



# **Construction procurement policy, processes, procedures, methods and delegations**

**SECOND EDITION (December 2013)**

Campus Planning and Development Division

**University of the Witwatersrand, Johannesburg**

## Document control

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## Preface

The Construction Industry Development Board (CIDB) has developed standards which provide procedures and methods which are required by law to be applied to certain key procurement processes, as well as a series of best practice guidelines, which have now been incorporated into the recently published ISO 10845 standards for construction procurement. These standards have been developed around the primary and secondary procurement system objectives embedded in the Constitution of the Republic of South Africa (Act 108 of 1996) for a **procurement system** which may be expressed in qualitative terms as follows:

- a) **Fair:** the process of offer and acceptance is conducted impartially without bias, and provides participating parties simultaneous and timely access to the same information.
- b) **Equitable:** the only grounds for not awarding a contract to a tenderer who complies with all requirements are restrictions from doing business with the organization, lack of capability or capacity, legal impediments and conflicts of interest.
- c) **Transparent:** the procurement process and criteria upon which decisions are to be made shall be publicized and made publicly available with reasons for those decisions, and with the possibility of verifying that criteria were applied.
- d) **Competitive:** the system provides for appropriate levels of competition to ensure cost-effective and best value outcomes.
- e) **Cost-effective:** the processes, procedures and methods are standardized with sufficient flexibility to attain best value outcomes in respect of quality, timing and price, and the least resources to effectively manage and control procurement processes.
- f) **Promotion of other objectives:** the system may incorporate measures to promote objectives associated with a secondary procurement policy subject to qualified tenderers not being excluded and deliverables or evaluation criteria being measurable, quantifiable and monitored for compliance.

Procurement is the process which creates, manages and fulfils contracts. Procurement commences once a need for goods, services, or engineering and construction works has been identified and ends when the goods are received, the services or construction works are completed. Procurement processes and procedures need to be managed and controlled. Accordingly, governance activities need to be linked to the milestones in the procurement process. At the same time, policies are required to govern the usage and application of certain procurement procedures, requirements for recording, reporting and risk management, and procedures for dealing with specific procurement related issues, etc. Accordingly, a procurement system comprises not only procurement processes but also:

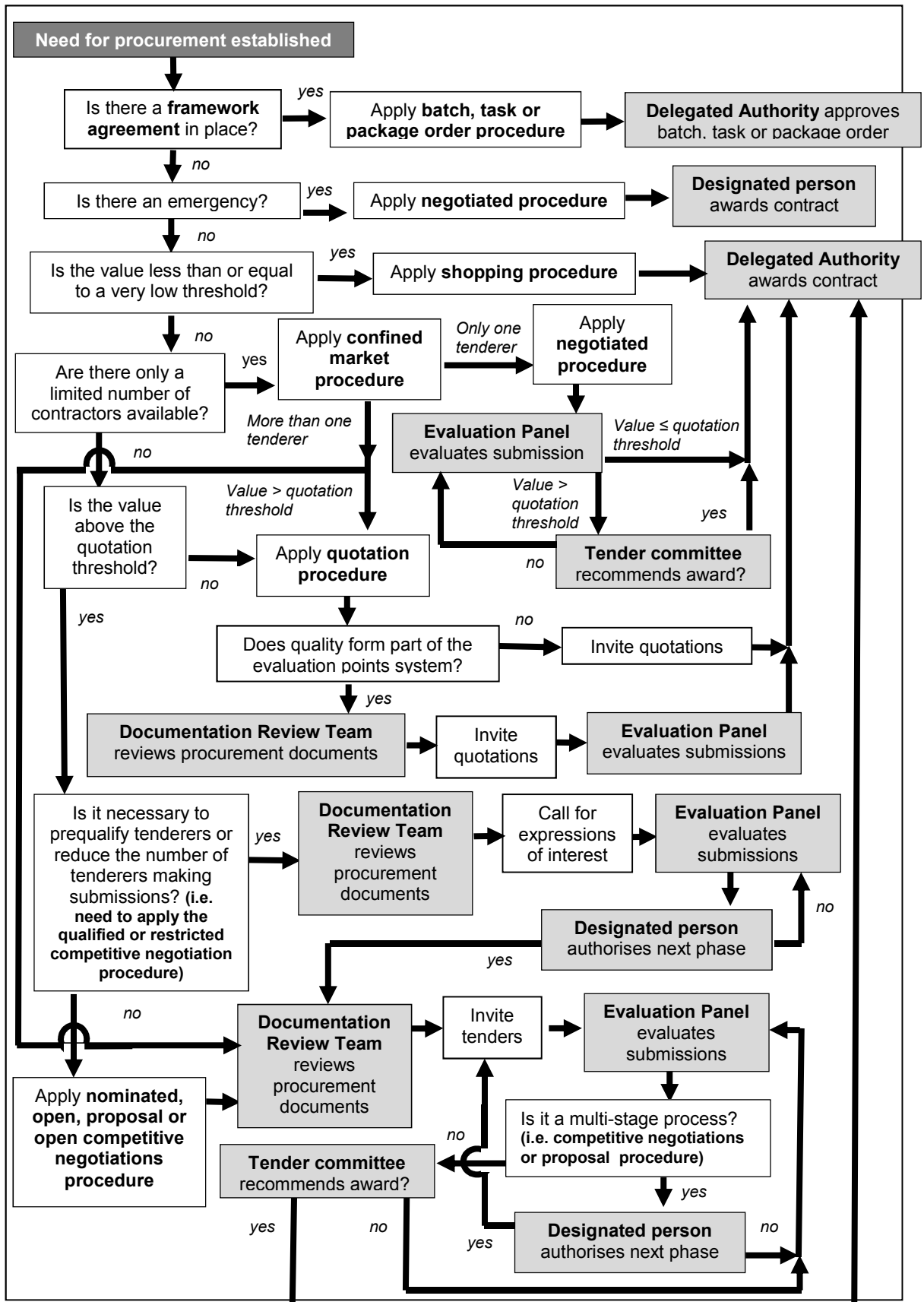
- a) rules and guidelines governing procedures and methods;
- b) procurement documents which include terms and conditions, procedures and requirements;
- c) risk / quality oversight (governance and performance) controls; and
- d) organisational policies which deal with issues such as the usage and application of particular procurement procedures, requirements for recording, reporting and risk management, procedures for dealing with specific procurement issues, the usage of procurement to promote social and developmental objectives, and the assignment of responsibilities for the performance of activities.

The primary purpose of this document is to establish a construction procurement system for the University to use when procuring goods, services and engineering and construction works within the construction industry in:

- a) compliance with requirements established in terms of the Constitution of the Republic of

South Africa, 1996 (Act No 108 of 1996), Construction Industry Development Board (Act 38 of 2000); and other pertinent Acts; and

- b) a manner which embraces national and international best practice and is auditable.



Overview of procurement procedures provided for in the Construction Procurement System

# Construction procurement policy, processes, procedures, methods and delegations

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# 1 Scope

**1.1** This document establishes the University's construction procurement system for the procurement by the Campus Planning and Development Division of:

- a) goods, services and engineering and construction works and disposals relating to the delivery and maintenance of fixed assets that are constructed or result from construction operations; and
- b) goods or services necessary for a new facility as delivered to be occupied and used as a functional entity; and
- c) goods or services associated with the discharging of obligations in terms of an agreement with a government department, municipality or other university.

**1.2** The document does not apply to the storage of goods and equipment following their delivery to the University which are stored and issued to employees.

NOTE 1: Disposals within the construction industry typically relate to the demolition or dismantling of infrastructure and buildings or parts thereof, usually to make way for new facilities and the disposal of unwanted, redundant or surplus materials, plant and equipment.

NOTE 2: Services include professional services.

NOTE 3: This document establishes a control framework for the procurement system (see Annexure B).

## 2 Terms, definitions and abbreviations

### 2.1 Terms and definitions

For the purposes of this document, the following terms and definitions apply:

**agent:** person or organization that is not an employee of the University that acts on the University's behalf in the application of this document

**batch:** goods within the scope of a supply contract which may be ordered for delivery within a stated period of time

**batch order:** an instruction to supply goods in terms of a framework agreement

**bond:** sum of money or securities submitted to the employer or placed in the hands of a third party to guarantee completion of the work and recovery of the sums which the contractor would be recognized as owing under the terms of contract.

**conflict of interest:** any situation in which:

- a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,
- b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or
- c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

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

**contract data:** document that identifies the applicable conditions of a contract and states the associated contract-specific data



**contract manager:** person appointed to administer a contract on behalf of the employer and, where relevant, to perform duties relating to the overall management of such contract from the employer's point of view

**contractor:** person or organization that contracts to provide the goods, services or engineering and construction works covered by the contract

**contracting strategy:** strategy that governs the nature of the relationship which the employer wishes to foster with the contractor, which in turn determines the risks and responsibilities between the parties to the contract and the methodology by which the contractor is to be paid

**designated person:** a person identified in this document to perform an activity, make a determination or decide on a course of action or receive a report or disclosure (see Annexure A)

**delegated authority:** a person delegated to award a contract or a batch, task or package order in terms of the contract (see Annexure A)

**engineering and construction works contract:** contract for the provision of a combination of goods and services arranged for the development, extension, refurbishment, rehabilitation or demolition of a fixed asset, including building and engineering infrastructure

**expression of interest:** request for respondents to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials so they may, in terms of the University's procurement procedures, be invited to submit a tender offer should they qualify or be selected to do so

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

NOTE: A framework agreement is a general term for contracts with contractors that set out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the contract.

**gate:** a control point within a procurement process where a decision is required before proceeding from one activity or sub-activity to another

**gratification:** an inducement to perform an improper act

**infrastructure gateway system:** the system described for the delivery and maintenance of infrastructure in terms of stages and associated end of stage deliverables in the Procurement and Delivery Management System for Infrastructure Projects

**irregular conduct:** conduct that is not in accordance with the provisions of this document

**package:** works which have been grouped together for delivery under a single contract or a package order

**package order:** the instruction to carry out construction works under a framework agreement

**packaging strategy:** organization of work packages into contracts

**pricing strategy:** strategy which is adopted to secure financial offers and to remunerate contractors in terms of the contract

**procurement:** process which creates, manages and fulfils contracts relating to the provision of goods, services and engineering and construction works or disposals, or any combination thereof

**procurement document:** documentation used to initiate or conclude (or both) a contract or a call off from a framework agreement

**procurement procedure:** selected procedure for a specific procurement

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

**respondent:** person or organization that submits an expression of interest in response to an invitation to do so

**services contract:** contract for the provision of labour or work, including knowledge-based expertise, carried out by hand, or with the assistance of equipment and plant

**supply contract:** contract for the provision of goods, including materials or commodities made available for purchase and, where relevant, associated services

**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 University and the contractor on an agreed basis.

**targeting strategy:** strategy which is adopted to promote secondary procurement policy objectives

**task:** work within the scope of a service contract which may be instructed to be carried within a stated period of time

**task order:** an instruction to carry out work within the services in terms of a framework agreement

**tender data:** document that establishes the tenderer's obligations in submitting a tender and the employer's undertakings in administering the tender process and evaluating tender offers

**tenderer:** person or organization that submits a tender offer

**scope of work:** document that specifies and describes the goods, services, or engineering and construction works which are to be provided, and any other requirements and constraints relating to the manner in which the contract work is to be performed

**secondary procurement policy:** procurement policy that promotes objectives additional to those associated with the immediate objective of the procurement itself

**University:** University of the Witwatersrand, Johannesburg

## 2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

B-BBEE: Broad-based black economic empowerment

CIDB: Construction Industry Development Board

## 3 Normative references

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

Broad-Based Black Economic Empowerment Codes of Good Practice, issued in terms of the section 9(1) of the Broad Based Black Economic Empowerment Act 53 of 2003

Code of Conduct for all parties engaged in Construction Procurement, Construction Industry Development Board

Construction Code: the Construction Sector Code issued in terms of Section 9(1) of the Broad Based Black Economic Empowerment Act 53 of 2003

Guidelines on Complex Structures and Transactions, and Fronting (Previously Statement 002) issued by the Department of Trade and Industry.

ISO 10845-1, Construction procurement - Part 1: Processes, methods and procedures

ISO 10845-2, Construction procurement - Part 2: Formatting and compilation of procurement documentation

NEC3 Engineering and Construction Contract as published by the Institution of Civil Engineers

NEC3 Engineering and Construction Short Contract as published by the Institution of Civil Engineers

NEC3 Professional Services Contract as published by the Institution of Civil Engineers

NEC3 Professional Services Short Contract as published by the Institution of Civil Engineers

NEC3 Supply Contract as published by the Institution of Civil Engineers

NEC3 Supply Short Contract as published by the Institution of Civil Engineers

NEC3 Term Services Contract as published by the Institution of Civil Engineers

NEC3 Term Services Short Contract as published by the Institution of Civil Engineers

Procurement and Delivery Management System for Infrastructure Projects. University of the Witwatersrand

Standard Conditions for a Design Competition University of the Witwatersrand

Standard for Uniformity in Construction Procurement, Construction Industry Development Board

## **4 Requirements**

### **4.1 General requirements**

**4.1.1** Procurement shall be undertaken in accordance with applicable legislation and the relevant requirements of:

- a) ISO 10845-1 subject to the provisions of this document;
- b) ISO 10845-2;
- c) the CIDB Standard for Uniformity in Construction Procurement;
- d) the CIDB Code of Conduct for all parties engaged in Construction Procurement; and
- e) the administrative procedures embedded in the applicable NEC3 forms of contract..

NOTE Comprehensive guidance on:

- the implementation of the requirements of ISO 10845 may be found in the annexes to ISO 10845
- the CIDB Standard for Uniformity in Construction Procurement may be found in the CIDB Construction Procurement Toolbox contained on the CIDB website [www.cidb.org.za](http://www.cidb.org.za);
- the development of a construction procurement strategy may be found in the National Treasury / CIDB Practice Guide #2, Construction Procurement Strategy; and
- NEC3 forms of contract may be found in the various guidance documents and flow charts published by the Institution of Civil Engineers.

**4.1.2** No departures shall be made from the provisions of this document or any of the procedures contained in ISO 10845-1 without the approval of the **designated person**.

## **4.2 Conduct of those engaged in construction procurement processes or procedures**

### **4.2.1 General requirements**

**4.2.1.1** All personnel and agents of the University shall comply with the requirements of the CIDB Code of Conduct for all parties engaged in Construction Procurement. They shall:

- a) behave equitably, honestly and transparently;
- b) discharge duties and obligations timeously and with integrity;
- c) comply with all applicable legislation and associated regulations;
- d) satisfy all relevant requirements established in procurement documents;
- e) avoid conflicts of interest; and
- f) not maliciously or recklessly injure or attempt to injure the reputation of another party.

**4.2.1.2** All personnel and agents of the University shall:

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a related person;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) ensure that resources are administered responsibly;
- f) be fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist the University in combating corruption and fraud within the construction procurement system;
- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and
- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

**NOTE** An individual can be considered to be related to another individual if they are married, live together in a relationship similar to marriage, or are separated by no more than two degrees of natural or adopted consanguinity or affinity. An individual can be considered to be related to a juristic person if the individual controls or has the power to control such person albeit indirectly. Indicators of control include interlocking management or ownership, identity of interest amongst family members, shared facilities and equipment or common use of employees.

**4.2.1.3** An employee or agent of the implementer may not amend or tamper with any tender or contract in any manner whatsoever.

## **4.2.2 Conflicts of interest**

**4.2.2.1** The employees and agents of the University who are connected in any way to procurement activities which are subject to this document, shall:

- a) disclose to a **designated person** if they have or any person identified in 4.2.1.2a) has any interest in any contract that is to be awarded; and
- b) not participate in any activities that might lead to the disclosure of University's proprietary information.

**4.2.2.2** The employees and agents of the University shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

**4.2.2.3** The report of the **Evaluation Panel** shall record that the members of such **Evaluation Panel** have declared any conflict of interest that they may have and the nature of such conflict.

**4.2.2.4** Agents who prepared a part of a procurement document may in exceptional circumstances, where it is in the University's interest to do so, submit a tender for work associated with such documents provided that:

- a) the University states in the tender data that such an agent is a potential tenderer;
- b) all the information which was made available to, and the advice provided by that agent which is relevant to the tender, will equally be made available to all potential tenderers upon request, if not already included in the scope of work; and
- c) the **designated person** is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

**NOTE 1** A conflict of interest might exist even if there are no improper acts. This might arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that might undermine confidence in the ability of that person to act properly in his position.

**NOTE 2** Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**NOTE 3** A direct interest in a tender includes being a shareholder, member or director or the spouse, sibling, parent, grandparent or brother or sister in law of a shareholder, member or director of the tenderer or the holding or subsidiary company of the tenderer. An indirect interest may include having a close personal relationship with a prospective tenderer.

## **4.2.3 Evaluation of submissions received from respondents and tenderers**

**4.2.3.1** The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) not have any conflict between their duties as an employee or an agent and their private interest;
- b) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;
- c) deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged to the University.

**4.2.3.2** The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of the University and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

**4.2.3.3** The University personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they have, or any close family member, partner or associate, has any private or business interest.

#### **4.2.4 Non-disclosure agreements**

Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect the University's confidential information and interests.

NOTE: Tenderers may have to sign non-disclosure agreements prior to collecting procurement documents where confidential information needs to be disclosed in order to secure tenders.

#### **4.2.5 Gratifications, hospitality and gifts**

**4.2.5.1** The employees and agents of the University shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

NOTE: All decisions and business transactions should be made with uncompromised integrity, honesty and objectivity of judgement. Exchanging modest courtesies is a common business practice meant to create goodwill and to establish trust in the business relationship and not to improperly influence transaction outcomes.

**4.2.5.2** The employees and agents of the University shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) money, loans, equity, personal favours, benefits or services;
- b) overseas trips; or
- c) any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

**4.2.5.3** The employees and agents of the University shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

**4.2.5.4** All employees and agents of the University may for the purpose of fostering inter-personal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;

- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and.
- e) gifts in kind other than those listed in a) to d) which have an intrinsic value not more than a value stated in Annexure A.

**4.2.5.5** All employees and agents shall declare gifts in kind having an intrinsic value stated in Annexure A to the **designated person**. If any doubt exists, employees and agents shall only accept such gifts after seeking the advice or approval of the **designated person**.

**4.2.5.6** Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

**4.2.5.7** Employees and agents of the University shall report to the **designated person** any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

NOTE 1 Corrupt activities giving rise to offences in terms of the Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004) include:

- a) improperly influencing in any way the promotion, execution, procurement or retention of any contract;
- b) the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any contract;
- c) manipulating by any means the award of a tender;
- d) manipulating by any means the outcome of an auction; or
- e) public officers having a private interest in a contract connected with the public body that employs them except where the interest is in a stock exchange listed company or their conditions of employment do not prohibit such involvement in a contract.

NOTE 2 Gratification is defined in the Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004) as *an inducement to perform an improper act, which includes*

- a) *money, whether in cash or otherwise;*
- b) *any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage;*
- c) *the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;*
- d) *any office, status, honour, employment, contract of employment or services, any agreement to give employment or render services in any capacity and residential or holiday accommodation,*
- e) *any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;*
- f) *any forbearance to demand any money or money's worth or valuable thing;*
- g) *any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise of any right or any official power or duty;*
- h) *any right or privilege;*
- i) *any real or pretended aid, vote, consent, influence or abstention from voting; or*
- j) *any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage.*

## **4.2.6 Breaches**

**4.2.6.1** Employees and agents of the University shall report to the **designated person** any alleged irregular conduct which they may become aware of, including any alleged fraud or corruption.

**4.2.6.2** The **designated person** shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this document against an employee or an agent, a contractor or other role player and, where there is evidence to support a breach of requirements or legislation, take the necessary action or refer the matter to the **designated person**.

**4.2.6.3** The **designated person** shall receive, review and accept or reject the findings of the **Evaluation Panel** to disqualify respondents and tenderers who are considered to have engaged in fraudulent or corrupt practices.

NOTE: 1 Actions against those in breach of the CIDB Code of Conduct for the Parties Engaged in Construction Procurement should be instituted with the Construction Industry Development Board. Complaints should be lodged with the appropriate statutory council where professionally registered persons breach statutory codes of conduct.

NOTE 2: Section 34 of the Prevention and Combatting of Corrupt Activities Act of 2004, (Act 12 of 2004) establishes a duty for those who hold a position of authority (head, rector or principal of a tertiary institution) to report their knowledge or suspicion of corrupt transactions including those that relate to procurement activities to any police official.

#### **4.2.7 Placing of contractors under restrictions**

If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) after having been notified of the acceptance of his tender, failed or refused to commence the contract;
- c) had their contract terminated for reasons within their control without reasonable cause;
- d) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards the University; or
- f) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of the University that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

a **designated person** shall prepare a report on the matter and formulate a recommendation for consideration by the **designated person**. The **designated person** may after notifying the contractor of such intention in writing, giving written reasons for such action, suspend the contractor and any principals of that contractor from contracting with the University for a period of time.

### **4.3 Procurement activities, key actions, responsibilities and gates**

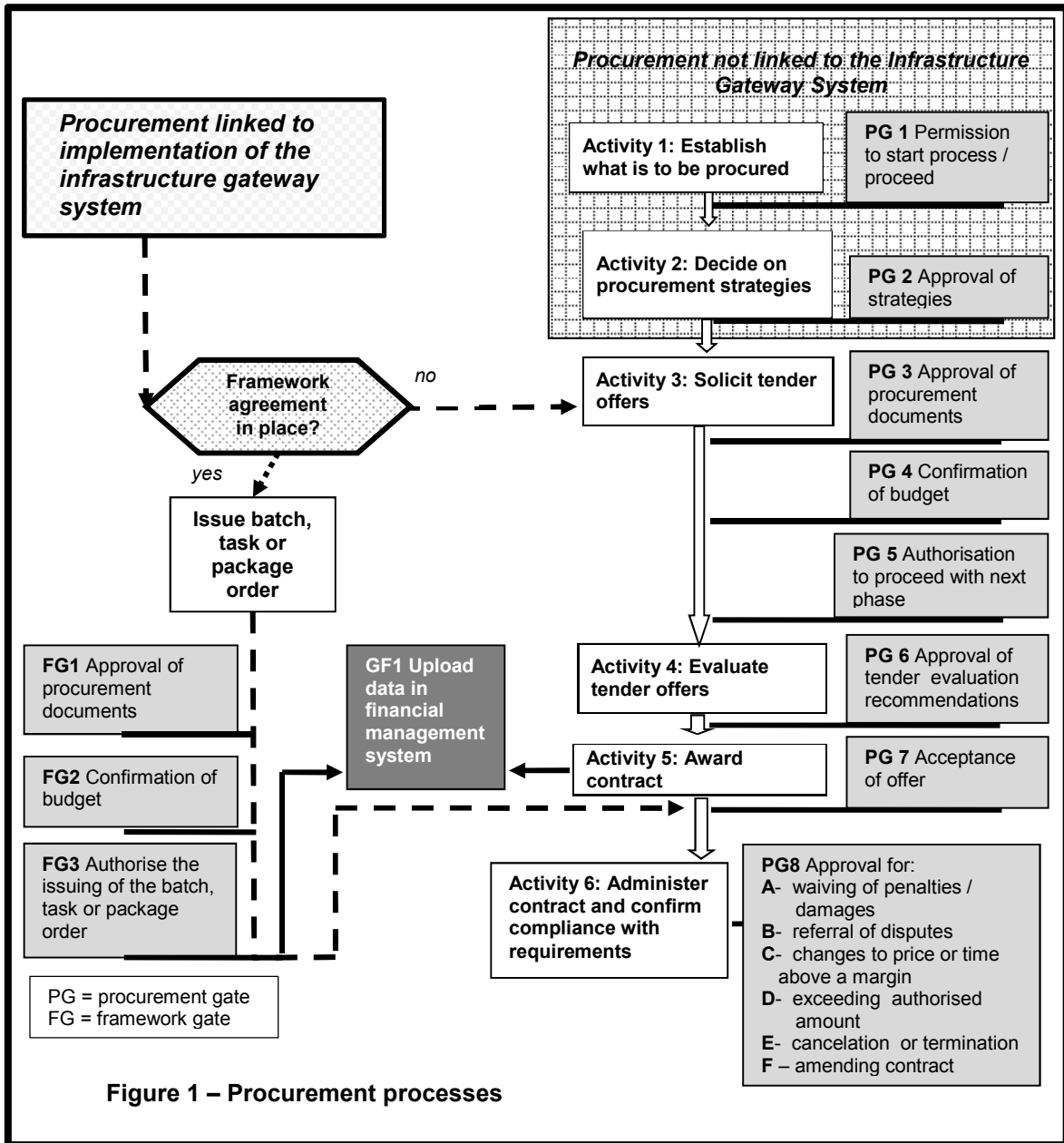
**4.3.1** The activities, key actions and gates associated with the putting in place and finalisation of a contract above the threshold for the quotation procedure (see Annexure A) shall be in accordance with the provisions of Table 1 read together with Figure 1. **Designated persons** shall assume responsibilities for each identified activity or sub-activity, as relevant.

NOTE: It will not be necessary to undertake all the activities in all instance contained in 3, 4 and 5. The selected procurement procedure will require all or some of the activities.

**4.3.2** The activities, key actions, responsibilities and gates associated with the issuing of batch, task or package orders shall be in accordance with the provisions of Table 2 read together with Figure 2.

NOTE: The process for putting in place a framework agreement is the same as that for any other contract. The principal difference between a framework and a non-framework contract is that the contract at the time of the award has no price attached to it as call offs will be made over a term in terms of the contract. An assumption is made for preferencing purposes that the value of the contracts over the term will exceed or will not exceed the 80/20 threshold i.e. a 80/10 or a 90/10 price preference applies.





**Figure 1 – Procurement processes**

**Table 1: Procurement activities, key actions, responsibilities and gates associated with the formation and conclusion of contracts**

| Activity |  | Sub-Activity      |  | Key action   |
|----------|--|-------------------|--|--|
| 1        | Establish what is to be procured (Applies only to goods and services not addressed in a construction procurement strategy) | 1.1               | Prepare broad scope of work for procurement                                  | Develop a title for the procurement for the purpose of project identification and a broad scope of work.   |
|          |  | 1.2               | Estimate financial value of proposed procurement                             | Estimate the financial value of the proposed contract for budgetary purposes, based on the broad scope of work   |
|          |  | 1.3<br><b>PG1</b> | Obtain permission to start with the procurement process                      | Designated person makes a decision to proceed/not to proceed with the procurement based on the broad scope of work and the financial estimates.                                    |
| 2        | Decide on procurement strategy (Applies only to goods or services not included in a construction procurement strategy)     | 2.1               | Establish opportunities for promoting secondary procurement policies, if any | Identify the specific goals which are to be pursued, if any, and establish quantitative targets and implementation procedures which are consistent with the employer's objectives. |
|          |  | 2.2               | Establish contracting and pricing strategy                                   | Decide on an appropriate allocation of responsibilities and risks, the methodology by which contractors are to be paid and the form of contract which is to be used.               |
|          |  | 2.3               | Establish targeting strategy   | Decide on the methodology that is to be used to implement secondary procurement policy   |
|          |  | 2.4               | Establish procurement procedure  | Identify the process that will be followed to solicit tender offers and to conclude a contract   |
|          |  | 2.5<br><b>PG2</b> | Obtain approval for procurement strategies that are to be adopted            | Designated person confirms selection of strategies so that tender offers can be solicited  |

**NOTE 1** Shaded cells indicate the presence of a procurement gate

**NOTE 2** Works involving construction, refurbishment, rehabilitation, extension, alteration, scheduled maintenance, demolitions or the design, supply and installation of plant are invariably initiated during stage 1 (Infrastructure planning) of the Infrastructure Delivery Management System while a construction procurement strategy is developed during stage 2 (Procurement planning) at a portfolio level (see the Procurement and Delivery Management System for Infrastructure Projects). As a result, activities 1 and 2 only take place where ad hoc procurements take place (see Figure 1).

| Activity          |  | Sub-Activity  |  | Key action   |
|-------------------|--|---|--|--|
| 3                 | Solicit tender offers                                      | 3.1   | Prepare procurement documents  | Prepare procurement documents (pre-qualification or tender documents (or both)), as appropriate, that are compatible with the approved procurement strategies  |
|                   |  | 3.2<br><b>PG3</b>   | Obtain approval for procurement documents  | Designated person reviews the procurement document, identifies sections, if any, which require amendments or improvements, and grants the necessary approval   |
|                   |  | 3.3<br><b>PG4</b>   | Confirm that budgets are in place  | Designated person ensures that finance is available for the procurement to take place  |
|                   |  | 3.4   | Invite tenderers or respondents to submit tender offers or expressions of interest | Advertise tenders or calls or expressions of interest /identify contractor(s) that are to be invited to submit tender offers in accordance with the approved procurement procedure and issue procurement documents   |
|                   |  |   |  | Respond to requests for clarification, conduct clarification/site meetings, issue attendees with minutes of such meetings, and issue addenda, as relevant.   |
|                   |  |   |  | Advertise calls for tenders or expressions of interest relating to construction works on the CIDB website  |
|                   |  | 3.5   | Receive tender offers or expressions of interest                                   | Ensure that arrangements are in place to receive tender offers/expressions of interest and return unopened those that are received late, are not delivered in accordance with instructions given to respondents / tenderers or where only one tender is received and it is decided to call for fresh tenders |
|                   |  | 3.6   | Open and record expressions of interest received                                   | Open expressions of interest and record data relating to the submission  |
|                   |  | 3.7   | Evaluate expressions of interest   | Evaluate in accordance with undertakings made to respondents in procurement documents  |
|                   |  | 3.8   | Prepare evaluation report on short-listing process                                 | Prepare evaluation report and make recommendations in respect of actions to be taken, depending upon the procurement procedure that is adopted   |
| 3.9<br><b>PG5</b> | Authorisation to proceed with next phase of tender process | Designated person reviews evaluation report and ratifies recommendations and authorises progression to the next stage of the tender process   |  |  |
| 3.10              | Invite tender offers from short-listed tenderers           | Issue shortlisted respondents with procurement documents  |  |  |
|                   |  | Respond to requests for clarifications by tenderers, conduct clarification/site meetings, issue all attendees with the minutes of such meetings, and issue addenda to amend or amplify the procurement documents, as relevant |  |  |

NOTE 1: Shaded cells indicate the presence of a procurement gate

NOTE 2: Expressions of interest are only called for where the qualified procedure or restricted competitive negotiations procedure is followed (see Table 5). Where calls for expressions are not made, sub-activities 3.6 to 3.10 do not apply.

| Activity |                        | Sub-Activity      |   | Key action   |
|----------|------------------------|-------------------|---|--|
| 4        | Evaluate tender offers | 4.1               | Open and record tender offers received  | Open tender offers, either in public or in the presence of designated persons, and record pertinent details and notify interested parties of pertinent details if requested to do so   |
|          |                        | 4.2               | Determine whether or not tender offers are complete   | Examine tenders and determine whether or not they are complete, request tenderers to complete items that are required only for tender evaluation purposes which do not affect competitive position and record what is incomplete in each tender submission   |
|          |                        | 4.3               | Determine whether or not tender offers are responsive   | Confirm compliance with all the requirements of the procurement documents, including eligibility criteria. If not, declare tender offers non-responsive and record reasons for declaring a tender to be non-responsive and disregard such tender offers from further consideration   |
|          |                        | 4.4               | Evaluate tender submissions   | Identify parameters included in the tender submission that have a bearing on the financial offer and reduce all tender offers to a common base.<br>Judge the reasonableness of financial offers and reject all tender offers with unrealistic financial offers. (see guidance provided in ISO 10845-1 for abnormally low tenders and Annex A of ISO 10845-3).<br>Evaluate tender submissions in accordance with the tender evaluation method that is adopted |
|          |                        | 4.5<br><b>PG5</b> | Authorisation to proceed with next phase of tender process  | Designated person reviews interim reports for proposal and competitive negotiations procedure and authorises progression to the next stage of the tender process   |
|          |                        | 4.6               | Perform a risk analysis   | Perform a risk analysis on the tenderer ranked highest in terms of the tender evaluation and, if found to be unsatisfactory, undertake an analysis on the next highest ranked tenderer and so on until such time as a tenderer satisfies the risk assessment, and recommend this tenderer for the award of the contract  |
|          |                        | 4.7               | Prepare a tender evaluation report  | Prepare a tender evaluation report which, as a minimum, contains the tender evaluation points awarded to each tenderer, the reasons for eliminating a tender offer and a recommendation for the award of the contract  |
|          |                        | 4.8<br><b>PG6</b> | Confirm recommendation contained in the tender evaluation report where the transaction for a particular procedure is greater than the thresholds contained in Annexure A. | Review report and ratify recommendations or refer back to evaluation panel   |
| 5        | Award contract         | 5.1               | Notify successful tenderer and unsuccessful tenderers of outcome  | Notify the successful tenderer and unsuccessful tenderers in writing   |
|          |                        | 5.2               | Compile contract document   | Assemble contract document from the relevant tender returnables and capture all the changes that were agreed to between the offer and acceptance   |
|          |                        | 5.3<br><b>PG7</b> | Formally accept tender offer  | Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract  |
|          |                        | 5.4               | Capture contract award data   | Capture, into a database, essential contract data for record purposes, including where applicable, award of contract on the CIDB register of projects. Capture contractor on the University's financial management system.   |
|          |                        | 5.5               | Register on financial system  | Obtain, capture and register contractor on University's vendor data base if not already registered   |

NOTE: Shaded cells indicate the presence of a procurement gate

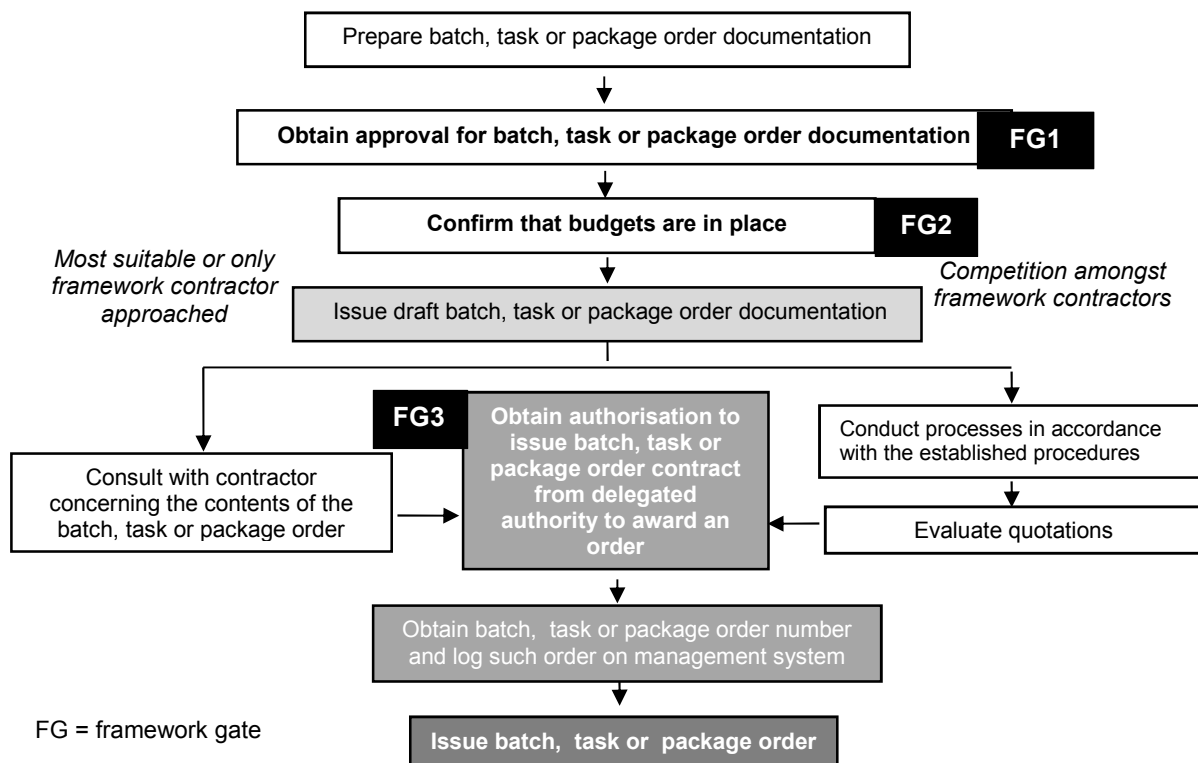
| Activity       |   | Sub-Activity  |   | Key action   |
|----------------|---|---|---|--|
| 6              | Administer contracts and confirm compliance with requirements | 6.1   | Administer contract in accordance with the terms and provisions of the contract   | Administer the contract in accordance with its terms and conditions and pay contractors within the time periods provided for in the contract so as to avoid interest on late payments  |
|                |   | 6.2   | Ensure compliance with requirements   | Monitor the contractor's performance to ensure that the requisite quality standards are attained and all requirements are complied with, and certify compliance upon completion  |
|                |   | 6.3   | Capture contract completion/ termination data   | Record, in a database, key performance indicators relating to time, cost and the attainment of specific goals associated with a secondary procurement policy, or if the contract is terminated or cancelled, the reasons therefore   |
|                |   | 6.4<br>PG8A   | Obtain approval to waive penalties or low performance damages.  | Prepare motivation for waiving of penalties and low performance damages  |
|                |   |   |   | Approve waiver of penalties or low performance damages   |
|                |   | 6.5<br>PG8B   | Obtain approval for events which in terms of the contract increase the total of prices or the time for completion by more than the respective percentages stated in Annexure A but up to the threshold percentages for PG8D | Finalise submission for increases in the total of prices or time for completion in terms of the contract   |
|                |   |   |   | Grant permission to increase prices or time in terms of the contract if the total of prices does not exceed the total of prices at award, excluding provision for contingencies at the time of the award of the contract or the issuing of a batch, task or package order and price adjustment for inflation, by more than the percentage stated in Annexure A or the time for completion at award by more than the percentage stated in Annexure A.<br><br>NOTE: No approval is required for increases in the total of prices relating to price adjustment for inflation provided for in the terms of a contract or batch, task or package order. |
|                |   | 6.6<br>PG8C   | Obtain approval to exceed the total of prices or the time for completion at award by more than the percentage threshold stated in Annexure A  | Prepare motivation for exceeding the total of prices, excluding provision for contingencies at the time of the award of the contract or the issuing of a batch, task or package order and price adjustment for inflation, or the time for completion at award by more than the threshold percentage stated in Annexure A, setting out the precise reasons for such increases   |
|                |   |   |   | Approve amount time and cost overruns.   |
|                |   | 6.7<br>PG8D   | Obtain approval to exceed the total of Prices or the time for completion at award by more than 10 or 20%, respectively  | Prepare motivation for exceeding total of Prices at award by more than 10%, setting out the precise reasons for the increase in the cost of goods, services or works or prepare a motivation for an increase in the time for Completion by more than 20%   |
| Approve amount |   |   |   |  |
| 6.8<br>PG8E    | Obtain approval to cancel or terminate a contract             | Prepare motivation to terminate or cancel a contract and obtain advice as necessary   |   |  |
|                |   | Approve termination or cancellation of contract   |   |  |
| 6.9<br>PG8F    | Obtain approval to amend a contract                           | Formulate a proposed amendment to the contract and prepare a motivation to do so  |   |  |
|                |   | Approve proposed amendment to contract  |   |  |
| 6.10           | Finalise contract   | Finalise all outstanding issues<br>Oversee the rectification of parts of the work that are not in accordance with the contract<br>Release bonds and retentions, where relevant. |   |  |

NOTE: Shaded cells indicate the presence of a procurement gate

**Table 2: Procurement activities, key actions, responsibilities and gates associated with the issuing of batch, task or package orders**

| Activity |   | Key action  |
|----------|---|---|
| 1        | Prepare procurement documents   | Prepare batch, task or package order and if necessary quotation document using the standard templates.<br><b>NOTE:</b> If framework agreement is not in place, the steps outlined in Table 1 need to be applied in order to put such an agreement in place.   |
| 2        | Obtain approval for procurement documents   | Designated person reviews the procurement document other than those developed for quotations which are below the threshold for quotations (see Annexure A) which make use of the standard templates and are evaluated on the basis of the financial offer and preference only, identifies sections, if any, which require amendments or improvements, and grants the necessary approval   |
| 3        | Confirm that budgets are in place   | Designated person ensures that finance is available for the procurement to take place   |
| 4        | Issue draft batch, task or package order documentation  | Where competition amongst framework contractors is not re-opened, issue draft batch, task or package order to contractor and consult with contractor concerning the contents of such order<br>Where competition amongst framework contractors is reopened, invite quotations from all framework contractors participating in the agreement and receive submissions<br>Ensure that arrangements are in place to receive submissions and return unopened those that are received late or are not delivered in accordance with instructions given to contractors   |
| 5        | Evaluate quotations for batch, task or package order  | Where competition amongst framework contractors is reopened, identify parameters included in the tender submission that have a bearing on the financial offer and reduce all tender offers to a common base.<br>Judge the reasonableness of financial offers and reject all tender offers with unrealistic financial offers (see guidance provided in ISO 10845-1 for abnormally low tenders and Annex A of ISO 10845-3).<br>Evaluate tender submissions in accordance with the tender evaluation method adopted for the procurement.<br>Prepare an evaluation report which, as a minimum, contains the tender evaluation points awarded to each tenderer, the reasons for eliminating a tender offer and a recommendation for the award of the batch, task or package order. |
| 6        | Confirm recommendations and authorise the issuing of a batch, task or package order                           | Review report, as necessary, ratify recommendations, and sign batch, task or package order.   |
| 7        | Log batch, task or package order onto management system   | Obtain batch, task or package order number and log such order on management system.<br>Capture, into a database, essential batch, task or package data for record purposes, including where applicable, award of contract on the CIDB register of projects.   |
| 8        | Issue batch, task or package order to contractor  | Issue batch, task or package order to contractor  |
| 9        | Notify issuing of certain batch, task or package order  | Notify the designated person of the issuing of each batch, task or package order where more than one framework agreement has been entered into covering the same scope of work.   |
| 10       | Administer batch, task or package orders in accordance with contract and confirm compliance with requirements | See sub-activities and key actions associated with Activity 6 (Activities 6.1 to 6.10) in Table 1.<br><br>Note: batch, task and package orders are administered in the same way as contract are in terms of the activities listed for Activity 6 in Table 1.  |

NOTE: Shaded cells indicate the presence of a procurement gate



**Figure 2: Activities associated with the issuing of a batch, task or package order within a framework agreement**

**4.3.3** The activities, key actions, responsibilities and gates associated with the contracts below the threshold for the quotation procedure are as follows (see Annexure A for the threshold associated with a quotation procedure):

- a) a **designated person** prepares the procurement documents using the standard templates;
- b) a **Documentation Review Team** reviews the procurement documents only where offers are evaluated in terms of financial offer, preference and quality;
- c) a **designated person** invites quotations; and
- d) a **designated person** or where offers are evaluated in terms of financial offer, preference and quality, an **Evaluation Panel**, evaluates the offers received and makes a recommendation to the **Delegated Authority** to award the contract.

#### **4.4 Roles and responsibilities in relation to the procurement processes, activities and controls**

##### **4.4.1 Documentation Review Team**

**4.4.1.1** The **designated person** shall appoint a **Documentation Review Team** comprising the persons identified in Annexure A in respect of each procurement or batch, task or package order

**4.4.1.2** The **Documentation Review Team** shall, as necessary, review the procurement documents with a view to confirming that:

- a) the procurement documents have been formatted and compiled in accordance with the requirements of ISO 10845-2 and 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 ISO 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 4.7 and the standard templates have been correctly applied;
- d) the **designated person's** 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 University'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;
- 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.

**4.4.1.3** The **Documentation Review Team**, in the case of a batch, task or package order, shall confirm that:

- a) the standard templates have been correctly applied;
- b) approval from the **designated person** has been obtained for additional clauses or variations to the standard clauses in the conditions of contract not provided in the University'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
- f) the risk allocations are appropriate.

**4.4.1.4** The **Documentation Review Team** shall identify sections, if any, which require amendments or improvements, and refer back to the originators of the document or recommend that the documents be accepted. The originators of the documents shall resubmit revised documents for the review of the Documentation Review Team.

**4.4.1.5** The **Documentation Review Team** shall prepare a brief report which

- a) lists the names and qualifications of the team members;
- b) confirms that the documents are in accordance with the requirements of this document; and
- c) captures any comments or opinions which the team may wish to express.

**4.4.1.6** The Documentation Review Team shall forward a copy of their report and their recommendation to accept the procurement document to a **designated person** for approval prior to the issuing of such a document to respondents, tenderers or contractors.



## 4.4.2 Evaluation panels

**4.4.2.1** The **designated person** shall constitute an **Evaluation Panel** comprising the persons identified in Annexure A. Such panels shall:

- a) evaluate submissions for calls for expressions of interest;
- b) evaluate submissions received where the competitive selection or competitive negotiation procedure is applied and the value of the contract inclusive of VAT is above the threshold for quotations; and
- c) evaluate quotations from contractors who compete for the award of a batch, task or package order.

**NOTE 1** The following procedures require the Evaluation Panel to evaluate a submission and to make recommendations to a designated person (see 4.7.1.9) so that respondents or tenderers can be either eliminated from further consideration or admitted to the next phase of the selected procedure:

- a) qualified procedures - tenders are invited following an expression of interest;
- b) proposal procedure using a two envelope system - the envelope containing the financial proposal is only opened after the evaluation of technical proposals;
- c) proposal procedure using a two stage system - tender are invited from one or more tenderers following the evaluation of first round proposals;
- d) restricted competitive negotiations procedure - tenders are invited following a call for expressions of interest and thereafter from those tenderers who remain in contention after each round of evaluation; and
- e) open competitive negotiations procedure - tenders are invited from those tenderers who remain in contention after each round of evaluation.

**NOTE 2** Expressions of interest are made to invite respondents to:

- a) apply for admission to an electronic database, or
- b) register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials so they can, in terms of the University's procurement procedures, be invited to submit a tender offer should they qualify or be selected to do so.

**4.4.2.2** All communications with respondents and tenderers during the procurement process to obtain information and clarifications shall be made in writing through the **designated person**. Records of all communications in this regard shall be made and retained by such persons for auditing purposes.

**4.4.2.3** Quality shall be scored in terms of the prompts for judgement (see ISO 10845-1), either individually and averaged or collectively as appropriate.

**4.4.2.4** The **Evaluation Panel** shall:

- a) require each of its members to declare their interest or confirm that they have no interest, prior to commencing with the evaluation and record such confirmation in the evaluation report;
- b) evaluate submissions following a call for expressions of interest or tender offers in accordance with the provisions of the procurement documents (see Annex C of ISO 10845-3 and Annex C of ISO 10845-4, as relevant);
- c) confirm, where relevant, that respondents / tenderers are in possession of the required CIDB contractor grading designations by confirming their active status on the CIDB website and that they are in possession of the required contractor grading designation;
- d) confirm that tenderers or their principals are not prohibited from participation in:

- 1) the public procurement system by confirming that their names do not appear on National Treasury's List of Restricted Suppliers or the Register of Tender Defaulters; or
- 2) the University's procurement system as they have been placed under restrictions by the University; and

e) confirm that respondents or tenderers tax matters are in order.

NOTE The Register of Tender Defaulters and the Database of Restricted Suppliers are public document and can be viewed on National Treasury's website

- [www.treasury.gov.za/publications/other/Register%20for%20Tender%20Defaulters.pdf](http://www.treasury.gov.za/publications/other/Register%20for%20Tender%20Defaulters.pdf).

- [www.treasury.gov.za/publications/other/Database%20of%20Restricted%20Suppliers.pdf](http://www.treasury.gov.za/publications/other/Database%20of%20Restricted%20Suppliers.pdf)

**4.4.2.5** Evaluation ratings and selections shall be made on the basis of the material requested and included in the submission and not on speculation, suspicion or personal knowledge of a panel member.

**4.4.2.6** The **Evaluation Panel** 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 leading up to the decision and may form the basis of any debriefing that takes place.

**4.4.2.7** The **Evaluation Panel** shall prepare evaluation reports in accordance with guidelines provided in Table 3 or Table 4 with modifications as necessary where a two envelope, two stage process or competitive negotiation procedure is followed. The report of the **Evaluation Panel** which recommends the award of a contract shall contain in appendices the reports of an evaluation panel for any 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.

**4.4.2.8** The **Evaluation Panel** shall forward their report to a **designated person** who if satisfied that the report is comprehensive and complete shall forward such report to either the designated person who authorises progression to the next stage of the procedure in terms of 4.7.1.9 or to the **Tender Committee**.

**Table 3: Typical content of an evaluation report relating to an expression of interest**

| Section   | Typical content   |
|---|---|
| <p><b>1 Summary</b></p>                               | <p>Provide an overview of the parameters associated with the expression of interest, preferably in tabular form, including the following:</p> <ul style="list-style-type: none"> <li>• Contract / project no.</li> <li>• Contract / project description</li> <li>• Purpose of the Expression of interest (admission to a database / prequalification / shortlisting) EOI</li> <li>• Media in which advertisement placed</li> <li>• Advertisement date</li> <li>• Estimated value of contract or batch, task or package 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</li> <li>• Recommended outcomes of the process</li> </ul>  |
| <p><b>2 An overview of the evaluation process</b></p> | <p>Provide an overview of the procurement process indicating the eligibility criteria that was applied. State points relating to evaluation criteria, prompts for judgement and weightings relating thereto. Reproduce the list of returnable documents.</p> <p>. State points relating to evaluation criteria, prompts for judgement and weightings relating thereto. Provide 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>   |
| <p><b>3 Evaluation process</b></p>                    | <p><b>3.1 Submissions received</b><br/>List the submissions that were received.<br/>Describe any noteworthy events regarding the opening of tender submissions e.g. the returning of late tenders, the manner in which a single tender received was handled, the withdrawal of tenders and the declaring of tenders non-responsive on the grounds that they were not received in the prescribed manner.</p> <p><b>3.2 Completeness of submissions received</b><br/>Compare submissions received against list of returnable documents. State if any submissions were incomplete and outline how clarifications were obtained.<br/>Confirm if respondents took into account addenda, if any, in their submission</p> <p><b>3.3 Responsiveness of respondents</b><br/>Identify which of the submissions received were non-responsive and provide clear reasons for declaring respondents to be non-responsive.</p> <p><b>3.4 Evaluation of submissions</b><br/>Record the manner in which submissions were evaluated.<br/>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> <p><b>3.5 Reasons for disqualification on the grounds of corrupt or fraudulent practice</b><br/>State reasons if applicable</p> <p><b>3.6 Compliance with legal requirements</b><br/>Confirm that respondents are not barred from participation, tax matters are in order, is registered etc</p> |
| <p><b>4 Tender recommendation</b></p>                 | <p>Make a recommendation for the outcome of the process e.g. admit to a data base or prequalify / shortlist respondent to be invited to submit tender offers</p>  |
| <p><b>5 Confirmation of recommendations</b></p>       | <p>Make provision for the confirmation or amendment of the recommended action.</p>  |

**Table 4: Typical content of an evaluation report relating to the solicitation of tender offers**

| Section  | Typical content   |
|--|---|
| <p><b>1 Summary</b></p>                                      | <p>Provide an overview of the parameters associated with the solicitation of the tender, preferably in tabular form, including the following:</p> <ul style="list-style-type: none"> <li>• Contract / Project / Tender no.</li> <li>• Contract description</li> <li>• Contract duration</li> <li>• Purpose of tender</li> <li>• Contracting strategy</li> <li>• Pricing strategy</li> <li>• Form of contract</li> <li>• Targeting strategy</li> <li>• Procurement procedure</li> <li>• 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 placed, if not a nominated or qualified competitive selection procedure or a restricted competitive negotiations procedure</li> <li>• Date of advertisement, if not a nominated or qualified competitive selection procedure or a restricted competitive negotiations procedure</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) or in the case of framework agreement, estimated value of all batch, task or package orders which are likely to be awarded during the term of the contract</li> <li>• Lowest responsive and realistic tender used for comparative purposes (tender price, specific goals etc)</li> </ul>  |
| <p><b>2 An overview of the tender evaluation process</b></p> | <p>Provide an overview of the procurement process indicating the eligibility criteria that was 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.<br/> Reproduce the list of returnable documents<br/> Provide an overview as to how the quality aspects of the tender were scored.<br/> 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>   |
| <p><b>3 Tender evaluation process</b></p>                    | <p><b>3.1 Tender offers received</b><br/> List the tender offers that were received.<br/> 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> <p><b>3.2 Completeness of tenders received</b><br/> 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 communications with tenderers.<br/> Confirm if tenderers took into account addenda, if any, in their tender submission</p> <p><b>3.3 Responsiveness of tenderers</b><br/> Identify which of the tenders received were non-responsive and provide clear reasons for declaring such tenders to be non-responsive.</p> <p><b>3.4 Evaluation of tender offers</b><br/> Record the manner in which tenderers were reduced to a common basis.<br/> Record preferably in a tabular form:</p> <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 fee percentages applied Defined Cost that were tendered if applicable</li> </ul> <p>Provide reasons for not granting a preference or considering a financial offer to be unrealistically low.</p> <p><b>3.5 Reasons for disqualification on the grounds of corrupt or fraudulent practice</b><br/> State reasons if applicable</p> <p><b>3.6 Compliance with legal requirements</b><br/> Confirm that tenderers are not barred from participation, tax matters are in order, is registered etc</p> <p><b>3.7 Acceptability of preferred tenderer</b><br/> 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.<br/> Also state any arithmetical corrections that have been made.</p> |
| <p><b>4 Outcome of the evaluation</b></p>                    | <p>Make a recommendation for the award of the tender and state any qualifications to such award</p>   |
| <p><b>5 Confirmation of recommendations</b></p>              | <p>Make provision for the recommendations for the award of the tender to be confirmed or amended by the Tender Committee.</p>   |

### 4.4.3 Tender Committee

4.4.3.1 The **Tender Committee** shall act in accordance with the provisions of this document. The **Tender Committee** shall:

- a) consider the report and recommendations (tender evaluation report) of the evaluation panel for all tenders and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers;
  - 4) confirm that budgetary provisions are in place; and
  - 5) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) refer the report back to the evaluation panel or make a recommendation to award the contract (or not), with or without conditions, to **the Delegated Authority**.

4.4.3.2 Minutes of all the formal meetings of this committee shall be kept. A copy of the **Tender Committee's** decisions shall promptly be forwarded to **designated persons**.

**NOTE** A Tender Committee is a governance committee (see figure at the end of the Introduction which provides an overview of procurement processes provided for in the Construction Procurement System).

### 4.4.4 Disposal Panel

4.4.4.1 A **Disposal Panel**, appointed by a **designated person** shall advise on how best to undertake disposals.

**NOTE** Disposals typically relate to the demolition or dismantling of infrastructure and buildings or parts thereof, usually to make way for new facilities and the disposal of unwanted, redundant or surplus materials, plant and equipment.

4.4.4.2 A disposal may be proceeded with only after the feasibility and desirability of recycling or re-use of component materials has been considered.

4.4.4.3 The reasons for adopting a disposal strategy shall be recorded and forwarded to the **designated person** for acceptance and auditing purposes prior to proceeding with such disposal.

**NOTE** A range of disposal procedures are provided in 4.7.5.

### 4.4.5 Delegated Authority

#### 4.4.5.1 General

The permitted actions which may be taken by a **Delegated Authority** are listed in Annexure A.

#### 4.4.5.2 Delegated Authority to award a contract

4.4.5.2.1 The **Delegated Authority** shall consider the report(s) and recommendations of the **Tender Committee**, or in the case of the quotation procedure, the **designated person** (see 4.3.3d) or the **Evaluation Panel**, or the team appointed to negotiate a contract and

- a) verify that the procurement process which is followed complies with the provisions of this document;
- b) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
- c) confirm that budgetary provisions are in place; and
- d) approve the award of the contract.

**4.4.5.2.2** The **Delegated Authority** shall award the contract in accordance with the relevant requirements of 4.10 only if the value of the transaction is within his or her delegations.

#### **4.4.5.3 Delegated Authority to award a batch, task or package order**

**4.4.5.3.1** The **Delegated Authority** shall confirm that the required goods, works or services are within the scope of work associated with the relevant framework contract.

**4.4.5.3.2** The **Delegated Authority** shall confirm the validity of the reasons submitted by a **designated person** for not conducting a competition amongst framework contractors (see 4.7.2) and if found to be acceptable, sign the acceptance of the batch, task or package order, provided that in the case of a target contract, the total of prices contained in such orders are certified as being fair and reasonable by a professional quantity surveyor registered in terms of the Quantity Surveying Profession Act, 2000 (Act 49 of 2000) or a professional engineer or professional engineering technologist registered in terms of the Engineering Profession Act, 2000 (Act 46 of 2000).

**4.4.5.3.3** The **Delegated Authority** shall consider the report and recommendations of the **Evaluation Panel**, if any, and confirm the reasonableness of such recommendations and either refer the report and recommendation back to the **Evaluation Panel** or sign the acceptance of the batch, task or package order.

**4.4.5.3.4** The **Delegated Authority** shall report to the **designated person** using the proforma provided in Figure 3 within five working days of the end of each month on any approvals given for batch, task or package orders during that month where:

- a) the value of the order exceeds the quotation limits; and
- b) where multiple framework agreements are entered into covering the same scope of work irrespective of the value of the order.

**4.4.5.3.5** The **Delegated Authority** where multiple framework agreements are entered into covering the same scope of work shall attach to the report made in terms of 4.4.5.3.4 a brief motivation as to why the batch, task or package order was issued to a particular contractor, and attach the record of all batch, task or package orders issued to such contractors using the proforma provided in Figure 4.

## **4.5 Complaints**

**4.5.1** All complaints regarding the construction procurement system shall be addressed to the **designated person**. Such complaints shall be in writing.

**4.5.2** The **designated person** shall investigate all complaints regarding the procurement system and report on actions taken to the **designated person** who will decide on what action to take.

**Proforma Report to designated person**

**Month:** ..... **Year:** .....

I hereby declare that the following Batch, Task or Package Orders were awarded during the month covered by this report

| Framework contract details |            |               | Batch, task or package order |                        | Brief motivation for issuing order |
|----------------------------|------------|---------------|------------------------------|------------------------|------------------------------------|
| Number:                    | Contractor | Service area: | Number                       | Total of Prices (Rand) |                                    |
|                            |            |               |                              |                        |                                    |
|                            |            |               |                              |                        |                                    |

Signature: .....  
Name: ..... Date: :.....

**Figure 3: Format of report on award of batch, task or package orders during a month**

**Proforma record of all batch, task or package order issued against a framework agreement**

**Contract number:**  
**Title:**  
**Contractor:**  
**Overview of Scope of Work:**  
**Start date** ..... **Completion Date** .....

**Numbers of contracts covering the same scope of work:**

| Order no                                   | Date of Issue | Description of work associated with order | Date for completion of order | Total of Prices |
|--|---------------|---|------------------------------|-----------------|
|  |               |   |                              |                 |
|  |               |   |                              |                 |
| <b>Total of Prices for instructed work</b> |               |   |                              |                 |

Signature: .....  
Name: ..... Date: :.....

**Figure 4: Format of record of batch, task or package order issued to a contractor**

## 4.6 Secondary procurement policy

### 4.6.1 General

**4.6.1.1** The University shall utilise its procurement to promote Broad Based Black Economic Empowerment in accordance with the provisions the Broad Based Black Economic Empowerment Act, (Act 53 of 2003) 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.

**4.6.1.2** 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 contributors.

**4.6.1.3** Minimum local content shall be included in contracts in accordance with the Preferential Procurement Regulations 2011 where required or deemed by the **designated person** to be appropriate.

#### **4.6.2 Permitted targeted procurement procedures**

The targeted procurement procedures that may be used to promote secondary policies shall include one or more of the following:

- a) the granting of preferences, using standard Preferencing Schedules;
- b) accelerated rotations on electronic data bases, where appropriate;
- c) the granting of up to 10% of the total number of evaluation points used to short listed tenderers following a call for expressions of interest using a standard Preferencing Schedule;
- 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 using either the procedures for subcontracting contained in Annex I of the CIDB Standard for Uniformity in Construction Procurement or establishing obligations to attain contract participation goals in accordance with the relevant provisions of ISO 10845 or the equivalent South African national standards.

#### **4.6.3 Broad Based Black Economic Empowerment**

**4.6.3.1** Preferences shall be offered for Broad Based Black Economic Empowerment on all tenders and quotations that exceed a value stated in the Preferential Procurement Regulations using, as applicable:

- a) the Construction Sector Code as published in the Government Gazette ;
- b) the generic Broad-Based Black Economic Empowerment Codes of Good Practice as published in the Government Gazette; or
- c) any other Code of Good Practice published in terms of section 9 of the Broad Based Black Economic Empowerment Act of 2003 (Act No 53 of 2003).

**4.6.3.2** Preferences may only be granted if sufficient evidence of qualification as a contributor is submitted in support of claims in the form required in the applicable standard Preferencing Schedules for Broad Based Black Economic Empowerment.

**4.6.3.3** Preferences awarded to joint venture shall, as applicable, be based on:

- a) the B-BBEE status of the joint venture as a group structure, established by a verification agency, in accordance with the *Guidelines on Complex Structures & Transactions, and Fronting (Previously Statement 002)* issued by the Department of Trade and Industry; or
- b) the B-BBEE status based on a weighting of the shareholder agreement relevant to the specific joint venture in accordance with section 8 of the Construction Sector Code; or
- c) the B-BBEE status of the joint venture partner with the lowest B-BBEE status.

**4.6.3.4** The B-BBEE status of a framework contractor shall be confirmed, and where necessary updated, whenever a batch, task or package order is issued.



## 4.7 Usage of standard procurement procedures

### 4.7.1 General

4.7.1.1 Goods, services and works should generally be procured from the open market. Tenders may, however, be solicited from a confined market where it is established with reasonable certainty that:

- a) only a sole contractor is able to provide the goods, services or works;
- b) 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 University in accordance with unique requirements; or
- c) there is a case for standardising goods or making use of manufacturer accredited service providers.

in which case, tender offers will only be solicited only from the confined market.

NOTE The confined market procedure can be used to procure components for the maintenance of items where a change in product or manufacturer requires modifications to plan and equipment e.g. a replacement pump requires costly changes to mountings, pipework or electrical connections, the replacement of circuit breakers requires costly changes to mounting frames, face panels, busbars, wiring etc or a replacement model requires the holding of additional spares and / or maintenance personnel. Legislative, technological or safety requirements can also confine the market.

4.7.1.2 The standard procurement procedures identified in Table 5 shall be implemented under the stated conditions in that table in accordance with the provisions of ISO 10845-1.

4.7.1.3 Projects shall not be subdivided to reduce the estimated tender value to fall within a threshold applicable to a specific procurement procedure.

4.7.1.4 A **designated person** shall, 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 5 and which can be dealt with or the risks relating thereto arrested within 48 hour or such a procedure is included in the portfolio procurement strategy, fully motivate the reasons for pursuing the negotiation procedure or for approaching a confined market and submit an application to the **designated person** for prior approval.

NOTE: A rapid response required to address shortcomings in planning e.g. a failure to timeously initiate and conclude a procurement processes, is not sufficient on its own to warrant the use of the negotiated procedure.

4.7.1.5 Only a **designated person** is authorised to pursue a negotiated procedure in an emergency without prior approval permitted in terms of 4.7.1.4

4.7.1.6 The negotiation process or the soliciting of tender offers from a confined market in such circumstances may not commence until such time that the **designated person's** approval is obtained.

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

**Table 5: Conditions under which procedures provided for in ISO 10845-1 may be utilised**

| Procedure  | Conditions which need to be satisfied in order to utilise the procedure   |  |
|--|---|--|
| <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 construction 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 for providing the required service, goods or construction works,</li> <li>4) the services, goods or works does not exceed the <b>value stated in Annexure A</b>,</li> <li>5) the service or construction works being procured are largely identical to works previously executed by that contractor and it is not in the interest of the public or the University to solicit other tender offers,</li> <li>6) a professional service contract does not exceed the <b>value stated in Annexure A</b>, which can be based on time and proven cost,</li> <li>7) the nature of the construction works, goods, or services or the risks attaching thereto do not permit prior overall pricing, or</li> <li>8) only one responsive tender is received.</li> </ol> |  |
| <b>Competitive selection procedure</b>           |   |  |
| Nominated procedure                              | Any procurement not exceeding the <b>value stated in Annexure A</b> .   |  |
| 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                              | <p>Any procurement where:</p> <ol style="list-style-type: none"> <li>1) a contractor requires a high degree of specialised input or requires skills and expertise that is not readily available,</li> <li>2) a contractor requires exceptional management skills or quality,</li> <li>3) a contractor 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, to link packages of work to tenderers who have the appropriate capacity and capability to compete against each other,</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 which are manufactured solely for the University in accordance with the University's own specification.</li> </ol>   |  |
| Quotation procedure                              | Any procurement where the estimated value does not exceed the <b>value stated in Annexure A</b> .   |  |
| Proposal procedure using the two-envelope system | Professional 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 tenders 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                               | Supplies contract which involves readily available goods does not exceed the <b>value stated in Annexure A</b> .  |  |

| Procedure                                | Conditions which need to be satisfied in order to utilise the procedure  |
|--|--|
| <b>Competitive negotiation procedure</b> |  |
| Restricted competitive negotiations      | As for open competitive negotiations but where: <ol style="list-style-type: none"> <li>1) a contractor requires a high degree of specialised input or requires skills and expertise that is not readily available,</li> <li>2) a contractor requires exceptional management skills or quality,</li> <li>3) a contractor 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; and</li> <li>6) a target cost is tendered and finalised prior to the award of the contract;</li> </ol>                  |
| Open competitive negotiations            | Any procurement where: <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 construction 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 construction works or 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, experiment, 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> |

NOTE The electronic auction procedure is not used by the University

**4.7.1.8 A designated person** shall fully motivate the reasons for pursuing the proposal procedure using the two-envelope system or the proposal procedure using the two-stage system to the **designated person** for prior approval if such procedures were not included in the approved procurement strategy. The procurement processes associated with such procedures may not commence until such time that the **designated person's** approval is obtained.

**4.7.1.9 A designated person** shall receive reports from the **Evaluation Panel** dealing with the evaluation of expressions of interest, the evaluation of technical proposals in the proposal procedure using a two envelope system, the evaluation of the first round of proposals in a proposal procedure using a two stage system and the evaluation of a round of submissions in a competitive negotiation procedure. The **designated person** shall either refer the report back to the **Evaluation Panel** or authorise the procurement process to proceed to the next phase after:

- a) verifying that the procurement process which was followed complies with the provisions of this document;
- b) confirming that the report is complete and addresses all considerations necessary to make a decision;
- c) confirming the validity and reasonableness of reasons provided for the elimination of tenderers; and
- d) considering commercial risks and identify any risks that have been overlooked which warrant investigation prior to taking a final decision.

**4.7.1.10 A designated person** shall appoint a team of not less than two suitably qualified persons to develop a contract document and to negotiate a contract with a contractor using the negotiation procedure. The team shall:

- a) obtain the approval of a **Documentation Review Team** where the value of the contract is above the threshold for quotations;
- b) verify that the contract prices are market related or provide value for money;

- c) prepare a suitable report;
- d) submit the report to designated person who shall refer the report back to the team or forward it to the **Delegated Authority**.

**4.7.1.11** A **designated person** shall appoint suitably qualified persons to participate in each round of a competitive negotiations process.

## **4.7.2 Framework agreements**

**4.7.2.1** Framework agreements may be entered into with contractors for a term not exceeding 3 years by:

- a) inviting tender offers to enter into a suitable contract for the term, 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 services; and
- b) entering into a limited number of contracts based on the projected demand and geographic location for such services.

**4.7.2.2** Framework agreements that are entered into shall not commit the University to any quantum of work beyond the first batch, task or package order or bind the University to make use of such agreements to meet its needs. The University shall approach the market for goods, services and works whenever it considers that better value in terms of time, cost and quality may be obtained.

**4.7.2.3** Batch, task or package orders:

- a) shall cover only goods, services and works work 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 completion is after the expiry of the term.

**4.7.2.4** The **Documentation Review Team, Evaluation Panel and Tender Committee** shall be informed of the likely value of work which may form part of the framework agreement prior to the commencement of any assigned activities.

**4.7.2.5** Call-offs from framework agreements (issuing of batch, task or package orders) with a number of framework contractors covering the same scope of work may be made with and without requiring competition. Where competition is required amongst framework contractors, it shall be conducted in a non-discriminatory manner such that competition is not distorted.

**4.7.2.6** Competition amongst framework contractors for call-offs shall take place where:

- a) there is no justifiable reason for issuing a batch, task or package order to a particular framework contractor;
- 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 batch, task or package order (productivity);
- c) a better quality of service can be obtained through a competitive process

NOTE: Justifiable reasons for issuing a batch, task or package order to a particular framework contractor include:

- the framework contractor provided the most economical transaction when the financial parameters included in the contract are applied and has the capacity to deliver;
- the required goods, services or construction works cannot technically or economically be separated from another contract or batch, task or package order previously performed by a specific contractor;

- the service or construction works being instructed are largely identical to work previously executed by that contractor;
- the value of the batch, task or package order is less than the threshold for the quotation procedure (see Annexure A);
- the schedule for delivery necessitates that each of the framework contractors be issued with batch, task or package orders on a continuous basis; and
- capacity to execute the batch, task or package order.

**4.7.2.7** The batch, task or package orders shall indicate who the **contract manager** is. The **contract manager** shall be fully empowered to act on behalf of the University for the work covered by the batch, task or package order. The **contract manager** shall enter the particulars relating to the batch, task or package order and amounts due, using suitable software developed to track all such orders.

**4.7.2.8** A government department, municipality or university may request to make use of one or more of the University's framework contracts. Such a request shall be accompanied by an outline of:

- a) the scope and anticipated quantum of work associated with the services and where such services are required;
- b) whether or not the services of only one framework contractor will be required, and if so, the motivation for requiring the services of such contractor; and
- c) the benefit to be derived from making use of the framework contract.

**4.7.2.9** The **designated person** may approve a request from the chief financial officer or the accounting officer of a government department, municipality or university to make use of a framework contract entered into with the University, 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 a batch, task or package order from that government or provincial department, municipality or university; and
- d) the issuing of batch, task or package order by that government or provincial department, municipality or university will not compromise the performance of the contractor in executing work for the University.

**4.7.2.10** The approval granted in terms of 4.7.2.9 shall be conditional upon the government department, municipality or university notifying a **designated person** of the award and completion of batch, task or package orders together with the total of prices at the start and end of such orders.

**4.7.2.11** A **designated person** shall provide any government department, municipality or university that is granted permission to make use of the University's framework contract with a copy of the contract and any templates for the issuing of quotations or batch, task or package order and any other relevant information pertaining to the use of the framework contract that may be required.

### **4.7.3 Lists of pre-approved contractors**

#### **4.7.3.1 Rotating electronic data bases**

**4.7.3.1.1** A call for an expression of interest for admission to the database of contractors who have the required capacity and capability in specified fields of services and goods shall be made at least once a year in a suitable newspaper that enables a wide spectrum of suitably qualified and eligible tenderers to access the opportunities that are presented.

**4.7.3.1.2** Only those respondents who:

- a) are in possession of an original valid Tax Clearance Certificate issued by the South African Revenue Services or have made arrangements to meet outstanding tax obligations and are VAT registered;
- b) can demonstrate their capability and capacity to provide the services or manufacture or supply the goods in the specified fields in terms of the criteria stated in the submission data;
- c) have, if so required, submitted samples or delivered goods which have satisfactorily passed the University's tests;
- d) are not subject to restrictions to do business with the University; and
- e) complete the standard Preferencing Schedule for Broad Based Black Economic Empowerment

may be admitted to an electronic data base for a period of three years, after which they may reapply for admission to the data base.

**4.7.3.1.3** The electronic data base shall be in accordance with the provisions of ISO 10845-1. Accelerated tender opportunities will be provided to level 4 and level 3 and higher B-BBEE contributors.

**4.7.3.1.4** New applicants for admission to the data base shall be admitted to the data base as soon as possible after their application has been evaluated and found to satisfy the required admission criteria.

**4.7.3.1.5** The contractor's information on the data base including the level of B-BBEE contribution, shall be updated whenever a tender offer is evaluated.

#### **4.7.3.2 Approved list**

**4.7.3.2.1** A list of pre-approved contractors may be established for a period of 18 months, for the supply of goods or services, irrespective of their value, which are in constant demand, following a call for expressions of interest advertised in a suitable national newspaper, subject to the approval of the **designated person**.

**4.7.3.2.2** Contractors may only be admitted to the approved list should they satisfy the requirements of 4.7.3.1.2.

**4.7.3.2.3** All contractors who are capable of supplying the required goods or providing the required services on the approved list shall be invited to submit tender offers.

#### **4.7.3.3 Removal of a contractor from a pre-approved list or data base**

**4.7.3.3.1** The name of a contractor may be removed from an approved list or data base at any time if the contractor:

- a) is no longer in possession of a required registration or licence which is essential to the performance of a contract;
- b) is under restrictions preventing participating in public sector procurement;
- c) fails to discharge all contractual obligations timeously and in accordance with the provisions of the contract;
- d) ceases to continue to carry on business under that name or form of company the contractor was registered under on the list;
- e) repeatedly fails to submit tender offers; or
- f) fails to enter into a contract or execute a batch, task or package order when requested to do so.

**4.7.3.3.2** The contractor shall, prior to being removed from a pre-approved list or data base, be notified of the reason for the University's intention of removing his name from such list unless the contractor can provide sufficient reasons why the University should not do so.

**4.7.3.3.3** A contractor's name may only be removed from the list with the approval of the designated person.

#### **4.7.4 Design competitions**

**4.7.4.1** A single or two stage design competition may be used as a means to identify one or more suitable contractors to provide design services. Such a competition shall be initiated following a call for an expression of interest whereby all respondents who satisfy the admission requirements for a design competition and complete an application form are admitted to the competition as participants. The design competition shall be conducted in accordance with the University's Standard Conditions for a Design Competition.

**4.7.4.2** 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 the CIDB Standard for Uniformity in Construction Procurement with the score for quality being based solely on the ranking of the competition jury.

NOTE: Design competitions provide a means for achieving the following in the fields of planning, architecture, landscape architecture and civil engineering;

- a) discovering talent and skill which, but for a competition, would remain unknown;
- b) affording opportunities to exceptional professionals through a competitive process to undertake work which might not otherwise have been possible;
- c) enabling young unknown talents to come to the fore and be noticed;
- d) obtaining outstanding and unique designs or design concepts and explorations;
- e) promoting a project through publicity and exhibitions; and
- f) a fair and transparent means of selecting professional expertise.

#### **4.7.5 Disposals**

Disposals shall be undertaken using one of the following disposal procedures in accordance with the provisions of ISO 10845:

- a) the negotiated procedure,
- b) the open procedure,
- c) the qualified procedure, or
- d) public auction.

#### **4.7.6 Unsolicited proposals**

**4.7.6.1** Unsolicited proposals shall be handled in accordance with the provisions of ISO 10845-1. The employee who receives an unsolicited proposals shall forward such proposal to the **designated person** who in turn shall forward such a proposal together with comments regarding the merits of the proposal or a motivation to implement such a proposal to the **designated person**.

**4.7.6.2** The **designated person** shall review the submission for unsolicited proposal and make a report on or a recommendation to the **designated person** regarding such proposal who shall take a final decision on the matter..

## 4.8 Procurement documents

### 4.8.1 General

**4.8.1.1** Procurement documents shall be developed in accordance with the provisions of ISO 10845-2 and the CIDB Standard for Uniformity in Construction Procurement.

**4.8.1.2** The formation of a contract in the single volume approach (see ISO 10845-2) shall occur once the schedule of deviations has been completed to reflect each and every amendment to the tender documents:

- a) made in terms of addenda issued prior to the close of tenders; and
- b) permitted in terms of the conditions of tender and agreed to in the process of offer and acceptance; and

the acceptance portion of the Form of Offer and Acceptance has been signed by the person authorised to do so.

**4.8.1.3** The formation of the contract in the three volume approach (see ISO 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 in to the final contract; and
- 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.

NOTE 1 It is not necessary to provide the detail of the changes in the schedule of deviations as these are incorporated in the final contract documents.

NOTE 2 In the event that extensive deviations are made, it is preferable to reconstitute the contract and to incorporate the changes in the final contract documents.

**4.8.1.4** A tenderer's covering letter shall not be included in the final contract document or referenced in the schedule of deviations.

**4.8.1.5** A contract that has been entered into may be amended by the parties only with the approval of the **designated person**.

### 4.8.2 Standard forms of contract

**4.8.2.1** The standard forms of contract shall be selected from and be suitable for use under the conditions described in Table 6.

**4.8.2.2** 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.

**4.8.2.3** Approval from the **designated person** shall be obtained for the inclusion of additional clauses or variations to the standard clauses in the contract data other than the standard clauses provided in the approved standardised documents (see 4.8.4).



**Table 6: Approved forms of contract**

| Form of contract                                 | Code | Usage  |
|--|------|--|
| NEC3 Engineering and Construction Contract       | ECC  | Engineering and construction works, including any level of design responsibility.  |
| NEC3 Engineering and Construction Short Contract | ECSC | Engineering and construction works 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, comprising straightforward work and impose only low risks on both 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 |

#### 4.8.3 Auction data

Auction data shall be based on the auction data contained in ISO 10845-1.

#### 4.8.4 Standardised documents

All procurement documents including calls for expressions of interest shall be based on the standard University approved templates which comply with the requirements of the CIDB Standard for Uniformity in Construction Procurement.

#### 4.8.5 Tender assessment schedules

Tender assessment schedules shall be used to take account of the tendered financial parameters relating to compensation events or defined cost in target cost contracts in the evaluation of tenders using the standard templates.

#### 4.8.6 Guarantees

**4.8.6.1** Bonds which guarantee performance 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.

**4.8.6.2** Bonds, which guarantee performance with a stated financial benefit in the event of non-performance, should as a general rule not be required in service, professional service and supply contracts.

**4.8.6.3** Advance payment, where required in engineering and construction contracts, may only be made to contractors against the lodging of an advance payment bond. Permission to provide an advance guarantee shall be obtained from the **designated person** prior to agreeing to such provisions in terms of a contract.

#### 4.8.7 Retention

Retention monies that are held shall not exceed 10,0% 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.

#### 4.8.8 Delay damages

Delay damages shall not exceed a genuine and reasonable pre-estimate of the damage or harm which the University or its client's might suffer as a result of the contractor's failure to complete the works or services by the completion date or to deliver goods by the agreed date.

- NOTE
- 1) Delay damages are a form of liquidated damages. The estimate of the damage should be based on losses sustained as a result of delayed completion, including increased finance charges, additional supervision costs, etc. The amount of the liquidated damages should not be unrealistic, punitive or excessive as this will expose the University to the legal risk of non-enforcement of such damages
  - 2) The Conventional Penalties Act of 1962 (Act No 15 of 1962) provides for the enforceability of penalty stipulations, including stipulations based on pre-estimates of damage, and of forfeiture clauses. This Act empowers a court of law to reduce penalties where they are out of proportion to the prejudice suffered to make them equitable in the circumstances.

#### 4.8.9 Price adjustment for inflation

**4.8.9.1** Price adjustment for inflation shall as a general rule be based on appropriate indices published by Statistics South Africa.

**4.8.9.2** Major material components in an engineering and construction contract may be increased or decreased by the net amount of any documented variation incurred after the base date on the basis set out in the contract data provided by the contractor.

**4.8.9.3** The base date for indices shall be the month during which the closing date for tenders falls.

#### 4.8.10 Insurances

**4.8.10.1** Insurances for large, long term programmes of works involving the construction, rehabilitation, alteration or extension of construction works shall preferably be principal or employer controlled.

NOTE: Principal or employer controlled insurances for programmes of projects enables risks to insured on a more, systematic, scientific and cost-effective basis than is the case where insurances are effected on a piecemeal basis by contractors executing projects within a programme. It also removes duplication of cover, minimises delays in receiving compensation for claims and facilitates better control over claims and more effective administration of policies.

**4.8.10.2** The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Annexure A, unless otherwise directed by the **designated person**. Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

**4.8.10.3** The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Annexure A for any one event unless otherwise directed by the **designated person**.

**4.8.10.4** SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.

**4.8.10.5** 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 not less than the

value stated in Annexure A in respect of each claim, without limit to the number of claims, unless otherwise directed by the **designated person** in relation to the nature of the service that they provide.

**4.8.10.6** The University shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

**4.8.10.7** Where payment is to be made in multiple currencies, either the contractor or University should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

#### **4.8.11 Communications**

All procurement documents and communications shall be in English.

#### **4.8.12 Intellectual property rights**

The University shall as a general rule own the rights over the materials prepared by a contractor in relation to a contract. Approval of the **designated person** shall be obtained to allow the contractor to own such rights.

#### **4.8.13 Disputes arising during the performance of a contract**

**4.8.13.1** Disputes arising during the performance of a contract may be referred to an adjudicator appointed in terms of the contract data associated with a contract only after consultation with and the permission of the **designated person** has been obtained, taking into account any time bar provided for in the contract.

**4.8.13.2** Disputes raised by a contractor shall be referred to the University's **designated person** to obtain advice on how to respond within the time period provided for in the contract.

**4.8.13.3** Disputes may finally be resolved by arbitration or in a court of law as provided for in the contract, on advice from the University's **designated person**.

#### **4.8.14 Quality standards**

Those responsible for drafting or providing inputs to the scope of work of engineering and construction and service contracts shall:

- a) include where appropriate and necessary requirements for:
  - 1) a quality management system or a quality management plan; and
  - 2) a completion strategy which breaks the works down into subsystems, establishes the interdependencies between the various subsystems and maps out what needs to be done, inspected and tested to achieve satisfactory completion of each subsystem and the works as a whole.
- b) state the following, as necessary:
  - 1) the nature of the tests and inspections that are to be conducted;
  - 2) the timing of specified tests / inspections;
  - 3) where the tests are to be performed;
  - 4) who is responsible for performing the tests e.g. the contractor, an agent or an accredited organization;
  - 5) who is responsible for providing materials, facilities and samples for tests / inspections;

- 6) the objectives of the tests / inspections, the testing procedures to be applied and the standards to be satisfied; and
- c) express quality standards in such a manner that compliance is capable of being objectively assessed.

#### **4.8.15 Budgetary items**

**4.8.15.1** Budgetary items shall as far as possible be avoided. Assumptions should rather be stated in the pricing data 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 work or services to be performed by a subcontractor appointed in terms of the contract.

**4.8.15.2** No provision for contingencies or price adjustment for inflation shall be made in the pricing data. The contract price shall be changed in accordance with the provisions of the contract where:

- a) quantities are different to that scheduled;
- b) the scope of work is changed;
- b) events occur which are not the contractor's risk; and
- c) price inflation occurs.

### **4.9 Calls for expressions of interest and invitations to submit tender offers**

#### **4.9.1 General**

Calls for expressions of interest and the invitation to submit tender offers shall be conducted strictly in accordance with the provisions of the CIDB Standard Conditions for the Calling for Expressions of Interest and the Submission Data associated with a particular call or the CIDB Standard Conditions of Tender and the Tender Data associated with a particular tender, as relevant.

#### **4.9.2 Advertising**

**4.9.2.1** Advertisements, where required, shall be published in English in a suitable newspaper and on a website.

**4.9.2.2** All engineering and construction works contracts shall be advertised on the CIDB website and where deemed appropriate in suitable media.

**4.9.2.3** Copies of all advertisements placed on the CIDB website and suitable media shall be placed on file for record purposes.

#### **4.9.3 Issuing of procurement documents**

**4.9.3.1** Procurement documents shall be issued free of charge to tenderers and respondents, preferably via a website.

**4.9.3.2** A register shall be kept by either a **designated person** or the website from which procurement documents are downloaded which records the names and contact particulars (telephone, fax and email) of all those who obtained or were sent procurement documents, failing which compulsory clarification meetings shall be held.

#### **4.9.4 Clarification meetings and issuing of addenda**

**4.9.4.1** Compulsory clarification meetings shall as a general rule be held in respect of all engineering and construction works contracts.

**4.9.4.2** Attendance registers shall be taken at all clarification meetings. Such registers shall reflect the name of the respondent or tenderer, the name of the respondent's or tenderer's representative, and the contact particulars of such representative.

**4.9.4.3** Clarification meetings should, as relevant, be structured such that they provide:

- a) an opportunity to respondents and tenderers to become fully aware of and to understand what is required in the procurement processes and in the execution of the proposed contract;
- b) an opportunity for respondents and tenderers to raise any specific queries they might have concerning incomplete information or ambiguities in the information;
- c) an opportunity for respondents and tenderers to raise questions about potential qualifications or alternative tenders; and
- d) an opportunity for the University to issue any further information or addenda.

**4.9.4.4** All requests for information provided in writing shall be consolidated and all answers provided to all respondents and tenderers via fax or email to ensure consistent and fair dealing. Where the question or request for clarification is considered to be of material significance, both the query and the response shall be communicated, in a suitably anonymous form, to all respondents or tenderers. Where queries result in the issuing of an addendum that makes significant changes to the documentation e.g. the amending of clauses, the issuing of additional drawings and information not included in the documentation or amendments to the pricing data, an extension of the tender period should be considered.

**4.9.4.5** All respondents and tenderers shall be dealt with equitably and fairly. Additional information shall be provided in writing simultaneously to all respondents and tenderers.

#### **4.9.5 Receipt and safeguarding of submissions**

**4.9.5.1** A dedicated and clearly marked tender box shall be made available to receive all submissions made in terms of this document.

**4.9.5.2** A **designated person** shall ensure that the procurement documents state the closing date and time for submissions and the physical location of the tender box.

**4.9.5.3** A **designated person** shall ensure that all tenderers and respondents who obtained procurement documents are timeously advised of any change in the closing time and date in accordance with the requirements of the CIDB Standard for Uniformity in Construction Procurement.

**4.9.5.4** Any submission that is received by a means other than that required in terms of the procurement documents after the closing date and time for submissions shall be treated as a late submission and endorsed as such regardless of the date and time of posting, delivery to or by couriers, or transmission from the senders' fax or email.

**4.9.5.5** The tender box shall be fitted with 2 (two) locks and the keys kept separately by two **designated persons**. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

**4.9.5.6** Faxed or emailed tender offers or submissions, where permitted in terms of the submission data or tender data in terms of a quotation procedure or the inviting of submissions from framework contractors for a batch, task or package order, shall be received by a person who has not been involved in the development of the procurement documents or will be involved in the evaluation of submissions. The recipient of such submissions shall, in respect of each submission received or which was in the process of being transmitted before the closing time for submissions:

- a) place each submission in a separate envelope;
- b) seal the envelope;
- c) write on the envelope the name of the tenderer or respondent, the closing date and time for submission, the reference number, the title of the tender of call for expressions of interest, the name and contact particulars of the recipient, and the time of receipt; and
- d) place the envelope in the tender box as soon as possible.

**4.9.5.7** An electronic tendering system may be used provided that an equal or superior level of system integrity is achieved to that provided in terms of a physical tender box or the procedure permitted for quotations in 4.9.5.6.

#### **4.9.6 Opening of submissions**

**4.9.6.1** An **Opening Panel** shall comprise the persons identified in Annexure A appointed by a **designated person** who have declared their interest or confirmed that they have no interest in the tenders that are to be opened.

**4.9.6.2** The **Opening Panel** shall open the tender box at the stipulated closing time and:

- a) sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- b) return submissions unopened and suitably annotated that were:
  - 1) received late, unless otherwise permitted in terms of the submission data;
  - 2) submitted by a method other than the prescribed method,
  - 3) withdrawn in accordance with the procedures provided for in the CIDB Standard for Uniformity in Construction Procurement; and.
  - 4) where only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;
- d) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of Prices excluding VAT where this is possible;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) stamp each returnable document in each tender submission.

**4.9.6.3** Each member of the **Opening Panel** shall initial the front cover of submission and all pages that are stamped in accordance with the requirements of 4.9.6.2h).

**4.9.6.4** Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

**4.9.6.5** Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.



## **4.9.7 Evaluation of submissions**

**4.9.7.1** Submissions made following the calling for an expression of interest and the invitation to tender shall be evaluated in accordance with the CIDB Standard Conditions for the Calling for Expressions of Interest and the CIDB Standard Conditions of Tender, respectively.

**4.9.7.2** The CIDB register of contractors shall be applied in all construction works contracts.

**4.9.7.3** All submissions and any information provided with a submission shall be kept confidential at all times and shall not be copied unless such copies are required for evaluation purposes. Copies shall be kept to the minimum required to effectively evaluate the submissions.

## **4.9.8 Notice to unsuccessful tenderers and respondents**

**4.9.8.1** After the award of a contract to a contractor, a written communication shall be made to all of the participants to the competition, thanking them for their interest and notifying them of the outcome. (See Annexure C).

**4.9.8.2** Unsuccessful respondents to a call for an expression of interest shall be promptly notified that their submission is unsuccessful after the **designated person** identified in 4.7.1.9 has approved the evaluation report.

## **4.9.9 Debriefing of respondents and tenderers**

**4.9.9.1** Respondents, following the evaluation of submissions in terms of a call for expressions of interest, or tenderers, and tenderers following the award of a contract, may be debriefed should they request a debriefing in writing. All debrief requests shall be recorded on the contract file.

**4.9.9.2** A prompt response should be made to such requests including information on the timing, venue and if possible those who will be representing the University.

**4.9.9.3** In some circumstances debriefing may occur by telephone, videoconference, or in writing. In the other cases debriefing sessions will be held at the premises of the University. Where a participant is based at a distant location and requests a face-to face debriefing, consideration should be given to meeting in a mutually convenient neutral venue.

**4.9.9.4** Face-to-face meetings should strike a balance between informality and practicality as it is not a formal interview. At the beginning of the session the employees and agents of the University should make it clear that:

- a) no formal record will be kept of the meeting, but parties may take informal notes for their own records;
- b) the process will not be used to change the selection decision or to reopen the award procedure;
- c) the participants are only present to discuss the details of their submission and not the performance of others; and
- d) the submission was evaluated against evaluation criteria which included weighting and scoring agreed before the submissions were opened.

**4.9.9.5** The participants should, as relevant, be provided with:

- a) a tabulation which lists in respect of each of the quality criteria, the financial offer and the preference claimed, as relevant, the weighting, maximum score possible, the score obtained, the average score for all respondents or tenderers and the score of the successful tenderer (see Annexure C); and
- b) the reason for the tenderer or respondent being overlooked in the evaluation process.



**4.9.9.6** Where the discussion relates to the scoring of quality, the background to the evaluation criteria, the evaluation approach and in broad terms the methodology used should be explained. Brief comments on the evaluation of each of the criteria should be made. The main criteria can then be taken in turn with the marks attributable to each, explaining how their submission was scored, giving a balanced view of their strengths and weakness. The average score will assist the participant and give a better understanding on how they have performed in each of the criteria. The aim is to assist participants to understand their scores and the weightings and how they can improve in future competitions.

**4.9.9.7** In the cases of successful participants who have requested debriefing, it will also be to explain their strengths and weaknesses and how they may improve in future competitions.

#### **4.9.10 Written reasons for actions taken**

**4.9.10.1** Written reasons for actions taken shall be provided by a **designated person**.

**4.9.10.2** The written reasons for actions taken shall be as brief as possible and shall as far as is possible be framed around the clauses in the:

- a) the CIDB Standard Conditions for the Calling for Expressions of Interest giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or
- b) the CIDB Standard Conditions of Tender as to why a tenderer was not considered for the award of a contract or not awarded a contract.

**4.9.10.3** Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

#### **4.9.11 Request for access to information**

Requests for access to information shall be referred to the designated person..

### **4.10 Award of contracts**

#### **4.10.1 General**

**4.10.1.1** The **Delegated Authority** shall not enter into a contract where the tenderer:

- a) is not in possession of an original tax clearance certificate;
- b) does not have the required CIDB contractor grading designation where the CIDB Register of Contractor applies; and
- c) is under restrictions to do business with the University or the public sector.

**4.10.1.2** The **Delegated Authority** who may award the contract shall:

- a) ensure that all approval processes have been followed, and
- b) sign the Form of Offer and Acceptance.

**4.10.1.3** The authority to award contracts shall be based on the total of Prices at award or in the case of a framework agreement, the total of the Prices for the batch, task or package order.

**4.10.1.4** The award of all engineering and construction works contracts and package orders where the total of prices exceeds the amount stated in the Construction Industry Development Regulations shall be notified by the **designated person** on the CIDB website, based on the total of Prices contained in the Form of Offer and Acceptance or the package order as relevant.

NOTE: In the case of a framework contract, each package order above the threshold is notified on the website

**4.10.1.5** If a tenderer repudiates in any way the agreement entered into following the signing of the acceptance portion of the form of offer and acceptance, the **Delegated Authority** may either require the tender process to be restarted or enter into a contract with the next most competitive tenderer.

#### **4.10.2 Vendor registrations**

**4.10.2.1** A successful tenderer shall be required to become registered on the University's vendor registration system at the time that an award is made by completing the relevant forms and submitting the relevant documentation.

**4.10.2.2** The **designated person** shall ensure that these forms are fully completed as soon as possible and lodged with the University.

### **4.11 Administration of contracts**

#### **4.11.1 General**

**4.11.1.1** Routine communication between the University and a contractor shall be in accordance with requirements established in contract or the scope of work (works information, scope, service information or goods information) of a contract.

**4.11.1.2** The **contract manager** responsible for managing and administering the contract shall interact with the **designated persons** (see Activity 6 in Table 1) to obtain as necessary, approval to waive penalties, approval for compensation events which increase the total of Prices or the time for Completion and to terminate or cancel a contract and to communicate decisions to the relevant contractors within the contractual time limits.

**4.11.1.3 Designated persons** shall obtain in accordance with the requirements of the contract, all performance bonds, insurance certificates and the like, log and monitor the expiry date of each document and arrange for the originals to be suitably stored.

#### **4.11.2 Records and reporting**

**4.11.2.1** All original documents generated during the life of the contract shall be retained in hard copy format on the contract file.

**4.11.2.2** Filing, comprising electronic filing and hard copy filing, shall be in accordance with the University's document management procedures.

#### **4.11.3 Invoicing**

Invoicing shall be in accordance with the requirements of the contract.

### **4.12 Occupational health and safety**

**4.12.1** The University shall not appoint a contractor to provide engineering and construction works contracts or service contracts who cannot demonstrate an ability to manage the occupational health and safety risks in accordance with the provisions as relevant of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

**4.12.2** The scope of work shall specify the overarching framework within which contractors are required to demonstrate compliance with certain requirements for occupational health and safety in the Act identified in 4.12.1, manage the risk of health and safety incidents and interact with any University health and safety agent.

**4.12.3** The scope of work of contractors who provide design services shall specify their health and safety responsibilities and inputs into the scope of work of engineering and construction works and services contracts associated with their designs.

## **4.13 Interfacing with the Procurement Office**

### **4.13.1 Procurement plans**

**4.13.1.1** A **designated person** shall at least once a year prepare an indicative procurement plan which contains the following information in a tabular form for all identified tenders or task, batch or package orders issued in terms of a framework agreement for the next financial year where the proposed procurement is estimated to equal or exceed a threshold for quotations stated in Annexure A.

- 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) envisaged closing date for tenders; and
- e) envisaged date of award.

**4.13.1.2** The procurement plan shall be approved by a **designated person**, forwarded to the Head of Central Procurement and updated every quarter unless new information becomes available or significant changes are made before the end of the quarter.

### **4.13.2 Procurement documentation and advertisements**

**4.13.2.1** The **designated person** shall provide the Central Procurement Contracts Manager with a soft copy of a procurement document excluding any drawings which are issued separately, together with an outline of the procurement strategy that was adopted and key dates associated with the procurement process not less than 2 working days prior to the document being issued to tenderers. The Central Procurement Contracts Manager may provide the **designated person** with written recommendations on the content of the documents.

**4.13.2.2** The **designated person** shall, except in the case of a procurement which forms part of work done on an agency basis for a government department, municipality or another university, forward a soft copy of an advertisement for an expression of interest or a tender to the Central Procurement Contracts Manager not less than 2 working days before sending the final version of the advertisement to the Central Procurement Tender Administrator for processing and placement in the media. The Central Procurement Contracts Manager may provide written recommendations on the content of the advertisements.

**4.13.2.3** The **designated person** shall, except in the case of a procurement which forms part of work done on an agency basis for a government department, municipality or other university, send the final advertisement to the Central Procurement Tender Administrator by the Tuesday of the week in which it is to appear (Friday and / or Sunday). In the case of construction works contracts, the **designated person** shall place the advertisements on the CIDB website.

**NOTE:** Advertisements for expressions of interest or tenders linked to projects undertaken on behalf of a government department, municipality or other university are not forwarded to the Central Procurement Contracts Manager or to the Central Procurement Tender Administrator. They are dealt with by the Campus Planning and Development Department.

### **4.13.3 Receipt of tenders**

**4.13.3.1** Expressions of interest and tenders shall close at the Central Procurement offices except for submissions linked to projects undertaken on behalf of a government department, municipality or other university, in which case they shall close at the Campus Planning and Development offices.

#### **4.13.4 Evaluation of submissions and tenders**

**4.13.4.1** The **designated person** shall inform the Central Procurement Contracts Manager by email of the evaluation of an expression of interest or a tender process by an Evaluation Panel at least 3 working days before such a panel commences with the evaluation of submissions. Such notification shall be accompanied by an overview of the proposed contract, information on the internal University client, confirmation of budget availability and a statement as to which NEC3 contract applies. Procurement may nominate a staff member to participate in the process.

#### **4.13.5 Approval of tender evaluation reports**

**4.13.5.1** The **designated person** shall forward a copy of the tender evaluation report 8 working days prior to the Tender Committee meeting to the Head of Central Procurement. The **designated person** may inform the Head of Central Procurement of urgent circumstances in which case the period may be shortened to not less than 3 working days.

**4.13.5.2** The **designated person** shall notify the Head of Central Procurement if a specialist will be in attendance.

**4.13.5.3** The **designated person**, together with a specialist if required, shall present the evaluation report to the Tender Committee who shall either approve the recommendation for the award of a contract with or without conditions or refer the report back to the evaluation panel committee for reconsideration.

**4.13.5.4** The **designated person** shall, in the case of a conditional approval, provide the Head of Central Procurement with evidence of satisfying such conditions. The Head of Central Procurement shall obtain approval from the Tender Committee within 2 working days of receipt of the **designated person's** submission.

#### **4.13.6 Post award procedures**

**4.13.6.1** A **designated person** shall:

- a) prepare drafts of letters to successful and unsuccessful tenderers on the standard template provided by the Central Procurement Contracts Manager;
- b) notify the successful and unsuccessful tenderers of the outcome of the process; and
- c) furnish the Central Procurement Contracts Manager and the Head of Central Procurement with a copy of such notification.

**4.13.6.2** The **designated person** shall, in the case of a constructions works contract, notify the Construction Industry Development Board of the award.

**4.13.6.3** The Central Procurement Tender Administrator shall maintain a record of the essential contract data..

**4.13.6.4** Campus Planning and Development and Central Procurement shall retain a copy of the contract. The original signed copy shall be sent to the University's Legal Office for filing.

**4.13.6.5** Campus Planning and Development shall retain a hard copy of the successful tenderer's tender submission for one year after which it is moved to a storage archive for 3 years. A hard copy of the successful tender shall be sent to Central Procurement for filing. A hard copy of all the remaining submissions shall be sent to Central Procurement for archiving.

## Annexure A: Designated persons, delegated authorities, the composition of teams, panels and committees and thresholds associated with procurement procedures

### A1 Designated persons

**Table A1: Identification of designated persons to undertake specific actions**

| Clause  | Action required of designated person  | Designated person   |
|---|---|---|
| <b>4.1 General requirements</b>   |   |   |
| 4.1.2   | Approve departures to the procedures  | Appropriate Deputy Vice-Chancellor:   |
| 4.1.3   | Develop a construction procurement strategy   | Agent or employee appointed by the Director Campus Planning and Development Division                        |
| 4.1.3   | Approval of a construction procurement strategy   | Director Campus Planning and Development Division   |
| <b>4.2 Conduct of those engaged in construction procurement processes or procedures</b>                 |   |   |
| 4.2.2.1   | Receive disclosure of interest in any contract that is to be awarded  | Director Campus Planning and Development Division   |
| 4.2.2.4c)   | Grant permission for a person who prepares a procurement document or part thereof to submit a tender for work associated with such documents  |   |
| 4.2.5.5   | Receive declaration of gifts in kind and approve such gifts.  |   |
| 4.2.5.7   | Receive reports of any incidences of a person who directly or indirectly offers a gratification to improperly influence in any way a procurement process, procedure or decision         |   |
| 4.2.6.1   | Receive reports on any alleged irregular conduct including any alleged fraud or corruption.   |   |
| 4.2.6.2   | Investigate failure to comply with the requirements of this document against an employee or agent of the implementer, contractor or other role player                                   |   |
| 4.2.6.2   | Receive referral of potential breach  | Head of Legal Services and Head of Central Procurement  |
| 4.2.6.3   | Receive, review and accept or reject the findings of the Evaluation Panel to disqualify respondents and tenderers who are considered to have engaged in fraudulent or corrupt practices | Tender Committee  |
| 4.2.7   | Prepare report for placing a contractor under restrictions  | Agent or employee appointed by a Programme Manager of the Director Campus Planning and Development Division |
| 4.2.7   | Suspend a contractor from contracting for a period of time  | Tender Committee  |
| <b>4.3 Procurement activities, key actions, responsibilities and gates</b>                              |   |   |
| 4.3.3a)   | Preparation of documents which have a value below the threshold for quotations  | Agent or employee appointed by a Programme Manager of the Director Campus Planning and Development Division |
| 4.3.3c)   | Invitation of quotations  |   |
| 4.3.3d)   | Evaluation of quotations and the preparation of recommendations for award   |   |
| Table 1   | See Table A2  | See Table A2  |
| Table 2   | See Table A3  | See Table A3  |
| <b>4.4 Roles and responsibilities in relation to the procurement processes, activities and controls</b> |   |   |
| 4.4.1.1   | Appoint a Documentation Review Team   | Programme Manager or Director Campus Planning and Development Division                                      |

| <b>Clause</b>                                       | <b>Action required of designated person</b>  | <b>Designated person</b>  |
|---|--|---|
| 4.4.1.2d)<br>4.4.1.3b)                              | Approve 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 not provided for in the University approved templates | Legal Services Department   |
| 4.4.1.6   | Approve procurement documentation.   | Programme Manager or Director Campus Planning and Development Division or their delegate  |
| 4.4.2.1   | Appoint an Evaluation Panel  | Programme manager or Director Campus Planning and Development Division  |
| 4.4.2.2   | Communicate with tenderers and respondents during the procurement process.   | Person nominated by the Programme Manager or Director Campus Planning and Development Division as the Employer's agent  |
| 4.4.2.8   | Receive report from Evaluation Panel and forward report to either designated person who authorises progression to the next stage of the procedure or to the Tender Committee   | Director Campus Planning and Development Division   |
| 4.4.3.2   | Receive from the Tender Committee a copy of the Tender Committee's decisions   | Project procurement administrator   |
| 4.4.4.1   | Appoint a Disposal Panel   | Director Campus Planning and Development Division   |
| 4.4.4.3   | Accept the report of a Disposal Panel  | Director Campus Planning and Development Division   |
| 4.4.5.3.2   | Submit a motivation for not conducting a competition amongst framework contractors   | Project manager   |
| <b>4.4.5.3.4</b>                                    | Receive a report from the Delegated Authority on orders awarded where multiple framework contracts are entered into covering the same scope of work  | Head of Central Procurement   |
| <b>4.5 Complaints and challenges</b>                |  |   |
| 4.5.1   | Receive complaints regarding the construction procurement system   | Head of Central Procurement   |
| 4.5.2   | Investigate all complaints regarding the procurement system  | Head of Central Procurement   |
| 4.5.2   | Receive report on actions taken by designated person on complaints received.   | Appropriate Deputy Vice Chancellor  |
| <b>4.6 Secondary procurement policy</b>             |  |   |
| 4.6.1.3   | Require that minimum local content requirements are included in procurement documents  | Procurement Executive Committee   |
| <b>4.7 Usage of standard procurement procedures</b> |  |   |
| 4.7.1.4   | Motivate the reasons for pursuing the negotiation procedure or for approaching a confined market   | Programme manager<br>or<br>Assigned project manager   |
| 4.7.1.4   | Approve the use of the negotiation procedure or the approaching of a confined market   | Director Campus Planning and Development Division where the value is less than or equal to the limit for quotations<br>Committee for Accelerated Procurement where the value is greater than the limit for quotations |
| 4.7.1.5   | Pursue a negotiated procedure in an emergency without prior approval   | Programme manager or project manager  |
| 4.7.1.8   | Motivate the reasons for pursuing the proposal procedure using the two-envelope system or the proposal procedure using the two-stage system for prior approval.  | Programme manager or project manager  |
|   | Approve the use of the two-envelop system or the proposal procedure  | Director Campus Planning and Development Division   |
| 4.7.1.9   | Authorise the inviting of tenders following the evaluation of expressions of interest  | Director Campus Planning and Development Division   |

| Clause   | Action required of designated person   | Designated person                                 |
|--|--|---|
| 4.7.1.9  | Authorise the admission of respondents to a data base.   |   |
| 4.7.1.9  | Authorise the opening of the financial proposal in a proposal procedure using a two envelope system  |   |
| 4.7.1.9  | Authorise the concluding a proposal procedure using a two stage system   |   |
| 4.7.1.9  | Authorise the progressing to the next round of a competitive negotiation procedure   |   |
| 4.7.1.10   | Appoint a team to negotiate a contract   |   |
| 4.7.1.11   | Appoint persons to engage in a round of competitive negotiations   |   |
| 4.7.2.9  | Approve conditionally or unconditionally a request from the accounting officer or accounting authority of a government department, municipality or university to make use of a framework contract entered into with the University   | Appropriate Deputy Vice-Chancellor:               |
| 4.7.2.10   | Receive notification of the issuing by a government department, municipality or university of the award and completion of batch, task or package orders together with the total of Prices at the start and end of such orders.   | Project procurement administrator                 |
| 4.7.2.11   | Provide any government department, municipality or university that is granted permission to make use of the University's framework contract with a copy of the contract and any templates for the issuing of quotations or batch, task or package order and any other relevant information pertaining to the use of the framework contract | Project procurement administrator                 |
| 4.7.3.2.1  | Approve that a pre-approved list of contractors may be established   | Director Campus Planning and Development Division |
| 4.7.3.3.3  | Approve the removal of a contractor from a pre-approved list or data base  | Tender Committee                                  |
| 4.7.6.1  | Receive unsolicited proposals  | Director Campus Planning and Development Division |
| 4.7.6.1<br>4.7.6.2   | Receive comments regarding the merits of the unsolicited proposal and make a recommendation on such proposal   | Tender Committee                                  |
| 4.7.6.2  | Receive a recommendation on and make a final decision on unsolicited proposals   | Procurement Executive Committee                   |
| <b>4.8 Procurement documents</b>   |  |   |
| 4.8.1.5  | Approve the amendment to a contract  | Appropriate Deputy Vice-Chancellor                |
| 4.8.2.3  | Approve the inclusion of additional clauses or variations to the standard clauses in the contract data other than the standard clauses provided in the approved standardised documents.  | Legal Services Department                         |
| 4.8.6.3  | Grant permission for the provision of advanced payments to contractors.  | Director Campus Planning and Development Division |
| 4.8.10.2<br>4.8.10.3<br>4.8.10.5   | Determine minimum levels of insurance if the default values are insufficient or warrants a reduction   | Director Campus Planning and Development Division |
| 4.8.12   | Waive the University's intellectual property rights  | Head of Legal Services                            |
| 4.8.13.1   | Grant permission for the referral of a dispute to an adjudicator   |   |
| 4.8.13.2   | Provide advice on how to respond to a dispute raised by a contractor   |   |
| 4.8.13.3   | Provide advice on resolving a matter by arbitration  |   |
| <b>4.9 Calls for expressions of interest and invitations to submit tender offers</b> |  |   |
| 4.9.3.2  | Maintain a register of procurement documents not issued via a website  | Project procurement administrator                 |
| 4.9.5.2  | Ensure that the procurement documents state the closing date and time for submissions and the physical location of the tender box.   |   |

| <b>Clause</b>  | <b>Action required of designated person</b>   | <b>Designated person</b>   |
|--|---|--|
| 4.9.5.3  | Ensure that all tenderers and respondents who obtained procurement documents are timeously advised of any change in the closing time and date   | Person nominated by the Programme Manager or Director Campus Planning and Development Division as the Employer's agent |
| 4.9.5.5  | Keep key for tender box and open box on stipulated closing date.  | Persons appointed by Head of Central Procurement or Director Campus Planning and Development Division, as relevant     |
| 4.9.6.1  | Appoint an Opening Panel  |  |
| 4.9.10.1   | Provide written reasons for actions taken   | Director Campus Planning and Development Division  |
| 4.10.1.4   | Notify the CIDB of the award of a contract or package order   | Project procurement administrator  |
| 4.9.11   | Receive requests for access to information.   | Legal Services Department  |
| <b>4.10 Award of contracts</b>                             |   |  |
| 4.10.2.2   | Ensure that vendor registration forms are completed and lodged with relevant person   | Assigned contract manager  |
| <b>4.11 Administration of contracts</b>                    |   |  |
| 4.11.1.3   | Obtain in accordance with the requirements of the contract, all performance bonds, insurance certificates and the like, log and monitor the expiry date of each document and arrange for the originals to be stored in a fire proof safe. | Assigned contract manager  |
| <b>4.13 Interfacing with the Procurement Office</b>        |   |  |
| <b>4.13.2 Procurement plans</b>                            |   |  |
| 4.13.1.1   | Prepare procurement plan  | Programme manager or delegate of the Director Campus Planning and Development Division                                 |
| 4.13.1.2   | Approve procurement plan and submit to Central Procurement Contract Manager   | Director Campus Planning and Development Division  |
| <b>4.13.3 Procurement documentation and advertisements</b> |   |  |
| 4.13.3.1   | Provide copy of procurement documents to Central Procurement Contract Manager and received written recommendation on the content  | Assigned project manager   |
| 4.13.3.2   | Submit draft advert to Central Procurement Tender Administrator   | Assigned project manager   |
| 4.13.3.3   | Submit final advert to Central Procurement Tender Administrator   | Assigned project manager   |
| 4.13.3.3   | Place advertisements on the CIDB website  | Project procurement administrator  |
| <b>4.13.4 Evaluation of submissions and tenders</b>        |   |  |
| 4.13.4.1   | Inform the Central Procurement Contracts Manager of the evaluation of submissions by the Evaluation Panel   | Assigned project manager   |
| <b>4.13.5 Approval of tender evaluation reports</b>        |   |  |
| 4.13.5.1   | Forward copy of tender evaluation report to Head of Central Procurement   | Director Campus Planning and Development Division  |
| 4.13.5.2   | Notify the head of Central Procurement if a specialist will be in attendance  | Director Campus Planning and Development Division  |
| 4.13.5.3   | Present the evaluation report to the Tender Committee   | Director Campus Planning and Development Division and, if necessary, a specialist                                      |
| 4.13.5.4   | Provide evidence of satisfying conditions associated with approval of recommendations   | Assigned project manager   |
| <b>4.13.6 Post award procedures</b>                        |   |  |
| 4.13.6.1   | Prepare letters to successful and unsuccessful tenderers  | Assigned project manager   |
| 4.13.6.1   | Forward letters to successful and unsuccessful tenderers  | Project procurement administrator  |
| 4.13.6.2   | Where required, notify the CIDB of the award of a contract  | Project procurement administrator  |

Note: The Project procurement administrator is appointed by the Director Campus Planning and Development Division



**Table A2: Identification of designated persons in procurement activities associated with the formation and conclusion of contracts**

NOTE – see Table 1 for key actions

| #   | Sub-Activity   |   | Designated person  |
|---|--|---|--|
| <b>Activity 1: Establish what is to be procured (Applies only to goods and services not addressed in a construction procurement strategy)</b> |  |   |  |
| 1.1   | Prepare broad scope of work for procurement  |   | Assigned project manager   |
| 1.2   | Estimate financial value of proposed procurement                                   |   | Assigned project manager   |
| 1.3 PG1   | Obtain permission to start with the procurement process                            |   | Programme manager<br>or<br>Director Campus Planning and Development Division   |
| <b>Activity 2A: Decide on procurement strategy (Applies only to goods or services not included in a construction procurement strategy)</b>    |  |   |  |
| 2.1   | Establish opportunities for promoting secondary procurement policies, if any       |   | Assigned project manager   |
| 2.2   | Establish contracting and pricing strategy   |   | Assigned project manager   |
| 2.3   | Establish targeting strategy   |   | Assigned project manager   |
| 2.4   | Establish procurement procedure  |   | Assigned project manager   |
| 2.5 PG2   | Approve procurement strategies that are to be adopted                              |   | Director Campus Planning and Development Division  |
| <b>Activity 3: Solicit tender offers</b>  |  |   |  |
| 3.1   | Prepare procurement documents  |   | Assigned project manager   |
| 3.2 PG3   | Approve procurement documents  |   | Programme manager or Director Campus Planning and Development  |
| 3.3 PG4   | Confirm that budgets are in place  |   | Projects Finance Manager   |
| 3.4   | Invite tenderers or respondents to submit tender offers or expressions of interest | Advertise tenders or calls for expressions of interest in media/ invite contractors to make submissions and issue procurement documents | Central procurement administrator or, in the case of projects linked to an agency agreement, the project procurement administrator |
|   |  | Advertise tenders or calls for expressions of interest on CIDB website  | Project procurement administrator  |
|   |  | Communicate with tenderers or respondents up until closing time for submissions   | Project procurement administrator  |
| 3.5   | Receive tender offers or expressions of interest                                   |   | Central Procurement Administrator or, in the case of projects linked to an agency agreement, the Project procurement administrator |
| 3.6   | Open and record expressions of interest received                                   |   | Opening Panel  |
| 3.7   | Evaluate expressions of interest   |   | Evaluation Panel   |
| 3.8   | Prepare evaluation report on short-listing process                                 |   |  |
| 3.9 PG5   | Authorisation to proceed with the next phase of tender process                     |   | Director Campus Planning and Development Division  |
| 3.10  | Invite tender offers from short-listed tenderers                                   | Invite tender offers from shortlisted tenderers   | Project procurement administrator  |
|   |  | Communicate with tenderers up until closing time for submissions  |  |
| <b>Activity 4: Evaluate tender offers</b>   |  |   |  |
| 4.1   | Open and record tender offers received   |   | Opening Panel  |
| 4.2   | Determine whether or not tender offers are complete                                |   | Evaluation Panel   |
| 4.3   | Determine whether or not tender offers are responsive                              |   | Evaluation Panel   |

| #  | Sub-Activity  | Designated person  |   |
|--|---|--|---|
| 4.4  | Evaluate tender submissions   | Evaluation Panel   |   |
| 4.5 PG5  | Authorisation to progress to next phase (proposal and competitive negotiation procedure)  | Director Campus Planning and Development Division  |   |
| 4.6  | Perform a risk analysis   | Evaluation Panel   |   |
| 4.7  | Prepare a tender evaluation report  | Evaluation Panel   |   |
| 4.8 PG 6   | Confirm recommendation contained in the tender evaluation report where the transaction for a particular procedure is greater than the thresholds contained in Table A6. | Tender Committee   |   |
| <b>Activity 5: Award contract</b>  |   |  |   |
| 5.1  | Notify successful tenderer and unsuccessful tenderers of outcome  | Project procurement administrator  |   |
| 5.2  | Compile contract document   | Project procurement administrator in consultation with assigned project manager  |   |
| 5.3 PG7  | Formally accept tender offer  | Delegated Authority  |   |
| 5.4  | Capture contract award data   | Projects Finance Manager   |   |
| 5.5  | Register vendor on system   | Projects Finance Manager   |   |
| <b>Activity 6: Administer contracts and confirm compliance with requirements</b> |   |  |   |
| 6.1  | Administer contract in accordance with the terms and provisions of the contract   | Assigned contract manager  |   |
| 6.2  | Ensure compliance with requirements   | Assigned contract manager  |   |
| 6.3  | Capture contract completion/ termination data   | Projects Finance Manager   |   |
| 6.4 PG8A   | Obtain approval to waive penalties or low performance damages.  | Prepare motivation for waiving of penalties and low performance damages.   | Programme Manager or Director Development and Planning Division |
|  |   | Approve waiver of penalties or low performance damages.  | Appropriate Deputy Vice-Chancellor:                             |
| 6.5 PG8B   | Obtain approval to notify and refer a dispute to an adjudicator   | Outline the essence of the dispute and the reasons for wishing to refer the dispute to an adjudicator.   | Programme Manager or Director Development and Planning Division |
|  |   | Approve referral for a dispute to an adjudicator.  | Head of Legal Services  |
| 6.6 PG8C   | Obtain approval for compensation events which increase the total of Prices or the time for Completion by more than 2%   | Prepare compensation events for approval   | Assigned Contract Manager                                       |
|  |   | Grant permission to approve a compensation event, if the total of Prices does not exceed the total of Prices at award by more than 10% or the time for completion by more than 20% | Programme Manager or Director Development and Planning Division |
| 6.7 PG8D   | Obtain approval to exceed the total of Prices or the time for completion at award by more than 10 or 20%, respectively  | Prepare motivation for exceeding the total of Prices or the time for completion at award by more than 10% or 20% respectively, setting out the precise reasons for such increases  | Assigned Contract Manager                                       |
|  |   | Approve amount.  | Delegated Authority   |
| 6.8 PG8E   | Obtain approval to cancel or terminate a contract   | Prepare motivation to terminate or cancel a contract and obtain advice   | Programme Manager or Director Development and Planning Division |
|  |   | Approve termination or cancellation of contract  | Head of legal services  |

| #          | Sub-Activity                        |  | Designated person   |
|------------|-------------------------------------|--|---|
| 6.9<br>PGF | Obtain approval to amend a contract | Formulate proposed amendment to the contract and formulate a motivation to do so | Programme Manager or Director Development and Planning Division |
|            |                                     | Approve proposed amendment to the contract                                       | Appropriate Deputy Vice-Chancellor:                             |
| 6.10       | Finalise contract                   |  | Assigned contract manager                                       |

Note: The Project procurement administrator is appointed by the Director Campus Planning and Development Division

**Table A3: Identification of designated persons in procurement activities associated with the issuing of batch, task or package orders in terms of a framework contract**

NOTE – see Table 2 for key actions

| #   | Activity  |   | Designated person   |
|-----|---|---|---|
| 1   | Prepare procurement documents   |   | Assigned project manager                                      |
| 2PG | Obtain approval for procurement documents   |   | Programme manager or Director Campus Planning and Development |
| 3PG | Confirm that budgets are in place   |   | Projects Finance Manager                                      |
| 4   | Issue draft batch, task or package order documentation  | Issue draft batch, task or package order to and consult with contractor where competition is not reopened | Assigned contract manager                                     |
|     |   | Invite quotations from all framework contractors  | Project procurement administrator                             |
|     |   | Receive and open submissions  | Project procurement administrator                             |
| 5   | Evaluate quotations where competition occurs  |   | Evaluation Panel  |
| 6PG | Confirm recommendations and authorise the issuing of the batch, task or package order                         |   | Delegated Authority   |
| 7   | Log batch, task or package order onto management system   |   | Assigned contract manager                                     |
| 8   | Issue batch, task or package order to contractor  |   | Assigned contract manager                                     |
| 9   | Notify issuing of certain batch, task or package order  |   | Delegated Authority   |
| 10  | Administer batch, task or package orders in accordance with contract and confirm compliance with requirements |   | Assigned contract manager                                     |

Note: The Project procurement administrator is appointed by the Director Campus Planning and Development Division

**A2 Delegated authority to award a contract or issue a batch, task or package order**

The Delegated Authority who is empowered to award a contract or issue a batch, task or package order is in accordance with the provisions of the University's Delegation of Authority Document

**A3 Composition of control and governance committees**

The composition of the control and / or governance committees shall be as stated in Table A4.

**Table A4: Composition of control and governance committees**

| Committee                 | Composition   |
|---------------------------|---|
| Documentation Review Team | The composition shall be two or more suitably qualified persons in respect of each procurement or batch, task or package order  |
| Evaluation Panel          | The composition shall comprise two or more suitably qualified persons, provided that the evaluation of quality is undertaken by at least three persons who are fully conversant with the technical aspects of the procurement |
| Tender Committee          | In accordance with the provisions of the Delegation of Authority Document   |
| Opening panel             | Two persons who have no interest in the tenders that are opened   |

## A4 Thresholds relating to various procurement procedures

The thresholds relating to various procurement procedures are as stated in Table A5.

**Table A5: Thresholds relating to various procedures**

| Procedure (see Table 6 and ISO 10845-1) | Conditions which need to be satisfied in order to utilise the procedure            | Threshold (Rand including VAT) |
|---|--|--------------------------------|
| Negotiated                              | The services, goods or works have a value not exceeding a threshold                | R50 000                        |
|   | A professional service contract has a value not exceeding a threshold              | R 250 000                      |
| Nominated procedure                     | Any procurement not exceeding a threshold  | R 1 000 000                    |
| Quotation procedure                     | Any procurement where the estimated value does not exceed a threshold              | R 1 000 000                    |
| Shopping procedure                      | Supplies contract which involves readily available goods not exceeding a threshold | R10 000                        |

## A5 Insurance values

The insurance values stated in Table A6 apply.

**Table A6: Minimum insurance cover**

| Type of insurance   | Value   |
|---|---|
| Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract | Not less than R20 million   |
| Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property   | Not less than R10 million   |
| Professional indemnity insurance  | geotechnical, civil and structural engineering: R5,0 million<br>electrical, mechanical and engineering: R3,0 million<br>architectural: R5,0 million<br>other R3,0 million |

## A6 Intrinsic value of gifts

The intrinsic value of gifts shall be not more than R250.

## Annexure B Control framework

A control is a restraint or check point within a process where:

- decisions are taken before authorising the proceeding with an activity within a process or commencing with the next process;
- confirmation of conformity with requirements is required before completing a task or activity; or
- information is provided which creates an opportunity for corrective action to be taken.

Controls provide a means for directing an organisation towards what is aimed or sought and confirming conformity with requirements. They provide an opportunity to take corrective action or to confirm compliance with documented requirements.

A control which authorises the proceeding with an activity within a process or commencing with the next process is referred to as a gate.

There are a number of different types of controls in addition to the gates (see Figure B1). Stipulated monetary values set the limits for the application of the shopping, nominated and quotation procurement procedure and, in certain instances, the use of the negotiation procedure. No authorisation is required to proceed with these procedures if the financial value of the procurement is within these limits.

Approvals for the reasons for pursuing a particular procurement procedure are also necessary i.e. where the confined procedure, negotiated procedure and proposal procedure using a two envelop or a two stage system are being selected as procurement routes. The approval confirms that the use of such procedures is in line with the provisions of the documented procurement system.

Approvals are also necessary for undertaking certain courses of action, namely to:

- make any departure from the documented construction procurement policy, processes, procedures, methods and delegations;
- accept a gift in kind,
- permit another organ of state to make use of a framework agreement,
- permit a person who has prepared a procurement document or part thereof to submit a tender for work associated with such documents;
- put in place a list of pre-approved contractors,
- remove a name from a list of pre-approved contractors,
- include additional clauses or variations to the standard clauses in the contract data,
- waive rights over the materials prepared by a contractor,
- accept and action an unsolicited proposal
- provide advance payments

These approvals put restraints in place. Those engaged in procurement activities need to refer the matter to a designated person to make a determination before proceeding.

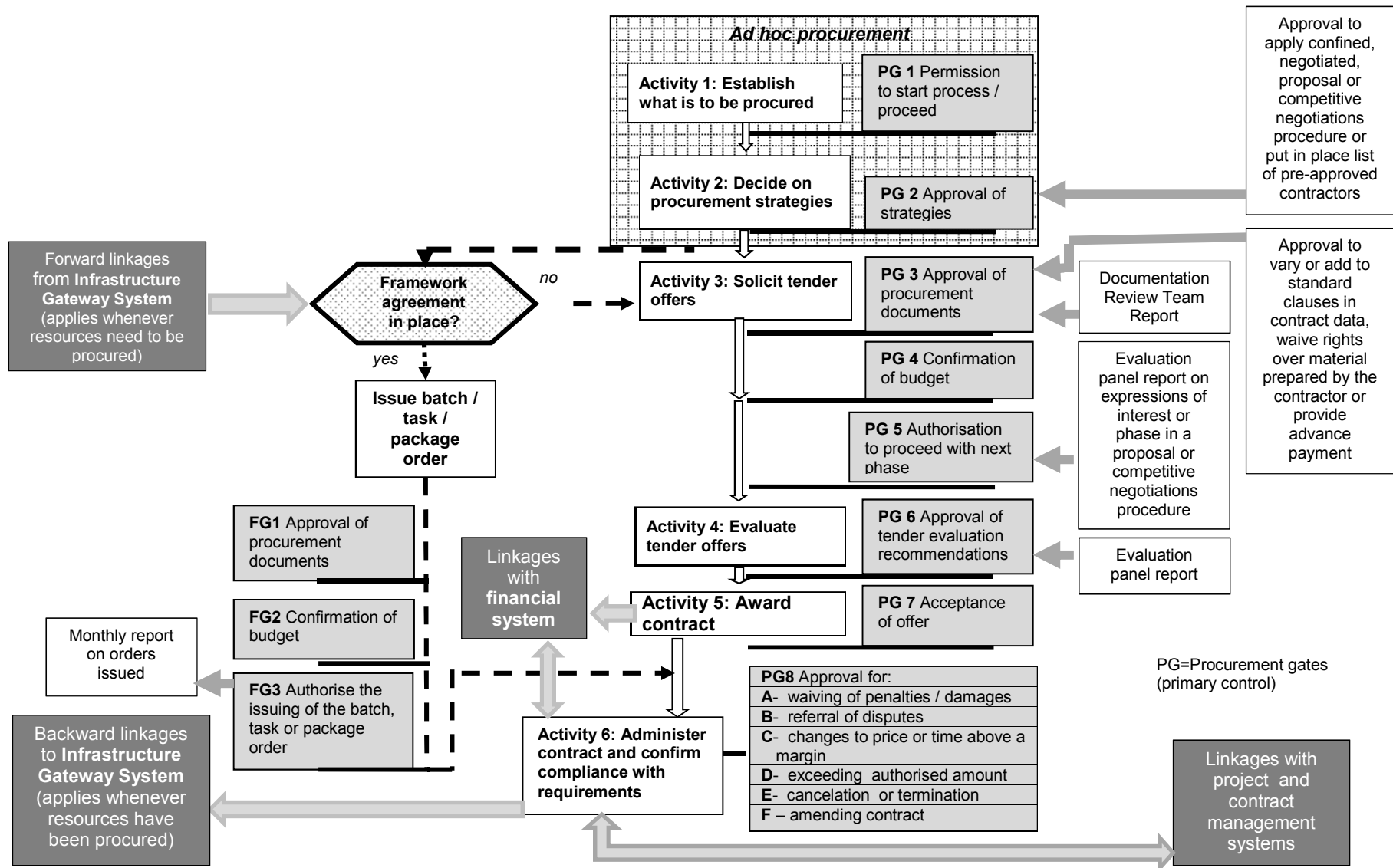
Reports also need to be provided to oversight structure to enable the necessary corrective action to be taken. Such reports include:

- disclosure of interest;

- the review of procurement documents;
- the evaluation of expressions of interest and tenders;
- the recommendation of a disposal committee;
- the negotiations that were conducted;
- the reasons for placing a contractor under restrictions;
- the merits of unsolicited proposals;
- the reasons for electing to award a batch, task or package order to a particular contractor where multiple framework agreements are in place covering the same scope of work;
- batch, task and package orders are issued above the quotation threshold;
- batch, task or package orders issued where multiple framework agreements are in place covering the same scope of work;
- incidences of the offering of gratifications or the improperly influencing a procurement process, procedure or decision;
- alleged irregular conduct including any alleged fraud or corruption; and
- all actions taken regarding complaints received regarding the procurement system

Another control is to delegate a person to apply the negotiation procedure and enter into a contract in the case of certain types of emergencies.

Indirect controls flow out of constitutional rights or procurement legislation, namely access to information, written reasons for actions taken, notification of unsuccessful tenderers and respondents and the publication of the results of the tender process.



**Figure B1: Primary and secondary controls associated with procurement processes**

## **Annexure C Communications with unsuccessful respondents or tenderers**

### **C.1 Letters to unsuccessful respondents or tenderers**

A written communication should convey the following to unsuccessful respondents following a call for an expression of interest:

**Tender number:**

**Title:**

*Your submission in response to the abovementioned call for an expression of interest refers.*

*The University wishes to advise you that we have received and evaluated your submission. This letter regrettably serves to advise you that you have not been successful on this occasion and you will not be admitted to the data base / invited to submit tender offers\*.*

*Your participation and interest in our business is highly appreciated.*

\* Delete that which does not apply.

A written communication should convey the following to unsuccessful tenderers following the evaluation of a round of competitive negotiations in a tender process:

**Project number:**

**Title:**

*Your tender submitted to perform the above contract refers.*

*The University wishes to advise you that we have received and evaluated your first\* round tender submission. This letter regrettably serves to advise you that on this occasion you have not been selected to proceed to the next round.*

*Your participation in the tender process and our business is highly appreciated.*

\* Amend as necessary.

A written communication should convey the following to unsuccessful tenderers following the award of a contract:

**Project number:**

**Title:**

*Your tender submitted to perform the above contract refers.*

*The University wishes to advise you that we have received and evaluated your tender offer. This letter regrettably serves to advise you that on this occasion you have not been successful on this occasion. The contract has been awarded to .....*

*Your participation in the tender process and our business is highly appreciated.*

### **C.2 Debriefing score sheet**

A summary scoring sheet modelled along the following lines should be issued to the participants of a debriefing meeting:



**Debriefing sheet**

**Name of tenderer:**

**Title:  
Project Number:**

| <b>Criteria</b>        | <b>Weighting</b> | <b>Maximum score available</b> | <b>Tenderer's / respondent's score</b> | <b>Average score</b> | <b>Successful tenderer's / lowest successful respondent's score</b> |
|------------------------|------------------|--------------------------------|--|----------------------|---|
| <b>Financial offer</b> |                  |                                |  |                      |   |
| <b>Preference</b>      |                  |                                |  |                      |   |
| <b>Quality*</b>        |                  |                                |  |                      |   |
| Criteria 1             |                  |                                |  |                      |   |
| Criteria 2             |                  |                                |  |                      |   |
| Criteria 3             |                  |                                |  |                      |   |
| Criteria 4             |                  |                                |  |                      |   |
| Total for quality      |                  |                                |  |                      |   |
| <b>Total score</b>     |                  |                                |  |                      |   |
| <b>Ranking</b>         |                  |                                | -                                      | -                    | 1   |
| <b>Comments**:</b>     |                  |                                |  |                      |   |

\* List only main criteria and aggregate subcriteria

\*\* Provide brief comments to enable the participants to understand why they obtained the score that they did

Alternatively, a debriefing sheet which provides the abovementioned information without brief comments relating to the score may be included in correspondence with a participant.