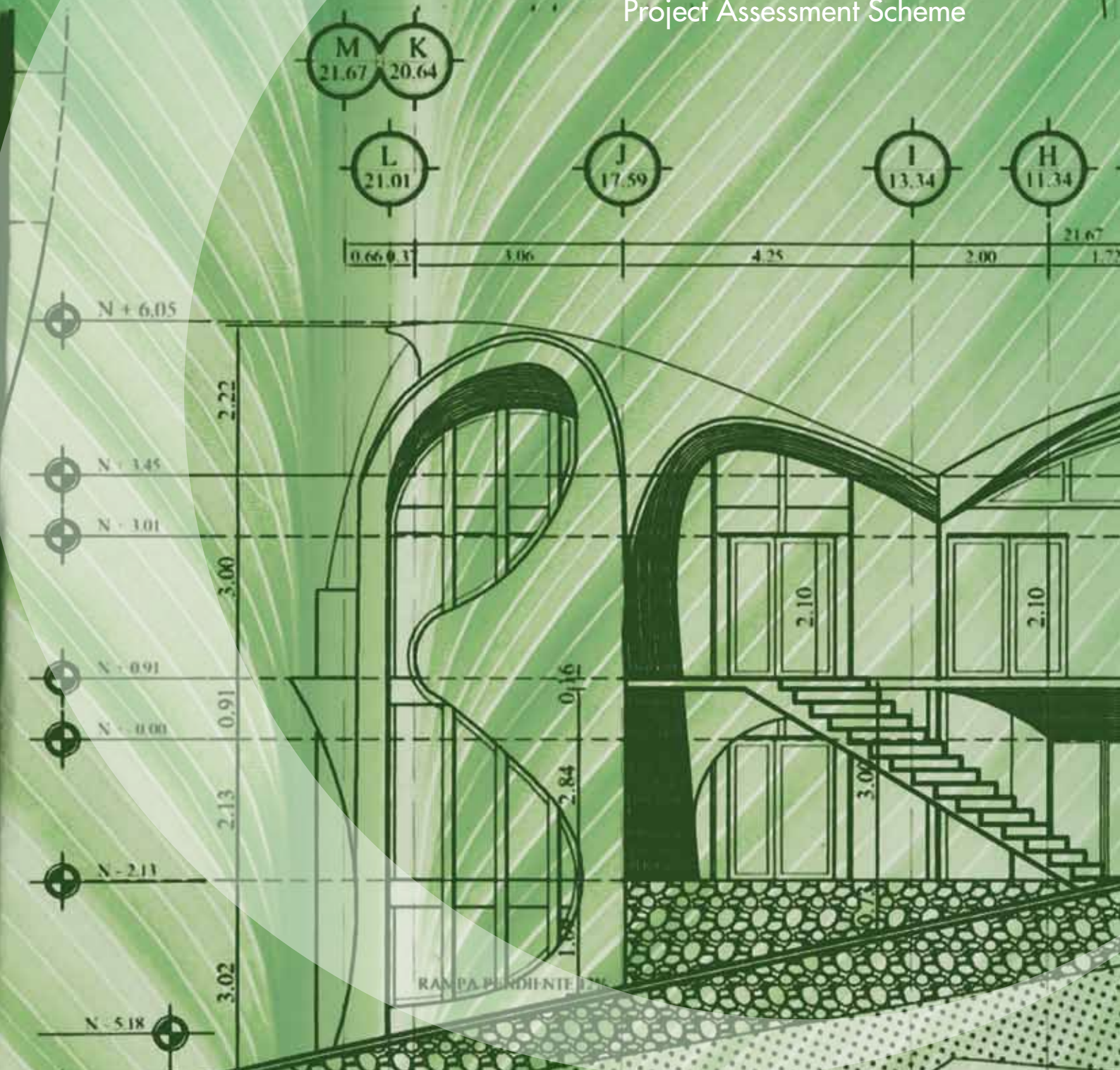


# Best Practice

## Project Assessment Scheme



Enterprise Development

DRAFT

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***CIDB BEST PRACTICE PROJECT ASSESSMENT SCHEME;***  
**REQUIREMENTS AND GUIDELINES FOR INDIRECT TARGETING**

July 2011



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**CIDB BEST PRACTICE PROJECT ASSESSMENT SCHEME;  
REQUIREMENTS AND GUIDELINES FOR INDIRECT TARGETING**

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## 1 INTRODUCTION

The cidb Act (Act 38 of 2000) requires that the Board must establish a *Best Practice Project Assessment Scheme* based on the best practices identified by the Board. All construction contracts above a prescribed tender value will then be subject to an assessment of compliance with best practice standards and guidelines published by the Board.

The cidb Act defines "best practice" as "a desirable and appropriate standard, process, procedure, method or system in relation to the delivery process and the life cycle of fixed assets", and the Act mandates the cidb to determine and establish best practice that promotes:

- improved industry stability;
- improved industry performance, efficiency and effectiveness;
- procurement and delivery management reform;
- improved public sector delivery management;
- national social and economic objectives, including:
  - growth of the emerging sector;
  - labour absorption in the construction industry;
  - improved labour relations; and
  - positive safety, health and environmental outcomes; and
- human resource development in the construction industry.

*Growth of the emerging sector* can be facilitated through a number of mechanisms, including<sup>1,2</sup>:

- *directly* through a structured public or private sector contractor development programme together with appropriate preference models; or
- *indirectly* through a procurement model with targeted development outcomes.

Indirect targeting includes mechanisms such as those where a condition of contract is for the main contractor to develop joint-venture partners and/or sub-contractors.

The aim of these guidelines and requirements for indirect targeting is to promote enterprise development by providing for a minimum of 5% of the total project value on selected contracts to be undertaken by joint-venture partners or to sub-contracted to developing contractors that are also to be beneficiaries of enterprise development support from the main contractor.

These cidb requirements for enterprise development through indirect targeting are aligned with the enterprise development components within the construction sector Codes of Practice for Broad Based Black Economic Empowerment.

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<sup>1</sup> cidb & DPW (2010). *National Contractor Development Programme (NCDP); Framework 2010 and beyond*. Construction Industry Development Board & Department of Public Works, <http://www.cidb.org.za>

<sup>2</sup> cidb (2010). *Targeting for Contractor Development Programmes; Guidelines*. Construction Industry Development Board, <http://www.cidb.org.za>

## 2 REQUIREMENTS AND APPLICATION

### 2.1 General

These requirements for indirect targeting are to be complied with on all qualifying contracts after the date and above a prescribed tender value and above an estimated project duration determined by the Minister of Public Works in the Government Gazette.

The initial phased requirements for compliance with these **cidb** requirements for indirect targeting apply only to General Building (GB) and to Civil Engineering (CE) main contracts in the public sector, as given below:

Sector	Minimum Tender Grade	Estimated Minimum Project Duration	Implementation Date
National Public Works and regions	Grade 7	6 months	year 0
National government departments	Grade 7	6 months	year 0
Public entities	Grade 7	6 months	year 0
Provincial government departments	Grade 7	6 months	year 0 + 1
Metros	Grade 7	6 months	year 0 + 1
High-capacity municipalities <sup>1</sup>	Grade 7	6 months	year 0 + 2
Medium-capacity municipalities <sup>1</sup>	Grade 7	6 months	year 0 + 3
Low-capacity municipalities <sup>1</sup>	Grade 7	6 months	year 0 + 4

Note: 1) As per Government Notice No. 733 of 1 July 2004

The requirements for “qualifying contracts” are included in Section 2.2 below.

### 2.2 Qualifying Tenders and Contracts

The employer will determine and specify at tender stage whether the contract will qualify for the need for compliance with these requirements for enterprise development through indirect targeting of JV partners or sub-contractors, based on the guideline that a qualifying contract is one in which at least 30% of the main contract could reasonably be expected to be sub-contracted out in one or more of the following **cidb** Class of Works:

- Civil Engineering (CE);
- Electrical Engineering Work (EB);
- General Building Works (GB); or
- Mechanical Engineering (ME).

In addition, a qualifying contract must meet the estimated minimum project duration requirement given in Section 2.1 above.

The employer must specify that the main contractor / JV must comply with these requirements for enterprise development through indirect targeting in their contract documentation.

### 2.3 Enterprise Development Requirements

Where specified by the Minister in the Gazette, employers are required to specify in their calls for qualifying tenders and in their contract documentation that:

- a minimum of 5% of the total final project value must be undertaken by a qualifying JV partner of the contracting JV entity or must be sub-contracted by the main contractor or established JV

- partners (referred to here as the developed enterprises) to qualifying construction enterprises (referred to here as the qualifying developing enterprises); and
- qualifying construction enterprises will receive mutually agreed upon enterprise development support from the developed enterprises, complying with the requirements of Section 2.3(ii) below during the duration of the project.

Note that employers may at their discretion increase the minimum requirement of 5% of the total final project value to be undertaken by qualifying developing enterprises. However, subject to Item 2.6, employers may not decrease the minimum requirement to below 5% of the final project value to be undertaken by qualifying developing enterprises.

Such requirements for enterprise development must be recorded on project registration with the cidb (see Form CRS-F001, [Appendix 1](#)).

The requirements for developed enterprises, for qualifying as a developing enterprise and for enterprise development support are given below:

- i) **Developed Enterprises:** The requirements for a developed enterprise are given below:
  - a) In the case of a single enterprise operating as the main contractor, the main contractor must be registered in a cidb Grade 7 or higher in the General Building (GB) or Civil Engineering (CE) Classes of Works, and must be accountable for providing the enterprise development support.
  - b) In the case of a JV agreement, at least one JV partner must be registered in a cidb Grade 7 or higher in the General Building (GB) or Civil Engineering (CE) Classes of Works, and must be accountable for providing the enterprise development support.
- ii) **Qualifying Developing Enterprises:** The requirements for a qualifying developing enterprise are given below:
  - a) A relationship agreement of co-operation and assistance must be put in place for the duration of the contract between the developed enterprise(s) and the developing enterprise(s).
  - b) The developed enterprise(s) may not have an equity holding larger than 20% in the developing enterprises, either directly or through a flow through calculation.
  - c) The developing enterprise(s) that can qualify for enterprise development support must be:
    - i) registered with the cidb;
    - ii) an employer of at least three other permanently employed personnel and not merely a one person operation with temporary employees; and
    - iii) 50% or more black owned or 30% or more black women owned.
  - d) Furthermore, the developing enterprise(s) that can qualify for enterprise development support must:
    - i) in the case of a sub-contractor, be appointed by the main contractor and (where required) subject to the approval by the employer;
    - ii) have the potential to be developed; and
    - iii) be willing to commit to participating in a development process.
- iii) **Qualifying Enterprise Development Support:** The requirements for enterprise development support that have to be put in place for the duration of the contract are given below:
  - a) A needs analysis must be developed for the developing enterprise(s).

- b) A project specific development program with milestones must be developed for the developing enterprise(s). At least two areas of development must be identified per recipient applicable to the project period.

The areas for development should be guided by the requirements of the *cidb Best Practice Contractor Recognition Scheme*<sup>3,4</sup> as well as the *cidb / NCDP* exit requirements for accreditation of contractors<sup>5</sup>. Specifically, the following areas can be targeted for development but is not limited to:

- skills development leading to nationally accredited outcomes;
  - management and labour skills transfer;
  - establishment of administrative systems;
  - establishment of cost control systems;
  - establishment of construction management systems and plans (H&S, quality and environmental);
  - planning, tendering and programming skills transfer;
  - business skills transfer with emphasis on entrepreneurial and negotiation skills;
  - technical skills transfer with emphasis on innovation;
  - legal compliance;
  - procurement skills transfer;
  - establish credit rating/history;
  - establish financial loan capacity/history; and/or
  - contractual knowledge transfer.
- c) A schedule of activities to address the identified development areas must be developed. At least two areas must be addressed per recipient enterprise applicable to the project period.
- d) Appropriate resources for the development of the developing enterprise involved in the enterprise development relationship must be allocated.
- e) An Enterprise Development Co-ordinator must be appointed (see Section 2.4).

## 2.4 Enterprise Development Co-ordinator

The main contractor(s) is(are) required to nominate a project Enterprise Development Co-ordinator to ensure that the implementation of the requirements for enterprise development are actioned.

Key responsibilities of the Enterprise Development Co-ordinator are to (see Section 2.3(ii)):

- develop a project specific enterprise development plan based on a needs analysis for the qualifying construction enterprises;
- monitor progress of the enterprise development programme;
- submit Enterprise Development Reports pertaining to each qualifying developing enterprise on behalf of the contractor(s) to the client at practical completion (see Form CRS-F502, see [Appendix 2](#)).

<sup>3</sup> *cidb* (2010). *cidb Best Practice Contractor Recognition Scheme; Requirements and Guidelines for Contractor Competence Assessment* (Draft). Construction Industry Development Board, <http://www.cidb.org.za>

<sup>4</sup> *cidb* (2010). *cidb Best Practice Contractor Recognition Scheme; Requirements and Guidelines for Construction Management Systems* (Draft). Construction Industry Development Board, <http://www.cidb.org.za>

<sup>5</sup> Under development.

Each Enterprise Development Report must be signed by the Enterprise Development Co-ordinator (on behalf of the main contractor(s)), the qualifying developing enterprise(s) and by the employer, verifying:

- the total value of work sub-contracted to the qualifying developing enterprise(s);
- the enterprise development support that was agreed upon; and
- that the agreed enterprise development targets were substantially achieved.

The client shall submit the Enterprise Development Reports pertaining to each qualifying developing enterprise to the cidb within 30 days of practical completion.

## 2.5 Right of Appeal

Where the qualifying developing enterprise or the employer is not prepared to substantiate the information provided in the Enterprise Development Report at practical completion by the Enterprise Development Co-ordinator, either party has the opportunity to an independent review of the Enterprise Development Report by a mutually agreed Adjudicator, as stipulated in the **Contract between the employer and the main contractor**. (Such requirement for the Adjudicator must be included in the contract between the main contractor(s) and the sub-contractor.) The appeal process is outlined below:

- a) The relevant party must state on the signed Enterprise Development Report (see Form CRS-F502, **Appendix 2**) that he/she appeals the performance assessment by the Enterprise Development Co-ordinator.
- b) The qualifying developing enterprise or the employer must notify the Enterprise Development Co-ordinator of its intention to refer the matter to an Adjudicator within the required time as stipulated in the relevant Contract.
- c) The qualifying developing enterprise or the employer and the Enterprise Development Co-ordinator must adhere to the adjudication procedure as stipulated in the relevant Contract.
- d) The Enterprise Development Co-ordinator must submit the case to the Adjudicator when required (see Form CRS-F003, **Appendix 3**).
- e) The Adjudicator shall notify all the parties of his/her decision together with his reasons within the required time as stipulated in the relevant Contract.
- f) The Adjudicator's decision is binding until the dispute is finally determined by litigation or arbitration if required by either party.
- g) Where the Enterprise Development Report is changed as a result of a Review, an adjusted copy of the report is to be signed and provided to all the parties.
- h) The Enterprise Development Co-ordinator must forward this copy of the Enterprise Development Report to the cidb.

## 2.6 Exemptions and Variations

Exemptions from or variations to the requirements for enterprise development of sub-contractors may be sought under the following conditions:

- **Client departments have implemented their own enterprise development requirements** that are substantially similar to those contained in these cidb requirements for enterprise development.

- **Prior to tender:** Employers may seek exemption from the requirements prior to tender where the nature of the project is not suitable for enterprise development of sub-contractors.

Criteria for the granting of exemptions will be published by the Minister. Requests for exemption from or variation to the requirements for enterprise development must be submitted to the cidb (see Form CRS-F504, see [Appendix 4](#)), and the cidb will respond to such requests within 5 working days of receipt of the request.

## 2.7 Compliance

Failure by employers to comply with these cidb requirements for enterprise development may:

- in the case of a private sector client, result in fines or penalties being imposed as set out in the cidb Regulations; or
- in the case of a public sector client, result in fines or penalties being imposed as set out in the cidb Regulations and/or referral to the Auditor-General.

Subject to the employer's obligations, failure by main contractors or JV partners to comply with these cidb requirements for enterprise development may result in fines or penalties being imposed as set out in the cidb Regulations.

Furthermore, a record of compliance with these requirements will be recorded on the cidb Contractor Performance Reports that are required to be submitted by the employer to the cidb on practical completion of all prescribed public sector projects. Such information can be used on future tenders for the purpose of:

- assessing the suitability of contractors for registration, pre-qualification, selective tender lists or expressions of interest;
- adjudication for the award of a contract; and/or
- termination of contract.

Compliance with these guidelines and minimum requirements are subject to inspection and audit by the cidb from time to time.

### 3 GUIDELINES FOR CLIENTS

Requirements and guidelines for public sector clients are given in [Appendix 5](#), for clauses to be included in Conditions of Tendering and Conditions of Contract in the tender and contract documents.



APPENDIX 2 ENTERPRISE DEVELOPMENT REPORT; PRACTICAL COMPLETION (FORM CRS\_F502)

FORM CRS-F502: cidb ENTERPRISE DEVELOPMENT POLICY; PROJECT COMPLETION REPORT To be completed for each qualifying enterprise	
Section A: Employer Information	
cidb Employer Number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Employer Name	<input type="text"/> <input type="text"/>
Section B: Contract Data	
cidb Contract Number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Contract Title	<input type="text"/> <input type="text"/> <input type="text"/>
Date of Practical Completion	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Estimated final value of contract (including VAT, variations and any price adjustment)	R <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> 0 0 0 . 0 0
Section C: Main Contractor / JV Information	
cidb Contractor Registration Number of main / lead contractor	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Name of contractor /Joint Venture	<input type="text"/>
If the case of a JV;	
Name of developed enterprise (i):	<input type="text"/>
cidb Contractor Registration Number:	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Name of developed enterprise (ii):	<input type="text"/>
cidb Contractor Registration Number:	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

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APPENDIX 5 PROCUREMENT GUIDELINES

To be completed

## APPENDIX 6 ECONOMIC ASSESSMENT

## A4.1 Supply

An assessment of the potential number of sub-contractors to benefit from Indirect Targeting is presented in this Appendix, together with an assessment of the implementation challenges.

An estimate of the value of public sector General Building (GB) and Civil Engineering (CE) contracts awarded per year, including public entities, is given in the adjacent table, based on data obtained from the Industry Insight project database and scaled up to the SARB infrastructure spend for 2009. (Note that the quality of the data is insufficient to disaggregate into general government and public entities.) Considering only GB and CE, it is estimated that the value of public sector Grade 7 to 9 GB contracts amounts to around R18b, and public sector Grade 7 to 9 CE contracts amounts to around R75b per year.

Value of Public Sector Contracts Rm pa			
Grade	GB	CE	GB + CE
9	7 285	32 862	40 147
7 & 8	10 610	42 479	53 088
Sub-Total	17 894	75 341	93 235
5 & 6	2 809	12 032	14 841
2 to 4	1 374	4 964	6 338
Total	22 077	92 338	114 415

In addition, the number of cidb registered contractors is given below for various Classes of Works:

Number of cidb Registered Contractors					
Grade	GB	CE	ME	EE	SW
9	29	42	20	6	10
7 & 8	259	297	51	29	42
Sub-Total	288	339	71	35	52
5 & 6	994	1 117	241	233	206
2 to 4	3 410	2 767	396	492	750
Sub-Total	4 404	3 884	637	725	956
Total	4 692	4 223	708	760	1 008

Furthermore, the number of black-owned (defined as 50% and greater equity ownership) is given in the following table. (Note, as many Grade 9 companies are publically owned, black-ownership of Grade 9 contractors is not a true reflection of ownership.)

Number of Black-owned cidb Registered Contractors					
Grade	GB	CE	ME	EE	SW
9	6	4	0	0	2
7 & 8	162	141	17	15	10
Sub-Total	168	145	17	15	12
5 & 6	790	829	111	146	108
2 to 4	2 989	2 295	238	383	517
Sub-Total	3 779	3 124	349	529	625
Total	3 947	3 269	366	544	637

For the purpose of this analysis, it is necessary to obtain an estimate of the capacity of cidb registered contractors in the various grades, which is shown in the following table using the average turnover of R15m pa for Grade 5 & 6 contractors, R2m pa for Grade 2 to 4 contractors.

Capacity of Black-owned cidb Registered Contractors (Rm)					
Grade	GB	CE	ME	EE	SW
5 & 6	11 850	12 435	1 665	2 190	1 620
2 to 4	5 978	4 590	476	766	1 034
Total	17 828	17 025	2 141	2 956	2 654

The value of public sector work to be sub-contracted to black-owned sub-contractors in terms of the proposed 5% targeting factor on GB and CE awards is given in the following table:

Value of Public Sector sub-Contracts Rm pa: Based on 5% Targeting			
Grade	GB	CE	GB + CE
9	364	1 643	2 007
7 & 8	531	2 124	2 654
Sub-Total	895	3 767	4 662

It should be noted that it is likely that there is likely to be a mix of skills required on the sub-contracts generated – for example, sub-contracts generated through GB contracts is likely to include GB, EB and possibly SW sub-contracts. Similarly, sub-contracts generated through CE contracts is likely to include CE, GB and SW sub-contracts. The exact mix of these is unknown, and various scenarios of the utilisation of black-owned Grade 2 to 6 capacity are shown in the following table.

Capacity Utilisation of Black-Owned Grade 2 to 6 Contractors; Based on 5% Targeting		
Assumption	GB	CE
GB Only	5%	
CE Only		22%
GB & CE Only	13%	
All Classes of Works	11%	

Specifically:

- if the 5% of GB targeted work is sub-contracted only to GB sub-contractors, this would absorb 5% of the total capacity of cidb registered black-owned GB contractors in Grades 2 to 6;
- if the 5% of CE targeted work is sub-contracted only to CE sub-contractors, this would absorb 22% of the total capacity of cidb registered black-owned CE contractors in Grades 2 to 6 – which would place significant pressure on the existing capacity;
- if the 5% of GB and CE targeted work is sub-contracted to GB and CE sub-contractors, this would absorb 13% of the total capacity of cidb registered black-owned GB and CE contractors in Grades 2 to 6; and, finally
- if the 5% of GB and CE targeted work is sub-contracted to sub-contractors of all classes of works, this would absorb 11% of the total capacity of cidb registered black-owned contractors in Grades 2 to 6.

In practice, it is likely that the 5% targeting factor would place a total (preferencing) demand of around 10% to 20% on black-owned contractors – which appears to be reasonable. Notwithstanding this, this total demand needs to be monitored closely, and if necessary the targeting factor on CE works may need to be reduced.

#### A4.2 Benefit / Cost Assessment

It is difficult to place a monetary value to the cost of the development support provided, and a conservative (maximum) estimate on a R100m Grade 8 contract is given below:

Item	Possible Value (Rk)
Enterprise Development Coordinator	100
Training Costs (R50k per sub-contractor * 5 sub-contractors)	250
<b>Total</b>	<b>350</b>
Total as a % of R100m contract	0,35%

Indirect costs could include loss of productivity, decreased quality and rework, etc, which could amount to a maximum of, say, 1% of 5% of the value of the contract = 0,05%.

The total additional cost to the client (or employer) would therefore conservatively be less than  $0,35\% + 0,05\% = 0,4\%$  of the value of the contract. However, contractors experienced in enterprise development report that if done properly, enterprise development should not result in any additional cost to the client.

Notwithstanding a possible additional cost to the client, the benefits to the construction industry and the contribution to transformation of the industry also need to be recognised. Specifically, from Section 4.1 above, it can be seen that under the *cidb* requirements for indirect targeting, the total value of contracts to developing enterprises could amount to around  $0,05 \times R93b = R4,6b$  per year. From Section 4.1 above it is also estimated are that this translates into around 10% of the total black-owned *cidb* registered contracting capacity that would receive developmental support per year – amounting to around 840 developing enterprises per year.

Furthermore, the long term financial benefits to the contractor would clearly be substantial.

A summary of the benefits and costs is given below:

Benefits	Possible Maximum Cost Increase
<ul style="list-style-type: none"> <li>• R4,6b of contracts to developing enterprises</li> <li>• 840 developing enterprises receiving development support</li> <li>• long term financial benefits to developing enterprises</li> </ul>	0,4% of contract value

# Best Practice

Project Assessment Scheme



Enterprise Development