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**AMENDED CODES OF GOOD PRACTICE
FOR
BROAD-BASED BLACK ECONOMIC EMPWERMEN**



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OVERVIEW

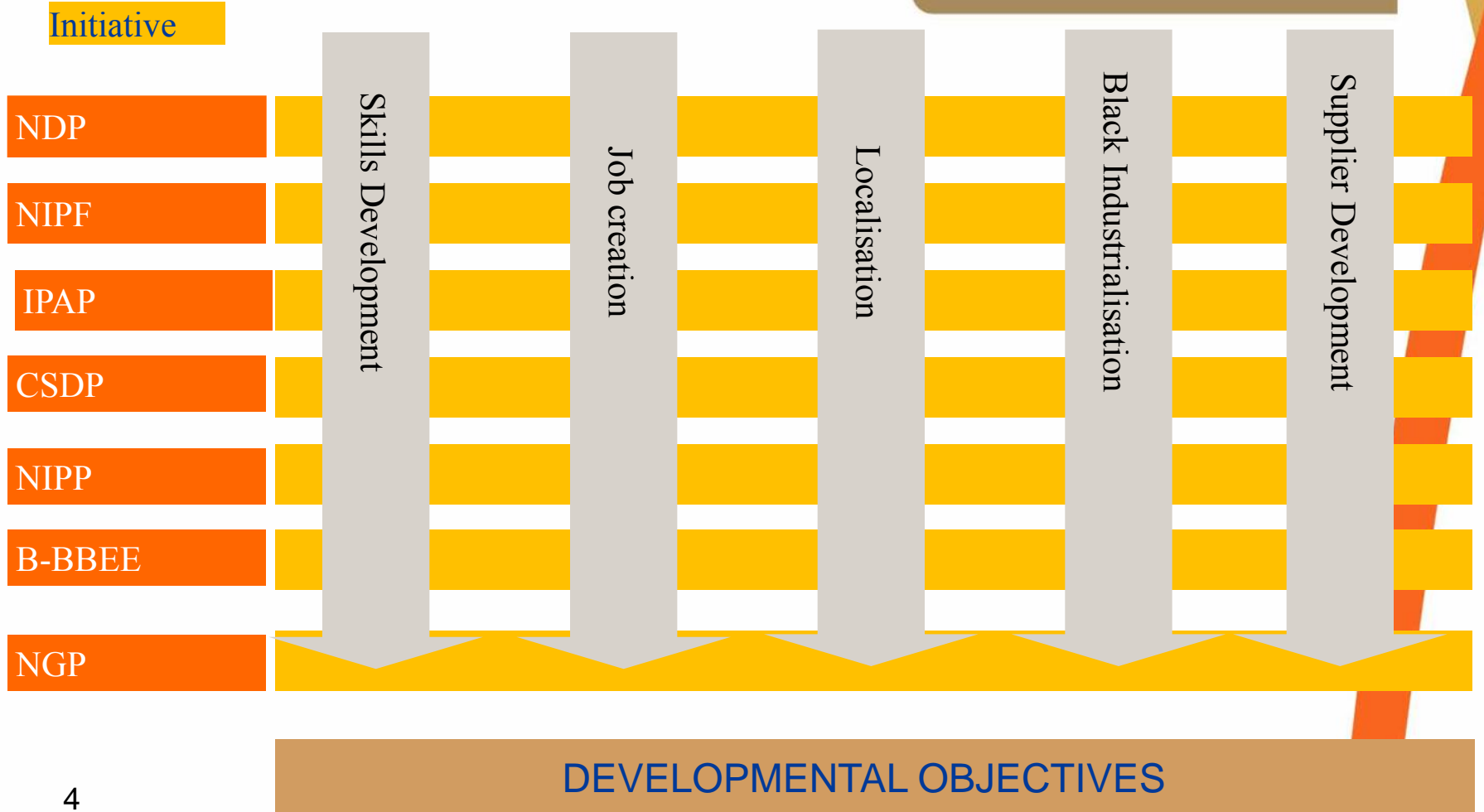
- BEE Commission Report in 1998 – Economic Development, Social Transformation and Political Buy-In
- Draft B-BBEE Strategy of 2003;
- Legislative framework the B-BBEE Act no. 53 of 2003
- Codes of Good Practice for B-BBEE 2007 (implementation)
- The establishment of the Presidential BEE Advisory Council 2009
- Recommendations to Cabinet by Presidential BEE Advisory Council 2010
- Amended B-BBEE bill 2012
- Revised Codes of Good Practice for 60 day Commentary 2012
- Amended Codes of Good Practice 2013 (18 Months Transitional Period)
- Proclaimed Amendment Act No 46 of 2013 October 2014
- Implementation of the Amended Codes of Good Practice 1 May 2015



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ADDRESSING GOVERNMENTS' DEVELOPMENTAL OBJECTIVES





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KEY MEASUREMENT PRINCIPLES

- **Priority Elements, Subminimum and Discounting Principle**

A Company will only be discounted by one level even if they do not meet more than one priority element

- **Three Priority Elements**

- **Ownership** – Discounting will occur if 40% of the target under the Net Value calculation is not met using the Time-Based Graduation Factor
- **Skills Development** – Discounting will occur if 40% of the total points under this scorecard are not met.
- **Enterprise and Supplier Development** – Discounting will occur if 40% of the points in each category are not met – Namely Preferential Procurement, Supplier Development and Enterprise development



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KEY MEASUREMENT PRINCIPLES

- **Eligibility as an Exempted Micro Enterprise (EME)**

EME – Annual Total Revenue up to R10 million

- **Enhanced Recognition status**

- 100% Black Owned Entities receive automatic Level 1 (One) recognition of 135%
- 51% and more Black Owned Entities receive automatic Level 2 (Two) recognition of 125%
- All other EME's receive automatic Level 4 (Four) recognition of 100%
- No Verification is required for EME's and EME's are automatically recognised as Empowering Suppliers
- An EME is only required to obtain a sworn affidavit or Certificate issued by Companies and Intellectual property Commission (CIPC) on an annual basis, confirming
 - Annual Total Revenue of R10 million or less;
 - Level of Black Ownership;
 - Any misrepresentation of the above constitutes a criminal offence as set out in the Amended B-BBEE Act No. 53 of 2013.



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KEY MEASUREMENT PRINCIPLE

- **Eligibility as a Qualifying Small Enterprise (QSE)**

QSE – Annual Total Revenue R10 million – R50 million

- **Enhanced Recognition status**

- 100% Black Owned Entities receive automatic Level 1 (One) recognition of 135%
- 51% and more Black Owned Entities receive automatic Level 2 (Two) recognition of 125%
- All other QSE's must be verified in terms of Code 600 Statements 600 - 605
- A 100% and 51% or more QSE is only required to obtain a sworn affidavit or Certificate issued by Companies and Intellectual property Commission (CIPC) on an annual basis, confirming
 - Annual Total Revenue of R10 million – R50 Million;
 - Level of Black Ownership;
 - Any misrepresentation of the above constitutes a criminal offence as set out in the Amended B-BBEE Act No. 53 of 2013.



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KEY MEASUREMENT PRINCIPLE

• Start – Up Enterprise

- A Start-up enterprise is recognised as an EME in the first year following their formation and incorporation.
- A Start-up Enterprise will have a deemed recognition level in terms of the provisions for EME's
- Start-up enterprises are automatically recognised as Empowering Suppliers under Statement 400 for the first year following their formation or incorporation.
- Any Start-up enterprise that does not meet the enhanced recognition criteria for EME's and QSE's must obtain a QSE scorecard when tendering for any contract or seeking any other economic activity covered by Section 10 of the Act with a value of R10 Million – R50 Million.
- If the contract exceeds R50 million the Generic Scorecard must be applied.



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B-BBEE RECOGNITION LEVELS

B-BBEE Status	Qualification Criteria	B-BBEE recognition level
Level One Contributor	≥100 points on the Generic Scorecard	135%
Level Two Contributor	≥95 but <100 points on the Generic Scorecard	125%
Level Three Contributor	≥90 but <95 on the Generic Scorecard	110%
Level Four Contributor	≥80 but <90 on the Generic Scorecard	100%
Level Five Contributor	≥75 but <80 on the Generic Scorecard	80%
Level Six Contributor	≥70 but <75 on the Generic Scorecard	60%
Level Seven Contributor	≥55 but <70 on the Generic Scorecard	50%
Level Eight Contributor	≥40 but <55 on the Generic Scorecard	10%
Non-Compliant Contributor	<40 on the Generic Scorecard	0%



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GENERIC SCORECARD

ELEMENT	WEIGHTING	COMPLIANCE TARGET
Ownership	25 points	25% + 1 vote
Management control	19 points	(50% to 88%)
Skills Development	20 points	6% of payroll
Enterprise and Supplier Development	40 points	PP = 80% SD = 2% (NPAT) ED = 1% (NPAT)
Socio-Economic Development	5 points	1% (NPAT)
TOTAL	109 points	



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QUALIFYING SMALL ENTERPRISE SCORECARD

Element	Weighting	Compliance Target
Ownership	25 points	25% + 1 vote
Management control	15 points	(50% to 60%)
Skills Development	25 points	3% of payroll
Enterprise and Supplier Development	30 points	PP = 60% SD = 1% (NPAT) ED = 1% (NPAT)
Socio-Economic Development	5 points	1% (NPAT)
TOTAL	100 points	



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OWNERSHIP



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OWNERSHIP

OBJECTIVES

- Define the key measurement principles
- Specify the specific measurement principles applicable to various types of entities;
- Specify the formula for measuring Voting Rights, Economic Interest and Realisation points



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OWNERSHIP

KEY PRINCIPLES

- Designated groups incorporated into the main points of the scorecard
- Net Value –
 - A tool that measures monetary value in the hands of black people
 - A measured entity is required to achieve a minimum of 40% on Net Value points (8 Points) to avoid discounting
 - The calculation of the NAV is linked to the Time Based Graduation Factor
 - e.g. say a target of 10% NAV in the first year of the transaction; 20% NAV in the second year etc.



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OWNERSHIP

KEY PRINCIPLES

- **Family Trusts**
 - Only the Trustees must have discretion on the terms of the trust
- **New Entrants**

Black Participants who hold rights of Ownership in a Measured Entity and who, before holding the Equity Instrument have not held Equity Instruments that had a total value of more than R50 million.

- Increased from R20 mil to R50 mil
- New Entrants form part of the main points of the scorecard
- **Implications**
 - Encourage entities to include new entrepreneurs/participants in Ownership transactions so to broaden the base.



OWNERSHIP

KEY PRINCIPLES

Mandated Investments

- Mandated Investments may be excluded to a maximum percentage of 40%
- A Measured Entity applying the Exclusion Principle to Mandated Investments cannot benefit from the Modified Flow-Through Principle.



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OWNERSHIP SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target		
Ownership	1.1	Voting Rights	1.1.1	Exercisable Voting Rights in the Entity in the hands of Black people	4	25%+ 1 Vote
			1.1.2	Exercisable Voting Rights in the Entity in the hands of Black women	2	10%
	1.2	Economic Interest	1.2.1	Economic Interest in the Entity to which Black people are entitled	4	25%
			1.2.2	Economic Interest in the Entity to which Black women are entitled	2	10%
			1.2.3	Economic Interest of any of the following Black natural people in the Measured Entity		
			2.2.3.1	Black designated groups;	3	3%
			2.2.3.2	Black participants in Employee Share Ownership Programmes;		
	2.2.3.3	Black people in Broad-based Ownership Schemes;				
	2.2.3.4	Black participants in Co-operatives				
	1.2.4	New Entrants	2	2%		
1.3	Realisation Points	1.3.1	Net Value	8	Refer to Annexe C	



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MANAGEMENT CONTROL



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MANAGEMENT CONTROL

KEY PRINCIPLES

- Merged Management Control and Employment Equity elements
- Measures participation of Black people in management positions of Entities
- Executive Management positions include the following: Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and other Executive Managers that serve on the Board of Directors.
- Other Executive Management positions include all executive management that do not serve on the board, such as human resource executive, transformation executive and other people holding similar positions.



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MANAGEMENT CONTROL

KEY PRINCIPLES

- In determining a Measured Entity's score, the targets should be further broken down into specific criteria according to the different race sub-groups within the definition of black in accordance with the Employment Equity Act.
- Entities operating in more than one Province will use the National EAP as per the Employment Equity Regulations
- If a Measure Entity does not distinguish between Other Executive Management and Senior Management then Executive Management is measurable as a single indicator with a weighting of 6 points.
- A measured must use the current payroll data in calculating its score under Management Control scorecards



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MANAGEMENT CONTROL

Measurement Category & Criteria	Weighting points	Compliance targets
2.1 Board participation:		
2.1.1 Exercisable voting rights of black board members as a percentage of all board members	2	50%
2.1.2 Exercisable voting rights of black female board members as a percentage of all board members	1	25%
2.1.3 Black Executive directors as a percentage of all executive directors	2	50%
2.1.4 Black female Executive directors as a percentage of all executive directors	1	25%



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MANAGEMENT CONTROL

Measurement Category & Criteria	Weighting points	Compliance targets
2.2 Other Executive Management:		
2.2.1 Black Executive Management as a percentage of all executive directors	2	60%
2.2.2 Black female Executive Management as a percentage of all executive directors	1	30%
2.3 Senior Management		
2.3.1 Black employees in Senior Management as a percentage of all senior management	2	60%
2.3.2 Black female employees in Senior Management as a percentage of all senior management	1	30%



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MANAGEMENT CONTROL

Measurement Category & Criteria	Weighting points	Compliance targets
2.4 Middle Management		
2.4.1 Black employees in Middle Management as a percentage of all middle management	2	75%
2.4.2 Black female employees in Middle Management as a percentage of all middle management	1	38%
2.5 Junior Management		
2.5.1 Black employees in Junior Management as a percentage of all junior management	1	88%
2.5.2 Black female employees in Junior Management as a percentage of all junior management	1	44%
2.6 Employees with disabilities		
2.6.1 Black employees with disabilities as a percentage of all employees	2	2%



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SKILLS DEVELOPMENT



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SKILLS DEVELOPMENT

The principle of EAP is applicable in the Skills Development as per the Management Control Element;

KEY MEASUREMENT PRINCIPLES

- In order for the Measured Entity to receive points on the Skills Development Element
 - Workplace Skills Plan, an Annual Training Report and Pivotal Report which are SETA approved; and
 - Implementation of Priority Skills programme generally, and more specifically for black people.
- The 6 % compliance target includes external training expenditure for unemployed black people.
- A trainee tracking tool has to be developed in order for the Measured Entity to score for absorption category
 - If less than 100% of the trainees are absorbed the percentage achieved or absorbed will be recognised.



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SKILLS DEVELOPMENT

SUBMINIMUM AND DISCOUNTING PRINCIPLE

- A Measured Entity must achieve a minimum of 40% of the overall points set in the Skills Development Element
- Non-compliance to the threshold targets will result in the overall achieved BBBEE status level being discounted

SKILLS DEVELOPMENT EXPENDITURE

- includes any legitimate expenses incurred for any Learning Programme offered by a Measured Entity to its employees evidenced by an invoice or appropriate internal accounting record.
- arising from Informal and workplace Learning Programmes or from Category F and G Learning Programmes under the Learning Programmes Matrix cannot represent more than 15% of the total value of Skills Development Expenditure.
- legitimate training costs such as accommodation and catering cannot exceed 15% of the total value of Skills Development Expenditure



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SKILLS DEVELOPMENT

Category	Skills Development Element	Weighting points	Compliance Target
2.1.1	Skills Development Expenditure on any programme specified in the Learning Programme Matrix for black people as a percentage of the Leviable Amount		
1.1.1.1	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leviable Amount.	8	6 %
1.1.1.2	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leviable Amount.	4	0.3%
1.1.2	Learnerships, Apprenticeships, and Internships		
1.1.2.1	Number of black people participating in Learnerships, Apprenticeships and internships as a percentage of total employees	4	2.5%
1.1.2.2	Number of black unemployed people participating in training specified in the learning programme matrix as a percentage of number of employees	4	2.5%
Bonus points:			
2.1.3	Number of black people absorbed by the Measured and Industry Entity at the end of the Learnerships programme	5	100%



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**ENTERPRISE AND
SUPPLIER DEVELOPMENT**



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ENTERPRISE AND SUPPLIER DEVELOPMENT

KEY PRINCIPLES

- Merged Preferential Procurement and Enterprise Development elements and introduced Supplier Development category
- The aim is to strengthen local procurement from B-BBEE compliance suppliers through ensuring value adding manufacturing and enhancing local supplier development programmes.
- A Measured Entity must achieve a minimum of 40% of each of the targets of the following categories in the scorecard:
 - **Preferential Procurement;**
 - **Supplier Development ;and**
 - **Enterprise Development.**
- Failure to achieve the 40% of any of the category will result in the overall achieved B-BBEE status level being discounted.



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ENTERPRISE AND SUPPLIER DEVELOPMENT

ED & SD CONTRIBUTIONS

- Beneficiaries of Supplier Development and Enterprise Development contributions:
 - EMEs or QSEs which are at least 51% black owned
or at least 51% black women owned.
- Qualifying Enterprise and Supplier Development Contributions of any Measured Entity are recognisable on an annual basis.
- Contributions, programmes or initiatives that span over multiple years, the total contribution amount must be divided by the number of years, and the average per year is then to be utilised for the annual contribution



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EMPOWERING SUPPLIER

- An Empowering Supplier is a B-BBEE compliant entity:
 - good citizen South African entity,
 - comply with all regulatory requirements of the country and
 - meet at least three if it is a large enterprise or one if it is a QSE of the following:
 - (a) At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.
 - (b) Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.



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ENTERPRISE AND SUPPLIER DEVELOPMENT

EMPOWERING SUPPLIER continued.....

- (c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.
- (d) Skills transfer - at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.
- (e) At least 85% of labour costs should be paid to South African employees by service industry entities



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ENTERPRISE AND SUPPLIER DEVELOPMENT

ENHANCED RECOGNITION

If a Measured Entity procures goods and services from a supplier that is:

- A recipient of supplier development contributions from a Measured Entity has a minimum 3 year contract with the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;
- A black owned QSE or EME which is not a supplier development beneficiary but that has a minimum 3 year contract with the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;



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ENTERPRISE AND SUPPLIER DEVELOPMENT

EXCLUSIONS OF IMPORTS FROM TMPS :

- Imported capital goods or components :
 - There is no existing local production and
 - promotes further value added production in SA
- Imported goods and service other than the above listed if-
 - Brand different to the locally produced
 - Different technical specifications



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ENTERPRISE AND SUPPLIER DEVELOPMENT

EXCLUSIONS OF IMPORTS FROM TMPS :

The exclusion of imports listed are subject to the entity having developed and implemented an Enterprise Development and Supplier Development plan for imported goods and services. This plan should include:

- Clear objectives
- Priority interventions
- Key performance indicators; and
- A concise implementation plan with clearly articulated milestones



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ENTERPRISE AND SUPPLIER DEVELOPMENT

DESIGNATED PRODUCTS

Sectors Already Designated	Minimum Local Content Thresholds
Description	
1. Rail Rolling Stock	65%
2. Steel Power Pylons	100%
3. Bus Bodies	80%
4. Canned/Processed Vegetables	80%
5. Textile, Clothing, Leather and Footwear Sector	100%
6. Pharmaceutical Products	
- Oral Solid Dosage Tender	70%
- Family Planning Tender	90%
7. Set-top Boxes	30%
8. Furniture Products	
- Office furniture	85%
- School furniture	100%
- Base and Mattress	90%
9. Solar Water Heater Components	70%
10. Electrical and telecom cables	90%



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ENTERPRISE AND SUPPLIER DEVELOPMENT

Criteria	Weighting points	Compliance targets
2.1		
PREFERENTIAL PROCUREMENT		
2.1.1 B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	30%
2.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	15%
2.1.3 B-BBEE Procurement Spend from all Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%
2.1.4 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	9	40%
2.1.5 B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	12%



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ENTERPRISE AND SUPPLIER DEVELOPMENT

Criteria	Weighting points	Compliance targets
BONUS POINTS		
B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black owned.	2	2%
2.2 SUPPLIER DEVELOPMENT		
2.2.1 Annual value of all Supplier Development contributions made by the Measured Entity as a percentage of the target.	10	2% of NPAT



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Criteria	Weighting points	Compliance targets
2.3 ENTERPRISE DEVELOPMENT		
2.3.1 Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target.	5	1% of NPAT
2.4 Bonus Points		
2.4.1 Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level.	1	
2.4.2 Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	



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QUESTIONS AND DISCUSSION