

**NOTICE 639 OF 2014****Department of Public Works****Public Comment  
cidb Best Practice Fee  
7 March 2014**

In terms of Section 23 within Chapter Four of the Construction Industry Development Board Act, 2000 (Act no. 38 of 2000) (the Act):

- 1) *The Board must .... establish a best practice project assessment scheme, based on the best practices identified by the Board .....*
- 2) *After a date determined by the Minister in the Gazette all construction contracts above a prescribed tender value are subject to an assessment, in the prescribed manner, of compliance with best practice standards and guidelines published by the Board in the Gazette, and different dates may be determined for different practices.*
- 3) *Every client who engages in the best practice project assessment scheme must pay to the Board a prescribed percentage of the contract sum as determined at the time of the awarding of the contract.*

A discussion document pertaining to the magnitude of the "*prescribed percentage of the contract sum*" (the cidb Best Practice Fee) is attached.

Interested persons are invited to submit their written comments on the discussion document to the Director-General of the Department of Public Works within 30 days of the date of the publication of this notice by:

- a) posting it to: Department of Public Works, Private Bag X65, Pretoria, 0001;
- b) delivering it by hand at: central Government Building, Corner Madiba & Bosman Streets, Pretoria, 0001; or
- c) e-mailing it to: [Gugu.Mgwebi@dpw.gov.za](mailto:Gugu.Mgwebi@dpw.gov.za)

Comments must be marked for the attention of Gugu Mgwebi.

Comments received after the closing date may not be considered.

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T.W NXESI (MP)  
MINISTER OF PUBLIC WORKS

## Discussion Document: cidb Best Practice Fee

### 1. Objective

Section 23 within Chapter Four of the cidb Act states that:

- 1) *The Board must .... establish a best practice project assessment scheme, based on the best practices identified by the Board ....*
- 2) *After a date determined by the Minister in the Gazette all construction contracts above a prescribed tender value are subject to an assessment, in the prescribed manner, of compliance with best practice standards and guidelines published by the Board in the Gazette, and different dates may be determined for different practices.*
- 3) *Every client who engages in the best practice project assessment scheme must pay to the Board a prescribed percentage of the contract sum as determined at the time of the awarding of the contract.*

The "percentage of the contract sum as determined at the time of the awarding of the contract" is referred to here as the cidb *Best Practice Fee*.

This discussion document provides recommendations for the magnitude of the cidb *Best Practice Fee* to be prescribed. As background to this recommendation, the discussion document outlines:

- a) the benefits that will be derived through the cidb *Best Practice Project Assessment Scheme*; and
- b) the cidb strategy for providing value-added services that will be derived through the cidb *Best Practice Fee*.

It is anticipated that the cidb *Best Practice Fee* could be introduced in 2014.

### 2. Recommendation: cidb Best Practice Fee

As context, income projections based on a cidb *Best Practice Fee* of 0,05%, 0,1% and 0,2% of project value of Grade 7 to 9 projects, of projects enrolled in the cidb *Best Practice Project Assessment Scheme* is given below (in Rand Millions).

Year	Best Practice Fee (Rm)		
	@ 0,05%	@ 0,1%	@ 0,2%
1	10	19	39
2	19	39	78
3	29	58	116
4	39	78	155
5	49	97	194

It is recommended that:

- a *Best Practice Fee* of 0,2% of the contract sum should be applied to projects of tender Grades 7 to 9;
- a cidb *Best Practice Fee* of 0% should be applied to projects of tender Grades 2 to 6;
- a phased introduction of cidb best practice Standards is adopted, rolling out implementation from national government and SoCs in year 1 and 2, provincial government in year 3, metro's and high-capacity municipalities in year 4, and medium- and low-capacity municipalities in year 5;

- the *Best Practice Fee* will initially only apply to public sector projects, but will be broadened to include private sector projects;
- payment of the *Best Practice Fee* by clients to the cidb is due within 30 days of registration of the award of the contract with the cidb; and
- the cidb cannot accommodate any alternative income recovery models – such as direct transfers from National Treasury.

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

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

### 3. cidb Best Practice Standards; Value-Added Benefits

The cidb is currently developing a range of cidb best practice Standards that will be published by notice in the Gazette. Subject to publishing of the amendments to the Construction Industry Development (CID) Regulations, including prescribing the cidb *Best Practice Fee*, and subject to the date and tender values published in the Gazette, construction contracts will be required to comply with these best practice Standards.

The cidb best practice Standards being developed currently focus on the following key areas:

- a) in relation to the **construction process**, requirements for:
  - enterprise development;
  - skills development, workplace training of interns and up-skilling of company employees;
  - performance reporting in relation to participants in the construction process (including contractors, the client's representative and clients);
  - project specific health and safety management plans;
  - project specific environmental management plans;
  - assessment of construction quality; and
  - compliance with legislative requirements by sub-contractors on public sector contracts;
- b) in relation to the **design process**, requirements for:
  - performance reporting of participants in the design process; and
  - certification of green infrastructure;
- c) in relation to the **construction procurement** process, requirements for:
  - procurement strategies to evaluate delivery, development and empowerment objectives;
  - project reviews at selected stages during infrastructure delivery (through a Gateway Review Process).

Further details of the cidb best practice Standards that will be implemented through the cidb *Best Practice Project Assessment Scheme* and which have been finalized or are in the process of being finalized are summarized below.

#### 3.1 Best Practice Standards; Construction Process

- i) *cidb Standard for Indirect Targeting for Enterprise Development through Construction Works Contracts*: The cidb *Standard* was published in the government gazette in February 2013, and provides for a minimum contract participation goal of 5% of the total project value on selected

contracts to be undertaken by joint-venture partners or to sub-contract to developing contractors that are also to be beneficiaries of enterprise development support from the main contractor.

- ii) *cidb Standard for Developing Skills through Infrastructure Contracts*: The *cidb Standard* was published in the government gazette in August 2013, and is a collaborative effort amongst the cidb, DPW, DHET and DED. For engineering and construction works, design and build, supply and services contracts, the Standard provides for a minimum contract participation goal of 0,5% of the tender value of General Building (GB) contracts and 0,25% of the tender value of Civil Engineering contracts (CE) to be allocated to workplace training on public sector contracts in tender Grades 7 to 9. For professional services contracts, the number of skills development hours shall be not less than the professional fees in millions of Rand multiplied by 150.
- iii) *cidb Standard for Contractor Performance Reports for use on Construction Works Contracts*: The *cidb Standard* was published in the government gazette in August 2013. The Standard provides for a uniform and consistent method of assessment of the performance of a contractor with respect to the following project parameters:
- time management;
  - cost management;
  - quality management;
  - health and safety management;
  - management of site conditions; and
  - management of subcontractors (including payment).

The contractor performance reports will also include a record of any breaches of contract (including those resulting in the termination and/or cancelation of a contract) as well as non-compliance with mandatory cidb Best Practices, including the *cidb Code of Conduct*.

In addition, it is envisaged that cidb Standards will also shortly be published for Grade 1 contractors and for sub-contractors. The proposed *cidb Standard for Contractor Performance Reports for use on Construction Works Contracts (sub-contractors)* will provide for sub-contractors to carry their track record through for recognition when applying for a cidb Grading.

- iv) *cidb Standard for H&S Management Plans*: The draft *cidb Standard* is aligned with the requirements of the Construction Regulations, and will provide for a best practice standard for the H&S specification and the H&S plan to be used on construction works contracts, and for standard procedures for the approval and sign-off of the H&S specification and the H&S plan by the client. It is intended that the *cidb Standard* will be mandatory on public sector contracts.
- v) *cidb Best Practice: Minimum Requirements for Engaging Subcontractors on Construction Works Contracts*: Notwithstanding minimum legal requirements that impact on the construction industry, prime contractors do appoint sub-contractors that do not comply with minimum statutory requirements. This draft *cidb Best Practice* provides for employers to specify and verify that prime contractors appoint sub-contractors that comply with the following:
- a written contract exists between the prime contractor and sub-contractor; and
  - sub-contractor who are in possession of a valid tax clearance certificate (TCC) and comply with the relevant requirements of Skills Development Levy (SDL), the Unemployment

Insurance Fund Act (UIF), and the Compensations for Occupational Injuries and Disease Act (COID).

### 3.2 Best Practice Standards; Delivery Process

- i) *cidb Standard for Performance Reports for Professional Service Providers*: The cidb has initiated the development of a *cidb Standard for Performance Reports for Professional Service Providers*, which is aligned to the possible development of a *cidb Register of Professional Service Providers*. It is intended that this *cidb Standard* will be published in the government gazette in March 2015. The Standard will provide for a uniform and consistent method of assessment of the performance of professional service providers.
- ii) *cidb Best Practice: Green Building Certification*: The *cidb Best Practice* was published in the government gazette in April 2011, and identified The Green Star SA rating tool "Office Version 1" of the Green Building Council of South Africa as a best practice to be followed in the design of office buildings. It is likely that the cidb will update this Standard to include reference to the "Public and Educational Building" rating tool. Note that subject to the possible development of DPW's green building rating tool, DPW has endorsed that the *cidb Best Practice: Green Building Certification* will be used as an interim measure.

### 3.3 Best Practice Standards; Procurement Process

- i) *cidb Best Practice: Evaluating Delivery, Development and Empowerment Objectives*: The cidb is developing best practice requirements which will provide for employers to assess procurement strategies to evaluate delivery, development and empowerment objectives using a standard methodology.
- ii) *cidb Standard for Gateway Reviews (Grade 7 to 9)*: The draft National Treasury / *cidb Standard for an Infrastructure Delivery Management System* provides for procurement reviews at at selected gates upon which a decision to proceed or not to the next process is based. It is also envisaged that the National Treasury PFMA Regulations could also provide for National Treasury, in consultation with the cidb, to prescribe requirements for Gateway Reviews.

The *cidb Standard for Gateway Reviews* provides for external peer reviews at specific gates on selected Grade 7 to 9 public sector contracts, and for submission of this information to National Treasury and to the cidb. The *cidb Standard* is planned to be submitted to the Board for approval by March 2014.

### 3.4 Key Benefits to the Industry

A summary of key potential benefits that will be derived through the cidb best practice Standards and the *cidb Best Practice Project Assessment Scheme* is given below.

Best Practice	Potential Benefit / Value Add
<b>Construction Process</b>	
Indirect Targeting for Enterprise Development	<ul style="list-style-type: none"> <li>• R7,0b of contracts to developing enterprises per year</li> <li>• 500 contractors receiving developmental support per year</li> </ul>
Developing Skills through Infrastructure Contracts	<ul style="list-style-type: none"> <li>• R380m spend on workplace training per year</li> <li>• 6 000 learning opportunities per year for FET learners / artisans</li> <li>• 1 500 learning opportunities for candidates</li> </ul>
Contractor Performance Reports	<ul style="list-style-type: none"> <li>• 10% reduction in cost of poor quality</li> <li>• R350m pa in improvements in quality of infrastructure</li> </ul>
H&S Management Plans	<ul style="list-style-type: none"> <li>• 10% reduction in current DIFR over three years</li> </ul>
Minimum Requirements for Sub-Contractors	<ul style="list-style-type: none"> <li>• 100% compliance by sub-contractors with tax, UIF and COID requirements on public sector contracts</li> <li>• Reduction of R2 billion in tax leakage</li> </ul>
<b>Design Process</b>	
Performance Reports for Professional Service Providers	<ul style="list-style-type: none"> <li>• 10% reduction in cost of rework on professional services</li> <li>• 3% reduction in the cost of poor quality of construction works</li> <li>• R150m in value-addition per year</li> </ul>
Green Building Certification	<ul style="list-style-type: none"> <li>• R350m pa savings in cost of electricity for non-residential buildings</li> <li>• R5m pa savings in cost of electricity for the national DPW portfolio</li> </ul>
<b>Procurement Process</b>	
Delivery, Development and Empowerment Gateway Reviews	<ul style="list-style-type: none"> <li>• Evaluation of delivery, development and empowerment objectives using a standard methodology</li> <li>• R350m pa of value addition or savings</li> </ul>

#### 4. cidb Value-Added Services; Ploughing Back into Industry Development

It is implicit that the income derived from the cidb *Best Practice Fee* (Section 2) should be used to provide value-added services in the construction industry, in line with the cidb's mandate.

A high level strategy for a portfolio of value-added services derived through the application of the cidb *Best Practice Fee* is given below for a best Practice fee of 0,2%. Note that the high level strategy is currently indicative only, and a detailed strategy is currently being developed by the cidb – which is dependent on the magnitude of the cidb *Best Practice Fee* adopted.

Item	Year (@ 0,2%)					Total	
	1	2	3	4	5	Rm	%
Contractor Development	19	46	76	99	119	359	62%
Skills Development	11	18	21	31	45	126	22%
Compliance Monitoring	3	6	8	12	15	44	8%
Provincial Services	3	4	6	7	7	27	5%
Staff HO	3	4	5	6	8	26	4%
<b>Total</b>	<b>39</b>	<b>74</b>	<b>116</b>	<b>155</b>	<b>194</b>	<b>582</b>	<b>100%</b>

Note that monitoring of compliance with cidb procurement prescripts and with the cidb best practice Standards is of fundamental importance in its own right, and also underpins the cidb's ability to generate the income stream from the *Best Practice Fee*. The cidb compliance monitoring strategy provides for dedicated resources within the cidb provincial offices to monitor compliance with the registration of projects on the cidb *Register of Projects*.