




Transnet Group

Supply Chain Management Policy

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| Policy Owner | <i>Group Chief Procurement Officer</i> |
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Transnet Group: Supply Chain Management

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Recommended by Policy Owner and Policy Sponsor:

I hereby acknowledge that a search has been conducted and that the Policy is not duplicated or in conflict with any other Transnet Policies.

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Transnet Group: Supply Chain Management

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Final Approval

Approved

Transnet Board of Directors

11 December 2023

Date Approved

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1 BACKGROUND

1.1 This document establishes the Transnet SOC Limited's (hereinafter "Transnet") policy for Supply Chain Management (hereinafter "SCM").

2 PURPOSE

2.1 The policy aims to ensure that SCM activities of Transnet meet the following key objectives:

- 2.1.1 To give effect to Section 217 of the Constitution of the Republic of South Africa by implementing a SCM system that gives due consideration to the principles of just administrative action, fairness, equity, transparency, competitiveness and cost-effectiveness;
- 2.1.2 To put in place an appropriate procurement and provisioning system for Transnet, in line Section 51(1)(a)(iii) of the PFMA, that distinguishes between procurement of goods and services for the normal administration of Transnet businesses versus procurement of goods and services that is directed towards the delivery of goods and services to Transnet customers for either commercial purposes and / or in pursuit of revenue generation.
- 2.1.3 To promote transformation, empowerment and economic development in South Africa;
- 2.1.4 To define value for money in the context of Transnet;
- 2.1.5 To ensure business continuity and support operational efficiency and reliability improvements;
- 2.1.6 To implement Procurement processes, systems and practices that:
 - 2.1.6.1 Are clear and easy to follow; and
 - 2.1.6.2 Enable inter-divisional integration where necessary but allow sufficient flexibility to accommodate the unique requirements of Transnet's various Operating Divisions;
- 2.1.7 To abide by all Transnet policies relating to SCM Activities, including, but not limited to, the Code of Ethics, Anti-Fraud and Anti-Corruption Policy, the Whistleblowing Policy, and the DPIP, FPPO and Related Individuals Policy, and National Treasury norms and standards;
- 2.1.8 To prevent SCM related fraud, corruption and/or other economic crimes at Transnet;

2.1.9 To prevent any irregular or fruitless and wasteful expenditure in the Procurement process; and

2.1.10 To reduce audit findings relating to the SCM process and system.

3 SCOPE

3.1 This policy document sets out the minimum standards that shall be adhered to by those involved in Transnet SCM Activities and is specifically binding on all Employees, including, but not limited to, temporary staff, contractors, sub-contractors, service providers, supplier development partners, enterprise development partners, business partners in local and foreign countries, Agents and any entity and/or consultants doing business with Transnet. This shall also include entities in which Transnet has fifty (50) plus one (1) percent (%) or more shareholding and their Employees, including, but not limited to, temporary staff, contractors, service providers, business partners in local and foreign countries, Agents and any entity and/or consultants doing business with such an entity.

3.2 Transnet SCM Activities specifically include the procurement of goods, services and infrastructure for Transnet and related activities as defined in clause 1.2.41 of the definitions.

3.3 This Policy is the overarching SCM framework and shall be read together with applicable legislation, National Treasury instructions issued in terms of section 76 of the PFMA, relevant sections of the Delegation of Authority Framework, the Transnet Preferential Procurement Policy (TPPP), the Goods and Services Procurement Manual and Construction Procurement Manual that include detailed procedures for all Transnet Procurement activities as well as the various operating division's Standard Operating Procedures (SOPs) for procurement related to business administration, revenue generation or commercial transactions. Where any conflict between the SCM Policy and the Goods and Services Procurement Manual or Construction Procurement Manual or SOPs exist, the policy shall prevail.

4 POLICY STATEMENT

4.1. General SCM Principles

4.1.1 Transnet SCM Activities shall comply to all applicable legislation listed in clause 19.2 as well as the National Treasury instructions issued in terms of section 76 of the PFMA unless a departure or deviation from the legislation is granted to Transnet.

4.1.2 Transnet SCM Activities shall comply with a system that is fair, equitable, transparent, competitive, and cost-effective.

4.1.3 Transnet SCM Activities shall strive to attain the best Value for Money;

- 4.1.4 Transnet will not conduct business with its Employees, temporary staff or contracted staff. Transnet will not award any business to current Transnet Employees or board members.
- 4.1.5 Transnet will not conduct business with previous Employees, within the first twelve (12) months of termination of their service. Transnet may investigate special circumstances where the need to conduct business with previous employees will not result in unfairness in a procurement process.
- 4.1.6 Transnet 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 –
 - 4.1.7 abused the Transnet's supply chain management system;
 - 4.1.7.1 committed fraud or any other improper conduct in relation to such system; or
 - 4.1.7.2 failed to perform on any previous contract.
 - 4.1.7.3 Transnet will not conduct business with any persons restricted/prohibited from doing business with the State.
- 4.2 Transnet has adopted zero tolerance to any acts of Fraud, Corruption, Economic Crimes, improper conduct and abuse of the SCM system. Employees need to be aware of all types of Procurement Fraud to enable effective prevention, detection and deterrence. Procurement Fraud includes, but is not limited to, falsifying documentation, Fronting, Bid-rigging, bid suppression, forging quotations, Phantom Bids, irregularly eliminating suppliers from the formal process, kickbacks, Anti-competitive collusion, parcelling and false invoicing.
- 4.3 Transnet shall comply with all JSE Debt Listing Requirements related to Procurement including, but not limited to, the requirements included hereunder. Where any conflict between the requirements detailed in this policy and the latest published version of the JSE Debt Listing Requirements exists, the JSE Debt Listing Requirements shall prevail.
 - 4.3.1 Transnet shall ensure that the current SCM Policy is published on the publicly accessible Transnet website.
 - 4.3.2 Transnet shall maintain a register of all Procurement transactions representing 10% or more of the annual Procurement spend. This register shall 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:

- 4.3.2.1 Parties to the agreement;
- 4.3.2.2 Brief description of the nature of the agreement;
- 4.3.2.3 Date of the agreement and its duration; and
- 4.3.2.4 The total value of the agreement for the agreement duration.
- 4.3.3 Any amendments to the SCM Policy shall be announced immediately and the updated policy published on the Transnet website.
- 4.3.4 Any instances of deviations from the SCM Policy shall be announced immediately on the JSE Stock Exchange News Service together with reasons for the deviation.
- 4.3.5 Transnet shall ensure all Procurement transactions adhere to the current Transnet policies (including the Declaration of Interest and Related Parties Policy, Declaration of Interest and Related Party Disclosures Policy for non-executive directors and the DPIIP, FPPO and Related Individuals Policy) dealing with the disclosure and treatment of:
 - 4.3.5.1 Any related party;
 - 4.3.5.2 DPIIP; and
 - 4.3.5.3 Prescribed Officers.
- 4.3.6 A register of all Procurement related relationships with parties mentioned in clause 4.3.2 shall be maintained. This register shall be made available on the Transnet website when the annual Transnet financial statements are published. If no Procurement related relationships with parties mentioned in clause 4.3.2 have existed during the period in question, a negative statement to this effect shall be made.
- 4.4 Further to the JSE Debt Listing Requirements in clause 4.3, all Procurement related activities shall adhere to the current policies (including the Declaration of Interest and Related Parties Policy, Declaration of Interest and Related Party Disclosures Policy for non-executive directors and the DPIIP and FPPO and Related Individuals Policy) dealing with the disclosure and treatment of:
 - 4.4.1 The Board of Directors;
 - 4.4.2 FPPO's; and
 - 4.4.3 All Employees.

- 4.5 Assignment is deemed unlawful as it is contrary to principles of section 217 of the Constitution particularly, fairness, transparency and competitiveness, as stated by National Treasury.
- 4.6 Cession is deemed lawful, provided that it is limited only to those cession agreements in favour of registered Financial Services Providers (FSP) and state institutions established for the express purpose of providing funding to businesses and entities (State Institution).
- 4.7 Transnet shall create and/or manage an SCM function that is consistently seeking efficiency, whilst maintaining regulatory compliance and adhering to the highest standards of governance.
- 4.8 Transnet shall strive towards continuous improvement and optimisation of the SCM function, in line with global leading practices, technology evolution, and other relevant SCM trends.
- 4.9 From time-to-time Transnet may procure by utilising /opting into National Treasury Transversal Contracts in line with relevant legislation and Procurement Manuals.
- 4.10 From time-to-time Transnet may obtain funding from the Development Bank or other international funding agencies for projects. Such projects must be executed in line with the specific conditions placed by the funding agency, subject to the specific conditions being compliant with South African laws and approval being granted by relevant DoA and the National Treasury.
- 4.11 Transnet shall strive to achieve the best value for money in the design and execution of SCM Activities. This entails implementing price containment measures, revenue generating measures, constantly optimising value, Total Cost of Ownership (TCO) as well as Transformation measures envisaged in paragraph 6.2.1.2 of this policy for our various stakeholders.
- 4.12 In order to give effect to this objective, Transnet will adopt various methods including the design of its evaluation criteria (functionality) in a manner that promotes value for money principles to ensure that bidders who contribute to transformational and supplier developmental goals, reduction of cost of doing business, bringing optimum value, etc are awarded.
- 4.13 Transnet SCM Activities shall support the Group sustainability imperatives, including the focus on carbon emission reduction, community sustainability, circular supply chains and environmental sustainability. This will be done through the development of appropriate category strategies, and execution of contract and supplier management practices.

5 APPROPRIATE PROCUREMENT AND PROVISIONING SYSTEM



- 5.1 Transnet distinguishes between procurement that is meant for the normal administration (day-to-day running) of Transnet businesses and procurement directed towards the operations for the delivery of goods and services to Transnet customers (commercial or revenue generation).
- 5.2 Normal administration procurement activities are those activities that do not have a direct impact in the delivery of the goods and services to Transnet customers. These are commodities procured by Transnet for Transnet's own consumption in order for the business to run on a daily basis. Procurement directed at revenue generation or commercial activities relate to business operations and those activities that have a direct impact in the production of goods for Transnet customers or direct impact on the delivery of services to Transnet customers.
- 5.3 The details of the appropriate approaches and mechanisms for procurement related to normal administration of Transnet day-to-day business will be elaborated on in the Transnet Goods and Services Procurement Manual and the Transnet Construction Manual.
- 5.4 The details of the appropriate approaches and mechanisms for procurement directed at revenue or commercial generation will be explained in the various Operating Division (OD) SOPs due to the unique nature of the different ODs. In the absence of different SOPs the Goods and Services Manual and the Construction Manual shall be used for guidance.
- 5.5 With regards to issues of Transformation objectives for both administrative procurement and revenue generating/commercial procurement, the Transnet Preferential Procurement Policy (TPPP) is the overarching policy. The GCPO may issue further guidelines, in the SOPs or otherwise, on how transformation shall be pursued when conducting procurement activities directed at revenue or commercial generation.
- 6 DEVIATION FROM NORMAL BIDDING PROCESS/PROCUREMENT BY OTHER MEANS
- 6.1 If in a specific case it is impractical to invite competitive bids, Transnet may procure the required goods and/or services by other means, provided that the reasons for deviating from inviting competitive bids are recorded and approved by the relevant DoA.
- 6.2 Transnet may utilise various efficiency mechanisms to conclude the procurement event once approval for deviation has been granted by the relevant DoA to achieve value for money.
- 6.3 Prospective suppliers for this mechanism shall be identified on the CSD (except for international service providers with no registered local entity) and/or any other approved supplier database in the public sector.

6.4 All Procurement by other means shall be completed in line with the requirements detailed in the Procurement Manuals, and below, where applicable:

- 6.4.1 A justifiable need to standardise goods and/or services;
- 6.4.2 The compatibility of the goods and/or services required;
- 6.4.3 Goods and/or services are only available from a limited number of suppliers;
- 6.4.4 Goods and/or services are highly specialised;
- 6.4.5 Goods and/or services are identical to previously procured goods and/or services for continuity;
- 6.4.6 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;
- 6.4.7 Instances where the goods and/or services are required for continuity of a particular service/project;
- 6.4.8 Instances where partnering with or procuring from other organs of state and/or public institutions of higher learning results in either financial or non-financial benefits and/or management of risk;
- 6.4.9 Instances where procuring from suppliers within the local community or the region of the operational divisions results in either financial or non-financial benefits and/or management of risk;
- 6.4.10 Instances where procuring from beneficiaries of Transnet's ESD initiatives advances Transnet's developmental mandate and objective of ensuring the sustainability of these suppliers;
- 6.4.11 Emergency situations arise where serious and unexpected situations occur that pose an immediate risk to health, life, property, environment, business disruption or financial loss which calls for urgent action and there is insufficient time to follow a competitive bidding process;
- 6.4.12 Urgent situations include where the early or timely delivery of goods, services and/or infrastructure is critical. This arises in instances where it is critical to ensure business continuity (to minimise commercial loss or maximise commercial gain); for the safeguarding or protection of Transnet assets and/or to protect Transnet's reputational image; preventing non-compliance to legislative requirements and preventing/avoiding adverse audit findings;

- 6.4.13 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;
 - 6.4.14 Unsolicited bids, including where Transnet receives a submission that is innovative, unique and meets the requirements of a sole or single source; and
 - 6.4.15 Buy-back or Step-in commercial agreements occur where there is an agreement reached with the customer for them to procure on behalf of Transnet and supply Transnet with agreed goods and /or services that would or may otherwise have been required to be procured by Transnet for the delivery of services to the customer. These goods or services are critical to the timely or continued service delivery to the customer and where the customer has available, or is able to source and provide the goods to Transnet in the timelines required. This mechanism may also occur in instances where a group of customers in a particular region or corridor come together and offer assistance to Transnet in the form of goods or services that Transnet needs to resolve a crisis situation that would cause business disruption in that region or corridor.
- 6.5 Procurement by other means shall be completed at the discretion of the relevant DoA, after determining that the circumstances defined in clause 6.4 have been met.
- 6.6 Procurement by other means shall be completed using either one of the following procurement mechanisms or any other appropriate mechanisms that Transnet sees fit to utilise as defined in the Procurement Manuals:
- 6.6.1 Limited bidding process (defined as either one of the following sourcing types: Multiple Source, Sole Source or Single Source bid) is a process where bidding process is reserved for a specific group or category of possible suppliers, which must be supported by a thorough market analysis;
 - 6.6.2 Written price quotation refers to a process where bidding is limited to sending direct requests for quotation to bidders, for transactions above the threshold defined in the Procurement Manuals. A minimum of 3 quotes must be sought and where less than 3 quotes are received, it must be recorded and approved by the relevant DoA.
 - 6.6.3 Participation refers to a process where Transnet utilises contracts secured by other organs of state for the provision of goods and/or services only if:
 - 6.6.3.1 Transnet has assessed and satisfied itself in determining and ensuring that the specific contract was obtained in compliance with the legal

framework for Procurement by state owned entities listed in schedule 2 of the PFMA; and

6.6.3.2 The goods and/or services required are the same as the goods and/or services of the specific contract and no change in scope will be required for continuity; and

6.6.3.3 No National Treasury transversal contracts for such goods and/or services exist;

6.6.3.4 There are demonstrable benefits (financial and/or non-financial) for Transnet; and

6.6.3.5 Approval by the relevant DoA has been granted.

6.6.3.6 Buy-back or Customer Step-in to be used with existing customers where existing contractual relationship exists.

6.7 Transnet shall report all Procurement by "other means" to National Treasury and the AGSA as prescribed by the National Treasury.

6.8 Transnet shall use the preventive and detective controls built/incorporated in the procurement manuals and systems to curb the abuse of procurement by other means.

6.9 Transnet shall further use the combined assurance model to monitor and review procurement by other means transactions to ensure that they are justifiable and duly authorised by DoA.

6.10 Transnet shall record all Procurement by other means in its annual report in a format determined by National Treasury.

7 TRANSFORMATION

7.1 All SCM processes shall aim to achieve a balance between economic development and transformation to ensure a visible and sustainable economic impact in the broader community as required by the applicable government economic development policy.

7.2 Transnet's Procurement spend must be directed at achieving significant social and economic transformation in alignment with Transnet's Transformation Objectives as defined in the Transformation Policy.

7.2.1 Policy statement:

7.2.1.1 Transnet's tender processes will be aligned to economic development policies applicable to SOCs to ensure development of local suppliers.

- 7.2.1.2 Transnet may implement measures such as, but not limited to, local production, directed procurement, sub-contracting as well as enterprise supplier development, amongst others, in its SCM processes to further the objectives of transformation and empowerment, over and above its preferential procurement policy parameters.
- 7.3 Transnet will use long-term contracting, where relevant, in order to promote the participation of its suppliers in the development of a more innovative and inclusive economy.
- 7.4 Transnet may implement preferential Procurement measures in its SCM processes in line with key legislative, governmental policy requirements and Transnet's preferential procurement policy.
 - 7.4.1 Transnet will use an 80/20 or 90/10 preference point system in its SCM processes as required by the applicable legislation and regulations.
 - 7.4.2 Transnet will use the 80/20 preference point system within the thresholds prescribed in applicable regulations.
 - 7.4.2.1 Points out of 80 shall be calculated for price, in line with the formula defined in applicable regulations;
 - 7.4.2.2 Points out of 20 shall be calculated for the following, using the formula defined in the bid documents:
 - 7.4.2.2.1 B-BBEE; and/or
 - 7.4.2.2.2 a bespoke economic-development regime to promote transformation and empowerment.
 - 7.4.3 Transnet will use the 90/10 preference point system within the thresholds prescribed in applicable regulations.
 - 7.4.3.1 Points out of 90 shall be calculated for price, in line with the formula defined in applicable regulations;
 - 7.4.3.2 Points out of 10 shall be calculated for the following, using the formula defined in the bid documents:
 - 7.4.3.2.1 B-BBEE; and/or
 - 7.4.3.2.2 a bespoke economic-development regime to promote transformation and empowerment.

7.4.4 The preference point system to be applied must be stated in the bid documents in line with Procurement Manuals.

7.4.5 The contract must be awarded to the tenderer scoring the highest points unless objective criteria in addition to those contemplated in section 2(1)(d) and (e) of the PPPFA justify the award to another tenderer, in line with section 2(1)(f) of the PPPFA.

7.5 From time-to-time Transnet may elect not to implement preferential procurement policy in line with section 217(2) of the constitution. In those instances, Transnet will apply functional evaluation and price only evaluation of the tenders.

8 COMMITTEE SYSTEM

8.1 Policy statement

8.1.1 Procurement through a bidding process will be subject to the bid committee system, in line with Procurement Manuals and the related committee TORs.

8.2.6.2 Bid committee members must be selected and duly appointed for each committee, including bid specification committee, bid evaluation committee, and bid adjudication committees.

8.2.1 Appointment of bid committee members shall be in writing and members will be required to sign committee Terms of Reference.

9 DISPUTES AND REMEDIES

9.1 Transnet will, at all times, have an established procedure for the management of complaints and allegation of abuse in the SCM system, that provides for:

9.1.1 The submission, investigation and resolution of written complaints or allegation of abuse in the SCM system;

9.1.2 Internal resolution of disputes by persons aggrieved by Procurement activities;

9.1.3 The establishment of a register of all complaints/allegations of abuse in the SCM system in a format prescribed by the National Treasury; and

9.2 Transnet's GCFO must report a complaint or allegation of abuse in the SCM system that implicates the AA and Prescribed Officers, with all the evidence, to National Treasury for investigation as prescribed by the National Treasury.

9.3 The process to be followed for the investigation and reporting of complaints/allegation in the SCM system will be outlined in the Procurement Manuals.

10 ETHICS

10.1 In addition to Transnet Code of Ethics Policy, Anti-Fraud and Anti-Corruption Policy, and the Whistleblowing Policy, all parties to which this policy applies shall, while engaged in Transnet's SCM Activities;

10.1.1 Conduct themselves in line with the ethical and procurement principles outlined in the Procurement Manuals;

10.1.2 Satisfy all requirements established in this policy and the Procurement Manuals.

10.2 All Transnet SCM staff shall be vetted by the State Security Agency in the prescribed manner in line with the 2014 cabinet memo and Critical Infrastructure Protection Act 8 of 2019.

10.3 The GCPO in consultation with Transnet Legal reserves the right to initiate lifestyle audit in line with the Lifestyle Audit Policy.

10.4 Procurement officials may be rotated to similar functions within Procurement every 5 years to mitigate against ethical risks, where required.

10.5 All Employees and Agents shall without delay report any incidences of a respondent, tenderer or supplier who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a Procurement process, procedure, or decision. Incidents are to be reported to the line manager, CPO, GCPO, GCFO, SCM Complaints Officer or Transnet Fraud Hotline, depending on the nature of the incident and in accordance with the Whistleblowing Policy.

10.6 Any disclosures made in lieu of Procurement irregularities will be treated in accordance with the provisions of the Protected Disclosures Act, as detailed in the Whistleblowing Policy.

10.7 All Employees and Agents shall promptly report to their line manager, CPO, GCPO, GCFO, SCM Complaints Officer or Transnet Fraud Hotline, depending on the nature of the incident, any alleged improper conduct which they may become aware of, including any alleged Fraud or Corruption.

10.8 All Employees and Agents shall have access to and comply with the Transnet whistleblowing processes as provided in the Whistleblowing Policy as well as the Anti-Fraud and Anti-Corruption Policy and No Gifts and Hospitality Policy.

11 PERSONAL INFORMATION AND DATA STORAGE

- 11.1 All information gathered for SCM purposes shall follow the approved processes and procedures in terms of the Protection of Personal Information Act No.4 of 2013.
- 11.2 All SCM-related records shall be safely stored in accordance with the Records Management Policy.

12 ROLES AND RESPONSIBILITIES

- 12.1 The GCPO is the owner of this policy and is responsible for the documentation of the policy, timely review and updating of the policy, dissemination and consultation on the policy with relevant stakeholders. The GCPO is also responsible for support and training on the policy across the Group.
- 12.2 The GCE of Transnet is the sponsor of this policy and is responsible for providing support to the policy, reviewing the policy for consistency with related Transnet policies, systems, codes of good practice and conduct and ensuring that the correct approval and documentation processes are being followed.
- 12.3 Chief Executives and Group Executives are accountable for ensuring that this policy is implemented in their areas of responsibility.
- 12.4 The Board of Directors has oversight responsibility for overall regulatory, policy and strategy implementation across Transnet, to ensure that Transnet operates as a good and ethical corporate citizen. The Board of Directors is responsible for the final approval of this policy as well as any deviation from this policy.
- 12.5 The Finance and Investment Committee ("FIC"), as a sub-committee of the Board, provides further oversight with respect to the effective implementation of this Policy through the routine review of SCM performance and approval of strategically significant sourcing strategies as per the Transnet Delegation of Authority Framework.
- 12.6 The various BSC, BEC and BAC (divisional and central) are responsible for the Specification, evaluation and adjudication of SCM Activities in accordance with their respective ToRs. BACs and CPOs are responsible for adjudicating SCM Activities in accordance with their delegated mandate as per the Transnet Delegation of Authority Framework.

13 FINANCIAL IMPLICATIONS

- 13.1 Each Operating Division shall make budgetary provisioning for costs related to implementation of this policy.

13.2 Each Operating Division shall make sure that sufficient budgetary provision for goods and/or services is made or will be available at the time of delivery of the goods and services, before an invitation for price quotations or bids is made.

14 EXCLUSIONS

14.1 There are no exclusions to this Policy in so far as it applies to Transnet's SCM Activities.

15 INTEGRATED RISK MANAGEMENT

15.1 Transnet has adopted the ERM methodology in managing risks within SCM. SCM will ensure continuous identification, assessment, mitigation and management of risks in order to deliver on its mandate.

16 ASSURANCE

16.1 Transnet shall apply a combined assurance approach across SCM, using both proactive and reactive assurance approaches, which shall be carried out by the first, second and third line (internal and external) assurance providers, in response to the company's current and emerging risks.

17 COMPLIANCE MONITORING

17.1 This policy shall only be changed with the authorisation of the Board of Directors and in accordance with the Change Control Policy Document.

17.2 This policy shall be reviewed in line with the Policy Framework and a report submitted to the relevant governance structure for approval and noting.

18 NON-COMPLIANCE

18.1 The Procurement Manuals shall provide detailed procedures for all non-conformance and non-compliance of relevant legislation, regulations and this policy. Consequence management including, but not limited to, investigations, warnings, suspensions and dismissal will be dealt with through the relevant People policies and procedures.

18.2 The relevant line manager, SCM Complaints Officer, CPO, GCPO or GCFO, depending on the nature of the incident and in accordance with the relevant ToR, shall implement investigations through the forensic department for all allegations of Fraud, Corruption, Economic Crimes, improper conduct or failure to comply with the requirements of this policy against any party to which this policy applies and, where relevant:

18.2.1 Take appropriate steps against the person in line with Transnet's Disciplinary code and the relevant legislation and where applicable;

- 18.2.2 Report to the South African Police Services any conduct that constitutes a criminal offence; and/or
- 18.2.3 Restrict a person from doing business with government in line with process outlined in the Procurement Manuals and applicable legislation.
- 18.2.4 Cancel a Contract if:
 - 18.2.4.1 A supplier has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular Contract or during the execution of that Contract; or
 - 18.2.4.2 A supplier fails to deliver any or all of the goods and/or fails to perform any other obligation(s) under the contract within the period(s) specified in the contract, or within any extension thereof granted by the Transnet
 - 18.2.4.3 An Employee or other role player committed any Fraud, Corruption or other Economic Crimes during the tender process or during the execution of that Contract;

19 RELATED INFORMATION AND REFERENCE

19.1 Internal Documents:

- 19.1.1 This policy should be read in conjunction with the following supporting Transnet documents:
 - 19.1.1.1 Delegations of Authority Framework;
 - 19.1.1.2 Procurement Manuals;
 - 19.1.1.3 Construction Procurement Manual;
 - 19.1.1.4 Procurement Working Instruction;
 - 19.1.1.5 Contract Management SOP;
 - 19.1.1.6 Relevant Terms of Reference documents:
 - 19.1.1.6.1 Terms of Reference: BSC;
 - 19.1.1.6.2 Terms of Reference: BEC;
 - 19.1.1.6.3 Terms of Reference: Divisional Bid Adjudication Committee ("DBAC");

- 19.1.1.6.4 Terms of Reference: Central Bid Adjudication Committee ("CBAC");
- 19.1.1.7 Transformation Policy;
- 19.1.1.8 Preferential Procurement Policy;
- 19.1.1.9 ESD Policy;
- 19.1.1.10 Directed Procurement manual;
- 19.1.1.11 Public Private Partnership Policy;
- 19.1.1.12 Policy Framework;
- 19.1.1.13 Lifestyle Audit Policy;
- 19.1.1.14 Whistle Blowing Policy;
- 19.1.1.15 No Gifts and Hospitality Policy;
- 19.1.1.16 Anti-Fraud and Anti-Corruption Policy;
- 19.1.1.17 Declaration of Interest and Related Party Disclosure Policy;
- 19.1.1.18 Declaration of Interest and Related Party Disclosures Policy for non-executive Directors;
- 19.1.1.19 DPIIP and FPPO and Related Individuals Policy;
- 19.1.1.20 Transnet Code of Ethics;
- 19.1.1.21 Transnet Broad-Based Black Economic Empowerment Policy;
- 19.1.1.22 Petty Cash Policy;
- 19.1.1.23 Records Management Policy; and
- 19.1.1.24 Any other internal policies and documents applicable to Transnet SCM Activities.

19.2 Legislative Framework:

- 19.2.1 Transnet recognises the importance of complying with all applicable regulatory requirements as reflected in the Transnet regulatory universe. Specific reference is made to the following legislation and related regulations (as amended) with which Transnet's SCM Activities shall comply, to the extent required by law:

- 19.2.1.1 Constitution of the Republic of South Africa, 1996 ("the Constitution");
 - 19.2.1.2 PFMA;
 - 19.2.1.3 Preferential Procurement Act, Act 5 of 2000 ("PPPFA"), and its regulations;
 - 19.2.1.4 B-BBEE;
 - 19.2.1.5 Competition Act 89 of 1998;
 - 19.2.1.6 National Small Business Act 102 of 1996;
 - 19.2.1.7 FICA;
 - 19.2.1.8 Occupational Health and Safety Act 85 of 1993 ("OHS");
 - 19.2.1.9 Prevention and Combating of Corrupt Activities Act 12 of 2004;
 - 19.2.1.10 Promotion of Access to Information Act 2 of 2000 ("PAIA");
 - 19.2.1.11 Protection of Personal Information Act 4 of 2013 ("POPIA");
 - 19.2.1.12 Protected Disclosures Act, Act 26 of 2000;
 - 19.2.1.13 Promotion of Administrative Justice Act 3 of 2000 ("PAJA");
 - 19.2.1.14 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000;
 - 19.2.1.15 Construction Industry Development Board Act 38 of 2000 ("CIDB");
 - 19.2.1.16 Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004 ("POCDATARA");
 - 19.2.1.17 National Treasury Instruction Notes; and
 - 19.2.1.18 Any other legislation applicable to Transnet SCM Activities.
- 19.2.2 Where any conflict exists between the laws of South Africa applicable to Transnet and this policy and related documents, the laws of South Africa applicable to Transnet shall apply.

19.3 External Documents:

19.3.1 In addition to compliance with the regulatory requirements listed in Clause 19.2 Transnet's SCM Activities shall also comply, to the extent required by law, with the latest:

19.3.1.1 King Report on Corporate Governance;

19.3.1.2 South African Government programmes relating to Procurement in which Transnet participates;

19.3.1.3 The JSE Debt Listing Requirements;

19.3.1.4 Any applicable common law provisions relating to SCM.

APPENDIX 1

1 ABBREVIATIONS AND DEFINITIONS

1.1 Abbreviations

- 1.1.1 **"AA"** means Accounting Authority as defined in paragraph 3.2.1
- 1.1.2 **"B-BBEE"** means Broad-Based Black Economic Empowerment as defined in the B-BBEE Act
- 1.1.3 **"BAC"** means Bid Adjudication Committee
- 1.1.4 **"BEC"** means Bid Evaluation Committee
- 1.1.5 **"BSC"** means Bid Specification Committee
- 1.1.6 **"CPO"** means the Chief Procurement Officer of a Transnet Operating Division or majority owned Transnet subsidiary
- 1.1.7 **"CSD"** means the Central Supplier Database
- 1.1.8 **"CSIR"** means the Council for Scientific and Industrial Research
- 1.1.9 **"DoA"** means Delegation of Authority as per the Transnet Delegation of Authority Framework
- 1.1.10 **"EME"** means Exempted Micro Enterprises
- 1.1.11 **"ERM"** means Enterprise Risk Management
- 1.1.12 **"ESD"** means Enterprise and Supplier Development
- 1.1.13 **"FICA"** means Financial Intelligence Centre Act
- 1.1.14 **"GCE"** means the Group Chief Executive Officer of Transnet
- 1.1.15 **"GCFO"** means the Group Chief Financial Officer of Transnet
- 1.1.16 **"GCPO"** means the Group Chief Procurement Officer of Transnet
- 1.1.17 **"JSE"** means the Johannesburg Stock Exchange
- 1.1.18 **"PFMA"** means the Public Finance Management Act
- 1.1.19 **"PPP"** means Public Private Partnership
- 1.1.20 **"QSE"** means Qualifying Small Enterprises

- 1.1.21 **"SOC"** means State Owned Company
- 1.1.22 **"SOP"** means Standard Operating Procedure
- 1.1.23 **"ToR"** means Terms of Reference
- 1.1.24 **"Transnet"** means Transnet SOC Ltd

1.2 Definitions

In this policy, unless the context otherwise requires, the following capitalised terms shall have the meanings assigned to them below and cognate expressions shall have corresponding meanings:

- 1.2.1 **"Acceptable bid/tender"** means any bid/tender which, in all respects, complies with the specification and conditions of tender as set out in the tender document
- 1.2.2 **"Accounting Authority"** means the Transnet Board of Directors in terms of the Public Finance Management Act
- 1.2.3 **"Agent"** means anyone other than a Transnet employee who is acting on behalf of Transnet with the relevant authority; a person who has been authorised to perform juristic acts on behalf of another (principal) with the result that a legal tie will be formed between the principal and the third party.
- 1.2.4 **"Anti-competitive collusion"** means agreements or understandings between competitors to coordinate their conduct
- 1.2.5 **"Assignment"** refers to the transfer of rights and obligations in a contract from an assigner to an assignee.
- 1.2.6 **"B-BBEE Act"** means the Broad Based- Black Economic Empowerment Act 53 of 2003, and any amendments thereto.
- 1.2.7 **"Bidding Process"** refers to a competitive bidding process
- 1.2.8 **"Bid-rigging"** means an agreement amongst competitors not to compete on the bids they submit after being invited to tender
- 1.2.9 **"Cession"** refers to the transfer of only the rights a service provider has in terms of a contract from it to a third party.
- 1.2.10 **"Codes"** means the Codes of Good Practice on B-BBEE

- 1.2.11 **"Condonation"** refers to the condoning of incurred expenditure that contravenes any applicable legislation.
- 1.2.12 **"Contract"** means a written agreement duly signed and witnessed by relevant parties, which results from a SCM process, which is a mutually binding legal relationship obligating the seller to furnish the goods and/or services and the buyer to pay for it.
- 1.2.13 **"Contractor/Supplier/Service Provider"** means any natural or juristic person whose bid has been accepted by Transnet, including Supplier and Enterprise Development Partners.
- 1.2.14 **"Corruption"** refers to the offense of corruption in terms of the Prevention and Combatting of Corrupt Activities Act.
- 1.2.15 **"Delegated Authority"** means when authority is delegated to a Transnet executive or an Employee, or a Transnet committee or the Board of Directors as per the Group Delegation of Authority ("DoA") Framework
- 1.2.16 **"DPIP"** or Domestic Prominent Influential Persons means an individual who holds, including in an acting position, for a period exceeding six months, or has held at any time in the preceding 12 months, a list of positions included in Schedule 3A of the FICA.
- 1.2.17 **"Directed Procurement"** refers to a government-led strategy aimed at developing specific industrial capabilities (Directed Industrial Development) and, as a result, enhance the sustainability of the local supply chain, improve the industry's competitiveness, and increase the value addition.
- 1.2.18 **"Economic Crimes"** means illegal acts committed on behalf of or against a business in order to gain economic benefit.
- 1.2.19 **"Employee"** means any person who is employed by Transnet on an indefinite or fixed term contract.
- 1.2.20 **"FPPO"** or Foreign Prominent Public Official means an individual who holds or has held at any time in the preceding 12 months a list of positions included in Schedule 3B of the FICA.
- 1.2.21 **"Fraud"** means any unlawful and intentional misrepresentation which causes actual prejudice, or which is potentially prejudicial to another person and/or organisation.
- 1.2.22 **"Fronting"** means a deliberate circumvention or attempted circumvention of the B-BBEE Act and the associated Codes.

- 1.2.23 **"Functionality"** means the ability of a tenderer to deliver goods and/or services, as well as transformation and developmental objectives in accordance with specifications as set out in the tender documents, in line with value for money as defined in this policy.
- 1.2.24 **"Implementing Agent"** means an entity, organ of state, or business enterprise which is responsible for the implementation of a programme or project on behalf of Transnet.
- 1.2.25 **"Investigate"** means an inquiry to determine and assess the fact of the complaint or an allegation to establish the truth.
- 1.2.26 **"In Writing"** or **"Written"** means any worded or numbered expression that can be read, reproduced and later communicated, and includes electronically transmitted and stored information.
- 1.2.27 **"JSE Debt Listing Requirements"** means the rules and procedures governing new applications and continuing obligations applicable to issuers of debt securities listed on the JSE.
- 1.2.28 **"Local Content"** means a sector, sub-sector or industry or product designated by The Department of Trade, Industry and Competition for local production and content, where only locally produced services and/or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors.
- 1.2.29 **"Local Production"** means a sector, sub-sector or industry or product not designated by The Department of Trade, Industry and Competition for local production and content, where Transnet would like to define minimum threshold for local production and content.
- 1.2.30 **"Long-term Contract"** means any contract agreement entered into for a period of five years or longer.
- 1.2.31 **"Organ of State"** means a national or provincial department; a public entity listed in schedule 2 or 3 to the PFMA; or a constitutional institution listed in schedule 1 to the PFMA.
- 1.2.32 **"Person"** means a bidder or supplier, a shareholder, director, trustee, partner, member of a bidder or supplier or any person having a controlling interest in a bidder or supplier.
- 1.2.33 **"Phantom bids"** refers to the creation of dummy companies to submit bids on a single contract to give the appearance of vigorous competition.

- 1.2.34 **"Procurement"** means all the actions required to purchase goods, services and/or infrastructure for Transnet in the course of SCM.
- 1.2.35 **"Procurement Manuals"** refers to the Goods and Services Procurement Manual as well as the Construction Procurement manual.
- 1.2.36 **"Procurement by "other means"** means specific cases where it is impractical to invite competitive bids. It includes:
- Limited bidding;
 - Written price quotations within the threshold determined by the Procurement Manuals;
 - Procurement that occurs in emergency situations;
 - Procurement that occurs in urgent cases;
 - Organ of state cooperation;
 - Buy-back commercial agreements;
 - Procurement of confidential services; and
 - Unsolicited bidding.
- 1.2.37 **"Procuring Entity"** means an entity, organ of state, or business enterprise which is responsible for the Procuring on behalf of Transnet
- 1.2.38 **"Related Party"** means a person or entity that is related to Transnet, where:
- A person or a close member of that person's family is related to Transnet if that person:
 - (i) has significant influence over Transnet; or
 - (ii) is a member of the key management personnel of Transnet.
 - An entity is related to Transnet if any of the following conditions applies:
 - (i) One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).
 - (ii) Both entities are joint ventures of the same third party.

(iii) One entity is a joint venture of a third entity and the other entity is an associate of the third entity.

(iv) The entity is a post-employment defined benefit plan for the benefit of employees of either Transnet or an entity related to it.

(v) The entity is controlled or jointly controlled by a person related to Transnet.

(vi) A person related to Transnet has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).

(vii) The entity, or any member of a group of which it is a part, provides key management personnel services to Transnet.

1.2.39 **"Reverse Auction"** means a mechanism for cost-containment where bidders bid for the prices at which they are willing to sell their goods and services.

1.2.40 **"SCM"** means Supply Chain Management, including:

- Demand management: including needs analysis, strategic planning, Procurement planning, and market analysis;
- Acquisition management: including inviting, evaluating and awarding bids and the associated contract management;
- Logistics management: including the setting of inventory level, receiving and distributing goods, stores and warehouse management, transport management, vendor performance, maintenance and contract administration;
- Disposal management: including the disposal of acquired goods, assets or immovable property when no longer needed;
- Risk management: including the identification and mitigation of SCM related risks; and
- Regular assessment of supply chain performance

SCM excludes petty cash transactions, which are governed by the Transnet Petty Cash Policy.

1.2.41 **"SCM Activities"** means all those activities required to manage Transnet's demand for goods, services and infrastructure during the SCM process

- 1.2.42 **"Shall"** denotes the imperative
- 1.2.43 **"Signature" or "Signed"** means the discrete and verifiable symbol of an individual which, when affixed to a writing with the knowledge and consent of the individual, indicates a present intention to authenticate the writing; this includes electronic symbols
- 1.2.44 **"Single Source"** refers to when a thorough market analysis and a transparent and equitable pre-selection process is used to decide on one supplier among a few prospective bidders to make a proposal.
- 1.2.45 **"Sole Source"** refers to when there is no competition in the market and only one supplier is able to provide the goods and/or services.
- 1.2.46 **"State"** means a national or provincial department; national or provincial public entity or constitutional institution; municipality of municipal entity; a provincial legislature; parliament.
- 1.2.47 **"Step-in"** means a process where a customer steps in to supply goods or services to Transnet to ensure the continuation or improvement of business activity via a commercial agreement or any other form of agreement.
- 1.2.48 **"Value for money"** means a procurement outcome that is economic (cost minimization), efficient (output maximization) and effective (full attainment of the intended results including preferential procurement (economic development) and/or transformation and development objectives).