



**TWO STAGE TENDER FOR THE APPOINTMENT
OF A PANEL OF CONTRACTORS TO EXECUTE
REHABILITATION OF DERELICT AND
OWNERLESS ASBESTOS MINES**

STAGE 1

CONTRACT MTK 06/2025

VOLUME 1

TENDERING PROCEDURES

**TWO STAGE TENDER FOR THE APPOINTMENT OF A PANEL OF CONTRACTORS TO EXECUTE
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T1.1 Tender notice and invitation to tender

Mintek, on behalf of the Department of Mineral Resources, is in the process of rehabilitating several abandoned mines around the country.

In this regard, Mintek invites tenders for the Appointment of a Panel of Contractors to Execute the Construction of rehabilitating several abandoned mines around the country as provided in the scope of works.

Tenders are available for download from Mintek's website www.mintek.co.za

Queries relating to this tender must be addressed in writing using the dedicated submit query button accessible on the online tender box. Closing date for tender/technical queries is **03 July 2025**.

A compulsory briefing session will take place on the **26 June 2025 at 11:00am**. Venue of the briefing is **Mintek Auditorium, 200 Malibongwe Drive, Strydom Park, Randburg**.

Tenders are to be submitted online using the Online Tender Box that is located on the Tender Notice Page where procurement documentation is downloaded. Detailed instructions for online submission are published on the Online Tender Box. The closing time for the receipt of tenders is **12h00** on the **07 July 2025**.

Telegraphic, telephonic, telex, facsimile, e-mail, physical 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 in the Tender Data.

Bidders should ensure that bids are submitted timeously to the correct portal. Late bids will be rejected. If the bid is late, it will not be accepted for consideration. Bids delivered in any method other than through the method stipulated, will be rejected.

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T1.2 TENDER DATA

T1.2.1 Conditions of Tender

The conditions of tender are the Standard Conditions of Tender as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement (August 2019) as published in Government Gazette No 38960, Board Notice 136 of 2015 of 10 July 2015. (See www.cidb.org.za).

The Standard Conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced to the clause in the Standard Conditions of Tender to which it mainly applies. The Standard Conditions of Tender have been added as an annexure to these tendering procedures.

T1.2.2 Tender Data

The clause numbers in the Tender Data refer to the corresponding clause numbers in the Conditions of Tender (see Annex).

The additional Conditions of Tender are:

Clause number	Tender Data
C.1.1	The Employer is, MINTEK
C.1.2	The tender documents issued by the Employer comprise: Volume 1: Tendering Procedures T1.1 Tender Notice and Invitation to Tender T1.2 Tender Data Returnable Documents T2.1 List of Returnable Documents T2.2 Returnable Schedules, including the Enterprise Declaration Affidavit which may be bound in a separate volume T2.3 List of Returnable Schedules Part 1: Agreement and Contract Data C1.1 Form of Offer and Acceptance C1.2 Contract Data C1.3 Forms of Securities Part 2: Scope of Work C2.1 Scope of Work
C.1.4	The Employer shall mean the Engineer and Employer's agent. The Employer's agent is: Mine Closure and Rehabilitation Company name: Mintek (Pty) Ltd Address: 200 Malibongwe Street, Randburg E-mail address: tenders@mintek.co.za

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Clause number	Tender Data
C1.6.3.2.1 & C.1.6.3.2.2	Proposal procedure using the two stage-system (Option 2) Replace the existing clause with the following: The two-stage system will be used for this tender. Stage 1 (This Tender) Tenderers shall submit in Stage 1 only compliance and technical proposals, and the evaluation will be based on the following. • Compliance – Mandatory pre-qualification – All compliance documents listed in Clause F.2.23 of Additional Conditions of Tender. • Technical requirements – Relevant experience – Similar projects – Experience of key personnel • Company capacity – Plant availability The bidders obtaining the 9 highest number of total points will be awarded panel contracts for a period of 3 years. Mintek reserves the right to dissolve usage of the panel at any point before the 3 year period, from contract award. Stage 2 (To Follow) The employer shall invite only the appointed tenderers to submit tender offers in the second stage, following the issuing of procurement documents. The employer shall evaluate tenders received during Stage 2 in terms of the following: • Price • Specific Goal

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Clause number	Tender Data
C.2.1	Eligibility criteria and requirements: 1) A contract will only be entered into with a Tenderer who has in his employ management and supervisory staff satisfying the requirements of the scope of work for labour-intensive competencies for supervisory and management staff. 2) Information to be submitted with the tender The Tenderer shall, when requested by the Employer to do so, submit the names of all management and supervisory staff that will be employed to supervise the labour-intensive portion of the works together with satisfactory evidence that such staff members satisfy the eligibility requirements. 3) Only those Tenderers who are registered with the Construction Industry Development Board (CIDB) in a contractor-grading equal to or higher than a contractor grading designation 7CE as defined in the Regulations (09 June 2004 and 22 July 2005), in terms of the CIDB Act No 38 of 2000, are eligible to submit tenders for this contract.
C.2.2.2	The Employer shall ensure availability of tender documents on the Mintek webpage: http://www.mintek.co.za.
C.2.7	The arrangements for a compulsory clarification meeting are as stated in the Tender Notice and Invitation to Tender. Tenderers must sign the attendance list in the name of the tendering entity. Addenda will be issued to and tenders will be received only from those tendering entities appearing on the attendance list.
C.2.8	Replace the contents of the clause with the following: “Request clarification of the tender documents, if necessary, by notifying the Employer’s Official indicated in the Tender Notice and Invitation to Tender in writing at least three working days before the closing time stated in the foregoing notice and clause F.2.15.”
C.2.9	Add the following to the clause: “Accept that the submission of a Tender shall be construed as an acknowledgement by the Tenderer that he is satisfied with the insurance cover, the Employer will affect under the contract.”
C.2.12	No alternative offer will be accepted and considered.
C.2.13.1	Submit one tender offer only, either as a single tendering entity or as a member in a single joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works.
C.2.13.3	Tenders must be prepared and submitted as follows: • Zip File 1: Compliance documents • Zip File 2: Tender submission, including all supporting document

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Clause number	Tender Data
C.2.13.5	Tenders shall be submitted electronically via the Mintek Online Tender Box that may be accessed using the same website address identified in the Tender Notice and Invitation to Tender for downloading the tender documents. Identification details for files that are submitted to the Online Tender Box: Files are to be saved with the Tender number and the tenderer's name separated by a dash eg: XXXXX-[tenderername].xxx Only file types specified on the Online Tender Box are to be submitted. Files are not to exceed the file size stipulated on the Online Tender Box.
C.2.15.1	The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.
C.2.16	The tender offer validity period is 90 days from closing date.
C.2.16.1	Add the following to the clause: "If the tender validity expires on a Saturday, Sunday or public holiday, the Tender Offer shall remain valid and open for acceptance until the closure of business on the following working day."
C.2.17	Replace the contents of the clause with the following clause: "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 resulting from the product of the unit rate and the quantity by the adjustment of certain line item totals. No change in the unit rate or prices or substance of the Tender Offer is sought, offered, or permitted. "
C.2.18.1	Add the following new clause: Tax Compliance Status In the case of a Joint Venture/Consortium the tax compliance status must be for the Joint Venture/Consortium or individual tax compliance status for all the members of the Joint Venture/Consortium."
C.2.19	The Tenderer must provide access during working hours to his premises for inspections on request.
C.2.23	The Tenderer is required to submit with his tender the following information: Non-submission of the following will result in your bid being disqualified from further assessment 1) A valid certificate of registration as a type 3 registered asbestos contractor with the Chief Inspector as per Asbestos Abatement Regulation 2020 (as issued by the Department of Labour) • In the case of a Joint Venture, all parties must enter in to a formal agreement that must be submitted with the tender. At least one of the JV partners or the

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Clause number	Tender Data						
	Subcontractor the JV partners have contracted with must have a valid asbestos contractor certificate. - Subcontracting asbestos Contractor: A signed agreement with a certified Asbestos Contractor where tenderers must complete and sign the Pro forma Subcontract Agreement on the Returnable Documents and Schedules T2.4.9. Identifying the asbestos work to be subcontracted. Tenderers must also submit a valid asbestos certificate of the subcontractor. 2) Valid letter of Good Standing with the Department of Labour (COIDA) - The main contractor must submit a valid Letter of Good Standing from the Department of Labour (COIDA). In the case of a JV, all parties must each submit a valid Letter of Good Standing from the Department of Labour (COIDA). 3) Proof of CIDB Grading – Minimum 7CE - The main contractor must submit proof of the required CIDB grading. In the case of a JV, proof of the combined/ calculated CIDB grading of the entities in the JV must be submitted. 4) Site briefing attendance certificate						
C.3.1.1	Replace the contents of the clause with the following: “Respond to a request for clarification received up to three calendar days before the tender closing time stated in the tender data and notify all Tenderers who drew procurement documents”						
C.3.4	Tenders will not be opened in public. Mintek reserves the right not to award the bid to the highest scoring bidder if in the opinion of Mintek, a supplier’s bid presents risk to time, cost or quality.						
C.3.11.1	Add the following contents to clause F.3.11.1: During stage 1 tenders will be evaluated based on the criteria stated below. Preferential points will be considered in stage 2 of the tender. Functionality will be evaluated first (as outlined below) and if the tenderer does not score a minimum total of 75 points for quality, the tenderer will be eliminated and will not be considered further. <table border="1"> <thead> <tr> <th>Main Criteria</th><th>Maximum Score</th></tr> </thead> <tbody> <tr> <td>Experience</td><td>30</td></tr> <tr> <td>Capacity</td><td>25</td></tr> </tbody> </table>	Main Criteria	Maximum Score	Experience	30	Capacity	25
Main Criteria	Maximum Score						
Experience	30						
Capacity	25						

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Clause number	Tender Data								
	<table border="1" data-bbox="336 472 1023 640"> <tr> <td>Mine Health and Safety experience</td><td align="center">15</td></tr> <tr> <td>General approach</td><td align="center">10</td></tr> <tr> <td>Regional development</td><td align="center">20</td></tr> <tr> <td>TOTAL FUNCTIONALITY</td><td align="center">100</td></tr> </table> A detailed breakdown of the technical functionality evaluation criteria has been provided in Table A on page TP.9 to TP.14. "The bid will be evaluated in three (3) stages namely; • Stage 1 – Assess all submissions for completeness and compliance • Stage 2 - Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data Stage 3 - Recommend tenderers with the highest number of tender evaluation points for the appointment into the panel contract, unless there are compelling and justifiable reasons not to do so. The nine (9) highest scoring tenderers will be recommended.	Mine Health and Safety experience	15	General approach	10	Regional development	20	TOTAL FUNCTIONALITY	100
Mine Health and Safety experience	15								
General approach	10								
Regional development	20								
TOTAL FUNCTIONALITY	100								
C.3.13.1	Add the following new clause: Tender offers will only be awarded contract agreements if: - The bidder has provided proof of tax compliance. Tax non-compliance status will result in disqualification of the bid. Bidders are required to submit their unique Personal Identification Number (PIN) issued by SARS to enable Mintek to view the taxpayer's profile and tax status. Where no TCS is available but the bidder is registered on the Central Supplier Database (CSD), a CSD number must be provided for Mintek to verify the bidder's tax compliance. Tax compliance status for all respondents will be verified on tender closing date. - the tenderer submits a letter of intent from an approved insurer undertaking to provide the Performance Guarantee to the format included in Part T2.2.5 of this procurement document - the tenderer is registered with the Construction Industry Development Board in the appropriate contractor grading designation of 7CE or higher; - the tenderer 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; - the tenderer has not: - abused the Employer's Supply Chain Management System; or - failed to perform on any previous contract and has been given a written notice to this effect; - the tenderer 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;								

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	g) the tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer; h) the Employer is reasonably satisfied that the tenderer has, in terms of the Mine Health and Safety Act of 1996, issued the necessary competencies and resources to carry out the work safely; and i) the tenderer: i) has sufficiently substantiated his experience in this type work; ii) has the required and experienced key personnel; and iii) owns or has the ability to rent the primary equipment to effectively and efficiently execute the work. Proof of ownership or a letter from the plant hire company where the equipment will be rented must accompany the tender submission. j) the tenderer has signed Special Conditions document pertaining to Sub-contracting, Target Labour, Skills transfer and has completed the Sub-Contracting section of Empowerment and Preferential Procurement document.
C.3.18	The number of paper copies of the signed contract to be provided by the Employer is one.
	There are no additional conditions of tender.

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Table A: Technical Evaluation Criteria

NO.	CRITERIA	METHOD EVALUATION	POINTS
1	Experience <i>(All experience measures will be assessed on the strength of supporting evidence, i.e. CVs for experience of employees, project completion certificates, testimonials for project work and evidence of completed works)</i>		30
1.1	Experience of tenderer in earth works and civils related to mining projects		9
	Provide completion certificate or testimonial as evidence of project experience and performance in bulk earth works and civils in mining environment. Non-attachment of completion certificates or testimonials will result in a zero score. Testimonials must be on a client's letterhead, signed by the client and include contactable references.	No evidence of experience submitted.	0
		Evidence of relevant work experience indicates 1 project including bulk earth works and civils in mining environment.	3
		Evidence of relevant work experience indicates 2 – 3 projects including bulk earth works and civils in mining environment.	6
		Evidence of relevant work experience indicates 4 or more projects including bulk earth works and civils in mining environment.	9
1.2	Experience of tenderer in slope stabilisation and re-vegetation on mining dumps		6
	Provide completion certificate or testimonial as evidence of experience in slope stabilisation on mining dumps. Non-attachment of completion certificates or testimonial will result in zero score. Testimonials must be on a client's letterhead, signed by the client and include contactable references.	Evidence of relevant work indicates no experience in slope stabilisation and re-vegetation on mining dumps.	0
		Evidence of relevant work indicates 1 project with experience in slope stabilisation and re-vegetation on mining dumps.	4
		Evidence of relevant work indicates 2 or more projects with experience in slope stabilisation and re-vegetation on mining dumps.	6
1.3	Experience of tenderer's employees that will be dedicated to the project		9
	Experience of key personnel committed to this project in civil works, mining rehabilitation projects and/or bulk earthworks projects. Provide detailed CVs and supporting documents.		
1.3.1	Contracts Manager <i>Minimum Qualifications:</i> 1. A Diploma or Bachelor's Degree in Civil Engineering/ Construction Management/	No CV submitted and supporting documents submitted and do not meet minimum qualifications.	0

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NO.	CRITERIA	METHOD EVALUATION	POINTS
	<i>Quantity Surveying from a recognised institution.</i>	3 - 4 years' experience and meet minimum qualifications.	1
	2. <i>Professional registered Civil Engineer with ECSA as a PrEng/PrEng Tech/ or PR ENG Techni.</i>		
	3. <i>or registered with the SACPCMP as a professional construction project manager or a professional construction manager.</i>	5 - 7 years' experience and meet minimum qualifications.	2
	4. <i>Minimum 3 years' experience in managing Civil Engineering projects.</i>	8 or more years' experience and meet minimum qualifications.	4
1.3.2	Site Agent <i>Minimum Qualifications:</i> 1. <i>A Diploma or Bachelor's Degree in Civil Engineering from a recognised institution.</i> 2. <i>Minimum 3 years' experience in managing Civil Engineering projects.</i>	No CV submitted and documents submitted do not meet minimum requirements.	0
		3 - 4 years' experience and meet minimum qualifications.	1
		5 - 7 years' experience and meet minimum qualifications.	2
		8 or more years' experience and meet minimum qualifications.	3
1.3.3	Health & Safety Officer <i>Minimum Qualifications:</i> 1. <i>Minimum National Diploma in Occupational Health and Safety from a recognised institution.</i> 2. <i>Minimum 3 years' experience in Civil Engineering projects.</i>	No CV submitted and documents submitted do not meet minimum requirements.	0
		3 - 4 years' experience and meet minimum qualifications.	1
		5 or more years' experience and meet minimum qualifications.	2
1.4	Experience of key personnel in construction of roads		6

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NO.	CRITERIA	METHOD EVALUATION	POINTS
1.4.1	Contracts Manager <i>Minimum Qualifications:</i> 1. A Diploma or Bachelor's Degree in Civil Engineering/ Construction Management/ Quantity Surveying from a recognised institution. 2. Professional registered Civil Engineer with ECSA as a PrEng/PrEng Tech/or PR ENGTechni. 3. or registered with the SACPCMP as a professional construction project manager or a professional construction manager 4. Minimum 3 years' experience in road construction in steep slopes.	No CV submitted and documents submitted do not meet minimum qualifications.	0
		3 - 4 years' experience and meet minimum qualifications.	1
		5 or more years' experience and meet minimum qualifications.	2
1.4.2	Site Agent <i>Minimum Qualifications:</i> 1. A Diploma or Bachelor's Degree in Civil Engineering from a recognised institution. 2. Minimum 3 years' experience in road construction in steep slopes.	No CV submitted and documents submitted do not meet minimum qualifications.	0
		3 - 4 years' experience and meet minimum qualifications.	1
		5 or more years' experience and meet minimum qualifications.	2
1.4.3	Health and Safety Officer <i>Minimum Qualifications:</i> 1. Minimum National Diploma in Occupational Health and Safety from a recognised institution. 2. Minimum 3 years' experience in road construction in steep slopes.	No CV submitted and documents submitted do not meet minimum qualifications.	0
		3 - 4 years' experience and meet minimum qualifications.	1
		5 or more years' experience and meet minimum qualifications.	2
2	Capacity		25
2.1	Infrastructure & Capacity		15
2.1.1	Ability to provide quantity and type of plant and equipment to be used for works.	Inability to provide evidence of plant/ equipment procurement capability.	0

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NO.	CRITERIA	METHOD EVALUATION	POINTS
	Critical plant: ADT, Tipper Truck, Excavator, Bulldozer, Front-end Loader, Watercart, TLB, Skid Steer Loader.	Tenderer has acceptable evidence of plant /equipment (2 or more of the listed critical plant).	10
	Evidence to be provided: plant ownership documentation (i.e. vehicle ownership certificate), or Signed letter of intent indicating their willingness to engage and procure from local suppliers within the relevant province.	Tenderer has acceptable evidence of plant /equipment (2 or more of the listed critical plant), and Tenderer also commits to procuring key equipment or plant items from local suppliers within the province where the project will ultimately be implemented. Although the final project location is yet to be confirmed, tenderers must demonstrate a proactive intent to support local economic participation. Tenderers are required to submit a signed letter of intent indicating their willingness to engage and procure from local suppliers within the relevant province once the project location is confirmed.	15
2.2	Proposed Project Organisation structure and capability		10
2.2.1	The tenderer should propose the structure and composition of their team i.e. the main disciplines involved, the key staff member/expert responsible for each discipline, and the proposed technical and support staff and site staff. Organogram to state names of personnel. In the case of a joint venture and for the selected sub-contractor, it should indicate how the duties and responsibilities are to be shared.	Project organisation chart not provided or inadequate.	0
		Satisfactory: The organizational chart is complete and detailed. The technical level and composition of the staffing arrangements are adequate.	5
		Good: Besides meeting the “satisfactory” rating, the staff is well balanced, including a well-defined role of the selected sub-contractor i.e. they show complementary skills, clear and defined duties and responsibilities. The names must cross reference to the key personnel stated in criteria 1.3 & 1.4 above.	10
3	Mine Health & Safety experience of tenderer according to mine related legislation		15
3.1	Safety experience of tenderer in mining related construction projects		15
3.1.1	Provide completion certificates or testimonials for mine related projects as evidence of experience in Mine health and safety.	No mine health and safety experience in mining related construction project.	0
		Mine health and safety experience on one (1) mining related construction project.	5
		Mine health and safety experience on 2 to 3 mining related construction projects.	10

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NO.	CRITERIA	METHOD EVALUATION	POINTS
	Testimonials must be on a client's letterhead, signed by the client and include contactable references.	Mine health and safety experience on 4 or more mining related construction projects.	15
4	General Approach		10
4.1	Method & Programme		10
4.1.1	Evaluation will be on the construction programme and methodology. Showing clear logic and understanding.	No programme and methodology submitted / The programme and methodology is irrelevant and unlikely to satisfy project objectives or requirements. The tenderer has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of the project. Programme is sequentially vulnerable to any delay. The programme includes no interim milestones. The programme provides unrealistic timelines for sub-tasks	0
		Satisfactory: The programme and methodology is generic and not tailored to address the specific project objectives and methodology. The approach does not adequately deal with critical characteristics of the project. The quality plan, manner in which risk is to be managed is too generic. Programme is largely sequential and vulnerable to any delay. The programme includes few interim milestones. The programme provides overly optimistic timelines for sub-tasks.	5
		Good: The programme and methodology are specifically tailored to address the specific project objectives. The methodology is sufficiently flexible to accommodate changes that may occur during execution. The quality plan and approach to managing risk is specifically tailored to the critical characteristics of the project. Programme includes a number of tasks completed in parallel making it less vulnerable to delay. The programme includes many interim milestones. The programme provides realistic milestones for sub-tasks.	10
5.	Regional development		20
5.1	Support for local businesses		20
5.1.1	Inclusion of local labour and support for local businesses. Bidders must submit a breakdown plan highlighting the	Breakdown plan has little or no commitment to support local labour and/or local businesses	0

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NO.	CRITERIA	METHOD EVALUATION	POINTS
	percentage of local citizens to be employed and procurement (plant, material, etc.) from the local businesses (within the relevant local municipality once the project location is confirmed).	Breakdown plan includes a firm commitment and a plan to employ local labour and support local businesses (30% of total bid value).	20
TOTAL FUNCTIONALITY		Experience + Capacity + Safety experience + Method & Programme + Regional Development	100

Bidders must meet a minimum threshold of 75% for functionality. The top 9 highest scoring bidders will be appointed on the panel.



ANNEXURE: STANDARD CONDITIONS OF TENDER

(As contained in Annexure C of the CIDB Standard for Uniformity in Construction Procurement)

C.1 General

C.1.1 Actions

C.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 C.2 and C.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

C.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.

C.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.

C.1.2 Tender Documents

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

C.1.3 Interpretation

C.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.

C.1.3.2 These conditions of tender, the tender data and tender schedules which are required for tender evaluation purposes, shall form part of any contract arising from the invitation to tender.

C.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 tenderer 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 tenderer who 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;

C.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.

C.1.5 Cancellation and Re-Invitation of Tenders

C.1.5.1 An employer 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 engineering and construction works specified in the invitation;
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable tenders are received.
- d) there is a material irregularity in the tender process.

C.1.5.2 The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised

C.1.5.3 An employer may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

C.1.6 Procurement procedures

C.1.6.1 General

Unless otherwise stated in the tender data, a contract will, subject to C.3.13, be concluded with the tenderer who in terms of C.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.

C.1.6.2 Competitive negotiation procedure

C.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 C.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of C.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

C.1.6.2.2 All responsive tenderers or at least a minimum of not less than three responsive tenderers that are highest ranked in terms of the evaluation criteria stated in the tender data shall be invited to enter into competitive negotiations based on the principle of equal treatment, keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of C.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.



C.1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the employer to revise their 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.

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

C.1.6.3 Proposal procedure using the two stage-system

C.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.

C.1.6.3.2 Option 2

C.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.

C.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.

C.2 Tenderer's obligations

C.2.1 Eligibility

C.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.

C.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.

C.2.2 Cost of tendering

C.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.

C.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.

C.2.3 Check documents

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



C.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.

C.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.

C.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.

C.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.

C.2.8 Seek clarification

Request clarification of the tender documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the tender data.

C.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.

C.2.10 Pricing the tender offer

C.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 fourteen (14) days before the closing time stated in the tender data.

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

C.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.

C.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.

C.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.

C.2.12 Alternative tender offers

C.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.

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



C.2.12.3 An alternative tender offer must only be considered if the main tender offer is the winning tender.

C.2.13 Submitting a tender offer

C.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 identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.



C.2.15 Closing time

C.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.

C.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.

C.2.16 Tender offer validity

C.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.

C.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.

C.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. If the validity period stated in C.2.16 lapses before the employer evaluating tender, the contractor reserves the right to review the price based on Consumer Price Index (CPI).

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

C.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 C.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.*

C.2.18 Provide other material

C.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.

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

C.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.

C.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. **C.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.

C.2.22 Return of other tender documents



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

C.2.23 Certificates

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

C.3 The employer's undertakings

C.3.1 Respond to requests from the tenderer

C.3.1.1 Unless otherwise stated in the tender Data, respond to a request for clarification received up to five (5) working days before the tender closing time stated in the Tender Data and notify all tenderers who collected tender documents.

C.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.

C.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 (3) working 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 collected tender documents.

C.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.

C.3.4 Opening of tender submissions

C.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.

C.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.

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

C.3.5 Two-envelope system

C.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.

C.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.

C.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.

C.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.

C.3.8 Test for responsiveness

C.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.

C.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.



C.3.9 Arithmetical errors, omissions and discrepancies

C.3.9.1 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 shall govern.

C.3.9.2 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with C.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.

C.3.9.3 Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.

C.3.9.4 Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) 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.

- b) 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.

C.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.

C.3.11 Evaluation of tender offers

The Standard Conditions of Tender standardize the procurement processes, methods and procedures from the time that tenders are invited to the time that a contract is awarded. They are generic in nature and are made project specific through choices that are made in developing the Tender Data associated with a specific project.

Conditions of tender are by definition the document that establishes a tenderer's obligations in submitting a tender and the employer's undertakings in soliciting and evaluating tender offers. Such conditions establish the rules from the time a tender is advertised to the time that a contract is awarded and require employers to conduct the process of offer and acceptance in terms of a set of standard procedures.

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The CIDB Standard Conditions of Tender are based on a procurement system that satisfies the following system requirements:

Requirement

Fair

Qualitative interpretation of goal

The process of offer and acceptance is conducted impartially without bias, providing simultaneous and timely access to participating parties to the same information.

Equitable

Terms and conditions for performing the work do not unfairly prejudice the interests of the parties.

Transparent

The only grounds for not awarding a contract to a tenderer who satisfies all requirements are restrictions from doing business with the employer, lack of capability or capacity, legal impediments and conflicts of interest.

Competitive

The system provides for appropriate levels of competition to ensure cost effective and best value outcomes.

The activities associated with evaluating tender offers are as follows:

- a) Open and record tender offers received
- b) Determine whether or not tender offers are complete
- c) Determine whether or not tender offers are responsive
- d) Evaluate tender offers
- e) Determine if there are any grounds for disqualification
- f) Determine acceptability of preferred tenderer
- g) Prepare a tender evaluation report
- h) Confirm the recommendation contained in the tender evaluation report

C.3.11.1 General

The employer must appoint an evaluation panel of not less than three persons conversant with the proposed scope of works to evaluate each responsive tender offer using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

C.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.

C.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:

- a) is not under restrictions, or has principals who are under restrictions,

preventing participating in the employer's procurement;

- b) 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;

- c) has the legal capacity to enter into the contract;

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d) is not; insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act No. 2008, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her 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.

C.3.14 Prepare contract documents

C.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.

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

C.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.

C.3.16 Registration of the award

An employer must, within twenty-one (21) working days from the date on which a contractor's offer to perform a construction works contract is accepted in writing by the employer, register and publish the award on the cidb Register of Projects.

C.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.

C.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.