

**REQUEST FOR TENDER: APPOINTMENT OF A CONTRACTOR FOR THE REINSTATE OF OHTE WIRES, STRUCTURES AND SMALL PART STEEL WORK ON THE SECTIONS DURBAN-UMLAZI, DURBAN-KWAMASHU (VIA GREENWOOD PARK), BRIDGE CITY-DUFF'S ROAD AND UMGENI – DUFF'S ROAD (VIA EFFINGHAM) FOR 12 MONTHS FOR KZN REGION**

**DBN/CAP (BAC) 005**



**BID NUMBER: DBN/CAP (BAC) 005**

**REQUEST FOR TENDER (RFT) FOR THE APPOINTMENT OF A CONTRACTOR FOR THE REINSTATING OF THE OHTE WIRES, STRUCTURES AND SMALL PART STEEL WORK ON THE SECTIONS DURBAN TO UMLAZI, DURBAN TO KWAMASHU (VIA GREENWOOD PARK), BRIDGE CITY TO DUFF 'S ROAD AND UMGENI TO DUFF'S ROAD (VIA EFFINGHAM ) FOR 12 MONTHS FOR KZN REGION**

<b>CLOSING DATE</b>	<b>05 AUGUST 2022</b>
<b>CLOSING TIME</b>	<b>11H00</b>
<b>BID DOCUMENTS DELIVERY ADDRESS</b>	Passenger Rail Agency of South Africa, 65 MASABALAL YENGWA AVENUE DURBAN STATION DURBAN
<b>BIDDER NAME</b>	.....
<b>BID RETURN ADDRESS (BIDDING ENTITY RETURN ADDRESS)</b>	Contact Number.....  Company Name.....

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**prasa**  
PASSENGER RAIL AGENCY  
OF SOUTH AFRICA

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## **Disclaimer**

This document is provided solely for the purpose set out in this RFT and is not intended to form any part or basis of any investment decision by Bidders. The recipient should not consider the document as an investment recommendation by PRASA or any of its advisers.

Each person to whom this document (and other later documents) is made available must make his own independent assessment of the Project after making such investigation and taking such professional advice as he/she or it deems necessary. Neither the receipt of this document or any related document by any person, nor any information contained in the documents or distributed with them or previously or subsequently communicated to any Bidder or its advisers, is to be taken as constituting the giving of an investment advice by PRASA or its advisers.

Whilst reasonable care has been taken in preparing this RFT and other documents, they do not purport to be comprehensive or true and correct. Neither PRASA nor any of its advisers accept any liability or responsibility for the adequacy, accuracy or completeness of any of the information or opinions stated in any document.

They acquaint themselves with this RFT and take note that no representation or warranty, express or implied, is or will be given by PRASA, or any of its officers, employees, servants, agents or advisers with respect to the information or opinions contained in any document or on which any document is based. Any liability in respect of such representations or warranties, howsoever arising is hereby expressly disclaimed.

If any recipient, or its employees, advisers or agents make or offers to make any gift to any of the employees of PRASA or consultant to PRASA on the RFT either directly or through an intermediary then such recipient, Bidder will be disqualified forthwith from participating in the RFT.

Each recipient of this RFT agrees to keep confidential any information of a confidential nature which may be contained in the information provided (the "Confidential Information Provided"). The Confidential Information provided may be made available to Bidder's subcontractors, employees and professional advisers who are directly involved in the appraisal of such information (who must be made aware of the obligation of confidentiality) but shall not, either in the whole or in part, be copied, reproduced,

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distributed or otherwise made available to any other party in any circumstances without the prior written consent of PRASA, nor may it be used for any other purpose than that for which it is intended.

These requirements do not apply to any information, which is or becomes publicly available or is shown to have been made available (otherwise than through a breach of a confidentiality obligation). Bidders, Key Contractors and their constituent members, agents and advisers, may be required to sign confidentiality Contracts/undertakings (in such form as PRASA may require from time to time).

All Confidential Information Provided (including all copies thereof) remains the property of PRASA and must be delivered to PRASA on demand. Further, by receiving this RFT each Bidder and each of its members agrees to maintain its submission in Bid to this RFT confidential from third parties other than PRASA and its officials, officers and advisers who are required to review the same for the purpose of procurement of the RFT.

Any recipient residing outside the Republic of South Africa is urged to familiarise themselves with and to observe any regulatory requirements relevant to the proposed transaction (whether these derive from a regulatory authority within or outside the Republic of South Africa).

Any requirement set out in this RFT regarding the content of a response to the RFT is stipulated for the sole benefit of PRASA, and serves as expressly stated to the contrary, may be waived at its discretion at any stage in the procurement process.

PRASA is not committed to any course of action as a result of its issuance of this RFT and/or its receipt of a Proposal in response to it. Please note that PRASA reserves the right to:

- Modify the RFT's goods / service(s) / works and request Respondents to re-bid on any changes;
- Withdraw, amend the RFT at any time without prior notice and liability to compensate or reimburse any respondent;
- Reject any Proposal which does not conform to instructions and specifications which are detailed herein
- Disqualify Proposals submitted after the stated submission deadline;
- Call a respondent to provide additional documents which PRASA may require which have not been submitted to PRASA.
- Not necessarily accept the lowest priced Proposal or alternative bid;

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- Not accept any response to the RFT or appoint a final bidder;
- Reject all proposals if it so decides;
- Withdraw the RFT on good cause shown;
- Award a contract in connection with this Proposal at any time after the RFT's closing date;
- Award a contract for only a portion of the proposed goods/ service/s/ works which are reflected in the scope of this RFT;
- Split the award of the contract between more than one Service Provider, should it at PRASA's discretion be more advantageous in terms of, amongst others, cost or development considerations;
- Make no award at all;
- Validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to PRASA to do so;
- Request annual financial statements prepared and signed off by a professional accountant or other documentation for the purposes of a due diligence exercise; and/or
- Not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it.

To adopt any proposal made by any bidder at any time and to include such proposal in any procurement document which may or may not be made available to other bidders.

All costs and expenses incurred by Bidders in submitting responses to this RFT shall be borne by the Bidders and PRASA shall not be liable for any costs or expenses whatsoever or any claim for reimbursement of such costs or expenses.

Should a contract be awarded on the strength of information furnished by the Respondent, which after conclusion of the contract, is proved to have been incorrect, PRASA reserves the right to cancel the contract and/or place the Respondent on PRASA's list of Restricted Suppliers.

PRASA reserves the right to negotiate market-related price with the bidder scoring the highest points or cancel the bid; if the bidder does not agree to a market related price, negotiate a market related price

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with the bidder scoring the second highest points or cancel the bid; if the bidder scoring the second highest points does not agree to a market related price, negotiate a market related price with the bidder scoring the third highest points or cancel the bid. If the market related price is not agreed as envisaged in this paragraph, PRASA will cancel the bid.

PRASA reserves the right to negotiations Best and Final Offer (BAFO) with selected Respondents where none of the Proposals meet RFT requirement, are affordable and demonstrate value for money and there is no clear preferred response to the RFT

PRASA will not reimburse any Respondent for any preparatory costs or other work performed in connection with its Proposal, whether or not the Respondent is awarded a contract.

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## **1 LIST OF ANNEXURES**

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## **2 ACRONYMS**

BBBEE	Broad Based-Black Economic Empowerment
CIDB	Construction Industries Development Board
DTiC	The Department of Trade and Industry and Competition
PPPFA	Preferential Procurement Policy Framework Act 5 of 2000 (as amended from time to time)
PFMA	Public Finance Management Act No.1 of 1999 (as amended from time to time)
PRASA	Passenger Rail Agency of South Africa
RFT	Request for Tender
SANAS	South African National Accreditation System

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### **3 INTERPRETATION**

In this RFT, unless inconsistent with or otherwise indicated by the context –

- 3.1 headings have been inserted for convenience only and should not be taken into account in interpreting the RFT;
- 3.2 any reference to one gender shall include the other gender;
- 3.3 words in the singular shall include the plural and vice versa;
- 3.4 any reference to natural persons shall include legal persons and vice versa;
- 3.5 words defined in a specific clause have the same meaning in all other clauses of the RFT, unless the contrary is specifically indicated;
- 3.6 any reference to the RFT, schedule or appendix, shall be construed as including a reference to any RFT, schedule or appendix amending or substituting that RFT, schedule or appendix;
- 3.7 the schedules, appendices and Briefing Notes issued pursuant to this RFT, form an indivisible part of the RFT and together with further clarifying and amending information provided by PRASA, constitute the body of RFT documentation which must be complied with by Bidders;
- 3.8 in the event of any inconsistency between this RFT or other earlier information published with regard to the Project, the information in this RFT shall prevail; and
- 3.9 this RFT shall be governed by and applied in accordance with South African law.

#### **4 DEFINITIONS**

In this RFT and in any other project documents (as defined below) which so provides, the following words and expressions shall have the meaning assigned to them below and cognate expressions shall have a corresponding meaning, unless inconsistent with the context:

- 4.1 “Accounting Authority” means the Board of PRASA;
- 4.2 “Contract” means the Contract to be entered between PRASA and the successful Bidder for the provision of the *services* procured in this RFT.
- 4.3 “Bid” means the Bid to the RFT submitted by Bidders;
- 4.4 “Bidders Briefing Session” means the compulsory briefing session to be held at the offices of PRASA, in order to brief the Bidders about this tender;
- 4.5 “Black Enterprise” means an enterprise that is at least 51% beneficially owned by Black People and in which Black People have substantial Management Control. Such beneficial ownership may be held directly or through other Black Enterprises;
- 4.6 “Black Equity” means the voting equity held by Black People from time to time;
- 4.7 “Black People” means African, Coloured and Indian South African citizens, and “Black Person” means any such citizen ;
- 4.8 “Black Woman” means African, Coloured and Indian South Africa Female citizen;
- 4.9 “Briefing Note” means any correspondence to Bidders issued by the PRASA;
- 4.10 “Business Day” means any day except a Saturday, Sunday or public holiday in South Africa;
- 4.11 “Bidders” means individuals, organisations or consortia that have been submitted responses to the RFT in respect of the tender;
- 4.12 “Consortium” means any group of persons or firms jointly submitting a Bid as Bid to this RFT and “Consortia” means more than one Consortium;
- 4.13 “Contractor” the successful Bidders who has signed a Contract with PRASA in terms of this RFT.
- 4.14 “Closing Date” means the closing date for submission of bids/ Proposals by Bidders which is **05 August 2022 @ 11h00;**
- 4.15 “Project” means this project for the **APPOINTMENT OF A CONTRACTOR FOR THE REINSTATING OF THE OHTE WIRES, STRUCTURES AND SMALL PATR STEEL WORK ON THE SECTIONS DURBAN TO UMLAZI, DURBAN TO KWAMASHU(VIA GREENWOOD PARK),BRIDGE CITY TO DUFF'S ROAD AND UMNGENI TO DUFF'S ROAD (VIA EFFINGHAM) FOR 12 MONTHS FOR KZN REGION**
- 4.16 “RFT” means the Request for Tenders issued by PRASA for this bid; and

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4.17 "Scope of Work" means the scope of work for this project as detailed out in the RFT technical specifications.

## SECTION 1

### NOTICE TO BIDDERS

#### 1 INVITATION TO BID

You are hereby invited to submit a bid to meet the requirements of the Passenger Rail Agency of South Africa. Responses to this RFT [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations, or enterprises [hereinafter referred to as an **entity, Bidder**].

<b>BID DESCRIPTION</b>	<b>APPOINTMENT OF A CONTRACTOR FOR THE REINSTATING OF THE Ohte Wires, Structures and Small Part Steel Work on the Sections Durban to Umlazi, Durban to Kwamashu (via Greenwood Park), Bridge City to Duff's Road and Umngeni to Duff's Road (via Effingham) for 12 Months for KZN Region</b>
<b>BID ADVERT</b>	This RFT will be advertised on National Treasury's e-Tender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> and CIDB website with effect from <b>20 July 2022</b>
<b>ISSUE DATE</b>	<b>20 July 2022</b>
<b>COLLECTION DATE DEADLINE (if applicable)</b>	Not Applicable
<b>COMPULSORY BRIEFING SESSION</b>	<b>COMPULSORY BRIEFING SESSION</b> DATE: <b>25 July 2022 @ 10H00</b>
<b>CLOSING DATE</b>	<b>05 August 2022 @ 11h00</b> Bidders must ensure that bids are delivered timeously to the correct address. As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
<b>VALIDITY PERIOD</b>	<b>90 Business Days from Closing Date</b> Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period.
<b>CLOSING DATE FOR QUESTIONS</b>	<b>01 August 2022</b>
<b>CLOSING DATE FOR RESPONSES</b>	<b>02 August 2022</b>
<b>CONTACT PERSON</b>	<b>Johnson Zwane – JZwane@metrorail.co.za</b>

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## **CIDB**

### **CIDB GRADING 8EP or Higher is applicable to this tender**

Only those tenderers who are registered with the cidb, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25 (1B) or 25 (7A) of the Construction Industry Development Regulations, for a 8EP or Higher\*. class of construction work, are eligible to have their tenders evaluated

Any additional information or clarification will be emailed to all Respondents, if necessary.

## **2 FORMAL BRIEFING**

**A Compulsory RFT briefing will be held physically on 25 July 2022 at 10h00. The briefing will Venue is at METRORAIL OFFICE, 65 MASABALALA YENGWA AVENUE, DURBAN STATION, DURBAN AND GO TO SITE.**

## **3 BRIEFING SESSION MINUTES AND NOTES**

**3.1** PRASA will issue briefing session minutes or notes.

**3.2** Bidders / Respondents are requested to promptly submit any clarifications on or before the deadline date stated.

**3.3** Responses to clarifications / questions will be provided on or before the deadline date stated.

## **4 PROPOSAL SUBMISSION OF RFT RESPONSE**

Proposal Responses must be submitted to PRASA in a sealed envelope addressed as follows:

RFT No: DBN/CAP(BAC) 005

Description of Bid **APPOINTMENT OF A CONTRACTOR FOR THE REINSTATING OF THE OHTE WIRES, STRUCTURES AND SMALL PART STEEL WORK ON THE SECTIONS DURBAN TO UMLAZI, DURBAN TO KWAMASHU (VIA GREENWOOD PARK),BRIDGE CITY TO DUFF'S ROAD AND UMNGENI TO DUFF'S ROAD (VIA EFFINGHAM) FOR 12 MONTHS FOR KZN REGION**

Closing date and time: **05 August 2022 @ 11H00**

Closing address *[Refer to options in 5 below]*

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## **5 DELIVERY INSTRUCTION FOR RFT**

### **Delivery of Bid**

The Bid envelopes must be deposited in the PRASA **tender box No. 05** and **submission register must be completed before submitting the bid envelopes, which is located at the main entrance of the PRASA, METRORAIL KZN and must be addressed as follows:**

**65 MASABALALA YENGWA AVENUE  
GREYVILLE, DURBAN STATION, 4001  
ROOF LEVEL ENTRANCE**

## **6 BROAD-BASED BLACK ECONOMIC EMPOWERMENT AND SOCIO-ECONOMIC OBLIGATIONS**

As explained in more detail in the attached SBD 6.1 (BBBEE Preference Points Claim Form) in and as prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Respondents are to note that PRASA will award “preference points” to companies who provide valid proof of their B-BBEE status using either the latest version of the generic Codes of Good Practice or Sector Specific codes )if applicable).

**Note: Failure to submit valid and original (or a certified copy of) proof of the Respondent’s compliance with the B-BBEE requirements stipulated in this RFT (the B-BBEE Preference Points Claim Form) at the Closing Date of this RFT, will result in a score of zero being allocated for B-BBEE.**

### **6.1 B-BBEE Joint Ventures or Consortiums**

Respondents who would wish to respond to this RFT as a Joint Venture [JV] or consortium with B-BBEE entities, must state their intention to do so in their RFT submission. Such Respondents must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If such a JV or consortium agreement is unavailable, the partners must submit confirmation in writing of their

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intention to enter into a JV or consortium agreement should they be awarded business by PRASA through this RFT process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to PRASA.

Respondents are to note the requirements for B-BBEE compliance of JVs or consortiums as required by [SBD 6.1](#) [the B-BBEE Preference Point Claim Form] and submit it together with proof of their B-BBEE Status as stipulated in the Claim Form in order to obtain preference points for their B-BBEE status.

**Note: Failure to submit a valid and original B-BBEE certificate for the JV or a certified copy thereof at the Closing Date of this RFT will result in a score of zero being allocated for B-BBEE.**

## **6.2 Subcontracting**

As an organ of state, PRASA fully endorses Government's transformation and empowerment objectives and when contemplating subcontracting Respondents are requested to give preference to companies which are Black Owned, Black Women Owned, Black Youth Owned, owned by Black People with Disabilities, EMEs and QSEs including any companies designated as B-BBEE Facilitators<sup>1</sup>.

Respondents are required to submit proof of the subcontracting arrangement between themselves and the subcontractor. Proof of the subcontracting arrangement must include a subcontracting agreement.

Respondents are to note that it is their responsibility to select competent subcontractors that meet all requirements of the bid so that their bid is not jeopardised by the subcontractor when evaluated. Respondents are responsible for all due diligence on their subcontractors.

Respondent/s are discouraged from subcontracting with their subsidiary companies as this may be interpreted as subcontracting with themselves and / or using their subsidiaries for fronting. Where

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<sup>1</sup> The Minister of the Department of Trade and Industry has the power to designate certain Organs of State or Public Entities as B-BBEE Facilitators. For example, the South African National Military Veterans' Association (SANMVA) has been designated as a B-BBEE Facilitator. As such they will be treated as having rights of ownership held 100% by Black People, 40% by Black Women and 20% by Black designated groups.

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a Respondent intends to subcontract with their subsidiary this must be declared in their bid response.

The successful Respondent awarded the contract may only enter into a subcontracting arrangement with PRASA's prior approval. The contract will be concluded between the successful Respondent and PRASA, therefore, the successful Respondent and not the sub-contractor will be held liable for performance in terms of its contractual obligations.

In terms of SBD 6.1 of this RFT [the B-BBEE Preference Point Claim Form] Respondents are required to indicate the percentage of the contract that will be sub-contracted as well as the B-BBEE status of the sub-contractor/s.

## **7 COMMUNICATION**

- 7.1** For specific queries relating to this RFT during the RFT process, bidders are required to adhere strictly to the communication structure requirements. An RFT Clarification Form should be submitted to [JZwane@metrorail.co.za](mailto:JZwane@metrorail.co.za) on or before **01 August 2022**, substantially in the form set out in Annexure 2 hereto.
- 7.2** In the interest of fairness and transparency PRASA's response to such a query will be made available to the other Respondents who have attended a compulsory and a non-compulsory briefing session. For this purpose PRASA will communicate with Respondents using the contact details provided at the non-compulsory briefing session.
- 7.3** After the closing date of the RFT, a Respondent may only communicate in writing with the Bid Secretariat, at telephone number [031 8130102, email: [JZwane@metrorail.co.za](mailto:JZwane@metrorail.co.za) on any matter relating to its RFT Proposal.
- 7.4** Respondents are to note that changes to its submission will not be considered after the closing date.
- 7.5** Respondents are warned that a response will be liable for disqualification should any attempt be made by a Respondent either directly or indirectly to canvass any officer(s) or employee of PRASA in respect of this RFT between the closing date and the date of the award of the business. Furthermore, Respondents found to be in collusion with one another will automatically be disqualified and restricted from doing business with PRASA in future.

## **8 CONFIDENTIALITY**

**8.1** PRASA shall ensure all information related to this RFT is to be treated with strict confidence. In this regard Respondents / Bidders are required to certify that they have acquainted themselves with the Non-Disclosure Agreement All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information gleaned from provision of the Services, which is either directly or indirectly related to PRASA's business, written approval to divulge such information must be obtained from PRASA.

**8.2** Respondents must clearly indicate whether any information submitted or requested from PRASA is confidential or should be treated confidentially by PRASA. In the absence of any such clear indication in writing, PRASA shall deem the response to the RFT to have waived any right to confidentiality and treat such information as public in nature.

## **9 INSTRUCTIONS FOR COMPLETING THE RFT**

**9.1** All responses to the RFT must be submitted in two sealed envelopes/boxes; the first envelope/box shall have the technical, compliance and BBBEE response and the second envelope/box shall only have the financial response. Bidders must ensure that they do not indicate any financial information in the first envelope/box. PRASA may disqualify Bidders who fail to adhere to this requirement.

**9.2** Bidders are required to package their response/Bid as follows to avoid disqualification:

### **Volume 1 (Envelope 1/Package 1)**

- **Part A:** Compliance Response and B-BBEE Response
- **Part B:** Technical or Functional Response (response to scope of work)

### **Volume 2 (Envelope 2/ Package 2)**

- **Part C:** Financial Proposal

**Volume 2** Has to be submitted in a separate sealed envelope. Bidders must make their pricing offer in envelope 2/package 2, no pricing and pricing related information should be included in the Volume 1 envelope 1 **except Local Content Annexure C where the bid price is required to calculate the percentage of local content**

**9.3** Bidders must submit 1 original response, 1 copy and an electronic version which must be contained in CDs or Memory Cards clearly marked in the Bidders name.

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- 9.4** Bidders must ensure that their response to the RFT is in accordance with the structure of this document.
- 9.5** Where Bidders are required to sign forms they are required to do so using a black ink pen.
- 9.6** Any documents forming part of the original responses to RFT but which are not original in nature, must be certified as a true copy by a Commissioner of Oaths.
- 9.7** Each response to RFT must be in English and submitted in A4 format, except other graphic illustrations, which may not exceed A3 format, unless the contrary is specifically allowed for in this RFT. Responses to RFT must be neatly and functionally bound, preferably according to their different sections.
- 9.8** The original responses to RFT must be signed by a person duly authorized by each consortium member and Subcontractor to sign on their behalf, which authorization must form part of the responses to RFT as proof of authorization. By signing the responses to RFT the signatory warrants that all information supplied by it in its responses to RFT is true and correct and that the responses to RFT and each party whom the responses to RFT signatory represents, considers themselves subject to and bound by the terms and conditions of this RFT.
- 9.9** The responses to RFT formulation must be clear and concise and follow a clear methodology which responses to RFT must explain upfront in a concise Executive Summary and follow throughout the responses to RFT.
- 9.10** Responses to RFT must provide sufficient information and detail in order to enable PRASA to evaluate the responses to RFT, but should not provide unnecessary detail which does not add value and detracts from the ability of PRASA to effectively evaluate and understand the responses to RFT. The use of numbered headings, bullet points, sections, appendices and schedules are encouraged.
- 9.11** Information submitted as part of a responses to RFT must as far as possible, be ordered according to the order of the required information requested by PRASA. All pages must be consecutively numbered.
- 9.12** Responses to RFT must ensure that each requirement contained in the RFT is succinctly addressed. Responses to RFT should as far as possible use the terms and definitions applied in this RFT and should clearly indicate its interpretation of any differing terminology applied.

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- 9.13 Response to RFT documents are to be submitted to the address specified in item 5 above, and Bidders must ensure that the original and copies (where applicable) are identical in all respects as PRASA will not accept any liability for having disqualified a bidder for failing to provide a mandatory returnable document.
- 9.14 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFT shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 9.15 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 16 [Alterations made by the Respondent to Bid Prices] of the General Bid Conditions, alterations, additions or deletions must not be made by the Respondent to the actual RFT documents.
- 9.16 Bidders are required to review the Contract. Bidders may further amend and or delete any part of the Draft Contract where they deem fit to do so. Where Bidders have amended and or deleted any part of the Contract, it must be clearly visible by using track changes and must ensure that the disc copy of their bid submission for the Draft Contract is in word version and not password protected. **It must be noted that the marked up Contract will form part of the evaluation.**

**10 RFT TIMETABLE**

PRASA may at its sole discretion amend any of the milestone dates indicated in the table below. Bidders will be informed of any amendments to the timeline through the issue of the Addendum.

RFT PROCESS	MILESTONE DATES
Bid issue date	20 July 2022
Compulsory Physical Briefing Session for Bidders	25 July 2022 @ 10h00
Closing date for Questions	01 August 2022 @ 12H00
Closing date for Responses	02 August 2022 @16H00
Closing Date for Submission of final Bid	05 August 2022 @ 11h00
Evaluation of Proposals (Bidders note that PRASA may call for Presentation of bidders offers at any stage of the evaluation process)	TBA
Appointment of the successful Bidder	TBA

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Contract Negotiations	TBA
Signing of Contract	TBA
Contract Commencement	TBA

PRASA may at its sole discretion amend any of the milestone dates indicated in the table above. Bidders will be informed of any amendments to the timeline through the issue of briefing notes.

## 11 CONTRACT DURATION

The planned time frame for the implementation of this proposed project is twelve (12) months from contract signing with a programme that consists of activities for; Reinstating the OHTE Wires, Structures and small part Steel work on the sections Durban to umlazi, Durban to Kwamashu(via Greenwood park), Bridge City to Duff's Road and Umngeni to Duff's Road (via Effingham)

### **TIME FRAMES AND EXPECTED COMPLETION**

Task Name	Duration	Predecessors
OHTE Priority Corridor List		
<b>6.2 OHTE Schedule</b>		
6.2.1 Construction/Execution (Duff's Road -KwaMashu)	27 days	Tender Award
6.2.2 Site Hand Over to operation (Duff's Road - KwaMashu)	1 day	6.2.1
6.2.3 Construction/Execution (Dbn -Umlazi)	4 days	6.2.2
6.2.4 Site Hand Over to operation (Dbn- Umlazi )	1 day	6.2.3
6.2.5 Construction/Execution (Greenwood Park- Bridge City)	24 weeks	6.2.4
6.2.6 Site Hand Over to operation	1 day	6.2.5

Respondents must ensure that they comply with all the requirements of the RFT and if Bidders fail to submit any of the required documents, such Bids shall, at the sole discretion of PRASA, be disqualified.

The successful Bidder [hereinafter referred to as the **Service Provider**] shall be in full and complete compliance with any and all applicable laws and regulations.

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## **12 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE**

Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Only foreign suppliers with no local registered entity need not register on the CSD. The CSD can be accessed at <https://secure.csd.gov.za>. Respondents are required to provide the following to PRASA in order to enable it to verify information on the CSD:

**Supplier Number:** \_\_\_\_\_ **Unique registration reference number:** \_\_\_\_\_.

## **13 TAX COMPLIANCE**

Respondents must be compliant when submitting a proposal to PRASA and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

It is a condition of this RFT that the tax matters of the successful bidder be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids.

Respondents are required to be registered on the Central Supplier Database (CSD) as indicated in item 12 above and the National Treasury shall verify the Respondent's tax compliance status through the Central Supplier Database (CSD).

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database (CSD) and their tax compliance status will be verified through the Central Supplier Database (CSD).

**For this purpose, the attached SBD 1 marked FORM A and B must be completed and submitted as an essential returnable document by the closing date and time of the bid.**

New Tax Compliance Status (TCS) System

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SARS has implemented a new Tax Compliance Status (TCS) system in terms of which a taxpayer is now able to authorise any 3rd party to verify its compliance status in one of two ways: either through the use of an electronic access PIN, or through the use of a Tax Clearance Certificate obtained from the new TCS system.

Respondents are required to provide the following to PRASA in order to enable it to verify their tax compliance status:

**Tax Compliance Status (TCS) Pin:**\_\_\_\_\_.

#### **14 PROTECTION OF PERSONAL DATA**

In responding to this bid, PRASA acknowledges that it may obtain and have access to personal data of the Respondents. PRASA agrees that it shall only process the information disclosed by Respondents in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law. Furthermore, PRASA will not otherwise modify, amend or alter any personal data submitted by Respondents or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Respondents. Similarly, PRASA requires Respondents to process any personal information disclosed by PRASA in the bidding process in the same manner.

### **SECTION 2**

#### **BACKGROUND OVERVIEW AND SCOPE REQUIREMENTS**

##### **1. INTRODUCTION AND BACKGROUND**

On the 26th of March 2020, the president of South Africa declared a lockdown to minimise the rate of spread of the corona virus. During the lockdown, thieves saw an opportunity to steal the overhead wires, structures, and the small part steelwork. This led to the decision by the region to suspend train services on the following corridors: Durban – Umlazi, Durban – Kwamashu (via Greenwood Park), Bridge City – Duffs Road and Umgeni Electric train services are not possible in these sections due to unavailability

of electrical infrastructure. PRASA is unable to collect revenue and to deliver on the primary mandate of providing reliable and affordable public transport. The overhead wires provide a path for continuous supply of 3KV DC supply for train movement. These overhead wires are supported by small part steelwork and concrete structures.

Therefore, the 3kV DC infrastructure requires urgent restoration, this will allow PRASA to resume rail transportation services using electrical locomotives.

There is an ongoing theft and vandalism of railway infrastructure across the country. Overhead wires are being stolen and, in a process, the small part steelwork gets vandalized. The KZN region too has been affected as a result train operation has been suspended in some corridors. This has also created a need to get a service provider to prevent prolonged period of service disruptions in future.

The affected areas are Durban – Umlazi and Durban – KwaMashu (via Greenwood Park), Bridge City – Duff`s Road and Umngeni are suspended. Closure to these lines means loss of revenue. There is a need to replace 30km of overhead wires, structures, and small part steel work on the Durban to KwaMashu line. 10km of overhead wires needs to be replaced on the Umlazi line.

Overhead track equipment is subjected to theft and vandalism.

There is currently no contract in place to do emergency replacement when the OHTE equipment is stolen and vandalised. Below is the list of areas that are already affected by theft and vandalism:

- KwaMashu to Duff`s road 10 km
- Bridge City to Duff`s road 5 km
- Durban to Duff`s road (via Greenwood Park) 15 km
- Durban to Umlazi 10km

## **2 OVERVIEW**

The OHTE equipment is stolen and vandalised regularly as a result the service get disrupted and business lose revenue. Electrical department does not have sufficient resources to urgently do replacement when there are service disruptions, hence the

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need to have contract. Below areas are already affected and the region could not do replacement.

Durban - KwaMashu and Durban – Umlazi line forms part of the A corridor

Closure of these lines means a loss of revenue as well as expenses incurred to PRASA.

Should the lines remain closed, more theft and vandalism will occur.

**a. PICTORIALS**



Picture1 stolen wires and track switch vandalised

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Picture 2 Contact wire and catenary wire hanging loose due to theft and vandalism



Picture 3: Stripped and broken tubular cantilever

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Picture 4 and 5 – cleared hanging and loose wires between Durban and KwaMashu

### **3 KEY OBJECTIVE OF THE RFT**

The objective is to replace the stolen and damaged infrastructure to have a safe and reliable train service.

### **4 SCOPE OF WORK AND AREAS OF FOCUS**

#### **a. SCOPE OF THE DESIRED SOLUTION**

The scope of work is to restore damaged and vandalised OHTE wires, structures, and small part steelworks.

#### **b. DETAILS ON THE PREFERRED SOLUTION**

The approach will enable the resumptions of train services on the A corridor

**c. TARGETED AREA BY THIS PROJECT**

The area of focus expands from:

Durban to KwaMashu (via Greenwood Park section),

Bridge City – Duff's Road

Umnjeni to Duff's Road (via Effingham)

Durban to Umlazi

**d. EXTENT AND COVERAGE OF THE PROPOSED PROJECT**

The appointed service provider shall supply and install contact wire, feeder wire, tiger wire, structures and small part steelwork in A corridor affected by theft and vandalism.

**e. OTHER RELATED PROJECTS**

None

**5 SPECIFICATION OF THE WORK OR PRODUCTS OR SERVICES REQUIRED**

**5.1 The supplier shall comply to the following specifications:**

- Long Hard Drawn, Grooved Contact Copper wire as per CEE.0241\_ISS-2000. (Refer annexure 1), Size of the wire - 161mm<sup>2</sup> copper, Length of the contact wire per drum - 1830m, Provide the contact wire Test Certificate from the manufacturer.
- CEE-PFD-24: Stay wire anchoring arrangement (Refer annexure 2)
- CEE-TMC-41: Tubular cantilever (Refer annexure 3)
- CEE-TMC-94: Tie wire assembly (Refer annexure 4)
- CEE-TMF-137: Stay wire attachment (Refer annexure 5)
- Supply and install 160mm<sup>2</sup> aluminium Tiger wire.
- Supply and install 800mm<sup>2</sup> aluminium Feeder wire
- Supply and install small part steel work
- Supply and install mast to rail bonding CEE-TU-35 (Refer annexure 6)

- All small part steel to be 3CR12 Stainless steel

## 5.2 Qualifications

The contractor shall provide the following certificate as part of submission:

5.2.1 The contractor shall provide qualified and experienced professional staff for the following positions.

- Team Leader/Project Director
- Site Supervisor
- Traction Linesmen
- Trade Hand
- Flagman

### 5.2.2 MINIMUM QUALIFICATION OF KEY PROFESSIONAL STAFF

#### 5.2.2.1 Team Leader/Project Engineer

- Heavy Current Electrical qualification (Degree, Diploma or N-level certificate)
- Minimum 10 years post experience in the electrical railway industry.
- Project Management qualification with 5 years minimum experience

#### 5.2.2.2 Site Supervisor

- All work shall be supervised by a Site Supervisor in possession of a Traction Linesmen qualification. (A-Red)
- Minimum 5 years' experience as a Traction Linesman in the 3kV DC System
- Minimum 5 years' experience in the construction and commissioning of a 3kV DC OHTE system.

#### 5.2.2.3 Trade Hand

- All staff that will climb on structures shall be in possession of a valid "C" green certificate.
- Minimum 5 years' experience as a Trade Hand/traction linesman
- Minimum 5 years' experience in the construction of the 3kV DC OHTE system.

#### 5.2.2.4 Flagman

A minimum of two qualified flagmen shall be deployed for each occupied section.

### 5.3 Safety File

All work in the contract should comply with Occupational Safety Act, 2003 (Act No 85 of 2003). A safety file shall be submitted and approved by the Regional Electrical Engineer/Project Manager & Risk department before bidder start the work

#### 5.4 Site Access

Before commencement of work on site, PRASA shall issue a site access certificate to the bidder. A copy of the Electrical Safety Instruction: High Voltage Electrical Equipment will be issued to the bidder for the duration of the contract if necessary.

#### 5.5 Material and Labour to be supplied by the Contractor

- I. The Contractor shall provide all Supervision, Security, Labour, and Material necessary for the proper execution and completion of the WORKS.
- II. PRASA KZN supports **BBBEE** and the involvement of the local communities when projects of this nature are rolled out. The Contractor shall make extensive use of labour, services as well as materials where possible.
- III. The Contractor shall supply a fully qualified OHTE supervisor to supervise on site activities as well as fully qualified Trade hands depending on the magnitude of the works, for the proper execution of the Works.
- IV. The Contractor shall provide the necessary qualified flagmen (Track helpers) (2) for the Protection of his personnel at the working site/s if the machinery or tools to be utilized may come near the railway lines.

#### 5.6 Work Permit

All occupations and work permits will be arranged by PRASA Electrical Supervisor (OHTE) and the bidder to ensure all safety limits of the permit are understood before signing the permit

### 5.7 Penalties

- (i) The contractor will be charged R10 000.00 for working on PRASA site without a proper and valid Site Access Certificate or working without official occupation.
- (ii) The contractor will be charged a penalty of R 80.00 per minute per train that was delayed.
- (iii) The contractor will be charged the penalty of R1 500.00 per train that was cancelled.

### 5.8 Termination of contract

PRASA reserves the right to cancel the contract at any time during the contract period in the case of the contractor not performing according to the requirements of the agreement.

### 5.9 Guarantee

All equipment provided including workmanship shall be guaranteed for a period of one year starting on the date of commissioning.

### 5.10 Security

The contractor shall make provision for their own security on site to monitor staff and equipment until the Project is handed over back to PRASA and the cost to that effect must be included in the supplier's rates. The security will have to undergo an induction.

### 5.11 Compulsory Site Meeting

All contractors shall attend a site meeting and must provide their own safety clothing (**safety boots and visibility vest**) and transport.

## 6 Compulsory Sub-contracting

- A successful tenderer must subcontract a minimum of 30% of contract value as guided by regulation 9 of the PPR of 2017.

**7 Local content**

As stipulated in the instruction note: Rail Electrification and Components

No	Some equipment against which the local content must be discharged	
	Equipment	% Local content
1	Cable and Wire	90%
2	Structural elements	100%

**8 CIDB Grading**

CIDB grading is 8 EP or higher

**9 EVALUATION METHODOLOGY**

**• TRANSFORMATION PROCUREMENT**

a. PRASA may transform its procurement spend by utilising the following:

- PPPFA allows organs of state to utilize prequalification criteria for preferential procurement.
- PPPFA allows organs of state to utilize subcontracting as a condition of tender. It also allows organs of state to choose more than one options to sub-contracting i.e., subcontract to EME or QSE and an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships amongst others and clearly state this requirement in the tender document as organs of state are allowed to choose more than one category for subcontracting.
- PPPFA allows organs of state to use objective criteria and stipulate same in the tender document.
- The above regulations allow PRASA to achieve their objective of Enterprise and Supplier Development (ESD) as far as participation of local enterprises is concerned especially when market analysis has been done to justify including an EME or QSE or an EME or QSE which is 51% owned by Black people living in rural or underdeveloped areas or township etc.

**b. Local Content:** *(LC requirement per designation)*

- i. The PPPFA Regulations, 2017, prescribe how Local Production and Content is to be measured in public sector Bids. In terms of these regulations when issuing bids involving designated sectors, PRASA must advertise such bids with a specific bid condition that only locally produced or manufactured Goods or Services which meet a stipulated minimum threshold for local production and content will be considered. For example, if the stipulated minimum threshold for LC is 70%, this means that 70% of the bid price must be spent on LC (i.e., everything that is not included in Imported Content.)
- ii. Designated sectors, sub-sector or industry or product, are those sectors which in accordance with national development and industrial policies have been designated by the DTI in consultation with National Treasury, for Local Production and Content. The National Treasury must inform organs of state of any designation made through a circular / instruction note. The circulars/instructions issued by NT on designated sectors must always be strictly adhered to when bids in these sectors are issued. Refer to NT's website for the latest list of designated sectors. Further please refer to the circulars/instructions issued by NT as certain sectors have designated sub-sectors/components in addition to the overall thresholds.
- iii. PRASA, its Divisions and Subsidiaries are to note that local content is applicable to all designated products irrespective of the value unless indicated otherwise in the specific Instruction/Circular.
- iv. PRASA, its Divisions and Subsidiaries must be aware that certain Bidders may have approached the DTI to be exempted from meeting all LC requirements. Where such exemption has been received by a Bidder, Procurement must request a copy of such exemption from the Bidder with their Bid submission.
- v. Where a response to PRASA's bid invitation indicates that the market does not have capacity for the LC threshold for that particular designated sector or alternatively where PRASA is aware prior to issue a bid, of the market's lack of capacity, SCM must:
  - verify this position by conducting a market analysis; and/or

- issue Request for Information (RFI).
- Based on the results above the GCPO must engage the DTI to seek exemption from the LC requirement. The application for an exemption must be accompanied by a report of the outcome from the above exercise, as proof of the status of the market. Should an exemption be granted, the exemption must be referred to in the Bid document.
- Where, after the contract has been awarded, a bidder can no longer meet the LC requirements, Procurement and the end user must deal with such a bidder in terms of the contractual terms and conditions relating to non-performance. However, there are National Treasury Instruction Notes that were issued with a clause which affords bidders an opportunity to approach the DTI with a request for exemption. In this regard, Procurement and the end-user must always verify if exemption is applicable against that specific Instruction Note.

### **LC Requirements in Bid Documents**

- i. It is a requirement that the following documents be listed as mandatory returnable documents, whenever a minimum threshold for LC is required:
- ii. Declaration Certificate for Local Production and Content [SBD 6.2]; and
- iii. Annexure C – Local Content Declaration: Summary Schedule.
- iv. The following documents are supporting schedules and may be requested as essential returnable documents if PRASA would like to verify them for a particular bid:
- v. Annexure D – Imported Content Declaration: Supporting Schedule to Annexure C; and
- vi. Annexure E – Local Content Declaration: Supporting Schedule to Annexure C.

### **c. Principles of Subcontracting as a prequalification criterion in terms of the PPPFA (if feasible – please state reasons, if not)**

The following principles of subcontracting must be applied:

- i. **Subcontracting as a prequalification requirement for contracts above R30m:** This relates to a decision taken by PRASA compelling bidders to,

where feasible, subcontract to designated groups or companies on specific identified commodities.

- ii. Where a feasibility analysis on subcontracting is conducted and the outcome indicates that a lesser percentage than the 30% mentioned in the regulations is feasible, this lesser percentage should be set as a prequalification criterion in the bid document; and

**Target Procurement: Prequalification criteria for preferential procurement (*if set* aside for targeted procurement or not)**

If PRASA decides to apply pre-qualifying criteria to advance certain designated groups, it must advertise the bid with a specific bidding condition that only one or more of the following bidders may respond:

a bidder with a stipulated minimum B-BBEE status level;

an Exempted Micro Enterprise (EME) or a Qualifying Small Enterprise (QSE); and  
a bidder subcontracting a minimum of 30% to an EME or QSE.

a bidder subcontracting a minimum of 30% to an EME or QSE which is:

at least 51% owned by black people;

at least 51% owned by Black people who are youth;

at least 51% owned by black people who are women;

at least 51% owned by Black people with disabilities;

51% owned by Black people living in rural or underdeveloped areas or townships;

at least 51% owned by Black people who are military veterans; or

a tenderer subcontracting a minimum of 30% to a co-operative which is at least 51% owned by Black people.

## EVALUATION PROCESS

Interested bidders for this project shall be evaluated in terms for their administrative responsiveness, substantive responsiveness, technical/functional (capacity testing) evaluation and preference points. The evaluation committee shall use the following

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Evaluation Criteria depicted in table 12.1 below for the selection of the preferred bidder that shall render / deliver the required works, goods and / or services.

EVALUATION PROCESS	
Stage 1	
Compliance	Administrative Responsiveness
	Substantive responsiveness (mandatory)
Stage 2	
Technical/Functional Criteria	Testing of capacity – meet minimum threshold of 70%
Stage 3 Preference Points	
Price	90
BBBEE	10
TOTAL	100

Figure 12.1: Evaluation criteria for the selection of a potential bidder

### 10.2.1 STAGE 1 - Administrative and Substantive Responsiveness

If a supplier / bidder do not submit the following documents the Proposal will be disqualified automatically:

No.	Description of requirement	
Standard returnable document		
a)	Completion of ALL RFP documentation (includes ALL declarations, ALL Standard Bidding Documents (SBD) and Commissioner of Oath signatures required)	

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No.	Description of requirement	
b)	Submission of a signed Briefing session Form D and signed briefing session attendance register.	
c)	8 EP or higher CIDB Grading	
d)	The Declaration Certificate for Local Content (SBD 6.2) and Annexure `C` must be completed and duly signed.	
e)	Letter of Good Standing: Compensation for Occupational Injuries & Diseases Act (COIDA)	
f)	Signed Joint Venture, Consortium Agreement or Partnering Agreement (whichever if applicable)	
g)	In compliance with the Preferential Procurement Regulation requirement of subcontracting 30% of the Works, PRASA requires a Memorandum/da Of Understanding from the Bidders to reflect the names of companies that it intends subcontracting to, the nature of the works to be subcontracted and contract % that will be subcontracted to the respective companies and the terms and conditions of the relationship between the Bidder and subcontracting companies.	

**NB: The report containing the list of potential sub-contractors has been drawn and may be accessed through the following link: [www.csd.gov.za](http://www.csd.gov.za) and please use the tender number DBN/CAP (BAC) 005 as the Reference for the following Services:**

- **Electrical Engineering Services**
- **Occupational Health and Safety Services**
- **Security Services**
- **Supply of electrical cables**

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- Supply of steel
- Supply of construction equipment or plant hire

Should bidders identify sub-contractors that meet the requirements as set in section 11 above who are not registered in any of the commodity categories listed above and/or are not registered on the CSD, bidders must ensure that these sub-contractors are registered in one of the listed commodity categories and registered on the CSD prior to the closing date and time. Bidders who do not meet this requirement will be disqualified and will not be evaluated further.

Non Standard Returnable Documents		
a)	<p>Original or certified B-BBEE certificate issued by SANAS (Certificates issued by IRBA and Accounting Officers have been discontinued, however valid certificates already issued before 1 January 2017 may be used until they phase out completely by December 2017) Bidder to include Affidavit for QSEs and EMEs.</p> <p>In cases of JVs or consortiums, a combined B-BBEE certificate in the name of the JV/Consortium must be submitted</p>	
b)	<p>CSD supplier registration number (should a bidder not registered on CSD, the bidder will be afforded 14 days after the closing date to register accordingly)</p>	

12.2.2 STAGE 2 - Technical / Functionality Requirements

Qualifying bidders shall be evaluated on technicality / functionality after meeting all compliance requirements outlined above. The minimum threshold for the technical/functionality requirements is 70%. Bidders who score below the minimum requirement shall not be considered for further evaluation in stage 3.

Summary of the technical/functional requirements are presented in the table 12.2 below.

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CRITERIA	WEIGHT	SCORES
<p>Organizational Experience</p> <p><i>(N.B. Provide for each successfully completed project/s in the following sequence: Copy of an appointment letter/s (on a company letterhead), description of the project, Client name, Client contact (i.e., email and office number), Project start date, project end date, extension of time where applicable, contract value inclusive of VAT, ROE, and CPA. Furthermore, attach completion certificate signed by client or letter from the client confirming successful completion of the project.)</i></p>	20	<p>Score will be based on successfully executed and completed similar projects in the installation of OHTE in the last ten years from the presented details in the tender document.</p> <p>0: Zero (0) Similar Projects/non-submission/incomplete submission</p> <p>1: 1 to 2 Similar projects</p> <p>2: 3 to 4 Similar projects</p> <p>3: 5 to 6 Similar projects</p> <p>4: 7 to 8 Similar projects</p> <p>5: 9 and above Similar projects</p>
<p>Qualifications and Technical Experience (based on Submitted CVs) of Key Staff</p> <ul style="list-style-type: none"> <li>• Project Engineer (PE),</li> <li>• Site Supervisor (SP)</li> <li>• Engineering Technician/ Linesman (ET/LM)</li> </ul> <p><i>(N.B. Provide copies of original qualifications and certificates of professional</i></p>	30	<p>Detailed CVs of the team members who will be used in completing the works. Years of experience of proposed personnel:</p> <p>0: No information provided/incomplete submission/less than 5 years' experience.</p> <p>1: 5 years' experience of skilled personnel in the construction of 3kV DC OHTE System.</p> <p>2: Above 5 years' and equals to 6 years' experience of skilled personnel in the construction of 3kV DC OHTE System.</p> <p>3: Above 6 years' and equals 7 years' experience of skilled personnel in the construction of 3kV DC OHTE System.</p>

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<p><i>bodies. Commissioner of oath must certify the copies. The date on the stamp shall be three months or less old, before the closing date of the tender. If the qualification has been awarded in other language either than English, please provide translation in English)</i></p> <p><i>(Linesman qualification shall be Category A-Red)</i></p> <p><i>(N.B. Resources will be evaluated and the average score will be calculated.</i></p> <p><i>Formula below will be used to calculate average score; Average Score = ((PE + SP + ET/LM)/ 3)</i></p> <p><i>N.B. Each must have a minimum of 5 years</i></p>		<p>4: Above 7 years' and equals 8 years' experience of skilled personnel in the construction of 3kV DC OHTE System.</p> <p>5: Above 8 years' experience of skilled personnel in the construction of 3kV DC OHTE System.</p>
<p>Project program (Work plan)</p> <p><i>(N.B. Provide project schedule in MS projects that meets the client's timeline requirements and the schedule to cover the following key Milestones:</i></p> <ul style="list-style-type: none"> <li>• <i>Completion of safety file</i></li> <li>• <i>Site Establishment</i></li> <li>• <i>Procurement of material and all services</i></li> <li>• <i>Actual construction activities.</i></li> <li>• <i>Final works completion</i></li> </ul>	<p>30</p>	<p>Score will be allocated for MS Project Schedule provided</p> <p>0: No information provided</p> <p>1: Inadequate/ unrelated project schedule provided</p> <p>2: Project schedule provided but no detailed activities indicated;</p> <p>3: Project schedule provided with activities indicated on the program aligned with the preferred duration of the project;</p> <p>4: Project schedule provided with activities indicated on the program aligned with preferred duration of the project, showing the sequence of activities;</p> <p>5: Project schedule provided with activities indicated on the program aligned with the preferred duration of the project, showing the sequence of activities, clear understanding of the scope of work and site challenges addressed.</p>

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<ul style="list-style-type: none"> <li>• <i>Maximum project Duration of eight (8) Months</i></li> </ul> <p><i>The overall schedule should clearly indicate sequencing of activities with clear understanding of scope.</i></p>		
<p><b>Project Approach and Methodology</b></p> <p><i>(N.B. The project methodology must be in line with the scope of work. Identify the risks associated with the project activities and mitigation measures. Furthermore, clearly show risks and mitigation measures of working on the railway reserve)</i></p> <p><i>Elements: Identification of risks and mitigation, Work breakdown of activities, Quality assurance, Transportation, Scaffolding, Plant and equipment, Temporary structural supports, barricading and securing of work, Accommodation of traffic.</i></p>	<p>20</p>	<p><b>Score will be allocated as follows:</b></p> <p>0: No information provided</p> <p>1: 3 or less elements of the method statement</p> <p>2: 4 elements of the method statement.</p> <p>3: 5 elements of the method statement.</p> <p>4: 6 elements of the method statement.</p> <p>5: 7 or more elements of the method statement.</p>

**Table 12.2: Technical Evaluation Criteria**

### 10.2.3 STAGE 3 - PRICING AND BBBEE

Include or attach detailed pricing schedule

The following formula shall be used by the Bid Evaluation Committee to score potential bidders on pricing:

$$P_s = 90 \left[ 1 - \frac{P_t - P_{min}}{P_{min}} \right]$$

Where:

Ps = Points scored for the price of tender under consideration.

Pt. = Rand value of the tender under consideration.

Pin = Rand value of the lowest acceptable tender.

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The minimum qualifying criteria for pricing is 90 points as per the standard Evaluation Criteria presented in figure 12.1 above.

The BBBEE component of the evaluation process is weighted at 20 points in figure 12.1 of the standard Evaluation Criteria outlined above. Bidders will be awarded points based on the level of the BBBEE status presented in the BBBEE Certificate issued by an approved agency certified by SANAS. Details of the allocation of points by the Evaluation Committee are presented in figure 12.4 below.

<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	<b>NUMBER OF POINTS (90/10 SYSTEM) ABOVE A MILLION</b>
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-Compliant Contributor	0

**Figure 12.4:** BBBEE Evaluation Criteria

### Annexure A: Statement of Compliance

The contractor must complete the Statement of Compliance for this Specification. There are only 2 level of reply permitted, C = compliant and NC = non-compliant.

Item	Compliance to:	C = Compliant NC = non-compliant	Signature
1	Contract duration		
2	Guarantee Period		

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Bidders are to note that the successful bidder shall be responsible to protect their own site establishment, their own tools and equipment, materials and works as well as labour. The successful bidder shall ensure that patrols are in place at the section handed over to the successful bidder until the completed work is handed over to PRASA. No claims of losses must be lodged with the client for stolen goods before the completed work is handed over to PRASA. Any lost, damaged or stolen material shall be treated according to the construction contract, specifically clauses 33 and 34 and bidders should take note of section 9.7 Insurance of the RFT for guidance.

Bidders are to note that the successful bidder shall be responsible to provide PRASA with a Security Plan (which clearly states which assets the successful bidder will be protecting/securing) upon award and before Works commence. The Security Plan provided by the successful bidder shall be developed in collaboration with the PRASA Project Manager, the PRASA Protection Services representative and the PRASA appointed contractor/s responsible for securing other PRASA assets in the respective areas and shall be signed off by all Parties before the successful bidder can establish site and commence Works.

Bidders are to note that there will be various other PRASA appointed Contractors/Suppliers working in the corridor/section as stated in the Scope of Works. All other PRASA appointed Contractors/Suppliers shall be responsible to protect their own site establishment, their own tools and equipment, material and works as well as labour. Upon appointment of other Contractors/Suppliers, the Security Plan and Security Responsibilities shall be reviewed and approved by all Parties. The PRASA Project Manager will have the responsibility to advise the successful bidder when other Contractors/Suppliers are appointed.

**Price Evaluation:** The following formula, stipulated in the approved PRASA Conditions of Contract, shall be used by the Bid Evaluation Committee to score interested bidders on pricing:

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

*Where*

*P<sub>s</sub> = Points scored for the price of tender under consideration*

*P<sub>t</sub> = Rand value of offer tender consideration*

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*Pmin = Rand value of the lowest acceptable tender*

**BEE Evaluation:** The BBBEE component of the evaluation is weighted at 10 points of the evaluation criteria. Bidders will be awarded the following points based on the level of their BBBEE as per their BBBEE Certificate issued by an agency approved by SANAS or Sworn Affidavits:

<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	<b>NUMBER OF POINTS( 90/10 SYSTEM) ABOVE R50 MILLION</b>
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-Compliant Contributor	0

**NB: Bidders must submit proof of their B-BBEE status level. Bidders failing to submit proof of their B-BBEE status level or are non-compliant may not be disqualified and will score 0 points**

## 10 PREFERENTIAL PROCUREMENT REGULATIONS

The new regulations, issued by the Minister of Finance in 2017, were revised to align with certain changes to the Broad-Based Black Economic Empowerment (B-BBEE) legislation. They encourage procurement from Small Enterprises, particularly through sub-contracting if a tender is set above the R30 million threshold.

The Regulation focuses on the need by all organs of state and public entities to specify conditions that only locally produced or locally manufactured goods meeting the stipulated minimum threshold for local

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production and content will be considered for certain designated sectors. They also afford organs of state the freedom to choose to apply pre-qualifying criteria to advance certain designated groups. In compliance with the new regulation, this project will require that a minimum of 30% be subcontracted to one of the following types of enterprises:

- a) an EME or QSE
- b) an EME or QSE which is at least 51% owned by black people;
- c) an EME or QSE which is at least 51% owned by black people who are youth;
- d) an EME or QSE which is at least 51% owned by black people who are women;
- e) an EME or QSE which is at least 51% owned by black people with disabilities;
- f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- g) a cooperative which is at least 51% owned by black people;
- h) an EME or QSE which is at least 51% owned by black people who are military veterans;
- or
- i) more than one of the categories referred to in paragraphs (a) to (h).

Before contracting with the successful Bidder, PRASA will insist on being provided with copies of formal signed subcontracting agreements that make up the legislated 30% of the contract value. The subcontractors shall be registered on the National Treasury Central Supplier Database (CSD). All agreements to state that PRASA will not be held responsible or liable should the successful Bidder breach contract with the subcontracted companies.

## **11 VALIDITY PERIOD**

This RFT shall be valid for *[90 Business days]* calculated from Bid closing date.

## **12 B-BBEE REQUIREMENTS**

A Bidder must submit proof of its B-BBEE status level contributor, a Bidder failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified and will score 0 points out of 10 for B-BBEE.

## **13 THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME**

- **National Industrial Participation Programme (NIPP) Requirements:**

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The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

Bidders are therefore required to complete SBD 5 to give effect to the above. **Bidders who do not complete this form will be automatically disqualified.**

#### **14 POST TENDER NEGOTIATION (IF APPLICABLE)**

PRASA reserves the right to conduct post tender negotiations with a shortlist of Respondent(s). The shortlist could comprise of one or more Respondents. Should PRASA conduct post tender negotiations, Respondents will be requested to provide their best and final offers to PRASA based on such negotiations. A final evaluation will be conducted in terms of 90/10.

#### **15 LOCAL PRODUCTION AND CONTENT**

- **Local Content**

Bids will be subject to local content requirements in terms of Regulation 8(1) of the Preferential Procurement Regulations, 2017.

Only locally produced or manufactured goods with a stipulated minimum threshold, as stated in the Table below for local production and content, will be considered. Bidders who do not meet the specified minimum threshold will be automatically disqualified and not be considered further for evaluation.

Bidders may not sub-contract in a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

The exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB on the date of the advertisement of the tender.

The Declaration Certificate for Local Content (SBD 6.2) must be completed and duly signed. **Bidders who do not complete this form will be automatically disqualified.**

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**Minimum local content required per equipment:**

No	Equipment against which the local content must be discharged	
	Equipment	% local content
1	Supply and install copper contact wire of 161mm <sup>2</sup> , hard drawn grooved with splicing kit	90
2	Supply and install Tiger wire, 160mm <sup>2</sup> aluminum with splicing kit	90
3	Supply and install Feeder wire, aluminium, 800mm <sup>2</sup> with splicing kit	90
4	Supply and install Tubular Cantilever complete set (stainless steel)	100
5	Supply and install Steady Arm/ hockey stick complete set (stainless steel)	100
6	Supply and install Push Pull Off complete set (stainless steel)	100
7	Supply, delivery and install Double suspension saddle complete set with pins	100
8	Supply and install Tie wire complete set with pins and thimbles (stainless steel)	100
9	Supply and install Make Off with complete set with back straps, turn buckles, ending cone, link plates and straining clamp	100
10	Supply and install Climbing angle complete set (stainless steel) with back straps	100
11	Supply and install Track Switch complete set with rod and handle	100
12	Supply and install Cross spans complete set with turn buckles	100
13	Supply and install vandal proof insulators	100
14	Supply and install section insulator complete set	100
15	Supply and install Tension springs complete set	100
16	Supply and install Pan cake fittings (160mm complete set)	100
17	Supply and install Pan cake fittings (800mm complete set)	100
18	Supply and install Mast to rail bond complete set	100

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No	Equipment against which the local content must be discharged	
	Equipment	% local content
19	Supply and install Dropper wire with dropper clips and sleeves	100
20	Supply and install Spark Gap complete set	100
21	Supply and install earth wire with termination kit complete	100
22	Supply and install surge arrestor with complete kit	100
23	Supply and install earth cable from surge arrestor to spike	100
24	Supply and install Lightning arresters complete set with jumpers	100
25	Supply and Install ring foundation	100
26	Supply and install 84kN concrete pole	100
27	Supply and install pole numbering	100

For further guidance with the above requirements, bidders may refer to **National Treasury Designated Sectors Instruction Number 5, 9, 12 and 15 of 2016/2017**.

**Exemption Requests**

If suppliers cannot meet the required local content threshold they also have to engage the DTI regarding actions that they will put in place to meet those requirements in future or reasons why the supplier cannot comply with the 100% directive. Suppliers that meet the local content threshold also have to contact the DTI to verify/confirm the supplier's compliance.

In all scenarios the DTI will provide the supplier with an exemption, provided the supplier has fully satisfied the requirements of the DTI. This exemption will be considered on a case-by-case and will consider the following:

- a) Required volumes in a particular bid;
- b) Available collective SA Industry manufacturing Capacity at that time;
- c) Delivery times;
- d) Security of supply and emergencies;
- e) Availability of input material and components;
- f) Materials of construction;

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- g) Localisation plans aimed at establishing and/or increasing local manufacturing capacity through ramping-up of capital investments in the initial phase;
- h) Replacement of components on the existing infrastructure in order to honour the warranties and guarantees, and
- i) Technical considerations including operating conditions

Tenders that do not have an exemption from DTI will be considered non-responsive and cannot move to the next stage of the evaluation.

The following department can be contacted for assistance with the exemption:

Department of Trade and industry

Private bag X84

Pretoria

0001

**For Attention:**

Dr. Tebogo Makube

Chief Director: Industrial Procurement

Tel: 012 394 3927/Fax: 012 394 4927

Email: TMakube@thedti.gov.za

**NOTE: Enough time has been allocated in the tender for supplier to seek exemption from the DTI in the allocated time. Therefore, suppliers are advised to use the allocated time wisely, as the DTI has a maximum lead time of 14 days.**

**The process to be followed in requesting exemptions**

Tender information must be provided on the bidder's letterhead when requesting an exemption letter:

- a) Procuring entity
- b) Tender description
- c) Bid reference number
- d) Closing date of bid
- e) Detailed specifications of items for which the exemption is requested for (kindly attach specifications)

- f) Products/ inputs/components to be imported
- g) Reasons for the request
- h) Supporting letters from local bidders' suppliers and manufacturers

- **Calculation of the Local Content**

The South African Bureau of Standards (SABS) approved Technical Specification (SATS 1286:2011) that will be used to calculate local content.

The Declaration Certificate for Local Production and Content (SBD 6.2 – Annexure B) together with Declaration forms for Local Content (Annexes C, D, & E) must be completed, duly signed and submitted by the bidder at the closing date and time of the bid.

The SABS approved Technical Specification and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annexure C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annexure C) and E (Local Content Declaration: Supporting Schedule to Annexure C)] are accessible to all potential bidders on the DTI's official website [http://www.thedti.gov.za/industrial\\_development/ip](http://www.thedti.gov.za/industrial_development/ip) at no cost.

The local content (LC) expressed as a percentage of the bid price will be calculated in accordance with the following formula:

$$LC = \left(1 - \frac{x}{y}\right) \times 100$$

Where

- x is the imported content in Rand
- y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x will be converted to Rand (ZAR) by using the exchange rate published by the SARB on the date that the bid has been advertised.

## **16 BEST AND FINAL OFFER**

PRASA reserves the right to embark on the Best and Final Offer (BAFO) Process where:

- a) None of the proposals meet the RFT requirements;
- b) None of the responses to RFT are affordable and demonstrate value for money; and

- c) There is no clear preferred Response to this RFT.

Upon the decision by PRASA to embark on a BAFO process it shall notify the response to RFT.

## **17 FINAL CONTRACT AWARD**

PRASA will negotiate the final terms and condition the contract with the successful Respondent(s). This may include aspects such as Supplier Development, the B-BBEE Improvement Plan, price and delivery. Thereafter the final contract will be awarded to the successful Respondent(s).

## **18 FAIRNESS AND TRANSPARENCY**

PRASA views fairness and transparency during the RFT Process as an absolute on which PRASA will not compromise. PRASA will ensure that all members of evaluation committees declare any conflicting or undue interest in the process and provide confidentiality undertakings to PRASA. The evaluation process will be tightly monitored and controlled by PRASA to assure integrity and transparency throughout, with all processes and decisions taken being approved and auditable.

## **SECTION 3**

### **PRICING AND DELIVERY SCHEDULE**

Respondents are required to complete the Pricing Schedule/ BOQ **Form C:** (Volume 2 /Envelope 2)

#### **1 PRICING**

- 1.1. Prices must be quoted in South African Rand, inclusive of VAT.
- 1.2. Price offer is firm and clearly indicate the basis thereof.
- 1.3. Pricing Bill of Quantity is completed in line with schedule if applicable.
- 1.4. Cost breakdown must be indicated.
- 1.5. Price escalation basis and formula must be indicated.
- 1.6. To facilitate like-for like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.
- 1.7. Please note that should you have offered a discounted price(s), PRASA will only consider such price discount(s) in the final evaluation stage on an unconditional basis.

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- 1.8. Respondents are to note that if price offered by the highest scoring bidder is not market related, PRASA may not award the contract to the Respondent. PRASA may:
- 1.8.1. negotiate a market-related price with the Respondent scoring the highest points or cancel the RFT;
  - 1.8.2. if that Respondent does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the second highest points or cancel the RFT; and
  - 1.8.3. if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFT.
  - 1.8.4. If a market-related price is not agreed with the Respondent scoring the third highest points, PRASA must cancel the RFT.

## **2 DISCLOSURE OF PRICES QUOTED**

Respondents are to note that, on award of business, PRASA is required to publish the tendered prices and preferences claimed of the successful and unsuccessful Respondents inter alia on the National Treasury e-Tender Publication Portal, ([www.etenders.gov.za](http://www.etenders.gov.za)), as required per National Treasury Instruction Note 01 of 2015/2016.

## **3 PERFORMANCE BOND**

The Preferred Bidder shall provide PRASA with a performance bond which shall be 10% of the value of the entire Project price offered by the Preferred Bidder and it shall be issued within 30 days of receipt of notice of appointment as Preferred Bidder. The Performance Bond shall be valid for the Contract period. The format of the Performance Bond is attached as Annexure 3.

## **4 OWNERSHIP OF DESIGN**

- 4.1 The plans and design developed and to be provided by PRASA shall at all times remain the property of PRASA.

## **5 SERVICE LEVELS**

- 5.1 An experienced national account representative(s) is required to work with PRASA's procurement department. [No sales representatives are needed for individual department or locations].

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Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.

- 5.2 PRASA will have quarterly reviews with the Service provider's account representative on an on-going basis.
- 5.3 PRASA reserves the right to request that any member of the Service provider's team involved on the PRASA account be replaced if deemed not to be adding value for PRASA.
- 5.4 The Service provider guarantees that it will achieve a 100% [hundred per cent] service level on the following measures:
  - a) Random checks on compliance with quality/quantity/specifications
  - b) On time delivery.
- 5.5 The Service provider must provide a telephone number for customer service calls.
- 5.6 Failure of the Service provider to comply with stated service level requirements will give PRASA the right to cancel the contract in whole, without penalty to PRASA, giving 30 [thirty] calendar days' notice to the Service provider of its intention to do so.

**Acceptance of Service Levels:**

YES	
-----	--

**6 TOTAL COST OF OWNERSHIP (TCO)**

- 6.1 PRASA will strive to procure goods, services and works which contribute to its mission. In order to achieve this, PRASA must be committed to working with suppliers who share its goals of continuous improvement in service, quality and reduction of Total Cost of Ownership (TCO).
- 6.2 Respondents shall indicate whether they would be committed, for the duration of any contract which may be awarded through this RFT process, to participate with PRASA in its continuous improvement initiatives to reduce the total cost of ownership [TCO], which will reduce the overall cost of transportation services and related logistics provided by PRASA's operating divisions within South Africa to the ultimate benefit of all end-users.

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PASSENGER RAIL AGENCY  
OF SOUTH AFRICA

## 7 FINANCIAL STABILITY

Respondents are required to submit their latest financial statements prepared and signed off by a professional accountant for the past three years with their Proposal in order to enable PRASA to establish financial stability.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20.....

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

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OF SOUTH AFRICA

2 \_\_\_\_\_

Name \_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

NAME: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

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## 8 VALIDITY OF RETURNABLE DOCUMENTS

The successful Respondent will be required to ensure the validity of all returnable documents, including but not limited to its Tax Clearance Certificate and valid B-BBEE Verification Certificate, for the duration of any contract emanating from this RFT. Should the Respondent be awarded the contract [the Agreement] and fail to present PRASA with such renewals as and when they become due, PRASA shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement forthwith without any liability and without prejudice to any claims which PRASA may have for damages against the Respondent.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20.....

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

NAME: \_\_\_\_\_

**DESIGNATION:** \_\_\_\_\_

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## **9 CERTIFICATE OF ACQUAINTANCE WITH RFT TERMS & CONDITIONS & APPLICABLE DOCUMENTS**

By signing this certificate the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with, and agrees with all the conditions governing this RFT, including those contained in any printed form stated to form part hereof, including but not limited to the documents stated below and PRASA will recognise no claim for relief based on an allegation that the Respondent overlooked any such condition or failed properly to take it into account for the purpose of calculating tendered prices or any other purpose:

1. PRASA's General Bid Conditions\*

2. Standard RFT Terms and Conditions for the supply of Goods or Services or Works to PRASA

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFT unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. Any such submission shall be subject to review by PRASA's Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be. A material deviation from the Standard terms or conditions could result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid to which they intend to respond, before submitting the bid. The Bidder agrees that he/she will have no claim based on an allegation that any aspect of this RFT was unclear but in respect of which he/she failed to obtain clarity.

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The bidder understands that his/her Bid will be disqualified if this Certificate of Acquaintance with RFT documents included in the RFT as a returnable document, is found not to be true and complete in every respect.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20.....

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

Name \_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

NAME: \_\_\_\_\_

**DESIGNATION:** \_\_\_\_\_

## **10 GENERAL CONDITIONS**

### **10.1 Alternative Bids**

Please note that alternative Bids will not be accepted.

### **10.2 Prasa's Tender Forms**

Bidders must sign and complete the PRASA's Bid Forms and attach all the required documents. Failure by Bidders to adhere to this requirement may lead to their disqualification.

### **10.3 Precedent**

In case of any conflict with this RFT and Bidders response, this RFT and its briefing notes shall take precedence.

### **10.4 Response to RFT-Confidentiality**

Response to RFTs must clearly indicate whether any information conveyed to or requested from PRASA is confidential or should be treated confidentially by PRASA. In the absence of any such clear indication in writing from a response to RFT, PRASA shall deem the response to RFT to have waived any right to confidentiality and treat such information as public in nature.

Where a Bidder at any stage during the RFT Process indicates to PRASA that information or any response to RFT requested from PRASA is or should be treated confidentially, PRASA shall treat such information or response to RFT confidentially, unless PRASA believes that to ensure the transparency and competitiveness of the RFT Process the content of the information or response to RFT should be conveyed to all Bidders, in which event it shall apply the following process:

- PRASA shall confirm with the Bidder whether the raising of confidentiality applies to the entire response to the RFT or only specific elements or sections of the response;

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- Where confidentiality is maintained by the Bidder and PRASA is of the opinion that the information or response to RFT if made publicly available would affect the commercial interests of the Bidder or is commercially sensitive information, PRASA shall not release such information to other Bidders if providing such information or response to the RFT would prejudice the competitiveness and transparency of the RFT Process;
- Where PRASA is of the opinion that information provided is not commercially sensitive or would have no impact on the commercial interests of the relevant Bidder if released and fairness and transparency requires that such information be released to all Bidders, PRASA may:
  - i. inform the relevant Bidder of the necessity to release such information and/or response to RFT and request the Bidder to consent to the release thereof by PRASA; or
  - ii. obtain legal advice regarding the confidentiality of the relevant information and/or response to RFT and the legal ability of PRASA to release such information; or
  - iii. refrain from releasing the information and/or response to RFT, in which event PRASA shall not take account of the contents of such information in the evaluation of the relevant response to RFT.

The above procedures regarding confidentiality shall not apply to any information which is already public knowledge or available in the public domain or in the hands of PRASA or is required to be disclosed by any legal or regulatory requirements or order of any competent court, tribunal or forum.

## **10.5 Response to the RFT – RFT Disqualification**

Responses to RFT which do not comply with the RFT requirements, formalities, terms and conditions may be disqualified by PRASA from further participation in the RFT Process.

In particular (but without prejudice to the generality of the foregoing) PRASA may disqualify, at its sole discretion and without prejudice to any other remedy it may have, a Bidder where the Bidder, or any of its consortium members, subcontractors or advisors have committed any act of misrepresentation, bad faith or dishonest conduct in any of its dealings with or information provided to PRASA.

## **10.6 Corruption, Gifts and Payments**

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Neither the Bidders to RFTs, its equity members, the sub-contractors, consortium members nor any of their agents, lenders or advisors shall directly or indirectly offer or give to any person in the employment of PRASA or any other Government official or any of the Advisory Team any gift or consideration of any kind as an inducement or reward for appointing a particular Bidder, or for showing or omitting to show favour or disfavour to any of the Bidders, its equity members or the sub-contractors in relation to the Project.

In the event that any of the prohibited practices contemplated under the above paragraph is committed, PRASA shall be entitled to terminate any Response to RFT's status and to prohibit such Response to RFT, its equity members, its SPV members, its Sub Contractors and their agents, lenders and advisors from participating in any further part of the procurement of the Project.

#### **10.7 Insurance**

Unless specifically provided for in this RFT or draft contracts, Bidders will be required to submit with their Bid for services professional indemnity insurance and works insurance to an extent (if any) if insurance provided by PRASA may not be for the full cover required in terms of the relevant category listed in this RFT. The Bidder is advised to seek qualified advice regarding insurance.

#### **10.8 No Contact Policy**

Bidders may only contact Johnson Zwane at **(031) 813 0102** or email [JZwane@metrorail.co.za](mailto:JZwane@metrorail.co.za) of PRASA as per the terms of the Communication Structure established by this RFT, except in the case of pre-existing commercial relationships, in which case contact may be maintained only with respect thereto and, in making such contact, no party may make reference to the Project or this RFT.

#### **10.9 Conflict of Interest**

No Bidder member, subcontractor or advisor of the response to RFT may be a member of or in any other way participate or be involved, either directly or indirectly in more than one response to RFT or response to RFT during any stage of the Project procurement process, but excluding specialist suppliers of systems and equipment, non-core service providers or financial or commercial institutions whose role is limited purely to lending money or advancing credit to the response to RFT. Bidders are to sign the declaration of interest form. In order to prevent the conflict or potential conflict of interest

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between Lenders and Bidders to RFT, no advisors or the Contractor/s or Consortium/s to any response to RFT, consortium member or subcontractor may fulfil the role of arranger, underwriter and/or lead bank to the response to RFT. PRASA may disqualify the response to RFT from further participation in the event of a failure to comply with this provision. PRASA views the potential conflict of interest so great as to warrant the reduction of competition for advisory services.

### **10.10 Collusion and Corruption**

Any Bidder shall, without prejudice to any other remedy available to PRASA, be disqualified, where the response to RFT –

- communicates to a person other than persons nominated by PRASA a material part of its response to RFT; or
- Enters into any Contract or arrangement with any other person or entity that it shall refrain from submitting a response to RFT to this RFT or as to any material part of its Response to RFT to this RFT (refer the prohibition contained in Section 4(1)(b)(iii) of the Competition Act 89 of 1998). . The Bidders represents that the Bidder has not, directly or indirectly, entered into any agreement, arrangement or understanding or any such like for the purpose of, with the intention to, enter into collusive Biding or with reasonable appreciation that, collusive any agreement, arrangement or understanding or any such like may result in or have the effect of collusive Biding. The Bidder undertakes that in the process of the Bid but prior to PRASA awarding the Bid to a preferred bidder become involved in or be aware of or do or caused to be done any agreement, arrangement or understanding or any such like for the purpose of or which may result in or have the effect of a collusive Bid, the Bidder will notify PRASA of such any agreement, arrangement or understanding or any such like.; or
- offers or agrees to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done, or causing, or having caused to be done any act or omission in relation to the RFT Process or any proposed response to RFT (provided nothing contained in this paragraph shall prevent a response to RFT from paying any market-related commission or bonus to its employees or contractors within the agreed terms of their employment or contract).

### **10.11 Consortium Changes**

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If exceptional circumstances should arise in which a after the submission to the bid and after closing date of submission of bids, there is change in the composition of the Bidder, either through substitution or omission of any member of the Bidder:

- The Response to RFT must notify PRASA in writing of the proposed changes supported by complete details of the material reasons for the changes, the parties impacted by the changes and the impact on the response to RFT.
- PRASA shall evaluate the reasons advanced by the Bidder for the requested changes to the Bidder structure and where PRASA is not satisfied that the reasons advanced are reasonable or material, refuse to accept the change and disqualify the response to RFT, or notify the Bidder in writing of its non-acceptance of the changes and require the Bidder to propose a suitable alternative to PRASA within 10 (TEN) days of its receipt of the decision of PRASA, upon receipt of which PRASA shall -
  - i. Evaluate the alternative proposed for suitability to PRASA, and where the alternative is accepted by PRASA, inform the Bidder in writing of such acceptance and PRASA shall reassess the response to RFT against the RFT requirements and criteria; or
  - ii. Where the alternative is not accepted by PRASA, inform the Bidder in writing of such non-acceptance as well as its disqualification from the RFT Process.
  - iii. Where PRASA is satisfied that the changes requested under (i) above are reasonable and material, the response to RFT, shall be allowed to effect the required changes and PRASA shall reassess the response to RFT against the RFT requirements and criteria.

#### **10.12 Costs of Response to the RFT Submission**

All costs and expenses associated with or incurred by the Bidder in relation to any stage of the Project, shall be borne by the Bidder. PRASA shall not be liable for any such costs or expenses or any claim for reimbursement of such costs or expenses.

To avoid doubt, PRASA shall not be liable for any samples submitted by the Bidder in support of their Responses to RFT and reserves the right not to return to them such samples and to dispose of them at its discretion.

#### **10.13 Response to the RFT Warranty**

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Bidders must provide a warranty as part of their Responses to RFT that their Responses to RFT are true and correct in all respects, that it does not contain a misrepresentation of any kind and that the taxes of all members of the Bidder company, consortium members and or subcontractors are in order and none of the members are undergoing corruption or any criminal-related investigations or have any past convictions for fraud or corruption.

**11 CONDITIONS OF TENDER**

**General**

- |  |   |  |
|--|---|--|
| <b>Actions</b>                                       | 1 | PRASA's <i>Representative</i> and each <i>tenderer</i> submitting a tender shall act as stated in these Conditions of Tender and in a manner which is fair, equitable, transparent, competitive and cost-effective.  |
| <b>Interpretation</b>                                | 2 | Terms shown in <i>italics</i> vary for each tender. The details of each term for this tender are identified in the Request for Tender / Scope of work/ specification. Terms shown in capital initials are defined terms in the appropriate conditions of contract.   |
|  | 3 | Any additional or amended requirements in the Scope of work/ specification, and additional requirements given in the Schedules in the <i>tender returnables</i> are deemed to be part of these Conditions of Tender.   |
|  | 4 | The Conditions of Tender and the Scope of work/ specification shall form part of any contract arising from this invitation to tender.  |
| <b>Communication</b>                                 | 5 | Each communication between PRASA and a <i>tenderer</i> shall be to or from PRASA's <i>Representative</i> only, and in a form that can be read, copied and recorded. Communication shall be in the English language. PRASA takes no responsibility for non-receipt of communications from or by a <i>tenderer</i> .   |
| <b>PRASA's rights to accept or reject any tender</b> | 6 | PRASA may accept or reject any variation, deviation, tender, or alternative tender, and may cancel the tender process and reject all tenders at any time prior to the formation of a contract. PRASA or PRASA's <i>Representative</i> will not accept or incur any liability to a <i>tenderer</i> for such cancellation and rejection, but will give reasons for the action. PRASA reserves the right to accept the whole or any part of any tender. |

- 7 After the cancellation of the tender process or the rejection of all tenders PRASA may abandon the proposed work and services, have it performed in any other manner, or re-issue a similar invitation to tender at any time.

### Tenderer's obligations

The *tenderer* shall comply with the following obligations when submitting a tender and shall:

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| <b>Eligibility</b>  | 1 | Submit a tender only if the <i>tenderer</i> complies with the criteria stated in the Scope of work/ specification.   |
| <b>Cost of tendering</b>                                  | 2 | Accept that PRASA will not compensate the <i>tenderer</i> for any costs incurred in the preparation and submission of a tender.  |
| <b>Check documents</b>                                    | 3 | Check the <i>tender documents</i> on receipt, including pages within them, and notify PRASA's <i>Representative</i> of any discrepancy or omissions in writing.  |
| <b>Copyright of documents</b>                             | 4 | Use and copy the documents provided by PRASA only for the purpose of preparing and submitting a tender in response to this invitation.   |
| <b>Standardised specifications and other publications</b> | 5 | Obtain, as necessary for submitting a tender, copies of the latest revision of standardised specifications and other publications, which are not attached but which are incorporated into the <i>tender documents</i> by reference.                                      |
| <b>Acknowledge receipt</b>                                | 6 | Preferably complete the Receipt of invitation to submit a tender form attached to the Letter of Invitation and return it within five days of receipt of the invitation.  |
|   | 7 | Acknowledge receipt of Addenda / Tender Briefing Notes to the <i>tender documents</i> , which PRASA's <i>Representative</i> may issue, and if necessary apply for an extension to the <i>deadline for tender submission</i> , in order to take the Addenda into account. |

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| <b>Site visit and / or clarification meeting</b> | 8  | Attend a site visit and/or clarification meeting at which <i>tenderers</i> may familiarise themselves with the proposed work, services or supply, location, etc. and raise questions, if provided for in the Scope of work/ specification. Details of the meeting are stated in the RFT document, <i>i-tender</i> website and CIDB website.                             |
| <b>Seek clarification</b>                        | 9  | Request clarification of the <i>tender documents</i> , if necessary, by notifying PRASA's <i>Representative</i> earlier than the <i>closing time for clarification of queries</i> .   |
| <b>Insurance</b>                                 | 10 | Be informed of the risk that needs to be covered by insurance policy. The <i>tenderer</i> is advised to seek qualified advice regarding insurance.  |
| <b>Pricing the tender</b>                        | 11 | Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except VAT), and other levies payable by the successful <i>tenderer</i> . Such duties, taxes and levies are those applicable 14 days prior to the <i>deadline for tender submission</i> .  |
|  | 12 | Show Value Added Tax (VAT) payable by PRASA separately as an addition to the tendered total of the prices.  |
|  | 13 | Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the <i>conditions of contract</i> .  |
|  | 14 | State the rates and Prices in South African Rand unless instructed otherwise as an additional condition in the Scope of work/ specification. The selected <i>conditions of contract</i> may provide for part payment in other currencies.   |
| <b>Alterations to documents</b>                  | 15 | Not make any alterations or an addition to the tender documents, except to comply with instructions issued by PRASA's <i>Representative</i> or if necessary to correct errors made by the <i>tenderer</i> . All such alterations shall be initialled by all signatories to the tender. Corrections may not be made using correction fluid, correction tape or the like. |
| <b>Alternative tenders</b>                       | 16 | Submit alternative tenders only if a main tender, strictly in accordance with all the requirements of the <i>tender documents</i> is also submitted. The alternative tender is submitted with the main tender together with a schedule that compares the requirements of the <i>tender documents</i>  |

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with the alternative requirements the *tenderer* proposes. **(N/A for this tender)**

17 Accept that an alternative tender may be based only on the criteria stated in the Scope of work/ specification and as acceptable to PRASA. **(N/A for this tender)**

Submitting a tender

18 Submit a tender for providing the whole of the works, services or supply identified in the Contract Data unless stated otherwise as an additional condition in the Scope of work/ specification.

NOTE:

19 **Return the completed and signed *PRASA Tender Forms and SBD forms provided with the tender. Failure to submit all the required documentation will lead to disqualification***

20 **Submit the tender as an original plus 1 copy and an electronic version which must be contained in CDs or Memory Cards clearly marked in the Bidders name as stated in the RFT and provide an English translation for documentation submitted in a language other than English. Tenders may not be written in pencil but must be completed in ink.**

21 Sign and initial the original and all copies of the tender where indicated. PRASA will hold the signatory duly authorised and liable on behalf of the *tenderer*.

22 Seal the original and each copy of the tender as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside PRASA's address and invitation to tender number stated in the Scope of work/ specification, **as well as the *tenderer's name and contact address***. Where the tender is based on a two envelop system tenderers must further indicate in the package whether the document is **envelope / box 1 or 2**.

23 Seal original and copies together in an outer package that states on the outside only PRASA's address and invitation to tender number as stated in the Scope of work/ specification. The outer package must be marked "CONFIDENTIAL"

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- 24 Accept that PRASA will not assume any responsibility for the misplacement or premature opening of the tender if the outer package is not sealed and marked as stated.

Note:

PRASA prefers not to receive tenders by post, and takes no responsibility for delays in the postal system or in transit within or between PRASA offices.

PRASA prefers not to receive tenders by fax, PRASA takes no responsibility for difficulties in transmission caused by line or equipment faults.

Where tenders are sent via courier, PRASA takes no responsibility for tenders delivered to any other site than the tender office.

PRASA employees are not permitted to deposit a tender into the PRASA tender box on behalf of a tenderer, except those lodged by post or courier.

- Closing time**
- 25 Ensure that PRASA has received the tender at the stated address with the Scope of work / specification no later than the *deadline for tender submission*. Proof of posting will not be taken by PRASA as proof of delivery. PRASA will not accept a tender submitted telephonically, by Fax, E-mail or by telegraph unless stated otherwise in the Scope of work/ specification.
- 26 Accept that, if PRASA extends the *deadline for tender submission* for any reason, the requirements of these Conditions of Tender apply equally to the extended deadline.
- Tender validity**
- 27 Hold the tender(s) valid for acceptance by PRASA at any time within the *validity period* after the *deadline for tender submission*.
- 28 Extend the *validity period* for a specified additional period if PRASA requests the *tenderer* to extend it. A *tenderer* agreeing to the request will not be required or permitted to modify a tender, except to the extent PRASA may allow for the effects of inflation over the additional period.

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<b>Clarification of tender after submission</b>	29	Provide clarification of a tender in response to a request to do so from PRASA's <i>Representative</i> during the evaluation of tenders. This may include providing a breakdown of rates or Prices. No change in the total of the Prices or substance of the tender is sought, offered, or permitted except as required by PRASA's <i>Representative</i> to confirm the correction of arithmetical errors discovered in the evaluation of tenders. The total of the Prices stated by the <i>tenderer</i> as corrected by PRASA's <i>Representative</i> with the concurrence of the <i>tenderer</i> , shall be binding upon the <i>tenderer</i>
<b>Submit bonds, policies etc.</b>	30	If instructed by PRASA's <i>Representative</i> (before the formation of a contract), submit for PRASA's acceptance, the bonds, guarantees, policies and certificates of insurance required to be provided by the successful <i>tenderer</i> in terms of the <i>conditions of contract</i> .
	31	Undertake to check the final draft of the contract provided by PRASA's <i>Representative</i> , and sign the Form of Agreement all within the time required.
	32	Where an agent on behalf of a principal submits a tender, an authenticated copy of the authority to act as an agent must be submitted with the tender.
<b>Fulfil BEE requirements</b>	33	Comply with PRASA's requirements regarding BBBEE Suppliers.

**PRASA'S UNDERTAKINGS**

PRASA, and PRASA's *Representative*, shall:

<b>Respond to clarification</b>	1	Respond to a request for clarification received earlier than the <i>closing time for clarification of queries</i> . The response is notified to all <i>tenderers</i> .
<b>Issue Addenda</b>	2	If necessary, issue to each <i>tenderer</i> from time to time during the period from the date of the Letter of Invitation until the <i>closing time for clarification of queries</i> , Addenda that may amend, amplify, or add to the <i>tender documents</i> . If a <i>tenderer</i> applies for an extension to the <i>deadline for tender submission</i> , in order to take Addenda into account in preparing a tender, PRASA may grant such an extension and PRASA's <i>Representative</i> shall notify the extension to all <i>tenderers</i> .

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<b>Return late tenders</b>	3	Return tenders received after the <i>deadline for tender submission</i> unopened to the <i>tenderer</i> submitting a late tender. Tenders will be deemed late if they are not in the designated tender box at the date and time stipulated as the deadline for tender submission.
<b>Non-disclosure</b>	4	Not disclose to <i>tenderers</i> , or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tenders and recommendations for the award of a contract.
<b>Grounds for rejection</b>	5	Consider rejecting a tender if there is any effort by a <i>tenderer</i> to influence the processing of tenders or contract award.
<b>Disqualification</b>	6	Instantly disqualify a <i>tenderer</i> (and his tender) if it is established that the <i>tenderer</i> offered an inducement to any person with a view to influencing the placing of a contract arising from this invitation to tender.
<b>Test for responsiveness</b>	7	Determine before detailed evaluation, whether each tender properly received <ul style="list-style-type: none"> <li>• meets the requirements of these Conditions of Tender,</li> <li>• has been properly signed, and</li> <li>• is responsive to the requirements of the <i>tender documents</i>.</li> </ul>
	8	Judge a responsive tender as one which conforms to all the terms, conditions, and specifications of the <i>tender documents</i> without material deviation or qualification. A material deviation or qualification is one which, in PRASA 's opinion would <ul style="list-style-type: none"> <li>• detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Contract Data,</li> <li>• change PRASA's or the <i>tenderer's</i> risks and responsibilities under the contract, or</li> <li>• affect the competitive position of other <i>tenderers</i> presenting responsive tenders, if it were to be rectified.</li> </ul>
<b>Non-responsive tenders</b>	10	Reject a non-responsive tender, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

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Arithmetical errors	11	<p>Check responsive tenders for arithmetical errors, correcting them as follows:</p> <ul style="list-style-type: none"> <li>• Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.</li> <li>• If a bill of quantities applies and there is a discrepancy between the rate and the line item total, resulting from multiplying the rate by the quantity, the rate as quoted shall govern. Where there is an obviously gross misplacement of the decimal point in the rate, the line item total as quoted shall govern, and the rate will be corrected.</li> <li>• Where there is an error in the total of the Prices, either as a result of other corrections required by this checking process or in the <i>tenderer's</i> addition of prices, the total of the Prices, if any, will be corrected.</li> </ul>
	12	<p>Reject a tender if the <i>tenderer</i> does not accept the corrected total of the Prices (if any).</p>
Evaluating the tender	13	<p>Evaluate responsive tenders in accordance with the procedure stated in the RFT / Scope of work/ specification. The evaluated tender price will be disclosed only to the relevant PRASA tender committee and will not be disclosed to <i>tenderers</i> or any other person.</p>
Clarification of a tender	14	<p>Obtain from a <i>tenderer</i> clarification of any matter in the tender which may not be clear or could give rise to ambiguity in a contract arising from this tender if the matter were not to be clarified.</p>
Acceptance of tender	15	<p>Notify PRASA's acceptance to the successful <i>tenderer</i> before the expiry of the <i>validity period</i>, or agreed additional period. Providing the notice of acceptance does not contain any qualifying statements, it will constitute the formation of a contract between PRASA and the successful <i>tenderer</i>.</p>
Notice to unsuccessful tenderers	16	<p>After the successful <i>tenderer</i> has acknowledged PRASA's notice of acceptance, notify other <i>tenderers</i> that their tenders have not been accepted, following PRASA's current procedures.</p>
Prepare contract documents	17	<p>Revise the contract documents issued by PRASA as part of the <i>tender documents</i> to take account of</p> <ul style="list-style-type: none"> <li>• Addenda issued during the tender period,</li> <li>• inclusion of some of the <i>tender returnables</i>, and</li> </ul>

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- other revisions agreed between PRASA and the successful *tenderer*, before the issue of PRASA's notice of acceptance (of the tender).

Issue final contract	18	Issue the final contract documents to the successful <i>tenderer</i> for acceptance within one week of the date of PRASA's notice of acceptance.
Sign Form of Agreement	19	<b>Arrange for authorised signatories of both parties to complete and sign the original and one copy of the Form of Agreement within two weeks of the date of PRASA's notice of acceptance of the tender. If either party requires the signatories to initial every page of the contract documents, the signatories for the other party shall comply with the request.</b>
Provide copies of the contracts	20	Provide to the successful <i>tenderer</i> the number of copies stated in the Scope of work/ specification of the signed copy of the contracts within three weeks of the date of PRASA's acceptance of the tender.