

JOINT PRACTICE COMMITTEE

(WESTERN CAPE)

CONSTITUENTS:
CAPE INSTITUTE FOR ARCHITECTURE
SOUTH AFRICAN PROPERTY OWNERS' ASSOCIATION
ASSOCIATION OF SOUTH AFRICAN QUANTITY SURVEYORS
SOUTH AFRICAN ASSOCIATION OF CONSULTING ENGINEERS
MASTER BUILDERS & ALLIED TRADES ASSOCIATION, W.CAPE

Practice Note 10/2009 Amended Mar 2012

RECOMMENDED TENDERING PROCEDURE

1 : Intention of Practice Note

The intention of this Note is to maintain a standard of ethical good practice and equitable tender procedures within the realities of the current tender and contractual environment in the building industry.

2. Invitation to Tender

The employer or his agent should ensure that the contractor and the selected or nominated subcontractor by submission of a tender, in response to an invitation, warrants that he is currently and will for the duration of the works remain compliant with all statutory regulations in force for the duration of the contract.

- 2.1 The tenderer undertakes to ensure that statutory compliance is observed by any or all of the domestic sub-contractors appointed to the contract for the duration of the contract.
- 2.2 A stipulation to the above should be included in the invitation to tender

3 : Bills of Quantities

It is recommended that Contractors only tender in competition for work in the building industry where bills of quantities have been prepared in accordance with the Standard System of Measuring Builders' Work except where:

- 3.1 The tender amount is expected to be less than R3 000 000; or
- 3.2 The tender amount is less than R200 000 in respect of work which is normally classified as Subcontract Work; or
- 3.3 The tender is in respect of a dwelling house, irrespective of the value thereof, providing the total covered area of the dwelling house, including outbuildings, does not exceed 500 square metres; or
- 3.4 The tender is for a group housing scheme; or
- 3.5 The tender has been called for based on an alternate method of tendering with schedules of rates and provisional quantities.

4 : Alternative Tenders

Contractors may use their expertise and ingenuity by submitting tender prices based on a different design, construction method and or material, time, not called for in accordance with the original plans and specification, provided that they also submit a tender as called for in the tender documents.

5 : Tender Opening

It is recommended that parties to the tender ensure that:

- 5.1 Tenderers are at all times entitled to be present at tender openings;

- 5.2 Tender prices and names of tenderer's be announced at the tender opening;
- 5.3 Alternative tender prices in terms of Clause 3 hereof as well as any other tender qualifications be announced at the tender opening.
- 5.4 In tenders where BBEE status is used in determining the award of a tender, then particulars of the successful tenderer's BBEE status and the effect this has on the award of the tender shall be fully disclosed, as soon after the tender date and time as possible.

6 : Recommendations regarding Tender Practices

- 6.1 On receipt of tender documents not complying with the provisions of this Practice Note or containing onerous conditions and departures from standard conditions of contract, contractors should report the matter to their respective constituent body serving on the Joint Practice Committee;
- 6.2 A contractor who has submitted a competitive tender for a project should not re-tender within three months calculated from the closing date of the initial competitive tender;
- 6.3 A contractor who has not tendered for a contract, for which competitive tenders have been received, should not accept the contract before the lapse of three months calculated from the closing date of the initial competitive tenders;
- 6.4 A contractor should not initiate communication with the employer or his agent regarding any matter whatsoever relating to a tender or to a contract in respect of which competitive tenders were submitted, except to provide additional information at the request of the employer or his agent for the purpose of awarding such tender;
- 6.5 If an employer or his agent after having received competitive tenders for a service then calls for further tenders, no contractor or subcontractor should submit a price for such further tenders for the execution of any work on such service before a lapse of three months calculated from the closing date of the initial competitive tenders;
- 6.6 Subject to the provisions of clause 3 where bills of quantities or schedules of rates have been used, no tenderer shall be required to submit a priced BOQ at the opening of the tenders, nor shall any employer or his agent/s call for the priced bills of quantities, or schedules of rates to be submitted with a competitive tender--nor shall the employer or his agent/s do so after the opening of tenders, unless it be for the specific purpose of reviewing the quoted rates with the intent of awarding the contract to the contractor being called upon to submit his rated BOQ.
 - 6.6.1 The JPC endorses the recommendation of the CIDB that a that the Summary Sheet, setting out only the elemental subtotals arising from the BOQ, may be called for by the Employer or his Agent/s, simultaneously with the tender submission, if deemed necessary.
- 6.7 The calling for priced bills of quantities or schedules of rates after the close of tenders should not be construed as acceptance of the tender;
 - 6.7.1 Acceptance of any tender should only be awarded after receipt of the requested priced bill of quantities or schedules of rates for same and these have been assessed as being entirely acceptable to the employer and his agents, failing which other tenders will be considered. The Employer and his Agent/s shall clearly communicate their intention to enter into the review of a specific Contractor's tender to all the other contractors who have submitted "Bona-fide" tenders for the project

- 6.8 Should a contractor be awarded a tender in which he used the price of a subcontractor's competitive tender, the contractor should appoint such subcontractor;
- 6.9 A contractor who avails himself of competitive tenders from subcontractors should not disclose such tenders to anyone prior to the submission of his own tender. Where no time and place have been stated for the opening of subcontract tenders the principal contractor shall on request, immediately after the opening of the main tender make available to the subcontractors who have tendered to him the names of the tenderers and the tender amounts of the tenderers submitted for their respective trade.
- 6.10 The Joint Practice Committee endorses the statutory obligations of contractors, as per Practice Note 13/2009 to pay a fair wage and to compete fairly, and equally endorses the moral obligation of Clients and their Agents in the industry to insist that workers employed on their projects are paid in terms of the minimum requirements of the Building Industry Bargaining Council collective agreement in force on parties during the period of the works.

7. Negotiations

An employer or his agent may negotiate with any contractor from whom he has received a tender provided negotiations shall not take place with more than one contractor at a time and all tenderers have been informed as set out in Cl. 6.7.1.



CHAIRMAN

19 March 2012

DATE



SECRETARY