

## DEPARTMENT OF TRADE AND INDUSTRY

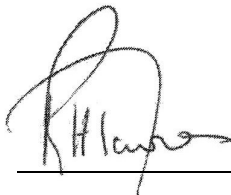
## NOTICE 303 OF 2019

## SCHEDULE 1

CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC  
EMPOWERMENT

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

- (a) Publish the following **Schedule 1 of the Amended Codes of Good Practice** in terms of Section 9 (1) of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013 for implementation within 6 Months from date of Gazette; and
- (b) Replace **Schedule 1 of the Amended Codes of Good Practice** within Gazette 36928 with the following **Schedule 1 of the Amended Codes of Good Practice**.



**DR ROB DAVIES, MP**

**MINISTER OF TRADE AND INDUSTRY**

**9/4/2019**

## BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT

### SECTION 9 (1) CODES OF GOOD PRACTICE AS AMENDED

#### SCHEDULE 1

#### INTERPRETATION AND DEFINITIONS

##### Part 1: Interpretation

1. The Codes of Good Practice must be interpreted according to the following provisions unless the context requires a different meaning:
2. In interpreting the provisions of the Codes any reasonable interpretation consistent with the objectives of the Act and the B-BBEE Strategy must take precedence.
3. Words importing persons shall where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisation having legal capacity.
4. The Schedules and Annexes to the Codes are an integral part of the Codes and a reference to the Codes include a reference to the Schedules.

##### Part 2: Definitions

In these Codes unless the context otherwise requires:

<b>“Absorption”</b>	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.
<b>“Acquisition Debt”</b>	means the debts of:

	<p>(a) Black participants incurred in financing their purchase of their equity instruments in the Measured Entity; and</p> <p>(b) Juristic persons or trusts found in the chain of ownership between the eventual Black Participants and the Measured Entity for the same purpose as those in (a);</p>
<b>“Apprenticeship”</b>	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;
<b>“Associated Entity”</b>	means an Entity with which a Seller has concluded a Qualifying Transaction;
<b>“B-BBEE”</b>	means Broad-Based Black Economic Empowerment;
<b>“B-BBEE Controlled Company”</b>	means a juristic person, having shareholding or similar members interest, in which black participants enjoy a right to Exercisable Voting Rights that is at least 51% of the total such rights measured using the Flow Through Principle;
<b>“B-BBEE Owned Company”</b>	means a juristic person, having shareholding or similar members interest, that is B-BBEE controlled, in which Black participants enjoy a right to Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle;
<b>“B-BBEE Recognition Level”</b>	means the percentage B-BBEE Recognition Levels as determined:

	<p>(a) for Entities that are neither Qualifying Small Enterprises nor Exempted Micro-Enterprises, using statement 000;</p> <p>(b) for Qualifying Small Enterprises, using Statement 000; and</p> <p>(c) for Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under Statement 000;</p>
<b>“B-BBEE Status”</b>	means the B-BBEE status of a Measured Entity as determined under statement 000;
<b>“B-BBEE Verification Professional Regulator”</b>	means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE verification professionals;
<b>“Benefit Factor”</b>	means a factor specified in the Benefit Factor Matrix applicable to fixing the monetary value of Enterprise Development and Supplier Development and Socio Economic Development Contributions claimable under Statement 400 and 500;
<b>“Benefit Factor Matrix”</b>	means the Benefit Factor Matrix for Enterprise Development and Supplier Development and Socio Economic Development Contributions annexed to statement 400 and 500;
<b>“Black Designated Groups”</b>	means: <p>(a) unemployed black people not attending and not required by law to attend an</p>

	<p>educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and under developed areas;</p> <p>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;</p>
<p><b>“Black New Entrants”</b></p>	<p>means Black participants who hold rights of ownership in a Measured Entity and who, before holding the Equity Instrument in the Measured Entity, have not held equity instruments in any Entity which has a total value of more than R50,000,000.00 measured using a standard valuation method;</p>
<p><b>“Black People”</b></p>	<p>Is a generic term which means Africans, Coloureds and Indians</p> <p>(a) who are citizens of the Republic of South Africa by birth or decent; or</p>

	<p>(b) who became citizens of the Republic of South Africa by naturalisation –</p> <p>(i) before 27 April 1994;</p> <p>(ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.</p>
<b>“Broad-Based Ownership Scheme”</b>	means a ownership scheme which meets the rules set out in Annexe 100B;
<b>“Certified Learning Programme”</b>	<p>means any Learning Programme for which the Measured Entity has:</p> <p>(a) any form of independent written certificate as referred to in the “Learning Achievements” column of the Learning Programme Matrix; or if it does not have such certification:</p> <p>(b) an enrolment certificate issued by the independent person responsible for the issue of the certification referred to in statement 300 confirming the employee has:</p> <p>(i) enrolled for, is attending and is making satisfactory progress in the Learning Programme; or</p> <p>(ii) enrolled for but not attended the Learning; or</p>

	(iii) attended the Training Programme but has failed an evaluation of their learning progress
<b>“Companies Act”</b>	means the Companies Act, No. 71 of 2008 as amended or substituted;
<b>“Company Limited by guarantee”</b>	means a company limited by guarantee as referred in the Companies Act, No. 71 of 2008;
<b>“Competent Person”</b>	means a person who has acquired through training, qualification and experience the knowledge and skills necessary for undertaking any task assigned to them under the codes;
<b>“Core Skills”</b>	means skills that are: <ul style="list-style-type: none"> <li>(a) value-adding to the activities of the Measured Entity in line with its core business;</li> <li>(b) in areas the Measured Entity cannot outsource; or</li> <li>(c) within the production/operational part of the Measured Entity’s value-chain; as opposed to the supply side; services or downstream operations;</li> </ul>
<b>“Critical Skills”</b>	means those skills identified as being critical by the relevant SETA;
<b>“Designated Group Supplier”</b>	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:

	<p>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and under developed areas;</p> <p>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;</p>
<b>‘EAP’</b>	Economically Active Population as determined and published by Stats SA. The operative EAP for the purposes of any calculation under the Codes will be the most recently published EAP;
<b>‘Economic Interest’</b>	means a claim against an Entity representing a return on ownership of the Entity similar in nature to a dividend right, measured using the Flow Through and, where applicable, the Modified Flow Through Principles;

<b>“EE Act “</b>	means the Employment Equity Act of 1998, as amended;
<b>“EE Regulations”</b>	means the regulations under the Employment Equity Act
<b>“Elements”</b>	means the measurable quantitative or qualitative elements of B-BBEE compliance in the Generic Scorecard and the Codes;
<b>“Employed Learner”</b>	In terms of section 18 (1) of the Skills Development Act it means a learner that was in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The learner’s contract of employment is therefore not affected by the agreement.
<b>“Employee with a Disability”</b>	has the meaning defined in the Code of Good Practice on Key Aspects of Disability in the Workplace issued under section 54 of the Employment Equity Act; aligned with the Employment Equity Act
<b>“Employee”</b>	bears the meaning as defined in the Labour Relations Act 66 of 1995 as amended;
<b>“Employee Ownership Scheme”</b>	means a worker or employee scheme;

**“Empowering Supplier”**

An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:

- (a) At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.
- (b) Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.
- (c) At least 25% transformation of raw material/beneficiation, which include local manufacturing, production and/or assembly, and/or packaging.
- (d) Skills transfer - at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.

**“Enterprise Development Contributions”**

means monetary or non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development,

	<p>sustainability and financial and operational independence of those beneficiaries:</p> <p>(a) Enterprise Development Contributions to Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% Black owned or at least 51% Black women owned;</p>
<b>“Entity”</b>	means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa;
<b>“Entrepreneur”</b>	means a person who starts and / or operates a business which includes identifying opportunities in the market, taking risks with a view of being rewarded with profits;
<b>“Equity Equivalent contribution”</b>	means an equity equivalent contribution made by a Multinational under an Equity Equivalent Investment Programme;
<b>“Equity Equivalent Investment Programme”</b>	means a public programme or scheme of any government department, provincial or local government in the Republic of South Africa or any other programme approved by the Minister as an Equity Equivalent Investment Programme;
<b>“Equity Instrument”</b>	means the instrument by which a Participant holds rights of ownership in an Entity;
<b>“Equivalency Percentage”</b>	means a percentage ownership performance for all the indicators in the Associated Enterprise’s Ownership Scorecard arising from a Qualifying

	Transaction included in the Ownership Scorecard of the beneficiary entity;
<b>“Executive Members of the Board”</b>	means those members of the Board who are executive directors as defined in the King Report;
<b>“Exempted Micro Enterprise”</b>	means an Entity with an annual turnover of R 10 (ten) million or less;
<b>“Exercisable Voting Right”</b>	means a voting right of a Participant that is not subject to any limit;
<b>“Global Practice”</b>	means a globally and uniformly applied practice of a Multinational, restricting alienation of equity in or the sale of businesses in its regional operations. The practice must have existed before the promulgation of the Act;
<b>“Grant Contribution”</b>	means the monetary value of Qualifying Contributions made by the Measured Entity to a beneficiary in the form of grants, donations, discounts and other similar quantifiable benefits which are not recoverable by the Measured Entity;
<b>“Group Structure”</b>	means an ownership arrangement whereby one or more Measured Entities that are juristic persons are subsidiaries of another Measured Entity that would qualify as a holding company;
<b>“Higher Education Institution”</b>	means a higher education institution as defined under the Higher Education Act of 1997;
<b>“Indicator Percentage”</b>	means the percentage compliance of the Associated Entity for all the indicators of the Associated Enterprises ownership

	Scorecard. The calculation of indicator Percentages follows the rules in statement 100 using the actual percentage compliance for each indicator and not the resulting scores;
<b>“Industry Specific Initiatives”</b>	means the qualifying contributions that are unique to the industry in which enterprises operate. For the purposes of the Codes an industry may be grouped in major divisions in accordance with the Standard Industrial Classification Coding System used by Statistic South Africa;
<b>“Internship”</b>	means an opportunity to integrate career related experience into an undergraduate education by participating in planned, supervised work;
<b>“Junior Management”</b>	means an employee of the Measured Entity who is a member of the occupational category of “Junior Management” as determined using the Employment Equity regulations;
<b>“Learnership”</b>	means a work-based route to a qualification. It is a workplace education and training programme comprising both structured practical workplace (on-the-job) experience and structured theoretical training.
<b>“Learning Programmes”</b>	means any learning programme set out in the Learning Programme Matrix;

<b>“Learning Programme Matrix”</b>	means the Learning Programme Matrix annexed as Annexe “300A” in Statement 300;
<b>“Leviable Amount”</b>	bears the meaning as defined in the Skills Development Levies Act of 1999 as determined using the Fourth Schedule to the Income Tax Act;
<b>“long-term contract of employment”</b>	means a legal agreement between an individual and an entity that this individual would work for until his or her mandatory date of retirement;
<b>“Management Fees”</b>	means the total Economic Interest received by a Broad-Based Ownership Scheme or Black participants in any year less the amounts distributed or applied to beneficiaries and the amounts reserved for future distribution or application;
<b>“Mandated Investments”</b>	means any investments made by or through any third party regulated by legislation on behalf of the actual owner of the funds, pursuant to a mandate given by the owner to a third party, which mandate is governed by that legislation. Some examples of domestic mandated investments and the portions of those investments subject to the exclusion principle are contained in Annexe 100A attached to statement 100;
<b>“Measured Entity”</b>	means an Entity as well as an organ of state or public entity subject to measurement under the Codes;

<b>“51% Black Owned ”</b>	means an Entity in which:  (a) Black people hold at least 51% of the exercisable voting rights as determined under Code series 100;  (b) black people hold at least 51% of the economic interest as determined under Code series 100; and  (c) has earned all the points for Net Value under statement 100;
<b>“51% Black Women Owned ”</b>	means an Entity in which:  (a) Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;  (b) Black women hold at least 51% of the economic interest as determined under Code series 100; and  (c) has earned all the points for Net Value under statement 100;
<b>“30% Black Women Owned”</b>	means an Entity in which:  (a) Black women hold at least 30% of the exercisable voting rights as determined under Code series 100;  (b) 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;
<b>“Middle Management”</b>	means an employee of the Measured Entity who is a member of the occupational category of “Middle Management” as determined using the Employment Equity regulations;
<b>“Multinational Business”</b>	means a Measured Entity with a business in the Republic of South Africa and elsewhere which maintains its international headquarters outside the Republic;
<b>“National Skills Development Strategy”</b>	means the national skills development strategy referred to in section 5(1)(a)(ii) of the Skills Development Act;
<b>“Net Profit After Tax”</b>	means the operating profit of a measured entity after tax. It incorporates both the equity / loss figures and abnormal items, but excludes extra ordinary items as determined by (GAAP) Generally Accepted Accounting Practices;
<b>“Net Profit Before Tax”</b>	means the operating profit of a measured entity before tax. It incorporates both the equity / loss figures and abnormal items, but excludes extra ordinary items as determined by (GAAP) Generally Accepted Accounting Practices;
<b>“Net Value”</b>	means the percentage resulting from the formula in Annexe 100(C) of statement 100;
<b>“Current Equity”</b>	

<b>Interest Date”</b>	means the later occurring of the date of commencement of statement 100 and the date upon which the transaction undertaken by the Measured Entity in order to achieve black rights of ownership, became effective and unconditional;
<b>“New Enterprise”</b>	means an early stage business, which is similar to a start-up. However, an early stage business is typically 3 years old or less.
<b>“Non-Profit Organisation”</b>	means a non-profit organisation registered under the Non-Profit Organisation Act of 1997;
<b>“Outsourced Labour Expenditure”</b>	means any expenditure incurred in: <ul style="list-style-type: none"> <li>(a) procuring the services of or from a labour broker; and</li> <li>(b) procuring the services of any person who receives any remuneration or to whom any remuneration accrues because of any services rendered by such person to or on behalf of a labour broker;</li> </ul>
<b>“Participant”</b>	means a natural person holding rights of ownership in a Measured Entity;
<b>“PIVOTAL report”</b>	means a report on ‘Professional, Vocational, Technical and Academic Learning’ programmes that meet the critical needs for economic growth and social development, generally combining course work at universities, universities of

	technology and colleges with structured learning at work.
<b>“Priority Skills”</b>	<p>means Core, Critical and Scarce Skills as well as any skills specifically identified:</p> <p>(a) in a Sector Skills Plan issued by the Department of Labour of the Republic of South Africa;</p> <p>(b) National Skills Development Strategy III;</p> <p>(c) New Growth Path; and</p> <p>(d) National Development Plan Remove.</p>
<b>“Private Equity Fund”</b>	means a third party fund through which investments are made on behalf of the actual owner of the funds pursuant to a mandate given by that person to the private equity fund;
<b>“Public Benefit Organisation”</b>	means an entity as defined in section 30 of the income Tax Act of 1962;
<b>“Qualifying Enterprise and Supplier Development Contributions”</b>	means a collective term describing Enterprise Development and Supplier Development Contributions targeting EME’s and QSE’s which are at least 51% Black Owned or at least 51% Black Women Owned, black youth in rural, and underdeveloped areas in statement 400;
<b>“Qualifying Small Enterprise”</b>	means an Entity that qualifies for measurement under the Qualifying Small

	Enterprise scorecard with a turnover of R10 million or more but less than R50 million;
<b>“Qualifying Socio-Economic Contributions”</b>	Is a collective term for Socio-Economic Project Contributions and Socio-Economic Contributions;
<b>“Qualifying Transaction”</b>	means a sale of a business, valuable business assets or shares that results in the creation of sustainable business opportunities and transfer of specialised skills or productive capacity to Black people;
<b>“Related Enterprise”</b>	means an Entity controlled by a Measured Entity whether directly or indirectly controlled by the natural persons who have direct or indirect control over that Measured Entity or the immediate family of those natural persons;
<b>“Rights of Ownership”</b>	Is a collective term for the right to Economic Interest and the right to Exercisable Voting Rights;
<b>“Scarce Skills”</b>	are those skills identified as being scarce by any SETA;
<b>“Section 21 Company”</b>	means an association not for gain incorporated under section 21 of the Companies Act;
<b>“Sector Code”</b>	means a code in series 003 which is applicable to a particular sector;
<b>“Seller”</b>	means the Entity or the person concluding a Qualifying Transaction with the Associated Enterprise;
<b>“Senior Management”</b>	means an employee of the Measured Entity who is a member of the occupational

	category of “Senior Management” as determined using the Employment Equity regulations;
<b>“Skills Development Expenditure”</b>	comprises the money that a Measured Entity spends on skills development. It excludes the skills development levy payable by the Measured Entity under the Skills Development Levies Act;
<b>“Socio-Economic Development Contributions”</b>	<p>means monetary or non-monetary contribution implemented for communities, natural persons or groups of natural persons where at least 75% of the beneficiaries are Black people. The objective of Socio-Economic Development Contributions is the promotion of sustainable access for the beneficiaries to the economy. Socio-Economic Development Contributions commonly take the following forms:</p> <p>(a) development programmes for women, youth, people with disabilities, people living in rural areas;</p> <p>(b) support of healthcare and HIV/AIDS programmes;</p> <p>(c) support for education programmes, resources and materials at primary, secondary and tertiary education level, as well as bursaries and scholarships;</p>

	<p>(d) community training; skills development for unemployed people and adult basic education and training; or</p> <p>(e) support of arts, cultural or sporting development programmes;</p>
<p><b>“Socio-Economic Project Contributions”</b></p>	<p>means monetary or non-monetary contributions carried out for the benefit of any projects approved for this purpose by any organ of state or sectors including without limitation:</p> <p>(a) projects focusing on environmental conservation, awareness, education and waste management; and</p> <p>(b) projects targeting infrastructural development or reconstruction in underdeveloped areas; rural communities or geographic areas identified in the government’s integrated sustainable rural development or urban renewal programmes;</p> <p>(c) New projects promoting beneficiation;</p>
<p><b>“Standard Valuation”</b></p>	<p>means a standard valuation method for an asset, an Economic Interest, or any other instrument or right relevant to measurement under statement 100, undertaken using normal valuation</p>

	methods that represent standard market practice;
<b>“Start-up Enterprise”</b>	means a recently formed or incorporated Entity that has been in operation for less than 1 year. A start-up enterprise does not include any newly constituted enterprise which merely a continuation of a pre-existing enterprise;
<b>“Subsidiary”</b>	has the meaning defined in section 1(3) of the Companies Act;
<b>“Superior Contributor to B-BBEE”</b>	is a Level One to Level Three Contributor to B-BBEE;
<b>“Supplier”</b>	means any supplier or service provider to a Measured Entity if any portion of the supply or service provision falls within the definition of Total Measured Procurement Spend;
<b>“Supplier Development Contributions”</b>	<p>means monetary or non-monetary contributions carried out for the benefit of value-adding suppliers to the Measured Entity, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:</p> <p>(a) Supplier Development Contributions to suppliers that are Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% black owned or at least 51% black women owned;</p>

<b>“Target”</b>	means the targets for the various Elements in the Generic and QSE Scorecard;
<b>“the Act”</b>	means the Broad-Based Black Economic Empowerment Act 53 of 2003;
<b>“the Codes”</b>	means the Codes of Good Practice including all the statements as issued under section 9 of the Act;
<b>“the Generic Scorecard”</b>	means the balanced B-BBEE scorecard as contained in statement 000;
<b>“the PFMA”</b>	means the Public Finance Management Act 1 of 1999 as amended;
<b>“the QSE Scorecard”</b>	means the QSE scorecard referred to in statement 000;
<b>“the Skills Development Act”</b>	means the Skills Development Act of 1998;
<b>“the Skills Development Levies Act”</b>	means the Skills Development Levies Act of 1999;
<b>“the Strategy Document”</b>	means the document entitled “South Africa's Economic Transformation – A Strategy for Broad-Based Black Economic Empowerment” published by the department of trade and industry in March 2003 as amended or substituted under section 11 of the Act;
<b>“Third Party Rights”</b>	<p>means third party legal or commercial rights that restrict withhold or defer any benefit associated with ownership of any Equity Instrument. Third party rights include only those rights:</p> <p>(a) created against a black Participant to secure, for a lender, repayment of a loan advanced to that Participant for</p>

	<p>financing their purchase of their equity instrument in the Measured Entity;</p> <p>(b) held against a juristic person or trust that is in the chain of ownership between the Measured Entity and that the eventual black Participant serving the same purpose mentioned in (a) above;</p>
<b>“Total Labour Cost”</b>	means the total amount of remuneration paid by an Entity to its employees determined using section 3(4) of the Skills Development Levies Act of 1999 and the Forth Schedule of the Income Tax Act of 1962;
<b>“Total Revenue”</b>	means the total income of an Entity from its operations as determined under South African Generally Accepted Accounting Practice;
<b>“Transformation Charters”</b>	means the sectoral transformation charters referred to in section 12 of the Act;
<b>“Unemployed Learner”</b>	means a learner that was not in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The employer and learner must therefore enter into a contract of employment. Refer to the Skills Development Act.
<b>“Unincorporated Joint Venture”</b>	means a joint venture between two or more Measured Entities effected by agreement without incorporation;

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<b>“Voting Right”</b>	means a voting right attaching to an Equity Instrument owned by or held for a participant measured using the Flow through Principle or the Control Principle;
<b>“Weighting”</b>	means the weightings applied to various Elements in the Generic Scorecard and QSE Scorecard;
<b>“Workplace Skills Plan”</b>	means the plan of a Measured Entity approved by the relevant SETA.

**DEPARTMENT OF TRADE AND INDUSTRY**  
**NOTICE 304 OF 2019**  
**CODE SERIES 400, STATEMENT 400**

**CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC  
EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

- (a) Publish the following **Amended Code Series 400, Statement 400** in terms of Section 9 (1) of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013 for implementation within 6 Months from date of Gazette; and
- (b) Replace **Amended Code Series 400, Statement 400** within Gazette 36928 with the following **Amended Code Series 400, Statement 400**.



**DR ROB DAVIES, MP**  
**MINISTER OF TRADE AND INDUSTRY**

9/4/2019

**AMENDED CODE SERIES 400: MEASUREMENT OF THE ENTERPRISE AND SUPPLIER  
DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT 400: THE GENERAL PRINCIPLES FOR MEASURING  
ENTERPRISE AND SUPPLIER DEVELOPMENT**

Issued under Section 9 of the Broad-Based Black Economic Empowerment  
Act of 2003, as amended

**Arrangement of this Statement**

<b>Para</b>	<b>Subject</b>	<b>Page</b>
1.	Objectives of this Statement .....	3
2.	Enterprise and Supplier Development Scorecard .....	3
3.	Key Measurement Principles.....	5
4.	General Principles.....	8
5.	Total Measured Procurement Spend.....	10
6.	Exclusions from Total Measured Procurement Spend.....	12
7.	Measurement of B-BBEE Procurement Spend .....	13
8.	Calculation of Preferential Procurement Contributions.....	14
9.	Enterprise Development and Supplier Development Contributions.....	14
10.	Monetary and Non Monetary Contributions.....	17
11.	Measurement of Enterprise Development and Supplier Development Contributions.....	20
12.	Annexe 400.....	21

## 1. OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the scorecard for measuring Enterprise and Supplier Development;
- 1.2 Specify the key measurement principles applicable to calculating Preferential Procurement Contributions; Qualifying Enterprise Development and Supplier Development Contributions;
- 1.3 Define the principles applicable when calculating B-BBEE Procurement Spend and Enterprise Development and Supplier Development Spend; and
- 1.4 Indicate the formula for calculating the individual criteria specified in the Enterprise and Supplier Development scorecard.

## 2. ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

The following table represents the criteria for deriving a score for Enterprise and Supplier Development under this statement.

Criteria	Weighting points	Compliance targets
<b>2.1 PREFERENTIAL PROCUREMENT</b>		
2.1.1 B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	80%
2.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of	3	15%

Total Measured Procurement Spend. Refer to Paragraph 3.9 Below.		
2.1.3 B-BBEE Procurement Spend from all Empowering Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend. Refer to Paragraph 3.9 Below.	4	15%
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	11	50%
2.1.5 B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% Black Women Owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	12%
<b>Bonus points</b>		
2.1.6 B-BBEE Procurement Spend from Empowering Designated Group Suppliers that are at least 51% Black Owned.	2	2%
<b>2.2 SUPPLIER DEVELOPMENT</b>		
2.2.1 Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.	10	2% of NPAT

<b>2.3 ENTERPRISE DEVELOPMENT</b>		
2.3.1 Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target.	5	1% of NPAT
<b>2.4 Bonus Points</b>		
2.4.1 Bonus point for graduation of one or more Enterprise Development beneficiaries to the Supplier Development level.	1	
2.4.2 Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	

### **3. KEY MEASUREMENT PRINCIPLES**

3.1 The Enterprise and Supplier Development consist of:

- 3.1.1 Preferential Procurement;
- 3.1.2 Enterprise Development; and
- 3.1.3 Supplier Development.

3.2 Enterprise Development and Supplier Development Contributions will be recognised as a percentage of annual Net Profit After Tax (NPAT).

3.2.1 The Net Profit After Tax (NPAT) or average target applies unless:

- 3.2.1.1 the company does not make a profit last year or on average over the last five years
- 3.2.1.2 the net profit margin is less than a quarter of the norm in the

industry.

3.2.1.3 If the Turnover is to be used, the target will be set at:

3.2.1.3.1  $1\% \text{ (ED) or } 2\% \text{ (SD) } \times \text{ Indicative Profit Margin (NPAT/Turnover)}$   
 $\times \text{ Turnover}$

### 3.3 SUB-MINIMUM AND DISCOUNTING PRINCIPLE

3.3.1 A Measured Entity must achieve a minimum of 40% of each of the total weighting points as set out under Statement 000, Paragraph 3.3.1.3.1

3.3.2 Non-compliance to one or more of the threshold targets as per paragraph 3.1 above will result in the overall achieved B-BBEE status level being discounted in accordance with paragraph 3.3 in statement 000.

3.3.3 An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:

- (a) At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.
- (b) Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.
- (c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.

(d) Skills transfer - at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.

3.3.4 Exempted Micro Enterprises and Start-Ups are automatically recognised as Empowering Suppliers.

3.4 The Weighting points in the Enterprise and Supplier Development scorecard represent the maximum number of points possible for each of the criteria.

3.5 If a Measured Entity procures goods and services from a supplier that is:

3.5.1 A recipient of supplier development contributions from a Measured Entity under Code series 400 which has a minimum 3-year contract with the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;

3.5.2 A black owned QSE or EME which is not a Supplier Development beneficiary but that has a minimum 3-year contract with the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;

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.

3.6 Procurement of goods and services and any other activities that fall under 2.1 will not qualify for scoring under 2.2 and 2.3 and vice versa.

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.

3.8 A Supplier Development Beneficiary is a part of the Measured Entity's supply chain, whereas an Enterprise Development Beneficiary is not.

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 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.

#### **4. GENERAL PRINCIPLES**

4.1 To strengthen local procurement in order to help build South Africa's industrial base in critical sectors of production and value adding manufacturing, which are largely labour-intensive industries.

4.2 To increase local procurement through capacity building achieved by incentivising appropriate local Supplier Development programmes by businesses supplying imported goods and services.

4.3 The imports provisions do not apply to the designated sectors and products for local production, as and when published.

4.4 To actively support procurement from black owned QSEs and EMEs by identifying opportunities to increase procurement from local suppliers in order to support employment creation.

4.5 To support procurement from black owned and black women

owned businesses in order to increase the participation of these businesses in the main stream economy.

- 4.6 To promote the use of black owned professional service providers and entrepreneurs as suppliers.
- 4.7 Measured Entities receive recognition for any Enterprise Development and Supplier Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.
- 4.8 Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with the designated sectors of government's localisation and value adding programmes.
- 4.9 Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with their supply chain requirements thereby linking Enterprise Development and Supplier Development with Preferential Procurement.
- 4.10 Qualifying Enterprise Development and Supplier Development Contributions of any Measured Entity are recognisable on an annual basis.
- 4.11 Contributions, programmes and/or initiatives that span over multiple years, the total contribution amount must be divided by the number of years, and the average per year is then to be utilised for the annual contribution.
- 4.12 Measured Entities are encouraged to develop and implement an Enterprise Development plan and Supplier Development plan for Qualifying Beneficiaries. The plan should include:
  - 4.12.1 Clear objectives

- 4.12.2 Priority interventions
- 4.12.3 Key performance indicators; and
- 4.12.4 A concise implementation plan with clearly articulated milestones.
- 4.13 Measured Entities will not get recognition for the same activities undertaken under 2.2 and 2.3, they will only get recognition for one of the two i.e. 2.2 or 2.3
- 4.14 No portion of the value of any Qualifying Enterprise Development and Supplier Development Contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.

## **5 TOTAL MEASURED PROCUREMENT SPEND**

The following procurement is measurable within Total Measured Procurement Spend:

- 5.1 Cost of sales: all goods and services procured that comprise the cost of the sales of the Measured Entity,
- 5.2 Operational expenditure: all goods and services procured that comprise the operational expenditure of the Measured Entity;
- 5.3 Capital expenditure: all capital expenditure incurred by the Measured Entity;
- 5.4 **Public sector procurement:**
  - 5.4.1 all goods and services procured from organs of state and public entities. Despite this, procurement by a Measured Entity from a local government authority, which is a reseller of that service, is measurable at the B-BBEE Recognition Level of the primary Supplier of the service; and

- 5.4.2 in any event, any procurement of any goods or services from any organ of state or public entity that enjoys a statutory or regulated monopoly in the supply of such goods or services, is excluded;
- 5.5 Monopolistic procurement: all goods and services procured from suppliers that enjoy a monopolistic position;
- 5.6 Third-party procurement: all procurement for a third-party or a client, where the cost of that procurement is an expense recorded in the Measured Entity's annual financial statements;
- 5.7 Labour brokers and independent contractors: any procurement of the Measured Entity which is Outsourced Labour Expenditure;
- 5.8 Pension and medical aid contributions: payments made to any post retirement funding scheme or to a medical aid or similar medical insurer by a Measured Entity for its employees, excluding any portions of such payments which are a contribution to a capital investment of the employee. The scheme or insurer must issue a certificate dividing payments between the capital investment portion and the balance to establish the amount that is measurable within Total Measured Procurement Spend;
- 5.9 Trade commission's: any commission or similar payments payable by a Measured Entity to any other person pursuant to the business or trade of the Measured Entity;
- 5.10 Empowerment related expenditure: all goods and services procured in carrying out B-BBEE. The Total Measured Procurement Spend does not include the actual contribution portion recognised under section 2.2 and 2.3 of this Statement or Code series 500 but does include any expenditure incurred in facilitating those contributions;
- 5.11 Imports: all goods and services that are imported or procured from a non-South African source; and

- 5.12 Intra-group procurement: all goods and services procured from subsidiaries or holding companies of the Measured Entity (BEE credentials of the entity supplying goods and/or services must be confirmed by way of a valid BEE certificate).

## **6 EXCLUSIONS FROM TOTAL MEASURED PROCUREMENT SPEND**

The following list provides permissible exclusions from Total Measured Procurement Spend recognisable in terms of paragraph 5:

- 6.1 Taxation: any amount payable to any person which represents a lawful tax or levy imposed by an organ of state authorised to impose such tax or levy, including rates imposed by a municipality or other local government;
- 6.2 Salaries, wages, remunerations, and emoluments: any amount payable to an employee as an element of their salary or wage and any emolument or similar payment paid to a director of a Measured Entity;
- 6.3 Pass-through third-party procurement: all procurement for a third-party or a client that is recorded as an expense in the third-party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements;

### **6.4 Empowerment related procurement:**

- 6.4.1 Investments in or loans to an Associated Enterprise;
- 6.4.2 Investments, loans or donations qualifying for recognition under any statement under Code series 400 or 500;

### **6.5 Imports: the following imported goods and services:**

- 6.5.1 imported capital goods or components for value-added production in South Africa provided that:
- 6.5.1.1 there is no existing local production of such capital goods or

components; and

6.5.1.2 importing those capital goods or components promotes further value-added production within South Africa;

6.5.2 imported goods and services other than those listed in paragraph 6.5.1 if there is no local production of those goods or services including, but not limited to, imported goods or services that –

6.5.2.1 carry a brand different to the locally produced goods or services; or

6.5.2.2 have different technical specifications to the locally produced goods or services.

6.5.3 The exclusion of imports listed under 6.5.2 are subject to them having developed and implemented an Enterprise Development and Supplier Development plan for imported goods and services. This plan should include:

6.5.3.1 Clear objectives

6.5.3.2 Priority interventions

6.5.3.3 Key performance indicators; and

6.5.3.4 A concise implementation plan with clearly articulated milestones

6.5.4 The Department of Trade and Industry will from time to time consult with the industry and issue practice notes with regard to the provisions on import exclusion.

## **7. MEASUREMENT OF B-BBEE PROCUREMENT SPEND**

7.1 B-BBEE Procurement Spend is the value of the procurement falling within paragraph 5 and not excluded by paragraph 6. If a supplier falls within a category of supplier listed in paragraph 3.5, the value of procurement from that supplier is multiplied by the applicable factor listed in that paragraph.

- 7.2 B-BBEE Procurement Spend can be measured in terms of formula "A" in Annexe 400(A).
- 7.3 The B-BBEE Procurement Spend for a Measured Entity in respect of a supplier is calculated by multiplying the spend contemplated by paragraph 5 (and not excluded by paragraph 6) in respect of that supplier by the supplier's B-BBEE Recognition Level.
- 7.4 A Measured Entity's Total Procurement Spend is the total of all amounts calculated in terms of paragraph 7.3.

## **8 THE CALCULATION OF PREFERENTIAL PROCUREMENT CONTRIBUTIONS TO B-BBEE**

- 8.1 A measured Entity receives a score for procurement in proportion to the extent that it meets the compliance target.
- 8.2 The Measured Entity's score for Preferential Procurement contributions to B-BBEE under the preferential procurement scorecard can be calculated in terms of formula "B" in Annexe 400(A).

## **9 ENTERPRISE DEVELOPMENT and SUPPLIER DEVELOPMENT CONTRIBUTIONS**

- 9.1 The following is a non-exhaustive list of Enterprise Development and Supplier Development Contributions:
- 9.1.1 investments in beneficiary entities;
  - 9.1.2 loans made to beneficiary entities;
  - 9.1.3 guarantees given or security provided on behalf of beneficiaries;
  - 9.1.4 credit facilities made available to beneficiary entities;
  - 9.1.5 grant contributions to beneficiary entities;
  - 9.1.6 direct costs incurred by a Measured Entity in assisting and

- hastening development of beneficiary entities;
- 9.1.7 overhead costs of a Measured Entity directly attributable to Enterprise Development and Supplier Development Contributions;
- 9.1.8 preferential credit terms granted by a Measured Entity to beneficiary entities;
- 9.1.9 preferential terms granted by a Measured Entity in respect of its supply of goods or services to beneficiary entities;
- 9.1.10 contributions made to settling service costs relating to the operational or financial capacity or efficiency levels of beneficiary entities;
- 9.1.11 discounts given to beneficiary entities in relation to the acquisition and maintenance costs associated with the grant to those beneficiary entities of franchise, licence, agency, distribution or other similar business rights;
- 9.1.12 the creation or development of capacity and expertise for beneficiary entities needed to manufacture or produce goods or services previously not manufactured, produced or provided in the Republic of South Africa is provided for in Government's economic growth and local supplier development policies and initiatives;
- 9.1.13 facilitating access to credit for beneficiary entities without access to similar credit facilities through traditional means owing to a lack of credit history, high-risk or lack of collateral;
- 9.1.14 provision of training or mentoring by suitably qualified entities or individuals to beneficiary entities which will assist the beneficiary entities to increase their operational or financial capacity; and
- 9.1.15 the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of beneficiary entities or candidate

beneficiary entities.

- 9.1.16 new projects promoting beneficiation by the Measured Entity for the benefit of Enterprise Development and Supplier Development Beneficiaries.
- 9.1.17 provision of preferential credit facilities to a beneficiary entity by a Measured Entity may constitute an Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation:
- 9.1.18 provision of finance to beneficiary entities at lower than commercial rates of interest;
- 9.1.19 relaxed security requirements or absence of security requirements for beneficiary entities unable to provide security for loans; and
- 9.1.20 settlement of accounts with beneficiary entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided the shorter period is no longer than 15 days;
- 9.1.21 providing training or mentoring to beneficiary communities by a Measured Entity. (Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A clear justification, commensurate with the seniority and expertise of the trainer or mentor, must support any claim for time costs incurred).
- 9.1.22 maintaining an Enterprise Development and Supplier Development unit by the Measured Entity. (Only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to, promoting or implementing Enterprise Development and Supplier Development constitute contributions.)
- 9.1.23 Payments made by the Measured Entity to suitably qualified and experienced third parties to perform Enterprise Development and

Supplier Development on the Measured Entity's behalf.

## **10 MONETARY AND NON-MONETARY CONTRIBUTIONS**

10.1 Subject always to the definition of Qualifying Enterprise Development and Supplier Development Contributions, the following monetary/non-monetary contributions will, without limitation, be considered:

10.1.1 the provision of seed or development capital;

10.1.2 contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of a Qualifying Enterprise Development and Supplier Development Beneficiary including, without limitation:

10.1.2.1 professional and consulting services;

10.1.2.2 licensing and/or registration fees;

10.1.2.3 industry specific levies and/or other such fees; and

10.1.2.4 IT services;

10.1.3 subject to paragraph 10.1, creation or development of capacity and expertise for Beneficiary Entities required to manufacture or produce goods and/or services previously not manufactured, produced or provided in the Republic of South Africa;

10.1.4 subject to paragraph 10.2, provision of preferential credit facilities;

10.1.5 subject to paragraph 10.1, facilitation of access to credit for Beneficiary Entities unable to access similar credit facilities through traditional means owing to a lack of credit history, high risk and/or lack of collateral;

10.1.6 subject to paragraph 10.3, provision of training and/or mentoring to Beneficiary Entities which will assist the Beneficiary Entities to increase their operational and/or financial capacity; and

- 10.1.7 subject to paragraph 10.4, the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of Beneficiary Entities or candidate Beneficiary Entities.
- 10.2 The creation and/or development of the capacity of Beneficiary Entities which will enable them to manufacture and produce goods and/or provide services previously not available in the Republic of South Africa, may constitute a Qualifying Enterprise Development and Supplier Development Contribution, and will be measured as the rand value of monetary contributions made as well as investments into, loans made to or guarantees given for a Beneficiary Entity.
- 10.3 Provision of preferential credit facilities to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation:
- 10.3.1 provision of finance to Beneficiary Entities at rates of interest below the applicable rate. Such contributions will be measured as the value of the differential between the actual interest rate provided to the Beneficiary Entity and the applicable rate;
- 10.3.2 relaxed security requirements or absence of security requirements for Beneficiary Entities unable to provide security for loans; and
- 10.3.3 settlement of accounts with Beneficiary Entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided that the shorter period is no longer than 15 days. Preferential payment terms which extend beyond 15 days will not qualify as Qualifying Enterprise Development and Supplier Development Contributions.
- 10.4 Provision of training and/or mentoring to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise

Development and Supplier Development Contribution. Such contributions will be measured by quantifying the cost of time spent by staff or management of the Measured Entity in carrying out such initiatives. Any travel or commuting time may not be included in this cost. Furthermore, a clear justification must be supplied with respect to the calculation of such time costs incurred, commensurate with the level of seniority and expertise of the trainer or mentor. Common forms of such contribution include without limitation:

10.4.1 Professional and consulting services;

10.4.2 IT services; and

10.4.3 any other services which help to increase the entity's financial and/or operational capacity and which have not also been accounted for under skills development.

10.5 The maintenance of an Enterprise Development and Supplier Development unit by the Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Common examples of such contributions include without limitation the salaries and wages of staff and other expenses involved in the operation of such Enterprise Development and Supplier Development unit. Notwithstanding the afore going, only that portion of salaries and wages which relate to time spent by the staff in and the other expenses related to the promotion and implementation of Enterprise Development and Supplier Development in respect of Beneficiary Entities or candidate Beneficiary Entities should be taken into consideration under Enterprise Development and Supplier Development contributions.

**11 MEASUREMENT OF ENTERPRISE DEVELOPMENT AND SUPPLIER DEVELOPMENT CONTRIBUTIONS**

- 11.1 A measured Entity receives a score for Enterprise Development and Supplier Development in proportion the extent that it meets the compliance target.
- 11.2 Qualifying Contributions are measurable using the formula “A” in Annexe 400(B)

**ANNEXE 400(A) - A: B-BBEE PROCUREMENT SPEND:**

$$A = \text{the sum of } (B \times C)$$

Where

**A** is the calculated total B-BBEE Procurement Spend for the Measured Entity. It is equal to the sum of the result of the product of B and C for each Supplier of the Measured Entity not excluded under the exclusion from total measured procurement spend;

**B** is the value of procurement falling within Total measured procurement spend and not excluded under the exclusion from total measured procurement spend from each Supplier of the Measured Entity;

**C** is the B-BBEE Procurement Recognition Level of each such Supplier of the Measured Entity.

**B: THE CALCULATION OF PREFERENTIAL PROCUREMENT CONTRIBUTIONS TO B-BBEE:**

$$A = \frac{B}{C} \times D$$

Where

**A** is the calculated preferential procurement score for 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5 and 2.1.6 in the scorecard under statement 400 for the Measured Entity;

**B** is the total B-BBEE Procurement Spend of the Measured Entity calculated under measurement of B-BBEE Procurement Spend as a percentage of Total Measured Procurement Spend of that Measured Entity;

**C** is the compliance target for each criteria specified in the scorecard under statement 400;

**D** is the Weighting points allocated to each criteria specified in the scorecard under statement 400.

**ANNEXE 400(B)****Annexe 400B – Enterprise Development and Supplier Development Benefit Factor****Matrix**

<b>Qualifying Contribution type</b>	<b>Contribution Amount</b>	<b>Benefit Factor</b>
<b>Grant and Related Contributions</b>		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting Enterprise Development and Supplier Development	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting Enterprise Development and Supplier Development	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting Enterprise Development and Supplier Development (including people appointed in Enterprise Development and Supplier Development)	Verifiable Costs (including both monetary and non-monetary)	70%
<b>Loans and Related Contributions</b>		
Interest-Free Loan with no security requirements supporting Enterprise Development and Supplier Development	Outstanding Loan Amount	70%
Standard Loan to Enterprise Development and Supplier Development Beneficiaries	Outstanding Loan Amount	50%
Guarantees provided on behalf of a Beneficiary entity	Guarantee Amount	50%
Lower Interest Rate	Outstanding loan amount	Prime Rate – Actual Rate
<b>Equity Investments and Related Contributions</b>		
Minority Investment in Enterprise Development and Supplier Development	Investment Amount	70%

Beneficiaries		
Enterprise Development and Supplier Development Investment with lower dividend to financier	Investment Amount	Dividend Rate of Ordinary Shareholders – Actual Dividend Rate of Contributor
<b>Contributions made in the form of human resource capacity</b>		
Professional services rendered at no cost and supporting Enterprise Development and Supplier Development	Commercial hourly rate of professional	60%
Professional services rendered at a discount and supporting Enterprise Development and Supplier Development	Value of discount based on commercial hourly rate of professional	60%
Time of employees of Measured Entity productively deployed in assisting beneficiaries	Monthly salary divided by 160	60%
<b>Other Contributions</b>		
Shorter payment periods for 2.2 of this statement (Supplier Development)	Percentage of invoiced amount multiplied by 15% (being an approximation of the cost of short term funding)	Percentage being 15 days less the number of days from invoice to payment Maximum points that can be scored is 15% of 10 points

**ANNEXE 400(B)**

**A: Qualifying Contributions are measurable on the following basis:**

$$A = \frac{B}{C} \times D$$

Where

**A** is the score achieved in respect of the Qualifying Contributions made by the Measured Entity

**B** is the annual value of all Qualifying Contributions made by the Measured Entity measured from the commencement of this statement or the Inception Date to the date of measurement

**C** is compliance target in respect of the Qualifying Contributions as specified in the scorecard for statement 400

**D** is the Weighting points allocated to the criteria under the scorecard for statement 400.

**DEPARTMENT OF TRADE AND INDUSTRY**  
**NOTICE 305 OF 2019**  
**CODE SERIES 300, STATEMENT 300**

**CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC  
EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

- (a) Publish the following **Amended Code Series 300, Statement 300** in terms of Section 9 (1) of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013 for implementation within 6 Months from date of Gazette; and
- (b) Replace **Amended Code Series 300, Statement 300** within Gazette 36928 with the following **Amended Code Series 300, Statement 300**.



**DR ROB DAVIES, MP**  
**MINISTER OF TRADE AND INDUSTRY**

9/4 /2019

**AMENDED CODE SERIES 300: FRAMEWORK FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT 300: THE GENERAL PRINCIPLES FOR MEASURING SKILLS DEVELOPMENT**

**Issued under section 9 of the Broad-Based Black Economic Empowerment Act No. 53 of 2003 as amended by Act No. 46 of 2013.**

**Arrangement of this Statement**

<b>Para</b>	<b>Subject</b>	<b>Page</b>
1	Objectives of this Statement.....	3
2	The Skills Development Scorecard.....	3
3	Key Measurement Principles .....	4
4	Subminimum and Discounting Principles.....	5
5	General Principles.....	5
6	Legitimate Recognisable Training Expenses.....	7
7	Measurement of Skills Development Indicators.....	7
8	Annexe 300(A).....	8
9	Annexe 300 (B).....	10

## OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the scorecard for measuring the Skills Development Element of B-BBEE;
- 1.2 Define the key measurement principles associated with the Skills Development Element; and
- 1.3 Indicate the formula for measuring the Skills Development Element.

## 2. THE SKILLS DEVELOPMENT ELEMENT SCORECARD

- 2.1 The following table represents the criteria used for deriving a score for Skills Development under this Statement:

Category	Skills Development Element	Weighting points	Compliance Target
2.1.1	Skills Development Expenditure on any programme specified in the Learning Programme Matrix for black people as a percentage of the Leviable Amount		
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.	6	3.5 %
2.1.1.2	Skills Development Expenditure on Bursaries for Black Students at Higher Education Institutions	4	2.5%
2.1.1.3	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leviable Amount.	4	0.3%
2.1.2	Learnerships, Apprenticeships, and Internships		

2.1.2.1 Number of black people participating in Learnerships, Apprenticeships and internships as a percentage of total employees.	6	5%
<b>Bonus points:</b>		
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	5	100%

2.2 The compliance targets for 2.1.1.1, 2.1.1.2 and 2.1.2.1 of the Skills Development scorecard are based on the overall demographic representation of black people as defined in the Regulations of the Employment Equity Act and Commission of Employment Equity Report as amended from time to time.

2.3 In determining a Measured Entity's score, the targets should be further broken down into specific criteria according to the different race sub-groups within the definition of black in accordance with the Regulations of Employment Equity Act and Commission of Employment Equity Report requirements on equitable representation and weighted accordingly.

### 3. KEY MEASUREMENT PRINCIPLES

3.1 The following criteria must be fulfilled in order for the Measured Entity to receive points on the Skills Development Element scorecard:

3.1.1 Workplace Skills Plan, an Annual Training Report and Pivotal Report which are SETA approved; and

3.1.2 Implementation of Priority Skills programme generally, and more specifically for black people.

3.2 The 3.5 % compliance target under paragraph 2.1.1.1 includes external training expenditure for unemployed black people.

3.3 Initiatives implemented under paragraph 2.1.1.1 cannot be counted under paragraph 2.1.1.2 and vice versa.

3.4 A trainee tracking tool has to be developed in order for the Measured Entity to score under paragraph 2.1.3.

3.5 If less than 100% of the trainees are absorbed under paragraph 2.1.3, the percentage achieved or absorbed will be recognised.

#### **4. SUBMINIMUM AND DISCOUNTING PRINCIPLE**

4.1 A Measured Entity must achieve a minimum of 40% of the total weighting points excluding bonus points (40% of the 20 points) set out in the Skills Development Element.

4.2 Non-compliance to the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance in paragraph 3.4 of Statement 000.

#### **5. GENERAL PRINCIPLES**

5.1.1 Skills Development must contribute to the achievement of the country's economic growth and social development goals that will enrich the creation of decent work and sustainable livelihoods.

5.1.2 Promote the development of an industrial skills base in critical sectors of production and value-added manufacturing, which are largely labour-intensive industries.

5.1.3 Support 'Professional, Vocational, Technical and Academic Learning programmes, achieved by means of professional placements, work-integrated learning, apprenticeships, learnerships and internships, that meet the critical needs for economic growth and development.

5.1.4 Strengthen the skills and human resource base by encouraging the support of skills development initiatives with an emphasis on skills development and career pathing for all working people in order to support employment creation.

5.2 Skills Development Expenditure includes any legitimate expenses

incurred for any Learning Programme offered by a Measured Entity to black people evidenced by an invoice or appropriate internal accounting record.

- 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.
- 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.
- 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.
- 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. Despite the afore going, if the right of recovery or the condition involves either of the following obligations of the employee, the expenses are recognisable:
- 5.6.1 the obligation of successful completion in their studies within the time

period allocated; or

- 5.6.2 the obligation of continued employment by the Measured Entity for a period following successful completion of their studies is not more than the period of their studies.
- 5.7 Mandatory sectoral training does not qualify as skills development contribution i.e. health and safety in construction sector (non-exhaustive list)
- 5.8 Training outside the country in line with the Learning Programme Matrix under annexure 300 (A) is measurable if it meets the South African Qualification Authority requirement for recognition.

## **6. LEGITIMATE RECOGNISABLE TRAINING EXPENSES**

- 6.1.1 costs of training materials;
- 6.1.2 costs of trainers;
- 6.1.3 costs of training facilities including costs of catering;
- 6.1.4 scholarships and bursaries;
- 6.1.5 course fees;
- 6.1.6 accommodation and travel; and
- 6.1.7 Administration costs such as the organization of training including, where appropriate, the cost to the Measured Entity of employing a Skills Development facilitator or a training manager.

## **7. MEASUREMENT OF SKILLS DEVELOPMENT INDICATORS**

The formula that explains the method of measurement of the criteria in the skills development scorecard is set out in Formula "A" in Annexure 300(B).

## 8. ANNEXE 300 (A)

**Learning Programme Matrix**

<b>Cat</b>	<b>Programme</b>	<b>Narrative Description</b>	<b>Delivery Mode</b>	<b>Learning Site</b>	<b>Learning Achievement</b>
<b>A</b>	Bursaries or scholarships	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.	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
<b>B</b>	Internships	Institution-based theoretical instruction as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning

<b>C</b>	Learnerships	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
<b>D</b>	Learnerships or Apprenticeships	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning

<b>E</b>	Work-integrated learning	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace, institutional as well as ABET providers	Credits awarded for registered unit standards, continued professional development, improved performance or skills (e.g. evidence of outputs based on Performance Development Programme)
<b>F</b>	Informal training	Occupationally-directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)
<b>G</b>	Informal training	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills

### **ANNEXE 300 (B)**

#### **Formula 1**

The skills development criteria provided for in paragraphs 2.1.1.1 and 2.1.1.2 is calculated by

following the sub calculations below.

The measurement criteria targets for 2.1.1.1 and 2.1.1.2 are broken down according to the

relevant EAP statistics i.e. splitting the compliance target and points in proportion to the EAP statistics.

The EAP Statistics are reported on the following race groups:

<u>Statistic</u>	<u>African Male</u>	<u>African Female</u>	<u>Coloured Male</u>	<u>Coloured Female</u>	<u>Indian Male</u>	<u>Indian Female</u>	<u>White Male</u>	<u>White Female</u>
Abbreviation	AM	AF	CM	CF	IM	IF	WM	WF

The maximum points per race group needs to be adhered to in order to achieve the outcomes of the code. These calculations will need to be repeated for every race group due to the maximum score for each race group.

The first parameter to be defined is the percentage of spend on black employees in the measured entity as a percentage of the Leviable Amount. The formula to calculate this will need to be repeated six times, for each of the six black EAP statistics.

Let

$$\% \text{ Spend AM} = \frac{\text{Spend on AM Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend AF} = \frac{\text{Spend on AF Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend CM} = \frac{\text{Spend on CM Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend CF} = \frac{\text{Spend on CF Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend IM} = \frac{\text{Spend on IM Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend IF} = \frac{\text{Spend on IF Employees}}{\text{Leviable Amount}}$$

Where:

RG: Race Group

$\% \text{SpendRG}$ : Percentage of spend on black employees in the measured entity for the specific race group

Spend on RG Employees: Rand value of Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for the specified Race Group for 2.1.1.1 and 2.1.1.2

Leviable Amount: As defined in Code Series 300

Due to the codes not awarding points for meeting the EAP statistics for the white race groups, the EAP statistics need to be adjusted to exclude the white

categories. The following formula shows how this is accomplished:

Let

$$ADJ\ EAP\ AM = \frac{EAP(AM)}{EAP(Sum)}$$

$$ADJ\ EAP\ AF = \frac{EAP(AF)}{EAP(Sum)}$$

$$ADJ\ EAP\ CM = \frac{EAP(CM)}{EAP(Sum)}$$

$$ADJ\ EAP\ CF = \frac{EAP(CF)}{EAP(Sum)}$$

$$ADJ\ EAP\ IM = \frac{EAP(IM)}{EAP(Sum)}$$

$$ADJ\ EAP\ IF = \frac{EAP(IF)}{EAP(Sum)}$$

Where:

ADJ EAP RG: Adjusted EAP for a specific race group

EAP (RG): EAP statistic for the calculated race group

EAP (Sum): Sum of published EAP statistics for all black race groups  
(AM+AF+CM+CF+IM+IF)

Since the calculation for each of the race groups need to be done individually, the compliance target also needs to be split in proportion to the EAP statistics.

This formula is defined below:

Let

$$SCT\ AM = ADJ\ EAPAM \times \frac{Compliance\ target}{100}$$

$$SCT\ AF = ADJ\ EAPAF \times \frac{Compliance\ target}{100}$$

$$SCT\ CM = ADJ\ EAPCM \times \frac{Compliance\ target}{100}$$

$$SCT\ CF = ADJ\ EAPCF \times \frac{Compliance\ target}{100}$$

$$SCT\ IM = ADJ\ EAPIM \times \frac{Compliance\ target}{100}$$

$$SCT\ IF = ADJ\ EAPIF \times \frac{Compliance\ target}{100}$$

Where:

SCT RG: Split Compliance Target for race group

ADJ EAP RG: Adjusted EAP for the race group as calculated

above

Compliance target:  
and 2.1.1.2

Compliance Target as specified for 2.1.1.1

The points allocated for the measurement criteria will also be split in proportion to the EAP statistics. The split points for the measurement criteria represent the maximum allowable points for the race groups, and must be enforced as such.

The formula for calculating the maximum allowable points is shown below:

$$MAP\ AM = ADJ\ EAPAM \times Points$$

$$MAP\ AF = ADJ\ EAPAF \times Points$$

$$MAP\ CM = ADJ\ EAPCM \times Points$$

$$MAP\ CF = ADJ\ EAPCF \times Points$$

$$MAP\ IM = ADJ\ EAPIM \times Points$$

$$MAP\ IF = ADJ\ EAPIF \times Points$$

Where:

MAP: Maximum allowable points for a race group

Points: Weighting points as specified for 2.1.1.1 and 2.1.1.2

The achieved score per race group (ScoreRG) will be calculated using the above four equations. The formula must be completed for each race group using the four results from above for each race group. This formula is shown below:

$$ScoreAM = \left( \frac{\%Spend\ AM}{SCT\ AM} \right) \times MAP\ AM$$

$$ScoreAF = \left( \frac{\%Spend\ AF}{SCT\ AF} \right) \times MAP\ AF$$

$$ScoreCM = \left( \frac{\%Spend\ CM}{SCT\ CM} \right) \times MAP\ CM$$

$$ScoreCF = \left( \frac{\%Spend\ CF}{SCT\ CF} \right) \times MAP\ CF$$

$$ScoreIM = \left( \frac{\%Spend\ IM}{SCT\ IM} \right) \times MAP\ IM$$

$$ScoreIF = \left( \frac{\%Spend\ IF}{SCT\ IF} \right) \times MAP\ IF$$

Note that the score per race group may not exceed the maximum allowable points for that race group. The following shows how the total score for 2.1.1.1 and 2.1.1.2 is

calculated:

$$Total\ Score = ScoreAM + ScoreAF + ScoreCM + ScoreCF + ScoreIM + ScoreIF$$

**Formula 2**

The Skills Development criteria provided for in paragraphs 2.1.2.1, is calculated by following the sub calculations below.

The measurement criteria targets for 2.1.2.1 are broken down according to the relevant EAP statistics i.e. splitting the compliance target and points in proportion to the EAP statistics.

The maximum points per race group needs to be adhered to in order to achieve the outcomes of the code. These calculations will need to be repeated for every race group due to the maximum score for each race group.

The first parameter to be defined is the percentage of black employees in the measured entity for the measurement criteria (Number of black people participating in Learnerships, Apprenticeships and Internships OR Number of black unemployed people participating in the learning programme matrix). The formula to calculate this will need to be repeated six times, for each of the six black EAP statistics.

Let

$$\% \text{ Black AM} = \frac{\text{Number of AM Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black AF} = \frac{\text{Number of AF Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black CM} = \frac{\text{Number of CM Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black CF} = \frac{\text{Number of CF Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black IM} = \frac{\text{Number of IM Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black IF} = \frac{\text{Number of IF Learners}}{\text{Total of all employees in all race groups}}$$

Where:

RG: Race Group

% BlackRG: Percentage of black employees in the measured Entity for the specific race group

Number of RG learners: Number of people participating in Learnerships, Apprenticeships and Internships OR number of unemployed people participating in training specified in the learning programme matrix

Total of all race groups: Total of all employees in the measured entity

(AM+AF+CM+CF+IM+IF+WM+WF)

Due to the codes not awarding points for meeting the EAP statistics for the white race groups, the EAP statistics need to be adjusted to exclude the white categories. The following formula shows how this is accomplished:

Let

$$ADJ\ EAP\ AM = \frac{EAP(AM)}{EAP(Sum)}$$

$$ADJ\ EAP\ AF = \frac{EAP(AF)}{EAP(Sum)}$$

$$ADJ\ EAP\ CM = \frac{EAP(CM)}{EAP(Sum)}$$

$$ADJ\ EAP\ CF = \frac{EAP(CF)}{EAP(Sum)}$$

$$ADJ\ EAP\ IM = \frac{EAP(IM)}{EAP(Sum)}$$

$$ADJ\ EAP\ IF = \frac{EAP(IF)}{EAP(Sum)}$$

Where:

ADJ EAP RG:	Adjusted EAP for a specific race group
EAP (RG):	AP statistic for the calculated race group
EAP (Sum):	Sum of published EAP statistics for all black race groups (AM+AF+CM+CF+IM+IF)

Since the calculation for each of the race groups need to be done individually, the compliance target also needs to be split in proportion to the EAP statistics.

This formula is defined below:

Let

$$SCT\ AM = ADJ\ EAP\ AM \times \frac{Compliance\ target}{100}$$

$$SCT\ AF = ADJ\ EAP\ AF \times \frac{Compliance\ target}{100}$$

$$SCT\ CM = ADJ\ EAP\ CM \times \frac{Compliance\ target}{100}$$

$$SCT\ CF = ADJ\ EAP\ CF \times \frac{Compliance\ target}{100}$$

$$SCT\ IM = ADJ\ EAP\ IM \times \frac{Compliance\ target}{100}$$

$$SCT\ IF = ADJ\ EAP\ IF \times \frac{Compliance\ target}{100}$$

Where:

SCT RG:	Split Compliance Target for race group
---------	--

ADJ EAP RG: Adjusted EAP for the race group as  
calculated

above

Compliance target: Compliance Target as specified for 2.1.2.1

The points allocated for the measurement criteria will also be split in proportion to the EAP statistics. The split points for the measurement criteria represent the maximum allowable points for the race groups, and must be enforced as such.

The formula for calculating the maximum allowable points is shown below:

$$MAP AM = ADJ EAP AM \times Points$$

$$MAP AF = ADJ EAP AF \times Points$$

$$MAP CM = ADJ EAP CM \times Points$$

$$MAP CF = ADJ EAP CF \times Points$$

$$MAP IM = ADJ EAP IM \times Points$$

$$MAP IF = ADJ EAP IF \times Points$$

Where:

MAP: Maximum allowable points for a race group

Points: Weighting points as specified for 2.1.2.1

The achieved score per race group (Score RG) will be calculated using the above four equations. The formula must be completed for each race group using the four results from above for each race group. This formula is shown below:

$$ScoreAM = \left( \frac{\%Spend AM}{SCT AM} \right) \times MAP AM$$

$$ScoreAF = \left( \frac{\%Spend AF}{SCT AF} \right) \times MAP AF$$

$$ScoreCM = \left( \frac{\%Spend CM}{SCT CM} \right) \times MAP CM$$

$$ScoreCF = \left( \frac{\%Spend CF}{SCT CF} \right) \times MAP CF$$

$$ScoreIM = \left( \frac{\%Spend IM}{SCT IM} \right) \times MAP IM$$

$$ScoreIF = \left( \frac{\%Spend IF}{SCT IF} \right) \times MAP IF$$

Note that the score per race group may not exceed the maximum allowable

points for that race group. The following shows how the totals score for 2.1.2.1 is calculated:

$$\text{Total Score} = \text{ScoreAM} + \text{ScoreAF} + \text{ScoreCM} + \text{ScoreCF} + \text{ScoreIM} + \text{ScoreIF}$$

### Formula 3

This equation explains the method of measurement of the criteria under paragraph 2.1.1.3 and 2.1.3

$$A = \frac{B}{C} \times D$$

Where

**A** is the score for measurement category indicator

**B** is the percentage of spend in the measurement category that are black disabled people

**B** is the percentage of absorbed people in the measurement category that are black people

**C** is the target for the applicable criteria as referred to in the scorecard under statement 300

**D** is the Weighting points for the applicable criteria as referred to in the scorecard under statement 300

**DEPARTMENT OF TRADE AND INDUSTRY**  
**NOTICE 306 OF 2019**  
**CODE SERIES 000, STATEMENT 000**

**CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC  
EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

- (a) Publish the following **Amended Code Series 000, Statement 000** in terms of Section 9 (1) of the Broad-Based Black Economic Empowerment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013 for implementation within 6 Months from date of Gazette; and
- (b) Replace **Amended Code Series 000, Statement 000** within Gazette 36928 with the following **Amended Code Series 000, Statement 000**.



**DR ROB DAVIES, MP**  
**MINISTER OF TRADE AND INDUSTRY**

9/4 /2019

**AMENDED CODE SERIES 000: FRAMEWORK FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT 000: GENERAL PRINCIPLES AND THE GENERIC SCORECARD**

**Issued under Section 9 of the Broad-Based Black Economic Empowerment Act of 2003, as amended**

**Arrangement of this Statement:**

<b>Para</b>	<b>Subject</b>	<b>Page</b>
1	Objectives of this Statement.....	3
2	Key principles.....	3
3	Application of the Codes.....	4
4	Eligibility as an Exempted Micro Enterprise.....	7
5	Eligibility as a Qualifying Small Enterprise.....	8
6	Eligibility as a Generic Enterprise .....	9
7	Eligibility of Joint Ventures and Start-up Enterprises.....	9
8	The Generic Scorecard.....	11
9	The B-BBEE Generic Scorecard.....	12
10	Enhanced Recognition for certain categories of black people.....	14
11	Adjustment of Threshold.....	14
12	Duration of the Codes.....	14

## **1 OBJECTIVES OF THIS STATEMENT**

- 1.1 Specify the interpretative principles of Broad-Based Black Economic Empowerment(B-BBEE);
- 1.2 Specify the application of the Codes and the basis for measurement under the Codes;
- 1.3 Indicate the qualifying thresholds for Measured Entity to qualify as an Exempted Micro-Enterprise (EME) or Qualifying Small Enterprise (QSE);
- 1.4 Specify the method of measuring Start-Up Enterprises;
- 1.5 Specify the elements of B-BBEE measurable under the Generic Scorecard and Qualifying Small Enterprises;
- 1.6 Specify the basis for determining compliance by Entities with the Codes;

## **2. KEY PRINCIPLES**

- 2.1 The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.
- 2.2 In interpreting the provisions of the Codes any reasonable interpretation consistent with the objectives of the B-BBEE Act as amended and the B-BBEE Strategy must take precedence.
- 2.3 The basis for measuring B-BBEE initiatives under the Codes is the B-BBEE compliance of the Measured Entity at the Date of Measurement.

- 2.4 Any misrepresentation or attempt to misrepresent a Measured Entity's true B-BBEE Status will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended, and may lead to the disqualification of the entire scorecard of the entities concerned.
- 2.5 Initiatives which split, separate or divide a Measured Entity as a means of ensuring eligibility as an Exempted Micro-Enterprise, a Qualifying Small Enterprise or a Start-Up Enterprise may constitute an offence and will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended.
- 2.6 Any representation made by an Entity about its B-BBEE compliance must be supported by suitable evidence or documentation. A Measured Entity that does not provide evidence or documentation supporting any initiative must not receive any recognition for that initiative.
- 2.7 Wherever a Standard Valuation Method applies to measuring an indicator, the same standard should apply, as far as reasonably possible, consistently in all other applicable calculations in this statement.

### **3. APPLICATION OF THE CODES**

3.1 The following Entities are measurable under the Codes:

3.1.1 all Organs of State and Public Entities;

3.1.2 all Measured Entities that undertake any economic activity with all Organs of State and Public Entities;

3.1.3 any other Measured Entity that undertakes any economic activity, whether direct or indirect, with any other Measured Entity that is subject to measurement under paragraph 3.1.1 to 3.1.2 and which is seeking to establish its own B-BBEE compliance.

3.2 The basis for measuring the B-BBEE compliance of an Entity in terms of paragraph 3.1 is:

3.2.1 Paragraph 4, in the case of an Exempted Micro-Enterprise;

3.2.2 Paragraph 5.3 in the case of a Black Owned QSE;

3.2.3 The Generic Scorecard and QSE Scorecard, in the case of other Measured Entities; and

3.2.4 A Measured Entity in a sector in respect of which a sector code has been issued in terms of Section 9 of the BBEE Act as amended, may only be measured for compliance in accordance with that code.

### 3.3 **PRIORITY ELEMENTS, SUBMINIMUM AND DISCOUNTING PRINCIPLE**

3.3.1 The Priority Elements are as follows:

#### 3.3.1.1 **Ownership:**

3.3.1.1.1 The sub-minimum requirement for Ownership is 40% of Net Value (40% of the 8 points) based on the Time Based Graduation Factor as provided in Annexe 100 (E).

#### 3.3.1.2 **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.

#### 3.3.1.3 **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).

### 3.3.2 COMPLIANCE TO PRIORITY ELEMENTS

3.3.2.1 A Large Enterprise is required to comply with all the 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.

### 3.3.3 DISCOUNTING PRINCIPLE EFFECT

3.3.3.1 Qualifying Small Enterprises or Generic Enterprises that fails to meet the 40% sub-minimum requirement for any or a combination of the priority elements in terms of 3.3.1 and 3.3.2 above, will have their B-BBEE status level discounted one level.

3.3.3.2 The discounted level will be recorded and be the applicable status level for that Measured Entity.

3.3.3.3 Notwithstanding the recognition in 3.3.3.1 above, the Measured Entity will recognise the actual points achieved below the 40% sub-minimum requirements.

3.4 The requirement to submit data to the Department of Labour under the Employment Equity Act 55 of 1998 is only applicable to 'designated employers' who employ 50 or more employees or who exceed the turnover threshold specified by the Department of Labour. However, for

the purpose of measurement: both Generic and Qualifying Small Entities that employ less than 50 employees are required to submit sufficient evidence for verification purposes.

#### **4. ELIGIBILITY AS AN EXEMPTED MICRO ENTERPRISE (EME)**

- 4.1 Any enterprise with an annual Total Revenue of R10 Million or less qualifies as an Exempted Micro-Enterprise.
- 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.
- 4.3 An Exempted Micro-Enterprise is deemed to have a B-BBEE Status of “Level Four Contributor” having a B-BBEE Recognition Level of 100% under paragraph 9.2.
- 4.4 Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise:
- 4.4.1 Despite paragraph 4.3 an EME which is 100% Black Owned, measured using the flow-through principle, qualifies for elevation to “Level One Contributor” having a B-BBEE recognition level of 135%.
- 4.4.2 Despite paragraphs 4.3 and 4.4.1, an EME which is at least 51% Black Owned, measured using the flow-through principle, qualifies for elevation to “Level Two Contributor” having a B-BBEE recognition level of 125%.
- 4.5 Despite paragraphs 4.3 and 4.4, an EME is allowed to be measured in terms of the QSE scorecard should it so choose.
- 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, confirming the following:

4.6.1 Annual Total Revenue of R10 million or less; and

4.6.2 Level of Black ownership.

4.7 Any misrepresentation in terms of Para 4.6 above constitutes a criminal offence as set out in the B-BBEE Act as amended.

## **5. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISE (QSE)**

5.1 A Measured Entity with an annual Total Revenue of between R10 million and R50 million qualifies as a Qualifying Small Enterprise.

5.2 A QSE must comply with all of the elements of B-BBEE for the purposes of measurement.

5.3 Enhanced B-BBEE recognition level for QSE:

5.3.1 Despite paragraph 5.2 above, a Qualifying Small Enterprise which is 100% Black Owned, measured using the flow-through principle, qualifies for elevation to a "B-BBEE Level One Contributor" having a B-BBEE recognition level of 135%.

5.3.2 Despite paragraph 5.2 above, a Qualifying Small Enterprise which is at least 51% Black Owned, measured using the flow-through principle, qualifies for elevation to a "B-BBEE Level Two Contributor" having a B-BBEE recognition level of 125%.

5.3.3 A Black Owned QSE in terms of paragraph 5.3. above, is only required to obtain a sworn affidavit on an annual basis, confirming the following:

5.3.3.1 Annual Total Revenue of between R10 million and R50 million; and

5.3.3.2 Level of Black ownership.

5.4 Despite paragraph 5.3 a black-owned QSE may be measured in terms of the QSE scorecard should it so choose.

5.5 Any misrepresentation in terms of Para 5.3 above constitutes a criminal offence as set out in the B-BBEE Act as amended.

## **6. ELIGIBILITY AS A GENERIC ENTERPRISE**

6.1 Any enterprise with an annual Total Revenue of R50 Million and more qualifies as a Large Enterprise.

6.2 A Large Enterprise must comply with all of the elements of B-BBEE for the purposes of measurement

## **7. ELIGIBILITY OF JOINT VENTURES AND START-UP ENTERPRISES**

7.1 The measurement of Unincorporated Joint Ventures will be done as follows:

7.2 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.

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.

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.

- 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.
- 7.3.3 EME's other than those in paragraph 7.3.2 above will qualify for a score of 85 Points.
- 7.3.4 The JV B-BBEE Certificate is valid for 12 Months and only applicable to a specific Project.
- 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.
- 7.4 Start-up Enterprises are deemed to have qualifying B-BBEE Status in accordance with the principles of paragraph 4 of this Statement.
- 7.5 Despite paragraph 7.4, a Start-up Enterprise may be measured in terms of the QSE scorecard or the Generic scorecard should they choose to.
- 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.

## 8. THE GENERIC SCORECARD

- 8.1 The Ownership Element, as set out in Code series 100, measures effective ownership of entities by Black people.
- 8.2 The Management Control element, as set out in Code series 200, measures the effective control of entities by Black people.
- 8.3 The Skills Development element, as set out in Code series 300, measures the extent to which employers carry out initiatives designed to develop the competencies of Black employees and Black people internally and externally.
- 8.4 The Enterprise and Supplier Development element, as set out in Code Series 400, measures the extent to which entities buy goods and services from Empowering Suppliers with strong B-BBEE recognition levels. This element also measures the extent to which enterprises carry out supplier development and enterprise development initiatives intended to assist and accelerate the growth and sustainability of black enterprises.
- 8.5 The Socio-Economic Development element, as set out in Code series 500, measures the extent to which entities carry out initiatives that contribute towards Socio-Economic Development or Sector Specific initiatives that promote access to the economy for Black people.

**CONTINUES ON PAGE 386 - PART 4**



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## 9. The B-BBEE GENERIC SCORECARD

9.1 The following table represents the B-BBEE Generic Scorecard

<b>Element</b>	<b>Weighting</b>	<b>Code series reference</b>
Ownership	25 points	100
Management Control	19 points	200
Skills Development	20 points (Plus 5 Bonus Points)	300
Enterprise and Supplier Development	40 points (Plus 4 Bonus Points)	400
Socio-Economic Development	5 points	500
<b>Total</b>	<b>109 (118) Points</b>	

## 9.2 B-BBEE RECOGNITION LEVELS

9.2.1 Based on the overall performance of a Measured Entity using the Generic Scorecard and Qualifying Scorecard Enterprise Scorecard, the Measured Entity will receive one of the following B-BBEE Status uses with the corresponding B-BBEE recognition level:

<b>B-BBEE Status</b>	<b>Qualification</b>	<b>B-BBEE recognition level</b>
Level One Contributor	≥100 points	135%
Level Two Contributor	≥ 95 but <100 points	125%
Level Three Contributor	≥90 but <95 points	110%
Level Four Contributor	≥80 but <90 points	100%
Level Five Contributor	≥75 but <80 points	80%
Level Six Contributor	≥70 but <75 points	60%
Level Seven Contributor	≥55 but <70 points	50%
Level Eight Contributor	≥40 but <55 points	10%
Non-Compliant Contributor	<40 points	0%

## **10. ENHANCED RECOGNITION FOR CERTAIN CATEGORIES OF BLACK PEOPLE**

10.1 Throughout the Codes, various criteria appear which advance the interests of certain categories of Black people. These include:

10.1.1 Black women, should form between 40% and 50% of the beneficiaries of the relevant Elements of the Scorecard;

10.1.2 Black people with disabilities, Black youth, Black people living in rural areas and Black unemployed people form part of the beneficiaries of the relevant Elements of the Scorecard.

## **11 ADJUSTMENT OF THRESHOLDS**

The Minister may, by notice in the Gazette, adjust the thresholds in paragraphs 4 to 6. Any such changes apply to compliance reports prepared for a Measured Entity after a 12-month period following the gazetting of the adjustment.

## **12 DURATION OF THE B-BBEE CODES**

12.1 A Code remains in effect until amended, substituted or repealed under Section 9 of the Act.

12.2 The Minister may review the Codes at any stage, and regular reviews will take place to monitor the implementation of B-BBEE throughout the economy.