



B-BBEE
COMMISSION

Australian Business Chamber of
Commerce Southern Africa

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Essence of B-BBEE and Framework

- Constitution of South Africa – section 9 (Right to Equality), section 9 (2) (legislative and other means) & section 217 (preferential procurement policy)
- B-BBEE Act, Codes of Good Practice, Regulations and Guidelines/Practice Notes/Explanatory Notices & Other notices
- Economic empowerment of all black people, in particular, women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies
- The Codes of Good Practice (the Codes) came into operation on the 1 May 2015.
- Amended to also give effect to government's outcome 4: inclusive economy and job creation.
- Eleven (11) Codes including the generic Codes gazetted.

Provisions for compliance

- Statement 000 Item 3.1 – measured entity
- Section 9 (3) – adherence to sector code
- Section 9 (4) – annual reporting to sector council
- Section 9 (6) – permission to exceed
- Section 10 – economic activities include procurement, licences and other awards, public private partnerships, sale of state assets and grants and incentives
- Section 10 (2) - deviations/exemptions for organs of state
- Section 13G – annual reporting to Commission
- Section 13A (cancellation), 13O (offences & penalties) and 13P (exclusion/disbarment)

Elements measured under B-BBEE

- The Codes focus on five elements of which three are priority elements:
 - **Ownership;**
 - Management Control (MC);
 - **Skills Development (SD);**
 - **Enterprise and Supplier Development (ESD);** and
 - Socio Economic Development (SED).
- Three priority elements, but all elements are important
- Failure to achieve set minimum on priority elements will result in one level down discount on B-BBEE level.

Ownership

- Measures effective ownership of entities to deracialize the economy and change the ownership patterns
- Target of 25% + 1 vote Ownership.
- The 40% sub-minimum is applicable on NET VALUE, as the key driver of true ownership in the hands of black people and it is important to measure economic interest on an annual basis.
- Measures exercisable voting rights, economic interest and net value realisation (Statement 100).
- NPCs/NPOs/NGOs/organs of state/public entities – apply the specialized score card as they cannot contribute towards ownership (Statement 004).
- Common implementation challenges include circumvention, fronting, misrepresentation practices.

Equity Equivalent Investment Programme

- Alternative for multinational entities: have global policy that prevents traditional share/equity transactions to dilute ownership outside host country.
- Not an automatic recognition, application must be made and approved by Minister of Trade, Industry and Competition (Minister)
- Equity Equivalent Investment Programmes focus:
 - Enterprise and Supplier Development,
 - Critical Skills Development, and
 - Research and Development.
- A qualifying multinational can either contribute:
 - 25% of the Business Value of its RSA operations; or
 - 4% of the audited Total Revenue of its RSA operations.

Examples of Approved EEIP

- EEIP only gives ownership points and not black ownership percentage, and limited to maximum of 10 years.
- A total of over R1,022 billion has been invested through the first approved Equity Equivalent Investment Programmes (EEIP), with more having been approved recently.
- These are the approved programmes and amounts invested:
 - Hewlett Packard (R 93, 2m); Microsoft SA (R 36,2 m); Turner & Townsend (R19,5m); Liebherr (R18,2m); Hansen Transmission SA (R 34,2m); IBM SA (R 700m); and DELL SA (R 121m).
 - Also approved are: Caterpillar, Samsung, Frigoglass, PharmaDynamics, Mercedes Benz, Toyota, Volkswagen, Nissan, Ford, Amazon, Mediterranean Shipping Company, Isuzu, BMW, and Norvas.

Management Control

- Measures effective control of entities by black people to increase number of existing and new enterprises controlled and managed by black people.
- The merged Management Control with Employment Equity includes Senior Management, Middle Management and Junior Management from the Employment Equity Element.
- The compliance targets for Management Control are aligned with the EAP targets as annually published by the Department of Employment & Labour in the CEE Report.
- Common implementation challenges include tokenism characterised by reduced authority in job description and inequitable salary levels, and double dipping.

Skills Development

- The compliance target for skills development expenditure increased to 6% to cover both internal and external training expenditure.
- Generic Codes 6% is split between 3.5% on training black people and 2.5% directed towards bursaries for black students at higher education institutions.
- Focus on critical and scarce skills, and includes recognition of YES.
- The compliance targets are based on Economically Active Population (EAP) targets for black people – develop competencies
- Intake of learnerships, apprenticeships and internships, with more recognition for absorption into jobs for sustained impact.
- Common implementation challenges include benefits to intermediaries and 3rd parties, rotation of same beneficiaries, falsification of spend and no direct link to impact.

Enterprise & Supplier Development

- Measures extent of purchasing goods and services from empowering suppliers, and SD & ED to accelerate the growth and sustainability of black entrepreneurs and focuses on the following categories:
 - Preferential Procurement (80%);
 - Supplier Development (2% NPAT); and
 - Enterprise Development (1% NPAT).
- Beneficiaries are small and medium entities which are at least 51% black owned or at least 51% black women owned. Large entities may benefit only if were an EME or QSE and only limited to five years.
- Common implementation challenges include fictitious 51% black owned entities, spend manipulation, unscrupulous 3rd parties/intermediaries, and double dipping.

Generic Scorecard

Element	Weighting	Compliance Target
Ownership (implemented)	25 points	25% + 1 vote
Management control	19 points	(50% to 88%)
Skills Development	20 points	6% of payroll
Enterprise and Supplier Development	40 points	PP = 80% SD = 2% (NPAT) ED = 1% (NPAT)
Socio-Economic Development	5 points	1% (NPAT)
TOTAL	109 points	

Scorecard with EEIP

Element	Weighting	Compliance Target
EEIP	25 points	0%
Management control	19 points	(50% to 88%)
Skills Development	20 points	6% of payroll
Enterprise and Supplier Development	40 points	PP = 80% SD = 2% (NPAT) ED = 1% (NPAT)
Socio-Economic Development	5 points	1% (NPAT)
TOTAL	109 points	

Ownership Targets in Approved Codes

Codes	Ownership targets
Generic Codes	25% + 1 vote
ICT	30%
Tourism	30%
Construction	32.5% and 35% in year 5 (from 1 December 2017)
Integrated Transport	25% + 1 vote
Property	25% + 1 vote
Forestry	25% + 1 vote
Financial Services	25% + 1 vote
AgriBEE	25% + 1 vote
MAC	45%
Defence	25% year 1, 30% year 2, 35% year 3 - calculated from 9 November 2018.

Conclusion

- B-BBEE is an **inclusive policy** aimed at achieving economic empowerment and parity
- Inherently **flexible** and based on balanced scorecard with varied targets – exemption for EMEs and QSEs
- Opportunity for greater **cooperation** through joint ventures and strategic partnerships
- Priority be given to **broad-based** ownership by women, workers, youth, people in rural areas and people with disabilities
- EEIP contributions can be **aligned** to District Development Model
- Fronting, misrepresentation and circumvention **derail progress**
- Need to accelerate as **pace is disappointing**, with none of the targets in priority elements met since 2003.

Thank you for your time!