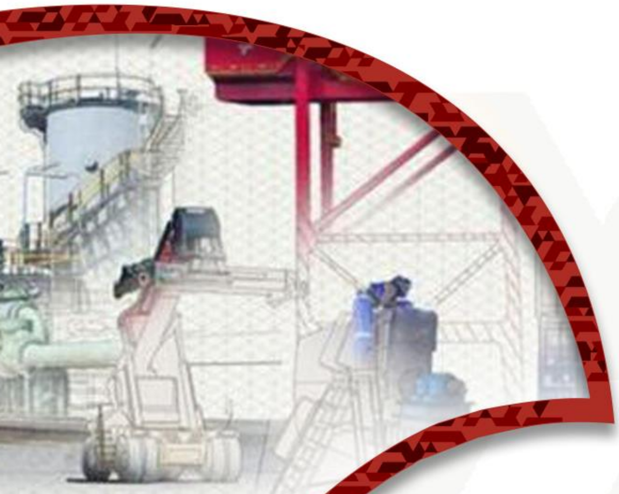

Transnet Joint Investment Framework

Awareness Newsflash and Guide

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Awareness Newsflash and Guide

1. What are Joint Investment Transactions?

Transactions where –

- Transnet grants certain operating rights to an External Partner to use one or more of Transnet's assets or infrastructure, either as a co-shareholder in an incorporated entity or in a joint venture with Transnet;
- there is sharing of financial, operational and technical risk and a sharing of commercial benefits; and
- the objective of the arrangement is to generate revenue, improve infrastructure or achieve other growth objectives, including acquisition of capabilities, operational capacity and or technical innovation through capital and assets.

2. What type of transaction structures will Transnet apply in Joint Investment Transactions?

- **Concessions –** an agreement between Transnet and an External Partner, where the External Partner either designs, builds, finances or operates particular Transnet infrastructure or business for a specified period. The degree of risk and level of responsibility transferred to the External Partner is dependent on the nature and scope of the concession agreement.
- **Operating Lease –** Transnet enters into a lease agreement with an External Partner, where the External Partner leases and operates Transnet's asset/infrastructure in exchange for a rental fee.
- **Strategic equity partner –** Transnet establishes a subsidiary company, with the External Partner as co-owner of such subsidiary, which is formed to carry out a particular project or business operation.
- **Unincorporated Joint Venture –** an agreement between Transnet and an External Partner, where the External Partner(s) are selected by Transnet to undertake a project with a common objective for purposes of making profit. The parties agree on skills and resources to be contributed and proportions of profits and losses to be shared.
- **Incorporated Joint Venture or SPV –** one or more External Partners are selected by Transnet as co-owners in an incorporated entity, which special purpose vehicle (SPV) is established for a specific purpose involving the development of a project or operation of assets/infrastructure that is transferred to the SPV.
- **Equity investment in a private entity (merger of acquisition) –** Transnet purchases shares in an existing private sector entity for purposes of acquiring new infrastructure, business capabilities, customer base or innovations to support or enable specific strategic objectives.

3. <u>Scope and Application</u>

The Joint Investment Framework applies to:

- Transactions initiated by Transnet, including by Transnet Operating Divisions;
- Transactions initiated by Transnet Subsidiaries;
- Joint investment transactions resulting from unsolicited partnership proposals; and
- Cross Border joint investment transactions.

The Joint Investment Framework <u>does not</u> apply to:

- Agreements concluded by TNPA in terms of section 56 of the National Ports Authority;
- Procurement of goods and services by Transnet; and
- Goods or services supplied by Transnet sub-contractors, that do not involve joint investment transactions.

4. <u>Investment Prioritisation and Evaluation</u>

- The Joint Investment Framework must be read in conjunction with the Strategy Portfolio Alignment Manual, which covers the following Transnet Capital Investment Value Chain elements:
  - Strategy alignment
  - Capital development
  - Business case evaluation and assurance
  - Execution
  - Benefits realisation.
- The Joint Investment Framework cross-references the Capital Investment Value Chain elements to the various stages of joint investment transaction preparation and execution.

5. <u>Project Preparation</u>

<u>How do Joint Investment Transactions Originate?</u>

- Joint Investment Transactions are identified through:
  - **Annual Strategy Planning:** Identified by Group Strategy in the Long Term Planning Framework, or by Transnet Operating Divisions, based on needs or shortfalls in achieving strategic objectives which cannot be addressed by day-to-day operational activities.
  - **Compliance and/or Continuous Improvement:** Projects required or imperative for sustained day-to-day operations of Transnet as envisaged by the business strategy or in response to a mandatory business requirement or need.
  - **Unsolicited Proposals:** Proposals made by an external party to undertake a project by way of a Joint Investment Transaction submitted to Transnet on the initiative of that external party rather than in response to a request from Transnet.

Project Registration and Initiation (Excluding Unsolicited Proposals)

What are the next steps after project origination / identification?

- Once a Project has been identified, the Project Manager must:
    - Register the joint investment transaction proposal in the Joint Investment projects portfolio managed by Group Strategy.
    - Conduct a Pre-feasibility Study (considering all the feasibility options).
    - Prepare a Joint Investment Transaction Proposal in accordance with the guidelines provided in the Framework.

Stage 1

Pre-feasibility Project Selection

01

- Go or no go decision by the Board on recommendation from FIC in terms of Group Exco Governance Structures
- Approved Joint Investment Transaction Proposal should indicate:
    - Priority level of the project; and
    - Resources to be committed by Transnet
- Budget for further development of the Joint Investment Transaction to be approved by Group EXCO and GIC.
- Project Owner can recommend to Group Exco/GIC in cases of urgency, critical priority, low complexity or for other justifiable reasons, that the Joint Investment Transaction proposal only needs to meet the minimum investment criteria, instead of undergoing a full feasibility. study.

Stage 2

Feasibility and Final

02

- The feasibility study for a joint investment transaction approved under stage one will be undertaken by:
    - Transnet, using its own resources or external advisors; or
    - Jointly by Transnet and a joint development partner appointed by Transnet.
- The feasibility study includes a due diligence, business case and an External Partner selection plan.
- The conclusion of the feasibility study will determine whether the Project goes ahead or not.
- Stage 2 ends with a go or no go decision by the Board, indicating approval of the detailed Business Case, the External Partner selection plan, and guidance on the External Partner selection timeline.

APPROVED

- Due Diligence (as per guidance in the Framework)
- Business Case (as per Annexure E and F Templates)
- External Partner selection plan

NOT APPROVED

6. Project Implementation

Stage 3: External Partner selection (including approval of preferred External Partner)

External Partner Selection documentation

03

- The External Partner selection plan approved at the second stage must guide the preparation of External Partner selection documentation and timelines and Transnet should:
  - Consider whether there are any exemptions from applicable legislation required, eg PPPFA and Treasury instructions;
  - Retain all records and paper trail that leads ultimately to the decision to select the preferred partners;
  - Consider all approvals required in terms of the PFMA and identified in the due diligence.

Preparation of qualification and evaluation Partner criteria Documents

03

- Projects with a B-BBEE /transformation focus will be subject to Regulation 4 of the Preferential Procurement Regulations if still in force (i.e. up to 15 January 2023)
- Transnet can consider applying for exemption from Minister of Finance from the preferential procurement requirements stipulated in the PPPFA:
  - in the public interest;
  - where bidders for the Joint investment Transaction are international operators
- Qualification criteria must maximise level of market interest, achieve bankability and ensure that the External Partner is a good 'fit' with Transnet.

Preparation of External Partner Selection

03

- Group Strategic Sourcing (GSS) to issue the RFP (or RFQ and, after shortlisting of qualified bidders if a two stage process is followed, the RFP).
- RFP/RFQ documents to be finalised by Project Owner and GSS.
- Final RFP/RFQ documents to be approved by the Board prior to publication.
- Project owner to obtain confirmation from CFO of availability of cash to meet the projected Joint Investment Transaction costs before issuing the RFP/RFQ .

Stage 4: Contracting and financial close

RFP/RFQ issuing and Bid

04

- Once the RFP is issued in line with the requirements of the Framework:
  - The bid evaluation must adhere to principles of section 217 of the Constitution, and applicable legislation; and
  - The project Owner must ensure a due diligence is conducted on the identity, registration, PEP associations, subcontracting arrangement and B-BBEE commitments of the preferred bidder before referring the bid evaluation report to Group Exco/GIC/FIC and Board for recommendations regarding award of contract.
- Stage 3 approval is for the selection of a preferred bidder and a reserve bidder to be recommended by the OD Exco, GIC, Group Exco, FIC and approved by the Board.

Contract Approval Evaluation

04

- Final contract output for the Joint Investment Transaction, based on negotiations with the preferred External Partner, is motivated by the Project Owner with support from Group Legal.
- Project owner must:
  - Compile a Joint Investment Transaction approval record for review and quality assurance by Group Legal prior to sign-off by the applicable approval authorities.
  - Ensure that all applicable laws and Transnet policies where adhered to in putting out the RFP.
  - Ensure that all conditions precedent are fulfilled in consultation with Group Legal before signature by the delegated authority.

Stage 5

Post Implementation Review

05

- The Project Owner must:
  - Within 30 days of financial close (being the date of satisfaction of all conditions precedent to a Joint Investment Transaction), compile a close out report in the format provided in the Framework.
  - Submit the close out report to Group Legal for review and send to the relevant contract management officer.
- Ensure that all the 8 (eight) applicable approval gates were adhered to in the process that was followed.

7. Joint Investment Transactions resulting from unsolicited partnership proposals (USPPs)

- **USPPs are:**
  - Subject to section 217 of the Constitution, read with section 51(1)(a)(iii) of the PFMA which regulates procurement by Transnet;
  - Not subject to National Treasury Practice Note 11 2008/2009: Unsolicited Proposals (because this Practice Note does not apply to Schedule 2 public entities).

Approach to USPPs

- Transnet will consider USPPs that:
  - Address infrastructure needs that Transnet has not identified or cannot invest in alone, but which are consistent with Transnet's stated infrastructure plans;
  - Propose innovative solutions; or
  - Propose to sell an entity, entirely or in part, by divesting from operations similar to and/or complementary to Transnet's business.

Submission Requirements

- The USPP Proponent must:
  - Keep the offer open for 6 months to allow Transnet to assess the proposal.
  - Not submit the offer to any other person/entity for the said period.
  - Keep engagements with Transnet confidential.
  - Permit Transnet to conduct a due diligence.
  - Submit evidence of its qualifications, financial position, relevant experience and intellectual property (IP).
  - Submit proof of title to IP and licence fees that would be applicable.

Assessment of USPPs

- The USPP must be submitted in a standard format required by Transnet and must meet the following criteria:
  - Strategic alignment or other benefits to Transnet
  - Project feasibility
  - Affordability
  - Joint investment transaction sustainability

Integrity Due Diligence

- The USPP will progress to the External Partner selection phase if:
  - It is assessed as beneficial to Transnet
  - The USPP proponent is assessed to be a suitable and qualified External Partner
  - Transnet and the proponent reach an agreement on the IP.

External Party Selection

- Transnet may collaborate with a USPP Proponent by:
    - Appointing the USPP Proponent to carry out various project development activities;
    - Granting the USPP Proponent a right to participate in a tender process at the Best and Final Offer (BAFO) stage; or
    - Appointing the USPP Proponent after conducting a Notice and Comment process.
- Depending on the method of collaboration, Board approval may be required for a 'procurement deviation'.

BAFO Process

- The BAFO process involves collaboration with the USPP Proponent to carry out a USPP that was accepted by Transnet
- The USPP Proponent funds a significant portion of the technical development of a project solution
- In exchange for this contribution, the USPP Proponent is guaranteed to be one of the preferred bidders to submit a BAFO and may recover its development costs if it is not appointed as the preferred bidder.

Governance in respect of USPPs

- All USPPs are managed by an OD, Group Strategy, or through a centralised process to ensure visibility, transparency and control;
- ODs shall direct all USPP Proponents to the Transnet website for Transnet instructions and processes to follow for USPPs
- USPPs shall be evaluated by a cross-functional assessment team (CFAT) consisting of relevant OD representatives, Group Legal, Procurement, Finance, Strategy, Office of the GCE and managed by the Chief Business Development Officer.