

## PART T1.2: TENDER DATA

PRIEVIEW COPY ONLY

## T1.2 TENDER DATA

The conditions of tender are the Standard Conditions of Tender as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement. (See [www.cidb.org.za](http://www.cidb.org.za)) The Standard Conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the standard conditions of tender. Each item of data given below is cross-referenced to the clause in the Standard Conditions of Tender to which it mainly applies.

F.1.1 The employer is **Transnet Limited trading as Transnet Freight Rail.**

F.1.2 The tender documents issued by the employer comprise:

T1.1 Tender notice and invitation to tender

T1.2 Tender data

T2.1 List of returnable documents

T2.2 Returnable schedules

**Part C1: Agreements and contract data**

C1.1 Form of offer and acceptance

C1.2 Contract data

C1.3 Adjudicators Appointment

**Part C2: Pricing data**

C2.1 Pricing instructions

C2.2 Price List

**Part C3: Scope of work**

C3 Scope of work

**Part C4: Site information**

C4 Site information

F.1.4 The employer's agent is:

Name : **Mr. Chris Norden**

Address : **Room 317, 138 Eloff Street, Braamfontein 2017**

Tel : **011 773 8872**

Cell : **083 286 2758**

Fax : **011 773 8869**

E-mail : [Chris.Norden@transnet.net](mailto:Chris.Norden@transnet.net)

F.2.7 The arrangements for a compulsory clarification meeting are as stated in the Tender Notice and Invitation to Tender.

Confirmation of attendance to be notified at least one full working day in advance to:

Name : **Mr. Chris Norden**

Address : **Room 317, 138 Eloff Street, Braamfontein 2017**

Tel : **011 773 8872**

Cell : **083 286 2758**

Fax : **011 773 8869**

E-mail : [Chris.Norden@transnet.net](mailto:Chris.Norden@transnet.net)

Tenderers must sign the attendance list in the name of the tendering entity. Addenda will be issued to and tenders will be received only from those tendering entities appearing on the attendance list.

- F.2.12 No alternative tender offers will be considered.
- F.2.13.3 Parts of each tender offer communicated on paper shall be submitted as an original, plus two copies.
- F.2.13.5 The employer's address for delivery of tender offers and identification details to be shown on each tender offer package are:

If posted, the envelope must be addressed to:  
**The Chairperson  
Transnet Freight Rail Acquisition Council  
P.O. Box 4244  
JOHANNESBURG  
2000**

And must be dispatched in time for sorting by the Post Office to reach the Post Office Box indicated above, before the closing time of the tender. If delivered by hand, to be deposited to the Transnet Freight Rail Acquisition Council tender box which will be located in the foyer, and addressed to:

**The Chairperson  
Transnet Freight Rail Acquisition Council  
Ground Floor, Inyanda House  
21 Wellington Road  
Parktown  
JOHANNESBURG  
2001**

It should also be noted that the above tender box is accessible to the public 24 hours per day, 7 days a week.

The measurements of the "tender slot" are 500mm wide x 100mm high, and Tenderers must please ensure that tender documents/files are not larger than the above dimensions. Tenders, which are too bulky (i.e. more than 100mm thick) must be split into two or more files, and placed in separate envelopes.

#### **Identification details**

Tenders must be submitted before the closing hour on the date as shown in F.2.15 below, and must be enclosed in a sealed envelope which must have inscribed on the outside.

- (a) Tender No.
- (b) Description of work
- (c) Closing date of tender

- F.2.13.6 A two-envelope procedure will not be followed
- F.2.15 The closing time for submission of tender offers is **as stated in the Tender Notice and Invitation to Tender.**
- F.2.15 Telephonic, telegraphic, telex, facsimile or e-mailed tender offers will not be accepted.
- F.2.16 The tender offer validity period is **8 weeks.**

- F.2.19 Access shall be provided for the following inspections, tests and analysis:  
**Not applicable**
- F2.22 Return all retained tender documents within 28 days after the expiry date of the validity period
- F2.23 The tenderer is required to submit with his tender:  
An original valid Tax Clearance Certificate issued by the South African Revenue Services.
- F.3.4 The time and location for opening of the tender :  
Time : 10h15 on the closing date of the tender  
Location : Table G66 and G69, West Wing, Ground floor, Inyanda House ,  
21 Wellington Road, Parktown, Johannesburg.
- F.3.11.1 The procedure for the evaluation of responsive tenders is Method 3 (Financial offer and Quality)

The score for quality is to be calculated using the following formula:

$$W_Q = W_2 \times S_O / M_S$$

Where  $W_2$  is the percentage score given to quality and equals **90**  
 $S_O$  is the score for quality allocated to the submission under consideration.

$M_S$  is the maximum possible score for quality in respect of a submission.

The score for financial offer is calculated using Formula **2** (option 1) of SANS 294,

Where  $W_1$  is the percentage score given to financial offer and equals 100 minus  $W_2$ .

The score for quality and financial offer is to be combined, before the addition of the score for preference, as follows:

$$W_C = W_3 \times \left(1 + \frac{S - S_m}{S_m}\right)$$

Where  $W_3$  is the number of tender evaluation points for quality and financial offer and equals:

- 1) 90 where the financial value, VAT inclusive, of all responsive tenders received have a value in excess of R 2 000 000; or
- 2) 80 where the financial value, VAT inclusive, of one or more responsive tender offers equals or is less than R 2 000 000.

$S$  is the sum of score for quality and financial offer of the submission under consideration

$S_m$  is sum of the score for quality and financial offer of the submission scoring the highest number of points

Up to 100 minus  $W_3$  tender evaluation points will be awarded to tenderers for BBBEE preference.

F.3.11.3 Only those tenderers who score a minimum score of 60 points in respect of the following quality criteria will be considered.

Description of quality criteria and sub criteria		Maximum number of tender evaluation points
Quality:	Technical merit	5%
	Response to the proposed scope of work	20%
	Safety and environmental characteristics	10%
	Quality control practices and procedures which ensure compliance with stated employers	20%
	Requirements	5%
	Organization, logistics and support resources relevant to scope of work	15%
	Qualifications and demonstrated experience of staff	15%
	Previous experience in work	10%
Eligibility criteria:	Professional and technical qualifications	10%
	Professional and technical competence	10%
	Financial resources	10%
	Equipment and other physical facilities	20%
	Managerial capacity, reliability, experience and reputation	20%
	Demonstrated experience, running costs	20%
	Backup service and technical assistance	10%
	Delivery period or period of completion	10%
Total evaluation points for quality ( $W_0$ )		<b>100</b>

Criteria to be evaluated on the following scales:

- a) Non-compliance = 0  
 A detrimental response/answer/solution = 20  
 Less than acceptable = 40  
 Acceptable response/answer/solution = 60  
 Above acceptable = 80  
 Excellent = 100
- b) Poor = 5  
 Satisfactory = 10  
 Good = 15  
 Very good = 20

F.3.13.1 Tender offers will only be accepted if:

- a) The tenderer has completed and returned all **returnable documents** and **schedules**.

The persons named in the Schedule of Key Persons of tenderers who satisfy the minimum quality criteria will be invited to an interview. Tenderers who attain a score of less than 50% of the points allocated to the interview will be declared ineligible to tender.

F.3.13.1 Tender offers will only be accepted if:

- a) The tenderer has in his or her possession an original valid Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations.

- b) The tenderer is not in arrears for more than 3 months with municipal rates and taxes and municipal service charges;
- c) The tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector.
- d) The tenderer has not:
  - i) abused the Employer's Supply Chain Management System; or
  - ii) failed to perform on any previous contract and has been given a written notice to this effect; and

F.3.18 The number of paper copies of the signed contract to be provided by the employer is one.

**The additional conditions of tender are:**

- 1 The Tenderer is deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the *works* and of the rates and prices stated in the priced Price List in the *works* Information. The rates and prices (except in so far as otherwise provided in the Tender) collectively cover full payment for the discharge of all his obligations under the Contract and all matters and things necessary for the proper completion of the *works*.
- 2 No slips are to be attached to the tender documents. Any additional conditions must be embodied in an accompanying letter. Alterations, additions or deletions must not be made by the tenderer to the actual tender documents.
- 3 Tenderers are warned that a tender will be liable to disqualification should any attempt be made by a tenderer either directly or indirectly to canvass any officer(s) or employees of Transnet Limited in respect of a tender between the date the tender is submitted and the date of the award.
- 4 Tenderers shall give a clause by clause comment as to whether or not their tender complies. If not, how it differs from the specification(s). Failure to do so may preclude a tender from consideration.
- 5 The attention of Tenderers is particularly directed to the necessity to complete the "Labour Payment Schedule" and "Resolution of Board of Directors", where these documents are included in the tender.
- 6 The terms of the "Principal Controlled Insurance Policy" is negotiated by Transnet each year, therefore, the conditions of the policy embodied in this tender enquiry/contract is valid only for the period as stated in the policy. In the event of an occurrence that may arise during the course of a contract the rates/conditions of the latest policy i.e. applicable at date of occurrence, shall apply.

Transnet will be responsible for the difference in costs between the excesses covered in the policy included in the contract and the rates of the latest available policy applicable at date of occurrence.

**Annex F  
(Normative)**

**Standard Conditions of Tender**

**F.1 General**

**F.1.1 Actions**

**F.1.1.1** The Employer and each Tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

**F.1.1.2** The Employer and the Tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the Employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process as appropriate.

- Note:
- 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.
  - 2) Conflict of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**F.1.1.3** The Employer shall not seek and Tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

**F.1.2 Tender Documents**

The documents issued by the Employer for the purpose of a tender offer are listed in the tender data.

**F.1.3 Interpretation**

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:

- a) **conflict of interest** means any situation in which:
- i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially;
  - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
  - iii) Incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **Comparative offer** means the Tenderer's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration.
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the Employer or his staff or agents in the tender process; and
- d) **Fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the Employer, including collusive practices intended to establish prices at artificial levels.
- e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body
- f) **Quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs.

#### F.1.4 **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. Communication shall be in the English language. 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.

#### F.1.5 **The Employer's right to accept or reject any tender offer**

**F.1.5.1** 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.

## **F.1.6 Procurement procedures**

### **F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the Tenderer who in terms of F.3.11 is the highest ranked or the Tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

### **F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, Tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the Employer shall announce only the names of the Tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of Tenderers shall not apply.

**F.1.6.2.2** All responsive Tenderers, or not less than three responsive Tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the Employer may request that tenders be clarified, specified and fine-tuned in order to improve a Tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3** At the conclusion of each round of negotiations, Tenderers shall be invited by the Employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings, Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after Tenderers have been requested to submit their best and final offer.

### **F.1.6.3 Proposal procedure using the two stage-system**

#### **F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The Employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the Tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

#### **F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The Employer shall invite all responsive Tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The Employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

## **F.2 Tenderer's obligations**

### **F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the Tenderer satisfies the criteria stated in the tender data and the Tenderer, or any of his principals, is not under any restriction to do business with Employer.

**F.2.1.2** Notify the Employer of any proposed material change in the capabilities of formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the Employer as the basis in a prior process to invite the Tenderer to submit a tender offer and obtain the Employer's written approval to do so prior to the closing time for tenders.

### **F.2.2 Cost of tendering**

Accept that, unless otherwise stated in the tender data, the Employer will not compensate the Tenderer for any costs incurred in the preparation and submission of a tender offer, including the cost of any testing necessary to demonstrate that aspects of the offer satisfy requirements.

### **F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the Employer of any discrepancy or omission.

### **F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the Employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

### **F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

### **F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the Employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

### **F.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which Tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

## **F.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the Employer at least five working days before the closing time stated in the tender data.

## **F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the Employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The Tenderer is advised to seek qualified advice regarding insurance.

## **F.2.10 Price the tender offer**

**F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful Tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2** Show VAT payable by the Employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

## **F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the Employer, or necessary to correct errors made by the Tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

## **F.2.12 Alternative tender offers**

**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

**F.2.12.2** Accept that an alternative tender offer may be based on the criteria stated in the tender data or criteria otherwise acceptable to the Employer.

## **F.2.13 submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works unless stated otherwise in the tender data.

- F.2.13.2** Return all returnable documents to the Employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.
- F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the Employer.
- F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The Employer will hold all authorized signatories liable on behalf of the Tenderer. Signatories for Tenderers proposing to contract as joint ventures shall state, which of the signatories is the lead partner whom the Employer shall hold liable for the purpose of the tender offer.
- F.2.13.5** 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 contract address.
- F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope 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 contract address.
- F.2.13.7** 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.
- F.2.13.8** 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.
- F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the Employer, unless stated otherwise in the tender data.
- F.2.14 Information and data to be completed in all respects**
- Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the Employer as non-responsive.
- F.2.15 Closing time**
- F.2.15.1** Ensure that the Employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery. The Employer shall **not** accept tender offers submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the tender data.
- F.2.15.2** Accept that, if the Employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

## **F.2.16 Tender offer validity**

**F.2.16.1** Hold the tender offer(s) valid for acceptance by the Employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

**F.2.16.2** If requested by the Employer, considers extending the validity period stated in the tender data for an agreed additional period.

**F.2.16.3** Accept that a tender submission that has been submitted to the Employer may only be withdrawn or substituted by giving the Employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

**F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

## **F.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the Employer during the evaluation of tender offers. This may 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 total of the prices or substance of the tender offer is sought, offered, or permitted. The total of the prices stated by the Tenderer shall be binding upon the Tenderer.

**Note:** Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred Tenderer following a competitive selection process, should the Employer elect to do so.

## **F.2.18 Provide other material**

**F.2.18.1** 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 non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the Employer, where required.

## **F.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

## **F.2.20 Submit securities, bonds, policies, etc.**

If requested, submit for the Employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

### **F.2.21 Check final draft**

Check the final draft of the contract provided by the Employer within the time available for the Employer to issue the contract.

### **F.2.22 Return of other tender documents**

If so instructed by the Employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

### **F.2.23 Certificates**

Include in the tender submission or provide the Employer with any certificates as stated in the tender data.

## **F.3 The Employer's undertakings**

### **F.3.1 Respond to requests from the Tenderer**

**F.3.1.1** Respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all Tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to pre-qualify a Tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture falls to meet any of the collective or individual qualifying requirements;
- b) The new partners to a joint venture were not pre-qualified in the first instance, either as individual firms or as another joint venture, or
- c) In the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

### **F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each Tenderer during the period from the date that tender documents are available until seven days before the tender closing time stated in the Tender Data. If, as a result a Tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all Tenderers who drew documents.

### **F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the Tenderer concerned.

### **F.3.4 Opening of tender submissions**

**F.3.4.1** Unless the two- envelope system is to be followed, open valid tender submissions in the presence of Tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

**F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each Tenderer whose tender offer is opened, the total of his prices, preferences claimed and time for completion, if any, for the main tender offer only.

**F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

### **F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of Tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each Tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate the quality of the technical proposals offered by Tenderers, then advise Tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of Tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to Tenderers whose technical proposals failed to achieve the minimum number of points for quality.

### **F.3.6 Non-disclosure**

Not disclose to Tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful Tenderer.

### **F.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a Tenderer to influence the processing of tender offers and instantly disqualify a Tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

### **F.3.8 Test for responsiveness**

**F.3.8.1 Determine**, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender.
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

**F.3.8.2 A responsive tender** is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of work,
- b) change the Employer's or the Tenderer's risks and responsibilities under the contract, or
- c) Affect the competitive position of other Tenderers presenting responsive tenders, if it were to be rectified.

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

### **F.3.9 Arithmetical errors, omissions and discrepancies**

**F.3.9.1** Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.

**F.3.9.2** Check the highest ranked tender or Tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) The gross misplacement of the decimal point in any unit rate;
- b) Omissions made in completing the pricing schedule or bills of quantities; or
- c) Arithmetic errors in:
  - i) Line item totals resulting from the product of a unit and a quantity in bills of quantities or schedules of prices; or
  - ii) summation of the prices.

**F.3.9.2** Notify the Tenderer of all errors or omissions that are identified in the tender offer and invite the Tenderer to either confirm the tender offer as tendered or accept the corrected total of prices.

**F.3.9.3** Where the Tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the Tenderer's addition of prices, the total of the prices shall govern and the Tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

### F.3.10 Clarification of tender offer

Obtain clarification from a Tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

### F.3.11 Evaluation of tender offers

#### F.3.11.1 General

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

#### F.3.11.2 Method 1: Financial offer

In the case of a financial offer:

- a) Rank tender offers from the most favourable to the least favourable comparative offer.
- b) Recommend the highest ranked Tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- c) Re-rank all Tenderers should there be compelling and justifiable reasons not to recommend the highest ranked Tenderer and recommend the highest ranked Tenderer, unless there are compelling and justifiable reasons not to do so and the process set out in this sub-clause is repeated.

#### F.3.11.3 Method 2: Financial offer and preference

In the case of a financial offer and preferences:

- a) Score each tender in respect of the financial offer made and preferences claimed, if any, in accordance with the provisions of F.3.11.7 and F.3.11.8.
- b) Calculate the total number of tender evaluation points ( $T_{EV}$ ) in accordance with the following formula :

$$T_{EV} = N_{FO} + N_p$$

Where  $N_{FO}$  is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

$N_p$  is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend the Tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

- e) Rescore and re-rank all Tenderers should there be compelling and justifiable reasons not to recommend the Tenderer with the highest number of tender evaluation points, and recommend the Tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

#### F.3.11.4 Method 3 : Financial offer and quality

In the case of a financial offer and quality :

- a) Score each tender in respect of the financial offer made and the quality offered in accordance with the provisions of F.3.11.7 and F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.
- b) Calculate the total number of tender evaluation points ( $T_{EV}$ ) in accordance with the following formula:

$$T_{EV} = N_{FO} + N_o$$

Where :  $N_{FO}$  is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

$N_o$  is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend Tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all Tenderers should there be compelling and justifiable reasons not to recommend the Tenderer with the highest number of tender evaluation points and recommend the Tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub-clause is repeated.

#### F.3.11.5 Method 4: Financial offer, quality and preferences

In the case of a financial offer, quality and preferences:

- a) Score each tender in respect of the financial offer made, preference claimed, if any, and the quality offered in accordance with the provisions of F.3.11.7 to F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.
- b) Calculate the total number of tender evaluation points ( $T_{EV}$ ) in accordance with the following formula :

$$T_{EV} = N_{FO} + N_p + N_o$$

where :  $N_{FO}$  is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

$N_p$  is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.

$N_o$  is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend the Tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all Tenderers should there be compelling and justifiable reasons not to recommend the Tenderer with the highest number of tender evaluation points and recommend the Tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub-clause is repeated.

**F.3.11.6 Decimal places**

Score financial offers, preferences and quality, as relevant, to two decimal places.

**F.3.11.7 Scoring Financial Offers**

Score the financial offers of remaining responsive tender offers using the following formula:

$$N_{Fo} = W_1 \times A$$

Where:  $N_{Fo}$  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 as stated in the Tender Data.

A is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

**Table F.1: Formula for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1	Option 2
1	Highest price or discount	$A = (1 + \frac{(P - P_m)}{P_m})$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 - \frac{(P - P_m)}{P_m})$	$A = P_m / P$
3	$P_m$ $P$	<p><math>P_m</math> is the comparative offer of the most favourable tender offer.  <math>P</math> is the comparative offer of tender offer under consideration.</p>	

### F.3.11.8 Scoring preferences

Confirm that Tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where Tenderers are not eligible for such preferences.

Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

### F.3.11.9 Scoring quality

Score each of the criteria and sub-criteria for quality in accordance with the provisions of the Tender Data.

Calculate the total number of tender evaluation points for quality using the following formula:

$$N_o = W_2 \times S_o / M_s$$

where :  $S_o$  is the score for quality allocated to the submission under consideration;

$M_s$  is the maximum possible score for quality in respect of a submission;  
and

$W_2$  is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data.

### F.3.12 Insurance provided by the Employer

If requested by the proposed successful Tenderer, submit for the Tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the Employer to provide.

### F.3.13 Acceptance of tender offer

**F.3.13.1** Accept tender offer, if in the opinion of the Employer, it does not present any unacceptable commercial risk and only if the Tenderer:

- a) Is not under restrictions, or has principals, who are under restrictions, preventing participating in the Employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of 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.

**F.3.13.2** Notify the successful Tenderer of the Employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period. Providing the form of offer and acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the Employer and the successful Tenderer as described in the form of offer and acceptance.

**F.3.14 Notice to unsuccessful Tenderers**

After the successful Tenderer has acknowledged the Employer's notice of acceptance, notify other Tenderers that their tender offers have not been accepted.

**F.3.15 Prepare contract documents**

If necessary, revise documents that shall form part of the contract and that were issued by the Employer as part of the tender documents to take account of:

- a) Addenda issued during the tender period.
- b) Inclusion of some of the returnable documents,
- c) Other revisions agreed between the Employer and the successful Tenderer, and
- d) The schedule of deviations attached to the form of offer and acceptance, if any.

**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.

**F.3.18 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.

**F.3.19 Provide written reasons for actions taken**

Provide upon request written reasons to Tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of Tenderers or might prejudice fair competition between Tenderers.