

Welcome

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Supply Chain Solution



Introduction to Broad-Based Black Economic Empowerment (B-BBEE)

31 October 2016



Reasons for the B-BBEE Act

- To redress the inequality in all spheres of business created by the system of apartheid
- Discrimination extended across education, workplace, economy
- Aimed at setting rules for organisations to transform through the B-BBEE Act and the B-BBEE Codes of Good Practice
- Originally planned for 10 year period
- Minister of Trade and Industry reviewed progress on annual basis
- After 6 years decided to review Act and amend the original codes due to lack of visible transformation
- Lack of focus on Black African South Africans compared to Indian and Coloured South Africans
- Amended codes focussing on sub-groups with focus on demographic representation

The B-BBEE Journey

The government launched Broad-Based Black Economic Empowerment Act 53 in 2003.

2003

LAUNCH

IN 2007, the DTI issued Codes of Good Practice, which dealt with practical implementation and targets.

2007

CoGP ISSUED

The codes of Good Practice were amended by the DTI in October 2013 addressing impact on SMME and Generic codes.

2013

CoGP AMENDED

The amended codes came to effect 1 May 2015.

2015

IMPLEMENTATION

Followed later in the year by B-BBEE legislation.

Phase 2 of B-BBEE amendments addresses impact on multinationals and QSEs – cooling period for 1 year.

Why amended codes

- Indicate the Government's firm intent to radically transform the economic landscape of the country; and
- ensure meaningful participation of Black people in the economy; by
- altering the profile of company owners, managers and skilled professionals;
- Increasing access to economic opportunities for Black women, communities, workers, cooperatives; and
- Promote investment that leads to broad-based participation

The revised framework introduces punitive measures in priority elements which is a clear indication of government's focus on strategic areas relating to transformation and participation of Black people in the economy.

Major differences between old and new codes

Original Codes	Amended Codes
Specify elements measurable under Generic Scorecard	Specify elements measurable under Generic, Qualifying and Small Enterprises
Basis for measuring B-BBEE initiatives is compliance at time of measurement	Basis for measuring B-BBEE initiatives is compliance at the date of measurement
Excluded all organs of the State	Applicable to all organs of State and public entities
Priority elements and discounting not included. Sub-minimums only in Employment Equity element	Priority elements, sub-minimum and discounting introduced
Eligibility as an EME = turnover of R5 mil and less = level 4 and if more than 50% black shareholding = level 3	Eligibility as EME = turnover of R10 mil and less, enhanced level 2 if at least 51% black owned and level 1 if 100% black owned
Eligibility as an QSE = turnover between R5 mil and R30 mil, complying 4 out of 7 elements of QSE scorecard	Eligibility as an QSE = turnover between R10 mil and R50 mil. If 51% black shareholding, enhanced to level 2, if 100% black shareholding, enhanced to level 1. If less than 51% black shareholding, must comply with all 5 elements of scorecard.
Eligibility as generic = turnover of more than R35 – needs to comply with all 7 elements of the scorecard	Eligibility as generic – turnover of more than R50 mil. Required to comply with all 5 elements of the scorecard
Generic scorecard – 7 elements	Generic scorecard – 5 elements
Skills development for employees only	Skills development for Black people internally and externally
Preferential procurement score based on level of B-BBEE compliancy of supplier	Preferential procurement based on B-BBEE compliance and Empowering Status of Supplier
No supplier development criteria	Introduction of Supplier Development
No bonus points in Skills, Preferential Procurement or Enterprise Development	Bonus points in Skills, Preferential Procurement and Enterprise Development
Bonus points in Ownership and Employment Equity	No bonus points in Ownership and Employment Equity

Enterprises criteria

Enterprises	Emerging Micro Enterprises ('EME's') including Start-Ups	Qualifying Small Enterprises ('QSE's')	Large Enterprises
Annual Turnover	Rnil to R10 million	+R10 million to R50 million	+R50 million
B-BBEE Recognition Level	<ul style="list-style-type: none"> • 100% black owned Level 1 • 51% black owned Level 2 • Less than 51% black owned Level 4 • Regarded as empowering supplier • May elect to be measured under QSE if wanting to achieve higher level 	<ul style="list-style-type: none"> • 100% black owned Level 1 • 51% black owned Level 2 • Certain criteria need to be met to be an empowering supplier • If less than 51% black owned, thus need to comply with all 5 elements and certain criteria need to be met to be an empowering supplier 	Need to comply with all 5 elements and certain criteria need to be met to be an empowering supplier
Minimum Proof Required	Sworn affidavit: <ul style="list-style-type: none"> • Annual turnover • Black % shareholding 	Sworn affidavit: <ul style="list-style-type: none"> • Annual turnover • Black % shareholding • B-BBEE Certificate 	B-BBEE Certificate

Ownership

Priority element (subminimum: 40% of Net Value; i.e. 40% of the 8 points)

- More broad-based Ownership Structures
- New entrants value increased from R20 million to R50 million
- Mandated investments (if principle applied, cannot apply other exclusion principles such as foreign operations; requires local mandated investments)

Management Control

- The compliance targets for Management Control aligned to the Commission for Employment Equity report and in line with the Regulations of the Employment Equity Act
- Targets further broken down to different race sub groups (African, Coloured and Indian) within the definition of black in line with the country's demographics



Skills Development

- Skills spend with conditions of recoverability not claimable
- Mandatory sectoral training does not constitute skills development contribution
- Training initiatives broadened to encompass the unemployed black people (outward focused)
- Introduced learners absorption target (as per trainee tracking tool)
- Compliance targets are based on Economically Active Population demographic representation of black people as defined

Salient changes

All suppliers are required to be **empowering suppliers**:

- Be a good citizen and comply with all regulatory requirements of RSA and below requirements (Large [at least three of the below criterias], QSEs [at least one of the below criterias], EMEs and Start-Ups [regarded as empowering suppliers])

Criteria:

1. 25% of Cost of Sales (excl. labour and depreciation.) procured from local suppliers [Services industry, labour included but capped at 15%]
2. Job creation: 50% benefited black people
3. 25% transformation of raw material / beneficiation
4. Skills transfer: 12 days p.a. assisting black EMEs and QSEs

Excluded from total procurement spend

Certain imports (value adding, no local production), **provided** there is an **enterprise development** and **supplier development plan**



Comparison old and new codes

There's a shift from 7 elements to 5 elements on the scorecard

	Old B-BBEE codes generic		Amended B-BBEE codes generic		Old B-BBEE codes specialised generic		Amended B-BBEE codes specialised generic	
Element	Code series	Points available	Amended code series	Points available	Code series	Points available	Amended code series	Points available
Ownership	100	20.00	100	25.00	n/a	n/a	n/a	n/a
Merged to Management Control Management Control	200	10.00	200	15.00*	200	15.00	200	20.00
Employment Equity	300	15.00			300	15		
Skills Development	400	15.00	300	20.00	400	20.00	300	25.00
Merged to Enterprise and Supplier Development Preferential Procurement (ESD)	500	20.00	400	40.00	500	20.00	400	50.00
Enterprise Development	600	15.00			600	15		
Socio-economic Development	700	5.00	500	5.00	700	15.00	500	5.00
		100.00		105.00*		100.00		100.00

Specialised enterprises (being companies limited by guarantee, higher education institutions, non-profit companies, public entities and other enterprises exclusively owned by organs of State, public benefit schemes or public benefit organisations) are measured under the specialised generic scorecard (previously the "adjusted generic scorecard"). The allocation of weighting points in this scorecard has also been amended. In this regard, four B-BBEE elements (previously, six elements) will be measured, being management control, skills development, enterprise and supplier development and socio-economic development, each with its own scorecard with specific application to specialised enterprises

Priority Elements Introduced

Ranking	Element	Points including bonus	Status
1	Procurement, Enterprise and Supplier Development	44 points	Priority Element
2	Ownership	25 points	Priority Element
3	Skills Development	25 points	Priority Element
4	Management Control	19 points	
5	Socio-Economic Development	5 points	

Generic size entity must comply with conditions of all 3 priority elements

QSE size entity must comply with 2 priority elements

Introduction of priority elements

Non-compliance with priority elements leads to the B-BBEE recognition level dropping by one level down

#	Priority Elements	Subminimum
1	Ownership	40% of Net Value (i.e. 40% of the 8 points)
2	Skills Development	40% of total weighting points
3	Enterprise and Supplier Development	40% in each criteria (Preferential Procurement, Supplier and Enterprise Development)

Large enterprises are required to comply with **ALL three** of the above noted priority elements, while **QSE's** are required to comply with Ownership and either Skills Development or Enterprise and Supplier Development (**Ownership** compliance being **mandatory**).

Management Control

Management Control	Weighting	Target
Board Participation		
Black board members	2	50%
Black female board members	1	25%
Black Executive directors	2	50%
Black female Executive directors	1	25%
Other Executive Management		
Black Executive Management	2	60%
Black female Executive Management	1	30%
Senior Management		
Black employees in Senior Management	2	60%
Black female employees in Senior Management	1	30%
Middle Management		
Black employees in Middle Management	2	75%
Black female employees in Middle Management	1	38%
Junior Management		
Black employees in Junior Management	1	88%
Black female employees in Junior Management	1	44%
Employees with disabilities		
Black employees with disabilities	2	2%

Employment Equity Reporting Requirements - Data needs to be submitted to the Dept of Labour to EEA - 50 employees and t/o in excess of annual threshold applicable to Designated Employers. If not submitted, this will result in 0 points for Management Control element

Skills Development	Weighting	Target
Expenditure on any programme specified in the Learning Matrix for black people as a percentage off the Leivable Amount	8	6%
Expenditure on any programme specified in the Learning Matrix for black employees with disabilities as a percentage off the Leivable Amount	4	0.30%
Number of black people participating in Learnerships, Apprenticeships and Internships	4	2.50%
Number of black unemployed people participating in Learnerships, Apprenticeships and Internships	4	2.50%
Bonus points		
Number of black people absorbed at the end of the Learnership program	5	100%

*Entity need to submit Workplace Skills Plan, Annual Training Report and PIVOTAL (Professional, Vocational, and Academic Training) Report that is Seta approved; and Implement Priority Skills Plan generally , and more specifically for black people. The 6% target includes external training for unemployed people. A Training tracking tool must be developed in order for the entity to score. If less than 100% of learners absorbed, the percentage achieved or absorbed will be recognised

Impact on procurement claim value

B=BBEE Contributor Level	Old B-BBEE Codes	Amended B-BBEE Codes	Procurement claim value as % of Rand spend
Level 1	= 100 points	= 100 points	135%
Level 2	> or = 85 points but < 100 points	> or = 95 points but < 100 points	125%
Level 3	> or = 75 points but < 85 points	> or = 90 points but < 95 points	110%
Level 4	> or = 65 points but < 75 points	> or = 80 points but < 90 points	100%
Level 5	> or = 55 points but < 65 points	> or = 75 points but < 80 points	80%
Level 6	> or = 45 points but < 55 points	> or = 79 points but < 75 points	60%
Level 7	> or = 40 points but < 45 points	> or = 55 points but < 70 points	50%
Level 8	> or = 30 points but < 40 points	> or = 40 points but < 55 points	10%
NON-COMPLIANT	> or = 30 points	> or = 40 points	0%



Procurement, Enterprise and Supplier Development

PREFERENTIAL PROCUREMENT			
Element	Weighting	Target	Sub-Min
B-BBEE spend from Empowering Supplier based on B-BBEE recognition level as a % of total procurement spend	5	80%	32%
B-BBEE spend from Empowering Supplier that are Qualifying Small Enterprises based on B-BBEE recognition level as a % of total procurement spend	3	15%	6%
B-BBEE spend from Empowering Supplier that are EMEs based on B-BBEE recognition level as a % of total procurement spend	4	15%	6%
B-BBEE spend from Empowering Supplier that are at least 51% black owned based on B-BBEE recognition level as a % of total procurement spend	9	40%	16%
B-BBEE spend from Empowering Supplier that are at least 30% black female owned based on B-BBEE recognition level as a % of total procurement spend	4	12%	4.80%
Annual value of all Supplier Development Contributions made by company as % of target	10	2% of NPAT	0.50%
Annual value of all Enterpriser Development Contributions made by company as % of target	5	1% of NPAT	0.40%

Bonus points: 1) B-BBEE procurement spend from Designated Group Suppliers that are at least 51% black owned (**2 points**); 2) Graduating ED beneficiaries to SD (**1 point**); 3) Creating one or more jobs as a result of ED or SD (**1 point**)



Procurement sub-minimum

Enterprise and Supplier Development sub-minimum

Preferential Procurement

Ranking	Element	Points including bonus
Criteria	Target = % of total	Sub-minimum target
B-BBEE procurement from all suppliers	80% tps	32%
B-BBEE procurement from all QSE suppliers	15% tps	6%
B-BBEE procurement from all EME suppliers	15% tps	6%
B-BBEE procurement from all 51% black owned suppliers	40% tps	16%
B-BBEE procurement from all entities that are at least 30% black female owned suppliers	12% tps	4.8%
Supplier Development	2% npat	.8%
Enterprise Development	1% npat	.4%

* tps = % of total procurement spend

Priority element

Definition of ED = monetary or non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries – EMEs and QSEs which are at least 51% Black owned or at least 51% Black female owned.



Impact of priority element non-compliance

If an entity does not meet the 40% sub-minimum requirement, it will be discounted one entire B-BBEE level.

- Example:

Total B-BBEE score achieved for all 5 elements	75
B-BBEE status	5
B-BBEE recognition level	80%
Priority level achieved	No
B-BBEE status recognised	6
B-BBEE recognition level	60%

Ownership sub-minimum - a minimum of 10% black ownership in measured entity at all times

Skills Development sub-minimum calculation of 40% of target of 20 points = 8 points

Amended Codes and the PPPFA

Tenders and price quotations between R30k and R1 mil		Tenders and price quotations above R1 mil	
Level	Points	Level	Points
Level 1	20	Level 1	10
Level 2	18	Level 2	9
Level 3	16	Level 3	8
Level 4	12	Level 4	5
Level 5	8	Level 5	4
Level 6	6	Level 6	3
Level 7	4	Level 7	2
Level 8	2	Level 8	1
Non-Compliant	0	Non-Compliant	0

80 points on price

90 points on price

Government procurement

Where two bids score an equal number of points, the one that scores the highest B-BBEE points is chosen.

Company	Price	B-BBEE points	Total	
Company A	75	17	92	Wins the bid
Company B	78	14	92	

PPPFA – Preferential Procurement Policy Framework Act

Functionality

Must be indicated in the bid document if bids will be evaluated on functionality. Bid document must clearly indicate the following:

- Evaluation criteria for measuring functionality
- Weight of each criterion
- Applicable values; and
- Minimum qualifying score for functionality

Where functionality is part of the evaluation process, and bidders also score equal points, and bidders also score equal on B-BBEE points, the one with the higher score for functionality is chosen

Company	Price	Functionality	B-BBEE points	Total	
Company A	50	28	14	92	
Company B	48	30	14	92	Wins the bid

PPPFA – Preferential Procurement Policy Framework Act

Fronting practice means a transaction, arrangement or other act or conduct that directly or indirectly undermines and frustrates the achievement of the objectives of this Act or the implementation of any of the provisions of this Act, including but not limited to practices in connection with a B-BBEE initiative –

- In terms of which Black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;
- In terms of which the economic benefits received as a result of the B-BBEE status of an enterprise do not flow back to Black people in the ratio specified in the relevant legal documentation;

- Involving the conclusion of a legal relationship with a Black person for the purpose of that enterprise receiving a certain level of B-BBEE compliance without granting that Black person the economic benefits that would reasonably be expected to be associated with the status or position held by that Black person; or
- Involving the conclusion of an agreement with another enterprise in order to achieve or enhance B-BBEE status in circumstances in which-
 - There are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
 - The maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
 - The terms and conditions were not negotiated at arm's length and on a fair and reasonable basis

Sector charters

- By 2004, when the BEE Act was promulgated, many sectors of the economy had drafted industry charters on BEE and transformation
- Some contained scorecards loosely based on the generic scorecard, others were merely written undertakings of commitment to transformation
- The codes provide a standard framework for the measurement of broad-based BEE across all sectors of the economy
- This means that no industry will be disadvantaged over another when presenting their BEE credentials
- This can occur when a stringent transformation charter is applied to one entity, while a transformation charter with far more lenient measurement criteria is applied to another
- Code 000 provides guidelines for the alignment of transformation charters to be gazetted as Codes of Good Practice, and even when different gazetted charters are applied to different entities, no entities will be unfairly disadvantaged because of the application of a more stringent industry charter

So far, BEE charters have been drawn up by the following industries:

- maritime transport and service;
- forwarding and clearing;
- information and communication technology (working draft);
- mining;
- tourism (including a scorecard);
- petroleum and liquid fuels; and
- financial sector.



Thank you