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**BOARD NOTICES • RAADSKENNISGEWINGS**

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**BOARD NOTICE 187 OF 2015**

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**CONSTRUCTION INDUSTRY DEVELOPMENT BOARD**

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**STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT****July 2015**

This standard is issued in terms of sections 4(f), 5(3)(c) and 5(4)(b) of the Construction Industry Development Board Act 38 of 2000 read with Regulation 24 of the Construction Industry Development Regulations, 2004 (as amended) 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, Board Notice 9 of 2008 in Government Gazette No 30692, of 1 February 2008, Board Notice 11 of 2009 in Government Gazette No 31823 of 30 January 2009, Board Notice 86 of 2010 in Government Gazette No 33239 of 28 May 2010 and Board Notice 136 of 2015 in Government Gazette 38960 of 10 July 2015.

This edition incorporates the amendments made in Board Notice 136 of 2015 in Government Gazette 38960 of 10 July 2015 and the erratum notices issued thereafter.

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## STANDARD FOR UNIFORMITY IN CONSTRUCTION PROCUREMENT

July 2015

### 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 Conditions of Contract for Design, Build and Operate Projects ("Gold Book") (2008) as published by the International Federation of Consulting Engineers (FIDIC).
- 2.5 Contract for the Supply and Delivery of Goods as published by the Construction Industry Development Board (1019).
- 2.6 General Conditions of Contract for Construction Works (Third Edition 2015) as published by the South African Institution of Civil Engineering.
- 2.7 General conditions of purchase as published by the Construction Industry Development Board (1018).
- 2.8 JBCC Series 2000 Principal Building Agreement (Edition 6.1: March 2014) as published by the Joint Building Contracts Committee.
- 2.9 JBCC Series 2000 Minor Works Agreement (Edition 5.1: March 2014) as published by the Joint Building Contracts Committee.
- 2.10 NEC3 Engineering and Construction Short Contract as published by the Institution of Civil Engineers.

- 2.11 NEC3 Engineering and Construction Contract as published by the Institution of Civil Engineers.
- 2.12 NEC3 Professional Services Contract as published by the Institution of Civil Engineers.
- 2.13 NEC3 Term Services Contract as published by the Institution of Civil Engineers.
- 2.14 NEC3 Term Services Short Contract as published by the Institution of Civil Engineers.
- 2.15 NEC3 Supply Contract as published by the Institution of Civil Engineers.
- 2.16 NEC3 Supply Short Contract.
- 2.17 Short Form of Contract ("Green Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC).
- 2.18 Standard Professional Services Contract as published by the Construction Industry Development Board (1015).
- 2.19 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 38 of 2000 and the Construction Industry Development Regulations issued in terms of section 33 of the Construction Industry Development Board Act (some of which are repeated for convenience) and the following definitions apply:

- 3.1 **black people** means Africans, Coloureds and Indians—
  - (a) who are citizens of the Republic of South Africa by birth or descent; or
  - (b) who became citizens of the Republic of South Africa by naturalisation—
    - (i) before 27 April 1994; or
    - (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;
- 3.2 **construction procurement** means procurement in the construction industry, including
- 3.3 **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;
- 3.4 **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;
- 3.5 **emerging enterprise** means an enterprise which is owned, managed and controlled by black people and which is overcoming business impediments arising from the legacy of apartheid;

- 3.6 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;
- 3.7 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;
- 3.8 functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service and technical capacity and ability of a tenderer;
- 3.9 form of offer and acceptance** means the documents that formalize the legal process of offer and acceptance;
- 3.10 list of returnable documents** means the document that lists everything the employer requires a respondent or tenderer to submit with his submission;
- 3.11 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.
- 3.12 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;
- 3.13 scope of work** means the documentation 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 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;
- 3.15 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;
- 3.16 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;
- 3.17 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;

- 3.18 supply contract** means a contract for the provision of materials or commodities made available for purchase;
- 3.19 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;
- 3.20 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;
- 3.21 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;
- 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; and
- c) the roll out plan of the cidb Competence Standards Framework for Construction Procurement.

### **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 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: Price preference and	1) Score tender evaluation points for price
	2) Score points for B-BBEE contribution
	3) Add the points scored for price and B-BBEE
Method 2: Functionality, Price and Preference	1) Score functionality, rejecting all tender offers that fail to score the minimum number of points for functionality stated in the Tender data.
	2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
	3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 5 below.

**The 80/ 20 preference point system for acquisition of services, works or goods up to Rand value of R 1 million**

(4) (a)(i) The following formula must be used to calculate the points for price in respect of tenders (including price quotations) with a rand value equal to, or above R30 000 and up to a Rand value of R1000 000 (all applicable taxes included):

$$P_s = 80 - 1 \frac{P_t - P_{min}}{P_{min}}$$

Where

$P_s$  = Points scored for comparative price of tender or offer under consideration;

$P_t$  = Comparative price of tender or offer under consideration; and

$P_{min}$  = Comparative price of lowest acceptable tender or offer.

(4)(a)(ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate.

(4)(b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

(4)(c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b).

(4)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).

(4)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.



**The 90/ 10 preference points system for acquisition of services, works or goods with a Rand value above R 1 million**

(5)(a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R1 000 000 (all applicable taxes included):

**90/10**

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

*Where*

*P<sub>s</sub> = Points scored for comparative price of tender or offer under consideration;*

*P<sub>t</sub> = Comparative price of tender or offer under consideration; and*

*P<sub>min</sub> = Comparative price of lowest acceptable tender or offer.*

(5)(b) Subject to subparagraph(5)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (5)(c) A maximum of 10 points may be allocated in accordance with subparagraph (5)(b)
- (5)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (5) (b) must be added to the points scored for price as calculated in accordance with subparagraph (5)(a).
- (5)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

**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 2
	Design and build** / develop and construct**	PP2E Proposal Procedure using two-stage system with Method 2
	Management contractor**/ Construction Management**	PP2C Qualified Procedure with Method 2 and eligibility criteria framed around the attainment of a minimum quality score or requirements
	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	PP3A Restricted Competitive Negotiation Procedure PP3B Open Competitive Negotiation Procedure
	Very low value works	PP1 Negotiation Procedure with Method 1 or 2
	Value below a threshold	PP2D Quotation Procedure with Method 1 or 2
	The works are largely identical to works previously executed and it is not in the organization's interest to solicit other offers or cannot be technically or economically separated from a previous contract	PP1 Negotiation Procedure with Method 1 or 2
	Simple works designed by the employer where the value of the contract, inclusive of Value Added Tax is not more than R 500 000.	PP2A Nominated Procedure with Method 1 or 2
Supply	Very low value below a threshold for the purchase of readily available goods	PP2G Shopping Procedure with Method 1 or 2
	Value below a threshold	PP2D Quotation Procedure with Method 1 or 2
	Normal	PP2B Open 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	PP2C Qualified Procedure with Method 2 and eligibility criteria framed around minimum quality requirements PP3A Restricted Competitive Negotiation Procedure PP3B Open Competitive Negotiation Procedure
	Only one supplier has the required product or the goods cannot be separated from a previous contract	PP1 Negotiation Procedure with Method 1 or 2
	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	PP2A Nominated Procedure with Method 1 or 2
Services other than professional services	Value below a threshold	PP2D Quotation Procedure with Method 1 or 2
	Normal	PP2B Open Procedure with Method 1 or 2
	Services which require exceptional quality or where it is desirable to invite a limited number of tenderers who are of a similar capability and size	PP2C Qualified Procedure with Method 2 and eligibility criteria framed around minimum quality requirements PP3A Restricted Competitive Negotiation Procedure PP3B Open Competitive Negotiation Procedure
	Only one service provider has the required product or the goods cannot be separated from another previous contract	P1 Negotiated 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	PP2A Nominated Procedure with Method 1 or 2
<p>* Refer to Table 1 for descriptions of Procedures and Table 2 for descriptions of Methods.</p> <p>** 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.</p>		

**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 Method 2 with eligibility criteria framed around the attainment of a minimum quality score or quality related requirements
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 Method 2; PP2F Proposal Procedure using the two stage tendering system with Method 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 2 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 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 or 2
Value below a threshold	PP2D Quotation Procedure with Method 1 or 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 2

\* 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 Functionality**

**4.3.1** The manner in which functionality 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 functionality 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 functionality into the eligibility criteria;
- f) establishing a category of preference for quality in the evaluation of tenders; or
- g) evaluating selected functionality 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** Functionality 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** Functionality 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** Functionality 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 functionality is evaluated, at least three persons who are fully conversant with the technical aspects of the procurement shall undertake such evaluation. Functionality 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 functionality 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 functionality.

**4.3.8** A contract may be awarded to a tender that did not score the highest of points, only in accordance with section 2(1)(f) of the Preferential Procurement Policy Framework Act, 2000.

## **4.4 Procurement documents**

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

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

#### 4.4.1 General

**4.4.1.1** Construction procurement documents for engineering and construction works, services and goods shall be formatted and compiled under the headings contained in:

- Table 5 when calling for expressions of interest; and
- 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 not exceed twelve (12) weeks and in exceptional circumstances it may be extended beyond twelve (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: Price and Preference

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

##### Method 2: Functionality, Price and Preference

Clause number (refer to Annex F)	
F.3.11	The procedure for the evaluation of responsive tenders is Method 2



#### 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, Conditions of Contract for Design, Build and Operate 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 and the NEC3 Term Services Short Contract
  - ii) cidb General Conditions of Service
- d) supply contract;
  - i) cidb General conditions of purchase or the cidb Contract for the Supply and Delivery of Goods;
  - ii) NEC3 Supply Contract or NEC3 Supply Short 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:

- b) unbundling projects into smaller contracts;
- c) implementing targeted development programmes to support potentially emerging contractors in accordance with the provisions of the Construction Industry Development Regulations;
- d) 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

The best practice guidelines and practice notes published on the cidb website 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.
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.

Title	Edition	Synopsis
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.
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 2008)	This practice guide establishes acceptable practices in respect of conditions of subcontract. Features of forms of subcontract which are unacceptable to the Employer and the Contractor are identified and described. It also recommends forms of subcontract which have desirable features for use with the main contracts identified in Practice Guide C2 and reviews the legal considerations in the engagement of labour only subcontractors.



Title	Edition	Synopsis
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		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: <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		This standard establishes at both prime and subcontract level: <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		This standard: <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		This practice manual provides insights into and guidance in the use of the following construction procurement South African National Standards: <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>



Title	Edition	Synopsis
		SANS 2001 family of standards for construction works.
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, JBCC, FIDIC and NEC forms of contract and tools and techniques associated with project management.</p>

**Annex B**  
(normative)

**Standard Tender Notice and Invitation to Tender**

<p>..... invites tenders for .....</p> <p>It is estimated that tenderers should have a cidb contractor grading of ... or ... or higher.</p> <p>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.</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: .....</p> <p>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>Queries relating to the issue of these documents may be addressed to Mr/Ms ....., Tel No. ...., Fax No. .... e mail .....</p> <p>A compulsory clarification meeting with representatives of the Employer will take place at ..... on ..... starting at .... hrs.</p> <p>The closing time for receipt of tenders is ..... hrs on ..... Telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.</p>	<p><b>Guidance Notes</b></p> <p><i>Enter the name of the employer and describe briefly what is to be procured, and if appropriate, over what time period.</i></p> <p><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></p> <p><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></p> <p><i>Briefly indicate the nature of the preferences that are applicable, if so desired.</i></p> <p><i>Where applicable, state essence of eligibility criteria.</i></p> <p><i>Enter data</i></p> <p><i>Omit if not a requirement. Amend wording if cheques or cash are not acceptable.</i></p> <p><i>Enter data</i></p> <p><i>Omit if not a requirement</i></p> <p><i>Enter data and delete that which does not apply</i></p>
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Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

*Omit if procurement does not fall within the ambit of the Municipal Finance Management Act.*

## 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.

**Annex D**  
(normative)

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

<b>PREFERENCING SCHEDULE (Direct preference)</b>												
<p><b>1 DEFINITIONS</b></p> <p>The following definitions shall apply to this schedule:</p> <p><i>Insert definitions for Targeted Enterprises in here</i></p>												
<p><b>2 CONDITIONS ASSOCIATED WITH THE GRANTING OF PREFERENCES</b></p> <p>The tenderer, who being a Targeted Enterprise undertakes to:</p> <ol style="list-style-type: none"> <li>1) not subcontract more than 25% of the contract price to non-Targeted Enterprises;</li> <li>2) remain a Targeted Enterprise for the duration of the Contract;</li> <li>3) accept the sanctions set out in Section 3 below should conditions 1 or 2 be breached;</li> <li>4) complete the Tender Preference Claim Form contained in Section 4 below; and</li> <li>5) complete a Targeted Declaration Affidavit and submit this with the tender.</li> </ol>												
<p><b>3 SANCTIONS RELATING TO BREACHES OF PREFERENCING CONDITIONS</b></p> <p>The sanctions for breaching the preferencing conditions are:</p> <ol style="list-style-type: none"> <li>1) termination of the Contract; or</li> <li>2) a financial penalty payable to the Employer equal to 1,25 times the number of tender evaluation points awarded in respect of the preference claimed, multiplied by the contract price exclusive of VAT, divided by 100.</li> </ol>												
<p><b>4 TENDER PREFERENCE CLAIM IN RESPECT OF ENTERPRISE STATUS OR STRUCTURE OF THE TENDERING ENTITY</b></p> <p>I/we apply on behalf of my/our firm for the following preference:</p> <p><i>Insert category description and percentage of maximum tender evaluation points</i></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 40%; padding: 5px;">Category of Targeted Enterprise</th> <th style="width: 30%; padding: 5px;">Percentage of maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)</th> <th style="width: 30%; padding: 5px;">Preference claimed for Targeted Enterprise status (Y=yes)</th> </tr> </thead> <tbody> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> </tbody> </table> <p style="margin-top: 10px;">The undersigned, who warrants that he / she is duly authorised to do so on behalf of the firm or sole proprietor confirms that he / she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.</p> <p>Signature : .....</p> <p>Name : .....</p> <p>Duly authorised to sign on behalf of : .....</p> <p>Telephone : .....</p> <p>Fax : .....</p> <p>Date : .....</p>	Category of Targeted Enterprise	Percentage of maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)	Preference claimed for Targeted Enterprise status (Y=yes)									
Category of Targeted Enterprise	Percentage of maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)	Preference claimed for Targeted Enterprise status (Y=yes)										

## Annex E (normative)

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

<b>PREFERENCING SCHEDULE</b> <b>(Direct participation)</b>													
<p><b>1 DEFINITIONS</b></p> <p>The following definitions shall apply to this schedule:</p> <p><i>Insert definition for Targeted Enterprises and / or Targeted Labour in here.</i></p>													
<p><b>2 CONDITIONS ASSOCIATED WITH THE GRANTING OF PREFERENCES</b></p> <p>The Tenderer, undertakes to:</p> <ol style="list-style-type: none"> <li>1) engage one or more Targeted Enterprises / Targeted Labour (adjust as necessary) in accordance with the provisions of the SANS 1914- <i>(insert part number and title as relevant)</i> as varied in Section 3 hereunder;</li> <li>2) deliver to the Employer, within 5 working days of being requested in writing to do so, a completed Joint Venture Disclosure Form (Annex D of SANS 1914-1) and a Joint Venture Agreement, should a joint venture be proposed at prime contract level with Targeted Partners to satisfy Contract Participation Goal undertakings <i>(adjust wording to reflect documentation that is required or delete)</i>;</li> <li>3) deliver to the Employer, within 5 working days of being requested in writing to do so, a Targeted Enterprise Declaration Affidavit in respect of all Targeted Enterprises engaged at prime contract level to satisfy Contract Participation Goal undertakings <i>(delete if not required)</i>;</li> <li>4) accept the sanctions set out in Section 4 below should such conditions be breached;</li> <li>5) complete the Tender Preference Claim Form contained in Section 5 below; and</li> <li>6) complete the Supporting Contract Participation Goal Calculation contained in this schedule.</li> </ol>													
<p><b>3 VARIATIONS TO THE TARGETED CONSTRUCTION PROCUREMENT SPECIFICATION SANS 1914- <i>(insert part number)</i></b></p> <p>The variations to SANS 1914- <i>(insert part number)</i> are set out below. Should any requirements of the variations conflict with requirements of SANS 1914- <i>(insert part number and title as relevant)</i>, the requirements of the variations shall prevail.</p> <p><i>Insert variations if any. If none, insert "There are no variations".</i></p>													
<p><b>4 SANCTIONS</b></p> <p>In the event that the Tenderer fails to substantiate that any failure to achieve the Contract Participation Goal relating to the granting of a preference was due to quantitative under runs, the elimination of items, or any other reason beyond the Contractor's control which may be acceptable to the Employer, it shall be liable to pay to the Employer a financial penalty calculated in the following manner:</p> $P = 0,15 \times \frac{(D - D_o)}{(100)} \times N_A$ <p>where</p> <table style="margin-left: 40px;"> <tr> <td>D</td> <td>=</td> <td>tendered Contract Participation Goal percentage.</td> </tr> <tr> <td>D<sub>o</sub></td> <td>=</td> <td>the Contract Participation Goal which the Employer's representative based on the credits passed, certifies as being achieved upon completion of the Contract.</td> </tr> <tr> <td>N<sub>A</sub></td> <td>=</td> <td>Net Amount</td> </tr> <tr> <td>P</td> <td>=</td> <td>Rand value of penalty payable</td> </tr> </table>		D	=	tendered Contract Participation Goal percentage.	D <sub>o</sub>	=	the Contract Participation Goal which the Employer's representative based on the credits passed, certifies as being achieved upon completion of the Contract.	N <sub>A</sub>	=	Net Amount	P	=	Rand value of penalty payable
D	=	tendered Contract Participation Goal percentage.											
D <sub>o</sub>	=	the Contract Participation Goal which the Employer's representative based on the credits passed, certifies as being achieved upon completion of the Contract.											
N <sub>A</sub>	=	Net Amount											
P	=	Rand value of penalty payable											
<p><b>5 TENDER PREFERENCE CLAIM IN RESPECT OF ENTERPRISE STATUS OR STRUCTURE OF THE TENDERING ENTITY</b></p> <p>I / we hereby tender a Contract Participation Goal of .....% in order to claim a preference.</p>													



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

Signature : .....

Name : .....

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

Telephone : .....

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

**SUPPORTING CONTRACT PARTICIPATION GOAL CALCULATION**

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

## **Annex F** (normative)

### **Standard Conditions of Tender**

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

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

**F.1.1.1** The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

**F.1.1.2** The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

*Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.*

*2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.*

**F.1.1.3** The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

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

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

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

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

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

**F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:

- a) **conflict of interest** means any situation in which:
  - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
  - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or

- iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;
- c) **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;
- d) **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;
- e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body;
- f) **functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service and technical capacity and ability of a tenderer.

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

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

#### **F.1.5 Cancellation and Re-Invitation of Tenders**

F1.5.1 An organ of state may, prior to the award of the tender, cancel a tender if-

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable tenders are received.

F1.5.2 The decision to cancel a tender must be published in the cidb website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

#### **F.1.6 Procurement procedures**

##### **F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

##### **F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall

announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3** At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.

### **F.1.6.3 Proposal procedure using the two stage-system**

#### **F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

#### **F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

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

### **F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

**F.2.2 Cost of tendering**

**F.2.2.1** Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F.2.2.2** The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

**F.2.3 Check documents**

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

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

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

**F.2.5 Reference documents**

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

**F.2.6 Acknowledge addenda**

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

**F.2.7 Clarification meeting**

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

**F.2.8 Seek clarification**

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

**F.2.9 Insurance**

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

**F.2.10 Pricing the tender offer**

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

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

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

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

**F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

**F.2.12 Alternative tender offers**

**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

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

**F.2.12.3** An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

**F.2.13 Submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

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

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

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

signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

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

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

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

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

**F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

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

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

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

**F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

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

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

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

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

**F.2.16.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

**F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

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

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

*Note: Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.*

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

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

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

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

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

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

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

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

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

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

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

#### **F.2.23 Certificates**

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



### **F.3 The employer's undertakings**

#### **F.3.1 Respond to requests from the tenderer**

**F.3.1.1** Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

#### **F.3.2 Issue Addenda**

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

#### **F.3.3 Return late tender offers**

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

#### **F.3.4 Opening of tender submissions**

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

**F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, number of points claimed for its BBBEE status level and time for completion for the main tender offer only.

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

#### **F.3.5 Two-envelope system**

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

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

### **F.3.6 Non-disclosure**

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

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

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

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

**F.3.8.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:

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

**F.3.8.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

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

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

### **F.3.9 Arithmetical errors, omissions and discrepancies**

**F.3.9.1** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:

- i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
- ii) the summation of the prices.

F3.9.2 The employer must correct the arithmetical errors in the following manner:

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

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

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

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

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

##### **F.3.11.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

##### **F.3.11.2 Method 1: Price and Preference**

In the case of a price and preference:

- 1) Score tender evaluation points for price
- 2) Score points for BBBEE contribution
- 3) Add the points scored for price and BBBEE.

##### **F.3.11.3 Method 2: Functionality, Price and Preference**

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.

- 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

The 80/20 preference point system for acquisition of services, works or goods up to Rand value of R1 million

- 4) (a)(i) The following formula must be used to calculate the points for price in respect of tenders( including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R 1 000 000 ( all applicable taxes included):

$$P_s = 80 + 1 \frac{P_t - P_{\min}}{P_{\min}}$$

Where

$P_s$  = Points scored for comparative price of tender or offer under consideration;

$P_t$  = Comparative price of tender or offer under consideration; and

$P_{\min}$  = Comparative price of lowest acceptable tender or offer.

- (4)(a)(ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate:
- (4)(b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (4)(c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)
- (4)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).
- (4)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

**The 90/ 10 preference points system for acquisition of services, works or goods with a Rand value above R 1 million**

- (5)(a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R1 000 000 (all applicable taxes included):

90/10

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for comparative price of tender or offer under consideration;

$P_t$  = Comparative price of tender or offer under consideration; and

$P_{\min}$  = Comparative price of lowest acceptable tender or offer.

(5)(b) Subject to subparagraph(5)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(5)(c) A maximum of 10 points may be allocated in accordance with subparagraph (5)(b).

(5)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (5) (b) must be added to the points scored for price as calculated in accordance with subparagraph (5)(a).

(5)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

### F.3.11.6 Decimal places

Score price, preference and functionality, as relevant, to two decimal places.

### F.3.11.7 Scoring Price

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

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

where:  $N_{FO}$  is the number of tender evaluation points awarded for price.

$W_1$  is the maximum possible number of tender evaluation points awarded for price as stated in the Tender Data.

$A$  is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1 <sup>a</sup>	Option 2 <sup>a</sup>
1	Highest price or discount	$A = (1 + \frac{P - P_m}{P_m})$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 - \frac{P - P_m}{P_m})$	$A = P_m / P$
<sup>a</sup> $P_m$ is the comparative offer of the most favourable comparative offer. $P$ is the comparative offer of the tender offer under consideration.			

**F.3.11.8 Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences.

Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

**F.3.11.9 Scoring functionality**

Score each of the criteria and subcriteria for quality in accordance with the provisions of the Tender Data.

Calculate the total number of tender evaluation points for quality using the following formula:

$$N_Q = W_2 \times S_O / M_S$$

where:  $S_O$  is the score for quality allocated to the submission under consideration;  
 $M_S$  is the maximum possible score for quality in respect of a submission; and  
 $W_2$  is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

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

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

**F.3.13 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any risk and only if the tenderer:

- is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- has the legal capacity to enter into the contract,
- is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by

a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,

- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

#### **F.3.14 Prepare contract documents**

**F.3.14.1** If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

**F.3.14.2** Complete the schedule of deviations attached to the form of offer and acceptance, if any.

#### **F.3.15 Complete adjudicator's contract**

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

#### **F.3.16 Notice to unsuccessful tenderers**

**F.3.16.1** Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

**F.3.16.2** After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

#### **F.3.17 Provide copies of the contracts**

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

#### **F.3.18 Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

#### **F.3.19 Transparency in the procurement process**

**F.3.19.1** The cidb prescripts require that tenders must be advertised and be registered on the cidb i.Tender system.

**F.3.19.2** The employer must adopt a transparency model that incorporates the disclosure and accountability as transparency requirements in the procurement process.

F3.19.3 The transparency model must identify the criteria for selection of projects, project information template and the threshold value of the projects to be disclosed in the public domain at various intervals of delivery of infrastructure projects.

F3.19.4 The client must publish the information on a quarterly basis which contains the following information:

- Procurement planning process
- Procurement method and evaluation process
- Contract type
- Contract status
- Number of firms tendering
- Cost estimate
- Contract title
- Contract firm(s)
- Contract price
- Contract scope of work
- Contract start date and duration
- Contract evaluation reports

F3.19.5 The employer must establish a Consultative Forum which will conduct a random audit in the implementation of the transparency requirements in the procurement process.

F3.19.6 Consultative Forum must be an independent structure from the bid committees.

F3.19.7 The information must be published on the employer's website.

F 3.19.8 Records of such disclosed information must be retained for audit purposes.



**Annex G**  
(normative)

**Alpha-numerics associated with the Contractor Grading Designations**

**Table G1: Contractor grading designations and associated parameters**

<b>Contractor Grading Designation</b>	<b>Tender Value Range designation</b>	<b>Maximum value of contract that a contractor is considered capable of performing (R)</b>
1(class of construction works)	1	200 000
2(class of construction works)	2	650 000
3(class of construction works)	3	2 000 000
4(class of construction works)	4	4 000 000
5(class of construction works)	5	6 500 000
6(class of construction works)	6	13 000 000
7(class of construction works)	7	40 000 000
8(class of construction works)	8	130 000 000
9(class of construction works)	9	No limit

Table G2: Classes of construction work

Description	Designation	Definition	Work types	Examples
Civil engineering works	CE	Construction works that are primarily concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration, or dismantling of building and engineering infrastructure	Water, sewerage, roads, railways, harbours and transport, urban development and municipal services	Structures such as a cooling tower, bridge, culvert, dam, grand stand, road, railway, reservoir, runway, swimming pool, silo or tunnel The results of operations such as dredging, earthworks and geotechnical processes. Township services, water treatment and supply, sewerage works, sanitation, soil conservation works, irrigation works, storm-water and drainage works, coastal works, ports, harbours, airports and pipelines.
Electrical engineering works (infrastructure)	EP	Construction works that are primarily concerned with development, extension, installation, removal, renovation, alteration or dismantling of engineering infrastructure: a) relating to the generation, transmission and distribution of electricity; or b) which cannot be classified as EB.	Electrical power generation, transmission, control and distribution equipment and systems.	Power generation Street and area lighting Substations and protection systems Township reticulations Transmission Lines Supervisory control and data acquisition systems
Electrical engineering works (buildings)	EB	Construction works that are primarily concerned with the installation, extension, modification or repair of electrical installations in or on any premises used for the transmission of electricity from a point of control to a point of consumption, including any article forming part of such an installation	All electrical equipment forming an integral and permanent part of buildings and/or structures, including any wiring, cable jointing and laying and electrical overhead line construction	Electrical installations in buildings Electrical reticulations within a plot of land (erf) or building site Standby plant and uninterrupted power supply Verification and certification of electrical installations on premises
General building works	GB	Construction works that: a) are primarily concerned with the development, extension, installation, renewal, renovation, alteration, or dismantling of a permanent shelter for its occupants or contents; or b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works.	Buildings and ancillary works other than those categorised as being: a) civil engineering works; b) electrical engineering works; c) mechanical engineering works; or d) specialist works.	Buildings for domestic, industrial, institutional or commercial occupancies Car ports Fences other than classified as SS Stores Walls

Description	Designation	Definition	Work types	Examples
<b>Mechanical engineering works</b>	<b>ME</b>	Construction works that are primarily concerned with the development, extension, installation, removal, alteration, renewal of engineering infrastructure for gas transmission and distribution, solid waste disposal, heating, ventilation and cooling, chemical works, metallurgical works, manufacturing, food processing and, materials handling	Machine systems including those relating to the environment of building interiors. a) gas transmission and distribution systems b) pipelines c) solid waste disposal d) materials handling, lifting machinery, heating, ventilation and cooling, pumps, installations e) continuous process systems f) chemical works, metallurgical works, manufacturing, food processing such as that in concentrator machinery and apparatus, oil and gas wells, smelters, cyanide plants, acid plants, metallurgical machinery, equipment and apparatus, and works necessary for the beneficiation of metals, minerals, rocks, petroleum and organic substances or other chemical processes.	Air-conditioning and mechanical ventilation Boiler installations and steam distribution Central heating Centralised hot water generation Cranes and hoists Dust and sawdust extraction Compressed air, gas and vacuum installations Conveyor and materials handling installations Continuous process systems involving chemical works, metallurgical works, oil and gas wells, acid plants, metallurgical machinery, equipment and apparatus, and works necessary for the beneficiation of metals, minerals, rocks, petroleum and organic substances and other chemical processes Kitchen equipment Laundry equipment Lift installations and escalators Refrigeration and cold rooms Waste handling systems (including compactors)
<b>Specialist works</b>	<b>SB</b>	A subset of construction works identified and defined by the Board that involves specialist capabilities for its execution		The extension, installation, repair, maintenance or renewal, or removal, of asphalt
	<b>SC</b>			The development, extension, installation, removal, and dismantling, as relevant, associated with building excavations, shaft sinking and lateral earth support
	<b>SD</b>			The development, extension, installation, repair, renewal, removal, or alteration of corrosion protection systems (cathodic, anodic and electrolytic)
	<b>SE</b>			Demolition of buildings and engineering infrastructure and blasting
	<b>SF</b>			The development, extension, installation, removal, renewal, alteration or dismantling of fire prevention and protection infrastructure (drencher and sprinkler systems and fire installation)
	<b>SG</b>			The development, extension, installation, removal, renewal, alteration or dismantling of glazing, curtain walls and shop fronts
	<b>SH</b>			The development, extension, installation, maintenance, renewal, removal, alteration or dismantling, as relevant, of landscaping, irrigation and horticultural works
	<b>SI</b>			The development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration or dismantling of lifts, escalators, travellers and hoisting machinery
	<b>SJ</b>			The development, installation, removal, or dismantling, as relevant, of piles and other specialized foundations for buildings and structures

Description	Designation	Definition	Work types	Examples
			The installation, renewal, removal, alteration or dismantling, as relevant, road markings and signage	
	SK		The development, extension, installation, renewal, removal, renovation, alteration or dismantling of structural steelwork and scaffolding	
	SL		Timber buildings and structures	
	SM	A subset of construction works identified and defined by the Board that involves specialist capabilities for its execution	The extension, installation, repair, maintenance, renewal, removal, renovation or alteration, as relevant, of the waterproofing of basements, roofs and walls using specialist systems.	
	SN		The development, extension, installation, renewal, removal, alteration or dismantling or demolition of water installations and soil and waste water drainage associated with buildings (wet services, plumbing)	
	SO		The development, extension, installation, repair, removal, alteration, dismantling or demolition of precast concrete or steel fencing	
	SQ			

## **Annex H** (normative)

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

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

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

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

**H.1.1.1** The employer and each respondent submitting an expression of interest shall comply with these conditions for calling for expressions of interest. In their dealings with each other, they shall discharge their duties and obligations as set out in H.2 and H.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anti-competitive practices.

**H.1.1.2** The employer and the respondent and all their agents and employees involved in the submission process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Respondents shall declare any potential conflict of interest in their submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

- Note:*
- 1) *A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.*
  - 2) *Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.*

**H.1.1.3** The respondent shall not make a submission without having a firm intention and the capacity to proceed with the next stage of the procurement process.

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

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

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

**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) **conflict of interest** means any situation in which:

- i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially.
  - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.
  - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- 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

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

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

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

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

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

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

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

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

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

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

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

#### **H.2.5 Clarification meeting**

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

**H.2.6 Seek clarification**

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

**H.2.7 Making a submission**

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

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

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

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

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

**H.2.9 Closing time**

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

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

**H.2.10 Clarification of submission**

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

**H.3 Employer's undertakings****H.3.1 Respond to clarification**

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

**H.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the submission documents to each respondent during the period from the date of the calling for expressions of interest until seven days before the closing time for submissions stated in the submission data. If, as a

result, a respondent applies for an extension to the closing time stated in the submission data, the employer may grant such extension and, shall then notify it to all respondents.

### **H.3.3 Late submissions**

Unless otherwise stated in the submission data, return submissions received after the closing time stated in the submission data, unopened, (unless it is necessary to open a submission to obtain a forwarding address), to the respondent concerned.

### **H.3.4 Opening of submissions**

**H.3.4.1** Record the name of each respondent whose submission is opened and acknowledge receipt of each submission.

**H.3.4.2** Make available the names of the respondents that made submissions prior to the closing time for submissions to all interested persons upon request.

### **H.3.5 Non-disclosure**

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

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

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

### **H.3.7 Test for responsiveness**

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

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

### **H.3.8 Non-responsive submissions**

Reject all non-responsive submissions.

### **H.3.9 Evaluation of responsive submissions**

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

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

### **H.3.10 Provide written reasons for actions taken**

Provide upon request written reasons to respondents for any action that is taken in applying these conditions, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of respondents or might prejudice fair competition between respondents.



## **Annex I (normative)**

### **Selection of subcontractors by employers and contractors**

*Insert the following in the Scope of Work:*

#### **Scope of mandatory subcontract works**

The following portions of the works shall be subcontracted in accordance with the subcontracting procedures described in this scope of work:

.....  
.....

#### **Subcontracting procedures**

The contractor shall advertise and call for competitive tenders in respect of each portion of the works that are required to be subcontracted in terms of the contract in accordance with the relevant provisions of the latest edition of the CIDB Standard for Uniformity in Construction Procurement. The Contract Data in the associated procurement documents shall be based on the .....(*insert title of standard form of subcontract that is to be used*), with minimal project specific variations and amendments that do not change their intended usage.

The Employer together with the Contractor shall evaluate the tenders received in accordance with the provisions of the Standard Conditions of Tender contained in Annex F of Standard for Uniformity in Construction Procurement. The evaluation panel shall comprise equal representatives from the Employer and from the Contractor.

The Contractor shall without delay enter into contract with the successful tendering subcontractor based on their accepted tender submission

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

**Note:** 1. *The cidb Best Practice Guideline D1, Subcontracting Arrangements, provides guidance on the selection of a suitable form of subcontracts.*

1. *Provision in the Pricing Data should be made for provisional sums for portions of the works that are to be subcontracted in this manner.*

**Annex J**  
(normative)

**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><b>Guidance</b></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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**Annex K**  
(normative)

**Record of Addenda to Tender Documents**

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:		
	<b>Date</b>	<b>Title or Details</b>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.

Signed

Date

Name

Position

Tenderer

**Annex L**  
(normative)

**Compulsory Enterprise questionnaire**

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.		
<b>Section 1: Name of enterprise:</b> .....		
<b>Section 2: VAT registration number, if any:</b> .....		
<b>Section 3: cidb registration number, if any:</b> .....		
<b>Section 4: Particulars of sole proprietors and partners in partnerships</b>		
<b>Name*</b>	<b>Identity number*</b>	<b>Personal income tax number*</b>
* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners		
<b>Section 5: Particulars of companies and close corporations</b>		
Company registration number .....		
Close corporation number .....		
Tax reference number .....		
<b>Section 6: The attached SBD4 must be completed for each tender and be attached as a tender requirement.</b>		
<b>Section 7: The attached SBD 6 must be completed for each tender and be attached as a requirement.</b>		
<b>Section 8: The attached SBD8 must be completed for each tender and be attached as a requirement.</b>		
<b>Section 9: The attached SBD9 must be completed for each tender and be attached as a requirement.</b>		
The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise:		
i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;		
ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;		
iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;		
iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and		
iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.		

Signed

Date

Name

Position

Enterprise  
name