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## **Construction procurement - Part 8: Participation of targeted labour in contracts**

*Marchés de construction Partie 8: Participation de la main d'œuvre (ressources locales) cibles 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 was prepared by Technical Committee ISO/TC 59, *Building construction*, and 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*

Annex C forms an integral part of this part of ISO 10845. Annexes A, B and D to H are for information only.

## 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 more 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.

This part of ISO 10845 is part of a series of international standards entitled 'Construction procurement' which cover various aspects of procurement within the construction industry. Each standard relates to a different aspect of procurement. The objective of this series of standards is to provide a generic and standard set of processes, procedures and methods for a procurement system that is fair, equitable, transparent, competitive and cost-effective and which may be used to promote objectives additional to those associated with the immediate objective of the procurement itself.

This series of standards is especially relevant for developing countries that lack experience and instruments in this field and may be used to improve international trade. This part of ISO 10845 provides a framework around which public, private and international organizations can develop their procurement systems to achieve fair competition, to reduce the possibilities for abuse and to improve predictability in procurement outcomes.

NOTE Standardization, apart from removing technical barriers to trade, enables

- a) those engaged in procurement activities to perform their duties, within the confines of their organization's procurement policy, in a uniform and generic manner; procurement documents to be readily compiled in a uniform and generic manner; and
- b) curricula to be developed to capacitate those engaged in a range of procurement activities.

Furthermore, it allows governments to readily develop an internal procurement skills base, which is not lost when members of staff move between different departments or levels of government or organizations.



# Construction procurement

## Part 8

### Participation of targeted labour in contracts

#### 1 Scope

This part of ISO 10845 establishes a key performance indicator, in the form of a contract participation goal, relating to the engagement of targeted labour on a contract for the provision of services or engineering and construction works. A contract participation goal may be used to measure the outcomes of a contract in relation to the engagement of targeted 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 will be 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 nominated or selected by the employer;
- c) provision for price adjustment for inflation; or
- d) other provision of a budgetary provisions, e.g. contingencies

##### 2.2

##### **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)

**2.3**

**contract participation goal**

**CPG**

sum of the wages and allowances, for which the contractor contracts targeted labour in the performance of the contract, expressed as a percentage of the contract amount associated with the targeting strategy that is identified in the targeting data

**2.4**

**contractor**

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

**2.5**

**employer**

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

**2.6**

**employer's representative**

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

**2.7**

**targeting data**

data, provisions and variations that make this part of ISO 10845 applicable to a particular contract (see annex A)

**2.8**

**targeted labour**

individuals, employed by the contractor in the performance of the contract, who are defined as the target group in the targeting data

**2.9**

**target area**

geographic area defined in the targeting data

**2.10**

**targeted data**

data, provisions and variations that make this part of ISO 10845 applicable to a particular contract (see Annex B)

**2.11**

**targeting strategy**

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

**2.11.1**

**targeting strategy A**

targeting strategy which

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

**2.11.2**

**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.

## **2.12 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**

The contractor shall engage targeted labour 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, expressed as a percentage of the contract amount for the targeting strategy specified in the targeting data, is not less than the contract participation goal for the targeting strategy specified in the targeting data.

The contractor shall, in the case of targeting strategy A, submit to the employer's representative, details of his 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 in terms of the contract.

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 his 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**

A contractor shall achieve the specified contract participation goal by engaging targeted labour in the performance of the contract.

NOTE Annex D 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.

### **3.3 Contract participation goal credits**

Credits towards the contract participation goal shall be granted by converting the total monetary value of wages and allowances paid to targeted labour, exclusive of any value added tax or sales tax required by law, to a percentage of the applicable contract amount and multiplying such values by the appropriate weightings for the different target groups, if any, specified in the targeting data.

### **3.4 Denial of credits**

No credits shall be granted when the contractor fails to enter into written contracts with targeted labour. Cognizance shall be taken of any conditions of such contracts. Credits claimed towards the contract participation goal shall not be allowed if such contracts contain clauses which are not in accordance with requirements established in the targeting data.

NOTE 1 The weightings referred to should typically be between 0,5 and 1,5. Where no weighting is indicated in the procurement documents, the weighting should be assumed to be unity.

NOTE 2 Annex E provides illustrative examples as to how a contractor can fulfil his contract participation goal obligations.



## 4 Compliance with requirements

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

## 5 Records

### 5.1 Submission of documentation

The contractor shall submit to the employer's representative all the documentation required in terms of Clause 3.1, 4 and 5.2 timeously.

### 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, and in a form approved by the employer's representative, a schedule which lists the names, identity numbers, nationality, gender, trade or occupation, period of employment, employment number and the like, of the individuals classified as targeted labour, 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 during the month for which credits are sought.

NOTE Annex F provides an example of a schedule which may be used to track payments made to targeted labour.

### 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 termination of services of targeted labour

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 individuals, to the employer's representative for record-keeping purposes.

## 6 Sanctions

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

- a) quantitative underruns,
- b) the elimination of items to be performed by targeted labour, 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 should be set out in a preferencing schedule, the scope of work or contract data (see ISO 10845-2). Sanctions where preferences 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;

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- 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 employment generated by a contract (i.e. targeting strategy B). The sanction where financial incentives are applied is simply that the incentive will not be not paid if the target is not attained.

## **Annex A** **(informative)**

### **Commentary**

#### **A.0 Introduction**

This annex includes background information on this part of ISO 10845, guidance on its use and suggestions on good practice.

The paragraphs in the commentary refer directly to the respective clauses in this part of ISO 10845, e.g. paragraph A.3.2 refers to subclause 3.2.

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

#### **A.1 Scope**

The purpose of this part of ISO 10845 is to standardize the manner in which targets (contract participation goals) are set and measured in relation to the participation of targeted labour in service or engineering and construction works contracts. These targets (contract participation goals) in addition to measuring and reporting on a key performance indicator which reflects the quantum of employment generated in respect of targeted labour through the performance of the contract, may 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 preferences 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 may be used in combination with each other should preferences be granted for tendering a contract participation goal which exceeds a minimum value.

Annex G provides information on implementing employment-intensive infrastructure projects which target the increase of employment opportunities generated per unit of expenditure.

NOTE Annex H provides an example of a preferencing schedule which enables this part of ISO 10845 to be used for preferencing purposes.

#### **A.2 Terms and definitions**

##### **A.2.8 Targeted labour**

Labour may 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.

Procuring entities are often confronted with the problem 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 as exclusivity can set precedents. Similar approaches by neighbouring communities can be demanded. This might result in embargos on employment creation for communities who might have benefited from a previous contract. The defining of targeted labour on the basis of their geographical locality demands consultation with communities and their representatives. Relative weighting of areas in and around the contract area can help to overcome these pitfalls associated with area-based targeting.

### A.2.9 Targeting data

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

## A.3 Requirements

### A.3.1 Contract participation goal

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 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 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 3.1 establishes qualitative (level 2) and quantitative (level 3) requirements in relation to the objective (level 1).

The objective (level 1) and the performance description (level 2) as set out in Figure A.1 may 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 (Annex C) at the commencement of the contract, particularly where a contractor has tendered a contract participation goal, as this document may be used to determine whether or not the sanctions provided for in the contract (see Clause 6) should be applied.

NOTE 1 Annex E 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 his 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.

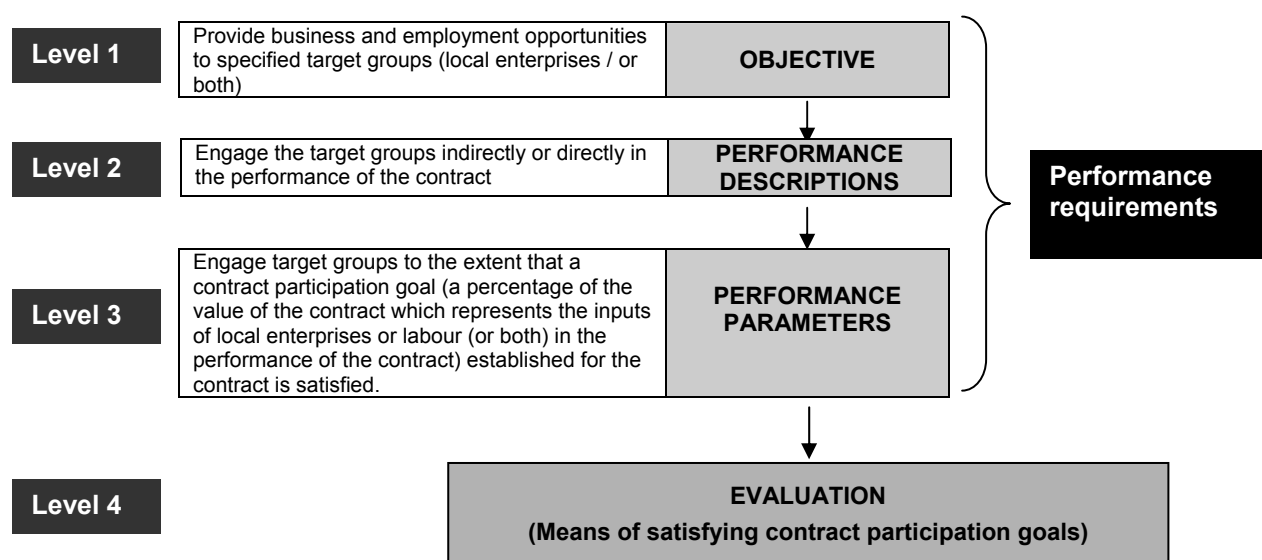


Figure A.1 — Structure of a performance-based resource specification

### A.3.2 Achieving the contract participation goal

This part of ISO 10845 only permits the contract participation goal to be achieved by engaging targeted labour in the performance of the contract.

### A.3.3 Contract participation goal credits

The contract participation goal is based on the contract amount determined in accordance with the targeting strategy selected for the contract.

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 to those for permanent employees.

Participation of 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 labour on a contract (see Annex D).

## A.4 Compliance with requirements

Compliance with the requirements for the granting of credits relating to contract participation goals is linked to the entering into of contracts with targeted labour and the furnishing of pro formas of such contracts to the employer's representative.

## **A.5 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 will, in any event, have to compile this information to pay the targeted labour at regular intervals.

### **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 termination of services of targeted labour**

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

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

## **A.6 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 may be acceptable to the employer. This clause is designed to limit a contractor's risk exposure in failing to achieve contractual obligations beyond his control. (In targeting strategy B, the provisions of this clause 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 in preference to others 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 preference 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 preferences that the sanction is not more attractive than compliance, e.g. the quantum of the penalty for non-compliance is less than the preference offered.

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

**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 10845-2:2008. The targeting data should be incorporated in the scope of work or a preferencing schedule as shown in Table B.1.

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

TOPIC	ASPECT	COMMENTARY						
<b>Procurement procedures</b>	<b>Participation of target groups</b>	<p>The following parts of ISO 10845 and associated targeting data are applicable:</p> <p>1) ISO 10845-. .</p> <p>2) ISO 10845-. .</p> <p>The associated targeting data are as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; vertical-align: top;">Targeting data pertaining to ISO 10845-. .</td> <td style="vertical-align: top;"> <p>Essential data:</p> <p>The requirements for ..... are .....</p> <p>The requirements for ..... are .....</p> </td> </tr> <tr> <td></td> <td style="vertical-align: top;"> <p>Variations:</p> <p>1).....</p> <p>2).....</p> </td> </tr> <tr> <td></td> <td style="vertical-align: top;"> <p>Additional clauses:</p> <p>1).....</p> </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> <p>1).....</p> <p>2).....</p>		<p>Additional clauses:</p> <p>1).....</p>
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> <p>1).....</p> <p>2).....</p>							
	<p>Additional clauses:</p> <p>1).....</p>							

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

Table B.2 — Targeting data associated with this part of ISO 10845

Targeting data associated with this part of ISO 10845	Guidance notes.	
	Clause number	Consideration
<b>Essential data</b>		
The employer's representative is .....	2.6	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.)
Target area Target Area 1 shall be the geographic area which falls under the jurisdiction of ..... Target Area 2 shall be the geographic area, excluding Target Area 1, which falls under the jurisdiction of the ..... Council. Target Area 3 shall be the geographic area which falls within the ..... Province.	2.10	Define target area if referred to in the definition for targeted labour.
Targeted labour	2.8	Define targeted labour (see A.2.3) , e.g. ..... citizens who permanently reside within the target area and earn wages and allowances amounting to less than ..... per hour. 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.  Persons who a) have not been employed for more than 100 days during the year preceding their engagement on the contract; and b) reside within the boundaries of ..... and are recognized as such by the project steering committee.
The targeting strategy is .....	3.1 2.10	State the applicable targeting strategy A or B, depending upon the usage of CPGs in the contract.
The contract participation goal is .....% <i>or</i> The contractor participation goal is as stated in the preferencing schedule <i>or</i> The contract participation goal is as stated in the scope of work/partnering schedule <i>or</i> There is no specific contract participation goal set for this contract	3.1	Specify the contract participation goal, 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.
The following weightings shall apply: 1 Targeted labour other than youth or women ..... 2 Targeted labour (youth) ..... 3 Targeted labour (women) .....	3.3	Where none are provided, a default value of 1 is assumed.
Contracts with targeted labour shall include the following clauses/comply with the following: .....	3.4	State requirements for contracts, if any (see A.3.3).
Supporting documentation shall be delivered to the employer's representative on or before the .....day of the month. <i>or</i> 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.

Table B.2 (concluded)

Targeting data associated with this part of ISO 10845	Guidance notes.	
	Clause number	Consideration
<b>Variations</b>		
Further to the requirements of 3.4, credit will be denied should the contractors not employ targeted labour in accordance with acceptable basic minimum conditions of employment. Acceptable basic minimum conditions of employment in respect of permanent employees shall be those set out in existing legislation; and those in respect of temporary or project specific employees, shall be the following: .....	3.4	State variations, if any.
<b>Additional clauses</b> .....		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 achieving the contract participation goal (CPG) as follows:

Targeted labour	Estimated expenditure on wages and allowances (1)	Weighting (2)	Total (1) × (2)
Subcategory 1			
Subcategory 2			
Subcategory 3			
<b>Total towards CPG</b>			<b>2</b>

Targeted labour shall be engaged on the following aspects of the contract:

Activity	Target area	Expenditure
.....	.....	.....
.....	.....	.....
.....	.....	.....



## Annex D (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 fulfilling his goal obligations in the performance of the contract during the evaluation of tenders.

#### D.1 Tender parameters

Sum tendered (exclusive of any value added tax or sales tax required by law) .....

Less all allowances .....

Contract amount  **1**

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

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

I/We intend achieving the contract participation goal (CPG) as follows.

Targeted labour <sup>a</sup>	Estimated expenditure on wages and allowances (1)	Weighting <sup>b</sup> (2)	Total (estimated expenditure multiplied by weighting) (1) × (2)
Subcategory 1 Subcategory 2 Subcategory 3			
<b>Total towards CPG</b>			<b>2</b>
<p>a Different target groups may be provided for in the contract. If not, regard all target groups as being target group 1.</p> <p>b The weighting is 1,0, unless otherwise provided for in the contract.</p>			

Briefly describe activities in which targeted labour will be engaged.

.....

.....

.....

.....

.....

.....

Total contract participation goal which is likely to be achieved in the performance of the contract  $100 \times \frac{\text{2/1}}{\text{1}}$  ..... % ( $\leq 100\%$ )

NOTE This value should equal or exceed the tendered contract participation goal.

## Annex E (informative)

### Examples of how contractors can fulfil their contract participation goal/obligations

**E.1** The following examples illustrate the various ways in which contractors can fulfil their contract participation goal obligations. In the examples it is assumed that

a) targeted labour is defined as labour whose wages and allowances do not exceed the lowest minimum wage for the industry by more than 25 % in the geographic areas A and B;

b) the weightings are as follows:

- targeted labour from target area A = 1,5
- targeted labour from target area B = 0,7

c) the contract amount is \$5 000 000;

**E.2** Contractors can achieve a contract participation goal in a variety of ways, as illustrated below.

#### Contractor A

Contractor A employs workers, whose wages and allowances are within the defined limits, from

- target area A at a wage bill of not less than \$250 000; and
- target area B at a wage bill of not less than \$400 000.

$$\begin{aligned} \text{Value of credits} &= (1,5 \times 250\,000) + (0,7 \times 400\,000) \\ &= \$655\,000 \end{aligned}$$

$$\text{Credit} = 655\,000 / 5\,000\,000 \times 100 = 13,1 \%$$

Contractor A will achieve a contract participation goal of 13,1 %.

#### Contractor B

Contractor B employs workers, whose wages and allowances are within the defined limits, from target area A at a wage bill of not less than \$167 000.

$$\begin{aligned} \text{Value of credits} &= 1,5 \times 167\,000 \\ &= \$250\,500 \end{aligned}$$

$$\text{Credit} = 250\,500 / 5\,000\,000 \times 100 = 5,0 \%$$

Contractor B will achieve a contract participation goal of 5 %.

## **Annex F**

(informative)

### **Contract schedule for targeted labour**

Monitoring for contract compliance necessitates that records of all documents and contracts which the contractor is required in terms of this part of ISO 10845, to furnish the employer with, are recorded in a systematic manner. The summary schedules contained in annex facilitate this. These schedules should be completed and maintained by the employer's representative.

**Schedule F.1 — Targeted labour**

Contractor: ..... Report number: ..... Certified by: name .....

Contract number: ..... Date: ..... signature

Name of individual classified as targeted labour	Identity number	Person satisfies targeted labour definition for <sup>a</sup> :			Total wages and allowances paid for work in connection with the contract	Certification of wages and allowance paid		Status <sup>b</sup>
		Subcategory 1	Subcategory 2	Subcategory 3		By contractor	By targeted labour	

<sup>a</sup> insert one of the following:  
 Y = Yes  
 N = No  
 NA = Not applicable

<sup>b</sup> insert one of the following  
 NC = not compliant  
 C = compliant

## **Annex G** (informative)

### **Implementing employment-intensive works which seek to maximize the employment generated per unit of expenditure**

#### **G.1 Introduction**

Changes in methods and technologies, which increase the labour component in construction and the manufacture of materials, yield the greatest increase in the number of employment opportunities generated per unit of expenditure. This requires established companies to reduce their reliance on capital-intensive technologies. Suitable methods and technologies are usually readily implemented by small-scale enterprises who, by being small, have limited access to capital and invariably operate and conduct their businesses in a more employment-intensive fashion and favour light, non-equipment-based forms of construction.

Various statistics have been put forward to quantify the impact of introducing employment-intensive construction practices. Many of them relate to the methods of measurement which are adopted. The following parameters are commonly used to evaluate employment-intensive construction practices:

- a) The multiplier in employment opportunities (i.e. the ratio of the total number of person hours generated in the construction of a specified structure, service or activity using labour-based technologies, to that using plant-based technologies).
- b) Expenditure per unit of employment generated (i.e. the ratio of total construction costs excluding VAT, but including any management fees directly related to construction activities, to total volume of employment generated (man hours) in the construction of a structure or service).
- c) Construction expenditure retained within the community.

The targeting of communities in construction projects is frequently linked to employment-intensive works and results in a purposeful flow of income to the poorest sectors of communities. It should be noted with regard to employment sustainability, that work on infrastructure construction is, by its nature, temporary. It is also self-targeting towards the poorest members of society, because unskilled workers in the construction industry are paid low wages. Workers with skills tend to go into other kinds of work and leave the temporary jobs in construction to those with fewer options, the unskilled. Nevertheless, although the construction jobs created are not permanent, the volume of work available to the poor is considerably increased.

This informative annex focuses on the use of this part of ISO 10845 to encourage cost-effective employment-intensive practices.

#### **G.2 Procuring employment-intensive works**

The choice of technology for construction work is generally made during the basic design phase, whereas the method of manufacture of goods is usually decided upon during the implementation phase. Any cost premiums to be borne in respect of employment-intensive practices should be determined before the award of contracts, since they might not be considered acceptable. A distinction should be made between the targeting of local labour in order to stimulate local economies and the targeting of local labour in order to increase the employment opportunities generated per unit of expenditure.

Two alternative procurement approaches to implementing employment-intensive projects can be adopted.

- **Method 1** Prescribe the use of specific employment-intensive technologies and methods of construction/manufacture in the procurement document, e.g. make use of SANS 1921-5 to specify the earthwork activities which are to be undertaken by hand. Alternatively, specify the minimum amount of wages which are to be paid on a particular contract and thereby establish a minimum contract participation goal.
- **Method 2** Afford tenderers the opportunity to choose the technology/construction method/method of materials manufacture which they wish to use in order to maximize the participation of labour on contracts in their efforts to win tenders. Alternatively, offer contractors a financial incentive to attain a particular contract participation goal in the performance of the contract, e.g. include partnering provisions in design and build contracts for key performance indicators relating to the increasing of the volume of work available to the poor and use provisions of this part of ISO 10845 to set a target (contract participation goal) and to measure performance for payment purposes.

This part of ISO 10845 can be used in both methods to measure deliverables. Either of the methods may be used to increase the quantity of employment generated per unit of expenditure. Method 1 achieves this objective by restricting the use of certain types of plant/manufacturing methods and by specifying particular technologies and construction methods. Method 2, on the other hand, achieves this by permitting contractors to use their knowledge, skill and creativity to arrive at an optimum economic mix of equipment, technology and labour in order to meet objectives and win tenders or be paid an incentive.

The economic viability of method 1 is dependent on the ability of the designer or specifier to forecast cost. Any potential price premium in method 2 can be readily assessed during the evaluation of tenders. Method 2, therefore, has the distinct advantage that tender prices will usually fall within acceptable limits and economic justification of decisions relating to employment generation will not be necessary.

### **G.3 Defining targeted labour**

Increases in employment opportunities generated per unit of expenditure on infrastructure projects can best be achieved by targeting unskilled or semi-skilled labour. Targeted labour may accordingly be defined in terms of statutory wage rates, for example, persons who earn not more than one and a half times the minimum statutory wage rate. In some instances, there may be merit, in the interests of local economic development, to include residency within a broad geographical area in the definition.

### **G.4 Encouraging contractors to make more use of targeted labour in excavation activities**

In order to meet goals for the engagement of targeted labour, or to tender increased contract participation goals, contractors may have to undertake some, or all, soft excavations by the use of hand labour. In order to minimize their risk exposure in performing such activities, there should be:

- a) a labour policy in place which sets out the conditions of employment for temporary workers (i.e. project-specific workers), and
- b) a mechanism in terms of which contractors can define the portion of the excavation works which will be excavated by hand methods.

If this is not done, contractors will not be able to increase job opportunities in earthworks activities as they would be exposed to unacceptable risks. The above-mentioned employment policy and mechanism should, accordingly, be clearly set out in the tender documents and form an integral part of the contract.

The conditions of employment pertaining to the employment of temporary workers (i.e. project-specific workers) can be described in the scope of work. (These conditions will not be necessary should project-specific workers be engaged in terms of statutory labour provisions. It may, however, in certain circumstances be desirable to vary such provisions in order to increase the participation of targeted labour, in which case such conditions should be fully described.) This part of ISO 10845 requires contractors to enter into formal contracts with targeted labour. Credit towards the attainment of contract participation goals can be denied should contractors fail to engage targeted labour in accordance with the conditions of employment as laid down in the scope of work.

A suitable mechanism to enable contractors to define the portions of excavation work which may be carried out by hand methods is to permit contractors during the tender stage to nominate the quantity of materials which they wish to excavate using hand methods. The approach outlined below is suggested.

The initial classification of material to be excavated should be in accordance with the relevant provisions of a standard system of measurement. However, soft excavation to be undertaken by hand labour, using hand tools, can be further broken down by the introduction of an additional class of material, such as hand excavatable excavation. (SANS 1921-5 defines three classes of hand excavatable material, namely soft class 1 (material which can be excavated by means of a suitable shovel without the use of a pick or other hand-swung tool), soft class 2 (material which can be readily excavated with the aid of a pick or other handswung tool) and soft class 3 (material which can be excavated with difficulty with the aid of a hand-swung tool).

The total estimated quantity of excavation, as classified in terms of a standard system of measurement, should be indicated in the pricing data (see Table G.1). The tenderer should be permitted to subdivide this quantity into two components, namely, the quantity of material to be excavated by the use of powered, mechanical equipment and the quantity to be excavated by hand labour using hand tools.

One-third of every quantity of excavation to be undertaken by hand labour should be entered against the appropriate extra-over items provided in the pricing data, but left blank for hand excavatable excavation. This will ensure that material which can be picked with difficulty is catered for and the transition from hand excavation to machine excavation is graded. Should the tenderer fail to indicate a quantity of excavation to be undertaken by hand labour, notwithstanding that he would find it necessary to utilize hand labour, it will be assumed that all excavation, whether undertaken by machine, or by hand labour, is to be paid for at the rates tendered for machine excavation.

The contractor should be required to undertake at least the quantities of excavation by hand labour which he tendered, unless the total quantity of excavation proves to be less than scheduled, in which case the minimum quantity to be undertaken by hand labour will be reduced pro-rata by the employer's representative. This procedure will also provide a basis for reducing contract participation goals should such adjustments be necessary.

Should the total quantity of excavation prove to be greater than that scheduled, the contractor may choose the method of excavation for the excess quantity, unless the rates for excavation by machine would result in lower costs than for hand excavation, in which case the employer's representative will have the right to instruct the contractor to undertake the excavation by machine.

**Table G.1 — Sample pricing data**

Item No.	Description	Unit	Quantity	Rate	Amount \$ c
3.1	Earthworks Excavate trenches in all materials, backfill and dispose of surplus material for stormwater pipes not exceeding 1,5 m deep (Total quantity 1 500 m <sup>3</sup> ) to be allocated in items 3.1.1 and 3.1.2 below in accordance with the tender data.				
3.1.1	Machine excavation	m <sup>3</sup>	..... <sup>a</sup>		
3.1.2	Hand excavation (soft class 1 and 2)	m <sup>3</sup>	..... <sup>a</sup>		
3.1.3	Extra-over items in 3.1.2 for hand excavation in soft class 3 material). <u>(Quantity to be one-third of quantity entered under 3.1.2)</u>	m <sup>3</sup>	..... <sup>a</sup>		
3.2	Extra-over items in 3.1.1 and 3.1.2 for : Intermediate excavation Hard rock excavation	m <sup>3</sup> m <sup>3</sup>	250 150		
a To be completed by tenderer					

**EXAMPLE**

Insert the following into the conditions of tender:

**SOFT EXCAVATION**

In order to meet the goals for the engagement of targeted labour, the tenderer may intend to undertake some, or all, soft excavations by the use of hand labour.

The initial classification of material to be excavated shall be in accordance with the relevant provisions of ..... However, soft excavation to be undertaken by hand labour, using hand tools, shall be further broken down by the introduction of an additional class of material, i.e. hand excavatable material, in accordance with the provisions of the scope of work.

The total estimated quantity of excavation, as classified in terms of ..... is indicated in the pricing data. The tenderer may subdivide this quantity into two components, i.e. the quantity of material to be excavated by the use of powered, mechanical equipment and the quantity to be excavated by hand labour using hand tools.

One-third (1/3) of every quantity of excavation to be undertaken by hand labour shall be entered against the appropriate extra-over items provided in the schedules for hand excavatable material.

Should the tenderer fail to indicate a quantity of excavation to be undertaken by hand labour, notwithstanding that he would find it necessary to utilize hand labour, it will be assumed that all excavation, whether undertaken by machine or by hand labour, is to be paid for at the rates tendered for machine excavation.

**G.5 Encouraging contractors to implement employment-intensive road technologies**

The labour intensiveness of roadworks is highly dependent upon the choice of technology and the cost of roadworks is, accordingly, sensitive to the choice of technology. If, however, the contractor is permitted to select the technology and contracts are awarded in terms of a goal/price mechanism, a balance between price and the attainment of socio-economic deliverables can be achieved. A simple way to do this is to present tenderers with a range of options which are acceptable to the employer and to permit tenderers to tender and price what they see to be the most competitive options.

Pricing data can reflect this mechanism as illustrated in Table G.2.

Clauses should also be inserted into the tender data in order to cater for the different quantities which result from the different thicknesses of layerworks. This is important in the evaluation of tenders.

**EXAMPLE**

**Pavement structures**

In order to meet the contract participation goal, the tenderer may select a pavement structure from the alternatives presented in the drawing. Each option or component thereof is scheduled separately in the contract prices. The tenderer shall state in his tender under the relevant scheduled item which alternative his tender is based on. Tenderers will be bound to the pavement structure so selected.

The quantities scheduled in respect of earthworks are based on the pavement design with the greatest depth. Adjustments will be made by the engineer in the tendered price to reflect changes in earthworks costs arising from pavement selections before the awarding of points for price.

Table G.2 — Example of approach to permit contractors to price alternatives in the pricing data

Item No.	Description	Unit	Quantity	Rate	Amount \$ C
1.1	<p><b>BASE</b></p> <p><b>Option A:</b> Construct base course with graded crushed stone from commercial sources</p> <p><b>Option B:</b> Construct dry/-waterbound Macadam base course with stone imported from designated sources</p> <p>Construct base course using Option ..... (to be completed by tenderer)</p>	m <sup>2</sup>	2010		
1.2	<p><b>PAVEMENT STRUCTURE</b></p> <p><b>Option A :</b> 150 mm C4 sub-base, 100 mm G1 base, 20 mm AC wearing course complete</p> <p><b>Option B :</b> 100 mm C4 sub-base, 100 mm WM2 base, 20 mm AC wearing course complete</p> <p><b>Option C :</b> 100 mm G7 sub-base, 20 mm bedding sand, 60 mm type SA interlocking blocks complete</p> <p>Construct pavement using option ..... (to be completed by tenderer)</p>	m <sup>2</sup>	2000		

## Annex H (informative)

### Sample preferencing schedule where use is made of this part of ISO 10845

PREFERENCING SCHEDULE	
<b>1 ENGAGEMENT OF TARGETED LABOUR IN THE PERFORMANCE OF THE CONTRACT</b>	
Targeted labour shall be engaged in the performance of the contract in accordance with the requirements of ISO 10845-8 and the following targeting data:	
<b>Clause number</b>	<b>Essential data*</b> The Employer's representative is ..... The target area is ..... Targeted labour is ..... The targeting strategy is ..... ..... .....
	<b>Variations**:</b> 1)..... 2).....
	<b>Additional clauses:</b> 1).....
* see Annex B ** insert "none" if there are none	
Should any requirements of the variations conflict with requirements of ISO 10845-8, the requirements of the variations shall prevail.	
<b>2 CONDITIONS ASSOCIATED WITH THE GRANTING OF PREFERENCES</b>	
The Tenderer undertakes to	
<ul style="list-style-type: none"> <li>• engage targeted labour in accordance with the provisions of ISO 10845-8 as set out in Section 1 above;</li> <li>• accept the sanctions set out in Section 3 below should such conditions be breached;</li> <li>• complete the Tender Preference Claim Form contained in Section 4 below; and</li> <li>• complete the Supporting Contract Participation Goal Calculation contained in this schedule.</li> </ul>	

**3 SANCTIONS**

In the event that the Contractor fails to substantiate that any failure to achieve the contract participation goal relating to the granting of a preference was due to quantitative underruns, the elimination of items, or any other reason beyond the Contractor's control which may be acceptable to the Employer, the Contractor shall be liable to pay to the Employer a financial penalty calculated in the following manner\*:

$$P = 0,15 \times \frac{(D - D_0)}{(100)} \times C_A$$

where  $D$  is the tendered contract participation goal percentage;

$D_0$  is the contract participation goal which the employer's representative based on the credits passed, certifies as being achieved upon completion of the contract;

$C_A$  is the contract amount;

$P$  is the monetary value of penalty payable and

\*formula based on 10 points being allocated to the preference so that the penalty is 1,5 times more severe than the preference granted.

**4 TENDER PREFERENCE CLAIM**

I / We hereby tender a Contract Participation Goal of .....% in order to claim a preference.

**The undersigned, who warrants that he is duly authorized to do so on behalf of the firm or sole proprietor confirms that he understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.**

Signature : .....

Name : .....

Duly authorized to sign on behalf of : .....

Telephone : .....

Fax : ..... Date : .....

**SUPPORTING CONTRACT PARTICIPATION GOAL CALCULATION**

*Insert Annex D of ISO 10845-8*

## Bibliography

- [1] ISO 6707-2:1993, *Building and civil engineering - Vocabulary - Part 2: Contract terms*
- [2] ISO 10845-2:2008 *Construction procurement - Part 2: Formatting and compilation for procurement documents*
- [3] SANS 1921-5, *Construction and management requirements for works contracts: Part 5: Earthworks activities which are to be performed by hand.*