

1. Introduction

Delivery management (see SAICE Practice Manual # 2 Delivering construction projects using the design by employer contracting strategy ¹) comprises a number of distinctly different processes and sub-processes, namely:

- planning which comprises the iterative processes of identifying objectives, programmes and projects that are to be undertaken;
- project delivery which comprises the undertaking of the projects identified in the planning processes; and
- programme completion where the programme objectives set are regularly evaluated and adjusted accordingly.

Procurement is the process that creates, manages and fulfils contracts. Procurement as such forms an integral part of construction projects and occurs at any point in a project cycle where external resources are required to provide supplies and services in any combination or in the disposal of surplus plant, equipment and materials and the demolition of redundant buildings and infrastructure.

Public procurement in South Africa is regulated in all spheres of government and state owned enterprises through various pieces of legislation. (see Annexure 1 of Best Practice Guideline #A2, *Applying the procurement prescripts of the CIDB in the Public Sector* ²).

The skills and competencies required to implement a procurement system in the public sector are set out in Annexure 1.

2. Principal procurement activities and associated steps and internal controls

The starting point in developing any procurement system is to identify procurement activities that commence once the need for procurement is identified and end when the transaction is completed. (See Table 1). The next step is to establish the steps that need to be taken to proceed from one activity to

¹This practice manual presents an overview of a number of contracting strategies that are commonly encountered in engineering and construction works contracts and fully describes the processes and sub-processes associated with design by employer contracting strategy. It also outlines the administrative processes associated with FIDIC, GCC, NEC and JBCC forms of contract with this contracting strategy.

² This annexure provides a comprehensive overview of the South African Legislation for procurement.

another. Tables 2 to 11 set out the steps associated with the principal procurement activities and outlines the necessary actions associated with each step.

Table 1: Principal procurement activities and associated steps and internal controls

ACTIVITY		STEPS	
#	DESCRIPTION	Inputs	Procedural milestone (control point)
1	Establish what is to be procured	1. Prepare broad scope of work for procurement	3 Obtain permission to start with the procurement process
		2. Estimate financial value of proposed procurement	
2	Decide on procurement strategies	1. Establish applicable preferential procurement policy	5. Obtain approval for procurement strategies that are to be adopted
		2. Establish contract and pricing strategy	
		3. Establish targeting strategy	
		4. Establish procurement procedure	
3	Solicit tender offers*	1. Prepare procurement documents	2. Obtain approval for procurement documents 3. Confirm that budgets are in place
		4. Invite contractors to submit tender offers or expressions of interest#	8. Confirm shortlist #
		5. Receive tender offers or expressions of interest#	
		6. Evaluate expressions of interests #	
		7. Prepare evaluation report on shortlisting process#	
		9. Invite tender offers from shortlist#	
4	Evaluate tender offers*	1. Open and record tender offers received	7. Confirm recommendation contained in the tender evaluation report.
		2. Determine whether or not tenders offers are complete	
		3. Determine whether or not tender offers are responsive	
		4. Evaluate tender submissions	
		5. Perform a risk analysis.	
		6. Prepare a tender evaluation report	
5	Award contract*	1. Notify successful tenderer and unsuccessful tenderers of outcome	3. Formally accept tender offer
		2. Compile contract document	
		4 Capture contract award data	
6	Administer contracts and confirm compliance with requirements	1. Administer contract in accordance with the terms and provisions of the contract	3. Capture contract completion / termination data
		2. Ensure compliance with requirements	

Expressions of interest are only called for where the Nominated, Qualified or Restricted Competitive Negotiation procedure (see CIDB Standard for Uniformity in Construction Procurement), is used to populate electronic data bases or to pre-qualify tenderers, as relevant.

* Several of the steps within these activities will not be required where the Negotiated Procedure is used. Some may have to be slightly modified where the Competitive Negotiation Procedure or the Proposal Procedure is used.

3. Recommended approach to the various steps and activities

Activity 1: Establish what is to be procured

- Note:**
- 1 The actions associated with this activity are preparatory to any procurement and are intended to clarify what is to be procured and establish the basic procurement parameters.
 - 2 Table 2 sets out the sub-activities associated with activity 1, describes the principal actions associated with this activity and each sub-activity, the necessary input to and output from such actions and the dependencies between sub-activities

Table 2: Sub-activities, related actions, inputs, outputs and dependencies pertaining to activity 1

#	Activity	Principal action	Dependency	Input to the action	Output from the action
1	Establish what is to be procured	Clarify what is to be procured	-	Approved project scope	Confirmation of what is to be procured
1.1	Prepare broad scope of work for procurement	Develop a title for procurement for the purposes of project identification and a broad scope of work		Approved project scope	Broad scope of work for procurement
1.2	Estimate financial value of proposed procurement	Estimate the financial value of the proposed contract for budgetary purposes, based on the broad scope of work.	1.1	Broad scope of work for procurement	Estimated value of procurement
1.3	Obtain permission to start with the procurement process	Nominated official(s) makes a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	1.2	Document containing title, broad scope of work and approximate value of procurement	Approval to proceed with the procurement

Step 1.1: Prepare broad scope of work for procurement

Develop a title for the procurement for the purposes of project identification and a broad scope of work utilizing the headings provided in Table 3.

Table 3: Outline of broad scope of work

Category of procurement	Heading	Guidance
Supplies	Employer's / purchaser's objectives	Describe the employer's / purchaser's objectives for the supplies as delivered.
	Overview of the required supplies	Provide a short description of the supplies.
	Extent of the supplies	Provide a brief outline of the quantity, duration and nature of the supplies.
Services	Client's / employer's objectives	Describe the client's / employer's objectives for the services
	Description of the services	Provide a short description of the services and outline what the contractor is to provide.
	Extent of the services	Provide a brief outline of the extent of services and key deliverables, as appropriate.
Engineering and construction works	Employer's objectives	Describe the employer's objectives for the delivered end product or the project.
	Overview of the works	Provide a short description of the works, its purpose, etc.
	Extent of the works	Provide a brief outline of the scope of works. Ensure that all operations, particularly those requiring special attention, are listed.
	Location of the works	State the place where the works are to be provided.

Step 1.2: Estimate financial value of proposed procurement

Estimate the financial value of the proposed contract for budgetary purposes based on the broad scope of work. The estimate should include VAT, make allowances for currency fluctuations and provide for price escalation, where appropriate. Provisions for uncertainties (risk provision) in assumptions and the like should also be made.

In order to justify the procurement it may also be necessary to undertake feasibility studies in order to establish the financial viability of the procurement, perform benefit-cost analysis, establish whole life costs (capital, maintenance, management, operating and disposal) etc. It may also be necessary to establish the timing of the procurement in order to establish cash flow demands and to establish any related or hidden costs eg professional or other services ancillary to the procurement.

Note: It is important to establish a realistic ceiling price for the contract as tender offers received in excess of this amount may cause the viability / value for money of the project to be reconsidered and may lead to the cancellation of tenders.

Step 1.3: Obtain permission to start with the procurement process

The person identified in the organisation's procurement policy who has the necessary authority should be presented with the broad scope of work and financial estimates in order to decide if the procurement should proceed. It may also at this stage be prudent to reconfirm the need and justification for the procurement.

A procurement reference number for use in procurement documents should be allocated for reference purposes should permission be granted to proceed with the procurement.

Note: It is a requirement of the Public Finance Management Act that all major capital projects must be evaluated prior to a final decision being taken on the project.

Activity 2: Decide on the procurement strategies

- Note:**
- 1 The actions associated with this activity are preparatory to any procurement and are strategic in nature. They are intended to clarify how the procurement is to take place. They in effect plan the procurement process to achieve the required outcome and may be regarded as a form of "business plan".
 - 2 In repetitive procurements or in specific programs, it is possible to predetermine the options that will be used, in which case, Activity 2 will fall away. (The procurement policy of an organisation can set out the standard choices for routine procurements)
 - 3 Table 4 sets out the sub-activities associated with activity 2, describes the principal actions associated with this activity and each sub-activity, the necessary input to and output from such actions and the dependencies between sub-activities
 - 4 Best value demands that procurement strategies be reviewed. Any change resulting from a review, in order to be justified, must deliver better value. It must be recognised from the outset that there is no one ideal way to procure. Each situation is different. There are, however, clear methods for choosing the appropriate or best way for a given circumstance and a logical process which should be followed to confirm that decisions will indeed deliver best practice.
 - 5 Best practice guide #A8, *Procurement measures to develop registered contractors*, outlines the principles for sustainable growth and a number of strategies to promote the participation of smaller registered contractors in public contracts so that they can grow and develop. The strengths and weaknesses of each of these strategies are discussed.

Step 2.1: Establish applicable preferential procurement policy

The starting point when implementing a preferential procurement policy within a specific procurement is in the first instance to establish the preferential procurement policy that is applicable to the procurement. In most instances, it will be that of the organisation. Where the procurement forms part of a national or provincial programme, the preferential procurement policy pertaining to the programme should be adopted.

Table 4: Sub-activities, related actions, inputs, outputs and dependencies pertaining to activity 2

#	Activity	Principal action	Dependency	Input to the action	Output from the action
2	Decide on procurement strategies	Determine how the procurement is to take place	1.3	Approved scope of work	Approved procurement strategy
2.1	Establish applicable preferential procurement policy	Identify the specific goals which are to be pursued and establish likely outcomes and broad implementation procedures which are consistent with the framework provided in the Act.	-	Preferential Procurement Policy for organisation / programme	Proposed specific goals and preferencing arrangements
2.2	Establish contract and pricing strategy	Decide on an appropriate allocation of responsibilities and risks and the methodology by which contractors are to be paid.	-	Procurement policy and institutional capacity	Proposed pricing and
2.3	Establish targeting strategy	Decide on the methodology that is to be used to implement preferencing.	2.1	Proposed specific goals and preferencing arrangements	Proposed targeting strategy
2.4	Establish procurement procedure	Identify the process that will be followed to solicit tender offers and conclude a contract.	-	Procurement policy	Proposed procurement procedure
2.5	Obtain approval for procurement strategies that are to be adopted	Nominated official(s) confirm selection of strategies so that tender offers can be solicited.	2.1 to 2.4	Document establishing preferential procurement policy	Approved procurement strategies

In the event that an organisation does not have a preferential procurement policy or there are no such policies governing the programme within which the procurement falls, the organisation needs to establish one in accordance with the provisions of Best Practice Guideline # B1, *Formulating and implementing Preferential Procurement Policies*.

Where preferential procurement policies are in place, identify an appropriate theme and a specific goal within such a scheme which is to be pursued (eg target groups, comprising enterprises or labour, goals relating to the internal workings of enterprises, specific deliverables etc). This should be undertaken by considering the procurement in the light of the objectives, targets and target groups contained in the preferential procurement policy and the desirable policy outcomes and factors such as past experience, knowledge of the potential tenderers and an understanding of the nature of the procurement.

Once the goals have been identified and documented, quantitative targets (likely outcomes of the preferencing arrangements) and implementation procedures which are consistent with the framework provided in the Act need to be identified. This should be done in relation to the procurement in question in order to arrive at the optimum preferencing arrangements.

Step 2.2: Establish contract and pricing strategy

Decide on an appropriate allocation of responsibilities and risks and the methodology by which contractors are to be paid. (See Best Practice Guideline #A5, *Managing construction procurement risk*, Best Practice Guideline #C1, *Preparing procurement documents*, Best Practice Guideline #C2, *Choosing an appropriate form of contract*, and SAICE Practice Manual #2, *Delivering construction projects using the design by employer contracting strategy*.) This decision can only be made after the risks associated with the procurement have been identified and the availability of skills has been established, including those required to manage the procurement.

Step 2.3: Establish targeting strategy

Establish the appropriate targeting strategy i.e. decide on the implementation methodology that is to be pursued. (See Best Practice Guideline #B1, *Formulating and implementing preferential procurement policies* Best Practice Guideline #B2, *Methods and procedures for implementing preferential procurement policies* and Best Practice Guideline #A8, *Procurement measures to develop registered contractors*). Cognisance of the selected contracting and pricing strategy should be taken in the selection of the targeting strategy.

The documented targeting strategy should include exact definitions for the specific goals, the method of preferencing, the number of preference points that will be provided in respect of each specific goal and the manner in which the goals are to be measured, quantified and monitored for contract compliance. If SANS 1914 resource standards are to be utilized, establish any weightings / target areas that are to be nominated.

- Note:** 1 The implementation procedures must be consistent with the framework provided in the Preferential Procurement Policy Framework Act (See Best Practice Guideline #B1, *Formulating and implementing preferential procurement policies*).
- 2 The Standard for Uniformity in Construction Procurement requires employers, wherever appropriate, in support of industry development, to promote the participation and development of registered contractors in the application of the registers of contractors in engineering and construction works by:
- a) unbundling projects into smaller contracts;
 - b) implementing targeted development programmes to support potentially emerging contractors in accordance with the provisions of the Construction Industry Development Regulations;
 - c) offering preferences to contractors who undertake to enter into joint ventures with or subcontract portions of the works to such contractors; and
 - d) requiring a prime contractor to subcontract defined portions of the works to such contractors in terms of procedures established in the scope of work.

Step 2.4: Establish procurement procedure

Establish and document the appropriate procurement procedure (see CIDB Standard for Uniformity in Construction Procurement and SANS 294, *Construction Procurement processes, procedures and methods*), taking cognisance of the organisation's procurement policy (see Best Practice Guideline #A2, *Applying the procurement prescripts of the CIDB in the Public Sector*).

Step 2.5: Obtain approval for procurement strategies that are to be adopted

Motivate selected procurement strategies for the proposed procurement and obtain approval for the options selected from those persons identified in the organisation's procurement policy.

Confirm that the organisation has internal or external capacity and expertise to undertake the procurement for the chosen procurement strategies. If not, recommend changes in selections.

Revise selections as necessary and obtain approval for procurement strategies.

Note: Best practice guide A#7, *The procurement of professional services*, provides an overview of government's policy regarding the appointment of consultants and the provisions made in the CIDB Standard for Uniformity for the procuring of professional services. It outlines procedures in respect of each of the methods contained in this standard and guidance on the compilation of procurement documentation associated with professional service contracts. It also establishes the relationship between the methodology advocated by the standard and that promoted by National Treasury in their Supply Chain Management Practice Notes.

Activity 3: Solicit tender offers

- Note:** 1 The actions associated with this activity must be conducted in accordance with the provisions of the *CIDB Code of Conduct for the Parties Engaged in Procurement*. Written reasons may have to be furnished to tenderers for administrative actions taken in terms of the Promotion of Administrative Justice Act.
- 2 Table 5 sets out the sub-activities associated with activity 3, describes the principal actions associated with this activity

- and each sub-activity, the necessary input to and output from such actions and the dependencies between sub-activities
- 3 In terms of Standard Conditions of Tender contained in of the Annex F of the CIDB Standard for Uniformity in Construction Procurement the Employer may:

Extract from Standard Conditions of Tender (See Annex F of CIDB Standard for Uniformity in Construction Procurement)

Clause	Heading	Action
F.1.5.1	The Employer's rights to accept or reject any tender offer	The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.
F.1.5.2		The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

Table 5: Sub-activities, related actions, inputs, outputs and dependencies pertaining to activity 4

#	Activity	Principal action	Dependency	Input to the action	Output from the action
3	Solicit tender offers	Solicit tender offers in terms of a set of procedures.	1 and 2	Approved scope of work and procurement strategy	Tender offers
3.1	Prepare procurement documents	Prepare pre-qualification and / or tender documents, as appropriate, that are compatible with the approved procurement strategies.	1.3 and 2.5	Approved scope of work and procurement strategy	Procurement documents
3.2	Obtain approval for procurement documents	Nominated official(s) review the procurement document, identify sections, if any, that require amendments or improvements, and grant the necessary approval.	3.1	Procurement document	Approved procurement document
3.3	Confirm that budgets are in place	Nominated official(s) make sure that finance is available for the procurement to take place.	3.2	Document containing approximate value of procurement	Permission to solicit tender offers
3.4	Invite contractors to submit tender offers or expressions of interest	Advertise for tenders / identify contractor(s) that are to be invited to submit tender offers in accordance with the approved procurement procedure, issue procurement documents, respond to requests for clarification, conduct clarification / site meetings, issue attendees with minutes of such meetings, and issue addenda, as relevant.	3.2 and 3.3	Procurement document	Procurement documents issued for solicitation purposes
3.5	Receive tender offers or expressions of interest	Ensure that arrangements are in place to receive tender offers / expressions of interest and return unopened those that are received late, are delivered not in accordance with instructions given to tenderers or where only one tender is received and it is decided to call for fresh tenders.	3.4	Procurement document issued for solicitation purposes	Tender submissions

#	Activity	Principal action	Dependency	Input to the action	Output from the action
3.6	Evaluate expressions of interests	Open expressions of interest, record data relating to the submission and evaluate in accordance with undertakings made to tenderers.	3.5	Tender submissions	Evaluated expression of interests
3.7	Prepare evaluation report on shortlisting process	Prepare evaluation report and make recommendations in respect of actions to be taken, depending upon the procurement procedure that is adopted.	3.6	Evaluated expressions of interest	Evaluation Report
3.8	Confirm shortlist	Nominated official(s) review evaluation report and ratify recommendations.	3.7	Evaluation report	Approved shortlist of tenderers
3.9	Invite tender offers from shortlist	Invite tender offers from short list, respond to requests for clarifications by tenderers, conduct clarification / site meetings, issue all attendees with the minutes of such meetings, and issue addenda to amend or amplify the procurement documents, as relevant.	3.8	Approved shortlist of tenderers	Procurement documents issued to shortlisted tenderers

Step 3.1: Prepare procurement documents

Procurement documents comprise those documents required to:

- a) prequalify respondents so that they may be invited to tender;
- b) solicit tender offers; and
- c) establish the terms and conditions of the contract.

Compile procurement documents for the calling for expressions of interest. Ensure that the Submission Data contains a list of returnable documents.

Requirements for the preparation of procurement documents may be found in the CIDB's Standard for Uniformity in Construction Procurement. Guidance on the formatting and compilation of procurement documents may be found in Best Practice Guideline # A2, *Applying the procurement prescripts of the CIDB Act in the Public Sector*, Best Practice Guideline #C1, *Preparing procurement documents* and SAICE Practice Manual #1, *The use of South African National Standards in Construction Procurement*.

Extract from Standard Conditions for the Calling for Expressions of Interest (see Annex H of CIDB Standard for Uniformity in Construction Procurement)

Clause	Heading	Action
H.1.2	Supporting documents	The documents issued by the employer for the purpose of obtaining expressions of interest are listed in the submission data.

Note: Expressions of interest are only called for where the Nominated, Qualified or Restricted Competitive Negotiations procedure is used to populate electronic data bases or to pre-qualify tenderers, as relevant. Where an electronic data base has already been populated, it is not necessary to call for expressions of interest.

Select an appropriate form of contract for the procurement using the guidance contained in Best Practice Guideline #C1, *Preparing procurement documentation*, and Best Practice Guideline #C2, *Choosing an appropriate form of contract for engineering and construction works*, and prepare procurement documents in accordance with the provisions of SANS 10403, SANS 294, Best Practice Guideline #C1, *Preparing procurement documentation*, and SAICE Practice Manual #1, *The use of South African National Standards in Construction Procurement*, that are compatible with the adopted procurement strategies. Ensure that the Tender Data contains a list of tender documents.

Extract from Standard Conditions of Tender (see Annex F of CIDB Standard for Uniformity in Construction Procurement)

Clause	Heading	Action
F.1.2	Tender documents	The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

It must be stressed that procurement documents cannot be finalised until such time that:

- all the necessary studies and / or preliminary investigations, commensurate with the selected contract strategy have been completed,
- the bodies which need to be consulted in connection with the procurement, have been consulted, and
- the compatibility with other works has been established.

Quality criteria used in the evaluation of tender offers should be in accordance with the provisions of Best Practice Guideline #A4, *Evaluating quality in tender submissions*.

Those tendering for a contract need to know the degree of risk that they are expected to take. The higher the risk, the greater must be the financial provision in case the worst scenario occurs. Consequently, the higher the risk a contractor assumes, the greater will be the tender value and hence the cost borne by the organisation. Whereas careful checking of the facts about existing circumstances will help to reduce the total risk, there will always be elements of uncertainty outside the control of all parties to the contract.

Procurement documents must assign risks to each party so that they can make provision for managing them, either by adding to the cost of the tender or by spreading the risk by means such means as acquiring insurance. (See Best Practice Guideline #A5, *Managing construction risk*, and Best Practice Guideline #C2, *Choosing an appropriate form of contract for engineering and construction contracts*)

Even if all possible measures are taken to clarify what outcome is expected, there will always be risk attached to the procurement processes. All likely or possible risks should be identified and explicitly assigned to a particular party in procurement documents, failing which;

- high premiums will be placed on the finance required for procurement; and
- tender prices will be unexpectedly high.

The length of the contract needs to be carefully considered. Clearly, the length of contract needs to be matched to the time-scale necessary to achieve the required outcome together with the level of investment and training necessary. Contract periods vary with the type of work required. For term contracts where the contractor has to provide significant “up-front” investment, periods of up to 15 years are not unusual. Indeed, where very significant investment is required, periods of up to 25 years are adopted. A maintenance contract where investment is limited to enabling the contractor to fulfill a contract, is likely to be no more than three or four years in length.

For engineering and works contracts, the duration of the contract should match the reasonable rates of progress to completion. A shorter contract length will result in higher costs which can only be justified if the organisation has an urgent need for an early completion and a distinct benefit can be shown for early delivery.

- Note:**
- 1 The failure to identify things that exist at the outset of the procurement frequently give rise to costly disputes between the parties.
 - 2 The procurement documents should satisfy the requirements of donor funding agencies or banking institutions. It should be noted in this regard that section 3(a) of the Reconstruction and Development Programme Fund Act (Act 7 of 1994) requires that “the money of the fund shall be utilised in accordance with the relevant technical assistance agreement.”

Step 3.2: Obtain approval for procurement documents

The persons identified in the organisation's procurement policy should review the procurement documents, identify sections, if any, that requires amendments or improvements and grant the necessary approval.

Step 3.3: Confirm that budgets are in place

Those persons identified as being responsible in the organisation's procurement policy should confirm that budgets are in place so that the procurement may proceed.

Step 3.4: Invite contractors to submit tender offers or expressions of interest

With reference to the SANS 294, *Construction procurement processes, procedures and methods*, and the CIDB Standard for Uniformity in Construction Procurement:

- a) Undertake the following depending upon the procurement procedure that is adopted:

Procurement Procedure		Actions
Negotiated procedure		Identify sole source provider and request that a tender offer be submitted.
Competitive selection procedure	Nominated procedure	Prepare calls for expression of interest to populate the data base if not already populated. Use software for electronic data base to identify contractors who are to be invited to tender.
	Open procedure	Prepare tender advertisements Advertise tenders / expressions of interest in appropriate media .
	Proposal procedure using the two-envelope system / two-stage system	Prepare advertisements for the submission of tenders (two envelope) and expressions of interest (two stage). Advertise for proposals in appropriate media.
	Qualified Procedure	Prepare calls for expression of interest. Advertise tenders / expressions of interest in appropriate media.
	Quotation procedure	Invite tender offers, giving tenderers a minimum of three days to respond to invitation, using one or more of the following methods: i) posting a notice on a website; ii) posting a notice on a demarcated notice board in a public area; iii) placing an advertising in a local or national newspaper; iv) placing an advertising in the State Tender Bulletin; v) inviting registered contractors from a data base registered in an appropriate work category to submit quotations in a manner that over time all registered contractors who have the requisite expertise have an opportunity to submit tenders.
	Shopping procedure	Obtain three written or verbal offers and confirm lowest offer in writing, if relevant.
	Competitive negotiation procedure	Restricted competitive negotiations
Open competitive negotiations		Advertise tenders in appropriate media, indicating that a competitive negotiation procedure will be followed.

- b) Obtain contact particulars of entities that draw procurement documents and collect non-refundable deposits, as appropriate.

- c) Respond to requests for clarifications by tenderers.

- d) Conduct clarification / site meetings, as necessary, and issue all attendees with the minutes of such meetings.
- e) If necessary, issue addenda to amend or amplify the procurement documents to each entity that drew documents / attended any compulsory clarification / site meeting.

Note: Best practice guide A#7, *The procurement of professional services*, provides an overview of government's policy regarding the appointment of consultants and the provisions made in the CIDB Standard for Uniformity for the procuring of professional services. It outlines procedures in respect of each of the methods contained in this standard and guidance on the compilation of procurement documentation associated with professional service contracts. It also establishes the relationship between the methodology advocated by the standard and that promoted by National Treasury in their Supply Chain Management Practice Notes.

Step 3.5: Receive tender offers or expressions of interest

Note: Expressions of interest are only called for where:

- a) electronic data bases need to be populated to enable the Nominated Procedure to be used or
 - b) tenderers need to be prequalified and shortlisted to submit tender offers in terms of the Qualified Procedure or the Restricted Competitive Negotiation Procedure..
- a) Ensure that arrangements are in place to receive tender offers / expressions of interest.
 - b) Return tender offers, and where appropriate expressions of interest, unopened if:
 - i) received after the closing time;
 - ii) the tender submission is received by a method other than the method prescribed in the procurement documents;
 - iii) only one tender offer is received and it is decided to call for fresh tenders.

Note : Tenderers are required to in terms of the Standard Conditions of Tender/ Standard Conditions for the Calling for Expressions of Interest to:

- Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the Employer's address and identification details stated in the Tender Data, as well as the tenderer's name and contact address.
- Seal the original tender offer and copy packages together in an outer package that states on the outside only the Employer's address and identification details as stated in the Tender Data.
- Accept that the Employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

Step 3.6: Evaluate expressions of interests

- a) Open expressions of interest as soon as practicable in the presence of two officials and record the name of the entity making the submission and acknowledge receipt of the submission.
- b) Evaluate expressions of interest in accordance with the provisions of the Submission Data and, where relevant the policy and operational procedures for electronic data bases or the guidance provided in Best Practice Guideline #A4, *Evaluating quality in tender submissions*.

Step 3.7: Prepare evaluation report on short listing process

Note: This step is only required in the Qualified and Restricted Competitive Selection procedures.

Prepare evaluation report and make recommendations in respect of actions to be taken, depending upon the procurement procedure that is adopted:

Procurement Procedure	Actions
Nominated procedure	Admit to electronic data base and confer preferred status in a specific category if the tenderer is eligible for such status.
Qualified or Restricted Competitive Negotiation Procedure	Make recommendations as to whether or not the tender is to be short listed.

Step 3.8: Confirm short list

Those persons identified in the organisation's procurement policy should review the evaluation report and ratify recommendations.

Step 3.9: Invite tender offers from short list

- a) Invite tender offers from short list.
- b) Respond to requests for clarifications by tenderers.
- c) Conduct clarification / site meetings, as necessary, and issue all attendees with the minutes of such meetings.
- d) If necessary, issue addenda to amend or amplify the procurement documents.

Activity 4: Evaluate tender offers

- Note:**
- 1 Tender offers must be evaluated in accordance with the parameters stated in the tender data
 - 2 The actions associated with this activity must be conducted in accordance with the provisions of the *Code of conduct for the parties engaged in procurement*. Written reasons may have to be furnished to tenderers for administrative actions taken in terms of the Promotion of Administrative Justice Act.
 - 3 Table 6 sets out the sub-activities associated with activity 4, describes the principal actions associated with this activity and each sub-activity, the necessary input to and output from such actions and the dependencies between sub-activities. Some of the sub-activities need to be adjusted where the Competitive Negotiation Procedure is used.

Table 6: Sub-activities, related actions, inputs, outputs and dependencies pertaining to activity 4

#	Activity	Principal action	Dependency	Input to the action	Output from the action
4	Evaluate tender offers	Evaluate tender offers in terms of undertakings and parameters established in procurement documents.	3	Tender submissions	Evaluated tender offers
4.1	Open and record tender offers received	Open tender offers, either in public or in the presence of not less than two officials, and record pertinent details, authenticate all pages of returnable documents, and notify interested parties of pertinent details if requested to do so.	3.4 or 3.9	Sealed tender submissions	Opened tender submissions
4.2	Determine whether or not tenders offers are complete	Examine tenders and determine whether or not they are complete, request tenderers to complete items that are required only for tender evaluation purposes and record what is incomplete in each tender submission.	4.1	Opened tender submissions	Complete tender submissions

#	Activity	Principal action	Dependency	Input to the action	Output from the action
4.3	Determine whether or not tender offers are responsive	Confirm compliance with all the requirements of the procurement documents, including eligibility criteria. If not, declare tender offers non-responsive and record reasons for declaring a tender to be non-responsive and disregard such tender offers from further consideration.	4.2	Complete tender submission	Responsive tender submissions
4.4	Evaluate tender submissions	Review financial offer and correct discrepancies between totals and calculations / summations, identify parameters included in the tender submission that have a bearing on the financial offer and reduce all tender offers to a common base. Judge the reasonableness of financial offers and reject all tender offers with unrealistic financial offers. Evaluate tender submissions in accordance with the tender evaluation method adopted for the procurement.	4.3	Responsive tender submissions	Tender offers ranked in terms of the evaluation
4.5	Perform a risk analysis	Perform a risk analysis on the tenderer ranked highest in terms of the tender evaluation and, if found to be unsatisfactory, undertake an analysis on the next highest ranked tenderer and so on until such time as a tenderer satisfies the risk assessment, and recommend this tenderer for the award of the contract.	4.4	Responsive tender submissions of highest ranked tenderers	Commercial risk exposure
4.6	Prepare a tender evaluation report	Prepare a tender evaluation report which as a minimum contains the tender evaluation points awarded to each tenderer, the reasons for eliminating a tender offer and a recommendation for the award of the contract.	4.5	Tender evaluation schedule and commercial risk exposure	Tender Evaluation Report
4.7	Confirm recommendation contained in the tender evaluation report.	Nominated official(s) to review report and ratify recommendations.	4.6	Tender evaluation report	Approved tender evaluation report

Steps 4.1 to 4.6 pertaining to the evaluation of tender offers

Evaluate tender offers and prepare tender evaluation report in accordance with the provisions of Best Practice Guideline # A3, *Evaluating tender offers*.

Step 4.7: Confirm recommendation contained in tender evaluation report

Those persons identified in the organisation's procurement policy should review the tender evaluation report and ratify the recommendation for the award of the contract.

Activity 5: Award contract

- Note:**
- 1 The actions associated with this activity focus on the entering into a contract with the successful tenderer.
 - 2 Table 7 sets out the sub-activities associated with activity 5, describes the principal actions associated with this activity and each sub-activity, the necessary input to and output from such actions and the dependencies between sub-activities

Table 7: Sub-activities, related actions, inputs, outputs and dependencies pertaining to activity 5

#	Activity	Principal action	Dependency	Input to the action	Output from the action
5	Award contract	Enter into contract with the successful tenderer.	4	Approved tender evaluation report	Signed contract
5.1	Notify successful tenderer and unsuccessful tenderers of outcome	Notify in writing the successful tenderer and unsuccessful tenderers	4.13	Approved tender evaluation report	Communication to successful and unsuccessful tenderers
5.2	Compile contract document	Assemble contract document from the relevant tender returnables and draft contract issued to tenderers, capturing all the changes that were agreed to between the offer and acceptance.	4.13	Procurement document and tender submission	Contract Document
5.3	Formally accept tender offer	Confirm that the tenderer has provided a valid, original tax clearance certificate issued by the South African Revenue Services, formally accept the tender offer in writing and issue contractor with a signed copy of the contract.	5.2	Contract document	Signed contract
5.4	Capture contract award data	Capture, in a data base, essential contract data for record purposes.	5.3	Contract document	Recorded contract data

Step 5.1: Notify successful tenderer and unsuccessful tenderers of outcome

Notify in writing the successful and unsuccessful tenderer

Step 5.2: Compile contract document

Assemble contract document from the relevant tender returnables and draft contract issued to tenderers, capturing all the changes that were agreed to between the offer and acceptance in the Schedule attached to the Form of Offer and Acceptance. (See Best Practice Guideline #C1, *Preparing procurement documentation*, and SANS 10403).

Note: The completion of the schedule attached to the Form of Offer and Acceptance (see Annex G of SANS 294) not only contains a record of all agreed deviations from the tender documents but also forms an audit trail of all agreed changes between offer and acceptance.

Step 5.3: Formally accept tender offer

Extract from Standard Conditions of Tender (see Annex F of CIDB Standard for Uniformity in Construction Procurement)

Clause	Heading	Action
F.3.16	Issue final contract	Prepare and issue the final draft of contract documents to the successful tenderer for acceptance as soon as possible after the date of the employer's signing of the form of offer and acceptance (including the schedule of deviations, if any).
F.3.17	Complete Adjudicator's Contract	Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.
F3.18	Provide copies of the contracts	Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

Confirm that the tenderer has provided a valid, original tax clearance certificate issued by the South African Revenue Services.

Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract.

- Note:**
- 1 It is sufficient to merely sign the acceptance portion of the Form of Offer and Acceptance to accept the tender offer. (See Annex C of CIDB Standard for Uniformity in Construction Procurement / Annex G of SANS 294).
 - 2 The initialing of each page is not required by law to give effect to the contract. This practice, may, however, assist in identifying the contract between the parties during the discovery phase of litigation proceedings.

Step 5.4: Capture contract award data

Capture the following in a data base for record purposes:

- (i) the contract reference number;
- (ii) a description of the work;
- (iii) the contract price;
- (iv) preferences claimed;
- (v) tender evaluation points awarded;
- (vi) the price of the tender used for comparative purposes;
- (vii) the name and address of the successful tenderer;
- (viii) the reasons for awarding the contract to that tenderer;
- (ix) the reasons why any tenderers were rejected; and
- (x) the procurement procedure used.

Activity 6: Administer contracts and confirm compliance with requirements

- Note:**
- 1 The focus on the actions in this activity are on acting in terms of the contract and confirming that the procurement is in accordance with all requirements.
 - 2 Table 8 sets out the sub-activities associated with activity 6, describes the principal actions associated with this activity and each sub-activity, the necessary input to and output from such actions and the dependencies between sub-activities

Table 8: Sub-activities, related actions, inputs, outputs and dependencies pertaining to activity 6

#	Activity	Principal action	Dependency	Input to the action	Output from the action
6	Administer contracts and confirm compliance with requirements	Act in terms of the contract and confirm that procurement is in accordance with all requirements.	5	Contract document	Contract completed in accordance with requirements
6.1	Administer contract in accordance with the terms and provisions of the contract	Administer the contract in accordance with its terms and conditions and pay contractors within the time periods provided for in the contract so as to avoid interest on late payments.	5.3	Contract document	Compliance with administrative provisions of the contract
6.2	Ensure compliance with requirements	Monitor the contractor's performance to ensure that the requisite quality standards are attained and all requirements are satisfied and certify compliance upon completion.	5.3	Contract document	Certified compliance with contract requirements
6.3	Capture contract completion / termination data	Record, in a data base, key performance indicators relating to time, cost and the attainment of specific goals associated with a preferential procurement policy, or if the contract is terminated or cancelled, the reasons therefore.	6.1 and 6.2	Termination / completion report	Recorded data

Step 6.1: Administer contract in accordance with the terms and provisions of the contract

- a) Administer the contract in accordance with its terms and conditions within the agreed time frames. (See Contract administration chapter of SAICE Practice Manual #2, *Delivering construction projects using the design by employer contracting strategy*.)
- b) Pay contractors within the time periods provided for in the contract so as to avoid interest on late payments.
- c) Resolve disputes in accordance with the provisions of the contract.

Step 6.2: Ensure compliance with requirements

Monitor the contractor's performance to ensure that the requisite quality standards are attained and the requirements are satisfied and certify compliance upon completion.

Step 6.3: Capture contract completion / termination data

Record key performance indicators relating to time, cost and the attainment of specific goals associated with a preferential procurement policy, or if the contract is terminated or cancelled, record the reasons therefore.

Note: This is an opportune time to review the procurement process. Such reviews should focus on:

- whether the procurement satisfied the stated objectives;
- whether needs and expectations have changed such that the procurement documents should be modified;
- whether the procurement process itself could be improved; or
- how external factors such as legislation, regulations or standard component procurement documents have changed.

Annexure 1: Skills and competencies required to implement a procurement system in the public sector

General

South African citizens are entitled to expect that the public sector will conduct its business activities with efficiency, expertise, economy, fairness, and impartiality and with high standards of integrity and accountability. These standards should be reflected in organizational values, ethics and skills development initiatives.

Each institution as 'the client (or employer)' needs to define procurement in terms of scope, standards and outcomes and to manage the contractual relationships to ensure successful outcomes. The skills and expertise that are applied to procurement planning, design and documentation, tendering, and project and contract management have a significant and lasting impact on final costs and project outcomes. Effective risk management and the required skills for any project must take into account its complexity, size, risk and value.

At project initiation all risk resides with an institution as the client. The ability of an institution as the client to manage those risks is dependent on the procurement strategies that are adopted and the nature of the relationships entered into as the institution progressively engages others to deliver the project. For successful outcomes, this requires the institution to have the capability, skills and expertise to:

- identify needs;
- negotiate the procurement;
- manage the contractual relationships; and
- monitor the delivery; and
- measure contractor's performance.

Achieving these outcomes requires organs of state as the client to:

- develop and outline the project definition and scope;
- establish realistic project budgets and programme timelines;
- assess and understand the risks and identify who is to manage which risks;
- understand integrity, ethical conduct, fairness and accountability, and adopt these standards throughout the project from initiation to completion;
- understand the all the parties' obligations associated with inviting tenders, quotations, and expressions of interest;
- establish evaluation criteria for contractor selection;
- understand the principles of project management and how they are applied;
- have quality control and management systems and procedures in place; and
- have monitoring, performance measurement and reporting mechanisms in place.

Assessment of internal capacity

An internal assessment of an institution's capabilities, similar to the way the institution as a client assesses private sector capability, is a necessary first step for procurement. This should include self-assessment of:

- organisation capacity;
- knowledge of financial and contractual issues;
- technical and professional expertise and qualifications;
- previous experience and performance;
- capacity to evaluate value for money;
- capacity for innovation;
- capacity to evaluate and manage risks;
- resource availability;

- management systems and accountability; and
- performance management and indicator measurement.

It is important that where the private sector is engaged as agents to undertake procurement functions with appropriate professional skills and the institution “**manages**” as opposed to “**performs**” these functions, that officials have sound knowledge of the procurement processes, the capacity to engage the private sector and the necessary skills to manage risk and administer contracts so that the state’s interests are protected. In addition, these units need to have in place mechanisms, systems, and the skills and expertise to measure their effectiveness in delivering project outcomes.

Basic knowledge and competencies

The implementation of procurement activities depends on inputs at the following levels involving the following persons:

- **management level**, i.e., the decision makers / senior managers in an institution who set policy and assume overall accountability.
- **administration level**, i.e., the professionals (internal project managers (officials) and external agents) or administrative staff within an institution responsible for the preparation of procurement documents, the soliciting of tenders, the evaluation of tenders and / or the administration of a contract.
- **contracting level**, i.e., those who are contract to fulfill contracts.

Each of the abovementioned persons requires knowledge and competence, appropriate to the level at which they perform, to successfully undertake their roles in procurement.