



SUPPLIER EVALUATION PACK¹

Applicable to Eskom Holdings Ltd and its subsidiaries (hereinafter referred to as "Eskom")

¹ To be used in conjunction with the Labour Taxation Procedure 32-346

INDEX

SUPPLIER CATEGORY	YES	NO
<p>1. Are you are Company, Close Corporation (CC) or Trust?</p> <p>If the answer is YES, complete Evaluation Questionnaire A in conjunction with the Dominant Impression Test Grid Questionnaire.</p>		
<p>2. Are you a natural person/individual who provides Eskom with persons/labour?</p> <p>If the answer is YES, complete Evaluation Questionnaire B.</p>		
<p>3. Are you a natural person/individual who provides Eskom with services?</p> <p>If the answer is YES, complete Evaluation Questionnaire C in conjunction with the Dominant Impression Test Grid Questionnaire.</p>		

EVALUATION QUESTIONNAIRE A

(To determine whether a Company, Close Corporation (CC) or Trust is a Personal Service Provider)

Vendor's Name		Vendor's No.	
CO/CC/Trust Registration No.	VAT Registration No.	PAYE Registration No.	
Vendor's Physical Business Address			

Please answer the following questions by marking the appropriate column with an "X".

NUMBER OF EMPLOYEES EXCLUSION	Yes	No
<p>1. Does the Company / CC / Trust employ 3 (three) or more persons², on a full-time basis, throughout the year of assessment, other than any employee who is a Connected Person/s³ as defined in the Income Tax Act, 1962 in relation to the Company, CC or Trust?</p> <p>If the answer is YES, sign Appendix 1 Affidavit. If the Affidavit is not signed, PAYE will be withheld from your payments.</p> <p>If the answer is NO, answer all the questions below</p>		
SERVICES RENDERED BY A CONNECTED PERSON	Yes	No
<p>2. Will any person who is a Connected Person/s in relation to the Company, CC or Trust as defined in the Income Tax Act, 1962 render services personally to Eskom on behalf of the Company / CC / Trust?</p> <p>If the answer is NO, sign Appendix 2 Affidavit. If the Affidavit is not signed, PAYE will be withheld from your payments.</p>		
80 % OF INCOME TEST (Para (c) of definition)	Yes	No
<p>3. Does more than 80 % of the income of the Company / CC / Trust during the tax year from services rendered consists of or likely to consist of amounts received directly or indirectly, from any one client, or an Associated Institution as defined in the Seventh Schedule to the Income Tax Act, 1962, in relation to that client?</p> <p>If the answer is NO, sign Appendix 3 Affidavit. If the Affidavit is not signed, PAYE will be withheld from your payments.</p>		

² Exclusion in the definition of a Personal Service Provider in terms of the Fourth Schedule to the Income Tax Act, 1962.

³ Please refer to the definition of a Connected Person in Section 1 of the Income Tax Act, 1962

PLACE AND CONTROL TEST (Para (b) of definition)	Yes	No
<p>4. Will any person who will render services to Eskom on behalf of the Company, CC or Trust perform his/her duties <u>mainly</u> (i.e. more than 50 %) at Eskom' premises?</p> <p>If the answer is NO, sign Appendix 4 Affidavit. If the Affidavit is not signed, PAYE will be withheld from your payments.</p>		
<p>5. Will the Company, CC or Trust or any person who will render services to Eskom on behalf of the Company, CC or Trust be subject to the <u>control or supervision</u> of Eskom as to the manner in which the duties are to be performed?</p> <p>If the answer is NO, sign Appendix 4 Affidavit and complete the Dominant Impression Test Grid. If the Affidavit is not signed, PAYE will be withheld from your payments.</p>		
DEEMED EMPLOYEE TEST (Para (a) of definition)	Yes	No
<p>6. With regard to any person who will render services to Eskom on behalf of the Company, CC or Trust, complete and sign Dominant Impression Test Grid. If Dominant Impression Test Grid is not completed and signed, PAYE will be withheld from your payments.</p>		

PARTICULARS OF PERSON ACTING AS REPRESENTATIVE OF THE COMPANY/CLOSE CORPORATION/TRUST

I, the undersigned, confirm that the information provided above is accurate, and that the Company, CC or Trust will, while contracted to Eskom, inform Eskom of any changes that take place pertaining to the information provided above. Eskom shall be entitled to withhold from any payments to be made to the Company/ CC/ Trust, any taxes, interest and penalties that it may be required to pay to SARS as a result of the above information being inaccurate.

Representative's Full Names	Capacity	Contact No.
Signature	Date	

Dominant Impression Test Grid to evaluate if a natural person is an Independent Contractor or whether any person who will render services to Eskom on behalf of a Company, CC or Trust will be regarded as an Employee in relation to Eskom

Vendor Name		Vendor No.	
CO/CC/Trust Registration No.	VAT Registration No.	PAYE Registration No.	
Vendor's Physical Business Address			

Please answer the questions by marking the appropriate column with an "X".

DOMINANT IMPRESSION TEST ⁸		
"Near Conclusive" Indicators	Yes	No
Control of manner of working 1. Will Eskom have the contractual right to control the tools or equipment, staff, raw materials, routines, patents or technology used in the provision of the services?		
Payment Regime 2. Will the payments by Eskom for services payable with reference to output or certain agreed results e.g. payment (be it a fixed fee or an hourly rate) be only due if and when a specific deliverable has been completed?		
Person who must render the service 3. Will you have the right to sub-contract work?		
Nature of obligation to work 4. Will you or the person rendering the service be obliged to be present and perform the work at Eskom regardless of whether work is available or not?		
Employer (client) base 5. Will you be contractually prohibited from rendering services to any other clients? 6. Do you have any other clients apart from Eskom?		
Risk of profit and loss 7. Will you bear the risk of profit and loss unrelated to Eskom's profitability? 8. Will you bear the risk of cost or time overruns on a project?		

⁸ The Dominant Impression Test is used to determine whether a worker is an independent contractor or an employee (SARS Interpretation Note No.17)

"Persuasive" Indicators	Yes	No
Instructions or supervision 9. Will Eskom control your work and the environment in which the work is done by giving you instructions as to the location, when to begin or stop, pace, order or sequence of work etc.?		
Reports 10. Will you be obliged to provide Eskom with reports regarding the status of your work?		
Training 11. Will Eskom be training you in its methods?		
Productive time (work hours, work week) 12. Will Eskom control or set your work periods" (hours of work, working days, sick or annual leave?		
"Relevant" Indicators	Yes	No
Tools, materials, stationery, etc 13. Will Eskom provide you with tools or equipment, production or office materials, business stationery, etc and other necessary raw materials?		
Office or workshop 14. Will Eskom provide you with an office/workshop or will the work be continually and invariably occurring at Eskom's place of business?		
Integration/employer's usual work premises 15. Will Eskom's premises be your usual place of business?		
Integration/usual business operations 16. Will Eskom's business be critical to your survival?		
Integration/hierarchy & organogram 17. Will your position be integrated / reflected on any of Eskom's organogram?		
Duration of relationship 18. Will your contract with Eskom be open ended or indefinite?		
Termination and breach of contract 19. Will Eskom have a right to dismiss and/or will you have the right to resign prior to completion of any task or before any result are achieved, without being in breach of your contract?		
Significant investment 20. Will Eskom be financing your premises, tools, raw materials, training etc?		
Employee benefits 21. Will you be eligible for any benefits normally received by Eskom employees?		
Bona fide business expenses, bona fide statutory compliance 22. Will you be eligible for re-imbursment or be granted allowances for expenses incurred on behalf of Eskom?		
Viability of termination 23. Are you obliged to approach an employment agency to obtain new work?		

PARTICULARS OF INDIVIDUAL, COMPANY, CC OR TRUST

I, the undersigned, confirm that the information provided above is accurate, and that I, the Company, CC or Trust will, while contracted to Eskom, inform Eskom of any changes that take place pertaining to the information provided above. Eskom shall be entitled to withhold from any payments to be made to me, the Company, CC or Trust any taxes, interest and penalties that it may be required to pay to SARS as a result of the above information being inaccurate.

Individual's Full Names	Capacity	Contact No.
Signature	Date	

**AFFIDAVIT CONFIRMING CONTRACTOR EMPLOYS THREE OR MORE FULL - TIME
EMPLOYEES**

I, the undersigned,

do hereby make oath and state as follows:

1. The facts deposed to in this affidavit are within my personal knowledge and are both true and correct.

2. I am the duly authorised representative of _____ ("the Contractor").

3. I confirm that the Contractor employs three (3) or more full-time employees engaged in the business of the Contractor throughout the year of assessment, which excludes any employee who is a Connected Person as defined in the Income Tax Act No. 58 of 1962 in relation to the Contractor.

4. The Contractor undertakes to notify Eskom Holdings Ltd or its subsidiary (hereinafter referred to as "Eskom") forthwith in writing should the statement in 3 above no longer be the case.

5. If the Contractor fails to notify Eskom in respect of 3 above, the Contractor shall be liable in full for any taxes, penalties and interest that SARS may impose on Eskom.

DEPONENT

I CERTIFY THAT THE DEPONENT ACKNOWLEDGES THAT HE / SHE:

- KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION,
- THAT HE / SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH,
- AND CONSIDERS IT TO BE BINDING ON HIS / HER CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS ___ DAY
OF 20__.

COMMISSIONER OF OATHS

**AFFIDAVIT CONFIRMING NO CONNECTED PERSON/S IN RELATION TO THE
COMPANY / CC / TRUST WILL PERSONALLY RENDER ANY SERVICE TO ESKOM**

I, the undersigned,

do hereby make oath and state as follows:

1. The facts deposed to in this affidavit are within my personal knowledge and are both true and correct.
2. I am the duly authorised representative of _____ ("the Contractor").
3. I confirm that no Connected Person/s as defined in the Income Tax Act No. 58 of 1962 in relation to the Contractor will personally render any service to Eskom Holdings Ltd or its subsidiary (hereinafter referred to as "Eskom").
4. The Contractor undertakes to notify Eskom forthwith in writing should the statement in 3 above no longer be the case.
5. If the Contractor fails to notify Eskom in respect of 3 above, the Contractor shall be liable in full for any taxes, penalties and interest that SARS may impose on Eskom.

DEPONENT

I CERTIFY THAT THE DEPONENT ACKNOWLEDGES THAT HE / SHE:

- o KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION,
- o THAT HE / SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH,
- o AND CONSIDERS IT TO BE BINDING ON HIS / HER CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS ___ DAY
OF 20__.

COMMISSIONER OF OATHS

**AFFIDAVIT CONFIRMING THAT NOT MORE THAN EIGHTY PERCENT (80 %) OF
INCOME IS OR IS LIKELY TO BE RECEIVED FROM ANY ONE CLIENT**

I, the undersigned,

do hereby make oath and state as follows:

1. The facts deposed to in this affidavit are within my personal knowledge and are both true and correct.
2. I am the duly authorised representative of _____ ("the Contractor").
3. I confirm that the Contractor does not receive and is unlikely to receive more than eighty percent (80 %) of its income, either directly or indirectly, from any one client or any associated institution as defined in the Income Tax Act No. 58 of 1962 in relation to such client during the year of assessment.
4. The Contractor undertakes to notify Eskom Holdings Ltd or its subsidiary (hereinafter referred to as "Eskom") forthwith in writing should the statement in 3 above no longer be the case.
5. If the Contractor fails to notify Eskom in respect of 3 above, the Contractor shall be liable in full for any, taxes, penalties and interest that SARS may impose on Eskom.

DEPONENT

I CERTIFY THAT THE DEPONENT ACKNOWLEDGED THAT HE / SHE:

- KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION,
- THAT HE / SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH,
- AND CONSIDERS IT TO BE BINDING ON HIS / HER CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS ___ DAY
OF 20__.

COMMISSIONER OF OATHS

**AFFIDAVIT CONFIRMING SERVICES WILL NOT BE PERFORMED MAINLY AT ESKOM
AND SHALL NOT BE CONTROLLED OR SUPERVISED BY ESKOM**

I, the undersigned,

do hereby make oath and state as follows:

1. The facts deposed to in this affidavit are within my personal knowledge and are both true and correct.
2. I am the duly authorised representative of _____ ("the Contractor").⁹
3. I / the Contractor confirm that:
 - a) I / any person who will be render services to Eskom Holdings Ltd or its subsidiary (hereinafter referred to as "Eskom") on behalf of the Contractor will not be required to perform the services mainly (i.e. more than 50 %) at Eskom's premises during the year of assessment;
 - b) I / the Contractor and any person who will render the services to Eskom on behalf of the Contractor will not be subject to the control or supervision of Eskom as to the manner in which the duties are to be performed or as to the hours of work.
4. I / the Contractor undertake/s to notify Eskom forthwith in writing should, the statement in 3 above no longer be the case.
5. If I / the Contractor fail/s to notify Eskom in respect of 3 above, I / the Contractor shall be liable in full for any taxes, penalties and interest that SARS may impose on Eskom.

DEPONENT

I CERTIFY THAT THE DEPONENT ACKNOWLEDGES THAT HE / SHE:

- KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION,
- THAT HE / SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH,
- AND CONSIDERS IT TO BE BINDING ON HIS / HER CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS ___ DAY
OF 20__.

COMMISSIONER OF OATHS

⁹ Applicable to Company / CC / Trust only, delete if Individual

**AFFIDAVIT CONFIRMING INDIVIDUAL EMPLOYS THREE OR MORE FULL - TIME
EMPLOYEES**

I, the undersigned,

do hereby make oath and state as follows:

1. The facts deposed to in this affidavit are within my personal knowledge and are both true and correct.

2. I confirm that I employ three (3) or more full-time employees engaged in my business throughout the year of assessment, excluding employees who are Connected Persons as defined in the Income Tax Act No. 58 of 1962 in relation to me.

3. I undertake to notify Eskom Holdings Ltd or its subsidiary (hereinafter referred to as "Eskom") forthwith in writing should the statement in 2 above no longer be the case.

4. If I fail to notify Eskom in respect of 2 above, I shall be liable in full for any taxes, penalties and interest that SARS may impose on Eskom.

DEPONENT

I CERTIFY THAT THE DEPONENT ACKNOWLEDGES THAT HE / SHE:

- KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION,
- THAT HE / SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH,
- AND CONSIDERS IT TO BE BINDING ON HIS / HER CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS ___ DAY
OF 20__.

COMMISSIONER OF OATHS

**AFFIDAVIT CONFIRMING INDIVIDUAL PROVIDES ESKOM WITH A SERVICE AS
OPPOSED TO PERSON/S**

I, the undersigned,

do hereby make oath and state as follows:

1. The facts deposed to in this affidavit are within my personal knowledge and are both true and correct.

2. I confirm that I provide Eskom Holdings Ltd or its subsidiary (hereinafter referred to as "Eskom") with a service as opposed to a person/s that is/are remunerated by me.

3. I undertake to notify Eskom forthwith in writing should the statement in 2 above no longer be the case.

4. If I fail to notify Eskom in respect of 2 above, I shall be liable in full for any taxes, penalties and interest that SARS may impose on Eskom.

DEPONENT

I CERTIFY THAT THE DEPONENT ACKNOWLEDGES THAT HE / SHE:

- KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION,
- THAT HE / SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH,
- AND CONSIDERS IT TO BE BINDING ON HIS / HER CONSCIENCE.

THUS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS ___ DAY
OF 20__.

COMMISSIONER OF OATHS

The terms mentioned below are defined in the Income Tax Act, 1962.

“Connected Person”

means-

a) in relation to a **natural person**-

- i) any relative; and
- ii) any trust of which such natural person or such relative is a beneficiary;

b) in relation to a **trust**-

- i) any beneficiary of such trust; and
- ii) any connected person in relation to such beneficiary;

bA) in relation to a connected person in relation to a trust (other than a collective investment scheme in property shares managed or carried on by any company registered as a manager under section 42 of the Collective Investment Schemes Control Act, 2002, for purposes of Part V of that Act), includes any other person who is a connected person in relation to such trust;

c) in relation to a **member of any partnership**-

- i) any other member; and
- ii) any connected person in relation to any member of such partnership;

d) in relation to a company-

i) any other company that would be part of the same group of companies as that company if the expression 'at least 70 per cent' in paragraphs (a) and (b) of the definition of 'group of companies' in this section were replaced by the expression 'more than 50 per cent';

ii) [deleted by Revenue Laws Amendment Act No. 20 of 2006] ;

iii) [deleted by Revenue Laws Amendment Act No. 20 of 2006] ;

iv) any person, other than a company as defined in section 1 of the Companies Act, 1973 (Act No 61 of 1973), who individually or jointly with any connected person in relation to himself, holds, directly or indirectly, at least 20 per cent of the company's equity share capital, or voting rights;

iv) any other company if at least 20 per cent of the equity share capital of such company is held by such other company, and no shareholder holds the majority voting rights of such company;

vA) any other company if such other company is managed or controlled by-

- aa) any person who or which is a connected person in relation to such company; or
- bb) any person who or which is a connected person in relation to a person contemplated in item (aa); and

vi) where such company is a **close corporation**-

- aa) any member;
- bb) any relative of such member or any trust which is a connected person in relation to such member; and
- cc) any other close corporation or company which is a connected person in relation to-

- i) any member contemplated in item (aa); or
 - ii) the relative or trust contemplated in item (bb); and
- e) in relation to any person who is a connected person in relation to any other person in terms of the foregoing provisions of this definition, such other person; and in this definition the expression "**beneficiary**" means any person who has been named in the will or deed of trust concerned-
- i) as a beneficiary; or
 - ii) as a person upon whom the trustee of the trust has the power to confer a benefit from such trust.

"Associated Institution", in relation to any single employer, means

- a) where the employer is a company, any other company which is associated with the employer company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons; or
- b) where the employer is not a company, any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or
- c) any fund established solely or mainly for providing benefits for employees or former employee's of the employer or for employees or former employees of the employer and any company which is in terms of paragraph (a) or (b) an associated institution in relation to the employer, but excluding any fund established by a trade union or industrial council and any fund established for postgraduate research otherwise than out of moneys provided by the employer or by any associated institution in relation to the employer;

"Labour Broker" means

any natural person who conducts or carries on any business whereby such person for reward provides a client of such business with other persons to render a service or perform work for such client, or procures such other persons for the client, for which services or work such other persons are remunerated by such person;

"Personal Service Provider" means

any company or trust, where any service rendered on behalf of such company or trust to a client of such company or trust is **rendered personally** by any person who is a **connected person** in relation to such company or trust, and—

- a) such person would be **regarded as an employee** of such client if such service was **rendered by such person directly** to such client, other than on behalf of such company or trust; or
- b) where those duties must be **performed mainly at the premises of the client**, such person or such company or trust is **subject to the control or supervision** of such client as to the manner in which the duties are performed or are to be performed in rendering such service; or
- c) where **more than 80 per cent of the income** of such company or trust during the year of assessment, from services rendered, consists of or is likely to consist of amounts received **directly or indirectly from any one client** of such company or trust, or any associated institution as defined in the Seventh Schedule to this Act, in relation to such client,

Except where such company or trust throughout the year of assessment **employs three or more full-time employees** who are on a full-time basis engaged in the business of such company or trust of rendering any such service, **other than any employee who is a shareholder or member of the company or trust or is a connected person** in relation to such person;

"Remuneration" means any amount of income which is paid or is payable to any person by way of any salary, leave pay, wage, overtime pay, bonus, gratuity, commission, fee, emolument pension, superannuation allowance, retiring allowance or stipend, whether in cash or otherwise and whether or not in respect of services rendered, including-

- a) any amount referred to in paragraph (a), (c), (cA), (d), (e), (eA) or (f) of the definition of "gross income" in section one of this Act;
- b) any amount required to be included in such person's gross income under paragraph (i) of that definition;
- bA) any allowance or advance, which must be included in the taxable income of that person in terms of section 8(1)(a)(i), other than-
 - i) an allowance in respect of which paragraph (c) or (cA) applies; or
 - ii) an allowance or advance paid or granted to that person in respect of accommodation, meals or other incidental costs while that person is by reason of the duties of his or her office obliged to spend at least one night away from his or her usual place of residence in the Republic: Provided that where-
 - aa) such an allowance or advance was paid or granted to a person during any month in respect of a night away from his or her usual place of residence; and
 - bb) that person has not by the last day of the following month either spent the night away from his or her usual place of residence or refunded that allowance or advance to his or her employer,that allowance or advance is deemed not to have been paid or granted to that person during that first-mentioned month in respect of accommodation, meals or other incidental costs, but is deemed to be an amount which has become payable to that person in that following month in respect of services rendered by that person;
- c) 50 per cent of the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e) and
- cA) 60 per cent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under section 8(1)(b)(iii);
- d) any gain determined in terms of section 8B, which must be included in that person's income under that section;
- e) any gain determined in terms of section 8C which is required to be included in the income of that person;

Corporate Procurement

	Key Performance Area	Rating (%)
1	SECURITY OF SUPPLY	40
2	FINANCIAL SUSTAINABILITY	20
3	TRANSFORMATION	10
4	IMAGE AND PUBLIC CONFIDENCE	15
5	GROW HUMAN CAPITAL	15

but not including-

- i) **[Sub-para. (i) deleted by s. 34 of Act No. 36 of 1996];**
- ii) any amount paid or payable in respect of services rendered or to be rendered by any person (other than a person who is not a resident or an employee contemplated in paragraph (b), (c), (d) (e) or (f) of the definition of "employee") in the course of any trade carried on by him independently of the person by whom such amount is paid or payable and of the person to whom such services have been or are to be rendered: **Provided** that for the purposes of this paragraph a person shall not be deemed to carry on a trade independently as aforesaid if the services are required to be performed mainly at the premises of the person by whom such amount is paid or payable or of the person to whom such services were or are to be rendered and the person who rendered or will render the services is subject to the control or supervision of any other person as to the manner in which his or her duties are performed or to be performed or as to his hours of work. **Provided** further that a person will be deemed to be carrying on a trade independently as aforesaid if he throughout the year of assessment employs three or more employees who are on a full time basis engaged in the business of such person of rendering any such service, other than any employee who is a connected person in relation to such person;
- iii) any pension or additional pension under the Aged Persons Act 1967 (Act No. 81 of 1967), or the Blind Persons Act, 1968 (Act No. 26 of 1968), any disability grant or additional or supplementary allowance under the Disability Grants Act 1968 (Act No. 27 of 1968), or any grant or contribution under the provisions of section 89 of the Children's Act, 1960 (Act No. 33 of 1960);
- iv) **Deleted by section 44 of Act 101 of 1990;**
- v) **Deleted by section 6 of Act 30 of 1984;**
- vi) any amount paid or payable to any employee wholly in reimbursement of expenditure actually incurred by such employee in the course of his employment;
- vii) **Deleted by section 19 of Act 19 of 2001;**
- viii) any annuity under an order of divorce or decree of judicial separation or under any agreement of separation;

