



Understanding the structure of tender and contract documents

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1 Background

Procurement documents are required primarily to

- a) solicit tender offers; and
- b) form the basis for a contract.

Figure 1 illustrates the concept of offer and acceptance that results in a contract being entered into. Procurement documents provide tenderers with the necessary inputs to allow them to compile their tender submissions. Their tender submissions are in turn inputs into the contract that may be concluded following the acceptance of their tender offer.

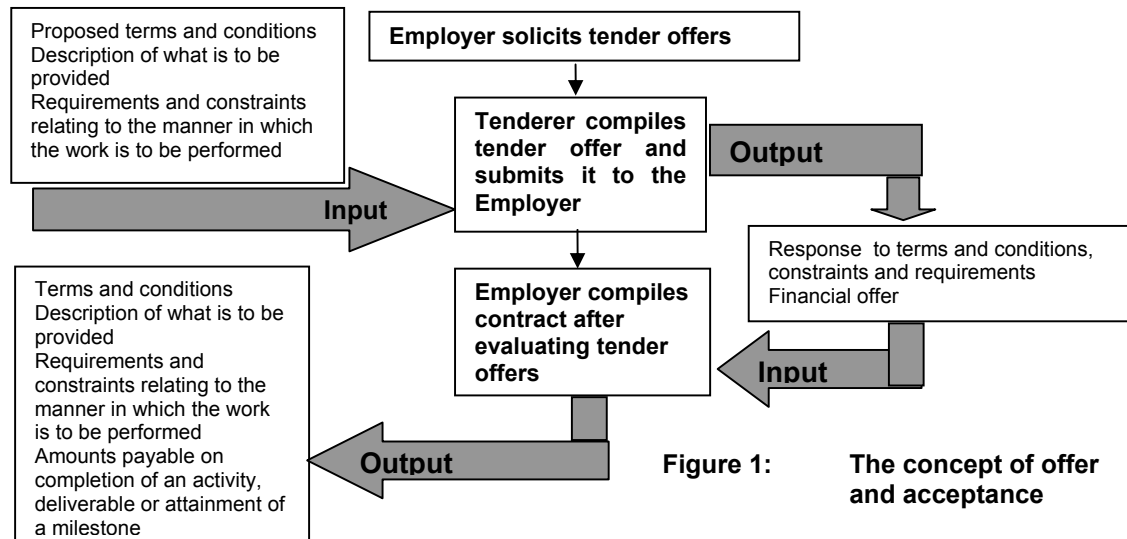


Figure 1: The concept of offer and acceptance

Uniformity in procurement documentation is based on a principle proposed in the Green Paper on Public Sector Procurement Reform in South Africa (1997) namely that there be 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. Should this be done, different conditions of contract, or for that matter, payment systems can be used without affecting the remaining component documents.

The requirements for procurement documents contained in the Standard for Uniformity in Construction Procurement are based on the aforementioned green paper principle and a number of documents that have been developed and extensively reviewed within the South African construction Industry, namely:

- *Recommendations on Refinements in Public Sector Procurement Policy, Practices and Procedures in the Construction Sector* as endorsed by the Interministerial Task Team for Construction Industry Development (2000);
- SANS 10403: 2003, *Formatting and compiling of construction procurement documents*;
- SANS 294: 2004, *Construction procurement processes, methods and systems*; and

- Construction Procurement Best Practices recognized by the Construction Industry Development Board (2004).

2 Headings and content of component documents

The Standard for Uniformity in Construction Procurement provides a series of standard headings of component documents based on the “offer” and “acceptance” process illustrated in Figure 1. Procurement documents comprise several component documents dealing with different topics bound together in a logical sequence. The first cluster of documents contains only those documents that are relevant to the tender enquiry (see Table 1) and the second cluster those documents that relate to the contract that will be created upon the acceptance of the tender (see Table 2).

Table 1: Documents that relate to the “Tender” (See SANS 10403)

Contents		Function and broad outline of contents
Number	Heading	
Part T1: Tendering procedures		
T1.1	Tender Notice and Invitation to Tender	Alerts tenderers to the nature of the supplies, services and engineering and construction works required by the employer and should contain sufficient information to enable them to respond appropriately.
T1.2	Tender Data	States the applicable conditions of tender and associated tender specific data that establishes the rules from the time that tenders are invited to the time that a tender is awarded.
Part T2: Returnable documents		
T2.1	List of Returnable Documents	Ensures that everything the employer requires a tenderer to submit with his tender is included in, or returned with, his tender submission.
T2.2	Returnable Schedules	Contains documents that the tenderer is required to complete for the purpose of evaluating tenders and other schedules which upon acceptance become part of the subsequent contract.

The Standard requires that the headings contained in Tables 1 and 2 be used with procurement documents (tender and contract) relating to the provision of engineering and construction works, services and supplies. The headings must not be changed to suit personal preferences e.g. scope of work being changed to “terms of reference” or “specification”. Likewise the documents or parts must not be renumbered. This defeats the objective of having a uniform set of headings.

Procurement documents capture the choices made for the conducting of the process of offer and acceptance in the **tender data**. They capture the allocation of risks, liabilities and obligations of the parties, the procedures for the administration of the contract and the manner in which disputes may be resolved in the **contract data**. They also provide the basis for:

- paying the contractor in the **pricing data**;
- specifying any measurable, tangible, verifiable outcome, result or item that must be produced or completed (deliverable) and the constraints in doing so in the **scope of work**; and
- in the case of engineering and construction works, communicating the outcomes of surveys to tenderers in the **site information** e.g. soil and ground conditions, the location and state of buildings or facilities that contractors may be expected to use or may be affected by the contractor’s activities, environmental conditions, the number and location of people who may be affected by the works, availability of materials, etc.

Users of this system who are familiar with the standardised procurement documents of an organization will only need to read the project specific sections for any specific project in order to know what the organisation requires. On the other hand, users who are not familiar with an organisation’s standardised

documents can quickly locate information that they may require should they have a working knowledge of the framework for the formatting and compilation of procurement documents provided in the Standard.

Table 2: Documents that relate to the “Contract” (See SANS 10403)

Contents		Broad outline of contents
Number	Heading	
Part C1: Agreements and contract data		
C1.1	Form of Offer and Acceptance	Formalises the legal process of offer and acceptance
C1.2	Contract Data	States the applicable conditions of contract and associated contract specific data that collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the contract.
Part C2: Pricing data		
C2.1	Pricing Instructions	Provides the criteria and assumptions which it will be assumed (in the contract) that the tenderer has taken into account when developing his prices, or target in the case of target and cost reimbursable contracts.
C2.2	Activity Schedule / Bills of Quantities	Records the contractor's prices for providing supplies / services / engineering and construction works which are described elsewhere in a specification within the Scope of Work section of the contract.
Part C3: Scope of Work		
C3	Scope of Work	Specifies and describes the supplies, 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
Part C4: Site information (engineering and construction works contracts only)		
C4	Site Information	Describes the site as at the time of tender to enable the tenderer to price his tender and to decide upon his method of working and programming and risks.

3 Compiling procurement documents

The standard for uniformity provides two options for compiling and issuing procurement documents, namely the “three volume approach” and the “single volume approach.”

In the single volume approach the documents listed in Table 1 are headed “Tender” and those in Table 2, “Contract” (See Table 3). The List of Returnable Documents identifies which of the documents a tenderer must complete when submitting a tender offer. The tenderer submits his tender offer by completing those forms, signing the "Offer" document in the Forms of Offer and Acceptance and delivering the single volume back to the employer bound up as it was when it was received. If the tender offer is accepted, the employer simply records all the agreed changes in the procurement document between offer and acceptance in the schedule of deviations attached to the Form of Offer and Acceptance and signs the 'Acceptance' document in the Forms of Offer and Acceptance and a Contract is formed i.e., the tender document becomes the contract document.

A contract arising from the Negotiated Procedure (i.e. in the case of an emergency) must be formatted and compiled under the headings contained in Table 2.

Table 3: Standard headings and sequencing of documents when soliciting tenders where a single volume approach is adopted

Contents	
Number	Heading
The Tender	
Part T1: Tendering procedures	
T1.1	Tender Notice and Invitation to Tender
T1.2	Tender Data
Part T2: Returnable documents	
T2.1	List of Returnable Documents
T2.2	Returnable Schedules
The Contract	
Part C1: Agreement and Contract Data	
C1.1	Form of Offer and Acceptance
C1.2	Contract Data
Part C2: Pricing data	
C2.1	Pricing Assumptions
C2.2	Activity Schedule or Bills of Quantities
Part C3: Scope of Work	
C3	Scope of Work
Part C4: Site information	
C4	Site Information

4 Compiler guidance notes

Guidance notes are available for each component document. These notes, with respect to each component document:

- briefly describe the function of and provide a broad content outline;
- identify requirements, if any, laid down in the CIDB Standard for Uniformity in Construction Procurement; and
- provide commentary and insightful information.