



## SAACE – Client Information Sheet

### INFORMATION SHEET No 4 in a Series HOW TO HANDLE REPEAT TENDERS

#### STANDARD CONTRACTS AVAILABLE FROM THE SAACE

SAACE has a number of standard contracts that suit different situations. These are available from the Directorate.

- **SAACE Form of Agreement for Consulting Engineer Services** (see note \*)
- **Trilogy of Documents (Guidelines for the Engagement of Consulting Engineers).**
- **FIDIC Guidelines for Selection of Consultants.**
- **FIDIC Client/Consultant Agreement**
- **FIDIC Short Form Agreement**

\* Note: All equivalent CIDB documentation such as the CIDB Professional Services Contract (March 2004), are available from the CIDB directly.

#### FIND A CONSULTING ENGINEER

SAACE offers a service for clients looking for a suitable consulting engineer through its website or by phoning the office and discussing your needs with staff. A list of firms in your area who may be available to help can be provided.

#### WHAT IT MEANS TO USE AN SAACE CONSULTANT

SAACE members are firms managed by qualified professionals who undertake to abide by a code of ethics, and modern business practice to provide clients with quality service.

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#### What does Repeat Tendering constitute?

The practice of Repeat Tendering occurs when a client body calls for tenders / proposals **within six months**, of tenders / proposals being submitted to it, due to the fact that it made a previous similar call. The call for tenders / proposals must relate to the same or substantially the same project and need not require that such tenders / proposals be priced.

#### Probable cause

The Association believes that the prevalence of this practice is caused by clients calling for proposals / tenders with no actual intention of proceeding, but rather with the intention of testing the market to determine their budget for the project and for obtaining rates. This belief is further strengthened by the fact that the said clients usually target a large number of consulting firms when calling for tenders, rather than following a more focused approach using a well-defined and transparent process of adjudication.

#### Effect

The consulting firms compile and submit detailed price proposals subsequent to which the tender is cancelled by the client. This results in:

- Waste of precious time that could have been utilised in a more productive manner on projects that progress to fruition.
- Waste of money due to the loss of productive time.
- Wasted effort, which may place a damper on the morale of professional and other staff tasked with the compilation of the proposal. This in turn may result in a resistance to submit similar tenders / proposals in future.

#### SAACE Code of Conduct

Section 2.7 of the Code of Conduct requires member firms to “inform the Association of instances of which it becomes aware of a client body putting out a call for proposals for a project within six months of a previous call for the same or substantially the same project.”

#### Steps by SAACE

On notification of a Repeat Tender affecting a member, the Association will engage with the client responsible therefore, requiring them to provide reasons for the cancelling and subsequent re-calling for tenders relating to substantially the same project within a six month period. If it is found that no plausible reasons exist or that the call for tenders was frivolous or in bad faith, the Association will call on its member firms not to respond.

#### Client’s Responsibility

An appeal is therefore made to clients to desist from this practice in the interests of contributing towards a more healthy and sustainable industry better able to serve the needs of South Africa. This is particularly pertinent in our vibrant and growing economy where industry has to deal with capacity problems in the form of skills shortages.

In addition to the above and in terms of the Standard for Uniformity in Construction Procurement,\* clients who may be classified as organs of state\*\* (mostly public sector clients) are prohibited from performing the practice of repeating a call for tenders, after the previous tender process has been cancelled, **within six months**.

\* Note 62 of 2004 (Annex F – F.1.5.2) gazetted in terms of the Construction Industry Development Board Act (Act 38 of 2000)

\*\* Organs of state - see s239 of the Constitution of the Republic of South Africa Act 108 of 1996, for a full definition.