



## **TRANSNET SOC LTD**

[Registration No. 1990/000900/30]

Trading through its operating division **Transnet National Ports Authority**

**[Hereinafter referred to as TNPA)**

## **REQUEST FOR PROPOSAL [RFP]**

**FOR THE PROVISION OF WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

<b>RFP NUMBER</b>	<b>TNPA 851</b>
<b>ISSUE DATE:</b>	<b>28 OCTOBER 2019</b>
<b>COMPULSORY BRIEFING:</b>	<b>08 NOVEMBER 2019 AT 11:00</b>
<b>CLOSING DATE:</b>	<b>26 NOVEMBER 2019</b>
<b>CLOSING TIME:</b>	<b>10:00</b>
<b>BID VALIDITY PERIOD:</b>	<b>120 Business Days from Closing Date</b>

### **PRE-QUALIFICATION CRITERIA - ONLY RESPONDENTS WHO MEET THE FOLLOWING PRE-QUALIFICATION CRITERIA MAY RESPOND TO THIS RFP:**

- Respondents must submit a minimum B-BBEE Status Level of 4, Valid proof of B-BBEE Verification Certificate, approved by SANAS or Sworn Affidavit;
- Certificate of Attendance of Compulsory RFP briefing;
- Respondents who are registered with National Treasury Central Supplier Database (CSD);
- Respondents who submitted a valid Waste Contractor registration in terms of the Saldanha Bay municipal by-laws as a Waste Service Provider;
- Respondents who submitted a valid Waste management licenses/permits for Vissershok landfill site;
- Respondents who submitted a Valid public liability insurance cover to a minimum value of R5 million per incident /series of incidents arriving from the same cause and with a minimum annual limit of R50 million; and
- Respondents who submitted a valid Letter of Good Standing/Workmen's Compensation registration.
- Proof of valid Professional Driving Permit (PDP) for two drivers (Dangerous Goods).
- Proof of valid vehicle licences to carry dangerous goods for:
  - Waste Compactor trucks (at least two compactor trucks)
  - Skip Trucks (At least two skip trucks)

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**RFP FOR THE PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 1: NOTICE TO BIDDERS**

**1 INVITATION TO BID**

Responses to this RFP [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as an **entity, Respondent** or **Bidder**].

<b>DESCRIPTION</b>	Provision of Waste Management Services at the Port of Saldanha for a period of Thirty Six (36) months.
<b>BID FEE AND BANKING DETAILS</b>	This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> free of charge.
<b>ISSUE DATE</b>	28 October 2019  Bidders are to note that the RFP may be downloaded directly from the National Treasury e-Tender Publication Portal free of charge. If Bidders download the RFP off the Portal, they are required to send their contact details to the following address: <a href="mailto:Natalie.Joubert@transnet.net">Natalie.Joubert@transnet.net</a> . This is to ensure that any required communication (e.g. addenda to the RFP) in relation to this RFP reaches those intending to respond. Transnet will not be held liable if Bidders do not send their details to the above email address and do not receive the latest information regarding this RFP with the possible consequence of either being disadvantaged or disqualified as a result thereof.
<b>COMPULSORY BRIEFING SESSION</b>	Yes. <b>11:00 on Friday 08 November 2019. Please refer to paragraph 2 for further details.</b>
<b>CLOSING DATE</b>	<b>10:00 on Tuesday 26 November 2019</b> Bidders must ensure that bids are delivered timeously to the correct address. As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
<b>VALIDITY PERIOD</b>	<b>120 Business Days from Closing Date</b> Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.  With regard to the validity period of short-listed bidders, please refer to Section 1, paragraph 10.

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

**2 FORMAL BRIEFING**

A compulsory pre-proposal site meeting and RFP briefing will be conducted at Bayvue Centre, Marine Drive, Saldanha on the **08 November 2019**, at **11:00** for a period of ± two (2) hours. [Respondents to provide own transportation and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late.

- 2.1 *A Certificate of Attendance in the form set out in Section 9 hereto must be completed and submitted with your Proposal as proof of attendance of the **compulsory** site meeting and/or RFP briefing.*

- 2.2 Respondents are requested to bring along their Personal Protective Equipment (PPE) comprising of safety shoes, hard hat and reflective life jacket.
- 2.3 **Respondents failing to attend the compulsory RFP briefing will be disqualified.**
- 2.4 Respondents are encouraged to bring a copy of the RFP to the site meeting and RFP briefing.

### 3 PROPOSAL SUBMISSION

3.1 Proposals must be submitted in a sealed envelope addressed as follows:

The Secretariat, Divisional Acquisition Council	
RFP No:	TNPA 851
Description	PROVISION OF WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA FOR A PERIOD OF THIRTY SIX (36) MONTHS
Closing date and time:	26 November 2019 @ 10:00
Closing address	The Tender Box 30 Wellington Road Parktown Johannesburg 2193

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

#### 3.2 Pre-qualification criteria

**Only respondents who meet the following pre-qualification criteria may respond to this RFP:**

- Respondents must submit a minimum B-BBEE Status Level of 4, Valid proof of B-BBEE Verification Certificate, approved by SANAS or Sworn Affidavit;
- Certificate of Attendance of Compulsory RFP briefing;
- Respondents who are registered with National Treasury Central Supplier Database (CSD);
- Respondents who submitted a valid Waste Contractor registration in terms of the Saldanha Bay municipal by-laws as a Waste Service Provider;
- Respondents who submitted a valid Waste management licenses/permits for Vissershok landfill site;
- Respondents who submitted a Valid public liability insurance cover to a minimum value of R5 million per incident /series of incidents arriving from the same cause and with a minimum annual limit of R50 million; and
- Respondents who submitted a valid Letter of Good Standing/Workmen's Compensation registration
- Proof of valid Professional Driving Permit (PDP) for two drivers (Dangerous Goods).
- Proof of valid vehicle licences to carry dangerous goods for:
  - Waste Compactor trucks (At least two compactor trucks)
  - Skip Trucks (At least two skip trucks)

### 4 DELIVERY INSTRUCTIONS FOR RFP

#### 4.1 Delivery by hand

If delivered by hand, the envelope is must be deposited in the Transnet tender box which is located at the main entrance of 30 Wellington Road, Parktown, Johannesburg, and must be addressed as follows:

THE SECRETARIAT  
 DIVISIONAL ACQUISITION COUNCIL  
 30 WELLINGTON ROAD  
 JOHANNESBURG 2193

- 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 3 above.

PLEASE NOTE: TNPA will not be held liable for the safekeeping, confidentiality and/or timeous submission of proposals which fail to comply with the tender slot measurements referred to above.

- b) It should also be noted that the above tender box is located at the street level inside the main entrance in Commissioner Street and is accessible to the public week days during working hours from 8:00 to 16:00.

#### 4.2 Dispatch by courier

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

THE SECRETARIAT  
 DIVISIONAL ACQUISITION COUNCIL  
 30 WELLINGTON ROAD  
 PARKTOWN  
 JOHANNESBURG  
 2193

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

As explained in more detail in the B-BBEE Preference Points Claim Form in Section 8 and as prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Respondents are to note that Transnet will award preference points to companies who provide valid proof of their B-BBEE status using either the latest version of the generic Codes of Good Practice or Sector Specific Codes (if applicable).

The value of this bid is estimated to be below R50 000 000 (all applicable taxes included; and therefore the **80/20** system shall be applicable. Despite the stipulated preference point system, Transnet shall use the lowest acceptable bid to determine the applicable preference point system in a situation where all received acceptable bids are received outside the stated preference point system.

Respondents are required to complete Section 8 [the B-BBEE Preference Point Claim Form] and submit it together with valid proof of their B-BBEE Status as stipulated in the Claim Form in order to obtain preference points for their B-BBEE status. Respondents are required at all times to comply with the latest B-BBEE legislation and/or instruction notes as issued from time to time by the DTI.

**Note: Failure to submit valid and original (or a certified copy of) proof of the Respondent's compliance with the B-BBEE requirements stipulated in Section 8 of this RFP (the B-BBEE Preference Points Claim Form) at the Closing Date of this RFP, will result in a score of zero being allocated for B-BBEE.**

## 5.1 B-BBEE Joint Ventures or Consortiums

Respondents who would wish to respond to this RFP as a Joint Venture [**JV**] or consortium with B-BBEE entities, must state their intention to do so in their RFP submission. Such Respondents must 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.

Respondents are to note the requirements for B-BBEE compliance of JVs or consortiums as required by Section 8 [the B-BBEE Preference Point Claim Form] and submit it together with proof of their B-BBEE Status as stipulated in the Claim Form in order to obtain preference points for their B-BBEE status.

Note: Failure to submit a valid and original B-BBEE certificate for the JV or a certified copy thereof at the Closing Date of this RFP will result in a score of zero being allocated for B-BBEE.

## 5.2 Subcontracting

Transnet fully endorses Government's transformation and empowerment objectives and when contemplating subcontracting Respondents are requested to give preference to Exempted Micro Enterprises (EMEs), Start-up companies and Qualifying Small Enterprises (QSEs) which are Black Owned, Black Women Owned, Black Youth Owned, companies owned by Black People with Disabilities, including any companies designated as B-BBEE Facilitators<sup>1</sup>.

Respondents are required to submit proof of the subcontracting arrangement between themselves and the subcontractor. Proof of the subcontracting arrangement may include a subcontracting agreement.

Respondents are to note that it is their responsibility to select competent subcontractors that meet all requirements of the bid so that their bid is not jeopardised by the subcontractor when evaluated. Respondents are responsible for all due diligence on their subcontractors.

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 percent] of the value of the contract to an entity/entities that do 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.

Respondent/s are discouraged from subcontracting with their subsidiary companies as this may be interpreted as subcontracting with themselves and / or using their subsidiaries for fronting. Where a Respondent intends to subcontract with their subsidiary this must be declared in their bid response.

The successful Respondent awarded the contract may only enter into a subcontracting arrangement with Transnet's prior approval.

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<sup>1</sup> The Minister of the Department of Trade and Industry has the power to designate certain Organs of State or Public Entities as B-BBEE Facilitators. For example, the South African National Military Veterans' Association (SANMVA) has been designated as a B-BBEE Facilitator. As such they will be treated as having rights of ownership held 100% by Black People, 40% by Black Women and 20% by Black designated groups.

The contract will be concluded between the successful Respondent and Transnet, therefore, the successful Respondent and not the sub-contractor will be held liable for performance in terms of its contractual obligations.

In terms of Section 8 of this RFP [the B-BBEE Preference Point Claim Form] Respondents are required to indicate the percentage of the contract that will be sub-contracted sub-contracted as well as the B-BBEE status of the sub-contractor/s.

### 5.3 **Minimum B-BBEE level**

**Transnet has set a minimum B-BBEE threshold for participation in this RFP process. The minimum B-BBEE threshold in this instance is a B-BBEE Level 4 and Respondents who do not have at least this B-BBEE status or higher will be disqualified.**

### 5.4 **Pre-qualification criteria for Preferential Procurement**

Respondents are to note that they are eligible to participate in this RFP should they meet the prequalification criterion for preferential procurement stipulated in paragraph **5.3**.

### 5.5 **B-BBEE Improvement Plan**

Transnet encourages its Service Providers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in paragraph 5 above, in addition to such scoring, Transnet also requests that Respondents submit a B-BBEE improvement plan. Respondents are therefore requested to indicate the extent to which they will maintain (only if the Respondent is a Level 1) or improve their B-BBEE status over the contract period.

Respondents are requested to submit their B-BBEE Improvement Plan as an essential document with their Proposals by completion of **Annexure A** appended hereto. *[Refer to Section 10 and Annexure A for further instructions]*

## **6 COMMUNICATION**

- 6.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted to Natalie Joubert, 022 703 5490, email [Natalie.Joubert@Transnet.net](mailto:Natalie.Joubert@Transnet.net) before **12:00 on 19 November 2019**, substantially in the form set out in Section 7 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 Transnet will communicate with Respondents using the contact details provided to the Secretariat on issue of the bid documentation to the Respondent. Kindly ensure that you provide the Secretariat with the **correct** contact details, as Transnet will not accept responsibility for being unable to contact a bidder who provided incorrect contact details.
- 6.2 After the closing date of the RFP, a Respondent may only communicate with the Secretariat of the Divisional Acquisition Council, at telephone number 011 351 3093, email [Bhatisani.Widzani@transnet.net](mailto:Bhatisani.Widzani@transnet.net) on any matter relating to its RFP Proposal.
- 6.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 6.4 **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. Furthermore, Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with Transnet in the future.**

## **7 CONFIDENTIALITY**

All information related to this RFP is to be treated with strict confidence. In this regard Respondents are required to certify that they have acquainted themselves with the Non-Disclosure Agreement. 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 Services , which is either directly or indirectly related to Transnet's business, written approval to divulge such information must be obtained from Transnet.

## **8 INSTRUCTIONS FOR COMPLETING THE RFP**

- 8.1 Proposals must be submitted in original hard copies and must be bound.
- 8.2 Sign the original documents [sign, stamp and date the bottom of each page]. This set will serve as the legal and binding copy.
- 8.3 The document is to be submitted to the address specified in paragraph 4 above.
- 8.4 **All returnable documents tabled in the Proposal Form [Section 4] must be returned with proposals.**
- 8.5 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.
- 8.6 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 16 [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.

## **9 COMPLIANCE**

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

## **10 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:

- 10.1 modify the RFP's Goods and request Respondents to re-bid on any such changes;
- 10.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 10.3 disqualify Proposals submitted after the stated submission deadline [closing date];
- 10.4 not necessarily accept the lowest priced Proposal or an alternative bid;
- 10.5 reject all Proposals, if it so decides;
- 10.6 withdraw the RFP on good cause shown;
- 10.7 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 10.8 award a contract for only a portion of the proposed Goods which are reflected in the scope of this RFP;
- 10.9 split the award of the contract between more than one Service Provider, should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 10.10 make no award of a contract;

- 10.11 validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Transnet to do so;
- 10.12 request audited financial statements or other documentation for the purposes of a due diligence exercise; and/or
- 10.13 not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it.

Should a contract be awarded on the strength of information furnished by the Respondent, which after conclusion of the contract, is proved to have been incorrect, Transnet reserves the right to cancel the contract and/or place the Respondent on Transnet's list of Restricted Suppliers.

Transnet reserves the right to negotiate market-related price with the tenderer scoring the highest points or cancel the tender; if the tenderer does not agree to a market related price, negotiate a market related price with the tenderer scoring the second highest points or cancel the tender; if the tenderer scoring the second highest points does not agree to a market related price, negotiate a market related price with the tenderer scoring the third highest points or cancel the tender. If the market related price is not agreed as envisaged in this paragraph Transnet will cancel the tender.

Should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so, Transnet reserves the right to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required goods at the quoted price. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were issued with a Letter of Regret. Bidders may therefore be requested to advise whether they would still be prepared to provide the required goods at their quoted price, even after they have been issued with a Letter of Regret.

Transnet reserves the right to lower the threshold for Technical from **seventy percent (70%) to sixty percent (60%)** if no Bidders pass the predetermined minimum threshold in respect of Technical evaluation.

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.

## **11 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. A material deviation from the Standard terms or conditions could result in disqualification.

## **12 SECURITY CLEARANCE**

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the goods and its subcontractor(s) must obtain security clearance from the appropriate authorities to the level of **CONFIDENTIAL/ SECRET/TOP SECRET**. Obtaining the required clearance is the responsibility of the Successful Respondent. Acceptance of the bid is also subject to the condition that the Successful Respondent will implement all such security measures as the safe performance of the contract may require.

## **13 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE**

Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification

of certain key supplier information. Respondents must register on the CSD prior to submitting their bids. Business may not be awarded to a Respondent who has failed to register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD. The CSD can be accessed at <https://secure.csd.gov.za/>. Respondents are required to provide the following to Transnet in order to enable it to verify information on the CSD:

Supplier Number: \_\_\_\_\_

Unique registration reference number: \_\_\_\_\_

#### **14 TAX COMPLIANCE**

Respondents must be compliant when submitting a proposal to Transnet and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

It is a condition of this bid that the tax matters of the successful Respondents be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Respondents tax obligations.

The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids.

It is a requirement that bidders grant a written confirmation when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

For this purpose, the attached **SBD 1 (Annexure B)** must be completed and submitted as an essential returnable document by the closing date and time of the bid.

#### **15 PROTECTION OF PERSONAL DATA**

In responding to this bid, Transnet acknowledges that it may obtain and have access to personal data of the Respondents. Transnet agrees that it shall only process the information disclosed by Respondents in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by Respondents or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Respondents. Similarly, Transnet requires Respondents to process any personal information disclosed by Transnet in the bidding process in the same manner. The detailed mutual duties of Transnet and the Respondents to protect personal information is contained in paragraph 37 of the General Bid Conditions.

**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 PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

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

**1 BACKGROUND**

TNPA as a division of Transnet is the business unit responsible for the management of waste at all Ports in South Africa. TNPA must ensure compliance with all relevant International and National legislation/standards governing the management of waste, TNPA Port of Saldanha must therefore, provide the necessary resources and facilitate the loading, collection, transportation and disposal of waste from the Port of Saldanha to an approved H:H landfill site.

TNPA will follow an open tender process to source a service provider to provide a waste collection and disposal service for galley waste, hazardous waste and general waste generated at the Port of Saldanha.

Galley waste is kitchen (Food) waste that is generated on-board vessels/ships. Galley waste may contain infectious waste therefore it must be treated as extremely hazardous, and must be disposed of in an H:H landfill site. According to the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), hazardous waste means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment.

The selected service provider will share in the mission and business objectives of TNPA. These mutual goals will be met by meeting contract requirements and new challenges in an environment of teamwork, joint participation, flexibility, innovation and open communications. Further, TNPA and its service provider will study the current ways they do business to enhance current practices and support processes and systems as this will allow TNPA to reach higher levels of quality, service and profitability.

TNPA Specifically, TNPA seeks to benefit in the following ways:

- Best value for money in respect of waste disposal management;
- TNPA must receive reduced cost of acquisition and improved service benefits resulting from the combination of secure supply, economies of scale and streamlined service processes;
- TNPA must receive proactive improvements from the Service provider with respect to supply services and related processes as well as any industry developments;
- TNPA's overall image must be strengthened by the chosen Service provider's service delivery systems; and
- TNPA must be able to rely on the chosen Service provider's personnel for service enquiries, recommendations and substitutions.
- TNPA compliance to all statutes, standards and protocols governing galley waste.

**2 EXECUTIVE OVERVIEW**

Whereas Transnet is seeking a partner(s) to provide solutions for its waste management services at the Port of Saldanha, it also seeks to improve its current processes for providing these Services to its end user community throughout its locations.

The selected Service Provider(s) must 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 Service Provider(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 Service Provider'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 Service Provider(s).
- 2.3 Transnet must receive proactive improvements from the Service Provider with respect to provision of Services and related processes.
- 2.4 Transnet's overall competitive advantage must be strengthened by the chosen Service Provider's leading edge technology and service delivery systems.
- 2.5 Transnet end users must be able to rely on the chosen Service Provider's personnel for service enquiries, recommendations and substitutions.
- 2.6 Transnet must reduce costs by streamlining its acquisition of Services, including managed service processes on a Group basis.

### **3 SCOPE OF REQUIREMENTS**

See **Annexure C** – Specification/ Scope of work

TNPA intends to outsource the provision of waste management services for vessel galley waste, hazardous waste and general waste generated at the Port of Saldanha. The supply of the aforementioned waste management services is required at the Port of Saldanha for a period of 36 months. TNPA aims to appoint a Service Provider who has experience in the provision of waste management services and who can demonstrate through their returnable documents that they are capable of providing an efficient, cost effective and legally compliant waste management service

As prescribed in terms of the PPPFA and its Regulations, Respondents are to note the following:

- Functionality/technical is included as a threshold with a prescribed percentage threshold of 70%.

*A Respondent's compliance with the minimum functionality/technical threshold will be measured by their responses to **Annexure D Technical Evaluation Criteria**.*

### **4 GREEN ECONOMY / CARBON FOOTPRINT**

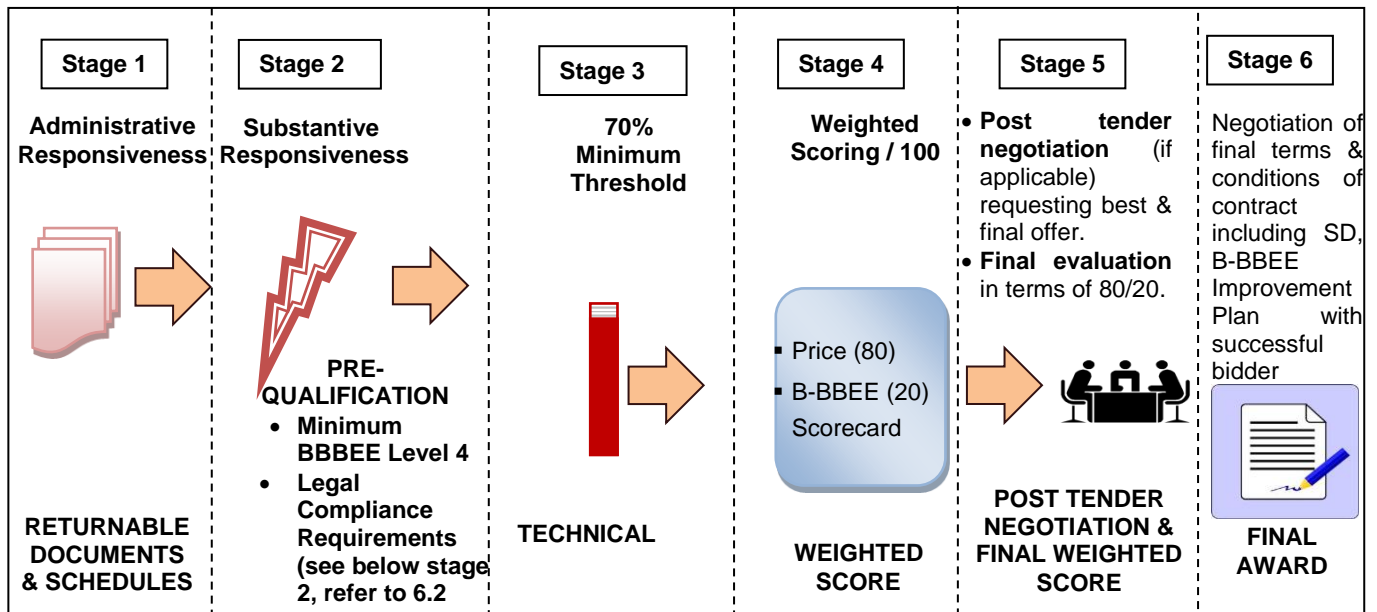
Transnet wishes to have an understanding of your company's position with regard to environmental commitments, including key environmental characteristics such as waste disposal, recycling and energy conservation. *Please submit details of your entity's policies in this regard.*

### **5 GENERAL SERVICE PROVIDER OBLIGATIONS**

- 5.1 The Service Provider(s) shall be fully responsible to Transnet for the acts and omissions of persons directly or indirectly employed by them.
- 5.2 The Service Provider(s) must comply with the requirements stated in this RFP.

## 6 EVALUATION METHODOLOGY

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



NB: Evaluation of the various stages will normally take place in a sequential manner. However, in order to expedite the process, Transnet reserves the right to conduct the different stages of the evaluation process in parallel. In such instances the evaluation of bidders at any given stage must not be interpreted to mean that bidders have necessarily passed any previous stage(s).

### 6.1 STAGE ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

Administrative responsiveness check	RFP Reference
<ul style="list-style-type: none"> <li>• Whether the Bid has been lodged on time</li> <li>• No late proposals were received/accepted</li> </ul>	<i>Section 1 paragraph 3 and paragraph 10.3</i>
<ul style="list-style-type: none"> <li>• Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time</li> </ul>	<i>Section 4</i>
<ul style="list-style-type: none"> <li>• Verify the validity of all returnable documents</li> </ul>	<i>Section 4</i>
Section 4 – Have documents been signed and acknowledged	<i>All sections including: Section 1 paragraphs , 10.3 Sections 10, 11</i>

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

## 6.2 STAGE TWO: Test for Substantive Responsiveness to RFP

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

Check for substantive responsiveness	RFP Reference
<p>Whether pre-qualification criteria set by Transnet, have been met:</p> <p><b>Pre-qualification criteria :</b></p> <ul style="list-style-type: none"> <li>• A minimum B-BBEE level 4, valid proof of B-BBEE Verification Certificate, approved by SANAS or Sworn Affidavit.</li> <li>• Certificate of Attendance of Compulsory RFP briefing;</li> <li>• Respondents who are registered with National Treasury Central Supplier Database (CSD);</li> <li>• Valid waste contractor registration in terms of the Saldanha Bay municipal by-laws as a waste service provider;</li> <li>• Waste management licenses/permits for Vissershok landfill site;</li> <li>• Respondents who submitted a Valid public liability insurance cover to a minimum value of R5 million per incident /series of incidents arriving from the same cause and with a minimum annual limit of R50 million; and</li> <li>• Valid Letter of Good Standing/Workmen's Compensation registration</li> <li>• Proof of valid Professional Driving Permit (PDP) for two drivers (Dangerous Goods).</li> <li>• Proof of valid vehicle licences to carry dangerous goods for: <ul style="list-style-type: none"> <li>○ Waste Compactor trucks (At least two compactor trucks)</li> <li>○ Skip Trucks (At least two skip trucks)</li> </ul> </li> </ul>	<p><i>Section 1 - Paragraph 3.2 and Returnable Documents</i></p>

***The test for substantive responsiveness [Stage Two] must be passed for a Respondent's Proposal to progress to Stage Three for Technical and Functional evaluation***

## 6.3 STAGE THREE: Minimum Threshold 70% for Technical Criteria

The test for the Technical and Functional threshold will include the following (refer to **Annexure D**: Technical Evaluation for full details):

Technical Criteria	% Weightings	RFP Reference
• Experience in Waste Management Industry – Company	25	<b><i>Annexure D</i></b>
• Competency /Experience in Waste Management Industry – Personnel	16	<b><i>Annexure D</i></b>
• Resources and Equipment	16	<b><i>Annexure D</i></b>
• Method Statement / Procedures	43	<b><i>Annexure D</i></b>
<b>Total Weighting:</b>	<b>100%</b>	
<b>Minimum qualifying score required:</b>	70%	

Returnable documents required and applicable values that will be utilised when scoring each criterion mentioned above are detailed on **Annexure D** – Technical Evaluation Criteria.

***The minimum threshold for technical/functionality [Stage Three must be met or exceeded for a Respondent's Proposal to progress to Stage Four for final evaluation]***

**6.4 STAGE FOUR: Evaluation and Final Weighted Scoring**

Transnet will utilise the following formula in its evaluation of Price:

$$PS = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

*Ps* = Score for the Bid under consideration

*Pt* = Price of Bid under consideration

*Pmin* = Price of lowest acceptable Bid

a) **Broad-Based Black Economic Empowerment criteria** [Weighted score 20 points]

- B-BBEE - current scorecard / B-BBEE Preference Points Claims Form
- Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table indicated in Section 4.1 of the B-BBEE Preference Points Claim Form.

**6.5 SUMMARY: Applicable Thresholds and Final Evaluated Weightings**

Evaluation Criteria	Final Weighted Scores
Price	80
B-BBEE - Scorecard	20
<b>TOTAL SCORE:</b>	<b>100</b>

**6.6 STAGE FIVE: Post Tender Negotiations (if applicable)**

Transnet reserves the right to negotiate market-related price with the tenderer scoring the highest points or cancel the tender; if the tenderer does not agree to a market related price, negotiate a market related price with the tenderer scoring the second highest points or cancel the tender; if the tenderer scoring the second highest points does not agree to a market related price, negotiate a market related price with the tenderer scoring the third highest points or cancel the tender. If the market related price is not agreed as envisaged in this paragraph Transnet will cancel the tender.

**6.7 STAGE SIX: Final Contract Award**

Transnet will negotiate the final terms and condition the contract with the successful Respondent(s). This will include aspects such as Supplier Development, the B-BBEE Improvement Plan, price and delivery. Thereafter the final contract will be awarded to the successful Respondent(s).



**IMPORTANT NOTICE TO RESPONDENTS**

Transnet has appointed a Procurement Ombudsman to investigate any **material complaint** in respect of RFPs exceeding R5million [five million S.A. Rand] in value. Should a Respondent have any material concern regarding an RFP process which meets this threshold, a complaint may be lodged with the Ombudsman for further investigation. The Ombudsman reserves the right to refer the complaint to an external service provider for investigation.

It is incumbent on the Respondent to familiarise himself/herself with the Terms of Reference OF the Ombudsman which are available for review at Transnet's website [www.transnet.net](http://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](mailto:procurement.ombud@transnet.net).

For transactions below the abovementioned threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division/Specialist Unit.

Respondents are to 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 PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.  
CLOSING VENUE: 30 WELLINGTON ROAD, PARKTOWN, JOHANNESBURG, 2193  
CLOSING DATE: 26 November 2019  
CLOSING TIME: 10:00  
VALIDITY PERIOD: 120 BUSINESS DAYS**

**Section 3: PRICING AND DELIVERY SCHEDULE**

**Note: Respondents are required to complete and return Annexure E - Bill of Quantities**

Item No	Description of Item	Unit	Quantity	Rate	TOTAL PRICE OF ITEM [ZAR]
1	<b>Annexure C</b> – Specification/ scope of work				
2	<b>Annexure E</b> – Bill of Quantities				
<b>TOTAL PRICE, exclusive of VAT:</b>					
<b>VAT (if applicable)</b>					
<b>Total Inclusive of VAT (where applicable)</b>					

**Notes to Pricing:**

- a) Respondents are to note that if the price offered by the highest scoring bidder is not market-related, Transnet may not award the contract to that Respondent. Transnet may-
  - (i) negotiate a market-related price with the Respondent scoring the highest points or cancel the RFP;
  - (ii) if that Respondent does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the second highest points or cancel the RFP;
  - (iii) if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFP.

If a market-related price is not agreed with the Respondent scoring the third highest points, Transnet must cancel the RFP.
- b) Prices must be quoted in South African Rand.
- c) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this pricing schedule (**Annexure E - Bill of Quantities**) and not utilise a different format. Deviation from this pricing schedule will result in a bid being declared non responsive.
- d) 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.
- e) Respondents, if awarded the contract, are required to indicate that their prices quoted would be kept firm and fixed for the contract duration. [Not to be confused with bid validity period Section 1, clause 1]

<b>YES</b>	
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**1. DISCLOSURE OF PRICES TENDERED**

1.1 Respondents are to note that, on award of business, Transnet is required to publish the tendered prices and preferences claimed of the successful and unsuccessful Respondents *inter alia* on the National Treasury e-Tender Publication Portal, ([www.etenders.gov.za](http://www.etenders.gov.za)), as required per National Treasury Instruction Note 01 of 2015/2016.

**2. SERVICE LEVELS**

- 2.1 Transnet will have quarterly reviews with the Service provider’s account representative on an on-going basis.
- 2.2 Transnet reserves the right to request that any member of the Service provider’s team involved on the Transnet account be replaced if deemed not to be adding value for Transnet.
- 2.3 The Service provider guarantees that it will achieve a 95% [ninety-five per cent] service level on the following measures:
  - a) Random checks on compliance with quality/specifications (annual audits).
- 2.4 The Service provider must provide a telephone number for customer service calls.
- 2.5 Failure of the Service provider to comply with stated service level requirements will give Transnet the right to cancel the contract in whole, without penalty to Transnet, giving 30 [thirty] calendar days’ notice to the Service provider of its intention to do so.

**Acceptance of Service Levels:**

<b>YES</b>	
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<b>NO</b>	
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**3. 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 Service provider, in relation to:

**3.1 Quality and specification of Services delivered:**

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

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**3.3 Compliance with the National Environmental Management: Waste Act, 59 of 2008:**

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**4. FINANCIAL STABILITY**

Respondents are required to submit their latest audited financial statements for the past 2 years with their Proposal in order to enable Transnet to establish financial stability.

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: \_\_\_\_\_

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**RFP FOR THE PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 4: PROPOSAL FORM AND LIST OF RETURNABLE DOCUMENTS**

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, dated \_\_\_\_\_ to enter into, sign execute and complete any documents relating to this proposal and any subsequent Agreement. The following list of persons are hereby authorised to negotiate on behalf of the abovementioned entity, should Transnet decide to enter into Post Tender Negotiations with shortlisted bidder(s).

FULL NAME(S)	CAPACITY	SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I/We hereby offer to supply the abovementioned Services at the prices quoted in the schedule of prices in accordance with the terms set forth in the documents listed in the accompanying schedule of RFP documents.

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

- (i) Master Agreement;
- (ii) General Bid Conditions; 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.

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 Services 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.

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

I/We accept that any contract resulting from this offer will be for a period of Thirty Six (36) months only.

Furthermore, I/we agree to a penalty clause/s which will allow Transnet to invoke a penalty against us for non-compliance with material terms of this RFP including the delayed delivery of the Services due to non-performance by ourselves, failure to meet Subcontracting, Supplier Development and B-BBEE Improvement Plan commitments.

I/we agree that non-compliance with any of the material terms of this RFP, including those mentioned above, will constitute a material breach of contract and provide Transnet with cause for cancellation.

### 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:

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Facsimile:

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Address:

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### NOTIFICATION OF AWARD OF RFP

As soon as possible after approval to award the contract(s), the successful Respondent [**the Service provider**] will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful Service provider 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 120 [one hundred and twenty] Business 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)

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Respondent's Signature

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Date & Company Stamp

**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) Mandatory Returnable Documents**

***Failure to provide all Mandatory Returnable Documents at the closing date and time of this bid 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 the mandatory Returnable Documents detailed below by so indicating [Yes or No] in the table below:

MANDATORY RETURNABLE DOCUMENTS	SUBMITTED [Yes/No]
SECTION 3 : Fully Completed Pricing and Delivery Schedule <b>–(Annexure E - Bill of Quantities)</b>	
<ul style="list-style-type: none"> <li>• A minimum B-BBEE level 4.</li> <li>• Certificate of Attendance of Compulsory RFP briefing;</li> <li>• Respondents who are registered with National Treasury Central Supplier Database (CSD);</li> <li>• Valid waste contractor registration in terms of the Saldanha Bay municipal by-laws as a waste service provider;</li> <li>• Waste management licenses/permits for Vissershok landfill site;</li> <li>• Valid public liability insurance cover to the value of R5 million per incident/ series of incidents arriving from the same cause and with an annual limit cover of not less than R50 million;</li> <li>• Valid Letter of Good Standing/Workmen’s Compensation registration</li> <li>• Proof of valid Professional Driving Permit (PDP) for two drivers (Dangerous Goods).</li> <li>• Proof of valid vehicle licences to carry dangerous goods for:               <ul style="list-style-type: none"> <li>• Waste Compactor trucks (At least two compactor trucks)</li> <li>• Skip Trucks (At least two skip trucks)</li> </ul> </li> </ul>	

**b) Essential Returnable Documents**

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.

**Essential Returnable Documents required for evaluation purposes:**

***Failure to provide all essential Returnable Documents used for purposes of scoring a bid, by the closing date and time of this bid will not result in a Respondent’s disqualification. However, Bidders will receive an automatic score of zero for the applicable evaluation criterion. Bidders are therefore urged to ensure that all these documents are returned with their Proposals.***

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

<b>ESSENTIAL RETURNABLE DOCUMENTS USED FOR SCORING</b>	<b>SUBMITTED</b> [Yes or No]
<b>Please refer to Annexure D for a detailed list of documents to be supplied for scoring</b>	
- Experience in Waste Management Industry – Company	
- Competency /Experience in Waste Management Industry – Personnel	
- Resources and Equipment	
- Method Statement / Procedures	

**Other Essential Returnable Documents:**

***Failure to provide other essential Returnable Documents may 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 essential Returnable Documents by indicating Yes or No in the table below:

<b>OTHER ESSENTIAL RETURNABLE DOCUMENTS &amp; SCHEDULES</b>	<b>SUBMITTED</b> [Yes or No]
SECTION 1: 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	
SECTION 3: Latest Financial Statements signed by your Accounting Officer or latest Audited Financial Statements plus 2 previous years	
SECTION 4 : Proposal Form and List of Returnable documents	
SECTION 5: Certificate Of Acquaintance with RFP, Terms & Conditions & Applicable Documents	
SECTION 6: RFP Declaration and Breach of Law Form	
SECTION 8: B-BBEE Preference Claim Form	
SECTION 9: Certificate of attendance of compulsory Site Meeting / RFP Briefing	
ANNEXURE A : B-BBEE Improvement Plan	
ANNEXURE H : Terms and Conditions of Waste Disposal Licence – Confirmation on a company letterhead that the Bidder will comply with the terms and conditions stated in this document	

**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 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.

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp



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

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

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

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

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

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**RFP FOR THE PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 5: CERTIFICATE OF ACQUAINTANCE WITH RFP, TERMS & CONDITIONS & APPLICABLE  
DOCUMENTS**

**By signing this certificate the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with, and agrees with all the conditions governing this RFP. This includes those terms and conditions contained in any printed form stated to form part hereof, including but not limited to the documents stated below. As such, 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 any other purpose:**

1	Transnet's General Bid Conditions*
2	Master Agreement attached
3	Transnet's Supplier Integrity Pact*
4	Non-disclosure Agreement*
5	Specifications and drawings attached to this RFP
6	Supplier Development initiatives attached to this RFP
7	Vendor Application Form* and all supporting documents (first time vendors only). Alternatively, for all existing vendors, please complete the table below under the heading "Existing vendors".
<p><b>Note: documents marked with a "*" are available on request or at the Transnet website (<a href="http://www.transnet.net">www.transnet.net</a>). Please click on "Business with Us", proceed to the tab "Tenders" and then click on "Standard Bid Documents".</b></p>	

Existing vendors: existing vendors are required to confirm whether all the information (e.g. company address, contact details, banking details, etc.) relating to the existing vendor number is still correct at the time of submission of this bid failing which such Respondents are required to indicate so below and provide the updated information in their bid submission:

<b>Transnet Operating Division [e.g. TFR, TE, etc.]</b>	<b>Vendor Number</b>	<b>Information still current [tick if applicable]</b>	<b>Information change [indicate detail of change/s &amp; attach appropriate proof]</b>

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFP unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. 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. A material deviation from any term or condition may result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid which they intend to respond on, before submitting the bid. The Bidder agrees that he/she will have no claim based on an allegation that any aspect of this RFP was unclear but in respect of which he/she failed to obtain clarity.

The bidder understands that his/her Bid will be disqualified if the Certificate of Acquaintance with RFP documents included in the RFP as a returnable document, is found not to be true and complete in every respect.

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 PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 6: RFP DECLARATION AND BREACH OF LAW 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. we have been provided with sufficient access to the existing Transnet facilities/sites and any and all relevant information relevant to the Services as well as Transnet information and Employees, and has had sufficient time in which to conduct and perform a thorough due diligence of Transnet's operations and business requirements and assets used by Transnet. Transnet will therefore not consider or permit any pre- or post-contract verification or any related adjustment to pricing, service levels or any other provisions/conditions based on any incorrect assumptions made by the Respondent in arriving at his Bid Price.
4. 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;
5. 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
6. we have complied with all Obligations of the Bidder/Supplier as indicated in paragraph 3 of the Transnet Supplier Integrity which includes but is not limited to ensuring that we take all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
7. 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 including any person who may be involved in the evaluation and/or adjudication of this Bid.
8. In addition, we declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of the Transnet Group.
9. If such a relationship as indicated in paragraph 6 and/or 7 exists, the Respondent is to complete the following section:

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

ADDRESS:

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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]***

10. 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.
11. 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.
12. 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.

**BREACH OF LAW**

13. We further hereby certify that *I/we* (the bidding entity and/or any of its directors, members or partners) **have/have not been** [delete as applicable] 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. This includes the imposition of an administrative fine or penalty.

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

NATURE OF BREACH:

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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\_\_

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	Registration No of Company/CC
Place:	Registration Name of Company/CC

**RFP FOR THE PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 7: RFP CLARIFICATION REQUEST FORM**

RFP No: TNPA 851

RFP deadline for questions / RFP Clarifications: Before 12:00 on 19 November 2019

TO: Transnet National Ports Authority  
 ATTENTION: Natalie Joubert  
 EMAIL: Natalie.Joubert@transnet.net  
 DATE: \_\_\_\_\_  
 FROM: \_\_\_\_\_

RFP Clarification No *[to be inserted by Transnet]*

**REQUEST FOR RFP CLARIFICATION**

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## Section 8: B-BBEE PREFERENCE POINTS CLAIM FORM

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.**

### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable. Despite the stipulated preference point system, Transnet shall use the lowest acceptable bid to determine the applicable preference point system in a situation where all received acceptable bids are received outside the stated preference point system.

1.3 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed. Certificates issued by a Registered Auditor approved by the Independent Board of Auditors [**IRBA**] to Large Enterprises or QSEs with less than 51% black ownership have been discontinued but such valid certificates that were issued before 1 January 2017 may be used until they phase out completely by December 2017.

1.6 The purchaser 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 the purchaser.

### 2. DEFINITIONS

- (a) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **"B-BBEE status level 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;

- (d) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **"Black designated group"** has meaning assigned to it in codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
- (f) **"Black People"** meaning assigned to in Section 1 of Broad-Based Black Economic Empowerment Act.
- (g) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (h) **"CIPC"** means the Companies and Intellectual Property Commission, formerly known as CIPRO, the Companies and Intellectual Property Registration Office.
- (i) **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (j) **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (k) **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
- (l) **"co-operative"** means a co-operative registered in terms of section 7 of Cooperatives Act, 2005 (Act No. 14 of 2005)
- (m) **"Designated Group"** means - i) Black designated groups; ii) Black People; iii) Women; iv) people with disabilities or v) Small enterprise, as defined in Section 1 of National Small Enterprise Act, (102 of 1996)
- (n) **"Designated Sector"** means, sub-sector or industry or product designated in terms of regulation 8(1)(a)
- (o) **"EME"** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (p) **"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 or 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;
- (q) **"functionality"** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents
- (r) **"Military Veteran"** has meaning assigned to it in Section 1 of Military Veterans Act, 2011 (Act No. 18 of 2011)
- (s) **"National Treasury"** has meaning assigned to it in Section 1 of Public Finance Management Act, 1999 (Act No. 1 of 1999)
- (t) **"non-firm prices"** means all prices other than "firm" prices;
- (u) **"person"** includes a juristic person;
- (v) **"People with disabilities"** meaning assigned to it in terms of Section 1 of Employment Equity Act, 1998 (Act No. 55 of 1998)
- (w) **"Price"** includes all applicable taxes less all unconditional discounts.
- (x) **"Proof of B-BBEE Status Level of Contributor"** i) the B-BBEE status level certificate issued by an unauthorised body or person; ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or iii) any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act.

- (y) **"Rural Area"** i) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or ii) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have traditional land tenure system.
- (z) **"QSE"** means a Qualifying Small Enterprise as defined by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (aa) **"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;
- (bb) **"sub-contract"** means the primary contractor's assigning, leasing, 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;
- (cc) **"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 Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (dd) **"Township"** means an urban living area that any time from the late 19<sup>th</sup> century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;
- (ee) **"Treasury"** meaning assigned to it in Section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (ff) **"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;
- (gg) **"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; and
- (hh) **"Youth"** meaning assigned to it in terms of Section 1 of National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 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 must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one 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 must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

### 4. POINTS AWARDED FOR PRICE

#### 4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:  
80/20

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P<sub>s</sub> = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

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

5.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must 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 (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

5.2 A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership. Furthermore EMEs may also obtain a sworn affidavit from CIPC (formerly CIPRO) Self Service Terminals when registering a business or filing annual returns. In these instances Transnet would require proof of turnover as well as proof of ownership. Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at [www.dti.gov.za/economic\\_empowerment/bee\\_codes.jsp](http://www.dti.gov.za/economic_empowerment/bee_codes.jsp).

5.3 QSEs that are at least 51% Black owned or higher are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity's Level of Black ownership.

5.4 A Bidder other than EME or a QSE that is at least 51% Black owned 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.

5.5 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.

5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 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 sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

5.8 A person awarded a contract may not sub-contract more than 25% 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 sub-contracted to an EME that has the capability and ability to execute the sub-contract.

5.9 Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder's responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.

## 6. BID DECLARATION

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

7.1 B-BBEE Status Level of Contribution: . = .....(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 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 a sworn affidavit.

**8. SUB-CONTRACTING**

8.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES		NO	
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8.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME.

(Tick applicable box)

YES		NO	
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v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

**9. DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
.....

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business:.....

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser 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) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
  - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
  - (f) forward the matter for criminal prosecution.

WITNESSES	
1.	.....
2.	.....

.....
SIGNATURE(S) OF BIDDERS(S)
DATE: .....
ADDRESS.....

**RFP FOR THE PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 9: CERTIFICATE OF ATTENDANCE OF COMPULSORY RFP BRIEFING**

It is hereby certified that –

1. \_\_\_\_\_

2. \_\_\_\_\_

Representative(s) of \_\_\_\_\_ *[name of entity]*  
attended the RFP briefing in respect of the proposed Services to be rendered in terms of this RFP on  
\_\_\_\_\_ 2019

\_\_\_\_\_  
TRANSNET'S REPRESENTATIVE

\_\_\_\_\_  
RESPONDENT'S REPRESENTATIVE

DATE \_\_\_\_\_

DATE \_\_\_\_\_

EMAIL \_\_\_\_\_

**RFP FOR THE PROVISION OF  
WASTE MANAGEMENT SERVICES AT THE PORT OF SALDANHA  
FOR A PERIOD OF THIRTY SIX (36) MONTHS.**

**Section 10: B-BBEE IMPROVEMENT PLAN**

Transnet encourages its Service Providers to constantly strive to improve their B-BBEE rating and requests that Respondents submit a B-BBEE improvement plan. Respondents are therefore requested to indicate whether they will maintain or improve their BBEE status over the contract period.

**Additional contractual requirements**

Should a contract be awarded through this RFP process, the successful Respondent(s) may be contractually committed, *inter alia*, to the following conditions:

- a) The original B-BBEE Improvement Plan may require certain additions or updates in order to ensure that Transnet is satisfied that developmental objectives will be met.
- b) The Service Provider will need to ensure that the relevant mechanisms and procedures are in place to allow Transnet access to information to measure and verify the Service Provider's compliance with its stated B-BBEE Improvement commitments.
- c) The Service Provider will be required to provide:
  - (i) quarterly status reports for Transnet; and
  - (ii) a final B-BBEE Improvement Plan report, to be submitted to Transnet prior to the expiry date of the contract, detailing delivery, implementation and completion of all B-BBEE Improvement components.
- d) All information provided by the Service Provider in order to monitor and evaluate its progress against its stated targets will be auditable.

Respondents are requested to submit their B-BBEE Improvement Plan as an **essential document** with their Proposals by completion of **Annexure A** appended hereto. [*Refer Annexure A for further instructions*]

I/We do hereby agree to the following should I/we fail to meet the required commitments in relation to B-BBEE Improvement Plan:

**Non-compliance Penalties:**

- a) If the Service Provider fails, at any agreed milestone, to achieve its commitments under and in accordance with the B-BBEE Improvement Plan ("a **Non-compliance**"), the Service Provider shall pay a Non-compliance penalty ("Non-compliance Penalty") to Transnet in respect of such Non-compliance. The penalties shall be imposed per milestone measurement.
- b) Respondents are to note that Transnet will determine the size of the entity (i.e. EME, QSE and Large) and the applicable Non-compliance Penalties annually based on the Service Provider's turnover in the year the penalty applies.

**Applicable Rates of Non-compliance Penalties in respect of B-BBEE Improvement plan:**

- c) The Non-compliance Penalty shall be based on a percentage of the cumulative amount paid to the Service Provider by Transnet during the preceding year of a contract. Penalties shall only

apply in respect of contracts lasting 3 years or more and shall be imposed at the Applicable Rates mentioned in Table 1 below.

- d) In order to ensure that payment of any applicable Non-compliance penalty is guaranteed, Transnet is entitled to make stipulated monthly/milestone deductions from amounts due to the Service Provider. These amounts shall be retained as security to ensure that the Service Provider will be able to discharge its obligations in respect of any applicable Non-compliance Penalty and shall be the "BBBEE Retention Amount". The relationship between the Non-compliance Penalty and the B-BBEE Retention Amount is illustrated in Table 2 below. The deduction of the B-BBEE Retention Amount shall be based on the following:
- i. Transnet shall be entitled to deduct a stipulated percentage from each monthly/milestone payment based on the penalty percentage stipulated in the next year as indicated in Table 1 below.
  - ii. By way of illustration, in respect of EMEs, in year 2 Transnet shall deduct 0,5% of each monthly/milestone payment to ensure that the Service Provider will be able to meet its obligations in respect of any applicable Non-compliance Penalty due at the end of year 3. The same approach in calculation of the B-BBEE Retention Amount applies in respect of years 3 and beyond, based on the penalty percentage as stipulated in Table 2 below.

**Table 1 : 5 Year Contracts (General Commodities)**

Year	QSEs and EMEs other than Black Owned EMEs	Large Enterprises	51% Black Owned Large Enterprise	Designated Groups (51% Ownership): BWO, BYO, BDO & BO EMEs
1	Not Applicable (Engagement with Transnet-M&E)	Not Applicable (Engagement with Transnet-M&E)	Not Applicable (Engagement with Transnet-M&E)	Not Applicable (Engagement with Transnet-M&E)
2	Not Applicable (Engagement with Transnet-M&E)	Not Applicable (Engagement with Transnet-M&E)	Not Applicable (Engagement with Transnet-M&E)	Not Applicable (Engagement with Transnet-M&E)
3	0.5% of the preceding year's monthly/milestone payments	1% of the preceding year's monthly/milestone payments	0.75% of the preceding year's monthly/milestone payments	0.5% of the preceding year's monthly/milestone payments
4	1% of the preceding year's monthly/milestone payments	1.5% of the preceding year's monthly/milestone payments	1% of the preceding year's monthly/milestone payments	0.75% of the preceding year's monthly/milestone payments
5 **	1% of the preceding year's monthly/milestone payments	2.5% of the preceding year's monthly/milestone payments	2% of the preceding year's monthly/milestone payments	1% of the preceding year's monthly/milestone payments

\*\*This includes contracts in excess of 5 years in duration.



Table 2: Relationship between Non-compliance Penalty and B-BBEE Retention amount

Year	B-BBEE Retention Amount	Non-compliance Penalty
1	Not Applicable	Not Applicable
2	Deduction from monthly/milestone payments based on the penalty percentage stipulated for year 3	Not Applicable
3	Deduction from monthly/milestone payments based on the penalty percentage stipulated for year 4	B-BBEE Retention Amount deducted in year 2 will be used to discharge any applicable Non-compliance Penalty due at the end of year 3
4	Deduction from monthly/milestone payments based on the penalty percentage stipulated for year 5	B-BBEE Retention Amount deducted in year 3 will be used to discharge any applicable Non-compliance Penalty due at the end of year 4
5 **	Deduction from monthly/milestone payments based on the penalty percentage stipulated for year 5 and subsequent years	B-BBEE Retention Amount deducted in year 4 will be used to discharge any applicable Non-compliance Penalty due at the end of year 5

\*\*The B-BBEE Retention Amount and applicable Non-compliance Penalties will apply similarly to contracts in excess of 5 years in duration.

- e) The BBBEE Retention Amount shall be retained by Transnet as security for the obligations of the Service Provider in terms of the BBBEE Improvement Plan.
- f) Should there be a change in the status of the Service Provider between the year the B-BBEE Retention Amount is deducted and the year the penalty is imposed, Transnet will be entitled to recover any shortfall between the B-BBEE Retention Amount and Non-compliance Penalty imposed, withhold payment due to the Service Provider in lieu of payment of the remaining shortfall or deduct (set off) the amount not paid by the Service Provider from the account of the Service Provider in the ensuing month.
- g) Should the Service Provider's obligations:
  - be met in terms of the BBBEE Improvement Plan, the BBBEE Retention Amount shall be released within 30 (thirty) days of the date of verification of compliance by the Service Provider of its obligations in terms of the BBBEE Improvement Plan, at which time the monies shall be paid over to the Service Provider; and
  - not be met, unless such failure is attributable to the occurrence of a Force Majeure Event, the Service Provider shall forfeit the BBBEE Retention Amount and shall have no further claim against Transnet for the repayment of such amount.

**Non-compliance Penalty Certificate:**

- h) If any Non-compliance Penalty arises, the Service Provider Development Manager shall issue a Non-compliance Penalty Certificate on the last day of each month during such Non-compliance indicating the Non-compliance Penalties which have accrued during that period.

- i) A Non-compliance Penalty Certificate shall be prima facie proof of the matters to which it relates. If the Service Provider disputes any of the amounts set out in a Non-compliance Penalty Certificate:
- the dispute shall be resolved in accordance with the provisions of the Agreement; and
  - if pursuant to that referral, it is determined that the Service Provider owes any amount to Transnet pursuant to the Non-compliance Penalty Certificate, then the Service Provider shall pay such amount to Transnet within 10 (ten) Business Days of the determination made pursuant to such determination and an accompanying valid Tax Invoice.

**Payment of Non-compliance Penalties:**

- j) Subject to paragraph (i) above, the Service Provider shall pay the Non-compliance Penalty indicated in the Non-compliance Penalty Certificate (or any part thereof due) within 10 (ten) Business Days of Transnet issuing a valid Tax Invoice to the Service Provider for the amount set out in that certificate. If Transnet does not issue a valid Tax Invoice to the Service Provider for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.
- k) The Service Provider shall pay the amount due within 10 (ten) days after receipt of a valid Tax Invoice from Transnet, failing which Transnet shall, without prejudice to any other rights of Transnet under this Agreement, be entitled to call for payment which may be in any form Transnet deems reasonable and/or appropriate.
- l) Should the Service Provider fail to pay any Non Compliance Penalties within the time indicated above (as applicable), Transnet shall be entitled to deduct (set off) the amount not paid by the Service Provider from the account of the Service Provider in the ensuing month.

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

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

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