



Coega Development Corporation (Pty) Ltd

TENDER OFFER EVALUATION AND SCORING

Empowerment Objectives

Quality/Functionality

Price

SPECIFICATION

TGP 06: 2008

REVISION 06: DECEMBER 2008

**EVALUATION AND SCORING OF TENDER OFFERS ON EMPOWERMENT
OBJECTIVES, QUALITY/FUNCTIONALITY AND PRICE**

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TGP 06: 2008

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DOCUMENT CONTROL SHEET

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SIGNING OF THE ORIGINAL DOCUMENT

We, the undersigned, accept this document as a stable work product to be placed under formal change control as described by the Change Control Procedure document.

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ACRONYMS

ABE	=	Affirmable Business Enterprise
ABVA	=	Association of BEE Verification Agencies
BBBEE	=	Broad-based Black Economic Empowerment
BEE	=	Black Economic Empowerment
EME	=	Exempted Micro Enterprises
CDC	=	Coega Development Corporation (Pty) Ltd
CIDB	=	Construction Industry Development Board
LEP	=	Local Enterprise Participation
PPPFA	=	Preferential Procurement Policy Framework Act
SMME	=	Small, Medium and Micro Enterprises
WEO	=	Women Equity Ownership

1 INTRODUCTION

This Specification, **TGP 06:2008: Tender Offer Evaluation and Scoring** shall form the basis for determining how this tender will be evaluated and scored more particularly with respect to achievement of Empowerment Objectives, Quality/Functionality of the submitted tender and the Tendered Price.

This Specification was developed and adopted by the Coega Development Corporation Pty Ltd (CDC) to ensure that Broad Based Black Economic Empowerment (BBBEE) is meaningfully progressed and that individuals with BBBEE status, specifically from the Eastern Cape, participate meaningfully during the execution of contracts awarded by the CDC for the development of the Coega IDZ and on projects that the CDC implements on behalf of other entities.

2 APPLICABLE DOCUMENTATION

This Specification is to be read together with following applicable documents:

- (a) Preferential Procurement Policy Framework Act (PPPFA);
- (b) Broad-based Black Economic Empowerment Act (BBBEE);
- (c) CDC's Procurement Policy & Procedures;
- (d) Construction Industry Development Board's (CIDB's) Code of Conduct; and
- (e) Public Finance Management Act (PFMA).

3 DEFINITIONS AND INTERPRETATIONS

- (a) **Affiliated Business:** A business entity which has control of or the power to control another business entity, albeit indirectly, e.g. where a third person has control of or has the power to control both entities. Indicators of control shall, without limitation, include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, or common use of employees.
- (b) **Accredited Verification Agencies:** Enterprises that have been accredited by SANAS and ABVA on behalf of the DTI to provide an independent opinion on the broad-based economic empowerment status of enterprises.
- (c) **Affirmable Business Enterprise (ABE):** A business which adheres to statutory labour practices, is a legal entity, registered with the South African Revenue Services (SARS) and continues to operate as an independent enterprise for profit, providing a Commercially Useful Function and:
- (i) Which is at least 51%, owned and controlled by HDI people; and
 - (ii) Whose management and daily business operations are in the control of one or more HDI people who effectively managing the business on their own.
- (d) **Assignment Value:** The total Rand value of the money charged to the CDC by a Service Provider for services rendered to the CDC following a duly authorised appointment to do so by the CDC.
- (e) **Black people:** refers to African, Coloureds and Indian who are citizens of RSA by birth and are citizens of RSA by naturalisation before 1994.
- (f) **Black Economic Empowerment:** is defined as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the number of black people who manage, own and control the country's economy, as well as significant decrease in income inequalities.
- (g) **Broad Based Black Economic Empowerment:** means the economic empowerment of all black people including black women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio economic strategies, as defined in the Act.
- (h) **Codes of Good Practice :** refers to BEE Codes of Good Practice including all the statements as issued under section 9 of Act 53 of 2003

- (i) **Contract:** A legally binding agreement between the CDC and the Service Provider for the latter to provide goods and/or services to the former. A contract would be legally binding only if it has been signed by people who have the delegated authority to do so.
- (j) **Contractor:** Any person, body, or legal entity who has a contract with the CDC for performing a construction related contract. A Tenderer whose tender has been accepted becomes a Contractor.
- (k) **Control:** The possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- (l) **Employment Intensive Construction:** Forms of construction utilising methods and technologies which realise an increase in the number of employment opportunities generated over plant based or traditional forms of construction.
- (m) **Executive Director:** A partner in a partnership, a sole proprietor, a director of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) or a member of a close corporation registered in terms of the Close Corporation Act, who, jointly and severally with his other partners, co-directors or co-members, as the case may be, bears the risk of the business and takes responsibility for the management and liabilities of the partnership, company, or close corporation on a day to day basis.
- (n) **Exempted Micro Enterprises:** An entity with an annual turnover of less than R5 million.
- (o) **Firm:** A business entity providing professional services in which at least two thirds of the Principals are Registered Professionals-in-training.
- (p) **Joint Venture:** An association of firms, companies or businesses for which purpose they combine their expertise, efforts, skills and knowledge to execute the Contract.
- (q) **Local Enterprise Participation:** A firm, company, business with a permanent office and infrastructure in the Eastern Cape Province that participates meaningfully in the Performance of the Works.
- (r) **Office:** A firm which is under the full-time control and operation of a resident Registered Professional.

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- (s) **Owned:** Having all the customary incidents of ownership, including the right of disposition, and sharing the risks and profits commensurate with the degree of ownership interest as demonstrated by an examination of the substance, rather than the form of the ownership arrangements.
- (t) **Ownership Goal:** The percentage of the Tendered Price, as awarded, which represents the sum of the Rand value of HDI people's equity in the Performance of the Works.
- (u) **Preferential Group:** Individuals, firms or companies with BEE status and who are targeted for empowerment.
- (v) **Preferential Participation Programme:** A programme indicating the means, resources and methodology by which a Contractor would undertake to engage preferential groups in the due fulfilment of the Contract.
- (w) **Prime Contractor:** A contractor who contracts with the CDC as the principal or main contractor or as a joint venture partner to such contractors, to provide goods, services or works.
- (x) **Professional Service:** The provision on a fiduciary basis of labour and knowledge-based expertise which is applied with skill, care and diligence in accordance with the provision of the Professional Service Contract.
- (y) **Service Provider:** Any person or body corporate that is under contract to the CDC for providing a Professional Service.
- (z) **Registered Principal:** A person within an Office who is professionally registered by the relevant statutory council, and who is a director, partner, member, profit sharing associate, shareholder or other category of persons who participates meaningfully in the ownership, benefits and risks of the Office and is engaged full time in the operation of the Office.
- (aa) **Registered Professional:** A full-time employee of an Office, other than a Principal, who is professionally registered by the relevant statutory council.
- (bb) **Registered Professional-in-training:** A full-time employee, other than a Principal, who is registered by the relevant statutory council as a professional-in-training, has obtained the necessary tertiary qualifications to register as a professional and is serving an in-house training period prior to applying to register as a professional.

(cc) Senior Manager: An individual who is responsible for planning, organising, leading and controlling operations within an organisation and who reports to the Executive Director.

(dd) Services: The provision of labour and/or work carried out by hand or with the assistance of equipment and plant including the input as necessary of knowledge based expertise.

(ee) Small, Medium and Micro Enterprises: An Affirmable Business Enterprise which adheres to statutory labour practices, is a legal entity, registered with SARS and continues to operate as an independent enterprise for profit, providing a Commercially Useful Function, provided that:

- (i) The annual average turnover excluding Value Added Tax (VAT) and any turnover generated in respect of work performed by other parties in a joint venture or a consortium, of the business during the lesser of the period for which the business has been operating, or the previous three (3) financial years, does not exceed:

Type of Enterprise	Average Annual Turnover Limit
Engineering and Construction Works Prime Contractor which generates more than 75% of his/her turnover as Prime Contractor	R 5,0 m
Engineering and Construction Works Prime Contractor which generates less than 75% of his/her turnover as Prime Contractor	R 5,0 m
Labour-only Contractor	R 5,0 m
Supplier	R 5,0 m
Manufacturer	R 5,0 m
Professional Service Provider (e.g. engineer)	R 5,0 m
Other Service Provider (e.g. transportation)	R 5,0 m

(ff) Sub-contractor: A contractor who contracts with the Prime Contractor to provide works as part of the total services required by the CDC for that Contract.

(gg) Supplier: A firm that owns, operates or maintains stores, warehouses or other establishments in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business; and engages as its principal business, and in its own name, in the purchase and sale of goods.

(hh) Tender: The offer of prospective suppliers of goods and/or services, submitted in a tender document which is issued to the public at large.

(ii) Women Equity Ownership (WEO): The collective ownership percentage of full-time Executive Directors within an enterprise who are women.

4 TENDER ADJUDICATION POINTS

4.1 Points Awarded for Empowerment Objectives

The points system for Service Providers (and Contractors) will be structured in the following way:

SCORING CRITERIA	WEIGHTING FOR 80:20	WEIGHTING FOR 90:10	COMMENTS
Price	50	55	
Quality/Functionality	30	35	
BBBEE	20	10	As advised by Procurement Unit
Total points	100	100	

The 80:20 weighting applies for contracts less than R 500,000 where as the 90:10 weighting applies for all contracts in excess of R 500,000.

The allocation of tender adjudication points for this Contract shall be as follows:

Area of Adjudication	Maximum Points
Tendered Price (S_P)	55
Quality/Functionality (S_F)	35
Empowerment Objectives (S_E)	10
Total Points (S)	100

In addition to quality/functionality and price, CDC will evaluate contractors, service providers and professionals based on their BBBEE status achieved in accordance with the DTI Codes of Good Practice on BBBEE. In this respect, entities / tenderers to whom the Generic Balanced Scorecard or the Qualified Micro Enterprise (QME's) Balanced Scored apply will be required to submit BBBEE Verification Certificates with their submissions which indicate their BBBEE status. Exempted Micro Enterprises (EME's) will be required to submit BBBEE Exemption Certificates or their audited financial statements for current or previous year.

In its evaluation of empowerment goals, the CDC shall give preference according to the BEE status of the Tenderers as recognised based on the 7 Contribution Levels shown:

CONTRIBUTION LEVEL	QUALIFICATION / SCORE
Level One Contributor	100 points
Level Two Contributor	85 but < 100 points
Level Three Contributor	75 but < 85 points
Level Four Contributor	65 but < 75 points
Level Five Contributor	55 but < 65 points
Level Six Contributor	45 but < 55 points
Level Seven Contributor	40 but < 45 points
Level Eight Contributor	30 but < 40 points
Non Compliant Contributor	Less than 30 points

For EME's/SMMEs, CDC shall adopt the "average" score policy whereby EME's/SMMEs will be awarded an average score of 70 points unless they can provide a BEE Verification Certificate that indicates their actual BEE score instead of "exemption". An entity's BEE score will determine the preferred points it will obtain out of the potential 10 or 20 points respectively, awarded for meeting developmental objectives in the points scoring system used by CDC

The CDC shall require all potential Consultants, SP's and CONTR's to submit at tender stage, a valid certified copy of a Verification Certificate. The Verification Certificate which indicates the entity's BEE status must be issued by an Accredited Verification Agency and/or which is a member of ABVA. Similarly, small entities i.e. Exempted Micro Enterprises (EME's) will have to submit Exemption Certificates issued by an Accredited Verification Agency and/or which is a member of SANAS (www.sanas.co.za) or alternatively could submit their audited financial statements for the current or previous year or a BEE Verification Certificate which shows an actual BEE status instead of "exemption".

The CDC shall contract with suppliers in accordance with the requirements of the B-BBEE Codes of Good Practice. In particular, preference shall be given to BEE entities with contribution levels of 1 to 4 (Superior Contributors) in that order.

In accordance with the CDC's policy of furthering Government's objectives of social and economic transformation, CDC **will award a score of zero (0)** to entities that are in the following B-BBEE Contribution Levels:

- (i) **Limited Contributor to B-BBEE (Level Eight) ; and**
- (ii) **Unsatisfactory Contributor to B-BBEE (Non Compliant Contributor)**

Local Enterprise Participation (LEP Target)

The LEP target is the value of work done by local enterprises, whether as prime contractor, sub-contractor or supplier, determined as follows:

The value sourced at local level is the value of resources based in the local area or produced in the local area

The LEP target must be calculated in relation to every entity involved in the project. Management staff commuting from other areas for the duration of the project will not qualify as local. Plant and equipment brought in from other areas will not qualify as local. Materials and plant sourced via local suppliers or agencies will qualify as local. A supplier that has been established locally by a Tenderer solely for the purpose of servicing the project will not qualify as a local Supplier.

The LEP **threshold** for CDC contracts is **30%**.

The threshold may be increased by the BU up to 50% if scope exists for further local participation.

SMME / EME Involvement

There should be a minimum participation of **30%** SMME's / EME's participation of tender value, excluding VAT, escalation, etc. Each project from every Business Unit must achieve a minimum of **30%** SMME participation.

4.2 Points Awarded for Tender Price (S_P)

For this contract a maximum of **55** points will be allocated to the Tendered Price on the following basis:

$$S_P = S_{\max} (P_{\text{lowest}} / P_{\text{tendered}})$$

Where:	S_P	=	Score obtained by the Tenderer for Price;
	S_{max}	=	Maximum score that could be obtained for this Contract;
	P_{lowest}	=	Lowest acceptable tender price;
	$P_{tendered}$	=	Tendered price being considered.

4.3 Points Awarded for Quality/Functionality (S_F)

- (a) A maximum of **35** points will be awarded for the extent to which the Tenderer achieves the required functionality/quality score. The four elements that will be considered for determining quality/functionality include the following:
- (i) Programme Management Processes;
 - (ii) Quality Management Processes;
 - (iii) Safety & Environment Processes;
 - (iv) Risk

The definitions of the above criteria's are stipulated in the Tender Data Clause F 3.11 as well as on FORM R.

- (b) The Tenderer shall provide a list of three (3) references who will be contacted to provide their assessment of the Tenderers ability and /or performance on all of the above elements. References cited must have knowledge of the Tenderers work in all the elements for meaningful comparisons to be made. If the references cited are unable to give meaningful assessments of the Tenderers previous work then the scores will reflect this.

4.4 Total Tender Adjudication Points

The total tender adjudication points (S), is given by:

$$S = S_P + S_F + S_E \text{ (Not to Exceed 100 Points)}$$

5 DOCUMENTATION TO BE SUBMITTED IN SUPPORT OF TENDER

- (a) The CDC shall require all potential Consultants, SP's and CONTR's to submit at tender stage, a valid certified copy of a Verification Certificate. The Verification Certificate which indicates the entity's BEE status must be issued by an Accredited Verification Agency and/or which is a member of ABVA (www.abva.org.za). Similarly, small entities i.e. Exempted Micro Enterprises (EME's) will have to submit Exemption Certificates issued by an Accredited Verification Agency and/or which is a member of ABVA or alternatively could

submit their audited financial statements for the current or previous year or a BEE Verification Certificate which shows an actual BEE status instead of "exemption".

- (b) The common legislative requirements that are specified by the CDC are CIDB Grading and valid original Tax Clearance Certificate (TCC).
- (c) Tenderers shall submit the Draft Joint Venture Agreement when required to do so.
- (d) Tenderers shall deliver to the Employer a works programme clearly specifying the participation of targeted enterprises per activity.
- (e) Failure by the Tenderer to complete and deliver the information schedules in the form and within the time specified as agreed by the CDC or its agents/officers, etc., may render the tender non-responsive and lead to its rejection.

6 VALIDITY OF PREFERENTIAL REGISTRATION AFFIDAVIT

- (a) Should a Tenderer either claim or engage an enterprise whose actual black equity and/or staff composition differs from the actual black equity and/or staff composition for which credits have been claimed whether incorrectly and/or fraudulently on any tender, such Tenderer shall immediately be disqualified.
- (b) Any Contract awarded on account of false information furnished by the Tenderer in order to secure preference may be cancelled at the sole discretion of the CDC without prejudice to any other remedies the CDC may have.
- (c) Should the Tenderer be found to have acted fraudulently and/or dishonestly, he/she will be disqualified from all future tenders for a minimum period of twelve (12) months, or as otherwise decided by the CDC.
- (d) It is primarily the responsibility of the Tenderer to understand the relevant criteria, definitions and interpretations associated with a specific preference group before claiming credits for the engagement of such preference group.

7 PROOF OF CONTRACTUAL ARRANGEMENT

- (a) The Contractor shall submit to the CDC a list of sub-contractors to perform works, services or supply of goods entered into between the Prime Contractor or Joint Venture at Prime

Contract Level and the sub-contracted preference groups. The CDC may deny the Contractor credits towards the attainment of his preference group participation percentage in the absence of a written sub-contract and/or the failure by the Contractor to submit a copy thereof to the CDC.

- (b) A Joint Venture or Consortium shall submit to the CDC a certified copy of the Joint Venture / Consortium Agreement, if the Joint Venture/Consortium involves preference groups for which participation credits are applied. The Contractor shall not impose upon preference groups unfair conditions of contract. Preference participation credits claimed may be denied if such contracts contain:
- (i) A right of set-off, session and assignment as well as surety in favour of the employing contractor;
 - (ii) Authoritarian rights given to the employing contractor with no recourse to independent adjudication in the event of a dispute arising;
 - (iii) Payment procedures based on a pay-when-paid system;
 - (iv) Unreasonable retention percentages and periods of retention after completion;
 - (v) Conditions which are more onerous than those which exist in the Contract with the CDC.
- (c) Groups for which preference credits are applied for shall participate meaningfully during the Performance of the Works and shall be responsible for clearly defined portions of the works to be performed or services to be provided with its own work force and using its own resources or resources hired by it independent of the employing contractor or non-preference partners in a joint venture.

8 OUTSOURCING OF WORKS

- (a) The Prime Contractor/Service Provider shall execute works in accordance with tender commitment and may not outsource works without due approval of the CDC Project Manager.
- (b) The CDC may deny the Contractor credits towards the attainment of his/her empowerment points, if the Preferential Group performs with his/her own resources less than the prescribed minimum as stipulated above.

9 COMPLIANCE WITH LEGISLATION

Submissions from entities which do not meet the specified legislative requirements or proof of suitable arrangements being made with the relevant authorities at the time of tendering will be

rendered non-responsive by the CDC. The common legislative requirements that are specified by the CDC are CIDB Grading and valid original Tax Clearance Certificate (TCC).

In cases of Joint Ventures or Consortia, all the JV partners must have valid original TCC by the time they make a submission. If one of the JV partners has not submitted a valid original TCC, the entire JV or Consortium shall be regarded as being non-responsive. Sub-contractors would also have to demonstrate compliance with TCC requirements.

10 SUBSTITUTION OF PREFERENTIAL GROUP DURING CONTRACT PERIOD

- (a) Conditions during the Performance of the Works may necessitate terminating the participation of a Preferential Group. This termination must, however, be authorised by the designated CDC Project Manager. Key indicators for such justification include, but are not limited to the following:
 - (i) Continuous poor productivity and progress by the Preferential Group;
 - (ii) Continuous non-conformance to quality standards by the Preferential Group

- (b) Each case shall be investigated and a formal written report prepared by the Procurement Office.

11 RECORDING AND REPORTING BY THE CONTRACTOR

The CDC Project Manager shall monitor and ensure that SMME and LEP commitments are achieved during the duration of the contract, the contractor shall report on monthly basis the achievements thereof to the consultants and CDC Project Manager. The CDC Project Manager shall take all necessary actions during the Performance of the Works to bring to the attention of the Contractor when progress in the attainment of the tendered goal percentage(s) is lacking.

Supply Chain Manager

Andile Ntloko

.....
Signature Supply Chain Manager

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Date of approval