National Treasury Workshop

Application workshop (Day 2)

Standard for Infrastructure Procurement and Delivery Management (SIPDM)

Office of the Chief Procurement Officer

Provincial and Local Government Infrastructure, Intergovernmental Relations

Validation number
CESA-961-01/2020

Credits
2 ECSA CPD credit
# SIPDM Application Workshop (Day 2) outline

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<td>• Group discussion on what are the current frustrations in the procurement system</td>
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<td>• Standard forms of contract</td>
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<td>• Procurement documents</td>
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<td>• Targeted procurement</td>
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<td>• Contract and delivery management</td>
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<td>• Policy for infrastructure procurement and delivery management</td>
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<td>• Linkages with value for money</td>
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</table>
There are three phases to the procurement process (Arrowsmith 2010)

1) a **planning process** which decides where goods or services are to be bought and when

2) **the process of placing a contract following a selection procedure**

3) **the administration of a contract to ensure effective performance**

**Regulatory rules generally focus on the second phase**

- Procurement = government’s activity of purchasing goods and services it needs to carry out its functions” or “the acquisition of goods, construction or services by a procuring entity”

- Value for money = obtaining the goods or services on the best possible terms, typically for a single procurement transaction

- Low risks as there are very few if any uncertainties

**Regulatory rules focus on all three phases when**

- Procurement = process which creates, manages and fulfils contracts

- Value for money = optimal use of resources to achieve intended outcomes

- High risk as lots of uncertainties
Group discussion on what are the current frustrations in the procurement system?

Please sign the register and complete the evaluation forms. Those that request CPD certificates will be issued with such certificates.

Validation number: CESA-961-01/2020
Credits: 2 ECSA CPD credit
**SIPDM infrastructure procurement requirements**

14.1.1 Procurement shall be undertaken in accordance with all applicable legislation and;

a) the relevant requirements of **SANS 10845-1, SANS 10845-2, SANS 10845-3 and SANS 10845-4**;

b) the administrative procedures embedded in the **approved standard forms of contract** identified in this standard; and

c) the provisions of this **standard**.

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**Annexures**

- Annexure A: Record of Addenda to tender documents
- Annexure B: Proposed amendments and qualifications
- Annexure C: Preferencing schedule: Broad Based Black Economic Empowerment Status
- Annexure D: Compulsory Declaration
- Annexure E: Municipal declaration and returnable documents
This part of SANS ISO10845 describes processes, methods and procedures for the establishment within an organization of a procurement system that is fair, equitable, transparent, competitive and cost-effective. This part of SANS ISO 10845 a) describes generic procurement processes around which an employer may develop its procurement system, b) establishes basic requirements for the conduct of an employer’s employees, agents, board members and office bearers when engaging in procurement, c) establishes the framework for the development of an employer’s procurement policy, including any secondary procurement policy, and d) establishes generic methods and procedures for procurements, including those pertaining to disposals.
Fundamentals of a contract

14.1.1 b) Procurement shall be undertaken in accordance with . . . . . . the administrative procedures embedded in the approved standard forms of contract identified in this standard;

SANS 10845-2 defines conditions of contract as “terms that collectively describe the rights and obligations of contracting parties and the agreed procedures for the administration of their contract”.
A standard form of contract or standard contract is published by an authoritative industry body. They provide **fixed terms and conditions** which are deemed to be agreed and are **not subject to further negotiation or amendment** when applied to a particular tender.

The standard forms of contract, apart from dealing with rights and duties of the parties to the contract commonly make provision for matters such as:

- procedures for making **changes to the scope of work** after the formation of a contract;
- procedures to **address the impacts on time, cost and quality or performance of changes made to the scope of work** and the occurrence of events for which the contractor is not at risk;
- the **seeking of instructions** on how to proceed when particular events occur or circumstances arise;
- the **risks which are borne by each party** and how the contractor is compensated for risk events for which he is not at risk;
- how **defects** are to be dealt with;
- procedures for **termination** and the determination of what is due to the contractor upon termination;
- the **certification of amounts due** in terms of the contracts;
- the **certification of delivery or completion of the works**;
- the **actions of an agent of the employer**; and
- **resolution of disputes**.

Standard forms of contract enable tenderers to take into account the **allocation of risks embedded** in such contracts when preparing tenders for infrastructure projects and enables tenders to be evaluated on a comparative basis. There is also no need for tenderers who are familiar with a particular form of contract to price risks arising from uncertainties as to how particular issues will be viewed or handled in terms of the contract.
## Standard forms of contract

**Construction Industry Development Board (CIDB)**
- CIDB Standard professional service contract
- CIDB General conditions of purchase
- CIDB Contract for the Supply and Delivery of Goods
- CIDB General Conditions of Service

**International Federation of Consulting Engineers (FIDIC)**
- FIDIC Short Form of Contract
- FIDIC Conditions of Contract for Construction for Building and Engineering Works designed by the Employer
- FIDIC Conditions of Contract for plant and design-build for electrical and mechanical plant and for building and engineering works, designed by the contractor
- FIDIC Conditions of Contract for EPC Turnkey Projects
- FIDIC Conditions of Contract for Design, Build and Operate Projects

**South African Institution of Civil Engineering (SAICE)**
- SAICE General conditions of contract for construction contracts

**Joint Building Contracts Committee (JBCC)**
- JBCC Principal Building Agreement
- JBCC Minor Works Agreement

**Institution of Civil Engineers (ICE)**
- NEC3 Engineering and Construction Contract
- NEC3 Engineering and Construction Short Contract
- NEC3 Professional Services Contract
- NEC3 Professional Services Short Contract
- NEC3 Term Service Contract
- NEC3 Term Service Short Contract
- NEC3 Supply Contract
- NEC3 Supply short contract

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Note: NEC3 Framework contract, and CESA and SAPOA professional service contracts are not supported!
## Standard forms of contract

Procurement shall be undertaken in accordance with . . . . . . “the administrative procedures embedded in the approved standard forms of contract identified in this standard”

<table>
<thead>
<tr>
<th>Contract type and SANS 10845-2 definition</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engineering and construction contract:</strong> contract for the provision of a combination of goods and services arranged for the development, extension, refurbishment, rehabilitation or demolition of a fixed asset, including building and engineering infrastructure</td>
<td>Engineering and construction work, including any level of design responsibility</td>
</tr>
<tr>
<td><strong>Service contract:</strong> contract for the provision of labour or work, including knowledge-based expertise, carried out by hand or with the assistance of equipment and plant</td>
<td>Professional service – provide services with the skill and care normally used by professionals providing services similar to the required services. Term service involves the maintaining of an existing state for a period of time.</td>
</tr>
<tr>
<td><strong>Supply contract:</strong> contract for the provision of goods, including materials or commodities made available for purchase and, where relevant, associated services</td>
<td>Local and international procurement of high-value goods and related services, if any, including design.</td>
</tr>
</tbody>
</table>

**Short forms of contract** are contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and consultant.

An **order form type of contract** where low-value services on or before a specified date are required.
Fundamentals of a construction works contract

**NEC3 ECC example**

Typically, retention monies are reduced and performance bonds are released at Completion.

**Time line**

- **starting date**
- **access date**
- **Key Dates** - the date by which work is to meet the Condition stated.
- **Completion**
  - when the Contractor has:
    - done all the work which the Works Information states he is to do by the Completion Date and
    - corrected notified Defects which would have prevented the Employer from using the works and Others from doing their work.
- **Employer takes over the works**
- **Defect corrected within defects correction period**
- **Defects Certificate**
- **Final payment**

Failure to achieve Completion in accordance with the contract leads to delay damages.
Failure to achieve a Key Date can result in the Employer recovering additional costs that are incurred.

Amount due assessed at each assessment date
Employer pays amount due
## Standard forms of contract

<table>
<thead>
<tr>
<th>Consideration</th>
<th>NEC3</th>
<th>JBCC</th>
<th>GCC</th>
<th>FIDIC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contracting strategy</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Design by employer</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Red</td>
</tr>
<tr>
<td>Management contract</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Silver</td>
</tr>
<tr>
<td>Develop and construct</td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yellow &amp; Silver</td>
</tr>
<tr>
<td>Design and build</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Pricing strategy</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activity schedule</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Lump sum</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yellow &amp; Silver</td>
</tr>
<tr>
<td>Bill of quantities</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td>Red</td>
</tr>
<tr>
<td>Cost reimbursable</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Target cost</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Contracts are drafted around significantly different objectives and philosophies e.g.

- **master – servant relationship** or collaboration between two experts,
- risk sharing or risk transfer,
- independent or integrated design
- short term relationship based on one sided gain or long-term relationships focused on maximising efficiency and shared value,
- etc

There are a wide range of different contracting approaches and price and cost based pricing strategies with distinctly different risk allocations.

**Need to match form of contract with adopted procurement strategy**
SIPDM requirements:

**14.5.3.1** The standard forms of contract shall be **selected from**, and **be suitable** for use under the conditions described in Table 10.

**14.5.3.2** The **standard forms of contract** shall be used with **minimal contract amendments** which do not change their intended usage and shall only be amended when absolutely necessary to accommodate special needs.

**SANS10845-2** defines scope of work as a *document that specifies and describes the goods, services, or engineering and construction works which are to be provided, and any other requirements and constraints relating to the manner in which the contract work is to be performed*.

Constraints do not belong in the contract data *i.e. document that identifies the applicable conditions of a contract and states the associated contract-specific data*.

**14.5.3.3** Adjudication shall be used to resolve disputes arising during the performance of a contract prior to proceeding to either arbitration or litigation.

**adjudication**: a form of dispute resolution where, unlike other means of resolving disputes involving a third party intermediary, the outcome is a decision by a third party which is binding on the parties in dispute and is final unless and until reviewed by either arbitration or litigation.
Form of offer and acceptance

Offer
The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for . . . . .

THE OFFERED TOTAL OF THE PRICES . . . .

Signature  Witness

Acceptance
By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer’s Offer.

Signature  Witness

Schedule of deviations
1 . . . . . . . .
By the duly authorized representatives signing this agreement, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

SIPDM requirements
14.5.1.2 The Form of Offer and Acceptance contained in Annex B of SANS 10845-2 shall be used, with minimal contract-specific amendments, to form the basis of agreement arising from the solicitation of tender offers.
14.5.1.5 A tenderer’s covering letter shall not be included in the final contract document or referenced in the schedule of deviations. The agreed provisions of such a letter shall be stated in the schedule of deviations.
This part of SANS ISO 10845 establishes, in respect of supply, services and engineering and construction works contracts, at both main and subcontract level,

a) a format for the compilation of
   1) calls for expressions of interest, and
   2) tender and contract documents; and
b) the general principles for compiling procurement documents.

Procurement documents are required primarily to
• solicit tender offers; and
• form the basis for a contract.

1 Scope
2 Terms and definitions
3 General requirements for procurement documents
4 Component documents
   4.1 Division of component documents
   4.2 Calls for expressions of interest
   4.3 Tender documents
   4.4 Contract documents
5 Compiling tender documents
   5.1 General
   5.2 Single-volume approach
   5.3 Three volume approach
   5.4 Guiding principles in applying the format
   5.5 Colour separation of component documents

Annex A (informative) Commentary
Annex B (informative) Example of a form of offer and acceptance
Annex C (informative) Items which should be addressed in the scope of work
Annex D (informative) Standardized procurement documents
SANS 10845-2 – general requirements

Procurement documents shall

a) present requirements in a clear, unambiguous, comprehensive and understandable manner;

b) where required, require respondents to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials for the employer to admit them to an electronic database or invite them to submit tenders should they qualify or be selected to do so;

c) require tenderers to submit particulars sufficient for the employer to evaluate their tenders and to establish their credentials and to assess their capabilities and capacities to perform the contract;

d) set out in a clear, fair, transparent, accountable and unambiguous manner the criteria by which tenders are to be evaluated;

e) define the risks, liabilities and obligations of the parties to the contract and the procedures for the administration of the contract;

f) define the nature, quality and quantity of goods, services or works to be provided in the performance of the contract; and

g) establish the means by which the contractor is paid for the goods, services, engineering and construction works or disposals.

Reportable case 21158/2012, Western Cape High Court

In my view the imperatives of fairness and transparency, laid down in section 217(1) of the Constitution, dictate that prospective tenderers should be properly informed of the tender evaluation criteria to be applied... Furthermore, I consider that it offends against the notion of transparency where a tender adjudicator is left to choose from a smorgasbord of tender evaluation methods... The consequence of the finding that the Tender Document is vague is that the resultant award of the Tender is reviewable for being “otherwise unconstitutional or unlawful” in terms of section 6(2)(i) of PAJA.
Component documents – expressions of interest

An expression of interest is a request for respondents to register their interest:
- in undertaking a specific contract
- to participate in a project or programme,
and to submit their credentials so they may, in terms of the organization’s procurement procedures, be invited to submit a tender offer should they qualify or be selected to do so

Why pre-qualify tenderers?
Ensure that only those tenderers who satisfy stated criteria are admitted to the tender process
Reduce the number of tenders submitted to a manageable number
Apply the CIDB contractor grading system in framework contracts
Admit respondents to an electronic data base

Calls for expressions of interest are used with the nominated and qualified procedures

Nominated procedure
- Establish electronic data base
- Invite tender offers from data base using search criteria and their position
- Reposition on data base after award

Qualified procedure
- Call for expressions of interest
- Prepare short-list
- Invite tenders from shortlist

Used to invite applications for admission to the data base
Used to pre-qualify tenderers or short list tenderers so that they may be invited to submit tenders
# Standard component documents (Expressions of interest)

<table>
<thead>
<tr>
<th>Number</th>
<th>Heading</th>
<th>Function and broad outline of contents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E1: Submission procedures</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E1.1</td>
<td>Notice and invitation to submit an expression of interest</td>
<td>Alerts respondents to submit their credentials in order to be admitted to an electronic database or to be invited to submit tenders should they satisfy the stated criteria.</td>
</tr>
<tr>
<td>E1.2</td>
<td>Submission data</td>
<td>Establishes the rules from the time a call for an expression of interest is advertised to the time that any submission is evaluated.</td>
</tr>
<tr>
<td><strong>E2: Returnable documents</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E2.1</td>
<td>List of returnable documents</td>
<td>Ensures that everything the employer requires a respondent to include in his submission is included in, or returned with, such a submission.</td>
</tr>
<tr>
<td>E2.2</td>
<td>Submission schedules</td>
<td>Contains documents that the respondent is required to complete for the purpose of evaluating submissions.</td>
</tr>
<tr>
<td><strong>E3: Indicative scope of work (where appropriate)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E3</td>
<td>Indicative scope of work</td>
<td>Indicates to respondents what the contract is likely to entail so that they can make an informed decision as to whether or not they wish to respond and, if so, to structure their submission around the likely demands of the project.</td>
</tr>
</tbody>
</table>

14.5.2.5 The **submission data shall reference** the Standard Conditions for the Calling for Expressions of Interest contained in SANS 10845-4.
### Standard component documents (tender)

<table>
<thead>
<tr>
<th>Contents</th>
<th>Function and broad outline of contents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number</strong></td>
<td><strong>Heading</strong></td>
</tr>
<tr>
<td><strong>T1.1</strong></td>
<td>Tender notice and invitation to tender</td>
</tr>
<tr>
<td><strong>T1.2</strong></td>
<td>Tender data</td>
</tr>
<tr>
<td><strong>T2: Returnable documents</strong></td>
<td></td>
</tr>
<tr>
<td><strong>T2.1</strong></td>
<td>List of returnable documents</td>
</tr>
<tr>
<td><strong>T2.2</strong></td>
<td>Returnable schedules</td>
</tr>
</tbody>
</table>

14.5.2.1 The **tender data shall reference** the Standard Conditions of Tender contained in SANS 10845-3

14.5.2.2 The tender offer validity period provided for in the **tender data** shall generally not exceed eight weeks, and in exceptional circumstances shall not exceed 12 weeks

NB standard conditions of tender permit the tender validity period to be extended

14.5.4 **Tender assessment schedules** shall be used to take account of all tendered financial parameters that have an impact upon the final value of the contract
# Standard component documents (contract)

<table>
<thead>
<tr>
<th>Contents</th>
<th>Broad outline of contents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number</strong></td>
<td><strong>Heading</strong></td>
</tr>
<tr>
<td><strong>C1: Agreements and contract data</strong></td>
<td></td>
</tr>
<tr>
<td>C1.1</td>
<td>Form of offer and acceptance</td>
</tr>
<tr>
<td>C1.2</td>
<td>Contract data</td>
</tr>
<tr>
<td><strong>C2: Pricing data</strong></td>
<td></td>
</tr>
<tr>
<td>C2.1</td>
<td>Pricing assumptions</td>
</tr>
<tr>
<td>C2.2</td>
<td>Pricing schedules / Activity schedule / Bill of quantities</td>
</tr>
<tr>
<td><strong>C3: Scope of Work</strong></td>
<td></td>
</tr>
<tr>
<td>C3</td>
<td>Scope of work</td>
</tr>
<tr>
<td><strong>C4: Site information (engineering and construction works contracts only)</strong></td>
<td></td>
</tr>
<tr>
<td>C4</td>
<td>Site information</td>
</tr>
</tbody>
</table>
Standard format for procurement documents

Call for expression of interest
- Notice and Invitation to submit an expression of interest
- Submission Data
- Returnable documents
- Indicative scope of work

Tender documents
- Tender Notice and Invitation to Tender
- Tender Data
- Returnable documents

Contract documents
- Form of Offer and Acceptance
- Contract Data
- Pricing Data
- Scope of work
- Site Information

SANS 10845-3 Standard conditions of tender
SANS 10845-4 Standard conditions for the calling for EOI
SANS 10845-2 proforma document

Standard cidb Standard for Uniformity in Construction Procurement templates where registers apply
Standard returnable documents – see SIPDM

Purpose written
Purpose written in the main by built environment professionals

Standard SANS 10845-3 Standard conditions of tender
Standard form of offer and acceptance
Select standard form of contract listed in the SIPDM
The uniform format for the compilation of procurement documents is based on the principle that there is a complete separation in the component documents that make up a procurement document, i.e. the conditions of tender, the conditions of contract, the specifications and methods of measurement and payment. The separation of component documents in this manner ensures that

a) each subject within a tender and within the subsequent contract can only be addressed once and in only one component document,

b) issues relating to the tender fall away once the contract is in place,

c) changes in conditions of contract do not affect other aspects of the contract, such as specifications, measurement and payment, and

d) changes in measurement and payment systems do not affect other aspects of the contract, such as the conditions of contract and specifications.

The format provided in this part of SANS 10845 requires that:

- stand-alone systems of measurement, independent of specifications, be utilized,
- specifications be written independently from conditions of contract, and
- terms, words and documents that specify and describe the process of tendering not be included in the contract.
**SIPDM requirements**

14.1.5.6 Standard returnable documents for infrastructure procurement contained in annexures A to E shall, where appropriate, form part of the Returnable Documents in procurement documents.

14.1.5.7 Standard documentation issued by a relevant treasury for non-infrastructure procurement shall not be included in infrastructure procurement documents unless they are found to be compatible, and not in conflict with the provisions of a procurement document which complies with the provisions of this standard.

**Annexure A:** Record of Addenda to tender documents

**Annexure B:** Proposed amendments and qualifications

**Annexure C:** Preferencing schedule: Broad Based Black Economic Empowerment Status

**Annexure D:** Compulsory Declaration

**Annexure E:** Municipal declaration and returnable documents

Do not mix documents from different systems
14.5.9 Budgetary items

Provision for budgetary items in procurement documents shall as far as possible be avoided. Assumptions should rather be stated in the pricing data so that they can be priced and adjusted in terms of the contract, should these assumptions be incorrect. Where unavoidable, estimates of the likely costs may be included in the contract to cover identified work or services to be performed by a subcontractor appointed in terms of the contract.

No provision for contingencies or price adjustment for inflation shall be made in the pricing data or included in the contract price at the time that the contract is awarded or an order is issued.

Contingency sum – sum of money budgeted for or included in a contract to cover construction work that can be required but cannot be foreseen or predicted with certainty

<table>
<thead>
<tr>
<th>Activity</th>
<th>Sub-Activity*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administer contracts and confirm compliance with requirements</td>
<td>PG8C Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage</td>
</tr>
<tr>
<td></td>
<td>PG8D Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20% and 30%, respectively</td>
</tr>
</tbody>
</table>

Contingencies are not owned by the contract but are spread across the programme!
CIDB Standard for Uniformity in Construction Procurement

SIPDM only requires the application of the CIDB SFU where the CIDB registers are applied

1. Scope
2. Normative references
3. Definitions
4. Requirements
4.1 General
4.2 Solicitation of tender offers
4.3 Quality
4.4 Procurement documents
4.5 Applying the CIDB register of contractors to public contracts

Annex A: Best practice guidelines
Annex B: Standard Tender Notice and Invitation to Tender
Annex C: Form of offer and acceptance
Annex D: Sample preferencing schedule where direct preferences are granted in respect of targeted enterprise status
Annex E: Sample preferencing schedule where preferences are granted in respect of the direct participation of targeted enterprises and/or labour
Annex F: Standard Conditions of Tender
Annex G: Alpha-numerics associated with the Contractor Grading Designations
Annex H: Standard Conditions for the calling for Expressions of Interest
Annex I: Selection of subcontractors by employers and contractors
Annex J: Standard Notice and Invitation to submit an Expression of Interest
Annex K: Record of Addenda to tender documents
Annex L: Compulsory Enterprise questionnaire

Standard procurement procedures – SANS 10845-1 - Processes, methods and procedures

SANS 10845-2 - Formatting and compilation of procurement documentation

SANS 10845-5 - 8 – targeted procurement procedures

SANS 10845-3– Part 3: Standard conditions of tender

SANS 10845-4– Part 4: Standard conditions for the calling for expressions of interest

SIPDM contains standard forms including B-BBEE preferencing schedule and compulsory declaration

Very outdated

Guidance well embedded in current practice
This part of SANS ISO 10845 sets out standard conditions for the calling for expressions of interest which bind the employer and respondent to behave in a particular manner, a) establish what is required for a respondent to submit a compliant submission, b) make known to respondents the evaluation criteria, and c) establish the manner in which the employer conducts the process of calling for expressions of interest.
# Submission data

<table>
<thead>
<tr>
<th>Clause number</th>
<th>Data</th>
<th>Guidance notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The conditions for the calling for expressions of interest are the standard conditions for calling for expressions of interest as contained in this part of SANS 10845-4. The standard conditions for calling for expressions of interest make several references to the submission data. The submission data shall have precedence in the interpretation of any ambiguity or inconsistency between the submission data and the standard conditions for calling for expressions of interest. Each item of data given below is cross-referenced to the subclause in the standard conditions for calling for expressions of interest to which it mainly applies.</td>
<td>Include in all documents.</td>
</tr>
<tr>
<td>3.1</td>
<td>The employer is</td>
<td>Enter the name of the employer</td>
</tr>
<tr>
<td>3.4</td>
<td>The employer's agent is: Name: ........ Address: ...... Tel: ............... Fax: ............... E-mail: ..........,</td>
<td>Enter data (name of employee or external agent).</td>
</tr>
</tbody>
</table>
SANS 10845-3 sets out standard conditions of tender which:

a) bind the employer and tenderer to behave in a particular manner;

b) establish what a tenderer is required to do in order to submit a compliant tender;

c) make known the evaluation criteria to tenderers; and

d) establish the manner in which the employer conducts the process of offer and acceptance and provide the necessary feedback to tenderers on the outcomes of the process.

tender data
document that establishes the tenderer's obligations in submitting a tender and the employer's undertakings in administering the tender process and evaluating tender offers.

<table>
<thead>
<tr>
<th>Clause number</th>
<th>Data</th>
<th>Guidance notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The conditions of tender are the Standard conditions of tender as</td>
<td>Include in all documents.</td>
</tr>
<tr>
<td></td>
<td>contained in the latest edition of SANS 10845-3.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The standard conditions of tender make several references to the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>tender data for details that apply specifically to this tender. The</td>
<td></td>
</tr>
<tr>
<td></td>
<td>tender data shall have precedence in the interpretation of any</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ambiguity or inconsistency between the tender data and the standard</td>
<td></td>
</tr>
<tr>
<td></td>
<td>conditions of tender.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Each item of data given below is cross-referenced to the clause in</td>
<td></td>
</tr>
<tr>
<td></td>
<td>the standard conditions of tender to which it mainly applies.</td>
<td></td>
</tr>
<tr>
<td>3.1</td>
<td>The employer is ……</td>
<td>Enter name of employer</td>
</tr>
<tr>
<td>4.13 5.5</td>
<td>A two-envelope procedure is required.</td>
<td>Omit if a two-envelope procedure is not required.</td>
</tr>
</tbody>
</table>

See Annex B of SANS 10845-3 for guidance on setting up tender data.
3 General requirements

3.1 Actions
3.2 Tender documents
3.3 Interpretation
3.4 Communication and employer's agent
3.5 Employer's right to accept or reject any tender offer
3.6 Procurement procedures

4 Tenderer's obligations

4.1 Eligibility
4.2 Cost of tendering
4.3 Checking documents
4.4 Confidentiality and copyright of documents
4.5 Reference documents
4.6 Acknowledging addenda
4.7 Clarification meeting
4.8 Seeking clarification
4.9 Insurance
4.10 Pricing the tender offer
4.11 Alterations to documents
4.12 Alternative tender offers
4.13 Tender submissions
4.14 Information and data to be completed in all respects
4.15 Closing time
4.16 Tender offer validity
4.17 Clarification of tender offer after submission
4.18 Other material
4.19 Inspections, tests and analysis
4.20 Submitting securities, bonds, policies, etc.
4.21 Checking final draft
4.22 Returning other tender documents

5 Employer’s undertakings

5.1 Responding to requests from the tenderer
5.2 Issuing addenda
5.3 Returning late tender offers
5.4 Opening of tender submissions
5.5 Two-envelope system
5.6 Non-disclosure
5.7 Grounds for rejection and disqualification
5.8 Test for responsiveness
5.9 Arithmetical errors, omission and discrepancies
5.10 Clarification of a tender offer
5.11 Evaluation of tender offers
5.12 Insurance provided by the employer
5.13 Acceptance of a tender offer
5.14 Preparing contract documents
5.15 Completing adjudicator's contract
5.16 Notice to successful and unsuccessful tenderers
5.17 Providing copies of the contracts
5.18 Returning of tender securities
5.19 Providing written reasons for actions taken

Annex A (informative) Commentary
Annex B (informative) Tender data
Annex C (informative) Evaluating tender offers
Annex D (informative) Example of a tender security
4.1 Eligibility

4.1.1 Submit a tender offer

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

Commentary (see Annex A of SANS 10845-3)

Subclause 4.1 requires the employer to only evaluate tenders that satisfy eligibility criteria. This subclause accordingly allows an employer to introduce minimum qualification or pre-qualification criteria. Failure to satisfy eligibility criteria is a breach of the conditions of tender and, as such, results in instant disqualification.

Eligibility criteria, as such, enable employers to call for tenders without first having to call for and evaluate expressions of interest in terms of the qualified procedure.

Such criteria should be formulated around the capability and capacity to perform the work and the avoidance of conflicts of interest and should not contain any criteria which effectively exclude tenderers who comply with all the requirements of 5.13 for the award of a contract.
5.13 Acceptance of a tender offer
Accept a tender offer should it be considered not to present any unacceptable commercial risk, only if the tenderer
a) is not under restrictions, or has principals who are under restrictions, preventing participation in the employer's procurement,
b) can, as necessary and in relation to the proposed contract, demonstrate the possession of the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and personnel, to perform the contract,
c) has the legal capacity to enter into the contract,
d) is not insolvent, in receivership, bankrupt or being liquidated, does not have affairs administered by a court or a judicial officer, does not have suspended business activities, or is subject to legal proceedings with respect to 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.

Subclause 5.13 establishes the criteria for rejecting offers
Eligibility criteria can be used to screen out those tenderers who will certainly fail to satisfy the provisions of clause 5.13

CIDB standard wording for eligibility criteria in tender data
Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a GB or CE class of construction work, are eligible to have their tenders evaluated.

Joint ventures are eligible to submit tenders provided that:

.............
**CIDB requirements for procurement documents**

The Construction Industry Regulations prohibits a contractor from tendering for construction works contract above his contractor grading designation save by a reasonable margin.

Two letters depicting the **class of construction works** (general building (GB), civil engineering (CE), electrical engineering (buildings (EB) and infrastructure (EP)), mechanical engineering (ME) or specialist category)

**SIPDM requires (14.5.1.1) that the CIDB Standard for Uniformity in Construction Procurement applies to the development of procurement documents where the CIDB registers are applied.**

**Designates potentially emerging status i.e. owned managed and controlled by PDIs** – linked to targeted programmes of development.

**Grading based on turnover, highest value contract completed and available capital**

**a macro risk management tool to support clients**

<table>
<thead>
<tr>
<th>Designation</th>
<th>Upper limit, (R ) of tender value range</th>
<th>Best Annual Turnover (R) (last 2 years)</th>
<th>Largest contract (R) (last 5 years)</th>
<th>Available capital (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>200,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>650,000</td>
<td>1,000,000</td>
<td>130,000</td>
<td>100,000</td>
</tr>
<tr>
<td>3</td>
<td>2,000,000</td>
<td>2,000,000</td>
<td>900,000</td>
<td>650,000</td>
</tr>
<tr>
<td>4</td>
<td>4,000,000</td>
<td>3,250,000</td>
<td>1,500,000</td>
<td>1,300,000</td>
</tr>
<tr>
<td>5</td>
<td>6,500,000</td>
<td>7,800,000</td>
<td>3,000,000</td>
<td>4,000,000</td>
</tr>
<tr>
<td>6</td>
<td>13,000,000</td>
<td>24,000,000</td>
<td>9,000,000</td>
<td>13,000,000</td>
</tr>
<tr>
<td>7</td>
<td>40,000,000</td>
<td>65,000,000</td>
<td>30,000,000</td>
<td>40,000,000</td>
</tr>
<tr>
<td>8</td>
<td>130,000,000</td>
<td>200,000,000</td>
<td>90,000,000</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>No Limit</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Examples of eligibility criteria

**Engineering and construction works**

The tenderer:
- has experience in the construction of roads, sewer, stormwater or water services and can provide at least three contactable references for projects involving such services, each having a value in excess of R7.0 million including VAT satisfactorily completed in the last 3 years.
- has a turnover over during its preceding financial year which is not less than R 18 million.
- is able to provide suitable financial statements for the preceding financial year within 12 months of the financial year end.

**Professional services**

The tenderer has in its full time employ a Principal Consultant (key person) (i.e. the person who will provide the service or under whose active and personal direction, control and supervision the service is to be provided) who is registered as a Professional Engineer (PrEng) in terms of the Engineering Profession Act, 2000 (Act No of 2000) and who has experience in project panning planning for municipal water and waste water projects.

The tendering entity has professional indemnity insurance cover issued by a reputable insurer in an amount of not less than R 3,0 million in respect of a claim without limit to the number of claims.

**SANS 10845-1 requirements**

6.2.5 Eligibility criteria

Any eligibility criteria introduced into the tender data or submission data should generally be based on the demonstration of the following, as necessary:
- professional and technical qualifications;
- professional and technical competence;
- financial resources;
- equipment and other physical facilities;
- expertise and personnel;
- managerial capacity, reliability and experience;
- previous experience in relation to the scope of work;
- where relevant, health and safety history.
5.8 Test for responsiveness
Determine, after opening and before detailed evaluation, whether each tender offer that was properly received

a) complies with the requirements of the standard conditions of tender in this part of ISO 10845,
b) has been properly and fully completed and signed, and
c) is responsive to the other requirements of the tender documents.

A responsive tender is one that conforms to all the terms, conditions, and scope of work of the tender documents, without material deviation or qualification. A material deviation or qualification is one which, in the employer's opinion, would:

d) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the scope of work,
e) significantly change the employer's or the tenderer's risks and responsibilities under the contract, or
f) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

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

3.4 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 read, copied and recorded, and in the language stated in the tender data. 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.

4.17 Clarification of tender offer after submission
Provide clarification of a tender offer during the evaluation of tender offers, in response to a request from the employer to do so.

NOTE Such clarifications can 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.

4.18 Other material
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 being non-responsive.

Supreme Court of Appeal (Reportable Case No.: 20384/2014) Aurecon South Africa (Pty) Ltd v City of Cape Town. . . .it is firmly established in our law that administrative action based on formal or procedural defects is not always invalid and that legal validity is concerned not with technical but also with substantial correctness which should not always be sacrificed to form . . . . That does not mean that administrators may never depart from the system put in place or that deviations will necessarily result in unfairness. But it does mean that, where administrators depart from procedures, the basis for doing so will have to be reasonable and justifiable, and the process of change must be procedurally fair.'
## SANS 10845 – tender evaluation methods

<table>
<thead>
<tr>
<th>Method</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Method 1: Financial offer</td>
<td>Tender offers are ranked from the most favourable to the least favourable comparative offer. The highest ranked tenderer is recommended for the award of the contract.</td>
</tr>
<tr>
<td>Method 2: Financial offer and quality</td>
<td>Quality criteria are scored in the evaluation of tender offers. All offers failing to score the minimum number of points for quality are eliminated. Financial offers are scored and combined with points for quality in terms of a disclosed weighting. The tenderer with the highest number of tender evaluation points is recommended for the award of the contract.</td>
</tr>
<tr>
<td>Method 3: Financial offer and preferences</td>
<td>Tenderers who claim a preference and satisfy the preferencing criteria are assigned a preference score. Financial offers are scored and combined with points for preference in terms of a disclosed weighting. The tenderer with the highest number of tender evaluation points is recommended for the award of the contract.</td>
</tr>
<tr>
<td>Method 4: Financial offer, quality and preferences</td>
<td>Quality, preferences and financial offers are scored as for methods 2 and 3. All three of these scores are combined in terms of a disclosed weighting. The tenderer with the highest number of tender evaluation points is recommended for the award of the contract.</td>
</tr>
</tbody>
</table>

14.1.3 Quality may be evaluated in tender submissions as **other objective criteria** as provided for in the Preferential Procurement Policy Framework Act in accordance with the provisions of SANS 10845-1.

Subject to the Preferential Procurement Policy Framework Act
Differentiators between tenderers

The identification of differentiators is the cornerstone of any competitive selection process. No two contractors or consultants possess:

- the same intellectual abilities, experience or skills; and
- the same capabilities and proficiencies;
- the same ability to embrace objectives relation to transformation and inclusivity.

Proficiency / quality / performance is priced in the financial offer. For example, those consultants who have extensive experience or context-specific knowledge require less time to perform the service than those that don’t but may command a higher staff rate.

Fixed requirements relating to transformative and inclusivity objectives which form part of the scope of work (are included in the financial offer).

Key question – how does one balance these differentiators in the selection of a contractor or consultant through the tender process, given the downstream impact of the services that are provided.
### 14.5.2.4 The procedure for the evaluation of responsive tenders is Method 4

The total number of tender evaluation points ($T_{EV}$) shall be determined in accordance with the following formula.

$$T_{EV} = f_1 \ (N_{FO} + N_P) + f_2 N_Q$$

where $f_1$ and $f_2$ are fractions, $f_1$ equals 1 minus $f_2$ and $f_2$ equals ........

$N_{FO}$ is the number of tender evaluation points awarded for the financial offer made in accordance with 5.11.7 where the score for financial offer is calculated using the following formula

$$A = (1 - (P - Pm) / Pm)$$

and $W_1$ equals .......

1) $N_P$ is the number of tender evaluation points awarded for preferences claimed in accordance with the Preferencing Schedule

$N_Q$ is the number of tender evaluation points awarded for quality offered in accordance with 5.11.9 where $W_2 = 100$.

Up to 100 minus $W_1$ tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.

---

*I consider that the constitutional imperative that the procurement system be cost-effective, means that functionality must necessarily be taken into account in the adjudication of competing tenders and should not be relegated to a mere qualifying criterion. . . . . . The point is simply that functionality should not be ignored in the final adjudication between competing tenders, and should be taken into account within the parameters of the Procurement Act.*

Western Cape High Court, Cape Town, in reportable case No 21158/2012

* Insert 90 where the total estimated value of a contract in Rand exceeds R50 million or 80 where the total estimated value of the contract is less than or equal to R 50 million. Alternatively state the following:

The value of $W_1$ is 90 where the lowest acceptable tender price is greater than R 50 m or 80 if less than or equal to R 50 million.
SANS 10845-1 contains the following provisions

6.2.11.2.1 Quality may only be introduced into the evaluation of tender submissions where it is required to achieve policy objectives in terms of an employer's procurement policy or it is justifiable in terms of procurement outcomes.

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

- relate directly to the goods, services or engineering and construction works that are being procured and to matters that cannot directly be expressed in monetary terms,
- be justifiable in terms of projected procurement outcomes,
- enable the most economically advantageous offer to be established, and
- to the extent that it is practicable, be objective and quantifiable to enable tenders to be compared and assessed objectively.

6.2.11.2.3 To ensure consistency in scoring, members of the evaluation panel should be provided with prompts for judgements or qualitative indicators relating to all quality criteria and any subcriteria that are linked to a specific score. Such prompts should be communicated to respondents or tenderers in procurement documents. The rating of submissions shall be based on the information submitted or, where relevant, from interviews, and not on mere speculation or suspicion or the personal knowledge of a panel member. The scoring of interviews should not form a substantive portion of the overall scoring for quality. Tenderers who score less than a threshold score shall be eliminated from further consideration.

6.2.11.2.2 . . . . . . Quality criteria should not include matters relating to the basic capability or capacity of the tendering entity to perform the contract as this is a commercial risk issue.

A.4.1 Where quality is evaluated, three persons who are fully conversant with the technical aspects of the procurement should undertake such evaluation. Quality should be scored in terms of the prompts for judgement, either individually and averaged or collectively, as appropriate.
Evaluation of tender offers

5.11.1 General
Appoint an evaluation panel to evaluate submissions. Ensure that not less than three persons evaluate quality in terms of 5.11.9.

Reduce each responsive tender offer to a comparative offer and evaluate submissions using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

5.11.2 Method 1: Financial offer

5.11.3 Method 2: Financial offer and quality

5.11.4 Method 3: Financial offer and preferences

5.11.5 Method 4: Financial offer, quality and preferences

5.11.6 Decimal places

5.11.7 Scoring financial offers

5.11.8 Scoring preferences

5.11.9 Scoring quality
The parameters tendered in the Contract Data by the Consultant are to be reduced to a common base for comparative purposes as follows:

Average time charge / hour for tender comparative purposes only

\[ = f_1 \times A + f_2 \times B \times \text{TAC} / 100 / 100 \]

where:

- \( f_1 \) is a weighting factor with a value of 0.55
- \( f_2 \) is a weighting factor with a value of 0.45
- \( A \) is the tendered maximum Rate / hour for staff in C2.2 Staff rates (Rate 1)
- \( B \) is the tendered cents per hour / R100 of total annual cost of employment for staff tendered in C2.2 Staff rates (Rate 2)
- \( \text{TAC} \) is the average total annual cost of employment with a value of R 600 000 which is assumed only for comparative purposes

\[ = 0.55 \times A + 0.45 \times B \times 600 \, 000 / 100 /100 \]

\[ = 0.55 \times \ldots + 0.45 \times \ldots \times 600 \, 000 /100 /100 \]

\[ = \text{R.} \ldots \ldots \ldots \ldots / \text{hour} \]

Assuming that 1000 hours of work are based on Time Charges, the cost of such work will be:

\[ = 1 \, 000 \times \text{R.} \ldots \ldots \ldots \ldots \]

Comparative offer for tender evaluation purposes only:

\[ = \text{R.} \ldots \ldots \ldots \ldots \]
## Evaluating quality in tender offers - example

### Tender data

The quality criteria and maximum score in respect of each of the criteria are as follows:

<table>
<thead>
<tr>
<th>Quality criteria</th>
<th>Subcriteria</th>
<th>Maximum number of points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience of Principal Consultant (key person) (Schedule 1)</td>
<td>Professional profile in relation to the required service</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Experience in relation to the required service</td>
<td>30</td>
</tr>
<tr>
<td>Value add (see Schedule 2)</td>
<td></td>
<td>40</td>
</tr>
<tr>
<td>Maximum possible score for quality ($M_s$)</td>
<td></td>
<td>100</td>
</tr>
</tbody>
</table>

Quality shall be scored by not less than three evaluators in accordance with the abovementioned schedules: The minimum number of evaluation points for quality is 60.

Each evaluation criteria will be assessed in terms of five indicators – no response, poor, satisfactory, good and very good. Scores of 0, 40, 70, 90 or 100 will be allocated to no response, poor, satisfactory, good and very good, respectively. The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score for quality.
Evaluating quality in tender offers - example

Evaluation Schedule 1: Experience of Principal (key person) Consultant

The experience of the Principal Consultant (Key Consultant whose name is stated as such in Part 2 of the Contract Data) will be evaluated i.e. the person who will provide the service or under whose active and personal direction, control and supervision the service is to be provided (see scope of work). This will be undertaken in relation to:

1) Professional profile: professional qualifications, professional experience (total duration of professional activity), level of education and training and positions held which have a bearing on the services which may be required.
2) Experience in relation to the services which may be required in terms of the scope of work

A CV of the Principal Consultant of not more than 4 pages must be attached to this schedule. Each CV should be structured under the following headings . . . . .

Certificates / suitable proof of membership must be attached to this schedule

The scoring will be as follows:

<table>
<thead>
<tr>
<th>Rating / score</th>
<th>General experience and qualifications in relation to the service</th>
<th>Experience in relation to the service</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Tenderer has submitted no information or inadequate information to determine scoring level or does not have an appropriate professional profile or experience.</td>
<td></td>
</tr>
<tr>
<td>Poor (score 40)</td>
<td>Principal Consultant has a limited professional profile</td>
<td>Principal Consultant has limited levels of experience which relates to the proposed scope of work</td>
</tr>
<tr>
<td>Satisfactory (score 70)</td>
<td>Principal Consultant has reasonable professional profile</td>
<td>Principal Consultant has reasonable levels of experience which relates to the proposed scope of work</td>
</tr>
<tr>
<td>Good (score 90)</td>
<td>Principal Consultant has an extensive professional profile</td>
<td>Principal Consultant has extensive levels of experience which relates to the proposed scope of work</td>
</tr>
<tr>
<td>Very good (score 100)</td>
<td>Principal Consultant has outstanding professional profile</td>
<td>Principal Consultant has outstanding levels of experience which relates to the proposed scope of work</td>
</tr>
</tbody>
</table>
**Quality - SANS 10845-1**

**Quality** - totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs.

**Quality most important**

**QUALITY**

Increasing weighting for quality

**Specialist work** requiring considerable innovation, creativity, and expertise or skill (or both) or work that has a high downstream impact.

**Partnering approaches** where the scope of work is ill defined when the partners are selected.

**Complex work** characterized by requirements for higher levels of skills, greater resources or not well-defined inputs and outputs.

**Simple/straight-forward/routine work** where the tasks/activities are of a straightforward nature in terms of which inputs are relatively well known and outputs can be readily defined.

**Quality: price ratios**

**Price least important**

**PRICE**

Increasing weighting of price

**Price most important**

The indicative ratios for design and construct projects are 60:40 to 85:15

<table>
<thead>
<tr>
<th>Type of project</th>
<th>Indicative ranges of quality/financial offer ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Professional services</td>
</tr>
<tr>
<td></td>
<td>Engineering and construction works where contractor is not responsible for the design of such works$^a$</td>
</tr>
<tr>
<td>Feasibility studies and investigations</td>
<td>80:20 to 90:10</td>
</tr>
<tr>
<td>Innovative projects</td>
<td>70:30 to 85:15</td>
</tr>
<tr>
<td></td>
<td>20:80 to 40:60</td>
</tr>
<tr>
<td>Complex projects</td>
<td>60:40 to 80:20</td>
</tr>
<tr>
<td></td>
<td>15:85 to 35:65</td>
</tr>
<tr>
<td>Straightforward projects</td>
<td>30:70 to 60:40</td>
</tr>
<tr>
<td></td>
<td>10:90 to 25:75</td>
</tr>
<tr>
<td>Repeat projects</td>
<td>10:90 to 30:70</td>
</tr>
<tr>
<td></td>
<td>5:95 to 10:90</td>
</tr>
</tbody>
</table>

$^a$ The indicative ratios for design and construct projects are 60:40 to 85:15
Preferencing – approach and price premiums

Total tender evaluation points - financial offer adjusted for a preference \( T_{EV} = N_{FO} + N_P \)

- \( N_P \) is the number of points for preference
- \( N_{FO} = W_1 \times A \)
  - \( N_{FO} \) is the number of tender evaluation points awarded for the financial offer
  - \( W_1 \) is the maximum possible number of tender evaluation points awarded for the financial offer
  - \( A \) is the number calculated using the relevant formula

**Formula 1** \( A = \frac{P_m}{P} \) or **Formula 2** \( A = 1 - \frac{P - P_m}{P_m} \)

- \( P_m \) is the comparative offer of the most favourable comparative offer
- \( P \) is the comparative offer of the tender offer under consideration

A price **premium occurs** where the points of the comparative offer of the tender under consideration \((P)\) adjusted for a preference equals the points of the most favourable tender offer \((P_m)\) adjusted for a preference.

### 90 / 10 points system

<table>
<thead>
<tr>
<th>Difference in ( N_P ) points between ( P ) and ( P_m ) (%)</th>
<th>Multiplier (a) applied to ( P_m ) to tie points ((a \times P_m))</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formula 1</td>
<td>Formula 2</td>
</tr>
<tr>
<td>2,5</td>
<td>1,028</td>
</tr>
<tr>
<td>5</td>
<td>1,059</td>
</tr>
<tr>
<td>7,5</td>
<td>1,091</td>
</tr>
<tr>
<td>10</td>
<td>1,125</td>
</tr>
</tbody>
</table>

### 80 / 20 points system

- Where points are equal, the tenderer with the highest number of points is awarded the contract,

<table>
<thead>
<tr>
<th>Difference in ( N_P ) points between ( P ) and ( P_m ) (%)</th>
<th>Multiplier (a) applied to ( P_m ) to tie points ((a \times P_m))</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formula 1</td>
<td>Formula 2</td>
</tr>
<tr>
<td>5</td>
<td>1,067</td>
</tr>
<tr>
<td>10</td>
<td>1,143</td>
</tr>
<tr>
<td>15</td>
<td>1,231</td>
</tr>
<tr>
<td>20</td>
<td>1,333</td>
</tr>
</tbody>
</table>

**Financial premiums**

Formulas 1 yields a higher premium!
Combining quality, financial offer and preference

Assuming that:
1) Tenderer A scores the highest number of points and is awarded the contract;
2) Tenderer B obtains the lowest score for quality of 60 (minimum) and tenders the lowest financial offer.
3) Tenderer A and B obtain the same number of preference points

The value of $P$ to tie Tenderer A and Tenderer B, based on a 90 / 10 preference points system where $P_m = 100$ can be calculated using the following formula:

$$P = 100 + \frac{f_2}{f_1} / 0.9 \times (Y - 60) \quad \text{or} \quad 100 + \frac{f_2}{f_1} \times 1.1111 \times (Y - 60)$$

Accordingly the maximum premium expressed as a percentage $((P_m / P - 1)) \times 100$ for the financial offer for different weightings and quality scores will be as follows:

<table>
<thead>
<tr>
<th>Max points for $N_Q$</th>
<th>$f_1 / f_2$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0,9 /0,10</td>
</tr>
<tr>
<td>80</td>
<td>2,5%</td>
</tr>
<tr>
<td>85</td>
<td>3,1%</td>
</tr>
<tr>
<td>90</td>
<td>3,7%</td>
</tr>
<tr>
<td>95</td>
<td>4,3%</td>
</tr>
</tbody>
</table>

A difference in preference points will approximately increase or decrease the financial offer to tie by $1.111 \times \Delta / 100$ where $\Delta$ is the difference in preference points.
### Evaluation of tenders (SANS 10845-3)

**Evaluation of submissions**

<table>
<thead>
<tr>
<th>No</th>
<th>Activity</th>
<th>Related clauses in SANS 10845-3</th>
<th>Description</th>
<th>Heading</th>
<th>No.</th>
<th>Heading</th>
<th>No.</th>
<th>Heading</th>
<th>No.</th>
<th>Heading</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Open and record tender offers received</td>
<td>5.4</td>
<td>Opening of tender submissions</td>
<td>5.4</td>
<td>Opening of tender submissions</td>
<td>5.3</td>
<td>Returning late tender offers</td>
<td>4.16</td>
<td>Withdrawal of tenders</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.13</td>
<td>Tender submissions</td>
<td>4.14</td>
<td>Test for responsiveness</td>
<td>4.14</td>
<td>Information and data to be completed in all respects</td>
<td>4.6</td>
<td>Acknowledging addenda</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5.5</td>
<td>Two-envelope system</td>
<td></td>
<td>The employer’s right to accept or reject any tender offer</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Determine whether or not tender offers are complete</td>
<td>5.8</td>
<td>Test for responsiveness</td>
<td>4.14</td>
<td>Information and data to be completed in all respects</td>
<td>4.13</td>
<td>Tender submissions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.13</td>
<td>Tender submissions</td>
<td></td>
<td>Other material</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Determine whether or not tender offers are responsive</td>
<td>4.1</td>
<td>Eligibility</td>
<td>4.12</td>
<td>Alternative tender offers</td>
<td>4.13</td>
<td>Tender securities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.7</td>
<td>Clarification meeting</td>
<td>4.13</td>
<td>Inclusion of certificates</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.10</td>
<td>Pricing the tender offer</td>
<td>4.19</td>
<td>Submitting securities, bonds, policies, etc.</td>
<td>4.13.4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.11</td>
<td>Alterations to documents</td>
<td>4.13</td>
<td>Test for responsiveness</td>
<td>4.20</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**4.2.3.4** Submissions shall be evaluated strictly in accordance with the provisions of the procurement documents (see Annex C of SANS 10845-3 and Annex C of SANS 10845-4, as relevant).
<table>
<thead>
<tr>
<th></th>
<th>Evaluate tender offers</th>
<th>General Method 3 5.11.1 Method 4 5.11.5 Scoring financial offers</th>
<th>5.11.6 5.11.9 Decimal places Scoring quality Scoring preferences 5.12.3 5.12.4 5.12.5 Method 2 Method 3 Method 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Evaluate tender offers</td>
<td>5.11.1 5.11.4 5.11.5 5.11.7</td>
<td>5.11.6 5.11.9 Decimal places Scoring quality Scoring preferences 5.12.3 5.12.4 5.12.5 Method 2 Method 3 Method 4</td>
</tr>
<tr>
<td>5</td>
<td>Determine if there are any grounds for disqualification</td>
<td>5.7 Ground for rejection and disqualification</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Determine acceptability of preferred tenderer</td>
<td>5.13 Acceptance of a tender offer</td>
<td>5.9 Arithmetical errors, omissions and discrepancies 5.10 5.11 Clarification of a tender offer Evaluation of tender offers</td>
</tr>
<tr>
<td>7</td>
<td>Prepare a tender evaluation report</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>8</td>
<td>Confirm recommendation contained in the tender evaluation report.</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
4.2.2 Specific requirements relating to the review of procurement documents

4.2.2.2 The review of procurement documents associated with the negotiation, competitive selection or competitive negotiation procedure shall confirm that:

a) . . . . . . .

b) appropriate prompts for judgement are included in procurement documents in accordance with the requirements of SANS 10845-1 whenever quality is evaluated and scored in the evaluation of calls for expressions of interest or tender offers;

c) . . . . . .

4.2.3 Specific requirements relating to the evaluation of submissions

4.2.3.4 Submissions shall be evaluated strictly in accordance with the provisions of the procurement documents (see Annex C of SANS 10845-3 and Annex C of SANS 10845-4, as relevant). Where quality is evaluated, at least three persons who satisfy the requirements of 4.2.3.2 shall undertake such evaluation. Quality shall be scored in terms of the prompts for judgement, with fixed scores assigned to each prompt, either individually and averaged or collectively, as appropriate.

4.2.3.5 Those involved in the evaluation of submissions shall record their scores for quality against each of the criteria during the process of evaluation, preferably with notes to substantiate the scores. Individuals should record their own markings on a separate sheet. These documents shall be placed on file as an audit trail and may form the basis of any debriefing that takes place.
4.2.3.2 The evaluation report shall be prepared by one or more persons who are conversant with the nature and subject matter of the procurement documents or the framework contract and who are registered as:

- a professional architect or professional senior architectural technologist in terms of the Architectural Profession Act;
- a professional engineer or professional engineering technologist in terms of the Engineering Profession Act;
- a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
- a professional project manager or a professional construction manager in terms of the Project and Construction Management Professions Act; or
- a professional quantity surveyor in terms of the Quantity Surveying Profession Act.

4.2.3.6 Evaluation reports shall be prepared in accordance with the content headings and relevant guidelines contained in Tables 5 or 6 with modifications as necessary where a two envelope, two stage process or competitive negotiation procedure is followed. Such reports shall contain extracts from the procurement documents which are linked to the evaluation of submissions such as eligibility criteria, criteria associated with evaluation methods, preferencing, quality criteria (including prompts for judgement), the method by which tenders are reduced to a common base and lists of returnable documents. Such references shall enable those who are tasked with making decisions based on these documents to do so without having to refer back to submissions in order to understand the content of the report.
Provide an overview of the parameters associated with the solicitation of the tender, preferably in tabular form, including the following as relevant:

- Contract / Project / Tender number
- Contract description
- Contract duration
- Purpose of tender
- Contracting strategy, pricing strategy, form of contract and targeting strategy
- Procurement procedure and method of tender evaluation
- Tender validity expiry date
- Alternative tenders (not permitted or state conditions under which permitted)
- Media in which advertisement was placed, if not a nominated or qualified competitive selection procedure or a restricted competitive negotiations procedure
- Date of advertisement(s)
- Details of clarification meeting, including date and place, if any
- Tender closing date
- Number and title of addenda issued
- Number of tenders received
- Number of responsive tenders
- Recommended tender(s)
- Cost estimate (budget), unless a framework contract
- Lowest responsive and realistic tender used for comparative purposes (tender price, specific goals, etc.)
## Procedure Description

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negotiation procedure</td>
<td>A tender offer is solicited from a single tenderer.</td>
</tr>
</tbody>
</table>

**Conditions which need to be satisfied in order to utilise the negotiated procedure (see SIPDM – Table 8)** Any procurement where:

1. a rapid response is required due to the presence of, or the imminent risk of, **an extreme or emergency situation** arising from human injury or death; human suffering or deprivation of human rights; serious damage to property or financial loss; livestock or animal injury, suffering or death; serious environmental damage or degradation; or interruption of essential services;

2. the required goods, services or works cannot technically or economically be separated from another contract previously performed by a specific contractor;

3. only one contractor has been identified as possessing the necessary experience and qualifications or product to deliver value for money in relation to a particular need;

4. the services, goods or works do not exceed a threshold value stated in Table 9;

5. the service or works being procured are largely identical to work previously executed by that contractor and it is not in the interest of the public or the organ of state to solicit other tender offers;

6. a professional service contract does not exceed a threshold value stated in Table 9 and but can be based on time and proven cost;

7. the nature of the works, goods or services, or the risks attached thereto, do not permit prior overall pricing; or

8. only one responsive tender is received.

<table>
<thead>
<tr>
<th></th>
<th>Schedule 2</th>
<th>Department or a schedule 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>public enterprise</td>
<td>public enterprise</td>
</tr>
<tr>
<td></td>
<td>R 125 000</td>
<td>R 500 000</td>
</tr>
<tr>
<td></td>
<td>Municipality or a municipal entity</td>
<td>R 75 000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedure</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-----------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Competitive selection procedure</td>
<td>Contract is <strong>normally awarded to the contractor who submits the lowest financial offer or obtains the highest number of tender evaluation points.</strong></td>
<td></td>
</tr>
<tr>
<td>A Nominated procedure</td>
<td>Tenderers that satisfy prescribed criteria are entered into an electronic database and are invited to submit tender offers based on search criteria and, if relevant, their position on the database.</td>
<td></td>
</tr>
<tr>
<td>B Open procedure</td>
<td>Tenderers may submit tender offers in response to a public advertisement to do so.</td>
<td></td>
</tr>
<tr>
<td>C Qualified procedure</td>
<td>A call for expressions of interest is advertised. Only those tenderers who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so.</td>
<td></td>
</tr>
<tr>
<td>D Quotation procedure</td>
<td>Tender offers are solicited from not less than three tenderers in any manner the procuring entity chooses, subject to the procedures being fair, equitable, transparent, competitive and cost-effective.</td>
<td></td>
</tr>
<tr>
<td>E Proposal procedure using the two-envelope system</td>
<td>Tenderers submit technical and financial proposals in two envelopes. The financial proposal is only opened should the technical proposal be found to satisfy requirements.</td>
<td></td>
</tr>
<tr>
<td>F Proposal procedure using the two-stage system</td>
<td>Non-financial proposals are called for. Tender offers are then invited from those tenderers that submit acceptable proposals based on revised procurement documents. Alternatively, a contract is negotiated with the tenderer scoring the highest number of evaluation points.</td>
<td></td>
</tr>
<tr>
<td>G Shopping procedure</td>
<td>Written or verbal offers are solicited from three sources. The goods are purchased from the source providing the lowest financial offer once it is confirmed in writing.</td>
<td></td>
</tr>
<tr>
<td>Confined market procedure</td>
<td>Tenders are invited from a very limited number of tenderers who are able to provide goods, services or works which are not freely available in the market, or which are provided solely for the employer in accordance with unique requirements.</td>
<td></td>
</tr>
<tr>
<td>Procedure</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Competitive negotiation procedure</td>
<td>A procurement procedure which reduces the number of tenderers competing for the contract through a series of negotiations until the remaining tenderers are invited to submit final offers.</td>
<td></td>
</tr>
<tr>
<td>Restricted competitive negotiations</td>
<td>A call for expressions of interest is advertised. Only those tenderers who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.</td>
<td></td>
</tr>
<tr>
<td>Open competitive negotiations</td>
<td>Tenderers may submit tender offers in response to an advertisement by the employer to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.</td>
<td></td>
</tr>
</tbody>
</table>

- Used to negotiate to arrive at the **most advantageous offer**
- Negotiations take place through **a number of rounds**
- Elimination based on rankings or tender evaluation scores until the remaining tenderers are invited to submit final offers.
- Negotiations based on:
  - equal treatment of all tenderers
  - no discrimination
- Tenders may be clarified, specified and fine-tuned provided that it does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect on the process.

Use of the competitive negotiation procedure where:
- not feasible to formulate detailed specifications;
- there are a number of options or ways of satisfying procurement needs
- the technical character of the work warrants its use to realise the most satisfactory solution
- the purpose of the contract is research, experiment, study or development;
- all the tenders received in a competitive selection procedure are non-responsive and the calling for fresh tenders is likely to result in a similar outcome
- extreme or emergency situations

The competitive negotiation procedure should only be used where interactions with tenderers are essential to refine aspects of the proposed approach to the contract, the contract data or scope of work.
### Framework for procurement arrangements

**SANS 10845 provides the universe of options**

**Expression of interest**

<table>
<thead>
<tr>
<th>Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Method 1: Financial offer</td>
</tr>
<tr>
<td>Method 2: Financial offer and quality</td>
</tr>
<tr>
<td>Method 3: Financial offer and preferences</td>
</tr>
<tr>
<td>Method 4: Financial offer, quality and preferences</td>
</tr>
</tbody>
</table>

**Prequalification methods**

<table>
<thead>
<tr>
<th>Negotiation procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Nominated procedure</td>
</tr>
<tr>
<td>B Open procedure</td>
</tr>
<tr>
<td>C Qualified procedure</td>
</tr>
<tr>
<td>D Quotation procedure</td>
</tr>
<tr>
<td>E Proposal procedure using the two-envelope system</td>
</tr>
<tr>
<td>F Proposal procedure using the two-stage system</td>
</tr>
<tr>
<td>G Shopping procedure</td>
</tr>
</tbody>
</table>

**Competitive selection procedure**

<table>
<thead>
<tr>
<th>Competitive negotiation procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Restricted competitive negotiations</td>
</tr>
<tr>
<td>B Open competitive negotiations</td>
</tr>
</tbody>
</table>

**Evaluation method**

**Eligibility criteria (if any) – criteria which need to be satisfied in order to have a submission evaluated**

**Opportunities to engage with tenderers during the tender process**
Procurement tactics

Procurement tactics are required to implement procurement strategies. Such tactics relate to the setting up of procurement documents to solicit tender offers and to enter into contracts.

<table>
<thead>
<tr>
<th>Standard conditions</th>
<th>Example of tactical variables</th>
</tr>
</thead>
</table>
| Conditions for the calling for expressions of interest (SANS 10845-4) | Eligibility criteria  
Clarification meetings  
Procedure for the evaluation of submissions |
| Conditions of tender (SANS 10845-3) | Eligibility criteria  
Compensation of tenderers for preparing aspect of the tender  
Main tender offers are not required to be submitted together with alternative tenders  
Tenderers may offer to provide any of the following parts, or combinations thereof, of the works, services or goods  
The procedure for the evaluation of responsive tenders |

Tactics are aimed in the main on the selection of a contractor who is most likely to deliver best value through the performance of the contract, life cycle costs of what is offered, the availability of spares, operation and maintenance requirements etc.

Collaborative contracts require a number of tactical decisions to be made to enable the contract to not only allocate specific risks but also to incentivise performance to achieve best results.

Tactics which may be employed in the setting of the terms and conditions of contracts include price adjustment for inflation, payment in multiple currencies, parent company guarantees, bonus for early completion, delay damages, transfer of rights, performance bonds, partnering arrangements, retention, advance payment to the contractor, low performance damages, limitation of liability, financial incentives for attaining or exceeding a key performance indicator etc.

Procurement documents need to capture the selected procurement strategy and tactics.
14.6 Developmental procurement policy
14.6.1.1 Organs of state shall utilise procurement to promote Broad Based Black Economic Empowerment in accordance with the provisions the Broad Based Black Economic Empowerment Act and, where appropriate, to promote work opportunities for target groups; and national development goals such as those identified by the Presidential Infrastructure Coordinating Commission.

Minimum local content shall be included in contracts in accordance with the Preferential Procurement Regulations issued in terms of the Preferential Procurement Policy Framework Act. Requirements shall be evaluated in tenders through declarations made by tenderers and be included in the scope of work associated with the contract.
**Target procurement procedures**

**Targeted procurement** is the process used to create a demand for the services or goods (or both) of, or to secure the participation of, targeted enterprises and targeted labour in contracts in response to the objectives of a secondary procurement policy (Described in annex G of SANS 10845)

**SIDPM permitted targeted procurement procedures**

- the granting of preferences;
- accelerated rotations on electronic databases;
- the granting of up to 10% of the total number of evaluation points used to short-list tenderers following a call for expressions of interest;
- financial incentives for the attainment of KPIs in the performance of the contract;
- the creation of contractual obligations to engage target groups in the performance of the contract by establishing requirements for the tendering of subcontracts in terms of a specified procedure, or
- establishing obligations to attain contract participation goals in accordance with the relevant provisions of SANS 10845.
A KPI is a quantifiable performance measurement of an individual, group or organisation against strategic or operational objectives

KPIs in procurement relates to targets

KPIs enable financial incentives to be paid, preferences to be applied in the evaluation of tenders or financial incentives to be paid or sanctions including penalties (low performance damages) to be applied

KPIs need to be formulated so that they are contractually enforceable

KPIs in the form of contract participation goals can be used to measure the participation of targeted enterprises, i.e. the flow of money from the contract to the target group. Procedures as to how such goals can be quantified and verified in the performance of the contract need to be included in the contract.

Linking KPIs to contracts – example from NEC3 Engineering and construction contract

**Option X20: Key Performance Indicators**

X20.1 A Key Performance Indicator is an aspect of performance by the Contractor for which a target is stated in the Incentive Schedule. The Incentive Schedule is the incentive schedule unless later changed in accordance with this contract.

X20.2 From the starting date until the Defects Certificate has been issued, the Contractor reports to the Project Manager his performance against each of the Key Performance Indicators. Reports are provided at the intervals stated in the Contract Data and include the forecast final measurement against each indicator.

X20.3 If the Contractor’s forecast final measurement against a Key Performance Indicator will not achieve the target stated in the Incentive Schedule, he submits to the Project Manager his proposals for improving performance.

X20.4 The Contractor is paid the amount stated in the Incentive Schedule if the target stated for a Key Performance Indicator is improved upon or achieved. Payment of the amount is due when the target has been improved upon or achieved.

X20.5 The Employer may add a Key Performance Indicator and associated payment to the Incentive Schedule but may not delete or reduce a payment stated in the Incentive Schedule.
Four level performance based resource specification

**Objective**
Provide business and employment opportunities to specified target groups (enterprises or labour (or both)).

**Performance description**
Engage the target groups indirectly or directly in the performance of the contract.

**Performance parameters**
Engage target groups to the extent that a contract participation goal (a percentage of the value of the contract which represents the inputs of local enterprises or labour (or both) in the performance of the contract) established for the contract is equalled or exceeded.

**Evaluation**
Means of demonstrating that the required performance (contract participation goal) has been achieved.
This part of SANS 10845 establishes a key performance indicator, in the form of a contract participation goal, relating to the engagement of targeted enterprises on a contract for the provision of goods, services or engineering and construction works. A contract participation goal may be used to measure the outcomes of a contract in relation to the engagement of targeted enterprises or to establish a target level of performance for the contractor to achieve or exceed in the performance of a contract.

This part of SANS 10845 sets out the methods by which the key performance indicator is measured, quantified and verified in the performance of the contract in respect of two different targeting strategies: targeting strategy A and targeting strategy B.

The following standards cover different target groups:
- SANS 10845-6: Participation of targeted partners in joint ventures in contracts
- SANS 10845-7: Participation of local resources in contracts
- SANS 10845-8: Participation of targeted labour in contracts
Contract management

Contract management or contract administration, terms which are frequently used interchangeably, relates to the performance of the functions of persons connected with the contract in administering the contract.

A contract manager is the person who performs a contractual role to oversee the employer’s interests and acts on behalf of the employer in terms of the contract. Such a person, depending upon the form of contract that is selected and the severity of the risks carried by both of the parties may be identified in the contract as “principal agent”, “project manager”, “supply manager”, “services manager” or “Engineer” where the risks are high and “Employer’s representative” or “Employer’s delegate” where the risks are low.

Typically, the responsibilities of such a person comprise the management of all actions after the award of a contract including the ensuring of compliance with the terms and conditions, the assessment and certification of contractual payments and risk events, documenting and agreeing any changes to the information provided to the contractor (variations) that may arise during its execution and providing the contractor with information, access or things required in terms of the contract. In engineering and construction works contracts, the contract manager needs to maintain a direct decision making link between the design and construction processes and to communicate to the contractor any changes in information provided or obtain outstanding information.

The contract manager in overseeing the employer’s interests has full authority and obligation to act in terms of the contracts. An assumption is made by the drafters of the contract that the contract manager has the employer’s authority to carry out the actions and make the decisions required of him. His obligations and duties are, however, governed by his contract or relationship with the employer.

Constraints imposed upon the contract manager

PG8 Approval for:
A – waiving of penalties / damages
B – referral of disputes
C – changes to price or time above a margin
D – exceeding authorised price or time
E – cancelation or termination
F – contract amendment
The person responsible for the administration of the contract or an order on behalf of the employer shall:

- act as stated in the contract that is entered into subject to any constraints that may be imposed by the employer or the employer’s supply chain management policy for infrastructure procurement and delivery management, using any standard templates that are provided for communications required in terms of the contract;
- provide at least the following data within two weeks of the award of a contract or an order for capture on a contract management system:
  - retain on a contract file, copies of certificates of insurances, bonds and the like;
  - make an assessment of the amount due;
  - revise the estimates for price adjustment for inflation
  - provide the revised total of the prices or completion date or delivery date for the contract, or an order, for capture on a contract management system;
  - manage, if relevant, the interface between the contractor and those responsible for providing client inputs in terms of certain contracting strategies;
  - develop and maintain a contract risk register;
  - provide a monthly report on events which in terms of the contract cause the total of prices to increase or the contract completion date to be changed;
  - report all insurance claims made within one week of the claim being lodged; and
  - make inputs, if applicable, to the close out report in stage 9 including those relating to cost norms, contractor performance and the attainment of or not of projective objectives.

The person responsible for administering the contract shall as necessary report on a monthly basis on the following:

- . . . . . . .
**Delivery management**

**Implementation plans** relating to new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure which are aligned with the accepted delivery and procurement strategy shall be developed for each project or package which is to be delivered in a financial year. Such a plan shall as necessary:

- identify the **objectives** of each project or programme of projects;
- identify the **scope, budget and schedule** for each project or package;
- outline the **procurement strategy** in respect of each project or package;
- provide a **time management plan for each project** i.e. the baseline against which progress towards the attainment of milestone (key deliverables) target dates can be measured;
- provide the **projected budget and cash flows** which will enable planned and actual expenditure to be compared and revisions to the budget to be approved and multiple project budgets to be managed;
- document the **key success factors and the key performance indicators** which need to be measured, monitored and evaluated;
- contain a **procurement plan** which indicates the time line for advertising and closing of tenders and the obtaining of gate approvals leading up to the award of the contract or the issuing of an order;
- identify the **major risks** and how such risks are to be mitigated or managed;
- indicate **how quality requirements** and expectations are to be met and managed;
- outline the **controls and measures** which will address health, safety, socio-economic or environmental risks;
- provide a **communication plan** which determines the lines of communication and the key activities associated therewith; and
- indicate the **assigned internal and external resources** with implementation responsibilities.

Financial data shall be gathered to enable a financial report to be generated at regular intervals.

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**Stage 1:**

**Infrastructure plan**

**Stage 2:**

**Delivery management / procurement strategy**

**Implementation plan which includes a procurement plan**

Above needs to be put in place ahead of the financial year.

Programme management tool – forms the basis for performance reporting.
Alignment model linked to stages for a typical portfolio of projects

<table>
<thead>
<tr>
<th>Year 0</th>
<th>First MTEF Year</th>
<th>Second MTEF Year</th>
<th>Third MTEF Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>2nd</td>
<td>3rd</td>
<td>4th</td>
</tr>
<tr>
<td>1st</td>
<td>2nd</td>
<td>3rd</td>
<td>4th</td>
</tr>
<tr>
<td>1st</td>
<td>2nd</td>
<td>3rd</td>
<td>4th</td>
</tr>
</tbody>
</table>

*Close out of the contract (and the release of retention monies) can only occur after the expiry of the defects liability period which is usually between 3 and 12 months after completion of the works. In design and construct contracts, this may continue for several years.

Works involving construction, refurbishment, rehabilitation, extension or alteration:
- Stages 3 and 4
- Stages 5 to 9
- Stages 3 to 9
- Stages 5 to 9
- Stages 9*

Works involving planned maintenance, demolitions or design, supply and installation of plant:
- Stages 3 and 4
- Stages 7 to 9
- Stages 3 and 4 plus 7 to 9
- Stages 7 to 9
- Stages 9*
Model SCM Policy for Infrastructure Procurement and Delivery Management

The model policy not only enables the Standard for Infrastructure Procurement and Delivery Management to be implemented but is also aligned with the principles contained in all relevant National Practice Notes and Instruction Notes.

There are unavoidably duplications in supply chain management policies for general goods and services and those for infrastructure delivery management arising from not only regulatory requirements but also an overlap in support functions such as the receipt of bids and advertising of bids.

This model policy document may be issued as a stand-alone policy or as a policy which is supplementary to an institution’s supply chain management system for general goods and services. Where it is issued as a supplementary policy, text should be replaced with cross references to the overarching policy.

In order to distinguish between committees used in the two supply chain management systems, the terms procurement documentation, evaluation and tender committee are used in this document for the corresponding bid specification, bid evaluation and bid adjudication committees referred to in Treasury Regulations.

Standard for Infrastructure Procurement and Delivery Management requires that organisational policy need as a minimum to:

- assign responsibilities for approving or accepting deliverables associated with a gate in the control framework or authorising a tender process;
- establish committees which are required by law or equivalent quality management and governance arrangements;
- establish delegations for the awarding of a contract or the issuing of an order; and
- establish ethical standards for those involved in the procurement and delivery of infrastructure.
Scope and general requirements

Scope

This policy establishes the [name of institution]'s policy for delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

- the storage of goods and equipment following their delivery to [name of institution] which are stored and issued to contractors or to employees;
- the disposal or letting of land;
- the conclusion of any form of land availability agreement;
- the leasing or rental of moveable assets; and
- public private partnerships.

General requirements

3.1 Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition if the National Treasury Standard for Infrastructure Procurement and Delivery Management.

3.2 No departures shall be made from the provisions of the National Treasury Standard for Infrastructure Procurement and Delivery Management without the approval of the National Treasury.

3.3 No departure shall be made from the provisions of this policy without the approval of [delegated person]

3.4 Pre-feasibility and feasibility reports are required on . . . . . .

3.5 Stage 3 to 7 are required for . . . . . . .

Optional requirements – delete if not a requirement

All text in square brackets needs to be populated with the correct data. All footnotes need to be deleted following the completion of the document.
Appointment of others

The identification of person to:

- receive notification of gifts in excess of R 750 (6.1.3.5.5 (e))
- receive report on any incidences of offering of a gratification to improperly influence in any way a procurement process, procedure or decision (6.1.3.5.6)
- receive any allegations of improper conduct (6.1.3.6)
- investigate allegations of corruption, improper conduct or failure to comply with the requirements of the policy (6.1.4)
- Prepare a report and make recommendations for placing the contractor or any of its principals under restrictions (6.1.7.1)
- record the names of those placed under restrictions and undertake the required notifications (6.1.7.3)
- receive complaints regarding the infrastructure delivery management system (6.1.8.1)
- investigate all complaints regarding the infrastructure procurement and delivery management system and produce a report (6.1.8.1)
- decide on what action to take regarding the complain (6.1.8.1)
- receive intention to challenging tax compliance status with SARS (6.2.2.4)
- placement of advertisement (6.2.4.2 and 6.2.4.4)
- publish outcomes of tender processes (6.2.5.1, 6.2.4.2 and 6.2.5.3)
- submit any reports required in terms of the standard to the relevant treasury
- authorise the use of the negotiated procedure above the thresholds provided in the standard (7.5.1)
- authorise the approaching of a confined market except where a rapid response is required in an emergency (7.5.1)
- the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure
- authorise the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure (7.5.1)
- pursue a negotiated procedure in an emergency (7.5.2)
- safeguard the keys for the tender box (7.6.2)
- appoint an opening panel (7.7.1)
- Approve the use of a framework agreement by another organ of state (7.9.2)
- Decide on non-standard provisions of insurance cover (7.10.2, 7.10.4 and 7.10.5)
- Provide written reasons for actions taken (7.11.1)
- Receive request for access to information (7.12.2)
Coverage of SIPDM

Asset management and planning and budgeting are covered by other pieces of legislation.

Interfacing with the planning and budgeting and asset management system
Infrastructure Asset Management System (example)

**Infrastructure planning and budgeting system**
- Stage 0: Project inception
- Stage 1: Infrastructure planning
- Stage 2: Strategic resourcing

**Portfolio planning**
- Stage 3: Preparation and planning / prefeasibility
- Stage 4: Concept and viability / feasibility

**Detailed design**
- Stage 5: Design development
- Stage 6: Design documentation

**Site**
- Stage 7: Works
- Stage 8: Handover

**Close out**
- Stage 9: Package completion

**Asset Management Policy and Levels of Service**
- Update, as necessary, documented:
  - Asset Management Policy which broadly outlines the principles and legislative, environmental and political requirements for asset management and establishes responsibilities
  - Levels of service in terms of attributes such as quality, reliability, responsiveness, etc. and performance measures used to demonstrate performance in delivering levels of service

**Service life planning**
- Develop service life plans
- Output: Service life plans which reflects cost estimates and timelines for life cycle activities

**Delivery process inputs**
- Provide life cycle inputs
- Output: Learnings from asset management taken as inputs in delivery processes

**Critical infrastructure needs**
- Review asset and business risks
- Output: Critical infrastructure needs identified with costs and timelines

**Condition assessments**
- Conduct regular condition assessments and record condition
- Output: Condition of assets known

**Asset Register**
- Update at least annually in line with budget reporting requirements
- AMG1: Asset Register updated for annual budget reporting
Project pipeline

Project identification and motivation
Output: Schedule of identified needs, prioritised in terms of extent of impact and potential consequences of not undertaking the work.

Planning alignment
Output: Alignment with broader planning needs.

Project preparation

Resolution of impediments to implementation
BPG1: Accepted schedule of impediments to project implementation.

Preliminary project selection for MTREF / MTEF
BPG2: Accepted preliminary list of projects for MTREF / MTEF.

Cost estimates and schedule
BPG3: Project cost estimates, time lines of preliminary list of projects for MTREF / MTEF.

Project feedback
Output: Updated project cost and schedule information.

Stage 0: Project inception

Stage 1: Infrastructure planning

Stage 2: Strategic resourcing

Stage 3: Preparation and planning / prefeasibility

Stage 4: Concept and viability / feasibility

Stage 5: Design development

Stage 6: Design documentation

Stage 7: Works

Stage 8: Handover

Stage 9: Package completion

Strategic planning
Infrastructure asset management system
Requirements for built environment professionals

**General goods and services**
- Develop specifications and if necessary terms of reference
- Insert standard bid documents
- Invite and receive bids
- Evaluate bids
- Confirm bid recommendations
- Draft service delivery agreement
- Sign contract

**Infrastructure**
- Develop:
  - procurement tactics to solicit offers
  - draft terms and conditions, including the basis for remuneration
  - what is to be provided, and
  - requirements and constraints to providing the work

- Tenderers prepare response to terms, conditions, constraints and requirements.

- Tenders evaluated in terms of standard conditions

- Confirm tender recommendations and consider commercial risks and identify any risks that have been overlooked

- Prepare final contract and sign form of acceptance

**Procurement documentation review report signed off by a built environment professional (works only)**

**Authorise issuing of documents? Taking ownership of tactics?**

**Evaluation report prepared by a built environment professional**

**Quality evaluation by built environment professionals**

**Confirm technical evaluation?**

**Also construction management of works contracts and leading mandatory gateway review**
11.1 The implementer shall report to the relevant treasury within one month of the award of a contract or the issuing of an order, all engineering and construction, supply, service and professional service contracts that are awarded, or orders that are issued, should the total of prices including VAT exceed the following thresholds:

<table>
<thead>
<tr>
<th>Organ of state</th>
<th>Services contract</th>
<th>Professional services</th>
<th>Supply</th>
<th>Engineering and construction works</th>
</tr>
</thead>
<tbody>
<tr>
<td>National department</td>
<td>R75 million</td>
<td>R 75 million</td>
<td>R 100 million</td>
<td>R 100 million</td>
</tr>
<tr>
<td>Provincial department or metropolitan municipality</td>
<td>R 50 million</td>
<td>R 50 million</td>
<td>R 100 million</td>
<td>R 100 million</td>
</tr>
<tr>
<td>Municipality other than a metropolitan municipality</td>
<td>R 25 million</td>
<td>R 25 million</td>
<td>R 50 million</td>
<td>R 50 million</td>
</tr>
<tr>
<td>Major public entity</td>
<td>R 250 million</td>
<td>R 250 million</td>
<td>R 500 million</td>
<td>R 500 million</td>
</tr>
<tr>
<td>National government business enterprise</td>
<td>R 125 million</td>
<td>R 125 million</td>
<td>R 250 million</td>
<td>R 250 million</td>
</tr>
<tr>
<td>Provincial government business enterprise</td>
<td>R 50 million</td>
<td>R 50 million</td>
<td>R 100 million</td>
<td>R 100 million</td>
</tr>
<tr>
<td>Other</td>
<td>R 50 million</td>
<td>R 50 million</td>
<td>R 100 million</td>
<td>R 100 million</td>
</tr>
</tbody>
</table>
11.3 The implementer shall prepare an annual report which contains the following in respect of a financial year and submit such report to the relevant treasury within two months after the financial year end:

- information contained in the performance report

- a brief progress report which reflects progress in terms of time and cost in relation to the time for completion or delivery and the total of prices at the award or the contract or the issuing of an order, and if relevant stages completed, on all contracts and orders above the prescribed thresholds

- an outline of the scope, value and duration of all contracts which were awarded as a result of unsolicited proposals together with a brief motivation for such award

- particulars relating to:
  - the cancellation or termination of contracts together with the reasons therefore;
  - the use of a negotiated or confined market procurement procedure to enter into a supply, services, professional services or engineering and construction contract in excess of R 10,0 million including VAT together with a brief motivation for doing so;
  - the evoking of the emergency procurement procedures where the value of the ensuing transaction exceeded R10,0 million including VAT together with a brief overview of the emergency and the outcomes of the procurement;
  - disputes arising from contracts which have been referred to arbitration or a court of law for settlement; and
  - contracts where the approval has been granted to increase the total of the prices or the time for completion at procurement gate 8D
Assessment of supply chain management performance

12 An annual performance report shall be prepared for each portfolio of projects involving infrastructure delivery within two months of the financial year end which reflects performance in relation to at least the following:

- expenditure incurred in infrastructure delivery for the financial year against the budget made available to cover such expenditure at the start of the year

\[
\text{KPI (\%)} = \frac{\text{Expenditure}}{\text{Budget}} \times 100
\]

**Infrastructure Plan**: provide the projected budget and cash flows which will enable planned and actual expenditure to be compared and revisions to the budget to be approved and multiple project budgets to be managed

- the average variance between planned and achieved completion of stages of all packages and projects

**Implementation Plan**: provide a time management plan for each project i.e. the baseline against which progress towards the attainment of milestone (key deliverables) target dates can be measured

- an overview of all packages where stage 7 was completed within the financial year and the total of the prices and the time for completion at the start of the contract or when the order was issued exceeds 20% together with a brief explanation as to why such increases occurred

**Measures** how risks were managed and mitigated. It also potentially identifies the risks which were unforeseen that have materialised
Assessment of supply chain management performance

- the average time taken to award a contract measured from the closing date for tender submission or the final submission made in terms of a proposal or competitive negotiations procedure to a decision being taken to award the contract

- the average time taken to award a contract above the threshold for quotations, measured from the closing date for tender submission or the final submission made in terms of a proposal or competitive negotiations procedure, to the acceptance of the tender evaluation report

- the average time taken, in respect of all packages covered in the report, to complete stage 8 (handover) measured from the time that stage 7 (works) is completed

  Measures the efficiency in handing over the works

- the average difference between the total of the prices in the payment certificate that was issued following the completion of stage 7 (works), and the total of the prices at the end of stage 9 (Package completion)

  Measures the efficiency of the control of costs

- the average number of days that payment is later than that required under the terms of a contract.

  Measures the efficiency of the payment system
Value for money concept

Value for money may be regarded as the optimal use of resources to achieve the intended outcomes. Value for money is about striking the balance between three “E’s” economy, efficiency and effectiveness” whilst being mindful of a fourth “E” – equity.

**Planning**
(what inputs are required to achieve a desired outcome?)

**Implementation**
(how well are inputs converted into outputs?)

**Close out**
(how well do outputs achieve desired outcomes?)

**Equity Considerations**
(what can be leveraged through projects)

- Gap between what is planned and what is delivered puts value for money for a project at risk
- System designed to deliver value for money whilst reducing the scope for corruption
- Organs of state need to establish their SCM policies which assign responsibilities for approving / accepting deliverables and provide delegations for awarding contracts and issuing orders

**Standard for Infrastructure Procurement and Delivery Management:**
- Provides a control framework for the planning, design and execution of infrastructure projects
- Provides a control framework for infrastructure procurement
- Establishes minimum requirements for supply chain management and infrastructure procurement

SIPDM provides tools and techniques for performance improvement in delivering value for money
### Control framework for design & execution

#### Efficiency
- **Input**
- **Outputs**
- **Outcomes**
- **Impact**

#### Stage 5
- Design development

#### Stage 6
- Design documentation

#### Stage 7
- Works

#### Stage 8
- Handover

#### Stage 9
- Package completion

### Detailed design activities

### Site activities

### Close out activities

### Close out

#### Control budget established at end of planning (stage 4)

#### Annual report
Submitted to relevant treasury which contains the following in respect of a financial year:
- Progress made in terms of time and cost progress on all projects above a threshold
- Particulars associated with unsolicited proposals, use of a negotiated, confined market or emergency procedures above a threshold, disputes referred to arbitration or a court of law, the cancellation or termination of contracts and where approval is granted to exceed the total of prices or the time for completion by more than 20% or 30%, respectively.
- Details pertaining to expenditure incurred versus budget made available for the financial year
- An overview of engineering and construction projects where stage 7 was completed and the total of the prices and the time for completion exceed the original value by more than 20%
- Average variance between planned and achieved completion of stages for projects
- Average time between the closing of tenders or the final submission made in terms of a proposal or competitive negotiations procedure and 1) the acceptance of the tender evaluation report and 2) a contract being awarded
- Average number of days that payment is later than that required in terms of the contract.

#### Performance metrics which measure the performance of all those involved in the supply chain

#### Exposes weakest link
New infrastructure or rehabilitation, refurbishment or alteration of infrastructure - registered built environment professional prepare a procurement documentation review report.

Registered built environment professional prepares a tender evaluation report and undertakes evaluation of quality in tender submissions.

New infrastructure or rehabilitation, refurbishment or alteration of infrastructure - registered built environment professional responsible for administering / managing the contract.

Improved management of project risks.

Control framework for procurement

Infrastructure procurement

- PG1: Grant permission to start process
- PG2: Approve strategies
- PG3: Approve procurement documents
- PG4: Confirm budget
- PG5: Authorise next phase of process
- PG6: Approve tender evaluation recommendations
- PG7: Accept offer and award contract
- PG8 (A B C D E F): Approval of actions associated with the administration of the contract

Establish what is to be procured
Decide on procurement strategies
Solicit tender offers
Evaluate tender offers
Award contracts
Administer contracts and confirm compliance with requirements

FS1: Upload on financial management system

FG1: Confirm reasons not to open competition
FG2: Approve documents
FG3: Confirm budget
FG4: Authorise issue of order
FG5: Authorise next phase of process

G= gate; PG= procurement gate FG= framework gate

SIPDM improves quality by splitting the supply chains, providing comprehensive procedures and methods including those contained in SANS 10845 and prescribed standard forms of contract and requiring built environment professionals to execute certain tasks.
### Progressive implementation

<table>
<thead>
<tr>
<th>Areas</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PFMA</td>
</tr>
<tr>
<td>1 to 3</td>
<td>Completed 1 April 2017</td>
</tr>
<tr>
<td>4 to 6</td>
<td>Before 1 April 2018</td>
</tr>
</tbody>
</table>

#### Audit approach
Have in place an auditable and compliant system which should deliver value for money!

- **7** Annual performance reports issued to relevant treasuries
- **6** Built environment professionals performing designated functions
- **5** Develop procurement documents in accordance with the SIPDM provisions
- **4** Put in place implementation plans
- **3** Apply control frameworks and obtain and record approval / acceptance at gates
- **2** Put in place agency agreements, if required
- **1** Put in place SCM policy
Questions

Acknowledgement
- many of the slides in this presentation are based on those prepared by the School of Construction Economics and Management, University of the Witwatersrand, Johannesburg

Queries - Email: cpo@treasury.gov.za

More information
http://ocpo.treasury.gov.za/About_Us/Strategic_Areas/Pages/Infrastructure-Procurement.aspx

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