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Construction Sector Codes and other Sector Codes - what is different?



What are the differences between the Construction Sector Codes and other Amended Sectors?

The Amended Codes of Good Practice

The Amended Codes of Good Practice published in May 2015 make provision for Enhanced recognition levels for certain Exempted Micro-Enterprises and for Qualifying Small Enterprises based on the percentage Black ownership of the Measured Entities.

These Exempted Micro-Enterprises (EMEs) and Qualifying Small Enterprises (QSEs) are classified as follows:

EMEs

- 100% Black ownership – **Level One**
- At least 51 % Black Ownership – **Level Two**

EMEs with less than 51% Black ownership are deemed to have a B-BBEE status of Level Four Contributor

QSEs

- 100% Black ownership – **Level One**
- At least 51% Black Ownership – **Level Two**

EME' and QSEs that qualify for enhanced recognition, as described above, only need to obtain a sworn affidavit, confirming their turnover and percentage of black ownership, on an annual basis.

Construction Sector recognition levels

Most Sector Codes that have been amended followed suit and allow for some form of enhanced recognition to be affirmed only by a sworn affidavit. In December 2017, the Amended Construction Sector Codes were published. This sector deviated from the other sectors in the way it allows for enhanced recognition levels.

The deemed ***contributor levels*** for the Construction sector are as follows:

EMEs

- 100% Black Owned – **Level One**
- At least 51% Black Owned – **Level Two**
- At least 30% Black Owned – **Level Four**
- Less than 30% Black Owned – **Level Five**

QSEs

- 100% Black Owned – **Level One**
- At least 51% Black Owned – **Level Two**

The differences between the Construction Sector and other Amended sectors:

- The first thing that makes enhanced recognition levels for the Construction Sector different is the fact that all Measured Entities that qualify for the deemed contributor levels stipulated above are subject to the discounting principle for Skills Development as a priority element. *Compliance with the sub-minimum for Skills is therefore compulsory* to avoid being discounted by a level. A 100% Black-Owned EME may, for example, move from being a Level One Contributor to a Level Two if they had not spent anything on Skills Development or if such spend was less than the sub-minimum required.
- The second big difference is the fact that these enhanced recognised Measured Entities cannot simply use a sworn affidavit to confirm their percentage black ownership and turnover, but are obliged to obtain a Verification Certificate. As this is a fairly new sector, *the verification process* for submission of claim sheets, onsites, interviews, etc. still differs from one verification agency to another, although the end result would be the same, namely a SANAS verification certificate.
- A third difference between the Construction Sector and other Amended sectors is the possibility of enhancing a level in the event of obtaining full points for the Skills Development and/or Supplier Development elements on the QSE scorecard (EMEs) or obtaining full points for the Skills Development and/or Preferential Procurement and Supplier Development elements on the QSE scorecard (QSEs), possibly resulting in an improvement of 2 levels on aggregate.

Construction Sector EMEs exception

Construction EMEs with a turnover below R1,8 million (BEPs) or R3 million (Contractors) are, however, exempted from the discounting principle and may still make use of a sworn affidavit confirming their percentage Black ownership and turnover.

About the author: Audrey Cloete obtained her LLB degree from the North-West University Potchefstroom. After 7 years in legal practise, she changed career paths by entering the corporate environment in 2009. Audrey joined SERR Synergy in 2015 where she currently works as the National Verification Manager.

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