**APPENDIX B: EPWP GUIDELINE CONDITIONS**

**C3.7 EPWP GUIDELINE CONDITIONS**

**C3.7.1 SCOPE**

This section covers all aspects that relate to the implementation of the EPWP, community participation, use and development of Affirmative Business Enterprises, engagement and training of the labour force and labour enhanced construction. This section shall be read in conjunction with the following supporting documents:

i) The Government RDP White Paper

ii) Small Business Act No 102 of 1996

iii) White Paper on National Strategy for the Development and Promotion of Small business in South Africa (Notice No. 213 of 1995, published in Gazette No. 16317 of 28 March 1995)

iv) ASSEC (Association of Emerging Contractors) Accreditation scheme for small /Emerging Contractors.

v) White Paper on creating an enabling environment for the Reconstruction, Growth and Development in the Construction Industry, March 1999.

vi) Affirmative Procurement policies as developed by the PWD led task team.

Aspects of these documents have been included as specifications, in which case the specifications will take precedence.

**C3.7.2 GUIDELINES FOR THE IMPLEMENTATION OF THE EPWP**

**1. DEFINITIONS.**

**The community** means individual and communal property owners, organised groups of road users, other interest groups and departments or spheres of government that may be affected by the location, construction, operation and maintenance of the road to which this contract applies.

**"National Small Business Support Strategy**" means the national policy in respect of small business support as published by the Minister in the Gazette, and includes the policy as stated in the White Paper on National Strategy for the Development and Promotion of Small Business in South Africa.

**"Small business"** means a separate and distinct business entity, including co-operative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy mentioned in column I of the Schedule below and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule.

For the purpose of construction projects, the medium classification will not apply in terms of the CPG, unless the enterprise can also be classified as an ABE

**"Conventional contract"** means any contract for the execution of civil engineering or building or similar construction works, in which the liabilities and responsibilities of the two parties thereto are assigned essentially in a manner which is consistent with that set out in the General Conditions of Contract for Road and Bridge Works for State Road Authorities, 1998 (as published by the Committee of Land Transport Officials) or other similar documents.

**"Conventional subcontract"** shall be similarly and appropriately construed.

**“Contract Participation Goal”** (or CPG), is the value of goods, services and works, excluding VAT, for which the Contractor proposes to engage labour and ABE’s.

**“Contractor"** means any person or group of persons in association, or firm, or body corporate whose expertise, resources, ability and experience are such as ***may generally be regarded with a reasonable degree of confidence by an experienced consulting engineer***, as rendering him/them capable and competent to independently and successfully enter into, execute and complete civil engineering, building or similar construction works in terms of a conventional contract.

**“Conventional subcontractor"** shall be similarly and appropriately construed.

**Emerging contractor** means an ABE that can not reasonably be categorised as a conventional contractor defined above.

**"Key Personnel"** means all contracts managers, site agents, materials and survey technicians, trainers, supervisors, foremen, skilled plant operators, and all other personnel in the permanent employ of the Contractor or his subcontractor who posses special skills and/or who play key roles in the Contractor's or subcontractor's operations.

**"Worker"** for the purposes of this specification means any person, not being one of the defined key personnel of the Contractor or his subcontractor, who is engaged by the Contractor or subcontractor to participate in the execution of any part of the contract works and shall include unskilled labour, semi-skilled and skilled labour, artisans, clerical workers and the like.

**“Workforce”** means the aggregate body comprising all workers and shall, unless the context dictates otherwise, include the workforces of the Contractor and all his subcontractors.

**“Subcontractor”** means any person or group of persons in association, or firm, or body corporate (whether formally constituted or otherwise) not being the Contractor, to whom specific portions or aspects of the works are sublet or subcontracted by the Contractor in accordance with the provisions of the contract.

**Level of subcontractor** means the level of responsibility carried by and the assistance to be provided to the different grades of subcontractor in the execution of subcontracts.

“**PLC**” is the Project Liaison Committee

“**Project Committee**” is the committee comprising out of the Employer’s representative, The Engineer or his representative, the Contractor or his representative and the CLO.

“**CLO**” is the Community Liaison Officer as indicated by the Employer and appointed and paid by the Contractor under the Contract.

**2. COMMUNITY PARTICIPATION.**

2.1 **Purpose**

In order to give effect to the need for participation and transparency in the process of appointing labour, the community should participate in the decision making process throughout the life of a project. This shall be achieved through structured engagement between those responsible for the delivery of the project and the community.

2.2 **Structure and Composition**

A Project Liaison Committee (PLC) may be formed from representatives of the Employer, the Engineer, the Contractor and the Community if the project is such that a specific community can be identified.

2.3 **Procedures**

2.3.1 The PLC deals with labour and ABE involvement on the project and shall meet at least once every month until such time as it is of the opinion that it could fulfil its tasks by meeting less frequently.

2.3.2 The PLC shall make recommendations by consensus. If consensus cannot be reached, the decision of the Employer will be final in cases that have no financial implications for the Contractor or where payment is to be made from PC items. Where the financial responsibility for the successful completion of the works rests with the Contractor, the Contractor’s decision shall be final. In fulfilling its tasks, the PLC shall be guided by the relevant sections of this specification and the supplementary documents.

2.4 **Tasks of the PLC**

2.4.1 To assist with community liaison and resolution of disputes.

2.4.2 To devise fair and transparent procedures that will assist the Contractor in the engagement of labour and the award of sub-contracts to ABE’s.

2.4.3 To advise on and monitor labour issues.

2.4.4 To assist in resolving labour disputes.

2.5 **Assistance to the PLC**

2.5.1 The appointed CLO will assist the Engineer and the Contractor in the day to day liaison with the communities directly affected by the project.

3. **USE, DEVELOPMENT AND SUPPORT OF ABE’S**

3.1 **Extent of the works to be executed by ABE’s.**

A major objective of the RDP is to extend economic opportunities and entrepreneurial capacity to all localities by the optimum utilisation of the resources existing in the vicinity of projects, the development of these resources in the execution of the project, and by maximising the amount of project funds retained within the project locality.

The Engineer shall advise the Gauteng Provincial Government: Department of Public Works, Roads and Transport on the contract participation goal (CPG) for local ABE’s that may be achieved on the project. This CPG will be stated in the Contract Data.

Only ABE’s that have been appointed through the procedures adopted by the PLC shall count towards the achievement of the target, unless the PLC agrees that ABE’s that have been engaged by the Contractor as a result of contractual arrangements between the Contractor and such ABE’s prior to tendering, or before the adoption of the agreed procedures, can qualify.

Where all tenderers have been supplied with a list of pre-qualified ABE’s, these ABE’s can be engaged by the contractor prior to award and will be counted towards the achievement of the CPG.

Upon receipt of a fully motivated written application from the Contractor, the target may be reduced. The circumstances for such a reduction may include inter alia the following:

i) non-receipt of valid tenders from ABE’s;

ii) default or failure of appointed ABE’s to complete sub- contracts;

iii) but shall not include the failure of the PLC to approve ABE’s referred to above.

3.2 **Terms and conditions of the subcontract agreements**

The terms and conditions of each subcontract agreement shall be as mutually agreed between the Contractor and the ABE’s.

Each subcontract agreement shall contain terms and conditions which assign the responsibilities and liabilities of the two parties to the subcontract.

The terms and conditions of the subcontract agreement shall further be such as to specifically ensure that the provisions of this contract pertaining to:

i) the allowable sources from which workers may be drawn;

ii) the terms and conditions relating to the recruitment and employment of the workers

iii) any training to be provided to the temporary workforce;

shall apply in respect of all workers engaged and employed by any ABE.

Except where it is in conflict with the responsibilities of the subcontractor under a particular level of subcontract, the terms and conditions of the subcontract agreement shall:

i) include an entitlement of the subcontractor to receive such training and support as is contemplated in this contract; and

ii) an obligation on the ABE to participate and co-operate in such training as is provided for in this contract.

The Contractor shall be responsible for the compilation of each subcontract agreement and for ensuring that terms and conditions thereof are consistent with all requirements as specified in, or reasonably to be inferred from, the provisions of this contract. The Contractor shall bear all costs associated with the compilation of the subcontract documentation and the conclusion of the agreement.

In addition to the provisions of General Conditions of Contract, the final terms and conditions of each subcontract agreement shall be subject to the approval of the Engineer, which approval shall be obtained by the Contractor prior to entering into the subcontract agreement and which approval shall not be unreasonably withheld.

The Contractor shall include a condition of subcontract that ABE subcontractors shall apply for accreditation through the CEITS Accreditation Programme or other similar approved programme, for small/emerging contractors.

3.3 **Formulation of subcontracts**

3.3.1 Scope, extent and level of subcontracts

The Contractor shall submit a list of subcontracts that he proposes to let to the PC setting out:

i) the scope and extent of the works to be included in any particular subcontract;

ii) the time at which subcontracts will be let; and

iii) the duration of the subcontract;

The scope and extent of the proposed subcontracts shall be framed in such a manner as will facilitate the achievement of all objectives and principles pertaining to ABE’s use and development as are stated in or as may reasonably be inferred from the conditions of this contract, due cognisance being taken of:

i) the prevailing levels, ability, resources and previous experience of the potential candidates available;

ii) the training and assistance to be provided to the ABE’s in terms of this contract;

iii) the period allowed in the Appendix for completion of the Works and the approved programme of works;

iv) the scope of the Works described in the Project Specifications; and all constraints and conditions contained in this contract, as may impact upon the subcontract.

The level to be applicable to any particular subcontract shall be selected by the Contractor, in accordance with the following criteria:

i) the level of subcontract shall be commensurate with the scope and extent of Works included in the subcontract; and

ii) the level of subcontract shall be selected taking due cognisance of:

- the prevailing levels of the available candidates;

- the assistance to be provided by the Contractor to the ABE’s for any given level of subcontract;

- the training and support to be provided to the ABE’s in terms of the contract;

- the training as may have previously been provided to candidate ABE’s under this or other contracts.

The Contractor shall formulate the subcontracts in a manner that will facilitate optimum use of available potential ABE’s.

3.4 **Engagement of subcontractors**

The Contractor shall submit a program and procedures that will show the optimum use of ABE’s on the contract along the following guidelines.

3.4.1 Identification and general training of potential ABE’s

The Contractor will, through an appropriate public information campaign in the vicinity of the project, invite potential sub-contractors to attend information sessions about the scope of the works, the RDP objectives of the Project and the scope of the Works that could be undertaken by ABE’s.

Potential ABE’s shall be invited to attend training workshops that could include the following modules:

i) Estimating and Tendering

ii) Conditions of Contract & Specification

iii) Basic Business Appreciation

iv) Statutory obligations pertaining to the requirements and procedures of inter alia:

- Site tax/income tax deductions from the amounts due to their employees;

- The occupational Health and Safety Act 1993; (Act No 85 of 1993);

- Value-added tax (VAT) and other taxes for which the small subcontractor may be liable;

- His status as an employer.

The training shall be conducted by an accredited training agency and the candidates who successfully complete the training shall receive certificates and their names retained on a list of potential tenderers.

3.4.2 Advertisement

The contractor shall compile an advertisement setting out the scope and type of work that will be let out to sub-contractors and inviting interested parties to

Obtain tender qualification forms. The tender qualification form shall elicit information from prospective tenderers that will assist the Contractor in determining the eligibility of the applicant to perform at a particular level of subcontract. This advertisement shall be run in appropriate daily newspapers if available and displayed at public buildings, shops and other places in the vicinity of the project and disseminated through various community structures.

Notwithstanding the above requirements to advertise publicly for invitations to qualify for tenders, the Contractor may invite specific eligible ABE’s as he

may select.

The PC shall scrutinize the applications in terms of previous experience, equipment, labour force, financial position and location, but without identification, and allocate them to the type of work that they could potentially undertake, having regard also for further training and support.

If after the initial allocation, there should be an excessive number of candidates, a further selection shall be made to reduce the number of potential tenderers per subcontract to no more than five.

3.4.3 Invitation and site inspection

Applicants who satisfy the pre-qualification process shall be invited to attend a site inspection, conducted jointly by the Engineer and the Contractor at which the tender documents shall be handed over and the exact scope and requirement of each sub-contract explained.

3.4.4 Adjudication and award

Upon receipt of the tenders, the Contractor shall adjudicate the tenders and make proposed awards, based on criteria such as balance of rates, overall tender price against realistic cost to deliver in time and at a reasonable margin of profit.

The proposed awards shall then be submitted to the PC for ratification. The PC shall have the right to interview any tenderer for the purpose of:

i) clarifying any aspect of the tender;

ii) verifying the eligibility of the tenderer by further enquiry into aspects that may not be clear from the pre-qualification; and

iii) making alternative proposals in the event that it is considered a better selection as is available to the Contractor.

Notwithstanding the above, since the responsibility for due performance vests with the Contractor, the Contractor’s decision is final should agreement with the PC not be reached as to the preferred candidate.

3.5 **Training, Mentoring, Guidance and Assistance**

3.5.1 Structured training and support

The PLC may assist in identification of the contract workers to undergo training as specified in the training programme specifications in paragraph 9 of this section.

The PLC may assist with formalising a structured development programme for ABE subcontractors, having regard for the resources and experience of the ABE’s that have been engaged and the scope and level of the subcontracts, in accordance with the criteria set out below.

3.5.2 Co-operative Venture

ABE contractors who have been identified in the pre-qualification stage and who have some experience and equipment, but who operate independently with little training and backup, should be brought together with a view to forming a co-operative venture to allow them to access work requiring varied skills and equipment and of a larger magnitude.

3.5.3 ABE support office

Such an office shall be part of the Contractor’s own site establishment and shall provide administrative and technical services exclusively to ABE’s that have been selected according to the processes defined in these project specifications. The following support shall be provided:

i) Materials ordering

ii) Invoicing

iii) Wage packaging

iv) Cost control

* 1. Work scheduling

vi) Setting out of work

vii) Measurement of work done

viii) Training

Such an office shall be staffed in joint venture between the Contractor, who shall be paid an amount under the contract for ABE support, the Employer via the training allowed for in the contract, and the ABE’s who shall pay a service fee.

3.5.4 Financial Assistance to ABE’s

The Contractor shall tender to assist ABE’s with:

i) Funding of wages between payment certificates at the start of the contract

ii) Payment for materials channelled through their accounts

iii) Guarantees for financing of equipment

3.5.5 Supply of services and materials

As part of the pre-tender communication strategy, local business and local community structures should be informed of the needs so that they can prepare themselves to take advantage of the opportunities to provide goods and services.

Cartage only subcontracts could be advertised as ABE work and included in the statistics if the proper procedures are followed.

The supply only of material as well as the supply of labour through labour brokers who will work under the supervision of the Contractor, shall not count towards the target of work done by ABE’s.

3.5.6 Accredited training

Over and above the in-task training provided to the workforce, training by accredited training providers shall be provided to ABE’s as enterprises with the aim of progressing through the levels as defined. The Contractor shall assist in facilitating in the delivery of the training, by instructing and motivating the ABE’s regarding attendance and participation therein. The Contractor shall further make all reasonable efforts to co-ordinate the programming of the ABE’s work with that of the delivery of the structured training.

**4. DISPUTE AVOIDANCE AND RESOLUTION PROCEDURES**

The Contractor shall at all times apply the terms and conditions of the subcontract fairly and justly, taking due cognizance of the level of sophistication and experience of the particular ABE’s concerned, as well as the level of subcontract applicable.

The Contractor shall closely monitor and supervise all ABE’s and wherever feasible, shall give reasonable warning to the ABE’s when any contravention of the terms of the subcontract has occurred or appears likely to occur.

The Contractor shall, whenever feasible, give the ABE’s reasonable opportunity to make good any such contravention, or to avoid such contravention and shall render all reasonable assistance to the ABE’s in this regard.

When taking any disciplinary actions or imposing any penalties as are provided for in the subcontract, the Contractor shall explain fully to the ABE’s that such actions are provided for in the subcontract.

If any dispute should arise between the Contractor and a ABE’s, such dispute shall be resolved in accordance with the provisions of the subcontract. Notwithstanding, either party may at any time, refer any dispute to the Project Liaison Committee, the PC or the Engineer for consideration, with a view to facilitating the resolution thereof.

No opinion expressed by, or resolution or decision of the Project Liaison Committee, pertaining to any matter referred to it shall be binding on either party to the subcontract unless:

i) it is stated in the subcontract agreement that the Contractor shall be bound by such opinions, resolutions or decisions; or

ii) the Contractor is instructed in writing by the Engineer to give effect thereto, in which case such instruction of the Engineer may be deemed to constitute an "instruction" as contemplated in the General Conditions of Contract.

**5. CONTRACTOR’S LIABILITY**

No provision or requirement set out in this specification shall be deemed to relieve the Contractor of any liability or obligation under the contract, and in accordance with the provisions of sub-clause 8(4) of the conditions of contract, the Contractor shall be fully liable for the acts, defaults and neglects of any ABE’s, his agents or employees, as fully as if they were the acts, defaults and neglects of the Contractor, his agents or employees.

Nothing contained in this specification shall be deemed to constitute or imply any warranty given by the Contractor to any party, that any ABE’s to whom a subcontract is awarded in accordance with the provisions of this specification:

i) can or will actually achieve the successful execution and completion of the subcontract; nor

ii) will not suffer losses or damages as a result of the acceptance of his tender/quotation.

**6. CERTIFICATE OF EXPERIENCE**

The Contractor shall on the completion of each and every subcontract completed in accordance with the provisions of this specification, issue free of charge to the small, medium and micro enterprise a certificate stating:

6.1 **Contract data:**

(i) Contract title;

(ii) Contractor's full name and address;

(iii) Engineer’s name and address;

(iv) Employer's name;

6.2 **Subcontract data:**

(i) ABE’s name and address;

(ii) Scope or extent of the subcontract works;

(iii) Value of the subcontract works;

(iv) Applicable level of the subcontract;

(v) Duration of the subcontract;

(vi) Date of completion of the subcontract;

(vii) Description of the training undergone by the ABE’s and certifying the ABE’s completion of the subcontract.

The format, layout and appearance of certificates shall be at the Contractor's discretion, provided always that they shall be respectable and presentable in accordance with the general standards of normal business practice. All certificates shall be signed by the Engineer and a senior representative of the Contractor, who has been duly authorised thereto.

**7. LABOUR ENHANCED CONSTRUCTION**

The Contractor's attention is drawn to the fact that it is an objective of the contract to maximise the labour content of certain operations or portions thereof. In this regard, where the specified work allows for a choice between mechanical or labour-enhanced means, the former shall generally be kept to the practical minimum.

The Contractor shall submit on a monthly basis, daily labour returns to the Engineer indicating the numbers of temporary personnel employed on the works and the activities on which they were engaged.

**8. TEMPORARY WORKFORCE**

8.1 **Record of workforce**

The Contractor shall maintain accurate and comprehensive records of all workers engaged on the contract and shall provide to the Engineer at monthly intervals from the commencement of the contract, interim records substantiating the actual numbers of employment opportunities which have been generated to date and the amounts actually paid in respect thereof. Such interim records shall be in a format approved by the Engineer.

The Contractor shall, on completion of the contract, and as a pre-requisite to the release of any retention money, provide the Engineer with independently audited documentary evidence of the total number of employment opportunities actually generated during the contract.

The value of the target amount (minimum Contract Participation Goal) spent on local labour is prescribed in the Appendix.

8.2 **Recruitment and selection procedures**

The Contractor shall be responsible for the final selection of workers to constitute the temporary workforce but in doing so, shall adhere to the procedures adopted by the PLC or CLO along the following guidelines:

The Contractor shall advise the Engineer in writing, of the numbers of each category of temporary worker which he requires, together with the personal attributes which he considers desirable that each category of worker shall possess (taking due cognisance of the provisions of the contract relating to training).

The PLC or CLO shall take the necessary actions to identify potential workers for the temporary workforce from communities in the vicinity of the works. The details of all persons applying for employment shall be recorded, including inter-alia:

(i) Name, address, age and sex

(ii) Marital status and number of dependants

(iii) Qualifications and previous work experience (whether substantiated or not)

(iv) Period since last economically active

(v) Preference for type of work or task.

The PLC or CLO shall make a selection of workers from amongst the applicants, taking due cognisance of his requirements for the workforce as supplied by the Contractor and the provisions of the contract in regard to the provision of training to selected members of the workforce and in accordance with the following principles:

No potential temporary worker shall be precluded from selection by virtue of a lack of skill in any suitable operation forming part of the works, unless:

(i) all available vacancies have been or can be filled by temporary workers who already possess suitable skills; or

(ii) the completion period allowed in the contract, or the remaining portion of the contract period (as the case may be) is insufficient to facilitate the creation of the necessary skills;

The Contractor shall make a final selection from the list provided by the PLC or CLO using the following criteria:

(i) preference shall be given to the long term unemployed and single heads of households

(ii) in so far as is reasonably practicable, give priority to accommodating the applicants' expressed preferences regarding the types of work for which they are selected and shall not be prejudicial to youth over the age of fifteen years and women.

The same provisions shall apply as is in respect of the selection of additional or replacement members of the workforce as may be necessary from time to time during the contract.

8.3 **Terms and Conditions Pertaining to the Employment of the Temporary Workforce**

The onus shall be on the Contractor to ensure that all the requirements of all the acts relating to the employment of workers are observed.

8.4 **Labour Relations and Worker Grievance Procedures**

In accordance with the provisions of the General Conditions of Contract, the Contractor shall, at his own cost, be fully responsible for the establishment and maintenance of satisfactory labour relations on site and the resolution of all grievances of temporary workers as may occur.

The Contractor shall at all times adhere to the accepted norms and standards of labour relations prevailing generally in the civil engineering construction industry and shall conduct himself in a fair and reasonable manner, within the constraints as may be imposed upon him by the terms of the contract.

In the event of any temporary worker engaged by the Contractor in terms of the contract, being aggrieved on any issue, he shall have the right to nominate and be supported in any inquiry or

disciplinary hearing or investigation instituted by the Contractor, by one member of the temporary workforce.

In the event of any grievance not being satisfactorily resolved through the application of normal dispute resolution procedures described above, then either the Contractor or the worker concerned may require that the matter be referred to the PC for further consideration, with a view to facilitating resolution thereof.

**9. TRAINING OF THE TEMPORARY WORKFORCE.**

Selected members of the workforce are to be provided at least with structured training by a nominated subcontractor, in accordance with the provisions of this section. The Contractor shall make all necessary allowances in his program of work to accommodate and facilitate the delivery of such structured training.

ABE sub-contractors workforces will be entitled to receive accredited training that will improve on task skills necessary for the execution and successful completion of the various subcontracts. The Contractor, in conjunction with the Engineer, shall monitor each ABE’s progress closely and shall identify those who will benefit from structured construction skills training

The technical training shall comprise of items selected from the table in paragraph 7 of this section and which are relevant to this project.

**10. ACCREDITED TRAINING AND ATTENDANCE.**

Only qualified trainers employed by training agencies who are accredited by the Civil Engineering Industry Training Scheme (CEITS), or any other institution recognized by the Department of Labour shall deliver all training certificates affirming the successful participation in the various courses and shall be presented to each attendant.

The contractor shall facilitate in the delivery of training, by instructing and motivating the relevant subcontractor regarding his staff’s attendance and participation therein.

The contractor shall further make all reasonable efforts to co-ordinate subcontractors’ work with that of the delivery of the structured training

**The provision of structured training shall not relieve the Contractor of any of his obligations in terms of clause 24 of the General Conditions of Contract and the Contractor shall remain fully liable for the provision, at his own cost, of any other training of the workforce, additional to the structured training, as deemed to be necessary by the Contractor to achieve the execution and completion of the works strictly in accordance with the provisions of the contract.**

**11. PENALTIES FOR NON-COMPLIANCE**

**Any deliberate failure or neglect by the Contractor to comply with the provisions of this specification, or any deliberate omission or neglect by the Contractor in adhering to or applying the principles as are described and inherent in this specification, shall be deemed to constitute a warrant for the Engineer to act in terms of sub-clause 58(1)(e) of the conditions of contract or the penalties specified for non attaining the prescribed CPG’s will be applied and doubled.**

**C3.5.3 PAYMENT**

**To be included in tendered rates**

**C3.5.4 EMPLOYMENT OF UNSKILLED AND SEMI-SKILLED WORKERS IN LABOUR- INTENSIVE WORKS**

**1. Requirements for the sourcing and engagement of labour.**

1.1 Unskilled and semi-skilled labour required for the execution of all labour intensive works shall be engaged strictly in accordance with prevailing legislation and SANS 1914-5, Participation of Targeted Labour.

**13**

1.1.2 The rate of pay set for the SPWP is R80,00 per task or per day.

1.1.3 Tasks established by the contractor must be such that:

a) the average worker completes 5 tasks per week in 40 hours or less; and

b) the weakest worker completes 5 tasks per week in 55 hours or less.

1.1.4 The contractor must revise the time taken to complete a task whenever it is established that the time taken to complete a weekly task is not within the requirements of 1.1.3.

1.1.5 The Contractor shall, through all available community structures, inform the local community of the labour intensive works and the employment opportunities presented thereby. Preference must be given to people with previous practical experience in construction and / or who come from households:

a) where the head of the household has less than a primary school education;

b) that have less than one full time person earning an income;

c) where subsistence agriculture is the source of income.

d) those who are not in receipt of any social security pension income

1.1.6 The Contractor shall endeavour to ensure that the expenditure on the employment of temporary workers is in the following proportions:

a) 60 % women;

b) 20% youth who are between the ages of 18 and 35; and

c) 2% on persons with disabilities.

**1.2 Specific provisions pertaining to SANS 1914-5**

**1.2.1 Definitions**

**Targeted labour:** Unemployed persons who are employed as local labour on the project.

**1.2.3 Contract participation goals**

1.2.3.1 There is no specified contract participation goal for the contract. The contract participation goal shall be measured in the performance of the contract to enable the employment provided to targeted labour to be quantified.

1.2.3.2 The wages and allowances used to calculate the contract participation goal shall, with respect to both time-rated and task rated workers, comprise all wages paid and any training allowance paid in respect of agreed training programmes.

**1.2.4 Terms and conditions for the engagement of targeted labour**

Further to the provisions of clause 3.3.2 of SANS 1914-5, written contracts shall be entered into with targeted labour.

**14**

**1.2.5 Variations to SANS 1914-5**

1.2.5.1 The definition for net amount shall be amended as follows:

Financial value of the contract upon completion, exclusive of any value added tax or sales tax which the law requires the employer to pay the contractor.

1.2.5.2 The schedule referred to above shall in addition reflect the status of targeted labour as women, youth and persons with disabilities and the number of days of formal training provided to targeted labour.

**1.3 Training of targeted labour**

1.3.1 The contractor shall provide all the necessary on-the-job training to targeted labour to enable such labour to master the basic work techniques required to undertake the work in accordance with the requirements of the contract in a manner that does not compromise worker health and safety.

1.3.2 The cost of the formal training of targeted labour, will be funded by the provincial office of the Department of Labour. This training should take place as close to the project site as practically possible. The contractor, must access this training by informing the relevant provincial office of the Department of Labour in writing, within 14 days of being awarded the contract, of the likely number of persons that will undergo training and when such training is required. The employer must be furnished with a copy of this request.

1.3.3 A copy of this training request made by the contractor to the DOL provincial office must also be faxed to the EPWP Training Director in the Department of Public Works – Cinderella Makunike, Fax Number 012 328 6820 or email [cinderella.makunike@dpw.gov.za](mailto:cinderella.makunike@dpw.gov.za) Tel: 083 677 4026

1.3.4 The contractor shall be responsible for scheduling the training of workers and shall take all reasonable steps to ensure that each beneficiary is provided with a minimum of six (6) days of formal training if he/she is employed for 3 months or less and a minimum of ten (10) days if he she is employed for 4 months or more.

1.3.5 The contractors shall do nothing to dissuade targeted labour from participating in the above mentioned training programmes.

1.3.6 An allowance equal to 100% of the task rate or daily rate shall be paid by the contractor to workers who attend formal training, in terms of 1.3.4 above.

1.3.7 Proof of compliance with the requirements of 1.3.2 to 1.3.6 must be provided by the Contractor to the Employer prior to submission of the final payment certificate.

**C3.5.5 MINIMUM LABOUR BASED TARGETS**

The following minimum labour based targets are required to be met:

**(a) Labour budget as percentage of project budget**

A minimum of 30 % of the Project Budget is required to be spent on local community labour.

**Employment of Local Labour**

(i) The Contractor is required to make maximum possible use of the local labour in the community, which is at present underemployed or unemployed.

(ii) To this end the Contractor is required to give preference to the use of local labour and limit the use of non-local labour to key personnel only.

(iii) Local labour is defined as “people who reside in the community

(iv) Who have preferably been identified by the Project Steering Committee to be employed”

(v) Key Personnel – are defined as foremen and skilled labourers without whom the particular job could not be accomplished. As far as possible these people should impart their management and building skills to individuals within the community workforce who show a keen interest and display a willingness to learn.

**Employment of Women**

A minimum of 50 % of the clerical, semi-skilled and unskilled local labourers employed is required to be women.

**Employment of Youth**

A minimum of 15 % of the local labourers employed is required to be youth (35 years and under and out of school).

**Employment of Disabled Persons**

A minimum of 1,5 % of the local labourers employed is required to be disabled persons.

**(b) Minimum Reporting**

**Contractors Report**

The Contractor is required to complete a Contractors Report, which is to be submitted together with the Contractors Payment Claims all as per the “MIG Reporting Schedule 1 (overall)” attached hereto. Payment of the contractor is conditional on the information being accurately and timeously provided.

1. **Worker Contracts**

All worker contracts for workers employed during the month must accompany the MIG Reporting Schedule 2 (Labour) attached hereto.

1. **Attachments**

Special Conditions of Contract Transfer and Rights and Indemnity

MIG Reporting Schedule 1 (Overall)

MIG Reporting Schedule 2 (Labour)

**ANNEXURE TO SPECIAL CONDITIONS OF CONTRACT TRANSFER OF RIGHTS AND INDEMNITY**

Claim for materials on site, Payment Certificate No: …………...…… Date: ……………..

Tender No: ………… for (*contract title*) ……………………………………………………..

…………………………………………………………………………………………………

I, the undersigned (*name of signatory*) ………………………….…...……….………….. in my capacity as …………………. of (*name of Contractor*) ……….…………………………..

duly authorised hereto on behalf of the Contractor hereby transfer, cede and assign all the Contractor’s rights, title and interest in and to the materials and goods, for which evidence of bona fide ownership is attached hereto,

unto and in favour of (*name of Employer*) ….…………………………………….…….. Insofar as the Contractor retains actual control of the materials and goods, the right of ownership thereof passes to the Employer by *constitutum possessorium*.

I herewith indemnify the Employer against any claim to and in respect of said materials by reason of the Contractor’s sequestration or liquidation or of any effect in the Contractor’s title to the materials and agree that no payment for materials on site will be made by the Employer until such time as I have submitted documentary proof of bona fide ownership of the said materials and goods.

The transfer shall become effective upon conclusion of the Contractor receiving payment from the Employer or from any other person on behalf of the Employer for the materials and goods as Materials on Site, payment of retention money thereon excluded.

I further confirm that I am fully responsible for all materials and goods listed under this Transfer of Rights and that they gave been insured adequately against all risks and will remain insured until they are built into or used in the permanent works and taken over by the Employer.

**This certificate of Transfer of Rights applies only to the materials and goods as listed in the following table:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **DESCRIPTION OF ITEM** | **UNIT** | **QTY** | **RATE** | **AMOUNT** | **SUPPLIER** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
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|  |  |  |  |  |  |
| **TOTAL VALUE OF MATERIALS AND GOODS** | | | |  |  |

Signed by …………………………………………………… Date ……………………………..

for and on behalf of the Contractor,

Witnesses by ………………...……………………….….…….. Date ………………………..

*[Note: This form, together with the documentary proof of ownership or proof of payment by the Contractor to the supplier, shall accompany the Contractor’s claim for payment for materials on site in terms of Clause 52(1)(e) of the General Conditions of Contract 1990.]*

**MIG REPORTING SCHEDULE 1 (OVERALL)**

Reporting Period ……………………………………………………..

**BUDGET**

Proposed cash flow Expenditures (over reporting period)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| This month |  |  | Labour |  |
| Next month |  |  | Material |  |
| Month #3 |  |  | Tools/plant |  |
| Month #4 |  |  | Training |  |
| Month #5 |  |  | Other |  |

**EXPENDITURE TO SMME’s**

|  |  |  |
| --- | --- | --- |
|  | **Name** | **Amount** |
| SMME 1 |  |  |
| SMME 2 |  |  |
| SMME 3 |  |  |
| SMME 4 |  |  |

**LOCAL LABOUR UTILISED (labour days)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Men** | **Women** | **Youth** | **Disabled** |
| Professional |  |  |  |  |
| Managerial |  |  |  |  |
| Clerical |  |  |  |  |
| Skilled |  |  |  |  |
| Semi skilled |  |  |  |  |
| Supervisor |  |  |  |  |
| Labourer |  |  |  |  |

**TRAINING UNDERTAKEN**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Accredited** | | | **Non accredited** | | |
|  | **Men** | **Woman** | **Youth** | **Men** | **Woman** | **Youth** |
| Technical |  |  |  |  |  |  |
| Administrative |  |  |  |  |  |  |
| Life skills |  |  |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Verified for contractor: |  |  |  |  |  |
|  | Name |  | Signature |  | Date |

**Note**

Reports to be submitted for a monthly period to the 25th of the month.

All expenditures to be VAT inclusive.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 24 | **MIG REPORTING SCHEDULE 2 (LABOUR)** | | | | | | | | | | | | | | BID NO: ......... SCOPE OF WORK |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  | | |  |  |  |
| Reporting Period \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |
| **No** | **Name** | **ID No** | **Days** | **Daily** | **Total**  **Clerical** | | | | | | | | |
| **Employed** | **Rate** | **Paid** |  | **Skilled** | **Semi-Skilled** | **Super=**  **vision** | **Labourer** | **Male** | **Female** | **Youth** |
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| Verified for contractor | | ……………………….. | | …………………….. | | | ……………….. | |  |  |  |  |  |
|  |  | Name |  | Signature | |  | Date |  |  |  |  |  |  |

**C3.5.6 GENERIC LABOUR-INTENSIVE SPECIFICATION**

**The Generic Labour-intensive specification below is the same as SANS 1921-5, Construction and management requirement for works contracts - Part 5: Earthworks activities which are to be performed by hand and should be included in the Scope of Works without amendment or modification as set out below.**

**1. Scope**

This specification establishes general requirements for activities which are to be executed by hand involving the following:

a) trenches having a depth of less than 1.5 metres

b) stormwater drainage

c) low-volume roads and sidewalks

**2. Precedence**

Where this specification is in conflict with any other standard or specification referred to in the Scope of Works to this Contract, the requirements of this specification shall prevail.

**2.1 Hand excavateable material**

Hand excavateable material is material:

**a) granular materials:**

i) whose consistency when profiled may in terms of table 1 be classified as very loose, loose, medium dense, or dense; or

ii) where the material is a gravel having a maximum particle size of 10mm and contains no cobbles or isolated boulders, no more than 15 blows of a dynamic cone penetrometer is required to penetrate 100mm;

**b) cohesive materials:**

i) whose consistency when profiled may in terms of table 1 be classified as very soft, soft, firm, stiff and stiff / very stiff;

or

ii) where the material is a gravel having a maximum particle size of 10mm and contains no cobbles or isolated boulders, no more than 8 blows of a dynamic cone penetrometer is required to penetrate 100mm;

**Note:**

1) A boulder, a cobble and gravel is material with a particle size greater than 200mm, between 60 and 200mm.

2) A dynamic cone penetrometer is an instrument used to measure the insitu shear resistance of a soil comprising a drop weight of approximately 10 kg which falls through a height of 400mm and drives a cone having a maximum diameter of 20mm (cone angle of 60° with respect to the horizontal) into the material being used.

|  |  |  |  |
| --- | --- | --- | --- |
| **TABLE 1 : CONSISTENCY OF MATERIALS WHEN PROFILED** | | | |
| **GRANULAR MATERIALS** | | **COHESIVE MATERIALS** | |
| **Consistency** | **Description** | **Consistency** | **Description** |
| Very loose | Crumbles very easily when scraped with a geological pick. | Very soft | Geological pick head can easily be pushed in as far as the shaft of the handle. |
| Loose | Small resistance to penetration by sharp end of a geological pick. | Soft | Easily dented by thumb; sharp end of a geological pick can be pushed in 30-40mm; can be moulded by fingers with some pressure. |
| Medium dense | Considerable resistance to penetration by sharp end of a geological pick. | Firm | Indented by thumb with effort; sharp end of geological pick can be pushed in up to 10mm; very difficult to mould with fingers; can just be penetrated with an ordinary hand spade. |
| Dense | Very high resistance to penetration by the sharp end of geological pick; requires many blows | Stiff | Can be indented by thumb-nail; slight indentation produced by pushing geological pick point into soil; cannot be moulded by fingers. |
| Very dense | High resistance to repeated blows of a geological pick. | Very stiff | Indented by thumb-nail with difficulty; slight indentation produced by blow of a geological pick point. |

**7CC 2.2 Trench excavation**

All hand excavateable material in trenches having a depth of less than 1,5 metres shall be excavated by hand.

**2.3 Compaction of backfilling to trenches (areas not subject to traffic)**

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Backfilling to trenches shall be placed in layers of thickness (before compaction) not exceeding 100mm. Each layer shall be compacted using hand stampers

a) to 90% Proctor density;

b) such that in excess of 5 blows of a dynamic come penetrometer (DCP) is required to penetrate 100 mm of the backfill, provided that backfill does not comprise more than 10% gravel of size less than 10mm and contains no isolated boulders, or

c) such that the density of the compacted trench backfill is not less than that of the surrounding undisturbed soil when tested comparatively with a DCP.

**2.4 Excavation**

All hand excavateable material including topsoil classified as hand excavateable shall be excavated by hand. Harder material may be loosened by mechanical means prior to excavation by hand. The excavation of any material which presents the possibility of danger or injury to workers shall not be excavated by hand.

**2.5 Clearing and grubbing**

Grass and small bushes shall be cleared by hand.

**2.6 Shaping**

All shaping shall be undertaken by hand.

**2.7 Loading**

All loading shall be done by hand, regardless of the method of haulage.

**2.8 Haul**

Excavation material shall be hauled to its point of placement by means of wheelbarrows where the haul distance is not greater than 150 m.

**2.9 Offloading**

All material, however transported, is to be off- loaded by hand, unless tipper-trucks are utilised for haulage

**2.10 Spreading**

All material shall be spread by hand.

**2.11 Compaction**

Small areas may be compacted by hand provided that the specified compaction is achieved.

**2.12 Grassing**

All grassing shall be undertaking by sprigging, sodding, or seeding by hand.

**2.13 Stone pitching and rubble concrete masonry**

All stone required for stone pitching and rubble concrete masonry, whether grouted or dry, must to be collected, loaded, off loaded and placed by hand.

Sand and stone shall be hauled to its point of placement by means of wheelbarrows where the haul distance is not greater than 150m. Grout shall be mixed and placed by hand.

**2.14 Manufactured Elements**

Elements manufactured or designed by the Contractor, such as manhole rings and cover slabs, precast concrete planks and pipes, masonry units and edge beams shall not individually, have a mass of more than 320kg. In addition the items shall be large enough so that four workers can conveniently and simultaneously acquire a proper hand hold on them.

|  |  |  |  |
| --- | --- | --- | --- |
| Table 2: Skills programme for supervisory and management staff | | | |
| **Personnel NQF level** | | Unit standard titles | Skills programme description |
| Team leader/ 2  Supervisor | | Apply Labour-Intensive  Construction Systems and Techniques to Work Activities | This unit standard must be completed, **and** |
| Use Labour-Intensive Construction Methods to Construct and Maintain Roads and Stormwater Drainage | any one of these 3  unit standards |
| Use Labour-Intensive Construction Methods to Construct and Maintain Water and Sanitation Services |
| Use Labour-Intensive Construction Methods to Construct, Repair and Maintain Structures. |
| Foreman/  Supervisor | 4 | Implement Labour-Intensive Construction Systems and Techniques. | This unit standard must be completed, **and** |
| Use Labour-Intensive Construction Methods to Construct and Maintain Roads and Stormwater Drainage | any one of these  3 unit standards |
| Use Labour-Intensive Construction Methods to Construct and Maintain Water and Sanitation Services |
| Use Labour-Intensive Construction Methods to Construct, Repair and Maintain Structures |
| Site Agent/  Manager (i.e the contractor’s most senior representative that is resident on the site) | 5 | Manage Labour –Intensive Construction Processes | Skills Programme against this single unit standard |