

SCMB 08/10/20

**ORGAN OF STATE SANRAL: APPOINTMENT OF THE SOUTH
AFRICAN NATIONAL ROADS AGENCY SOC LIMITED
(SANRAL) TO OPERATE AND MAINTAIN PORTIONS OF THE
CAPE TOWN FREEWAY MANAGEMENT SYSTEM ON
BEHALF OF THE CITY OF CAPE TOWN**

Members of the Committee through a BAC Comments form raised questions and comments.

The Chairperson advised that SANRAL has only considered a temporary appointment and enquired what the term was and requested dates to be provided. He enquired whether a 3-year term can be considered if it is not in place. He advised that they are not rendering the services, but are contracting it out, and made enquiry to these conditions. Enquiry was made with regards to the handling fee and the amount of the contingency.

The BEC representative, Mr S Glass indicated that SANRAL has appointed Netronix, the FMS contractor for the eThekweni Region, to operate and maintain the Western Cape Region FMS for a further 3 months from 1 Oct to 31 Dec 2020. He advised that this appointment is via a Contract Variation in terms of Clause 13 of the FIDIC Conditions of Contract for Design, Build and Operate Projects.

Mr Glass advised that authority to contract with SANRAL requested for this 3-month period only. A further request for authority will be submitted once SANRAL concludes the long-term contract for the Western Cape Region.

It was confirmed that SANRAL has appointed Netronix via a National Tender Process. The conditions of contract are the FIDIC Conditions of Contract for Design, Build and Operate Projects (Gold Book). Detailed performance criteria for operations and maintenance are specified in contract. The agency fee is 6.5% and is included in the amount listed in the recommendations.

Mr Glass advised that no contingencies are included in the current report, as contingencies will not be required for the 3-month period.

The Chairperson enquired why Section 32 of the MFMA and the National Treasury Circular 96 was not followed, and whether Internal Audit had done an assessment.

Mr Glass advised that Section 32 of the MFMA was not followed because the City will not become a participant in the contract between SANRAL and Netronix. The City will contract with SANRAL alone.

Members of the Committee made enquiry regarding the legal opinion and was of the view that Section 33 of the MFMA applies

to all contracts that will impose financial obligations beyond the current budget cycle. S110(2) of the MFMA clearly states that a procurement with another organ of state does need to comply with Part 1 of Chapter 10. It does not exclude Section 33 which is a budget provision, not restricted to SCM. It was felt that if the City is going to continue using SANRAL then it would be appropriate to enter into a long term arrangement and therefore a Section 33 process should be considered.

Members of the Committee indicated that the legal opinion indicates that the report must be submitted to the appropriate delegated authority, but does not indicate where that authority has been delegated. Enquiry was made whether the report should go to Council for approval if it has not been delegated.

Mr Glass advised that this was queried verbally with Legal Services and it was confirmed verbally that they believe that the delegated authority is still the SCMBAC.

It was also confirmed that the agreement is between the City and SANRAL and that SANRAL will be held responsible for the contract as they are the biggest stakeholder in the freeway management system in the Western Cape. Mr Glass said that SANRAL will ensure that the freeway management system operates as an integral unit and that SANRAL offered to undertake the function of issuing a contract and managing the contractor on behalf of all three road authorities.

RESOLVED that for the reasons set out in the report and in accordance with clause 20.1 of the CCT's SCM Policy the South African National Roads Agency SOC Limited be appointed to enhance, operate and maintain the City of Cape Town's portion of the Cape Town Freeway Management System in the amount of R944 366.87 (excl. VAT) from date of commencement of contract until 31 December 2020.

ACTION: B VUMASE, E LEWIS to communicate the decisions of the BAC to the tenderers and BEC.
FOR NOTING: B OOSTHUIZEN to note the BAC decisions and apply the recommendations and decisions of the BAC.

This resolution complies with the Supply Chain Management Policy as approved by Council on 30 May 2019.



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ARNO VORSTER EMPLOYEE NO. 10300397
CHAIRPERSON: SUPPLY CHAIN MANAGEMENT
BID ADJUDICATION COMMITTEE

DATE: 9/10/2020