

NELSON MANDELA BAY METROPOLITAN MUNICIPALITY

ADJUDICATION COMMITTEE

MEMBERS: Ms B de Scande
Mr S Brown
Mr R Ferreira
Mr C Hempel
Adv. V Zeelie
Dr W Shaidi

A MEETING OF THIS COMMITTEE WILL BE HELD IN THE BOARDROOM, SUPPLY CHAIN MANAGEMENT, HARROWER ROAD, PORT ELIZABETH ON FRIDAY, 17 AUGUST 2018 AT 09:00.

A G E N D A

1. APOLOGIES
2. DISCLOSURE OF INTEREST BY OFFICIALS IN TERMS OF PARAGRAPH 5 OF THE CODE OF CONDUCT (SCHEDULE 2 OF THE SYSTEMS ACT NO. 32 OF 2000)
3. REPORT BY ACTING EXECUTIVE DIRECTOR : PUBLIC HEALTH (circulated herewith)
4. REPORT BY EXECUTIVE DIRECTOR : INFRASTRUCTURE AND ENGINEERING (circulated herewith)



N XHEGO (MS)
ACTING EXECUTIVE DIRECTOR :
CORPORATE SERVICES

14 August 2018

NOTE: MEMBERS TO ATTEND THE BAC CAUCUS MEETING AT 08:00

**REPORT BY
EXECUTIVE DIRECTOR : SAFETY
AND SECURITY**

**REPORT BY
ACTING EXECUTIVE DIRECTOR :
PUBLIC HEALTH**

NELSON MANDELA BAY MUNICIPALITY

Report For Bid Adjudication Committee

| | | |
|----------------------------|---|----------------------------------|
| Demand # | : | 963 |
| Contract # | : | SCM/17-78/O |
| Description | : | LEASE AGREEMENT : SPCA UITENHAGE |
| Directorate | : | PUBLIC HEALTH |
| Project Manager | : | MR. NICKIE OLIPHANT |
| Contact Details | : | 0419941293 |
| Email | : | noliphant@mandelametro.go.za |
| Contract Duration | : | 12 Months |
| File No. | : | |
| Estimated Value No. | : | 783800.00 |

1. PURPOSE OF REPORT

The purpose of this report is to request the Bid Adjudication Committee to consider the report and grant approval for a three (3) year Service Level Agreement between the Nelson Mandela Bay Municipality (NMBM) and Uitenhage Society for the Prevention of Cruelty to Animals (SPCA) for co- management of the Nelson Mandela Bay Municipal animal pound situated on Erf 12171 Uitenhage. This request will necessitate that the provision of the Municipal Supply Chain Policy be departed from in terms of Section 39(1)(a)(v) thereof to allow the SPCA to provide the pound management services as the NMBM council has already approved a lease agreement for a period of three years with SPCA as reflected in **Annexure "C"** of this report.

2. BACKGROUND

One of the functions of the Public Health Directorate is to run an animal pound in terms of the Pounds Ordinance, 1938 (No. 18 of 1938), the Nelson Mandela Bay Municipality Bylaws Relating to Prevention of Public Nuisances and Public Nuisances Arising from Keeping of Animals, 2010 and other relevant legislation. Domestic animals and livestock that are sick, cause a nuisance or animals that are reported to be stray are impounded to abate the nuisances, prevent spread of diseases and to prevent traffic accidents. Currently all impounded animals are transported to the municipal pound situated in Uitenhage, Erf 12171 Uitenhage, where they are kept in the custody of the Pound Master while awaiting to be reclaimed by owners, given up for adoption, and / or euthanized. The service is co-managed by the Public Health Directorate and SPCA as a service provider in a Public Private Partnership

3. SCOPE OF WORK

The pound management services and operations are outlined in the Municipal Pound Service Level Agreement hereto attached as **Annexure "A"**.

4. MOTIVATION

- a) The historic Lease Agreement and Service Level Agreement between the SPCA and the Nelson Mandela Bay Municipality expired in 31 December 2015.
- b) As per resolution by the City Manager dated 30 May 2016, authorization was given for the extension of the lease/SLA from 1 January 2016 to 31 December 2016, on a month-to-month basis under same terms and conditions as the then expired lease/SLA.
- c) As per minutes of the Bid Adjudication Committee dated 08 December 2017, copy of which is hereto attached as **Annexure "D"**, the Public Health Directorate requested for the extension of the Lease Agreement with SPCA for a further Twelve (12) months or until a new Lease for the property was concluded.
- d) The committee then decided to reduce the recommended period to Six (6) months and such lease expired on on the 30 June 2018.
- e) That it be recommended by the City Manager:
 - That the provision of the Municipal Supply Chain Policy be departed from in terms of Section 39(1)(a)(v) thereof.
 - That the Service Level Agreement between the NMBM and the SPCA be extended under the terms and conditions of the lease agreement hereto attached as **Annexure "B"**.
- f) As per NMBM council minutes dated 21 September and 19 October 2017, it was resolved that the municipalities intention to lease Erf 12171, Uitenhage to the SPCA be advertised and that expression(s) of interest and/or objection(S) be called for from any interested parties so as to comply with Section 14(5) of the Local Government: Municipal Management Act, Act 56 of 2003, and that in the event of there being no response, such lease be in accordance with the following conditions:
 - A market rated rental is negotiated with the applicant in accordance with the recommendations of the Rates and Valuation Sub – Directorate valuation report;
 - The lease period of three (3) years with an option to renew for a further three (3);
 - The previous conditions of lease will be subject to review in terms of the proposed Service Level Agreement;
 - All other costs associated with the transaction for the account of the Lessee;
 - Council's Standard Conditions of Lease shall apply
- g) That, in the event of there being any objections or expression of interest from parties other than the applicant, the matter be subjected to a closed tender process in accordance with Section 14(5) of the Local Government: Municipal finance Management Act, Act 56 of 2003, the Council to approve the successful bidder.
- h) That, if no additional expressions of interest or objections are received, a lease agreement be drafted by the Municipality's Legal Services Sub-Directorate in accordance with the above and that such be represented to the City Manager for approval.
- i) The above recommendations are being implemented by the Human Settlements Directorate, and the lease agreement between the NMBM and the SPCA has been concluded and is with the Municipality's Legal Sub-Directorate. See **Annexure "B"** attached.
- j) It will be undesirable to follow Supply Chain procurement processes in respect of the service level agreement whilst SPCA has already been granted the Lease Agreement.
- k) The non-provision of the service currently rendered by the SPCA is regarded as an emergency in terms of Supply Chain Policy, Section 39(1)(a)(i), as a discontinuation will lead to an unacceptable situation regarding the control of sick, abandoned, surrendered and stray animals in the area. The Public Health Directorate currently does not have the capacity to perform the functions of a Pound Master.
- l) Hence the request for the approval of a deviation to allow for three (3) year SLA with the SPCA as per **Annexure "E"** attached.

• **Relevance to the IDP and SDBIP:**

Key Performance Area (KPA)

Basic Service Delivery and Infrastructure Development 5.1

- The use of the Specific service provider for pound administration and operations is an integral part of providing pro-active work controls, preventing the spread of contagious diseases; zoonotic diseases and the prevention of health nuisances.
- Ensuring a safe haven for all species of animals by providing good food, fresh water, washing of animals, bedding, veterinary care and safe housing.

KPE: Public Health: Environmental Health 5.5.1.2.5.3

Key Performance Indicators (KPI): Service Delivery

Policy Implications / NMBM Policies and Procedures

The NMBM's Policy of rendering acceptable services to its residents will be negatively affected should the required

services not be delivered at required standards.

External policies

Impounding Ordinance / National Pounds Bill may now not be adhered to.

Legal Implications

There may be direct legal implications if the Pound Administration and operations are dysfunctional resulting in unwanted and stray animals / livestock, non-collection of mangy, contagious, diseased animals, non-collection of carcasses which will result in endemics and zoonotic outbreaks.

5. RISK AND MITIGATION PLANS

Summary of risks identified

- Increase in uncontrolled conditions of stray livestock, unwanted diseased animals and pets which could result in traffic and health hazardous conditions.
- Stock piling of dead animals and carcasses which will not be disposed of in a proper authorized manner.
- The possibility of negative media reports.
- Public liability risk
- Disease outbreaks

Mitigation Plan

Any alternative, on a short term basis will be impractical, taking cognizance of the nature of functions to be performed. Expediting the formalizing of a Service Level Agreement seems to be the best option.

5. ITEM DETAIL

Item No. 1

Lease Agreement : SPCA Uitenhage

| Bidder Name | PM | Price | PM Comment |
|-----------------------------|-------------------------------------|--------------|-------------------|
| UITENHAGE AND DISTRICT SPCA | <input checked="" type="checkbox"/> | | |

6. FINANCIAL PROVISION

| Financial Year | Vote No | | Job Code | Allocated Amt |
|----------------|---------------------------|-----------|-------------------|-------------------|
| | Org Code | Item Code | | |
| 2016-2017 | 0805 | 6364 | | 468380.00 |
| 2016-2017 | 0840 | 6364 | | 173870.00 |
| 2016-2017 | 0805 | 0213 | | 50000.00 |
| | Total (Vote No) 692250.00 | | Total (Job Code)0 | (Total) 692250.00 |

Budget and Treasury

The Directorate confirms that the necessary budget provision is available for this tender

Remark: Budget for the project is confirmed. The expenditure on the project must be strictly managed to ensure that spending levels are kept within the available budget.

Signature: *Jakkie Gerber*

Date: 05-12-2016

Name: Mr. Jakkie Gerber - Signed in SCMS

Head of the Department

Department Head approves the use of the funds for this project

Remark: Approved by HOD Public Health

Signature: *Andile Tolom*

Date: 05-12-2016

Name: Mr. Andile Tolom - Signed in SCMS

7. SUPPORTING DOCUMENTS

Annexure "A": Copy of previous Service Level Agreement
 Annexure "B": Copy of current Lease Agreement
 Annexure "C": Copy of NMBM Council Minutes
 Annexure "D": Copy of Bid Adjudication Committee Minutes
 Annexure "E": Copy of Service Level Agreement

Budgetary Provision

FINANCIAL PROVISION

| Financial Year | Vote No | | Job Code | Allocated Amount |
|----------------|-----------------|-----------|------------------|-------------------|
| | Org Code | Item Code | | |
| 2018-2019 | 0805 | 6364 | | 630 640.00 |
| 2018-2019 | 0840 | 6364 | | 195 370.00 |
| 2018-2019 | 0805 | 0345 | | 56 180.00 |
| | Total (Vote No) | | Total (Job Code) | 890 190.00(Total) |

8. RECOMMENDATIONS

In view of the above, the following recommendations are made to the City Manager:

- That the provisions of the Municipal Supply Chain Policy be deviated from in terms of Section 39(1)(a)(v) thereof.
- That the new Service Level Agreement then be finalized in conjunction with Legal Services Section of the NMBM.

**REPORT BY
EXECUTIVE DIRECTOR :
INFRASTRUCTURE AND
ENGINEERING**

NELSON MANDELA BAY MUNICIPALITY

Report For Bid Adjudication Committee

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|----------------------------|---|
| Demand # | : 1740 |
| Contract # | : SCM/16-141/C |
| Description | : CONSTRUCTION OF MUNICIPAL INFRASTRUCTURE IN |
| Directorate | : INFRASTRUCTURE, ENGINEERING, ELECTRICITY & ENERGY |
| Project Manager | : MR. PHUMLANI MDITSHWA |
| Contact Details | : 0415061015 |
| Email | : pmditshwa@mandelametro.gov.za |
| Contract Duration | : 18 Months |
| File No. | : |
| Estimated Value No. | : 45802231.08 |

1. PURPOSE OF REPORT

The purpose of this report is for the Bid Adjudication Committee to accept the change in legal name of the appointed supplier from VBS Construction trading t/a Techni Civils to BDP PLANT HIRE (PTY) LTD on Contract SCM/16-141/C for the Construction of Civil Engineering Services in Jachtlakke.

2. BACKGROUND

Aurecon group Engineers were appointed as the Engineers for this contract to undertake design, construction monitoring and close out administration for the contract (SCM/16-141/C).

VBS Construction trading t/a Techni Civils were appointed as the Contractor for SCM/16-141/C Construction of Civil Engineering Services in Jachtlakke for the amount of R45 802 231.08 (Including VAT and subject to CPA).

3. SCOPE OF WORK

The Scope of this Contract includes:

- a) Site Clearance, Clear and grub road reserves 165 000m² including removal of vegetation.
- b) Construction of 43700m of surfaced roads which includes kerbing.
- c) Construction of a sewer reticulation system consisting of 20800m of 110mm, 160mm and 200mm diameter uPVC sewer pipes.
- d) Construction of a water reticulation system consisting of 9140m of 20mm, 25mm, 75mm, 110mm, 160mm, 200mm and 250mm diameter uPVC and HDPE pipes.
- e) Stormwater
 - Installation of 50m of precast 2400mm x 1200mm precast rectangular portal culverts on cast in situ concrete base slabs, headwalls and gabion protection.
 - Installation of 3500m v-drains.

4. MOTIVATION

In order to be able to process the payments, the name should be changed to BDP PLANT HIRE (PTY) LTD. (Attached documentation for the name change)

5. ITEM DETAIL

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6. FINANCIAL PROVISION

| Financial Year | Vote No | | Job Code | Allocated Amt |
|----------------|-------------------|-----------|------------------------------|---------------------|
| | Org Code | Item Code | | |
| 2018-2019 | | | 20120033 | 8958510.00 |
| 2018-2019 | | | 20170091 | 4187560.00 |
| 2018-2019 | | | 20170093 | 4187560.00 |
| 2018-2019 | | | 20170096 | 5583410.00 |
| | Total (Vote No) 0 | | Total (Job Code) 22917040.00 | (Total) 22917040.00 |

Budget and Treasury

The Directorate confirms that the necessary budget provision is available for this tender

Remark: None

Signature: *Aiyun Nockfar*

Date: 14/08/2018

Name: Ms. Aiyun Nockfar - Signed in SCMS

Head of the Department

Department Head approves the use of the funds for this project

Remark: approved

Signature: *Sameer Agherdien*

Date: 14/08/2018

Name: Mr. Sameer Agherdien - Signed in SCMS

7. COMMENTS

8. RECOMMENDATIONS

It is recommended to the Bid Adjudication Committee that:

- a) The change in the legal name of the appointed supplier VBS Construction t/a Techni Civils to BDP PLANT HIRE (PTY) LTD be accepted.

ITEM 2

NELSON MANDELA BAY MUNICIPALITY

Report For Bid Adjudication Committee

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|----------------------------|---|
| Demand # | : 1730 |
| Contract # | : SCM/18-219/S |
| Description | : DEVELOPMENT OF NJOLI PUBLIC TRANSPORT DEPOT AND PASSENGER TERMINAL |
| Directorate | : INFRASTRUCTURE, ENGINEERING, ELECTRICITY & ENERGY |
| Project Manager | : MR. SIHLE MJIWU |
| Contact Details | : 0415063205 |
| Email | : smjiwu@mandelametro.gov.za |
| Contract Duration | : 36 Months |
| File No. | : |
| Estimated Value No. | : 15000000.00 |

1. PURPOSE OF REPORT

The purpose of this report is to request the Bid Adjudication Committee to cancel the tender for SCM/18-219/S: Professional Civil Engineering Services: Development of Njoli Public Transport Depot and Passenger Terminal, in order for it to be re-packaged and advertised in two phases.

2. BACKGROUND

The Nelson Mandela Bay Municipality is in the process of implementing a regulated public transport system. The development of an Integrated Public Transport System (IPTS) is intended to transform the public transport sector in the Nelson Mandela Bay. This will be done by transforming current diversified minibus taxi and bus operations into an integrated system which aims to provide the citizens with high – quality, efficient, affordable, accessible and safe public transport system that support economic and social development in line with the national policy.

On the 27th of June 2018 the Nelson Mandela Bay Municipality advertised a tender for the development of a public transport depot and passenger terminal to the public for all interested consulting firms to bid (See Annexure A for tender advert). The tender required a consulting firm to form a professional team that will work together from the beginning and complete the works within the given duration of 36 months.

A compulsory clarification meeting was held on the 9th of July 2018 where all matters relating to the project were discussed (See Annexure B for attendance register). Bidders raised concerns on the complexity of the scope of work of the project and requested that the project be split into two phases and issued as two separate tenders, starting with phase 1 and phase 2 to follow after completion of the first phase. This request was because the bidders felt it would be very difficult for them to price for the entire project without knowing the outcome of the feasibility study and concept design first.

An objection letter dated 16 July 2018 from CESA (see Annexure C), was received by the Supply Chain Management Director and IPTS project managers requesting the tender to be suspended due to comments received from several bidders. CESA supported the bidders comments stating that the scope of work is not well defined and it would be too risky for bidders to provide a price without having a concept design of what the NMBM is requesting. In addition to that, they proposed that the tender be cancelled and re-packaged into the following phases:

Phase 1:

Advertise a tender on a time and cost basis for the Feasibility, Inception and Concept Design stage. This stage would define the Scope of the Project in more detail, prepare a high-level budget and inform a detailed scope of services for Phase Two of the project. Based on the outcome of this phase, the NMBM should then secure the land.

Phase 2:

Advertise a tender on a percentage fee basis for the Detailed Design, Procurement, Contract Implementation and Close Out Stages of the Project.

A meeting was held on the 22nd of July 2018 between SCM, IPTS and CESA to discuss this objection and find a way forward. In the meeting, IPTS responded saying that the risk in this case was shifted to the bidders and the responsibility lies with the bidders to decide on what their price to complete the job will be. In addition to that, splitting the tender into two phases will drag the whole process and time will be lost due to this. CESA opposed saying that the risk was too high and cannot be accepted. On the 27th of July 2018, SCM sent out communication to all the bidders regarding this meeting and the way forward (see Annexure D).

Communication was sent to the office of the City Manager and on the 30th of July 2018, the City Manager ruled on this matter, indicating that the tender must be set aside for the following reasons listed below. (see Annexure E)

- No confirmation with regard to land or number of buses. This creates significant uncertainty.
- The risk to be transferred to bidders will lead to escalation of bidding price, which can be avoided.
- It must be reasonably anticipated that the project will be in excess of three years, unless broken down in phases. This to be made clear in the bid documentation, and in the contractual arrangements, and processes.

On the 1st of August 2018 communication was sent to all bidders stating that the project is cancelled due to the reasons mentioned above (see Annexure F). The tender was set to close on the 2nd of August 2018.

3. SCOPE OF WORK

- Feasibility, Consultation and Statutory Approvals
- Inception and Consultation
- Concept Design
- Detail Designs
- Tender Documentation and Procurement
- Contract Administration and Inspection
- Close-Out

Details of the scope of work are on pages 106 to 115 of the tender document.

4. MOTIVATION

Cancellation of the tender will have the following benefits:

- The NMBM will ensure a more competitive bid.
- Greater value for money from the successful bidder.
- High level of confidence that the successful bidder will be able to deliver the required deliverables.

5. ITEM DETAIL

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6. FINANCIAL PROVISION

| Financial Year | Vote No | | Job Code | Allocated Amt |
|----------------|----------------------|-----------|-------------------|---------------|
| | Org Code | Item Code | | |
| 2018-2019 | 1703 | 6346 | | 0.00 |
| 2019-2020 | 1703 | 6346 | | 0.00 |
| 2020-2021 | 1703 | 6346 | | 0.00 |
| | Total (Vote No) 0.00 | | Total (Job Code)0 | (Total) 0.00 |

Budget and Treasury

The Directorate confirms that the necessary budget provision is available for this tender

Remark: the tender will be cancelled there are no financial implication regarding the tender. subject to adherence of the SCM policy and relevant regulations.

Signature: PricillaTshabangu Date: 13-08-2018

Name: Ms. Pricilla Tshabangu - Signed in SCMS

Head of the Department

Department Head approves the use of the funds for this project

Remark: approved

Signature: LuthandoMabhoza Date: 10-08-2018

Name: Mr. Luthando Mabhoza - Signed in SCMS

7. COMMENTS

8. RECOMMENDATIONS

- That the tender for SCM/18-219/S: Professional Civil Engineering Services: Development of Njoli Public Transport Depot and Passenger Terminal be cancelled so that it can be divided into two phases and be re-advertised as two separate tenders.

First tender to be advertised should be:

Phase 1:

- Feasibility, Consultation and Statutory Approvals
- Inception and Consultation
- Concept Design

Based on the completion and outcome of phase 1, the following tender should be advertised:

Phase 2:

- Detail Designs
- Tender Documentation and Procurement
- Contract Administration and Inspection
- Close-Out

- That the cancellation be published on the newspaper.