

On 31 May 2019 the DTI gazetted updates of the Preferential Procurement, Enterprise and Supplier Development element, Skills Development Element, General Principles, and further updates on Interpretations and Definitions. These are summarised below. Of specific importance in an autos manufacturing context are the changes to statement 400 which addresses some of the auto specific issues around procurement and ESD given the typical contract/turnover ranges prevalent in the sector

STATEMENT 400: THE GENERAL PRINCIPLES FOR MEASURING ENTERPRISE AND SUPPLIER DEVELOPMENT

- The total points for the Preferential Procurement increased from 25 to 27 points due to an increase in procurement from 51% Black Owned entities from 9 to 11 points.
- The target for procurement from 51% Black Owned entities increases from 40% to 50%
- A supplier which is at least 51% Black or 51% Black Woman Owned, utilising the flow through principle, will provide an additional procurement multiplier factor of 1.2 to its customers (This is over and above the procurement multiplier factor of 1.2 which is provided to the ME when signing a 3-year contract with a Supplier Development Beneficiary)
- Procurement from Generic entities that are 51% Black Owned based on the flow-through the principle, can be recognised as procurement under indicators for procurement from Exempt Micro Enterprises (EME) and Qualifying Small Enterprises (QSE) provided the Measured Entity procured from those suppliers when they were still qualifying as a 51% Black Owned EME or QSE, with a 5-year cap.
- Enterprise and Supplier Development (“ESD”) towards Generic entities that are 51% Black Owned based on the flow-through principle, can be recognised as ESD beneficiaries provided the Measured Entity assisted the ESD beneficiary entity when they were still qualifying as a 51% Black Owned EME or QSE, with a 5-Year cap.

STATEMENT 300: THE GENERAL PRINCIPLES FOR MEASURING SKILLS DEVELOPMENT

- Spend on bursaries for black students attending higher Education Institutions has been introduced with a target of 2.5% leviable amount and 4 weighting points.
- Weighting points for overall Skills Development expenses have been reduced from 8 to 6 points.
- Category F & G no longer capped at 15% but at 25%, however, travel & accommodation remains capped at 15%.
- The indicators for Employed & Unemployed learnerships have been combined.
- The weighting points for Employed & Unemployed learnerships have been reduced from 8 to 6 points.
- No double counting allowed between Skills Development Expenditure on Learning Programmes specified in the Learning Program Matrix for black people and Skills Development Expenditure on Bursaries for Black Students at Higher Education Institutions.

- Stipends linked to bursary programs now a legitimate learning cost. This was previously limited to Cat B,C & D programs.
- Definition for a bursary or scholarship scheme now specifically includes costs for funding for subsistence or accommodation during the period of study
- Training Manager's salary cannot exceed more than 15% of the total value of Skills Development Expenditure.

STATEMENT 000

GENERAL PRINCIPLES AND THE GENERIC SCORECARD

- Amendment to Code series 000, statement 000 GG. 36928, with Amendment code Series 000, statement 000 GG42496 for implementation within six months from date of gazette (i.e. six months from 31 May 2019). This implies that ME's who will be undertaking their next BBBEE verifications after December 2019 will be measured on these new amendments.
- Clarity that a Start-up Enterprise is ordinarily regarded as an EME, unless tendering for a contract in excess of the threshold for EMEs, in which case the corresponding scorecard will apply.
- Clarity on the use of the Flow Through Principle for elevation to Level 1 and 2 for black owned EMEs & QSEs now specifically included in the codes.
- Principles for measuring joint ventures specifically included in the amended codes. The consolidated verification certificate will consolidate the verified compliance data of joint venture partners based on weighting in accordance with the joint venture agreement relevant to a specific joint venture.
- The JV BBBEE certificate is valid for 12 Months and only applicable to a specific Project.

BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT

SECTION 9 (1) CODES OF GOOD PRACTICE AS AMENDED SCHEDULE 1

INTERPRETATION AND DEFINITIONS

Ownership

- The Net value date has been excluded in the new amendments, however, the definition for the current equity date has been included as follows: "the later occurring of the date of commencement of statement 100 and the date upon which the transaction undertaken by the Measured Entity in order to achieve black rights of ownership, became effective and unconditional;"

Skills Development

- Definition for long term contract: A legal agreement between an individual and an entity that this individual would work for until his or her mandatory date of retirement.
- Definition for Absorption amended: No more "proceeding with further education and training", only a long-term contract of employment included.
- Company Limited by guarantee new definition: means a company limited by guarantee, as referred in the Companies Act, No. 71 of 2008;
- Critical Skills new definition: "those skills identified as being critical relevant to the SETA.
- Qualifying Enterprise and Supplier Development Contributions new definition: means a collective term describing Enterprise Development and Supplier Development Contributions targeting EME's and QSE's which are at least 51% black-owned or at least 51% black women-owned, black youth in rural, and underdeveloped areas in statement 400.