

## **UKUTHUTHUKISWA KWABAMNYAMA KWEZOMNOTHO OKUBANZI**

### **UMHLAHLANDLELA WOKUSEBENZA 01 ka-2016**

#### **UKWAMUKELWA KWENKAMPANI YENGXENYE YESITHATHU**

1. I -Broad-Based Black Economic Empowerment Commission isungulwe njengesikhungo esiphethwe uMnyango Wezohwebo, Izimboni Nezokuqhudelana Kwezohwebo ("**i-dtic**"). IKhomishana Yasungulwa ngokwesigaba 13B soMthetho i-Broad-Based Black Economic Empowerment Act No. 53 of 2003 njengoba uchitshiyelwe kuMthetho i-Broad-Based Black Economic Empowerment Act No. 46 of 2013 ("uMthetho we-B-BBEE"). Umsebenzi wayo ubandakanya ukukala ukuqaliswa koMthetho we-B-BBEE nokulwisana nezenzo zokungalandelwa kwezimiso zoMthetho we-B-BBEE.
2. Lo mhlahlandlela wokuSebenza ukhishwe njengomhlahlandlela ongabophezeli ukuze usize ekuchazeni ukuze kuqinisekise ukuhambisana ekusetshenzisweni koMthetho. Uma kwenzeka le Nkombandlela Yokuzilolonga ingasebenzi kahle kusethi yakho yamaqiniso nganoma isiphi isikhathi, uyelulekwa ukuthi uye kuKhomishana i-B-BBEE Commission ukuze uthole umbono wokweluleka ongabophezeli, ozoqondana kakhulu neqoqo lakho lamaqiniso.
3. Lo mhlahlandlela wokusebenza awuhlanganisi idokhumenti yomthetho noma isinqumo seKhomishana i-B-BBEE Commission mayelana nodaba oluthintekayo. Ngaphezu kwalokho, nakuba lo Mhlahlandlela Wokuzibophezela ungabophezeli kwiKhomishana i-B-BBEE Commission, ubeka indlela iKhomishana i-B-BBEE Commission okungenzeka iyithathe kunoma yiluphi udaba oluhlobene nokuqashelwa kwezindleko zokuthengwa kwempahla yomuntu wesithathu ukuze kube nokuvumelana.
4. Isigaba sesi-9 (1) soMthetho sinikeza uNgqongqoshe Wezohwebo Nezimboni amandla okukhipha Imithetho Yokuziphatha Kahle ("AmaKhodi") mayelana nokufukulwa kwabantu abamnyama kwezomnotho okubanzi ("B-BBEE") ukuze kuthuthukiswe izinjongo zoMthetho.

IMithetho njengoba ichitshiyelwe isekelwe isidingo sokuqhuba umnotho obandakanya wonke umuntu, futhi kufanele ngaso sonke isikhathi ihunyushwe futhi isetshenziswe ngendlela ehambisana nezinjongo nezinhloso zoMthetho, futhi ehambisana noMthethosisekelo.

5. Imibandela yokuthengwa kwempahla ekhethwayo ku-Code Series 400, ingelinye lamathuluzi asetshenziswa ukuqhuba uguquko lwezomnotho kuwo wonke umnotho, ngokukhuthaza ukuthengwa kwempahla kuphela kubahlinzeki abathobela i-B-BBEE scorecard. Amathuluzi aphinde ahlinzekele ngezindleko zokuthenga zezinkampani zangaphandle
6. Ngokuhambisana ne-Code Series 400, nangemva kokucubungula ngokucophelela inkambiso yamanje yokuphathwa kwezindleko zokuthengwa kwempahla evela eceleni, iKhomishana i-B-BBEE Commission ikubona kudingekile ukunikeza incazelo mayelana nokuqashelwa kwezindleko zokuthengwa kwempahla evela eceleni ukuze umnotho uzuze. inzuzo efiselekayo ye-B- BBEE.
7. Inkampani yangaphandle isho umuntu ophakathi nendawo obhekelela ukuhlinzekwa kwezimpahla noma amasevisi phakathi kwezinhlangano ezimbili noma izinhlangano, njenge- ejenti yezokuvakasha elungiselela ukubhukha uhambo lwendiza phakathi komhambi nenkampani yezindiza ekhethwayo noma ethengekayo futhi athole ikhomishini njengembuyiselo yalowo msebenzi. I-Investopedia ichaza inkampani yangaphandle ngokuthi “umuntu noma ibhizinisi elimbandakanyeka ekwenziweni kwebhizinisi kodwa elingeyena omunye wabaqondisi”. (www.investopedia.com: 27 July 2016)
8. Isibonelo esilandelayo sisebenza njengomhlahlandlela ekuqashelweni kokuthengwa kwempahla okuvela eceleni:



- 8.1 Ibhizinisi A liwumhlinzeki wokuqasha imoto, Ibhizinisi B liyi-ejenti yezokuvakasha, kanye neNkampane C yibhizinisi elilinganisiwe. Ibhizinisi elilinganisiwe libhukha izimoto eziqashiswayo ezikhulwini zayo ngeNhlango B. Ibhizinisi B liqasha izimoto eziqashwayo

ngeNkampani A ngesamba sesamba sika-R15 000. Lapho sekubuyiswa izimoto eziqashiwe, inkampane elinganisiwe ikhokha u-R15 000 Enkampanini B. Ibhizinisi B. ikhokha u-R10 000 eNkampanini C futhi igcine u-R5 000 njengekhomishini yayo yalolu hlelo.

8.2 Esimeni esinjalo, lena yindlela ibhizinisi elilinganisiwe okufanele libone ngayo imali yenkampani yangaphandle njengengxenye ye-Total Measurement Procurement Spend (TMPS):

8.2.1 Uma kusetshenziswe isitifiketi se-B-BBEE seNhlango B, inkampane elinganisiwe ayikwazi ukufuna u-R15 000 ogcwele njengengxenye ye-TMPS yayo. Ibhizinisi elilinganisiwe lizobandakanya kuphela ikhomishana engu-R5 000 njengengxenye ye-TMPS yayo njengoba iyimali engenayo yangempela Ebhizinisini B eliqashelwa ezitatimendeni zayo zezezimali ngesevisi enikezwa inkampane elinganisiwe.

8.2.2 Isamba sika-R10 000 sakhokhelwa Ibhizinisi A, futhi lelo inani Ibhizinisi A elizoliqaphela njengemali engenayo ezitatimendeni zayo zezezimali. Lokhu kufaneleka njengokuthenga ngokudlula okungaphandle ekubalweni kwe-TMPS ngokwesigaba 6.3 se-Code Series 400.

8.2.3 Ngakho-ke, Ibhizinisi B linesibopho sokuhlinzeka ibhizinisi elilinganisiwe ngokuhlukaniswa kwenani elichithiwe elibonisa izindleko zalo eziqondile kusukela kusevisi ehlinzekwayo.

8.2.4 Ukuze inkampane elinganisiwe ibale u-R15 000 njengengxenye ye-TMPS yayo, kufanele ibe nazo zombili izitifiketi ze-B-BBEE zeNhlango A neNhlango B ezinencazelo ecacile yokuthi yimalini esetshenziswe ngokuqondile kumphakeli ngamunye.

8.2.5 Okunye, inkampane elinganisiwe ingafuna kuphela u-R15 000 ophelele Ebhizinisini B, uma inani eligcwele lirekhodwe njengemali engenayo ezitatimendeni zezimali zeNkampani B.

9. Isibonelo esingenhla sinikezwe ukukhombisa ukubaluleka kanye nesidingo sokucacisa

nokunikeza isiqondiso kule ndaba, njengoba kugqanyisiwe ngezansi:

- 9.1 Uma inani lika-R15 000 elirekhodwe njengezindleko ezitatimendeni zezezimali zebhizinisi elilinganisiwe lingarekhodwa njengemali engenayo kuzitatimende zezimali zeNkampani A noma Yebhizinisi B, izosusa isitifiketi se-B-BBEE inkampane elinganisiwe esetshenziselwa ukuqaphela izindleko zokuthenga.
- 9.2 Uma ibhizinisi elilinganisiwe libona inani eligcwele njengezindleko eziqhathaniswa neBhizinisi B, lokhu kuzothinta ukuhlukaniswa kweBhizinisi B njenge-EME, i-QSE noma Ibhizinisi Elikhulu. Isizathu esiwukuthi Ibhizinisi B lingase lizibheke njenge-EME noma i-QSE ngenxa yokuthi liqaphela kuphela iphesenti elithile njengemali engenayo evela enanini lika-R15 000. Kodwa uma inani eliphelele lamukelwa, izitatimende zezimali zebhizinisi elilinganisiwe zingase zibonise Ibhizinisi B Njengebhizinisi Elikhulu futhi ngaleyo ndlela idinge isitifiketi esijwayelekile hhayi isitifiketi se-EME noma se-QSE, njengoba kungase kube njalo.
- 9.3 Lokhu kungase kuthathwe njengokuhlanekezela okungalungile kwesimo se-B-BBEE seNhlango B okuyicala ngokwesigaba 13O (1) (a) soMthetho.
- 9.4 Ibhizinisi elilinganisiwe lingaphinda libonakale lenza umkhuba ngokuthumela ulwazi olungamanga mayelana ne-TMPS yalo ngesikhathi sokuqinisekiswa, futhi lokho kungaba icala ngokwesigaba 13O (1) (b) soMthetho.
10. Bonke ochwepheshe bokuqinisekisa banomthwalo nomsebenzi wokuhlinzeka amabhizinisi ngezeluleko ezifanele neziqondiso, okuhlanganisa ukuqaliswa kwalo mhlahlandlela ukuze kunqunywe isimo se-B-BBEE sezinkampani.
11. Ngokwesigaba 13O (2) uchwepheshe wokuqinisekisa, isikhulu sokuthengwa kwempahla nanoma yisiphi isikhulu sophiko lukahulumeni noma uhlaka lukahulumeni oluba nolwazi ngokusebenza, noma ukuzama ukwenza, noma yiliphi icala elishiwo ngaphansi kwesigaba 13O (1) kanye ehluleka ukubika, unecala.
12. Ngokwesigaba 13F (1) (d) esifundwa nesigaba 13J soMthetho, iKhomishana i-B-BBEE Commission inamandla okuphenya, ngokuzenzela noma ngokuphendula isikhalazo esitholiwe, nanoma yiluphi udaba oluphathelene ne-B-BBEE.

13. Uma inkampani kutholakala ukuthi yephule uMthetho, inkampane ingase ihlawuliswe kuze kufike ku-10% wenzuzo yayo yonyaka, futhi abantu abathintekayo bangaboshwa iminyaka efika kweyi-10, noma bahlawuliswe. Ngokucacile, icala elingaphansi kwesigaba 13O (2) lingaholela ekuboshweni isikhathi esingafika ezinyangeni eziyi-12, noma inhlawulo, noma kokubili inhlawulo nokuboshwa.
14. Lo Mhlahlandlela Wokuzibophezela ukhishwe njengomhlahlandlela wokusiza ekuchazeni nasekusetshenzisweni kwe-Code Series 400 mayelana nezindleko zokuthengwa kwempahla nezinkampani zangaphandle, futhi njengoba kubonisiwe, awuhlanganisi idokhumenti yomthetho noma isinqumo seKhomishana i-B-BBEE Commission.
15. Lo Mhlahlandlela Wokuzibophezela ungabuyekezwa noma nini yiKhomishana i-B-BBEE Commission uma kukhona izinguquko ezibonakalayo ezivela ekuthuthukisweni kokusetshenziswa kwe-Code Series 400. Esimweni esinjalo, inguqulo echitshiyelwe izoshicilelwa ukuze ithathele lena.
16. Ukuze ukwazi ukubuza noma yimiphi imibuzo noma ukucaciseleka okwengeziwe ngale Nkombandlela Yokuzilolonga, sicela ukhululeke ukusithinta kule mininingwane yokuxhumana elandelayo:

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Ishicilelwe yiKhomishane yeB-BBEE

29 KuNtulikazi 2016