



**DLA CLIFFE DEKKER  
HOFMEYR**

# PROJECTS AND INFRASTRUCTURE ALERT

18 September 2013

ENERGY

**Renewable Energy IPP Procurement Programme:** The Department of Energy's (DoE) Renewable Energy Independent Power Producers Procurement Programme (REIPPPP) was launched in August 2011 and provided for the procurement of 3,625 MW of renewable energy from renewable energy sources, such as onshore wind, concentrated solar power, solar photovoltaic, biomass, biogas, landfill gas and small hydro. The REIPPPP is being conducted in six phases.

In the First Bid Submission Phase, Preferred Bidder status was awarded to 28 proposals out of a total of 53 received by the DoE. The legal close date for the first bid submission was achieved on 5 November 2013. This secured commitment for the provision of 1,415.5 MW of renewable energy.

On 19 December 2012, the Minister of Energy provided for a further 3,100 MW to be included in the REIPPPP, bringing the total target allocation to 6,725 MW for the programme.

Legal close in the Second Bid Submission Phase was achieved in May 2013 with 19 proposals being awarded Preferred Bidder status, with a commitment of 1,043.8 MW of renewable energy. A total of 79 proposals were received of which 51 met the qualifying criteria as set out in the request for proposal (RFP).

The RFP was updated for the Third Bid Submission Date, and was released in May 2013. The DoE introduced a number of significant changes to the RFP including increased local content and economic development thresholds to name but a few. Bids for the Third Bid Submission Phase were submitted to the DoE on 19 August 2013, with Preferred Bidders to be announced on 29 October 2013. The target allocation for the Third Bid Submission Phase is 1,473.1 MW. Under the current schedule legal close is anticipated to take place at the end of July 2014. The DoE estimates that by the end of the Sixth Bid Submission, the REIIPP will have attracted investment to the value of in excess of R100 billion over its lifetime in the renewable energy sector. This confirms the importance of the REIPPPP to South Africa's growing energy demands and the need to develop natural resources in an environmentally friendly manner, in accordance with South Africa's commitments under the Kyoto Protocol.



## **SMALL PROJECTS IPP PROCUREMENT PROGRAMME**

In recognition of the need to satisfy the aspirations of smaller local developers, the DoE has rolled out the Small Projects IPP Procurement Programme wherein the Minister of Energy

determined that 200 MW of the 6,925 MW to be generated from renewable energy sources with a generation capacity between 1MW and 5MW. An RFP has been issued for the first target allocation of 100 MW for this Small Projects IPP Procurement Programme.



## **MEDIUM TERM RISK MITIGATION IPP PROCUREMENT PROGRAMME**

On 19 December the Minister of Energy made a Determination that electricity produced from Industrial Cogeneration and Natural Gas sources be procured through future IPP programmes. 800 MW has been allocated to Industrial Cogeneration sources (which may include amongst others, biomass, industrial wastes and Combined Heat and Power) and 474 MW has been allocated to Natural Gas. These may include cross border projects. The procurer in respect of this programme will be the Department of Energy and the Off-taker has been determined to be Eskom Holdings SOC Limited.



## **BASELOAD IPP PROCUREMENT PROGRAMME**

On 19 December 2012 the Minister of Energy made a Determination that electricity produced from Coal, Natural Gas and Hydro energy sources will also be procured through future IPP programmes. 2500 MW has been allocated to Coal, 2652 MW to Natural Gas (which includes Liquefied Natural Gas or Natural Gas delivered by pipeline from a Natural Gas Field) and 2609 MW to Hydro. These may include cross-border projects. The procurer in respect of this programme will be the Department of Energy and the Off-taker has been determined to be Eskom Holdings SOC Limited.

*continued*



## HOSPITALS

The PPP Health Flagship Programme (Programme) was prioritised by the President in his 2011 State of the Nation address. The Programme includes the development/re-development of 7 central (teaching) hospitals and in some cases, redevelopment of the school of medicine attached to such central hospital. The 7 hospitals are: Chris Hani Baragwanath Academic Hospital; Limpopo Academic Hospital; King Edward VIII Academic Hospital; Nelson Mandela Academic Hospital; Dr George Mukhari Academic Hospital; Tygerberg Hospital and Mpumalanga Tertiary Hospital. CDH are appointed to 3 of the 6 hospitals in the market. The appointment of transaction advisors on the remaining hospital is pending.

The feasibility study on the Chris Hani Baragwanath PPP is completed, on Limpopo Academic Hospital PPP substantially completed and on Dr George Mukhari and King Edward Hospital PPPs, on-going. Delays have resulted from the complexity of these projects and the number of stakeholders involved ie national and provincial health as well as the university (medical faculty), hospital management.

The Programme will serve in two phases, with the first phase of hospitals including: Chris Hani Baragwanath; Limpopo Academic; King Edward VIII and Dr George Mukhari. The RFQ for these projects will be released to the market shortly. The RFQ on the phase two hospitals (Nelson Mandela, Tygerberg and Mpumalanga Tertiary) will be released once the feasibility studies are completed.



## SCHOOLS

The Gauteng Department of Infrastructure Development released an RFQ in 2011 for the refurbishment and construction of approximately 500 schools in the Province of Gauteng, divided into 10 clusters or packages. CDH were appointed to advise the Gauteng Funding Agency on all legal aspects relating to this project, and preparing the FIDIC project agreement. Contractors were short-listed in the first quarter of 2012. In the third quarter of 2012 the RFP was released to the short-listed bidders. Bids have been received and evaluation is almost completed. Awards are imminent.

Furthermore, the KZN Schools Project has commenced. Transaction advisors have been appointed to conduct a feasibility study into the following activities:

The provision and maintenance of new public primary and secondary schools;

Adding to and improving existing structures including sports and science and technology facilities;

Improving and maintaining the condition of existing buildings including the replacement thereof;

Providing and maintaining appropriate administration and support spaces where necessary;

And building a new head office for the Department of Basic Education.

*continued*



## GOVERNMENT HEAD OFFICE ACCOMMODATION

The new STATS SA head office procurement is on-going. CDH acted for a bidder in this PPP. The evaluation of the bids is taking place and a preferred bidder should be announced shortly.

Another office accommodation PPP that is being revived is in KwaZulu-Natal province. The KZN Provincial Parliament Precinct Complex PPP (entailing the procurement, construction, development and maintenance of a provincial head office government office precinct) feasibility study is currently being

updated and the project is expected to go out to procurement shortly thereafter. The KZN Legislature Precinct Complex PPP (entailing the procurement, construction, development and maintenance of an establishment of an office precinct for the Legislature), which was held in abeyance, is also currently being assessed for revival. CDH is appointed on both PPPs, together with another law firm.



## ROLLING STOCK

The PRASA rolling stock procurement has been completed, and the agreements have been finalised with the preferred bidder, Alstom. CDH acted for Siemens in its pitch for this procurement. PRASA has selected the empowerment partner who will team up with Alstom in delivering the rolling stock. With regards to the Transnet Freight Rail Rolling Stock tender, bids were submitted in the first quarter of 2013 and it is expected that a preferred bidder will be announced shortly. CDH acts for one of the bidding entities.



## ROADS

On the N1/N2 toll road in the Western Cape Province, a preferred bidder has been selected, however the procurement of the project is on hold pending the resolution of public participation challenges. The Mauritius Toll Road PPP (part of the Road Decongestion Programme) where CDH are acting for the Road Development Authority is close to completion. The PPP Agreement has been approved by the relevant authorities and commercial close is imminent.

The controversial SANRAL Highway Improvement Project in which SANRAL set out to add lanes to existing road infrastructure and extend the road network, is in progress. Some of the roads (especially between Johannesburg and Pretoria and around Johannesburg) have been fitted with gantries for purposes of e-tolling. A court challenge by various public interest groups and trade unions is underway, however SANRAL have been given the green light to proceed. E-tolling will commence on a date set by the Minister in the Gazette. This date is yet to be published.

*continued*



**PORTS**

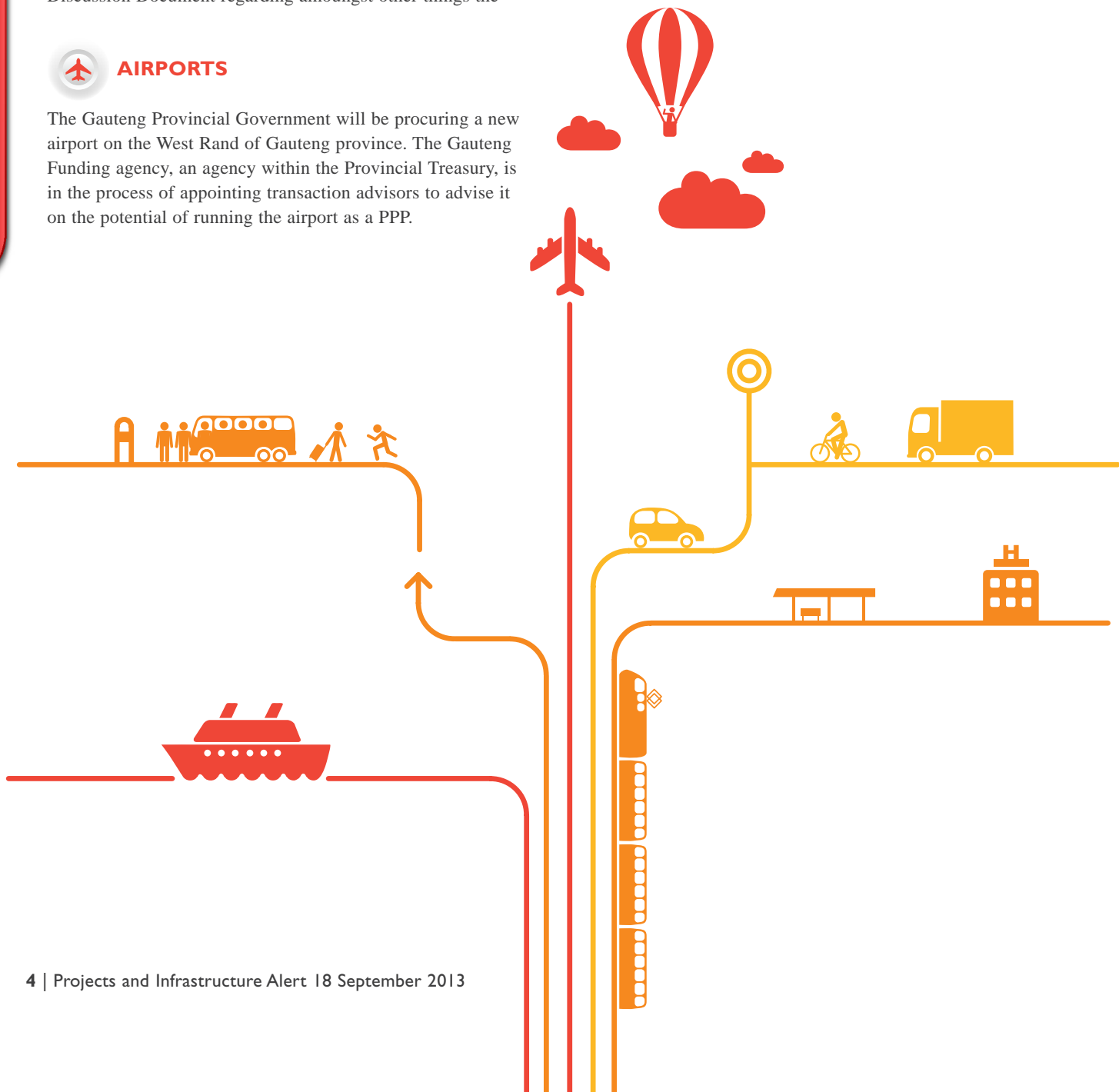
Transnet is overseeing the initial concept work on what could be a R75-billion public-private partnership, earmarked for development at Durban's old international airport site. In 2012 Transnet commenced with high-level technical and environmental studies as part of the proposed Durban Dig-Out Port project process. The current concept phase was scheduled to conclude in July 2013 this year, and comprises the generation of a number of technical design options. Representatives from local business, property, environmental and civic associations participated in focus group meetings in March this year to provide input on a Discussion Document regarding amongst other things the

viability of constructing a major container port on the site of the old Durban International Airport. The pre-feasibility commenced in July this year wherein the viability of the preferred design option was thoroughly investigated. The process of moving from the current concept phase through the pre-feasibility and feasibility phases, and finally to actual implementation is anticipated to take approximately four years.



**AIRPORTS**

The Gauteng Provincial Government will be procuring a new airport on the West Rand of Gauteng province. The Gauteng Funding agency, an agency within the Provincial Treasury, is in the process of appointing transaction advisors to advise it on the potential of running the airport as a PPP.



# CONTACT US

For more information about our Projects and Infrastructure practice and services, please contact:



**Kieran Whyte**  
National Practice Head  
Director  
T +27 (0)11 562 1132  
E kieran.whyte@dlacdh.com



**Claire Barclay**  
Director  
T +27 (0)11 562 1154  
E claire.barclay@dlacdh.com



**Jay Govender**  
Director  
T +27 (0)11 562 1387  
E jay.govender@dlacdh.com



**Badian Maasdorp**  
Director  
T +27 (0)11 562 1777  
E badian.maasdorp@dlacdh.com



**Zahra Omar**  
Director  
T +27 (0)11 562 1144  
E zahra.omar@dlacdh.com



**Jurg van Dyk**  
Director  
T +27 (0)11 562 1216  
E jurg.vandyk@dlacdh.com



**Emma Dempster**  
Senior Associate  
T +27 (0)11 562 1194  
E emma.dempster@dlacdh.com



**Lyle Horsley**  
Senior Associate  
T +27 (0)11 562 1076  
E lyle.horsley@dlacdh.com



**Tasneem Essop**  
Associate  
T +27 (0)11 562 1105  
E tasneem.essop@dlacdh.com



**Cara Gilmour**  
Associate  
T +27 (0)11 562 1084  
E cara.gilmour@dlacdh.com



**Bianca Pollastrini**  
Associate  
T +27 (0)11 562 1123  
E bianca.pollastrini@dlacdh.com

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

### **BBBEE STATUS: LEVEL THREE CONTRIBUTOR**

#### **JOHANNESBURG**

1 Protea Place Sandton Johannesburg 2196, Private Bag X40 Benmore 2010 South Africa  
Dx 154 Randburg and Dx 42 Johannesburg

**T** +27 (0)11 562 1000 **F** +27 (0)11 562 1111 **E** [jhb@dcladh.com](mailto:jhb@dcladh.com)

#### **CAPE TOWN**

11 Buitengracht Street Cape Town 8001, PO Box 695 Cape Town 8000 South Africa  
Dx 5 Cape Town

**T** +27 (0)21 481 6300 **F** +27 (0)21 481 6388 **E** [ctn@dcladh.com](mailto:ctn@dcladh.com)