



public works
& infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE FOR THE DEVELOPMENT OF REGULATIONS IN ACCORDANCE WITH SECTION 20 OF THE GOVERNMENT IMMOVABLE ASSET MANAGEMENT ACT (GIAMA) NO.19 OF 2007.

FEBRUARY 2021

**TERMS OF REFERENCE FOR THE DEVELOPMENT OF REGULATIONS IN ACCORDANCE
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1. PURPOSE

This document presents the Terms of Reference (ToR) for the appointment of a service provider(s) to assist the Department of Public Works and Infrastructure (DPWI) in developing regulations to strengthen the implementation of the Government Immovable Asset Management Act (GIAMA), no. 19 of 2007.

2. BACKGROUND

Improvements to the management of government's immovable assets are required to ensure that such assets are optimally utilised for service delivery. This must be achieved by the systematic, integrated and appropriate management of all decision-making processes throughout the life-cycle of an immovable asset. Immovable asset management is therefore a key element in enabling better service delivery.

Government Immovable Asset Management Policy was developed to introduce a government-wide immovable asset management framework. This policy was implemented through the promulgation of the Government Immovable Asset Management Act (GIAMA), which provides an enabling framework for immovable asset management. The purpose of this framework is -

- to provide organs of state with guidance in respect of the management of immovable assets throughout their life-cycle;
- to establish uniformity and ensure the application of minimum requirements in managing immovable assets and the related delivery of services;
- to enable the whole of government to ensure demonstrable linkages between service delivery and immovable asset resource planning and co-ordination;
- to establish accountability for the effective, efficient and transparent management of immovable assets; and
- to ensure that decision-making by individual organs of state takes place within a government-wide common framework.

GIAMA makes it incumbent on custodians and users, as appropriate to their functions, to demonstrate that they are managing immovable assets in such a way as to promote government's objectives listed below.

- Promoting accountability, fairness and transparency within government.
- Promoting effective, efficient and economic use of immovable assets.
- Reducing the overall cost of service delivery.
- Reducing demand for new immovable assets.
- Supporting government's socio-economic objectives including land reform, economic empowerment, poverty alleviation, job creation and the redistribution of wealth.
- Realising the best value for money from the disposal of immovable assets.
- Increasing opportunities for partnering with the private sector.

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- Protecting the environment and our diverse cultural and historic heritage.
- Improving health and safety in the working environment.

GIAMA requires each organ of state to produce an immovable asset management plan that will form part of the strategic planning and budgeting processes of government. The immovable asset management plan must cover all the immovable assets which the organ of state uses or intends to use. Where the organ of state is not the custodian of these assets, these plans should be developed in consultation with the relevant custodian.

Custodians of immovable assets must also compile immovable asset management plans, covering all the assets within their ambit. In some cases, custodians will be in a position to view the management of immovable assets from a wider perspective than that of individual organs of state, and the production of custodian immovable asset management plans will enable these “whole of government” considerations to be taken into account during the strategic planning and budgetary process.

Custodians must establish proper communication and service level agreements with users, performance standards and cost for the management of immovable assets. Custodians must furthermore establish a process that assesses the condition of an immovable asset and updates the relevant information in an immovable asset register. The custodian must also measure the effectiveness and efficiency of immovable assets and make the information obtained through these processes available to the user for the production of a user asset management plan.

Each organ of state must submit its immovable asset management plan to the relevant Treasury annually, by a date to be determined by that Treasury in consideration of the budgetary cycle. These asset management plans must inform the budget allocation process, and must be revised and included in the strategic plans of organs of state once budgetary allocations are finalized.

The Minister of Public Works and Infrastructure will determine Immovable Asset Management Guidelines and Standards that will complement general asset management guidelines issued by National Treasury in terms of the PFMA.

3. PROBLEM STATEMENT

Historically, immovable asset management practices in government resulted in immovable assets slipping into disrepair due to improper funding and maintenance. In general, the culture of replacement rather than maintenance eventually cost government significantly more than what ongoing preventative maintenance would have cost. These practices in government were a result of a non-uniform governance framework and the lack of monitoring and evaluation systems.

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Immovable asset management is a low priority within the context of other challenges that face users, primarily because it is not their core business. As a consequence assets are not maintained at their optimal value. Over time this has resulted in government's immovable assets being stripped of their inherent value. Moreover, underutilized immovable assets increase the cost to government. Should these immovable assets be utilized in different forms, they may contribute significantly more to service delivery and the socio-economic development of the country.

Government is confronted with service delivery expectations, which have to be matched with an efficient use of limited resources. Immovable assets are one of the key resources that government uses in delivering services. These assets often have lengthy acquisition periods, usually very costly to create, manage and maintain, and can be difficult to sell or to change their use. Furthermore, immovable assets occupy a prominent position as a resource that impacts significantly on the macro-economic, socio-political and physical landscape of the country.

The other critical feature unique to immovable assets is that they are linked to land. Land is a finite resource and cannot be "reproduced" or "duplicated". For this reason, government is obliged to adopt a careful and holistic approach in respect of land with a view to ensuring the attainment of broader government priorities.

Immovable assets are one of the backbones that have to support service delivery. Poor immovable asset decisions can have a detrimental impact on government's ability to deliver efficient and effective services. Proper immovable asset management and a proactive approach to immovable assets can contribute in ensuring that services are carried out efficiently and effectively.

Under-spending on the maintenance of immovable assets results in diminished lifecycles and premature deterioration of values, whilst overspending will result in over-capitalization and fruitless expenditure. Immovable asset management plays an important role in terms of correct allocation of funds and resources.

Wherever possible, government seeks to utilise surplus immovable assets to meet its socio-economic objectives. This requires identification of such surplus immovable assets in the strategic planning phase and assessment of potential to meet these objectives.

The objectives of the Public Finance Management Act, 1999 (Act No 1 of 1999) (PFMA) are the promotion of uniformity and the establishment of minimum norms and standards for the effective, efficient and transparent management of government finances and to establish accountability. The PFMA suggests the devolution of responsibility and accountability for budgeting and managing of all resources, including assets, to individual departments. The introduction of uniformity on a government-wide basis as to the management of immovable assets will complement these objectives of government.

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Immovable asset management is one of the tools that could assist decision-makers in discharging their responsibilities in a meaningful and transparent manner. Furthermore, the PFMA has as its cornerstone the promotion of effectiveness, efficiency and economy in service delivery. Again, the making available of proper and meaningful information, an output of the immovable asset management concept, will enhance the attainment of these goals.

The above considerations have led to a need for a proactive approach to the management of immovable assets to ensure demonstrable linkages between service delivery and resource planning and utilization, as well as co-ordination of immovable assets and infrastructure from a government-wide perspective.

The principles of immovable asset management, as applied globally, have as purpose the integration of decision-making processes and to consider the full impact of costs over the life of an immovable asset in these processes. The application of immovable asset management principles to the government's immovable asset portfolios will contribute to, amongst others –

- Better allocation of limited resources
- Better alignment of immovable assets with service delivery and community expectations
- Reduced demand for new immovable assets and more efficient and effective use of existing immovable assets.

It is also true that currently a large volume of statutes deals with state land and immovable assets. Since it is government's intention to entrench the principles of immovable asset management in law, it will afford government an opportunity to assess the applicability of these statutes within a new environment.

4. SCOPE OF WORK

The activities required for the project are the following:

- 4.1. assess areas of the Act which require regulations and develop regulations to that effect;
- 4.2. consult relevant stakeholders within DPWI throughout the duration of the project;
- 4.3. evaluate the implementation process in terms of efficiency and effectiveness;
- 4.4. evaluate a uniform framework for immovable asset management and its use in order to prioritise implementation of service delivery.

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5. DELIVERABLES:

The expected outcome of the work from the Service Provider is to:

- 5.1. formulate regulations in terms of Section 20 of GIAMA for any matter that may require such regulation or be permitted to be prescribed;
- 5.2. provide final report after consultation with relevant stakeholders;
- 5.3. provide recommendations for improvement to enhance full implementation of the Act.

6. PROJECT TIME LINES

- 6.1. It is expected that the project should be completed within 115 hours but not exceeding six (06) months from date of appointment.
- 6.2. The successful service provider will continually be engaged to assess progress made.
- 6.3. Monthly progress reports must be submitted to the Department of Public Works and Infrastructure (Project Manager).

7. CONDITIONS OF CONTRACT

- 7.1. The conditions of contract applicable to this appointment will be the General Conditions of Contract for Goods and Services [PA-10].

8. RESPONSIVENESS CRITERIA

- 8.1. Bidders will be required to demonstrate the experience, expertise and competencies as specified in section 9.
- 8.2. Bid that do not attain the minimum functionality score (70%) as stipulated in section 9, will not qualify for further evaluation.

9. EVALUATION CRITERIA

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- 9.1 All bids submitted will be evaluated in accordance with the 80/20 principle. Bids will first be scored on functionality as set out below. Bidders that reach the minimum score will be taken to the second stage for evaluation on Price and Preference.
- 9.2 The minimum functionality score to qualify for further evaluation is **70%**
- 9.3 The following evaluation criteria will apply:

A.	Functionality criteria	Weight (%)
1.	<p>Collective experience of the company / bidder in the development of legislation or regulations in the field of asset and property management.</p> <p>Successful completion of 5 or more legislation drafting projects 5</p> <p>Successful completion of 4 projects 4</p> <p>Successful completion of 3 projects 3</p> <p>Successful completion of 2 projects 2</p> <p>Successful completion of 1 project 1</p>	30
2.	<p>The company / bidder shall consist of a project Leader with build environment and legal qualifications.</p> <p>1. Team Leader with qualification in Real Estate specializing in property law, 5 years' experience in legal drafting and must have led similar projects for the same period.</p> <p>Legislative Drafting (submit organogram and CVs of each key staff members)</p> <p>Team Leader</p> <p>Experience of 5 or more years 5</p> <p>Experience of 4 or more years 4</p> <p>Experience of 3 or more years 3</p> <p>Experience of 2 or more years 2</p> <p>Experience of 1 or more years 1</p>	10
3	<p>The project team should have experience in legislative drafting, and as well as experience of similar nature in executing projects of this magnitude.</p> <p>1. The Project team must demonstrated experience and</p>	10

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A.	Functionality criteria	Weight (%)
	<p>understanding of how asset and property management mechanisms, systems, procedures have been translated into and enabled through legislation;</p> <p>Project Team</p> <p>staff experience of 5 or more years 5</p> <p>staff experience of 4 or more years 4</p> <p>staff experience of 3 or more years 3</p> <p>staff experience of 2 or more years 2</p>	
4.	<p>A well-documented methodology to be followed (modus operandi) to execute the project, highlighting, but not limited to:</p> <ul style="list-style-type: none"> • Understanding of how asset management mechanisms, systems, procedures have been translated into and enabled through legislation, • Understanding of Legislative Drafting, • The project plan with schedule indicating clear time lines and deliverables; • Project Team that will be deployed, • Projects cost (rates per team member and for the whole scope of work) and Communication and engagement strategy <p>Methodology that covers and demonstrates effectiveness and efficiency for :</p> <p>All the above and more topics 5</p> <p>4 of the above topics 4</p> <p>3 of the above topics 3</p> <p>Methodology that covers 2 of the above topics 0</p>	50
	Total Weight	100

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13. PAYMENT FOR WORK

- 13.1. The Department undertakes to pay all valid claims for work done to its satisfaction upon presentation of the draft regulations.
- 13.2. No payment will be made where there is outstanding information / work by the Service Provider.

14. SUBMISSION AND RECEIPT OF BIDS

Quotations must be submitted to the following email address:
ndpwquotations@dpw.gov.za or Quotation Box

15. ENQUIRIES

Technical Enquiries

Department of Public Works and Infrastructure

Project Manager : Mr Livhuwani Ndou

012 406 1315

Livhuwani.ndou@dpw.gov.za

SCM Enquiries

SCM Practitioner: Ms Tshwarelo Ramoleta

012 406 1248

Tshwarelo.ramoleta@dpw.gov.za

Please note that all enquiries must be in writing.