

ABP SUMMARY ON STATEMENT 000, STATEMENT 300, STATEMENT 400 AND SCHEDULE 1

31ST May 2019, No. 42496

Broad-Based Black Economic Empowerment Amendment Act (53/2003)
Statement 000, 300, 400 and Schedule 1 of Good Practice on Broad-Based Black Economic Empowerment

On 31 May 2019, the dti released, a new version of the Preferential Procurement, Enterprise – and Supplier Development element, Skills Development Element, General Principles, as well as updates on Interpretations and Definitions.

Implementation within 6 Months from date of Gazette, - i.e. by 01 December 2019.

Kindly find a Preliminary Summary for your easy reference.

Element and sub-element (subject)	Clause number	Summary	Issue category: i.e. 1/2/3/4 or 5
STATEMENT 000		GENERAL PRINCIPLES AND GENERIC SCORECARD	
Eligibility of a Qualifying Small Enterprise	3.2.2	Paragraph 5.3 in the case of a Black Owned QSE;	Clause inserted
Skills Development	3.3.1.2.1	The sub-minimum requirement for Skills Development is 40% of the total weighting points excluding bonus points (40% of the 20 points) for Skills Development.	Bold added
Enterprise and Supplier Development	3.3.1.3.1	The sub-minimum requirement for Enterprise and Supplier Development is 40% of the total weighting points for each of the three categories, excluding bonus points, within the Enterprise and Supplier Development element, namely preferential procurement (40% of the 25 points); Supplier Development (40% of the 10 points) and Enterprise Development (40% of the 5 points).	Bold added
Compliance to Priority Elements	3.3.2.2	A Qualifying Small Enterprise is required to comply with Ownership as a compulsory element, and either Skills Development or Enterprise and Supplier Development, with the exclusion of black-owned QSEs in terms of paragraph 5.3 below.	Bold added

Discounting Principal Effect	3.3.3.2	The discounted level will be recorded and be the applicable status level for that Measured Entity.	Clause inserted
Eligibility as an Exempted Micro Enterprise (EME)	4.2	Start-Up Enterprises are ordinarily regarded as Exempted Micro Enterprises, unless tendering for a contract in excess of the threshold for EMEs, in which case the corresponding scorecard will apply.	Clause inserted
	4.6	An EME is only required to obtain a sworn affidavit or Certificate issued by Companies and Intellectual Property Commission (CIPC) on an annual basis...	Bold added
Eligibility as an Qualifying Small Enterprise (QSE)	5.4	Despite paragraph 5.3 a black-owned QSE may be measured in terms of the QSE scorecard should it so choose.	Clause inserted
Eligibility as a Generic Enterprise	6.1	Any enterprise with an annual Total Revenue of R50 Million and more qualifies as a Large Enterprise.	Clause inserted
	6.2	A Large Enterprise must comply with all of the elements of B-BBEE for the purposes of measurement	Clause inserted
Eligibility of a Joint Venture	7.2	The measurement of Unincorporated Joint Ventures will be done as follows: Unincorporated Joint Ventures are required to compile a consolidated verification certificate. A consolidated verification certificate will consolidate the verified compliance data of joint venture partners in accordance with paragraph 7.3 below as if those Measured Entities were a single Measured Entity.	Clause inserted
	7.3	The consolidation of compliance data shall be based on a weighting in accordance with the joint venture agreement relevant to the specific joint venture. Therefore, should two companies enter into an Unincorporated Joint Venture their respective scores in terms of the relevant Code of Good Practice will be weighted according to their proportionate share in the joint venture and added together for a combined score out of 100.	Clause inserted
	7.3.1	Should a company qualify in terms of the Qualifying Small Enterprise Scorecard its B-BBEE score out of 100 must be used to calculate the consolidated score.	Clause inserted
	7.3.2	51% Black Owned EMEs and 51% Black Owned QSEs will qualify for a score of 95 points while 100% Black Owned EMEs and 100% Black Owned QSEs will qualify for a score of 100 Points.	Clause inserted
	7.3.3	EME's other than those in paragraph 7.3.2 above will qualify for a score of 85 Points.	Clause inserted
	7.3.4	The JV B-BBEE Certificate is valid for 12 Months and only applicable to a specific Project.	Clause inserted

	7.3.5	Notwithstanding the B-BBEE Status Level attributed to the JV in terms of the above mechanism the black ownership of the respective partners may be flowed through to the JV in proportion to the respective JV partners' economic interest and voting rights in the JV as determined by the JV agreement.	Clause inserted
Eligibility of a Start-Up Enterprise	7.6	Despite paragraph 7.4, a Start-up Enterprise must submit a QSE scorecard when tendering for any contract, or seeking any other economic activity covered by Section 10 of the Act, with a value higher than R10 million but less than R50 million. For contracts of R50 million or more they should submit the Generic scorecard. The preparation of such scorecards must use annualised data.	
The B-BBEE Generic Scorecard	9	Added all the Bonus Points and corrected points at Management Control. Added the Total points.	Addition
B-BBEE Recognition Levels	9.2	Removed the words; on the generic scorecard	Removal
STATEMENT 300		SKILLS DEVELOPMENT	
The Skills Development Element Scorecard	2.1.1.1	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leviable Amount. <ul style="list-style-type: none"> ➤ Weighting points 6 ➤ Compliance Target 3.5% 	Weighting Points decrease and compliance target decrease (Previously 8 and 6%)
	2.1.1.2	Skills Development Expenditure on Bursaries for Black Students at Higher Education Institutions <ul style="list-style-type: none"> ➤ Weighting points 4 ➤ Compliance Target 2.5% 	New Sub-indicator inserted into scorecard
	2.1.2.1	Number of black people participating in Learnerships, Apprenticeships and internships as a percentage of total employees <ul style="list-style-type: none"> ➤ Weighting points 6 ➤ Compliance Target 5% <p>Deletion of words: ...unemployed people training Learning programme...</p>	Weighting Points increase and compliance target increase. (Previously 4 and 2.5%) Deleted wording
Bonus Points	2.1.3	Number of black people absorbed by the Measured and Industry Entity at the end of the Internship, Learnership and Apprenticeship programme under Paragraph 2.1.2.1	Bold Added

EAP	2.2	no longer EAP 2.1.1.3 (disabled employees) and bonus absorption 2.1.3 EAP	
Subminimum and Discounting Principle	4.23.4 of Statement 000	Incorrect referral
General Principles	5.3	Skills Development Expenditure arising from Informal and workplace Learning Programmes, or from Category F and G Learning Programmes under the Learning Programmes Matrix cannot represent more than 25% of the total value of Skills Development Expenditure.	Increase percentage (Previously 15%)
	5.4	Legitimate training costs such as accommodation, catering, travelling and the cost to the Measured Entity of employing a Skills Development facilitator or a training manager (non-exhaustive) cannot exceed more than 15% of the total value of Skills Development Expenditure. This does not apply to Skills Development Expenditure recognised in paragraph 2.1.1.2.	Bold added
	5.5	Salaries or wages paid to an employee participating as a learner in any Learning Programme constitute Skills Development Expenditure if the Learning Programme is a Learnership, Internship and Apprenticeship (Category B, C and D) of the Learning Programme Matrix or a stipend linked to a bursary programme in terms of paragraph 2.1.1.2	Bold added
	5.6	Expenses on scholarships and bursaries for black people do not constitute Skills Development Expenditure if the Measured Entity can recover any portion of those expenses from the employee or if the grant of the scholarship or bursary is conditional. A bursary or scholarship scheme is a grant made to or for students who are registered at educational institutions established by or registered with the Department of Basic Education or the Department of Higher Education & Training. Examples of legitimate training costs for a bursary or scholarship includes: payment of school, college or university fees, or a portion thereof; funding for textbooks or other learning materials; funding for subsistence or accommodation during the period of study.	Bold Added
Learning Programme Matrix Annexe 300 (A)	8	Category A: Bursaries or scholarships	Bold Added
		Narrative Description:	Bold Added

		Institution based theoretical instruction alone – formally assessed by educational Institutions established by or registered with the Department of Basic Education or the Department of Higher Education & Training.	
Annexe 300 (B)		Formula 1 and 2 inserted	Formulae inserted
STATEMENT 400		THE GENERAL PRINCIPLES FOR MEASURING ENTERPRISE AND SUPPLIER DEVELOPMENT	
Enterprise and Supplier Development Scorecard	2.1.4	B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black Owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend <ul style="list-style-type: none"> ➤ Weighting points 11 ➤ Compliance Target 50% 	Weighting Points increase and compliance target increase. (Previously 9 and 40%)
Key Measurement Principles	3	The Net Profit After Tax (NPAT) or average target applies unless: <ul style="list-style-type: none"> ➤ the company does not make a profit last year or on average over the last five years ➤ the net profit margin is less than a quarter of the norm in the industry. <p>If the Turnover is to be used, the target will be set at:</p> <ul style="list-style-type: none"> ➤ 1% (ED) or 2% (SD) x Indicative Profit Margin (NPAT/Turnover)x Turnover 	Clause inserted
	3.5.3	A supplier to the Measured Entity that is at least 51% Black Owned or at least 51% Black Woman Owned utilising the Flow Through Principle, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2.	Clause inserted
		Removal clause on First-time supplier Multiplier.	Deletion clause
	3.7	Beneficiaries of Supplier Development or Enterprise Development are EMEs, QSEs or Generic Entities which are at least 51% Black Owned or at least 51% Black Women Owned utilizing the flow through principle. However, in terms of Generic Entities, this is based on the provision that at the first instance of receiving assistance from the Measured Entity, it was identified that such suppliers were EMEs or QSEs. This recognition for Generic Entities will only be allowed for 5 years from the first time of receiving assistance from the Measured Entity.	Clause inserted
	3.9	B-BBEE Procurement Spend from Generic Entity Suppliers which are at least 51% Black Owned or at least 51% Black Women Owned utilizing the flow through principle can be recognized under Point Indicator 2.1.2 and 2.1.3 of the Enterprise and Supplier	Clause inserted

		Development Scorecard. However, this is based on the provision that at the first instance of procuring goods and services, it was identified that such suppliers were EMEs or QSEs. This recognition for Generic Entities under Point Indicator 2.1.2 and 2.1.3 will only be allowed for 5 years from the first time of procuring goods and services from such suppliers.	
The Benefit Factor Matrix		Amended in that 50% of Guarantees provided on behalf of a Beneficiary can be claimed instead of 3% as before.	Increase from 3%
SCHEDULE 1		INTERPRETATION AND DEFINITIONS	
“Absorption”		means a measure of the Measured Entity’s ability to successfully secure a long-term contract of employment for the Employee, Learner, Intern or Apprentice.	Bold added and removal of Permanent employment
“Apprenticeship”		means an agreement between an apprentice and an employer for a set period of time during which the apprentice works and receives training in the workplace;	Definition inserted
“Designated Group Supplier”		means a supplier to the Measured Entity that is at least 51% owned by one or more of the following categories of ownership within its structure:	Definition inserted
‘Long-term contract of employment’		means a legal agreement between an individual and an entity that this individual would work for until his or her mandatory date of retirement.	
“30% Black Women Owned”		means an Entity in which: (a) Black women hold at least 30% of the exercisable voting rights as determined under Code series 100; Black women hold at least 30% of the economic interest as determined under Code series 100; and(c) has earned all the points for Net Value under statement 100. Before it confusingly meant >30%!	
“Current Equity Interest Date”		replaces Net-Value Date with an amended wording that relates to the commencement of the Time-based Graduation Factor. It means the later of either the date of commencement of statement 100 or the date upon which the black ownership transaction became effective and unconditional.	
“Qualifying ESD Contributions”		amends qualification of beneficiaries to 51% Black Owned or Black Women owned QSEs or EMEs. Previously it included 30% Black Women owned entities.	