




RULES APPLICABLE TO PROSPECTIVE CONTRACTORS


SUMMARY : THIS DOCUMENT CONTAINS ARMSCOR'S RULES APPLICABLE TO PROSPECTIVE CONTRACTORS

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APPROVAL PAGE


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SUBMISSION APPROVED
BY THE MANAGEMENT BOARD
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SECRETARY - ARMSCO

TO BE APPROVED BY MANAGEMENT BOARD

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1. PREAMBLE

The principles of this practice give effect to section 217 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.

2. DOCUMENTS

2.1 APPLICABLE DOCUMENTS

- a] Act No 108 of 1998 : Section 217 of the Constitution of the Republic of South Africa
- b] Act No 1 of 1999 : Public Finance Management Act
- c] A-PRAC-4011 : BEE Practice
- d] A-PRAC-1034 : Practice for the selection of contractual sources
- e] A-STD-0020 : General Conditions of Contract
- f] PPPFA No.5 of 2000 : Preferential Procurement Policy Framework Act.

2.2 REFERENCE DOCUMENTS

Act No 51 of 2003: Armaments Corporation of South Africa, as amended

3. 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.

The Act

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

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 actual costs of the contractor and a reasonable handling fee. Such a price will be adjusted once the extent of the work has been determined.

Contract

Means a valid and binding document which creates or intend to create a legal obligation between the parties.

Fixed Price

Means the price which is not subject to adjustment.

Order or scope of order

Means an official order issued by Armscor for the supplies or work after acceptance of an offer from a successful offeror.

Price not fixed

Means the Price which is subject to adjustment.

REQUEST FOR OFFER

Means a request by Armscor to a prospective Contractor/s for the submission of a quotation or proposal offer.

Prospective Supplier

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

Preferred contractor

Means a person or entity selected by Armscor through an evaluation process in accordance with A-PRAC-1034

Republic

Means the Republic of South Africa

4. RESPONSIBILITIES**4.1 Process Owners**

Procurement Secretariat and Legal Services are the process owners of this Practice.

4.2 Communication

Armscor Documentation Management (ADM) is responsible for all communication aspects in respect of this Practice.

4.3 Implementation

It is the responsibility of Armscor Management, through the Senior Manager: Procurement Secretariat and Senior Manager: Legal Services and other appointees, responsible for the implementation of this Practice.

4.4 Review

This Practice would be reviewed bi-annually by Procurement Services in consultation with Legal Services.

4.5 Effective date

This Practice is effective 30 days from the date of approval by the Management Board.

5. APPLICABLE CONTRACTUAL CONDITIONS

- 5.1 The terms and conditions that will apply to a proposed order or contract will be set out in the relevant REQUEST FOR OFFER.
- 5.2 Should a prospective contractor elect to propose any special terms and conditions for consideration by Armscor, it must be indicated clearly in writing (however such terms and conditions should not impact on a predetermined value system)

6. NEGOTIATIONS

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

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.
- 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 in accordance with the terms of the order.

8. ARMSCOR FINANCING

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 a benefit, which may include but not limited to a reduction in the offer price should an advance payment be granted;

9. PRICE ADJUSTMENTS

9.1 Price adjustments must be based on a specific formula and the under mentioned guidelines shall be taken into consideration by prospective contractors when proposing price adjustments.

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

9.2.1 Formula

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

$$P1 = P0 \left(a + b \frac{M_{y-z}}{M_x} + c \frac{L_{y-z}}{L_x} + d \frac{OH_{y-z}}{OH_x} \right)$$

where:

Po = contract price before adjustment

P1 = 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 Po not subject to cost-price adjustment

b = percentage of Po representing direct material

c = percentage of Po representing direct labour

d = percentage of Po representing indirect cost

x = base date of indexes, 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 local and foreign companies must apply for registration as Acquisition Suppliers to the Department of Defence, or as Vendors to Armscor in terms of its own operational budget.
- 10.2 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.
- 10.3 Registration Processes
 - 10.3.1 The supplier registration process consists of two main categories, namely the Acquisition Supplier Registration Process and Vendor Registration Process.
 - 10.3.2 The supplier registration process caters for the registration of potential suppliers that provides goods and services for the Department of Defence while Vendor registration process caters for the registration of all potential suppliers that supply products and services for Armscor in terms of its own operational budget.
 - 10.3.3 The registration process is done by the Armscor Supplier Registration Co-ordinating Committee (ASRCC).

11. FINANCIAL STATEMENTS

- 11.1 Contractors that apply for registration as 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 annual basis for updating their competency rating.
- 11.2 Armscor shall in relation 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 within a reasonable time, in writing, to allow Armscor's reply to reach the prospective contractor 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 where the lack of such information is regarded by Armscor as being prejudicial to prospective contractors.

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 SA Bureau of Standards or other standards authority as indicated. Requests to consult such specifications may, however, be made to Armscor.

14. ALTERNATIVE QUOTATIONS OR OFFERS

- 14.1 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.

15. SAMPLES

- 15.1 Any samples supplied by Armscor to a prospective contractor shall remain the property of Armscor and shall be returned together with the submission of a quotation or offer, or as and when requested.
- 15.2 All such items shall be held in safe custody, and Armscor shall on demand be compensated for any loss or damage to such items.

- 15.3 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 15.4 and 15.5 below, be consigned to a place within the REPUBLIC at the expense of Armscor but at the risk of the prospective contractor.
- 15.4 Where samples have been destroyed or damaged in the process of testing or examination, Armscor will not accept liability for the cost(s) of such samples unless so specified in the REQUEST FOR OFFER.
- 15.5 Samples manufactured from materials supplied by Armscor will not be returned to the prospective contractor.

16. VALIDITY PERIOD

Armscor reserves the right to request an extension of any validity period of an offer before the expiry thereof. The period for which offers are to be held valid and binding will be indicated in the REQUEST FOR OFFER. Such period shall be calculated from, but shall not include, the due date.

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.

17. 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 and the name and address of the prospective contractor endorsed on the cover. An envelope shall only contain documents relating to a specific quotation or offer. In the event of an alternative quotation or offer being submitted in terms of paragraph 12, such alternative quotation or offer shall be submitted in a separate envelope.

18. DUE DATE AND HOUR

- 18.1 The closing date for the submission of a quotation or offer will be indicated in the REQUEST FOR OFFER.
- 18.2 Subject to the provisions of paragraph 18.3, quotations or offers shall be received not later than at 11:00 on the closing date.
- 18.3 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.
- 18.4 Postponement of the closing date will be granted only if, in the opinion of Armscor, circumstances justify such action. Applications for the postponement of

closing dates will usually 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.

19. TELEGRAPHIC AND LATE SUBMISSIONS

- 19.1 Quotations or offers received by courier, email or facsimile on or before the closing date and hour are generally accepted provided the name of the prospective contractor, the REQUEST FOR OFFER number, the price, and the delivery basis in respect of each item have been clearly stated therein and the quotation or offer has been confirmed on the relevant prescribed form for offers. The e-mail and facsimile will be accepted on condition that the originals are received within 10 (ten) days thereafter.
- 19.2 Subject to the provisions of paragraph 19.3, 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.
- 19.3 Notwithstanding the aforementioned provisions, Armscor may accept a late Quotation or offer if it is satisfied –
- 19.4 that the relevant documents were posted in good time to reach the addressee in the normal run of affairs on the closing date and hour, but were delayed in transit through the post;
- 19.4.1 that, in the case of a quotation or offer by telegraph, such quotation, offer was received by the transmitting Post Office on or before the closing date ; or
- 19.4.2 that the delay in the submission was due to circumstances that were beyond the control of the prospective contractor and could not have reasonably been foreseen.

20 CONTRACT AWARDS

- 20.1 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 –
- 20.1.1 Armscor shall not be obliged to accept the lowest of any quotation or offer; and
- 20.1.2 Armscor may, where a quotation or offer relates to more than one item or service, accept such quotation or offer in respect of any one or more specific items or services.

21. QUANTITIES

- 21.1 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.
- 21.2 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 accepted is –
- 21.2.1 less than that for which was quoted; or
- 21.2.2 more than that for which was quoted but, in this case, with regard only to the extent of the excess.

22. PREFERENCE FOR BBBEE

Where the REQUEST FOR OFFER provides for BBBEE compliance, this will be done in terms of the Armscor BEE Practice (A-PRAC-4011) which is available on the ARMSCOR website.

23. SECURITY CLASSIFICATION

The applicable security classification of a REQUEST FOR OFFER shall be as indicated on such REQUEST FOR OFFER by Armscor and prospective contractors shall ensure that all relevant documents and information shall be handled in such a manner as not to contravene any provisions of the Act.