CORRECTING ARITHMETICAL ERRORS IN TENDERS

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Synopsis:

Bills of quantities are commonly used in engineering and construction works where the contractor undertakes construction on the basis of full designs issued by the employer.

The CIDB Standard Conditions of Tender requires that the competitive position of tenders be based on the total of prices that is tendered. This practice note sets out the manner in which arithmetical corrections are to be made in the evaluation of tenders in accordance with these standard conditions of tender.
1. Historical approach to evaluating bills of quantities

Historically the building industry has tendered lump sum tenders with or without bills of quantities. Bills of quantities, where used, are required to be completed prior to the award of a contract or immediately after the award of a contract. The tenderer (or contractor) may be instructed to adjust prices, which are considered to be imbalanced or unreasonable, and to eliminate errors or discrepancies without varying the sum tendered.

The civil engineering industry, on the other hand, has historically tendered a sum on the understanding that the engineer is empowered to correct the amount tendered in the event of there being any errors of extension or addition in the priced bills of quantities, with the rates being taken as correct. The engineer establishes the arithmetical correctness of all tenders received prior to the evaluation of tenders. The preferred tender is then identified, based on the adjusted tendered sums, who may, prior to the award of the contract be instructed to adjust prices which are considered to be imbalanced or unreasonable without varying the tendered sum (or the tendered sum arithmetically corrected by the engineer.)

The industry has for several years debated the merits of having two systems, particularly in view of the:

- narrowing gap between civil engineering and building practices brought about by changing contracting strategies and new forms of contract;
- confusion brought about by running a dual system amongst supply chain management personnel who deal with all types of contracts and the smaller emerging contractors who tender for both civil and building work;
- constitutional imperatives for transparency in the procurement system;
- government’s drive for uniformity in procurement documentation, procedures and practices; and
- the abundance of electronic means available to tenderers to accurately calculate their tender sums.

2. A uniform approach to dealing with arithmetical errors

The Interministerial Task Team for Construction Industry Development recommended in 2001 that the sum tendered should be used to determine the competitive position of tenders received. This recommendation was endorsed by industry in the development of SANS 294, *Procurement processes, methods and procedures* and by the CIDB Procurement Focus Group in 2003. The General Conditions of Contract for Construction Works (GCC 2004), published by the South African Institution of Civil Engineering, include a form of offer and acceptance that is consistent with this recommendation.
Clause F.3.9 of the CIDB Standard Conditions of Tender contained in annex F of the CIDB Standard for Uniformity deals with the handling of arithmetical errors during the evaluation of tenders. It

- requires that the price submitted (i.e., the offer), which is made known to interested parties at the opening of tenders, be used as the basis for establishing the competitive position of tenderers in the interests of transparency;
- streamlines the evaluation process as each and every tender submitted does not have to be checked for arithmetic correctness;
- removes the responsibility placed on the employer to manage the process of the arithmetic scrutiny of tendered amounts without compromising the integrity of the process;
- enables employers to request that tenderers only submit the tendered sum with their tender submissions and complete bills of quantities only if called upon to do so prior to the award of the contract (see F.2.18); and
- requires tenderers to take full responsibility for correctly calculating their tender sums.

Allowing the competitive position of tenderers to be determined on the basis of the correction of rates has the potential to undermine transparency in the procurement process.

Clause F.3.9.3 requires the employer to notify the tenderer of the arithmetic errors and to obtain clarity on what the tender offer is – the sum tendered or the corrected amount. This affords the tenderer the opportunity to comment on the impact of the error on his or her ability to perform the contract in the event of a serious omission or error. If the tenderer elects to be bound by the corrected amount and this changes the competitive position of the tenderer, the procedure will need to be repeated with the highest ranked tender or tenderer with the highest number following the re-evaluation of submissions.

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**F.3.9 Arithmetical errors**

**F.3.9.1** Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

**F.3.9.2** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - ii) the summation of the prices.

**F.3.9.3** Notify the tenderer of all errors or omissions that are identified in the tender offer and invite the tenderer to either confirm the tender offer as tendered or accept the corrected total of prices.

**F.3.9.4** Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer’s addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

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**Clause F.3.9 of the CIDB Standard Conditions of Tender**

**Practice Note # 2**
Clause F.3.9 deals only with how errors are to be viewed in the evaluation of tenders. All it does is to identify the point of departure when evaluating tender offers and the entering into discussions with the preferred tenderer around what adjustments need to be made to arrive at a solution that is acceptable to both parties. It does not deal with how tender offers are to be evaluated or how to make them acceptable from a commercial risk management point of view.

Clause F.3.9 does not deal with the re-measurement of the works, based on the rates provided for in the Bills of Quantities. This is dealt with in the Contract Data and Pricing Data, and is particular to the form of contract and contracting strategy used.

3. Finalising the contract

There are two issues that need to be addressed in the evaluation of tenders:

1) What is offered by the tenderer.
2) What is accepted by the employer.

F.3.9 merely determines what is offered by the tenderer. What still needs to be addressed is “what is accepted by the employer?” This is addressed in inform practice note #5: Evaluating tender offers.