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Procurement Manual for Construction

Document Control

Roles and Responsibilities

Define the management of the document and the responsibilities of each role.

Role	Responsibility
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Version and Revision History

Version	Date	Changes Requested
Governance Review	12/04/2023	<ol style="list-style-type: none"> 1. BSC roles and responsibilities altered. BSC does not draft specification. 2. Additional mechanisms detailed for negotiation. Negotiation enabled pre or post award and post-contracting. 3. Removal of local content specific considerations for preferential procurement. 4. Specificity added to Procurement Stages. 5. Section C: Document flow altered to align to typical process flow. 6. Directives appendix removed. 7. Remove specific reference to chairperson throughout the document. Committee should be allocated responsibility/action. 8. Definition and section add for Vat Vendors. 9. Include TPP Guideline in document body.
Governance Review	31/08/2024	<ol style="list-style-type: none"> 1. Clear distinction between general goods and service, and goods and services with direct impact on revenue generation. 2. Allowed to take FRQ to DBAC if its within 20% more than R2m. 3. Transnet to disqualify bidders who do not submit tenders in their own e-submission profile. 4. Discrepancies in the evaluation may lead to the BEC being dissolved and a new one put in place. 5. Awards can be made to “standby contractors” in certain types of contract. 10. Best-and-Final-Offer (BAFO) Price Negotiation is an effective tool to drive down cost or extract further value for Transnet.

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Definitions, Abbreviations and Acronyms

Definitions

All words and/or definitions in this manual have the same meaning as attributed to them in the SCM Policy unless context indicates otherwise. For the purposes of this document, the definitions contained in SANS 10845-1, the CIDB SFU in Construction Procurement and the various NEC3 forms of contract are applicable. In addition, the following definitions apply:

Term	Definition
AA	Accounting Authority
Approved List	A standing panel of pre-qualified suppliers/service providers.
Accountable	An individual or role that delegates work and is the last one to review a task or deliverable before it's deemed complete.
Bid" versus "Tender	The CIDB has adopted the terms "tender" and "tenderer" in preference to "bid" and "bidder". For ease of reference, Transnet has kept the word "bid" in the document instead of "Tender and can be used inter-changeably.
Bidder/tenderer	A natural or juristic person or partnership (including joint ventures) who submits a Bid offer or an expression of interest to perform a contract in response to an invitation to do so.
Bid Adjudication Committee	The bid adjudication committee (BAC) is a committee that is responsible for considering the report and recommendations of the BEC and approve the award of business.
Bid Evaluation Committee	The bid evaluation committee (BEC) is responsible for the evaluation of bids submitted in response to a public invitation for bids.
Bid Specification Committee	The bid specification committee (BSC) is responsible for the review and approval of specifications for the procurement of goods and services.
Buyer/Category Specialist/ Strategic Sourcing Specialist	A member of the SCM team that conducts acquisitions on behalf of Transnet.
Complex work / Complexity	characterised by requirements for higher levels of skills, greater resources or not well-defined inputs and outputs
Consultants	A consultant is a person or company which provides objective outsider expert and professional advice to Transnet in a particular field (eg processes or systems) which is in their area of expertise, usually on a temporary or contract basis until a particular need has been met. This does not apply to professional services such as legal and

Term	Definition
	engineering construction services.
Contract Budget	The estimated amount of money which is budgeted and allocated or made available to deliver or maintain infrastructure associated with a project or package, including the contract award value plus risk allowances (contingency) and provision for price adjustment for inflation (escalation).
Contractor	Means a person or organisation (as identified in the engineering and construction contract) that contracts to provide the goods, services or engineering and construction works covered by the contract.
Construction Procurement	Means procurement in the construction industry, including the invitation, award and management of contracts. It is procurement of goods or services including any combination thereof associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure and the management thereof.
Contract Owner	The person with the delegated authority to enter into the contract with the supplier. The Contract Owner has direct control over the applicable cost centre and the relevant approved budget.
Delegated Authority	This is when authority is delegated to a Transnet executive, delegated Transnet employee, delegated Transnet committee or Board of Directors as per the Group Delegation of Authority Framework and any other policy or manuals.
Delegated Contract Date	It is an approved contract time/duration that includes all contingences and allowances for extension of time
Delegated Contract Value (DCV)	It is an approved contract amount of money that includes all contingences and allowances for compensation events.
Delegation of Authority Framework	A framework for understanding the division of labour and decision-making responsibility.
Directive	A communication that adds, alters, or removes a Transnet Supply Chain Management rule. This addition, alteration or removal is not sufficient to require the revision of the manual.
Engineering and Construction Works	The provision of a combination of goods and services, arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of structures, including building and engineering infrastructures.
Emergency	A serious and unexpected situation that poses an immediate risk to life, health, property, environment, business disruption or financial loss which calls for action and there is insufficient time to follow a competitive bidding process.

Term	Definition
Final Account	At the point of issue of the NEC3 Defects Certificate, a Final Account is a document issued to the Contractor/Professional Service Provider indicating all amounts due and payable by the parties to one another in order to finalise the close out of the contract.
Framework Agreement	An agreement between Transnet and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, regarding price and, where appropriate, the quantity envisaged.
Fast Track	An efficiency mechanism to promote the expedient conclusion of a process.
Integrated Demand Plan	Plan reflecting all planned Transnet demand.
Investigate	An inquiry to determine and assess the fact of the complaint or an allegation to establish the truth
In Writing or Written	Any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.
National Contract/ Transversal Contract	A centrally facilitated Transnet contract used by more than one OD.
NEC3 Project Manager	The person defined as the Project Manager in the Contract Data associated with the management and execution of a NEC3 Engineering and Construction Contract.
Market Analysis	Use of external information, reports and data from the marketplace that will support the sourcing activities of the organisation.
Minimum 3 quotes invited	A request sent directly to a limited number of suppliers (minimum 3) excluding the rest of the market
Organs of State	Any department of state or administration in the national, provincial or local sphere of government.
Poor/Improper Planning	Instances where employees do not apply the necessary skill and care in carrying out their duties to avoid undue risk or danger.
Practise Note	A communication or resource that provides supplementary information to assist in explaining or prevent misinterpretation of a rule.
Procurement Process Guidelines	Procurement Process Guidelines of 2022.
Procurement	Procurement is a subset of SCM dealing specifically with activities related to the management of Transnet's demand and acquisition of goods and services, including infrastructure procurement.
Proponent	Any person, whether natural or juristic, that submits an unsolicited proposal to an institution.

Term	Definition
Request for Information	A documentary request to selected Suppliers to provide sufficient information to Transnet (operating requirements and details of equipment and / or products) thereby enabling Transnet to develop its project scope of supply and other related tender requirements and specifications.
RFX	A generic term that encompasses multiple sourcing processes including RFI, RFP and RFQ.
Request for Quotation	A formal documented request to Contractors / Supplier / Vendors / Consultants to submit a quotation to Transnet that complies with the evaluation criteria stipulated.
SCM Activities	<p>All those activities required to manage Transnet's demand for goods, services, and infrastructure during the SCM process including:</p> <ul style="list-style-type: none"> - Demand management; - Acquisition management; - Logistics management; - Disposal management; - Risk management; and - Regular assessment of supply chain performance
Scope of Work	A description of work required. This includes deliverables and timelines.
Simple/straightforward	where the tasks or activities are of a straightforward nature in terms of which inputs are relatively well known and outputs can be readily defined
Strategic Sourcing Transactions	Strategic sourcing typically involves complex transactions over R 2 million in value via an open tender.
Supply Chain Official/Representative	A generic term to signify the relevant responsible Transnet supply chain team member. The member is context specific.
Urgent Situation	Cases where early delivery is critical and the invitation of competitive bids is impossible or impractical, not due to improper planning.
Validity Period	The time period for which an item (Bid, Contract, Framework) remains valid.
VAT Vendor	Any person who carries on an "enterprise" in South Africa, and the total value of taxable supplies made by that person exceeds or is likely to exceed the registration threshold of R1 million for a 12-month period. Such persons are liable for compulsory registration as a vendor.
Written Price Quotations	A process, usually and RFQ unless used as procurement by other means, where a minimum of 3 quotes are invited via sending a direct request to bidders from Transnet recognised database on a rotational basis.

Abbreviations and Acronyms

Abbreviation/Acronym	Description
AGSA	Auditor General of South Africa
BAC	Bid Adjudication Committee
B-BBEE	Broad-Based Black Economic Empowerment
BEC	Bid Evaluation Committee
BSC	Bid Specification Committee
CAPEX	Capital Expenditure
COPEX	Contingency Operational Expenditure
CBAC	Central Bid Adjudication Committee
CCP	Compliance Control Point
CIDB	Construction Industry Development Board
CPO	Operating Division Chief Procurement Officer
CSD	Central Supplier Database
DBAC	Divisional Bid Adjudication Committee
DCD	Delegated Contract Date
DCF	Delegated Contract Form
DCV	Delegated Contract Value
DoA	Delegation of Authority as per the Transnet Delegation of Authority Framework
DPIP	Domestic Prominent Influential Person
DPSA	Department of Public Service and Administration
DTIC	Department of Trade, Industry and Competition
ECSA	Engineering Council of South Africa
EXCO	Executive Committee
ESD	Enterprise Supplier Development
FPPO	Foreign Prominent Public Official
GCE	Group Chief Executive
GCFO	Group Chief Financial Officer
GCPO	Group Chief Procurement Officer
IDMS	Infrastructure Delivery Management System
NIPP	National Industrial Participation Programme
NEC	New Engineering Contracts
NT	National Treasury

Abbreviation/Acronym	Description
OD	Operating Division
ODCPO	Operating Divisional Chief Procurement Officer
OEM	Original Equipment Manufacturer
OPEX	Operational Expenditure
PFMA	Public Finance Management Act
POCDATARA	Protection of Constitutional Democracy Against Terrorist and Related Activities Act
POPIA	Protection of Personal Information Act
PSP	Private Sector Partnership
PPPFA	Preferential Procurement Policy Framework Act
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
RFX	Generic Request to Market (RFP/RFQ/RFI)
SAICA	South African Institute of Chartered Accountants
SANS	South African National Standards
SARS	South African Revenue Service
SBD	Standard Bidding Document
SCM	Supply Chain Management
SOC	State Owned Company
SOP	Standard Operating Procedure
TEAR	Tender Evaluation and Adjudication Report
TPPP	Transnet Preferential Procurement Policy
UNSC	United Nations Security Council
VAT	Value Added Tax

Section A – Conduct and Approach to Construction Procurement

1. Introduction

- 1.1 Transnet's Construction Procurement Manual as detailed in this document, aims to establish the framework within which all construction procurement activities for the procurement of construction related goods, services, engineering and construction works are to be conducted at Transnet.

- 1.2 The purpose of this document is to establish Transnet's construction procurement processes, procedures and methods relating to goods, services, engineering and construction works in Compliance with requirements established in terms of the:
 - 1.2.1 Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
 - 1.2.2 Public Finance Management Act, 1999 (Act 1 of 1999);
 - 1.2.3 Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000);
 - 1.2.4 Construction Industry Development Board (Act 38 of 2000);
 - 1.2.5 Other pertinent Acts;
 - 1.2.6 Framework for Infrastructure Delivery and Procurement Management; and
 - 1.2.7 All other National Treasury Public Sector Supply Chain Management Instructions.

2. Scope and Application

- 2.1 This version of the Construction Manual applies to all new procurement processes which have been initiated (approval to approach the market obtained) on or after the approved commencement date of this document. Procurement processes initiated (approval to approach the market obtained) prior to the commencement date must be dealt with in accordance with the rules that were applicable at the time.
- 2.2 This Manual will replace the Transnet Construction Procurement Manual dated June 2023.
- 2.3 Transnet distinguishes between procurement that is meant for the normal administration (day-to-day running) of Transnet businesses and procurement of goods and services directed towards the operations for the delivery to Transnet customers (commercial or revenue generation).
- 2.4 Normal administration procurement activities are those construction activities that do not have a direct impact in the delivery of the goods and services to Transnet customers. These are construction services procured by Transnet for Transnet's own consumption in order for the business to run on a daily basis. These are commodities procured by Transnet for in order for the business to run day-to-day. Some examples are normal refurbishment and maintenance of office space, construction of office space, amongst others
- 2.5 Procurement of goods and services with direct impact to revenue generation or commercial activities relate to business operations and those construction activities that have a direct impact in the production of goods for Transnet customers or direct impact in the delivery of services to Transnet customers. Some examples are purchasing of operations equipment, maintenance of operations equipment, purchasing of spares and parts for the rolling stock and other operations equipment, maintenance of railway lines, procurement related to shut down, purchasing of helicopters, purchasing of tugboats, other vehicles for operations, maintenance of core business properties, utilisation of services for property valuations, amongst others.

- 2.6 This manual also applies to procurement of goods and services that is directed at commercial or revenue generation in so far as construction is concerned.
- 2.7 Transnet ODs may be used for interdivisional support where ODs require goods or services that fall within another internal ODs core competency. Such internal arrangements will not be regarded as procurement events and internal cost recovery mechanisms shall be employed. The identified Transnet OD has the right of first refusal, where the identified Transnet OD is unable to provide the required goods or services, the procurement process may be followed. The Group Chief Operations Officer has the authority to approve the interdivisional arrangements.
- 2.8 This Manual sets out the minimum standards that shall be adhered to by those involved in Infrastructure Procurement Activities (all activities related to the procurement of infrastructure for Transnet) and is specifically binding on:
 - 2.8.1 All employees, including, but not limited to, temporary staff, Contractors/Suppliers (including, but not limited, to prospective Bidders and/or Tenderers and/or Bidders awarded contracts) and/or consultants at Transnet;
 - 2.8.2 Entities in which Transnet has 50 plus 1 percent (%) shareholding¹ and their employees, including, but not limited to, temporary staff, Contractors/Suppliers and/or consultants; and
 - 2.8.3 Any other persons involved in Transnet Procurement Activities.
- 2.9 This Construction Procurement Manual does not apply to the procurement of general goods and services, which is governed by the Procurement Manual for Goods and Services.
- 2.10 Template documents are to be designed in accordance with this manual to support the processes.
- 2.11 The following transactions are excluded from the application of this Construction Procurement Manual:
 - 2.11.1 Taxes and levies;
 - 2.11.2 Municipal and electricity charges;
 - 2.11.3 Salaries and wages;
 - 2.11.4 Investments and loans;
 - 2.11.5 Professional memberships and subscriptions;
 - 2.11.6 Bursaries;
 - 2.11.7 Employee travel bookings;
 - 2.11.8 Participation in established conferences;
 - 2.11.9 Petty cash transactions;

¹ When reading this manual with respect to Transnet subsidiaries, ensure alignment with subsidiary specific delegation of authority for approvals if applicable.

- 2.11.10 Commercial-related activities including PSPs as defined in the dedicated Joint Investment Framework;
 - 2.11.11 Sponsorships and donations;
 - 2.11.12 Medical bills and prescriptions (medicine or equipment etc) issued by the Doctor as part of employee benefits which Transnet is obligated to pay in line with People Management Policies;
 - 2.11.13 Selection of partners for research and development (R & D); and
 - 2.11.14 Any other exclusion in terms of the Delegation of Authority Framework, where such exclusions do not relate to procurement activities.
- 2.12 This Manual should be read in conjunction with the following list of documents:
- 2.12.1 Supply Chain Management Policy;
 - 2.12.2 Procurement Process Guideline;
 - 2.12.3 Transnet Preferential Procurement Policy (TPPP);
 - 2.12.4 Relevant Terms of Reference documents:
 - 2.12.4.1 Terms of Reference: Bid Specification Committee (BSC);
 - 2.12.4.2 Terms of Reference: Bid Evaluation Committee (BEC);
 - 2.12.4.3 Terms of Reference: Divisional Bid Adjudication Committee (DBAC);
 - 2.12.4.4 Terms of Reference: Central Bid Adjudication Committee (CBAC);
 - 2.12.5 Delegation of Authority Framework and Policy;
 - 2.12.6 Transformation Policy and/ or Preferential Procurement Policy and /or ESD Policy;
 - 2.12.7 Whistle Blowing Policy;
 - 2.12.8 Declaration of Interest and Related Parties Policy;
 - 2.12.9 Related templates and checklists;
 - 2.12.10 The Critical Compliance Control Points (CCP);
 - 2.12.11 NT Contract Management Framework;
 - 2.12.12 Transnet Contract Management Policy
 - 2.12.13 Transnet Contract Management SOP;
 - 2.12.14 Enterprise Supplier Development Policy;
 - 2.12.15 Supply Chain Management Complaints and Allegations Policy;
 - 2.12.16 Any related procurement practice notes and directives that may be issued by the GCPO from time to time; and
 - 2.12.17 Any related procurement instruction notes, practice notes and circulars that may be issued by the National Treasury from time to time.

2.13 The following referenced documents and templates are applicable to this manual:

- 2.13.1 The Preferential Procurement Policy Framework Act (PPPFA), 5 of 2000 as amended, including the Preferential Procurement Regulations of 2022 .
- 2.13.2 Framework for Infrastructure Delivery and Procurement Management.
- 2.13.3 Code of Conduct for all parties engaged in Construction Procurement, Construction Industry Development Board.
- 2.13.4 South African Bureau of Standards, SANS 10845-1, Construction procurement – Part 1: Processes, methods and procedures.
- 2.13.5

NOTE: Comprehensive guidance on the implementation of the requirements of SANS 10845-1 and the CIDB Standard for Uniformity in Construction Procurement may be found in the annexures to SANS 10845-1 and the CIDB website www.cidb.org.za, respectively. No deviations shall be made from the provisions of this manual or any of the procedures contained in SANS 10845-1 without the approval of the Group Chief Executive.

- 2.13.6 South African Bureau of Standards, SANS 10845-2, Construction procurement – Part 2: Formatting and compilation of procurement documentation.
- 2.13.7 South African Bureau of Standards, SANS 10845-3, Construction procurement – Part 3: Standard conditions of tender.
- 2.13.8 South African Bureau of Standards, SANS 10845-4, Construction procurement – Part 4: Standard conditions for the calling for expressions of interest.
- 2.13.9 Standard for Uniformity in Construction Procurement, Construction Industry Development Board and all relevant Practice and Guideline Notes, except for the provisions relating to the application of the register of contractors which may be used for guidance purposes. These documents are accessible on the following site: www.cidb.org.za.
- 2.13.10 NEC3 Adjudicator's Contract as published by the Institution of Civil Engineers.
- 2.13.11 NEC3 Engineering and Construction Contract as published by the Institution of Civil Engineers.
- 2.13.12 NEC3 Framework Agreement as published by the Institution of Civil Engineers.
- 2.13.13 NEC3 Professional Services Contract as published by the Institution of Civil Engineers.
- 2.13.14 NEC3 Term Services Contract as published by the Institution of Civil Engineers.
- 2.13.15 NEC3 Supply Contract as published by the Institution of Civil Engineers.

3. Ethics and Procurement Principles

Transnet's Procurement Principles have been developed in line with the appropriate legislation listed in Appendix A: Legislation, Government Policies & Pacts Applicable to this Manual.

3.1 Ethical Behaviour

3.1.1 Everyone bound by this Manual is required and expected to act ethically when engaging in Procurement Activities, including assisting in the eradication of fraud and corruption, in accordance with Transnet Code of Ethics and the Supply Chain Management Policy. Employees are expected to:

- 3.1.1.1 Behave equitably, honestly and transparently;
- 3.1.1.2 Discharge duties and obligations timeously and with integrity;
- 3.1.1.3 Satisfy all requirements established in this manual;
- 3.1.1.4 Furnish information in the course of their duties that is complete, true and fair worded and not intended to mislead;
- 3.1.1.5 Ensure that resources are administered responsibly and cost-effectively;
- 3.1.1.6 Be fair and impartial in the performance of their functions;
- 3.1.1.7 At no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- 3.1.1.8 Keep matters of a confidential nature which are in their possession confidential, unless a provision of the law requires otherwise, and only through the Legal Department;
- 3.1.1.9 Observe the confidentiality of information in their possession and sign the relevant Confidentiality and Declaration of Interest Form;
- 3.1.1.10 Avoid Conflicts of Interest in accordance with the Declaration of Interest and Related Party Disclosure Policy and Related Party Disclosures Policy for non-executive directors;
- 3.1.1.11 Not unlawfully gain any form of compensation, payment or gratification from any person for either themselves, a family member or an associate, directly or indirectly;
- 3.1.1.12 Not make false or misleading entries in reports or accounting systems;
- 3.1.1.13 Not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- 3.1.1.14 Not abuse the power vested in them;
- 3.1.1.15 Not maliciously or recklessly injure or attempt to injure the reputation of Transnet or an associated 3rd party;

- 3.1.1.16 Not use their position for private gain or to improperly benefit another person;
- 3.1.1.17 Not tamper with or sabotage any submission, tender or contract in any manner whatsoever; and
- 3.1.1.18 Not accept or request kickbacks, including facilitation payments, from Employees, Suppliers, Consultants, Contractors, Business Partners in local and foreign countries, Agents and/or any other trading Entity or Governments conducting business with Transnet;

3.2 Fairness

3.2.1 Fairness relates to Transnet creating an environment that is procedurally fair for Bidders to compete on equal terms in the provision of goods and services. Fair behaviour includes, but is not limited to, the following:

- 3.2.1.1 Applying rules consistently;
- 3.2.1.2 Being impartial when making decisions;
- 3.2.1.3 Recognising conflicts of interest as defined in the Declaration of Interest and Related Parties Policy,
- 3.2.1.4 Declare and appropriately reporting these in line with the Declaration of Interest and Related Parties Policy;
- 3.2.1.5 Equal treatment of all suppliers; and
- 3.2.1.6 Not accepting gifts and/or bribes, in accordance with the Transnet No-Gifts and Hospitality Policy,

3.3 Equity

- 3.3.1 Equity reflects the equitable distribution of state resources (i.e., substantive fairness) and takes account of South Africa's unfair and discriminatory past.
- 3.3.2 There are various government policies that seek to advance persons or categories of persons disadvantaged by unfair discrimination and this is reflected in Transnet Preferential Procurement Policy (TPPP)
- 3.3.3 Equity requires Transnet to strictly adhere to The Preferential Procurement Policy Framework Act ("PPFA") and to the TPPP.

3.4 Transparency

- 3.4.1 Transparency seeks to promote accountability and eradicate corruption.
- 3.4.2 Transparency also requires that bidders be informed on the process to be followed in Transnet's tender processes
- 3.4.3 Transparency requires Transnet to promote access to information to give effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights; and. to provide for matters connected therewith in line with Promotion of Access to Information Act (PAIA) where it is not protected by confidentiality and/ or the Protection of Personal Information Act (POPIA).

3.5 Competitiveness

- 3.5.1 Competitiveness requires the promotion of effective competition through procurement methods based on the market circumstances.
- 3.5.2 There are two important aspects to competitiveness:
- 3.5.3 The economic aspect which requires that the opportunity is provided to sufficient Bidders to enable an adequate pool of Suppliers to choose from; and
- 3.5.4 The procedural aspect which requires that the Bid is awarded to the Bidder (also known as the Tenderer) with the best evaluation score, subject to objective criteria.
- 3.5.5 Transnet will not conduct business with previous Employees, within the first twelve (12) months of termination of service.

3.6 Cost- effectiveness

- 3.6.1 Cost effectiveness requires Transnet getting value for money which is achieved through efficient sourcing.
- 3.6.2 Cost-effectiveness includes, but is not limited to:
 - 3.6.2.1 Identifying the best available outcome after considering all relevant costs and benefits over the full procurement cycle;
 - 3.6.2.2 Avoiding unnecessary costs; and
 - 3.6.2.3 Monitoring the supply arrangements and making the necessary changes and ensuring continuous improvement in the efficiency of internal processes and systems.

3.7 Just Administrative Action

- 3.7.1 SCM practitioners, BSCs, BECs and BACs are bound by the Promotion of Administrative Justice Act (“PAJA”) as an official representative of a Schedule 2 state-owned company.
- 3.7.2 SCM practitioners, BSCs, BECs and BACs are therefore required, amongst other things, to act lawfully, reasonably, and fairly when making decisions.
- 3.7.3 The PAJA specifically requires SCM practitioners, BSCs, BECs and BACs, when making decisions, to:
 - 3.7.3.1 Ensure that the process is procedurally fair;
 - 3.7.3.2 Be rational, i.e., using the evidence and information before the practitioner, BSCs, BECs and BACs to support the decision made;
 - 3.7.3.3 Be reasonable, i.e., the practitioner, BSCs, BECs and BACs is satisfied that the correct process was followed and all arguments for and against the decision were considered; and
 - 3.7.3.4 Adequately share the reasons for the decision to anyone affected by it, upon request. See Section: Bid Adjudication and Award.

3.8 Sustainability

- 3.8.1 Sustainability requires the promotion of environmental, social and economic sustainability through the procurement of goods and services.
 - 3.8.2 Sustainability requires Transnet to consider the environmental, social and economic impact of sourcing activities throughout the procurement process and strive to enforce sustainable practices.
- 3.9 Conflict of Interest
- 3.9.1 All Transnet employees and their agents shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists and immediately recuse themselves from the procurement process.
 - 3.9.2 Any person that declared such conflict shall be recused from any further participation of this procurement event.
 - 3.9.3 Declarations of interest submitted by Suppliers and employees may be verified. Where it is discovered that interests have not been fully declared, this must be referred to SCM Governance Compliance and Risk who will be dealt with consider the merits on a case-by-case basis.
 - 3.9.4 Professional service providers who assisted in the preparation of a document or part thereof for contract purposes may submit a tender for work associated with such documents provided that:
 - 3.9.4.1 Transnet state in the Tender Data that such a professional service provider is a potential tenderer;
 - 3.9.4.2 All the relevant and applicable information, which was made available to, and the information provided by, that Professional Service Provider, which is relevant to the tender, will equally be made available to all potential tenderers, if not already included in the scope of work/services;
 - 3.9.4.3 The relevant Chief Procurement Officer or Procurement person with the necessary delegated authority is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that professional service provider and/or contractor; and.
 - 3.9.4.4 The professional service provider has signed a declaration of interest.
 - 3.9.5 A conflict of interest is any situation in which:
 - 3.9.5.1 An employee has a Personal Financial Interest;
 - 3.9.5.2 An employee has private interests or personal considerations or has an Affiliation or a Relationship which affects, or may affect, or may be perceived to affect an Employee's judgment in acting in the best interests of the Company, or could corrupt the employee's motivations for acting in a particular manner, or which could result in, or be perceived as Favouritism or Nepotism ; or
 - 3.9.5.3 An employee uses his/her position, or privileges or information obtained while acting in their capacity as an employee for personal gain; or

3.9.5.4 The expectation of personal gain, or advancement, or any other advantage accruing to the employee or any member of his/her family, or friends or business associates

3.10 Non-disclosure agreements

3.10.1 Confidentiality agreements in the form of non-disclosure agreements shall be entered into with agents and potential professional service providers or contractors to protect Transnet's confidential information and interests.

3.11 Gratifications

3.11.1 Transnet personnel and agents shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly benefit that person.

4. Roles and Responsibilities - SCM and End User

4.1 Detailed roles and responsibilities specific to individual procurement activities are described in the Procurement Process Guideline

4.2 The SCM Department and SCM practitioners have various responsibilities throughout the procurement process, full details of which are available in the Procurement Process Guideline In general, the SCM unit must fulfil the following responsibilities:

4.2.1 The SCM Department must ensure that the procurement processes and procedures that have been laid down here and, in the Procurement Process Guideline are adhered to and that the End-User demand is satisfied in line with this Manual.

4.2.2 In line with the relevant processes described in the Procurement Process Guideline, the SCM Department shall,

4.2.2.1 Manage its own strategy;

4.2.2.2 Perform demand and category planning;

4.2.2.3 Conduct strategic sourcing when required and/or appropriate;

4.2.2.4 Conduct transactional sourcing when required and/or appropriate;

4.2.2.5 Initiate, upload, manage and terminate contracts when required and/or appropriate;

4.2.2.6 Manage Supplier performance;

4.2.2.7 Maintain the SCM Policy and associated Manuals and Procurement Guidelines;

4.2.2.8 Manage compliance queries; and

4.2.2.9 Manage SCM Master Data.

4.3 The end-user GM or his/her delegate is responsible for issuing Purchase Requisition (PRs) and this may be sub-delegated further. The GCPO / OD CPO or his/her

- delegate is responsible for issuing Purchase Orders (POs) and this may be further sub-delegated
- 4.4 End-Users have various responsibilities throughout the procurement process, full details of which are available in the Procurement Process Guideline Over and above process specific responsibilities, End-Users must:
 - 4.4.1 Determine and specify their requirements accurately and timeously;
 - 4.4.2 Compile any technical and/or user requirement specifications required for the successful procurement of the goods and/or services;
 - 4.4.3 For requests not reflected in the Integrated Demand Plan (Annual Procurement Plan), ensure that a Purchase request form is accurately completed, approved and signed-off by the relevant person as indicated in the DoA framework or the SCM policy where the DoA framework is silent prior to commencing any procurement activity; and
 - 4.4.4 Participate in good faith and in the best interests of Transnet in the procurement process related to their Purchase request to the extent contained in this Manual and/or relevant committee terms of reference.
 - 4.5 The SCM Department must report suspicion of and/or knowledge of fronting to the GCPO or their delegated representative for investigation.
 - 4.6 The SCM Department must establish a system which incorporates and makes binding all cost containment measures published by National Treasury.
 - 4.7 All employees that perform SCM activities must uphold the confidentiality of all Suppliers and protect Supplier and Transnet intellectual property rights. All pricing information is to be treated as sensitive.
 - 4.8 Suppliers that assist in any capacity with drafting scopes may not Bid for that scope.
 - 4.9 In order to comply with all JSE debt listing requirements, the SCM Department must ensure the following:
 - 4.9.1 The current SCM Policy is published on the Transnet website. Any amendments to the SCM policy must be announced immediately and published on the Transnet website;
 - 4.9.2 Any instances of deviations from the SCM Policy must be announced immediately on the JSE Stock Exchange News Service together with reasons for the deviation.
 - 4.9.3 A register of all procurement transactions representing 10% or more of Transnet's annual procurement spend is maintained. The register must be made available on the Transnet website when the annual Transnet financial statements are published. If no such transactions took place during the period in question, a negative statement to this effect shall be made. The register shall disclose the following as a minimum:
 - 4.9.3.1 Parties to the agreement;
 - 4.9.3.2 Brief description of the nature of the agreement;
 - 4.9.3.3 Date of the agreement and its duration; and

- 4.9.3.4 The total value of the agreement for the duration period.
- 4.9.4 A register of all procurement related relationships with parties specified below must be maintained:
 - 4.9.4.1 Any related party;
 - 4.9.4.2 DPIPs; and
 - 4.9.4.3 Prescribed officers.
- 4.9.5 The register of all procurement related relationships must be made available on the Transnet website when the annual Transnet financial statements are published. If no procurement related relationships with specified parties have existed during the period in question, a negative statement to this effect must be made.
- 4.10 All individuals involved in SCM activities shall abide by all requirements of the Protection of Personal Information ACT (POPIA).
- 4.11 In particular, where any personal information is collected during the course of SCM activities, it must be ensured that:
 - 4.11.1 Such personal information may not be used for any purpose other than that relating to the SCM activities for which the data was specifically collected;
 - 4.11.2 RFX documentation shall include a clause informing the Bidders of their POPIA related rights and obligations and highlighting that consent is required where a need arises for the sharing of information externally, such as for the purposes of audits, legal opinions or any other lawful reason. Where information is shared for lawful purposes, the Information Transfer Register must be completed and stored in order to provide a traceable record of information transfer;
 - 4.11.3 Only relevant information shall be requested, adequate for the purposes of SCM. Excessive information that is not critically required for the SCM process should not be collected, in accordance with the requirement for minimality;
 - 4.11.4 All personal information stored as part of the SCM data storage requirements shall be appropriately destroyed once the requirements for storage has lapsed, in a manner that prevents its reconstruction in an intelligible form.
- 4.12 General Infrastructure Procurement Requirements
 - 4.12.1 All Infrastructure procurement shall be conducted in accordance with the highest ethical standards. The following specific requirements shall apply:
 - 4.12.1.1 Procurement Documents (which include proposals and quotations) shall contain a declaration of interest form to be completed by potential Contractors (also referred to as Bidders) using National Treasury SBD4;
 - 4.12.1.2 Any participant in an SCM process shall not continue to form part of the process where there is a conflict of interest as defined in the Conflict-of-Interest Policy; and in Section 2.10.

- 4.12.1.3 Every SCM employee and/or persons involved in a supply chain process shall complete confidentiality agreements for each SCM process they participate in. As per section 2.11.
- 4.12.2 All infrastructure procurement shall be undertaken in accordance with the applicable legislation, the Transnet SCM policy and:
 - 4.12.2.1 The provisions of the CIDB prescripts;
 - 4.12.2.2 The relevant requirements of SANS 10845-1, SANS 10845-2, SANS 10845-3 and SANS 10845-4; and
 - 4.12.2.3 The administrative procedures embedded in the approved standard forms of contract described in Table 7. Section 22.12.

5. Roles and Responsibilities – Governance, Risk and Compliance

- 5.1 The SCM Governance, Risk and Compliance Manager must use process 8 contained in the Procurement Process Guideline to enforce the critical compliance control point (CCP) framework and instil a culture of ethical decision-making and compliance.
- 5.2 The SCM Governance, Risk and Compliance Manager must ensure that the Critical CCP framework illustrated is maintained, see Appendix B: Governance.
- 5.3 The Head of SCM Governance, Risk and Compliance must ensure that the Procurement Manual is reviewed as and when required but at least every three (3) years, and updated accordingly, in accordance with process 8.4.6 in the Procurement Process Guideline
- 5.4 The SCM Risk and Compliance Manager must ensure that the SCM function and End-users are always kept up to date regarding the latest legislative and regulatory requirements by issuing directives as necessary according to process 8.4.7 in the Procurement Process Guideline
- 5.5 It is the SCM Representatives responsibility to always comply with all latest legal requirements.
- 5.6 SCM Compliance will endeavour to maintain the Construction Procurement Manual with all latest legal requirements.
 - 5.6.1 From time to time the GCPO or their delegated representative may issue Directive Notes and Practise Notes.
 - 5.6.2 If there are any contradictions between Directives or Practice Notes issued after the latest manuals and the latest Goods and Services Manual, the Directives or Practice Notes will take precedence.
- 5.7 Queries to the SCM Governance, Risk and Compliance team must be done according to process 8.4.2 in the Procurement Process Guideline
- 5.8 The SCM Governance, Risk and Compliance team does not make decisions on behalf of SCM practitioners but rather fulfils an assurance role, providing advice and recommendations for the decision maker's consideration.

- 5.9 The SCM Governance, Risk and Compliance team provides the second line of assurance in accordance with the roles and responsibilities defined in the Procurement Process Guideline, supported by other internal and external parties where appropriate.
- 5.10 The third line of assurance is provided by other internal Transnet functions, including, but not limited to, Transnet Internal Audit, or external parties, including, but not limited to, the Auditor General.
- 5.11 The relationship between the SCM Governance and internal stakeholders is reflected [Appendix B: Governance](#).
- 5.12 Anyone who has approached the SCM Governance, Risk and Compliance team with a query must notify them of the final decision made.
- 5.13 Written evidence of queries made, and responses given must be kept by the SCM Governance, Risk and Compliance team.
- 5.14 After being notified of the final decision made by a practitioner, the SCM Risk and Compliance Manager must report any non-compliance or risk associated with the decisions.
- 5.15 The SCM Risk and Compliance Manager must escalate high-risk matters to other SCM senior managers, the CPO and/or the GCPO as necessary.
- 5.16 All procurement-related legal and compliance queries must be addressed to the SCM Governance, Risk and Compliance team only, using the query process 8.4.2 contained in the Procurement Process Guideline
- 5.17 The SCM Governance, Risk and Compliance team will escalate queries to the Legal Department where necessary.
- 5.18 If the OD CPO is unsatisfied with the advice provided by the Governance, Risk and Compliance team, the GCPO or their delegated representative has responsibility and accountability for the final decision.
- 5.19 Where practical, the SCM Risk and Compliance Manager may be requested to provide Real-Time Assurance in a transaction that is within the HVT threshold but is not currently being monitored by TIA. The SCM Risk and Compliance Manager will initiate a compliance check to ensure that it is aligned at every CCP through the Bid/Tender process.
- 5.20 The role of SCM Governance, Risk and Compliance when requested to provide Real-time assurance is to ensure that governance is being complied with proactively to minimise the risk of non-compliance resulting in irregular expenditure.
- 5.21 The Governance Real-Time Assurance Review Process forms part of the strategic sourcing process discussed in process 8.4.3 of the Procurement Process Guideline
- 5.22 A Bid is identified as high risk for purposes of Governance Real-Time Assurance, taking the following considerations into account:
 - 5.22.1 The value of the transaction: namely, Bids above R100 million are deemed high risk where TIA is not providing real time assurance;
 - 5.22.2 The complexity of the Bid;

- 5.22.3 The nature of the Bid. Where significant public interest may occur or there is a potential for reputational impact the Bid is deemed high risk; and
- 5.22.4 Any other relevant consideration.
- 5.23 When a Bid is identified for the Governance Real-Time Assurance Review Process, the SCM Risk and Compliance Manager must appoint a Risk and Compliance Specialist to form part of the following reviews included in process 4.1 and 4.2 of the Procurement Process Guideline:
 - 5.23.1 Plan, prepare and conduct sourcing: Approval 1, process step 1.
 - 5.23.2 Plan, prepare and conduct sourcing: Execute strategy: Tender preparation, process step 6;
 - 5.23.3 Plan, prepare and conduct sourcing: Approval 2, process step 1.
 - 5.23.4 Conduct commercial Supplier negotiations: process step 3.
- 5.24 The SCM Governance, Risk and Compliance function does not approve the reviews, which follow the approval process outlined in process 4 of the Procurement Process Guideline
- 5.25 Bids identified for following the Governance Real-Time Assurance Review Process shall undergo a probity check prior to finalisation of award.
- 5.26 Internal Audit may retrospectively review a sample of the Bids that followed the Governance Real-Time Assurance Review Process to verify ongoing compliance.
- 5.27 In addition to the probity checks required, Group Security may conduct probity checks on any sourcing events, regardless of value, where relevant risk is identified.

6. Committee Structure

- 6.1 Depending on the estimated value of the procurement transaction and in accordance with the Delegation of Authority Framework, the procurement shall be conducted using a committee system comprising:
 - 6.1.1 Bid Specification Committee (BSC);
 - 6.1.2 Bid Evaluation Committee (BEC); and
 - 6.1.3 The relevant Bid Adjudication Committees (BAC)
- 6.2 The committee system is governed by the relevant Terms of Reference for each committee and where a conflict arises, this manual shall govern. Table 1 summarises the description and function of the committees. The following Terms of References are hereby incorporated into the manual:
 - 6.2.1 Bid Specification Committee Terms of Reference;
 - 6.2.2 Bid Evaluation Committee Terms of Reference;
 - 6.2.3 Divisional Bid Adjudication Committee Terms of Reference; and
 - 6.2.4 Central Bid Adjudication Committee Terms of Reference.

- 6.3 No person who is a political office bearer, a public office bearer, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a Bid Specification, Bid Evaluation or Bid Adjudication committee.
- 6.4 The evaluation and adjudication committees should be composed of different members to ensure that a transparent review of the evaluation is undertaken. Members of the evaluation committee may present their reports to the bid adjudication committee and clarify uncertainties. Such members should not have any voting power on the adjudication committee.
- 6.5 In accordance with the Delegation of Authority Framework, the CPO/BAC considers submissions including requests for the following:
 - 6.5.1 Contract amendments;
 - 6.5.2 Award of business;
 - 6.5.3 Cancellation of tenders;
 - 6.5.4 Framing of approved lists;
 - 6.5.5 Deviation from Competitive Bidding;
 - 6.5.6 Cancellation of Contracts;
 - 6.5.7 Price Negotiation;
 - 6.5.8 and Restriction.

Table 1: Transnet Committee Structure

Committee	Bid Specification Committee (BSC)	Bid Evaluation Committee (BEC)	Bid Adjudication Committee (BAC)
Definition	The bid specification committee (BSC) is a standing committee responsible for the review and approval of specifications for the procurement of goods and services	The bid evaluation committee (BEC) is responsible for the evaluation of bids submitted in response to a public invitation for bids	The bid adjudication committee (BAC) must consider the report and recommendations of the BEC
Responsibilities	Shall review and approve the Bid in accordance with the Procurement Manual for Construction Procurement, as appropriate	Shall evaluate only according to the pre-determined criteria contained in the published Tender	Shall with delegated authority, consider whether to grant Tender approval or not
Summary of Power & Functions	Review and Approve Specification.	Evaluate, Shortlist, Negotiate, Bid Recommendation	Administrative Approval, Governance Approval, Approve mandate for award, Reject recommendation and Approve/reject cancellation request

Section B – Establish what is to be procured.

7. Strategic Management

- 7.1 Using process 1.1 set out in the Procurement Process Guideline the GCPO and CPO or his/her duly delegated representative is required to develop, maintain and implement a procurement strategy aligned with OD specific procurement goals, the group procurement strategy.
- 7.2 The purpose of these plans is to:
 - 7.2.1 Align the vision and mission of the Group and OD specific SCM function with the requirements of Transnet;
 - 7.2.2 Drive procurement functional activities effectively and efficiently;
 - 7.2.3 Provide a consolidated overview of the development, consolidation, and prioritisation of improvement initiatives for procurement to support Transnet in continuous improvement; and
 - 7.2.4 Continuously identify and capitalise on opportunities to improve procurement.
- 7.3 Performance metrics in relation to the procurement strategies are required to be developed using process 1.4.2 of the Procurement Process Guideline Procurement performance shall be monitored in accordance with process 1.4.3 of the Procurement Process Guideline

8. Demand and Category Planning

- 8.1 Demand and category planning are integral activities in the procurement environment as they enable End-Users and SCM employees to understand what is required, when it is required and how it is required. Demand and Category Planning is carried out in accordance with processes 3.1 – 3.4 in the Procurement Process Guideline
- 8.2 Transnet demand management system shall be aimed at ensuring that the services procured:
 - 8.2.1 Support strategic and operational commitments of Transnet;
 - 8.2.2 Are effectively delivered at the right price, time, place, and quality; and
 - 8.2.3 Are in line with the Transnet's transformation initiatives.
- 8.3 Category planning ensures that End-Users' CAPEX, COPEX and OPEX demand are identified and correctly budgeted for at the start of each financial year. Annual reviews of End-Users' CAPEX, COPEX and OPEX initiatives, as well as historical category spend enables the development of the category sourcing wave plans for each category, that reflect the following:
 - 8.3.1 Planned CAPEX, COPEX and OPEX sourcing initiatives;
 - 8.3.2 Approved budget per initiative;
 - 8.3.3 SCM and End-User resources assigned to each initiative; and

- 8.3.4 Required date of services.
- 8.4 The consolidated category sourcing wave plans are used to provide input in the development of the Integrated Demand Plan that informs all strategic sourcing activities that will be conducted for each year.
- 8.5 Out of the demand plan, a sourcing wave plan must be developed to indicate what procurement transaction will be prioritised and executed in a particular year. These should take into account available to execute the plan in a realistic approach
- 8.6 If an End-User has an additional/ad-hoc strategic sourcing request during the year that is not included in the Integrated Demand Plan, a Purchase request must be submitted to the Procurement Manager (for the affected OD) who will consult with the relevant Category Manager to manage the request. Such request must be approved and signed-off by the relevant person as indicated in the DoA framework prior to inclusion in the Integrated Demand Plan. All ad-hoc requests must be reflected in the Integrated Demand Plan.
- 8.7 The GCPO is accountable for ensuring the development and maintenance of an Integrated Demand Plan which should contain a multi-year view of the upcoming demand in accordance with process 3.1 in the Procurement Process Guideline to manage Transnet's consolidated demand. .
- 8.8 Demand management shall be a collaborative effort amongst various stakeholders across business and within SCM and shall result in the formulation of an Integrated Demand Plan that guides delivery management.
- 8.9 Demand planning is the cross-functional process which includes, but is not limited to:
- 8.9.1 Defining the needs of the project;
 - 8.9.2 Researching market conditions; and
 - 8.9.3 Determining and/or estimating budget.
- 8.10 The approval of budget shall confirm the inclusion of a particular project on the infrastructure plan.
- 8.11 Needs assessment and infrastructure planning shall be used to ensure appropriate infrastructure procurement. The demand for infrastructure shall be managed through the following, which will inform the need for infrastructure and its lifecycle cost implications:
- 8.11.1 An assessment of current performance against desired levels of service or functionality;
 - 8.11.2 A needs analysis informed by factors such as policies, norms and standards, condition assessments, functional performance, demographic trends, current and forecasted levels of optimisation;
 - 8.11.3 A cost estimate for the life cycle activities comprising acquisition, operations, maintenance, refurbishment, rehabilitation or alteration as relevant; and

- 8.11.4 Infrastructure plans which, as a minimum, summarise the service life plans and provide a credible forecast of current and net demand for services or requirements for functionality.
- 8.12 Consideration shall, where appropriate, be given to:
 - 8.12.1 Alternative service delivery methods or means of satisfying needs which do not require infrastructure to implement or reduce the demand for infrastructure; and
 - 8.12.2 The disposal of infrastructure that is surplus to requirements.
- 8.13 Projects shall, wherever possible, be delivered in accordance with established norms and standards which are designed to yield value for money.
- 8.14 Costs shall be proactively managed through the setting and proactive monitoring of control budgets for projects throughout the project lifecycle.
- 8.15 The demand of an End User shall officially be communicated to the SCM department using an initiation report that outlines the high-level business case together with the estimated project cost and proposed schedule for a single project or group of similar projects.
- 8.16 The relevant Strategic Sourcing Manager must consolidate and submit the OD Procurement Plan (an extract from the Integrated Demand Plan) for all transactions above the open tender threshold to the GCPO within reasonable time after receiving the category wave plans, .
- 8.17 Any advertisement of a tender that was not included in the Procurement Plans should be approved by the delegated authority for the approach to market in terms of value. The request for approval to approach the market must clearly state that the project was not included in the Procurement Plan. This information must also be submitted in the quarterly report that will be tabled at Group Executive Committee..
- 8.18 The GCPO, or his/her delegated representative, must compile a Quarterly report of amendments to the procurement plan for submission to the Group Executive Committee.

Section C – Decide on Procurement Strategies

9. Framework for infrastructure delivery and procurement management

9.1 There are seven key activities involved in infrastructure procurement, as shown in Figure 2 below:

- 9.1.1 Activity 1: Establish what is to be procured.
- 9.1.2 Activity 2: Decide on Procurement Strategies
- 9.1.3 Activity 3: Prepare Procurement Documents
- 9.1.4 Activity 4: Solicit tender offers.
- 9.1.5 Activity 5: Evaluate tender offers.
- 9.1.6 Activity 6: Award contract
- 9.1.7 Activity 7: Administer contract and confirm compliance with requirements.

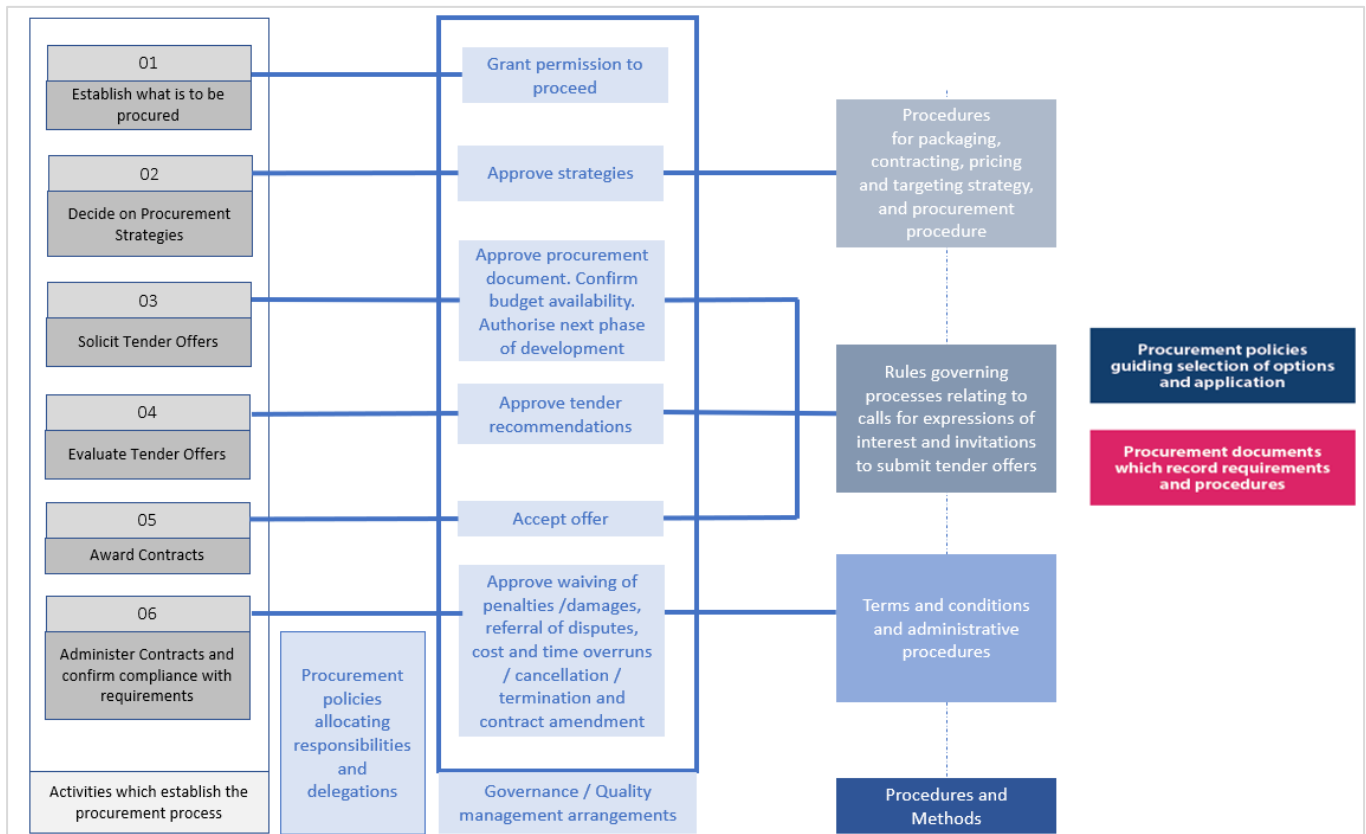


Figure 2: Key activities associated with Construction Procurement

9.2 The authorisation to proceed to the next procurement gate must be given by the delegation of authority. The delegated authority must be able to apply the knowledge

and skill to achieve intended results required at the relevant procurement gate. The level of detail contained in the documentation upon which a decision to proceed to the next procurement gate, must be sufficient to enable an informed decision.

- 9.3 The standard procurement procedures identified in Table 3 shall be implemented in accordance with the provisions of the CIDB SFU. If any doubt exists as to which procedure to use, the open procedure must be applied.
- 9.4 For any infrastructure procurement above R30 000, a CIDB registered contractor must be used.
- 9.5 The relevant CPO shall, keep records of Procurement Gate Approvals (Guideline A) with the following minimum requirements:
 - 9.5.1 Procurement gate;
 - 9.5.2 Delegated person/s or body;
 - 9.5.3 Date on which the approval request was received;
 - 9.5.4 Date on which the approval was actioned; and
 - 9.5.5 Signature of the delegated person.

Table 3: Standard Infrastructure Procurement Procedures

Competitive selection procedure		
1.	Open procedure	Tenderers may submit tender offers in response to an advertisement by Transnet to do so. This is the default procurement method for Transnet in the soliciting of all tender offers above R30 000.00 for engineering and construction procurement. Professional services contracts are to be solicited as per Open Procedure.
2.	Qualified Procedure	A call for an expression of interest is advertised and thereafter only those tenderers who have expressed interest, satisfied objective criteria and who are selected to submit tender offers, are invited to do so.
3.	Quotation procedure	Tender offers are solicited/invited from not less than three (3) tenderers in a manner that Transnet chooses, subject to the procedures being fair, equitable, transparent, competitive and cost effective.
4.	Proposal procedure using the two-envelope system	Tenderers submit technical and financial proposals in two envelopes or electronically separated. The financial proposal is only opened should the technical proposal be found to be acceptable.
5.	Proposal procedure using the two-stage system	Stage 1 may include criteria such as technical, quality, contractual terms, conditions of supply and the professional and technical competence of the suppliers. Depending on the option exercised in stage 1, Transnet may either issue an Open Bid or limit the second stage to only one or a shortlist of Bidders, as approved by the delegated authority.
Competitive negotiation procedure		

1	Restricted competitive negotiations	A call for Expressions of Interest is advertised and thereafter only those tenderers who have expressed interest and satisfy objective criteria and are selected to submit tender offers, are invited to do so. Transnet evaluates the offers and recommends and determines who may enter into competitive negotiations?
2	Open competitive negotiations	Tenderers may submit tender offers in response to an advertisement by Transnet to do so. Transnet evaluates the tender offers and determines who may enter into competitive negotiations. (Short list highest ranked tenders).

10. Strategic Sourcing

- 10.1 When a SCM Representative or their duly delegated representative receives a purchase request, they must use their reasonable discretion to decide whether initiating the strategic sourcing method in line with process 4.1 in the Procurement Process Guideline would be beneficial to Transnet after taking the following into consideration:
- 10.1.1 The nature of the contract to be established (e.g., a National Treasury transversal or National/Transversal contract);
 - 10.1.2 Complexity of the Bid (e.g., where the specification requires expert knowledge);
 - 10.1.3 Value of the Bid;
 - 10.1.4 Any other applicable legal constraint; and
 - 10.1.5 Any other relevant consideration relating to the circumstances of the Bid.
- 10.2 If the SCM Representative or their duly delegated representative is satisfied that the strategic sourcing method will be beneficial to Transnet, a Strategic Sourcing Specialist may be allocated to initiate process 4.1 in the Procurement Process Guideline
- 10.3 If the SCM Representative or their duly delegated representative is not satisfied that the strategic sourcing method will be beneficial to Transnet after taking all considerations into account, they must consult with the CPO or their duly delegated representative who must take the decision regarding which method should be used and effect the relevant process in this Manual or the Procurement Process Guideline
- 10.4 The delegated BSC will review and approved strategic sourcing bid specifications document. A BEC shall be established to complete the procurement evaluation during the strategic sourcing process. The delegated BAC will adjudicate bids upon the recommendation of the BEC.
- 10.5 The CPO or their delegated representative may appoint in writing ad-hoc members to the standing BSC committee, in line with the Bid Specification Terms of Reference.

- 10.6 The CPO or their duly delegated representative, is required to appoint in writing the BEC for each strategic sourcing initiative which requires it, in line with the Bid Evaluation Terms of Reference.
- 10.7 When selecting BSC and BEC members, the following shall be considered:
 - 10.7.1 The sourcing strategy;
 - 10.7.2 The complexity of the Bid;
 - 10.7.3 The risk profile of the Bid;
 - 10.7.4 The experience of available Strategic Sourcing Specialists; and
- 10.8 Committee members and appointees must treat all sensitive information as confidential. All BSC and BEC members must adhere to strict confidentiality at all times.
- 10.9 The decision to conduct reverse auctions may be approved by the CPO or their duly delegated representative for transactions taking into consideration:
 - 10.9.1 The nature of the demand for services linked to infrastructure procurement;
 - 10.9.2 Supply market analysis; and
 - 10.9.3 Any other relevant consideration in the circumstances.
- 10.10 All competitive Bids must be advertised on the e-Tender Publication Portal, Transnet website and may also be advertised in local, regional, national or international mediums, professional publications, and any other appropriate medium as approved by CPO or their duly delegated representative.
- 10.11 Suppliers must be afforded sufficient time to prepare and submit Bids, based on the complexity of the Bid.
- 10.12 The Request for Information (RFI) Process shall be used where:
 - 10.12.1 The End-User does not fully understand how to specify his/her requirements;
 - 10.12.2 The SCM Department and/or End-User needs to obtain information from the market;
 - 10.12.3 The SCM Department requires understanding of various options before initiating a sourcing process; and/or
 - 10.12.4 The SCM Department first needs to determine the suitability of Suppliers in the market.
- 10.13 RFIs are sent to the relevant Strategic Sourcing Manager for approval and allocation of a Strategic Sourcing Specialist.
- 10.14 The SCM Representative may approach the market through the most effective means to source the required information within the constraints of the law.
- 10.15 Responses to the RFI process may only be used for information purposes and to develop a Bid/Tender and strictly no award may be made against a response to an RFI.

10.16 Where significant assets as per the Significance and Materiality Framework are to be acquired, the Transnet Board must, in accordance with section 54 (2)(d) of the PFMA, promptly inform National Treasury in writing of the intention to procure the asset and seek approval from the Executive Authority. Transnet may assume that approval has been granted if it receives no response from the Executive Authority on a submission within 30 (thirty) calendar days or within a longer period as may be agreed to between itself and the Executive Authority.

11. Two-Stage Bidding

11.1 This mechanism is used in assessing the availability of services (related to Infrastructure Procurement) where there is no clear specification of requirements or where the suitability of service providers must first be determined prior to the undertaking of any development work.

11.2 The utilisation of two-stage bidding list is a means of strategic sourcing.

11.3 Two-stage bidding may be utilised where:

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

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

11.3.3 Where Transnet seeks first to establish the various possible solutions available in the market in order to determine the best solution for Transnet.

11.4 The process involves the following two steps:

11.4.1 Stage 1: RFI Stage:

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

11.4.1.2 The evaluation criteria in the first stage may include criteria such as technical, quality, contractual terms, conditions of supply and the professional and technical competence of the suppliers.

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

11.4.1.2.1.1 Suppliers will be subjected to pre-qualification criteria and be short listed in order to proceed to the second stage;

11.4.1.2.1.2 Transnet will issue an Open Bid based on the responses and specifications received in the first stage; or

11.4.1.2.1.3 Transnet will approach one or a shortlist of Bidders based on the responses and specifications received in the first stage.

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

- 11.4.1.4 A recommendation is made to the relevant delegated authority regarding the outcome of the first stage, and the eligibility of the bidders to participate in the second stage.
- 11.4.1.5 Relevant delegated authority agreement with the recommendation effectively authorises the second stage of the process.

11.4.2 Stage 2: RFP Stage:

- 11.4.2.1 Depending on the option exercised in stage 1, Transnet may either issue an Open Bid or limit the second stage to only one or a shortlist of Bidders, as approved by the delegated authority.
- 11.4.2.2 Bidders are invited to bid in the normal manner.
- 11.4.2.3 The bids are evaluated and awarded in the normal manner.

11.5 Market Analysis:

- 11.5.1 The market analysis process is a key driver to the sourcing process and forms the basis for the development of a procurement strategy.
- 11.5.2 Once an SCM Representative determines that there is no existing contract or available sources of supply that can adequately provide the infrastructure procurement or related services, then market research must be conducted on the external supply market.
- 11.5.3 Market analysis must be carried out before issuing an enquiry to a limited number of suppliers, see [Appendix D: Limited Bidding](#) or where the market is unknown, so that the correct supply market is targeted.
- 11.5.4 Market analysis may also inform the formal commercial strategy, market-related prices and parameters for negotiations.
- 11.5.5 An in-depth market analysis may include developing an understanding of the following market dimensions:
 - 11.5.5.1 Market related pricing
 - 11.5.5.2 Market structure;
 - 11.5.5.3 Competition/role player;
 - 11.5.5.4 Supply chains;
 - 11.5.5.5 Substitute materials for construction procurement;
 - 11.5.5.6 Substitute goods or services;
 - 11.5.5.7 Supplier preferencing;
 - 11.5.5.8 Market capacity and capability (e.g new technology, is the product still in use or obsolete)
 - 11.5.5.9 Transformation opportunities (ESD & Preferential Procurement).
- 11.5.6 A Basic Market analysis may include the following:

- 11.5.6.1 Market related price;
 - 11.5.6.2 Transformation opportunities;
 - 11.5.6.3 Competition/role-players
- 11.5.7 Developing an understanding of market related pricing may include elements of the following methods, should the procurement request require it:
- 11.5.7.1 Historic pricing offered to the market;
 - 11.5.7.2 Manufactured cost versus offered price analysis;
 - 11.5.7.3 Commodity indices review;
 - 11.5.7.4 Review of existing contracts;
 - 11.5.7.5 Review of available catalogues or established price lists;
 - 11.5.7.6 Total cost of ownership analysis;
 - 11.5.7.7 Budget quotes / price benchmarking (only SCM may approach suppliers)
- 11.5.8 The use of RFIs may facilitate such market research, and determine supplier interest, capability and capacity in the category of supply/services.
- 11.5.9 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 issue an RFI to the market prior to proceeding with a relevant procurement process.

12. Approved List

- 12.1 The utilisation of an approved list is a means of strategic sourcing.
- 12.2 An approved list is a mechanism to prequalify suppliers and limit the need to continuously evaluate many bids.
- 12.3 The decision to use an approved list as a mechanism of strategically sourcing or amend an approved list must be approved by the CPO or their duly delegated representative after taking into consideration:
- 12.3.1 The nature of the demand for goods or services (commodities requiring long-term contracts should be avoided e.g., IT);
 - 12.3.2 The proposed accompanying terms of reference;
 - 12.3.3 Availability of budget (where it is applicable);
 - 12.3.4 Transformation Guidelines;
 - 12.3.5 Supply market analysis; and
 - 12.3.6 Any other relevant consideration in the circumstances.

- 12.4 The approved list must be specified, evaluated and awarded (if price was part of the evaluation criteria) in the normal manner by the relevant delegated authority.
- 12.5 When an approved list of Suppliers is strategically sourced preferential criteria must still be evaluated according to the terms of reference supporting the list.
- 12.6 There are two types of approved lists that may be selected:
- 12.6.1 Standing approved list, remains valid indefinitely provided:
- 12.6.1.1 The suppliers on the list will be subject to periodic quality testing to maintain their name on the list. Should suppliers fail to meet quality standards, their names may be removed from the approved list.
 - 12.6.1.2 Bidders' products may be subjected to testing in order to determine their suitability for inclusion on the approved list and may be placed on the approved list provisionally pending the outcome of the testing process.
 - 12.6.1.3 Although the standing approved list remains valid for an indefinite period, it must be advertised every 12 months in order to afford new suppliers an opportunity to be included. However, such approved lists can be updated at any time.
- 12.6.2 Fixed term approved list, framed for between 3-5 years provided:
- 12.6.2.1 No new applications for inclusion on the list may be considered during the period that the existing list is in effect.
 - 12.6.2.2 At the end of the fixed period, the list must be re-advertised, and a new list must be framed, if there is still a need for such an approved list. Suppliers who were included on the previous approved list must re-apply for inclusion onto the new list.
 - 12.6.2.3 3 (three) years is the standard framing period. A fixed term approved list may be framed for a maximum of 5 (five) years with GCPO approval.
- 12.7 Sourcing an approved list of Suppliers must include a term of reference, or equivalent, which details how the approved list will operate (either on a rotational or quotation basis), the timeframe of the approved list as well as the pricing methodology. The SCM Representative must consider the following when framing the list:
- 12.7.1.1 The fixed term approved list may be used either on a rotational or a quotation basis. Where the intention is to use the list on a rotational basis, the rates of the suppliers must be the same or similar for all the bidders on the approved list in order to promote the principle of cost-effectiveness.
 - 12.7.1.2 For fixed term approved lists, the work orders should not exceed the specified time period of the approved list, this means that all work order made against the approved list should be done within the timeframe of the approved list. Should circumstances arise that requires work to be done beyond the time frame of the approved list, a contract variation process must be followed to extend the duration of the approved list.

- 12.7.1.3 The RFX document must indicate the minimum and maximum number of suppliers required to frame the list and should clearly state what Transnet will do should the minimum and maximum number of suppliers not be met during the tender process.
- 12.7.1.4 The RFX document must allow Transnet to step outside of the approved list or the Framework Agreement if the Bidders that have been placed on the list are unable to deliver in terms of Transnet's requirements at a particular point in time.
- 12.8 The fixed term approved list validity period can be extended by GCPO approval but not beyond 5yrs.
- 12.9 The approved list can be utilised using either of the two mechanisms below:
 - 12.9.1 Ad-Hoc: There is no contractual relationship until such time as the list needs to be utilised. When there is a need, Bidders are invited to submit a bid and are evaluated, or a rotational system is used where rates are the same for all Bidders on the Approved List. All legislative requirements (eg SBD Forms) must be evaluated each time the approved list is being utilised
 - 12.9.2 Framework Agreement: A contractual relationship could be concluded with all/some or one of Bidders on the Approved List. During the stage of setting up the approved list for purposes of having a framework agreement (contractual), all legislative requirements (eg SBD Forms) must be evaluated. However, once the Framework agreement is in place, there is no need to evaluate these requirements every time the framework is utilised.
- 12.10 For rotational approved lists, equalised pricing is a key requirement in pre-qualifying suppliers. Negotiation is the core mechanism that should be used to allow for equalised pricing.
- 12.11 Any rotational system implemented should consider section: Rotational Procurement.
- 12.12 Suppliers may be removed from an approved list if the supplier:
 - 12.12.1 Has been added to National Treasury's List of Restricted Bidders;
 - 12.12.2 Fails to comply with the requirements of such approved list;
 - 12.12.3 Has been convicted of any offence under any law relating to wages, hours of work or other conditions of employment;
 - 12.12.4 Fails to perform satisfactorily after having been informed accordingly when measured on any of the following criteria
 - 12.12.5 Sub-contracts the whole or any portion of a contract for the supply of Goods or Services in respect of an approved list to an Enterprise or person whose name does not appear on the list;
 - 12.12.6 Has not been awarded any business over a period of a year due to non-competitive prices;
 - 12.12.7 Has requested that its name be removed from the approved list.

- 12.13 Before a supplier is removed from an approved list, the Bidder concerned shall be notified in writing of the intention to remove it from the list including reasons for the removal.
- 12.14 The Bidder shall be afforded an opportunity to make representations as to why its name should not be removed from the list. Bidders must be afforded reasonable time (minimum 7 (seven) working days) to respond to Transnet’s notice of intention to remove the bidder.
- 12.15 Approval for the removal of a supplier from the approved list must be recommended by the relevant CPO and approved by the DBAC/CBAC.

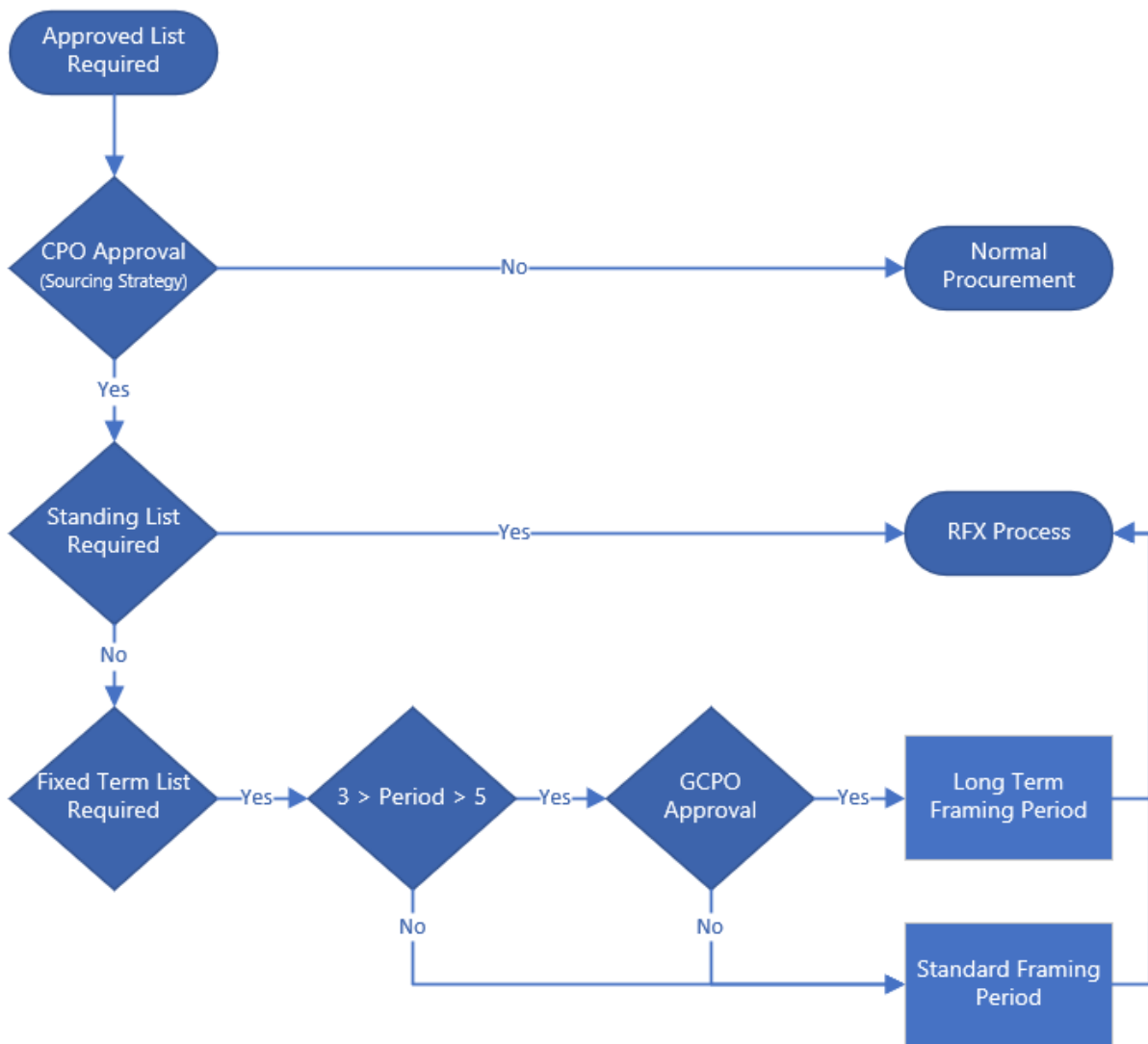


Figure 2A: Approved List Decision Tree

13. Deviation from Competitive Bidding/Procurement by “Other Means”

- 13.1 Competitive bidding is considered the normal bidding process. Deviations from competitive bidding is considered procurement by “other means”.
- 13.2 Based on Instruction Note 3 of 2021/2022 all deviations from competitive bidding must be reported to National Treasury and the AGSA.
- 13.3 If in a specific case it is impractical to invite competitive bids, the required goods or services may be procured using procurement by “other means” approach.
- 13.4 Procurement by “other means” includes the following reasons:
- 13.4.1 Standardisation: A justifiable need to standardise goods or services;
 - 13.4.2 Compatibility: The compatibility of the goods or services required;
 - 13.4.3 Research and Development (R &D): where the intellectual property of Transnet and its partner(s) may be compromised when the details of the project are shared openly to the public in process of sourcing critical goods or services for the research
 - 13.4.4 Limited Suppliers: Goods or services are only available from a limited number of suppliers;
 - 13.4.5 Specialisation: Goods or services are highly specialised and are largely identical to previously procured goods or services;
 - 13.4.6 Legal Grounds, including, but not limited to, where relevant intellectual property rights, warranty and/or guarantees are held by a specific supplier or original equipment manufacturer;
 - 13.4.7 Procuring from Organs of State: Instances where procuring goods or services from other organs of state and/or public institutions of higher learning results in either financial or non-financial benefits, see Appendix D: Partnering with Other Organs of State;
 - 13.4.8 Regional or Local Community Procurement: Instances where procuring from suppliers within the local community or the region which results in either financial or non-financial benefits (such as strategic placement of critical/strategic assets [eg the location of the disaster recovery data centre], or to avoid community unrests); utilisation of this method should be supported by Group SCM Governance to ensure that there is no overlapping with preferential procurement ;
 - 13.4.9 Emergency: Situations where there are serious and unexpected situations that pose an immediate risk to health, life, property or environment which calls for urgent action and there is insufficient time to follow a competitive bidding process, see Appendix D: Emergency Procurement;
 - 13.4.10 Urgency: Situations where the early or timeous delivery of goods, services and/or infrastructure is critical. This arises only in instances where it is critical to ensure business continuity (to minimize commercial loss or maximise commercial gain); for the protection of Transnet assets and/or Transnet’s reputational image; preventing non-compliance to legislative requirements and preventing/avoiding adverse audit findings, see Appendix D: Urgent Procurement;

- 13.4.11 Instances where goods and services are not available in the local market and procurement from international suppliers will lead to financial and/or non-financial benefits; and
 - 13.4.12 Unsolicited bid, including where Transnet receives a submission that is innovative, unique and meets the requirements of a sole source as explained in Appendix D..
 - 13.4.13 Organ of State co-operation, see Appendix D: Organ of State Co-operation
- 13.5 Procurement by “other means” includes the following mechanisms:
- 13.5.1 Limited Bidding, see Appendix D: Limited Bidding;
 - 13.5.2 Written price quotations within the threshold determined by Transnet, Section: Procurement Approach and Appendix D: Written Price Quotations;
 - 13.5.3 Procurement that occurs in emergency situations, see Appendix D: Emergency Procurement;
- 13.6 Where deviation from competitive bidding is proposed, the CPO or their delegated representative shall recommend the sourcing approach to the delegated authority for approval after the proposal has been assessed by SCM Governance.
- 13.7 The Instruction Note requires that all procurement by “other means” be assessed. SCM governance is responsible for the assessment prior to the approach to market is approved.
- 13.8 Where deviation from competitive bidding is proposed, the CPO or their duly delegated representative shall allocate a SCM Representative to follow the Manage Deviation from Competitive Bidding process 8.4.4 in the Procurement Process Guideline.
- 13.9 Once the deviation from competitive bidding is approved as per process 8.4.4 of the Procurement Process Guideline, all relevant steps of figure 32 of the Procurement Process Guideline are to be followed to conclude procurement.
- 13.10 The CPO or their delegated representative must, at the time of approval, record the reasons for deviating from inviting competitive bids and report the procurement to the GCPO in the format determined by National Treasury, see Appendix C: Templates.
- 13.11 The CPO or their delegated representative must ensure that the report records steps taken to curtail reliance on procurement by “other means” and an assessment of all instances that gave rise to procurement by “other means”.
- 13.12 The CPO or their delegated representative (usually OD SCM Governance) must submit a report procurement by “other means”, to Group SCM Governance on a Monthly basis for further submission to National Treasury and the AGSA. It is the CPO’s responsibility to ensure that the OD report in this regard is correct and accurate and that it is submitted on time.
- 13.13 The GCPO or their delegated representative must ensure that procurement by “other means” is recorded in the annual report of the institution in the format determined by National Treasury, see Appendix C: Templates.

- 13.14 Transnet may utilise various efficiency mechanisms to conclude the deviation from competitive bidding procurement event once approval for the deviation has been granted by the relevant delegated authority.
- 13.15 These efficiency mechanisms may include, but are not limited to, the following:
- 13.15.1 Abridged documentation, (Refer to Procurement Process Guidelines)
 - 13.15.2 Immediate prioritization by the relevant Procurement Manager and SCM Officer
 - 13.15.3 Reducing the tendering period to a minimum of 5 (five) days;
 - 13.15.4 Fast tracking and prioritization of the tender closing time;
 - 13.15.5 Reducing evaluation timeframe by the BEC to 48 (forty-eight) hours post tender close (Refer to BEC Terms of Reference).
 - 13.15.6 Reducing approval timeframe by the BAC to 48 (forty-eight) hours post BEC recommendation (Refer to relevant BAC Terms of Reference).

Section D – Prepare Documentation and Solicit Tender Offers

14. End-User

- 14.1 The end-user is responsible for the compilation and drafting of specifications for the procurement of construction procurement.
- 14.2 The CPO, upon receipt of a request for services, may appoint a sourcing team that will be chaired by the SCM representative and consisting of end-user representatives as well SD and other relevant departments to prepare the bid documents for tabling at BSC and to the DoA for approval to approach the market.
- 14.3 The specifications should be written in an unbiased manner to allow all potential bidders to offer their goods or services.
- 14.4 The team, appointed by the CPO or his /her delegate may be composed of officials from the procurement department or the department requiring Services, one or more qualified officials or an external consultant under direction of the officials concerned.
- 14.5 The end-user must ensure that the team consists of the relevant expertise and that the size of the team is of such a nature that it can function effectively.
- 14.6 All members of the team shall complete a Declaration of Interest and Confidentiality Form when appointed.

15. Bid Specification Committee (BSC)

- 15.1.1 The BSC is responsible for the review and approval of specifications for the procurement of construction procurement. Figure 3.
- 15.1.2 The CPO or their delegated representative may appoint in writing ad-hoc members to the standing BSC committee, in line with the Bid Specification Committee Terms of Reference.

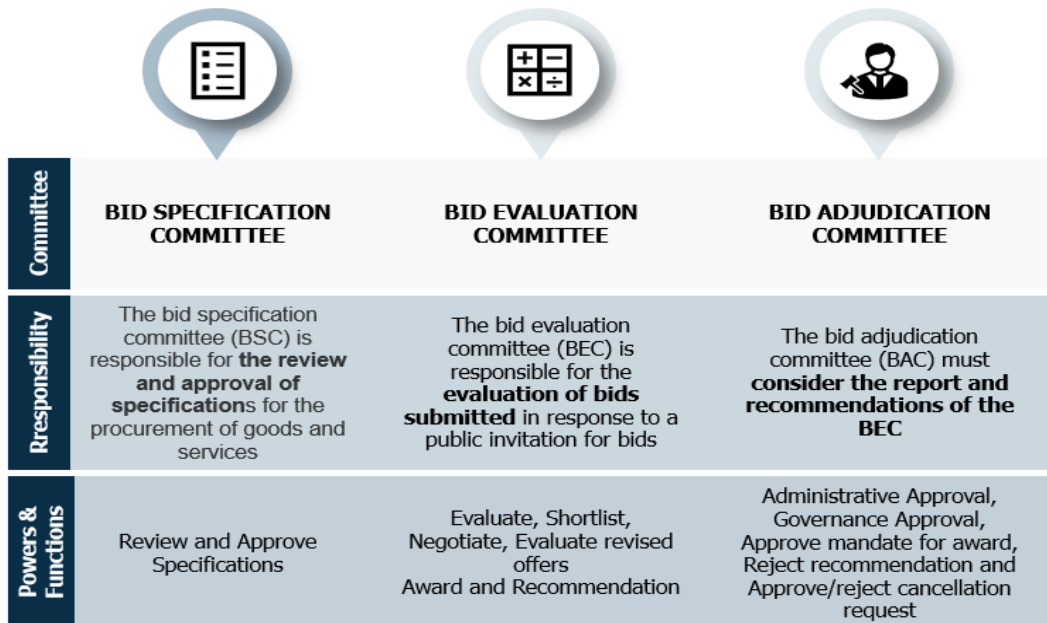


Figure 3: Diagrammatic representation of Transnet committee structures

16. Tender Preparation

16.1 The Sourcing Team is responsible for the development and drafting of the bid specification for submission to the BSC for approval.

16.2 As part of the Demand Management Process, Procurement shall establish a Sourcing Team, consisting of at least the following roles: Procurement (Chairperson), operations (end users/contract manager/technical), SD (including B-BBEE) and SHEQ, where applicable. Although Governance, Legal and Risk/Compliance need not be appointed to the sourcing team, advice should be sought from these specialist functions where applicable. The end user department will be responsible for nominating only the technical committee members. Other possible representatives are finance, treasury, maintenance, logistics/warehousing and disposal.

16.3 Functions of the Sourcing Team

16.3.1 Validate specifications/scope of work

16.3.2 Once the technical specification/scope of work has been finalised, the end user department or head of the technical specification sub-committee must sign off confirming that the specification is:

- Fit for purpose;
- objective; and
- unbiased and not slanted in favour of any bidder.

16.3.3 Determine preferential procurement Specific Goals under the guidance of a SD official, conduct a market analysis to determine the opportunities for setting preferential procurement specific goals to advance Designated Groups and SD.

16.3.4 Consider the following:

- Options for rationalisation of the range of goods/works/services
- What are the implications if a chosen option is to reduce or consolidate the required goods/services

16.3.5 Identify and mitigate risks:

- All risks to Transnet associated with the demand must be identified and addressed in the RFX. Also, identify if a due diligence exercise on the Preferred Bidder will be required based on the nature of the transaction;
- ascertain whether suitable skills are available within procurement to address the demand and its management process.

16.3.6 Develop the procurement strategy including the following:

- market analysis and historical spend;
- take into account industry norms/standards to determine price structure;
- the appropriate procurement mechanism;
- envisaged award allocation e.g. single or split award.

16.3.7 Determine a Market-Related Price – Methods for determining a Market-Related Price include:

- Comparing price variances between the lowest price bid with the highest and/or other bidder's price;
- catalogue or established price lists at a set date;
- prices from other similar purchases; historical pricing where supported by appropriate documentation taking into account inflation and market fluctuations;
- price based on prior competition;
- independent in-house price estimate;
- benchmarking against prices that other organs of state and private sector companies similar to Transnet are paying for the same Goods/Services; and
- comparison to substantially similar items, comparison to similar prices in a specific geographical area.

16.4 The procurement documents must provide Tenderers with clear and comprehensive information necessary to enable them to submit responsive tenders. Documents must clearly explain all relevant aspects of the tender including, but not limited to, the Work to be carried out/Goods to be supplied/Services to be provided, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements and the warranty and maintenance requirements.

16.5 Procurement documents must contain at minimum, descriptions of the mandatory returnable documents, contractual conditions, relevant specifications/scopes of work and the related evaluation criteria.

16.6 Procurement documents must clearly state how Tenderers should prepare tender responses for submission and specify that Tenders must be returned by Tenderers in accordance with this condition. The closing date and submission location/method must be clearly stated. Where compulsory or non-compulsory briefing sessions or site visit are deemed necessary, procurement documents must indicate as such and include the date, venue and time of the meeting if possible.

- 16.7 BECs are established at the reasonable discretion of the CPO or his/her duly delegated representative where he/she believes it would be beneficial to Transnet, but must always be established for transactions above R2m, after taking the following into consideration:
- 16.7.1 The applicable initiation and planning reports;
 - 16.7.2 The nature of the contract to be established;
 - 16.7.3 Complexity of the bid (e.g., where the specification requires expert knowledge);
 - 16.7.4 Value of the Tender; and
 - 16.7.5 Any other relevant consideration relating to the circumstances of the bid.
- 16.8 The CPO or his/her duly delegated representative, after consulting the End-Users, is required to appoint in writing the BEC for each initiative which requires it (typically procurement initiatives with a value above R500 000), in line with the Bid Evaluation Committee Terms of Reference.
- 16.9 The Bid Specification Committee, during the preparation phase, shall:
- 16.9.1 Review and Approve the specifications document for infrastructure procurement required by Transnet in an unbiased manner to allow all potential Contractors to be considered;
 - 16.9.2 Take account of all applicable standards issued by the South African National Standard (“SANS”), the International Standards Organization (“ISO”), or an authority accredited or recognised by the South African National Accreditation System (“SANAS”) with which the equipment or material or workmanship should comply;
 - 16.9.3 Review the evaluation criteria; and
 - 16.9.4 Review the completed procurement document pack prior to advertisement.
- 16.10 Principles for reviewing and approving comprehensive specifications/scopes of work include the following:
- 16.10.1 Specifications should be fit for purpose and aligned to operational requirements;
 - 16.10.2 Where possible, specifications should be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - 16.10.3 Specifications should be functional and not include any brand or product-specific references or criteria that unfairly favours a specific Contractor, not making reference to any particular trademark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
 - 16.10.4 For those transactions that are “solution based” or those that require bidders to propose a solution to Transnet, the bid document must indicate that Transnet will accept only one solution provided by the bidder and that a bidder who submits more than one solution/bid will be disqualified

- 16.10.5 Specifications should be clear, concise and consistent and avoid ambiguity;
 - 16.10.6 Specifications should be legally and technically sound;
 - 16.10.7 Specifications should not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - 16.10.8 Specifications should incorporate applicable regulatory, environmental and/or sustainability requirements; and
 - 16.10.9 Specifications should consider associated risks.
- 16.11 Bid/Tender evaluation criteria must be stated up front in the procurement documentation. Tenders received may only be evaluated in accordance with the initially stated criteria. The following criteria must be indicated in Bid documentation:
- 16.11.1 Points/weighting per criterion;
 - 16.11.2 Minimum qualifying scores for functionality;
 - 16.11.3 Applicable specific goals;
 - 16.11.4 Directed procurement criteria;
 - 16.11.5 Objective criteria;
- 16.12 Specifications should allow for Total Cost of Ownership (TCO), allowing for the consideration of all cost factors involved in the acquisition, operation, and disposal of goods and services.
- 16.13 The procurement document to be published must contain full evaluation criteria approved by the BSC including as appropriate, but not limited to:
- 16.13.1 Only legal and functionality pre-qualification criteria;
 - 16.13.2 Functionality;
 - 16.13.3 Evaluation criteria weightings;
 - 16.13.4 Applicable values;
 - 16.13.5 Objective criteria (where applicable);
 - 16.13.6 Thresholds; and
 - 16.13.7 Any other minimum qualifying requirements.
- 16.14 Mandatory returnable documents must be clearly indicated in the procurement documents. Mandatory returnable documents must be clearly indicated in the Bid documents. The BSC must think carefully about what is to be included in the list of mandatory returnable documents, since non-compliance with mandatory requirements will result in automatic disqualification.
- 16.15 The BSC may only determine certain activities and documents to be mandatory after taking the following into consideration:
- 16.15.1 The non-submission or non-participation would materially affect the evaluators in making a fair and informed decision;

- 16.15.2 The process would be deemed compromised or unfair if the documents were requested from the Tenderer after the closing date and time;
 - 16.15.3 It would contravene a law;
 - 16.15.4 Transnet would suffer reputational harm;
 - 16.15.5 It relates to material information such as specification, price, good standing and transformation; and/or
 - 16.15.6 Any other relevant consideration or prescribed law.
- 16.16 Prequalification criteria relate to minimum qualifications that a bidder must have to be considered further. Typically, these include “must-have” functionality and legislative requirements. Such criteria must be determined with circumspection as bidders may not be considered further should they fail to meet any of the set prequalification criteria. Furthermore, prequalification criteria must clearly prescribe the minimum requirements that Transnet requires. As pre-qualification criteria involves a “Yes” or “No” assessment, verifiable evidence to substantiate the prequalification criteria should also be requested, where possible.
- 16.16.1 The decision to use certain specific goals for preferential procurement in a specific Tender must be approved by the BSC /CPO /GCPO, after considering. The recommendation to the BSC/CPO/GCPO or his/her duly delegated representative should make the following considerations in this regard;
 - 16.16.1.1 That the Bid to be published clearly and simply states the pre-qualification criteria as a special condition in line with any applicable legislation or standards of a particular industry or business sector;
 - 16.16.1.2 The Sourcing Strategy supports the pre-qualification;
 - 16.16.1.3 Market supply constraints will not affect or be affected by the inclusion of a pre-qualification such that there may be no bidder that is responsive; and
 - 16.16.1.4 Any other relevant consideration and/or prescribed laws.
- 16.17 Where it is decided that pre-qualification criteria is appropriate for use in a particular Bid, the Bid documents must contain a specific Bidding condition that clearly and simply states the pre-qualification criteria indicating that only Bidders who possess that qualifying factor are eligible to respond.
- 16.18 Where functionality is to be evaluated, the evaluation criteria must be clearly linked to the specification/scope of work and be objectively measurable/ evaluated.
- 16.19 If functionality will be used as an evaluation criterion, the evaluation criteria for functionality must be objective. The Bid documents must specify:
- 16.19.1 The evaluation criteria for measuring functionality;
 - 16.19.2 The points for each criterion and, if any, each sub-criterion; and
 - 16.19.3 The minimum qualifying score for functionality;
 - 16.19.4 The weightings for functionality threshold

- 16.20 The minimum qualifying score for functionality for a Tender to be considered further must be stated in the procurement documents. It must be determined separately for each Tender and may not be:
- 16.20.1 Too low that it may jeopardise the quality of the required goods or services;
or
 - 16.20.2 Too high that it is unreasonably restrictive.
- 16.21 The RFX documents must contain a condition stating clearly that the award of the Bid may be subjected to price negotiation with the preferred Bidders in line with the relevant price negotiation process.
- 16.22 The Bid documents must include a uniform pricing schedule clearly indicating how the Bidders should submit pricing in order to ensure that prices are received on a uniform basis. No amendments of the uniform pricing schedule will be accepted after the closing time of the bid.
- 16.22.1 For transactions between R0 and R 50 000 000 the 80 / 20 preference point system must be applied;
 - 16.22.2 For transactions in excess of R50 000 000 the 90 / 10 preference point system must be applied.
- 16.23 Where it is unclear as to which preference point system is applicable, as indicated in 15.22 above, the lowest acceptable bid will determine the preference point system.
- 16.24 It is therefore important that both 80/20 and 90/10 preference point systems are indicated in the bid documents when there are uncertainties. The above statement alone is not sufficient. Both tables which add up to 10 and 20 points should be stipulated in the tender document demonstrating both scenarios and how much each specific goal will be allocated when the specific goal are equal to 10 or 20 points.
- 16.25 Where objective criteria as contemplated in paragraphs 2(1)(f) of the PPPFA will be applied, the Bid documentation must state as such and indicate what the objective criteria are. Functionality or any other criteria (Specific goals identified in the Transnet Preferential Procurement Policy in terms of paragraph 2(1)(d)(i) and (ii) already evaluated may not be used as objective criteria.
- 16.26 Objective criteria may be used only in exceptional circumstances where the circumstances of the specific Bid warrants it. The BSC, for open tenders and multiple source procurement, will approve whether objective criteria will be included. The CPO or his/her duly delegated representative will determine whether objective criteria will be used for transactions below R2m and limited bidding procurement process.
- 16.27 Objective criteria that will be used in the evaluation of a Bid must be disclosed in the published Bid document, failing which Transnet will be bound to award the Bid to the highest points earner.
- 16.28 Where objective criteria has been included in the Bid, Transnet has a discretion to apply the criteria. Should Transnet decide to apply objective criteria as stated in the Bid document, consideration must be made on the principles of fairness and other relevant principles, including allowing the affected bidder an opportunity to make representations as to why they should not be overlooked.

- 16.29 The process for making representation by the affected bidder during an application of objective criterion is as follows:
- 16.29.1 Before a decision to overlook a bidder is made, the bidder concerned shall be notified in writing of Transnet's intention to overlook them and award business to another bidder by applying an objective criteria that is stated in the RFX including reasons for the application of the objective criteria.
 - 16.29.2 The bidder shall be afforded an opportunity to make representations as to why its bid should not be overlooked.
 - 16.29.3 Bidders must be afforded reasonable time to respond to Transnet's notice of intention to apply objective criteria.
 - 16.29.4 The adjudicating authority must consider such representations before making a final decision.
- 16.30 The NIPP obligation is triggered by the imported content of a contract and not necessarily the entire contract value if there are local portions to the contract. The NIPP obligation will amount to 30% of the imported content of the contract.
- 16.30.1 For transactions exceeding \$5 000 000 (United States Dollars), the SBD 5 NIPP form must be included as a returnable document in the Bid documentation.
 - 16.30.2 The DTIC and not Transnet will negotiate and conclude NIPP Agreements with impacted Suppliers. Suppliers subjected to NIPP obligations have seven years to discharge any NIPP obligation applicable to them.
- 16.31 RFX documents shall include a clause indicating that all bidders must not submit information relating to 3rd parties as part of their bid submission unless there is an agreement between the bidder and the 3rd party, for the bidder to submit such information, or the bidders have formed a JV/Consortiums or the information is relating to a subcontractor.
- 16.32 RFX documents shall be aligned with corporate Enterprise Supplier Development initiatives, such as job creation, where appropriate.
- 16.33 RFX documents shall state that relevant information shall be processed in line with the POPIA.
- 16.34 ESD and local community enterprises must be considered should subcontracting of services be required.
- 16.35 The RFX documents must contain:
- 16.35.1 A condition stating clearly that the award of the bid may be subjected to price negotiation with the preferred bidders should their price be found not to be market related.
 - 16.35.2 A uniform pricing schedule clearly indicating how the bidders should submit pricing in order to ensure that prices are received on a uniform basis.

- 16.35.3 A clause indicating that Transnet reserves the right not to award business to 'Middlemen', where it cannot be shown as to what value is being added by that Bidder.
 - 16.35.4 Be aligned with corporate Enterprise Supplier Development initiatives, such as job creation, where appropriate.
 - 16.35.5 State that relevant information shall be processed in line with the POPIA.
- 16.36 During the preparation phase, the BSC, with the assistance of other committee members where necessary, shall review the procurement documents and develop a procurement documentation review report to facilitate the approval of procurement documents at Procurement Gate 3 (PG3). Where relevant in relation to the nature of the specification/scope of work being compiled, the procurement documentation review report shall be prepared by one or more BSC members who participated in the review and who are registered as:
- 16.36.1 A professional architect or professional senior architectural technologist in terms of the Architectural Profession Act or a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
 - 16.36.2 A professional engineer or professional engineering technologist in terms of the Engineering Profession Act; and/or
 - 16.36.3 A professional quantity surveyor in terms of the Quantity Surveying Professions Act.
- 16.37 The procurement documentation, including required templates shall:
- 16.37.1 List the names and qualifications and or existing role in organisation of the applicable BSC members;
 - 16.37.2 List the names and qualifications or existing role in organisation of the applicable BEC members;
 - 16.37.3 Capture any comments or opinions of the applicable BSC; and
 - 16.37.4 Recommend that the procurement documents be accepted with or without modifications.
- 16.38 The procurement documentation review above shall confirm that:
- 16.38.1 The procurement documentation format and contents comply with the requirements of the CIDB and SANS 10845-2 (where applicable) and are aligned with the approved procurement strategy.
 - 16.38.2 Where applicable and where not provided for in Transnet's approved templates, the necessary approval has been obtained for additional clauses or variations to standard clauses in the conditions of contract, conditions of tender or conditions for the calling of expressions of interest;
 - 16.38.3 The selected submission data in the case of a call for expression of interest, or tender data and contract data options in the case of a tender, are likely to yield the best outcomes;

16.38.4 The submission or returnable documents are necessary and will enable submissions to be evaluated fairly and efficiently, and

16.38.5 The risk allocations in the contract and the pricing data are appropriate.

17. Tender Advertising

17.1 Calls for expressions of interest and the invitation to submit tender offers shall be conducted strictly in accordance with the provisions of the CIDB Standard for Uniformity (SFU), for all procurement falling within the ambit of the definitions set in the CIDB SFU.

Note: This includes professional services in construction. Tender offers shall only be solicited using one of the standard procurement procedures and tender evaluation methods described in the CIDB SFU.

17.2 Tenderers must be afforded sufficient time to prepare and submit tenders, based on the complexity of the tender.

17.3 Advertisements for the submission of expressions of interest and Advertisements for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB website using the CIDB's i.Tender@cidb service at **least 10 (Ten)** working days before the closing date.

17.4 Advertisements must be published at **least 5 (Five)** working days prior to any compulsory site inspection meeting unless written permission from the CPO has been obtained.

17.5 If in a specific case it is impractical to invite competitive bids, as described in section 11, the required infrastructure required, may be procured by procurement by "other means". Where deviation from competitive bidding is proposed, including tender advertisement, the CPO or their delegated representative shall recommend the sourcing approach to the delegated authority for approval.

NOTE: Any engineering and construction work contract above R30 000.00 must be advertised in terms of the CIDB SFU.

NOTE: The quotation system will apply for transactions less than R500 000 but must be advertised as per CIDB Standard Conditions of Tender as described in the SFU.

17.6 The Construction Industry Development Board Act requires construction projects with a value above R10 million to be registered on the CIDB Register of Projects and advertised on the CIDB i.Tender website.

- 17.7 In addition to the placement of an advertisement on the CIDB website, Instruction Note no 9 of 2022/2023, from National Treasury has prescribed the use of the e-tender Publication Portal for the advertisement of all bids.
- 17.8 Evidence of advertisements placed on the CIDB, i.Tender website and National Treasury e-tender website shall be printed or stored electronically and placed on the pre-contract file for record and audit purposes.
- 17.9 All transactions that call for competitive bids / tenders must be advertised on the e-Tender Publication Portal and may also be advertised in local, regional, national or international mediums, professional publications, and any other appropriate medium.
- 17.10 Issuing of procurement documents. A register shall be kept which records the names and contact particulars (telephone and email) of all those persons and entities who obtained procurement documents, that was not downloaded from the National Treasury e-tender website.

18. Tender Validity

- 18.1 The tender validity period shall be provided in the Tender Data and must be an adequate period to include the approval processes of Transnet or OD specific. The validity period must remain valid until an award of contract for the procurement event. The tender validity period shall not exceed 12 weeks. (Where each week refers to 7-days)
- 18.2 Validity Period: Validity period of not more than 12 weeks is required from closing date of an RFP. Any period beyond the 12-week validity period must be approved by the delegated authority.

NOTE: Transnet internal evaluation and approval process may take longer than 12 weeks. Procurement must take cognisance of the value and/or complexity of a transaction as to allow the various approving bodies and delegated authorities to peruse and approve a procurement event, however the validity period of 12 weeks must be set out in the first instance in an RFP. The validity period must remain valid for all tenderers irrespective of their status in a procurement process until a final contract has been concluded.

- 18.3 The validity period is calculated from the bid closure date and tenders shall remain in force and binding until the end of the final day of that period.
- 18.4 SCM officials shall ensure that any document or information which has been submitted in pursuance to a tender award remains valid for the duration of the process.
- 18.5 The tender validity period shall be provided in the Tender Data and must be an adequate period to include the approval processes of Transnet or OD specific. The validity period must remain valid until an award of contract for the procurement event.
- 18.6 If a document was valid on the closing date such a document shall be regarded as valid throughout the evaluation process, unless, in terms of the law or the tender

requirements, business may not be awarded without the latest/valid document, where the BEC shall request the updated document from the Bidder.

- 18.7 Where the validity of the document is material in the tender process, an award may not be made to a tenderer which has failed to submit a valid mandatory and material document at the award stage.
- 18.8 The extension of a tender validity period may only be requested if the original validity period has not expired, and all tenderers must be given an opportunity to extend such period.
- 18.9 Second and subsequent extension of validity period shall be approved by the OD: CPO.
- 18.10 The extension of a validity period is a reciprocal procedure, meaning that both Transnet and the bidder(s) have to agree on the extension of the validity period. It is not enough that Transnet has made a decision internally or has sent a communication to the bidders in this regard. At least one of the bidders, subject to paragraph 17.11, has to respond affirmative to the request for extension for the tender to remain active. If none of the bidders has responded prior to the expiry/lapse of the validity period, the validity has not been extended.
- 18.11 Tenderers who fail to respond to a request for the extension of bid validity before their tender lapses, or who decline such a request shall not be considered further in the Tender evaluation process.
- 18.12 In the event of an appeal, the delegated authority must ensure that all Tenderers are requested via the appropriate channels to extend the validity period of their tenders where necessary or possible in order to ensure that the tenders remain valid throughout the appeal period or until the appeal is finalised.
- 18.13 Any tender that becomes invalid or non-award due to the expiry of the validity period shall be submitted to the relevant DoA for cancellation and close out as well as detailed explanation on the circumstance leading to the expiry of the validity period. Consideration of consequence management should be placed on the employee that was responsible for ensuring that the validity does not expire.

19. Clarification meetings and submission of tenders

- 19.1 Details of compulsory clarification meetings shall be specified in the Notice of Invitation to Tender and Tender Data and as a rule shall be held in respect of all engineering and construction works contracts. Deviation from this rule is permitted when circumstances justify this deviation.
- 19.2 In the case of tenderers or entities which intends to form a joint venture, it is required that a representative from each of the tenderers or entities forming the joint venture should be in attendance, at the clarification meeting.
- 19.3 Attendance registers shall be kept of all attendees at clarification meetings and must comply to the following:
 - 19.3.1 Such registers shall reflect the name of the tenderer or entity or a representative of each entity that intends to form the joint venture, the name of the tenderer's

representative and the contact details including contact numbers and e-mail address of such tenderer representative.

- 19.3.2 In addition to the signed attendance register, Tenderers should complete the Transnet Supplier Code of Conduct and Declaration of Interest documents and provide to the SCM official present.
- 19.4 Clarification meetings should, as relevant, be structured such that they provide:
 - 19.4.1 An opportunity to tenderers to become fully aware of and to understand what is required in the procurement processes and in the execution of the proposed contract;
 - 19.4.2 An opportunity for tenderers to raise any specific queries they might have concerning incomplete information, any ambiguities in the information and other queries in general pertaining to the procurement event;
 - 19.4.3 An opportunity for tenderers to raise questions about potential qualifications or possible alternative tenders; and
 - 19.4.4 An opportunity to issue any further information or addendum;
 - 19.4.5 An opportunity for the relevant procurement personnel to explain the requirements of Transnet's tender requirements and in particular pre-qualification prescripts and obligations and the provisions of the NEC3 contract as well as its requirements with regards to Contractor/Professional Service Providers;
 - 19.4.6 The minutes of the clarification meeting must be compiled and sent to all tendering entities that attended the clarification meeting in a reasonable time period no more than five days after the site clarification meeting;
- 19.5 All requests for further clarification and information provided in writing shall be consolidated and all answers provided to all tenderers will be via the email addresses of the tendering entities to ensure consistent and fair treatment. Both clarifications and the responses shall be communicated to all tenderers who attended the clarification meeting and sent out at least 5 days before the closing date of a tender.
- 19.6 Where clarifications result in the issuing of an addendum that makes changes to the documentation e.g., the amending of clauses or sections of the works information, the issuing of additional drawings and information not included in the documentation or amendments to the pricing data, an extension of the tender closing date should be considered.

NOTE: Refer to the provisions of the CIDB Standard Conditions of Tender (Annex C of the SFU) regarding the receipt of queries and the issuing of addenda. All addenda shall also be made available on the National Treasury e-tender portal.

- 19.7 All tenderers who attended the clarification meeting and obtained procurement documents shall be timeously advised of any change in the closing time and date in accordance with the requirements of the CIDB Standard for Uniformity in Construction Procurement as well as applicable National Treasury Instructions.

20. Tender Administration

- 20.1 The e-tender system is the only accepted mechanism for Tender submission.
- 20.2 In the case where the Transnet e-tender system has crashed or malfunctioning the GCPO will make a determination for the utilisation of an alternative process. The GCPO will make a formal communication to all ODs on which process or combination of process that will be used until the system has been restored.
- 20.3 The e-tender system will automatically generate the RFX numbers. The RFX template must be used, and all relevant sections completed.
- 20.4 Tenderers may request clarification of any items contained in the advertised tender before the tender closing date. Only the responsible and authorised SCM Representative (Strategic Sourcing Specialist/BSC) may communicate with tenderers.
- 20.5 All clarifications must be published on the NT e-tender publication portal, Transnet website and/or sent via email to tenderers invited by email, without revealing any particulars of the tenderer that requested the clarification, within reasonable time before Bid closing so that all respondents may have fair access to all relevant information.
- 20.6 Transnet SCM, after having engaged with the End-User, may amend any tender condition, validity period or extend the closing date before the original closing date has lapsed. Material amendments to the specification or evaluation criteria should be avoided in order to not impact on fairness, however, where changes are required prior to tender closing such changes may be made provided that reasonable time remains for tenderers to adjust tenders accordingly.
- 20.7 Any material amendment to the tender condition must be approved by the relevant delegated authority who approved the approach to market. This includes any addenda to the RFX, changes in evaluation criteria, changes in pre-qualification requirements and changes in the pricing schedule. Any other changes can be approved by the CPO or his/her subdelegate. Changes are not material if they relate to fixing clear errors or address ambiguity or deleting duplications in the price etc. amendments should be assessed by SCM Governance to advise the CPO or Delegate on whether they are material or not.
- 20.8 No amendment of evaluation criteria is allowed after the tender closing.
- 20.9 Amendments or extensions must be advertised on the NT e-Tender Publication Portal (when systems are available) and Transnet Website or wherever the RFX was advertised/issued and the new closing date and time must be clearly reflected, if applicable.
- 20.10 Transnet's RFX templates must contain a disclaimer alerting tenderers to check the NT e-Tender Portal and Transnet website regularly for any possible amendments.
- 20.11 The closing date for a tender may be extended by the BSC or his/her duly delegated representative after seeking approval from the CPO or his/her duly delegated representative prior to the closing date of the tender. Consultation between the BSC and End-user HOD or his/her duly delegated representative

regarding the proposed extension must take place prior to seeking approval from the CPO, after considering:

- 20.11.1 The number of requests for extension;
 - 20.11.2 The risk of harm the extension would cause to any party;
 - 20.11.3 The success of the tender without extension; and
 - 20.11.4 Any other relevant considerations in the circumstances or prescribed law.
- 20.12 The e-tender uploading process as indicated in the RFX templates, will apply.
- 20.13 Submissions that are received via the e-tender platform will have a recorded date and time stamp. An electronic submissions report showing all submissions made prior to closing time shall be included in the tender file.
- 20.14 Bids / Tenders received late should not be considered. unless there is clear evidence justifying the bidders not being able to make the submission on the Transnet website where Transnet is at fault. Depending on a case-by-case, the circumstances and within a short period of time from a closing date, a bidder may be allowed to send their bid to a secured Transnet email address and to be received by the DBAC/CBAC secretary for processing and opening.
- 20.14.1 Bids are late if they are received after the closure time specified on the Bid documents.
 - 20.14.2 Late Bids should not be admitted for consideration unless there is clear evidence justifying the bidders not being able to make the submission on the Transnet website where Transnet is at fault. Depending on a case-by-case, the circumstances and within a short period of time from a closing date, a bidder may be allowed to send their bid to a secured Transnet email address and to be received by the DBAC/CBAC secretary for processing and opening.
 - 20.14.3 If Transnet has been informed or becomes aware of a bidder's inability to submit a tender in our e-tender submission portal due to technical glitches and there is sufficient time left before the closing of the tender, ICT should immediately access the submission portal (storage blob) to investigate the glitch and try to resolve it to avoid any tender being submitted late (after the closing time) through other means. The following process for accessing the submission portal should be adhered to:
 - 20.14.3.1 Bidder formally alerts a buyer of a possible technical issue in the submission portal which prevents the bidder from submitting or the bidder requires confirmation that their bid has been successfully submitted in the system.
 - 20.14.3.2 Buyer attempts to resolve the issue and take the bidders through the submission process. These attempts have failed.
 - 20.14.3.3 Buyer acknowledges that the supplier/system is experiencing technical issue.
 - 20.14.3.4 Buyer must log a call on behalf of the bidder and provide the following information:

- 20.14.3.4.1 Tender number
- 20.14.3.4.2 Bidder contact details
- 20.14.3.4.3 Screen dump of the error message received when attempting to submit or any error being uncounted. The URL to log the call is: <https://casdm.ongijima.com/CAisd/pdmweb.exe>
- 20.14.3.5 Buyer must notify SCM Systems & Data team of the call logged and provide them with the call log reference number.
- 20.14.3.6 SCM Systems & Data team should contact the buyer and bidder to attempt to resolve the issue.
- 20.14.3.7 If the SCM System & Data team fails to resolve the issue, they must update the call reference number in the SDM to escalate the matter to be assigned to an ICT person as second line of support.
- 20.14.3.8 ICT 2nd line support should attempt to resolve the problem. In cases where the storage blob must be accessed, ICT will use the call reference number on SDM as supporting evidence as well as the system log for audit purposes.
- 20.14.3.9 Upon resolving the query, the call reference number on SDM must be updated by ICT 2nd line support and the buyer must be notified in order to assist the relevant bidder to submit on the e-submission portal
- 20.14.4 If no Bids are received by the closure time specified on the Bid documents, the Bid should be re-advertised.
- 20.14.5 E-tender portal system failure must be considered as motivation for extending the Bid validity period or re-advertising the bid.
- 20.14.6 Published notification of system failure, by NT or Transnet constitute system failure.
- 20.15 The employee must make sure that they pull the system generated register to confirm and reconcile the list of bidders for the particular tender against the number of documents (bids) received immediately after the closing date and before publishing on the National Treasury e-tender portal.
- 20.16 In the event that the list of bidders appearing on the system generated tender submission register does not correspond to the number of bids received in SharePoint, the employee responsible must request the iSCM Systems and Data Department to download those outstanding bids and transfer them to be included in the evaluation process.
- 20.17 Transnet will not accept a bid or will disqualify a bidder who submits a bid in the Transnet e-tender submission through another suppliers' profile. In other words, each bidder must register its profile using its company details and use the corresponding registered profile to log an intent to bid as well as submitting any bid. No company shall submit a bid on behalf of another company.
- 20.18 In case of a Joint Venture, any of the parties/companies to the Joint Venture may use its registered profile to submit a bid on behalf of the Joint Venture...

- 20.19 The e-tender portal system is designed to ensure access control and does not allow access to bid documents by Transnet evaluators prior to the closing date and time.
- 20.20 In the situation where the Transnet e-tender portal is not available functional for a long period, the GCPO will make the decision and communicate that the manual/physical tender box process will be utilised until the e-tender challenges are resolved. During this time the Tender Administration Standard Operating Procedure (SOP) issued by the security department will guide the process.
- 20.21 SCM Representative shall ensure that any document or information which has been submitted in pursuance to a Bid award remains valid for the duration of the process.
- 20.22 Requests for approval to extend validity periods shall be submitted in writing to the CPO his/her duly delegated representative. This request must be done in consultation with the relevant SCM Representative and contain the reasons for the delay.
- 20.23 When considering the approval of subsequent extensions (after the initial extension) of a validity period of a bid, the CPO must take into account the impact on bidders' submissions for issues such as pricing, fairness, inflation, changes in the market, availability of goods etc. The CPO must also note that any request of change or increase in price by the successful bidder resulting from multiple extensions may be unfair and may also result in Transnet procuring goods or services that are outdated or no longer required by business.
- 20.24 Submissions shall be safeguarded by Procurement from the time of receipt until the conclusion of the procurement process. The SCM Representative should ensure that full and proper records of all documentation pertaining to a procurement event are kept and filed in the tender files. Thereafter all tender submissions to be handed over to Document Management and Control for further safekeeping as per applicable legislation.

Section E – Evaluate and Award of Tenders

21. Tender Evaluation and Recommendation

- 21.1 As described in process 4.4.1.6.3 of the Procurement Process Guideline, the BEC shall develop and use evaluation scorecards aligned with the defined evaluation criteria to standardise the evaluation of all Tenders. Each area must be evaluated by a minimum of two qualified evaluators.
- 21.2 No deviation from the evaluation criteria included in the Tender documentation is allowed. All evaluation criteria included in the tender documentation must be evaluated strictly in accordance with the criteria declared; no items may be omitted, added or amended.
- 21.3 Evaluations are to be conducted in a secure area where no unauthorised access to tender documentation is allowed. BEC members must maintain strict confidentiality and by no means share or duplicate any contents of or information contained in

tender documentation with any unauthorised parties. All evaluators must sign attendance registers for every day of evaluation. Confidentiality agreements and declarations of interest must be signed by all evaluators prior to evaluations commencing and when there is a change during to an evaluators interest (intended or not) during evaluation, it must be declared to the BEC.

- 21.4 It must be ensured that the Tenderer conforms to the correct CIDB grading and constructor class (refer to [Appendix C](#)).
- 21.5 Submissions shall be evaluated strictly in accordance with the provisions of the procurement documents (see Annex C of SANS 10845-3 and Annex C of SANS 10845-4, as relevant).
- 21.6 Tender evaluation is to be conducted in three stages, described in Table 4 below, as applicable to the specific Bid.
 - 21.6.1 Evaluation stages must be conducted sequentially, unless approved by the BEC in exceptional circumstances.
 - 21.6.2 Where parallel evaluations are conducted, tenderers must be disqualified at the correct stage.
 - 21.6.3 Non-responsive bids shall not be evaluated further.
- 21.7 If a document (mandatory/non-mandatory) was valid on the closing date such a document shall be regarded as valid throughout the evaluation process. However, business may not award without the valid document if required by the law or Bid requirements. In such instances, the SCM Representative responsible for that Bid shall request the valid document from the Bidder. An award may not be made to a Bidder who has failed to submit a valid document at the award stage.
- 21.8 All tenders must be evaluated using a method that allows evaluators to view the bid documents electronically, and no more manual printing of documents is allowed unless there are justifiable grounds showing that printing of documents is more conducive than viewing the bid documents electronically. Group governance has the authority to determine whether there is justifiable ground to evaluate the bids using printed documents and the documents to be kept in a secured environment;
 - 21.8.1 The Chairperson of each Bid Evaluation Committee (BEC) must ensure that all evaluators are able to gain access and view, electronically, all the bid documents for purposes of conducting a fair and transparent evaluation process.
 - 21.8.2 The Chairperson of the BEC must be provided with signed appointment letters of the evaluators together with the relevant information of the tenders (including commencement date of evaluations and anticipated final date of evaluations) prior to the commencement of any evaluation in order to grant the evaluators access to the documents electronically.
 - 21.8.3 Once access is granted (read only) the evaluators will use the information for purposes of evaluation and must not be downloaded and/or copied in any way and saved in their individual computers/devices. This must be clearly explained to all appointed evaluators prior to commencement of the evaluation.

- 21.8.4 During the evaluation process, the evaluators will not be allowed to use their cell-phones or work on other matters to avoid taking of pictures and sharing of confidential information with people who are not part of the BEC.
- 21.8.5 It is therefore mandatory that all the evaluators be in one room where the chairperson of the Bid Evaluation Committee will be able to monitor, invigilate and observe the process. Where it is impractical for all the evaluators to be in one room (distance and different provinces etc) the onus to ensure that information is not leaked rests with the evaluator in possession of the information and consequence management must be applied where there has been negligence or deliberate leaking of information.
- 21.8.6 The OD CPOs must ensure that there are designated desktops or laptops which are stationed in a particular designated evaluation room where all evaluators can be granted access to the bid documents. In case of impracticality, the evaluator(s) who is not in the same designated room must still conduct the evaluation in Transnet premises where an observer/invigilator can be allocated. The evaluators may also use their laptops or desktops to evaluate but should be in the same room or different rooms with an observer at all times to avoid delays in evaluation where the allocated room is unavailable.
- 21.8.7 All RFX documents should request bidders to separate their bid submissions into three (3) i.e. technical evaluation, price and administrative (including B-BBEE and/or other specific goals where applicable). This request cannot be used to disqualify bidders.
- 21.8.8 Despite requests for bidders to separate information when uploading it onto the system, some bidders still combine their information. As a result, before the evaluation begins, splitting or separating of information, such as administrative (admin and substantive), technical submission, pricing submission, etc., can be done by the SCM official responsible for the tender with the line manager;
- 21.8.9 In instances where, as part of the bid, other information (i.e. samples, etc.) is to be submitted at a designated physical tender box or delivered physically to a particular office etc, all precautionary measures to ensure the safety and security of the information are to be maintained;
- 21.9 In addition to the above and in light of the inherent risk to confidentiality of information, the procurement officials must have in place the following controls to prevent abuse, ensure that confidentiality of bids is not compromised and also to ensure that compliance with the requirements of POPIA is maintained:
 - 21.9.1 When evaluations are being conducted, all Transnet procurement processes must still comply with the public procurement prescripts and controls. ODs must put in place additional measures to ensure compliance to existing controls where necessary;
 - 21.9.2 The evaluation of bids must take place in a controlled environment;
 - 21.9.3 At the closing date of the bid, flow of information from the Transnet e-Tender Submission Portal to the dedicated laptops/desktops for evaluation are only

to be maintained by the SCM official with the assistance of the systems and data departments;

- 21.9.4 For high value tenders (HVT) TIA should be invited to observe the evaluation process as they would normally do in a manual process and for all transactions below the high value threshold, a designated official from SCM Governance or any other second line of assurance should be allocated to observe the process;
- 21.9.5 Declaration of interests and confidentiality agreements must be completed and submitted in the normal manner;
- 21.9.6 The ground rules for evaluation must be explained by the relevant procurement official prior to the start of the evaluation team activities;
- 21.9.7 Evaluation sessions must be recorded, and the recordings retained by the relevant procurement official;
- 21.9.8 Written minutes/record of deliberations and decision making must be captured and retained by the relevant procurement official and signed by the Chairperson of the BEC;
- 21.9.9 To preserve the integrity and confidentiality of the individual scores of the evaluators prior to consolidation, the assessments and individual evaluation scoresheets must be completed and sent to the appropriate procurement official for consolidation during the BEC meeting. Scores cannot be obtained or changed following the evaluation meeting unless the reconciliation process was followed and the particular evaluator signs next to change and record the reasons for the change.

Table 4: Bid Evaluation

Stage	Steps	Description	Stage Completion
Stage 1: Test for Responsiveness	1.1 Test for administrative responsiveness	Check that all required documents have been submitted.	Bid must be administratively responsive and substantively responsive to advance to Stage 2
	1.2 Test for substantive responsiveness	Check that the Bid meets the minimum criteria, including pre-qualification criteria if applicable, and does not materially depart from the scope of work or specification or any terms, conditions or requirements included in the Bid documents.	
Stage 2: Evaluation of Thresholds	2.1. Functionality thresholds	Evaluation of functional criteria based on scoring criteria stated in Bid documentation. All evaluators' individual scores are averaged to arrive at the final score.	Bids must meet both predetermined local content (if applicable) and functionality thresholds to advance to Stage 3.
Stage 3: Establishment of	3.1 Evaluation of Price & Preference	The preference point system in accordance with PPPFA Regulations is applied. Uniform pricing schedule is evaluated.	The final weighted score is a combination of price

Stage	Steps	Description	Stage Completion
Final Weighted Score	3.2 Test for Market related pricing	Benchmarking conducted prior to issuing the Bid should be used to establish whether the prices are market related	and preference, in accordance with PPPFA regulations

- 21.10 Stage 1 - Test administrative responsiveness: Normally this is a test on the submission of returnable documents and a checklist is used to assess whether:
- 21.10.1 The bid was submitted on time;
 - 21.10.2 Bid documents are fully signed and submitted;
 - 21.10.3 Bid administrative documents (declarations, certificate of acquaintance, certificate of attendance of compulsory briefing session, etc);
 - 21.10.4 Mandatory returnable documents; and
 - 21.10.5 Bid documents used for scoring;
- 21.11 Stage 1 - Test for substantive responsiveness: Bid that fails to meet the specified pre-qualification criteria, where relevant, will be considered an unacceptable Bid and will be disqualified from further evaluation. This step also checks whether the bid conforms with all the terms and conditions for the bid including the scope or specification.
- 21.12 Check whether documents have been submitted including:
- 21.12.1 Completed pricing schedule;
 - 21.12.2 Proof for pre-qualification;
- 21.13 Stage 2 - Functionality/Technical Evaluation: Where functionality is included as a criterion, points scored must be rounded off to the nearest two decimal places. A Bid that fails to obtain the minimum qualifying functionality threshold specified in the Bid documents is not an acceptable Bid and will not be evaluated further.
- 21.14 Each member of the BEC that evaluates Bids relevant to their areas of expertise will complete an evaluation individually. All scores must be justifiable with reference to the Bid submission. No knowledge beyond that submitted in the Bid may be used to influence scoring.
- 21.15 Clarifications may be sought from Bidders where Bids are unclear, however no additional submissions may be made. Where prices are unreasonably low, clarification should be sought.
- 21.16 BEC members must always remain objective, fair and ethical. Each bidder must be given the points that are deserving strictly in line with the evaluation criteria.
- 21.17 If the evaluation criteria was set in an objective manner, the scores of the evaluators should be close to each other.
- 21.18 Where there are discrepancies between individual evaluators' scores, after a reconciliation process was performed, this should be highlighted in the report submitted including documented reasons/rationale for the discrepancies to the BAC/CPO in order for the delegated adjudication authority to decide whether a risk is posed. If a risk has been identified, the adjudication authority should not approve

the submission and refer the matter back to the BEC. The BEC should resolve the discrepancies through another reconciliation or refer the matter to the CPO to consider whether re-evaluation is warranted by a new BEC.

- 21.19 Reconciliation process is when the chairperson of the BEC identifies discrepancies between individual evaluators' scores and request the affected evaluators to relook at the bid documents to establish whether the information was submitted as stipulated in the tender (RFX) document and the evaluators are then requested to reconsider their scores and reconcile based on the outcome of the evidence provided.
- 21.20 This process does not allow the chairperson to force any of the evaluators to change scores if they strongly believe that the initial score should remain despite the evidence. It is entirely up to the individual evaluator to make a decision to change a score to reconcile based on the evidence.
- 21.21 If after a reconciliation process an evaluator(s) decides to amend/change their scores for one reason or another, a clear record of the outcome of the reconciliation process should be kept.
- 21.22 Once all individual scorecards are complete, all scores are to be averaged to arrive at the Bid's final score for functionality.
- 21.23 Each Bid that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria.
- 21.24 Evaluation for Price and Preference Points (specific goals)
- 21.25 Stage 3 - The SCM BEC members shall conduct the evaluation on price and preference using the required PPPFA calculators and formulae.
 - 21.25.1 The 80/20 preference point system allocates 80 points to price and 20 points to preference. Price accounts for 80 in line with the formula below:

$$P_s = 80 \left(\frac{P_t - P_{min}}{P_{min}} \right)$$

Where:

Ps= Points scored for price of Bid or offer under consideration

Pt = Price of Bid under consideration

Pmin=Price of lowest acceptable Bid

- 21.25.2 The 80/20 preference point system allocates 90 points to price and 10 points to preference. Price accounts for 90 in line with the formula below:

$$P_s = 90 \left(\frac{P_t - P_{min}}{P_{min}} \right)$$

Where:

Ps= Points scored for price of Bid or offer under consideration

Pt = Price of Bid under consideration

Pmin=Price of lowest acceptable Bid

- 21.26 The preference point system to be used must be in strict accordance with the latest official version of the TPPP and applicable directives.
- 21.27 In a situation where all acceptable bids received fall outside of the stated preference point system, despite what is stated in the bid document, Transnet shall use the lowest acceptable bid to determine the applicable preference point system.
- 21.28 When calculating comparative prices:
- 21.28.1 Conditional discounts (those where Transnet has to place minimum specified orders or fulfil certain conditions before the discounts may come into effect) shall not be considered for evaluation purposes but shall be included in the contract and implemented when payment is made.
- 21.29 Where evaluation scores do not provide a single successful Bidder, the following shall apply and recommended to the BAC/CPO for consideration:
- 21.29.1 Where two (2) or more Bids have scored the highest equal points based on price and preference, the successful Bid shall be the one with the highest score on preference;
 - 21.29.2 If two or more Bids have equal points, including equal preference points for specific goals, the successful Bid shall be the one scoring the highest score for functionality, if functionality is part of the evaluation process; and
 - 21.29.3 Should two (2) or more Bids be equal in all respects, in a controlled environment, the award shall be decided by the drawing of lots by an independent person/function appointed by the CPO and witnessed by the BEC and minuted accordingly.
- 21.30 The Bidder with the highest final score must be recommended for contract award unless objective criteria as contemplated in paragraphs 2(1)(f) of the PPPFA justifies the award to another tenderer.
- 21.31 A TEAR report on the findings of the evaluation as per the approved template, highlighting all risks, outcome of probity checks (where applicable), ranking Bidders in order of evaluation score and recommending a preferred Bidder must be prepared by the BEC upon finalisation of the evaluation process.
- 21.32 Where bids are issued that are rate based due to quantities that cannot be determined / estimated due to possibility of future fluctuations (increase / decrease) based on operational activity, bid award can be based on the available budget which will not be disclosed to the awarded supplier. In such instances, the award value based on available budget must be motivated and captured in the demand / strategy document and / or the approval document/s to issue the RFQ / RFP.
- 21.33 Consideration should be given to consolidating multi-phased/multi-year projects or contracts wherever possible, so that they can be awarded against one procurement process. For example, combining the stripping (phase 1) and repair (phase 2) of a complex piece of machinery in one bid process with one fixed lumpsum. If that is not possible, the RFX document (pricing schedule) should make provision for annual increase whether in rand value or percentage which should be awarded as a contract

value. If the provision was not made, any increase shall be dealt with in terms of contract variation rules.

21.34 Where arithmetic errors are identified in submitted pricing Bid documents of the highest ranked bidder, the BEC must:

- 21.34.1 Consider the signed total price;
- 21.34.2 Analyse the tender price according to the Delivery/pricing schedule;
- 21.34.3 Identify any gross misplacement of decimal point in any unit rate;
- 21.34.4 Identify omissions in the Delivery/pricing schedule;
- 21.34.5 Identify arithmetic errors in the calculation of line items – item totals, page totals, section totals or the actual total;
- 21.34.6 Inform the Bidder of the errors and ask the Bidder to confirm the price stated in the total price or adjusted price;
- 21.34.7 Adjust the price to the correct figure; and
- 21.34.8 Evaluate the tender based on the confirmed price.

21.35 It is recommended that all steps for the evaluation of tenders as set out in the CIDB CONSTRUCTION PROCUREMENT Best Practice Guideline #A3, evaluating tender offers be followed in the evaluation of all tenders to determine inter-alia the following:

- 21.35.1 determine whether or not tender offers are complete (administrative test) - examine tenders and determine whether or not they are complete, request tenderers to
- 21.35.2 complete items that are required only for tender evaluation purposes and record what is incomplete in each tender submission;
- 21.35.3 determine whether or not tender offers are responsive (substantive test) - confirm compliance with all the requirements of the procurement documents, including eligibility criteria. If not, declare tender offers non-responsive and record reasons for declaring a tender to be non-responsive and disregard such tender offers from any further considerations;
- 21.35.4 evaluate tender submissions strictly in accordance with the tender-evaluation method adopted for the specific procurement event;
- 21.35.5 identify parameters included in the tender submission that have a bearing on the financial offer, taking into account, where appropriate, factors such qualifications, exclusions and assumptions as well as factors of non-firm prices, all unconditional discounts and employer's risk, reduce all tender offers to a common base and judge the reasonableness of financial offers and reject all tenders offers with unrealistic financial offers;
- 21.35.6 perform a risk analysis, including financial analysis or due diligence, on the tenderer ranked highest in terms of the tender evaluation and, if found to be unsatisfactory, undertake an analysis on the next highest ranked tenderer and so on until such time as a tenderer satisfies the risk assessment, and recommend this tenderer for the award of the contract.

The outcome of the risk assessment can be taken into account as objective criteria to justify the award to a tenderer other than the highest scoring tenderer.

- 21.35.7 A full and fair risk assessment must be conducted by the BEC to ensure that the preferred tenderer has amongst others, the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract.
 - 21.35.8 Any identified risks should be recorded with the necessary mitigations in the TEAR to ensure that the preferred tenderer does not pose any unacceptable risk to Transnet.
- 21.36 Clarifications may be sought from Tenderers where Tenders are unclear, however no additional submissions may be made. Where prices are unreasonably low, clarification should be sought.
- 21.37 The authorisation to proceed with the Procurement Gate 7 (PG7), shall be based on the contents of an evaluation report developed as part of Procurement Gate 6 (PG6). [GUIDELINE A.](#)
- 21.38 A guideline for the compilation of evaluation reports is provided in [GUIDELINE B.](#)
- 21.39 Evaluation reports shall contain extracts from the procurement documents which are linked to the evaluation of submissions, such as eligibility criteria, criteria associated with evaluation methods, preferencing, functionality criteria (including prompts for judgement), the method by which tenders are reduced to a common base and lists of returnable documents.
- 21.40 An evaluation report which recommends the award of a contract shall contain in annexures the reports, if any, of prior processes, e.g., a call for an expression of interest, a round in a competitive negotiation procedure or a stage in a competitive selection procedure.
- 21.41 An evaluation report covering the application of the negotiated procedure for the award of a contract or the issuing of an order, shall confirm that the negotiated amounts are market-related and represent value for money. Where the total of the prices associated with a target cost contract is negotiated, the total of prices shall be certified as being fair and reasonable by a professional quantity surveyor registered in terms of the Quantity Surveying Profession Act or a professional engineer registered in terms of the Engineering Profession Act.
- 21.42 The BEC shall promptly notify the CPO or the CFO of any respondent or bidder who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.
- 21.43 The market analysis conducted prior to issuing the bid to market should be used as a benchmark to determine whether prices received are Market-Related. In addition, Transnet has an obligation to clarify unreasonably low or high prices with bidders. Where the bid price is too high, post-tender negotiation must be conducted. Where the bid is unreasonably low Transnet must ask the Bidder to explain its low price and confirm with the Bidder that it would be able to deliver as per the

specification, notwithstanding the low price. (i) If Transnet is not satisfied, based on objective factors, with the explanation given and there is high risk of non-performance, such Bidder should be disqualified as a non-responsive bid at the correct stage of evaluation (substantive) and reasons clearly document. (ii) Similarly, if the Bidder confirms that it cannot perform the full scope of work at the prices quoted, they should be disqualified as non-responsive. (iii) If Transnet accepts the explanation given, Transnet must proceed with the award of business. However, the Bidder must be made to understand that Transnet will not entertain any subsequent requests for price increases on the basis that the initial bid price was too low.

- 21.44 In the case of the highest-ranking bidder indicating that there will be sub-contracting, the BEC should assess whether there is any risk of fronting that may occur in the transaction. The BEC should make recommendation to the BAC that additional contractual measures be put in place and that the ESD team monitors the contract to detect any possible fronting.

22. Tax Compliance

- 22.1 It shall be confirmed that recommended Bidder(s) are tax compliant through their registration on the CSD or by providing a SARS eFiling tax compliance PIN for confirmation prior to finalising the award of the bid. The tax compliance letter included for CSD registration, or the tax compliance status screen view obtained using the PIN shall be printed on the day of the meeting of BAC/DoA and included in the Bid file.
- 22.2 Where foreign Bidders with tax obligations in South Africa are recommended for award, proof of tax compliance must be obtained from the Bidder. Foreign Bidders who do not have South African tax obligations and have no history of conducting business in South Africa must complete a pre-award questionnaire on SBD 1 for their tax obligation categorisation. Where a recommendation for award of a bid has been made to a foreign bidder, Transnet must submit the bidder's completed SBD 1 to SARS at the following email address: GovernmentInstitute@sars.gov.za. The SARS will issue a confirmation of tax obligations letter to Transnet confirming whether or not the foreign entity has tax obligations in South Africa.
- 22.3 Should a Bidder be found to not be tax compliant, the Bidder must be notified in writing of their non-compliant status and the bidder must be requested to submit written proof from SARS of their tax compliant status or proof that they have made an arrangement to meet their outstanding tax obligations within 7 (seven) working days. Upon rectifying their status, the Bidder must provide proof of their tax compliance status which shall be verified via the CSD or eFiling. This does not apply to Emergency Procurement situations. A process for this is stated in the Bid Adjudication section.
- 22.4 No Bid may be awarded to a Bidder / Tenderer whose tax affairs have not been declared to be in order by SARS. Proof that SARS has declared the Bidder's affairs to be in order is the tax status of the bidder as reflected in the SARS system report. The BEC should check the status on the day that the matter is being adjudicated and submit the report on the day.
- 22.5 This requirement does not apply to emergency procurement situations. During an emergency, Transnet will proceed to award the business to the bidder that is non-

tax compliant with a condition that no payment will be made to the bidder until all its tax matters have been resolved. This must be formally agreed with the bidder before commencing with the work. Refusal by the bidder to accept the condition grants Transnet the right to approach another bidder or 2nd ranked bidder to address the emergency situation.

- 22.6 Bids from Bidders who have failed to provide proof of tax compliance as per 36.3 must be rejected.
- 22.7 Where goods and/or services have been provided satisfactorily without any dispute, processing of payment shall not be delayed as a result of outstanding tax matters, unless directed otherwise by SARS.

23. TPPP Guideline

- 23.1 The TPPP has been developed and introduced to pursue both Transformational and Reconstruction & Development Programme goals.
- 23.2 Transformational Objectives (discrimination on basis of race, gender and disability):
 - 23.2.1 Exempted Micro Enterprises (EMEs) and Qualifying Small business Enterprises (QSEs) owned by black people.
 - 23.2.2 Entities owned by black people.
 - 23.2.3 Entities which are owned by black people who are women.
 - 23.2.4 Entities which are owned by black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; and
 - 23.2.5 Entities which hold a specific Broad-Based Black Economic Empowerment status/level.
- 23.3 Reconstruction & Development Programme Objectives:
 - 23.3.1 Entities which are owned by black people who are youth as defined in the National Youth Commission Act of 1996.
 - 23.3.2 EMEs and QSEs in general;
 - 23.3.3 The promotion of export orientated production to create jobs.
 - 23.3.4 The promotion of supplier development through sub-contracting of a minimum of 30% of the value of a contract to/with the following:
 - 23.3.4.1 Historically Disadvantaged Individuals (HDI);
 - 23.3.4.2 Entities with a specified minimum B-BBEE level;
 - 23.3.4.3 EMEs and/or QSEs 51% owned by black people, youth, women or disabled people; or
 - 23.3.4.4 South African owned enterprises.

- 23.3.5 The promotion of enterprises located in a specific province/region/municipal area including rural areas for work to be done or services to be rendered in that province/region/municipal area;
- 23.3.6 Promotion of local content and local production;
- 23.3.7 Supporting the productive sectors of the South African economy (especially the Manufacturing Sector) through any or combination of (National Industrial Participation Programme):
 - 23.3.7.1 Investments.
 - 23.3.7.2 Export Sales.
 - 23.3.7.3 Research and Development.
 - 23.3.7.4 Technology transfer.
- 23.3.8 The creation of new jobs or the intensification of labour absorption; and/or
- 23.3.9 Equity Equivalent Programmes by DTIC.
- 23.4 With the introduction of the numerous goals and optionality of the combination of the goals pursued, evaluations may become highly complex.
 - 23.4.1 Evidence for claiming points for any of the specific goals listed above has been identified in table 5 bellow. The same table of evidence should be used to indicate the required returnable documents for scoring in the RFX.
 - 23.4.2 Failure of the bidders to submit any of the evidence required or mentioned in the RFX may not result in the bidder being disqualified. It may only result to the bidder scoring zero (0) for that specific goal where the evidence was not provided.
 - 23.4.3 The DTIC guidelines on the validity of a B-BBEE certificate or Sworn Affidavit must be used.
 - 23.4.4 In applying the TPPP to procurement, the transaction value has a bearing on the goals pursued and activities required for compliance. The decision tree shown in Figure 4 acts as a guide to the required preference point system and specific goals allowed.
 - 23.4.5 The evaluation standard of preferential procurement has been standardised to reduce complexity and increase objectivity. Table 5 defines the evidence required to support the specific goal.

Table 5: Specific Goal Evidence

Specific Goals	Acceptable Evidence
B-BBEE	BEE Certificate / Affidavit (in case of JV, a consolidate scorecard will be accept)
Black Women Owned Entities	Certified copy of ID Documents of the Owners
Youth Owned Entities	Certified copy of ID Documents of the Owners
Entities Owned by People with	Certified copy of ID Documents of the Owners and Doctor's

Disability (PWD)	note confirming the disability
Entities/Black People living in rural areas	Municipal/ESKOM bill or letter from Induna/chief confirming residential address not older than 3 months
South African Enterprises	CIPC Documents
EME or QSE 51% Black Owned	Audited Annual Financial/ B-BBEE Certificate / Affidavit
Entities that are 51 % Black Owned	CIPC Documents / B-BBEE Certificate/Affidavit
Promoting exports for Job creation	CIPC and B-BBEE Certificate/Sworn Affidavit
Local Content and Local Production	Returnable Local Content Annexures
NIPP	NIPP Returnable documents
Creation of new jobs and labour intensification	Current documents on job creation to be included in the tender pack and submitted back
The promotion of supplier development through sub-contracting or JV for a minimum of 30% of the value of a contract to South African Companies which are: I. HDI's – Women, Youth and people with disabilities II. Entities with a specified minimum B-BBEE level (1 and 2) III. EMEs and/or QSEs black-owned	<ul style="list-style-type: none"> • Sub-contracting agreements; • Subcontractors CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE Certificate as per DTIC guideline In case of a joint venture: <ul style="list-style-type: none"> • Declaration / Joint Venture Agreement • A consolidated JV B-BBEE scorecard
The promotion of enterprises located in a specific province/region/municipal area for work to be done or services to be rendered in that province/region/municipal area	CIPC - Registered address of entity

24. Tender Adjudication and Award

24.1 After tenders have been evaluated and the validity period has not expired, a recommendation to award business shall be compiled and submitted by the BEC using the approved template to the person or governance structure with delegated authority to consider whether to grant process approval or not, in line with the Delegation of Authority Framework.

24.2 Tender adjudication, dependant on the applicable DoA found in the Delegation of Authority Framework, shall be performed and governed by:

24.2.1 CBAC and its Terms of Reference;

24.2.2 OD DBACs and their Terms of Reference; and

24.2.3 CPOs.

24.3 If a Tenderer other than the highest scoring Tenderer is recommended for an award, objective criteria shall be shown justifying the award to the lower scoring Tenderer.

24.4 The submission for an award shall contain the following:

- 24.4.1 Copy of the consolidated technical or functional evaluation results as well as the price and preference evaluation sheets;
 - 24.4.2 Motivation justifying the award;
 - 24.4.3 Confirmation that the budget is still available;
 - 24.4.4 A declaration that the recommended Bidder / Tenderer has not been placed on the list of restricted Bidders;
 - 24.4.5 Certification that the award of business is in the best interests of Transnet;
 - 24.4.6 Valid BBBEE (where applicable) and Tax Compliance status;
 - 24.4.7 Confirmation that bid validity has not expired
 - 24.4.8 Provisional allowances (variation orders and contingency amounts) in the case of Capital Expenditure related projects;
 - 24.4.9 Risk mitigation strategies (where applicable); and
- 24.5 The relevant BAC/CPO shall consider the report and recommendations of the BEC and:
- 24.5.1 Verify that the procurement process which was followed complies with the provisions of the Transnet SCM Policy and this document;
 - 24.5.2 Confirm that the report is complete and addresses all considerations necessary to make a recommendation;
 - 24.5.3 Confirm the validity and reasonableness of reasons provided for the elimination of tenderers;
 - 24.5.4 Consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
 - 24.5.5 Refer the report back to the BEC for their reconsideration or make a approve the award of a tender, with or without conditions, together with reasons for such recommendation.
- 24.6 The BAC/CPO shall not make a recommendation for an award of a contract if the recommended tenderer has:
- 24.6.1 Made a misrepresentation or submitted false documents in competing for the contract or order; or
 - 24.6.2 Been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.
- 24.7 The BAC/CPO may on justifiable grounds and after following due process, disregard the submission of any Bidder / Tenderer if that Bidder / Tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper conduct in relation to such system and advise that a process of restricting the bidder be commenced.
- 24.8 Upon final recommendation of a preferred Bidder, the relevant delegated authority may refer the matter to Transnet's Internal Audit function to conduct an independent

assurance review and probity check on the Bidder, if the relevant delegated authority is of the opinion that there are circumstances relating to the Bidder that may pose a risk to Transnet. Should a material risk be detected, the Bidder must be afforded an opportunity to indicate how the risk will be mitigated before a final decision is made.

24.9 If on reasonable grounds after following a procedurally fair process it is determined that the Bidder cannot adequately mitigate the risk, the BEC may, depending on the likelihood and consequence of the risk materialising, recommend one of the following:

24.9.1 Award to be made to the 2nd -ranked Bidder;

24.9.2 Cancelling the Bid.

24.10 Before the award of business decision is finalised, the list of names of individuals and/or entities identified by the United Nations Security Council, (UNSC) published under Section 25 of POCDATARA must be consulted by the BEC or SCM to ensure that no business is awarded to individuals or entities included in the list.

24.11 Any business involving a related party, DPIIP or prescribed officer must comply with the relevant Transnet policies, including the Politically Exposed Persons Policy, the Declaration of Interest and Related Parties Policy, Declaration of Interest and Related Party Disclosures Policy for Non-Executive Directors.

24.12 The relevant BAC/CPO may consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

24.13 The BAC/CPO shall state the grounds relied on in referring any recommendation back to the BEC and shall also provide guidance on what is required to achieve a favourable decision from the BAC/CPO.

24.14 The BAC/CPO may mandate that a bid be adjudicated by a BAC of a higher delegation should he/she believe it to be complex or high risk in nature.

24.15 The BACs/CPOs shall grant process approval after they are of the view that:

24.15.1 The decision is in Transnet's best interests; and

24.15.2 There are still funds to cover the transaction.

24.16 The BACs/CPOs may also make an award to a "standby contractor(s)" (2nd ranked and 3rd ranked bidders) for circumstances where the 1st ranked bidder (main contractor) after having accepted the award of business or has signed the contract, indicates that they will not be able to deliver the goods or services or at anytime during the execution of the contract, the main contractor is unable to complete the work (delivery of goods and services).

24.16.1 The RFX template must contain a standard disclaimer which clearly states that Transnet intends to award to a standby contractor and certain circumstances

24.16.2 Even though the disclaimer for "standby contractor" will be contained in the RFX document, it is advised that this process may only be used in those

transactions that poses high risk to the company if not delivered and a back-up plan is warranted. It should not be used for all transactions.

- 24.16.3 Therefore, in the instances where it is envisaged that a standby contractor will be required, this must be approved by the relevant approval authority as part of the sourcing strategy for that particular transaction. In other circumstances, where a risk has been identified during the evaluation process, the requested to award to a standby contractor may be approved by the adjudicating authority supported by justifiable reasons.
- 24.16.4 Consequently, a customised standby contractor Master Service Agreement (MSA) and/or Service Level Agreements (SLA) must be prepared and entered into between Transnet and the standby contractor. These agreements will regulated the relationship between Transnet and the standby contractor in relation to the circumstances where and when each party can exercise its rights and obligations contained in the contract.
- 24.16.5 The award of business to any of the standby contractors must be submitted together with the award of the first ranked bidder to the delegated authority for approval. All the information relating to the circumstances of exercising the process of a standby contractor must be tabled to the adjudicating authority.
- 24.16.6 In this instance an award should be made to the “standby contractor(s)” at the same time that an award is made to the main contractor.
- 24.16.7 When the standby contractor is being considered for award of business, the adjudicating authority must check the following:
 - 24.16.7.1 whether the price of the bidder (standby contractor) is market related, If it is not market related, the negotiations must be conducted in line with the approval delegations for negotiations in order to get the price to be market related. If the price was market related, negotiations can still be pursued in an endeavour to get the price of the standby bidder to be closer to the price of the first ranked bidder.
 - 24.16.7.2 the bidder is tax compliant;
 - 24.16.7.3 bidder is not listed in the list of restricted bidders;
 - 24.16.7.4 there no declared conflicts of interest by the bidder;
 - 24.16.7.5 any other relevant legislative requirement
- 24.16.8 The communication (LoA) sent to the standby contractor should clearly state that:
 - 24.16.8.1 The bidder is being awarded on the status of a standby contractor;
 - 24.16.8.2 There is a main contractor that has been fully awarded the business;
 - 24.16.8.3 Business will only be given to the standby contractor in the event that the main contractor has either indicated that it will not be able to meet the contractual commitments relating to a particular works order or purchase order (i.e will not be able to deliver fully or partially) or in the

event where Transnet is of the view that the main contract will not be able to deliver.

24.16.8.4 The situation stated in 22.19.8.3 does not automatically lead to the standby contractor being called upon to deliver as the main contractor must be given an opportunity to remedy the situation in terms of the contractual agreement.

24.16.8.5 Transnet reserves a discretionary right not to call upon the standby contractor even if the situation stated in 22.16.8.4. has arisen. Therefore, it may happen that Transnet does not make use of the standby contractor;

24.16.8.6 The purchase orders will in the first instance be placed by Transnet with the main contractor.

24.16.8.7 Therefore, the standby contractor shall not incur any expenditure towards this contract in preparation for an event where s/he is called in by Transnet.

24.16.8.8 Transnet will not be liable/accountable for any expenditure incurred by the standby contractor prior to there being a clear communication from Transnet calling on the standby contractor to deliver part of or full purchase order.

24.17 Immediately after the decision to award has been made by the relevant DoA without any conditions, a letter of award should be communicated with the successful bidder.

24.18 If the award decision made by the relevant DoA had material conditions attached to it, that decision is legally not effective until those conditions have been met or addressed. It is important for the SCM to address those conditions on time to avoid the expiry of the validity period.

24.19 Once an award/adjudication decision has been made by the delegated authority, the validity period requirements have been satisfied even if the outcome (letter of award) was not yet communicated to the successful bidder. The delays in communication or addressing of queries related to the letter should not be to the detriment of the successful bidder or Transnet. However, this may not be used to keep the tender valid while other considerations are being taken. This will result in the abuse of the system. It is recommended that an extension of the validity be requested if there are

24.20 In terms of the DoA Framework the authority to adjudicate carries with it the power to sign-off the contract. Therefore, a submission to the BAC/CPOs for award of business must also request that the BAC/CPO sub-delegates the authority for contract-sign-off to any relevant person preferably the end user Exco Member/end user GM as a first signatory of the contract.

24.21 The second signatory to a contract should always be the CPO or his/her dully delegated person.

24.22 Where the CPO is the end-user or the transaction is not allocated to any department, the OD head of legal or his/her subdelegate shall be the first signatory

- following the process in 21.18. In the case of TCC, the GM Legal-Commercial shall be the second signatory.
- 24.23 Matters which have been considered by the BAC/CPO shall be sent to the relevant OD specific individual with delegated authority to sign-off the contract.
- 24.24 Once the relevant delegated authority grants approval for the contract to be awarded, the relevant OD specific individual with delegated authority to sign the contract on behalf of Transnet, or sub-delegated individual appointed in writing. In form of offer and acceptance should be issued to the contractor by the delegated authority to indicate the acceptance of the offer/bid.
- 24.25 The relevant OD specific individual with delegated authority must inform unsuccessful Bidders of the outcome of the bid within 1 (one) month of contract award to comply with legislative requirements.
- 24.26 Where a construction contract with a value above R10 million is awarded, the contract award must be registered on the CIDB website within 21 days after the award.
- 24.27 Bidders / Tenderers are entitled to written, adequate reasons why their Bid was unsuccessful upon request.
- 24.28 This must be requested by the Bidder within 90 (ninety) calendar days of the date on which they become aware or might reasonably have been expected to become aware.
- 24.29 The SCM unit must ensure that the outcome of the Tender is advertised on the e-Tender portal within 7 (seven) days of award. The publication of the award of a contract shall contain at least the following information:
- 24.29.1 Contract description and Tender number;
 - 24.29.2 Names of the successful Bidder(s) and preference points claimed;
 - 24.29.3 Contract prices(s), if possible;
 - 24.29.4 Contract period;
 - 24.29.5 Names of Directors; and
 - 24.29.6 Date of completion/award.
- 24.30 A contract is concluded at the acceptance of a letter of award by the Bidder. Thereafter, a written contract is entered into with the successful Bidder. The contract, together with the letter of award and terms and conditions of the RFP, all constitute a binding agreement between Transnet and the Bidder. The contract concluded with the successful Bidder should be substantially similar to the terms and conditions of the bid that was put out to market.
- 24.31 The contract concluded with the successful Bidder must address the same scope and should be substantially similar to the terms and conditions of the Bid that was put out to market. No additional scope may be added without following the contract variation process.
- 24.32 Business may only be awarded based on the final Bid price after negotiation, if applicable. No additional contingencies or costs may be included unless

contingencies were catered for and contract variation process, in terms of this manual, was applied.

24.33 Transnet may, at its sole discretion and as approved by the relevant delegated authority, consider accepting the second or third most favourable Bid, provided that this option is exercised within a reasonable period (not exceeding three (3) months) after the initial award, when:

24.33.1 A successful Bidder, after having been informed of the acceptance of its Bid, fails to sign a letter of award within 14 (fourteen) calendar days after being called upon to do so. This does not apply when the bidder has indicated that there are queries regarding the letter of award that need to be addressed;

24.33.2 A successful Bidder has failed to provide the necessary security, if required;

24.33.3 A successful Bidder fails to meet a condition precedent for the award of business (e.g., to obtain the necessary funding); and/or

24.34 All Suppliers contracted by Transnet must be tax compliant in accordance with SARS requirements.

24.35 In case of adjudication for emergency procurement, the process should follow a shortened and simplified version of the adjudication process where the delegated adjudicating body is only expected to satisfy themselves and approve a request (in a form of a short Memo) for emergency award of business that includes:

24.35.1 details how the proposed supplier/service provider was identified as suitable to address the emergency,

24.35.2 declaration by SCM Practitioners that there are no relations between them and the proposed supplier,

24.35.3 reasons why the proposed supplier is considered suitable to address the emergency as required by Transnet, and

24.35.4 confirming market related prices offered by the proposed supplier.

24.35.5 Price and Post-tender Negotiation

24.36 Approval to negotiate the price must be granted by the GCPO/OD CPO or his/her sub-delegate or CBAC (except in FIC threshold, which the approval must still be taken to CBAC) in line with the DoA approval values for approach to Market on an open tender before the negotiation can commence. However, ODs may select to request the DBAC to approve these negotiations below R500m. The request for approval to negotiate should contain the negotiation strategy and desired outcome, the names of the proposed negotiation team as well as proposed way-forward should the desired outcome not be achieved.

24.37 There are three (3) types of negotiations that can take place in a tender process:

24.38 Market-Related Price negotiation:

24.38.1 This negotiation is done before the award of the contract when it has been identified that the price of the winning bidder(s) is not market related.;

24.38.2 If the price offered by a tenderer scoring the highest points is not market related, Transnet may not award the contract to that tenderer. Transnet may:

- 24.38.2.1 Negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
- 24.38.2.2 If the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- 24.38.2.3 If the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender; and
- 24.38.2.4 If a market-related price is not agreed as envisaged above, Transnet must cancel the tender.

24.39 Best-And-Final-Offer (BAFO) price negotiation:

- 24.39.1 Over and above the negotiating of prices to get a market-related price as envisaged in section 23.3 above or when all prices are market related, Transnet may engage with the bidders(s) to conduct a BAFO price negotiation process. This should be done where Transnet wants to obtain reductions on prices quoted or rates to maximize efficiency and value for money in all of its contracts.
- 24.39.2 BAFO Price Negotiation is an effective tool to drive down cost or extract further value for Transnet and can be used very effectively in conjunction with any procurement mechanism. BAFO is used after the evaluation process has been completed and the Preferred Bidder/s have been identified and approved by the relevant delegated authority in terms of the Adjudication DoA, based on the criteria as set out in the RFX.
- 24.39.3 BAFO is normally reserved for high-value, strategic commodities, but it may also be used in lower value transactions where it is considered that further value for Transnet can be extracted from this process. Depending on the circumstances, this tool can be used either with all technically compliant Bidders, or a selected short list, or even with the Preferred Bidder only.
- 24.39.4 BAFO may only take place if the RFX document contained a clause stating that 'Transnet reserves the right to enter into BAFO negotiations with a Preferred Bidder or any number of shortlisted bidders'.
- 24.39.5 While face to face negotiations is considered the most effective, online telecons (Teams, Zoom etc), negotiations are preferred for purposes of recording the engagements, and email are also permissible provided that the fairness of the process is maintained.
- 24.39.6 Authority and process to engage in BAFO (transactions falling within BAC jurisdiction)
- 24.39.7 Matters falling within the relevant BAC's threshold must first be submitted for the approval of the BAC, indicating the detailed process followed in determining the shortlist of Bidders to be negotiated with, details of the agenda that will be negotiated, etc.
- 24.39.8 On these high value transactions, the negotiating team to be appointed by the relevant BAC, shall comprise of procurement, SD, technical, financial

and commercial and legal disciplines, (where appropriate), to facilitate unity of purpose from Transnet's perspective and to enable the Bidder to deal with all relevant matters before making a final offer.

- 24.39.9 Before BAFO negotiations are conducted with the Preferred Bidder or shortlisted Bidders, it must be approved by the relevant authority as indicated in paragraphs 24.39.2 and the value of the proposed contract to be negotiated will determine the level of approval required. The submission requesting authority to negotiate should include the following:
- 24.39.9.1 the Preferred Bidder or list of Preferred Bidders and how the list has been determined including the threshold set for qualification for BAFO negotiations;
 - 24.39.9.2 the composition of the negotiating team;
 - 24.39.9.3 the roles and responsibilities of negotiation members; and
 - 24.39.9.4 other aspects that will be negotiated.
- 24.39.10 All members of the negotiation team must sign declarations of interest and confidentiality agreements when appointed to such teams. These forms must be kept on the appropriate files as an audit trail.
- 24.39.11 Negotiations must be preceded by a thorough research and a caucus discussion by the cross-functional negotiation team to ensure a co-ordinated approach. The objectives of the negotiating team must be recorded in consultation with the relevant disciplines concerned (e.g. financial, Transformation, legal, technical and commercial).
- 24.39.12 The financial advantages, or other objectives sought (e.g. Transformation, Enterprise Development initiatives, faster delivery, etc.), must be quantified and no negotiation will be regarded as final until all the approved objectives have been properly negotiated by the negotiating team. After receipt and evaluation of the best-and-final offers, the results must be recorded against the envisaged objectives.
- 24.39.13 In order to ensure that the BAFO negotiation is conducted in a fair manner, shortlisted Bidders should be negotiated with individually. The same agenda must be used with all shortlisted Bidders and all Bidders must be provided with the same information and the same opportunity to improve their Bid in all respects. The agenda must be made known in advance to all shortlisted Bidders so that they can prepare for the negotiations. Detailed minutes/transcripts and audio recording of the negotiations should be kept. It is therefore, highly recommended that online negotiations with technological capabilities are utilised for recording purpose.
- 24.39.14 Under no circumstances may prices of one Bidder be disclosed to another with the request to improve on such price in order to be awarded the business. This is considered as 'horse-trading' and is considered an unfair business practice. Such misconduct will not be tolerated and will result in disciplinary action. Furthermore, a Preferred Bidder must not be informed that he has been awarded a contract prior to the BAFO process, as that would jeopardise Transnet's negotiation power.

- 24.39.15 After negotiations have been conducted with an approved shortlist of Preferred Bidders, all such Bidders must be requested to submit their “best-and-final offer” in the Transnet e-submission by a set closing date and time. This method may also be used with a single Preferred Bidder subsequent to the negotiation session if it is considered that it may yield a further price reduction or extract further value for Transnet.
- 24.39.16 Whichever method of submission of the BAFO is utilised, it must be conducted in a manner that remains fair and does not compromise the integrity of the process. The closing date and time for all resubmissions must be the same and documents should only be accessed after the time has lapsed.
- 24.39.17 It is important to note that although BAFO negotiations may take place in respect of a number criteria including price, technical, Transformation, delivery terms, etc., the final evaluation criteria against which the best-and-final Bids will be scored will be strictly on price and preference (specific goals) in terms of the applicable preference point system (i.e. either 80/20 or 90/10).
- 24.39.18 While this process offers shortlisted Bidders the opportunity to improve on their Bid in areas such as price, quantity, etc., care should be taken to ensure that the final contract negotiated does not deviate significantly from the scope of work, terms and conditions of the bid as set out in the original RFX document.
- 24.40 Post-contracting negotiation:
- 24.40.1 To be able to exercise this negotiation option, the contract document should stipulate or have a provision that, at the contract execution stage, Transnet reserves a right to conduct negotiations with the supplier(s)/service provider(s) should unexpected conditions give rise to changes to the contract obligations;
- 24.40.2 This negotiation should not result in termination of the awarded contract to the supplier(s) or service provider(s) where the supplier does not agree to the terms of negotiations.
- 24.40.3 This type of the negotiation must be initiated by the relevant contract manager or anyone responsible for the contract and it must be based on specific provisions in the contract.
- 24.40.4 The process must be recorded and if the outcome affects the contract value, an addendum to the contract should be drafted, signed by both parties and incorporated in the primary contract. The process of contract variation should be followed.
- 24.41 A team should be established for the purpose of engaging in post-award negotiations. Negotiations are to be conducted in accordance with process 4.4.2 of the Procurement Process Guideline. Should the delegated authority disagree with the BEC on this matter, the decision must be recorded, and reasons provided.
- 24.42 The Contract Owner may engage in post-contract negotiations.

- 24.43 The BEC or Contract Owner shall conduct negotiations where applicable and may be supplemented by additional negotiation members possessing the requisite skills to conduct the negotiation in accordance with process 4.4.2 of the Procurement Process Guideline, if necessary, to be appointed in writing by the CPO.
- 24.44 Material changes to contract conditions, assumptions or exclusions may not be negotiated as this may be seen as giving the Bidder an opportunity to revise their submission.

25. Cancellation / Non-Award

- 25.1 All Tenders must include a clause which states that Transnet reserves its right to cancel the tender and/or to reject the lowest acceptable tender received.
- 25.2 A sourcing process may be cancelled under certain circumstances. Cancellations are only allowed in the following instances:
- 25.2.1 Funds are no longer available to cover the total envisaged expenditure;
 - 25.2.2 Due to change in circumstances, there is no longer a need for the goods or services or construction procurement;
 - 25.2.3 No acceptable Bids were received; or
 - 25.2.4 There is a material irregularity in the tender process.
- 25.3 Where Bids/Tenders were not received or not opened/viewed, a request to cancel a Bid/Tender shall be submitted to the CPO or his/her duly delegated representative, who holds the reasonable discretion to cancel the Bid for the benefit of Transnet after taking all circumstances into consideration.
- 25.4 Where Bids were received and were opened, a request to cancel a Bid shall be submitted to the relevant authority as per the DoA for adjudication, before taking the decision to cancel the Bid for the benefit of Transnet after taking all circumstances into consideration.
- 25.5 The reasons for cancellation shall be stated in the request to cancel, and the submission, together with the approval, shall be kept in the Bid file.
- 25.6 For each open tender that becomes a non-award or is cancelled, that cancellation must be published on the National Treasury e-tender portal within 10 days after the cancellation decision has been made but before issuing any new bid to the market for the same scope.
- 25.7 Transnet may only cancel a repeat Bid that is above R2m with the prior written approval of the relevant BAC. A second cancellation for bids under R2m must be submitted to the OD CPO with reasons for cancellation.

Section F - Administer Contract

26. Contract Management

- 26.1 This section should be read in conjunction with the Contract Management Policy as well as the Contract Management Framework and SOPs.

- 26.2 All procurement related contract management activities shall be carried out in accordance with process 5.1 - 5.4 of the Procurement Process Guideline
- 26.3 The relevant SCM Representative must ensure that all standard form contracts are kept up to date in consultation with the Contract Management Specialists and the Legal Department.
- 26.4 A relevant SCM Representative must be assigned to assist BSCs in determining and preparing standard form contracts in line with process 5.1 in the Procurement Process Guideline, where possible, risks identified during the evaluation stage should be managed.
- 26.5 The CPO or his/her duly delegated representative, supported by the Contract Management Specialist, is responsible for facilitating the resolution of disputes arising from contracts in line with process 5.4 in the Procurement Process Guideline, where relevant roles and responsibilities are defined, and the relevant standard form contract terms.
- 26.6 Contract assignments are not permitted, unless otherwise approved in accordance with legislative requirements. Where the Supplier has reason for portions of work to be conducted by another party, this should be achieved through approved sub-contracting mechanisms.
- 26.7 Contract cessions are allowed only where a Supplier cedes its right of payment to its financier or legally permissible in terms of the public sector procurement prescripts or court order. The following must apply:
- 26.7.1 The contract and the bid documents (terms of reference) must provide for a clause where cession of the rights of either party may be allowed subject to written consent by the other;
 - 26.7.2 Cession must only be applicable to the transfer of rights to the Supplier's financiers or third party;
 - 26.7.3 The written request for cession must be by the Supplier and not the third party;
 - 26.7.4 The written request by the Supplier must be accompanied by the cession agreement between the Supplier and its financiers or third party; and
 - 26.7.5 Transnet must ensure that the Supplier's financier or third party is not restricted from conducting business with the state.
- 26.8 The Supplier's written request for cession should be jointly approved by the delegated authority responsible for the contract approval
- 26.9 For general contract management, the relevant SCM Contracts management Administrator and/or Specialist shall:
- 26.9.1 Capture on a contract management system at least the following data:
 - 26.9.2 Name and contract particulars;
 - 26.9.3 The programme or project number, as relevant;
 - 26.9.4 The contractual dates associated with the contract or order;

- 26.9.5 Except in the case of very low value construction contracts, a cash flow forecast;
 - 26.9.6 The agreed total of prices or forecasted total of prices; and
 - 26.9.7 Where applicable, whether or not provision is made for price adjustment for inflation, delay damages, performance bond and retention, and if so, what the quantum or estimated quantum of such provisions is.
- 26.10 Retain on a contract file, copies of certificates of insurances, bonds and the like;
- 26.11 Make an assessment of the amount due to the contractor where required in terms of the contract or review the contractor's assessment of the amount due and timeously certify payment.
- 26.12 The End User or appointed Project Manager, supported by the Contract Manager, shall:
- 26.12.1 Revise the estimates for price adjustment for inflation were provided for, prepare an updated cash flow for the remainder of the contract based on the contractor's schedule, and capture these amounts together with the amounts due to the contractor and the retention amounts, if relevant, on a monthly basis;
 - 26.12.2 Provide the revised total of the prices or completion date or delivery date for the contract, or an order, within one week of a contractor revising a forecast of the total of prices, or an event being implemented, which in terms of the contract increases the total of prices or delays delivery or completion, for capture on a contract management system;
- 26.13 Develop and maintain a contract risk register;
- 26.14 Provide a monthly report on events which, in terms of the contract, cause the total of prices to increase or the contract completion date to be changed;
- 26.15 Report all insurance claims made within one week of the claim being lodged; and
- 26.16 Make inputs, if applicable, to a close out report, including those relating to cost norms, contractor performance and the attainment, or not, of projective objectives.
- 26.17 The appointed Project Manager responsible for the contract shall also, as necessary, report on a monthly basis on the following:
- 26.17.1 The attainment of key performance indicators, if any, provided for in the contract or required by the sponsor of the project or in terms of legislation;
 - 26.17.2 The number of improvements, contravention and prohibition notices issued by the health and safety agent; and
 - 26.17.3 Incidents reportable in terms of the Construction Regulations issued in terms of the Occupational Health and Safety Act, briefly indicating the nature of the incident.
- 26.18 The End-User responsible for the contract shall be registered in a professional category of registration, where appropriate/required by law, in terms of the:
- 26.18.1 Architectural Profession Act;

- 26.18.2 Engineering Profession Act;
- 26.18.3 Landscape Architectural Profession Act;
- 26.18.4 Project and Construction Management Professions Act; or
- 26.18.5 Quantity Surveying Profession Act.

26.19 Standard Form Contracts

26.19.1 The standard forms of contract shall be selected from and be suitable for use under the conditions described in Table 7 below. APPENDIX G

26.19.2 The standard forms of contract shall be used with minimal contract amendments which do not change their intended usage and shall only be amended with the relevant approval and when absolutely necessary to accommodate special needs.

26.19.3 The relevant Contract Management Manager must ensure that the latest standard form contracts are used, in accordance with the latest standard form contracts developed by the Legal Department.

26.19.4 The relevant Contract Manager must allocate Contract Management Specialists to assist BECs in determining and preparing standard form contracts in line with process 5.1 in the Procurement Process Guideline

Table 7: Approved forms of contract in Transnet related to the delivery and maintenance of infrastructure.

Form of Contract	Code	Intended Usage
NEC3 Engineering and Construction Contract	ECC	Engineering and construction including any level of design responsibility.
NEC3 Professional Services Contract	PSC	Professional services, such as engineering, design or consultancy advice.
NEC3 Term Service Contract	TSC	Manage and provide a service over a period of time.
NEC3 Supply Contract	SC	Local and international procurement of high-value goods and related services, including design.

26.20 Guarantees

26.20.1 Performance guarantees, if applicable, shall be provided by a recognised banking institution or a financial institution which is acceptable by Transnet on all engineering and construction works contracts as well as certain professional services contracts.

26.20.2 Such guarantees shall in the case of a fixed guarantee not exceed 10% of the contract price or, in the case of a variable guarantee does not exceed 12, 5%, and shall be stated in the contract data.

26.20.3 The approval process of all guarantees is as per Delegation of Authority Framework. Contract Management personnel to ensure that the Performance Bond Submission and Approval Process is followed.

26.21 Retention

26.21.1 Retention monies that are held for each assessment for payment to a contractor shall not exceed 10% of any amount due to a contractor.

26.21.2 Amounts for both performance bonds and retention should not exceed 15% of contract value per transaction as per CIDB SFU clause 4.4.3.4.

26.22 **Payment certificates** - Valuations for interim payment certificates

26.22.1 Payment Certificates result in payment being made by the Employer to the contractor/professional service provider. Generally, payment certificates can either be issued regularly during the course of the works, such as interim certificates (normally issued monthly) or may signify that a particular stage has been achieved, such as completion or as per the provisions stated in the contract.

26.22.2 Payments certificates must take into account the following but not limited to:

26.22.2.1 Work done to date/Activities completed;

26.22.2.2 Escalation;

26.22.2.3 Adjustment for material on/off site;

26.22.2.4 Retention;

26.22.2.5 Delay damages;

26.22.2.6 VAT;

26.23 **Delay Damages**

26.23.1 Delay damages, where applicable, shall not exceed a genuine and reasonable pre-estimate of the damage or harm which Transnet SOC Limited might suffer in terms of a quantitative risk analysis process.

NOTE: The estimate of the delay damages should be based on potential losses which could be sustained as a result of delayed completion, including increased finance charges, additional construction supervision costs, etc. The amount of the delay damages should not be punitive or excessive as this will expose Transnet to the legal risk of non-enforcement of such damages.

NOTE: The Conventional Penalties Act of 1962 (Act No 15 of 1962) provides for the enforceability of penalty stipulations, including stipulations based on pre-estimates of damage. This Act empowers a tribunal to reduce penalties where they are out of proportion to the prejudice suffered to make them equitable in the circumstances.

26.24 **Price Escalation**

26.24.1 Price escalation shall be based on the applicable published indices appropriate to the contract if and when a contract period is more than one year.

26.24.2 Major material components in an engineering and construction contract may be increased or decreased by the net amount of any documented variation incurred after the base date on a monthly basis for NEC3 engineering and construction contract.

26.24.3 On each anniversary date (annually) for NEC3 professional services contract a price adjustment is calculated in terms of the applicable index used and thereafter for each amount due will include an amount for price adjustment as set out in the Contract Data, Secondary Option clause X1.

26.24.4 The base date for indices shall be the month preceding the closing date for tenders.

26.25 Insurance

26.25.1 Tenderers shall be required to provide evidence of adequate insurance as stated in the Contract Data, Part 1. The relevant Procurement Manager together with the relevant Insurance Department shall during the evaluation process consider the adequacy of the insurance cover and arrange further insurances if necessary and notify the relevant Transnet's insurers of the insurance particulars relating to the Project/Package.

26.25.2 Contract Management shall obtain all insurance certificates from the contractor required in terms of the contract. Contract Management shall also log, monitor and maintain such certificates throughout the life of that contract.

NOTE: OD's Insurance Manager/Department, shall be consulted for each project or package insurance requirement during pre and post award phases, as and when required.

26.26 Foreign Exchange

26.26.1 Whenever possible foreign currency risk exposures should be eliminated by entering into fixed Rand based contracts with local or global contractors.

26.26.2 When applicable the Contractor/Service Provider shall be instructed to provide a Commercial Bank quotation for the cost of forward cover pertaining to the contract, and the quotation must be submitted to Transnet Group Treasury for approval.

26.26.3 Provision shall be made in the contract Schedule of Deviations that the Contractor shall be required to provide the commercial bank quotation within 14 days of contract award. The accepted quotation shall be implemented as a Compensation Event.

26.26.4 A specific "Z" clause for the assessment of the Foreign Exchange payment claims and subsequent payment as a Compensation Event must be compiled by the appropriate Legal department for insertion in the Contract Data by Transnet.

26.26.5 Where there is an imported component and local (South African) contractors are used, invoices can only be issued in Rand as exchange control regulations prohibit local contractors invoicing in a foreign currency.

26.26.6 The Forex Policy as approved by the Transnet Board should always be considered when agreements are entered into. Further particulars or more detailed guidelines may be found in the Transnet Guidelines Treasury Supplier Agreements.

26.27 Intellectual Property

26.27.1 Advice shall be sought from the Legal department and Transnet SOC Limited's IP Attorneys on how best to address intellectual property rights in contracts, should the Contractor/Service Provider wish to amend the standard NEC3 contract provisions and a "Z" clause shall be agreed to if applicable.

NOTE: Intellectual property (IP) is a legal field that refers to creations of the mind such as musical, literary and artistic works, inventions and symbols, names, images and designs used in commerce, including copyrights, trademarks, patents and related rights. Under intellectual property law, the holder of one of these abstract properties has certain exclusive rights to the creative work, commercial symbol or invention by which it is covered. In the course of ordinary business, a contractual arrangement between Transnet and the private sector can create Intellectual Property that is a potentially valuable.

26.28 Post Award Subcontracting Obligations

26.28.1 To ensure that Sub-contracting objectives are met, there must be effective contract management specifically in relation to the Subcontracting commitments made by Suppliers/Service Providers/Contractors. It is critical that monitoring and evaluation takes place as a standard requirement in terms of the delivery of Sub-contracting commitments.

26.28.2 Penalties and Breach:

26.28.2.1 If applicable, the contract with the successful tenderer may contain a penalty clause which stipulates the penalties that will be imposed by Transnet, should the contractor fail to maintain the subcontracting percentage in the contract. It is important to note that such penalties must be reasonable and not out of proportion to the prejudice suffered.

26.28.2.2 Failure to achieve subcontracting percentage stipulated will result in breach of contract and provide Transnet with cause to terminate/cancel the contract.

27. Expansion and Variation of Contracts

27.1 Contract expansion and variation deal with material (scope, value and time regardless of whether it is an increase or decrease) changes to contracts post award:

27.1.1 Transnet may expand a contract by increasing the scope of work.

27.1.2 Transnet may vary a contract by changing the scope of work.

27.1.3 Transnet may expand a contract by compensation events.

27.1.4 Transnet may vary a contract with a time extension

27.1.5 Transnet may expand a contract with any escalations

- 27.2 Compensation events included in the Delegated Contract Value (DCV) are regarded as contract variation or expansion and therefore should be counted towards the 20% or R20m threshold with National Treasury reporting obligations.
- 27.3 The approval of DCV (recommended up to a maximum 20% of the contract value) can be requested from the delegated authority up-front (during the award of business). The project manager can therefore utilise the approved DCV amount without requiring another approval per event..
- 27.4 Any variation, including the DCV, shall be requested from the delegated authority on a case-by-case up to 20% (e.g 10% approved DCV + 10% by Delegated authority) or R20m of contracts.
- 27.5 In Construction, where there is a contract variation exceeding 20% of the value of the original contract or R20 Million (Twenty Million Rand), including all applicable taxes, whichever is lesser, the GCE must have final approval of the expansion/variation. This must be reported to National Treasury and Auditor General of South Africa (AGSA) in line with the reporting requirements.
- 27.6 In the case where the estimated DCV will be an amount that is above 20% or R20m of the contract value, the DCV should be requested from the GCE as the delegated authority. It is recommended that the reporting of this variation to National Treasury be done proactively (after the approval by the delegated authority).
- 27.7 Any contract expansion/variation must be documented in the format prescribed by National Treasury. This should include reasons for the expansion/variation.
- 27.8 Any contract variations/expansions should be submitted quarterly to National Treasury in the format prescribed by National Treasury. This should include reasons for the expansion/variation.
- 27.9 If an expansion or variation in the scope of work requires an extension in the period of the contract, the report must distinguish between the change in the scope of work and the period for which the work is extended.
- 27.10 Any contract variations/expansions should be submitted in the annual report to National Treasury in the format prescribed by National Treasury.
- 27.11 Where there is a contract variation/expansion below 20% or R20 million of the original contract value, the DBAC/CBAC (in line with the DoA) must have final approval of the variation/expansion.
- 27.12 If the contract variation/expansion is related to time/period only and has no financial implications to the contract value or scope, the initial approver of the contract award/adjudication has the final approval authority of the variation/expansion regardless of the percentage of the variation.
- 27.13 If the contract variation is not material (does not affect the scope, time or value, regardless of whether it is an increase or decrease) can be approved by the contract manager. This may include variations such as the place of delivery of the goods etc.
- 27.14 The approvers must be provided with a recommendation indicating the reasons for the proposed extension at least 14 (fourteen) calendar days prior to the expiry of the contract. The following factors should be considered:

- 27.14.1 That the need for the extension is justifiable in the circumstances;
- 27.14.2 That it is not practical or feasible to follow and complete a new procurement event for the outstanding work.
- 27.14.3 That adequate funds exist to cover the extended period.
- 27.14.4 That the request for the contract extension is not only because of the availability of unspent funds in the contract.
- 27.15 The Contract Management Department of the Operating Division should be consulted for all expansions and variations of contract.
- 27.16 If Transnet participates in a transversal contract, Transnet may not expand or vary the transversal contract, but may request the relevant treasury to expand or vary the contract.
- 27.17 The relevant treasury and the AGSA may request additional information pertaining to the expansion or variation.

28. Advance Payment

- 28.1 Transnet does not encourage the provision of advance payments. However, an advance payment may be an acceptable strategy for Transnet in certain circumstances.
- 28.2 If such provision will be a critical component of the transaction, it should be determined at the approval to approach the market stage and incorporated into the RFP to ensure that bidders are not discouraged by a requirement of capital injection upfront.
- 28.3 Advance Payments (sometimes referred to as Upfront Payments) may be considered in cases where:
 - 28.3.1 The supplier will have to make a significant capital outlay before starting with the contract;
 - 28.3.2 Where goods, works or services have a long lead-time;
 - 28.3.3 Where manufacturing slots need to be booked and paid for well in advance of the goods being delivered.
- 28.4 An advance payment will only be issued on condition that an advance payment Guarantee is provided by a financial institution approved by Transnet.
- 28.5 An Advance Payment Guarantee is a guarantee issued by a financial institution, on behalf of a supplier to a buyer, in relation to any advance payment that is made by the buyer to the supplier to allow the work to commence. The guarantee protects the buyer against the risk of non-performance as the buyer can claim reimbursement of the advance payment against the guarantee in such a case.
- 28.6 The relevant contractual provisions relating to advance payments need to be included in the contract. Approval to proceed with a contract containing advance payment conditions must be approved by the relevant Delegated Authority.
- 28.7 Compensation events and Contingency Planning

- 28.8 Contract / order conditions such as, advance payments, retention, and delay damages, may be requested from time to time, as well as contingency value and time to cover for compensation events / variation orders, where applicable.
- 28.9 A compensation event is one of the conditions of contract described in NEC (core clause 6) and a variation order in terms of clause 13 of FIDIC to inter alia, manage any change / claim to the respective contracts.
- 28.10 Project Managers are advised to align with the NEC3 lists, which provide details on the various compensation events and the duty to notify the compensation events in selected clauses.
- 28.11 A compensation event is classified as a variation of contract. Approvals must align with section 23 in the manual, Expansion and Variation of Contracts.

29. Piggybacking

- 29.1 “Piggybacking” occurs when an end-user wishes to make use of an existing internal Transnet contract or approved list to procure goods and services.
- 29.2 In such instances it must be agreed that piggybacking is possible within the limits of the existing contract and in the best interest of Transnet. The relevant CPO/BAC (the OD where the contract was awarded) may then be approached for approval prior to any contract amendment being made.
- 29.3 If the existing contract requires modification, the principle for reporting stated in paragraph 26.4 must be observed

Section G – Post Award Considerations

30. Disposals (Income Generating)

- 30.1 For Income Generating contracts and Asset disposal shall be conducted in line with the relevant section of the Procurement Manual for Goods and Services with Direct Impact on Revenue Generation shall be applied: Supplier Performance Monitoring
- 30.2 Supplier performance should be monitored and improved in accordance with process 7.4.2 in the Procurement Process Guideline together with the Contract Management Policy and SOP.
- 30.3 Transnet may, in addition to remedies provided in law and contract, impose the following, where a Supplier fails to perform or to meet contractual terms and/or has acted in a manner contravening the Transnet Code of Ethics or South African laws:
- 30.3.1 Recover all costs, losses and/or damages it has incurred or suffered as a result of that Suppliers or person’s conduct;
- 30.3.2 Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

- 30.3.3 Report the Supplier, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis to the National Treasury in order to restrict the supplier.
- 30.3.4 Forward the matter to the relevant authority for criminal prosecution.

31. Complaints

- 31.1 To ensure alignment to the National Treasury Note 3 of 2021/2022, Transnet has put in place a Policy on SCM Complaints and Allegations as well as Terms of Reference for the SCM Complaints Office. Refer to these documents in the case of dealing with complaints.

32. Treatment of Disclosures and Declarations

- 32.1 Transnet has incorporated the information contained within National Treasury Standard Bid Document 4, into its Standard Bid Document (SBD).
- 32.2 The SBD applies to all forms of procurement irrespective of the value and method of procurement, excluding petty cash purchases, and must be completed by all persons responding to the invitation to bid.
- 32.3 The information contained within the SBD must be evaluated by the bid evaluating authority as per the DOA, as part of its evaluation process.
- 32.4 If the evaluating authority establishes that:
 - 32.4.1 A person within the bidding entity is an employee of the State, the BEC must request the relevant entity AO/AA to advise whether the person:
 - 32.4.1.1 Is prohibited from conducting business with the State in terms of section 8 of the Public Administration Management Act, 2014 (Act No. 11 of 2014 — “the PAMA”); or
 - 32.4.1.2 Has permission to perform other remunerative work outside of their employment, where the PAMA does not apply to such employee;
 - 32.4.2 The conduct of a person constitutes a transgression of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004 — “the PRECCA”), the conduct must be dealt with in accordance with the PRECCA;
 - 32.4.3 The conduct of a person constitutes a transgression of the institution’s policies, the conduct must be dealt with in terms of the prescripts applicable to the institution.
- 32.5 If the evaluating authority establishes that a person has committed a transgression, referred to in paragraph 33.4, or any other transgression of SCM prescripts, the evaluating authority may reject the bid and restrict the person in terms of Section: Restrictions of Person Doing Business with Government.
- 32.6 The evaluating authority must inform the relevant treasury of any action taken against a person in terms of section 33.4 within 30 (thirty) calendar days of implementing the action.

- 32.7 During the evaluation process, the evaluating authority must in addition to other due diligence measures, establish if a person is not listed in:
- 32.8 The Register for Tender Defaulters provided for PRECCA; and
- 32.9 The list of restricted suppliers provided for in Section: Restrictions of Person Doing Business with Government of this Instruction and regulations under the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

33. Restriction of Person Doing Business with Government

- 33.1 Where a person has submitted false information regarding any matter required by law which will affect or has affected the evaluation of a Bid the appropriate delegated authority should takes the measures below to restrict the person from doing business with Government.
- 33.2 The bid adjudicating authority as defined by the appropriate delegated authority must seek approval from the relevant delegated authority to restrict.
- 33.3 The bid adjudicating authority must in writing notify a person of:
 - 33.3.1 The intention to restrict the person form doing business with the State;
 - 33.3.2 The grounds for the restriction;
 - 33.3.3 The intended period of restriction, which may not exceed 10 (ten) years;
 - 33.3.4 The right to make representations within 14 (fourteen) calendar days as to why the persons should not be restricted.
- 33.4 The bid adjudicating authority as defined by the appropriate delegated authority must:
 - 33.4.1 Consider the reasons provided by the person on why the person should not be restricted; and
 - 33.4.2 If, after considering the reasons referred to in 34.4.1, Transnet intends to restrict the person, in writing, consult the National Treasury by submitting the notification envisaged in section 34.3 and the reasons referred to in section 34.3.
- 33.5 Should the person fail to respond within 14 (fourteen) calendar days, the restriction may be regarded as not objected to.
- 33.6 The National Treasury must, within 14 (fourteen) calendar days of receipt of the notification envisaged in paragraph 34.4.2, submit to the Transnet its view on the intended restriction.
- 33.7 The Transnet delegated authority must:
 - 33.7.1 After considering the view of the National Treasury, make the decision whether to restrict; and
 - 33.7.2 Within 7 (seven) calendar days following a decision to restrict, submit to the National Treasury:
 - 33.7.2.1 The reason for the decision to restrict;

- 33.7.2.2 The name and address of the person restricted;
 - 33.7.2.3 The identity or registration number of the person;
 - 33.7.2.4 The period of restriction; and
 - 33.7.2.5 The representations made by the person and the reasons why Transnet proceeded with the decision to restrict despite the representations.
- 33.8 The National Treasury, on receipt of the information in section 34.7:
- 33.8.1 May within 14 (fourteen) calendar days, request Transnet to submit further information pertaining to the restriction; and
 - 33.8.2 Must record the information on a list of restricted suppliers within 14 (fourteen) calendar days of receipt of the submission by Transnet, and any responses to further information requested in terms of section 34.8.1;
- 33.9 The restriction is effective from the date that the National Treasury records the information on the list of restricted suppliers.
- 33.10 The National Treasury must inform Transnet immediately after the restriction is recorded on the list of restricted suppliers.
- 33.11 The Transnet delegated authority must inform the person immediately after the National Treasury has informed the Transnet that the restriction is recorded on the list of restricted suppliers.

34. Non-Compliance

- 34.1 Irregular expenditure is incurred when a procurement /expenditure/ revenue generating transaction does not comply with legislation Irregular expenditure must be managed in accordance with the relevant National Treasury Instruction on PFMA Compliance and Reporting as well internal Transnet Policies:
- 34.2 Any employee who becomes aware of or suspects the incurrence of irregular expenditure or non-compliance must immediately, in writing, report such instances to the SCM Governance who will refer it to the Loss Control function.
- 34.3 Instances of non-compliance with internal policies (such as the SCM policy) where no legislative requirement is breached will not result in irregular expenditure; however, corrective actions including possible consequence management and strengthening of internal controls must be implemented.
- 34.4 Where irregular expenditure has been incurred, Transnet may not withhold payment due to the irregularity. Payment must be made to Suppliers who were in no way responsible for the irregularity and have provided the services in good faith and without having been complicit in the irregularity. Payment may be made against either a legal claim/demand for payment or an invoice.
- 34.5 Fruitless and wasteful expenditure is incurred when expenditure is made in vain and would have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure must be managed in accordance with the relevant National Treasury Instruction on PFMA Compliance and Reporting as well internal Transnet Policies.

35. Deviation from this Manual

- 35.1 Requests to deviate from this Manual or the Procurement Process Guideline in respect of internal process requirements may, in exceptional circumstances, be submitted via the GCPO to the CBAC for consideration and approval. No deviation from legislated requirements is allowed.
- 35.2 Requests for deviation from internal processes must address the following as a minimum:
 - 35.2.1 From which part/s of the Procurement Manual/Procurement Process Guideline deviation is being sought;
 - 35.2.2 Compelling reasons for the departure from the internal processes, including sound reasons why the relevant process is inappropriate and/or insufficient; and
 - 35.2.3 Description of the alternative process that will be put in place to ensure the integrity of the transaction, including details of how the alternative process will comply with all relevant legislative requirements.

36. SCM Data Management

- 36.1 The Manager: Systems/Data Management must ensure that the necessary systems, reports and data are managed according to processes 2.1 -2.4 in the Procurement Process Guideline

37. Appointment of Consultants

- 37.1 A consultant is defined in the definition section of this Manual as well as the Transnet DoA Framework.
- 37.2 Appointment of Consultants should be considered the required capacity, skill, or expertise do not exist in Transnet and there is evidence that value for money will be achieved when consultants are used.
- 37.3 the statement that there is no internal capacity, skill or expertise and that there will be value for money should be supported by evidence and approved in line with the Delegation of Authority Framework.
- 37.4 Consultants should be appointed through a procurement process, subject to negotiations.
- 37.5 Consultants should transfer skills (where possible) and may not make any decisions on behalf of Transnet unless Transnet has delegated such a right to make decisions.
 - 37.5.1 To achieve value for money, a fair and reasonable remuneration framework must be adopted for consultants, taking into consideration the guidelines below, (where applicable and appropriate The “Guideline on Fees for Audits” done on behalf of the Auditor-General of South Africa (AGSA) as issued by SAICA;

- 37.5.2 The “Guide on Hourly Fee Rates for Consultants”, as issued by the Department of Public Service and Administration (DPSA); or
 - 37.5.3 Remuneration guidelines issued by professional service organisations or regulatory bodies, as may be relevant.
- 37.6 Relevant international and market determined rates may be considered when negotiating cost-effective consultancy rates for international consultants and expert advisors.
- 37.7 Where practical, consultants shall be appointed on an output specified basis with a clear specification of deliverables and associated remuneration. Where consultants are appointed on a time and cost basis, this must be accompanied by regular monitoring and reporting on activities, outputs and deliverables.
- 37.8 Consultancy contracts should consider including overall cost ceilings by specifying whether the overall contract price is inclusive or exclusive of travel and subsistence disbursements.
- 37.9 Alternative travel and subsistence arrangements may be approved for international consultants and expert advisors considering relevant cost-efficiency measures.

38. National Treasury Oversight

- 38.1 National Treasury may attend any bid committee meetings (BSC, BEC and BAC) in an observer capacity and must inform Transnet when he/she will be attending. The representative does not have voting rights and is subject to the same conflict of interest declarations/disclosures as committee members.

39. Vat Vendors

- 39.1 Price evaluation must be conducted inclusive of all applicable taxes. As such, where the bidder is a registered VAT vendor, the evaluation team must ensure that the price quoted is VAT inclusive. There may be cases where an EME is not a registered VAT vendor but has submitted a bid with pricing inclusive of VAT. In such circumstances, the evaluation team must request the bidder to provide reasons for the inclusion of VAT. There may be justifiable reasons for the inclusion of VAT e.g. the value of the award may take the Bidder into the threshold for VAT registration.
- 39.2 In a case where a bidder submits a bid where it is indicated that the bidder is not a register VAT Vendor (does not collect VAT) at the time of tender closing, then that bidder should be evaluated as such even if the status of the bidder changes during the tender process or after. Transnet will award business on the basis of the price that submitted with the bid.
- 39.3 In a case where the value of the transaction is very high that it is expected that all the bidders would be VAT vendors and one or more of the bidders are not, Transnet may request financial statements and any other relevant information from the bidder to assess whether the bidder/s is not contravening any tax laws. Depending on the outcome of the assessments further consultation and engagements may be necessary to determine the way forward.

39.4 Transnet will have to comply with the VAT payment requirements for the duration of the contract.

40. Document Control

40.1 All original documents generated during the life of the contract shall be retained in hard copy format on the contract file for a minimum period of 10 years after completion of the contract.

40.2 Filing comprises electronic filing and/or hard copy filing. The electronic filing will be done on the EDMS in accordance with the relevant Transnet document management procedures.

END OF SECTIONS

Appendix A: Legislation, Government Policies & Pacts Applicable to this Manual

- The Broad-Based Black Economic Empowerment Act, 53 of 2003 as amended, including the Department of Trade & Industry's 2007 and 2013 Codes of Good Practice
- The Companies Act, 71 of 2008 as amended.
- The Competition Act, 89 of 1998 as amended.
- The Constitution of the Republic of South Africa Act, 108 of 1996
- The Construction Industry Development Board Act (CIDB Act), 38 of 2000 including the CIDB Regulations and Standard for Uniformity, as amended.
- The Conventional Penalties Act, 15 of 1962
- The Electronic Communications and Transaction Act, 25 of 2002
- The Framework for the Operationalisation of Government's Procurement Policies in State Owned Enterprises (dated 31 July 2001)
- The Financial Intelligence Centre Act, 38 of 2001
- The Industrial Strategy
- The National Industrial Participation Programme
- The National Development Plan (NDP)
- The National Environmental Management Act, 107 of 1998
- The Occupational Health and Safety Act, 85 of 1993
- The Preferential Procurement Policy Framework Act (PPPFA), 5 of 2000 as amended, including the Preferential Procurement Regulations of 2022 - effective 16 January 2023
- The Prevention and Combating of Corrupt Activities Act, 12 of 2004 as amended.
- The Promotion of Access to Information Act (PAIA), 2 of 2000 as amended.
- The Promotion of Administrative Justice Act (PAJA), 3 of 2000 as amended.
- The Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 33 of 2004
- Protection of Personal Information Act, 4 of 2013
- The Public Finance Management Act (PFMA), 1 of 1999 as amended (The Supply Chain regulations issued in terms of this Act are not applicable to Transnet)
- Directives and Instruction Notes including Guidelines issued by National Treasury (and other government agencies) from time to time which are applicable to entities listed in Schedule 2 of the PFMA.
- The United Nations Global Compact
- The Organisation for Economic Co-operation and Development Principles on for Integrity in Public Procurement

Appendix B: Governance

The SCM Governance, Risk and Compliance Manager must ensure that the Critical CCP framework illustrated in Figure 5 is maintained annually.



Figure 1: Critical CCP Framework

The relationship between the SCM Governance, Risk and Compliance team and the rest of the SCM Department and/or End-users will be characterised by dialogue decision-making as reflected below in Figure 6.

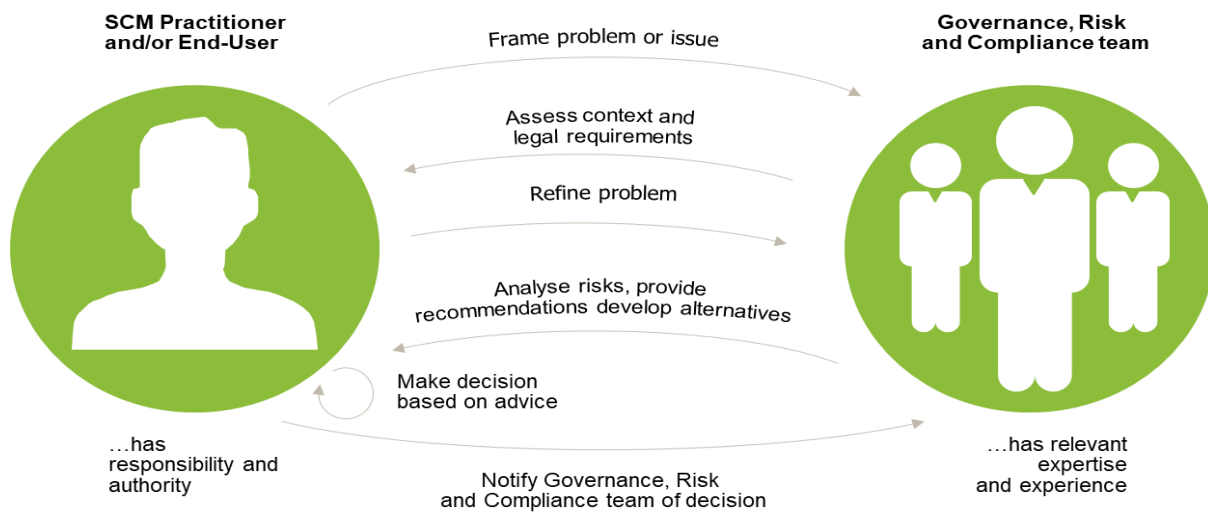


Figure 2: Dialogue Decision-Making Process

Appendix C: Infrastructure Contractor Classes and Gradings

It must be ensured that any contractor awarded an infrastructure bid complies with the correct CIDB class and latest grading requirements.

Table B: Classes of Works

Code	Classes of Works
GB	General Building
CE	Civil Engineering
EB	Electrical Engineering Works – Building
EP	Electrical Engineering Works – Infrastructure
ME	Mechanical Engineering
SB	Asphalt works (supply and lay)
SC	Building excavations, shaft sinking, lateral earth support
SD	Corrosion protection (cathodic, anodic, and electrolytic)
SE	Demolition and blasting
SF	Fire prevention and protection systems
SG	Glazing, curtain walls and shop fronts
SH	Landscaping, irrigation and horticulture works
SI	Lifts, escalators and travellers (installation, commissioning and maintenance)
SJ	Piling and specialised foundations for buildings and structures
SK	Road markings and signage
SL	Structural steelwork fabrication and erection
SM	Timber buildings and structures
SN	Waterproofing of basements, roofs and walls using specialist systems
SO	Water supply and drainage for buildings (wet services, plumbing)
SQ	Steel security fencing or precast concrete

Table C: Contractor Grading

Grade	Tender value range (less than or equal to)
1	R500 000
2	R1 000 000
3	R3 000 000
4	R6 000 000
5	R10 000 000
6	R20 000 000
7	R60 000 000
8	R200 000 000
9	No limit

Appendix D: Mechanism for Deviations from Competitive Bidding

The following Appendix provides specific information on the mechanisms for deviations from competitive bidding/procurement by “other means”.

The decision tree shown in Figure 7 acts as a guide to the required approval authority for the selected mechanism. Checklists are provided as a process summary.

Additional detail is provided for the following mechanisms:

- Limited Bidding, see Appendix D: Limited Bidding;
- Written price quotations within the threshold determined by Transnet, Section: Procurement Approach and Appendix D: Written Price Quotations;

Additional detail is provided for the following reasons:

- Procurement that occurs in emergency situations, see Appendix D: Emergency Procurement;
- Procurement that occurs in urgent situations, see Appendix D: Urgent Procurement;
- Regional or Local Community Procurement, see Appendix D: Regional or Local Community Procurement
- Organ of State co-operation, see Appendix D: Organ of State Co-operation

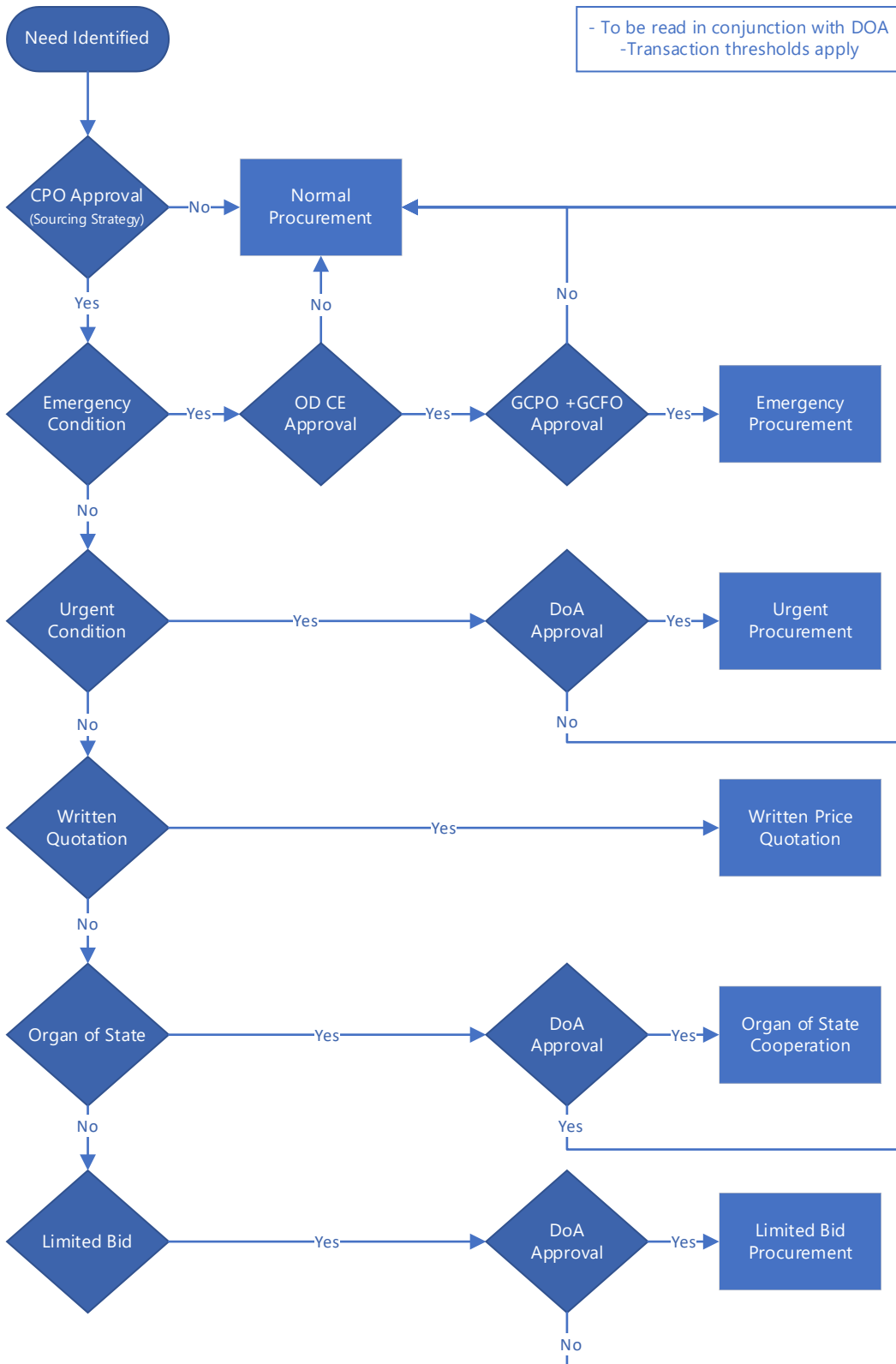


Figure 3: Deviation from Competitive Bidding Decision Tree

D.1 Limited Bidding

Table 2: Limited Bidding Procurement Checklist*

Step	Activity	Notes
1	Market Analysis	Justifies limited bidding
2	Select Limited Bidding reason	<ul style="list-style-type: none"> • Standardisation • Compatibility • Limited suppliers • Specialisation • Previous specification • Legal grounds • Partnering or procuring from other organs of state and/or public institutions of higher learning • Regional/local community procurement • ESD Beneficiation • Emergency • Urgency • Local supply is unavailable. • Unsolicited Bids
3	Select Limited Bidding sourcing type	<ul style="list-style-type: none"> • Sole Source • Single Source • Multiple Source
4	Divisional approval of deviation	<ul style="list-style-type: none"> • CPO approves sourcing strategy. • CPO provides Final Approval if within threshold of DoA
5	Recommendation	CPO recommends sourcing strategy to final approvers if necessary
6	Formal Approval of Deviation	Delegated Authority approves procurement
7	Procurement	Goods or services procured
8	Adjudication	Delegated Authority approves the award of business
9	Reporting	GCPO reports deviation to NT

*The market may not be approached without approval of the sourcing strategy

- 1.1 Limited Bidding is a mechanism of procurement by “other means”.
- 1.2 Limited Bidding is a ` where the bidding process is reserved for a specific group or category of possible suppliers, at the discretion of the relevant delegated authority.
- 1.3 Limited Bidding is defined by either one of the following sourcing types:
 - 1.3.1 Sole Source: Where there is no competition in the market and only one supplier is able to provide the goods or services;
 - 1.3.2 Single Source: Where a thorough analysis of the market and a transparent and equitable pre-selection process is used to decide on one supplier among a few prospective bidders to make a proposal;

- 1.3.3 Multiple Source: Where a thorough analysis of the market indicates that there is limited competition and only a few prospective bidders are requested to make a proposal;
- 1.4 The following grounds, which must be supported by a thorough market analysis, can be considered as reasons for Limited Bidding:
- 1.4.1 A justifiable need to standardise goods or services;
 - 1.4.2 The compatibility of the goods or services required;
 - 1.4.3 Goods or services are only available from a limited number of suppliers;
 - 1.4.4 Goods or services are highly specialised;
 - 1.4.5 Goods or services are identical to previously procured goods or services;
 - 1.4.6 Legal grounds, including where relevant intellectual property rights are held by a specific supplier or original equipment manufacturer;
 - 1.4.7 Instances where partnering or procuring from other organs of state results in either financial or non-financial benefits for both parties; See Section: Organ of State Co-operation.
 - 1.4.8 Instances where regional/local community procurement results in either financial or non-financial benefits; See Section: Regional or Local Community Procurement
 - 1.4.9 Unsolicited bid, including where Transnet receives a submission that is innovative, unique and meets the requirements of a sole source. See Section: Unsolicited Bids.
- 1.5 When approving Sole Source procurement, the relevant authority, must consider whether:
- 1.5.1 There is sufficient evidence to show that the Supplier is unique;
 - 1.5.2 The Supplier has the singular capacity to meet the requirements of the Bid; and
 - 1.5.3 Any other relevant consideration.
- 1.6 The delegated authority must approve all Limited Bids.

D.2 Written Price Quotations

Table 3: Written Price Quotations Checklist*

Step	Activity	Notes
1	Conditions met	Transaction value is below R 2 million
2	Formal approval of deviation	CPO approves sourcing strategy
3	Procurement	Goods or services procured
4	Reporting	GCPO reports deviation to NT
*The market may not be approached without approval of the sourcing strategy		

- 1.7 Written Price Quotations are a mechanism of procurement by “other means”.
- 1.8 Written Price Quotations refers to a process where a minimum of 3 (three) quotes are invited via sending a direct request to bidders from Transnet recognised database.
- 1.9 Where 3 (three) quotations cannot be obtained, the CPO or their duly delegated representative must record and approve reasons for the failure to obtain the minimum number of quotes and proceed with procurement. This does not necessarily mean that the approval must be obtained immediately after the receipt of the less than 3 responses, this approval is also inherent in the approval at adjudication by the CPO or their duly delegated representative for as long as the reasons are stated and recorded. The CPO or duly delegated representative should ascertain themselves that a fair process was followed and that appropriate bidders were invited.

D.3 Emergency Procurement

Table 4: Emergency Procurement Checklist*

Step	Activity	Notes
1	Conditions for Emergency met	<ul style="list-style-type: none"> • Threat to life; • Serious threat to health; • Serious damage to property; or • Serious environmental damage
2	Divisional recommendation of deviation	CPO recommends sourcing approach
3	Recommendation	OD CE recommends emergency procurement to GCPO and GCFO
4	Approval of deviation	GCPO and GCFO provides approval via digital memo/template.
5	Procurement	Goods or services procured
6	Emergency conditions end	The conditions that resulted in the emergency have been dealt with
7	Documentation	<ul style="list-style-type: none"> • Supplier documentation sent to SCM Representative • CPO compiles assessed and validated risk assessment
9	Reporting	GCPO reports deviation to NT
*The market may not be approached without approval of the sourcing strategy		

- 1.10 Emergency Procurement is a reason for procurement by “other means”.
- 1.11 Emergency procurement may occur only where there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls Transnet to action and there is insufficient time to invite competitive Bids.
- 1.12 Emergency procurement may only be used in instances where delaying to source the required goods and/or services will result in:
 - 1.12.1 Human injury or death;
 - 1.12.2 Human suffering or deprivation of human rights;
 - 1.12.3 Serious damage to property or financial loss;
 - 1.12.4 Livestock or animal injury, suffering or death;
 - 1.12.5 Serious environmental damage or degradation;
- 1.13 A distinction should be drawn between urgency and emergency. A failure to plan or an urgent need to procure will not be regarded as an emergency
- 1.14 Only goods or services needed to address the legitimate emergency may be procured using the emergency procurement process; no additional goods or services may be included under the same sourcing event.
- 1.15 The emergency procurement process may only be used to address the emergency when it arises and may not be used for subsequent sourcing events after the initial emergency has been addressed.
- 1.16 Application of the emergency procurement process in instances where a true emergency has not arisen is a serious matter that will result in irregular expenditure and consequence management.
- 1.17 The OD CE or their delegated representative must recommend the emergency procurement sourcing approach to the GCPO and the GCFO for dual approval prior to obtaining the goods or services to address the emergency.
 - 1.17.1 The sourcing approach selected may be any relevant procurement mechanism.
 - 1.17.2 A written request for approval, in the form of a digital memo, must be submitted to the GCPO and GCFO by the OD CE or their delegate authority and written approval obtained.

D.4 Urgent Procurement

Table 5: Urgent Procurement Checklist*

Step	Activity	Notes
1	Conditions for Urgency met	Delivery is critical and the invitation of competitive bids is impossible or impractical, not due to improper planning
2	Divisional approval/recommendation of deviation	<ul style="list-style-type: none"> • CPO approves sourcing strategy. • CPO provides Final Approval if within threshold of DoA
3	Recommendation	CPO recommends Urgent procurement to

		final approvers if necessary
4	Formal approval of deviation	Delegated authority approves procurement
5	Procurement	Goods or services procured
6	Urgent conditions end	The conditions that resulted in the urgency has been dealt with
7	Reporting	GCPO reports deviation to NT
*The market may not be approached without approval of the sourcing strategy		

- 1.18 Urgent procurement is a reason for procurement by “other means”.
- 1.19 Urgent procurement may occur where early delivery is of critical importance and needs to be fast tracked. A lack of proper planning should not be constituted as an urgent case.
- 1.20 Critical procurement conditions may include:
- 1.20.1 Reputational loss;
 - 1.20.2 Minimising commercial loss;
 - 1.20.3 Maximising commercial gain;
 - 1.20.4 Unexpected customer demand;
 - 1.20.5 reprioritisation required in the business, to deal with unforeseen running business changes that may lead to business interruptions and revenue loss;
- 1.21 Fast Track Mechanisms include:
- 1.21.1 Immediately prioritization by the relevant Procurement Manager and SCM Officer
 - 1.21.2 Reducing the tendering period to a minimum of 5 (five) days approved by the CPO;
 - 1.21.3 Fast tracking and prioritization of the tender closing time, based on the motivated urgency;
 - 1.21.4 Reducing evaluation timeframe by the BEC to 48 (forty-eight) hours post tender close (Refer to BEC Terms of Reference).
 - 1.21.5 Reducing approval timeframe by the BAC to 48 (forty-eight) hours post BEC recommendation (Refer to relevant BAC Terms of Reference).
- 1.22 All urgent procurement must be submitted to the relevant delegated authority prior to obtaining the goods or services to address the urgent need.
- 1.23 A request to the relevant delegated authority must be accompanied by a motivation for urgent procurement compiled by the OD CPO or their delegated representative and recommended by the OD CE. The request for approval will be responded to within 72 hours.
- 1.24 The Urgent procurement process may only be used to address the urgent situation when it arises and may not be used for subsequent sourcing events after the initial urgency has been addressed.

D.5 Regional or Local Community Procurement

- 1.25 Regional or Local Community Procurement is a reason for procurement by “other means”, see Section Limited Bidding.
- 1.26 Regional or Local Community Procurement may occur where Transnet wishes to restrict the procurement of goods/services from suppliers within local communities where the goods/services are required.
- 1.27 Regional or Local Community Procurement mechanisms include:
- 1.27.1 Defined Target Areas: Bid Specifications should define the geographic criteria to be used as the restricting mechanism (business location, business owners residential local, business staff residential location). The specification should also consider a broader area outside of the immediate locality to participate in the process.
- 1.27.2 Enhanced Evaluation Criteria and Mechanisms: Bid Specifications should define the mechanisms to be used to evaluate these criteria (company registration details, rates statements).
- 1.27.3 Expanded Tender and Evaluation Periods: The enhanced evaluation criteria and mechanisms combined with the targeting of local bidders could necessitate expanded timeframes for bid evaluation and bid submission.

D.6 Unsolicited Bids

- 1.28 Unsolicited Bids is a reason for procurement by “other means”.
- 1.29 Unsolicited Bids are those Bids a Supplier submits to Transnet without Transnet having requested such a Bid.
- 1.30 Transnet does not encourage the consideration of Unsolicited Bids.
- 1.31 Transnet is not obliged to consider an Unsolicited Bid but may consider such a proposal only if it meets the following requirements:
- 1.31.1 A comprehensive and relevant project feasibility study has established a clear business case; and
- 1.31.2 The product or service involves an innovative design; or
- 1.31.3 The product or service involves an innovative approach to project development and management; or
- 1.31.4 The product or service presents a new and cost-effective method of service delivery.
- 1.32 The Unsolicited Bid must contain the following information in terms of the proponent:
- 1.32.1 The proponent’s name, address, identification or registration number (if a corporation), VAT registration number and the contact details of its authorised representative;
- 1.32.2 Identification of any confidential or proprietary data not to be made public;
- 1.32.3 The names of other South African institutions that have received a similar unsolicited proposal;

- 1.32.4 The proponent's current SARS Tax Clearance Certificate and in the case where the proponent is a consortium or joint venture, a current SARS Tax Clearance Certificate for each member thereof;
 - 1.32.5 A declaration of interest containing the particulars set out in Standard Bid Document (SBD) 4, issued by the National Treasury,
 - 1.32.6 A declaration of the proponents past supply chain practices containing the particulars set out in SBD 8, issued by the National Treasury; and
 - 1.32.7 A declaration from the proponent to the effect that the offering of the Unsolicited Bid was not as a result of any non-public information obtained from officials of the relevant institution or any other institution.
- 1.33 The Unsolicited Bid must set out the following information in terms of the product or service offered:
- 1.33.1 A concise title and abstract (approximately 200 words) of the proposed product or service;
 - 1.33.2 A statement of the objectives, approach and scope of the proposed product or service;
 - 1.33.3 A statement describing how the proposal is demonstrably innovative and supported by evidence that the proponent is the sole provider of the innovation;
 - 1.33.4 A statement of the anticipated benefits or cost advantages to Transnet including the proposed price or total estimated cost for providing the product or service in sufficient detail to allow a meaningful evaluation by Transnet;
 - 1.33.5 A statement showing how the proposed project supports Transnet's strategic growth and development plan and its other objectives; and
 - 1.33.6 The period of time for which the proposal is valid for consideration, which may not be less than six months.
- 1.34 Transnet must reject the Unsolicited Bid if the proposal:
- 1.34.1 Relates to known institutional requirements that can, within reasonable and practicable limits, be acquired by conventional competitive bidding methods;
 - 1.34.2 Relates to products or services which are generally available;
 - 1.34.3 Does not fall within the Transnet's powers and functions;
 - 1.34.4 Does not comply substantially with section 44.5;
 - 1.34.5 Has not been submitted by a duly authorised representative of the proponent;
or
 - 1.34.6 Contravenes the provisions of any law.
- 1.35 If the Transnet decides to reject the Unsolicited Bid, it must:
- 1.35.1 Notify the authorised representative of the proponent by registered post, at the address referred to in 1.36.1 that Transnet has rejected the Unsolicited Bid;

- 1.35.2 Ensure that Transnet does not make use of any of the intellectual property or proprietary data in the Unsolicited Bid; and
- 1.35.3 Return to the proponent by registered mail to the address referred to in paragraph 44.5.1, all documents received in the Unsolicited Bid including any copies of these documents.
- 1.36 If Transnet decides to consider the Unsolicited Bid, it must send a registered letter to the address referred to in paragraph 44.5.1 confirming the decision to consider the Unsolicited Bid.
- 1.37 The Unsolicited Bid must be considered as appropriate in terms of the following
- 1.37.1 If a submission of the product or service is unique, innovative and provided by a sole provider, the institution may enter into direct negotiation with the proponent, outside the normal competitive bidding process.
- 1.37.2 If the Unsolicited Bid is a PPP Transnet must comply with the requirements of Treasury Regulation 16 and the Practice notes relevant thereto, as read with paragraph 45.5.4.
- 1.38 Based on the value and duration of proposed in the Unsolicited Bid, an SCM Representative should address the Unsolicited Bid as per the requirement of [Section: Strategic Sourcing](#).
- 1.38.1 The Unsolicited Bid must be considered by a BEC constituted of technical subject matter experts. The minutes of the evaluation meeting must be recorded.
- 1.38.2 The evaluation committee should investigate and verify whether there are no other suppliers in the market.
- 1.38.3 If the BEC has resolved to procure the goods and services, depending on the contract value, the deviation from competitive bidding process must be followed and thereafter a recommendation made to the delegated authority to approve the award.
- 1.38.4 All copies of the Unsolicited Bid, records of discussions, records of deliberations and copies of correspondence relating to it, will be kept by the SCM Representative who led the process for record purposes.
- 1.39 The following information must be contained in the recommendation:
- 1.39.1 A detailed description of the goods or services;
- 1.39.2 A detailed description of benefits Transnet is to derive from the envisaged acquisition;
- 1.39.3 The costs associated with the acquisition of the service or product;
- 1.39.4 The validity period of the Unsolicited Bid;
- 1.39.5 Proof of certification that the Bid was submitted by the person who holds the intellectual property rights in the goods or service; and
- 1.39.6 Certification by the evaluation team that there are no other suppliers who can provide the goods or services.

D.7 Organ of State Co-operation

- 1.40 Organ of State Co-operation is a reason for procurement by “other means”.
- 1.41 An organ of state means:
- 1.41.1 A department as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - 1.41.2 A municipality as defined in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
 - 1.41.3 Parliament;
 - 1.41.4 A provincial legislature;
 - 1.41.5 A constitutional institution as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - 1.41.6 Any other institution or category of institutions which the Minister of Finance may determine;
- 1.42 Another entity or Organ of State may request to participate in any of Transnet’s supply chain related agreements.
- 1.43 The CPO/ BAC (depending on the value where the contract was awarded) or their duly delegated representative, must use their reasonable discretion to approve or reject the request after considering whether:
- 1.43.1 The Organ of State has requisite approval from their Accounting Authority.
 - 1.43.2 The nature of the goods or services requested are materially similar to the existing Transnet contract;
 - 1.43.3 The risks of the Transnet contract being irregular;
 - 1.43.4 the extent to which the contract will be varied,
 - 1.43.5 reasons why the requesting organ of state is not able to use other mechanisms (eg single source) to award directly to that supplier or service provider
 - 1.43.6 It would benefit Transnet; and
 - 1.43.7 Any other relevant consideration.
- 1.44 The approving authority must consult SCM governance and/or Legal for the assessment of the request and written opinion be provided.
- 1.45 Where approval to participate in any Transnet agreement is granted, the Strategic Sourcing Manager must allocate a Strategic Sourcing Specialist to draft a Framework Agreement which outlines the process for requisitions and any other procedures necessary to implement the participation in the agreement.
- 1.46 As an outcome of a sourcing strategy, it may be deemed appropriate to participate in another state-owned entity’s or Organ of State’s supply chain related Agreement where the existing agreement was obtained in line with the legal framework for procurement by Schedule 2 State Owned Entities and where no National Treasury Transversal Contract for such goods or services exists.


- 1.47 The delegated authority to approve approach to market on procurement by other means, must use their reasonable discretion to approve or reject the request after considering whether:
- 1.48 The nature of the goods or services provided to another organ of state are materially similar to the ones that Transnet is procuring/requiring.
- 1.49 The risks of the contract to participate in being irregular;
- 1.50 The delegated authority must approve the sourcing strategy.
- 1.51 The SCM Representative, after consulting the CPO and obtaining approval from the relevant delegated authority, must allocate a Strategic Sourcing Specialist to request participation from such entity and provide all necessary documentation and Framework Agreements.

D.8 Research and Development (R & D)

- 1.52 Transnet Engineering conducts research and development projects and initiatives from time to time. These research and development projects and / or initiatives are aimed at exploring sustainable solutions which will promote and enhance the long-term capabilities of the manufacturing and production spheres and increase Transnet's competitiveness and agility in meeting all relevant customer demands (external and internal customers).
- 1.53 Some of the specialised research and development initiatives which Transnet Engineering conducts are researching alternative energy solutions for the mini port haulers and exploring utilisation of hydrogen instead of Diesel.
- 1.54 Depending on the circumstances of each Transaction, Transnet may select any of procurement mechanisms that will be appropriate for that particular transaction including the open tender process where it is applicable.

**Approved by the Central Bid Adjudication Committee (CBAC) on 16 September 2024.
Effective 1 October 2024.**

Signed by the Group Chief Procurement Officer



Mr Vuledzani Nemukula (GCPO)

Date: 15 October 2024

Appendix E: Applying the CIDB register of contractors in engineering and construction contracts.

Introduction

- A.1.1** The manner in which the CIDB register of contractors is to be applied is established in the:

- a) Construction Industry Development Regulations which are issued in terms of the Construction Industry Development Board Act of 2000 (Act 38 of 2000); and
- b) CIDB Standard for Uniformity in Construction Procurement.

A.1.2 The detailed procedures set out A.2 and A.3 are consistent with the procedures established in A.1.1.

NOTE: A contractor’s grading comprises three characters which reflect a registered contractor’s capability to perform a contract of a given tender value range (first character) (see Table A1) in a class of construction works (second and last character) (see Table A2) as illustrated in Figure A1.

Each contractor registered on the register of contractors must apply for and is assigned at least one contractor grading designation.

Figure A1: Describing contractor grading designations.

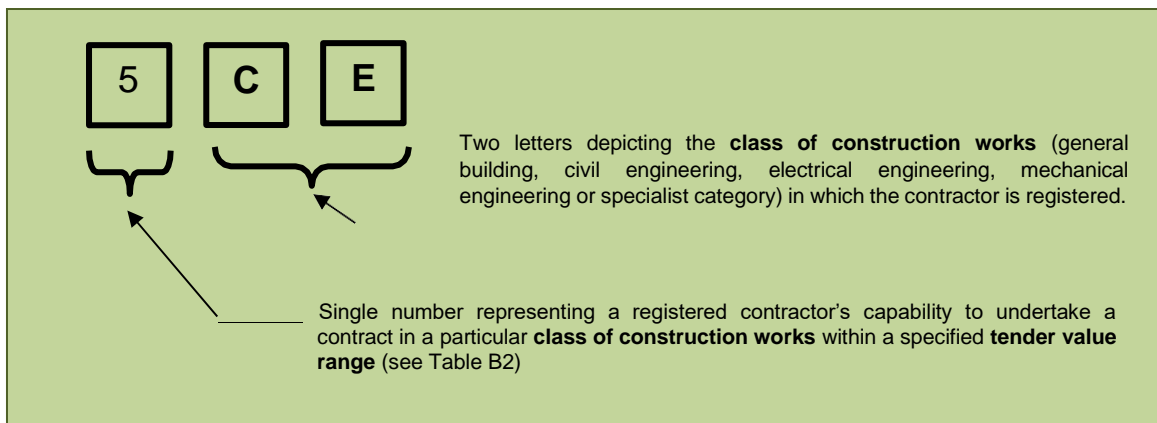


Table A2: Classes of Construction Works

Description	Designation	Definition
Civil engineering works	CE	Construction works that are primarily concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration, or dismantling of building and engineering infrastructure
Electrical engineering works	EP (Infrastructure)	Construction works that are primarily concerned with development, extension, installation, removal, renovation, alteration or dismantling of engineering infrastructure: a) relating to the generation, transmission and distribution of electricity; or b) which cannot be classified as EB.
	EP (Buildings)	Construction works that are primarily concerned with the installation, extension, modification or repair of electrical installations in or on any premises used for the transmission of electricity from a point of control to a point of consumption, including any article forming part of such an installation
General building works	GB	Construction works that: a) are primarily concerned with the development, extension, installation, renewal, renovation, alteration, or dismantling of a permanent shelter for its occupants or contents; or b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works.
Mechanical engineering works	ME	Construction works that are primarily concerned with the development, extension, installation, removal, alteration, renewal of engineering infrastructure for gas transmission and distribution, solid waste disposal, heating, ventilation and cooling, chemical works, metallurgical works, manufacturing, food processing and, materials handling
Specialist works. (A subset of construction works identified and defined by the Board that involves specialist capabilities for its execution)	SB	The extension, installation, repair, maintenance or renewal, or removal, of asphalt
	SC	The development, extension, installation, removal, and dismantling, as relevant, associated with building excavations, shaft sinking and lateral earth support
	SD	The development, extension, installation, repair, renewal, removal, or alteration of corrosion protection systems (cathodic, anodic and electrolytic)
	SE	Demolition of buildings and engineering infrastructure and blasting

	SF	The development, extension, installation, renewal, removal, renovation, alteration or dismantling of fire prevention and protection infrastructure (drencher and sprinkler systems and fire installation)
	SG	The development, extension, installation, renewal, removal, renovation, alteration or dismantling of glazing, curtain walls and shop fronts
	SH	The development, extension, installation, maintenance, renewal, removal, alteration or dismantling, as relevant, of landscaping, irrigation and horticultural works
	SI	The development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration or, dismantling of lifts, escalators, travellers and hoisting machinery
	SJ	The development, installation, removal, or dismantling, as relevant, of piles and other specialized foundations for buildings and structures
	SK	The installation, renewal, removal, alteration or dismantling, as relevant, road markings and signage
Specialist works (A subset of construction works identified and defined by the Board that involves specialist capabilities for its execution)	SL	The development, extension, installation, renewal, removal, renovation, alteration or dismantling of structural steelwork and scaffolding
	SM	Timber buildings and structures
	SN	The extension, installation, repair, maintenance, renewal, removal, renovation or alteration, as relevant, of the waterproofing of basements, roofs and walls using specialist systems.
	SO	The development, extension, installation, renewal, removal, alteration or dismantling or demolition of water installations and soil and wastewater drainage associated with buildings (wet services, plumbing)
	SQ	The development, extension, installation, repair, removal, alteration, dismantling or demolition of precast concrete or steel fencing

The procedure in relation to the invitation of tenders is as follows:

Step 1: Identify preferably one, but not more than two class(es) of construction works that best describe the works to be performed.

Step 2: Estimate the tender value including value added tax and identify the tender value range designation within which this value falls. Where the estimated value is not more than 20 percent above the lower limit of a tender value range, base the contractor grading designation on the tender value range immediately below the tender value range within which the estimate falls.

NOTE: Invitations to tenderers should indicate as accurately as possible the registration requirements and not be misleading; hence the requirement in the regulations to base the estimate on the lower designation in borderline circumstances.

In certain cases, where the contract for construction works takes place over several years (term contract), the contractor grading designation may be based on the annual estimated value of the contract. This approach may be applied where such work is:

- on an “as and when required” basis e.g., pipelines;
- of a routine nature e.g., road maintenance; or
- grouped into identifiable and similar components where commencement of the next component is dependent on the completion of the previous one e.g., the building of a limited number of classroom blocks where a block is substantially complete before embarking on the construction of a subsequent block.

NOTE: Regulation 25(1B) states:

Where a contract involves construction works over an agreed number of years –

- a) on an “as and when required” basis;*
- b) of a routine nature; or*
- c) grouped into identifiable and similar components where an instruction to proceed to the construction of the next component is conditional on the successful completion of the previous component, the value of that contract may for the purpose of sub regulation (1), be taken at its annual value. Employers should assess the risk and complexity of the works before opting for the term contract approach.*

Step 3: Determine the approximate contractor grading designation and, where applicable, the alternative designation, based on the class(es) of construction works selected in step 1 and the tender value range identified in step 2. Where the employer has a targeted development programme in place that provides the necessary support to enable the contractor to successfully execute the contract, contractors who are registered as potentially emerging contractors in one designation lower than required, may also be permitted to submit tender offers.

Step 4: State the requirements for contractor grading designation in the Tender Data in the form of eligibility criteria in using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 5: Notify tenderers of the approximate contractor grading designation requirements in the Tender Notice and Invitation to Tender using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 6: Advertise tenders using the CIDB i-Tender service on the CIDB website and National Treasury Website. (where applicable)

Step 7: Look up each tenderer’s contractor grading designation on the CIDB register (www.cidb.org.za) and evaluate only those tenderers who have not tendered an amount which exceeds the tender value range associated with their respective contractor grading designations, except where the margin by which the tendered sum exceeds this value is reasonable or are capable of being registered in the required contractor grading designation

Step 8: Declare as non-responsive all tenders received from:

- a) **registered contractors** who tender above their designated tender value range, except where the margin by which the tender value range is exceeded is reasonable; or
- b) **unregistered contractors** who are not considered as being capable of being registered in the required contractor grading designation prior to the evaluation of tenders.

NOTE: Regulation 25(1A) introduces a relaxation in criteria by introducing the term “capable of being registered” when deciding if a tender offer or expression of interest may be evaluated. This regulation intends only to allow a relaxation if a contractor is not yet registered but complies with all the legal requirements to be registered in the category required by the tender invitation. Simply put, an employer may evaluate a tender received from an unregistered tenderer, only if such a tenderer satisfies all the requirements for registration.

Evaluation commences with the reduction of tender offers to a comparative basis to perform comparisons (see F.3.11.1 of the CIDB Standard Conditions of Tender). This means that one first has to determine whether all contractors who submitted tender offers are registered or are capable of being registered in the required category, before evaluation commences.

The liability to prove whether or not the contractor is capable to be so registered lies with the contractor and the employer and not with the CIDB. If the contractor concerned has submitted a full copy of his/her application for registration to the employer, the employer will be able to evaluate whether or not the contractor has met the requirements for registration in the required category.

Step 9: Decide in the case of a tenderer who tenders above his tender value range if:

- a) the amount by which the tendered sum exceeds the tender value range is reasonable;
- b) the award of a contract to such a contractor does not impose any undue risk.

NOTE Regulation 25(7A) states:

An organ of state may subject to its procurement policy and notwithstanding anything to the contrary contained in this regulation, evaluate and award a tender offer from a tenderer who is registered but who tendered outside of his or her tender value range as contemplated in regulation 17, provided that –

- a) *the margin with which the tenderer exceeded his or her tender value range contemplated in regulation 17, is reasonable;*
- b) *the award of the contract does not pose undue risk to the organ of state;*
- c) *the tender offer in all other aspects comply with these Regulations; and*
- d) *the report referred to in regulation 21 or 38(5) and (6), indicates whether this sub regulation was applied in the award of the tender.*

This regulation is designed to provide clients with a degree of latitude to evaluate competitive tenders which are in relatively close proximity to the lower limit of a tender value range without compromising the risk management principles on which the register is based. The regulation permits tenders to be awarded to a contractor outside of his tender value range on condition that:

- i. the amount by which the tendered sum exceeds the tender value range is reasonable;
- ii. the award of a contract to such a contractor does not impose any undue risk.

In the context of the Construction Industry Development Regulations “reasonable” means that the employer’s assessment of the capabilities and capacity of the tenderer to perform a specific contract above

the tender value range of his or her contractor grading designation is fully justifiable and acceptable to someone who was not part of the evaluation process. It would be unreasonable to award a contract to a registered contractor which is significantly higher than the maximum tender value range associated with their current contractor grading designation.

In order to provide some broad guidance in the case of tenders close to a threshold, the CIDB suggested that tendering an amount of up to 10 or 15 percent above the upper limit of the tender value range associated with a particular contractor grading designation would in most circumstances be considered "reasonable". On the other hand, tendering an amount of 20% or more above the upper limit is likely to be considered unreasonable.

Step 10: Confirm that the tenderer has specific capabilities, if relevant, and the necessary capacity to perform the works.

Step 11: Confirm that the tenderer is on the register and is in possession of the required contractor grading designation immediately prior to the award of the contract.

Step 12: Register contract award within 21 working days of acceptance of offer, indicating whether or not Regulation 25(7A) relating to the awarding of a contract outside of a contractors' contractor grading designation was applied in the award of the contract.

NOTE: Transnet is required in terms of the Construction Industry Development Regulations to register the award of the contract where the value exceeds R10,0 million.

A2 Calls for expressions of interest.

The procedure in relation to calls for expressions of interest is as follows:

Step 1: Identify preferably one, but not more than two class(es) of construction works that best describe the works to be performed.

Step 2: Estimate the tender value including value added tax.

The contractor grading designations for construction works taking place over an agreed number of years may be based on the annual value where such work is:

- on an "as and when required" basis e.g., pipelines;
- of a routine nature e.g., road maintenance; or
- grouped into identifiable and similar components where commencement of the next component is dependent on the completion of the previous one e.g., the building of a limited number of classroom blocks where a block is substantially complete before embarking on the construction of a subsequent block.

Step 3: Determine the contractor grading designation and, where applicable, the alternative designation, based on the class(es) of construction works selected in step 1 and the tender value range identified in step 2. Where the employer has a targeted development programme in place that provides the necessary support to enable the contractor to successfully execute the contract, expand the requirements to those contractors who are registered as potentially emerging contractors in one designation lower than required.

Step 4: State the requirements for contractor grading designation in the Submission Data in the form of eligibility criteria in using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 5: Notify respondents of the contractor grading designation requirements in the Notice and Invitation to Submit an Expression of Interest using the wording prescribed in the Standard for Uniformity in Construction Procurement.

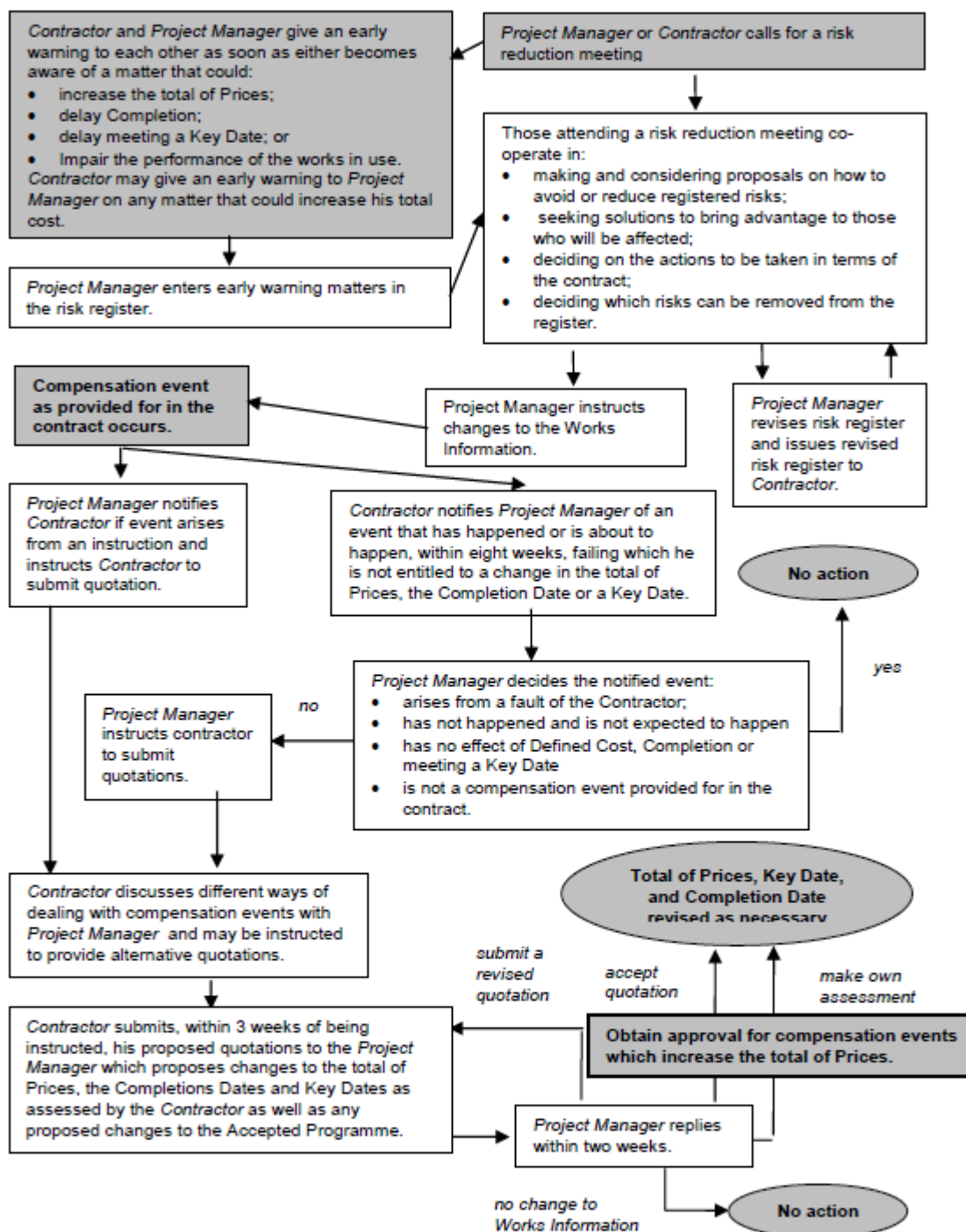
Step 6: Declare as non-responsive all submissions received from registered contractors who do not possess the required contractor grading designation and unregistered contractors who are not capable, within 21 days of the closing date of submissions of interest, of being registered in the required contractor grading designation.

When tenders are subsequently invited, steps 6 to 10 in A.1 will apply.

Appendix F: Risk and change management processes contained in the NEC3 ECC

<p><i>Project Manager</i> replies within two weeks.</p>

Figure B 1 - Risk and change management processes contained in the NEC3 ECC



NOTE: The NEC ECC contract makes an event notified to the Project Manager a compensation event if the Project Manager fails to make a decision. Likewise, a quotation is accepted should the Project Manager fail to make a decision on a quotation within the time period stated in the contract.

Any dispute arising from the abovementioned process is submitted to and settled by an adjudicator. Disputes may be submitted to an adjudicator not more than **eight weeks** after the party becomes aware of the action that triggers a dispute. The adjudicator provides his decision within **eight weeks** of receiving the first submission.

Appendix G: Selection of a suitable form of NEC contract

The NEC3 is a suite of standard contracts, each with its own characteristics:

- Its use, stimulates good management of the relationship between the two parties to the contract and hence, of the work included in the contract;
- It can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location;
- It is a clear and simple document - using language and a structure which are straightforward and easily understood; and
- Clear and fair allocation of risk.

Engineering and Construction Contract (ECC)

The Engineering and Construction Contract (**ECC**) is the main construction contract within the NEC3, from which the options A and B are extracted.

Suitable for any construction-based contract between an Employer and a Contractor. It is intended to be suitable for any sector of the industry. Within the ECC contract there are two family level options of which Transnet will choose what is deemed to be the most suitable and the best option/value for money on the project:

- Option A: Priced contract with activity schedule
- Option B: Priced contract with bill of quantities

Professional Services Contract (PSC)

The Professional Services Contract (**PSC**) is intended for use in the appointment of a professional service provider to provide professional services. It can be used for appointing Project Managers, Supervisors, Designers, or others under NEC3 contracts and can also be used for appointing suppliers on non-NEC construction projects or for non-construction projects. This document contains the core clauses, the relevant main option clauses, the secondary option clauses and the contract data.

Term Services Contract (TSC)

The Term Service Contract (**TSC**) is intended to be used for the appointment of a supplier for a period of time to manage and provide a service.

Supply Contract (SC)

This contract is used for local and international procurement of high-value goods and related services including design.

GUIDELINE A

DETAILED PROCUREMENT ACTIVITIES ACTIVITIES AND GATES ASSOCIATED WITH THE FORMATIONS AND CONCLUSION OF CONTRACTS

	Gate
	Gate complete

No.	Activity	Sub-Activity ID	Sub-Activity description	Responsible
1		1.1 (PG1)	Establish and clarify what needs to be procured.	Relevant End-User
		1.2 (PG1)	Prepare broad scope of work for procurement	Relevant End-User

No.	Activity	Sub-Activity ID	Sub-Activity description	Responsible
	Establish what is to be procured	1.3 (PG1)	Ascertain a title for the procurement event for the purposes of project identification.	Relevant End-User
		1.4 (PG1)	Estimate financial value of proposed procurement event and contract for budgetary purposes, based on the broad scope of work.	Relevant End-User
		1.5 (PG1)	Confirm the budget.	Relevant End-User
		1.6	Grant permission to proceed with the procurement process	Relevant CPO/BAC as per DoA Framework
2	Decide on procurement strategy	2.1 (PG2)	Decide on procurement strategies	BSC
		2.2 (PG2)	Establish opportunities for promoting preferential procurement in line with legislative provisions and the Construction Sector Code	BSC
		2.3 (PG2)	Establish contracting and pricing strategy comprising of an appropriate allocation of responsibilities and risks and the methodology by which contractors are to be paid.	BSC
		2.4 (PG2)	Establish procurement procedure, including whether to approach a confined market or the use of the negotiation procedure	BSC
		2.5	Obtain approval for procurement strategies that are to be adopted	Relevant CPO/BAC as per DoA Framework
3	Prepare procurement documents	3.1 (PG3)	Prepare procurement documents that are compatible with the approved procurement strategies	BSC
		3.2 (PG3)	Obtain approval for procurement documents	BSC
		3.3 (PG4)	Confirm that cash flow is sufficient to meet projected contractual obligations ¹	BSC
		3.4 (PG4)	Establish control measures for payment of contractors within the time provided for in the contract	Contract Manager
		3.5	Ensure that cash flow is sufficient for the procurement to take place and grant approval to approach the market	Relevant CPO/BAC as per DoA Framework
4	Solicit tender offers	4.1 (PG5)	Invite tender offers	BSC
		4.2 (PG5)	Receive tender offers	BSC with assistance from SCM administration
		4.3 (PG5)	Record tender offers	BSC with assistance from SCM administration
		4.4 (PG5)	Safeguard tender offers	BSC with assistance from SCM administration
		4.5 (PG5)	Prepare a report on tender offers received	BSC
		4.6	Confirm that all tenders received are duly accounted for	BSC
5	Evaluate tender offers in terms of undertakings and parameters established in	5.1 (PG6)	Open and record tender offers received	BEC with assistance from SCM administration
		5.2 (PG6)	Determine whether or not tender offers are complete	Relevant BEC members
		5.3 (PG6)	Determine whether or not tender offers are responsive.	Relevant BEC members
		5.4 (PG6)	Evaluate tender submissions.	All BEC members
		5.5 (PG6)	Perform a risk analysis.	All BEC members

No.	Activity	Sub-Activity ID	Sub-Activity description	Responsible
	procurement documents	5.6 (PG6)	Prepare a tender-evaluation report.	All BEC members
		5.7	Ratify recommendations contained in the tender evaluation report	Relevant CPO/BAC as per DoA Framework
6	Award contract	6.1 (PG7)	Notify successful tenderer and unsuccessful tenderers of outcome.	Individual delegated in terms of DoA Framework
		6.2 (PG7)	Compile contract document	BEC and Contracts Manager/Administrator
		6.3	Conduct post-tender negotiations (if needed)	Relevant BEC members
		6.4	Confirm that the tenderer has provided evidence of complying with all requirements stated in the tender data and that approval for contract award is granted. (CIBB SFU Appendix E)	Relevant CPO/BAC as per DoA Framework
		6.5 (PG7)	Formally accept tender offer.	Individual delegated in terms of DoA Framework
		6.6	Transnet and Contractor sign contract	Individual delegated in terms of DoA Framework
7	Administer the contract and confirm compliance with all contractual requirements.	7.1 (PG8)	Capture contract award data	Contract Manager/Administrator
		7.2 (PG8)	Administer contract in accordance with the terms and provisions of the contract	Contract Manager
		7.3 (PG8)	Ensure compliance with contractual requirements.	Relevant End User or appointed Project Manager and Contract Manager/Administrator
		7.4	Capture contract completion / termination data	Contract Manager/Administrator

GUIDELINE B

CONTENT OF AN EVALUATION REPORT RELATING TO THE SOLICITATION OF TENDER OFFERS

No	Section heading	Subsection heading	Guidelines for the preparation of content
1	Summary	None	<p>Provide an overview of the parameters associated with the solicitation of the tender, preferably in tabular form, including the following as relevant:</p> <ul style="list-style-type: none"> - Contract / Project / Tender number - Contract description - Contract duration - Purpose of tender - Contracting strategy, pricing strategy, form of contract and targeting strategy - Procurement procedure and method of tender evaluation - Tender validity expiry date - Alternative tenders (not permitted or state conditions under which permitted) - Media in which advertisement was placed, if not a nominated or qualified competitive selection procedure or a restricted competitive negotiations procedure - Date of advertisement(s) - Date from which documents were available - Details of clarification meeting, including date and place, if any - Tender closing date - Number and title of addenda issued - Number of tenders received - Number of responsive tenders - Recommended tender(s) - Cost estimate (budget), unless a framework contract

No	Section heading	Subsection heading	Guidelines for the preparation of content
			- Lowest responsive and realistic tender used for comparative purposes (tender price, specific goals, etc.)
2	An overview of the tender evaluation process	None	-Provide an overview of the procurement process, indicating the eligibility criteria that were applied and the evaluation criteria. State specific goals and points relating to preferences, as well as any quality evaluation criteria, prompts for judgement and weightings relating thereto. -Reproduce the list of returnable documents. -Record that those involved in the evaluation of tenders have no conflicts of interest or have declared any conflict of interest that they may have, and the nature of such conflict.
3	Tender evaluation process	3.1	Tender offers received -List the tender offers that were received. -Describe any noteworthy events regarding the opening of submissions, e.g., the returning of late tenders and the declaring of submissions non-responsive on the grounds that they were not received in the prescribed manner.
		3.2	Completeness of tenders received -Compare tender submissions received against list of returnable documents. State if any tender submissions received were incomplete and indicate what was not complete. Indicate what steps were taken to make incomplete tenders complete, only where this does not affect the competitive position of the tenderer in question. List all communications with tenderers. -Confirm if tenderers took into account addenda, if any, in their tender submission.
		3.3	Responsiveness of tenderers Identify which of the tenders received were non-responsive and provide clear reasons for declaring such tenders to be nonresponsive.
		3.4	Evaluation of tender offers Record the manner in which tenderers were reduced to a common basis: Record preferably in a tabular form: - the scores for each of the evaluation criteria; - the total score (excluding those who failed to score above a threshold); - the pricing parameters that were tendered to enable compensation events to be evaluated of contractors to be paid in cost reimbursable or target cost contract. Provide reasons for not granting a preference or considering a financial offer to be unrealistically low.
		3.5	Reasons for disqualification on the grounds of corrupt or fraudulent practice State reasons if applicable.
		3.6	Compliance with legal requirements Confirm as relevant that tenderers are not barred from participation, tax matters are in order, are registered, etc.
		3.7	Acceptability of preferred tenderer State any reasons why the tenderer with the highest points should not be considered for the award of the tender, e.g., commercial risk, restrictions, lack of capability and capacity, legal impediments, etc. Also state any arithmetical corrections that have been made
4	Outcome of the evaluation	None	Make a recommendation for the award of the tender and state any qualifications / conditions associated with such an award. Record the names and qualifications of those who performed the evaluation.
5	Confirmation of recommendations	None	Make provision for the recommendations for the award of the tender to be confirmed or amended.