

## **GUIDE ON ENTERPRISE AND SUPPLIER DEVELOPMENT**

### **About the Guide**

The guide is developed and distributed by the Broad-Based Black Economic Empowerment Commission (“B-BBEE Commission”) with the aim of providing guidance on how Enterprise and Supplier Development is treated within the B-BBEE Codes of Good Practice (the Codes) issued in accordance with the B-BBEE Act.

### **What is meant by Enterprise and Supplier Development?**

Enterprise Development (ED) and Supplier Development (SD) is one of the three priority elements of the Broad-Based Black Economic Empowerment (B-BBEE) Scorecard. The aim is to strengthen local procurement, enhance local supplier development programmes and increase financial support towards black entities.

Thus, the measured entity (ME) is required to achieve a 40% sub-minimum on the total points allocated for preferential procurement (40% of 25 points), supplier development (40% of 10 points) and Enterprise development (40% of 5 points).

This means that for a measured entity not to drop a level down on its overall B-BBEE status, it will need to at least score 10 points for preferential procurement, 4 points for supplier development and 2 points for enterprise development.

### **Who should be benefit from Enterprise and Supplier Development?**

Exempted Micro-Enterprises (EMEs) (R10million and less annual revenue), and Qualifying Small Enterprises (QSEs) (annual revenue of between R10 million and R50 million) which

are at least 51% black owned or at least 51% black women owned utilising the flow through principle.

Generic entities (generates annual revenue of R50 million and above) also qualify as beneficiaries of enterprise and supplier development, provided that they qualified as an EME or QSE when they were initially identified for the enterprise and supplier development support at the first instance. Further, a measured entity is only allowed to recognise a generic entity as a beneficiary for only 5 years, and not beyond.

### **What are the Enterprise and Supplier Development?**

Minister of Trade, Industry and Competition, has issued various Codes of Good Practice, which include the generic Codes, that are applicable to all sectors that do not have a specific sector code approved and gazetted by the Minister, as well as sector Codes, that must be applied in the relevant sectors for which they were approved such as construction, property, tourism, transport etc.

In each of the Codes, there are specific targets that have been set for the measured entity to comply with under the ED and SD categories of the enterprise and supplier development scorecard. The below table summaries these targets according to the type of Codes:

<b>Sectors</b>	<b>Elements</b>	<b>Generic Entity</b>	<b>Qualifying Small Enterprise</b>
Generic Codes	Supplier Development	2% of Net Profit After Tax (NPAT)	1% of NPAT
	Enterprise Development	1% of NPAT	1% NPAT
Defence Sector Codes	Supplier Development	1% of NPAT	1% of NPAT
	Enterprise Development	1% of NPAT	1% of NPAT
Financial Sector Codes	Supplier Development	1% of NPAT	1% of NPAT

	Enterprise Development	1% of NPAT	1% of NPAT
ICT Sector Codes	Supplier Development	2% of NPAT	2% of NPAT
	Enterprise Development	3% of NPAT	2% of NPAT
Property Sector Codes	Supplier Development	2% of NPAT	1% of NPAT
	Enterprise Development	1% of NPAT	1% of NPAT
Agri-BEE Sector Codes	Supplier Development	(3% of NPAT for year 1 to year 4) thereafter 2% of NPAT	1% of NPAT
	Enterprise Development	1.5% of NPAT	1.5% of NPAT
Construction Sector Codes	Supplier Development	<b>Contractors</b> – 3% of NPAT <b>BEPs</b> – 3% of NPAT	<b>Contractors</b> – 3% of NPAT <b>BEPs</b> – 3% of NPAT
	Enterprise Development	<b>Contractors</b> – Ann. CSC 400 (C) <b>BEPs</b> – Ann. CSC 400 (C)	<b>Contractors</b> – Ann. CSC 400 (C) <b>BEPs</b> – Ann. CSC 400 (C)
Tourism Sector Codes	Supplier Development	3 % of NPAT	3 % of NPAT
	Enterprise Development	0.5 % of NPAT	0.5 % of NPAT
MAC Sector Codes	Supplier Development	2% of NPAT	1% of NPAT
	Enterprise Development	1% of NPAT	1% of NPAT
<b>Transport Sector Code (targets are set for each sub-sector)</b>			

Bus Commuter Sub Sector Code	Enterprise Development	Generic Entity – 3% of NPAT Qualifying Small Enterprise – 3% of NPAT
Coach Services Sub Sector Code	Enterprise Development	Generic Entity – 3% NPAT Qualifying Small Enterprise – 3% NPAT
Taxi Industry Sub Sector Code	Enterprise Development	1% of payroll/3% of NPAT
		Taxi Owners - 2% of NPAT or 0.3% of Payroll
Road Freight Sub Sector Code	Enterprise Development	Generic Entity - 3% of NPAT Qualifying Small Enterprise - 2% of NPAT
Public Sub- Sector Code	Enterprise Development	National & Provincial DOT 3 years Target – 1% of discretionary spend Public Entities including SOEs & Agencies 3 Years Target – 3% of NPAT or 1 % of discretionary spend
Marine Transport and Services Industry Sub Sector Code	Enterprise Development	Generic Entity - 3% of NPAT Qualifying Small Enterprise - 2% of NPAT
Forwarding and Clearing Sub Sector Code	Enterprise Development	Generic Entity Investment in the Black owned enterprises – 3% of NPAT Investment in the Women-owned enterprises 1.5% of NPAT Qualifying Small Enterprise - 3% of NPAT
Rail Sub Sector Code	Enterprise Development	Generic Entity - 3% of NPAT Qualifying Small Enterprise - 1% of NPAT
Domestic Aviation Sub- Sector Code	Enterprise Development	Generic Entity - 3% of NPAT Qualifying Small Enterprise - 2% of NPAT

A list of all gazetted Codes is available on our website <https://www.bbbee.commission.co.za/bbbee-codes-of-good-practice/> for further information.

### **How to identify Enterprise and Supplier Development beneficiaries?**

An SD beneficiary is an entity that is part of the measured entity's supply chain (meaning that the beneficiary entity is registered as a supplier on the measured entity's supplier database), whereas an ED beneficiary is not registered on the measured entity's supplier database.

When identifying an SD beneficiary, the measured entity should look to their supply chain, to identify existing black owned EME's and QSE's that they can assist and develop, and with regard to an ED beneficiary, the measured entity should identify entities that it can assist and develop to become part of their supply chain.

This process has a twofold benefit for the measured entity, namely (i) to develop a reliable existing and future supplier, and (ii) to gain additional bonus points when the ED beneficiary graduates into a supplier. This will also assist in transforming the measured entity's value chain and facilitate new entrants.

For both ED and SD beneficiary identification, the measured entity must assess and identify the needs of the beneficiary entity and enter into an ED or SD Agreement with the beneficiary entity indicating what support will be provided. The Agreement must include clear objectives, priority interventions, key performance indicators, and a concise implementation plan with clearly articulated milestones.

### **What contributions can the measured entity make towards the ED and SD beneficiaries?**

Below are the most common types of contributions that a ME's can contribute towards the identified ED or SD Beneficiaries:

- (a) Grant Contribution
- (b) Direct costs incurred by the ME on behalf of the Beneficiary Entity, for example the purchase of a computer for the Beneficiary Entity.

- (c) Discounts in addition to normal business practice.
- (d) Professional services rendered by the ME to the Beneficiary Entity at no cost.
- (e) Overhead costs incurred by the ME on behalf of the Beneficiary Entity, for example providing free rental space to the Beneficiary Entity.
- (f) Loans on favourable terms.
- (g) Early payment of supplier.

### **Implementation of Enterprise and Supplier Development through Intermediaries**

To stimulate these investment contributions, a measured entity in determining its ESD points is permitted to recognise payments made to a suitably qualified and experienced third party and/or intermediary to perform enterprise and supplier development initiatives on its behalf.

However, the measured entity cannot recognise B-BBEE points prior to the contributions being initiated and effectively implemented for the benefit of the beneficiary entity. The measured entity also remains accountable to ensure that the initiative complies with the requirements irrespective of the fact that it is done through an intermediary.

In addition, the same beneficiary entity cannot be recognised for both SD and ED support at the same time, as this will result in double counting which is not allowed by the B-BBEE Act. This is also the case, even in instances where the measured entity implements ESD initiatives without a third party.

### **Documentation required by the verification agency to evidence contributions for Enterprise and Supplier Development**

In recognising ESD contributions, the verification professional/agency as prescribed in the verification manual issued by **the dtic**, ought to apply the following verification methodology:

- (a) Verify the B-BBEE status of the beneficiary entity through sufficient and appropriate evidence such as B-BBEE sworn affidavit etc;

- (b) obtain confirmation from the beneficiary entity that it has satisfied the definition of “black people”;
- (c) An ED or SD agreement between the measured entity and the ED or SD beneficiary;
- (d) Proof of the contribution to the ED or SD Beneficiary, evidencing the support given (e.g. invoice and proof of payment of contribution); and
- (e) A letter from the ED or SD Beneficiary confirming and acknowledging the value and nature of the assistance received from the measured entity. This must be done only after the support has been provided and not before getting the actual support.

This methodology is applicable irrespective of whether the contributions were made directly by the measured entity or through an intermediary. Consequently, where there is no evidence linking the contribution of the measured entity to the beneficiary entity, the measured entity must not receive the points.

Awarding the B-BBEE points in the absence of any substantive evidence proving that the measured entity has actually complied with the ESD requirements, will undermine the objectives of the B-BBEE Act, and reduce B-BBEE implementation into a tick box exercise, as there would be no actual performance by the entity, and this will also result in false information being recorded on the measured entity’s B-BBEE certificate, which on its own constitutes an offence in terms of the B-BBEE Act.

### **What beneficiary entities must not do?**

The following are some of the things that a beneficiary entity must not do in order not to aid a fronting practice:

- (a) Participate in an ESD initiative without understanding the terms of either the ED or SD agreement. Where clarity is needed, the beneficiary entity can contact the B-BBEE Commission for guidance and advice.

- (b) B-BBEE points recognition is based on actual performance by the measured entity, therefore the beneficiary entity must not provide the measured entity with a letter acknowledging receipt of the ED or SD support before actually receiving the support.
- (c) The ED and SD initiatives are to enhance the operational effectiveness and growth of the beneficiary entity, therefore, initiatives must be meaningful and not be done for the sake of compliance such as a telephonic mentoring and coaching.
- (d) ED or SD initiatives requires the measured entity to provide financial or non-financial support to the beneficiary entity. This is not the same as procurement of goods and services by the measured entity, therefore, the beneficiary entity is not to accept a procurement opportunity which a measured entity will recognise for preferential procurement points as a form of ED or SD support.
- (e) Part of ED and SD includes early payment for rendered services or supplied goods by the measured entity to the supplier entity. The early payment must be within fifteen (15) days from date of invoice, therefore, the supplier entity should not be made to back-date the invoice so that it can appear as through the measured entity implemented an early payment, whilst that is not the case.

### **What are the consequences of not adhering to the Codes?**

A measured entity that fails to adhere to the requirements of the Codes, may be liable for contravention of the B-BBEE Act, and the penalties provided therein may apply, in that a natural or juristic person can be convicted of fronting practice(s) in terms of the B-BBEE Act or be liable to a fine of up to 10% annual turnover or a maximum prison term of ten (10) years.

Further, any natural or juristic person convicted of an offence in terms of the B-BBEE Act may not for a period of 10 years from date of conviction, conduct business with any organ of the state or public entity and will be registered in a register of the tender defaulters with the National Treasury.

Therefore, the measured entity and beneficiary entity are encouraged to comply with the B-BBEE Act and desist from knowingly engaging or participating in conduct that would result in undermining the legislation or making use of black people as mere tokens instead of meaningful contributors towards economic growth.

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