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**Construction procurement —**

Part 7:

**Participation of local enterprises and  
labour in contracts**

*Marchés de construction —*

*Partie 7: Participation des entreprises et de la main d'oeuvre locales  
dans les contrats*

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## Foreword

ISO (the International Organization for Standardization) is a worldwide federation of national standards bodies (ISO member bodies). The work of preparing International Standards is normally carried out through ISO technical committees. Each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO, also take part in the work. ISO collaborates closely with the International Electrotechnical Commission (IEC) on all matters of electrotechnical standardization.

International Standards are drafted in accordance with the rules given in the ISO/IEC Directives, Part 2.

The main task of technical committees is to prepare International Standards. Draft International Standards adopted by the technical committees are circulated to the member bodies for voting. Publication as an International Standard requires approval by at least 75 % of the member bodies casting a vote.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ISO shall not be held responsible for identifying any or all such patent rights.

ISO 10845-7 was prepared by Technical Committee ISO/TC 59, *Buildings and civil engineering works*.

ISO 10845 consists of the following parts, under the general title *Construction procurement*:

- *Part 1: Processes, methods and procedures*
- *Part 2: Formatting and compilation of procurement documentation*
- *Part 3: Standard conditions of tender*
- *Part 4: Standard conditions for the calling for expressions of interest*
- *Part 5: Participation of targeted enterprises in contracts*
- *Part 6: Participation of targeted partners in joint ventures in contracts*
- *Part 7: Participation of local enterprises and labour in contracts*
- *Part 8: Participation of targeted labour in contracts*

## Introduction

Procurement is the process which creates, manages and fulfils contracts. Procurement can, as such, be described as a succession of logically related actions occurring or performed in a definite manner and which culminate in the completion of a major deliverable or the attainment of a milestone. Processes, in turn, are underpinned by methods (i.e. a documented, systematically ordered collection of rules or approaches) and procedures (i.e. the formal steps to be taken in the performance of a specific task), which are informed and shaped by the policy of an organization. Methods and procedures can likewise be documented and linked to processes.

It is becoming increasingly important to consider procurement-related deliverables other than those relating to the primary purpose of the procurement itself, particularly those relating to poverty reduction, job creation, local economic development and local industry development. Key performance indicators relating to the engagement of enterprises, joint venture partners, local resources and local labour in contracts are needed to set targets in contracts or to measure procurement outcomes. Processes, procedures and methods are required to quantify, measure and verify a contractor's performance in relation to such indicators in an auditable manner.

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# Construction procurement —

## Part 7:

# Participation of local enterprises and labour in contracts

## 1 Scope

This part of ISO 10845 establishes a key performance indicator in the form of a contract participation goal (CPG) relating to the engagement of local enterprises and labour on a contract for the provision of services or engineering and construction works. A CPG may be used to measure the outcomes of a contract in relation to the engagement of local enterprises and labour or to establish a target level of performance for the contractor to achieve or exceed in the performance of a contract.

This part of ISO 10845 sets out the methods by which the key performance indicator is measured, quantified and verified in the performance of the contract in respect of two different targeting strategies: targeting strategy A and targeting strategy B.

NOTE Annex A contains commentary on the clauses in this part of ISO 10845. Annex B provides guidance on how to develop the targeting data for a procurement document using this part of ISO 10845.

## 2 Terms and definitions

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

### 2.1

#### allowance

amount provided for in the contract by the employer relating to one or more of the following:

- a) the performance by the contractor of work or services that are foreseen but cannot be accurately specified at the time that the contract was entered into;
- b) work or services to be performed, or goods provided, by a subcontractor who is either nominated by the employer or is selected by the employer in consultation with the contractor after the award of the contract;
- c) provision for price adjustment for inflation; or
- d) other budgetary provisions intended to cover employer risks

[ISO 10845-5:2011, definition 2.1]

### 2.2

#### commercially useful function

performance of real and actual work, or the provision of services, in the discharge of any contractual obligation which includes, but is not limited to, the performance of a distinct element of work which the enterprise has the skills and expertise to undertake and the responsibility for management and supervision

[ISO 10845-5:2011, definition 2.2]

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### 2.3

#### **contract amount**

financial value of the contract

- a) at the time of the award of the contract, exclusive of all allowances and any value added tax or sales tax which the law requires the employer to pay to the contractor (targeting strategy A); or
- b) upon completion of all contractual obligations, exclusive of any value added tax or sales tax which the law requires the employer to pay to the contractor (targeting strategy B)

[ISO 10845-5:2011, definition 2.3]

### 2.4

#### **contract participation goal**

##### **CPG**

amount equal to the sum of

- a) the wages and allowances for which the contractor contracts to engage targeted labour; and
- b) the value of goods, services and works for which the contractor contracts targeted enterprises in the performance of the contract;

exclusive of any value added tax or sales tax required by law, expressed as a percentage of the contract amount associated with the targeting strategy that is identified in the targeting data

NOTE Adapted from ISO 10845-5:2011, definition 2.4.

### 2.5

#### **contractor**

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

[ISO 10845-1:2010, definition 3.12]

### 2.6

#### **employer**

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

[ISO 10845-1:2010, definition 3.17]

### 2.7

#### **employer's representative**

person authorized to represent the employer and named as such in the contract data or targeting data

[ISO 10845-5:2011, definition 2.8]

### 2.8

#### **main contractor**

contractor who subcontracts part of his contract

[ISO 6707-2:1993, definition 3.8.13]

### 2.9

#### **target area**

geographic area defined in the targeting data

**2.10****targeted enterprise**

sole trader, partnership or legal entity which is

- a) a business within the target area,
- b) engaged in the performance of the contract, and
- c) defined as the target group in the targeting data

NOTE Adapted from ISO 10845-5:2011, definition 2.15.

**2.11****targeted labour**

individuals who

- a) are employed by the contractor in the performance of the contract,
- b) are defined as the target group in the targeting data, and
- c) permanently reside in the target area or who are recognized as being residents of the target area on the basis of identification and association with and recognition by the residents of the target area

**2.12****targeted manufacturer**

targeted enterprise that operates or maintains a factory or establishment that produces on its premises materials or goods required by the contractor for the performance of the contract

**2.13****targeted supplier**

targeted enterprise that

- a) owns, operates or maintains a store, warehouse or other establishment in which goods are bought, kept in stock and regularly sold to wholesalers, retailers or the public in the usual course of business, and
- b) engages, as its principal business and in its own name, in the purchase and sale of goods

**2.14****targeting data**

data, provisions and variations applicable to a particular contract

[ISO 10845-5:2011, definition 2.18]

NOTE See A.2.3 and Annex B.

**2.15****targeting strategy**

an approach which is pursued to make a contract participation goal an obligation of contract

[ISO 10845-5:2011, definition 2.19]

**2.15.1****targeting strategy A**

targeting strategy which

- a) involves the granting of tender evaluation points by the employer in the evaluation of tender offers in return for the tendering of a contract participation goal or an undertaking to attain a specified contract participation goal at the time that tenders are evaluated, or

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- b) requires a contractor to achieve a minimum specified goal in the performance of a contract, or
- c) involves both (a) and (b)

[ISO 10845-5:2011, definition 2.19.1]

### 2.15.2

#### **targeting strategy B**

targeting strategy which

- a) involves the payment of a financial incentive to a contractor for the attainment of a specified contract participation goal, or
- b) requires the contractor to record and report on the quantum of work generated for targeted labour

NOTE Targeting strategy A bases the contract participation goal on the tendered amount minus allowances, i.e. on the expenditure which the contractor can commit to at tender stage. This strategy allows the employer to adjust the contract participation goal to take account of any failure to achieve such goal in the performance of the contract due to factors which are beyond the contractor's control or are unforeseen at tender stage. Targeting strategy B measures the contract participation goal based on the final contract value. Targeting strategy A accordingly measures the performance of contractors in the engagement of targeted labour in relation to that which can be committed to at tender stage, whereas targeting strategy B does so in relation to that which is finally achieved.

[ISO 10845-5:2011, definition 2.19.2]

### 2.16

#### **weighting**

number which, depending on its value, is used to introduce a bias in favour of or against a specific target group in the calculation of contract participation goal credits

## 3 Requirements

### 3.1 Contract participation goal (CPG)

The contractor shall engage targeted labour and targeted enterprises directly in the performance of the contract to the extent that the total monetary value of such engagements, exclusive of any value added tax or sales tax required by law, is not less than the contract participation goal (CPG) for the targeting strategy specified in the targeting data.

The contractor shall, in the case of targeting strategy A, submit details of a plan to achieve the contract participation goal on the contract participation goal implementation plan form contained in Annex C, within five working days of being instructed to do so. If no such instructions are given, these plans shall be submitted before the submission of the first claim for payment.

NOTE The information contained in the contract participation goal implementation plan facilitates, in the first instance, the monitoring of the performance of the contractor in terms of the contract participation goal obligations and, in the second instance, the making of any adjustments to compensate for quantitative underruns, the elimination of items, etc. (see Clause 6).

### 3.2 Achieving the contract participation goal (CPG)

#### 3.2.1 General

A contractor shall achieve the specified contract participation goal (CPG) by one of two methods, unless otherwise specified in the targeting data.

a) **Method 1**

- 1) Using Method 1, the contractor shall achieve the specified CPG by
  - i) virtue of the contractor's targeted enterprise status, provided that not less than 50 % of the wages and allowances paid to employees in the performance of the contract is in respect of targeted labour; and, if so desired,
  - ii) subcontracting one or more targeted enterprises to perform work in the performance of the contract at a subcontract level.

b) **Method 2**

- 1) Using Method 2, the contractor shall achieve the specified CPG by
  - i) engaging targeted labour, or
  - ii) engaging one or more targeted enterprises to perform commercially useful functions in the performance of the contract, or
  - iii) a combination of (i) and (ii).

**3.2.2 Verification of the status of targeted enterprises**

Contractors shall submit completed targeted enterprise declaration affidavits and, where targeting strategy A applies, letters of undertaking to act as subconsultants, subcontractors, suppliers, manufacturers or service providers (see Annex D), in respect of each and every targeted enterprise and targeted partner whose contribution shall be counted towards the contract participation goal. These documents shall, unless otherwise specified in the targeting data, be submitted to the employer's representative before the submission of the first claim for payment.

**3.3 Contract participation goal (CPG) credits****3.3.1 Granting of credits**

Using Method 1 or Method 2, credits towards the contract participation goal shall be granted by converting the value of the following (exclusive of any value added tax or sales tax required by law) to a percentage of the contract amount and multiplying such values by the appropriate weightings for the different target areas and different categories of targeted enterprises and targeted labour, if any, provided for in the targeting data.

a) **Method 1**

In the case of a contractor who is a targeted enterprise, the sum of the monetary value of the work performed using the contractor's own employees and resources, and the monetary value of the work and services subcontracted to targeted enterprises, subject to the provisions of 3.2.1 (a).

b) **Method 2**

In the case of a contractor who is not a targeted enterprise:

- 1) the total monetary value of the contributions made by targeted enterprises (other than targeted suppliers) in fulfilling contractual obligations, subject to such targeted enterprises not subcontracting more than 15 % of the value of their contributions to non-targeted enterprises;
- 2) 50 % of the expenditure on goods required for the contract, which are obtained from targeted suppliers, subject to such targeted suppliers not subcontracting more than 15 % of the value of their contributions to non-targeted enterprises; and

- 3) the total monetary value of wages and allowances paid by the contractor and any non-targeted enterprise subcontractor to targeted labour.

NOTE 1 The total value of expenditures made to targeted manufacturers can be claimed.

NOTE 2 The weightings referred to usually range between 0,5 and 1,5. Where no weighting is indicated in the contract, the weighting is assumed to be unity.

NOTE 3 Where targeted enterprises subcontract more than 15 % of the value of their contribution to non-targeted enterprises, the credits are limited to the actual value of the contributions made by targeted enterprises.

NOTE 4 Annex E provides illustrative examples as to how a contractor can fulfil contract participation goal obligations.

### **3.3.2 Denial of credits**

#### **3.3.2.1 General**

No credits shall be granted when the contractor

- a) makes a direct payment to a supplier, manufacturer or plant hire or lease company on behalf of a targeted enterprise when such payment is recovered by making deductions from payments to the targeted enterprise in connection with the contract,
- b) fails to enter into written contractual agreements with targeted labour, or
- c) fails to enter into written contractual agreements with targeted enterprises.

#### **3.3.2.2 Contractual agreements**

Credits claimed towards the contract participation goal shall be denied if written contractual agreements contain clauses which are not in accordance with the provisions of the contract and, where targeted enterprises are contracted, contain provisions for

- a) a right to set off in favour of the employing contractor not provided for by law,
- b) authoritarian rights given to the employing contractor or the contractor's agent, with no recourse to independent adjudication in the event of a dispute arising,
- c) payment procedures based on a pay-when-paid system,
- d) a dispute resolution process which does not include inexpensive alternative dispute resolution (ADR) procedures, such as mediation or adjudication, but only makes use of formal proceedings such as arbitration or litigation, or
- e) conditions which are more onerous than those which exist in the main contract.

Credits shall be denied should targeted enterprises not adhere to statutory labour practices or fail to perform commercially useful functions.

## **4 Compliance with requirements**

### **4.1 General**

The contractor shall enter into written contractual agreements with all the targeted enterprises cited in the contract participation goal implementation plan and shall, as soon as is practicable, furnish the employer's representative with copies of such agreements and the written acceptances thereof. The contract to be performed by the targeted enterprises shall, in the case of targeting strategy A, thereafter neither be reduced in scope, nor terminated without the prior written approval of the employer's representative, which shall not be unreasonably withheld or delayed.

The contractor who makes use of targeted labour for the purpose of securing credits shall enter into written contracts with all the individuals classed as targeted labour and, during the performance of the contract, furnish the employer's representative with copies or pro formas of all contracts entered into.

## 4.2 Substitutions

Where targeting strategy A applies and in the event that, through no fault of the contractor, a contracted targeted enterprise is found to be

- a) unable to perform,
- b) unable to perform on time,
- c) unable to produce acceptable work,
- d) unwilling to perform work required, or
- e) not fit to perform the service,

the contractor shall notify the employer's representative of the apparent necessity to reduce or terminate such a targeted enterprise's contract, citing the reasons.

In the event that the employer approves the contractor's request to be relieved of the obligation to make use of a contracted targeted enterprise, the contractor shall either provide a substitute targeted enterprise to take over the contract, or engage a targeted enterprise on another aspect of the contract so as to secure the required credits to achieve the contract participation goal. The contractor shall, in such circumstances, submit to the employer a targeted enterprise declaration affidavit in respect of the proposed substitute targeted enterprise, and supply details of the nature and value of the contract which shall be performed by such an enterprise.

Contracts with contracted targeted enterprises may only be terminated and new contracts entered into with substitute targeted enterprises for the purpose of securing credits towards the contract participation goal, with the employer's approval, which shall not be unreasonably withheld. Where the employer approves such substitutions, the contractor shall comply with all the requirements of this part of ISO 10845.

The employer may, at the employer's sole discretion and upon the basis of evidence submitted by the contractor in support of fruitless efforts in good faith to secure substitute targeted enterprise participation, grant a waiver in respect of contract participation goal obligations.

NOTE Subclause 4.2 is only applicable where targeting strategy A applies.

## 4.3 Bona fides of targeted enterprises

Where, in the case of targeting strategy A, an enterprise under contract was initially considered to be a targeted enterprise but is later discovered not to be so, or is found not to be creditable towards contract participation goals, the employer may consider a partial waiver of the contractor's obligations towards the achievement of the contract participation goal in respect of such a targeted enterprise, should the contractor satisfactorily demonstrate that he was justified in believing the enterprise to be a targeted enterprise and that eligibility standards were not violated.

## 5 Records

### 5.1 Submission of documentation

The contractor shall submit all the documentation required in accordance with 3.1, 3.2.2, 4.1, 4.2 and 5.2 in a timely manner and, together with a programme of activities, a schedule which indicates clearly the expected commencement and completion dates of work and services to be performed by all the targeted enterprises engaged on the contract for the purpose of securing credits towards the contract participation goal. This schedule shall be updated by the contractor whenever a change in date occurs.

### 5.2 Monthly submission of supporting documentation

The contractor shall prepare and submit monthly to the employer's representative, on or before the date specified in the targeting data, in a form approved by the employer's representative, the following:

- a) a brief report which describes the commercially useful functions performed by the targeted enterprises in the performance of the contract, both over the interim period and on a cumulative basis;
- b) a schedule reflecting the estimated total value of the contracts, the cumulative value of the contracts and the value of goods provided or work and services performed (or both) over the period for which payment is claimed in respect of each and every targeted enterprise performing commercially useful functions;
- c) a schedule which lists the names, identity numbers, gender, trade/occupation, period of employment, employment number and the like, as directed by the employer's representative, together with the respective wage rates and allowances payable in respect of targeted labour, including the monetary value of wages and allowances paid both on a cumulative basis and over the period for which payment is claimed; and
- d) a schedule of wages and allowances paid to all employees, indicating the status of such employees, where the contractor fulfils the contract participation goal obligations by virtue of the contractor's targeted enterprise status as a main contractor.

Should random inspections conducted by the employer's representative on targeted enterprise activities indicate that such enterprises are not performing in accordance with the requirements of this part of ISO 10845, the contractor shall provide, in addition to the monthly reporting requirements, separate weekly resource returns and any other relevant information in respect of such targeted enterprises in a format approved by the employer's representative.

### 5.3 Certification of credits

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

### 5.4 Actions required upon completion of a targeted enterprise's contract with the contractor

The contractor shall, upon completion of each individual targeted enterprise's contract, issue a completion certificate and certify the amount paid to such targeted enterprises. The contractor shall submit the certificates, counter-certified by the relevant targeted enterprises, to the employer's representative for record-keeping purposes. The contractor shall furnish justification to the employer whenever it is not possible to obtain such counter-certification.

The contractor shall, upon termination of the services of the individuals classed as targeted labour engaged in activities relating to the performance of the contract, certify the amount paid to such individuals and submit the certificate, counter-certified by the relevant individual, to the employer's representative for record-keeping purposes.

## 6 Sanctions

In the event that, and where targeting strategy A applies, the contractor fails to substantiate that any failure to achieve the contract participation goal was due to

- a) quantitative underruns,
- b) the elimination by the employer of items contracted to targeted enterprises, or
- c) any other reason beyond the contractor's control which may be acceptable to the employer,

the sanctions provided for in the contract shall apply.

NOTE 1 The contract establishes the sanctions that apply. These are set out in a tender evaluation schedule, the scope of work, or contract data (see ISO 10845-2). Sanctions where tender evaluation points are granted in respect of a tendered CPG or where a minimum CPG is specified (i.e. targeting strategy A) are usually applied in the form of

- a) financial penalties, typically formulated on the difference between the contracted contract participation goal and the contract participation goal achieved in the performance of the contract,
- b) the rejection of claims for payments as being incomplete should the appropriate supporting documentation not be provided, and
- c) the issuing of completion certificates only after the certificates described in 5.4 are received.

NOTE 2 No sanctions in the form of financial penalties are applied where the CPGs are used only to measure and report on the quantum of economic activity generated by a contract for targeted enterprises (i.e. targeting strategy B). The sanction where financial incentives are applied is simply that the incentive is not paid if the target is not attained.

## Annex A (informative)

### Commentary

NOTE 1 This annex includes background information on this part of ISO 10845, guidance on its use and suggestions on good practice. The clauses in the commentary refer directly to the respective clauses in this part of ISO 10845, e.g. A.1 refers to Clause 1.

NOTE 2 This part of ISO 10845 should be incorporated into procurement documents by reference, usually in the scope of work or a tender evaluation schedule (see ISO 10845-2).

#### A.1 Commentary on scope

The purpose of this part of ISO 18045 is to standardize the manner in which targets (contract participation goals) are set and measured in relation to the use of local resources in engineering and construction works or service contracts. These targets (contract participation goals) in addition to measuring and reporting on a key performance indicator which reflects the quantum of business generated in respect of targeted enterprises through the performance of the contract, can, depending upon prevailing legislation, be used to

- a) reserve a portion of the contract work for specified target groups through the setting of minimum contract participation goals,
- b) establish the basis for the awarding of tender evaluation points in proportion to the quantum of the CPG that is tendered, or
- c) establish performance targets for the payment of financial incentives relating to the attainment of key performance indicators.

It should be noted that (a) and (b) above can be used in combination with each other should tender evaluation points be granted for tendering a contract participation goal which exceeds a minimum value.

Public sector procurement is frequently governed by local and international laws. Employers need to be aware that they are responsible for the correct application of this part of ISO 10845 and ensuring that such application is consistent with prevailing legislation. Compliance with this part of ISO 10845 cannot confer immunity from legal obligations. If doubt exists, legal advice should be sought.

NOTE 1 Annex F provides an example of a tendered contract participation goal calculation. Annex G provides an example of a tender evaluation schedule which enables this part of ISO 10845 to be used for tender evaluation purposes.

NOTE 2 Procuring entities are often confronted with the fact that two or more communities fall within the geographical location of a contract. The targeting of specific communities to the exclusion of all other communities is often not desirable for the following reasons:

- a) not all communities possess the necessary capacity (whether in terms of physical, financial, or skills resources) to be able to participate in contracts; as a result, the effectiveness of procurement as an instrument of policy can be eroded, as the supply of resources might not be able to meet the demand created by the procurement arrangements;
- b) exclusivity can set precedents; similar approaches by neighbouring communities can be demanded, which might result in embargoes on trade and employment creation for communities who might have benefited from a previous contract.

The defining of targeted labour and targeted enterprises on the basis of their geographical locality demands consultation with communities and their representatives. It is necessary to establish how opportunities and work can be secured for the local community, but not to the absolute exclusion of neighbouring communities. Relative weighting of areas in and around the contract area can help to overcome the pitfalls associated with area-based targeting.

## A.2 Commentary on terms and definitions

### A.2.1 Targeted enterprise

#### A.2.1.1 General considerations

Enterprises can be targeted upon the basis of

- a) locality (domicile),
- b) status as a small, medium, or micro enterprise,
- c) ownership, operational responsibilities and control (or a combination thereof) by marginalized population groups, or
- d) a combination of (a), (b) and (c).

Targeting can either be on a generic or an area-bound (localized) basis, for example women-owned business enterprises (generic), or business enterprises within a geographical region (area-bound).

The formulation of definitions for targeted enterprises can determine the success, or otherwise, of secondary procurement policies, as the business environment can respond to, and structure itself around, such policies. For example, a loose definition can promote fronting (practices which are against the spirit or provisions of this part of ISO 10845), which can ultimately undermine the integrity and intent of a policy. An ambiguous definition can promote collusion between procurement officers and suppliers ("gatekeeping"), as discretion invariably needs to be exercised to determine whether or not a business is a targeted enterprise. Too wide a definition can promote tokenism, as businesses that have some of the desired characteristics are permitted to derive benefit from the policy. Too tight a definition, on the other hand, can promote a culture of elitism, as too few businesses qualify. An inappropriate definition can promote the status quo and give a false impression of business empowerment.

Definitions for targeted enterprises should be contractually enforceable and mirror the intent of the secondary procurement policy. Poor definitions are often indicative of ill-defined policies.

#### A.2.1.2 Ownership of targeted enterprises

Ownership, including the right of disposition and sharing in the risks and profits commensurate with the degree of ownership, is, from a procurement point of view, particularly important in privately-owned companies as this issue lies at the heart of any programme of economic empowerment.

Ownership of publicly listed companies is usually not a relevant characteristic, except where concessions are granted, as such companies are rarely able to exercise control over who acquires shares. In public sector concessions, however, ownership can be used to allow disadvantaged communities to acquire shares in new ventures, particularly in fields in which no empowerment companies are operating. This often presents challenges to empowerment consortia, who have to raise the necessary capital to purchase such shares up front. Various innovative mechanisms, including "buy back" options and the financing of such share purchases until such time as dividends and earnings from operating the concession can redeem the loans, are frequently used to enable empowerment companies to take advantage of the opportunities presented.

It is important to clearly define what constitutes ownership for an empowerment company in a given situation. It is also important to examine interlocking ownership between empowerment companies to establish factors such as control and independence.

The level of ownership necessary to constitute an empowerment company, as such, should also be carefully considered, as well as how, in practice, it can be monitored. The level of ownership in small businesses should be such that it is significant and is not readily open to manipulation.

### A.2.1.3 Control of targeted enterprises

Control of targeted enterprises lies at the heart of empowerment initiatives. Control of a targeted enterprise by a disadvantaged group of individuals is fundamental to empowerment. Ownership is often linked to control but this is not, in all instances, feasible or even desirable. In publicly listed companies it might not be possible and in consortia arising from concessions, it might be too onerous. Control over an enterprise, from an empowerment perspective, should result in the policies implemented being effective, both in terms of business success and employee empowerment.

Control of a business should centre around the authority and power to manage the assets, goodwill and daily operations of the business, the determination of policies and the directing of business operations. Indicators of control include ownership, management responsibilities, and the assumption of risk. Factors such as who makes major financial decisions (e.g. those pertaining to major purchases and acquisitions and the acquisition of lines of credit) and major management decisions (e.g. those pertaining to hiring and firing of senior personnel and supervision of office control) demonstrate control. In larger companies, an absolute majority of voting rights on boards in the hands of targeted population groups can demonstrate control.

### A.2.1.4 Operational responsibilities

The person holding operational responsibilities within an enterprise might also be an empowerment issue. In public companies, operational responsibility is important. In such enterprises, consideration should be given to levels of reporting, particularly to executive directors, in order to understand in whose hands the operational control of an enterprise lies. In small companies, this is not usually an important consideration as owners are frequently responsible for the operation of an enterprise.

### A.2.1.5 Independence of targeted enterprises

A critical issue in respect of empowerment companies is whether or not they are independent, i.e. free of direct or indirect control from another company, particularly by a non-empowerment company. (Some measure of control by financial institutions can be acceptable). Over-dependency on another company is usually indicative of fronting. The practice of some companies to set up employees in front companies, which they effectively manipulate and control in order to access contracts, undermines the objectives of empowerment.

Interdependence should not be confused with independence. In franchises, for example, the franchiser usually contributes the brand, the management systems and promotional resources, whilst the franchisee puts up the capital and supplies the operating resources. Such a relationship can be described as interdependence. If, however, the franchisee were to act merely as a conduit and to add limited value, the relationship would be one of dependency. The acid test for independence in such instances would be the market value of the franchisee's business.

### A.2.1.6 Size of enterprises

The size of an enterprise can be a consideration in some programmes. Internationally recognized criteria for the determination of the size of a business typically include

- a) the total number of employees,
- b) the value of fixed assets,
- c) the paid-up capital,
- d) the annual turnover, and
- e) the annual volume of physical production.

The following factors can be taken into account when formulating definitions of the sizes of companies:

- f) **Affiliation:** turnover might have to be considered together with the turnovers of the enterprise's affiliates in order to prevent the enterprise from forming affiliated enterprises in order to maintain its size status. [Enterprises are affiliates when, either directly or indirectly, one enterprise controls or has the power to control the other; a third party (or parties) controls or has the power to control both; or an identity of interests between or among parties exists such that affiliation might be found.]
- g) **Nature of business:** if formal enterprises in the small and micro sectors are to be targeted, requirements for compliance with tax obligations and statutory labour standards might have to be stipulated.

NOTE ISO 10845-1 provides more information on the empowerment of enterprises.

### A.2.2 Targeted labour

Labour can be targeted on the basis of parameters such as

- a) citizenship, gender, race and ethnicity,
- b) residency (geographical areas),
- c) age,
- d) disability,
- e) period of unemployment, and
- f) level of skill (wage levels).

Targeting can be either on a generic or area-bound (localized) basis; for example, women can be targeted in the generic sense or because they are residents of a specific geographical region.

### A.2.3 Targeting data

This part of ISO 10845 should be referenced in the scope of work or the tender evaluation schedule along with associated targeting data in accordance with the guidance provided in Annex B (see ISO 10845-2).

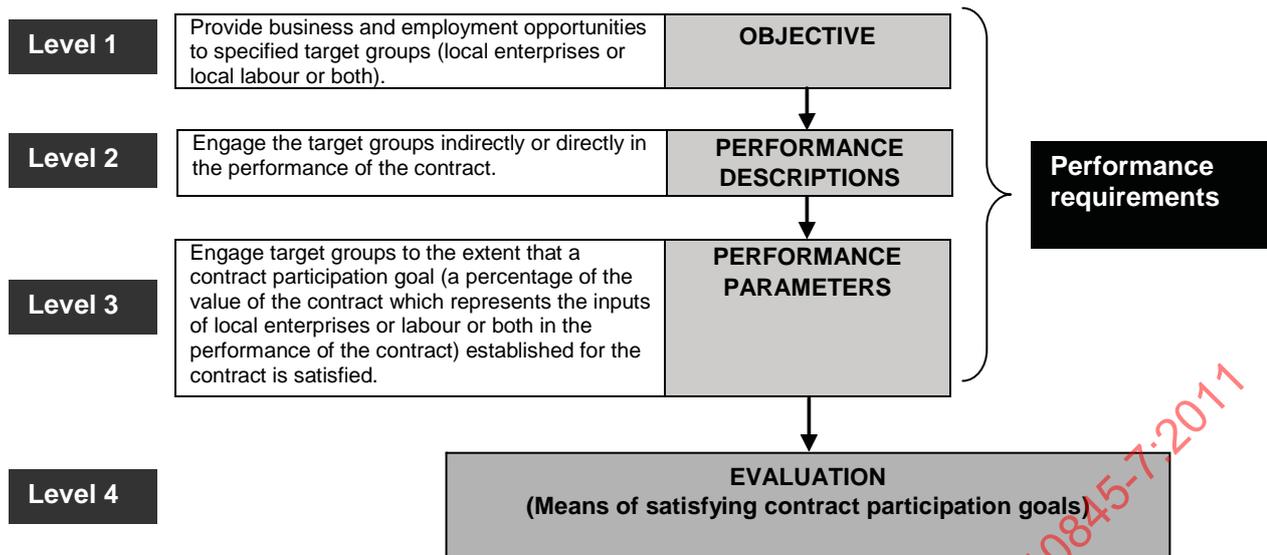
## A.3 Commentary on requirements

### A.3.1 Contract participation goal (CPG)

The participation of target groups should, as far as possible, be measured in monetary terms, as monetary transactions can normally be verified and audited. The participation of targeted enterprises can generally be measured in terms of receipts for work or services performed or for the provision of goods for a contract, while the participation of targeted labour can be readily measured in terms of the amounts spent on wages and allowances paid to such labour.

Contract participation goals can be used to measure the participation of targeted enterprises and targeted labour, i.e. the flow of money from the contract to the target group. Procedures as to how such goals can be quantified and verified in the performance of the contract should be included in the contract. This can be done in specifications or other contract information which applies to the contract.

Figure A.1 illustrates a generic four-level performance-based resource specification which specifies and describes contract participation goals. The objective (Level 1) of this part of ISO 10845 focuses on the provision of employment opportunities to targeted groups. Clause 3 establishes qualitative (Level 2) and quantitative (Level 3) requirements in relation to the objective (Level 1).



**Figure A.1 — Structure of a performance-based resource specification**

The objective (Level 1) and the performance description (Level 2) as set out in Figure A.1 can alternatively be viewed as key performance indicators, in which case the contract participation goal enables targets to be set, and the performance parameters (Level 3) and the evaluation (Level 4) establish the measurement arrangements.

When using targeting strategy A, the contractor should complete the contract participation goal implementation plan (see Annex C) at the commencement of the contract, particularly where a contractor has tendered a contract participation goal, as this document can be used to determine whether or not the sanctions provided for in the contract (see Clause 6) should be applied.

**NOTE 1** Annex F sets out the manner in which the contract participation goal can be estimated by tenderers and evaluated by employers at tender stage where targeting strategy A is adopted.

**NOTE 2** The information contained in the contract participation goal implementation plan facilitates, in the first instance, the monitoring of the performance of the contractor in terms of contract participation goal obligations and, in the second instance, the making of any adjustments to compensate for quantitative underruns, the elimination of items, etc. (see Clause 6). This reduces a contractor's risk exposure.

### **A.3.2 Achieving the contract participation goal (CPG)**

#### **A.3.2.1 General**

This part of ISO 10845 permits the contract participation goal to be achieved by means of one of two standard methods, unless otherwise specified in the targeting data. Method 1 should only be used where there is a high likelihood that the main contractor can be a targeted enterprise and an employer of targeted labour.

#### **A.3.2.2 Verification of the status of targeted enterprises**

Specially designed declarations to verify the bona fides of targeted enterprises should be used to minimize fronting or the abuse of secondary procurement policies and to maintain the integrity of the reporting on key performance indicators and the measurement of procurement outcomes.

Each targeted enterprise should be required to confirm its bona fides in a targeted enterprise declaration affidavit. Such a declaration should comprise a series of questions which are designed to probe aspects of the relevant definition for the targeted enterprise. The information provided should as a minimum be reviewed to confirm that the enterprise satisfies eligibility criteria for recognition as a targeted enterprise. Interrogation in

more depth is not usually required unless a challenge to eligibility for recognition as a targeted enterprise arises or the review identifies possible areas of non-compliance or areas of uncertainty.

The letters of undertaking confirm the contractor's proposals to satisfy contract participation goal obligations and can inform decisions regarding waivers to be made where targeted enterprises fail to enter into contracts with contractors.

**NOTE 1** In order to obviate the unnecessary work occasioned by repeated applications and evaluations for recognition as a targeted enterprise, an applicant enterprise can be registered on a database after an initial successful evaluation. Thereafter, only confirmation, or updating, of enterprise status is necessary, unless a challenge to the status of the registered enterprise arises, in which case an assessment, or interrogation in more depth, becomes necessary. Registered enterprises are able to quote a registration number in lieu of the submission of a declaration affidavit in order to be recognized as a targeted enterprise on a contract-specific basis. A directory of targeted enterprises registered with a procuring entity can be published on a regular basis to ensure that the registration of targeted enterprises is a transparent process. Such publication is not only an essential management integrity measure, but also an important means to facilitate and foster the development of business relationships between targeted enterprises and non-targeted enterprises. Accordingly, all the essential details of the enterprises, including those which underpin the status of the enterprises, the fields in which they operate and their contact particulars, can be published.

**NOTE 2** A challenge to the status of a targeted enterprise becomes necessary if and when doubt arises as to the authenticity of information originally furnished by such enterprise in a declaration affidavit to gain recognition as a targeted enterprise, or if there is reason to believe that the circumstances of the enterprise have changed in such a way as to render it ineligible for continued recognition as a targeted enterprise. The investigation and interrogation resulting from a challenge to status can be more probing and intensive than the initial review. The enterprise being investigated can be required to furnish any additional and supplementary information found to be required as the investigation proceeds.

**NOTE 3** An enterprise's external auditors can be called upon to certify some of the characteristics of an enterprise, for example annual average turnover, ownership percentages, number of senior managers who fall within certain population groups, etc.

### **A.3.3 Contract participation goal credits**

#### **A.3.3.1 Granting of credits**

The contract participation goal is based on the contract amount determined in accordance with the targeting strategy selected for the contract and the means by which the contract participation goal can be achieved.

It is generally easier for suppliers to achieve higher participation levels than for other categories of targeted enterprises, for example manufacturers. Accordingly, some reduction in their participation might need to be considered. This part of ISO 10845 reduces such credits by 50 %.

Participation of targeted enterprises and targeted labour can be weighted in instances where several groups are targeted. This can provide a bias to favour the selection of particular subcategories of targeted enterprises on a contract.

#### **A.3.3.2 Denial of credits**

Subcontractors have very little negotiating power with main contractors since they are concerned about future work, delay of payment by the main contractor and possible victimization. Invariably, as contracting authorities only have a relationship with the main contractor, they regard subcontracting issues as the main contractor's problem and of no concern to them. Subcontracting is an effective means of involving small, medium and micro enterprises in public sector procurement activities and the plight of subcontractors cannot be ignored by procuring entities that seek the participation of targeted enterprises at subcontract level. Subcontracts should be regulated to ensure that subcontractors are engaged in terms of fair and equitable conditions of contract, which are recorded in writing. Targeted enterprises at both subcontract and main contract levels should perform commercially useful functions in the performance of a contract and contracting authorities should place limits on the amounts of work which can be subcontracted to non-targeted enterprises.

The minimum requirements for subcontracts prohibit the setting off (counter claiming) of items relating to a subcontract against items relating to another contract in the settlement of accounts and ensure that subcontractors have dispute provisions which facilitate the settlement of disputes at lower cost. They also ensure that payment is made by a specified date to provide cash flow certainty to targeted enterprises.

A requirement for contractors to enter into written contracts with targeted enterprises also ensures that amounts paid to these targeted groups can be verified and audited.

It should be noted that the requirement for targeted enterprises to perform commercially useful functions ensures that such enterprises add value within the supply chain.

Labour should be engaged in terms of fair labour practices. This is particularly important on employment-intensive projects where labour might be engaged on a project-specific basis and, in some instances, where small businesses are targeted and labour might be vulnerable to exploitation.

Credits towards the contract participation goal are conditional upon targeted labour being employed in terms of written contracts and, where specified, in accordance with specific conditions prescribed by the employer. This requirement not only ensures that amounts paid to these targeted groups can be verified and audited but also allows the employer to ensure that labour is not exploited and to establish the conditions of employment for temporary labour should they be different from those for permanent employees.

## **A.4 Commentary on compliance with requirements**

### **A.4.1 General**

Compliance with the requirements for the granting of credits relating to contract participation goals is linked to the entering into of contracts with targeted enterprises and targeted labour and the furnishing of such agreements and acceptances thereof.

The requirement, in the case of targeting strategy A, for the employer's written approval to terminate the contract or reduce the scope enables the employer's representative to make informed decisions regarding substitutions and waivers in respect of contract participation goal obligations.

### **A.4.2 Substitutions**

The provisions of 4.2 permit, under certain conditions, the substitution of targeted enterprises with others or the waiver of goals. This subclause enables contractors to manage risk associated with non-compliance with the requirements of this part of ISO 10845 in a fair and equitable manner.

### **A.4.3 Bona fides of targeted enterprises**

The provisions of 4.3 relieve a contractor of contract participation goal obligations (and penalties that can be applied for failing to achieve a contract participation goal obligation) where a targeted enterprise is engaged in good faith after having performed basic due diligence checks, only to discover that the targeted enterprise is not entitled to targeted enterprise status. In such circumstances, it would be unfair to apply penalties.

## **A.5 Commentary on records**

### **A.5.1 Submission of documentation**

All documents relating to compliance with the requirements of this part of ISO 10845 should be submitted to the employer's representative, who is responsible for certifying the credits granted in respect of the contract participation goal.

### A.5.2 Monthly submission of supporting documentation

The certification of credits relating to participation goals is based on information provided by the contractor on a monthly basis. It should be noted that the contractor needs, in any event, to compile this information to pay targeted enterprises and targeted labour at regular intervals.

The requirement for additional information enables the employer's representative to monitor compliance with requirements more closely.

### A.5.3 Certification of credits

The employer's representative is responsible for certifying the credits granted in respect of the contract participation goal. Any dispute relating to the passing of credits should be resolved in terms of the dispute resolution mechanisms provided for in the contract.

### A.5.4 Actions required upon completion of a targeted enterprise's contract with the contractor

The contractor is required to certify the amount paid to targeted enterprises and targeted labour when they come to the end of their contract or term of employment. The targeted enterprise and targeted labour are also required to countersign this certificate. This minimizes the opportunities for fraudulent claiming of credits.

Annex H provides an example of a schedule that can be used to certify and counter-certify payments.

## A.6 Commentary on sanctions

Sanctions should be provided for in the contract if targeting strategy A is pursued and the contractor fails to substantiate that any failure to achieve the contract participation goal was due to quantitative underruns, the elimination of items, or any other reason beyond the contractor's control which can be acceptable to the employer. Clause 6 is designed to limit a contractor's risk exposure in failing to achieve contractual obligations beyond the contractor's control.

**NOTE** In targeting strategy B, the provisions of Clause 6 are not applicable as there is no need to minimize a contractor's risk exposure.

Appropriate action should be taken by procuring entities against tenderers who are awarded contracts on a fraudulent basis or against contractors who fail to achieve their contractual obligations relating to the engagement of targeted labour. Procuring entities should have a number of penalties and contractual remedies available to address such situations, including

- a) recovering all costs, losses or damages incurred or suffered,
- b) cancelling the contract/tender and claiming any damages suffered as a result of having to make less favourable arrangements for the award of the contract,
- c) the rejection of payment certificates as being incomplete should the appropriate supporting documentation not be provided,
- d) the withholding of the issuing of completion certificates until such time that the contractor has satisfactorily demonstrated that targeted labour has been engaged in accordance with the contract participation goal implementation plan,
- e) imposing a financial penalty more severe than the financial advantage calculated at the time when tenders were evaluated or more severe than the cost of complying with contractual obligations, or
- f) restricting the contractor and its shareholders and directors from being awarded further contracts by the procuring entity for a specified period of time.

Sanctions should be sufficiently punitive to encourage compliance. Care should be taken when offering tender evaluation points that the sanction is not more attractive than compliance, e.g. the quantum of the penalty for non-compliance is less than the competitive advantage gained from the tender evaluation points.

**NOTE** It is often not in the employer's interest to cancel a contract and the imposition of financial penalties is often the most practical sanction where legislation permits the employer to deduct liquidated damages from amounts owed to the contractor.

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**Annex B**  
(informative)

**Preparation of targeting data associated with this part of ISO 10845 for inclusion in the scope of work**

Targeting data form an essential part of this part of ISO 10845; without such data, requirements are incomplete.

The format for the targeting data has been developed to be compatible with the guidance provided in Annex C of ISO 10845-2:2011. The targeting data should be incorporated in the scope of work of a tender evaluation schedule as shown in Table B.1.

**Table B.1 — Incorporating this part of ISO 10845 in the scope of work**

Topic	Aspect	Commentary		
Procurement procedures	Participation of target groups	<p>The following parts of ISO 10845 and associated targeting data are applicable:</p> <ol style="list-style-type: none"> <li>1) ISO 10845-...</li> <li>2) ISO 10845-...</li> </ol> <p>The associated targeting data are as follows:</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 30%;">Targeting data pertaining to ISO 10845-...</td> <td> <p>Essential data:</p> <p>The requirements for ..... are .....</p> <p>The requirements for ..... are .....</p> <p>Variations:</p> <ol style="list-style-type: none"> <li>1) .....</li> <li>2) .....</li> </ol> <p>Additional clauses:</p> <ol style="list-style-type: none"> <li>1) .....</li> </ol> </td> </tr> </table>	Targeting data pertaining to ISO 10845-...	<p>Essential data:</p> <p>The requirements for ..... are .....</p> <p>The requirements for ..... are .....</p> <p>Variations:</p> <ol style="list-style-type: none"> <li>1) .....</li> <li>2) .....</li> </ol> <p>Additional clauses:</p> <ol style="list-style-type: none"> <li>1) .....</li> </ol>
Targeting data pertaining to ISO 10845-...	<p>Essential data:</p> <p>The requirements for ..... are .....</p> <p>The requirements for ..... are .....</p> <p>Variations:</p> <ol style="list-style-type: none"> <li>1) .....</li> <li>2) .....</li> </ol> <p>Additional clauses:</p> <ol style="list-style-type: none"> <li>1) .....</li> </ol>			

Develop the targeting data based on the contents of Table B.2.

**Table B.2 — Targeting data associated with this part of ISO 18045**

Targeting data associated with this part of ISO 18045	Guidance notes	
	Clause number	Consideration
<b>Essential data</b>		
The employer's representative is .....	2.7	Insert the name or designation of the employer's representative (usually the name of the person responsible for administering the contract, e.g. engineer, project manager or principal agent).
<p>Target area</p> <p>Target area 1 is the geographic area which falls under the jurisdiction of .....</p> <p>Target area 2 is the geographic area, excluding target area 1, which falls under the jurisdiction of .....</p>	2.9	Define the geographical area which defines the target area, e.g. the geographical area which falls under the jurisdiction of .....

Table B.2 (continued)

Targeting data associated with this part of ISO 18045	Guidance notes	
	Clause number	Consideration
A targeted enterprise is .....	2.10	Define targeted enterprises (see A.2.1), e.g.  An enterprise which has its sole office or head office located within the target area. It is incumbent on such enterprises to demonstrate their claims to such area-bound status on the basis of occupancy of, and the conducting of business operations from, such offices. Indicators of compliance shall include payment of rentals for premises and payments of service charges, levies, rates and taxes to the local authority located within the target area.
The targeted labour is .....	2.11	Define targeted labour (see A.2.2) , e.g.  ..... citizens who permanently reside within the target area. It is incumbent on individuals to demonstrate their claims to such residency on the basis of identification and association with, and recognition, by members of, the community residing within the target area.
The targeting strategy is .....	2.15	State the applicable targeting strategy A or B, depending upon the usage of CPGs in the contract.
The contract participation goal is ..... %. or The contract participation goal is as stated in the tender evaluation schedule. or The contract participation goal is as stated in the scope of work or partnering schedule. or There is no specific contract participation goal set for this contract.	3.1	Specify the CPG, if any, that applies to the contract or identify the document in which the applicable CPG is located.  Select the appropriate statement, depending on what is to be achieved and which targeting strategy is used.  Ensure that the tendered contract participation goals form part of the offer, if they are not captured in a returnable schedule which is included in the scope of work in the contract.
A contractor can achieve the contract participation goal only by means of Method .....	3.2.1	Where only one method applies, state which of the methods applies.
The targeted enterprise declaration affidavit and letters of undertaking shall be submitted within three months of the commencement of the contract.	3.2.2	State when the targeted enterprise declaration affidavit and letters of undertaking shall be submitted if they are not to be submitted before the first submission for payment.
The following weightings apply: Target area 1 ..... Target area 2 ..... Target area 3 ..... or Target enterprise type 1 ..... Target enterprise type 2 ..... Target enterprise type 3 .....	3.3	Where none are provided, a default value of 1 is assumed.
Supporting documentation shall be delivered to the employer's representative on or before the ..... day of the month. or Supporting documentation shall be delivered to the employer's representative on the date that claims for payments are to be submitted by the contractor in terms of the contract.	5.2	State day of the month if contractor is not responsible for assessing amounts due, or insert alternative statement if contractor is responsible for preparing claims for payment.
Variations .....		State variations, if any.
Additional clauses .....		State additional clauses, if any.

## Annex C (normative)

### Contract participation goal implementation plan (targeting strategy A)

#### C.1 General information

Employer: .....

Contract description: .....

Contract number: .....

Project reference number: .....

#### C.2 Contract parameters

Contract participation goal applicable to the contract .....%

Financial value of the contract at the time of the award of the contract  
(exclusive of any value added tax or sales tax required by law) .....

Less all allowances .....

Contract amount ..... 1

#### C.3 Achieving the contract participation goal

I/We intend to achieve the contract participation goal (CPG) by means of one of the following methods (tick the box which is applicable):

**Method 1** • by virtue of my/our targeted enterprise status as a main contractor; and, if so desired,  
• by subcontracting work to targeted enterprises;

or

**Method 2** • by engaging targeted enterprises;  
• by engaging targeted labour; or  
by both.

NOTE Where tenderers use Method 1 to fulfil their CPG obligations, at least 50 % of wages and allowances paid to employees in the performance of the contract should be spent on targeted labour (see 3.2.1).

#### C.4 Implementation plan

##### C.4.1 General

Fill in the information required in C.4.2 or C.4.3 in respect of the selected method.

**C.4.2 Method 1**

**C.4.2.1 Contribution from targeted enterprise status as a main contractor**

Weighting	.....	<b>2</b>
Value of work or services performed using own resources and employees	.....	<b>3</b>

**C.4.2.2 Contribution from subcontracting work to targeted enterprises**

Name of targeted enterprise	Estimated value of contracts to be awarded to targeted enterprises (excluding value added tax or sales tax)	Multiplier	Weighting	Total
	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(1) × (2) × (3)</b>
Target area 1				
		× 1,0 × 1,0 × 1,0		
Target area 2				
		× 1,0 × 1,0 × 1,0		
Target area 3				
		× 1,0 × 1,0 × 1,0		
<b>Total contribution towards CPG</b>				<b>4</b>

**C.4.2.3 Total CPG for Method 1**

Effective contribution towards CPG	<b>4 + (3 × 2)</b>	.....	<b>5</b>
<b>Total CPG for Method 1</b>	<b>100 × 5/1</b>	<input type="text"/> %	

## C.4.3 Method 2

## C.4.3.1 Contribution from engaging targeted enterprises

Name of targeted enterprise	Estimated value of contracts to be awarded to targeted enterprises (excluding value added tax or sales tax)	Multiplier	Weighting	Total
	(1)	(2)	(3)	(1) × (2) × (3)
Target area 1				
		× 1,0 × 1,0 × 1,0		
Target area 2				
		× 1,0 × 1,0 × 1,0		
Target area 3				
		× 1,0 × 1,0 × 1,0		
<b>Total contribution towards CPG</b>				

2

## C.4.3.2 Contribution from engaging targeted manufacturers

Name of targeted enterprise	Estimated value of contracts to be awarded to targeted enterprises (excluding value added tax or sales tax)	Multiplier	Weighting	Total
	(1)	(2)	(3)	(1) × (2) × (3)
Target area 1				
		× 1,0 × 1,0 × 1,0		
Target area 2				
		× 1,0 × 1,0 × 1,0		
Target area 3				
		× 1,0 × 1,0 × 1,0		
<b>Total contribution towards CPG</b>				

3

C.4.3.3 Contribution from engaging targeted suppliers

Name of targeted enterprise	Estimated value of contracts to be awarded to targeted enterprises (excluding value added tax or sales tax)	Multiplier	Weighting	Total
	(1)	(2)	(3)	(1) × (2) × (3)
Target area 1				
		× 1,0 × 1,0 × 1,0		
Target area 2				
		× 1,0 × 1,0 × 1,0		
Target area 3				
		× 1,0 × 1,0 × 1,0		
Total contribution towards CPG				

4

C.4.3.4 Contribution from engaging targeted labour

Target area	Estimated expenditure on wages and allowances	Weighting	Total
	(1)	(2)	(1) × (2)
1			
2			
3			
Total contribution towards CPG			

5



**C.6 Undertakings**

I/We hereby certify that, to the best of my/our knowledge, the above information, facts and representations are correct and the proposed targeted enterprises shall perform commercially useful functions in the performance of the contract.

I/We hereby delegate ..... to be our targeted resource liaison officer.

Tel.: ..... Fax: .....

Signature: .....

Address: .....  
.....  
.....  
.....

Date: .....

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**Annex D**  
(normative)

**Letter of undertaking from a targeted enterprise to act as a subcontractor, supplier, manufacturer or service provider**

Employer: .....

Contract description: .....

Contract number: .....

Project reference number: .....

From: (Name and address of targeted enterprise)

.....  
.....

To: (Name and address of main contractor)

.....  
.....

The undersigned undertakes to perform the following work/provide the following services or goods in connection with the above-mentioned contract (delete as applicable):

.....  
.....  
.....  
.....

for an estimated amount of ..... excluding any value added tax or sales tax required by law subject to the terms of any agreement made between us for the purposes of the contract.

The status of the undersigned as a targeted enterprise is confirmed in the attached targeted enterprise declaration affidavit.

Signature: .....

Name: .....

Designation: .....

Date: .....

who duly warrants that he/she is authorized to sign this letter.

**Annex E**  
(informative)

**Examples of how contractors can fulfil their contract participation goal (CPG) obligations**

**E.1 Contract parameters**

The specification data in the procurement documents associated with a contract establish the following weightings:

Targeted labour from target area 1	= 1,5
Targeted labour from target area 2	= 1,2
Targeted enterprise	= 1,0
Targeted suppliers	= 0,6
Targeted manufacturers	= 0,8

For the purposes of this example, the contract amount is assumed to be USD 5 000 000.

**E.2 Tendered contract participation goal options**

Contractors can achieve a contract participation goal in a variety of ways, as illustrated below.

**E.2.1 Contractor A**

Contractor A, who is not a targeted enterprise,

- employs workers from target area 1 at a wage bill of not less than USD 250 000;
- employs workers from target area 2 at a wage bill of not less than USD 200 000;
- subcontracts work amounting to USD 300 000 to targeted enterprises;
- purchases goods amounting to USD 50 000 from targeted manufacturers; and
- purchases goods amounting to USD 200 000 from targeted suppliers.

Value of credits

$$= (1,5 \times 250\,000) + (1,2 \times 200\,000) + (1,0 \times 300\,000) + (0,8 \times 50\,000) + (0,6 \times 0,5 \times 200\,000)$$

USD 1 015 000

Credit

$$= 1\,015\,000 / 5\,000\,000 \times 100 = 20,3 \%$$

Contractor A can tender a contract participation goal of 20,3 %.

**E.2.2 Contractor B**

Contractor B, who is not a targeted enterprise,  
 employs workers from target area 1 at a wage bill of not less than USD 200 000; and  
 subcontracts work amounting to USD 200 000 to targeted enterprises.

Value of credits

$$= (1,5 \times 200\,000) + (1,0 \times 200\,000) = \text{USD } 500\,000$$

Credit

$$= 500\,000 / 5\,000\,000 \times 100 = 10\%$$

Contractor B can tender a contract participation goal of 10,0 %.

**E.2.3 Contractor C**

Contractor C, who is not a targeted enterprise,  
 employs workers from target area 2 at a wage bill of not less than USD 200 000;  
 subcontracts work amounting to USD 300 000 to targeted enterprises; and  
 purchases goods amounting to USD 100 000 from targeted manufacturers.

Value of credits

$$= (1,2 \times 200\,000) + (1,0 \times 300\,000) + (0,8 \times 100\,000) = \text{USD } 620\,000$$

Credit

$$= 620\,000 / 5\,000\,000 \times 100 = 12,4\%$$

Contractor C can tender a contract participation goal of 12,4 %.

**E.2.4 Contractor D**

Contractor D, who is a targeted enterprise,  
 subcontracts work amounting to USD 2 500 000 to non-targeted enterprises;  
 purchases goods amounting to USD 150 000 from targeted manufacturers; and  
 subcontracts USD 100 000 to targeted enterprises.

Value of credits

$$= 1,0 \times (5\,000\,000 - \text{USD } 2\,500\,000) + (1,0 \times 100\,000) = \text{USD } 2\,600\,000$$

Credit

$$= 2\,600\,000 / 5\,000\,000 \times 100 = 52,0\%$$

Contractor D can tender a contract participation goal of 52,0 % provided that 50 % of the wages and allowances paid to employees in the performance of the contract is in respect of targeted labour.

## Annex F (informative)

### Tendered contract participation goal (targeting strategy A)

NOTE This annex can be used by tenderers to calculate their expected contract participation goal for a given contract. Employers can use this annex to assist them in understanding how the tenderer intends to fulfil goal obligations in the performance of the contract during the evaluation of tenders.

#### F.1 Tender parameters

Sum tendered (exclusive of any value added tax or sales tax required by law)	.....	
Less all allowances	.....	
Contract amount	.....	<b>1</b>

NOTE The contract participation goal is based on the contract amount.

#### F.2 Achieving the contract participation goal

I/We intend to achieve the contract participation goal (CPG) by means of one of the following methods (tick the box which is applicable).

- Method 1** • by virtue of my/our targeted enterprise status as a main contractor; and, if so desired,  
 • by subcontracting work to targeted enterprises;
- or
- Method 2** • by engaging targeted enterprises;  
 • by engaging targeted labour; or  
 \_\_\_\_\_ by both.

NOTE Where tenderers use Method 1 to fulfil their contract participation goal obligations, at least 50 % of the wages and allowances paid to employees in the performance of the contract should be spent on targeted labour (see 3.2.1).

#### F.3 Implementation proposal summary

##### F.3.1 General

Fill in the information required in F.3.2 or F.3.3 in respect of the selected method.

##### F.3.2 Method 1

###### F.3.2.1 Contribution from targeted enterprise status as a main contractor

Weighting	.....	<b>2</b>
Value of work or services performed using own resources and employees	.....	<b>3</b>