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## BOARD NOTICES

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### NOTICE 62 OF 2004

### CONSTRUCTION INDUSTRY DEVELOPMENT BOARD

#### THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT, 2000 (ACT 38 OF 2000)

#### STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT

The Standard for Uniformity in Construction Procurement contained in the Schedule is published in terms of sections 4(f), 5(3)(c) and 5(4)(b) of the Construction Industry Development Board Act, 2000 (Act no. 38 of 2000)(the Act) read with Regulation 24 of the Construction Industry Development Regulations, issued in terms of section 33 of the Act.

Compliance with this standard is mandatory for organs of state who solicit tenders offers in the construction industry.

Uniformity in construction procurement documentation, procedures and practices is essential to improved industry performance and improved value to clients. It engenders a culture of consistency and predictability within the procurement process.

This standard establishes minimum requirements for uniformity in construction procurement and is based on Construction Procurement Best Practices published by the Board.

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BRIAN CAMERON BRUCE  
CHAIRPERSON: CONSTRUCTION INDUSTRY DEVELOPMENT BOARD

## Schedule

### STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT

#### 1 Scope

This standard establishes requirements for procurement within the construction industry which are aimed at bringing about standardisation and uniformity in construction procurement documentation, practices and procedures.

- Note:** 1 Annex A identifies documents which provide guidance on how to comply with the various requirements of this standard.  
2 CIDB Best Practice Guideline A2 (1002), *Applying the procurement prescripts of the CIDB in the Public Sector*, provides guidance on the application of the CIDB's Standard for Uniformity in Construction Procurement alongside other legislative provisions for procurement.

#### 2 Normative references

The following referenced documents are indispensable for the application of this standard: For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

- 2.1 Conditions of Contract for Construction for Building and Engineering Works designed by the Employer ("Red Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC).
- 2.2 Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant and for Building and Engineering Works, designed by the Contractor ("Yellow Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC).
- 2.3 Conditions of Contract for EPC Turnkey Projects ("Silver Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC).
- 2.4 Contract for the Supply and Delivery of Goods as published by the Construction Industry Development Board (1019).
- 2.5 General Conditions of Contract for Construction Works (2004) as published by the South African Institution of Civil Engineering.
- 2.6 General conditions of purchase as published by the Construction Industry Development Board (1018).
- 2.7 JBCC series 2000 Principal Building Agreement as published by the Joint Building Contracts Committee.
- 2.8 JBCC series 2000 Minor Works Agreement as published by the Joint Building Contracts Committee.
- 2.9 NEC Engineering and Construction Short Contract 1st Edition 1999 (ECSC1) as published by the Institution of Civil Engineers.
- 2.10 NEC Engineering and Construction 2nd Edition 1995 (ECC2) as published by the Institution of Civil Engineers.

- 2.11 NEC Professional Services Contract 2<sup>nd</sup> Edition June 1998 (PSC2) as published by the Institution of Civil Engineers.
- 2.12 NEC Term services contract (1<sup>st</sup> Edition) as published by the Institution of Civil Engineers
- 2.13 Short Form of Contract ("Green Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC).
- 2.14 Standard Professional Services Contract as published by the Construction Industry Development Board (1015).
- 2.15 Supply of Goods (Short Contract) as published by the Construction Industry Development Board (1020).
- 2.16 The Supply Contract as published by the Construction Industry Development Board (1021).

### 3 Definitions

For the purposes of this standard the definitions given in the Construction Industry Development Board Act, 2000 (Act 38 of 2000) and the Construction Industry Development Regulations issued in terms of section 33 of the Construction Industry Development Board Act, 2000 (Act 38 of 2000) (some of which are repeated for convenience) and the following definitions apply:

- 3.1 **construction procurement** means procurement in the construction industry, including the invitation, award and management of contracts;
- 3.2 **construction industry** means the broad conglomeration of industries and sectors which add value in the creation and maintenance of fixed assets within the built environment;
- 3.3 **contract data** means the document that states the applicable conditions of contract and associated contract-specific data that collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the contract;
- 3.4 **emerging enterprise** means an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid;
- 3.5 **engineering and construction works contract** means a contract for the provision of a combination of supplies and services, arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of structures, including building and engineering infrastructures;
- 3.6 **form of offer and acceptance** means the documents that formalize the legal process of offer and acceptance;
- 3.7 **list of returnable documents** means the document that lists everything the employer requires a tenderer to submit with his tender submission;

- 3.8 pricing instructions** means the document that provides the criteria and assumptions which it will be assumed in the contract, that the tenderer has taken into account when developing his prices, or target, in the case of target cost contracts;
- 3.9 quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs;
- 3.10 services contract** means the contract for the provision of labour or work, including knowledge-based expertise, carried out by hand, or with the assistance of equipment and plant;
- 3.11 scope of work** means the document that specifies and describes the supplies, services, or engineering and construction works which are to be provided and any other requirements and constraints relating to the manner in which the contract work is to be performed;
- 3.12 site information** means the document that describes the site as at the time of tender, to enable the tenderer to price his tender and to decide upon his method of working and programming;
- 3.13 supplies contract** means a contract for the provision of materials or commodities made available for purchase;
- 3.14 tender data** means the document that establishes the tenderer's obligations in submitting a tender and the employer's undertakings in administering the tender process and evaluating tender offers;
- 3.15 tender notice and invitation to tender** means the document that alerts prospective contractors to the nature of the supplies, services and engineering and construction works required by the employer and contains sufficient information to solicit a response. In this context "tender" is synonymous with "bid" stated in Treasury supply chain management guidelines;
- 3.16 threshold** means a monetary value of a procurement contract established in any legislation governing procurement or by the executive of an institution, below which a procedure may be used.

## **4 Requirements**

### **4.1 General**

Construction procurement shall be undertaken in accordance with:

- a) the provisions of legislation regulating procurement; and
- b) the CIDB Code of Conduct for all parties engaged in Construction Procurement published in terms of section 5(4) of the Construction Industry Development Board Act.

### **4.2 Solicitation of tender offers**

- 4.2.1** Tender offers shall be solicited using one of the standard procurement procedures and tender evaluation methods described in Tables 1 and 2, respectively.

**Table 1: Standard Procurement Procedures**

Procedure	Description
P1 Negotiated procedure	Tender offers are solicited from a single tenderer.
P2 Nominated procedure	Tenderers that satisfy prescribed criteria are admitted to an electronic data base. Tenderers are invited to submit tender offers based on search criteria and their position on the data base. Tenderers are repositioned on the data base upon appointment or upon the submission of a tender offer.
P3 Open procedure	Tenderers may submit tender offers in response to an advertisement by the organization to do so.
P4 Qualified procedure	A call for expressions of interest is advertised and thereafter only those tenderers who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so.
P5 Quotation procedure	Tender offers are solicited from not less than three tenders in any manner the organization chooses, subject to the procedures being fair, equitable, transparent, competitive and cost-effective.
P6 Proposal procedure using the two-envelope system	Tenderers submit technical and financial proposals in two envelopes. The financial proposal is only opened should the technical proposal be found to be acceptable.
P7 Proposal procedure using the two-stage system	Non-financial proposal are called for. Tender offers are then invited from those tenderers that submit acceptable proposals based on revised procurement documents. Alternatively, a contract is negotiated with the tenderer scoring the highest number of evaluation points.
P8 Shopping procedure	Written or verbal offers are solicited in respect of readily available supplies obtained from three sources. The supplies are purchased from the source providing the lowest price once it is confirmed in writing.

**Table 2: Standard Tender Evaluation Methods**

Method	Description
Method 1: Financial offer	1) Rank tender offers from the most favourable to the least favourable comparative offer. 2) Recommend highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 2: Financial offer and preferences	1) Score tender evaluation points for financial offer. 2) Confirm that tenderers are eligible for the preferences claimed and if so, score tender evaluation points for preferencing 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3: Financial offer and quality	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer, quality and preferences	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Confirm that tenderers are eligible for the preferences claimed, and if so, score tender evaluation points for preferencing. 4) Calculate total tender evaluation points. 5) Rank tender offers from the highest number of tender evaluation points to the lowest. 6) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

**Note:** 1 SANS 294, *Construction Procurement Processes, Procedures and Methods* provides guidelines for the procedures contained in Tables 1 and 2.

- 2 CIDB Best Practice Guideline A3 (1003), *Evaluating tender offers*, provides comprehensive guidance on the evaluation of tender offers and contains proforma forms to evaluate tender offers and an example of a tender evaluation report.

**4.2.2** As a general rule, engineering and construction works, supplies and services other than professional services shall be solicited using a standard method in accordance with the provisions of Table 3.

**Table 3: Standard methods for procuring different categories of construction contracts**

Category of contract	Type of procurement	Standard Procurement Procedure and Evaluation Method*
Engineering and construction works	Design by employer (normal)**	P3 Open Procedure with Method 1 or Method 2
	Design and build** / develop and construct** Management contractor**/ Construction Management**	P6 Proposal procedure using two-stage system with Method 1, 2, 3 or 4; P4 Qualified Procedure with Method 1 or 2 and eligibility criteria framed around the attainment of a minimum quality score or requirements; or P4 Qualified Procedure with Method 3 or 4
	Works which require exceptional quality or where it is desirable to invite a limited number of tenders who are of a similar capability and size	
	Very low value works	P1 Negotiated Procedure with Method 1
	Value below a threshold	P5 Quotation Procedure with Method 1 or 2
	The works are largely identical to works previously executed and it is not in the organization's interest to solicit other offers or cannot be technically or economically separated from a previous contract	P1 Negotiated Procedure with Method 1
	Simple works designed by the employer where the value of the contract, inclusive of Value Added Tax is not more than R 250 000.	P2 Nominated Procedure with Method 1 or Method 2
Supplies	Very low value below a threshold for the purchase of readily available supplies	P8 Shopping Procedure with Method 1
	Value below a threshold	P5 Quotation Procedure with Method 1 or 2
	Normal	P3 Open Procedure with Method 1 or 2
	Supplies which require exceptional quality or where it is desirable to invite a limited number of tenderers who are of a similar capability and size	P4 Qualified Procedure with Method 1 or 2 and eligibility criteria framed around minimum quality requirements.
	Only one supplier has the required product or the supplies cannot be separated from a previous contract	P1 Negotiated Procedure with Method 1
	Relatively low value supplies which are readily available and which are frequently required where the value of the contract, inclusive of Value Added Tax is not more than R 100 000.	P2 Nominated Procedure with Method 1 or Method 2
Services other than professional services	Value below a threshold	P5 Quotation Procedure with Method 1 or 2
	Normal	P3 Open Procedure with Method 1 or 2
	Services which require exceptional quality or where it is desirable to invite a limited number of tenderers who are of a similar capability and size	P4 Qualified Procedure with Method 1 or 2 and eligibility criteria framed around minimum quality requirements.
	Only one service provider has the required product or the supplies cannot be separated from another previous contract	P1 Negotiated Procedure with Method 1
	Relatively low value services which are readily available and which are frequently required where the value of the contract, inclusive of Value Added Tax is not more than R 250 000.	P2 Nominated Procedure with Method 1 or Method 2
* Refer to Table 1 for descriptions of Procedures and Table 2 for descriptions of Methods.		
** This contracting strategy is fully described in the SAICE Practice Manual 2, <i>Delivering construction projects using the design by employer contracting strategy</i> and the CIDB Best Practice Guideline A5 (1005), <i>Managing Construction Procurement Risks</i> .		

**4.2.3** Professional services in construction shall be solicited using a standard method in accordance with the provisions of Table 4.

**Table 4: Standard methods for procuring professional services**

Type of procurement	Standard Procurement Procedure and Evaluation Method*
In most cases, except in the case of complex or highly specialised assignments or those that invite innovations on the basis of quality alone.	P2 Nominated, P3 Open, P4 Qualified or P5 Quotation Procedures or the P6 Proposal Procedure using the two envelope system with either: <ul style="list-style-type: none"> <li>• Methods 3 or 4; or</li> <li>• Methods 1 and 2 with eligibility criteria framed around the attainment of a minimum quality score or quality related requirements</li> </ul>
A complex or highly specialised assignment, for which it is difficult to define the precise scope of work and tenderers are expected to demonstrate innovation in their proposals or An assignment that has a high downstream impact and requires the best available experts or An assignment could be carried out in substantially different ways, hence proposals will not be comparable.	P6 Proposal Procedure using the two envelope system with either Method 3 or 4; P7 Proposal Procedure using the two stage tendering system with Method 1 or 2 and eligibility criteria framed around the rejection of unacceptable proposals and quality related requirements; or P7 Proposal Procedure using the two stage tendering system with Method 3 or 4 with weighting for price equal to zero.
A standard or routine assignment where well established practices and standards exist and in which the contract amount is small.	P6 Proposal Procedure using the two envelope system with Method 1 or 2 and eligibility criteria framed around minimum quality related requirements
An assignment that represents a natural continuation of previous work carried out by the firm. A rapid selection is essential (eg in an emergency operation). A very small assignment. An assignment where only one firm is qualified or has the experience of exceptional worth for the assignment.	P1 Negotiated Procedure with Method 1
Value below a threshold	P5 Quotation Procedure with Method 1 or Method 2
A relatively small assignment which does not justify the preparation and evaluation of competitive proposals where the value of the contract, inclusive of Value Added Tax is not more than R 250 000.	P2 Nominated Procedure with Method 1 or Method 2.
A simple assignment which is precisely defined and the budget fixed.	P6 Proposal Procedure using the two envelope system with Method 1 and 2 and eligibility criteria framed around minimum quality related requirements

\* Refer to Table 1 for descriptions of Procurement Procedures and Table 2 for descriptions of Tender Evaluation Methods.

**4.3 Quality (functionality)**

The manner in which quality is to be ensured in the work shall be incorporated in procurement documents using one of more of the following methods:

- a) the full and unambiguous specification of requirements in the scope of work;
- b) taking cognizance of whole-life costing in the financial evaluation of tender offers;
- c) where exceptional quality is required, making use of the qualified procurement procedure and ensuring that respondents who are invited to submit tender offers are suitably qualified to do so;
- d) requiring tenderers to submit plans for monitoring and applying quality management principles in the performance of their contracts;
- e) introducing quality into the eligibility criteria;

- f) establishing a category of preference for quality in the evaluation of tenders; or  
g) evaluating selected quality criteria as an integral part of the tender offer.

**Note:** Further guidance on the incorporation of quality in procurement documents may be found in SANS 294, *Construction procurement processes, procedures and methods* and CIDB Best Practice Guideline A4, *Evaluating Quality in Tender Submissions* (1004).

#### 4.4 Procurement documents

**Note:** Comprehensive guidance on the preparation of procurement documents in accordance with the provisions of this clause may be found in the following publications:

- CIDB Best Practice Guideline A5 (1005), *Managing Construction Procurement Risks*
- CIDB Best Practice Guideline C1 (1009), *Preparing Procurement Documents*;
- SANS 294, *Construction Procurement Processes, Procedures and Methods*
- SANS 10403, *Formatting and Compilation of Construction Procurement Documents*;
- SAICE Practice Manual 1, *The use of South African National Standards in Construction Procurement*;

##### 4.4.1 General

4.4.1.1 Construction procurement documents for engineering and construction works, services and supplies shall be formatted and compiled under the headings contained in Tables 5 where a three volume approach is adopted or Table 6 where a single volume approach is adopted.

**Table 5: Standard headings and sequencing of documents when soliciting tenders where a three volume approach is adopted**

Volume	Contents	
	Number	Heading
Volume 1	<b>Part 1: Tendering procedures</b>	
	T1.1	Tender Notice and Invitation to Tender
	T1.2	Tender Data
Volume 2	<b>Part 2: Returnable documents</b>	
	T2.1	List of Returnable Documents
	C1.1	Form of Offer and Acceptance
	C1.2	Contract Data (Part 2: Data provided by the contractor)
	C2.2	Activity Schedule or Bill of Quantities
	T2.2	Returnable Schedules
Volume 3	<b>Part 1: Agreement and Contract Data</b>	
	C1.2	Contract Data (Part 1: Data provided by the employer)
	<b>Part 2: Pricing data</b>	
	C2.1	Pricing Instructions
	<b>Part 3: Scope of Work</b>	
	C3	Scope of Work
	<b>Part 4: Site information</b> (engineering and construction works contracts only)	
	C4	Site Information



**Table 6: Standard headings and sequencing of documents when soliciting tenders where a single volume approach is adopted**

Contents	
Number	Heading
<b>Part 1: Tendering procedures</b>	
T1.1	Tender Notice and Invitation to Tender
T1.2	Tender Data
<b>Part 2: Returnable documents</b>	
T2.1	List of Returnable Documents
T2.2	Returnable Schedules
<b>Part 1: Agreement and Contract Data</b>	
C1.1	Form of Acceptance
C1.2	Contract Data
<b>Part 2: Pricing data</b>	
C2.1	Pricing Instructions
C2.2	Activity Schedule or Bill of Quantities
<b>Part 3: Scope of Work</b>	
C3	Scope of Work
<b>Part 4: Site information (engineering and construction works contracts only)</b>	
C4	Site Information

4.4.1.2 The contract arising from the solicitation of tender offers using a three volume approach or the Negotiated Procedure shall be formatted and compiled under the headings contained in Table 7.

**Table 7: Standard headings and sequencing of documents in the contract**

Contents	
Number	Heading
<b>Part 1: Agreements and contract data</b>	
C1.1	Form of Offer and Acceptance
C1.2	Contract Data
<b>Part 2: Pricing data</b>	
C2.1	Pricing Instructions
C2.2	Activity Schedule or Bill of Quantities
<b>Part 3: Scope of Work</b>	
C3	Scope of Work
<b>Part 4: Site information (engineering and construction works contracts only)</b>	
C4	Site Information

4.4.1.2 The Notice and Invitation to Tender shall, as a minimum, contain the wording provided in Annex B.

4.4.1.3 The Form of Offer and Acceptance with a schedule of deviations provided in Annex C shall be used with minimal contract specific amendments to form the basis of agreements arising from the solicitation of tender offers.

#### 4.4.2 Preferencing schedules

Preferencing schedules relating to the targeting of enterprises and targeted labour shall not differ substantially from the samples provided in Annexes D and E. These returnable schedules shall, if applicable to the contract, be incorporated in the scope of work when the contract is compiled where a three volume approach in the solicitation of tender offers is adopted.

**Note:** The following documents provide comprehensive guidance on implementing preferential procurement policies:

- CIDB Best Practice Guideline B1 (1007), *Formulating and Implementing Preferential Procurement Policies*
- CIDB Best Practice Guideline B2 (1008), *Methods and Procedures for Implementing Preferential Procurement Policies*
- CIDB Best Practice Guideline D2 (1013), *Joint Venture Arrangements*
- SANS 294, *Construction procurement processes, methods and procedures.*
- SAICE Practice Manual 1, *The use of South African National Standards in Construction Procurement*

#### 4.4.3 Tender Data

**4.4.3.1** The Tender Data shall reference the Standard Conditions of Tender contained in Annex F.

**Note:** Annex E of SANS 294, *Construction Procurement Processes, Procedures and Methods*, provides comprehensive guidance on the compilation of Tender Data.

**4.4.3.2** The Tender Data in all contracts other than engineering and construction works contracts where the register of contractors is applied shall include the following:

Clause number (refer to Annex F)	
F.2.23	The tenderer is required to submit with his tender an original valid Tax Clearance Certificate issued by the South African Revenue Services.

**4.4.3.3** The tender offer validity period provided for in the Tender Data shall not exceed eight weeks.

**4.4.3.4** The Tender Data associated with a Standard Tender Evaluation Method shall reference the method to be used and contain at least the following wording:

##### Method 1: Financial offer

Clause number (refer to Annex F)	
F.3.11	The procedure for the evaluation of responsive tenders is Method 1

##### Method 2: Financial offer and preferences

Clause number (refer to Annex F)	
F.3.11	The procedure for the evaluation of responsive tenders is Method 2  The financial offer will be scored using Formula 1 / 2* (option 1) where the value of $W_1$ is 80 / 90**

\* Delete reference to formula that is not applicable

\*\* Delete inappropriate value in accordance with the Regulations issued in terms of the Preferential Procurement Policy Framework Act.

**Method 3: Financial offer and quality**

Clause number (refer to Annex F)	
F.3.11	<p>The procedure for the evaluation of responsive tenders is Method 3</p> <p>The score for quality is to be calculated using the following formula:</p> $W_Q = W_2 \times S_O / M_S$ <p>where <math>W_2</math> is the percentage score given to quality and equals ____*</p> <p><math>S_O</math> is the score for quality allocated to the submission under consideration</p> <p><math>M_S</math> is the maximum possible score for quality in respect of a submission</p> <p>The score for financial offer is calculated using Formula 1 / 2* (option 1 / 2*) where <math>W_1</math> is the percentage score given to financial offer and equals ____*:</p>

\* Delete reference to formula and option that is not applicable

\*\* Insert value such that  $W_1 + W_2 = 100$

**Method 4: Financial offer, quality and preferences**

Clause number (refer to Annex F)	
F.3.11	<p>The procedure for the evaluation of responsive tenders is Method 4</p> <p>The score for quality is to be calculated using the following formula:</p> $W_Q = W_2 \times S_O / M_S$ <p>where <math>W_2</math> is the percentage score given to quality and equals ____*</p> <p><math>S_O</math> is the score for quality allocated to the submission under consideration</p> <p><math>M_S</math> is the maximum possible score for quality in respect of a submission</p> <p>The score for financial offer is calculated using Formula 1 / 2* (option 2) where <math>W_1</math> is the percentage score given to financial offer and equals ____*:</p> <p>The score for quality and financial offer is to be combined, before the addition of the score for preference, as follows:</p> $W_C = W_3 \times \left(1 + \frac{S - S_m}{S_m}\right)$ <p>Where <math>W_3</math> is the number of tender evaluation points for quality and financial offer and equals 80 / 90**</p> <p><math>S</math> is the sum of score for quality and financial offer of the submission under consideration</p> <p><math>S_m</math> is sum of the score for quality and financial offer of the submission scoring the highest number of points</p>

\* Insert values such that  $W_1 + W_2 = 100$

\*\* Delete inappropriate value in accordance with the Regulations issued in terms of the Preferential Procurement Policy Framework Act.

#### 4.4.4 Contract data

**4.4.4.1** The contract data in respect of prime or main contracts must reference one of the following standard industry forms of contract unless the publishers of such forms of contract indicate that such a form of contract is not suited for the intended application:

- a) engineering and construction works contract;
  - i) General Conditions of Contract for Construction Works;
  - ii) Conditions of Contract for Construction, Conditions of Contract for Plant and Design-Build, Conditions of Contract for FIDIC EPC/Turnkey Projects or Short Form of Contract;
  - iii) JBCC series 2000 Principal Building Agreement or Minor Works Agreement; or
  - iv) NEC Engineering and Construction Short Contract NEC Engineering and Construction Contract.
- b) services contract (professional);
  - i) CIDB Standard Professional Services Contract; or
  - ii) NEC Professional Services Contract.
- c) services contract (facilities);
  - i) NEC Term Services Contract
- d) supplies contract;
  - i) CIDB General conditions of purchase;
  - ii) CIDB Supply of Goods (Short Contract);
  - iii) CIDB Contract for the Supply and Delivery of Goods; or
  - iv) CIDB The Supply Contract.

**Note:** 1 Guidance on the selection of an appropriate form of contract is provided in CIDB Best Practice Guideline C1 (1009), *Preparing Procurement Documents*, and CIDB Best Practice Guideline C2 (1010), *Choosing an appropriate Form of Contract for Engineering and Construction Works*.

2 The CIDB Best Practice Guideline C3 (1011), *Adjudication*, provides guidance on how adjudication should be dealt with in Contract Data.

3 The SAICE Practice Manual 2, *Delivering construction projects using the design by employer contracting strategy*, provides information on the administration of design by employer contracts in accordance with the provisions of the GCC, JBCC, FIDIC and NEC forms of contract.

**4.4.4.2** The standard industry forms of contract listed in 4.4.4.1 shall be used with minimal project specific variations and additions which do not change their intended usage.

**4.4.4.3** Guarantees of an insurance company or bank required in engineering and construction contracts shall not substantially differ from the sample provided in Annex G. Such guarantee shall not normally exceed 10% of the contract price and in no case exceed 12,5%.

**4.4.4.4** Retention monies that are held shall not exceed 10,0% of any amount due to a contractor. Where guarantees of an insurance company or bank that are provided are equal to or greater than 10% of the contract price, the total amount of retention monies held shall not exceed 5% of the contract price.

#### 4.4.5 Submission Data

**4.4.5.1** The Submission Data shall reference the Standard Conditions for the Calling for Expressions of Interest contained in Annex H.

**Note:** Annex G of SANS 294, *Construction Procurement Processes, Procedures and Methods*, provides comprehensive guidance on the compilation of Submission Data where the Standard Conditions for the Calling for Expressions of Interest are adopted.

**4.4.5.2** The Submission Data in all contracts other than engineering and construction works contracts where the register of contractors is applied, may include the following:

Clause number (refer to Annex H)	
H.2.11	The respondent is required to submit with his expression of interest an original valid Tax Clearance Certificate issued by the South African Revenue Services.

#### 4.4.6 Subcontracting arrangements

Where it is desirable that an employer and a contractor jointly select a subcontractor, the manner in which this is to be done shall be described in the Scope of Work in accordance with the provisions of Annex I.

**Note:** The CIDB Best Practice Guideline D1 (1012), *Subcontracting Arrangements*, provides guidance on the selection of a suitable forms of subcontracts.

#### 4.5 Applying the CIDB register of contractors to public contracts

**Note:** CIDB Best Practice Guideline A6 (1006), *Applying the Registers to Construction Procurement*, provides comprehensive guidance to employers and their agents to comply with the requirements of the Construction Industry Development Regulations in respect of the register of contractors and the register of projects.

**4.5.1** Contractor grading designations shall be described in all procurement documents by a three digit alpha-numeric where the first character is a number representing the tender value designation shown in column 2 of Table 8 and the next two characters are capital letters representing the designation for the class of construction works shown in column 2 of Table 9.

**Table 8: Contractor grading designations and associated parameters**

Contractor Grading Designation	Tender Value Range designation	Range of Tender Values	
		Greater than	Less than or equal to
1(class of construction works)	1	R 0	R 100 000
2(class of construction works)	2	R 100 000	R 300 000
3(class of construction works)	3	R 300 000	R 1 000 000
4(class of construction works)	4	R 1 000 000	R 3 000 000
5(class of construction works)	5	R 3 000 000	R 5 000 000
6(class of construction works)	6	R 5 000 000	R 10 000 000
7(class of construction works)	7	R 10 000 000	R 30 000 000
8(class of construction works)	8	R 30 000 000	R 100 000 000
9(class of construction works)	9	R 100 000 000	No limit

**Table 9: Classes of construction work**

Description	Designation	Definition
Civil engineering works	CE	Construction works that are primarily concerned with the materials such as steel, concrete, earth and rock and their application in the construction, operation, maintenance and management of hydraulic, structural, environmental and systems aspects of infrastructure works and services.
Electrical engineering works	EE	Construction works that are primarily concerned with installation, testing, operation and maintenance of equipment, plant and systems within the electrical, electronic, communication and electrical systems areas.
General building works	GB	Construction works that: a) are primarily concerned with the provision of permanent shelter for its occupants or contents; or b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works.
Mechanical engineering works	ME	Construction works that are primarily concerned with the installation, testing, operation and maintenance of machines, machine and thermodynamic processes and manufacturing, materials handling plants and systems.
Specialist works	SA	Alarms, security and access control systems
	SB	Asphalt works (supply and lay)
	SC	Building excavations, shaft sinking and lateral earth support
	SD	Corrosion protection (cathodic, anodic and electrolytic)
	SE	Demolition and blasting
	SF	Fire prevention and protection systems
	SG	Glazing, curtain walls and shop fronts
	SH	Landscaping, irrigation and horticultural works
	SI	Lifts, escalators and travellers (installation, commissioning and maintenance)
	SJ	Piling and specialized foundations for buildings and structures
	SK	Road markings and signage
	SL	Structural steelwork fabrication and erection
	SM	Timber buildings and structures
	SN	Waterproofing of basements, roofs and walls using specialist systems.
SO	Water supply and drainage for buildings (wet services, plumbing)	
SP	Building of Homes as contemplated in the Housing Consumer Protection Measures Act (Act No 95 of 1998)	

**4.5.2** The following wording shall be included in the Notice and Invitation to Tender in all engineering and construction works contracts, where the contractor grading designation is based on the estimated tender value:

*Tenders should have a CIDB contractor grading of . . . or higher.*

**4.5.3** The following wording shall be included in the Tender Data, where the class of work is designated in terms of column 2 of Table 9:

Clause number (refer to AnnexF)	
F.2.1	<p>Only those tenderers who are registered with the CIDB, or are capable of being so registered within 10 working days from the closing date for submission of tenders, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered for a ____* class of construction work, are eligible to submit tenders.</p> <p>Joint ventures are eligible to submit tenders provided that:</p> <ol style="list-style-type: none"> <li>every member of the joint venture is registered with the CIDB within 10 days from the closing date for tenders;</li> <li>the lead partner has a contractor grading designation in the ____* class of construction work; and</li> <li>the combined contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a contractor grading designation determined in accordance with the sum tendered for a ____* class of construction work, are eligible to submit tenders.</li> </ol>

\* insert class of construction work (see Table 9)

- 4.5.4** The following wording shall be included in the Notice and Invitation to Submit an Expression of Interest in respect of engineering and construction works, where the contractor grading designation is based on the estimated value of a tender that may arise:

*Respondents must have a contractor grading designation of ... or higher.*

- 4.5.5** The following wording shall be included in the Submission Data:

Clause number (refer to Annex H)	
H.2.1	Only those respondents who are registered with the Construction Industry Development Board, or are capable of being so registered within 21 working days from the closing date for submission of tenders, in a contractor grading designation of ____* or higher, are eligible to submit expressions of interest.

\*insert contractor grading designation

- 4.5.6** The following wording may be included in the Submission Data:

Clause number (refer to Annex H)	
H.2.1	Joint ventures are eligible to submit tenders provided that: <ol style="list-style-type: none"> <li>1 every member of the joint venture is registered with the CIDB within 21 days from the closing date for tenders;</li> <li>2 the lead partner has a contractor grading designation in the ____* class of construction work; and</li> <li>3 the combined contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than the required contractor grading designation..</li> </ol>

\* insert class of construction work (see Table 9)

- 4.5.7** Where a client or employer promotes emerging enterprises within a framework of a targeted development programme as contemplated in terms of Regulation 25(8) of the Construction Industry Development Regulations:

- a) the wording provided in the Notice and Invitation to Tender in terms of 4.5.2 shall be amended as follows:

*Tenders should have a CIDB contractor grading of . . . or higher. Potentially emerging enterprises who satisfy criteria stated in the Tender Data may submit tender offers.*

- b) the wording in the Tender Data provided in terms of 4.5.3 shall be amended as follows:

Clause number (refer to Annex F)	
F.2.1	The following tenderers who are registered with the CIDB, or are capable of being so registered within 10 working days from the closing date for the submission of tenders, are eligible to submit tenders: <ol style="list-style-type: none"> <li>a) contractors who have a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered for a ____* class of construction work; and</li> <li>b) contractors registered as potentially emerging contractors with the CIDB who are registered in one contractor grading designation lower than that required in terms of a) above and who satisfy the following criteria:               <p style="text-align: right;">**</p> </li> </ol>

\* insert class of construction work (see Table 9)

\*\*state criteria relevant to employer's targeted development programme

- c) the wording provided in terms of 4.5.4 shall be amended as follows:

*Respondents must have a contractor grading designation of ... or higher. Potentially emerging enterprises who satisfy criteria stated in the Submission Data may submit expressions of interest.*

- d) the wording in the Submission Data provided in terms of 4.5.5 shall be amended as follows:

Clause number (refer to Annex H)	
H.2.1	<p>The following respondents who are registered with the CIDB, or are capable of being so registered within 21 working days from the closing date for the submission of tenders, are eligible to submit expressions of interest:</p> <p>a) those respondents who are registered with the Construction Industry Development Board, or are capable of being so registered within 21 working days from the closing date for submission of tenders, in a contractor grading designation of ____ or higher; and</p> <p>b) contractors registered as potentially emerging contractors with the CIDB who are registered in one contractor grading designation lower than that required in terms of a) above and who satisfy the following criteria: _____ **</p>

\*insert contractor grading designation

\*\*state criteria relevant to employer's targeted development programme

- e) details appropriate to any support provided must be stated in the Contract Data, the Pricing Data and the Scope of Work, as relevant.



## Annex A (informative)

### Best practice guidelines

- A.1** The Standard for Uniformity in Construction Procurement establishes requirements for construction procurement which are designed to bring about standardization and uniformity in procurement documentation, practices and procedures.
- A.2** The guideline documents listed in Table A1 are recognized by the Board as being Construction Procurement Best Practices and provide comprehensive guidance on implementing the requirements of this standard. These documents are referenced in notes below requirements in this standard to facilitate implementation.

**Table A1: Procurement best practices guidelines**

Title	Synopsis
<b>Best practice guidelines published by the Construction Industry Development Board</b>	
CIDB Best Practice Guideline A1: The Procurement Cycle (1001)	This practice guide identifies six main procurement activities that apply to all construction procurements irrespective of their categorization as supplies, services and engineering and construction works. It also identifies the generic steps (sub-activities) associated with such activities and the logical points in the process where controls should be introduced. The actions associated with these activities and sub-activities are documented as well as the inputs and outputs to each of the actions in a logical framework. The practice guide also presents the recommended approach to performing the various activities and sub-activities
CIDB Best Practice Guideline A2: Applying the procurement prescripts of the CIDB in the Public Sector (1002)	This practice guide provides guidelines on the application of the CIDB's Standard for Uniformity in Construction. It also establishes the relationship between this standard and National Treasury's Regulatory Framework for Supply Chain Management . Guidance is also provided on the establishment of a procurement policy within an institution and the manner in which procurement may be managed and controlled.
CIDB Best Practice Guideline A3: Evaluating tender offers (1003)	This practice guide provides guidance on the evaluation of tenders in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement respect of the seven steps identified in Practice Guide A1 associated with this activity. It also contains proforma forms to evaluate tender offers and an example of a tender evaluation report.
CIDB Best Practice Guideline A4: Evaluating Quality in Tender Submissions (1004)	This practice guide defines quality within the procurement context and reviews the requirements for evaluating quality in the accordance with regulatory requirements and the provisions of the CIDB Standard for Uniformity in Construction Procurement for the evaluation of quality. It furthermore provides practical guidelines on the awarding of preferences for quality, pre-qualification on the basis of quality and the scoring of tender submissions in terms of quality and price or quality, price and preference.
CIDB Best Practice Guideline A5: Managing Construction Procurement Risks (1005)	This practice guide outlines the main elements of the risk management process. It identifies the generic sources of construction related risks, presents a range of options for risk allocation between the employer and the contractor and discusses the question of insurances. It also provides guidelines for the management of risk.
CIDB Best Practice Guideline A6: Applying the Registers to Construction Procurement (1006)	This practice guide outlines the processes associated with the implementation of the register of contractors and the register of projects in accordance with the provisions of the Construction Industry Development Regulations. It provides guidelines to employers and their agents to comply with the requirements of these regulations in their procurements and describes the manner in which requirements relating to contractor grading designations may be incorporated in procurement documents.

Title	Synopsis
CIDB Best Practice Guideline B1: Formulating and Implementing Preferential Procurement Policies (1007)	This practice guide presents a range of policy options and implementation methodologies that may be pursued in the formulation of preferential procurement policies that are consistent with the provisions of the South African regulatory regime. The guide introduces the thinking behind preferential procurement policies, the manner in which such policies are implemented internationally and the constraints to implementation within South Africa. It interprets the Preferential Procurement Policy Framework Act and related regulations, identifies the methods by which preferences may be applied, provides guidelines as to how preferential procurement policies may be formulated to satisfy legislative requirements and contains examples of preferential procurement policies that are drafted in accordance with this practice guide.
CIDB Best Practice Guideline B2: Methods and Procedures for Implementing Preferential Procurement Policies (1008)	This practice guide provides a range of uniform methods and procedures for implementing a wide range of policy themes in a consistent manner. The guide presupposes that a preferential procurement policy is in place and focuses on the capturing of preferencing requirements in procurement documents. It contains sample preferencing schedules, clauses required to activate preferencing in the Tender Data where use is made of the CIDB Standard for Uniformity in Construction Procurement, and data capture forms.
CIDB Best Practice Guideline C1: Preparing Procurement Documents (1009)	This practice guide identifies the various types of procurement documents and provides a uniform format for the drafting and compilation of these documents. It also establishes a practical approach to uniformity and standardization of procurement documents within an organization and makes recommendations regarding the forms of contracts which should be used. It also contains a number of proforma component documents to facilitate a uniform approach.
CIDB Best Practice Guideline C2: Choosing an appropriate Form of Contract for Engineering and Construction Works (1010)	This practice guide presents the fundamental considerations in the selection of a form of contract for engineering and construction works. It presents an overview of three different series of forms of contracts and provides practical guidance of the selection of appropriate forms of contract for an organization or for use in selected pricing and contracting strategies.
CIDB Best Practice Guideline C3: Adjudication (1011)	This practice guide provides an overview of what adjudication is, presents the principles underpinning adjudication, reviews the provisions for adjudication in standard forms of contract (NEC, FIDIC and CIDB), outlines an approach for the selection and use of adjudicators, and provides sample clauses and proforma agreements to be included in procurement documents.
CIDB Best Practice Guideline D1: Subcontracting Arrangements (1012)	This practice guide establishes acceptable practices in respect conditions of subcontract. Features of forms of subcontract which are unacceptable to the Employer and the Contractor are identified and described. It also recommends forms of subcontract which have desirable features for use with the main contracts identified in Practice Guide C2 and reviews the legal considerations in the engagement of labour only subcontractors.
CIDB Best Practice Guideline D2: Joint Venture Arrangements (1013)	This practice guide identifies the reasons for forming joint ventures, reviews requirements for the formation of joint ventures in response to preferential procurement policies and presents an overview of the typical content of a joint venture agreement. It also identifies the standard joint venture agreements forms that are suitable for use or to serve as a basis for the development of an agreement.
<b>Standards published by Standards South Africa</b>	

Title	Synopsis
SANS 294, Construction procurement processes, methods and procedures,	<p>This standard provides processes, methods and procedures for the establishment within an organization of a procurement system that is fair, equitable, transparent, competitive and cost effective. It:</p> <ol style="list-style-type: none"> <li>describes generic procurement processes around which an organization may develop its procurement system;</li> <li>establishes minimum requirements for the conduct of an organization's employees, agents, board members and office bearers when engaging in procurement;</li> <li>establishes the framework for the development of an organization's procurement policy including any preferential procurement policy;</li> <li>establishes generic methods and procedures for procurements including those pertaining to disposals; and</li> <li>provides standard conditions of tender and conditions for the calling for expressions of interest.</li> </ol>
SANS 10403, Formatting and Compilation of Construction Procurement Documents	<p>This standard establishes at both prime and subcontract level:</p> <ol style="list-style-type: none"> <li>a uniform format for the compilation of procurement documents for supplies, services and engineering and construction works contracts; and</li> <li>the general principles for compiling procurement documents in respect of supplies, services and engineering and construction works.</li> </ol>
SANS 10396, Implementing Preferential Procurement Policies Using Targeted Procurement Procedures	<p>This standard:</p> <ol style="list-style-type: none"> <li>sets out the issues and principles which should be considered when formulating preferential procurement policies and developing associated implementation mechanisms;</li> <li>sets out the principles associated with the engagement of targeted enterprises and targeted labour;</li> <li>establishes a range of techniques and mechanisms which may be used to provide a framework within which access to markets for targeted enterprises and / or targeted labour can be provided and goals relating to the engagement of such enterprises and / or labour can be set, monitored and evaluated at both project and programme level;</li> <li>establishes targeting frameworks and strategies which can be used with a number of different procurement regimes;</li> <li>describes techniques for the monitoring and evaluation of the outcomes of a preferential procurement policy;</li> <li>provides guidance as to how targeted procurement procedures can be activated in procurement documents; and</li> <li>provides guidance on the design and implementation of programmes associated with the implementation of a preferential procurement policy.</li> </ol>
<b>Practice Manuals published by the South African Institution of Civil Engineering</b>	
Practice Manual 1: The use of South African National Standards in Construction Procurement	<p>This practice manual provides insights into and guidance in the use of the following construction procurement South African National Standards:</p> <ul style="list-style-type: none"> <li>• SANS 294, <i>Construction procurement processes, methods and systems.</i></li> <li>• SANS 10403, <i>Formatting and compiling of construction procurement documents.</i></li> <li>• SANS 10396, <i>Implementing preferential procurement policies using targeted procurement procedures.</i></li> <li>• SANS 1914 family of standards for targeted procurement;</li> <li>• SANS 1921 family of standards for construction and management requirements for works contracts; and</li> <li>• SANS 2001 family of standards for construction works.</li> </ul>

<b>Title</b>	<b>Synopsis</b>
Practice Manual 2: Delivering construction projects using the design by employer contracting strategy	<p>This practice manual, which was developed in association with the CIDB, presents an overview of the different types of contracting strategies associated with engineering and construction contracts and the delivery of projects using the design by employer contracting strategy. It thereafter describes the principal actions associated with activities within the project initiation, project implementation and project completion processes and identifies the input and output to these actions and their dependencies.</p> <p>The manual also provides information on the administration of design by employer contracts in accordance with the provisions of GCC 2004, the JBCC 2000, FIDIC (1999) and NEC forms of contract and tools and techniques associated with project management.</p>

**Annex B**  
(normative)**Standard Notice and Invitation to Tender**

<p>Tenders are invited for the provision of . . . . .</p> <p>The Employer is .....</p> <p>The physical address for collection of tender documents is: .....</p> <p>Documents may be collected during working hours after 09:00 on .....</p> <p>A non-refundable tender deposit of R.....payable by cheque made out in favour of the Employer is required on collection of the tender documents.</p> <p>Queries relating to the issues of these documents may be addressed to Mr/Ms . . . . ., Tel No. . . . . , Fax No. . . . . e mail . . . . .</p> <p>A compulsory pre tender meeting with representatives of the Employer will take place at . . . . . on . . . . . starting at . . . . hrs.</p> <p>The closing time for receipt of tenders is . . . . . hrs on . . . . . Telegraphic, telephonic, telex, facsimile and late tenders will not be accepted.</p> <p>Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.</p>	<p><b>Guidance</b></p> <p><i>Describe briefly what is to be procured, and if appropriate, over what time period.</i></p>    <p><i>Omit if not a requirement</i></p>    <p><i>Omit if not a requirement</i></p>
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**Annex C**  
(normative)

**Form of offer and acceptance**

- Note:** 1 This form of offer and acceptance is identical to that contained in Annex G of SANS 294:2004, *Construction Procurement Processes, Procedures and Methods*.
- 2 SAICE's Practice Manual #1, *The use of South African National Standards in Construction Procurement*, provides guidance on the formulation of the wording for the actual offer where it is not based on the offered total of prices.

**Offer**

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

.....

The tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the tender schedules, and by submitting this offer has accepted the conditions of tender.

By the representative of the tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the tenderer offers to perform all of the obligations and liabilities of the contractor under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS**

.....Rand (in words); R .....(in figures) (or other suitable wording)

This offer may be accepted by the employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the tenderer before the end of the period of validity stated in the tender data, whereupon the tenderer becomes the party named as the contractor in the conditions of contract identified in the contract data.

Signature(s)

Name(s)

Capacity

for the

tenderer

.....  
(Name and address of organization)

Name and  
signature of  
witness

Date

**Acceptance**

By signing this part of this form of offer and acceptance, the employer identified below accepts the tenderer's offer. In consideration thereof, the employer shall pay the contractor the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the tenderer's offer shall form an agreement between the employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part 1 Agreements and contract data, (which includes this agreement)
- Part 2 Pricing data
- Part 3 Scope of work.
- Part 4 Site information

and drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule, which must be signed by the authorised representative(s) of both parties.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer's agent (whose details are given in the contract data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data at, or just after, the date this agreement comes into effect. Failure to fulfill any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer (now contractor) within five days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

Signature(s)

Name(s)

Capacity

for the  
Employer

(Name and address of organization)

Name and  
signature of  
witness

Date

### Schedule of Deviations

#### Notes:

1. The extent of deviations from the tender documents issued by the employer before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1 Subject \_\_\_\_\_

Details \_\_\_\_\_

2 Subject \_\_\_\_\_

Details \_\_\_\_\_

3 Subject \_\_\_\_\_

Details \_\_\_\_\_

4 Subject \_\_\_\_\_

Details \_\_\_\_\_

By the duly authorised representatives signing this schedule of deviations, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the tender schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

**For the tenderer:**

Signature(s)

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_  
(Name and address of organization)

Name and  
signature of  
witness

Date \_\_\_\_\_

**For the Employer**

Signature(s)

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_  
(Name and address of organization)

Name and  
signature of  
witness

Date \_\_\_\_\_



**Annex D**  
(normative)

**Sample preferencing schedule where direct preferences are granted in respect of targeted enterprise status**

<b>PREFERENCING SCHEDULE (Direct preference)</b>														
<p><b>1 Definitions</b></p> <p>The following definitions shall apply to this schedule:</p> <p><i>Insert definitions for Targeted Enterprises in here</i></p>														
<p><b>2 CONDITIONS ASSOCIATED WITH THE GRANTING OF PREFERENCES</b></p> <p>The tenderer, who being a Targeted Enterprise undertakes to:</p> <ol style="list-style-type: none"> <li>1) not subcontract more than ...*% of the Net Amount of the Contract to non-Targeted Enterprises;</li> <li>2) remain a Targeted Enterprise for the duration of the Contract;</li> <li>3) accept the sanctions set out in Section 3 below should conditions 1 or 2 be breached;</li> <li>4) complete the Tender Preference Claim Form contained in Section 4 below; and</li> <li>5) complete a Targeted Declaration Affidavit and submit this with the tender.</li> </ol>														
<p><b>3 SANCTIONS RELATING TO BREACHES OF PREFERENCING CONDITIONS</b></p> <p>Termination of the Contract or a financial penalty payable to the Employer equal to .... times the number of tender evaluation points awarded in respect of the preference claimed.</p>														
<p><b>4 TENDER PREFERENCE CLAIM IN RESPECT OF ENTERPRISE STATUS OR STRUCTURE OF THE TENDERING ENTITY</b></p> <p>I/we apply on behalf of my/our firm for the following preference:</p> <p><i>Insert category description and percentage of maximum tender evaluation points</i></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 40%; padding: 5px;">Category of Targeted Enterprise</th> <th style="width: 30%; padding: 5px;">Percentage of maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)</th> <th style="width: 30%; padding: 5px;">Preference claimed for Targeted Enterprise status (Y=yes)</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"> </td> <td> </td> <td> </td> </tr> <tr> <td style="height: 20px;"> </td> <td> </td> <td> </td> </tr> <tr> <td style="height: 20px;"> </td> <td> </td> <td> </td> </tr> </tbody> </table>			Category of Targeted Enterprise	Percentage of maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)	Preference claimed for Targeted Enterprise status (Y=yes)									
Category of Targeted Enterprise	Percentage of maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)	Preference claimed for Targeted Enterprise status (Y=yes)												
<p>The undersigned, who warrants that he / she is duly authorised to do so on behalf of the firm or sole proprietor confirms that he / she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.</p> <p>Signature : .....</p> <p>Name : .....</p> <p>Duly authorised to sign on behalf of : .....</p> <p>Telephone : .....</p> <p>Fax : .....</p> <p>Date : .....</p>														

\*insert percentage value, typically between 20 and 25%

**Annex E**  
(normative)

**Sample preferencing schedule where preferences are granted in respect of the direct participation of targeted enterprises and / or labour**

<b>PREFERENCING SCHEDULE</b> (Direct participation)	
<b>1 DEFINITIONS</b>	
The following definitions shall apply to this schedule:	
<i>Insert definition for Targeted Enterprises and / or Targeted Labour in here.</i>	
<b>2 CONDITIONS ASSOCIATED WITH THE GRANTING OF PREFERENCES</b>	
The Tenderer, undertakes to:	
<ol style="list-style-type: none"> <li>1) engage one or more Targeted Enterprises / Targeted Labour (adjust as necessary) in accordance with the provisions of the SANS 1914- (<i>insert part number and title as relevant</i>) as varied in Section 3 hereunder;</li> <li>2) deliver to the Employer, within 5 working days of being requested in writing to do so, a completed Joint Venture Disclosure Form (Annex D of SANS 1914-1) and a Joint Venture Agreement, should a joint venture be proposed at prime contract level with Targeted Partners to satisfy Contract Participation Goal undertakings (<i>adjust wording to reflect documentation that is required or delete</i>);</li> <li>3) deliver to the Employer, within 5 working days of being requested in writing to do so, a Targeted Enterprise Declaration Affidavit in respect of all Targeted Enterprises engaged at prime contract level to satisfy Contract Participation Goal undertakings (<i>delete if not required</i>);</li> <li>4) accept the sanctions set out in Section 4 below should such conditions be breached;</li> <li>5) complete the Tender Preference Claim Form contained in Section 5 below; and</li> <li>6) complete the Supporting Contract Participation Goal Calculation contained in this schedule.</li> </ol>	
<b>3 VARIATIONS TO THE TARGETED CONSTRUCTION PROCUREMENT SPECIFICATION SANS 1914- (<i>insert part number</i>)</b>	
The variations to SANS 1914- ( <i>insert part number</i> ) are set out below. Should any requirements of the variations conflict with requirements of SANS 1914- ( <i>insert part number and title as relevant</i> ), the requirements of the variations shall prevail.	
<i>Insert variations if any. If none, insert "There are no variations".</i>	
<b>4 SANCTIONS</b>	
In the event that the Tenderer fails to substantiate that any failure to achieve the Contract Participation Goal relating to the granting of a preference was due to quantitative under runs, the elimination of items, or any other reason beyond the Contractor's control which may be acceptable to the Employer, it shall be liable to pay to the Employer a financial penalty calculated in the following manner:	
$P = 0,15 \times \frac{(D - D_o)}{(100)} \times N_A$	
where	$D$ = tendered Contract Participation Goal percentage. $D_o$ = the Contract Participation Goal which the Employer's representative based on the credits passed, certifies as being achieved upon completion of the Contract. $N_A$ = Net Amount $P$ = Rand value of penalty payable
<b>5 TENDER PREFERENCE CLAIM IN RESPECT OF ENTERPRISE STATUS OR STRUCTURE OF THE TENDERING ENTITY</b>	
I / we hereby tender a Contract Participation Goal of .....% in order to claim a preference.	

**The undersigned, who warrants that he / she is duly authorised to do so on behalf of the firm or sole proprietor confirms that he / she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.**

Signature : .....

Name : .....

Duly authorised to sign on behalf of :  
.....

Telephone : .....

Fax : ..... Date :  
.....

**SUPPORTING CONTRACT PARTICIPATION GOAL CALCULATION**

*Insert Annex A: Tendered goal calculation from relevant part of SANS 1914*

## **Annex F** (normative)

### **Standard Conditions of Tender**

- Note:**
- 1 These Standard Conditions of Tender are identical to that contained in Annex F of SANS 294: 2004, *Construction Procurement Processes, Procedures and Methods*.
  - 2 Annex E of SANS 294, *Construction Procurement Processes, Procedures and Methods*, and SAICE's Practice Manual #1, *The use of South African National Standards in Construction Procurement*, provide guidance on referencing these Standard Conditions of Tender in procurement documents.

#### **F.1 General**

##### **F.1.1 Actions**

The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently.

##### **F.1.2 Tender Documents**

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

##### **F.1.3 Interpretation**

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

##### **F.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be read, copied and recorded. Writing shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

##### **F.1.5 The employer's right to accept or reject any tender offer**

**F.1.5.1** The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before to the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give reasons for such action upon written request to do so.

**F.1.5.2** After the cancellation of a tender process or the rejection of all tender offers the employer may abandon the proposed procurement and re-issue a similar tender notice and invitation to tender not less than six months after the closing date for tender offers or have it performed in another manner at any time.

#### **F.2 Tenderer's obligations**

##### **F.2.1 Eligibility**

Submit a tender offer only if the tenderer complies with the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

**F.2.2 Cost of tendering**

Accept that the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer satisfy requirements.

**F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

**F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

**F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

**F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

**F.2.7 Site visit and clarification meeting**

Attend, where required, a site visit and clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

**F.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

**F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) may not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

**F.2.10 Pricing the tender offer**

**F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT)), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

**F.2.11 Alterations to documents**

Not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

**F.2.12 Alternative tender offers**

**F.2.12.1** Submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted. The alternative tender offer is to be submitted with the main tender offer together with a schedule that compares the requirements of the tender documents with the alternative requirements the tenderer proposes.

**F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

**F.2.13 Submitting a tender offer**

**F.2.13.1** Submit a tender offer to provide the whole of the works, services or supply identified in the contract data, unless stated otherwise in the tender data.

**F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing in black ink.

**F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

**F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

**F.2.13.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

**F.2.13.8** Accept that the employer shall not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

**F.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

### **F.2.15 Closing time**

**F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Proof of posting shall not be accepted as proof of delivery. The employer shall **not** accept tender offers submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the tender data.

**F.2.15.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

### **F.2.16 Tender offer validity**

**F.2.16.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period.

### **F.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the total of the prices or substance of the tender offer is sought, offered, or permitted. The total of the prices stated by the tenderer shall be binding upon the tenderer.

### **F.2.18 Provide other material**

**F.2.18.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the employer, where required.

### **F.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

### **F.2.20 Submit securities, bonds, policies, etc.**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

### **F.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

### **F.2.22 Return of other tender documents**

If so instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

**F.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

**F.3 The employer's undertakings****F.3.1 Respond to clarification**

Respond to a request for clarification received up to five working days prior to the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date of the Tender Notice until seven days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, will then notify it to all tenderers who drew documents.

**F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

**F.3.4 Opening of tender submissions**

**F.3.4.1** Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

**F.3.4.2** Announce at the opening held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened, the total of his prices, preferences claimed and time for completion, if any, for the main tender offer only.

**F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

**F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate the quality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation above the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.

**F.3.6 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.



### **F.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

### **F.3.8 Test for responsiveness**

Determine, on opening and before detailed evaluation, whether each tender offer properly received:

- a) meets the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- change the Employer's or the tenderer's risks and responsibilities under the contract, or
- affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

### **F.3.9 Arithmetical errors**

Check responsive tender offers for arithmetical errors, correcting them in the following manner:

- Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.
- If a bill of quantities (or schedule of quantities or schedule of rates) applies and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate will be corrected.
- Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if a bill of quantities applies) to achieve the tendered total of the prices.

Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of his arithmetical errors in the manner described above.

### **F.3.10 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

### **F.3.11 Evaluation of tender offers**

#### **F3.11.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate it using the tender evaluation method that is indicated in the Tender Data and described below:

Method 1: Financial offer	1) Rank tender offers from the most favourable to the least favourable comparative offer. 2) Recommend highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 2: Financial offer and preferences	1) Score tender evaluation points for financial offer. 2) Confirm that tenderers are eligible for the preferences claimed and if so, score tender evaluation points for preferencing. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3: Financial offer and quality	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer, quality and preferences	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Confirm that tenderers are eligible for the preferences claimed, and if so, score tender evaluation points for preferencing. 4) Calculate total tender evaluation points. 5) Rank tender offers from the highest number of tender evaluation points to the lowest. 6) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

Score financial offers, preferences and quality, as relevant, to two decimal places.

### F.3.11.2 Scoring Financial Offers

Score the financial offers of remaining responsive tender offers using the following formula:

$N_{FO} = W_1 \times A$  where:

$N_{FO}$  = the number of tender evaluation points awarded for the financial offer.

$W_1$  = the maximum possible number of tender evaluation points awarded for the financial offer as stated in the Tender Data.

$A$  = a number calculated using either formulas 1 or 2 below as stated in the Tender Data.

Formula	Comparison aimed at achieving	Option 1	Option 2
1	Highest price or discount	$A = (1 + \frac{P - P_m}{P_m})$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 - \frac{P - P_m}{P_m})$	$A = P_m / P$

where:

$P_m$  = the comparative offer of the most favourable tender offer.

$P$  = the comparative offer of tender offer under consideration.

### F.3.11.3 Scoring quality (functionality)

Score quality in each of the categories stated in the Tender Data and calculate total score for quality.

**F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

**F.3.13 Acceptance of tender offer**

**F.3.13.1** Accept tender offer only if the tenderer satisfies the legal requirements stated in the Tender Data.

**F.3.13.2** Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period. Providing the form of offer and acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the employer and the successful tenderer as described in the form of offer and acceptance.

**F.3.14 Notice to unsuccessful tenderers**

After the successful tenderer has acknowledged the employer's notice of acceptance, notify other tenderers that their tender offers have not been accepted.

**F.3.15. Prepare contract documents**

If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents,
- c) other revisions agreed between the employer and the successful tenderer, and
- d) the schedule of deviations attached to the form of offer and acceptance, if any.

**F.3.16 Issue final contract**

Prepare and issue the final draft of contract documents to the successful tenderer for acceptance as soon as possible after the date of the employer's signing of the form of offer and acceptance (including the schedule of deviations, if any). Only those documents that the conditions of tender require the tenderer to submit, after acceptance by the employer, shall be included.

**F.3.17 Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

**F.3.18 Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

**Annex G**  
(normative)

**Form of Guarantee**

Contract No. \_\_\_\_\_

**WHEREAS**

\_\_\_\_\_ (hereinafter referred to as "the Employer") entered into, a Contract with

\_\_\_\_\_ (hereinafter called "the Contactor") on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, for the construction of

at \_\_\_\_\_

AND WHEREAS it is provided by such Contract that the Contractor shall provide the Employer with security by way of a guarantee for the due and faithful fulfilment of such Contract by the Contractor;

AND WHEREAS \_\_\_\_\_ has/have at the request of the Contractor, agreed to give such guarantee;

NOW THEREFORE WE, \_\_\_\_\_ do hereby guarantee and bind ourselves jointly and severally as Guarantor and Co-principal Debtors to the Employer under renunciation of the benefits of division and excussion for the due and faithful performance by the Contractor of all the terms and conditions of the said Contract, subject to the following conditions:

1. The Employer shall, without reference and/or notice to us, have complete liberty of action to act in any manner authorized and/or contemplated by the terms of the said Contract, and/or to agree to any modifications, variations, alterations, directions or extensions of the Completion Date of the Works under the said Contract, and that its rights under this guarantee shall in no way be prejudiced nor our liability hereunder be affected by reason of any steps which the Employer may take under such Contract, or of any modification, variation, alterations of the Completion Date which the Employer may make, give, concede or agree to under the said Contract.
2. This guarantee shall be limited to the payment of a sum of money
3. The Employer shall be entitled, without reference to us, to release any guarantee held by it, and to give time to or compound or make any other arrangement with the Contractor.
4. This guarantee shall remain in full force and effect until the issue of the Certificate of Completion in terms of the Contract, unless we are advised in writing by the Employer before the issue of the said Certificate of his intention to institute claims, and the particulars thereof, in which event this guarantee shall remain in full force and effect until all such claims have been paid or liquidated.
5. Our total liability hereunder shall not exceed the Guaranteed Sum of \_\_\_\_\_ (R \_\_\_\_\_)
6. The Guarantor reserves the right to withdraw from this guarantee by depositing the Guaranteed Sum with the beneficiary, whereupon our liability hereunder shall cease.
7. We hereby choose our address for the serving of all notices for all purposes arising herefrom as \_\_\_\_\_

IN WITNESS WHEREOF this guarantee has been executed by us at \_\_\_\_\_

on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

As witnesses:

1. \_\_\_\_\_ Signature \_\_\_\_\_

2. \_\_\_\_\_ Duly authorized to  
sign on behalf of \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

## **Annex H** (normative)

### **Standard Conditions for the calling for Expressions of Interest**

- Note:**
- 1 These Standard Conditions of for the Calling for Expressions of Interest are identical to that contained in Annex H of SANS 294: 2004, *Construction Procurement Processes, Procedures and Methods*.
  - 2 Annex G of SANS 294, *Construction Procurement Processes, Procedures and Methods*, provide guidance on referencing these Standard Conditions for the Calling for Expressions of Interest in procurement documents.

#### **H.1 General**

##### **H.1.1 Actions**

The employer and each respondent submitting an expression of interest shall comply with these conditions for calling for expressions of interest. In their dealings with each other, they shall discharge their duties and obligations as set out in H.2 and H.3, timeously and with integrity, and behave equitably, honestly and transparently.

##### **H.1.2 Supporting documents**

The documents issued by the employer for the purpose of obtaining expressions of interest are listed in the submission data.

##### **H.1.3 Interpretation**

The submission data and additional requirements contained in the submission schedules that are included in the returnable documents are deemed to be part of these conditions for the calling for expressions of interest.

##### **H.1.4 Communication and employer's agent**

Each communication between the employer and a respondent shall be to or from the employer's agent only, and in a form that can be read, copied and recorded. Writing shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a respondent. The name and contact details of the employer's agent are stated in the submission data.

#### **H.2 Respondent's obligations**

##### **H.2.1 Eligibility**

Submit an expression of interest only if the respondent complies with the criteria stated in the submission data and the respondent, or any of his principals, is not under any restriction to do business with the employer.

##### **H.2.2 Cost of submissions**

Accept that the employer will not compensate the respondent for any costs incurred in the preparation and delivery of a submission.

##### **H.2.3 Check documents**

Check the submission documents on receipt, including pages within them, and notify the employer of any discrepancy or omission.

##### **H.2.4 Acknowledge addenda**

Acknowledge receipt of addenda to the submission documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the submission data, in order to take the addenda into account.

## **H.2.5 Clarification meeting**

Attend the clarification meeting(s) at which respondents may familiarize themselves with the proposed work, services or supply (and location, etc.) and raise questions. Details of the meeting(s) are stated in the submission data.

## **H.2.6 Seek clarification**

Request clarification of the submission documents, if necessary, by notifying the employer at least five working days before the closing time stated in the submission data.

## **H.2.7 Making a submission**

**H.2.7.1** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing in black ink.

**H.2.7.2** Seal the original and each copy of the submission as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the submission data, as well as the respondent's name and contact address.

**H.2.7.3** Accept that the employer shall not assume any responsibility for the misplacement or premature opening of the submission if the outer package is not sealed and marked as stated.

## **H.2.8 Information and data to be completed in all respects**

Accept that submissions, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

## **H.2.9 Closing time**

Ensure that the employer receives the submissions at the address specified in the submission data not later than the closing time stated in the submission data. Proof of posting shall not be accepted as proof of delivery. The employer shall not accept submissions submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the submission data.

Accept that, if the employer extends the closing time stated in the submission data for any reason, the requirements of these conditions for expressions of interest apply equally to the extended deadline.

## **H.2.10 Clarification of submission**

Provide clarification of a submission in response to a request to do so from the employer during the evaluation of submissions.

## **H.2.11 Provide other material**

Provide, on request by the employer, any other material that has a bearing on the submission or the respondent's commercial position. Should the respondent not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the submission as non-responsive.

## **H.3 Employer's undertakings**

### **H.3.1 Respond to clarification**

Respond to a request for clarification received up to five working days before the submission closing time stated in the submission data and notify all respondents who attended the clarification meetings, if any, of those responses.

**H.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the submission documents to each respondent during the period from the date of the calling for expressions of interest until seven days before the closing time for submissions stated in the submission data. If, as a result, a respondent applies for an extension to the closing time stated in the submission data, the employer may grant such extension and, shall then notify it to all respondents.

**H.3.3 Late submissions**

Deal with late submissions as stated in the submission data.

**H.3.4 Opening of submissions**

Record the name of each respondent whose submission is opened and acknowledge receipt of their submission.

**H.3.5 Non-disclosure**

Not disclose to respondents, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of submissions until after the evaluation process is complete.

**H.3.6 Grounds for rejection and disqualification**

Determine whether there has been any effort by a respondent to influence the processing of submissions and instantly disqualify a respondent if it is established that he engaged in corrupt or fraudulent practices.

**H.3.7 Test for responsiveness**

Determine, on opening and before detailed evaluation, whether each submission received:

- a) meets the requirements of these conditions for the calling for expressions of interest;
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the call for expressions of interest.

**H.3.8 Non-responsive submissions**

Reject all non-responsive submissions.

**H.3.9 Evaluation of responsive submissions**

**H.3.9.1** Appoint an evaluation panel of not less than three persons. Evaluate submissions using the evaluation criteria established in the submission data.

**H.3.9.2** Notify the respondents of the outcome of the evaluation process within two weeks of the evaluation report being accepted by the employer.



**Annex I**  
(normative)

**Selection of subcontractors by employers and contractors**

Insert the following in the Scope of Work:

**Subcontracting procedures**

The Employer together with the Contractor shall evaluate the tenders received in accordance with the provisions of the Standard Conditions of Tender contained in Annex F of SANS 294 issued to tendering subcontractors. The evaluation panel shall comprise equal representatives from the Employer and from the Contractor.

The Contractor shall without delay enter into contract with the successful tendering subcontractor based on their tender submission, deviations from the tender document accepted by the Employer and the .....(*insert name of subcontract or name of procurement document prepared for this purpose*)

The Contractor shall remain responsible for providing the subcontracted portion of the works as if the work had not been subcontracted.

**Note:** The CIDB Best Practice Guideline D1, *Subcontracting Arrangements*, provides guidance on the selection of a suitable form of subcontracts.