Draft Revised Construction Sector Codes
When the 2009 Construction Sector Codes were Gazetted, a twelve (12) month transitional period for phasing in and implementation was provided for.

The revised construction sector codes will make no provision for a transitional period. Based on the written request and motivation that the CSCC sent to the DTI to have the revised construction sector codes gazetted for a shorter period for public comment, it is envisaged that the new revised construction sector code will be in force by the 01st November 2016.

IMPLICATIONS:

This means that the construction industry will now be measured in terms of the new revised construction sector code and not in terms of:

- The Generic construction sector code,
- Or
- The Old Construction Sector code of 2009
Compared to the old construction sector code, the revised drafted Construction Sector Code now properly defines the SCOPE OF APPLICATION and includes three segments of the value chain, namely, 1) The Built Environmental Professionals, the 2) Constructors (General Build) and the 3) Manufacturers and Suppliers of building materials, plant hire and equipment. The construction related activities and majority core business is more specifically defined in this sector code.

This will ensure that when BBBEE Verification Certificates and Reports are issued, Verification agencies do not misclassify and incorrectly measure the industry's BBBEE spend.
Unlike the old sector code, the revised construction sector code has taken into account and incorporated principles and objectives embedded in various policy instruments and framework, namely:

- The National Development Plan
- The creation of sustainable & decent jobs;
- Meaningful, accelerated change in construction economy;
- Procurement transformation & standardized industry methods

This is to ensure that whilst contributing to BBBEE spend, the construction industry also contributes to building the South African Economy.
Special Dispensation for Exempted Micro Enterprises (EMEs) Contributing to Skills Spend and Enterprise Development

Although EMEs are, as general principle, exempted from compliance with the BBBEE Codes, given the significant size of businesses whose turn-over is under R10 million per annum, white owned construction industry EMEs are provided with an opportunity to ensure their BBBEE level contribution by one (1) level up if they chose to spend 100% on training or enterprise development as set out in the QSE construction scorecard.

SIGNIFICANCE

This will ensure that the industry records an increased spend on Skills Development training and Enterprise Development initiatives.
NO AFFIDAVIT ALLOWED

As a mechanism to mitigate the gravity and prospects of fraud, the construction industry will NOT allow an AFFIDAVIT for measurement of EMEs as proof of an EME status.

In order to mitigate the cost of doing business (which was the primary outcry that led to the scrapping of EME BBBEE certificates by the DTI), the CSCC will prescribe a nominal fee for the issuance of EME certificates as a measure of control to avoid constraints.
The 25% Outsourcing Requirement

As an alignment to the PPPFA policy reform, the revised construction sector code ensures that no more than 25% of the project value held by a Measured Entity will be outsourced for public sector procurement to an entity with a worse BBBEE level contribution than the entity awarded the contract.

SIGNIFICANCE

This is to avoid another form of FRONTING in terms of which, a Measured Entity with BBBEE credentials sources out work to another that has less BBBEE credentials.
Measurement of Joint Ventures and Unincorporated Ventures

One of the predominant features of the construction industry is the measurement of specialized ventures that are set up for the projects specific duration. This will ensure that the consolidation of BBBEE certificates and point scored are done in a manner that does not create fronting entities and does not undermine skills transfer and portfolio.

SIGNIFICANCE

This is to ensure that the BBBEE is not used to undermine local business practices that promotes certain imperatives and priorities, such as black ownership and skills transfer.
The Revised construction sector makes provisions for the total of 123 weighted points, 5 points more than the weighting points, which are 118 set out in the new Generic BBBEE Codes.

Weighting points are allocated in accordance with the targets set for each element. The total of which determines the BBBEE level contribution for each Measured Entity.

**IMPLICATIONS**

This provides construction companies with the opportunity and leverage more bonus points when they commit more emphasis on initiatives that are priority to construction sector designated beneficiaries such as black woman and black woman enterprises, the youth, people with disabilities and the construction workers.
Ownership Target

TARGETS FOR BLACK OWNERSHIP

Whilst the Generic BBBEE Codes a target of 25.1% as the maximum target for black ownership, the revised construction sector codes set the following targets for both Construction and BEPs:

- 32.3% (from year 1 – 4)
- 35% (from year 4)
- 10% of those is ring-fenced for BLACK WOMAN

SIGNIFICANCE

This is the second highest target of black ownership in the sector, compared to the 40% of the Media, Advertising and Communications (MAC) Charter.
Ownership Continued...

**ONCE EMPOWERED, ALWAYS EMPOWERED:**

No provision is made for Once Empowered Always Empowered (OEAE) in the construction sector. Black ownership is handed in terms of the recognition of ownership retention after the sale or exit as in the RCoGP (Revised code of Good Practice).

**IMPLICATIONS**

This is to ensure that the measured Entities are encouraged to commit more black ownership in the industry.
BLACK WOMAN AND MEN
MANAGEMENT TARGETS:

A total of 22 weighted points have been allocated for this. The recognition of black people in the junior, senior, top and executive management of construction sector measured entities with the highest target being 60% and 75%.

IMPLICATIONS

This is to ensure alignment with the challenges pointed out by the Employment Equity Commission and scarcity of Black specialist managers in the sector.
Although the new generic BBBEE codes has set the target for SD at 6% of the employee’s payroll for Skills Development Spend, the new construction sector code has set the targets on **2.00% for the first 2 years, 2.5% over a period of 3 – 4 years and 3.0% after year 5 for both contractors and BEPs.**

A total of **26 points** have been allocated towards this element. Of these:

A total of 4 bonus points have been allocated to recognize initiatives that promote black employees that complete mentorship programmes during the last three (3) years of the measurement period (2 points) and on the number of black employees who registered with industry professional bodies (2 points)

**SIGNIFICANCE**

This is meant to enhance the skills development pipeline in the industry and improve the intake of young black women into various professional streams.
SUPPLIER AND CONTRACTOR DEVELOPMENT

Procurement, through sub-contracting and JV agreements, supplier and contractor development in the country’s infrastructure portfolio, form an important backbone in addressing access to the markets and inclusivity.

SIGNIFICANCE

The targets under this elements and how this will drive and enhance Contractors development and improve CIDB grading's for emerging Contractors
Please note that this presentation is based on information as provided by the Construction Sector Charter Council, issued on the 8th July 2016 and to the best of our knowledge at BEE Online, the information contained herein is accurate and reliable as of the date of publication, however, BEE Online does not assume any liability whatsoever for the accuracy and completeness of the above information. Any information given in this presentation does not constitute any warranty of any kind whatsoever.