



## **TENDERING CODE**

### **1. Intention and Enforcement of Code**

- 1.1 The intention of this code is to maintain a standard of ethics and good practice and equitable tender procedures within the realities of the current tender and contractual environment in the building industry.
- 1.2 This code shall be enforced by the association and shall be observed by all members when operating in the building industry.
- 1.3 Members shall not depart in any way whatsoever from the code without the written permission of the Director of the association.

### **2. Interpretation and Definitions**

For the purposes of this code:

Tender shall mean any quotation or offer made in writing to perform work in the building industry and for which a closing date and time are stipulated.

Competitive shall mean any tendering situation where more than one *tender* is submitted.

Note:

A subcontract tender is included in the above definition of a tender and where no closing date or time is stipulated then the closing date and time applicable to the principal contract tender shall apply.

### **3. Bills of Quantities**

A member shall only tender in competition for work in the building industry where bills of quantities have been prepared in accordance with the Standard System of Measuring Builders' Work except where:

- 3.1 The tender amount is expected to be less than R1 000 000; or
- 3.2 The tender amount is less than R150 000 in respect of work which is normally classified as Subcontract Work; or
- 3.3 The tender is in respect of a dwelling house, irrespective of the value thereof, providing the total covered area of the dwelling house, including outbuildings, does not exceed 500 square metres; or
- 3.4 The tender is for a group housing scheme; or
- 3.5 The tender has been called for based on an alternate method of tendering with schedules of rates and provisional quantities.

### **4. Alternative Tenders**

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

## **5. Tender Opening**

The association and its members shall use their best endeavour to ensure that:

- 5.1 Tenderers at all times be entitled to be present at tender openings;
- 5.2 Tender prices and names of tenderers be announced at the tender opening;
- 5.3 Alternative tender prices in terms of Clause 4 hereof as well as any other tender qualifications be announced at the tender opening.

## **6. Tender Practices**

- 6.1 On receipt of tender documents not complying with the provisions of this code or containing onerous conditions and departures from standard conditions of contract, a member shall report the matter to the association;
- 6.2 A member who has submitted a competitive tender for a project shall not re-tender within three months calculated from the closing date of the initial invitation to tender;
- 6.3 A member who has not tendered for a service, for which competitive tenders have been received, shall not accept the contract before the lapse of three months calculated from the closing date of the initial call for tenders;
- 6.4 A member shall not initiate communication with the employer, his agent or the principal contractor as the case may be regarding any matter whatsoever relating to a tender or to a service in respect of which competitive tenders were submitted, except to provide additional information at the request of the employer, his agent, or principal contractor, for the purpose of awarding such tender;
- 6.5 If an employer, his agent or the principal contractor, after having received competitive tenders for a service then calls for further tenders no subcontractor member shall tender to or otherwise give a price to such further tenderers for the execution of any work on such service before a lapse of three months calculated from the closing date of such competitive tenders;
- 6.6 Subject to the provisions of clause 4 where bills of quantities or schedules of rates have been used no member shall submit priced bills of quantities or schedules of rates with a competitive tender nor shall he do so after the opening of tenders unless requested to do so by the person calling for tenders, for the purpose of awarding the contract to such member;
- 6.7 The calling for priced bills of quantities or schedules of rates after the close of tenders shall be construed as a provisional acceptance of the tender;
- 6.8 Should a member be awarded a tender in which he used the price of a subcontractor's competitive tender, the member shall appoint such subcontractor;
- 6.9 A member who avails himself of competitive tenders from subcontractors shall disclose such tenders to anyone prior to the submission of his own tender. Where no time and place have been stated for the opening of subcontract tenders the principal contractor member shall on request, immediately after the opening of the main tender make available to the subcontractor members who have tendered to him the names of the tenderers and the tender amounts of the tenderers submitted for their respective trade.

## **7. Negotiations**

An employer, his agent or the principal contractor may negotiate with any member from whom he has received a tender provided negotiations shall not take place with more than one member at a time.

## 8. **Invited Tenders**

- 8.1 Where members are invited to tender on a service and where four or fewer tenderers have been invited to tender for a principal contract and where such invitations have specifically excluded a public invitation to tender such tender shall be deemed to be an "*invited tender*".
- 8.2 A member who tenders on such "*invited tender*" shall notify the employer or his agent of this clause and of his expectation that the lowest tender be accepted.

## 9. **Exemptions**

- 9.1 Any employer or his agent or any member or non member shall be entitled to apply in appropriate circumstances to the association for exemption from any of the provisions of this code. The request will be restricted to a particular contract or project.
- 9.2 The association may in specific instances grant exemption to its members from the provisions of this code. Such exemption shall be approved by the Branch Executive Committee of the association.
- 9.3 Any person who has applied for exemption in terms of 9.1 hereof and is not satisfied with the decision of the Branch Executive Committee shall be entitled to appeal to the Executive Council of the association. The Executive Council's decision shall be final.

## 10. **Enforcement**

- 10.1 Any member who becomes aware that any part of this code has been contravened shall notify the Director of the association immediately.
- 10.2 The association shall investigate all complaints reported in terms of this code. Such investigation shall, as far as possible, be conducted within fourteen days of receipt of a complaint.
- 10.3 The Director of the association shall submit a report to a Disciplinary Committee of the association who shall make recommendations to the Branch Executive Committee with regard to disciplinary action or any other action which it deems fit arising out of the investigation.
- 10.4 Where disciplinary action is envisaged against any member such action shall be taken in strict accordance with section 4.9 of the association's constitution.