

C3.7: SMME Specification



CONTRACT NO: EB/NW1/10/24/Z1A

CONSTRUCTION OF A MANUFACTURING FACILITY IN ZONE 1A OF THE ELIDZ

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1 PREFERENTIAL PROCUREMENT PROCEDURES

Tenders will be evaluated in terms of the ELIDZ Supply Chain Management Policy.

2 DEFINITIONS

SMME: Small Micro and Medium Enterprise

The ELIDZ defines an SMME as a company with at least 51% black ownership, a turnover of less than R50 million and from the BCMM area.

3 SUBCONTRACTING

3.1 Scope of Mandatory Subcontract Works

A major objective of the targeted procurement procedure is to extend **ECONOMIC** and **DEVELOPMENTAL** opportunities to SMMEs in the execution of the project.

It is an express condition of this Contract, that the ELIDZ enforce that a minimum of **30%** of the contract amount, be subcontracted to SMMEs, registered in the appropriate CIDB Contractor grading designation, for the appropriate type and value of the subcontracted works.

Notwithstanding the normal requirements of Government for an enterprise to be acknowledged and categorised as a SMME, the ELIDZ further require the Tenderer to ensure that the SMMEs he intends subcontracting with complies with the following criteria:

- Must have a valid Tax Clearance Certificate;
- Must have a valid CIDB registration in the appropriate category and value range for the anticipated scope of work;
- Must be registered on the Central Supplier Database (CSD);
- Must be 51% Black owned;
- Must have a turnover of less than R50 million;
- Must be from the Buffalo City Metropolitan Municipality area; and
- Must have a B-BBEE Certificate from a SANAS accredited institution or a Micro Enterprise Affidavit (as issued by the Department of Trade and Industry).

The scope of the work to be subcontracted to SMMEs is the prerogative of the Tenderer (referred to in this specification as the Principal Contractor).

The contractual relationship between the Principal Contractor and any of the Subcontractors / SMMEs shall be the same as if the Principal Contractor had appointed these subcontractors. The Principal Contractor shall take full responsibility for these Subcontractors.

3.2 SMME Subcontractors

This section provides the specifications that relate to the Principal Contractor's implementation of the policies and initiatives of the Government, community participation, and employment of SMMEs. These specifications should be read in conjunction with the various statutes and legislation that relate to small businesses and Broad-Based Black Economic Empowerment.

In this regard all tenders will be considered with specific reference to applicable legislation in force from time to time and which are specifically applicable to organs of state for example the following:

- (i) The Constitution of the Republic of South Africa, 1993;

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- (ii) Public Finance Management Act, 1999 (Act No 1 of 1999);
- (iii) Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000);
- (iv) Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);
- (v) Construction Industry Development Board Act, 2000 (Act No 38 of 2000) and Regulations; and
- (vi) National Small Business Amendment Act, 2003 (Act No 26 of 2003).

It should be noted that only one work package may be subcontracted to one specific subcontractor unless the subcontractor is able to demonstrate that he / she has the necessary capacity, ability, infrastructure and financial means to simultaneously undertake and execute more than one package of work.

3.3 SMME Subcontractor Selection Process

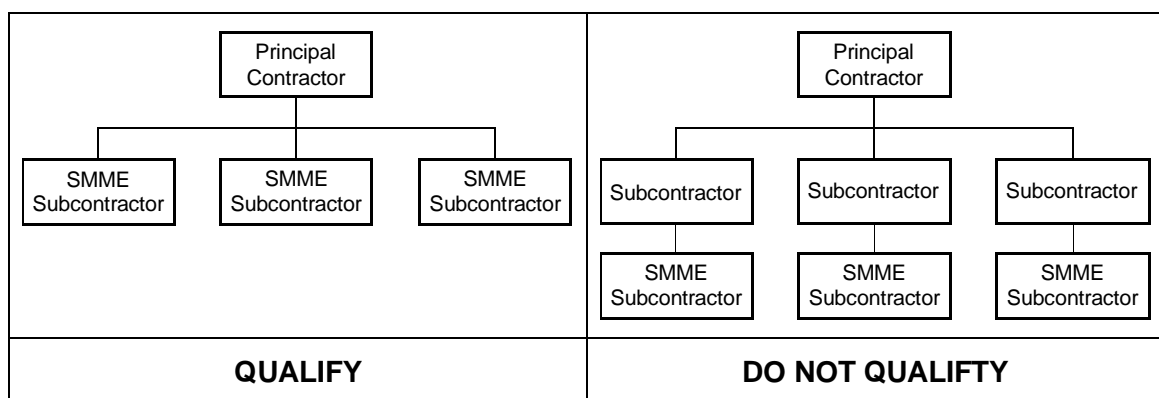
SMMEs on the ELIDZ SMME database are to be approached first. If these SMMEs are not suitable or adequate then SMMEs who are not on the database may be selected.

3.4 Preferred subcontractors / suppliers

To be confirmed.

3.5 Subcontracting Structures

All Subcontractors (SMMEs) shall be directly appointed by the Principal Contractor and the contents and requirements for subcontracting as contained in the JBCC shall apply in full. SMME Subcontractors of Subcontractors do not qualify as SMMEs.



3.6 Subcontracting Conditions

It must be noted, that the Subcontractor (SMME) must be registered with the Construction Industry Development Board, in the appropriate category, according to the estimated value of the work package.

The **Tender Data and Contract Date**, as applicable to the Contractor, shall apply where relevant, to the subcontracts (SMMEs).

The Subcontract Agreement shall also specify:

- (i) the terms and conditions relating to the recruitment, employment and remuneration of workers engaged on the subcontract works; and
- (ii) details of any training to be provided to the temporary workforce.

The Principal Contractor shall at all times remain responsible for providing the subcontracted portion of the Works as if the work had not been subcontracted.

3.7 30% SMME Allocation

The tenderer is to note that the 30% SMME allocation split is to be applied as follows:

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- **30% of provisional sum items;**
- **30% of building works** excluding provisional sums; and
- **30% of total spending** (including disbursements, P&G's, VO's) is to be allocated to SMME's.

3.8 Attendance on Subcontractors (SMMEs)

The Principal Contractor shall be responsible for ensuring that the Subcontractors (SMMEs) fully comprehend the following:

- Implications of the liabilities and responsibilities inherent in the subcontract into which the tenderer proposes entering;
- Implications of the tendered rates; and
- Scope and extent of the Works included in the Subcontract.

The Principal Contractor shall closely manage, mentor, supervise, guide and assist each Subcontractor (SMMEs) in all aspects of management, planning, execution and the completion of each Subcontract.

The above shall include inter alia, but is not limited to, the following:

- (i) Planning and programming of the Works;
- (ii) The sourcing, ordering, purchasing, hiring all the necessary Construction Equipment, Materials, tools and accidentals necessary and required for the successful execution and completion of the Permanent as well as the Temporary Works;
- (iii) Labour relations and employment;
- (iv) Monthly measurements, costing and invoicing;
- (v) General safety, occupational health and safety matters;
- (vi) Functions of civil engineering infrastructure, structures, services and systems;
- (vii) Interpreting and understanding the contract and subcontract;
- (viii) Construction and maintenance methods and procedures;
- (ix) Communication;
- (x) Cash-flow control, submitting invoices and payment certificates;
- (xi) Planning, programming, scheduling, critical path control and acceleration;
- (xii) Maintenance planning;
- (xiii) Material procurement and control;
- (xiv) Risk limitation and management;
- (xv) Quality assurance and procedures;
- (xvi) Compliances with all applicable laws, regulations, statutory provisions and agreements;
- (xvii) General Conditions of Contract and Contract Data; and
- (xviii) Contractual claims, if situations arise that entitle a contractor to claims in terms of the Conditions of Contract.

The extent and level of management, mentorship, supervision, guidance and assistance to be provided by the Principal Contractor shall be in **commensuration with the expertise** of the **relevant subcontractor (SMME)** and should be so directed

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as to enable the subcontractors to achieve the successful execution and completion of the respective Subcontracts (SMMEs).

3.9 Quality of work and performance of the Subcontractor (SMME)

The Contractor shall closely monitor and supervise all Subcontractors (SMMEs) and shall guide and assist each subcontractor in all aspects of management, execution and completion of his subcontract. This shall typically include assistance with planning of the works, sourcing and ordering of materials, labour relations, monthly measurements and invoicing procedures. The extent and level of such guidance and assistance, to be provided by the Contractor shall be commensurate with the basic level of subcontract applicable and shall be directed at enabling the subcontractor to achieve the successful execution and completion of his subcontract.

The Contractor shall give reasonable warning to the subcontractors when any contravention of the terms and conditions of the subcontract has occurred or appears likely to occur. The Contractor shall, when required, give the subcontractor reasonable opportunity to make good any such contravention or to avoid such contravention and shall render all reasonable assistance to the subcontractor in this regard.

3.10 Works to be undertaken by SMMEs

It is the Principal Contractor's responsibility to identify SMME work packages. It shall remain the Principal Contractor's responsibility to ensure that the target percentage of works to be subcontracted to SMMEs as contained in this specification, is attained.

The rates tendered by the Principal Contractor for work undertaken by Micro Enterprises shall include full compensation for all guidance, supervision, mentoring, setting out and monitoring activities that may be deemed necessary to ensure the works carried out by the SMMEs are in accordance with the drawings, technical and OHS specifications, and within the agreed timeframes. The Principal Contractor's tendered rates for SMME works shall further include full compensation for such administration, management and company overhead charges, finance costs, risk, profit and all other requirements contained in this specification.

3.11 Penalty Calculation for Failure Achieve Targeted Percentage

Should the contractor fail to meet the minimum requirement of subletting at least **30%** of the Contract value to SMMEs, a penalty of **25%** x the value of the amount to be sublet, minus the actual value sublet, will be implemented. This amount will be deducted from the Principal Contractor's payment certificate.

The Principal Contractor is to indicate to the ELIDZ via a report certified by their Auditors confirming that at least **30%** of the Contract value has been paid to SMMEs at the end of the Contract before the Final Completion Certificate is issued.