

CODE SERIES 100: THE MEASUREMENT OF THE OWNERSHIP ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 102: RECOGNITION IN THE SALE OF ASSETS

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

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1 Objectives of this statement

The objectives of this statement are to:

- 1.1 Set out the conditions where the Sale of Assets, Equity Instruments and other Businesses will be recognised.
- 1.2 Set out how the Ownership points will be determined.

2 Application

2.1 A transaction in terms of this statement may involve the sale of:

- 2.1.1.1 an asset;
- 2.1.1.2 a business; or
- 2.1.1.3 Equity Instruments in an Enterprise.

3 Key Measurement Principles

3.1 General principles:

- 3.1.1 A Seller that has concluded a transaction involving a sale of asset, Equity Instrument or business with an Associated Enterprise may claim the benefits provided for in this statement in its own Ownership Scorecard.
- 3.1.2 Where a Seller has claimed benefit in terms of the Ownership scorecard for the Sale of Asset, Equity Instrument or Business it may not claim benefits under the Enterprise Development Element.

3.2 Qualification Criteria:

3.2.1 For Ownership points to be recognised the transaction:

- 3.2.1.1 Must result in the creation of sustainable businesses or business opportunities in the hands of black people; and
- 3.2.1.2 Result in the transfer of specialised skills or productive capacity to black people.

3.2.2 A Sale of Asset, Equity Instrument and Business must involve a separate Associated Enterprise which has:

3.2.2.1 no unreasonable limitations as to its clients or customers; and

3.2.2.2 clients, customers or suppliers other than the Seller.

3.2.3 Any operational outsourcing arrangements between the Seller and the Associated Enterprise must be negotiated at arms-length on a fair and reasonable basis.

3.2.4 The following transactions do not constitute Qualifying Transactions:

- 3.2.4.1 transfers of business rights by way of license, lease or other similar legal arrangements not conferring unrestricted ownership; and
- 3.2.4.2 sales of franchises by franchisors to franchisees, but includes sales of franchises from franchisees to other franchisees or to new franchisees.

4 Measurement Principles

- 4.1 The calculation of the ownership points in terms of paragraph 2.3.2. of the Ownership scorecard must be based on:
- 4.1.1 the value of the transaction.
 - 4.1.2 the value of Equity Instruments held by black Participants in the Associated Enterprise;
 - 4.1.3 the carrying value of the Acquisition Debt of black Participants in the Associated Enterprise; and
- 4.2 All calculations in terms of paragraph 4.1.1 to 4.1.3 must use a Standard valuation method.
- 4.3 The Seller may claim the point for Ownership Fulfilment only if both the Seller and the Associated Enterprise comply with the requirements for the award of that point.
- 4.4 Equivalency Percentages under this statement:
- 4.4.1 apply only to the ownership indicators in paragraphs 2.1 and 2.2 of the Ownership Scorecard;
 - 4.4.2 do not apply to the ownership indicators in paragraphs 2.3 and 2.4 of the Ownership Scorecard.
- 4.5 The Seller must include the Equivalency Percentages in its own Ownership Scorecard as if those percentages arose from black ownership of Equity Instruments in the Seller. The Equivalency Percentages for the indicators in paragraphs 2.1 and 2.2 of the Ownership Scorecard can be calculated in terms of Annexe 102(A).

5 Recognition Of Sale Of Asset, Equity Instruments And Businesses

- 5.1 A Seller seeking recognition of a Transaction in its Ownership Scorecard must determine that recognition under paragraph 4 in compliance with paragraph 2.3 of statement 000:
- 5.1.1 for the first three years after the transaction, based on data current on date of measurement;
 - 5.1.2 for each year thereafter, based on:
 - 5.1.2.1 the Indicator Percentages at the date of measurement; and
 - 5.1.2.2 the values of the Qualifying Transaction and benefit to the Seller at the date of measurement in the third year after the transaction.

ANNEXE 102 (A)

This formula determines the equivalency percentages for the indicators in paragraph 2.1 and 2.2 of the Ownership Scorecard.

$$A = \frac{B}{C} \times D$$

Where

A is the Equivalency Percentage for each of the indicators in paragraphs 2.1 and 2.2 of the Ownership Scorecard

B is the value of the Qualifying Transaction to the Associated Enterprise determined using a Standard valuation method

C is the value of the Seller determined using a Standard valuation method

D is the Indicator Percentages of the Associated Enterprise

CODE SERIES 100: THE MEASUREMENT OF THE OWNERSHIP ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 103: THE RECOGNITION OF EQUITY EQUIVALENTS FOR MULTINATIONALS

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

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1 Objectives of this statement

The objectives of this statement are to:

- 1.1 define the means by which Multinationals may apply for recognition of Equity Equivalent Programmes;
- 1.2 specify how contributing towards the Ownership Element of B-BBEE by Multinationals is measurable;

2 Key Measurement Principles

Any Equity Equivalent Contributions towards the Ownership Element of B-BBEE made by Multinationals are measurable against the value of their operations in the Republic of South Africa.

3 Recognition of Equity Equivalent Programmes

- 3.1 The Minister may, approve certain Equity Equivalent Programmes after the Multinational has consulted with the sectoral line ministry. Premiers or other stakeholders in any government department, provincial government or local government with respect to their equity equivalent proposal.
- 3.2 Any Equity Equivalent Programme forming part of a Sector Code constitutes an approved programme.
- 3.3 Equity Equivalent Programmes are preferably Sector Specific, but the Minister may consider requests for approval of programmes that are not Sector Specific.
- 3.4 Equity Equivalent Programmes may involve:
 - 3.4.1 programmes that support:
 - 3.4.1.1 the Accelerated and Shared Growth Initiative for South Africa;
 - 3.4.1.2 the Joint Initiative for Priority Skills;
 - 3.4.1.3 the National Skills Development Strategy;
 - 3.4.2 programmes that promote enterprise creation in respect of cooperatives that are:
 - 3.4.2.1 more than 50% owned by black people; or
 - 3.4.2.2 more than 30% owned by black women; or
 - 3.4.2.3 more than 50% owned by members of black designated groups; ;
 - 3.4.3 any other programmes that promote Socio-Economic advancement or contribute to the overall socio development of the Republic of South Africa.
- 3.5 Equity Equivalent Programmes must include:
 - 3.5.1 a full description of programme objectives and projected outcomes;
 - 3.5.2 qualification criteria for participation in the programme;
 - 3.5.3 timelines for implementation and delivery with milestones against which progress is measurable; and

- 3.5.4 details about the sponsors of the programme.
- 3.6 Equity Equivalent Programmes are limited to Multinationals subject to a Global Practice.
- 3.7 Equity Equivalent Programmes may have any of the following as their beneficiaries:
 - 3.7.1 enterprises in which:
 - 3.7.1.1 black people hold more than 50% of the exercisable voting rights and more than 50% of the economic interest;
 - 3.7.1.2 black women hold more than 30% of the exercisable voting rights and more than 30% of the economic interest; and
 - 3.7.1.3 Black Designated Groups hold more than 50% of the exercisable voting rights and more than 50% of the economic interest; or
 - 3.7.2 communities, natural persons or groups of natural persons where at least 75% of the beneficiaries are black people and the same percentage of economic value is derived by black people.

4 Measurement of Equity Equivalent Contributions on the Ownership Scorecard

- 4.1 The ownership score of a Multinational participating in an Equity Equivalent Programme is calculated in terms of paragraph 4.3. A Multinational participating in an Equity Equivalent Programme cannot receive any points for ownership under any statement in Code Series 100 other than this statement.
- 4.2 Contributions to Equity Equivalent Programmes are measured as actual contributions made using the general principle set out in code series 600 and 700 against any of the following targets:
 - 4.2.1 25% of the value of the South African operations of the Multinational, determined using a Standard Valuation; or
 - 4.2.2 4% of Total Revenue from its South African operations annually over the period of continued measurement;
- 4.3 The Ownership Score under an Equity Equivalent Programme using either of the targets in paragraphs 4.2 must be calculated in terms of Annex 103(A).

5 Examples of Equity Equivalent Programmes

- 5.1 Enterprise creation:
 - 5.1.1 If the equity equivalent contribution of a Multinational involves the creation of a new Enterprise:
 - 5.1.1.1 the new Enterprise must qualify as a Value-Adding Enterprise;
 - 5.1.1.2 the creation of the new Enterprise must comply with the requirements for a Qualifying Transaction as defined in statement 102;
 - 5.1.1.3 the creation of the new Enterprise cannot contribute to the Multinational's score under Code series 600; and

- 5.1.1.4 the equity equivalent contribution must involve the provision of interest free loans, No-Gain Grants or Human Capital Investments to the new Enterprise equivalent in value to 50% of the new Enterprise's projected operational costs for the first 3 years following its establishment.
- 5.2 Investment in social advancement:
 - 5.2.1 An equity equivalent contribution of a Multinational that involves enhanced Socio-Economic Development.
 - 5.2.1.1 must comply fully with Code series 700; and
 - 5.2.1.2 cannot form part of the Multinational's score under Code series 700.

6 Specific Rules on Multinationals

- 6.1 Any contributions towards the ownership Element of B-BB-BBEE made by Multinational Businesses or South African Multinationals are measurable against the value of their operations in the Republic of South Africa.
- 6.2 In calculating their ownership score, Multinational Businesses and South African Multinationals must apply the Exclusion Principle to any portion of the business value of their South African operations gained from non-South African sources. A Standard valuation method must be used to determine the value of the South African operations.
- 6.3 In calculating their ownership score, Multinational Businesses may recognise sales of Equity Instruments in non-South African Enterprises to black people, on the following basis:
 - 6.3.1 the non-South African Enterprise must form part of the chain of ownership between the Multinational Business and its eventual holding company; and
 - 6.3.2 the transaction must comply with South African exchange control requirements; and
 - 6.3.3 the percentage of the value of the Equity Instruments sold to the value of the Multinational Business represents the recognisable black claim to Economic Interest; and
 - 6.3.4 the percentage of Exercisable Voting Rights ceded to the buyers of the Equity Instruments in the Multinational Business represents the recognisable black right to Exercisable Voting Rights; and
 - 6.3.5 the rights of ownership in the Equity Instruments are comparable to rights that would have accrued had the Equity Instrument B-BBEE in the Multinational Business.

ANNEXE 103(A)

This formula is for determining the Ownership Score under an Equity Equivalent Programme using either of the targets in paragraph 5.2, where the contribution is made upfront on a once off basis.

$$A = \frac{B}{C} \times 20$$

Where

A is ownership points of the Multinational in any year arising from its equity equivalent contribution

B is the value of contributions made

C is the financial value of the target of 4% of total revenue from its South African operations annually over the period of continued measurement;

This formula is for determining the Ownership Score under an Equity Equivalent Programme using either of the targets in paragraphs 5.2, where the contribution is made on an annual basis towards a ten year target is as follows:

$$A = \frac{B}{C} \times \left(\frac{1}{25\% \times D} \right) \times 20$$

Where

A is ownership points of the Multinational in any year arising from its equity equivalent contribution

B is the value of total contributions made prior to the date of measurement

C is the financial value of the target in paragraph 4.2.1. or the ten year value of contributions to be made over the life of this statement

D is the time-based graduation factor outlined below:

- 10% for the first year after the commencement of statement 000.
- 20% for the second year after the commencement of statement 000.
- 40% from the first day of the third year after the commencement date of statement 000 to the last day at the end of the fourth year after the commencement date of statement 000.
- 60% from the first day of the fifth year after the commencement date of statement 000 to the last day at the end of the sixth year after the commencement date of statement 000.
- 80% from the first day of the seventh year after the commencement date of statement 000 to the last day at the end of the eighth year after the commencement date of statement 000.
- 100% from the first day of the ninth year after the commencement date of statement 000 to the last day at the end of the tenth year after the commencement date of statement 000.

CODE SERIES 200: MEASUREMENT OF THE MANAGEMENT CONTROL ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 200: THE GENERAL PRINCIPLES FOR MEASURING MANAGEMENT CONTROL

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

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1 Objectives of this Statement

The objectives of this statement are to specify:

- 1.1 the scorecard for measuring the Management Control Element of B-BBEE;
- 1.2 define the key measurement principles associated with the Management Control Element of B-BBEE; and
- 1.3 the calculations for measuring compliance.

2 Management Control Scorecard

The following table represents the indicators and method for calculating a score for Management Control under this statement:

Category	Management Control Indicator	Weighting points	Compliance Target
2.1 Board participation:			
	2.1.1 Exercisable Voting Rights of black Board members using the Adjusted Recognition for Gender	3	50%
	2.1.2 Black Executive Directors using the Adjusted Recognition for Gender	2	50%
2.2. Top Management:			
	2.2.1 Black Senior Top Management using the Adjusted Recognition for Gender	3	40%
	2.2.2 Black Other Top Management using the Adjusted Recognition for Gender	2	40%
2.3 Bonus points:			
	Black Independent Non-Executive Board Members	1	40%

3 Common Examples of top Management

The inclusion of the following examples of Top Management is for guidance purposes only:

- 3.1 Senior Top Management positions include the chief executive officer, the chief operating officer, the chief financial officer and other people holding similar positions.
- 3.2 Other Top Management positions include the chief information officer, the head of marketing, the head of sales, the head of public relations, the head of transformation, the head of human resources and other people holding similar positions.

4 Key Measurement Principles

- 4.1 A Measured Entity receives points by meeting the targets for participation of black people and black women at Board and Top Management level.
- 4.2 A Measured Entity must use the data in calculating its score under the Management Control scorecard used in its returns filed with the Department of Labour under the Employment Equity Act. This does not apply to Measured Entities exempt from filing such returns.
- 4.3 A Measured Entity that does not distinguish between Top Management and Senior Management may include its Senior Management under this statement. If a Measured Entity adopts this approach -

- 4.3.1 the corresponding targets for Senior Management in Code series 300 will apply to the Management Control scorecard;
- 4.3.2 Senior Management included in this statement is not measurable under statement 300.
- 4.4 If a Measured Entity does not distinguish between Senior Top Management and Other Top Management, then Top Management is measurable as a single indicator with a Weighting of 5 points under paragraphs 2.2.1 and 2.2.2.
- 4.5 If Measured Entities do appoint Non-Executive Independent Board Members, they are encouraged to appoint persons who do not serve in that capacity for any other Measured Entity.

5 Calculating the Adjusted Recognition for Gender

The Adjusted Recognition for Gender is calculated in terms of formula "A" in Annexe 200(A).

6 Calculating Compliance

- 6.1 The Management Control indicators provided for in the Management Control Scorecard must be calculated in terms of formulas "B" and "C" in Annexe 200(A).
- 6.2 If a Measured Entity gains a score for a Management Control indicator that is more than the relevant weighting points, that Enterprise will only receive the Weighting points.

ANNEXE 200(A)

A: Calculation of the Adjusted Recognition for Gender

$$A = \frac{B}{2} + C$$

C is limited to a maximum of 50% of the target

Where

A is the Adjusted Recognition for Gender

B is the percentage of employees in the measurement category that are black people

C is the percentage of employees in the measurement category that are black women

B: Calculating Compliance

The calculation of the management indicators provided for in paragraphs 2.1.1, 2.1.2., 2.2.1 and 2.2.2 is as follows:

$$A = \frac{B}{C} \times D$$

C is limited to a maximum of 50% of the target

Where

A is the score for measured management indicator

B is the Adjusted Recognition for Gender calculated in paragraph 5

C is the target for that measurement category as per paragraph 2

D is the Weighting for measured indicator as per paragraph 2

C: The calculation of the management indicator provided for in paragraph 2.3 is as follows:

$$A = \frac{B}{C} \times D$$

Where

A is the score for the management indicator in paragraph 2.3 of the number of black Independent Non-Executive Board Members of the Measured Entity as a percentage of the total number of Independent Non-Executive Board Members of the Measured Entity

C is the target for Independent Non-Executive Board Members of the Measured Entity in paragraph 2.3

D is the Weighting points in paragraph 2.3

CODE SERIES 300: MEASUREMENT OF THE EMPLOYMENT EQUITY ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 300: THE GENERAL PRINCIPLES FOR MEASURING EMPLOYMENT EQUITY

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

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1 Objectives of this statement

The objectives of this statement are to:

- 1.1 specify the scorecard for measuring Employment Equity contributions to B-BBEE;
- 1.2 define the key measurement principles for measuring the Employment Equity contributions to B-BBEE; and
- 1.3 define the formula for calculating the score for Employment Equity.

2 Employment Equity Scorecard

2.1 The following table represents the criteria used for deriving a score for Employment Equity under this statement:

Measurement Category & Criteria	Weighting points	Compliance targets	
		Years 0 - 5	Years 6 -10
2.1.1 Black Disabled Employees as a percentage of all employees using the Adjusted Recognition for Gender	2	2%	3%
2.1.2 Black employees in Senior Management as a percentage of all such employees using the Adjusted Recognition for Gender	5	43%	60%
2.1.3 Black employees in Middle Management as a percentage of all such employees using the Adjusted Recognition for Gender	4	63%	75%
2.1.4 Black employees in Junior Management as a percentage of all such employees using the Adjusted Recognition for Gender	4	68%	80%
2.1.5 Bonus point for meeting or exceeding the EAP targets in each category under 2.1.1 to 2.1.4	3		

2.2 The Weighting points in the Employment Equity scorecard represent the maximum number of points possible for each of the criteria.

3 Key Measurement Principles

- 3.1 Wherever possible, a Measured Entity must use the data that it files with the Department of Labour under the Employment Equity Act in calculating its score under the employment equity scorecard.
 - 3.1.1 No Measured Entity shall receive any points under the Employment Equity Scorecard unless they have achieved a sub-minimum of 40% of each of the targets set out on the Employment Equity Scorecard in respect of the both five year periods.

- 3.2 In order for a Measured Entity to achieve bonus points at a particular level, the entity needs to meet or exceed the EAP targets.
- 3.3 A Measured Entity exempt from filing returns must compile its data for calculating its score under the Employment Equity Scorecard using the guidelines set out in the Employment Equity Act and its EE Regulations.
- 3.4 If the organisational structure of a Measured Entity does not distinguish between Middle Management and Junior Management, it can consolidate those Measurement Categories against the targets for Junior Management. The weighting points for the Measurement Categories must be adjusted as follows:
- 3.4.1 Senior Management - 8 points;
- 3.4.2 Junior Management - 6 points.
- 3.5 Black women employees in each Measurement Category qualify for enhanced recognition using the Adjusted Recognition for Gender.

4 Calculating the Adjusted Recognition for Gender

The Adjusted Recognition for Gender is calculated in terms of the formula set out in Annex (300A).

5 Measurement of the Employment Equity Criteria

The criteria in the Employment Equity scorecard is measured in terms of the formula set out in Annex 300(A) .

ANNEX 300 (A)

A: CALCULATING THE ADJUSTED RECOGNITION FOR GENDER

The calculation of the Adjusted Recognition for Gender is as follows:

$$A = \frac{B}{2} + C$$

C is limited to a maximum of 50% of the target

Where

A is the Adjusted Recognition for Gender

B is the percentage of employees in the measurement category that are black people

C is the percentage of employees in the measurement category that are black women

B: Measurement of the Employment Equity Criteria

This equation explains the method of measurement of the criteria in the Employment Equity scorecard:

$$A = \frac{B}{C} \times D$$

Where

A is the score for measurement category indicator

B is the Adjusted Recognition for Gender calculated in paragraph 4

C is the target for that measurement category as per paragraph 2

D is the Weighting for measured indicator as per paragraph 2

CODE SERIES 400: MEASUREMENT OF THE SKILLS DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 400: THE GENERAL PRINCIPLES FOR MEASURING SKILLS DEVELOPMENT

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

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1 Objectives of this Statement

The objectives of this statement are to specify:

- 1.1 the scorecard for measuring the Skills Development Element of B-BBEE;
- 1.2 define the key measurement principles associated with the Skills Development Element; and
- 1.3 the formula for measuring the Skills Development Element of B-BBEE.

2 The Skills Development Scorecard

- 2.1 The following table represents the criteria used for deriving a score for Skills Development under this statement:

Category	Skills Development Element	Weighting points	Compliance Target
2.1.1	Skills Development Expenditure on any program specified in the Learning Programmes Matrix:		
	2.1.1.1 Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for black employees as a percentage of Leivable Amount using the Adjusted Recognition for Gender	6	3%
	2.1.1.2 Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for black employees with disabilities as a percentage of Leivable Amount using the Adjusted Recognition for Gender.	3	0.3%
2.1.2	Learnerships		
	2.1.2.1 Number of black employees participating in Learnerships or Category B, C and D Programmes as a percentage of total employees using the Adjusted Recognition for Gender	6	5%

- 2.2 The Weighting points in the Skills Development scorecard represent the maximum number of points possible for each of the criteria.

3 Key Measurement Principles

- 3.1 Measured Entities receive points on the Skills Development scorecard only if:
 - 3.1.1 they are in compliance with the requirements of the Skills Development Act and the Skills Development Levies Act;
 - 3.1.2 they have registered with the applicable SETA;
 - 3.1.3 they have developed a Workplace Skills Plan; and
 - 3.1.4 they have implemented programmes targeted at developing Priority Skills generally, and specifically, for black employees.
- 3.2 Expenses on scholarships and bursaries for employees does not constitute Skills Development Expenditure if the Measured Entity can recover any portion of those expenses from the employee or if the grant of the scholarship or bursary is conditional. Despite the afore going, if the right of recovery or the condition involves either of the following obligations of the employee, the expenses are recognisable:
 - 3.2.1 the obligation of successful completion in their studies within the time period allocated; or

- 3.2.2 the obligation of continued employment by the Measured Entity for a period following successful completion of their studies is not more than the period of their studies.
- 3.3 Any Skills Development Expenditure by a Measured Entity that is an ABET programme is recognisable at a multiple of 1.25 to the actual value of such Skills Development Expenditure.
- 3.4 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.
- 3.5 Skills Development Expenditure arising from Uncertified Learning Programmes or from Category G Learning Programmes under the Learning Programmes Matrix cannot represent more than 15% of the total value of Skills Development Expenditure.
- 3.6 Legitimate training expenses includes:
- 3.6.1 costs of training materials;
 - 3.6.2 costs of trainers;
 - 3.6.3 costs of training facilities including costs of catering;
 - 3.6.4 scholarships and bursaries;
 - 3.6.5 course fees;
 - 3.6.6 accommodation and travel; and
 - 3.6.7 administration costs such as the organization of training including, where appropriate, the cost to the Measured Entity of employing a skills development facilitator or a training manager.
- 3.7 Salaries or wages paid to an employee participating as a learner in any Learning Programme only constitute Skills Development Expenditure if the Learning Programme is a Learnership or falls within Category B; C; or D of the Learning Programme Matrix.

4 Calculating the Adjusted Recognition for Gender

The calculation of the Adjusted Recognition for Gender is set out in formula "A" in Annexe 400(B).

5 Measurement of Skills Development Indicators

The formula that explains the method of measurement of the criteria in the Skills Development scorecard is in terms of formula "B" in Annexe 400(B).

6 The Learning Programme Matrix

The Minister may from time to time, by notice in the gazette, revise or substitute the Learning Programme Matrix. Any changes will only be applicable to Compliance Reports prepared for a Measured Entity for the first 12-month period following the gazetting of a revision or substitution.

Annexe 400A - Learning Programme Matrix

Cat	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
A	Institution-based theoretical instruction alone – formally assessed by the institution	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
B	Institution-based theoretical instruction as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
C	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
D	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning
E	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace and some institutional as well as ABET providers	Credits awarded for registered unit standards
F	Occupationally-directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)
G	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills

ANNEXE 400(B)

A: Calculating the Adjusted Recognition for Gender

The calculation of the Adjusted Recognition for Gender is as follows:

$$A = \frac{B}{2} + C$$

C is limited to a maximum of 50% of the target

Where

A is the Adjusted Recognition for Gender

B is the percentage of employees in the measurement category that are black people

C is the percentage of employees in the measurement category that are black women

B: Measurement of Skills Development Indicators

This formula explains the method of measurement of the criteria in the Skills Development scorecard:

$$A = \frac{B}{C} \times D$$

Where

A is the score for any given criteria as referred to in the scorecard under statement 400

B is the Adjusted Recognition for Gender calculated under the calculation of the adjusted recognition for gender

C is the target for the applicable criteria as referred to in the scorecard under statement 400

D is the Weighting for the applicable criteria as referred in the scorecard under statement 400

CODE SERIES 500: MEASUREMENT OF THE PREFERENTIAL PROCUREMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 500: THE GENERAL PRINCIPLES FOR MEASURING PREFERENTIAL PROCUREMENT

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

Arrangement of this statement

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1 Objectives of this Statement

The objectives of this statement are to specify:

- 1.1 the Preferential Procurement scorecard;
- 1.2 the key measurement principles applicable to calculating Preferential Procurement contributions to B-BBEE;
- 1.3 a basis for the award of an enhanced recognition status to certain categories of Preferential Procurement;
- 1.4 principles applicable when calculating B-BBEE Procurement Spend; and
- 1.5 the formula for calculating the individual criteria specified in the Preferential Procurement scorecard.

2 Preferential Procurement Scorecard

2.1 The following table represents the criteria for deriving a score for Preferential Procurement under this statement:

Criteria	Weighting points	Compliance targets	
		Years 0 - 5	Years 6 -10
2.1.1 B-BBEE Procurement Spend from all Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	12	50%	70%
2.1.2 B-BBEE Procurement Spend from Qualifying Small Enterprises or Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	10%	15%
2.1.3 B-BBEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend:	5	15%	20%
2.1.3.1 Suppliers that are 50% black owned (3 out of 5 points); or			
2.1.3.2 Suppliers that are 30% black women owned. (2 out of 5 points)			

3 Key Measurement Principles

- 3.1 The Weighting points in the Preferential Procurement scorecard represent the maximum number of points possible for each of the criteria.
- 3.2 All goods and services procured by the Measured Entity, other than any portion specifically excluded in terms of this statement, is measurable in calculating its Total Measured Procurement Spend.
- 3.3 If a Measured Entity procures goods and services from a Supplier that is:
 - 3.3.1 a recipient of enterprise development contributions from the Measured Entity under Code series 600, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2; and
 - 3.3.2 a Value-Adding Supplier, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.25.
- 3.4 This statement applies to all areas of procurement.

4 Black Owned Professional Service Providers and Entrepreneurs

- 4.1 A key intention of this statement is to promote the use by Measured Entities, of black owned professional service providers and entrepreneurs as suppliers.
- 4.2 Black owned professional service providers and entrepreneurs that comply with all the elements of the Codes:
 - 4.2.1 qualify for recognition in all three criteria in the preferential procurement scorecard; and
 - 4.2.2 qualify as value-adding suppliers thereby attracting the benefits in paragraph 3.3.2.

5 Total Measured Procurement Spend

The following procurement is measurable within Total Measured Procurement Spend:

- 5.1 Cost of sales: all goods and services procured that comprise the cost of the sales of the Measured Entity;
- 5.2 Operational expenditure: all goods and services procured that comprise the operational expenditure of the Measured Entity;
- 5.3 Capital expenditure: all capital expenditure incurred by the Measured Entity;
- 5.4 Public sector procurement: all goods and services procured from organs of state and public entities listed in Schedules 2 and 3 to the Public Finance Management Act of 1998;
- 5.5 Monopolistic procurement: all goods and services procured from suppliers that enjoy a monopolistic position;
- 5.6 Third-party procurement: all procurement for a third-party or a client, where the cost of that procurement is an expense recorded in the Measured Entity's annual financial statements;
- 5.7 Labour brokers and independent contractors: any procurement of the Measured Entity which is Outsourced Labour Expenditure;
- 5.8 Pension and medical aid contributions: payments made to any post retirement funding scheme or to a medical aid or similar medical insurer by a Measured Entity for its employees, excluding any portions of such payments which are a contribution to a capital investment of the employee. The scheme or insurer must issue a certificate dividing payments between the capital investment portion and the balance to establish the amount that is measurable within Total Measured Procurement Spend;
- 5.9 Trade commissions: any commissions or similar payments payable by a Measured Entity to any other person pursuant to the business or trade of the Measured Entity;
- 5.10 Empowerment related expenditure: all goods and services procured in carrying out B-BBEE. The Total Measured Procurement Spend does not include the actual contribution portion recognised under Code series 600 or 700 but does include any expenditure incurred in facilitating those contributions;
- 5.11 Imports: all goods and services that are imported or procured from a non-South African source; and

- 5.12 Intra-group procurement: except as provided in statement 002, all goods and services procured from subsidiaries or holding companies of the Measured Entity.

6 Exclusions from Total Measured Procurement Spend

The following list is the only permissible exclusions from Total Measured Procurement Spend recognisable in terms of paragraph 5:

- 6.1 Taxation: any amount payable to any person which represents a lawful tax or levy imposed by an organ of state authorised to impose such tax or levy, including rates imposed by a municipality or other local government;
- 6.2 Public sector procurement:
- 6.2.1 all goods and services procured from organs of state and public entities listed in Schedule 1 of the Public Finance Management Act of 1999. Despite this, procurement by a Measured Entity from a local government authority, which is a reseller of that service, is measurable at the B-BBEE Recognition Level of the primary Supplier of the service; and
- 6.2.2 in any event, any procurement of any goods or services from any organ of state or public entity that enjoys a statutory or regulated monopoly in the supply of such goods or services, is excluded;
- 6.3 Salaries, wages, remunerations, and emoluments: any amount payable to an employee as an element of their salary or wage and any emolument or similar payment paid to a director of a Measured Entity;
- 6.4 Pass-through third-party procurement: all procurement for a third-party or a client that is recorded as an expense in the third-party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements;
- 6.5 Empowerment related procurement:
- 6.5.1 investments in or loans to an Associated Enterprise;
- 6.5.2 investments, loans or donations qualifying for recognition under any statement under Code series 600 or 700;
- 6.6 Imports: the following imported goods and services:
- 6.6.1 imported capital goods or components for value-added production in South Africa provided that:
- 6.6.1.1 there is no existing local production of such capital goods or components; and
- 6.6.1.2 importing those capital goods or components promotes further value-added production within South Africa;
- 6.6.2 imported goods and services other than those listed in paragraph 6.6.1 if there is no local production of those goods or services including, but not limited to, imported goods or services that -
- 6.6.2.1 carry a brand different to the locally produced goods or services; or
- 6.6.2.2 have different technical specifications to the locally produced goods or services.

7 Measurement of B-BBEE Procurement Spend

- 7.1 B-BBEE Procurement Spend is the value of the procurement falling within paragraph 5 and not excluded by paragraph 6. If a supplier falls within a category of supplier listed in paragraph 3.3 or 4, the value of procurement from that supplier is multiplied by the applicable factor listed in paragraph 3.3.
- 7.2 B-BBEE Procurement Spend can be measured in terms of formula "A" in Annexe 500(A).
- 7.3 The B-BBEE Procurement Spend for a Measured Entity in respect of a supplier is calculated by multiplying the spend contemplated by paragraph 5 (and not excluded by paragraph 6) in respect of that supplier by the supplier's B-BBEE Recognition Level.
- 7.4 A Measured Entity's Total Procurement Spend is the total of all amounts calculated in terms of paragraph 7.3.

8 The Calculation of Preferential Procurement Contributions to B-BBEE

- 8.1 A Measured Entity receives a score for procurement in proportion to the extent that it meets the compliance target.
- 8.2 The Measured Entity's score for Preferential Procurement contributions to B-BBEE under the preferential procurement scorecard can be calculated in terms of formula "B" in Annexe 500(A).

ANNEXE 500(A)

A: B-BBEE PROCUREMENT SPEND:

$$A = \text{sum of } (B \times C)$$

Where

A is the calculated total B-BBEE Procurement Spend for the Measured Entity. It is equal to the sum of the result of the product of B and C for each Supplier of the Measured Entity not excluded under the exclusion from total measured procurement spend;

B is the value of procurement falling within Total measured procurement spend and not excluded under the exclusion from total measured procurement spend from each Supplier of the Measured Entity;

C is the B-BBEE Procurement Recognition Level of each such Supplier of the Measured Entity.

B: THE CALCULATION OF PREFERENTIAL PROCUREMENT CONTRIBUTIONS TO B-BBEE

$$A = \frac{B}{C} \times D$$

Where

A is the calculated preferential procurement score for each criteria in the scorecard under statement 500 for the Measured Entity;

B is the total B-BBEE Procurement Spend of the Measured Entity calculated under measurement of B-BBEE Procurement Spend as a percentage of Total Measured Procurement Spend of that Measured Entity;

C is the compliance target for each criteria specified in the scorecard under statement 500;

D is the Weighting points allocated to each criteria specified in the scorecard under statement 500.