



## PROCUREMENT POLICY FOR INFRASTRUCTURE GOODS AND SERVICES

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<b>Signed on behalf of the Board by</b>	Board Chairman 
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1 **DEFINITIONS, ACRONYMS AND ABBREVIATIONS**

<b>B-BBEE</b>	Broad-Based Black Economic Empowerment as defined in the Broad-Based Black Economic Empowerment Act 53 of 2003 (B-BBEE Act)
<b>B-BBEE Status Level of Contributor</b>	B-BBEE status is received by a measured entity in terms of a code of good practice on and issued under the terms of section 9(1) of the B-BBEE Act.
<b>Bidder</b>	The Consultant or Contractor who submits a response to a Request for Quotation, Request for Bid or Expression of Interest and/or Request for Information by TCTA.
<b>Bid Adjudication Committee (BAC)</b>	Committee is appointed to consider the recommendations of the Bid Evaluation Committee and adjudicate whether to make a final award.
<b>Bid Evaluation Committee (BEC)</b>	Committee is appointed to evaluate bid submissions and recommend awards.
<b>Bid Specification Committee (BSC)</b>	Committee was appointed to review and finalise bid documents.
<b>Bid Submission</b>	Bidder’s written proposal in response to an Invitation for Bids (Request for Proposals/Request for Quotations/Request for Information, etc.)
<b>Black People</b>	'black people' as defined in the B-BBEE Act as amended from time to time
<b>Board</b>	TCTA’s Board of Directors which is also its Accounting Authority.
<b>CIDB</b>	Construction Industry Development Board.
<b>Construction</b>	Everything constructed or resulting from construction operations.
<b>Consultant</b>	A professional person who is appointed to provide technical and specialist advice for general goods or services or appointed to assist with project design and implementation. The legal status of this

	person can be an individual, a partnership, a corporation or a company.
<b>Contract</b>	A legal agreement concluded between TCTA and the Bidder that has been appointed by the TCTA pursuant to the procurement process, including a service level agreement (SLA) and all attachments and appendices thereto and all documents incorporated by reference therein. This term does not refer to the actual bid or successful bid.
<b>Contractor</b>	The Bidder that is appointed to provide Infrastructure Goods or Services or any combination thereof covered by the Contract. A contractor may also be referred to as a "Supplier" at times in this Policy or in the Invitation for Bids (Request for Proposals/Request for Quotations/Request for Information, etc.) or in the other Policies and Manuals used by TCTA.
<b>Contract Manager</b>	A representative from each RD will manage the day-to-day activities related to a contract. This <i>ad hoc</i> role can be assumed by any employee who has procured Infrastructure-related Goods and/or Services or a has had a Contract allocated to them by their line manager.
<b>EME</b>	Exempted Micro Enterprise in terms of the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9 (1) of the B-BBEE Act
<b>Emergency Situation</b>	A serious and unexpected situation that poses an immediate risk to health, life, property or environment that calls for urgent action, and there is insufficient time to follow a competitive bidding process
<b>FIPDM</b>	Framework for Infrastructure Procurement and Delivery Management issued by the National Treasury of South Africa
<b>Gate</b>	A control point at the end of a process where a decision is required before proceeding to the next process or activity

<b>Historically Disadvantaged Entities</b>	<p>Entities that are at least:</p> <ul style="list-style-type: none"> <li>• 51% black-owned;</li> <li>• 51% owned by black youth;</li> <li>• 51% owned by black women;</li> <li>• 51% owned by black people with disabilities;</li> <li>• 51% owned by black people in rural areas, underdeveloped areas or townships;</li> <li>• a co-operative that is 51% owned by black people; or</li> <li>• 51% owned by black people who are military veterans.</li> </ul>
<b>Infrastructure</b>	<ol style="list-style-type: none"> <li>1. Immovable assets which are acquired, constructed or result from construction operations; or</li> <li>2. Movable assets, which cannot function independently from purpose-built immovable assets.</li> </ol>
<b>Infrastructure-related Goods and/or Services</b>	<p>All the goods and services relating to the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of Infrastructure.</p>
<b>Infrastructure Delivery</b>	<p>The combination of all planning, technical, administrative and managerial actions associated with the construction, supply, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of Infrastructure</p>
<b>Infrastructure Procurement:</b>	<p>The procurement of Infrastructure-related Goods and/or Services.</p>
<b>Limited Bidding</b>	<p>Bidding process reserved for a specific group or category of possible Contractors through procurement by:</p> <ol style="list-style-type: none"> <li>(a) Sole source whether there is no competition in the market and only one Contractor can provide the goods or services.</li> <li>(b) Single source where a thorough analysis of the market and a transparent and equitable pre-selection process is used to</li> </ol>

	<p>decide on one Contractor among a few prospective bidders to make a proposal.</p> <p>(c) Multiple sources where a thorough analysis of the market indicates that there is limited competition and only a few prospective bidders are requested to make a proposal.</p>
<b>ODOA</b>	TCTA Operational Delegation of Authority Matrix
<b>Procurement Representative</b>	A duly appointed person in the Procurement Department responsible for procurement-related transactions and processes.
<b>RD</b>	The requesting Division is the section of the business requiring the goods or services.
<b>Specific Goals</b>	Specific goals, as contemplated in section 2(1)(d) of the Preferential Procurement Policy Framework Act, No 5 of 2000, which may include (i) contracting with persons or categories of persons historically disadvantaged by unfair discrimination based on race, gender or disability, and(ii) the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.
<b>TCTA</b>	Trans Caledon Tunnel Authority. TCTA may also be referred to as the "Employer" and/or "Client" in accordance with the definition thereof in the FIPDM and the CIDB prescripts and the various contracts.
<b>QSE</b>	Qualifying small business enterprises in terms of the Codes of Good Practice on Black Economic Empowerment issued under section 9 (1) of the B-BBEE Act
<b>Urgent Case</b>	Cases where early delivery is critical and the invitation of competitive bids is either impossible or impractical, not due to improper planning.

## 2 SCOPE OF APPLICATION

- 2.1 This Policy applies to the Infrastructure Delivery and Infrastructure Procurement processes undertaken by TCTA for all Infrastructure-related Goods and/or Services, except that which is related to project funding. It does not apply to general goods and services, as governed by the Procurement Policy for Goods and Services.

## 3 PURPOSE AND OBJECTIVES

- 3.1 TCTA is a public entity listed under schedule 2 of the Public Finance Management Act ("PFMA"). This Policy aims to implement and give effect to section 51(1)(a)(iii) of which requires TCTA as public entity to have maintain an appropriate procurement and provisioning system. The system must be fair, equitable, transparent, competitive and cost-effective.
- 3.2 Further to the above, National Treasury Instruction No. 3 of 2019/2020: Framework for Infrastructure Delivery and Procurement Management instructs organs of the state to create and maintain a policy for infrastructure delivery and procurement management.
- 3.3 To comply with the National Treasury Instruction No. 3 of 2019/2020, TCTA shall have two policies and procedure manuals dealing with (i) Infrastructure Delivery and Infrastructure Procurement management and (ii) procurement of general goods and services, separately.
- 3.4 The primary objectives of this Policy are to:
- 3.4.1 Provide clear guidelines on the procurement of Infrastructure-related Goods and/or Services within TCTA in accordance with the prevailing legal prescripts;
  - 3.4.2 Give effect to the principles in section 217 of the Constitution of the Republic of South Africa;
  - ~~3.4.3~~ Set out the minimum requirements for the implementation of Infrastructure Delivery and Infrastructure Procurement through the allocation of responsibilities for performing activities and making decisions at procurement Gates;
  - 3.4.4 Enhance the effectiveness and efficiency of procurement within TCTA;
  - 3.4.5 Align TCTA with the legislative framework as well as procurement practices and trends;
  - 3.4.6 Achieve value for money for the Infrastructure Procurement processes.

- 3.4.7 Promote transformation in accordance with the laws and policies of the government of the Republic of South Africa;
- 3.4.8 Create a common understanding and interpretation of procurement-related legislation within TCTA;
- 3.4.9 Ensure the creation of social and environmental sustainability;
- 3.4.10 Promote a consistent application of best practices, where possible;
- 3.4.11 Enable the rest of TCTA through the timeous and effective procurement of infrastructure goods and services; and
- 3.4.12 Ensure that TCTA's strategic objectives are achieved economically, efficiently and effectively.

#### 4 **LEGISLATIVE FRAMEWORK**

- 4.1 As of its effective date, this Policy is aligned with the applicable legislative frameworks mentioned below and their associated amendments (as and when the amendment come into effect), regulations, instructions and standards. Where a contradiction appears between this policy and the legislative frameworks below that cannot be solved by reading the two harmoniously, the legislative frameworks shall prevail and apply.
- 4.2 The Supply Chain Management (SCM) within the context of infrastructure delivery and procurement management is governed by, but not limited to, the following:
- 4.3 Constitution of the Republic of South Africa, 1996 ("the Constitution");
- 4.4 Broad-Based Black Economic Empowerment Act, No. 53 of 2003, (as amended), the regulations and codes published thereunder ("B-BBEE");
- 4.5 Competition Act, No 89 of 1998 and the regulations published thereunder;
- 4.6 Construction Industry Development Board Act, No. 38 of 2000 (CIDB) and the regulations and standards published thereunder;
- 4.7 South African Bureau of Standards, SANS 10845-1, Construction procurement – Part 1: Processes, methods and procedures;

- 4.8 South African Bureau of Standards, SANS 10845-2, Construction procurement – Part 2: Formatting and compilation of procurement documentation;
- 4.9 Public Finance Management Act, No. 1 of 1999 and the regulations, standards, instruction notes, practice notes and guidelines published thereunder (PFMA);
- 4.10 Preferential Procurement Policy Framework Act, No. 5 of 2000 and the regulations published thereunder (PPPFA);
- 4.11 Prevention and Combating of Corrupt Activities Act, No. 12 of 2004;
- 4.12 Promotion of Administrative Justice Act, No. 3 of 2000 (PAJA); and
- 4.13 Promotion of Access to Information Act, No. 2 of 2000 (PAIA).

## 5 **EXCLUSIONS**

The following transactions are excluded from the infrastructure procurement process:

- 5.1 Professional and corporate memberships, excluding journal subscriptions;
- 5.2 Rates and taxes, water, electricity and other levies raised by local authorities and provincial administrations;
- 5.3 Sponsorships, donor funding (the donor specifies the procurement process), and bursaries extended by TCTA;
- 5.4 Revenue-generating transactions that do not have a procurement aspect to them in that TCTA does not incur expenditure in their conclusion;
- 5.5 Human resources-related claims, salaries and the attendance of external conferences/workshops/seminars approved and paid for in terms of TCTA policies;
- 5.6 Training as part of the employee bursary as regulated by the relevant policies and procedures within TCTA. All other training shall not be excluded from the procurement processes.
- 5.7 Investments and loans;
- 5.8 Goods and services procured as a result of an insurance claim governed by TCTA's insurance policies;

- 5.9 Goods and services provided by a statutory body unless the use thereof is discretionary; and
- 5.10 Disbursements linked to a specific contract and not specified as part of the original bid/contract.

## 6 **PROBLEM STATEMENT**

- 6.1 In 2003, the Government of South Africa discontinued the procurement and provisioning system in favour of an integrated SCM system. The change in approach to fulfilling the constitutional requirements through the SCM system has since evolved over recent years to include the regulation of Schedule 2 entities listed in the PFMA.
- 6.2 The regulator for public procurement is the National Treasury of South Africa. However, regulating Infrastructure-related Goods and/or Services is a joint responsibility of the National Treasury and the Construction Industry Development Board.
- 6.3 National Treasury has published the Framework for Infrastructure Delivery and Procurement Management (FIDPM) to standardise the procurement of Infrastructure-related Goods and/or Services in the public sector. TCTA, therefore, needs to adapt its procurement policies in line with FIDPM and other the applicable legislative framework including Instructions and Circulars issued by National Treasury from time to time.
- 6.4 TCTA at its core, is driven by procurement in order to ensure that all of its projects are implemented on time and efficiently through the appointment of service providers, contractors and consultants. Therefore, procurement processes need to be fit for purpose and agile enough to support TCTA's core initiatives within the corporate and infrastructure space.

## 7 **GUIDING PRINCIPLES**

TCTA is committed to the principles set out in section 217 of the Constitution, and to which are summarised below as follows:

### 7.1 **TRANSPARENCY**

Promoting accountability and -preventing maleficence. TCTA should strive to promote access to information and make it openly available where it is not protected by confidentiality or any other legal constraints. Changes to the SCM process must be made

in terms of under the relevant legislation and not to the detriment of stakeholders to the benefit of all stakeholders where feasible.

## 7.2 EQUITY

7.2.1 Not discriminating against Bidders and or other stakeholders (except where as permitted by legislation for the advancement of previously Historically Disadvantaged Entities). In fostering equity, TCTA shall consider South Africa's unfair and discriminatory past when implementing government policies for the advancement of persons or categories of persons disadvantaged by unfair discrimination.

## 7.3 FAIRNESS

Creating a procedurally fair environment for Bidders to compete and provide goods and services on similar terms. Creating an environment that is procedurally fair for Bidders to compete on equal terms in providing goods and services. Fair behaviour includes, but is not limited to:

7.3.1 Applying rules consistently;

7.3.2 Being impartial when making decisions;

7.3.3 Recognising conflicts of interests and appropriately reporting;

7.3.4 Treating all Bidders and/or Contractors in the same manner; and

7.3.5 Not accepting illegitimate gifts and/or bribes.

## 7.4 COMPETITIVENESS

7.4.1 Promoting an open market in order to boost competitiveness;

7.4.2 Encouraging new entrants in the market to take part in bid processes; and

7.4.3 Discouraging anti-competitive behaviour among Bidders and Contractors.

## 7.5 COST-EFFECTIVENESS

7.5.1 Taking into consideration the total cost of ownership of goods and services procured. This ensures a balance between the initial cost and the long-term value that will be derived from the goods or services.

- 7.5.2 Identifying the best outcome after considering all relevant costs over the full procurement cycle;
- 7.5.3 Avoiding unnecessary costs; and
- 7.5.4 Monitoring supply arrangements, making the necessary changes and ensuring continuous improvement in the efficiency of internal processes and systems.

## 8 **POLICY STATEMENTS**

TCTA is committed to the following in the execution of this Policy:

### 8.1 **ACCOUNTABILITY**

All official of TCTA shall be accountable for their decisions and actions taken in respect of their responsibilities in the procurement process in accordance with TCTA's Strategic and Operational Delegation of Authority, as amended from time to time.

### 8.2 **PROCUREMENT THRESHOLDS**

The Procurement Department shall apply a different threshold for different bid processes to ensure efficiency and compliance with the necessary prescripts. As a Schedule 2, Major Public Entity under the PFMA, TCTA will continue to review and revise its thresholds in line with its business requirements. The applicable thresholds are set out in the Procedure Manual linked to this Policy.

### 8.3 **DEMAND MANAGEMENT**

- 8.3.1 TCTA will treat the demand management (or planning) function as a cross-functional exercise that involves all TCTA Divisions.
- 8.3.2 Procurement plans shall state the expected procurement items for a particular financial year including specific and sound timelines to promote proper planning.
- 8.3.3 Divisions requesting infrastructure goods or services must determine clear specifications and terms of reference, where applicable.

### 8.4 **STRATEGIC AND TRANSACTIONAL PROCUREMENT**

- 8.4.1 The following infrastructure goods and services shall be classified as strategic:

- 8.4.1.1 The procurement of professional consultants for purposes of providing Infrastructure-related Goods and/or Services, including TCTA representatives appointed to participate in the dispute adjudication board;
  - 8.4.1.2 The procurement of a main contractor;
  - 8.4.1.3 Infrastructure-related Goods and/or Services whose delivery has a direct impact on TCTA's mandates, as received from the Department of Water and Sanitation from time to time; and/or
  - 8.4.1.4 Infrastructure-related Goods and/or Services that are repetitive and warrant a strategic outlook.
- 8.4.2 All strategic procurement shall have a procurement strategy in place unless it is not feasible to do so. All other procurement shall be designated as transactional procurement and will not require a procurement strategy. Developing a strategy will be optional.

## 8.5 **FRAMEWORK FOR INFRASTRUTURE PROCUREMENT**

- 8.5.1 The Infrastructure Procurement shall be undertaken in accordance with all applicable Infrastructure Procurement legislation, this Infrastructure Policy and the Manual.
- 8.5.2 The Infrastructure Procurement shall be implemented in accordance with the Gates set out in paragraph 8 below as a control measure to:
  - 8.5.2.1 authorise commencement to the next phase and/or control Gate;
  - 8.5.2.2 confirm conformity with requirements; and/or
  - 8.5.2.3 provide information, which creates an opportunity for corrective action to be taken.
- 8.5.3 The authorisation to proceed to the next procurement gate must be given by a delegated person or body in accordance with applicable ODOA. The delegated person or body must be able to apply the knowledge and skill to achieve intended results required at the relevant procurement Gate. The level of detail contained in the documentation upon which a decision to proceed to the next procurement gate, must be sufficient to enable an informed decision.

8.5.4 TCTA must keep records of Gate approvals in a manual or electronic format, with the following minimum requirements:

8.5.4.1 The approval of procurement Gate;

8.5.4.2 Delegated person/s or body;

8.5.4.3 Date on which the approval request was received;

8.5.4.4 Date on which the approval was actioned; and

8.5.4.5 Signature of the delegated person.

## 8.6 **INFRASTRUCTURE PROCUREMENT GATES**

8.6.1 Procurement Gate 1 (PG1): Obtain permission to start the procurement process. PG1 is complete when the Procurement Plan is approved in terms of the ODOA. Procurement Gate 2 (PG2): Obtain approval for procurement strategies. PG2 is complete when the Procurement Strategy is approved in terms of the ODOA.

8.6.2 Procurement Gate 3 (PG3): Obtain approval for procurement documents. Procurement Document must be compatible with the approved procurement strategies and be developed in accordance with applicable CIDB standard for Uniformity (SFU). PG3 is complete when a delegated person or body reviews the procurement document, identifies sections, if any, that require amendments or improvement, and grants the necessary approval.

8.6.3 Procurement Gate 4 (PG4): Confirm that cash flow suffices to meet projected contractual obligations. PG4 is complete when the Finance Division signs the project milestones and confirms that the cash flow is sufficient for the procurement to proceed.

8.6.4 Procurement Gate 5 (PG5): Solicit Bid Offers. PG5 is complete when the Procurement Representative signs the Bids Received Register.

8.6.5 Procurement Gate 6 (PG6): Evaluate Tender Offers in Terms Of Undertakings And Parameters Established In Procurement Documents. PG6 is complete when the BAC approves the appointment of the recommended Bidder.

8.6.6 Procurement Gate 7 (PG7): Award the Contract. PG7 is complete when the Offer and Acceptance being issued to the successful Bidder and both parties sign and enter a written contract.

8.6.7 Procurement Gate 8 (PG8): Administer the contract and confirm compliance with all contractual requirements. PG8 is complete when the signed contract is captured on TCTA's Master Contract Register.

## 8.7 **COMPETITIVE BIDDING PROCESSES**

8.7.1 All bid processes must strictly adhere to this Policy and the Procedure Manual for Infrastructure-related Good and/or Services.

8.7.2 Any bid issued on a public platform or where TCTA invites the open market to participate shall be considered a competitive bidding process unless stated otherwise.

## 8.8 **PROCUREMENT BY OTHER MEANS**

8.8.1 If in specific case it is impractical to undertake competitive bidding process, TCTA may procure the required goods and/or services by other means, provided that the reasons are recorded and approved by the Accounting Authority or other authorised official in accordance with the Delegation of Authority.

8.8.2 Procurement by other means shall only apply in cases of Limited Bidding and procurement that occurs in Emergency Situations und Urgent Cases.

8.8.3 Procurement by other means shall not apply to situation caused by improper planning.

8.8.4 Where procurement by other means takes place, compliance with the reporting and other obligations contained in the applicable National Treasury Instruction note at the time must take place.

8.8.5 Before procuring goods and/or services by other means:

8.8.5.1 Where National Treasury's Transversal Term Contracts are in place, TCTA may consider using them, if it is in the interest of the TCTA, given the circumstances requiring procurement by other means.

8.8.5.2 Where desirable and feasible, goods or services may be procured under a contract secured by another organ of the state, provided that the other organ of state is

willing to share details on the process it undertook to appoint the service provider/enter into the contract.

## **8.9 PUBLISHING OF BIDS AND BID INFORMATION**

8.9.1 All TCTA Bids shall be published on the National Treasury e-Tender Portal, the CIDB website (where applicable) and TCTA's website. The CIDB website is limited to publishing of construction bids.

8.9.2 The use of alternative methods of publication shall be in addition to those stated above

8.9.3 All bid-related information—such as addendums, clarifications, extensions and cancellations—must be published on the same platform as the original bid document unless it is practically impossible.

8.9.4 The publication of bids and bid information must comply with TCTA policies and procedure manuals, applicable legislation and National Treasury instructions.

## **8.10 CANCELLATION OF BIDS**

8.10.1 TCTA may, before the award of a tender, cancel a tender invitation in accordance with the prevailing legal prescripts.

## **8.11 CONTRACTOR REQUIREMENTS**

8.11.1 TCTA shall only conduct business with legal entities as recognised by the law in South Africa.

8.11.2 TCTA shall only award contracts to Bidders registered on the National Treasury's Central Supplier Database.

8.11.3 TCTA reserves the right to request any information needed to verify Bidders details and to vet all Bidders before they become Contractors

8.11.4 TCTA may visit Bidders premises as part of either accreditation or the tender evaluation process.

8.11.5 For purposes evaluation for preferential points on Specific Goals, where applicable, all Bidders, except the qualifying small and exempted micro-enterprises, must furnish TCTA with a valid and current B-BBEE Verification Certificate and Scorecard from a

South African National Accreditation System-accredited verification agency. Qualifying small and exempted micro-enterprises must submit a certified, affidavit in line with the National Treasury prescripts.

- 8.11.6 Bidders and/or businesses must be registered for VAT in line with the thresholds as prescribed by the South African Revenue Services.
- 8.11.7 International Bidders and/or companies must possess a similar certificate from the relevant authority in their countries.
- 8.11.8 TCTA will not award a contract if a Bidder is not in good standing with SARS at the time of the award or its equivalent in foreign jurisdictions.
- 8.11.9 TCTA may exclude a Supplier from conducting further business and/or cancel all its existing contracts should the Contractor be found to have acted in bad faith or engaged in misconduct amounting to a breach of contract after complying with the dispute resolution/breach/termination provisions applicable to the contract in question.
- 8.11.10 TCTA shall conduct business in a manner that encourages good Contractor relations in an environment that promotes competition and complies with the law.
- 8.11.11 TCTA shall fulfil its contractual commitments to Contractors and require that they meet their contractual commitments to the organisation.
- 8.11.12 Contact with Contractors by any employee should not result in any expressed or implied commitment to do business without the prior written approval of the appropriate authority.
- 8.11.13 Once the bid process has begun, no bid committee member or participant in the procurement, except relevant Procurement Department employees, shall contact Bidders concerning the bid in the process.
- 8.11.14 If required, a verification process shall be conducted through an established agency.

## 8.12 **SPECIFIC GOALS**

- 8.12.1 This section establishes Preferential Procurement Policy TCTA and it's Specific Goals for procuring Infrastructure-related Goods and/or Services as contemplated in section 2(1)(d) of the PPPFA.

- 8.12.2 Such Specific Goals include contracting with persons or categories of persons historically disadvantaged by unfair discrimination on based on race, gender and disability.
- 8.12.3 TCTA shall use and apply one or more of the following as Specific Goals, for allocating preference points in respect of the procurement process for Infrastructure-related Good and/or Services to Bidders that:
- 8.12.3.1 have a specific BBBEE Contributors status level;
  - 8.12.3.2 form part of being an EMEs or QSEs and/or Historically Disadvantaged Entities or plan to subcontract to an EME or QSE and/or Historically Disadvantaged Entities; or
  - 8.12.3.3 demonstrate that they have implemented an enterprise and supplier development programme; or
  - 8.12.3.4 provide skills development and transfer to an EME, QSE or TCTA.
  - 8.12.3.5 meet the location requirements that will enable communities to benefit from the award of that bid; or
  - 8.12.3.6 demonstrate any requirement that advances the aims and objectives of transformation within public procurement in the Republic of South Africa.
- 8.12.4 In allocating preference points towards Specific Goals, TCTA will consider and endeavours to reach the following minimum transformation targets:

<b>TRANSFORMATION CATEGORY</b>	<b>DESCRIPTION</b>	<b>MINIMUM TARGETS PARTICIPATION OF BLACK-OWNED ENTITIES</b>
<b>Ownership</b>	Participation of Black Owned Enterprise in the procurement of core services and works	BBBEE Contributors Status Level 1 - 4
<b>Enterprise and Supplier development</b>	Enterprise and supplier development	Bidders who: Subcontract a minimum of 15% to EMEs, QSEs or other TCTA suppliers have a

TRANSFORMATION CATEGORY	DESCRIPTION	MINIMUM TARGETS PARTICIPATION OF BLACK-OWNED ENTITIES
		valid enterprise development programme and/or supplier development in place during the current financial year.
<b>Preferential Procurement</b>	Procurement by suppliers	Bidders who spend a minimum of 30% of Procurement Spend where feasible on EME's, QSEs and previously disadvantaged groups, where feasible

TRANSFORMATION CATEGORY	DESCRIPTION	MINIMUM TARGETS FOR EMPLOYMENT OF BLACK PEOPLE
<b>Employment</b>	Employment opportunities for black people.	<p>Programme and targets for employment to be implemented will be set on a case-by-case basis taking into account the type of the commodity, duration of the contract, the structure of delivering the goods, services/works and employment opportunities. The following historically disadvantaged designated individuals will be targeted:</p> <ul style="list-style-type: none"> <li>• Black people;</li> <li>• Black women;</li> <li>• Black youth;</li> <li>• Black people in the townships;</li> <li>• Black people who live in rural areas;</li> </ul>

TRANSFORMATION CATEGORY	DESCRIPTION	MINIMUM TARGETS FOR EMPLOYMENT OF BLACK PEOPLE
		<ul style="list-style-type: none"> <li>• Military veterans; and</li> <li>• People with disabilities.</li> </ul>

TRANSFORMATION CATEGORY	DESCRIPTION	MINIMUM TARGETS FOR TRAINING AND SKILLS DEVELOPMENT FOR BLACK PEOPLE
<b>Training and skills development</b>	<ul style="list-style-type: none"> <li>• Bursaries.</li> <li>• Leadership.</li> <li>• Apprenticeships.</li> <li>• Internships.</li> <li>• Work-integrated learning</li> <li>• Mentorships</li> </ul>	<p>Training and skills development programmes and targets to be implemented will be set on a case-by-case basis, considering the type of the commodity, duration of the contract, employment and training and skills development opportunities. The following historically disadvantaged designated individuals will be targeted:</p> <ul style="list-style-type: none"> <li>• Black people;</li> <li>• Black women;</li> <li>• Black youth;</li> <li>• Black people in the townships;</li> <li>• Black people who live in rural areas;</li> <li>• Military veterans; and</li> <li>• People with disabilities.</li> </ul>

8.12.5 Specific goals should not be duplicated as this may result in “double dipping”, which is the evaluation of the same principle/target/goal more than once for a specific bid.

**8.13 CONFLICT OF INTERESTS**

8.13.1 Any person that participates in any procurement evaluation process shall complete and sign the applicable declaration of conflict of interest form.

8.13.2 Any person who has an interest in the procurement process that may, or could be seen to, affect their impartiality should immediately declare a conflict of interests in writing,

withdraw entirely from the process and relinquish all further related duties to their line manager.

8.13.3 Bidders and/or Contractors or their employees may not participate in any way or influence the specifications or standards set for purchasing infrastructure-related Goods and/or Services. All Bidders and/or Contractors shall complete a Declaration of Conflict of Interest form when registering as a Contractor.

8.13.4 Bidders and/or Contractors may not respond to a bid on which they assisted TCTA which includes but not limited to creating, advising, consulting on and/or providing input to during the formulation of the scope of work and/or any part of the bid document on behalf of TCTA.

8.13.5 TCTA employees and Board members are prohibited from bidding for TCTA business.

8.13.6 Bids from former TCTA employees and members of the Board shall only be considered if submitted no less than 1 (one) year after the official termination date of service, provided there is no material conflict of interest in relation to the relevant procurement process which need not be limited to the scenario above at 8.13.4.

8.13.7 Bids from persons in the employ of the an organ of state or any other institution identified by national legislation may only be considered where it is established that the person is not prohibited from conducting business with the state in terms of the Public Administration Act, No 11 of 2014 and has permission and/or is not contractually prohibited from performing remunerative work outside of their employment. The Procurement Department will be responsible for liaising with the Bidders employer to request confirmation as to whether the person is prohibited from conducting business with the state in terms of the Public Administration Act, No 11 of 2014 and whether the person has permission and/or is not contractually prohibited from performing remunerative work outside of their employment.

8.13.8 Bids from persons listed in the Register for Tender Defaulters provided for in the Prevention and Combating of Corrupt Activities Act, No 12 of 2004 will not be considered.

8.13.9 Bids from persons listed in the TCTA's restricted supplier list will not be considered.

#### 8.14 **CONFIDENTIALITY AND ACCURACY OF INFORMATION**

- 8.14.1 The confidentiality of information received in the procurement process should be respected.
- 8.14.2 Specific details of Contractors' bids shall not be divulged unless it is in accordance with the Promotion of Access to Information Act, 2000 (Act 2 of 2000). Even then, this can only be made through the Legal Services Department, a legal process through the courts, audit or investigation by a duly authorised body.
- 8.14.3 All employees in the Procurement Department, members of and invitees to procurement-related committees and meetings shall sign a declaration of confidentiality.

#### 8.15 **ETHICS**

All stakeholders must keep all information obtained during a bid process confidential and always disclose any conflict of interest. Furthermore, they must immediately report any fraudulent and/or corrupt acts or omissions to promote an ethical environment within TCTA and comply with its relevant policies.

#### 8.16 **BUSINESS GIFTS AND HOSPITALITY**

No TCTA employee may accept any gift, hospitality or other inducements that may, or could be perceived to, influence them in their decision-making responsibilities in terms of TCTA's Business Code of Conduct. Any attempted inducements shall immediately be reported to the ethics function in the Risk Division.

#### 8.17 **JUST ADMINISTRATIVE ACTION**

- 8.17.1 The Board and/or Procurement Representatives are required, among other things, to act lawfully, reasonably, ethically, and fairly when making decisions.
- 8.17.2 PAJA specifically requires the Board and/or Procurement Representatives, when making decisions, to:
  - 8.17.2.1 Be rational, i.e. use the evidence and information before them to support the decisions they make;
  - 8.17.2.2 Be reasonable, i.e. they must satisfy themselves that the correct process was followed and all arguments for and against a decision were considered; and

8.17.2.3 Adequately share the reasons for a decision with anyone affected by it.

## 8.18 MISUSE OF THE PROCUREMENT PROCESS

8.18.1 Disputes about the preferred Bidder must be lodged with the Senior Manager:  
Procurement in the event of:

8.18.1.1 Misconduct by any participants in the bid process; and/or

8.18.1.2 Misrepresentation on behalf of the Bidder

8.18.2 No other grounds for disputing a preferred Bidder will be considered.

8.18.3 Where the procurement process has been concluded and a preferred Bidder is recommended after a due process is followed, the Procurement Department may continue with the award of the bid. Any attempt to misuse, manipulate and/or frustrate the procurement process will be referred for internal investigation.

## 8.19 ENDORSEMENTS

TCTA does not endorse Contractors or their products or services. If a Contractor seeks to publicise factual information regarding its relationship with TCTA, a request must be forwarded to the Information Officer or a delegated representative for approval.

## 8.20 FUNCTIONALITY

8.20.1 RDs may evaluate Bidders' capability to deliver Infrastructure-related Goods and/or Services by including functional evaluation criteria as part of their requisition to the Procurement Department.

8.20.2 Save for applying objective criteria as contemplated in section 2(1)(f) of the PPPFA including other due diligence measures performed on Contractors and/or Consultant by TCTA, a Bidder's capability shall not be evaluated on functional criteria not contained in the original invitation to bid. The due diligence measure may include amongst others, establishing if Bidder is not blacklisted or part of the list of restricted supplier of National Treasury and confirming financial liquidity of the Bidders as contemplated in paragraph 8.21 below.

## 8.21 **FINANCIAL ANALYSIS**

It is TCTA's principle to conduct business with Suppliers with enough financial resources to deliver Infrastructure-related Goods and/or Services until the completion of the contract.

## 8.22 **APPROVAL OF FUNDS**

Prior to initiating a bid process, the RD must provide proof of the approved budget for the intended procurement.

## 8.23 **PROPRIETARY INFORMATION**

8.23.1 Much of the information TCTA uses in its activities is proprietary. The information the organisation develops is a valuable business asset and shall be protected, preserved and used only for its purposes.

8.23.2 Proprietary information encompasses trade secrets, confidential technical and financial business data, and any other such intended for internal use. It may include any form of information, including records, practices, plans, studies, contracts and other agreements, requests for bids and information, Letters of Award, catalogues, drawings and computer programs.

8.23.3 TCTA realises that the information released during the bid process may also be proprietary, as it conveys to the Contractor community potential plans for the deployment of various resources and technologies in the organisation. It may contain other confidential internal information.

8.23.4 If TCTA solicits information a Contractor deems proprietary or confidential, the latter shall be required to prove that it is, in fact, the case. The organisation shall then ensure that a non-disclosure agreement is executed if the Contractor requires one before releasing the information.

## 9 **ROLES AND RESPONSIBILITIES**

The approved ODOA will cascade the roles and responsibilities for the stakeholders of the procurement process. This is a summary of the roles and responsibilities of the key stakeholders involved in the creation and implementation of this Policy and accompanied procedure manual.

ROLE	RESPONSIBILITY
Board of Directors	The Board shall approve this Policy.
Chief Executive Officer (CEO)	The Chief Executive Officer is responsible for: holding executives accountable for effective procurement guided by this Policy.
Members of the Executive Committee	<p>Members of the Executive Committee are responsible for:</p> <ul style="list-style-type: none"> <li>▪ Ensuring that their respective divisions comply with and implement this Policy.</li> <li>▪ Holding senior managers and managers accountable for effective procurement guided by this Policy.</li> </ul>
The Procurement Department	<p>The Procurement Department is responsible for:</p> <p>Ensuring that TCTA has a standard procurement procedure manual for implementing this Policy.</p> <ul style="list-style-type: none"> <li>▪ Ensuring employee awareness and adherence to procurement procedure manuals.</li> <li>▪ Providing regular management information and reports on the performance of the procurement system.</li> </ul>
Requesting Divisions	The RD is responsible for taking part in good faith and in the best interests of TCTA in the procurement process by providing technical expertise that will allow for a successful bidding process.

## 10 BID COMMITTEES

10.1 The Chief Executive Officer shall ensure adequate segregation of duties in the procurement process by implementing a three-bid committee system.

10.2 The three-bid committee system shall comprise:

10.2.1 The Bid Specification Committee (BSC)

The BSC is a standing committee responsible for reviewing and finalising the bid documents that will be issued to the market. The role of the committee ends when the bid is advertised.

#### 10.2.2 The Bid Evaluation Committee (BEC)

The BEC may be established once a bid is advertised because it is an ad hoc committee. It is responsible for reviewing all submissions against the invitation to bid. The committee shall recommend the preferred Bidder to the Bid Adjudication Committee (BAC).

#### 10.2.3 The Bid Adjudication Committee (BAC)

The BAC is a standing committee responsible for adjudicating and awarding bids falling within its threshold. The BAC does not review bid submissions but the recommendation to award from the BEC. Based on the invitation to bid, it must establish whether the correct process was followed in identifying the preferred Bidder. The committee's role ends when a Letter of Award is issued to the preferred Bidder.

10.2.3.1 The roles and responsibilities of the bid committees are further set out in their Terms of Reference.

10.2.3.2 Bid committees shall always act independently and not be unduly influenced by any external parties, whether within TCTA or outside.

10.2.3.3 There is no hierarchy of bid committees.

## 11 COMMUNICATION

All TCTA Departments and potential Contractors must take full cognisance of this Policy, including the relevant Procedure Manual, regulatory requirements, good corporate governance and compliance principles. The communication process for the Policy will involve the following steps:

11.1 Compilation and dissemination of the Procurement Procedure Manual for Infrastructure-related Goods and/or Services.

11.2 Group presentations to TCTA employees.

11.3 Group presentations to potential and existing TCTA's Contractors.

11.4 Posting the Policy on the TCTA website.

## 12 **RECORD KEEPING**

TCTA must manage all procurement-related records in adherence to the Records Management Policy. The records shall be kept in accordance with the relevant guidelines and legislation governing procurement.

12.1 The information necessary to satisfy the internal and external reporting requirements must be kept in an orderly manner. The gathering of information and the recording system must provide for the type of information required, deadlines and the allocation of duties and responsibilities.

12.2 Where feasible, documents should be digitised for use by auditors or other role players to limit access to physical copies.

12.3 Access to procurement-related documents shall be limited, as per the Records Management Policy.

12.4 Procurement-related documents and records should be safeguarded and maintained in line with the National Archives Act.

## 13 **COMPLIANCE**

13.1 The Board, management and employees shall comply fully with this Policy. Employees who do not comply will be dealt with according to the TCTA Disciplinary Policy and Procedure.

13.2 Any procurement practices that contravene TCTA's policies and procedure manuals shall, upon detection, be halted and reported to the Senior Manager: Procurement. The exact nature of the non-compliant practice/s and the corrective action already taken or contemplated shall be accurately described. Disciplinary action shall be taken against employees who transgress procurement policies and procedure manuals with the sanction informed by the Disciplinary Policy and Procedure.

13.3 Where the Policy contradicts any legislation, the latter shall prevail.

## 14 **MONITORING AND REVIEW**

This Policy shall become effective on the date of approval. It shall be reviewed at least every three years with interim reviews as required (due to legislative changes or other reasons) to ensure that it remains in line with the organisational growth, commitments and needs.

## 15 **TRANSITIONAL ARRANGEMENTS**

15.1 This Policy shall only apply to bid processes that the BSC has not yet approved as of the effective date.

15.2 Irrespective of the date of issue, all bids that have not yet been submitted to the BAC as of the effective date will be subject to the process followed in the paragraph above and subsequent thereto.