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B-BBEE COMMISSION
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UMHLAHLANDLELA WENQUBO YEKHOMISHANI YOKULAWULWA KOKUHLONYISWA OKUBANZI KWEZOMNOTHO KWABANTU ABAMNYAMA

WESI-02 WONYAKA WE-2023

INDIMA YEZINHLAKA ZOMBUSO KANYE NEZINHLANGANO ZIKAHULUMENI EKUQHUBENI UKUHLONYISWA OKUBANZI KWEZOMNOTHO KWABANTU ABAMNYAMA NGESAHLUKO SE-10(1) SOMTHETHO WE-B-BBEE.

A. Isingeniso

1. IKhomishana Yokuhlonyiswa Okubanzi Kwezomnotho Kwabantu Abamnyama ("iKhomishana ye-B-BBEE") iwuhlaka olusungulwe uMthetho Wokuhlonyiswa Okubanzi Kwezomnotho Kwabantu Abamnyama wama-53 wonyaka we-2003 njengoba uchitshiyelwe uMthetho wama-46 wonyaka we-2013 ("uMthetho"), ukuze wengamele ukusetshenziswa koMthetho, okubandakanya ukuhlinzekwa kwemihlahlandlela yokusebenza, izaziso ezichazayo, imibono yokweluleka engabophezeli nezinsizakalo zokucacisa ukuze kuthuthukiswe ukuqondwa koMthetho.

2. Lo Mhlahlandlela Wokuzibophezela ("umhlahlandlela") ukhishwe njengomhlahlandlela ongabozepheli wokusiza izinhlaka zombuso nezinhlangano zikahulumeni ngokusetshenziswa kwesahluko se-10(1) soMthetho we-B-BBEE.

3. Sicela uqaphele ukuthi lo Mhlahlandlela awubandakanyi umbhalo womthetho noma isinqumo seKhomishana ye-B-BBEE mayelana nodaba oluthintekayo. Kunalokho, ufuna ukuqondisa izinhlaka zombuso nezinhlangano zikahulumeni ekwenzeni ukuqaliswa kokusebenzakweMithetho Yokuziphatha Kahle (Amakhodi) ekugunyazweni kwazo komthetho kanye nokomthethosisekelo ukuze kusebenze isahluko se-10(1) soMthetho.

B. Inhloso yalo mhlahlandlela wokwenza

4. Ukungalingani ngokobuhlanga kuyinselelo ebaluleke kakhulu eNingizimu Afrika, okwatholwa ngenxa yesikhathi esidlule sokucwaswa kwabantu abamnyama kuyo yonke imikhakha yempilo, ikakhulukazi emnothweni. Ngalesi sizathu, uMthethosisekelo waseNingizimu Afrika ukhuthaza

ilungelo lokulingana esahlukweni sesi-9(2), okungumbandela ovumela izinyathelo ezihloselwe ukulungisa ukungabi nabulungiswa kwezomnotho.

5. Ngokombiko wonyaka we-2020 weMikhuba Yokungalingani eNngizimu Afrika okhishwe uPhiko Lwezibalo LwaseNingizimu Afrika, iNingizimu Afrika ingelinye lamazwe alinokungalingani okukhulu emhlabeni, ubika ngezindleko zomuntu ngamunye zika-Gini ezingaphezu kuka-0.60 kusukela ngo-2015. Abantu abamnyama, kanye nabesifazane uma sikhuluma ngqo, yibona abathintwa kakhulu ubuphofu nokungalingani. Lokhu kufakazelwa nawumbiko weBhange Lomhlaba wangonyaka we-2022 wokungalingani eNingizimu ye-Afrika: Ukuhlolwa kwe-Southern African Customs Union. Ukungalingani eNingizimu Afrika kubangelwa ukusatshalaliswa kwengenisomali okugwegwile, ukufinyeleleka okungalingani emathubeni, izinga eliphansi lokukhula komnotho, kanye nokuntuleka kwemisebenzi okuphezulu.

6. Ngakho-ke lo mhlahlandlela uhlose ukuthuthukisa ukusebenza kahle kanye nomthelela izinhlaka zombuso nezinhlangano zikahulumeni ezifaka isandla ngayo ekwehliseni ukungalingani, kanye nokugqugquzela uguquko lwezomnotho kanye nokubamba iqhaza okuphusile kwabantu abamnyama emnothweni, kusetshenziswa aMakhodi e-B-BBEE akhishwe nguNgqongqoshe Wezohwebo, Izimboni Nokuncintisana (uNgqongqoshe).

C. Sidingani isahluko se-10(1) soMthetho we-B-BBEE?

7. Ngokwesahluko se-10(1) soMthetho, zonke izinhlaka zombuso noma izinhlangano zikahulumeni zifanele zisebenzise nanoma iyiphi Ikhodi efanele ekhishwe ngokoMthetho we-B-BBEE:
   a) Ukunquma indlela yokufaneleka yokukhishwa kwamalayisensi, izimvume noma okunye ukugunyazwa maqondana nomsebenzi wezomnotho ngokwanoma yimuphi umthetho;
   b) Ukuthuthukisa nokusebenzisa inqubomgomo yokuthengwa kwempahla ekhethwayo;
   c) Ukunquma indlela yokufaneleka yokudayiswa kwamabhizinisi kahulumeni;
   d) Ukuthuthukisa izindlela zokwenza ubudlelwano nezinkampani ezizimele; futhi
   e) Nokunquma imibandela yokukhishwa kwezinxephezelo, izibonelelo kanye nezinhlelo zokutshala izimali ukuze kusekelwe i-B-BBEE.

8. Ngakho-ke, ngokomthetho zonke izinhlaka zombuso noma izinhlangano zikahulumeni zifanele zifake ukuthobela kwe-B-BBEE njengengxenye yesicelo noma imibandela yokukhethwa ngokuhlobene nokwenziwayo kwezomnotho okusohlwini olungenhla. Lokhu kungahle kudinge izinhlaka zombuso nezinhlaka zikahulumeni ukuthi zisebenzise izinyathelo zokusetshenziswa koMthetho we-B-BBEE ngendlela efanele nangempumelelo, okubandakanya nokubuyekeza izidingo zezimvume kanye nezibonelelo zokukhuthaza ukuze zifake i-B-BBEE njengombandela.

D. Ubani othathwa njengohlaka lombuso noma inhlangano kahulumeni ngokoMthetho we-B-BBEE?

9. UMthetho we-B-BBEE esahlukweni soku-1 uchaze inhlangano kahulumeni njengebhizinisi elisohlwini lweSheduli yesi-2 neyesi-3 yoMthetho Wokuphathwa Kwezimali Zomphakathi wonyaka we-1999 (uMthetho woku-1 wonyaka we-1999) (i-PFMA), futhi igama lohlaka lombuso luchazwa ukuthi libandakanya uhulumeni kazwelonke noma wesifundazwe njengoba echazwe kwi-PFMA, umasipala njengoba ehlongozwe uMthethosisekelo, iPhalamende, isishaymthetho sezifundazwe nayizikhungo ezishiwo kwiSeduli yoku-1 ye-PFMA.

E. Yini eyazisa ukuthotshelwa kwe-B-BBEE ngezinhloso zesahluko se-10(1)?

10. Ukuthotshelwa kwe-B-BBEE yizo zonke izinhlangano ezenza ibhizinisi nohlaka lombuso noma nenhlangano kahulumeni kuzosekelwa kumaKhodi afanele, futhi ikakhulukazi kokuhlosiwe okubekwe ngaphansi kwesici ngasinye sekhadi lamaphuzu le-B-BBEE, okungukuthi ubunikazi, ukulawulwa kokuphathwa, ukuthuthukiswa kwamakhono, ukuthuthukiswa kwebhizinisi kanye nabaphakeli, ukuthuthukiswa kwenhlalakahle nezomnotho, kanye nezici ezithile zomkhakha lapho kufanele khona.

11. Ukubhekisela kunoma yimaphi amaKhodi afanele kusho amaKhodi ajwayelekile kanye namaKhodi omkhakha. Kuze kube manje, uNgqongqoshe usefake kwigazethi amaKhodi ayishumi nanye, okungamaKhodi ajwayelekile kanye namaKhodi omkhakha ayishumi (10) Obuchwepheshe Bolwazi Nokuxhumana, Ezokuvakasha, Ezokwakha; Ezokuthutha Ezihlanganisiwe (iNguqulelo yonyaka we-2009 engaqondisiwe), Izakhiwo, Amahlathi, Izinsizakalo Zezezimali, i-AgriBEE, Ukumaketha, Ukukhangisa Nokukhangisa, kanye Nezokuvikela.

12. Ekusebenziseni amaKhodi afanele ukumisa indlela ye-B-BBEE ukuze ihambisane nemithetho yesahluko se-10(1) soMthetho, uhlaka lombuso noma inhlangano kahulumeni ayikwazi ukweqa izinhloso eziqondiwe zesici ngasinye se-B-BBEE. Ukuphela kwesikhathi lapho umgomo ophakeme njengama-51% obunikazi babantu abamnyama ungasetshenziswa yilapho uhlaka lombuso noma inhlangano kahulumeni ngokusebenzisa iSahluko se-9(6) soMthetho we-B-BBEE, seluye kuNgqongqoshe ukuze luthole imvume yomisa imigomo yoguquko ephakeme kakhulu kulo mkhakha ngokususelwa ezingeni elifiswayo ekuphokopheleni uguquko lomnotho kulo mkhakha. Imvume kaNgqongqoshe ifanele itholwe ngaphambi kokubeka imibandela efanelekile yanoma yikuphi okwenziwayo kwezomnotho okusohlwini olungenhla eluthintwe esahlukweni se-10(1) soMthetho we-B-BBEE. Inqubo yokufuna ukugunyazelwa ukweqa okuhlosiwe ichazwe kusimiso se-19 seZimiso ze-B-BBEE.

13. Ukweqa lokho okuhlosiwe njengoba kuhlongozwe esahlukweni sesi-9(6) soMthetho kusho ukweqa (i)okuqondiwe okuncane okungama-40% kwisici ngasinye esibekwe phambili okubekwe kumaKhodi, okungukuthi ukulingana kobunikazi, ukuthuthukiswa kwamakhono, nokuthuthukiswa kwebhizinisi nabahlinzeki; kanye (ii) nokuqondiwe okubekwe kwisici ngasinye kwezinhlanu (5) zamaKhodi.

F. Kunini lapho ukusetshenziswa kwesahluko se-10(1) soMthetho we-B-BBEE kungabhekwa?

14. UNgqongqoshe, ngemuva kokubonisana nohlaka olufanele lombuso noma inhlangano kahulumeni, angakwazi ukukhulula uhlaka lombuso noma inhlangano kahulumeni ezidingweni eziqukethwe esahlukweni se-10(1) soMthetho, noma avumele ukuchezuka kulokho ngezizathu zamaqiniso athile angaqinisekiswanga kanye nezimo ezisebenza ohlakeni lombuso noma lwenhlangano kahulumeni edinga ukuchezuka.

15. Ukukhululwa kuchazwa njengokukhululeka ekusebenziseni amaKhodi, ngenkathi ukuchezuka kusho ukuchezuka kohlaka lombuso noma kwenhlangano kahulumeni kumaKhodi, okungaba ngendlela yokwehlisa okumisiwe okuqondwe yisici ngasinye se-B-BBEE njengesibonelo. Inqubo yokuthola ukukhululwa noma ukuchezuka esahlukweni se-10(1) ibalulwe ngokucacile eNgxenyeni yesi-7 yeSimiso se-20 seZimiso ze-B-BBEE.

16. Inqubo yokufuna ukuchezuka kanye nokukhululwa, noma imvume yokweqa okuhlosiwe ngokwesahluko sesi-9(6) soMthetho ifanele ishicilelwe kwiGazethi Kahulumeni uma ivunywe uNgqongqoshe. Lokhu kuhloswe ngakho ukuqinisekisa ubusobala kanye nokuthuthukisa ukuthotshelakomthetho yizinhlangano ezisebenza ngaphakathi komkhakha noma kwemboni yaloo hlaka lombuso noma lwenhlangano kahulumeni.

G. Iqhaza leKhomishana ye-B-BBEE

17. IKhomishana ye-B-BBEE idingeka ukuthi iqinisekise ukuthi uMthetho usetshenziswa ngendlela efanele, futhi lokho kubandakanya nokuqapha ukutshenziswa kwesahluko se-10(1) yizinhlaka zombuso nayizinhlangano zikahulumeni. Ngakho-ke, ekuhlinzekeni ukwesekwa ukuze kuqinisekiswe ukusetshenziswa ngempumelelo kwesahluko se-10(1) soMthetho, iKhomishana ye-B-BBEE iyatholakala ukuze inikeze izinsizakalo zokweluleka kuzo zonke izinhlaka zombuso nakuzinhlangano zikahulumeni, ezibandakanya izethulo kanye nemihlangano yokucobelelana ngolwazi ngoMthetho we-B-BBEE kanye namaKhodi ukuze kukhuliswe izinga lokuthotshelwa kwesahluko se-10(1) soMthetho. Lezi zinsizakalo zinikezwa mahhala.

18. Ngakho-ke, nanoma yiluphi uhlaka lombuso noma inhlangano kahulumeni ifanele ikhululeke ukuxhumana neKhomishana ye-B-BBEE ukuze uthole iseluleko esinjengalesi nganoma yisiphi isikhathi. Izikhathi zethu zokushintsha ukuze sicaciselwe kalula yizinsuku zokusebenza ezi-5 nezinsuku zokusebenza ezingama-30 ukuze sithole umbono wezeluleko onemininingwane eminingi ngokusekelwe kumaqiniso anikeziwe.

H. Isiphetho

19. Lo Mhlahlandlela Wokuzibophezela ukhishwe njengomhlahlandlela wokusiza izinhlaka zombuso kanye nezinhlangano zikahulumeni ukuthi zilungiselele kangcono inqubo yokuqinisekiswa.

20. Lo Mhlahlandlela Wokuzibophezela ungabuyekezwa yiKhomishana ye-B-BBEE uma kwenzeka noma yiziphi izinguquko ezibonakalayo ezivela ekuthuthukisweni kokusetshenziswa koMthetho we-B-BBEE. Esimeni esinjengalesi, inguqulelo echitshiyelwe izoshicilelwa ukuze kungene lena.

21. Uma unanoma imiphi imibuzo noma udinga okunye ukucaciseleka ngalo Mhlahlandlela Yokuzibophezela, sicela ukhululeke ukusithinta kule minininingwane yokuxhumana elandelayo:

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Ukhishwe iKhomishana we-B-BBEE?

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