



**University of Zululand**

**Specification for developing skills that result in  
nationally accredited outcomes through  
infrastructure contracts**

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**University of Zululand**

# Specification for developing skills that result in nationally accredited outcomes through infrastructure contracts

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# Specification for developing skills that result in nationally accredited outcomes through infrastructure contracts

## 1 Scope

This specification establishes a key performance indicator in the form of a contract skills development goal (CSDG) relating to the structured work learning component of occupational or professional learning, which enables learners to make measurable progress towards the attainment of:

- a) a part or full occupational qualification registered on the National Qualification Framework,
- b) a trade qualification leading to a listed trade (GG No. 35625, 31 August 2012);
- c) a national diploma registered on the National Qualification Framework; or
- d) registration in a professional category by a recognized professional body or statutory council.

in the delivery, maintenance and operation of infrastructure through the performance of professional service, service, supply or engineering and construction works contracts or an order associated with such a contract.

This specification sets out the methods by which the key performance indicator is established, measured, quantified and verified in the performance of the contract or the execution of an order.

NOTE This specification can be applied to contracts or to orders (call-offs) issued in terms of framework agreements. Framework agreements are well suited to situations in which long term relationships are entered into. They offer flexibility in attaining contract skills development goals as requirements can be adjusted from one order to another, thus allowing key performance indicators to be improved upon over time.

## 2 Terms and definitions

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

### **allowance**

amount provided for in the contract or an order 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 or the order issued;
- 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 or the issuing of an order;
- c) provision for price adjustment for inflation; or
- d) other budgetary provisions intended to cover the employer's contractual risks

### **artisan**

a person who has been certified as competent to perform a listed trade in accordance with Section 26B of the Skills Development Act of 1998 (Act No. 97 of 1998)

### **black people**

a generic term which means Africans, Coloureds and Indians and who are citizens of the Republic of South Africa:

- a) by birth or descent; or
- b) by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date

**candidate**

a person who is registered in a category of registration which ultimately leads to registration in a professional category by a statutory council in terms of their founding legislation

**class of construction works**

the class of construction works referred to in Schedule 3 of the Construction Industry Development Regulations 2004 as amended and published in terms of the Construction Industry Development Board Act of 2000 (Act 38 of 2000)

**contract amount**

financial value of the contract at the time of the award of the contract or the issuing of an order, excluding all allowances and expenses and value added tax

**contract skills development goal (CSDG)**

the number of hours of skills development opportunities that a contractor contracts to provide in relation to work directly related to the contract or order up to:

- a) completion in the case of a professional service contract;
- b) the end of the service period in the case of a service contract;
- c) completion (state of readiness for occupation of the whole works although some minor work may be outstanding) in the case of an engineering and construction works contract; and
- d) the delivery date for all the work required in terms of the supply contract

**contractor**

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

**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

**employer's representative**

person authorized to represent the employer in terms of the contract

**engineering and construction works contract**

contract for the provision of a combination of goods and services arranged for the development, extension, refurbishment, rehabilitation or demolition of a fixed asset, including building and engineering infrastructure

**expenses**

costs incurred by the contractor in the performance of the contract or order which are in terms of the contract recoverable from the employer

**framework agreement**

an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

**mentor**

a qualified, experienced and, in the case of professionals, registered person, designated to guide a learner or candidate through a structured work experience learning component of a learning programme required for the acquisition of a part or full qualification or professional designation

**occupational qualification**

occupational qualification registered on the National Qualifications Framework Act (Act No 67 of 2008)

**order**

an instruction to provide goods, services or any combination thereof under a framework agreement

**part qualification**

an assessed unit of learning that is registered on the National Qualifications Framework as part of an occupational qualification

**professional category**

a category of registration identified in Table 1 or such other category recognised by the Employer in the application of this specification

**Table 1: Categories of registration**

<b>Profession</b>	<b>Category of registration</b>	<b>Act</b>
Architectural	Architect, Senior Architectural Technologist, Architectural Technologist or Architectural Draughtsperson	Architectural Profession Act of 2000 (Act No. 44 of 2000)
Construction project management	Construction Project Manager	Project and Construction Management Professions Act of 2000 (Act No. 48 of 2000)
Construction management	Construction Manager	
Engineering	Engineer, Engineering Technologist, Engineering Technician or Certificated Engineer	Engineering Profession Act of 2000 (Act No. 46 of 2000)
Landscape Architectural	Landscape Architect, Landscape Technologist, Landscape Technician or Landscape Assistant	Landscape Architectural Profession Act of 2000 (Act No. 45 of 2000)
Quantity surveying	Quantity surveyor	Quantity Surveying Profession Act of 2000 (Act No. 49 of 2000)
Scientists	Natural scientists	Natural Scientific Professions Act (Act No. 27 of 2003)
Surveying	Land surveyor, Engineering surveyor or Technician engineering surveyor	Professional and Technical Surveyors' Act (Act No. 40 of 1984)

**professional service contract**

contract for the provision of services with the skill and care normally delivered by professionals

**Sector Education and Training Authority (SETA)**

an institution established under section 9 of the Skills Development Act, Act 97 of 1998 and which has the responsibility under this Act to register learners on learning programmes

**service contract**

contract for the provision of labour or work, including knowledge-based expertise, carried out by hand or with the assistance of equipment and plant

**site**

means the land or place made available by the employer, for the purposes of the contract or order, on, under, over, in or through which the works or services are to be executed

**skills development agency**

an agency which performs some or all of the functions set out in section 4.1.4.

**statutory council**

a council as established under the

- a) South African Council for the Architectural Profession, established by the Architectural Profession Act of 2000 (Act No. 44 of 2000);

- b) South African Council for the Project and Construction Management Professions, established by the Project and Construction Management Professions Act of 2000 (Act No. 48 of 2000);
- c) Engineering Council of South Africa, established by the Engineering Profession Act of 2000 (Act No. 46 of 2000);
- d) South African Council for the Landscape Architectural Profession, established by the Landscape Architectural Profession Act of 2000 (Act No. 45 of 2000);
- e) South African Council for the Quantity Surveying Profession, established by the Quantity Surveying Profession Act of 2000 (Act No. 49 of 2000);
- f) South African Council for Professional and Technical Surveyors, established by the Professional and Technical Surveyors' of 2000 (Act No. 40 of 1984); or
- g) South African Council for Natural Scientific Professions, established by the Natural Scientific Professions Act (Act No. 27 of 2003):

**structured mentorship**

mentorship provided by a person who is registered in a suitable category of professional registration by a statutory council or professional body which leads and directs a candidate towards professional registration

**structured work experience learning component**

component of learning in an occupational qualification or for professional designation whereby a learner is mentored by a qualified, and where required, registered mentor in the application and integration of the knowledge and practical skills learnt, under supervision, in the actual context of a workplace in accordance with the prescripts set by the relevant qualifying authority, professional body or statutory council.

**supervisor**

a supervisor is a person in the particular workplace charged with the responsibility of allocating workplace tasks to a learner that are aligned to the prescriptions of their learning programme and of overseeing and reporting on that learning using a formally agreed record keeping system

**supply contract**

contract for the provision of goods and associated services including design

**work integrated learning**

the workplace learning component required by learners completing a national diploma at a University of Technology or Comprehensive University.

### **3 Requirements**

#### **3.1 Contract skills development goal (CSDG)**

**3.1.1** The contractor shall attain or exceed the contract skills development goal in the performance of the contract or the execution of an order.

**3.1.2** The contract skills development goal shall be not less than:

- a) the contract amount in millions of Rand multiplied by:
  - 1) the relevant number of hours per million Rand expenditure contained in Table 2 in the case of engineering and construction works contracts for the applicable class of construction works used in the application of the Construction Industry Development Regulations issued in terms of the Construction Industry Development Board Act of 2000; or
  - 2) 300 in the case of a service contract; or

- 3) 100 in the case of a professional service contract or a supply contract; or
- b) the hours tendered in the preference schedule or the quantum agreed in the scope of work of the contract or order.

Example: The contract amount for an engineering and construction works contract in the GB class of construction works is R65,7 million. The contract skills development goal is  $65,7 \times 250 = 16\,425$  hours.

**Table 2: Number of hours per million Rand expenditure in an engineering and construction work contract**

Class of construction works as identified in terms of Regulation 25(3) of the Construction Industry Regulations 2004		Number of hours per million Rand expenditure
Designation	Description	
CE	Civil engineering	125
CE or GB	Civil Engineering or general building	190
EE	Electrical engineering works (buildings)	125
EP	Electrical engineering works (Infrastructure)	125
GB	General building	250
ME	Mechanical engineering works	125
SB	Specialist	125

**3.1.5** Where required in terms of the contract or order, a specified proportion of the learners and candidates shall be selected from a list of persons in the employ of the state contained in the scope of work of the contract or order under the terms and conditions embodied therein.

NOTE: The contract skills development goal can be achieved through the direct employment of persons who are developing skills that result in nationally accredited outcomes, through the engagement of subcontractors who employ such persons or, where specifically required, the provision of work place opportunities to employees of the state.

## **3.2 Achieving the contract skills development goal (CSDG)**

**3.2.1** The contractor shall achieve the measurable contract skills development goal by providing one or a combination of any of the following in relation to work directly related to the contract or order:

**Method 1:** structured work experience learning component opportunities for learners towards the attainment of a part qualification or a full occupational qualification;

**Method 2:** structured work experience learning component opportunities for apprentices or other artisan learners towards the attainment of a trade qualification leading to a listed trade (GG No. 35625, 31 August 2012) subject to at least 60% of the artisan learners being holders of public FET college qualifications;

**Method 3:** work integrated learning opportunities for University of Technology or Comprehensive University students completing their national diplomas;

**Method 4:** structured work experience opportunities for candidates towards registration in a professional category by a recognized professional body or statutory council.

**3.2.2** No single method, except in the case of professional service contracts, shall contribute more than 75 percent of the contract skills development goal, Method 1 shall not contribute to more than 25 percent of the contract skills development goal in engineering and construction works or service contract and related orders.

**3.2.3** Not more than one method may be applied to any individual in the calculation of the contract skills development goal.

NOTE: The principle is that an individual can only be counted once towards the CSDG.

### **3.3 Contract skills development goal credits**

**3.3.1** Credits towards the contract skills development goal shall be granted by summing the hours of opportunities provided in accordance with this specification.

**3.3.2** No more than 8 hours may be claimed for any 24 hour period for any individual.

**3.3.3** Contract skills development goal credits shall be reduced to the extent that they fail to comply with the requirements of this specification.

### **3.4 Denial of credits**

Credits towards the contract skills development goal shall be denied should:

- a) the opportunities not be provided on site or the opportunities cannot be directly linked to the contract or order;
- b) the following not be provided:
  - 1) the required contract compliance baseline plan, an interim contract compliance report or a final contract compliance report;
  - 2) the required mentorship plan for a candidate;
  - 3) the required training plan for learners;
  - 4) the training reports covering a period; or
  - 5) the required records, specified documents and signatures;
- c) the structured mentorship be found not to be in accordance with the requirements of the applicable professional body, statutory council or qualifying authority;
- d) the structured work experience learning component be found not to be in accordance with the curriculum requirements of the part qualification or qualification or prescription for professional registration for which the learner is registered;
- e) conditions of employment and rates or allowances for learners not be in accordance with legislative provisions;
- f) the contractor does not maintain the required training records or an audit reveals that there is insufficient information to substantiate claims for credits; and
- g) a learner, learner artisan or candidate fails to present their credentials for assessment when they have, in the opinion of the mentor, sufficient structured work experience or structured mentorship to do so.

## **4 Compliance with requirements**

### **4.1 General**

**4.1.1** The contractor shall submit to the employer's representative:

- a) within 30 days of the contract coming into effect or the issuing of an order, a contract compliance base line training plan (see Annex A) taking into account the skills mix and type of workers that are to be engaged;

- b) interim contract compliance training reports (see Annex A) at intervals which do not exceed 3 months;
- c) a final contract compliance training report (see Annex A) within 15 days of reaching completion, final delivery or the end of the service as relevant; and
- d) a report which provides a breakdown of the number of hours reported in each interim and in the final contract compliance report into black people and women and people with disabilities.

NOTE: The Code of Good Practice on Key Aspects of Disability in the Workplace issued in terms of Employment Equity Act No 55, OF 1998 provides guidance on establishing who are people with disabilities.

**4.1.2** The contractor shall keep records of the name and identity number, hours worked, payments made to, registration particulars towards a part qualification or occupational qualification and particulars of opportunities offered to persons who are provided with work experience learning component opportunities which contribute to the contract skills development goal and any other training records required by or which demonstrate compliance with this specification. The contractor shall allow the employer's representative to inspect or audit such training records at any time within working hours.

**4.1.3** The employer's representative shall undertake suitable random audits on records to confirm compliance with requirements.

**4.1.4** Where learners are sourced through a Skills Development Agency (SDA), the contractor shall enter into a contract agreement with one or more SDAs of their choice that is participating in the implementation of this specification to, as relevant:

- a) facilitate placement of learners for training opportunities;
- b) prepare training plans for registered learners, including details of the scope of experiential work to be covered and expected outcomes;
- c) register learners with the appropriate sector Education and Training Authority established in terms of the Skills Development Act of 2008 (Act 37 of 2008);
- d) manage all the employment functions of learners such as payment of stipends, contributions to the Unemployment Insurance Fund, Workman's Compensation, provision of personal protective clothing, trade specific tools, etc.;
- e) liaise with the training co-ordinators to monitor onsite training progress of learners;
- f) liaise with the training co-ordinators to arrange for summative assessments at appropriate stages of the training; and
- g) liaise with the training co-ordinators to prepare reports for the employer or employer's representative.

## **4.2 Structured workplace learning opportunities for learners**

**4.2.1** Structured work experience learning component opportunities shall be aligned to the curriculum requirements set for the particular part or full occupational qualification or professional designation for which the learner is registered.

**4.2.2** A responsible supervisor shall be appointed to allocate learning tasks, under the guidance of a qualified person, to learners in line with their training plans

**4.2.3** Mentoring associated with structured work experience learning component for artisan learners shall be undertaken by an artisan qualified in the applicable trade with a minimum of 3 years of trade related experience. The number of artisan learners mentored by a single mentor shall, unless otherwise permitted by the National Artisan Moderation Body, not exceed 4 at any one time.

**4.2.4** Mentoring associated with structured work experience learning component for learners leading to a part or an occupational qualification other than artisan learners shall be undertaken by a person qualified in the applicable discipline with a minimum of 3 years of experience.

**4.2.5** The contractor or service provider shall submit to the employer's representative, in respect of each learner:

- a) within one month of commencing work directly related to the contract or order, a workplace training plan together with name of the learner's mentor and supervisor
- b) within three months of commencing work directly related to the contract or order:
  - 1) proof of registration as a learner with the relevant SETA; and
  - 2) a copy of the mentorship agreement entered into with the learner or the company mentorship agreement entered into with the relevant qualified agency;
- c) within two weeks of updating a workplace training plan, the revised workplace training plan; and
- d) a quarterly progress report and a final report at the end of the structured mentorship period including a log of exposure and interactions with the mentor in sufficient detail to demonstrate compliance with requirements, signed off by the mentor, the supervisor and the learner.

**4.2.6** Learners shall be required by the mentor to complete training reports required by the relevant qualifying authority whenever a substantial activity or training period has been completed.

**4.2.7** The mentor and supervisor shall sign off all reports and logbooks to allow the learner to move to other projects or employment and continue on the path towards qualification and, where relevant registration, where the work related to the contract ends for whatever reason prior to the learner gaining sufficient experience for final assessment.

### **4.3 Structured mentorship opportunities for candidates**

**4.3.1** Mentoring associated with structured work experience for candidates shall be in accordance with the prescripts of the relevant professional body or statutory council.

**4.3.2** The contractor shall:

- a) appoint a supervisor who is actively engaged in work directly associated with the contract to issue tasks, oversee their implementation and provide input to the candidate on an on-going basis;
- b) identify a suitable mentor for the candidate, if such candidate does not have a mentor, who shall enter into a mentoring agreement with the candidate or the company as required by the professional body or statutory council; and
- c) issue each candidate with a portfolio of evidence file which is to be kept up to date with all the documentation issued or prepared including the workplace training plan and all revisions thereof as well as copies of the logbook entries and training period reports;

**4.3.3** The mentor shall provide and update from time to time a workplace training plan for a candidate outlining the activities in which the candidate will be involved that includes activities required by the relevant statutory council. The mentor shall require candidates to maintain a logbook issued by the relevant statutory council. The mentor shall sign off such logbook at quarterly presentations and progress review meetings.

NOTE: The mentor should ensure where the duration of the contract or order exceeds the minimum time to register in a professional category of registration that candidates are exposed to the full range of activities and work towards assuming the full level of responsibility recommended by the relevant statutory council. This may require rotations and secondments.

**4.3.4** The contractor or service provider shall submit to the employer's representative, in respect of each candidate:

- a) within one month of commencing work directly related to the contract or order:
  - 1) a workplace training plan together with name of the candidate's mentor and supervisor
  - 2) proof of registration as a candidate with the relevant professional body or statutory council; and
  - 3) a copy of the mentorship agreement entered into with the candidate or the company mentorship agreement entered into with a professional body or statutory council;
- b) within two weeks of updating a workplace training plan, the revised workplace training plan.
- c) a quarterly progress reports and a final report at the end of the structured mentorship period including a log of exposure and interactions with the mentor in sufficient detail to demonstrate compliance with requirements, signed off by the mentor, the supervisor and the candidate.

**4.3.5** Candidates shall be required by the mentor to complete training reports required by the relevant statutory council whenever a substantial activity or training period has been completed.

**4.3.6** The mentor and supervisor shall sign off all reports and logbooks to allow the candidate to move to other projects or employment and continue on the path towards registration where the work related to the contract ends for whatever reason prior to the candidate gaining sufficient experience for registration.

## **5 Records**

**5.1** The contractor shall submit all the documentation required in terms of clause 4 in a timely manner.

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

**5.3** The contractor shall, upon termination of the opportunities provided in order to satisfy the contract skills development goal, certify the quantum and nature of the opportunity 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 the contractor fails to substantiate that any failure to achieve the contract skills development goal was due to reason beyond the contractor's control which may be acceptable to the employer, the sanctions provided for in the contract or order shall apply.

## Annex A: Skills compliance plans

(Normative)

<b>Skills compliance base line plan</b>	
<b>Name of contractor:</b>	
Contact person:	Telephone:
Address:	Cell phone:
	Email:
<b>Contract / order number:</b>	<b>Start date for contract / order:</b>
<b>Contract title:</b>	
<b>Contract skills development goal (CSDG)</b> (tick appropriate box)	
<input type="checkbox"/> Tendered / contracted CSDG = ..... hours	
<input type="checkbox"/> Minimum CSDG calculated in accordance with standard	
<b>Minimum CSDG calculated in accordance with the standard</b> (complete only if applicable)	
<b>Contract type</b> (tick appropriate box):	<b>Contract amount</b>
<input type="checkbox"/> professional service	<b>excl VAT</b> R
<input type="checkbox"/> service	<b>Less expenses (if any)</b> R
<input type="checkbox"/> engineering and construction works	<b>Less allowances</b> R
	<b>Contract amount</b> R
CIDB Class of construction works, if applicable .....	
Contract amount expressed in millions of Rand R..... m <b>①</b>	
Number of hours per million Rand expenditure from sub-clause 3.1.2 of the <i>Standard for developing skills that result in nationally accredited outcomes through infrastructure contracts</i> = ..... <b>②</b>	
Minimum contract skills development goal which the contractor is required to achieve (Gmin)	
= <b>①</b> x <b>②</b> = ..... x ..... = ..... hours	
<b>I intend achieving the CSDG as follows:</b>	
<input type="checkbox"/> <b>Method 1:</b> structured work experience learning component opportunities towards a part or a full occupational qualification	..... hours
<input type="checkbox"/> <b>Method 2:</b> structured work experience learning opportunities for apprentices or other artisan learners	..... hours
<input type="checkbox"/> <b>Method 3:</b> work integrated learning opportunities for University of Technology or Comprehensive University national diploma students	..... hours
<input type="checkbox"/> <b>Method 4:</b> structured work experience opportunities for candidates towards registration in a professional category of registration	..... hours
..... hours	
<b>Total</b>	

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the Contractor, confirms that the contents of this plan are within my personal knowledge and are to the best of my belief both true and correct.

Signed

Date

Name

Position

**Skills compliance report**

Date:

(tick appropriate box)

Interim report

Final report

**Name of contractor:**

Contact person: Telephone  
 Address: Cell phone  
 email

**Contract / order number:**

**Start date for contract / order:**

**Contract title:**

**Contract skills development goal (CSDG)** ..... hours

**Method 1:** structured workplace experience learning component opportunities towards a part or a full occupational qualification

**Employed by contractor**

Name	Identity or passport number	Cell or telephone number	Part or full occupational qualification NQF ref. no.	Student number	SETA with whom learner is registered	Dates for engagement on work related to contract		Total hours
						Start	End	

**Employed by subcontractor:** (state name)

Name	Identity or passport number	Cell or telephone number	Part or full occupational qualification NQF ref. no.	Student number	SETA with whom learner is registered	Dates for engagement on work related to contract		Total hours
						Start	End	

**Method 2:** structured work experience learning component opportunities for apprentices or other artisan learners

**Employed by contractor**

Name	Identity or passport number	Cell or telephone number	Listed trade	National artisan learner data base registration number (where available)	SETA with whom the learner is registered	Dates for engagement on works related to contract		Total hours
						Start	End	

**Employed by subcontractor:** (state name)

Name	Identity or passport number	Cell or telephone number	Listed trade	National artisan learner data base registration number (where available)	SETA with whom the learner is registered	Dates for engagement on works related to contract		Total hours
						Start	End	

**Method 3:** work integrated learning opportunities for University of Technology (UOT) or Comprehensive University (CU) diploma students

**Employed by contractor**

Name	Identify or passport number	Cell or telephone number	Diplo ma	Learner registration number	UOT/CU with whom the learner is registered	Date for engagement on contract		Total hours
						Start	End	

--	--	--	--	--	--	--	--	--

**Employed by sub-contractor**

Name	Identify or passport number	Cell or telephone number	Diplo ma	Learner registration number	UOT/CU with whom the learner is registered	Date for engagement on contract	Total hours

**Method 4:** structured work experience opportunities for candidates towards registration in a professional category of registration

**Employed by contractor**

Name	Identity or passport number	Cell or telephone number	Statutory council particulars		Dates for engagement on work related to contract		Total hours
			Title	Registration number	Start	End	

**Employed by subcontractor**

Name	Identity or passport number	Cell or telephone number	Statutory council particulars		Dates for engagement on work related to contract		Total hours
			Title	Registration number	Start	End	

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the Contractor, confirms that the contents of this plan are within my personal knowledge and are to the best of my belief both true and correct.

Signed

Date

Name

Position

## Annex B: Incorporating this specification in a procurement document

### B1 General

**B1.1** The following clause should be added to the scope of work of a contract or order to establish requirements:

#### Skills development requirements

The contractor shall achieve in the performance of the contract the contract skills development goal established in the Department of Higher Education and Training's *Standard for developing skills that result in nationally accredited outcomes through infrastructure contracts (September 2012)*

Note: The term contractor may need to be changed to "consultant" or "professional service provider" depending upon the term that is used in the form of contract that is adopted. The term "performance of the contract" may need to be replaced with "execution of an order" where the scope of work forms part of an order.

**B1.2** Where an employer requires that employees of the state be seconded to the contractor in order to be provided with work integrated learning opportunities, structured workplace experience opportunities or structured mentorship opportunities in accordance with the provisions of this standard, the following clause should be included in the scope of work:

The specified proportion of employees of the state is . . . . . %. Work integrated learning opportunities / structured workplace experience opportunities / structured mentorship opportunities shall be offered to any of the persons identified in Annexure 1. Persons selected by the contractor from the list in Annexure 1 shall be seconded to the contractor under the following terms and conditions:  
.....

NOTE: The annexure should inform the contractor of the opportunities which the named employees of the state require through the contract or order in order to attain a nationally accredited outcome.

### B2 Financial incentives

Financial incentives may be offered to contractors should they exceed a key performance indicator (KPI) in the performance a contract in the form of a contract skills development goal in accordance with the requirements of this standard which can be agreed to either through a negotiation process before or after a contract or order is awarded.

Financial incentives should not be confused for preferences for rewarding contactors for offering to achieve a deliverable and a financial penalty (low performance damages) for failing to deliver on obligations. The intention for offering financial incentives for the attainment of KPIs is to encourage, rather than coerce, the contractor to meet and exceed the employer's objectives.

Financial incentives can be formulated in a number of ways. The most common way is to make them linearly proportional to increases in contract participation goals. Stepped incentives may also be used. Consideration should be given to capping the quantum of the financial incentive.

Option X20 (Key Performance Indicators) of the NEC3 Engineering and Construction Contract, NEC3 Professional Service Contract and the NEC3 Term Service Contract makes provision for a contractor to be paid an amount stated in an incentive schedule if the target stated for a key performance indicator is improved upon or achieved.

Additional conditions of contact need to be framed and included in the contract data where use is made of other forms of contract.

**Note:** Financial incentives are usually used where tenderers are not invited to tender contract skills development goals, but are required to accept a minimum contract skills development goal and are rewarded for performance beyond the minimum.

### **B3 Sanctions**

Sanctions should be provided for in the contract in the event that the contractor fails to substantiate that any failure to achieve the contract participation goal was due to quantitative under runs, the elimination of items, or any other reason beyond the contractor's control which may be acceptable to the employer.

Appropriate action should be taken by employers against tenderers who are awarded contracts in preference to others on a fraudulent basis or against contractors who fail to achieve their contractual obligations relating to the development of skills. Employers have a number of sanctions and contractual remedies available to address such situations, including the imposition of a financial penalty (low performance damages) more severe than the financial preference calculated at the time when tenders were evaluated or more severe than complying with contractual obligations or not awarding future orders in terms of framework agreements.