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|  | <b>Standard</b> | <b>Eskom</b> |
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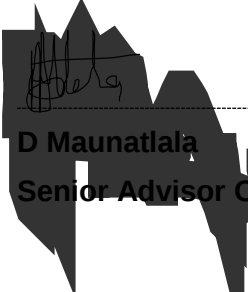
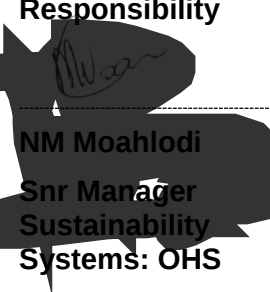
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## **1. Introduction**

Eskom is committed to creating and sustaining the Zero Harm value and standard of Occupational, Hygiene and Safety (OHS). Achieving the OHS requirements will be integrated into the Eskom procurement and supply chain processes.

This standard sets the minimum criteria for managing supplier OHS compliance and conformity based on standards, procedures, policies, and legal obligations with which an Eskom supplier/contractor needs comply from inception to completion of the contract/transaction.

## **2. Supporting clauses**

### **2.1 Scope**

This standard outlines the key responsibilities of procurement professionals, contract/project managers (contract custodians), line management, suppliers, and OHS professionals underlining the minimum OHS requirements that shall be addressed during the following phases, namely:

- a) Project initiation and briefing, concept and feasibility study, design development;
- b) Tender enquiry, evaluation, and contract award;
- c) Supplier registration on the Eskom vendor database;
- d) Site access/mobilisation;
- e) Monitoring of performance during the contract execution period;
- f) Contract completion, closeout, and post contract review; and
- g) Instances where works or services under a contract can be stopped, suspended, or terminated.

#### **2.1.1 Purpose**

The purpose of this document is to guide Eskom employees when performing OHS-related activities beginning from the procurement and supply chain process to the end of the contract/transaction. To ensure standardisation of the OHS requirements within Eskom contract and contractor OHS management as is reasonably practicable.

#### **2.1.2 Applicability**

The requirements contained in this document shall apply throughout Eskom Holdings SOC Ltd, its divisions, subsidiaries, and entities in which Eskom has a controlling interest or influence.

#### **2.1.3 Effective date**

Effective from date of authorisation.

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## **2.2 Normative/Informative references**

Parties using this document shall apply the most recent edition of the reference documents listed in the following paragraphs.

### **2.2.1 Normative**

- [1] 32-727 Eskom Safety, Health, Environmental and Quality Policy
- [2] 32-1034 Eskom's Procurement and Supply Chain Management Procedure
- [3] 32-196 Eskom Disciplinary Code Standard
- [4] 240-62196227 Eskom Life-Saving Rules Standard
- [5] National Environmental Management: Waste Act 59 of 2008
- [6] Occupational Health and Safety Act and Regulations 85 of 1993

### **2.2.2 Informative**

- [1] 32-520 Occupational Health and Safety Risk Assessment Procedure
- [2] ISO 9001 Quality Management Systems
- [3] 32-95 Environmental, Occupational Health, and Safety Incident Management Procedure
- [4] Compensation for Occupational Injuries and Diseases Act 130 of 1993
- [5] OHSAS 18001 Occupational Health and Safety Management Systems
- [6] ISO 14001 Environmental Management Systems
- [7] Mine Health and Safety Act 29 of 1996
- [8] The Constitution of the Republic of South Africa, 1996
- [9] National Environmental Management Act 107 of 1998
- [10] Environment Conservation Act 73 of 1989
- [11] National Water Act 36 of 1998
- [12] National Environmental Management: Waste Act 59 of 2008
- [13] National Environmental Management: Air Quality Act 39 of 2004
- [14] National Forests Act 84 of 1998
- [15] National Environmental Management: Biodiversity Act 10 of 2004
- [16] National Environmental Management: Protected Areas Act 57 of 2003
- [17] National Heritage Resources Act 25 of 1999
- [18] National Veld and Forest Fire Act 101 of 1998
- [19] Conservation of Agricultural Resources Act 43 of 1983
- [20] 32-136 Eskom Contractor Health and Safety Requirements Standard

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## 2.3 Definitions

| Definition                                         | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Business unit</b>                               | A division, site, grid, operational unit, or project within, for, or on behalf of, Eskom Holdings SOC Ltd.                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Contract</b>                                    | An agreement with specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as consideration/ payment.                                                                                                                                                                                                                                                                                                                                             |
| <b>Contract custodian</b>                          | The person defined in a contract as the Eskom representative, for example, the project manager/end user, that is, the person responsible for managing the contract and ensuring that the works or services are executed in terms of the contract.                                                                                                                                                                                                                                                                                  |
| <b>Contract management</b>                         | It is a process of managing contract creation, execution and analysis in order to maximise operational performance and mitigate legal ramifications, reducing financial risk at an organization. The art and science of managing a contractual agreement throughout the contract life cycle.                                                                                                                                                                                                                                       |
| <b>Contractual requirements for OHS</b>            | Contractual requirements consist of legal and other OHS requirements for procuring goods and/or services to be rendered for/on behalf of Eskom. These are OHS documents required from tenderers at the procurement phase (enquiry, evaluation, negotiation meeting and contract award) and only tenderers that have met the mandatory and functionality threshold will be evaluated.                                                                                                                                               |
| <b>Construction health and safety agent (CHSA)</b> | A person who is registered as such in terms of the Project and Construction Management Profession Act 48 of 2000, as amended.<br>Any competent person who acts as a representative for a client in managing health and safety on a construction project for the client and who has satisfied the registration criteria of the SACPCMP to perform the required functions.                                                                                                                                                           |
| <b>Competent person</b>                            | A person who, in respect to the work that has to be done, has the required training, knowledge, and experience, and, where applicable, qualification relevant to perform that work or task, provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualifications Framework Act 67 of 2008, those qualifications and training are regarded as the required qualifications and training, and is familiar with the Act and applicable regulations made under the Act. |
| <b>Contractor</b>                                  | A contractor is a current or potential supplier, vendor, consultant, or service provider. A contractor/supplier may be a natural or legal person.                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Environment</b>                                 | The surroundings within which humans exist.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| Definition                                           | Explanation                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Health and Safety plan</b>                        | A site-specific plan that forms part of the project safety file containing minimum requirements as defined in the OHS Act as well as the Eskom OHS requirements.                                                                                                                                                                           |
| <b>OHS requirements</b>                              | Requirements prescribed in the applicable OHS legislation, SANS codes, municipal by-laws, and Eskom OHS requirements.                                                                                                                                                                                                                      |
| <b>Safety, health and environmental intervention</b> | An act, event, initiative, or campaign that is intended to alter the current levels of OHS awareness, knowledge and/or performance in the organisation, a specific division, operating unit, or business unit.                                                                                                                             |
| <b>OHS professional</b>                              | The key individual in Eskom charged with OHS responsibilities, such as OHS managers, officers, advisors, and co-ordinators (for this purpose, the OHS individual allocated to the project/programme). An OHS professional should not be confused with a health and safety representative, as defined in sections 17 and 18 of the OHS Act. |
| <b>OHS functional head</b>                           | The manager in Eskom charged with OHS responsibilities in a division/operating unit/business unit.                                                                                                                                                                                                                                         |
| <b>Site</b>                                          | An Eskom department, a specific project site, or the site where a supplier provides a service to Eskom, directly or indirectly.                                                                                                                                                                                                            |
| <b>Tender</b>                                        | An open or closed competitive request for quotations/prices against a clearly defined scope/specification.                                                                                                                                                                                                                                 |
| <b>Transaction</b>                                   | Exchange of goods or services or money between a buyer and a seller.                                                                                                                                                                                                                                                                       |

## 2.4 Abbreviations

| Abbreviation | Explanation                                                         |
|--------------|---------------------------------------------------------------------|
| <b>BRA</b>   | baseline risk assessment                                            |
| <b>CHSA</b>  | Construction health and safety agent                                |
| <b>COIDA</b> | Compensation for Occupational Injuries and Diseases Act 130 of 1993 |
| <b>DE</b>    | Divisional executive                                                |
| <b>DEL</b>   | Department of Employment and Labour                                 |
| <b>DMR</b>   | Department of Mineral Resources                                     |
| <b>EMP</b>   | Environmental Management Programme                                  |
| <b>ESR</b>   | Environmental status rating                                         |
| <b>ISO</b>   | International Organization for Standardization                      |
| <b>MTC</b>   | Multidisciplinary committee                                         |
| <b>OHS</b>   | Occupational hygiene and safety                                     |
| <b>ORHVS</b> | Operating Regulations for High-Voltage Systems                      |
| <b>PPPFA</b> | Preferential Procurement Policy Framework Act 5 of 2000             |
| <b>PSR</b>   | Plant Safety Regulations                                            |

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| Abbreviation | Explanation                                                               |
|--------------|---------------------------------------------------------------------------|
| RFI          | Request for information                                                   |
| SACPCMP      | South African Council for Project and Construction Management Professions |

## 2.5 Roles and responsibilities

### 2.5.1 Designers shall:

The designer shall ensure that the occupational health and safety (OHS) requirements applicable to the project/scope of work are incorporated into the design. Consider the associated risks identified in the scope of specific OHS specification/requirements and baseline risk assessment. The identification and analysis of hazards and risks must form part of the design process.

Note: Environmental issues, as they may affect the site/project, shall be identified, assessed, controlled, and monitored for compliance and efficiency by the environmental professionals.

### 2.5.2 Procurement practitioners shall

- 2.5.2.1 Ensure that sufficient notification and preparation times are provided for the relevant OHS professional to form part of the multidisciplinary team for the preparation of the relevant and specific OHS requirements for the procurement enquiry.
- 2.5.2.2 Ensure that the appropriate OHS representative provides the OHS requirements and specified documents before the release of the procurement enquiry.
- 2.5.2.3 Ensure that the OHS professional participates in, and provides input into, relevant meetings or forums, processes, and reports that lead to the awarding of a contract (for example, supplier evaluations, squad check meetings, contracting strategies, negotiations, clarification meetings, tender evaluations, evaluation report compilation, contract awarding, and briefing meetings).
- 2.5.2.4 Ensure that the records about supplier OHS non-conformances during contract execution, post contract reviews, supplier suspensions, and contract terminations are received from the contract custodian and where applicable, Procurement shall keep a record of such information to make it easily accessible to the relevant stakeholders for future reference, especially when determining the allocation of future works or services.
- 2.5.2.5 Ensure that applicable OHS requirements for any emergency work are provided to the preferred contractor/supplier at the same time when the enquiry is made to avoid delays. The supplier OHS documentation shall be received from the preferred contractor/supplier and approved urgently to allow work to commence.

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### **2.5.3 Contract custodian (contract executor, end user)**

#### **The contract custodian shall:**

- 2.5.3.1 Ensure that the contract specifies how OHS will be managed and reported on for the duration of the contract/transaction and the supplier/contractor adheres to the relevant contract OHS requirements.
- 2.5.3.2 Ensure that the OHS professional forms part of the cross-functional team and take part in all relevant meetings.
- 2.5.3.3 Ensure that project-specific OHS requirements are provided by the OHS professional.

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- 2.5.3.4 Ensure that the OHS costing prepared is informed by the risks associated with the scope of work and forms part of the bill of quantities or the pricing schedule.
- 2.5.3.5 Ensure that if any designs are to be carried out, the OHS requirements shall be forwarded to the designer for inclusion in the design.
- 2.5.3.6 Ensure that a project OHS specification/requirements, together with the project baseline risk assessment (BRA), Eskom's Acknowledgement form for OHS legal and other requirements (Annexure B), 32-136 standard, evaluation criteria, and other relevant documents (for example, 32-418, if the scope of work includes working at heights, PSR. or ORHV regulations, etc.) are prepared in conjunction with the OHS professional and provided/published with the procurement enquiry.
- 2.5.3.7 Ensure that the principal contractor develops a project-specific OHS plan. When a tender has been awarded, it is the contract custodian's responsibility to ensure that the OHS plan of the principal contractor is evaluated and approved before the commencement of work.
- 2.5.3.8 Ensure that the OHS file is evaluated for compliance once the contract has been awarded. Once satisfied that the contents of the OHS file meet the requirements, a letter of acceptance shall be issued to the contractor.
- 2.5.3.9 Ensure that, after signing the contract (national/divisional/panel contracts), the contractor shall immediately meet the OHS professional on site to discuss the site OHS requirements and thereafter the contractor/supplier shall prepare the OHS file within seven working days/or within the timeframe agreed between the contractor/supplier and the site/BU/OU OHS professional.
- 2.5.3.10 Ensure that the OHS plan of the principal contractor and any appointed contractor is audited throughout the execution of the project for compliance from a legislative and OHS point of view
- 2.5.3.11 Ensure that the necessary details/issues pertaining to contractor non-conformances on contractual OHS obligations during contract execution, safety interventions, post contract review, and supplier reconsideration are adequately addressed, recorded, and submitted to Procurement Department for recording and to support future reference;
- 2.5.3.12 Ensure that, after the initial procurement process has concluded for national or divisional contracts (registration, tender evaluation and contract award phases), there is handover to the site OHS professional at the site where the work/service is to be conducted.
- 2.5.3.13 Ensure that for national and divisional contracts, when a supplier mobilises to site, the responsible manager based at the Eskom site must take over the responsibility for ensuring that the supplier works according to the approved OHS plan and provides oversight supervision over the contractor for task / activities / work / service being performed.
- 2.5.3.14 Ensure that the Health and safety specification and BRA are made available to the appointed contractors where additional contractors are appointed.
- 2.5.3.15 Ensure that the 37(2) agreement is signed by the contract custodian and the contractor/supplier when signing the contract.

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#### **2.5.4 Line managers**

All managers to whom OHS professionals report (that is, project, grid, operating unit, business unit, power station, etc.) shall:

- 2.5.4.1 Be responsible for allocating resources to participate in all phases of contractor OHS management and the procurement and supply chain processes for their respective division and sites.
- 2.5.4.2 Ensure that the OHS professionals allocated to participate in the procurement and supply chain processes are competent and aware of their roles and responsibilities in embedding OHS requirements to contract.
- 2.5.4.3 Apply discretion when allocating an OHS resource to represent OHS by considering the value and complexity of the scope of work. A subject matter expert may be seconded or sourced to assist with certain projects/transaction/scope of work.
- 2.5.4.4 Ensure that all parties are familiar with the inclusion of OHS requirements in the enquiry documents.

#### **2.5.5 OHS professionals shall:**

- 2.5.5.1 Ensure that the relevant OHS procedures and documentation used during the procurement processes are always applicable to the project and form part of the procurement enquiry.
- 2.5.5.2 Conduct the research, preparation, and consolidation of the applicable OHS requirements, together with the designer/project engineer and contract custodian (end user) for each market engagement, supplier selection, contracting, contract execution, etc.
- 2.5.5.3 Ensure that OHS requirements are handed over to the allocated procurement and supply chain representative.
- 2.5.5.4 Determine which services are exempted or waived and advise the procurement representative/contract custodian accordingly in writing.
- 2.5.5.5 Ensure that requirements listed in Annexure C1/C2/C3/C4/C5 (evaluation criteria) are always relevant to the scope of work/project that shall be used during the tender evaluation stage.
- 2.5.5.6 Audit the OHS plans and all the contents of the OHS file of the principal contractor and any appointed contractor for compliance. Auditing will be conducted by the client's representatives as per the client's OHS requirements and applicable legislation as amended.

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- 2.5.5.7 Ensure the utilisation and support of the mechanism for monitoring OHS performance and compliance during contract execution
- 2.5.5.8 Provide detailed information pertaining to supplier non-conformances and safety interventions for the post contract OHS review and provides reports for the contract custodian to submit to Procurement.
- 2.5.5.9 Ensure that the OHS plan/OHS systems of the principal contractor and any appointed contractor is audited throughout the execution of the project for compliance from a legislative and OHS point of view.
- 2.5.5.10 Determine whether the work falls within the definition of “construction work”. If the work falls within “construction work”, he/she must ensure alignment of the OHS requirements such that compliance with the Construction Regulations 2014 is achieved.

## **2.5.6 Construction and safety agent (CHSA)**

The responsibilities and duties of the construction health and safety agent shall be aligned to the Construction Regulations and CBE published scope of work as amended.

### **The construction health and safety agent shall:**

- 2.5.6.1 Ensure that a BRA is prepared for an intended construction work project.
- 2.5.6.2 Provide the designer with a health and safety specification contemplated in paragraph 5(b) of the CR 2014.
- 2.5.6.3 Facilitate that the health and safety specification is included in the tender documents.
- 2.5.6.4 Facilitate that the potential principal contractors submitting tenders have made adequate provision for the cost of health and safety.
- 2.5.6.5 Facilitate that the principal contractor to be appointed has the necessary competencies and resources to carry out the construction work safely.
- 2.5.6.6 Facilitate that the principal contractor is registered and in good standing with the compensation fund or with a licensed compensation insurer as contemplated in the Compensation for Occupational Injuries and Diseases Act 130 of 1993.
- 2.5.6.7 Ensure an appointment of every principal contractor in writing for the project or part thereof on the construction site.
- 2.5.6.8 Ensure that copy of the principal contractor's health and safety plan is available on request by an employee, inspector, or contractor.
- 2.5.6.9 Conduct periodic health and safety audits in accordance with Construction Regulations requirements.
- 2.5.6.10 Facilitate that the health and safety file contemplated in regulation 7(1) (b) of the CR 2014 is kept and maintained by the principal contractor.

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**2.5.7 National and divisional contract**

- 2.5.7.1 The responsible division that initiated the project/contract to be established must provide or allocate an OHS resource for the project/contract/transaction.
- 2.5.7.2 After contract award, the OHS professional responsible for the procurement enquiry shall hand over the relevant OHS documentation applicable to the scope of work/contract to the division/BU/OU OHS professional.
- 2.5.7.3 The division/BU/OU that requested the work to be done and the division/BU/OU that will be overseeing the execution of the work must have a service-level agreement to ensure compliance during the project execution stage.
- 2.5.7.4 Eskom site management is responsible for directly supervising and managing such contracts and ensuring that OHS is complied with. This will require that operational control be managed and enforced at the operational level, and not by an oversight or indirect supervisory function.
- 2.5.7.5 After signing the contract, the supplier/contractor must, within five working days, meet the OHS professional on site to discuss the OHS site requirements. The site must allow five to 15 working days for the preparation of the OHS site requirements by the contractor/supplier.

**2.5.6 Tender committee**

It is the responsibility of the tender committee to ensure that OHS requirements have been catered for with every transaction unless the services/products being procured are exempted from such.

**2.5.7 Supplier/Contractor/Service provider**

- 2.5.7.1 It is the responsibility of the supplier to provide valid and authentic documentation for assessment.
- 2.5.7.2 The supplier may seek guidance, clarity, and advice from Eskom to comply with the requirements of this standard (excluding the tender phase).
- 2.5.7.3 The supplier must comply with, and adhere to, OHS legislation and Eskom OHS requirements at all times when conducting work for or on behalf of Eskom or any of its subsidiaries.
- 2.5.7.4 The supplier, as a legal entity, must be conversant with OHS legal obligations related to the works tendered for.
- 2.5.7.5 Each site or premises of Eskom and its subsidiaries has/have different OHS site-specific requirements, and it is the responsibility of the supplier to ensure that those requirements are met before work can commence. Approval from one site/premises does not automatically provide authorisation to execute work at another site that is outside the jurisdiction of the authorising OHS personnel, even if the scope is similar.

**2.5.8 Training**

All individuals or roles players involved in the procurement process of a service or enquiry shall be trained on this procedure (procurement official, end users, designers, contract custodians and OHS professionals).

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## **2.6 Process for monitoring**

The implementation of this standard will be monitored as part of contract reviews, inspections, and/or audits undertaken.

## **2.7 Related/Supporting documents**

- 1) 240-77433139 Annexure A: Supplier risk category
- 2) 240-77471499 Annexure B: Eskom's Acknowledgement form for OHS legal and other requirements
- 3) 240-77471651 Annexure C1: Supplier OHS tender evaluation template (high and medium risk)
- 4) 240-77471969 Annexure C2: Supplier OHS tender evaluation template (medium risk)
- 5) 240-106084657 Annexure C3: Supplier OHS tender evaluation template (low risk)
- 6) 240-106084699 Annexure C4: Supplier OHS tender evaluation template (construction work)
- 7) 240-77472561 Annexure D: Contract OHS performance evaluation template
- 8) 240-108987034 Annexure E: OHS procurement process checklist
- 9) 37(2) agreement
- 10) 240-73198256 Professional services Health and safety specification template
- 11) 240-73416879 High-risk services Health and safety specification template
- 12) 240-157810171 Construction services Health and safety specification template\_
- 13) 240-73418055 Manufacturers Health and safety specification template
- 14) 240-73419711 General services Health and safety specification template
- 15) 240-157810099 Supply and delivery Health and safety specification template
- 16) 240-162195779 Tender Evaluation report

## **3. Document content**

### **3.1 The contractor OHS management model**

Eskom has adopted a six-phase OHS contractor management model to manage contracts, contractors and suppliers effectively. See Figure 1.1 on page 18.

### **3.1 Phase 1: Project Initiation and briefing, concept and feasibility study, design development**

#### **3.1.1 Initiation and briefing**

The OHS professional/CHS agent shall form part of the meetings in this phase to assist in developing a clear construction/project health and safety requirements, ensure that OHS forms part of the initiation meetings and identify preliminary construction/project health and safety risk profile and record construction/project health and safety risk communication.

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**3.1.2 Concept and feasibility**

The OHS professional/CHS agent shall attend the design meetings in accordance with the project planning phases, take part in preliminary cost estimates/budgets for construction project health and safety, prepare the draft construction/project BRA, health and safety specification and share the required surveys, tests, and other investigations and related reports.

**3.1.3 Design development**

For any product or service that includes compiling the design of a building, equipment, modification of existing plant, etc., the Eskom contract custodian, with the assistance of the OHS professional and occupational hygiene professional have to provide the designer with an health and safety specification/requirements specific to the project to ensure integration of OHS requirements in the design. The designer shall not commence with the design if the health and safety specification has not been provided.

The designer (internal or external), contract custodian, and responsible OHS professional have to conduct a site visit before commencing with the design or before any health and safety specification/OHS requirements can be developed. (This phase may not apply to all projects/transactions). For the responsibilities of the Professional Construction health and safety agent, refer to the Construction regulations 2014 as amended.

**3.2 Phase 2: Tender phase (procurement strategy, tender enquiry and documents, evaluation, and award)****3.2.1 Procurement strategy**

- 3.2.1.1 OHS shall form part of the cross-functional team during the procurement of goods and services for, or on behalf of, Eskom.
- 3.2.1.2 OHS professional will influence the initial development of a procurement strategy to the market engagement for supplier selection, contracting, contract handover, and performance monitoring and contract execution based on the scope of work.
- 3.2.1.3 The OHS professionals shall ensure that the compiled scope-specific OHS requirements are listed in the procurement strategy.

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### 3.2.2 Tender enquiry

- a) OHS, legal, and other requirements are to be complied with at all times, and OHS professionals shall form part of the cross-functional team during the procurement of goods, products, and/or services in Eskom.
- b) The OHS professional shall compile the scope-specific/risk-based OHS requirements and submit to the procurement professional. OHS requirements shall form part of the tender enquiry.
- c) The OHS requirements shall be aligned with the Contractor OHS management risk category as per Annexure A. The tender enquiry shall be accompanied by scope-specific OHS requirements and the BRA, Annexure B (Acknowledgement form for Eskom's OHS legal and other requirements, 32-136 (Contractor Health and Safety Requirements Standard), and the evaluation criteria.
- d) OHS tender returnable must be clear and explicit to suppliers/contractors.
- e) Where applicable, the tenderers or potential suppliers/contractors may be expected to conduct a site visit of the area where the work will be executed before tendering, under the supervision of the Eskom contract custodian and the procurement practitioner.
- f) Further guidance and support with regard to OHS matters will be provided at the clarification meeting. OHS shall be a standard item on the agenda for the clarification meeting.

#### 3.2.2.1 Other transactions (RFI, emergency procurement, sole source, contract extension or modification, etc.)

The OHS requirements shall be provided to the contractor/supplier when requesting quotations to avoid delays. The supplier's OHS documentation shall be received from the preferred contractor/supplier and approved before commencement of work. For tender prequalification (RFI) purpose, the OHS professional shall form part of the multidisciplinary committee (MTC).

#### 3.2.2.2 International suppliers/contractors performing work for or on behalf of Eskom

All international contractors conducting work for or on behalf of Eskom shall comply with Eskom OHS requirements and the applicable South African legislation. Their OHS documents shall be written in English. The OHS requirements to be communicated to the supplier/contractor shall be risk-based and scope-specific.

#### 3.2.2.3 OHS documents to be published in the tender enquiry

To avoid bombarding suppliers/contractors who wish to respond to the Eskom tender, the following minimum OHS requirements must be submitted to the procurement and supply chain. The applicable Eskom OHS policies and procedures will be given to the successful supplier/contractor.

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Scope-specific OHS specification/OHS requirements, including the project BRA, Annexure B: Eskom's Acknowledgement form for OHS legal and other requirements (the listed legislature, Eskom policies and procedures shall be amended to align with the scope of work/identified risks)

- a) 32-136 Contractor Health and Safety Requirements
- b) OHS tender evaluation criteria
- c) Applicable Eskom procedures that contain the requirements the supplier/contractor needs to be informed of before responding to the enquiry/transaction in order to make provision for the OHS costs in the bill of quantities, for example, 32-418 for the scope of work that includes working at heights, plant safety regulations (PSR) for or scope of work requiring ORHV regulations training, etc.

#### 3.2.2.4 Occupational health and safety specification and plan

The health and safety specification shall be issued with the enquiry/transaction to inform the future contractors/suppliers of the health and safety requirements associated with the scope of work/contract/project, and the contractor/supplier shall submit the health and safety plan in response. The health and safety specification templates are made available and shall be updated, amended to cover the OHS requirements related to the scope of the risks of the project/contract. Once the health and safety specification is completed, it must be signed by both the OHS professional and the contract custodian. The health and safety specifications and plans shall be named in the following.

- **For construction work:** The health and safety specification and health and safety plan.
- **For non-construction work:** The health and safety requirements for the site/BU/OU (add BU/OU/site name) and audible OHS system/manual that satisfy the issued OHS site, legal and other requirements.
- **For national contracts:** The health and safety requirements for ... (include the name of the project/ scope of work) and audible OHS system/manual that satisfy the issued OHS, legal and other requirements.

The Eskom OHS professional must communicate to the potential supplier/contractor that the health and safety plan must be approved internally before submission to Eskom. When the Eskom OHS professional is satisfied with the contents of the health and safety plan; the plan will first be signed by the OHS professional and approved by the contract custodian and initialled on every page at the bottom right corner.

**Note:** Health and Safety specifications and plans are construction regulations requirements and only applicable to the construction work. For other projects/contracts the above identification will be used.

#### 3.2.2.5 OHS application, evaluation, and reports

OHS as a contractual requirement will only evaluate the shortlisted suppliers that have passed mandatory and functionality evaluation threshold.

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- a) On completion of the tender evaluation of shortlisted suppliers, OHS will compile an initial tender evaluation report, which will highlight compliance/conformance gaps (outstanding documents/information or insufficient evidence of compliance) by the suppliers and recommend or not recommend supplier based on the level of compliance/conformance.
- b) The procurement practitioner will engage the suppliers only once, requesting all the outstanding tender documents to be submitted within a period not exceeding seven working days.
- c) When the procurement practitioner receives the submitted tender documents within the stipulated timelines, OHS will re-evaluate the submitted tender documents and will compile, and resubmit a final tender evaluation report. However, insufficient evidence of compliance/gaps will be addressed with the preferred supplier at the negotiation meeting as part of the contract conditions. The closeout timelines of the compliance/conformance/gaps will be determined by the OHS professional.
- d) OHS as functionality; the technical, procurement and OHS teams will conduct the initial tender evaluation in line with the OHS functionality threshold of 70% (see Appendix A below) and the successful potential tenderers may undergo further evaluation. Where applicable, OHS will form part of the initial tender evaluation, including both desktop and onsite (supplier/contractor site) evaluations.
  - **For open market tender/enquiry**, the suppliers that did not submit the requested OHS documents within the specified time will be regarded as non-responsive. In contrast, the suppliers that responded will be re-evaluated. Should the submitted OHS documents not conform to/meet the compliance standard, the gaps will be addressed with the preferred bidder/tenderer during the negotiation meeting. After negotiations, the supplier shall submit the site-specific OHS file for evaluation and must address the gaps prior to commencement of work on site.
  - **For panel contracts**, the suppliers that did not submit the requested OHS documents within the specified time will be regarded as non-responsive. In contrast, the suppliers that responded will be re-evaluated. Should the submitted documents not conform to/meet the compliance standard, the gaps will be addressed with the preferred bidders/tenderers during the negotiation meeting. The reviewed OHS returnable will be submitted to Eskom by the preferred tenderers/bidders and the final OHS report will be submitted to the buyer. The site- or scope-specific OHS file requirements will be communicated to the supplier/contractor by the BU/OU when issuing the task order. The BU/OU must allow 5 to 15 working days for preparation of the OHS site requirements by the contractor/supplier in consultation with the OHS professional.
- e) **Note:** For OHS as contractual requirements, each supplier will only be evaluated twice during tender evaluation stage before the final report is submitted to the procurement practitioner. To avoid the delays and the effective use of OHS resources, no supplier/contractor's tender OHS documents shall be evaluated more than two times before contract award. However, the OHS file must be evaluated and approved before commencement of work.
- f) However, should any further tender evaluations be required, the procurement manager will submit a motivation and supporting documentation for the request to the relevant OHS senior manager/OHS manager for approval.
- g) Preferably, the same OHS professional should be involved in the project/transaction. If a different OHS resource has to be used, a proper handover shall be done by the two OHS professionals. A divisional/interdivisional/BU/OU OHS handover report and accompanying documents should be signed/have proof of handover by both issuing and the receiving OHS professional.

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### 3.2.2.6 Funded projects

For projects that are funded by national/international funders, the funder's accompanying supplementary requirements are to be considered, in conjunction with the requirements contained in this standard. In instances where the funders' procurement processes supersede Eskom's procurement process, discretion is allowed to ensure that there is suitable OHS compliance. Where the funder's OHS requirements are mandatory and are in conflict with the OHS requirements as set out in this standard, the funder's requirements shall take precedence. However, the responsible OHS professional shall ensure that Eskom's requirements are aligned, as far as is reasonably possible. Suppliers shall ensure compliance with the relevant OHS statutory requirements in accordance with the South African legal framework.

Where it is deemed impracticable or unviable to implement and/or comply with the requirements as set out in this standard, an exemption request, together with suggested recommendations, shall be submitted in writing to Sustainability Systems by the contract/project manager and supported by the relevant OHS manager.

### 3.2.2.7 Exempted service

Due to the nature of these products or services provided to Eskom, the following, but not limited to these service providers or services or scope of work, are exempted from the OHS prerequisites for tendering process. Thus, OHS will not form part of the tender evaluation criteria nor the cross-functional team. However, OHS inputs on the design and product specification should not be excluded from the tendering process.

- a) Manufacturing and supply where the scope of work excludes delivery by the supplier to any of the Eskom premises or sites
- b) Services where the conditions of the service provided are not provided at any of the Eskom premises or sites (for example, consulting, motor claim insurance, IT online service, manufacturing, etc.)
- c) Government entities or agencies
- d) Independent electricity generators, electricity distributors, and demand response suppliers for a rebate
- e) Procurement of consumables from established retailers where there is no contract (for example, Woolworths, Makro, Shoprite, Game, clothing trading outlets, etc.)
- f) Accommodation that is booked once off where there is no contract
- g) Professional registration bodies
- h) Non-profit organisations (for funding purposes)

### 3.2.2.8 Contract awarding

- a) All findings/observations recorded in the OHS tender evaluation report must be addressed with the supplier at the negotiation meeting. If the contract is signed before addressing the gaps, they should form part of the conditions of the contract, including the time frame allowed to close the findings. The contract should clearly state that no work should commence before the approval of the OHS file.
- b) For contracts where the scope of work is classified as construction work and requires
- c) a construction work permit in accordance with the Construction Regulations as amended, a minimum of 30 days must be allocated to allow the application to the Department of Employment and Labour (DEL) for the permit to be processed. Thus, work shall only

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- commence after obtaining the corresponding construction work permit from the DEL.
- d) For national contracts that have been evaluated centrally, after signing the contract, the supplier/contractor must within five working days meet the OHS professional on site to discuss the OHS site requirements. The divisional/BU/OU OHS professionals shall communicate and provide their corresponding OHS requirements to the supplier/contractor and allow 5 to 15 working days for the preparation of the OHS site requirements by the contractor/supplier.
  - e) The supplier shall, as a result, ensure compliance with each BU's/OU's OHS requirements, regardless of being approved centrally.

#### **3.2.2.9 OHS 37(2) Agreement (COLD)**

The function of the 37(2) Agreement is primarily to indemnify Eskom from any acts or omissions by its contractors/suppliers and its employees in contravention of the OSH Act. This means that contractors/suppliers are deemed to be employers in their own right, their employees are not deemed to be employees of Eskom and acknowledges that is solely responsible for its employees, Sub-contractors, agents and the like, while performing work for or on behalf of Eskom.

**The contract custodian/end user/ procurement practitioner shall ensure that:**

- a) When the supplier is awarded a contract, an OHS Act section 37(2) agreement shall be concluded and signed between the supplier and the contract custodian/end user, together with the contractual documents.
- b) For every site where the contractor is performing work, a 37(2) agreement shall be signed by the site contract custodian and the contractor.
- c) Due to the centralised nature of certain procurement activities, such as national contracts, the allocated OHS professionals are responsible for the tender phase. Thereafter shall hand over the reports to the BU/OU OHS professionals. The contract custodian, together with OU/BU OHS professionals, must ensure that OHS requirements are adhered to by the supplier including the signing of the 37(2) agreement on site/BU/OU.

#### **3.2.2.10 International suppliers conducting work for or on behalf of Eskom**

Where applicable, an equivalent document/letter from of the compensation body of their country or employee insurance certificate written in English shall be submitted to Eskom. It shall be in line with the South African legislation.

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**3.2.3 Phase 3: Supplier registration**

- 3.2.3.1 The Procurement Department shall ensure that, when a supplier is being registered on the Eskom vendor database, such supplier has been subjected to an OHS tender evaluation.
- 3.2.3.2 The supplier shall meet the minimum Eskom OHS requirements before approval and registration. See Annexure A for minimum requirements and conditions applicable to vendor registration.
- 3.2.3.3 All OHS requirements applicable to South African-based companies are also equivalently applicable to international suppliers, depending on the supplier risk category.
- 3.2.3.4 Exempted suppliers (both national and international) for OHS assessments for vendor database registration purposes.

**The following suppliers/scope of work will not be required to submit the OHS prerequisite for registration purposes:**

- a) Where maintenance of Eskom's assets or any service is performed/provided externally off/beyond Eskom premises/site, for example, maintenance of vehicles at motor vehicle manufacturer/supplier/repairer premises
- b) Suppliers who mechanically repair Eskom vehicles off Eskom sites
- c) Independent electricity generators, electricity distributors, and demand response suppliers for a rebate
- d) Venue, seminar, conference and accommodation services, where a contract does not exist between Eskom and the supplier
- e) Municipalities from which Eskom acquires utility services, for example, water, sanitation, etc.
- f) Purchasing of consumables from established retailers (for example, Woolworths, Makro, Shoprite, Game, clothing trading outlets)
- g) Agents: suppliers acting on behalf of Eskom to source out a certain commodity or product
- h) Property leasing: suppliers who lease building(s) to Eskom
- i) Recruitment agencies and temporary employment services/labour brokers
- j) Professional registration bodies and accreditation authorities
- k) Suppliers providing online services from their premises (IT licensing, insurance, etc.)
- l) Non-profit organisations (for funding purposes)

**3.2.4 Phase 4: Site mobilisation/Access to the site****3.2.4.1 Prerequisites for the commencement of works or services following contract award**

- a) The procurement practitioner shall ensure that the site OHS professionals are given notice of the contract award to ensure that the supplier/contractor's OHS file is evaluated and approved before commencement of work.
- b) For a national contract, OHS professionals responsible for the national contract shall within five working days hand over the project to the relevant BU/OU OHS professional.

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- c) When the OHS professional is satisfied with the contents of the OHS plan, it must be signed and initialled on the bottom right of each page by the client (Eskom OHS professional and the project manager) and the supplier/contractor representative.
- d) The contractor employees shall also undergo the company's induction, which must be risk- or scope-based before commencement of any activities.
- e) Eskom shall induct the contractor employees before commencement of any activities.

### **3.3 Site mobilisation/Access to the site**

The allocated OHS professional shall evaluate the health and safety file. If satisfied, the letter of acceptance will be issued to the supplier/contractor. Should the supplier not meet minimum OHS requirements at this stage, the OHS professional will give the supplier another chance to address the shortcomings within a period not exceeding seven working days or as agreed by the cross-functional team in consultation with the OHS professional.

### **3.4 Health and safety non-negotiable rules**

- 3.4.1 The health and safety file/document is to be evaluated before site mobilisation or task order allocation to assess the compliance/conformance status of the supplier. No work shall commence before the health and safety file/document has been accepted by the allocated OHS professional.
- 3.4.2 OHS requirements, after contract award, shall be enforceable on the successful supplier in accordance with the OHS specification/health and safety file/documentation requirements.
- 3.4.3 OHS documents or actions that are required after contract award, that is, during the execution of the contract, must be included as contractual obligations. The time frame for submission will be negotiated as determined by the cross-functional team appointed by Procurement and Supply Chain Management. The decision will be risk-based, based on the value, duration, complexity, environmental aspects, and impacts and the criticality of the scope of working conditions of any applicable environmental approvals.

#### **3.4.4 Phase 5: Contract/Service execution and continual monitoring**

##### **3.4.4.1 Continual OHS performance monitoring**

- a) Eskom shall conduct risk-based inspections, audits, and blitz inspections to monitor OHS compliance and adherence to the OHS plan by the contractor.
- b) The contractor performing construction work shall be audited in accordance with the applicable legal and other requirements as amended.
- c) For contractors performing non-construction work, the frequency of the audit/inspection shall be determined by the risk associated with the scope of work based on legal and other requirements as amended.
- d) The contract custodian shall ensure that monitoring mechanisms (such as audits and reviews) are instituted, with the support of OHS professionals, to ensure compliance with OHS legislative and other requirements.

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#### 3.4.4.2 Management of contractors

- a) The contract custodian shall ensure that the principal contractor is notified that he/she is accountable for the management of his/her employees/contractors/suppliers and also to ensure that his/her contractors/suppliers comply with the applicable legal and other requirements (applicable during contract execution of works and services in terms of the contract).
- b) The contract custodian, in consultation with the procurement practitioner, has to ensure that all the non-conformances or non-compliances of the suppliers/contractors are dealt with by means of approved Eskom contractor management processes, for example, supplier reconsideration review committee.

#### 3.4.4.3 Enforcement of compliance and monitoring during contract execution

OHS professionals shall ensure that there is a mechanism to monitor OHS performance and the supplier's compliance at predetermined intervals during contract execution and that these reports are provided to the contract custodian, during the execution of the contract and for the post contract review process.

#### 3.4.4.4 Work stoppage/Safety interventions/Suspension of works and services under a contract

Eskom reserves the right to stop any unsafe work that poses a risk or harm to the health and safety of Eskom employees, contractor employees, and the public. The BU/OU/project should devise a process for reporting unsafe work /stopping working or conditions.

Should an imminent risk with the potential to cause harm to an Eskom employee, contractor employee, or the public be identified, the observer may engage with the affected parties because of addressing the risk.

Individuals may report an activity, unsafe act, or unsafe condition that poses a threat to the health and safety of persons to the authorised person.

**The temporary stoppage of an activity/activities or task(s) may be due to OHS concerns, including the following circumstances:**

- a) Ad hoc safety intervention by Eskom management: all work of a similar nature may be stopped due to the occurrence of a serious incident, and the relevant supplier will be required to comply with, and/or verify, the conditions stipulated in the safety intervention instruction pack.
- b) Ad hoc safety intervention by any person, especially OHS professionals, may be due to unsafe work or unsafe behaviour by the contractor. The conditions that gave rise to the work stoppage will determine the corrective measures to be taken urgently to protect the health and safety of employees and protect the environment and plant or equipment, etc.
- c) Work stoppage initiated by the government and other relevant agencies.

### 3.5 Supplier relationship management

- a) OHS professionals to participate and support the SD&L initiatives.
- b) Supplier registration reviews for OHS are conducted as centralised function by Risk and Sustainability.

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- c) For due diligence, OHS will conduct a desktop evaluation and/or site supplier site capability and capacity assessment to verify the processes for the products and services contracted and due diligence OHS report to be generated and submitted to Procurement and Supply Chain /the initiator.

### **3.6 Material handling and storage equipment**

- a) Material handling and storage (preservation) manuals/procedures shall be provided to Eskom by the suppliers/contractors during delivery or receipt inspection of the goods/products/services.
- b) The above requirements shall be stated in the enquiry/transaction documents. This is the responsibility of the contract custodian/end user.
- c) OHS professionals will advise the cross-functional team to ensure the above is included in the enquiry/transaction documents.

### **3.7 Supplier review committee**

The supplier review committee has been established to take such remedial measures, as bestowed upon it by the Executive Tender Committee (ETC) and to the extent allowed by law, against any tenderer or supplier found to have abused the supply chain management system or to have been found guilty of misconduct, which measures include, but are not limited to, reconsidering the registration status of such bidder or supplier based on the general or additional grounds for consideration.

The Eskom contracts between Eskom and contractors/suppliers must include a clause that enables Eskom to terminate the contract in the event when the supplier has built up a history of poor performance in relation to matters or aspects of compliance with safety and health regulations, policies, and/or procedures. The contract termination process can run concurrently with the initiation process of referring the supplier/contractor to the review committee while terminating the contract.

However, all the necessary steps need to be taken to assist the supplier/contractor to address their shortcomings/gaps. The Eskom representatives must consider implementing the rehabilitation process assisting the supplier/contractor to improve their performance and rectify the non-conformances, incidents, fatalities, etc. The review process should follow to assess the effectiveness of the initiatives/action plan/recommendations.

Note: referring the contractor/supplier to the review committee should be the last resort. All avenues to help the contractor/supplier should be exhausted.

**The following process shall be followed when referring to the supplier/contractor to the review committee:**

- The supplier investigation report by BU/OU will be required.
- The Non-conformance reports issued.
- Written feedback from the supplier.
- The minutes of the meetings held with the supplier.
- Sanction: state the period of suspension/blacklisting.
- Contract: will the supplier complete the outstanding work, or is there another option/plan B?
- Project information: start and end date.

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### 3.7.1 Contract completion/handover

Where applicable, it is the responsibility of the contract custodian to ensure that the final OHS demobilisation inspection is carried out a month before the contract end date is reached with the assistance of the OHS professionals or the contractor leaves site.

The contractor's OHS file or copy thereof shall be handed over to the contract custodian on completion of the project 10 days before the contract ceases. Eskom shall retain the OHS file for a minimum of 40 years.

For in-house projects, where an Eskom department or division manages a project at another division's premise/site, the project handover shall include the OHS file, which shall be handed over to the client or client's agent (site owner/asset owner).

### 3.7.2 Phase 6: Post contract review

3.7.2.1 The contract custodian has to inform the supplier about the OHSKPIs before work can commence, and Annexure D can be used as a guideline. The contractor performance monitoring process will be applied based on the risk of the project. The BU/OU should develop its contractor monitoring process. The OHS professional has to be involved to assist the contract custodian with setting the OHSKPIs and shall prepare the OHS component in preparation for the review process, that is, audit reports and the OHS compact/contract, inspections, minutes, presentations, etc.

3.7.2.2 After a contract has ceased or ended, the supplier must be evaluated on OHS performance throughout the project by the contract custodian, with the support of the OHS professional.

3.7.2.3 The Procurement Practitioner shall ensure that post contract reviews are incorporated in the procurement process, to review the supplier OHS performance during the execution of the contract and ensure that the assessment results are made accessible and available to relevant stakeholders for future reference.

3.7.2.4 The output of the post contract assessment shall be submitted to Procurement (supplier management) for record-keeping purposes.

## 4. Acceptance

This document has been seen and accepted by:

| Name             | Designation                                     |
|------------------|-------------------------------------------------|
| K Pather         | General Manager – Sustainability Systems        |
| M Moahlodi       | Senior Manager- Corporate Hygiene and Safety    |
| Marius Atterbury | Operational and Contractor OHS Manager (Acting) |

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## 5. Revisions

| Date        | Rev. | Compiler             | Remarks                                                                                                                                    |
|-------------|------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| May 2021    | 3    | F Poole/D Maunatlala | Review was conducted to combine 32-726, 32-524 and 37(2) agreement into one procedure and also to align with the reviewed 32-1034.         |
| August 2016 | 2    | D Maunatlala         | A review was conducted to align the standard with the new procurement process in Eskom.                                                    |
| June 2014   | 1    | D Maunatlala         | A review was conducted to realign the standard with the PPPF Act (Act 5 of 2000).                                                          |
| June 2011   | 0    | Development team     | This standard addresses minimum safety, health, and environmental requirements that must be integrated into the Eskom procurement process. |

## 6. Development Team

- Florence Poole
- Diane Maunatlala

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**Appendix A: OHS functionality evaluation criteria**

- The table below provides guidance in implementing functionality criteria for OHS scoring / threshold per functional area to proceed to the next step
- The total percentage allocated to OHS will be set at 100% and the minimum threshold is 70%
- Potential tenders who do not meet the minimum threshold(s) will not be evaluated further.

Table 1: Evaluation Criteria on Functionality

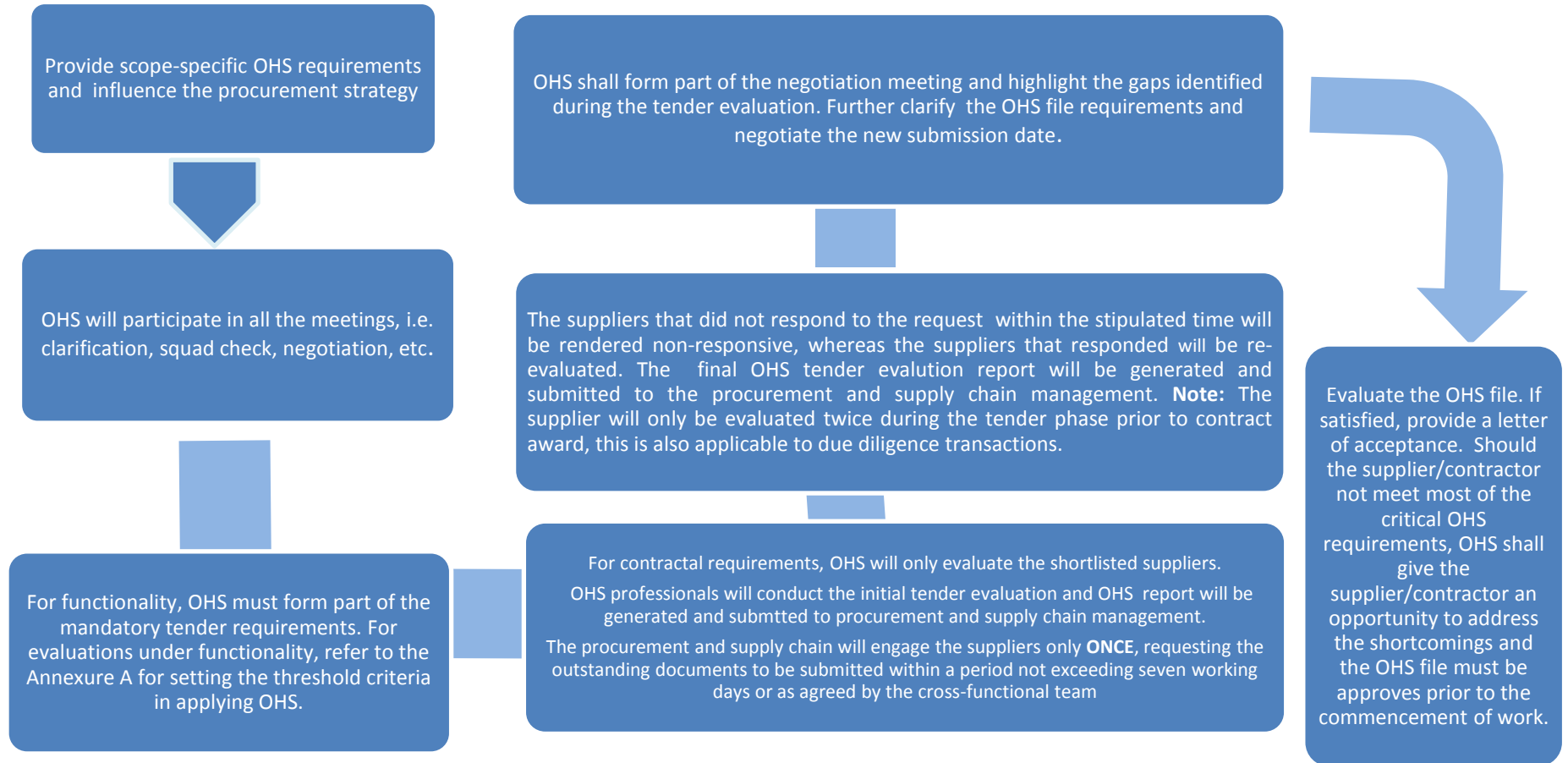
| <b>Functionality Criteria</b> | <b>Tenderers will be expected to score at least the minimum threshold per functional area to proceed to the next step</b> | <b>Total percentage allocated per functional area</b> |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Safety & Health               | 70%                                                                                                                       | 100%                                                  |
| Minimum Threshold             |                                                                                                                           | 70%                                                   |

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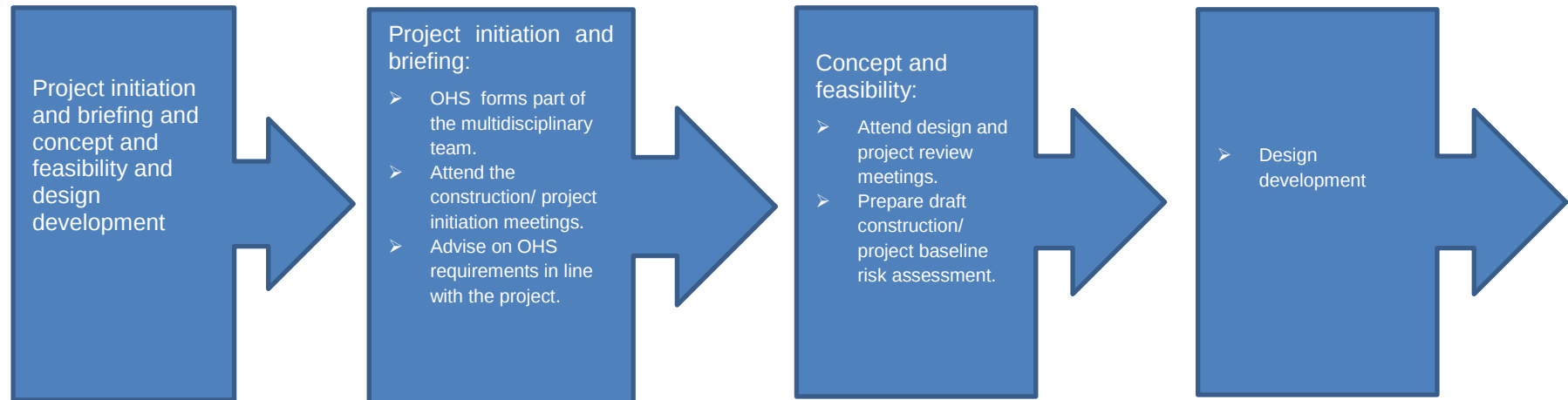
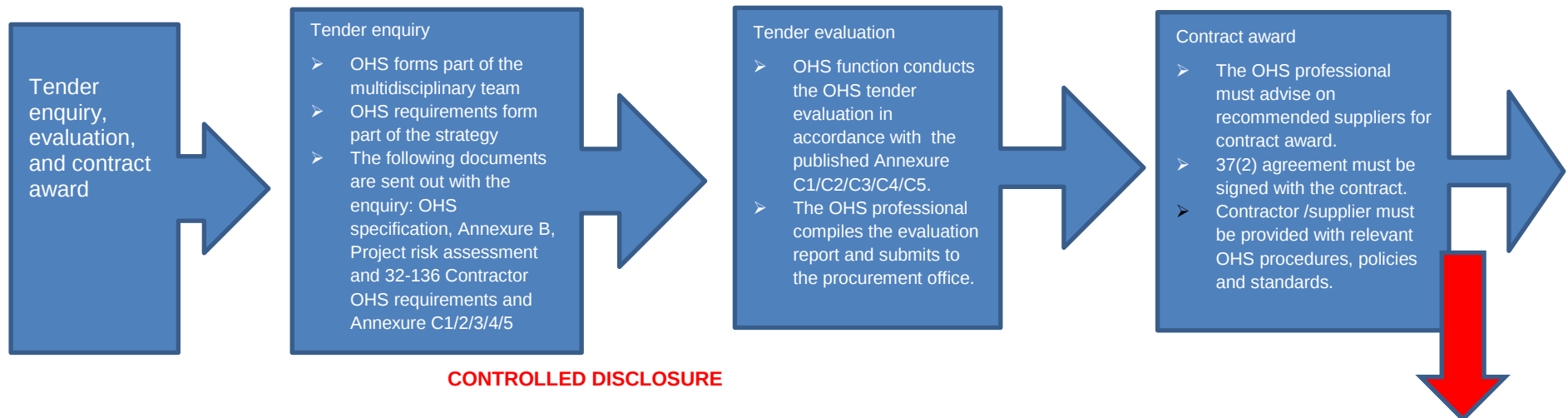
## Appendix B: Tender/Enquiry process flow

The process flow below shall be followed in implementing OHS in the procurement and supply chain processes.



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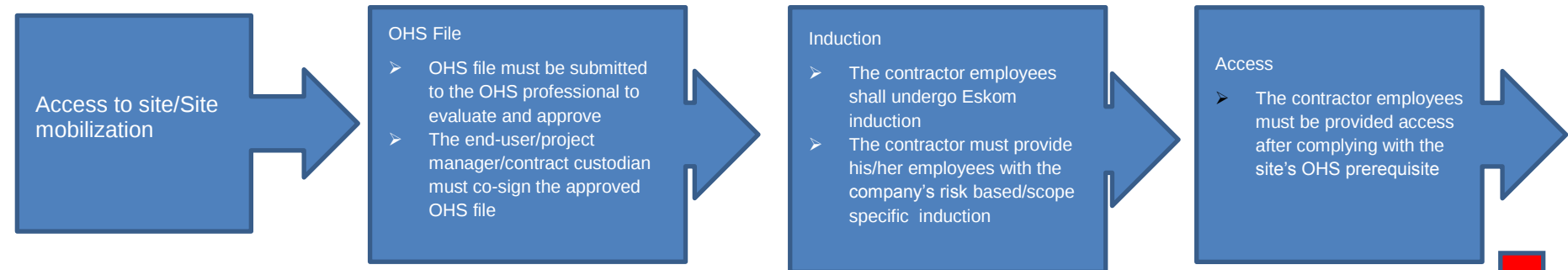
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**Appendix C: Contractor OHS management model flow diagrams****Phase 1****Phase 2**

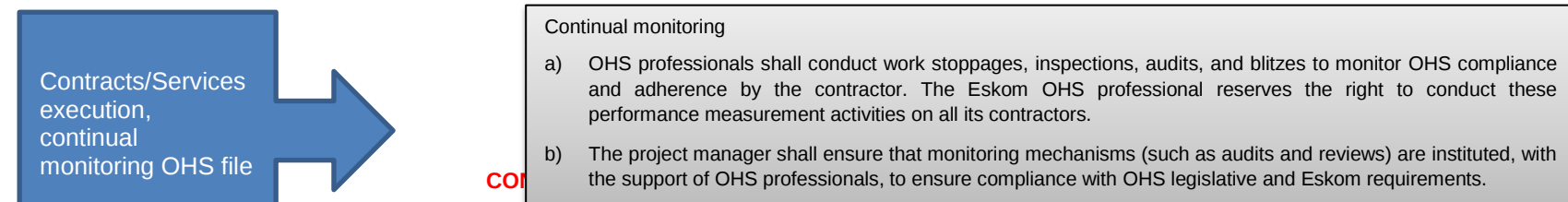
### Phase 3



### Phase 4



### Phase 5



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**Phase 6**



Post contract  
review

Continual monitoring

- a) After a contract has ceased or ended, the supplier/contractor must be evaluated on OHS performance over the duration of the project by the Eskom agent/end user/contract manager, with the support of the OHS professional.
- b) The contract manager has to inform the supplier about the OHS KPIs before work can commence.

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