

UKUQONDA UKUSETSHENZISWA KWAMATHRASTI EZINHLELWENI ZOBUNIKAZI ZE-B-BBEE

Mayelana noMhlahlandlela

I-*Broad-Based Black Economic Empowerment Commission* (i-B-BBEE) isungulwe njengesikhungo esimiswe ngokoMthetho we-B-BBEE, njengoba uchitshiyelwe, ukuze kukalwe ukuqaliswa ngokufanele koMthetho we-B-BBEE. Lo mhlahlandlela ubhalwe futhi wakhishwa yiKhomishana ye-B-BBEE ukuze ube wumhlahlandlela wokuphathwa kwamaThrasti uma esetshenziselwa ukulawula ubunikazi ngezinhloso zokulandela izimpokophelo nezimfuneko zoMthetho we-B-BBEE.

Iyini iThrasti?

IThrasti ngokujwayelekile ichaza uhlelo lapho umuntu, okuvame ukuba uMsunguli noma uMphathi weThrasti, egcina impahla ukuze kuhlomule omunye umuntu, ovame ukubizwa ngomhlomuli, futhi kungaba ngokokuhlelela iminikelo noma amafa, phakathi kwezinye izizathu. Ngaphansi koMthetho we-B-BBEE, iThrasti ingasetshenziselwa ukulawula ubunikazi babasebenzi, imiphakathi noma amanye amaqembu amaqoqo afanayo.

Izimiso zokwaziswa kwamaThrasti ekuthengiselaneni kwabanikazi

Ngezinhloso zokufeza izimpokophelo ze-B-BBEE, abantu abamnyama bangaba namalungelo obunikazi ebhizinisini ngokohlelo oluthile olunjengeThrasti. Ukuqinisekisa ukuthi abantu abamnyama bayaphumelela ekubeni ngabanikazi, balawule futhi baphathe amalungelo obunikazi agcinwe ngeThrasti futhi bavalele amabhizinisi izintuba zokugwema uMthetho we-B-BBEE, i-*Codes of Good Practice* ihlinzeka ngemithetho yamaThrasti. Le mithetho isebenza kumaThrasti kanye nokuthengiselana okubandakanya iziNhlelo Zobunikazi Ezibanzi kanye neziNhlelo Zobunikazi Bezabelo Zabasebenzi ezihlelwe ngokweThrasti.

Nakuba kungasetshenziswa amaThrasti ukulawula ubunikazi, ukuthengiselana okukhulunywa ngakho kusamele kuhlangubezane nezimfuneko ukuze kwaziswe ubunikazi, obuhambisana nokusebenzisa amalungelo okuvota, inzuzo yezomnotho kanye nenani eliphelele elisezandleni zabantu abamnyama ngenxa yokuzibandakanya ngokuqondile noma ngokungaqondile ebhizinisini. Ibhizinisi lingase minyaka yonke lazise amaphuzu inqobo uma abaninizabelo abangabantu abamnyama besanamalungelo obunikazi ebhizinisini.

Izindlela okungaqaliswa amaThrasti ngazo ku-*Codes of Good Practice* ye-B-BBEE

UHlelo Lobunikazi Olusabalele

UHlelo Lobunikazi Olusabaleleanzi lusho uhlelo lobunikazi oluhlanganisile olwakhiwe ngombono wokulawula ukubandakanya abantu ngokwemvelo ababhalwe ngokucacile emihlomulweni e vele ngokobunikazi kulolo hlelo noma abaphathi bethrasti engxenyeni ethile yebhizinisi, okungaba umphakathi noma isitokfela noma iqembu lamabhizinisi. UHlelo Lobunikazi Olusabalele lungakheka ngokohlelo lweThrasti, futhi uma kunjalo kumele luhambelane nemithetho yoHlelo Lobunikazi Olusabalele kanye namaThrasti njengoba kumiswe ku-*Codes of Good Practice*.

UHlelo Lobunikazi Olusabalele kumele luhlangabezane nezimfuneko ezilandelayo:

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| <p><i>Ukuqokwa kwabaphathi beThrasti</i></p> | <p>Okungenani ama-50% abaphathi bethrasti ohlelweni kumele kube ngabantu abazimele abangasebenzi noma abangabahlomuli ngokuqondile noma ngokungaqondile ohlelweni, okungenani ama-50% abaphathi bethrasti kumele kube ngabantu abamnyama abangama-25% kungabantu besifazane abamnyama futhi usihlalo wohlelo kumele kube ngumuntu ozimele.</p> |
| <p><i>Ababambiqhaza abangabantu abamnyama kanye nengxeny efanekile engazuzwa</i></p> | <p>I-<i>Codes Series</i> 100, ibekaa ukuthi ithrasti ibachaze ababambiqhaza kanye nengxeny yokufaneleka kwabo ukuthola isabelo somhlomulo ngokwezomnotho. Kubalulekile ukuthi umbambiqhaza ngamunye azi kusanekhathi ngemihlomulo yakhe, futhi ngesikhathi sokukalwa kwe-B-BBEE, kuzokhishwa ubufakazi bokukhokha. Abaphathi bethrasti abanamandla okushintsha ababambiqhaza kanye nesabelo sabo.</p> |

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| | <p>Abahlomulayo abanakukhethwa unyaka nonyaka ukuze bathole imihlomulo ngokwezinkokhelo zezabelo ezivela ebhizinisini, ngokukhokhela imfundo yabo, ukuqeqeshwa noma ukuthuthukisa umphakathi okuyizimo okumele zihlinzekelwe ngaphansi kokuthuthukiswa kwamakhono emabhizinisi, utshalomali lwasemphakathini noma kwezenhlalomnotho.</p> |
| <i>Inzuzo yethrasti</i> | <p>Ithrasti iwuhlelo olubanzi futhi kumele ilandele izimiso ezikuzithasiselo 100 (B) no-(D). Isivumelwano sethrasti kumele sihlizeke ngezululeko zokuthi abahlomulayo bazozithola kanjani izinzuzo futhi kumele silandele isigaba 1.1.7 sesiThasiselo 100 (B) esithi ama-85% enani lezinzuzo elabelwe ithrasti kumele liqoqelwe abantu abamnyama. Lokhu kusho ukuthi ngama-15% kuphela ezinzuzo ezikhokhelwa ithrasti angasetshenziselwa ukuphatha nokuqhutshwa kwemisebenzi yethrasti.</p> |
| <i>Imibiko Yezimali Yohlelo</i> | <p>Abaphathi bethrasti njengabantu abamele ithrasti baneqhaza lokuqapha imibiko yezimali yethrasti. Ngakho, banomsebenzi wokwazisa ababambiqhaza ngesimo saleyo mibiko emhlanganweni wohlelo owujikelele wonyaka.</p> <p>Phezu kwalokho, abaphathi bethrasti kumele babambe umhlangano nabantu abamnyama ngenhloso yokubazisa ngesimo sama-akhawunti ethrasti. Isigaba 1.1.12 sesiThasiselo 100 (B) sihlizeka ngokuthi abaphathi bethrasti kumele bethule imibiko yezimali yonyaka yohlelo kubabambiqhaza minyaka yonke emhlanganweni wohlelo wonyaka owujikelele.</p> <p>Uma sekuvalwa noma sekuqedwa ithrasti, yonke Inzuzo Yezomnotho eyenziwe kumele idluliselwe kubahlomuli noma ibhizinisi elimele izintshisekelo zababambiqhaza noma iqoqo labahlomuli.</p> |
| <i>Imibhalo elawula uhlelo</i> | <p>Uhlelo loMthethosisekelo kumele lutholakale lapho ucelwa yinoma omuphi umbambiqhaza nganoma oluphi ulimi olusemthethweni lowo muntu alujwayele.</p> |

Uhlelo Lobunikazi Bezabelo Zabasebenzi

Uhlelo Lobunikazi Bezabelo Zabasebenzi lusho izimo lapho abasebenzi benikwa izabelo/umkhiqizo/impahla abangayikhetha ebhizinisini abalisebenzelayo, okungenziwa ngaphandle kokukhokha noma lapho bengakwazi ukuthenga izabelo/umkhiqizo/impahla ngamanani aphansi noma ekahle okuvame ukuba yingxenyeye yezinzuzo zokusebenzela lelo bhizinisi. Uhlelo Lobunikazi Bezabelo Zabasebenzi lungakhiwa ngokohlelo lweThrasti, futhi uma kunjalo kumele luhlangabezane nemithetho yoHlelo Lobunikazi Bezabelo Zabasebenzi kanye namaThrasti njengoba kumiswe ku-*Codes of Good Practice*.

Uhlelo Lobunikazi Bezabelo Zabasebenzi kumele luhambelane nezimiso ezilandelayo:

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| <p><i>Ukuqokwa kwabaphathi bethrasti</i></p> | <p>Ngaso sonke isikhathi ama-50% abaphathi bethrasti bohlelo kumele baqokwe abasebenzi futhi lokhu kumele kwenziwe kuze kuphele uhlelo.</p> |
| <p><i>Ababambiqhaza abangabantu abamnyama kanye nokuhlukaniswa kwezabelo</i></p> | <p>Isivumelwano sethrasti kumele sibhalwe ulwazi oluqondene nengxenyeye yokufanalekile okungazuzwa umbambiqhaza ongumuntu omnyama. Kubalulekile ukuthi umbambiqhaza ngamunye azi kusanesisikhathi ngemihlomulo yakhe, futhi ngesikhathi sokukalwa kwe-B-BBEE, kuzodingeka ukuba kukhishwe ubufakazi bokukhokha. Abaphathi bethrasti abanawo amandla maqondana nokushintsha ababambiqhaza kanye nesabelo sabo.</p> |

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| <i>Inzuzo yethrasti</i> | Ithrasti esungulwe ngaphansi kohlelo lobunikazi bezabelo lwabasebenzi, kumele ilandele izimiso ezikuSithasiselo 100 (C) no-(D) ku-Code Series 100 futhi isivumelwano sethrasti kumele sihlinzeke ngezeluleko zokuthi abahlomulayo bazozithola kanjani izinzuzo. |
| <i>Imibiko yezimali yohlelo</i> | Abaphathi bethrasti njengoba bemele ithrasti banomsebenzi wokuqapha imibiko yezimali yethrasti. Ngakho, banomsebenzi wokwazisa ababambiqhaza ngesimo saleyo mibiko minyaka yonke emihlanganweni ebanjwayo. Isivumelwano sethrasti kumele sihlinzeke ngokuthi abaphathi bethrasti bazobabamba umhlangano nabantu abamnyama ngenhloso yokubazisa ngesimo sama-akhawunti ethrasti. Isigaba 2.5.4 sesiThasiselo 100 (C) sihlinzeka ngokuthi abaphathi bethrasti bohlelo kumele bethule imibiko yezimali yohlelo kubabambiqhaza minyaka yonke emihlanganweni wohlelo owujikelele wonyaka. |
| <i>Ukubamba iqhaza kwababambiqhaza abangabantu abamnyama ebhodini lebhizinisi</i> | Ngokwesigaba 2.5.2 kuSithasiselo 100 (C), ababambiqhaza kumele babambe iqhaza ngokwengxenye ekuphatheni uhlelo ezingeni elifana nomsebenzi wokuba ngumphathi wabaninizabelo enkampanini abanezabelo kuyo. Bemelwe abaphathi bethrasti, abahlomulayo kumele bakwazi |

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| | <p>ukubamba iqhaza ezinqumweni zabanye ababambiqhaza emihlanganweni ngokubandakanywa kwebhodi futhi basebenzise amalungelo abo okuvota.</p> <p>Uma sekuvalwa noma sekuqedwa ithrasti, yonke iNzuzo Yezomnotho eqongeleliwe kumele idluliselwe kubahlomuli noma ibhizinisi elimele inzuzo yababambiqhaza noma iqoqo lababambiqhaza. Phezu kwalokho, uhlelo lobunikazi bezabelo lwabasebenzi luyingxenye yobunikazi futhi akumele luphanjaniswe nemisebenzi yansukuzonke yebhizinisi kanye nezinkinga zalo eziqondene nabasebenzi lapho bexoshwa, bedilizwa, kanye nabasebenzi abangasakwazi ukusebenzi ngenxa yezizathu ezithile bese badlelwe izabelo/impahla yabo njengoba izinkontileka zokusebenza zingahlangene nokuba nezabelo futhi akumele ziqaliswe ngaleyo ndlela.</p> |
| <p><i>Imibhalo elawula uhlelo</i></p> | <p>Umthethosisekelo wohlelo kumele utholakale lapho ucelwa yinoma omuphi umbambiqhaza nganoma oluphi ulimi olusemthethweni lowo muntu alujwayele.</p> |

Amathrasti

Lapho ubunikazi bulawulwa ngeThrasti, noma ngabe leyo Thrasti iwuHlelo Lobunikazi Olusabalele, uHlelo Lobunikazi Bezabelo Lwabasebenzi, noma iThrasti iyodwa, iThrasti kumele ihlangabezane neMithetho emiswe ku-*Codes of Good Practice*. Lokhu kusho

ukuthi iThrasti emise uHlelo Lobunikazi Olusabalele noma uHlelo Lobunikazi Lwezabelo Zabasebenzi kumele luhlangabezane nemithetho yamaThrasti futhi ngaphezu kwalokho, imithetho yoHlelo Lobunikazi Olusabalele noma uHlelo Lobunikazi Bezabelo Zabasebenzi ngokwalokho okuyikhona.

Indlelakuhlukanisa yokufaneleka yokwazisa iThrasti ibekwe kanje:

- Isivumelwano sethrasti kumele sichaze abahlomuli kanye nobungakho bezabelo zabo ukuze bathole imihlomulo;
- irekhodi elibhaliwe lamagama abahlomuli noma ukusetshenziswa kweqoqo lomuntu wemvelo elicacisiwe kuzokwanelisa okudingekayo lapho kuhlonzwa;
- irekhodi elibhaliwe loshintsho ngokwephesenti lokufaneleka ukuzuza noma ukusebenzisa indlela yokubala ukufaneleka ukuzuza kwanelisa isidingo sokucacisa ubungako benzuzo;
- abaphathi beThrasti kumele bangabi namandla ngokwemigomo ebalwe ngenhla; futhi; kanye
- uma sekuvalwa noma sekuqedwa ithrasti, yonke Inzuzo Yezomnotho eqongeleliwe kumele idluliselwe kubahlomuli noma ibhizinisi elimele inzuzo yababambiqhaza noma iqoqo lababambiqhaza.

AmaThrasti Omndeni

Phezu kwalokho, i-*Codes of Good Practice* ivumela ukusungulwa nokwaziswa kwamathrasti omndeni ukuze kulawulwe ubunikazi. Ukuze iThrasti yomndeni ithole ukwaziswa ngokwesimo se-B-BBEE, Isivumelwano sethrasti kumele sichaze abahlomulayo kanye nobungakho bezabelo zabo ukuze bathole imihlomulo. Irekhodi elibhaliwe lamagama abahlomuli noma ukusetshenziswa kweqoqo lomuntu wemvelo elicacisiwe kuzokwanelisa izimfuneko zokuchazwa kwabahlomuli; ngabaphathi bethrasti kuphela abanamandla ngokwemisebenzi nemigomo yamathrasti. uma sekuvalwa noma sekuqedwa ithrasti, yonke Inzuzo Yezomnotho eqongeleliwe kumele idluliselwe kubahlomuli noma ibhizinisi elimele inzuzo yababambiqhaza noma iqoqo lababambiqhaza.

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| <p>Ukufaneleka kwamaThrasti Omndeni</p> | <p>kokwaziswa Isivumelwano sethrasti kumele sichaze abahlomuli kanye nobungakho bezabelo zabo ukuze bathole imihlomulo; irekhodi elibhaliwe lamagama abahlomuli noma ukusetshenziswa kweqoqo labantu bemvelo elicacisiwe okwanelisa izimfuneko zokuhlonza abahlomulayo; ukusebenzisa indlela yokubala ukufaneleka ukuzuza kwanelisa isidingo sokuchaza ubungako bomhlomulo.</p> <p>Ngabaphathi bethrasti kuphela okumele babe namandla kokubalwe ngenhla; futhi Uma sekuvalwa noma sekuqedwa ithrasti, yonke Inzuzo Yezomnotho eyenziwe kumele idluliselwe kubahlomuli noma ibhizinisi elimele inzuzo yababambiqhaza noma yeqoqo labahlomuli.</p> |
| <p>Imibhalo elawula uhlelo</p> | <p>Ibhizinisi kumele libe nesitifiketi esikhishwe wumuntu ofanelekile maqondana nokuthi: iThrasti yasungulelwa izizathu zezohwebo ezisemthethweni okumele zidalulwe ngokugcwele; futhi imigomo yeThrasti ayibhekile ngokuqondile noma ngokungaqondile ukugwema izinhlinzeko zama-<i>Codes</i> kanye noMthetho.</p> |

Nokho, kunesidingo ngaso sonke isikhathi sokuhlukanisa phakathi kweThrasti yezinhloso sokuhlelela amafa kanye/noma yokugwema ukukhokha izinkokhelo zamafa, kanye nethrasti esungulelwe izinhloso ze-B-BBEE ngokuthi lokhu okubaliwe kumele kulandele izimiso ngokweSithasiselo 100.

La mathrasti kumele angasetshenziselwa njengomyalelo wokulawula utshalomali ukuze kuhlomule abahlomuli noma kube nomunxa wokungabonisi minyakazo abahlomuli ngendlela efanale, kunokushabasheka okudingekayo kubabambiqhaza abangabantu abamnyama ngaphansi kwe-Code Series 100, noma ngabe kunezabelo ngokuqondile noma ngokungaqondile.

Izingane ngokomthetho noma Izingane ezingabahlomuli noma ababambiqhaza

Phezu kwalokhu, siqaphela ukuthi izingane zabantu abamnyama ziyayanelisa incazelo yabantu abamnyama ngokoMthetho we-B-BBEE, nokho, lokhu akusho ukuthi kuzovele kube nokuthuthukisa kwangempela ezimweni lapho kuyizingane ezithathwe ngokuthi zingabahlomuli. Labo babambiqhaza bathathwa ngokuthi bangabahlomuli ngokwezimali futhi abasibo abaninimasheya ngokungaqondile ngenxa yethrasti, ngoba abakwazi ukusebenzisa amalungelo okuvota ngendlela ehambisana nobunikazi ngqo, bathokozela izinzuzo zemali kuphela.

Ubunikazi be-B-BBEE bugxile ekuguquleni izindlela zobunikazi ngokomnotho, ngokwakha ulwazi nentshisekelo kwezomnotho, futhi ayikho nhlobo indlela yokuthi i-B-BBEE isheshise umsebenzi ngokwazisa izingane zabantu abamnyama, ngoba azinamandla okuthatha izinyathelo ngokomthetho, futhi ngenxa yalokho azikwazi ukuthumela noma ukuqoka abangazimela, ngakho kazikwazi ukuhlangabezana namalungelo okuvota angasebenziseka njengengxenye yezimfuneko zobunikazi. Ngakho-ke, ukubandakanya izingane ezincane njengabahlomuli kuzothathwa ngokuthi kuwukugwema uMthetho we-B-BBEE ngoba angeke zibe namandla okusebenzisa amalungelo emuva kwalobo bunikazi.

Isiphetho

Lapho amabhizinisi akha amaThrasti anomthelela ekugwemeni uMthetho we-B-BBEE, njengokuthi kumiswe izinhlelo zesikhwama ezingenamqamulajuqu lapho izabelo zingaphelelwa sikhathi, ukuqeda amalungelo okuvota ababambiqhaza ebhizinisini noma labo abalimele, ukunciphisa ukubamba iqhaza kwabahlomuli ebhizinisini okwenziwa ngabaphathi beThrasti abafanele, kungathathwa ngokuthi kuyinqubo yokungalandelwa kwezimiso zoMthetho we-B-BBEE noma ukukhohlisa ngesimo se-B-BBEE kube lawo maThrasti bekade aziswa ngokwamaphuzu e-B-BBEE noma ngokokumelwa

ngokobunikazi babantu abamnyama.

Phezu kwalokho, kunomehluko omkhulu phakathi kwamaThrasti asungulwe njengezingxenye zemiklamo yomphakathi noma ukuthuthukisa amakhono noma izinzuzo zezempilo zabasebenzi, noma ngaba zinenzuzo engakanani, lawo maThrasti angeke aziswe ngokwezinhloso zobunikazi ngoba akaholeli ebunikazi kanye nokuthuthukisa abantu abamnyama okweqiniso. Lawo maThrasti angaziswa ngaphansi kweminxa efanele ye-*Codes of Good Practice*, futhi ukuwamukela ngaphansi kobunikazi kudelela izimpokophelo zoMthetho we-B-BBEE ngakho agcina eseyinqubo yokungalandelwa kwezimiso soMthetho we-B-BBEE kanye/noma ukukhohlisa ngesimo se-B-BBEE.

Uma eqaliswe ngokufanele, amaThrasti angakwazi ukuletha uguquko emnothweni ngoba andisa isibalo sabantu abamnyama abangabanikazi, abaphethe nabalawula i-*equity instrument* kanye namabhizinisi ezweni. Lokhu kuzosisa ekwandiseni ubunikazi njengoba kuhlosiwe ngokoMthetho we-B-BBEE.

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