

**TRANSNET FREIGHT RAIL.**

an Operating Division of **TRANSNET SOC LTD**

[Registration No. 1990/000900/30]

**REQUEST FOR PROPOSAL**

**FOR THE PROVISION TO SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF) AT ESSELENPARK CAMPUS (SCHOOL OF RAIL)**

**RFP NUMBER** CRAC/ESS/19063  
**ISSUE DATE:** 19 OCTOBER 2015  
**CLOSING DATE:** 03 NOVEMBER 2015  
**CLOSING TIME:** 10:00 AM  
**BID VALIDITY PERIOD:** 29 FEBRUARY 2016  
**DELIVERY ADDRESS** SCHOOL OF RAIL  
ESSELEN PARK  
ROAD P91 – 1 OFF  
R25

**LAST DAY TO COLLECT DOCUMENT: 28 OCTOBER 2015**

**NO BRIEFING SESSION.**

**FOR ANY RELATED TECHNICAL QUERIES CONTACT: TEBOGO TSOLO ON  
(011) 583 – 0445) OR TEBOGO ROOIBATJIE (011) 929 - 1634**



## SCHEDULE OF BID DOCUMENTS

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APPENDIX (ii) TERMS AND CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS TO TRANSNET

APPENDIX (iii) SPECIFICATIONS

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### LIST OF ACRONYMS

B-BBEE	Broad-Based Black Economic Empowerment
CD	Compact/computer disc
DAC	Divisional Acquisition Council
EME	Exempted Micro Enterprise
GBC	General Bid Conditions
ID	Identity Document
JV	Joint Venture
LOI	Letter of Intent
NDA	Non-Disclosure Agreement
OD	Transnet Operating Division
PPPFA	Preferential Procurement Policy Framework Act
PTN	Post-Tender Negotiations
QSE	Qualifying Small Enterprise
RFP	Request for Proposal
SME	Small Medium Enterprise
SOC	State Owned Company
TAC	Transnet Acquisition Council
TCO	Total Cost of Ownership
VAT	Value-Added Tax
ZAR	South African Rand

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**RFP FOR THE SUPPLY TO  
SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**

**Section 1: NOTICE TO BIDDERS**

**1 PROPOSAL REQUEST**

Responses to this RFP are requested from persons, companies, close corporations or enterprises for the supply and delivery of Training Tools to Transnet.

RFP documents will only be available for collection from **19 October 2015** until **03 November 2015**.

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

**2 PROPOSAL SUBMISSION**

Proposals **in duplicate [1 original and 1 copy]** must reach the Secretariat, Transnet Acquisition Council before the closing hour on the date shown below, and must be enclosed in a sealed envelope which must have inscribed on the outside:

RFP No: **CRAC/ESS/19063**  
Description: **SUPPLY AND DELIVERY OF TRAINING TOOLS.**  
Closing date and time: **03 November 2015**

All envelopes must reflect the return address of the Respondent on the reverse side.

**3 DELIVERY INSTRUCTIONS FOR RFP**

**3.1 Delivery by hand**

If delivered by hand, the envelope is to be deposited in the Transnet tender box which is located at the main entrance of the Office Block, Inyanda house 1 , 21 Wellington .Park Town, and should be addressed as follows:

THE SECRETARIAT  
TRANSNET ACQUISITION COUNCIL  
IYANDA HOUSE 1  
WEKLLINGTON  
PARK TOWN



## JOHANNESBURG 2001

- a) The measurements of the "tender slot" are 400mm wide x 100mm high, and Respondents must please ensure that response documents or files are no larger than the above dimensions. Responses which are too bulky [i.e. more than 100mm thick] must be split into two or more files, and placed in separate envelopes, each such envelope to be addressed as required in paragraph 2 above.
- b) It should also be noted that the above tender box is located at the street level outside the main entrance in Inyanda house 1 and is accessible to the public 24 hours a day, 7 days a week.

**3.2 Dispatch by courier**

If dispatched by courier, the envelope must be addressed as follows and delivered to the Office of The Secretariat, Transnet Acquisition Council and a signature obtained from that Office:

THE SECRETARIAT  
TRANSNET ACQUISITION COUNCIL  
INYANDA HOUSE 1  
WELLINGTON ROAD  
PARK TOWN  
JOHANNESBURG

- 3.3 Please note that this RFP closes punctually at **10:00 on Thursday 03 November 2015.**
- 3.4 If responses are not delivered as stipulated herein, such responses will not be considered and will be treated as "NON-RESPONSIVE" and will be disqualified.
- 3.5 No email or facsimile responses will be considered, unless otherwise stated herein.
- 3.6 The responses to this RFP will be opened as soon as practicable after the expiry of the time advertised for receiving them.
- 3.7 Transnet shall not, at the opening of responses, disclose to any other company any confidential details pertaining to the Proposals / information received, i.e. pricing, delivery, etc. The names and locations of the Respondents will be divulged to other Respondents upon request.
- 3.8 Envelopes must not contain documents relating to any RFP other than that shown on the envelope.
- 3.9 No slips are to be attached to the response documents. Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [*Alterations made by the Respondent to Bid Prices*] of the General Bid Conditions, alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.



#### 4 BROAD-BASED BLACK ECONOMIC EMPOWERMENT AND SOCIO-ECONOMIC OBLIGATIONS

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.

Transnet would therefore prefer to do business with enterprises who share these same values and who are prepared to contribute to meaningful B-BBEE initiatives [including, but not limited to subcontracting and Joint Ventures] as part of their tendered responses. All procurement transactions will be evaluated accordingly.

The Department of Trade and Industry [**DTI**] is currently in the process of reviewing the B-BBEE Codes of Good Practice [Code Series 000]. Transnet reserves the right to amend this RFP in line with such reviews and/or amendments once they have come into effect. Transnet furthermore reserves the right to adjust the thresholds and evaluation processes to be aligned with such changes which may be issued by the DTI after the issue date of this RFP.

##### 4.1 B-BBEE Scorecard and Rating

As prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Respondents are to note the following:

- Functionality is included at a pre-qualification stage with a prescribed percentage threshold of 100 %.
- Proposals will be evaluated on price which will be allocated 90 points and preference which will be allocated 10 points, dependent on the value of the Goods.
- The 80/20 preference point system applies where the acquisition of the Goods will be less than R1 000 000.00.
- If the 80/20 preference point system is stipulated and all Bids received exceed R1 000 000.00, the RFP will be cancelled.
- The 90/10 preference point system applies where acquisition of the Goods will exceed R1 000 000.00.
- If the 90/10 preference point system is stipulated and all Bids received are equal to or below R1 000 000.00, the RFP will be cancelled.

The **90/10** preference point system is applicable to this RFP.

When Transnet invites prospective suppliers to submit Proposals for its various expenditure programmes, it requires Respondents [*Large Enterprises and QSE's - see below*] to have



their B-BBEE status verified in compliance with the Government Gazette No 34612, Notice No. 754 dated 23 September 2011. Valid B-BBEE Verification Certificates must be issued by:

- a) Verification Agencies accredited by the South African National Accreditation System [**SANAS**]; or
- b) Registered Auditors approved by the Independent Regulatory Board of Auditors [**IRBA**], in accordance with the approval granted by the Department of Trade and Industry.

A Verification Certificate issued must reflect the weighted points obtained by the measured entity for each element of the scorecard as well as the overall B-BBEE rating.

Enterprises will be rated by Verification Agencies or Registered Auditors based on the following:

- a) **Large Enterprises** [i.e. annual turnover greater than R35 million]:
  - Rating level based on all seven elements of the B-BBEE scorecard
- b) **Qualifying Small Enterprises – QSE** [i.e. annual turnover between R5 million and R35 million]:
  - Rating based on any four of the elements of the B-BBEE scorecard
- c) **Exempted Micro Enterprises – EME** [i.e. annual turnover less than R5 million]:

In accordance with B-BBEE Codes of Good Practice [Statement 000, Section 4], any enterprise with an annual total revenue of R 5 million or less qualifies as an EME.

- Automatic rating of B-BBEE Level 4 irrespective of race or ownership
- Black<sup>1</sup> ownership greater than 50% or Black Women ownership greater than 50% automatically qualify as B-BBEE Level 3

Sufficient evidence to qualify as an EME would be a certificate [which may be in the form of a letter] from an auditor, accounting officer or a Verification Agency accredited by SANAS. The certificate must confirm the company's turnover, Black ownership / Black female ownership and B-BBEE status level.

*Respondents are required to furnish proof of the above to Transnet. [i.e. a detailed scorecard as stipulated above in respect of Large Enterprises and QSEs, or a certificate in respect of EMEs].*

In this tender, Transnet will accordingly allocate a maximum of **10 [ten] points** in accordance with the **90/10** preference point system prescribed in the Preferential

<sup>1</sup> **Black** means South African Blacks , Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003





Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations to the Respondent's final score based on an entity's B-BBEE scorecard rating. [Refer **Section 14** for further details].

N.B. Failure to submit a B-BBEE certificate, which is valid as at the Closing Date of this RFP, will result in a score of zero being allocated for B-BBEE.

**Turnover:** Kindly indicate your entity's annual turnover for the past year:

R \_\_\_\_\_

All Respondents must complete and return the B-BBEE Preference Points Claim Form attached hereto as **Section 14**.

#### 4.2 **B-BBEE Joint Ventures, Consortiums and/or Subcontractors**

In addition to the above, Respondents who would wish to enter into a Joint Venture [**JV**] or consortium with, or subcontract portions of the contract to, B-BBEE entities, must state in their RFPs the percentage of the total contract value that would be allocated to such B-BBEE entities, should they be successful in being awarded any business. A valid B-BBEE Verification Certificate in respect of such B-BBEE JV or consortium partners and/or subcontractor(s), as well as a breakdown of the distribution of the aforementioned percentage must also be furnished with the RFP Bid to enable Transnet to evaluate in accordance with the processes outlined in the B-BBEE Preference Points Claim Form appended hereto as Section 14.

##### a) **JVs or Consortiums**

If contemplating a JV or consortium, Respondents should also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If such a JV or consortium agreement is unavailable, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by Transnet through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to Transnet.

##### (i) Incorporated JVs/Consortiums

As part of an incorporated JV/consortium's Bid response, the incorporated JV/consortium must submit a valid B-BBEE Verification Certificate in its registered name.

##### (ii) Unincorporated JVs/Consortiums

As part of an unincorporated JV/consortium's tendered response, the unincorporated JV/consortium must submit a consolidated B-BBEE certificate



as if it was a group structure and such scorecard must have been prepared for this RFP in particular.

b) **Subcontracting**

If contemplating subcontracting, please note that a Respondent will not be awarded points for B-BBEE if it is indicated in its Proposal that such Respondent intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to an entity that does not qualify for at least the same points that the Respondent qualifies for, unless the intended subcontractor is an EME with the capability to execute the contract.

4.3 **B-BBEE Registration**

In addition to the Verification Certificate, Transnet recommends that Respondents register their B-BBEE compliance and supporting documentation on the Department of Trade and Industry's [DTI] National B-BBEE IT Portal and Opportunities Network and provide Transnet with proof of registration in the form of an official B-BBEE Profile issued by the DTI.

Transnet would wish to use the DTI B-BBEE IT Portal as a data source for tracking B-BBEE compliance.

*For instructions to register and obtain a DTI B-BBEE Profile go to <http://bee.thedti.gov.za>*

**5 COMMUNICATION**

Respondents are warned that a Proposal will be liable to disqualification should any attempt be made by a Respondent either directly or indirectly to canvass any officer or employee of Transnet in respect of this RFP between the closing date and the date of the award of the business.

5.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted to [audrey.tladi@transnet.net](mailto:audrey.tladi@transnet.net) and [prudence.nkabinde@transnet.net](mailto:prudence.nkabinde@transnet.net) before **12:00 on 02 November 2015**, substantially in the form set out in Section 12 hereto. In the interest of fairness and transparency Transnet's response to such a query will then be made available to the other Respondents who have collected RFP documents. For this purpose all Respondents are required to indicate by email their intention to respond to this RFP by informing Transnet of their contact details as soon as possible to TAC.SECRETARIAT@transnet.net.

5.2 After the closing date of the RFP, a Respondent may only communicate with the Secretariat of the Transnet Acquisition Council, at telephone number 011 544 9486, or Audrey Tladi at 011 584 0736 on any matter relating to its RFP Proposal.

Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with Transnet in the future.



## 6 INSTRUCTIONS FOR COMPLETING THE RFP

- 6.1 Sign one set of original documents [sign, stamp and date the bottom of each page]. This set will serve as the legal and binding copy. A duplicate set of documents is required. This second set must be a copy of the original signed Proposal.
- 6.2 Both sets of documents are to be submitted to the address specified in paragraph 3 above.
- 6.3 All returnable documents tabled in the Proposal Form [Section 4] must be returned with your Proposal.

## 7 COMPLIANCE

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

## 8 ADDITIONAL NOTES

- 8.1 Changes by the Respondent to its submission will not be considered after the closing date.
- 8.2 The person or persons signing the Proposal must be legally authorised by the Respondent to do so [Refer Section 6 – *Signing Power, Resolution of the Board of Directors*]. A list of those person(s) authorised to negotiate on behalf of the Respondent [if not the authorised signatories] must also be submitted along with the Proposal together with their contact details.
- 8.3 Bidders who fail to submit a duly completed and signed RFP Declaration Form [Section 10] will not be considered.
- 8.4 Transnet will not do business with companies involved in B-BBEE fronting practices.
- 8.5 Transnet may wish to visit the Respondent's place of manufacture and/or workshop and/or office premises during this RFP process.
- 8.6 Transnet reserves the right to undertake post-tender negotiations [PTN] with selected Respondents or any number of short-listed Respondents, such PTN to include, at Transnet's option, any evaluation criteria listed in this RFP document.
- 8.7 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.

**FAILURE TO OBSERVE ANY OF THE AFOREMENTIONED  
REQUIREMENTS**

**MAY RESULT IN A PROPOSAL BEING REJECTED**



## 9 DISCLAIMERS

Respondents are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of Proposals. In particular, please note that Transnet reserves the right to:

- 9.1 modify the RFP's Goods and request Respondents to re-bid on any such changes;
- 9.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 9.3 disqualify Proposals submitted after the stated submission deadline [closing date];
- 9.4 not necessarily accept the lowest priced Proposal;
- 9.5 reject all Proposals, if it so decides;
- 9.6 withdraw the RFP on good cause shown;
- 9.7 award a contract in connection with this Proposal at any time after the RFP's closing date;

In addition, Transnet reserves the right to exclude any Respondent from the bidding process who has been convicted of a serious breach of law during the preceding 5 [five] years, including but not limited to breaches of the Competition Act 89 of 1998. Respondents are required to indicate in Section 11 [*Breach of Law*] whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.

Transnet reserves the right to award the business to the highest scoring bidder/s unless objective criteria justify the award to another bidder.

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

## 10 LEGAL REVIEW

A Proposal submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by Transnet's Legal Counsel, prior to consideration for an award of business.

**Transnet urges its clients, suppliers and the general public**

**to report any fraud or corruption to**

**TIP-OFFS ANONYMOUS: 0800 003 056**



## RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS. (ONCE-OFF)

### Section 2: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS

#### 1 BACKGROUND

#### 2 EXECUTIVE OVERVIEW

Most Transnet Operating Divisions currently procure their Goods/ services requirements through a number of Suppliers. Our objective is to source all activity through a Preferred Supplier(s) capable of servicing all Transnet Operating Divisions in locations around the country.

Whereas Transnet is seeking a partner(s) to provide solutions for **Supplying and delivering of Training Tools.**, it also seeks to improve its current processes for providing these Goods to its end user.

The selected Supplier(s) will share in the mission and business objectives of Transnet. These mutual goals will be met by meeting contractual requirements and new challenges in an environment of teamwork, joint participation, flexibility, innovation and open communications. In this spirit of partnership, Transnet and its Supplier(s) will study the current ways they do business to enhance current practices and support processes and systems. Such a partnership will allow Transnet to reach higher levels of quality service and profitability.

Specifically, Transnet seeks to benefit from this partnership in the following ways:

- 2.1 Transnet must receive reduced cost of acquisition and improved service benefits resulting from the Supplier's economies of scale and streamlined service processes.
- 2.2 Transnet must achieve appropriate availability that meets user needs while reducing costs for both Transnet and the chosen Supplier(s).
- 2.3 Transnet must receive proactive improvements from the Supplier with respect to supply of Goods and related processes.
- 2.4 Transnet's overall competitive advantage must be strengthened by the chosen Supplier's leading edge technology and service delivery systems.
- 2.5 Transnet end users must be able to rely on the chosen Supplier's personnel for service enquiries, recommendations and substitutions.
- 2.6 Transnet must reduce costs by streamlining its acquisition of Goods, including managed service processes on a Group basis.



### 3 SCOPE OF REQUIREMENTS

#### SHORT DESCRIPTION:

- 3.1 Rail Profile Grinding Machine
- 3.2 Frog & Switch Grinder
- 3.3 Electric driven welding machine
- 3.4 Wire feeding Machine 350 C02 Compact
- 3.5 Hydraulic track lifting jack
- 3.6 Free standing hydraulic power units
- 3.7 Petrol pionjar machine
- 3.8 Hydraulic hose sets
- 3.9 Rail tensor
- 3.10 MMA dc inventor 250 AMP/380 Volt
- 3.11 Multi-Functional 50m Laser Tape
- 3.12 Hydraulic – track Jim Crow (940kg, 57kg & 60kg)
- 3.13 Guillotine cutting machine
- 3.14 Digital camera
- 3.15 Wireless note book presenter mouse 8000(Laser Pointer)
- 3.16 Digital Camera
- 3.17 Fellow Laminator
- 3.18 Fellow Paper shredder
- 3.19 Hand fuel cutting Torch
- 3.20 Laser thermometer
- 3.21 Gas mixer
- 3.22 Propane Fuel cutting Tip
- 3.23 L.P.G universal Handle
- 3.24 Heating Nozzles
- 3.25 Nozzle (Cleaners)
- 3.26 Flint Spark Lighters



- 3.27 Hydraulic Track Jim crow
- 3.28 Angle Grinder
- 3.29 Industrial Drilling Machine
- 3.30 Inventor Welding machine
- 3.31 Electronic Rail temperature Gauge

Respondents must complete and submit **Annexure A – substantive Submission which may include a clause by clause declaration**. A Respondent’s compliance with the threshold of 100% will be measured by their responses to this Submission.

**NATIONAL RAILWAY SAFETY REGULATOR ACT**

In compliance with the National Railway Safety Regulator Act, 16 of 2002, the successful Respondent [**the Supplier**] shall ensure that the Goods to be supplied to Transnet, under the terms and conditions of a contract between the parties, comply fully with the specifications as set out in Annexure (iii) [*Specifications and Drawings*] of this RFP, and shall also adhere to railway safety requirements and/or regulations [as applicable]. Permission for the engagement of a subcontractor by the Supplier, as applicable both initially and during the course of a contract, shall be subject to a review of the capability of the proposed subcontractor to comply with the specified railway safety requirements and/or regulations. The Supplier and/or its subcontractor shall grant Transnet access, during the term of the contract, to review any safety-related activities, including the coordination of such activities across all parts of the organisation.

**Accepted:**

<b>YES</b>	
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<b>NO</b>	
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**4 TOTAL COST OF OWNERSHIP AND CONTINUOUS IMPROVEMENT INITIATIVES**

4.1 Respondents shall indicate whether they would be committed, for the duration of any contract which may be awarded through this RFP process, to participate with Transnet in its continuous improvement initiatives to reduce the total cost of ownership [**TCO**], which will reduce the overall cost of transportation services and related logistics provided by Transnet’s operating divisions within South Africa to the ultimate benefit of all end-users.

**Accepted:**

<b>YES</b>	
------------	--

<b>NO</b>	
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If “yes”, please specify details in paragraph 4.2 below.

4.2 Respondents must briefly describe their commitment to TCO and continuous improvement initiatives and give examples of specific areas and strategies where cost reduction



initiatives can be introduced. Specific areas and proposed potential savings percentages should be included. Additional information can be appended to the Respondent's Proposal if there is insufficient space available below.

Horizontal lines for text entry.

**5 RISK**

Respondents must elaborate on the control measures put in place by their entity, which would mitigate the risk to Transnet pertaining to potential non-performance by a Supplier, in relation to:

**5.1 Quality and specification of Goods delivered:**

Horizontal lines for text entry.

**5.2 Continuity of supply:**

Horizontal lines for text entry.

**5.3 Compliance with the Occupational Health and Safety Act, 85 of 1993:**

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5.4 **Compliance with the National Railway Safety Regulator Act, 16 of 2002:**

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**6 REFERENCES**

Please indicate below the company names and contact details of existing customers whom Transnet may contact to seek third party evaluations of your current service levels:

NAME OF COMPANY	CONTACT PERSON	TELEPHONE

"PREVIEW COPY ONLY"

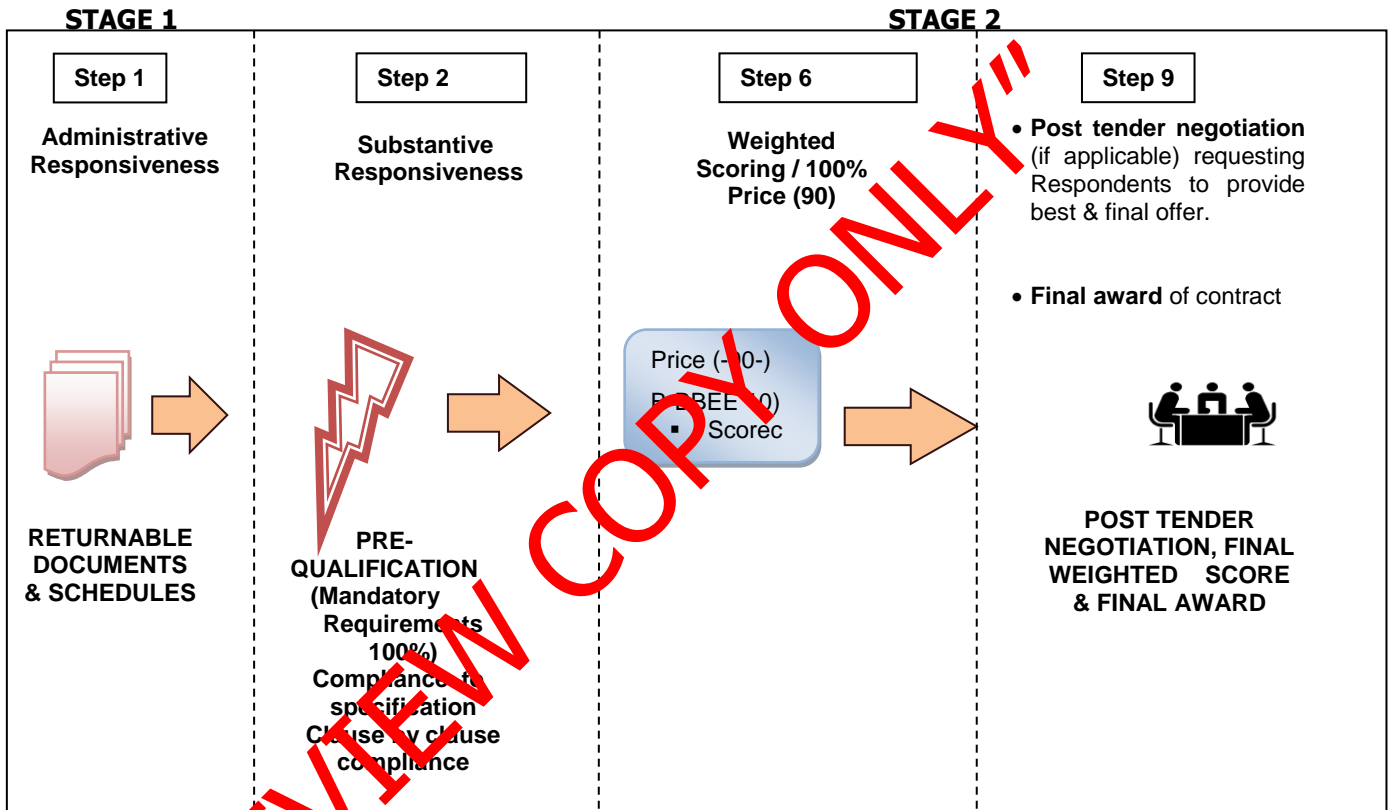


**7 E-QUALIFICATION AND EVALUATION METHODOLOGY AND CRITERIA**

Transnet will utilise the following methodology and criteria in selecting a preferred Supplier, if so required:

**STANDARD TRANSNET EVALUATION METHODOLOGY (SEE PPM 13.1)**

**PRE QUALIFICATION**



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**STEP ONE: Test for Administrative Responsiveness**

The test for administrative responsiveness will include the following:

Administrative responsiveness Test	RFP Reference
<ul style="list-style-type: none"> <li>Whether the Bid has been lodged on time</li> </ul>	
<ul style="list-style-type: none"> <li>Returnable documents &amp; schedules.</li> </ul>	

***The test for administrative responsiveness [Step One] must be passed for a Respondent's Proposal to progress to Stage Two for further pre-qualification***



**7.2 STEP TWO: Test for Substantive Responsiveness to RFP MANDATORY**

The test for substantive responsiveness to this RFP will include the following:

Pre-Qualification Criteria	RFP Reference
<ul style="list-style-type: none"> <li>Compliance to specification &amp; clause by clause declaration</li> </ul>	<b>ANNEXURE A</b>

**STEP SIX: Evaluation and final weighted scoring. Price & BBEE**

The test for the Evaluation and final weighted scoring will include the following:

Evaluation and final weighted score	% Weightings	RFP Reference
<ul style="list-style-type: none"> <li>Commercial offer</li> </ul>	90 %	<b>ANNEXURE B</b>
<ul style="list-style-type: none"> <li>BBBEE</li> </ul>	10%	
<b>Total Weighting:</b>		<b>100%</b>

B-BBEE - current scorecard / B-BBEE Preference Points Claims Form [Section14] ***The minimum threshold for Stage Three pre-qualification criteria must be met or exceeded for a Respondent's Proposal to progress to Stage Four for final evaluation***

**Broad-Based Black Economic Empowerment criteria**

**STEP 9: Post Tender Negotiations**

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



- Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (90/10 system)</b>
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

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**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)  
ANNEXURE A**

**Section 3: PRICING AND DELIVERY SCHEDULE**

*Respondents are required to complete the table below:*

Item No	Item Description	Quantity	Unit price	TOTAL PRICE OF ITEM [ZAR]
1	Rail Profile Grinding Machine (MP- 12)	4		
2	Frog & switch grinder (MC-2)	4		
3	Electric driving welding machine	4		
4	Wire Feeding Machine 350 Co2 Compact	2		
5	Hydraulic track lifting jack	2		
6	Free standing hydraulic Power units	5		
7	Petrol pionjar Machine	3		
8	Hydraulic hose sets	5		
9	Rail tensor	2		
10	MMA dc Inverter 250 AMP/380 Volt	4		
11	Multi – Functional 50m Laser Tape	3		
12	Hydraulic track Jim Crow(48Kg, 57kg & 60kg)	3		
13	Guillotine Metal Cutting Machine	1		
14	Digital Camera	2		
15	Wire note book Presenter Mouse 8000(Laser pointer)	14		
16	Fellow laminator	2		
17	Fellow paper Shredder	2		
18	Hand Fuel Cutting Torch	2		
19	Laser Thermometer	1		



20	Gas Mixer	5		
21	Propane Fuel Cutting Tip	10		
22	L.P.G Universal Handle	4		
23	Heating Nozzle	10		
24	Nozzle (Cleaner)	10		
25	Flint Spark Lighters	50		
26	Hydraulic Track Jim Crow	3		
27	Angle Grinder	5		
28	Angle Grinder	4		
29	Industrial Drilling Machine	4		
30	Inverter Welding Machine	5		
31	Electronic Rail Temperature Gauge	1		
		<b>TOTAL AMOUNT</b>		
		<b>VAT</b>		
		<b>GRANT TOTAL</b>		

**Notes to Pricing:**

- a) All Prices must be quoted in South African Rand, exclusive of VAT
- b) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this pricing schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non responsive.
- c) Quantities given are estimates only. Any orders resulting from this RFP will be on an "as and when required" basis
- d) Prices are to be quoted on a delivered basis to .....
- e) Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.
- f) Prices quoted must be held valid for a period of 90 days from closing date of this RFP



- g) Where a Respondent's price(s) includes imported content, the rate of exchange to be used must be the currency's rate published by the South African Reserve Bank 7 [seven] calendar days prior to the closing date of this RFP:

Currency rate of exchange utilised: **Rands.**

- h) Manufacturing and delivery lead time calculated from date of receipt of purchase order:  
\_\_\_\_\_ weeks

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**ANNEXURE B: COMPLIANCE TO SPECIFICATION DECLARATION.**

The compliance response is to contain ONLY the following statements, "Comply"

Or "Do not comply" Where "Do not" "Compliance" is inserted, remarks as to the reason for deviation from the requirement is required.

**Failure to complete the declaration will result in your bid being disqualified.**

	<b>Specification clause (SCOPE REQUIREMENTS)</b>	<b>Description</b>	<b>Compliance Respond</b>	<b>Reason for deviation</b>
1	Rail Profile Grinding machine (MP – 12)	Machine Dimensions Length- Width- Height 1120-860-800; masses machine (no load) 65 (load) 70.7 engine power 5.2 (7hp) at 4000 rpm; fuel tank 3.5 liter; fuel consumption 313 (30g/hp/h); fuel unleaded petrol starting automatic return starting cable; engine adjustment speed 3800; max grinding wheel diameter 150		
2	Frog & Switch Grinder (MC-2)	3 phase ac 380 volts/ 50hz; output 3kw@ 2880 rpm ø125-150mm		
3	Electric driven welding machine	Mig 500, 380 volts, 500 AMP		
4	Wire Feeding Machine 350 Co2 compact	Mig 350, 380 volts, 500 AMP		
5	Hydraulic track lifting jack	Tj10112m hydraulic track heavy duty jack 10 tons lifting capacity with integrated hand		
6	Free standing Hydraulic Power Units	Diesel engine; 12 volt electric starter; 18,9 litres and 140 bar		
7	Petrol pionjar machine	Model yn27 c/pionjar120 yellow colour ; 2 stroke fuel		
8	Hydraulic hose sets	15m hydraulic set / couplings 1 set		
9	Rail Tensor	2 double acting hydraulic cylinders; pulling/pushing force without tensile tie		





		rods or arcs 350 kn /35 tonnes each; total force 700 kn /70 tonnes, stroke 380mm		
10	MMA dc Inverter 250 amp/380 Volt	Machine id mma-250; input voltage 380ac; input current / kva 15 amp / 9kva; output current 30-250 amp; duty cycle 60% @ 250amp,100% @ 185amp; electrode size 2.0 – 5.0mm; cooling fan cooled; dimensions / weight 585l x 320w x 420h / 15 kg; welding cables included		
11	Multi-functional Laser Tape 50m	0,05-50m; 360°c tilt sensor; waterproof to ip54; digital (4xzoom)		
12	Hydraulic track Jim Crow (48kg,57kg & 60kg)	Two Hydraulic Rams; normal power 300kn,distance between rams : 1000mm, bending moment 150 000nm; two speed hydraulic hand pump and automatic switch: high flow 32,6 cc/ stroke from 0 to 50 bar; feed / stroke 2,6mm; low flow speed 4,6cc/stroke 50 to 470 bar; mass rail to bend 70 kg/m; dimensions: length: 1180mm;width 640mm height 450mm; total mass including hand pump 165 kg		
13	Guillotine Metal Cutting Machine	12mm hydraulic guillotine shear machine; cut length 2500/3200/4000mm; cutting angle 1-3° adjustable		
14	Digital Camera	16gb sdhc memory card,18-55mm vr lens, 55-200mm, 16mp, 3 display, electronically controlled, 4 frames / p.sec, (bags, card reader, li-ion battery)		
15	Wireless Note Book Presenter Mouse 8000(laser Pointer)	Presentation control up to 9m away; multimedia remote;2,4 GHZ Bluetooth; high definition laser; laser pointer; highlighting vital information; magnifier; four-way		



		scrolling (carrying cases)		
16	Fellow Laminator	A3 and A4 lamination ability, easy operation, carry handle, max 80micron pouch 1 year warranty		
17	Fellow Paper shredder	Model 99ci shredder, cross cut, 8 page at a time, 341pull out bin, separate cd bin, slim design, 100% jam proof, 2 years and 5 years cutter warrantee		
18	Hand Fuel Cutting Torch	HAND CUTTING TORCH ATTACHMENT(SIMILLAR TO HARRIS EQUIPMENT)		
19	Laser thermometer	LASER THERMOMETER 0-90 DEGREES °C		
20	Gas Mixer	OXYGEN – L.P. GAS MIXERS(SIMILLAR TO HARRIS EQUIPMENT)		
21	Propane Fuel Cutting Tip	Heavy pre heating oxy – propane (2 NFF) cutting nozzle (similar to Harris Equipment)		
22	L.P.G Universal handle	L.P.G Universal Handle(similar to Harris equipment)		
23	Heating Nozzle	2h and 3h Heating Nozzle :L.P.G (similar to Harris equipment)		
24	Nozzle (cleaners)	E-9 tip Two Piece Nozzle Cleaner (L.P.G and acetylene)(similar to Harris equipment)		
25	Flint Spark lighters	Flint Spark Lighters		
26	Hydraulic track Jim crow	2 Hydraulic jacks : power 300 kn/30 metric tons total 600 kn/60 metric tons; distance between the jack centre-lines 1000mm; stroke 60mm; min. bending radius 6 to 7m for flat bottom rails 15 to 20 m for grooved rails; sufficient width available to allow free passage of the rails 171mm for foot 123mm for rail head.		



27	Angle Grinder		115mm x 800 watts (heavy industrial type)		
28	Angle grinder		230mm x 2220 watts (heavy industrial type)		
29	Industrial Drilling Machine		Drill press to fit 1mm to 16mm Long Stand Heavy Duty		
30	Inverter welding machine				
31	Electronic temperature gauge	Rail	Fluke 572 CF; temp-30 to 900°C; accuracy $\pm 1\%$ or $\pm 0,75^\circ\text{C}$ ; resolutions $0,1^\circ\text{C}$		

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**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE OFF)**

**Section 4 : PROPOSAL FORM**

I/We \_\_\_\_\_

—

*[name of entity, company, close corporation or partnership]*

of *[full address]*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ carrying on business trading/operating as

\_\_\_\_\_

represented

by \_\_\_\_\_

in my capacity as

\_\_\_\_\_

being duly authorised thereto by a Resolution of the Board of Directors or Members or Certificate of Partners, as the case may be, dated \_\_\_\_\_ a certified copy of which is annexed hereto, hereby offer to supply the above-mentioned Goods at the prices quoted in the schedule of prices in accordance with the terms set forth in the accompanying letter(s) reference \_\_\_\_\_ and dated \_\_\_\_\_ *[if any]* and the documents listed in the accompanying schedule of RFP documents.

I/We agree to be bound by those conditions in Transnet's:

- (i) Terms and Conditions of Contract - Goods;
- (ii) General Bid Conditions – Goods; and
- (iii) any other standard or special conditions mentioned and/or embodied in this Request for Proposal.

I/We accept that unless Transnet should otherwise decide and so inform me/us in the letter of award/intent, this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence], together with Transnet's acceptance thereof shall constitute a binding contract between Transnet and me/us.

Should Transnet decide that a formal contract should be signed and so inform me/us in a letter of intent [the **Letter of Intent**], this Proposal [and, if any, its covering letter and any subsequent exchange of



correspondence] together with Transnet’s Letter of Intent, shall constitute a binding contract between Transnet and me/us until the formal contract is signed.

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal contract if called upon to do so, or fail to commence the supply of Goods within 4 [four] weeks thereafter, Transnet may, without prejudice to any other legal remedy which it may have, recover from me/us any expense to which it may have been put in calling for Proposals afresh and/or having to accept any less favourable Proposal.

I/We accept that any contract resulting from this offer will be for a period of once off only; and agree to a penalty clause to be negotiated with Transnet, which will allow Transnet to invoke a penalty against us should the delivery of the Goods be delayed due to non-performance by ourselves.

**ADDRESS FOR NOTICES**

The law of the Republic of South Africa shall govern any contract created by the acceptance of this RFP. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent hereunder, at which all legal documents may be served on the Respondent who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. Foreign Respondents shall, therefore, state hereunder the name of their authorised representative in the Republic of South Africa who has the power of attorney to sign any contract which may have to be entered into in the event of their Proposal being accepted and to act on their behalf in all matters relating to such contract. Respondent to indicate the details of its *domicilium citandi et executandi* hereunder:

Name \_\_\_\_\_ of \_\_\_\_\_ Entity:

Facsimile: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTIFICATION OF AWARD OF RFP**

As soon as possible after approval to award the contract(s), the successful Respondent [**the Supplier**] will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful Supplier and the reason as to why their Proposals have been unsuccessful, for example, in the category of price, delivery period, quality, B-BBEE status or for any other reason.

**VALIDITY PERIOD**

Transnet requires a validity period of 90 [ninety] days [from closing date] against this RFP.



**NAME(S) AND ADDRESS / ADDRESSES OF DIRECTOR(S) OR MEMBER(S)**

The Respondent must disclose hereunder the full name(s) and address(s) of the director(s) or members of the company or close corporation [C.C.] on whose behalf the RFP is submitted.

(i) Registration number of company / C.C.

\_\_\_\_\_

(ii) Registered name of company / C.C.

\_\_\_\_\_

(iii) Full name(s) of director/member(s) Address/Addresses ID Number(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONFIDENTIALITY**

All information related to this RFP is to be treated with strict confidence. In this regard Respondents are required to complete and return a signed copy of the Non-Disclosure Agreement appended hereto as **Section**. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information gleaned from provision of the Goods which is either directly or indirectly related to Transnet's business, written approval to divulge such information must be obtained from Transnet.

**DISCLOSURE OF PRICES TENDERED**

Respondents must indicate below whether Transnet may disclose their tendered prices and conditions to other Respondents:

<b>YES</b>	
------------	--

<b>NO</b>	
-----------	--

**PRICE REVIEW**

The successful Respondent(s) [the Supplier] will be obliged to submit to an annual price review. Transnet will be benchmarking this price offering(s) against the lowest price received as per a benchmarking exercise. If the Supplier's price(s) is/are found to be higher than the benchmarked price(s), then the Supplier shall match or better such price(s) within 30 [thirty] days, failing which the contract may be terminated at Transnet's discretion or the particular item(s) or service(s) purchased outside the contract.



**RETURNABLE DOCUMENTS**

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. **Returnable Documents** means all the documents, Sections and Annexures, as listed in the tables below.

- a) Respondents are required to submit with their Proposals the **mandatory Returnable Documents**, as detailed below.

***Failure to provide all mandatory Returnable Documents at the closing date and time of this tender will result in a Respondent’s disqualification. Bidders are therefore urged to ensure that all these Documents are returned with their Proposals.***

Please confirm submission of these mandatory Returnable Documents by so indicating [Yes or No] in the table below:

Returnable Documents	Submitted [Yes/No]
SECTION 2 : Background, Overview and Scope of Requirements	
SECTION 3 : Pricing and Delivery Schedule	
SECTION 5 : Original valid Tax Clearance Certificate [Consortia / Joint Ventures / Sub-contractors must submit a separate Tax Clearance Certificate for each party]	
ANNEXURE A : Bill of Materials	
ANNEXURE B : Clause by clause declaration	

- b) In addition to the requirements of section (a) above, Respondents are further required to submit with their Proposals the following **essential Returnable Documents** as detailed below.

***Failure to provide all essential Returnable Documents may result in a Respondent’s disqualification at Transnet’s sole discretion. Bidders are therefore urged to ensure that all these documents are returned with their Proposals.***

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these essential Returnable Documents by so indicating [Yes or No] in the table below:

ESSENTIAL RETURNABLE DOCUMENTS & SCHEDULES	SUBMITTED [Yes or No]
SECTION 1 : Notice to Bidders	
SECTION 4 : Proposal Form	



SECTION 5 : Vendor Application Form	
- Original cancelled cheque or bank verification of banking details	
- Certified copies of IDs of shareholder/directors/members [as applicable]	
- Certified copy of Certificate of Incorporation [CM29/CM9 name change]	
- Certified copy of share certificates [CK1/CK2 if CC]	
- Entity's letterhead	
- Certified copy of valid VAT Registration Certificate	
- Valid B-BBEE Verification Certificate [Large Enterprises and QSEs] Note: failure to provide a valid B-BBEE Verification Certificate at the closing date and time of the tender will result in an automatic score of zero being allocated for B-BBEE scorecard	
- Valid B-BBEE certificate from auditor, accounting officer or SANAS accredited Verification Agency [EMEs] Note: failure to provide a valid B-BBEE Verification Certificate at the closing date and time of the tender will result in an automatic score of zero being allocated for B-BBEE scorecard	
- In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
- Certified copy of valid VAT Registration Certificate	
SECTION 6 : Signing Power - Resolution of Board of Directors	
SECTION 7 : Certificate of Acquaintance with RFP Documents	
SECTION 8 : Certificate of Acquaintance with General Bid Conditions – Goods	
SECTION 9 : Certificate of Acquaintance with Terms and Conditions of Contract	
SECTION 10 : RFP Declaration Form	
SECTION 11 : Breach of Law Form	
SECTION 12 : Supplier Code of Conduct	
SECTION 14 : B-BBEE Preference Points Claim Form	

### CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

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





**By signing these RFP documents, the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with all the conditions governing this RFP, including those contained in any printed form stated to form part hereof, and Transnet SOC Ltd will recognise no claim for relief based on an allegation that the Respondent overlooked any such condition or failed properly to take it into account for the purpose of calculating tendered prices or otherwise.**

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2 \_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE:

\_\_\_\_\_

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

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



**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**



**Section 5 : VENDOR APPLICATION FORM**

*Respondents are to furnish the following documentation and complete the Vendor Application Form below:*

1. **Original** cancelled cheque **OR** letter from the Respondent's bank verifying banking details **[with bank stamp]**
2. **Certified copy** of Identity Document(s) of Shareholders/Directors/Members *[where applicable]*
3. **Certified copy** of Certificate of Incorporation, CM29 / CM9 *[name change]*
4. **Certified copy** of Share Certificates [CK1/CK2 if CC]
5. **Original** letterhead confirm physical and postal addresses
6. **Original** valid SARS Tax Clearance Certificate [RSA entities only]
7. **Certified copy** of VAT Registration Certificate [RSA entities only]
8. A signed letter from your entity's auditor or accountant confirming most recent annual turnover figures
9. **Certified copy** of valid Company Registration Certificate *[if applicable]*

**Note: No contract shall be awarded to any South African Respondent whose tax matters have not been declared by SARS to be in order.**

Vendor Application Form

Entity's trading name						
Entity's registered name						
Entity's Registration Number or ID Number if a Sole Proprietor						
Form of entity [√]	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
How many years has your entity been in business?						
VAT number [if registered]						
Entity's telephone number						
Entity's fax number						



Entity's email address			
Entity's website address			
Bank name		Branch & Branch code	
Account holder		Bank account number	
Postal address			Code
Physical address			Code
Contact person			
Designation			
Telephone			
Email			
Annual turnover range [last financial year]	< R5 m	R5 - 35 m	> R35 m
Does your entity provide	Products	Services	Both
Area of Delivery	National	Provincial	Local
Is your entity a public or private entity	Public	Private	
Does your entity have a Tax Directive or IRP30 Certificate	Yes	No	
Main products or services [e.g. Stationery/Consulting]			

*Complete B-BBEE Ownership Details:*

% Black ownership		% Black women ownership		% Disabled Black ownership	
Does your entity have a B-BBEE certificate	Yes	No			
What is your B-BBEE status [Level 1 to 9 / Unknown]					
How many personnel does the entity employ	Permanent	Part time			

*If you are an existing Vendor with Transnet please complete the following:*

Transnet contact person	
Contact number	
Transnet Operating Division	



*Duly authorised to sign for and on behalf of Entity / Organisation:*

---

Name		Designation	
Signature		Date	

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---

Respondent's Signature

---

Date & Company Stamp

**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**



**Section 6 : SIGNING POWER – RESOLUTION OF BOARD OF DIRECTORS**

NAME OF ENTITY: \_\_\_\_\_

It was resolved at a meeting of the Board of Directors held on  
\_\_\_\_\_ that

FULL NAME(S)	CAPACITY	SIGNATURE
--------------	----------	-----------

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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in his/her capacity as indicated above is/are hereby authorised to enter into, sign, execute and complete any documents relating to this Proposal and any subsequent Agreement for the supply of Goods.

FULL NAME \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE CHAIRMAN

FULL NAME \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE SECRETARY



**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**

**Section 7 : CERTIFICATE OF ACQUAINTANCE WITH RFP DOCUMENTS**

NAME OF ENTITY:

\_\_\_\_\_

\_\_\_\_\_

1. I/we

\_\_\_\_\_ do hereby certify that i/we acquainted myself/ourselves with all the documentation comprising this RFP and all conditions contained therein, as laid down by Transnet SOC Ltd for the carrying out of the proposed supply/service/works for which I/we submitted my/our Proposal.

2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any RFP/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

3. I/we understand that the accompanying Bid will be disqualified if this Certificate is found not to be true and complete in every respect.

4. For the purposes of this Certificate and the accompanying Bid, I/we understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:

- a) has been requested to submit a Bid in response to this Bid invitation;
- b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and
- c) provides the same Goods and Services as the Bidder and/or is in the same line of business as the Bidder

5. The Bidder has arrived at the accompanying Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.

6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:



- a) prices;
  - b) geographical area where Goods or Services will be rendered [market allocation]
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a Bid;
  - e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
  - f) bidding with the intention not winning the Bid.
7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which this RFP relates.
8. The terms of the accompanying Bid have not been and will not be, disclosed by the Bidder, directly or indirectly, to any competitor, prior to the date and time of the official Bid opening or of the awarding of the contract.
9. I/We am/are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, Bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [NPA] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT



**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**

**Section 8 : CERTIFICATE OF ACQUAINTANCE WITH THE GENERAL BID CONDITIONS -  
GOODS**

*[appended hereto as Appendix (i)]*

NAME OF ENTITY:

\_\_\_\_\_

I/We

\_\_\_\_\_

\_\_\_\_\_ do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the General Bid Conditions - Goods as received on \_\_\_\_\_ *[insert date]* from Transnet SOC Ltd for the carrying out of the proposed supply for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any terms and conditions of the General Bid Conditions or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

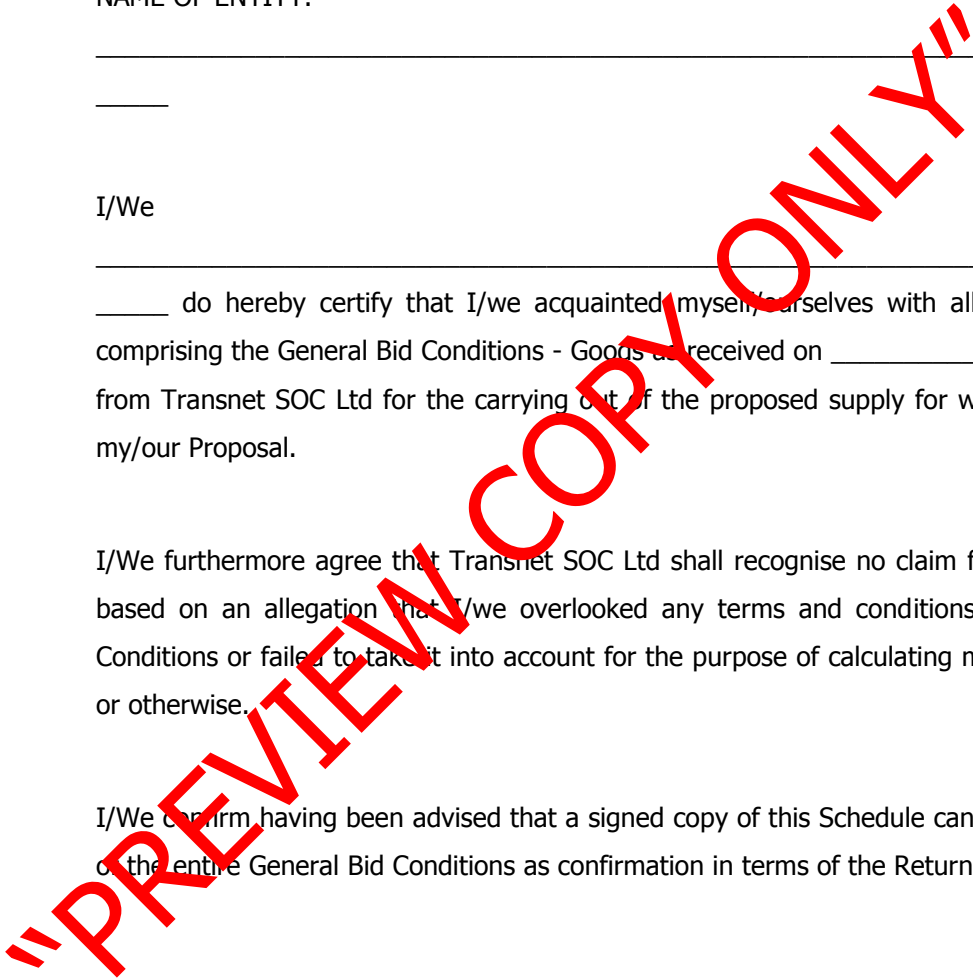
I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the entire General Bid Conditions as confirmation in terms of the Returnable Schedule.

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

\_\_\_\_\_

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT







**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE OFF)**

**Section 9: CERTIFICATE OF ACQUAINTANCE WITH THE TERMS AND  
CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS TO TRANSNET**

*[appended hereto as Appendix (ii)]*

NAME OF ENTITY:

\_\_\_\_\_

I/We

\_\_\_\_\_

\_\_\_\_\_ do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the Terms and Conditions of Contract as received on \_\_\_\_\_ *[insert date]* from Transnet SOC Ltd for the carrying out of the proposed supply for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any Terms and Conditions of Contract or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the entire Terms and Conditions of Contract as confirmation in terms of the Returnable Schedule.

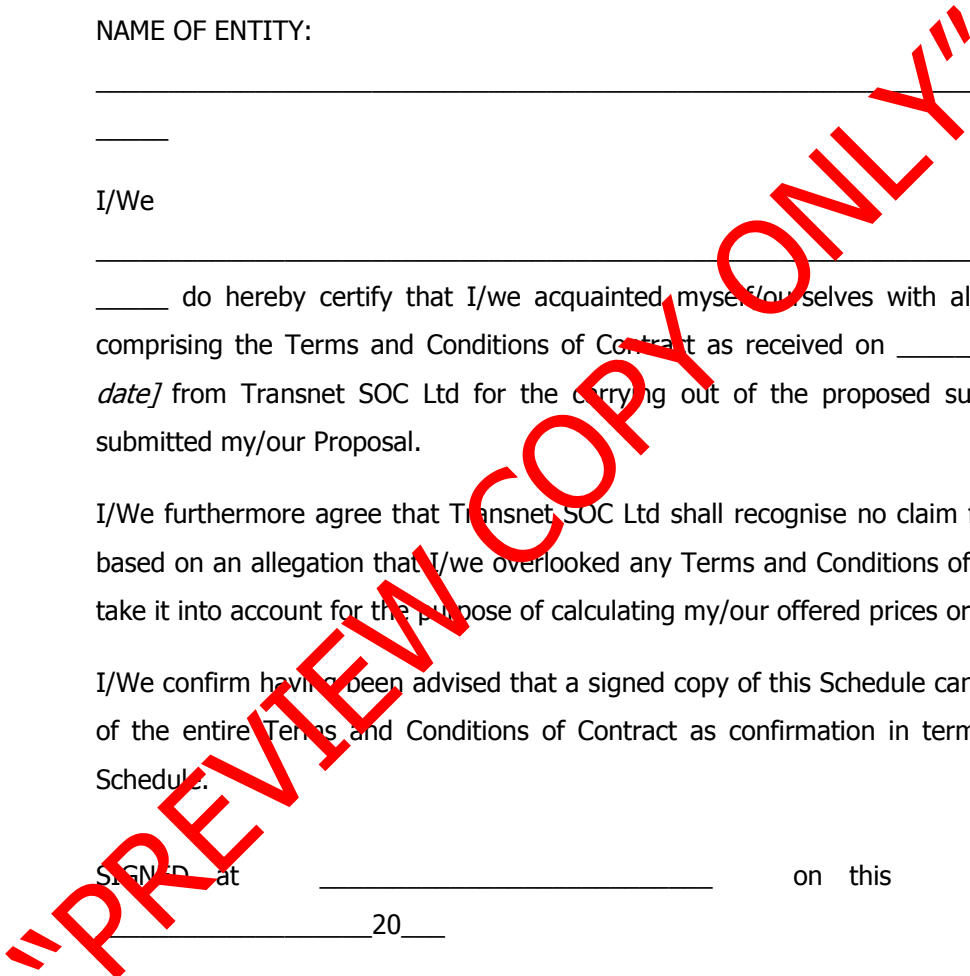
SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF WITNESS

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF RESPONDENT





**Respondents should also note the obligations as set out in  
clause 19 [Terms and Conditions of Contract]  
of the General Bid Conditions [Appendix (i)] which reads as follows:**

- 19.1 The Supplier shall adhere to the Terms and Conditions of Contract issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.*
- 19.2 Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be.*

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**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**

**Section 10 : RFP DECLARATION FORM**

NAME OF ENTITY: \_\_\_\_\_

We \_\_\_\_\_ do hereby certify  
that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFP Clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Proposal [**RFP**];
3. at no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
4. we are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner; and
5. furthermore, we declare that a family, business and/or social relationship exists / does not exist [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of the Transnet Group.
6. If such a relationship exists, Respondent is to complete the following section:

FULL NAME OF OWNER/MEMBER/DIRECTOR/  
PARTNER/SHAREHOLDER:

ADDRESS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Indicate nature of relationship with Transnet:

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*[Failure to furnish complete and accurate information in this regard will lead to the disqualification of a response and may preclude a Respondent from doing future business with Transnet]*

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7. We declare, to the extent that we are aware or become aware of any relationship between ourselves and Transnet [other than any existing and appropriate business relationship with Transnet] which could unfairly advantage our entity in the forthcoming adjudication process, we shall notify Transnet immediately in writing of such circumstances.
8. We accept that any dispute pertaining to this Bid will be resolved through the Ombudsman process and will be subject to the Terms of Reference of the Ombudsman. The Ombudsman process must first be exhausted before judicial review of a decision is sought. [Refer "Important Notice to Respondents" overleaf].
9. We further accept that Transnet reserves the right to reverse an award of business or decision based on the recommendations of the Ombudsman without having to follow a formal court process to have such award or decision set aside.

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

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	
Place:	

**IMPORTANT NOTICE TO RESPONDENTS**

- **Transnet has appointed a Procurement Ombudsman to investigate any material complaint in respect of RFPs exceeding R5, 000,000.00 [five million S.A. Rand] in value. Should a Respondent have any material concern regarding an RFP process which meets this value threshold, a complaint may be lodged with Transnet's Procurement Ombudsman for further investigation.**
- **It is incumbent on the Respondent to familiarise himself/herself with the Terms of Reference for the Transnet Procurement Ombudsman, details of which are available for review at Transnet's website www.transnet.net.**
- **An official complaint form may be downloaded from this website and submitted, together with any supporting documentation within the prescribed period, to procurement.ombud@transnet.net**
- **For transactions below the R5, 000,000.00 [five million S.A. Rand] threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division.**
- **All Respondents should note that a complaint must be made in good faith. If a complaint is made in bad faith, Transnet reserves the right to place such a Bidder on its List of Excluded Bidders.**



**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE-OFF)**

**Section 11 : BREACH OF LAW FORM**

NAME \_\_\_\_\_ OF \_\_\_\_\_ ENTITY: \_\_\_\_\_

I/We \_\_\_\_\_  
do hereby certify that I/we **have/have not been** found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that the Respondent is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences.

Where found guilty of such a serious breach, please disclose:

NATURE OF BREACH:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE \_\_\_\_\_ OF \_\_\_\_\_ BREACH: \_\_\_\_\_

Furthermore, I/we acknowledge that Transnet SOC Ltd reserves the right to exclude any Respondent from the bidding process, should that person or entity have been found guilty of a serious breach of law, tribunal or regulatory obligation.

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

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
SIGNATURE OF RESPONDENT







## RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS ( ONCE-OFF)

### Section 13 : SUPPLIER CODE OF CONDUCT

Transnet aims to achieve the best value for money when buying or selling goods and obtaining services. This however must be done in an open and fair manner that supports and drives a competitive economy. Underpinning our process are several acts and policies that any supplier dealing with Transnet must understand and support. These are:

- The Transnet Supply Chain Policy
- Section 217 of the Constitution - the five pillars of Public PSCM [Procurement and Supply Chain Management]: fairness, equity, transparency, competitiveness and cost effectiveness;
- The Public Finance Management Act [**PFMA**];
- The Broad-Based Black Economic Empowerment Act [**B-BBEE**]; and
- The Prevention and Combating of Corrupt Activities Act.

This Code of Conduct has been included in this RFP to formally apprise prospective Transnet Suppliers of Transnet's expectations regarding the behaviour and conduct of its Suppliers.

#### **Prohibition of bribes, kickbacks, unlawful payments, and other corrupt practices**

Transnet is in the process of transforming itself into a self-sustaining State Owned Company [**SOC**], actively competing in the logistics industry. Our aim is to become a world class, profitable, logistics organisation. As such, our transformation is focused on adopting a performance culture and to adopt behaviours that will enable this transformation.

a) *Transnet will not participate in corrupt practices and therefore expects its Suppliers to act in a similar manner.*

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions and payments to our Suppliers.
- Employees must not accept or request money or anything of value, directly or indirectly, to:
  - illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
  - win or retain business or to influence any act or decision of any decision stakeholders involved in sourcing decisions; or



- gain an improper advantage.
- There may be an occasion when a Supplier is confronted with fraudulent or corrupt behaviour by a Transnet employee. We expect our Suppliers to use our "Tip-offs Anonymous" Hot line to report these acts [0800 003 056].

b) *Transnet is firmly committed to the ideas of free and competitive enterprise.*

- Suppliers are expected to comply with all applicable laws and regulations regarding fair competition and antitrust.
- Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing B-BBEE spend [fronting].

c) *Transnet's relationship with Suppliers requires us to clearly define requirements, exchange information and share mutual benefits.*

- Generally, Suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our Suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
  - misrepresentation of their product [e.g. origin of manufacture, specifications, intellectual property rights];
  - collusion;
  - failure to disclose accurate information required during the sourcing activity [e.g. ownership, financial situation, B-BBEE status];
  - corrupt activities listed above; and
  - harassment, intimidation or other aggressive actions towards Transnet employees.

Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the Supplier is expected to participate in an honest and straight forward manner.

- Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

### **Conflicts of interest**

A conflict of interest arises when personal interests or activities influence [or appear to influence] the ability to act in the best interests of Transnet. Examples include, but are not limited to:



- Transnet employees awarding business to entities in which their family members or business associates have an interest
- Transnet employees having a financial interest in a bidding entity

Bidding entities are required to disclose any interest/s which exist between themselves and any employee and/or Transnet Board member.

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**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE OFF)**

**Section 14 : B-BBEE PREFERENCE POINTS CLAIM FORM**

This preference form contains general information and serves as a claim for preference points for Broad-Based Black Economic Empowerment [**B-BBEE**] Status Level of Contribution.

**1. INTRODUCTION**

- 1.1 A total of 10 preference points shall be awarded for B-BBEE Status Level 1 of Contribution.
- 1.2 Failure on the part of a Bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**] or a Registered Auditor approved by the Independent Regulatory Board of Auditors [**IRBA**] or an Accounting Officer as contemplated in the Close Corporation Act [**CCA**] together with the bid will be interpreted to mean that preference points for B-BBEE Status Level of Contribution are not claimed.
- 1.3 Transnet reserves the right to require of a Bidder, either before a Bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by Transnet.

**2. GENERAL DEFINITIONS**

- 2.1 "**all applicable taxes**" include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 "**B-BBEE**" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 "**B-BBEE status of contributor**" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 "**Bid**" means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;
- 2.5 "**Broad-Based Black Economic Empowerment Act**" means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];
- 2.6 "**comparative price**" means the price after the factors of a non-firm price and all



unconditional discounts that can be utilised have been taken into consideration;

- 2.7 **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;
- 2.8 **"contract"** means the agreement that results from the acceptance of a bid by Transnet;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 [five] million or less;
- 2.10 **"firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs and excise duty and any other duty, levy, or tax which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service for the execution of the contract;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **"non-firm prices"** means all prices other than "firm" prices;
- 2.13 **"person"** includes reference to a juristic person;
- 2.14 **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **"subcontract"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.17 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.



### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The Bidder obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the RFP will be awarded the contract, unless objective criteria justifies the award to another bidder.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored will be rounded off to 2 [two] decimal places.
- 3.4 In the event of equal points scored, the Bid will be awarded to the Bidder scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more Bids have scored equal points including equal preference points for B-BBEE, the successful Bid will be the one scoring the highest score for functionality.
- 3.6 Should two or more Bids be equal in all respect, the award shall be decided by the drawing of lots.

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#### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 4.1 In terms of Regulation 5(2) and 6(2) of the Preferential Procurement Regulations, 2011, preference points shall be awarded to a Bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points [Maximum 10]
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

*Note: Refer to Section 1 of the RFP document for further information in terms of B-BBEE ratings.*

- 4.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer, as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.
- 4.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.4 A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.
- 4.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 4.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.
- 4.7 A person will not be awarded points for B-BBEE status level if it is indicated in the Bid



documents that such a Bidder intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not qualify for at least the same number of points that such a Bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract.

- 4.8 A person awarded a contract may not subcontract more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

**5. B-BBEE STATUS AND SUBCONTRACTING**

**5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:**

B-BBEE Status Level of Contributor \_\_\_\_\_ = \_\_\_\_\_ [maximum of 10 points]

Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the Close Corporation Act.

**5.2 Subcontracting:**

Will any portion of the contract be subcontracted? YES/NO [delete which is not applicable]

If YES, indicate:

- (i) What percentage of the contract will be subcontracted?  
.....  
%
- (ii) The name of the subcontractor  
.....
- (iii) The B-BBEE status level of the subcontractor  
.....  
...
- (iv) Is the subcontractor an EME? YES/NO





5.3 Declaration with regard to Company/Firm

(i) Name of Company/Firm.....

(ii) VAT registration number.....

(iii) Company registration number.....

- (iv) Type of Company / Firm
    - Partnership/Joint Venture/Consortium
    - One person business/sole propriety
    - Close Corporations
    - Company (Pty) Ltd
- [TICK APPLICABLE BOX]

(v) Describe Principal Business Activities  
.....  
.....  
.....  
.....

- (vi) Company Classification
    - Manufacturer
    - Supplier
    - Professional Service Provider
    - Other Service Providers, e.g. Transporter, etc.
- [TICK APPLICABLE BOX]

(vii) Total number of years the company/firm has been in business.....

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**BID DECLARATION**

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the company/firm, certify that points claimed, based on the B-BBEE status level of contribution indicated in paragraph 4 above, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.
- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the satisfaction of Transnet that the claims are correct.
- (iii) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, Transnet may, in addition to any other remedy it may have:
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the Bidder or contractor, its shareholders and directors, and/or associated entities, or only the shareholders and directors who acted in a fraudulent manner, from obtaining business from Transnet for a period not exceeding 10 years, after the *audi alteram partem* [hear the other side] rule has been applied; and/or
  - (e) forward the matter for criminal prosecution.

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**WITNESSES:**

1. ....

SIGNATURE OF BIDDER

2. ....



DATE:

.....

COMPANY

NAME:

.....

ADDRESS:.....

.....

.....

.....

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**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE OFF)**

I/We

\_\_\_\_\_ do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the Specifications for the carrying out of the proposed supply for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any provisions of the Specifications or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the Specifications as confirmation in terms of the Returnable Schedule.

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

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT

**"PREVIEW COPY ONLY"**



**RFP FOR THE SUPPLY AND DELIVERY OF TRAINING TOOLS  
(ONCE OFF)**

**Section 15: NON DISCLOSURE AGREEMENT**

Entered into by and between

**TRANSNET SOC LTD**

Registration Number 1990/000900/30

and

\_\_\_\_\_

Registration Number \_\_\_\_\_

**RFP Number CRAC/ESS/19063**

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**THIS AGREEMENT is made between**

**Transnet SOC Ltd [Transnet]** [Registration No. 1990/000900/30]

whose registered office is at 49<sup>th</sup> Floor, Carlton Centre, 150 Commissioner Street, Johannesburg 2001,

**and**

\_\_\_\_\_ [the **Company**] [Registration No  
 \_\_\_\_\_] whose registered office is at  
 \_\_\_\_\_

**WHEREAS**

Transnet and the Company wish to exchange Information [as defined below] and it is envisaged that each party may from time to time receive Information relating to the other in respect thereof. In consideration of each party making available to the other such Information, the parties jointly agree that any dealings between them shall be subject to the terms and conditions of this Agreement which themselves will be subject to the parameters of the Bid Document.

**IT IS HEREBY AGREED**

**1. INTERPRETATION**

In this Agreement:

- 1.1 **Agents** mean directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;
- 1.2 **Bid or Bid Document** means Transnet’s Request for Information for Proposal [**RFP**] , as the case may be;
- 1.3 **Confidential Information** means any information or other data relating to one party [the **Disclosing Party**] and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Bid to the other party [the **Receiving Party**] or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:



- 1.3.1 is publicly available at the time of its disclosure or becomes publicly available [other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement]; or
- 1.3.2 was lawfully in the possession of the Receiving Party or its Agents [as can be demonstrated by its written records or other reasonable evidence] free of any restriction as to its use or disclosure prior to its being so disclosed; or
- 1.3.3 following such disclosure, becomes available to the Receiving Party or its Agents [as can be demonstrated by its written records or other reasonable evidence] from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;
- 1.4 **Group** means any subsidiary, any holding company and any subsidiary of any holding company of either party; and
- 1.5 **Information** means all information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs whether in writing, conveyed orally or by machine-readable medium.

## 2. CONFIDENTIAL INFORMATION

- 2.1 All Confidential Information given by one party to this Agreement [the **Disclosing Party**] to the other party [the **Receiving Party**] will be treated by the Receiving Party as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose [whether in writing or orally or in any other manner] Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Bid or for the subsequent performance of any contract between the parties in relation to the Bid.
- 2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:
- 2.3.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or



- 2.3.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.
- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3.2 above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps [including the institution of legal proceedings] as shall be necessary to remedy [if capable of remedy] the default and/or to prevent further unauthorised copying, disclosure or use.
- 2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights over the Confidential Information whatsoever, beyond those contained in this Agreement.

### **3. RECORDS AND RETURN OF INFORMATION**

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.
- 3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 3.3 The Company shall, within 7 [seven] days of receipt of a written demand from Transnet:
- 3.3.1 return all written Confidential Information [including all copies]; and
- 3.3.2 expunge or destroy any Confidential Information from any computer, word processor or other device whatsoever into which it was copied, read or programmed by the Company or on its behalf.
- 3.4 The Company shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3.2 above.

### **4. ANNOUNCEMENTS**

- 4.1 Neither party will make or permit to be made any announcement or disclosure of its prospective interest in the Bid without the prior written consent of the other party.





- 4.2 Neither party shall make use of the other party's name or any information acquired through its dealings with the other party for publicity or marketing purposes without the prior written consent of the other party.

## 5. DURATION

The obligations of each party and its Agents under this Agreement shall survive the termination of any discussions or negotiations between the parties regarding the Bid and continue thereafter for a period of 5 [five] years.

## 6. PRINCIPAL

Each party confirms that it is acting as principal and not as nominee, agent or broker for any other person and that it will be responsible for any costs incurred by it or its advisers in considering or pursuing the Bid and in complying with the terms of this Agreement.

## 7. ADEQUACY OF DAMAGES

Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available to it, either at law or in equity, for any such threatened or actual breach of this Agreement, including specific performance, recovery of damages or otherwise.

## 8. PRIVACY AND DATA PROTECTION

- 8.1 The Receiving Party undertakes to comply with South Africa's general privacy protection in terms Section 17 of the Bill of Rights in connection with this Bid and shall procure that its personnel shall observe the provisions of such Act [as applicable] or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 8.2 The Receiving Party warrants that it and its Agents have the appropriate technical and organisational measures in place against unauthorised or unlawful processing of data relating to the Bid and against accidental loss or destruction of, or damage to such data held or processed by them.

## 9. GENERAL

- 9.1 Neither party may assign the benefit of this Agreement, or any interest hereunder, except with the prior written consent of the other, save that Transnet may assign this Agreement at any time to any member of the Transnet Group.
- 9.2 No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.
- 9.3 The provisions of this Agreement shall be severable in the event that any of its provisions are held by a court of competent jurisdiction or other applicable authority to be invalid,



void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

- 9.4 This Agreement may only be modified by a written agreement duly signed by persons authorised on behalf of each party.
- 9.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.
- 9.6 This Agreement will be governed by and construed in accordance with South African law and the parties irrevocably submit to the exclusive jurisdiction of the South African courts.

ooo000ooo

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