

BOARD NOTICE 67 OF 2005

CONSTRUCTION INDUSTRY DEVELOPMENT BOARD

**AMENDMENTS TO THE STANDARD FOR UNIFORMITY IN CONSTRUCTION
PROCUREMENT PUBLISHED IN TERMS OF THE CONSTRUCTION INDUSTRY
DEVELOPMENT BOARD ACT, 2000 (ACT NO. 38 OF 2000)**

The Construction Industry Development Board under 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, hereby amends the **Standard for Uniformity in Construction Procurement** published Board Notice 62 of 2004 in Government Gazette No 26427 of 9 June 2004 as set out in schedule 1.

These amendments:

- a) align the Standard with recent amendments made to the Construction Industry Development Regulations;
- b) establish requirements for the preparation of a scope of work;
- c) make editorial corrections to the Standard
- d) provide an additional option in the process of offer and acceptance to facilitate conclusion of contracts with distant tenderers.

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PEPI SILINGA

CHAIRPERSON: CONSTRUCTION INDUSTRY DEVELOPMENT BOARD

Schedule 1

AMENDMENTS TO THE STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT

1 Scope

No amendments

2 Normative references

Insert the word "Contract" in 2.10. replace "s" and "c" with "S" and "C" in 2.12.

2.10 NEC Engineering and Construction Contract 2nd Edition 1995 (ECC2) as published by the Institution of Civil Engineers.

2.12 NEC Term Services Contract (1st Edition) as published by the Institution of Civil Engineers

3 Definitions

Add the following definitions and renumber the definitions accordingly:

3.6 **expression of interest** means a request for tenderers to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials so they may, in terms of the employer's procurement procedures, be invited to submit a tender offer should they qualify or be selected to do so;

3.13 **submission data** means the document that establishes the respondent's obligations in submitting an expression of interest and the employer's undertakings in the processing of the submission;

Delete in 3.15 "In this context "tender" is synonymous with "bid" stated in Treasury supply chain management guidelines" and reinsert as a note at the end of Section 3:

Note: The term "bid" in the context of this standard is synonymous with term "tender".

4 Requirements

4.1 General

No amendments.

4.2 Solicitation of tender offers

In the title to table 3 replace the word "categories" with "classes".

Table 3: Standard methods for procuring different classes of construction contracts

Add in the following new sub-clauses

4.2.4 Advertisements for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.

4.2.5 Advertisements for the submission of expressions of interest in respect of engineering and construction works contracts in terms of the P4 Qualified Procedure shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for submissions of interest and at least 5 working days before any compulsory clarification meeting.

4.3 Quality (functionality)

No amendments.

4.4 Procurement documents

No amendments.

4.4.1 General

Insert the heading "Draft Contract" in heading to volume 3 in table 5 and amend titles to Volumes 2 and 3 as follows:

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

Volume	Contents	
	Number	Heading
Volume 1	TENDERING PROCEDURES	
	T1.1	Tender Notice and Invitation to Tender
	T1.2	Tender Data
Volume 2	RETURNABLE DOCUMENTS	
	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	DRAFT CONTRACT	
	Part1: Agreement and Contract Data	
	c1.2	Contract Data (Part 1: Data provided by the employer)
	Part2: Pricing data	
	c2.1	Pricing Instructions
	Part3: Scope of Work	
	C3	Scope of Work
	Part4: Site information (engineering and construction works contracts only)	
	c4	site Information

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

4.4.1.4 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.

Insert new clause 4.4.1.5

- 4.4.1.5** The Notice and Invitation to submit an Expression of Interest shall, as a minimum, contain the wording provided in Annex J.

Insert the headings "Tender", "Contract" in table 6. Insert the words "Offer and" in C1.1 table 6.

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

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

4.4.2 Preferencing schedules

No amendments.

4.4.3 Tender Data

No amendments.

4.4.4 Contract data

Insert in " or NEC Engineering and Construction Contract" after 4.4.1(a)(iv)

- 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 or NEC Engineering and Construction Contract.

4.4.5 Submission Data

No amendments.

4.4.6 Subcontracting arrangements

No amendments.

Insert new subsection 4.4.7 Scope of work.

4.4.7 Scope of work

Insert 4.4.7.1 and 4.4.7.2.

4.4.7.1 The scope of work shall, wherever possible be:

- a) described in terms of performance rather than the design or descriptive characteristics, and
- b) based on national or international standards, where such exist.

4.4.7.2 Requirements in the form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling or conformity certification shall not create trade barriers. Reference to any particular trademark, name, patent, design, type, specific origin or producer shall not be made, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work. Such reference shall be accompanied by the words "or equivalent".**4.5 Applying the CIDB register of contractors to public contracts**

Insert the words "where appropriate" in 4.5.1.

4.5.1 Contractor grading designations shall, where appropriate, 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.

Replace Range of Tender Values for grades 1, 2 and 3 with those in table 8.

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 200 000
2(class of construction works)	2	R 200 000	R 500 000
3(class of construction works)	3	R 500 000	R 1 500 000
4(class of construction works)	4	R 1 500 000	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

In clause 4.5.2, delete "where the contractor grading designation is based on the estimated tender value." and replace with 4.5.2 a) and b). In 4.5.2 a) replace the "Tenders" with "Tenderers".

4.5.2 The following wording shall be included in the Notice and Invitation to Tender in all engineering and construction works contracts:

- a) tenders solicited other than in terms of a quotation procedure, where the ~~contractor grading designation is based on the estimated tender value:~~

Tenderers should have a CIDB contractor grading designation of . . . or higher.

- b) tenders solicited in terms of a quotation procedure:

Tenderers must be registered with the CIDB in aclass of construction works.

In 4.5.3 a) delete registered within 10 working days from the closing date of submission of tenders" and replace with "prior to the evaluation of submissions" Insert 4.5.3 b).

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:

- a) tenders solicited other than in terms of a quotation procedure:

Clause number (refer to Annex F)	
F.2.1	<p>Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than 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"> 1. every member of the joint venture is registered with the CIDB; 2. the lead partner has a contractor grading designation in the ____* class of construction work; and 3. 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.

Clause number (refer to Annex F)	
F.2.1	<p>Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a ____*. class of construction work, are eligible to submit tenders.</p>

In 4.5.6 delete the word "within" and replace with "not later than".

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

Clause number (refer to Annex H)	
H.2.1	<p>Joint ventures are eligible to submit tenders provided that:</p> <ol style="list-style-type: none"> 1 every member of the joint venture is registered with the CIDB not later than 21 days from the closing date for tenders; 2 the lead partner has a contractor grading designation in the ____* class of construction work; and 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.

In 4.5.7.a) insert the word “designation” after “contractor grading” and “potentially” before emerging enterprises”. Replace “Tenders” with “Tenderers”.

In 4.5.7 b) delete registered within 10 working days from the closing date of submission of tenders” and replace with “prior to the evaluation of submissions”. In 4.5.7 d) delete the word “within” and replace with “not later than”

4.5.7 Where a client or employer promotes potentially 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:

Tenderers should have a CIDB contractor grading designation 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	<p>The following tenderers who are registered with the CIDB, or are capable of being so registered prior to the evaluation of submissions, are eligible to submit tenders:</p> <ol style="list-style-type: none"> 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 b) contractors registered as potentially emerging enterprises 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>_____**</p>

* insert class of construction work (see Table 9)

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

- 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 not later than 21 working days from the closing date for the submission of tenders, are eligible to submit expressions of interest:</p> <ol style="list-style-type: none"> 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>b) contractors registered as potentially emerging enterprises 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>
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Annex A: Best practice guidelines

No amendments

Annex B: Standard Notice and Invitation to Tender

Replace Annex 5 with the following.

<p>.....invites tenders for the provision of.....</p> <p>Tenderers should have a CIDB contractor grading of . . , or higher.</p> <p>Tenderers should have a CIDB contractor grading of . . or higher. Potentially emerging enterprises who satisfy criteria stated in the Tender Data may submit tender offers.</p> <p>Tenderers must be registered with the <i>CIDB</i> in aclass of construction works.</p> <p>Preferences are offered to tenderers who</p> <p>Only tenderers who are eligible to submit tenders.</p> <p>The physical address for collection of tender documents is: Documents may be collected during working hours after 09:00 on</p> <p>A non-refundable tender deposit of R. payable in cash or by bank guaranteed cheque made out in favour of the Employer is required on collection of the tender documents.</p>	<p>Guidance Notes</p> <p>Enter the name of the employer and describe briefly what is to be procured, and if appropriate, over what time period.</p> <p>Omit where:</p> <p>i) the quotation procedure is used;</p> <p>ii) the contract involves supplies or services; or</p> <p>iii) the employer promotes potentially emerging enterprises in engineering and construction works.</p> <p>Insert best estimate of required contractor grading designation.</p> <p>Omit where:</p> <p>i) the quotation procedure is used;</p> <p>ii) the contract involves supplies or services; or</p> <p>iii) the employer does not promote potentially emerging enterprises in engineering and construction works.</p> <p>Insert best estimate of required contractor grading designation.</p> <p>Provide where quotation procedure is used.</p> <p>Insert class of construction works.</p> <p>Briefly indicate the nature of the Preferences that are applicable, if so desired.</p> <p>Where applicable, state essence of eligibility criteria.</p> <p>Enter data</p> <p>Omit if not a requirement. Amend wording if cheques or cash are not acceptable.</p>
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Queries relating to the issues of these documents may be addressed to Mr/Ms Tel No. Fax No. e mail.	Enter data
A compulsory pre tender meeting with representatives of the Employer will take place at. on starting at. ... hrs.	Omit if not a requirement
The closing time for receipt of tenders is hrs on Telegraphic, telephonic, telex, facsimile and late tenders will not be accepted.	Enter data and delete that which does not apply
Tenders may only be submitted on the tender documentation that is issued.	Omit if procurement does not fall within the ambit of the Municipal Finance Management Act.
Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.	

Annex C: Form of offer and acceptance

In Offer portion replace "tender schedule" with "returnable schedule"

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

In the Acceptance portion:

In the second paragraph delete the words "which must be signed by the authorised representative(s) of both parties" so that paragraph reads:

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.

Insert a foot note after the last word in the last paragraph:

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 parties¹.

¹ As an alternative, the following wording may be used: -

Notwithstanding anything contained herein, this agreement comes into effect two days after the submission by the employer of one fully completed original copy of this document including the schedule of deviations (if any), to a courier-to-counter delivery / counter-to-counter delivery / door-to-counter delivery / door-to-door delivery / courier service (delete that which is not applicable), provided that the employer notifies the tenderer of the tracking number within 24 hours of such submission. Unless the tenderer (now contractor) within seven days of the date of such submission 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.

Replace "schedule of deviations" with "agreement" in the first paragraph of the schedule of deviations.

By the duly authorised representatives signing this agreement, 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 change to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

Delete signature block beneath schedule of deviations.

Annex D: Sample preferencing schedule where direct preferences are granted in respect of targeted enterprise status

No amendment.

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

No amendment.

Annex F: Standard Conditions of Tender

Insert new sub-clause F. 1.3.3.

F.1.3.3 For the purposes of these conditions for the calling for expressions of interest, the following definitions apply:

- a) **comparative offer** means the tenderer's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration
- b) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
- c) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels

Replace sub-clause F. 7.5 with the following:

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 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 The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

Annex G: Form of Guarantee*No amendment.***Annex H: Standard Conditions for the calling for Expressions of Interest***Replace sub-clause H. 7.3 with the following:***H.1.3 Interpretation**

H.1.3.1 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.1.3.2 For the purposes of these conditions for the calling for expressions of interest, the following definitions apply:

- a) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
- b) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels

Annex I: Selection of subcontractors by employers and contractors*No amendment**Insert new annex J:***Annex J: Standard Notice and Invitation to submit an Expression of Interest**

<p>Expressions of interest are invited for the provision of</p> <p>The Employer is</p> <p>.....</p> <p>The physical address for collection of documentation is:</p> <p>Documents may be collected during working hours after on</p> <p>Queries relating to the issues of these documents may be addressed to Mr/Ms Tel No. Fax No. e mail.</p>	<p><i>Guidance</i></p> <p><i>Describe briefly what is to be procured, and if appropriate, over what time period.</i></p> <p><i>Describe objective selection criteria and provide any other pertinent information.</i></p>
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