
BOARD NOTICES

BOARD NOTICE 118 OF 2012

Construction Industry Development Board

Draft for Public Comment

Standard for Developing Skills through Construction Works Contracts

— June 2012

In terms of sections 5(2)b of the Construction Industry Development Board Act, 2000 (Act no. 38 of 2000) (the Act), the Construction Industry Development Board is empowered to establish best practice Standards. This draft best practice Standard for Developing Skills through Construction Works Contracts establishes a key performance indicator in the form of a contract skills development goal (CSDG) relating to the provision of training opportunities for employed and unemployed learners in the performance of construction works contracts that result in nationally accredited outcomes.

This draft best practice Standard is issued here for public comment. Interested persons and the public are invited to submit comments on the draft best practice standard within 30 days of the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of Ms Ntebo Ngozwana to one of the following:

cidb
P O Box 2107
Brooklyn Square 0075

cidb
Block N&R
SABS Campus
2 Dr Lategan Drive
Groenkloof, Pretoria

Fax: 086 687 4936

email: ntebon@cidb.org.za

Bafana Ndendwa
Chairperson: Construction Industry Development Board
E-mail: cidb@cidb.org.za

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Draft for Public Comment: Standard for Developing Skills through Construction Works Contracts

(25 June 2012)



Construction Industry Development Board
Pretoria
Tel: 012 343 7136 or 012 481 9030
Fax: 012 343 7153

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Standard for Developing Skills through Construction Works Contracts

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Standard for Developing Skills through Construction Works Contracts

1 Scope

This standard establishes a key performance indicator in the form of a contract skills development goal (CSDG) relating to the provision of training opportunities for employed and unemployed learners in the performance of construction works contracts that result in nationally accredited outcomes.

This standard sets out the methods by which the key performance indicator is measured, quantified and verified in the performance of the contract.

2 Terms and Definitions

For the purposes of this document, the following terms and definitions apply:

class of construction works: the class of construction works referred to in Schedule 3 of the Construction Industry Development Regulations 2004 as amended and published in terms of the Construction Industry Development Board Act of 2000 (Act 38 of 2000)

Construction Industry Development Board (CIDB): the board established in terms of the Construction Industry Development Board Act of 2000 (Act 38 of 2000)

contract amount: financial value of the contract at the time of the award of the contract, exclusive of all allowances and any value added tax or sales tax which the law requires the employer to pay to the contractor

contractor: person or organization that contracts to provide the goods, services or engineering and construction works covered by the contract

contract skills development goal (CSPG): the notional cost of training opportunities, calculated in accordance with a specified methodology which the contractor contracts to expend on workplace training of interns and the up-skilling of company employees, expressed as a percentage of the contract amount

Employment Skills Development Agency (ESDA): a company registered in accordance with the Learnership Regulations 2007 issued in terms of the Skills Development Act of 1998 (Act 97 of 1998) that employs learners and manages the placement of the learners with host employers for on-the-job-training component of a learnership.

employer: person or organization entering into the contract with the contractor for the provision of goods, services, or engineering and construction works

employer's representative: person authorized to represent the employer and named as such in the contract data

practical completion: the state of completion at the end of construction required in terms of the contract

NOTE Practical completion is commonly understood to be a state of readiness for occupation of the whole works although some minor work may be outstanding. Practical completion in a construction works contract occurs when:

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- a) FIDIC Short Form of Contract: the date when the Employer considers that the Works have been completed in accordance with the Contract, except for minor outstanding work and defects which will not substantially affect the use of the Works for their intended purpose
- b) FIDIC Red, Silver and Yellow Book: the date when the Engineer determines that the Works has substantially been reached and can be used for the purpose intended
- c) GCC 2010: "Practical Completion" means the date when the Engineer certifies that the whole or portion of the Works has reached a state of readiness, fit for the intended purpose, and occupation without danger or undue inconvenience to the Employer, although some work may be outstanding
- d) JBCC 2000 Principal Building Agreement and JBCC Minor Works Agreement: the date when the **principal agent** decides that the completion of the **works** has substantially been reached and can be used for the purpose intended
- e) NEC3 Engineering and Construction Contract: the date when the Project Manager decides that the Contractor has reached Completion as defined in the contract
- f) NEC3 Engineering and Construction Short Contract: the date when the Employer decides that the Contractor has completed the works in accordance with the Works Information except for correcting notified Defects which do not prevent the Employer from using the works and others from doing their work.

3 Framework

3.1 Contract Skills Development Goal (CSDG)

3.1.1 The contractor shall attain or exceed the contract skills development goals in the performance of the contract in accordance with the provisions of Table 1.

Table 1: Contract skills development goals for different classes of construction works

Class of construction works as identified in terms of Regulation 25(3) of the Construction Industry Regulations 2004		contract skills development goal (CPSG) (%)
Designation	Description	
CE	Civil engineering	0,25
CE & GB	Civil Engineering and general building combined	0,375
EE	Electrical engineering works (buildings)	0,25
EP	Electrical engineering works (Infrastructure)	0,25
GB	General building	0,5
ME	Mechanical engineering works	0,25
SB	Specialist	0,25

3.1.2 The contract skills development goal should be applied to all sub-contracted activities in proportion to the contract amount to all classes of construction works which fall within the scope of work of the contract and whose price determined in accordance with the contract exceeds 10% of the contract amount.

3.2 Achieving the Contract Skills Development Goal (CSDG)

3.2.1 The contractor shall, subject to the provisions of 3.2.2, achieve the specified contract skills development goal (CSDG) by providing training opportunities for employed and unemployed learners which lead to cidb recognised nationally accredited outcomes in accordance with the provisions of the National Qualifications Framework Act of 2008 (Act 67 of 2008) and Table 2, and published by the cidb in the government gazette.

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Table 2: Requirements for different types of nationally accredited training programmes

Type of nationally accredited outcome	Requirement for contract skills development purposes (CSDG)
Experiential learning opportunities	Provide experiential work opportunities for: a) University of Technology learners who have completed the theoretical phase of their training but require placement in industry for workplace learning; and/or b) Further Education and Training (FET) college learners who require placement in industry as part of their National Certificate Vocational and N-programmes to enable them to take their respective trade tests
Apprenticeships	Artisan development route which requires practical skills and theoretical input to enable learners to take their respective trade tests
Skills programmes identified by employer bodies and recognised for this purpose by the Construction Industry Development Board in a Notice published in the government gazette	Skills programme aligned with scarce and critical skills shortages and / or requirements for new skills

3.2.2 A maximum of one-third of the required training opportunities by full-time equivalent head-count, may be allocated to the contractor's or sub-contractors' employees (employed learners). The remainder of the required opportunities shall be allocated to unemployed learners sourced through an appropriate ESDA.

3.2.3 The Employer may exempt a contractor from the provisions of 3.2.1 upon receipt of written confirmation from an ESDA that the EDSA is not able to provide eligible learners for placement.

3.3 Contract Skills Development Goal Credits

Credits towards the contract participation goal shall be granted by multiplying the number of continuous training opportunities provided for a three month period by the notional values contained in Table 3.

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Table 3 Notional cost of providing training opportunities per quarter

Type of Training Opportunity	Cost make up includes	Notional cost / learner / quarter
Experiential learning opportunities, with unemployed learners sourced through an ESDA	Learner stipends, trade tests/summative assessments, tools, personal protective equipment and management fee for the relevant ESDA	R15 000
Skills Programmes with unemployed learners sourced through an ESDA	Learner stipends, course fees, personal protective equipment, assessment and moderation and management fee for the relevant ESDA	R8 000
Apprenticeships with unemployed learners sourced through an ESDA	Learner stipends, course fees, personal protective equipment, assessment and moderation, trade tests/summative assessments, and management fee for the relevant ESDA	R16 000
Experiential learning opportunities with learners sourced from employees of contractor or sub-contractors, and placed through the ESDA	Trade test/summative assessments preparation fees and trade testing fees, and management fee for the relevant ESDA	R5 000
Skills Programmes with learners sourced from employees of contractor or sub-contractors, and placed through an ESDA	Course fees for theory inputs, assessment and moderation costs, and management fee for the relevant ESDA	R5 000
Apprenticeships with learners sourced from employees of contractor or sub-contractors, and placed through an ESDA	Course fees, trade tests/summative assessments, and management fee for the relevant ESDA	R7 000

3.4 Denial of Credits

3.4.1 Credits for learners sourced through an ESDA shall be denied where learner stipends are not paid according to rate as set out in the sectoral determination for learnerships.

3.4.2 Credits for learners shall be denied where the contractor fails to provide a learner, without cost to such learner, with any required personal protective equipment or trade specific tools for use on the contract.

3.4.3 Credits for learners shall be denied where the contractor fails to provide the resource plan and the training plan required in terms of 4.1.1.

4 Compliance with the Framework

4.1 Training Opportunities for Employed and Unemployed Learners

4.1.1 The contractor shall appoint a training co-ordinator to undertake as necessary:

- the development of a contract specific resource plan for the training of employed and unemployed learners;
- the liaison with relevant ESDAs for sourcing learners and developing individual training plans for the learners;
- the pre-approval of all learners' training plans before they come on site;
- facilitate the implementation of learner's training plans;
- evaluating the contractor's and sub-contractors' capacity to successfully supervise learners and make recommendations for contractor capacity development; and

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- f) submitting reports on behalf of the contractor to the employer's representative and the CIDB at practical completion of the contract.

4.1.2 The contractor shall enter into a contract agreement with one or more ESDAs of their choice that is participating in the implementation of this standard to:

- a) facilitate placement of learners for training opportunities;
- b) prepare training plans for registered learners, including details of the scope of experiential work to be covered and expected outcomes;
- c) register learners with the appropriate Sector Educational and Training Authority established in terms of the Skills Development Act of 2008 (Act 37 of 2008);
- d) manage all the employment functions for learners such as payment of stipends, contributions to the Unemployment Insurance Fund, workman's compensation, provision of personal protective clothing, trade specific tools, etc.;
- e) liaise with the training co-ordinators to monitor onsite training progress of learners;
- f) liaise with the training co-ordinators to arrange for summative assessments at appropriate stages of the training; and
- g) liaise with the training co-ordinators to prepare reports for the employer's representative and CIDB at practical completion of the contract.

4.1.3 The relevant ESDA will invoice the contractors for the provision of these services as per recommended notional cost schedule in Table 3 of this standard.

NOTE the CIDB industry ESDA will:

- a) support the CIDB to establish eligibility criteria for learners to participate in this standard;
- b) in consultation with industry, advise the CIDB of industry approved eligible training programmes; and
- c) collate all *Construction Skills Training Compliance Reports* (section 5.4).

5 Records

5.1 Submission of Documentation

The contractor shall submit all the documentation required in terms of 4.1.1 in a timely manner.

5.2 Monthly Submission of Supporting Documentation

5.2.1 The contractor shall submit to the employer's representative within one month of the completion of a three month period of continuous training opportunities provided in accordance with this standard providing full particulars of their training in a format acceptable to the employer's representative.

5.3 Certification of Credits

The employer's representative shall certify the value of the credits counted towards the contract skills development goal whenever a claim for payment is issued to the employer, and shall notify the contractor of this amount.

5.4 Reports after Practical Completion

5.4.1 The contractor shall submit a report in an acceptable format to the employer's representative for acceptance within 30 days of achieving practical completion of the contract.

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5.4.2 The information contained in the report shall include:

- a) the contract skills development goal which was achieved in the performance of the contract and the breakdown of the goal into the following:
 - 1) experiential learning opportunities, with unemployed learners sourced through ESDAs;
 - 2) skills programmes with unemployed learners sourced through ESDAs;
 - 3) apprenticeship opportunities, with unemployed learners sourced through ESDAs;
 - 4) experiential learning opportunities with employed learners sourced from employees of contractor or sub-contractors and placed through an ESDA;
 - 5) skills programmes with employed learners sourced from employees of contractor or sub-contractors and placed through an ESDA; and
 - 6) apprenticeship opportunities, with employed learners sourced from employees of contractor or sub-contractors and placed through an ESDA.
- b) the name, identity number, the period employed on the contract, the number of hours of training received and the type of training (experiential learning opportunity, skills programme or apprenticeship opportunity) in respect of each learner;
- c) the name and registration details of training providers, type and duration of theoretical training provided in respect of skills programmes and apprenticeships;
- d) the name, identity or passport number and contract particulars of the training co-ordinator.

5.4.3 The reports provided in terms of 5.4.2 shall be certified by the training co-ordinator, within his or her personal knowledge, to be both true and correct of what was achieved in the performance of the contract.

6 Sanctions

In the event that the contractor fails to substantiate that any failure to achieve the contract skills development goal was due to reason beyond the contractor's control which may be acceptable to the employer, the sanctions provided for in the contract shall apply.

NOTE: The contract establishes the sanctions that apply and are usually in the form of financial penalties, typically formulated on the difference between the contracted contract participation goal and the contract participation goal achieved in the performance of the contract; the rejection of claims for payments as being incomplete should the appropriate supporting documentation not be provided; and the issuing of completion certificates only after the reports described in 5.2 are received.