

CHAPTER 7



**PROCURING CONSULTING AND
CONSTRUCTION SERVICES**

7. PROCURING THE SERVICES OF CONSULTANTS AND CONTRACTORS

7.1 Introduction

This chapter examines who the role-players are in developing and implementing NMT plans. There are three main role-players involved in the scoping and implementing of the required work, namely, the client the designer and the contractor. This chapter develops their roles and offers guidance around the appointment processes based on experiences from the pilot cities.

7.2 The different roles to be played in construction projects

7.2.1 THE CLIENT

In the context of this manual, the client is the municipality that wishes to develop its NMT infrastructure. It is the client's responsibility to ensure that it has a clear vision and accompanying scope determined and that it appoints service-providers that are capable of executing this vision and scope of work.

7.2.2 THE DESIGNER

The designer is the person who prepares designs and checks and approves the design. This usually consists of architects / engineers / surveyors / contractors carrying out designs / landscape architects etc. This comprises any work which includes drawings, calculations, design details and specifications.

The designer's responsibilities are to monitor contractor/s to ensure that they are working according to the designs; to undertake final inspection of

works; and to take account of any risks and remove and/or reduce these risks.

7.2.3 CONTRACTOR

The contractor is legally contracted to undertake the construction of the client-approved designs, as well as prepare the Occupational Health and Safety plan for the construction works, within a specified contract period, and to specifications.

All contractors must be registered as part of the CIDB grading designations, before being permitted to engage in construction activities.

A contractor's grading comprises three characters which reflect a registered contractor's capability to perform a contract for a determined tender value range (first character) in a class of construction works (second and third character). Each contractor registered on the register of contractors must apply for and will be assigned to at least one contractor grading.

7.3 Appointment of consulting services

The role of the consultant is to act as the trusted advisor of the client's objectives and requirements. The client, in most instances being in the public sector, has to account for public funds mainly generated through ordinary citizens' tax money. Thus, these appointments cannot be executed in an illegal or irresponsible way.

The primary purpose of the competitiveness of procuring services should be to ensure long term value for money and not just short term low cost design. Thus, the best method to achieve this procurement is based purely on quality, and this is followed by price negotiation as to obtain fair value for money. This type of procurement leads to transparent and equitable processes – these are the underpinning objectives of the CIDB code of conduct for all persons in the construction environment.

By evaluating according to quality, preference and price – one uses objective (quanti-

itative) measures and subjective (qualitative) criteria in a single evaluation process.

In the Greening Programme, the three cities had to appoint their own design consultants to undertake detailed designs and construction supervision. The services were procured with each city's supply chain policy as the backdrop of procurement as such:

- The Ethekwini Metropolitan Municipality appointed a consultant for the detailed design components, but used its own personnel for construction monitoring and supervision.
- The City of Johannesburg and Polokwane Local Municipality shortlisted five consultants from its approved panel of consultants and requested these consultants to submit proposals.

The preferred service provider was subsequently appointed for both the detailed designs and construction monitoring and supervision.

- The Cities identified the scope of work, according to a budget submitted in the concept design stages of the projects and thereafter commenced with the procurement process. The preferential procurement policies were set at either 90:10 or 80:20 depending on whether the contract was either above or below R1 million.
- A Bid Specifications Committee was set, which evaluated the criteria for the bid evaluations, and once the criteria were approved, the City forwarded the invitation to the five consultants. A tender briefing meeting was held whereupon the City, in consultation with the bidders, elaborated on the processes to be undertaken.
- Polokwane Local Municipality did not have pre-defined criteria on which to select their consultants, thus the DEA evaluated the consultants based on:
 - A) Qualifications and competence of assigned personnel in the scope of works;



- B) Demonstrated past performance in comparable projects;
- C) Quality assurance systems which ensure compliance with stated employer's requirements;
- D) Organisation, logistics and support resources;
- E) Demonstrable managerial ability appropriate to the size and nature of the work.

- The City of Johannesburg evaluated the tenders in terms of functionality and those scoring below 65 points were disqualified. Other bids were disqualified based on failure to submit an original tax clearance certificate or to attend the briefing session. The points for functionality were based on:

- A) Company experience; job creation opportunities
- B) CVs
- C) Innovation
- D) 5% subcontracting to up and coming consultants.

- Polokwane Local Municipality evaluated the tenders and those with few experiences and track record in the industry were disqualified.
- The tenders were ranked and their Broad-Based Black Economic Empowerment (BBBEE) levels being taken into consideration; final points were assigned accordingly. The tender with the highest points was then appointed.

7.4 Appointing contractors

The appointment for contracting services differs from that of consulting services, as, according to the Construction Industry Development Board (CIDB) – the highest office on construction matters in South Africa, contracting tenders are awarded purely based on price and B-BBEE levels.

The greatest lesson learnt throughout the implementation of the Programme is that the lowest contractor is not necessarily the best contractor to construct the NMT works. Thus, Cities need to be more stringent in their procurement strategy – to make sure that the best contractor is awarded for the implementation work.

A brief overview of the procurement process for contracting work is given as follows:



7.4.1 THE STRUCTURE OF A GOOD PROCUREMENT DOCUMENT

A good procurement document for implementation projects consists of the following sections:

PART	T:	TENDER
PART	T1:	TENDERING PROCEDURES
	T1.1	Tender notice and invitation to tender
		Tender advertisement and invitation for tenders
	T1.2	Tender Data
		All the relevant tender data is captured there
PART	T2:	RETURNABLE SCHEDULES
	T2.1	List of Returnable documents
		This includes tax clearance certificates, rates and taxes; CIDB grading confirmation etc
	T2.2	Returnable schedules
		This includes all returnables that the Tenderer must fill in or deviations and amendments.
PART	C:	CONTRACT
PART	C1:	AGREEMENT AND CONTRACT DATA
	C1.1	Form of offer and acceptance
		All information related to the contract and that is applicable is normally stated herein.
	C1.2	Contract data
PART	C2:	PRICING DATA
	C2.1	Pricing Assumptions
	C2.2	Activity schedule or bills of quantities
		This describes the performance rather than the design or descriptive characteristics such as: the technical specifications, including any standard, general and detailed specifications.
PART	C3:	SCOPE OF WORK
	C3:	Scope of work
PART	C4:	SITE INFORMATION
		<i>(engineering and construction works contracts only)</i>
	C4	Site information
		This gives any data on the site that might be helpful to the tenderer.
		If soil conditions are available, and any other conditions of site.

ANNEXURES

This will include any additional documentation such as tender drawings which are attached to the tender document but are not bound. These are described in the Annexures.

7.4.2 BASIC STEPS IN EVALUATING TENDERS BASED ON THE CIDB BEST PRACTICE PRINCIPLES



Step 1: Open and record tender offers received

Step 2: Determine whether or not tender offers are complete.

Determine whether there are any grounds for disqualification (e.g. offer of acceptance not signed etc.)

Step 3: Determine whether or not tender offers are responsive.

Determine whether there are any grounds for disqualification (e.g. no original tax clearance certificate). All non-responsive tenders are then rejected and not evaluated further.

Step 4: Evaluate tender submissions.

Reduce tenders to comparative offers.

Then it's time to check for arithmetical errors, omissions and discrepancies in the tender. These are normally noted and corrected on a spreadsheet, page by page. This includes omissions made in the bills of quantities; gross misplacement of decimal points; arithmetic errors; summation of prices.

Determine reasonableness of tender offers.

Ensure that the tenders are reasonable i.e. there are no inflated rates or under-priced rates that will make it impossible to complete the work were the Tenderer to be appointed. All unreasonable tenders could be disqualified if the Tenderer cannot explain the unreasonableness thereof.

Review claims for preference points.

All claims for preference will then be reviewed against supporting data provided as additions to Part T2.

Award points for financial offer.

Points are awarded based on the system used and the procurement policies.

Award points for quality.

Points for quality are awarded based on requirements in the contract data. Any tender offers which do not score the minimum number of points for quality stated in the Tender Data are then eliminated.

Award points for preferences.

Preference points are calculated and awarded as specified in the contract data.

Total the points and rank the tenderers.

Rank tender offers from the most favourable to the least favourable comparative offer.

Step 5: Perform a risk analysis.

Banks can be consulted to provide a rating of the financial capability of the Tenderer. It is also possible to determine whether the Tenderer is registered on the CIDB under a specific grading. It is also possible to call a few of the Tenderers' references and evaluate their performance under previous contracts. Then, compile all this information to determine a risk rating.

Step 6: Prepare a tender evaluation report.

A tender evaluation report will summarise the entire process followed, the various reviews and awarding of points, and how one came to score the Tenderers from highest to lowest. This report is crucial to identify a suitable Contractor.

Step 7: Confirm recommendation contained in the tender evaluation report.

7.5 Key lessons learnt

- Different cities have different procurement policies and it is paramount that all NMT officials **familiarise themselves with their supply chain policies** and adhere strictly to these policies throughout the project duration.
- Municipal officials need to comply with specifications captured under Scope of Work **when writing up Requests for Proposals**, to make sure that the best consultant / contractor is appointed to undertake the design / construction of the projects. This requires close co-operation between officials and their supply chain departments.
- It is best to **assess services contracts based on functionality (how well the team can undertake the task) and price**. Price should not be the only determining criteria in appointing a service provider to undertake the consulting and contracting services.
- Municipal officials need to **familiarise themselves with due processes** that are required per municipality.

- The **lowest priced contractor is not always the best contractor** to undertake the works. In cases where contractors do not perform and have been given adequate time to rectify their non-performance, Cities should take action as is outlined in the Supply Chain policies.

