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General Goods and Services Procurement Manual

Document Control

Roles and Responsibilities

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

Role	Responsibility
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Version and Revision History

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

Table of Contents

Document Control	2
Table of Contents.....	3
List of Tables	4
List of Figures	5
Definitions, Abbreviations and Acronyms	6
Section A – Internal Roles and Responsibilities	12
1. Introduction	12
2. Scope and Application.....	12
3. Ethics and Procurement Principles	15
4. Roles and Responsibilities – SCM Department	19
5. Roles and Responsibilities – Governance, Risk and Compliance	22
6. Committee Structure.....	24
Section B – Approach to Market.....	25
7. Strategic Management	25
8. Demand and Category Planning.....	26
9. Procurement Approach.....	27
10. Transactional Procurement.....	29
11. Rotational Procurement.....	32
12. National Treasury Transversal Contracts.....	32
13. Strategic Sourcing	33
14. Approved List	36
15. Two-Stage Bidding / Expression of Interest	40
16. Deviation from Competitive Bidding/Procurement by “Other Means”	41
Section C – Bidding and Award.....	44
17. Bid Preparation.....	44
18. Bid Specification.....	45
19. Bid Administration	51
20. Bid Evaluation and Recommendation	55
21. TPPP Guidelines	63
22. Bid Adjudication / Award of Business	65
23. Tender Price Negotiations	71
24. Cancellation / Non-Awards.....	74
Section D – Post Award Considerations.....	74
25. Contract Management.....	74
26. Expansion and Variation of Contracts.....	75



27.	Piggybacking	77
28.	Advance Payment	77
29.	Income Generating and Disposals.....	78
30.	Supplier Performance Monitoring	78
31.	Complaints and Disputes.....	78
32.	Treatment of Disclosures and Declarations	78
33.	Blacklisting/Restriction of Persons Doing Business with Government.....	79
34.	Non-Compliance.....	81
35.	Deviation from this Manual	81
36.	SCM Data Management	81
37.	Appointment of Consultants.....	82
38.	National Treasury Oversight	82
39.	Vendors.....	83
	Appendix A: Legislation, Government Policies & Pacts Applicable to this Manual.....	84
	Appendix B: Governance	85
	Appendix C: Templates.....	86
	Appendix D: Mechanism and Reasons for Deviations from Competitive Bidding.....	87
D.1	Limited Bidding.....	89
D.2	Written Price Quotations (Above R2m)	90
D.3	Emergency Procurement.....	90
D.4	Urgent Procurement	92
D.5	Regional or Local Community Procurement	93
D.6	Unsolicited Bids.....	93
D.7	Organ of State Co-operation.....	96
D.8	Research and Development (R & D)	97
	Appendix E: Process for e-Auctions	98

List of Tables

Table 1: Transnet Committee Structure	25
Table 2: Value thresholds for procurement approach selection	28
Table 3: Bid Evaluation	57
Table 4: Specific Goal Evidence	64
Table 5: Limited Bidding Procurement Checklist*	89
Table 6: Written Price Quotations Checklist*	90
Table 7: Emergency Procurement Checklist*	90
Table 8: Urgent Procurement Checklist*	92

List of Figures

Figure 1: Governance Document Architecture.....	12
Figure 2: Procurement Approach Decision Tree.....	29
Figure 3: Approved List Decision Tree	40
Figure 4: Critical CCP Framework.....	85
Figure 5: Dialogue Decision-Making Process.....	85
Figure 6: Deviation from Competitive Bidding Decision Tree.....	88

Definitions, Abbreviations and Acronyms

Definitions

All words and/or definitions in this manual have the same meaning as attributed to them in the SCM Policy unless context indicates otherwise.

Term	Definition
Approved List	A standing panel of pre-qualified suppliers/service providers.
Bid/tender	An invitation to Suppliers/ Service Providers to submit Bid offers or expressions of interest in accordance with set requirements;
Bid/tender Submission	A written offer in a prescribed form in response to an invitation by Transnet for the provision of Goods or Services.
Bidder/tenderer	A natural or juristic person or partnership (including joint ventures) who submits a Bid offer or an expression of interest to perform a contract in response to an invitation to do so.
Bid Adjudication Committee	The bid adjudication committee (BAC) is a committee that is responsible for considering the report and recommendations of the BEC and approve the award of business.
Bid Evaluation Committee	The bid evaluation committee (BEC) is responsible for the evaluation of bids submitted in response to an invitation for bids (where required).
Bid Condition	Requirements of the Bid or stated within the Bid.
Bid Specification Committee	The bid specification committee (BSC) is responsible for the review and approval of specifications for the procurement of goods and services
Board	The Board of Directors of Transnet SOC Ltd.
Budget Quote/Pricing Benchmark	The utilisation of an RFX mechanism to confirm an estimate of the price of goods and services with no intention to procure.
Buyer/Category Specialist/ Strategic Sourcing Specialist	A member of the SCM team that conducts acquisitions/procuring on behalf of Transnet.
Complex work / Complexity	characterised by requirements for higher levels of skills, greater resources or not well defined inputs and outputs
Consultants	A consultant is a person or company which provides objective outsider expert and professional advice to Transnet in a particular field (eg processes or systems) which is in their area of expertise, usually on a temporary or contract basis until a particular need has been met. This does not apply to professional services such as legal and

Term	Definition
	engineering construction services.
Contractors	A person or entity appointed to provide services which are of a non-specialised that are not the core business of Transnet. It is normally not cost effective to maintain these skills within the institution.
Contract Owner	The person with the delegated authority to enter into the contract with the supplier. The Contract Owner has direct control over the applicable cost centre and the relevant approved budget.
Delegated Authority	This is when powers and controls are vested to a Transnet executive, delegated Transnet employee, delegated Transnet committee or Board of Directors as per the Group Delegation of Authority Framework and any other policy or manuals.
Delegation of Authority Framework	A framework for understanding the division of labour and decision-making responsibility which sets out the threshold powers for decision making.
Transnet SCM Directives	A communication that adds, alters, or removes a Transnet Supply Chain Management rule as a result of changes in legislation or efficiency requirements. This addition, alteration or removal is not sufficient to require the revision of the manual.
Emergency	A serious and unexpected situation that poses an immediate risk to life, health, property, environment, business disruption or financial loss which calls for action and there is insufficient time to follow a competitive bidding process.
Framework Agreement	An agreement between Transnet and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, regarding price and, where appropriate, the quantity envisaged.
Fast Track	An efficiency mechanism to promote the expedient conclusion of a process.
Fronting	means Fronting Practices as defined in the Broad-Based Black Economic Empowerment Act, as amended..
Indicative Quote/Pricing	The utilisation of an RFX mechanism with an intention to procure. This is typically utilised as a component of market analysis or an RFI.
Integrated Demand Plan	Plan reflecting all planned Transnet demand.
Investigate	An inquiry to determine and assess the fact of a complaint or an allegation to establish the truth
In Writing or Written	Any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.
Procurement Process Guidelines	Procurement Process Guidelines of 2024



Term	Definition
Proponent	Any person, whether natural or juristic, that submits an unsolicited proposal to an institution.
Market Analysis	The results of a study from internal and external information, reports and data indicating the landscape and scale of the marketplace that will support the sourcing activities of the organisation for purposes of demand planning and bench-marking.
Minimum 3 quotes Invited	A request sent directly to a limited number of suppliers (minimum 3) excluding the rest of the market.
Transnet National Contract / Transnet Transversal Contract	A centrally facilitated Transnet contract used by more than one OD.
National Treasury Transversal Contracts	Centrally facilitated National Treasury contract(s) for goods or services that are required by more than one institution.
Operating Division (OD) National Contract	A centrally facilitated OD contract used by more than one region
Organs of State	Any department of state or administration in the national, provincial or local sphere of government.
Poor/Improper Planning	Instances where employees do not apply the necessary skill and care in carrying out their duties to avoid undue risk or danger.
Practice Note	A communication or resource that provides supplementary information to assist in explaining or prevent misinterpretation of a rule.
Procurement	Procurement is a subset of SCM dealing specifically with activities related to the management of Transnet's demand and acquisition of goods and services.
Request for Information	A Request for Information (RFI) is a market enquiry prepared by the buyer and issued to one or more prospective suppliers. The purpose is to gather information about the category, the supplier's solutions, capacity and or capability, and key market intelligence.
RFX	A generic term that encompasses multiple sourcing processes including RFI, RFP and RFQ.
Request for Quotation	A formal documented request to Contractors / Supplier / Vendors / Consultants to submit a quotation to Transnet that complies with the evaluation criteria stipulated.
Reverse e-Auctioning	An electronic procurement process for buying and selling that aims to achieve the most competitive prices for clearly specified items.



Term	Definition
Rotational Procurement	A mechanism used to ensure fairness and an equal opportunity by rotating the procurement utilising a transparent sequence.
SCM Activities	<p>All those activities required to manage Transnet's demand for goods, services, and infrastructure during the SCM process including:</p> <ul style="list-style-type: none"> - Demand management; - Acquisition/procurement management; - Logistics management; - Disposal management; - Risk management; and - Regular assessment of supply chain performance
Scope of Work	A description of work required. This includes deliverables and timelines.
Simple/straightforward	where the tasks or activities are of a straightforward nature in terms of which inputs are relatively well known and outputs can be readily defined
Strategic Sourcing Transactions	Strategic sourcing typically involves complex transactions over R 2 million in value via an open tender.
Subscriptions	A paid arrangement for Transnet employees to be granted access to receive publications, systems or similar, for an agreed upon period; typically refers to industry related publications and systems.
Suppliers/service providers	A natural or juristic person or partnership (including joint ventures) that provides in terms of a contract, or may potentially provide, goods or services or any combination thereof to Transnet.
Supply Chain Official/Representative	A generic term to signify the relevant responsible Transnet supply chain team member. The member is context specific.
Transnet	Transnet SOC Limited
Unexpected	An event that could not be predicted or planned for.
Unsolicited Bid	An offer unilaterally submitted by a potential supplier of its own accord and received by Transnet outside of its normal procurement process.
Urgent Situation	Cases where early delivery is critical and the invitation of competitive bids is impossible or impractical, not due to improper planning.
Validity Period	The period for which an item (Bid, Contract, Framework) remains valid.
VAT Vendor	Any person who carries on an "enterprise" in South Africa, and the total value of taxable supplies made by that person exceeds or is likely to exceed the registration threshold of R1 million for a 12 month period. Such persons are liable for

Term	Definition
	compulsory registration as a vendor.
Written Price Quotations	A process, usually an RFQ unless used as procurement by other means, where a minimum of 3 quotes are requested/invited via sending a direct request to bidders on a rotational basis.

Abbreviations and Acronyms

Abbreviation/Acronym	Description
AA	Accounting Authority
AGSA	Auditor General of South Africa
BAC	Bid Adjudication Committee
B-BBEE	Broad-Based Black Economic Empowerment
BEC	Bid Evaluation Committee
BSC	Bid Specification Committee
CAPEX	Capital Expenditure
COPEX	Capitalised Operational Expenditure
CBAC	Central Bid Adjudication Committee
CCP	Compliance Control Point
CIDB	Construction Industry Development Board
CPO	Operating Division Chief Procurement Officer
CSD	Central Supplier Database
DBAC	Divisional Bid Adjudication Committee
DoA	Delegation of Authority as per the Transnet Delegation of Authority Framework
DPIP	Domestic Prominent Influential Person
DPSA	Department of Public Service and Administration
DTIC	Department of Trade, Industry and Competition
EOY	End of Year
EXCO	Executive Committee
ESD	Enterprise Supplier Development
FPPO	Foreign Prominent Public Official
GCE	Group Chief Executive
GCFO	Group Chief Financial Officer
GCPO	Group Chief Procurement Officer
JSE	Johannesburg Stock Exchange
NIPP	National Industrial Participation Programme

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

Section A – Internal Roles and Responsibilities

1. Introduction

This document establishes Transnet SOC Limited's ("Transnet") manual for the procurement of goods and services (within Supply Chain Management) in accordance with the Supply Chain Management Policy.

The overall Procurement documentation architecture is illustrated in Figure 1.

New governance document architecture

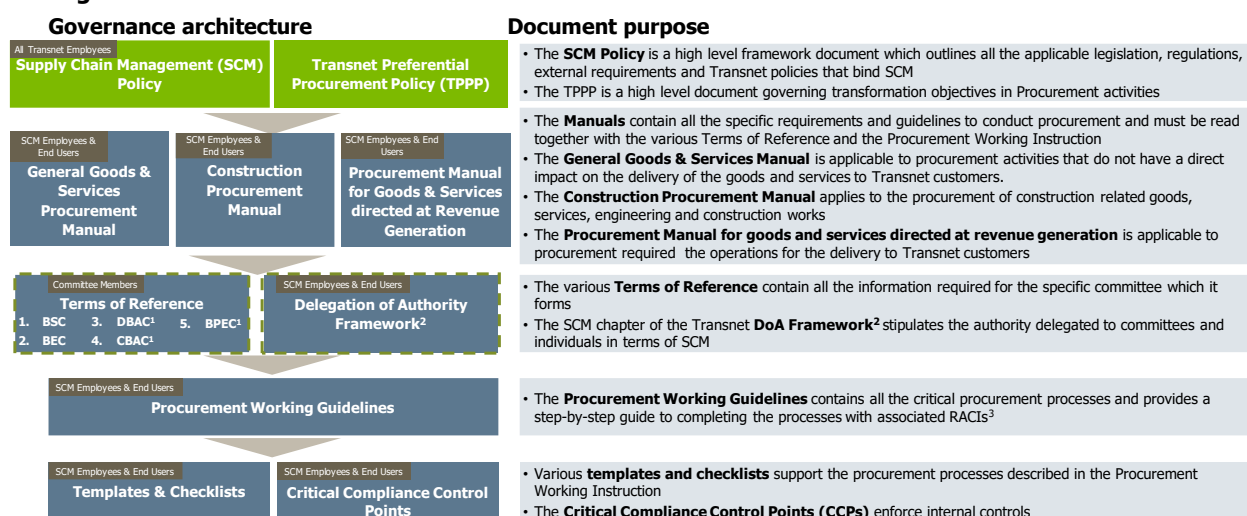


Figure 1: Governance Document Architecture

2. Scope and Application

- 2.1 This version of the manual applies to all new procurement processes which have been initiated (approval to approach the market obtained) on or after the approved commencement date of this document. Procurement processes initiated (approval to approach the market obtained) prior to the commencement date must be dealt with in accordance with the rules that were applicable at the time.
- 2.2 Transnet distinguishes between procurement that is meant for the normal administration (day-to-day running) of Transnet businesses and procurement of goods and services directed towards the operations for the delivery to Transnet customers (commercial or revenue generation).
- 2.3 Normal administration procurement activities are those activities that do not have a direct impact in the delivery of the goods and services to Transnet customers. These are commodities procured by Transnet for Transnet's own consumption in order for the business to run on a daily basis. Some examples are furniture, stationery, fleet passenger vehicles, IT services not related to the operations command centre, tools of trade (laptops and cell phones) not used by operators for running of operations, groceries, cleaning services, normal maintenance of office space, security services, passenger transportation services amongst others



- 2.4 Procurement of goods and services with direct impact on revenue generation or commercial activities relate to business operations and those activities that have a direct impact in the production of goods for Transnet customers or direct impact in the delivery of services to Transnet customers. Some examples are purchasing of operations equipment, maintenance of operations equipment, purchasing of spares and parts for the rolling stock and other operations equipment, maintenance of railway lines, procurement related to shut down, purchasing of helicopters, purchasing of tug boats, other vehicles for operations, maintenance of core business properties, utilisation of services for property valuations, amongst others.
- 2.5 Transnet will endeavour to have two separate procurement plans within the Integrated Demand Plan to distinguish and determine the category in which a particular transaction falls for purposes of clarity and audit.
- 2.6 There will be instances where the distinction will not be easy to determine. If it is not clear whether a transaction relates to procurement of normal administration or procurement with direct impact on revenue generation, the following questions should be asked to assist in determining the nature of the impact:
 - 2.6.1 Does the procurement affect operations or support services? (if it affects operations, possibility is that it has a direct impact on revenue);
 - 2.6.2 Will the delivered goods or services be used in the production lines or office? (if the transaction is used in production, possibility is that it has a direct impact on revenue);
 - 2.6.3 Will Transnet be able to continue to deliver to the customer if the transaction is not concluded? (if the delivery will be impacted, possibility is that it has a direct impact on revenue);
 - 2.6.4 How big is the impact of the transaction on production and delivery to the customer? (the bigger the impact on production, possibility is that it has an impact on revenue); and
 - 2.6.5 Any other relevant question.
- 2.7 If it is still not clear, then the CPO will make a decision following consultations with SCM Governance.
- 2.8 This Manual sets out the minimum standards that shall be adhered to by those involved in Procurement Activities (all activities related to the procurement of goods and services for Transnet) for normal administration and is specifically binding on:
 - 2.8.1 All employees, including, but not limited to, temporary staff, contractors, and Suppliers (including, but not limited, to prospective Bidders and/or Tenderers and/or Bidders awarded contracts) and/or consultants at Transnet;
 - 2.8.2 Entities in which Transnet has 50 plus 1 percent (%) shareholding and their employees, including, but not limited to, temporary staff, contractors, and Suppliers and/or consultants; and
 - 2.8.3 Any other persons involved in Transnet Procurement Activities.
- 2.9 Transnet SCM Activities discussed in this Manual specifically relate to the procurement of goods and services for Transnet and any related procurement-specific activity such as:
 - 2.9.1 Contract management;

- 2.9.2 Supplier management; and
- 2.9.3 Performance management.
- 2.10 The following transactions are excluded from the application of this Manual:
 - 2.10.1 Taxes and levies;
 - 2.10.2 Municipal and electricity charges;
 - 2.10.3 Salaries and wages;
 - 2.10.4 Investments and loans;
 - 2.10.5 Professional memberships and subscriptions;
 - 2.10.6 Bursaries;
 - 2.10.7 Individual development plan (IDP) related formal/informal studies;
 - 2.10.8 Employee travel bookings;
 - 2.10.9 Participation in established conferences;
 - 2.10.10 Petty cash transactions;
 - 2.10.11 Treasury related transactions that are not for the procurement of goods or services.
 - 2.10.12 Commercial-related activities including PSPs as defined in the dedicated Joint Investment Framework;
 - 2.10.13 Sponsorships and donations;
 - 2.10.14 Medical bills and prescriptions (medicine or equipment etc) issued by the Doctor as part of employee benefits which Transnet is obligated to pay in line with People Management Policies;
 - 2.10.15 Selection of partners for research and development (R & D);
 - 2.10.16 Developmental Leases; and
 - 2.10.17 Any other exclusion in terms of the Delegation of Authority Framework or Transnet policies, where such exclusions do not relate to procurement activities.
- 2.11 This Manual does not apply to procurement of goods and services that have a direct impact on commercial or revenue generation contracts, unless that manual specifically and expressly makes reference to this manual. A separate manual will cater for those procurement transactions. In the absence of a separate manual, this Manual may be applied in those transactions as far as it is practical to do so.
- 2.12 This manual does not apply to the procurement of construction related goods, services, engineering and construction works, which is governed by the Procurement Manual for Construction. This Manual does not apply to the procurement of projects regulated by the Construction Industry Development Board ("CIDB") Act. Refer to the Construction Procurement Manual for guidelines for the procurement of projects regulated CIDB. Where the Construction Procurement Manual is silent, the Procurement Manual for Goods and Services will apply unless there is a specific legislative requirement dealing with it.

- 2.13 .Transnet ODs may be used for interdivisional support where ODs require goods or services that fall within another internal ODs core competency. Such internal arrangements will not be regarded as procurement events and internal cost recovery mechanisms shall be employed. The identified Transnet OD has first right of refusal. Where the identified Transnet OD is unable to provide the required goods or services, the procurement process may be followed. The Group Chief Operations Officer has the authority to approve the interdivisional arrangements.
- 2.14 This Manual should be read in conjunction with the following list of documents as well as Annexure A: Legislation, Government Policies & Pacts Applicable to this Manual:
- 2.14.1 Supply Chain Management Policy;
 - 2.14.2 Procurement Process Guideline;
 - 2.14.3 Declaration of Interest Policy
 - 2.14.4 Transnet Preferential Procurement Policy (TPPP)
 - 2.14.5 Relevant Terms of Reference documents:
 - 2.14.5.1 Terms of Reference: Bid Specification Committee (BSC);
 - 2.14.5.2 Terms of Reference: Bid Evaluation Committee (BEC);
 - 2.14.5.3 Terms of Reference: Divisional Bid Adjudication Committee (DBAC);
 - 2.14.5.4 Terms of Reference: Central Bid Adjudication Committee (CBAC);
 - 2.14.6 Delegation of Authority Framework and Policy;
 - 2.14.7 Related templates and checklists;
 - 2.14.8 The Critical Compliance Control Points (CCP);
 - 2.14.9 Contract Management Policy and SOP;
 - 2.14.10 Supply Chain Management Complaints and Allegations Policy;
 - 2.14.11 Enterprise Supplier Development Policy;
 - 2.14.12 Any related procurement practice notes and directives that may be issued by the GCPO from time to time; and

3. .Ethics and Procurement Principles

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

3.1 Ethical Behaviour

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

- 3.1.1.1 Behave equitably, honestly and transparently;

- 3.1.1.2 Discharge duties and obligations timeously and with integrity;
- 3.1.1.3 Satisfy all requirements established in this Manual;
- 3.1.1.4 Furnish information in the course of their duties that is complete, true and fair worded and not intended to mislead;
- 3.1.1.5 Ensure that resources are administered responsibly and cost-effectively;
- 3.1.1.6 Be fair and impartial in the performance of their functions;
- 3.1.1.7 At no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- 3.1.1.8 Keep matters of a confidential nature which are in their possession confidential, unless a provision of the law requires otherwise, and only through the Legal Department;
- 3.1.1.9 Observe the confidentiality of information in their possession and sign the relevant Confidentiality and Declaration of Interest Form;
- 3.1.1.10 Avoid Conflicts of Interest in accordance with the Declaration of Interest and Related Party Disclosure Policy and Related Party Disclosures Policy for non-executive directors;
- 3.1.1.11 Not unlawfully gain any form of compensation, payment or gratification from any person for either themselves, a family member or an associate, directly or indirectly;
- 3.1.1.12 Not make false or misleading entries in reports or accounting systems;
- 3.1.1.13 Not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- 3.1.1.14 Not abuse the power vested in them;
- 3.1.1.15 Not maliciously or recklessly injure or attempt to injure the reputation of Transnet or an associated 3rd party;
- 3.1.1.16 Not use their position for private gain or to improperly benefit another person;
- 3.1.1.17 Not tamper with or sabotage any submission, tender or contract in any manner whatsoever; and
- 3.1.1.18 Not accept or request kickbacks, including facilitation payments, from Employees, Suppliers, Consultants, Contractors, Business Partners in local and foreign countries, Agents and/or any other trading Entity or Governments conducting business with Transnet.

3.2 Fairness

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

- 3.2.1.1 Applying rules consistently;

3.2.1.2 Being impartial when making decisions;

3.2.1.3 Recognising, declaring and appropriately reporting conflicts of interest as defined in the Declaration of Interest and Related Parties Policy,;

3.2.1.4 Equal treatment of all suppliers; and

3.2.1.5 Not accepting gifts and/or bribes, in accordance with the Transnet No-Gifts and Hospitality Policy,

3.3 Equity

3.3.1 Equity reflects the equitable distribution of state resources (i.e., substantive fairness) and takes account of South Africa's unfair and discriminatory past.

3.3.2 There are various government policies that seek to advance persons or categories of persons disadvantaged by unfair discrimination and this is reflected in Transnet Preferential Procurement Policy ("TPPP") in line with the equity requirements. .

3.4 Transparency

3.4.1 Transparency seeks to promote accountability and eradicate corruption.

3.4.2 transparency also requires that bidders be informed on the process to be followed in Transnet's tender processes.

3.4.3 Transparency requires Transnet to promote access to information to give effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights; and. to provide for matters connected therewith in line with Promotion of Access to Information Act (PAIA) where it is not protected by confidentiality and/ or the Protection of Personal Information Act (POPIA).

3.5 Competitiveness

3.5.1 Competitiveness requires the promotion of effective competition through procurement methods based on the market circumstances.

3.5.2 There are two important aspects to competitiveness:

3.5.2.1. The economic aspect which requires that the opportunity is provided to sufficient Bidders to enable an adequate pool of Suppliers to choose from; and

3.5.2.2. The procedural aspect which requires that the Bid is awarded to the Bidder (also known as the Tenderer) with the best evaluation score, subject to objective criteria.

3.5.3 Transnet will not conduct business with previous Employees, within the first twelve (12) months of termination of service.

3.6 Cost- effectiveness

3.6.1 Cost effectiveness requires Transnet getting value for money which is achieved through efficient sourcing.

3.6.2 Cost-effectiveness includes, but is not limited to:

3.6.2.1 Identifying the best available outcome after considering all relevant costs and benefits over the full procurement cycle;

3.6.2.2 Designing events to minimise the risk of establishing unnecessarily complex or layered supply arrangements, such as those incorporating ‘middle-men’ that do not add material value;

3.6.2.3 Avoiding unnecessary costs; and

3.6.2.4 Monitoring the supply arrangements and making the necessary changes and ensuring continuous improvement in the efficiency of internal processes and systems.

3.7 Just Administrative Action

3.7.1 SCM practitioners, BSCs, BECs and BACs are bound by the Promotion of Administrative Justice Act (“PAJA”) as an official representative of a Schedule 2 state-owned company.

3.7.2 SCM practitioners, BSCs, BECs and BACs therefore required, amongst other things, to act lawfully, reasonably, and fairly when making decisions.

3.7.3 The PAJA specifically requires SCM practitioners, BSCs, BECs and BACs, when making decisions, to:

3.7.3.1 Ensure that the process is procedurally fair;

3.7.3.2 Be rational, i.e., using the evidence and information before the practitioner, BSCs, BECs and BACs to support the decision made;

3.7.3.3 Be reasonable, i.e., the practitioner, BSCs, BECs and BACs is satisfied that the correct process was followed and all arguments for and against the decision were considered; and

3.7.3.4 Adequately share the reasons for the decision to anyone affected by it, upon request. See Section: Bid Adjudication and Award.

3.8 Sustainability

3.8.1 Sustainability requires the promotion of environmental, social and economic sustainability through the procurement of goods and services.

3.8.2 Sustainability requires Transnet to consider the environmental, social and economic impact of sourcing activities throughout the procurement process and strive to enforce sustainable practices.

3.9 Conflict of Interest

3.9.1 All Transnet employees and their agents shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists and immediately recuse themselves from the procurement process.

3.9.2 Any person that declared such conflict shall be recused from any further participation of this procurement event.

3.10 Declarations of interest submitted by Suppliers and employees may be verified. Where it is discovered that interests have not been fully declared, this must be referred to SCM Governance Compliance and Risk who will consider the merits on a case-by-case basis.

3.10.1 Professional service providers who assisted in the preparation of a document or part thereof for contract purposes may not submit a tender for work associated with such documents.

3.10.2 A conflict of interest is any situation in which:

3.10.2.1 An employee has a Personal Financial Interest;

3.10.2.2 An employee has private interests or personal considerations or has an Affiliation or a Relationship which affects, or may affect, or may be perceived to affect an Employee's judgment in acting in the best interests of the Company, or could corrupt the employee's motivations for acting in a particular manner, or which could result in, or be perceived as Favouritism or Nepotism;

3.10.2.3 An employee uses his/her position, or privileges or information obtained while acting in their capacity as an employee for personal gain; or.

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

3.11 Non-disclosure agreements

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

3.12 Gratifications

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

4. Roles and Responsibilities – SCM Department

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

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

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

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

4.2.2.1 Manage its own strategy;

4.2.2.2 Perform demand and category planning;

4.2.2.3 Conduct strategic sourcing when required and/or appropriate;

4.2.2.4 Conduct transactional sourcing when required and/or appropriate;

- 4.2.2.5 Initiate, upload, manage and terminate contracts when required and/or appropriate;
 - 4.2.2.6 Manage Supplier performance;
 - 4.2.2.7 Maintain the SCM Policy and associated Manuals and Process Guidelines;
 - 4.2.2.8 Manage compliance queries; and
 - 4.2.2.9 Manage SCM Master Data.
- 4.3 End-Users have various responsibilities throughout the procurement process, full details of which are available in the Procurement Process Guideline. Over and above process specific responsibilities, End-Users must:
- 4.3.1 Determine and specify their requirements accurately and timeously;
 - 4.3.2 Compile any technical, scope work, pricing model and/or user requirement specifications required for the successful procurement of the goods and/or services;
 - 4.3.3 The end-user must submit a request for service to the CPO or his/her delegate in order to kick-start the procurement process. The request for service form must indicate budget availability & sufficient cash-flow (where applicable), demand required and period of contract, etc.
 - 4.3.4 SCM is responsible for conducting the market analysis. For transactions below the value of R2m (incl Vat) a basic market analysis is adequate, if required.
 - 4.3.5 For strategic sourcing transactions, the CPO may appoint a sourcing team for an in-depth market analysis comprising of at least a minimum of 2 end-user representatives, 1 SCM representative, 1 representative from Enterprise and Supplier Development (ESD) and any other department deemed necessary for a particular transaction.
 - 4.3.6 End-users are not allowed to engage or approach/contact suppliers or service providers, unless there is a contract in place. In the case that a service provider wishes to share their offering, SCM should be informed to facilitate the engagements.
 - 4.3.7 For requests not reflected in the Integrated Demand Plan, ensure that a Purchase request form is accurately completed, approved and signed-off by the relevant person as indicated in the DoA framework or the SCM policy where the DoA framework is silent prior to commencing any procurement activity; and
 - 4.3.8 Participate in good faith and in the best interests of Transnet in the procurement process related to their Purchase request to the extent contained in this Manual and/or relevant committee terms of reference.
- 4.4 The SCM Department must report suspicion of and/or knowledge of fronting to the GCPO or their delegated representative for investigation.
 - 4.5 The SCM Department must establish a system which incorporates and makes binding all cost containment measures published by National Treasury.
 - 4.6 All employees that perform SCM activities must uphold the confidentiality of all Suppliers and protect Supplier and Transnet intellectual property rights. All pricing information is to be treated as sensitive..

- 4.7 In order to comply with all JSE debt listing requirements, the SCM Department must ensure the following:
- 4.7.1 The current SCM Policy is published on the Transnet website. Any amendments to the SCM Policy must be announced immediately and published on the Transnet website;
- 4.7.2 Any instances of deviations from the SCM Policy must be announced immediately on the JSE Stock Exchange News Service together with reasons for the deviation.
- 4.7.3 A register of all procurement transactions representing 10% or more of Transnet's annual procurement spend is maintained. The register must be made available on the Transnet website when the annual Transnet financial statements are published. If no such transactions took place during the period in question, a negative statement to this effect shall be made. The register shall disclose the following as a minimum:
- 4.7.3.1 Parties to the agreement;
 - 4.7.3.2 Brief description of the nature of the agreement;
 - 4.7.3.3 Date of the agreement and its duration; and
 - 4.7.3.4 The total value of the agreement for the duration period.
- 4.7.4 A register of all procurement related relationships with parties specified below must be maintained:
- 4.7.5 Any related party;
 - 4.7.6 DPIPs; and
 - 4.7.7 Prescribed officers.
- 4.7.8 The register of all procurement related relationships must be made available on the Transnet website when the annual Transnet financial statements are published. If no procurement related relationships with specified parties have existed during the period in question, a negative statement to this effect must be made.
- 4.8 All individuals involved in SCM activities shall abide by all requirements of the Protection of Personal Information Act (POPIA).
- 4.9 In particular, where any personal information is collected during the course of SCM activities, it must be ensured that:
- 4.9.1 Such personal information may not be used for any purpose other than that relating to the SCM activities for which the data was specifically collected;
- 4.9.2 RFX documentation shall include a clause informing the Bidders of their POPIA related rights and obligations and highlighting that consent is required where a need arises for the sharing of information externally, such as for the purposes of audits, legal opinions or any other lawful reason. Where information is shared for lawful purposes, the Information Transfer Register must be completed and stored in order to provide a traceable record of information transfer;
- 4.9.3 Only relevant information shall be requested, adequate for the purposes of SCM. Excessive information that is not critically required for the SCM process should not be collected, in accordance with the requirement for minimality;

4.9.4 All personal information stored as part of the SCM data storage requirements shall be appropriately destroyed once the requirements for storage has lapsed, in a manner that prevents its reconstruction in an intelligible form.

5. Roles and Responsibilities – Governance, Risk and Compliance

- 5.1 The SCM Governance, Risk and Compliance Manager must use process 8 contained in the Procurement Process Guideline to enforce the critical compliance control point (CCP) framework and instil a culture of ethical decision-making and compliance.
- 5.2 The SCM Governance, Risk and Compliance Manager must ensure that the Critical CCP framework illustrated is maintained, see Appendix B: Governance
- 5.3 The Head of SCM Governance, Risk and Compliance must ensure that the Procurement Manual is reviewed as and when required but at least every 3 years, and updated accordingly, in accordance with process 8.4.6 in the Procurement Process Guideline.
- 5.4 The SCM Risk and Compliance Manager must ensure that the SCM function and End-users are always kept up to date regarding the latest legislative and regulatory requirements by issuing directives where necessary according to process 8.4.7 in the Procurement Process Guideline.
- 5.5 It is the SCM Representatives responsibility to always comply with all latest legal requirements.
- 5.6 SCM Compliance will endeavour to maintain the Goods and Services Manual with all latest legal requirements.
- 5.6.1 From time to time the GCPO or their delegated representative may issue Directives and Practice Notes.
- 5.6.2 If there are any contradictions between Directives or Practice Notes issued after the latest manuals and the latest Goods and Services Manual, the Directives or Practice Notes will take precedence.
- 5.7 Queries to the SCM Governance, Risk and Compliance team must be done according to process 8.4.2 in the Procurement Process Guideline.
- 5.8 The SCM Governance, Risk and Compliance team does not make decisions on behalf of SCM practitioners but rather fulfils an assurance role, providing advice and recommendations for the decision maker's consideration.
- 5.9 The SCM Governance, Risk and Compliance team provides the second line of assurance in accordance with the roles and responsibilities defined in the Procurement Process Guideline, supported by other internal and external parties where appropriate.
- 5.10 The third line of assurance is provided by other internal Transnet functions, including, but not limited to, Transnet Internal Audit, or external parties, including, but not limited to, the Auditor General.
- 5.11 The relationship between the SCM Governance and internal stakeholders is reflected in Appendix B: Governance.
- 5.12 Anyone who has approached the SCM Governance, Risk and Compliance team with a query must notify them of the final decision made.



- 5.13 Written evidence of queries made, and responses given must be kept by the SCM Governance, Risk and Compliance team.
- 5.14 After being notified of the final decision made by a practitioner, the SCM Risk and Compliance Manager must report any non-compliance or risk associated with the decisions.
- 5.15 The SCM Risk and Compliance Manager must escalate high-risk matters to other SCM senior managers, the CPO and/or the GCPO as necessary.
- 5.16 All procurement-related legal and compliance queries must be addressed to the SCM Governance, Risk and Compliance team only, using the query process 8.4.2 contained in the Procurement Process Guideline.
- 5.17 The SCM Governance, Risk and Compliance team will escalate queries to the Legal Department where necessary.
- 5.18 If the OD CPO is unsatisfied with the advice provided by the Governance, Risk and Compliance team (including Group Governance), the GCPO or their delegated representative has responsibility and accountability for the final decision.
- 5.19 Where practical, the SCM Risk and Compliance Manager may be requested to provide Real-Time Assurance in a transaction that is within the HVT threshold but is not currently being monitored by TIA. The SCM Risk and Compliance Manager will initiate a compliance check to ensure that it is aligned at every CCP through the Bid/Tender process.
- 5.20 The role of SCM Governance, Risk and Compliance when requested to provide Real-Time Assurance is to ensure that governance is being complied with proactively to minimise the risk of non-compliance resulting in irregular expenditure.
- 5.21 The Governance Real-Time Assurance review process forms part of the strategic sourcing process discussed in process 8.4.3 of the Procurement Process Guideline.
- 5.22 A Bid is identified as high risk for purposes of Governance Real-Time Assurance, taking the following considerations into account:
 - 5.22.1 The value of the transaction: namely, Bids above R100 million are deemed high risk (High Value Tenders) where TIA is not providing real time assurance;
 - 5.22.2 The complexity of the Bid;
 - 5.22.3 The nature of the Bid. Where significant public interest may occur or there is a potential for reputational impact the Bid is deemed high risk; and
 - 5.22.4 Any other relevant consideration.
- 5.23 When a Bid is identified for the Governance Real-Time Assurance review process, the SCM Risk and Compliance Manager must appoint a Risk and Compliance Specialist to form part of the following reviews included in process 4.1 and 4.2 of the Procurement Process Guideline:
 - 5.23.1 Plan, prepare and conduct sourcing: Approval 1, process step 1
 - 5.23.2 Plan, prepare and conduct sourcing: Execute strategy: Tender preparation, process step 6
 - 5.23.3 Plan, prepare and conduct sourcing: Approval 2, process step 1

- 5.23.4 Conduct commercial Supplier negotiations: process step 3
- 5.24 The SCM Governance, Risk and Compliance function does not approve the reviews, which follow the approval process outlined in process 4 of the Procurement Process Guideline.
- 5.25 Bids identified for following the Governance Real-Time Assurance review process shall undergo a probity check prior to finalisation of award.
- 5.26 Internal Audit may retrospectively review a sample of the Bids that followed the Governance Real-Time Assurance review process to verify ongoing compliance.
- 5.27 In addition to the probity checks required, Group Security may conduct probity checks on any sourcing events, regardless of value, where relevant risk is identified.

6. Committee Structure

- 6.1 Depending on the estimated value of the procurement transaction and in accordance with the Delegation of Authority Framework, the procurement shall be conducted using a committee system comprising:
 - 6.1.1 Bid Specification Committee (BSC);
 - 6.1.2 Bid Evaluation Committee (BEC); and
 - 6.1.3 The relevant Bid Adjudication Committees (BAC).
- 6.2 The committee system is governed by the relevant Terms of Reference for each committee and where a conflict arises, this Manual shall govern. Table 1 summarises the description and function of the committees. The following Terms of References are hereby incorporated into the manual:
 - 6.2.1 Bid Specification Committee Terms of Reference;
 - 6.2.2 Bid Evaluation Committee Terms of Reference;
 - 6.2.3 Divisional Bid Adjudication Committee Terms of Reference; and
 - 6.2.4 Central Bid Adjudication Committee Terms of Reference.
- 6.3 No person who is a political office bearer, a public office bearer, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a Bid Specification, Bid Evaluation or Bid Adjudication committee.
- 6.4 The evaluation and adjudication committees should be composed of different members to ensure that a transparent review of the evaluation is undertaken. Members of the evaluation committee may present their reports to the bid adjudication committee and clarify uncertainties. Such members should not have any voting power on the adjudication committee.
- 6.5 In accordance with the Delegation of Authority Framework, the CPO/BAC considers submissions including requests for the following:
 - 6.5.1 Contract amendments;
 - 6.5.2 Award of business;

- 6.5.3 Cancellation of tenders;
- 6.5.4 Framing of approved lists;
- 6.5.5 Deviation from Competitive Bidding;
- 6.5.6 Extending bid validity period
- 6.5.7 cancelation of contracts;
- 6.5.8 Price Negotiations and
- 6.5.9 Restriction.

Table 1: Transnet Committee Structure

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

Section B – Approach to Market

7. Strategic Management

- 7.1 Using process 1.1 set out in the Procurement Process Guideline, the GCPO or his/her duly delegated representative is required to develop, maintain and implement a group procurement strategy aligned with Transnet's procurement goals..
- 7.2 Using process 1.1 set out in the Procurement Process Guideline the CPO or his/her duly delegated representative is required to develop, maintain and implement a procurement strategy aligned with OD specific procurement goals, the group procurement strategy as well as the Transnet 5 Year Strategic Plan.
- 7.3 The purpose of these plans is to:
 - 7.3.1 Align the vision and mission of the Group and OD specific SCM function with the requirements of Transnet;

- 7.3.2 Drive procurement functional activities effectively and efficiently;
- 7.3.3 Provide a consolidated overview of the development, consolidation, and prioritisation of improvement initiatives for procurement to support Transnet in continuous improvement; and
- 7.3.4 Continuously identify and capitalise on opportunities to improve procurement.
- 7.4 Performance metrics in relation to the procurement strategies are required to be developed using process 1.4.2 of the Procurement Process Guideline. Procurement performance shall be monitored in accordance with process 1.4.3 of the Procurement Process Guideline.

8. Demand and Category Planning

- 8.1 Demand and category planning are integral activities in the procurement environment as they enable End-Users and SCM employees to understand what is required, when it is required and how it is required. Demand and Category Planning is carried out in accordance with processes 3.1 – 3.4 in the Procurement Process Guideline.
- 8.2 Transnet demand management system shall be aimed at ensuring that the goods and services procured:
 - 8.2.1 Support strategic and operational commitments of Transnet;
 - 8.2.2 Are effectively delivered at the right price, time, place, and quality; and
 - 8.2.3 Are in line with the Transnet's transformation initiatives.
- 8.3 Category planning ensures that End-Users' CAPEX, COPEX and OPEX demand are identified and correctly budgeted for at the start of each financial year. Annual reviews of End-Users' CAPEX, COPEX and OPEX initiatives, as well as historical category spend enables the development of the category sourcing wave plans for each category, that reflect the following:
 - 8.3.1 Planned CAPEX, COPEX and OPEX sourcing initiatives;
 - 8.3.2 Approved budget per initiative;
 - 8.3.3 SCM and End-User resources assigned to each initiative; and
 - 8.3.4 Required date of goods and services.
- 8.4 The consolidated category sourcing wave plans are used to provide input in the development of the Integrated Demand Plan that informs all strategic sourcing activities that will be conducted for each year.
- 8.5 Out of the demand plan, a sourcing wave plan must be developed to indicate what procurement transaction will be prioritised and executed in a particular year. These should take into account available to execute the plan in a realistic approach.
- 8.6 If an End-User has an additional/ad-hoc strategic sourcing request during the year that is not included in the Integrated Demand Plan, a Purchase request must be submitted to the Procurement Manager (for the affected OD) who will consult with the relevant Category Manager to manage the request. Such request must be approved and signed-off by the relevant person as indicated in the DoA framework prior to inclusion

in the Integrated Demand Plan. All ad-hoc requests must be reflected in the Integrated Demand Plan.

- 8.7 The GCPO is accountable for ensuring the development and maintenance of an Integrated Demand Plan which should contain a multi-year view of the upcoming demand in accordance with process 3.1 in the Procurement Process Guideline to manage Transnet's consolidated demand.
- 8.8 The Category Manager is accountable for ensuring the development and maintenance of a category sourcing wave plan for each category in accordance with process 3.3 in the Procurement Process Guideline.
- 8.9 The purpose of these plans is to:
 - 8.9.1 Deliver integrated planning to Transnet;
 - 8.9.2 Align SCM planning cycles to that of the rest of the business to effectively fulfil Transnet operational requirements;
 - 8.9.3 Collaborate demand planning with the business to ensure that all requirements are considered;
 - 8.9.4 Proactively identify optimisation opportunities to cost effectively and timeously deliver on Transnet demand, in accordance with business needs; and
 - 8.9.5 Ensure transparency of business demand across all categories.
- 8.10 The Category Manager must provide the relevant Strategic Sourcing Manager with the category sourcing wave plans that are used to inform the Integrated Demand Plan.
- 8.11 The relevant Strategic Sourcing Manager must consolidate and submit the OD Procurement Plan (an extract from the Integrated Demand Plan) for all transactions falling within the open tender threshold to the GCPO through the OD CPO within reasonable time after receiving the category wave plans,...
- 8.12 Any advertisement of a tender that was not included in the Procurement Plans should be approved by the delegated authority for the approach to market in terms of value. The request for approval to approach the market must clearly state that the project was not included in the Procurement Plan. This information must also be submitted in the quarterly report that will be tabled at Group Executive Committee.
- 8.13 The GCPO, or his/her delegated representative, should compile a Quarterly Report of amendments to the Procurement Plan for submission to the Group Executive Committee

9. Procurement Approach

- 9.1 Competitive bidding is considered the normal bidding process. Competitive bidding uses two approaches: Transactional Procurement or Strategic Sourcing:
 - 9.1.1 Transactional procurement should be considered for transaction values up to R 2 million (Including VAT);
 - 9.1.2 Strategic Sourcing should be considered for transaction values above R 2 million or where the complexity of the transaction warrants.

- 9.2 Detailed guidelines on selecting and executing a procurement approach appropriate to a specific Bid are included in Section: [Transactional Procurement](#) and Section: [Strategic Sourcing](#) with detailed processes included in the Procurement Process Guideline.
- 9.3 The preference point system and applicable thresholds for application to both transactional and strategic sourcing is described in Section: [Bid Preparation](#).
- 9.4 Over and above the qualitative considerations discussed in this Manual, a summary of value thresholds for consideration when selecting a procurement approach is described in Table 2
- 9.5 The decision tree shown in Figure 2 acts as a guide to selecting the appropriate procurement approach.

Table 2: Value thresholds for procurement approach selection

Transaction Value (including VAT)	Procurement Approach	Bid mechanisms	Reasonable time in the market	Procurement Process Guideline process number
< R500 000 (excluding petty cash)	Transactional Procurement	Written quotations A minimum of 3 quotes invited via sending a direct request to bidders through the Transnet e-submission platform on a rotational basis. Transnet may use any approved platform (including the CSD) to source suppliers on rotational basis. ESD suppliers should also be considered.	48hrs (working days)	6
R500 000 – R2 000 000	Transactional Procurement	Written quotations or RFQ. A minimum of 3 quotes invited by sending a direct request to bidders through advertising on the e-tender portal and Transnet website on a rotational basis . Transnet may use any approved platform (including the CSD) to source suppliers on rotational basis. . ESD suppliers should also be considered.	48hrs (working days)	6
>R2 000 000	Transactional /Strategic Sourcing	RFP process advertised on e-Tender portal and the Transnet website.	10 working days or more	4

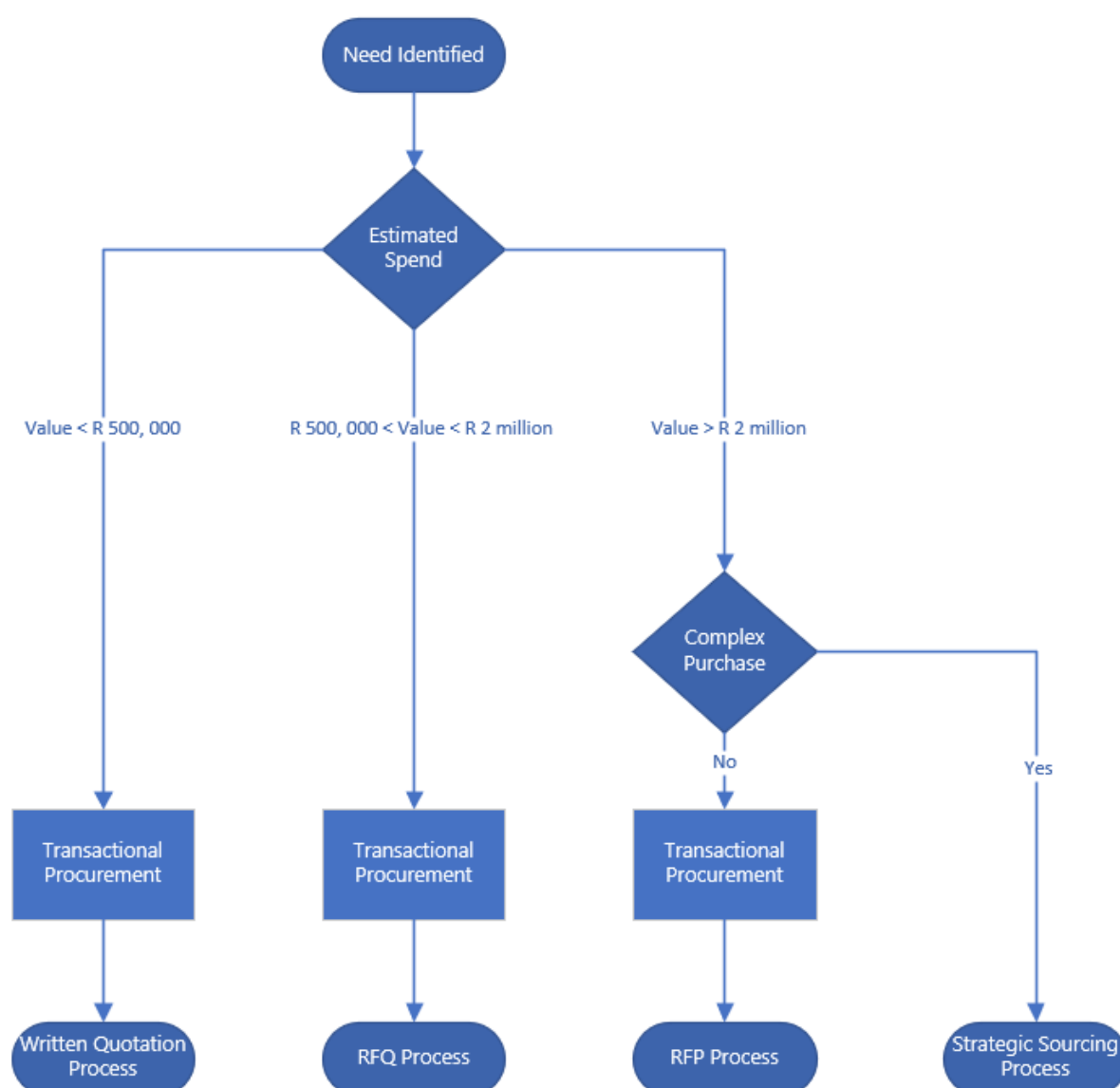


Figure 2: Procurement Approach Decision Tree

10. Transactional Procurement

10.1 When a SCM Representative receives a purchase requisition (Request for Services “RFS”)/ Technical Purchase request (“TDR”) they must use their reasonable discretion to decide whether initiating transactional procurement, in line with process 6.1 in the Procurement Process Guideline, would be beneficial to Transnet after taking the following into consideration:

- 10.1.1 The nature of goods and/or services;
- 10.1.2 The price of the goods and/or services;

- 10.1.3 SCM Delegation of Authority Framework;
- 10.1.4 The Transaction Value Guidelines (Table 2) and Transactional Procurement Decision Tree (Figure 2);
- 10.1.5 The availability of the goods and/or services;
- 10.1.6 Possibility of incorporating the request into a broader category or commodity sourcing initiative, where such initiatives are underway, in order to leverage economies of scale; and
- 10.1.7 Any other relevant consideration.
- 10.2 If satisfied that transactional procurement will be beneficial to Transnet after taking all considerations into account, the SCM Representative may initiate process 6.1 in the Procurement Process Guideline. Depending on the value of the transaction in accordance with Table 2 above, bids can either be invited/requested directly from Suppliers through the Transnet e-submission platform for low value transactions (3 quote invitation process) or by following the RFQ or RFP process advertised accordingly.
- 10.3 If the SCM Representative is not satisfied that transactional procurement will be beneficial to Transnet, they must consult with the Category Manager to select an alternative sourcing method.
- 10.4 The end-user GM or his/her delegate is responsible for issuing Purchase Requisition (PRs) and this may be sub-delegated further. The GCPO / OD CPO or his/her delegate is responsible for issuing Purchase Orders (POs) and this may be further sub-delegated.
- 10.5 The specification shall be developed by the end user and the SCM Representative.
- 10.6 A minimum of 3 quotations should be invited from suppliers sourced from CSD or Transnet database or any other Transnet approved platform on a rotational basis using the Transnet e-tender submission portal and/or Transnet website/database when it exists to invite bids. If less than 3 quotations are obtained refer clause 10.15.
- 10.7 In a case where an RFQ (3 quotes/bids invited) was followed and the number of responses received is more than the number of quotes invited or there are bidders who responded that were not in the list of bidders who were invited, those bids should be excluded from the evaluation and only the bids invited shall be evaluated.
- 10.8 In a case where an RFQ (minimum 3 quotes/bids invited) was followed and all the response received are above the RFQ threshold, the CPO or his/her delegate should consider negotiating the prices of the suppliers/service providers down to a price within the RFQ threshold. The negotiation should start with the highest ranked bidder and follow the list. Should the negotiations with the bidders fail on reasonable and understandable grounds, the CPO or his/ her delegate should cancel the RFQ process if the price charged by the bidder is more than 20% of the RFQ threshold including VAT and an open tender process be followed.
- 10.9 If the price charged by the winning bidder is above the RFQ threshold but within 20% range (including VAT) then the transaction can be submitted to the Bid Adjudication Committee (BAC) for adjudication. The submission should follow the format of the RFP with a full TEAR report that will capture the detail of the price negotiations.



- 10.10 Where the RFQ process is followed, there is no requirement to appoint a BSC or BEC unless the CPO or his/her delegate deems it necessary or justifiable to do so for a particular transaction. However, if the RFQ contains a technical evaluation, then the BEC must be appointed.
- 10.11 Where the RFQ process is followed, a distinction should be made between off-the-shelf purchases and complex transactions (transaction that require technical expertise where a simple yes or no answer on technical compliance is not possible or feasible),
- 10.12 For transactions below R500 000, a Buyer may complete the process of evaluation. A BEC is not required but may be appointed in exceptional cases where the complexity of the transaction warrants, as determined by the CPO of his/her delegate.
- 10.13 When a Buyer is procuring via transactional procurement the following constraints apply:
- 10.13.1 Suppliers shall be given a reasonable time (a minimum of 48hrs which must fall within working days) to respond to requests for quotations.
- 10.13.2 Where the time for a Supplier to respond is less than 48hrs (within working days), except when following emergency procurement, the CPO or their duly delegated representative must grant approval and is required to record the reasons for audit purposes.
- 10.13.3 Quotes shall be received via Transnet e-tender submission platform and filed according to document retention protocols;
- 10.13.4 Purchasing of Goods or Services shall not be deliberately apportioned or divided into parts to avoid governance mechanisms. This will be considered a contravention of the Supply Chain Management Policy and will result in action being taken. Parcelling is prohibited. Deliberate non-placement of long-term contracts for long periods of time and reliance on using RFQs may be viewed as parcelling which will result in action being taken.
- 10.13.5 It is the responsibility of the CPO or his/her duly delegated persons to ensure that Parcelling is not being committed in the processes by monitoring repeated procurement of the same commodities where a long-term contract should be in place.
- 10.13.6 repeated purchasing of the same goods or service in the same cluster or area of responsibility (approved or sign-off by the same manager) for the same purpose within a period of six months or a financial year using an RFQ process may be deemed to be parcelling unless there is justifiable reasons why a contract could not be put in place.
- 10.13.7 Parcelling does not necessarily occur if similar or the same Goods/Services are being procured by the same OD but through separate procurement events. In such scenarios, the CPO must sign-off the procurement event, with confirmation from end-user that such procurement was planned or unplanned and state the budget amount available. In certain instances, there may be a legitimate reason for separate procurement event, e.g. where bids are split per region in order to ensure participation by local companies
- 10.14 In the case where a minimum of 3 suppliers cannot be invited for one reason or another, the CPO or their duly delegated representative should record and approve reasons for continuing with the RFQ process.
- 10.15 Where a minimum 3 quotations/bids were invited and less than 3 quotations were received, the CPO or their duly delegated representative should apply their discretion to award or not award the RFQ. The reasons for not receiving the minimum 3 quotations should form part of the adjudication submission. The CPO or duly delegated

representative should ascertain that a fair process was followed and that appropriate bidders were invited.

- 10.16 In the case where a transaction was within the RFQ threshold and an open tender process was followed (i.e the RFQ was advertised in the National Treasury e-tender portal for every bidder to participate) and less than 3 quotations were received, there is no requirement for approval or reasons to be furnished in order to continue with the process. An RFQ only advertised openly on the Transnet e-submission platform is not regarded as an open tender.

11. Rotational Procurement

- 11.1 Rotational procurement is used to ensure fairness and an equal opportunity.
- 11.2 Rotational procurement is used in the selection of suppliers when utilising the Written Price Quotations/RFQ (minimum 3 quotations/bids invited) or framing an approved list, see Section: Procurement Approach and Section: Approved List.
- 11.3 The relevant SCM Representative must ensure the following:
 - 11.3.1 The sequence of rotation is defined and transparent.
 - 11.3.2 The sequence of rotation is consistently applied.
 - 11.3.3 The rotation mechanism results in equitable magnitude of award.

12. National Treasury Transversal Contracts

- 12.1 Transversal contracts may be used where the approved sourcing strategy warrants.
- 12.2 Where it would be beneficial or it is mandated to make use of National Treasury Transversal Contracts in terms of the DoA for procurement by other means, whether new or existing, a SCM Representative must obtain approval to utilise the contract in line with the legal framework for procurement by Schedule 2 State Owned Entities.
- 12.3 The SCM Representative, with the approval of the relevant DoA, may allocate a Buyer to participate in a National Treasury Transversal Term Contract.
- 12.4 The duly allocated Buyer must complete and send the National Treasury Transversal Term Contract Participation Template provided by National Treasury when allocated in terms of 12.2 above.
- 12.5 The Buyer must follow the instructions of National Treasury after submitting the request to participate in a National Treasury Transversal Contract.
- 12.6 The Buyer must create the Transversal Contract on the SAP system.
- 12.7 The Buyer must raise a requisition against the relevant created Transversal Contract following the relevant National Treasury procedure regarding procurement against existing National Treasury Transversal Contracts.
- 12.8 After raising the requisition in clause 12.7 above, the Buyer must use the Purchase Order generated from the created Transversal Contract on SAP to procure the goods and services in line with Transactional Procurement practices.

13. Strategic Sourcing

- 13.1 When a SCM Representative or their duly delegated representative receives a purchase request, they must use their reasonable discretion to decide whether initiating the strategic sourcing method in line with process 4.1 in the Procurement Process Guideline would be beneficial to Transnet after taking the following into consideration:
 - 13.1.1 The nature of the contract to be established (e.g., a National Treasury transversal or OD National Contract or Transnet National contract);
 - 13.1.2 Complexity of the Bid (e.g., where the specification requires expert knowledge);
 - 13.1.3 Value of the Bid;
 - 13.1.4 The Transaction Value Guidelines (Table 2) and Transactional Procurement Decision Tree (Figure 2);
 - 13.1.5 Any other applicable legal constraint; and
 - 13.1.6 Any other relevant consideration relating to the circumstances of the Bid.
- 13.2 If the SCM Representative or their duly delegated representative is satisfied that the strategic sourcing method will be beneficial to Transnet, a Strategic Sourcing Specialist may be allocated to initiate process 4.1 in the Procurement Process Guideline.
- 13.3 If the SCM Representative or their duly delegated representative is not satisfied that the strategic sourcing method will be beneficial to Transnet after taking all considerations into account, they must consult with the CPO or their duly delegated representative who must take the decision regarding which method should be used and effect the relevant process in this Manual or the Procurement Process Guideline.
- 13.4 The Sourcing Team shall be responsible for the development and sign-off of the scope of works / service(s), functionality criteria (where applicable) and pricing schedule for tabling to the BSC for approval.
- 13.5 The CPO or his/her delegate shall appoint an SCM Representative who will assist the end-user in the procurement process.
- 13.6 The delegated BSC will review and approve strategic sourcing bid specifications. A BEC shall be established to complete the procurement evaluation during the strategic sourcing process. The delegated BAC will adjudicate bids upon the recommendation of the BEC.
- 13.7 The OD CPO or their delegated representative may appoint in writing ad-hoc members to the standing BSC committee per transaction, in line with the Bid Specification Committee Terms of Reference.
- 13.8 The CPO or their duly delegated representative, is required to appoint in writing the BEC for each strategic sourcing initiative which requires it, in line with the Bid Evaluation Terms of Reference.
- 13.9 When selecting BEC members, the following shall be considered:
 - 13.9.1 The sourcing strategy;
 - 13.9.2 The complexity of the Bid;

- 13.9.3 The risk profile of the Bid; and
- 13.9.4 The experience of available Strategic Sourcing Specialists.
- 13.10 Committee members and appointees must treat all sensitive information as confidential. All BSC and BEC members must adhere to strict confidentiality at all times.
- 13.11 All competitive Bids must be advertised on the National Treasury (NT) e-Tender Publication Portal, Transnet website and may also be advertised in local, regional, national or international mediums, professional publications, and any other appropriate medium as approved by CPO or their duly delegated representative.
- 13.12 Bidders must be afforded sufficient time to prepare and submit Bids, based on the complexity of the Bid.
- 13.13 All competitive Bids should be advertised for a minimum period of 10 (ten) working days except in urgent cases when Bids may be advertised for a shorter period.
- 13.14 Longer advertisement periods are allowed for complex Bids, based on Bid-specific requirements.
- 13.15 The CPO or their delegated representative or the relevant DoA must approve closed or competitive Bids that are scheduled to be advertised for less than 10 (ten) working days after considering the impact that the shorter advert period has on fairness and competition.
- 13.16 To test for fairness of the shorter period the CPO or their duly delegated representative or the relevant DoA must consider the following:
 - 13.16.1 The complexity of the scope of work;
 - 13.16.2 Nature of the industry;
 - 13.16.3 Anticipated number of responses;
 - 13.16.4 Whether international participation is anticipated;
 - 13.16.5 Documentation required from suppliers;
 - 13.16.6 Whether there will be a briefing session to clarify the scope of work and addressing of questions;
 - 13.16.7 Time to provide clarification with regards to the bid document; and
 - 13.16.8 Any other considerations relevant to the timeous submission of the bid.
- 13.17 Reasons for the shorter advertising time must be recorded in the Bid file for audit purposes and must address the considerations above.
- 13.18 The Request for Information (RFI) Process shall be used where:
 - 13.18.1 The End-User does not fully understand how to specify his/her requirements;
 - 13.18.2 The SCM Department and/or End-User needs to obtain information from the market;
 - 13.18.3 The SCM Department requires understanding of various options before initiating a sourcing process; and/or

- 13.18.4 The SCM Department first needs to determine the suitability of Suppliers in the market.
- 13.19 RFIs are sent to the relevant Strategic Sourcing Manager for approval and allocation of a Strategic Sourcing Specialist.
- 13.20 The SCM Representative may approach the market through the most effective means to source the required information within the constraints of the law.
- 13.21 Responses to the RFI process may only be used for information purposes and to develop a Bid and strictly no award may be made against a response to an RFI.
- 13.22 Where significant assets as per the Significance and Materiality Framework are to be acquired, the Transnet Board must, in accordance with section 54 (2)(d) of the PFMA, promptly inform National Treasury in writing of the intention to procure the asset and seek approval from the Executive Authority. Transnet may assume that approval has been granted if it receives no response from the Executive Authority on a submission within 30 (thirty) calendar days or within a longer period as may be agreed to between itself and the Executive Authority.
- 13.23 Reverse Auctions:
- 13.23.1 Reverse e-auction is an electronic procurement process for buying and selling that aims to achieve the most competitive prices for clearly specified items.
- 13.23.2 The CPO or their delegated representative identifies goods or services that will be suitable for reverse e-auctioning.
- 13.23.3 The decision to conduct reverse auctions, see [Appendix E: Process for e-Auctions](#), may be approved by the CPO or their delegated representative, taking into consideration:
- 13.23.3.1 The nature of the demand for goods or services;
 - 13.23.3.2 Supply market analysis;
 - and
 - 13.23.3.3 Any other relevant consideration in the circumstances.
- 13.24 Market Analysis:
- 13.24.1 The market analysis process is a key driver to the sourcing process and forms the basis for the development of a procurement strategy.
- 13.24.2 Once an SCM Representative determines that there is no existing contract or available sources of supply that can adequately provide the goods or services, then market research should be conducted on the external supply market.
- 13.24.3 Market analysis or a rational justification should be recorded before issuing an enquiry to a limited number of suppliers, see [Appendix D: Limited Bidding](#) or where the market is unknown, so that the correct supply market is targeted.
- 13.24.4 Market analysis may also inform the formal commercial strategy, market-related prices and parameters for negotiations.
- 13.24.5 An in-depth Market analysis may include developing an understanding of the following market dimensions:

- 13.24.5.1 Market related pricing;
- 13.24.5.2 Market structure;
- 13.24.5.3 Competition/role-players;
- 13.24.5.4 Supply chains;
- 13.24.5.5 Substitute goods or services;
- 13.24.5.6 Supplier preferencing;
- 13.24.5.7 Market capacity and capability (e.g new technology, is the product still in use or obsolete); and
- 13.24.5.8 Transformation opportunities (ESD & Preferential Procurement).

13.24.6 Basic market analysis may include the following:

- 13.24.6.1 Market related price;
- 13.24.6.2 Transformation opportunities; and
- 13.24.6.3 Competition/role-players.

13.24.7 Developing an understanding of market related pricing may include elements of the following methods, should the procurement request require it:

- 13.24.7.1 Historic pricing offered by the market;
- 13.24.7.2 Manufactured cost versus offered price analysis;
- 13.24.7.3 Commodity indices review;
- 13.24.7.4 Review of existing contracts;
- 13.24.7.5 Review of available catalogues or established price lists;
- 13.24.7.6 Total cost of ownership analysis;
- 13.24.7.7 Budget quotes / price benchmarking (only SCM may approach suppliers)

13.24.8 The use of RFIs may facilitate such market research, and determine supplier interest, capability and capacity in the category of supply/services.

- 13.24.8.1 Where market analysis does not present a complete view of the market, or reveals uncertainty about the solutions available, or the capabilities and availability of suppliers, it may be best to issue an RFI to the market prior to proceeding with a relevant procurement process.

14. Approved List

14.1 The utilisation of an approved list is a means of strategic sourcing.

14.2 An approved list is a mechanism to prequalify suppliers and limit the need to continuously evaluate many bids.

- 14.3 The decision to use an approved list as a mechanism of strategically sourcing or amend an approved list must be approved by the CPO or their duly delegated representative after taking into consideration:
 - 14.3.1 The nature of the demand for goods or services (commodities requiring long-term contracts should be avoided for fixed term approved list e.g., IT);
 - 14.3.2 The proposed accompanying terms of reference;
 - 14.3.3 Availability of budget (where it is applicable);
 - 14.3.4 Transformation Guidelines;
 - 14.3.5 Supply market analysis; and
 - 14.3.6 Any other relevant consideration in the circumstances.
- 14.4 The approved list must be specified, evaluated and awarded (if price was part of the evaluation) in the normal manner by the relevant delegated authority.
- 14.5 When an approved list approach is selected to strategically source required goods or services preferential criteria must still be evaluated according to the terms of reference supporting the list.
- 14.6 There are two types of approved lists that may be selected:
 - 14.6.1 Standing approved list, remains valid indefinitely provided:
 - 14.6.1.1 The suppliers on the list will be subject to periodic quality testing to maintain their name on the list. Should suppliers fail to meet quality standards, their names may be removed from the approved list.
 - 14.6.1.2 Bidders' products may be subjected to testing in order to determine their suitability for inclusion on the approved list and may be placed on the approved list provisionally pending the outcome of the testing process.
 - 14.6.1.3 Detailed specifications for the good/s or service/s, outlining the approved list process, defining minimum standards, defining testing and re-testing and auditing requirements must be in place to ensure technical, testing and quality standards are applied consistently and permit fair competition
 - 14.6.1.4 Potential new suppliers may be allowed to approach Transnet (through the SCM process) at any time to be provided an opportunity to be added to the relevant standing approved list and must be considered immediately by the relevant committee and be taken into the approval process.
 - 14.6.1.5 Tests must be conducted in line with normal testing and laboratory processes and changes and updates to the approved list must be made promptly to ensure potential new suppliers are given a fair opportunity to be included in upcoming procurement events.
 - 14.6.1.6 Although the standing approved list remains valid for an indefinite period, it must be advertised every 12 months in order to afford new suppliers an opportunity to be included. However, such approved lists can be updated at any time.
 - 14.6.2 Fixed term approved list can be framed from 1 to 5 years. The standard acceptable time period is 3 years. The following must be taken into consideration:

14.6.2.1 No new applications for inclusion on the list may be considered during the period that the existing list is in effect.

14.6.2.2 At the end of the fixed period, the list must be re-advertised and a new list must be framed, if there is still a need for such an approved list. Suppliers who were included on the previous approved list must re-apply for inclusion onto the new list.

14.6.2.3 3 (three) years is the standard framing period. A fixed term approved list may be framed for a maximum of 5 (five) years with GCPO approval.

14.7 Sourcing an approved list of Suppliers must include a term of reference, or equivalent, which details how the approved list will operate (either on a rotational or quotation basis), the timeframe of the approved list as well as the pricing methodology. The SCM Representative must consider the following when framing the list:

14.7.1.1 The fixed term approved list may be used either on a rotational or a quotation basis. Where the intention is to use the list on a rotational basis, the rates of the suppliers must be the same or similar for all the bidders on the approved list in order to promote the principle of cost-effectiveness.

14.7.1.2 For fixed term approved lists, the work orders should not exceed the specified time period of the approved list, this means that all work orders made against the approved list should be done within the timeframe of the approved list. Should circumstances arise that requires work to be done beyond the time frame of the approved list, a contract variation process must be followed to extend the duration of the approved list.

14.7.1.3 The RFX document must indicate the minimum and maximum number of suppliers required to frame the list and should clearly state what Transnet will do should the minimum and maximum number of suppliers not be met during the tender process.

14.7.1.4 The RFX document should contain/detail the instances where Transnet may be allowed to step outside of the approved list or the Framework Agreement when the Bidders that have been placed on the list are unable to deliver in terms of Transnet's requirements at a particular point in time.

14.8 The approved list can be utilised using either of the two mechanisms below:

14.8.1 Ad-Hoc: There is no contractual relationship until such time as the list needs to be utilised. When there is a need, Bidders are invited to submit a bid and are evaluated or a rotational system is used where rates are the same for all Bidders on the Approved List. All legislative requirements (eg SBD Forms) must be evaluated each time the approved list is being utilised.

14.8.2 Framework Agreement: A contractual relationship could be concluded with all/some or one of Bidders on the Approved List. During the stage of setting up the approved list for purposes of having a framework agreement (contractual), all legislative requirements (eg SBD Forms) must be evaluated. However, once the Framework agreement is in place, there is no need to evaluate these requirements every time the framework is utilised.

14.9 For rotational approved lists, equalised pricing is a key requirement in pre-qualifying suppliers. Negotiation is the core mechanism that should be used to allow for equalised pricing.

- 14.10 Any rotational system implemented should consider section: [Rotational Procurement](#).
- 14.11 Suppliers may be removed from an approved list if the supplier:
- 14.11.1 Has been added to National Treasury's List of Restricted Bidders;
 - 14.11.2 Fails to comply with the requirements of such approved list;
 - 14.11.3 Material factors under which the supplier was added to the approved list no longer hold, such as being a sole representative or agent of an OEM;
 - 14.11.4 Has been convicted of any offence under any law relating to wages, hours of work or other conditions of employment;
 - 14.11.5 Fails to perform satisfactorily after having been awarded business;
 - 14.11.6 Sub-contracts the whole or any portion of a contract for the supply of Goods or Services in respect of an approved list to an entity not declared at the original application to be approved;
 - 14.11.7 Sub-contracts the whole or any portion of a contract for the supply of Goods or Services in respect of an approved list to an Enterprise or person whose name does not appear on the list;
 - 14.11.8 Has ceased to carry on business under the name on the approved list and has not informed Transnet of this change;
 - 14.11.9 Has requested that its name be removed from the approved list.
- 14.12 Before a supplier is removed from an approved list, the Bidder concerned shall be notified in writing of the intention to remove it from the list including reasons for the removal.
- 14.13 The Bidder shall be afforded an opportunity to make representations as to why its name should not be removed from the list. Bidders must be afforded reasonable time (minimum 7 (seven) working days) to respond to Transnet's notice of intention to remove the bidder.
- 14.14 Approval for the removal of a supplier from the approved list must be recommended by the relevant CPO and approved by the DBAC/CBAC.

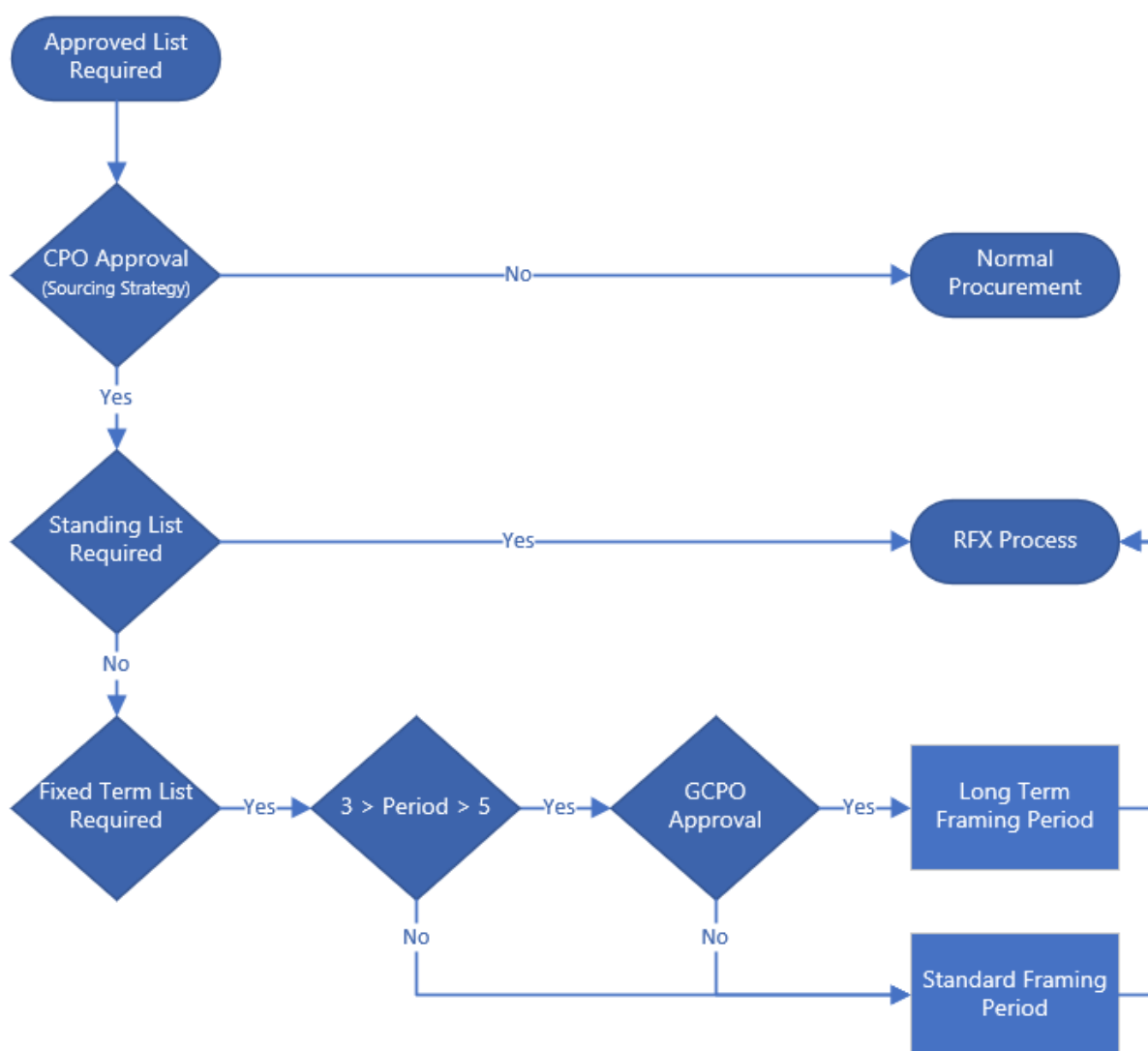


Figure 3: Approved List Decision Tree

15. Two-Stage Bidding / Expression of Interest

15.1 This mechanism is used in assessing the availability of goods and services where there is no clear specification of requirements or where the suitability of service providers must first be determined prior to the undertaking of any development work.

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

15.3 Two-stage bidding may be utilised where:

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

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

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

15.4 The process involves the following two steps:

15.4.1 Stage 1: RFI Stage or Expression of interest:

15.4.1.1 Bidders are invited to submit their proposals via an open RFI after approval to approach the market has been obtained or bidders are invited to show their interest by providing a solution to an identified need.

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

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

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

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

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

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

15.4.3 A recommendation is made to the relevant delegated authority regarding the outcome of the first stage, and the eligibility of the bidders to participate in the second stage.

15.4.4 Relevant delegated authority's approval of the recommendation effectively authorises the second stage of the process.

15.4.5 Stage 2: RFP Stage:

15.4.5.1 Depending on the option exercised in stage 1, Transnet may either issue an Open Bid or limit the second stage to only one or a shortlist of Bidders, as approved by the delegated authority.

15.4.5.2 Bidders are invited to bid in the normal manner.

15.4.5.3 The bids are evaluated and awarded in the normal manner.

16. Deviation from Competitive Bidding/Procurement by "Other Means"

16.1 Competitive bidding is considered the normal bidding process. Deviations from competitive bidding are considered procurement by "other means".

16.2 Based on Instruction Note 3 of 2021/2022 all deviations from competitive bidding must be reported to National Treasury and the AGSA.

16.3 If in a specific case it is impractical to invite competitive bids, the required goods or services may be procured using procurement by "other means".

16.4 Procurement by "other means" includes the following reasons:

16.4.1 Standardisation: A justifiable need to standardise goods or services;

16.4.2 Compatibility: The compatibility of the goods or services required;

16.4.3 Research and Development (R &D): where the intellectual property of Transnet and its partner(s) may be compromised when the details of the project are shared openly to the public in process of sourcing critical goods or services for the research.

16.4.4 Limited Suppliers: Goods or services are only available from a limited number of suppliers;

16.4.5 Specialisation: Goods or services are highly specialised and are largely identical to previously procured goods or services;

16.4.6 Legal Grounds, including, but not limited to, where relevant intellectual property rights, warranty and/or guarantees are held by a specific supplier or OEM;

16.4.7 Procuring from Organs of State: Instances where procuring goods or services from other organs of state and/or public institutions of higher learning results in either financial or non-financial benefits., see Appendix D: Partnering with Other Organs of State;

16.4.8 Regional or Local Community Procurement: Instances where procuring from suppliers within the local community or the region which results in either financial or non-financial benefits (such as strategic placement of strategic assets [eg disaster recovery datacentre], or to avoid community unrests); utilisation of this method should be supported by Group SCM Governance to ensure that there is no overlapping with preferential procurement.

16.4.9 Emergency: Situations where there are serious and unexpected situations that pose an immediate risk to health, life, property, environment, business disruption or financial loss which calls for urgent action and there is insufficient time to follow a competitive bidding process, see Appendix D: Emergency Procurement;

16.4.10 Urgency: Situations where the early or timeous delivery of goods, services and/or infrastructure is critical. This arises only in instances where it is critical to ensure business continuity (to minimize commercial loss or maximise commercial gain); for the protection of Transnet assets and/or Transnet's reputational image; preventing non-compliance to legislative requirements and preventing/avoiding adverse audit findings, see Appendix D: Urgent Procurement;

16.4.11 Instances where goods and services are not available in the local market and procurement from international suppliers will lead to financial and/or non-financial benefits;

16.4.12 Unsolicited bid, including where Transnet receives a submission that is innovative, unique and meets the requirements of a sole source as explained in Appendix D.

16.4.13 Organ of State co-operation, see Appendix D: Organ of State Co-operation

16.5 Procurement by "other means" includes the following mechanisms:

16.5.1 Limited Bidding, see Appendix D: Limited Bidding;

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

16.5.3 Procurement that occurs in emergency situations, see Appendix D: Emergency Procurement;



- 16.6 Where deviation from competitive bidding is proposed, the CPO or their delegated representative shall recommend the sourcing approach to the delegated authority for approval after the proposal has been assessed by SCM Governance.
- 16.7 The Instruction Note requires that all procurement by “other means” be assessed. SCM governance is responsible for the assessment prior to the approach to market is approved.
- 16.8 Where deviation from competitive bidding is proposed, the CPO or their duly delegated representative shall allocate a SCM Representative to follow the Manage Deviation from Competitive Bidding process 8.4.4 in the Procurement Process Guideline.
- 16.9 Once the deviation from competitive bidding is approved as per process 8.4.4 of the Procurement Process Guideline, all relevant steps of figure 32 of the Procurement Process Guideline are to be followed to conclude procurement.
- 16.10 In the case of a single source or sole source process, procurement should follow a shortened negotiated method of procurement.
 - 16.10.1 A shortened process means that the identified bidder can be requested to respond or submit a bid containing only the legislative required documents as well as a price proposal.
 - 16.10.2 This process also allows for procurement to engage the bidder after the closing date stated in the bid document to request the bidder to submit outstanding documents (including mandatory returnable documents) to ensure that the bidder fully complies with the bid requirements and proceed with the process.
- 16.11 The CPO or their delegated representative must, at the time of approval, record the reasons for deviating from inviting competitive bids and report the procurement to the GCPO in the format determined by National Treasury, see [Appendix C: Templates](#).
- 16.12 The CPO or their delegated representative must ensure that the report records steps taken to curtail reliance on procurement by “other means” and an assessment of all instances that gave rise to procurement by “other means”.
- 16.13 The CPO or their delegated representative (usually OD SCM Governance) must submit a report on procurement by “other means”, to Group SCM Governance on a monthly basis for further submission to the National Treasury and the AGSA. It is the CPO’s responsibility to ensure that the OD report in this regard is correct and accurate and that it is submitted on time.
- 16.14 The GCPO or their delegated representative must ensure that procurement by “other means” is recorded in the annual report of the institution in the format determined by National Treasury, see [Appendix C: Templates](#).
- 16.15 Transnet may utilise various efficiency mechanisms to conclude the deviation from competitive bidding procurement event once approval for the deviation has been granted by the relevant delegated authority.
- 16.16 These efficiency mechanisms may include, but are not limited to, the following:
 - 16.16.1 Abridged documentation, (Refer to Procurement Process Guidelines)
 - 16.16.2 Immediate prioritization by the relevant Procurement Manager and SCM Officer
 - 16.16.3 Reducing the tendering period to a minimum of 5 (five) days;

- 16.16.4 Fast tracking and prioritization of the tender closing time;
- 16.16.5 Reducing evaluation timeframe by the BEC to 48 (forty-eight) hours post tender close (Refer to BEC Terms of Reference).
- 16.16.6 Reducing approval timeframe by the BAC to 48 (forty-eight) hours post BEC recommendation (Refer to relevant BAC Terms of Reference).

Section C – Bidding and Award

17. Bid Preparation

- 17.1 Bid documents and information shall be made available to Suppliers via the appropriate e-tendering portal.
- 17.2 The Bid documents must provide Bidders with clear and comprehensive information necessary to enable them to submit responsive Bids. Documents must clearly explain all relevant aspects of the Bid including, but not limited to, the Goods to be supplied/Services to be provided, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements and the warranty requirements where applicable.
- 17.3 Bid documents must contain at a minimum, descriptions of the mandatory returnable documents, contractual conditions, relevant specifications/scopes of work, the related evaluation criteria and pricing schedule, where applicable.
- 17.4 Bid documents must clearly state how Suppliers should prepare Bid responses for submission and specify that Bids must be returned by Suppliers in accordance with this condition. Relevant Standard Bidding Documents (SBD) shall be used where applicable. The closing date and submission method must be clearly stated. Where compulsory or non-compulsory briefing sessions or site visit are deemed necessary, Bid documents must indicate as such and include the date, venue and time of the meeting.
- 17.5 For those transactions that are “solution based” or those that require bidders to propose a solution to Transnet, the bid document must indicate that Transnet will accept only one solution provided by the bidder and that a bidder who submits more than one solution/bid will be disqualified.
- 17.6 Where the Sourcing Strategy requires the Bid to be awarded to more than one Supplier (“split award”), this must be stated in the Bid documents, with reasons for splitting provided. The reasons for splitting must be objective, reasonable and rational. Bid documents must include details of how business will be split.
- 17.7 Considerations and methods for splitting awards include:
 - 17.7.1 Ensuring security of supply. Where large volumes are to be purchased and risk exists that a single supplier may not be able to meet the requirement, volumes may be apportioned based on a predetermined split.
 - 17.7.2 Balancing transformation objectives with price. In order to promote varied participation, the bid may be split based on price where the lowest price is allocated a larger volume

and additional volume allocations are made proportionally on a downward sliding scale in accordance with the requirements stipulated in the Bid documents.

- 17.7.3 Regional supply considerations. Allocations may be made based on certain regions' requirements with business awarded to the top ranked supplier/s in identified regions.
- 17.7.4 Any combination of the above-mentioned considerations/methods may be considered as well as any other justifiable splitting approach.
- 17.8 In all instances of award splitting, the principle of cost-effectiveness must be maintained, and care exercised to ensure that splitting does not lead to unnecessary price increases. Fairness and transparency must also be upheld with business awarded to the top-ranking suppliers in accordance with the split methodology declared in the Bid documents. In this regard, the bid document must indicate to the bidders that Transnet reserves the right not to split the award as envisaged if such split would lead to conflict with the principles of cost-effectiveness. Therefore, there should be a fall-on position that will not prejudice any bidder that is still within the ambit of cost-effectiveness.

18. Bid Specification

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

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

18.3 Functions of the Sourcing Team

18.3.1 Validate specifications/scope of work

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

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

18.3.2 Determine preferential procurement Specific Goals

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

18.3.3 Consider the following:

- Options for rationalisation of the range of goods/works/services

- What are the implications if a chosen option is to reduce or consolidate the required goods/services

18.3.4 Identify and mitigate risks:

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

18.3.5 Develop the procurement strategy including the following:

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

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

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

18.4 Specifications should focus on achieving value for Transnet.

18.4.1 Where value is the optimal use of resources to achieve an intended outcome. Ensuring that the maximum benefit is derived from the available resources.

18.5 Principles for compiling comprehensive specifications/scopes of work include the following:

18.5.1 Specifications should be fit for purpose and aligned to operational requirements;

18.5.2 Specifications should be based on relevant characteristics and/or performance requirements.

18.5.2.1 References to brand names, catalogue numbers, or similar classifications should be avoided.

18.5.2.2 If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" should be added after such reference.

18.5.2.3 The specification should permit the acceptance of offers for goods which have similar characteristics, and which provide performance at least equivalent to those specified.

18.5.2.4 The quality of goods/services required should, however, not be over specified to the extent that it will be impossible for others to offer such a product.

18.5.3 Specifications should be clear, concise and consistent and avoid ambiguity;

18.5.4 Specifications should be legally and technically sound;

18.5.5 Specifications should incorporate applicable regulatory, environmental and/or sustainability requirements;

18.5.6 Specifications should consider associated risks;

18.5.7 Specifications should allow for Total Cost of Ownership (TCO), allowing for the consideration of all cost factors involved in the acquisition, operation, and disposal of goods and services.

18.5.8 Specifications should preference standardisation and catalogue items rather than bespoke solutions;

18.6 Bid evaluation criteria must be stated up front in the Bid documentation. Bids received may only be evaluated in accordance with the initially stated criteria.

18.7 The following criteria must be indicated in Bid documentation:

18.7.1 Points/weighting per criterion;

18.7.2 Minimum qualifying scores for functionality;

18.7.3 Applicable specific goals;

18.7.4 Directed procurement criteria;

18.7.5 Objective criteria;

18.8 The Bid document to be published must contain full evaluation criteria approved by the BSC or the delegated authority including as appropriate, but not limited to:

18.8.1 Only legal and functionality pre-qualification criteria;

18.8.2 Functionality criteria;

18.8.3 Evaluation criteria weightings;

18.8.4 Applicable values/ Scoring guides;

18.8.5 Thresholds;

18.8.6 Objective criteria (where applicable); and

18.8.7 Any other minimum qualifying requirements.

18.9 Mandatory returnable documents must be clearly indicated in the Bid documents. The BSC must think carefully about what is to be included in the list of mandatory returnable documents, since non-compliance with mandatory requirements will result in automatic disqualification. The list of mandatory returnable documents must therefore be kept to a minimum. The BSC may only determine certain activities and documents to be mandatory after taking the following into consideration:

18.9.1 The non-submission or non-participation would materially affect the evaluators in making a fair and informed decision;

- 18.9.2 The process would be deemed compromised or unfair if the documents were requested from the Bidder after the closing date and time;
- 18.9.3 It would contravene a law;
- 18.9.4 Transnet would suffer reputational harm;
- 18.9.5 It relates to material information such as specification, price, compliance, and transformation; and/or
- 18.9.6 Any other relevant consideration or prescribed law.
- 18.10 Prequalification criteria relate to minimum qualifications that a bidder must have to be considered further. Typically, these include “must-have” functionality and legislative requirements. Such criteria must be determined with circumspection as bidders may not be considered further should they fail to meet any of the set prequalification criteria. Furthermore, prequalification criteria must clearly prescribe the minimum requirements that Transnet requires. As pre-qualification criteria involves a “Yes” or “No” assessment, verifiable evidence to substantiate the prequalification criteria should also be requested, where possible.
- 18.11 The decision to use pre-qualification criteria in a specific Bid must be approved by the relevant BSC/CPO/GCPO. The recommendation to the BSC/CPO/GCPO or his/her duly delegated representative should make the following considerations in this regard:
 - 18.11.1 That the Bid to be published clearly and simply states the pre-qualification criteria as a special condition in line with any applicable legislation or standards of a particular industry or business sector;
 - 18.11.2 The Sourcing Strategy supports the pre-qualification;
 - 18.11.3 Market supply constraints will not affect or be affected by the inclusion of a pre-qualification such that there may be no bidder that is responsive; and
 - 18.11.4 Any other relevant consideration and/or prescribed laws.
- 18.12 Where it is decided that pre-qualification criteria is appropriate for use in a particular Bid, the Bid documents must contain a specific Bidding condition that clearly and simply states the pre-qualification criteria indicating that only Bidders who possess that qualifying factor are eligible to respond.
- 18.13 Where functionality is to be evaluated, the evaluation criteria must be clearly linked to the specification/scope of work and be objectively measurable/ evaluated.
- 18.14 If functionality will be used as an evaluation criterion, the evaluation criteria for functionality must be objective. The Bid documents must specify:
 - 18.14.1 The evaluation criteria for measuring functionality;
 - 18.14.2 The points for each criterion and, if any, each sub-criterion;
 - 18.14.3 The minimum qualifying score for functionality; and
 - 18.14.4 The weightings for functionality threshold
- 18.15 The minimum qualifying score for functionality for a Bid to be considered further must be stated in the Bid documents. It must be determined separately for each Bid and may not be:

- 18.15.1 Too low that it may jeopardise the quality of the required goods or services; or
- 18.15.2 Too high that it is unreasonably restrictive.
- 18.16 The RFX documents must contain a condition stating clearly that the award of the Bid may be subjected to price negotiation with the preferred Bidders in line with the relevant price negotiation process.
- 18.17 The Bid documents must include a uniform pricing schedule clearly indicating how the prices will be evaluated. No amendments of the uniform pricing schedule will be accepted after the closing time of the bid.
- 18.17.1 For transactions between R0 and R 50 000 000 the 80 / 20 preference point system must be applied;
- 18.17.2 For transactions in excess of R50 000 000 the 90 / 10 preference point system must be applied.
- 18.18 Where it is unclear as to which preference point system is applicable, as indicated in 18.17 above, the lowest acceptable bid will determine the preference point system..
 - 18.18.1. It is therefore important that both 80/20 and 90/10 preference point systems are indicated in the bid documents when there are uncertainties. The above statement alone is not sufficient. Both tables which add up to 10 and 20 points should be stipulated in the tender document demonstrating both scenarios and how many points each specific goal will be allocated when the specific goals are equal to 10 or 20 points.
- 18.19 Where objective criteria as contemplated in paragraphs 2(1)(f) of the PPPFA will be applied, the Bid documentation must state as such and indicate what the objective criteria are. Functionality or any other criteria (Specific goal identified in the TPPP) already evaluated may not be used as objective criteria.
- 18.20 Objective criteria may be used only in exceptional circumstances where the circumstances of the specific Bid warrants it. The BSC, for open tenders, will approve whether objective criteria will be included. The CPO or his/her duly delegated representative will determine whether objective criteria will be used for transactions below R2m and limited bidding procurement process.
- 18.21 Objective criteria that will be used in the evaluation of a Bid must be disclosed in the published Bid document, failing which Transnet will be bound to award the Bid to the highest points scorer.
- 18.22 Where objective criteria have been included in the Bid, Transnet has a discretion to apply the criteria. Should Transnet decide to apply objective criteria as stated in the Bid document, consideration must be made on the principles of fairness and other relevant principles, including allowing the affected bidder an opportunity to make representations as to why they should not be overlooked.
- 18.23 The process for making representation by the affected bidder during an application of objective criterion is as follows:
 - 18.23.1 Before a decision to overlook a bidder is made, the bidder concerned shall be notified in writing of Transnet's intention to overlook them and award business to another bidder by applying an objective criteria that is stated in the RFX including reasons for the application of the objective criteria.

- 18.23.2 The bidder shall be afforded an opportunity to make representations as to why its bid should not be overlooked.
- 18.23.3 Bidders must be afforded reasonable time to respond to Transnet's notice of intention to apply objective criteria.
- 18.23.4 the adjudicating authority must consider such representations before making a final decision.
- 18.24 The NIPP obligation is triggered by the imported content of a contract and not necessarily the entire contract value if there are local portions to the contract. The NIPP obligation will amount to 30% of the imported content of the contract.
- 18.24.1 For transactions exceeding \$5 000 000 (United States Dollars), the SBD 5 NIPP form must be included as a returnable document in the Bid documentation.
- 18.24.2 The DTIC and not Transnet will negotiate and conclude NIPP Agreements with impacted Suppliers. Suppliers subject to NIPP obligations have seven years to discharge any NIPP obligation applicable to them.
- 18.25 RFX documents shall include a clause indicating that all bidders must not submit information relating to 3rd parties as part of their bid submission unless there is an agreement between the bidder and the 3rd party, for the bidder to submit such information, or the bidders have formed a JV/Consortiums or the information is relating to a subcontractor.
- 18.26 RFX documents shall be aligned with corporate Enterprise Supplier Development initiatives, such as job creation, where appropriate.
- 18.27 RFX documents shall state that relevant information shall be processed in line with the POPIA.
- 18.28 Bid documents issued to the market should, where possible, be accompanied by the standard terms conditions, confidentiality and non-disclosure documents etc.
- 18.29 It is advisable that the Master Service Agreement (MSA) or draft contract be issued to the market with the RFX to expedite the process of concluding the contract after the business has been awarded.

19. Bid Administration

- 19.1 The Transnet e-tender system is the only accepted mechanism for Bid submission.
- 19.2 The e-tender system will automatically generate the RFX numbers. The RFX template must be used, and all relevant sections completed.
- 19.3 Bidders may request clarification of any items contained in the advertised Bid before the Bid closing date. Only the responsible and authorised SCM Representative (Strategic Sourcing Specialist/BSC) may communicate with Bidders.
- 19.4 All clarifications must be published on the NT e-tender publication portal, Transnet website and/or sent via email to bidders invited by email, without revealing any particulars of the Bidder that requested the clarification, within reasonable time before Bid closing so that all respondents may have fair access to all relevant information.
- 19.5 Transnet SCM, after having engaged with the End-User, may amend any Bid condition, validity period or extend the closing date before the original closing date has lapsed. Material amendments to the specification or evaluation criteria should be avoided in order to not impact on fairness, however, where changes are required prior to Bid closing such changes may be made provided that reasonable time remains for Bidders to adjust Bids accordingly.
- 19.6 Any material amendment to the bid condition must be approved by the relevant delegated authority who approved the approach to market. This includes any addenda to the RFX, changes in evaluation criteria, changes in pre-qualification requirements and changes in the pricing schedule. However, any other changes that are not material can be approved by the CPO or his/her subdelegate. Changes are not material if they relate to fixing clear errors or addressing ambiguity or deleting duplications in the pricing schedule etc. It is recommended that amendments be assessed by SCM Governance to advise the CPO or Delegate on whether they are material or not.
- 19.7 No amendment of evaluation criteria is allowed after Bid closing.
- 19.8 Any amendments to a bid advertisement must be published in the National Treasury e-tender portal as well as any other platform where the bid has been published by latest 10 working days before the closing date of the bid. If for any reason the amendment is material and the 10 days may not be met, the Delegated Authority may consider extending the closing date in order to ensure that the 10 days period is met.
- 19.9 Transnet's RFX templates must contain a disclaimer alerting Bidders to check the NT e-Tender Portal and Transnet website regularly for any possible amendments.
- 19.10 The closing date for a Bid may be extended by the SCM representative or his/her duly delegated representative after seeking approval from the CPO or his/her duly delegated representative prior to the closing date of the bid. Consultation between the SCM representative and End-user HOD or his/her duly delegated representative regarding the proposed extension must take place prior to seeking approval from the CPO, after considering:
 - 19.10.1 The number of requests for extension;
 - 19.10.2 The risk of harm the extension would cause to any party;
 - 19.10.3 The success of the Bid without extension; and

- 19.10.4 Any other relevant considerations in the circumstances or prescribed law.
- 19.11 The e-tender uploading process as indicated in the RFX templates, will apply.
- 19.12 Submissions that are received via the e-tender platform will have a recorded date and time stamp.
- 19.13 An electronic submissions report showing all submissions made prior to closing time shall be included in the Bid file.
- 19.14 For each open tender published on National Treasury e-tender portal, the SCM employee responsible must also publish the list of bidders (tender open register) on the National Treasury e-tender portal within 10 working days after the closing date of the particular tender.
- 19.15 Bids received late should not be considered.
 - 19.15.1 Bids are late if they are received after the closure time specified on the Bid documents.
 - 19.15.2 Late Bids should not be admitted for consideration unless there is clear evidence justifying the bidders not being able to make the submission on the Transnet website where Transnet is at fault. Depending on a case-by-case, the circumstances and within a short period of time from a closing date, a bidder may be allowed to send their bid to a secured Transnet email address and to be received by the DBAC/CBAC secretary for processing and opening.
 - 19.15.3 If Transnet has been informed or becomes aware of a bidder's inability to submit a tender in our e-tender submission portal due to technical glitches and there is sufficient time left before the closing of the tender, ICT should immediately access the submission portal (storage blob) to investigate the glitch and try to resolve it to avoid any tender being submitted late (after the closing time) through other means. The following process for accessing the submission portal should be adhered to:
 - 19.15.3.1. Bidder formally alerts a buyer of a possible technical issue in the submission portal which prevents the bidder from submitting or the bidder requires confirmation that their bid has been successfully submitted in the system.
 - 19.15.3.2. Buyer attempts to resolve the issue and take the bidders through the submission process. These attempts have failed.
 - 19.15.3.3. Buyer acknowledges that the supplier/system is experiencing technical issue.
 - 19.15.3.4. Buyer must log a call on behalf of the bidder and provide the following information:
 - 19.15.3.1.1 Tender number
 - 19.15.3.1.2 Bidder contact details
 - 19.15.3.1.3 Screen dump of the error message received when attempting to submit or any error being uncounted. The URL to log the call is: <https://casdm.ongijima.com/CAisd/pdmweb.exe>
 - 19.15.3.5. Buyer must notify SCM Systems & Data team of the call logged and provide them with the call log reference number.

- 19.15.3.6. SCM Systems & Data team should contact the buyer and bidder to attempt to resolve the issue.
- 19.15.3.7. If the SCM System & Data team fails to resolve the issue, they must update the call reference number in the SDM to escalate the matter to be assigned to an ICT person as second line of support.
- 19.15.3.8. ICT 2nd line support should attempt to resolve the problem. In cases where the storage blob must be accessed, ICT will use the call reference number on SDM as supporting evidence as well as the system log for audit purposes.
- 19.15.3.9. Upon resolving the query, the call reference number on SDM must be updated by ICT 2nd line support and the buyer must be notified in order to assist the relevant bidder to submit on the e-submission portal.
- 19.15.4 If no Bids are received by the closure time specified on the Bid documents, the Bid should be re-advertised.
- 19.15.5 E-tender portal system failure must be considered as motivation for extending the Bid closing date or re-advertising the bid.
 - 19.15.5.1 Published notification of system failure, by NT or Transnet constitute system failure.
- 19.16 The employee must make sure that they pull the system generated register to confirm and reconcile the list of bidders for the particular tender against the number of documents (bids) received immediately after the closing date and before publishing on the National Treasury e-tender portal.
- 19.17 In the event that the list of bidders appearing on the system generated tender submission register does not correspond to the number of bids received in SharePoint, the employee responsible must request the iSCM Systems and Data Department to download those outstanding bids and transfer them to be included in the evaluation process.
- 19.18 Transnet will not accept a bid or will disqualify a bidder who submits a bid in the Transnet e-tender submission through another suppliers' profile. In other words, each bidder must register its profile using its company details and use the corresponding registered profile to log an intent to bid as well as submitting any bid. No company shall submit a bid on behalf of another company.
- 19.19 In the case of a Joint Venture, any of the parties/companies to the Joint Venture may use its registered profile to submit a bid on behalf of the Joint Venture. ..
- 19.20 The e-tender portal system is designed to ensure access control and does not allow access to bid documents by Transnet evaluators prior to the closing date and time.
- 19.21 In the situation where the Transnet e-tender portal is not available functional for a long period, the GCPO will make the decision and communicate that the manual/physical tender box process will be utilised until the e-tender challenges are resolved. During this time the Tender Administration Standard Operating Procedure (SOP) issued by the security department will guide the process.
- 19.22 SCM Representative shall ensure that any document or information which has been submitted in pursuance to a Bid award remains valid for the duration of the process.



- 19.23 The required Bid validity period for bid submissions should be stated in the Bid documentation. In order to determine an appropriate validity period for a Bid, all internal processes and possible delays must be taken into account. Unless circumstances require a longer or shorter period, Bid documents must state that the Bids must hold good for at least 180 (one hundred and eighty) working days from closing date of the bid.
- 19.24 Requests for the initial approval to extend validity periods shall be submitted in writing to the CPO his/her duly delegated representative. This request must be done in consultation with the relevant SCM Representative and contain the reasons for the delay.
- 19.25 Second and subsequent extensions of validity periods must be considered and approved by the DBAC or CBAC based on the threshold value.
- 19.26 The extension of a validity period is a reciprocal procedure, meaning that both Transnet and the bidder(s) have to agree on the extension of the validity period. It is not enough that Transnet has made a decision internally or has sent a communication to the bidders in this regard. At least one of the bidders, subject to paragraph 19.27, must respond in the affirmative to the request for extension for the tender to remain active. If none of the bidders has responded prior to the expiry/lapse of the validity period, the validity has not been extended.
- 19.27 Bidders who fail to respond to a request for the extension of bid validity before the validity lapses, or who decline such a request shall not be considered further in the Tender evaluation process and shall be excluded in subsequent requests for extension of validity period
- 19.28 Any tender that becomes invalid or non-award due to the expiry of the validity period shall be submitted to the relevant DoA for cancellation and close out as well as detailed explanation on the circumstance leading to the expiry of the validity period. Consideration of consequence management should be placed on the employee that was responsible for ensuring that the validity does not expire.
- 19.29 Submissions shall be safeguarded by procurement from the time of receipt until the conclusion of the procurement process. The SCM Representative should ensure that full and proper records of all documentation pertaining to a procurement event are kept and filed in the tender files. Thereafter all tender submissions to be handed over to Document Management and Control for further safekeeping as per applicable legislation.
- 19.30 For each open tender awarded, the SCM employee responsible must publish the outcome on the National Treasury e-tender portal within 10 working days from the date of award of business. The following information must be published in this regard:
- 19.30.1 Details of the winning bidder;
- 19.30.2 Details of all unsuccessful bidder(s);
- 19.30.3 Price of the winning bidder; and

19.30.4 Statement informing all unsuccessful bidders of their right to request reasons for their bids not being successful in terms of section 5 of the Promotion of Administrative Justice Act (PAJA).

19.31 For purposes of this requirement, the date of award is the date which the bidder accepts the award in writing. The 10 working days commences after the bidder has accepted the award.

19.32 SCM employees are not required to issue individual regret letters to unsuccessful bidder(s). However, employees must adhere to the requirement to publish the winning bidder and unsuccessful bidder(s) in terms of paragraph 19.23 and ensure that bidders are aware of their right to request reasons. When a request for reasons has been received, the employees must immediately furnish that particular bidder with the reasons for their bid not being successful

20. Bid Evaluation and Recommendation

20.1 As described in process 4.4.1.6.3 of the Procurement Process Guideline, the BEC shall develop and use evaluation scorecards aligned with the defined evaluation criteria to standardise the evaluation of all Bids. Each area must be evaluated by a minimum of two qualified evaluators.

20.2 No deviation from the evaluation criteria included in the Bid documentation is allowed. All evaluation criteria included in the Bid documentation must be evaluated strictly in accordance with the criteria declared; no items may be omitted, added or amended.

20.3 Evaluations are to be conducted in a secure area where no unauthorised access to Bid documentation is allowed. BEC members must maintain strict confidentiality and by no means share or duplicate any contents of or information contained in Bid documentation with any unauthorised parties. All evaluators must sign attendance registers for every day of evaluation. Confidentiality agreements and declarations of interest must be signed by all evaluators prior to evaluations commencing and when there is a change during to an evaluators interest (intended or not) during evaluation, it must be declared to the BEC.

20.4 Bid evaluation is to be conducted in three stages as described in Table 3 as applicable to the specific Bid.

20.4.1 Evaluation stages must be conducted sequentially, unless approved by the BEC in exceptional circumstances.

20.4.2 Where parallel evaluations are conducted, bidders must be disqualified at the correct stage.

20.4.3 Non-responsive bids shall not be evaluated further.

20.5 If a document (mandatory/non-mandatory) was valid on the closing date such a document shall be regarded as valid throughout the evaluation process. However, business may not award without the valid document if required by the law or Bid

requirements. In such instances, the SCM Representative responsible for that Bid shall request the valid document from the Bidder. An award may not be made to a Bidder who has failed to submit a valid document at the award stage.

20.6 All tenders must be evaluated using a method that allows evaluators to view the bid documents electronically, and no more manual printing of documents is allowed unless there are justifiable grounds showing that printing of documents is more conducive than viewing the bid documents electronically. Group governance has the authority to determine whether there is justifiable ground to evaluate the bids using printed documents and the documents to be kept in a secured environment.

20.6.1 The Chairperson of each BEC must ensure that all evaluators are able to gain access and view, electronically, all the bid documents for purposes of conducting a fair and transparent evaluation process.

20.6.2 The Chairperson of the BEC must be provided with signed appointment letters of the evaluators together with the relevant information of the tenders (including commencement date of evaluations and anticipated final date of evaluations) prior to the commencement of any evaluation in order to grant the evaluators access to the documents electronically.

20.6.3 Once access is granted (read only) the evaluators will use the information for purposes of evaluation and must not be downloaded and/or copied in any way and saved in their individual computers/devices. This must be clearly explained to all appointed evaluators prior to commencement of the evaluation.

20.6.4 During the evaluation process, the evaluators will not be allowed to use their cell-phones or work on other matters to avoid taking of pictures and sharing of confidential information with people who are not part of the BEC.

20.6.5 It is therefore mandatory that all the evaluators be in one room where the chairperson of the Bid Evaluation Committee will be able to monitor, invigilate and observe the process. Where it is impractical for all the evaluators to be in one room (distance and different provinces etc) the onus to ensure that information is not leaked rests with the evaluator in possession of the information and consequence management must be applied where there has been negligence or deliberate leaking of information.

20.6.6 The OD CPOs must ensure that there are designated desktops or laptops which are stationed in a particular designated evaluation room where all evaluators can be granted access to the bid documents. In case of impracticality, the evaluator(s) who is not in the same designated room must still conduct the evaluation in Transnet premises where an observer/invigilator can be allocated. The evaluators may also use their laptops or desktops to evaluate but should always be in the same room or different rooms with an observer at all times to avoid delays in evaluation where the allocated room is unavailable.

20.6.7 All RFX documents should request bidders to separate their bid submissions into three (3) i.e. technical evaluation, price and administrative (including B-BBEE and/or other specific goals where applicable). This request cannot be used to disqualify bidders.

20.6.8 Despite requests for bidders to separate information when uploading it onto the system, some bidders still combine their information. As a result, before the evaluation begins, splitting or separating of information, such as responsiveness (admin and substantive), technical submission, pricing submission, etc., can be done by the SCM official responsible for the tender with the line manager;

20.6.9 In instances where, as part of the bid, other information (i.e. samples, etc.) is to be submitted at a designated physical tender box or delivered physically to a particular office etc, all precautionary measures to ensure the safety and security of the information are to be maintained;

20.7 In addition to the above and in light of the inherent risk to confidentiality of information, the procurement officials must have in place the following controls to prevent abuse, ensure that confidentiality of bids is not compromised and also to ensure that compliance with the requirements of POPIA is maintained:

20.7.1 When evaluations are being conducted, all Transnet procurement processes must still comply with the public procurement prescripts and controls. ODs must put in place additional measures to ensure compliance to existing controls where necessary;

20.7.2 The evaluation of bids must take place in a controlled environment;

20.7.3 At the closing date of the bid, flow of information from the Transnet e-Tender Submission Portal to the dedicated laptops/desktops for evaluation are only to be maintained by the SCM official with the assistance of the systems and data department;

20.7.4 For high value tenders (HVT) TIA should be invited to observe the evaluation process as they would normally do in a manual process and for all transactions below the high value threshold , a designated official from SCM Governance or any other second line of assurance should be allocated to observe the process;

20.7.5 Declaration of interests and confidentiality agreements must be completed and submitted in the normal manner;

20.7.6 The ground rules for evaluation must be explained by the relevant procurement official prior to the start of the evaluation team activities;

20.7.7 Evaluation sessions must be recorded, and the recordings retained by the relevant procurement official;

20.7.8 Written minutes/record of deliberations and decision making must be captured and retained by the relevant procurement official and signed by the Chairperson of the BEC;

20.7.9 To preserve the integrity and confidentiality of the individual scores of the evaluators prior to consolidation, the assessments and individual evaluation scoresheets must be completed and sent to the appropriate procurement official for consolidation during the BEC meeting. Scores cannot be obtained or changed following the evaluation meeting unless the reconciliation process was followed and the particular evaluator signs next to change and record the reasons for the change;

Table 3: Bid Evaluation

Stage	Steps	Description	Stage Completion
Stage 1: Test for Responsiveness	1.1 Test for administrative and substantive responsiveness	Check that all required documents have been submitted. Check that the Bid meets the minimum criteria, including technical pre-qualification criteria if applicable, and does not materially depart from the scope of work or specification or any terms, conditions or requirements included in the Bid documents.	Bid must be administratively responsive and substantively responsive to advance to Stage 2



Stage	Steps	Description	Stage Completion
Stage 2: Evaluation of Thresholds	2.1 Functionality thresholds	Evaluation of functional criteria based on scoring criteria stated in Bid documentation. All evaluators' individual scores are averaged to arrive at the final score.	Bids must meet functionality thresholds to advance to Stage 3.
Stage 3: Establishment of Final Weighted Score	3.1 Evaluation of Price & Preference	The preference point system in accordance with PPPFA Regulations is applied. Uniform pricing schedule is evaluated.	The final weighted score is a combination of price and preference, in accordance with PPPFA regulations
	3.2 Test for Market related pricing	Benchmarking conducted prior to issuing the Bid should be used to establish whether the prices are market related	

Stage 1

20.8 **Test bid responsiveness:** Bid that fails to meet the specified pre-qualification criteria, where relevant, will be considered an unacceptable Bid and will be disqualified from further evaluation. This step also checks whether the bid conforms with all the terms and conditions for the bid including the scope or specification. A checklist is used to assess whether:

20.8.1 The bid was submitted on time;

20.8.2 Bid documents are fully signed and submitted;

20.8.3 Bid administrative documents (declarations, certificate of acquaintance, certificate of attendance of compulsory briefing session, etc);

20.8.4 Mandatory returnable documents; and

20.8.5 Bid documents used for scoring;

20.8.6 Completed pricing schedule;

20.8.7 Proof for pre-qualification;

Stage 2

20.9 Functionality/Technical Evaluation: Where functionality is included as a criterion, points scored must be rounded off to the nearest two decimal places. A Bid that fails to obtain the minimum qualifying functionality threshold specified in the Bid documents is not an acceptable Bid and will not be evaluated further.

20.10 Each member of the BEC that evaluates Bids **relevant to their areas of expertise** will complete an evaluation individually. All scores must be justifiable with reference to the Bid submission. No knowledge beyond that submitted in the Bid may be used to influence scoring.

20.10.1 In certain instance, a functionality criterion may be divided into separate categories of expertise criteria (e.g safety, environmental, technical etc) where experts will only evaluate a particular criteria of the functionality due to their area of expertise and not the rest. Such situations are allowed and each criteria should be evaluated by those individuals in line with the quorum requirement of the BEC Terms of Reference i.e a minimum number of experts must evaluate the particular criteria.



- 20.11 Clarifications may be sought from Bidders where Bids are unclear, however no additional submissions may be made. Where prices are unreasonably low, clarification should be sought.
- 20.12 BEC members must always remain objective, fair and ethical. Each bidder must be given the points that are deserving strictly in line with the evaluation criteria.
- 20.13 If the evaluation criteria was set in an objective manner, the scores of the evaluators should be close to each other.
- 20.14 Where there are discrepancies between individual evaluators' scores, after a reconciliation process was performed, this should be highlighted in the report submitted including documented reasons/rationale for the discrepancies to the BAC/CPO in order for the delegated adjudication authority to decide whether a risk is posed. If a risk has been identified, the adjudication authority should not approve the submission and refer the matter back to the BEC. The BEC should resolve the discrepancies through another reconciliation or consult SCM Governance to provide advice on the way forward including referring the matter to the CPO to consider whether re-evaluation is warranted by a new BEC.
- 20.15 Reconciliation process is when the chairperson of the BEC identifies discrepancies between individual evaluators' scores and request the affected evaluators to relook at the bid documents to establish whether the information was submitted as stipulated in the tender (RFX) document and the evaluators are then requested to reconsider their scores and reconcile based on the outcome of the evidence provided.
- 20.16 This process does not allow the chairperson to force any of the evaluators to change scores if they strongly believe that the initial score should remain despite the evidence. It is entirely up to the individual evaluator to make a decision to change a score to reconcile based on the evidence.
- 20.17 If after a reconciliation process an evaluator(s) decides to amend/change their scores for one reason or another, a clear record of the outcome of the reconciliation process should be kept.
- 20.18 Once all individual scorecards are complete, all scores are to be averaged to arrive at the Bid's final score for functionality.
- 20.19 Each Bid that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria.

Stage 3

Evaluation for Price and Preference Points (specific goals)

- 20.20 The SCM BEC members shall conduct the evaluation on price and preference using the required PPPFA calculators and formulae.
- 20.20.1 The 80/20 preference point system allocates 80 points to price and 20 points to preference. Price accounts for 80 in line with the formula below:

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

Where:

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

Pt = Price of Bid under consideration

Pmin=Price of lowest acceptable Bid

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

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

Where:

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

Pt = Price of Bid under consideration

Pmin=Price of lowest acceptable Bid

20.21 The preference point system to be used must be in strict accordance with the TPPP and applicable directives.

20.22 In a situation where all acceptable bids received fall outside of the stated preference point system, despite what is stated in the bid document, Transnet shall use the lowest acceptable bid to determine the applicable preference point system.

20.23 When calculating comparative prices:

20.23.1 Conditional discounts (those where Transnet has to place minimum specified orders or fulfil certain conditions before the discounts may come into effect) shall not be considered for evaluation purposes but shall be included in the contract and implemented when payment is made.

20.24 Where evaluation scores do not provide a single successful Bidder, the following shall apply and recommended to the BAC/CPO for consideration:

20.24.1 Where two (2) or more Bids have scored the highest equal points based on price and preference, the successful Bid shall be the one with the highest score on preference;

20.24.2 If two or more Bids have equal points, including equal preference points for specific goals, the successful Bid shall be the one scoring the highest score for functionality, if functionality is part of the evaluation process; and

20.24.3 Should two (2) or more Bids be equal in all respects, in a controlled environment, the award shall be decided by the drawing of lots by an independent person/function appointed by the CPO and witnessed by the BEC and recorded accordingly.

20.25 The Bidder with the highest final score must be recommended for contract award unless objective criteria as contemplated in paragraphs 2(1)(f) of the PPPFA justifies the award to another tenderer.

20.26 A TEAR report on the findings of the evaluation as per the approved template, highlighting all risks, outcome of probity checks (where applicable), ranking Bidders in order of evaluation score and recommending a preferred Bidder must be prepared by the BEC upon finalisation of the evaluation process.



- 20.27 Where bids are issued that are rate based due to quantities that cannot be determined / estimated due to possibility of future fluctuations (increase / decrease) based on operational activity, bid award can be based on the available budget which will not be disclosed to the awarded supplier. In such instances, the award value based on available budget must be motivated and captured in the demand / strategy document and / or the approval document/s to issue the RFQ / RFP.
- 20.28 Consideration should be given to consolidating multi-phased/multi-year projects or contracts wherever possible, so that they can be awarded against one procurement process. For example, combining the stripping (phase 1) and repair (phase 2) of a complex piece of machinery in one bid process with one fixed lumpsum. If that is not possible, the RFX document (pricing schedule) should make provision for annual increase whether in rand value or percentage which should be awarded as a contract value. If there provision was not made, any increase shall be dealt with in terms of contract variation rules.
- 20.29 Where arithmetic errors are identified in submitted pricing Bid documents, the BEC must:
- 20.29.1 Consider the signed total price.
 - 20.29.2 Analyse the tender price according to the Delivery/pricing schedule.
 - 20.29.3 Identify any gross misplacement of decimal point in any unit rate.
 - 20.29.4 Identify omissions in the Delivery/pricing schedule.
 - 20.29.5 Identify arithmetic errors in the calculation of line items – item totals, page totals, section totals or the actual total.
 - 20.29.6 Inform the Bidder of the errors and ask the Bidder to confirm the price stated in the total price or adjusted price.
 - 20.29.7 Adjust the price to the correct figure; and
 - 20.29.8 Evaluate the tender based on the confirmed price.
- 20.30 The market analysis conducted prior to issuing the bid to market should be used as a benchmark to determine whether prices received are Market-Related. In addition, Transnet has an obligation to clarify unreasonably low or high prices with bidders. Where the bid price is too high, post-tender negotiation must be conducted. Where the bid is unreasonably low Transnet must ask the Bidder to explain its low price and confirm with the Bidder that it would be able to deliver as per the specification, notwithstanding the low price. (i) If Transnet is not satisfied, based on objective factors and evidence, with the explanation provided and there is high risk of non-performance, such Bidder should be disqualified as a non-responsive bid at the correct stage of evaluation (substantive) and reasons clearly document. (ii) Similarly, if the Bidder confirms that it cannot perform the full scope of work at the prices quoted, they should be disqualified as non-responsive. (iii) If Transnet accepts the explanation given, Transnet must proceed with the award of business. However, the Bidder must be made to understand that Transnet will not entertain any subsequent requests for price increases on the basis that the initial bid price was too low.
- 20.31 In the case of the highest-ranking bidder indicating that there will be sub-contracting, the BEC should assess whether there is any risk of fronting that may occur in the transaction. The BEC should make recommendation to the BAC that additional

contractual measures be put in place and that the ESD team monitors the contract to detect any possible fronting.

Tax Compliance

- 20.32 It shall be confirmed that recommended Bidder(s) are tax compliant through their registration on the CSD or by providing a SARS eFiling tax compliance PIN for confirmation prior to finalising the award of the bid. The tax compliance letter included for CSD registration, or the tax compliance status screen view obtained using the PIN shall be printed on the day of the meeting of BAC/DoA and included in the Bid file.
- 20.33 Where foreign Bidders with tax obligations in South Africa are recommended for award, proof of tax compliance must be obtained from the Bidder. Foreign Bidders who do not have South African tax obligations and have no history of conducting business in South Africa must complete a pre-award questionnaire on SBD 1 for their tax obligation categorisation. Where a recommendation for award of a bid has been made to a foreign bidder, Transnet must submit the bidder's completed SBD 1 to SARS at the following email address: GovernmentInstitute@sars.gov.za. The SARS will issue a confirmation of tax obligations letter to Transnet confirming whether or not the foreign entity has tax obligations in South Africa.
- 20.34 Should a Bidder be found to not be tax compliant, the Bidder must be notified in writing of their non-compliant status and the bidder must be requested to submit written proof from SARS of their tax compliant status or proof that they have made an arrangement to meet their outstanding tax obligations within 7 (seven) working days. Upon rectifying their status, the Bidder must provide proof of their tax compliance status which shall be verified via the CSD or eFiling. This does not apply to Emergency Procurement situations. A process for this is stated in the Bid Adjudication section.
- 20.35 No Bid may be awarded to a Bidder whose tax affairs have not been declared to be in order by SARS. Proof that SARS has declared the Bidder's affairs to be in order is the tax status of the bidder as reflected in the SARS system report. The BEC should check the status on the day that the matter is being adjudicated and submit the report on the day.
- 20.36 This requirement does not apply to emergency procurement situations. During an emergency, Transnet will proceed to award the business to the bidder that is non-tax compliant with a condition that no payment will be made to the bidder until all its tax matters have been resolved. This must be formally agreed with the bidder before commencing with the work. Refusal by the bidder to accept the condition, grants Transnet the right to approach another bidder or 2nd ranked bidder to address the emergency situation.
- 20.37 Bids from Bidders who have failed to provide proof of tax compliance as per 36.3 must be rejected.
- 20.38** Where goods and/or services have been provided satisfactorily without any dispute, processing of payment shall not be delayed as a result of outstanding tax matters, unless directed otherwise by SARS.

21. TPPP Guidelines

21.1 The TPPP has been developed and introduced to pursue both Transformational and Reconstruction & Development Programme goals.

21.2 Transformational Objectives (discrimination against race, gender and disability):

21.2.1 Exempted Micro Enterprises (EMEs) and Qualifying Small business Enterprises (QSEs) owned by black people.

21.2.2 Entities owned by black people.

21.2.3 Entities which are owned by black people who are women.

21.2.4 Entities which are owned by black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; and

21.2.5 Entities which hold a specific Broad-Based Black Economic Empowerment status/level.

21.3 Reconstruction & Development Programme Objectives:

21.3.1 Companies which are owned by black people who are youth as defined in the National Youth Commission Act of 1996.

21.3.2 EMEs and QSEs in general;

21.3.3 The promotion of export orientated production to create jobs.

21.3.4 The promotion of supplier development through sub-contracting of a minimum of 30% of the value of a contract to/with the following:

21.3.4.1 Historically Disadvantaged Individuals (HDI);

21.3.4.2 Entities with a specified minimum B-BBEE level;

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

21.3.4.4 South African owned enterprises.

21.3.5 The promotion of enterprises located in a specific province/region/municipal area including rural areas for work to be done or services to be rendered in that province/region/municipal area;

21.3.6 Promotion of local content and local production;

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

21.3.7.1 Investments.

21.3.7.2 Export Sales.

21.3.7.3 Research and Development.

21.3.7.4 Technology transfer.

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

21.3.9 Equity Equivalent Programmes by DTIC.

21.4 With the introduction of the numerous goals and optionality of the combination of the goals pursued, evaluations may become highly complex.

21.4.1 Evidence for claiming points for any of the specific goals listed above has been identified in table 4 below. The same table of evidence should be used to indicate the required returnable documents for scoring in the RFX.

21.4.2 Failure of the bidders to submit any of the evidence required or mentioned in the RFX may not result in the bidder being disqualified, It may only result to the bidder scoring zero (0) for that specific goal where the evidence was not provided.

21.4.3 The DTIC guidelines on the validity of a B-BBEE certificate or Sworn Affidavit must be used.

21.4.4 In applying the TPPP to procurement, the transaction value has a bearing on the goals pursued and activities required for compliance. The decision tree shown in Figure 4 acts as a guide to the required preference point system and specific goals allowed.

21.4.5 The evaluation standard of preferential procurement has been standardised to reduce complexity and increase objectivity. Table 4 defines the evidence required to support the specific goal.

Table 4: Specific Goal Evidence

Specific Goals	Acceptable Evidence
B-BBEE	B-BBEE Certificate / Sworn-Affidavit B-BBEE Certificate (in case of JV, a consolidate scorecard will be accept) as per DTIC guidelines
30% Black Women Owned Entities	B-BBEE Certificate / Sworn-Affidavit / CIPC B-BBEE Certificate (in case of JV, a consolidate scorecard will be accept) as per DTIC guidelines
50% Black Youth Owned Entities	Certified copy of ID Documents of the Owners and B-BBEE Certificate / Affidavit (in case of JV, a consolidate scorecard will be accept)
Entities Owned by People with Disability (PWD)	Certified copy of ID Documents of the Owners and Doctor's note confirming the disability and/or Employment Equity Act 1(EEA1) form.
Entities/Black People living in rural areas	Entity's Municipal/ESKOM bill or letter from Induna/chief confirming residential address not older than 3 months
South African Enterprises	CIPC Registration Documents
EME or QSE 51% Black Owned	B-BBEE Certificate / Affidavit (in case of JV, a consolidate scorecard will be accept) as per DTIC guidelines
Entities that are 51 % Black Owned	B-BBEE Certificate / Sworn-Affidavit B-BBEE Certificate (in case of JV, a consolidate scorecard will be accept) as per DTIC guidelines
Promoting exports orientated production for Job creation	Returnable section/annexure.....on job creation
Local Content and Local Production	Returnable Local Content and production Annexures
NIPP	NIPP Returnable documents
Creation of new jobs and labour intensification	Returnable section/annexure.....on job creation.



<p>The promotion of supplier development through sub-contracting or JV for a minimum of 30% of the value of a contract to South African Companies which are:</p> <ol style="list-style-type: none"> I. HDI's – Women, Youth and people with disabilities II. Entities with a specified minimum B-BBEE level (1 and 2) III. EMEs and/or QSEs black-owned 	<ul style="list-style-type: none"> • Sub-contracting agreements; • Subcontractors CIPC – B-BBEE Certificate / Sworn-Affidavit / B-BBEE Certificate as per DTIC guideline <p>In case of a joint venture:</p> <ul style="list-style-type: none"> • Declaration / Joint Venture Agreement • A consolidated JV B-BBEE scorecard
<p>The promotion of enterprises located in a specific province/region/municipal area for work to be done or services to be rendered in that province/region/municipal area</p>	<p>CIP - Registered address of entity</p>

22. Bid Adjudication / Award of Business

- 22.1 After bids have been evaluated and the validity period has not expired, a recommendation to award business shall be compiled and submitted by the BEC using the approved template to the person or governance structure with delegated authority to consider whether to grant process approval or not, in line with the Delegation of Authority Framework.
- 22.2 Bid adjudication, dependant on the applicable DoA found in the Delegation of Authority Framework, shall be performed and governed by:
- 22.2.1 CBAC and its Terms of Reference.
- 22.2.2 OD DBACs and their Terms of Reference; and
- 22.2.3 CPOs.
- 22.3 If a Bidder other than the highest scoring Bidder is recommended for an award, objective criteria shall be shown justifying the award to the lower scoring Bidder.
- 22.4 The submission for an award shall contain the following:
- 22.4.1 Copy of the consolidated technical or functional evaluation results as well as the price and preference evaluation sheets.
- 22.4.2 Motivation justifying the award.
- 22.4.3 Confirmation that the budget is still available.
- 22.4.4 A declaration that the recommended Bidder has not been placed on the list of restricted Bidders.
- 22.4.5 Certification that the award of business is in the best interests of Transnet.
- 22.4.6 Valid B - BBEE (where applicable) and confirmation of Tax compliance status.

- 22.4.7 Confirmation that bid validity has not expired;
- 22.4.8 Provisional allowances (variation orders and contingency amounts) in the case of Capital Expenditure related projects; and
- 22.4.9 Risk mitigation strategies (where applicable);
- 22.5 The relevant BAC/CPO shall consider the report and recommendations of the BEC and:
 - 22.5.1 Verify that the procurement process which was followed complies with the provisions of the Transnet SCM Policy and this document.
 - 22.5.2 Confirm that the report is complete and addresses all considerations necessary to make a recommendation.
 - 22.5.3 Confirm the validity and reasonableness of reasons provided for the elimination of tenderers.
 - 22.5.4 Consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
 - 22.5.5 Refer the report back to the BEC for their reconsideration or approve the award of a tender, with or without conditions, together with reasons for such recommendation.
- 22.6 The BAC/CPO shall not make a recommendation for an award of a contract if the recommended tenderer has:
 - 22.6.1 Made a misrepresentation or submitted false documents in competing for the contract or order; or
 - 22.6.2 Been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.
- 22.7 The BAC/CPO may on justifiable grounds and after following due process, disregard the submission of any Bidder if that Bidder or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper conduct in relation to such system and advise that a process of restricting the bidder be commenced .
- 22.8 Upon final recommendation of a preferred Bidder, the relevant delegated authority may refer the matter to Transnet's Internal Audit function to conduct an independent assurance review and probity check on the Bidder, if the relevant delegated authority is of the opinion that there are circumstances relating to the Bidder that may pose a risk to Transnet. Should a material risk be detected, the Bidder must be afforded an opportunity to indicate how the risk will be mitigated before a final decision is made.
- 22.9 If on reasonable grounds after following a procedurally fair process it is determined that the Bidder cannot adequately mitigate the risk, the BEC may, depending on the likelihood and consequence of the risk materialising, recommend one of the following:
 - 22.9.1 Award to be made to the 2nd -ranked Bidder;
 - 22.9.2 Splitting the business between the Bidder and another Bidder; or
 - 22.9.3 Cancelling the Bid.



- 22.10 Before the award of business decision is finalised, the list of names of individuals and/or entities identified by the United Nations Security Council, (UNSC) published under Section 25 of POCDATARA must be consulted by the BEC or SCM to ensure that no business is awarded to individuals or entities included in the list.
- 22.11 Any business involving a related party, DPIP or prescribed officer must comply with the relevant Transnet policies, including the Politically Exposed Persons Policy, the Declaration of Interest and Related Parties Policy, Declaration of Interest and Related Party Disclosures Policy for Non-Executive Directors.
- 22.12 The relevant BAC/CPO may consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.
- 22.13 The BAC/CPO shall state the grounds relied on in referring any recommendation back to the BEC and shall also provide guidance on what is required to achieve a favourable decision from the BAC/CPO.
- 22.14 The BAC/CPO may mandate that a bid be adjudicated by a BAC of a higher delegation should he/she believe it to be complex or high risk in nature.
- 22.15 The BACs/CPOs shall grant award of business after they are of the view that:
 - 22.15.1 The decision is in Transnet's best interests; and
 - 22.15.2 There are still funds to cover the transaction.
- 22.16 The BACs/CPOs may also make an award to a "standby contractor(s)" (2nd ranked and 3rd ranked bidders) for circumstances where the 1st ranked bidder (main contractor) after having accepted the award of business or has signed the contract, indicates that they will not be able to deliver the goods or services or at anytime during the execution of the contract, the main contractor is unable to complete the work (delivery of goods and services).
 - 22.16.1 The RFX template must contain a standard disclaimer which clearly states that Transnet intends to award to a standby contractor under certain circumstances.
 - 22.16.2 Even though the disclaimer for "standby contractor" will be contained in the RFX document, it is advised that this process may only be used in those transactions that poses high risk to the company if not delivered and a back-up plan is warranted. It should not be used for all transactions.
 - 22.16.3 Therefore, in the instances where it is envisaged that a standby contractor will be required, this should be approved by the relevant approval authority as part of the sourcing strategy for that particular transaction. In other circumstances, where a risk has been identified during the evaluation process, the requested to award to a standby contractor may be approved by the adjudicating authority supported by justifiable reasons.
 - 22.16.4 Consequently, a customised standby contractor Master Service Agreement (MSA) and/or Service Level Agreements (SLA) must be prepared and entered into between Transnet and the standby contractor. These agreements will regulated the relationship between Transnet and the standby contractor in relation to the circumstances where and when each party can exercise its rights and obligations contained in the contract.

- 22.16.5 The award of business to any of the standby contractors must be submitted together with the award of the first ranked bidder to the delegated authority for approval. All the information relating to the circumstances of exercising the process of a standby contractor must be tabled to the adjudicating authority.
- 22.16.6 In this instance an award should be made to the “standby contractor(s)” at the same time that an award is made to the main contractor.
- 22.16.7 When the standby contractor is being considered for award of business, the adjudicating authority must check the following:
 - 22.16.7.1 whether the price of the bidder (standby contractor) is market related, If it is not market related, the negotiations must be conducted in line with the approval delegations for negotiations to get the price to be market related. If the price was market related, negotiations should still be pursued in an endeavour to get the price of the standby bidder to be closer to the price of the first ranked bidder.
 - 22.16.7.2 the bidder is tax compliant;
 - 22.16.7.3 bidder is not listed in the list of restricted bidders;
 - 22.16.7.4 there's no declared conflicts of interest by the bidder;
 - 22.16.7.5 any other relevant legislative requirement
- 22.16.8 The communication (LoA) sent to the standby contractor should clearly state that:
 - 22.16.8.1 The bidder is being awarded on the status of a standby contractor;
 - 22.16.8.2 There is a main contractor that has been fully awarded the business;
 - 22.16.8.3 Business will only be given to the standby contractor in the event that the main contractor has either indicated that it will not be able to meet the contractual commitments relating to a particular works order or purchase order (i.e will not be able to deliver fully or partially) or in the event where Transnet is of the view that the main contract will not be able to deliver.
 - 22.16.8.4 The situation stated in 22.19.8.3 does not automatically lead to the standby contractor being called upon to deliver as the main contractor must be given an opportunity to remedy the situation in terms of the contractual agreement.
 - 22.16.8.5 Transnet reserves a discretionary right not to call upon the standby contractor even if the situation stated in 22.19.8.4. has arisen. Therefore, it may happen that Transnet does not make use of the standby contractor;
 - 22.16.8.6 The purchase orders will in the first instance be placed by Transnet with the main contractor.
 - 22.16.8.7 Therefore, the standby contractor shall not incur any expenditure towards this contract in preparation for an event where s/he is called in by Transnet.
 - 22.16.8.8 Transnet will not be liable/accountable for any expenditure incurred by the standby contractor prior to there being a clear communication from Transnet calling on the standby contractor to deliver part of or full purchase order.



- 22.17 Immediately after the decision to award has been made by the relevant DoA without any conditions, a letter of award should be communicated with the successful bidder.
- 22.18 If the award decision made by the relevant DoA had material conditions attached to it, that decision is legally not effective until those conditions have been met or addressed. It is important for the SCM to address those conditions timeously to avoid the expiry of the validity period.
- 22.19 Once an award/adjudication decision has been made by the delegated authority, the validity period requirements have been satisfied even if the outcome (letter of award) was not yet communicated to the successful bidder. The delays in communication or addressing of queries related to the letter should not be to the detriment of the successful bidder or Transnet. However, this may not be used to keep the tender valid while other considerations are being taken. This will result in the abuse of the system. It is recommended that an extension of the validity be requested if there are other considerations to be addressed.
- 22.20 In terms of the DoA Framework the authority to adjudicate carries with it the power to sign-off the contract. Therefore, a submission to the BAC/CPOs for award of business must also request that the BAC/CPO sub-delegates the authority for contract-sign-off to any relevant person preferably the end user Exco Member/end user GM as a first signatory of the contract.
- 22.21 The second signatory will always be the CPO or their delegated representative.
- 22.22 Where the CPO is the end-user or the transaction is not allocated to any department, the OD head of legal or his/her subdelegate shall be the first signatory following the process in 22.18. In the case of TCC, the GM Legal-Commercial shall be the first signatory.
- 22.23 In terms of the DoA Framework the CPO or his/her delegate has the authority to issue letters of award and reasons for unsuccessful bids after the award has been approved by the adjudicating body.
- 22.24 Unsuccessful bidders are entitled to written, adequate reasons why their Bid was unsuccessful upon request.
- 22.25 This must be requested by the Bidder within 90 (ninety) calendar days of the date on which the outcome was published, or might reasonably have been expected to become aware.
- 22.26 The SCM unit must ensure that the outcome of the Bid is advertised on the e-Tender portal within 7 (seven) days of award. The publication of the award of a contract shall contain at least the following information:
- 22.26.1 Contract description and Bid number;
 - 22.26.2 Names of the successful Bidder(s) and preference points claimed;
 - 22.26.3 Contract prices(s), if possible;
 - 22.26.4 Contract period;
 - 22.26.5 Names of Directors; and
 - 22.26.6 Date of completion/award.

- 22.27 In addition to publishing award details, the following must be published within 7 (seven) working days of award:
- 22.27.1 Losing bidders must be informed of their rights to request reasons for their bid not winning
- 22.28 A contract is concluded at the acceptance of a letter of award by the Bidder. Thereafter, a written contract is entered into with the successful Bidder. The contract, together with the letter of award and terms and conditions of the RFP, all constitute a binding agreement between Transnet and the Bidder. The contract concluded with the successful Bidder should be substantially similar to the terms and conditions of the bid that was put out to market.
- 22.29 The contract concluded with the successful Bidder must address the same scope and should be substantially similar to the terms and conditions of the Bid that was put out to market. No additional scope may be added without following the contract variation process.
- 22.30 Business may only be awarded based on the final Bid price after negotiation, if applicable. No additional contingencies or costs may be included.
- 22.31 Transnet may, at its sole discretion and as approved by the relevant delegated authority, consider accepting the second or third most favourable Bid, provided that this option is exercised within a reasonable period (not exceeding three (3) months) after the initial award, when:
- 22.31.1 A successful Bidder, after having been informed of the acceptance of its Bid, fails to sign a letter of award within 14 (fourteen) calendar days after being called upon to do so. This does not apply when the bidder has indicated that there are queries regarding the letter of award that need to be addressed;
- 22.31.2 A successful Bidder has failed to provide the necessary security, if required;
- 22.31.3 A successful Bidder fails to meet a condition precedent for the award of business (e.g., to obtain the necessary funding); and/or
- 22.32 All Suppliers contracted by Transnet must be tax compliant in accordance with SARS requirements.
- 22.33 In case of adjudication for emergency procurement, the process should follow a shortened and simplified version of the adjudication process where the delegated adjudicating body is only expected to satisfy themselves and approve a request (in a form of a short Memo) for emergency award of business that includes:
- 22.33.1 details how the proposed supplier/service provider was identified as suitable to address the emergency,
- 22.33.2 declaration by SCM Practitioners that there are no relations between them and the proposed supplier,
- 22.33.3 reasons why the proposed supplier is considered suitable to address the emergency as required by Transnet, and
- 22.33.4 confirming market related prices offered by the proposed supplier.

23. Tender Price Negotiations

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

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

23.3 Market-Related Price negotiation

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

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

23.3.2.1 Negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

23.3.2.2 If the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

23.3.2.3 If the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender; and

23.3.2.4 If a market-related price is not agreed as envisaged above, Transnet must cancel the tender.

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

23.4.1 Over and above the negotiating of prices to get a market-related price as envisaged in section 23.3 above or when all prices are market related, Transnet may engage with the bidders(s) to conduct a BAFO price negotiation process. This should be done where Transnet wants to obtain reductions on prices quoted or rates to maximize efficiency and value for money in all of its contracts.

23.4.2 BAFO Price Negotiation is an effective tool to drive down cost or extract further value for Transnet and can be used very effectively in conjunction with any procurement mechanism. BAFO is used after the evaluation process has been completed and the Preferred Bidder/s have been identified and approved by the relevant delegated authority in terms of the Adjudication DoA, based on the criteria as set out in the RFX.

23.4.3 BAFO is normally reserved for high-value, strategic commodities, but it may also be used in lower value transactions where it is considered that further value for Transnet can be extracted from this process. Depending on the circumstances, this tool can be used either with all technically compliant Bidders, or a selected short list, or even with the Preferred Bidder only.

23.4.4 BAFO may only take place if the RFX document contained a clause stating that 'Transnet reserves the right to enter into BAFO negotiations with a Preferred Bidder or any number of shortlisted bidders' as well as the criteria that will be used to shortlist (eg all bidders who pass functionality; top 3 ranking bidders on functionality or price, etc); .

23.4.5 While face to face negotiations is considered the most effective, online telecons (Teams, Zoom etc), negotiations are preferred for purposes of recording the engagements, and emails are also permissible provided that the fairness of the process is maintained.

Authority and process to engage in BAFO (transactions falling within BAC jurisdiction)

23.4.6 Matters falling within the relevant BAC's threshold must first be submitted for the approval of the BAC, indicating the detailed process followed in determining the shortlist of Bidders to be negotiated with, details of the agenda that will be negotiated, etc.

23.4.7 On these high value transactions, the negotiating team to be appointed by the relevant BAC, shall comprise of procurement, SD, technical, financial and commercial and legal disciplines, (where appropriate), to facilitate unity of purpose from Transnet's perspective and to enable the Bidder to deal with all relevant matters before making a final offer.

23.4.8 Before BAFO negotiations are conducted with the Preferred Bidder or shortlisted Bidders, it must be approved by the relevant authority as indicated in paragraphs 23.4.2 and the value of the proposed contract to be negotiated will determine the level of approval required. The submission requesting authority to negotiate should include the following:

- 23.4.8.1 the Preferred Bidder or list of Preferred Bidders and how the list has been determined including the threshold set for qualification for BAFO negotiations;
- 23.4.8.2 the composition of the negotiating team;
- 23.4.8.3 the roles and responsibilities of negotiation members; and
- 23.4.8.4 the objectives of the negotiation;

23.4.9 All members of the negotiation team must sign declarations of interest and confidentiality agreements when appointed to such teams. These forms must be kept on the appropriate files as an audit trail.

23.4.10 Negotiations must be preceded by a thorough research and a caucus discussion by the cross-functional negotiation team to ensure a co-ordinated approach. The objectives of the negotiating team must be recorded in consultation with the relevant disciplines concerned (e.g. financial, Transformation, legal, technical and commercial).

23.4.11 The financial advantages, or other objectives sought (e.g. Transformation, Enterprise Development initiatives, faster delivery, etc.), must be quantified and no negotiation will be regarded as final until all the approved objectives have been properly negotiated by the negotiating team. After receipt and evaluation of the best-and-final offers, the results must be recorded against the envisaged objectives.

23.4.12 In order to ensure that the BAFO negotiation is conducted in a fair manner, shortlisted Bidders should be negotiated with individually. The same agenda must be used with all shortlisted Bidders and all Bidders must be provided with the same information and the same opportunity to improve their Bid in all respects. The agenda must be made known in advance to all shortlisted Bidders so that they can prepare for the negotiations. Detailed minutes/transcripts and audio recording of the negotiations should be kept. It is therefore,

highly recommended that online negotiations with technological capabilities are utilised for recording purpose.

23.4.13 Under no circumstances may prices of one Bidder be disclosed to another with the request to improve on such price in order to be awarded the business. This is considered as 'horse-trading' and is considered an unfair business practice. Such misconduct will not be tolerated and will result in disciplinary action. Furthermore, a Preferred Bidder must not be informed that he has been awarded a contract prior to the BAFO process, as that would jeopardise Transnet's negotiation power.

23.4.14 After negotiations have been conducted with an approved shortlist of Preferred Bidders, all such Bidders must be requested to submit their "best-and-final offer" in the Transnet e-submission by a set closing date and time. This method may also be used with a single Preferred Bidder subsequent to the negotiation session if it is considered that it may yield a further price reduction or extract further value for Transnet.

23.4.15 Whichever method of submission of the BAFO is utilised, it must be conducted in a manner that remains fair and does not compromise the integrity of the process. The closing date and time for all resubmissions must be the same and documents should only be accessed after the time has lapsed.

23.4.16 It is important to note that although BAFO negotiations may take place in respect of a number criteria including price, technical, Transformation, delivery terms, etc., the final evaluation criteria against which the best-and-final Bids will be scored will be strictly on price and preference (specific goals) in terms of the applicable preference point system (i.e. either 80/20 or 90/10).

23.4.17 While this process offers shortlisted Bidders the opportunity to improve on their Bid in areas such as price, quantity, etc., care should be taken to ensure that the final contract negotiated does not deviate significantly from the scope of work, terms and conditions of the bid as set out in the original RFX document.

23.5 Post-contracting negotiation:

23.5.1 To be able to exercise this negotiation option, the contract document should stipulate or have a provision that, at the contract execution stage, Transnet reserves a right to conduct negotiations with the supplier(s)/service provider(s) should unexpected conditions give rise to changes to the contract obligations;

23.5.2 This negotiation should not result in termination of the awarded contract to the supplier(s) or service provider(s) where the supplier does not agree to the terms of negotiation.

23.5.3 This type of the negotiation must be initiated by the relevant contract manager or anyone responsible for the contract and it must be based on specific provisions in the contract.

23.5.4 The process must be recorded and if the outcome affects the contract value, an addendum to the contract should be drafted, signed by both parties and incorporated in the primary contract. The process of contract variation should be followed.

23.6 22.623.6 A team should be established for the purpose of The BEC may engaging in pre-award and post-award negotiations to be conducted in accordance with process 4.4.2 of the Procurement Process Guideline. Should the delegated authority disagree with the BEC on this matter, the decision must be recorded, and reasons provided.

23.7 The Contract Owner may engage in post-contract negotiations.

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

24. Cancellation / Non-Awards

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

Section D – Post Award Considerations

25. Contract Management

- 25.1 This section should be read in conjunction with the Contract Management Policy and Contract Management SOP.

- 25.2 All procurement related contract management activities shall be carried out in accordance with process 5.1 - 5.4 of the Procurement Process Guideline.
- 25.3 The relevant SCM Representative must ensure that all standard form contracts are kept up to date in consultation with the Contract Management Specialists and the Legal Department.
- 25.4 A relevant SCM Representative must be assigned to assist BSCs in determining and preparing standard form contracts in line with process 5.1 in the Procurement Process Guideline, where possible, risks identified during the evaluation stage should be managed.
- 25.5 The CPO or their duly delegated representative is responsible for facilitating the resolution of disputes arising from contracts in line with process 5.4 in the Procurement Process Guideline.
- 25.6 Contract assignments are not permitted, unless otherwise approved in accordance with legislative requirements. Where the Supplier has reason for portions of work to be conducted by another party, this should be achieved through approved sub-contracting mechanisms.
- 25.7 Contract cessions are allowed only where a Supplier cedes its right of payment to its financier or legally permissible in terms of the public sector procurement prescripts or court order. The following must apply:
 - 25.7.1 The contract and the bid documents (terms of reference) must provide for a clause where cession of the rights of either party may be allowed subject to written consent by the other;
 - 25.7.2 Cession must only be applicable to the transfer of rights to the Supplier's financiers or third party;
 - 25.7.3 The written request for cession must be by the Supplier and not the third party;
 - 25.7.4 The written request by the Supplier must be accompanied by the cession agreement between the Supplier and its financiers or third party; and
 - 25.7.5 Transnet must ensure that the Supplier's financier or third party is not restricted from conducting business with the state.
- 25.8 The Supplier's written request for cession should be jointly approved by the delegated authority responsible for the contract approval.
- 25.9 Contracts should be continuously evaluated to establish if they represent fair market value.
- 25.10 Reverse e-auctions, see [Appendix E: Process for e-Auctions](#) can be included in contractual agreements with suppliers as a benchmarking mechanism to gauge market related pricing if stipulated on tender specifications and included in contract language.

26. Expansion and Variation of Contracts

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

- 26.1.1 Transnet may expand a contract by increasing the scope of work, value of the contract and period/time.
- 26.1.2 Transnet may vary a contract by changing the scope of work.
- 26.2 Where there is a contract variation exceeding 15% of the value of the original contract or R15 Million (Fifteen Million Rand), including all applicable taxes, whichever is lesser, the GCE must have final approval of the expansion/variation.
- 26.3 Any contract expansion/variation as per section 26.2 must be documented in the format prescribed by National Treasury, see Section: [Appendix C: Templates](#), by the requesting party. This should include reasons for the expansion/variation.
- 26.4 Any contract variations/expansions as per section 26.2 should be submitted to National Treasury and Auditor General of South Africa (AGSA) in the format prescribed by National Treasury, see Section: Appendix C: Templates. This should include reasons for the expansion/variation.
- 26.5 If an expansion or variation in the scope of work requires an extension in the period of the contract, the report must distinguish between the change in the scope of work and the period for which the work is extended.
- 26.6 Any contract variations/expansions as per section 26.2 should be submitted in the annual report to National Treasury in the format prescribed by National Treasury, see Section: [Appendix C: Templates](#).
- 26.7 Where there is a contract variation/expansion below 15% of the original contract value and the contract value is below R 15 million, the initial approver of the contract award/adjudication based on contract value must have final approval of the variation/expansion.
- 26.8 If the contract variation/expansion is related to time/period only and has no financial implications to the contract value or scope, the initial approver of the contract award/adjudication has the final approval authority of the variation/expansion regardless of the percentage of the variation.
- 26.9 The approvers must be provided with a recommendation indicating the reasons for the proposed extension at least 14 (fourteen) calendar days prior to the expiry of the contract. The following factors should be considered:
 - 26.9.1 That the need for the extension is justifiable in the circumstances;
 - 26.9.2 That it is not practical or feasible to follow and complete a new procurement event for the outstanding work.
 - 26.9.3 That adequate funds exist to cover the extended period.
 - 26.9.4 That the request for the contract extension is not only because of the availability of unspent funds in the contract; and
 - 26.9.5 Confirmation that the contract has not be declared irregular.
- 26.10 The Contract Management Department of the Operating Division should be consulted for all expansions and variations of contract.

- 26.11 If the contract variation is not material (does not affect the scope, time or value, regardless of whether it is an increase or decrease) can be approved by the contract manager.
- 26.12 If Transnet participates in a transversal contract, Transnet may not expand or vary the transversal contract, but may request the relevant treasury to expand or vary the contract.
- 26.13** The relevant treasury and the AGSA may request additional information pertaining to expansion or variation as per section 26.2.

27. Piggybacking

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

28. Advance Payment

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

- 28.6 The relevant contractual provisions relating to advance payments need to be included in the contract. Approval to proceed with a contract containing advance payment conditions must be approved by the relevant Delegated Authority.

29. Income Generating and Disposals

- 29.1 For Income Generating contracts and Asset disposal shall be conducted in line with the relevant section of the Procurement Manual for Goods and Services with Direct Impact on Revenue Generation shall be applied.

30. Supplier Performance Monitoring

- 30.1 Supplier performance should be monitored and improved in accordance with process 7.4.2 in the Procurement Process Guideline together with the Contract Management Policy and SOP.
- 30.2 Transnet may, in addition to remedies provided in law and contract, impose the following, where a Supplier fails to perform or to meet contractual terms and/or has acted in a manner contravening the Transnet Code of Ethics or South African laws:
- 30.2.1 Recover all costs, losses and/or damages it has incurred or suffered as a result of that Suppliers or person's conduct;
- 30.2.2 Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- 30.2.3 Report the Supplier, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis to the National Treasury in order to restrict the supplier.
- 30.2.4 Forward the matter to the relevant authority for criminal prosecution.

31. Complaints and Disputes

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

32. Treatment of Disclosures and Declarations

- 32.1 Transnet has incorporated the information contained within National Treasury Standard Bid Document 4, see [Appendix C: Templates](#), into its Standard Bid Document (SBD).
- 32.2 The SBD applies to all forms of procurement irrespective of the value and method of procurement, excluding petty cash purchases, and must be completed by all persons responding to the invitation to bid.

- 32.3 The information contained within the SBD must be evaluated by the bid evaluating authority as per the DOA, as part of its evaluation process.
- 32.4 If the evaluating authority establishes that:
- 32.4.1 A person within the bidding entity is an employee of the State, the BEC must request the relevant entity AO/AA to advise whether the person:
- 32.4.1.1 Is prohibited from conducting business with the State in terms of section 8 of the Public Administration Management Act, 2014 (Act No. 11 of 2014 — “the PAMA”); or
 - 32.4.1.2 Has permission to perform other remunerative work outside of their employment, where the PAMA does not apply to such employee;
- 32.4.2 The conduct of a person constitutes a transgression of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004 — “the PRECCA”), the conduct must be dealt with in accordance with the PRECCA;
- 32.4.3 The conduct of a person constitutes a transgression of the institution’s policies, the conduct must be dealt with in terms of the prescripts applicable to the institution.
- 32.5 If the evaluating authority establishes that a bidder has committed a transgression, referred to in paragraph 32.4, or any other transgression of SCM prescripts, the evaluating authority may reject the bid and restrict the person in terms of Section: Restrictions of Person Doing Business with Government.
- 32.6 The evaluating authority must inform the relevant treasury of any action taken against a person in terms of section 32.4 within 30 (thirty) calendar days of implementing the action.
- 32.7 During the evaluation process, the evaluating authority must in addition to other due diligence measures, establish if a person is not listed in:
- 32.8 The Register for Tender Defaulters provided for PRECCA; and
- 32.9 The list of restricted suppliers provided for in Section: Restrictions of Person Doing Business with Government of this Instruction and regulations under the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

33. Blacklisting/Restriction of Persons Doing Business with Government

- 33.1 Where a person has submitted false information regarding any matter required by law which will affect or has affected the evaluation of a Bid, the appropriate delegated authority should take the measures below to restrict the person from doing business with Government.
- 33.2 The bid adjudicating authority as defined by the appropriate delegated authority must seek approval from the relevant delegated authority to restrict.
- 33.3 The bid adjudicating authority must in writing notify a person of:
- 33.3.1 The intention to restrict the person from doing business with the State;
 - 33.3.2 The grounds for the restriction;
 - 33.3.3 The intended period of restriction, which may not exceed 10 (ten) years;

33.3.4 The right to make representations within 14 (fourteen) calendar days as to why the persons should not be restricted.

33.4 The bid adjudicating authority as defined by the appropriate delegated authority must:

33.4.1 Consider the reasons provided by the person on why the person should not be restricted; and

33.4.2 If, after considering the reasons referred to in 33.4.1, Transnet intends to restrict the person, in writing, consult the National Treasury by submitting the notification envisaged in section 33.3 and the reasons referred to in section 33.3.

33.5 Should the person fail to respond within 14 (fourteen) calendar days, the restriction may be regarded as not objected to.

33.6 The National Treasury must, within 14 (fourteen) calendar days of receipt of the notification envisaged in paragraph 33.4.2, submit to the Transnet its view on the intended restriction.

33.7 The Transnet delegated authority must:

33.7.1 After considering the view of the National Treasury, make the decision whether to restrict; and

33.7.2 Within 7 (seven) calendar days following a decision to restrict, submit to the National Treasury:

33.7.2.1 The reason for the decision to restrict;

33.7.2.2 The name and address of the person restricted;

33.7.2.3 The identity or registration number of the person;

33.7.2.4 The period of restriction; and

33.7.2.5 The representations made by the person and the reasons why Transnet proceeded with the decision to restrict despite the representations.

33.8 The National Treasury, on receipt of the information in section 33.7:

33.8.1 May within 14 (fourteen) calendar days, request Transnet to submit further information pertaining to the restriction; and

33.8.2 Must record the information on a list of restricted suppliers within 14 (fourteen) calendar days of receipt of the submission by Transnet, and any responses to further information requested in terms of section 33.8.1;

33.9 The restriction is effective from the date that the National Treasury records the information on the list of restricted suppliers.

33.10 The National Treasury must inform Transnet immediately after the restriction is recorded on the list of restricted suppliers.

33.11 The Transnet delegated authority must inform the person immediately after the National Treasury has informed the Transnet that the restriction is recorded on the list of restricted suppliers.

34. Non-Compliance

34.1 Irregular expenditure is incurred when a procurement /expenditure/ revenue generating transaction does not comply with legislation Irregular expenditure must be managed in accordance with the relevant National Treasury Instruction on PFMA Compliance and Reporting as well internal Transnet Policies.

34.1.1 Any employee who becomes aware of or suspects the incurrence of irregular expenditure or non-compliance must immediately, in writing, report such instances to the SCM Governance who will refer it to the Loss Control function.

34.1.2 Instances of non-compliance with internal policies (such as the SCM policy) where no legislative requirement is breached will not result in irregular expenditure; however, corrective actions including possible consequence management and strengthening of internal controls must be implemented.

34.1.3 Where irregular expenditure has been incurred, Transnet may not withhold payment due to the irregularity. Payment must be made to Suppliers who were in no way responsible for the irregularity and have provided the goods and services in good faith and without having been complicit in the irregularity. Payment may be made against either a legal claim/demand for payment or an invoice.

34.2 Fruitless and wasteful expenditure is incurred when expenditure is made in vain and would have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure must be managed in accordance with the relevant National Treasury Instruction on PFMA Compliance and Reporting as well internal Transnet Policies:

35. Deviation from this Manual

35.1 Requests to deviate from this Manual or the Procurement Process Guideline in respect of internal process requirements may, in exceptional circumstances, be submitted via the GCPO to the CBAC for consideration and approval. No deviation from legislated requirements is allowed.

35.2 Requests for deviation from internal processes must address the following as a minimum:

35.2.1 From which part/s of the Procurement Manual/Procurement Process Guideline deviation is being sought;

35.2.2 Compelling reasons for the departure from the internal processes, including sound reasons why the relevant process is inappropriate and/or insufficient; and

35.2.3 Description of the alternative process that will be put in place to ensure the integrity of the transaction, including details of how the alternative process will comply with all relevant legislative requirements.

36. SCM Data Management

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

37. Appointment of Consultants

- 37.1 A consultant is defined in the definition section of this Manual as well as the Transnet DoA Framework.
- 37.2 Appointment of Consultants should be considered where the required capacity, skill, or expertise do not exist in Transnet and there is evidence that value for money will be achieved when consultants are used..
- 37.3 the statement that there is no internal capacity, skill or expertise and that there will be value for money should be supported by evidence and approved in line with the Delegation of Authority Framework.
- 37.4 Consultants should be appointed through a procurement process, subject to negotiations.
- 37.5 Consultants should transfer skills (where possible) and may not make any decisions on behalf of Transnet unless Transnet has delegated such a right to make decisions.
- 37.6 To achieve value for money, a fair and reasonable remuneration framework must be adopted for consultants, taking into consideration the guidelines below (where applicable and appropriate):
 - 37.6.1 The “Guideline on Fees for Audits” done on behalf of the Auditor-General of South Africa (AGSA) as issued by SAICA;
 - 37.6.2 The “Guide on Hourly Fee Rates for Consultants”, as issued by the Department of Public Service and Administration (DPSA); or
 - 37.6.3 Remuneration guidelines issued by professional service organisations or regulatory bodies, as may be relevant.
- 37.7 Relevant international and market determined rates may be considered when negotiating cost-effective consultancy rates for international consultants and expert advisors.
- 37.8 Where practical, consultants shall be appointed on an output specified basis with a clear specification of deliverables and associated remuneration. Where consultants are appointed on a time and cost basis, this must be accompanied by regular monitoring and reporting on activities, outputs and deliverables.
- 37.9 Consultancy contracts shall consider including overall cost ceilings by specifying whether the overall contract price is inclusive or exclusive of travel and subsistence disbursements.
- 37.10 Alternative travel and subsistence arrangements may be approved for international consultants and expert advisors considering relevant cost-efficiency measures.

38. National Treasury Oversight

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

39. Vendors

- 39.1 Price evaluation must be conducted inclusive of all applicable taxes. As such, where the bidder is a registered VAT vendor, the evaluation team must ensure that the price quoted is VAT inclusive. There may be cases where an EME is not a registered VAT vendor but has submitted a bid with pricing inclusive of VAT. In such circumstances, the evaluation team must request the bidder to provide reasons for the inclusion of VAT. There may be justifiable reasons for the inclusion of VAT e.g. the value of the award may take the Bidder into the threshold for VAT registration.
- 39.2 In a case where a bidder submits a bid where it is indicated that the bidder is not a registered VAT Vendor (does not collect VAT) at the time of tender closing, then that bidder should be evaluated as such even if the status of the bidder changes during the tender process or after.
- 39.3 In a case where the value of the transaction is very high that it is expected for all the bidders to be VAT vendors and one or more of the bidders are not, Transnet may request financial statements of the bidder to assess whether the is not contravening any tax laws and then deal with the matter as such.
- 39.4 Transnet will have to comply with the VAT payment requirements for the duration of the contract.

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

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

Appendix B: Governance

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

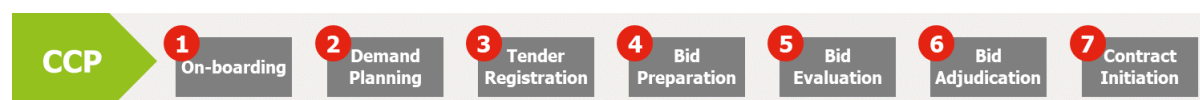


Figure 4: Critical CCP Framework

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

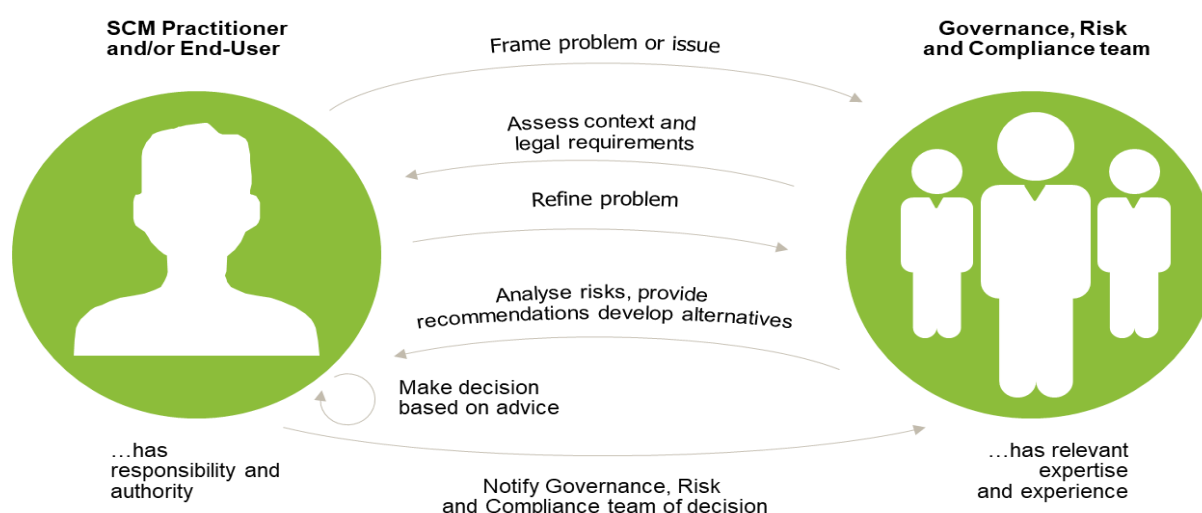


Figure 5: Dialogue Decision-Making Process

Appendix C: Templates

[<http://intranet.inter.transnet.local/iscm-toolkit/Pages/General%20Documents.aspx?RootFolder=%2Fiscm%2Dtoolkit%2FOpen%20Tender%20General%20Documents%2F2023%2FGoods%20and%20Services%2FRFQ%20Templates&FolderCTID=0x012000BD00E6F0037C524883A745ED298EA1C5&View=%7B552435F6%2D0A00%2D4D54%2DBEB9%2DF4EF97D962A7%7D>]

Appendix D: Mechanism and Reasons for Deviations from Competitive Bidding

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

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

Additional detail is provided for the following mechanisms:

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

Additional detail is provided for the following reasons:

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

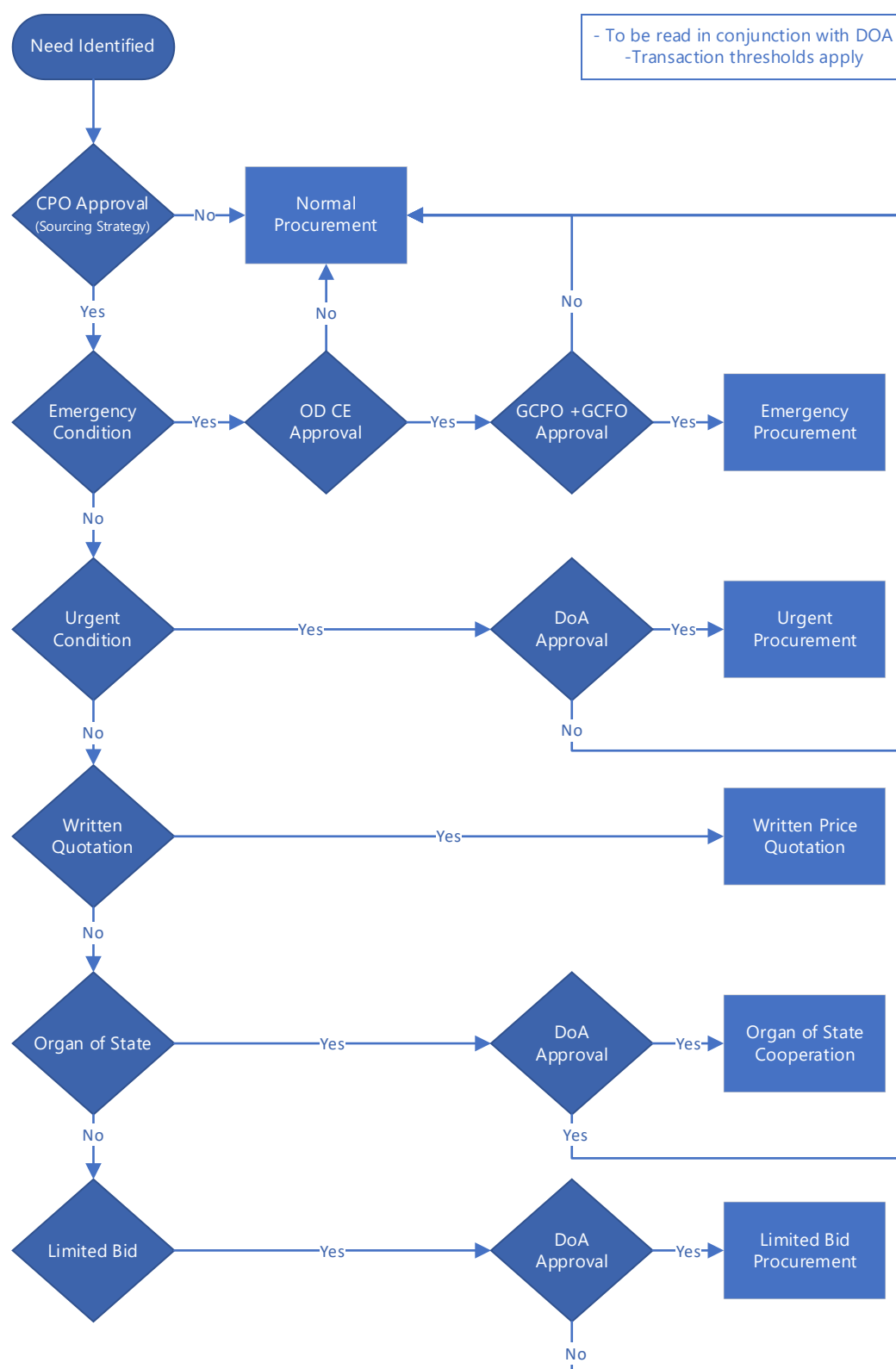


Figure 6: Deviation from Competitive Bidding Decision Tree

D.1 Limited Bidding

Table 5: Limited Bidding Procurement Checklist*

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

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

- 1.1 Limited Bidding is a mechanism of procurement by “other means”.
- 1.2 Limited Bidding is ` where the bidding process is reserved for a specific group or category of possible suppliers, at the discretion of the relevant delegated authority.
- 1.3 Limited Bidding is defined by either one of the following sourcing types:
 - 1.3.1 Sole Source: Where there is no competition in the market and only one supplier is able to provide the goods or services;
 - 1.3.2 Single Source: Where a thorough analysis or rational observation (there may be instances where conducting a market analysis may be impractical or not logical, where a rational explanation may suffice) of the market and a transparent and

equitable pre-selection process is used to decide on one supplier among a few prospective bidders to make a proposal;

1.3.3 Multiple Source: Where a thorough analysis of the market indicates that there is limited competition and only a few prospective bidders are requested to make a proposal;

1.4 When approving Sole Source procurement, the relevant authority, must consider whether:

1.4.1 There is sufficient evidence to show that the Supplier is unique;

1.4.2 The Supplier has the singular capacity to meet the requirements of the Bid; and

1.4.3 Any other relevant consideration.

1.5 The delegated authority must approve all Limited Bids.

D.2 Written Price Quotations (Above R2m)

Table 6: Written Price Quotations Checklist*

Step	Activity	Notes
1	Conditions met	Transaction value is below R 2 million
2	Formal approval of deviation	CPO approves sourcing strategy
3	Procurement	Goods or services procured
4	Reporting	GCPO reports deviation to NT

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

1.6 Written Price Quotations are a mechanism of procurement by “other means”.

1.7 Written Price Quotations refers to a process where the transaction is above the R2m threshold and a minimum of 3 (three) quotes are invited via sending a direct request to bidders through any method that Transnet allows.

1.8 Where 3 (three) quotations cannot be obtained, the CPO or their duly delegated representative must record and approve reasons for the failure to obtain the minimum number of quotes and proceed with procurement.

D.3 Emergency Procurement

Table 7: Emergency Procurement Checklist*

Step	Activity	Notes
1	Conditions for Emergency met	<ul style="list-style-type: none"> • Threat to life; • Serious threat to health; • Serious damage to property; or • Serious environmental damage • Business disruption; and • financial loss
2	Divisional recommendation of deviation	CPO recommends sourcing approach

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

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

1.16.1 The sourcing approach selected may be any relevant procurement mechanism.

1.16.2 A written request for approval, in the form of a digital memo, must be submitted to the GCPO and GCFO by the OD CE or their delegate authority and written approval obtained.

D.4 Urgent Procurement

Table 8: Urgent Procurement Checklist*

Step	Activity	Notes
1	Conditions for Urgency met	Delivery is critical and the invitation of competitive bids is impossible or impractical, not due to improper planning
2	Divisional approval/recommendation of deviation	<ul style="list-style-type: none"> CPO approves sourcing strategy. CPO provides Final Approval if within threshold of DoA
3	Recommendation	CPO recommends Urgent procurement to final approvers if necessary
4	Formal approval of deviation	Delegated authority approves procurement
5	Procurement	Goods or services procured
6	Urgent conditions end	The conditions that resulted in the urgency has been dealt with
7	Reporting	GCPO reports deviation to NT
*The market may not be approached without approval of the sourcing strategy		

1.17 Urgent procurement is a reason for procurement by “other means”.

1.18 Urgent procurement may occur where early delivery is of critical importance and needs to be fast tracked. A lack of proper planning should not be constituted as an urgent case.

1.19 Critical procurement conditions may include:

1.19.1 Reputational loss;

1.19.2 Minimising commercial loss;

1.19.3 Maximising commercial gain;

1.19.4 Unexpected customer demand;

1.19.5 reprioritisation required in the business, to deal with unforeseen running business changes that may lead to business interruptions and revenue loss

1.20 Fast Track Mechanisms include:

1.20.1 Immediately prioritization by the relevant Procurement Manager and SCM Officer;

1.20.2 Reducing the tendering period to a minimum of 5 (five) days approved by the CPO;

1.20.3 Fast tracking and prioritization of the tender closing time , based on the motivated urgency;

1.20.4 Reducing evaluation timeframe by the BEC to 48 (forty-eight) hours post tender close (Refer to BEC Terms of Reference).

1.20.5 Reducing approval timeframe by the BAC to 48 (forty-eight) hours post BEC recommendation (Refer to relevant BAC Terms of Reference).

- 1.21 All urgent procurement must be submitted to the relevant delegated authority prior to obtaining the goods or services to address the urgent need.
- 1.22 A request to the relevant delegated authority must be accompanied by a motivation for urgent procurement compiled by the OD CPO or their delegated representative and recommended by the OD CE. The request for approval will be responded to within 72 hours.
- 1.23 The Urgent procurement process may only be used to address the urgent situation when it arises and may not be used for subsequent sourcing events after the initial urgency has been addressed.

D.5 Regional or Local Community Procurement

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

D.6 Unsolicited Bids

- 1.27 Unsolicited Bids is a reason for procurement by “other means”.
- 1.28 Unsolicited Bids are those Bids a Supplier submits to Transnet without Transnet having requested such a Bid.
- 1.29 Transnet does not encourage the consideration of Unsolicited Bids.
- 1.30 Transnet is not obliged to consider an Unsolicited Bid but may consider such a proposal only if it meets the following requirements:

- 1.30.1 A comprehensive and relevant project feasibility study has established a clear business case; and
- 1.30.2 The product or service involves an innovative design; or
- 1.30.3 The product or service involves an innovative approach to project development and management; or
- 1.30.4 The product or service presents a new and cost-effective method of service delivery.
- 1.31 The Unsolicited Bid must contain the following information in terms of the proponent:
 - 1.31.1 The proponent's name, address, identification or registration number (if a corporation), VAT registration number and the contact details of its authorised representative;
 - 1.31.2 Identification of any confidential or proprietary data not to be made public;
 - 1.31.3 The names of other South African institutions that have received a similar unsolicited proposal;
 - 1.31.4 The proponent's current SARS Tax Clearance Certificate and in the case where the proponent is a consortium or joint venture, a current SARS Tax Clearance Certificate for each member thereof;
 - 1.31.5 A declaration of interest containing the particulars set out in Standard Bid Document (SBD) 4, issued by the National Treasury,
 - 1.31.6 A declaration of the proponents past supply chain practices containing the particulars set out in SBD 8, issued by the National Treasury; and
 - 1.31.7 A declaration from the proponent to the effect that the offering of the Unsolicited Bid was not as a result of any non-public information obtained from officials of the relevant institution or any other institution.
- 1.32 The Unsolicited Bid must set out the following information in terms of the product or service offered:
 - 1.32.1 A concise title and abstract (approximately 200 words) of the proposed product or service;
 - 1.32.2 A statement of the objectives, approach and scope of the proposed product or service;
 - 1.32.3 A statement describing how the proposal is demonstrably innovative and supported by evidence that the proponent is the sole provider of the innovation;
 - 1.32.4 A statement of the anticipated benefits or cost advantages to Transnet including the proposed price or total estimated cost for providing the product or service in sufficient detail to allow a meaningful evaluation by Transnet;
 - 1.32.5 A statement showing how the proposed project supports Transnet's strategic growth and development plan and its other objectives; and
 - 1.32.6 The period of time for which the proposal is valid for consideration, which may not be less than six months.
- 1.33 Transnet must reject the Unsolicited Bid if the proposal:

- 1.33.1 Relates to known institutional requirements that can, within reasonable and practicable limits, be acquired by conventional competitive bidding methods;
 - 1.33.2 Relates to products or services which are generally available;
 - 1.33.3 Does not fall within the Transnet's powers and functions;
 - 1.33.4 Does not comply substantially with section 1.36;
 - 1.33.5 Has not been submitted by a duly authorised representative of the proponent; or
 - 1.33.6 Contravenes the provisions of any law.
- 1.34 If the Transnet decides to reject the Unsolicited Bid, it must:
- 1.34.1 Notify the authorised representative of the proponent by post, at the address referred to in 1.35.1 that Transnet has rejected the Unsolicited Bid;
 - 1.34.2 Ensure that Transnet does not make use of any of the intellectual property or proprietary data in the Unsolicited Bid; and
 - 1.34.3 Return to the proponent by mail to the address referred to in paragraph 1.36.2, all documents received in the Unsolicited Bid including any copies of these documents.
- 1.35 If Transnet decides to consider the Unsolicited Bid, it must send a letter to the address referred to in paragraph 1.36.1 confirming the decision to consider the Unsolicited Bid.
- 1.36 The Unsolicited Bid must be considered as appropriate in terms of the following
- 1.36.1 If a submission of the product or service is unique, innovative and provided by a sole provider, the institution may enter into direct negotiation with the proponent, outside the normal competitive bidding process.
- 1.37 Based on the value and duration of proposed in the Unsolicited Bid, an SCM Representative should address the Unsolicited Bid as per the requirement of [Section: Strategic Sourcing](#).
- 1.37.1 The Unsolicited Bid must be considered by a BSC constituted of technical subject matter experts. The minutes of the evaluation meeting must be recorded.
 - 1.37.2 The evaluation committee should investigate and verify whether there are no other suppliers in the market.
 - 1.37.3 If the BEC has resolved to procure the goods and services, depending on the contract value, the deviation from competitive bidding process must be followed and thereafter a recommendation made to the delegated authority to approve the award.
 - 1.37.4 All copies of the Unsolicited Bid, records of discussions, records of deliberations and copies of correspondence relating to it, will be kept by the SCM Representative who led the process for record purposes.
- 1.38 The following information must be contained in the recommendation:
- 1.38.1 A detailed description of the goods or services;
 - 1.38.2 A detailed description of benefits Transnet is to derive from the envisaged acquisition;

- 1.38.3 The costs associated with the acquisition of the service or product;
- 1.38.4 The validity period of the Unsolicited Bid;
- 1.38.5 Proof of certification that the Bid was submitted by the person who holds the intellectual property rights in the goods or service; and
- 1.38.6 Certification by the evaluation team that there are no other suppliers who can provide the goods or services.

D.7 Organ of State Co-operation

- 1.39 Organ of State Co-operation is a reason for procurement by “other means”.
- 1.40 An organ of state means:
 - 1.40.1 A department as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - 1.40.2 A municipality as defined in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
 - 1.40.3 Parliament;
 - 1.40.4 A provincial legislature;
 - 1.40.5 A constitutional institution as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - 1.40.6 Any other institution or category of institutions which the Minister of Finance may determine;
- 1.41 Another entity or Organ of State may request to participate in any of Transnet’s supply chain related agreements.
- 1.42 The CPO/BAC (depending on the value where the contract was awarded) or their duly delegated representative, must use their reasonable discretion to approve or reject the request after considering whether:
 - 1.42.1 The Organ of State has requisite approval from their Accounting Authority.
 - 1.42.2 The nature of the goods or services requested are materially similar to the existing Transnet contract;
 - 1.42.3 The risks of the Transnet contract being irregular;
 - 1.42.4 The contractor’s capacity to service both Transnet and the requesting organ of state;
 - 1.42.5 the extent to which the contract will be varied (i.e Transnet can only allow participation in line with the remainder of the contract scope and time unless Transnet varies the contract to include the scope of the requesting organ of state)Parce,
 - 1.42.6 reasons why the requesting organ of state is not able to use other mechanisms (eg single source) to award directly to that supplier or service provider and
 - 1.42.7 Any other relevant consideration.



- 1.43 The approving authority must consult SCM governance and/or Legal for the assessment of the request and written opinion be provided.
- 1.44 The GCE through the GCPO should be made aware of the request made by the other state organ prior to communicating the response
- 1.45 Where approval to participate in any Transnet agreement is granted, the Strategic Sourcing Manager must allocate a Strategic Sourcing Specialist to conduct due diligence and draft a Framework Agreement which outlines the process for requisitions and any other procedures necessary to implement the participation in the agreement.
- 1.46 As an outcome of a sourcing strategy, it may be deemed appropriate to participate in another state-owned entity's or Organ of State's supply chain related Agreement where the existing agreement was obtained in line with the legal framework for procurement by Schedule 2 State Owned Entities and where no National Treasury Transversal Contract for such goods or services exists. Approval from the relevant state institution is required before participation is implemented.
- 1.47 The delegated authority to approve approach to market on procurement by other means, must use their reasonable discretion to approve or reject the request after considering whether:
 - 1.47.1 The nature of the goods or services provided to another organ of state are materially similar to the ones that Transnet is procuring/requiring.
 - 1.47.2 The risks of the contract to participate in being irregular;
- 1.48 The delegated authority (BAC/CPO depending on the value) must approve the sourcing strategy.
- 1.49 The SCM Representative, after consulting the CPO and obtaining approval from the relevant delegated authority, must allocate a Strategic Sourcing Specialist to request participation from such entity and provide all necessary documentation and Framework Agreements.

D.8 Research and Development (R & D)

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

Appendix E: Process for e-Auctions

- 1.1 An e-auction is an electronic procurement process for buying and selling that aims to achieve the most competitive prices for clearly specified items.
- 1.2 A reverse e-auction is a live, online, competitive bidding process where the successful bidder is determined by the lowest price submitted at the conclusion of the auction. The process typically follows a pre-determined process:
 - 1.2.1 An auction starting price is determined through market analysis or a pre-auction tender process;
 - 1.2.2 Non-responsive and non-qualifying Bidders will be excluded from the reverse e-auctioning process;
 - 1.2.3 Qualified suppliers receive training to participate as Bidders in the reverse e-auction process;
 - 1.2.4 Precise specifications are provided to Bidders;
 - 1.2.5 At an appointed time, Bidders access an e-auction system and enter their Bids electronically;
 - 1.2.6 The price of each Bid, but not the particulars of the Bidder, are simultaneously available to all e-auction participants;
 - 1.2.7 The end of the auction can either be determined by a set time or after the expiry of a set time after the last bid.
- 1.3 The core potential benefit of the use of reverse e-auctions is a reduction in the price of the goods or services procured as well as transparency in pricing.
- 1.4 The secondary potential benefit of the use of reverse e-auctions is increased efficiency in the procurement process.
- 1.5 Transnet has selected a suitable reverse e-auctioning Service Provider/s which is responsible for training suppliers and hosting the reverse e-auction.
- 1.6 There are different types of reverse e-auctions. Differentiators include the visibility of price, number of auction stages and timelines for bidding. Transnet will need to determine the most suitable reverse e-auction type in collaboration with the selected Service Provider/s.
- 1.7 The SCM Officer, together with the BSC will determine whether the goods or services required are suitable to be bought through reverse e-auctioning by using the criteria as set out in this procedure.
- 1.8 In addition to the typical specification considerations, see section: [Bid Specification](#) 18.4 -18.7, additional considerations include:
 - 1.8.1 Specifications are simple;
 - 1.8.2 Specifications are standardised or defined well by an accepted industry standard;


- 1.9 The Sourcing Team and SCM Representative is responsible for developing a clear specification for the item to be purchased. The BSC is responsible for the approval of the specification.
- 1.10 The SCM Officer will prepare a strategy (if the transaction value is more than R1 million) that will indicate that the purchasing of the item will follow the reverse e-auctioning process. The relevant OD CPO or their delegated representative must approve the strategy.
- 1.11 E-auction Service Providers typically utilise specific templates in developing the reverse e-auction.
- 1.12 The SCM Officer should engage with the e-auction Service Provider/s on the relevant templates to be used for the reverse e-auction. These should be developed as Transnet documents in consultation with Governance.
- 1.13 The SCM Officer completes the template for using reverse e-auctioning, specifying the item, criteria for identifying the transaction for reverse e-auctioning, the market-related price and any other information as required for the specific transaction. The relevant OD CPO or their delegated representative must approve the approach to market.
- 1.14 The approach to market should determine the criteria for specifying the auction starting price:
 - 1.14.1 Determined through market analysis or;
 - 1.14.2 Determined through a pre-auction tender;
- 1.15 The SCM Office prepares the Bid on Transnet templates.
- 1.16 The reverse e-auction process requires a live competitive bidding environment.
- 1.17 The SCM Officer, in consultation with the Service Provider/s, should determine the conditions to be met that will allow for a successful reverse e-auction (e.g., insufficient qualifying suppliers).
- 1.18 The Bid must state the following criteria in, addition to the standards notification on Bid documents, see section: [Bid Specification](#), 18.4-18.5:
 - 1.18.1 Stipulates that Transnet reserves the right to use reverse e-auctions;
 - 1.18.2 State that pricing submitted may be used as the auction starting price;
 - 1.18.3 State the required validity period of the pricing submitted and required validity period of the pricing submitted via the e-auction;
 - 1.18.4 Stipulate the mechanism for determining the auction starting price (i.e., lowest bid received or market average);
 - 1.18.5 State the right to cancel the e-auction process if specified conditions are not met.
- 1.19 The Bidders will submit a complete Bid with the prices as requested.
- 1.20 The Bid closing date and time for submission of the Bids must be specified;
- 1.21 The relevant BEC must evaluate the Bidders as per the bid evaluation process. The evaluation process, based on the Bids received, will be followed up to the ranking of

Bidders (i.e., applying any pre-qualification criteria, designated material requirements and functionality);

- 1.22 After the relevant BEC has performed the evaluation, the qualifying suppliers will be communicated to the SCM Officer.
- 1.23 Non-responsive and non-qualifying Bids will be excluded from the reverse e-auctioning process;
- 1.24 The SCM Officer sends the names and contact details of the responsive Bidders, to the Service Provider, who will then contact the responsive Bidders for training.
- 1.25 The Bidders will be trained separately from their competitors to eliminate the possibility of colluding. The Bidders will receive login details in order to participate. If required, the specification can also be sent to the Service Provider in order to identify the enquiry;
- 1.26 The SCM Officer will communicate the date and time of the auction to the participating Bidders.
 - 1.26.1 This will depend on system availability and the number of auctions taking place;
 - 1.26.2 There is a specific timeframe given for the Bidders to Bid for the best price (Bidders are given a time frame on each and every auction);
 - 1.26.3 There will be an opening and a closing Bid time;
- 1.27 The Service Provider/s will conduct the reverse e-auction process and provide an outcome report, including the lowest pricing to the BEC.
- 1.28 SCM Officials may request visibility during the live auction, arrangements will need to be made with the Service Provider/s.
- 1.29 The BEC will utilise the pricing provided to conclude the evaluation process and make a recommendation of award to the relevant awarding authority.
- 1.30 The BEC may still sequentially negotiate with suppliers as per the standard process, see section: [Post-tender Negotiation](#).
- 1.31 Once negotiation, recommendation and award has taken place the SCM Official should engage with the relevant Contract Management Specialist and the Legal Department to proceed to contracting.

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

Signed by the Group Chief Procurement Officer



Mr Vuledzani Nemukula (GCPO)

Date: 15 October 2024