



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 528

Pretoria, 5 June
Junie 2009

No. 32305

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

CONTENTS • INHOUD

No.

*Page
No. Gazette
 No.*

GENERAL NOTICE

Trade and Industry, Department of

General Notice

862	Broad-Based Black Economic Empowerment Act (53/2003): Codes of Good Practice on Broad Based Black Economic Empowerment	3	32305
-----	--	---	-------

GENERAL NOTICE

NOTICE 862 OF 2009

Issued in terms of Section 9 (1) of the BBBEE Act 53, 2003


(DEPARTMENT OF TRADE AND INDUSTRY)

CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

Whereas I, **Mandisi Mphahlele**, Minister of Trade and Industry:

- (a) Having issued a DRAFT CONSTRUCTION SECTOR CHARTER for public comments in terms of **Section 9(5)** of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003) on the **5th December 2008** in terms of which ;
- (b) the public and interested persons were invited to comment on the draft Sector Charter within a period of **60 days** from the date on which the Draft Sector having been published,
- (c) Now publish the CONSTRUCTION SECTOR CHARTER as a SECTOR CODE on black economic empowerment in terms of **Section 9(1)** of the BBBEE Act, 53 of 2003.

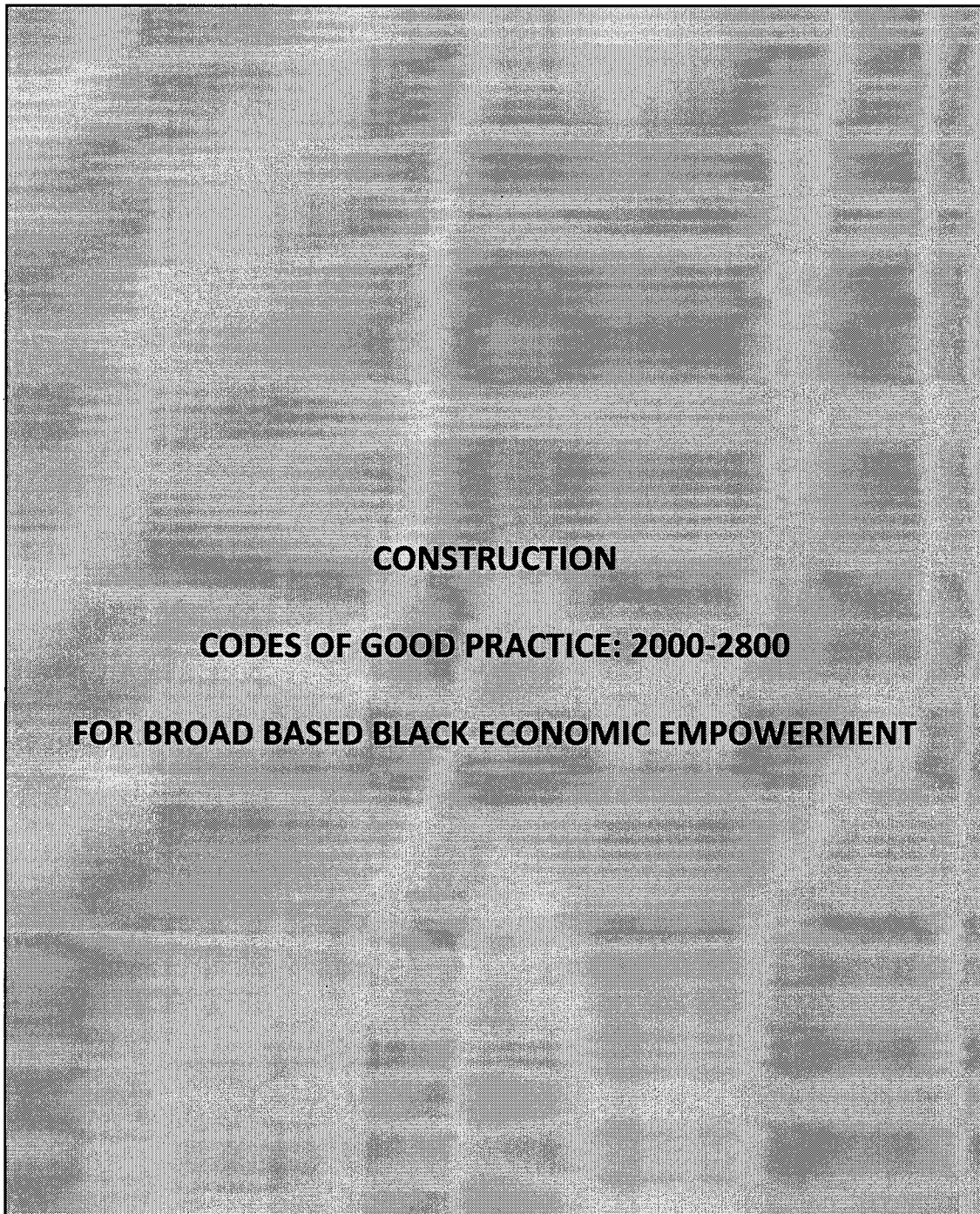
This notice is effective from the date of publishing and means that the CONSTRUCTION SECTOR CODE is binding on all stakeholders operating in the Construction Sector.



.....
MANDISI MPAHLWA

MINISTER OF TRADE AND INDUSTRY

DATE: 04-05-2009



CONSTRUCTION
CODES OF GOOD PRACTICE: 2000-2800
FOR BROAD BASED BLACK ECONOMIC EMPOWERMENT

CONSTRUCTION CODES

Arrangement of the Codes

Code or Section	Page
Code 2000: Introduction	3
Code 2000: The Framework	5
Code 2100: Ownership	8
Code 2200: Management Control	9
Code 2300: Employment Equity	10
Code 2400: Skills Development	12
Code 2500: Preferential Procurement	16
Code 2600: Enterprise Development	17
Code 2700: Socio-Economic Development	22
Code 2800: Qualifying Small Enterprise	23
Statement 2801: Ownership	23
Statement 2802: Management Control	24
Statement 2803: Employment Equity	24
Statement 2804: Skills Development	24
Statement 2805: Preferential Procurement	25
Statement 2806: Enterprise Development	25
Statement 2807: Socio Economic Development	25
Interpretation and Definitions	26

CONSTRUCTION CODES

Code Series 2000: Introduction

1. Preamble

- a. Despite significant progress since the establishment of a democratic government in 1994, South African society is characterised by racially based income and social service inequalities. Consequently the vast majority of South Africans remain excluded from ownership, control and management of productive assets and from access to training in strategic skills.
- b. This is not only unjust, but inhibits South Africa's ability to achieve its full economic potential.
- c. Noting that:
 - i. The Broad-Based Black Economic Empowerment Act (No. 53 of 2003) establishes a legislative framework for the promotion of BBBEE, provides for the gazetting of transformation charters and empowers the Minister of Trade and Industry to issue codes of good practice;
- d. The construction sector believes that positive and proactive response through the implementation of a Construction Code of Good Practice would address inequalities in the sector, unlock the sector's potential and enhance its growth.
- e. The Construction Sector Transformation Charter published in Government Gazette no.29616 provides the basis for the development of a Construction Code of Good Practice as it support the commitment of the parties thereto to actively promote a vibrant, transformed and competitive construction sector that provides adequate services to the domestic economy, reflects the South African nation as a whole, and contributes to the establishment of an equitable society.

CONSTRUCTION CODES

2. Objectives

- a. The Code provides a framework for the construction sector to address broad based transformation, enhance capacity and increase the productivity of the sector to meet world best practice.
- b. The Code in general supports all the objectives of the Construction Transformation Charter and in particular aims to:
 - i. Achieve a substantial change in the racial and gender composition of ownership, control, and management in the sector;
 - ii. Promote the effective advancement of employment equity in the sector and adherence to principles of non-racialism and non-sexism;
 - iii. Provide to the construction sector the first quantitative method for monitoring and evaluating the progress of an enterprise towards BBBEE and thereby contribute to ending the malpractice of fronting;
 - iv. Address skills development in a manner that accelerates the advancement of black people, black women and designated groups with a particular emphasis on learnerships, technical and management training;
 - v. Increase the procurement of goods and services from BBBEE enterprises and standardise preferential procurement methodology;
 - vi. Enhance entrepreneurial development and promote the sustainable growth of micro, medium and small BBBEE enterprises.

3. Monitoring

- a. The Construction Charter Council will oversee and monitor the implementation of the Code. It will act with executive capacity and provide the necessary links to relevant government institutions.

Code Series 2000: The Framework for Measuring Broad-Based Black Economic Empowerment in the Construction Sector

Statement 2000: General Principles

1. Objective
 - a. To specify the basic principles upon which Code 2000 has been premised.
2. Key Principles
 - a. Code 2000 is based upon Code 000, Statement 000 published in the Government Gazette No 29617.
 - b. Code 2000 to 2800 identifies the basic principles, definitions and methodologies adopted in the Construction Sector **only where these principles, definitions and methodologies differ** from the Code 000 to Code 800 as published in the Government Gazette No 29617.
 - c. The differences stipulated in Code 2000 to 2800 are to be read in conjunction with and where there is any conflict take precedence to the clauses in Code 000 to Code 800 as published in the Government Gazette No 29617.
 - d. There are no bonus points applicable in Code 2000-2800.
3. Application of the Codes
 - a. Any measured entity which conducts any construction-related activities, must determine what percentage of its annual turnover is derived from construction activities;
 - b. If the majority of the measured entities turnover is derived as a result of construction related activities, then the Charter will apply to such measured entity;
 - c. If a measured entity does not derive the majority of its turnover from the construction sector, then the Charter will not apply to such measured entity and the measured entity will be governed by any other sector code which may be applicable, failing which the generic DTI Codes will apply;
 - d. In the event that a measured entity derives an equal percentage of its turnover from construction related activities as well as other industry-related activities, then such measured entity will have the choice as to which sector code will apply.

CONSTRUCTION CODES

4. Eligibility as an Exempted Micro Enterprise and Qualifying Small Enterprise

- a. Code 2000 complies with the principles and methodology in Code 000 unless specifically stated in table below.

Scorecard Types:	Exempted Micro Enterprise	Qualifying Small Enterprise	Generic Construction
Discipline	Parameters are based on annual turnover of the Measured Entity		
Contractor	0 – 5 million Rand	Larger than 5 million and equal to or less than 35 million Rand.	Larger than R35 million Rand
BEP	0 – 1.5 million Rand	Larger than 1.5 million and equal to or less than R11.5 million rand	Larger than R11.5 million

- b. An Exempted Micro Enterprise (EME) will qualify for recognition as indicated in the DTI Codes, Statement 000, page 9.
- c. A Qualifying Small Enterprise must select any four of the seven Elements of B-BBEE for the purpose of measurement under the Qualifying Small Enterprise Scorecard contained in Code 2800.
- d. In the Generic Construction Scorecard all elements will be applicable for measurement.

5. The Generic Construction Scorecard Element Weightings

Element	Weighting		Code Series Reference
	Contractors	Built Environment Professionals	
Ownership	25	25	2100
Management Control	10	10	2200
Employment Equity	10	10	2300
Skills Development	15	20	2400
Preferential Procurement	20	20	2500
Enterprise Development	15	10	2600
Socio-Economic Development Initiatives	5	5	2700

6. Duration of the Codes

- a. The Minister will review Code 2000 to 2800 following the end of the seventh year following the commencement date of this statement; despite the aforementioned, annual reviews

commissioned by the Construction Charter Council (hereafter referred to as the Charter Council) will take place to monitor the implementation of B-BBEE throughout the sector.

7. Construction Sector commitments related to Code 2000 to 2800 is captured in the Construction Sector Charter published in Government Gazette No. 29616, paragraph 5.1 to 5.7. Where any of the principles contained in the Construction Sector Charter deviate from Code 2000-2800 this Code must be applied.
8. The Scoring of Unincorporated Joint Ventures
 - a. In respect of an unincorporated joint venture, being a joint venture between two or more measured entities, which is not constituted in the form of an incorporated juristic person, a consolidated verification certificate must be submitted. A consolidated verification certificate will consolidate compliance data in respect of all the elements in the construction scorecard of the parties entering into an unincorporated joint venture on a single verification certificate as if those measured entities were a single measured entity.
 - b. The consolidation of compliance data shall be based on a weighting in accordance with the shareholder agreement relevant to the specific joint venture. Hence should two companies enter into an unincorporated joint venture their respective scores in terms of the construction charter will be weighed according to their level of shareholding in the joint venture and added together for a combined score out of 100.
 - c. Should a company qualify in terms of the Qualifying Small Enterprise Scorecard its BEE compliance level (a figure out of 100) must be used to calculate the consolidated score.
 - d. An EME with a Black shareholding of 50% or less will qualify for a score of 70 and an EME of a Black shareholding of more than 50% will qualify for a score of 80.
9. In its entirety Code 2000-2800 pertains to South African operations.
10. The Transitional Phase is applicable to Code 2000 for the first year after the commencement of Statement 2000 on the same calculation principle articulated in paragraph 11 (Code 000, P12), though the calculation will be: $A = B \times 1.65$.
11. Any sector specific programmes applicable to Code 2600, 2700, 2806 and 2807 will be published by the Charter Council.
12. Code 2000-2800 distinguishes in certain instances between Built Environment Professionals (BEP) and Contractors in respect of targets, weightings and methodology. The application of these differences is not interchangeable between these disciplines.

CONSTRUCTION CODES

Code Series 2100: Measurement of Ownership Element of Broad-Based Black Economic Empowerment

Statement 2100: The General Principles for Measuring Ownership

1. The Ownership Scorecard

Ownership Indicator	Weighting points	Compliance Target	
1.1 Voting Rights:		Year 0-4	Year 5-7
1.1.1 Exercisable Voting Rights in the Enterprise in the hands of Black People	4	27.5%	30%
1.1.2 Exercisable Voting Rights in the Enterprise in the hands of Black Women	2	10%	
1.2 Economic Interest		Year 0-4	Year 5-7
1.2.1 Economic Interest of Black People in the Enterprise	5	27.5%	30%
1.2.2 Economic Interest of Black Women in the Enterprise	2	10%	
1.2.3 Economic Interest of the following Black Natural People in the Enterprise:	5	10% Contractors 5% BEP's	
1.2.3.1 Black designated groups;			
1.2.3.2 Black Participants in Employee Ownership Schemes;			
1.2.3.3 Black Beneficiaries of Broad Based Ownership Schemes;			
1.2.3.4 Black Participants in Co-operatives			
1.3 Realisation Points			
1.3.1 Ownership fulfillment	1	Refer to paragraph 10.1, Code 100, P28	
1.3.2 Net Value	6	Refer to Annexe C paragraph 4, Code 100, P33 and Notes on Calculations in Code 2100	

2. Notes on Calculations

- a. The Net Value calculation referred to in Annexe C, Code 100 above: $A=B \times (1 / (27.5\% \text{ or } 30\% \times C)) \times 6$ (6 is the weighting attributed to this indicator; 27.5% and 30% is applicable depending on the timeframe specified).

3. Code 100

- a. Code 2100 shall adhere to all other principles, definitions and measurement methodologies contained in Code 100, Annexes and related Statements as published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of Code 2100 shall take precedence over Code 100 as published in the Government Gazette No 29617.

CONSTRUCTION CODES

Code Series 2200: Measurement of the Management Control Element of Broad-Based Black Economic Empowerment

Statement 2200: The General Principles for Measuring Management Control

1. The Management Control Scorecard

Category	Management Control Indicator	Weighting Points	Compliance Target
1.1 Board Participation:			
	1.1.1 Exercisable Voting Rights of Black Board Members using the Adjusted Recognition for Gender	5	40%
1.2 Top Management:			
	1.2.1 Black Senior Top Management using the Adjusted Recognition for Gender	5	25% (Year 0-4) 40% (Year 5-7)

2. Notes on Calculation

- a. The Adjusted Recognition for Gender in Annexe 200(A), Code 200 will be applied as follows in Code 2200 (The reference to the letters remains the same as in Annexe 200(A), P48):
 - i. 1.1.1 $A=B/1.76+C$
 - ii. 1.2.1 $A=B/1.62+C$
- b. Other Top Management as referred to in Code 200 that is at a higher level of Management in the Measured Entity than what is associated with the definition of Senior Management must be counted as part of the Senior Top Management.
- c. The indication: "C is limited to a maximum of 50% of the target" in Annexe 200(B), Code 200, P49 is not applicable. The rest of the references in Annexe 200(B) apply.
- d. The responsibilities associated with executive and non-executive directors on the board are viewed to be similar.

3. Code 200

- a. Code 2200 shall adhere to all other principles, definitions and measurement methodologies contained in Code 200, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2200 shall take precedence over Code 200 as published in the Government Gazette No 29617.

Code Series 2300: Measurement of the Employment Equity Element of Broad-Based Black Economic Empowerment

Statement 2300: The General Principles for Measuring Employment Equity

1. The Employment Equity Scorecard

Contractors			
Measurement Category and Criteria	Weighting Points	Compliance Target	
		Years 0 - 4	Years 5 - 7
1.1.1 Black Employees in the Senior Management Category as a percentage of all such employees using Adjusted Recognition for Gender.	3.5	35%	60%
1.1.2 Black Employees in the Middle Management Category as a percentage of all such employees using Adjusted Recognition for Gender.	3.5	45%	75%
1.1.3 Black Employees in the Junior Management Category as a percentage of all such employees using Adjusted Recognition for Gender.	2.5	68%	80%
1.1.4 Black Disabled Employees as a percentage of all office based employees using the Adjusted Recognition for Gender.	0.5	2%	3%
BEP			
1.1.4 Black Disabled Employees as a percentage of all office based employees using the Adjusted Recognition for Gender.	0.5	2%	3%
1.1.5 BEP: Black Employees in all Management Categories as a percentage of all such employees using the Adjusted Recognition for Gender.	9.5	45%	60%

2. Notes on Calculations

- a. No bonus point calculations are applicable.
- b. The Adjusted Recognition for Gender in Annexe 300(A), Code 300 will be applied as follows in Code 2300(The reference to the letters remains the same as in Annexe 300(A), P53):
 - i. 1.1.1, 1.1.2, 1.1.4 and 1.1.5 $A=B/1.62+C$
 - ii. 1.1.3 $A=B/1.66+C$
- c. Senior, Middle and Junior Management Categories are defined in this document (see Interpretations and Definitions).
- d. There is no sub-minimum requirement applicable in Code 2300.
- e. Should any Contractor not make a distinction between Middle and Junior Management Categories then only two Categories will be applicable:
 - i. Senior Management Category, weight 5.25, target as indicated;
 - ii. Junior Management Category, weight 4.25, target as indicated.

CONSTRUCTION CODES

3. The Charter Council will inter alia monitor the representation of black people with disabilities in the sector.
4. For verification purposes a person can be seen as disabled should that person not be in a position to compete with his/her peers without reasonable accommodation. Therefore should a person wish not to declare their disability in terms of Employment Equity reporting, that person can be viewed as disabled should the above guideline be applicable.
5. Code 300
 - a. Code 2300 shall adhere to all other principles, definitions and measurement methodologies contained in Code 300, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2300 shall take precedence over Code 300 as published in the Government Gazette No 29617.

Code Series 2400: Measurement of Skills Development Element of Broad-Based Black Economic Empowerment

Statement 2400: The General Principle for Measuring Skills Development

1. The Skills Development Scorecard

Category	Skills Development Element	Weighting Points		Compliance Target
		Contractors	BEP	
1.1 Skills Development Expenditure on any program specified in the Learning Programmes Matrix (Code 400, P57)				
	1.1.1 Skills Development Expenditure on all employees as a percentage of Leivable Amount.	2	2.5	1.5%
	1.1.2 The portion of Skills Development Expenditure, spent on Black Employees, as a percentage of Skills Development Expenditure on all employees using the Adjusted Recognition for Gender	3	4	70%
	1.1.3 The portion of Skills Development Expenditure, spent on Black Employees in all Management Categories, as a percentage of the portion of Skills Development Expenditure spent on Black Employees, using the Adjusted Recognition for Gender. (See paragraph 1.b)	1.5	2	25%
1.2 Learnerships				
	1.2.1 Number of Learners participating in Learnerships or Category B, C and D programmes as a percentage of total employees. (See paragraph 1.c)	1	1.5	2.5% Contractors 1.5% BEP's
	1.2.2 Black Learnership and/or Black Category B, C and D programme participants as a percentage of total Learnerships and Category B, C and D programme participants using the Adjusted Recognition for Gender	2.5	3.5	70%
	1.2.3 Black People with disabilities participating in Learnerships and/or Category B, C and D programmes as a percentage of Black Learnerships and Black Category B, C and D programme participants using the Adjusted Recognition for Gender. This Item only applies to office based employees. (See paragraph 1.d)	1	1.5	5%
1.3 Bursaries				
	1.3.1 Scholarship and/or Bursary Expenditure on Black Students, as a percentage of Leivable Amount	2	2.5	0.3%
1.4 Mentorship				
	1.4.1 Implementation of an approved and verified mentorship programme (paragraph 3)	2	2.5	Yes to all criteria in paragraph 3

CONSTRUCTION CODES

1. Notes on Calculations

- a. The Adjusted Recognition for Gender in Annexe 400(B), Code 400 will be applied as follows in Code 2400 (The reference to the letters remains the same as in Annexe 400(B), P58):
- i) 1.1.2 $A=B/1.2+C$
 - ii) 1.1.3 $A=B/1.71+C$
 - iii) 1.2.2 and 1.2.3 $A=B/1.29+C$
- b. $S = D/E * W$ (Calculation for 1.1.3)
- i) S = The score applicable to this indicator. Black Management includes all levels of management.
 - ii) $D = [(The\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ Management\ divided\ by\ the\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ People) /1.71] + (The\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ Female\ Management\ divided\ by\ the\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ People)$. Multiply the result of the calculation with 100 to express in a percentage format.
 - iii) E= The target for this indicator (25%).
 - iv) W= The weight of this indicator.
- c. Total employees for the purpose of the calculation in paragraph 1.2.1 refer to the average number of employees over the measurement period. It does not refer to the total number at a particular point during the measurement period.
- d. $V=Y/Z*X$ (Calculation for 1.2.3)
- i) V=The score applicable to this indicator.
 - ii) $Y=[(The\ number\ of\ Black\ People\ with\ disabilities\ participating\ in\ Learnerships\ and/or\ Category\ B,\ C\ and\ D\ programmes\ divided\ by\ the\ number\ of\ Black\ Learnerships\ and\ Black\ Category\ B,\ C\ and\ D\ programme\ participants\ that\ form\ part\ of\ or\ will\ form\ part\ of\ office\ based\ staff)/1.29]+ (The\ number\ of\ Black\ Females\ with\ disabilities\ participating\ in\ Learnerships\ and/or\ Category\ B,\ C\ and\ D\ programmes\ divided\ by\ the\ number\ of\ Black\ Learnerships\ and\ Black\ Category\ B,\ C\ and\ D\ programme\ participants\ that\ form\ part\ of\ or\ will\ form\ part\ of\ office\ based\ staff)$. Multiply the result of the calculation with 100 to express in a percentage format.
 - iii) Z= The target for this indicator (5%).
 - iv) X= The weight of this indicator.
- e. Calculations only relate to employees of the measured entity with the exception of the provision of 1.f.

CONSTRUCTION CODES

- f. Bursary related costs that can be included are limited to students that are currently employed or contractually obliged to work for the Measured Entity in the future. Furthermore this indicator will be subject to the same provision contained in paragraph 3.2, Code 400, P 55.
 - g. The review of targets related to Learnerships as indicated in paragraph 5.4.4 in the Section 12 Construction Transformation Charter will take place three years after the commencement date of this Statement.
 - h. An expansion is applicable to the definition of Learnerships, which will include category A of the DTI Learning Program Matrix with regards to the BEP's only with reference to paragraph 1.2.1, 1.2.2 and 1.2.3 (under Code 2400). This will include but is not limited to engineers, architects, quantity surveyors and CAD draughtsman.
2. Code 400
- a. Code 2400 shall adhere to all other principles, definitions and measurement methodologies contained in Code 400, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2400 shall take precedence over Code 400 as published in the Government Gazette No 29617.
3. Mentorship
- a. Measurement of Mentoring
 - i) Compare the company mentor program with the provided list of criteria. If the program complies with the list of requirements below, it will qualify for recognition in the score card.
 - ii) The verification agent will evaluate the portfolio of evidence for the protégés against the list provided.
 - iii) The verification agent will randomly select a few protégés to interview to determine the effectiveness of the program.
 - iv) The verification agent will then sign off that the mentor program is compliant.
 - b. The following criteria constitute a mentor program and must be present in the Measured Entity:
 - i. Each company must have one person in the company who is responsible and accountable for mentoring, called the mentor champion. In a larger company, this may be the chairman of a committee set up to manage a mentor program.

CONSTRUCTION CODES

- ii. Other criteria for the program include the following:
 - 1. The objectives and desired outcomes of the program
 - 2. The structure of the program
 - 3. The resources required and how they will be allocated
 - 4. Methods on how the protégés and mentors will be selected and matched
 - 5. The training for the mentors and protégés on their responsibilities toward the mentor relationship, which may include communication skills and conflict handling
 - 6. The training necessary to support the mentoring
 - 7. The time frames for the implementation of the program.
- iii. General portfolio of evidence to include the following
 - 1. Monthly report to mentor champion on overall program (Internal progress review)
 - 2. CV of mentor champion
 - 3. Minutes of mentor committee meetings
 - 4. Plan of mentor program as indicated above.
- iv. Individual portfolio of evidence for each protégé to include the following:
 - 1. Minutes of meetings between protégés and their mentors including details of time, location and duration of meetings, topics discussed advice and guidance given and progress review on required development outcomes.
 - 2. Any training provided to support protégé development
 - 3. Attendance at mentor and protégé training for the program
 - 4. Individual development plan
 - 5. Development interventions
 - 6. Quarterly report on protégé benefits from mentor relationship
 - 7. Individual progress review on a quarterly basis against individual development plan
 - 8. Activities undertaken by the protégé including which departments the protégé worked in, details of job assignments and details of activities undertaken.

CONSTRUCTION CODES

Code Series 2500: Measurement of Preferential Procurement Element of Broad-Based Black Economic Empowerment

Statement 2500: The General Principle for Measuring Preferential Procurement

1. The Preferential Procurement Scorecard

Criteria	Weighting Points	Compliance Targets	
		0-4 Years	5-7 Years
1.1 B-BBEE Procurement Spend			
1.1.1 B-BBEE Spend on all Suppliers based on the B-BBEE Procurement Recognition Levels as a Percentage of Total Procurement Spend	12	50%	70%
1.1.2 B-BBEE Procurement Spend from Qualifying Small Enterprise or Exempted Micro Enterprise based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	10%	15%
1.1.3 B-BBEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend:			
1.1.3.1 Suppliers that are 50% black owned.	3	9%	12%
1.1.3.2 Suppliers that are 30% black women owned.	2	6%	8%

2. Code 500

- a. In addition to the exclusion listed in Code 500, the BEP's will be permitted to exclude current facility rental contracts. This relaxation will be for contracts signed before the 1st of November 2005 and will be for a maximum period of the current contract and will exclude any extended and or altered contract conditions.
- b. Code 2500 shall adhere to all other principles, definitions and measurement methodologies contained in Code 500, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2500 shall take precedence over Code 500 as published in the Government Gazette No 29617.

CONSTRUCTION CODES

Code Series 2600: Measurement of Enterprise Development Element of Broad-Based Black Economic Empowerment

Statement 2600: The General Principle for Measuring Enterprise Development

1. Enterprise Development (ED) Scorecard

Criteria	Weighting Points		Compliance Target
	Contractors	BEP's	
1.1 Enterprise Development Program			
1.1.1 Compliance with the Requirements and Guidelines for an Enterprise Development Program (paragraph 2 and 3) calculated on the basis of the ED Matrix (Paragraph 4). The Measured Entity must submit an annual portfolio of proof indicating compliance with the pre-requisites, as well as adherence to the Guidelines for an Enterprise Development Program.	5	5	1 (Refer to paragraph 4)
1.2 Enterprise Development Contributions			
1.2.1 Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of NPAT/Leviable Amount.	10	5	3% of NPAT (Contractor) 0.75% of Leviable Amount (BEP)

2. Pre-requisites for an Enterprise development Relationship

- a. A relationship agreement of co-operation and assistance has to be in place between the established organization (EO) and developing organisation (DO).
- b. The EO may not have an equity holding larger than 20% in the DO, either directly or through a flow through calculation.
- c. The DO that can qualify for Enterprise Development must:
 - i. be a legal entity compliant with SA Revenue Service requirements;
 - ii. be an employer of at least three other permanently employed personnel and not merely a one person operation with temporary employees.
 - iii. must be 50% or more black owned or 30% or more black women owned.

3. Requirements for Enterprise Development Program

- a. The Measured Entity must have proof of compliance with the following five requirements before the relationship with a potential recipient of enterprise development will be labeled as an official enterprise development relationship attached to the Measured Entity (and points will be allowed for this indicator in paragraph 4):
 - i. Developed a Needs Analysis for the developing organisation (DO).
 - ii. Generated a development program with milestones. At least three areas of development must have been identified per recipient applicable to the measurement period. The following areas can be targeted for development but is not limited to:
 1. Management and labour skills transfer
 2. Establishment of administrative systems
 3. Establishment of cost control systems
 4. Planning, tendering and programming skills transfer
 5. Business skills transfer with emphasis on entrepreneurial and negotiation skills
 6. Technical skills transfer with emphasis on innovation
 7. Legal compliance
 8. Procurement skills transfer
 9. Establish credit rating/history
 10. Establish financial loan capacity/history
 11. Contractual knowledge transfer.
 - iii. Developed a schedule of activities to address the identified development areas. At least three areas must have been addressed per recipient applicable to the measurement period.
 - iv. Allocated Resources for the Development of the developing organisation involved in the enterprise development relationship. These contributions will be captured in the indicator dealing with Enterprise Development Contributions and relates to the activities in the Benefit Factor Matrix in Annexe 600(A), Pg 70 of the DTI Codes. If no contributions were made within the year of measurement this requirement has not been met. The cumulative count based on previous years' contributions does not qualify.

- v. Appointed a champion for Enterprise Development. It must be an accountable and responsible person from at least senior management level within the Established Organisation (Measured Entity). This individual must be suitable qualified and experienced to monitor progress and complete a portfolio of proof for activities 3a i-iv for submission to a verification agent at the end of the measurement period.

4. The ED Ratio Matrix.

Contractors			BEP's		
Annual Turnover of Measured Entity during the current financial year.	Requirements related to current measurement period		Annual Turnover of Measured Entity during the current financial year.	Requirements related to current measurement period	
	X	Y		X	Y
Greater than or equal to R 1 billion	7	5%	Greater than or equal to R 300 million	3	5%
Greater than or equal to R500 million	5	5%			
Greater than or equal to R300 million	4	5%	Greater than or equal to R100 million	2	5%
Greater than or equal to R35 million	2	5%	Less than a R100 million	1	5%
Less than R35 million	1	5%			

Notes on Calculation

- Position the measured entity in the highest applicable turnover category on the basis of its total annual turnover over the current measurement period/financial year.
- Apply the following calculation methodology:
 - A = The number of DO's that participated in an ED program compliant with paragraph 2 and 3 over the current measurement period divided by the appropriate target number in Colum X.
 - B = (The sum of the annual turnovers of the DO's counted in A divided by the annual turnover of the measured entity for the current measurement period) X 100 (Use the DO's latest 12 months turnover at the time of EO's measurement)
 - C = B/5 (5% is the turnover ratio requirement in Column Y)
 - D = A X C
 - Score = 5 (weighting) X D - The score cannot exceed 5; D cannot be > than 1
- Turnover parameters can be adjusted by the Charter Council.

5. Process of verification related to the Enterprise Development Program :
- a. Verification Agents will:
 - i. Ensure that all the pre-requisites for an Enterprise Development Relationship have been met over the period of measurement in order to recognize the Enterprise Development Program.
 - ii. Ensure that the Enterprise Development Program complies with the requirements.
 - iii. Interview the DO owner and selected staff to verify Enterprise Development Program claims.
6. Focus on Developing Organisations:
- a. The focus on ED should be on the development of entities in the construction sector and periphery. Examples are as follows (but not limited to):
 - i. Suppliers – suppliers of construction equipment, construction materials, hired plant/machinery and formwork and other suppliers related to the core business.
 - ii. Professional service providers which must relate to core business – financial and legal services, services in the built environment professionals (architects, environmental consultants, engineering consultants, quantity surveyors, town planners, land surveyors, geologists and material testing laboratories) and other specialist consultants etc.
 - iii. Built environment service providers – contractors, (building, interior decorators, painting, civil, mechanical, electrical and electronic) specialist sub contractors (Geotech, piling, asphalt, landscaping, fencing, road marking).
7. Notes on Calculation related to paragraph 1.2
- a. Code 2600 shall adhere to all other principles, definitions and measurement methodologies contained in Code 600, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2600 shall take precedence over Code 600 as published in the Government Gazette No 29617.
 - b. Clause 1.2 is applicable as it appears in Code 600, P65-71 with the attached Annexes, measurement methodologies and principles.

- c. Category A and Category B contributions as referred to in Code 600 must be adjusted using the Benefit Factor, Annex 600(A), P70. With reference to: 'Black Women Owned' in Category A and B beneficiaries, the minimum shareholding is 30%.
- d. The contributions related to this indicator is not limited to entities that are official recipients of Enterprise Development as per the requirements of the Enterprise Development Program prescribed in paragraph 1.1, though if no points are scored on paragraph 1.1: Enterprise Development Program, and contributions were made during the last measurement period, only 50% of these contributions will be allowed for calculation purposes after the benefit factor stipulated in the Benefit Factor Matrix (Annex 600(A), p70 DTI Codes) has been calculated. This impact will be carried forward for the purpose of cumulative calculations, but will not impact on contributions made before the commencement of this Statement.

CONSTRUCTION CODES

Code Series 2700: Measurement of Socio Economic Development Element of Broad-Based Black Economic Empowerment

Statement 2700: The General Principle for Measuring Socio Economic Development

1. Socio Economic Development Scorecard

Criteria	Weighting	Compliance Target
Average annual value of all Socio Economic Development Contributions by the Measured Entity as a percentage NPAT/Leviable Amount.	5	1% of NPAT (Contractor) 0.25% of Leviable Amount (BEP)

1. Due to the limited absorption capacity of disabled employees by the sector the following two items are added to the Benefit Factor Matrix, Annexe 700(A), P76 of the Codes published in the Government Gazette no. 29617:

- a. In kind expenditure related to existing building and infrastructure facilities by Contractors to ensure accessibility to people with disabilities in line with universal design principles. The full cost of the modifications done in kind with a benefit factor of 115%.
- b. Consultation, in kind, with associations/NGO's relevant to people with disabilities to ensure that the designs of new as well as existing public infrastructure comply with universal design principles. The full amount of the time cost with a benefit factor of 115%.

2. Code 700

- a. Code 2700 shall adhere to all other principles, definitions and measurement methodologies contained in Code 700, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2700 shall take precedence over Code 700 as published in the Government Gazette No 29617.

Code Series 2800: Codes of Good Practice for Qualifying Small Enterprises (QSE's)

Statement 2800: The Framework for the QSE Scorecard

1. The QSE Scorecard

- a. Eligibility for a QSE as articulated in paragraph 4 Statement 2000.
- b. There are no bonus point allocations in the QSE scorecard or sub-minimum requirements.
- c. Code 2800 shall adhere to all other principles, definitions and measurement methodologies contained in Code 800, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2800 shall take precedence over Code 800 as published in the Government Gazette No 29617.

2. Statement 2801: Ownership for QSE's

a. The QSE Ownership Scorecard

Category	Ownership Indicator	Weighting Points	Compliance Target	
2.1 Voting Rights			Year 0-4	Year 5-7
	2.1.1 Exercisable Voting Rights in the Enterprise in the hands of Black People	4	27.5%	30%
	2.1.2 Exercisable Voting Rights in the Enterprise in the hands of Black Women	2	10%	
2.2 Economic Interest			Year 0-4	Year 0-7
	2.2.1 Economic Interest of Black People in the Enterprise	8	27.5%	30%
	2.2.2 Economic Interest of Black Women in the Enterprise	4	10%	
2.3 Realisation Points				
	2.3.1 Ownership fulfillment	1		
	2.3.2 Net Value	6		

b. Notes on Calculation

- i. The Net Value calculation is applied as in Code 2100.
- ii. A minimum score of 6 points for Net Value is a requirement for the award of the Ownership Fulfillment point.
- iii. All principals defined in Code 2100 and Statement 801 apply to Code 2801

3. Statement 2802: Management Control for QSE's

a. The QSE Management Control Scorecard

Category	Management Control Indicator	Weighting Points	Compliance Target
3.1 Top Management			
	3.1.1 Black representation at Senior Top-Management Level using the Adjusted Recognition for Gender	25	25% (0-4 Year) 40% (5-7 Year)

All principals defined in Code 2200 and Statement 802 apply to Code 2802

The Adjusted Recognition for Gender must be applied as in paragraph 1.2.1 of Code 2200.

4. Statement 2803: Employment Equity for QSE's

a. The QSE Employment Equity Scorecard

Criteria	Weighting Points	Compliance Targets	
		Years 0 - 4	Years 5 - 7
Black Employees of the Measured Entity within all Management Categories as a percentage of all Employees in the Management Categories adjusted using the Adjusted Recognition for Gender	15	45%	60%
Black Employees of the Measured Entity as a percentage of all employees adjusted using the Adjusted Recognition for Gender.	10	60% (Contractors) 45% (BEP's)	70% (Contractors) 60% (BEP's)

All relevant principals defined in Code 2300 and Statement 803 apply to Code 2803

The Adjusted Recognition for Gender must be applied as in paragraph 1.1.2 of Code 2300.

5. Statement 2804: Skills Development for QSE's

a. The QSE Skills Development Scorecard

Skills Development Element	Weighting Points	Compliance Target
5.1 Skills Development Expenditure in respect of all employees on learning programmes as a percentage of Leivable Amount	10	1.5%
5.2 The portion of Skills Development Expenditure, spent on Black People, expressed as a percentage of total Skills Development Expenditure using the Adjusted Recognition for Gender.	15	70%

All relevant principals defined in Code 2400 and Statement 804 apply to Code 2804

The Adjusted Recognition for Gender must be applied as in paragraph 1.1.2 of Code 2400.

CONSTRUCTION CODES

6. Statement 2805: Preferential Procurement for QSE's

a. The QSE Preferential Procurement Scorecard

Criteria	Weighting Points	Compliance Target
BEE Procurement Spend from all Suppliers based on the BEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	25	40% (0-4 Year Target) 50% (5-7 Year Target)

All principals defined in Code 2500 and Statement 805 apply to Code 2805

7. Statement 2806: Enterprise Development for QSE's

a. The QSE Enterprise Development (ED) Scorecard

Criteria	Weighting Points	Compliance Target
Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of NPAT/Leviable Amount. All aspects of Code 600 are relevant to this indicator.	25	2% of NPAT (Contractor) 0.5% of Leviable Amount (BEP)

All relevant principals defined in Code 2600 and Statement 806 apply to Code 2806

8. Statement 2807: Socio-Economic Development Contributions for QSE's

a. The QSE Socio-Economic Development (SED) Scorecard

Criteria	Weighting Points	Compliance Target
Average annual value of all SED contributions and approved SED contributions made by the measured entity as a percentage of NPAT/Leviable Amount.	25	1% of NPAT (Contractor) 0.25% of Leviable Amount (BEP)

All principals defined in Code 2700 and Statement 807 apply to Code 2807

Interpretations and Definitions

Part 1: Interpretation

The Codes 2000-2800 related to the Construction Sector shall be interpreted according to the same provisions as provided for in the Interpretation section, P87 of Government Gazette No. 29617.

Part 2: Definitions

All definitions will apply to Codes 2000-2800 related to the Construction Sector as it appear in the Definition section, P87-93 of Government Gazette No. 29617, read with the definitions listed below:

BEP	Built Environment Professional related enterprises which provide services related but not limited to consulting engineering, architecture and quantity surveying.
Contractor	Construction enterprise involved in the Construction Sector.
Construction Activities	The design, planning, expansion, creation and/or maintenance of fixed assets related to residential or non-residential buildings, infrastructure, or any other form of construction works in South Africa.
Construction Sector	All enterprises that are involved in the design, planning, expansion, creation and/or maintenance of fixed assets related to residential or non-residential buildings, infrastructure, or any other form of construction works in South Africa. This includes, but is not limited to: residential and non-residential building contractors, civil engineering contractors and built environment professionals.
Unincorporated Joint Venture	Means a Joint Venture between two or more Measured Entities affected by agreement without incorporation. This is a joint venture normally formed ad-hoc for a specific project, in which two or more parties share the obligations, risks and rewards.
Management	Senior Management Category: The heads of major functions not represented on the main board and within Senior Top Management and who are responsible for operational decisions.

CONSTRUCTION CODES

	<p>Middle Management Category: Middle management reporting to Senior management category, professionally qualified employees and experienced specialists.</p> <p>Junior Management Category: The skilled technical & academically qualified employees, junior management reporting to middle management, supervisors, foremen and superintendents.</p>
Mentorship	The process of assisting employees to gain further knowledge, experience and skills; it is an activity that can be successfully used where senior employees develop junior employees within a company to enhance their career development.
Office Based Employees	All staff who are based at the office. Generally this category of staff will be head-office staff in a contracting company. For BEP's it excludes staff that visits construction sites.

Where there are any contradictions these definitions shall take precedence

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
Kaapstad-tak: Tel: (021) 465-7531