

**BOARD NOTICE 12 OF 2009****CONSTRUCTION INDUSTRY DEVELOPMENT BOARD****STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT****January 2009**

This standard is issued 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.

The Standard for Uniformity in Construction Procurement was first published in Board Notice 62 of 2004 in Government Gazette No 26427 of 9 June 2004. It was subsequently amended in Board Notice 67 of 2005 in Government Gazette No 27831 of 22 July 2005, Board Notice 99 of 2005 in Government Gazette No 28127 of 14 October 2005, Board Notice 93 of 2006 in Government Gazette No 29138 of 18 August 2006 and Board Notice 9 of 2008 in Government Gazette No 30692, of 1 February 2008..

This January 2009 edition incorporates the amendments made in Board Notice No. 11 of 2009.

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## STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT

January 2009

### 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 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 NEC3 Engineering and Construction Short Contract as published by the Institution of Civil Engineers.
- 2.10 NEC3 Engineering and Construction Contract as published by the Institution of Civil Engineers.

- 2.11 NEC3 Professional Services Contract as published by the Institution of Civil Engineers.
- 2.12 NEC3 Term Services Contract 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).
- 2.17 General Conditions of Service as published by the Construction Industry Development Board

### 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 goods 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 **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 organization's procurement

procedures, be invited to submit a tender offer should they qualify or be selected to do so;

- 3.7 **form of offer and acceptance** means the documents that formalize the legal process of offer and acceptance;
- 3.8 **list of returnable documents** means the document that lists everything the employer requires a respondent or tenderer to submit with his submission;
- 3.9 **notice and invitation to submit an expression of interest** means the document that alerts respondents to submit their credentials in order to be admitted to an electronic database or to be invited to submit tenders should they satisfy the stated criteria.
- 3.10 **pricing assumptions** 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;
- 3.11 **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;
- 3.12 **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;
- 3.13 **scope of work** means the document that specifies and describes the goods, 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;
- 3.14 **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;
- 3.15 **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;
- 3.16 **supply contract** means a contract for the provision of materials or commodities made available for purchase;
- 3.17 **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;
- 3.18 **tender notice and invitation to tender** means the document that alerts prospective contractors to the nature of the goods, services and engineering and construction works required by the employer and contains sufficient information to solicit a response.
- 3.19 **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.

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

## **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 General**

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

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

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

**4.2.1.4** 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.

**4.2.1.5** 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.

**4.2.1.6** The scope of work, terms and conditions and prices that are negotiated in the negotiation procedure, the proposal procedure using the two-stage system or the competitive negotiation procedure shall be in the best interests of the employer. Minutes of such negotiations and the reasons for pursuing such procedures shall be kept for record and audit purposes.

**Table 1: Standard Procurement Procedures**

Procedure		Description
PP1	Negotiation procedure	A tender offer is solicited from a single tenderer.
PP2	Competitive selection procedure	Any procurement procedure in which the contract is normally awarded to the contractor who submits the lowest financial offer or obtains the highest number of tender evaluation points.
	PP2A 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.
	PP2B Open procedure	Tenderers may submit tender offers in response to an advertisement by the organization to do so.
	PP2C 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.
	PP2D 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.
	PP2E 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.
	PP2F 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.
	PP2G Shopping procedure	Written or verbal offers are solicited in respect of readily available goods obtained from three sources. The goods are purchased from the source providing the lowest price once it is confirmed in writing.
PP3	Competitive negotiation procedure	A procurement procedure which reduces the number of tenderers competing for the contract through a series of negotiations until the remaining tenderers are invited to submit final offers. (See 4.2.4 to 4.2.7)
	PP3A Restricted competitive negotiations	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. The employer evaluates the offers and determines who may enter into competitive negotiations.
	PP3B Open competitive negotiations	Tenderers may submit tender offers in response to an advertisement by the organization to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.

- 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.

**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.



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

Category of contract	Type of procurement	Standard Procurement Procedure and Evaluation Method*
Engineering and construction works	Design by employer (normal)**	PP2B Open Procedure with Method 1 or Method 2
	Design and build** / develop and construct**	PP2E Proposal Procedure using two-stage system with Method 1, 2, 3 or 4;
	Management contractor**/ Construction Management**	PP2C Qualified Procedure with Method 1 or 2 and eligibility criteria framed around the attainment of a minimum quality score or requirements; or
	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	PP2C Qualified Procedure with Method 3 or 4
	Very low value works	PP3A Restricted Competitive Negotiation Procedure
	Value below a threshold	PP3B Open Competitive Negotiation Procedure
	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	PP1 Negotiation 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 500 000.	PP2D Quotation Procedure with Method 1, 2, 3 or 4.
Supply	Very low value below a threshold for the purchase of readily available goods	PP1 Negotiation Procedure with Method 1
	Value below a threshold	PP2G Shopping Procedure with Method 1
	Normal	PP2D Quotation Procedure with Method 1 or 2
	Goods which require exceptional quality or where it is desirable to invite a limited number of tenderers who are of a similar capability and size	PP2B Open Procedure with Method 1 or 2
	Only one supplier has the required product or the goods cannot be separated from a previous contract	PP2C Qualified Procedure with Method 1 or 2 and eligibility criteria framed around minimum quality requirements
	Relatively low value goods 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 500 000.	PP3A Restricted Competitive Negotiation Procedure PP3B Open Competitive Negotiation Procedure
Services other than professional services	Value below a threshold	PP1 Negotiation Procedure with Method 1
	Normal	PP2A Nominated Procedure with Method 1 or Method 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	PP2D Quotation Procedure with Method 1 or 2
	Only one service provider has the required product or the goods cannot be separated from another previous contract	PP2B Open Procedure with Method 1 or 2
	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 500 000.	PP2C Qualified Procedure with Method 1 or 2 and eligibility criteria framed around minimum quality requirements.
		PP3A Restricted Competitive Negotiation Procedure PP3B Open Competitive Negotiation Procedure

\* 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, *Delivering construction projects using the design by employer contracting strategy* and the CIDB Best Practice Guideline A5 (1005), *Managing Construction Procurement Risks*.

**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.	PP2A Nominated Procedure which identifies a short list of not less than 5 tenderers to submit tenders, PP2B Open, PP2C Qualified or PP2D Quotation Procedure; or PP2E 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.	PP2B Open or PP2E Proposal Procedure using the two envelope system with either Method 3 or 4; PP2F 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 PP2F Proposal Procedure using the two stage tendering system with Method 3 or 4 . PP3A Restricted Competitive Negotiation Procedure PP3B Open Competitive Negotiation Procedure
A standard or routine assignment where well established practices and standards exist and in which the contract amount is small.	PP2E 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.	PP1 Negotiated Procedure with Method 1
Value below a threshold	PP2D Quotation Procedure with Method 1 or Method 2. PP2A Nominated Procedure which identifies a short list of not less than 3 tenderers to submit tenders
A relatively small assignment which does not justify the preparation and evaluation of competitive proposals .	PP2A Nominated Procedure to nominate a sole tenderer.
A simple assignment which is precisely defined and the budget fixed.	PP2F Proposal Procedure using the two stage tendering system with Method 3 or 4 .

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

**Note:** CIDB Best Practice Guideline A7 (1035), *The Procurement of Professional Services*, provides comprehensive guidance on the procurement of professional services.

#### 4.2.2 Competitive negotiation procedures

**4.2.2.1** The competitive negotiation procedures shall be used to negotiate with a number of responsive and qualified tenderers in order to arrive at the most advantageous offer in terms of one of the methods for the evaluation of tenders as described in Table 2.

**4.2.2.2** The organization shall negotiate with responsive and qualified tenderers when using the competitive negotiation procedures through one or more rounds of competitive negotiations, based on their rankings or the number of tender evaluation points, until

the remaining tenderers are invited to submit final offers. During such negotiations, organizations:

- a) shall ensure equal treatment of all tenderers and not provide any requirements, criteria, guidelines, documents, clarification or other information relative to the negotiations in a discriminatory manner which may give some tenderers an advantage over others;
- b) may provide for this negotiated procedure to take place in successive stages in order to reduce the number of tenders to be negotiated with, by applying the evaluation criteria disclosed in the procurement documents that are issued to tenderers;
- c) may not reveal to the other participants solutions proposed or other confidential information communicated by a tenderer participating in the process without that tenderer's agreement;
- d) may request that tender offers be clarified, specified and fine-tuned provided that such clarification, specification, fine-tuning or additional information does not:
  - i) involve changes to the basic features of the tender process or the tender data; or
  - ii) alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect on the tender process; and
- e) shall close the negotiation with tenderers when a solution or solutions which are capable of meeting its needs are identified, inform the tenderers accordingly and call for best and final offers.

**4.2.2.3** Tenderers shall be informed of the competitive negotiation process and notified of the evaluation criteria and associated weightings in the tender data. The evaluation criteria associated with each successive round of negotiations shall not be varied. Tenderers shall be notified in advance of the weighting attached to each category or subcategory of evaluation criteria whenever another round of offers is called for.

**NOTE:** The competitive negotiation procedure provided in Annex F should only be used where interactions with the tenderers are essential to refine aspects of the proposed approach to the contract, the contract data or scope of work in order to arrive at a best value outcome.

### **4.3 Quality (functionality)**

**4.3.1** 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).

**4.3.2** Quality criteria used in the evaluation of tender offers shall form an integral part of the tender offer and hence the outcome of the procurement. Such criteria shall:

- a) relate directly to the goods, services or engineering and construction works that are being procured and to matters that cannot directly be expressed in monetary terms;
- b) be justifiable in terms of projected procurement outcomes;
- c) enable the most economically advantageous offer to be established; and
- d) to the extent practicable, be objective and quantifiable.

**4.3.3** Quality criteria used in terms of 4.3.2 may include criteria such as:

- a) technical merit;
- b) response to (ability to relate to) the proposed scope of work/project design;
- c) aesthetic and functional characteristics;
- d) safety and environmental characteristics;
- e) quality control practices and procedures which ensure compliance with stated employer's requirements;
- f) reliability;
- g) durability;
- h) organization, logistics and support resources relevant to the scope of work
- i) qualifications and demonstrated experience of the key staff (assigned personnel) in relation to the scope of work;
- i) demonstrated experience of tendering entity with respect to specific aspects of the project / comparable projects;
- j) running costs;
- k) after-sales service and technical assistance;
- l) delivery date; and
- m) delivery period or period of completion

**4.3.4** Quality criteria shall not include:

- a) social considerations, such as the composition of workforces in terms of race, gender or disability; or
- b) matters relating to the basic capability or capacity of the tendering entity to execute the contract.

**4.3.5** Where quality is evaluated, at least three persons who are fully conversant with the technical aspects of the procurement shall undertake such evaluation. Quality shall be scored in terms of the prompts for judgement with fixed scores assigned to each prompt, either individually and averaged or collectively, as appropriate.

**4.3.6** To ensure consistency in scoring, members of the evaluation panel shall be provided with prompts for judgments or qualitative indicators relating to all quality criteria and any subcriteria that are linked to a specific score. Such prompts shall be communicated to respondents or tenderers in procurement documents. The rating of submissions shall be based on the information submitted or, where relevant, from interviews, and not on mere speculation or suspicion or the personal knowledge of a panel member.

**4.3.7** The scoring of interviews shall not form a substantive portion of the overall scoring for quality.

## 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:

- CIBD 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 goods shall be formatted and compiled under the headings contained in:

- a) Table 5 when calling for expressions of interest; and
- b) Table 6 where tenders are invited using a three volume approach or Table 7 where a single volume approach is adopted.

**Table 5: Documents that relate to a call for expressions of interest**

Contents	
Number	Heading
<b>Part E1: Submission procedures</b>	
E1.1	Notice and invitation to submit an expression of interest
E1.2	Submission data
<b>Part E2: Returnable documents</b>	
E2.1	List of returnable documents
E2.2	Submission schedules
<b>Part E3: Indicative scope of work (where appropriate)</b>	
E3	Indicative scope of work

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

Volume	Contents	
	Number	Heading
Volume 1	<b>TENDERING PROCEDURES</b>	
	T1.1	Tender Notice and Invitation to Tender
	T1.2	Tender Data
Volume 2	<b>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 Bills of Quantities
	T2.2	Returnable Schedules
Volume 3	<b>DRAFT CONTRACT</b>	
	<b>Part C1: Agreement and Contract Data</b>	
	C1.2	Contract Data (Part 1: Data provided by the employer)
	<b>Part C2: Pricing data</b>	
	C2.1	Pricing Assumptions
	<b>Part C3: Scope of Work</b>	
	C3	Scope of Work
	<b>Part C4: 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 8.

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

**Table 7: Standard headings and sequencing of documents when soliciting tenders where a single volume approach is adopted**

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

**Table 8: Standard headings and sequencing of documents in the contract**

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

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.

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.

4.4.1.6 The Record of Addenda to Tender Documents and the Compulsory Enterprise Questionnaire contained in Annexes K and L, respectively, shall form part of the Returnable Documents in all procurement documents issued by organs of state.

**Note:** Annex L is intended to indicate to the employer whether further information should be obtained to establish whether a conflict of interest exists. It also provides information about the tendering entity

#### 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 offer validity period provided for in the Tender Data shall generally not exceed eight weeks and in exceptional circumstances, not exceed 12 weeks.

**4.4.3.3** The Tender Data associated with a Standard Tender Evaluation Method shall reference the method to be used and, in the case of a public tender, 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	<p>The procedure for the evaluation of responsive tenders is Method 2</p> <p>The financial offer will be scored using Formula 1 / 2* (option 1) where the value of <math>W_1</math> is 80 / 90**</p>

\* 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 value of <math>W_2</math> is .....*</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 100 minus <math>W_2</math></p>

\* Insert percentage

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

**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 value for <math>W_2</math> is ____*</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 100 minus <math>W_2</math>:</p> <p>The score for quality and financial offer is to be combined, before the addition of the score for preference, as follows:</p> $W_C = W_3 \times (1 + \frac{S - S_m}{S_m})$ <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 percentage

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

\*\*\* 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) NEC3 Engineering and Construction Short Contract or NEC3 Engineering and Construction Contract.
- b) services contract (professional);
  - i) CIDB Standard Professional Services Contract; or
  - ii) NEC3 Professional Services Contract.



- c) services contract (facilities);
  - i) NEC3 Term Services Contract
  - ii) CIDB General Conditions of Service
- d) supply 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 samples provided by the drafters of the forms of contract listed in 4.4.4.1 a). Such guarantees shall not normally exceed 10% of the contract price or, in the case of a variable guarantee, 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.

#### **4.4.7 Scope of work**

**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**

**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, 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 G1 in Annex G and the next two characters are capital letters representing the designation for the class of construction works shown in column 2 of Table G2 in Annex G.

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

*It is estimated that tenderers should have a CIDB contractor grading designation of ..... or ..... or higher..*

**Note:** Delete "or ...." where only one class of construction works is applicable.

**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 G2:

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 contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a ..... or .....* class of construction work, are eligible to have their tenders evaluated.</p> <p>Joint ventures are eligible to submit tenders provided that:</p> <ol style="list-style-type: none"> <li>1. every member of the joint venture is registered with the CIDB;</li> <li>2. the lead partner has a contractor grading designation in the ..... or .....* 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 a contractor grading designation determined in accordance with the sum tendered for a ..... or .....* class of construction work or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations.</li> </ol>

\* insert class of construction work (see Table G2). Delete "or ...." where only one class of construction works is applicable.

**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 .....or higher.*

Note: Delete "or ...." where only one class of construction works is applicable.

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

Clause number (refer to Annex H)	
H.2.1	<p>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 .....* or higher, are eligible to have their submissions evaluated.</p>

\*insert contractor grading designation for one or two classes of construction works. Delete "or ...." where only one class of construction works is applicable.

**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 have their submissions evaluated provided that:</p> <ol style="list-style-type: none"> <li>1 every member of the joint venture is registered with the CIDB not later than 21 working days from the closing date for tenders;</li> <li>2 the lead partner has a contractor grading designation in the ... or .....* 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 G2). Delete "or ...." where only one class of construction works is applicable.

**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:

*It is estimated that tenderers should have a CIDB contractor grading designation of ..... or .....\* or higher. .... or .....\*\* potentially emerging enterprises who satisfy criteria stated in the Tender Data may submit tender offers.*

\* insert estimated contractor grading designation in one or two construction classes, as relevant.

\*\* insert one contractor grading designation below estimated contractor grading designation

Note: Delete "or ...." where only one class of construction works is applicable.

- 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 have their tenders evaluated:</p> <p>a) contractors who have a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a ..... or .....*. class of construction work; and</p> <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> <p>.....**</p>

\* insert class of construction work (see Table G2 ). Delete "or ...." where only one class of construction works is applicable.

\*\*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 ..... or higher. .... or ..... potentially emerging enterprises who satisfy criteria stated in the Submission Data may submit expressions of interest.*

Note: Delete "or ...." where only one class of construction works is applicable.

- 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 have their submissions evaluated:</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 .....*or higher; and</p> <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> <p>.....**</p>

\* insert contractor grading designation for one or two classes of construction works. Delete "or ...." where only one class of construction works is applicable.

\*\*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.

**4.5.8** Employers, wherever appropriate, in support of industry development, shall in the application of the register of contractors, promote the participation and development of registered contractors by means of one or more of the following:

- a) unbundling projects into smaller contracts;
- b) implementing targeted development programmes to support potentially emerging contractors in accordance with the provisions of the Construction Industry Development Regulations;
- c) offering preferences to contractors who undertake to enter into joint ventures with or subcontract portions of the works to such contractors; and
- d) requiring a prime contractor to subcontract defined portions of the works to such contractors in accordance with the provisions of 4.4.6.

**Note:** CIDB Best Practice Guideline A8 (1036), *Procurement Measures to Develop Registered Contractors*, provides comprehensive guidance to employers and their agents as to how they may comply with the requirements of 4.5.8.

## 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	Edition	Synopsis
<b>Best practice guidelines published by the Construction Industry Development Board</b>		
CIDB Best Practice Guideline A1: The Procurement Cycle (1001)	Third edition (December 2007)	This practice guide identifies six main procurement activities that apply to all construction procurements irrespective of their categorization as supply, 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)	Fifth edition (December 2007)	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)	Fifth edition (February 2008)	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)	Fourth edition (December 2008)	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)	First edition (March 2004)	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.

Title	Edition	Synopsis
CIDB Best Practice Guideline A6: Applying the Registers to Construction Procurement (1006)	Fourth edition (December 2008)	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.
CIDB Best Practice Guideline A7: The procurement of professional services (1035)	Third edition (December 2008)	This practice guide provides an overview of government's policy regarding the appointment of consultants and the provisions made in the CIDB Standard for Uniformity for the procuring of professional services. It outlines procedures in respect of each of the methods contained in this standard and guidance on the compilation of procurement documentation associated with professional service contracts. It also establishes the relationship between the methodology advocated by the standard and that promoted by National Treasury in their Supply Chain Management Practice Notes.
CIDB Best Practice Guideline A8: Procurement measures to develop registered contractors. (1036)	Third edition (December 2008)	This practice guide outlines the principles for sustainable growth and a number of strategies to promote the participation of smaller registered contractors in public contracts so that they can grow and develop. The strengths and weaknesses of each of these strategies are discussed.
CIDB Best Practice Guideline B1: Formulating and Implementing Preferential Procurement Policies (1007)	First edition (March 2004)	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)	First edition (March 2004)	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)	Third edition (December 2008)	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)	Third edition (December 2008)	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.

Title	Edition	Synopsis
CIDB Best Practice Guideline C3: Adjudication (1011)	Third edition (December 2008)	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)	Second edition (December 20084)	This practice guide establishes acceptable practices in respect 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)	First edition (March 2004)	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>		
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> <ul style="list-style-type: none"> <li>a) describes generic procurement processes around which an organization may develop its procurement system;</li> <li>b) establishes minimum requirements for the conduct of an organization's employees, agents, board members and office bearers when engaging in procurement;</li> <li>c) establishes the framework for the development of an organization's procurement policy including any preferential procurement policy;</li> <li>d) establishes generic methods and procedures for procurements including those pertaining to disposals; and</li> <li>e) provides standard conditions of tender and conditions for the calling for expressions of interest.</li> </ul>	
SANS 10403, Formatting and Compilation of Construction Procurement Documents	<p>This standard establishes at both prime and subcontract level:</p> <ul style="list-style-type: none"> <li>a) a uniform format for the compilation of procurement documents for supply, services and engineering and construction works contracts; and</li> <li>b) the general principles for compiling procurement documents in respect of supply, services and engineering and construction works contracts.</li> </ul>	
SANS 10396, Implementing Preferential Procurement Policies Using Targeted Procurement Procedures	<p>This standard:</p> <ul style="list-style-type: none"> <li>a) sets out the issues and principles which should be considered when formulating preferential procurement policies and developing associated implementation mechanisms;</li> <li>b) sets out the principles associated with the engagement of targeted enterprises and targeted labour;</li> <li>c) 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>d) establishes targeting frameworks and strategies which can be used with a number of different procurement regimes;</li> <li>e) describes techniques for the monitoring and evaluation of the outcomes of a preferential procurement policy;</li> <li>f) provides guidance as to how targeted procurement procedures can be activated in procurement documents; and</li> <li>g) provides guidance on the design and implementation of programmes associated with the implementation of a preferential procurement policy.</li> </ul>	



<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> </ul> <p>SANS 2001 family of standards for construction works.</p>
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 Tender Notice and Invitation to Tender

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

**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 returnable 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 C1 Agreements and contract data, (which includes this agreement)

Part C2 Pricing data

Part C3 Scope of work.

Part C4 Site information

and drawings and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable 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 form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

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 securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfil 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 working 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.<sup>1</sup>

Signature(s)

Name(s)

Capacity

for the  
Employer

(Name and address of organization)

Name and  
signature of  
witness

Date

<sup>1</sup> As an alternative, the following wording may be used:

Notwithstanding anything contained herein, this agreement comes into effect two working 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 working 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.

**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 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 returnable 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.