
National Department of Public Enterprises

Broad-Based Black Economic Empowerment Guidelines for State Owned Enterprises' Non-Core Property Disposals

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1. INTRODUCTION

- 1.1. The Department of Public Enterprises (DPE) and the State Owned Enterprises (SOE), recognise that property is a strategic and productive resource, a vehicle for economic development, service delivery and transformation.
- 1.2. In line with government restructuring and a focus on core business among (SOE), the DPE has embarked on a process to reduce inefficiencies associated with SOE property portfolios and has taken a decision to dispose of non-core property assets. Non-core property is property that is not related to current or future expected operational requirements, and where disposal or alternative development will not compromise current or expected government requirements.
- 1.3. DPE recognises that the disposal of non-core property provides a key opportunity to advance Broad-Based Black Economic Empowerment (B-BBEE) and make a significant impact on the transformation of the property sector. In general, transformation in the sector has been slow compared to other sectors. Until recently, only those enterprises which have dealt directly with government, primarily through property services companies, have addressed B-BBEE in any form.
- 1.4. As the custodians of a significant proportion of state property, the DPE and the SOE are committed to implement deliberate measures to increase black participation in, and benefit from property disposals. It is intended that these B-BBEE guidelines will facilitate the empowerment of black people; black designated groups and black women.
- 1.5. These B-BBEE guidelines provide the framework within which all SOE disposals and related transactions will be implemented.
- 1.6. All companies bidding for assets will need to meet the criteria outlined in the Codes of Good Practice (CGP) issued in terms of the B-BBEE Act. Any enterprise bidding for SOE property will need to supply a B-BBEE verification certificate from an accredited verification agency. Alternatively, until such time as SANAS accreditation of BEE verification agencies has taken place, enterprises may self-verify under oath using the DPE self-assessment toolkit or obtain assistance from a verification agency or BEE consultant. The DPE self-assessment toolkit is available on the DPE website. Enterprises will have to demonstrate that their BEE status has been measured against the relevant dti BEE Scorecard indicated in **Annexure 1 and 2** and accordingly allocated a BEE Status Level.
- 1.7. The non-core properties for disposal will be advertised extensively in tender bulletins and in local newspapers.

2. QUALIFICATION CRITERIA

2.1. In order to qualify to bid, individuals and enterprises will be subject to the qualification criteria which have been set according to value thresholds of the properties for disposal:

- Level A – Up to R5 million
- Level B – Between R5 million and R30 million
- Level C – Between R30 million and R100 million
- Level D – Above R100 million

2.2. For each value threshold, bidders (including consortia):

- Will be required to present B-BBEE verification certificates from a verification agency which is a member of the Association of BEE Verification Agencies (ABVA) or any other recognised accreditation body. Alternatively, bidders may submit a certified self-assessed scorecard. Scorecards that have not been verified may be subject to audit.
- Must provide proof of ability to fund the acquisition of the property.
- May, during the first effective year of the CGP (until 9 February 2008), produce a transitional scorecard demonstrating ownership and management control only, as provided for in the CGP.
- With a turnover of between R5 million and R35 million are eligible for measurement as a Qualifying Small Enterprises (QSE). A QSE must prove its annual turnover and must select any four of the seven elements of B-BBEE for measurement under the QSE scorecard.
- With a turnover less than or equal to R5 million are deemed to be exempted micro enterprises (EME) in terms of the CGP and are not required to prove BEE compliance. Provided they can prove their annual turnover is less than or equal to R5 million, EME are deemed to be Level 4 contributors to BEE, regardless of their black ownership, and Level 3 contributors if they can prove that their black ownership exceeds 50%.
- With a turnover greater than R35 million are required to use the generic scorecard. The preparation of such scorecards must use annualised data.

2.3. Level A - Properties below R5 million in value

Bidders must be:

- 2.3.1. Black people (who will be recognised as level 1 during adjudication); or
- 2.3.2. Enterprises which have a BEE status level of at least 4 ($\geq 65\%$ on a scorecard).

2.4. Level B - Properties between R5m and R30 million in value

Bidders must be:

- 2.4.1. Enterprises which have a BEE status level of at least 4 ($\geq 65\%$ on a scorecard).

2.5. Level C - Properties between R30m and R100 million in value

Bidders must be:

2.5.1. Enterprises which have a BEE status level of at least 5 ($\geq 55\%$ on a scorecard).

2.6. Level D - Properties exceeding R100 million in value

2.6.1. Bidders must be enterprises which have a BEE status level of at least 6 ($\geq 45\%$ on a scorecard).

2.6.2. As these properties hold vast potential, requests for qualifications (RFQs) (indicative offers) will be called to identify entities that will be allowed to submit formal proposals.

2.7. If deemed necessary by the SOE, enterprises may be required to meet additional requirements in order to qualify to bid for properties at levels B, C and D.

2.8. B-BBEE Status Levels

2.8.1. The following table provides the BEE Status Levels as outlined in the CGP:

BEE Status	Qualification	Recognition Level
Level One Contributor	≥ 100 points on the Generic Scorecard	135%
Level Two Contributor	≥ 85 but < 100 points on the Generic Scorecard	125%
Level Three Contributor	≥ 75 but < 85 on the Generic Scorecard	110%
Level Four Contributor	≥ 65 but < 75 on the Generic Scorecard	100%
Level Five Contributor	≥ 55 but < 65 on the Generic Scorecard	80%
Level Six Contributor	≥ 45 but < 55 on the Generic Scorecard	60%
Level Seven Contributor	≥ 40 but < 45 on the Generic Scorecard	50%
Level Eight Contributor	≥ 30 but < 40 on the Generic Scorecard	10%
Non-Compliant Contributor	< 30 on the Generic Scorecard	0%
EME that are $> 50\%$ black owned are promoted to Level 3. All other EME are level 4.		

3. ADJUDICATION CRITERIA

3.1. All bids which meet the qualification criteria will be adjudicated on the following basis:

Price	60-80 points
Functionality	0-20 points
B-BBEE	20 points
Maximum points	100 points

3.2. The allocation of points between price, functionality and B-BBEE will be disclosed in the tender advertisement or in the tender documentation.

3.3. B-BBEE Bid Adjudication Points

3.3.1. B-BBEE points will be allocated using pre-determined BEE Status Level determinations as indicated below:

Level	BEE Adjudication Points
1	20
2	17
3	14
4	11
5	9
6	6
7	3

3.4. Functionality

3.4.1. SOE may set the following additional adjudication criteria (at all levels) for local economic benefit if they deem this to be a priority, as part of the functionality criteria discussed below.

3.4.2. Functionality relates to the use of the property in support of a specific disposal objective and can accrue a maximum of 20 points. The breakdown may include, but not be limited to social objectives, local benefit and economic development.

3.4.3. The following is proposed in respect of local benefit:

- For property sales below R30m, at least 25% of the economic interest must be held by people from the local area.
- For property sales above R30m at least 25% of the economic interest must be held by people from the province.

3.4.4. Reversionary clauses will apply where property is sold with a substantial discount or where development and other socio-economic objectives are incorporated and not fulfilled. Alternatively penalties may be imposed for onward sale at a profit within specified periods of time.

4. DEFINITIONS

4.1. "Accredited verification agency": an enterprise that has been accredited by SANAS or any other body authorised by the Minister of Trade and Industry to undertake accreditation of verification agencies, on behalf of the Department of Trade and Industry (dti), who meet the minimum technical and black economic empowerment criteria for verification agencies and whose main role is to provide an independent opinion on the B-BBEE status of an enterprise.

4.2. "B-BBEE enterprise": An enterprise whose B-BBEE score in terms of a sector scorecard which has been issued as a code of practice or in terms of the dti's generic scorecard is greater than or equal to 30 points and has been verified by an accredited verification agency.

4.3. "B-BBEE Scorecard": According to dti, a scorecard for the measurement of broad-based black economic empowerment for a particular enterprise as set out in the charter.

- 4.4. “Black people”: Africans, coloureds and Indians qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the Republic of South Africa by naturalisation:
- Occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or
- Occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then.
- 4.5. “Broad-Based Black Economic Empowerment (B-BBEE)” means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:
- Increasing the number of black people that manage, own and control enterprises and productive assets.
 - Facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises.
 - Human resource and skills development.
 - Achieving equitable representation in all occupational categories and levels in the workforce.
 - Preferential procurement.
 - Investment in enterprises that are owned or managed by black people.
- 4.6. “Enterprise”: the person(s) conducting a business, trade or profession in the Republic of South Africa.
- 4.7. “Generic scorecard”: The balanced B-BBEE scorecard include in Code 000, Statement 000 of the dti Codes of Good Practice.
- 4.8. “Local area”: The area surrounding the property to be disposed of within a radius of 100 kilometres.
- 4.9. “SANAS” South African National Accreditation System
- 4.10. “State Owned Enterprises (SOE)”: The Department of Public Enterprises (DPE) is the shareholder department for a number of State Owned Enterprises (SOE) including Transnet, Eskom, Denel, SAA, Infraco, PBMR, Alexcor and SAFCOL.

5. USEFUL LINKS

www.dti.gov.za
www.abva.co.za

APPENDIX 1: THE GENERIC SCORECARD – GAZETTED FEBRUARY 2007

BEE elements	Weighting	Indicators	Indicator Weighting	Targets	
Ownership	20	Exercisable Voting Rights by black people	3	25% + 1 vote	
		Exercisable Voting Rights by black women	2	10%	
		Economic Interest of black people in the enterprise	4	25%	
		Economic Interest of black women in the enterprise	2	10%	
		Economic Interest of the following black natural people in the Enterprise: <ul style="list-style-type: none"> • Black designated groups; • Black participants in Employee Ownership Schemes; • Black beneficiaries of Broad-based ownership schemes; or • Black participants in Co-operatives 	1	2.5%	
		Ownership fulfilment	1	No restrictions	
		Net value	7	10%-yr 1 20%-yr 2 40%-yr 3&4 60%-yr 5&6 80%-yr 7&8 100%-yr 9&10	
Management Control	10	Bonus points: Involvement in the ownership of the Enterprise by Black new entrants Involvement in the ownership of the Enterprise of black participants: <ul style="list-style-type: none"> • in Employee Ownership schemes • of Broad-based ownership schemes; or • Co-operatives 	2	10%	
		Exercisable Voting Rights of black Board members using the Adjusted Recognition for Gender	3	50%	
		Black executive directors using the Adjusted recognition for gender	2	50%	
Employment Equity	15	Black senior top management using the Adjusted recognition for gender	3	40%	
		Black other top management using the Adjusted recognition for gender	2	40%	
		Bonus points: Black Independent Non-executive Board members	1	40%	
		Black Employees with disabilities	2	Yrs 0-5 2%	Yrs 6-10 3%
		Senior Management Black people	5	43%	60%
Middle Management Black Women	4	63%	40%		
Junior Management Black people	4	68%	80%		
Bonus point for meeting or exceeding the EAP targets in each EE category above	3				

BEE elements	Weighting	Indicators	Indicator Weighting	Targets	
Skills Development ¹	15	Skills development spend on learning programmes specified in the Learning Programmes matrix for black employees as a percentage of leviabile amount using the adjusted recognition for gender	6	3%	
		Skills development spend on learning programmes specified in the Learning Programmes matrix for black employees with disabilities as a percentage of leviabile amount using the adjusted recognition for gender	3	0.3%	
		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%	
Preferential Procurement ²	20			0-5yr	6-10yr
		BEE procurement spend from all suppliers based on the bee procurement recognition levels as a percentage of total measured procurement spend	12	50%	70%
		BEE procurement spend from qualifying small enterprises or from exempted micro-enterprises based on the applicable bee procurement recognition levels as a percentage of total measured procurement spend	3	10%	15%
		BEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: <ul style="list-style-type: none"> suppliers that are more than 50% black owned regardless of their BEE procurement recognition level; or suppliers that are more than 30% black women owned regardless of their BEE procurement recognition level 	5	15%	20%
Enterprise Development ³	15	Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the measured entity as a percentage of the target	15	3% of NPAT	
Socio-Economic Development ⁴	5	Average annual value of all Socio-economic Development Contributions made by the measured entity as a percentage of the target	5	1% of NPAT	

¹ The following contributions will be considered for enhanced recognition:
Skill Development spend which is related to an ABET programme may be recognised at a multiple of 1.25 to the actual level of such Skills Development spend.
Category G Learning Programmes under the Learning Programmes Matrix cannot represent more than 15% of the total value of skills development expenditure.

² The following contributions will be considered for enhanced recognition:
Where goods and services are procured directly from a supplier which is also a recipient of enterprise development contributions, all BEE Procurement Spend from that supplier shall be multiplied by a factor of 1.2 when calculating the BEE Procurement Spend.

³ The following contributions will be considered for enhanced recognition:
The full value of Category A Enterprise Development Contributions, adjusted using the Benefit Factor, multiplied by 1.25 is recognisable.

The full value of Category B Enterprise Development Contributions is recognisable.

⁴ The value of Socio-Economic Development Contributions made to beneficiaries is recognisable if at least 75% of the value directly benefits black people and if it is less than 75% then the value of the contribution made multiplied by the percentage that benefits black people, is recognisable.

APPENDIX 2: THE QSE SCORECARD – GAZETTED FEBRUARY 2007

QSEs choose *only four* of seven elements

BEE elements	Weighting	Indicators	Indicator Weighting	Targets		
Ownership	25	Exercisable Voting Rights by black people	6	25% + 1 vote		
		Economic Interest of black people	9	25%		
		Ownership fulfilment	1	No restrictions		
		Net value	9	10%-yr 1 20%-yr 2 40%-yr 3&4 60%-yr 5&6 80%-yr 7&8 100%-yr 9&10		
		Bonus points:				
		Involvement in the ownership of the Enterprise by black women	2	10%		
		Involvement in the ownership of the Enterprise of black participants in Employee Ownership schemes, Co-operatives, or Broad-based ownership schemes	1	10%		
Management Control	25	Black representation at top management level	25	50.1%		
		Bonus point: Black women representation at top management level	2	25%		
Employment Equity	25			Yrs 0-5	Yrs 6-10	
		Black employees who are management as a percentage of all management using adjusted recognition for gender	15	40%	60%	
		Black employees as a percentage of all employees using adjusted recognition for gender	10	60%	70%	
		Bonus point for meeting or exceeding the EAP targets in each EE category above	2			
Skills Development ⁵	25	Skills development spend on learning programmes for black employees as a percentage of leviabale amount using the adjusted recognition for gender	25	2%		
Preferential Procurement ⁶	25			Yrs 0-5	Yrs 6-10	
		BEE procurement spend from all suppliers based on the BEE procurement recognition levels as a percentage of total measured procurement spend	25	40%	50%	
Enterprise Development ⁷	25	Average annual value of all qualifying contributions made by the measured entity as a percentage of the target	25	2% of NPAT		
Socio-Economic Development ⁸	25	Average annual value of all Socio-economic Development Contributions made by the measured entity as a percentage of the target	25	1% of NPAT		

⁵ The following contributions will be considered for enhanced recognition:
Skill Development spend which is related to an ABET programme may be recognised at a multiple of 1.25 to the actual level of such Skills Development spend.
Category G Learning Programmes under the Learning Programmes Matrix cannot represent more than 15% of the total value of skills development expenditure.

⁶ The following contributions will be considered for enhanced recognition:
Where goods and services are procured directly from a supplier which is also a recipient of enterprise development contributions all BEE Procurement Spend from that supplier shall be multiplied by a factor of 1.2 when calculating the BEE Procurement Spend.

⁷ The following contributions will be considered for enhanced recognition:
The full value of Category A Enterprise Development Contributions, adjusted using the Benefit Factor, multiplied by 1.25 is recognisable.

The full value of Category B Enterprise Development Contributions is recognisable.

⁸ The value of Socio-Economic Development Contributions made to beneficiaries is recognisable if at least 75% of the value directly benefits black people and if it is less than 75% then the value of the contribution made multiplied by the percentage that benefits black people, is recognisable.