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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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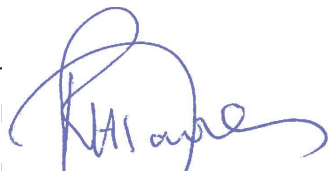
**DEPARTMENT OF TRADE AND INDUSTRY  
NOTICE 343 OF 2018****DRAFT SCHEDULE 1 OF 2018 FOR 60 DAY PUBLIC COMMENTARY****DEPARTMENT OF TRADE AND INDUSTRY  
CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC  
EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

- (a) Publish the following Amended **Draft Schedule 1 of 2018** for public commentary in terms of **section 9 (5)** of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by the B-BBEE Act 46 of 2013;
- (b) Invite interested persons to submit inputs and comments on the **Draft Schedule 1 of 2018** within 60 days from the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of The B-BBEE Policy Unit to the following address (es):

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**Dr Rob Davies, MP**  
**Minister of Trade and Industry**  
29 May 2018

**GENERAL EXPLANATORY NOTE**

[ ] Words in bold type in square brackets indicate deletions from existing enactments

\_\_\_\_\_ Words underlined with a solid line indicate insertions into existing enactments

**BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT****SECTION 9 (5) CODES OF GOOD PRACTICE AS AMENDED****SCHEDULE 1****INTERPRETATION AND DEFINITIONS****Part 1: Interpretation**

The Codes of Good Practice must be interpreted according to the following provisions unless the context requires a different meaning:

1. In interpreting the provisions of the Codes any reasonable interpretation consistent with the objectives of the Act and the B-BBEE Strategy must take precedence.
2. Words importing persons shall where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisation having legal capacity.
3. The Schedules and Annexes to the Codes are an integral part of the Codes and a reference to the Codes includes a reference to the Schedules.

## Part 2: Definitions

In these Codes unless the context otherwise requires:

<p><b>“Absorption”</b></p>	<p>means a measure of the Measured Entity’s ability to successfully secure <b>[formal permanent or]</b> long-term contract of employment for the Learner <b>[or to assist the Learner’s proceed with further education and training;]</b></p>
<p><b>“Acquisition Debt”</b></p>	<p>means the debts of:</p> <p>(a) Black participants incurred in financing their purchase of their equity instruments in the Measured Entity; and</p> <p>(b) Juristic persons or trusts found in the chain of ownership between the eventual Black Participants and the Measured Entity for the same purpose as those in (a);</p>
<p><b>“Apprenticeship”</b></p>	<p>means an agreement between an apprentice and an employer for a set period of time during which the apprentice works and receives training in the workplace;</p>
<p><b>“Associated Entity”</b></p>	<p>means an Entity with which a Seller has concluded a Qualifying Transaction;</p>
<p><b>“B-BBEE”</b></p> <p>Empowerment;</p>	<p>means Broad-Based Black Economic</p>
<p><b>“B-BBEE Controlled Company”</b></p>	<p>means a juristic person, having shareholding or similar members interest, in which black participants enjoy a right to Exercisable</p>

	Voting Rights that is at least 51% of the total such rights measured using the Flow Through Principle;
<b>“B-BBEE Owned Company”</b>	means a juristic person, having shareholding or similar members interest, that is B-BBEE controlled, in which Black participants enjoy a right to Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle;
<b>“B-BBEE Recognition Level”</b>	means the percentage B-BBEE Recognition Levels as determined: <p>(a) for Entities that are neither Qualifying Small Enterprises nor Exempted Micro-Enterprises, using statement 000;</p> <p>(b) for Qualifying Small Enterprises, using statement 000; and</p> <p>(c) for Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under statement 000;</p>
<b>“B-BBEE Status”</b>	means the B-BBEE status of a Measured Entity as determined under statement 000;
<b>“B-BBEE Verification Professional Regulator”</b>	means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE verification professionals;
<b>“Benefit Factor”</b>	means a factor specified in the Benefit Factor Matrix applicable to fixing the monetary value of Enterprise Development



	and Supplier Development and Socio Economic Development Contributions claimable under statement 400 and 500;
<b>“Benefit Factor Matrix”</b>	means the Benefit Factor Matrix for Enterprise Development and Supplier Development and Socio Economic Development Contributions annexed to statement 400 and 500;
<b>“Black Designated Groups”</b> means:	<ul style="list-style-type: none"><li>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</li><li>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</li><li>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</li><li>(d) Black people living in rural and under developed areas;</li><li>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;</li></ul>

<b>“Black New Entrants”</b>	means Black participants who hold rights of ownership in a Measured Entity and who, before holding the Equity Instrument in the Measured Entity, have not held equity instruments in <b>[other]any Entity[ies]</b> which has a total value of more than R50,000,000[ <u>,].00</u> measured using a standard valuation method;
<b>“Black People”</b>	<p>Is a generic term which means Africans, Coloureds and Indians</p> <p>(a) who are citizens of the Republic of South Africa by birth or decent; or</p> <p>(b) who became citizens of the Republic of <u>S[s]</u>outh Africa by naturalisation –</p> <p>(i) before 27 April 1994;</p> <p>(ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.</p>
<b>“Broad-Based Ownership Scheme”</b>	means a ownership scheme which meets the rules set out in Annexe 100B;
<b>“Certified Learning Programme”</b>	<p>means any Learning Programme for which the Measured Entity has:</p> <p>(a) any form of independent written certificate as referred to in the “Learning Achievements” column of the Learning Programme Matrix; or if it does not have</p>

	<p>such certification:</p> <p>(b) an enrolment certificate issued by the independent person responsible for the issue of the certification referred to in statement 300 confirming the employee has:</p> <p>(i) enrolled for, is attending and is making satisfactory progress in the Learning Programme; or</p> <p>(ii) enrolled for but not attended the Learning; or</p> <p>(iii) attended the Training Programme but has failed an evaluation of their learning progress</p>
<b>“Companies Act”</b>	means the Companies Act, No. 71 of 2008 as amended or substituted;
<b>“Company Limited by guarantee”</b>	means a company <u>limited by guarantee</u> as referred in the Companies Act, No. 71 of 2008;
<b>“Competent Person”</b>	means a person who has acquired through training, qualification and experience the knowledge and skills necessary for undertaking any task assigned to them under the codes;
<b>“Core Skills”</b>	<p>means skills that are:</p> <p>(a) value-adding to the activities of the Measured Entity in line with its core business;</p>

(b) in areas the Measured Entity cannot outsource; or

(c) within the production/operational part of the Measured Entity's value-chain; as opposed to the supply side; services or downstream operations;

**“Critical Skills”** means those skills identified as being critical by [any]the relevant SETA;

**“Designated Group Supplier”** means a supplier to the Measured Entity that is at least 51% owned by one or more of the following categories of ownership within its structure:

(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;

(b) Black people who are youth as defined in the National Youth Commission Act of 1996;

(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;

(d) Black people living in rural and under developed areas;

	<u>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;</u>
<b>EAP</b>	Economically Active Population as determined and published by Stats SA. The operative EAP for the purposes of any calculation under the Codes will be the most recently published EAP;
<b>Economic Interest</b>	means a claim against an Entity representing a return on ownership of the Entity similar in nature to a dividend right, measured using the Flow Through and, where applicable, the Modified <u>Flow Through Principles</u> ;
<b>“EE Act “</b>	means the Employment Equity Act of 1998, as amended;
<b>“EE Regulations”</b>	means the regulations under the Employment Equity Act
<b>“Elements”</b>	means the measurable quantitative or qualitative elements of B-BBEE compliance in the Generic Scorecard and the Codes;
<b>“Employed Learner”</b>	In terms of section 18 (1) of the Skills Development Act it means a learner that was in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The learner’s contract of employment is therefore not affected by the agreement.
<b>“Employee with a Disability”</b>	has the meaning defined in the Code of Good Practice on Key Aspects of Disability

	in the Workplace issued under section 54 of the Employment Equity Act; aligned with the Employment Equity Act
<b>“Employee”</b>	bears the meaning as defined in the Labour Relations Act 66 of 1995 as amended;
<b>“Employee Ownership Scheme”</b>	means a worker or employee scheme;
<b>“Empowering Supplier”</b>	<p>An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:</p> <p>(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%.</p> <p>(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.</p> <p>(c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.</p> <p>(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.</p>

<p><b>“Enterprise Development Contributions”</b></p>	<p>means monetary or non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:</p> <p>(a) Enterprise Development Contributions to Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% Black owned or at least 51% Black women owned;</p>
<p><b>“Entity”</b></p>	<p>means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa;</p>
<p><b>“Entrepreneur”</b></p>	<p>means a person who starts and / or operates a business which includes identifying opportunities in the market, taking risks with a view of being rewarded with profits;</p>
<p><b>“Equity Equivalent contribution”</b></p>	<p>means an equity equivalent contribution made by a Multinational under an Equity Equivalent Investment Programme;</p>
<p><b>“Equity Equivalent Investment Programme”</b></p>	<p>means a public programme or scheme of any government department, provincial or local government in the Republic of South Africa or any other programme approved by the Minister as an Equity Equivalent Investment Programme;</p>
<p><b>“Equity Instrument”</b></p>	<p>means the instrument by which a Participant holds rights of ownership in an Entity;</p>
<p><b>“Equivalency Percentage”</b></p>	<p>means a percentage ownership performance</p>

	for all the indicators in the Associated Enterprise's Ownership Scorecard arising from a Qualifying Transaction included in the Ownership Scorecard of the beneficiary entity;
<b>"Executive Members of the Board"</b>	means those members of the Board who are executive directors as defined in the King Report;
<b>"Exempted Micro Enterprise"</b>	means an Entity with an annual turnover of R 10 (ten) million or less;
<b>"Exercisable Voting Right"</b>	means a voting right of a Participant that is not subject to any limit;
<b>"Global Practice"</b>	means a globally and uniformly applied practice of a Multinational, restricting alienation of equity in or the sale of businesses in its regional operations. The practice must have existed before the promulgation of the Act;
<b>"Grant Contribution"</b>	means the monetary value of Qualifying Contributions made by the Measured Entity to a beneficiary in the form of grants, donations, discounts and other similar quantifiable benefits which are not recoverable by the Measured Entity;
<b>"Group Structure"</b>	means an ownership arrangement whereby one or more Measured Entities that are juristic persons are subsidiaries of another Measured Entity that would qualify as a holding company;
<b>"Higher Education Institution"</b>	means a higher education institution as defined under the Higher Education Act of 1997;
<b>"Indicator Percentage"</b>	means the percentage compliance of the



	Associated Entity for all the indicators of the Associated Enterprises ownership Scorecard. The calculation of indicator Percentages follows the rules in statement 100 using the actual percentage compliance for each indicator and not the resulting scores;
<b>“Industry Specific Initiatives”</b>	means the qualifying contributions that are unique to the industry in which enterprises operate. For the purposes of the Codes an industry may be grouped in major divisions in accordance with the Standard Industrial Classification Coding System used by Statistic South Africa;
<b>“Internship”</b>	means an opportunity to integrate career related experience into an undergraduate education by participating in planned, supervised work;
<b>“Junior Management”</b>	means an employee of the Measured Entity who is a member of the occupational category of “Junior Management” as determined using the Employment Equity regulations;
<b>“Learnership”</b>	means a work-based route to a qualification. It is a workplace education and training programme comprising both structured practical workplace (on-the-job) experience and structured theoretical training.
<b>“Learning Programmes”</b>	means any learning programme set out in the Learning Programme Matrix;
<b>“Learning Programme Matrix”</b>	means the Learning Programme Matrix

	annexed as Annexe “300A” in statement 300;
<b>“Leviable Amount”</b>	bears the meaning as defined in the Skills Development Levies Act of 1999 as determined using the Fourth Schedule to the Income Tax Act;
<b>“long-term contract of employment”</b>	<u>A legal agreement between an individual and an entity that this individual would work for until his or her mandatory date of retirement</u>
<b>“Management Fees”</b>	means the total Economic Interest received by a Broad-Based Ownership Scheme or Black participants in any year less the amounts distributed or applied to beneficiaries and the amounts reserved for future distribution or application;
<b>“Mandated Investments”</b>	means any investments made by or through any third party regulated by legislation on behalf of the actual owner of the funds, pursuant to a mandate given by the owner to a third party, which mandate is governed by that legislation. Some examples of domestic mandated investments and the portions of those investments subject to the exclusion principle are contained in Annexe 100A attached to statement 100;
<b>“Measured Entity”</b>	means an Entity as well as an organ of state or public entity subject to measurement under the Codes;
<b>“51% Black Owned ”</b>	means an Entity in which:  (a) Black people hold at least 51% of the exercisable voting rights as determined under Code series 100;

	<p>(b) black people hold at least 51% of the economic interest as determined under Code series 100; and</p> <p>(c) has earned all the points for Net Value under statement 100;</p>
<b>“51% Black Women Owned ”</b>	<p>means an Entity in which:</p> <p>(a) Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;</p> <p>(b) Black women hold at least 51% of the economic interest as determined under Code series 100; and</p> <p>(c) has earned all the points for Net Value under statement 100;</p>
<b>“30% Black Women Owned”</b>	<p>means an Entity in which:</p> <p>(a) Black women hold <u>at least</u> <b>[more than]</b> 30% of the exercisable voting rights as determined under Code series 100;</p> <p>(b) Black women hold <u>at least</u> <b>[more than]</b> 30% of the economic interest as determined under Code series 100; and</p> <p>(c) has earned all the points for Net Value under statement 100;</p>
<b>“Middle Management”</b>	<p>means an employee of the Measured Entity who is a member of the occupational</p>

	category of "Middle Management" as determined using the Employment Equity regulations;
<b>"Multinational Business"</b>	means a Measured Entity with a business in the Republic of South Africa and elsewhere which maintains its international headquarters outside the Republic;
<b>"National Skills Development Strategy"</b>	means the national skills development strategy referred to in section 5(1)(a)(ii) of the Skills Development Act;
<b>"Net Profit After Tax"</b>	means the operating profit of a measured entity after tax. It incorporates both the equity / loss figures and abnormal items, but excludes extra ordinary items as determined by (GAAP) Generally Accepted Accounting Practices;
<b>"Net Profit Before Tax"</b>	means the operating profit of a measured entity before tax. It incorporates both the equity / loss figures and abnormal items, but excludes extra ordinary items as determined by (GAAP) Generally Accepted Accounting Practices;
<b>"Net Value"</b>	means the percentage resulting from the formula in Annexe 100(C) of statement 100;
<b>["Net-Value date"]</b> <u>Current Equity Interest Date</u>	means the later occurring of the date of commencement of statement 100 and the date upon which the [ <b>earliest of all still operative</b> ] transaction[s] undertaken by the Measured Entity in order to achieve black rights of ownership, became effective and unconditional;

<b>“New Enterprise”</b>	means an early stage business which is similar to a start-up. However, an early stage business is typically 3 years old or less.
<b>“Non-Profit Organisation”</b>	means a non-profit organisation registered under the Non-Profit Organisation Act of 1997;
<b>“Outsourced Labour Expenditure”</b>	<p>means any expenditure incurred in:</p> <p>(a) procuring the services of or from a labour broker; and</p> <p>(b) procuring the services of any person who receives any remuneration or to whom any remuneration accrues because of any services rendered by such person to or on behalf of a labour broker;</p>
<b>“Participant”</b>	means a natural person holding rights of ownership in a Measured Entity;
<b>“PIVOTAL report”</b>	means a report on ‘Professional, Vocational, Technical and Academic Learning’ programmes that meet the critical needs for economic growth and social development, generally combining course work at universities, universities of technology and colleges with structured learning at work.
<b>“Priority Skills”</b>	<p>means Core, Critical and Scarce Skills as well as any skills specifically identified:</p> <p>(a) in a Sector Skills Plan issued by the Department of Labour of the Republic of South Africa;</p>

	<p>(b) National Skills Development Strategy III;</p> <p>(c) New Growth Path; and</p> <p>(d) National Development Plan Remove.</p>
<b>“Private Equity Fund”</b>	means a third party fund through which investments are made on behalf of the actual owner of the funds pursuant to a mandate given by that person to the private equity fund;
<b>“Public Benefit Organisation”</b>	means an entity as defined in section 30 of the income Tax Act of 1962;
<b>“Qualifying Enterprise and Supplier Development Contributions”</b>	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 <del>30%</del> <u>51%</u> black women owned, black youth in rural, and underdeveloped areas in statement 400;
<b>“Qualifying Small Enterprise”</b>	means an Entity that qualifies for measurement under the Qualifying Small Enterprise scorecard with a turnover of R10 million or more but less than R50 million;
<b>“Qualifying Socio-Economic Contributions”</b>	Is a collective term for Socio-Economic Project Contributions and Socio-Economic Contributions;
<b>“Qualifying Transaction”</b>	means a sale of a business, valuable business assets or shares that results in the creation of sustainable business opportunities and transfer of specialised

	skills or productive capacity to Black people;
<b>“Related Enterprise”</b>	means an Entity controlled by a Measured Entity whether directly or indirectly controlled by the natural persons who have direct or indirect control over that Measured Entity or the immediate family of those natural persons;
<b>“Rights of Ownership”</b>	Is a collective term for the right to Economic Interest and the right to Exercisable Voting Rights;
<b>“Scarce Skills”</b>	are those skills identified as being scarce by any SETA;
<b>“Section 21 Company”</b>	means an association not for gain incorporated under section 21 of the Companies Act;
<b>“Sector Code”</b>	means a code in series 003 which is applicable to a particular sector;
<b>“Seller”</b>	means the Entity or the person concluding a Qualifying Transaction with the Associated Enterprise;
<b>“Senior Management”</b>	means an employee of the Measured Entity who is a member of the occupational category of “Senior Management” as determined using the Employment Equity regulations;
<b>“Skills Development Expenditure”</b>	comprises the money that a Measured Entity spends on skills development. It excludes the skills development levy payable by the Measured Entity under the Skills Development Levies Act;
<b>“Socio-Economic Development Contributions”</b>	means monetary or non-monetary contribution implemented for communities,

natural persons or groups of natural persons where at least 75% of the beneficiaries are Black people. The objective of Socio-Economic Development Contributions is the promotion of sustainable access for the beneficiaries to the economy. Socio-Economic Development Contributions commonly take the following forms:

- (a) development programmes for women, youth, people with disabilities, people living in rural areas;
- (b) support of healthcare and HIV/AIDS programmes;
- (c) support for education programmes, resources and materials at primary, secondary and tertiary education level, as well as bursaries and scholarships;
- (d) community training; skills development for unemployed people and adult basic education and training; or
- (e) support of arts, cultural or sporting development programmes;

**“Socio-Economic Project Contributions”**

means monetary or non-monetary contributions carried out for the benefit of any projects approved for this purpose by any organ of state or sectors including



	<p>without limitation:</p> <p>(a) projects focusing on environmental conservation, awareness, education and waste management; and</p> <p>(b) projects targeting infrastructural development or reconstruction in underdeveloped areas; rural communities or geographic areas identified in the government's integrated sustainable rural development or urban renewal programmes;</p> <p>(c) New projects promoting beneficiation;</p>
<b>“Standard Valuation”</b>	means a standard valuation method for an asset, an Economic Interest, or any other instrument or right relevant to measurement under statement 100, undertaken using normal valuation methods that represent standard market practice;
<b>“Start-up Enterprise”</b>	means a recently formed or incorporated Entity that has been in operation for less than 1 year. A start-up enterprise does not include any newly constituted enterprise which merely a continuation of a pre-existing enterprise;
<b>“Subsidiary”</b>	has the meaning defined in section 1(3) of the Companies Act;
<b>“Superior Contributor to B-BBEE”</b>	is a Level One to Level Three Contributor to B-BBEE;
<b>“Supplier”</b>	means any supplier or service provider to a Measured Entity if any portion of the supply

	or service provision falls within the definition of Total Measured Procurement Spend;
<b>“Supplier Development Contributions”</b>	<p>means monetary or non-monetary contributions carried out for the benefit of value-adding suppliers to the Measured Entity, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:</p> <p>(a) Supplier Development Contributions to suppliers that are Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% black owned or at least 51% black women owned;</p>
<b>“Target”</b>	means the targets for the various Elements in the Generic and QSE Scorecard;
<b>“the Act”</b>	means the Broad-Based Black Economic Empowerment Act 53 of 2003;
<b>“the Codes”</b>	means the Codes of Good Practice including all the statements as issued under section 9 of the Act;
<b>“the Generic Scorecard”</b>	means the balanced B-BBEE scorecard as contained in statement 000;
<b>“the PFMA”</b>	means the Public Finance Management Act 1 of 1999 as amended;
<b>“the QSE Scorecard”</b>	means the QSE scorecard referred to in statement 000;
<b>“the Skills Development Act”</b>	means the Skills Development Act of 1998;
<b>“the Skills Development Levies Act”</b>	means the Skills Development Levies Act of 1999;

<b>“the Strategy Document”</b>	means the document entitled “South Africa's Economic Transformation – A Strategy for Broad-Based Black Economic Empowerment” published by the department of trade and industry in March 2003 as amended or substituted under section 11 of the Act;
<b>“Third Party Rights”</b>	<p>means third party legal or commercial rights that restrict withhold or defer any benefit associated with ownership of any Equity Instrument. Third party rights include only those rights:</p> <p>(a) created against a black Participant to secure, for a lender, repayment of a loan advanced to that Participant for financing their purchase of their equity instrument in the Measured Entity;</p> <p>(b) held against a juristic person or trust that is in the chain of ownership between the Measured Entity and that the eventual black Participant serving the same purpose mentioned in (a) above;</p>
<b>“Total Labour Cost”</b>	means the total amount of remuneration paid by an Entity to its employees determined using section 3(4) of the Skills Development Levies Act of 1999 and the Forth Schedule of the Income Tax Act of 1962;
<b>“Total Revenue”</b>	means the total income of an Entity from its operations as determined under South African Generally Accepted Accounting

	Practice;
<b>“Transformation Charters”</b>	means the sectoral transformation charters referred to in section 12 of the Act;
<b>“Unemployed Learner”</b>	means a learner that was not in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The employer and learner must therefore enter into a contract of employment. Refer to the Skills Development Act.
<b>“Unincorporated Joint Venture”</b>	means a joint venture between two or more Measured Entities effected by agreement without incorporation;
<b>“Voting Right”</b>	means a voting right attaching to an Equity Instrument owned by or held for a participant measured using the Flow through Principle or the Control Principle;
<b>“Weighting”</b>	means the weightings applied to various Elements in the Generic Scorecard and QSE Scorecard;
<b>“Workplace Skills Plan”</b>	means the plan of a Measured Entity approved by the relevant SETA.

DEPARTMENT OF TRADE AND INDUSTRY  
NOTICE 344 OF 2018

DRAFT CODE SERIES 400 OF 2018 FOR 60 DAY PUBLIC COMMENTARY

DEPARTMENT OF TRADE AND INDUSTRY

CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC  
EMPOWERMENT

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

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- (b) Invite interested persons to submit inputs and comments on the **Draft Code Series 400 of 2018** within 60 days from the date of this publication.

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**Dr Rob Davies, MP**  
**Minister of Trade and Industry**  
29 May 2018

**DRAFT CODE SERIES 400 OF 2018 FOR 60 DAY PUBLIC COMMENTARY**  
**DEPARTMENT OF TRADE AND INDUSTRY**  
**CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC**  
**EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry hereby:

- (a) Publish the following amended **Draft Code Series 400 of 2018** for public commentary in terms of **section 9 (5)** of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by the B-BBEE Act 46 of 2013;
- (b) Invite interested persons to submit inputs and comments on the **Draft Code Series 400 of 2018** within 60 days from the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of The B-BBEE Policy Unit to the following address (es):

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**Dr Rob Davies, MP**  
**Minister of Trade and Industry**

\_\_\_\_/\_\_\_\_/2018

## KEY AMENDMENTS

1. The introduction of a Multiplier Factor 2 for at least 51% Black Owned or at least 51% Black Women Owned Entities under the Preferential Procurement Scorecard
2. The Combination and reallocation of Points and Targets for Spend with EMEs and QSEs under the Preferential Procurement Scorecard;
3. The Recognition of Enterprise Development or Supplier Development Initiatives irrespective of Turnover Growth for the Beneficiary
4. The Increasing of recognition for Guarantees from 3% to 50% under the Enterprise and Supplier Development Benefit Matrix

## GENERAL EXPLANATORY NOTE

[        ] Words in bold type in square brackets indicate deletions from existing enactments

\_\_\_\_\_ Words underlined with a solid line indicate insertions into existing enactments

### AMENDED CODE SERIES 400: MEASUREMENT OF THE ENTERPRISE AND SUPPLIER DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

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

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

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## OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the scorecard for measuring Enterprise and Supplier Development;
- 1.2 Specify the key measurement principles applicable to calculating Preferential Procurement contributions; Qualifying Enterprise Development and Supplier Development Contributions;
- 1.3 Define the principles applicable when calculating B-BBEE Procurement Spend and Enterprise Development and Supplier Development Spend; and
- 1.4 Indicate the formula for calculating the individual criteria specified in the Enterprise and Supplier Development scorecard.

### 1. ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

The following table represents the criteria for deriving a score for Enterprise and Supplier Development under this statement.

Criteria	Weighting points	Compliance targets
<b>2.1 PREFERENTIAL PROCUREMENT</b>		
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	80%
2.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are <u>Exempted Micro Enterprises</u> or <u>Qualifying Small Enterprises</u> based on the applicable B-BBEE Procurement	<b>[3]</b> 5	<b>[15%]</b> <u>25%</u>

Recognition Levels as a percentage of Total Measured Procurement Spend. <u>Refer to Paragraph 3.9 Below.</u>		
<b>[2.1.3 B-BBEE Procurement Spend from all Empowering Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend]</b>	<b>[4]</b>	<b>[15%]</b>
<b>[2.1.4]</b> <u>2.1.3</u> 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	<b>[9]</b> <u>11</u>	<b>[40%]</b> <u>50%</u>
<b>[2.1.5]</b> <u>2.1.4</u> 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%
<b>Bonus points</b>		
<u>2.1.5</u> B-BBEE Procurement Spend from <u>Empowering</u> Designated Group Suppliers that are at least 51% Black owned.	2	2%
<b><u>2.2</u> SUPPLIER DEVELOPMENT</b>		
<u>2.2.1</u> Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.	10	2% of NPAT

<b>2.3 ENTERPRISE DEVELOPMENT</b>		
<b>2.3.1</b> 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
<b>2.4 Bonus Points</b>		
<b>2.4.1</b> Bonus point for graduation of one or more Enterprise Development beneficiaries to the Supplier Development level.	1	
<b>2.4.2</b> Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	

## 2. KEY MEASUREMENT PRINCIPLES

### 3.1 The Enterprise

and Supplier Development consist of,

3.1.1 Preferential Procurement; and

3.1.2 Enterprise Development and Supplier Development.

3.1.3 Enterprise Development and Supplier Development Contributions will be recognised as a percentage of annual Net Profit After Tax (NPAT).

3.1.4 The Net Profit After Tax (NPAT) or average target applies unless:

3.1.4.1 the company does not make a profit last year or on average over the last five years

3.1.4.2 the net profit margin is less than a quarter of the norm in the

industry.

3.1.4.3 If the Turnover is to be used, the target will be set at:

3.1.4.4 1% x Indicative Profit Margin (NPAT/Turnover) x Turnover

## 3.2 SUB-MINIMUM AND DISCOUNTING PRINCIPLE

3.2.1 A Measured Entity must achieve a minimum of 40% of each of the total weighting points as set out under Statement 000, Paragraph 3.3.1.3.1

3.2.2 Non-compliance to one or more of the threshold targets as per paragraph 3.2.1 will result in the overall achieved B-BBEE status level being discounted in accordance with paragraph 3.4 in statement 000.

3.3 An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:

- (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.
- (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.

3.3.1 Exempted Micro Enterprises and Start-Ups are automatically recognised as Empowering Suppliers.

3.4 The Weighting points in the Enterprise and Supplier Development scorecard represent the maximum number of points possible for each of the criteria.

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

3.5.1 A recipient of supplier development contributions from a Measured Entity under Code series 400 which 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;

3.5.2 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;

**[3.5.3 A first time supplier to the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2.]**

3.5.3 A supplier to the Measured Entity that is at least 51% Black Owned or at least 51% Black Woman Owned utilising the Flow Through Principle, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 2.

3.6. Procurement of goods and services and any other activities that fall under 2.1 will not qualify for scoring under 2.2 and 2.3 and vice versa.

- 3.7 Beneficiaries of Supplier Development **[and]** or Enterprise Development are EMEs, QSEs or Generic Entities which are at least 51% Black Owned or at least 51% Black Women Owned utilizing the flow through principle.
- 3.8 A Supplier Development Beneficiary is a part of the Measured Entity's supply chain whereas an Enterprise Development Beneficiary is not.
- 3.9 B-BBEE Procurement Spend from Generic Entity Suppliers which are at least 51% Black Owned or at least 51% Black Women Owned utilizing the flow through principle can be recognized under Point Indicator 2.1.2 of the Enterprise and Supplier Development Scorecard.

#### **4. GENERAL PRINCIPLES**

- 4.1 To strengthen local procurement in order to help build South Africa's industrial base in critical sectors of production and value adding manufacturing, which are largely labour-intensive industries.
- 4.2 To increase local procurement through capacity building achieved by incentivising appropriate local supplier development programmes by businesses supplying imported goods and services.
- 4.3 The imports provisions do not apply to the designated sectors and products for local production, as and when published.
- 4.4 To actively support procurement from black owned QSEs and EMEs by identifying opportunities to increase procurement from local suppliers in order to support employment creation.
- 4.5 To support procurement from black owned and black women owned businesses in order to increase the participation of these

businesses in the main stream economy.

- 4.6 To promote the use of black owned professional service providers and entrepreneurs as suppliers.
- 4.7 Measured Entities receive recognition for any Enterprise Development and Supplier Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.
- 4.8 Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with the designated sectors of government's localisation and value adding programmes.
- 4.9 Measured Entities are encouraged to align their enterprise development and supplier development initiatives with their supply chain requirements thereby linking Enterprise Development and Supplier Development with Preferential Procurement.
- 4.10 Qualifying Enterprise Development and Supplier Development Contributions of any Measured Entity are recognisable on an annual basis.
- 4.11 Contributions, programmes and/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.
- 4.12 Measured Entities are encouraged to develop and implement[ed] an Enterprise Development plan and Supplier Development plan for Qualifying Beneficiaries. The plan should include:

4.12.1 Clear objectives



- 4.12.2 Priority interventions
  - 4.12.3 Key performance indicators; and
  - 4.12.4 A concise implementation plan with clearly articulated milestones.
- 4.13 Measured Entities will not get recognition for the same activities undertaken under 2.2 and 2.3, they will only get recognition for one of the two i.e. 2.2 or 2.3
- 4.14 No portion of the value of any Qualifying Enterprise Development and Supplier Development Contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.

## **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:**
- 5.4.1 all goods and services procured from organs of state and public entities. 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

- 5.4.2 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;
- 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 commission's: any commission 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 section 2.2 and 2.3 of this statement or Code series 500 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: all goods and services procured from subsidiaries or holding companies of the Measured Entity (BEE credentials of the entity supplying goods and/or services must be confirmed by way of a valid BEE certificate).

## **6 EXCLUSIONS FROM TOTAL MEASURED PROCUREMENT SPEND**

The following list provides 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 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;
- 6.3 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;

### **6.4 Empowerment related procurement:**

- 6.4.1 Investments in or loans to an Associated Enterprise;
- 6.4.2 Investments, loans or donations qualifying for recognition under any statement under Code series 400 or 500;

### **6.5 Imports: the following imported goods and services:**

- 6.5.1 imported capital goods or components for value-added production in South Africa provided that:

- 6.5.1.1 there is no existing local production of such capital goods or

components; and

6.5.1.2 importing those capital goods or components promotes further value-added production within South Africa;

6.5.2 imported goods and services other than those listed in paragraph 6.5.1 if there is no local production of those goods or services including, but not limited to, imported goods or services that –

6.5.2.1 carry a brand different to the locally produced goods or services; or

6.5.2.2 have different technical specifications to the locally produced goods or services.

6.5.3 The exclusion of imports listed under 6.5.2 are subject to them having developed and implemented an Enterprise Development and Supplier Development plan for imported goods and services. This plan should include:

6.5.3.1 Clear objectives

6.5.3.2 Priority interventions

6.5.3.3 Key performance indicators; and

6.5.3.4 A concise implementation plan with clearly articulated milestones

6.5.4 The Department of Trade and Industry will from time to time consult with the industry and issue practice notes with regard to the provisions on import exclusion.

## **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 3.5, the value of procurement from that supplier is multiplied by the applicable factor listed in that paragraph.

7.2 B-BBEE Procurement Spend can be measured in terms of formula "A" in Annexe 400(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 400(A).

## **9 ENTERPRISE DEVELOPMENT and SUPPLIER DEVELOPMENT CONTRIBUTIONS**

9.1 The following is a non-exhaustive list of Enterprise Development and Supplier Development Contributions:

9.1.1 investments in beneficiary entities;

9.1.2 loans made to beneficiary entities;

9.1.3 guarantees given or security provided on behalf of beneficiaries;

9.1.4 credit facilities made available to beneficiary entities;

9.1.5 grant Contributions to beneficiary entities;

9.1.6 direct costs incurred by a Measured Entity in assisting and

- hastening development of beneficiary entities;
- 9.1.7 overhead costs of a Measured Entity directly attributable to Enterprise Development and Supplier Development Contributions;
- 9.1.8 preferential credit terms granted by a Measured Entity to beneficiary entities;
- 9.1.9 preferential terms granted by a Measured Entity in respect of its supply of goods or services to beneficiary entities;
- 9.1.10 contributions made to settling service costs relating to the operational or financial capacity or efficiency levels of beneficiary entities;
- 9.1.11 discounts given to beneficiary entities in relation to the acquisition and maintenance costs associated with the grant to those beneficiary entities of franchise, licence, agency, distribution or other similar business rights;
- 9.1.12 the creation or development of capacity and expertise for beneficiary entities needed to manufacture or produce goods or services previously not manufactured, produced or provided in the Republic of South Africa is provided for in Government's economic growth and local supplier development policies and initiatives;
- 9.1.13 facilitating access to credit for beneficiary entities without access to similar credit facilities through traditional means owing to a lack of credit history, high-risk or lack of collateral;
- 9.1.14 provision of training or mentoring by suitably qualified entities or individuals to beneficiary entities which will assist the beneficiary entities to increase their operational or financial capacity; and
- 9.1.15 the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of beneficiary entities or candidate

beneficiary entities.

9.1.16 new projects promoting beneficiation by the Measured Entity for the benefit of Enterprise Development and Supplier Development Beneficiaries.

9.1.17 provision of preferential credit facilities to a beneficiary entity by a Measured Entity may constitute an Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation:

9.1.18 provision of finance to beneficiary entities at lower than commercial rates of interest;

9.1.19 relaxed security requirements or absence of security requirements for beneficiary entities unable to provide security for loans; and

9.1.20 settlement of accounts with beneficiary entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided the shorter period is no longer than 15 days;

9.1.21 providing training or mentoring to beneficiary communities by a Measured Entity. (Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A clear justification, commensurate with the seniority and expertise of the trainer or mentor, must support any claim for time costs incurred).

9.1.22 maintaining an Enterprise Development and Supplier Development unit by the Measured Entity. (Only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to, promoting or implementing Enterprise Development and Supplier Development constitute contributions.)

Payments made by the Measured Entity to suitably qualified and experienced third parties to perform Enterprise Development and

Supplier Development on the Measured Entity's behalf.

## **10 MONETARY AND NON-MONETARY CONTRIBUTIONS**

10.1 Subject always to the definition of Qualifying Enterprise Development and Supplier Development Contributions, the following monetary/non-monetary contributions will, without limitation, be considered:

10.1.1 the provision of seed or development capital;

10.1.2 contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of a Qualifying Enterprise Development and Supplier Development Beneficiary including, without limitation:

10.1.2.1 professional and consulting services;

10.1.2.2 licensing and/or registration fees;

10.1.2.3 industry specific levies and/or other such fees; and

10.1.2.4 IT services;

10.1.3 subject to paragraph 10.1, creation or development of capacity and expertise for Beneficiary Entities required to manufacture or produce goods and/or services previously not manufactured, produced or provided in the Republic of South Africa;

10.1.4 subject to paragraph 10.2, provision of preferential credit facilities;

10.1.5 subject to paragraph 10.1, facilitation of access to credit for Beneficiary Entities unable to access similar credit facilities through traditional means owing to a lack of credit history, high risk and/or lack of collateral;

10.1.6 subject to paragraph 10.3, provision of training and/or mentoring to Beneficiary Entities which will assist the Beneficiary Entities to increase their operational and/or financial capacity; and



- 10.1.7 subject to paragraph 10.4, the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of Beneficiary Entities or candidate Beneficiary Entities.
- 10.2 The creation and/or development of the capacity of Beneficiary Entities which will enable them to manufacture and produce goods and/or provide services previously not available in the Republic of South Africa, may constitute a Qualifying Enterprise Development and Supplier Development Contribution, and will be measured as the rand value of monetary contributions made as well as investments into, loans made to or guarantees given for a Beneficiary Entity.
- 10.3 Provision of preferential credit facilities to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation:
- 10.3.1 provision of finance to Beneficiary Entities at rates of interest below the applicable rate. Such contributions will be measured as the value of the differential between the actual interest rate provided to the Beneficiary Entity and the applicable rate;
- 10.3.2 relaxed security requirements or absence of security requirements for Beneficiary Entities unable to provide security for loans. **[ Such contributions shall be measured as being 3% (three percent) of any positive differential between the initial capital value of the loan and the value of security taken];** and
- 10.3.3 settlement of accounts with Beneficiary Entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided that the shorter period is no longer than 15 days. Preferential payment terms which extend beyond 15 days will not qualify as Qualifying Enterprise Development and Supplier Development Contributions.

10.4 Provision of training and/or mentoring to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Such contributions will be measured by quantifying the cost of time spent by staff or management of the Measured Entity in carrying out such initiatives. Any travel or commuting time may not be included in this cost. Furthermore, a clear justification must be supplied with respect to the calculation of such time costs incurred, commensurate with the level of seniority and expertise of the trainer or mentor. Common forms of such contribution include without limitation:

10.4.1 Professional and consulting services;

10.4.2 IT services; and

10.4.3 any other services which help to increase the entity's financial and/or operational capacity and which have not also been accounted for under skills development.

10.5 The maintenance of an Enterprise Development and Supplier Development unit by the Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Common examples of such contributions include without limitation the salaries and wages of staff and other expenses involved in the operation of such Enterprise Development and Supplier Development unit. Notwithstanding the afore going, only that portion of salaries and wages which relate to time spent by the staff in and the other expenses related to the promotion and implementation of Enterprise Development and Supplier Development in respect of Beneficiary Entities or candidate Beneficiary Entities should be taken into consideration under Enterprise Development and Supplier Development contributions.

## **11 MEASUREMENT OF ENTERPRISE DEVELOPMENT AND SUPPLIER DEVELOPMENT CONTRIBUTIONS**

- 11.1 A measured Entity receives a score for Enterprise Development and Supplier Development in proportion the extent that it meets the compliance target.
- 11.2 Qualifying Contributions are measurable using the formula "A" in Annexe 400(B)

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

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.

#### ANNEXE 400(A)

**A: B-BBEE PROCUREMENT SPEND:**

**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 2.1.1, 2.1.2, 2.1.3, 2.1.4 and 2.1.5 **[and 2.1.6]** in the scorecard under statement 400 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 400;

**D** is the Weighting points allocated to each criteria specified in the scorecard under statement 400.

**ANNEXE 400(B)****Annexe 400B – Enterprise Development and Supplier Development Benefit Factor  
Matrix**

<b>Qualifying Contribution type</b>	<b>Contribution Amount</b>	<b>Benefit Factor</b>
<b>Grant and Related Contributions</b>		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting Enterprise Development and Supplier Development	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting Enterprise Development and Supplier Development	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting Enterprise Development and Supplier Development (including people appointed in Enterprise Development and Supplier Development)	Verifiable Costs (including both monetary and non-monetary)	70%
<b>Loans and Related Contributions</b>		
Interest-Free Loan with no security requirements supporting Enterprise Development and Supplier Development	Outstanding Loan Amount	70%
Standard Loan to Enterprise Development and Supplier Development Beneficiaries	Outstanding Loan Amount	50%
Guarantees provided on behalf of a Beneficiary entity	Guarantee Amount	<b>[3%] 50%</b>

Lower Interest Rate	Outstanding loan amount	Prime Rate – Actual Rate
<b>Equity Investments and Related Contributions</b>		
Minority Investment in Enterprise Development and Supplier Development Beneficiaries	Investment Amount	70%
Enterprise Development and Supplier Development Investment with lower dividend to financier	Investment Amount	Dividend Rate of Ordinary Shareholders – Actual Dividend Rate of Contributor
<b>Contributions made in the form of human resource capacity</b>		
Professional services rendered at no cost and supporting Enterprise Development and Supplier Development	Commercial hourly rate of professional	60%
Professional services rendered at a discount and supporting Enterprise Development and Supplier Development	Value of discount based on commercial hourly rate of professional	60%
Time of employees of Measured Entity productively deployed in assisting beneficiaries	Monthly salary divided by 160	60%
<b>Other Contributions</b>		
Shorter payment periods for 2.2 of this statement (Supplier Development)	Percentage of invoiced amount multiplied by 15% (being an approximation of the cost of short term funding)	Percentage being 15 days less the number of days from invoice to payment Maximum points that can be scored is 15% of 10 points

**ANNEXE 400(B)**

**A: Qualifying Contributions are measurable on the following basis:**

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

Where

**A** is the score achieved in respect of the Qualifying Contributions made by the Measured Entity

**B** is the annual value of all Qualifying Contributions made by the Measured Entity measured from the commencement of this statement or the Inception Date to the date of measurement

**C** is compliance target in respect of the Qualifying Contributions as specified in the scorecard for statement 400

**D** is the Weighting points allocated to the criteria under the scorecard for statement 400.

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