

TRANSNET



Transnet Group






Preferential Procurement Policy

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Signature	
Policy Sponsor	<i>Group Chief Executive Officer</i>
Signature	
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Transnet Preferential Procurement Policy

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Transnet Group: Preferential Procurement Policy

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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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Final Approval

Approved
Transnet Board of Directors

14 April 2013
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1. DEFINITIONS

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

1.1.1 **"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.

1.1.2 **"B-BBEE"** - means the viable economic empowerment of all black people including, in particular women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio-economic strategies that include, but are not limited to:

- increasing the number of black people that manage, own and control enterprises and productive assets;
- facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
- human resource and skills development;
- achieving equitable representation in all occupational categories and levels in the workforce;
- preferential procurement from enterprises that are owned or managed by black people; and
- investment in enterprises that are owned or managed by black people.

1.1.3 **"Black-Owned / Owned by Black people"** means an enterprise that is for profit, *domiciled* in South Africa which is at least 51% owned and controlled by Black Persons.

1.1.4 **"Black Persons/People"** means African, Coloured, Indians or Chinese persons who are citizens of the Republic of South Africa by birth or descents or who became citizens by naturalisation before 27 April 1994 or who became citizens after 27 April 1994 but who would have been entitled to naturalisation prior but were precluded from doing so by Apartheid policies.

1.1.5 **"Codes"** means the Codes of Good Practice in terms of the B-BBEE Act.

1.1.6 **"Contract"** means a written agreement duly signed 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.

- 1.1.7 **"Contractor/Supplier/Service Provider"** means any natural or juristic person whose bid has been accepted by Transnet, including Supplier and Enterprise Development Partners.
- 1.1.8 **"Delegated Authority"** means a written delegated authority to a specific body or person (an executive, an employee, or a committee or the Board of Directors) as per the Transnet Group Delegation of Authority ("DoA") Framework.
- 1.1.9 **"EMEs"** means Exempt Micro Enterprises whose annual turnover is below R10 million per annum.
- 1.1.10 **"Employee"** means any person who is employed by Transnet permanently or on a fixed term contract basis.
- 1.1.11 **"Entity"** means any form of business whether required to be register or not by the law.
- 1.1.12 **"Enterprise and Supplier Development (ESD)"** means a priority element within the amended B-BBEE Codes of Good Practice comprising of Preferential Procurement, Enterprise Development and Supplier Development.
- 1.1.13 **"Enterprise Development"** means financial and non-financial support to qualifying Black-Owned businesses that are outside the Transnet supply chain process to assist with development, sustainability and financial and operational independence of the entities.
- 1.1.14 **"Highest acceptable tender"** means a tender that complies, in all aspects, with the specifications and condition of a tender as stipulated in a tender document and that has a highest price compared to other tenders.
- 1.1.15 **"Lowest acceptable tender"** means a tender that complies, in all aspects, with specifications and conditions of a tender as stipulated in the tender document and that has a lowest price compared to other tenders.
- 1.1.16 **"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.
- 1.1.17 **"Large Entities"** means entities whose annual turnover is above R50 million per annum.
- 1.1.18 **"Local Content"** means that portion of the product whose manufacturing processes take place within South Africa, from input materials, raw materials, and/or components that were sourced in South Africa.

- 1.1.19 **"Localisation"** means use of local resources, including human, financial and/or locally produced equipment or Intellectual Property (IP).
- 1.1.20 **"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.
- 1.1.21 **"Procurement"** means all the actions required to purchase goods, services and/or infrastructure for Transnet in the course of SCM.
- 1.1.22 **"Procurement Manuals"** refers to the Goods and Services Procurement Manual as well as the Construction Procurement Manual.
- 1.1.23 **"Rural area"** means geographical areas that are outside cities or towns such as the former homelands, rural farm areas and traditional homesteads areas.
- 1.1.24 **"QSEs"** means Qualifying Small Enterprises whose annual turnover is between R10 and R50 million per annum.
- 1.1.25 **"SCM Activities"** means all those activities required to manage Transnet's demand for goods, services and infrastructure during the SCM process.
- 1.1.26 **"Shall"** denotes the imperative.
- 1.1.27 **"SMMEs"** means small, medium and micro enterprises such as EMEs and QSEs.
- 1.1.28 **"Specific goals"** means targeted advancement areas or categories of persons or groups either previously disadvantaged or falling within the scope of the Reconstruction and Development Programme identified by Transnet to be given preference in allocation of procurement contracts in line with section 2(1) of the PPPFA.
- 1.1.29 **"Under-developed areas"** means any area in South Africa that is not classified as a rural area which, due to past laws and apartheid, was excluded from the development programmes of the country and as such remained under-developed including but not limited to Townships, small towns and informal settlements.

2. BACKGROUND

- 2.1 This document establishes the Transnet SOC Limited (hereinafter "Transnet") procurement policy for Preferential Procurement (hereinafter "TPPP") as envisaged by section 217(2) of the Constitution of the Republic of South Africa, 1996 ("the Constitution").
- 2.2 Section 217(2) of the Constitution states that the organs of state and institutions are not prevented from implementing a procurement policy that provides for:
- a) Categories of preference in the allocation of contracts; and
 - b) The protection or advancement of persons, category of persons, disadvantaged by unfair discrimination.

3. PURPOSE

- 3.1 The aim of this policy is to regulate and provide guiding principles to effecting Preferential Procurement prescripts in all Transnet procurement transactions. The Policy will guide the uniform implementation of the provisions of section 217 (2) and (3) of the Constitution, the Preferential Procurement Policy Framework Act (PPPFA) and its applicable regulations (PPR) as well as the Transnet Supply Chain Management (SCM) Policy by:
- 3.1.1 Providing for categories of preference to advance and protect persons disadvantaged by unfair discrimination; and
 - 3.1.2 Providing for promotion of transformation, empowerment and economic development in South Africa.

4. SCOPE

- 4.1 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 (%) 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.

- 4.2 This Policy shall be read together with applicable legislation, National Treasury SCM Policy norms and standards, CIDB Standards, Transnet's SCM and ESD Policies, relevant sections of the Delegation of Authority Framework, the Goods and Services Procurement Manual and Construction Procurement Manual, SCM Directives and any other governance document that relates to and/or impact on Transnet Procurement activities. Where any conflict between the Transnet Preferential Procurement Policy and the Goods and Services Procurement Manual or Construction Procurement Manual exist on matters related to preferential procurement, the policy shall prevail.

5. POLICY STATEMENT

- 5.1 Section 2(1) of the Preferential Procurement Policy Framework Act provides that an organ of state *must determine* its *preferential procurement policy* and that it *must implement* it within a framework that provides for the following matters:

5.1.1 the maximum preference points that may be allocated for the *specific goals* referred to in s 2(1)(d) is, depending on the tender price, 10 points or 20 points;

5.1.2 the specific goals identified in s 2(1)(d) may include:

5.1.2.1 contracting with persons, or categories of persons, historically disadvantaged on the basis of race, gender or disability; and

5.1.2.2 implementing the programmes of the RDP.

- 5.2 The specific goals mentioned in s 2(1)(d) of the Act is not an exhaustive list. Section (1)(d) states that the two specific goals expressly identified therein may be "included" as such. This makes it clear that the two identified goals are not the only specific goals contemplated by s 2(1)(d): s 2(1)(d) contemplates that there could be other specific goals.

- 5.3 Transnet shall utilise the specific goals adopted in this policy, in addition to the B-BBEE contributor levels, where it is appropriate and practical to do so considering the provision of section 2(2) of the PPPFA which provides that "any goals contemplated in section 1(e) must be measurable, quantifiable and monitored for compliance".

- 5.4 Transnet will develop a framework for identifying indicators of value for money for measuring, quantifying, monitoring and reporting purposes.

5.5 Transnet shall utilise the provisions of section 2(1)(f) of the PPPFA "objective criteria" to advance its transformation and supplier development endeavours in specific tenders where necessary in line with section 217(2)(a) and ((b) of the Constitution. This will be done in a manner that is fair and objective on a case-by-case basis guided by the principles set out in paragraph 5.6 of this Policy.

5.6 Preferential Procurement Designated Groups

Transnet has taken a strategic position to adopt the following as specific goals for which preference points may be awarded:

- 5.6.1 The following persons or categories of persons/groups previously disadvantaged by unfair discrimination on the basis of race, gender or disability to award preferential points in the preference points system of its procurement transactions:
 - 5.6.1.1 Exempted Micro Enterprises (EMEs) and Qualifying Small business Enterprises (QSEs) owned by black people;
 - 5.6.1.2 Entities owned by black people;
 - 5.6.1.3 Entities which are owned by black people who are women;
 - 5.6.1.4 Entities which are owned by 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
 - 5.6.1.5 Entities which hold a specific Broad-Based Black Economic Empowerment status/level.
- 5.6.2 Transnet has determined and will further apply the following RDP specific goals to award preferential points in the preference points system of its procurement transactions:
 - 5.6.2.1 Entities which are owned by black people who are youth as defined in the National Youth Development Agency Act of 2008;
 - 5.6.2.2 EMEs and QSEs in general.
 - 5.6.2.3 The promotion of export orientated production to create jobs;
 - 5.6.2.4 The promotion of South African owned enterprises;
 - 5.6.2.5 The promotion of supplier development through sub-contracting of a minimum of 30% of the value of a contract to/with the following:
 - 5.6.2.5.1 HDI;
 - 5.6.2.5.2 Entities with a specified minimum B-BBEE level;

5.6.2.5.3 EMEs and/or QSEs 51% owned by black people, youth, women or disabled people; or

5.6.2.5.4 South African owned enterprises.

5.6.2.6 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;

5.6.2.7 Promotion of local content and local production;

5.6.2.8 Supporting the productive sectors of the South African economy (especially the Manufacturing Sector) through any or combination of (National Industrial Participation Programme):

5.6.2.8.1 Investments;

5.6.2.8.2 Export Sales;

5.6.2.8.3 Research and Development;

5.6.2.8.4 Technology transfer;

5.6.2.9 The creation of new jobs or the intensification of labour absorption; and/or

5.6.2.10 Equity Equivalent Programmes by DTIC.

5.7 Preferential Procurement Points System Mechanism

5.7.1 The preference point system applies to all procurement transactions regardless of value;

5.7.2 The preference point system to be applied must be stated in the bid documents. The following values thresholds (inclusive of all applicable taxes) apply:

5.7.2.1 For transactions below R 50 000 000 (fifty million Rands) the 80 / 20 price preference point system must be applied.

5.7.2.2 For transactions more than R50 000 000 the 90 / 10 price preference point system must be applied.

5.7.2.3 Where it is unclear as to which preference point system is applicable, as indicated above, the lowest acceptable bid will determine the preference point system for expenditure tenders and the highest acceptable bid will determine the preference point system for income generating tenders.

- 5.7.3 Preference points may be allocated to one of the specific goals either for persons or categories of persons previously disadvantaged by unfair discrimination or RDP related goals.
- 5.7.4 Alternatively, preference points may be allocated, equally or otherwise, to more than one specific goal from persons or categories of persons previously disadvantaged by unfair discrimination and/or RDP goals.
- 5.7.5 However, in all SCM transactions, a portion of the preference points must be allocated to B-BBEE for the recognition of a specific level/status achieved by a bidder in terms of a relevant Code, in line with section 10(1) of the B-BBEE Act, as set in this Policy.
- 5.7.6 The B-BBEE level/status to be allocated points must be determined during the development of the specifications.
- 5.7.7 The points allocated to B-BBEE in each transaction need not be the full allocated points (10 or 20 points), unless it is the only specific goal identified for the specific tender/bid.
- 5.7.8 Transnet will allocate preferential procurement points to B-BBEE level 1 and 2 contributors regardless of the value of transaction.
- 5.7.9 Preferential procurement point may be allocated to other levels of the B-BBEE contributor up to level 4 where there is evidence of non-existence of levels 1 and 2 in the market and with prior approval from the Group Chief Procurement Officer.
- 5.7.10 For all transactions below the threshold value of R500 000 (five hundred thousand rand, including VAT) preference points may be allocated to only 2 specific goals i.e., the B-BBEE contributor level specific goal and entities owned by black people who are youth specific goals to a total of 20 points for 80/20 as indicated in the table below:

Specific Goals	Number of points (80/20 system)
B-BBEE Status Level of Contributor 1	15
B-BBEE Status Level of Contributor 2	10
Black Youth Owned entities	5
Non-compliant contributor	0

5.7.11 The provisions of clause 5.7.10 are not to be applied as hard and fast rules and may be deviated from if the circumstances demand or warrant deviation, provided that permission to deviate is obtained from the Operating Division Chief Procurement Officer (OD CPO).

5.7.12 For all tenders between the threshold value of R500 000 (five hundred thousand) and R5m (five million) including VAT, preference points may be allocated from 1 up to 4 specific goals and B-BBEE must be included. In addition to B-BBEE status/level contributor black Women, Black Youth and People with disability may be considered, with equal proportion that will amount to 20 points for 80/20.

Specific Goals	Number of points (80/20 system)
B-BBEE Status Level of Contributor 1 and 2	5
Company majority owned by black women	5
Company majority owned by black Youth	5
Company majority owned by people with disability (PWD)	5
Non-compliant contributor	0

5.7.12.1 Where it is possible and/or appropriate, objective criteria may be used to award the tender to a bidder that is not the highest scoring bidder in terms of paragraph 5.6 of this policy.

5.7.12.2 For tenders between R2m and R5m a market research may be required to select either of the 4 specific goals. It is therefore advisable but not compulsory that a market research analysis is conducted.

5.7.13 The provisions of clause 5.7.12 are not to be applied as hard and fast rules and may be deviated from if the circumstances demand or warrant deviation, provided that permission to deviate must be obtained from the OD CPO for transactions below open tender threshold and Bid Specification Committee (BSC) for all open tenders.

5.7.14 Therefore, for all tenders above R5m - preference points may be allocated to multiple specific goals, in addition to B-BBEE status/level contributor, from any of the classifications with either equal proportion or a choice to allocating higher weighting to identified goals that will amount to 10 points for 90/10 or 20 points for 80/20. One of the specific goals must

always be B-BBEE Contributor level 1 and/or 2 in all transactions regardless of the value.

- 5.7.15 Transnet employees are advised to conduct a market analysis to identify the specific goals to be pursued per transaction for tenders above the threshold set in paragraph 5.7.14. This is to ensure that there are sufficient numbers of enterprises falling within the category of those targeted to advance a specific goal.
- 5.7.16 Therefore, specific goals used will differ per transaction, except in the case of B-BBEE, and points allocated to a particular specific goal may differ from transaction to transaction depending on a number of specific goals identified and selected in a transaction as determined by the market analysis.
- 5.7.17 The tender/bid document for each transaction must stipulate the necessary evidence that bidders should submit for each specific goal in order for the bidder to be allocated the specific points.
- 5.7.18 Transnet will make a determination in its manuals and/or templates for the acceptable evidence that would be sufficient for each specific goal in order to ensure standardisation of acceptable evidence for specific goals.
- 5.7.19 Bidders cannot be evaluated on specific goals which were not specified in the tender document that was issued to the market.

Preference points system for acquisition of goods and services using the tables below to allocate points for specific goals.

- 5.7.20 The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or below a Rand value of R50 million, inclusive of all applicable taxes:

$$PS = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

- Ps* = Score for the Bid under consideration
Pt = Price of Bid under consideration
Pmin = Price of lowest acceptable Bid

5.7.21 The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

$$OR\ PS = 90 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

Ps = Score for the Bid under consideration
Pt = Price of Bid under consideration
Pmin = Price of lowest acceptable Bid

Preference points system for income-generating contract using the tables above to allocate points for specific goals.

5.7.22 The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or below a Rand value of R50 million, inclusive of all applicable taxes

$$PS = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where:

Ps= points scored for price of the Bid under consideration
Pt= Price of Bid under consideration
Pmax= Price of highest acceptable Bid

5.7.23 The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value equal to or above a Rand value of R50 million, inclusive of all applicable taxes

$$PS = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where:

Ps= points scored for price of the Bid under consideration
Pt= Price of Bid under consideration
Pmax= Price of highest acceptable Bid

5.7.24 A tenderer must submit the evidence required for each specific goal as stipulated in the bid document of each transaction and in line with the table of evidence contained in the Procurement Manuals. A tenderer who fails to submit the stipulated evidence may NOT be disqualified, but:

- a) may only score points out of 80 or 90, respectively, for price; and
- b) scores 0 points out of 20 or 10, respectively, for the "specific goals".

5.7.25 The points for price (out of 80 or 90) must be added to the points for the specific goals (out of 20 or 10).

5.7.26 The contract must be awarded to the tenderer scoring the highest points respectively unless objective criteria dictates that a particular tender is awarded to a tenderer not scoring the highest points.

5.8 AWARD OF TENDERS TO TENDERERS NOT SCORING HIGHEST POINTS

5.8.1 The contract must be awarded to the tenderer who scores the highest points, unless objective criteria justify the award to another tenderer.

5.8.2 If Transnet intends to apply objective criteria, the objective criteria must be stipulated in the bid/tender documents.

5.8.3 It is important to note that objective criteria are to be applied when appropriate and on a case-by-case basis. The default is that business must be awarded to the tenderer that scores the highest points.

5.8.4 After the evaluation of price and preference has been conducted and the first ranked bidder has been identified, consideration is to be made by the BEC and the OD CPO whether to apply or not apply the objective criteria that was set in the bid document.

5.8.5 It is not a must that an objective criterion is applied, even though it would have been mentioned upfront in the tender document. Stating it upfront only allows Transnet a discretion to apply the objective criteria to advance preference where it is in the best interest of Transnet to do so.

5.8.6 When Transnet elects to apply the objective criteria, it shall do so in a transparent and objective manner. The affected bidder (first ranked) may be notified of Transnet's intention to apply the objective criteria which will result in his/her bid being overlooked and be given an opportunity to make representation as to why his/her bid should not be overlooked.

- 5.8.7 However, it must be clearly stated that this is not an opportunity for the first ranked bidder to submit new information/proposal that will make the bidder compliant with the requirements of the set objective criteria.
- 5.8.8 In order to reduce the cost / paying a premium of applying objective criteria, it is the obligation of the BEC to consider negotiating the price of the bidder that will be the beneficiary of the preference policy to a price that is equal or closer to that of the first ranked bidder.
- 5.8.9 The premium paid by Transnet for the application of objective criteria after prices have been negotiated should ensure that the price is market related. The CPO/BAC must ensure that the preferential benefit outweighs the premium and that it is reasonable and rational.
- 5.8.10 The price negotiation with the recommended bidder should not be done in a manner that will make it difficult or impossible for the recommended bidder to deliver the same quality of goods or services as required.
- 5.8.11 After the matters indicated above have been considered, Transnet may decide to either apply the objective criteria or not. The report submitted to the adjudication body should outline the reasons for the decision and the consideration of objective criteria as well the performance indicators that will be monitored for attainment of value for money.
- 5.8.12 Therefore, Transnet has taken a strategic decision, in its endeavours to promote transformation in line with its SCM Policy and Supplier Development Policy as well as attempts to achieve the best value for money to identify the following objective criteria to be advanced in the tender transactions that will be identified through the sourcing strategy process:
- 5.8.12.1 Skills Transfer and Capacity Building for Transnet;
 - 5.8.12.2 Impact on Transnet's Return On Investment;
 - 5.8.12.3 Rotation of Suppliers to promote opportunities for other suppliers, by overlooking a supplier that has been awarded business repeatedly overtime in order to benefit other suppliers in the market; and
 - 5.8.12.4 Due diligence and Risk Management.
- 5.8.13 The list stated in 5.8.12 is not an exhaustive list and Transnet may use any other "objective criteria" that it may deem necessary for a particular

tender to advance section 217(2) of the Constitution after approval by the GCPO.

5.8.14 The ESD and Contract Management Standard Operating Procedures (SOPs) will guide the monitoring and reporting of objective criteria agreements in line with the Enterprise Supplier Development Policy as well as the Contract Management Policy.

6. ROLES AND RESPONSIBILITIES

- 6.1 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.
- 6.2 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.
- 6.3 Chief Executives and Group Executives are accountable for ensuring that this policy is implemented in their areas of responsibility.
- 6.4 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.
- 6.5 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.
- 6.6 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 Terms of Reference. BACs and CPOs are responsible for adjudicating SCM Activities in accordance with their delegated mandate as per the Transnet Delegation of Authority Framework.

7. FINANCIAL IMPLICATIONS

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

7.2 Each Operating Division shall make sure that sufficient budgetary provision for goods and/or services is made before an invitation for price quotations or bids is made.

8. EXCLUSIONS

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

9. INTEGRATED RISK MANAGEMENT

9.1 Transnet has adopted the Enterprise Risk Management (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.

10. ASSURANCE

10.1 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.

11. COMPLIANCE AND MONITORING

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

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

12. NON-COMPLIANCE

12.1 The Transnet SCM Policy outlines the key considerations for non-compliance and this policy will adopt the same approach as stated in the Transnet SCM Policy.

12.2 Breaches of this policy will be seen in a very serious light. Employees who do not conform to the Policy or Principles & Standards may be subject to disciplinary action in terms of the applicable Transnet disciplinary processes and procedures.

12.3 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.

12.4 In cases where material and compelling circumstances merit deviation(s) from any particular provision(s) of this policy, written submissions shall be sent to GCE, who shall have full authority to grant such request, in whole or in part, or to refuse same.

13. RELATED INFORMATION AND REFERENCE

Internal Documents:

This Policy should be read in conjunction with the following supporting policies:

- 13.1 Supply Chain Management Policy
- 13.2 Delegations of Authority Framework;
- 13.3 Procurement Manuals;
- 13.4 Construction Procurement Manual;
- 13.5 Procurement Working Instruction;
- 13.6 Contract Management SOP;
- 13.7 Relevant Terms of Reference documents:
- 13.8 Terms of Reference: BSC;
- 13.9 Terms of Reference: BEC;
- 13.10 Terms of Reference: Divisional Bid Adjudication Committee ("DBAC");
- 13.11 Terms of Reference: Central Bid Adjudication Committee ("CBAC");
- 13.12 Transformation Policy;
- 13.13 Preferential Procurement Policy Guidelines;
- 13.14 ESD Policy
- 13.15 Group Compliance Policy

Legislative Framework

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:

- 13.16 Constitution of the Republic of South Africa, 1996 ("the Constitution");
- 13.17 PFMA;
- 13.18 Preferential Procurement Act, Act 5 of 2000 ("PPPFA"), and its regulations
- 13.19 B-BBEE
- 13.20 Competition Act 89 of 1998;
- 13.21 FICA;
- 13.22 Prevention and Combating of Corrupt Activities Act 12 of 2004;
- 13.23 Promotion of Access to Information Act 2 of 2000 ("PAIA");
- 13.24 Protection of Personal Information Act 4 of 2013 ("POPIA");
- 13.25 Promotion of Administrative Justice Act 3 of 2000 ("PAJA");
- 13.26 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000;
- 13.27 Construction Industry Development Board Act 38 of 2000 ("CIDB");
- 13.28 National Treasury Practice and/or Instruction Notes; and
- 13.29 Any other legislation applicable to Transnet SCM Activities

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.