

LEGAL REGISTER

TRANSNET NATIONAL PORTS AUTHORITY RCB

Project Name : New Port Entrances and Road Access Packages 3,4&5
Project (Access Control and CCTV Surveillance Package)
Project Number : RCB.ENG 00199

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Client : Transnet National Ports Authority

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Contents

1.	Abbreviations	4
2.	Introduction	4
3.	Project Scope and Description	5
4.	Health and Safety Scope	5
5.	Legal Requirements	6
5.1	Legal Register	6
5.2	Legal Register – Health & Safety	6
5.3	Legal register – Environmental	10
5.4	Legal Register – Security	11
5.5	Legal Register – Other Disciplines	12

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

1. Abbreviations

Table 1: List of Abbreviations

ACRONYM / ABBREVIATION	DESCRIPTION
BOQ	Bill of Quantities
ECC	Engineering and Construction Contract
ECSA	Engineering Council of "South Africa
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
H&S	Health and Safety
HCS	Hazardous Chemical Substance
HSEC	Health, Safety, Environment and Community
HSS	Health, Safety and Security
HSS MP	Health and Safety Management Plan
ICAM	Incident Cause Analysis Method
IDP	Integrated development plan
OHSA	Occupational Safety and Health Act
OSH	Occupational Safety and Health
PFMA	Public Finance Management Act
PLP	Project Lifecycle Process
PSC	Professional Services Contract
QS	Quantity Surveyor
SC	Supply Contract
SDF	Spatial development framework
WCC	Workers' Compensation Commissioner

2. Introduction

Project Information	
Project Name:	New Port Entrances and Road Access Packages 3,4&5 Project (Access Control and CCTV Surveillance Package)
Project Number:	RCB.ENG 00199
Client:	TNPA RCB
Project Address:	Port of Richards Bay
Scope of services:	Health and Safety Legal register
Project Office Address:	Pioneer Centre, Richards Bay

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3. Project Scope and Description

The scope of the Contractor is to further provide a detailed design, supply, installation, construction, integration between new and to existing, testing and commissioning of equipment and associated infrastructure for the Access control and CCTV systems which are to be provided in the following areas of the Port:

- Bayvue Gate
- East Gate
- West Gate

4. Health and Safety Scope

The Health and Safety (H&S) scope of the project is delivered within the framework of references given below. The H&S deliverables for the project includes H&S management component, a legal register and a baseline risk assessment.

This legal register consists of several groups of legislation namely for Health & Safety, Environmental, Security and Other.

Table 4-1: References documents

Ref No.	Document Title	Revision
[1]	Project Lifecycle Process Pre-feasibility Study Phase Manual	01
[2]	Transnet 08-02-08 PRM-M-0001 Project Lifecycle Process Overview Manual	01
[3]	Project Lifecycle Process Gate Review Manual	01

Ref No.	Document Title	Revision
[4]	Owner Requirements Specification – Upgrade of Transformers	01
[5]	RCB.ENG 00199-SPC-0001 Transnet National Ports Authority Health and Safety Specification	02

5. Legal Requirements

5.1 Legal Register

The legal register is a summary of all legislation that can potentially impact on the project and identifies only the high level mitigations that forms part of the management system(s) to ensure the requirements are managed. The maintenance of this register will allow Transnet and its contractors to focus their management systems on appropriate and relevant issues, and allow for adequate resources.

The upkeep of this register also provides evidence that Transnet is committed in the provision and maintenance of management systems on its projects.

5.2 Legal Register – Health & Safety

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
Compensation for Occupational Injuries and Diseases Act 130 of 1993	The Act applies to all employers and all casual and full-time employees who: <ul style="list-style-type: none"> • Become ill, or • Is injured, disabled or killed as a result of a workplace accident or workplace-related disease 	The Act applies to all employers and all casual and full-time employees	High - Industrial action; negative publicity	Valid Letter of Good Standing with WCC or similar licensed insurer. Prohibit any entity involved in the project from working without valid Letter of Good Standing. Monitor reportable injuries & diseases. Approval of contractors H&S Management system and related documents to prevent injuries and illness.	Yes: Part of tender evaluation criteria; Non-approval of H&S Plans if not included
Disaster Management Act 57 of 2002	The establishment of national, provincial and municipal disaster management centres.	Contractors during construction - in the event of a provincial or municipal emergency in vicinity of the project adhere to municipal emergency requirements. COVID-19 Management and compliance officer	High – loss of life, property damage.	Information regarding fire stations, hospitals etc. known and included in emergency contact list. Project's emergency response plan.	Yes

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
Hazardous Substances Act 15 of 1973	It provides for the control of substances which may cause injury or ill-health to or death of human beings by reason of their toxic, corrosive, irritant, strongly sensitizing or flammable nature and for the control of certain electronic products	Where equipment might be used or installed that contains a source of ionizing radiation / radio-active isotopes (e.g. Troxler)	Low: Contravention is liable to conviction of a fine or imprisonment; exposure or contact with unknown radio-active source.	All contractors method statements, safe work procedures and risk assessments to be approved before work starts. Compliance checks in relation to adherence to approved documentation.	Yes
National Health Act 61 of 2003	The Act applies to all stakeholders as users of Health Care Services under the definition of user in the Act	Stakeholders should be conversant with the content of the Act with regards to eligibility for free health care services and the user rights when receiving treatment	Low – would apply to primary health only	Contractors to make use of registered Occupational Health / Medicine Practitioners for work related medicals and injury management	Yes
International Health Regulations Act 28 of 1974	All stakeholders to comply with requirements to prevent an epidemic and/or the restriction thereof should an epidemic occur.	All stakeholders to comply with requirements to prevent and epidemic and/or the restriction thereof should an epidemic occur.	Low – increase in number of cases and/or fatalities	Close contact with health facilities in the area who will notify the public of any breakout / epidemic.	Yes
Occupational Health and Safety Act 85 of 1993	This Act governs all H&S related aspects at workplaces other than mines. It provides for the H&S of persons at work and for the H&S of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to H&S arising out of or in connection with the activities of persons at work	All aspects of this Act and relevant Regulations apply to this Project during construction. Also refer SANS standards incorporated into this Act.	High: Contravention and offences are liable to conviction of a penalty or imprisonment; work stoppages.	Transnet HSMS, policies and procedures. Contractor tender documentation to include all H&S requirements and H&S BOQ. Approval of contractors HSS MP. HSS MP for FEL4 construction to be implemented. Constructing monitoring & audits.	Yes
OHSA - Construction Regulations 2014	All stakeholders (client, agent & contractors) involved in the construction and demolition works shall comply with the provisions of the regulations.	All stakeholders (client, agent & contractors) involved in the construction works shall comply with the provisions of the regulations. Construction permit required for this project.	Medium: Fines & penalties; site stoppages; negative publicity	Contractor evaluation criteria included in the tender documentation. Construction work permit application requirements known and adhered to, H&S specifications, H&S management plans, construction monitoring & audits.	Yes

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
OHSA - Driven Machinery Regulations 2015	All stakeholders involved with the design, manufacture, operation, repair, modification, maintenance, inspection, testing and commissioning of driven machinery shall comply with the provisions of the Regulations.	This regulation will apply to the construction phase to each contractor that will use driven machinery on or off site for the purpose of executing the construction work. It applies potentially to hoists, block & tackle, lifting machines, lift trucks and revolving machinery.	Medium – High - potential serious injuries and fatalities	Inspection and approval of equipment / machinery before construction commences. Compliance monitoring during construction of the contractors H&S Management System. Planned maintenance programs.	Yes
National code of practice for the training providers of lifting machine operators 2015	The code of practice makes provision for the accreditation of training service providers by an accredited authorised body tasked by SAQA Act to do so.	All lifting machine operators to be trained and declared competent by such an accredited service provider only.	Medium – High - potential serious injuries and fatalities	Verification and approval of contractor's H&S documentation in this regard.	Yes
OHSA - Electrical Installation Regulations 2005	The Regulations shall be complied with where any existing or new electrical installations as defined in the regulations are present.	The Regulations shall be complied with where any existing or new electrical installations as defined in the regulations are present. It applies to the temporary electrical installations during construction as well. Contractors to be registered with the DOL as electrical contractors	Medium – High – potential serious injuries and fatalities	Suitably qualified contractors and registered with DOL to be used. Compliance monitoring & audits during construction. Certificate of compliance of premises with electrical reticulation	Yes
OHSA - Environmental Regulations for Workplaces 1987	The Regulations shall be complied with at all areas, places and premises defined as workplace in the OHSA. It addresses thermal requirements, lighting, ventilation, housekeeping, precautions against flooding, fire precautions & means of egress.	All of the requirements mentioned will be applicable during construction.	Medium – High – potentially serious injuries and fatalities.	Approval of contractors' method statements, risk assessments and safe work procedures before work can commence. Compliance monitoring & audits during construction.	Yes
OHSA - Facilities Regulations 1988	All workplace facilities shall comply with the relevant requirement in relation to sanitation, drinking water, change rooms & eating areas.	All construction site facilities shall comply with the relevant requirement in relation to sanitation, drinking water, change rooms & eating areas.	Low – Medium – spread of illnesses & diseases.	Approval of contractors site layout plan and site establishment procedures.	Yes
OHSA - General Administrative Regulations 2003	It provides for all the administrative arrangements regarding H&S representatives, incidents reporting and recording and witness at inquiries.	All the requirements of these regulations are potentially applicable to the project during construction.	Low - administrative fines can be issued.	Compliance monitoring and audits during construction.	Yes
OHSA - General Machinery Regulations 1988	The regulations make provision for the supervision, safeguarding and safe operation of machinery.	All the requirements of this regulation will potentially be applicable to machinery used during construction.	Medium – High – potentially serious injuries and fatalities.	Compliance monitoring and audits during construction. Training & competencies of operators.	Yes

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
OHSA - General Safety Regulations 1986	The regulations make provision for general safety requirements at workplaces such as intoxication, unauthorized entry, first aid & emergency requirements, flammable liquids, confined spaces, stacking, welding and ladders.	All the requirements of this regulation will potentially be applicable to the project during construction.	Medium – High – potentially serious injuries and fatalities.	Compliance monitoring and audits during construction. Approval of contractors H&S documentation.	Yes
OHSA - Hazardous Chemical Substances Regulations 1995	The regulations address all the requirements with regards to the handling, storage, transportation, use and exposure to Hazardous Chemical Substances (HCS) and addresses labelling, the control of HCS, medical surveillance and exposure monitoring and PPE amongst others.	The regulations will apply during construction should any HCS be kept, stores or used on site. Fuels, cement, diesel emissions and nuisance dust are listed as HCS.	Low – potentially adverse health effects.	Compliance monitoring and audits during construction. Contractors to determine potential exposure through monitoring – conducted by an approved inspection authority.	Yes
OHSA – Noise-induced Hearing Loss Regulations 2003	All stakeholders shall comply with the provisions of the regulations where the exposure to noise is at or above the 85dBA noise-rating limit. It addresses noise control, exposure monitoring, medical surveillance and PPE amongst others.	This regulation will apply during the construction phase.	Medium – potentially adverse health effects.	Compliance monitoring and audits during construction.	Yes
OHSA – Regulations Concerning the Certificate of Competency 1990	The Regulations shall be complied with by mechanical and electrical engineers wishing to obtain a certificate of competency, persons accepted as candidates for the qualifying examination and persons issued with a certificate of competency	The Regulation shall be complied with by the engineer responsible for electrical installations during commissioning & operations.	Low – serious injuries to fatalities	Transnet employees the necessary engineers suitable certificated.	Yes

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

5.3 Legal register – Environmental

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigations catered for
National Environmental Management Act 107 of 1998	The Act and regulations apply to all stakeholders and activities that may significantly affect the environment. Sets the framework for EIA's and subsequent environmental authorisations and introduces the principle of duty of care of the environment and the remediation of environmental damage	Transnet is required to conduct a basic assessment (BA) in order to obtain the environmental authorisation (including an Environmental Management Programme - EMP) which must be implemented by Transnet and the contractors.	High - Contravention and offences are liable to conviction of a penalty or imprisonment. Project cannot be implemented unless environmental authorisation provided.	Undertaking of a comprehensive BA process to obtain environment authorisation. Compliance monitoring on implementation of environmental authorisation and EMP.	Yes
National Environmental Management: Air Quality Act, Act 39 of 2004	This Act regulates air quality in order to protect the environment, prevention of pollution and ecological degradation. Ambient air quality and emission standards.	An Atmospheric Emissions Licence (AEL) is required due to the increase in dust generation from coal handling associated with the Tippler. The contractor & Transnet need to adhere to established air quality standards promulgated in the Government Notice, as well as the conditions stated in the AEL once awarded	High – Contravention and offences are liable to conviction of a penalty or imprisonment. Project cannot be implemented unless environmental authorisation provided.	Conditions of the AEL and EMP need to be adhered to. Dust extraction system shall be regularly maintained. Dust generation shall be monitored as required by the competent authority (uMhlatuze Municipality) Contractor is required to draft a traffic management plan that includes dust suppression. If batching plant dust suppression provision should be made.	Yes
National Environmental Management: Waste Act 59 of 2008	It provides for the regulation of waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable developments.	License required for storage of general waste and hazardous waste where applicable. Waste transportation off-site should be done by accredited waste handling company.	Low - Contravention and offences are liable to conviction of a penalty	Reduce, re-use, recycle and recover, treat and then dispose waste. Hazardous waste must be disposed of at a registered landfill site. General waste must be disposed of at a registered landfill site. Mitigation measures and requirements contained in the license to be adhered to.	Yes

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigations catered for
National Heritage Resources Act 25 of 1999	It provides the general principles for governing heritage resources management and the protection of heritage resources of national significance.	Take cognizance of places or objects of cultural significance and identify any that can be regarded as areas or items regarded as a culturally significant. Risk of discovery of paleontological resources exist on site (refer to <i>Environmental and Community Interface Report</i>). South African Heritage Resources Agency (SAHRA) may require that a Paleontological Desktop Study be conducted. Chance finds procedure to be included in EMP.	Medium – community action, strike & vandalism	Palaeontology (fossils) chance finds procedure to be included in EMP	Yes
National Water Act 36 of 1998	The purpose is to provide for the protection, use, development, conservation, management and control of South Africa's water.	All stakeholders shall comply with the Act with regards to water uses by means of the water use license (WUL) for the project.	High - Contravention and offences are liable to conviction of a penalty or imprisonment. Project cannot be implemented unless a WUL in hand.	Complying with the requirements of the water use license. Groundwater removed should be treated or transported to a treatment facility prior to being discharged.	Yes

5.4 Legal Register – Security

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigations catered for
Criminal Procedure Act 51 of 1977	Applies to prosecuting authorities. It makes provision for procedures and related matters in criminal proceedings	Any stakeholders where a crime has been committed.	High - Offences are punishable by law	Policies, management systems and procedures where legal compliance is regarded as minimum. Pre-approval of contractors and tender evaluation process.	Yes
Firearm Control Act 60 of 2000	It regulates the use and handling of firearms and assists in controlling the registration and administration of firearms.	Security service providers that deploy guards at the site during construction must comply with the Act.	Medium to High – uncontrolled and illegal use of firearms.	Use reputable security service providers and approve their procedures beforehand.	Yes
Private Security Industry Regulatory Authority Act 56 of 2001	The Act applies to the private security industry and the security service providers.	The appointed security service(s) shall comply with the relevant provisions of the Act.	Medium – insufficient security.	Suitable qualified / registered service provider. Non-compliant service provider will be removed from site.	Yes

Access control and CCTV systems
RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
Protected Disclosures Act 26 of 2000	The Act makes provision for the protection of an employee being subjected to an occupational detriment on account of having made a protected disclosure, to provide remedies in connection with occupational detriments and to provide procedures in terms of which an <i>employee</i> can disclose information regarding <i>improprieties</i> by his or her <i>employer</i> .	The Act is potentially applicable during construction phase and shall be complied with when the circumstance arises and the Act is applicable.	Low – Medium – potential reprisals towards the employee who discloses information	This supports conditions in the OHS Act and should be covered during H&S induction training	Yes

5.5 Legal Register – Other Disciplines

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
Basic Conditions of Employment Act 75 of 1997	Applies to any employer. It gives effect to and regulates the right to fair labour practices.	All stakeholders but especially contractors who will be employing persons from the local communities.	High – Industrial action	Monitoring of contractors / addressing deviations to avoid industrial action. Monitor complaints. Employee representatives / committees.	Yes
Constitution of the Republic of South Africa Act 108 of 1996	Chapter 2 – Bill of Rights	Chapter 2 – Bill of Rights; Section 24 [Work] Environment	High	Other legislation including H&S and environmental related legislation is written to give effect to Section 24.	Yes
Construction Industry Development Board Act 38 of 2000	The Act is applicable to all construction projects. The purpose is to provide the basis for a best practice project assessment scheme to promote the performance of public and private sector clients in the development of the construction industry	Every client who engages in the best practice project assessment scheme must pay to the Board a prescribed percentage of the contract sum as determined at the time of the awarding of the contract	Low - Contravention of the code of conduct may lead to the board having an inquiry	None	None
Employment Equity Act 55 of 1998	Applies to any employer. It provides for equity in the workplace, equal opportunities and fair treatment.	All contractors.	Medium to High – community action & labour unrest	Transnet policies & procedures regarding community liaison.	Yes

Access control and CCTV systems
 RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigations catered for
Engineering Profession Act 46 of 2000	The Act applies to the Engineering Council of South Africa (ECSA) and the registration of professionals, candidates and specified categories in the engineering profession.	All engineers may only practice in the categories they are registered in. Construction drawings signed off by registered professionals only.	Low - guilty of improper conduct – person may be fined or imprisoned and their registration cancelled.	Name of professional name and ECSA registration number shown on title block of construction drawings. Document control set up to not release any construction drawings signed accordingly.	Yes
Income Tax Act 58 of 1962 as amended	All stakeholders are included in the application of this Act and shall comply with the provisions of the Act and regulations accordingly	All stakeholders shall comply to the relevant provisions of the Act	Low – risk is to the employer or individual directly	Tax clearance certificate required from contractors during tender evaluation process.	Yes
Labour Relations Act 66 of 1995	All stakeholders are included in the application of this Act and shall comply with the provisions of the Act accordingly	The Act applies to all stakeholders on the project such as to fair labour practices, employee participation, labour disputes etc.	Medium to High - industrial actions	Contractors are required to comply with the legislation as a minimum.	Yes
National Road Traffic Act 93 of 1996	The registration and licensing system of motor vehicles, testing facilities, drivers' licenses, registration and testing of vehicles, traffic enforcement etc.	Each stakeholder's employees and vehicles to comply with the requirements in relation to driver and operator licenses / competencies, registration of vehicles, adhering to traffic rules and transportation of dangerous goods.	Low- Medium – individual fines issued; potential negative publicity	H&S requirements in this regard are included in the contractor evaluation and the approval process of the HSS MP as well as monitoring during construction.	Yes
New Engineering Contract Version 3, Engineering and Construction Contract (ECC), Supply Contract (SC), Professional Services Contract (PSC), Term Service Contract (TSC) which may include specific conditions of contract.	As specified in the respective contracts placed with contractors, consultants, suppliers and/or other service providers.	As specified in the respective contracts placed with contractors, consultants, suppliers and/or other service providers	Medium	Contract management and administration	Yes

Access control and CCTV systems
RCB.ENG 00199-REG-0002

Act, Regulation, CoP, etc.	General compliance requirements	Requirement in relation to the Project	Risk if not compliant	Mitigation Measures	Mitigation s catered for
Promotion of Access to Information Act 2 of 2000	The Act and Regulations apply to records of a public body or records of private body as defined in the Act.	The Act shall be complied with when the need arises for any relevant records	Low – Intent to deny right of access and destroys, damages or alters a record; conceals, falsifies or makes a false record commits an offence; negative publicity	All record keeping to be in accordance with the relevant legislation which requires it to be kept.	Yes
Public Finance Management Act (PFMA)	The Act is to secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of the institutions to which this Act applies.	Transnet is listed as such an institution in Schedule 2 of the Act and has to comply with the relevant provisions of the Act.	Medium	Good governance practices.	Yes
Quantity Surveying Profession Act, Act No 49 of 2000	The Act applies to all Quantity Surveyors (QS) to provide for the registration of professionals, candidates and specified categories in the quantity surveying profession.	All quantity surveyors may only practice in the categories they are registered in.	Low – Medium – overrun of costs if calculations not accurate	QS Principal to be a registered professional with South African Council for Quantity Surveyors. The QS to have a certified quality management system that applies to all projects. QS's to be registered with the Association of South African Quantity Surveyors.	Yes
Standards Act 8 of 2008	The purpose of the Act is to provide a legal framework for the development, promotion and maintenance of South African National Standards in the Republic and the rendering of conformity assessment services and related activities	All applicable standards related to the design has been identified and listed in this register	Medium	The design took all the necessary national standards into consideration and has been included in the individual design criteria reports.	Yes