



**EVALUATION AND SCORING OF
TENDER OFFERS ON
EMPOWERMENT OBJECTIVES AND
PRICE**

Work Instruction N^o
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We, the undersigned, accept this document as a stable work product to be placed under formal change control as described by the Procedure CDC-OP-PRO-002-08 Procedure for Management of Controlled Documents.

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ACRONYMS

ABE	=	Affirmable Business Enterprise
ABVA	=	Association of BEE Verification Agencies
BBBEE	=	Broad-based Black Economic Empowerment
BEE	=	Black Economic Empowerment
EME	=	Exempted Micro Enterprises
CDC	=	Coega Development Corporation (Pty) Ltd
CIDB	=	Construction Industry Development Board
LEP	=	Local Enterprise Participation
PPPFA	=	Preferential Procurement Policy Framework Act
SMME	=	Small, Medium and Micro Enterprises
WEO	=	Women Equity Ownership

1 INTRODUCTION

This Specification, **TGP 07:2013: Tender Offer Evaluation and Scoring** shall form the basis for determining how this tender will be evaluated and scored more particularly with respect to achievement of Empowerment Objectives and the Tendered Price.

This Specification was developed and adopted by the Coega Development Corporation Pty Ltd (CDC) to ensure that Broad Based Black Economic Empowerment (B-BBEE) is meaningfully progressed and that individuals with B-BBEE status, specifically from the Eastern Cape, participate meaningfully during the execution of contracts awarded by the CDC for the development of the Coega IDZ and on projects that the CDC implements on behalf of other entities.

2 APPLICABLE DOCUMENTATION

This Specification is to be read together with following applicable documents:

- (a) Preferential Procurement Policy Framework Act (PPPFA);
- (b) Broad-based Black Economic Empowerment Act (B-BBEE);
- (c) CDC's Procurement Policy & Procedures;
- (d) Construction Industry Development Board's (CIDB's) Code of Conduct; and
- (e) Public Finance Management Act (PFMA).

3 DEFINITIONS AND INTERPRETATIONS

- (a) **Affiliated Business:** A business entity which has control of or the power to control another business entity, albeit indirectly, e.g. where a third person has control of or has the power to control both entities. Indicators of control shall, without limitation, include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, or common use of employees.
- (b) **Accredited Verification Agencies:** Enterprises that have been accredited by SANAS and ABVA on behalf of the DTI to provide an independent opinion on the broad-based economic empowerment status of enterprises.
- (c) **Assignment Value:** The total Rand value of the money charged to the CDC by a Service Provider for services rendered to the CDC following a duly authorised appointment to do so by the CDC.
- (d) **Black people:** refers to African, Coloureds, Chinese and Indian who are citizens of RSA by birth and are citizens of RSA by naturalisation before 1994.
- (e) **Black Economic Empowerment:** is defined as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the number of black people who manage, own and control the country's economy, as well as significant decrease in income inequalities.
- (f) **Broad Based Black Economic Empowerment:** means the economic empowerment of all black people including black women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio economic strategies, as defined in the Act.
- (g) **Codes of Good Practice :** refers to BEE Codes of Good Practice including all the statements as issued under section 9 of Act 53 of 2003
- (h) **Contract:** A legally binding agreement between the CDC and the Service Provider for the latter to provide goods and/or services to the former. A contract would be legally binding only if it has been signed by people who have the delegated authority to do so.
- (i) **Contractor:** Any person, body, or legal entity who has a contract with the CDC for performing a construction related contract. A Tenderer whose tender has been accepted becomes a Contractor.

- (j) **Control:** The possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- (k) **Employment Intensive Construction:** Forms of construction utilising methods and technologies which realise an increase in the number of employment opportunities generated over plant based or traditional forms of construction.
- (l) **Executive Director:** A partner in a partnership, a sole proprietor, a director of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) or a member of a close corporation registered in terms of the Close Corporation Act, who, jointly and severally with his other partners, co-directors or co-members, as the case may be, bears the risk of the business and takes responsibility for the management and liabilities of the partnership, company, or close corporation on a day to day basis.
- (m) **Firm:** A business entity providing professional services in which at least two thirds of the Principals are Registered Professionals-in-training.
- (n) **Joint Venture:** An association of firms, companies or businesses for which purpose they combine their expertise, efforts, skills and knowledge to execute the Contract.
- (o) **Local Enterprise Participation:** A firm, company, business with a permanent office and infrastructure in the Eastern Cape Province that participates meaningfully in the Performance of the Works.
- (p) **Office:** A firm which is under the full-time control and operation of a resident Registered Professional.
- (q) **Owned:** Having all the customary incidents of ownership, including the right of disposition, and sharing the risks and profits commensurate with the degree of ownership interest as demonstrated by an examination of the substance, rather than the form of the ownership arrangements.
- (r) **Ownership Goal:** The percentage of the Tendered Price, as awarded, which represents the sum of the Rand value of HDI people's equity in the Performance of the Works.
- (s) **Preferential Group:** Individuals, firms or companies with BEE status and who are targeted for empowerment.

- (t) **Preferential Participation Programme:** A programme indicating the means, resources and methodology by which a Contractor would undertake to engage preferential groups in the due fulfilment of the Contract.
- (u) **Prime Contractor:** A contractor who contracts with the CDC as the principal or main contractor or as a joint venture partner to such contractors, to provide goods, services or works.
- (v) **Professional Service:** The provision on a fiduciary basis of labour and knowledge-based expertise which is applied with skill, care and diligence in accordance with the provision of the Professional Service Contract.
- (w) **Service Provider:** Any person or body corporate that is under contract to the CDC for providing a Professional Service.
- (x) **Registered Principal:** A person within an Office who is professionally registered by the relevant statutory council, and who is a director, partner, member, profit sharing associate, shareholder or other category of persons who participates meaningfully in the ownership, benefits and risks of the Office and is engaged full time in the operation of the Office.
- (y) **Registered Professional:** A full-time employee of an Office, other than a Principal, who is professionally registered by the relevant statutory council.
- (z) **Registered Professional-in-training:** A full-time employee, other than a Principal, who is registered by the relevant statutory council as a professional-in-training, has obtained the necessary tertiary qualifications to register as a professional and is serving an in-house training period prior to applying to register as a professional.
- (aa) **Senior Manager:** An individual who is responsible for planning, organising, leading and controlling operations within an organisation and who reports to the Executive Director.
- (bb) **Services:** The provision of labour and/or work carried out by hand or with the assistance of equipment and plant including the input as necessary of knowledge based expertise.
- (cc) **Small, Medium and Micro Enterprises:** There are two types namely Exempted Small & Micro Enterprise (ESME's) and Qualifying Small Enterprise (QSE):
 - (i) Exempted Small & Micro Enterprises (ESME's) are defined by the Codes, as companies with an annual total turnover of R5 million or less.
 - (ii) Qualifying Small Enterprises (QSE) are defined by the Codes, as companies with an annual total turnover of between R5 million and R35 million.

- (dd) **Sub-contractor:** A contractor who contracts with the Prime Contractor to provide works as part of the total services required by the CDC for that Contract.
- (ee) **Supplier:** A firm that owns, operates or maintains stores, warehouses or other establishments in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business; and engages as its principal business, and in its own name, in the purchase and sale of goods.
- (ff) **Tender:** The offer of prospective suppliers of goods and/or services, submitted in a tender document which is issued to the public at large.
- (gg) **Women Equity Ownership (WEO):** The collective ownership percentage of full-time Executive Directors within an enterprise who are women.

4 TENDER ADJUDICATION POINTS

4.1 Points Awarded for Empowerment Objectives

The points system for Service Providers (and Contractors) will be structured in the following way:

SCORING CRITERIA	WEIGHTING FOR 80:20	WEIGHTING FOR 90:10	COMMENTS
Price	80	90	
Empowerment Objective	20	10	B-BBEE Certificate is required
Total points	100	100	

The 80:20 weighting applies for contracts less than R1 million (VAT Incl.) whereas the 90:10 weighting applies for all contracts in excess of R1 million (VAT Incl.).

The allocation of tender adjudication points for Contracts shall be as follows:

Area of Adjudication	Maximum Points	Maximum Points
Tendered Price (S _P)	80	90
Empowerment Objectives (S _E)	20	10
Total Points (S)	100	100

In addition to price evaluation, CDC will evaluate contractors, service providers and professionals based on their B-BBEE status achieved in accordance with the DTI Codes of Good Practice and companies must submit B-BBEE Verification Certificates from accredited verification agency or IRBA registered Auditors in order to be eligible for empowerment points. Exempted Small & Micro Enterprises (ESME's) enjoy a deemed BEE recognition of Level 4 contributor and those, which are 50% or more owned by black people are promoted to a Level 3 contributor. Sufficient evidence of qualification as an Exempted Small Micro-Enterprises (ESME's) is a letter from the enterprise's Accounting Officer confirming that the turnover is less than R5m or a verification certificate from Independent Regulatory Board for Auditors (IRBA) or SANAS registered Verification Agency.

Note:

- ❖ A Trust, Consortium or Joint Venture will qualify for points for their B-BBEE Status Level as a legal entity, provided that the entity submits their B-BBEE Status Level certificate.
- ❖ A Trust, Consortium or Joint Venture will qualify for points for their B-BBEE Status Level as an unincorporated entity provided that the entity submits their consolidated B-BBEE Scorecard as if they were a group structure and that such a consolidated B-BBEE Scorecard is prepared for every separate tender.

Empowerment points shall be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below.

CONTRIBUTION LEVEL	WEIGHTING FOR 80:20	WEIGHTING FOR 90:10
Level One	20	10
Level Two	18	9
Level Three	16	8
Level Four	12	5
Level Five	8	4

CONTRIBUTION LEVEL	WEIGHTING FOR 80:20	WEIGHTING FOR 90:10
Level Six	6	3
Level Seven	4	2
Level Eight	2	1
Non Compliant Contributor	0	0

Local Enterprise Participation (LEP Target)

The LEP target is the value of work done by local enterprises, whether as prime contractor, sub-contractor or supplier, determined as follows:

The value sourced at local level is the value of resources based in the local area or produced in the local area

The LEP target must be calculated in relation to every entity involved in the project. Management staff commuting from other areas for the duration of the project will not qualify as local. Plant and equipment brought in from other areas will not qualify as local. Materials and plant sourced via local suppliers or agencies will qualify as local. A supplier that has been established locally by a Tenderer solely for the purpose of servicing the project will not qualify as a local Supplier.

The LEP **threshold** for CDC contracts is **30%**.

The threshold may be increased by the BU up to 50% if scope exists for further local participation.

SMME / EME Involvement

There should be a minimum participation of **35%** SMME's / EME's participation of tender value, excluding VAT, escalation, etc. Each project from every Business Unit must achieve a minimum of **35%** SMME participation.

5 DETERMINATION OF RESPONSIVENESS OF BIDDERS

In deciding on the responsiveness or pre-qualifiers due cognisance must be taken to the fact that some should always be included in the tender documents and some would depend upon the nature of the contract and therefore might not always be required. The following responsiveness criteria or pre-qualifiers will be used in this bid and are subdivided into mandatory and non-mandatory:

5.1 Mandatory Requirements

NO.	DESCRIPTION
(1)	Valid original Tax Clearance Certificate;
(2)	Minimum required CIDB Grading;
(3)	Signed certificate of attendance to the mandatory Briefing Meeting or copy of signing of Attendance Register;
(4)	Authority of lead partner to sign the documents;
(5)	Signed Form of Offer;
(6)	Signed Letter of Intent to enter into Joint Venture, Consortium or to subcontract (where applicable);
(7)	Complete Bill of Quantities filled in clearly legible and permanent ink;
(8)	Completed and signed Declaration of Interest Register.
5 (9)	Proof of access to key personnel with relevant experience to execute the works;

5.2 Additional information required

NO.	DESCRIPTION
(1)	BBBEE Certificate
(2)	The main JV partner to carry out the highest percentage of the work, to have the relevant CIDB grading for that category of works in case of contractors, and to lead contract (where applicable);
(3)	Proposed methodology covering and demonstrating coherence of the: <ul style="list-style-type: none"> (i) Work organization programme, (ii) Resource plan, and (iii) Methodology for executing the works.
(4)	Access/ownership (availability) of plant & equipment (In case of hiring key plant, letter conforming the willingness of the hirer to hire equipment to the bidder);
(5)	Record of previous projects which may be relevant in the evaluation of the bid and contact persons (if any);
(6)	Supporting documents on project imperatives: <ul style="list-style-type: none"> (i) Plans for promoting and managing safety, health and environmental issues during execution of the project; (ii) Plans for monitoring and applying quality assurance principles in the execution of the project;

	<p>(iii) Plans for addressing socio-economic issues (with specifics on numbers to be achieved) which include:</p> <ol style="list-style-type: none"> (1) Maximisation of job opportunities (labour histograms); (2) Creation of opportunities and meaningful involvement of SMMEs; (3) Use of local material/local suppliers; and (4) Training of labour (non –accredited). (5) Proof of office locality (e.g. municipal account, title deed, lease agreement etc.)
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6. THE QUANTITATIVE ASSESSMENT

It is considered that there might be a need for an iterative process between the Stage 1 and Stage 2 in that other things befit Stage 1 might only be apparent in Stage 2. This should be construed as progressive elaboration of assessment and should be allowed to take place when a need to do so arises.

6.1 Points Awarded for Tender Price (S_P)

The lowest acceptable tendered price should be determined and will be used to calculate the score for price. A maximum of **80 or 90** points will be allocated to the Tendered Price on the following basis:

$$S_P = S_{\max} (P_{\text{lowest}} / P_{\text{tendered}})$$

Where:

- S_P = Score obtained by the Tenderer for Price;
- S_{\max} = Maximum score that could be obtained for this Contract;
- P_{lowest} = Lowest acceptable tender price;
- P_{tendered} = Tendered price being considered.

6.2 Empowerment Scoring, S_E

- (a) Obtain Broad-based Black Economic Empowerment (B-BBEE) certificate which must be submitted with tender. (entities issuing the certificates should be registered with SANAS or IRBA.
- (b) In case of JV or Consortium submissions a Consolidated B-BBEE Scorecard must be submitted and it must be prepared for every separate tender.

6.3 Total Tender Adjudication Points

The total tender adjudication points (S), is given by:

$$S = S_P + S_E \text{ (Not to Exceed 100 Points)}$$

7 GUIDELINES WHEN FUNCTIONALITY IS INCLUDED AS A CRITERION IN THE EVALUATION OF BIDS

Functionality – means the measurement according to predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service or commodity.

The evaluation of bids must be conducted in the following two stages:

- 7.1 Firstly, the assessment of functionality must be done in terms of the evaluation criteria and the minimum threshold be determined. A bid must be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation.
- 7.2 Thereafter, only the qualifying bids are evaluated in terms of the 80/20 or 90/10 preference points systems, where the 80 or 90 points must be used for price only and the 20 or 10 points are used for empowerment scoring and/or for achieving the prescribed RDP Goals.

8 DISQUALIFIERS DURING EVALUATION STAGE

The following disqualifiers will be used:

- 8.1 Bidder that sought to influence the adjudication process;
- 8.2 Collusion among bidders;
- 8.3 Misrepresentation of information;
- 8.4 Any service provider or its principals (or both) who have engaged in corrupt and fraudulent practices, not only with the CDC but anywhere else;
- 8.5 Bidder who has a pending liquidation, in receivership, bankrupt/insolvent (actually and commercially)
- 8.6 Tendered price unrealistically low and posing commercial risks to the client;
- 8.7 Poor past performance (the focus is on gross poor performance and a clear trend of poor performance needs to be established).

9 DOCUMENTATION TO BE SUBMITTED IN SUPPORT OF TENDER

- (a) The CDC shall require all potential Consultants, SP's and CONTR's to submit at tender stage, a valid certified copy of a Verification Certificate. The Verification Certificate which indicates the entity's BEE status must be issued by SANAS Accredited Verification Agency or IRBA registered Auditors. Similarly, small entities i.e. Exempted Small Micro Enterprises (ESME's) will have to submit Exemption Certificates issued by an Accredited Verification Agency or IRBA registered Auditor's certificate or similar certificate issued by Accounting Officers.
- (b) The common legislative requirements that are specified by the CDC are CIDB Grading and valid original Tax Clearance Certificate (TCC).
- (c) Tenderers shall submit the Draft Joint Venture Agreement when required to do so.
- (d) Tenderers shall deliver to the Employer a works programme clearly specifying the participation of targeted enterprises per activity.
- (e) Failure by the Tenderer to complete and deliver the information schedules in the form and within the time specified as agreed by the CDC or its agents/officers, etc., may render the tender non-responsive and lead to its rejection.

10 VALIDITY OF PREFERENTIAL REGISTRATION AFFIDAVIT

- (a) Should a Tenderer either claim or engage an enterprise whose actual black equity and/or staff composition differs from the actual black equity and/or staff composition for which credits have been claimed whether incorrectly and/or fraudulently on any tender, such Tenderer shall immediately be disqualified.
- (b) Any Contract awarded on account of false information furnished by the Tenderer in order to secure preference may be cancelled at the sole discretion of the CDC without prejudice to any other remedies the CDC may have.
- (c) Should the Tenderer be found to have acted fraudulently and/or dishonestly, he/she will be disqualified from all future tenders for a minimum period of thirty six (36) months, or as otherwise decided by the CDC.

- (d) It is primarily the responsibility of the Tenderer to understand the relevant criteria, definitions and interpretations associated with a specific preference group before claiming credits for the engagement of such preference group.

11 PROOF OF CONTRACTUAL ARRANGEMENT

- 11.1 The Contractor shall submit to the CDC a list of sub-contractors to perform works, services or supply of goods entered into between the Prime Contractor or Joint Venture at Prime Contract Level and the sub-contracted preference groups. The CDC may deny the Contractor credits towards the attainment of his preference group participation percentage in the absence of a written sub-contract and/or the failure by the Contractor to submit a copy thereof to the CDC.
- 11.2 A Joint Venture or Consortium shall submit to the CDC a certified copy of the Joint Venture / Consortium Agreement, if the Joint Venture/Consortium involves preference groups for which participation credits are applied. The Contractor shall not impose upon preference groups unfair conditions of contract. Preference participation credits claimed may be denied if such contracts contain:
- (i) A right of set-off, session and assignment as well as surety in favour of the employing contractor;
 - (ii) Authoritarian rights given to the employing contractor with no recourse to independent adjudication in the event of a dispute arising;
 - (iii) Payment procedures based on a pay-when-paid system;
 - (iv) Unreasonable retention percentages and periods of retention after completion;
 - (v) Conditions which are more onerous than those which exist in the Contract with the CDC.
- 11.3 Groups for which preference credits are applied for shall participate meaningfully during the Performance of the Works and shall be responsible for clearly defined portions of the works to be performed or services to be provided with its own work force and using its own resources or resources hired by it independent of the employing contractor or non-preference partners in a joint venture.

12 OUTSOURCING OF WORKS

- 12.1 The Prime Contractor/Service Provider shall execute works in accordance with tender commitment and may not outsource works without due approval of the CDC Project Manager.
- 12.2 An entity must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the

contract to any other enterprise that does not qualify for at least the points that such tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capacity and ability to execute the sub-contract.

- 12.3 An entity awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capacity and ability to execute the sub-contract.

13 COMPLIANCE WITH LEGISLATION

Submissions from entities which do not meet the specified legislative requirements or proof of suitable arrangements being made with the relevant authorities at the time of tendering will be rendered non-responsive by the CDC. The common legislative requirements that are specified by the CDC are CIDB Grading and valid original Tax Clearance Certificate (TCC).

In cases of Joint Ventures or Consortia, all the JV partners must have valid original TCC by the time they make a submission. If one of the JV partners has not submitted a valid original TCC, the entire JV or Consortium shall be regarded as being non-responsive. Sub-contractors must also comply with Tax Clearance Certificate (TCC) requirements.

14 SUBSTITUTION OF PREFERENTIAL GROUP DURING CONTRACT PERIOD

- 13.1 Conditions during the Performance of the Works may necessitate terminating the participation of a Preferential Group. This termination must, however, be authorised by the designated CDC Project Manager. Key indicators for such justification include, but are not limited to the following:

- (i) Continuous poor productivity and progress by the Preferential Group;
- (ii) Continuous non-conformance to quality standards by the Preferential Group

- 13.2 Each case shall be investigated and a formal written report prepared by the Procurement Office in consultation with the Project Manager (PM).

15 RECORDING AND REPORTING BY THE CONTRACTOR

The CDC Project Manager shall monitor and ensure that SMME and LEP commitments are achieved during the duration of the contract, the contractor shall report on monthly basis the achievements thereof to the consultants and CDC Project Manager. The CDC Project Manager

shall take all necessary actions during the Performance of the Works to bring to the attention of the Contractor when progress in the attainment of the tendered goal percentage(s) is lacking.

Supply Chain Manager

Andile Ntloko

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Signature Supply Chain Manager

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Date of approval