



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

DEPARTMENTAL POLICY ON THE APPOINTMENT OF CONSULTANTS

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TABLE OF CONTENTS

Contents	Page
1. DEFINITIONS AND ACRONYMS	3
2. INTRODUCTION	5
3. PURPOSE	5
4. REGULATORY FRAMEWORK	6
5. OBJECTIVES OF APPOINTING CONSULTANTS	7
6. SCOPE OF APPLICATION	8
7. GENERAL APPROACH	8
7.1 Conflict of Interest	9
7.2 Associations between Consultants	9
8. MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS	10
9. SELECTION METHODS FOR THE APPOINTMENT OF CONSULTANTS	10
9.1 The Provisions for Professional Services in the CIDB Standard for Uniformity in Construction Procurement	11
9.2 Categorization of Projects	14
9.3 Recommended Procedures	15
10. COMPILING OF PROFESSIONAL SERVICE CONTRACTS	19
10.1 General Procedures	19
10.2 Preparation of Tender Data	19
11. ESTABLISHMENT OF A LIST OF APPROVED SERVICE PROVIDERS	22
12. EVALUATION OF THE PERFORMANCE OF CONSULTANTS	23
13. MONITORING AND EVALUATION	24
14. POLICY REVIEW AND AMENDMENT	25
15. APPROVAL OF THE POLICY AND DATE OF EFFECT	25

1. DEFINITIONS AND ACRONYMS

“AO”	Means Accounting Officer, which refers to a person mentioned in section 36 of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999), as amended. The AO is also the Head of Department (HOD) of the DR&PW.
“BBBEEA”	Means Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), as amended.
“Budget”	The appropriated funds for the DR&PW, in terms of the Appropriation Act and the Adjustment Appropriation Acts for a particular financial year.
“CFO”	Means Chief Financial Officer, referring to the CFO of the DR&PW.
“CIDB”	Means Construction Industry Development Board, which was established and functions in terms of the CIDB Act, 2000 (Act No. 38 of 2000).
“Conflict of interest”	Refers to a situation in which the concerns or aims of two different parties are incompatible. Also refers to a conflict between the private interests and the official responsibilities of a person employed by government, for example a member of a departmental bid committee, who was put in a position of trust. A conflict of interest is understood to be a situation that may provide a party (for example a bidder in the bidding process) with an “unfair advantage” over other parties. Once a conflict is discovered, the advantaged party/parties will have to be disqualified from the process.
“DPSA”	Means Department of Public Service and Administration, which is a national government department.
“DR&PW”	Means Department of Roads and Public Works, Province of the Northern Cape.
“Lack of capacity”	Refers to insufficient financial, physical or other resources, including relevant knowledge, expertise and experience that may not exist within the DR&PW.
“NCPPPF”	Means Northern Cape Provincial Procurement Policy Framework, 2018.

"NEC Professional Services Contract"	Means New Engineering Contract (NEC), regarding retaining professional engineering services. It is a formalised system created by the United Kingdom's (Great Britain and Northern Ireland) Institution of Civil Engineers that guides the drafting of documents on civil engineering, construction and maintenance projects for the purpose of obtaining tenders, awarding and administering contracts. As such they legally define the responsibilities and duties of Employers and Contractors in the Works Information. The contract consists of two key parts: the Contract Data part one and Contract Data part two. Several approaches are included making it a family of options. It is used in the UK and internationally in countries including New Zealand, Australia, Hong Kong and <u>South Africa</u> .
"NGO"	Means Non-governmental Organization. NGOs, sometimes called civil societies, are organized on community, national and international levels to serve a social or political goal such as humanitarian causes or the environment.
"PAJA"	Means Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) as amended.
"PFMA"	Means Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended.
"POPIA"	Means Protection of Personal Information Act, 2013 (Act No. 4 of 2013).
"PPPFA"	Means Preferential Procurement Policy Framework Act, 2000 (Act No. 05 of 2000), as amended.
"QBS"	Means Quality Based Selection.
"QCBS"	Means Quality and Cost Based Selection.
"RFP"	Means Request for Proposal, which is a market enquiry prepared by the buyer (DR&PW) and issued to prospective suppliers for higher value and/or more complex solutions. The purpose is to invite commercial offers from a number of suppliers in order to secure competition, and to gather information about the supplier's solutions and capability, and key market intelligence. The selection of a Request for Proposal, as opposed to a Request for Bids usually reflects the fact that the specification is not a conformance specification, which requires complete adherence to the buyer's standards, but rather that bidders are free to submit potential solutions which may meet

	the performance required. Price is usually not the determining factor in the evaluation of an RFP. Factors such as quality, service, and reputation are also taken into consideration.
"SAPS"	Means South African Police Service.
"SCM"	Means Supply Chain Management.
"SITA"	Means State Information Technology Agency.
"VAT"	Means Value Added Tax.

2. INTRODUCTION

- 2.1 Treasury Regulation 16A6.3(g) for departments, trading entities, constitutional institutions and public entities issued in terms of the Public Finance Management Act (Act 1 of 1999) states that: *"The accounting officer or accounting authority must ensure that instructions issued by the National Treasury in respect of the appointment of consultants are complied with".*
- 2.2 Practice Note SCM 3 of 2003, *Appointment of Consultants*, establishes requirements for the appointment of consultants, which refers to consulting firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, NGOs and individuals, amongst others. SCM 3 describes the methods that are generally to be used for the appointment of consultants.
- 2.3 In general, the procedures prescribed for the acquisition of goods and services could apply, but only to the peculiarities of appointing consultants that deal with the services applicable to procedures that are of an intellectual and/or advisory nature.

3. PURPOSE

- 3.1 Providing a directive on the processes of procuring services in the construction industry that need to maintain a balance between reasonable compensation that will ensure the continued attractiveness and development of these professions on the one hand, and ensuring competitiveness and value for money on the other hand.

- 3.2 Assisting the AO in the utilization of organizations as *consultants* who provide a wide range of products such as policy advice, the AO's reform/restructuring management, engineering services, construction supervision, financial services, procurement services, social and environmental studies and identification, preparation and implementation of projects to complement the AO's capabilities in these areas.

4. REGULATORY FRAMEWORK

- 4.1 The operations of the DR&PW are governed by an array of different acts, regulations, policies and guidelines emanating from both the national and the provincial spheres of government. This departmental policy should be understood within that context.
- 4.2 The following Acts, Regulations and Prescripts, amongst others, govern the management of the appointment of consultants in the DR&PW:
- a) the Constitution of the Republic of South Africa, 1996;
 - b) the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) as amended;
 - c) the Preferential Procurement Policy Framework Act (PPPFA), 2000 (Act No. 05 of 2000), as amended and its Regulations;
 - d) the principles of fairness, equity, transparency, competitiveness and cost effectiveness and complies with:
 - (i) prescripts as per Chapter 16A of the Treasury Regulations;
 - (ii) minimum Norms and Standards prescribed by National Treasury as well as the Northern Cape Provincial Treasury;
 - (iii) the Northern Cape Provincial Procurement Policy Framework (NCPPPF), 2018; and
 - (iv) the Regulatory Framework for Supply Chain Management (SCM) in terms of the PFMA, 1999.
 - (v) Treasury Practice Note SCM 3 of 2003, *Appointment of Consultants*.
- 4.3 Other applicable legislation this departmental policy is consistent with, are as follows:
- a) The Broad Based Black Economic Empowerment Act (BBBEEA), 2003 (Act No. 53 of 2003), as amended and Codes of Good Practice to define requirements for becoming BBBEE compliant, as gazetted on 11 October 2013 (Government Gazette No. 36928).
 - b) The Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 2 of 2004).
 - c) The Prevention of Organized Crime Act, 1998 (Act No. 121 of 1998).
 - d) The Competition Act, 1998, (Act No. 89 of 1998), as amended and Regulations.
 - e) The Promotion of Administrative Justice Act (PAJA), 2000 (Act No. 3 of 2000) as amended;

- f) The National Archives of South Africa Act, 1996 (Act No. 43 of 1996) and Regulations;
 - g) The National Small Business Act, 1996 (Act No. 102 of 1996), as amended.
 - h) The Construction Industry Development Board (CIDB) Act, 2000 (Act No. 38 of 2000).
 - i) The Protection of Personal Information Act (POPIA), 2013 (Act No. 4 of 2013).
 - j) The State Information Technology Agency (SITA) Act, 1998 (Act No. 88 of 1998), as amended and the SITA Procurement Policies and Procedures.
- 4.4 This policy furthermore supports the objective of uniformity in Supply Chain Management (SCM) systems and processes between organs of state in all spheres.
- 4.5 This departmental policy is consistent with the Provincial Supply Chain Management (SCM) policy and therefore the DR&PW may not act in contravention with said Provincial SCM policy in terms of the following:
- a) acquisitioning of goods or services; and
 - b) appointment of consultants as per prescripts and in line with the DPSA rates.
- 4.5 The following associated departmental regulatory frameworks, amongst others (available on the DR&PW website), apply:
- a) The DR&PW Risk Management Policy, 2021.
 - b) The DR&PW Risk Management Strategy, 2021.
 - c) The Plan: DR&PW Compilation of Policies on Fraud, Corruption and Ethics Management, 2020.
 - d) The DR&PW Supply Chain Management (SCM) Policy, 2021.

5. OBJECTIVES OF APPOINTING CONSULTANTS

- 5.1 The DR&PW have identified the following objectives with the appointment of consultants:
- 5.1.1 To provide specialized services for limited periods without any obligation of permanent employment.
 - 5.1.2 To benefit the DR&PW with superior knowledge, transfer of skills and upgrading of a knowledge base, while executing an assignment.
 - 5.1.3 To provide independent advice to the DR&PW on the most suitable approaches, methodologies and solutions related to particular projects.
 - 5.1.4 To provide professional expertise to the DR&PW regarding the built environment and related infrastructure delivery services.

6. SCOPE OF APPLICATION

This policy document informs departmental officials of the principles, processes and procedures applicable to the appointment of consultants, with an emphasis on the Built Environment and related services.

7. GENERAL APPROACH

- a) The AO is responsible for preparing and implementing projects, for selecting the consultants and awarding and subsequently administering the contracts. While the specific rules and procedures to be followed for selecting consultants depend on the circumstances of the particular case, at least the following five (5) major considerations should guide the AO's decision-making on the selection process:
 - i. the need for high-quality services;
 - ii. the need for economy and efficiency;
 - iii. the need for value for money;
 - iv. the need to give qualified consultants an opportunity to compete in providing the services; and
 - v. the importance of transparency in the selection process.
- b) In the majority of cases, these considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided (QCBS). However, there are cases when QCBS is not the most appropriate method of selection. For complex or highly specialized assignments or those that invite innovations, selection based on the quality of the proposal alone (QBS), would be more appropriate.
- c) The particular method to be followed for the selection of consultants for any given project be must selected by the AO in accordance with the criteria outlined in this Policy.
- d) When appropriate, the AO may include under the *Special Conditions of Contract*, the following or similar condition:

"A service provider may not recruit or shall not attempt to recruit an employee of the principal for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof".

7.1 Conflict of Interest

- 7.1.1 Consultants are required to provide professional, objective and impartial advice and at all times hold the client's interests paramount, without any consideration for future work and strictly avoid conflicts with other assignments or their own corporate interests.
- 7.1.2 Consultants must not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the State. Without limitation on the generality of this rule, consultants must not be hired under the following circumstances:
- a) A firm, which has been engaged by the AO to provide goods or works for a project and any of its affiliates, must be disqualified from providing consulting services for the same project. Similarly, a firm hired to provide consulting services for the preparation or implementation of a project and any of its affiliates, must be disqualified from subsequently providing goods or works or services related to the initial assignment (other than a continuation of the firm's earlier consulting services as described below) for the same project, unless the various firms (consultants, contractors, or suppliers) are performing the contractor's obligations under a turnkey or design-and-build contract.
 - b) Consultants or any of their affiliates must not be hired for any assignment which, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare an engineering design for an infrastructure project must not be engaged to prepare an independent environmental assessment for the same project.
 - c) Consultants assisting a client in the privatization of public assets must not purchase, nor advise purchasers of such assets.

7.2 Associations between Consultants

- 7.2.1 Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The "association" may take the form of a joint venture (JV) or a sub-consultancy.
- 7.2.2 In case of a joint venture (JV), all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or RFPs from service

providers are issued, any association in the form of a joint venture or sub-consultancy among firms should be permissible only with the approval of the AO or his/her delegate.

- 7.2.3 The AO must not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

8. MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS

- 8.1 When appointing consultants, it is necessary to strive to satisfy the following minimum requirements:

- 8.1.1 Meeting the highest standards of quality, efficiency and value for money.
- 8.1.2 Obtaining advice that is unbiased, meaning advice being delivered by a consultant acting independently from any affiliation, economic or otherwise, which may cause conflicts between the consultant's interests and those of government.
- 8.1.3 Ensuring the advice proposed or assignment executed, meets the ethical principles of the consultancy professions.

9. SELECTION METHODS FOR THE APPOINTMENT OF CONSULTANTS

- a) The following are the methods most generally used for the appointment of consultants:
 - i. quality and cost based selection;
 - ii. quality based selection;
 - iii. selection under a fixed budget;
 - iv. least cost selection; and
 - v. single source selection.
- b) The method of selection is determined by the scope of the assignment, the quality of the service, the complexity of the assignment and whether assignments are of a standard or routine nature.

9.1 The Provisions for Professional Services in the CIDB Standard for Uniformity in Construction

The CIDB Standard for Uniformity in Construction Procurement requires that professional services be solicited using a standard method in accordance with the provisions of Table 1, where the procurement procedures and methods of evaluation are in accordance with the provisions of Tables 2 and 3, respectively.

Table 1: Standard Methods for Procuring Professional Services

Type of Procurement	Standard Procurement Procedure and Evaluation Method (See Tables 2 and 3)
In most cases, except in the case of complex or highly specialised assignments or those that invite innovations on the basis of quality alone.	PP2A Nominated Procedure which identifies a short list of not less than five (5) bidders to submit tenders; PP2B Open, PP2C Qualified or PP2D Quotation Procedure; or PP2E Proposal Procedure using the two-envelope system with either: <ul style="list-style-type: none"> ▪ Methods 3 or 4; or ▪ Methods 1 and 2 with eligibility criteria framed around the attainment of a minimum quality score or quality related requirements.
Type of Procurement	Standard Procurement Procedure and Evaluation Method (See Tables 2 and 3)
A complex or highly specialised assignment, for which it is difficult to define the precise scope of work and bidders are expected to demonstrate innovation in their proposals; or An assignment that has a high downstream impact and requires the best available experts; or An assignment could be carried out in substantially different ways; hence proposals will not be comparable.	PP2B Open or PP2E Proposal Procedure using the two-envelope system with either Method 3 or 4. PP2F Proposal Procedure using the two-stage tendering system with Method 1 or 2 and eligibility criteria framed around the rejection of unacceptable proposals and quality related requirements; or PP2F Proposal Procedure using the two-stage tendering system with Method 3 or 4. PP3A Restricted Competitive Negotiation Procedure. PP3B Open Competitive Negotiation Procedure.
A standard or routine assignment where well established practices and standards exist and in which the contract amount is small.	PP2E Proposal Procedure using the two-envelope system with Method 1 or 2 and eligibility criteria framed around minimum quality related requirements.
An assignment that represents a natural continuation of previous work carried out by the firm. A rapid selection is essential (e.g. in an emergency operation). A very small assignment. An assignment where only one firm is qualified or has the experience of exceptional worth for the assignment.	PP1 Negotiated Procedure with Method 1.

Value below a threshold.	PP2D Quotation Procedure with Method 1 or Method 2. PP2A Nominated Procedure which identifies a short list of not less than three (3) bidders to submit tenders.
A relatively small assignment which does not justify the preparation and evaluation of competitive proposals.	PP2A Nominated Procedure to nominate a sole bidder.
A simple assignment which is precisely defined and the budget fixed.	PP2F Proposal Procedure using the two-stage tendering system with Method 3 or 4.

Table 2: Standard Procurement Procedures

Procedure		Description
PP1	Negotiation procedure.	A tender offer is solicited from a single bidder.
PP2	Competitive selection procedure.	Any procurement procedure in which the contract is normally awarded to the contractor who submits the lowest financial offer or obtains the highest number of tender evaluation points.
	PP2A Nominated procedure.	Bidders that satisfy prescribed criteria are admitted to an electronic data base. Bidders are invited to submit tender offers based on search criteria and their position on the data base. Bidders are repositioned on the data base upon appointment or upon the submission of a tender offer.
	PP2B Open procedure.	Bidders may submit tender offers in response to an advertisement by the organization to do so.
	PP2C Qualified procedure.	A call for expressions of interest is advertised and thereafter only those bidders, who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so.
	PP2D Quotation procedure.	Tender offers are solicited from not less than three (3) tenders in any manner the organization chooses, subject to the procedures being fair, equitable, transparent, competitive and cost-effective.
	PP2E Proposal procedure using the two-envelope system.	Bidders submit technical and financial proposals in two envelopes. The financial proposal is only opened should the technical proposal be found to be acceptable.

Procedure			Description
	PP2F	Proposal procedure using the two-stage system.	Non-financial proposal are called for. Tender offers are then invited from those bidders that submit acceptable proposals based on revised procurement documents. Alternatively, a contract is negotiated with the bidder scoring the highest number of evaluation points.
	PP2G	Shopping procedure.	Written or verbal offers are solicited in respect of readily available supplies obtained from three (3) sources. The supplies are purchased from the source providing the lowest price once it is confirmed in writing.
PP3	Competitive negotiation procedure.		A procurement procedure which reduces the number of bidders competing for the contract through a series of negotiations until the remaining bidders is invited to submit final offers.
	PP3A	Restricted competitive negotiations.	A call for expressions of interest is advertised and thereafter only those bidders, who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.
	PP3B	Open competitive negotiations.	Bidders may submit tender offers in response to an advertisement by the organization to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.

Table 3: Standard Tender Evaluation Methods

Method	Description
<u>Method 1:</u> Financial offer.	1) Rank tender offers from the most favourable to the least favourable comparative offer.
	2) Recommend highest ranked bidder for the award of the contract, unless there are compelling and justifiable reasons not to do so.
<u>Method 2:</u> Financial offer and preferences.	1) Score tender evaluation points for financial offer.
	2) Confirm that bidders are eligible for the preferences claimed and if so, score tender evaluation points for preferencing.
	3) Calculate total tender evaluation points.
	4) Rank tender offers from the highest number of tender evaluation points to the lowest.
	5) Recommend bidder with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

Method 3: Financial offer and quality.	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality as stated in the Tender Data.
	2) Score tender evaluation points for financial offer.
	3) Calculate total tender evaluation points.
	4) Rank tender offers from the highest number of tender evaluation points to the lowest.
	5) Recommend bidder with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer, quality and preferences.	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender Data.
	2) Score tender evaluation points for financial offer.
	3) Confirm that bidders are eligible for the preferences claimed, and if so, score tender evaluation points for preferencing.
	4) Calculate total tender evaluation points.
	5) Rank tender offers from the highest number of tender evaluation points to the lowest.
	6) Recommend bidder with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

9.2 Categorization of Projects

Professional service projects can be categorized in terms of the complexity of the scope of work associated with a project (see Table 4).

Table 4: Categorizing Projects in terms of their Demands placed on the Capability of Service Providers

Category	Nature of Scope of Work	Typical Means for Service Provider to Demonstrate Capability to Perform the Contract
Routine Projects	Projects where the tasks are of a straightforward nature involving, in the main, standard technologies in terms of which inputs are relatively well known and outputs can be readily defined.	Basic level of professional and technical qualifications and experience.

Specialist Projects	Projects in which the bulk of the service involves technically complex work which calls for considerable innovation, creativity, expertise and/or skills.	Considerable skill and expertise to carry out the work with demonstrated experience in comparable projects.
Complex Projects	Specialist projects which are characterized by ill-defined inputs and outputs.	As for specialist project plus response to (ability to relate to) the proposed scope of work/project design/approach paper which establishes the manner in which the respondent or bidder intends to perform the contract and adequacy of proposed work plan and proposed methodology.

9.3 Recommended Procedures

9.3.1 Professional services projects must be categorized in accordance with Table 4. The recommended usage of the standard methods for appointment of service providers in the CIDB Standard for Uniformity in Construction Procurement is set out in Table 5 and illustrated in Figure 1.

Table 5: Recommended Usage of CIDB Standard Methods for the Appointment of Consultants

Procurement Procedure	Recommended Usage	Project Type (See Table 4)
Negotiated procedure.	<p>This procedure must be used under the following circumstances:</p> <ul style="list-style-type: none"> a) an emergency has arisen that is so extreme as to warrant the negotiated procedure to be pursued; b) the required services cannot technically or economically be separated from another contract previously executed by a specific consultant; c) only one (1) consultant has been identified as possessing the necessary experience and qualifications to provide the required service; d) the service being procured are largely identical to work previously executed by that contractor and it is neither in the interest of the public nor the organization to solicit other tender offers; and e) the service required has a relatively low ceiling value (R50 000 inclusive of VAT) which can be based on a time and proven cost basis, in accordance with tariffs issued by statutory councils. 	Routine, Specialist or Complex.

Procurement Procedure	Recommended Usage	Project Type (See Table 4)
Nominated procedure.	<p>The procedure must be used where:</p> <ul style="list-style-type: none"> a) services are routine in nature; and b) a large number of appointments are to be made over a period of time and the cost of maintaining the list and administering the system in relation to the cost of advertising tenders and evaluating a possibly larger number of tenders, justifies this approach. <p>Option 1: Nominate a Sole Bidder Must only be used for services below the prescribed threshold of R 200 000 inclusive of VAT.</p> <p>Option 2: Prepare a Short-list of Not Less than Five (5) Bidders Must only be used for services above the prescribed threshold of R 200 000 inclusive of VAT.</p>	Routine projects.
Open procedure.	<p>This procedure is suitable for the procurement of most services. Its use needs, however, to be questioned where:</p> <ul style="list-style-type: none"> a) the cost of advertising or the evaluation of a large number of tender submissions is disproportionate to the value of the work; and b) only one (1) contractor has been identified as possessing the necessary experience and qualifications for providing the required service. 	Routine, Specialist and Complex projects.
Qualified procedure.	<p>This procedure must be used in the following circumstances:</p> <ul style="list-style-type: none"> a) a contract requires a high degree of specialized input or requires skills and expertise that are not readily available; b) a contract requires exceptional management skills or quality; c) a contract requires significant bidder inputs in order to respond appropriately to requirements so that a price may be determined; d) it is desirable in a large programme to link parcels of work to bidders who have the appropriate capacity and capability to compete against each other; e) the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement; and f) for practical reasons, it is necessary to limit the number of tender submissions that are evaluated. <p>The strength of the procedure lies in the elimination of unlikely candidates for the award of the contract from the outset and to limit the number of tender submissions that require evaluation. Firms can be pre-qualified to undertake work commensurate with their capacity and capabilities and be invited in relatively small numbers to submit tenders for work that is within the scope of their capacity and capabilities, in a manner that all pre-qualified bidders have an equal opportunity to access work opportunities.</p> <p>There is, however, an administrative cost to short-listing bidders, particularly where short-listing is based on a points scoring system as all submissions have to be evaluated. Time gains in pre-qualifying bidders in the subsequent tender stage may be lost in the pre-qualification process.</p> <p>It should be noted, however, that it is possible to pre-qualify bidders in an open procedure should eligibility criteria be established in Tender Data. Where this is done, only eligible (pre-qualified) bidders would be permitted to submit tenders and evaluators would confirm eligibility to submit a tender prior to the evaluation</p>	Specialist and Complex projects.

	of a tender.	
Quotation procedure.	This procedure must only be used for services having a value of R 200 000 including VAT or less.	Routine, Specialist and Complex projects.
Proposal procedure - using the two-envelope system.	<p>This procedure is recommended for use in service contracts where bidders are required to develop and price proposals to satisfy a broad scope of work established by the organization. The benefits of this approach are that quality (technical submission) may be evaluated in the absence of price i.e. price is only considered should the quality offered satisfy requirements.</p> <p>The danger in this approach is that quality is scored on a comparative basis. Where bidders are not given an indication of the project budget or the person hours considered appropriate to execute the scope of work, there is a possibility that a proposal that satisfies minimum requirements with a moderate price is unfairly compared against a proposal that provides "all the bells and whistles" with an unacceptably high price and is eliminated from consideration. It is accordingly recommended that where this procedure is used, the project budget or the estimated time inputs are indicated to bidders so that proposals put forward are more comparable.</p>	Specialist and Complex projects.

Procurement Procedure	Recommended Usage	Project Type (See Table 4)
Proposal Procedure - using the two-stage system	This procedure is appropriate only where the organization is not really sure as to what it requires or has extreme difficulty in expressing its requirements. The procedure allows the scope of work to be developed together with bidders. It has strengths and weaknesses and should be used with caution.	Complex Projects

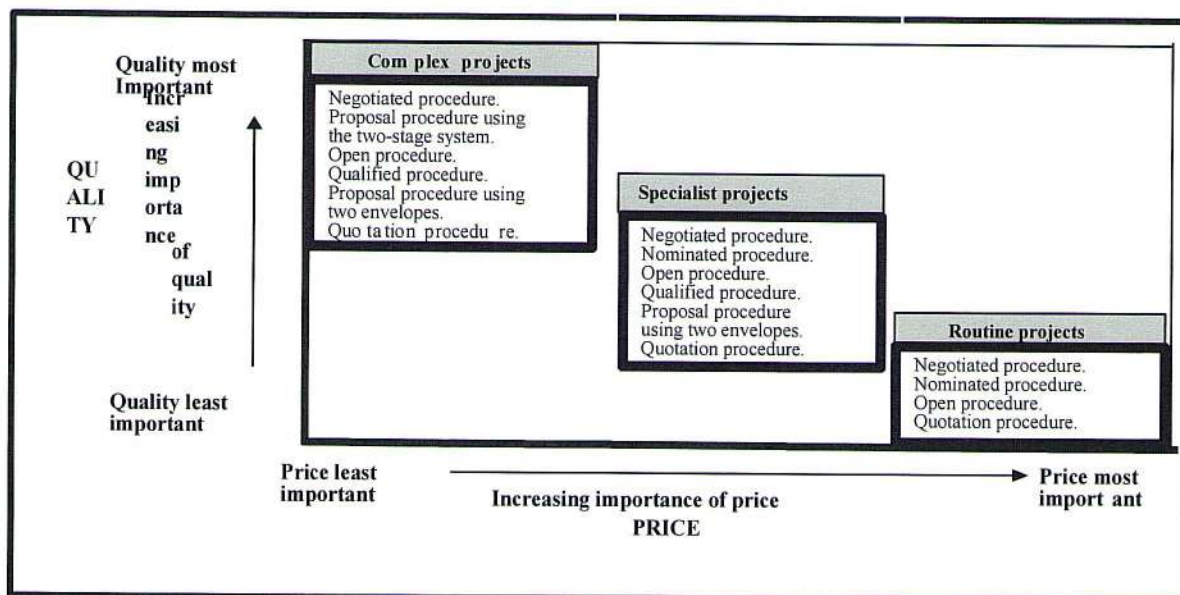


Figure 1: Recommended Procedures

- 9.3.2 Price should form a substantial part of the selection process where projects are of a routine nature, and proposals are judged to lead to comparable outputs. In conceptual, complex and multi-disciplinary assignments, which necessitate original investigations and studies of a specialized or complex nature, the use of price as a selection criterion should be less significant.
- 9.3.3 Quality should primarily be demonstrated either through staff qualifications or through the submission of a work plan in response to a brief and general experience in the field of assignment.
- 9.3.4 Quality in professional service appointments can also be achieved through one or more of the following:
- The specifying of the full and unambiguous requirements in the scope of work of a procurement document, including the minimum qualifications of persons required to perform specific functions.
 - Making use of the qualified procedure (see Table 5).

- c) Introducing quality into the eligibility criteria for the submission of tender offers or for the attainment of a minimum score in terms of specified quality criteria for tender offers to be evaluated.

9.3.5 Eligibility criteria in the form of attaining a minimum quality score can provide a simple and cost-effective alternative to the scoring of quality in tender submissions. In this procedure, the scoring of quality is merely to establish that the bidder is capable of providing the service and to reject the tender submissions of those who fail to attain the threshold score. Thereafter the tender offers can be evaluated on the basis of price or price and preference.

10. COMPILING OF PROFESSIONAL SERVICE CONTRACTS

10.1 General Procedures

10.1.1 Professional service contracts must be compiled in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement. Accordingly, the form of contract that is to be used should be one of the following:

- a) CIDB Standard Professional Services Contract; or
- b) NEC Professional Services Contract.

10.1.2 Comprehensive guidance on the compilation of professional service procurement documents is provided in the CIDB's Standardized Construction Procurement Documents for Professional Services.

10.2 Preparation of Tender Data

10.2.1 Tender data must be prepared in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement.

10.2.2 Table 6 below, sets out the SCM 3 approaches to the appointment of consultants and the CIDB Standard for Uniformity in Construction Procurement equivalent methods.

Table 6: SCM 3 Approaches to the Appointment of Consultants and the CIDB Standard for Uniformity in Construction Procurement

SCM 3 - Appointment of Consultants		CIDB Standard for Uniformity in Construction Procurement		
Approach to Appointment of Consultants	Recommended Usage of Approach	Procurement Procedure (See Table 1 of CIDB Standard)	Standard Tender Evaluation Method (See Table 2 of CIDB Standard)	Tender Data (refer to Annex E of CIDB Standard)
<p><u>Quality and Cost Based Selection (QCBS):</u> Bidders are invited to submit tenders based on a well defined scope of work.</p> <p>Tenders are evaluated on the basis of both the quality of the services to be rendered and the cost of the services to be provided.</p> <p>Where a two-envelope system is used, the evaluators of the technical proposals must not have access to the financial proposals.</p> <p>The final contract is negotiated with the bidder scoring the highest number of points.</p>	<p>In most cases, except in the case of complex or highly specialised assignments or those that invite innovations on the basis of quality alone (i.e. QBS).</p>	<p>Nominated procedure; or Open procedure; or Qualified procedure; or Quotation procedure; or Proposal procedure, using the two-envelope system.</p>	<p>Method 4 (Financial offer, quality and preferences) or Method 2 (Financial offer and preferences) if eligibility criteria in the form of the attainment of a minimum score is provided in the Tender Data.</p>	<p>Tender Data must state which method is to be used.</p> <p>Eligibility criteria need to be included where Method 2 is used.</p>
<p><u>Quality Based Selection (QBS):</u> Bidders are requested to submit technical proposals only or to submit technical proposals and financial proposals in two envelopes.</p> <p>Where only technical proposals are called for, the bidder with the highest ranked proposal is requested to submit a detailed financial</p>	<p>A complex or highly specialised assignment, for which it is difficult to define the precise scope of work and consultants are expected to demonstrate innovation in their proposals.</p> <p>An assignment that has a high downstream impact and requires the best available experts.</p>	<p>Proposal system using the two-envelope system.</p>	<p>Method 4 (Financial offer, quality and preferences).</p>	<p>Tender Data must state that method 4 is to be used.</p>
		<p>Proposal procedure using the two-stage tendering system.</p>	<p>Method 2 (Financial offer and preferences) if eligibility criteria is framed around the rejection of unacceptable proposals.</p>	<p>Tender Data must state that method 2 is to be used and unacceptable proposals will be rejected.</p>

<p>proposal so that the contract can be negotiated.</p> <p>The final contract is thereafter negotiated.</p> <p>Bidders may be provided with an indication of the expected input of key professionals (staff time).</p>	<p>An assignment could be carried out in substantially different ways; hence proposals will not be comparable.</p>	<p>Proposal procedure using the two-stage tendering system.</p>	<p>Method 4 (Financial offer, quality and preferences) with weighting for price equal to zero.</p>	<p>Tender Data must stipulate that contract price will be negotiated.</p>
<p><u>Least Cost Selection:</u> Bidders are requested to submit technical proposals and financial proposals in two envelopes.</p> <p>The financial proposals of only those bidders who obtain a quality score above a threshold are opened.</p> <p>The bidder with the highest score based only on price and preference is selected.</p>	<p>A standard or routine assignment where well established practices and standards exist and in which the contract amount is small.</p>	<p>Proposal system using the two-envelope system.</p>	<p>Method 2 (Financial offer and preferences) where eligibility criteria in the form of the attainment of a minimum score is provided in the tender data.</p>	<p>Tender Data must state that method 2 is to be used.</p> <p>Eligibility criteria need to be included.</p>
SCM 3 - Appointment of Consultants		CIDB Standard for Uniformity in Construction Procurement		
Approach to Appointment of Consultants	Recommended Usage of Approach	Procurement Procedure (See Table 1 of CIDB Standard)	Standard Tender Evaluation Method (See Table 2 of CIDB Standard)	Tender Data (Refer to Annex E of CIDB Standard)
<p><u>Single Source Selection:</u> In this procedure, a suitable bidder is identified and a contract is negotiated.</p>	<p>A task that represents a natural continuation of previous work carried out by the firm.</p> <p>A rapid selection is essential (e.g. in an emergency operation).</p> <p>A very small assignment. An assignment where only one (1) firm is qualified or has the experience of exceptional worth for the assignment.</p>	<p>Negotiated procedure.</p>	<p>None.</p>	<p>None.</p>

Appointment from List of Approved Service Providers	A very small assignment which does not justify the preparation and evaluation of competitive proposals.	Nominated procedure.	Method 2 (Financial offer and preferences).	Tender Data must state that method 2 is to be used.
<u>Selection Based on Consultant's Qualifications:</u> The respondent, who has submitted an expression of interest and possesses the most appropriate qualifications and references, is invited to submit a proposal so that the contract can be negotiated.	A very small assignment which does not justify the preparation and evaluation of competitive proposals.	Select bidder from electronic data base or from calls for expressions of interest. Negotiated procedure.	None.	None.
<u>Selection Under a Fixed Budget:</u> Bidders are provided with the available budget and are requested to provide their best technical and financial proposals in separate envelopes. Proposals that exceed the budget are excluded from consideration. A contract is negotiated with the bidder submitting the highest ranked technical offer.	A simple assignment which is precisely defined and the budget fixed.	Proposal procedure using the two-envelope system.	Method 4 (Financial offer, quality and preferences) or Method 2 (Financial offer and preferences) if eligibility criteria in the form of the attainment of a minimum score are provided in the tender data.	Tender Data must state which method is to be used. Eligibility criteria need to be included where method 2 is used.

Best Practice Guideline A7: Procurement of professional services, December 2007: Edition 2 of CIDB document 1035.

11. ESTABLISHMENT OF A LIST OF APPROVED SERVICE PROVIDERS

- 11.1 Where consultancy services are required on a recurring basis, a panel of consultants/list of approved service providers for the rendering of these services may be established.
- 11.2 These panels/lists must be established through the competitive bidding process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.

- 11.3 The intention to establish a panel/list of approved service providers is published in the *Government Tender Bulletin* and the closing time and date for inclusion in the panel/list of approved service providers must be indicated. For this purpose, a questionnaire must be made available and must make provision for the following:
- 11.3.1 Full details of the service provider, among others:
- a) composition of the firm in terms of shareholding; personnel complement;
 - b) representation of expertise in respect of the disciplines and skills required, e.g. accounting, legal, educational, engineering, computer, etc.;
 - c) national/international acceptability of experts in the various professions; and
 - d) experience as reflected in projects already dealt with; and
 - e) financial position.
- 11.3.2 Requirements for admission to the list and criteria should be linked to the numeric value, in terms of which applicants will be measured, for example qualifications, experience, acceptability, facilities and resources, etc. A pre-determined standard method of awarding points must be followed.
- 11.3.3 The applications received must be evaluated and any rejection of applicants must be motivated and recorded.
- 11.3.4 Once the panel/list of service providers has been approved, only the successful applicants are approached, depending on the circumstances, either by obtaining quotes on a rotation basis, or according to the bid procedure when services are required, with the exception that the requirement is not advertised in the *Government Tender Bulletin* again.
- 11.3.5 This list must be updated continuously, at least annually.

12. EVALUATION OF THE PERFORMANCE OF CONSULTANTS

- 12.1 Consultants must observe due diligence and prevailing standards in the performance of the assignment. The AO must evaluate the performance of consultants appointed in a fair and confidential process. In the case of repeated poor performance, the firm will be notified and provided an opportunity to explain the reasons for it and the remedial action to be taken.
- 12.2 Consultants are responsible for the accuracy and suitability of their work. Although the AO supervise and review the consultants' work, no modifications can be made in the final documents

prepared by the consultants, without mutual agreement. In the case of supervision of works, consultants may have more or less authority to supervise, from full responsibility as an independent engineer, to that of advisor to the client with little authority to make decisions, as determined by the AO and captured in the contract agreement between the AO and the consultant.

13. MONITORING AND EVALUATION

- 13.1 The departmental Supply Chain Management (SCM) Directorate, supported by the departmental Monitoring and Evaluation (M&E) Unit shall, on behalf of the HOD, ensure amongst others, the following:
 - 13.1.1 Efficient and effective implementation of this policy.
 - 13.1.2 The accessibility of this policy to the intended stakeholders.
 - 13.1.3 The implementation of measures to limit the possible abuse of this policy.
 - 13.1.4 Submission of the required monitoring and evaluation reports related to the implementation of this policy.
 - 13.1.5 Development of necessary tools and processes to assess the outcome of the policy implications by all the stakeholders.
- 13.2 Any failure to comply with this policy will be viewed as a serious disciplinary transgression and could lead to disciplinary action taken against the offending employee(s) in terms of the Public Service Regulations and Code of Conduct, as well as the DR&PW Compilation of Policies on Fraud, Corruption and Ethics Management, 2020, called *The Plan*.
- 13.3 Any employee that contravenes the provisions of this policy shall be charged with misconduct and/or fraud and corruption and will be held liable for any damages suffered by the state as a result of non-compliance.
- 13.4 Furthermore, those employees found to have connived or committed irregularities, including fraud and/or corruption and related matters, may be summarily dismissed from the public service.
- 13.5 Individuals who have been found guilty of violating this policy shall be prohibited from conducting any future business with the state; and, depending on the severity of the offence, legal action may be taken against the perpetrator(s); and if it is discovered that fraud and/or corruption was committed, the case will be reported to the SAPS for investigation and prosecution.

14. POLICY REVIEW AND AMENDMENT

- 9.1 This policy is effective from date of signature.
- 9.2 The assessment to determine the effectiveness and appropriateness of this policy will be done five (5) years after its effective date. The assessment could be performed earlier than five (5) years to accommodate any substantial structural or other organizational changes at the Department or any change required by law.
- 9.3 If and when any provision of this policy is amended, the amended provision will supersede the previous one.
- 9.4 Deviations from this policy must be approved by the Accounting Officer (AO) of the DR&PW.

15. APPROVAL OF THE POLICY AND DATE OF EFFECT

This policy is Approved / ~~Not Approved~~

Comments:

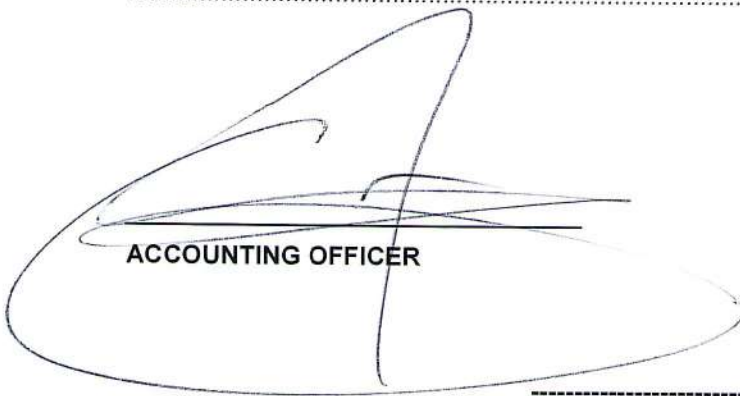
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ACCOUNTING OFFICER

26-04-2022
DATE



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

INTERNAL MEMO

DATE:	11 APRIL 2022	REF. NO.	
TO:	THE DIRECTOR: STRATEGIC PLANNING MANAGEMENT		
FROM:	THE DEPUTY DIRECTOR: POLICY AND RESEARCH MANAGEMENT SERVICES		
SUBJECT:	SUBMISSION FOR APPROVAL OF THE NEW DEPARTMENTAL POLICY ON THE APPOINTMENT OF CONSULTANTS, VERSION 1		

Dear Ms. Bekebeke

Please find attached the final draft of the new departmental Policy on the Appointment of Consultants, for your perusal and consideration. This policy has been circulated departmentally for consultation and inputs by the Communication and Marketing Unit, and it is hereby submitted for approval by the Acting Head of Department (HOD).

Regards,

Mr. T. Ferreira
Deputy Director: Policy and Research Management Services



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

Received: 04/07/2022
JH

INTERNAL MEMO

DATE:	11 APRIL 2022	REF. NO.	
TO:	THE ACTING HEAD OF DEPARTMENT (HOD)		
FROM:	THE DIRECTOR: STRATEGIC PLANNING MANAGEMENT		
COPY:	THE CHIEF DIRECTOR: CORPORATE AND MANAGEMENT SERVICES		
SUBJECT:	SUBMISSION FOR APPROVAL OF THE NEW DEPARTMENTAL POLICY ON THE APPOINTMENT OF CONSULTANTS, VERSION 1		

Purpose

1. The purpose of this submission is to obtain approval from the Acting Head of Department (HOD) for the operationalization within the Department of the new departmental Policy on the Appointment of Consultants.


Recommendations

1. This policy has been circulated departmentally by the Communication and Marketing Unit to consult the staff members in order to provide an opportunity for inputs toward the development of this policy.
2. It is therefore recommended that the Acting HOD approve this new policy as departmental policy.
3. Please see e-mail attached of the Evidence of Departmental Consultation.


MS. B. BEKEBEKE
DIRECTOR: STRATEGIC PLANNING MANAGEMENT
Recommended / Not Recommended _____

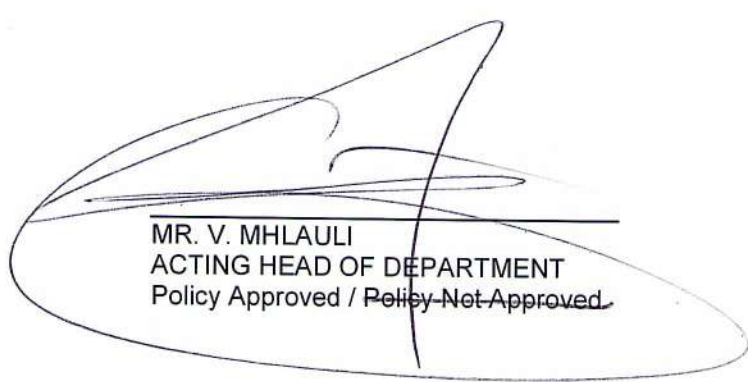
11/04/2022
DATE

SUBMISSION FOR APPROVAL OF THE NEW DEPARTMENTAL
POLICY ON THE APPOINTMENT OF CONSULTANTS



MS. A. MPOTSANG
CHIEF DIRECTOR: CORPORATE AND MANAGEMENT SERVICES
Recommended / ~~Not Recommended~~

2022-04-21
DATE



MR. V. MHLAULI
ACTING HEAD OF DEPARTMENT
Policy Approved / ~~Policy Not Approved~~

26-04-2022
DATE



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

**EVIDENCE OF CONSULTATION WITH
DEPARTMENTAL STAKEHOLDERS**

**NEW DEPARTMENTAL POLICY ON
THE APPOINTMENT OF
CONSULTANTS**

**SUBMISSION FOR APPROVAL
11 APRIL 2022**

TFerreira - POLICY CONSULTATION: NEW DRPW DRAFT POLICY ON THE APPOINTMENT OF CONSULTANTS

From: DRPW-Info

To: ABrand; ACLouw; AFembers; AKula; ALesotho; ALSishi; amaina@vodamail.co.za; AMasisi; AMiller; AMkhize; AMoeti; AMokwadi; amomokwadi@gmail.com; AMotlagodisa; Ampotsang; ampotsang79@gmail.com; andre.jooste17@gmail.com; AnthonyL; APulen; arpinm7@gmail.com; ARudman; ASwanepoel; BaatileItumeleng; Babalwa Bekebeke; BBobeje; BChotelo; BCloete; BDamon; Bettymabili@gmail.com; BGaonakala; BGoba; BKapanda; BMaclean; BMazwi; BMeruti; BMontshiwa; BonoloMakoko; BosmanP; BPitso; BSedisho; BSemau; bslingers@vodamail.co.za; BValentine; c28robertson@gmail.com; CAbrahams; CAdams; CBailey; cbailey@vodamail.co.za; CChakela; CDenysschen; CFourie; ChaneFourie; ChantelleCloete; CharmaineLouw30@gmail.com; ChristinaF; CKakora; clementinerifles@gmail.com; CMrwebi; CNdebele; CNotuku; collin.upt@gmail.com; CRabaji; CRobertson; CValentine; CvanRooi; DBingwa; DBingwane; denicebingwane460@gmail.com; DGaehete; DKowa; DMAqutyana; DMokgathe; DMokoena; DMonyamane; DMwembo; DPhirisi; drpwesimon@gmail.com; DRPW-Info; DSolo; DvdMerwe; EbenSwartboo; EBeukes; EBlaauw; EBreytenbach; EduPlessis; EJobe; EJonkers; EKhatwane; ELecwedi; eliasparage55@gmail.com; elsie.dupels@gmail.com; EMichaels; emodise@vodamail.co.za; ENodoba; EPino; EricksenA; ESimon; esterhuysek133@gmail.com; faithpmoabi631@gmail.com; FdeBruin; FDooling; FMogoje; FPetoro; francesbaardmech@gmail.com; FvanVuuren; GAppels; GCloete; GJacobs; GMmusi; GMoabi; GMolale; gobiditseonerobertmosang@gmail.com; GPietersen; gregs.gak@gmail.com; GRiet; GSalimana; GSefotlho; gstuurman17@gmail.com; GSwanepoel; GThupe; GTopkin; gvmhlauli@gmail.com; HenerydeWee@gmail.com; hermie@hantam.co.za; HPuley; HvanderMerwe; ICarolus; IFredericks; ILottering; IMolore; inocentia.senza@gmail.com; IOliphant; IRammutla; Isaacprins9@gmail.com; ITIhopile; ivmphosi@gmail.com; JHanekom; jillian.williams74@gmail.com; JillianWilliams; jjvanjaarsveld55@gmail.com(...)

Date: 3/24/2022 12:04 PM

Subject: POLICY CONSULTATION: NEW DRPW DRAFT POLICY ON THE APPOINTMENT OF CONSULTANTS

Attachments: DR&PW Policy Draft on the Appointment of Consultants - Ver 1, 202.docx

Good day Colleagues,

Please find attached the Draft DRPW Policy on the Appointment of Consultants. The due date for inputs/feedback/comments from staff members on this NEW Departmental Policy is Thursday, 31 March 2022. All inputs can be e-mailed to tferreira@ncpg.gov.za

For more information feel free to contact Mr. Tom Ferreira the Deputy Director: Policy and Research Management Services
Thank you



DRPW-info@ncpg.gov.za

COMMUNICATION AND MARKETING SERVICES

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Department of Roads and Public Works

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Tel: 053 839 2100

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Trendsetters in infrastructure delivery to change the economic landscape of the province'