BRIEFING SESSION QUESTIONS & ANSWERS

HELD ON: 12 MARCH 2025

LOCATION: (TAU BOARDROOM ,4TH FLOOR) OR TAMBO INTERNATIONAL AIRPORT

TENDER REFREENCE: ORTIA7740/2025/RFP – Maintenance of Baggage Handling System Conveyors and Carousels

Briefing Session Time: 12:00 PM

REVISED CLOSING DATE: 14 April 2025, 11:00 AM

PURPOSE OF THIS DOCUMENT

This document provides responses to the questions raised during the briefing session for the **Baggage Handling Tenders** held on **12 March 2025**. It aims to clarify key aspects of the tendering process, requirements, and expectations.

- **SECTION 197 OF THE LABOUR RELATIONS ACT (LRA) NO. 66 OF 1995**

1.Q: Will ACSA provide a list of employees to assist providers in understanding costs for bidding purposes, particularly regarding Section 197 of the Labour Relations Act (LRA)? Additionally, can ACSA share the current employee benefit structure?

- **A:** No, this information cannot be shared due to POPIA regulations. Employee details will only be disclosed to the successful bidder during contract negotiations to facilitate better rate negotiations. Please note that this information is confidential and commercially sensitive.

2.Q: Are there any subcontracting requirements for the bid?

- **A:** No, there are no subcontracting requirements.

3. Q: Will ACSA only negotiate with the lowest bidder? What is the negotiation principle?

- **A:** ACSA will negotiate with the highest ranked qualifying bidder after price and preference evaluation.

4. Q: What happens to employees' remaining leave days? How will they be managed during the transition?

- **Option 1: Leave Accrual Transfer**: Employees' accrued leave days are generally transferred to the new contractor as part of the **continuity of employment**. It would be preferred that the outgoing Contractor settle any leave days before hand over to the new Contractor.
- **Option 2: Clearing Leave Balances**: The outgoing contractor may be required to ensure that any outstanding leave days are either used or paid out before the transfer takes place. This ensures that employees start with a "clean slate" once the transition occurs.

NB: Communication of Leave Balances: Both the outgoing and incoming contractors should be informed of the employees remaining leave days, and this should be documented as part of the transition process. Essentially, **accrued leave balances** should be managed in a way that maintains the employee's rights, either by allowing employees to take leave or by compensating them before the transition, depending on the agreement between the contractors and the applicable legal requirements.

5. Q: What are the transportation arrangements for shift workers? Are there cost packages or alternative travel options to ensure workers are on-site as required?

- **A:** Employees are responsible for their transportation costs. However, expenses incurred during the festive peak season can be included in contingency provisions, as the contractor arranges transport for the morning shift exclusively during this peak period due to limited transportation availability.

6. Q: Has the current staff been informed about the contract's expiration and potential transfer under Section 197? Who is responsible for communicating these changes to employees?

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- **A:** The current contractor is responsible for managing this process, as the employees report directly to them. ACSA will follow the necessary procedures by informing the contractor about the contract's upcoming end and facilitating the process through written documentation as required.

7. Q: Will discussions on years of service, severance packages, and transition arrangements between outgoing and incoming contractors be part of the negotiations.

- **A:** Under **Section 197** of the **Labour Relations Act (LRA)**, the responsibility for severance packages in the event of termination or dismissal during the transfer process can be complex, but here's a breakdown:
- **Outgoing Contractor**: The outgoing contractor remains liable for severance pay if they terminate any employee's contract before the transfer or during the transition period. This liability is based on the employee's service with the outgoing employer, as they were the original employer at the time of termination.
- **Incoming Contractor**: The incoming contractor assumes liability for the employees after the transfer, including any obligations relating to the continuity of employment (e.g., accumulated service years, pension benefits). However, the incoming contractor is not liable for severance packages related to dismissals or terminations that occurred before the transfer.
- **ACSA's Role**: ACSA plays a facilitative role in ensuring that both parties follow the provisions of **Section 197** and that employees' rights are protected throughout the transition. ACSA may assist with the process but is not directly liable for severance unless they are an employer of the employees in question.
- To summarise, the **outgoing contractor** is responsible for severance pay for employees dismissed before or during the transfer, while the **incoming contractor** is responsible for the employees' terms of employment after the transfer.

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NB: Please refer to the labour legislation, South Africa's Labour Relations Act (LRA) Section 197, which governs the transfer of employment contracts in business takeovers.

8. Q: If there is a redundancy of a role during the transition, Section 197 of the Labour Relations Act (LRA) outlines can this matter be handled?

- **A: Role Redundancy and Employment Continuity:** If an employee's role is made redundant during the transition, they are still entitled to the continuity of employment under Section 197. This means their service with the outgoing contractor counts towards their employment with the incoming contractor, provided they remain in a similar position or role.
- **A: Severance Pay:** If the role is genuinely redundant and the employee is not transferred to the new contractor, the employee is entitled to a severance package. The severance package would be calculated based on the employee's length of service with the outgoing contractor.

9. Q: why do we need to submit CV's if section 197 will take place?

- **A:** While Section 197 ensures the transfer of existing employees to the incoming contractor, CVs are still required for evaluation purposes to assess the qualifications and experience of key personnel proposed by the bidder, demonstrating their capacity and suitability. It is not guaranteed that all the employees from the current Contractor will be transferred to the incoming Contractor. l acceptance of transfer to the new Contractor will be at the discretion of individual employees. The current Contractor may choose to retain some of them

10. Q: If the current contractor's employees do not meet the capability and qualification requirements set by ACSA under Section 197, what happens?

- **A:** The incoming contractor can indeed take corrective actions if employees do not meet the necessary qualifications but must follow fair procedures if deciding to terminate or redeploy any employee.

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Additionally, employee rights under Section 197 (such as continuity of service) must be respected during the transfer process.

- While Section 197 facilitates the transfer of employees, the incoming contractor remains responsible for ensuring compliance with ACSA's requirements and may need to take corrective actions, such as upskilling, recruiting additional staff, or restructuring roles accordingly
- A: **Justifiable Reassignment or Termination**: If an employee does not meet the required qualifications and cannot be reasonably trained or reassigned within the new structure, the incoming contractor may explore options for termination or redeployment. However, this must follow fair labour practices, including consultations and possible severance payments where applicable,

NB: The incoming contractor **can indeed take corrective actions** if employees do not meet the necessary qualifications but must follow **fair procedures** if deciding to terminate or redeploy any employee. Additionally, **employee rights under Section 197** (such as continuity of service) must be respected during the transfer process

11: Q: What happens if the current contractor wants to retain some of their key staff, and they cannot be transferred to the new contract under Section 197?

- **Employee Consent & Retention:** Section 197 applies automatically unless the affected employees voluntarily agree to stay with the outgoing contractor. The outgoing contractor can offer alternative positions or retain them in other roles within their organization.

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- **Exclusion from Transfer List:** If the outgoing contractor and the employee agree to not transfer, the employee will not be part of the Section 197 process, and the incoming contractor will not be obligated to take them on.
- **Replacement Requirements:** The incoming contractor must ensure that the required positions are filled with personnel who meet ACSA's qualifications, by hiring new staff.
- **Operational Continuity & Legal Compliance:** The outgoing contractor must officially document any employees they intend to retain and communicate this with ACSA and the incoming contractor to ensure compliance with labour laws and avoid disputes.

Key Considerations:

- Employees cannot be forced to stay with the outgoing contractor if their role is transferring under Section 197.
- The incoming contractor is not liable for employees who are retained by the outgoing contractor.
- If critical roles are not filled due to employees staying with the outgoing contractor, ACSA may require the incoming contractor to provide alternative qualified resources.

OTHER BID RELATED QUESTIONS

12. Q: Pricing schedule, no line item for calibration included,

- **A:** Please refer to the updated pricing schedule for the inclusion.

Q: Non-compliance of the elevator for load testers. Could this scope be adjusted, as it may cause confusion? Who takes responsibility for this?

- **A:** The scope will be moved to the conveyors and carousels contractor.

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DATE PUBLISHED:24 MARCH 2025

Any inquiries or requests for clarification outside the briefing session will be addressed in future publications or updated Q&A.

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