

Annexure B

# Standard for Infrastructure Procurement and Delivery Management

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# INTRODUCTION

## Public infrastructure

South African citizens are surrounded by public infrastructure. Offices and facilities provide places of work for officials. Schools, hospitals and clinics provide essential services. Roads and railways not only enable travel, but also distribute goods and services. Border posts, harbours and airports are the physical links with neighbouring countries and the world. Dams provide water for human consumption and agricultural and industrial purposes. Networks deliver water and electricity to consumers and convey industrial effluent, soilwater and wastewater to treatment works. Such infrastructure is foundational to a better life for all. However, investment in economic infrastructure will not necessarily lead to economic growth. Infrastructure which provides improvements or efficiencies in services, production or export capabilities, and which is delivered and maintained in a manner that minimises waste of materials, time and effort in order to generate the maximum possible amount of value, is most likely to contribute to economic growth.

Infrastructure is required by the state and state-owned businesses to deliver services to citizens. Each organ of state has a legislated mandate. Some organs of state generate revenue but require capital to expand their revenue generating services, while other are totally reliant on funding from the fiscus to satisfy their infrastructure needs. The fiscus has limited financial resources to fund infrastructure projects. New infrastructure projects need to be budgeted for, taking into account future operation and maintenance costs and current commitments. Accordingly, organs of state requiring funds for infrastructure projects compete for budget allocations. Projects need to be prioritised both within an organ of state and between organs of state. Such prioritisation is sometimes based on political prerogatives while at other times it is based on objective decision-making criteria, which take into account factors such as overarching government wide, long and medium-term policies and plans, including integrated sector plans and mandates.

The time taken between the submission of a project proposal and a final decision by an organ of state to implement a project can, depending upon the nature, complexity and size of a project and requirements for statutory approvals, take several years. Funding may also be required to develop project proposals so that informed decisions can be made regarding their implementation. In the first instance, initiation reports need to be developed to outline the business case. Should funding be made available to progress the proposal, a prefeasibility report is required on major capital projects to determine whether or not it is worthwhile to proceed to the feasibility stage where sufficient information is presented to enable a final decision to be made regarding the implementation of a project. On smaller projects of a routine nature, a strategic brief is required to brief the professional team so that they can develop a viable and integrated concept for the project. A final decision to proceed to implementation is based on a concept report.

The initiation reports and feasibility reports on major capital projects, above a threshold, other than those initiated by municipalities, require cabinet or executive council approval. This enables the inputs of other organs of state in the national and provincial spheres of government who may have competing projects, or projects which may be negatively impacted by the diversion of funds to such large projects, to make their inputs in the project approval process. Projects which are categorised as strategic integrated projects are given priority in planning, the obtaining of statutory approvals and implementation by the Presidential Coordinating Commission.

## Procurement and supply chain management reform

The South African Planning Commission's National Development Plan 2030: *Our future – make it work* proposes that the following five areas be focused on in designing a procurement system that is better able to deliver value for money, while minimising the scope for corruption:

- differentiate between the different types of procurement which pose different challenges and require different skills sets;
- adopt a strategic approach to procurement above the project level to balance competing objectives and priorities rather than viewing each project in isolation;
- build relationships of trust and understanding with the private sector;
- develop professional supply chain management capacity through training and accreditation; and
- incorporate oversight functions to assess value for money.

National Treasury's 2015 Public Sector Supply Chain Management Review expresses the view that supply chain management (SCM) is one of the key mechanisms enabling government to implement policy which traditionally has been misunderstood and undervalued. This Review, which identified the need for SCM reform, suggests that if such reforms are implemented as envisaged in terms of section 217 of the Constitution, the benefits will be enormous, namely that:

- good-quality service delivery will be increasingly possible, with significant improvements in the welfare of South Africa's citizens, and especially the poor who rely heavily on government for support;
- the economy will grow as economic infrastructure is expanded and efficiently maintained;
- goods, services and infrastructure will be bought at lower costs;
- innovation will result in different approaches to the commodities used in some sectors; and
- for suppliers, the cost of doing business with the state should decrease substantially.

Public procurement that is unrelated to infrastructure delivery typically relates to goods and services that are standard, well-defined and readily scoped and specified. Once purchased, goods invariably need to be taken into storage prior to being issued for use. Services are most often of a routine and repetitive nature with well understood interim and final deliverables which do not require strategic inputs or require decisions to be made regarding the fitness for purpose of the service outputs.

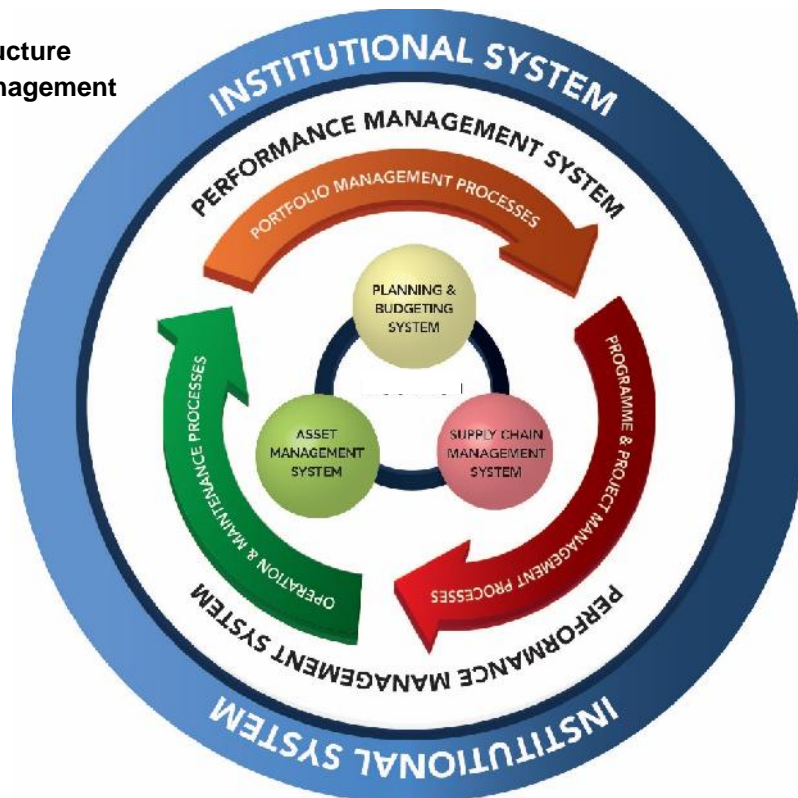
In contrast, procurement relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure covers a wide and diverse range of goods and services, which are required to provide or alter the condition of immovable assets on a site. Accordingly, the procurement process for the delivery of infrastructure involves the initial and subsequent recurring updating of planning processes at a portfolio level flowing out of an assessment of public sector service delivery requirements or business needs. Thereafter it involves planning at a project level, and the procurement and management of a network of suppliers, including subcontractors, to produce a product on a site. There is no need to store and issue materials or equipment unless these are issued to employees responsible for the maintenance or operation of infrastructure, or are issued free of charge to contractors for incorporation into the works.

Infrastructure delivery is the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure. There is an urgent need to separate supply chain management requirements for general goods and services from those for infrastructure delivery in order to improve project outcomes.

## **Government's Infrastructure Delivery Management System**

Government's Infrastructure Delivery Management System (IDMS) comprises three core systems, namely, a planning and budgeting, a supply chain management and an asset management system, all of which have forward and backward linkages. These core systems are located within portfolio, programme and project management, and operation and maintenance processes. Collectively these processes and systems, together with a performance management system, establish the institutional system for infrastructure delivery as indicated in the following sketch.

## The Infrastructure Delivery Management System



The IDMS is supported by legislation and performance monitoring. It has a strong focus on the effective and efficient functioning of the supply chain management system.

### Standard for Infrastructure Procurement and Delivery Management

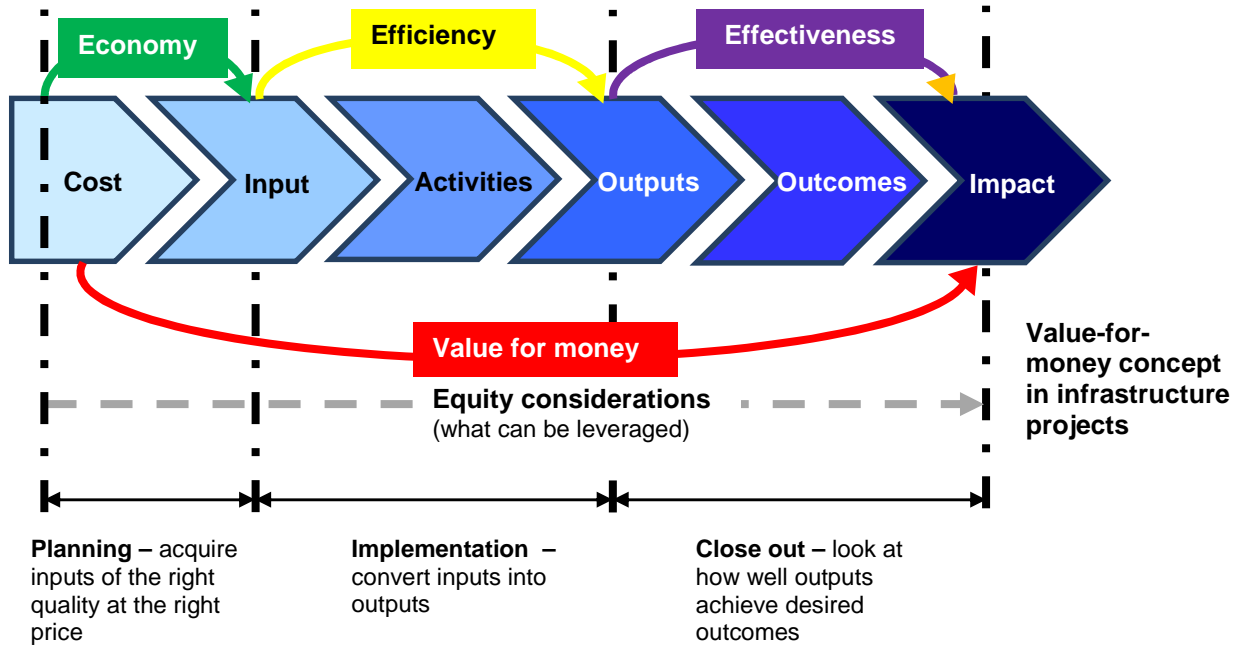
This Standard for Infrastructure Procurement and Delivery Management (SIPDM) covers the supply chain management system for infrastructure delivery. It has been framed around the five focus areas proposed by the National Planning Commission for the design of a procurement system and draws upon the work of the 2015 Public Sector Supply Chain Management Review. It is issued as an instruction in terms of Section 76(4)(c) of the Public Finance Management Act of 1999 (Act No.1 of 1999) and is applicable to the following organs of state:

- a) a national or provincial department as defined in the Public Finance Management Act;
- b) a constitutional institution entity as listed in schedule 1 of the Public Finance Management Act;
- c) a public entity as listed in schedules 2 and 3 of the Public Finance Management Act of 1999; and
- d) any organ of state which implements infrastructure delivery projects on behalf of another organ of state.

This standard also forms an integral part of the Model SCM Policy for Infrastructure Delivery Management which has been issued as a Treasury guideline determining a standard for municipal supply chain management policies in terms of Section 168 of the Municipal Finance Management Act of 2003 (Act No. 56 of 2003) in support of Regulation 3(2) of the Supply Chain Management Regulations. Accordingly, the standard applies to a municipality or municipal entity whose council or board of directors, respectively, adopts the aforementioned guideline standard.

Underlying this standard is the notion that the effective and efficient functioning of the supply chain management system for the procurement and delivery of infrastructure will realise value for money and good-quality service delivery. Value for money may be regarded as the optimal use of resources to

achieve the intended outcomes. Underlying value for money is an explicit commitment to ensure that the best results possible are obtained from the money spent, or maximum benefit is derived from the resources available. It is about striking the balance between the three “E’s”, namely, economy, efficiency and effectiveness, whilst being mindful of a fourth “E” – equity – as indicated in the diagram below.



The critical starting point in delivering value for money through infrastructure projects is, in the first instance, to align such projects with strategic objectives, priorities, budgets and plans, and thereafter, during the planning phase, to clearly define objectives and expected outcomes, as well as parameters such as the timelines, cost and levels of uncertainty. This frames the value-for-money proposition that needs to be implemented at the point in time that a decision is taken to proceed with a project, i.e. it establishes “economy” and identifies “equity”. The end point is to compare the projected outcomes against the actual outcomes, i.e. to confirm the “effectiveness” of the project in delivering value for money.

Implementation sits between “economy” and “effectiveness” in the results chain framework. It needs to be executed “efficiently” in order to minimise time delays, scope creep and unproductive costs, and to mitigate the effects of uncertainty on objectives so as to maintain the value-for-money proposition formulated at the outset of the project. This necessitates that the implementer of an infrastructure project exercises due care and reasonableness during implementation. Failure to do so may result in substandard or unacceptable performance, which results in a gap between intended and achieved outcomes. This gap puts value for money for a project at risk and may result in unintended consequences, such as community instability and unrest.

Organs of state which are required to implement this standard need to establish a suitable supply chain management policy for infrastructure procurement and delivery management in order to do so.

# Standard for Infrastructure Procurement and Delivery Management

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# 1 SCOPE

1.1 This standard establishes a supply chain management system for infrastructure procurement and delivery management by organs of state which are subject to the Public Finance Management Act, the Local Government: Municipal Finance Management Act, or which implement infrastructure projects on behalf of another organ of state in terms of section 238 of the Constitution of the Republic of South Africa, 1996. This standard:

- a) provides a control framework for the planning, design and execution of infrastructure projects, the tracking of such projects and the monitoring of performance which:
  - 1) enables risks to be proactively managed;
  - 2) is capable of being audited;
  - 3) is aimed at ensuring that any infrastructure acquired or to be acquired:
    - is in accordance with the legal mandates and strategic priorities;
    - is delivered in the right quantity and quality, and at the right place and time;
    - is financially, economically and technically viable and offers value for money over its life cycle;
    - is affordable in terms of existing budget and future budgetary projections after taking into account life cycle costs;
    - is acquired in accordance with any required statutory permissions;
    - makes optimal utilisation of existing infrastructure as demand patterns change over time;
    - can be readily and economically maintained; and
    - is aligned between those who design and construct infrastructure, and those who subsequently occupy, use and manage the infrastructure;
- b) provides a control framework for infrastructure procurement;
- c) establishes requirements for the following matters as applied to infrastructure procurement and delivery management:
  - institutional arrangements;
  - demand management;
  - acquisition management;
  - contract management;
  - logistics management;
  - disposal management;
  - reporting of supply chain management information;
  - regular assessment of supply chain management performance;
  - risk management and internal control; and
- d) establishes minimum requirements for infrastructure procurement.

1.2 This standard facilitates the allocation of clear responsibilities for performing activities and making decisions at gates.

1.3 The standard does not apply to:

- a) the storage of goods and equipment, following their delivery to an organ of state, which are stored and issued to contractors or to employees of that organ of state;
- b) the disposal or letting of land;
- c) the conclusion of any form of land availability agreement;
- d) the leasing or rental of moveable assets;



- e) public private partnerships; and
- f) the provision of municipal services by means of external mechanisms referred to in Chapter 8 of the Municipal Systems Act.

**1.4** The standard includes the procurement of goods and services necessary for a new facility, as delivered to be occupied and used as a functional entity.

## 2 TERMS AND DEFINITIONS

2.1 For the purposes of this document, the definitions and terms given in SANS 10845-1, SANS 10845-2 and the following apply.

**adjudication:** a form of dispute resolution where, unlike other means of resolving disputes involving a third party intermediary, the outcome is a decision by a third party which is binding on the parties in dispute and is final unless and until reviewed by either arbitration or litigation

**advance payment:** sum of money paid to the contractor after the contract is signed but before work starts or goods or services or any combination thereof are supplied

**alteration:** changing, extending or modifying the character or condition of infrastructure

**building:** infrastructure that has the provision of shelter for its occupants or contents as one of its main purposes, usually partially or totally enclosed and designed to stand permanently in one place

**building tuning:** the review and fine-tuning of all the system settings made during the pre-occupation commissioning, so that the re-commissioning which takes place at the end of the 12-month tuning period results in settings which reflect how the occupants actually behave and the building responds to climatic conditions

**construction:** everything that is constructed or results from construction operations

**control budget:** the amount of money which is allocated or made available to deliver or maintain infrastructure associated with a project or package, including site costs, professional fees, all service and planning charges, applicable taxes, risk allowances and provision for price adjustment for inflation

**contract management:** applying the terms and conditions, including the agreed procedures for the administration thereof

**contractor:** person or organisation that contracts with the employer to provide goods or services or any combination thereof covered by the contract

**defect:** non-conformity of a part or component of the works to a requirement specified in terms of a contract

**employer:** organ of state intending to or entering into a contract with a contractor

**framework agreement:** an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

**gate:** a control point at the end of a process where a decision is required before proceeding to the next process or activity

**gateway review:** an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based

**infrastructure:**

- a) immovable assets which are acquired, constructed or which result from construction operations; or
- b) movable assets which cannot function independently from purpose-built immovable assets

**infrastructure delivery:** the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**infrastructure procurement:** the procurement of goods or services including any combination thereof associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**maintenance:** the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

**major capital project:** an infrastructure project or a series of interrelated infrastructure projects on a single site having an estimated cost, including those required for new facilities or systems to become fully operational, above a prescribed threshold

**major public entity:** a public entity included in the list in Schedule 2 to the Public Finance Management Act

**metropolitan municipality:** a Category A municipality as provided for in section 155 of the Constitution of the Republic of South Africa, 1996

**national government business enterprise:** a public entity included in the list in Schedule 3B to the Public Finance Management Act

**operation:** combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

**operations and maintenance support plan:** a plan which establishes the organisational structure required for the operation and maintenance of the works over its service life, and the office, stores, furniture, equipment, Information and Communications Technology (ICT), engineering infrastructure and staff training requirements

**order:** an instruction to provide goods, services or any combination thereof under a framework agreement

**organ of state:** an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

**package:** work which is grouped together for delivery under a single contract or an order

**portfolio:** collection of projects or programmes and other work that are grouped together to facilitate effective management of that work to meet a strategic objective

**procurement document:** documentation used to initiate or conclude (or both) a contract or the issuing of an order

**procurement strategy:** selected packaging, contracting, pricing and targeting strategy and procurement procedure for a particular procurement

**programme:** the grouping of a set of related projects in order to deliver outcomes and benefits related to strategic objectives which would not have been achieved had the projects been managed independently

**provincial government business enterprise:** a public entity included in the list in Schedule 3D to the Public Finance Management Act

**public private partnership:** a commercial transaction between an organ of state and a private party in terms of which the private party:

- a) performs an institutional function on behalf of the organ of state or acquires the use of state property for its own commercial purposes; and
- b) assumes substantial financial, technical and operational risks in connection with the performance of the institutional function or use of state property; and
- c) receives a benefit for performing the institutional function or from utilising the state property, either by way of:

- 1) consideration to be paid by the organ of state which derives from a revenue fund or, where an organ of state is a national government business enterprise or a provincial government business enterprise, from the revenues of such institution; or
- 2) charges or fees to be collected by the private party from users or customers of a service provided to them; or
- 3) a combination of such consideration and such charges or fees

**quality:** totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs

**refurbishment:** modification and improvements to existing infrastructure in order to bring it up to an acceptable condition

**rehabilitation:** extensive work to bring infrastructure back to acceptable functional conditions, often involving improvements

**repair:** physical action taken to restore the required function of a faulty item

**retention sum:** sum retained for a certain period to offset costs which may arise from the contractor's failure to comply fully with the contract

**service delivery agreement:** an agreement between two or more organs of state setting out the terms and conditions and roles and responsibilities regarding infrastructure delivery which promotes and facilitates inter-institutional relations and the principles of participation, cooperation and coordination

**service life:** the period of time after acquisition or construction during which the infrastructure or its parts meet or exceed the performance demanded or expected to be fulfilled

**stage:** a collection of logically related activities in the infrastructure delivery cycle that culminates in the completion of a major deliverable

**statutory permission:** any relevant approval, consent or permission in terms of any legislation required to plan and deliver the infrastructure

**target contract:** a cost reimbursement contract in which a preliminary target cost is estimated and on completion of the work the difference between the target cost and the actual cost is apportioned between the parties to the contract on an agreed basis.

**value for money:** the optimal use of resources to achieve intended outcomes

## 3 NORMATIVE REFERENCES

### 3.1 Acts of Parliament

The following referenced Acts of Parliament are indispensable for the application of this document:

- Architectural Profession Act, 2000 (Act No. 44 of 2000)
- Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)
- Constitution of the Republic of South Africa, 1996
- Construction Industry Development Board Act, 2000 (Act No. 38 of 2000)
- Engineering Profession Act, 2000 (Act No. 46 of 2000)
- Landscape Architectural Profession Act, 2000 (Act No. 45 of 2000)
- Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003)
- Municipal Systems Act, 2000 (Act No. 32 of 2000)
- National Archives and Record Services of South Africa Act, 1996 (Act No. 43 of 1996)
- Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
- Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)
- Project and Construction Management Professions Act, 2000 (Act No. 48 of 2000)
- Public Finance Management Act, 1999 (Act No. 1 of 1999)
- Quantity Surveying Profession Act of 2000 (Act No. 49 of 2000)
- South African Schools Act, 1996 (Act No. 84 of 1996)

### 3.2 Standards

The following referenced standards and the forms of contract identified in this standard are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

- South African Bureau of Standards, SANS 10845-1, *Construction procurement – Part 1: Processes, methods and procedures*
- South African Bureau of Standards, SANS 10845-2, *Construction procurement – Part 2: Formatting and compilation of procurement documentation*
- South African Bureau of Standards, SANS 10845-3, *Construction procurement – Part 3: Standard conditions of tender*
- South African Bureau of Standards, SANS 10845-4, *Construction procurement – Part 4: Standard conditions for the calling for expressions of interest*
- Standard for Uniformity in Construction Procurement, Construction Industry Development Board

## 4 CONTROL FRAMEWORKS

### 4.1 Control framework for infrastructure delivery management

#### 4.1.1 General

**4.1.1.1** The control framework for the management of infrastructure delivery shall comprise the applicable stages and gates as set out in Figure 1 and the key deliverables described in Table 1. Stages 3 to 9 may be omitted where the required work does not involve the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure. Stages 5 and 6 may be omitted if sufficient information to proceed to stage 7 is contained in the stage 4 deliverable. Decisions to proceed to the next stage shall at each gate, subject to the provisions of 4.1.1.2, be based on the acceptability or approval of the end-of-stage deliverable.

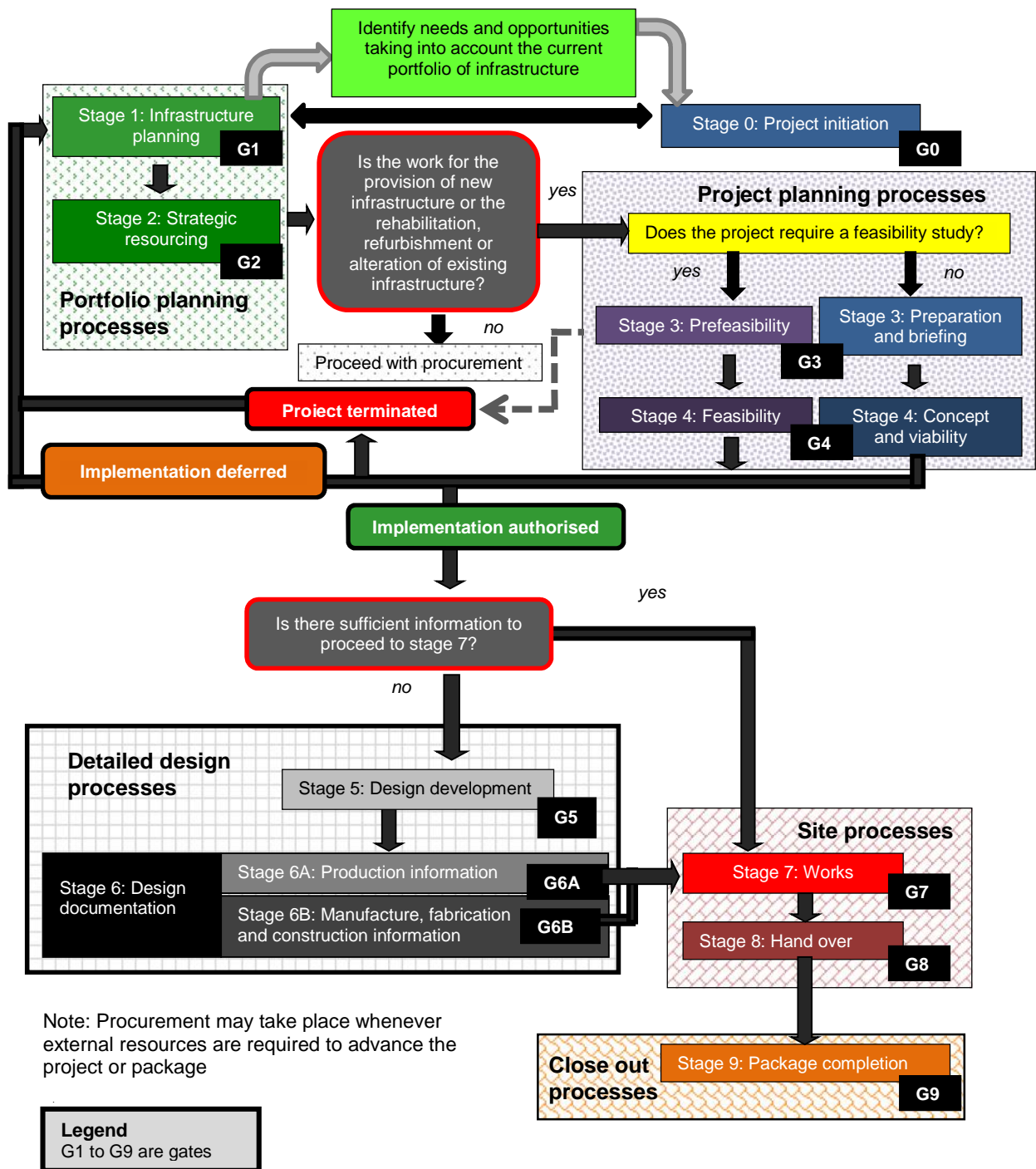
**4.1.1.2** A stage shall only be complete when the deliverable has been approved or accepted by the person or persons designated in the institutional arrangements to do so. Activities associated with stages 5 to 9 may be undertaken in parallel or series, provided that each stage is completed in sequence.

**4.1.1.3** The level of detail contained in a deliverable associated with the end of each stage shall be sufficient to enable informed decisions to be made to proceed to the next stage. In the case of stages 3 to 6, such detail shall, in addition, be sufficient to form the basis of the scope of work for taking the package forward in terms of the selected contracting strategy.

**4.1.1.4** Prefeasibility and feasibility reports shall be required as end-of-stage deliverables for stages 3 and 4, respectively, where one or more of the following applies:

- a) the major capital project is required for:
  - 1) a major public enterprise where the total project capital expenditure exceeds R1,5 billion; or
  - 2) an organ of state subject to the Public Finance Management Act other than a major public enterprise where the total project capital expenditure exceeds R1,0 billion including VAT, or where the expenditure per year for a minimum of three years exceeds R250 million per annum including VAT;
- b) the project is not:
  - 1) a building project with or without related site works; or
  - 2) a process-based, somewhat repetitive or relatively standardised project where the risk of failing to achieve time, cost and quality objectives is relatively low; or
- c) the organ of state's infrastructure procurement and delivery supply chain management policy requires that prefeasibility and feasibility reports be produced during stages 3 and 4 respectively.

**4.1.1.5** Stages 3 and 4 shall be repeated for each package if the acceptance at stage 4 is for the acceptance of a project comprising a number of packages which are to be delivered over time.



**Figure 1: Stages and gates associated with the control framework for infrastructure delivery management**

**Table 1: End-of-stage deliverables**

Stage		End-of-stage deliverable	
No	Name		
0	Project initiation	An initiation report which outlines the high-level business case together with the estimated project cost and proposed schedule for a single project or a group of projects having a similar high-level scope	
1	Infrastructure planning	An infrastructure plan which identifies and prioritises projects and packages against a forecasted budget over a period of at least five years	
2	Strategic resourcing	A delivery and/or procurement strategy which, for a portfolio of projects, identifies the delivery strategy in respect of each project or package and, where needs are met through own procurement system, a procurement strategy	
3	Prefeasibility	A prefeasibility report which determines whether or not it is worthwhile to proceed to the feasibility stage	
	Preparation and briefing	A strategic brief which defines project objectives, needs, acceptance criteria and client priorities and aspirations, and which sets out the basis for the development of the concept report for one or more packages	
4	Feasibility	A feasibility report which presents sufficient information to determine whether or not the project should be implemented	
	Concept and viability	A concept report which establishes the detailed brief, scope, scale, form and control budget, and sets out the integrated concept for one or more packages	
5	Design development	A design development report which develops in detail the approved concept to finalise the design and definition criteria, sets out the integrated developed design, and contains the cost plan and schedule for one or more packages	
6	Design documentation	6A Production information	Production information which provides the detailing, performance definition, specification, sizing and positioning of all systems and components enabling either construction (where the constructor is able to build directly from the information prepared) or the production of manufacturing and installation information for construction
		6B Manufacture, fabrication and construction information	Manufacture, fabrication and construction information produced by or on behalf of the constructor, based on the production information provided for a package which enables manufacture, fabrication or construction to take place
7	Works	Completed works which are capable of being occupied or used	
8	Handover	Works which have been taken over by the user or owner complete with record information	
9	Package completion	Works with notified defects corrected, final account settled and the close out report issued	

- 4.1.1.6** The infrastructure plan (stage 1), which is informed by demand management requirements as set out in 6.2, initiation reports (stage 0), decisions made during stages 3 and 4 and work in progress in stages 5 to 9, and the procurement strategy (stage 2) shall be reviewed and updated at least once a year.
- 4.1.1.7** An organ of state may, if it deems it necessary, add additional gates to the control framework presented in Figure 1.
- 4.1.1.8** The approval of the infrastructure plan and the securing of the necessary budget shall be obtained prior to advancing to stage 3. All subsequent stages shall only be proceeded with if the necessary budget is in place.



**4.1.1.9** The approvals or acceptances at each gate shall be retained for record purposes for a period of not less than five years of such acceptance or approval in a secured environment, unless otherwise determined in terms of the National Archives and Record Services of South Africa Act.

#### **4.1.2 Stage 0: Project initiation**

**4.1.2.1** Projects, or groups of projects having a similar high-level scope, which are appraised, shall address particular strategic needs or business opportunities which fall within the organ of state's legislated or sanctioned mandate.

**4.1.2.2** Objective decision-making criteria based on factors such as those relating to strategic objectives, national, provincial or regional priorities, the level of stakeholder support, legislative compliance, risk considerations and financial justification shall be used to motivate the acceptance of a project into the infrastructure plan.

**4.1.2.3** The initiation report for a project shall as a minimum:

- a) provide a project description and high-level scope of work;
- b) outline key issues and solution options that were interrogated;
- c) outline options that were evaluated;
- d) indicate the high-level business case; and
- e) provide the estimated project cost and indicative high-level schedule.

**4.1.2.4** The decision-making criteria, findings, assumptions and recommendations shall be documented in the initiation report.

**4.1.2.5** Stage 0 is complete when the initiation report is accepted.

#### **4.1.3 Stage 1: Infrastructure planning**

**4.1.3.1** The infrastructure plan for a portfolio of projects or packages which require implementation shall cover a period of not less than five years. Such a plan shall be:

- a) described by the high-level scope of work for each project, the proposed time schedule, the estimated total project cost and annual budget requirement, the geographical location, any known encumbrances and estimated timeframes for removing these encumbrances; and
- b) aligned with all prescribed planning, budgeting, monitoring and reporting requirements.

**4.1.3.2** Stage 1 is complete when the infrastructure plan is approved.

#### **4.1.4 Stage 2: Strategic resourcing**

**4.1.4.1** A delivery management strategy shall be developed following the conducting of a spend, organisational and market analysis. Such a strategy shall indicate how needs are to be met for each category of spend through one or more of the following:

- a) a public private partnership;
- b) another organ of state on an agency basis;
- c) another organ of state's framework agreement;
- d) own resources; or
- e) own procurement system.

**4.1.4.2** A procurement strategy shall, based on the spend, organisational and market analysis, document the selected packaging, contracting, pricing and targeting strategy and procurement procedure for all required goods or services or any combination thereof including professional services.

**4.1.4.3** The procurement strategy shall include the rationale for adopting a particular option.

**4.1.4.4** Organs of state who engage another organ of state to provide agency services shall develop a delivery management and procurement strategy covering the projects which are subject to an agency agreement (see 5.2), in consultation with that organ of state.

**4.1.4.5** Stage 2 is complete when the delivery and procurement strategy is approved.

### **4.1.5 Stage 3: Preparation and briefing or prefeasibility**

**4.1.5.1** The strategic brief shall as necessary:

- a) confirm the scope of the package and identify any constraints, including those relating to occupational health and safety;
- b) establish the project criteria, including the performance and reliability requirements, design life, service life of components, function, maintenance and replacement requirements, mix of uses, scale, location, quality, value, time, safety, health, environment and sustainability;
- c) identify procedures, organisational structure, key constraints, statutory permissions (e.g. environmental, heritage, social, planning, building control), and utility approvals, policies (e.g. environmental, developmental, social, maintenance or facilities management) and strategies to take the package forward;
- d) identify risks that need to be mitigated;
- e) identify interfaces between packages as necessary; and
- f) establish the control budget for the package, ownership costs and schedule for the package or series of packages.

**4.1.5.2** The prefeasibility study shall as necessary:

- a) document the owner or user requirements specification;
- b) shortlist the options that were considered;
- c) provide a preliminary design for study options;
- d) provide preliminary capital estimate and the proposed schedule; and
- e) present the study outcomes.

**4.1.5.3** Stage 3 is complete when the prefeasibility report or the strategic brief, as required, is accepted.

### **4.1.6 Stage 4: Concept and viability or feasibility**

**4.1.6.1** The concept report shall as necessary:

- a) document the initial design criteria and design options or the methods and procedures required to maintain the condition of infrastructure for the package;
- b) establish the detailed brief, scope, scale, form and cost plan for the package;
- c) provide an indicative schedule for documentation and construction or maintenance services associated with the package;
- d) contain a site development plan or other suitable schematic layouts of the works;
- e) describe the statutory permissions, funding approvals or utility approvals required to proceed with the works associated with the package;

- f) include a baseline risk assessment for the package, and a health and safety plan which is required in terms of the requirements of the Construction Regulations issued in terms of the Occupational Health and Safety Act;
- g) contain a risk report linked to the need for further surveys, tests, other investigations and consents and approvals, if any, during subsequent stages and identified health, safety and environmental risk;
- h) contain an operations and maintenance support plan which establishes the organisational structure required for the operation and maintenance of the works resulting from the package or series of packages over its service life, and the office, stores, furniture, equipment, Information and Communications Technology (ICT), engineering infrastructure and staff training requirements;
- i) confirm the financial sustainability of the project; and
- j) establish the feasibility of satisfying the strategic brief for the package or series of packages within the control budget established during stage 3 and, if not, motivate a revised control budget.

**4.1.6.2** A feasibility report shall as a minimum provide the following:

- a) details regarding the preparatory work covering:
  - 1) a needs and demand analysis with output specifications; and
  - 2) an options analysis;
- b) a viability evaluation covering:
  - 1) a financial analysis; and
  - 2) an economic analysis, if necessary;
- c) a risk assessment and sensitivity analysis;
- d) a professional analysis covering:
  - 1) a technology options assessment;
  - 2) an environmental impact assessment; and
  - 3) a regulatory due diligence; and
- e) implementation readiness assessment covering:
  - 1) institutional capacity; and
  - 2) a procurement plan

**4.1.6.3** Stage 4 is complete when the feasibility report or the concept report, as required, is accepted.

## **4.1.7 Stage 5: Design development**

**4.1.7.1** The design development report shall as necessary:

- a) develop in detail the accepted concept to finalise the design and definition criteria;
- b) establish the detailed form, character, function and costings;
- c) define all components in terms of overall size, typical detail, performance and outline specification;
- d) describe how infrastructure, or elements or components thereof, are to function, how they are to be safely constructed, how they are to be maintained and how they are to be commissioned; and
- e) confirm that the package or series of packages can be completed within the control budget or propose a revision to the control budget.

**4.1.7.2** Outline specifications shall be in sufficient detail to enable a view to be taken on the operation and maintenance implications of the design and the compatibility with existing plant and equipment.

**4.1.7.3** Stage 5 is complete when the design development report is accepted.

#### **4.1.8 Stage 6: Design documentation**

**4.1.8.1** Stage 6A (Production information) is complete when all the production information that is required to be accepted prior to being issued for construction, manufacturing or fabrication purposes has been accepted.

**4.1.8.2** Stage 6B (Manufacture, fabrication and construction information) is complete when the manufacture, fabrication and construction information is accepted as being in accordance with the production information.

#### **4.1.9 Stage 7: Works**

Stage 7 is complete when:

- a) completion of the works is certified in accordance with the provisions of the contract; or
- b) the goods and associated services are certified as being delivered in accordance with the provisions of the contract.

#### **4.1.10 Stage 8: Handover**

**4.1.10.1** The handover stage shall include as necessary the training of the end user's or the owner's staff in the operation of the delivered infrastructure.

**4.1.10.2** The record information shall as relevant:

- a) accurately document the condition of the completed works associated with a package;
- b) accurately document the works as constructed or completed;
- c) contain information on the care and servicing requirements for the works or a portion thereof;
- d) contain information or instructions on the use of plant and equipment;
- e) confirm the performance requirements of the design development report and production information;
- f) contain certificates confirming compliance with legislation, statutory permissions and the like; and
- g) contain guarantees that extend beyond the defects liability period provided for in the package.

**4.1.10.3** Record information shall, as relevant, provide those tasked with the operation and maintenance of infrastructure with the information necessary to:

- a) understand how the designers intended the works, systems, subsystems, assemblies and components to function;
- b) effectively operate, care for and maintain the works, systems, subsystems, assemblies and components to function;
- c) check, test or replace systems, subsystems, assemblies or components to ensure the satisfactory performance of works, systems, subsystems, assemblies and components over time;

- d) develop maintenance plans;
- e) determine stock levels for components and assemblies that need to be regularly replaced; and
- f) budget for the operation and maintenance of the works, systems, subsystems and components over time.

**4.1.10.4** Arrangements shall be put in place to secure and safeguard the works from the time that the contractor's liabilities for damage to the works end until such time that the works are handed over to the end user or owner who shall accept such liabilities.

**4.1.10.5** Stage 8 is complete when the end user or owner accepts liability for the works.

#### **4.1.11 Stage 9: Close out**

**4.1.11.1** The close out report for the package shall outline what was achieved in terms of at least the following:

- a) the performance parameters outlined in 12;
- b) unit costs of completed work or major components thereof; and
- c) key performance indicators relating to developmental objectives.

**4.1.11.2** The close out report shall make suggestions for improvements on future packages of a similar nature. Such a report should also comment on the performance of the contractor and, if relevant, include building tuning or similar reports.

**4.1.11.3** Stage 9 is complete when, as relevant, defects certificates or certificates of final completion are issued in terms of the contract, the final amount due to the contractor in terms of the contract is certified and the close out report is accepted.

#### **4.1.12 Approval of high-value national and provincial major capital projects**

**4.1.12.1** The approval process for major capital projects described in 4.1.12.2 to 4.1.12.6 shall apply to all national and provincial projects where the value of such projects including VAT exceeds:

- a) national and provincial departments and constitutional institutions: R7,5 billion
- b) major public enterprise, national government business enterprise, provincial government business enterprise and other public entities, the lessor of:
  - 1) R10 billion; or
  - 2) 4% of the organ of state's total assets or, if applicable, 2% of the organ of state's total revenue as reflected in its latest audited financial statements.

**4.1.12.2** The end-of-stage deliverables for stage 0 (initiation report) and stage 4 (feasibility report) in the control framework for the management of infrastructure delivery (see Figure 1) shall, after taking into account the comments and recommendations of the relevant treasury, be approved by:

- a) cabinet, in the case of national departments, constitutional institutions and public entities listed in schedules 2, 3A and 3B of the Public Finance Management Act; or
- b) the executive council, in the case of provincial departments and public entities listed in schedules 3C and 3D of the Public Finance Management Act.

**4.1.12.3** The end-of-stage deliverables for stage 3 (prefeasibility) shall, after taking into account the comments and recommendations of the relevant treasury, be approved by:

- a) the relevant member of the cabinet, in the case of national departments, constitutional institutions and public entities listed in schedules 2, 3A and 3B of the Public Finance Management Act; or
- b) the relevant member of the executive council, in the case of provincial departments and public entities listed in schedules 3C and 3D of the Public Finance Management Act.

**4.1.12.4** The initiator of the inception, prefeasibility and feasibility reports shall submit such reports to the relevant treasury for comment prior to making a submission to cabinet, the relevant minister, executive council or relevant member of the executive council, as applicable. The relevant treasury shall within three weeks of receiving a report submit comments and recommendations to the initiator who may revise such reports in the light of the comments and recommendations made, and:

- a) request the relevant treasury to make comments and recommendations on the revised reports; or
- b) submit the report together with the latest version of the relevant treasury comments and recommendations for approval.

### **4.1.13 Gateway reviews**

#### **4.1.13.1 Gateway reviews for major capital projects above a threshold**

**4.1.13.1.1** All major capital projects having an estimated capital expenditure equal to or above the threshold established in Table 2 shall have a gateway review of the end-of-stage 4 deliverable, prior to the acceptance of such deliverable. The review shall be initiated by the organ of state which intends implementing the project. The focus of such a review shall in the first instance be on the quality of the documentation, and thereafter on:

- a) deliverability (the extent to which a project is deemed likely to deliver the expected benefits within the declared cost, time and performance envelope);
- b) affordability (the extent to which the level of expenditure and financial risk involved in a project can be taken up on, given the organisation's overall financial position, both singly and in the light of its other current and projected commitments); and
- c) value for money.

**Table 2: Thresholds for gateway reviews of major capital projects**

<b>Organ of state</b>	<b>Estimated cost inclusive of VAT</b>
National department	R100 million
Provincial department or metropolitan municipality	R100 million
Municipality other than a metropolitan municipality	R50 million
Major public entity	R500 million
National government business enterprise Provincial government business enterprise	R250 million
Other	R100 million

**4.1.13.1.2** A gateway review team shall comprise not less than three persons who are not involved in the project associated with the works covered by the end of the stage 4 deliverable, and who are familiar with various aspects of the subject matter of the deliverable at the end of the stage under review. Such a team shall be led by a person who has at least six years post-graduate experience in the planning of infrastructure projects and is registered either as a

professional engineer in terms of the Engineering Profession Act, a professional quantity surveyor in terms of the Quantity Surveying Profession Act or a professional architect in terms of the Architectural Profession Act. The members of the team shall, as relevant, have expertise in key technical areas, cost estimating, scheduling and implementation of similar projects.

**4.1.13.1.3** The relevant treasury shall be notified of a proposed gateway review for a major capital project, three weeks prior to the conducting of such a review. Such notification shall be accompanied by a brief outline of the proposed project or package, the names and qualifications of the reviewers and the timeframes for the review. The relevant treasury may nominate additional persons to serve on the review team.

**4.1.13.1.4** The gateway review team shall base its findings primarily on:

- a) the information contained in the end-of-stage deliverables;
- b) supplementary documentation, if any, provided by key staff obtained during an interview process; and
- c) interviews with key staff members and stakeholders.

**4.1.13.1.5** The gateway review team shall issue a report at the conclusion of a gateway review which indicates the team's assessment of the information at the end of a stage and provides findings or recommendations on areas where further work may be undertaken to improve such information.

**4.1.13.1.6** Aspects in the report shall be flagged as being:

- a) code red: team considers the aspect to pose a significant risk to the project or package;
- b) code amber: team considers the aspects which indicate a minor risk to the project or package; or
- c) code green: team considers the aspect to have been given adequate consideration to the extent that it is unlikely to jeopardise the success of progressing to the next stage, or minor adjustments may be required before proceeding.

**4.1.13.1.7** The contents of the gateway review report shall be taken into account when accepting the stage 4 deliverable. A stage 4 deliverable shall not be accepted until such time that all code red risks have been addressed in the stage 4 end-of-stage deliverable.

#### **4.1.13.2 Gateway reviews initiated by the relevant treasury**

**4.1.13.2.1** A relevant treasury may at any time institute a gateway review of any of the end-of-stage deliverables associated with the control framework, irrespective of the estimated cost of a project. The focus of such a review shall be determined by the relevant treasury. The implementer of a project shall be notified of the review and its focus at least three weeks prior to the conducting of the review.

**4.1.13.2.2** The implementer shall provide a person to lead the review and one other person to serve on the team, both of whom satisfy the requirements of 4.1.13.1.2.

**4.1.13.2.3** The gateway review shall be conducted substantially in accordance with the provisions of 4.1.13.1.4 to 4.1.13.1.6.

## **4.2 Control framework for infrastructure procurement**

### **4.2.1 General**

**4.2.1.1** Infrastructure procurement shall be implemented in accordance with the provisions of the control framework indicated in Figure 2 which contains:

- a) procurement gates;
- b) framework agreement gates;
- c) reporting points, where applicable, for interfacing with the Construction Industry Development Board's (CIDB) register of projects; and
- d) a gate relating to the interface with a financial management system.

**4.2.1.2** The activities associated with the control framework indicated in Figure 2 are set out in Tables 3 and 4 whenever a negotiated, competitive selection or competitive negotiations procedure is applied, with the exception of the shopping procedure. Procurement Gates 6 and 7 may be combined in the case of the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure.

**4.2.1.3** The level of detail contained in the documentation upon which a decision is made at a gate shall be sufficient to enable informed decisions to be made to proceed to the next activity or to undertake a particular procedure.

**4.2.1.4** The approvals or acceptances at each gate shall be retained for record and audit purposes for a period of not less than five years of such acceptance or approval in a secured environment, unless otherwise determined in terms of the National Archives and Record Services of South Africa Act.

### **4.2.2 Specific requirements relating to the review of procurement documents**

**4.2.2.1** The approval of procurement documents at Procurement Gate 3 or Framework Agreement Gate 2 shall be based on the contents of a procurement documentation review report. Where the procurement relates to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure, such a report shall be prepared by one or more persons who participated in the review and who are registered as:

- a) a professional architect or professional senior architectural technologist in terms of the Architectural Profession Act or a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
- b) a professional engineer or professional engineering technologist in terms of the Engineering Profession Act; or
- c) a professional quantity surveyor in terms of the Quantity Surveying Professions Act.



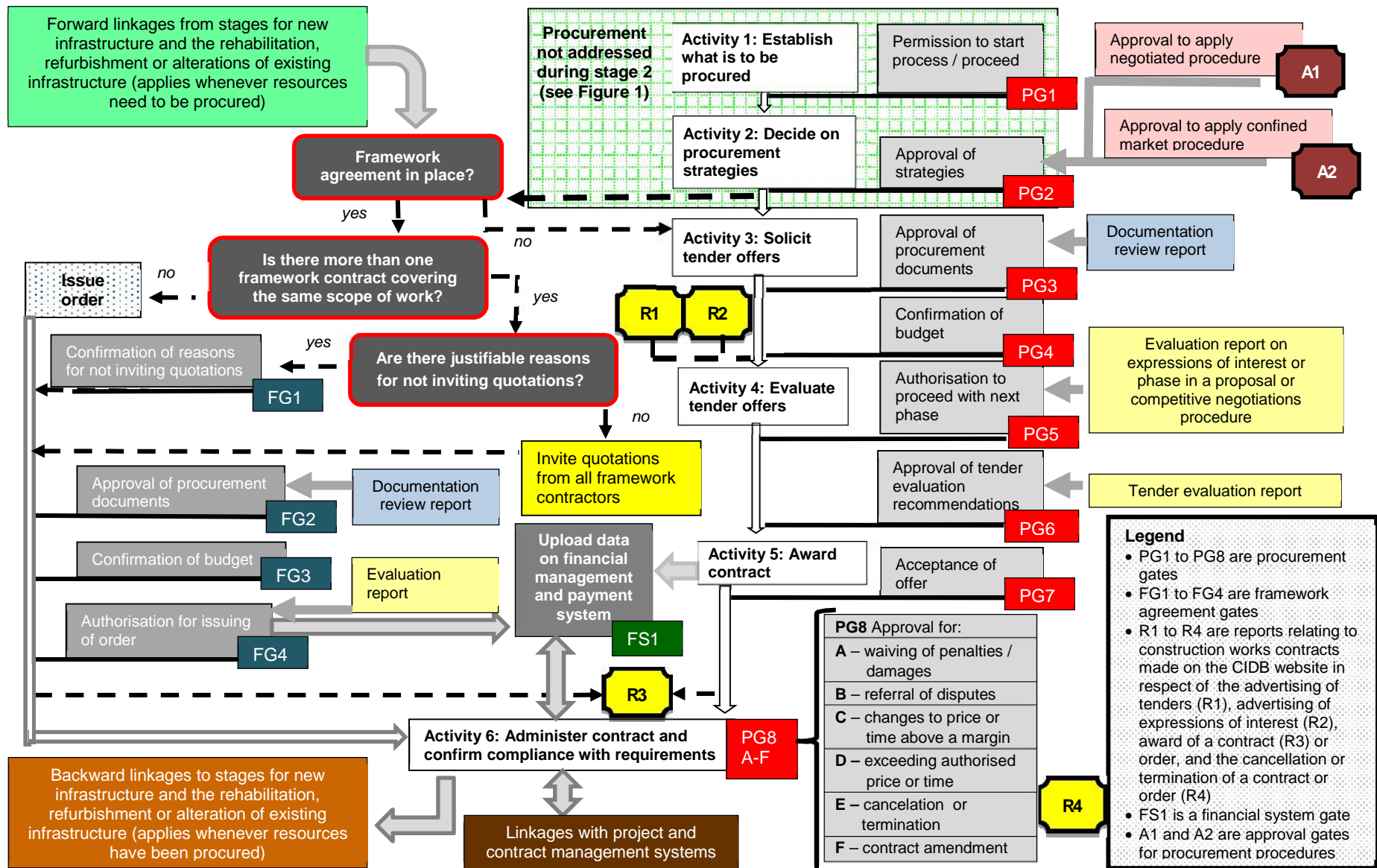


Figure 2: Control framework for procurement (acquisition and contract management) processes

**Table 3: Procurement activities and gates associated with the formation and conclusion of contracts above the threshold for the quotation procedure**

Activity		Sub-Activity*		
1	Establish what is to be procured (Applies only to goods and services not addressed in a procurement strategy developed in terms of 4.1)	1.1	Prepare broad scope of work for procurement	
		1.2	Estimate financial value of proposed procurement	
		1.3 <b>PG1</b>	Obtain permission to start with the procurement process	
2	Decide on procurement strategy (Applies only to goods or services not included in a procurement strategy developed in terms of 4.1)	2.1	Establish opportunities for using procurement to promote developmental procurement policies, if any	
		2.2	Establish contracting and pricing strategy	
		2.3	Establish targeting strategy	
		2.4	Establish procurement procedure	
		2.5 <b>PG2</b>	Obtain approval for procurement strategies that are to be adopted, including specific approvals to approach a confined market or the use of the negotiation procedure	
3	Solicit tender offers	3.1	Prepare procurement documents	
		3.2 <b>PG3</b>	Obtain approval for procurement documents	
		3.3 <b>PG4</b>	Confirm that budgets are in place	
		3.4	Invite: <ul style="list-style-type: none"> <li>tender offers; or</li> <li>expressions of interest (qualified procedure or restricted competitive negotiations procedure)</li> </ul>	
		3.5	Receive submissions	
		3.6	Open and record submissions received	
4	Evaluate tender offers	4.1	Qualified procedure, proposal procedure or competitive negotiations procedure only	Evaluate and prepare evaluation report on submissions received
		4.2 <b>PG5</b>		Obtain authorisation to proceed with next phase of tender process
		4.3		Invite tender offers from qualified respondents or selected tenderers
		4.4		Open and record submissions received and, if necessary, repeat 4.1 to 4.4
		4.5	Evaluate tender offers and prepare a tender evaluation report	
		4.6 <b>PG6</b>	Confirm recommendations contained in the tender evaluation report	
5	Award contract	5.1	Notify unsuccessful tenderers of outcome	
		5.2	Compile contract document	
		5.3 <b>PG7</b>	Award contract	
		5.4	Capture contract award data on management systems	
		5.5 <b>GF1</b>	Upload data in financial management and payment system	

**Table 3 (concluded)**

Activity		Sub-Activity*	
6	Administer contracts and confirm compliance with requirements	6.1	Administer contract in accordance with the terms and provisions of the contract
		6.2	Confirm compliance with requirements
		6.3	Capture contract completion / termination data
		6.4 <b>PG8A</b>	Obtain approval to waive penalties or low performance damages
		6.5 <b>PG8B</b>	Obtain approval to notify and refer a dispute to an adjudicator, or for final settlement to an arbitrator or court of law
		6.6 <b>PG8C</b>	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage
		6.7 <b>PG8D</b>	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20% and 30%, respectively
		6.8 <b>PG8E</b>	Obtain approval to cancel or terminate a contract
		6.9 <b>PG8F</b>	Obtain approval to amend a contract
		6.10	Close out the contract

\* Shaded cells indicate the presence of a procurement gate

**Table 4: Procurement activities and gates associated with the issuing of an order in terms of a framework agreement**

Activity*	
1 <b>FG1</b>	Confirm justifiable reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work
2	Prepare procurement documents
3 <b>FG2</b>	Obtain approval for procurement documents
4 <b>FG3</b>	Confirm that budgets are in place
5	Quotations amongst framework contractors not invited: Issue draft order documentation and consult with contractor and prepare evaluation report Quotations amongst framework contractors invited: Invite quotations from all framework contractors participating in the agreement, receive and evaluate submissions and prepare evaluation report
6 <b>FG4</b>	Authorise the issuing of the order
7	Log order onto management system
8	Issue order to contractor
9	Notify issuing of order to oversight person
10	Administer orders in accordance with contract and confirm compliance with requirements

\*Shaded cells indicate the presence of a framework gate

**4.2.2.2** The review of procurement documents associated with the negotiation, competitive selection or competitive negotiation procedure shall confirm that:

- a) the procurement documents have been formatted and compiled in accordance with the requirements of SANS 10845-2, this standard and, where applicable, the CIDB Standard for Uniformity in Construction Procurement, and are aligned with the approved procurement strategy;

- b) appropriate prompts for judgement are included in procurement documents in accordance with the requirements of SANS 10845-1 whenever quality is evaluated and scored in the evaluation of calls for expressions of interest or tender offers;
- c) the selected form of contract in the case of a tender that is solicited is in accordance with the requirements of 14.5.3 and any standard templates required by the organ of state have been correctly applied;
- d) the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract, conditions of tender or conditions for the calling for expressions of interest, as relevant, not provided for in the organ of state's approved templates;
- e) the selected submission data in the case of a call for an expression of interest, or tender data and contract data options in the case of a tender, are likely to yield best value outcomes;
- f) the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided, and satisfies the drafting requirements of SANS 10845-1;
- g) the submission or returnable documents are necessary and will enable submissions to be evaluated fairly and efficiently; and
- h) the risk allocations in the contract and pricing data are appropriate.

**4.2.2.3** The review of procurement documentation associated with the issuing of an order shall confirm that:

- a) any standard templates required by the organ of state have been correctly applied;
- b) the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract not provided in the organ of state's approved templates or the contract;
- c) the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided;
- d) the provisions for competition amongst framework contractors, if relevant, and the selected options are likely to yield best value outcomes; and
- e) the risk allocations are appropriate.

**4.2.2.4** The review conducted to confirm the provisions of 4.2.2.2 and 4.2.2.3 shall identify sections, if any, which require amendments or improvements.

**4.2.2.5** The documentation review report shall:

- a) list the names and qualifications of the team members;
- b) confirm that the documents are in accordance with the requirements of this standard;
- c) capture any comments or opinions which the team may wish to express; and
- d) recommend that the procurement documents be accepted with or without modifications.

### **4.2.3 Specific requirements relating to the evaluation of submissions**

**4.2.3.1** The authorisation to proceed with the next phase (Procurement Gate 5), the approval of tender evaluation recommendations (Procurement Gate 6) and the authorisation for the issuing of an order (Framework Agreement Gate 4) shall be based on the contents of an evaluation report.

- 4.2.3.2** The evaluation report shall be prepared by one or more persons who are conversant with the nature and subject matter of the procurement documents or the framework contract, and who are registered as:
- a) a professional architect or professional senior architectural technologist in terms of the Architectural Profession Act;
  - b) a professional engineer or professional engineering technologist in terms of the Engineering Profession Act;
  - c) a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
  - d) a professional project manager or a professional construction manager in terms of the Project and Construction Management Professions Act; or
  - e) a professional quantity surveyor in terms of the Quantity Surveying Profession Act.
- 4.2.3.3** All communications with respondents and tenderers during the procurement process to obtain information and clarifications shall be made in writing through the employer's agent named in the submission or tender data. Records of all communications in this regard shall be made and retained for auditing purposes.
- 4.2.3.4** Submissions shall be evaluated strictly in accordance with the provisions of the procurement documents (see Annex C of SANS 10845-3 and Annex C of SANS 10845-4, as relevant). Where quality is evaluated, at least three persons who satisfy the requirements of 4.2.3.2 shall undertake such evaluation. Quality shall be scored in terms of the prompts for judgement, with fixed scores assigned to each prompt, either individually and averaged or collectively, as appropriate.
- 4.2.3.5** Those involved in the evaluation of submissions shall record their scores for quality against each of the criteria during the process of evaluation, preferably with notes to substantiate the scores. Individuals should record their own markings on a separate sheet. These documents shall be placed on file as an audit trail and may form the basis of any debriefing that takes place.
- 4.2.3.6** Evaluation reports shall be prepared in accordance with the content headings and relevant guidelines contained in Tables 5 or 6, with modifications as necessary where a two-envelope, two-stage process or competitive negotiation procedure is followed. Such reports shall contain extracts from the procurement documents which are linked to the evaluation of submissions, such as eligibility criteria, criteria associated with evaluation methods, preferencing, quality criteria (including prompts for judgement), the method by which tenders are reduced to a common base and lists of returnable documents. Such references shall enable those who are tasked with making decisions based on these documents to do so without having to refer back to submissions in order to understand the content of the report.
- 4.2.3.7** An evaluation report which recommends the award of a contract shall contain in annexures the reports, if any, of prior processes, e.g. a call for an expression of interest, a round in a competitive negotiation procedure or a stage in a competitive selection procedure.
- 4.2.3.8** An evaluation report covering the application of the negotiated procedure for the award of a contract or the issuing of an order, shall confirm that the negotiated amounts are market-related and represent value for money. Where the total of the prices associated with a target cost contract is negotiated, the total of prices shall be certified as being fair and reasonable by a professional quantity surveyor registered in terms of the Quantity Surveying Profession Act or a professional engineer registered in terms of the Engineering Profession Act.

**Table 5: Content of an evaluation report relating to an expression of interest**

Section heading	Subsection heading		Guidelines for the preparation of content
1 <b>Summary</b>	-	-	<p>Provide an overview of the parameters associated with the expression of interest, preferably in tabular form, including the following as relevant:</p> <ul style="list-style-type: none"> <li>• Contract / project no and contract / project description</li> <li>• Purpose of the expression of interest</li> <li>• Media in which advertisement was placed</li> <li>• Advertisement date(s)</li> <li>• Estimated value of contract or orders which are likely to be awarded during the term of the contract, if applicable</li> <li>• Date from which documents were available</li> <li>• Number and title of addenda issued</li> <li>• Closing date</li> <li>• Details of clarification meeting, including date and place, if any</li> <li>• Number of submissions made</li> <li>• Number of responsive submissions received</li> <li>• Recommended outcomes of the process</li> </ul>
2 <b>An overview of the evaluation process</b>	-	-	<p>Provide an overview of the procurement process, indicating the eligibility criteria that were applied. State points relating to evaluation criteria, prompts for judgement and weightings relating thereto. Reproduce the list of returnable documents.</p> <p>Provide, if applicable, an overview as to how the quality aspects of the submissions were scored.</p> <p>Record that those involved in the evaluation of tenders have no conflicts of interest or have declared any conflict of interest that they may have, and the nature of such conflict.</p>
3 <b>Evaluation process</b>	3.1	<b>Submissions received</b>	<p>List the submissions that were received.</p> <p>Describe any noteworthy events regarding the opening of submissions, e.g. the returning of late submissions.</p>
	3.2	<b>Completeness of submissions received</b>	<p>Compare submissions received against the list of returnable documents. State if any submissions were incomplete and outline how clarifications were obtained.</p> <p>Confirm if respondents took into account addenda, if any, in their submission.</p>
	3.3	<b>Responsiveness of respondents</b>	<p>Identify which of the submissions received were non-responsive and provide clear reasons for declaring respondents to be non-responsive.</p>
	3.4	<b>Evaluation of submissions</b>	<p>Record the manner in which submissions were evaluated.</p> <p>Record, where relevant, and preferably in a tabular form, the scores for each of the evaluation criteria and the total score (excluding those who failed to score above a threshold, if any).</p>
	3.5	<b>Reasons for disqualification on the grounds of corrupt or fraudulent practice</b>	<p>State reasons if applicable.</p>
	3.6	<b>Compliance with legal requirements</b>	<p>Confirm as relevant that respondents are not barred from participation, tax matters are in order, are registered, etc.</p>
4 <b>Tender recommendation</b>	-	-	<p>Make a recommendation for the outcome of the process, e.g. admit to a database or prequalify / shortlist respondent to be invited to submit tender offers.</p> <p>Record the names and qualifications of those who performed the evaluation.</p>
5 <b>Confirmation of recommendations</b>	-	-	<p>Make provision for the confirmation or amendment of the recommended action.</p>

**Table 6: Content of an evaluation report relating to the solicitation of tender offers**

Section heading		Subsection heading		Guidelines for the preparation of content
1	Summary	-	-	<p>Provide an overview of the parameters associated with the solicitation of the tender, preferably in tabular form, including the following as relevant:</p> <ul style="list-style-type: none"> <li>• Contract / Project / Tender number</li> <li>• Contract description</li> <li>• Contract duration</li> <li>• Purpose of tender</li> <li>• Contracting strategy, pricing strategy, form of contract and targeting strategy</li> <li>• Procurement procedure and method of tender evaluation</li> <li>• Tender validity expiry date</li> <li>• Alternative tenders (not permitted or state conditions under which permitted)</li> <li>• Media in which advertisement was placed, if not a nominated or qualified competitive selection procedure or a restricted competitive negotiations procedure</li> <li>• Date of advertisement(s)</li> <li>• Date from which documents were available</li> <li>• Details of clarification meeting, including date and place, if any</li> <li>• Tender closing date</li> <li>• Number and title of addenda issued</li> <li>• Number of tenders received</li> <li>• Number of responsive tenders</li> <li>• Recommended tender(s)</li> <li>• Cost estimate (budget), unless a framework contract</li> <li>• Lowest responsive and realistic tender used for comparative purposes (tender price, specific goals, etc.)</li> </ul>
2	An overview of the tender evaluation process	-	-	<p>Provide an overview of the procurement process, indicating the eligibility criteria that were applied and the evaluation criteria. State specific goals and points relating to preferences, as well as any quality evaluation criteria, prompts for judgement and weightings relating thereto.</p> <p>Reproduce the list of returnable documents.</p> <p>Provide an overview as to how the quality aspects of the tender were scored.</p> <p>Record that those involved in the evaluation of tenders have no conflicts of interest or have declared any conflict of interest that they may have, and the nature of such conflict.</p>
3	Tender evaluation process	3.1	Tender offers received	<p>List the tender offers that were received.</p> <p>Describe any noteworthy events regarding the opening of submissions, e.g. the returning of late tenders and the declaring of submissions non-responsive on the grounds that they were not received in the prescribed manner.</p>
		3.2	Completeness of tenders received	<p>Compare tender submissions received against list of returnable documents. State if any tender submissions received were incomplete and indicate what was not complete. Indicate what steps were taken to make incomplete tenders complete, only where this does not affect the competitive position of the tenderer in question. List all communications with tenderers.</p> <p>Confirm if tenderers took into account addenda, if any, in their tender submission.</p>
		3.3	Responsiveness of tenderers	<p>Identify which of the tenders received were non-responsive and provide clear reasons for declaring such tenders to be non-responsive.</p>

**Table 6** (concluded)

Section heading		Subsection heading		Guidelines for the preparation of content
3	Tender evaluation process (continued)	3.4	Evaluation of tender offers	Record the manner in which tenderers were reduced to a common basis: Record preferably in a tabular form: <ul style="list-style-type: none"> <li>the scores for each of the evaluation criteria;</li> <li>the total score (excluding those who failed to score above a threshold);</li> <li>the pricing parameters that were tendered to enable compensation events to be evaluated of contractors to be paid in cost reimbursable or target cost contract.</li> </ul> Provide reasons for not granting a preference or considering a financial offer to be unrealistically low.
		3.5	Reasons for disqualification on the grounds of corrupt or fraudulent practice	State reasons if applicable.
		3.6	Compliance with legal requirements	Confirm as relevant that tenderers are not barred from participation, tax matters are in order, are registered, etc.
		3.7	Acceptability of preferred tenderer	State any reasons why the tenderer with the highest points should not be considered for the award of the tender, e.g. commercial risk, restrictions, lack of capability and capacity, legal impediments, etc. Also state any arithmetical corrections that have been made.
4	Outcome of the evaluation	-	-	Make a recommendation for the award of the tender and state any qualifications / conditions associated with such an award. Record the names and qualifications of those who performed the evaluation.
5	Confirmation of recommendations	-	-	Make provision for the recommendations for the award of the tender to be confirmed or amended.

#### 4.2.4 Authorisation to proceed with the next phase of the procurement process

The person authorised to enable a procurement process to progress to the next phase of the process shall review the evaluation report and either refer the report back to those responsible for such a report or authorise the procurement process to proceed to the next phase after:

- a) confirming that the report is complete and addresses all considerations necessary to make a decision;
- b) confirming the validity and reasonableness of reasons provided for the elimination of tenderers or respondents; and
- c) considering commercial risks and identifying any risks that have been overlooked which warrant investigation prior to taking a final decision.

#### 4.2.5 Authorisation for issuing of an order

The person responsible for authorising an order shall, prior to authorising the issuing of an order:

- a) confirm that the required goods or services, or any combination thereof, are within the scope of work associated with the relevant framework contract; and
- b) consider the recommendations of the evaluation report where competition amongst framework contracts takes place (see 14.3.6) or a significant proportion of the total of the prices is negotiated, based on the financial parameter contained in the framework contract, and either



confirm the reasonableness of such recommendations and sign the acceptance of the order, or refer the evaluation report and recommendation back to those who prepared it.

## **5 INSTITUTIONAL ARRANGEMENTS**

**5.1** Organs of state who are responsible for infrastructure delivery shall establish a suitable infrastructure procurement and delivery supply chain management policy to implement this standard. Such a policy shall as a minimum:

- a) assign responsibilities for approving or accepting deliverables associated with a gate in the control framework or authorising a procurement process or procedure;
- b) establish committees which are required by law, or equivalent quality management and governance arrangements;
- c) establish delegations for the awarding of a contract or the issuing of an order; and
- d) establish ethical standards for those involved in the procurement and delivery of infrastructure.

**5.2** An agency agreement shall be entered into between organs of state where responsibilities for implementation are delegated or assigned, or with a school governing body, established in terms of section 16 of the South African Schools Act, that makes a substantial financial contribution to a project. Such an agreement shall:

- a) establish principles and requirements relating to the recovery of cost associated with the rendering of the service, claims for payments made on an agency basis including the release of retention sums, the settling of claims for payment and the documentation required to accompany such claims; and
- b) include a service delivery agreement which as relevant sets out at least the following:
  - 1) overall aims, objectives and priorities;
  - 2) governance structures;
  - 3) reporting requirements;
  - 4) the scope of the services to be performed by the implementer during each financial year;
  - 5) the projects and packages which are included in the infrastructure plan and which are to be delivered, and the timeframes for doing so;
  - 6) the roles and responsibilities of the parties to the agreement, including requirements for the engagement and management of stakeholders;
  - 7) delegations to the implementer to accept end-of-stage deliverables on an agency basis;
  - 8) contributing resources, including human resources; and
  - 9) dispute resolution procedures.

**5.3** The agency agreement shall be reviewed annually and amended or revised as necessary.

**5.4** The implementer's supply chain management system shall be used to procure goods or services, or any combination thereof, for infrastructure covered by the agency agreement referred to in 5.2.

## **6 DEMAND MANAGEMENT**

**6.1** The demand management system shall be aimed at ensuring that goods and services, and any combination thereof required to support strategic and operational commitments, are delivered at the right price, time and place, and that the quality and quantity of such goods or services satisfy needs.

**6.2** The demand for infrastructure delivery shall be managed through:

- a) the service life plans which;
  - 1) are based on:
    - an assessment of current performance against desired levels of service or functionality; and
    - a needs analysis informed by factors such as policies, norms and standards, condition assessments, functional performance, demographic trends, current and forecasted levels of optimisation; and
  - 2) reflect a cost estimate for the life cycle activities comprising acquisition, operations, maintenance, refurbishment, rehabilitation or alteration as relevant, over a minimum period of five years; and
- b) infrastructure plans which, as a minimum, summarise the service life plans and provide a credible forecast of current and net demand for services or requirements for functionality over a period of not less than ten years.

**6.3** Consideration shall, where appropriate, be given to:

- a) alternative service delivery methods or means of satisfying needs which do not require infrastructure to implement or reduce the demand for infrastructure; and
- b) the disposal of infrastructure that is surplus to requirements.

**6.4** Projects shall, wherever possible, be delivered in accordance with established norms and standards which are designed to yield value for money.

**6.5** Identified projects shall be prioritised and budgeted for in an infrastructure plan (see 4.1.2.2).

**6.6** Costs shall be proactively managed through the setting and proactive monitoring of control budgets for projects through the project planning, detailed design and site processes indicated in Figure 1.

## **7 ACQUISITION MANAGEMENT**

### **7.1 Procurement of new infrastructure and the rehabilitation, refurbishment or alteration of existing infrastructure**

**7.1.1** Budgets submission for budget approval to advance a project or package relating to the delivery or planned maintenance of infrastructure in a financial year shall be broken down into the stages (see Figure 1) which have been completed.

**7.1.2** Implementation plans relating to new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure which are aligned with the accepted delivery and procurement strategy, shall be developed for each project or package which is to be delivered in a financial year. Such a plan shall as necessary:

- a) identify the objectives of each project or programme of projects;
- b) identify the scope, budget and schedule for each project or package;
- c) outline the procurement strategy in respect of each project or package;
- d) provide a time management plan for each project, i.e. the baseline against which progress towards the attainment of milestone (key deliverables) target dates can be measured;
- e) provide the projected budget and cash flows which will enable planned and actual expenditure to be compared and revisions to the budget to be approved, and multiple project budgets to be managed;
- f) document the key success factors and the key performance indicators which need to be measured, monitored and evaluated;
- g) contain a procurement plan which indicates the timeline for advertising and closing of tenders, and the obtaining of gate approvals leading up to the award of the contract or the issuing of an order;
- h) identify the major risks and how such risks are to be mitigated or managed;
- i) indicate how quality requirements and expectations are to be met and managed;
- j) outline the controls and measures which will address health, safety, socio-economic or environmental risks;
- k) provide a communication plan which determines the lines of communication and the key activities associated therewith; and
- l) indicate the assigned internal and external resources with implementation responsibilities.

**7.1.3** Financial data shall be gathered to enable a financial report to be generated at regular intervals which:

- a) lists the packages which have completed stage 7 (works) together with actual expenditure;
- b) indicates the following for packages which have advanced beyond stage 4 (concept and viability or feasibility) but have not yet completed stage 7 (works):
  - 1) budget for the financial year;
  - 2) actual expenditure to date;
  - 3) remaining budget for the year;
  - 4) forecast expenditure for the remainder of the year; and
  - 5) forecast over/under expenditure for the year;
- c) indicates professional fees associated with a project or package; and
- d) enables "actual" versus "planned" expenditure to be compared.

## **7.2 Procurement other than new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure**

**7.2.1** Annual procurement plans shall be prepared to cover the procurement of goods or services, or any combination other than that relating to new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure which exceed the threshold for quotations.

**7.2.2** Annual procurement plans required in accordance with 7.2.1 shall contain the following information for all proposed tenders for a financial year where the proposed procurement is estimated to equal or exceed the threshold for quotations.

- a) a description of the goods, services or works;
- b) the estimated value of such goods, services or works, including all applicable taxes;
- c) the envisaged date of advertisement;
- d) the envisaged closing date for tenders; and
- e) the envisaged date of award.

## **7.3 Use of an organ of state's framework agreement by another organ of state**

**7.3.1** An organ of state may request in writing to make use of one or more framework contracts entered into by another organ of state. Such a request, signed by the accounting officer or accounting authority of that organ of state, shall:

- a) outline the scope and anticipated quantum of work associated with the work that is required;
- b) provide a motivation for the use of the framework agreement; and
- c) detail the benefit for the state to be derived from making use of the framework agreement.

**7.3.2** The accounting officer or accounting authority may approve a request made in terms of 7.3.1 to make use of the organ of state's framework contract, conditionally or unconditionally, if:

- a) the framework agreement was put in place following a competitive tender process;
- b) confirmation is obtained that the framework contract is suitable for the intended use, and the required goods, services and works fall within the scope of such contract;
- c) the framework contractor agrees in writing to accept an order from that organ of state;
- d) the organ of state undertakes to pay the contractor in accordance with the terms and conditions of the agreement; and
- e) the term of the framework agreement does not expire before the issuing of the required orders.

## 8 CONTRACT MANAGEMENT

8.1 The person responsible for the administration of the contract or an order on behalf of the employer shall:

- a) act as stated in the contract that is entered into, subject to any constraints that may be imposed by the employer or the employer's supply chain management policy for infrastructure procurement and delivery management, using any standard templates that are provided for communications required in terms of the contract;
- b) provide at least the following data within two weeks of the award of a contract or an order for capture on a contract management system:
  - 1) name and contract particulars;
  - 2) the programme or project number, as relevant;
  - 3) the contractual dates associated with the contract or order;
  - 4) except in the case of very low value goods or services contracts, a cash flow forecast;
  - 5) the agreed total of prices or forecasted total of prices; and
  - 6) where applicable, whether or not provision is made for price adjustment for inflation, delay damages, performance bond and retention, and if so, what the quantum or estimated quantum of such provisions is;
- c) retain on a contract file, copies of certificates of insurances, bonds and the like;
- d) make an assessment of the amount due to the contractor where required in terms of the contract, or review the contractor's assessment of the amount due and timeously certify payment;
- e) revise the estimates for price adjustment for inflation where provided for, prepare an updated cash flow for the remainder of the contract based on the contractor's schedule, and capture these amounts together with the amounts due to the contractor and the retention amounts, if relevant, on a monthly basis;
- f) provide the revised total of the prices or completion date or delivery date for the contract, or an order, within one week of a contractor revising a forecast of the total of prices, or an event being implemented, which in terms of the contract increases the total of prices or delays delivery or completion, for capture on a contract management system;
- g) manage, if relevant, the interface between the contractor and those responsible for providing client inputs where a management, design and construct or develop and construct contracting strategy is utilised;
- h) develop and maintain a contract risk register;
- i) provide a monthly report on events which, in terms of the contract, cause the total of prices to increase or the contract completion date to be changed;
- j) report all insurance claims made within one week of the claim being lodged; and
- k) make inputs, if applicable, to the close out report in stage 9, including those relating to cost norms, contractor performance and the attainment, or not, of projective objectives.

8.2 The person responsible for administering the contract shall as necessary report on a monthly basis on the following:

- a) the attainment of key performance indicators, if any, provided for in the contract or required by the sponsor of the project or in terms of legislation;
- b) the number of improvement, contravention and prohibition notices issued by the health and safety agent; and
- c) incidents reportable in terms of the Construction Regulations issued in terms of the Occupational Health and Safety Act, briefly indicating the nature of the incident.

**8.3** The person responsible for the administration of a contract or order relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure, shall be registered in a professional category of registration in terms of the Architectural Profession Act, the Engineering Profession Act, Landscape Architectural Profession Act, the Project and Construction Management Professions Act or Quantity Surveying Profession Act.

## **9 LOGISTICS MANAGEMENT**

**9.1** Materials, equipment and plant may be procured and issued free of charge to a contractor for incorporation into the works. Care shall be taken to ensure that suitable arrangements or measures are in place to minimise:

- a) loss or damage to such items until the contractor has received and accepted them; and
- b) delays in supply which can result in increases in the contractor's prices for providing the works.

**9.2** Procurement processes associated with long lead items of plant, equipment and materials may be initiated before the conclusion of stage 4 (concept and viability or feasibility). No contract may be entered into following such processes until stage 4 has been concluded and the budgets are in place to proceed.



## **10 DISPOSAL MANAGEMENT**

- 10.1** A disposal committee shall decide how best to undertake disposals relating to the demolition or dismantling of infrastructure or parts thereof, and the disposal of unwanted, redundant or surplus materials, plant and equipment.
- 10.2** Disposals shall be proceeded with only after the feasibility and desirability of using one or more of the following alternative disposal strategies have been considered:
- a) transfer to another organ of state, business unit or a charitable organisation at market-related value or free of charge;
  - b) recycling or re-use of component materials; or
  - c) disposal by means of dumping at an authorised dump site, burning or demolition.
- 10.3** The reasons for adopting a disposal strategy shall be recorded prior to proceeding with such disposal.

## 11 REPORTING OF SUPPLY CHAIN MANAGEMENT INFORMATION

11.1 The implementer shall report to the relevant treasury within one month of the award of a contract or the issuing of an order, all engineering and construction, supply, service and professional service contracts that are awarded, or orders that are issued, should the total of prices, including VAT, exceed the thresholds contained in Table 7. Such a report shall indicate the following:

- a) the title and number of the contract or order;
- b) a brief outline of the scope;
- c) the total of the prices at the time that a contract is concluded or an order issued;
- d) the time for completion or delivery; and
- e) the procurement procedure that was used to put the contract in place, or in the case of a framework agreement, whether or not competition amongst framework contractors was reopened.

**Table 7: Thresholds, including VAT, for reporting the award of a contract or an order to the relevant treasury**

Organ of state	Value of contract or order including VAT			
	Services contract	Professional services	Supply	Engineering and construction works
National department	R75 million	R75 million	R100 million	R100 million
Provincial department or metropolitan municipality	R50 million	R50 million	R100 million	R100 million
Municipality other than a metropolitan municipality	R25 million	R25 million	R50 million	R50 million
Major public entity	R250 million	R250 million	R500 million	R500 million
National government business enterprise Provincial government business enterprise	R125 million	R125 million	R250 million	R250 million
Other	R50 million	R50 million	R100 million	R100 million

11.2 Organs of state other than major public entities, national government business enterprises and provincial business enterprises shall report to the relevant treasury where a contract was awarded to a tenderer other than the tenderer recommended by a committee, giving reasons for such award.

11.3 The implementer shall prepare an annual report which contains the following in respect of a financial year and submit such report to the relevant treasury within two months after the financial year end:

- a) the information contained in the performance report prepared in accordance with section 12 of this standard;
- b) a brief progress report which reflects progress in terms of time and cost in relation to the time for completion or delivery and the total of prices at the award of the contract or the issuing of an order, and, if relevant, stages completed, on all contracts and orders above the threshold stated in Table 7;
- c) an outline of the scope, value and duration of all contracts which were awarded as a result of unsolicited proposals, together with a brief motivation for such award;
- d) particulars relating to:
  - 1) the cancellation or termination of contracts, together with the reasons therefore;

- 2) the use of a negotiated or confined market procurement procedure to enter into a supply, services, professional services or engineering and construction contract in excess of R10,0 million, including VAT, together with a brief motivation for doing so;
- 3) the evoking of the emergency procurement procedures where the value of the ensuing transaction exceeded R10,0 million, including VAT, together with a brief overview of the emergency and the outcomes of the procurement;
- 4) disputes arising from contracts which have been referred to arbitration or a court of law for settlement; and
- 5) contracts where the approval has been granted to increase the total of the prices or the time for completion at Procurement Gate 8D (see Figure 2 and Table 3).

## 12 ASSESSMENT OF SUPPLY CHAIN MANAGEMENT PERFORMANCE

An annual performance report shall be prepared for each portfolio of projects involving infrastructure delivery within two months of the financial year end which reflects performance in relation to at least the following:

- a) expenditure incurred in infrastructure delivery for the financial year, against the budget made available to cover such expenditure at the start of the year;
- b) the average variance between planned and achieved completion of stages of all packages and projects;
- c) an overview of all packages where stage 7 was completed within the financial year and the total of the prices and the time for completion at the start of the contract or when the order was issued exceed 20%, together with a brief explanation as to why such increases occurred;
- d) the average time taken to award a contract, measured from the closing date for tender submission or the final submission made in terms of a proposal or competitive negotiations procedure to a decision being taken to award the contract;
- e) the average time taken, in respect of all packages covered in the report, to complete stage 8 measured from the time that stage 7 is completed;
- f) the average difference between the total of the prices in the payment certificate that was issued following the completion of stage 7, and the total of the prices at the end of stage 9;
- g) the average time taken to award a contract above the threshold for quotations, measured from the closing date for tender submission or the final submission made in terms of a proposal or competitive negotiations procedure, to the acceptance of the tender evaluation report; and
- h) the average number of days that payment is later than that required under the terms of a contract.

## **13 RISK MANAGEMENT AND INTERNAL CONTROL**

### **13.1 Risk management**

**13.1.1** Risk registers shall be established and maintained to enable risk mitigation relating to infrastructure procurement and delivery management to be proactively managed at a portfolio, programme, project and contract level. Such registers shall as a minimum contain:

- a) the entry date of the risk;
- b) a description of the risk, i.e. risk event, cause and possible outcome;
- c) the measures and action to mitigate risk, i.e. a description of the action, responsibility for action and timetable for implementation;
- d) action status, i.e. actioned, take no action, monitor and review or to be actioned.

**13.1.2** Those responsible for establishing and maintaining risk registers shall issue risk reports when called upon to do so.

### **13.2 Internal control measures**

**13.2.1** The gates in the control frameworks provided in section 4 shall be used, as appropriate, to:

- a) authorise the proceeding with an activity within a process, or commencing with the next process;
- b) confirm conformity with requirements; or
- c) provide information which creates an opportunity for corrective action to be taken.

**13.2.2** Suitable templates shall be used to record the approval or acceptance of documents at the gates provided in the control framework established in section 4.

## **14 INFRASTRUCTURE PROCUREMENT REQUIREMENTS**

### **14.1 General**

**14.1.1** Procurement shall be undertaken in accordance with all applicable legislation and;

- a) the relevant requirements of SANS 10845-1, SANS 10845-2, SANS 10845-3 and SANS 10845-4;
- b) the administrative procedures embedded in the approved standard forms of contract identified in this standard; and
- c) the provisions of this standard.

**14.1.2** All contracts that are entered into with contractors following a procurement process shall be in writing.

**14.1.3** Quality may be evaluated in tender submissions as other objective criteria as provided for in the Preferential Procurement Policy Framework Act in accordance with the provisions of SANS 10845-1.

**14.1.4** The preference points system contained in the Preferential Procurement Policy Framework Act shall not be applied to disposals. An assumption shall be made in the case of tenders for framework agreements that the 90:10 preference points system applies.

**14.1.5** All awards above the quotation threshold in competitive selection and competitive negotiation procurement processes shall be published at least on:

- a) the organ of state's or relevant treasury's website; or
- b) if required in terms of the Construction Industry Development Board Act, on the Construction Industry Development Board's website.

**14.1.6** The publication of the award of a contract shall contain at least the following information:

- a) contract numbers and title;
- b) a brief description of goods, services or works; and
- c) the names of successful tenderers and their B-BBEE status level of contribution, and where practical, the total of the prices at award, the duration of the contract and the tender points scored during the tender evaluation process.

### **14.2 Usage of standard procedures**

**14.2.1** Goods or services or a combination thereof should generally be procured from the open market. Tenders may, however, be solicited from a confined market where:

- a) it is established with reasonable certainty that:
  - 1) only a sole contractor is able to provide the goods or services or any combination thereof;
  - 2) only a very limited number of contractors are able to provide goods, services or works which are not freely available in the market, or which are provided solely for the organ of state in accordance with unique requirements;
- b) there is justification for standardising goods or making use of manufacturer-accredited service providers;

- c) a change in product or manufacturer requires modifications to related equipment and fixtures, e.g. a replacement pump requires costly changes to mountings, pipework or electrical connections or the replacement of circuit breakers requires costly changes to mounting frames, face panels, busbars, wiring and the like; or
- d) a replacement model requires the holding of additional spares or maintenance personnel.

**14.2.2** The standard procurement procedures identified in Table 8 shall be implemented under the stated conditions in accordance with the provisions of SANS 10845-1. Projects shall not be subdivided to reduce the estimated tender value to fall within a threshold applicable to a specific procurement procedure.

**Table 8: Conditions under which procedures provided for in SANS 10845-1 may be utilised**

Procedure	Conditions which need to be satisfied in order to utilise the procedure	
<b>Competitive selection procedure</b>		
Nominated procedure	Any procurement, the estimated value of which does not exceed a threshold stated in Table 9.	
Open procedure	Any procurement, except where the cost of advertising or the evaluation of a large number of tender submissions is disproportionate to the value of the work.	
Qualified procedure	Any procurement where: <ol style="list-style-type: none"> <li>1) a contract requires for its execution a high degree of specialised input, or requires skills and expertise that are not readily available;</li> <li>2) a contract requires for its execution exceptional management skills or quality;</li> <li>3) a tender submission requires significant tenderer inputs in order to respond appropriately to requirements so that a financial offer may be determined;</li> <li>4) it is desirable, in a large programme or project, to link packages of work to tenderers who have the appropriate capacity and capability to compete against one another;</li> <li>5) the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement;</li> <li>6) for practical reasons, it is necessary to limit the number of tender submissions that are received; or</li> <li>7) the goods or services are not freely available in the market, or are manufactured solely for the organ of state in accordance with that organ of state's own specifications.</li> </ol>	
Quotation procedure	Any procurement where the estimated value does not exceed a threshold stated in Table 9.	
Proposal procedure using the two-envelope system	Services where tenderers are required to develop and price proposals to satisfy a broad scope of work.	
Proposal procedure using the two-stage system	Option 1	Any procurement in which tenderers are required to submit technical proposals and, if required, cost parameters around which a contract may be negotiated.
	Option 2	Any procurement in which tenderers are invited to submit technical proposals in the first stage and to submit tender offers based on procurement documents issued during the second stage.
Shopping procedure	Procurement which involves readily available goods and does not exceed the threshold value stated in Table 9.	

**Table 8** (concluded)

Procedure	Conditions which need to be satisfied in order to utilise the procedure
Restricted competitive negotiations	<p>As for open competitive negotiations, but where:</p> <ol style="list-style-type: none"> <li>1) a contract requires for its execution a high degree of specialised input, or requires skills and expertise that are not readily available;</li> <li>2) a contract requires for its execution exceptional management skills or quality;</li> <li>3) a tender submission requires significant tenderer inputs in order to respond appropriately to requirements so that a financial offer may be determined;</li> <li>4) the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement;</li> <li>5) for practical reasons, it is necessary to limit the number of tender submissions that are received; or</li> <li>6) a target price is tendered and finalised prior to the award of the contract.</li> </ol>
Open competitive negotiations	<p>Any procurement where:</p> <ol style="list-style-type: none"> <li>1) it is not feasible to formulate detailed specifications for the work or to identify the characteristics of goods or works to obtain the most satisfactory solution to procurement needs;</li> <li>2) there are various possible means of satisfying procurement needs;</li> <li>3) the technical character of the goods or works, or the nature of the services, warrants the use of competitive negotiations to realise the most satisfactory solution to procurement needs;</li> <li>4) the purpose of the contract is research, experimentation, study or development; or</li> <li>5) all the tenders received in a competitive selection procedure are non-responsive and the calling for fresh tenders is likely to result in a similar outcome.</li> </ol>
<b>Negotiated procedure</b>	
	<p>Any procurement where:</p> <ol style="list-style-type: none"> <li>1) a rapid response is required due to the presence of, or the imminent risk of, an extreme or emergency situation arising from: <ol style="list-style-type: none"> <li>a) human injury or death;</li> <li>b) human suffering or deprivation of human rights;</li> <li>c) serious damage to property or financial loss;</li> <li>d) livestock or animal injury, suffering or death;</li> <li>e) serious environmental damage or degradation; or</li> <li>f) interruption of essential services;</li> </ol> </li> <li>2) the required goods, services or works cannot technically or economically be separated from another contract previously performed by a specific contractor;</li> <li>3) only one contractor has been identified as possessing the necessary experience and qualifications or product to deliver value for money in relation to a particular need;</li> <li>4) the services, goods or works do not exceed a threshold value stated in Table 9;</li> <li>5) the service or works being procured are largely identical to work previously executed by that contractor and it is not in the interest of the public or the organ of state to solicit other tender offers;</li> <li>6) a professional service contract does not exceed a threshold value stated in Table 9 and but can be based on time and proven cost;</li> <li>7) the nature of the works, goods or services, or the risks attached thereto, do not permit prior overall pricing; or</li> <li>8) only one responsive tender is received.</li> </ol>



**14.2.3** Prior approval shall be obtained for the following procurement procedures, unless such a procedure is already provided for in the approved procurement strategy:

- a) the negotiated procedure above the thresholds identified in Tables 8 and 9; and
- b) the approaching of a confined market, except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in Table 8, and which can be dealt with, or the risks relating thereto arrested, within 48 hours.

**14.2.4** Only a person authorised in terms of a policy developed in accordance with the provisions of section 5 may pursue a negotiated procedure in an emergency without the prior approval permitted in terms of 14.2.3.

**14.2.5** Approval for the use of a confined market shall only be valid for a period not exceeding 18 months.

**Table 9: Procurement thresholds**

Procedure (see Table 8 and SANS 10845-1)	Conditions which need to be satisfied in order to utilise the procedure	Threshold (Rand including VAT)		
		Schedule 2 public enterprise	Department or a schedule 3 public enterprise	Municipality or a municipal entity
Negotiated	The services, goods or works have a value not exceeding a threshold	R125 000	R75 000	R75 000
	A professional service contract has a value not exceeding a threshold	R500 000	R350 000	R200 000
Nominated procedure	Any procurement not exceeding a threshold	R2 500 000	R1 500 000	R1 500 000
Quotation procedure	Any procurement where the estimated value does not exceed a threshold	R2 000 000	R1 000 000	R200 000
Shopping procedure	Supplies contract which involves readily available goods not exceeding a threshold	R50 000	R50 000	R10 000

### 14.3 Framework agreements

**14.3.1** Framework agreements may be entered into with contractors by:

- a) inviting tender offers to enter into a suitable contract for the required work, using stringent eligibility and evaluation criteria to ensure that contracts are entered into with only those contractors who have the capability and capacity to provide the required goods, services or works; and
- b) entering into a limited number of contracts based on the projected demand and geographic location for such goods, services or works.

**14.3.2** The term of a framework agreement shall not exceed:

- a) three years in the case of all organs of state other than a major public entity, a national government business enterprise or a provincial government business enterprise; or
- b) four years in the case of a major public entity, a national government business enterprise or provincial government business enterprise.

**14.3.3** Framework agreements that are entered into shall not commit an organ of state to any quantum of work beyond the first order, or bind the employer to make use of such agreements to meet its needs.

The employer may approach the market for goods or services, or a combination thereof, whenever it considers that better value in terms of time, cost and the quality which may be obtained.

#### **14.3.4 Orders:**

- a) shall cover only goods or services, or any combination thereof, falling within the scope of work associated with the agreement which may not be amended for the duration of the contract;
- b) may not be issued after the expiry of the term of the framework agreement; and
- c) may be completed even if the completion of the order is after the expiry of the term.

**14.3.5** The issuing of orders with a number of framework contractors covering the same scope of work may be made with and without requiring competition amongst framework contractors. Where competition is required amongst framework contractors, it shall be conducted in a non-discriminatory manner such that competition is not distorted.

#### **14.3.6 Competition amongst framework contractors for orders shall take place where:**

- a) there is no justifiable reason for issuing an order to a particular framework contractor, such as:
  - 1) the framework contractor provided the most economical transaction when the financial parameters included in the contract are applied, and has the capacity to deliver;
  - 2) the required goods, services or works cannot technically or economically be separated from another contract or order previously performed by a specific contractor;
  - 3) the service or works being instructed are largely identical to work previously executed by that contractor;
  - 4) the value of the order is less than the threshold for the quotation procedure;
  - 5) the schedule for delivery necessitates that each of the framework contractors be issued with orders on a continuous basis; or
  - 6) capacity to execute the order;
- b) the terms in the framework agreement are insufficiently precise or complete to cover the particular requirement, e.g. delivery time scales or time estimates to complete the order (productivity); or
- c) a better quality of service can be obtained through a competitive process.

### **14.4 Design competitions**

**14.4.1** A single- or two-stage design competition may be used as a means to identify one or more suitable contractors to provide design services. The conditions for a design competition shall clearly state the purpose of the competition and the intentions of the promoter, the nature of the problem that is to be solved and all the practical requirements to be met by the competitors.

**14.4.2** A design competition shall be initiated following a call for an expression of interest. All respondents who satisfy the admission requirements for a design competition and complete an application form shall be admitted to the competition as participants.

**14.4.3** A jury who is independent of participants in the competition shall be appointed to collectively decide on the outcome of the competition. Such a jury shall be autonomous in its decisions or opinions and endeavour, adopt decisions on each individual submission by consensus and record its decisions in writing. Not less than 50% of the members serving on the jury shall have relevant professional qualifications in the subject matter of the competition.

**14.4.4** The design competition shall be conducted in such a manner that the identity of any particular participant during the process is not known to the jury until after competition winners are announced. The awarding of prizes and honoraria may be linked to such competitions.

**14.4.5** A contract may be negotiated with the winner of the design competition. Where more than one contract is awarded to participants in a design competition, all competitors in the final stage of the competition shall be invited to submit tender offers. Tender offers shall be evaluated in terms of method 4 of SANS 10845-3, with the score for quality being based solely on the ranking of the competition jury.

## **14.5 Procurement documentation**

### **14.5.1 General**

**14.5.1.1** Procurement documents shall be developed in accordance with the provisions of SANS 10845-1 and SANS 10845-2 and, where aspects of the national register of contractors or register of projects established in terms of the Construction Industry Development Board Act are implemented through procurement documents, the CIDB Standard for Uniformity in Construction Procurement.

**14.5.1.2** The Form of Offer and Acceptance contained in Annex B of SANS 10845-2 shall be used, with minimal contract-specific amendments, to form the basis of agreement arising from the solicitation of tender offers.

**14.5.1.3** The formation of a contract in the single volume approach (see SANS 10845-2) shall occur once:

- a) the schedule of deviations has been completed to reflect each and every amendment to the tender documents:
  - 1) made in terms of addenda issued prior to the close of tenders; and
  - 2) permitted in terms of the conditions of tender, and agreed to in the process of offer and acceptance; and
- b) the acceptance portion of the Form of Offer and Acceptance has been signed by the person authorised to do so.

**14.5.1.4** The formation of the contract in the three-volume approach (see SANS 10845-2) shall take place after:

- a) each and every amendment to the tender documents made in terms of addenda issued prior to the close of tenders, and those permitted in terms of the conditions of tender and agreed to in the process of offer and acceptance have been incorporated into the final contract;
- b) a brief summary of the changes made in the final contract document is included in the schedule of deviations so as to allow the reader to understand the nature and extent of the changes; and
- c) the acceptance portion of the Form of Offer and Acceptance has been signed by the person authorised to do so.

**14.5.1.5** A tenderer's covering letter shall not be included in the final contract document or referenced in the schedule of deviations. The agreed provisions of such a letter shall be stated in the schedule of deviations.

**14.5.1.6** Standard returnable documents for infrastructure procurement contained in annexures A to E shall, where appropriate, form part of the Returnable Documents in procurement documents.

**14.5.1.7** Standard documentation issued by a relevant treasury for non-infrastructure procurement shall not be included in infrastructure procurement documents unless they are found to be compatible, and

not in conflict with the provisions of a procurement document which complies with the provisions of this standard.

**14.5.2 Tender, submission and auction data**

**14.5.2.1** The tender data shall reference the Standard Conditions of Tender contained in SANS 10845-3.

**14.5.2.2** The tender offer validity period provided for in the tender data shall generally not exceed eight weeks, and in exceptional circumstances shall not exceed 12 weeks.

**14.5.2.3** The tender data associated with Method 3 (financial offer and preference) shall be as follows:

5.11.4	<p>The procedure for the evaluation of responsive tenders is Method 3.</p> <p>The financial offer will be scored using the following formula:</p> $A = (1 - \frac{(P - P_m)}{P_m})$ <p>The value of <math>W_1</math> is:</p> <ol style="list-style-type: none"> <li>1) 90 where the financial value, inclusive of VAT, of all responsive tenders received has a value in excess of R1 000 000; or</li> <li>2) 80 where the financial value, inclusive of VAT, of one or more responsive tender offers has a value that equals or is less than R1 000 000.</li> </ol> <p>Up to 100 minus <math>W_1</math> tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.</p>
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**14.5.2.4** The tender data associated with Method 4 (financial offer, quality and preferences) shall be as follows:

5.11.5	<p>The procedure for the evaluation of responsive tenders is Method 4.</p> <p>The total number of tender evaluation points (<math>T_{EV}</math>) shall be determined in accordance with the following formula:</p> $T_{EV} = f_1 (N_{FO} + N_P) + f_2 N_Q$ <p>where <math>f_1</math> and <math>f_2</math> are fractions, <math>f_1</math> equals 1 minus <math>f_2</math> and <math>f_2</math> equals .....</p> <p><math>N_{FO}</math> is the number of tender evaluation points awarded for the financial offer made in accordance with 5.11.7 where the score for financial offer is calculated using the following formula</p> $A = (1 - \frac{(P - P_m)}{P_m})$ <p>and <math>W_1</math> equals:</p> <ol style="list-style-type: none"> <li>1) 90 where the financial value, inclusive of VAT, of all responsive tenders received has a value in excess of R1 000 000; or</li> <li>2) 80 where the financial value, inclusive of VAT, of one or more responsive tender offers has a value that equals or is less than R1 000 000.</li> </ol> <p><math>N_P</math> is the number of tender evaluation points awarded for preferences claimed in accordance with the Preferencing Schedule.</p> <p><math>N_Q</math> is the number of tender evaluation points awarded for quality offered in accordance with 5.11.9 where <math>W_2 = 100</math>.</p> <p>Up to 100 minus <math>W_1</math> tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.</p>
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**14.5.2.5** The submission data shall reference the Standard Conditions for the Calling for Expressions of Interest contained in SANS 10845-4.

**14.5.2.6** Auction data shall be based on the auction data contained in SANS 10845-1.

### 14.5.3 Standard forms of contract

**14.5.3.1** The standard forms of contract shall be selected from, and be suitable for use under the conditions described in Table 10.

**14.5.3.2** The standard forms of contract shall be used with minimal contract amendments which do not change their intended usage and shall only be amended when absolutely necessary to accommodate special needs.

**14.5.3.3** Adjudication shall be used to resolve disputes arising during the performance of a contract prior to proceeding to either arbitration or litigation.

**Table 10: Approved forms of contract related to the delivery and maintenance of infrastructure**

Form of contract	Code	Intended usage
<b>Construction Industry Development Board (CIDB)</b>		
CIDB Standard Professional Service Contract	SPSC	Professional services
CIDB General Conditions of Purchase	-	An order form type of contract for low-value goods without any incidental work or services on or before a specified date being required.
CIDB Contract for the Supply and Delivery of Goods	-	Simple, regional purchase of readily available materials or commodities which require almost no management of the buying and delivery process, minimal testing, installation and commissioning on delivery.
CIDB General Conditions of Service	-	An order form type of contract where low-value services on or before a specified date are required.
<b>International Federation of Consulting Engineers (FIDIC)</b>		
FIDIC Short Form of Contract	Green Book	Building or engineering works of relatively small capital value, or for relatively simple or repetitive work, or for work of short duration. Use for design by employer- or contractor-designed works.
FIDIC Conditions of Contract for Construction for Building and Engineering Works designed by the Employer	Red Book	Building or engineering works designed by the employer. (The works may include some elements of contractor-designed works.)
FIDIC Conditions of Contract for plant and design-build for electrical and mechanical plant, and for building and engineering works, designed by the contractor	Yellow Book	The provision of electrical or mechanical plant and the design and construction of building or engineering works.
FIDIC Conditions of Contract for EPC Turnkey Projects	Silver Book	The provision on a design and construct (turnkey) basis of a process or power plant, of a factory or similar facility, or an infrastructure project or other type of development.
FIDIC Conditions of Contract for Design, Build and Operate Projects	Gold Book	"Green field" building or engineering works which are delivered in terms of a traditional design, build and operate sequence with a 20-year operation period. (The contractor has no responsibility for the financing of the project/package or its ultimate commercial success.)
<b>South African Institution of Civil Engineering (SAICE)</b>		
SAICE General Conditions of Contract for Construction Works	GCC	Engineering and construction, including any level of design responsibility.

**Table 10** (concluded)

<b>Joint Building Contracts Committee (JBCC)</b>		
JBCC Principal Building Agreement	PBA	Buildings and related site works designed by the employer.
JBCC Minor Works Agreement	MWA	Buildings and related site works of simple content designed by the employer.
<b>Institution of Civil Engineers (ICE)</b>		
NEC3 Engineering and Construction Contract	ECC	Engineering and construction including any level of design responsibility.
NEC3 Engineering and Construction Short Contract	ECSC	Engineering and construction which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the employer and contractor.
NEC3 Professional Services Contract	PSC	Professional services, such as engineering, design or consultancy advice.
NEC3 Professional Services Short Contract	PSCC	Professional services which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and consultant.
NEC3 Term Service Contract	TSC	Manage and provide a service over a period of time.
NEC3 Term Service Short Contract	TSSC	Manage and provide a service over a period of time, or provide a service which does not require sophisticated management techniques, comprises straightforward work and imposes only low risks on both the employer and contractor.
NEC3 Supply Contract	SC	Local and international procurement of high-value goods and related services, including design.
NEC3 Supply Short Contract	SSC	Local and international procurement of goods under a single order or on a batch order basis and is suitable for use with contracts which do not require sophisticated management techniques, and impose only low risks on both the purchaser and the supplier.

#### 14.5.4 Tender assessment schedules

Tender assessment schedules shall be used to take account of all tendered financial parameters that have an impact upon the final value of the contract.

#### 14.5.5 Guarantees

##### 14.5.5.1 Bonds which guarantee performance with a stated financial benefit in the event of non-performance:

- a) should as a general rule not be required in service, professional service and supply contracts; and
- b) shall be between 5% and 12,5% of the contract or package order value, excluding VAT, and may be either a fixed or variable guarantee.

##### 14.5.5.2 Advance payment, where required in engineering and construction and supply contracts and approved by the organ of state's chief financial officer, may only be made to contractors against the lodging of a suitable advance payment bond.

#### **14.5.6 Retention monies**

Retention monies that are held shall not exceed 10% of any amount due to a contractor. The total amount of retention monies held shall not exceed 5% of the contract or package order price.

#### **14.5.7 Communications**

All procurement documents and communications shall be in English.

#### **14.5.8 Intellectual property rights**

Organs of state shall as a general rule own the rights over the materials specifically prepared by a contractor in relation to a contract.

#### **14.5.9 Budgetary items**

**14.5.9.1** Provision for budgetary items in procurement documents shall as far as possible be avoided. Assumptions should rather be stated in the pricing data so that they can be priced and adjusted in terms of the contract, should these assumptions be incorrect. Where unavoidable, estimates of the likely costs may be included in the contract to cover identified work or services to be performed by a subcontractor appointed in terms of the contract.

**14.5.9.2** No provision for contingencies or price adjustment for inflation shall be made in the pricing data or included in the contract price at the time that the contract is awarded or an order is issued.

#### **14.5.10 Professional indemnity insurance**

Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount of not less than R3 million in respect of each claim, without limit to the number of claims.

### **14.6 Developmental procurement policy**

#### **14.6.1 General**

**14.6.1.1** Organs of state shall utilise procurement to promote Broad-Based Black Economic Empowerment in accordance with the provisions of the Broad-Based Black Economic Empowerment Act and, where appropriate, to promote:

- a) work opportunities for target groups; and
- b) national development goals, such as those identified by the Presidential Infrastructure Coordinating Commission.

**14.6.1.2** Not less than 50% of the points allocated to preference in a points scoring system in the evaluation of tenders shall be allocated to Broad-Based Black Economic Empowerment goals.

**14.6.1.3** Minimum local content shall be included in contracts in accordance with the Preferential Procurement Regulations issued in terms of the Preferential Procurement Policy Framework Act. Requirements shall be evaluated in tenders through declarations made by tenderers and shall be included in the scope of work associated with the contract.

### **14.6.2 Permitted targeted procurement procedures**

The targeted procurement procedures that may be used to promote social and economic objectives shall include one or more of the following:

- a) the granting of preferences;
- b) accelerated rotations on electronic databases, where appropriate;
- c) the granting of up to 10% of the total number of evaluation points used to short-list tenderers following a call for expressions of interest;
- d) financial incentives for the attainment of key performance indicators in the performance of the contract; and
- e) the creation of contractual obligations to engage target groups in the performance of the contract by establishing requirements for the tendering of subcontracts in terms of a specified procedure, or establishing obligations to attain contract participation goals in accordance with the relevant provisions of SANS 10845.



**Annexure A: Record of Addenda to tender documents**

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:		
	<b>Date</b>	<b>Title or Details</b>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.

Signed \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## Annexure B: Proposed amendments and qualifications

The Tenderer should record any deviations or qualifications he may wish to make to the tender documents in this Returnable Schedule. Alternatively, a tenderer may state such deviations and qualifications in a covering letter to his tender and reference such letter in this schedule.

The Tenderer's attention is drawn to clause 5.8 of SANS 10845-3 regarding the employer's handling of material deviations and qualifications.

Page	Clause or item	Proposal

Signed .....

Date .....

Name .....

Position .....

Tenderer .....

## Annexure C: Preferencing schedule: Broad-Based Black Economic Empowerment status

### Preamble

Section 10(b) of the Broad-Based Black Economic Empowerment Act of 2003 (Act No. 53 of 2003) states that “Every organ of state and public entity must take into account and, as far as is reasonably possible, apply any **relevant code of good practice** issued in terms of this Act in developing and implementing a preferential procurement policy.”

A number of codes of good practice have been issued in terms of Section 9(1) of the B-BBEE Act of 2003, including a generic code of good practice and various sector codes. The sector codes vary the metrics, weightings and targets used in the generic code of good practice to establish the overall performance of an entity and its B-BBEE status. The B-BBEE status needs to be assessed in accordance with the applicable code.

### 1 Conditions associated with the granting of preferences

Tenderers who claim a preference shall provide sufficient evidence of their B-BBEE status in accordance with the requirements of section 2 in respect of the applicable code as at the closing time for submissions, failing which their claims for preferences will be rejected.

### 2 Sufficient evidence of qualification

#### 2.1 Exempted micro-enterprises

Sufficient evidence of qualification as an Exempted Micro-Enterprise is:

- a) a registered auditor’s certificate or similar certificate issued by an accounting officer as contemplated in the Close Corporations Act of 1984 in respect of the entity’s last financial year, or a 12-month period which overlaps with its current financial year; or
- b) a certificate issued by a verification agency and which is valid as at the closing date for submissions.

#### 2.2 Enterprises other than micro-exempted enterprises

Sufficient evidence of B-BBEE status is an original or certified copy of the certificate issued by a verification agency accredited by the South African National Accreditation System (SANAS) or registered auditors approved by the Independent Regulatory Board for Auditors (IRBA) and which is valid as at the closing date for submissions.

### 3 Tender preferences claimed

The scoring shall be as follows:

B-BBEE status determined in accordance with the preferencing schedule for Broad-Based Black Economic Empowerment	% Maximum points for preference
Form not completed or no-complaint contributor	0
Level 8 contributor	10
Level 7 contributor	20
Level 6 contributor	30
Level 5 contributor	40
Level 4 contributor	50
Level 3 contributor	80
Level 2 contributor	90
Level 1 contributor	100

**4 Declaration**

The tenderer declares that

a) the tendering entity is a level contributor as stated in the submitted evidence of qualification as at the closing date for submissions

b) the tendering entity has been measured in terms of the following code (tick applicable box):

Generic code of good practice

Other – specify

.....  
.....

c) the contents of the declarations made in terms of a) and b) above are within my personal knowledge and are to the best of my belief both true and correct

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the tenderer, confirms that he/she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.

Signature: .....

Name: .....

Duly authorised to sign on behalf of: .....

Telephone: .....

Fax: ..... Date: .....

Name of witness: ..... Signature of witness: .....

- Note:** 1) Failure to complete the declaration will lead to the rejection of a claim for a preference.  
2) Supporting documentation of the above-mentioned claim for a preference must be submitted with the tender submission to be eligible for a preference.



**Section 6: Record in the service of the state**

Indicate, by marking the relevant boxes with a cross, if any principal is currently or has been within the last 12 months in the service of any of the following:

- |  |   |
|--|---|
| a member of any municipal council                                      | an employee of any department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act of 1999 (Act No. 1 of 1999) |
| a member of any provincial legislature                                 |   |
| a member of the National Assembly or the National Council of Provinces | a member of an accounting authority of any national or provincial public entity   |
| a member of the board of directors of any municipal entity             | an employee of Parliament or a provincial legislature   |
| an official of any municipality or municipal entity                    |   |

If any of the above boxes are marked, disclose the following:

Name of principal	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Insert separate page if necessary

**Section 7: Record of family member in the service of the state**

**family member:** a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

Indicate, by marking the relevant boxes with a cross, if any family member of a principal as defined in section 5 is currently or has within the last 12 months been in the service of any of the following:

- |  |  |
|--|--|
| a member of any municipal council                                      | an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act of 1999 (Act No. 1 of 1999) |
| a member of any provincial legislature                                 |  |
| a member of the National Assembly or the National Council of Provinces | a member of an accounting authority of any national or provincial public entity  |
| a member of the board of directors of any municipal entity             | an employee of Parliament or a provincial legislature  |
| an official of any municipality or municipal entity                    |  |

Name of family member	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Insert separate page if necessary

**Section 8: Record of termination of previous contracts with an organ of state**

Was any contract between the tendering entity, including any of its joint venture partners, terminated during the past five years for reasons other than the employer no longer requiring such works or the employer failing to make payment in terms of the contract?

Yes                      No (tick appropriate box)

If yes, provide particulars (insert separate page if necessary)

**Section 9: Declaration**

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the tendering entity, confirms that the contents of this Declaration are within my personal knowledge, save where stated otherwise in an attachment hereto, and to the best of my belief is both true and correct, and that:

- i) neither the name of the tendering entity, nor any of its principals, appears on:
  - a) the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004 (Act No. 12 of 2004); or
  - b) National Treasury’s Database of Restricted Suppliers (see [www.treasury.gov.za](http://www.treasury.gov.za));
- ii) the tendering entity or any of its principals has not been convicted of fraud or corruption by a court of law (including a court outside of the Republic of South Africa) within the last five years;
- iii) any principal who is presently employed by the state has the necessary permission to undertake remunerative work outside such employment (attach permission to this declaration);
- iv) the tendering entity is not associated, linked or involved with any other tendering entities submitting tender offers;
- v) the tendering entity has not engaged in any prohibited restrictive horizontal practices, including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract, etc.) or intention to not win a tender;
- vi) the tendering entity has no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
- vii) neither the tenderer nor any of its principals owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity, and are not in arrears for more than three months;
- viii) SARS may, on an on-going basis during the term of the contract, disclose the tenderer’s tax compliance status to the Employer and, when called upon to do so, obtain the written consent of any subcontractors who are subcontracted to execute a portion of the contract that is entered into in excess of the threshold prescribed by National Treasury, for SARS to do likewise.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Enterprise name \_\_\_\_\_

NOTE 1: The Standard Conditions of Tender contained in SANS 10845-3 prohibits anticompetitive practices (clause 3.1) and requires that tenderers avoid conflicts of interest, only submit a tender offer if the tenderer or any of his principals is not under any restriction to do business with the Employer (4.1.1) and submit only one tender either as a single tendering entity or as a member in a joint venture (clause 4.13.1). Clause 5.7 also empowers the Employer to disqualify any tenderer who engages in fraudulent and corrupt practice. Clause 3.1 also requires tenderers to comply with all legal obligations.

NOTE 2: Section 30(1) of the Public Service Act, 1994, prohibits an employee (person who is employed in posts on the establishment of departments) from performing or engaging remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department. When in operation, Section 8(2) of the Public Administration Management Act, 2014, will prohibit an employee of the public administration (i.e. municipalities and all national departments, national government components listed in Part A of Schedule 3 to the Public Service Act, provincial departments including the office of the premier listed in Schedule 1 of the Public Service Act and provincial departments listed in schedule 2 of the Public Service Act, and provincial government components listed in Part B of schedule 3 of the Public Service Act) or persons contracted to executive authorities in accordance with the provisions of section 12A of the Public Service Act of 1994 or persons performing similar functions in municipalities, from conducting business with the State or to be a director of a

public or private company conducting business with the State. The offence for doing so is a fine or imprisonment for a period not exceeding five years, or both. It is also a serious misconduct which may result in the termination of employment by the employer.

NOTE 3: Regulation 44 of Supply Chain Management regulations issued in terms of the Municipal Finance Management Act of 2003 requires that municipalities and municipal entities should not award a contract to a person who is in the service of the State, a director, manager or principal shareholder in the service of the State or who has been in the service of the State in the previous twelve months.

NOTE 4: Regulation 45 of Supply Chain Management regulations requires a municipality or municipal entity to disclose in the notes to the annual statements particulars of any award made to a close family member in the service of the State.

NOTE 5: Corrupt activities which give rise to an offence in terms of the Prevention and Combating of Corrupt Activities Act of 2004, include improperly influencing in any way the procurement of any contract, the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any contract, and the manipulating by any means of the award of a tender.

NOTE 6: Section 4 of the Competition Act of 1998 prohibits restrictive horizontal practice, including agreements between parties in a horizontal relationship, which have the effect of substantially preventing or lessening competition, directly or indirectly fixing prices or dividing markets or constituting collusive tendering. Section 5 also prohibits restrictive vertical practices. Any restrictive practices that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties.



## Annexure E: Municipal declaration and returnable documents

The following particulars must be furnished in relation to tenders for municipalities and municipal entities:

- a) where consultancy services are required; and
- b) goods, services or a combination thereof, where the estimated total of the prices exceeds R10 million, including VAT.

In the case of a joint venture, separate municipal declarations and returnable documents shall be submitted in respect of each partner.

### Section 1: Enterprise details

<b>Name of enterprise</b>	
<b>Contact person</b>	
<b>Email</b>	
<b>Telephone</b>	
<b>Cell</b>	
<b>Fax</b>	
<b>Physical address</b>	
<b>Postal address</b>	

### Section 2: Declaration for consultancy services

The enterprise has been awarded the following consultancy services by an organ of state during the last five years:

<b>Name of organ of state</b>	<b>Estimated number of contracts</b>	<b>Nature of service, e.g. quantity surveying</b>	<b>Service similar to required service (yes/no)?</b>

Attach separate page as necessary

### Section 3: Goods, services, or a combination thereof, where the estimated total of the prices exceeds R10 million, including VAT

I/we certify that

1) (tick one of the boxes):

the enterprise **is not** required by law to prepare annual financial statements for auditing

the enterprise **is** required by law to have audited annual financial statements (attached herewith for the past three financial years or the years for which the enterprise has been in operation)

2) the enterprise and its directors have no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days (i.e. all municipal accounts are paid up to date);

3) source of goods and/or services :  
 (tick one of the boxes and insert percentages if applicable)

goods and/or services are sourced only from within the Republic of South Africa  
 % of the total cost of goods and/or services will be sourced from outside the Republic of South Africa, and the percentage of payment from the municipality or municipal entity which is expected to be transferred out of the Republic is  %

I furthermore confirm that the following contracts were awarded to the enterprise by an organ of state during the last five years and attached particulars of any material non-compliance or dispute concerning the execution of such contracts:

Name of organ of state	Estimated number of contracts	Nature of contracts

Attach separate page as necessary

I, the undersigned who warrants that I am duly authorised on behalf of the tendering entity, hereby declare that the contents of this Declaration are within my personal knowledge, and save where stated otherwise, are to the best of my belief both true and correct.

Signed .....

Date .....

Name .....

Position

Tenderer .....