12.15 Procurement strategies for capital expenditure should be presented to the relevant committees before ERA (after DRA) approval to ensure proactive inputs by the relevant committees before the final investment decision is made.

2.2.12.16 All procurement decisions must be reported to the next level committee for information.

### 2.2.13 Disposal of land

#### 2.2.13.1.1 With regard to all disposal of Land & Rights and Commercial Property –

- a) the GE Commercial and Technology and FD must be consulted before submission to the Board/Board IFC for approval.
- b) Disposal must be recommended by the Land and Rights Committee.

2.2.13.2 A Registered Valuer and Quantity Surveyor must be consulted for all Lands & Rights transactions.

2.2.13.3 All transactions within Dual and Triple Adjudication must be reported to the Lands & Rights Committee for oversight.

2.2.13.4 The CE must be consulted prior to the disposal of any immovable property.

2.2.13.5 Any overlap between Land & Rights & Properties will be addressed by the CE in terms of their mandates.

### 2.2.14 Electricity sales and purchases

2.2.14.1 The Shareholder must be notified of all International Transactions and must approve long-term sales or long term PPAs in terms of the Significance and Materiality Framework.

2.2.14.2 All transactions will be based on the Standard Terms & Conditions unless otherwise approved.

2.2.14.3 A long-term contract exceeds three years.

2.2.14.4 Entering into power purchase agreements is subject to the general investment and procurement delegation.

### 2.2.15 Human Resources

2.2.15.1 All terminations for performance or misconduct shall be subject to the applicable HR policies.

2.2.15.2 All appointments must adhere to the HR policies.

2.2.15.3 The appointment of the CE is a matter reserved for the Board and shareholder.

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2.2.15.4 All temporary/acting appointments must be made in writing and in respect of GEs, must be approved by the CE.

2.2.15.5 Any temporary/acting appointments in respect of the CE, FD, GE or DEs for longer than three months must be approved by the CE and the People & Governance Committee.

## 2.2.16 Finance

2.2.16.1 To prevent doubt, the CE and/or FD may in terms of the general principles set out in terms hereof delegate further the authority to open and operate bank accounts and to issue duplicate certificates as set out herein.

## 2.2.17 Treasury

2.2.17.1 The SGM (Eskom Treasury) and Treasury Officials may implement the borrowing programme and effect all transactions necessary or incidental thereto, subject to the delegation, conditions and limitations specified by the FD, and in accordance with the Board-approved borrowing programme and the approved Eskom Treasury Mandate.

2.2.17.2 The authority granted in terms hereof includes all necessary and incidental authority required to implement the borrowing programme, including the listing, issuing of bonds, making investments, withdrawal of funds and implementing hedges.

2.2.17.3 Any limits regarding this authority may be prescribed in the Treasury Mandate by the Board Audit and Risk Committee.

## 2.2.17.4 Contract Management: Legal

2.2.17.4.1 The entering into of any international MOU will be subject to the Significance and Materiality Framework.

2.2.17.4.2 Best practice requires the establishment of Variation and Claims Committees.

## 2.2.18 Operation

2.2.18.1 The delegation of operational and management authority is subject, inter alia, to adherence to the Corporate Plan, Group/ Divisional mandates, Eskom policies and the delegation of authority.

## 2.2.19 Corporate Social Investment

2.2.19.1 Donations made by Eskom shall be for education, schools or appropriate community projects, but shall exclude political party activities, grants to individuals and profit-making organisations/businesses.

2.2.19.2 Most Corporate Social Investment initiatives will be channelled through the Eskom Development Foundation.

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### 3. Supporting Clauses

#### 3.1 Scope

##### 3.1.1 Purpose

In striving to be a top performing company, Eskom has to ensure that it is a well-governed and ethical organisation. Good governance involves a broad range of conduct and processes. One aspect of good governance relates to an effective decision-making process; and a clear delegation of authority contributes to the applicability of an effective decision-making process.

The DOA in the main addresses the delegation from the Board to executives. It is to be supported by further delegations by the executives (CE/FD/GE/DE) to employees in the organisation in terms of a standard Group/Divisional Delegation.

##### 3.1.2 Applicability

This policy shall apply throughout Eskom Holdings SOC Limited, including subsidiaries which have the maximum powers as per a Group/Division. This DOA Framework supersedes any prior DOA Frameworks, and is effective from 1 April 2013.

#### 3.2 Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

##### 3.2.1 Normative

- [1] The Memorandum and Articles of Association ("Articles")
- [2] Shareholder Compact
- [3] Companies Act No. 71 of 2008 ("Companies Act")
- [4] Public Finance Management Act No. 1 of 1999 (PFMA).

##### 3.2.2 Informative

- [5] Significance and Materiality Framework.

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### 3.3 Definitions

- 3.3.1** Unless otherwise indicated by the context, the following words and phrases shall have the meanings assigned to them hereunder
- 3.3.2** Delegee shall mean any person or committee that is delegated authority in terms of this Delegation.
- 3.3.3** Delegate shall mean a person or committee that is delegated authority by a Delegee, or a person authorised by or acting on behalf of the Delegee.
- 3.3.4** Executive shall mean F Band employees.
- 3.3.5** Further delegation shall mean a delegation by a Delegee.
- 3.3.6** Sub-delegation shall mean a permitted delegation to another by a Delegate.
- 3.3.7** Official means an employee or Director of Eskom.

#### Title definitions:

- 3.3.8** Procurement Practitioner: an employee within Eskom's Group Commercial, appointed and accredited to manage or execute a procurement procedure or process.
- 3.3.9** Procurement Middle Manager (MPS Band): means the M/P/S Procurement Practitioner specifically responsible for managing the performance quality of the procurement disposal function.
- 3.3.10** Procurement Executive Manager (E Band): means the E Band Procurement Practitioner specifically accountable for managing the performance quality of the procurement /disposal function.
- 3.3.11** Commercial General Manager: An appointed executive manager with a direct reporting relationship to the GE: Technology & Commercial.
- 3.3.12** Disposal Officers means the Procurement Practitioners who by virtue of a written appointment are responsible for the disposal of moveable assets and goods.
- 3.3.13** Land & Rights Practitioner means an Eskom employee appointed to execute transactions relating to the sourcing and securing of land and associated land/property rights.
- 3.3.14** Land & Rights Development Manager means an Eskom employee appointed to manage transactions relating to the sourcing and securing of land and associated land/property rights

### 3.4 Abbreviations

CE/ FD: a sideways slash between any two words means OR

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Abbreviation	Explanation
AGM	Annual General Meeting
BTC	Board Tender Committee
CAPEX	Capital Expenditure
CE	Chief executive
CS (SHE)	Corporate Sustainability (Safety, Health and Environment)
CSI	Corporate Social Investment
CX	Group Customer Services
DE	Divisional Executive
DOA	Delegation of Authority
DPE	Department of Public Enterprises
DSM	Demand Side Management
Dx	Distribution Division
EE	Eskom Enterprises / Employment Equity
ERA	Execution Release Approval
ESDEF	Eskom Development Foundation
EXCO	Executive Management Committee
FAQ	Frequently Asked Questions
FBE	Free basic electricity
FD	Financial Director
GCS	Group Customer Services
GE	Group Executive
GHG	Greenhouse gas
Gx	Group Generation Division
HR	Group Human Resources Division
ICAS	Investment and Capital Assurance Subcommittee
IFC	Investment & Finance Committee
KPI	Key Performance Indicator
MOU	Memorandum of Understanding

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Abbreviation	Explanation
MW	Megawatt
MWh	Megawatt hour (1 000 kWh)
MYPD	Multi-Year Price Determination
OPEX	Operating Expenditure
PCM	Process Control Manual
PED	Primary Energy Department
PFMA	Public Finance Management Act
PPA	Power Purchase Agreement
PPI	Producer Price Index
PSA	Power Supply Agreement
R&D	Research and Development
SD&L	Supplier Development & Localisation
SDCT	South Dunes Coal Terminal
SGM	Senior General Manager
TASK	Tuned Assessment of Skills and Knowledge
TX	Group Transmission Division

### 3.5 Roles and Responsibilities

Roles and responsibilities for this policy are defined in the text.

### 3.6 Process for Monitoring

The application of this policy throughout Eskom and shall be audited at least once every three years by the Assurance and Forensic Department.

## 4. Acceptance

This document has been seen and accepted by:

Name	Designation
Mr Brian Dames	Chief Executive
Mr P O'Flaherty	Finance Director & Group Executive – Group Capital
Mr Bhabhalazi Bulunga	Group Executive Human Resources

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Name	Designation
Mr Thava Govender	Group Executive Generation
Ms Erica Johnson	Group Executive Enterprise Development
Dr Steve Lennon	Group Executive Sustainability
Mr Dan Marokane	Group Executive Technology & Commercial
Ms Tsholofelo Molefe	Group Executive Customer Services
Ms Ayanda Noah	Group Executive Distribution
Mr Mongezi Ntsokolo	Group Executive Transmission
Mr Mohamed Adam	Divisional Executive Regulation and Legal
Mr Kannan Lakmeharan	Divisional Executive Office of the Chief Executive
Mr Sai Laher	Chief Information Officer
Mr Chose Choau	Divisional Executive Corporate Affairs
Mr Matshele Koko	Divisional Executive Technology
Ms Kiren Maharaj	Divisional Executive Primary Energy

## 5. Revisions

Date	Rev.	Remarks
March 2013	1	New document

## 6. Development Team

The following people were involved in the development of this document:

- Mohamed Adam
- Pindi Mabena
- Pieter le Roux
- Tshavhungwe Mamphiswana
- Ismail Mulla
- Kerseri Pather
- Jan Wiese

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- Charles Gradwell
- Christo van Niekerk
- Ohna Smit
- Suki Laher
- Neo Tsholanku

## 7. Acknowledgements

Not applicable.



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## Annex A: Delegation of Authority Part II: Delegation

1 STRATEGY AND LEADERSHIP				
	Powers & Authority	Approval Authority	Recommendation	Conditions/Principles
1.1	Corporate Leadership			<p>The Board hereby delegates the powers and authorities set out herein to the delegates subject to:</p> <ul style="list-style-type: none"><li>The delegation principles &amp; conditions as amended from time to time</li><li>Policies and guidelines that are applicable</li></ul> <p>Specific additional conditions applicable to the entire delegation of authority:</p> <ol style="list-style-type: none"><li>Where no financial limit is specified, the authority is subject to the general financial limit set out herein. All delegated amounts exclude VAT.</li><li>All limits are per transaction unless otherwise stated. Any higher authority may exercise any power delegated to a lower level authority.</li><li>Except for procurement matters, an authorised delegatee is entitled at its discretion to make any decision without the need for a recommendation from any party.</li><li>Any submission to the Board or a Board committee must be authorised by the CE, Exco or an Exco sub-committee, where applicable.</li><li>In the event of any doubt regarding an authorised signatory the Chief Executive is authorised to sign any document to give effect to a transaction authorised by the appropriate approval authority. The CE may also sign any document, notwithstanding a specific mandate given to any executive.</li><li>The powers delegated in terms hereof may be delegated further by the delegatee, including in terms of the standard group/divisional delegation.</li><li>Any power delegated to any Exco sub-committee may be re-allocated to any other sub-committee or other delegatee by the Chief Executive after consultation with Exco.</li><li>Any power to be exercised in consultation with another party means by agreement with the party to be consulted and acting after consultation with another party means obtaining that party's input.</li><li>Where any power needs to be exercised in or after consultation with Exco, the CE may delegate such power to any other delegatee or to a sub-committee of Exco in consultation with Exco or after consultation with Exco, as required by the relevant</li></ol>
1.1.1	Eskom strategy, mandate, corporate plan and Shareholder Compact	Board (after agreement with shareholder)	CE after consultation with Exco	
1.1.2	Nuclear Strategy	Board	Social, Ethics and Sustainability Committee	
1.1.3	Financial Plans budget and KPI's	Board	IFC	
1.1.4	Eskom restructuring	Board	CE after consultation with Exco	
1.2	Governance & Control Ensuring effective, efficient, & transparent systems of governance, financial & risk management & controls			
1.2.1	Investment process	IFC	CE after consultation with Exco	
1.2.2	Procurement process	Tender Committee	CE after consultation with Exco	
1.2.3	Risk, Control & other governance processes	Audit and Risk	CE after consultation with Exco	
1.2.4	Reporting to shareholder -quarterly reports -AGM	Audit and Risk Committee Audit and Risk and Social, Ethics and Sustainability Committees	CE after consultation with Exco	
1.2.5	Formation of companies, trusts, significant joint ventures or other entities	Board (subject to approval in terms of sec 54 of the PFMA)	CE after consultation with Exco	
1.2.6	Appointing directors, trustees or other representatives to boards of companies, including subsidiaries, trusts, employee benefit schemes or pension funds, or any other entity.	CE after consultation with the chairman of the Board	GE/DE	
1.2.7	PFMA reporting	IFC	CE	
1.2.8	Approving new generation capacity	Board (subject to approval in terms of the PFMA)	IFC	

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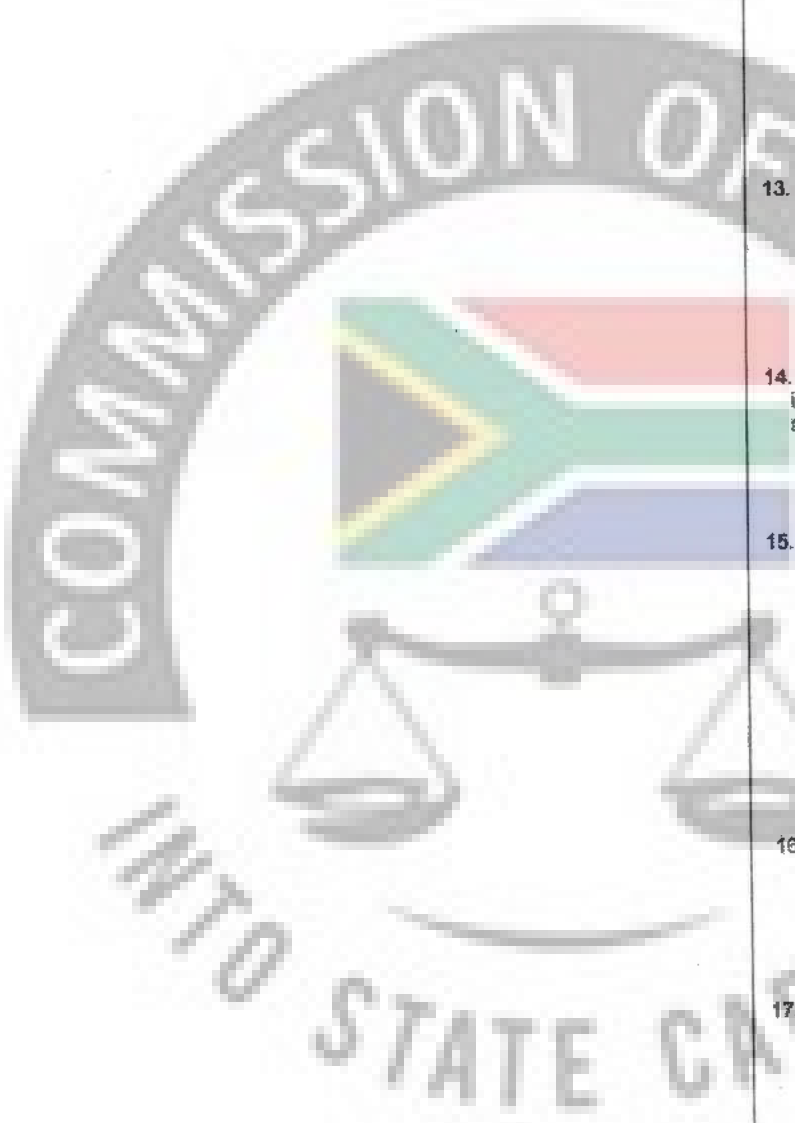
1.3	Group/ Divisional/ OUSubsidiaries Leadership			<p>condition.</p> <p>10. The exercise of any powers delegated in terms hereof to the FD/GE/DE or management is subject to any additional limitations or also conditions that the CE may in writing prescribe. The exercise of the powers of DEs are subject to the conditions imposed by GEs to whom they report. The authority delegated includes the power to sign any document or agreement to give effect to the authority subject to any legal restrictions set out in the legal section. In the event of any matter that requires a Board decision and is deemed urgent by the CE and Chairman or Chairman of the IFC, a special meeting may be convened on three hours' notice to all Board members. Provided that information regarding the decision sought is submitted to all members, and the CE or FD, Chairman of the Board or Chairman of the IFC, and at least 3 other Board members are present (in person or by telephone) such meeting is authorised to take a decision on any such urgent matter.</p> <p>11. In the event of any matter that requires a Board decision and is deemed urgent by the CE and Chairman of Chairman of the IF, a special meeting may be convened on three hours' notice to all Board members. Provided that the information regarding the decision sought as submitted to all members, and the CE or FD, Chairman of the Board or Chairman of the IFC, and at least 3 other Board members are present (in person or by telephone) such meeting is authorised to take a decision on any such urgent matter.</p> <p><b>Shareholder Reserved Matters:</b></p> <p>12. The Companies Act and PFMA set out matters that require shareholder approval. Inter alia, the following matters shall require shareholder approval:</p> <ul style="list-style-type: none"> <li>a) entering into any transaction or the purchasing or disposing of any asset other than in the ordinary, regular and normal course of business;</li> <li>b) making a decision falling outside the scope of the mandate and authority of Eskom;</li> <li>c) the sale or alienation of the company or the whole or substantial part of the assets of the company;</li> <li>d) appointment of directors to the Board; appointment of the CE and Chairman</li> <li>e) policy and framework for the remuneration of executives and</li> </ul>
1.3.1	Group/Divisional / Subsidiary strategies, compacts, mandate, business plans, financial plans, budgets	CE after consultation with Exco	FD/GE/DE	
1.3.2	Group /Divisional/Subsidiary KPIs	CE	DE/GE/FD	
1.3.3	Divisional/ OU implementation plans	FD/GE/DE	OU Head/Relevant Manager	

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- 
- non-executive directors;  
 issue or approve the transfer of Eskom shares;  
 g) alteration of share capital, the allotment or issue of shares, or share buy-backs;  
 h) certain aspects of the business plan, namely:  
     • Strategic intent, and  
     • key performance indicators for the shareholder compact.  
 i) matters provided for in section 54(2) of the PFMA.  
 j) Financial assistance to any party as set out in Section 44 and 45 of the Companies Act.
13. In terms Public Auditors (Audit or Auditors) Act 25 of 2004, an auditor may not be discharged prior to the expiry of that auditor's term of appointment except with the consent of the executive authority (shareholder) and the Auditor-General.
14. The shareholder shall be consulted, inter alia, with regard to the following:  
 a) development of an appropriate dividend policy and framework; and  
 b) the appointment of directors to the Boards of Main Subsidiaries
15. The shareholder shall be provided reports on the following matters:  
 a) projection of revenue, expenditure and borrowings for the financial year in the prescribed format;  
 b) a corporate plan, in the prescribed format, covering the affairs of Eskom for the following three financial years and, if it has subsidiaries, also the affairs of the subsidiaries; and  
 c) quarterly reports on the performance of Eskom.
16. In terms of section 54(1) of the PFMA, the Board must submit to the relevant treasury or the Auditor-General such information, returns, documents, explanations and motivations as prescribed or as may be required
17. In terms of section 55 of the PFMA, the Board must:  
     • submit financial statements within two months after the end of the financial year to the auditors for auditing;  
     • submit within five months of the end of the financial year to the shareholder, relevant treasury and the Auditor-General:  
     o an annual report on its activities;  
     o the financial statements for that financial year; and  
     o the report of the auditors.
18. In terms of section 56 of the PFMA,

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Eskom as a public entity authorised to borrow money:  
must annually submit to the Minister of Finance a borrowing programme for the year;

- a) may not borrow money in a foreign currency above a prescribed limit, and
- b) may only exercise these powers through the Board unless specifically authorised by the Minister of Finance to delegate such powers.

7.

#### Board Reserved Matters

19. The approval of the Board shall be obtained for all matters that are beyond the authority delegated.

The following matters, inter alia, are specifically reserved for approval by the Board or a duly delegated Board Committee:

- The Corporate/Business plan, (including the financial plan), budgets and corporate plan.
- Performance objectives and the strategic direction for Eskom.
- Decisions regarding additional or new generation capacity, or re-commissioning of mothballed plant.
- Annual reports and financial statements.
- Key policies that are not delegated to a specific Board committee, and in particular:
  - investment policy; and
  - risk management policy.
- Financial lease transactions as contemplated in the PFMA.
- Succession planning for executives.
- Mechanisms to monitor the performance of executives.
- Recommendations regarding matters requiring shareholder approval.
- The restructuring of Eskom (This refers to any restructuring that results or could result in a change in ownership of significant assets or a significant business, the establishment of a new entity, the transfer of significant assets out of Eskom, or any internal planning or preparation that is initiated as a first step towards implementation of initiatives in this regard).
- Any other matter that the Board may from time to time reserve for decision/approval by the Board.

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2 INVESTMENTS/CAPEX				
	Key Decisions	Approval Authority	Recommends	Conditions/ Principles
	Investments			<ol style="list-style-type: none"> <li>1. In order to expedite decision making, the Financial/Business plans including all major investments and projects should be tabled at IFC and the Board at the beginning of each financial year.</li> <li>2. Where co-approval is applicable, any other disinterested Exco member may approve in the absence of the CE or FD provided at least one of them (i.e.: CE or FD) approves as well.</li> <li>3. The CE (or Exco or ICAS if delegated by him) is authorised to re-allocate budgets or allow over-expenditure at Group/Divisional level provided that under no circumstances will the Eskom Financial Plan/Budget be exceeded, without approval of the IFC or Board, as applicable.</li> <li>4. In any matter where FD approval is required and the FD is the proposing party, another disinterested Exco member shall approve together with the CE.</li> <li>5. Planned means that the project is included in the approved 5 year Financial/Business plan and the cash flows are within the cash flows for the approved 3 year MYPD period as well as for the balance of the 6 years of the plan. Alternatively, the 5 year plan and the annual budget at Group/Divisional/OU level and or at Eskom level has been revised to include the project that was originally not included in the plan.</li> <li>6. SMF means the Significance and Materiality Framework.</li> <li>7. The Group/divisional/Regional Committees shall include technical and financial skills.</li> <li>8. Investments as referred to herein include authority in respect of disposals or divestitures, subject to any specific limitations set out.</li> </ol>
2.1	Investment strategy	Board	IFC and Social, Ethics & Sustainability Committee should be informed of any nuclear investment proposals	
2.2	Eskom budget over-expenditure	IFC (up to 5% over total Capex budget)	CE	
2.3	Investment decision for transactions up to budgeted amount in overall approved Eskom financial plan with authority to allow up to 5% over-expenditure on a project, subject to the maximum limit above. Provided the Eskom budget is not exceeded, for planned investments	IFC for matters where PFMA approval is required or any matter reserved for IFC approval from time to time (subject to the Significance and Materiality Framework (SMF)	CE after consultation with Exco	
	♦ Up to the maximum of approved budget, unless PFMA approval is required	CE in consultation with Exco	FD/GE/DE	
	♦ Up to R350m	Co-approval by CE, FD and one Exco member ONLY for priority matters deemed as such by the CE.	GE/DE	
	♦ Up to R300m	Group/Divisional/Regional Site	Relevant Manager	

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		Committee/s established by the relevant FD/GE/DE consisting of at least three members, and subject to approval by the CE for a specific committee or for committees generally.		
	♦ Up to R75m	CE	Relevant Manager	
	Up to R50 m	FD/GE/DE or committee established by FD/GE/DE	Relevant Manager	
4	Reallocation of Investments/ Budgets			
	Key decision	Approval/Authority	Recommends	Conditions/Principles
2.4.1	Reallocation of investments or amendment of Capex plans within the total budget			<ol style="list-style-type: none"> <li>1. Approval is required for reprioritization above the limits delegated.</li> <li>2. Each Group/ Division is permitted to reprioritise its approved Plan every three months subject to approval limitations as stipulated, provided the total value of both year one and the total five year approved Plan is not exceeded. Once approved, the delegation will apply to this revised / reprioritised plan for the remainder of that financial year.</li> <li>3. The revised Plan must be reported to the IFC at its earliest meeting, if not approved by the IFC.</li> <li>4. The re-allocation or reprioritisation will not trigger an over-expenditure on a budget if within the approved total budget</li> </ol>
	♦ Greater than R750m	IFC	CE after consultation with Exco	
	♦ Up to R750m	CE in consultation with Exco	GE/DE	
	♦ Up to R50m	CE/FD/GE/DE	Relevant manager	
2.4.2	Issue of guarantees, sureties, indemnities, securities or enter into any other transactions that binds the Company to any future financial commitment, as contemplated in terms of sect 66 of PFMA			<ol style="list-style-type: none"> <li>1. With regard to an indemnity that forms part of a contract, the Delegee that has the transactional authority to conclude the contract is authorised to provide the indemnity, security or guarantee.</li> <li>2. The additional conditions that will be applicable include the following: <ol style="list-style-type: none"> <li>2.1 No further delegation shall be permitted other than specified herein.</li> <li>2.2 All guarantees, indemnities and securities must be reported to the Eskom Treasury, Finance Director and Board.</li> </ol> </li> </ol>
	♦ Up to max R250m per transaction (ordinary transactions) including indemnities or bonds for purchasers or sale of electricity and R500m per transaction (capacity expansion programme, op refurbishment or maintenance)	IFC	CE in consultation with Exco	

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	♦ Up to max R250 m per transaction but restricted to performance guarantees, bid bonds & indemnities required in procurement of purchase/sale of electricity, fuel, equipment or services.	Tender Committee/IFC for matters within their respective mandates	CE in consultation with Exco	<p>2.3 The above authority is limited to guarantees, indemnities, securities or any other transactions that bind the company to any future financial commitment, in relation to the Eskom Group's ordinary course of business and within the functional accountability of Delegates.</p> <p>2.4 Only the Treasury department, and CE/FD shall have the power to issue guarantees, indemnities and securities related to trading in financial markets.</p> <p>3. The delegations herein regarding section 66 transactions are subject to the underlying transaction being part of a pre-approved budget and approved Corporate Plan.</p>
	♦ Up to R100m per transaction	CE in consultation with Exco.	Relevant Manager	
	♦ Up to a max of R1m per transaction to cumulative R10m pa.	Group/Divisional Exco/Procurement committees	Relevant Manager	
	♦ In accordance with limits of transactions that are incidental to or related to borrowing powers already delegated and up to max of R10m per transaction for other matters	CE/FD		
	♦ Up to a max R1m per transaction for legal matters relating to security or indemnities for legal costs, any higher amounts must be referred to Exco.	Legal/GM(Legal DE: Regulation & Legal		
2.5	Lease and rental agreements			
	<b>Powers &amp; Authority</b>	<b>Approval Authority</b>	<b>Recommends</b>	<b>Conditions/Principles</b>
2.5.1	Up to overall Eskom plan or budget ≤16 years(including financial leases)	IFC	CE in consultation with Exco	<p>1. The entering into of leases and rental agreements is also subject to the procurement processes as prescribed.</p> <p>2. The SGM Treasury must be notified of all leases and rental agreements excluding property rental agreements above R1m to ascertain exposure to financial leases.</p>
	♦ Up to R100m & 10 years (including financial leases)	CE in consultation with Exco	FD/GE/DE	
	♦ Up to R50m & five years	Co-approval by CE & FD	FD/GE/DE	

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	♦ Up to R35m & five years	CE/FD/GE/DE	Relevant manager	
2.5.2	Eskom subsidiary investment decisions in excess of subsidiary financial limit			
	Up to subsidiary overall plan or budget	CE in consultation with Exco	Exco member responsible in respect of subsidiary	
3	PROCUREMENT			
	Powers/Authority	Approval Authority	Recommends	Conditions/ Principles
3.1.	General procurement strategy	Board Tender committee	CE after consultation with Exco	1. The commercial processes should be fair, eq competitive and cost effective. All authority set out exercised after an appropriate procurement/disposal executed by an authorized and appointed Procur Disposal Officer.
3.2	Procurement policies and procedures	CE after consultation with Exco	GE Commercial and Technology	2. The Technology and Commercial Group is general execution of the procurement/disposal process procurement which is executed within Generation Di authority in compliance with the requirements Delegations as set out herein).
3.3	Procurement strategy for specific transactions from R750m up to	Board Tender Committee	ICAS	3. All, Condonations (irrespective of value), Ratificat value) and Modifications exceeding 20% in terms of Time / value (where originally approved within du must be approved by the appropriate Procurement reported to the next higher level of delegation. .
3.4	Procurement strategy for specific transactions from R300m up to R750m	CE after consultation with Exco	Procuring Exco member in consultation with GM Commercial	4. Mandates to Negotiate (no prior tendering) which basis of a sole source supplier may be approved v adjudication delegations of authority up to R5m, a years. All mandates to negotiate (no prior tendering) sole source suppliers must be accompanied I Justification Form that must be signed by the re prescribed by Procedure 32-1034, motivating the re supplier as a sole source. Transactions must be revi Development and Localisation department irrespecti

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3.6	Procurement strategy for specific transactions >R10m and up to R300m	Procurement Manager Accredited Executive Manager or	Procurement Practitioner and/or Procurement Manager	<p>4. Proof that the expenditure is budgeted for or approved must accompany the recommendation for approval.</p> <p>5. All procurement is subject to alignment within the Co or any procurement framework developed by the GE Technology and Commercial.</p> <p>6. All disposals must be executed via an authorised re Investment Recovery Department and all disposals</p>
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				7. With regard to appointment of consultants, the Internal Co be consulted prior to any appointment and ensure that empowerment and transformation is taken into
	<b>Acquisition and disposal of movable and immovable property, operational expenditure and the provision and acquisition of services</b>			8. Regional or Site Tender Committee means a committee procurement / disposals within a Group/Division by the relevant CE/FD/GE/DE, cor members, representing technical, commercial and finance (and as a minimum), to approve procurement within a site/BU (Site Committee) or Committees).
	Transactions up to R1m (maximum one year) – dual	Procurement Manager	Procurement Practitioner	9. Corporate Opex or Capex Procurement Committee means a committee established at head office b Commercial for procurement matters.
3.6.1	Transactions up to R5 m for max two years (triple adjudication)	Accredited Executive Manager	Procurement Practitioner and Procurement Manager	10. Title definitions: a. Procurement Practitioner: A Procurement Practitioner Eskom appointed, trained and accredited (based on rec senior management), to manage and/or execute a pr contained in this Procedure (32-1034), or within any relating to procure-to-pay processes forming part of the Framework. b. Procurement Manager: The Procurement Practitioner a a minimum TASK grading of G14, specifically resp performance quality of procurement function. c. Accredited Executive Manager (E-Ban and accredited E-Band Manager that approve procurement/disposals adjudication. d. Procurement Executive Manager (E-Band): the Procur band specifically accountable for managing the performance quality of the procurement /d e. Commercial General Manager: An appointed executive r reporting relationship to the GE: Technology & Commercial. f. Disposal Officers are Procurement Practitioners who appointment are responsible for the disposal of moveable assets and goods. g. Land & Rights Practitioner: An Eskom employee appointed to execute transactions relating to ti securing of land and associated land/property rights h. Land & Rights development manager: An Eskom employee appointed to manage transactions rela securing of land and associated land/property rights.
3.6.2	Transactions up to R50m for max three years (Exco dual adjudication)	Co-approval by 2 Exco members (excluding procuring Exco member) (where an OU has a second Manco member co-approval shall be by that Manco member).	Procurement Executive Manager FD/GE/DE	
3.6.3	Transactions up to R100m for a maximum period of three years (Exco triple adjudication)	Co-approval by CE or FD, GE Group Commercial and Technology and one other Exco Member.	Procurement Executive Manager	
3.7	Tender Committees			11. The Board IFC and BTC are authorised to delegate any high management in this regard.
3.7.1	Transactions up to R100m for max five years	Regional or Site based procurement committees established by GE/DE/FD	Procurement Manager (minimum level)	
3.7.2	Transactions up to R300m for max ten years	Corporate Opex and Capex Procurement Committees	Procurement Executive Manager (minimum level)	

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3.7.3	Transactions up to CE in consultation	Commercial	
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	10 years	with Exco / EXCO Procurement Sub-Committee	General Manager (minimum level), in consultation with the relevant procurement executive manager.	<p>12. Auditor fees must be approved by the Audit and Committee subject to the approved budget.</p> <p>13. For all transactions within Dual and Triple Adjudication :</p> <p>a. Approvals must be reported to the Procurement Committee authorised to deal with that level of decision for oversight.</p> <p>b. Transactions trends must be analyzed and in Group Commercial Risk &amp; Governance to manage risks and compliance for all transactions approved within dual and triple adjudication (</p> <p>14. All transactions approved at procurement committee below the Exco sub-committee must be reported next level of committee for oversight.</p> <p>15. Project Sourcing and Commodity Sourcing Strategies must be submitted to the relevant committee whole for the project and not the individual part</p> <p>16. Procurement strategies for capital expenditure presented to relevant committees before ERA (approval to ensure pro-active inputs by the relevant committees before the final investment decision)</p> <p>17. All procurement decisions must be reported to the relevant level committee for information.</p>
3.7.4	Transactions up to Investment Decision or budget (if no investment required)	Board tender committee	Exco Procurement Sub-Committee or GE Commercial and Technology	
<b>Lands &amp; Rights, Commercial Property and Leasing of Property</b>				
	Powers & Authority	Approval Authority	Recommends	Conditions/ Principles
3.8	Acquisition and disposal of Land & Rights related to the build programme and infrastructure development: subject to Condition 1b for disposals.			<p>1. With regard to all disposal of Land &amp; Rights at Commercial Property :</p> <p>a. The GE Commercial and Technology must be consulted before submission to the IFC for approval</p> <p>b. It must be recommended by the Land and Rights Committee.</p> <p>2. For all Lands &amp; Rights transactions a Registered Valuer and Quantity Surveyor must be consulted</p> <p>3. All transactions within Dual and Triple Adjudication must be reported to the Lands &amp; Rights Committee for oversight</p> <p>4. The CE must be consulted prior to the disposal of immovable property.</p> <p>Any overlap between Land &amp; Rights &amp; Properties must be addressed by the CE in terms of their mandates.</p>
	◆ Transactions up to R50k indefinite period (dual adjudication)	Land and Rights Development manager	Land and Rights Practitioner	
	◆ Transactions from R50k to R250k indefinite period (Triple adjudication)	Procurement Executive Manager	Land and Rights Practitioner and Land and Rights Development Manager	
	◆ Transactions up to R300m	Centralised Land & Rights Committee	FD/GE/DE	

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	◆ Transactions up to R750m	EXCO Procurement Sub Committee	Procurement Executive	
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4 ELECTRICITY SALES & PURCHASES				
	Powers & Authority	Approval Authority	Recommendations	Conditions/ Principles
4.1	Pricing			<ol style="list-style-type: none"> <li>1. The Shareholder must be notified of all International Transactions and must approve long-term sales or long term PPAs in terms of the Significance and Materiality Framework.</li> <li>2. All transactions will be based on Standard Terms &amp; Conditions unless otherwise approved</li> <li>3. A long-term contract exceeds three years.</li> <li>4. Entering into of power purchase agreements is subject to the general investment and procurement delegation</li> </ol>
4.1.1	Strategic pricing policies	IFC	CE after consultation with Exco	
4.1.2	MYPD Application	Board	IFC	
4.1.3	Standard tariff plans, structures and rates, including annual tariff rate adjustment based on MYPD decision.	IFC	CE after consultation with Exco.	
4.1.4	Operational pricing policies	CE after consultation with Exco	Relevant Manager	
4.2	Electricity Sales Agreements			
4.2.1	Specific Conditions & prices for selling electricity in terms of long term agreements (> 3 y)	IFC after consultation with legal (subject to the SMF)	CE after consultation with Exco	
4.2.2	Specific Conditions & prices for selling electricity in terms of short term agreements (≤ 3 y)	CE after consultation with Exco and legal (subject to the SMF)	GE	
4.2.3	Electricity Supply Agreements in terms of standard agreements and pricing	CE/GE (GCS)/GE (Dx)	Relevant Manager	
4.3	Power Purchase Agreements			
4.3.1	Conditions and pricing of Power Purchase Agreements -longer than 3y	IFC(subject to the SMF)	CE after consultation with Exco	
	-less than 3 y	CE after consultation with Exco	Relevant Manager	
4.4	Connection and Use of System Agreements			
4.4.1	Execution of connection and time-of-use agreements for connecting	CE/ GE (GCS)/GE (Dx)/GE (Tx)	Relevant Manager	

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	generators to the system in terms of standard agreements and pricing			<div>1. The DPE must be notified of all International Transactions and must approve long-term sales or PPAs in terms of the <u>Significance and Materiality Framework</u>.</div> <div>2. All transactions will be based on Standard Terms &amp; Conditions unless otherwise approved.</div> <div>3. A long-term contract exceeds three years</div>
4.5	International Agreements			
4.5.1	Selling of electricity excluding trading on short term basis	IFC (subject to the SMF)	CE after consultation with Exco	
4.5.2	Purchase of electricity excluding trading on short term basis	IFC (subject to the SMF)	CE after consultation with Exco	
4.6	Demand Management			
4.6.1	Demand Management and Demand Participation rates and conditions	General Thresholds- IFC	CE after consultation with Exco	
		Specific Transactions ICAS	SGM (IDM)	
	Execution of Demand Management and DMP.	CE/GE (GCS)		
4.7	Trading			
4.7.1	Trading of electricity in terms of buying and selling on a day to day basis, up to 3 months, including trading of electricity internationally in terms of the SAPP, subject to operating within approved budgets	CE/GE (GCS)/GE (TX)	Relevant Manager	
5.	HUMAN RESOURCES			
	Powers & Authority	Approval Authority	Recommendations	Conditions/ Principles
5.1	Strategic HR policies and strategies	Board	People and Governance Committee	
5.2	Policies and guidelines to give effect to strategy	CE after consultation with Exco	GE(HR)	
5.3	Structures			
5.3.1	Eskom organisational structure	Board	CE after consultation with Exco and People & Governance Committee	
5.3.2	Establish Divisional Executive committees & other divisional structures	CE/FD/GE/DE	N/A	
5.3.3	Staffing numbers and level of posts	CE/FD/GE/DE	FD/GE/DE	

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5.4	Remuneration , structures & conditions of services			
	Powers and Authority	Approval Authority	Recommend ds	Conditions/Principles
5.4.1	With regard to CE & top management (F Bands)	Board (for CE) After consultation with Shareholder;); Top management (People and Governance Committee	CE (For F bands)people and Governance Committee for CE	1. All terminations for performance or misconduct shall be subject to the applicable HR policies 2. All appointments must adhere to the HR policies. 3. The appointment of the CE is a matter reserved for the Board and shareholder. 4. All temporary/acting appointments must be in writing and in respect of GEs, must be approved by the CE. 5. Any temporary/acting appointments in respect of the CE, FD, GE or DEs for longer than three months must be approved by the CE and the People & Governance Committee
5.4.2	General conditions of service and principles for managerial employees	CE after consultation with Exco	GE HR	
5.4.3	Principles for bargaining unit	CE after consultation with Exco	GE HR	
5.4.4	Specific remuneration packages	GE/ DE provided in accordance with HR policies/Parameters	HR Practitioner	
5.5	Appointments and Terminations of Employment			
5.5.1	With regard to appointing GE/ DE/SGM (excluding FD)	People and Governance Committee	CE	
5.5.2	With regard to appointing CE/FD	Board (after approval of shareholder i.ro CE)	People and Governance Committee	
5.5.1	With regard to appointing GMs	CE after consultation with Exco	People and Governance Committee	
	With regard to appointing S3, E Band & other employees	CE/FD/GE/DE subject to approved posts and notifying Exco in respect of E Bands.	Interview panel	
5.6	Temporary/Acting appointments for more than 3 working days			
	◆ In respect of CE	CE if one month or less and chairman if up to 3 months	N/A	
	◆ In respect of GE/DE	Next higher level of authority	N/A	
	◆ In respect of other employees	Next higher level of authority	N/A	
	◆			

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6 FINANCE				
	Approval Authority	Approval/Authority	Recommendations	Conditions/Principles
6.1	Risk finance ♦ Insurance Strategy ♦ Plan & Budget	Audit & Risk Committee	FD after consultation with CE/Exco	For the avoidance of doubt, the CE and or FD may in terms of the general principles set out in terms hereof delegate further the authority to open and operate of bank accounts and the issue of duplicate certificates as set out herein.
6.2	Insurance Placement: Below R200m per placement	CE or FD (in consultation with Exco)		
	Above R200m	Audit & Risk Committee	FD after consultation with CE	
6.3	Lending of money by Eskom ♦ To any related party, including subsidiaries	CE or FD (in consultation with Exco)	CE/FD after consultation with CE	
	♦ Up to R1b to further the interests of Eskom	IFC	FD/CE	
	♦ To lend money to employees for housing acquiring transport and education, subject to HR policies and directives and limits	CE/FD/GE/DE	Relevant Manager	
	♦ To make bursaries available to employees and prospective employees	Relevant E Band Manager subject to HR policies	N/A	
6.4	Bank account:- To open, operate and close any form of bank account including electronic fund transfer systems whether foreign or local and/or the transacting in negotiable instruments	Co-approval by CE and FD to open account and approval by FD to operate an account.	FD after consultation with CE/Exco	
6.5	Eskom securities certificates: To authorise the issue of duplicate certificates or certified deeds in respect of Eskom securities	CE or FD	Relevant Manager	
6.6	Subsidiaries: Sales and purchases to/from wholly owned subsidiaries			
	♦ Up to 750m	GE/DE	Relevant Manager	
	♦ Up to R1bn	CE or FD	Relevant Manager	

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	Up to maximum of budget	CE in consultation with Exco	Relevant Manager	
6.7	Write off bad Debts ♦ Above R100m p/a	IFC	FD	
	Up to R100m p/a.	CE&FD consultation with Exco)	GE/DE	
	Up to R30m p/a	GE/DE after consultation with FD	Finance Business Partner	
	♦ Up to R10m p/a	Finance Business Partner (=<R00k per individual debt)	Relevant Manager	
6.8	Restructuring of debt owed ♦ Up to R75m	CE or FD after consultation with FD	GE/DE	
	♦ Up to R35m	CE/FD	GE/DE	
	♦ Up to R15m	GE	Relevant Manager	
7	GENERAL; TREASURY			
	Powers and Authority	Approval Authority	Recommendations	Conditions/Principles
7.1	Borrowing programme	Board	CE/FD after consultation with Exco	<ol style="list-style-type: none"> <li>1. The SGM (Treasury) and Treasury Officials may implement the borrowing programme and effect all transactions necessary or incidental thereto subject to the delegation, conditions and limitations specified by the FD, and in accordance with the Board approved borrowing programme and the approved Treasury Mandate.</li> <li>2. The authority granted in terms hereof includes all necessary and incidental authority required to implement the borrowing programme, including the listing, issuing of bonds, making investments, withdrawal of funds and implementing hedges. Any limits regarding this authority may be prescribed in the Treasury Mandate by the audit and risk</li> </ol>
7.2	Subject to section 66(6) of the PFMA, implement Borrowing Programme in line with the Board approved Corporate Plan			
7.2.1	Borrowing money and listing/ issuing of bonds Risk management and debt management including investment of surplus funds (Domestic markets)			

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## The Eskom Delegation of authority Policy

Unique Identifier: 240-62072907

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	and foreign markets) ♦ Transactions greater than \$1000m (Foreign currency or equivalent in other currency or greater than R8000m (local currency) ♦ Transactions less than \$1000m (Foreign currency or equivalent in other currency or less than R8000m (local currency)	CE and FD  CE/FD	SGM Treasury  SGM Treasury	
7.2.2	♦ Signing of any document relating to loan agreements or anything related or incidental thereto, including listing or issue of bond notes or commercial paper.	CE/FD/SGM Treasury together with DE Regulation and Legal or GM Legal in respect of agreements.	N/A	
7.2.3	Signing of any document relating to Treasury activities, credit and trading agreements or anything related or incidental thereto, Treasury domestic market deposit accounts, bank accounts related to financing/ loan facilities, duplicate certificates, electronic signatures, Central Securities Depository requirements and/or deeds.	FD/SGM Treasury	N/A	
7.2.4	Treasury Mandate	Audit and Risk Committee	N/A	
<b>8 GENERAL: LEGAL</b>				
	<b>Powers &amp; Authority</b>	<b>Approval Authority</b>	<b>Recommendations</b>	<b>Conditions and Principles</b>
8.1	To institute or defend legal proceedings, including arbitrations, and prove claims against any debtors	CE/DE (R&L) GM Legal or delegate	FD/GE/DE/Line Manager	
8.2	Settling legal claims by/for against Eskom	CE/FD/DE/GE/DE(R&L) GM LEGAL	Relevant manager in consultation with Legal Department	
8.3	Receiving or giving indemnities in respect of settlement agreements	CE/FD/GE/DE in consultation with DE (R&L) GM Legal or delegate	Relevant Manager	
8.4	Applying to relevant authorities for the award and amendment of permits, licences, consents and orders and also to oppose applications for such by others	CE/FD/GE/DE in consultation with DE (R&L) GM Legal	Line Manager in Consultation with legal Department	
8.5	Pleading guilty or not guilty to criminal charges or any other similar charges preferred against Eskom	CE/ FD/GE/DE In consultation with DE (R&L) GM Legal or	N/A	

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8.6	Appointment of external legal advisors, Attorneys and Advocates	delegate. CE/ DE (R&L), GM Legal or Delegate after consultation with relevant manager	N/A	
8.7	Expropriate immovable property	CE/DE (R&L) GM Legal or delegate after consultation with relevant manager.	Relevant Manager	
8.8	To register trademarks, patents, designs, copyrights or any license, concession or similar rights in respect thereof and the alienation thereof	CE/DE (R&L) GM Legal or delegate after consultation with relevant manager.	Line Manager in consultation with legal Department	
<b>9. CONTRACT MANAGEMENT: LEGAL</b>				
	<b>Powers/Authority</b>	<b>Approval Authority</b>	<b>Recommends</b>	<b>Conditions/Principles</b>
9.1	To approve standard conditions of contract for electricity sales and any other standard contracts required or used, including construction and sales of electricity contracts, and any deviations from standard contracts	DE R&L / GM Legal or delegate	Relevant Manager	<ol style="list-style-type: none"> <li>1. The entering into of any international MOU will be subject to the <b>Significance and Materiality Framework</b>;</li> <li>2. Best practice requires the establishment of Variation and Claims Committees</li> </ol>
9.2	Specific contract conditions	Authorised delegatee for transaction in consultation with the DE Regulation and Legal or GM Legal/Delegate	Relevant Manager in consultation with Legal Department	
9.3	Managing Contract on day to day basis	Relevant GE/DE/Appointed Project Manager	N/A	
9.4	Entering into any MOU, confidentiality agreement, or any other agreement in area of responsibility and provide any approvals required in terms of such contracts, and do what is necessary to execute/implement contracts	CE/FD/GE/DE within limits of delegation and Group/Divisional mandate (subject to the SMF for international MOUs and consultation with DE R&L/GM Legal or delegate.	Relevant Manager	
9.5	Membership of International Organisations	CE/GE (Sustainability)	Relevant Manager	
9.6	<b>Major Construction Projects (New Build)</b>			
9.6.1	Modification to contract within contract contingency	FD/Project Manager	Project Manager after consultation	

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9.6.2	Modification to contract above the contract contingency but within the unallocated project contingency.	FD and GE Technology and Commercial provided the modification is reported at the next Tender Committee or appropriate lower level committee with delegated authority in consultation with Legal	with Project variation Project Manager after consultation with Project variation & claims committee & claims committee	
9.7	Approve and settle claim within the contract contingency	Project Manager in consultation with Legal		
8	Approve and settle claim above the contract contingency but within unallocated project contingency.	FD in consultation with Legal. Provided this is reported at the next Tender Committee	Project Manager after consultation with Project variation & claims committee	
9.9	Referral to adjudication, mediation or dispute adjudication Board	FD/Project Manager in consultation with GM Legal.	N/A	
10	General: Safety, Health, Environmental, Quality and Security (SHEQS)			
	<b>Powers &amp; Authority</b>	<b>Approval</b>	<b>Recommends</b>	<b>Conditions/Principles</b>
10.1	Statutory appointments	CE/GE/DE/ Divisional E Band or other responsible line managers	SHEQS officers	
10.2	Strategy, Policy, Procedures and Directives			
10.2.1	Eskom SHEQS Strategic Policies	Social, Ethics & Sustainability Committee	CE after consultation with Exco GE (Sustainability)	
10.2.2	Other Policies and procedures SHEQS Strategy & targets	CE after consultation with Exco		
10.2.3	Eskom SHEQ Strategy & Targets	Board	Social, Ethics & Sustainability Committee	
10.2.4	SHEQS Directives	GE (Sustainability)	Relevant Manager/SHEQ Officers	

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11. GENERAL: OPERATIONS				
	Powers/Authority	Approval Authority	Recommendations	Condition/Principles
11.1	The running of the day to day operations of Eskom Divisions	FE/GE and DE subject to the direction & conditions required by CE	N/A	The delegation of operational and management authority is subject, inter alia, to adherence to the Corporate Plan, Group/ Divisional mandates, Eskom policies, and the FD/GE and DE subject to direction & conditions required by CE delegation of authority.
11.2	Effective delegation of operational matters by GEs, DEs, and other managers	CE/GE/DE	N/A	
12. GENERAL: CORPORATE SOCIAL INVESTMENT				
	Powers & Authority	Approval Authority	Recommendations	Conditions/ Principles
12.1	Donations & CSI			<p>1. Donations made by Eskom shall be for education, schools or appropriate community projects, but shall exclude political party activities, grants to individuals and profit making organisations/businesses</p> <p>2. Most Corporate Social investment initiatives will be channelled through the Eskom Development Foundation.</p>
	Up to R5m p/a	Chairman/CE		
	Up to approved budget	FD/GE/DE		
12.2	Sponsorships			
	Up to R50k	CE/FE/GE/DE in consultation with Corporate Sponsorship Committee established by DE Corporate Affairs	Relevant Manager	
	Up to R3m	CE/Sponsorship Committee established by GE Corporate Affairs	Relevant Manager	
	Above R3m and subject to approved budget.	CE (in consultation with Exco) or he may delegate to ICAS.	Relevant manager	

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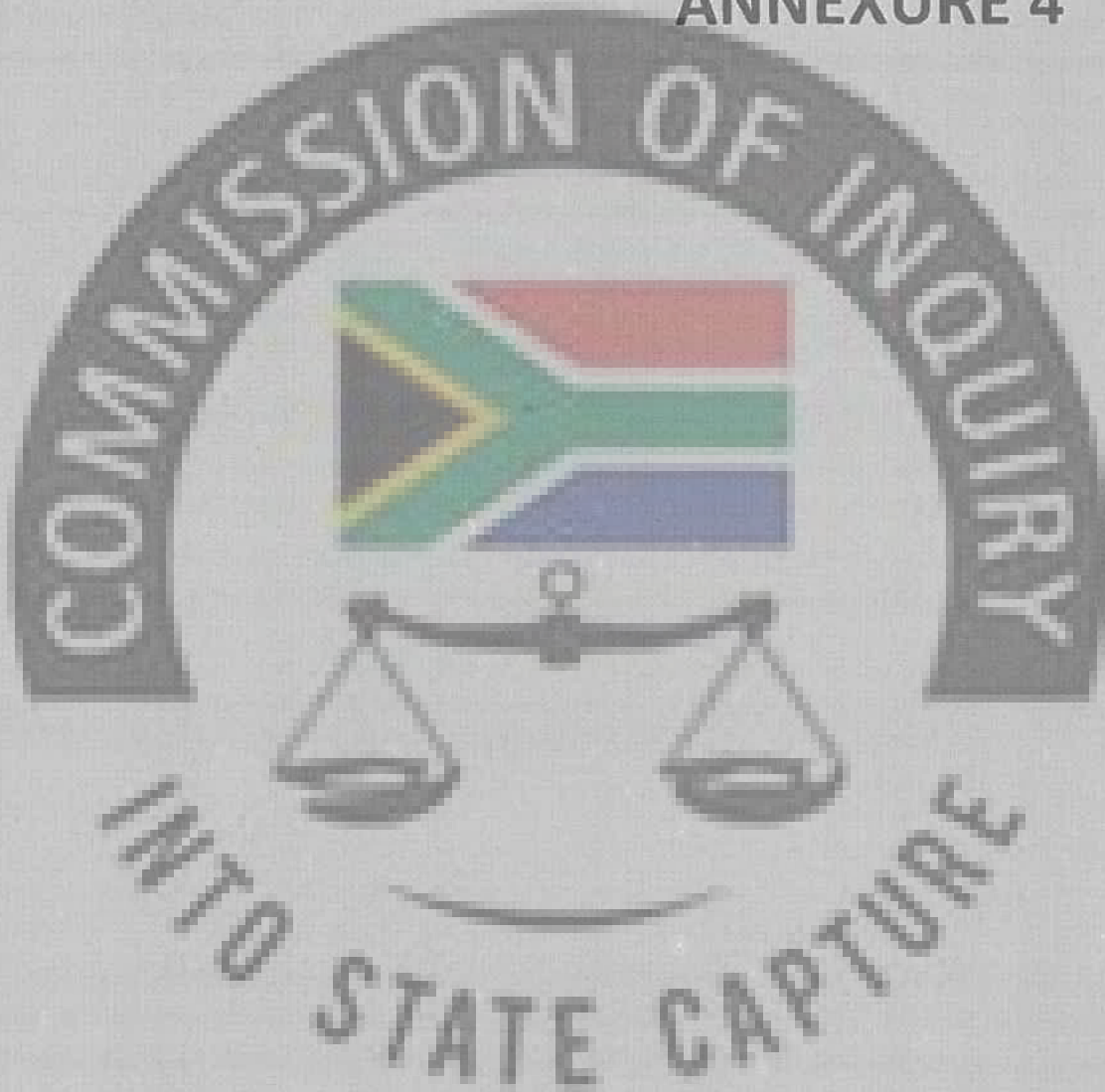
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Sizwe  
Ntsaluba  
Gobodo



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## ANNEXURE 4



 Eskom	Procedure	
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Title: Eskom's Procurement and Supply Chain Management Procedure

Unique Identifier:

32-1034

Alternative Reference Number:

N/A

Area of Applicability:

Eskom

Functional Area:

Group Technology & Commercial

Revision:

2

Total Pages:

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April 2017

Disclosure Classification:

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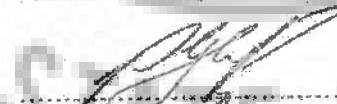
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Middle Manager

Group Technology and Commercial - Risk & Governance

Date: 16.05.2014

Functional Responsibility



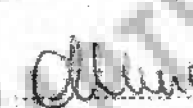
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Group Technology and Commercial - Risk & Governance

Date: 16/5/2014

Authorized by



M Koko

Group Executive (Acting)

Technology and Commercial

Date: 19/5/14

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## 1. Introduction

This Procedure 32-1034 sets out the procedures and processes to be followed by various key operational areas within procurement and supply chain operations, under Group: Technology and Commercial within Eskom Holdings SOC Limited ("Eskom").

The key operational areas governed by this Procedure include:

- a. Sourcing of Primary Energy (coal, water and fuel)
- b. Project Sourcing
- c. Nuclear Sourcing
- d. Commodity Sourcing
- e. Tactical Sourcing
- f. Business Enablement
- g. Supplier Development and Localisation (SD&L)
- h. Supply Chain Operations (SCOPS), comprising:
  - i. Materials Management
  - ii. Shipping Management
  - iii. Investment Recovery (Asset Disposals)
  - iv. Supply Chain Planning
  - v. Business Support

## 2. Supporting Clauses

### 2.1 Scope

The purpose of this Procedure is to describe the processes and procedures to be followed by Procurement Practitioners across the various operational areas within Eskom when delivering the required outputs of the End-Users' / customers' requests with clarity, effectiveness and accountability. When applying the standard procedures within the Approved Procurement Framework, it is intended to achieve accuracy and consistency in decision-making, customer satisfaction as well as fulfilment of the strategic objectives of Group Technology and Commercial, and Eskom as a whole.

This Procedure may be subject to amendments from time to time (either in the form of signed and approved Position Papers issued by the Risk and Governance Department within Group Technology and Commercial, or through a formal revision to this Procedure), in order to align with changes in business strategy, legislation, policy, industry trends, recognised good practice, as well as any other considerations which are necessary to maintain the efficiency and integrity of Eskom's procurement and supply chain operations.

#### 2.1.1 Purpose

The overall intent is to ensure that application of the Approved Procurement Framework results in an outcome/solution that is commercially, financially, and technically sound and which in addition, does not contravene the constitutional principles of fairness, equitability, transparency, competitiveness and cost-effectiveness. On this basis, this Procedure must, in the event of a lack of clarity, or in the event of ambiguity or inconsistency, be interpreted in favour of complying with the aforementioned constitutional principles, based on existing jurisprudence, including latest precedent set by South African courts, to

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ensure an outcome that is legally sound, and which does not compromise the integrity or reputation of Eskom.

Prior approval from the EXCOPS or a higher Delegated Approval Authority is needed in the case of relaxation or amendment of this Procedure or a section thereof. Relaxations will be specifically applicable where deviations are required for purposes of the acquisition of loans / funding to support the procurement, and / or the achievement of substantial monetary and / or technical benefits to Eskom, which is supported by a Board-approved strategy. Deviations from this Procedure are still required to comply with the constitutional principles of fairness, equitability, transparency, competitiveness and cost effectiveness, which remain the overriding obligation.

### 2.1.2 Applicability

This Procedure applies uniformly throughout Eskom Holdings SOC Limited, its Divisions, wholly-owned subsidiaries and entities wherein Eskom has a controlling interest, operating in terms of South African law, which are subject to the provisions of the PFMA.

## 2.2 Normative / Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

### 2.2.1 Normative

- [1] The Constitution of the Republic of South Africa Act 108 of 1996
- [2] Public Finance Management Act 01 of 1999
- [3] The Broad-Based Black Economic Empowerment Act 53 of 2003
- [4] The Preferential Procurement Policy Framework Act 05 of 2000
- [5] PPPFA Regulations
- [6] The Construction Industry Development Board Act 38 of 2000
- [7] CIDB Regulations
- [8] The Eskom Delegation of Authority Policy 240-62072907
- [9] Eskom's Procurement and Supply Chain Management Policy – 32-1033
- [10] Conflict of Interest Policy (32-173)
- [11] The Eskom Code of Ethics (Standard 32-527)
- [12] Eskom Disciplinary Code (Eskom Standard 32-1112)
- [13] Eskom Disciplinary Procedure (32-1111)
- [14] The Eskom Life Saving Rules (240-62196227)
- [15] Safety, Health, Environment and Quality (SHE) Policy (32-727)
- [16] Construction Safety, Health and Environmental Management (Procedure 32-136)
- [17] SHE Requirements for Eskom Commercial Process (32-726)
- [18] ISO 9001: 2008, applicable SABS Standard
- [19] Supplier Contract Quality Requirements Specification (QM58)
- [20] Periods for Retention of Accounting and Other Records 32-202

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[21] Foreign Exchange and Commodity Exposures Policy (32-10954)

[22] Foreign Exchange and Commodity Procedure for Importation and Exportation of Goods and Services (32-1096)

## 2.2.2 Informative

[23] CIDB Standard of Uniformity

[24] Tender Office Standard 240-53717264

[25] Eskom's Purchasing Pact with Suppliers (To be registered)

## 2.3 Definitions

Definition	Explanation
<b>Accredited Procurement Practitioner</b>	An Accredited Procurement Practitioner is a Procurement Practitioner who has been trained, assessed and accredited to execute, support and/or approve procurement strategies; and the awarding / modification of orders /contracts, and who has been formally delegated with such authority in writing. The exercise of delegated authority is done strictly in accordance with the Approved Procurement Framework.
<b>Accredited Verification Agency</b>	An accredited verification agency is one that has fulfilled all prescribed legislative requirements for operating as a verification agency in terms of the B-BBEE Act and / or any other applicable legislation.
<b>Approved Procurement Framework</b>	The Approved Procurement Framework refers to the approved Delegation of Authority Policy (240-62072907); Eskom's Procurement and Supply Chain Management Policy (32-1033); this Procedure (32-1034); approved internal PCMs; Standard Operating Procedures and Work Instructions, governing the procure-to-pay processes within Eskom; authorised Position Papers, and any other mandatory legislative and policy frameworks that govern and have a direct impact on Eskom's procurement and supply chain management operations.
<b>Black</b>	African, Coloured, Indian or Chinese persons who are natural persons and who are: <ol style="list-style-type: none"> <li>Citizens of the Republic of South Africa by birth or descent; or</li> <li>Citizens of the Republic of South Africa by naturalization before the commencement date of the Constitution of the Republic of South Africa Act of 1993; or</li> <li>Citizens of the Republic of South Africa by becoming citizens only after the commencement date of the Constitution of the Republic of South Africa Act of 1993, who, but for apartheid which had been in place prior to that date, would have been entitled to acquire citizenship by naturalization, prior to that date.</li> </ol>

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Definition	Explanation
<b>Black Women Owned (BWO)</b>	An EME or QSE that is more than 50% owned and effectively managed by Black women.
<b>Black Youth</b>	Black persons who are youth as defined in the National Youth Commission Act of 1996
<b>Blocked</b>	"Blocked" means the tagging of a supplier registered on the Eskom Supplier Database so as to indicate that the supplier is in the process of deregistration therefrom, with the possible pending of the completion and finalisation of any or all obligations remaining under existing contracts with Eskom, and that no further contracts may be entered into with that supplier.
<b>Case Investigator</b>	A Case Investigator means the person/s assigned by the Supplier Reconsideration Standing Committee to fully investigate the grounds for reconsideration of supplier registration as nominated by the Supplier Reconsideration Standing Committee, on behalf of Eskom.
<b>Delegated Approval Authority</b>	A Delegated Approval Authority refers to delegated individuals forming part of a dual or triple adjudication system, or a delegated tender committee (PTC).
<b>Delegation of Authority Policy</b>	The approved Delegation of Authority Policy with respect to the Approved Procurement Framework refers to the various delegations of authority passed from the Eskom Board of Directors to the Chief Executive, Finance Director, Group Executives and Divisional Executives, and further delegated to other appointed general and senior managers, to Accredited Procurement Practitioners and / or to tender committees in order to approve the purchase, disposal and/or leasing of assets, goods and services for and on behalf of Eskom.
<b>Designated E-Band Manager</b>	A designated E-Band Manager is a Senior Manager in Eskom managing an operational area where a need has been identified for a supplier to be categorised as a sole source supplier for reasons stipulated on the Sole Source Justification Form, and who is accountable for validating and authorising the motivation contained within the Sole Source Justification Form.
<b>Disabled Persons</b>	Disabled Persons refers to persons with a long term or recurring physical or mental impairment that substantially limits their entry into, or advancement in employment.
<b>Enquiry</b>	A collective and generic term for requests for information, expressions of interest, requests for quotations, invitations to tender or requests for proposals made to a supplier, a group of suppliers or the market at large.
<b>Eskom Supplier Database</b>	The Eskom Supplier Database refers to the electronic database created and maintained by Eskom for the purpose of assisting in the management and administration of its suppliers and/or the award of contracts or the placement of orders.

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Definition	Explanation
<b>Exempted Micro Enterprise (EME)</b>	EMEs refer to Suppliers with a total revenue not exceeding R5m, or as otherwise prescribed within relevant Sector Codes, who have an automatic B-BBEE Status of a "Level Four Contributor", or a BBEE Status of a "Level Three Contributor" where more than 50% Black Owned, without the requirement of a B-BBEE verification certificate being mandatory. (NB: that the revision to the BBEE Codes will become effective within Eskom on or before 31 December 2014 and a Position Paper will be issued within Group Technology and Commercial, regarding the implementation of the updated BBEE Codes of Good Practice).
<b>Flagged</b>	"Flagged" means the tagging of a supplier registered on the Eskom Supplier Database so as to indicate that the registration of the supplier on the Eskom Supplier Database is under re-consideration or temporary suspension and that for the time being no contracts may be entered into with that supplier.
<b>Hierarchy of Supplier Preference</b>	The Hierarchy of Supplier Preference (set out in 3.2.4) is an internal system of supplier selection used as a market analysis framework, based on giving first preference to existing suppliers (via existing contracts) before awarding new contracts / orders to new suppliers, and then, when looking at the award of new orders / contracts, to first give consideration to Internal Suppliers before giving consideration to external suppliers, and when giving consideration to external suppliers, to first consider small Black suppliers over larger Black suppliers, and to further consider local manufacturers over international manufacturers, and local distributors of locally manufactured products over local distributors of internationally manufactured products. The Hierarchy of Supplier Preference must be used as a framework when deriving commercial strategies, segmenting suppliers for informal sourcing processes, and setting specific goals and objective criteria as part of the PPPFA Framework.
<b>Internal Suppliers</b>	A Division, wholly-owned or partly-owned subsidiary of Eskom Holdings SOC Limited that is a supplier of assets, goods or services to Eskom Holdings SOC Limited.
<b>Large Black Supplier</b>	A Large Black Supplier refers to a LME that is more than 50% owned and effectively managed by Black persons.
<b>Large Black Women Owned Supplier</b>	An LME that is more than 50% owned and effectively managed by Black women.
<b>Large Measured Entity (LME)</b>	Large Suppliers with turnovers in excess of R35m (thirty five million Rand) will be measured against all seven elements of the Generic Scorecard as set out in the B-BBEE Codes of Good Practice. (NB: that the revision to the BBEE Codes will become effective within Eskom on or before 31 December 2014 and a Position Paper will be issued within Group Technology and Commercial, regarding the implementation of the updated BBEE Codes of Good Practice).

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Definition	Explanation
<b>PPPFA Framework</b>	The PPPFA Framework refers to the Preferential Procurement Policy Framework Act (05 of 2000), its Regulations, and any other formal and official notifications and guidelines issued by the National Treasury regarding the application thereof.
<b>Project Lifecycle Model</b>	The Project Life Cycle Model (PLCM) comprises five stage gates as follows: Concept Release Approval (CRA), Definition Release Approval (DRA), Execution Release Approval (ERA), Hand Over Approval (HO) and Finalisation Release Approval (FRA).
<b>Position Paper</b>	A formal amendment to the Approved Procurement Framework, approved by the EXCOPS or a higher Delegated Approval Authority, signed off by the Group Executive: Technology and Commercial, and issued by the Risk and Governance Department within Group Technology and Commercial.
<b>Procurement Practitioner</b>	A Procurement Practitioner is an employee within Eskom appointed to manage and/or execute a procedure or process as contained in this Procedure (32-1034), or within any of the approved PCMs relating to procure-to-pay processes forming part of the Approved Procurement Framework. A Procurement Practitioner is required to be trained, assessed and accredited within a reasonable time period as agreed to with his/her Procurement Manager, to become an Accredited Procurement Practitioner. A Procurement Practitioner does not have any delegation of authority to support or approve commercial transactions, but may still execute commercial transactions and make recommendations in respect thereof.
<b>Purchasing in Eskom (PiE) training</b>	PiE training is an official and mandatory training course for Procurement Practitioners regarding the execution of commercial transactions within Eskom. Procurement Practitioners must attend the complete course and be assessed in order to become Accredited Procurement Practitioners. A pass mark of eighty per cent (80%) is required in the assessment for a Procurement Practitioner to qualify to become an Accredited Procurement Practitioner. PiE is endorsed by executive management within Eskom and its content will be subject to revision from time to time.

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Definition	Explanation
<b>Related Person</b>	<p>"Related person" means any person who is required to be a signatory of a Supplier Application Form, offer, tender or proposal, and any other person who, directly or indirectly:-</p> <p>(i) Controls in any manner whatsoever a supplier or a subsidiary thereof (if any);</p> <p>(ii) Controls in any manner whatsoever the performance and execution of a contract concluded or order issued between Eskom and a supplier; or</p> <p>(iii) Is being controlled in any manner whatsoever by the person contemplated in sub-clause (i) or (ii).</p> <p>Provided: that where there is any dispute concerning such control, that dispute shall be referred to a senior legal adviser or higher within Eskom's Legal Department for resolution, whose decision shall be final.</p>
<b>Small Black Enterprise (SBE)</b>	SBEs refer to an EME or QSE that is more than 50% owned and effectively managed by Black persons.
<b>Sole Source Justification Form (SSJF)</b>	The SSJF is an internal control form completed by an End-User and authorised by the Designated E-Band Manager, an SD&L functionary, and a Senior Commercial Manager (or higher) as a motivation that a supplier is a sole supplier, for one or more reasons specified on the form. It may be used on a per order /contract basis by an End-User when there is a specific requirement for assets, goods, or services, or it may be used as a motivation for a longer term "blanket" approval of a sole source. This form is required to be submitted together with the Commercial Transaction Approval Form to the applicable Delegated Approval Authority, depending on the value and contract period of the transaction.
<b>Supplier</b>	A supplier is a current or potential supplier, vendor, contractor, consultant, or service provider. A supplier may be a natural or legal person, and includes any employee acting within the course and scope of his/her employment, or any agent or manager acting for or on behalf of, or in the interests of the person registered as supplier on the Eskom Supplier Database.
<b>Tender</b>	A tender refers to a written competitive offer, quotation or proposal made by a supplier, in a prescribed or stipulated form, in response to an invitation to tender / competitive enquiry for the provision of assets, goods or services, and/or the disposal thereof.

#### 2.4 Abbreviations

Abbreviation	Description
B-BBEE	Broad-Based Black Economic Empowerment
BEAST	Business Evaluation and Analytical Services Team

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Abbreviation	Description
BU	Business Unit
BWO	Black Woman Owned
CARAT	Complete, Accurate, Relevant, Accessible and Timely
CE	Chief Executive
CFA	Clearing and Forwarding Agent
CFC	Customer Foreign Currency
CIC	Capital Investment Committee
CIF	Cost Insurance Freight
CIDB	Construction Industry Development Board
CIPC	Companies and Intellectual Property Commission
CNC	Customer Network Centre
COIDA	Compensation for Occupational Injuries and Diseases Act
CPA	Contract Price Adjustment
CPI	Consumer Price Index
CRA	Concept Release Approval
CSDP	Competitive Supplier Development Programme
DCF	Delegation Consent Form
DE	Divisional Executive
DFI	Development Funding Institution
DFSP	Demand Forecasting and Supply Planning
DOA	Delegation of Authority
DOE	Department of Energy
DPE	Department of Public Enterprises
DRA	Design Release Approval
DTI	Department of Trade and Industry
ECC	Engineering and Construction Contract
ECCMA	Electronic Commerce Code Management
ECSC	Engineering and Construction Short Contract
EME	Exempted Micro Enterprise
EOCD	ECCMA Open Catalogue Dictionary
EOI	Expression of Interest
EOQ	Economic Order Quantity
ERA	Execution Release Approval
ESDEF	Eskom Development Foundation
EXCO	Executive Committee
EXCON	Exchange Control
EXCOPS	Executive Committee Procurement Sub-Committee
FD	Finance Director
FEP	Front-End Planning

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Abbreviation	Description
FIDIC	International Federation of Consulting Engineers
FOREX	Foreign Exchange
FPS	Finance Project Services (A department within Group Finance)
GE	Group Executive
GM	General Manager
GR	Goods Receipt
GSC	General Services Contract
HR	Human Resources
ICAS	Investment and Capital Assurance
IDM	Integrated Demand Management
IDSP	Integrated Demand and Supply Plan
IFC	Investment Finance Committee
INCOTERMS	International Commercial Terms
INTCOV	International Cover
IPP	Independent Power Producer
IR	Industrial Relations
IRBA	Independent Regulatory Board for Auditors
ISO	International Standards Organisation
JBCC	Joint Building Contracts Committee
JV	Joint Venture
LME	Large Measured Entity
LPO	Local Purchase Order
MANCO	Management Committee
MRO	Maintenance, Repair, Operations
MRP	Materials Requirement Planning
NDA	Non-Disclosure Agreement
NEC	New Engineering Contract
NT	National Treasury
OEM	Original Equipment Manufacturer
OHS	Occupational Health and Safety Act
P&SCM	Procurement and Supply Chain Management
PAIA	Promotion of Access to Information Act
PAYE	Pay as You Earn
PCM	Process Control Manual
PFMA	Public Finance Management Act
PIE	Purchasing in Eskom
PLCM	Project Lifecycle Model
PO	Purchase Order
POD	Purchase Order Description

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Abbreviation	Description
PPA	Power Purchase Agreement
PPI	Producer Price Index
PPFA	Preferential Procurement Policy Framework
PMBOK	Project Management Body of Knowledge
PR	Purchase Requisition
PSC	Professional Services Contract
PTC	Procurement and Tender Committee
QSE	Qualifying Small Enterprise
RFI	Request for Information
RFP	Request for Proposal
ROE	Rate of Exchange
SANAS	South African National Accreditation System
SAP	Systems Application Processes
SAPFI	SAP Financial Accounting
SAPHR	Systems Application Processes Human Resources
SARS	South African Revenue Service
SBE	Small Black Enterprises
SCOPS	Supply Chain Operations
SCOT	Steering Committee of Technology
SD & L	Supplier Development and Localisation
SHEQ	Safety, Health, Environment, Quality
SEIFSA	Steel and Engineering Industries Federation of South Africa
SFD	Short Form Description
SLA	Service Level Agreement
SSJ	Sole Source Justification Form
TCO	Total Cost of Ownership
TOR	Terms of Reference
TPA	Treasury Portfolio Assessment
TSC	Term Services Contract
UMC	
USD	United States Dollar
VAT	Value-Added Tax
VMI	Vendor Managed Inventory

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## 2.5 Roles and Responsibilities

### 2.5.1 Eskom's Board of Directors (Board)

The Eskom Board from time to time approves amendments to the Eskom-wide Delegation of Authority Policy. This delegation of authority and its application to procurement / disposal approvals is set out in Appendix A herein, and is a fundamental component of the Approved Procurement Framework.

### 2.5.2 Executive Committee (EXCO)

The Chief Executive has delegated procurement authority to the EXCO and some of this authority has, in turn, been further delegated to the EXCO Procurement Subcommittee (EXCOPS) to approve procurement / disposals which exceed head office operational / capital expenditure PTC delegations.

### 2.5.3 Group Executive: Technology and Commercial

The executive and member of the EXCO appointed to lead and manage the Technology and Commercial Group within Eskom.

### 2.5.4 Divisional Executive: Primary Energy

The executive delegated by the Eskom Board and appointed to lead and manage the procurement of all primary energy within Eskom. For the purposes of this Procedure, any reference to the Divisional Executive: Primary Energy is specific to all primary energy related procurement and/or disposals. The Divisional Executive: Primary Energy may, at his / her discretion, nominate any other general or senior managers to fulfil any of the roles and responsibilities set out herein on his / her behalf.

### 2.5.5 Tender Committees (PTCs)

All tender committees are delegated by the Eskom Board (in accordance with Appendix A) to authorise purchases / disposals exceeding the delegations applicable to dual and triple adjudication delegations of authority. The constitution of regional / site-based PTCs is done with the written consent of the FD or relevant GE/DE, with prior consultation of the GE: Technology and Commercial. The operation of a PTC is governed by its Terms of Reference which must be regulated by the Risk and Governance Department within Group Technology and Commercial.

### 2.5.6 Cost Centre Manager

The Cost Centre Manager is the End-User or the manager of the End-User who is responsible for ensuring that any procurement requested or financial commitment made on the cost centre he/she manages is approved by him/herself based on a valid need and availability of the necessary funds to ensure that the procurement is neither wasteful nor irregular, as defined in the PFMA, and is in accordance with the requirements of the Approved Procurement Framework.

### 2.5.7 End-User

The End-User is responsible for providing adequate descriptions and quantities for planning and procurement of business needs within his sphere of responsibility. The End-User is also responsible for quick response to any requests for clarification by or through the relevant procurement department within Group Technology and Commercial. Since the purchases are based on an End-User's request and are paid for by the End-User's cost centre or project, the End-User has the responsibility and authority to

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determine that Eskom's needs will be met before a recommendation is made to a Delegated Approval Authority or before an order /contract is placed, by providing his /her written consent to the recommendation being presented to the Delegated Approval Authority.

### 2.5.8 Procurement Manager

The Procurement Manager is responsible for ensuring that PRs that are entered in the procurement system are dealt with expeditiously, efficiently and effectively. He/she is responsible for the performance quality of the procurement function. This includes reduced turnaround times regarding resolution of PRs, consolidation of requests to achieve economies of scale and optimisation of savings opportunities where possible, ensuring training and accreditation of Procurement Practitioners, liaison with End-Users as internal customers, performance measurement against specified key performance indicators and standards, and quality assurance of the formal recommendations made to Delegated Approval Authorities.

### 2.5.9 Non-Buyers /LPO Buyers

Eskom employees who are not appointed Procurement Practitioners, i.e. non-buyers /LPO Buyers, may at the discretion of authorised delegates of Group / Divisional Executives who are Cost Centre Managers at a minimum of E-Band level, be authorised through a written letter of appointment, to serve as LPO Buyers and execute procurement of specific categories of assets, goods or services, of a low value (i.e. less than R30 000 per transaction, including VAT and all applicable taxes, or as otherwise stipulated by the Group Executive: Technology and Commercial from time to time), through the use of LPOs. The uses and constraints of using LPOs will be determined jointly by Group Technology and Commercial and Group Finance and will be set out in authorised policies, procedures, divisional and individual Delegations of Authority.

### 2.5.10 Disposal Officer

Disposal officers are, by virtue of a written appointment and any stipulated training and accreditation requirements deemed necessary by SCOPS senior management, responsible for the execution of the disposal of moveable assets and goods in accordance with this Procedure.

### 2.5.11 Eskom Agent

The Eskom Agent is the appointed Project Manager in the ECO, the Employer's Representative in the ECSC and the GSC, Employer's Agent in the PSC, the Supply Manager / Purchaser's Representative in the Supply Contract, the Services Manager in the TSC or the Engineer in terms of FIDIC. The Eskom Agent is responsible for ensuring that all stipulated contractual deliverables are received on behalf of Eskom in accordance with the terms and conditions of the relevant contract. The Eskom Agent is generally defined with associated roles and responsibilities within Eskom's standard forms of contract. An Eskom Agent must be appointed by a relevant Middle Manager for all contracts not exceeding R10m, and by a relevant Senior Manager (E-Band) or higher level of authority for all contracts exceeding R10m, within the relevant area of operations, using the appointment letter relevant to the form of contract.

### 2.5.12 Commercial Senior Manager:

A generic term for an E-Band Manager within Group Technology and Commercial, who leads the development and implementation of sourcing strategies, and manages the procurement, for a group of identified strategic commodities or transactions falling within a category of supply, within a project, or area of operations.

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**2.5.13 Contract Manager**

A Contract Manager is the Eskom Agent appointed in terms of the applicable NEC or FIDIC contract, or a person assigned by the Eskom Agent, to manage and administer the post-award phase of the procure-to-pay process. A Contract Manager must undergo the necessary training as prescribed by the Contract Management Department within the Group Technology and Commercial Business Enablement function, and be able to demonstrate the necessary prior experience of managing similar contracts of a similar magnitude prior to appointment as a Contract Manager. It is the accountability of the appointing Senior Manager (or higher), and the Eskom Agent (if not the Contract Manager), to verify that the Contract Manager being assigned is suitably trained and experienced.

**2.5.14 Cross-Functional Team**

A cross-functional team consists of a group of End-Users and other subject-matter experts pertaining to a specific commercial transaction. A cross-functional team is assigned by the Procurement Practitioner to ensure that execution of the agreed commercial strategy is commercially, technically (including SHEQ considerations), legally, and financially sound. Cross-functional teams are led and co-ordinated by the Procurement Practitioner. Cross-functional teams must, as minimum, comprise technical, financial and commercial representatives, for purposes of strategy development, tender evaluations and negotiations.

**2.5.15 Supplier Development and Localisation (SD & L)**

Supplier Development and Localisation (SD & L) as a function within Group Technology and Commercial incorporates all governmental socio-economic requirements, including, but not limited to Broad-Based Black Economic Empowerment (B-BBEE), localisation, skills development, industrialisation, and job creation under a single centralised function in order to maximise local supplier development opportunities within the supply chain, through consolidated strategies.

**2.5.16 Risk and Governance Official**

A Risk and Governance Official is an official of Eskom reporting into the human resource structure of the Senior Manager: Risk and Governance (Group Technology and Commercial) who is responsible for the management of commercial risk and governance matters relating to the Approved Procurement Framework, within an Eskom operating unit, province / region, or at Eskom's head office.

**2.5.17 Senior Manager: Risk and Governance**

The Senior Manager: Risk and Governance (Group: Technology and Commercial) is an official of Eskom appointed by the Group Executive: Technology and Commercial to manage commercial risk and governance matters relating to the Approved Procurement Framework, including matters relating to the grounds for reconsideration of supplier registration statuses.

**2.5.18 Standing Committee (Supplier Reconsideration):**

The Standing Committee (Supplier Reconsideration) means a permanent committee chaired by a nominated Senior Manager or higher, and consisting of at least four (4) members with mandatory representatives from:

- a) The Supplier Development and Localisation Department within Group Technology and Commercial;
- b) The Legal Department of the Legal and Regulatory Division;
- c) The Sustainability Division (SHEQ); and
- d) Any one or more of the sourcing departments across Group Technology and Commercial;

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Appointed and mandated by the Group Executive: Technology and Commercial to adjudicate on matters regarding the reconsideration of supplier registration statuses.

#### 2.5.19 Supplier Evaluation Manager

The Supplier Evaluation Manager is an employee of Eskom reporting into the human resource structure of the SD&L function, designated or appointed as the official responsible for managing the administration of the application and registration process for persons to become registered as suppliers on the Eskom Supplier Database, either in general or in respect of a particular application or class of applications.

#### 2.5.20 Tender Office

The Tender Office based at Eskom's Head Office (Megawatt Park) and at various other Eskom sites is responsible for the administration and co-ordination of the receipting of competitive tenders and other formal submissions requested by Eskom in response to enquiries issued. Notwithstanding this, all Eskom sites with official and authorised Tender Offices will be subject to the same procedures and processes for the issuing, receipting and administration of tenders / submissions as set out in this Procedure, and in the Tender Office Standard 240-53717264.

#### 2.5.21 Cataloguer

The cataloguer is responsible to name, describe, classify and number goods (whether stocked or non-stocked) or services in accordance to the criteria of fit, form and function, which is captured in the material master module of SAP.

#### 2.5.22 Materials Management Manager

A Materials Management Manager directs, coordinates and plans the warehouse storage and further distribution of procured assets, goods and materials at Eskom sites under his / her area of management.

#### 2.5.23 Supply Chain Planning Manager

The Supply Chain Planning Manager is responsible for managing, consolidating and analysing the total supply and demand needs of the business as per approved rolling plans, and organises the timely availability of the required goods and materials for the maintenance of Eskom sites within his / her area of management.

#### 2.5.24 Tactical Sourcing Department

The Tactical Sourcing Department will purchase assets, goods or services where the requirement generally cannot be consolidated with other identical requirements procured by other Groups / Divisions within Eskom. It is generally applied when requirements do not have significant long term demand, requirements are non-complex and have low savings opportunities, or where consolidation opportunities are limited. Should there be a need for procurement in support of a project to be implemented by an End-User, and the value thereof is less than R300m, then the relevant team within the Tactical Sourcing Department will be responsible to execute the transaction with support from the Project Sourcing Department.

#### 2.5.25 Commodity Sourcing Department

The Commodity Sourcing Department executes purchases where multiple End-Users across Eskom Divisions or within a Division have requirements identified as critical (high complexity / risk with low impact / cost), strategic (high complexity risk with high impact / cost) or leveraged (low complexity / risk

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with high impact / cost), and where the requirements can be consolidated and procured via enabling / framework agreements, in order to achieve standardisation and realise significant savings opportunities.

### 2.5.26 Project Sourcing Department

The mandate of the Project Sourcing Department is the effective sourcing and contracting of capital assets, goods, services and projects for Group Capital, execution of project procurement across Eskom for all projects greater than R300m, support and advice on project procurement for projects less than R300m, management of all procurement funded by Development Funding Institutions (DFI) including the World Bank, African Development Bank etc., and procurement and commercial support in electricity retail transactions from IPP's (local and cross border PPA's) including energy savings initiatives (required by IDM).

## 2.6 Processes for Monitoring

Group Technology and Commercial has defined processes in place to ensure that commercial transactions in Eskom are controlled, monitored and executed in accordance with applicable legislation. These processes for monitoring can be classified into the following categories:

### 2.6.1 PFMA

Eskom is required by law, in terms of the PFMA, to have "an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective".

The PFMA requires that Eskom is represented by accountable persons at every level, who must "prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity" and "manage available working capital efficiently and economically".

In terms of the PFMA, one commits an act of financial misconduct if one:

- Makes or permits an irregular expenditure or a fruitless and wasteful expenditure; or
- Wilfully or negligently fails to exercise [delegated] power or perform [delegated] duty.

The PFMA also requires that Eskom's accounting authority (being the Board of Directors) takes effective and appropriate disciplinary steps against any employee who:

- Contravenes or fails to comply with the provisions of the PFMA;
- Commits an act which undermines the financial management and internal control system of the public entity; or
- Makes or permits an irregular expenditure and / or a fruitless and wasteful expenditure.

Employees within Eskom, who become aware of a breach or a failure to comply with any aspect of the PFMA with respect to procurement and supply chain management activities, or with the Approved Procurement Framework, on the part of another employee, are required to immediately report such breach or failure in writing to the Senior Manager: Risk and Governance within Group Technology and Commercial to initiate further investigation.

### 2.6.2 Ministerial Reporting in Terms of the PFMA

Section 54(2) of the PFMA requires that before a public entity such as Eskom concludes any of the following transactions, the Board of Directors, must promptly and in writing inform the relevant treasury of the transaction and submit relevant particulars of the transaction to its shareholder, being the Minister, for approval of the transaction:

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- (a) Establishment or participation in the establishment of a company;
- (b) Participation in a significant partnership, trust, unincorporated joint venture or similar arrangement;
- (c) Acquisition or disposal of a significant shareholding in a company;
- (d) Acquisition or disposal of a significant asset;
- (e) Commencement or cessation of a significant business activity; and
- (f) A significant change in the nature or extent of its interest in a significant partnership, trust, unincorporated joint venture or similar arrangement.

For the purposes of sections 54(2) and 55(2)(b), "significant" and "material" are not defined in the PFMA. Treasury Regulation 28.3.1 provides for the Board to develop and agree a framework of acceptable levels of "significance" and "materiality" with the Minister ("Significant Transactions"). This framework is referred to as the Significance and Materiality Framework (SMF).

The purpose of section 54 of the PFMA is to enable the Minister as shareholder to exercise effective oversight over those affairs of the public entity that have a significant impact not only on its business but also on the economy in the context of an appropriate and clear model of governance.

To the extent that clarity is required as to whether a transaction requires ministerial approval in terms of the PFMA, the Procurement Practitioner is required to contact the PFMA Office within the Legal and Regulatory Division for guidance in terms of the aforementioned SMF.

### 2.6.3 Ethics

All Procurement Practitioners are obliged to attend training on the Conflict of Interest Policy (32-173), and the Eskom Code of Ethics (Standard 32-527), in order to ensure that all commercial activities are conducted in a manner that gives priority to ethical practices.

Managers within Group Technology and Commercial must review all declarations of conflicts of interests made by their employees, and ensure that appropriate measures are put into place to eliminate any perceived, potential or actual conflicts of interest within the procurement and supply chain environment.

A formal declaration of interest must be signed by all members of evaluation and negotiation teams prior to the commencement of formal competitive tender evaluations and formal mandated negotiations (being all transactions greater than R1 million). It is the responsibility of the Procurement Practitioner to ensure that such declarations of interests are completed and filed for audit purposes.

Suppliers will be required to comply with the Eskom Code of Ethics as set out within the Purchasing Pact with Suppliers, as well as in terms of Eskom's standard conditions of contract regarding ethical practices. Suppliers will be required to complete a formal declaration of interests (on a Declaration of Interests Form) as a condition of registration and as a standard tender returnable when participating in formal tendering processes, or as a mandatory pre-requisite to formal mandated negotiations with no prior tendering (mandates greater than R1 million).

All Eskom employees are also required to complete a Declaration of Interest e-form annually. All completed e-forms are available from the Ethics Department within the Legal and Regulatory Division.

Failure to comply with the obligations set out in Eskom's Conflict of Interests Policy and the Eskom Code of Ethics will constitute misconduct in terms of Eskom's Disciplinary Code (32-196).

The Risk and Governance Department within Group Technology and Commercial will set up and manage internal systems to determine the relationships between Eskom employees and suppliers with whom Eskom intends to contract with. This system includes probes into shareholding and directorships of suppliers, as well as probes into private work conducted by Eskom employees, and specifically Procurement Practitioners. It must be noted that all Eskom employees require specific managerial

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consent in writing to engage in any private work, and that such private work cannot be related to any business conducted within Eskom.

#### 2.6.4 Safe Practices

Eskom has a zero tolerance approach to unsafe practices, and this zero tolerance approach is required to be expressed within commercial transactions as conditions to register as a supplier with Eskom, criteria for evaluation of tenders, conditions of contract award, and conditions of contract.

Compliance to SHE requirements as contained within the contracts with Suppliers is mandatory in terms of the law.

Suppliers will be required to comply with the Eskom Lifesaving Rules as set out within the Purchasing Pact with Suppliers. Suppliers failing to comply with SHE requirements may be subject to a process of reconsideration of their registration statuses with Eskom, dependent on the severity of the non-compliance.

Failure of Eskom employees executing commercial transactions to comply with the obligations set out in the Eskom Lifesaving Rules will constitute misconduct in terms of Eskom's Disciplinary Code.

#### 2.6.5 Budget / Investment Approval

For all procurement of assets, goods and services through various procurement methods and sourcing mechanisms the necessary budgetary / investment approvals must first be obtained, which is the responsibility of the End-User.

Investment approval refers to the approval of funds within the financial planning process, to be utilised for a specific financial commitment that Eskom intends to enter into, whereas the term "ERA" refers to one of five stage gates in the Project Life Cycle Model (PLCM), and which is also used in broad terms for the investment decision sought from the relevant Investment Committee to enter into the execution phase of a project. Notwithstanding the distinction in terminology, procurement to enable the execution and delivery of a project may not commence unless investment/ERA approval has been obtained for the project.

It should be noted that funds required to develop prototypes, samples, concepts, specifications, scopes, or to procure long-lead time items (being those components of a system or piece of equipment for which the times to design and fabricate are the longest, and for which an early commitment of funds may be necessary in order to meet the earliest possible date of system completion) before the ERA phase of a project (i.e. during CRA or DRA phases), will require the relevant budgetary / investment approval, prior to any formal competitive procurement being conducted. Funding for such procurement must form part of the CRA or DRA approval and will require motivation to the relevant governance committees, which approval must be recorded as a formal resolution in writing. Accuracy of scope will be a further pre-requisite in order to proceed with procurement in these instances.

Business Evaluation and Analytical Services Team (BEAST) from Finance Project Services may be contacted for advice as to when submissions are to be prepared for submission to the Investment Committees.

#### 2.6.6 Promotion of Access to Information Act 02 of 2000 (PAIA)

PAIA provides the means to exercise the public's right to have access to any information held by the state. This includes information relating to tendering processes.

Certain processes need to be followed and statutory requirements have to be met.

A PAIA request must be made on a statutory request from "Form A" to constitute a PAIA request. Anybody receiving such a request must notify the PAIA office.

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All requests for information in terms of PAIA must be referred to Eskom's PAIA office based at the Eskom Academy of Learning in Midrand (telephone 011-6552130, facsimile on 0866679952, or e-mail [PAIA@eskom.co.za](mailto:PAIA@eskom.co.za)).

Further information on the handling of a PAIA request can be found on the following internet link:

[http://www.eskom.co.za/OurCompany/PAIA/Pages/Promotion\\_Of\\_Access\\_To\\_Information.aspx](http://www.eskom.co.za/OurCompany/PAIA/Pages/Promotion_Of_Access_To_Information.aspx)

## 2.6.7 Condonation of Irregular Procurement

Whenever any Eskom employee procures assets, goods or services by any means without adherence to the Approved Procurement Framework, the condonation process must be followed in order to give effect to the irregular procurement and enable payment to the supplier.

The irregular procurement must be dealt with as follows, involving 3 separate but simultaneous steps:

- The disciplinary / remedial process where the employee who committed an act of financial misconduct, may be disciplined according to the approved HR/IR policies and procedures. This is in compliance with the PFMA requirement for the effecting of disciplinary action if irregularities have occurred within the execution of procurement;
- The internal governance process due to a deviation from the Approved Procurement Framework: All condonations must be logged by the PTC Secretariat with the (Risk and Governance) Trends Analysis and Commercial Risk Control Departments within Group Technology and Commercial where a risk assessment must be conducted in consultation with the line management of the defaulting employee in order to determine the risks faced by Eskom as a result of the procurement irregularity and any specific actions that need to be taken in order to rectify or prevent the irregularity from re-occurring. The R&G Department will follow up with the relevant line managers on the status of the corrective / preventative / disciplinary processes to be taken within the agreed time frames, and will report thereon via the Senior Manager: Risk and Governance to the Group Commercial Management Committee, the PFMA office, and Group and Divisional Executives.
- The payment process to the supplier: The relevant PTC is required to approve the payment to the supplier against a valid invoice, and to the extent that Eskom has a valid contractual obligation to pay for the assets, goods or services delivered. Unless otherwise advised by the Eskom Legal Department, a PTC is not permitted to unduly delay or withhold payment due to a supplier, based on internal governance issues.

The execution of the 3 steps must take place as follows:

- Once an employee's line manager becomes aware of a possible condonation, he/she must investigate the procurement and based on the outcome of the investigation, determines whether corrective or disciplinary action must be taken against the employee. The line manager must be assisted by IR/HR in executing the disciplinary action, and this process is independent from the process of authorising payment to the supplier, which is a commercial transaction authorised by a PTC.
- In order to seek condonation from a PTC to enable payment to the supplier, the defaulting employee and his/her line manager must present the facts regarding the irregular procurement together with valid invoices to the appropriate PTC on a Commercial Transaction Approval Form. This is the responsibility of the line manager and the defaulting employee, and not the responsibility of the local procurement department. The procurement function is not responsible for the processing of condonations to the PTCs.
- If the irregular procurement occurred against an approved existing contract, but in a manner which was irregular, the request for condonation must be made to the PTC that approved the original contract/order (subject to its delegation of authority, which if exceeded by the cumulative value of

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the contract value and condonation value, must then be tabled at the next higher level of delegation). If the original order / contract had been approved through dual or triple adjudication, then the condonation must still be sought from a relevant PTC with an appropriate level of delegation of authority. If the procurement occurs in the absence of an approved contract/order, then the value and duration of the executed supply determines which PTC to approach.

- The PTC applies its mind to the request for condonation of the irregular procurement, including addressing matters such as whether the amount payable is contract or market-related, the impact as a result of foreign currency (if any) and/or whether interest may be payable, etc., and based on this, may condone the irregular procurement as a commercial transaction and authorise payment to be made to the supplier.
- When condonation of the irregular procurement has been granted, the line manager (or his/her authorised nominee) must create a PR in the SAP system which must be routed via the Cost Centre Manager to the relevant procurement department in order to facilitate creation of a purchase order and to enable payment to be made to the supplier.
- The line manager concerned (or his /her authorised nominee) arranges for payment to be effected by sending the minutes of the PTC, a copy of the invoice and the PR number to the assigned Procurement Practitioner who will create a purchase order for payment purposes.
- The authorisation of payment as condonation for an irregular procurement is reported by the co-ordinating official/Secretariat of the PTC committee to the Risk and Governance Department for PFMA reporting and monitoring purposes. The Secretariat of the PTC will update the relevant internal monitoring data repository with the relevant details of the condonation approved.
- Risk and Governance Department will monitor the progress of the disciplinary / corrective actions taken by the line manager, within a stipulated and agreed time frame.
- All condonations will be reported by the Senior Manager: Risk and Governance on a regular basis to the Group Commercial MANCO, the EXCO, and / or relevant sub-committees thereof.

#### 2.6.8 Risk Assessments

It is mandatory for the assigned cross-functional team to conduct mandatory risk assessments at various stages of the commercial process, such as strategy development, contract selection, and contract negotiations, and during contract management. Evidence of risk assessments taking into account factors such as pricing risks, scope-related technical risks, time-related risks, human resource risks, supplier and market risks, as a minimum, must be identified and stipulated within the approved strategy, with associated risk mitigation plans and mechanisms. Identified risks can only be effectively mitigated during procurement and contract execution, through the early identification of risks.

Requests for contingency funds and time, as well as the selection of the appropriate suite of contracts, and conditions of contract must also be based on the aforementioned formalised risk assessment.

#### 2.6.9 Use of Non-Disclosure Agreements (NDAs)

Eskom uses NDA's to control confidentiality during execution of the procurement process. This is necessary to safeguard Eskom's information, and to avoid breaches in confidentiality that may impact on future competitive tenders as well as have an impact on the selection of suppliers for contract award.

NDAs are to be completed by every Eskom representative, including fixed term employees, third party contractors and external consultants involved in the execution of significant commercial transactions on behalf of Eskom, (being any commercial transaction greater than R100m). It may be completed on a discretionary basis for transactions below R100m, depending on the risks relating to confidentiality. It is

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the responsibility of the Procurement Practitioner to appropriately manage all NDAs relating to the transaction that he /she is executing.

The NDA needs to be completed irrespective of the phase of the procurement process the Eskom representative will participate in (e.g. developing strategy, developing the enquiry, etc.). NDA's must be approved by a Commercial Senior Manager on the standard prescribed NDA, and saved onto the electronic Documentation Management System by the Procurement Practitioner.

It is the responsibility of the Procurement Practitioner to ensure that all NDAs are completed in full with all required information and appropriately recorded, filed and stored for audit trail purposes.

Once a NDA has been completed and approved for an Eskom representative for a specific commercial transaction, the hard copies may be stored off-site after electronic scanned copies are saved onto the centralised Group Technology and Commercial Documentation Management System under a general file for NDA's. All NDA's (for Eskom representatives and suppliers) must be saved in a centralized location, using the project, or commodity as the unique identifier.

NDA's for suppliers must be completed and signed once an order / contract (greater than R100m) has been awarded to the supplier. The Procurement Practitioner must store the NDA's on the Group Technology and Commercial centralised Documentation Management System under the project or commodity name and may send the hard copies to be stored off-site.

#### 2.6.10 Proactive Auditing of Commercial Transactions

Internal Audit (within Assurance and Forensics) is required to proactively audit and provide assurance regarding the manner of executing procurement/disposal processes for all commercial transactions greater than R300m. The use of independent external auditors will be at the discretion of Internal Audit, taking into account factors such as independence, transaction sensitivities and issues such as conflicts of interest. For transactions less than R300m, Internal Audit may be required to audit a transaction at the request of a Risk and Governance Official, or on a sample basis.

In all instances, a formal report detailing the audit methodology, findings, risks and recommended corrective actions must be submitted to Group Technology and Commercial via the Risk and Governance Department, duly signed and authorised by authorised Internal Auditors, in order to inform decision-making by a Delegated Approval Authority.

#### 2.7 RELATED/SUPPORTING DOCUMENTS

This procedure replaces and supersedes all previous Practice Notes and Briefing Notes issued by the Risk and Governance Department.

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### 3. Eskom Procurement and Supply Chain Management Procedure (Detailing Processes from End-User Need (PR) to Disposals)

#### 3.1 Delegation of Authority to Authorise Commercial Transactions

##### 3.1.1 General Principles of Delegation of Authority

The Eskom Delegation of Authority Policy forms part of the Approved Procurement Framework and is published by the Legal and Regulatory Division from time to time, upon the approval by the Eskom Board of Directors.

The core principle is that individual employees may be permitted by a written delegation of authority to bind Eskom into contracts of purchase / sale regarding assets, goods or services, either acting in a dual, triple or as part of a tender committee. Furthermore, delegations of authority for the procurement / disposal of assets, goods or services, must be exercised with the recommendation and approval of another delegated and Accredited Procurement Practitioner as part of a dual or triple adjudication system of approval, or with approval from a delegated PTC. The only exception to this principle will relate specifically to the use and approval of LPOs (as set out in 3.1.2 hereunder).

It is the responsibility of the Commercial Senior Manager to ensure that all Procurement Practitioners under his / her management undergo training and accreditation in order to give meaningful effect to participating within the systems of dual and triple adjudication, thereby reducing commercial transaction approval lead times. Where Procurement Practitioners are still awaiting accreditation (to be obtained within a stipulated time as arranged with their respective Procurement Managers), such Procurement Practitioners may only recommend a transaction for approval, and not authorise a transaction.

Sole adjudication (sole signature) authorities are no longer permitted, except in the case of LPO approvals granted by Cost Centre Managers, which are processed and authorised via workflow on SAP.

Commercial transactions are not permitted to be split into smaller values in order to circumvent or target certain levels of delegation, merely for convenience or undue preference, and the Risk and Governance Department will conduct ongoing monitoring of commercial transactions in order to assess for trends of splitting of transactions.

Based on the outcome of the PIE training and accreditation programmes managed by the Risk and Governance Department within Group Technology and Commercial, a pool of Accredited Procurement Practitioners eligible for the receipt of dual and triple adjudication will be notified to each General Manager: Commercial, within Group Technology and Commercial.

Allocation of dual and triple adjudication authorities to Accredited Procurement Practitioners across sites and categories of supply must be managed by each General Manager: Commercial within Group Technology and Commercial, in consultation with the relevant officials of the Policy and Compliance Department (within Risk and Governance), who will co-ordinate the issuing of letters approving the relevant delegations of authority to Accredited Procurement Practitioners from the office of the Group Executive: Technology and Commercial. Dual and triple adjudications of authority can only be approved by the Group Executive: Technology and Commercial, or the Divisional Executive: Primary Energy Division (specifically to Accredited Procurement Practitioners operating within Primary Energy Division).

Senior (E-Band level) Managers from other Groups or Divisions within Eskom, but external to Group Commercial are also entitled to participate in the PIE training and accreditation programme, or may alternatively be accredited against an online Delegation of Authority (DoA) assessment. Such non-Commercial E-Band Managers who pass the required assessment may be conferred with triple adjudication authority (up to R5m and for a maximum contract duration of 2 years), which will be conferred by the Group Executive: Technology and Commercial, with co-approval from the relevant Group / Divisional Executive to whom such non-Commercial E-Band manager reports.

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### 3.1.2 Local Purchase Orders

Eskom employees who are not Procurement Practitioners, may be identified by End-Users or Procurement Managers, and appointed to execute the procurement of assets, goods or services less than R30 000 including VAT and any other applicable taxes, via a Local Purchase Order (LPO).

This authority to execute procurement as a LPO-buyer must be conferred in writing by the relevant E-band Cost Centre Manager, and accepted in writing by the LPO-buyer. The E-band Cost Centre Manager may stipulate certain limitations on the authority of the LPO-buyer, if so required, and such appointment may further be subject to the receipt of appropriate training. It must be noted that the LPO-buyer is the executor of the procurement, and is distinct from the Cost Centre Manager who authorises the procurement in terms of cost centre and financial delegations of authority, as conferred within Group and Divisional DoAs.

All LPO appointments must be notified to the local Risk and Governance office for purposes of verification and monitoring of LPO transactions.

### 3.1.3 Dual Adjudication

Dual adjudication applies to commercial transactions not exceeding R1m in value (excluding VAT) and not exceeding 1 year in contract duration. This constitutes a total approval value including contingency, travel and subsistence allowances, and any other allowances (such as provisional sums).

If a Procurement Practitioner is not yet accredited, then such a Procurement Practitioner may still recommend the approval of a commercial transaction to an Accredited Procurement Practitioner for approval. This is however a transitional arrangement, as it is an approved internal requirement that all Procurement Practitioners are required to become Accredited Procurement Practitioners in order to enhance the effectiveness of the procurement system, and in order to expand the pool of available Delegated Approval Authorities in order to ensure speedier approvals of commercial transactions and reduced procurement lead times.

The objective of a dual adjudication system is to enable one Accredited Procurement Practitioner (no TASK grading limitation) to execute the commercial transaction and to make recommendations on the approval of the transaction, while another Accredited Procurement Practitioner (minimum TASK grading of G14 or higher) that is independent of the execution of the transaction, is required to approve /authorise the transaction, in order to ensure segregation of duties, and objectiveness in decision-making.

Within a system of dual adjudication only an Accredited Procurement Practitioner of TASK grading G14 or higher may authorise /approve a commercial transaction.

It is mandatory for all Procurement Practitioners involved in the execution and approval of transactions within dual adjudication to be trained and accredited. This accreditation is valid for a maximum of period of two (2) years at a time after which delegates must undergo and pass another assessment / accreditation in order to retain his / her dual adjudication authority. An Accredited Procurement Practitioner cannot, under any circumstances, authorise commercial transactions beyond the expiry date of the validity of his / her delegated authority, and the process of re-accreditation should commence at least 3 months before delegation expiry.

Dual adjudication authority is limited to the following approvals:

- Contracts / order awards for procurement / disposal of assets, goods or services based on a tender process, with an order / contract value not exceeding R1m in value (excluding VAT) and not exceeding a contract duration of 1 year;
- Mandates to negotiate for contract/order award for procurement / disposal of assets, goods or services, not exceeding R1m in value (excluding VAT) and not exceeding contract duration of 1

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year. This includes mandates to negotiate with sole sources, but excluding appointments of strategic and management consultants who can only be appointed by a PTC, irrespective of contract /order value;

- Strategies from R10m onwards, but not exceeding R50m (excluding VAT), limited to a contract period of 5 years;
- Contracts / orders with professional (but NOT strategic or management) consultants (e.g. engineering, legal, audit and the like) not exceeding R1m in value (excluding VAT) and not exceeding a contract duration of 1 year, which are not within the scope of divisional / national framework agreements, subject to approval of the motivation by the Internal Consulting Department within Group Finance;
- Contracts /orders with Internal Suppliers not exceeding R1m in value (excluding VAT) and not exceeding a contract duration of 1 year;
- Modifications which cause the contract value and duration to still fall within the delegation of a dual adjudicator, but which cannot exceed 20% of the originally approved contract value or contract duration (in which case approval must be obtained from a PTC); and
- Transactions that constitute low value purchases less than R30 000 (including VAT and all applicable taxes), which cannot be processed via an LPO, and where, for example, forex or CPA may be applicable.

Approval requests for a mandate to negotiate with a sole source must be accompanied by a completed Sole Source Justification Form.

It must be noted that condonations and ratifications cannot be granted within dual adjudication.

The authorising Accredited Procurement Practitioner may request information not contained in the Commercial Transaction Approval Form, and may at his/her discretion, call for the original documents for verification of certain aspects of the transaction.

If a difference of opinion should arise between the authorising Accredited Procurement Practitioner and the recommending Accredited Procurement Practitioner, then the submission must be referred to another Accredited Procurement Practitioner to reconsider the matter and resolve the difference of opinion. Only where the second Accredited Procurement Practitioner cannot resolve the matter and grant approval of the transaction, must the transaction then be referred to the next higher level of delegation, being triple adjudication. The referral to triple adjudication must be recorded on the Commercial Transaction Approval Form for reference purposes. Notwithstanding this, it will not be permissible for any authorising Accredited Procurement Practitioners to make such referrals to other Accredited Procurement Practitioners on a regular basis, as each Accredited Procurement Practitioner must take accountability for approvals granted in order to ensure speed and efficiency in procurement lead times. The aforementioned mechanism of further referral is an exception and not the norm.

Note: All dual adjudication approvals must be reported on the prescribed reporting templates, on a monthly basis, by all Procurement Practitioners, to their respective Procurement Managers, who in turn are accountable for the consolidated reporting of transactions to the first tier of delegated PTC within the relevant BU / site, for compliance monitoring and audit purposes.

### 3.1.4 Triple Adjudication

Triple adjudication applies to the approval of commercial transactions not exceeding R5m (excluding VAT), and not exceeding a contract duration of 2 years. This constitutes a total approval value including contingency, travel and subsistence allowances, and any other allowances (such as provisional sums).

Triple adjudication is a 3-tiered process involving three participants, namely an Accredited Procurement Practitioner who executes the procurement /disposal and recommends the approval of the transaction,

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another independent (from execution) Accredited Procurement Practitioner (TASK level G14 and above) who signifies support to proceed with the approval, and an accredited Commercial Senior Manager or non-Commercial E-Band Manager who authorises /approves the transaction.

It is required that all parties participating in the triple adjudication system must have successfully completed the required training and accreditation programme, and to the extent that non-accredited Procurement Practitioners may be participating in a triple adjudication system, their participation will be limited only to executing transactions and making recommendations, and will not be permitted to support or authorise a commercial transaction while still unaccredited, as it is a requirement that all Procurement Practitioners become accredited within time frames agreed to with their respective Procurement Managers.

This accreditation is valid for a maximum period of two (2) years at a time after which delegates must undergo and pass another assessment / accreditation in order to retain his / her triple adjudication authority. An Accredited Procurement Practitioner cannot, under any circumstances, authorise commercial transactions beyond the expiry date of the validity of his / her delegated authority, and the process of re-accreditation should commence at least 3 months before delegation expiry.

Triple adjudication authority is limited to the following approvals:

- Contract / order awards for the procurement / disposal of assets, goods or services based on a tender process, with an order / contract value not exceeding R5m in value (excluding VAT) and not exceeding a contract duration of 2 years;
- Mandates to negotiate for contract / order award for procurement / disposal of assets, goods or services not exceeding R5m in value (excluding VAT) and not exceeding contract duration of 2 years. This includes mandates to negotiate with sole sources, but excludes appointments of strategic and management consultants who can only be appointed by a PTC;
- Strategies from R50m but not exceeding R300m (excluding VAT), limited to a contract period of 10 years;
- Contracts / orders with professional (but NOT strategic or management) consultants (e.g. engineering, legal, audit, and the like) not exceeding R5m in value (excluding VAT) and not exceeding a contract duration of 2 years, which are not within the scope of divisional / national framework agreements, subject to approval of the motivation by the Internal Consulting Department within Group Finance;
- Contracts /orders with Internal Suppliers not exceeding R5m in value (excluding VAT) and not exceeding a contract duration of 2 years;
- Modifications which cause the contract value and duration to still fall within the delegation of a triple adjudicator, but which cannot exceed 20% of the originally approved contract value or contract duration (in which case approval must be sought from a PTC); and
- Transactions that constitute low value purchases not exceeding R30 000 (including VAT and all applicable taxes), which cannot be processed via an LPO, and where, for example, forex or CPA may be applicable.

Approval requests for a mandate to negotiate with a sole source must be accompanied by a completed Sole Source Justification Form.

It must be noted that condonations and ratifications cannot be granted within triple adjudication.

The authorising Accredited E-Band Manager may request information not contained in the Commercial Transaction Approval Form, and may at his/her discretion, call for the original documents for verification of certain aspects of the transaction.

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If a difference of opinion should arise between the authorising Accredited E-Band Manager and the recommending and / or supporting Accredited Procurement Practitioners, then the submission must be referred to another Accredited E-Band Manager to reconsider the matter and resolve the difference of opinion. Only where the second Accredited E-Band Manager cannot resolve the matter and grant approval of the transaction, must the transaction then be referred to the next higher level of delegation, being a PTC. The referral to a PTC must be recorded on the Commercial Transaction Approval Form for reference purposes. It is not permissible for Procurement Practitioners to approach other Accredited E-Band Managers in such a situation to seek approval of the same submission where the second Accredited E-Band Manager is not in a position to grant approval. Notwithstanding this, it will not be permissible for any authorising Accredited E-Band Manager to make such referrals to other Accredited E-Band Managers or to PTCs on a regular basis, as each Accredited E-Band Manager must take accountability for approvals granted in order to ensure speed and efficiency in procurement lead times. The aforementioned mechanism of further referral is an exception and not the norm.

Note: All triple adjudication approvals must be reported on the prescribed reporting templates, on a monthly basis, by all authorising E-Band Managers, to the local Procurement Managers within their area of operations, who in turn are accountable for consolidated reporting of the transactions to the first tier of delegated PTC within the relevant BU / site, for compliance monitoring and audit purposes.

### 3.1.5 Tender Committees (PTCs)

Where the value and / or duration of a procurement / disposal exceeds the delegations of dual and triple adjudication, the procurement / disposal must be approved by a delegated tender committee. In all instances, a tender committee must comprise employees of Eskom, as defined in the latest revision of Eskom's HR policies.

The reference to PTCs within this Procedure excludes reference to the EXCOPS and BTC which are governed by different Terms of References due to the difference in constitution of members, and based on specific (additional) governance requirements relating to the fiduciary duties of the Board and other prescribed officers in terms of the Companies Act.

The delegation of authority granted to the tender committee is over and above, and distinct from budgetary approval which is obtained as part of the financial planning process, approval by a CIC, other delegated investment committees or the like, as well as authorisation of the purchase request (PR) by the Cost Centre Manager which provides the Procurement Practitioner with an instruction to initiate a commercial process.

The delegation conferred to PTCs includes the specific approvals of condonations, ratifications, and appointments of strategic and management consultants, all of which cannot be authorised within dual / triple adjudication, irrespective of value.

The Eskom Board delegates such authority to specific tender committees as set out in Appendix A hereto.

The delegations for head office PTCs have been specifically delegated by the Board, and are authorised by the Group Executive: Technology and Commercial.

With respect to site-based PTCs, the FD or relevant GE / DE will give effect to the stipulated Delegations of Authority, by making nominations for the appointments of Chairpersons and members to the various site-based tender committees in consultation with the Group Executive: Technology and Commercial, and the Risk and Governance Department within Group Technology and Commercial. The FD or relevant GE/DE authorises the appointment of the members, Chairman and Alternate Chairman in writing. The duties and responsibilities of the Chairman and individual members are set out in writing within letters of appointment and the Terms of Reference, in consultation with the Regional Delivery Manager (within Risk and Governance). The members consent to their participation by signing letters of

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appointment conferred by the appointed Chairman, together with the Terms of Reference. The same process is followed when changes to tender committee membership become necessary.

The Chairman's appointment applies until withdrawn by the Group Executive: Technology and Commercial (for head office PTCs) or the FD or relevant GE/DE in consultation with the GE: Technology and Commercial for site-based PTCs.

The appointment of the Chairman is not position-bound but is personal to a specific holder. If this delegate should leave the BU, department, Division or Eskom's service, the delegation of authority may no longer apply, and may, in certain instances, automatically fall away. In this event, another person will be delegated the necessary authority as Chairman.

The Chairman must be assisted by a minimum of 3 (three) other functionaries to form a quorum, who must constitute commercial / procurement, financial and technical representation, and who are appointed in writing as members of the specific tender committee. There may be more than one commercial, financial and technical member appointed to the PTC, to ensure enough members are available to form a quorum at any given time that a meeting may be convened. This is a minimum quorum requirement, and any other functionary (e.g. Legal) may also constitute a quorum requirement if so specifically required by the PTC, and specifically indicated by the Terms of Reference (TOR). The Secretariat of the PTC must be notified upfront by the Regional Delivery Manager (Risk and Governance) at the time of appointment, of the specific role that members are intended to serve on the PTC for purposes of establishing the quorum for the purposes of each meeting.

The number of members of a tender committee is not limited, but the quorum to constitute each meeting is at least 4 (four) members including the Chairman. The Chairman is required to be independent with respect to the transactions being adjudicated at the PTC. It is required as far as reasonably possible that the majority of members are independent of the Chairman and do not have direct line management reporting relationships with him / her, with a maximum of three direct reporting relationships being permissible, where this may be unavoidable (e.g. at site-based PTCs).

Every tender committee must have an identified Alternate Chairman, and is entitled to appoint more than one Alternate Chairmen. Alternate Chairmen must be appointed in the same way as the appointment of the Chairman.

The members of the tender committee are appointed to serve for a period not exceeding 2 (two) years. The letter of appointment states the name, position, role of the individual and the date of appointment to the tender committee. The signed letter of appointment is retained on file by the assigned Secretariat of the tender committee for purposes of compliance monitoring and control. Members may be re-appointed to the tender committee in the same manner.

Other officers attending *ex officio* (e.g. co-ordinating and other officials) to assist the tender committee are appointed in the same manner as members, but do not participate in voting and decision making, and may serve only in an advisory capacity.

The Secretariat managing and co-ordinating the PTC must be a Risk and Governance official, in order to ensure independence, provide advice consistent with the Approved Procurement Framework, and to ensure the necessary controls in terms of submission data for purposes of trend analysis.

The tender committee is responsible for:

- Meeting regularly, as scheduled. PTC meetings must get preference over any other meeting that a member may have, especially for purposes of establishing a quorum. Meetings are to be held regularly and cancellation of meetings must be kept to the minimum to ensure that the PTC is not causing delays to operational requirements;
- Chairman, members and officials applying their minds to the matters that will be considered, with advance preparation; and

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- Ensuring that the entire commercial process is within the parameters of the Approved Procurement Framework.

The PTC ensures that approval of commercial transactions is carried out within the parameters of Eskom's Approved Procurement Framework. Decisions are taken at an official sit-down meeting, but submissions / reports may, in exceptional circumstances, with the prior written consent of the Chairman and in accordance with the TOR, be submitted to all members in person or electronically, for consideration, as a round robin without meeting. A round robin needs to be approved by the Chairman/Alternative Chairman plus a majority of tender committee members, who are immediately available in office, as determined by the Secretariat of the PTC. Notwithstanding this, a round robin approval cannot proceed if there are less than 3 available members. Round robin approvals may be co-ordinated electronically via e-mail, and can only be co-ordinated by the Secretariat of the PTC. A decision taken during a round robin must be ratified at the next sitting of the PTC.

The tender committee examines the recommendation and, considering all factors that may influence the procurement / disposal, decides whether Eskom will enter into a contractual commitment with the recommended supplier/s. The Chairman or members may request information not contained in the submission / report, and may at their discretion, call for the original documents for verification of certain aspects of the transaction.

If a difference of opinion should arise between the Chairman and the majority of members, then the submission must be referred to the next (higher) level of PTC for approval.

Any conflicts of interests as defined in the Conflict of Interest Policy, which members or the Chairman may have with respect to a particular transaction being adjudicated must be declared upfront. An interest includes both a personal interest and / or a direct line management interest in a particular submission. Where a Chairman / member has declared a personal or direct line management interest in a particular submission and/or is a signatory to the Commercial Transaction Approval Form, then such a Chairman / member must recuse himself / herself from participating in the voting and decision-making regarding that transaction. In the case of a direct line management interest, the member may present the recommendation to the PTC as part of the presentation team making the recommendation, but will not have decision-making powers regarding the approval of the recommendation.

The final decision and responsibility in respect of the award of contracts/orders lies, however, with the Chairman, supported by a majority of members present in committee. It is essential that all actions and decisions taken by the Chairman as supported by a majority of the members present are fully recorded and documented, as the decision taken is subject to audit, and may serve as evidence in legal proceedings. In order to facilitate the process, the Chairman signifies approval of a transaction by recording all decisions as minutes via the assigned Secretariat, which must be confirmed by the members, finalised by the Secretariat and approved and signed-off by the Chairman at the next sitting of the PTC.

The Secretariat is required to distribute the final signed minutes to the relevant Procurement Managers for purposes of records/audit trail and execution alignment.

The Secretariat of the PTC ensures that all records pertaining to the requests and approval of transactions are filed and stored electronically on the centralised Group Technology and Commercial Document Control System. Hard copies of minutes must be filed within minute books and may, with other records, be stored off-site for a period of 5 years, as prescribed by the Eskom Document Retention Policy.

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### 3.1.6 EXCO Dual and Triple Adjudication and Specific Procurement Delegations for EXCO Members

The intent of the EXCO dual and triple adjudication systems is to facilitate emergency / urgent procurement where requirements are unforeseeable and appropriate planning was not possible, or due to a relevant PTC not being able to convene a meeting immediately.

The use of the EXCO dual and triple adjudication authorities must be applied in exceptional circumstances only, and not with the objective of by-passing generally available PTC structures.

It will be the responsibility of the General Manager, Commercial recommending the transaction for approval, to report every transaction approved via EXCO dual and triple adjudication to the EXCOPS for noting, monitoring and tracking.

### 3.1.7 Approval of Strategies

The purpose of a commercial strategy is to identify the most appropriate sourcing / disposal mechanism to follow given the specific circumstances of the transaction and to alleviate risks for Eskom. Strategies need to be developed and approved prior to execution of the procurement / disposal process.

Strategies are not required for commercial transactions up to R1m (excluding VAT).

Strategies formally approved by a Delegated Approval Authority are not required for procurement greater than R1m and not exceeding R10m, with a contract duration not exceeding 3 years, but must still be developed and approved by the line manager of the Procurement Practitioner executing the transaction.

All formally approved strategies developed for transactions between R10m and R300m must be approved by a Delegated Approval Authority as set out in the table below:

Rand Value	Duration	Approval Authority
R1m – R10m	Maximum 3 years	Procurement line manager of Procurement Practitioner executing strategy
R10m – R50m	Maximum 5 years	Dual Adjudication
R50m – R300m	Maximum 10 years	Triple Adjudication
> R300m	> 10 years	EXCOPS or higher approval authority as applicable

### 3.1.8 Process of Approval by a Delegated Approval Authority

Approval given by a Delegated Approval Authority is not a mere formality, but a process that demands thorough examination and consideration of all the issues that could influence the decision. When granting approval, the Delegated Approval Authority must provide approval based on the analysis of the recommendation and any other information that may be requested by the Delegated Approval Authority to assist in making a decision that upholds the principles of fairness, equitability, transparency, competitiveness and cost-effectiveness, taking into consideration of each of the following aspects, forming part of the approval granted:

- The correct procurement method, and application of the correct sourcing mechanism;
- The assets, goods or services to be supplied;
- The recommended supplier;

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- The best estimate of contract value at the time of contracting, both in South African Rand and any foreign currencies involved;
- The CPA formula/e;
- The terms and conditions of contract such as advance payments to the supplier;
- Allowances for contingency, and travel and subsistence;
- The order/contract duration;
- The delegated signatory of the contract; and
- The negotiation team.

In the case of foreign purchases, the Delegated Approval Authority also approves the foreign currency, approval value/s of the foreign currency amount, and the contract being covered forward in terms of the relevant Eskom Treasury Department's foreign exchange policies and procedures.

If the Delegated Approval Authority is unable to make a sound decision because the information presented, i.e. the submission is incomplete or inaccurate, the Delegated Approval Authority refers the submission back to the Procurement Practitioner concerned.

If the value or time requested exceeds the delegated limits of the Delegated Approval Authority, it can only support the recommendation before submission to the appropriate higher Delegated Approval Authority. However, the Delegated Approval Authority that makes a recommendation to a higher Delegated Approval Authority must ensure that the report / submission is complete and adequate to enable the higher Delegated Approval Authority to make a decision.

Having considered all relevant issues, the Delegated Approval Authority decides whether the recommendation is in the best interests of Eskom. There are only 6 (six) courses of action open and the Delegated Approval Authority chooses only 1 (one):

- Approve the recommendation as submitted;
- Approve the recommendation conditionally;
- Approve an alternative recommendation as submitted;
- Approve an alternative recommendation conditionally;
- Support the recommendation and refer it to a higher level; or
- Reject the recommendation.

Where an approval is conditional, the conditions must be specified in the minutes recorded by the Secretariat, or on the Commercial Transaction Approval Form for dual/triple adjudication. It is the Procurement Practitioner's responsibility to ensure that all stipulated conditions are complied with prior to order/contract award, and that the Delegated Approval Authority is duly informed of the outcome via a Feedback submission. Where a recommendation is rejected, a clear indication of the course of action required must be given by the Delegated Approval Authority. The same process and rules apply whether the approval will result in a new order/contract or a modification to an existing order / contract, or any other type of recommendation sought.

Where permission to negotiate is not requested, but the Delegated Approval Authority deems it necessary to negotiate for better terms and conditions, the Delegated Approval Authority instructs the Procurement Practitioner at his/her/its discretion to negotiate, in order to achieve the desired result. Results of negotiations must be reported back to the Delegated Approval Authority in a Feedback submission.

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### 3.1.9 Delegation of Authority to Sign Contracts

Contracts and orders may only be signed by authorised Eskom employees who have been delegated the authority to do so by the Delegated Approval Authority in accordance with the various levels of signing authority set out in Appendix B herein, and by authorised representatives of the Supplier which must be verified by the Procurement Practitioner through receipt and validation of the Authorisation Form.

### 3.1.10 Reporting

All transactions placed before a PTC for approval must be reported on a monthly basis by the Secretariat (who is a Risk and Governance Official) to the relevant Risk and Governance (Trends Analysis) Department for compliance monitoring and audit purposes.

### 3.1.11 Revocation of Delegations of Authority

Dual adjudication, triple adjudication delegated authorities and membership / chairmanship to a PTC may be revoked at any time in its entirety by the CE/FD or relevant GE/DE, upon the recommendation of the Senior Manager: Risk and Governance.

Revocation of this delegation (either indefinitely or for a stipulated period of time) will be done in writing and will take place where:

- There is repeated non-compliance with the Approved Procurement Framework on the part of the Accredited Procurement Practitioner / member / Chairman;
- The Accredited Procurement Practitioner / member / Chairman does not, on a continuous basis, exercise reasonable care or skill in carrying out his / her duties despite undergoing the relevant prescribed training;
- The Accredited Procurement Practitioner / member / Chairman fails to timeously report on all approvals granted;
- The Accredited Procurement Practitioner / member / Chairman has committed an act of misconduct in accordance with the Eskom Disciplinary Code; or
- Business / operational reasons dictate that an individual is no longer required to serve on a particular PTC, or as a dual / triple adjudicator.

## 3.2 General Principles of Procurement in Eskom

### 3.2.1 Forecasting/Estimating Requirements

It is a legal obligation in terms of Section 3 of the PPPFA Regulations for requirements being procured to be estimated as accurately as possible. Failure to receive an accurate estimate /forecast of requirements may result in the use of the incorrect preference points system, which may further result in the unnecessary cancellation of tenders and delays in procurement lead times.

Front-End Planning (FEP) is the first stage of the sourcing process which is conducted to determine and consolidate the business needs to formulate demand, establish the market capacity and capability, to enable the development of an appropriate commercial strategy. FEP is mandatory for all commercial strategies linked to commercial transactions of R10m or more.

All planning, forecasting and estimation must be facilitated by the End-User with the appropriate specialists (e.g. cost engineers, quantity surveyors), and in consultation with the SCOPS function within Group Technology and Commercial, based on the supply chain planning principles set out in 3.9 herein.

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National contracts /enabling agreements affected by contract price adjustments due to foreign exchange and currency implications, will only be put in place on receipt of the minimum 80% volume commitment and a signed-off draw-down plan from the End-User. The forecasts provided by the various End-Users, will be confirmed within the Divisions, and consolidated and reviewed by the Supply Chain Planning representative. These volumes will be used by the relevant Procurement Practitioner to establish national contracts or enabling agreements.

NB: The total estimated Rand value of the order /contract must be a price INCLUSIVE of VAT, and any other applicable taxes, for purposes of selection of the appropriate preference points system.

### 3.2.2 Front-end Planning (FEP) Process

The Front-End Planning (FEP) process is the key driver to maximising socio-economic development including strengthening of an integrated cross functional team.

As set out below, the FEP process shall include but will not be limited to the following activities. Refer to Appendix F for a depiction of the process:

- i) Demand Analysis
  - Consolidate Eskom's, and if possible other SOC's demand for the assets, goods or services;
  - Link Eskom's demand requirements with supply industry understanding to drive development.
- ii) Commodity Analysis
  - Conduct a detailed breakdown of a commodity/product life cycle model based on the total cost of ownership (TCO) principles;
  - Conduct a detailed breakdown of the scope of work using the total cost of ownership (TCO) principles;
  - Establish the procurement budget for the assets, goods or services that is based on the TCO.
- iii) Industry / Sector Analysis
  - Development of a detailed understanding of industry and sectors in order to identify opportunities for socio-economic development;
  - Conduct an in depth understanding of industry (supplier) capability and capacity;
  - Establish the demographic representation of the market participants and their market share;
  - Develop an understanding of the barriers to entry;
  - Understand the industry's infrastructural support for socio-economic development and market transformation, e.g. Government agencies such as Kula Enterprise Development Agencies.
- iv) Develop a Supplier Preference Model
  - Establish a commodity-related Supplier Preference Model, using the Hierarchy of Supplier Preference as a basis;
  - Develop an understanding of principles governing Eskom's Supplier Preference model and how it can be adjusted to enable socio-economic development and market transformation.
- v) Supplier Positioning Model
  - Establish a commodity-related Supplier Positioning Model;
  - Develop an understanding of principles governing Eskom's Supplier Positioning Model and how these can be adjusted to enable socio-economic development and market transformation.

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vi) Benefits of Applying Front End Planning

- Improve effectiveness of cross functional team and SD&L integration;
- Improved SD&L / SD / Technology integration and function;
- Integration and collaboration with internal Eskom Departments, DTI and suppliers.

**3.2.3 Establishing and Specifying a Need / Requirement / Scope**

The procurement process starts with the identification of the need by the End-User or the Inventory Optimiser in the case of stocked items. The Inventory Optimiser may use SAP functionalities to automatically raise a request.

Irrespective of the value of the proposed purchase, the End-User is responsible to provide adequate information to the Procurement Practitioner to proceed with the transaction. The End-User does this by generating a Purchase Requisition (PR) which describes the estimated value, duration and specification /scope of the assets, goods or services and other information as required.

The Cost Centre Manager approves the PR, taking into consideration the budget, scope of works and business need. After his/her approval, the PR will be released electronically to the relevant procurement department. When creating a PR, the End-User must allow sufficient lead times for execution. This is especially important where non-competitive enquiries such as Expressions of Interest (EOI) or Requests for Information (RFI) may be used to clarify requirements or where the market has to be further researched.

Unnecessarily stringent or brand-specific descriptions must not be used with the intention of excluding certain suppliers from participation, thereby preventing competition. Where simple and generic descriptions suffice, they must be used.

Suppliers' specifications must not be used as a standard except where a single source / monopoly situation exists. Standards and specifications from recognised professional/industry associations may be used. Where an appropriate specification does not exist, an Eskom specification may be developed. Where Eskom employees are not qualified to develop the specification, a supplier / consultant may be paid to do so, but this would exclude that supplier/consultant from participating in at least the first competitive tender / enquiry for the procurement of the assets, goods or services concerned, unless supported by a strategy that requires the participation of such supplier in the supply phase, which must be approved by the relevant Delegated Approval Authority, taking into account the constitutional principles for public procurement and the avoidance of conflicts of interest.

The End-User identifies his need by writing the specifications / scope in a technical specification document, which includes all designs and drawings, and may be assisted by other specialist functionaries such as the Engineering Department. The technical specification / scope must be submitted to the Procurement Practitioner, together with a formal approval /sign-off of the requirements. The End-User includes all applicable and relevant standards, such as welding standards, quality standards, etc., in the documentation submitted to the Procurement Practitioner.

In the case of a project, the End-User (normally the Project Manager) will follow the Project Life Cycle Model and obtain the necessary approvals during the CRA, DRA and ERA stages. Procurement for the execution of the project will not proceed without ERA approval. Should it be necessary to deviate from this principle, specific approval to proceed with the procurement must be given by the relevant Delegated Approval Authority, in consultation with the GM: Project Sourcing. The Project Manager and team are also responsible to obtain PFMA ministerial approval for the project by following the process for significant transactions as set out in 2.6.2 above. This entails pre-PFMA ministerial approval to proceed with the execution of the commercial process and then the application for final PFMA ministerial approval before proceeding with the awarding of the contracts.

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Once the relevant sourcing department receives a PR and other supporting documents, the Procurement Manager confirms the validity of the PR and allocates the PR to the relevant Procurement Practitioner. The Procurement Manager must reject incomplete or inaccurate PR's and must include comments on why the PR is rejected before routing back to the End-User.

### 3.2.4 Application of the Hierarchy of Supplier Preference

After receipt of a Purchase Requisition, the Procurement Practitioner must first establish if requirements can be met from the following already established sources of supply (i-iii hereunder), in the following order, before sourcing from external sources of supply (v hereunder), being the market at large:

i) **An existing Framework Agreement;**

The Procurement Practitioner investigates and decides first whether the requirement can be met in whole or in part from existing Framework Agreements within the BU, Division or nationally.

Where the requirement can be met from an existing contract, draw-downs for the requirements may be made against the contract by an authorised official, who is generally an End-User or appointed Contract Manager.

ii) **Internal Suppliers:**

Framework Agreements with Internal Suppliers, as defined in this Procedure, must be put in place for a minimum period of 5 years by the Commodity Sourcing Department for all known and required assets, goods or services that the Internal Supplier can adequately supply as part of its day to day core business. The normal process for draw-downs will then be followed once the assets, goods or services are needed. Rates must be negotiated for each item within the contracts against the relevant conditions of contract, which must deal with all commercial considerations, including CPA, forex, etc. where applicable.

Should there be a requirement for assets, goods or services which are not part of the scope of the Framework Agreements with an Internal Supplier, then the Internal Supplier must be treated like any other (external) supplier in the market, i.e. they may be invited to tender or they may respond to a public advertisement to tender.

A transitional period of 12 months, from date of application of this revision of the Procedure, is allowed for the Commodity Sourcing Department to put the required Framework Agreements in place.

Until appropriate Framework Agreements are in place, the use of an Internal Supplier as a sole source must be motivated within a strategy and approved by a Delegated Approval Authority, against a mandate to negotiate (no prior tendering). A Sole Source Justification Form is not required to motivate the use of Internal Suppliers.

iii) **Other State-Owned Companies:**

The Procurement Practitioner must determine if the assets, goods or services can be supplied by another State Owned Company e.g. Transnet. If this is the case, then he/she must ascertain if there are any existing contracts in place with the specific State Owned Company (SOC) and, must determine whether the requirement can be sourced from the existing contract. The normal draw-down process will be followed if the existing contract can be used.

If there is no existing contract, the Procurement Practitioner must request the End-User to complete a Sole Source Justification Form in a case where one has not already been approved for a stipulated period, and applicable to the specific assets, goods or services.

It is preferable that approval of the SOC as a sole source for the specific category of supply be submitted to the relevant Delegated Approval Authority to be approved for a maximum period of

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3 years. This will mean that no further Sole Source Justification Forms are required with respect to the SOC's supply of the required assets, goods or services for the approved period on a per transaction basis.

The Procurement Practitioner must follow the mandate to negotiate (no prior tendering) process to establish a contract with the SOC. The name of the SOC and the approved SSJF must be saved onto the centralised Group Technology and Commercial Documentation Management System.

#### iv) External Suppliers / Market at Large

Where existing and /or internal sources of supply (I-iii) are not available, suppliers within the external market /market at large must be sourced, in the following order of preference, to the extent available, and capable:

From Black suppliers, in the following order:

- Black Disabled Persons or groups operating as Level 3 EMEs, or QSEs (Level 1-3);
- Black Youth operating as Level 3 EMEs or QSEs (Level 1-3);
- Black Women-Owned Businesses (BWOs) being Level 3 EMEs, or QSEs (Level 1-3);
- Small Black Enterprises (SBEs) being Level 3 EMEs, or QSEs (Level 1-3);
- Large Black Suppliers (LMEs Level 1-3);
- From a South African based manufacturer or service provider;
- From a South African distributor of local South African manufactured products;
- From a foreign supplier, directly imported by Eskom; and
- From a Value-adding Agency (as defined in this Procedure), being a local supplier of imported products / services.

*(NB: that the revision to the BBBEE Codes will become effective within Eskom on or before 31 December 2014 and a Position Paper will be issued within Group Technology and Commercial, regarding the implementation of the updated BBBEE Codes of Good Practice).*

### 3.2.5 Developing a Commercial Strategy

Commercial strategies are procurement / disposal and contracting execution plans, which detail the steps to be taken in establishing the appropriate contract to meet the End-User requirement. The development of a commercial strategy requires Procurement Practitioners, in consultation with the assigned cross-functional team to further determine the various possible risks faced by Eskom and the supplier in engaging in a contract, and to develop strategies / plans in mitigation thereof. Examples of the common types of risks that may be considered within a commercial strategy are: technology selection, lead time risks and associated delays, the effect of people / human resources and their skills on the contract, and the possibility of increases in the cost /price of the contract.

The development of formal strategies will be mandatory for all commercial transactions exceeding R10m (excluding VAT) and will be completed and formally approved by a Delegated Approval Authority in terms of section 3.1.7 herein, based on the submission of a Commercial Strategy Approval Form.

While strategies are still required for all procurement /disposals less than R10m, they do not require formal approval by a Delegated Approval Authority and must be authorised by the line manager of the Procurement Practitioner / Disposal Officer executing the procurement / disposal.

Strategies are not required for transactions less than R1m.

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In all cases, a cross-functional team must be assigned to assist in the development of the commercial strategy, and must be involved in the squad-checking thereof prior to submission for approval. A Finance business partner must be involved as part of the cross-functional team, evaluation team, and the assigned negotiation team, where applicable.

The commercial strategy may be developed during the DRA stage in the case of a project, or may be developed once it is clear that investment approval will be obtained. Once the Procurement Practitioner has determined that there are no available internal sources of supply that can adequately provide the assets, goods or services, then formal market research must be conducted on the external supply market. Market analysis must be carried out before sending out a competitive enquiry so that the correct supply market is targeted. Market analysis is also necessary to develop a formal sourcing and contracting strategy, benchmark pricing, and to inform preparation for negotiations with a supplier. The use of EOIs and RFIs may facilitate such market analysis, and determine supplier interest, capability and capacity in the category of supply / services.

Once market analysis has been completed, the outcome will determine if a competitive tender / enquiry will be sent to an open or closed (limited) supply market, or whether there are only one or two suppliers capable and available to supply, in which case a mandate to negotiate (no prior tendering) may become appropriate.

*Where the supply market is vast and saturated, pre-qualification enquiries sent to the open market and / or the use of stipulated gate-keepers / thresholds within open tenders / enquiries may be necessary to short-list suppliers to a closed list in order to compete in final evaluations and/or negotiations for contract award. It is not a recommended practice to issue open tenders where the market is vast and saturated due to the limited capacity to receive, process and evaluate large volumes of tenders. Alternatively, if market research shows that there are only a few exclusively capable and available suppliers in the market, then a closed / limited tender may be justified.*

Where market analysis does not present a complete view of the market, or reveals uncertainty about the solutions available, or the capabilities and availability of suppliers, it may be best to advertise Eskom's requirements in the open local, national and/or international market in order to maximise opportunities for competition, and to ensure that all alternatives and possibilities are evaluated before committing Eskom to a particular outcome / solution.

Another aspect that needs to be built into the Commercial Strategy is the "Design for Local" strategy.

Development of local industries will be maximised through the Design for Local concept which implies "front end loading" or upfront planning which is key to the impact that SD&L has on a commercial transaction as well as the local supply industry as a whole.

The responsibility for localisation imperatives (Industrialisation, Localisation, Skills Transfer, Job Creation and BBBEE) is not the exclusive responsibility of the SD&L department, and every Procurement Practitioner giving effect to a commercial transaction is required to give full consideration to the possibility of SD&L initiatives for purposes of executing the transaction.

The role of the SD&L Department as subject-matter experts is primarily to facilitate and give effect to the legislative and policy framework as it pertains to the socio-economic imperatives of the country through common links with industry associations as well as government departments involved with legislation / policy development relating to socio economic imperatives.

"Design for Local" is a mechanism to describe the strategic nature of SD&L, with target setting based on the functionality of the requirement and the associated value chain.

Front-end loading of SD&L levers may be done through various activities prior to contracting with examples of what may be done regarding various elements of a commercial transaction set out below:

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#### • Technical /Functionality

A technical design or consideration must look at ways in which a change in technical specification will facilitate the participation of the local industry in the transaction. Examples may include the following:

- If the number of line items can be reduced then the manufacturing process can be automated, as opposed to "jobbing" which may be the current method of production. With already low volumes available in SA it is vital to not only consolidate demand to increase manufacturing volumes, but to streamline the number of line items per commodity;
- If a local manufacturer can make a certain product successfully, the current technical specification must be investigated to determine if "two smaller units", that can be made locally, can serve the same function as one large unit that would require importation.

#### • Project Strategies

Package structures and project time lines must be investigated with local capability / capacity in mind.

Local industry may have the capability to manufacture and supply, but not the capacity to meet project time lines. Extending the time lines may increase local participation. Lack of upfront planning, resulting in projects being executed under pressure has a direct and negative impact on local supplier participation in projects.

Project structure, i.e. size of the package must be considered. Full turnkey projects normally reduce the ability of local participation, leading to a situation where a foreign supplier has to be "obligated" in terms of the contract to make use of local subcontractors with Eskom being unable to nominate subcontractors.

Geographical location or proximity to site may be used to appropriately and justifiably segment the supply market and allow preference for local suppliers if speed of service is imperative, and /or where the development of the local community where the project is located is necessary to support the overall success of the project.

#### • Financial

The sourcing of funds from financial institutions has a direct impact on the ability of local suppliers to participate in tenders / enquiries.

External sources of funding usually come with certain conditions that directly impact on local participation. Financial proposals should carry a "pro vs. con" approach to external funding. One should be able to potentially compare different projects for approval based upon the source of funding and the resultant impact that this would have on the participation of local suppliers.

Where external funding is used for a project, it is important to analyse the rules of the funders with a view of understanding the available options.

#### • Commercial

The selected contracting type/ regime, with associated main and secondary options, and any special conditions, impacts on the ability to drive localization.

Enabling contracts with no commitment to draw-downs is not conducive for investment purposes. Investors do not respond favourably to such contracting regimes and financial institutions do not recognize such contract types for funding purposes. Local industry can thus not expand or invest in new technology to grow and become more competitive.

Enabling contracts should have, as an integral part of the contract, a commitment to a rolling window of accuracy for demand. This will go a long way towards allowing suppliers to plan production cycles. Draw-downs must be made for a product as per the projections. The SCOPS function within Group Technology and Commercial must assist in such projections.

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Performance bonds / retention bonds that do not address real risks of non-performance or non-delivery negatively impacts on local industry. The cross-functional team must apply their minds as to whether it is feasible to request for bonds /security for performance in all instances. Alternatives may include incentive bonuses rather than penalties in the contract as an incentive for meeting local content targets.

Payment terms, free issue, part or upfront payments are all mechanisms that may be investigated, in context, per transaction. Cash required up front to procure input material is probably the single biggest limiting factor for emerging, and even some established suppliers. One must consider that there may be months between first procurement of raw material to final payment received, and the impact thereof on the supplier's business.

### 3.2.6 Non-Competitive Enquiries (EOIs and RFIs)

An "expression of interest" is a non-competitive enquiry issued / advertised to the external market to establish market interest in offering the required assets, goods or services to Eskom.

An EOI cannot request pricing, even on an indicative basis, and is generally used as a basis to establish a closed tender list prior to initiating a formal competitive tender / enquiry, as the onus rests on suppliers to indicate their intentions to participate or not.

The reliance solely on an EOI to determine a closed tender list must be guided by the proximity of time that has elapsed between responses to the EOI and intended issue of the tender / enquiry (bearing in mind that the longer the time that has elapsed, the greater the likelihood that the landscape of the market may have changed), as well as the accuracy and level of detail provided to the supplier within the EOI to inform its decision to participate or not.

Where the market to fulfil a certain need is not known, because this is the first time the assets, goods or services need to be procured, or because significant time has passed since procuring the assets, goods or services, a RFI may be issued to ascertain which suppliers and what assets, goods or services are available in the market, in order to inform the sourcing strategy. This is focused market research and does not constitute a competitive tender / enquiry, and therefore cannot be used directly as a basis for placing a contract or order, or preclude a supplier's participation in a competitive tender / enquiry. The RFI may request any information, including indicative pricing and timing. If the End-User opts to procure the assets, goods or services after receipt and consideration of the information, the applicable sourcing mechanism (competitive tendering or mandated negotiations) must be followed to enable the procurement. The End-User may use the information gained to improve the design or specification of the solution to his need, but must avoid binding Eskom to any one supplier's offering or brand where possible.

For purposes of transparency, the EOI / RFI enquiry must be administered (i.e. issued and received) in the same manner as a formal tender / enquiry, subject to an official closing date and time, based on the parameters set out in the enquiry / request.

### 3.2.7 Pre-qualification Enquiries

The commercial strategy must authorise the execution of a pre-qualification enquiry. Pre-qualification may be used when it is costly to process large volumes of tenders; when the contract is complex; or when suppliers with a common specialised skill and knowledge are required to participate on a panel and subsequently compete in tenders for the awarding of task orders.

The pre-qualification enquiry clearly stipulates the requirements/criteria for a supplier to be pre-qualified and the relevant information/documents to be submitted. A closing date and time is stipulated, responses are to be lodged formally to the relevant Tender Office and no late pre-qualification responses must be accepted.

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The pre-qualification enquiry document must clearly stipulate the pre-qualification criteria and the sourcing process to follow the pre-qualification. There should furthermore be no duplication of criteria between the pre-qualification and the competitive tender which may follow.

Where functionality may be a pre-qualifying criterion, the pre-qualification enquiry must stipulate the technical capability and capacity that the supplier must have or the required specification and SHEQ requirements that the assets, goods or services must adhere to. Participating suppliers must be required to submit documents as evidence that they meet the required technical criteria, including SHEQ criteria. This may include evidence of projects/contracts executed for similar works or samples to indicate that they meet the specifications of the required assets, goods or services.

In complex transactions, Eskom may conduct a due diligence on the suppliers by visiting the plants /sites of the suppliers to assess the appropriate technical processes followed or to test the materials used in the manufacturing of the goods. Eskom may also decide to visit project sites given as reference by the suppliers, to determine the quality and safety standards of the work done.

Once the pre-qualification responses have been received at the Tender Office and the formal receipting and tender opening process has been followed (only the names of the suppliers who submitted a pre-qualification response is read out), the pre-qualification documents are handed over to the Procurement Practitioner to commence with evaluations. The evaluation team applies the criteria stipulated in the pre-qualification enquiry to the responses received and establishes a shortlist of pre-qualified suppliers.

A formal competitive tender may then be sent to the short-listed suppliers or a request for a mandate to negotiate with one or more of the short-listed suppliers may be obtained from the relevant Delegated Approval authority, based on the approved strategy and the process set out in the pre-qualification enquiry.

### 3.2.8 Competitive Tenders (RFQs, RFPs)

Where the End-User's requirements cannot adequately be described or specified, or where innovative solutions to a problem are sought, a competitive RFP process may be followed.

A RFP deals with a difficulty that Eskom faces and would like to approach flexibly and innovatively using the expertise available in the marketplace. A RFP is generally a document setting out the requirement (outcome / output required) in as much detail as possible, without unnecessary limitations as to the solution. Suppliers are requested to propose a solution or viable alternatives that result in a solution, based on the available information. Generally a site meeting may be conducted at which information is shared and inspections allowed, and in the case where services are provided, appropriate reference checks, site visits, sampling and testing may be done before acceptance of a proposed solution.

Evaluation criteria around the functionality of the supply / service, with pre-determined weightings (as agreed with the End-User / cross-functional team) are stipulated in a RFP as a gatekeeper associated with a minimum scoring threshold, and suppliers may be required to make presentations around their proposed solutions, for which they may be allocated points toward their total score for functionality, as indicated in the tender / enquiry.

RFPs are administered (issued and received) in the same manner as formal tenders.

The RFP may be followed by a further competitive tendering process around acceptable proposals, or mandated negotiations with one or more of the qualifying suppliers in order to place a contract. The process following a RFP must be clearly stipulated in the RFP enquiry.

In contrast, a RFQ is a request for a quotation for supply which is clearly defined, specified, quantified, and typically off the shelf, and where price is the primary consideration for contract /order award. RFQs are the only types of enquiries issued when executing informal tendering, but may also be used when executing formal tendering.

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A tender is a collective term used to describe either a Request for Quotation (RFQ) or a Request for Proposal (RFP).

### 3.2.9 Application of the Preferential Procurement Policy Framework Act and Regulations (Refer to Appendix C)

#### 3.2.9.1 Introduction

The Preferential Procurement Policy Framework Act (PPPFA) No. 5 of 2000 came into effect on 03 February 2000 and gives effect to section 217(3) of the Constitution by providing the framework for the implementation of the procurement policy contemplated in section 217(2) of the Constitution; and provides for matters connected therewith.

Eskom, as a Schedule 2 PFMA entity, is required to apply the PPPFA and its Regulations when applying the formal and informal tendering processes. The PPPFA does not apply to tenders / procurement below R30k (including VAT and all applicable taxes). The PPPFA may also not apply to tenders that target an international supply market, or where in the interests of national security, or in the public interest, it is not practical to apply the provisions of the PPPFA, in which case an exemption from the PPPFA may be sought.

A request for exemption must be made to the Minister (National Treasury). Where a cross-functional team determines via a formal strategy that an exemption from the PPPFA is required for the aforementioned reasons (as stipulated in legislation), a motivation, contained within the approved strategy, must be sent through to the relevant Commercial GM for approval, and written consent to seek such exemption must be provided by the said Commercial GM (in consultation with the GM: SD&L), before the relevant Senior Manager Commercial proceeds with the request for exemption. The request for exemption must be contained in a formal document, supported by the Group Executive: Technology and Commercial, before being authorised by the Chief Executive and Chairman of the Board, and routed to the National Treasury.

It must be noted that requests for exemption on strategic or critical procurement may significantly delay procurement due to awaiting the outcome of an exemption request.

In the case of funded contracts by the Development Funding Institutions where exemption from the PPPFA has already been obtained, the loan agreements with funders will determine the procurement process to be followed.

In the case of non-funded contracts where exemption has been obtained, the processes as described in 3.2.9.5 below for PPPFA-exempt procurement will be followed.

The PPPFA is based specifically on the sourcing mechanism of competitive tendering, and it is therefore common cause that the PPPFA will NOT be applicable to non-competitive sourcing mechanisms, such as negotiations (no prior tendering).

#### 3.2.9.2 Application of Specific Goals

Specific goals are limited to criteria based on contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability, or regarding implementing the programmes of the Reconstruction and Development Programme as published in Government Gazette 16085 dated 23 November 1994. Any specific goal for which a point may be awarded, must be clearly specified in the invitation to tender / enquiry.

Inclusion of specific goals must be distinct from any criteria already being evaluated under BBBEE, and cannot be a repetition / duplication of such criteria.

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A specific goal may be expressed as a special condition of tender with application as a pre-qualification gatekeeper to threshold evaluation, or may be applied as an objective criterion to be considered after tender evaluation, and may influence the awarding of the contract to a supplier other than the highest ranked.

Many of the SD&L objectives such as industrialisation, skills development, localisation and job creation, which are distinct from the elements contained in the BBBEE score-card may be applied as specific goals. Refer to Appendix E.

### 3.2.9.3 Application of Thresholds

The thresholds that are applied within the PPPFA Framework are that of functionality and local content. The local content threshold is only applicable to assets, goods or services which are part of designated sectors (as set out in Appendix C hereto).

It is not permissible to create too many other thresholds / gatekeepers to evaluation within the PPPFA Framework, as this becomes onerous / unfair, and may result in a barrier to entry for new or developing suppliers, or may result in inhibiting competition altogether.

Functionality is applied as a threshold to confirm technical acceptability in terms of reliability, quality, viability, durability of services and a Supplier's technical capacity and ability to execute a contract, especially applicable to projects and other complex procurement.

Any criteria included under the functionality threshold must be **non-negotiable** requirements core and intrinsic to the operation / performance (fit for purpose) of the assets, goods or services required. Where quality and SHE is core and intrinsic to the operation / performance of the assets, goods or services required, this too must form part of the functionality threshold criteria. With respect to SHE, all high risk categories of supply as set out in Annexure D hereto must include SHE as part of the functionality threshold.

In other words, all criteria included under the functionality threshold must render the supply fit for purpose, and is hence deemed non-negotiable and mandatory.

Criteria forming part of functionality threshold requirements identified as "non-negotiable" or mandatory cannot be reconsidered or relaxed at a later stage. Factors or elements which may be "negotiable", or which are not core / intrinsic to the operation / performance of the assets, goods or services required, and which may be considered "nice to have"/discretionary, may be dealt with as objective criteria post-evaluation, as pre-requisites of contract award (which gives a supplier time to meet the additional requirements), or as negotiation objectives to be agreed to as conditions of contract.

If SHE and quality elements are part of functionality threshold criteria, an "all or nothing" approach must be applied. Suppliers must meet the FULL requirements of the criteria to score the FULL points for SHE and quality (at a minimum 30% weighting for each), failing which, suppliers must score zero against the sub-criterion. Pro-rata allocation of points for quality and SHE will result in partially compliant suppliers meeting the overall functionality threshold, which is not the objective of non-negotiable requirements. Only fully compliant suppliers, with respect to SHEQ must be able to pass the threshold.

The inclusion of SHE specifically into the functionality threshold must only be for specifically identified (high risk) categories where SHE is a pre-requisite "fit for purpose" requirement going to the core of the operation / performance of the assets, goods or services required, e.g. construction, engineering, electrification work, transportation, etc. The above model will not work for every category of procurement, and for your typical professional and general type services (low risk categories of supply), SHE legal compliance (e.g. COIDA) must be an objective criterion, included as a pre-requisite for contract award, post-evaluation. The categories of supply, for which SHE must be included as part of functionality, is set out as high-risk within Appendix D hereto. The inclusion of medium risk category criteria as part of the functionality threshold must be determined by the cross-functional team, in consultation with a SHE

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functionary, while low risk category criteria should not form part of the functionality threshold, but must be included as objective criteria.

Including SHE and quality under the functionality threshold with a "diluted" effect where it is only 10 or 20 points out of 100 points, again defeats the purposes of the required SHE /quality compliance. For those categories where SHE and quality are included within the functionality threshold, a minimum of 30 points must be allocated to SHE, and quality respectively, to have a total effect, on an overall threshold of a minimum of 75 points.

This still leaves a minimum of 40 points available for the pure technical aspects of the supply. On the technical aspects what is included must be mandatory and non-negotiable. It is best to apply a penalty system for the technical aspects where, for example, 10 points may be deducted for any requirement partially met, and 15 points may be deducted for any requirement not met at all. This is a more objective basis to assess the meeting of non-negotiable and mandatory requirements rather than the subjective system of allocating pro-rata points. The determination of the penalty deduction system to be used must be a decision of the cross-functional team, and such penalty deduction system must be clearly set out in the tender for purposes of transparency.

On this basis, the outcome should be that suppliers failing to meet either the SHE or quality criteria cannot pass the overall functionality threshold even if technically acceptable, while a technically unacceptable supplier cannot pass the overall functionality threshold even if meeting all SHE and quality requirements.

*Before application of the "all or nothing" approach with SHEQ, together with the penalty/deduction approach for technical, it is best for the cross-functional team to test the evaluation methodology against the stated threshold before inclusion in a tender, so that the objective of this prescribed model as stated above is met.*

The tender must clearly set out the application of the "all or nothing" principle applicable to SHE and quality, and the method of penalisation (points deduction applicable per requirement) for partial and / or non-compliance on technical requirements.

Example: Functionality Application with SHEQ:

Criteria	Weightings
Technical (Design, Drawings, Samples, Specification, Measurements, etc.)	40
SHE	30 (must be minimum 30 points if included)
Quality	30 (must be minimum 30 points if included)
Total	100
Overall Minimum Threshold for Qualification	75

Example:

Criteria	Weighting	Supplier A	Supplier B	Supplier C
Technical (Design, Drawings, Samples, Specification,	40	40	30	10

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Measurements, etc.)				
SHE	30	0	30	30
Quality	30	30	30	30
Total	100	70	90	70
Overall Minimum Threshold for Qualification	75	DISQUALIFY	PASS	DISQUALIFY

- Supplier A fails the overall threshold due to scoring zero on SHE, by failing to meet one or more non-negotiable SHE requirements;
- Supplier B meets the threshold, though being penalised (10 points) for only partially meeting one of the stated technical requirements, but fully complying with all other requirements including SHE and quality;
- Supplier C fails the overall threshold due to not meeting, either partially or fully one or more of the stated technical requirements, and was penalised 30 points either for not fully meeting 2 stated requirements (deduction of 15 points each), or only partially meeting 3 stated requirements (deduction of 10 points each).

#### 3.2.9.4 Application of Objective Criteria

In terms of the PPPFA, the application of objective criteria may be a valid and justifiable reason why a tender is not awarded to the highest scoring / highest ranked supplier, after application of the 80:20 or 90:10 preference points system. Objective criteria will generally be applied after evaluation, and are generally the criteria / conditions specifically linked to contract award (viz., legal compliance, adherence to contract terms and conditions, financial viability, specific goals, etc.), and may not necessarily be linked to the allocation of points for further scoring.

In the interests of ensuring transparency all objective criteria must be clearly set out in the tender, with the associated returnables required for purposes of assessment / evaluation.

#### 3.2.9.5 PPPFA Exempt Tenders

To the extent that exemption from the application of the PPPFA to the specific procurement has been granted, the determination of evaluation criteria and the methodology for evaluation must be determined and agreed upon with the assigned cross-functional team and incorporated as part of a strategy for approval prior to issue of the tender. The only exception to this is where the Procurement Procedure and Guidelines for the World Bank or any other Development Financing Institution is followed, due to the specific requirements contained in the loan agreements.

Every evaluation framework must, as a minimum, evaluate tenders on a technical (including SHEQ), financial (price), commercial (conditions of contract, compliance with legislative requirements) and socio-economic (B-BBEE and other supplier development and localisation initiatives) basis, using the Board-approved 70:30 evaluation framework, unless otherwise specifically amended through a special resolution of the EXCOPS or higher Delegated Approval Authority.

The use of the 70:30 framework is based upon a standard thirty (30) per cent being allocated to SD&L objectives (generally with ten (10) per cent being allocated to BBEE Status, and twenty (20) per cent being allocated to localisation objectives), while seventy (70) per cent of the criteria may be apportioned between pricing and technical (including SHEQ) criteria, with no one criteria between price and technical exceeding forty (40) per cent in total.

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The criteria for evaluation, the weightings of each criterion, and applicable sub-criteria must be clearly stated in the tender, and without ambiguity. Evaluation criteria must not be derived with the intention of giving any one supplier or a group of suppliers an unfair advantage in the competitive process.

The applicability and weighting of socio-economic sub-criteria must be confirmed with a relevant SD&L functionary for every formal tender. The applicability and weighting of SHEQ criteria must be confirmed with the relevant Sustainability functionary for every formal tender.

Mandatory gate-keepers must be used with caution, and not with the intention of eliminating competition or certain suppliers. Where mandatory gate-keepers have been included in the tender, prior approval and sign-off for the use thereof must be obtained as part of the strategy approval from the relevant Delegated Approval Authority, before the tender is issued. The imposition of more than two (2) gatekeepers per tender is not recommended, unless special written permission has been obtained by the relevant Senior Commercial Manager.

All documents necessary to evaluate gatekeepers must be clearly stipulated in the tender documents and if not received by the deadline for tender submission, will disqualify the supplier from further evaluation.

B-BBEE status may be used to further promote supplier development and localisation initiatives through the following mechanisms which must be clearly stated in the competitive tender in order to be applied for purposes of contract award:

- The award of certain tenders, in whole or in part, for BWOs and SBEs only. In this instance LBSS and other small and large Suppliers will not be allowed to tender and it must be stated in the advertisement and enquiry as such.

The use of the above mechanisms must be included only in consultation and written consent from the relevant SD & L functionary and the Eskom Legal Department, and as part of a formally approved strategy.

Where BBBEE is stipulated as a gatekeeper, or where eligibility to qualify as a BWO/SBE can only be determined through receipt of a valid BBBEE certificate, the receipt of the BBBEE certificate then becomes mandatory for purposes of evaluating the gatekeeper, and failure on the part of the supplier to provide the BBBEE certificate by the time of tender closing will disqualify the supplier from further evaluation.

The inclusion of SD & L criteria is mandatory for all formal competitive tenders which are PPPFA exempt. The definition of the criteria and the methodology for the evaluation thereof must be approved in writing by the SD & L functionary forming part of the cross-functional team.

### 3.2.10 Approved Standard Forms of Contract

#### 3.2.10.1 Contract Types (NEC/FIDIC)

Eskom-approved standard forms of contract and conditions of contract are used for placing all orders or contracts. The New Engineering Contract (NEC) suite of contracts, the FIDIC suite of contracts (use limited to Project Sourcing and for new build projects only, where deemed appropriate by the Eskom Legal Department) and selected Eskom in-house contracts are used as conditions of purchase in Eskom. The Procurement Practitioner in consultation with the cross-functional team, where applicable, selects the appropriate contract to best mitigate the risks of the procurement as part of the approved strategy and such selection is confirmed prior to the issue of the tender.

Where there is no suitable standard form of contract or a Supplier proposes use of its own standard contract, the Procurement Practitioner may request Eskom Legal Department to:

- Draft a special contract; or

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- Approve the Supplier's standard contract.

The Procurement Practitioner must interface with the members of the cross-functional team, other specialists and with the Eskom Legal Department in order to ensure that all relevant data and information has been included by the cross-functional team members to ensure validity, accuracy and enforceability of the contract.

The following contracts are standard contracts that are generally used within Eskom, and transaction-specific additions and amendments to standard conditions of contract (including amendments to standardised 'Z' clauses) cannot be made without consultation and written consent from the Eskom Legal Department, and approval by the relevant Delegated Approval Authority:

- NEC Supply Contract (SC)
- NEC Supply Short Contract (SSC)
- NEC Professional Services Contract (PSC)
- NEC Engineering Construction Contract (ECC)
- NEC Engineering Construction Short Contract (ECSC)
- NEC Term Services Contract (TSC)
- NEC Term Services Short Contract (TSSC)
- NEC Framework Contract (FC) (This should ONLY be used in consultation with the Eskom Legal Department)
- NEC Adjudicator's Contract (AC)
- Eskom General Services Contract (GSC) – only applicable to historical transactions being modified and not for new transactions
- Eskom's General Conditions of Purchase – for transactions up to R1m
- FIDIC suite of contracts (Use limited to Project Sourcing only, with prior approval from Eskom Legal Department), comprising:
  - FIDIC Yellow Book (Design and Construction);
  - FIDIC Red Book (Construction); and
  - Other FIDIC Books.

NOTE: When using the standard NEC suite of contracts, the Contract Management Department within Group Commercial Business Enablement, prescribes templates for use, and will include Eskom-specific commercial and legislative requirements as part of the 'Z' clauses. The NEC suite of contracts cannot be used without the prescribed templates or the standard approved 'Z' clauses. Existing Z clauses or new Z clauses cannot be amended or drafted without prior consultation with and approval from the Eskom Legal Department.

### 3.2.10.2 Partnering and Fleet Arrangements

Where strategic/critical assets or goods are specifically manufactured for Eskom or where strategic/critical maintenance, engineering or other services are contracted out due to special and scarce skills and competency requirements, the development of long term partnering agreements and/or the establishment of a "fleet" arrangement with suppliers (where Eskom will procure multiple units of assets or goods from one supplier as a standard across multiple projects / sites) may be the preferred method of contracting. Partnering agreements/"fleet" arrangements may be set up with original equipment manufacturers (OEMs) and are generally motivated on the basis of standardisation, economies of scale allowing for favourable pricing, SD & L initiatives and security of supply. Strategic partnering and fleet

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arrangements must be approved as part of a strategy authorised by the EXCOPS or a higher Delegated Approval Authority.

### 3.2.10.3 Panel Contracts

The appointment of a panel of service-providers must be executed against a signed and approved strategy, and approval for contract award, must be obtained from a relevant Delegated Approval Authority.

The appointment of a panel of service providers must follow a two-stage process. The first stage is conducted as a pre-qualification enquiry where suppliers are first screened and pre-qualified for general compliance to technical, SHE, quality, and SD&L requirements, including specific goals, if applicable. Price is generally not requested as part of the pre-qualification enquiry, unless a standard rate is prescribed for acceptance.

Once pre-qualified, suppliers on the panel may then compete on a per task order basis as part of the second stage, where they may tender based on the 80:20 or 90:10 preference point system as may be relevant to the task order, or where capacity /capability /location, treated as objective criteria, may become factors in task order award.

Panels may be used as a mechanism to support the development of emerging suppliers where task order allocations are based on principles of rotation.

Contract Managers are responsible for putting in place appropriate systems and controls to ensure that:

- Work / task orders are distributed fairly and equitably among the panel of suppliers;
- RFQs for task orders not exceeding R5m must be received and administered via the same process for the receipt of informal tenders;
- All RFPs relating to task orders must be formally received and administered via the relevant Tender Office;
- All RFQs relating to task orders greater than R5m must be received and administered via the relevant Tender Office;
- Criteria for the selection of a particular supplier for the allocation of work / task orders are defined and documented within the RFQ / RFP and enabling agreement, and made known to panel suppliers and End-Users;
- There is a documented and approved task order approval process;
- Task orders are placed against contracts with sufficient funds and time available for the completion of the supply / services;
- Task orders are supported by a SAP 45 number confirming the order / commitment; and
- SD&L targets and objectives are being monitored and tracked.

All of the above controls must be dealt with upfront as part of the approved strategy, and executed during the contract management phase.

### 3.2.10.4 Other Contract Types

Should it be determined that the standard suites of contracts will not meet the requirements of the specific transaction, the Eskom Legal Department must be approached to either draft a special bespoke agreement appropriate to the transaction, or to advise on whether another suite of contract such as the JBCC, may meet the requirements. Approval to use other non-standard suites of contracts must be obtained from the General Manager: Legal.

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### 3.3 Applications of Low Value Informal Sourcing Mechanisms

#### 3.3.1 Use of LPOs (<R30k)

LPOs can only be used for **non-complex, ad hoc, non-repetitive, non-stock goods or services** which are not included within the ambit of existing contracts / Framework Agreements. LPOs cannot be used as a mechanism to procure the same categories of items on a repetitive or ongoing basis. CPA and/or forex will not be applicable to LPO transactions.

**Only the following goods or services may be procured through the use of LPOs:**

- Consumable materials;
- Groceries for a work site (but NOT alcoholic beverages);
- Meals, limited to a maximum of R500 (excluding VAT), and authorised by the site financial verifier / financial manager;
- Assets, which cannot be procured off existing national /divisional contracts, up to a maximum of R2500 (excluding VAT), and subject to the written authorisation of the site financial verifier or financial manager;
- Rateable services (where rates are quoted per hour or per call-out, etc.);
- Un-priced services (e.g. emergency repairs), to be ratified by the relevant PTC concerned before payment, if an emergency;
- Minor works for which planning permission by a local authority is not needed, e.g. painting; and, capital items that will be written off on purchase and not listed in an asset register, such as small power tools;
- Accommodation, but not for overseas trips;
- Removal and transportation of furniture relating to employee transfers and appointments;
- External training and conferences; and
- Promotional items.

The LPO procurement process is as follows:

- i. The LPO-buyer receives a written request from an End-User which falls within the parameters for LPO procurement. A single request must not be split into multiple orders so as to avoid using the informal tendering process for transactions from R30 000 and R1m, which must be processed by Procurement Practitioners within the relevant procurement department.
- ii. The LPO-buyer identifies a supplier who can meet the demand and need. Sourcing of a supplier must be done using suppliers already registered on the Eskom Supplier Database, in order to avoid unnecessary delays in supplier registration where suppliers are sourced through other means. During the sourcing process, the LPO-buyer must endeavour to support BBBEE suppliers as far as possible, and in terms of the Hierarchy of Supplier Preference.
- iii. A fax form may be used to request a quote from the suppliers. The LPO-buyer must avoid using only one supplier on a repetitive and ongoing basis. The Supplier responds with a quote and if verbally given, the LPO-buyer requests a written quotation which can be submitted via e-mail or fax.
- iv. Once the quotation is received, the LPO-buyer compares the price with previous prices, if possible. The LPO-buyer ascertains if the prices are fair, reasonable and market related. If he/she is satisfied with the prices, he/she contacts the End-User who has to approve the goods or services offered.

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from a technical perspective, and who must also confirm acceptance of the quoted price(s). The End-User then informs the LPO-buyer to proceed with order placement.

- v. Should the LPO-buyer determine that the prices are not fair after comparing with other suppliers' prices, or if the End-User rejects the prices or rejects the goods or services offered for technical reasons, the End-User must confirm whether he/she still needs the goods or services. If the goods or services are still needed, then the LPO-buyer approaches another supplier. In the case that no other supplier is found, the LPO-buyer may then create a shopping cart for the relevant procurement department to assist in sourcing the goods or services. If the requirement is no longer needed then the process is cancelled in which case the LPO-buyer files all documents and marks the file as cancelled.
- vi. The LPO-buyer then creates a "LPO Order" (starting with a "43...." number) on SAP making reference to the Eskom General Conditions of Purchase and Instruction on where to obtain it. He/she includes the address where the goods or services must be delivered. The LPO order will then be routed to the Cost Centre Manager via workflow for approval of the procurement.
- vii. After approval of the procurement by the Cost Centre Manager, the LPO-buyer prints the order, signs it and forwards it to the supplier.
- viii. The supplier must notify the LPO-buyer when delivery is going to take place. Once the goods or services have been delivered at the stipulated address, the LPO-buyer requests the End-User to do a quality inspection of the goods (if required) and to do a goods receipt in SAP. The relevant Materials Management department does a goods receipt in SAP if the order was delivered to the stores. The LPO-buyer cancels goods or services not received and returns damaged goods to the supplier. Where goods are partly delivered, a copy of the delivery documents is retained until the delivery is complete. Part-deliveries of the same order over an extended period of time are not permissible. Any part orders remaining after delivery must be cancelled and replaced by a new order (one delivery note for each LPO).
- ix. The LPO-buyer must ensure that the total value of all deliveries for one single order remains below the threshold of R30 000, including VAT and all applicable taxes. Non-standard payment terms including upfront payments, partial payments, staggered payments or progress payments are not permitted.
- x. The Supplier sends the Invoice directly to Finance who will effect payment only after the goods receipt in SAP has been completed. Finance allocates the costs to the relevant cost centre. A three-way matching of the documents will be done automatically by the system. Any discrepancies will be followed up by Finance.
- xi. The LPO-buyer must file all documents in a file for audit purposes.
- xii. The Risk and Governance Department will analyse monthly reports drawn from SAP to determine compliance to the requirements of this Procedure with respect to LPOs. Any possible irregularities or breach of controls will be further investigated.
- xiii. The Procurement Manager within the relevant procurement department may also run reports from SAP on a monthly basis to verify whether LPOs are being executed within the parameters as set out herein. Should the Procurement Manager determine that the same goods or services are being bought on a repetitive basis the Procurement Manager must allocate a request (PR) through to a Procurement Practitioner who must consolidate the requirements for purposes of a contract.

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### 3.3.2 Informal Tendering – Request Minimum one Quote (<R30k)

**NB: The process hereunder may be subject to further review and may be subject to further optimisation for improved controls after publication of this revision of the Procedure.**

Low value transactions (less than R30 000, including VAT and all applicable taxes) may also be executed by Procurement Practitioners when there are no LPO-buyers who are authorised or available to execute LPOs, or when assets, goods or services fall outside the ambit of the categories of supply permissible for the use of LPOs.

The informal tendering process must be executed by Procurement Practitioners as follows, for transactions that do not contain any forex, CPA or CIDB implications:

- i. Once the End-User has a need for assets, goods or services which cannot be purchased through use of an LPO, he/she creates a PR in the electronic purchasing system which is automatically routed via workflow to the relevant Cost Centre Manager for approval. As far as possible, the End-User inserts a materials number (if a non-stock item) or a service number in the text field, obtainable from the cataloguing system, which describes the assets, goods or services. The End-User obtains confirmation from the relevant Finance department that there are enough funds in the budget to purchase the required assets, goods or services. The Cost Centre Manager approves the estimated value of the assets, goods or services required. When approving the estimated value, the Cost Centre Manager may also verify from the CO module in SAP, that there is enough money in the budget for the transaction.
- ii. Should the requirement be for an asset, the End-User has to obtain an asset number from the relevant Assets department and include it in the applicable field on the PR. Once the Procurement Practitioner receives the PR, he/she will use the asset number in the RFQ and PO for recording purposes.
- iii. On approval of the request by the Cost Centre Manager, the PR is routed to the Procurement Manager who will review the PR for validity and completeness, and allocate the PR to the applicable Procurement Practitioner. Rejected PR's will be communicated to the End-User who will re-enter/correct it in the electronic purchasing system if so required.
- iv. The Procurement Practitioner must always first check if there is an existing Eskom national / Divisional Framework Agreement already in place for the required assets, goods or services. If a Framework Agreement is in place, the Procurement Practitioner must confirm with the assigned Contract Manager if the procuring BU is allowed to draw-down from the agreement, and may then proceed with a draw-down if permitted to do so.
- v. If there is no national / Divisional Framework Agreement in place or a draw-down from an existing Framework Agreement is not permissible, the Procurement Practitioner needs only to identify one supplier from the Eskom Supplier Database that will meet the requirement. In this process, the Procurement Practitioner must identify suppliers based on the Hierarchy of Supplier Preference in order to support BBBEE suppliers as far as possible.
- vi. The Procurement Practitioner communicates the requirement to the supplier telephonically or via fax or e-mail. The RFQ functionality in the electronic system may be used to send through RFQs electronically. The Procurement Practitioner instructs the supplier on how to go about submitting the quotation through to Eskom, the delivery date and place, and that the Eskom General Conditions of Purchase will apply.
- vii. The Supplier faxes or e-mails a quote through to Eskom based on the instructions received in the RFQ. In the case of a telephonic enquiry, the Procurement Practitioner records the details like the price of the assets, goods or services and the delivery costs, and then requests a written response at a designated fax machine or e-mail address from the Supplier as confirmation of what was communicated telephonically.
- viii. The Procurement Practitioner completes the relevant Commercial Transaction Approval Form and requests approval via dual adjudication from an Accredited Procurement Practitioner (TASK grading G14 and above) to authorise order placement.

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- ix. Upon receipt of approval from a dual adjudicator, the executing Procurement Practitioner then creates an order against the Supplier already registered on the Eskom Supplier Database, and sends a printed order to the Supplier, or if possible, sends an electronic order through the system to the supplier.
- x. The Supplier delivers the assets, goods or services at the address instructed in the order, at the stipulated quantities and quality.
- xi. If goods were delivered at the stores, the Materials Management official receives the goods and contacts the End-User to conduct a quality check. The goods are then entered into the system as received.
- xii. The Supplier issues an invoice to Finance for payment. The three-way matching process will be done automatically by the system. Any discrepancies will be followed-up by Finance.
- xiii. The Procurement Practitioner must file all relevant documents for audit purposes, such as the request (RFQ), the fax/e-mail to the Supplier, the quote received, the signed Commercial Transaction Approval Form and the order. He/she also files monthly reports for audit purposes.
- xiv. The Procurement Manager must draw monthly reports from the electronic purchasing system for scrutiny, in order to identify any irregularities or trends that indicate undue preferences for specific Suppliers. The Procurement Manager must also ensure that all contracted values are below R30 000 including VAT and all applicable taxes, and that the transactions contain no forex, CPA or CIDB implications. The Procurement Manager must also check if the quote received is in line with the evaluation, approval granted, and the order placed. The Procurement Manager informs the Risk and Governance Department within Group Technology and Commercial of any suspected irregularities or breaches of controls. Once satisfied with the report, the Procurement Manager signs off the report, and the Procurement Practitioner files it as part of the audit trail.
- xv. The Procurement Manager must do spot checks from time to time on the processes followed to determine the levels of compliance to approved processes. The Procurement Manager will further determine the need to conclude contracts for repetitive purchases and may request Procurement Practitioners to proceed with commercial processes in this regard.
- xvi. Apart from these checks by the Procurement Manager, the Risk and Governance Department (Trends Analysis) will also draw monthly reports to measure the compliance of the processes followed.
- xvii. An annual audit will be conducted by Internal Audit on such transactions to ensure compliance to this Procedure.
- xviii. The documents and reports forming the audit trail for the transactions are archived for the period required in accordance with Eskom's Document Retention Policy.

**3.3.3 Informal Tendering – Request Minimum Three Quotes (R30k up to R1m)**

**NB: The process hereunder may be subject to further review and may be subject to further optimisation for improved controls after publication of this revision of the Procedure.**

This process must be executed only by Procurement Practitioners.

The nature of these transactions may vary from low complexity transactions for off-the-shelf goods with minimum requirements where a once-off order will suffice, to more complex transactions for services/works with additional requirements, where a NEC short contract may be appropriate, and may further include disposals of moveable assets (refer to Section 3.12).

It will not be permissible to execute RFPs through an informal tendering process due the number of returnables that may be required for evaluation, and the possible complexity thereof. Any requirement for an RFP can only be executed via a formal tendering process. The same principles may be applied to certain RFQs. Where it is anticipated that multiple thresholds will be applied and multiple returnables requested for detailed evaluation, it is recommended that the formal tendering process be used. The informal RFQ process is not designed for complex procurement requiring lengthy detailed evaluations,

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and is intended primarily for non-complex assets, goods or services which must be procured with speed and efficiency, with turnaround times preferably not exceeding 5 working days.

The Procurement Practitioner applies the informal tendering process based on the criteria set out below.

- The value and duration of the contracts or orders are from R30k (including VAT and all applicable taxes) but do not exceed R1m (including VAT and all applicable taxes) and 1 year;
- The Delegated Approval Authority is generally a dual adjudicator;
- Transactions which are less than R30 000 (including VAT and all applicable taxes) but which cannot be sourced via LPO or low value purchasing processes (using a minimum of 1 quotation) due to implications of forex, CPA or CIDB must be subject to this informal tendering process (minimum 3 quotes);
- The price may include foreign currency which will necessitate EXCON approval. Forward cover must be taken out if the foreign portion of the price is R150 000 or more;
- There must be at least 3 (three) capable and independent (non-related) suppliers to ensure competition for purposes of a competitive tender;
- The expenditure must be budgeted for;
- Tender evaluation must be applied in accordance with the 80/20 preference point system as required in terms of the PPPFA. Functionality is generally not required as a threshold for these transactions;
- Assets, goods or services required may be considered to be from a designated sector, and the required threshold for local content must be included as part of the tender in this case.

The enquiry process to be followed for transactions processed via informal tendering is as follows:

- i. The End-User describes his need and does the necessary planning to ensure that the assets, goods or services required will be delivered at the right time, place, price, quantity and quality. As far as possible, he/she accurately estimates the costs for the provision of the assets, goods or services required. This is in order to determine and stipulate the appropriate preference point system to use, which in this case should be the 80/20 preference point system.
- ii. The End-User creates a PR in the electronic purchasing system. As far as possible, the End-User inserts a material number or service number from the cataloguing system in the text field. This number describes the assets, goods or services required. If the need is for an asset, the End-User obtains an asset number from the relevant Asset Department and inserts it in the applicable field on the PR. The relevant Cost Centre Manager approves the PR which is then routed to the relevant procurement department where the Procurement Manager will allocate it to a specific Procurement Practitioner after he / she has checked the PR for validity and completeness. If the PR appears incomplete or incorrect, the Procurement Manager rejects the PR which will be sent back to the End-User, who will have to rectify it and send it back to the procurement department if the assets, goods or services are still required.
- iii. The Procurement Practitioner must always first check if there is an existing Eskom national / Divisional Framework Agreement already in place for the required assets, goods or services. If a Framework Agreement is in place, the Procurement Practitioner must confirm with the assigned Contract Manager if the procuring Division /BU requiring the assets, goods or services is allowed to draw-down from the Framework Agreement, and may then proceed with a draw-down if permitted to do so.
- iv. If no existing national /Divisional Framework Agreement exists, or a draw down from an existing Framework Agreement is not permissible, the Procurement Practitioner compiles a list of a minimum of 3 capable and independent (non-related) Suppliers obtained from the Eskom Supplier Database or by finding Suppliers through any other recognised means (e.g. internet, purchasing directories,

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recommendations from End-Users, etc.). In sourcing for a minimum of 3 capable and independent suppliers, the Procurement Practitioner must endeavour to target Suppliers in accordance with the Hierarchy of Supplier Preference, as far as possible. The Procurement Practitioner also determines if an order based on the General Conditions of Purchase will suffice, or if a NEC Short Contract is more suitable to the requirements.

- v. The Procurement Practitioner must also confirm whether the required assets, goods or services are part of a designated sector as prescribed in the PPPFA for purposes of promoting local content. If the assets, goods or services are part of a designated sector, then the appropriate local content threshold must be indicated as a condition of the RFQ.
- vi. When using the 80:20 preference point system for non-complex procurement, it will generally not be necessary to utilise the functionality criterion as a threshold, in the interests of reducing lead times for evaluation, unless the assets, goods or services required have a major impact on SHEQ as specified by the End-User, in which case, functionality, inclusive of SHEQ sub-criteria must be used as a threshold. In the case of more complex transactions and where contracts are used, the Procurement Practitioner must determine, in consultation with the End-User, whether functionality as a threshold is required.
- vii. The RFQ may be sent via fax or e-mail to a minimum of 3 capable and independent suppliers. The Procurement Practitioner must make reference to the Eskom Standard Conditions of Tender, Eskom General Conditions of Purchase, and stipulate any applicable thresholds (e.g. functionality or local content), and the evaluation criteria (80/20 preference points system) that will apply, within the RFQ. Reference must be made to the electronic website link where the participating suppliers can obtain the Standard Conditions of Tender and the General Conditions of Purchase, if not attached to the RFQ. The Procurement Practitioner must include such documents that are not electronically available on Eskom's website within the RFQ when issuing it to the Suppliers. The Procurement Practitioner must also ensure that order data required by the General Conditions of Purchase (such as delivery address, penalties etc.) are requested in the RFQ.
- viii. In the case of more complex transactions that justify the use of a NEC Short Contract, the Procurement Practitioner ensures that the necessary scope, price schedules, applicable thresholds and evaluation criteria are included and stipulated as part of the RFQ. A contract document, consisting of the required Contract Data is then compiled with the necessary information and issued with the RFQ, and associated Tender Data.
- ix. All RFQs, irrespective of complexity, must request the following: a valid BBBEE certificate in order to evaluate the 20 points applicable to BBBEE; a valid tax clearance certificate, and, to the extent that the services / works are classified as engineering or construction works governed by the CIBD Act and Regulations, proof of CIBD registration together with the required CIBD level in the applicable category of works. It must be noted that an order / contract cannot be awarded without a valid tax clearance certificate or, for construction and engineering works, without CIBD registration at the applicable level or within the required category of works.
- x. The Procurement Practitioner must notify the Suppliers of the closing date and time for the submission of tenders, and must instruct the suppliers in writing within the RFQ on the method of delivering the tenders to Eskom, which in this instance may only be via e-mail or fax. Although a closing date and time will be stipulated, the receipting of the tender will not follow the same formal tender opening process as formal tenders which are required to be placed within the Eskom tender box. Independent authorized officials will be assigned to manage the receipting of informal tenders via fax and e-mail for purposes of recording, tracking and monitoring, and for distribution to the respective Procurement Practitioners.
- xix. Once the informal tenders have been distributed to the Procurement Practitioner, the Procurement Practitioner must proceed to evaluate the informal tenders by applying any applicable thresholds, and

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then applying the 80/20 preference point system and any other objective criteria as was stipulated in the RFQ.

- xx. If functionality was not stipulated as a threshold, then the Procurement Practitioner determines if the required threshold was met for local content, if applicable. If functionality was stipulated as a threshold then evaluation will be conducted by the End-User who must determine if the informal tender meets or exceeds the threshold and thus qualifies for further evaluation. Only those tenders that meet the functionality threshold will be evaluated further.
- xxi. Where stipulated thresholds have not been met, the informal tender must be disqualified. If stipulated thresholds are met, then the Procurement Practitioner proceeds to evaluate against the 80 points for price by awarding 80 points to the lowest priced tender and awarding pro rata scores to the other higher prices, based on the prescribed formula. The other 20 points will be allocated based on the level of BBBEE contribution, according to the table in Section 5 of the PPPFA Regulations. These two scores (score out of 80 and 20 respectively) must be added together and the tender with the highest score must be recommended for order / contract award, in the absence of applying any other objective criteria (if stated in the tender) which may result in the highest scoring tender not being recommended.
- xxii. The Procurement Practitioner will use the evaluation price to determine the scoring out of 80. To assist the Procurement Practitioner in determining the different scores for the different tenders, an Excel spreadsheet (attached hereto within Appendix C) is recommended. The tender with the highest combined scores for Price and BBBEE, based on the 80/20 preference points system (in the absence of applying any other objective criteria), will be recommended for award on the Commercial Transaction Approval Form to an Accredited Procurement Practitioner with dual adjudication authority, who may either approve or reject the recommendation.
- xxiii. Once the recommendation is approved, the Procurement Practitioner creates either an order or a contract in the electronic purchasing system and forwards the contract/order to the successful Supplier. If a NEC contract has been used, the Procurement Practitioner must obtain the signatures for the contract from the supplier and from the relevant authorized Eskom delegates. The Procurement Practitioner must also transmit the PO through the electronic system to the successful supplier.
- xxiv. Once the contract has been signed or the order been awarded to the successful supplier, the Procurement Practitioner will notify, on request of the unsuccessful supplier(s), the reasons why they were unsuccessful. The name of the successful supplier may be given to other participating suppliers who may request it.
- xxv. A Contract Manager must be appointed to manage the contract in accordance with the conditions of contract. The Supplier submits invoices to the contact details given in the order/contract. In the case of an order for goods, the End-User must do a quality check on the goods received and must do a "goods receipt" (GR) or service entry (SE) in SAP if he is satisfied with the quantity and quality of goods. It is also required for the person doing the GR/SE in SAP to enter the relevant SAP document onto the delivery note/invoice. Damaged goods must be returned to the Supplier.
- xxvi. Payment (within 30 days of invoice and within 15 days of invoice for SBEs/ BWOs) to the supplier will be processed by Finance and the Procurement Practitioner or the procurement department will not be involved in the processing of payment to the supplier.
- xxvii. The Procurement Practitioner and the Contract Manager maintain a file of the transaction for audit purposes.
- xxviii. The tenders, signed Commercial Transaction Approval Form and order/contract documents are archived and retained for a period as specified in the Eskom Document Retention Policy.

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### 3.4 Application of Formal Competitive Tendering (>R1m)

#### 3.4.1 Criteria for Application

Although this section deals with formal competitive tendering for transactions greater than R1 million (including VAT and all applicable taxes) and /or greater than 1 year in duration, the formal competitive tendering process may also be executed for orders / contracts less than R1 million and/or less than 1 year, due to the complexity and nature of certain contracts below R1m, or where an RFP is required.

Procurement Practitioners are the only employees in Eskom mandated to execute formal competitive tendering processes.

The criteria to determine whether formal competitive tendering must be applied to commercial transactions are as follows:

- The value of these contracts or orders generally exceed R1m (including VAT and all applicable taxes);
- The contract duration generally exceeds 1 year;
- Forex and / or CPA may be applicable;
- Requirements for manufacturing, design, supply, commissioning, construction of works, goods or a plant must generally be procured via formal competitive tendering, irrespective of value, unless a sole source has been authorised in terms of 3.5.1 herein;
- The expenditure must be budgeted for and ERA /investment approvals must be obtained prior to execution of the process;
- Evaluation will generally be based upon the 90/10 preference point system as required in terms of the PPPFA;
- Commercial strategies are mandatory for transactions greater than R10 million (excluding VAT) and needs to be completed and authorised on a standard Commercial Strategy Approval Form prior to execution of the process. Delegations of Authority applicable to strategies are set out in section 3.1.7, and will apply accordingly.

In order to support supplier development and localisation initiatives, it is Eskom's preferred position to publicly advertise tenders as far as possible to enable open market participation. Notwithstanding this preference, it may be permissible to proceed with a tender on a closed/limited basis where only selected suppliers are targeted, provided that this is supported by an approved strategy, which motivates why use an open tender system is not possible or not practically feasible.

#### 3.4.2 Execution of Closed/Limited Tenders

A closed tender refers to a process where there are only a limited number of suppliers selected to whom Eskom will issue the tender without inviting the market at large.

In this case, public advertising of the tender is not required.

Where strategy approval is obtained to proceed with a closed/limited enquiry, the Procurement Practitioner, assisted by the End-User/cross-functional team and the relevant SD&L functionary confirm the list of a minimum of three (3) capable and independent (non-related) suppliers, but preferably more, who will be invited to participate in the tender, based on the outcome of a RFI, EOI, pre-qualification enquiry, and / or the supplier's existing profile on the Eskom Supplier Database, provided that selection of the closed list can be justified against the constitutional principles of fairness, equitability, transparency, competitiveness and cost-effectiveness.

Closed tendering may be applied if:

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- There is an approved strategy authorising sourcing via closed/limited tender, and authorising the suppliers selected for participation;
- It has been established through market research that there are only a few known suppliers that are capable and available to provide the assets, goods or services, due to the specialised field they operate in;
- The market is too large and suppliers may be pre-qualified against specific criteria before participation in a closed tender process, in order to avoid a lengthy and costly evaluation process.

### 3.4.3 Execution of Open Tenders

Open tenders refer to requirements for the procurement /disposal of assets, goods or services which are advertised to the public /market at large and is open for participation by any interested supplier who meets the minimum requirements to become eligible to compete in such a process.

If an open tender to the market is to be executed, the need must be advertised in Eskom's Tender Bulletin and /or local, national or international media (such as newspapers, radio, television, websites, magazines, etc.), dependent on the segment of the market being targeted, and the costs of advertising involved, which must be justified for the category of procurement /disposal involved.

### 3.4.4 Advertising of Open Tenders

If the approved commercial strategy authorises that the open market will be invited to tender, then an advertisement will be published in the Tender Bulletin and may further be advertised through other local, national or international media (depending on the anticipated target market for the supply, and the costs of advertising which must be considered).

- When advertising in the Tender Bulletin, the Procurement Practitioner completes all necessary fields on the screens developed for advertisement creation;
- When advertising in the media, a standard template for advertisements must be used. The advertisement needs to be signed off by a Commercial Senior Manager within the relevant sourcing department executing the procurement. This must be forwarded to the Risk and Governance Department for a final review, before submission to the Communications Department, together with a briefing note detailing the reason for advertising and the date for publication.

The advertisement must clearly specify the competitive process to be followed, the scope of work, the closing date and time, the contact person in Eskom, an e-mail address to direct enquiries on the tender, and the address of where to deliver the tender.

All construction and engineering procurement falling under the ambit of the CIDB Act and its Regulations, must also be advertised on the CIDB i-Tender system, where the estimated contract value is R10m or higher.

In terms of PFMA Regulations, competitive tenders are required to be open / advertised for at least 30 days. Although Eskom is not currently bound by the PFMA Regulations, it is still required to provide suppliers with a fair amount of time to respond to a tender.

On this basis, the following are the minimum recommended times for which a formal competitive tender may be advertised:

- Minimum of 21 calendar days (under normal circumstances, and for tenders which will result in contracts to be authorised by the EXCOPS or higher);
- Minimum of 14 calendar days (under urgent circumstances, where the urgency has been confirmed by the relevant Procurement Manager).

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The duration must take into consideration factors such as complexity of the procurement, project programme and milestones, and operational requirements, and to the extent that Procurement Practitioners may be required to deviate from the minimum prescribed guidelines, specific authorisation for such deviation must be obtained in writing from the relevant Procurement Manager.

### 3.4.5 Issuing and Invitation to Tender

#### 3.4.5.1 Documentation Required for Compiling a Tender

The Procurement Practitioner prepares the tender documentation with the input of the End-User, or in the case of more complex transactions, the assigned cross-functional team.

The tender documents must comprise of the following minimum documentation:

- Letter of Invitation to Tender
- Eskom's Standard Conditions of Tender
- Tender Data
- Contract conditions (NEC or FIDIC) with completed contract data and additional/particular conditions as authorised by the Eskom Legal Department
- Drawings (if applicable)
- Technical specifications and standards
- Local Content Schedules (if applicable)
- SHEQ standards and forms
- Insurance documents
- CPA and/or CPA(IG) forms
- Price Schedules (Note: all tenders must state that suppliers are not, under any circumstances, to deviate from the required stipulated format for the provision of pricing)
- Supplier Evaluation Pack for Service Providers - PAYE (Pay As You Earn) Questionnaire
- Tenders for the procurement of goods/products must request an affidavit stating that the supplier is providing Eskom with a good / product as opposed to a service and is not a Labour Broker as defined in the Income Tax Act (58 of 1962)
- Conditions of Supplier Registration with the Supplier Application Form
- List of other tender returnables, including:
  - Authorisation Form (Confirms the authority of the Supplier's representative to act as an authorised agent on behalf of the Supplier)
  - Declaration of Fair Bidding Practices
  - Proof of CIDB Registration (for construction and engineering services)
  - Declaration of Shareholding and Directorship
  - Supplier Declaration of Interest
  - Valid certified copy of SARS Tax Clearance Certificate
  - Financial Statements of the Supplier
  - One complete hard copy of the tender for purposes of evaluation

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- JV Agreement or Letter of Intent to form a JV
- Any other document which may be relevant as a pre-requisite for evaluation or a pre-requisite for contract award must be requested in the tender.

**Tax Clearance:** Procurement Practitioners must ensure that every tender issued contains the requirement that suppliers must, as a tender returnable, submit a valid certified copy of the tax clearance certificate issued by the South African Revenue Service (SARS). Failure to submit the required certificate by the time a recommendation is made for contract award will render a tender commercially unacceptable.

Procurement Practitioners must confirm that suppliers are registered as VAT vendors if VAT is being charged and/or if Eskom's contract/s with the supplier exceeds the VAT exemption allowed by SARS.

**CIDB:** The Construction Industry Development Board Act, 38 of 2000, requires Eskom as a state-owned entity to adhere to the Procurement Regulations passed by the Construction Industry Development Board (CIDB). When contracting for construction and engineering works, the applicable grading and class of construction works applicable to the procurement must be specified in the Tender Data. All information pertaining to the grading of suppliers and the classes of construction works may be obtained from the CIDB website: [www.cidb.org.za](http://www.cidb.org.za).

**PAYE:** Procurement Practitioners must ensure the Evaluation Pack for Service Providers is issued with competitive tenders for the procurement of services or labour and is submitted by the supplier as a tender returnable in order to determine the correct tax status of the supplier to ensure the correct treatment for PAYE purposes.

**Price / CPA:** Eskom has standard forms for CPA for general goods (CPA (G)) and for imported assets / goods (CPA (IG)). The relevant form must be issued with the tender to ensure that Eskom has a proper base for evaluation. Eskom's finance functionaries, engineering staff, cost estimators and quantity surveyors must assist the Procurement Practitioner in ensuring that the most applicable CPA formula is selected, and that the allocated percentage of each element corresponds with the technical components.

**BBBEE:** Suppliers classified as EMEs have the option of submitting a BBBEE certificate from an Accredited Verification Agency, or may confirm their BBBEE status through accounting officers, and registered auditors, which are options which must be indicated within the tender. Suppliers other than EMEs must submit certificates issued by an Accredited Verification Agency.

All tenders must request for a valid certified copy of the original BBBEE certificate from an Accredited Verification Agency, irrespective if it is a JV, trust, public entity or tertiary institution.

**Documents Confirming Participation as a Joint Venture:** Suppliers may choose to respond to a tender in the form of a joint venture / consortium. Tenders must make provision for requesting joint ventures to provide Eskom with the following, in addition to the mandatory standard tender returnables:

- A valid joint venture agreement confirming the rights and obligations of each of the joint venture partners and their profit-sharing ratios. If a JV Agreement has been submitted, the Eskom Legal Department must review it and provide confirmation of acceptability. A contract will not be awarded to a joint venture in the absence of the joint venture agreement, which is a pre-requisite to contract award. A Letter of Intent to form a JV if the JV is awarded the tender is only acceptable for purposes of proceeding with evaluation, but is not acceptable as a basis for contract award;
- Written confirmation that the joint venture will operate as a single business entity for the duration of the contract (this may be included as an obligation within the JV agreement);
- A valid BBBEE Verification Certificate confirming the B-BBEE status for the joint venture as a single entity where incorporated, or as a group structure, where unincorporated; and
- Details and confirmation of a single designated bank account in the name of the JV and independent of the individual JV partners, as set out in the joint venture agreement, as Eskom will pay the joint

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venture as a single business entity into this bank account only. Eskom will load a joint venture as a single business entity on the Eskom Supplier Database and purchasing system.

**Requesting Copies of Tenders as Returnables:** Every formal tender must contain a request for only one (1) complete hard copy of the tender. It is not permissible or a fair practice to request multiple copies of tenders in multiple formats at the expense of the supplier, for the convenience of Eskom, and to disqualify a supplier on this basis.

Original tenders are marked as such and stored within the relevant Tender Offices in order to avoid the risks of tender tampering, to provide security for the tenders during evaluation, and to maintain an audit trail of the tender, while hard copies are released to the relevant Procurement Practitioner for the purposes of evaluation.

Electronic (soft) copies of tenders may only be requested in exceptional circumstances, based on a motivation around the volume of pricing and technical information reasonably expected based on the instructions issued with the tender. Necessary controls around the receipt, storage and verification of information submitted electronically (such as the format, password protection, and verification of information) will be determined by the Group Commercial Risk and Governance Department, and communicated accordingly.

**Supplier Registration Documents:** The Procurement Practitioner must ensure that Supplier Application Forms together with the Conditions of Registration are sent to participating suppliers as part of the tender. The registration documents must be completed by the Supplier and submitted prior to Eskom making a recommendation for contract award. Suppliers failing to meet standard registration requirements as required within the Conditions of Registration and Supplier Application Form will not become eligible for contract award. Supplier registration is a pre-requisite for contract award.

**Classification of Returnables:** The aforementioned returnables, to the extent applicable, must be clearly requested within the tender, with a clear and unambiguous stipulation as to whether the returnable is mandatory for evaluating threshold/gatekeeper requirements (and which ones), mandatory for scoring points against criteria for evaluation (and the criteria applicable) and / or a mandatory pre-requisite for contract award, and will, on this basis be used to determine the responsiveness of a tender.

*Returnables linked to evaluating price and BBBEE status will be scored against criteria for evaluation and used for purposes of determining competitive ranking. All returnables which are mandatory for the determination of meeting stipulated gatekeepers / thresholds and mandatory for evaluation in the allocation of points, must be indicated as such in the tender document and must be submitted by the deadline for tender submission, failing which the supplier will be deemed non-responsive or penalised for the failure to submit the returnable, depending on the conditions stipulated within the tender.*

*Returnables that are not required for the purposes of meeting gatekeepers / thresholds or the allocation of points, but which are a requirement for legislative compliance, or a requirement of due diligence, must be submitted and assessed for commercial acceptability as objective criteria (post evaluation) prior to the finalisation of the recommendation to a Delegated Approval Authority, as it determines eligibility for contract award.*

#### 3.4.5.2 Formulating a Tender

- In compiling the tender document, the Procurement Practitioner considers all aspects of the transaction and consults with the relevant specialist functionaries of the assigned cross-functional team.

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- **A list of mandatory tender returnables must be identified, classified (mandatory for gatekeeper /threshold evaluation; mandatory for scoring against criteria for evaluation; mandatory for contract award) and listed accordingly within the tender.**
- **Contract Terms and Conditions:** The Procurement Practitioner compiles the relevant contract by selecting the appropriate main and secondary options (based on the approved commercial strategy) and completing all Contract Data relevant to the Employer (Eskom). The Procurement Practitioner must consult with the End-User and the cross-functional team for their inputs. Squad check meetings with the various cross-functional team members will also be necessary in order to complete the Contract Data and to ensure that all input from specialist functions such as insurance, tax, shipping, legal, finance, engineering, and SHEQ are obtained and incorporated into the tender both as conditions of tender and conditions of contract.
- **Incoterms:** The Procurement Practitioner must ensure that he/she understands the implications of incoterms and that the most appropriate is selected when assets or goods will be imported. The Eskom Shipping Department within Group Technology and Commercial SCOPS function must be consulted in this regard. Use of a particular incoterm must not duplicate obligations, e.g. using an incoterm that includes insurance (e.g. CIF), when Eskom may, for example already have a marine insurance policy in effect. NOTE: For additional information on the use of INCOTERMS, the following website is recommended: [www.iccwbo.org/incotermsrules](http://www.iccwbo.org/incotermsrules).
- **Mode of Delivery:** Although it is usually the Supplier's responsibility to ensure that goods are delivered to Eskom's sites or stores, Procurement Practitioners may face problems with goods which may be lost or damaged in transit. By specifying the mode of transport to be used in the tender, Procurement Practitioners may be able to minimise transport costs, save time and prevent damage in transit, and further be able to assist Suppliers and End-Users regarding special categories of goods e.g. abnormal loads.  
  
Goods can be transported in different ways, e.g. ship, air, rail and road. Ship and air transport is generally used when goods are imported. When using rail transport for local deliveries the following services may be used: i) for ordinary goods, the most commonly used rail service, but it increases the chance of damage and takes longer time; ii) through containerisation which reduces the risk of damage; and iii) fast freight services which are faster but a surcharge may be applicable.  
  
When using road transport for local deliveries, it can be via SATS (South African Transport Services), private (e.g. Frasers), or via postage services.  
  
Air cargo services are rendered by the SAA which is fast, but expensive. Procurement Practitioners need to be aware of certain limitations when using this, namely floor loading size, door size, weight of items and dangerous cargo such as combustible liquids, explosives, magnetised materials, radioactive materials and compressed gases.  
  
Transportation of imported goods must be procured via the Shipping Department within Group Technology and Commercial through Eskom national contracts or through Shipping Agent contracts. All turnkey shipping contracts must be concluded in consultation with the Shipping Department, and with the prior written consent of the Shipping Manager.
- **Insurance:** In the case of project procurement, an insurance specialist must be part of the cross-functional team to advise the cross-functional team on the best way to include insurance obligations, so that it will be cost effective for Eskom and not duplicate obligations.
- **Security For Performance:** Where Eskom needs to mitigate the financial risks involved in ensuring performance of a contract, security for proper performance in the form of a bond or a guarantee may be requested as part of the competitive tender, as contained in the proposed conditions of contract forming part of the tender.

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A performance bond is an on-demand security for non-performance, whereby the financial institution issuing the bond, will compensate Eskom, on demand, for specific circumstances as provided for in the contract, up to the maximum amount stipulated on the bond, should the supplier fail to perform in terms of the contract.

Under a parent company guarantee, the parent/holding company of the supplier undertakes to complete ("step into the shoes" of the supplier) or rectify the works or services, or supply the assets / goods should the supplier fail to perform. This guarantee is not a financial document. There are no costs associated with the issuance of a parent company guarantee. This guarantee is issued by the parent company as an irrevocable undertaking, standing as surety for the supplier for the compliance of all of their obligations under the contract. This guarantee cannot be used when the supplier does not have a parent company.

In unique circumstances and in the instance of high risk profile contracts, if the supplier does not have a parent company, Eskom may request for a "third party" guarantee from an independent third party (as sourced by the supplier) willing to provide a guarantee in the form of a parent company guarantee.

SBE/BWO suppliers may be financially less secure and alternative forms of security may be used to mitigate the risk of non-performance, as the cost of a guarantee or a bond may not be financially sustainable for such suppliers, thereby placing Eskom at a greater risk. Ensuring that contracts are aligned with supplier turnover may mitigate this risk.

Low performance or delay damages may be used as a form of security where the technical risk is great.

Eskom does not encourage the provision of advance payments. An advance payment may be an acceptable strategy for Eskom in certain circumstances. This may be considered in cases where the Supplier will have to make a big capital outlay before starting with the contract. This may be necessary when assets or goods are to be ordered and paid for and where assets or goods have a long lead time or where manufacturing slots need to be booked and paid for well in advance of the goods being delivered. An advance payment will only be issued on condition that an advance payment bond (on the Eskom pro-forma working document) can be provided by the supplier. The relevant contractual provisions relating to advance payments also need to be included in the contract. Approval to proceed with a contract containing advance payment conditions must be supported by the relevant financial functionary and approved by a PTC (not within dual or triple adjudication).

Automatically requesting any of the above forms of security without consideration for their need will increase the cost of contracting, without providing any additional benefits to Eskom. Where these forms of security are requested, the commercial strategy must contain evidence that the Procurement Practitioner and End-User/cross-functional team actually applied their minds to the need for such security, against a demonstrated risk analysis process.

Eskom Treasury Department is appointed by the Treasury Committee to facilitate and manage the Eskom-wide guarantee process. The Treasury Committee, chaired by the Finance Director, is responsible for ensuring that Eskom, through Eskom Treasury Department, has an effective credit risk exposure management process in place, including the centralised administration of guarantees issued in favour of Eskom. The process also includes the monitoring of the guarantees' exposures against Treasury's set credit limits of the guarantors.

Where bonds / guarantees are required to secure the performance of a contract, the tender must request suppliers to provide the names of a minimum of two (2) financial institutions that the Supplier may approach to obtain the required bond / guarantee, which require the approval of the Eskom Treasury Department.

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- **Functionality:** The cross-functional team determines the functionality criteria to be applied and the appropriate functionality threshold. Functionality serves as a threshold / gatekeeper prior to commencing with evaluation, and determines if a tender is eligible to proceed with evaluation. All procurement greater than R10m must include functionality (as defined in the PPPFA and Regulations) as a threshold / gatekeeper, with a minimum stipulated threshold expressed as a percentage, that must be determined on a per tender basis, and stipulated within the tender. Where safety and quality are core components within the functionality threshold, the model set out in 3.2.9.2 must be used.
- The tender must clearly stipulate the specifications that the supplier's product / service must adhere to. In the case of a product, all applicable standards, manuals and specifications such as welding specifications, valve specifications etc., need to be submitted for compliance by the supplier, as a requirement of functionality. In the case of works/services, the tender may request for proof that the supplier has done similar works/services on similar contracts/projects involved within the last 5 years. Suppliers may be requested to stipulate in what role/capacity they participated in a project/contract.
- Aside from purely technical /functional criteria, other criteria linked to safety, health, environment, quality and support to local industrialisation, skills development and job creation, may also be included under the functionality threshold, dependent on the priority that the criterion holds with respect to the type of procurement, and the functionality model set out in 3.2.9.3 must be used as the basis to include such criteria.
- **SHEQ:** The SHEQ Policy creates an obligation on Group Technology and Commercial to ensure that SHE objectives and criteria are included in tenders for orders and contracts. In order to adhere to Eskom's SHEQ Policy, Procurement Practitioners must ensure that the relevant Divisional Safety Risk Manager or his/ her representative must form part of the cross-functional team and provide the relevant signed-off SHE specifications for incorporation into the SHE specification / overall scope of work (Works Information).
- The Divisional Safety Risk Manager or his/her representative is also required to provide the cross-functional team with the SHE evaluation criteria specific to the design and scope of work, for incorporation into the enquiry. The weighting of SHE as an evaluation criterion must be determined by the cross-functional team in consultation with the SHE functionary, and may form part of the overall technical/functionality evaluation criteria with a weighting of 30% if relating to road transportation, construction and engineering works, sourcing of nuclear requirements, live-line work and any other categories of procurement set out in Annexure D hereto, considered to be high risk from a SHE perspective. Where SHE is not considered to be a high risk factor in relation to the type of procurement (e.g. general services, supply and delivery of goods, professional services, etc.), then SHE will NOT be included as weighting under functionality, but the minimum mandatory SHE requirements linked to legislative compliance must instead be set out as objective criteria and applied as pre-requisites to contract award, post evaluation.
- The Procurement Practitioner must ensure that the proposed conditions of contract contained in the tender include the standard Eskom-specific clauses with respect to SHEQ (as a minimum), as well as inclusion of the Eskom Life-Saving Rules which must be incorporated into the contractual framework as an obligation for the Supplier.
- The Procurement Practitioner must ensure that the requirements of the Eskom Supplier Contract Quality Requirements Specification are considered for every formal tender issued. A Supplier Quality Assurance representative from the Quality Management department must form part of the cross-functional team and ensure that the contract quality requirements are addressed within specifications and criteria for evaluations. Quality criteria must be included as part of the technical / functionality criteria when quality is core to the operation /performance (fit for purpose) of the assets, goods or services required, using the model set out in 3.2.9.3 above.

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- **Local Content:** The cross-functional team in consultation with the SD&L representative must determine if the assets, goods or services required are designated by the National Treasury and the DTI for local production and content, in which case the appropriate local content threshold must be stipulated within the tender, expressed as a percentage. The local market's capacity and capability to meet the required minimum local content threshold must be confirmed by the SD&L representative. The local content threshold is set as a second mandatory threshold, in addition to functionality.
- Where a threshold is included for local production and content, the tender documentation must include the following documentation: 1) SABS approved technical specification number ST 1286: 2011; 2) Guidance on the Calculation of Local Content together with the Local Content Declaration Templates being the a) Local Content Declaration: Summary Schedule, b) Imported Content Declaration: Supporting Schedule and c) Local Content Declaration: Supporting Schedule. The tender must clearly stipulate all applicable forms must be provided, where procurement targets for assets, goods or services falling within designated sectors are to be met.
- Only the South African Bureau of Standards (SABS) approved technical specification number ST 1286:2011 must be used to calculate local content. The formula to calculate local content must be disclosed in the tender documentation. The local content (LC) as a percentage of the tender price must be calculated in accordance with the SABS approved technical specification number ST 1286: 2011.
- The exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the tender, of which must be stipulated as a condition of tender.
- The cross-functional team may also decide to apply local content and production thresholds to non-designated sectors, provided that it forms part of an approved strategy in consultation with a relevant SD&L functionary, and that the necessary written consent, in the form of specific directives, has been obtained from the National Treasury in consultation with the DTI. In this case the required percentage to be met, must be determined by SD&L and stipulated in the tender, based on the directives received from the National Treasury.
- Where a directive is required from National Treasury to apply local content and production thresholds to non-designated sectors, the requirement must be contained within the commercial strategy, for approval by the relevant GM: Commercial in consultation with the GM: SD&L. The Senior Commercial Manager is required to facilitate the process of self-designation, and upon receipt of approval from the relevant GM: Commercial, is thereafter required to develop a formal document for the support of the GE: Technology and Commercial, where-after authorisation must be obtained from the CE, and Chairman of the Board, before being submitted for a directive from the National Treasury and DTI. Upon receipt of a directive from National Treasury (in consultation with the DTI), Eskom may proceed with the inclusion of specified local content and production thresholds within the tender, for the relevant non-designated sector.
- The appropriate 80:20 or 90:10 preference points system to be applied as per PPPFA must be stipulated in the tender. The application of price and BBBEE as criteria for evaluation, and the allocation of 80/90 and 20/10 points respectively is mandatorily prescribed in terms of the PPPFA evaluation framework, and allocations as prescribed cannot be altered or changed.
- **Price:** Group Technology and Commercial Finance Department within Business Enablement must be consulted during the tender formulation stage to ensure that the correct pricing mechanisms and methodologies for evaluation are included in the tender. Should it be necessary for specialist advice, then the Business Evaluation and Analytical Services Team (BEAST) in the Finance Project Services (FPS) Department within Group Finance will render an advisory service to the cross-functional team.

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*It must be noted that for purposes of selecting the appropriate preference points system and evaluating price in terms of the PPPFA, prices must be inclusive of VAT and all other applicable taxes. It is therefore recommended that the format of the pricing schedules submitted as tender returnables makes provision for VAT inclusive and VAT exclusive pricing in order to allow for accurate common base price evaluations. Notwithstanding the provisions of the PPPFA for purposes of evaluations, Eskom will continue to award contracts based on the VAT exclusive contract price.*

*For purposes of the PPPFA price evaluation, the price (including VAT and all applicable taxes) applied to the prescribed formula must be adjusted for CPA and any unconditional discounts before being applied to the formula.*

Procurement Practitioners must ensure that the correct and most relevant CPA indices are clearly specified in the contract conditions. The cost implications on a multi-million Rand contract may be huge if the incorrect index is used. A CPA formula stating that inflation will be negotiated is unacceptable. The following is prescribed with respect to the inclusion of CPA.

- The source of indices/prices/rates nominated as a base for movement shall be from a recognised publishing authority, e.g. SEIFSA;
- In-house supplier indices are not acceptable;
- The exact index number and name must be specified in the CPA formula, as there are a multitude of CPI, PPI, SEIFSA and other indices, including those from other countries;
- A base date must be specified, as well as the subsequent dates or the frequency when the CPA will be applicable. It must be noted that if the adjustment is applicable on a specific date, the index and base date used must be that of a month prior to tender closing, as there is generally a month lead time for publishing the indices;
- The CPA must also apply where movements in the base rate results in a reduction of the price; and
- The Procurement Practitioner must ensure that any breakdown of items supporting CPA formulae is reasonable. Attempts must be made to identify components of the price that will not be subject to CPA, such as overheads.
- **BBBEE:** The cross-functional team must comprise of a relevant SD & L functionary, who must advise and assist the cross-functional team with the determination and allocation of BBBEE points (20/10 points) in accordance with the PPPFA Regulations. To the extent that evaluation and ranking are based on the receipt of the said verification certificate, a supplier will not be awarded any points for B-BBEE if a valid original or valid certified copy of the verification certificate has not been received by the deadline for tender submission, as a supplier cannot be disqualified for failing to submit a valid BBBEE certificate. This must be clearly stipulated in the tender.

Eskom must further reserve the right as a condition of tender, to request the BBBEE certificate prior to contract award, or not to contract with a supplier that does not submit a valid B-BBEE Certificate for purposes of contract award.

Further to this, every tender must request suppliers to indicate the percentage of subcontracting, the list of proposed subcontractors together with the B-BBEE statuses of such subcontractors, and the sources of assets, goods or services when local content and production criteria are applicable.

- **SD&L:** Eskom will continue to promote and achieve the objectives of SD & L through as many contracts as possible where opportunities for the use of local capacity through enterprise development, local supplier development, and industrialisation, skills development and / or employment and job creation can be identified and leveraged within the supply chain.

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All SD & L criteria contained within competitive tenders must be derived in consultation with the SD & L Department within Group Technology and Commercial, and must form part of an approved strategy before inclusion in a tender.

SD & L evaluation criteria may form part of the functionality criteria, or may be included as separate objective criteria to be considered as pre-requisites to contract award, or may be expressed as specific goals, which may be treated as special conditions of tender.

SD&L criteria may include one or more of the following elements:

- Skills Development with the objective of increasing the skills base of South African workers in areas relevant to the energy sector, and where there is a national scarcity of skills. For a contract to be awarded in the construction industry, the prescribed method for skills development must be followed in line with the CIDB Regulations;
- Employment and job creation with the objective of ensuring the creation of new jobs by suppliers as a direct result of being awarded Eskom contracts;
- Localisation with the objective of ensuring that Eskom and suppliers' procurement spend is utilised to develop South African based suppliers relevant to the energy sector;
- Industrialisation with the objective of ensuring that Eskom and suppliers' procurement spend is utilised to advance the establishment of new competitive industries in the energy sector; or
- Supplier Development with the objective of providing a platform for South African based suppliers to develop into national and international suppliers.

When applying skills development for transactions governed by the CIDB Act and its Regulations, in the construction industry, the skills development matrix and methodology as prescribed by the CIDB Regulations, must be used as the basis for evaluations. The objective criteria linked to specific goals must be clearly set out in the tender, and cannot be a duplication of criteria that already exists within the primary PPPFA evaluation framework, namely price and elements of the BBBEE scorecard.

Competitive Supplier Development Programme (CSDP) must be applied to all procurement transactions above R10m USD. The request for the CSDP Plan may be in the form of a specific goal expressed as a special condition of tender, or may be as an objective criteria used as a pre-requisite for contract award. The CSDP Plan proposed by the supplier must be submitted as a contractual commitment, and must be aligned with Eskom's Supplier Development Plan. The CSDP Plan must be quantifiable and measurable for purposes of being included as a contractual commitment, in order to measure compliance thereto.

- Alternative Tenders: If alternative tenders are allowed, the cross-functional team must determine the criteria that will be applied to alternative tenders. This needs to be specified in the tender. According to the Eskom Standard Conditions of Tender, alternative tenders will only be allowed and evaluated if a main tender has been submitted that meets the criteria of the tender documents.
- Requirement for Compulsory Site Meetings: The tender must clearly stipulate the need and reasons for a compulsory tender clarification meeting. Compulsory tender clarification meetings are only relevant when it is necessary for suppliers to physically view / measure a site or a part or component thereof, or receive some form of demonstration, etc. and, without which information, a supplier will not be able to submit a meaningful tender. If a tender makes provision for a compulsory tender clarification meeting, then suppliers failing to attend this meeting will be disqualified from further participation in the tender. This must be clearly stipulated within the tender.
- Reservation of Rights in Terms of the PPPFA: Where objective criteria are applicable, it may be necessary to include the following standard clause as a condition of tender:

*"Eskom reserves the right to award to a supplier who may not be the highest scoring or highest ranked supplier, in line with Section (2) (1) (f) of the PPPFA."*

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Procurement Practitioners are required to consult with the Eskom Legal Department as to the need for its usage prior to the inclusion of such clause as a condition of tender.

- **Short-listing for Post-Tender Negotiations:** It is best practice and in the interests of transparency to indicate whether post-tender negotiations will form part of the overall competitive process. To the extent that it may be necessary to engage in post-tender negotiations, the tender should be clear on the aspects that may be negotiated and the criteria /basis for selecting one or more suppliers to engage in post-tender negotiations.

#### 3.4.5.3 Issuing a Tender

- The Procurement Practitioner also obtains a date from the relevant regional Tender Office for the closing of tenders. The Tender Office will provide an enquiry number to use as reference for the tender.
- The Procurement Practitioner issues the tender to the selected /short-listed suppliers for a limited /closed tender in hard copy (by arranging a pick-up at the relevant Tender Office) or soft copy format via a designated e-mail address. To the extent that a Procurement Practitioner opts to issue a tender via e-mail, the Procurement Practitioner must ensure that both delivery of the e-mailed tender to the supplier, and receipt of the e-mail by the supplier have been confirmed, and that such confirmation is recorded and maintained for audit purposes.
- For highly complex and sensitive tenders which are voluminous, and which are only being issued to a very select list of suppliers, it is recommended that the Procurement Practitioner arrange for the printing of the tender, and must further arrange for the selected suppliers to pick up the tender from the applicable regional Tender Office. Such an arrangement must be regulated by relevant Tender Office controls.
- Tenders which are processed as open tenders are not issued, but published / advertised on the Tender Bulletin and the relevant media (if applicable) on an agreed date and for a reasonable duration based on the complexity of the tender.
- Amendments to the tender document must be issued to all participating suppliers in a closed tender and published on the Tender Bulletin and where necessary, the same media/advertising platforms used to advertise the initial tender, with respect to open tenders.

#### 3.4.5.4 Responding to the Tender

Participating suppliers may provide their responses based on the type of tender issued. Responses may be received in the form of quotations, tenders or proposals, which may collectively be referred to as tenders.

Participating suppliers must be given adequate time to respond, dependent on the complexity of the tender. Enough time should be allowed for the suppliers to prepare meaningful quality responses to the tender.

While preparing their responses to the tender, participating suppliers may request clarification from Eskom regarding aspects of the tender. The Procurement Practitioner must be the single point of contact regarding queries associated with the tender, and this must be clearly set out in the tender. No other Eskom employee may communicate directly with the suppliers while they are in the process of responding to the tender. The questions and answers to the clarifications are recorded in writing and sent to all participating suppliers, without divulging the names of the suppliers requesting the clarification. With respect to open tenders, the recordal of the questions and the associated answers must be published on the Tender Bulletin and, where practical and cost-effective, the same advertising platform/s that was/were used to advertise the initial tender.

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If any participating supplier asks for an extension of time at least 5 working days before the deadline for the submission of tenders, or an Eskom need dictates that the deadline be extended, the Procurement Practitioner must obtain permission in writing from the relevant Procurement Manager for tenders up to R50m, the Procurement Middle Manager for tenders greater than R50m and up to R100m, the Commercial Senior Manager for tenders greater than R100m but less than R300m, and from the relevant General Manager: Commercial in the case of contracts more than R300m.

The Procurement Practitioner must first discuss extended deadlines and the impact thereof with the End-User to establish if operations or projects will be negatively impacted by the extension. All participating suppliers must be informed of any extensions to the deadline for submitting tenders immediately, by the most convenient method, and this must further be communicated formally in writing.

Suppliers whose tenders were submitted and received by Eskom before the extension was granted must be informed that they may leave the tender submission as valid, withdraw the tender submission (by sending a withdrawal notice) or they may send in an amended tender submission (marking the envelope "Amended Tender").

Any amendment to the tender must be issued to the participating suppliers well in advance to enable suppliers to adequately address such changes within their tender submissions, and consideration may have to be given to extending the deadline for submission. The Procurement Practitioner and the End-User /cross-functional team must ensure that the amendment is correct before issuing it. A good practice is to number the amendments issued so that participating suppliers can be sure that they have received all amendments.

#### 3.4.5.5 Compulsory Clarification Meetings

The Procurement Practitioner, may, only where necessary, arrange for a clarification meeting with participating suppliers to provide a common understanding and clarity on the requirements for the tender. A site clarification meeting may also be necessary in order for participating suppliers to familiarise themselves with the environment where the assets, goods or services require delivery. The Procurement Practitioner arranges for the site visit as well as the clarification meeting. This normally takes place after about 2 weeks of initially issuing /advertising the tender in order to give participating suppliers enough time to familiarise themselves with the tender and its specific requirements. Where site meetings have been stipulated as being compulsory for purposes of responding to the tender, those suppliers failing to attend, must be disqualified from further participating in the process.

#### 3.4.5.6 Tender Receipting and Opening

Each location where tenders are received will have a secure tender box. The box will have 2 (two) locks and keys (including spare keys). One set is kept by an assigned Tender Officer and the other set by an authorised security official based at the site of the Tender Office (for sites with tender boxes are not directly managed by Risk and Governance e.g. power stations). The tender box will be opened only at tender/enquiry opening times, in the presence of one other official from the Tender Office and where possible, in the presence of a Procurement Practitioner. Protective/Security Services personnel based at the site of the Tender Office are required to observe the tender opening process only for sites where tender boxes are not under the direct management of Risk and Governance e.g. power stations.

The suppliers submit their tender submissions to the relevant Tender Office on the stipulated closing date and time. Late submissions will not be accepted under any circumstances. The Tender Officer ensures that the clock at the tender box location is synchronised with the Telkom time signal before the closing time. The Telkom time signal is used to establish when the tender has closed. Within Eskom's tender documentation, any reference to time will mean South African Standard Time (SAST), i.e. GMT+2 hours. This will be determined by the Telkom time signal.

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If any correspondence or amendment of the tender affecting a tender submission that has already been deposited in the tender box, is issued by Eskom prior to the deadline for tender submission, the supplier concerned will be advised that an amended tender submission or a tender submission withdrawal be submitted before closing time. Amendments or withdrawals must be clearly marked on the tender submission and must indicate the supplier's name and the enquiry number. In order to avoid even the possibility of impropriety, no correspondence regarding adjustments, corrections or restrictions will be considered unless it has been deposited in the tender box on or before the deadline for tender submissions.

The Tender Officer ensures that all tender submissions received in the tender submission box by the deadline for tender submission are taken to the venue where the tenders will be opened. Participating suppliers may have a representative present at the location to witness the opening of the tenders.

At the stated time, as measured by the Telkom time signal on the telephone witnessed by those present, the Tender Officer makes the following statement: *"Tenders / enquiries (state the numbers) have now closed, and no late submissions will be accepted."*

Any tenders received by any means after that time are treated as late submissions and endorsed as such, regardless of the date and time of posting, delivery by couriers, delivery to some other Eskom site. (Proof of posting is not accepted as proof of delivery since Eskom does not acknowledge the South African Post Office or any other postal/courier service as its agent for the receipt of tenders).

The Tender Officer ensures that the names of suppliers who submit late tenders are recorded in a register. This record of late tenders is to be further recorded in the contract file by the Procurement Practitioner.

The Tender Office must notify suppliers in writing of their late tenders. The late tenders are returned to the supplier unopened and endorsed "Late Tender". Late tenders must be collected by suppliers within 30 calendar days of notification from the relevant Tender Office, failing which they will be destroyed. The late tenders are returned to the supplier unopened and endorsed "Late Tender".

The Tender Officer ensures that all tenders arriving after the closing time but during the tender opening process are recorded by supplier name only in the register, but returned unopened to the supplier, stamped or endorsed "Late Tender".

The Tender Officer reads out the following disclaimer: *"Eskom may decide to award only part of a contract or not to award a contract at all. Normally Eskom awards the contract to a supplier who proves to be fully capable of handling the contract, and whose tender is the highest ranked tender or economically the most advantageous tender to Eskom, in terms of the evaluation criteria stipulated in the advertisement or the tender documentation. Eskom's decision is based on an evaluation price, among other stipulated criteria, which takes a number of factors into consideration, and is often substantially different from the tendered price."*

The Tender Officer announces the number and short description of the tender that will be administered and processed.

The Tender Officer handling the receipt of tenders sorts all tenders in the tender box by enquiry number and separates envelopes marked "Withdrawal" and "Amendment".

The Tender Officer then opens all envelopes marked "Withdrawal" and/or reads out all withdrawal notifications issued to Eskom, states that these tenders will be withdrawn, and reads out the names of the suppliers concerned, but no further details. The Tender Officer then opens all envelopes marked "Amendment to Tender", and states that the tender submissions concerned have been amended, and reads out the names of the suppliers concerned, but no further details.

After removing the withdrawn tenders, he/she then opens each remaining tender in turn, and reads out the name of the supplier and does not read out the price of the main offer, unless the requirement to read out prices has been specifically included in terms of the tender documentation. Where the tender

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documentation stated that no price will be read out, this is announced, and only the names of the participating suppliers are read.

Where a submission does not bear the name and address of the supplier, it is an unidentified tender and it is rejected as non-responsive. NOTE: This process is repeated in turn for all tenders closing at the same closing time.

As soon as possible after the tender opening process, the Tender Officer ensures that all pages containing information supplied by the supplier, including prices, and any pages containing amendments to the original tender documentation sent out by Eskom, are appropriately marked, in accordance with approved Tender Office protocols and standards, as having been authorised by the Risk and Governance Department within Group Technology and Commercial.

The conditions of contract together with the main and secondary clauses are not marked.

The Tender Officer will further verify that the tender submission contains one complete hard copy of the original as required in the Standard Conditions of Tender. The Tender Office is not permitted to make copies of the original tender submissions for distribution to Procurement Practitioners where suppliers have omitted to provide the requisite copy, or where an incomplete copy, was submitted.

The Tender Office will mark and verify copies, and notify the Procurement Practitioner of those suppliers who have omitted to provide the requested copy, required for purposes of proceeding with evaluations. Marked and verified complete copies in the required format will be formally handed over to the Procurement Practitioner for purposes of proceeding with evaluation. The Procurement Practitioner arranges for the submissions to be immediately transferred to the venue where the evaluations will take place. In MWP, C-Max will be used for evaluations for all tenders of R300m or more, and /or where the approval authority will be the EXCOPS or higher.

Original tenders are stored in sealed tamper proof bags in a secure location by the Tender Office, and the marked copy of the original submission is used for evaluation purposes.

Any deviation from the approved tender office marking and verification protocols due to size and volume of tenders / offers must be approved by the Senior Manager: Risk and Governance.

At Eskom sites, Procurement Practitioners must ensure that the venue to be used for evaluations is secure and that all necessary security rules are implemented to ensure the confidentiality of the tenders. Once submissions are released from the Tender Office, the evaluation process has duly commenced. Tender submissions must be securely retained on an official Eskom site at all times, and under no circumstances are confidential tender documents to be held at an employee's home, or anywhere outside an official Eskom site.

Soft / electronic copies (CD), if requested and provided, will be handed over to the Procurement Practitioner to be used in evaluations. The Procurement Practitioner will be responsible for the loading of the electronic information onto independent and secure laptop(s) used solely for the purposes of evaluation, and that will not be removed from the evaluation venue for the duration of the evaluation. It must be noted that where soft or electronic copies of submissions are requested, it must be in addition to the complete hard copy of the original. Failure by the supplier to provide a complete hard copy of the original tender will still disqualify the supplier even though soft /electronic copies may be provided.

### **3.4.5.7 Cancellation and Re-issuing of Tenders**

Cancellation/re-issuing of tenders may occur any time after the tender has been issued to the market and before contract award.

Should it be necessary for a formal tender to be cancelled, approval needs to be obtained from the relevant Procurement Manager for tenders up to R50m, the Procurement Middle Manager for tenders greater than R50m and up to R100m, the Commercial Senior Manager for tenders greater than R100m

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but less than R300m, and from the relevant General Manager: Commercial in the case of contracts more than R300m.

After approval has been obtained, the Procurement Practitioner informs all participating suppliers of the cancellation. Where an open competitive tender requires cancellation, suppliers must be notified of the cancellation through the same media / advertising platform through which the invitation was published (i.e. newspapers, tender bulletin, CIDB's i-tendering, etc.), provided that the costs of advertising in the media is not excessive. Where the invitation to tender was to a closed list of suppliers, then written notification of cancellation must be sent to each of the invited suppliers.

The following rules apply with respect to the cancellation and re-issuing of a tender:

- Competitive tenders cannot be re-issued with the purpose of changing the outcome that would have arisen from valid responses to the original tender;
- If the End-User changes his requirement significantly, based on a revised approved strategy, the tender must be cancelled and re-issued. This must be supported by a sound technical and / or business case, including budgeting and / or investment approvals, or where required, by legislation;
- A tender may be cancelled due to changed business circumstances where there is no longer a need for the assets, goods or services.
- If funds are no longer available to cover the whole envisaged expenditure for the assets, goods or services, the tender may also be cancelled;
- If no acceptable tenders are received, the tender may also be cancelled;
- Where fewer than 50% (fifty per cent) of invited suppliers respond to a closed tender, or where more than 50% of responses to an open or closed tender are disqualified for one or more reasons, the responsible Commercial Middle Manager (minimum level) must investigate and establish the reason for the poor response, and / or unacceptability of responses. This may be indicative of an invalid tender list, use of an incorrect sourcing mechanism, a need to further research the marketplace, and/or unfair tendering practices. In this case, the enquiry may be closed and re-issued to a valid tender list, upon the prior written consent of the Commercial Senior Manager or GM: Commercial (if applicable);
- Where invited suppliers to a closed enquiry choose not to respond, but the tender list is valid and all procurement processes have been fairly and correctly followed, the receipt of 1 (one) acceptable tender means that the tender is valid and may not be re-issued;
- If it was mentioned in the tender that the 80/20 preference point system will be applied and, where all prices received from participating suppliers exceed R1 million (including VAT and all applicable taxes), then the tender must be cancelled. If one or more of the responsive and acceptable tenders received are within the R1 million threshold (including VAT and all applicable taxes), all tenders received can continue to be evaluated on the 80/20 preference point system;
- If it was mentioned in the tender that the 90/10 preference point system will be applied and all prices received from participating suppliers are equal to or below R1 million (including VAT and all applicable taxes), the tender must be cancelled. If one or more of the responsive and acceptable tenders received are above the R1 million threshold (including VAT and all applicable taxes), all prices received must be evaluated on the 90/10 preference point system;
- If a tender is cancelled as indicated above, the correct preference point system must be stipulated in the criteria of the re-issued tender;
- All tender cancellations must be reported to the relevant General Manager: Commercial, in order to manage issues of poor forecasting / estimation, poor sourcing techniques and possible irregularities in the execution of commercial processes.

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### 3.4.5.8 Handling of Unsolicited Tenders

Eskom is not obliged to consider unsolicited offers received outside a competitive tender process, or outside mandated negotiations.

There are two (2) types of unsolicited offers that may be received:

- The first type is an offer that is made by a supplier when there is no procurement process; and
- The second type is made during a closed /limited competitive process (tender or competitive negotiations) where an "uninvited" supplier has approached an Eskom employee / director before the closing date requesting to submit a tender /offer.

Eskom employees that are approached with the first type of unsolicited offer should immediately refer the supplier to the SD & L Department within Group Technology and Commercial to engage in this registration process without further representation, engagement or commitment. Only once evaluated and pre-qualified after application against the Eskom Conditions of Registration, the supplier may then be given a vendor number confirming registration on the Eskom Supplier Database, and may be considered for any future tenders.

In the case of the second type of unsolicited offer where an uninvited supplier approaches Eskom with an offer during a closed tender / closed negotiation process, there is no obligation on Eskom to accept such an offer, but there may be genuine reasons for acceptance as well. If an Eskom employee is approached with this type of offer, then it must be immediately referred to the authorised Procurement Practitioner responsible for the administration of the closed tender / negotiation process.

The Procurement Practitioner should then refer the matter to the relevant General Manager, Commercial, for decision-making. A management decision, documented for audit purposes, should then be taken as to whether to allow the unsolicited offer if it is made before the official closing time for submissions, or before conclusion of closed mandated negotiations.

An unsolicited offer may be allowed if it will not in any way compromise the fairness, transparency, equitability, cost-effectiveness and competitiveness of the process. If any of the aforementioned principles will be compromised, an unsolicited offer should not be allowed.

If permission is granted to the supplier to submit a tender/offer, then the same rules regarding the issuing, receipting and deadline of tender submissions will apply. If there is a possibility that pricing information may have been shared, or there are suspicions of collusion, then an unsolicited offer should not be allowed.

If the relevant GM: Commercial, decides to consider an unsolicited offer, the following considerations must be taken into account:

- The assets, goods or services offered in terms of the unsolicited tender /offer is a unique innovative concept that is proven to be exceptionally beneficial to, or proven to have exceptional cost advantages for Eskom; and / or
- The supplier making the offer is the sole provider of the assets, goods or services in the circumstances; and/or
- The need for the assets, goods or services by Eskom has been approved during its strategic planning, budgeting and / or investment processes.

### 3.4.6 Evaluation of Tenders

#### 3.4.6.1 Preparation for Tender Evaluations

Once tenders have been administered and processed by the relevant Tender Office and officially released to the Procurement Practitioner, the process of evaluation commences.

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The Procurement Practitioner must ensure that tenders are stored and evaluated in an environment where the confidentiality of documents is not in any way compromised. A dedicated, lockable room with access limited to evaluation team members must be allocated for the evaluation of tenders. Tenders will not be allowed to be removed from or evaluated outside an official Eskom site (e.g. an employee's home). Where tenders or copies thereof need to be moved between Eskom sites or locations, this must be co-ordinated by the relevant Tender Office and the Procurement Practitioner, using an efficient document control system that will be able to account for the location of the originals and copies at any given time.

Where computers and other electronic equipment / hardware are being used to facilitate evaluations, such computers and hardware must be independent of all members of the evaluation team, and must remain within the confines of the dedicated lockable room for the duration of the evaluation. The use of cellular phones, laptops that are personal to holder and any other electronic devices should be restricted during the course of tender evaluations, and it is the accountability of the Procurement Practitioner to regulate such practices during evaluations.

In the case of more complex transactions, an evaluation team will be assigned. The evaluation team may consist of more than one person per area of specialisation. Each member of an evaluation team, whether an employee of Eskom or a third party to Eskom, has to complete a NDA (Non-Disclosure Agreement) for all tenders exceeding R100 million. Once all members of the evaluation team have signed the NDA, the Procurement Practitioner must save all NDA's on the electronic Documentation Management System. The following signatories are required on a NDA: the employee, a witness, and a Commercial Senior Manager. The full names and unique numbers of each of these persons must be included on the agreement.

All evaluators are furthermore required to sign formal declarations of interest for every formal evaluation of tenders of R1m and above.

All communication with the supplier about a specific tender during the evaluation process must be in writing and co-ordinated only through the designated Procurement Practitioner managing the transaction.

In case of complex enquiries, the Procurement Practitioner and End-User must ensure that the evaluation team understands the procurement and evaluation process and criteria to be evaluated and are familiar with the tender documentation.

The evaluation team must prepare their score sheets for evaluation. The score sheet should contain all criteria, weights as well as the values that will apply, based on an approved evaluation methodology.

### 3.4.6.2 Checking Tender Acceptability and Responsiveness

The purpose of checking for responsiveness is to determine whether tender submissions meet the basic minimum requirements for acceptability and are generally compliant with the conditions of tender in order to qualify for evaluation against thresholds and criteria for scoring and ranking. Before the actual evaluation process is started the Procurement Practitioner in collaboration with the End-User/cross-functional team assesses the responsiveness of tender submissions by assessing the following:

- \* More than one tender submission: Where more than one tender is received under the same supplier name, this is recorded.

If the tenders are substantially the same, the latest dated one will be presumed to replace the earlier dated tender.

If tender submissions are not substantially the same, or are of the same date, and if alternative submissions were allowed, both submissions will be accepted and evaluated after clarification with the supplier. If alternative submissions were not allowed and it was clearly stated in the tender, then none of the tenders will be considered and the tenders will be rejected as non-responsive.

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- **Material Deviations:** A responsive tender is one which conforms to all the terms, conditions, and specifications of the tender documents without material deviation. The tender will stipulate whether qualifications to the contract conditions will be allowed. If it is not allowed, then it will be a deviation and the Procurement Practitioner must determine whether it is material deviation or not.

A material deviation is one which will:

- Detrimentially affect the scope, quality, or performance of the works, services or supply identified in the specification / scope;
- Render a tender submission not capable of being fully evaluated for purposes of passing a stated minimum threshold, or not capable of evaluation for the purposes of the allocation of points and competitive scoring;
- Change Eskom's or the supplier's risks and responsibilities under the contract; or
- Affect the competitive position of other suppliers presenting responsive tender submissions, if it were to be rectified.

If a material deviation is identified, it will render the tender non-responsive.

- **Completed and Signed Authorisation Form:** A supplier must declare that the information provided within the tender submission is true and correct; that the signatory to the tender submission is duly authorised and that the supplier will provide documentary evidence on request and to Eskom's satisfaction in the event of clarification. If the signatory and name on the tender differs from the name in the Authorisation Form, then the tender may be rendered non-responsive if, after clarification with the supplier, authority cannot be confirmed or established. Only those suppliers who have duly completed and signed the Authorisation Form with accurate information will be considered to be responsive.
- **Supplier Declaration of Interests:** Where a supplier fails to complete the required declaration of interests, or, where a declaration of interests is made such that there is an actual, potential or perceived conflict of interest (determined in consultation with the Risk and Governance Department), such a tender may be deemed unacceptable to the extent that the conflict of interest cannot be removed with appropriate measures.
- **Mandatory Tender Returnables:** Should the supplier fail to provide any mandatory tender returnables as stipulated in the tender, which are required for purposes of evaluating gatekeepers /thresholds or for the purposes of awarding points against a stipulated criterion for evaluation, then the tender submission may be deemed non-responsive, where a material /significant portion of the evaluation is affected thereby.

With respect to B-BBEE certificates in particular, where there is a failure on the part of the supplier to submit a valid certificate for purposes of evaluation and scoring by the stipulated deadline for tender submissions, the tender submission will not be deemed non-responsive exclusively for this reason, but will automatically score zero on B-BBEE for purposes of scoring and ranking, if otherwise deemed to be responsive and acceptable in all other aspects. Notwithstanding this, to the extent that the supplier is still considered for contract award after evaluations, then a valid B-BBEE certificate must be requested from the supplier as a condition of contract, and in order for Eskom to comply with the legislative requirements in terms of the B-BBEE Act and its Codes of Good Practice.

If a supplier does not submit a valid B-BBEE certificate or the B-BBEE certificate is no longer valid for purposes of contract award, Eskom may elect to still award a contract with such a supplier, provided that an obligation to submit such certificate within a period to be agreed to by the contracting parties is a stated condition of contract as well as the rights or remedies that Eskom will have in the event that the supplier fails to meet such obligations.

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Where any certificate (e.g. SARS, B-BBEE, ISO certifications, etc.), proof of registration (e.g., CIDB) or the like is required to be submitted as a tender returnable, the supplier must ensure that Eskom is in possession of a valid certificate or proof of registration for the duration of the validity period of the tender, and, if the supplier is successful, up to contract award. Invalid certificates will not be considered for purposes of evaluation and may render a tender non-responsive/ineligible for contract award, depending on the materiality of the certificate to the overall scoring and ranking of the supplier.

- Copies of tenders: The supplier is required to submit only one complete hard copy of the original tender submission. A submission will be rendered non-responsive where the one complete hard copy is not submitted. Suppliers submitting copies which are materially incomplete for purposes of evaluation will also be disqualified.

### 3.4.6.3 Tender Clarification

The Procurement Practitioner in collaboration with the End-User/cross-functional team clarifies and resolves any minor deviations that do not impact on the competitive position of other suppliers that have submitted responsive tender submissions, by recording in the contract file all clarification discussions and resolutions. The cross-functional team may request the Procurement Practitioner to clarify an issue with a supplier. Should the Procurement Practitioner not be sure how to appropriately word the clarification, advice needs to be obtained from the Procurement Manager and / or a Risk & Governance official. A clarification should not be used to make a tender responsive or to change the outcome of scoring or ranking, but should be used to clarify information already presented within the tender submission. Clarifications must not be requested in such a way that it seeks to trigger changes in the price, scope, lead times or risk position of Eskom or the supplier. Certifications and documents stemming from legislative bodies for purposes of demonstrating legal compliance, and which are not used for the purposes of scoring and ranking, may be clarified, and may still be requested from the supplier during the period of evaluations, but must already be submitted and assessed by the time the final recommendation for contract award is being made to a Delegated Approval Authority.

### 3.4.6.4 Evaluation of Functionality Threshold

All responsive tenders are further evaluated by using the scoring framework and associated criteria as stipulated in the tender, to determine if tenders meet the overall threshold based on the functionality criteria.

The technical specialists within the cross-functional team independently evaluate tenders against the functionality criteria in line with the criteria and scores as stipulated in the tender. A weight will be allocated to each criterion and each technical evaluator will allocate points against each criterion based on the agreed evaluation methodology. The methodology set out in 3.2.9.3 will be applicable to functionality evaluations using the PPPFA.

Where SHE and quality are sub-criteria under functionality, the Procurement Practitioner must refer the submission to the Divisional functionaries responsible for SHE and quality in order to evaluate against tender-specific criteria.

Specifically with respect to SHE, a signed-off SHE evaluation report from the relevant SHE functionary who conducted the SHE evaluation must be provided to the Procurement Practitioner in order to confirm the outcome of the SHE evaluation.

The technical / functionality evaluator is generally one of the following persons:

- The End-User, only where he has the technical or other expertise to fulfil this role;
- A technical expert nominated by the End-User; or
- A Divisional technical functionary with the necessary expertise appointed within the Division.

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The Division may procure external expertise (e.g. consultants) for the purposes of conducting independent evaluations, in accordance with the relevant and applicable processes for the appointment of external service providers.

The technical/functionality evaluation is not used to put forward supplier, product or brand preferences of the End-User or the technical evaluator/s, or to justify the tender and required technical specification, but should only reflect the technical merits of the tender in relation to the scope and associated criteria set out in the tender documentation.

The technical evaluator compares the assets, goods or a service offered, to the technical specification, and assesses them against the stipulated technical / functionality criteria for purposes of scoring against the minimum stipulated threshold.

The technical / functionality evaluator does not attempt to remedy a poor quality tender document. If the tender documents provided by Eskom are technically unsound, the technical / functionality evaluator does not attempt an evaluation but returns the documentation to the Procurement Practitioner with the recommendation to re-issue the tender with the correct requirements.

The technical / functionality evaluator may formally raise any salient facts about the supplier in the signed technical / functionality evaluation report which may impact on the final evaluation of the tenders, and may result in not awarding to the highest ranked tender. This will normally be based on documented performance-related issues, e.g. non-conformance reports and rectification.

The technical / functionality evaluator identifies issues that need clarification for a proper technical / functionality evaluation and scoring to be done. This clarification is done through the Procurement Practitioner, prior to the technical / functionality evaluation report being drafted and may not influence any price, scope, lead time or risk position of Eskom or the supplier.

Where the assets, goods or services tendered do not fulfil the requirements of the End-User as described in the tender documentation, and after assessment against the stipulated criteria, as subsequently clarified, the technical / functionality evaluator does his/her scoring and gives detailed technical reasons for any low scoring or penalties applied.

Where the value of the transaction exceeds R10 million, the technical / functionality evaluation must be conducted by a minimum of two (2) technical representatives for the technical aspects of the evaluation, excluding SHE and quality, and cannot be conducted by a single technical representative.

The amendment of functionality criteria, weights, applicable scoring methodologies and/or the minimum threshold for functionality after the deadline for tender submissions will not be allowed as this will compromise the fairness of the procurement system, and may be deemed unconstitutional.

If a tender meets the required minimum functionality threshold, it is regarded as acceptable for further evaluation for local production and content (if it was applicable and included as part of the tender), price and BBBEE. If a tender submission fails to score enough points to meet the stipulated threshold, the tender is disqualified, and will not proceed to further evaluation.

#### 3.4.6.5 Evaluation of Local Content Threshold

Suppliers must complete the Local Content forms as prescribed by the PPPFA Regulations. Based on the information submitted in the forms, the SD&L members of the cross-functional team must determine if the required threshold percentages have been met.

To the extent that the procurement belongs to a designated sector or where special permission / a directive has been obtained to include local content thresholds and conditions for non-designated sectors, tenders must be evaluated in terms of the evaluation criteria stipulated in the tender. The amendment of the stipulated minimum threshold for local production and content after the close of tenders will not be permitted as this will compromise the fairness and integrity of the system.

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A tender is regarded as acceptable for further evaluation if it achieves the stipulated minimum threshold for local production and content.

Tenders that fail to achieve the stipulated minimum threshold for local production and content will be disqualified. In relation to a designated sector, a supplier must not be permitted to sub-contract 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.

#### 3.4.6.6 Evaluation of Price

A supplier can score a maximum of 90 points on price if the estimated Rand value of the contract is more than R1m (including VAT and all applicable taxes), or a maximum of 80 points where the value of the contract is less than R1m (including VAT and all applicable taxes). The PPPFA prescribes that the lowest acceptable tender will score 80 or 90 points for price. Tenders that quote higher prices will score lower points for price on a pro-rata basis, based on the formula prescribed. The PPPFA Evaluation Sheet in Annexure C will assist Procurement Practitioners in the evaluation of the price.

Business Evaluation and Analytical Services Team (BEAST) from FPS must evaluate all submissions falling within the delegation of EXCOPS or higher for approval.

In respect of all other evaluations on price, once the financial evaluation has been completed by the Commercial Finance / Group Finance Business Partners / Project accountants, such evaluation may be sent to BEAST for an independent review of the evaluation of price.

Points scored must be rounded off to the nearest 2 decimal places.

The prices used for purposes of evaluations are prices where arithmetical errors have already been corrected, CPA is applied, unconditional discounts are taken into account and foreign currencies are converted into Rand. Where applicable, the assigned financial functionary calculates the present value of contract prices using Eskom's current discount rate, the tendered programme and prices, estimated CPA factors and rate of exchange fluctuations. The price evaluated must be including VAT, and all applicable taxes, for purposes of the application of the PPPFA.

Should arithmetical errors be found and corrected in terms of the prices, the Procurement Practitioner notifies the supplier of the applied corrections and requires that the supplier accepts these corrections in writing or that the tender be withdrawn.

If the supplier does not accept the corrections, the tender is withdrawn from evaluation. The Procurement Practitioner does not give the supplier the opportunity to stand by a lower or higher but uncorrected price.

Escalation, currency implications and other conditions as well as the time value of money or alternative technical solutions may affect the tendered price to such an extent that the higher priced tender may be attractive in the order of merit. It may also be that the lower priced tenders did not include all Eskom's requirements in their tender submissions.

The prescribed Calculation Sheets are used to calculate the contract and evaluation prices. When completing the Calculation Sheets, the Procurement Practitioner ensures that a complete audit trail of all calculations is maintained on file.

Where tendered prices subject to CPA are lower than fixed and firm prices tendered in response to the same tender, the evaluation should be done with great care to ensure that the most commercially beneficial tender is scored the higher mark out of 90.

In the case of rate based tenders, the price to be used for evaluation purposes is the rates multiplied by estimated quantities to come to a subtotal for each item. All subtotals are added to give a final total. This final total will be used to establish a score against the 80 or 90 points allocated for price. All prices offered in foreign currencies must be converted into Rand for evaluation purposes. Should a supplier

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omit to provide prices for non-material items, then the highest rate / price tendered by the other suppliers for that item, is applied and calculated. This is necessary to evaluate all tenders on the same basis.

Tenders must be sent to BEAST within the Finance Project Services (FPS) Department - Group Finance for an independent financial evaluation of the tendered price or at least concurrence with the financial evaluation where:

- Approval to place a contract is required from the EXCO Procurement Sub-committee (EXCOPS) or higher Delegated Approval Authority as a result of the total contract value including foreign portion or time. (In these cases, the Finance Director or his/her representative at a level of a GM or higher, must also concur with the recommendation);
- Tenders /offers with the foreign currency exceeding USD 1 million or equivalent, irrespective of the total value;
- The supplier offers a financing package.

For tenders falling within the R50m to R300m contract value, including foreign portions, the following tenders may be referred for independent financial evaluation based on an agreed Service Level Agreement (SLA) concluded between Eskom Finance Project Services (FPS) Department and Group Technology and Commercial:

- Tenders in which alternative CPA parameters or formulae are offered;
- Where a tendered price adjusted for CPA is lower than a tendered fixed price;
- Where alternative payment terms are tendered;
- Where CPA must be calculated for hedging purposes; or
- Where net present value and /or lifecycle costing is used to establish the evaluation price.

Whenever foreign currencies are allowed or tendered, the Procurement Practitioner follows the processes as described in the Eskom Treasury policies and procedures.

Where prices are quoted in foreign currency, Eskom considers Payment Method 1 (a) (i.e. payment in foreign currency to a nominated foreign bank account) to be the standard payment method.

Where Payment Method 1 (b) (i.e. payment of foreign currency into a local CFC account) is the chosen method of payment, it is the responsibility of the supplier, and not Eskom, to open the required CFC account in accordance with SARB requirements, and to ensure that such CFC account remains valid for the period of the contract, to enable payments. Payment method 1(b) will only be accepted and EXCON approval granted once Eskom Treasury Department is in receipt of the necessary supporting documentation regarding the CFC account. The use of Payment Method 1(b) is not permitted for the procurement of services.

Payment Method 2 (payment of the foreign portion of the price in Rand into a local bank account) is allowed in terms of a special dispensation from the South African Reserve Bank. The right to use Payment Method 2 is therefore not automatic, and is not permitted for the procurement of services. Payment Method 2 can only be used where the supplier has agreed to comply with all the terms and conditions for the use of Payment Method 2 as stipulated on the CPA (IG) form. On enabling agreements and Eskom-wide contracts, a fixed and ascertained commitment must be demonstrated by confirming at least a 90% take-up of the estimated usage / forecast.

The Middle Manager: Policy and Compliance (or his / her nominee) within the Risk and Governance Department within Group Technology and Commercial must be consulted and must consent in writing to the use of Payment Method 2 for purposes of evaluation of tenders and contract award. Eskom Treasury Department will ratify the decision of the Policy and Compliance Manager by arranging for the necessary forward cover on the procurement. Where approval is not granted for the use of Payment Method 2,

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Payment Method 1 will be deemed the applicable payment method. A supplier will not be permitted to change the selected payment method after close of tender.

Where Payment Method 2 is selected, Eskom will require the supplier to provide substantiating proof of importation at the time of invoicing. Eskom will arrange for the relevant forward cover to mitigate the risks of exchange rate fluctuations. The supplier must, however, expressly declare in writing that the goods included for payment under Payment Method 2 have not already been or will not be covered forward by the supplier, its principal, agent, subsidiary or any other related person or body, in the foreign exchange market.

Procurement Practitioners must, under no circumstances, accept any deviation from suppliers with regard to the wording applicable to Payment Method 2 as contained in the latest revision of Form CPA (IG).

The following conditions must be agreed to when evaluating suppliers opting for the use of Payment Method 2:

- Payment will be made in South African Rand at the selling spot rate of exchange obtained by Eskom's Treasury Department on the date that the forward cover is cancelled;
- Eskom, via the Contract Manager will notify the supplier of the forward cover cancellation date and the intended payment date, which is as per the agreed payment terms contained in the contract;
- Any exchange rate adjustments after Eskom has notified the supplier of the date of payment and the exchange rate at which the forward cover was cancelled will be for the account of the supplier.

### 3.4.6.7 Evaluation of BBBEE

Verification of the validity of BBBEE certificates may be done by visiting the SANAS and / or IRBA websites.

The sliding scale as published in the PPPFA Regulations (Appendix C hereto) must be followed for the evaluation of tenders for BBBEE. The BBBEE scores as per the PPPFA Regulations must be filled in the Calculation Sheet. This score will be out of 10 points according to the PPPFA Regulations for tenders more than R1 million (including VAT and all applicable taxes) and out of 20 points for tenders less than R1m (including VAT and all applicable taxes).

For tenders exempt from PPPFA application, B-BBEE evaluation is based on an allocation of points which are allocated per level of contribution to B-BBEE as confirmed by a B-BBEE certificate obtained by an Accredited Verification Agency, or by an auditor or accounting officer (specifically with respect to suppliers classified as EME). The allocation of points is based on Eskom's Hierarchy of Supplier Preference, where smaller Black suppliers (BWO / SBE / Disabled EMEs and QSEs) may be allocated more preference points for developmental purposes over larger Black (LBS) and other suppliers, in conjunction with the principle that higher levels of contribution to B-BBEE are awarded more points.

Contracts funded by the Development Funding Institutions (DFI), are exempted from adhering to the PPPFA and will follow the Commercial Guidelines of a DFI depending on the relevant clauses in the loan agreement.

Where there is a failure on the part of the supplier to submit a valid verification certificate for purposes of evaluation and scoring by the stipulated closing time of the tender, the supplier will automatically score zero on B-BBEE for purposes of evaluation. Notwithstanding this, to the extent that the tender is still the highest ranked responsive and competitive tender and / or is still recommended for contract award, then a valid B-BBEE certificate must be requested from the supplier as a condition of contract award, and in order for Eskom to comply with the legislative requirements in terms of the B-BBEE Act and its Codes of Good Practice. If a supplier cannot submit a BBBEE certificate by the time of contract award, it may be permissible to allow the supplier a stipulated period after contract award to submit such a certificate,

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failing which Eskom may reserve the right to terminate or re-negotiate the terms and conditions of contract.

A supplier must not be awarded the points claimed for its B-BBEE status if it is indicated in the tender that such a supplier intends sub-contracting more than 25% of the contract value to any other enterprise / supplier that does not qualify for at least the same number of points that the participating supplier qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

A supplier is therefore not allowed to sub-contract more than 25% of the contract value to another enterprise / supplier that does not have equal or higher B-BBEE status, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract, in order to claim the points for BBEE as set out in Annexure C hereto.

### 3.4.6.8 Scoring and Ranking of Tenders

After completion of all aspects of the evaluation, the Procurement Practitioner and cross-functional team rank the tenders based on the total points allocated against all stipulated criteria and weightings as set out in the tender documentation and contract strategy. Changes are not made to the evaluation criteria once tenders are issued or have been formally received. Records of ranking are kept, and point allocation against evaluation criteria must be reflected in the Commercial Transaction Approval Form submitted to the Delegated Approval Authority in support of the recommendation contained therein.

The points scored for price must be added to the points scored for B-BBEE status in order to obtain the supplier's total points scored out of 100.

In the event that two or more suppliers have scored equal total points, the successful tender must be the one that scored the highest points for B-BBEE.

If two or more suppliers scored equal points, including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.

In the event that two or more tenders are equal in all respects, the award must be decided by the drawing of lots.

### 3.4.6.9 Evaluation of Specific Goals and Objective Criteria

The tender must stipulate if there are any objective criteria that the suppliers must meet, over and above stipulated thresholds and criteria for purposes of scoring of points.

Objective criteria may be any other requirement which justifies the award of the contract to the supplier who did not score the highest number of points on the 90/10 or 80/20 preference points system, and are generally compliance or risk-related criteria for which points cannot be allocated.

The reason for selection of another supplier who is not the highest ranked must be motivated to the Delegated Approval Authority, and based on the objective criteria as stated in the tender.

Objective criteria, which are pre-requisites for contract award, after the evaluation of tenders include:

**Financial viability:** The outcome of a financial analysis of the supplier's financial statements is an objective criterion that must be conducted as a due diligence and risk mitigation step as a pre-requisite to contract award. This is required to determine if the supplier is financially stable enough to execute a contract/order of the magnitude to be awarded.

The latest approved annual financial statements as per requirements of corporate / company law must be submitted. The analysis of a supplier's financial statements is not a criterion for the purposes of the scoring and awarding points, or the determination of competitive ranking. However, the analysis is

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conducted as part of a due diligence, for the purposes of establishing a supplier's viability and ability to meet all of its contractual obligations for the duration of the contract. To the extent that such risks are identified as part of the analysis of the financial statements, a risk mitigation strategy must be included as part of the recommendation. If the risks cannot be mitigated to ensure performance against the contract, the contract may have to be awarded to another supplier, which may not be the highest ranked.

All transactions to be approved at the EXCOPS or higher the assessment of financial viability of the suppliers to execute a contract will be done by BEAST in the Finance Project Services (FPS). BEAST maintains a database with supplier analysis reports and it can extract information from it if need be.

For all other Delegated Approval Authorities, financial viability of the supplier may be analysed by the FPS to the extent that the risk to Eskom justifies it.

**NOTE:** An analysis of a particular supplier's turnover and financial viability is valid for 6 (six) months at a time. This means that if the supplier participates in more than one tender within a 6 (six) month period, then the first evaluation for that period will apply. It will not be necessary to repeat the financial evaluation for the particular supplier over that 6 (six) month period, except where the recommendation is being made to EXCOPS or higher, in which case the analysis must be done for every approval required for the award of an order / contract. Where a supplier has been awarded multiple contracts with Eskom, the financial analysis from BEAST in FPS must include the cumulative effect of all contractual commitments with Eskom in order to determine Eskom's risks, and to determine whether the supplier has the financial viability, resources and infrastructure to take on further contractual commitments with Eskom.

**Terms and conditions of contract:** The Procurement Practitioner, with the assistance of the Eskom Legal Department, is responsible for the evaluation of contractual terms and conditions offered based on Eskom's standard forms of contract.

If a supplier does not accept Eskom's conditions of contract or deviates from the requirements thereof, the Procurement Practitioner must obtain advice from the Eskom Legal Department, in order to determine the risks to Eskom if the conditions proposed by the supplier are to be accepted. If it is determined that the risk to Eskom is too big and a clarification with the supplier does not resolve the mitigation of the risks, then the tender will be rejected as commercially unacceptable, and therefore ineligible for contract award.

**SHEQ:** Where SHEQ is NOT included under functionality, but is still a legal / contractual requirement for the execution of the ensuing contract, all legal/ contractual requirements pertaining to SHEQ must be demonstrated to be in place and legally valid, as a pre-requisite to contract award, and prior to the recommendation being made to a Delegated Approval Authority. Failure of a supplier to comply with legal/contractual requirements pertaining to SHEQ as stated in the tender will render a tender ineligible for contract award.

**Registration on Eskom's Supplier Database:** The Procurement Practitioner must determine if the supplier/s are already registered on Eskom Supplier Database. Where a contract is particularly complex and / or has to be submitted to the EXCOPS or higher for approval, the Procurement Practitioner must in every case ensure that the recommended suppliers are re-assessed by the SD & L function against registration and pre-qualifying requirements, before recommendation to the Delegated Approval Authority, and as a pre-requisite for contract award. Suppliers that do not meet all registration and pre-qualifying requirements associated with registration, cannot be awarded new contracts until all requirements for registration and / or all pre-qualification requirements are duly met.

To the extent that a supplier who is not registered on the Eskom Supplier Database is being considered for contract award, or, where registered suppliers are requested to re-apply for registration, the supplier is required to meet all the necessary conditions of registration as a pre-requisite to contract award. A supplier who does not meet Eskom's mandatory requirements for registration cannot be recommended for contract award.

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**CIDB:** Procurement Practitioners may also utilize the CIDB website to confirm a supplier's CIDB registration. Confirmation of CIDB registration in the appropriate class and level is required before awarding a contract for construction and /or engineering works.

Eskom is obliged to comply with the requirements of the CIDB Act that prohibits the award of a construction works contract to an unregistered supplier. This means that a Delegated Approval Authority will not be allowed to approve the appointment of suppliers for the rendering of construction and engineering works (as per the classes of construction / engineering works set out in Schedule 3 of the CIDB Regulations) where the supplier is not registered with the CIDB.

Tenders received from suppliers that are not "capable of being registered" with the CIDB prior to evaluation must be deemed commercially unacceptable, and excluded from evaluation. Suppliers that are "capable of being registered" prior to evaluation may be evaluated, but must be registered prior to making the recommendation for contract award.

"Capable of being registered" means that there is a reasonable chance that the unregistered supplier (who complies with all the legal requirements to be registered) will become registered in the required contractor grading designation. In order to establish whether or not a supplier has a reasonable chance of being registered in the appropriate grading designation, the supplier must have at least made an application for registration to the CIDB and submitted all required information by the time of participating in the tender. The supplier must be advised in this instance to provide proof of application as a tender returnable.

**Legal Compliance:** The supplier must be able to meet all legal requirements pertaining to the supply of the assets, goods, or services, including compliance with all tax-related obligations. A supplier cannot be awarded a contract where it has not submitted a valid tax clearance certificate from SARS confirming that all of its taxes are deemed to be in order, by the time the recommendation is being made to a Delegated Approval Authority for contract award.

**Specific Goals:** Specific goals linked to skills development, industrialisation, job creation, localisation, if not embedded within functionality criteria as part of a Design for Local strategy or set out as a special condition of tender, will be evaluated as objective criteria, based on an assessment of targets proposed. On this basis, Eskom may award a tender to a supplier that is not the highest ranked (in terms of price and BBBEE), but which may most favourably meet the specific goal requirements and targets as required by Eskom, in addition to meeting any other objective criteria.

#### 3.4.6.10 Dealing with Bonds /Guarantees

Upon receipt of tenders, the names of the proposed financial institutions (as requested in the tender) must be submitted to the Treasury Portfolio Assessment (TPA) Department together with a completed approval form (available electronically on the Eskom Treasury Department website or the Eskom Intranet) in order to obtain approval regarding the use of the proposed financial institutions, for purposes of securing a bond/guarantee.

TPA will advise whether the proposed financial institutions are acceptable or not. This will be informed by the list of Approved Guarantors which TPA maintains. The Procurement Practitioner must also advise the guarantee amount to TPA in order for TPA to confirm the headroom on the credit limit of the Approved Guarantors.

Where proposed financial institutions are not on the Approved Guarantors' list, TPA will advise the use of alternative guarantors or request from the Procurement Practitioner the information needed to assess potential guarantors for a credit limit recommendation to the Treasury Committee. The Treasury Committee meetings are quarterly and the turn-around time on new financial institutions' decisions can take up to three (3) months.

TPA will advise the acceptance of the guarantee on condition that

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- It is issued by an Eskom Treasury approved guarantor;
- The guarantee amount is within the approved limit of the guarantor;
- All necessary legal approvals have been obtained by the Procurement Practitioner; and
- The guarantee terms and conditions meet the Eskom standard template requirements, including the relevant contract conditions pertaining to such guarantee being included in the contract.

#### 3.4.6.11 Evaluation of Alternative Tenders

If submission of alternative tenders is allowed, the Procurement Practitioner and/or End-User must determine whether a main tender was also submitted that meets the basic requirements of the tender. If a main tender was submitted, then the alternative tender will be evaluated against the criteria set in the tender for alternative tenders, and if no alternative criteria were mentioned, the alternative tender will be evaluated against the criteria for a main tender.

#### 3.4.6.12 Short-listing for Post-Tender Negotiations

Based on the outcome of evaluations, the Procurement Practitioner and End-User/cross-functional team determine whether it is necessary to negotiate post-tender. If so, they must obtain a mandate to negotiate from the appropriate Delegated Approval Authority. The request for a mandate to negotiate must set out the mandate objectives, such as commercial, technical and financial parameters for the negotiation.

Post-tender negotiations may be conducted with suppliers only under the following circumstances:

- Where it was indicated in the tender documentation that negotiations will be entered into with one or more short-listed suppliers after completion of evaluations. The criteria for the eligibility to participate in post-tender negotiations must be clearly set out in the tender documentation (e.g. negotiations only with the highest ranked supplier, or the lowest priced tender, the three highest ranked suppliers, all technically acceptable tenders, etc.). Failure to stipulate qualifying criteria for post-tender negotiations may render all responsive and technically, financially and commercially acceptable tenders after evaluations, as qualifying for negotiations;
- When all tenders have been evaluated and there is no tender which stands out as the most advantageous in terms of the evaluation criteria detailed in the tender documentation;
- When Eskom's price estimation is substantially lower than that of the lowest priced tender; and / or
- When all or the majority of the tenders received deviate in one or more ways from the published requirements, and it is in the interests of cost-effectiveness and the meeting of critical milestones that the tenders be negotiated rather than re-issued due to the deviations, provided that the decision to proceed with negotiations is still fair, equitable, competitive, cost-effective and transparent to all participating suppliers.

The following general rules apply to post-tender negotiations:

- Negotiations cannot be entered into without a mandate from a relevant Delegated Approval Authority;
- A negotiation team must be assigned by the Delegated Approval Authority, comprising of at least commercial, technical and finance representation, as a minimum, and one of whom who must be assigned the role of lead negotiator;
- No employee may engage in negotiations on their own;
- Suppliers are excluded from negotiations if their tenders were non-responsive or disqualified, or if they have not met the stipulated criteria in the tender to qualify further for post-tender negotiations;

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- Explanations of the criteria, technical or other requirements and/or changes to the tender and tender documentation are communicated to all the remaining suppliers participating in negotiations;
- All remaining suppliers are given the opportunity to submit final offers as part of the negotiations which will result in the continuation of the evaluation, final ranking and approval processes. All negotiated offers stemming from formal tenders must be formally received and logged at the relevant Tender Office.
- Mandated post-tender negotiations with multiple suppliers must not result in the awarding of a contract without approval from the Delegated Approval Authority accepting the outcome of the negotiations.

#### 3.4.6.13 Validity of Tender for Acceptance

If it is likely that the validity of the tender will expire before a contract can be awarded, the Procurement Practitioner must obtain permission in writing from the Procurement Manager for tenders up to R50m, the Procurement Middle Manager for tenders greater than R50m and up to R100m, the Commercial Senior Manager for transactions greater than R100m and up to R300m, and for transactions more than R300m, from the General Manager, Commercial, in order to extend the tender validity period.

The extension of a tender validity period means that the supplier maintains its original pricing as tendered. If a supplier cannot maintain original prices as tendered after expiry of the tender validity period, then the tender may not be considered for financial evaluation, and the supplier therefore cannot be awarded a contract based on the tendered price. It must be noted that such extension of the validity period is not an invitation to the supplier to amend the tendered price, scope and / or the delivery period.

If extensions to validity periods occur frequently, the efficiency of the evaluation process needs to be assessed by the relevant Commercial Senior Manager, so that necessary steps are taken to improve the efficiency of the evaluation process, as one of the identified KPAs of the procurement function.

#### 3.4.6.14 Dealing with Suspicions of Bid-Rigging /Price-Fixing

When conducting an evaluation of tendered prices, signs of collusion, price-fixing, or bid-rigging which is intended to eliminate the benefits of a competitive tender must be investigated. Indicators that tenders may be collusive or "rigged" include:

- Out of a batch of tenders, only one can be evaluated because the others have submitted "non-responsive" tenders that cannot be evaluated, or have not responded to the tender by the closing date;
- Prices tendered by certain suppliers are very high without technical justification in comparison to one particular supplier, making only that supplier eligible to be awarded the contract;
- The same pool of suppliers participate in several tenders, and there appears to be some sort of "rotation" with whom is awarded the contract;
- Participation of Related Parties within the same tender thereby eliminating independence and inhibiting competitiveness;
- Tenders from different suppliers have almost identical pricing, and information provided has similar or identical wording.

Price-fixing / bid-rigging, if proven, is a contravention of the Competition Act (89 of 1998), and will constitute a trigger for the reconsideration of a supplier's registration status on the Eskom Supplier Database for which a supplier may be suspended / de-registered from the Eskom supplier database in accordance with 3.8.9 herein. Suspicions of bid-rigging must be reported to the local Risk and

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Governance office within Group Technology and Commercial, who will facilitate investigation into the matter.

Tenders that are found to be collusive or fixed / rigged will be automatically disqualified.

### 3.4.7 Obtaining Approval to Award a Contract

Once the evaluation process has been completed, the Procurement Practitioner and the cross-functional team (in the case of complex transactions) complete the Commercial Transaction Approval Form.

Since the transactions are based on an End-User's request and are paid for by the End-User's cost centre or project, the End-User has the responsibility and authority to determine that Eskom's needs will be met before a recommendation is made to a Delegated Approval Authority or before an order / contract is placed, by providing his /her written consent through sign-off of the recommendation being presented to the Delegated Approval Authority. The End-User may not engage with Suppliers in the absence of a Procurement Practitioner prior to a contract being awarded for the scope of works / specifications being the subject-matter of a tender. Post-contract award End-User engagements with suppliers must be in strict accordance with the provisions of the relevant contract.

It is important that the full legal and registered name of a supplier is used in the Commercial Transaction Approval Form, so that the Delegated Approval Authority is able to approve the correct contracting party. It must be noted that the supplier approved for purposes of contract / order award cannot be different from the supplier who was represented on the successful tender.

When approval is sought for engineering, construction and professional services contracts, the best estimate of time and expenditure at completion is recommended. This encompasses the contract amount and duration (as tendered) plus any additional amount or time requested to cover contingencies based on the materialisation of foreseeable and unforeseeable risks managed through requests for compensation events / variation orders (FIDIC) in accordance with the contract. The additional amount / time is delegated to the appointed Eskom Agent using a Delegation Consent Form (DCF). This amount may be applied by the Eskom Agent to manage compensation events / variation orders (FIDIC) without further reference to a Delegated Approval Authority for a modification of contract, provided that it is not used to fund any additions / amendments to the approved scope of the contract.

The Procurement Practitioner, in consultation with the assigned cross-functional team compiles the Commercial Transaction Approval Form addressed to the relevant Delegated Approval Authority. If a tender is to be awarded to multiple suppliers, then the contract awards are required to be made by a single adjudication authority based on the cumulative value of the contracts.

The Procurement Practitioner obtains all the necessary signatures on the Commercial Transaction Approval Form. In the case of:

- Orders / contracts to be approved by EXCOPS and/or a higher Delegated Approval Authority, the GE: Group Technology and Commercial and his/her counterpart in the End User's Group / Division, is required to sign the submission;
- Orders / contracts to be approved by the R50m to R300m PTC, the relevant GM: Commercial or a nominated Commercial Senior Manager and his/her counterpart in the End-User's Group/ Division is required to sign the submission; and
- Orders / contracts less than R50m, the relevant Procurement Manager and the End-User's line manager are required to sign the submission.

After obtaining the necessary signatures, the Procurement Practitioner arranges for the submission to be placed on the agenda if approval is required by a tender committee. A team is nominated to present the submission at the tender committee, but it must consist of the Procurement Practitioner and the End-User as a minimum.

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If approval is required from a dual or triple adjudicator, the Procurement Practitioner takes the Commercial Transaction Approval Form for support and /or approval by relevant persons who are Accredited Procurement Practitioners assigned to approve such transactions, after formally recording and signing off the recommendation, together with the End-User.

### 3.4.8 Administration of the Awarded Ordered / Contract

#### 3.4.8.1 Notification of Award

Once approval has been given to the award of the contract to the successful supplier, the Procurement Practitioner notifies the successful supplier of the acceptance of his tender. The Procurement Practitioner must ensure that this notification is received by the successful supplier, because notification of acceptance will become legally binding upon Eskom. E-mailed notifications will be subject to the Electronic Communications and Transactions Act.

#### 3.4.8.2 Compiling the order /contract

The Procurement Practitioner is responsible for the compilation, administration and finalisation of the contract / order.

If a contract (NEC/FIDIC) has been used, the Procurement Practitioner together with the cross-functional team, ensures that the contract documents are correct and complete with all drawings and specifications and included as part of the contract. The Tender Data and tender conditions do not form part of the contract and must not be included. The Procurement Practitioner must use the signed price lists that were part of the supplier's tender, or if the prices have changed (due to arithmetical corrections, or negotiations), a revised, signed pricelist. The contract number, description of the assets, goods or services, and the full legal names of the contracting parties (Eskom and the supplier) must be on the cover page of the contract. The Procurement Practitioner arranges for the printing of the contract for purposes of signature.

#### 3.4.8.3 Signing the contract

Once the contract is printed, the Procurement Practitioner takes the contract to the official and authorised Eskom signatory as nominated by the Delegated Approval Authority to sign the contract on Eskom's behalf. The nomination is done in terms of Eskom's Delegation of Signing Authority as set out in Appendix B hereto. It is the responsibility of the Procurement Practitioner to ensure that the contract is signed by the duly authorised delegates of Eskom and the Supplier before order placement against the contract. In other words, orders cannot be executed against a contract where the contract has not been signed by the parties, and any orders placed against the contract in the absence of contract signature may place Eskom at legal risk in the event of a breach of contract, a claim against the contract or a dispute with the supplier. To the extent that orders may have to be placed before contract signature, consent must be obtained in writing from the relevant GM: Commercial, or his / her nominated representative, or the DE: Primary Energy, or his / her nominated representative.

The authority of the Supplier's representative is confirmed within the Authorisation Form, which is completed and returned by the Supplier as part of the tender returnables.

A copy of the signed contract must be given to the Supplier and the Eskom Agent / Contract Manager who will manage the contract. The Procurement Practitioner maintains a copy of the contract for quick reference and saves a copy on the Electronic Documentation Management System.

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#### 3.4.8.4 Notification to Unsuccessful Suppliers

The Procurement Practitioner informs all unsuccessful suppliers who competed in formal tenders that they were unsuccessful only after the successful supplier/s and Eskom have accepted and signed the awarded contract/s.

Unsuccessful suppliers are by law entitled to enquire as to the reasons why their tenders were unsuccessful. The Procurement Practitioner involved in the procurement may on request inform unsuccessful suppliers of any defects in their tenders, or where their tenders fell short of the other tenders. The successful tender and the amount at which the contract was placed may be divulged. It is very important, however, that no proprietary information that is confidential to one supplier (e.g. proprietary processes or designs) is passed on to another supplier.

#### 3.4.8.5 Loading of Contracts onto the Purchasing (SAP) System

All contracts/orders must be loaded onto the SAP system which facilitates the monetary and time-related control of contracts and is used to monitor and effectively manage usage / draw-downs against contracts. The Procurement Practitioner must ensure that all conditions (i.e. contract value, contract terms, etc.) are loaded correctly and according to the original signed contract document, before the End-User or any other authorised official can place orders against the contract. It is required of the Procurement Manager to conduct spot checks to determine the correct loading of contracts/orders.

Draw-downs must be released by the Contract Manager, or a nominated authorised representative thereof before it can be sent to the Supplier. A draw-down off an existing contract cannot be made without a Contract Manager's approval.

When loading contracts on SAP, Procurement Practitioners must determine if the supplier is deemed an "employee" for tax/"Pay as you Earn" (PAYE) purposes, by virtue of being a dependent contractor, personal service provider or a labour broker, based on the responses received from the questionnaires submitted as tender returnables.

Special attention must be given to labour brokers that are natural persons where a valid IRP 30 tax certificate is required. The Procurement Practitioner must specifically request this certificate when loading the supplier's contract on SAP. If the supplier submits a valid IRP 30 certificate, PAYE will not be deducted. If the supplier is deemed to be an "employee" for tax purposes then the Procurement Practitioner must indicate that PAYE must be deducted. If the supplier is a Personal Service Provider, Finance Shared Services must be informed to activate the tax indicator on the SAPFI system. Completed copies of the PAYE Pack i.e. signed summary sheets and signed affidavits must be attached on communication to Finance Shared Services.

If the supplier is a Labour Broker and the supplier does not have a valid IRP30 certificate, or a supplier is a dependent contractor, HR Shared Services must be informed to upload the supplier on the SAPHR payroll system. Completed copies of the PAYE Pack i.e. signed summary sheets and signed affidavits must be attached on communication to HR Shared Services. Group Tax must be copied on all communication to the Finance or HR Shared Services units.

Eskom must register its construction contracts i.e. those contracts with a value in excess of R200 000 (two hundred thousand Rand), including VAT, via SAP onto the CIDB website (Register of Projects), thereby saving time and costs. Inter-divisional contracts do not need to be registered.

#### 3.4.8.6 Receipt of Bonds and Guarantees

Upon the supplier providing the required form of security to the Eskom Agent in accordance with the contract, a copy of this security must be retained on file by the Contract Manager. The original must be sent to Eskom Treasury Department by the Procurement Practitioner for safe custody, together with the approval form (found on the Eskom Treasury Department's web-page) signed off by Treasury Portfolio

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Assessment (TPA) Department. It is the responsibility of the Procurement Practitioner to either hand over the original of the bond / guarantee in person, or to ensure that the original is safely sent to Eskom Treasury Department by using an Eskom-appointed courier service. A pre-numbered safe custody receipt will be issued to the Procurement Practitioner either in person or electronically, and must be retained in order to retrieve the guarantee in future.

Upon TPA's advice that the guarantor and guarantee amount are acceptable, the guarantee will have to be lodged with TPA in original form together with the Treasury Safe Custody Lodging Form ("the Form"), to be completed by the Procurement Practitioner. Upon receipt of the Form and original guarantee, TPA will acknowledge receipt of the documents by executing the Form and later issue a pre-numbered safe custody receipt to the Procurement Practitioner. The receipt must be retained by the Procurement Practitioner for future retrieval of the guarantee.

The documents will be lodged in the Treasury Safe Custody for safe-keeping and TPA will maintain a register of the Guarantees. The Procurement Practitioner can request an updated register of Guarantees from TPA as and when required.

#### 3.4.8.7 Advanced Payments

If an advance payment is approved as a condition of contract, then Eskom must within a certain time period as specified in the contract, make advance payments to the Supplier, based on the Supplier having to issue an advance payment bond to Eskom in terms of the contract. The Supplier claims the advance payment via an invoice to the Eskom Agent. The Procurement Practitioner must ensure that if there is foreign currency within the advance payment, then forward cover must be taken out. The Procurement Practitioner must follow the normal FOREX policies and procedures in this regard. The bond will be kept in safe custody by the Eskom Treasury Department.

#### 3.4.8.8 Maintaining an Audit Trail

The Procurement Practitioner opens a contract file for every PR that is executed via a formal or informal tender. The Procurement Practitioner ensures that the following documents are filed and also that electronic copies are filed in the Electronic Documentation Management System for audit purposes:

- The approved strategy (all transactions over R1m);
- Worksheets;
- All hard copies of tenders, or an indication of where such hard copies are stored and located;
- The signed and approved Commercial Transaction Approval Form, together with an extract of the minutes where approved by a PTC;
- A copy of the system order /contract;
- The supplier's acknowledgement of the award of the order /contract;
- Modifications to the contract together with all DCFs;
- Notes on any telephonic discussions or minutes of any meetings affecting the tender and contract;
- A list of suppliers to whom the tender was issued;
- A list of suppliers that have responded to the tender;
- A list of suppliers who were non-responsive / disqualified;
- A list of tenders that were found to be technically, commercially, and/or financially unacceptable after evaluation; and

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- The successful supplier.

Where the Procurement Practitioner is not the appointed Eskom Agent and/or Contract Manager, the Procurement Practitioner must nevertheless keep the original contract file up to date. The Eskom Agent or Contract Manager must keep a separate contract file containing all relevant documentation, including concurrent notes or minutes of meetings affecting the contract, compensation events, non-conformance reports and rectification records. The standard Checklist for the file of the Procurement Practitioner is attached hereto as Annexure F.

Both these files must be available for scrutiny by internal and/or external auditors, by the Risk and Governance Department within Group Technology and Commercial, or any other interested party within Eskom and / or within the legislative framework (e.g. via the PAIA process or by a court order). These files should be combined at contract termination or due to natural completion and / or after the expiry of the defects notification period and retained for 5 (five) years after conclusion thereof, to ensure an audit trail.

Copies of tenders from unsuccessful suppliers may be discarded / destroyed (normally via shredding) after contract award. The original tenders are kept by the Tender Offices for a period of 5 years.

### 3.5 Other Approved Sourcing Processes

#### 3.5.1 Negotiations – No Prior Tendering

The circumstances under which a Procurement Practitioner and End-User may make a recommendation to negotiate without prior tendering are as follows:

- The use of the current supplier as a sole source only in cases when no other financially, commercially or technically acceptable tenders were received in response to a previous valid competitive tender and where the competitive tender was either sent to the open market or to a valid list of three (3) or more capable and independent suppliers as verified in writing by the relevant Commercial Senior Manager;
- Assets, goods or services can be supplied only by one particular supplier and no reasonable alternative or substitute exists, for example for reasons connected with patents or copyright, or in the absence of competition for technical reasons;
- A change of supplier would compel Eskom to obtain spare parts or additional assets, goods or services that are not compatible or interchangeable with existing assets, goods or services that were obtained from an original supplier or original equipment manufacturer (OEM);
- Eskom procures prototypes, goods or services that are developed, at Eskom's request, under contract for research, experiment, study or original development, and Eskom obtains the rights to the design. After the development contract has been fulfilled, further purchases (re-buys) are subject to Eskom's normal procurement procedures, using the design so obtained;
- Eskom buys commodities on a commodity market; and
- Eskom has the opportunity to buy under exceptionally advantageous conditions that only arise in the very short term. This provision covers unusual disposals by entities that are not normally suppliers, and the disposal of assets of businesses in liquidation or receivership. It does not allow for routine purchases from regular suppliers, and specifically excludes purchases of remaining stock after the expiry of a Framework Agreement or from unsuccessful suppliers.

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#### i. Sole Source

Where, as a result of proven in-depth market analysis, only one supplier in the market has been identified as being capable or available to supply the assets, goods or services in the existing circumstances, it may then become necessary to deviate from competitive tendering and follow the sole source process.

Alternatively, the SSJF can be used to identify a supplier as a general sole source for a specified category of assets, goods or services to Eskom for a maximum period of 3 years. In this case the approval for the appointment of the supplier as a general sole source supplier for the identified category of supply /services needs to be obtained from the relevant PTC, as this is considered to be a "blanket" approval with no specific value attached to the total number of orders / contracts to be placed with the supplier over the specified 3 year period. Suppliers falling into this category are generally OEM's. Once the "blanket" approval has been granted by the relevant PTC to categorise the supplier as a general sole source for the category of supply /services, a SSJF will not be required for every order /contract placed with the supplier within the validity period of the "blanket approval". A list of these suppliers with their approved Sole Source Justification Forms, and corresponding validity periods, will be stored on the Documentation Management System for accessibility to all Procurement Practitioners.

The management of sole suppliers is an important part of ensuring fairness, equitability, transparency, competitiveness and cost-effectiveness.

It is unacceptable for an End-User to refuse to use alternatives to a preferred supplier/brand where there is no valid technical or business case for such a decision.

Procurement Practitioners and End-Users are not permitted to negotiate without prior tendering in order to avoid competition, to discriminate against certain suppliers or groups of suppliers, or to give unwarranted protection to selected suppliers.

Sole Source Justification Forms will not be required in the case of negotiation with an Internal Supplier, or where the request for mandated negotiations is with two suppliers, which precludes execution of a competitive tender.

It is furthermore a material breach of this Procedure for any employee to engage in negotiations with a supplier without an approved mandate to negotiate, or to participate in any negotiation on their own. The same general rules for negotiations apply to negotiations as set out in 3.4.6.12 above.

There are a number of ways in which a supplier may be justified as a sole source:

##### a. True Sole Source (Monopoly)

Assets, goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exist such as reasons connected with intellectual property rights (e.g. patents or copyrights), or in the absence of competition.

Thorough market research must be done to ensure that a true monopoly exists both in the local, national and international markets. In the longer term, Eskom should consider alternatives or try to encourage development of competition.

##### b. Installed Base (Original Equipment Manufacturer (OEM))

A change of supplier would compel Eskom to obtain spare parts or additional assets, goods or services that are not compatible or interchangeable with existing assets, goods or services that were obtained from an original supplier. Spares can only be bought from the OEM, unless risk analysis shows that the use of parts from alternative manufacturers is feasible, and this has been confirmed in writing by the applicable technical experts.

The implications of installed base should be factored into procurement decisions, based on the initial TCO analysis which has been confirmed in writing by the applicable technical experts.

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**c. Incompatible Material**

Changing the source or type of materials, such as chemicals, lubricants or fuels, would necessitate the complete exchange of material due to incompatibility of material from different sources.

The Procurement Practitioner together with the End-User / cross-functional team should conduct a market analysis and apply a TCO model to establish whether the complete change of material, "flush-out" and opportunity costs will be beneficial over time.

**d. Established (On-site) Supplier**

At times, additional works or services not forming part of the initial contract become necessary in order to complete the plant, system or structure. If separating the additional works / services from the original contract will be difficult for technical or economic reasons and/or the separation will cause significant cost or time constraints to Eskom, a valid sole source motivation exists.

The Procurement Practitioner together with the End-User / cross-functional team must do a formal cost/benefit analysis to establish whether it is more cost-effective to continue with the established supplier, or whether to request competitive tenders/ proposals. This must form part of the motivation for the use of the supplier as a sole source. If negotiation only with the established supplier is envisaged, the negotiations must be based on a best estimate of the cost of the works / services excluding site establishment costs and a properly motivated request for a mandate to negotiate must be presented to the Delegated Approval Authority.

The following steps must be followed when a sole source supplier is identified:

- The cross-functional team led by the Procurement Practitioner, developing the commercial strategy arrives at the conclusion /deduction that a sole source supplier situation exists.
- The strategy indicating a sole source supplier situation must be compiled on the Commercial Strategy Approval template and approved by the line manager of the Procurement Practitioner or the relevant Delegated Approval Authority, based on the strategy delegations set out in 3.1.7 herein.
- Where the sole source is an Original Equipment Manufacturer (OEM) or a sole distributor of the OEM, who provides spare parts to Eskom, the cross-functional team must determine whether to proceed directly to negotiations or whether to follow an enquiry process. It is not permissible to request a quotation /proposal from a sole source supplier without first presenting the mandate request to the Delegated Approval Authority, as Eskom employees (including Procurement Practitioners) are not permitted to engage with suppliers in negotiations without a formal mandate from a Delegated Approval Authority.
- After approval of the commercial strategy, the Procurement Practitioner, together with the cross-functional team, must complete a Commercial Transaction Approval Form requesting a mandate to negotiate from the Delegated Approval Authority. The approval of the commercial strategy and the request for a mandate to negotiate may be handled together by the Delegated Approval Authority.
- A formal supporting motivation for use of the supplier as a sole source must be provided by the End-User and approved by his/her designated E-band Manager, who is responsible for the technical and operational integrity of the assets, goods or services required. This motivation is set out within a Sole Source Justification Form which must be duly signed and validated by all required signatories and which must accompany the Commercial Transaction Approval Form for approval by the Delegated Approval Authority.
- Prior research into the prices needs to be conducted by the cross-functional team in order to determine a real and aspiration base for negotiations on price, and any other parameters which may become a negotiation objective, forming part of the mandate request.

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- The Procurement Practitioner and End-User, together with any other members of the cross-functional team present the Commercial Transaction Approval Form, together with the signed Sole Source Justification Form to the relevant Delegated Approval Authority for approval.
- Once the mandate is approved, the Procurement Practitioner either proceeds directly with negotiations or prepares a Request for a Quotation / Proposal, based on the approved mandate, and in consultation with the cross-functional team, and then issues the enquiry to the sole supplier for a quote/proposal. The offer /quotation is requested and submitted in the same way as for an informal tender up to R5m, and processed in the same way as a formal tender if greater than R5m. The cross-functional team then develops and plans their strategy for negotiation based on the Supplier's proposal / quotation.
- In order to proceed with negotiations, the Procurement Practitioner arranges a venue, invites the relevant supplier and the negotiation team as per the approved mandate, formulates an agenda and ensures that minutes of the negotiations are recorded in writing.
- The lead negotiator, as assigned by the Delegated Approval Authority granting the mandate, will lead the negotiations and ensure that all mandated parameters are discussed and agreed upon. After each session of negotiations, the supplier and Eskom sign off the recorded minutes, as proof of what has been agreed to and what remains outstanding for resolution.
- The Group Commercial Finance Department (within Group Commercial Business Enablement) or a site-based Finance Business Partner representative must form part of the negotiation team for the evaluation of any prices offered for contracts less than R300m. Should the offered price comprise foreign currency of more than USD 1 million, or the equivalent thereof, then BEAST from FPS must form part of the negotiation team to render advice and validate that the negotiated price is financially acceptable.
- Should negotiations not transpire as per the negotiation strategy or where negotiations result in failing to achieve the required mandate, the lead negotiator must seek advice from the assigned negotiation controller who must advise and direct the negotiation team toward resolution of the issues or toward an alternative negotiation strategy.
- If the outcome of the negotiations is within the ambit of the approved mandate parameters, the Procurement Practitioner submits feedback of negotiations against the relevant section of the Commercial Transaction Approval Form to the Delegated Approval Authority outlining the results of the negotiations against the mandate parameters.
- If the outcome of negotiations is outside the mandated parameters, the Procurement Practitioner, in consultation with the negotiation team /cross-functional team may request an approval of a negotiated outcome, a revised mandate or may request cancellation of the transaction from the Delegated Approval Authority.
- Where the Delegated Approval Authority grants approval to proceed with contract finalisation, the Procurement Practitioner in consultation with the cross-functional team prepares the contract documents and arranges for the signing thereof.
- The Procurement Practitioner ensures that all relevant documents are filed for audit purposes.

## ii. Competitive Negotiations – Two Suppliers (No Prior Tendering)

In certain situations, where thorough market research establishes that there are only two capable and independent suppliers available to supply the assets, goods or services, thereby precluding use of a competitive tender (where a minimum of three independent suppliers are required) it is permissible to request a mandate to negotiate with both suppliers, without prior tendering.

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The enquiry and negotiation process is the same as that for a sole source supplier, without the need for a Sole Source Justification Form. However, all offers / quotations greater than R5 million must be formally received by the relevant Tender Office.

### iii. Negotiations – 6 month rule

It is permissible to enter into negotiations with a supplier, without a receipt of a mandate to negotiate, where a previous (once-off/stand-alone) purchase order was placed with such a supplier, provided that the purchase order was placed with such a supplier within the last six (6) months. Another purchase order may be placed on this basis, subject to:

- The previous purchase order being based on a formal or informal competitive tender;
- There is evidence of the market being properly tested;
- The supplier has agreed to supply the assets, goods or services at a price less than or equal to that of the previous order; and
- The placement of the new order must be authorised by a Delegated Approval Authority.

This mechanism applies only to stand-alone/once-off purchase orders, and does not apply to contracts.

One cannot rely on the use of the 6 month rule more than twice after placement of the original purchase orders.

### 3.5.2 Emergency Procurement / Disposals

Emergency procurement must be differentiated from an "urgent" requirement which may be deemed foreseeable and not necessarily immediate in need, as opposed to an imminent / immediate and unforeseeable requirement without which, an emergency, as defined below, will arise.

Requirements for foreseeable "urgent" procurement where any of the below-mentioned threats / risks to Eskom will only materialise after a period of time and therefore cannot be considered immediate, must still be administered via a PR in the SAP system, using the normal procurement methods and sourcing mechanisms. Urgent requirements may be approved via "special meetings", round-robin approvals, or within systems of general or EXCO dual/triple adjudication, and should be immediately prioritised by the relevant Procurement Manager, and the Delegated Approval Authority.

When emergencies arise and there is no procurement function immediately available, i.e. after working hours or at a remote location, or when a procurement function is available, but there is limited time to initiate a normal procurement process via one of the acceptable procurement methods or sourcing mechanisms, the emergency procurement procedure may be used to resolve the emergency through the procurement of the required assets, goods or services.

An emergency is a situation that may imminently / immediately (i.e. within 24 hours) give rise to the following threats / risks to Eskom which cannot be readily alleviated through any other means or interim measures, unless the relevant assets, goods, services are procured:

- Threats to human life or safety;
- Threats of interruptions in the supply of electricity to customers or load loss;
- Threats of substantial ecological damage;
- The threat of major consequential expense to Eskom; or
- The threat of serious damage to Eskom's reputation and good name.

The emergency process is executed as follows:

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- i. Where an emergency arises, the End-User contacts the most senior available Eskom official (minimum E-Band level) responsible for the site and notifies him / her of the emergency situation. ("Available" means present on site or available by telephone, cellular phone or other means);
- ii. The senior official decides on the action needed to prevent the threat from materialising, and if procurement is required, he/she authorises the required procurement, without any further authorisation from a Delegated Approval Authority;
- iii. The End-User contacts the applicable supplier to deliver the assets, goods or services;
- iv. The End-User, together with the senior Eskom official authorising the emergency procurement is required to formally request a ratification of the emergency procurement on a Commercial Transaction Approval Form (together with the invoice for payment), for approval by a Delegated Approval Authority which must be a PTC;
- v. Only once ratification for the emergency procurement has been received by the End-User (and confirmed via recorded minutes of the PTC) then only can a PR be created by the End-User and routed to an assigned Procurement Practitioner to create a purchase order, thereby enabling payment of the invoice;
- vi. To the extent that the PTC determines that the procurement was not warranted by an emergency as defined in this Procedure, condonation must be sought for the procurement, as per the process for condonation set out in this Procedure.

The same principles and procedures applicable to emergency procurement will also be applied to emergency disposals.

Where an emergency is declared in terms Eskom Interconnected Power System Emergency Response Procedure (32-224), and an emergency response committee is required to formulate a strategy for the resolution of the emergency situation in an integrated manner, including the establishment of medium term and longer term plans, which do not meet the immediacy / imminence for a general emergency situation as defined above, the procurement process to support the implementation of a recovery strategy must be authorised by the EXCOPS, or alternatively, by the relevant EXCO dual or triple adjudication authority. Subsequent ratification by the Board Tender Committee will follow if required as per the provisions of the Board Delegation of Authority.

### 3.6 Contract Management

The appointed Contract Manager, if not the Procurement Practitioner, is generally the appointed Eskom Agent in terms of the contract, or a person assigned to manage the contract by the appointed Eskom Agent. The Contract Manager must be trained, as a minimum, on the PCM's for Contract Management, the NEC and /or FIDIC suite of contracts (depending on the type of contracts being managed), SAP and Eskom Treasury policies and procedures.

A Contract Manager's primary role is to be the first and single point of contact between Eskom and the Supplier during the execution / delivery phase of the contract. The Contract Manager manages the contract such that risks to Eskom are minimised and that the contract is executed in a legally sound and safe manner within time, cost and quality requirements.

#### 3.6.1 Shipping

If assets or goods are being transported by ship, then the relevant marine shipping procedures must be adhered to for purposes of insurance. Requests for shipping services must be accompanied by a shipping declaration form. The Contract Manager must notify Eskom Insurance Management Services (EIMS) of the shipment at least four (4) weeks in advance so that a marine survey can be conducted and all potential risks are identified and covered.

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The Group Commercial Shipping Department will be responsible for the expediting of shipments between the Contract Manager and the supplier in accordance with agreed delivery dates. Any changes to delivery dates both at FOB (Free-on-Board) level and during shipment will be communicated by the Shipping Department to the Contract Manager in order for the applicable forward cover to be extended to reflect the new delivery and payment dates. Notwithstanding this, it must be noted that the responsibility for taking out and extending the forward cover remains with the Contract Manager that is responsible for managing delivery of the required imported assets or goods in terms of the contract.

### 3.6.2 Tax Implications & SARS Deferment Accounts

The Tax department within Group Finance must be involved where materials such as steel, will form part of the transaction and where importation taxes are applicable as per the Customs and Excise Duties Act.

Eskom has Customs Duty and Import Value Added Tax ("Import VAT") Deferment Accounts with the South African Revenue Service (SARS) Ports of Entry/ Customs Offices. Through this account, Eskom has permission to defer the payment of Customs Duty and Import VAT at the time of importation for a minimum of 7 (seven) days and maximum of 37 (thirty seven) days without incurring interest charges.

The process on how Deferment Accounts should be used for the payment of Customs Duty and Import VAT on all imported Eskom consignments, inclusive of turnkey projects, for all modes of transportation must be obtained from the Shipping Department. Eskom should be reflected as the importer of record on all shipping documents.

The relevant Finance Department processes payment to SARS on behalf of all BUs and passes journal entries to recover customs duty paid from the relevant BU cost centre.

Contract Managers must liaise with the Shipping Department to ensure full utilisation of Deferment Accounts and that a proper process is followed in accordance with Practice Note 02 of 2009 – Deferment Accounts and Managing Tax Compliance Procedure Manual. Further, it is important to note that all clearing and forwarding agents (CFAs), including those authorised to make clearances using Eskom's Deferment Accounts, must be specifically authorised by the Shipping Department to transact on the Eskom Deferment Accounts. This process applies to both turnkey and non-turnkey shipping.

Failure to adhere to the prescribed requirements will result in closure of the Deferment Accounts which will negatively impact Eskom's cash flow management and reputation.

In the case of contracts involving labour broking, contracts with service-providers or consultants, PAYE may be deducted from the suppliers. Specialist advice must be obtained from Eskom's Tax Department in this regard.

### 3.6.3 Importations and Foreign Exchange

It is mandatory for all Procurement Practitioners and Contract Managers applying the Eskom Treasury Department's foreign exchange or commodity exposure control policies and procedures to successfully complete the necessary training offered by the Eskom Treasury Department in this regard. Procurement Practitioners and Contract Managers are not permitted to handle transactions containing foreign exchange and / or commodity exposures on behalf of Eskom without the successful completion of such training.

All procurement involving foreign exchange and / or commodity exposures must be in strict accordance with the latest revision of Eskom Treasury Department's Foreign Exchange and Commodity Exposures Policy (32-1095) and its Foreign Exchange and Commodity Procedure for Importation and Exportation of Goods and Services (32-1096).

All foreign currency exposures exceeding R150 000 (one hundred and fifty thousand Rand) at the time the exposure originates, must be hedged by establishing an internal hedge contract with Eskom

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Treasury Department. Notwithstanding this, the costs of shipping and any duties associated therewith must be quoted for and paid in Rand only.

In the case of framework agreements where foreign currencies are involved, the Contract Manager must apply upfront to the Eskom Treasury Department for forward cover in order to hedge against foreign exchange risks once the Contract Manager receives the signed-off commitment from all business units requiring the assets, goods or services.

A nominated functionary will liaise with the various foreign exchange co-ordinators to receive INTCOV reports which contain the national contract / enabling agreements and must, in consultation with the appointed Contract Manager and End-Users put in place an appropriate reporting mechanism for the rolling over of the forward cover or cancellation thereof.

The management of foreign exchange and commodity exposures on contracts remains the responsibility of the appointed Contract Manager for the duration of the contract.

Where a supplier fails to submit an invoice within 1 (one) month of receipt of the goods, the Contract Manager must arrange with the Eskom Treasury Department for the cancellation of the forward cover and payment to the supplier at the selling spot rate of exchange obtained from Eskom's Treasury Department on the date of cancellation.

It must be noted that the cancellation of forward cover at any rate other than the spot rate on the date of cancellation of forward cover will be deemed by Eskom Treasury Department to be fruitless and wasteful expenditure, and will be reported as such by Eskom Treasury Department in accordance with the PFMA.

Payment will only be made directly to the supplier with whom Eskom has contracted or to the party nominated in terms of the contract.

#### 3.6.4 Managing Bonds and Guarantees

In managing the bonds or guarantees, the Contract Manager must liaise with Eskom Treasury Department who ensures the safe-keeping of the original bonds / guarantees as well as maintains a register of these bonds / guarantees for each contract.

The calling of a bond / guarantee must be used as a remedy of last resort in order to secure performance against a contract. However, where it becomes necessary for Eskom to call a bond/ guarantee, the Contract Manager must first seek advice from the relevant Senior Manager: Commercial in consultation with the Eskom Legal Department in order to assess the risks on the contract should the bond / guarantee be called. Once a decision has been taken to call a bond / guarantee, Eskom Treasury Department will only make the original bond / guarantee available to the Contract Manager upon receipt of written notification from the Contract Manager counter-signed by the relevant GM: Commercial, or DE: Primary Energy Division, together with the safe custody receipt originally issued by Eskom Treasury Department. Should the value of the bond / guarantee exceed R1 billion (one billion Rand), such written notification must also be counter-signed by the Group Executive: Technology and Commercial.

In order for Eskom Treasury Department to release the original bond / guarantee upon expiry of the bond/guarantee and/or when the contract has been duly performed, written notification signed-off by the Contract Manager confirming that the contract has been duly performed by the supplier and that Eskom is obliged to release the bond / guarantee in terms of the contract, must be sent to Treasury Safe Custody. The Contract Manager returns the original bond / guarantee to the supplier.

#### 3.6.5 Managing Delivery

Except where it is at Eskom's request, early delivery against an order is not acceptable unless terms of payment are re-negotiated to suit Eskom's cash flow requirements. Late delivery must be managed in accordance with the conditions of contract. The procurement system must be updated accordingly.

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Where Eskom needs to roll forward cover due to late delivery not requested by Eskom, the cost will be for the supplier's account and the supplier must be notified thereof.

In the event that a supplier delivers assets, goods or services that are incomplete, of a lower quality, or quantity than agreed to, a non-conformance report must be raised, and the necessary steps taken to remedy the quality or quantity. The defect must be remedied in terms of the contract.

When goods are returned for credit, the necessary transaction must be made in the procurement system to ensure that credits are received. Even when goods are returned as unacceptable on delivery, the necessary transactions must be made on the procurement system. A non-conformance report must be raised in every case. Endorsing only the supplier's delivery note is not acceptable.

### 3.6.6 Management of Task Orders

In the case of panel contracts, a Task Order Committee may be appointed by the Delegated Approval Authority to oversee and approve the issuing of task orders. Such committees must ensure that suppliers/consultants are utilised on an equitable basis and that no one supplier/consultant is given any undue preference. Approval must first be given by the committee before the Contract Manager may proceed with the issuing of a Task Order.

Where a Task Order Committee has not been appointed by the Delegated Approval Authority, the Contract Manager responsible for the awarding of task orders must ensure that the awarding of task orders is done in a manner which is fair, equitable, competitive, transparent, and cost-effective.

The issuing of task orders on the eve of expiry of a contract will not be allowed unless the contract is appropriately modified with the time and money required to complete the task orders. It is the responsibility of the Contract Manager to request the necessary contingency time to close-out the contract, and/or to arrange timely modifications to contracts prior to expiry, where the issuing of task orders are anticipated on the eve of expiry of the contract. Task orders still being executed beyond contract expiry automatically increases the authorised and delegated duration of a contract, which is a deviation from Delegation of Authority and internal governance principles for which condonation must be sought, and may further expose Eskom to legal risks in the event of disputes regarding contract execution.

### 3.6.7 Modifications to the Contract

In the Commercial Transaction Approval Form submitted to the Delegated Approval Authority, the total value and time approved (total approval value) may comprise the contract value and contract duration, and may further include contingency value and time, and in other cases provisional sums and travel and subsistence. The request for contingency funds and / or time, as well as provisional sums must be motivated with reasoning based on a risk assessment of the transaction. It is not necessary to request contingency funds and / or time for contracts that are of very low risk, and / or are unlikely to result in claims / compensation events / variation orders (e.g. short term contracts for supply and delivery of goods).

The contract value and time is used to execute the contract according to the approved scope of work or the description of the assets, goods or services according to the contract/order.

The contingency funds and/ or time is approved to allow the Eskom Agent to manage compensation events/variation orders as per the NEC/FIDIC contracts without requesting approval of further funds / time associated with such claims, from the Delegated Approval Authority. This specific delegation to manage contractual claims is granted to the Eskom Agent, on a Delegation Consent Form (DCF) and must be approved by the relevant Delegated Approval Authority. The DCF thus gives the Eskom Agent the authority to duly assess, manage and authorise claims relating to time and money in the contract, which may arise out of unforeseen or unplanned circumstances, and which may result in amendments to the approved scope / specifications.

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The Eskom Agent may utilise the money and time up to the limit of the contingency value and time approved by the Delegated Approval Authority.

For contracts exceeding R5m, where the total of the contract amount and/or the contingency amount is increased by more than 20% of the original approved values respectively or cumulatively, then it must be motivated in writing by the relevant End-User Senior Manager in consultation with the relevant Senior Commercial Manager as to why a new contract cannot be considered based on a new commercial process, if market and / or contract related prices have been quoted for the modification and if the solution to modify the scope is the most optimal way to proceed with the contract. A Procurement Practitioner may only proceed with processing the modification for approval by a Delegated Approval Authority (exceeding 20% of original approval value) on the written consent of the relevant Senior Commercial Manager.

A modification to the contract may apply in the following circumstances:

- Increase in the approved contract value or contract duration due to the contract being required for longer periods than originally required, which will also have a corresponding effect on contract value;
- Material / significant changes to the conditions of contract which may result in an increase/decrease in the contract value or duration, and thereby changes the risk position of Eskom or the supplier. An example is if the supplier requests to change retention (cash) for a retention bond;
- Changes to the contracting parties, such as name changes or changes of legal persona of suppliers in the case of a merger or acquisition by another legal entity, or cession / delegation to another legal entity;
- Changes to specification, design, or scope which were unforeseeable at the time of tender and contract award;
- Increase in the quantities of assets, goods or services already contained within the scope of the contract, but where the quantities thereof could not be correctly estimated or envisaged at the time of the tender or at the time of contract award; or
- Changes in the country of origin / manufacture of assets or goods which affect the foreign currencies in the contract, including changes in the currencies of the contract.

The Contract Manager must request a modification via the relevant procurement department when there is still sufficient time to obtain approval for the modification, which must be before expiry of the contract. Once a contract expires, it cannot be modified, and a new contract must be put in place through a new sourcing process, if need be.

A compensation event is one of the conditions of contract described in the NEC contract (core clause 60.1) and a variation order is the process in terms of clause 13.1 of the FIDIC to manage any change to the Works Information or the Employer's Requirements/Specifications respectively, which is instructed or approved as a variation.

For purposes of this Procedure, a scope change is deemed to be where new or additional assets, goods or services that were not envisaged at the time of tender or original contract award are now required, but which does not warrant a new contract, where, for example, the supplier is currently operating on the site and the assets, goods or services are needed urgently, and is related to the specific contract. If it is not possible to derive the rates for the new / additional scope from the current contract or any previous contract for the assets, goods or services, then it may be required to request for a mandate to negotiate in order to agree on new rates/prices.

It must be noted that there is a difference between Eskom's internal governance process to authorise a modification, and the contractual process to effect a change to the Works Information or Employer's Requirements/Specification, terms and conditions of contract. Eskom's internal governance process must first be followed, via a formal modification process before changes to the Works Information or

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Employers Requirements/Specification, including quantities and / or design can be given effect to as compensation events or variation orders.

The process to follow in the case of a modification or increase in contingency value and time is as follows:

- i. During the execution phase of the contract, the Contract Manager monitors and controls the values spent and time used in accordance with the approvals given by the Delegated Approval Authority. Once the Contract Manager realises that the contract value and time and/or contingency value and time is near depletion and more contract value and time is required or where there is a compensation event/variation order that will deplete the allocated contingency value and/or time, he/she approaches the Procurement Practitioner with a request for a modification to the contract.
- ii. The Procurement Practitioner together with the Contract Manager and if required, the cross-functional team, completes the Commercial Transaction Approval Form, clearly stipulating the reasons for the modification and/or the increase to the contingency time and value. The Commercial Transaction Approval Form must state the previous, if any, modification or contingency values or times approved. Motivation must also be provided as to why the contract needs to be modified as opposed to testing the market and concluding a new contract with possibly a different / new supplier. The Contract Manager in consultation with the Procurement Practitioner and SD&L must further ensure that all SD&L targets / commitments are accordingly adjusted in order to benefit from increases in the contract value.
- iii. The Procurement Practitioner arranges for the Commercial Transaction Approval Form to be placed on the agenda of a PTC or may present the transaction to the relevant dual or triple adjudicator for approval (subject to the 20% cap for modifications within dual and triple adjudication), depending on the total approval value and time. Requests must be addressed to the Delegated Approval Authority that approved the original contract. Where the revised best estimate of expenditure (contract value plus cumulative contingency value as stated in the DCF) and/or total time exceeds the delegation of authority of the original Delegated Approval Authority, the request must be submitted to the next higher level of Delegated Approval Authority for approval.
- iv. Once approval has been obtained from the relevant Delegated Approval Authority, then in the case of a modification to the contract, the Procurement Practitioner together with an assigned representative from the Eskom Legal Department compiles the amendment to the contract. In the case of increases to the contingency value and time, no change needs to be made to the contract, but the electronic purchasing system (SAP) needs to be updated.
- v. The Procurement Practitioner arranges for the authorised supplier's representative and authorised Eskom representative to sign the amendment/modification to the contract and submit a copy of the amendment to the supplier and the Contract Manager.
- vi. The Procurement Practitioner updates the electronic purchasing system (SAP) with the amended contract values and / or time, and / or the amended contingency value and time and files the original amendment with the rest of the contract documents for audit purposes.
- vii. The Eskom Agent named in the DCF has to report all compensation events / variation orders approved by him/her in line with the contract to the Supervising Authority named in the DCF.

### 3.6.8 Invoicing and Payment

All invoice approvals and payments must be executed in accordance with the latest revision of Eskom's Accounts Payable Procedure. The Procurement Practitioner usually does not get involved in the handling of invoices or any payment other than where the Procurement Manager is assigned to be the Contract Manager. All payment certificates must be issued and certified by the Contract Manager.

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All invoices must be submitted by the supplier at the address mentioned in the order/contract for invoice submission.

### 3.6.9 Contract Termination

A contract may be terminated for many reasons, including a breach of contract, a legal dispute, supplier reconsideration, change of a supplier, etc. A contract may only be terminated strictly in accordance with the termination clauses and reasons for termination as contained in the contract.

Before a contract is terminated, all risks need to be assessed in terms of the supply of the assets, goods or services, including legal risks, operational risks and financial risks. The Eskom Legal Department must get involved to determine the risk to Eskom in terminating the contract, and how Eskom's legal risk position will change, as a result of giving effect to a termination. The termination process and associated conditions thereof are described in the contract conditions (NEC and FIDIC). The payment to be settled between the parties differs depending on whether Eskom terminates the contract, or the supplier terminates the contract. It is of utmost importance that Eskom Treasury Department is informed of any terminations in cases where there is FOREX involved with forward cover taken out. The contract file must be updated with all correspondence between Eskom and the Supplier for audit purposes and/or in the event of legal issues.

### 3.6.10 Document Retention

All original commercial documentation is to be retained as per the Eskom Procedure "Periods for Retention of Accounting and Other Records 32-202". If no time period for retention is mentioned, a minimum retention period of 5 years after the contract has been completed, will apply. Hard copy documents classified as "confidential", "secret" and "top secret" that are beyond their retention period must be shredded and electronic copies permanently deleted. "Public domain" hard copy documents must be disposed of for recycling and electronic copies shall be deleted. The Procurement Practitioner must arrange for archiving of all the original contract documents at an off-site facility once the contract has been completed.

## 3.7 Special Categories of Procurement

### 3.7.1 Consultants

The process for procuring consultants is essentially the same process as for the procurement of assets, goods or services. However, the following specific considerations must be included as part of the procurement strategy, recommendation and approval, in order for Eskom to:

- Reduce the overall costs of consulting services, without compromising the quality of consultant's service, where needed;
- Commit to a skills transfer plan in order to prevent an on-going dependence on external consultants;
- Reduce Eskom's reliance on consultants, in order to achieve economy and efficiency;
- Achieve transparency in the process for selection and appointment of consultants; and
- Guarantee that all deliverables received from consultants will be measured against an SLA and will result in tangible improvements within the Eskom environment.

The services of a consultant goes beyond that of a general service provider of non-core services, and is generally required on specific technical and strategic issues that are core to Eskom's approved strategic direction (as set out in the shareholder's compact), or where the services of an independent registered professional are required (e.g. attorneys, auditors, engineers, etc.). The use of a consultant must be

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supported by documentary evidence of an approved business case, and an approved budget. A consultant may not be contracted via the commercial (procurement) process in order to bypass the HR recruitment process, where the resource / skill is required in the medium to long-term (more than 12 months), in which case, the HR process must be followed in order to secure the resource / skill.

A dedicated centralised commodity team managed by a Category Manager operates as part of the Commodity Sourcing department within Group Technology and Commercial in order to manage the procurement of consultants across Eskom.

Consulting services may not be procured without the express written consent of the Group / Divisional Executive of the procuring Group / Division and the Internal Consulting Department (Group Finance), who must be satisfied that there are no suitable resources within Eskom who have the capability and capacity to carry out the required work. Should the cumulative value of the consultant's engagement exceed R5 million, the further written approval of the Group Executive: Technology and Commercial, and the Finance Director are required.

The approval to award a contract to a strategic / management / professional consultant can only be obtained by a delegated PTC, irrespective of the value of the procurement.

When employing the services of a consultant, the Procurement Practitioner should further ensure that the consultant has a confidentiality clause in his/her contract and signs a Non-Disclosure Agreement as part of the contract.

A formal "Declaration of Other Work" and a formal signed declaration of interests must be submitted by the consultant at the time of competitive tendering / mandated negotiations and before contracting, to ensure that there are no conflict of interests.

Where it is foreseen that the particular consulting services will be followed by further assignments, phases or related services, such as an implementation phase, the relevant Procurement Practitioner and PTC involved in appointing the consultant/s must apply their minds to the following issues:

- Would it be in Eskom's best interests to permit the appointed consultant to tender on related projects, such as an implementation phase, following on the initial consultation regarding scoping;
- How should Eskom formulate the contract to avoid limiting Eskom's options for related projects / services and to avoid giving unfair advantage to the consultant in tendering for related projects / services following on the initial consultation.

Where it is not the intent to permit the consultant to participate in future phases of a project or related supply / services, then such limitations must be notified to the consultant upfront via the conditions of tender and contract, when initially contracting with the consultant. Such provisions must seek to prohibit the consultant and its related parties from participating in future phases or related procurement.

Where the consultant that provided the original consultation is permitted to tender for subsequent consultation or services then the Procurement Practitioner must obtain the approval of the PTC that approved the initial contract (for the initial consultation) or the appropriate higher PTC. The members of the PTC must again apply their minds to ensure that the procurement process for future phases will remain fair, equitable, cost-effective, competitive and transparent, and in Eskom's best interests. However, it must be noted that where a consultant has been specifically appointed (either directly or indirectly) to design a particular scope of work for Eskom, such a consultant is not permitted to participate in at least the first tender for the supply of the designed assets, goods or services concerned, unless a specific strategy supporting the appointment of the supplier for the supply phase has been approved by the relevant Delegated Approval Authority within an approved strategy.

The Procurement Practitioners responsible for the strategic procurement of consultants within Group Technology and Commercial must liaise with a nominated SD&L functionary and HR in order to establish skills development programmes, and monitor skills transfer as a contractual obligation.

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### 3.7.2 Nuclear Sourcing

Nuclear sourcing is applied when procuring assets, goods or services relating to the generation of electricity through the use of nuclear technology, where specific regulatory requirements are applicable due to their importance to nuclear safety.

In addition to complying with all the requirements for procurement / disposals in accordance with the Approved Procurement Framework, the specific requirements stipulated in the following Koeberg Operating Unit documents must also be taken into account within each step of the procurement / disposal:

- 238-8 (Nuclear Safety and Quality Manual);
- 238-10 (Quality Assurance and Control Manual);
- 238-028 (Safety Culture Programme);
- 238-101 (Supplier Safety and Quality Management Requirements);
- 238-102 (Supplier Quality Management Requirements);
- 238-104 (Supplier Management System and Product Information); and
- 238-105 (Supplier Qualification and Audit Manual).

Representatives from the applicable Quality Department must be consulted at every stage of the procurement to ensure compliance to the aforementioned documented requirements. The input from the Quality functionaries with respect to the determination of quality requirements for the identified procurement / disposal is further required for supplier pre-qualification, determination of evaluation criteria, evaluation scoring, review and approval of submissions / reports to Delegated Approval Authorities, evaluation of supplier performance and the verification of received assets, goods or services.

### 3.7.3 Land and Rights

The securing of real rights relating to land for the purposes of Eskom's infrastructure development and operational requirements, is a specialized category of procurement, not always subject to the same competitive sourcing mechanisms and principles applicable to the procurement of moveable assets, goods or services, due to the intangible nature of real rights. These rights are generally secured via direct negotiations with land-owners who are not classified as Suppliers as defined in this Procedure. Notwithstanding this, the approval of land and rights transactions is subject to the specific Delegations of Authority as set out in Appendix A hereto. Further guidelines and standard practices regarding the handling of land and rights transactions will be contained in the Eskom Land and Rights Consideration and Compensation Standard (32-844).

### 3.7.4 Eskom Treasury Activities (Borrowings, Issues of Bonds, Investment of Surplus Funds, Market Making, Hedging, and Related Treasury Activities)

Contracts entered into by the Eskom Treasury Department regarding Treasury activities relating to borrowings, issue of bonds, investment of surplus funds, market making, hedging, and related treasury activities, (such as the appointment of financial institutions or professional services required for the purposes of executing the borrowing programme, issuing of bonds, reviewing of methodologies and testing of models related to hedging transactions and other Treasury related activities), as set out in Section 7 of Annex A: Delegation of Authority Part II: Delegation, of the Eskom Delegation of Authority Policy (240-62072907) are specifically excluded from the ambit of the procurement delegations of authority and this Procedure (32-1034). Notwithstanding this, any requirements by Eskom Treasury Department for use of management or professional consultants rendering general financial advisory

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services will become subject to procurement delegations of authority and all the requirements for procurement in terms of this Procedure.

### **3.7.5 Purchase of Electricity (Independent Power Procedure (IPPs) and Cross-Border Transactions)**

#### **3.7.5.1 Power Purchase Agreements (PPA) with local IPP'S:**

When purchasing electricity via PPA's with IPPS, either Eskom's procurement process will be followed, or the DOE will follow its own procurement process (as per section 34 Ministerial Determination). This decision will be made in consultation with the Eskom Shareholder, being DPE. In both cases ICAS and IFC investment approval needs to be obtained within Eskom. When following Eskom's procurement process, the normal PTC approval will be obtained, as per Delegation of Authority Part II: Delegation, of the Eskom Delegation of Authority Policy (240-62072907) relating to Procurement. Eskom will be a party (the authorised buyer) to the PPA with the IPP.

#### **3.7.5.2 Cross-Border Agreements**

Cross-border agreements will be handled on a case by case basis, following a procurement process as agreed with the different cross-border stakeholders and the local South African shareholder involved in the PPA. IFC and approval by the Eskom Shareholder (DPE) must be obtained for PPAs as Eskom will be a legal party to the PPA, as per the Delegation of Authority Part II: Delegation, of the Eskom Delegation of Authority Policy (240-62072907) relating to Electricity Sales and Purchases. Eskom may act in different capacities, either as 'off-taker' or as a partner with the relevant SADC authorities with regard to Wheeling Agreements and / or Connection and Use of System Agreements. In these cases, no PTC approval needs to be obtained in order to enter into such agreements.

#### **3.7.6 Strip and Quote Transactions**

With regards to 'strip and quote' transactions, where a quote can only be given for a repair once the equipment is stripped and the damage assessed. Panel contracts may be established for common elements of repair work where possible. Specific standard activities / tasks may be agreed to with the Suppliers, on a rate basis. Suppliers having the capability to execute these types of contracts may be approached to participate on the panel based on a pre-qualification enquiry or a tender which may be used as a basis for putting rate based contracts in place. A call-out rate per hour per category of repair / resource may be used as a basis for the contract. Once the panel contract is established, task orders may be issued when repairs are required. In this case it is not possible to send a RFQ to all members of the panel. A rotation process whereby every member is given a chance to quote is used. Only one supplier is approached with a request to strip and quote for any given repair required. These panels may have to distinguish between repairs which have to be done by an OEM, vs. repairs for non-proprietary items and equipment.

The same principles for setting up and managing panels and panel contracts as set out in 3.2.10.3 herein will be applicable.

#### **3.7.7 Use of Cheque Requisition (Payment for Assets, Goods or Services without Execution of Informal / Formal Sourcing Mechanisms)**

Cheque requisitions relating to the procurement of assets, goods and/or services on behalf of Eskom may be used as a direct payment mechanism (without the execution of a sourcing mechanism) only within the parameters of Group Technology and Commercial, and Accounts Payable policies and procedures, Divisional and individual delegations of authority, and subject to operational policies and procedures governing the category of supply of the said assets, goods and/or services.

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The use of cheque requisitions is permissible only with regards to the following specific categories of assets, goods or services:

- Entertainment for authorised Eskom events (Meals, Sporting Events, Theatre, Comedy, and the like, subject to the written consent of the relevant Group / Divisional Executive);
- Venue Bookings for authorised Eskom events (subject to the written consent of the relevant Group / Divisional Executive);
- Gifts and Gift Vouchers for Eskom employees, subject to approved Eskom policies around gifting;
- Promotional items for distribution to Eskom employees;
- External training, seminars, conferences, motivational speakers;
- Subscriptions (Newspapers, Periodicals, Magazines, etc.);
- Subscriptions and Memberships to Professional Bodies;
- Recurrent monthly accounts, such as utilities and telephone accounts;
- Rates and taxes;
- Rental on buildings;
- Licenses, excluding software licences;
- Employees' removal expenses when transferred;
- Books and research reports for the Eskom library;
- One-time vendors where the supplier registration process is not feasible due to the time or value of the required ad hoc, once-off supply of goods or services (subject to a maximum value of R150k, a term of service not exceeding 5 consecutive days, and the prior written consent of the relevant GM: Commercial where the value exceeds R30k).

The person signing the cheque requisition is accountable for the procurement. If a cheque requisition is required for an item outside the above list of goods or services, or for an item within this list for which there may be an existing contract in place to supply such goods or services, then prior approval must be obtained from the relevant Senior Commercial Manager responsible for the category of supply and supported by the relevant GM: Group Commercial and Technology, prior to the signing and processing of the cheque requisition.

If a cheque requisition is used to purchase items outside this list without the necessary prior approval, then the accountable person will become liable for the purchase in his/her personal capacity and must seek condonation for breach of this Procedure from the relevant PTC. If the expense/purchase is a recurring expense, then a contract must be put in place.

### 3.8 Supplier Management

#### 3.8.1 Supplier Registration

Eskom may from time to time invite any person or class of persons to apply for registration as a supplier on the Eskom Supplier Database. Such invitation may be publicly advertised by whatever means deemed necessary by Eskom to bring the invitation to the attention of potential suppliers and such advertisement must include the following detail:-

- where and from whom application forms can be obtained and submitted to, with specific platforms being created where certain categories of suppliers may not have access to electronic media;
- how to submit the application form and supporting documents for registration with Eskom;

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- where and to whom enquiries can be made;
- the general requirements for registration as a supplier of assets, goods or services to Eskom;
- if applicable, the pre-qualifying criteria to be met by an applicant for registration as a supplier of a specific kind, class or category of assets, goods or services to Eskom;
- the deadline for the submission of applications and supporting documents; and
- an express statement that the Standard Conditions for Registration as Supplier are applicable to the whole of the application and registration process as well as the duration of any registration as supplier on the Eskom Supplier Database and that a copy thereof is available on the official website of Eskom or will be made available on request.

Eskom will only consider applications for registration as a supplier on the Eskom Supplier Database duly lodged in response to such a publicly advertised invitation and received by Eskom before the deadline at the designated place for the submission thereof.

Notwithstanding the aforementioned principle, if, during the execution of any procurement or sourcing by Eskom, a person / entity, who is not registered as a supplier on the Eskom Supplier Database, is instructed to apply for such registration, an application for such registration may be considered without the need for publicly advertising an invitation as set out above and must be given priority in the processing thereof, at least by the time of making a recommendation to the Delegated Approval Authority for contract award.

A person wishing to apply for registration as a supplier on the Eskom Supplier Database must submit an application:

- On an official Supplier Application Form, obtained from Eskom, or a copy thereof. Where the facilities are available, the application form may be submitted electronically through the official Eskom website / portal link by following the hyperlinks for supplier registration and all the instructions prescribed thereon;
- Duly completed in all relevant respects and supported by all the relevant documents as requested;
- At the place designated for the submission thereof; and
- Where it is an application in response to an invitation publicly advertised as contemplated above or in response to a general instruction to re-apply for registration, before the deadline for the submission thereof.

Upon receipt of an application for registration as a supplier on the Eskom Supplier Database, the assigned SD&L official shall first verify whether or not the application form has been submitted in compliance with Eskom's requirements as stated on the official Supplier Application Form, whereupon the SD&L official shall:

- Acknowledge receipt of the application in writing if it has been so submitted;
- Return the application and decline in writing to accept it where the application:-
- Was not made on the official Eskom Supplier Application Form or a copy thereof and/or through the official Eskom website;
- Was made, or was received at the place designated for the submission thereof, after the applicable deadline for the submission thereof; or
- Is de-registered from Eskom's supplier database based on the process for supplier reconsideration set out below; or
- Request the applicant supplier in writing to duly complete or ensure completion of the Supplier Application Form in any particular respect (including the signing thereof) that is outstanding and/or to

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provide any of the outstanding documents or information (as the case may be) before a stipulated date, which may be extended once upon a written request, failing which the application form and all the documents pertaining thereto may be destroyed and that application will not be processed any further.

Where an application was not received at the place designated for the submission thereof, Eskom shall not be under any obligation to deliver that application to such designated place or to process such application.

Only those applications, for which an acknowledgement of receipt was given or in respect of which the applicant complied timeously with the written request, are regarded as accepted applications.

Eskom shall consider each accepted application to determine if that application:

- Meets the general requirements for registration as a supplier of assets, goods or services to Eskom;
- Where applicable, meets the pre-qualifying criteria for registration as a supplier of a specific kind, class or category of assets, goods or services to Eskom;

and may, for the purposes of such determination, request the applicant supplier in writing to provide Eskom with such further information and/or documents as Eskom deems relevant or useful before a stipulated date, which may be extended once upon a written request, failing which the application form and all the documents pertaining thereto may be destroyed and that application will not be processed any further.

In considering the application of a foreign potential supplier, Eskom may also request such further information and/or documents as would confirm that the technology of such a foreign potential supplier is compatible with the needs and requirements of Eskom and Eskom may further, for the purpose of an assessment of such technology, arrange for an inspection thereof by or on behalf of Eskom.

The pre-qualifying criteria for registration as a supplier of a specific kind, class or category of goods or services to Eskom are those criteria, at Eskom's discretion, with which a supplier of assets, goods or services must comply in order to meet the identified needs or requirements of Eskom or an End-user; taking into consideration all relevant factors including but not limited to:-

- The risks attached to or inherent in the rendering of the service or the provision of the assets or goods;
- The level of technology required by Eskom;
- Any specialist qualifications of or registrations by entities or individuals, as required by legislation or practice;
- The criticality of the assets, goods or services for the core business of Eskom;
- The risks for the safety and health of all concerned, including the employees or agents of Eskom as well as of the supplier and the general public;
- The risks for the environment;
- The potential for localisation and the development of skills;
- The need for a procurement policy providing for-
  - (i) Categories of preference in the allocation of contracts; and/or
  - (ii) The protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination; and
- The monetary value of the supply in question.

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In considering any accepted application, Eskom is entitled to make use of all information or sources of information at its disposal or available to it. In the event of Eskom discovering any misrepresentation of fact in an accepted application or if Eskom on reasonable grounds suspects that the person who submitted an accepted application is unaware of adverse information in the possession of Eskom, Eskom must notify that person of such misrepresentation or adverse information, and must afford such person an opportunity to deal /resolve the matter before a stipulated date, whereafter Eskom may take a decision on the basis of all the information then at its disposal or available to it, including a decision not to approve an accepted application.

If upon considering any accepted application Eskom determines that an accepted application does not meet the stipulated requirements, the assigned SD&L official shall give the person who submitted the accepted application notice that the application has not been approved and shall furthermore state therein:

- The reasons why that person did not qualify for registration;
- The areas, functions or aspects which were found to be weak, below average or not up to standard and which that person should address or improve with a view to future applications; and
- That, subject to the requirements and criteria that may then be applicable, that person is free to apply for registration as a supplier on the Eskom Supplier Database in response to any future invitation.

If upon considering any accepted application Eskom determines that an accepted application does meet the stipulated requirements, Eskom may decide to approve or not approve any accepted application by taking into consideration all relevant information as well as the following factors:

- The feasible or desirable number of suppliers, either in general or for a specific kind, class or category of goods or services to Eskom, that can be accommodated and/or effectively managed on the Eskom Supplier Database;
- The hierarchy and categories of preference for the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination;
- The need for a specific kind, class or category of suppliers of goods or services to Eskom;
- The geographical distribution of suppliers;
- The logistical demands or constraints for any supply of goods or services to Eskom;
- The total number of accepted applications; and
- The possibility that the person may be a front for or under the control of a person who has been de-registered as a supplier on the Eskom Supplier Database.

Eskom is not obliged to accept all or any accepted applications and may decide to approve a limited number of accepted applications in the order in which receipt of the accepted applications, or any kind or class or category thereof, was acknowledged, and provided further, that these possible limitations have been clearly set out in the invitation to register and / or the Standard Conditions of Registration.

If Eskom decides not to approve an accepted application, the SD&L official shall give the person who submitted the accepted application a written notice thereof.

If Eskom decides to approve an accepted application, Eskom shall:

- Establish a supplier profile for that person / entity, which profile must also include:
  - The name and particulars of that person / entity;
  - The contact details of that person / entity;
  - The preferential procurement status of that person (if any);

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- The specific kind, class or category of assets, goods or services which that person can or may supply to Eskom; and
- The geographical area which can be supplied by that person;
- Register the person / entity on the Eskom Supplier Database as a supplier of assets, goods and services to Eskom in accordance with the supplier profile, by creation of a vendor number;
- Provide the supplier's authorised representative who submitted the accepted application notice that the application has been approved and that the person / entity has been registered on the Eskom Supplier Database as a supplier of assets, goods and services to Eskom, with confirmation of the vendor number assigned, linked to the supplier's profile.

The continued registration of a person on the Eskom Supplier Database as a supplier of assets, goods and services to Eskom is subject to:

- The on-going maintenance of the registration and supplier profile of that person / entity, requiring and obliging that person / entity to inform Eskom in writing of any change in the information that was provided to Eskom or any other information that may be relevant for the continuing registration of that person or for the updating of the supplier profile of that person or for the protection and enhancement of the procurement system of Eskom, as soon as is reasonably possible after that person becomes aware of such change or other information;
- A reconsideration of registration status in terms of Section 3.8.9 below; and
- A general instruction to re-apply in terms of clause 35 of the Standard Conditions of Registration.

The SD&L official files and archives Supplier Application Forms for a period of 5 years for audit purposes. Regular internal audits must be conducted by the Internal Audit function on the process followed and verification of the information provided by the suppliers.

The Supplier Evaluation Manager within SD&L must conduct regular assessments on supplier registration processes executed to ensure that the details of suppliers registered on the Eskom Supplier Database are accurate, updated and adequate for use at any given time.

### 3.8.2 Registration Requirements for International Suppliers

An international supplier is a foreign company carrying on business within South Africa, defined as an "external company" in terms of section 23(2) of the Companies Act 71 of 2008.

International suppliers are required to submit the following documentation, as a minimum, for purposes of becoming a registered supplier on the Eskom supplier database:

- International suppliers having local South African operations/offices and/or local South African shareholders must provide registration documents from the CIPC;
- International suppliers with no local South Africa operations, offices or shareholding must provide registration documents from the country of incorporation;
- Certified copies of passports for shareholders and directors where shareholders and directors are not in possession of South African identity documentation;
- Proof of the address of the registered head office;
- Company profile confirming services / supply organisational structure, and references of previous supply/services; and
- International suppliers having local South African operations/offices and/or local South African shareholders must provide a Letter of Good Standing in terms of COIDA, while international

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suppliers with no local South Africa operations, offices or shareholding must provide proof of registration with the COIDA equivalent body of the country of incorporation.

### 3.8.3 Name Changes, Mergers, Acquisitions, and Cessions

A supplier is contractually obliged to notify Eskom of any official changes to its legal name, changes to its legal persona, ownership and management, and any cessions of rights and delegation of obligations in terms of contracts with Eskom.

Where a supplier undergoes a name change without changes to its legal persona, ownership and/or management, then such a name change must be duly notified to Eskom within 30 days thereof in terms of the Conditions of Registration. All appropriate documentation confirming the name change, together with all updated documentation containing the supplier's new name must be submitted to Eskom. The supplier's vendor registration number will not be changed in this instance.

Where a registered supplier undergoes a name change which is as a result of a change to its legal persona (e.g. conversion from a CC to a limited liability company), a merger /acquisition between various entities and /or a change in ownership and / or management, then such a supplier is obliged to notify Eskom of the change, within 30 days thereof. Failure to notify Eskom of such a change may result in the supplier having its registration status reconsidered by Eskom, and any existing contracts may be terminated as a result.

Where a supplier duly notifies Eskom of such change, such notification must be accompanied by a new application to register as a supplier on the Eskom Supplier Database. The supplier, in its new form, must re-apply and re-qualify to be registered on the Eskom Supplier Database, against appropriate supporting documentation. The supplier will receive a new vendor number.

Changed banking details, company registration documents and certified letters from suppliers will be required in order to re-register. The record on the system will be changed to reflect the new details.

An internal due diligence must be conducted on the supplier, led by the Procurement Practitioner, and the impact of the change on the delivery of existing contracts assessed. To the extent that Eskom requires retaining the supplier in its new form against the existing contract, a formal modification must be authorised by the relevant Delegated Approval Authority, as this will amount to a change to the contracting party. Where an internal due diligence indicates that the change to the legal persona, merger/acquisition, ownership and /or management, places Eskom at undue risk and disadvantage, Eskom may terminate the contract/s with the supplier in consultation with the Eskom Legal Department, and commence a new sourcing process for the procurement of the required assets, goods or services.

Should a registered supplier require cession / delegation of its contractual rights and obligations with Eskom to another (legal) person, then such a cession / delegation can only occur with the specific prior written consent of the Eskom Agent responsible for the management of the contract in question, in consultation with the Eskom Legal Department, and only after obtaining internal modification approval, in order to enable an external and possibly unrelated third party from becoming a beneficiary. While Eskom may consent to cessions / delegations in support of supplier development and localisation initiatives, Eskom will, under no circumstances, enter directly into any contracts with such third parties.

If there are no contracts/orders linked to a specific supplier who wants to change its name, legal persona, shareholding and /or management, then the Supplier may be deleted from the Eskom Supplier Database.

### 3.8.4 Supplier Communications and Complaints

Procurement Practitioners, Contract Managers and nominated SD & L officials will liaise and engage with Suppliers on an on-going basis via a number of accepted communication mechanisms that may include a dedicated e-mail address for Suppliers to communicate with Eskom, surveys, Supplier forums,

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and one-on-one meetings, where necessary. All issues formally raised by suppliers must be formally recorded and maintained for reference purposes.

Any official / formal supplier complaints must be routed to the office of the Senior Manager: Risk and Governance for resolution.

Whenever any person / entity:

- (i) Registered as a supplier on the Eskom Supplier Database; or
- (ii) Who signed a Supplier Application Form; or
- (iii) Who is an authorised signatory to a tender / offer / proposal requested by Eskom;

has reason to believe that any person, either by commission or omission, transgressed any policy, protocol, procedure or rule of Eskom, whether pertaining to its procurement system or its business, or conducted himself in a manner that may, directly or indirectly, or that is calculated to, impact adversely on the procurement system of Eskom, that person shall immediately lodge a written complaint with the Senior Manager: Risk and Governance (Group: Technology and Commercial).

The office of the Senior Manager: Risk and Governance must facilitate investigations into any written complaint lodged by a person / entity, and be the single centralised point for the resolution of all supplier complaints.

The manner of conducting the investigation as well as any decision taken in respect thereof shall be within the sole and unfettered discretion of Eskom.

### 3.8.5 Duties and Responsibilities of Eskom to Registered Suppliers

Subject to the provisions of the Promotion of Access to Information Act 2 of 2000, Eskom must keep all proprietary information of a person, who submitted an application or who is registered as a supplier on the Eskom Supplier Database, confidential and not disclose it to any private party. However, information that is generally available in the public domain or which was published by that person / entity need not be treated as confidential. Eskom remains entitled to the use and distribution of all the proprietary information of that person / entity for the purpose of managing its business and/or any procurement or the procurement system of Eskom.

Eskom will use the Eskom Supplier Database from time to time to select or invite a closed list of registered suppliers, to participate in the sourcing or procurement by Eskom of assets, goods or services as and when Eskom identifies a need therefor.

Eskom may use any alternative method of procurement or sourcing, including an open tender process, where Eskom is of the view that such method will be more suitable or appropriate under the circumstances.

Registration as a supplier on the Eskom Supplier Database is not a guarantee or assurance of any kind whatsoever that the person / entity so registered will be so selected or invited or that any purchase order or contract can be expected to be awarded or will be awarded to that person.

Eskom may, upon written request and on reasonable notice, provide access, during business hours, to any person / entity registered as a supplier on the Eskom Supplier Database and to any person who signed the application form for that person / entity, to the information on the Eskom Supplier Database pertaining to that supplier and/or signatory.

### 3.8.6 Duties and Responsibilities of Registered Suppliers

Every person / entity registered as a supplier on the Eskom Supplier Database and any person who signed the Supplier Application Form for that person / entity will be required at all relevant times conduct

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themselves in a manner fully consistent and/or in accordance with the current Eskom Purchasing Pact with Suppliers and the General Conditions of Supplier Registration.

### 3.8.7 Management of Contractor Safety

#### 3.8.7.1 Investigation

As part of the contract management process suppliers must be subjected to an immediate investigation initiated by the Eskom Agent in terms of their contracts where one or more of the following events have occurred:

- A supplier has one or more work-related fatalities within a financial year or during the period of the contract if less than 1 year; or
- A supplier experiences three lost time incidents within the same financial year; or
- A supplier has three major health and safety non-conformances raised; or
- A supplier has had two or more contraventions of environmental legislation, including non-compliance to a condition contained in an environmental approval; or
- The supplier has been issued with a compliance notice issued by a government department for example: Department Of Labour, Department of Environmental Affairs, Department of Water Affairs, etc. or
- There is a violation of any of the Eskom Life-saving Rules; or
- There are five major SHE audit findings raised per audit/audits per financial year, i.e. this includes internal and external audits; or
- A supplier is found to have submitted fraudulent SHE-related documents.

Outcome of the investigation may initiate a process of supplier reconsideration in terms of 3.8.9 below, or, for less severe safety transgressions may result in engagement with the supplier regarding corrective action, as part of effective contract management.

Factors to be considered when meting out corrective action, or when a supplier's registration status is being reconsidered for reasons of SHE transgressions include whether:

- The Supplier has taken the appropriate disciplinary action against the individuals responsible for the activity which constitutes cause for reconsideration;
- The Supplier has taken or agreed to take remedial measures, including any measures recommended by Eskom;
- The Supplier instituted or agreed to institute new or revised Review and Control Procedures and Programmes;
- The Supplier had adequate time to eliminate the circumstances in the Supplier's organisation that led to the reason for the investigation;
- The Supplier's management recognise and understand the seriousness of the acts /omissions giving rise to the reason to the reconsideration process, and whether the Supplier has implemented programmes to prevent a recurrence;
- The acts /omissions have an impact on finance and production connected to the project/contract, and the extent thereof.

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### 3.8.7.2 Temporary Work Stoppages

Eskom's SHEQ Policy states that "no operating condition, or urgency of service, justifies exposing anyone to negative risks arising out of Eskom's business, causing an incident with health, safety, environmental, and quality consequences." Any person may stop an activity, unsafe act or unsafe condition that poses or may pose a threat to the health and safety of an individual or create a risk of degradation to the environment. This includes any unauthorised work or commencement of an activity without required environmental approval, or legally or contractually non-compliant acts or omissions by performed by the Supplier or such Supplier's subcontractor or subcontractor's supplier.

The temporary stoppage of an activity (activities)/task(s) may be due to SHE concerns, including the following circumstances:

- Ad hoc work stoppages by Eskom management, all work of a similar nature may be stopped due to the occurrence of a serious incident, and the relevant Supplier will be required to comply with and/or verify the conditions stipulated in the work stoppage instruction pack.
- Ad hoc work stoppages by any person especially SHE functionaries: may be due to unsafe work or unsafe behaviour by the supplier. The conditions that gave rise to the work stoppage will determine the corrective measures to be taken urgently to protect the health and safety of employees, protect the environment and to protect the plant/equipment, etc.

### 3.8.8 Management of Internal Suppliers

Where an Internal Supplier continuously renders inadequate or sub-standard service quality, the normal contract management process must be followed with respect to rectification and remedies for breach.

The appointed Contract Manager must give the Internal Supplier written notice of the problem/non-conformance, and indicate the action required and time allowed.

If the Internal Supplier does not adequately respond, the specific assets, goods or services will be removed from the list of specified items in the Framework Agreement after determining that there are other suppliers in the market who can supply it. As a last resort, the Framework Agreement may be terminated and a contract may be placed with another supplier.

Where a history of poor performance can be proven over time with respect to an Internal Supplier, the Internal Supplier may be subject to the process of reconsideration of its registration status as set out in below, which may be applicable for a specified period of time.

### 3.8.9 Reconsiderations of Supplier Registration Status

#### 3.8.9.1 Grounds for Reconsideration in Specific Instances

Eskom is entitled to reconsider the registration status of a supplier on the Eskom Supplier Database, on any one or more of the following grounds:-

- i) A contravention of, a failure to comply with, or a breach of any of the terms, conditions or provisions of:-
  - the Eskom Purchasing Pact for Suppliers;
  - the Standard Conditions for Registration as Supplier;
  - the Standard Conditions of Tender;

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- the agreed conditions of contract, for the supply of assets, goods or services to Eskom, where applicable;

by the supplier, any of its employees, any person under its control, or any related person, which is of such materiality that it is deemed a threat or abuse to the Eskom procurement system, thereby requiring a reconsideration of the supplier's registration status with Eskom;

- ii) any conduct of the supplier, any of its employees, any person under its control, or any related person being the direct or indirect cause of any disciplinary action taken against an employee of Eskom for any misconduct that pertains to any aspect of procurement (in the broad sense, including the entire process prior to the acquisition of goods or services and the administration of any contract or order resulting from that process);
- iii) the supplier, any of its employees, any person under its control, or any related person promoting or inciting labour unrest, other than a protected strike, at any site or premises under the control and supervision of Eskom or, where another supplier has a contract with Eskom for the supply of assets, goods or services, of that other supplier where such labour unrest has a detrimental or potentially detrimental impact for Eskom on any aspect of procurement (in the broad sense, including the entire process prior to the acquisition of assets, goods or services and the administration of any contract resulting from that process);
- iv) the supplier, any of its employees, any person under its control, or a related person deliberately attempts to frustrate or obstruct, directly or indirectly, the ability of Eskom and/or of another supplier under a contract with or order from Eskom to carry out the obligations, duties or responsibilities in terms of any contract, order or legislation;
- v) the supplier, any of its employees, any person under its control, or a related person making use of any labour, material, transport, equipment, intellectual property or other assets, belonging to or under the control and supervision of Eskom or which Eskom is entitled to use, without the written consent of Eskom and either for the benefit or gain by the supplier or by a person other than Eskom or to the prejudice or potential prejudice of Eskom;
- vi) the supplier, any of its employees, any person under its control, or a related person being found in the unauthorised possession of, or being engaged in removing without permission, any property belonging to Eskom, any employee of Eskom or another supplier of Eskom;
- vii) The supplier, any of its employees, any person under its control, or a related person person being found guilty by a court:
  - of any offence in terms of the Prevention and Combatting of Corrupt Activities Act 12 of 2004;
  - of any other crime involving dishonesty and for which any term of effective imprisonment, with or without the option of a fine, is imposed;
- viii) any conduct by the supplier, any of its employees, any person under its control, or a related person resulting:
  - in that person being found guilty by a court of any crime;
  - in that person paying an admission of guilt fine in terms of chapter 8 of the Criminal Procedure Act 51 of 1977;
  - in any adverse finding being made against that person by any court, commission, tribunal, administrative body or regulatory institution in any proceedings, matter or investigation before it;
  - in any adverse procurement-related decision by an organ of state made solely on the basis of that conduct;

which conduct relates to, impacts upon or pertains to any aspect of procurement (in the broad sense, including the entire process prior to the acquisition of goods or services and the administration of any

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contract or order resulting from that process) by Eskom or to any aspect of the procurement system of Eskom;

- ix) the supplier, any of its employees, any person under its control, or a related person acquiring from any source, not authorised in writing by Eskom, or using, without the written permission of Eskom, any confidential information of Eskom, including any intellectual property of Eskom, or confidential information of another supplier in the possession of or under the control of Eskom, with a view to obtain a competitive advantage over other suppliers or potential suppliers of assets, goods or services to Eskom;
- x) the supplier, any of its employees, any person under its control, or a related person disclosing any confidential information of Eskom, including any intellectual property of Eskom, or confidential information of another supplier in the possession of or under the control of Eskom, to a third party for any procurement-related purpose where that confidential information was obtained in the course of or incidental to carrying out the contractual obligations of the supplier to Eskom;
- xi) if the supplier no longer meets the general requirements for registration as a supplier of assets, goods or services to Eskom or no longer meets, where applicable, the pre-qualifying criteria for registration as a supplier of a specific kind, class or category of assets, goods or services to Eskom;
- xii) the supplier, any of its employees, any person under its control, or a related person making any false statement or any misrepresentation, by commission or omission and either knowingly, negligently or innocently, to Eskom which:
  - induces or is calculated to induce Eskom to register that supplier as supplier on the Eskom Supplier Database, to enter into a contract with that supplier or issue him with an order; or
  - relates or pertains to the performance of the contractual obligations between Eskom and that supplier;
- xiii) the supplier, any of its employees, any person under its control, or a related person wilfully making any false statement or any misrepresentation, by commission or omission, to Eskom in order to:
  - prevent another person from being registered as a supplier on the Eskom Supplier Database or from being registered with a particular supplier profile;
  - prevent a contract to be entered into or an order to be issued by Eskom with or to another registered supplier;
  - induce Eskom to reconsider the registration of or to de-register another supplier on the Eskom Supplier Database;
- xiv) the supplier having built up a history of poor performance on one or more contracts with or orders from Eskom, including poor performance on matters or aspects of safety, health, quality control and/or environmental regulation, or having committed a serious and gross breach of contract;
- xv) in general, any conduct by the supplier, any employee of his or any person under his control or a related person prejudicial or potentially prejudicial for procurement (in the broad sense, including the entire process prior to the acquisition of goods or services and the administration of any contract or order resulting from that process) by Eskom or for the procurement system of Eskom.

### 3.8.9.2 Grounds for Reconsideration in General Instances

- i) Where a natural person who is registered as a supplier on the Eskom Supplier Database:
  - dies;
  - voluntarily surrenders his estate or is sequestrated in terms of the Insolvency Act 24 of 1936; or

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- is declared by a court of law to be of unsound mind and as such incapable of managing his affairs;

Eskom shall take the necessary steps to ensure that:-

- the supplier is blocked on the Eskom Supplier Database;
- no award of any further contracts or placing of orders with that supplier is processed by Eskom; and
- the supplier is de-registered as a supplier on the Eskom Supplier Database immediately after all outstanding matters with regard to that supplier are finalised.

ii) Where a partnership who is registered as a supplier on the Eskom Supplier Database:

- is dissolved; or
- voluntarily surrenders its estate or is sequestrated in terms of the Insolvency Act 24 of 1936;

Eskom shall take the necessary steps to ensure that:-

- the supplier is blocked on the Eskom Supplier Database;
- no award of any further contracts or placing of orders with that supplier is processed by Eskom; and
- the supplier is de-registered as a supplier on the Eskom Supplier Database immediately after all outstanding matters with regard to that supplier are finalised.

iii) Where a legal person who is registered as a supplier on the Eskom Supplier Database:

- adopted a resolution to voluntarily begin business rescue proceedings or a person applies to a court for an order placing that legal person under supervision and commencing business rescue proceedings; or
- initiates liquidation proceedings or had liquidation proceedings initiated against that legal person

Eskom shall take the necessary steps to ensure that:-

- the supplier is blocked on the Eskom Supplier Database;
- no award of any further contracts or placing of orders with that supplier is processed by Eskom; and
- the supplier is de-registered as a supplier on the Eskom Supplier Database immediately after all outstanding matters with regard to that supplier are finalised.

iv) Where Eskom is entitled to reconsider the registration of a supplier on the Eskom Supplier Database based on the Grounds for Reconsideration in Specific Instances, or Eskom takes the necessary steps in the event of death, insolvency, incapacity or business rescue of a supplier, Eskom may also reconsider the registration of:

- any related person, where that related person is registered as a supplier on the Eskom Supplier Database; and
  - any other person who is registered as a supplier on the Eskom Supplier Database and in respect of which the related person referred to above is also a related person;
- in accordance with the procedure for reconsideration as set out below.

### 3.8.9.3 Procedure for Reconsideration

The procedure for the reconsideration of the registration of a person / entity as a supplier on the Eskom Supplier Database is as follows:

- Separated or combined processes: For the purpose of this Procedure, Eskom via the Standing Committee may decide to follow separate processes for each individual supplier or to follow one or

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more combined processes against all or any number of individual suppliers where the reconsideration of the registration of more than one person / entity as a supplier on the Eskom Supplier Database is being considered.

- ii. First notification: If on the basis of any written communication or report a Risk and Governance Official has reasonable cause to suspect that there are grounds to reconsider the registration of a supplier, the Risk and Governance Official must immediately collect all relevant information on record with Eskom and prepare a first notification in writing, providing a brief written account with a recommendation, for submission to the Secretariat: Supplier Disciplinary Standing Committee, for placement on the agenda for consideration at the next sitting of the Standing Committee. The written record of any information supplied by a confidential informant or any notes of a discussion with such informant by an employee of Eskom must be deemed to be such a written communication or report and the Risk and Governance Official shall ensure that the identity of such informant, if known by Eskom, is protected against disclosure.

- iii. First (Desktop) Assessment: Upon receipt and consideration of a first notification from the Risk and Governance Official, the Standing Committee may, by consensus or majority:

- reject the matter as frivolous;
- refer the matter to the relevant Eskom Agent, to be dealt with under the terms and conditions of the relevant contract awarded and/or of the order given by Eskom to the person in question; or
- accept the matter for further investigation and to that end refer the matter for internal investigation to the appropriate subject matter experts within Eskom.

Persons assigned by the Standing Committee to serve as Case Investigators:

- must at least be a manager holding a position classified as an M15 or above in terms of the TASK Job Grading System;
- must be suitably qualified and experienced to investigate the matter;
- may, under exceptional circumstances, be an independent third party who is, to the satisfaction of the Standing Committee, a fit and proper person to do an investigation in the matter and report back to it thereon.

- iv. Investigation and Preliminary Report: The assigned Case Investigator must, without delay, investigate the matter as discreetly and as fully as circumstances, logistics and contingencies allow in any lawful manner he / she deems fit and appropriate, where after he / she must, as soon as is practically possible, prepare and submit a written and confidential report to the Standing Committee on the investigation containing:

- a description of the investigation and the steps taken to investigate the matter;
- a summary of all the relevant information pertaining to the matter, set out in a manner that identifies the source or sources of that information;
- a motivated finding as to whether or not there are in fact grounds to reconsider the registration of a supplier on the Eskom Supplier Database;
- a provisional view on the matter and the reasons for that provisional view;
- a recommendation to the Standing Committee; and
- copies of all relevant documentation, including a copy of the First Notification and the documents on which it was based, as well as any written witness statements or copies of relevant correspondence found during the investigation.

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- v) Second assessment: Upon receipt and consideration of the report of the Case Investigator, the Standing Committee may, by consensus or majority:
- reject the matter as frivolous;
  - refer the matter to the relevant Eskom Agent, to be dealt with under the terms and conditions of the relevant contract awarded and/or of the order given by Eskom to the person in question; or
  - decide to proceed with the process of reconsideration, whereupon the Standing Committee shall take the necessary steps to ensure that:-
    - the person or persons in question are each notified in writing of the decision of the Standing Committee and the reasons for that decision;
    - together with the said written notice, the person or persons in question are each provided with a copy of the report of the Case Investigator, without the identity of any confidential informants, if any, being disclosed;
    - the person or persons in question are each informed that they have the opportunity to respond in writing on the report of the Case Investigator and/or to make written representations and/or to submit any additional information in writing to Eskom as to whether or not they should be de-registered as a supplier on the Eskom Supplier Database, and calling upon them to do so before a stipulated date, which may be date not less than twenty-one (21) days from the date of the receipt of the said written notice and which date may be extended once upon a written request for a period of not more than two (2) weeks; and
    - the person or persons in question are flagged on the Eskom Supplier Database and given written notice of such flagging.
- vi) Final Report and Assessment: As soon as possible after the receipt of any such comment, representations and/or additional information by Eskom from the person or persons in question (if any) or upon the expiry of the date or extended date stipulated therefor, a Final Report must be prepared by the Risk and Governance Official inclusive of the comments, representations and/or additional information (if any), but without any further information from the Case Investigator, and submitted to the Standing Committee, which may then, upon receipt and consideration thereof, in its sole and unfettered discretion:
- decide that the matter be finally considered on the documentation before it and take a decision regarding the outcome of the matter and reconsideration of the supplier's status;
  - direct that the person or persons in question be given an opportunity, at a time and place to be arranged by the Secretariat of the Standing Committee, to make oral submissions before a meeting of a subcommittee, consisting of any one or more of its members, which oral submissions together with any oral reply by the Case Investigator as well as his report with the comment, representations and/or additional information (if any), shall then be taken into account by the subcommittee to take a decision regarding the outcome of the matter and reconsideration of the supplier's status. No party shall be entitled to legal representation at such a hearing and no further documents, other than written heads of argument, may be submitted at such a hearing;
  - invite, with due regard for the dictates of procedural fairness, the person or persons in question and/or the Case Investigator to make and/or exchange further written representations, either in general or on a specific issue, to the Standing Committee before a stipulated date, after which date the Standing Committee shall on the report of the Case Investigator as well as on any comment, representations and/or additional information (if any), plus any further representations received before the stipulated date (if any) take a decision regarding the outcome of the matter and reconsideration of the supplier's status;

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- Provided that: the Standing Committee, and/or its subcommittee, shall keep proper minutes of any of its meetings.
- vii) Sanction: In the event of the Standing Committee or a subcommittee thereof finding that there is a ground or grounds to reconsider the registration of a person / entity as supplier on the Eskom Supplier Database, it may, by consensus or majority:
  - give that person / entity a final warning that, in the event of such a finding being made again, that person will be de-registered as a supplier on the Eskom Supplier Database;
  - give that person a final warning and with conditions to take the necessary steps, at his own costs, within a specified period of time to address any legitimate concerns of Eskom, including conditions;
  - to take and implement specified corrective measures with regard to the supervision and control of the business, the operations or the management of that person as supplier on the Eskom Supplier Database;
  - to provide selected employees, agents and/or subcontractors of that person with specified training or with an opportunity to obtain specified qualifications; and/or
  - to upgrade, maintain or improve the plant, material or equipment of that person as supplier on the Eskom Database in a specified manner;

Provided that if that person/entity fails to comply with such a directive within the specified period of time, Eskom shall flag that person on the Eskom Supplier Database pending full compliance with such a directive;

  - suspend the registration of that person as a supplier on the Eskom Supplier Database for a period not exceeding one (1) year, during which period of suspension that person shall be flagged on the Eskom Supplier Database, with or without conditions. The period for compliance therewith shall be the period of suspension;
  - decide to de-register that person as a supplier on the Eskom Supplier Database, whereupon the Standing Committee or its subcommittee, as the case may be, shall take the necessary steps to ensure that:
    - the supplier is blocked on the Eskom Supplier Database;
    - no award of any further contracts or placing of orders with that supplier is processed by Eskom; and
    - the supplier is de-registered as a supplier on the Eskom Supplier Database immediately after all outstanding matters with regard to that supplier are finalised; or
    - decide to de-register that person as a supplier on the Eskom Supplier Database and to terminate all existing contracts or cancel all orders placed with that person, with immediate effect.
- viii) Notification of outcome: Notification of the outcome of any matter shall be given as follows:
  - The person or persons whose registration as supplier on the Eskom Supplier Database was under reconsideration, shall be given written notice of the outcome within thirty (30) days after a decision was taken, with sufficient detail of the steps to be implemented by Eskom as a result thereof, and shall at the same time be provided with written reasons for that decision.
  - If Eskom has reason to believe that a person failed to comply in time with stipulated conditions, which served as a condition for full re-instatement of the supplier on the Eskom Supplier Database, such person / entity shall be given written notice to provide Eskom with sufficient proof of such compliance within seven (7) days after the date of receipt thereof, and,

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in the event of that person failing to respond or failing to provide such sufficient proof, Eskom shall:

- where that person was given a final warning, flag him as a supplier on the Eskom Supplier Database and take the necessary steps to ensure that no award of any further contracts or placing of orders with that supplier is processed by Eskom whilst he remains so flagged; or
  - where that person was suspended and full reinstatement was dependent on the fulfilment of conditions stipulated, block the supplier on the Eskom Supplier Database and take the necessary steps to ensure that no award of any further contracts or placing of orders with that supplier is processed by Eskom and that he is de-registered as a supplier on the Eskom Supplier Database immediately after all outstanding matters with regard to that supplier are finalised; and
  - give that person / entity a written notice accordingly.
- Where a decision was taken to de-register a person as a supplier on the Eskom Supplier Database, Eskom (via the Secretariat of the Standing Committee), must notify its internal PFMA Office, the Director-General of the National Treasury, any other organ of state with an interest in the matter, and employees or agents of Eskom through a written notice.
- ix) If during or as a result of the procedure for the reconsideration of the registration of a person / entity as a supplier on the Eskom Supplier Database, Eskom has any reason to believe that any criminal offence has been committed by any person, Eskom (through its Assurance and Forensics Department) may refer the matter in writing to the South African Police Service and/or the National Director of Public Prosecutions for a criminal investigation and possible prosecution, if warranted.

#### 3.8.9.4 Internal Review

Eskom, at its sole discretion, may have any decision taken in terms of the process for supplier reconsideration revisited, reviewed and/or reconsidered by the EXCO Procurement Subcommittee (EXCOPS), but is not obliged to do so and may do so, in its sole and unfettered discretion, upon the request of any person in respect of which a decision was taken by the Standing Committee.

The discretion of Eskom to grant a review will be based on the receipt of new information not previously considered, and /or notifications of procedural irregularities.

#### 3.8.9.5 Procedure for Re-application as a Supplier

No person / entity de-registered from the Eskom Supplier Database may submit an application to be registered as a supplier on the Eskom Supplier Database:

- For a period of 5 years from the date of the decision to de-register that person as a supplier on the Eskom Supplier Database in the case of an immediate and unconditional de-registration;
- For a period of 3 years from the date of the decision to de-register that person as a supplier on the Eskom Supplier Database, where de-registration is effected only after completion of outstanding contractual obligations;

Provided that any person / entity who was a related person to that person whilst he was so registered as a supplier is likewise prohibited. However, Eskom may, in its sole and unfettered discretion upon a written and motivated request, permit any such application if the cause or ground for de-registration of that person as a supplier on the Eskom Supplier Database has been fully addressed to the satisfaction of Eskom.

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### 3.8.9.6 Giving Effect to Sanctions

Each decision of the Standing Committee will be communicated by the Secretariat as minutes to the Supplier Evaluation Manager in order for the Supplier Evaluation Manager to ensure that the Eskom Supplier Database is accordingly updated to reflect the current status of supplier registration, the effecting of any flagging or blocking, and the recording and monitoring of any conditions as stipulated in a directive of the Standing Committee.

The decision to "flag" or "block" a supplier can only be made by the Standing Committee, and the SD&L Department will not act upon any other instructions to "flag" or "block" a supplier, from any other parties, and without due process being followed with respect to the supplier.

Until such time that the "flagging" functionality is built into the Eskom Supplier Database all flagging notifications will be located on Hyperwave, and updated after each meeting of the Standing Committee.

It is a requirement that every Procurement Practitioner make reference to the lists of flagged and blocked suppliers to ensure that no new order / contract awards are being made to such suppliers.

The Standing Committee must be notified by Procurement Practitioners / R&G officials to the extent that such suppliers are currently participating in Eskom tenders, in order to expedite decision-making before conclusion of the process of evaluation.

## 3.9 Supply Chain Planning

### 3.9.1 Introduction

The Supply Chain Planning function incorporates both the requirements of demand planning and supply planning and is a cyclical, continuous process that integrates and synchronizes the demand and supply components of the supply chain. The integration and synchronisation of the demand and supply is enabled by qualitative and quantitative methods applied with stakeholder collaboration, and are performed at a centre-led supply chain operations level as well as the business unit operational execution level.

### 3.9.2 Process Models

In the context of Eskom business, demand for commodities is derived from maintaining the infrastructure or plant, requiring security of supply, and demand for new build by extending the existing infrastructure. The following two models will apply to establish demand:

- **Anticipated Model:** Applied to all maintenance-related requirements where the future demand is not known and must be anticipated. This is a quantitative process where the historical demand is statistically extrapolated into future forecasted demand, and is executed at different consolidated levels up to an Eskom-wide level.
- **Responsive Model:** Applied to all project-related requirements where the demand is derived from project specific designs or bills of materials. The business requirements are interpreted and reviewed by means of cross functional collaboration to forecast the future demand. Historical trends are not used with this model and are more qualitative by nature by applying the best known information to enable the execution of projects within the required planned time frames. This requires an integration of engineering planning systems to the demand planning platform. The Eskom-wide level will be determined by the aggregation of the demand from the different operational levels, and is then compared to business plans.

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### 3.9.3 Establishment of Cross-Functional Teams

The forecasting will be reviewed and adjusted by cross-functional teams, both at a centre-led and business unit operational level. This is vital for the effectiveness of the forecast.

At the operational level the team will, as a minimum, consist of representatives from Materials Management, Engineering Planning, Project Management, Technology and Quality, Field Services and relevant Buyers / Procurement Managers.

Centre-led cross-functional teams, will, as a minimum, consist of Group Commercial representatives from Strategic Sourcing, Tactical Sourcing, SD&L, and Supply Chain Planning, as well as Divisional Project Management Offices and Finance.

These teams are not exclusive of any other functionary that might also be identified to have a direct input related to a reliable demand.

### 3.9.4 The Demand Plan

The demand plan is drafted by a process of gathering data, forecasting the demand, consolidating the anticipated and responsive demands, collaboration, reviewing and adjusting the demand, and finalised by means of consensus with the key stakeholders. The objective is to create a long term demand plan that will be a forecast for three to seven years with the highest possible confidence level for identified commodities with high value expenditure and complex in nature. This will enable a sourcing strategy with line of sight over procurement spend, and collaboration with key suppliers as external stakeholders.

#### 3.9.4.1 The Supply Plan

All available supply data is gathered from opened contracts and sourcing strategies. Where the supply is constrained to meet the current demand, alternative supply is identified and anomalies addressed with the relevant Procurement Practitioners. Data gathered includes, manufacturing capacity, manufacturing lead time, quotas, time frames, contract balance, and supplier past performance, and is reviewed to construct a supply plan. The supply plan is finalised by the same process as above, of collaboration and consensus at a centre-led level and is an indication of supply capacity.

#### 3.9.4.2 Matching Demand and Supply

At the business unit operational level, the demand plan is the driver for the materials requirements planning (MRP) and the demand is matched with supply for requirements within the short term framework. This includes releasing of orders from established contracts where the net demand is not met with the current resources. (Refer to the MRP process contained in Section 3.10.4 of this Procedure). Supply Chain Planning will match the demand and supply plans in the long term framework, to identify the gaps in terms of constrained supply.

#### 3.9.4.3 Integrated Demand and Supply Plans

The integrated demand and supply process resolves demand and supply exceptions by addressing the anomalies and finalising the ISDP. This process will require a cross functional committee that will address the demand and supply anomalies.

#### 3.9.4.4 Reporting

The Supply Chain Planning function will be responsible for reporting on the following:

- Demand plan
- Supply plan

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- Integrated demand and supply plan
- Forecasting accuracy

### 3.10 Materials Management

#### 3.10.1 Introduction

This Section specifically excludes primary energy and water, as well as nuclear requirements, but deals with inventory bought and stocked by Eskom BUs for capital works, and for the maintenance, repair and operation (MRO) of all Eskom assets.

The Supply Chain Operations (SCOPS) function within Group Technology and Commercial is accountable for the operational management and controls regarding inventory.

#### 3.10.2 Optimisation

This entails the initial decision on what should be held in stock, the categorization and classification of stock items, the planning and maintenance of investment levels for various parts of the inventory holding, rational replenishment of stock items and management of slow and non-moving items.

An Eskom-wide demand forecasting plan will be set up on selected commodities where practical (commodities sourced by multiple Divisions and with a repeatable or steadily running demand pattern (e.g., transformers). The objective is to achieve the lowest possible inventory investment with the highest possible stock turn ratio and availability.

#### 3.10.3 Master Data Categorisation and Classification

##### 3.10.3.1 Master Data Management (Materials and Services)

A centralised cataloguing system and philosophy shall be adopted. The cataloguing process will be applicable to both goods (stock and if necessary non-stock) and services. Both cataloguing and classification philosophies must subscribe to ISO 8000-110:2009 and ISO 22745 standards. A data dictionary forms the basis from which templates for commodities and services are built to facilitate the cataloguing process.

The Steering Committee of Technology (SCOT) is accountable for approving all templates for the various commodities as well as the format of the various descriptions culminating from the cataloguing process. A change control process will be used to manage requests for changes to the existing commodity templates. Requests for new templates and updates/changes to the ECCMA Open Catalogue Dictionary (eOCD) data dictionary will be routed via the correct channels to Electronic Commerce Code Management (ECCMA) organization. The Data Steward (reporting to the Master Data Committee) representing Supply Chain Operations (SCOPS) is responsible for developing a strategy to direct the materials and services master data maintenance organisation to achieve the master data maintenance objectives operationally, in line with the Complete, Accurate, Relevant, Accessible and Timely (CARAT) data quality principles, as well as the data quality KPA's defined by the Master Data Committee. The Data Steward represents the Materials and Services Master Data domain at the Master Data Work Group.

In principle all new material/services will be catalogued to a level 4 i.e. all mandatory attributes must be populated. Information attributes are also to be completed and part number information provided (where applicable). A strategy must be in place to achieve this for all existing "A" and "B" usage value items, critical spares, assets and strategic stock.

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The Eskom Value Standardisation and "cataloguing manual" are governance documents that define the rules for generating the various cataloguing descriptions and to ensure that the data remains consistent for similar items.

The object name within the data template dictionary is developed using the philosophy of "noun, adjective". This is the fundamental principle upon which the naming of all items within the data dictionary is developed. This naming convention shall be strictly adhered to.

The 40 character SAP short form description (SFD) shall not to be used for purchasing purposes, but shall only be used as a guide to identify a record when undertaking searches or during reporting. The purchasing order description (POD) is provided for the purposes of purchasing. In general, supplier specific part numbers are not to appear in the purchasing order descriptions (POD) with the exception of sole source supplier materials.

The engineering and maintenance managers shall support the data quality initiatives driven by the master data maintenance organisation by committing resources to assist the cataloguers. It stands to reason since it is these respective departments that will benefit the greatest from improved data quality.

End-Users are responsible for providing the necessary information to catalogue new materials/services. They are also responsible for capturing the information onto the cataloguing system. Cataloguers will review them prior to sending the records to MDM/ECC6A.

Eskom has adopted a multiple systems approach in the cataloguing environment. It is essential that all systems be kept in synchronization. New records and changes are to be made from the source system and integrated to the remaining systems. No access will be granted to make changes in the integrated system by using the transactions available in them. These transactions will be masked out to prevent unauthorised changes being introduced.

### 3.10.4 Materials Requirements Planning

#### 3.10.4.1 Inventory Pareto Classification

Item classification is a crucial component in driving high availability and high stock turn ratio in the business for anticipated model items. In order to manage the cash flow and total investment related to inventory, items are classified into inventory classes, with different management policies for each class. This is done by ranking items according to usage value and implementing breakpoints, and then managing the different classes appropriately.

Production items, such as furnace oil (HFO) and coal will be excluded from the initial ABC calculation not to skew the outcome of the classification. These will then be classified afterwards as "A" items (100% number of materials as A class).

Strategic and critical spares will also be excluded from the initial ABC calculation, and then be classified afterwards as "A" items (100% number of materials as "A" class).

The above classification is used to make conscious replenishment decisions, and the inventory levels are set accordingly in SAP.

The item classification in SAP remains as ABC, and is apportioned as follows:

- A items set at 80% of the annual consumption monetary value,
- B items at 15% of the annual consumption value,
- C items at 5% of the annual consumption value, and
- D items are no-movement items, and need to be classified, identified as obsolete or deleted from the material master, as and when necessary.

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The ABC classification should be updated twice a year, (after half year and year end), as too frequent updates will affect the planning parameters and consistency. The ABC classification in SAP is also the base to determine the cycle counting to be performed by the Warehousing function, but is calculated separately in the storage view of SAP. Updating this storage classification has a direct influence on determining the cycle count scheduling, and care must be taken not to run the classification update on a regular basis, rather once a year.

### 3.10.4.2 Inventory Categorization

Since different portions of the inventory holding are held for different reasons and have different characteristics in use and control, they must be differentiated to permit the application of appropriate inventory management decision rules and controls. In order to do this, inventory items are categorized discretely into categories. Such a classification is in addition to the ABC classification. It is merely another classification serving a different purpose.

Inventory will be managed and reported in different categories aligned to the required business segments. These categories will be summarised in construction, capital spares and inventories on the Financial Balance Sheet, as set out below:

Stock categories	Inventory (MM)	Financial BS	Price control
Project stock	Projects	Construction stores	System moving average
Maintenance stock	Maintenance	Inventories	System moving average
Critical spares	Critical	Inventories	System moving average
Strategic stock	Strategic	Inventories	System moving average
Capital Spares	Capital spares(quantity, UNBW not valuated)	capital spares	(Values reflected on assets register)

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### 3.10.4.3 Materials Requirement Planning (MRP)

Material replenishment rules shall be maintained on an appropriate frequency, being either on a continuous basis or a periodic basis, (e.g.: safety stock parameters). The final demand plan shall form the input for MRP.

The objective is to formulate and assign different strategies to various programs or categories of stock based on business complexity and the cost-to-serve.

The position of the programme in the matrix will determine the focus of the materials management function-

- In providing the materials requirements to the business in an efficient manner;
  - Indicating the appropriate levels of collaboration required;
  - Focussing resources towards critical programs and ABC values;
  - Setting of inventory policies;
  - Alignment of order planning;
  - "Cost-to-serve" is relating to the required service level for a specific work program or stock category;
  - "Business complexity" relating to the total spend on materials, anticipated/responsive demands, or regulatory requirements.
- i. Anticipated demand: The Anticipated Model forecast focuses on the normal business operational requirement such as unplanned maintenance. Anticipated demand is based on historical usage. This information can be extracted from SAP. In the case of the forecast for the Anticipated Model, we do not receive any future demand data from the business upfront and we analyse the historical usage to forecast the future demand, also referred to as quantitative forecast. This includes minor projects.
  - ii. Responsive demand: The Responsive Model caters for planned maintenance and other capital projects, or required stock levels for strategic and critical spares. The Responsive Model, in contrast to anticipated, is the demand that comes from the business which we are responding to and which is project-related (major projects). This includes planned maintenance and refurbishment plans, as well as new build, and is based on actual project plans where the demand is outside the minimum performance supply lead time. Other information required includes the priorities of the different projects and external information, dictating the appropriate levels of collaboration required, also referred to as qualitative forecast.

In line with the ABC classification, this model will provide a framework for MRP Planners to set planning parameters in order to balance the inventory investment with the required service level for the different categories of stock. The model also caters for the anticipated and responsive demands.

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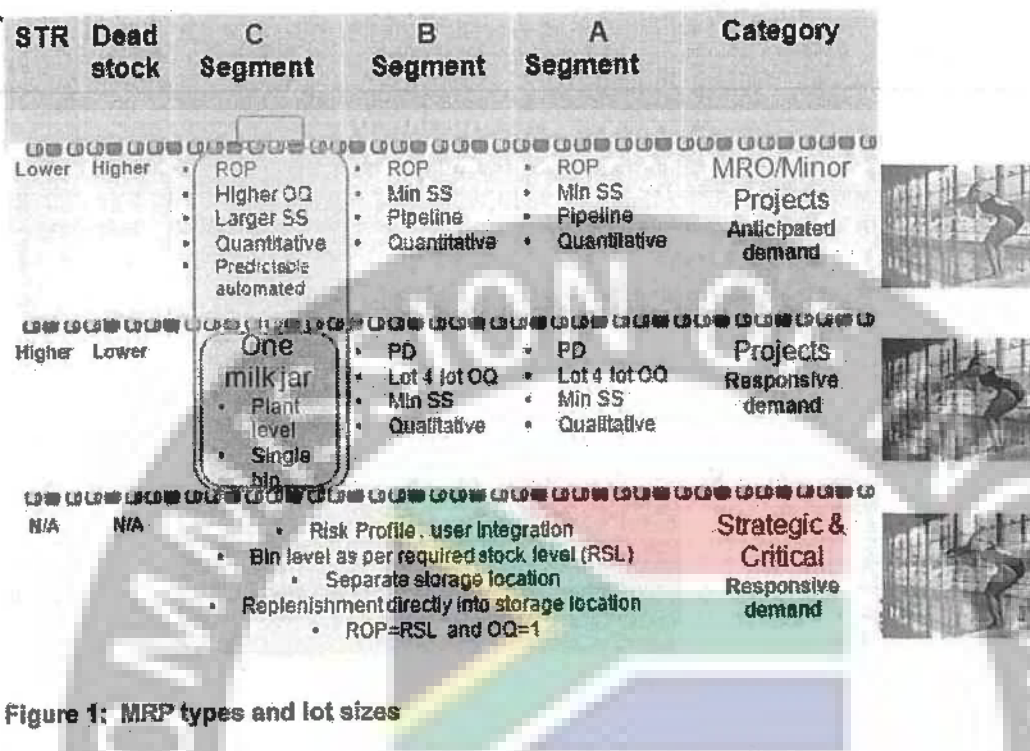


Figure 1: MRP types and lot sizes

Legend Figure 1:

ROP = Re-order point or level

PD= Planned on demand.

SS= Safety Stock, Min refers to minimum SS

OQ= Order quantity or lot size

MRO= Maintenance Repair and Operational

**C Segment:** The one milk jar refers to planning the C items by setting planning parameters at the plant level in a single bin which will cater for both the anticipated and responsive demands. In other words setting a single planning parameter (ROP and lot size), to cater for all the demand at the plant including C items of projects.

The objective is to get the C items consistent and predictable that will allow automation in SAP, thus giving the MRP Planner more time to focus on the A and B items.

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- iii. Fill Rate: The fill rate is the magnitude of a stock-out rather than the probability thereof. For anticipated demand items, the fill rate of A and B items with long manufacturing lead times (greater or equal to 3 months), will be regular "pipe-line supply" with pre-determined order releases, to cover the demand for long performance cycles. This will be aligned with the firm requirements committed to Suppliers on a rolling basis from the contract, in order to accommodate manufacturing smoothing and firming requirements as part of the sourcing strategy. The C items may result in higher fill rates in line with the replenishment cycles above, where the re-order point caters for the demand during the manufacturing lead time plus the safety stock (6 to 8 months average stock as per the Pareto classification- replenishment cycles).
- iv. Replenishment of project and maintenance stock categories  
 Anticipatory demand model items are managed by means of optimal minimum and maximum inventory levels per item derived from the policy settings and forecasted demand. This will include a re-order point (ROP), cycle stock and a maximum stock level. Responsive demand model items are planned bill of quantities demand, and needs to be planned on a lot for lot basis. The time scheduling of these items should be planned properly, knowing what is required and by when, and supplied accordingly. This will increase the availability and stock turn ratio (STR), and decrease the inventory investment.
- v. Replenishment of Strategic / Critical Spares
- The required stock level is in accordance with the risk profile and analysis conducted by relevant specialists and strategic spares technical team.
  - Spares are classified as items of plant that is critical in terms of supply quality, legislative requirements and safety.
  - A team comprising technical, maintenance and Materials Management representatives determine the required stock level (bin level)
  - Strategic items will be stocked and managed in a separate storage location 5030 and critical spares in storage location 5031.
  - The required stock level is managed at a bin level. Replenishment will take place at the point of consumption with the re-order point equal to the required bin level and the lot size 1 (one).
  - Refurbished items (rotables) might have a different replenishment rule to cater for the refurbishment of the damaged items and procurement only when an item is beyond the feasible repair state.
  - Bin levels need to be maintained at all times.
- vi. Replenishment of Capital Spares (Part of Finance fixed assets)  
 The on-hand quantities of these items are visible in SAP inventory, but without values. The values are reflected as fixed assets with depreciation.  
 The required stock levels are determined by the relevant specialists and the technical team.  
 Bin levels need to be maintained at all times
- vii. Performance Cycles  
 The management of lead times shall be aligned with contractual conditions and based on performance of the supplier.  
 Every effort must be made to reduce the internal lead time of Material Requirements Planning, Procurement, and Warehousing and Haulage.

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Contracts must be placed for as many as possible stock items to reduce the internal procurement lead time by releasing orders from the contract instead of ad hoc purchases.

viii. Managing Criticality

All strategic and critical spares shall be managed as a priority 1 critical factor with an aspiration of a 100% service level.

ix. Data Accuracy

In order to provide an effective materials planning and replenishment function, the data accuracy of bills of material must be at least 98% (ninety eight per cent) accurate.

x. Consignment and Vendor Managed Inventory (VMI)

Where a supplier is willing to supply stock on consignment, effective physical and administrative control measures and payment and re-stocking procedures must be applied to ensure that Eskom suffers no loss. This provision is only put in place after a rigorous test of the market, when appropriate.

xi. Identification of Obsolescence and Scrap Items

Materials Management, with the assistance of relevant technical representatives, will identify potential obsolete items, and this shall be conducted at least once a year.

### 3.11 Warehousing and Haulage

The Materials Management Manager is responsible and accountable for the overall management of all stores in the BU but may delegate the responsibility for operation and management of the stores to suitably qualified and experienced subordinates. At project sites the appointed Eskom Agent, as the Project Manager, is responsible and accountable for the overall management of all site stores in the BU but may delegate the responsibility for operation and management of the site stores to suitably qualified and experienced subordinates. This will also apply to maintenance site stores such as Customer Network Centres (CNC) where the Maintenance official managing the CNC will be accountable and responsible for all inventories kept at the site.

Group Technology and Commercial is responsible for the stores management policies and procedures within Eskom, its Divisions and wholly-owned subsidiaries.

#### 3.11.1 Storage Facilities

Storage facilities are designed and constructed to facilitate proper security of the goods stored and to limit access into stores as far as possible only to those who manage and control the stores. Every attempt is made to utilise cubic space by the installation of suitable racking and handling equipment.

Items that need special storage conditions with respect to SHEQ requirements should be identified by the Materials Management Manager and End-User, and such special conditions must be provided and maintained by stores management.

Stores must have physically separated receiving, storage and issuing areas.

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### i. Receiving Area

The receiving area has clearly demarcated areas for:

- Material awaiting inspection GR blocked stock; blocked stock; stores return area;
- Material awaiting binning;
- Non-stock items awaiting collection by the End-User (Generation Division only);
- A quarantine area for rejected items; and
- Items required to be returned to the supplier.

Access to receiving areas shall be provided to promote delivery access, allow for speedy off-loading, protection of goods from inclement weather and to ensure security of the goods awaiting inspection or binning.

All receipts must be recorded immediately into the receiving register and SAP. When received after hours it must be recorded immediately in to the register and captured on SAP on the 1st working day thereafter.

List of annually updated and approved quality inspectors with specimen signatures must be available where End-Users are tasked to perform quality inspections.

Maintenance spares must be quality inspected by an approved Quality Officer or assigned End-User prior to binning. Transaction 101 (Quality Inspection/Blocked stock) or Transaction 103 GR Blocked stock (prevents suppliers not being paid until quality is approved) must as far as possible be used for maintenance spares.

All daily receipts must be captured in a receiving register upon receipt and captured immediately in SAP.

An Eskom date stamp applied to every delivery note / invoice on receipt

Where UMCs differ from the delivery note and the SAP system, there must be a conversion factor on the delivery note to prevent any confusion, regarding quantities received.

All materials must have preliminary markings, referencing the purchase order number, and the date received until final labelling takes place.

A copy of the Goods Receipt slip (with a binning stamp – if possible) must accompany the materials after the final quality approval for binning purposes.

Each delivery note line shall be referenced to the purchase order line applicable.

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## ii. Storage Area

There must be a separate demarcated storage area.

Only material recorded as stock on SAP must be contained in the storage area.

The storage area must be aligned with prescribed policies, procedures and legislative requirements.

Compliance certificates must be obtained for all hazardous materials.

## iii. Issuing / Despatch Area

There must be a separate demarcated issuing/despatch area.

Only material that has been processed and issued must be contained in the issuing/despatch area.

Material that has been processed and not yet physically picked from the bin location and is awaiting collection must either be physically removed to a separate staging area or must be properly marked with all the necessary details for easy identification for count purposes.

It is recommended that item only be picked when a transport order is received (where applicable).

A picking register must be implemented to control all pick tickets handed to Storage for picking from the Issuing section.

Items not collected within 3 working days should be returned back to stock by "migo cancellation" and stock for CNC's and projects within 7 working days.

A contingency goods issue control register must be used to control all contingency goods issue books.

Contingency goods issues must be completed in full including crossing out of unused lines, crossed out and all applicable signatures and issue data, material document number ('49' number on SAP).

Verification of all contingency goods issues must be performed by the Senior Warehouse Supervisor and the Administration Controller.

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#### iv. Remote/Temporary Storage Facilities

Where inventory is issued to End-Users for construction and/or maintenance projects, or ordered for delivery directly to such sites, and temporarily stored at a location remote from official storage facilities, the Project Manager concerned shall assume accountability for security and control of such material. Suitable auditable records of inventory balances and transactions are kept similar to current stores system and the equipment / material shall be marked adequately to distinguish between safekeeping and normal stock. At the end of such projects, the Project Manager must turn over all unused and/or decommissioned material and records to the official storage function and book back in to SAP.

The situation where End-Users want the warehouse to safe keep project/construction or maintenance materials must be avoided as far as possible. If the decision is made to safe keep such materials within the warehouse, a detailed manual record keeping system similar to the warehouse SAP system must be maintained and updated for short periods only. This can only be done with management approval.

#### v. Stock Locations

A separate physical location must be allocated to each stocked item. Provision must be made for items of different sizes, shapes and values, by installing appropriate bins and shelving. Overflow locations must be provided, and good cross-referencing is required to make overflow stock identifiable.

The carrying capacity of the shelves must be clearly indicated on each shelf where applicable. All bins must have a bin label indicating the material number, description, bin location and UMC.

All materials stored in bin location especially rotatable / repairable materials must be clearly marked according to their respective valuation types (New, Repaired, Damaged, etc.).

#### vi. Access Control

Access to any specific storage facility is limited to authorized stores staff and controlled by the person in charge of such storage facility.

Where temporary access is granted to non-stores personnel for whatever reason, they must be accompanied by authorized stores personnel.

The storage facility may be separated into zones, with access limited to the stores personnel responsible for each zone.

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**vii. Materials Handling and Storage Equipment**

Materials handling equipment must be selected, operated and maintained to facilitate proper handling of the goods stored, and to limit risk of injury to workers or damage to goods and the environment. Operators of handling equipment must be trained and accredited in accordance with the prescription of the supplier's equipment instructions or any legislative requirements, or any applicable Eskom policies, directives and procedures.

Storage equipment must be selected and designed to accommodate the specific requirements of the goods stored and to ensure safety, ease of access to and retrieval of goods. Equipment must be tested according to any prescribed legislative requirements.

All valid and relevant licences, test and compliances certificates must be retained for audit purposes.

**viii. Management of Hazardous Chemicals**

Hazardous chemicals must be managed and controlled according to the National Road Transport Act 93 of 1996 Regulation 280, and in accordance with OHS Act.

**ix. Authorisation**

Inventory or non-stock items must not be moved into, or out of, any storage facility without the correct documentation, and the processing of the relevant receiving, transfers or issue transactions. These transactions must be processed within 1 (one) working day after the transaction has been completed. The relevant budgeting authorities must approve all issues from inventory.

**x. SHEQ and Housekeeping**

Standards of housekeeping, SHEQ requirements and loss control shall be maintained, as required by Eskom procedures, and any prescribed legislation relating thereto. This includes the maintenance of special facilities for flammable, corrosive, poisonous and other dangerous / hazardous items / substances and for environmentally unsafe materials. Storage facilities and equipment must be selected and maintained so as to avoid safety risks.

**xi. Inventory Accuracy**

A stock verification programme must be in place. Such a programme must be two-way, system-to-floor (inventory list generated by SAP and physically checked) and floor-to-system (selection of a physical area and inventory counted back to system). Cycle counts must be in place with sufficient frequency to achieve data accuracy objectives.

Stock accuracy targets are set by Group Technology and Commercial for each of Eskom's Divisions. The minimum recommended target is 98% (ninety eight per cent) accuracy but may be adjusted by the GM: SCOPS on annual basis.

**xii. Cycle Count Process**

Cycle counting is a system of checking stock accuracy on an on-going basis spread out over the entire year. Cycle counting works from the basis that the count documents (for the items due to be counted) are created from SAP and the information on the cycle count document is compared with the physical material (quantity and descriptive information) at the storage areas.

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Although cycle counts are scheduled on a daily basis by SAP, all counts must be completed and processed during the specific month it was scheduled to be counted. No late count items must be on the SAP Cycle Count Past Due for more than 31 days. During the month it must only indicate items 7 of days or less.

All items greater than 30 days overdue must be addressed by the Senior Warehouse Supervisor at each month-end.

Peaking materials have been classified as D ITEMS and will be counted on cycle counting once a year.

The physical inventory report (ZL05) and the past due (ZL06) must be signed off by the Materials Management Manager at each month end.

Stock investigation sheets must be completed in full for all variances and approved as per the relevant delegation of authority.

xiii. Wall to Wall Counts (Only Exceptional as per Managerial Decision)

Wall to wall counts will only be carried out if there is a constant difference of approximately >10% between Administration Controller independent counts in comparison with the SAP Cycle count accuracy in specific warehouse storage areas. These storage areas must be counted preferably by Bin location sequence.

Wall to wall count will be conducted on a manual count sheet from the floor and verified with the SAP system quantities.

xiv. Monthly Independent Counts

Administration Controllers, finance staff or an independent person not involved in the warehouse operations must perform monthly independent counts as per formula indicated in the Inventory Control Work Instruction with a minimum of 100 materials per month.

The counts shall consist of a sample including floor to system, system to floor, cycle count samples of counted documents of previous week/recounts, and samples of stock movements of current week (Issues and receipts).

All final differences must be captured on the cycle counting system and must have the reference number of the cycle count document on the independent count sheet.

During February each year the top 100 highest stock values must be counted.

Independent counts must be performed during each month on all SAP plants (maintenance and capital).

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#### xv. Inventory Maintenance and Preservation

Inventory items that need maintenance during storage must be identified by the End-User department (maintenance or projects/engineering). Such maintenance must be scheduled and performed by the End-User in co-operation with warehousing.

Inventory must be stored in their protective packaging and wrapping. Where such protective packaging has to be removed for inspection, it must be replaced properly to ensure proper maintenance of item quality.

Inventory that requires special storage conditions with respect to SHEQ requirements, temperature or humidity control must be identified by the Materials Management Manager and End-User, and such special conditions must be provided and maintained by stores management.

#### xvi. Quality Assurance

Appropriate procedures must be followed to ensure that goods received are of the required quality by visual inspection. The stores function assumes responsibility for the maintenance of the physical condition of inventory once in storage.

When required, and should the stores not have qualified and authorised personnel to conduct the quality verification, the items must be placed in quality inspection or goods received into GR blocked stock (Maintenance Materials and non-stock) until a specialist quality control function Quality officer and/or the assigned End-User verifies the quality thereof. Quality variation must be dealt with by means of non-conformance reporting and appropriate actions taken. This is the responsibility of the End-User and the Contract Manager on site, and stores personnel, when material is in stores.

There must be a list of all appointed persons who perform quality inspections in the warehouse (name and specimen signature).

#### xvii. Stores Administration

There must be full document control, and a reconciliation of all transactions posted the previous day on the following day/next working day where the physical documents must be compared to SAP MB51 report.

A list of outstanding documents must be compiled, followed up and closed out where there are no physical documents available during daily reconciliations.

All MB51 reports must be filed with the relevant physical documents and all attachments as per required work instruction.

Records of all transactions shall be retained for the required document retention periods as prescribed by Eskom policies and procedures.

#### xviii. Stores Administration: Month End Controls

- Month End Verifications (e.g. Petrol and Diesel Reconciliation (where applicable))
- A copy of the month end petrol and diesel reconciliation shall be verified by the Administration Controller to be retained and filed (where applicable).

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- The daily petrol and diesel reconciliations must be filed with the Warehouse Supervisor (Issuing) and the month end reconciliations shall be batched and handed over to the Administration Controller.
- The Administration Controller must forward the following documentation to the Finance Department after each month end closure:
  - Cycle count adjustments letter (240-58971900) (Admin Controller) GL 283000: At month end all adjustments (Tx 701/702) must be consolidated on a cycle count adjustment letter (240-58971900) and signed off and forwarded to the Finance Department for final reconciliation;
  - Scrap write-off letter (Admin Controller) GL 403000: At month end all scrap write-offs "Tx 551" must be consolidated on a scrap write-off letter (240-58972459) and a copy of the scrap authorisation form (240-58972386), with a copy of the MB51 must be forwarded to the Finance Department for final reconciliation.
  - The Inventory Accountant is accountable for the final reconciliation of the 403000/283000 account.
- xix. Scrap Contract Management (where Warehouse is accountable for managing the Scrap Contract)

At least once a month, all weighbridge tickets must be consolidated and each category must be captured on a spreadsheet indicating quantities collected, contract price, total money owed, and thereafter must be forwarded to the Finance Department to capture on the debtors account.

A copy of the reconciliation must be retained and annually handed over to the Document Controller to be filed and stored.

xx. Consignment Stock Check: (Administration Controller)

The Administration Controllers must check whether the assigned Materials Management Contracts Supervisor has performed and signed the monthly stock check which was verified with the supplier and if the invoice (copy) was verified to the corresponding issue transactions.

The Administration Controller must check that the monthly physical stock count between the MM Contract Supervisor and the supplier was performed correctly and signed off by both parties.

xxi. Incomplete Stock Transfers

The Administration Controller must draw the MC.1 daily check transfer values in blank slots, and must further report transfers outstanding to receiving to MRP Controllers and the receiving Warehouse Supervisor to action and close out.

xxii. Bulk Stock Reconciliations

All unused bulk stock issued out in the month must be returned to stock prior to month end and issued out on the first working day of the new month.

xxiii. Manage Repairs

This includes monitoring and maintaining the movement, where necessary, repair, replacement or disposal of capital spares and rotatable stock items, applicable only for items that were drawn from the store.

All damaged items must as far as possible be returned to the warehouse for control and administration purposes. The same quantity that was drawn from the NEW or REPAIRED valuations must be returned on the DAMAGED valuation to the warehouse.

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- Roles and Responsibilities:
- The End User / MRP Controller must create a M310 to return damage material to the store (on SAP system and physically);
- The RF/MRP controller creates a repair order for the damaged item to be repaired (M320-PM01/3, CO-production order or sub-contract order);
- The RF/MRP controller must update the Damaged Materials tracking file and refurbishment control form;
- The RF/MRP controller must perform a settlement run after receipt of physical items and repair order invoice;
- Daily/monthly reporting and controls for Repairable Materials must be in place.

xxiv. Daily and Month End Controls

- Daily Tracking Controls of Materials:
- Draw a MB51 stock movement report daily on all Tx 281,262,101-199 (Stock) and for non-stock via MB51;
- Compare non-stock purchase order receipts (for repairs and services) with the ZPM050 report;
- Capture all movement information firstly on the RF damaged daily tracking report for damaged and completed damaged materials; and
- All PM tracking information must then be incorporated into a daily refurbishment control form which must be updated and maintained.

xxv. Monthly Verification of Damaged and Scrap Valuation Types with Stock-on-Hand Quantities

A report (MB52/ZL93 ) on all Damaged and Scrap Rotable materials must be drawn on the last working day of the month and a physical count must be done by RF Controllers to verify that all damaged/scrap items listed with an on-hand quantity is physically in the warehouse. Differences must be noted, investigated and corrected by RF Controller.

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xxvi. Materials for Repairs - Month End Reconciliation:

- Draw the SAP IW39 report on all valuation types (populate your own variant indicating system status);
- Draw the SAP ZPM050 open purchase order report;
- Combine all the IW39 / ZPM050 reports into one spread sheet;
- Comment on all the material numbers statuses where there are no work orders, requisitions or purchase orders;
- The Inventory Accountant must reconcile the GL 315001 to the 890000 and 30000 to 895000;
- All scrap and damaged valuation types must be revaluated as per the Finance procedures for Inventory Accountants, for all repaired items received back into warehouse monthly;
- All costs that originated from RF material that default to GL 231000 and 231100 must as far possible be appropriated back to the stock account 300000 and only in exceptional cases may be allocated to cost centres.

 xxvii. Key Performance Indicators

The main key performance indicators are:

- Stock accuracy;
- Absolute value of stock adjustments per month compared to stock value;
- Adjustment/ write-offs as per Delegation of Authority;
- Reservations with insufficient stock;
- Cycle counting past due.

 xxviii. Haulage

Eskom's warehouse-owned internal haulage must be utilised first and as optimally as possible.

All 3PL haulage of less than 32 tons must be transported by Eskom's local subsidiary, Rotran.

Outbound transport must be sourced via a transport requisition process, via the local procurement department.

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xxix. Periodic Reviews (Obsolete, Excess and Slow Moving Stock)

Periodic reviews of slow moving and dead stock must be performed by a cross functional team at least once per annum (made up of Finance, Disposal, Warehousing, Materials Management and Technical functionaries).

xxx. Document Control in the Warehouse

The Documentation Controller(s) must be appointed by the Management System Owner or functionally responsible manager using the Appointment Letter for Document Controllers (240-53519752) who will then become responsible to ensure the correct implementation of the procedure below including:

- The provision of administrative support during the document and record management lifecycle (i.e. registration, review and authorisation, publication, archiving and disposal);
- Reporting on document controls including draft document status, redundant documents, templates, adherence to procedure, training and other document and record management related issues;
- Ensuring that all documentation that flows through the warehouse is easily accessible on request;
- Ensuring that all documentation is centrally stored and can be referenced if not stored at the different sections;
- Ensuring that documents do not duplicate an existing document's purpose and content;
- Ensuring the use of the correct templates and that layout requirements are met; and
- Ensuring that original documents are not removed from completed files after they have been checked and documented

All documentation filed in the warehouse must be referenced and captured in a document / records register for traceability and accountability. The appointed document controller must maintain a document / records register.

### 3.12 Investment Recovery (Disposals)

#### 3.12.1 Request to Sell Moveable Goods or Assets within or Outside of Eskom

The following functionaries are responsible for the identification of moveable assets or goods for disposal:

- Materials Management (Warehouse Managers), for excess, obsolescence or redundant stock items;
- Fleet Management for the disposal of vehicles and associated equipment;
- Project Managers, engineers and on-site technical specialists for decommissioned assets; and
- Cost Centre Managers for ad hoc decisions to dispose of items.

During the identification process, consideration must be given to options for the transfer or usage of assets / goods within Eskom, before embarking on a process of disposal.

The sale of an Eskom asset must not be performed by the asset owner. All disposals must be handled by an appointed Disposal Officer within Group Technology and Commercial. Disposal Officers are

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responsible for the administration of the disposal process in accordance with Group Commercial policies and procedures for disposals, compiling the disposal enquiry, requesting and evaluating tenders, negotiating against mandated parameters, and making recommendations to a Delegated Approval Authority. All requests for the disposal of moveable assets and goods must be documented on an AM-107 form and e-mailed to: [InvestmentRecovery@eskom.co.za](mailto:InvestmentRecovery@eskom.co.za).

Disposal transactions are not subject to the provisions of the PPPFA Framework.

### 3.12.2 Disposal Strategy

For various reasons, assets and goods in excess of Eskom's needs become available. The Division or BU owning the assets/goods must decide whether such goods or assets will be disposed of and complete the required documents (AM-107) which must be duly approved.

The centralised Investment Recovery Department within the Group Technology and Commercial has researched a number of key commodity disposal strategies based on best practice for purposes of standardisation and consolidation. These commodities were decided upon both by looking at the income generated or by the regularity and risk of the commodity. The Investment Recovery Department analyses and influences the strategy of investment recovery based on the manufacture, material components, potential markets, risks and best value contracting. Approved disposal strategies must be utilised in the disposal of identified commodities.

At times, customers such as businesses or municipalities approach Eskom to assist them by lending or supplying assets or goods needed to restore power supply during emergency situations. Where possible, without jeopardising Eskom's service, such assistance may be rendered by selling, not lending, available stock to such customers.

Eskom is continuously approached by organizations, individuals (including Eskom staff) and charities regarding the issue of sponsorships and donations and/or the sale and disposal of Eskom's moveable assets. All disposals must be managed on a commercial basis and no distinction is made between selling to internal staff or to external parties.

The Investment Recovery Manager will manage and control the updating and accuracy of the supplier database for disposal contractors.

Formally approved strategies are required for all disposals with an estimated sale value of R10m or more. Strategies are not required for disposals with an estimated sale value not exceeding R10m.

### 3.12.3 Requesting Permission to Enter into a Disposal Agreement

Procurement Practitioners and Disposal Officers may be granted personal delegations of authority based on the outcome of assessment and accreditation, granted by the Group Executive: Technology and Commercial for the approval of entering into disposal agreements, via dual or triple adjudication. All disposal agreements estimated to exceed the value for triple adjudication must be made to a delegated procurement / tender committee.

Permission to enter into a disposal agreement must be requested via a Commercial Transaction Approval Form.

The determination of the appropriate Delegated Approval Authority is based on the value of the sale /disposal agreement, generally based on the highest price obtainable.

A fair market price, rather than book value or system average price, must be obtained for any goods or assets sold, in order to establish a benchmark against the sale price obtained. Notwithstanding this, the book value or the system average price may be used to benchmark the derivation of the fair market price. This also holds true for obsolete and scrapped items. Where the expertise to establish a market

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price is not available within the selling Division or BU, expert advice must be obtained and, where necessary, paid for.

The request to enter into a disposal agreement must detail the disposal mechanism selected to sell or dispose of the assets or goods and provide detail of the sale price, benchmarked against a market or fair price.

#### 3.12.4 Disposal Mechanisms

There are 5 (five) mechanisms that may be used for the disposal of moveable assets or goods. The appropriate disposal method selected will be determined depending on the requirement as specified by the initiator of the disposal request (asset owner) and the recommendation of the Disposal Officer, based on an analysis of the assets or goods to be disposed, the relevant market, and any approved strategy.

Disposals mechanisms of auctions and tenders may be supported electronically via a dedicated website enabling e-auction or e-tendering.

##### 3.12.4.1 Emergency Disposal

The same principles and procedures applicable to emergency procurement, as set out in Section 3.5.2 will also be applied to emergency disposals.

##### 3.12.4.2 Transfers

Transfer of functional or useable assets to other Eskom BUs at cost is the most favourable option, which results in the maximum benefit to Eskom.

NOTE: The transport is arranged and paid for by the new asset owner.

##### 3.12.4.3 Auctions (Traditional and e-Auctions)

Traditional auctions must be performed by competent and trained auctioneers. The use of an approved e-Auction technology may also be used. The Disposal Officer will select the most suitable type of auction method based on the commodity, and the estimated value of the disposal.

##### 3.12.4.4 Negotiations (Sale Out Of Hand)

Negotiations are normally used for a sole buyer situation or when the market price for the assets or goods is known. An independent evaluator may be used to determine the market price. This mandate to negotiate must be approved by the appropriate Delegated Approval Authority prior to commencement of negotiations.

##### 3.12.4.5 Cash and Carry

Depending on the quantity and value of the goods involved it may be recommended to have a "Tag Sale" or otherwise referred to as a "cash and carry" sale. In this case, the Disposal Officer sets the prices for each item and tags the goods with the price. Again, proper advertising and prior viewing time is allowed to achieve the best results. Proper control measures need to be implemented to handle crowd control, security, as well as payment facilities and removal of goods. This process would normally be on a first come first served basis and where the quantity of items and storage space is limited.

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### 3.12.4.6 Tender

An invitation to tender is issued to all potential buyers (dealers in the second hand market), but preferably those listed on the supplier database contained within the Investment Recovery Department within Group Technology and Commercial. The Disposal Officer endeavours to support and give preference to suppliers according to the Hierarchy of Supplier Preference. The Disposal Officer also liaises with the SD&L function to determine if opportunities exist for industrialisation, skills development and job creation, for all disposals greater than R10m in value.

The process for the issue, receipt, evaluation and award of a tender is the same process as applicable to the procurement of assets, goods or services, with the exception of the applicability of the PPPFA.

Responsive tenders are evaluated and adjudicated. A reserve price may be used where a specific minimum sale price is required. The issuing, receiving and evaluation of formal and informal tenders are administered in the same manner as that for tenders for the procurement of assets, goods and services. Criteria for evaluation may include the adherence to all prescribed legislative requirements, compliance with SHEQ requirements, and a contractor's B-BBEE status. The highest priced tender is generally accepted in the absence of any other stipulated criteria for evaluation.

All tenders must be issued, received, administered and evaluated in accordance with the same principles and processes as that required for the procurement of assets, goods and services.

### 3.12.5 Compliance with Environmental and other Prescribed Legislation

Disposals in whatever form occur at the end of a product life-cycle or usefulness, meaning that it generally has an environmental impact. With the stringent legislation and worldwide focus on carbon footprint reduction, it is imperative to build good environmental practices into disposal processes and still do so economically. The recognised best practice principle of Reuse, Recycle and Reduce must be factored into each disposal decision bearing in mind the different rules for each constituent material e.g. asbestos or oil.

The disposal of assets and goods via sales are regulated by the Consumer Protection Act 68 of 2008. The Consumer Protection Act requires that Eskom fully describes the assets or goods to be sold to the potential vendor/buyer who is deemed to be a consumer, for purposes of the Act. This legislative obligation remains despite all sales being declared "voetstoots" (as is). All tenders / enquiries and subsequent disposal agreements must address the legislative obligations of the Consumer Protection Act, to the extent applicable.

### 3.12.6 Donations

All donations must be managed in terms of Eskom's policy on donations contained in Policy 32-161 (Eskom Development Foundation Policy).

The Eskom Development Fund (ESDEF) donation committee may approve donations from Eskom and/or any of its subsidiaries of fixed and movable assets to registered non-profit organizations, preferably with welfare, education or training objectives.

Eskom BUs may donate up to the maximum value stipulated in the Donations Policy from their budgets. However these donations cannot be claimed from ESDEF. All other donations should be evaluated through the relevant ESDEF committees.

### 3.12.7 Non-Ferrous Metal (Copper, Aluminium)

All disposals of non-ferrous metals must, without exception, be executed through Framework Agreements, that must be put in place by the Investment Recovery Department. Any additional mandate

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to dispose of any non-ferrous metals outside of the applicable Framework Agreement must be motivated to and obtained in writing from the GM (Supply Chain Operations).

The following services must form part of the scope of the framework agreement, with the proviso that a BU may opt to deliver the material to the contractor:

- Collection from stores;
- Collection from sub-stations and constructions camps;
- Dismantling of disused lines; and
- Collections from re-conductoring projects.

These disposal services are approved by the relevant Delegated Approval Authority at contract award, and managed by the Middle Manager, Investment Recovery within Group Technology and Commercial.

#### 4. Acceptance

This document has been seen and accepted by:

Business Improvement Project

Eskom Legal Department

Assurance and Forensics Department

Group Commercial Management Committee

#### 5. Revisions

Date	Rev.	Compiler	Remarks
October 2010	0	S Shongwe / V Panday	Back 2 Basics Programme (As-is Phase)
August 2011	1	V Panday	Revised to align to Back2Basics (To Be Process)
April 2014	2	V Panday	Revised to align with new Delegations of Authority, PPPFA application and revised supplier reconsideration processes.

#### 6. Development Team

The following people were involved in the development of this document:

- Vishala Panday
- Grietjie Doubell

#### 7. Acknowledgements

n/a

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**Acquisition and disposal of movable and immovable property, operational expenditure and the provision and acquisition of services****Dual and Triple Adjudication Authority**

<b>Powers/Authority</b>	<b>Approval Authority</b>	<b>Recommends /Supports</b>
Transactions up to R1m (maximum one year ) – dual adjudication	Accredited Procurement Practitioner (G14 and above)	Accredited Procurement Practitioner
Transactions up to R5 m for max two years (triple adjudication)	Accredited Commercial or Non-Commercial E-Band Manager	Accredited Procurement Practitioner (Recommends) Accredited Procurement Practitioner G14 and above (Supports)
Transactions up to R50m for max three years (Exco dual adjudication)	Co-approval by 2 EXCO members (excluding procuring EXCO member) (where an OU has a second MANCO Member, co-approval shall be by that MANCO member).	Procurement Manager / FD/GE/DE Executive
Transactions up to R100m for a maximum period of three years (EXCO triple adjudication)	Co-approval by CE or FD, GE: Group Technology & Commercial, and one other EXCO Member.	Procurement Manager Executive
<b>Tender Committees</b>		
Transactions up to R50m for max five years Transactions up to R100m for max ten years	Regional or Site based procurement committees established by GE/DE/FD	Procurement Manager
Transactions up to R300m for max ten years	Corporate Opex and Capex Procurement Committees	Commercial Senior Manager (minimum level)
Transactions up to R750m max 10 years	CE in consultation with EXCO	General Manager, Commercial (minimum level), in consultation with the relevant Commercial Senior Manager
Transactions up to Investment Decision or budget (if no investment required)	Board of Directors Tender Committee	EXCO Procurement Sub-Committee or GE Technology & Commercial

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**Appendix A: Procurement Delegations of Authority (Strategy Approval and / or approval for Procurement / Disposals)**

Powers/Authority	Approval Authority	Recommendations
General procurement strategy (multiple phases and packages)	Board of Directors Tender Committee	CE after consultation with EXCO <sup>1</sup>
Procurement-related policies and procedures	CE after consultation with EXCO	GE Commercial and Technology
Procurement strategy for specific transactions from R750m up to Investment decision or Budget	Board of Directors Tender Committee	ICAS
Procurement strategy for specific transactions from R300m up to R750m	CE after consultation with EXCO	Procuring EXCO member in consultation with GM: Commercial
Procurement strategy for specific transactions >R10m and up to R300m	Within limits of dual and triple adjudication as prescribed for strategies (3.1.7 of this Procedure)	Relevant Practitioner      Procurement

<sup>1</sup> Within Eskom this CE delegation is generally further delegated to the EXCO Procurement Sub-Committee (EXCOPS), which is a sub-committee of the EXCO.

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<b>Land &amp; Rights: Acquisition and disposal of Land &amp; Rights related to the build programme and Infrastructure development</b>		
Transactions up to R50k indefinite period (dual adjudication)	Land and Rights Development Manager	Land and Rights Practitioner
Transactions from R50k to R250k indefinite period (Triple adjudication)	Commercial Manager Senior	Land and Rights Practitioner and Land and Rights Development Manager
Transactions up to R300m	Centralised Land & Rights Committee	FD/GE/DE
Transactions up to R750m	CE in consultation with EXCO	Commercial Senior Manager
Transactions up to Investment decision/budget	Board of Directors Tender Committee	CE in consultation with EXCO
<b>Land &amp; Rights: Acquisition and disposal of Land &amp; Rights, Commercial Property, Leasing of property</b>		
Up to 300m	Corporate Properties Committee	FD/GE/DE
Up to R750m	CE in consultation with EXCO	Corporate Properties Committee
Up to Investment decision/budget	Board of Directors Tender Committee	CE in consultation with EXCO
<b>Specific Procurement</b>		
Gx/Tx/Dx up to R300m for Opex in relation to spares or maintenance provided it is in line with approved budget	Co-approval by CE, FD and relevant GE.	Relevant Commercial Middle Manager and Commercial Senior Manager
Coal Approval of colliery capital, budgets, colliery technical and mining plans, and provision accounts of existing cost plus coal contracts	Co-approval by CE, FD, and GE (Group Technology & Commercial)	Relevant Commercial Senior Manager or DE: Primary Energy Division

**CONDITIONS:**

- The commercial processes should be fair, equitable, transparent, competitive and cost effective. All authority set out herein can only be exercised after an appropriate procurement process has been executed by a Procurement Practitioner assigned by Group Commercial.
- The Technology and Commercial Group is responsible for the procurement process and execution.

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- All sole source mandate approvals exceeding R5m and/or 2 years, condonation, ratification and modifications exceeding 20% in terms of time / value (where the original approval was granted within dual/ triple adjudication) must be approved by the appropriate procurement committees and reported to the EXCOPS if within the Group/Divisions. All sole source motivations must be reviewed by the SD&L department.
- Proof that the expenditure is budgeted for or approved must accompany the recommendation for approval.
- All procurement is subject to alignment within the Corporate Plan targets, or any procurement framework developed by the GE: Technology and Commercial.
- All disposals must be executed via an authorised representative of the Investment Recovery Department and all disposals of fixed assets must be reported to EXCO and Board.
- With regard to appointment of strategic / management consultants, the Internal Consulting department must be consulted prior to any appointment and ensure that empowerment and transformation is taken into account.
- Regional or Site Tender Committee means a committee established to enable procurement within a Group/Division by the CE/FD/GE/DE consisting of at least three members, collectively with technical, commercial and finance representatives/skills, to approve procurement for a site/BU (Site Committee) or across sites (Regional Committees) and must include a representative from the Commercial function and take into account equity and transformation in its composition.
- Corporate OPEX or CAPEX Procurement Committee means a committee established at head office by the GE (Technology and Commercial) for procurement matters.
- The Board IFC and BTC are authorised to delegate any higher authority to EXCO or management in this regard.
- Auditor fees must be approved by the Audit and Risk Committee subject to the approved budget.
- For all transactions within Dual and Triple Adjudication:
  - It must be reported to the PTC authorised to deal with that level of decision for oversight;
  - Transactions trends must be analyzed and investigated by Group Commercial Risk & Governance to identify and manage risks and compliance on transactions up to R5m.
- All transactions to procurement committees below the EXCOPS must be reported to the next level committee for oversight.
- Project Sourcing and Commodity Sourcing commercial strategies must be submitted to the relevant committees as whole for the project and not the individual packages.
- Commercial strategies for capital expenditure should be presented to relevant committees before ERA (after DRA) approval to ensure pro-active inputs by the relevant committees before the final investment decisions.
- All procurement decisions must be reported to the next level of committee for information.
- With regard to all disposal of Land & Rights and Commercial Property :
  - The GE Commercial and Technology and FD must be consulted before submission to the Board/Board IFC for approval
  - It must be recommended by the Land and Rights Committee.
  - For all Lands & Rights transactions a Registered Valuer and Quantity Surveyor must be consulted

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- All transactions within dual and triple adjudication must be reported to the Lands & Rights Committee for oversight.
- The CE must be consulted prior to the disposal of any immovable property.
- Any overlap between Land & Rights & Properties will be addressed by the CE in terms of their mandates.

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## Appendix C: PPPFA Framework

1	<b>Acceptable / Responsive Tender</b> <ol style="list-style-type: none"> <li>1. Basic Compliance with terms and conditions of tender</li> <li>2. No. of tenders submitted (main vs. alternative; later v earlier, etc.)</li> <li>3. Complete copy submitted for evaluation</li> <li>4. Mandatory Returnables to evaluate Special Conditions, Thresholds and Apply Preference Points System</li> <li>5. Authorised Tender</li> <li>6. DOIs Verified</li> </ol>
<b>ACCEPTABLE/RESPONSIVE TENDER PROCEEDS TO EVALUATION OF SPECIAL CONDITIONS AS PRE-QUALIFICATION GATEKEEPER</b> <b>NON-RESPONSIVE / UNACCEPTABLE TENDERS DISQUALIFIED</b>	
2	<b>Specific Goals as Special Conditions of Tender (Gate-keeper to Threshold Evaluation)</b> <ol style="list-style-type: none"> <li>7. Evaluate against stated pre-qualification criteria</li> <li>8. Eliminate non-compliant tenders</li> </ol>
<b>ONLY SUPPLIERS MEETING SPECIAL CONDITIONS OF TENDER QUALIFY FOR THRESHOLD EVALUATION</b>	
3	<b>Thresholds (Functionality, Local Content –Designated Sectors)</b> <ol style="list-style-type: none"> <li>9. Non-negotiable criteria - Functionality</li> <li>10. Apply all or nothing principle re: SHEQ</li> <li>11. Apply penalty principle to technical requirements</li> <li>12. Local Content Threshold (if applicable)</li> </ol>
<b>NON-NEGOTIABLE REQUIREMENTS MET – PROCEED TO 80/20 OR 90/10 EVALUATION</b> <b>DISQUALIFY IF FAIL TO MEET THRESHOLD/S</b>	
4	<b>Preference Points System</b> <ol style="list-style-type: none"> <li>13. Derive Evaluation Price –adjusted for arithmetical errors, VAT, all applicable taxes, CPA and unconditional discounts (refer to Calculation Sheet)</li> <li>14. Apply Prescribed Formula and Determine points for Price</li> <li>15. Add points for BBBEE as per prescribed table</li> <li>16. Total points</li> <li>17. Derive Ranking (Highest Ranked to Lowest Ranked)</li> </ol>
5	<b>Scoring and Ranking</b> <b>SUPPLIERS SCORED AND RANKED AGAINST TOTAL POINTS – SHORT LIST FOR NEGOTIATIONS</b>
6	<b>(Negotiate) – Not Mandatory</b> <b>18. Must be provided for in the tender</b>

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	19. Short-list in terms of provisions set out in the tender 20. Set objectives and parameters 21. Obtain mandate to negotiate 22. Derive Negotiated Outcome
<b>DERIVE SHORT LIST POST NEGOTIATIONS</b>	
7	<b>Apply Objective Criteria and Specific Goals – Short Listed Suppliers Only who are Eligible for Contract Award</b>
	23. Legal Compliance (Tax clearance, CIDB, PAYE, COIDA, etc.) 24. Financial Viability (Financial Statements) 25. Specific Goals 26. Contract Terms and Conditions 27. Registered (Eskom Supplier Database)
<b>DETERMINE SUCCESSFUL SUPPLIER/S</b>	
8	<b>Award</b>
	28. To highest ranked 29. Not to the highest ranked if highest ranked fails to meet negotiation parameters and/or one or more objective criteria – award to the next highest ranked supplier meeting all negotiation objectives and all objective criteria

**DESIGNATED SECTORS:**

The following industries, sectors and sub-sectors have so far been designated for local production with minimum local content thresholds from the Department of Trade and Industry (DTI).

Industry/sector/sub-sector	Minimum threshold for local content
Buses (Bus Body)	80%
Textile, Clothing, Leather and Footwear	100%
Steel Power Pylons	100%
Canned / Processed Vegetables	80%
Pharmaceutical Products: OSD Tender	70% (volumes)
Rail Rolling Stock	65%
Set Top Boxes (STB)	30%
Furniture Products	
o Office Furniture	65%
o School Furniture	100%
o Bed and Mattress	90%
Valves	70%
Manual and pneumatic actuators	70%
Electrical and telecommunication cables	70%
Components of solar water heaters	70%

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## Appendix D: High Risk SHE Categories

High Risk	Medium Risk	Low Risk	Other
<b>1. Construction</b> <ul style="list-style-type: none"> <li>Construction Work</li> <li>Installation of equipment e.g. Transformer</li> <li>Outage work</li> <li>Working at heights</li> <li>Demolition Work</li> <li>Excavation work</li> <li>Blasting</li> <li>Scaffolding</li> <li>Building and modification of infrastructure</li> <li>Lifting equipment</li> <li>Support work</li> <li>Tunneling work</li> <li>Batch plant</li> <li>Explosive power tools</li> <li>Civil work</li> </ul> <b>2. Maintenance work Involving:</b> <ul style="list-style-type: none"> <li>Live lines</li> <li>Ashing or emergency ashing</li> </ul>	<b>1. Maintenance</b> <ul style="list-style-type: none"> <li>Vehicle maintenance</li> </ul> <b>2. Transportation</b> <ul style="list-style-type: none"> <li>Medical waste transportation</li> </ul> <b>3. Services</b> <ul style="list-style-type: none"> <li>Emergency services</li> <li>Technical consulting</li> </ul>	<b>1. Low risk (includes work not conducted at heights)</b> <ul style="list-style-type: none"> <li>Labour broking or providing personnel (admin/office) based</li> <li>Cleaning services (not conducted at heights)</li> <li>Gardening or Landscaping</li> <li>Supplying and maintenance of electronic equipment ( iPads, phones, computers, laptops, screens)</li> </ul> <b>2. Manufacturing, Product Supply and Delivery</b> <ul style="list-style-type: none"> <li>Consumables and other miscellaneous items</li> <li>Non-hazardous waste transportation</li> </ul> <b>3. Services</b> <ul style="list-style-type: none"> <li>Consulting and Auditing (admin based)</li> <li>Training</li> </ul>	<b>1. Services</b> <ul style="list-style-type: none"> <li>Private electrical generation</li> <li>Externally funded projects</li> </ul>

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<ul style="list-style-type: none"> <li>• Coal lashing</li> <li>• PF Leaks</li> <li>• Boiler maintenance</li> <li>• Transformer maintenance</li> <li>• Electrical switching</li> <li>• Crane operation</li> <li>• Sandblasting</li> </ul> <p><b>3. Transportation:</b></p> <ul style="list-style-type: none"> <li>• Employee transportation</li> <li>• Coal transportation</li> <li>• HAZ Chemical and dangerous goods transportation</li> <li>• Equipment transportation</li> <li>• Driving</li> <li>• Heavy duty transport and rigging</li> </ul> <p><b>4. Manufacturing: Product Supply and Delivery</b></p> <ul style="list-style-type: none"> <li>• Conductors,</li> <li>• Scaffolding,</li> <li>• MV motors,</li> <li>• Handling of Transmission /Distribution poles,</li> <li>• Electricity</li> </ul>		<ul style="list-style-type: none"> <li>• Event management (performing structural erection)</li> </ul>	
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<p><b>5. Services</b></p> <ul style="list-style-type: none"> <li>• Security</li> <li>• Consulting (not office-based) i.e. engineers working on site or individuals having access to site</li> </ul> <p><b>6. Vegetation Management</b></p> <ul style="list-style-type: none"> <li>• Tree felling</li> <li>• Bush clearing</li> </ul> <p><b>7. Other works, e.g.</b></p> <ul style="list-style-type: none"> <li>• Diving or where work is executed in/on /around water and the risk of drowning exists</li> <li>• Working at ash dams</li> <li>• Working with asbestos material</li> </ul>			
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**Non-negotiable minimum requirements that must be requested from suppliers participating in a tender or negotiations (no prior tendering)**

High Risk	Medium Risk	Low Risk	Other
<ul style="list-style-type: none"> <li>• A baseline Risk assessment</li> <li>• Health and Safety costing</li> <li>• Competency</li> <li>• Acknowledgement for Eskom's rules &amp;</li> </ul>	<ul style="list-style-type: none"> <li>• A baseline Risk assessment</li> <li>• H&amp;S costing</li> <li>• Competency</li> <li>• Acknowledgement for Eskom's rules &amp; requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Risk assessment</li> <li>• Acknowledgement for Eskom's rules &amp; requirements</li> <li>• SHE Plan</li> <li>• Valid Letter of Good Standing</li> </ul>	<ul style="list-style-type: none"> <li>• As per the risk assessment</li> <li>• Eskom's SHE specification provided to the supplier:</li> <li>• Acknowledgement</li> </ul>

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## Eskom Procurement and Supply Management Procedure

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<ul style="list-style-type: none"> <li>requirements</li> <li>• SHE Plan</li> <li>• Valid Letter of Good Standing</li> <li>• Medical certificates</li> <li>• Performance Records</li> <li>• SHE policy</li> </ul>	<ul style="list-style-type: none"> <li>• SHE Plan</li> <li>• Valid Letter of Good Standing</li> <li>• Medical certificates</li> <li>• SHE policy</li> </ul>	<ul style="list-style-type: none"> <li>• SHE policy</li> </ul>	<ul style="list-style-type: none"> <li>for Eskom's rules &amp; requirements</li> <li>• SHE Plan</li> <li>• Applicable Compensation Cover (Good Standing)</li> </ul>
--	---	--	---

Requirements	Details
1. Acknowledgement for Eskom's rules & requirements	Ensure that all applicable rules and requirements are referenced in this form in order for the supplier to acknowledge and comply with. Ensure that this completed form is included in the enquiry procurement package. To be signed and submitted by the supplier.
2. SHE Plan	The applicable contract-specific/scope-of-work-specific SHE requirements that will be complied with and managed by the supplier. <i>Note to Eskom SHE functionary performing the SHE tender evaluation – the SHE requirements must be scope-of-work-specific.</i>
3. Valid Letter of Good Standing	Registration with the Compensation Commissioner (COID) or a licensed mutual company or an equivalent thereof (for international suppliers)
4. Medical	Conducted in relation to the individual's man-job specifications and the health risk assessment for each employee (including temporary / casual and labour broker persons).
5. Performance records	Occupational Health and Safety performance records for the past 3 years (fatalities and lost-time injuries)
6. Competency	Do employees have the appropriate qualifications and experience for performing the assigned tasks?
7. Costing for SHE	Has the supplier submitted costing for SHE

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### Appendix E: Application of SD&L as Specific Goals and Objective Criteria

Developmental Objective	Mechanism for achievement	Evaluation criteria element	Evaluation criteria process
Development of EMEs - Targeted procurement (Transactions below R30K)	Supplier list enabling closed tender mechanism from a pre-qualified list of suppliers on the Eskom Supplier Database	BBBEE (criteria for evaluation)	Hierarchy of Supplier Preference on a rotation basis
Development of EMEs - Targeted procurement (Transactions from R30K up to R1 million)	Closed tender mechanism whereby a minimum of 3 quotes are obtained from a pre-qualified list of suppliers or from an appropriately segmented supplier database	BBBEE (criteria for evaluation)	Hierarchy of Supplier Preference on a rotation basis Points allocated for BBBEE as part of the preference points system
Targeted procurement (all transactions above R1 million)	Establishment of Panels	Special conditions of tender or objective criteria supported by approved sourcing strategy	i) Declaration for support for SD&L to be completed at Phase 1 of the process (pre-qualification) ii) SD&L matrix to be completed at 2 <sup>nd</sup> phase of process (task order process) iii) Targets become contractual obligations
Skills development	Skills development targets applied for project related activities (CIBD)	Included in Functionality threshold	Included in Functionality Required for threshold evaluation point scoring
Skills development	SD&L Matrix	Suppliers to propose as part of objective criteria	Required as evidence of objective criteria that will convert to contractual obligation
Local content or Production designation (self-designation)	Ensure compliance with prescripts from Dti and NT on self-designation	Threshold as per approved prescripts of Dti and NT	Included in Local Content/production evaluation - Required for threshold evaluation point scoring
Local content or Production (Non-Designated sectors /	May include targets for non-designated sectors (not applied as part of a	Objective criteria supported by approved sourcing strategy	SD&L Matrix to be completed and target proposed will become

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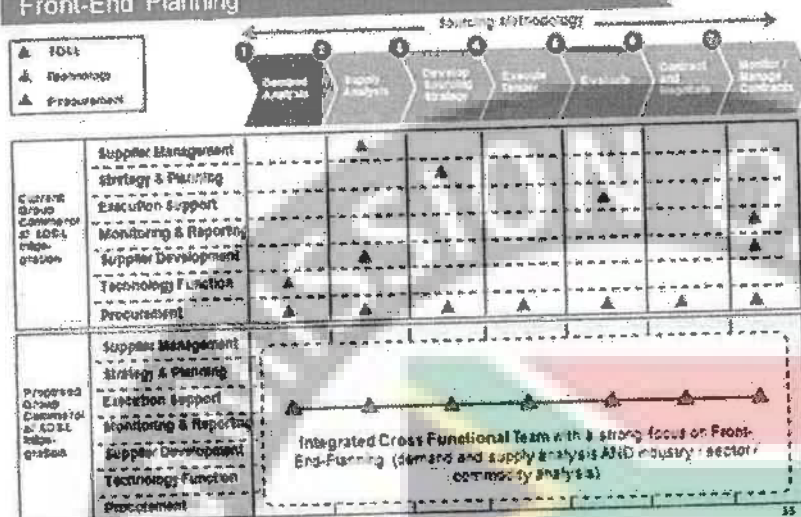
commodities)	threshold)		contractual obligation
Job creation	Job creation declaration	Objective criteria or special condition of tender	Inclusion of job creation declaration to be completed. Target proposed will become contractual obligation
Developmental spend	Determination of opportunity for 2nd tier developmental spend across: Procurement from LBS, BWO, SBE Based on unbundled of scope of work packages	i) Objective Criteria or Special condition of Tender ii) Application without thresholds or evaluation criteria	Inclusion of sub-contracting (SD&L Matrix) to be completed as a tender returnable. Target proposed will become contractual obligation
Functionality: support geographical location	Geographical location or proximity to site as an objective criterion if speed of service and /or development of the local community where the project is located	Special condition of tender or objective criterion supported by approved sourcing strategy.	Included in Functionality. Required for threshold evaluation point scoring
Supplier Development/ Enterprise Development	Pre- and post contractor support mechanism outside of the evaluation process. Measurable once sector and industry analysis is complete.	Objective criteria or special condition of tender supported by approved sourcing strategy.	Inclusion of supplier development declaration to be completed as a tender returnable. Target proposed will become contractual obligation.
Foreign imports	Negotiation and contractual obligation, however measureable once sector and commodity analysis is done	Special condition of tender/ objective criteria	Localisation of portion of scope declaration to be completed. Target proposed will become contractual obligation.

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## Appendix F: Front-end Planning

Improved integration of SD&L, SD, Technology and the Sourcing Functions will be required to strengthen Front-End Planning



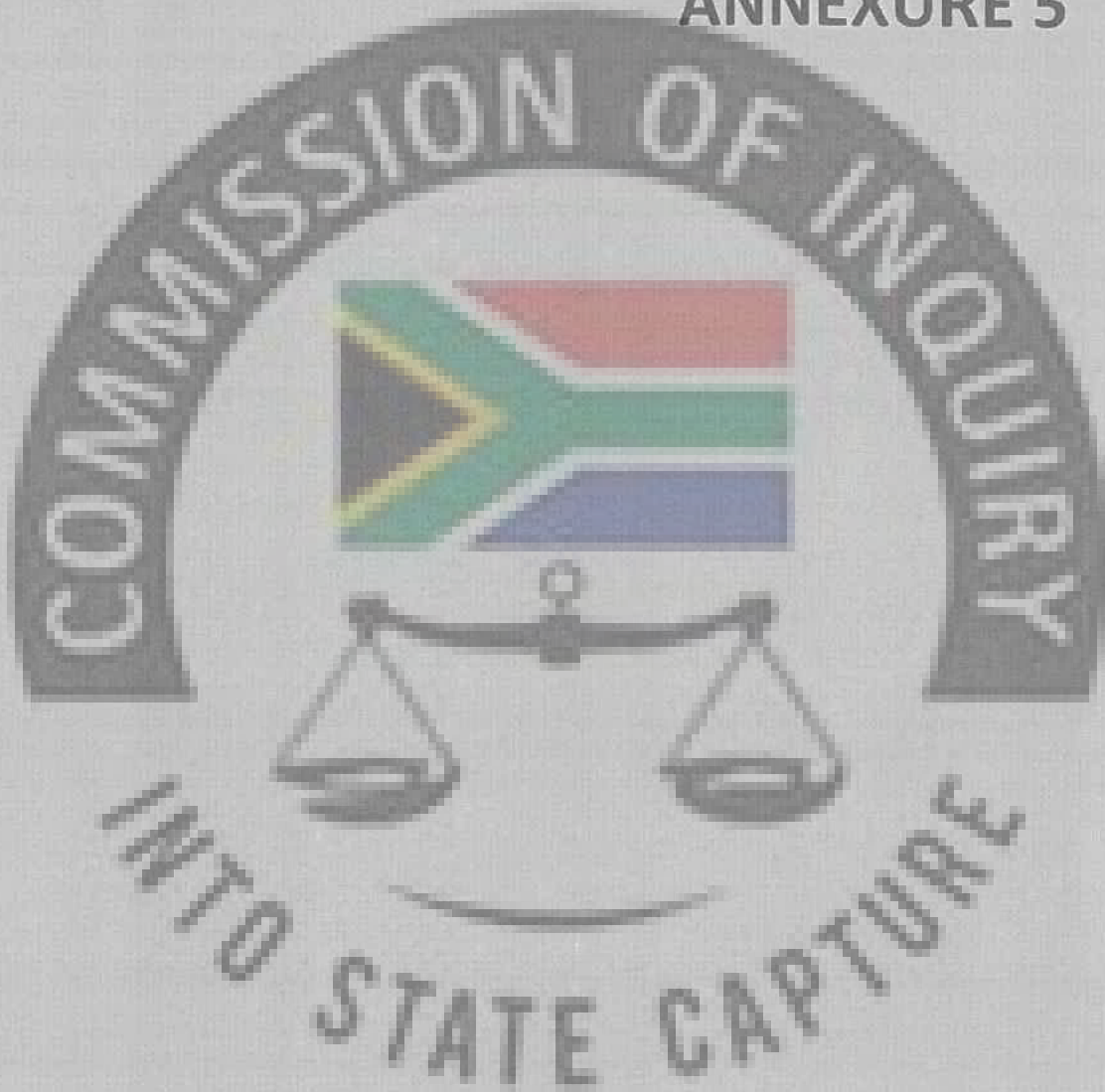
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## ANNEXURE 5



	<b>Policy</b>	
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**Title: Eskom's Procurement and Supply Chain Management Policy**

**Document Identifier: 32-1033**

**Alternative Reference Number: N/A**

**Area of Applicability: Eskom**

**Functional Area: Group Technology and Commercial**

**Revision: 2**

**Total Pages: 9**

**Next Review Date: April 2017**

**Disclosure Classification: Controlled Disclosure**

**Compiled by**



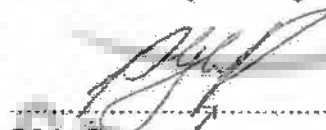
**V Panday**

**Middle Manager**

**Group Technology and Commercial - Risk & Governance**

**Date: 16-05-2014**

**Functional Responsibility**



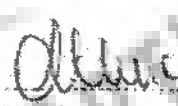
**PG Le Roux**

**Senior Manager (Acting)**

**Group Technology and Commercial - Risk & Governance**

**Date: 16/5/2014**

**Authorized by**



**M Koko**

**Group Executive (Acting)**

**Technology and Commercial**

**Date: 19/5/14**

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## 1. Introduction

This Policy creates the governance framework for all procurement and supply chain management activities within Eskom Holdings SOC Limited (Eskom).

The Technology and Commercial Group within Eskom has been mandated to align its operations with the strategic objectives of Eskom, and to moreover create a world class commercial organisation.

In order to achieve this, Group Technology and Commercial will carry out its mandate as a single centre-led procurement and supply chain management entity within Eskom, and will ensure standardisation of procedures and processes across procurement and supply chain operations, in order to meet customer requirements and minimise operational risks to Eskom.

Training and accreditation of the procurement fraternity with Eskom, standardisation and simplification of procedures and processes, and consistent application and decision-making is pivotal in order to ensure that the purchase, disposal and/or leasing of assets, goods and services are conducted legally, safely and ethically, in the shortest possible lead times and with the best possible financial and operational outcome for Eskom, while at all times upholding the constitutional principles of fairness, equitability, transparency, cost-effectiveness, and competitiveness, and the PFMA principles of avoiding wasteful and irregular expenditure.

## 2. Policy Content

### 2.1 Legislative Framework

As a wholly state-owned entity, Eskom is classified as an "organ of state" in accordance with the Constitution of the Republic of South Africa, Act 108 of 1996 (the Constitution).

As an organ of state, Eskom is legally obliged, in terms of Section 217 of the Constitution to create and maintain a procurement system enabling the contracting of goods and services in a manner that is fair, equitable, transparent, competitive and cost-effective. It is furthermore a legal requirement that the procurement of goods and services by organs of state be regulated by law - (S217 (3)) of the Constitution.

The Preferential Procurement Policy Framework Act (PPPFA) 5 of 2000 and its associated Regulations give effect to S217 (3) of the Constitution by prescribing the legislative and regulatory framework to give effect to standardised tendering processes in the procurement of goods and services by organs of state. The PPPFA is intrinsically linked to the Public Finance Management Act (Act 1 of 1999), by subjecting all Schedule 2 PFMA entities (including Eskom) to the applicability of the PPPFA Regulations.

Both the Constitution and the PPPFA require organs of state to develop procurement policies that align with the prescribed framework set out in the PPPFA.

Eskom, as a Schedule 2 PFMA entity was previously exempt from the PPPFA and its Regulations, until December 2012. It thereafter became mandatory in terms of the law for Eskom to fully comply with all provisions of the PPPFA and its Regulations, with exemption only being received with respect to procurement authorised by Development Funding Institutions (DFIs).

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This revised Policy, and the revised Procedure (32-1034) therefore seeks to ensure constitutional and PPPFA alignment in all procurement processes.

Further to this, Eskom as an organ of state is further governed by the PFMA in the management of public funds. On this basis, in terms of Chapter 6 of the PFMA, regarding Public Entities, Eskom is obliged to have an 'accounting authority' which must be accountable for the obligations set out therein. Within Eskom, this accounting authority is its Board of Directors.

One of the responsibilities of the Eskom Board is to have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective, and in giving effect to this, the core fiduciary duties of the Eskom Board is to exercise the duty of utmost care to ensure reasonable protection of the assets and records of the public entity; act with fidelity, honesty, integrity and in the best interests of the public entity in managing the financial affairs of the public entity; and to seek to prevent any prejudice to the financial interests of the state.

These obligations of the Eskom Board are further augmented by the provisions of the Companies Act, 71 of 2008 (as amended) and 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).

In accordance with the legislative framework and the required governance practices, Eskom's Delegation of Authority Policy 240-62072907 (as approved by the Eskom Board of Directors and updated from time to time) creates the financial and commercial parameters for decision-making, approvals and consents across Eskom and specifically within the procurement and supply chain environment, whereby purchases, disposals and/or leasing of assets, goods or services are authorised and approved strictly in accordance with the Delegation of Authority Policy, in order to ensure that the legal obligations of the Eskom Board are formalised and maintained at each and every transactional level.

Procurement and supply chain operations within Eskom are furthermore governed normatively by the latest revisions of Eskom's Conflict of Interest Policy, the Eskom Code of Ethics (The Way – Standard), and the Eskom Lifesaving Rules with respect to ethical and safe conduct, and all procurement and supply chain related activities must be managed in strict accordance with the aforementioned policies and standards, with a zero-tolerance approach to unethical and unsafe practices.

The development of the Approved Procurement Framework is based on the aforementioned legal and policy considerations. The specific processes and operational aspects of the procurement and supply chain environment within Eskom are set out in detail for use by its Procurement Practitioners within the latest revision of Eskom's Procurement and Supply Chain Management Procedure (32-1034) and the various Process Control Manuals (PCMs).

## **2.2 Policy Principles or Rules**

Group Technology and Commercial will therefore seek to execute its mandate in accordance with the following policy principles:

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- 2.2.1** Avoid wasteful and irregular expenditure, and promote and maintain good corporate governance through a procurement system which is fair, equitable, transparent, competitive and cost effective, including with respect to its Internal Suppliers. This entails complying with Eskom's normative legislative, regulatory and policy frameworks, operating with simplified and streamlined procurement and supply chain management processes and procedures, designing appropriate delegations of authority, internal controls and segregation of duties, providing adequate spend visibility and providing an audit trail of procurement processes.
- 2.2.2** Ensure value for money when procuring assets, goods and services. This entails achieving continuous improvement in value for money as measured through savings and TCO (Total Cost of Ownership) reduction whilst reducing process cycle time and costs.
- 2.2.3** Acting as a customer-centric Group with its different stakeholders, by specifically providing adequate input for budget planning, rendering effective contract and supplier management and measuring stakeholder satisfaction.
- 2.2.4** Implement and monitor Supplier Development and Localisation initiatives (such as B-BBEE, New Growth Path and CSDP) and targets in accordance with Eskom's normative legislative, regulatory and policy frameworks. This entails managing adequate supplier evaluation hierarchies and non-exclusive procurement processes and procedures.
- 2.2.5** Act as a platform for learning as well as growing Eskom's skills and core competencies within the procurement and supply chain management profession.

The cumulative impact of the aforementioned policy framework must result in delivery of the right assets, goods and services at the right time, in a legal, ethical, safe and cost-effective manner, in order to meet Eskom's primary strategic objective of supplying electricity to its customers while still remaining financially sustainable.

### **2.3 Core Functions**

Group Technology and Commercial is accountable and responsible for the effective control and management of the following core procurement and supply chain functions for and behalf of Eskom:

- a) Sourcing of Primary Energy
- b) Project Sourcing
- c) Nuclear Sourcing
- d) Commodity Sourcing
- e) Tactical Sourcing
- f) Business Enablement
- g) Supplier Development and Localisation
- h) Supply Chain Operations, comprising:
  - Materials Management

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- Shipping Management
- Investment Recovery (Asset Disposals)
- Supply Chain Planning
- Business Support

The aforementioned core functions will in turn be supported by a Risk and Governance Department within Group Technology and Commercial.

### 3. Supporting Clauses

#### 3.1 Scope

##### 3.1.1 Purpose

The purpose of this Policy is to establish the broad governance framework and principles to enable legal compliance, alignment, standardisation of procedures and processes, and consistency in decision-making, of all stakeholders involved in procurement and supply chain operations.

##### 3.1.2 Applicability

This Policy applies throughout Eskom Holdings SOC Limited, its Divisions, wholly owned subsidiaries and entities wherein Eskom has a controlling interest, operating in terms of South African law, which are subject to the provisions of the PFMA.

#### 3.2 Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

##### 3.2.1 Normative

- [1] ISO 9001 Quality Management Systems.
- [2] The Constitution of the Republic of South Africa, Act 108 of 1996
- [3] The Companies Act, 71 of 2008
- [4] Public Finance Management Act, 01 of 1999
- [5] The Preferential Procurement Policy Framework Act, 05 of 2000 and Regulations
- [6] Delegation of Authority Policy 240-62072907
- [7] The Eskom Code of Ethics (Standard 32-527)
- [8] Conflict of Interest Policy (32-173)
- [9] The Eskom Lifesaving Rules (240-62196227)
- [10] Eskom Disciplinary Code (Eskom Standard 32-1112).

##### 3.2.2 Informative

- [1] PFMA Framework for Supply Chain
- [2] King Code and Report on Corporate Governance for South Africa 2009 (King III Report).

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**3.3 Definitions**

Definition	Explanation
<b>Accredited Procurement Practitioner</b>	An Accredited Procurement Practitioner is a Procurement Practitioner who has been trained, assessed and accredited to execute, support and/or approve procurement strategies; and the awarding / modification of orders /contracts, and who has been formally delegated with such authority in writing. The exercise of delegated authority is done strictly in accordance with the Approved Procurement Framework.
<b>Approved Procurement Framework</b>	The Approved Procurement Framework refers to the approved Delegation of Authority Policy 240-62072907, this Policy (32-1033), Eskom's Procurement and Supply Chain Management Procedure (32-1034), approved internal PCMs, Standard Operating Procedures and Work Instructions governing the procure-to-pay processes within Eskom, and any other mandatory legislative and policy frameworks that govern and have a direct impact on Eskom's procurement and supply chain management operations.
<b>Internal Supplier</b>	A Division, wholly-owned or partly-owned subsidiary of Eskom Holdings SOC Limited that is a supplier of assets, goods or services to Eskom Holdings SOC Limited.
<b>Procurement Practitioner</b>	A Procurement Practitioner is an employee within Eskom appointed to manage and/or execute a procedure or process as contained in Procedure 32-1034, or within any of the approved PCMs relating to procure-to-pay processes forming part of the Approved Procurement Framework. A Procurement Practitioner is required to be trained, assessed and accredited within a reasonable time period as agreed to with his/her Procurement Manager, to become an Accredited Procurement Practitioner. A Procurement Practitioner does not have any delegation of authority to support or approve commercial transactions, but may still execute commercial transactions and make recommendations in respect thereof.

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### 3.4 Abbreviations

Abbreviation	Explanation
B-BBEE	Broad-Based Black Economic Empowerment
CSDP	Competitive Supplier Development Programme
DOA	Delegation of Authority
DFI	Development Funding Institutions
EXCO	Executive Committee
PCM	Process Control Manual
PFMA	Public Finance Management Act
PPPPFA	Preferential Procurement Policy Framework Act
SOC	State Owned Company
TCO	Total Cost of Ownership

### 3.5 Roles and Responsibilities

**Group Executive: Technology and Commercial:** The executive and member of the EXCO appointed by the Eskom Board of Directors to lead and manage Group Technology and Commercial within Eskom. In order to give effect and accountability to decision-making within the procurement and supply chain management environment, the Eskom Board of Directors has delegated the Group Executive: Technology and Commercial with the authority for all consents / approvals related to procurement and supply chain management activities across Eskom. This delegation will in turn be further delegated in writing to various general managers, senior managers, tender committees, and other Accredited Procurement Practitioners within Group Technology and Commercial.

The authority to bind Eskom into contracts for the supply, disposal, leasing of assets, goods and services is governed strictly by the Board-approved Delegation of Authority Framework for Procurement.

Only delegated individuals and specifically formed tender committees will have the authority to grant approvals for the awarding of contracts / orders.

**Risk and Governance Department:** Responsible for implementing the Approved Procurement Framework, including implementation of effective internal controls and measures to ensure risk mitigation and compliance thereto, and to facilitate investigations into related non-compliance.

### 3.6 Process for Monitoring

The Risk and Governance Department residing within Group Technology and Commercial will implement the necessary checks and balances on various aspects of the procurement and supply chain processes in order to manage and monitor compliance to the Approved Procurement Framework.

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Where analysis and audits reveal non-compliance to the Approved Procurement Framework, effective remedial corrective and / or disciplinary measures will be recommended by the Risk and Governance Department to ensure compliance thereto, and to prevent future non-compliance.

Group Technology and Commercial will ensure that all Procurement Practitioners and other relevant stakeholders involved in the procure-to-pay processes and other procurement and supply chain management operations of Eskom are regularly trained on the Approved Procurement Framework and any revisions / amendments relating thereto.

Once the necessary training has been received by Procurement Practitioners and other relevant stakeholders, serious and material breaches of the Approved Procurement Framework will be subject to investigation and, based on the outcome of these investigations, employees acting in contravention of the Approved Procurement Framework may be subject to disciplinary action based on the PFMA and Eskom's Disciplinary Code.

Internal Audit within Assurance and Forensics will conduct regular audits to ensure compliance with this Policy.

#### 4. Acceptance

This document has been seen and accepted by:

Name	Designation
EXCO	
Business Improvement Project	
Eskom Legal Department	
Internal Audit (Assurance and Forensics)	
Group Technology and Commercial Management Committee	

#### 5. Revisions

Date	Rev.	Remarks
October 2010	0	Back 2 Basics Programme (As-Is Phase).
April 2011	1	Revised to align to Back2Basics (To Be Process)
April 2014	2	Revised to align with revised Delegations of Authority, PPPFA application and revised supplier reconsideration processes

#### 6. Development Team

The following people were involved in the development of this document:

- \* Vishala Panday (Middle Manager: Risk and Governance)

#### 7. Acknowledgements

None

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## ANNEXURE 6





	<b>MINUTES OF THE ESKOM HOLDINGS EXCO PROCUREMENT SUB- COMMITTEE</b>	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

**MINUTES OF THE SPECIAL EXCOPS 06/2013-14 MEETING HELD ON 09 SEPTEMBER 2013  
FROM 15H40 IN THE HUVO NKULU BOARDROOM, MEGAWATT PARK**

**STRICTLY CONFIDENTIAL**

**PRESENT:**

**MEMBERS**

  
 Ms T Molefe  
 Mr K Lakmeharan  
 Mr M Ntsokolo  
 Mr M Koko

Group Executive: Group Customer Services (GE: CS) (Chairman)  
 Group Executive: Technology & Commercial (Acting) (GE: T&C)  
 Group Executive: Transmission (GE: TX)  
 Divisional Executive: Technology (DE: T)

**OFFICIALS**

Mr F Mobu

General Manager: Tactical Sourcing (Coordinating Official)

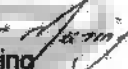
**IN ATTENDANCE**

Ms D Khumalo

Committee Secretary

**APOLOGIES**

Mr B Bulunga  
 Mr C Choau  
 Mr M Gobingca  
 Ms N Otto  
 Mr P Le Roux  
 Mr M Sekhasimbe

Group Executive: Human Resources Division (GE: HR)  
 Divisional Executive: Corporate Affairs (DE: CAD)  
 General Manager: Supplier Development & Localisation  
 Senior Manager: Legal  
 General Manager: Project Sourcing -   
 General Manager: Commodity Sourcing

**1. OPENING AND WELCOME**

The Chairman opened the meeting and welcomed all those present.

**2. APOLOGIES**

The apologies as indicated above were noted.

**3. QUORUM**

A quorum being present, the Chairman declared the meeting duly constituted.

**4. DECLARATION OF INTERESTS**

Members declared that there were no conflicts pertaining to the matters on the Agenda.



	<b>MINUTES OF THE ESKOM HOLDINGS EXCO PROCUREMENT SUB- COMMITTEE</b>	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

## 5. SAFETY/EVACUATION

The safety and evacuation process, to be followed in the event of an emergency, was presented and noted.

## 6. THE NEW AGE (TNA) CONTRACT

Messrs M Makhuvha and A Mokoatedi joined the meeting to present the background regarding The New Age Contract.

### *Background*

It was reported that Eskom had a subscription contract with TNA and it ended in October 2012. The contract was for a 1 year period. The team had gone through the process of reviewing the contract and had been engaging on how to continue with the contract. Various committees were engaged regarding how to proceed with the contract. It was noted that TNA had been providing newspapers to Eskom free of charge since the contract expired.

### *Purchase Request*

A Purchase Request (PR) had been loaded onto the system for 4 000 newspapers in August 2012, before the contract expired.

### *Presentation to the R3m and 15m Tender Committees*

A first meeting to discuss the contract was held by the R15M Tender Committee on 20 September 2012 and the matter was not supported. The matter was then referred to a round robin in October 2012. The contract was partly approved with conditions. The Chairman who presided during the round robin revoked the decision made based on what was happening in the media regarding TNA.

The client was requested to reduce the quantity to 500 subscriptions per year. The matter was then presented to R3MTender Committee in November 2012 as the required quantity had been reduced; hence reducing the contract value which could now be approved by the said Committee. The matter was not supported and it was requested that it be re-submitted to the R15M Tender Committee for evaluation as it was originally presented to that Committee. The matter was then presented to the R15M tender Committee on 29 November 2012 and was approved with the certain conditions one of which was that the quantity of the subscription should be 500 newspapers.

	<b>MINUTES OF THE ESKOM HOLDINGS EXCO PROCUREMENT SUB- COMMITTEE</b>	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

#### *Negotiations with TNA*

The negotiations were held with the supplier during December 2012 and there was a dead-lock as the supplier did not accept Eskom's mandate parameters and mentioned that the proposed quantity was too small for them to give Eskom a discount. CAD indicated after negotiations that the quantity had been increased from 500 subscriptions to 1000 subscriptions per year.

#### *Progress to date*

The matter was submitted to the R15m Tender Committee during April 2013 and it was not supported based on the various issues raised by the Committee. It was reported that an analysis had been conducted on the media spend on newspapers and magazines per media house in response to a **Parliamentary question**.

A recommendation was made based on the analysis conducted for Eskom to subscribe to 1000 newspapers from TNA.

It was reported that a comprehensive approach to all media houses was being developed by CAD and would be tabled during September or October 2013 Exco meeting.

#### *Discussion*

A concern was raised regarding the fact that the existing contract with TNA had expired and nothing was in place whilst the contracts with other newspaper companies were in place. It was noted that the identification of the need for newspaper subscriptions should be robust in order to protect Eskom in the event of a challenge. It was noted that the process followed regarding the TNA contract was not correct.

#### *The decision*

The Committee decided not to approve the mandate to negotiate and conclude a contract with The New Age Media for the provision of 1000 newspaper subscription from The New Age at a contract value of R1 547 280.00 excluding VAT. The Committee decided to wait for the September-October Enterprise Development (ED) strategy for the allocation of the subscription spend because Corporate Affairs was busy reviewing the advertising spend regarding all the newspapers. The ED strategy would inform the procurement process to follow regarding newspaper subscriptions. Commercial should check when the implementation would be once CAD had finalized the advertising strategy and then attend to the finalization of this once the information regarding the strategy from ED has been made available.

All current newspaper contracts should not be renewed taking into account the review process currently taking place regarding electronic subscription for all newspapers.

	<b>MINUTES OF THE ESKOM HOLDINGS EXCO PROCUREMENT SUB- COMMITTEE</b>	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

**Resolved that:**

1. the mandate to negotiate and conclude a contract with The New Age Media for the provision of 1000 newspaper subscription from The New Age at a contract value of R1 547 280.00 excluding VAT is not approved;
2. the Committee will wait for the September-October Enterprise Development (ED) strategy for the allocation of the subscription spent because Corporate Affairs was busy reviewing the advertising spent regarding all the newspapers;
3. Commercial should check when the implementation would be once CAD had finalized the advertising strategy and then attend to the finalization of this once the information regarding the strategy from ED has been made available; and
4. all current newspaper contracts should not be renewed taking into account the review process currently taking place regarding electronic subscription for all newspapers.

**7. DATE OF NEXT MEETING**

The next meeting will be held on 30 September 2013.

**8. CLOSURE**

There being no further matters for discussion, the Chairman thanked members and officials present for their contribution and declared the meeting closed at 16:30.

**SIGNED AS A CORRECT RECORD OF THE PROCEEDINGS**

  
CHAIRMAN

18/12/2013  
DATE



Sizwe  
Ntsaluba  
Gobodo



AUDIT · ADVISORY · FORENSICS

## ANNEXURE 7







## SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

Unit Identifier	221-222
Document Type	CCGTE
Revision	4
Effective Date	November 2010
Corporate Affairs Division	

### EXECUTIVE SUMMARY

SUBMISSION to Exco on the 19<sup>th</sup> May 2014

#### 1. TITLE OF THE SUBMISSION

Eskom Sponsorship Practice Note for approval

#### 2. RESOLUTION REQUIRED

Exco notes and approves the following:

##### **Sponsorship Framework, Policy and Practice Note**

- Policy
- Practice Note for Financial Year 2014/2015
- List of sponsorships for 2014/15

#### 3. SUMMARY OF FACTS

##### 3.1 SALIENT FACTS

The Sponsorship Framework approved by Exco on the 1<sup>st</sup> February 2013, effectively acts as a strategy that provides direction and is aligned to the Eskom brand strategy, strengthening Eskom positioning and promotes Eskom's overall reputation of being "more than just a company that generates, transmits and distributes electricity". Refer to section, paragraph 3.2.1 of the Framework submission document.

**Sponsorship Policy** will regulate all sponsorship activities by Eskom Holdings SOC Limited ("Eskom"), which are aligned to the Eskom sponsorship framework, key principles and objectives and Eskom's Corporate Plan. This policy governs the approval of all sponsorships but does not cover or include grants and/or donations managed by the Eskom Development Foundation.

**Sponsorship Practice Note**, is a subsequent response to the MYPD3 determination and seeks to align the management of sponsorships to the Business Productivity Programme (BPP). It addresses going forward and develops a firm and clear position on managing flagship sponsorships and business imperative sponsorship programmes.

The approved sponsorship practice note will allow the sponsorship department to manage all sponsorship requests outside the proposed and approved programmes, which will be highlighted below. The Practice Note will be updated every six months to ensure we keep a record of all sponsorships which are done within the Eskom's Sponsorship policy.



## SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

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### 3.2 THE ESKOM SPONSORSHIP FRAMEWORK

On the 1<sup>st</sup> February 2013, EXCO approved an Eskom Sponsorship Framework, which contained key principles and objectives of Eskom wide sponsorships. Exco's approval was subject to inclusion of Energy Access as one of the Asset Classes.

Exco approval of the framework also granted approval for the formation of the Corporate Sponsorship Committee consisting of the Senior General Managers: Integrated Demand Management, Internal Audit and Human Resources and chaired by either a Divisional Executive: Corporate Affairs or Regulation and Legal.

The approved sponsorship framework, key principles and objectives, provides a codified, structured and coherent framework that defines what we sponsor, why we sponsor and how the sponsorship approval committee will minimise possible risks in sponsored initiatives.

Historically, sponsorships have been handled on a reactive basis at Eskom in that they have been subject to a case-by-case evaluation when a request for sponsorship is submitted to Eskom. This framework will also enable Eskom to take a more proactive approach.

### 3.3 SPONSORSHIP POLICY

#### 3.3.1 Sponsorship Policy Statement and Purpose

Sponsorship Policy will therefore ensure compliance to the sponsorship framework delivery in terms of the approved sponsorship asset classes, key principles and set objectives and adherence to the governance processes outlined in paragraph 3.2.2 of the Eskom sponsorship framework.

The sponsorship policy has been presented to B2B and approved by Enterprise Development Executive Committee on the 19<sup>th</sup> November 2012.

The policy will provide an overview of the sponsorship function, direction on related activities and guide the administration of all Eskom sponsorship activities.

The purpose of the sponsorship policy is to provide a framework for the selection, coordination, integration and measurement of sponsorship programmes and a development of sponsorship asset classes within Eskom Holdings SOC Limited.

#### 3.3.2 Sponsorship Selection Criteria

The following criteria, together with the approved sponsorship framework and key principles and objectives, will be applied to assist and determine whether or not a sponsorship request should be pursued and supported.

The sponsorship must contribute to Eskom's business objectives, be measurable and satisfy at least 75% of the following criteria:



## SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

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- Project is world-class, and promote Eskom status as a leader in South Africa's leadership
- Be aligned with Eskom's brand image.
- Provide real and measurable value in terms of a calculated and delivered brand-value
- Allow Eskom to leverage the sponsorship cost-effectively so as to be the dominant
- Be clearly understood, and be practical to administer in accordance with Eskom's
- Allow for a leveraging strategy that integrates a broad range of elements in the
- Avoid sponsorship clutter.
- Eskom considers for evaluation any sponsorship proposal from registered organisations whose programmes or projects are provided for in the budget for that fiscal year.

### 3.3.3 What will Eskom Sponsor?

Eskom will only evaluate and sponsor requests within sponsorship asset classes approved by Exco on the 1<sup>st</sup> February 2013:

- Innovation;** linked to Eskom's current asset (Eskom Expo for Young Scientist) responding to the country's challenge of growing your engine within Science, Technology, Engineering, Mathematics and Innovation (STEMI).
- Green energy & Energy Access;** to create awareness on saving environment and using renewable and sustainable energy and linked to Integrated Development and Management
- Energy efficiency;** to engage energy consciousness across the country and always seeking new and innovative platforms to reach and advise Eskom customers on implementing new technologies, tools and solutions designed to reduce electricity consumption.
- Entrepreneurship;** informed by BMI's report on what South African learned important for corporates to sponsor, small business development came and. This is also strongly aligned with Eskom's role as an SOC.

These classes will be reviewed periodically to ensure their relevance to Eskom's strategic business imperatives.

Strategic requests/proposals falling outside the scope of these asset classes will either be declined by the Sponsorship Desk or referred to other areas in Eskom, such as the Eskom Development Foundation or stakeholder relations.

Pledges and Donations are not covered in the sponsorship policy, however they are addressed in the CSI policy as per principle 2.2.5 of the practice note, policy.





## SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

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### 3.3.4 Eskom will not sponsor the following initiatives:

- Environmentally unfriendly initiatives or those that create environmental hazards;
- Once-only unsustainable activities or events;
- Political party activities (directly and indirectly);
- Trade union activities (directly and indirectly);
- Church/religious organisations, unless the organisation has a formally constituted outreach programme that directly benefits the community;
- Individuals, Eskom employees or their families;
- Organisations in which Eskom employees hold shares;
- Visits/trips to other countries, whatever the cause or reason.
- Awards ceremonies unless these are for an Eskom-initiated project;
- Sports and related events, excluding school sport events in close proximity to power stations;
- Celebrations, events and excursions;
- Traditional leadership events and inaugurations;
- Organisations which are not formally constituted/ registered;
- Projects which do not comply with Eskom's policy on broad-based black economic empowerment (BBBEE);
- Any activity/project/organisation or cause that has objectives infringing on the Bill of Rights and the Constitution and legislation of the Republic of South Africa.

### 3.4 SPONSORSHIP PRACTICE NOTE FOR FINANCIAL YEAR 2014/15

Following NERSA's determination on MYPD3 and subsequent cost saving measures, a change in practice given the financial constraints was required.

The Sponsorship Practice Note provides the business with a more focused and efficient approach to managing sponsorships for this financial year, in terms of what will be sponsored and what will be declined on the basis of limited funds that the business now has.

The proposed Sponsorship Practice Note aims to:

- Assist with costs controlling within the business and more attention needs to be paid to it.
- Communicate an Eskom-wide principle decision on how sponsorships outside the proposed structure will be addressed going forward.
- Communicate that the sponsorship policy is approved but is applied in conjunction with the proposed practice note due to current business challenges;
- Develop a firm and clear position on managing sponsorships for the next 5yrs.





## SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

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- Execute only flagships and business imperative sponsorship programs approved by EXCO;
- Allow the sponsorship desk to decline all sponsorship requests outside approved programmes;
- Grant final approval to the sponsorship policy with exception to its application;
- Ensure proper record keeping of all Sponsorships done and also maintain under the correct budget lines and cost centres and;
- Eliminate ad-hoc sponsorships

Please see attached document with the list of proposed sponsorships. The list indicates sponsorships which are budgeted for and also those that are not budgeted for, which we request Exco to consider and allocate budget for.

Total sponsorships budgeted for	: R21, 278,00
Total sponsorships not budgeted for	: R25, 698,56
Grand Total	: R46, 976,56

In the cases of additional sponsorship requests, the above list of ad-hoc sponsorships will be reviewed and approved by Eskom Exco every 6 months for requests deemed important by the respective Exco member.

#### 4. DELEGATION OF AUTHORITY AND APPROVAL GOVERNANCE PROCESS

All proposed sponsorships in this submission will still be subject to the normal governance processes approved by Corporate Sponsorship Committee and in Eskom's delegation of authority.

Any ad-hoc sponsorships above R50, 000.00 and not included in the submission of the proposed sponsorships will be declined by the sponsorship desk unless approval is given by the relevant Divisional Executive.

Requests below R50, 000.00 will be granted at the discretion of the relevant Divisional Executive and within their delegation of authority, subject to budget availability.

The following summarises the approved governance process:

- Sponsorship Desk (Recommends all assets for approval)
- Sponsorship Approval Committee (Approves up to R3m)
- Enterprise Development Exco (For noting on strategy, policy and procedural governance, risk and compliance issues)
- Eskom Exco (Regular Reporting on all sponsorships)
- Assurance and Forensic (Bi-annual review of compliance)

#### 5. FINANCIAL IMPLICATIONS



## SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

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The only new financial implications will be the leveraging and monitoring costs which will be added onto the rights/association fees for all the proposed sponsorships.

### 6. HUMAN RESOURCES IMPLICATIONS

There are no additional human resources required, over and above what has already been budgeted for, however there will be less work for human resources in sponsorships as they'll be fewer requests to evaluate and/or leverage.

### 7. RISKS INCLUDE THE FOLLOWING:

There might be requests from shareholder and others whose non-involvement might place a reputational risk on certain relationships Eskom might already have with various stakeholders.

In order to mitigate the risk, it is critical that Eskom's position on sponsorships for the next 5yrs be established and communicated to all relevant stakeholders so such reputational risks can be minimised.

### 8. VERIFICATION BY INDEPENDENT PARTY (if applicable)

Not applicable.

### 9. OTHER APPROVALS REQUIRED

None



# SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE

Unit Identifier	221-222
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**SIGNED**

*[Signature]*  
 DIVISIONAL EXECUTIVE:  
 CORPORATE AFFAIRS

Who hereby represents that the above  
 Information is correct.

*20/5/2014*  
 DATE

*[Signature]*  
 GROUP EXECUTIVE:  
 ENTERPRISE DEVELOPMENT

Who hereby represents that the above  
 Information is correct.

*20/5/2014*  
 DATE

Submission prepared by:  
 Contact Number:

Femi Dhlomo  
 (011) 516 7861



## SUBMISSION CHECKLIST

Unio	Identifier	221-221
Doc	ent Type	OCSDFM
Revi	n	0
Revi	Date	July 2015
ice of the Company cretary Department		

## CHECKLIST 1

TITLE OF SUBMISSION: 2014/15 Sponsorship Practice Note

## Please note:

The headings should **NOT** be deleted if it is not applicable to the project, the sequence of headings should not be changed.

Tick the applicable box (✓).

	N/A	Yes	No
<b>1. INTERNAL PROCESS</b>			
<b>1.1 BUSINESS PLAN</b> Has the project/issue been included in the business plan? (If no, information/explanation to be highlighted in documentation/presentation/attachment.)		✓	✓
<b>1.2 BUDGET</b> If financial approval is required, is the project/matter within the approved budget? (If no, information/explanation to be highlighted in documentation/presentation/attachment.)		✓	✓
<b>1.3 HUMAN RESOURCE IMPLICATIONS</b> Does the project have any HR implications? (If yes, information/explanation to be highlighted in documentation/presentation/attachment.)			✓
<b>1.4 FINANCIAL EVALUATION</b> - Has the project/issue undergone a financial evaluation? (If yes, by whom) - Has the evaluation been verified? - By whom (internally or independent)?	✓		
<b>1.5 LEGAL/CONTRACTUAL ISSUES</b> - Are there legal implications? All approved sponsorships are shared with Legal and contracts are drawn up and signed - Has Corporate legal department input been obtained? - If so, is the approval sought consistent with the legal input?			
<b>1.6 TAX IMPLICATIONS</b> - Are there tax implications? - Has Corporate tax department input been obtained? - If so, is the approval sought consistent with the tax input?		✓	
<b>1.7 CAPITAL PROJECTS</b> If the project is of a capital nature the checklist 2 (attached) for the evaluation of capital projects should be completed as well.	✓		





# SUBMISSION CHECKLIST

Unit	Identifier	221-221
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ice of the Company cretary Department		

## 1.8 TECHNICAL EVALUATION

- Has the project/issue undergone a technical evaluation? (If yes, by whom)
- Has the evaluation been verified?
- By whom (internally or independent)?

## 1.9 BLACK ECONOMIC EMPOWERMENT IMPLICATIONS

Does the project have any BEE implications?

## 1.10 EMPLOYMENT EQUITY

Was due consideration given to employment equity in terms of the following:

- Project team
- Drafting of submission documentation
- Individual(s) presenting to EXCO

## 2. ADDITIONAL APPROVALS

### 2.1 NERSA

- Is NERSA approval/consultation required?
- If approval or consultation is required, provide details and also highlight the time lines, deadlines, etc.

### 2.2 PUBLIC FINANCE MANAGEMENT ACT (PFMA)

- Is any PFMA approval required?

### 2.3 ARE THERE ANY OTHER APPROVALS REQUIRED? IN PARTICULAR

- Reserve Bank
- Competition Commission
- National Treasury

SIGNATURE:

DIVISIONAL EXECUTIVE

Who hereby confirms that all of the above requirements have been complied with.

DATE:

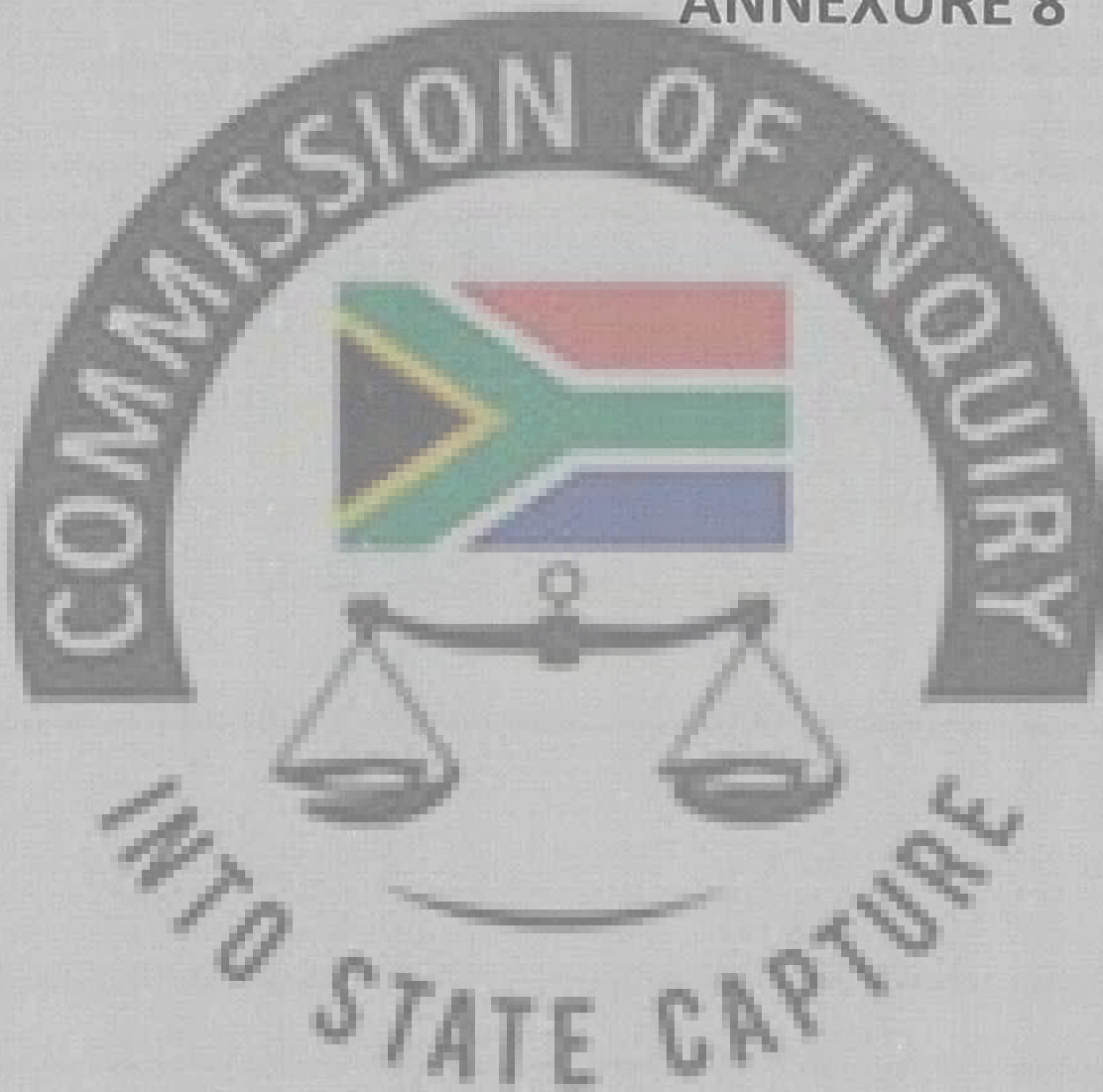
20/5/14

PRINT NAME:

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## ANNEXURE 8



	<b>SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE</b>	Unique Identifier	221-222
		Document Type	CCGTE
		Revision	4
		Effective Date	November 2010
		Corporate Affairs Division	

### EXECUTIVE SUMMARY

**SUBMISSION to Exco on the 30<sup>th</sup> July 2014**

#### **1. TITLE OF THE SUBMISSION**

Eskom Sponsorship Practice Note for approval

#### **2. RESOLUTION REQUIRED**

Exco notes and approves the following:

##### **Sponsorship Framework, Policy and Practice Note**

- Approve the Practice Note for Financial Year 2014/2015
- Approval of sponsorships for 2014/15 that have been budgeted for (R52, 278,000.00)
- A decision to be made with regards to the sponsorships for 2014/2015 that have not been budgeted for (R1, 168,567.00)

#### **3. SUMMARY OF FACTS**

##### **3.1 SALIENT FACTS**

The Sponsorship Framework approved by Exco on the 1<sup>st</sup> February 2013, effectively acts as a sponsorship strategy that provides direction and is aligned to the Eskom brand strategy, strengthens Eskom positioning and promotes Eskom's overall reputation of becoming "more than just a company that generates, transmits and distributes electricity". Refer to key principles section, paragraph 3.2.1 of the Framework submission document.

**Sponsorship Policy** will regulate all sponsorship activities by Eskom Holdings SOC Limited ("Eskom"), which are aligned to the Eskom sponsorship framework, key principles and objectives and Eskom's Corporate Plan. This policy governs the approval of all sponsorships but does not cover or include grants and/or donations managed by the Eskom Development Foundation.

**Sponsorship Practice Note**, is a subsequent response to the MYPD3 determination and seeks to align the management of sponsorships to the Business Productivity Programme (BPP). It communicates an Eskom-wide principle decision on how sponsorships will be addressed going forward and develops a firm and clear position on managing flagships sponsorships and business imperative sponsorship programmes.

The approved sponsorship practice note will allow the sponsorship desk to manage all sponsorship requests outside the proposed and approved programmes, which will be highlighted below. The Practice Note will be updated every six months to ensure we keep a record of all sponsorships which are done within the Eskom's Sponsorship policy.



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### 3.2 THE ESKOM SPONSORSHIP FRAMEWORK

On the 1<sup>st</sup> February 2013, EXCO approved an Eskom Sponsorship Framework, which contained key principles and objectives of Eskom wide sponsorships. Exco's approval was subject to inclusion of Energy Access as one of the Asset Classes.

Exco approval of the framework also granted approval for the formation of the Corporate Sponsorship Committee consisting of the Senior General Managers: Integrated Demand Management, Internal Audit and Human Resources and chaired by either Divisional Executive: Corporate Affairs or Regulation and Legal.

The approved sponsorship framework, key principles and objectives, provides a codified, structured and coherent framework that defines what we sponsor, why we sponsor and how the sponsorship approval committee will minimise possible risks in sponsored initiatives.

Historically, sponsorships have been handled on a reactive basis at Eskom, in that they have been subject to a case-by-case evaluation when a request for sponsorship is submitted to Eskom. This framework will also enable Eskom to take a more proactive approach.

### 3.3 SPONSORSHIP POLICY

#### 3.3.1 Sponsorship Policy Statement and Purpose

Sponsorship Policy will therefore ensure compliance to the sponsorship framework delivery in terms of the approved sponsorship asset classes, key principles and set objectives and adherence to the governance processes outlined in paragraph 3.2.2 of the Eskom sponsorship framework.

The sponsorship policy has been presented to B2B and approved by Enterprise Development Executive Committee on the 19<sup>th</sup> November 2012.

The policy will provide an overview of the sponsorship function, direction on the key sponsorship-related activities and guide the administration of all Eskom sponsorship activities.

The purpose of the sponsorship policy is to provide a framework for the selection, management, coordination, integration and measurement of sponsorship programmes and the development of sponsorship asset classes within Eskom Holdings SOC Limited.

#### 3.3.2 Sponsorship Selection Criteria

The following criteria, together with the approved sponsorship framework and key principles and objectives, will be applied to assist and determine whether or not a sponsorship request should be pursued and supported.

The sponsorship must contribute to Eskom's business objectives, be measurable and satisfy at least 75% of the following criteria:



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- Project is world-class, and promote Eskom status as a leader in South Africa's leadership status:
  - Be aligned with Eskom's brand image.
  - Provide real and measurable value in terms of a calculated and delivered rand-value return on investment, and provide a direct business benefit
  - Allow Eskom to leverage the sponsorship cost-effectively so as to be the dominant sponsor.
  - Be clearly understood, and be practical to administer in accordance with Eskom's policies and procedures.
  - Allow for a leveraging strategy that integrates a broad range of elements in the communications mix.
  - Avoid sponsorship clutter.
  - Eskom considers for evaluation any sponsorship proposals from registered organisations whose programmes or projects are provided for in the budget for that fiscal year.

### 3.3.3 What will Eskom Sponsor?

Eskom will only evaluate and sponsor requests within sponsorship asset classes approved by Exco on the 1<sup>st</sup> February 2013:

- **Innovation;** linked to Eskom's current asset (Eskom Expo for Young Scientist) responding to the country's challenge of growing your engineers within Science, Technology, Engineering, Mathematics and Innovation (STEMI).
- **Green energy & Energy Access;** to create awareness on saving the environment and using renewable and sustainable energy and linked to Integrated Demand Management initiatives through sustainable energy solutions.
- **Energy efficiency;** to engage energy consciousness across the country and always seeking new and innovative platforms to reach and advise Eskom customers on implementing new technologies, tools and solutions designed to reduce electricity consumption.
- **Entrepreneurship;** informed by BMI's report on what South Africans deemed important for corporates to sponsor, small business development came second. This is also strongly aligned with Eskom's role as an SOC.

These classes will be reviewed periodically to ensure their relevance to the market and Eskom's strategic business imperatives.

Strategic requests/proposals falling outside the scope of these asset classes will either be declined by the Sponsorship Desk or referred to other areas in Eskom, such as the Eskom Development Foundation or stakeholder relations.

Pledges and Donations are not covered in the sponsorship policy or practice note, however they are addressed in the CSI policy as per principle 2.2.5 of the policy.

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### 3.3.4 Eskom will not sponsor the following initiatives:

- Environmentally unfriendly initiatives or those that create environmental hazards;
- Once-only unsustainable activities or events;
- Political party activities (directly and indirectly);
- Trade union activities (directly and indirectly);
- Church/religious organisations, unless the organisation has a formally constituted outreach programme that directly benefits the community;
- Individuals, Eskom employees or their families;
- Organisations in which Eskom employees hold shares;
- Visits/trips to other countries, whatever the cause or reason.
- Awards ceremonies unless these are for an Eskom-initiated project;
- Sports and related events, excluding school sport events in close proximity to power stations;
- Celebrations, events and excursions;
- Traditional leadership events and inaugurations;
- Organisations which are not formally constituted/ registered;
- Projects which do not comply with Eskom's policy on broad-based black economic empowerment (BBBEE);
- Any activity/project/organisation or cause that has objectives infringing on the Bill of Rights and the Constitution and legislation of the Republic of South Africa.

### 3.4 SPONSORSHIP PRACTICE NOTE FOR FINANCIAL YEAR 2014/15

Following NERSA's determination on MYPD3 and subsequent cost saving measures, a change in practice given the financial constraints was required.

The Sponsorship Practice Note provides the business with a more focused and efficient approach to managing sponsorships for this financial year, in terms of what will be sponsored and what will be declined on the basis of limited funds that the business now have.

The proposed Sponsorship Practice Note aims to:

- Assist with costs controlling within the business and more attention needs to be paid to it.
- Communicate an Eskom-wide principle decision on how sponsorships outside the proposed structure will be addressed going forward.
- Communicate that the sponsorship policy is approved but is applied in conjunction with the proposed practice note due to current business challenges;
- Develop a firm and clear position on managing sponsorships for the next 5yrs.

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- Execute only flagships and business imperative sponsorship programmes approved by EXCO;
- Allow the sponsorship desk to decline all sponsorship requests outside the proposed and approved programmes;
- Grant final approval to the sponsorship policy with exception to its application;
- Ensure proper record keeping of all Sponsorships done and also manage the allocation under the correct budget lines and cost centres and;
- Eliminate ad-hoc sponsorships

Please see attached document with the list of proposed sponsorships for 2014/15. The list indicates sponsorships which are budgeted for and also those that are not budgeted for, which we request Exco to consider and allocate budget for.

Total sponsorships budgeted for	: R52, 278,000.00
Total sponsorships not budgeted for	: R1, 168,567.00
Grand Total	: <u>R53, 446,567.00</u>

(Note: A three year sponsorship agreement has already been concluded and signed with TNA Media (Pty) Ltd in the amount of R43.2m for 36 Business Briefings. Eskom has agreed to sponsor 12 briefings per year at the cost of R14.4m.)

In the cases of additional sponsorship requests, the above list of adhoc sponsorships will be reviewed and approved by Eskom Exco every 6 months for requests deemed important by the respective Exco member.

#### 4. DELEGATION OF AUTHORITY AND APPROVAL GOVERNANCE PROCESS

All proposed sponsorships in this submission will still be subject to the normal governance processes approved by Corporate Sponsorship Committee and in Eskom's delegation authority.

Any ad-hoc sponsorships above R50, 000.00 and not included in this submission of the proposed sponsorships will be declined by the sponsorship desk unless approval is given by the relevant Divisional Executive.

Requests below R50, 000.00 will be granted at the discretion of the relevant Divisional Executive and within their delegation of authority, subject to budget availability.

The following summarises the approved governance process:

- Sponsorship Desk (Recommends all assets for approval)
- Sponsorship Approval Committee (Approves up to R3m)
- Enterprise Development Exco (For noting on strategy, policy and procedural governance, risk and compliance issues)
- Eskom Exco (Regular Reporting on all sponsorships)



	<b>SUBMISSION ESKOM SPONSORSHIP PRACTICE NOTE</b>	Unique Identifier	221-222
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- Assurance and Forensic (Bi-annual review of compliance)

## 5. FINANCIAL IMPLICATIONS

The only new financial implications will be the leveraging and monitoring costs which will be added onto the rights/association fees for all the proposed sponsorships.

## 6. HUMAN RESOURCES IMPLICATIONS

There are no additional human resources required, over and above what has already been budgeted for, however there will be less work for human resources in sponsorships as they'll be fewer requests to evaluate and/or leverage.

## 7. RISKS INCLUDE THE FOLLOWING:

There might be requests from shareholder and others whose non-involvement might place a reputational risk on certain relationships Eskom might already have with various stakeholders.

In order to mitigate the risk, it is critical that Eskom's position on sponsorships for the next 5yrs be established and communicated to all relevant stakeholders so such reputational risks can be minimised.

## 8. VERIFICATION BY INDEPENDENT PARTY (if applicable)

Not applicable.

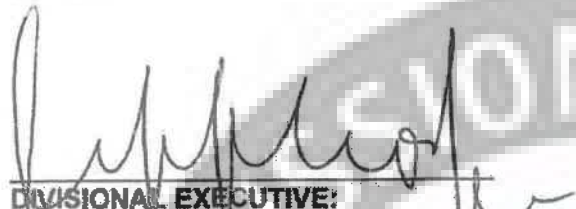
## 9. OTHER APPROVALS REQUIRED

None



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		Revision	4
		Effective Date	November 2010
		Corporate Affairs Division	

SIGNED



**DIVISIONAL EXECUTIVE:  
CORPORATE AFFAIRS**

Who hereby represents that the above  
information is correct.

23/7/2014  
DATE

Submission prepared by:  
Contact Number:

Phumi Dhlomo  
(011) 516 7861

Sizwe  
Ntsaluba  
Gobodo



AUDIT • ADVISORY • FORENSICS

## ANNEXURE 9



# AGREEMENT

Between

**TNA Media (PTY) LTD**

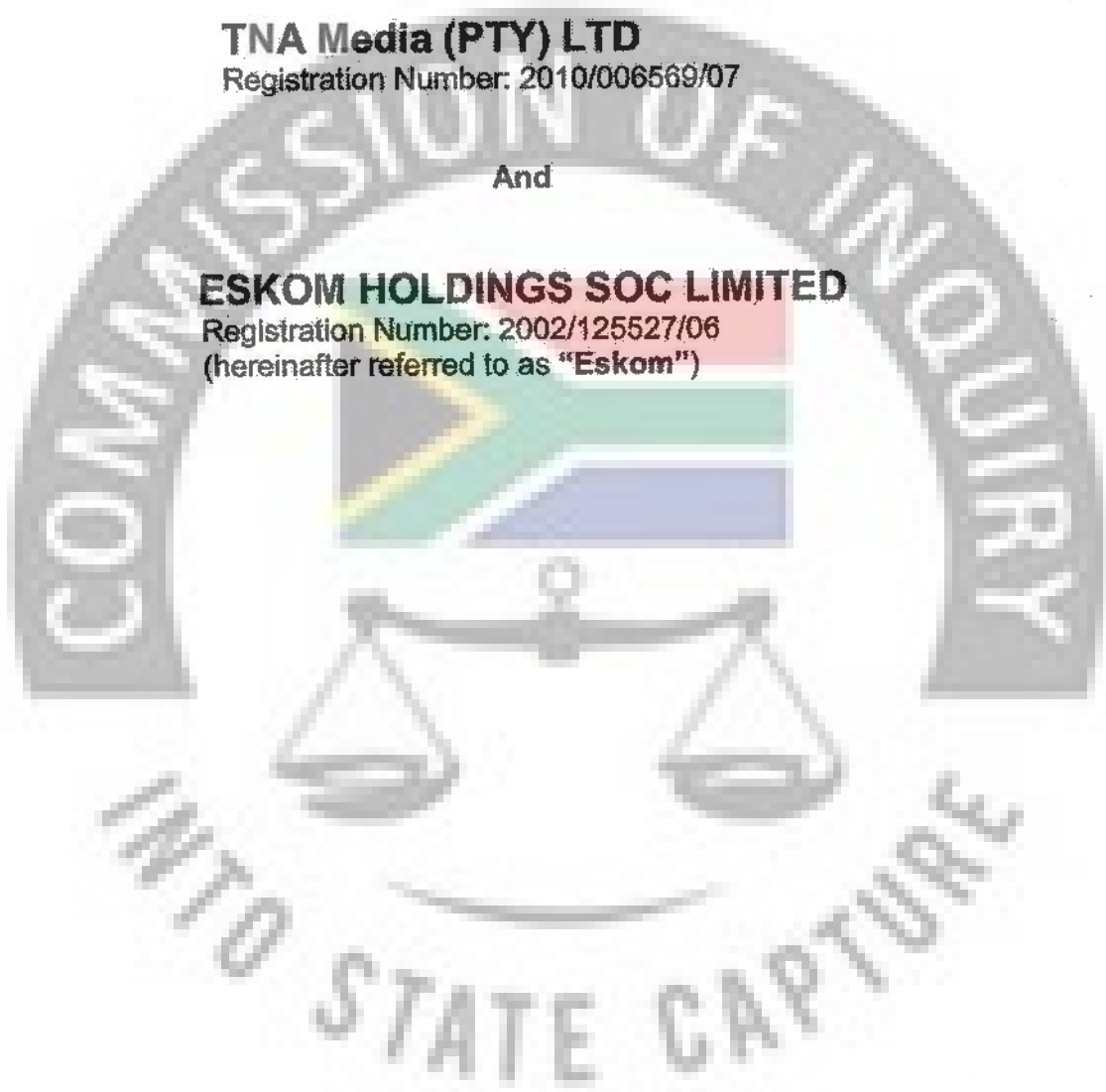
Registration Number: 2010/006569/07

And

**ESKOM HOLDINGS SOC LIMITED**

Registration Number: 2002/125527/06

(hereinafter referred to as "Eskom")



## BACKGROUND

1. TNA Media was established in June 2010 and released its first publication, The New Age on 6 December 2010. The New Age is the only truly South African newspaper. In addition to its mission of being Proudly South African, with its positive positioning around the future of our country, The New Age is ideally positioned to partner Eskom in disseminating its message to ordinary South African's across the length and breadth of South Africa. It is also the only newspaper to dedicate specific space to each province every day, and copies are distributed daily in each of the provinces containing content generated by staff based locally.
2. Eskom wishes to participate in the aims and objectives of TNA Media (PTY) LTD through the sponsorship of the business briefings.
3. The parties have agreed on the terms and conditions applicable to such sponsorship, which agreement the parties wish to record in writing.

## IT IS THEREFORE AGREED AS FOLLOWS:

### 1 DEFINITIONS

- 1.1. Clause headings are for convenience only and shall not be taken into account when interpreting the agreement.
- 1.2. Unless the contract indicates the contrary, any expression which denotes
  - 1.2.1 The singular shall include the plural and vice versa.
  - 1.2.2 Any gender includes the other gender.
- 1.3 When any number of days are prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.4 When figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.5 Unless the context in the agreement clearly indicates a contrary intention, the following expressions shall bear the meanings set out below:
  - 1.5.1 "The Agreement" means this agreement including all annexures; attached from time to time and signed by both parties.
  - 1.5.2 "Effective Date" means 1<sup>st</sup> of May 2014;



1.5.3 "TNA Media " shall mean TNA Media Pty Ltd, a company duly incorporated in accordance with the company laws of the Republic of South Africa, registration number (2010/006569/07) with its office at 52 Lechwe Street, Corporate Park South, Midrand, Old Pretoria Main Road, Midrand 1685.

1.5.4 "Eskom" shall mean Eskom Holdings SOC Limited, a company duly incorporated in accordance with the company laws of the Republic of South Africa, Registration No: 2002/125527/06, with its registered office at Megawatt Park, Maxwell Drive, Sunninghill Ext 3, and Sandton

1.5.5 "Parties" shall mean Eskom and TNA Media.

## **2 DURATION**

2.1 This Agreement shall commence on the Effective Date, and shall continue for a period of 3 (three) years and terminate on 30 April 2017, unless otherwise terminated earlier by either Party on 30 (thirty) days written notice.

2.2 Eskom reserves the right to withdraw its sponsorship at any time in the event of a breach by TNA Media of any of the terms of this agreement as per clause 9 of this Agreement or as per clause 12.2 of this Agreement.

## **3 THE BUSINESS BRIEFINGS**

3.1 TNA Media is the rights holder in respect of the business briefings.

3.2 TNA Media will manage the marketing campaign and activities of the business briefings

3.3 TNA Media will in consultation with Eskom decide, on all guests speakers for the business briefing. TNA Media will determine the dates, times, and venues for the activities of the business briefing events

## **4 SPONSORSHIP FEE**

In consideration for the rights granted in terms of this agreement,

4.1 Eskom shall pay TNA Media an amount of R 43, 200 000 00 ( Forty three Million, Two Hundred Thousand Rand only), excluding VAT for 36 business briefing events, at the cost of R 1,200 000 (One Million and Two Hundred Thousand Rand only) each, as the sponsorship fee.

4.2 The sponsorship fee shall be payable as follows:

4.2.1 An amount of R 1.200 000 (One Million and Two Hundred Thousand Rand only) for each business briefing event and with each payment of R 1.200 000 ( One Million and Two Hundred Thousand Rand only ) payable within 30 ( thirty) days after each business briefing event and receipt of tax invoice ;

4.3 The sponsorship fee shall be payable, by Electronic Funds Transfer (EFT) :

4.3.1 the following bank details will be used to effect payment:

TNA Media Pty Ltd  
ABSA Bank  
Account number: 4066462329  
Branch code: 331155

4.4 TNA shall use the sponsorship fee as set out above for the business briefings.

## 5. TNA's RESPONSIBILITIES

5.1 TNA Media will grant Eskom the following:

- 5.1.1 Live broadcasts of the event for at least 60 minutes
- 5.1.2 Advertisements in The New Age
- 5.1.3 2 x tables of 10 guests each
- 5.1.4 Banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za)
- 5.1.5 Use of Social Media
- 5.1.6 Logo's on all invitations
- 5.1.7 6 pull up banners at event
- 5.1.8 2 guests to be placed on the main table
- 5.1.9 Sponsor speech from podium before event broadcast

## 6 INDEMNITY AND LIABILITY

6.1 TNA Media undertakes that during the currency of this Agreement;

- 6.1.1 It will take all necessary steps to ensure that no act by any of its officials, volunteers, agents or nominees will be detrimental or harmful to the "Eskom" name or will bring Eskom into disrepute. Further TNA Media indemnifies Eskom against any claim and costs payable due to negligence or fault of TNA Media, its officials, volunteers, agents or nominees and arising out of an infringement by TNA Media of the rights of others.

6.1.2 It will act in good faith and support all matters relating to the advertising, promotion and participation by Eskom in the business briefings.

6.3 Eskom undertakes during the currency of this Agreement that:

6.3.1 It will take steps to ensure that no act by any of its employees, representatives or nominees will be detrimental or harmful to the business briefings events or will bring TNA Media into disrepute. Further Eskom indemnifies TNA against any claim due to negligence or fault of Eskom, its employees, representatives or nominees arising from the infringement of the rights of others ; and

6.3.2 It will act in good faith and support all matters relating to the activities of TNA Media associated with the business briefings.

## 7 TRADE MARK

7.1 TNA Media shall not use any Eskom trademark, symbol, logo or design get up or branding without Eskom's prior written consent. Eskom hereby grants to TNA Media revocable and non-exclusive approval to use its name, logo and any other artwork or other items of intellectual property, which Eskom may make available to TNA Media for the purposes described in this agreement, in any and all media. The approval is valid for the duration of this agreement and may be revoked at any time by written notice from Eskom to TNA Media.

7.2 The revocation of the approval referred to in 7.1 above shall apply prospectively to future use and/or publication of such material, but shall not apply to any material already published and/or printed.

7.3 The approval herein shall survive the termination of this agreement in relation to any published and/or printed material that exist at the time of such termination.

7.4 TNA Media shall not be entitled to cede, assign or in any way, avail the approval granted in terms of this clause to any third party without Eskom's written consent.

7.5 All intellectual property rights of any nature whatsoever whether capable of registration or not (whether registered or not) in the Eskom name. Eskom marks, logo, image and all other matters relating to Eskom shall remain the sole property of Eskom and TNA Media shall not acquire any right in relation to such intellectual property

## **8 CONFIDENTIALITY**

The parties agree that all details relating to the sponsorship by Eskom in terms hereof shall remain confidential and shall not be made known unless Eskom gives written consent.

## **9 BREACH**

9.1 Either party shall be entitled to cancel this Agreement in the event of the other party being guilty of a breach of any of the terms of this Agreement and failing to remedy such breach within 14 (fourteen) days of having been called upon in writing by the other party to do so.

9.2 Should the business briefings cease and the marketing campaign be cancelled for any reason whatsoever or should Eskom withdraw its sponsorship, TNA Media shall ensure that the Eskom name, logo or symbols are not used or associated in any way with TNA Media activities as governed by this agreement.

## **10 FORCE MAJEURE**

10.1 TNA Media shall not be responsible for the cancellation or postponement of the business briefings in the event that such cancellation is caused by acts of God and/or acts beyond the reasonable control of TNA Media such as war, civil disturbance and such non-performance will not be a default under this agreement nor a ground for termination of this Agreement.

10.2 In the event of any one of the acts mentioned in 12.1 above arising, TNA Media shall notify Eskom in writing within 48 hours of having knowledge of such act.

## **11. CESSION**

11.1 Neither party may cede and delegate any of its rights and obligations (including liabilities) under this agreement to any person without the written consent of the other party.

11.2 Notwithstanding the above, Eskom may on written notice to the other party cede and delegate its rights and obligations under this agreement to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the electrical supply industry and the Electricity distribution Industry.



## 12 TERMINATION

12.1 Notwithstanding anything to the contrary set out in this Agreement, either party shall have the right to terminate this Agreement by notice in writing to the other, within 15 (fifteen) of the date upon which it becomes aware of the occurrence of the events, if:

12.1.1 the other party shall be declared bankrupt or , or go into liquidation, either compulsory or voluntary (other than for the purposes of reconstruction or amalgamation); or other party passes a resolution to be placed under business rescue or any application is threatened or lodged for its placement into business rescue or under business rescue supervision.

12.1.2 Any administrative receiver or similar officer is appointed in respect of the whole or part of its assets or if either party shall make any voluntary arrangement or composition with its creditors generally or any similar actions shall be taken or enforced against either party.

12.2 Eskom will have the right to terminate this Agreement on 30 (thirty) days written notice of its intention to terminate , which Eskom will be entitled to exercise for any reason whatsoever at its sole discretion.

## 13 ARBITRATION

13.1 Should any dispute or difference arise out of or in connection with this agreement, or its interpretation, the parties shall endeavour to resolve such dispute or difference in an amicable manner. In the event that the dispute or difference is not resolved, either party may at any time by written notice inform the other that such dispute remains unresolved and request that the matter be determined by a third party (arbitrator), in terms of what is set out below, unless otherwise agreed in writing between the parties

13.2 The parties shall within 30 (thirty) days of the notice referred to above agree on a person or persons to act as arbitrator in the matter.

13.3 In the event that the parties are unable to agree on the arbitrator within 30 (thirty) days of the date of the notice referred to above, then in such an event either party may in writing request that the President of the Arbitration Foundation of Southern Africa (AFSA) appoint a suitable arbitrator to act herein.

13.4 The proceedings shall be held at a venue within the area of Johannesburg or Pretoria and unless otherwise agreed by the parties, in accordance with the formalities and the procedures determined by the arbitrator.

13.5 Unless the parties agree on terms of reference, procedures for the arbitration and any other matter relating to the arbitration within 14 (fourteen) days of the appointment of the arbitrator, a meeting shall forthwith be convened by the arbitrator with the parties to:

13.5.1 Determine the terms of reference for the arbitration;

13.5.2 Determine the procedures for the conduct of the arbitration;

13.5.3 Determine any other matter necessary.

13.4 In the event that the parties fail or are unable to agree on any of the matters referred to above, the arbitrator shall be entitled to make a determination on such issues, subject to clause 13.7 below.

13.5 Unless otherwise agreed to by the parties, the rules of the Arbitration Foundation of Southern Africa (AFSA) shall apply to the arbitration proceedings and any other matter related thereto.

## 14 DOMICILE

14.1 Each party chooses its domicilium citandi et executandi ("domicilium") for all purposes under this Agreement, whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement ("notice"), as follows:

Eskom:	Megawatt Park, Maxwell Drive, Sunninghill
Postal address:	PO Box 1091, Johannesburg 2000, RSA
Tel No.:	+27 11 800 4585
Fax No.:	+27 11 800 5803
Attention:	Collin Matjila
E-mail:	MatjilMC@eskom.co.za
Website:	www.eskom.co.za

TNA Media:	52 Lechwe Street, Corporate Park South, Midrand
Postal address:	5728 Halfway House, Midrand, 1685
Tel No.:	011 542 1222
Attention:	Nazeem Howa
Email:	nazeemh@tnamedia.co.za
Website:	www.thenewage.co.za

14.2 Any notice required or permitted to be given under this Agreement shall be valid and effective only if in writing and shall:

14.2.1 If delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

14.2.2 If posted by pre-paid registered post be deemed to have been duly received by the addressee on the 7<sup>th</sup> (seventh) day following the date of such posting; or

14.2.3 If successfully transmitted by facsimile be deemed to have been received by the addressee 1 (one) day after dispatch.

14.3 Notwithstanding anything to the contrary contained in this Agreement, written notice of communication actually received by one party from the other party including by way of facsimile transmission shall be adequate written notice of communication to such party.

14.4 Any party may by notice to the other party change its domicilium to another physical address and such change shall take effect on the 7<sup>th</sup> (seventh) day after the date of receipt by the party who last receives the notice.

## 15 GENERAL

15.1 This Agreement constitutes the sole record of the agreement between the parties with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein

15.2 No addition to or variation of, or agreed cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.

15.3 No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of that party and shall preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

15.4 This agreement shall be governed by the laws of the Republic of South Africa.

15.5 The parties shall in their dealings with each other display good faith.

Signed at ..... on this ..... day of ..... 20.....

AS WITNESSES:

1. \_\_\_\_\_

for: **TNA Media (PTY) LTD**  
he/she being duly authorised

2. \_\_\_\_\_

Signed at ..... on this ..... day of ..... 20.....

AS WITNESSES:

1. \_\_\_\_\_

for: **ESKOM HOLDINGS SOC  
LIMITED**

he/she being duly authorised

2. \_\_\_\_\_







## ANNEXURE 10



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=**

**From:** Chose Choeu <ChoeuC@eskom.co.za>  
**Sent:** 29 April 2014 01:39 PM  
**To:** Mohamed Adam; Neo Tsholanku; Fehmidah Koor  
**Subject:** FW: Fw: Sponsorship Contract\_TNA2014\_rev9\_revied by Legal DeptFKfinal  
**Attachments:** Sponsorship Contract\_TNA2014\_rev9\_revied by Legal DeptFKfinal.doc

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Fehmidah,

Please refer to mail from TNA below and assist respond.

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Nazeem Howa [mailto:[nazeemh@tamedia.co.za](mailto:nazeemh@tamedia.co.za)]  
**Sent:** Tuesday, April 29, 2014 1:26 PM  
**To:** Chose Choeu  
**Subject:** Fwd: Fw: Sponsorship Contract\_TNA2014\_rev9\_revied by Legal DeptFKfinal

Hi Chose

Thank you for taking my call earlier about the current draft which is little bit different to the one agreed between us previously.

On reading it, the changes noted include:

Paragraph 2.1 in which a termination clause has been added. Our understanding is that paragraph 2.2 with its breach conditions would cover termination.

Paragraph 12.2. We are 100 % behind termination based on breach, but have some difficulty with the introduction of this kind of clause which was not included in the previous versions or agreements.

I am sure this is an oversight in drafting and is easily correctable after which I would be happy to receive a corrected version.

Nazeem Howa  
[nazeemh@tamedia.co.za](mailto:nazeemh@tamedia.co.za)

(t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Fehmidah Koor  
**Sent:** Thursday, April 24, 2014 12:02 PM  
**To:** Phillie Dlamini  
**Cc:** Neo Tsholanku  
**Subject:** Re: Sponsorship

Dear Phillie

I have revised the payment clause to link it to each event and strengthen the right to cancel in terms of clause 12.2.  
 I have enclosed version 9 of the draft agreement.

Neo,

Please review and advise if you have any comments. I am not certain of Mohameds comment regarding PAJA.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)



**From:** Phillie Dlamini  
**Sent:** 24 April 2014 11:54 AM  
**To:** Fehmidah Koor; Tantaswa Mtombeni  
**Cc:** Neo Tsholanku  
**Subject:** RE: Re: Sponsorship-VAT

Hi Tantaswa,

its okay, I managed to sort it out with finance. They advised that:

- In the wording of contracts, VAT is excluded from the Rand values because SAP budgets are done excluding VAT;
- Eskom pays VAT on receipt of a Tax Invoice (the only time we don't pay VAT is if it's a donation);
- The Tax Department recovers tax from SARS.

The contract adequately addresses VAT, in that all clauses relating to prices exclude VAT.

Apologies for the late response.

Regards,  
 Phillie

**From:** Fehmidah Koor  
**Sent:** 24 April 2014 11:04 AM  
**To:** Tantaswa Mtombeni

**Cc:** Neo Tsholanku; Philile Dlamini  
**Subject:** RE: Re: Sponsorship-VAT

Philile

Please advise Tantaswa so that she can advise on the VAT.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

---

**From:** Tantaswa Mtombeni  
**Sent:** 24 April 2014 10:09 AM  
**To:** Fehmidah Koor  
**Cc:** Philile Dlamini; Neo Tsholanku  
**Subject:** RE: Re: Sponsorship-VAT

Fehmidah,

Please note that I am still waiting for further details in respect to your matter. A contract, if there is any, will be a good start.

Thanks and regards,

Tantaswa.

---

**From:** Fehmidah Koor  
**Sent:** 23 April 2014 09:22 AM  
**To:** Tantaswa Mtombeni  
**Cc:** Philile Dlamini; Neo Tsholanku  
**Subject:** Re: Sponsorship-VAT

Dear Tantaswa

I have referred to you by my GM Neo Tsholanku.

Eskom is sponsoring an business event. We would like to know whether or not sponsorships attract vat?

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=I**

**From:** Fehmidah Koor <KoorF@eskom.co.za>  
**Sent:** 30 October 2014 01:15 PM  
**To:** Werner Roos  
**Cc:** Malesela Phukubje  
**Subject:** FW: Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal  
**Attachments:** Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal.doc

Hi Werner

As requested , please find see attached version 9 and email below.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

**From:** Chose Choeu  
**Sent:** 29 April 2014 11:51 AM  
**To:** [wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za); Fehmidah Koor; Phillie Dlamini  
**Subject:** Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal

Hi Wiedaad,

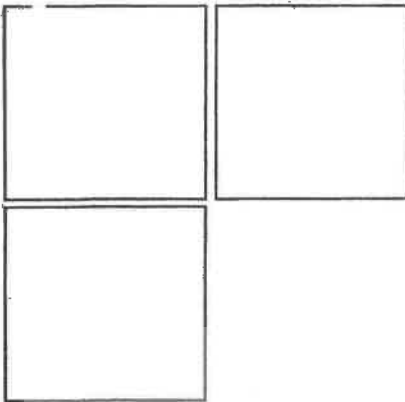
A clean copy (final) attached: please peruse and sign.

Best regards,

Chose

I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

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From: wiedaad <[wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za)>

Date: 29 April 2014 12:58

Subject: Fw: Sponsorship Contract\_TNA2014\_rev9\_revied by Legal DeptFKfinal

To: Nazeem Howa <[nazeemh@tnamedia.co.za](mailto:nazeemh@tnamedia.co.za)>

Sent via my BlackBerry from Vodacom - let your email find you!

---

From: Chose Choeu <[ChoeuC@eskom.co.za](mailto:ChoeuC@eskom.co.za)>

Date: Tue, 29 Apr 2014 09:50:30 +0000

To: [wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za) <[wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za)>; Fehmidah Koor <[KoorF@eskom.co.za](mailto:KoorF@eskom.co.za)>;

Philile Dlamini <[DlaminPN@eskom.co.za](mailto:DlaminPN@eskom.co.za)>

Subject: Sponsorship Contract\_TNA2014\_rev9\_revied by Legal DeptFKfinal

Hi Wiedaad,

A clean copy (final) attached: please peruse and sign.

Best regards,

Chose

I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

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which can be viewed at [http://www.eskom.co.za/e-mail\\_legalnotice](http://www.eskom.co.za/e-mail_legalnotice)



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=**

**From:** Fehmidah Koor <KoorF@eskom.co.za>  
**Sent:** 30 October 2014 10:38 AM  
**To:** Fehmidah Koor  
**Subject:** FW: Fw: Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal

**From:** Mohamed Adam  
**Sent:** 29 April 2014 02:19 PM  
**To:** Chose Choeu; Neo Tsholanku; Fehmidah Koor  
**Subject:** RE: Fw: Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal

Chose, you need to make a call based on the commercial need.

It was not an oversight – it was deliberately drafted to allow for cancellation on 30 days notice. I would recommend retaining our wording.

Mohamed Adam  
 Corporate Counsel/Divisional executive (Regulation and Legal)  
 Eskom  
 Phone: +2711 800-6076  
 Fax: +2711 800-5529

**From:** Chose Choeu  
**Sent:** Tuesday, April 29, 2014 1:39 PM  
**To:** Mohamed Adam; Neo Tsholanku; Fehmidah Koor  
**Subject:** FW: Fw: Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal  
**Importance:** High

Hi Fehmidah,

Please refer to mail from TNA below and assist respond.

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Nazeem Howa [<mailto:nazeemh@tnamedia.co.za>]  
**Sent:** Tuesday, April 29, 2014 1:26 PM  
**To:** Chose Choeu  
**Subject:** Fwd: Fw: Sponsorship Contract\_TNA2014\_rev9\_revived by Legal DeptFKfinal

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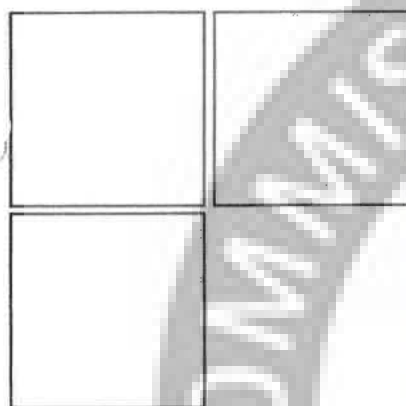


Paragraph 2.1 in which a termination clause has been added. Our understanding is that paragraph 2.2 with its breach conditions would cover termination.

Paragraph 12.2. We are 100 % behind termination based on breach, but have some difficulty with the introduction of this kind of clause which was not included in the previous versions or agreements.

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Nazeem Howa  
[nazeemh@tnamedia.co.za](mailto:nazeemh@tnamedia.co.za)




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From: wiedaad <[wiedaad@tnamedia.co.za](mailto:wiedaad@tnamedia.co.za)>

Date: 29 April 2014 12:58

Subject: Fw: Sponsorship Contract\_TNA2014\_rev9\_reviwed by Legal DeptFKfinal

To: Nazeem Howa <[nazeemh@tnamedia.co.za](mailto:nazeemh@tnamedia.co.za)>

Sent via my BlackBerry from Vodacom - let your email find you!

**From:** Phille Dlamini  
**Sent:** 22 April 2014 04:33 PM  
**To:** 'Wiedaad Taliep'  
**Subject:** Sponsorship Contract\_TNA2014\_rev5\_revied by Legal DeptFK.doc

Hi Wiedaad,

please review and comment.

Our Legal Dept has advised that inflation cannot be covered by the contract because the sponsorship price has been agreed upon. Furthermore, there is no agent between us, hence they have removed the "agency fees".

Regards,

Phille

I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

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I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

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**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=I**

**From:** Chose Choeu <ChoeuC@eskom.co.za>  
**Sent:** 29 April 2014 09:30 AM  
**To:** Fehmidah Koor; Philile Dlamini  
**Cc:** Freddy Ndou  
**Subject:** RE: Sponsorship Contract\_TNA2014

Where is version 9?

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Fehmidah Koor  
**Sent:** Tuesday, April 29, 2014 9:01 AM  
**To:** Philile Dlamini  
**Cc:** Chose Choeu; Freddy Ndou  
**Subject:** RE: Sponsorship Contract\_TNA2014

Hi Phillie

It is correct then version 9 would apply.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

**From:** Phillie Dlamini  
**Sent:** 27 April 2014 12:55 PM  
**To:** Fehmidah Koor  
**Cc:** Chose Choeu; Freddy Ndou  
**Subject:** FW: Sponsorship Contract\_TNA2014

Hi Fehmidah,

apologies for the vacillation. TNA are reinstating the R1.2M – please refer to the note below.

I suppose this would mean that version 9 of the contract, currently with the CE's office would then be the final one.

Please confirm that this is correct.

Regards,  
 Phillie

**From:** wiedaad [<mailto:wiedaad@tnamedia.co.za>]  
**Sent:** 25 April 2014 09:53 PM  
**To:** Philile Dlamini  
**Subject:** Re: Sponsorship Contract\_TNA2014

Dear Philile

I am sorry to send you this email so late.

I have since discussed the contract with my management and it seems that I have misunderstood the discussion with my CEO.

The discounted rate only applies in the case of Eskom increasing the frequency of briefings in excess of 20 business briefings per year.

My apologies for the misunderstanding and the email sent in error which I now need to withdraw.

Please can we ensure the signing of the contract as a matter of urgency.

Regards

Wiedaad

Sent via my BlackBerry from Vodacom - let your email find you!





**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=I**

**From:** Chose Choeu <ChoeuC@eskom.co.za>  
**Sent:** 29 April 2014 09:57 AM  
**To:** wiedaadt@tnamedia.co.za; Fehmidah Koor; Philile Dlamini  
**Cc:** Freddy Ndou  
**Subject:** Sponsorship  
**Attachments:** Sponsorship Contract\_TNA2014\_rev9\_revied by Legal DeptFK.doc  
**Importance:** High

Hi Wiedaad and Philile,

Please ensure that our principals here and at TNA sign the attached asap.

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Fehmidah Koor  
**Sent:** Thursday, April 24, 2014 12:02 PM  
**To:** Philile Dlamini  
**Cc:** Neo Tsholanku  
**Subject:** Re: Sponsorship

Dear Philile

I have revised the payment clause to link it to each event and strengthen the right to cancel in terms of clause 12.2.  
 I have enclosed version 9 of the draft agreement.

Neo,

Please review and advise if you have any comments. I am not certain of Mohameds comment regarding PAJA.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

**From:** Philile Dlamini  
**Sent:** 24 April 2014 11:54 AM  
**To:** Fehmidah Koor; Tantaswa Mtombeni  
**Cc:** Neo Tsholanku  
**Subject:** RE: Re: Sponsorship-VAT

Hi Tanaswa,

Its okay, I managed to sort it out with finance. They advised that:

- In the wording of contracts, VAT is excluded from the Rand values because SAP budgets are done excluding VAT;
- Eskom pays VAT on receipt of a Tax Invoice (the only time we don't pay VAT is if it's a donation);
- The Tax Department recovers tax from SARS.

The contract adequately addresses VAT, in that all clauses relating to prices exclude VAT.

Apologies for the late response.

Regards,  
Philile

---

**From:** Fehmidah Koor  
**Sent:** 24 April 2014 11:04 AM  
**To:** Tantaswa Mtombeni  
**Cc:** Neo Tsholanku; Philile Dlamini  
**Subject:** RE: Re: Sponsorship-VAT

Philile

Please advise Tantaswa so that she can advise on the VAT.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

---

**From:** Tantaswa Mtombeni  
**Sent:** 24 April 2014 10:09 AM  
**To:** Fehmidah Koor  
**Cc:** Philile Dlamini; Neo Tsholanku  
**Subject:** RE: Re: Sponsorship-VAT

Fehmidah,

Please note that I am still waiting for further details in respect to your matter. A contract, if there is any, will be a good start.

Thanks and regards,

Tantaswa.

---

**From:** Fehmidah Koor  
**Sent:** 23 April 2014 09:22 AM  
**To:** Tantaswa Mtombeni

**Cc:** Philile Dlamini; Neo Tsholanku

**Subject:** Re: Sponsorship-VAT

Dear Tantaswa

I have referred to you by my GM Neo Tsholanku .

Eskom is sponsoring an business event. We would like to know whether or not sponsorships attract vat?

Fehmidah Koor

Chief Legal Advisor

Legal and Compliance Dept

Eskom Holdings SOC Limited

Tel: 011 800-4628

Cel: 082 3306907

Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=I**

**From:** Chose Choeu <ChoeuC@eskom.co.za>  
**Sent:** 29 April 2014 10:57 AM  
**To:** Fehmidah Koor; Philile Dlamini  
**Subject:** RE: Sponsorship

**Importance:** High

Hi Fehmidah,

You may want to call her at 082 689 2972 – and ask her to send a clean copy to Wiedaad.

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Fehmidah Koor  
**Sent:** Tuesday, April 29, 2014 10:55 AM  
**To:** Chose Choeu  
**Subject:** RE: Sponsorship

Dear Chose

The version you forwarded to the team for signature is in draft form and Philile has the clean version 9. I am trying to clean the document and remove the track changes.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

---

**From:** Chose Choeu  
**Sent:** 29 April 2014 09:57 AM  
**To:** [wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za); Fehmidah Koor; Philile Dlamini  
**Cc:** Freddy Ndou  
**Subject:** S  
 ponsorship  
**Importance:** High

Hi Wiedaad and Philile,

Please ensure that our principals here and at TNA sign the attached asap.

Chose Choeu  
 Divisional Executive: Corporate Affairs



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=f**

**From:** Mohamed Adam <AdamM@eskom.co.za>  
**Sent:** 24 April 2014 11:08 AM  
**To:** Fehmidah Koor; Neo Tsholanku  
**Subject:** TNA

Fehmida perhaps the best way to deal with the notice issue is to say that the agreement is for 3 years unless terminated by either party on 30 days written notice. Then align the other sections and you build in the discretion by either party etc.

Mohamed Adam  
Corporate Counsel/Divisional executive (Regulation and Legal)  
Eskom  
Phone: +2711 800-6076  
Fax: +2711 800-5529



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=I**

**From:** Mohamed Adam <AdamM@eskom.co.za>  
**Sent:** 24 April 2014 11:10 AM  
**To:** Fehmidah Koor  
**Subject:** RE: TNA

Thanks

Mohamed Adam  
 Corporate Counsel/Divisional executive (Regulation and Legal)  
 Eskom  
 Phone: +2711 800-6076  
 Fax: +2711 800-5529

**From:** Fehmidah Koor  
**Sent:** Thursday, April 24, 2014 11:09 AM  
**To:** Mohamed Adam; Neo Tsholanku  
**Subject:** RE: TNA

Hi Mohamed

We will attend to do so.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

**From:** Mohamed Adam  
**Sent:** 24 April 2014 11:08 AM  
**To:** Fehmidah Koor; Neo Tsholanku  
**Subject:** TNA

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Mohamed Adam  
 Corporate Counsel/Divisional executive (Regulation and Legal)  
 Eskom  
 Phone: +2711 800-6076  
 Fax: +2711 800-5529

**Werner Roos**

**From:** Fehmidah Koor <KoorF@eskom.co.za>  
**Sent:** 24 April 2014 05:48 PM  
**To:** Chose Choeu  
**Cc:** Neo Tsholanku; Philile Dlamini  
**Subject:** RE: Sponsorship

**Importance:** High

Dear Chose

Please be advised that as per the Delegation of authority, the CE is the one authorised to sign the sponsorship agreement on behalf of Eskom as the sponsorship exceeds R 3 Million. Furthermore, the CE is required to do so in consultation with EXCO or he can delegate to ICAS.

The sponsorship in excess of R 3 Million must be subject to the approved budget.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)



**From:** Fehmidah Koor  
**Sent:** 24 April 2014 12:13 PM  
**To:** Philile Dlamini  
**Cc:** Neo Tsholanku  
**Subject:** RE: Sponsorship

Hi Philile

I mad the changes as per Mohamed Instructions on payment and the issue relating cancellation for convenience. Please advise what you require from us as version 8 was drafted as per your instructions.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

**From:** Phillie Dlamini  
**Sent:** 24 April 2014 12:10 PM  
**To:** Fehmidah Koor  
**Cc:** Neo Tsholanku  
**Subject:** RE: Sponsorship

Hi Fehmidah,

the contract version 8 was sent to the CE earlier.

I think I will wait and see what he says now. There was a strong preference for the "year one", "year two" and "year three" payment per version 8.

Is there a significant difference between the two versions?

Regards,  
 Phillie

**From:** Fehmidah Koor  
**Sent:** 24 April 2014 12:02 PM  
**To:** Phillie Dlamini  
**Cc:** Neo Tsholanku  
**Subject:** Re: Sponsorship

Dear Phillie

I have revised the payment clause to link it to each event and strengthen the right to cancel in terms of clause 12.2. I have enclosed version 9 of the draft agreement.

Neo,

Please review and advise if you have any comments. I am not certain of Mohameds comment regarding PAJA.

Fehmidah Koor  
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 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
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**From:** Phillie Dlamini  
**Sent:** 24 April 2014 11:54 AM  
**To:** Fehmidah Koor; Tantaswa Mtombeni  
**Cc:** Neo Tsholanku  
**Subject:** RE: Re: Sponsorship-VAT

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---

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**To:** Tantaswa Mtombeni  
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Phillile

Please advise Tantaswa so that she can advise on the VAT.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
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 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

---

**From:** Tantaswa Mtombeni  
**Sent:** 24 April 2014 10:09 AM  
**To:** Fehmidah Koor  
**Cc:** Phillile Dlamini; Neo Tsholanku  
**Subject:** RE: Re: Sponsorship-VAT

Fehmidah,

Please note that I am still waiting for further details in respect to your matter. A contract, if there is any, will be a good start.

Thanks and regards,

Tantaswa.

---

**From:** Fehmidah Koor  
**Sent:** 23 April 2014 09:22 AM  
**To:** Tantaswa Mtombeni  
**Cc:** Phillile Dlamini; Neo Tsholanku  
**Subject:** Re: Sponsorship-VAT

Dear Tantaswa

I have referred to you by my GM Neo Tsholanku .

Eskom is sponsoring an business event. We would like to know whether or not sponsorships attract vat?

Fehmidah Koor  
Chief Legal Advisor  
Legal and Compliance Dept  
Eskom Holdings SOC Limited  
Tel: 011 800-4628  
Cel: 082 3306907  
Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)



**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=**

**From:** Chose Choeu <ChoeuC@eskom.co.za>  
**Sent:** 25 April 2014 01:48 PM  
**To:** Fehmidah Koor; Philile Dlamini  
**Subject:** FW: Sponsorship Contract\_TNA2014\_rev5\_revied by Legal DeptFK.doc

**Importance:** High

Hi Fehmidah,

Please action as per Freddy's request below. Please feel free to contact him directly should you need info regarding his request.

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852  
 (f) 086 662 9983  
 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Freddy Ndou  
**Sent:** Friday, April 25, 2014 1:44 PM  
**To:** Chose Choeu; Philile Dlamini  
**Cc:** Collin Matjila  
**Subject:** RE: Sponsorship Contract\_TNA2014\_rev5\_revied by Legal DeptFK.doc

Hi Chose,

Thanks that's good news.

Can you please prepare a final hard copy for his attention. Chose, please confirm also who signs this contract and this must be stipulated in final document.

Regards,  
 Freddy

**From:** Chose Choeu  
**Sent:** 25 April, 2014 13:38  
**To:** Freddy Ndou; Philile Dlamini  
**Cc:** Collin Matjila  
**Subject:** FW: Sponsorship Contract\_TNA2014\_rev5\_revied by Legal DeptFK.doc  
**Importance:** High

Hi Freddy,

Another change (positive) to the TNA contract. The TNA has decided to reduce the amount from R1 200 000 to R1 000 000. This may delay the signing by our CEO since legal will have to effect those changes. Please inform the CEO.

Chose Choeu  
 Divisional Executive: Corporate Affairs  
 (t) 011 800 3852

(f) 086 662 9983  
(e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

**From:** Philile Dlamini  
**Sent:** Friday, April 25, 2014 1:08 PM  
**To:** Chose Choeu  
**Subject:** FW: Sponsorship Contract\_TNA2014\_rev5\_revived by Legal DeptFK.doc

Sir,

The price has been revised. We'll update the contract.

**From:** Wiedaad Taliep [<mailto:wiedaadt@tnamedia.co.za>]  
**Sent:** 25 April 2014 12:58 PM  
**To:** Philile Dlamini  
**Subject:** Re: Sponsorship Contract\_TNA2014\_rev5\_revived by Legal DeptFK.doc

Hi Philile

The CEO has reviewed the contract and on the basis of the duration of the contract we have decided to reduce to cost from R1 200 000,00 ex vat to R1 000 000,00 ex vat.

please can you have legal update the contract accordingly and send back to me asap. My CEO will be travelling so i need the document urgently in order to get it signed.

If you have any further queries, please do not hesitate to contact me.

Warm Regards,

Wiedaad Taliep  
Business Development Manager  
[wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za)

011 542 1273  
079 765 9101


---

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On 23 April 2014 07:42, Philile Dlamini <[DlaminPN@eskom.co.za](mailto:DlaminPN@eskom.co.za)> wrote:

Hi Wiedaad,

please hang on to that and do not consider. I will send a revised version this morning after the meeting.

Regards,

Philile

---

**From:** Philile Dlamini  
**Sent:** 22 April 2014 04:33 PM  
**To:** 'Wiedaad Taliep'  
**Subject:** Sponsorship Contract\_TNA2014\_rev5\_revied by Legal DeptFK.doc

Hi Wiedaad,

please review and comment.

Our Legal Dept has advised that inflation cannot be covered by the contract because the sponsorship price has been agreed upon. Furthermore, there is no agent between us, hence they have removed the "agency fees".

Regards,

Philile

I'm part of the 49Million initiative.

<http://www.49Million.co.za>

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**/O=SIZWENTSALUBA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=I**

**From:** Fehmidah Koor <KoorF@eskom.co.za>  
**Sent:** 30 October 2014 01:18 PM  
**To:** Werner Roos  
**Cc:** Malesela Phukubje  
**Subject:** FW: Sponsorship Contract\_TNA2014\_rev5\_revied by Legal DeptFK.doc

**Importance:** High

Hi Werner

As requested, please find attached email below for your attention.

Fehmidah Koor  
 Chief Legal Advisor  
 Legal and Compliance Dept  
 Eskom Holdings SOC Limited  
 Tel: 011 800-4628  
 Cel: 082 3306907  
 Email: [koorf@eskom.co.za](mailto:koorf@eskom.co.za)

**From:** Chose Choeu  
**Sent:** 25 April 2014 01:48 PM  
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 Divisional Executive: Corporate Affairs  
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 (e) [chose.choeu@eskom.co.za](mailto:chose.choeu@eskom.co.za)

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**Cc:** Collin Matjila  
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Chose Choeu  
 Divisional Executive: Corporate Affairs  
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**To:** Chose Choeu  
**Subject:** FW: Sponsorship Contract\_TNA2014\_rev5\_revived by Legal DeptFK.doc

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**To:** Philile Dlamini  
**Subject:** Re: Sponsorship Contract\_TNA2014\_rev5\_revived by Legal DeptFK.doc

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If you have any further queries, please do not hesitate to contact me.

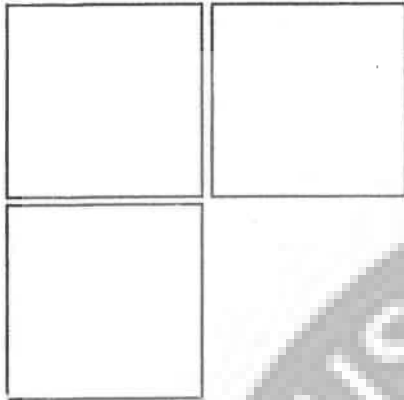
Warm Regards,

Wiedaad Taliep



Business Development Manager  
wiedaadt@tnamedia.co.za

011 542 1273  
 079 765 9101



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5. Finally, while TNA Media attempts to ensure that all email is virus-free, TNA Media accepts no liability for any damage caused by any virus transmitted by this email.

On 23 April 2014 07:42, Philile Dlamini <[DlaminPN@eskom.co.za](mailto:DlaminPN@eskom.co.za)> wrote:

Hi Wiedaad,

please hang on to that and do not consider. I will send a revised version this morning after the meeting.

Regards,

Philile



## ANNEXURE 11





Collin Matjila  
Interim Chief Executive  
Eskom Holdings SOC Limited

Date:  
9 April 2014

Enquiries:  
Tel +27 11 800 3852

Dear Collin

**49M CAMPAIGN: INVESTMENT IN TNA MEDIA (PTY) LTD BUSINESS BRIEFING BREAKFASTS**

**Background**

Eskom has been using the TNA Breakfast platform as part of the 49M campaign. The last contract we had with them on this is attached which was entered through an agency – The Media Shop.

I have also attached "The New Age Business Breakfast Sponsorship" proposal we have received from TNA Media for your consideration.

**Strategic Context**

49M is a catalyst for change – a social campaign that aims to encourage all South Africans to adopt energy efficient lifestyles and behaviours, the campaign aims to show South Africans how small simple changes can lead to making a huge difference for the country – economically, socially and environmentally.

Marketing objective: Reduce electricity consumption by 10%. Communication objective: Convince all South Africans to conserve electricity.

49M is an Eskom initiative, supported by Government, spurring an urgent need for all South Africans to embrace energy saving as a national culture, joining the global journey towards a sustainable future.

It is a call to action to every individual, every business, and every community throughout South Africa to get involved and lead the global journey to a sustainable future. This is a campaign that gets South Africans thinking about their power consumption. This a national movement – not merely an Eskom campaign.

Eskom's 49M's long-term electricity saving campaign will use education and awareness to create an environment in which all citizens are encouraged to harness their individual power to the benefit of themselves, their communities, and ultimately that of their nation.

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Eskom Holdings SOC Limited Reg No 2002015527/06



Corporate South Africa, retailers, communities, celebrities, and ordinary South Africans are being asked to "remember their power" to influence others and to remember their power by switching off when not in use.

The campaign elements are:

- Print advertising
- Television advertisements
- Radio advertisements
- Outdoor such as billboards and taxi branding
- Mall Activations
- Community events
- Partner events
- Social media and websites
- 49M Ambassadors
- Sponsorships
- 49M Charity Golf Day

TNA Media (Pty) Ltd ("TNA Media") independently owns and operates the New Age newspaper which is a national daily. TNA Media was established in June 2010 and first published on 6 December 2010.

The New Age newspaper covers news from all nine provinces, along with national events, Op-Ed columns, politics, Africa and international news, sports, business, entertainment, lifestyle, science and technology. The New Age newspaper is printed in 28-32 full colour pages in the international broadsheet format. The paper is printed in three different locations and distributed by South Africa's leading distributor, reaching most parts of the country and retails for R3.50 a copy.

The New Age is a member of the South African Press Council and subscribes to the South African Press Code, which calls for excellence in journalistic practice and ethics, and reporting that is truthful, accurate, fair and balanced.

#### Justification

Sponsorship is a form of marketing communication in which a brand is aligned with an activity or entity in order to exploit the commercial potential created by the association, thereby positively impacting brand image and/or sales among the sponsor's target markets in order to attain marketing and corporate objectives. Sponsorships are embarked upon for business reasons and therefore need to be leveraged, tracked, and measured to ascertain the return on investment that they are providing. Sponsorship is thus an investment which creates the expectation of future returns.

Eskom has issued warnings of a constrained power supply in the various media channels over the recent period. Thus the primary benefits of participating in this campaign are brand awareness for 49M and the opportunity to highlight the need to save electricity. Participation by Eskom will provide significant exposure through the communication channels identified and provide Eskom with the opportunity to engage private sector companies with corporate South Africa.



Further, Eskom will enjoy the following benefits:

- Enhance its standing with all Stakeholders around the country as well as emphasise key issues that affect Eskom.
- High level networking opportunities exist where executives from Eskom will be able to interact with senior government officials and executives at the Business Briefing Breakfasts.
- Business Briefing Breakfasts will bring Eskom executives and representatives closer to the organizations and individuals with decision making powers in the respective Government; Statutory Bodies; Regulators and Legislators in a congenial environment conducive to dialogue and engagement.

### Project Scope

TNA Media will grant Eskom the following:

- SABC2 Morning Live TV broadcasts of the event for at least 60 minutes
- Advertisements in The New Age
- 2 x tables of 10 guests each
- Banner advertisement on [www.thenewage.co.za](http://www.thenewage.co.za)
- Use of Social Media
- Logo's on all invitations
- 6 pull up banners at event
- 2 guests to be placed on the main table
- Sponsor speech from podium before event broadcast

### Costs

The total budget will be R 43, 200 000 (Forty three Million, Two Hundred Thousand Rand only), excluding VAT for 36 business briefing events, at the cost of R 1,200 000 (One Million and Two Hundred Thousand Rand only) each, as the sponsorship fee.

### Main Risks

Risk of public scrutiny as per the previous engagements. Eskom was investigated by the Public Protector for allegations of fruitless and wasteful expenditure by the Department of Public Enterprises. While Eskom submitted the required documentation to the office of the Public Protector, no further communication has been entered into.

### Contracting strategy

Eskom has received a proposal to use an agency The Media Shop to access the TNA Business Breakfast platform with an additional 17% agency fee per event. We are proposing that we engage directly with TNA Media and contract directly. This will save Eskom the additional 17% agency fee.

### Key assumptions

Recent research undertaken with regard to 49M indicated that opportunities such as the sponsorship of the business briefings contributed to an 87% awareness by the public of the 49M campaign. We are undertaking research to determine the megawatt savings as a result of such a high awareness level.

Key research findings indicated the following:

- A survey among 152 people who had attended a Business Briefing was conducted in February 2013.
- 9 in 10 respondents felt that the Business Briefings focus on critical issues of public interest.
- 87% of respondents said that the Business Briefings had either met or exceeded their expectations.
- 23% of respondents attended a Business Briefing due to an advertisement they saw in The New Age, while 35% were recommended by a friend or business associate.

86% had watched more than two Business Briefings on SABC 2 and 32% had attended more than two Business Briefings.

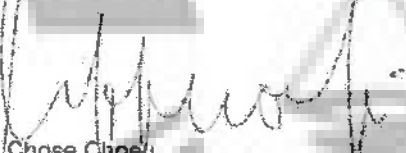
Events of this nature were attended by people from all sectors of the economy, senior leadership in both the private and public sector. By Eskom using its 49M branding campaign as its sponsorship tool, awareness was further enhanced around the use of electricity and energy efficiency.

Therefore continued use of this sponsorship tool, which has produced tangible results ought to be supported.

#### Recommendation

On the basis of the above, it is recommended that you approve the investment in the sponsorship request of R43 200 000 for 36 business briefings for a period of 36 months.

Mine sincerely



Chose Chose  
DIVISIONAL EXECUTIVE: CORPORATE AFFAIRS

Approved / Declined:



Collin Matjila  
INTERIM CHIEF EXECUTIVE



## ANNEXURE 12





*Final copy with legal*  
*→ Willie du Plessis*

Advocate Thuli Madonsela  
 Public Protector of the Republic of South Africa  
 Private Bag X677  
 PRETORIA  
 0001

Date:  
 21 October 2013

Enquiries:  
 Willie du Plessis  
 Tel+27 11 800 5375

DRAFT

Attention: Mr R Mataboge

Dear Adv Madonsela

**INVESTIGATION INTO ALLEGATIONS OF FRUITLESS AND WASTEFUL EXPENDITURE BY PUBLIC ENTERPRISES IN CONNECTION WITH THE SPONSORSHIPS OF SEVERAL TNA (THE NEW AGE) NEWSPAPER BREAKFAST BRIEFINGS HELD ON SABC2 MORNING LIVE PROGRAMME**

Your letter of 3 June 2013 to the Director General of Public Enterprises has been referred to Eskom for answering by the Minister of Public Enterprises.

Eskom was approached during the first quarter of 2012 by the New Age Newspaper (TNA) to sponsor some of the business briefing breakfasts it was arranging. The proposal contained a number of media exposures for a sponsor which included television (Morning Live on SABC2), radio stations, TNA and other media as can be seen from the proposal and contracts attached hereto and identified in the documents list, Annexure A. Eskom managed the sponsorships through Media Shop (Pty) Ltd its contracted media agency. Eskom used its electricity awareness campaign "49M" in the sponsorship. As the programme had an approved budget it was not necessary to obtain board approval for the sponsorship or normal sponsorship approval.

The 49M campaign is a marketing and business initiative that creates awareness on energy efficiency and encourages all South Africans to adopt energy efficiency initiatives. This was initiated in the light of the shortage of electricity in the country and the high demand for electricity. The objective of 49M is to establish a partnership with business and residents. To date [123] businesses have signed on as partners. [ ] businesses signed on after the TNA business briefing and some may be as a result of using the 49M campaign for these events. At the time of the business briefings during 2012 Eskom was also running an extensive television and other media 49M campaign. Minister Gigaba, Minister of Public Enterprises, was a central figure in the campaign and addressed various forums in this regard and appeared in the television advertisements used in the campaign, by using 49M in the sponsorships strengthened the message to the target audience.

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 Eskom Holdings SOC Limited Reg No 2002/015527/06

19  
 17/3/2013



The first contract was signed on 13 April 2012 between The Media Shop and TNA. The contract covered six business briefings at a cost of R7 185 628.74 (excluding VAT and agency commission). Eskom signed a second contract on 5 November 2012 for a further four business briefings and the cost was R4 million (excluding VAT and agency commission) for the period 1 November 2012 – 31 March 2013. The contracts contained full details of the media exposure presented by the sponsor to Eskom and the dates of the events sponsored by Eskom are as set out below:

Date	Guest Speaker
12 April 2012	Minister Gigaba
17 May 2012	President Zuma
31 May 2012	Minister Peters
31 July 2012	Premier A. Magashule
3 September 2012	Minister Shabangu
22 October 2012	SALGA – T. Manyoni
26 November 2012	Minister Pettersson
14 December 2012	Minister Radebe and G. Mantashe
24 January 2013	Minister Ntshangweni
15 February 2013	President Zuma
[?] July 2013	Minister Gigaba

[Was there a contract for 15 February and 15 March Events?]

The last business briefing was in terms of a further contract concluded with TNA for R1.2million. The topic of the last session was on infrastructure development by the state owned companies and how the youth can participate and was attended by the Chief Executives from the major state owned enterprises.

The primary benefits were brand awareness for 49M and the opportunity to highlight the need to save electricity. The sponsorships provided significant exposure through the print and broad cast media and to engage more businesses in the private sector.

Recent research undertaken with regard to 49M indicated that opportunities such as the sponsorship of the business briefings contributed to an 87% awareness by the public of the 49M campaign. We are busy with research to determine the megawatt savings due to such high awareness level.

The events were attended by people from all sectors of the economy and government. By Eskom using its 49M branding campaign as its sponsorship tool awareness was further enhanced around the use of electricity and energy efficiency.

In Eskom's respect full opinion the moneys expended on the TNA business briefings are not fruitless and wasteful expenditure and Eskom had no ulterior motive other than enhance the 49M campaign.

We have collected the information requested in your letter and have indexed it in Annexure "A" to the extent that we do not have all the documents we will continue to search for it as requested from Media Shop and TNA.

Please contact the writer hereof if you require any further clarification or require additional information.

Yours sincerely

Willie du Plessis  
General Manager (Legal Specialist)


Sizwe  
Ntsaluba  
Gobodo



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## ANNEXURE 13



	<b>Terms of Reference</b>	<b>Division/Department/ Section</b>  <b>Office of the Company Secretary</b>
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**Title:** Exco Build-Programme Review  
sub-committee

**Unique Identifier:**

**Alternative Reference Number:**

**Area of Applicability:**

**Documentation Type:**

**Revision:**

**Total Pages:**

**Next Review Date:**

**Disclosure Classification:**

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April 2014.....

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DISCLOSURE**

**Compiled by**

**Recommended by**

**Approved by**

Exco Build Programme Review  
Sub-committee

Exco

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Executive)

Chairman of Exco Build  
Programme Review Sub-  
committee

Chairman of the Exco

Date: .....

Date: .....

Date: 31/01/13

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## 1. CONSTITUTION

The Exco Build-Programme Review (BPR) Sub-committee ("the Committee") is a sub-committee of the Executive Management Committee ("Exco") and has been established to provide a governance, monitoring and review role over and for the Capital Build Programme.

The Committee shall exercise its delegated authority as determined by Exco, in accordance with the Delegation of Authority Framework approved by the Board from time to time, subject to the provisions of the Companies Act, Eskom's Memorandum of Incorporation, the Shareholder Compact, the PFMA, and any other applicable legislation.

Members and officials shall, in exercising their duties, apply the principles and practices set out in King III or explain why they are not applying them.

## 2. COMPOSITION OF THE COMMITTEE

- 2.1 The Committee shall comprise at least 3 (three) Exco members, appointed by Exco
- 2.2 The chairman of the Exco shall be the chairman of the Committee.
- 2.3 Exco shall have the power at any time to remove any members from the Committee, and to fill any vacancies created by such removal.
- 2.4 The Committee may appoint senior Eskom executives as officials, including the co-ordinating official, to assist the Committee.
- 2.5 The co-ordinating official to the Committee shall:
  - 2.4.1 provide assistance to the committee secretary in drawing up meeting agendas and preparing the necessary documentation; and
  - 2.4.2 review the minutes of meetings for correctness prior to circulation to members;
  - 2.4.3 ensure that all action items from each meeting are addressed by the responsible Committee members
- 2.6 Officials shall not form part of the quorum and shall not have any voting powers. They may be removed by the Committee at any time.

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### 3. NORMATIVE/INFORMATIVE REFERENCES

#### 3.1 NORMATIVE

- 3.1.1 Eskom's Delegation of Authority Framework.

#### 3.2 INFORMATIVE

- 3.2.1 Terms of Reference of the Board BPR committee  
 3.2.2 Companies Act  
 3.2.3 PFMA  
 3.2.4 Eskom's Memorandum of Incorporation  
 3.2.5 Eskom's Shareholder Compact  
 3.2.6 King III  
 3.2.7 ISO 9001:2008

### 4. DEFINITIONS

- 4.1 **Companies Act:** Companies Act, 71 of 2008, as amended and includes its regulations  
 4.2 **Eskom:** Eskom Holdings SOC Limited  
 4.2 **King III:** The King Report and Code on Governance for South Africa, 2009  
 4.3 **PFMA:** The Public Finance Management Act, 1 of 1999  
 4.4 **Committee:** The Exco Build-Programme Review Subcommittee

### 5. ABBREVIATIONS

Abbreviation	Description
BPR	Build Programme Review
Exco	Executive Management Committee

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## 6. ROLE AND RESPONSIBILITIES

- 6.1 The role of the Committee is to review the progress of the build programme, review the risks and adequacy of the mitigation plans and recommend appropriate technical and commercial strategies to support the implementation of the build programme. It provides feedback and recommendations to the Board BPR Committee, and inform Exco of all feedback and recommendations.
- 6.2 The Committee is responsible for:
- 6.2.1 Assessing the weekly feedback reports from the respective Project teams and conduct regular site visits as and when required.
  - 6.2.2 Providing a governance, monitoring and review role over the project risks identified and mitigation plans in place over the duration of the Capital Build Programme. This may include amongst other issues an assessment of legal implications and an assessment of cost implications.
  - 6.2.3 Reviewing and recommending Commercial and Technical strategies on the Build Programme.
  - 6.2.4 Facilitating the development and implementation of stakeholder and communication plans where required.
  - 6.2.5 Providing feedback and recommendations to the Board BPR Committee on any pertinent information discussed at its meetings.
  - 6.2.6 Building a management system appropriate to oversee the social technical system of a megaproject noting the integration challenges, resilience requirements and cultural changes necessary for this project
  - 6.2.7 Concretely bringing out the lessons learnt.

## 7. DELEGATION OF AUTHORITY

- 7.1 The Committee acts in terms of the responsibilities delegated to it by Exco as recorded in these terms of reference.
- 7.2 The Committee shall make recommendations to the Board BPR Committee concerning matters within its mandate.
  - 7.2.1 The Committee shall make investment and procurement decisions up to the authority delegated to ICAS and Procurement, only in respect of the Capital Build Programme.
- 7.3 The Committee is authorised to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee of the organisation. All employees shall be required to co-operate with any request made by the Committee.

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- 7.4 The Committee may obtain independent professional advice and secure the attendance of outsiders with relevant experience and expertise if it is considered necessary.
- 7.5 The cost of implementing any of the recommendations made or supported by the Committee (outside of budget) shall be tabled at the appropriate governance committees for approval and borne by the relevant Division.

## 8. MEETING PROCEDURE

### 8.1 Meetings

- 8.1.1 The Committee shall hold sufficient scheduled meetings to discharge all its duties as set out in these terms of reference, subject to a minimum of one meeting every month.
- 8.1.2 Meetings, in addition to those scheduled, may be convened by the chairman of the Committee or at the request of a member, with the approval of the chairman.
- 8.1.3 The meetings of the Committee may be held in person, or by electronic communication as circumstances might require, provided that the required quorum is met.
- 8.1.4 Reasonable notice of meetings and the business to be conducted shall be given to the members and officials of the Committee.

### 8.2 Quorum

- 8.2.1 The quorum for meetings shall be a majority of members present, in person or by electronic communication, throughout the meeting.
- 8.2.2 Where a member declares an interest and is required by the Companies Act to recuse himself/herself and to leave the meeting, the meeting remains quorate during his/her absence.

### 8.3 Agenda

- 8.3.1 The chairman and the co-ordinating official of the Committee must establish an annual agenda plan and ensure that all matters in its terms of reference are covered by the agendas of the meetings planned for the year or the estimated life-span of the Committee.
- 8.3.2 The number, timing and length of meetings, and the agendas are to be determined in accordance with the agenda plan for the year or the estimated period referred to above.

### 8.4 Attendance

- 8.4.1 The Committee members must attend all scheduled meetings of the Exco BPR sub-committee, including meetings called on an *ad hoc* basis for special matters, unless prior apology, with reasons, has been submitted to the chairman or the committee secretary.

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Exco BPR sub-committee ToR

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8.4.2 If the chairman is absent from a meeting, any other member may act as chairman for that meeting, as agreed by those present, or as nominated by the chairman.

8.4.3 No member shall be entitled to appoint an alternate in his/her stead.

## 8.5 Decisions

8.5.1 A decision carried by the majority of members present at a meeting, voting in favour of a decision, shall be a decision of the Committee. In the case of an equality of votes, the chairman shall not have a second or casting vote.

8.5.2 No official shall have a vote at meetings of the committee.

8.5.3 In the case of round robin approvals, a resolution voted on in writing, including those submitted electronically, approved by a majority of members within 5 (five) business days after the resolution was submitted to them, shall be valid and effective as if it had been passed at a meeting of the Committee duly called and constituted.

8.5.4. Every member of the Committee shall receive notice of the resolution to be voted on in writing.

8.5.6 Subject to clause 8.5.3 above, a round robin resolution shall be deemed to have been passed on the latest date on which it was signed by the members.

8.5.7 Such a round robin approval shall be tabled at the next Committee meeting for noting.

## 8.6 Minutes

8.6.1 Minutes of meetings shall be completed by the committee secretary within 3 (three) business days after the meeting and circulated to members for review.

8.6.2 The minutes must be verified by the Committee at its next scheduled meeting and signed by the chairman of the Committee.

## 8.7 Reporting

8.7.1 A report on the matters considered and recommendations made by the Committee shall be submitted to the next Board BPR Committee meeting.

8.7.2 The chairman of the Committee, or in his/her absence another member of the Committee, shall report back to the Board BPR Committee on matters considered and recommendations made by the Committee.

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**9. SELF EVALUATION**

- 9.1 The Committee shall conduct a self-evaluation of its performance and effectiveness at least bi-annually.
- 9.2 An evaluation report must be submitted to Exco for consideration.

**10. APPROVAL OF TERMS OF REFERENCE**

- 10.1 The terms of reference shall be approved by Exco on the recommendation of the Committee.
- 10.2 It shall be reviewed on an annual basis and may, from time to time, be amended as required, subject to the approval referred to in clause 10.1 above.

**11. REVISIONS**

Date	Rev.	Remarks

**12. DEVELOPMENT TEAM**

This document was influenced and supported by the following:

Name	Division Represented
Kannan Lakmeharan	Office of the Chief Executive
Mohamed Adam	Regulation & Legal
Dawn Jackson	Corporate Governance Office
Ismail Mulla	Internal Consulting
Chetna Sita	Internal Consulting
Thulo Selele	Finance & Group Capital

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Sizwe  
Ntsaluba  
Gobodo




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## ANNEXURE 14





	<b>TERMS OF REFERENCE MANAGEMENT COMMITTEE ("MANCOM")</b>	Unique Identifier	221- 232
		Document Type	CCGTE
		Revision	4
		Revision Date	May 2013
		Regulation and Legal Division	

## 1. CONSTITUTION

The Management Committee ("the Committee" or "MANCOM") is a sub-committee of the Executive Management Committee ("Exco"), and has been established to assist Exco in discharging its duties.

The Mancom will convene:

- 1.1 On a monthly basis in discharging its duties relating to:
  - monitoring and reviewing the technical, operational health, safety and environmental performance;
  - the implementation and review of measurements taken to enhance Eskom's technical, operational, health, safety and environmental performance; and
  - monitoring and reviewing demand and supply.
- 1.2 On a quarterly basis in discharging its duties relating to:
  - reviewing strategy deployment in Eskom
  - reviewing Eskom business performance

The Committee shall exercise its delegated authority as determined by Exco, in accordance with the Delegation of Authority Framework approved by the Board from time to time, and subject to the provisions of the Companies Act No 71 of 2008, as amended, Eskom's Memorandum of Incorporation, the Shareholder Compact, the Public Finance Management Act No. 1 of 1999 and any other applicable legislation.

Members shall, in exercising their duties, apply the principles and practices set out in the King Report on Governance for South Africa, 2009 (King III) or explain why they are not applying them.

## 2. COMPOSITION OF THE COMMITTEE

- 2.1. The Committee shall, for monthly meetings, comprise at least three members, including the chairman, appointed by Exco. Exco shall appoint the chairman of the Monthly meetings from the Exco members of the Committee.
- 2.2. The Chief Executive shall be chairman of the Quarterly Committee meetings.
- 2.3. Exco may appoint a senior Eskom executives as officials to assist the Committee. Such officials shall not form part of the quorum and shall not have any voting power.
- 2.4. The coordinating official of the committee shall:



- 2.4.1 provide assistance to the committee secretary in drawing up the meeting agenda and preparing the necessary meeting documentation;
  - 2.4.2 peruse the minutes of meetings prior to circulation to members for comment;
  - 2.4.3 ensure that all action items from each meeting are addressed by the responsible members.
- 2.5. Exco shall have the power at any time to remove any members or officials from the Committee, and to fill any vacancies created by such removal.

### 3. RESPONSIBILITIES AND ACTIVITIES OF THE COMMITTEE

The committee shall:

#### 3.1 On a monthly basis:

- 3.1.1 Review, on an operational level, matters such as technical performance and operational issues, production issues, customer service issues, related corporate policies, procedures, and processes of line functions.
- 3.1.2 Review the adequacy of supply on a regular basis.
- 3.1.3 Review the annual business plan target appraisal process.
- 3.1.4 Review the Operational Health, Business Plan and any other operational indices on a regular basis, and make recommendations and decisions to improve specific measures.
- 3.1.5 Review Eskom's Research, Development & Demonstration (RD & D) programme on an annual basis.
- 3.1.6 Review and assess progress against agreed Shareholder Compact and selected key business plan targets.
- 3.1.7 Verify, on a quarterly basis, proposed changes to the measures for the Operational Health Dashboard, Business Plan and Board Flash Report in conjunction with recommendations from Assurance and Forensic Department.
- 3.1.8 Responsible for the oversight of Safety, Business safety strategy, all fatalities and major incidents within Eskom including public accidents and incidents which affect and are within Eskom's control.
- 3.1.9 Review measures and recommendations implemented, following incidents/accidents, in an endeavour to prevent similar incidents including fatalities, and to enhance Eskom's health and safety performance, production performance, and to share lessons learnt from these incidents throughout Eskom.
- 3.1.10 Review appropriate operational risk management practices, and ensure that the



necessary systems are in place to either eliminate, or minimise those identified risks from the various divisions, to which Eskom might be exposed.

**3.1.11 Review quarterly reports and recommendations from, amongst others the following Sub-Committees:**

**3.1.11.1 Quality of Supply Executive Committee (QOSEC);**

**3.1.11.2 Sales & Review, Energy flows and Transfer pricing Committee;**

**3.1.11.3 High Voltage Regulation Committee;**

**3.1.11.4 Eskom Network and Energy Crime Committee (ENEC)**

**3.1.11.5 Generation Production Committee (GenProd)**

**3.1.11.6 Eskom Grid Code Expert Team**

**3.1.12 the committee shall receive and consider reports from, amongst others, the following committees:**

**3.1.12.1 Environment and Safety Liaison Committee (ELSC);**

**3.1.12.2 Research, Development & Demonstration Steering Committees (RDND);**

**3.1.12.3 Quality Assurance Committee;**

**3.1.12.4 National Network Integration Forum;**

**3.1.12.5 Integrated Strategic Electricity Planning Steering Committee (ISEP);**

**3.1.12.6 Corporate Strategy & Planning Committee;**

**3.1.12.7 Regulatory Forum (RICF);**

**3.1.12.8 Eskom Academy of Learning (EAL) training reports;**

**3.1.12.9 Recovery Team;**

**3.1.12.9 Safety Recovery Programme (SRP) Steering Committee.**

**3.2 On a quarterly basis:**

**3.2.1 Review the year to date business results as well as the projected year-end results relating to:**

**3.2.1.1 Financial performance**

**3.2.1.2 Technical performance**

**3.2.1.3 Human resources / people performance**



**3.2.1.4 Sustainability****3.2.1.5 Safety Health and Environment (SHE) performance****3.2.1.6 Customer Services****3.2.1.7 Stakeholder management and reputation management****3.2.1.8 Progress against delivering on the shareholder compact targets****3.2.1.9 Performance against the approved Eskom Incentive Scheme****3.2.2 Review progress of strategy deployment against agreed strategic Initiatives milestones and/or KPI's****4. DELEGATION OF AUTHORITY**

- 4.1 The Committee is authorised to carry out the responsibilities delegated to it by Exco as recorded in these terms of reference, and as amended from time to time.
- 4.2 The chairman of the Committee shall make recommendations to Exco concerning the adoption of policies, procedures, recommendations, and any other matters arising from the above responsibilities.
- 4.3 The Committee shall not have the authority to make direct submissions to the board or its committees unless authorised by Exco or the Chief Executive.
- 4.4 The Committee is authorised to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee of the organization. All employees shall be required to co-operate with any request made by the Committee.
- 4.5 The Committee may obtain independent professional advice and secure the attendance of outsiders with relevant experience and expertise if it considers necessary.
- 4.6 The Committee shall obtain approval from Exco to appoint advisors or consultants to assist in executing its duties, subject to Eskom procurement procedures and general financial authorities set out in the delegation of authority framework. The costs incurred in the appointment of such consultants or advisors shall be borne by the business unit to which it relates, and failing clarity in this regard, this matter shall be determined by Exco or the Chief Executive.

**5. MEETING PROCEDURE**



## 5.1. Meetings

- 5.1.1 The Committee shall hold sufficient scheduled meetings to discharge all its duties as set out in these terms of reference, subject to a minimum of one meeting every month.
- 5.1.2 The meetings of the committee may be held in person or by electronic communication facility as circumstances might require, provided that the required quorum is met.
- 5.1.3 Meetings in addition to those scheduled may be convened by the chairman of the Committee or at the request of a member, with approval of the Chairman of the committee.
- 5.1.4 Reasonable notice of meetings and the business to be conducted shall be given to the members and officials.

## 5.2. Quorum

The quorum for meetings shall be a majority of members present (either in person or by electronic communication facility) throughout the meeting.

## 5.3. Agenda

- 5.3.1 The Committee must establish an annual agenda plan and ensure that all matters in its terms of reference are covered by the agendas of the meetings planned for the year. The more critical matters shall be attended to each year while other matters may be dealt with on a rotation basis over a three-year period.
- 5.3.2 The number, timing and length of meetings, and the agendas are to be determined in accordance with the annual agenda plan.
- 5.3.3 The chairman of the meeting may meet with the committee secretary and other officials prior to the meeting to discuss important issues and agree on the agenda.

## 5.4 Attendance

- 5.4.1 Committee members must attend all scheduled meetings of the Committee, including meetings called on an *ad hoc basis* for special matters, unless prior apology, with reasons, has been submitted to the Chairman or



secretariat office.

5.4.2 In the event that the chairman of the Committee is absent from a meeting, any other member of the Committee may act as chairman for that meeting, as agreed by those present or as nominated by the chairman.

5.4.3 No member of the Committee shall be entitled to appoint an alternate in her/his stead.

5.4.4 Members and officials shall be fully prepared for meetings to provide appropriate and constructive input on matters under consideration.

## 5.5 Decisions/noting

5.5.1 A decision carried by the majority of members present at a meeting, voting in favour of a decision, shall be a decision of the Committee. In the case of an equality of votes, the matter shall be referred to Exco for decision.

5.5.2 No official shall have a vote at meetings of the Committee.

5.5.3 The chairman may, at his/her discretion, refer any matter to Exco for a decision.

5.5.4 In the case of round robin approvals, a resolution in writing, including those submitted electronically, approved by a majority of the members, shall be as valid and effective as if it had been passed at a meeting of the committee duly called and constituted.

5.5.5 Where the round robin resolution referred to in term 5.5.4 above is approved by the members electronically, the original signed resolution must be returned to the secretariat office immediately for retention in terms of the Companies Act

5.5.6 Such a round robin approval shall be tabled at the next meeting for noting.

## 5.5. Minutes

5.5.1 Minutes of meetings shall be completed by a member of the secretariat office as soon as possible after the meeting and circulated to members for review.

5.5.2 The minutes must be verified by the Committee at its next scheduled meeting and signed by the chairman of the Committee.

#### 5.6. Reporting

5.6.1 A report on the matters considered and decisions taken by the Committee shall be submitted to the next Exco meeting; and/or

5.6.2 The chairman of the Committee or in his/her absence another member of the committee shall report back to the Exco on matters considered and decisions taken by the Committee.

### 6. SELF-EVALUATION

6.1 The Committee shall conduct a self-evaluation of its performance and effectiveness at least once a year.

6.2 An evaluation report must be submitted to Exco for consideration.

### 7. APPROVAL OF TERMS OF REFERENCE

7.1 These terms of reference shall be approved by Exco at the recommendation of the Mancom.

7.2 The terms of reference shall be reviewed on an annual basis and may, from time to time, be amended as required, subject to Exco approval.

\_\_\_\_\_  
CHAIRMAN OF THE MANAGEMENT  
COMMITTEE (MANCOM)


\_\_\_\_\_  
CHAIRMAN OF THE EXECUTIVE  
MANAGEMENT COMMITTEE (EXCO)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

## ANNEXURE 15



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		Revision	4
		Effective Date	November 2010
		Regulation and Legal	

### EXECUTIVE SUMMARY

SUBMISSION to Exco on 1 February 2013

#### 1. TITLE OF THE SUBMISSION


Eskom Sponsorship Framework and key principles and objectives

#### 2. RESOLUTION REQUIRED

Exco approves the Sponsorship Framework and Key Principles and Objectives as follows:

- Key principles:
  - The sponsorship framework will align with Eskom's overall strategic direction and in particular the brand strategy and other related strategies
  - The framework must therefore support and strengthen Eskom's positioning and promote Eskom's overall reputation of becoming "more than just a company that generates, transmits and distributes electricity";
  - The framework does not cover other areas in the business where sponsorships may be awarded
  - The framework will be used to guide related policies and procedures
  - The framework will be implemented in such a way that opportunities and partnerships are actively sought as opposed to reacting to external approaches.
- Objectives:
  - To provide an opportunity via brand awareness; attribute association; networking, and/or customer relations to enhance goodwill and loyalty;
  - To create opportunities and platforms to form strategic alliances with existing and potential partners
  - To present opportunities to develop properties that Eskom could own and leverage cost-effectively on a sustainable basis.
  - To ensure good governance of the process and ensure consistency
- Sponsorship Framework
  - Sponsorship Asset Classes:
    - Innovation
    - Green Energy
    - Energy Efficiency
    - Entrepreneurship
  - The following differentiations of asset classes into grades are proposed:
    - **5-star grade:** (Long-term:2-5yrs, minimum investment of R5m and have national reach)
    - **4-star grade:** (Short-term 1yr to 2yrs; value: R1m to R5m and have a provincial level)



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- **3-star grante:** (Once-off/adhoc; Less than 1yr, Investment Value: Less than R1m and have local reach)
- Sponsorship Management Toolkit to negotiate and manage Eskom's return on investment on every sponsored asset class.
- Sponsorship Approval Governance Process will follow the following route:
  - **Sponsorship Desk** (Recommends all assets for approval)
  - **Sponsorship Approval Committee** (Approves up to R5m)
  - **Enterprise Development Exco** (For noting on strategy, policy and procedural governance, risk and compliance issues)
  - **Eskom Exco** (Regular Reporting on all sponsorships)
  - **Assurance and Forensic** (Bi-annual review of compliance)

### 3. SUMMARY OF FACTS

#### 3.1 SALIENT FACTS

##### 3.1.1 Background

The Sponsorship Framework and key principles and objectives will provide a codified, structured and coherent framework that defines what we sponsor, why we sponsor and how the sponsorship approval committee will minimise possible risks in sponsored initiatives. The framework and key principles do not cover or include sponsorships done under stakeholder management or any grants done by the Eskom Development Foundation. These may all need to be aligned into a more cohesive strategy that will be developed over the next year in conjunction with Organisational Strategy


Global best practice dictates that to best manage a sponsorship portfolio, a clearly defined sponsorship framework guided by a set of key principles and objectives need to be in place to guide policy and procedures. This sponsorship framework and will be one of the integral platforms of the recently approved brand strategy and will ensure that all future sponsorships will be completely aligned with the brand strategy and messaging.

This document therefore aims to:

- Define the sponsorship framework and associated objectives and key principles to guide the allocation of funds
- Define the relevant asset classes and grades
- Define the key elements that are required to update the policy
- Define the relevant approval and governance processes

The following questions were considered in the development of the Sponsorship Framework:

- Why do we sponsor;
- Who do we sponsor and who don't sponsor;
- How do we select our sponsorship classes;
- How do we manage those classes;

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- What is our strategic end-goal and;
- How do we plan to achieve the strategic end-goal

This Sponsorship Framework therefore aims to reduce challenges currently experienced with overall sponsorship management and create awareness of Eskom sponsored properties to both internal and external stakeholders.

A sponsorship policy and procedure currently guide the administration of the current sponsorship management. The policy and procedure will need to be reviewed, as they were last reviewed and authorised in September 2000. The Sponsorship Framework therefore needs to be defined to reflect the current business environment and then approved. A reformulation and review of the sponsorship policy and procedure will therefore only commence once the Sponsorship Framework has been approved.

In defining the proposed framework it was ensured that it is aligned to both industry norms and Eskom-specific strategies. Specifically, it was ensured that the proposed sponsorship framework is:

- Well positioned to deliver on the recently approved brand strategy
- Aligned with the Eskom Strategy Development and Review Policy (draft).
- Aligned with the externally defined ASA (Advertising Standards Authority)'s Code on Sponsorship, which sets out principles of fairness and good faith for both the rights owners and sponsors and'
- Based on global best practices, sponsorship learning's amongst power utilities, sponsorship trends and a local environmental scan.

### 3.1.2 Results of the Environmental Scan and Needs Analysis


The environmental scan that focused on local companies such as MTN, Sasol and Telkom, revealed that credible and independent governance structures need to be in place when awarding large sponsorships.

Globally and locally, the trend is to focus on fewer and impactful sponsorship asset classes. Locally Telkom focuses on Sport: Telkom Knockout and ICT incubation: Bandwidth Barn. MTN focuses on Sport: Soccer (Ajax CT & Black Leopards) and Rugby (Lions), Cycling and Music/Lifestyle (MTN SA Music Awards).

Utilities also follow a similar trend: EDF, E.ON and Enel focus on sports, arts & culture and community-related initiatives. Eskom has however chosen not to have sports as one of its asset classes. Whilst the three utilities included charities in their sponsorship focus-areas, Eskom housed such CSI initiatives under the Eskom Development Foundation

A needs analysis conducted by BMI and IEG (authorities in sponsorship research locally and globally respectively) on asset classes. In the 2011 BMI Adult Sporttrack report it was revealed that:

- Education and small business development are some of the areas South Africans deemed important for corporates to sponsor. Innovation and Entrepreneurship classes proposed in this strategy were informed by this report.

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- Innovation class which is where Eskom is housing the Eskom Expo for Young Scientist initiative promotes creativity and innovation whilst also closing the gaps in STEMI (Science, Technology, and Engineering).

### 3.2 THE PROPOSED SPONSORSHIP FRAMEWORK AND KEY PRINCIPLES AND OBJECTIVES

#### 3.2.1 Key Principles and Objectives

The following Key Principles and Objectives which are the main reasons why Eskom sponsors; they form an integral part of the sponsorship selection process and also align with Eskom's strategic imperatives.

- The key principles are the following:
  - The sponsorship framework will align with Eskom's overall strategic direction and in particular the brand strategy and other related strategies
  - The framework must therefore support and strengthen Eskom's positioning and promote Eskom's overall reputation of becoming "more than just a company that generates, transmits and distributes electricity";
  - The framework does not cover other areas in the business where sponsorships may be awarded
  - The framework will be used to guide related policies and procedures
  - The framework will be implemented in such a way that opportunities and partnerships are actively sought as opposed to reacting to external approaches.
- The objectives of the framework are therefore to:
  - To provide an opportunity via brand awareness; attribute association; networking, and/or customer relations to enhance goodwill and loyalty;
  - To create opportunities and platforms to form strategic alliances with existing and potential partners
  - To present opportunities to develop properties that Eskom could own and leverage cost-effectively on a sustainable basis.
  - To ensure good governance of the process and ensure consistency


#### 3.2.1 Sponsorship Framework

The following will comprise the Sponsorship Framework:

- **Sponsorship Asset Classes**

The proposal is for Eskom to focus on few asset classes to sponsor, aligned to its business. As part of research that was conducted, areas where Eskom had sponsored in the past years were assessed and both the local and international environment was scanned. The proposed classes are not only aligned to Eskom business imperatives, but also offer a much better differentiation in the market. These classes can be periodically reviewed to ensure relevance. The following asset classes are proposed:



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- **Innovation;** linked to Eskom's current asset (Eskom Expo for Young Scientist) responding to country challenge of growing your engineers within Science, Technology, Engineering, Mathematics and Innovation (STEMI).
- **Green energy;** to create awareness on saving the environment and using renewable and sustainable energy and linked to DSM initiatives.
- **Energy efficiency;** to engage energy consciousness across the country and always seeking new and innovative platforms to reach and advise Eskom customers on implementing new technologies, tools and solutions designed to reduce electricity consumption.
- **Entrepreneurship;** informed by BMI's report on what South Africans deemed important for corporates to sponsor, small business development came second. This is also strongly aligned with Eskom's role as an SOC.
- **Requests outside the proposed asset classes will either be declined or referred to other sections within Eskom such as Eskom Development Foundation or Stakeholder Relations.**
- Requests from other government departments will be referred to Department of Public Enterprises as a shareholder, before evaluation by stakeholder relations.
- **Sponsorship Assets Grades**

It is recommended that we have grades to further differentiate the various sponsorship asset classes we focus on. It's proposed to have 5 star assets grades to 3 star assets grades, depending on the investment amount, geographical coverage and duration of the sponsorship involvement. The existing sponsorship selection criteria will be used in conjunction with minimum sponsorship values, duration and geographical reach of the proposed asset.


The following differentiation of asset classes into grades is proposed:

- **5-star grade:** (Long-term:2-5yrs, minimum investment of R5m and have national reach)
- **4-star grade:** (Short-term 1yr to 2yrs; value: R1m to R5m and have a provincial level)
- **3-star grade:** (Once-off/adhoc: Less than 1yr, Investment Value: Less than R1m and have local reach)
- **Sponsorship Management Toolkit**

The toolkit aims to encourage a culture of allocating in addition to the rights fees (costs of association), also include leveraging costs and research/monitoring and measurements costs to track Eskom's return on investment on every sponsored property.

The toolkit will be used to measure at the following levels to ensure benefits are realised:



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- o Media exposure evaluation and analyses to ensure an optimal media leveraging strategy and to derive a measure of media return on investment, which will in turn, assist us with the costing process for the next contract period.
  - o Awareness tracking and association of Eskom within its selected asset classes, in order to set achievable but challenging targets. These results will be used to ensure that Eskom maximises awareness levels, and thereby increases the extent of the influence we can have by our association with these classes.
  - o Impact tracking and analyses, via a sponsor-value process, which involves tracking of the changes in attitudes, image, propensity to use Eskom and other issues of qualitative importance.

- **Sponsorship Approval Governance Process**

As opposed to CAD Manco solely approving sponsorships, we need an independent committee whose sole mandate is to approve all sponsorship requests from R51, 000.00 up to R5m. Requests below R50, 000.00 will be granted at the discretion of the relevant Divisional Executive and within their delegation of authority, subject to budget availability. There will be governance, risk and compliance reporting to the Enterprise Development Division Exco. There will be regular reporting on all sponsorships to the Eskom Exco.

The following summarises the proposed governance process:

- o Sponsorship Desk (Recommends all assets for approval)
- o Sponsorship Approval Committee (Approves up to R5m)
- o Enterprise Development Exco (For noting on strategy, policy and procedural governance, risk and compliance issues)
- o Eskom Exco (Regular Reporting on all sponsorships)
- o Assurance and Forensic (BI-annual review of compliance)

#### 4. FINANCIAL IMPLICATIONS


The only new financial implications will be the leveraging and monitoring costs which will be added onto the rights fees for every sponsored assets. The toolkit will need to be developed but this envisaged being within existing budget.

#### 5. HUMAN RESOURCES IMPLICATIONS

There are no additional human resources required, over and above what has already been budgeted for.

#### 6. RISKS INCLUDE THE FOLLOWING:

Most of the sponsorship requests approved between 2011 and 2012, Eskom was being reactive to external stakeholders. The sponsorship policy and procedure were the only tools used to administer the allocation process. Proposed strategy will improve the administration process and

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also introduce a modernised process in managing sponsorship and measuring return-on-investment for every approved asset.

In addition to the above risks that the approved strategy can mitigate, the following are also risks if the status quo remains:

- There is constant pressure from external stakeholders to consider sponsorships for assets not in our classes and not aligned to our policy intent;
- Not being aligned in how sponsorship assets are managed nationally and provincially;
- There is a reputational risk on the asset classes we choose to sponsor as a state-owned enterprise.

7. **VERIFICATION BY INDEPENDENT PARTY (if applicable)**

Not applicable.

8. **OTHER APPROVALS REQUIRED**

**SIGNED**


\_\_\_\_\_  
**GROUP EXECUTIVE:  
ENTERPRISE DEVELOPMENT**  
Who hereby represents that the above  
Information is correct.

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DIVISIONAL EXECUTIVE:  
ENTERPRISE DEVELOPMENT**  
Who hereby represents that the above  
Information is correct.

\_\_\_\_\_  
**DATE**

**Submission prepared by:** Frans Maluleke  
**Contact Number:** (011) 516 7951

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## CHECKLIST 1

### TITLE OF SUBMISSION:


Eskom Sponsorship Framework and Key Principles and Objectives

#### Please note:

The headings should **NOT** be deleted if it is not applicable to the project, the sequence of the headings should not be changed.

Tick the applicable box (✓).

		N/A	Yes	No
1.	<b>INTERNAL PROCESS</b>		✓	
1.1	<b>BUSINESS PLAN</b> Has the project/issue been included in the business plan? (If no, information/explanation to be highlighted in documentation/presentation/attachment.)		✓	
1.2	<b>BUDGET</b> If financial approval is required, is the project/matter within the approved budget? (If no, information/explanation to be highlighted in documentation/presentation/attachment.)			✓
1.3	<b>HUMAN RESOURCE IMPLICATIONS</b> Does the project have any HR implications? (If yes, information/explanation to be highlighted in documentation/presentation/attachment.)			✓
1.4	<b>FINANCIAL EVALUATION</b> - Has the project/issue undergone a financial evaluation? (If yes, by whom) - Has the evaluation been verified? - By whom (internally or independent)?	✓		
1.5	<b>LEGAL/CONTRACTUAL ISSUES</b> - Are there legal implications? - Has Corporate legal department input been obtained? - If so, is the approval sought consistent with the legal input?	✓		
1.6	<b>TAX IMPLICATIONS</b> - Are there tax implications? - Has Corporate tax department input been obtained? - If so, is the approval sought consistent with the tax input?	✓		
1.7	<b>CAPITAL PROJECTS</b> If the project is of a capital nature the checklist 2 (attached) for the	✓		

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evaluation of capital projects should be completed as well.

**1.8 TECHNICAL EVALUATION**

- Has the project/issue undergone a technical evaluation? (If yes, by whom)
- Has the evaluation been verified?
- By whom (internally or independent)?

**1.9 BLACK ECONOMIC EMPOWERMENT IMPLICATIONS**

Does the project have any BEE implications?

**EMPLOYMENT EQUITY**

Was due consideration given to employment equity in terms of the following:

- Project team
- Drafting of submission documentation
- Individual(s) presenting to EXCO

**2. ADDITIONAL APPROVALS**

**2.1 NERSA**

- Is NERSA approval/consultation required?
- If approval or consultation is required, provide details and also highlight the time lines, deadlines, etc.

**2.2 PUBLIC FINANCE MANAGEMENT ACT (PFMA)**

- Is any PFMA approval required?

**2.3 ARE THERE ANY OTHER APPROVALS REQUIRED? IN PARTICULAR**

- Reserve Bank
- Competition Commission
- National Treasury

N/A	Yes	No
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		

**SIGNATURE:**

**DATE:**

**DIVISIONAL EXECUTIVE**

Who hereby confirms that all of the above requirements have been complied with.



## ANNEXURE 17



Letter 1

Mohamed Adam  
Divisional Executive: Regulation & Legal

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Mohamed

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

Following NERSA's determination on MYPD3 and subsequent cost-saving measures in Eskom, a step-change in the awarding of sponsorships was required given the financial constraints.

In 2013 the Sponsorship Practice Note was formulated with the objective of providing the business with a more focused and efficient approach to managing sponsorships for each financial year, in terms of what will be sponsored and what will be declined in line with current financial constraints. This practice note was subsequently ratified as an Exco resolution.

The Sponsorship Practice Note aims to:

- Develop a firm and clear position on managing sponsorships for the next 5 years.
- Assist with costs controlling within the business in terms of ad hoc sponsorships.
- Communicate an Eskom-wide principle decision on how sponsorships outside the proposed structure will be addressed going forward.
- Execute only flagship sponsorships and business imperative sponsorship programmes approved by EXCO.
- Allow the sponsorship desk to decline all sponsorship requests outside the proposed and approved list of flagship and Exco approved sponsorships.
- Eliminate ad-hoc, unplanned sponsorships.

Corporate Affairs Division  
Strategic Marketing and Branding Department  
Megawatt Park, Maxwell Drive, Sunninghill, Sandton  
PO Box 1091, Johannesburg, 2000, SA  
Tel: +27 11 630 6178 Fax: +27 86 660 4037 [www.eskom.co.za](http://www.eskom.co.za)  
Eskom Holdings SOC Limited Reg No 2002/015527/06



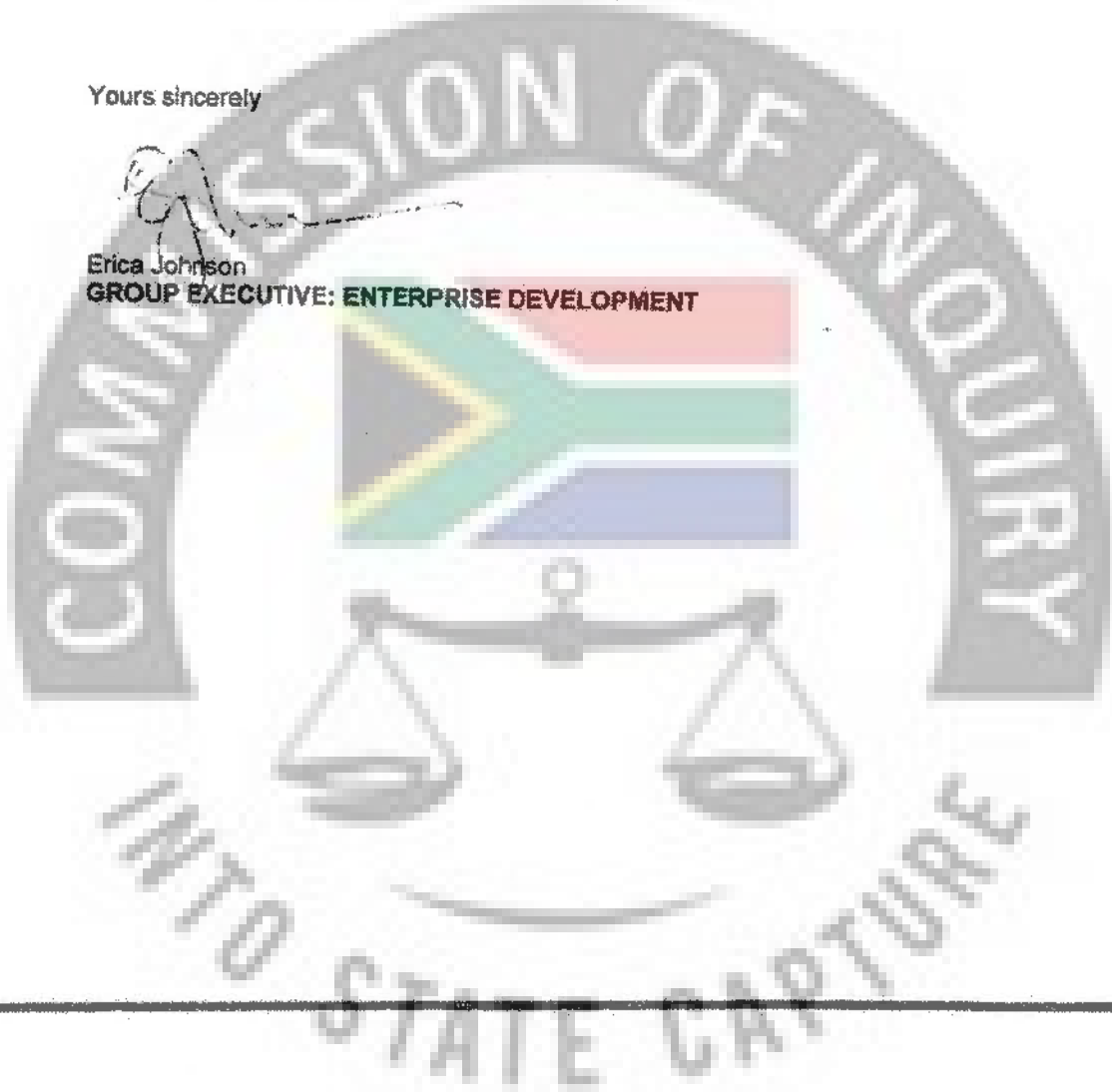
- 2 -

In line with the practice note ratified by Exco, please submit a list of planned sponsorships for your group/division, including amounts, for the 2014/15 fiscal year. This list will then be added to the list of flagship sponsorships and as such will be the only sponsorships to be executed by Eskom for this fiscal year.

Kindly submit this information on or before 25 April 2014.

Yours sincerely

  
Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Tsholofelo Molefe  
Finance Director

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Tsholofelo

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Kindly submit this information on or before 25 April 2014.

Yours sincerely

  
Eric Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Mohamed Adam  
Divisional Executive: Regulation & Legal

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Mohamed

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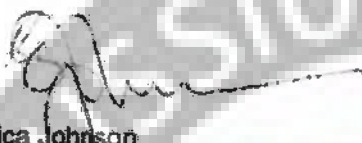


- 2 -

- 4 In line with the practice note ratified by Exco, please submit a list of planned sponsorships for your group/division, including amounts, for the 2014/15 fiscal year. This list will then be added to the list of flagship sponsorships and as such will be the only sponsorships to be executed by Eskom for this fiscal year.

Kindly submit this information on or before 26 April 2014.

Yours sincerely



Erica Johnson

GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Dr Steve Lennon  
Group Executive: Sustainability

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Steve

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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- Eliminate ad-hoc, unplanned sponsorships.

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Eskom Holdings SOC Limited Reg No 2002/015527/08





- 2 -

In line with the practice note ratified by Exco, please submit a list of planned sponsorships for your group/division, including amounts, for the 2014/15 fiscal year. This list will then be added to the list of flagship sponsorships and as such will be the only sponsorships to be executed by Eskom for this fiscal year.

Kindly submit this information on or before 25 April 2014.

Yours sincerely

  
Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Kannan Lakmeharan  
Acting Group Executive: Technology & Commercial

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Kannan

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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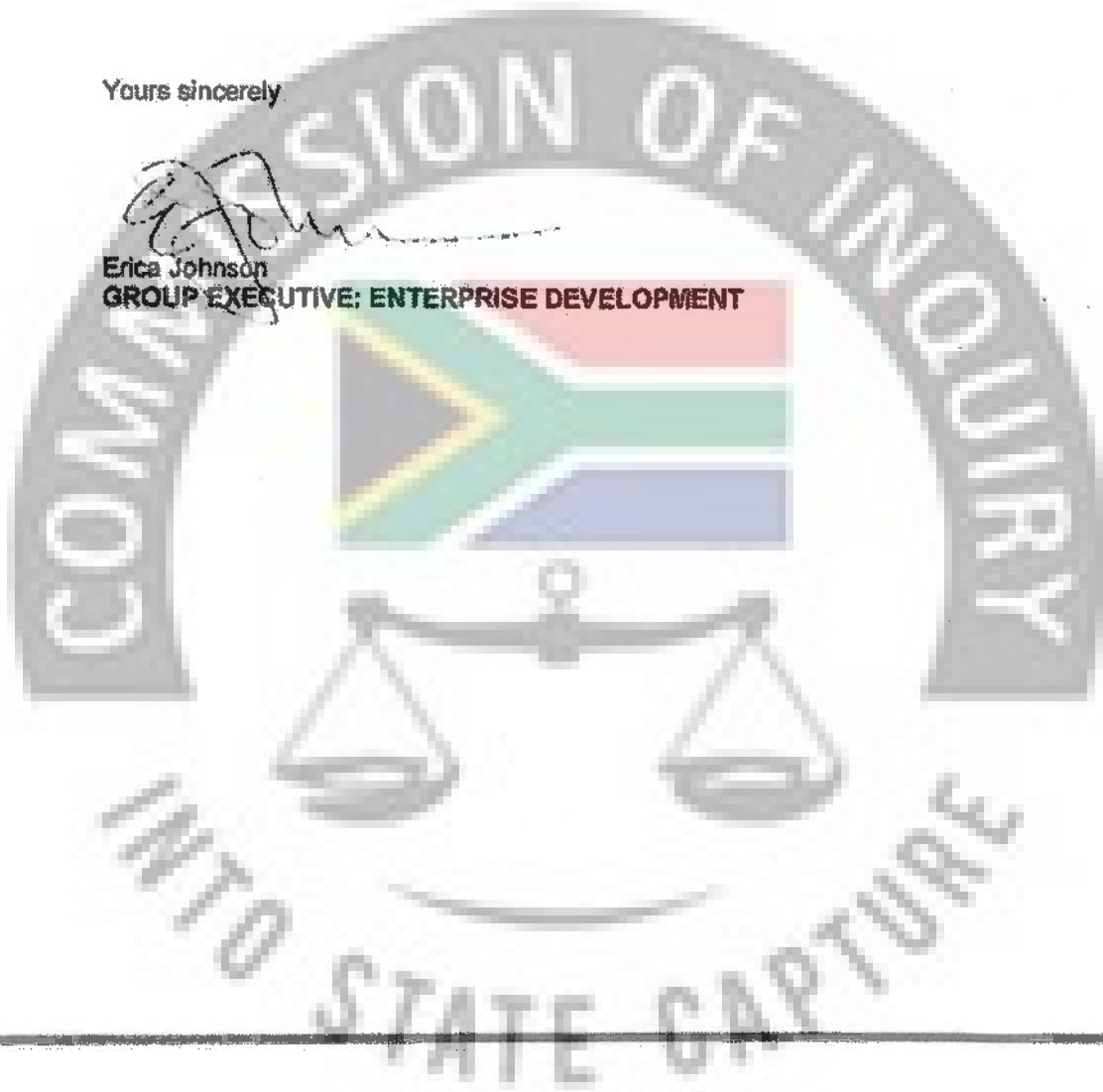
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Yours sincerely



Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Mongezi Ntsokolo  
Group Executive: Transmission &  
Acting Group Executive: Human Resources

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Mongezi

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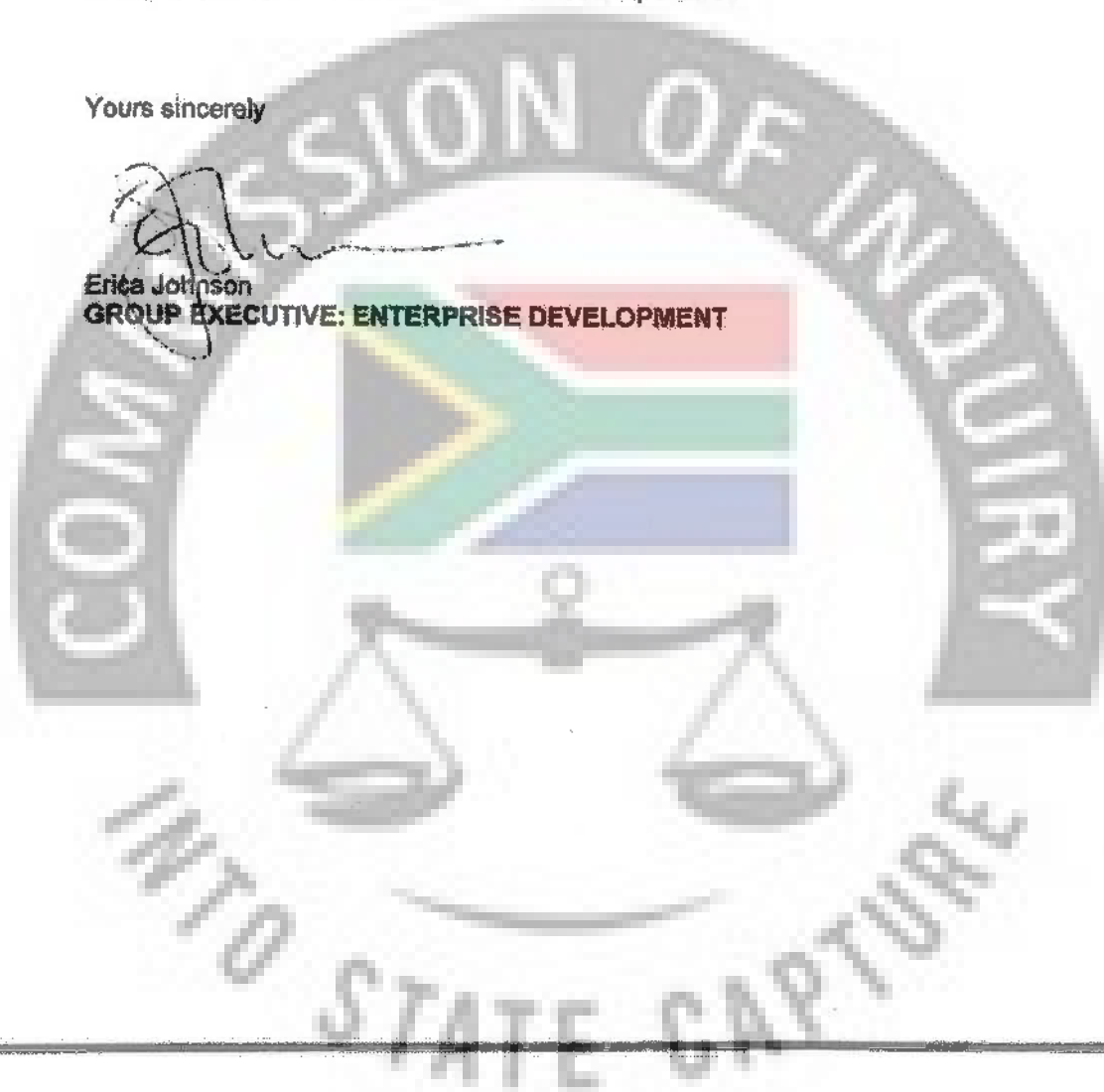
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Yours sincerely

  
Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Thava Govender  
Group Executive: Generation

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Thava

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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Yours sincerely



Erica Johnson

**GROUP EXECUTIVE; ENTERPRISE DEVELOPMENT**





Mongezi Ntsokolo  
Group Executive: Transmission &  
Acting Group Executive: Human Resources

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Mongezi

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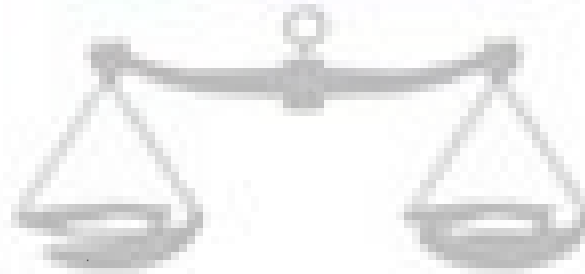
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Kindly submit this information on or before 25 April 2014.

Yours sincerely

  
Erica Johnson  
**GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT**



COMMISSION OF INQUIRY  
INTO  
STATE CAPTURE



Dan Marokane  
Acting Group Executive: Group Capital

Date:  
9 April 2014

Enquiries:  
Phuml Dhlomo  
011 516 7861

Dear Dan

### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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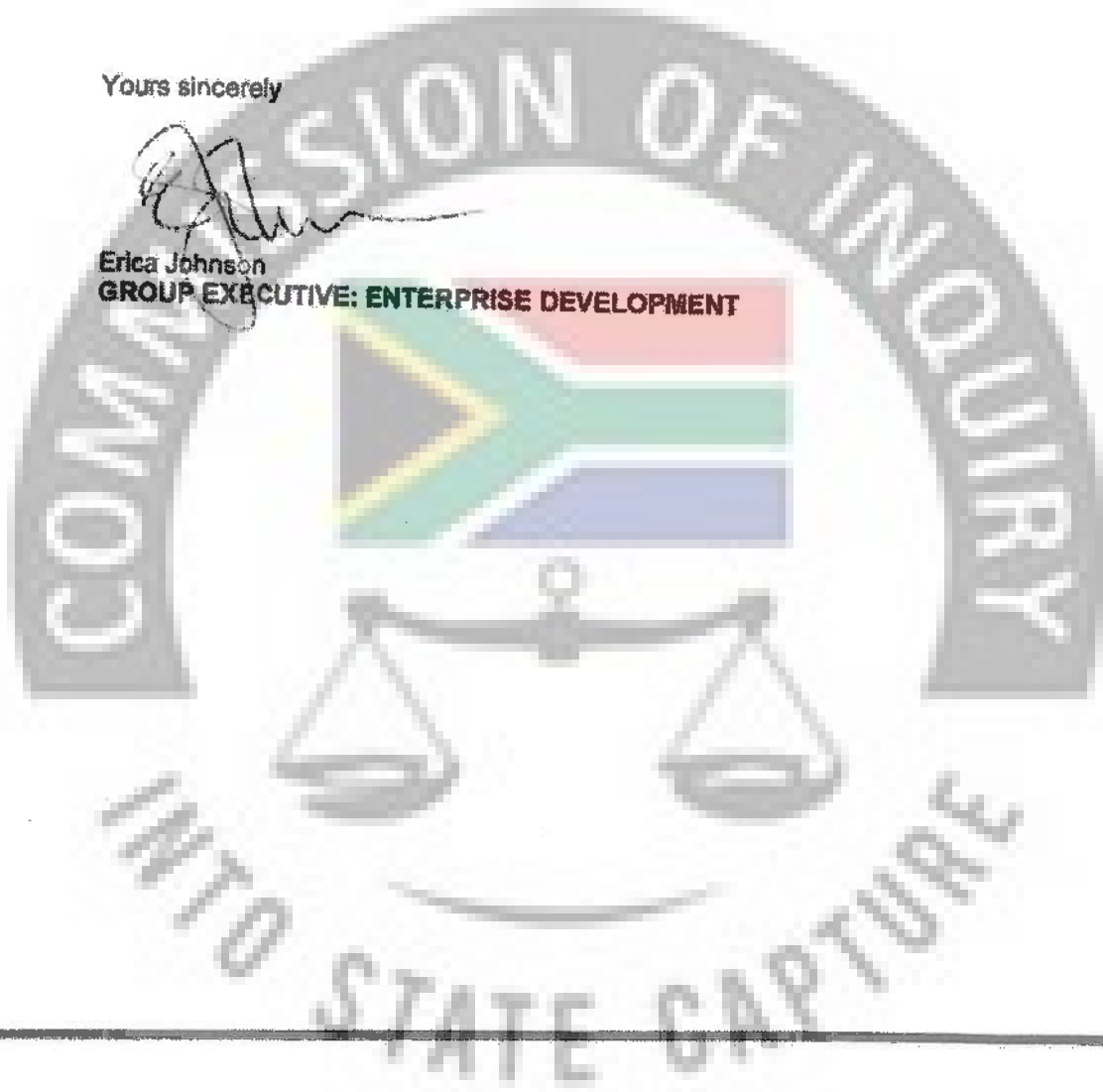
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Kindly submit this information on or before 25 April 2014.

Yours sincerely

  
Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





**Sal Laher**  
Divisional Executive: Group Information Technology

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Sal

### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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Kindly submit this information on or before 25 April 2014.

Yours sincerely



Erica Johnson

**GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT**





Ms Haylene Liberty-Nel  
CEO  
Eskom Development Foundation

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Haylene

**REQUEST FOR DEPARTMENTAL SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached amended spreadsheet for your area with changes from the CAD Divisional Executive.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES





Thava Govender  
Group Executive: Generation

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Thava

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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Kindly submit this information on or before 25 April 2014.

Yours sincerely



Eric Johnson

GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT







Ayanda Noah  
Group Executive: Distribution

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Ayanda

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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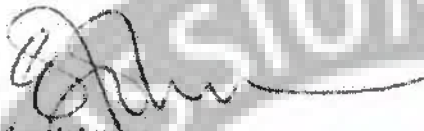


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Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Thava Govender  
Group Executive: Generation

Date:  
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Enquiries:  
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Dear Thava

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Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT







Dr Steve Lennon  
Group Executive: Sustainability

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Steve

#### REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET - 2014/2015

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Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





Dan Marokane  
Acting Group Executive: Group Capital

Date:  
9 April 2014

Enquiries:  
Phumi Dhlomo  
011 516 7861

Dear Dan

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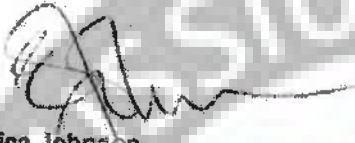


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Erica Johnson  
GROUP EXECUTIVE: ENTERPRISE DEVELOPMENT





## ANNEXURE 18





## Memo

Name: Phumi Dhlomo

Designation: Senior Manager Marketing Services

To Wayne Venner

Copy to Chose Choeu

Date 23 July 2014

### Subject Approval of the revised Sponsorship Budget 2014/15 list

This memo serves as a request for approval by Exco (to be held on 30 July 2014) of the sponsorships listed in the attached revised Sponsorship Budget 2014/15 spread sheet. The spread sheet consists of both budgeted for and not budgeted for sponsorships. The resolution required is for the approval of the sponsorships budgeted for and a decision to be made with regards to the sponsorships not budgeted for.

The following are the totals of sponsorships per division/area:-

- Eskom Sponsorships – Budgeted for = R14 200 000.00
- Chief Finance Office (Group Finance) – Budgeted for = R24 900 000.00
- Group Technology & Commercial – Budgeted for = R3 200 000.00
- Eskom Development Foundation – Budgeted for R1 070 000.00
- Human Resources – Budgeted for = R400 000.00; Not budgeted for = R120 000.00
- Generation - Budgeted for = R1 658 000.00
- Group Sustainability - Budgeted for = R1 750 000.00; Not budgeted for = R1 048 567.00
- Corporate Affairs Sponsorships (Stakeholder Relations Management) - Budgeted for = R5 100 000.00

Total sponsorships budgeted for R52 278 000.00

Total sponsorships not budgeted for R1 168 567.00

**TOTAL R53 446 567.00**

## ANNEXURE 19



Letter 2

Ms Tsholofelo Molefe  
Financial Director

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Tsholofelo

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

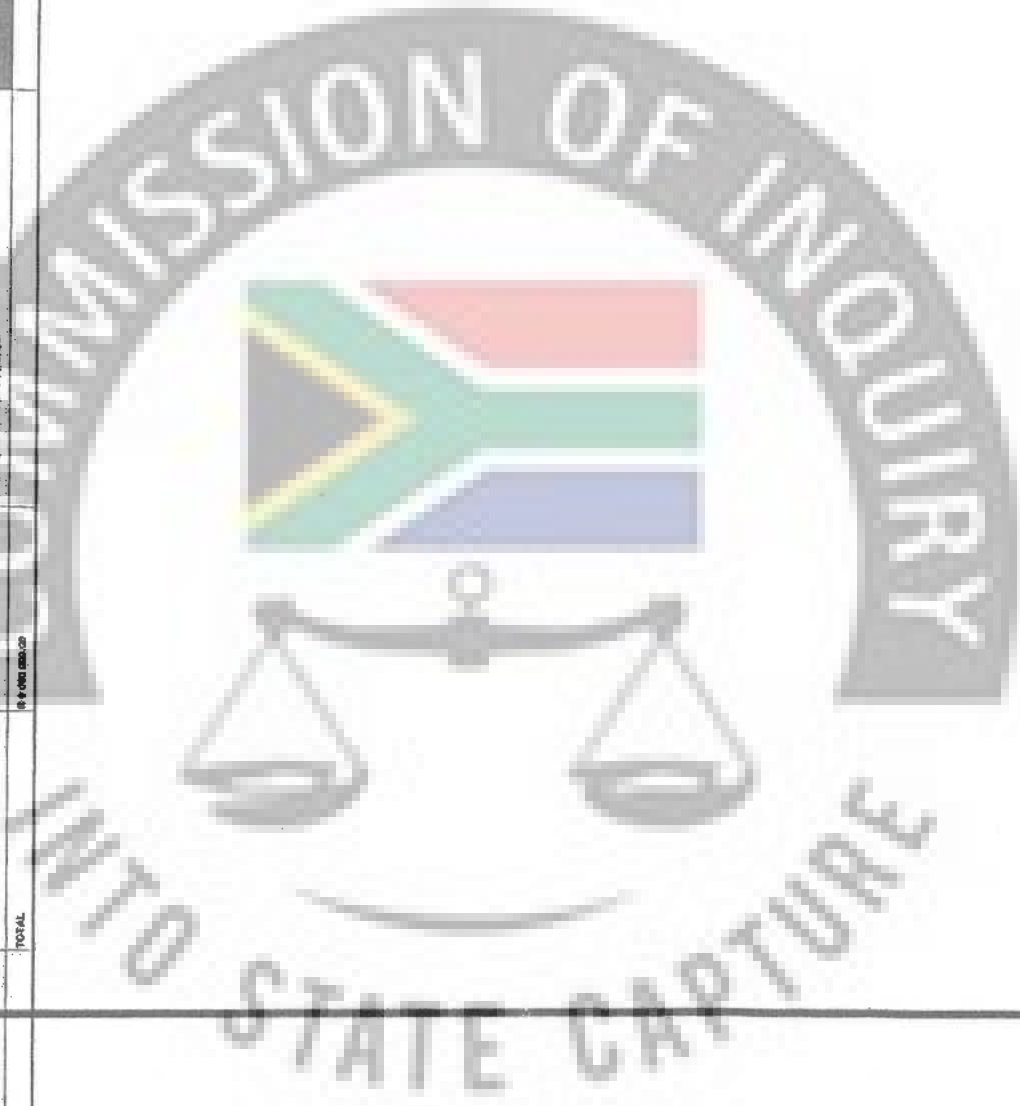
Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES





SPONSORSHIP BUDGETS 2014/15						
GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Group Finance	Capital & Special Investments	Thurston Fund	R 500 000.00	The Thurston Fund is a fund under the control of the SAHRC which provides support to research projects to study towards a CAPEX (capital expenditure) project.	NO	Thurston Fund
	Government and Suppliers	1911 Centre for Public Enterprise (CPE)	R 2 500 000.00	The 1911 Centre for Public Enterprise (CPE) is a research and policy think tank that provides support to research projects to study towards a CAPEX (capital expenditure) project. The 1911 Centre for Public Enterprise (CPE) is a research and policy think tank that provides support to research projects to study towards a CAPEX (capital expenditure) project.	NO	Thurston Fund
		TOTAL	R 3 000 000.00			





Mr Thava Govender  
Group Executive: Generation

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Thava

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES



## SPONSORSHIP BUDGETS 2014/15

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	SUBMITTED FOR YES / NO	PROJECT MANAGER
Generation	Electricity	University of Cape Town (and other national electric stations)	R 1 520 000.00	The funds will be utilized for the payment of the programme's electricity bill of a lecture hall and the payment of the programme's electricity bill of a lecture hall.		Chas. Msimang / Vanessa Cappel
	Other Energy	NS Gateway Programme	R 23 950.00	The funds will be utilized for the payment of the programme's electricity bill of a lecture hall and the payment of the programme's electricity bill of a lecture hall.		Chas. Msimang / Vanessa Cappel
	Corporate Social Investment	Cricket Team Bazar	R 420 000.00	Especially, this year, we plan to have a bazar in the spirit of the year of the bazar.		Chas. Msimang / Vanessa Cappel
		TOTAL	R 1 837 850.00			





Mr Thava Govender  
Group Executive: Generation

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Thava

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES





## SPONSORSHIP BUDGETS 2014/15

GROUP/Division	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Governments	Education	University of Cape Town - 1st year module - selective studies 491	R 1 500 000.00	The funds will be offered for the support of the programme including living of a lecturer and research assistant during the course of the student programme in support of the CDP's work. Three year commitment.		Cheryl Mphahlele / Vuyo Mphahlele
	Game Entry	412 Gaming Entrepreneur Programme	R 33 000.00	The funds will be offered for support during initial one month and social media platforms. Providing E-tickets and making payments of the tickets and demonstrating visitor support. Three year commitment.		Cheryl Mphahlele / Vuyo Mphahlele
	Corporate Social Response	Children's Trust Report	R 400 000.00	ESR on annually over 10 years, supports the initiative which is the biggest of its kind in Africa.		Cheryl Mphahlele / Vuyo Mphahlele
		TOTAL	R 1 833 000.00			





Ms Tsholofelo Molefe  
Financial Director

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Tsholofelo

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
**SENIOR MANAGER: MARKETING SERVICES**



## SPONSORSHIP BUDGETS 2014/15

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Group Finance	Corporate Social Investment	Thuthuzela Fund	R 500 000.00	The Thuthuzela Fund is a fund under the auspices of SACS that provides bursaries to disadvantaged students by way of bursaries & CAJOLY stipends.		Tshabalala Makhahle
	Overseas and Business	Wits Centre for Public Enterprises (CPPE) partnering with Eskom	R 1 600 000.00	No undertake research on finding and saving sustainability. Established a Chair on Eskom and Sustainable Impact. Provides role of Eskom in addressing the challenges of the economy, and their impact on socio-economic aspect. The Institute's framework discourse and research between academics, it has first study under the public sector and participation (PPM) (PPM).		Tshabalala Makhahle
		TOTAL	R 2 100 000.00			





Mr Andrew Etzinger  
Senior General Manager : IDM

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Andrew

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES









Ms Lusanda Jiya  
General Manager  
Stakeholder Relations Management

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Lusanda

**REQUEST FOR DEPARTMENTAL SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached amended spreadsheet for your area with changes from the CAD Divisional Executive.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
**SENIOR MANAGER: MARKETING SERVICES**



## SPONSORSHIP BUDGETS 2014/15

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Stakeholder Management	Government	Department of Public Enterprises	R 1 000 000.00	Edinburgh part at their annual strategic events, projects and opportunities as a 2014th current company. The proposed budget will cover the 2014 budget with existing engagements, and as not reported for the year.		Urina Khutsho
	Government	Department of Energy	R 250 000.00	2014 is the Policy Ministry that we engage with an Electricity Policy related matters. Currently focused on energy on their strategic engagements, energy and projects.		Urina Khutsho
	Government	South African Local Government Association (SALGA)	R 2 000 000.00	SALGA is one of our key stakeholders, given the recent SALGA/Edinburgh. Revenue and Local Government. Local Government and other entities. This is a one-off strategic budget of approximately R1.0M in 2014.		Urina Khutsho
	Government	Department of International Relations and Cooperation (DIRCO)	R 1 000 000.00	Edinburgh supports DIRCO's role in driving diplomatic activity. This includes being in Cape Town in February and the first of the African Affairs. This is a one-off strategic support to DIRCO.		Urina Khutsho
	Government	The Presidency	R 800 000.00	Edinburgh received a request to support the Youth Initiative at the beginning of 2014. This is a one-off strategic support for the year in 2014. This was a request to take support. This is a one-off strategic support to DIRCO.		Urina Khutsho
	Government and Business	BRICS BUSINESS COUNCIL	R 600 000.00	Edinburgh is one of the strategic to the African economic development and is at the core of the BRICS agenda and Edinboro is the principal contact point for the BRICS.		Justice Mkhango
	Government and Business	Centre for Public Services & Innovation (CPSI)	R 100 000.00	This is a one-off strategic support to the CPSI. The CPSI is a one-off strategic support to the CPSI.		Justice Mkhango
	Civil Society	Edinburgh in collaboration with Civil Society and Business	R 600 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	Business Meeting South Africa (BMSA)	R 500 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	Black Business Council (BBC)	R 300 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	Black Management Forum (BMF)	R 200 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	International Chamber of Commerce South Africa (ICC-SA)	R 100 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	South African Chamber of Commerce and Industry (SACCI)	R 300 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	Business Chambers Initiative: Johannesburg, Cape Town, East London, Durban, Grahamstown, Port Elizabeth, Richards Bay, and Uitenhage	R 500 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	Information Technology Association of Africa (ITAA)	R 100 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	African Renaissance (AR)	R 100 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango
	Government Business	African Chamber of Commerce (ACC)	R 400 000.00	Edinburgh is a member of the BRICS Business Council and is a one-off strategic support to the BRICS. The BRICS Business Council is a one-off strategic support to the BRICS.		Justice Mkhango

Organised Business	Business Leadership South Africa (BLSA)	R 200 000 00	Business Leadership South Africa (BLSA) is a member of BLSA that plays an essential membership and role within the country on some of their major events such as annual conferences or policy conferences depending on what would be deemed to be strategic	Justice Mkhungu
Organised Business	The Black Business Executive Circle (BBEC)	R 100 000 00	BBEC is a member of BBEC that plays an essential membership and role within the country on some of their major events such as annual conferences or policy conferences depending on what would be deemed to be strategic	Justice Mkhungu
Trade Union	The Congress of South African Trade Unions (COSATU)	R 500 000 00	Business Leadership South Africa (BLSA) is a member of BLSA that plays an essential membership and role within the country on some of their major events such as annual conferences or policy conferences depending on what would be deemed to be strategic	Justice Mkhungu
Trade Union	The Federation of Unions of South Africa (FEDUSA)	R 500 000 00	Business Leadership South Africa (BLSA) is a member of BLSA that plays an essential membership and role within the country on some of their major events such as annual conferences or policy conferences depending on what would be deemed to be strategic	Justice Mkhungu
Trade Union	The National Council of Trade Unions (NACTU)	R 500 000 00	Business Leadership South Africa (BLSA) is a member of BLSA that plays an essential membership and role within the country on some of their major events such as annual conferences or policy conferences depending on what would be deemed to be strategic	Justice Mkhungu
Trade Union	Sanifly	R 100 000 00	Business Leadership South Africa (BLSA) is a member of BLSA that plays an essential membership and role within the country on some of their major events such as annual conferences or policy conferences depending on what would be deemed to be strategic	Justice Mkhungu
TOTAL:		R 8 500 000 00		







Dr Steve Lennon  
Group Executive: Sustainability

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Steve

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES







Mr Mongezi Ntsokolo  
Group Executive : Transmission &  
Acting Group Executive : HR

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Mongezi

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phumi Dhlomo  
SENIOR MANAGER: MARKETING SERVICES



SPONSORSHIP BUDGETS 2014/15						
GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Human Resources	Grants relating to human resources	AD-HOC expenses	R 200 000 00	AD-HOC expenses relating to events, such as public hearings, and supply other funding for		Joel Du Plessis
	Assessment fees	Annual Human Resources Institute of People Management (HRIP) Conference	R 400 000 00	HRIP Conference for 2014/15. The conference will be held at the Sandton Convention Centre, Sandton, Gauteng, on 11-12 September 2014. The conference will be attended by approximately 1000 delegates from across the country. The conference will be a major event for the HRIP and will provide an opportunity for delegates to share ideas and experiences. The conference will also provide an opportunity for delegates to network and build relationships. The conference will be a major event for the HRIP and will provide an opportunity for delegates to share ideas and experiences. The conference will also provide an opportunity for delegates to network and build relationships.		Joel Du Plessis
	TOTAL		R 600 000 00			





Mr Matshela Koko  
Acting Group Executive: Technology and Commercial

Date:  
9 June 2014

Enquiries:  
Tel +27 11 516 7861

Dear Matshela

**REQUEST FOR GROUP/DIVISION SPONSORSHIP BUDGET CUT – 2014/2015**

The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted. Please refer to the attached spreadsheet for your area.

Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval.

Yours sincerely

Phuml Dhlomo  
SENIOR MANAGER: MARKETING SERVICES



## SPONSORSHIP BUDGETS 2014/15

GROUP / DIVISION	CATEGORIES	NAME OF PROPERTY	AMOUNT	DESCRIPTION	BUDGETED FOR YES / NO	PROJECT MANAGER
Group Technology & Committee	Association Entry	Information and Budget Development Association (IGPA)	R 2 500 000.00	Chairman provides material and financial support for the writing up of ethics, supply of IT equipment, training and printing receipts. Support is dependent to pay an annual subscription fee.		Nyasha Oshingwa
	Conference	PowerGen Africa and Carbon Tech	R 3 000 000.00	Before is the last speaker of the conference. The group should be able to influence the topics of discussion and help sponsors to find solutions from the sponsors. After from their information conference. This is an annual event, started in 2012. It should be participating in the 2015 conference taking place in July in Cape Town, ICP.		Mathumane Thabane
		TOTAL	R 5 500 000.00			



Sizwe  
Ntsaluba  
Gobodo



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## ANNEXURE 20



## Werner Roos

**From:** Grietjie Doubell <DoubellJM@eskom.co.za>  
**Sent:** 12 September 2014 02:14 PM  
**To:** Werner Roos  
**Subject:** FW: Sponsorship

**From:** Grietjie Doubell  
**Sent:** 24 July 2014 04:38 PM  
**To:** Thulani Mdakane; Luvuyo Mgoledela; Chose Choeu; Matshela Koko; Tshavhungwe Mamphiswana; Fantas Mobu; Kalafo Chauke  
**Subject:** Sponsorship

Dear all

Since this sponsorship is in the same category of ESDEF support, I recommend below, based on the assumption:

Since there is an agreement signed between Eskom and TNA, I take it that approval has been granted by an authorised person(s). I also assume TNA is on our vendor database.

Because of this assumption and the high number of money, I suggest the following:

- The end users to create a PR in the system
- The buyer to create a 46 contract on SAP
- Once done, the end users can do a 45 to release the task orders as per the contract.

If TNA is not registered on the database, then unfortunately it will delay the creation of the contract.

Regards

Grietjie Doubell

Senior Consultant  
 Project Sourcing: DFI  
 Group Commercial

Megawatt Park, Block A3, E19  
 Tel +27 11 800 5288  
 Cell +27 79 497 3493  
 Fax +27 86 668 2876  
 E-mail [DoubellJM@eskom.co.za](mailto:DoubellJM@eskom.co.za)



I'm part of the **49M initiative!**  
[www.49Million.co.za](http://www.49Million.co.za)

REMEMBER YOUR POWER

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I'm part of the 49Million initiative.



<http://www.49Million.co.za>

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**Werner Roos**

**From:** Grietjie Doubell <DoubellJM@eskom.co.za>  
**Sent:** 12 September 2014 02:12 PM  
**To:** Werner Roos  
**Subject:** FW: Sponsorship

---

**From:** Grietjie Doubell  
**Sent:** 23 July 2014 10:39 AM  
**To:** Maria Bowes; Pieter Le Roux  
**Subject:** RE: Sponsorship

Hi  
 Let me just see what the procedure on Donations says and if it covers sponsorships. Our procedure is silent about sponsorship.  
 Grietjie

---

**From:** Maria Bowes  
**Sent:** 23 July 2014 10:27 AM  
**To:** Grietjie Doubell  
**Subject:** FW: Sponsorship

Hi Grietjie

Did you respond to this request?

Regards  
 Maria

---

**From:** Pieter Le Roux  
**Sent:** 21 July 2014 03:26 PM  
**To:** Maria Bowes; Grietjie Doubell  
**Subject:** FW: Sponsorship

Maria/ Grietjie

Please action and provide feedback

Regards

---

Pieter le Roux  
 General Manager Project Sourcing  
 Group Commercial, Eskom  
 Megawatt Park, A3G27

Phone: +27 (0)11 800 2700/2728  
 Fax: +27 (0)86 660 7281

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**From:** Thulani Mdakane  
**Sent:** 21 July 2014 09:57 AM  
**To:** Philile Dlamini; Luvuyo Mgolodela  
**Cc:** Chose Choeu; Matshela Koko; Tshavhungwe Mamphiswa; Fantas Mobu; Kalafo Chauke; Pieter Le Roux  
**Subject:** FW: Sponsorship

Hi Philile

Please discuss your request with our Eskom procurement policy and process custodian (Risk & Governance) as Tshavhungwe Mamphiswa or Mr Pieter Le Roux in term of correct process to be followed.

Am not allowed to load such agreement on SAP without a proper approval.

Kind regards

Thulani Mdakane  
011 800 6930

---

**From:** Philile Dlamini  
**Sent:** 11 July 2014 11:50 AM  
**To:** Thulani Mdakane  
**Cc:** Luvuyo Mgolodela  
**Subject:** Sponsorship

Good day Sir,

as discussed earlier, kindly outline the process of loading this contract on SAP.

Regards,

Philile Dlamini  
Corporate Affairs  
Tel: 011 516 7337

I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

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## ANNEXURE 21

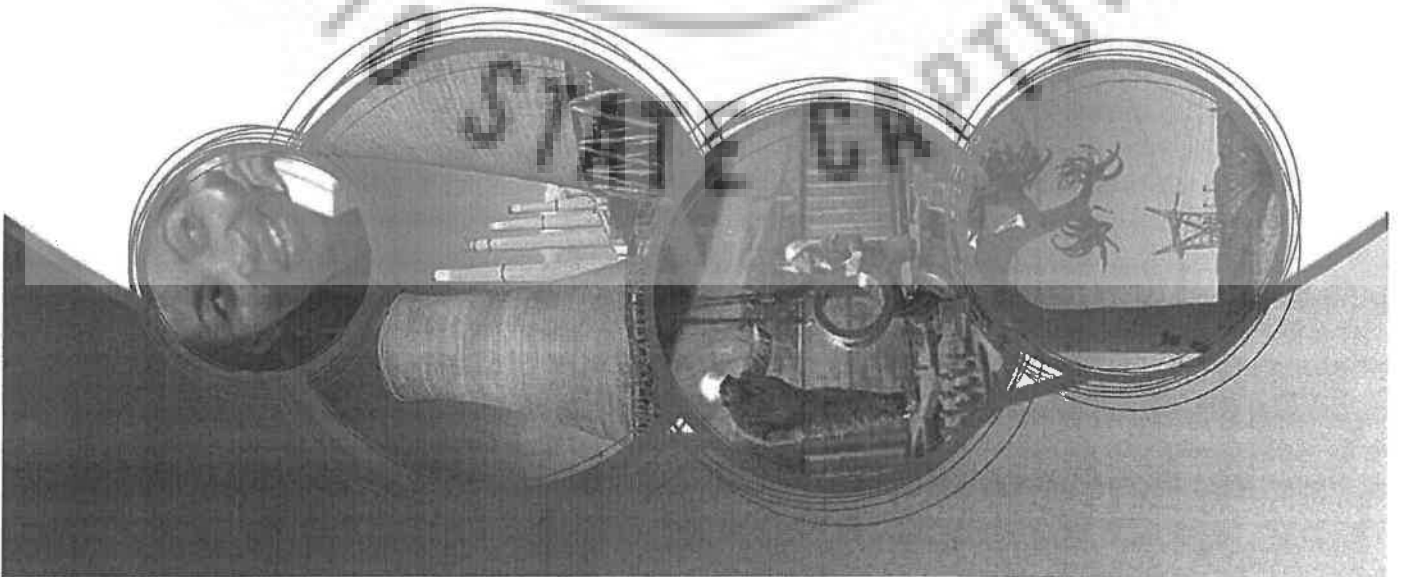






# Eskom's Delegation of Authority

February 2013



Key Decision	Approval Authority	Recommendations	Conditions/ Principles
	Investments		
Investment strategy	Board	IFC and Social, Ethics & Sustainability Committee should be informed of any nuclear investment proposals	1. In order to expedite decision making, the Financial/Business plans including all major investments and projects should be tabled at IFC and the Board at the beginning of each financial year. 2. Where co-approval is applicable, any other disinterested Exco member may approve in the absence of the CE or FD provided at least one of them (i.e.: CE or FD) approves as well.
Eskom budget over-expenditure	IFC (up to 5% over total Capex budget)	CE	3. The CE (or Exco or ICAS if delegated by him) is authorised to re-allocate budgets or allow over-expenditure at Group/Divisional level provided that under no circumstances will the Eskom Financial Plan/Budget be exceeded, without approval of the IFC or Board, as applicable.
Investment decision for transactions up to budgeted amount in overall approved Eskom financial plan with authority to allow up to 5% over-expenditure on a project, subject to the maximum limit above.	IFC for matters where PFMA approval is required or any matter reserved for IFC approval from time to time (subject to the Significance and Materiality Framework (SMF))	CE after consultation with Exco	4. In any matter where FD approval is required and the FD is the proposing party, another disinterested Exco member shall approve together with the CE. 5. Planned means that the project is included in the approved 5 year Financial/Business plan and the cash flows are within the cash flows for the approved 3 year MYPD period as well as for the balance of the 6 years of the plan. Alternatively, the 5 year plan and the annual budget at Group/Divisional/OU level and or at Eskom level has been revised to include the project that was originally not included in the plan. 6. <u>SMF</u> means the Significance and Materiality Framework.



## Investment / Capex (2/6)

Key Decision	Approval Authority	Recommends	Conditions/ Principles
<b>Investments</b>			
<p>Provided the Eskom budget is not exceeded, for planned Investments</p> <ul style="list-style-type: none"> <li>➤ Up to the maximum of approved budget, unless PFMA approval is required</li> <li>➤ Up to R350m</li> </ul>	<p>CE in consultation with Exco</p> <p>Co-approval by CE, FD and one Exco member ONLY for priority matters deemed as such by the CE.</p> <p>Group/Divisional/ Regional Site Committee/s established by the relevant FD/GE/DE consisting of at least three members, and subject to approval by the CE for a specific committee or for committees generally.</p>	<p>FD/GE/DE</p> <p>GE/DE</p> <p>Relevant Manager</p>	<p>7. The Group/divisional/Regional Committees shall include technical and financial skills.</p> <p>8. Investments as referred to herein include authority in respect of disposals or divestitures, subject to any specific limitations set out.</p>
<ul style="list-style-type: none"> <li>➤ Up to R75m</li> </ul>	CE	Relevant Manager	
<ul style="list-style-type: none"> <li>➤ Up to R50 m</li> </ul>	FD/GE/DE or committee established by FD/GE/DE )	Relevant Manager	



## Investment / Capex (3/6)



Key Decision	Approval Authority	Recommends	Conditions/ Principles
Reallocation of Investments/ Budgets			
Reallocation of investments or amendment of Capex plans within the total budget			
➤ Greater than R750m	IFC	CE after consultation with Exco	1. Approval is required for reprioritisation above the limits delegated. 2. Each Group/ Division is permitted to reprioritise its approved Plan every three months subject to approval limitations as stipulated, provided the total value of both year one and the total five year approved Plan is not exceeded. Once approved, the delegation will apply to this revised / reprioritised plan for the remainder of that financial year.
➤ Up to R750m	CE in consultation with Exco	GE/DE	3. The revised Plan must be reported to the IFC at its earliest meeting, if not approved by the IFC. 4. The re-allocation or reprioritisation will not trigger an over-expenditure on a budget if within the approved total budget
➤ Up to R50m	CE/ED/GE/DE	Relevant manager	





Powers & Authority	Approval Authority	Recommends	Conditions/Principles
Issue of guarantees, sureties, indemnities, securities or enter into any other transactions that binds the Company to any future financial commitment, as contemplated in terms of sect 66 of PFMA			<p>1. With regard to an indemnity that forms part of a contract, the Deesee that has the transactional authority to conclude the contract is authorised to provide the indemnity, security or guarantee.</p> <p>2. The additional conditions that will be applicable include the following:</p> <p>2.1 No further delegation shall be permitted other than specified herein.</p> <p>2.2 All guarantees, indemnities and securities must be reported to the Eskom Treasury, Finance Director and Board.</p> <p>2.3 The above authority is limited to guarantees, indemnities, securities or any other transactions that bind the company to any future financial commitment, in relation to the Eskom Group's ordinary course of business and within the functional accountability of Deesees.</p> <p>2.4 Only the Treasury department, and CE/FD shall have the power to issue guarantees, indemnities and securities related to trading in financial markets.</p> <p>3. The delegations herein regarding section 66 transactions are subject to the underlying transaction being part of a pre-approved budget and approved Corporate Plan.</p>
<ul style="list-style-type: none"> <li>Up to max R250m per transaction (ordinary transactions) including indemnities or bonds for purchasers or sale of electricity and R500m per transaction (capacity expansion programme, op refurbishment or maintenance)</li> <li>Up to max R250 m per transaction but restricted to performance guarantees, bid bonds &amp; indemnities required in procurement of purchase/sale of electricity, fuel, equipment or services.</li> <li>Up to R100m per transaction</li> <li>Up to a max of R1m per transaction to cumulative R10m pa.</li> <li>In accordance with limits of transactions that are incidental to or related to borrowing powers already delegated and up to max of R10m per transaction for other matters</li> <li>Up to a max R1m per transaction for legal matters relating to security or indemnities for legal costs, any higher amounts must be referred to Exco.</li> </ul>	<p>IFC</p> <p>Tender Committee/IFC for matters within their respective mandates</p> <p>CE in consultation with Exco</p> <p>Group/Divisional Exco/procurement committees</p> <p>CE/FD</p> <p>Legal/GM (Legal); Divisional Executive R&amp;L</p>	<p>CE in consultation with Exco</p> <p>CE in consultation with Exco</p> <p>Relevant Manager</p> <p>GE/DE &amp; FD</p>	



Powers & Authority	Approval Authority	Recommendations	Conditions/ Principles
Lease and rental agreements			
Leases and rentals			
➤ Up to overall Eskom plan or budget ≤15 years (including financial leases)	IFC	CE in consultation with Exco	1. The entering into of leases and rental agreements is also subject to the procurement processes as prescribed.
➤ Up to R100m & 10 years (including financial leases)	CE in consultation with Exco	FD/GE/DE	2. The SGM Treasury must be notified of all leases and rental agreements excluding property rental agreements above R1m to ascertain exposure to financial leases.
➤ Up to R50m & five years	Co-approval by CE & FD	FD/GE/DE	
➤ Up to R35m & five years	CE/FD/GE/DE	Relevant manager	
Eskom subsidiary investment decisions in excess of subsidiary financial limit			
Subsidiaries			
➤ up to subsidiary overall plan or budget	CE in consultation Exco	Exco member responsible in respect of subsidiary	



## ANNEXURE 22





## ANNEXURE 22





**TNA Media (PTY) LTD**

52 Lechwe Street, Corporate Park,  
Old PTA Main Road, Midrand. PO  
Box 5728, 1685 Halfway House, RSA

Tel: +27 11 542 1222  
Fax: +27 11 314 2986  
Fax2email: +27 86 733 7172  
Email: invoice@tnamedia.co.za

**TNA**  
**THE NEW AGE**

www.thenewage.co.za

**TAX INVOICE**

VAT No.: 4890256276 Co Reg. No: 2010/005569/07

**Sold To**

5000001223  
ESKOM  
0 MEGAWATT PARK, MAXWELL DRIVE  
SUNNINGHILL SANDTON,  
GP-0000,  
ZA

Invoice No. : 2300000613

Invoice Date: 08.08.2014

Customer Order No.:

Customer VAT No.:

**Description****Amount**

SPONSORSHIP - MINISTER LYNNE BROWN 07/08/2014

1,200,000.00

**Bank Details:**

Bank Name: ABSA  
Account Name: TNA Media  
Account No.: 4076462329  
Branch: ABSA Sandton  
Branch Code: 331155

**Bill To: ESKOM**

Address: 0 MEGAWATT PARK,  
MAXWELL DRIVE SUNNINGHILL  
SANDTON

GP-0000 ZA  
Attn.: Cell:  
Tel.: PHILILE Fax:

**Amount**

1,200,000.00

**VAT @ 14%**

168,000.00

**Total**

1,368,000.00

Amount in words: ONE MILLION THREE HUNDRED SIXTY-EIGHT THOUSAND Rand and ZERO Cent.

**TNA Media (PTY) LTD**

52 Lechwe Street, Corporate Park,  
Old PTA Main Road, Midrand, PO  
Box 5728, 1685 Halfway House, RSA

Tel: +27 11 542 1222  
Fax: +27 11 314 2986  
Fax2email: +27 86 733 7172  
Email: invoice@tnamedia.co.za

**TNA**  
**THE NEW AGE**

www.thenewage.co.za

**TAX INVOICE**

VAT No: 4890256276 Co Reg. No: 2010/006569/07

**Sold To**

5000001223  
Eskom Holdings SOC Limited  
0 PO Box 1091 Johannesburg,  
GP-2000,  
ZA

Invoice No. : 2300000826

Invoice Date: 05.09.2014

Customer Order No.:

Customer VAT No.: 4740101508

**Description****Amount**

SALGA BB 05.09.2014

1,200,000.00

**Bank Details:**

Bank Name: ABSA  
Account Name: TNA Media  
Account No.: 4076462329  
Branch: ABSA Sandton  
Branch Code: 331155

Bill To: Eskom Holdings SOC Limited  
Address: 0 PO Box 1091 Johannesburg  
GP-2000 ZA

Attn.: Cell:  
Tel.: PHILILE Fax:  
Email: DLAMINPN@ESKOM.CO.ZA

Amount 1,200,000.00

VAT @ 14% 168,000.00

Total 1,368,000.00

Amount In words: ONE MILLION THREE HUNDRED SIXTY-EIGHT THOUSAND Rand and ZERO Cent.

**TNA Media (PTY) LTD**

52 Lechwe Street, Corporate Park,  
Old PT, Main Road, Midrand, PO  
Box 5728, 1685 Halfway House, RSA

Tel: +27 11 542 1222  
Fax: +27 11 314 2986  
Fax2email: +27 86 733 7172  
Email: invoice@tnamedia.co.za

**TNA**  
**THE NEW AGE**

www.thenewage.co.za

**TAX INVOICE**

VAT No.: 4890256276 Co Reg. No: 2010/006557/07

**Sold To**

5000001223  
Eskom Holdings SOC Limited  
0 PO Box 1091 Johannesburg,  
GP-2000,  
ZA

Invoice No.: 2300000762

Invoice Date: 27.08.2014

Customer Order No.:

Customer VAT No.: 4740101508

Description	Amount
SPONSORSHIP - MINISTER TINA JOEMAT PETTERSON	1,200,000.00

<b>Bank Details:</b>	<b>Bill To: Eskom Holdings SOC Limited</b>	<b>Amount</b>	<b>1,200,000.00</b>
<b>Bank Name: ABSA</b>	<b>Address: 0 PO Box 1091 Johannesburg</b>		
<b>Account Name: TNA Media</b>	<b>GP-2000 ZA</b>		
<b>Account No.: 4076462329</b>	<b>Attn: Cell:</b>	<b>VAT @ 14%</b>	<b>168,000.00</b>
<b>Branch: ABSA Sandton</b>	<b>Tel.: PHILILE Fax:</b>		
<b>Branch Code: 331155</b>	<b>Email: DLAMINPN@ESKOM.CO.ZA</b>	<b>Total</b>	<b>1,368,000.00</b>

Amount in words: ONE MILLION THREE HUNDRED SIXTY-EIGHT THOUSAND Rand and ZERO Cent.

Sizwe  
Ntsaluba  
Gobodo



AUDIT · ADVISORY · FORENSICS

## ANNEXURE 23





**Sizwe  
Ntsaluba  
Gobodo**



AUDIT • ADVISORY • FORENSICS

OPPORTUNITY EXCEEDED.

## ANNEXURE 23



 Eskom	Policy	
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Title: **Sponsorship Policy**

Unique Identifier:

**32-113**

Alternative Reference Number:

**N/A**

Area of Applicability:

**E**

Documentation Type:

**PL**

Revision:

**0**

Total Pages:

**13**

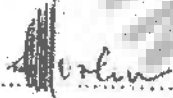
Next Review Date:

**February 2016**

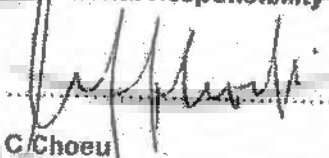
Disclosure Classification:

**Controlled Disclosure**

Compiled by

**K Moremi****General Manager: Strategic  
Marketing & Branding**Date: **15/08/2013**

Functional Responsibility

**C Choeu****Divisional Executive:  
Corporate Affairs Division**Date: **15/08/2013**

Authorised by

**E Johnson****Group Executive: Enterprise  
Development**Date: **15/08/2013**

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**1. INTRODUCTION**

The Eskom Sponsorship Policy regulates all sponsorship activities by Eskom Holdings SOC Limited ("Eskom"), including its divisions, which are aligned to the Eskom sponsorship framework, key principles and objectives and Eskom's Corporate Plan. This policy governs the approval of all sponsorships but does not cover or include grants and/or donations managed by the Eskom Development Foundation.

Historically, sponsorships have been handled on a reactive basis in Eskom, that is, they have been subject to a case-by-case evaluation when a request for sponsorship is submitted to Eskom. The policy will also enable Eskom to take a more proactive approach.

It is likely that such requests for sponsorship will continue to be made and have to be managed, but it is vital that the Sponsorship Policy should be equally oriented to Eskom's proactive search for appropriate sponsorships to meet a specific business need in terms of the company's vision and business objectives.

It should also be noted that this policy operates in an internal Eskom environment and that the specific function of Sponsorship Management function is located in the Strategic Marketing & Brand Department in the Corporate Affairs Division. Accordingly, the Strategic Marketing & Branding Department in the Corporate Affairs Division oversees all sponsorship activities.

**2. POLICY CONTENT****2.1 POLICY STATEMENT**

This document sets out the policy of Eskom Holdings SOC Limited (Eskom) on sponsorship management. This policy --

- a) provides an overview of the sponsorship function;
- b) provides direction on the key sponsorship-related activities; and,
- c) guides the administration of all Eskom sponsorship activities.

**2.2 POLICY OBJECTIVES**

- a) To ensure that sponsorship programmes are aligned with Eskom's strategic business objectives.
- b) To ensure that sponsorship programmes contribute to an increase in Eskom's brand equity as a company and/or that of its other brands.
- c) To ensure that sponsorship programmes yield a tangible return on investment.
- d) To ensure that sponsorship programmes are clearly distinguished from stakeholder relations initiatives, donations, grants and corporate social investment programmes.

**2.3 KEY PRINCIPLES**

Strategic Marketing will ensure compliance with Eskom's policies and procedures.

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- a) Sponsorships at Eskom will have a maximum value of R3 million per event and per requestor. A sponsorship may be non-financial support in order to establish an association between the sponsor's image, brands or products. The Sponsorship and Events Manager shall keep a sponsorship register.
- b) Sponsorships must meet the criteria set out in paragraph 2.5 of this policy.
- c) The Corporate Affairs Division must be allocated a set sponsorship budget against which debits are reported. The General Manager: Strategic Marketing and the Corporate Affairs Divisional Executive shall report expenditure on a quarterly basis, which expenditure will be audited (internally) twice a year.
- d) Planned and budgeted sponsorships, which are aligned to Eskom's strategic imperatives, will be approved on a fiscal-year basis by the Group Executive and Divisional Executive from the requesting division, but must be accompanied by a motivation in a set format and be ratified by the Corporate Sponsorship Committee at its immediate next sitting.
- e) Sponsorships under R50 000,00 will be granted at the discretion of the individual Group Executive and Divisional Executive within his/her delegated authority, but must be accompanied by a motivation signed by a Group Executive / Divisional Executive and be ratified by the Corporate Sponsorship Committee at its immediate next sitting. Such sponsorships will be audited by the Assurance and Forensic Department.
- f) Eskom will enter into a written sponsorship contract and agree with the sponsored organisation on the terms and conditions applicable to a sponsorship. Sponsorship agreements above R500 000, 00 have to be checked and approved by the Corporate Sponsorship Committee and the Legal Department, depending on the complexity of the agreement.
- g) Internal sponsorship requestors should budget for leveraging and for measuring the return on investment and research at 5% of the value of the property for all sponsorships.

## 2.4 SPONSORSHIP OBJECTIVES

Eskom's corporate sponsorship programmes should reinforce and enhance Eskom's position as a world-class, customer-centred and South African leader that provides electricity and is committed to promoting the socio-economic development of South Africa, with additional benefits to the Southern African Development Community and the continent as a whole. Sponsorship programmes shall meet at least four of the following requirements:

- Provide an opportunity to enhance goodwill and loyalty via brand awareness, attribute association, networking and/or customer relations.
- Create opportunities and platforms to form strategic alliances with existing and potential partners.
- Present opportunities to develop properties that Eskom could own and leverage cost-effectively on a sustainable basis.
- Ensure good governance and the consistency of the process.

## 2.5 SPONSORSHIP SELECTION CRITERIA

The following criteria, together with the approved sponsorship framework and key principles and objectives, will be applied to help determine whether or not a sponsorship request should be pursued

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and supported. The sponsorship must contribute to Eskom's business objectives, be measurable and satisfy at least 75% of the following criteria:

- a) Project is world-class, and promotes Eskom status as a leader in South Africa's leadership status.
- b) Be aligned with Eskom's brand image.
- c) Provide real and measurable value in terms of a calculated and delivered rand-value return on investment, and provide a direct business benefit
- d) Allow Eskom to leverage the sponsorship cost-effectively so as to be the dominant sponsor.
- e) Be clearly understood, and be practical to administer in accordance with Eskom's policies and procedures.
- f) Allow for a leveraging strategy that integrates a broad range of elements in the communications mix.
- g) Avoid sponsorship clutter.
- h) Eskom considers for evaluation any sponsorship proposals from registered organisations whose programmes or projects are provided for in the budget for that fiscal year.

#### 2.5.1 What will Eskom sponsor?

The following critical sponsorship asset classes, which offer Eskom a much better differentiation in the market and are also aligned to Eskom's business imperatives, have been identified as the only classes of sponsorship which Eskom will sponsor:

##### a) Innovation

Linked to Eskom's current asset (Eskom Expo for Young Scientist) responding to the country's challenge of growing skills in the fields of Science, Technology, Engineering, Mathematics and Innovation (STEMI).

##### b) Green energy and energy access

Creating awareness of preserving the environment and using renewable and sustainable energy, linked to Integrated Demand Management initiatives through sustainable energy solutions.

##### c) Energy efficiency

Creating greater energy consciousness across the country and always seeking opportunities and platforms to reach and advise all sectors of the economy on integrated demand management solutions; including but not limited to: behavioural aspects, financial incentives, technologies, systems and process optimisation approaches that effectively manage and reduce electricity consumption.

##### d) Entrepreneurship

In the BMI Report on what South Africans deemed important for corporates to sponsor, small business development came second. This is also strongly aligned with Eskom's role as an SOC. Requests in this

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class should be approved with input from the Eskom Development Foundation to ensure alignment and avoid duplication.

These classes will be reviewed periodically to ensure their relevance to the market and Eskom's strategic business imperatives.

Strategic requests/proposals falling beyond the scope of these asset classes will either be declined by the Sponsorship Desk or referred to other areas in Eskom, such as the Eskom Development Foundation or stakeholder relations.

#### 2.5.2 Eskom will not sponsor the following initiatives:

- a) Environmentally unfriendly initiatives or those that create environmental hazards;
- b) once-only unsustainable activities or events;
- c) political party activities (directly and indirectly);
- d) trade union activities (directly and indirectly);
- e) church/religious organisations, unless the organisation has a formally constituted outreach programme that directly benefits the community;
- f) individuals, Eskom employees or their families;
- g) organisations in which Eskom employees hold shares;
- h) visits/trips to other countries, whatever the cause or reason;
- i) awards ceremonies unless these are for an Eskom-initiated project;
- j) sports and related events, excluding school sport events in close proximity to power stations;
- k) celebrations, events and excursions;
- l) traditional leadership events and inaugurations;
- m) organisations which are not formally constituted/ registered;
- n) projects which do not comply with Eskom's policy on broad-based black economic empowerment (B-BBEE);
- o) any activity/project/organisation or cause that has objectives infringing on the Bill of Rights and the Constitution and legislation of the Republic of South Africa.

#### 2.5.3 Sponsorship Asset Grades

To differentiate further among the various sponsorship asset classes and to administer sponsorships handled at the provincial and power station level, Eskom will focus on **Sponsorship Asset Grades**, ranging from approved 5-star asset grades to 3-star asset grades. This grading depends on the investment amount, geographical coverage and the duration of Eskom's involvement in the sponsorship. The existing sponsorship selection criteria will be used in conjunction with the minimum sponsorship values, duration and geographical reach of the proposed asset when evaluating sponsorship proposals.

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- **5-star grade:** (long-term: 2-5 years, minimum investment of R5 million and with national reach)
- **4-star grade:** (short-term 1 year to 2 years; value: R1 million to R5 million and with a provincial reach)
- **3-star grade:** (once-only/ad hoc: less than 1 year, Investment Value: less than R1 million and with a local reach)

**3. SUPPORTING CLAUSES****3.1 SCOPE****3.1.1 Purpose**

The purpose of this policy is to provide a framework for the selection, management, co-ordination, integration and measurement of sponsorship programmes and the development of sponsorship asset classes within Eskom Holdings SOC Limited.

**3.1.2 Applicability**

This policy shall apply throughout Eskom Holdings SOC Limited and the organisations that it manages.

**3.2 NORMATIVE/INFORMATIVE REFERENCES**

Parties using this policy/directive shall apply the most recent edition of the documents listed in the following paragraphs.

**3.2.1 Normative**

- [1] ISO 9001 Quality Management Systems.
- [2] 475-155 – Eskom Delegation of Authority
- [3] 32-186 Eskom Corporate Social Investment Donations and Grants Policy
- [4] 32-1033 Procurement and Supply Chain Management Policy
- [5] 32-1034 Procurement and Supply Chain Management Procedure
- [6] 32-1084 Accounts Payable Policy
- [7] Sponsorship Procedure document
- [8] Sponsorship Strategy Framework

**3.2.2 Informative**

- [1] Public Finance Management Act (PFMA)

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[2] Companies Act 71 of 2008

[3] Income Tax Act 58 of 1962.

### 3.3 DEFINITIONS

#### 3.3.1 Donation

Any donation of cash or a redundant Eskom physical resource that may be approved for a formally constituted community-based organisation (CBO), registered non-governmental organisation (NGO), registered public-benefit organisation (PBO), registered voluntary organisation (VO), registered education institution, registered welfare organisation (WO) or a registered health institution, collectively referred to as registered non-profit organisations (NPO). Donations are inherently of a charitable nature.

#### 3.3.2 Grant

Grants are awarded for the purposes of contributing towards Eskom's strategic objectives and the identified economic and social needs. Such initiatives are considered and approved in accordance with the necessary delegation of authority by the Eskom Development Foundation.

#### 3.3.3 Sponsorship

A sponsorship is any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsor's image, brands or products and a sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits.

Sponsorship is one element of corporate marketing. It gives a company the opportunity to complement the existing marketing efforts and leverage brand strategy objectives by creating an integrated marketing programme through the use of multiple vehicles for exposure. It seeks to capitalise on the inherent attributes of an organisation/property.

#### 3.3.4 Corporate social investment funding (CSI)

Corporate social investment (CSI) is one element of Eskom's corporate social responsibility.

Corporate social investment funding is defined as the contribution made by Eskom to the benefit, sustainable development and growth of the primarily disadvantaged communities in which it operates, or plans to operate; thereby giving it a social "licence to operate".

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**3.4 ABBREVIATIONS**

Abbreviation	Description
CAD	Corporate Affairs Division
CE	Chief Executive
CSI	Corporate social investment
CSR	Corporate social responsibility
DE	Divisional Executive
EXCO	Executive Committee
GE	Group Executive
CSC	Corporate Sponsorship Committee
SGM	Senior General Manager

**3.5 ROLES AND RESPONSIBILITIES**

- CAD, a division of Enterprise Development, is primarily responsible for the management, administration, declining, approval and reporting of all Eskom sponsorship activities and expenditure.
- Specific divisions in Eskom, which take action in sponsorship activities, as outlined in the relevant service level agreements that are signed with the Sponsorship Desk, shall be responsible for reporting on their respective sponsorship activities to the Sponsorship Desk on a quarterly basis for the purposes of consolidating and preparing an integrated Eskom sponsorship report.
- The Corporate Sponsorship Committee, established by the GE Enterprise Development Group/DE Corporate Affairs and including those mandated by CSC to do so, will approve or decline all sponsorship requests up to R3 million.
- Sponsorships above R3 million, subject to an approved budget will be approved by the CE (in consultation with Exco) or the CE may delegate approval to ICAS.
- CE/DE/GE/DE has the authority to approve in consultation with the Corporate Sponsorship Committee, sponsorship requests up to R50 000,00 and subject to budget availability.
- The General Manager Strategic Marketing and Branding will be responsible for corporate sponsorship and the leveraging budget, and ensure the alignment of all sponsorship strategies to the CAD Division's strategies and brand strategy.

**3.5.1 Corporate Sponsorship Committee**

The Corporate Sponsorship Committee is an independent committee whose sole mandate is to approve all sponsorship requests evaluated and recommended by both a division and the Sponsorship Desk, and that are up to R3 million in value. The committee will also note any declined sponsorship requests which have been evaluated by the Sponsorship Desk but did not meet the requirements in 2.5, 2.5.1.

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- The committee will be chaired by the Divisional Executives of Corporate Affairs and/or Regulation & Legal.
- Voting members will be restricted to the Senior General Manager: Integrated Demand Management, the Senior General Manager: Human Resources and Senior General Manager: Assurance & Forensic.
- Permanent and voting members will be appointed by the Eskom Exco.
- Additional membership should ideally include representation from reputation, finance, legal and CSI and be approved by CSC.
- The Sponsorship Advisor will be the co-ordinating official of the committee.
- The Sponsorship and Events Manager will be a permanent member of the Corporate Sponsorship Committee and will report on the sponsorship requests registered, and offer strategic support to the CSC, without having any voting rights.
- The committee shall meet once a month.
- The resolutions of the CSC shall be documented and be final.
- The Corporate Sponsorship Committee shall have a delegation of authority for sponsorship requests that are evaluated and recommended by the Sponsorship Desk and do not exceed R3 million.

Sponsorship requests up to R50 000,00 can be approved by CE/FD/GE/DE, within their delegation of authority and subject to budget availability, but requests still have to be evaluated by the Sponsorship Desk and brought to the CSC for noting.

### 3.6 PROCESS FOR MONITORING

- The Eskom Group Enterprise Development Exco will do regular noting of sponsorship strategy, policy and procedural governance, risk and compliance issues.
- Eskom Assurance and Forensic will conduct proactive audits on all sponsorships over the value of R3 million.
- Twice-yearly audits of sponsorship expenditure will be conducted on a sample basis to verify compliance with the policy.
  - a) Departments and divisions are required to submit a quarterly report to the Strategic Marketing General Manager to monitor the nature of the sponsorships approved by the divisions.
  - b) The Sponsorship Manager shall submit a report on all the sponsorships it approved and supported or rejected to the Corporate Sponsorship Committee.
  - c) Sponsorships have to go through the procurement process so that the money can be released on SAP and so that there is an audit trail of the expenditure. However, Procurement Tender Committees have no delegation to approve the actual sponsorships. They only note the sponsorships that have been approved by the Corporate Sponsorship Committee.

When dealing with a sponsorship, the requesting divisions will therefore be required to prepare a report for NOTING by the appropriate Tender Committee. The report must be accompanied by the minutes of

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the Corporate Sponsorship Committee meeting at which the sponsorship was approved and the sponsorship agreement signed by the relevant delegated Divisional Executive or Group Executive.

**3.7 TERMS OF REFERENCE**

The following terms of reference shall provide guidance to the constitution of relevant committees for sponsorships:

- SD: Sponsorship Desk
- CSC: Corporate Sponsorship Committee
- ED EXCO: Enterprise Development Executive Committee
- EXCO: Eskom Holdings Executive Committee
- ICAS: Investment and Capital Assurance Committee

**3.8 DELEGATION OF AUTHORITY**

The delegation of authority will be determined by the signing powers vested in different managers in their ordinary daily activities, these being directly or indirectly responsible for the sponsorship identified within their areas of jurisdiction.

- The Corporate Sponsorship Committee (CSC\*) has approval authority for sponsorship requests that meet the selection criteria in clause 2.5, 2.5.1 and 2.5.2; up to a maximum value of R3 million.
- Sponsorships above R3 million must be recommended by the Corporate Sponsorship Committee and/or GE Corporate Affairs to the CE for approval in consultation with Exco or the CE may delegate approval to ICAS.

**3.9 SPONSORSHIP PROPOSALS FROM OTHER GOVERNMENT DEPARTMENTS**

Requests from other government departments will be referred to the Department of Public Enterprises as the shareholder, before being evaluated by the Sponsorship Desk and/or Stakeholder Relations.

**3.10 RETURN ON INVESTMENT**

Eskom's return-on-investment for sponsorships will be managed through a sponsorship management toolkit, which is intended to encourage a culture of allocating leveraging costs and research/monitoring and measurements costs to track Eskom's return on investment on every sponsored property, in addition to the rights fees (costs of association).

The toolkit will be used to measure at the following levels to ensure that benefits are realised:

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**Media exposure evaluation and analysis** to ensure an optimal media leveraging strategy and to derive a measure of media return on investment, which will, in turn, assist us with the costing process for the next contract period.

**Awareness tracking and association of Eskom**, within its selected asset classes, in order to set achievable but challenging targets. These results will ensure that Eskom maximises the awareness levels, and in this way increases the extent of the influence we can have through our association with these classes.

**Impact tracking and analysis**, via a sponsor-value process, which involves tracking the changes in attitudes, image, propensity to use Eskom and other issues of qualitative importance.

The management toolkit will be used for every sponsorship of R500 000, 00 and higher through a specialised sponsorship research agency.

#### 4. ACCEPTANCE

This document was seen and accepted by the Corporate Affairs Management Committee in December 2011 and again in March 2013.

#### 5. REVISIONS

Date	Rev.	Remarks
February 2013	0	New document.

#### 6. DEVELOPMENT TEAM

The following people were involved in the development of this document:

No.	Name and Surname	Designation
1.	Frans Maluleke	Middle Manager Sponsorship & Events
2.	Busi Megale	Senior Sponsorship Advisor
3.	Pieter Pretorius	Senior Manager Marketing
4.	John McArdle	Advertising Manager
5.	Jonas Maenetja	Officer Marketing
6.	Khepe Moremi	General Manager: Strategic Marketing & Branding
7.	Annamarie Murray	Acting Senior Manager: Marketing Services
8.	Zama Bekeweni	Middle Manager Content Hub

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## 7. ACKNOWLEDGEMENTS

CAD Manco members and Strategic Marketing & Branding Team.



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## ANNEXURE 24



## MEMORANDUM : DELEGATION OF AUTHORITY (DOA) SPONSORSHIPS

### BACKGROUND

A sponsorship agreement has been entered into between Eskom, represented by the CE, and the New Age (TNA) for a period of 3 years and a total amount of R43 m.

At exco I raised the issue of the Delegation of Authority (DOA ) and the extent of the CE's authority regarding sponsorships. It was agreed that we would engage further regarding this matter.

The matter was discussed very briefly between the CE and I. The CE has indicated that the sponsorship is an investment and he relied on the investment powers as set out in the DOA to enter into the sponsorship agreement. He explained that a sponsorship is defined as an investment in terms of Eskom's policies. Further, he indicated that it was not a procurement and therefore the powers related to procurement were not applicable in this instance.

I have been requested to review the matter in the light of the information set out above, and especially in the light of the provisions of the Sponsorship Policy.

In the circumstances I have reviewed the matter and set out below my views regarding this matter. This memorandum has been prepared within a very short deadline and may need to be amplified if any further information is required.

### SPONSORSHIP POLICY

In terms of Eskom's Sponsorship Policy (32- 113) dated 15 August 2013, a sponsorship is defined as follows (para 3.3.3):

*"A sponsorship is any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsors image, brands or products and a sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits."*

The Sponsorship Policy also refers to "sponsorship asset grades" (para 2.5.3) and in para 3.10 envisages the management of a return on investment for sponsorships "...to track Eskom's return on investment on every sponsored property..."

It is therefore accepted that in line with Eskom's Sponsorship Policy, a sponsorship contemplates a return or some benefit, as opposed to Corporate Social Investment or a donation, where funding is made available without any expectation of a return, while there may be reputational and other benefits. Even if it is regarded as a specific kind of



investment, it still needs to be assessed in terms of the DOA and I will deal with this issue further below.

## **DELEGATION OF AUTHORITY (DOA)**

### **General Authority**

Before dealing specifically with the issue of the powers of the CE with regard to sponsorships, it may be useful to highlight some of the provisions of the DOA generally, especially with regard to investments and procurement.

In terms of the DOA the CE is given broad powers and the following is set out in clause 2.2.3.5 :

*It is hereby recorded that the Chief Executive is, in general terms and subject to what is set out herein, delegated the full authority to manage and run the Eskom's business; and*

- a) The provisions hereof shall not be construed as in any way limiting the authority of the Chief Executive, subject to the overall limitations set out herein, to manage the day-to-day operations of the business in accordance with his/her performance compact.*
- b) In particular, the Chief Executive is authorised to prescribe the manner in which authority is exercised by Delegees, and is entitled to act in any matter even where authority is delegated to another Delegee, and to revoke or amend any Delegation granted to any Delegee, provided that any such amendment shall not grant to any Delegee any higher authority than that granted by the Board for that level of Delegee. The authority of the Chief Executive as set out in this clause extends to EXCO subcommittees but does not extend to the Board Committees.*
- c) The Chief Executive shall be entitled to implement or give effect to a Board mandate in the manner he deems most effective and efficient for Eskom, and he shall not require Board approval for each aspect of a transaction or the structuring of transactions, falling within a Board mandate.*

The general authority is subject to the specific limitations set out in the DOA.

With regard to investment decisions the CE has general authority as an individual up to and including R75m per transaction. In addition he has co-approval authority acting together with the FD and one other exco member to approve investments up to R350m only for priority matters deemed as such by the CE.

The CE does not have any procurement authority as an individual but has co-approval authority acting together with the GE Commercial and Technology and one other exco member for procurement up to R100m and a maximum of 3 years.

Exco (or ICAS if delegated) has investment authority up to the maximum of the budget unless PFMA approval is required (and subject to an approved list of projects). Exco (or Exco Procurement Committee if delegated) has procurement authority up to R750m.

The relevant provision in the DOA refers to the authority of the "CE in consultation with exco".

The Delegation is also explicit that *"Any power to be exercised in consultation with another party means by agreement with the party to be consulted and acting after consultation with another party means obtaining that party's input"*.

In effect where the CE is required to act in consultation with exco it means that exco needs to agree or in other words make the decision. It should also be pointed out that the exercise of any powers is subject to Eskom's applicable policies and legislative requirements, especially insofar as procurement is concerned.

In interpreting the DOA, any specific powers or conditions must take precedence over any general powers or conditions. Therefore, even if a transaction could be classified as an investment or procurement transaction, should the DOA be explicit about a specific authority or limitation relating to a particular type of transaction (or specific type of investment or procurement transaction), that specific provision will take precedence and be applicable in that instance.

If this was not the case, then the additional specific provisions would be superfluous. Clearly this was not the intention and the Board in approving the DOA, approved specific conditions and limitations relating to different types of transactions, including conditions for specific types of investment and procurement decisions.

There are numerous examples in the DOA of this approach. The powers related to Lease and Rental Agreements, for example, are lower than that for general investments – where the CE in consultation with exco has a financial limit of R100m (compared to the higher limits for general investment and procurement).

Similarly, this is also applicable for example to Electricity Sales and Purchasers, International Agreements, Insurance Placements, Appointing External Legal Advisers, Corporate Social Investment and Sponsorships – where in each instance the specific conditions are applicable and take precedence over the general investment and procurement authority.

The fact that any such specific authority may also be an investment or procurement decision is irrelevant, as the DOA explicitly seeks to regulate the specific type of transaction (or specific investment or procurement transaction).

### Sponsorships

Turning to the issue of sponsorships, it should be noted that sponsorships is dealt with specifically in the DOA and therefore serves to limit the general transactional authority/limits that are applicable, whether in terms of investment or procurement.

As can be seen from the extract set out below, the delegation of authority of the CE with regard to sponsorships is limited to R3m. For matters above R3m the power is given to the "CE (in consultation with exco) or he may delegate to ICAS" and there is a further proviso that it is subject to the approved budget.

#### EXTRACT FROM DELEGATION OF AUTHORITY

12	GENERAL: CORPORATE SOCIAL INVESTMENT			
	Powers & Authority	Approval Authority	Recommends	Conditions/ Principles
12.1	Donations & CSI			<p>1. Donations made by Eskom shall be for education, schools or appropriate community projects, but shall exclude political party activities, grants to individuals and profit making organisations/businesses</p> <p>2. Most Corporate Social Investment initiatives will be channelled through the Eskom Development Foundation.</p>
	Up to R5m p/a	Chairman/CE		
	Up to approved budget	FD/GE/DE		
12.2	Sponsorships			
	Up to R50k	CE/FE/GE/DE in consultation with Corporate Sponsorship Committee established by DE Corporate Affairs	Relevant Manager	
	Up to R3m	CE/Sponsorship Committee established by GE Corporate Affairs	Relevant Manager	
	Above R3m and subject to approved budget.	CE (in consultation with Exco) or he may delegate to ICAS.	Relevant manager	

#### TNA Agreement

On perusing the TNA agreement it is clear that it is a sponsorship agreement as contemplated in the above extract of the DOA. The agreement specifically refers to the sponsorship and the sponsorship fee that is payable.

#### SUMMARY OF CONCLUSIONS

In terms of the DOA where the CE is required to act in consultation with exco it means that exco needs to agree or in other words make the decision.

In interpreting the DOA, any specific powers or conditions must take precedence over any general powers or conditions. Therefore, even if a transaction could amount to an

investment or procurement transaction, should the DOA be explicit about a specific authority or limitation relating to a particular type of transaction (or specific type of investment), that specific provision will be take precedence in that instance.

The delegation of authority of the CE with regard to sponsorships is limited to R3m. For matters above R3m the power is given to the "CE (*in consultation with exco*) or he may *delegate to ICAS*" and there is a further proviso that it is subject to the approved budget.

The general investment authority does not override this provision.

On perusing the TNA agreement it is clear that it is a sponsorship agreement as contemplated in the above extract of the DOA.

DATED THIS 26 AUGUST 2014.

M ADAM





ANNEXURE PP 17



	<b>PQ Draft Adoption &amp; Reply Request Standard Template</b>	<b>Unique Identifier</b>	
		<b>Document Type</b>	<b>Form</b>
		<b>Revision</b>	<b>0</b>
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		<b>Parliamentary Questions- OCE</b>	

<b>PQ#</b>	<b>NW4159E</b>	<b>Date/Time sent out by Parliament</b>	<b>14 Nov 12 at 14:09</b>
<b>GOVN DEPT</b>	<b>DPE</b>	<b>Date/Time Req'd. by Govn Dept.</b>	<b>20 Nov COB</b>
<b>Eskom Answer Originator</b>	<b>C Choeu/ R Waja</b>	<b>Date/Circ Int.</b>	<b>14 Nov 12 at 15:10</b>

**PQ**

**Mr T D Lee (DA) to ask the Minister of Public Enterprises:**

- (1) Whether (a) his department or (b) any entity reporting to him, placed any advertisements in *The New Age* since the inception of the newspaper up until the most recent date for which information is available; if not, in each case, what is the position in this regard; if so, (i) which entity placed the advertisements, (ii) on what date was each advertisement placed, (iii) what was the nature of each advertisement and (iv) what amount was spent on each advertisement;
- (2) whether any of these advertisements were placed through the Government Communication and Information System (GCIS); if not, what is the position in this regard; if so, what are the relevant details of the advertisements placed through the GCIS;
- (3) whether an independent analysis was conducted by his department prior to placing advertisements to ascertain whether *The New Age* is read by the intended target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis;
- (4) whether any independent studies of said advertisements were conducted to ascertain whether they were effective within the relevant target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis?

NW4159E

**Internal Deadline**

Please provide a response by Noon 16 Nov 12. If the deadline is not feasible, please indicate so that we can start a process for requesting an extension.

ANNEXURE PP 18



**From:** Kheepe Moremi <MoremiKL@eskom.co.za>  
**Sent:** Wednesday, 14 November 2012 15:50  
**To:** Pieter Pretorius  
**Subject:** FW: TNA PQ ON ADVERTISEMENTS  
**Attachments:** pqNW4159E on TNA advertisements for your urgent attention.doc

**Importance:** High

Please look into this.

Regards,

Kheepe Moremi

---

**From:** Pindi Mabena  
**Sent:** 14 November 2012 03:08 PM  
**To:** Raeesah Waja; Chose Choeu; Kheepe Moremi  
**Cc:** Mohamed Adam; Paul O'Flaherty; Hilary Joffe; Zanele Mabaso; Lusanda Jiya; Thokozani Mtimunye  
**Subject:** TNA PQ ON ADVERTISEMENTS

Good afternoon,

Please find attached, a pq for your urgent attention. We knew there would be follow ups, but I guess our estimated time of early 2013 was too generous. Here we go again with TNA questions. All the best.

Thanks

Pindi Mabena  
General Manager  
Office of the Chief Executive  
Eskom Holdings SOC Pty Limited  
Tel. No. (011) 800 4847  
Fax No. (011) 800 5803  
Mobile: 083 296 3111  
Email: [mabenapi@eskom.co.za](mailto:mabenapi@eskom.co.za)



ANNEXURE PP 19



**From:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Sent:** Tuesday, 01 October 2019 07:43  
**To:** Rohan R. Hiles  
**Subject:** FW: pqNW4159E on TNA advertisements for your urgent attention  
**Attachments:** Eskom spend with The New Age 14 11 2012.xlsx

FYI



**From:** Laiza Zikalala <Laiza.Zikalala@mediashop.co.za>  
**Sent:** Thursday, 15 November 2012 09:46  
**To:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Cc:** Chris Botha <Chris.Botha@mediashop.co.za>  
**Subject:** RE: pqNW4159E on TNA advertisements for your urgent attention

Hi Pieter

Point 1:

Please see attached spread sheet, I have two worksheets, one for spend breakdown and other for insertion dates.

Point 3:

I have spoken with Donald. When TNA initially launched, we could not do an analysis on the paper, as it is not measured by the ABC, nor by AMPS. Donald's recommendation back then, was to not advertise in the paper – as we have no research on it. Donald was then instructed to advertise in the paper and spend a certain amount of money, the instruction was executed as per Eskom's request.

Since then the newspaper has been measured by AMPS. The numbers are not looking good (they have 39,000 readers compared to The Citizen (508,000 readers) and The Star (640,000 readers)). So we can do an analysis for you, but it won't look good. The newspaper has never been our recommendation.

Point 4:

We cannot do an "advertising effectiveness measure". We don't have any research, and I doubt anyone has. Unfortunate we cannot measure whether a 49M ad in the newspaper resulted directly in people using less electricity? There is no way anyone can answer this question, as our advertising is not direct response therefore results are seen holistically, not by medium.

Please let me know if you need more information.

Kind Regards

**Laiza Zikalala**

Associate Media Director



**MOST** Full Service Agency of the Year 2011 & 2012  
**MOST** Overall Media Agency of the Year 2011 & 2012  
**ADFOCUS** Media Agency of the Year 2011  
**OMISA** Media Agency of the Year 2011  
**ADREVIEW** Large Media Agency of the Year 2012



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E-mail: [Laiza.Zikalala@mediashop.co.za](mailto:Laiza.Zikalala@mediashop.co.za)Web: <http://www.mediashop.co.za>Twitter: <http://twitter.com/mediashopza>**From:** Pieter Pretorius [<mailto:PretorJP@eskom.co.za>]**Sent:** 14 November 2012 04:22 PM**To:** Laiza Zikalala**Subject:** pqNW4159E on TNA advertisements for your urgent attention

Hi Laiza

Please can you urgently give me a breakdown of the adverts placed in The New Age as per question 1 in the attached document. Please take note this is since the inception of TNA.

Please help with some sort of answer to questions 3 and 4

This is a parliamentary question and as such it is very urgent and I need the answer by tomorrow by no later than 15:00 tomorrow as the internal submission date is the following day. There is a number of processes that we need to go through before we can send it back to parliament.

Regards

Pieter

I'm part of the 49Million initiative.

<http://www.49Million.co.za>

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MP Schedule - Spend Pivot

Active Payments and Payments Due BETWEEN 01/10/16 AND 31/09/17

Client	Client Product Name	Public-Private Division	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	3003	3004	3005	3006	3007	3008	3009	3010	3011	3012	3013	3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ANNEXURE PP 20



**From:** Khepe Moremi <MoremiKL@eskom.co.za>  
**Sent:** Friday, 16 November 2012 08:39  
**To:** Chose Choeu  
**Cc:** Pindi Mabena  
**Subject:** FW: pqNW4159E on TNA advertisements for your urgent attention (2) (2)  
**Attachments:** Untitled attachment 00030.txt; Untitled attachment 00033.htm; Untitled attachment 00036.htm; pqNW4159E on TNA advertisements for your urgent attention (2) (2).doc; Eskom spend with The New Age 14 11 2012.xlsx

Letter Opener free trial, [Learn more.](#)



	<b>PQ Draft Adoption &amp; Reply Request Standard Template</b>	Unique Identifier	
		Document Type	Form
		Revision	0
		Effective Date	
		Parliamentary Questions- OCE	

<b>PQ#</b>	<b>NW4159E</b>	<b>Date/Time sent out by Parliament</b>	<b>14 Nov 12 at 14:09</b>
<b>GOVN DEPT</b>	<b>DPE</b>	<b>Date/Time Req'd. by Govn Dept.</b>	<b>20 Nov COB</b>
<b>Eskom Answer Originator</b>	<b>C Choeu/ R Waja</b>	<b>Date/Circ Int.</b>	<b>14 Nov 12 at 15:10</b>

#### PQ

**Mr T D Lee (DA) to ask the Minister of Public Enterprises:**

- (1) Whether (a) his department or (b) any entity reporting to him, placed any advertisements in *The New Age* since the inception of the newspaper up until the most recent date for which information is available; if not, in each case, what is the position in this regard; if so, (i) which entity placed the advertisements, (ii) on what date was each advertisement placed, (iii) what was the nature of each advertisement and (iv) what amount was spent on each advertisement;
- (2) whether any of these advertisements were placed through the Government Communication and Information System (GCIS); if not, what is the position in this regard; if so, what are the relevant details of the advertisements placed through the GCIS;
- (3) whether an independent analysis was conducted by his department prior to placing advertisements to ascertain whether *The New Age* is read by the intended target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis;
- (4) whether any independent studies of said advertisements were conducted to ascertain whether they were effective within the relevant target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis?

NW4159E

#### Internal Deadline

Please provide a response by Noon 16 Nov 12. If the deadline is not feasible, please indicate so that we can start a process for requesting an extension.

	<b>PQ Draft Adoption &amp; Reply Request Standard Template</b>	<b>Unique Identifier</b>	
		<b>Document Type</b>	<b>Form</b>
		<b>Revision</b>	<b>0</b>
		<b>Effective Date</b>	
		<b>Parliamentary Questions- OCE</b>	

#### Response

- 1) Please see attached spreadsheet.
- 2) None of the advertisements were placed through GCIS. Eskom has an appointed media buying agency which placed the advertisements on our behalf.
- 3) When The New Age was initially launched, we could not do an analysis on the paper, as it was not measured by the ABC, or by AMPS. Since then the newspaper has been measured by AMPS. They currently have 39,000 readers. An independent analysis was not conducted.
- 4) We are not able to do an advertising effectiveness measurement as our advertising is not for direct response. Therefore, results are seen holistically, and not by medium. We cannot measure whether a specific advertisement in a specific newspaper resulted directly in people using less electricity. We do not have research results yet, as we are currently conducting research specifically on the 49M campaign.



Client	Client Product Name	Product Description	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	3003	3004	3005	3006	300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ANNEXURE PP 21



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**From:** Pindi Mabena <MabenaPi@eskom.co.za>  
**Sent:** Sunday, 18 November 2012 21:26  
**To:** Mohamed Adam; Paul O'Flaherty  
**Cc:** Thokozani Mtimunye; Kheepe Moremi; Chose Choeu; Hilary Joffe; Zanele Mabaso; Raeesah Waja  
**Subject:** pq on TNA adverts for your review  
**Attachments:** Untitled attachment 00070.txt; Untitled attachment 00073.htm; Untitled attachment 00076.htm; 20121116 pqNW4159E v1.pdf; 20121116 pqNW4159E v1.docx; FW\_ pqNW4159E on TNA advertisements for your urgent attention (2) (2).msg.msg

Letter Opener free trial. [Learn more.](#)



Mr. Sam Mandiwana  
Parliamentary Services Unit  
Department of Public Enterprises  
Private Bag X 15  
Hatfield  
0028

20 November 2012

P Mabena (011 800 4847)

Dear Mr. Mandiwana

**RESPONSE TO PARLIAMENTARY QUESTION NUMBER: NW4159E**

**Mr T D Lee (DA) to ask the Minister of Public Enterprises:**

- (1) Whether (a) his department or (b) any entity reporting to him, placed any advertisements in *The New Age* since the inception of the newspaper up until the most recent date for which information is available; if not, in each case, what is the position in this regard; if so, (i) which entity placed the advertisements, (ii) on what date was each advertisement placed, (iii) what was the nature of each advertisement and (iv) what amount was spent on each advertisement;
- (2) Whether any of these advertisements were placed through the Government Communication and Information System (GCIS); if not, what is the position in this regard; if so, what are the relevant details of the advertisements placed through the GCIS;
- (3) Whether an independent analysis was conducted by his department prior to placing advertisements to ascertain whether *The New Age* is read by the intended target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis;
- (4) Whether any independent studies of said advertisements were conducted to ascertain whether they were effective within the relevant target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis? NW4159E

**ESKOM'S RESPONSE**

(1)

The advertisements, dates and costs are reflected in Tables (1) and (2) in Appendix A. The nature of the adverts are as follows:-

- 49M and IDM (Integrated Demand Management) – Addresses energy efficiency
- Corporate related adverts- are about highlighting Eskom's role in society
- Energy Losses Management Programme- are to highlight the dangers of electricity theft and illegal connections
- BOFE & BIC- Business Investment Competition Advertorial - for supporting Small Medium Enterprises (SMEs)
- Eskom Development Foundation- for highlighting charity work done by Eskom



(2)

No. Eskom has an appointed media buying agency called The Media Shop (Pty) Ltd which places the advertisements on behalf of Eskom.

(3)

When The New Age was initially launched, we could not do an analysis on the paper, as it was not measured by the ABC or by AMPS. Since then the newspaper has been measured by AMPS. The findings confirm that the paper reaches Eskom's intended target market and that they currently have 39,000 readers. An independent analysis was not conducted.

(4)

We are not able to do an advertising effectiveness measurement as our advertising is not for direct response. Therefore, results are seen holistically, and not by medium. We are not in a position to measure the impact of specific advertisements in specific newspaper. Notwithstanding, we are currently conducting research specifically on the 49M campaign (which campaign includes advertisements amongst other forms of promotion) and the results have not been concluded.

Yours sincerely

Brian Dames  
CHIEF EXECUTIVE



## Appendix A

Table 1: Eskom TNA Advert Dates & Costs (Dec 2010- Mar 2012)

	Dec-12	Jan-12	Mar-12	Jun-12	Jul-12	Nov-12	Dec-12	Jan-12	Feb-12	Mar-12
<b>49M</b>										
<b>Corporate related adverts</b>										
		25th	28th	1st	15th, 22nd & 29th	6th	23rd & 24th	23rd (x3) & 10th	14th, 22nd & 28th	9th
<b>Integrated Demand Management (IDM)</b>										
<b>Energy Losses</b>										
<b>Management Programme</b>										
<b>BOFE &amp; BIC</b>										
<b>TOTAL SPEND (R )</b>	53,820	73,255	258,336	369,654	245,419	179,400	77,680	37,680	742,906	422,870

Table 2: Eskom TNA Advert Dates & Costs (1 Apr 2012- 30 Oct 2012)

	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Total no. of adverts (For all 3 years to date)
<b>49M</b>								
<b>Corporate related adverts</b>								
	4th, 11th, 18th & 25th	2nd, 9th, 16th, 23rd & 30th	13th, 14th & 22nd	9th, 19th & 31st	15th & 24th	3rd	10th	26
<b>Integrated Demand Management (IDM)</b>								
<b>Energy Losses</b>								
<b>Management Programme</b>								
<b>BOFE &amp; BIC</b>								
<b>Eskom Development Foundation</b>								
<b>TOTAL SPEND (R )</b>	649,352	678,240	94,200	229,848	65,940	151,976	56,520	4,387,096

**FOR INTERNAL USE ONLY**

Advert Category	FYE 2011 -no of adverts	FYE 2012 -no of adverts	FYE 2013 (to date *) -no of adverts	Grand Total -no of adverts	% Category Volume vs Total
49M	1	10	15	26	
Corporate related adverts	3	5	6	14	46%
Integrated Demand Management (IDM)		2	4	6	25%
Energy Losses Management Programme	2	4		6	11%
BOFE & BIC		1	1	2	11%
Eskom Development Foundation			2	2	4%
<b>TOTAL SPEND (R )</b>	<b>385,411</b>	<b>2,075,609</b>	<b>1,926,076</b>	<b>4,387,096</b>	<b>4%</b>
<b>NUMBER OF ADVERTS</b>	<b>6</b>	<b>22</b>	<b>28</b>	<b>56</b>	<b>100%</b>
<b>AVE SPEND PER ADVERT (pm or pa resp)</b>	<b>64,235</b>	<b>94,346</b>	<b>68,788</b>	<b>78,341</b>	

\*30 October 2012

- The above figures indicate that 57% of the adverts in terms of volume (49M & IDM at 46% & 11% resp) focus on energy efficiency.
- The key drivers for advertising rates mainly include:-
  1. media inflation which generally speaking, is much higher than CPI;
  2. the newspapers charge differently eg. normal full page advertisement in the Sunday Times will cost you roughly half a million rand, whilst it costs far less in New Age;
  3. size of advertisement also play a key role. For instance, we would pay less for strip advertisement than a full page advertisement

**From:** Kheepe Moremi <MoremiKL@eskom.co.za>  
**Sent:** Friday, 16 November 2012 08:39  
**To:** Chose Choeu  
**Cc:** Pindi Mabena  
**Subject:** FW: pqNW4159E on TNA advertisements for your urgent attention (2) (2)  
**Attachments:** pqNW4159E on TNA advertisements for your urgent attention (2) (2).doc; Eskom spend with The New Age 14 11 2012.xlsx

Herewith, the response to the parliamentary question.

Regards,

Kheepe Moremi

**From:** Pieter Pretorius  
**Sent:** 15 November 2012 04:05 PM  
**To:** Kheepe Moremi  
**Subject:** pqNW4159E on TNA advertisements for your urgent attention (2) (2)

Dear Kheepe

Attached is the final response on the PQ. This has been edited by Language services and checked by Zama.

Regards

Pieter





This is the  
**Media Shop**  
The Media Shop (Pty) Ltd

MP Schedule - Spend Pivot

Active Payments and Payment Date: BETWEEN 01/01/2020 AND 31/03/2020

Client	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract Details	Contract 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ANNEXURE PP 22



**QUESTION NO.: 3270****DATE OF PUBLICATION: 16 November 2012****3270. Mr T D Lee (DA) to ask the Minister of Public Enterprises:**

(1) Whether (a) his department or (b) any entity reporting to him, placed any advertisements in The New Age since the inception of the newspaper up until the most recent date for which information is available; if not, in each case, what is the position in this regard; if so, (i) which entity placed the advertisements, (ii) on what date was each advertisement placed, (iii) what was the nature of each advertisement and (iv) what amount was spent on each advertisement;

(2) whether any of these advertisements were placed through the Government Communication and Information System (GCIS); if not, what is the position in this regard; if so, what are the relevant details of the advertisements placed through the GCIS;

(3) whether an independent analysis was conducted by his department prior to placing advertisements to ascertain whether The New Age is read by the intended target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis;

(4) whether any independent studies of said advertisements were conducted to ascertain whether they were effective within the relevant target market; if not, why not; if so, (a) who conducted the analysis and (b) what were the main (i) findings and (ii) recommendations of said analysis? NW4159E

**Reply:**

(1-4) With the exception of Eskom, Transnet and South African Airways, neither the Department, nor the other State Owned Companies (SOCs) reporting to it placed advertisements with The New Age newspaper (TNA), or through the Government Communication and Information System (GCIS). However, it must be noted that SOCs place advertisements in all other newspapers.

(1)(b)(i-iv) Below are the responses by Eskom, SAA and Transnet.

**ESKOM:** The advertisements, dates and costs are reflected in Tables (1) and (2) (Annexure A).

(1)(b)(ii-iv) Eskom provided the following information:

- 49M and Integrated Demand Management (IDM) – Addresses energy efficiency;
- Corporate related advertisements - highlight Eskom's role in society;
- Energy Losses Management Programme - highlights the dangers of electricity theft and illegal connections; and
- Eskom Development Foundation - highlights charity undertaken by Eskom.

(2) No, Eskom appointed a media buying agency, The Media Shop (Pty) Ltd, which placed the advertisements on behalf of the SOC.

(3)(a) When TNA was launched, Eskom could not do an analysis on the paper, as it was not audited by Audit Bureau of Circulations of South Africa (ABC) or by All Media Products Survey (AMPS). Since then the newspaper has been audited by AMPS.

(3)(b)(i) The audit confirmed that the TNA reached Eskom's intended target market and that they currently have 39 000 readers.

(3)(b)(ii) An independent analysis was not conducted.

(4)(a-b)(i-ii) No, as Eskom's advertising is not for direct response.

**SAA**

(1)(b)(i-iv) South African Airways' Marketing Department has placed advertisements in TNA. The advertisements were placed for the period 1 January to 16 November 2012. Specific dates and amounts are included (**Annexure B**).

(2) SAA secures advertising space directly with newspapers and not through GCIS.

(3)(a-b)(i-ii) Readily available statistics based on AMPS (Audience Measurement Survey) guides SAA in the selection of newspapers to advertise.

(4)(a-b)(i-ii) SAA's proof of effectiveness, post placements (not only in the TNA but also on radio and other media platforms) is measured by the effectiveness linked to revenue generated on advertised fares.

**Transnet:**

(1)(b)(i) Transnet placed advertisements in TNA and the details are attached (**Annexure C**).

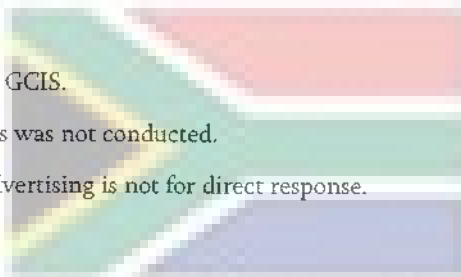
(1)(b)(ii-iv) See **Annexure C**.

(2) No, Transnet does not utilise GCIS.

3)(b)(ii) An independent analysis was not conducted.

(4)(a-b)(i-ii) No, as Transnet's advertising is not for direct response.

Reply received: December 2012



IN THE  
STATE CAPTURE



ANNEXURE PP 23



	<b>PQ Draft Adoption &amp; Reply Request Standard Template</b>	Unique Identifier	
		Document Type	Form
		Revision	0
		Effective Date	
		Parliamentary Questions- OCE	

PQ#	NW4327E	Date/Time sent out by Parliament	21 Nov 12 at 11:22
GOVN DEPT	DPE	Date/Time Req'd. by Govn Dept.	27 Nov COB
Reply	K Moremi/ C Choue	Date/Circ Int.	21 Nov 12 at 11:50

**PQ**

**Mr K S Mubu (DA) to ask the Minister of Public Enterprises:**

Whether (a) his department and/or (b) any entity reporting to him sponsored any (i) event and (ii) promotion hosted by *The New Age* newspaper since its establishment; if so, in each case, (aa) what was the nature of the event or promotion, (bb) on which date was it held, (cc) what amount was paid, (dd) for what purpose, (ee) from which budget were the funds derived, (ff) what were the expected benefits to his department and (gg) what actual benefits were derived from the sponsorship? NW4327E

**Internal Deadline**

Please provide a response by Noon 23 Nov 12. If the deadline is not feasible, please indicate so that we can start a process for requesting an extension.

ANNEXURE PP 24



---

**From:** Pieter Pretorius <PretorJP@eskom.co.za>  
**Sent:** Thursday, 22 November 2012 13:24  
**To:** Kheepe Moremi  
**Cc:** Laiza Zikalala (Laiza.Zikalala@mediashop.co.za)  
**Subject:** NW4327E on TNA (again) for your urgent attention  
**Attachments:** NW4327E on TNA (again) for your urgent attention.doc

Dear Kheepe

This is the answers to the PQ. I have tried to answer as completely as possible.

Regards

Pieter





	<b>PQ Draft Adoption &amp; Reply Request Standard Template</b>	Unique Identifier	
		Document Type	Form
		Revision	0
		Effective Date	
		Parliamentary Questions- OCE	

PQ#	NW4327E	Date/Time sent out by Parliament	21 Nov 12 at 11:22
GOVN DEPT	DPE	Date/Time Req'd. by Govn Dept.	27 Nov COB
Reply	K Moremi/ C Choue	Date/Circ Int.	21 Nov 12 at 11:50

**PQ**

**Mr K S Mubu (DA) to ask the Minister of Public Enterprises:**

Whether (a) his department and/or (b) any entity reporting to him sponsored any (i) event and (ii) promotion hosted by *The New Age* newspaper since its establishment; if so, in each case, (aa) what was the nature of the event or promotion, (bb) on which date was it held, (cc) what amount was paid, (dd) for what purpose, (ee) from which budget were the funds derived, (ff) what were the expected benefits to his department and (gg) what actual benefits were derived from the sponsorship? NW4327E

**Internal Deadline**

Please provide a response by Noon 23 Nov 12. If the deadline is not feasible, please indicate so that we can start a process for requesting an extension.

**Answers**

(aa) what was the nature of the event or promotion,  
Business Breakfasts for the period 1 April 2012 to 31 March 2013

The following benefits were included in the package:

- I. SABC 2 Morning live coverage of the event from 07:00 to 09:00
- II. Radio spots on SABC spots promoting the event
- III. Advertisement in *The New Age*
- IV. 2 free tables of 10 for Eskom Stakeholders
- V. 2 seats at the main table with the guest speaker
- VI. Branding at the event
- VII. Sponsor speech before the main key note speaker

(bb) on which date was it held,

16 April 2012

14 May 2012

28 May 2012

31 July 2012

3 September 2012

	<b>PQ Draft Adoption &amp; Reply Request Standard Template</b>	Unique Identifier	
		Document Type	Form
		Revision	0
		Effective Date	
		Parliamentary Questions- OCE	

21 October 2012

(cc) what amount was paid,

R 1 197 609,79 per breakfast. Total amount paid: R 7 185 658,74

(dd) for what purpose,

Building the Eskom brand and creating awareness of Eskom's key initiatives such as 49M

Positive brand association for the Eskom and 49M brands

Creating opportunities for engagement between government and the private sector

Generating awareness for the 49M brand and energy efficiency

(ee) from which budget were the funds derived,

The events were paid from the approved 49M campaign budget as all the breakfasts were branded 49M.

(ff) what were the expected benefits to his department

Brand awareness and highlighting the need to conserve electricity to all South Africans

(gg) what actual benefits were derived from the sponsorship?

Eskom is currently conducting market research on the 49M campaign.

**From:** Khepe Moremi <MoremiKL@eskom.co.za>  
**Sent:** Thursday, 22 November 2012 07:55  
**To:** Laiza Zikalala; Pieter Pretorius  
**Cc:** Jeanine Pietersen  
**Subject:** RE: pq sponsorships

Good work. Please also do a post campaign analysis on each one of the breakfasts. As part of the analysis, please draw up a comparison with straightforward advertising. In addition, I suggest that we also get attendance figures from New Age for each one the breakfasts we sponsored. Pieter, are there any benefits that we reaped from the breakfasts, other than exposure. In other words, did we get any partnership leads etc.,

Kind Regards,

Khepe Moremi

**From:** Laiza Zikalala [mailto:Laiza.Zikalala@mediashop.co.za]  
**Sent:** 21 November 2012 05:17 PM  
**To:** Khepe Moremi; Pieter Pretorius  
**Cc:** Jeanine Pietersen  
**Subject:** RE: pq sponsorships

Hi Khepe

Information as requested:

Answer to aa

Breakfast Sponsorship

Answer to bb : dates as per below

April 16  
 May 14 & 28  
 July 31  
 Sept 3  
 Oct 22

Answer to cc:

The cost for each breakfast was R 1 197 609.79

Answer to dd:

Building the Eskom brand and creating awareness of Eskom's key initiatives  
 Positive brand association for the Eskom brand  
 Creating opportunities for engagement between government and the private sector

Answer to ee: Pieter please help.

Answer to ff: see (dd) above

Answer to gg: hard to measure as it is not an isolated effort, it is part of a greater campaign.

Hope the above helps

Regards

**Laiza Zikalala**  
Associate Media Director



**MOST** Full Service Agency of the Year 2011 & 2012  
**MOST** Overall Media Agency of the Year 2011 & 2012  
**ADFOCUS** Media Agency of the Year 2011  
**OHMSA** Media Agency of the Year 2011  
**ADREVIEW** Large Media Agency of the Year 2012



Phone: +27 (11) 258 4002  
Fax: +27 (11) 258 4102  
Cell: +27 (83) 715 5435  
E-mail: [Laiza.Zikalala@mediashop.co.za](mailto:Laiza.Zikalala@mediashop.co.za)  
Web: <http://www.mediashop.co.za>  
Twitter: <http://twitter.com/mediashopza>

**From:** Kheepe Moremi [mailto:MoremiKL@eskom.co.za]  
**Sent:** 21 November 2012 02:43 PM  
**To:** Pieter Pretorius  
**Cc:** Laiza Zikalala  
**Subject:** FW: pq sponsorships

Colleagues,

Can I please have a first draft of your response by tomorrow, 22 November 2012, midday.

Kind Regards,

Kheepe Moremi

**From:** Pindi Mabena  
**Sent:** 21 November 2012 11:57 AM  
**To:** Raeesah Waja  
**Cc:** Kheepe Moremi; Chose Choeu; Paul O'Flaherty; Hilary Joffe; Zanele Mabaso; Mohamed Adam  
**Subject:** RE: pq sponsorships

You are wide awake Raeesah...

Pindi Mabena  
General Manager  
Office of the Chief Executive  
Eskom Holdings SOC Pty Limited  
Tel. No. (011) 800 4847  
Fax No. (011) 800 5803  
Mobile: 083 296 3111  
Email: [mabenapi@eskom.co.za](mailto:mabenapi@eskom.co.za)

**From:** Raeesah Waja  
**Sent:** 21 November 2012 11:56 AM  
**To:** Pindi Mabena  
**Subject:** RE: pq sponsorships



Attachment?

---

**From:** Pindi Mabena  
**Sent:** 21 November 2012 11:54 AM  
**To:** Kheepe Moremi; Chose Choëu  
**Cc:** Raeesah Waja; Mohamed Adam; Paul O'Flaherty; Zanele Mabaso; Hilary Joffe  
**Subject:** pq sponsorships

Good Morning,

Attached is **ANOTHER** pq on TNA, following up on the most recent one. It focuses on sponsorships exclusively, predictably.

Kheepe, you have your figures, so this should be straightforward. Only concern is previous pq sponsorship not including TNA.

Regards

Pindi Mabena  
 General Manager  
 Office of the Chief Executive  
 Eskom Holdings SOC Pty Limited  
 Tel. No. (011) 800 4847  
 Fax No. (011) 800 5803  
 Mobile: 083 296 3111  
 Email: [mabenapi@eskom.co.za](mailto:mabenapi@eskom.co.za)

I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

NB: This Email and its contents are subject to the Eskom Holdings Limited EMAIL LEGAL NOTICE which can be viewed at [http://www.eskom.co.za/e-mail\\_legalnotice](http://www.eskom.co.za/e-mail_legalnotice)

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ANNEXURE PP 25



**QUESTION NO.: 3412**

**DATE OF PUBLICATION: 23 November 2012**

**3412. Mr K S Mubu (DA) to ask the Minister of Public Enterprises:**

Whether (a) his department and/or (b) any entity reporting to him sponsored any (i) event and (ii) promotion hosted by The New Age newspaper since its establishment; if so, in each case, (aa) what was the nature of the event or promotion, (bb) on which date was it held, (cc) what amount was paid, (dd) for what purpose, (ee) from which budget were the funds derived, (ff) what were the expected benefits to his department and (gg) what actual benefits were derived from the sponsorship?

NW4327E

**Reply:**

(a-b) The Department of Public Enterprises and the following State Owned Companies (SOC) Alexkor, Broadband Infraco, SAFCOL, Denel, SA Express and South African Airways have not sponsored any event or promotion hosted by The New Age (TNA) newspaper since its inception. However, Eskom, Denel and Transnet have sponsored events hosted by TNA newspaper. The details are listed below.

**According to Eskom:**

(b)(i-ii)(aa) Yes, Eskom had a sponsorship agreement with the TNA newspaper to sponsor 6 breakfast sessions during the 2012/13 financial year.

(b)(i-ii)(bb) The dates on which the breakfast sessions were held:

16 April 2012; 14 May 2012; 28 May 2012; 31 July 2012; 3 September 2012; and 21 October 2012.

(b)(cc) The sponsorship package was for 6 breakfast sessions at a cost of R1 197 609.79 per breakfast. The total amount is R7 185 658 74.

(b)(dd) The amount paid covered a package which included the following:

- SABC 2 Morning live coverage of the event from 07:00 to 09:00;
- Radio slots on SABC promoting the events;
- Advertisements in TNA newspaper;
- Two free tables of 10 for Eskom Stakeholders;
- Two seats at the main table with the guest speaker;
- Branding at the events; and
- Sponsors speech before the key note speaker

(b)(ee) The events were paid from the approved 49M campaign budget as all the breakfasts were branded 49M.

(b)(ff-gg) The main benefit for Eskom and the Department of Public Enterprises was brand awareness and highlighting the need to conserve electricity. Furthermore, the breakfasts created opportunities for engagement between Government and the private sector.

**According to Transnet:**

(b)(i-ii) Yes, Transnet participates in the TNA newspaper /SABC business briefing sessions.

(b)(i-ii)(aa) The TNA newspaper /SABC business briefings are televised on SABC 2 Morning Live show. Guest speakers who have taken part include leading public figures such as President Jacob Zuma, the Leader of the Democratic Alliance and sports personalities (soccer and cricket).

(b)(i-ii)(bb) Dates on which the company participated are as follows:

- 18 November 2011 Johannesburg, Sandton Convention Centre;
- 05 December 2011 - Johannesburg, Sandton Convention Centre;
- 12 January 2012 - Johannesburg, Sandton Convention Centre;
- 10 February 2012 - Cape Town, Market Hall;
- 16 March 2012 - Port Elizabeth, Eastern Cape Training Centre;
- 12 April 2012 - Johannesburg, Sandton Convention Centre;
- 23 April 2012 - Johannesburg, Sandton Convention Centre;
- 21 May 2012 - Johannesburg, Sandton Convention Centre;
- 11 June 2012 - Johannesburg, Sandton Convention Centre;
- 06 July 2012 - Johannesburg, Sandton Convention Centre;
- 06 August 2012 - Johannesburg, Sandton Convention Centre;
- 16 August 2012 - Johannesburg, Sandton Convention Centre;
- 11 September 2012 - Johannesburg, Sandton Convention Centre;
- 21 September 2012 - Johannesburg, Monte Casino;
- 04 October 2012 - Johannesburg, Sandton Convention Centre;
- 11 October 2012 - Midrand, Gallagher Convention Centre;
- 06 November 2012 - Johannesburg, Monte Casino; and
- 13 November 2012 - Johannesburg, Monte Casino.

(b)(i-ii)(cc and ee) The amount is R17 499 970.00 (to date). The funds were derived from branding or advertising budget.

(b)(i-ii)(dd)(ff-gg) The purpose of Transnet's participation, the expected benefits as well as actual benefits are as follows:

- Brand building;
- Brand exposure on the SABC TV - Morning Live show;
- Advertising;
- An opportunity to send key messages to South Africans about Transnet;
- To interact and engage leadership from various industries; and
- To drive and encourage thought leadership.

Reply received: December 2012



ANNEXURE PP 26



**Palesa Tswai**

---

**From:** Chose Choeu  
**Sent:** 28 August 2013 07:30 AM  
**To:** Phumi Dhlomo; Pieter Pretorius  
**Cc:** Raeesah Waja  
**Subject:** FW: Questions on spend with media houses  
**Attachments:** [Untitled].pdf

Hi Pieter,

Please respond on our behalf.

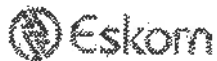
**From:** Kannan Lakmeeharan  
**Sent:** Tuesday, August 27, 2013 5:31 PM  
**To:** Pieter Pretorius; Chose Choeu  
**Subject:** Questions on spend with media houses

Good day Chose and Pieter,

Attached is a document that was shared with the Minister and it is confidential. My understanding is that the information came via Pieter or Khepee. I wanted to understand if the spend in the newspapers section is on advertising or is it subscriptions (which I doubt). Does the New Age portion include subscriptions? Also how did the adverts get allocated?

Regards  
Kannan

Kannan Lakmeeharan  
Divisional Executive (Office of the Chief Executive) and Group Executive (Technology & Commercial) (acting)  
Tel : +27-11-8003579  
Fax: +27-86 6628460



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Mr. Sam Mandiwana  
Parliamentary Services Unit  
Department of Public Enterprises  
Private Bag X15  
Hatfield  
0028

Date:  
24 May 2013  
Enquiries:  
P Mabena (011 800 4847)

Dear Mr. Mandiwana

# RESPONSE TO PARLIAMENTARY QUESTION NUMBER: 1099

Mr S Esau (DA) to ask the Minister of Public Enterprises:

(1) What total amounts has (a) his department and (b) each specified entity reporting to him spent on (i) print and (ii) broadcast advertising in the (aa) 2009-10, (bb) 2010-11, (cc) 2011-12 and (dd) 2012-13 financial years;

(2) in each case, (a)(i) by which radio or television station were the advertisements broadcast and (ii) in which newspapers were the advertisements published in the (aa) 2009-10, (bb) 2010-11, (cc) 2011-12 and (dd) 2012-13 financial years and (b) at what cost in each specified case? NW1332E

## ESKOM'S RESPONSE:

Please refer to the attached reply.

Yours sincerely

Brian Darnes  
CHIEF EXECUTIVE

Head Office:  
Mabasa Park, 111 Woodlands, Sandton, Gauteng  
P.O. Box 1111, Sandton, 2146  
Tel: (011) 400-0000 Fax: (011) 400-0000 www.eskom.co.za

System Manager: SDCI Lowndes Reg No: 50924020700

199  
2013

**ESKOM'S RESPONSE TO PARLIAMENTARY QUESTION NUMBER 1099  
ADDRESSED TO THE MINISTER OF PUBLIC ENTERPRISES BY MR S ESAU (DA)**

**Background**

Eskom places advertisements in various media categories such as print, cinema, digital, radio and television. Approximately 60% of the funds were invested on energy efficiency initiatives. The nature of the advertisements is:-

- The 49M and Integrated Demand Management to address energy efficiency;
- Corporate related advertisement to highlight Eskom's role in society;
- Energy Losses Management Programme to highlight the dangers of electricity theft and illegal connections;
- Advertisements for supporting Small & Medium Enterprises; and
- Eskom Development Foundation to highlight the charity work done by Eskom

Below is more detailed information on the media categories and respective spend over the past four financial years, as well as specific information of actual publications or media stations.

It should be noted that Eskom's financial year starts in April and ends in March. Therefore 2009-10 denotes 1 April 2009- 31 March 2010.

(1)

Media Category	2009 -10	2010 - 11	2011 - 12	2012 - 13
Cinema		544 955.10	3 434 178.97	4 235 341.76
Digital	1 127 301.56	1 300 567.89	2 922 864.79	9 153 800.78
Magazine	7 061 740.29	14 970 063.24	13 717 562.64	21 036 381.17
Newspaper	9 510 604.00	24 652 643.12	31 324 321.00	61 038 977.18
Out of Home	3 066 434.03	18 569 645.06	32 662 556.73	56 312 271.89
Radio	19 547 076.46	25 958 883.46	32 120 018.82	56 451 282.39
Television	36 657 684.77	46 038 702.17	66 079 694.27	107 404 282.70
Grand Total	76 970 841.10	132 235 460.14	184 231 297.12	315 632 336.86

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Initial here

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{2}

Media Category:	Publication/Station	2009 -10	2010 - 11	2011 - 12	2012 -13
Cinema	Popcorn	0	544 955.10	2 981 178.97	4 235 341.76
	Cinemark	0	0	423 000.00	0
<b>Total Cinema</b>		<b>0</b>	<b>544 955.10</b>	<b>3 404 178.97</b>	<b>4 235 341.76</b>

Media Category:	Publication/Station	2009 -10	2010-11	2011 -12	2012 -13
Digital	24.Com	38 500.00			
	24.Com - Beeld	7 105.00			
	24.Com - City Press	21 315.00			
	24.Com - Die Burger	7 105.00			
	24.Com - Fin24	47 458.08	64 293.88	51 999.90	
	24.Com - Health24	26 040.00			
	24.Com - News24	80 742.29	62 603.73	129 875.30	
	24.Com - Nuus24				69 392.00
	24.Com - Property24	14 210.00			
	24.Com - Rapport	7 105.00			
	24.Com - Volksblad	7 105.00			
	25 Degrees.net	1 592.00	14 301.00		

CONFIDENTIAL

1931

1. The following Question Reply is a copy of the report of the subject, as an "Interviewee" concerning the subject's former membership in the LHS and the work of the LHS, 1942-1945 in connection with the LHS activities in the LHS.

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365.Com			39 000.00	
702Talk Radio				14 000.00
Adclick Africa				82 500.00
All4Women				62 421.00
BBC Good Food				78 400.00
BBC.com				33 000.00
BDFM - Online - Business Day Site	53 460.00			
BDFM - Online - Financial Mail Site	36 450.00			
BDFM Online Summit Site	12 150.00			
Beeld				180 064.21
Biz Community		8 982.04		77 200.00
Business Day		36 000.00		56 100.00
Business Pages			27 532.94	
Career Junction			30 345.00	30 345.00
Channel 24				90 000.00
Creamer Media			79 200.00	
D6 AD Sales			38 981.60	79 963.20
Demographics				202 400.00
Destiny Connect	16 199.70			
Die Burger				88 761.00
Digitalmark (Division of Radmark Pty Ltd)			84 000.00	

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Drum Online			13 535.00	12 250.00
E Type SA			228 000.00	
ED. org.za			2 640.00	13 200.00
EE Publishing Online	9 050.15	30 806.23		43 485.00
Electric Herd Network				172 250.00
Engineering News				19 000.00
Engineering News Online	55 989.95	46 712.50	39 880.00	105 283.24
EWN				15 000.00
Getaway (internet)		55 100.00		
Facebook				163 000.00
Fax FX				187 500.00
Fin 24				138 600.00
Fair Lady			18 535.00	
Financial Mail				43 500.00
Freight & Trade Weekly Online				5 375.00
Global Acquisition	12 500.00	45 000.00	185 459.27	
Goele Huishouding				27 455.00
Good House Keeping				130 620.00
Google Ireland Limited	53 892.00			
Google				321 200.00
Go-Travel		33 120.00		
Goviral - Video Network				196 196.00

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Habari			30 780.00	
Heat			10 000.00	
Highveld 94.7				10 500.00
Hotel & Restaurant				83 692.00
House & Leisure Online				61 392.00
Huisgenpot Online			52 350.00	61 250.00
I Talk				45 000.00
Iafrica.Com	123 454.18	72 825.15		165 025.00
InfMobi				199 165.64
Instrumentation.co.za	10 500.00			
Ideas Online			9 647.49	
IOL	30 800.00	70 500.00	52 200.00	260 969.04
IOL - Business Report			42 999.98	
IOL - The Star			74 880.00	
LINKEDIN			19 500.00	274 500.00
Jacaranda Online	10 500.00			
Joburg.Co.ZA		26 946.11		
Kaya FM	17 099.62			112 100.00
Kick Off Online				192 384.00
Lonely Planet				75 600.00
Look Local				137 500.00
Mail And Guardian Online	59 850.01	15 000.00	330 000.05	251 904.57
Marketing Web		11 976.05		
Media24	10 500.12			

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Total 115.8

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Digital				
Memeburn.Co m				62 500.00
Menshealthsa. Com	21 773.70			
Men's Health Online			32 350.00	
Mining Weekly				19 000.00
Mining Weekly On Line	43 050.24			63 000.00
Mobifun				187 500.00
Mobile Web				33 000.00
Moneyweb			355 000.00	78 250.00
MSN	21 000.00		75 900.00	95 000.00
MTV Base & Music				31 250.00
Mweb		7 200.00		88 000.00
Mxit			340 503.80	578 114.39
Mybeat Interactive	9 320.00			
My Broadband				144 500.00
National Geographic		20 010.00		
News 24			29 999.97	165 500.00
Nickelodeon				62 500.00
OFM Website			12 000.00	
Popular Mechanics	59 949.70	141 280.00	40 800.00	45 000.00
RAPPORT				19 485.00
Runners World Website			17 350.00	
SA Good News (www.sagoodn		8 500.00		

CONTINUED DISCLOSURE



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ews.co.za)				
SA Men Online	5 000.01			
Sake 24				78 175.00
School Communicator				90 000.00
Seventeen Online				25 200.00
Sharenet				101 000.00
Sky.com			65 000.00	
Skype				33 760.00
SME South Africa				210 000.00
Sme Survey	3 592.82			
SMS Database				14 700.00
Sowetan	10 499.76			150 999.80
Sowetan Live				163 000.00
Sunday World				24 000.00
Supersport				79 925.60
Supersport & News24				85 655.50
TasteMag				40 000.00
The Enviropaedia		71 856.29		
The Student Village	10 014.73	30 044.19	29 134.85	89 874.25
The Times	63 000.00		30 000.00	
Thumbtribe Media			151 725.00	
Timeslive. Co .Za				228 996.00
USSD SMS				94 600.30
Visi				40 000.00

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Vodacom PCM				368 780.04
Vodacom Vlive				100 900.00
VOLKSBLAD				38 925.00
Wattnow	7 812.50	23 437.50		
Webmail	26 000.00		5 000.00	48 000.00
Womens Health			20 000.00	
www.blabla.co.za			4 000.00	20 000.00
www.sastudy.co.za			35 150.00	98 750.00
X Buy	45 625.00			
Yahoo	30 000.00	394 093.32	69 999.64	343 000.00
Yonder Media				16 800.00
You Tube				227 750.00
You Online			24 710.00	
Digital Total	1 127 301.55	1 300 567.99	2 922 964.79	9 153 800.78

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Media Category	Publication/ Station	2009 -10	2010-11	2011 -12	2012 -13
	Media 24	1 282 115.38	6 473 920.83	4 730 614.00	5 589 191.37
	Ayusa / Times Media	533 765.46	971 325.93	1 163 804.90	1 176 860.20
	Caxtons	579 479.23	643 831.98	448 938.00	1 748 046.16
	Independent Group	249 526.74	180 357.05	202 453.00	635 940.63
	New Media Group	0.00	537 793.24	344 353.21	1 210 391.85
	Ndalo Media	0.00	0.00	39 900.00	592 265.27
	Highbury Safika	177 844.30	515 692.12	434 039.77	497 260.94
	Other	4 239 019.18	5 647 142.10	6 353 460.56	9 586 424.76
<b>TOTAL MAGAZINES</b>		<b>7 061 740.29</b>	<b>14 970 063.24</b>	<b>13 717 562.64</b>	<b>21 036 381.17</b>

Media Category	Publication/ Station	2009 -10	2010-11	2011 -12	2012 -13
	Ayusa/ Times media	3 456 556.34	6 824 099.75	6 901 049.00	14 881 203.20
	Independent Newspapers	1 692 905.32	5 689 470.03	6 616 641.00	10 501 053.34
	Ads 24	1 638 382.19	7 641 026.36	8 618 103.00	12 653 333.91
	The new age		385 411.00	2 075 609.00	2 994 196.00
	Mail & guardian	270 083.00	679 618.25	1 623 763.00	1 627 033.59
	Caxtons	1 753 991.06	2 117 746.59	4 013 912.00	13 270 554.04
	Other	698 686.09	1 515 271.14	1 475 344.00	5 111 603.09
<b>TOTAL NEWSPAPERS</b>		<b>9 510 604.00</b>	<b>24 852 643.12</b>	<b>31 324 321.00</b>	<b>61 938 977.18</b>

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SOL Limited Reg No 2002/01802703.



Media Category- Out of Home	Publication Station	2009 -10	2010-11	2011 -12	2012 -13
	Continental		674 225.04	4 179 072.49	6 144 944.79
	Primedia Group	2 209 004.77	5 397 758.59	11 699 196.02	10 421 167.00
	Provantage		2 090 188.81	3 553 932.00	7 109 873.71
	Outdoor Network		598 023.30	1 593 618.29	1 728 071.83
	Brand IQ		269 461.10	1 607 665.71	1 057 733.56
	Adreach		422 208.43	1 999 929.76	3 374 061.21
	Graffiti			715 242.51	1 653 958.86
	Other	857 429.26	9 117 771.89	8 803 999.93	24 822 960.93
<b>Out of Home Total</b>		<b>3 066 434.03</b>	<b>18 569 645.07</b>	<b>32 662 556.73</b>	<b>56 312 271.89</b>

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SGC Limited Reg No 2007/0155/2008

Media Category- Radio	Publication/ Station	2009 -10	2010-11	2011 -12	2012 -13
	Abundant Media	1 073 676.82	664 529.31	2 279 064.67	2 177 498.05
	AGRI CONNECT T/A DAIRY MAIL		31 185.00		
	Chai FM (2786100242)		76 568.90		
	Classic FM	248 220.00	171 873.75	299 911.59	220 598.00
	Comutanet			317 200.00	
	Magos Media				448 668.00
	Massiv TV			44 739.96	
	Mediamark/ Radmark	4 325 200.83	4 326 502.00	6 406 590.62	9 720 997.55
	Motswako	2 286 329.79	2 135 764.21	638 770.80	2 393 419.67
	MPowerFM			12 378.88	
	Primedia Broadcasting	4 515 738.06	4 700 596.92	7 325 334.79	9 547 118.97
	RadioKansel/ Pulpit				33 534.00
	Radio Heads			660 724.00	
	SABC Radio	5 499 137.74	10 464 021.14	7 928 310.00	19 870 671.88
	Soweto Media		82 540.78		130 000.00
	Student Radio Networks				524 262.38
	United Stations	1 598 773.42	2 804 107.44	6 206 987.52	10 076 928.96
	Witbank FM				
	Yired/YFM		501 204.00		1 307 586.63
<b>Radio Total</b>		<b>19 547 076.46</b>	<b>25 968 883.45</b>	<b>32 120 018.83</b>	<b>56 451 283.39</b>

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Media Category	Publication/ Station	2009 -10	2010-11	2011 -12	2012 -13
	Africa Business News T/A CNBC		96 360.00	144 540.00	
	African Business Channel	2 249 656.40	1 142 623.00	1 512 741.00	2 081 801.01
	Cardova		1 100 000.00		
	Trading/Exprese				
	Comutanet Rank TV			865 800.00	
	ETV	4 369 650.97	10 850 154.00	19 111 713.04	24 026 985.96
	Ezinkhulu Productions		2 395 209.60		
	JB Media				
	Connection/Wellness Tv			90 000.00	
	MTV Networks				438 100.00
	On Digital Media/Top TV				155 500.00
	Red Cherry TV	982 000.00	611 001.75	1 000 667.00	
	Redflex/ New Media INC			246 508.98	
	SABC	28 936 447.42	28 623 914.96	39 592 953.95	62 856 198.58
	Urban Brew/Soweto TV	149 999.98		479 664.00	346 560.00
	DStv		1 003 870.00	4 764 150.00	17 469 637.15
	Township TV		215 588.86	271 856.30	
<b>Television Total</b>		<b>36 657 684.77</b>	<b>46 038 702.17</b>	<b>68 079 694.27</b>	<b>107 404 282.70</b>

CONTINUED DISCLOSURE



This Financial Statement is the responsibility of the Accounting Officer and is subject to the audit opinion of the Auditor General. The Auditor General's report is subject to further changes by the relevant department. The final copy of the Financial Statement shall be submitted by the relevant department.

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ANNEXURE PP 27







## MEMO

**To:** Pindi Mabena – General Manager

**From:** Venessa Ngwenya – Manager Auditing  
Faizal Kajee – Middle Manager Auditing

**Copied:** Ureka Rangasamy – Senior Manager Auditing; Pieter Pretorius – General Manager Strategic Marketing; Cynthia Motlhamme – Middle Manager Auditing; Amanda Share – Chief Advisor Auditing

**Date:** 11 May 2015

## SUBJECT: VERIFICATION OF PARLIAMENTARY QUESTION – PQ 1085

### 1. INTRODUCTION

Assurance and Forensic (A&F) was requested to perform a high level verification of Eskom's response to parliamentary question PQ 1085.

### 2. PARLIAMENTARY QUESTION

Mr T Rawula (EFF) to ask the Minister of Public Enterprises: (a) Has any of her senior officials met with certain persons (names furnished) during the period 1 January 2009 up to 31 December 2015 and (b) has any of the entities reporting to her awarded any contracts to Sahara Holdings, Comair, Oakbay Investments, Islandsite Investments, Afripalm Horizons Stakes, The New Age Media, JIC Mining Services and Vusizwe Media in the specified period; if so, what (i) are the relevant details and (ii) is the amount of each specified contract?

### 3. ESKOM'S RESPONSE TO PARLIAMENTARY QUESTION

(a)

Contract Period	Contracted Parties	Senior officials
1 April 2012 – 31 March 2012	The Media Shop (Pty) LTD and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Chose Choeu (Eskom)</li> <li>• Nazeem Howa (TNA)</li> <li>• Jacques Roux (TNA)</li> <li>• Pieter Pretorius (Eskom)</li> <li>• Donald Liphoko (The MediaShop)</li> </ul>
1 November 2012 – 31 March 2012	The Media Shop (Pty) LTD and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Chose Choeu (Eskom)</li> <li>• Nazeem Howa (TNA)</li> <li>• Laiza Zikalala (The MediaShop)</li> </ul>
1 May 2014 – 31 April 2017	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Chose Choeu (Eskom)</li> <li>• Nazeem Howa (TNA)</li> <li>• Wiedaad Taliep (TNA)</li> </ul>

(b) Yes. Eskom awarded three (3) contracts to The New Age Media (TNA) for the sponsorship of TNA Business briefing breakfasts during the period 1 April 2012 to 30 April 2017, two of the contracts entered into via the Eskom appointed media buying agency, The Media Shop. Eskom also awarded one (1) contract to The New Age Media for a newspaper subscription during the period 3 October 2011 to 30 November 2012.

(b) (i) the relevant details

Contract Period	Contracted Parties	Details
1 April 2012 – 31 March 2012	The Media Shop (Pty) LTD and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Eskom (Pty) LTD &amp; The Media Shop (Pty) LTD commits to spend the sum of R 11 185 628.74 to sponsor 6 x TNA Business briefing breakfasts and supporting newspaper advertising in The New Age, during the period of 01 April 2012 – 31 March 2013.</li> <li>• The sponsor will receive the following exposure:</li> <li>• SABC2 – Morning LIVE broadcast between 7H00 to 9H00</li> <li>• Radio spots on SABC Radio Stations (event only)</li> <li>• Advertisements in The New Age</li> <li>• 2 x table of 10 guests each</li> <li>• Banner advertisement on <a href="http://www.thenewage.co.za">www.thenewage.co.za</a></li> <li>• Use of social media</li> <li>• Logos on all invitations</li> <li>• 6 pull up banners at event</li> <li>• 2 guests to be placed at main table</li> <li>• Sponsor speech from podium before key note address</li> </ul>

1 November 2012 – 31 March 2012	The Media Shop (Pty) LTD and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Eskom (Pty) LTD &amp; The Media Shop (Pty) LTD commits to spend the sum of 4 000 000 to sponsor 4 x TNA Business briefing breakfasts during the period of 01 November 2012 – 31 March 2013.</li> <li>• The sponsor will receive the following exposure:</li> <li>• SABC2 – Morning LIVE broadcast between 7H00 to 9H00</li> <li>• Radio spots on SABC Radio Stations (event only)</li> <li>• 10 Advertisements in The New Age marketing with breakfast with recording Eskom as sponsor</li> <li>• Two editorial pages, with Eskom logo, reporting back on the breakfast.</li> <li>• 2 x table of 10 guests each</li> <li>• Banner advertisement on <a href="http://www.thenewage.co.za">www.thenewage.co.za</a></li> <li>• Use of social media</li> <li>• Logos on all invitations</li> <li>• 6 pull up banners at event</li> <li>• 2 guests to be placed at main table</li> <li>• Sponsor speech from podium before key note address</li> </ul>
1 May 2014 – 31 April 2017	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Eskom (Pty) LTD commits to spend the sum of R 43 200 000 (excluding VAT) to sponsor 36 x TNA Business briefing breakfasts during the period of 01 May 2014 – 31 April 2017. An amount of R 1 200 000 per breakfast briefing.</li> <li>• The sponsor will receive the following exposure:</li> <li>• Live broadcast of the event for at least 60 minutes</li> <li>• Advertisements in The New Age</li> <li>• 2 x table of 10 guests each</li> <li>• Banner advertisement on <a href="http://www.thenewage.co.za">www.thenewage.co.za</a></li> <li>• Use of social media</li> <li>• Logos on all invitations</li> <li>• 6 pull up banners at event</li> <li>• 2 guests to be placed at main table</li> <li>• Sponsor speech from podium before key note address</li> </ul>
3 October 2011 to 30 November 2012	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>• Newspaper subscription</li> </ul>

(b) (ii) the amount of each specified contract

Contract Period	Contracted Parties	Details
1 April 2012 – 31 March 2012	The Media Shop (Pty) LTD and TNA Media (PTY) LTD	• R 11 185 628.74
1 November 2012 – 31 March 2012	The Media Shop (Pty) LTD and TNA Media (PTY) LTD	• R 4 000 000.00
1 May 2014 – 31 April 2017	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	• R 43 200 000.00
3 October 2011 to 30 November 2012	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	• R1 389 480.00

#### 4. VERIFICATION RESULTS

Based on the high level verification performed, A&F's view with regard to Eskom's response is as follows:

a) A&F is unable to comment on the mentioned attendance of the senior officials in the absence of documentary evidence.

b)

(i) Contract #1 – R11 185 268.74

Eskom appointed the Media Shop to conclude sponsorship and exposure contracts on its behalf. The Media Shop is Eskom's official media buying agency and are appointed by Eskom as a "principal at law", which means they enter into contracts on behalf of Eskom. Media Shop, in turn, concluded a contract with The New Age (TNA) Business briefing breakfasts. The 1<sup>st</sup> contract where the period is for 1 April 2012 to 31 March 2013 (dates misstated above in table compiled by Corporate Affairs (CA)) was concluded between Media Shop and TNA, in terms of its mandate with Eskom.

(ii) Contract #2 – R4 000 000.00

This is a modification to the above contract in that Eskom decided that instead of sponsoring 6 breakfasts it wanted to sponsor 10 breakfasts for the financial year ending 31 March 2013. According to CA, the Media Shop was not comfortable to sign the extension and requested that Eskom co-sign the amended contract. The period of the contract is 1 April 2012 to 31 March 2013 (dates misstated above in table compiled by CA).



For (i) and (ii) above, Media Shop is Eskom's media buying agent.

(ii) Contract #3 – R43 200 000.00

This contract is for the same services as the other contracts but the contract period was 1 May 2014 to 31 April 2017. This contract was signed by Eskom and TNA.

(ii) Contract #4 – R1 389 480.00

A&F verified the existence of the one contract with New Age Media for the newspaper subscriptions between Eskom and TNA for the period 3 October 2011 to 30 November 2012. The amount is the contracted value before VAT.

#### **Other one-time payments made to New Age**

Payments were also made to New Age using a cheque requisition and not via a contract. These payments were made by Corporate Affairs to purchase a table at business briefing breakfasts sponsored by other organisations. The payments are as follows:

Date	Details	Amount
20/09/2013	Sponsorship – Booking for Business Briefings	R7130.70
15/02/2013	CEO - Booking for Business Briefings	R7130.70
19/03/2013	Booking for Business Briefings	R14261.40
09/04/2014	Booking for Business Briefings - venue	R7130.70
12/03/2014	Booking for Business Briefings	R7130.70

A&F verified the validity of management assertions and not the completeness of the information.

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ANNEXURE PP 28






CONTROLLED DISCLOSURE

Mr Kgathatso Tlhakudi  
Acting Director General  
Department of Public Enterprises  
Private Bag X15  
Hatfield  
0028

**RESPONSE TO PARLIAMENTARY QUESTION NUMBER: PQ3912****DATE RECEIVED: 6 November 2015**

Herewith the reply to Parliamentary Question 3912 received on 6 November 2015.

Sincerely



Brian MOLEFE  
**GROUP CHIEF EXECUTIVE**  
Date: 12/11/15

**Head Office**

Megawatt Park Maxwell Drive Sunninghill Sandton  
P O Box 1091 Johannesburg 2000 SA  
Tel +27 11 800 4585 Fax +27 11 800 5803 [www.eskom.co.za](http://www.eskom.co.za)  
Eskom Holdings SOC Ltd Reg No 2002/015527/30

2  
PQ3912

**PARLIAMENTARY QUESTION NUMBER PQ3912**

**QUESTION:**

Mr N Singh (IFP) to ask the Minister of Public Enterprises: Whether she will take action against the reckless and wasteful expenditure of taxpayers' money by Eskom, whereby the specified parastatal recently entered into a three-year agreement that is worth R43 million with The New Age (TNA) to sponsor the specified publication's breakfast briefings; if not, why not; if so, what are the relevant details?

**REPLY:**

No action is required as no fruitless and wasteful expenditure was incurred. The Eskom Board recognised the value of using platforms to interact with the public to communicate and garner support for the work Eskom is doing to ensure South Africa has sufficient energy and therefore ratified the media contract. An amount of R4 million was reported as irregular expenditure in the 2015 Annual Financial Statement. This amount was incurred within the contract period but prior to the Board's ratification. The R4 million was only paid over to TNA after the Board's ratification.

Regarding the incidence of fruitless and wasteful expenditure in general, Eskom regularly reviews its internal control processes to minimise the risk, and where an incident occurs Management takes appropriate measures to deal with the matter, including disciplinary action and/or criminal or civil action against those involved, as considered appropriate.

-End-

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Initial 



ANNEXURE PP 29



Mr Mogokare Seleke  
Director General  
Department of Public Enterprises  
Private Bag X15  
Hatfield  
0028

**RESPONSE TO PARLIAMENTARY QUESTION NUMBER: PQ1085**

**DATE RECEIVED: 14 April 2016**

Herewith the reply to Parliamentary Question 1085 received on 14 April 2016.

Sincerely

Brian MOLEFE  
**GROUP CHIEF EXECUTIVE**  
Date:

**Head Office**

Megawatt Park Maxwell Drive Sunninghill Sandton  
P O Box 1091 Johannesburg 2000 SA  
Tel +27 11 800 4585 Fax +27 11 800 5803 [www.eskom.co.za](http://www.eskom.co.za)  
Eskom Holdings SOC Ltd Reg No 2002/015527/30

**PARLIAMENTARY QUESTION NUMBER PQ1085****QUESTION:**

Mr T Rawula (EFF) to ask the Minister of Public Enterprises: (a) Has any of her senior officials met with certain persons (names furnished) during the period 1 January 2009 up to 31 December 2015 and (b) has any of the entities reporting to her awarded any contracts to Sahara Holdings, Comair, Oakbay Investments, Islandsite Investments, Afripalm Horizons Stakes, The New Age Media, JIC Mining Services and Vusizwe Media in the specified period; if so, what (i) are the relevant details and (ii) is the amount of each specified contract?

**REPLY:****(a)**

This question is referred to DPE to respond

**(b)**

Entity	Awarded Contract
Sahara Holding	No
Comair	No
Oakbay Investments	No
Islandsite Investments	No
Afripalm Horizons Stakes	No
The New Age Media	Yes
JIC Mining Services	No
Vusizwe Media	No

Eskom awarded a total of four (4) contracts to The New Age Media (TNA). Three (3) for the sponsorship of TNA Business briefing breakfasts between the period 1 April 2012 to 31 April 2017. The Media Shop (Eskom's official buying agency) was instructed by Eskom to enter into the first agreement signed 1 April 2012 to 31 March 2012.

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Eskom Holdings SOC Limited, Reg No 2002/015527/30.

**Initial.....**

## (b)(i)

Contract Period	Contracted Parties	Details
1 April 2012 – 31 March 2013	Eskom Holdings SOC Limited, the MediaShop (Pty) LTD and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>Eskom (Pty) LTD &amp; The Media Shop (Pty) LTD commits to spend the sum of R 11 185 268.74 to sponsor 6 x TNA Business briefing breakfasts and supporting newspaper advertising in The New Age, during the period of 01 April 2012 – 31 March 2013.</li> <li>The sponsor will receive the following exposure: <ul style="list-style-type: none"> <li>SABC2 – Morning LIVE broadcast between 7H00 to 9H00</li> <li>Radio spots on SABC Radio Stations (event only)</li> <li>Advertisements in The New Age</li> <li>2 x table of 10 guests each</li> <li>Banner advertisement on <a href="http://www.thenewage.co.za">www.thenewage.co.za</a></li> <li>Use of social media</li> <li>Logos on all invitations</li> <li>6 pull up banners at event</li> <li>2 guests to be placed at main table</li> <li>Sponsor speech from podium before key note address</li> </ul> </li> </ul>
1 November 2012 – 31 March 2013	Eskom Holdings SOC Limited, the MediaShop (Pty) LTD and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>Eskom (Pty) LTD &amp; The Media Shop (Pty) LTD commits to spend the sum of 4 000 000.00 to sponsor 4 x TNA Business briefing breakfasts during the period of 01 November 2012 – 31 March 2013.</li> <li>The sponsor will receive the following exposure: <ul style="list-style-type: none"> <li>SABC2 – Morning LIVE broadcast between 7H00 to 9H00</li> <li>Radio spots on SABC Radio Stations (event only)</li> <li>10 Advertisements in The New Age marketing with breakfast with recording Eskom as sponsor</li> <li>Two editorial pages, with Eskom logo, reporting back on the breakfast.</li> <li>2 x table of 10 guests each</li> <li>Banner advertisement on <a href="http://www.thenewage.co.za">www.thenewage.co.za</a></li> <li>Use of social media</li> <li>Logos on all invitations</li> <li>6 pull up banners at event</li> <li>2 guests to be placed at main table</li> <li>Sponsor speech from podium before key note address</li> </ul> </li> </ul>

## CONTROLLED DISCLOSURE

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**Initial.....**



4  
PQ1085

1 May 2014 – 31 April 2017	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>Eskom (Pty) LTD commits to spend the sum of R 43 200 000 (excluding VAT) to sponsor 36 x TNA Business briefing breakfasts during the period of 01 May 2014 – 31 April 2017. An amount of R 1 200 000 per breakfast briefing.</li> <li>The sponsor will receive the following exposure:</li> <li>Live broadcast of the event for at least 60 minutes</li> <li>Advertisements in The New Age</li> <li>2 x table of 10 guests each</li> <li>Banner advertisement on <a href="http://www.thenewage.co.za">www.thenewage.co.za</a></li> <li>Use of social media</li> <li>Logos on all invitations</li> <li>6 pull up banners at event</li> <li>2 guests to be placed at main table</li> <li>Sponsor speech from podium before key note address</li> </ul>
3 October 2011 - 30 November 2012	Eskom Holdings SOC Limited and TNA Media (PTY) LTD	<ul style="list-style-type: none"> <li>Newspaper subscription</li> </ul>

**Note: The MediaShop**

(b)(ii)

Contracted Parties	Contract Value R'Million
Eskom Holdings SOC Limited , the MediaShop (Pty) LTD and TNA Media (PTY) LTD	11.2
Eskom Holdings SOC Limited, the MediaShop (Pty) LTD and TNA Media (PTY) LTD	4
Eskom Holdings SOC Limited and TNA Media (PTY) LTD	43.2
Eskom Holdings SOC Limited and TNA Media (PTY) LTD	1.4

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**Additional Information for the Minister's Information Only****The New Age Media**

Eskom awarded three (3) contracts to The New Age Media (TNA) for the sponsorship of TNA Business briefing breakfasts during the period 1 April 2012 to 30 April 2017, two of the contracts entered into via the Eskom appointed media buying agency, The MediaShop. The Media Shop is Eskom's official media buying agency, contracted for 5 years. They are appointed by Eskom as a "principal at law", which means they enter into contracts on behalf of Eskom. The Media Shop was instructed by Eskom to enter into the first agreement signed 1 April 2012 to 31 March 2013. The subsequent contract 1 November 2012 – 31 March 2013 is co-signed by both Eskom and the Media Shop. The recent agreement signed in 1 May 2014 is signed directly with Eskom Holdings and TNA.

**Oakbay Investments**

There are no other contracts entered into directly with this entity, Eskom has contracted for the supply of coal with Tegeta Exploration and Resources. Oakbay Investments (Pty) Ltd and Islandsite Investments (Pty) Ltd have direct and indirect shareholding in Tegeta Exploration and Resources as indicated by a document supplied by Tegeta Exploration and Resources at contract award. See the documents attached.

**Sahara Holdings**

Sahara Holdings is listed as a vendor in the Eskom supplier database, but there is no contract between Eskom and this entity.

**CONTROLLED DISCLOSURE**

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**Initial.....**

ANNEXURE PP 30



**PUBLIC PROTECTOR  
SOUTH AFRICA**

MOSEHLE FETI WA BATHO • PONTHELE D. D. WA RABO  
MOSHEHLE FETI WA BATHO • MUTHUSELE OZI WA KHAYISI  
KHEPHEANE DESKEMBE • LO. DORRILLI MATHO • M. MKELE MABANTU  
1824B OFFICE: 177-1770000  
Private Bag 2077, Pretoria 0001 • 176 Luthuli Street • Hillside Office Park, 0150  
Tel: (012) 366 7044 • Fax: (012) 362 2428

Please quote this reference in your reply: 7/2 - 001451/13

Enquiries: Mr. R. Matabogo  
Tel: (012) 366 7044 Fax: 085 6278 257  
[rodneym@protekt.org](mailto:rodneym@protekt.org)

Mr Tshediso Matona  
The Director-General of the Department of Public Enterprises  
Private Bag X15  
Hatfield  
0028

03 June 2013

Dear Mr Matona

**INVESTIGATION INTO ALLEGATIONS OF FRUITLESS AND WASTEFUL  
EXPENDITURE BY PUBLIC ENTERPRISES IN CONNECTION WITH THE  
SPONSORSHIP OF SEVERAL TNA (THE NEW AGE) NEWSPAPER BREAKFAST  
BRIEFINGS HELD ON SABC 2 MORNING LIVE PROGRAMME.**

1. Kindly be informed that I am investigating a complaint from Advocate Anton Alberts in connection with allegations of fruitless and wasteful expenditure by Public Enterprises, namely: Transnet, Telkom, Eskom, and SABC in respect of sponsorship made towards The New Age Newspaper (TNA) Breakfast Briefing sessions that were broadcasted on SABC 2 Morning Live programme.
2. My investigation is conducted in terms of section 182(1) of the Constitution, 1996 read with sections 6 and 7 of the Public Protector Act, 1994.



3. In essence the allegations against the aforementioned public enterprises are *inter alia* the following;

3.1 That the Department exerted undue influence on the public enterprises to enter into an agreement with The New Age for the sponsorships.

3.2 That The New Age(TNA) newspaper was improperly sponsored by the aforementioned public enterprises for the hosting of numerous breakfast briefing sessions which were aired on SABC 2 Morning Live programme in 2012.

3.3 That a total amount of R36.7 million was paid by these public enterprises for 18 breakfast sessions hosted by TNA for the aforesaid business briefings.

3.4 That the sponsorship was ostensibly to advance various dubious public interests via these Business Breakfast briefing sessions.

3.5. That the said sponsorship was approved despite the alleged fact that TNA is not a member of the Audit Bureau of Circulation (ABC) and therefore its true circulation figures cannot be verified, which consequently makes no business sense for public enterprises to spend public funds for exposure via a newspaper brand that has no verifiable market reach.

4. To assist me in expediting my investigation, you are kindly requested to provide me with the following;

4.1. The Department's documents relating to the mandate, policy and regulatory framework regarding the aforesaid public enterprises.

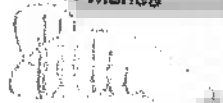
4.2 Policy documents on marketing and/or advertising of the aforesaid public enterprises.

4.2. Policy documents on sponsorships and donations of the said public enterprises.

4.3 Documents relating to the agreement entered into and/or between the Department (if any), public enterprises and The New Age for 2012/13 period.

- 4.4 Documents relating to invitations, proposals and request for sponsorship by TNA to these public enterprises.
- 4.5 Minutes of the Board meetings where such an agreement was discussed and approved.
- 4.6 Documents relating to the authorisation of funding and/or sponsorship for these breakfast briefing sessions.
- 4.7 All financial statements, quotations, and invoices pertaining to the payments made for these breakfast briefing sessions, including guests' attendance register, catering, invitation cards, audio-visual costs, and the event management contract.
- 4.8 And any other relevant information and documentation which may be of assistance to my investigation of this matter.
5. I would appreciate it if you could provide me with your response and the requested information and documentation at your earliest expediency, preferably not later than 20 June 2013 to enable me to conclude my investigation and issue a report.

Post wishes



ADV THULI MADONSELA

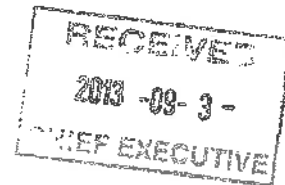
PUBLIC PROTECTOR OF

THE REPUBLIC OF SOUTH AFRICA

Date: 07/06/13

ANNEXURE PP 31





MINISTER  
PUBLIC ENTERPRISES  
REPUBLIC OF SOUTH AFRICA

Private Bag X15, Hatfield, 0026 Tel: 012 431 1118 Fax: 012 431 1039  
Private Bag X9078, Cape Town, 8000 Tel: 021 401 8376/7 Fax: 021 405 2381/461 1741

Mr. Zola Tsotsi  
Chairperson  
Eskom Holdings SOC Limited  
P O BOX 1091  
Johannesburg  
2000

Fax: 011 800 5803  
Tel: 011 800 2030

Dear Mr. Tsotsi

**Investigation into Allegations of Fruitless and Wasteful Expenditure by Public Enterprises in Connection with the Sponsorship of Several of the New Age Newspaper Breakfast Briefings Held on SABC2 Morning Live Show**

The Director-General of the Department of Public Enterprises (DPE) received a letter dated 03 June 2013 from Advocate Thuli Madonsela (Public Protector).

The letter informs the DPE that the Public Protector is conducting an investigation into allegations of fruitless and wasteful expenditure incurred by Eskom, Transnet, Telkom and South African Broadcasting Corporation (SABC). The investigation is informed by a complaint laid with the Public Protector, which suggests that the DPE exerted undue influence on Eskom's decision to sponsor The New Age (TNA) Breakfast Briefings sessions that were aired on SABC2 Morning Live programme in 2012.

I have noted that Eskom's audited financial statements for the year ended 31 March 2013 did not disclose an amount of fruitless and wasteful expenditure. Despite this, the Public Protector has resolved to test the merit of the allegations and has thus requested the DPE to provide information that will assist in the investigation.



Although the Public Protector has requested the information from the DPE, the Public Finance Management Act (PFMA) is clear about the Board's responsibility relating to:

- fruitless and wasteful expenditure;
- the need to ensure that expenditure incurred complies with Eskom's operational policies; and
- the need to keep full and proper records of the financial affairs of Eskom.

I therefore expect Eskom to have full and proper records that will assist the Public Protector to conclude the investigation into the sponsorship made towards TNA Breakfast Briefings. The Public Protector's information requirements are set out in the letter addressed to the DPE, which is attached for your reference. Eskom must expeditiously provide the documents directly to the Public Protector within two weeks of the receipt of this correspondence.

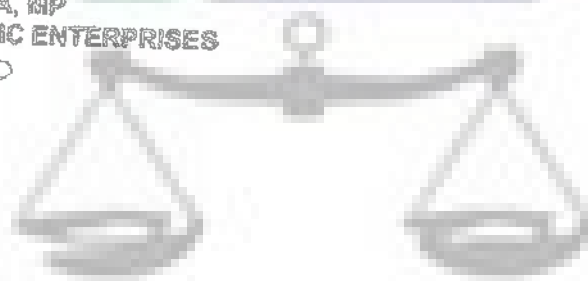
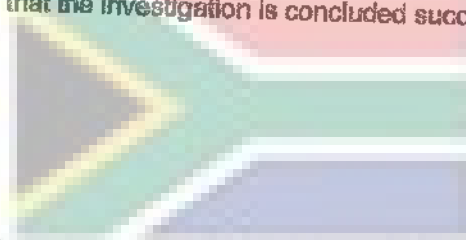
Given that the DPE is implicated in this matter, it is also my desire to be copied the records to be issued to the Public Protector.

I wish to express that the Public Protector must be given the requisite cooperation and support in order to ensure that the investigation is concluded successfully.

Yours sincerely



MR MALUSI GIGABA, MP  
MINISTER OF PUBLIC ENTERPRISES  
DATE: 2013/05/30



INVESTIGATIVE JUDICIAL COMMISSION  
STATE CAPTURE

ANNEXURE PP 32



**Pieter Pretorius**

**From:** Pieter Pretorius  
**Sent:** Tuesday, 22 October 2013 10:26  
**To:** John Mcardle; Willie Du Plessis  
**Cc:** Kheepe Moremi  
**Subject:** RE: RESPONSE TO PUBLIC PROTECTOR new age (2)  
**Attachments:** FW: Meeting request - The New Age newspaper

Hi

I do not have any other document other than the document already submitted, which does not talk to the breakfasts directly. I was also not privy to the conversation that took place regarding the breakfasts.

The conversations Kheepe and I had with Jacques was purely on advertising. To the best of my knowledge the breakfasts proposal was not discussed with us.

I was instructed by Chose to enter into the agreement, which makes me believe the conversation happened on that level. I attach the e-mail from Chose, where I was copied. Subsequent to this mail the meeting with Jacques, Kheepe and I took place.

To my knowledge there was no proposal, unless Chose has a copy.

Regards

Pieter

**From:** John Mcardle  
**Sent:** Monday, October 21, 2013 10:53 AM  
**To:** Willie Du Plessis; Wiedaad Taliep; Pieter Pretorius  
**Cc:** Kheepe Moremi  
**Subject:** RE: RESPONSE TO PUBLIC PROTECTOR new age (2)  
**Importance:** High

Hi Wiedaad.

Can you assist us with the proposal if there is one and the copy of each editorial 2 pager following each event on the Friday after the events Eskom sponsored.

Kind regards.

John

**From:** Willie Du Plessis  
**Sent:** 21 October 2013 10:51 AM  
**To:** John Mcardle; Wiedaad Taliep; Pieter Pretorius  
**Cc:** Kheepe Moremi  
**Subject:** RE: RESPONSE TO PUBLIC PROTECTOR new age (2)

Hi All,

I have the agreements, I am checking if other than the agreement there was a written proposal, and into the agreement the notices to be given two weeks before each event. I also do not have a copy of each editorial 2 pager following each event on the Friday after the events Eskom sponsored and will be grateful to receive that urgently.

I am working through everything today and may need further information.

Regards,  
Willie du Plessis  
General Manager(Legal Specialist)  
Eskom Holdings SOC Limited  
Tel: +27 (0)11 8005375  
Fax: +27 (0)86 664 7196

**From:** John Mcardle  
**Sent:** 21 October 2013 08:57 AM  
**To:** Wiedaad Taliep; Pieter Pretorius  
**Cc:** Willie Du Plessis; Khepe Moremi  
**Subject:** RE: RESPONSE TO PUBLIC PROTECTOR new age (2)

Hi Wiedaad.

Many thanks.

I will confirm with Pieter who is on leave today. Pieter can you assist?

Kind regards.

John

**From:** Wiedaad Taliep [mailto:wiedaadt@gmail.com]  
**Sent:** 21 October 2013 08:52 AM  
**To:** John Mcardle  
**Subject:** Re: RESPONSE TO PUBLIC PROTECTOR new age (2)

Hi John

Pieter should have the copy of the agreement.

On Sun, Oct 20, 2013 at 6:04 PM, John Mcardle <McArdIJ@eskom.co.za> wrote:

Sent from my iPad

Begin forwarded message:

**From:** John Mcardle <McArdIJ@eskom.co.za>  
**Date:** 20 October 2013 at 6:01:29 PM SAST  
**To:** Willie Du Plessis <DplessWJ@eskom.co.za>, "wiedaadt@tnamadia.co.za" <wiedaadt@tnamadia.co.za>, Pieter Pretorius <PretorJP@eskom.co.za>, Khepe Moremi <MoremiKL@eskom.co.za>  
**Subject:** Re: RESPONSE TO PUBLIC PROTECTOR new age (2)

Hi Wiedaad.

Please assist.



Many thanks.

John

Sent from my iPad

On 20 Oct 2013, at 5:14 PM, "Willie Du Plessis" <[DplessWJ@eskom.co.za](mailto:DplessWJ@eskom.co.za)> wrote:

John can we get this as they did not come back to us.

**From:** John Mcardle  
**Sent:** 20 September 2013 12:39 PM  
**To:** Willie Du Plessis; Kheepe Moremi

**Subject:** FW: RESPONSE TO PUBLIC PROTECTOR new age (2)  
**Importance:** High

Hi Willie.

Please find attached answer to no 12.

Kind regards.

John

**From:** Wiedaad Taliep [<mailto:WiedaadT@tnamedia.co.za>]  
**Sent:** 20 September 2013 09:13 AM  
**To:** John Mcardle; [wiedaadt@gmail.com](mailto:wiedaadt@gmail.com)

**Subject:** RE: RESPONSE TO PUBLIC PROTECTOR new age (2)  
**Importance:** High

Hi John

For question 12: TNA approached Eskom, I do not have the proposal that was sent, Nazeem is on leave for the week, I will try my best to get hold of him to forward the proposal.

Kind Regards,

Ms Wiedaad Taliep | Business Development Manager

Email : [Wiedaadt@tnamedia.co.za](mailto:Wiedaadt@tnamedia.co.za)

Tel : 011 542 1273

Mob : 079 765 9101

**From:** John Mcardle [<mailto:McArdJ@eskom.co.za>]

**Sent:** 20 September 2013 07:42 AM

**To:** Wiedaad Taliep; [wiedaadt@gmail.com](mailto:wiedaadt@gmail.com)

**Subject:** FW: RESPONSE TO PUBLIC PROTECTOR new age (2)

**Importance:** High

Hi Wiedaad.

Please see below, please confirm receipt, also please pass on to Nazeem.

Many thanks.

John

**From:** John Mcardle

**Sent:** 18 September 2013 03:59 PM

**To:** [wiedaadt@tnamedia.co.za](mailto:wiedaadt@tnamedia.co.za); Nazeem Howa

**Subject:** Fwd: RESPONSE TO PUBLIC PROTECTOR new age (2)

Hi Nazeem and Wiedaad.

Can you assist with questions 1 and 12 as Pieter is on leave.

Many thanks.

John

Sent from my iPad

Begin forwarded message:

**From:** Khepe Moremi <MoremiKL@eskom.co.za>  
**Date:** 18 September 2013 2:35:30 PM SAST  
**To:** John Mcardle <McArdlJ@eskom.co.za>  
**Cc:** Sibusiso Duma <DumaSC@eskom.co.za>, Fikile Moloi <MoloiFM@eskom.co.za>  
**Subject:** FW: RESPONSE TO PUBLIC PROTECTOR new age (2)

John,

Please attend to the questions below. Fikile, please also help to get the documents.

Regards,

Khepe Moremi

**From:** Willie Du Plessis  
**Sent:** Wednesday, September 18, 2013 1:31 PM  
**To:** Khepe Moremi; Raeesah Waja; Pieter Pretorius  
**Cc:** Pieter Pretorius; Seanokeng Botha; Chose Choeu; Elizabeth Mogotsi  
**Subject:** RE: RESPONSE TO PUBLIC PROTECTOR new age (2)

Hi Khepe;

I have worked through the file and still need the following documents to try and tie everything together:

1 A list of attendees in general and then the Eskom invitees for each of the events we sponsored; Get this from The New Age. Speak to Wiedaad or Nazeem Howa.

2 Info on the radio slots we received and all the other exposure as set out in cl 2 of the 2 commitment letters i.e advertisements, editorial pages; Get this from Media Shop

3 How did we link this to 49M campaign and the Minister's exposure; Not sure I understand this?

4 Budget approvals for 49M and the base documents setting out the campaign and the programmes to be followed, including relevant ICAS/IFC approvals; Pieter has the ICAS submission documents and the resolutions.

5 seems not all the invoices included in the pack; Get the information from Finance

6 Sponsorship Policy, is there no document after the 2000 document reviewing it; Phumi and Frans to provide

7 submissions to corporate sponsorship panel, TOR of the panel and delegated authority;

8 any correspondence from the Minister or DG in this regard during 2012/13 FY;

9 evaluation by Eskom and/or Media shop of the events and the exposure Eskom received and achieved;



10 each events advertisement and invitation and how topic fits in with 49M;

11 any feedback to ED Manco, EXCO and Board separately or as part of branding/ communications feedback;

12 it is not clear how this was initiated, who approached who; Get New Age proposal. Pieter should have it

14 price comparison if we had to buy the timeslots on TV/Radio or the advertising space; and Get these from Media Shop

15 photos of the banners etc; Can the Media Shop get these?

16 sponsor speech copies; Get these from Philile

Can you see how quickly you can put it together. I did contact the PP's office and kicked for touch.

Regards,

Willie du Plessis

General Manager(Legal Specialist)

Eskom Holdings SOC Limited

Tel: +27 (0)11 8005375

Fax: +27 (0)86 664 7196

**From:** Khepe Moremi

**Sent:** 09 September 2013 02:16 PM

**To:** Raeesah Waja

**Cc:** Willie Du Plessis; Pieter Pretorius; Seanokeng Botha

**Subject:** RESPONSE TO PUBLIC PROTECTOR new age (2)

Herewith, the document that I have reviewed and accepted the changes.

I am of the view though, that the DE, Mr. Chose Choeu needs to approve it.

Regards,

Khepe Moremi

I'm part of the 49Million initiative.

<http://www.49Million.co.za>

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I'm part of the 49Million initiative.  
<http://www.49Million.co.za>

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ANNEXURE PP 33





**Pieter Pretorius**

**Subject:** Letter - Thuli Madonsela - re allegations 21 October 2013.docx

**Start:** Wed 2013/10/23 14:00  
**End:** Wed 2013/10/23 14:30

**Recurrence:** (none)

**Meeting Status:** Accepted

**Organizer:** Chose Choeu  
**Required Attendees:** Kheepe Moremi; Pieter Pretorius; John Mcardle



Letter - Thuli  
 Madonsela - re ...

Colleagues,

Please let's meet for 30 minutes tomorrow afternoon to finalise the attached letter.

Thank you,

Chose

-----  
**From:** Willie Du Plessis  
**Sent:** Monday, October 21, 2013 10:23 PM  
**To:** Chose Choeu; Kheepe Moremi; Pieter Pretorius; John Mcardle  
**Subject:** Letter - Thuli Madonsela - re allegations 21 October 2013.docx  
**Attachments:** Letter - Thuli Madonsela - re allegations 21 October 2013.docx

Hi All,

Please comment by Wednesday on the draft letter and add any information you think we should. Please correct any factual statements that are wrong. In my experience the PP is going to dig and we should be honest and provide everything. I need more information on 49M to include in the information pack and the budget for it. I assume once budgeted Chose could approve expenditure ito DOA, can I get a copy of his delegation in 2012 and now in 2013 after revision of DOA.

Regards,

Willie du Plessis

General Manager(Legal Specialist)

Eskom Holdings SOC Limited

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Advocate Thuli Madonsela  
Public Protector of the Republic of South Africa  
Private Bag X677  
PRETORIA  
0001

Date:  
21 October 2013

Enquiries:  
Willie du Plessis  
Tel+27 11 800 5375

DRAFT

Attention: Mr R Mataboge

Dear Adv Madonsela

**INVESTIGATION INTO ALLEGATIONS OF FRUITLESS AND WASTEFUL EXPENDITURE BY PUBLIC ENTERPRISES IN CONNECTION WITH THE SPONSORSHIPS OF SEVERAL TNA (THE NEW AGE) NEWSPAPER BREAKFAST BRIEFINGS HELD ON SABC2 MORNING LIVE PROGRAMME**

Your letter of 3 June 2013 to the Director General of Public Enterprises has been referred to Eskom for answering by the Minister of Public Enterprises.

Eskom was approached during the first quarter of 2012 by the New Age Newspaper (TNA) to sponsor some of the business briefing breakfasts it was arranging. The proposal contained a number of media exposures for a sponsor which included television (Morning Live on SABC2), radio stations, TNA and other media as can be seen from the proposal and contracts attached hereto and identified in the documents list, Annexure A. Eskom managed the sponsorships through Media Shop (Pty) Ltd its contracted media agency. Eskom used its electricity awareness campaign "49M" in the sponsorship. As the programme had an approved budget it was not necessary to obtain board approval for the sponsorship or normal sponsorship approval.

The 49M campaign is a marketing and business initiative that creates awareness on energy efficiency and encourages all South Africans to adopt energy efficiency initiatives. This was initiated in the light of the shortage of electricity in the country and the high demand for electricity. The objective of 49M is to establish a partnership with business and residents. To date [123] businesses have signed on as partners. [ ] businesses signed on after the TNA business briefing and some may be as a result of using the 49M campaign for these events. At the time of the business briefings during 2012 Eskom was also running an extensive television and other media 49M campaign. Minister Gigaba, Minister of Public Enterprises, was a central figure in the campaign and addressed various forums in this regard and appeared in the television advertisements used in the campaign, by using 49M in the sponsorships strengthened the message to the target audience.

Regulation and Legal  
Legal and Compliance Department  
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P O Box 1091 Johannesburg 2000 SA  
Tel +27 11 800 8111 Fax +27 11 800 6084 www.eskom.co.za  
Eskom Holdings SOC Limited Reg No 200201552706



The first contract was signed on 13 April 2012 between The Media Shop and TNA. The contract covered six business briefings at a cost of R7 185 628.74 (excluding VAT and agency commission). Eskom signed a second contract on 5 November 2012 for a further four business briefings and the cost was R4 million (excluding VAT and agency commission) for the period 1 November 2013 – 31 March 2013. The contracts contained full details of the media exposure presented by the sponsor to Eskom and the dates of the events sponsored by Eskom are as set out below:

Date	Guest Speaker
12 April 2012	Minister Gigaba
17 May 2012	President Zuma
31 May 2012	Minister Peters
31 July 2012	Premier A Magashule
3 September 2012	Minister Shabangu
22 October 2012	SALGA – T Manyoni
26 November 2012	Minister Pettersson
14 December 2012	Minister Radebe and G Mantashe
24 January 2013	Minister Nzimande
15 February 2013	President Zuma
[?] July 2013	Minister Gigaba

[Was there a contract for 15 February and 15 March Events?]

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The last business briefing was in terms of a further contract concluded with TNA for R1.2million. The topic of the last session was on infrastructure development by the state owned companies and how the youth can participate and was attended by the Chief Executives from the major state owned enterprises.

The primary benefits were brand awareness for 49M and the opportunity to highlight the need to save electricity. The sponsorships provided significant exposure through the print and broad cast media and to engage more businesses in the private sector.

Recent research undertaken with regard to 49M indicated that opportunities such as the sponsorship of the business briefings contributed to an 87% awareness by the public of the 49M campaign. We are busy with research to determine the megawatt savings due to such high awareness level.

The events were attended by people from all sectors of the economy and government. By Eskom using its 49M branding campaign as its sponsorship tool awareness was further enhanced around the use of electricity and energy efficiency.

In Eskom's respect full opinion the moneys expended on the TNA business briefings are not fruitless and wasteful expenditure and Eskom had no ulterior motive other than enhance the 49M campaign.

We have collected the information requested in your letter and have indexed it in Annexure "A" to the extent that we do not have all the documents we will continue to search for it as requested from Media Shop and TNA.

Please contact the writer hereof if you require any further clarification or require additional information.

Yours sincerely

Willie du Plessis  
General Manager (Legal Specialist)



ANNEXURE PP 34





Advocate Thuli Madonsela  
Public Protector of the Republic of South Africa  
Private Bag X677  
**PRETORIA**  
0001

Date:  
19 November 2013

Enquiries:  
Willie du Plessis  
Tel+27 11 800 5375

**DRAFT**

Attention: Mr. R Mataboge

Dear Adv Madonsela

**INVESTIGATION INTO ALLEGATIONS OF FRUITLESS AND WASTEFUL  
EXPENDITURE BY PUBLIC ENTERPRISES IN CONNECTION WITH THE  
SPONSORSHIPS OF SEVERAL TNA (THE NEW AGE) NEWSPAPER BREAKFAST  
BRIEFINGS HELD ON SABC2 MORNING LIVE PROGRAMME**

Your letter of 3 June 2013 to the Director General of Public Enterprises has been referred to Eskom for answering by the Minister of Public Enterprises.

Eskom was approached during the first quarter of 2012 by the New Age Newspaper (TNA) to sponsor some of the business briefing breakfasts it was arranging. The proposal contained a number of media exposures for a sponsor which included television (Morning Live on SABC2), radio stations, TNA and other media as can be seen from the proposal and contracts attached hereto and identified in the documents list, Annexure A. Eskom managed the sponsorships through The Media Shop (Pty) Ltd, its contracted media agency. Eskom used its electricity awareness campaign "49M" in the sponsorship. As the programme had an approved budget it was not necessary to obtain board approval for the sponsorship or normal sponsorship approval.

The 49M campaign is a marketing and business initiative that creates awareness on energy efficiency and encourages all South Africans to adopt energy efficiency initiatives. This was initiated in the light of the shortage of electricity in the country and the high demand for electricity. The objective of 49M is to establish a partnership with businesses and residents. To date, 127 businesses have signed on as partners. At the time of the business briefings, during 2012, Eskom was also running an extensive television and other media advertising and public relations 49M campaign. The specific offer from TNA included the live broadcast on Morning Live which airs on SABC2. During the course of the sponsorship Morning Live averaged an audience rating of 592 000. As the 49M campaign was specifically conceptualised to motivate ordinary South Africans to save electricity, it was from a marketing point of view a very good fit.

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Eskom Holdings SOC Limited Reg No 2002/015527/06

**1923-2013**

Minister Gigaba, Minister of Public Enterprises, was a central figure in the campaign and addressed various forums in this regard and appeared in the television advertisements used in the campaign, by using 49M in the sponsorships strengthened the message to the target audience.

The first contract was signed on 13 April 2012 between The Media Shop and TNA. The contract covered six business briefings at a cost of R7 185 628.74 (excluding VAT and agency commission). Eskom signed a second contract on 5 November 2012 for a further four business briefings and the cost was R4 million (excluding VAT and agency commission) for the period 1 November 2013 – 31 March 2013. The contracts contained full details of the media exposure presented by the sponsor to Eskom and the dates of the sponsored business breakfasts are contained in table 1 and business breakfasts where Eskom purchased tables are contained in table 2:

Table 1

Date	Guest Speaker
12 April 2012	Malusi Gigaba
17 May 2012	Jacob Zuma
31 May 2012	Dipuo Peters
31 July 2012	Ace Magashule (SALGA)
3 September 2012	Susan Shabangu
22 October 2012	SALGA - Thabo Manyoni
26 November 2012	Tina Joemat Pettersson
14 December 2012	Jeff Radebe & Gwede Mantashe
24 January 2013	Blade Nzimande
6 March 2013	Ace Magashule (Premier and MECs)
30 July 2013	Malusi Gigaba

1800

- 3 -

Table 2:

Date	Guest Speaker	Tables
13 November 2012	Malusi Gigaba	6
21 December 2012	President Jacob Zuma	2
15 February 2013	President Jacob Zuma	2
15-Mar-13	Malusi Gigaba	2

The last business briefing was in terms of a further contract concluded with TNA for R1.2 million. The topic of the last session was on infrastructure development by the state owned companies and how the youth can participate and was attended by the Chief Executives from the major state owned enterprises.

The primary benefits were brand awareness for 49M and the opportunity to highlight the need to save electricity. The sponsorships provided significant exposure through the print and broadcast media and to engage more businesses in the private sector.

Recent research undertaken with regard to 49M indicated that opportunities such as the sponsorship of the business briefings contributed to a 73% awareness by the public of the 49M campaign. We are busy with research to determine the megawatt savings following the high awareness levels of 49M and knowledge of energy efficiency behaviour stands at 97%.


The events were attended by people from all sectors of the economy and government. By Eskom using its 49M campaign branding as its sponsorship tool, awareness was further enhanced around the efficient use of electricity and energy efficiency in general.

In Eskom's respect full opinion the moneys expended on the TNA business briefings are not fruitless and wasteful expenditure and Eskom had no ulterior motive other than enhance the 49M campaign.

We have collected the information requested in your letter and have indexed it in Annexure "A" to the extent that we do not have all the documents we will continue to search for it as requested from The Media Shop and TNA.

Please contact the writer hereof if you require any further clarification or require additional information.

Yours sincerely

  
 Willie du Plessis  
 GENERAL MANAGER (LEGAL SPECIALIST)

Acknowledge receipt of letter and file of documents delivered by hand and to the Public Protector's office

  
 Signature and Name

19 November 2013  
 Date