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B-BBEE COMMISSION
a member of the dti group

IZIMISO ZE-B-BBEE NGAMABHIZINISI AHLANGANYELWE

1. Singobani?

I-*Broad-Based Black Economic Empowerment Commission*) isungulwe njengesikhungo esiphethwe uMnyango Wezohwebo, Izimboni NezokuQhudelana Kwezohwebo ("**i-dtic**") ngokoMthetho 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. Inhloso Yebhukwana

Lo mbhalo uhlose ukuhlinzeka ngemigomo yokukalwa kwamabhizinisi ahlanganyelwe ngaphansi kwe-B-BBEE.

3. Ayini Amabhizinisi Ahlanganyelwe?

Uhlelomumo kwezamabhizinisi aluhlali lulula njalo. Ukuqaliswa kwe-B-BBEE kuveze inqwaba yohlelomumo olunzulu, olubandakanya amabhizinisi ahlanganyelwe.

isichazamazwi sezomthetho (https://legaldictionary.net/joint-venture/) sichaza amabhizinisi ahlanganyelwe njengohlelo lwebhizinisi lapho ababili noma ngaphezulu, okungaba nabantu noma amabhizinisi, bengena esivumelwaneni sokuhlanganisa izinsiza zabo ukuze kwenziwe umsebenzi othile webhizinisi ozongenisa inzuzo.

Zimbili izinhlobo zamabhizinisi ahlanganyelwe ezingasetshenziswa. Okokuqala, ibhizinisi elihlanganyelwe elizimele ngokusemthethweni, okusho ukuthi liyibhizinisi elizimele futhi elilawulwa ngokoMthetho Wezinkampani. Uma kunjalo, ibhizinisi elizimele kuzodingeka ukuba lizinqumele indlela yokukala ye-B-BBEE ngokwemigomo emiswe ezigabeni 4, 5 no-

6 zeSitatimende 000 se-*Codes of Good Practice* (ama-*Codes*). Okwesibili, kukhona nebhizinisi elihlanganyelwe elingasilo ibhizinisi elizimele ngokusemthethweni, futhi lokhu kusho lapho kungekho bhizinisi elizimele ngokusemthethweni, futhi uma kunjalo, kudingeka isiqophamaphuzu se-B-BBEE sebhizinisi elihlanganyelwe.

Ibhizinisi elihlanganyelwe elingasilo ibhizinisi elizimele ngokusemthethweni lizolawulwa ngokwesivumelwano sebhizinisi elihlanganyelwe, liveze okwenziwayilungu nelungu, ukuthi izinzuzo zizokwabiwa kanjani, okulahlekile kanye nezindleko ezihambisana nakho.

4. IZIZATHU ZOKUSUNGULA IBHIZINISI ELIHLANGANYELWE

Kunezizathu ezinhlobonhlobo zokuba amabhizinisi noma abathile bangene ezinhlelweni zamabhizinisi ahlanganyelwe futhi zingabandakanya, phakathi kokunye, isidingo salokhu:

a) Ukubheka izimakethe ezintsha;
b) Ukwandisa amakhono nezinsiza;
c) Ukukhula nokwenza okuhlukahlukene;
d) Ukuhlanganyela nokucaza izindleko; kanye
e) Nokudlulisa amakhono nolwazi.

5. Izimiso ze-B-BBEE Ngezitifiketi Zamabhizinisi Ahlanganyelwe Angamabhizinisi Angazimele Ngokusemthethweni

Lapho abathintekayo bekhetha ukufinyelela kunoma iyiphi inzuzo yezomnotho ngokwebhizinisi Elihlanganyelwe eliyibhizinisi elingazimele ngokusemthethweni, ngokoMthetho we-B-BBEE, ibhizinisi elihlanganyelwe kumele lithumele esawo isitifiketi se-B-BBEE noma incwadi efungelwe.

5.1 Ngaphambi komhla ka 1 kuZibandlela 2019

Ngenkathi kuqaliswa izichibiyelo sama-*Codes* ngomhla ka 1 kuNhlaba 2015, okubandakanya ukuphela kokusetshenziswa kwezincwadi ezifungelwe ama-*Exempted Micro-Enterprise* (ama-EME) kanye nama-51% nama-100% angawama-*Qualifying Small Enterprise* abantu abamnyama (ama-QSE), ama-*Codes* abengenawo umhlahlandlela

wokudidiyelwa kwezincwadi ezifungelwe ze-B-BBEE lapho abafanelekile ukuba ama-EME noma ama-51% nama-100% ama-QSE abantu abamnyama bekhethe ukwakha ibhizinisi elihlanganyelwe eliyibhizinisi elingazimele ngokusemthethweni.

Lokhu kunganaki kwakusho ukuthi ibhizinisi elihlanganyelwe lamabhizinisi angazimele ngokusemthethweni kwamabhizinisi athembele ezincwadini ezifungelwe ngaphambi komhla ka 1 kuZibandlela ubungasebenzi ngokomthetho. (Ukungasebenzi ngokomthetho bekungasebenzi emabhizinisini ebephethwe ngokwe-*Code* Yomkhakha Wezokwakha ochitshiyelwe eyayibandakanya imithetho ecacisiwe yebhizinisi elihlanganyelwe.)

Nokho, amabhizinisi afanelekile ukuze kusetshenziswe Isitifiketi se-B-BBEE esikhishwe ungoti wezokuqinisekisa ogunyazwe ngokusemthethweni ngokwe-South African Accreditation System ("i-SANAS"), akwaze ukuthola ukukleliswa ngokwe-B-BBEE scorecard yebhizinisi elihlanganyelwe elingazimele ngokomthetho. Lesi sihlinzeko besisho ukuthi amabhizinisi kwakudingeka ukuba aqonde ku-ejensi/kungoti wokuqinisekisa ogunyazwe yi-SANAS neziTifikeli ze-B-BBEE zabo ngabodwana, ukuze umqinisekisi akhiphe isiTifikeli se-B-BBEE sebhizinisi elihlanganyelwe.

5.2 Emuva komhla ka 1 kuZibandlela 2019

Ngenxa yezichibiyelo ezithintekayo kuma-*Code* ngokweSaziso Nombolo 303 seGazethi Kahulumeni enguNombolo 42496 ebhalwe kugazethi mhla zingama-31 kuNhlaba 2019, amabhizinisi asebenzisa izincwadi ezifungelwe nezitifiketi ze-B-BBEE aseyakwazi ukusebenzisa iukukleliswa kweebhizinisi elihlanganyelwe elingazimele ngokusemthethweni. Kusebenza kanje:

a) Abathintekayo kuzodingeka ukuba baqale bathole incwadi efungelweye-B-BBEE esebenzayo ngokomthetho noma isitiifiketi se-B-BBEE esisebenzayo ngokomthetho webhizinisi ngalinye. Uma isitifiketi se-B-BBEE noma incwadi efungelwe yebhizinisi ingasebenzi ngokusemthethweni, nesitifiketi sebhizinisi elihlanganyelwe sizongasebenzi ngokusemthethweni.

b) Abathintekayo kuzobe sekudingeka ukuba bahlanganise imininingo yokulandela izimiso maqondana nokukala ngokwesivumelwano sebhizinisi elihlanganyelwe. Lokhu kusho ukuthi amaphuzu abathintekayo azokalwa ngokobungako bezabelo zabo ebhizinisini ohlanganyelwe futhi uma sekuhlanganiswa ndawonye kukhiphe amaphuzu ayi-100.

c) Ukuhlanganiswa kwemininingo yokulandela izimiso kuyosuselwa ekukaleni ngokwesivumelwano sebhizinisi elihlanganyelwe maqondana nebhizinisi elihlanganyelwe elicacisiwe. Ngakho-ke, uma izinkampani ezimbili noma ngaphezulu zingena ebhizinisini elihlanganyelwe eliyibhizinisi elingazimele ngokusemthethweni amaphuzu awo ahlukene ngokwama-*Codes of Good Practice* afanele ayokalwa ngokobungako bezabelo zabo ebhizinisini elihlanganyelwe.

d) Uma ibhizinisi lifaneleka ngokwesiQophamaphuzu ze-QSE, umphumela we-B-BBEE ongu-100 kumele usetshenziselwe ukubala umphumela odidiyele.

e) Ama-EME nama-QSE anobunikazi obungama-51% babantu abamnyama azofaneleka ukuthola amaphuzu angama-95, kube ama-EME nama-QSE abantu abamnyama ezofaneleka ukuthola amaphuzu ayi-100.

f) Ama-EME anobunikazi babantu abamnyama obungaphansi kwama-51% azofaneleka ukuthola amaphuzu angama-85.

Inqubo echazwe kungxenye (b) no (f) ingenziwa yi-ejensi/ungoti wokuqinisekisa ogunyazwe yi-SANAS kuphela.

Ibhizinisi elihlanganyelwe elididiyele lizonquma isimo se-B-BBEE sawo ngokwemigomo ekuSitatimende 000 se-Codes of Good Practice ngokususela ekutheni ingabe ibhizinisi eliyi-EME, i-QSE noma ibhizinisi elikhulu.

6. Ukuqinisekiswa Kwesitifiketi Sebhizinisi Elihlanganyelwe Lamabhizinisi Angazimele Ngokusemthethweni

Inqubo efanayo ekuMhlahlandlela Wokusebenza 01 we-2018 okhishwe iKhomishana ye-B-BBEE wezokunqunywa kokuba semthethweni kwesitifiketi sokuqinisekisa se-B-BBEE, Isitifikeli se-B-BBEE ne-Afidavithi Efungelwe kumele kusetshenziselwe ukuhlola ukuba semthethweni kwesitifiketi sebhizinisi elihlangayelwe lamabhizinisi angazimele ngokusemthethweni.

Isitifiketi sebhizinisi elihlanganyelwe sisebenza ngokusemthethweni isikhathi sezinyanga eziyishumi nambili (12), futhi sisebenza emklamweni ocacisiwe kuphela. Lokhu kusho ukuthi abathintekayo bazodinga isitifiketi sebhizinisi elihlanganyelwe esisha njalo uma bedinga ukufinyelela ethubeni noma ohlelweni lomklamo omusha.

7. Izindaba Eziwujikelele

Ngesikhathi sokukhishwa komsebenzi wayo, iKhomishana ye-B-BBEE iqaphele okukhathazayo okulandelayo (okungasilo uhlu oluphelele) maqondana nehlelomumo lwebhizinisi elihlanganyelwe:

a) Ukungabibikho kwesivumelwano sokulawula ubudlelwano phakathi kwabathintekayo, njengokwendlalwa kwamaqhaza nemithwalo, okubandakanya phakathi kokunye ukuthi zizokwabiwa kanjani izinzuzo.

b) Ukutshenziswa kwezinhlelo zamabhizinisi ahlanganyelwe ukuze kubanjisanwe nabantu abamnyama noma amabhizinisi abantu abamnyama khona kuzofinyelelwa emathubeni omnotho, hhayi ukuthuthukisa abantu abamnyama.

c) Imikhawulo noma izithiyo ekubandakanyeni abantu abamnyama ekuthathweni kwezinqumo ngezindaba zebhizinisi elihlanganyelwe.

d) Ukungabibikho kokuphatha ibhizinisi okulungile maqondana nezindaba zebhizinisi elihlanganyelwe njengokunciphisa amathuba abantu abamnyama okuthola amarekhodi ezezimali ebhizinisini elihlanganyelwe.

e) Okwenziwayo kuhlukile kunokuzibophezela okubhalwe esivumelwaneni sebhizinisi elihlanganyelwe, okudala ingxushungxushu kanye nokungazilandeli izimiso zoMthetho we-B-BBEE. Isibonelo, ukungabi ne-akhawunti yezimali eseceleni yebhizinisi elihlanganyelwe noma ukuchezuka esivumelwaneni sokwabelana ngenzuzo okulimaza abantu abamnyama.

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