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CODE OF GOOD PRACTICE ISSUED IN TERMS OF SECTION 9 OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT, 2003

A balanced scorecard for broad-based black economic empowerment

1. Definitions

1.1 In this Code of Practice, unless inconsistent with the context –

"balanced scorecard" is the scorecard set out in annexure "A" to this Code of Practice;

"broad-based black economic empowerment strategy" is the strategy issued by the Minister in terms of section 12 of the Act;

"black-owned enterprise" and **"black-empowered enterprise"** have the meanings assigned to them in the Code of Practice entitled "definitions of black enterprises";

"Council" means the Black Economic Empowerment Advisory Council;

"organ of state" means
(a) a national or provincial department as defined in the Public Finance Management Act, 1999 (Act 1 of 1999);
(b) a municipality as contemplated in the Constitution;
(c) Parliament;
(d) a provincial legislature;
(e) a constitutional institution listed in schedule 1 of the Public Finance Management Act, 1999, as amended from time to time;

"public entity" means a public entity listed in schedules 2 and 3 of the Public Finance Management Act, 1999, as amended from time to time;

"the Act" means the Broad-Based Black Economic Empowerment Act, 2003 (Act x of 2003);

1.2 In this Code of Practice, unless inconsistent with the context, any word or expression to which a meaning has been assigned in the Act or a Code of Practice issued in terms of the Act, has the same meaning as the meaning assigned to that word or expression in the Act or Code of Practice.

2. Purpose of code

The purpose of this code is to –

a) standardise the definition and measurement of black economic empowerment by way of a balanced scorecard that sets indicators for measuring black economic empowerment and the weighting to be attached to those indicators;

b) provide flexibility in the application of the scorecard by making provision for sectors and enterprises to adapt the scorecard according to their specific circumstances.

3. Application of code

3.1 This code must be taken into account by all organs of state and public entities as provided for in section 10 of the Act.

3.2 This code will be used by government and the Council to measure progress in achieving black economic empowerment by organs of state and public entities and by private sector enterprises that are not signatories to a transformation charter published by the Minister in terms of section 13 of the Act.

4. The core elements of black economic empowerment

4.1 The balanced scorecard will measure the following core elements of black economic empowerment -

a) direct empowerment through ownership and control of enterprises and assets;

b) human resource development and employment equity;

c) indirect empowerment through preferential procurement and enterprise development.

4.2 For the purposes of paragraph 4.1 -

a) ownership means equity ownership where the relevant person assumes liability for risk and profit;

b) control of enterprises and assets means -
   i) the power to direct the majority of the votes attaching to the shareholder's issued shares;
   ii) the power to appoint or remove directors that hold a majority of voting rights at meetings of the board of directors of that shareholder;
   iii) the power to control the management of that shareholder.

c) human resource development refers to the transfer of skills generally and advanced professional skills in particular;

d) employment equity refers to the achievement of an equitable representation of black people in all occupations and at all levels of an enterprise over a period of time, including at an operational, professional and executive level;

e) indirect empowerment refers to mechanisms short of black ownership and control that serve the objectives of black economic empowerment;

f) preferential procurement means the procurement of goods or services by the State and the private sector from a black-owned enterprise or black-empowered enterprise;

g) enterprise development refers to -
   i) investment in black-owned enterprises or black-empowered enterprises;
   ii) joint ventures with black-owned enterprises or black-empowered enterprises that result in substantive skills transfer to those enterprises. A joint venture may include processes such as outsourcing parts of the established enterprise's projects or jointly contracting for certain projects.

5. The residual 10% in the scorecard

5.1 In order to enable sectors and enterprises to tailor the scorecard to reflect their circumstances, a residual 10% of the scorecard is left to sectors and enterprises to determine.

5.2 In making the determination referred to in paragraph 5.1, the following elements may be included –

a) the provision of infrastructural support to suppliers and other enterprises in the same area or community as the relevant sector or enterprise;

b) the use of labour-intensive production and construction methods by the relevant sector or enterprise;

c) beneficiation;

d) investment in and support for enterprises operating in rural communities and in the geographic areas identified in government's integrated sustainable rural development programme and urban renewal programme;

e) investment in the development needs of employees, including but not limited to investment in housing, transport, and health care for employees.

6. Indicators

6.1 The indicators outlined in the scorecard are provided as a guide.

6.2 Enterprises and sectors must choose indicators that will most accurately reflect progress in each of the core components of black economic empowerment as set out in paragraph 4.

7. Conversion factor

7.1 The conversion factor in the scorecard enables the scorecard to reflect progress made against the specific black economic empowerment targets that the enterprises and sectors have established. [1]

7.2 Targets will be set at sectoral level where sector charters have been agreed, and a code of good practice will be issued setting targets for other enterprises.

8. Weighting

8.1 The weighting of each component reflects the relative importance placed on that component.

8.2 The six core components of black economic empowerment are weighted to bring the scorecard to a maximum of 100%.

9. Total score

The total score will be calculated by the sum of the individual component scores and will be reflected as a score out of 100%.

10. Ranking enterprises using the scorecard

10.1 Government will use the total score to rank enterprises according to their progress in achieving broad-based black economic empowerment, using the following as a guideline.

a) an enterprise that has a total score **above 65%** will be regarded as a good contributor to black economic empowerment;

b) an enterprise that has a total score **between 40% and 64.9%** will be regarded as a satisfactory contributor to black economic empowerment;

c) an enterprise that has a total score **below 40%** will be regarded as a limited contributor to black economic empowerment.

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[1] Annexure "B" to this code provides an example of the application of the conversion factor.

10.2 The scorecard may be used by government as a guide to rank and categorise enterprises for the following purposes-

a) the issuing of licences, concessions or other authorisations;

b) preferential procurement;

c) the sale of state-owned enterprises;

d) entering into partnerships with the private sector;

e) the provision of financing and other forms of support.

10.3 The precise weighting and score given to enterprises will depend on the particular transaction and may be adjusted to reflect particular economic, commercial or financial factors.

10.4 Government must encourage the private sector to develop similar ranking systems in sector and enterprise charters and to use these rankings in their procurement systems.

Annexure "A"

The balanced scorecard for measuring black economic empowerment

Core component of BEE	Indicators	Conversion factor	Raw Score	Weighing	Total Score
Direct empowerment score					
Equity ownership	% share of economic benefits			20%	
Management	% black persons in executive management and/or on executive board and board committees			10%	
Human resource development and employment equity score					
Employment equity	Weighted employment equity analysis			10%	
Skills development	Skills development expenditure as a proportion of total payroll			20%	
Indirect empowerment score					
Preferential procurement	Procurement from black enterprises and black empowered enterprises as a proportion of total procurement			20%	
Enterprise development	Investment in black-owned enterprises and black-empowered enterprises as a proportion of total assets			10%	
Residual 10%					
To be determined by sector or enterprise				10%	
Total score out of 100%					

Annexure "B"

An illustration of the use of the conversion factor in the scorecard

The conversion factor in the scorecard below, is calculated as 100/target ratio.

By way of example, if an enterprise establishes a target that black-owned enterprises and black-empowered enterprises will provide 5% of the total procurement for the enterprise, then the component factor for preferential procurement will be 100/5, which is equal to 20. If that enterprise achieves this target, it will receive a score of 5% times 20 – in other words, 100% for achieving its target. If the enterprise only procures 3% from black enterprises in the first year, it will receive a score of 3% times 20, or 60%.

Core component of BEE	Indicators	Conversion factor	Raw Score	Weighting	Total Score
Preferential procurement	Procurement from black-owned and empowered enterprises as a proportion of total procurement Year 1 – 3% Year 2 – 5%	Target is 5% of procurement in 3 years Conversion factor 100/5 = 20	3%x20=60% 5%x20=100	20% 60%x20%	12%