



**mandela bay**  
DEVELOPMENT AGENCY  
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**OCTOBER 2023**

**APPOINTMENT OF A PRINCIPAL  
CONTRACTOR:**

**REHABILITATION OF KARIEGA  
(UITENHAGE) RAILWAY SHEDS**

**TENDER NUMBER: MBDA URS 10/23**

**VOLUME 1: TENDERING PROCEDURES**

**A Tender for Category 7GB or higher CIDB Registered Contractors**

**ISSUED BY:**

The Chief Executive Officer  
Mandela Bay Development Agency  
P O Box 74  
Port Elizabeth  
6000  
Contact Person: Pamela Govender  
e-mail: [publictenders@mbda.co.za](mailto:publictenders@mbda.co.za)

Registered Name of Tenderer:	
<b>TRADING NAME OF TENDERER:</b>	
Registration No. of Entity:	
Contact Person:	Central Supplier Database (CSD) number:
Tel. No.:	E-mail Address:
Cell No.:	Fax No:
CIDB CRS Number(s):	

**NOTE:**

*Tenderers must have a CIDB contractor grading designation of 7GB or higher for this tender.*

*The Tenderer is required to return:*

- 1. The original document "Volume 1: Tendering Procedures" (this volume);*
- 2. The original document plus One (1) electronic copy must be uploaded onto the MBDA Vendor Portal of "Volume 2: Returnable Documents," and*
- 3. A complete Bill of Quantities (C2.2) plus One (1) electronic copy must be uploaded onto the MBDA Vendor Portal of "Volume 3: Contract" as a complete tender offer.*

*Failure to do so may result in the disqualification of the tender in accordance with clause 2.14 of the CIDB Standard Conditions of Tender.*

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## **T1.1: TENDER NOTICE AND INVITATION TO TENDER**

### **CONSTRUCTION TENDER**

#### **APPOINTMENT OF A PRINCIPAL CONTRACTOR: REHABILITATION OF KARIEGA (UITENHAGE) RAILWAY SHEDS (MBDA URS 10/23)**

The Mandela Bay Development Agency (MBDA), a municipal entity of the Nelson Mandela Bay Municipality (NMBM) and acting as its development agent, hereby invites contractors to submit tenders for the “APPOINTMENT OF A PRINCIPAL CONTRACTOR: REHABILITATION OF KARIEGA (UITENHAGE) RAILWAY SHEDS (MBDA URS 10/23)

Contractors must have a minimum CIDB grading of **7GB or higher**. In addition, only tenderers who comply with the following functionality criteria will be eligible to submit bids:

<b>Criteria</b>	<b>Minimum Requirement</b>
1. Previous Experience	1.1 Successful completion of at least 2 building projects involving refurbishment work to an existing heritage building up to the value of R40 million per project excluding VAT. Completion certificates and contactable references must be provided.
2. Structural Steelwork Experience	2.1 Successful completion of at least 2 projects consisting of structural steelwork. Completion certificates and contactable references must be provided.
3. Financial Capacity	3.1 Tenderer must demonstrate financial capacity by submitting a bank letter with a bank rating “B”. 3.2 The tenderer shall attach to this form a letter from his/her registered auditor or accountant confirming that the tendering entity has the financial capacity to carry out the implementation of this tender. 3.3 Bids with a value of more than R10 million (VAT included) are required to submit audited financial statements for the past three years or since establishment, if established during the past three years.
Failure to meet the above minimum requirements list above in clauses 1 to 3 and/or the submission of relevant proof and contactable references will deem the Main applicant/JV/Consortium non-responsive.	

The electronic RFP document, outlining the requirements is available for download by prospective bidders from the MBDA website. Alternatively, the electronic RFP document, outlining the requirements will be provided to interested bidders upon an emailed request to [publictenders@mbda.co.za](mailto:publictenders@mbda.co.za) quoting (MBDA URS 10/23) in the subject line as well as company contact details, from Wednesday 25 October 2023. The last date for queries on this tender shall be Friday 17 November 2023. No further queries shall be responded to after this date.

A compulsory briefing session will be held at Nelson Mandela Bay Science & Technology Centre Corner Drostdy Road & Algoa Road, Kariega, 6230 on **Wednesday 01 November 2023 at 10:00**. Bidders are urged to arrive timeously. The onus is on bidders to ensure that they arrive on time. **No attendee(s) joining after 10:15 will be allowed to tender.**

In addition, a compulsory site visit will follow after the briefing session on **Wednesday 01 November 2023**.

The closing date and time is Friday 24 November 2023 at 12:00 where after tenders will be publicly opened at the MBDA offices and via Microsoft Teams. Proposals **MUST** be submitted on one (1) original hard copy placed in a sealed envelope and clearly marked with "APPOINTMENT OF A PRINCIPAL CONTRACTOR: REHABILITATION OF KARIEGA (UITENHAGE) RAILWAY SHEDS (MBDA URS 10/23)". One (1) electronic copy must be uploaded onto the MBDA Vendor Portal by Friday 24 November 2023 by 12h00, if the electronic upload is not possible the bidder must submit a copy on USB. **FAILURE TO SUBMIT THE ORIGINAL HARD COPY AS WELL AS AN ELECTRONIC COPY VIA THE VENDOR PORTAL OR USB WILL DEEM THE BID NON-RESPONSIVE.**

**FAILURE TO SUBMIT AN ORIGINAL HARD COPY AND UPLOAD THE ELECTRONIC COPY ON THE MBDA VENDOR PORTAL WILL DEEM THE BID NON-RESPONSIVE.** All responses must be placed in the MBDA tender box marked MBDA URS 10/23 on the 1st Floor, Tramways Building, Corner Lower Valley Road & South Union Street, Central, Port Elizabeth. Bids may only be submitted on bid documentation provided by the MBDA.

No verbal and / or telephonic queries and clarifications will be entertained by the Agency and must instead be made in writing and will be responded to accordingly. The Agency reserves the right to circulate the questions and answers to all registered parties in the form of a tender bulletin. All queries and clarifications are to be addressed to [publictenders@mbda.co.za](mailto:publictenders@mbda.co.za) the tender reference number MBDA URS 10/23 must clearly be stated on the subject line.

MBDA Office hours are Monday to Friday 08h00 to 16h30.

Telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.

Tenders may only be submitted on the tender documentation that is issued. Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated under Tender Data in the tender document.

Late and incomplete tenders will not be accepted. The only or lowest tender will not necessarily be accepted and the MBDA reserves the right to accept the whole or any portion of a tender, or not to make an appointment.

**PLEASE NOTE**

1. NO BIDS WILL BE CONSIDERED FROM:

- 1.1 PERSONS IN THE SERVICE OF THE STATE (AS DEFINED IN REGULATION 1 OF THE LOCAL GOVERNMENT: MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS)
- 1.2 BIDDER IS OR WAS INVOLVED AS A CONSULTANT IN THE PREPARATION OR IMPLEMENTATION OF THE PROJECT. THE SAME APPLIES TO AN ENTERPRISE OR AN INDIVIDUAL THAT IS CLOSELY CONNECTED TO THE BIDDER UNDER A COMPANY OR GROUP OR SIMILAR BUSINESS LINK, OR TO SEVERAL ENTERPRISES OR INDIVIDUALS OR ASSOCIATED CORRESPONDINGLY.

## T1.2: TENDER DATA

The **Conditions of Tender** are the **Standard Conditions of Tender** as contained in **Annexure F** of the **Construction Industry Development Board's** revised Standard for Uniformity in Construction Procurement promulgated in Government Gazette No. 33239 dated 28 May 2010 (refer to [www.cidb.org.za](http://www.cidb.org.za)).

The Standard Conditions of Tender make several references to the Tender Data which specifically applies to this tender. The Tender Data shall take precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender. Each item of data given below shall be cross-referenced to the Clause in the Standard Conditions of Tender to which it mainly applies.

<i>clause</i>	<i>wording/data</i>
F.1.1.1	The Employer is:  the <b>Mandela Bay Development Agency (MBDA)</b>
F.1.2	Refer to Page 1 of this document for a complete and comprehensive list of all Tender Documents.
F1.2.1	Principal agent: <b>KEON CONSULTING (PTY) LTD</b>
F.2.1	<p>Only those tenderers who are registered with the CIDB, 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 <b>7GB</b> 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 CE 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 CE 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> <p>Tenderers must have a CIDB contractor grading designation of <b>7GB</b> or higher.</p>
F.2.2	<p>Add the following to this Clause:</p> <p>“Accept that the Employer will not compensate the tenderer for any costs incurred in attending tender interviews in the office of the Employer or the Employer’s Agent.”</p>
F.2.3	<p>Amend the Clause to read:</p> <p>“.....and notify the Employer’s Agent of any discrepancy .....”</p> <p>Bidders must examine the bid documents upon receipt to ensure that all pages and drawings (if applicable) are included and are to report any missing pages or drawings.</p> <p>Drawings which are illegible or indistinct, and errors or ambiguities in the Specifications, Schedule of Quantities and Drawings or any contradictions between the specifications, Schedule of Quantities and Drawings must be reported to the Contact Person as listed on</p>



	<p>the cover of this document in order to obtain rulings on such errors, ambiguities or discrepancies.</p> <p>No claim for extras based on such errors, ambiguities or discrepancies will be considered after the opening of bids. Bidders having any queries relating to discrepancies in, omissions from, the bid document shall contact the Employer immediately.</p> <p>If in the case where there is any ambiguity, error or discrepancy raised or noted after the opening of bids, the MBDA reserves the right to make the final determination or interpretation of an item(s) or clause(s) that may be deemed ambiguous, erroneous or discrepant.</p>
F.2.7	<p>The arrangements for the compulsory clarification meeting are:</p> <p>A compulsory briefing session will be held at Nelson Mandela Bay Science &amp; Technology Centre Corner Drosty Road &amp;, Algoa Road, Kariega, 6230 on <b>Wednesday 01 November 2023 at 10:00</b>. Bidders are urged to arrive timeously. The onus is on bidders to ensure that they arrive on time. <b>No attendee(s) joining after 10:15 will be allowed to tender.</b></p> <p>In addition, a compulsory site visit will follow after the briefing session on <b>Wednesday 01 November 2023</b>.</p> <p>It is the onus of the bidders to complete and sign the briefing session attendance register. Failure to sign the attendance register, bidders will be deemed non-responsive.</p> <p><b>Tender documents will not be made available at the clarification meeting.</b></p>
F.2.11	<p>Add the following to this Clause:</p> <p>“In the event of a mistake having been made on the price schedule, it shall be crossed out in non-erasable ink and be accompanied by an initial of each signatory to the Tender at each and every price alteration.”</p> <p>If correction fluid, erasable ink or pencil has been used on any specific item price, such item will not be considered. Corrections in terms of price may not be made by means of correction fluid such as Tippex or similar product.</p> <p><u>No correction fluid, erasable ink or pencil may be used in a Price Schedule where prices are calculated to arrive at a total amount. If correction fluid has been used, the tender as a whole will be classified non-responsive and not be considered.</u></p> <p>The Employer will reject and classify the tender non-responsive if corrections are not made in accordance with the above.”</p>
F.2.12	No alternative offer will be considered.
F.2.13.1 & F.2.13.3	<p>The original completed tender document (refer clause F.1.2), excluding Drawings, shall be returned with all the required information supplied, duly completed in non-erasable ink in all aspects.</p> <p><b>The closing date and time is Friday 24 November 2023 at 12:00 where after tenders will be publicly opened at the MBDA offices and via Microsoft Teams. Proposals MUST be submitted on one (1) original hard copy placed in a sealed envelope and clearly marked with “APPOINTMENT OF A PRINCIPAL CONTRACTOR: REHABILITATION OF KARIEGA (UITENHAGE) RAILWAY SHEDS )”. One (1) electronic copy must uploaded onto the MBDA Vendor Portal by Friday 24 November 2023 by 12h00, if the electronic upload is not possible the bidder must submit a copy on USB.</b></p> <p><b>FAILURE TO SUBMIT THE ORIGINAL HARD COPY AS WELL AS AN ELECTRONIC COPY VIA THE VENDOR PORTAL OR USB WILL DEEM THE BID NON-RESPONSIVE.</b></p>
F.2.13.4	Add the following to this Clause:

	<p>"Only authorised signatories may sign the original and all copies of the tender offer where required in terms of F.2.13.3.</p> <p>In the case of a One-Person Concern submitting a tender, this shall be clearly stated.</p> <p>In case of a company submitting a tender, include a copy of a <b>resolution by its board of directors</b> authorising a director or other official of the company to sign the documents on behalf of the company.</p> <p>In the case of a <b>close corporation</b> submitting a tender, include a copy of a <b>resolution by its members</b> authorising a member or other official of the corporation to sign the documents on each member's behalf.</p> <p>In the case of a <b>partnership</b> submitting a tender, <b>all of the partners</b> shall sign the documents, unless one partner or a group of partners has been authorised to sign on behalf of each partner, in which case <b>proof of such authorisation</b> shall be included in the Tender.</p> <p>In the case of a <b>joint venture/consortium</b> submitting a tender, include a <b>resolution</b> of each company of the joint venture/consortium, together with a <b>resolution by its members</b>, authorising a member of the joint venture/consortium to sign the documents on behalf of the joint venture/consortium.</p> <p>Accept that failure to submit proof of authorisation to sign the tender shall result in a tender offer being regarded as non-responsive."</p>
F.2.13.5	The identification details are stated in the Tender Notice and Invitation to Tender.
F.2.13.6	A two-envelope procedure will not be followed.
F.2.15	<p>The closing date and time as well as the specified address and location of the tender box for submission of tender offers are stated in the Tender Notice and Invitation to Tender.</p> <p>Note that telephonic, telegraphic, telex, facsimile, e-mailed, posted and late tender offers will not be accepted.</p>
F.2.16	The tender offer validity period is <b>120 days</b> . If the expiry coincides with a public holiday, the validity will expire at close of business on the first working day following on the one hundred and twenty (120) days period.
F.2.18	<p>Add the following to this Clause:</p> <p>"The tenderer shall, when requested by the <b>employer</b> to do so, <b>submit the names of all management and supervisory staff</b> that will be employed to <b>supervise the works</b> together with satisfactory evidence that such staff members satisfy the eligibility requirements as required in Part C3."</p>
F.2.19	Access shall be provided by the Tenderer to his premises during working hours for inspections, tests and analysis.
F.2.20	<p>Add the following to this Clause:</p> <p>"The tenderer is required to submit with his tender a Letter of Intent from an approved insurer or Financial Institution undertaking to provide the Performance Guarantee / Bond to the format included under Part T2.2 of the Tender Portion."</p>
F.2.23	The tenderer is required to submit with their tender all the documents, schedules and certificates as listed under T2.1 and T2.2 of the Tender Portion.
F.2.24	<p>Add the following clause:</p> <p>"In the case of a Joint Venture/Consortium; the <b>valid tax compliance certificate</b> must be for the Joint Venture/Consortium or individual valid tax clearance certificates for all the members of the Joint Venture/Consortium."</p>

	<p>In the case of a Joint Venture/Consortium the bidder(s) must indicate who the Joint Venture/Consortium lead will be for the tender.</p> <p>In the case of a Joint Venture/Consortium if bidders do not submit a consolidated BBBEE certificate, the BBBEE certificate of the identified Joint Venture/Consortium lead will be used.</p>
F.2.25	<p>Add the following clause:</p> <p>“Accept that no tenderer shall make any attempt to, either directly or indirectly, canvass any of the employer’s officials or the employer’s agent in respect of his tender during the tender process.</p> <p>No tenderer shall make any attempt to obtain particulars of any relevant information, other than that disclosed at the opening of tenders.”</p>
F.2.26	<p>Add the following clause:</p> <p>“Accept that the Employer is prohibited to award a tender to a bidder if the bidder:</p> <p>Was or is involved as a consultant in the preparation or implementation of the project. The same applies to an enterprise or an individual that is closely connected to the bidder under a company group or similar business link.</p>
F.2.27	<p>Add the following clause:</p> <p>“Accept that the <b>employer</b> is prohibited to award a tender to a person who is <b>in the service of the state</b>;</p> <p>or</p> <p>if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state;</p> <p>or</p> <p>a person who is an advisor or consultant contracted with the municipality or municipal entity.</p> <p>In the service of the state means to be a member of:</p> <ul style="list-style-type: none"> <li>▪ any municipal council;</li> <li>▪ any provincial legislature;</li> <li>▪ the National Assembly or the National Council of Provinces;</li> <li>▪ a member of the board of directors of any municipal entity;</li> <li>▪ an official of any municipality or municipal entity;</li> <li>▪ an employee of any national or provincial department;</li> <li>▪ provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No 1 of 1999);</li> <li>▪ a member of the accounting authority of any national or provincial public entity;</li> <li>▪ an employee of Parliament or a Provincial Legislature.</li> </ul> <p>In order to give effect to the above, the questionnaire for the declaration of interests in the tender for persons in service of state under Part T2 of the Tender Portion must be completed.”</p>
F.2.28	<p>Add the following clause:</p> <p>“Accept that the notes to the employer’s annual F3.8. must disclose particulars of any award of more than R 2 000 to a person who is a spouse, child or parent of a person in the service of the state (refer definition under Clause F2.25), or has been in the service of the state in the previous twelve months, including:</p> <ul style="list-style-type: none"> <li>▪ the name of that person;</li> </ul>

	<ul style="list-style-type: none"> <li>the capacity in which that person is / was in the service of the state; and c) the amount of the award.</li> </ul> <p>In order to give effect to the above, the questionnaire for the declaration of interests in the tender of persons in service of state in Part T2 of the Tender Portion must be completed in full and signed.”</p>
F.2.29	<p>Add the following clause:</p> <p><b>“Scope of Mandatory Subcontract Works</b></p> <p>It is an express condition of this Contract, that the Mandela Bay Development Agency enforce that a minimum of 30% of the contract value, <b>excluding the Principal Contractors P&amp;G’s</b>, Contingencies and VAT, must be subcontracted to Micro Enterprises (SMME’s) residing in <b>Ward 48 of NMBM</b>. Further, this work is to be subcontracted to a Micro Enterprise/s (SMME’s) registered in the correct CIDB grading’s, for the appropriate value of the subcontracted works. Post appointment, the subcontract agreement, must clearly state the scope of the work to be subcontracted, as well as the agreed rates for which the subcontractor will be paid.</p> <p>The successful bidder <u>MUST</u> submit signed sub-contract agreement, with rates, after receiving an appointment letter and have submitted an acceptance letter within 30 days.</p>
F.2.30	<p>Add the following clause:</p> <p><b>“Employment Contracts</b></p> <p>Accept that successful tenderers shall be obliged to conclude employment contracts with their employees failing which the MBDA reserves the right to terminate the awarded contracts.”</p>
F.2.31	<p>Add the following clause:</p> <p><b>“Remuneration</b></p> <p>Accept that successful tenderers shall pay their workers a remuneration not less than that recommended and regulated by the Department of Labour.”</p>
F.2.32	<p>Add the following clause:</p> <p><b>“Municipal Rates Clearance Certificate</b></p> <p>Accept that no contract will be awarded to a tenderer who is in arrears for more than three months (or who fails to make suitable arrangements to settle the arrears) in respect of municipal rates and other charges due any municipality.</p> <p>Should the tender amount be more than R 10 million, the period for arrears reduces to one month.”</p>
F.3.1.1	<p>Amend the wording “five working days” to read “seven working days.”</p> <p>Working days shall be as per a normal working week, Monday to Friday between the hours of 08h00 and 17h00 and shall exclude all gazetted public holidays as well as the year-end break as defined by SAFCEC.</p>
F.3.2	<p>Amend the wording “three days” to read “three working days.”</p>
F.3.4.1	<p>The time and place for the opening of valid tender submissions are stated in the Tender Notice and Invitation to Tender.</p>
F.3.5	<p>A two-envelope procedure will not be followed.</p>

F.3.9.1	<p>Add the following clause:</p> <p>Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words in pronunciation shall govern.</p>								
F.3.11.1	<p>Tenders will be evaluated in terms of the Mandela Bay Development Agency Supply Chain Management Policy as adopted in 2023.</p> <p>The method for the evaluation of responsive tenders shall be Method 2: Financial Offer and Preference as described under Clause F.3.11.3.</p>								
F.3.11.7	<p>The financial offer shall be scored using Formula 2, Option 1 within Table F.1 with the value of <math>W_1 = 90</math>.</p>								
F.3.11.8	<p>Up to 100 minus <math>W_1</math> tender evaluation points will be awarded to tenderers on the basis of the data supplied under Part 2 – Returnable Documents of the Tender Portion.</p> <p>Tender evaluation to responsive tenderers who complete the Referencing Form MBD 6.1: Preference Points Claim Form in terms of the Preferential Procurement Regulations 2022 who are found to be eligible for the preference claimed points will be awarded</p> <p>Preference points can only be obtained by submitting a certified B-BBEE Certificate.</p> <p>Preference points will be awarded to a tenderer for attaining the B-BBEE Status Level of Contribution in accordance with the table below: This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.</p> <p><b>NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022</b></p> <p><b>1. GENERAL CONDITIONS</b></p> <p>1.1 The following preference point systems are applicable to invitations to tender:</p> <ul style="list-style-type: none"> <li>- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and</li> <li>- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).</li> </ul> <p>1.2 The applicable preference point system for this tender is the 80/20 preference point system.</p> <p>1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:</p> <ul style="list-style-type: none"> <li>(a) Price; and</li> <li>(b) Specific Goals.</li> </ul> <p>1.4 The maximum points for this tender are allocated as follows:</p> <table border="1"> <thead> <tr> <th></th><th>POINTS</th></tr> </thead> <tbody> <tr> <td>PRICE</td><td>80</td></tr> <tr> <td>SPECIFIC GOALS</td><td>20</td></tr> <tr> <td><b>Total points for Price and SPECIFIC GOALS</b></td><td><b>100</b></td></tr> </tbody> </table> <p>1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.</p>		POINTS	PRICE	80	SPECIFIC GOALS	20	<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>
	POINTS								
PRICE	80								
SPECIFIC GOALS	20								
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>								

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

A maximum of 80 points is allocated for price on the following basis:

$$Ps = 80 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	7
4	6
5	4
6	4
7	2
8	1
Non-compliant Contributor	0

## 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in table 1 below:

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

**Note to tenderers: The tenderer to indicate how they claim points for each preference point system. This verified**

	The specific goals allocated points in terms of this tender	Points allocation	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Required proof for specific goals claimed
	B-BBEE status contributor	10			B-BBEE certificate confirming B-BBEE level status contribution (refer to table above)
	Enterprise located within the Nelson Mandela Bay municipal area	5			Detailed CSD registration report demonstrating supplier address information together with municipal statement of account or lease agreement or billing clearance certificate
	Enterprise owned by women	3			Detailed CSD registration report / detailed B-BBEE certificate demonstrating women ownership
	Enterprise owned by black youth	2			Detailed CSD registration report / detailed B-BBEE certificate demonstrating black youth ownership
	<b>TOTAL POINTS</b>	<b>20</b>			
	<p>A trust, consortium or joint venture will qualify for points for their B-BBEE Status as a legal entity, provided that the entity submits their B-BBEE Status Level Certificate.</p> <p>A trust, consortium or joint venture will qualify for points for their B-BBEE Status Level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE Scorecard as if as if they were a group structure and that such a consolidated B-BBEE is prepared for every separate tender.</p>				
F.3.13	<p>Replace the entire contents and wording of Clauses F.3.13 e) and F.3.13 f) with the following:</p> <ul style="list-style-type: none"> <li>▪ complies with all legal requirements,</li> <li>▪ is able, in the opinion of the employer, to perform the contract free of conflicts of interest,</li> <li>▪ submits a valid Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations and can provide proof thereof,</li> <li>▪ submits a Letter of Intent from an approved insurer undertaking to provide the Performance Guarantee,</li> </ul>				

	<ul style="list-style-type: none"> <li>▪ is registered with the Construction Industry Development Board in an appropriate contractor grading designation,</li> <li>▪ or any of its directors / shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector, k) has not:</li> <li>▪ abused the Employer's Supply Chain Management System, or</li> <li>▪ failed to perform on any previous contract and has been given a written notice to this effect,</li> <li>▪ has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process and persons in the employ of the state are not permitted to submit tenders or participate in the contract,</li> <li>▪ is registered and in good standing with the compensation fund or with a licensed compensation insurer;</li> <li>▪ has, in terms of the Construction Regulations and the Occupational Health and Safety Act, the necessary competencies and resources to carry out the work safely,</li> <li>▪ or any of its directors, partners or principals is not in arrears for more than 3 months with municipal rates and taxes and municipal service charges;</li> <li>▪ has correctly completed and signed the Form of Offer and Acceptance,</li> <li>▪ is registered with the National Treasury Central Supplier Database (CSD) and</li> <li>▪ is registered with, or provided proof of application for registration, with the Nelson Mandela Bay Municipality's Supplier's Database.</li> </ul> <p>It is an express condition of this Contract, that the Mandela Bay Development Agency enforce that a minimum of 30% of the contract value, excluding the Principal Contractors P&amp;G's, Contingencies and VAT, must be subcontracted to Micro Enterprises (SMME's) residing in <b>Ward 48 of NMBM</b>. Further, this work is to be subcontracted to a Micro Enterprise/s (SMME's) registered in the correct CIDB grading's, for the appropriate value of the subcontracted works. Post appointment, the subcontract agreement, must clearly state the scope of the work to be subcontracted, as well as the agreed rates for which the subcontractor will be paid.</p> <p>The successful bidder <b>MUST</b> submit assigned sub-contract agreement, with rates, after receiving an appointment letter and submitted an acceptance letter within 30 days.</p>
F.3.17	The number of paper copies of the signed contract to be provided by the Employer is one.



<b>STANDARD CONDITIONS OF TENDER</b>
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# CIDB STANDARD CONDITIONS OF TENDER

## CIDB STANDARD CONDITIONS OF TENDER

(August 2019 edition)

As published in Annex C of the Construction Industry Development Board's (CIDB) Standard for Uniformity in Engineering and Construction Works Contracts as published in Board Notice 423 of 2019 in Government Gazette No. 42622 of 08 August 2019.

\* Note that should there be any discrepancies between this reproduction and the original document, the contents of the original document will prevail.

## 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 totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs.

#### **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 36 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**

**F2.2.1** 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.

**F2.2.2** 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.

**F2.10.2** 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 proposall and place the remaining returnable documents in an envelope marked —technical proposall. 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 R50 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 50 000 000 (all applicable taxes included):

$$P_s = 80 \left( 1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

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.

- (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	14
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 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 R50 000 000 (all applicable taxes included):

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

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 BBBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	10
2	9
3	6
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 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<sub>FO</sub>* is the number of tender evaluation points awarded for price.

*W<sub>1</sub>* 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 <sub>m</sub> 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 sub criteria 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:

$$N_Q = W_2 \times S_0 / M_S$$

where:

*S<sub>0</sub> is the score for quality allocated to the submission under consideration;*

*M<sub>S</sub> is the maximum possible score for quality in respect of a submission; and*

*W<sub>2</sub> 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,
- complies with the legal requirements, if any, stated in the tender data, and
- 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.

### **F3.19 Transparency in the procurement process**

**F3.19.1** The CIDB prescripts require that tenders must be advertised and be registered on the CIDB Tender system.

**F3.19.2** 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 DISCLOSE**