B-BBEE COMMISSION

a member of the dti group

IZINDLELA ZOKUSEBENZISA ABAMNYAMA

YINI INHLOSO YOMTHETHO I-B-BBEE ACT?

Inhloso yomthetho i-Broad-Based Black Economic Empowerment Act 53 of 2003, njengokuchitshiyelwa ngokomthetho i-Act 46 of 2013 (“i-B-BBEE Act”) ukuhlela ukusetshenziswa kwezinhlelo zokuthuthukisa abamnyama ngokusabalele kwezomnotho.

Ukuthuthukiswa kwabamnyama ngokusabalele kwezomnotho kusho ukuhlonyiswa ngokwezomnotho kwabo bonke abamnyama [okuhlanganisa,nangokukhethekile abesifazane, abasebenzi, intsha, nabakhubazekile kanye nabasezindaweni zasemaphandleni, ngokusebenzisa amasu anhlobonhlobo naxhumene ahlanganisa kodwa akagciningalokhu -

(a) Ukukhulisa isibalo sabamnyama abaphethe, abangabanikazi noma abalawula izinkampani nokunye okuyimpahla enomkhiqizo;
(b) Ukuhlela ubunikazi nokuphathwa kwezinkampani nempahla enomkhiqizo yimiphakathi, abasebenzi, ama-co-operatives nezinye izinhlobo zamabhizinisi ababambisene;
(c) Ukuthuthukiswa kwabasebenzi namakhono;
(d) Ukuqinisekiswe ukumeleleka emazingeni naseminyangweni yonke enkampanini;
(e) Ukuthenga ngokukhethekile ezinkampanini ezingezabamnyama noma eziphethwe ngabamnyama; kanye
(f) Nokutshala izimali ezinkampanini ezingezabamnyama noma eziphethwe ngabamnyama.

INCAZELO NGOKUSEBENZISA ABAMNYAMA NOKWENZA OKUPHAMBENE NEMITHETHO NGOKWE-B-BBEE ACT

“**Ukusebenzisa abamnyama (Fronting)**” kusho ukubalekela ngenhloso noma ukuzama ngamabomu ukugwema ukulandela umthetho i-B-BBEE Act nemithetho ye-Codes of Good Practice okwaqala ukusebenza ngomhla lu-1 kuNhlaba (May) 2015 (ama-Code). Ukugwema ukulandela umthetho kuhlanganisa ukwethembela kwimininingo noma ukubika ukuthi uyalandelwa umthetho i-B-BBEE Act ngokubika okungelona iqiniso, okwenziwa yilowo ozibeka njengolandela umthetho noma ubani omunye umuntu noma umuntu ngokomthetho.

“**Izindlela Zokusebenzisa abamnyama (Fronting practices)**” kuhlanganisa lokhu okulandelayo:

Ukubeka abamnyama phambili: Lokhu kuhlanganisa nezimo lapho abamnyama beqashwa noma bethulwa enkampanini ngesizathu sokwenzelela okungaba :

- Ukuqashwa enkampanini, kodwa ungavunyelwa noma ungakhuthazwa ukubamba iqhaza ebhizinisini noma kokwenziwa yinkampani.
- Ukuqashwa enkampanini, kodwa ungavunyelwanoma ungakhuthazwa ukubamba iqhaza ezingxenyeni ezithize ezibekiwe zenkampani Kanye/noma amazinga athize.
- Ukuqashwa enkampanini ngenhlosongqangi yokugwema ukulandela kwenkampani okungumthetho i-B-BBEE Act kungenanhloso yokuba ubambe iqhaza ebhizinisini noma elikwenzayo.

Ukungabiwa Kwezinzuzo Ngendlela Efanele:

- Okuyinzuzo kwenkampani okutholakale ngenxa yesimo sayo se-B-BBEE esineningi labanamasheya abamnyama, kodwa leyo nzuzo ingafinyeleli kwabamnyama ngokwenanisiqhathaniso esisemabhukwini asemthethweni athintekayo

Ubudlelwano Obunobusomathuba: Lokhu kuhlanganisa ukuphothulwa kobudlelwano ngokusemthethweni lapho isivumelwano sinalokhu:

- Nomnyama ukuze kutholakale ukugunyazwa ngokwezinga le-B-BBEE elihambelana nama-Codes of Good Practice kodwa kungenanzuzo ngokwezomnotho komnyama othintekayo
- Nezinye izinkampani, ukuze kutholakale ukwamukeleka ngokwe-B-BBEE kwezinye izimo ezibaluliwe.

OKUYIZINKOMBA ZOKUSETSHENZISWA

Lokhu okulandelayo kuwuhlu olungenamkhawulo lezinto eziyizinkomba zokusetshenziswa komnyama ezingalekelela ekuhlonzweni kwalezi zenzookusetshenziswa kwabamnyama:

- Abamnyama ababalwa yinkampani njengabanikazimasheya, abasemazingeni aphezulu naphakathi abanalwazi noma abanasiqiniseko ngeqhaza labo enkampanini;
- Abamnyama ababalwa yinkampani njebanikazimasheya, abasemazingeni aphezulu naphakathi banemisebenzi ehlukile kakhulu kuneyozakwabo abangemnyama;
- Abamnyama abasezikhundleni eziphezulu neziphakathi zokuphatha baholelwa imali encane kakhulu uma iqhathaniswa neholwa abakulawo mazinga jikelele, kodwa ozakwabo abangemnyama bahola ngokwezinga jikelele noma ngaphezulu;
- Ayikho inkomba ebonakalayo mayelana neqhaza labamnyama abaqashwe ezikhundleni eziphezulu lapho kuthathwa khona izinqumo ezinohlonze;
- Inkampani yenza okuncane noma okungenamthelela futhi ayikwenzi okulindelekile kwezinye izinkampani ezifana nayo;
- Inkampanio ithembele kakhulu kowesithathu ukuba enze yonke imisebenzi engumongo enkampanini njengakwezinye izinkampani ezifana nayo; futhi ithembele kowesithathu ukuze isebenze ngokufeza izibopho zenkontileka enayo njengokobungoti nokusebenza jikelele; kanye
- Nenkampani ethenga impahla noma ukwenzelwa umsebenzi ngemali ephezulu kakhulu kunaleyo ekhokhwayo ngokwesimiso semakethe ezinkampanini ezifana nayo.

IZIGWEBO NOKUVINJELWA

Otholakala enecala lokusebenzisa omnyama ngokokwe-B-BBEE Act angahlawuliswa imali engafinyelela kuma-10% wengeniso yonke yonyaka noma ukuboshwa iminyaka engafinyelela kweyishumi. Futhi, noma yimuphi umuntu oboshelwe icala elimayelana nomthetho i-B-BBEE Act eminyakeni eyishumi kusukela osukwini lokugwetshwa kwakhe ngeke avunyelwe ukusebenzisana nombuso noma nohulumeni futhi uyobhaliswa ohlwini lwalabo abayiziphulamthetho olungaphansi koMnyango Wezezimali Kazwelonke.

Izinkampani ziyakhuthazwa ukuba zithobele umthetho i-B-BBEE Act ziyeke ekubambeni iqhaza ezenzweni ezingaholela ekudelelekeni komthetho noma ukusetshenziswa kwabamnyama njengemihlobiso esikhundleni sokubanika intuthuko kwezomnotho.

Imininingwane yokuxhumana nathi:

Uma usola ukuthi kunokusetshenziswa komnyama enkampanini yakho kanye/noma iyiphi enye indlela, sithinte ku:

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