



ARMSCOR
Armaments Corporation of South Africa SOC Ltd


RULES APPLICABLE TO PROSPECTIVE CONTRACTORS

SUMMARY:

THIS DOCUMENT CONTAINS ARMSCOR'S
RULES APPLICABLE TO PROSPECTIVE
CONTRACTORS.

DATE OF APPROVAL OF THIS ISSUE: 21 APRIL 2014

APPROVAL PAGE




COMPILED BY:
Ms P NYAWO
LEGAL ADVISOR
LEGAL SERVICES

22 July 2014
DATE



RECOMMENDED BY:
Mr MP TEFFO
SENIOR MANAGER
LEGAL SERVICES

22 July 2014
DATE



SUPPORTED BY:
Adv. CVV RAMPHELE
GENERAL MANAGER,
CORPORATE COMPLIANCE

22 July 2014
DATE

**SUBMISSION APPROVED
BY THE MANAGEMENT BOARD**

ON 23 April 2014

SECRETARY — (ARMSCOR)

TO BE APPROVED BY:
MANAGEMENT BOARD

AMENDMENT HISTORY

Doc Issue	Date	Amendments	Doc change proposal No.	CM Conformance	
				Name	Initials
001	20/05/2009	S/s K-STD-0010 Release	N/a	Phiri	MO
002	23/05/2014	Major changes	000726	Phiri	MO

LIST OF CONTENTS

1.	SCOPE	5
2.	DOCUMENTS	5
3.	DEFINITIONS / ABBREVIATIONS	5
4.	RESPONSIBILITY	7
5.	APPLICABLE CONTRACTUAL CONDITIONS CONTAINED IN THE RFO..	7
6.	NEGOTIATIONS.....	7
7.	ARMSCOR DOCUMENTATION.....	8
8.	ADVANCE PAYMENTS	8
9.	PRICE ADJUSTMENTS	8
10	REGISTRATION.....	10
11.	COMPETENCY RATING.....	10
12.	CLARIFICATION TO PROSPECTIVE CONTRACTORS	10
13.	SPECIFICATIONS.....	11
14	SAMPLES	11
15.	VALIDITY PERIOD.....	11
16.	LODGING OF QUOTATIONS OR OFFERS	12
17.	CLOSING DATE.....	12
18.	CONTRACT AWARDS.....	12
19.	QUANTITIES.....	13
20.	PREFERENCE FOR BBBEE.....	13
21.	SECURITY CLASSIFICATION\.....	13
22.	SHE REQUIREMENTS	13
23.	MANAGEMENT OF DEFENCE INTELLECTUAL PROPERTY.....	13

1. SCOPE

The principles of this document (A-STD-0010) give effect to section 217(1) of the Constitution and section 51(1)(a)(iii) of the PFMA, in that an Accounting Authority for a public entity must ensure that the public entity has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive, and cost effective.

The Rules in this document therefore provide a guideline to potential prospective contractors whenever Armscor issues a Request for Offer (RFO).

2. DOCUMENTS

2.1. *Applicable documents*

2.1.1 Constitution of the Republic of South Africa, Act 108 of 1996

2.1.2 Public Finance Management Act, Act 1 of 1999

2.1.3 Preferential Procurement Policy Framework Act, Act 5 of 2000, and the 2011 Regulations

2.1.4 Armaments Corporation of South Africa Act, Act 51 of 2003

2.1.5 A-PRAC-4011: BEE Practice

2.1.6 A-PRAC-1034: Practice for the selection of contractual sources

2.1.7 A-POL-4000: BEE Policy

2.1.8 A-PRAC-8030: Practice for business purchases against Armscor's operating budget

2.2 *Reference documents*

2.2.1 A-STD-0020: General Conditions of Contract

3. DEFINITIONS / ABBREVIATIONS

3.1 *Definitions*

Expressions used in this document, which have been defined in the General Conditions of Contract (A-STD-0020), shall have the meanings assigned to them in the said General Conditions of Contract whenever used in these Rules.

3.1.1 **The Act**

Means the Armaments Corporation of South Africa Limited Act 51 of 2003 as amended.

3.1.2 Ceiling price

Means a price used where the exact scope of work is not determined and is further subject to either a fixed hourly rate or the actual costs of the contractor plus a reasonable handling fee.

3.1.3 Contract or order

Means a valid and binding document, which creates a legal obligation between the parties.

3.1.4 Fixed price

Means that the price is not subject to any adjustment.

3.1.5 Not fixed price

Means that the price is subject to adjustment.

3.1.6 Request for Offer

Means a request by Armscor to a prospective contractor or prospective contractors for the submission of a quotation or proposal or offer.

3.1.7 Prospective Contractor or Supplier

Means a person or an entity interested in delivering supplies or services as requested in the Request for Offer.

3.1.8 Preferred Contractor/Vendor/Supplier

Means the person or entity selected by Armscor through an evaluation process in accordance with Armscor's organisational Practices and Policies and approved by the relevant authorization committee.

3.1.9 Vendor/Supplier/ Contractor

Means an entity or a person that is registered on Armscor's supplier registration system to provide a product or render a service required by Armscor or its clients, including the National Defence Force.

3.2 Abbreviations / acronyms

3.2.1 BBBEE: Broad-based black economic empowerment

3.2.2 BEE : Black economic empowerment

3.2.3 PFMA : Preferential Framework Management Act

3.2.4 RFO : Request for Offer

3.2.5 SHE : Safety and Health Environment

4. RESPONSIBILITY

4.1 Process owner

The Senior Managers: Procurement Secretariat and Legal Services are the process owners of this Standard.

4.2 Communication

Corporate Communication is responsible for all communication aspects in respect of this Standard.

4.3 Implementation

The implementation of this Standard is the responsibility of the Senior Managers: Procurement Secretariat and Legal Services and the appointees responsible for its implementation.

4.4 Review

This Standard will be reviewed at least every three (3) years or as and when necessary by Corporate Compliance Department.

4.5 Data management

Records resulting from this Practice shall be filed on the official filing system by the process owner of the records.

5. APPLICABLE CONTRACTUAL CONDITIONS CONTAINED IN THE RFO

- 5.1 The terms and conditions that will apply to a proposed order or contract are set out in the relevant Request for Offer.

Should a prospective contractor elect to propose any special terms and conditions for consideration by Armscor, such special terms and conditions must be clearly stated in writing. (Terms and conditions proposed by the contractor shall not impact on the predetermined value system.)

6. NEGOTIATIONS

- 6.1 Armscor reserves the right to enter into negotiations with the preferred contractor after the selection process has been finalised and the contractor has been appointed as a preferred contractor by the relevant authorisation level in Armscor.

The contractor shall ensure that Armscor documentation in this regard is not disclosed to third parties without the consent of Armscor.

The appointment of a preferred contractor does not amount to placement of an order with the contractor; placement of the order shall be subject to successful negotiations with the said contractor.

7. ARMSCOR DOCUMENTATION

- 7.1 Drawings, specifications, manuals or other technical documentation or material supplied to a prospective contractor are and remain the property of Armscor and shall be returned to Armscor, irrespective of whether the contractor has submitted a proposal or not. Request for Offer documents may only be obtained from the Armscor entity stated in the RFO (Armscor's Procurement Secretariat or Infrastructure Division). Tender documents obtained from Armscor may not be given to a third party.
- 7.2 Where a contract has been awarded, the successful contractor will (where applicable) be furnished with the required drawings, specifications, manuals and other technical documents, which must be returned to Armscor on completion of the order.

8. ADVANCE PAYMENTS

It is contrary to the policy of Armscor to provide financing in the form of advanced payments. Advanced payments may, however, be awarded in the sole discretion of Armscor, provided that the following information is submitted with the quotation or offer:

- 8.1 a statement indicating the purpose(s) for which the advanced payment is required; and
- 8.2 the associated benefit, which may include but is not limited to a reduction in the price offered should an advance payment be granted.
- 8.3 a guarantee equal to the amount of the advance claim and be acceptable to Armscor.

9. PRICE ADJUSTMENTS

- 9.1 Price adjustments must be based on a specific formula. The under-mentioned guidelines shall be taken into consideration by prospective contractors when proposing price adjustments.
- 9.2 **Escalation**

Prices subject to escalation should be based on a specific formula.

The following formula serves as an example to illustrate the basic principles that should apply:

$$P_1 = P_0 \left(a + b \frac{M_{y-z}}{M_x} + c \frac{L_{y-z}}{L_x} + d \frac{OH_{y-z}}{OH_x} \right)$$

where:

P_0 = contract price before adjustment

P_1 = contract price after adjustment

M = direct material index

L = direct labour index

OH = indirect cost index including indirect material, indirect labour and other overhead costs.

Should no suitable single index representative of the direct material, direct labour or indirect cost exist, the contractor may elect to use more than one index for the applicable cost categories.

a = percentage of P_0 not subject to cost-price adjustment

b = percentage of P_0 representing direct material

c = percentage of P_0 representing direct labour

d = percentage of P_0 representing indirect cost

x = base date of indices, to be taken on the date on which the quotation is prepared

y = contractual or actual date of delivery, whichever is the soonest

z = period in months prior to contractual delivery date on which the contractor planned the respective costs to occur

9.3 Indices

9.3.1 All indices used must be representative of the respective cost categories.

9.3.2 The indices of the country of origin of the product or service supplied must be used for the respective cost categories.

9.3.3 The value adjusted in terms of the formula must always be expressed in the monetary unit of the country from which the indices have been selected.

9.3.4 All indices used must be obtained from an independent body or institute.

9.3.5 Reference to indices must include the publication as well as the table or reference level in the publication, and must be referred to as a specific index "PUBLISHED FOR THE MONTH x or y", whichever is applicable.

10. REGISTRATION

- 10.1 All potential local and foreign suppliers of defence-related goods and services should apply for registration where the acquisition of such goods and services is administered by Armscor. Such goods and services may include full-scale design and development, manufacture, installation, integration, logistical support or maintenance work on equipment already in service or intended for service in the Department of Defence.
- 10.2 The supplier registration process consists of two main categories, namely the Acquisition Supplier Registration Process and the Vendor Registration Process (Vendor falls within Armscor's operating budget).
- 10.3 Only suppliers that are registered on Armscor's electronic supplier registration database will be considered for orders which are administered by Armscor on behalf of its clients. Suppliers not registered may be considered for placement of an order but must ensure registration on Armscor's database prior to any placement of the order by Armscor.

11. COMPETENCY RATING

- 11.1 Contractors that apply for registration as Acquisition suppliers shall be obliged to submit to Armscor audited annual financial statements for their last financial year at the time of registration, and thereafter on an annual basis for updating of their competency rating.
- 11.2 Armscor shall, in relation to an order, reserve the right at all times to have access to the financial systems and procedures of preferred contractors.

12. CLARIFICATION TO PROSPECTIVE CONTRACTORS

- 12.1 Any clarification required by a prospective contractor regarding the meaning or interpretation of a term included in a Request for Offer, shall be requested in writing within a reasonable time, in order to allow Armscor's response to reach the prospective contractor or contractors before the closing date.
- 12.2 Any additional information and changes supplied by Armscor concerning a Request for Offer will be furnished in writing and will be sent to all prospective contractors simultaneously as an addendum to the Request for Offer, if such information is necessary to enable prospective contractors to submit quotations or offers and the lack of such information is regarded by Armscor as being prejudicial to prospective contractors. Armscor may, at its discretion and depending on the nature or complexity of the requirement, call for a bidder's briefing meeting to clarify any information relating to a particular Request for Offer.

13. SPECIFICATIONS

Prospective contractors should note that copies of any specifications as may be referred to in a Request for Offer, may be obtained from the South African Bureau of Standards or other standards authority as indicated. Requests to consult such specifications may, however, be made to Armscor.

14. SAMPLES

- 14.1 Any samples supplied by Armscor to a prospective contractor remain the property of Armscor and must be returned when a quotation or offer is submitted, or as and when requested.
- 14.2 All such items shall be held in safe custody by the prospective contractor and Armscor shall on demand be compensated for any loss of or damage to such items.
- 14.3 Samples in support of a quotation or offer shall be supplied by the prospective contractor at his own expense and risk. Armscor shall not be obliged to keep or purchase such samples. Samples of value may be purchased by Armscor at the price offered, but, if not so purchased, such samples will, subject to the provisions of paragraphs 14.4 and 14.5 below, be consigned to a place within the Republic at the expense of Armscor but at the risk of the prospective contractor.
- 14.4 Where samples have been destroyed or damaged in the process of testing or examination, Armscor will not accept liability for the cost of such samples, unless so specified in the Request for Offer.
- 14.5 Samples manufactured from materials supplied by Armscor will not be returned to the prospective contractor.

15. VALIDITY PERIOD

The period for which offers are to be held valid and binding is indicated in the Request for Offer. Such period is calculated from, but does not include, the due date for offers.

If the period so determined expires on a Saturday, Sunday or public holiday, the quotation or offer shall be valid and open for acceptance until the close of business on the first following working day.

Armscor reserves the right to request an extension of the validity period of an offer before the expiry thereof.

16. LODGING OF QUOTATIONS OR OFFERS

Documents shall be addressed in accordance with instructions given in the Request for Offer and shall be transmitted or lodged in a sealed envelope, with the number of the Request for Offer, the closing date of the Request for Offer, and the name and address of the prospective contractor clearly stated on the envelope.

Quotations or offers not strictly in accordance with the specifications incorporated in the Request for Offer may be submitted, provided that all the information required in the Request for Offer has been furnished.

An envelope shall contain only documents that relate to the specific quotation or offer.

17. CLOSING DATE

- 17.1 The closing date for the submission of a quotation or offer is indicated in the Request for Offer.
- 17.2 Quotations or offers shall be received not later than 11:00 on the closing date.
- 17.3 Should the closing date be on a Saturday, Sunday or public holiday, such closing date will be extended up to 11:00 of the first following working day.
- 17.4 Postponement of the closing date will be granted only if, in the opinion of Armscor, circumstances justify postponement. Generally, applications for the postponement of closing dates will not be considered unless an amendment notification is issued by Armscor in good time so as to reach the prospective contractor(s) before the original closing date.
- 17.5 Any quotation or offer received after the closing date and hour shall not be accepted for consideration and shall be returned unopened to the sender.

18. CONTRACT AWARDS

- 18.1 When, at the invitation of Armscor, quotations or offers are submitted for the supply of a specific item or the rendering of a specific service –
 - 18.1.1 Armscor shall not be obliged to accept the lowest quotation or offer; and
 - 18.1.2 Armscor may, where a quotation or offer relates to more than one item or service, accept such quotation or offer in respect of any specific one or more of the items or services

19. QUANTITIES

19.1 If a prospective contractor does not submit a quotation or offer for all the items specified, or quotes for only a portion of the quantity specified, such quotation or offer may receive consideration at the discretion of Armscor.

19.2 If Armscor awards an order or a contract for a quantity other than that called for in the Request for Offer, the prospective contractor shall be given the option of refusing the order or contract if the quantity awarded is –

19.2.1 less than that for which was quoted; or

19.2.2 more than that for which was quoted but, in this case, with regard only to the extent of the excess.

20. PREFERENCE FOR BBBEE

Where the Request for Offer provides for B-BBEE compliance, such compliance shall be in terms of Armscor's BEE Practice (A-PRAC-4011).

21. SECURITY CLASSIFICATION

The applicable security classification of a Request for Offer shall be as indicated on such Request for Offer, and prospective contractors must ensure that all relevant documents and information is handled in such a manner so as not to contravene any provisions of the Act.

22. SHE REQUIREMENTS

The applicable SHE requirements as indicated in the Request for Offer issued by Armscor shall be strictly monitored by Armscor and prospective contractors shall ensure that all relevant documents and information demonstrating compliance with the requisite operations are provided to Armscor.

23. MANAGEMENT OF DEFENCE INTELLECTUAL PROPERTY

Contractual frameworks for the safeguarding, maintenance and management of defence intellectual property will be in terms of Armscor's General Terms and Conditions for Contracting (A-STD-0020).