



GLOBAL BUSINESS SOLUTIONS

future thinking, now

B-BBEE NEWSFLASH - EDITION 2/2017

Various Short B-BBEE Issues

B-BBEE reporting by Listed Entities

The B-BBEE regulations require companies listed on the JSE to report annually on their B-BBEE compliance to the B-BBEE Commission. Such reporting must take place within 90 days of financial year end, or if the compliance report is to be included in the company's audited financial statements and annual report, it must be submitted within 30 days of the approval of the financial statements and annual report.

This report must be based on information verified by the company's verification agency and give details of compliance with each of the elements of the Scorecard. Click [here](#) to download an example of the reporting form.

The commission must acknowledge receipt of the report within 5 days, consider the report within 90 days of receipt, and notify the person submitting the report in writing stating compliance with the Act and highlighting areas of improvement. In the event of non-compliance, the Commission will notify the company of the areas of non-compliance and require the entity to correct their report and comply with the Act within 30 days.

What this means is that listed companies now have additional pressure at financial year end. Not only do they have the financial audit, but they must also do their B-BBEE verification. While some of the matters are similar, it will place additional compliance requirements on companies during the year end period. Careful planning and preparation will be required.

There is an additional concern on how this reporting will impact regarding the responsibilities of directors for financial statements and compliance. Finally, must auditors of these listed entities ensure that such reports are complete, accurate and filed on time?

Only 27 listed entities have filed these reports based on press releases and in discussions with the Acting BEE Commissioner, so compliance has been very slow.

From the desk of **Richard Ryding**
B-BBEE Division Head at Global Business Solutions
Tel: 043 721 1030 Email: richard@globalbusiness.co.za





GLOBAL BUSINESS SOLUTIONS

future thinking, now

B-BBEE NEWSFLASH - EDITION 2/2017

Sector Codes

The only sector codes that have been aligned with the amended Codes of Good Practice are Tourism, ICT and Marketing, Advertising and Communications. There are a number that have been gazetted for discussion, the comment period has ended and we are still awaiting the final document.

The Financial Services Sector Code has been in the news as it does not do enough for transformation. This sector is critical for transformation as black people operating, or wanting to operate in all other sectors will need to finance the purchase of their shares or their operations.

My understanding is that the other sector codes have not been gazetted as they are not transformative enough. This means that we now have certificates issued under the amended general codes, the old general codes, old sector codes and amended sector codes. It can get quite confusing, and we wonder if it isn't time to repeal all non-aligned sector codes.

Procurement regulations

The amended procurement regulations gazetted on 20 January 2017 take effect on 01 April 2017.

Key points are:

1. An organ of state must determine and stipulate in the tender documents the preference point system applicable to the tender. These are:
 - 80 points for price, 20 points for B-BBEE contribution for acquisitions of goods and services up to R50 million including all taxes. In the draft this was R100 million.
 - 90 points for price, 10 points for B-BBEE contribution for acquisitions of goods and services in excess of R50 million including all taxes
2. In addition, the tender must state whether:
 - pre-qualification criteria are applicable to the tender;
 - the goods or services for which a tender is to be invited, are in a designated sector for local production and content;
 - compulsory subcontracting is applicable to the tender; and
 - any objective criteria are applicable to the tender.



GLOBAL BUSINESS SOLUTIONS

future thinking, now

B-BBEE NEWSFLASH - EDITION 2/2017

- If there is a requirement to advance certain groups, the tender must be advertised with a specific condition that only tenderers meeting the following requirements may tender:
 - tenderers with a stipulated minimum B-BBEE
 - EME or QSE
 - tenderers subcontracting a minimum of 30% specified groups
 - tenders not complying are unacceptable
3. Where it is feasible to subcontract in a contract above R30 million, then subcontracting must be applied to advance designated groups. In such cases the tender document must specify that the successful tenderer must subcontract a minimum of 30% of the value of the contract to any designated groups specified in the tender. A list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups must be supplied from which the tenderer must select a supplier.

This means that organs of state can now ensure that businesses not attaining required B-BBEE levels are excluded from tendering, they can also force companies to subcontract to entities registered on a database maintained by National Treasury.

If you have any B-BBEE consulting needs, please contact either Charlene Skipp on charlene@globalbusiness.co.za (083 780 7209) or me on richard@globalbusiness.co.za (083 440 2130).

Kind regards

Richard Ryding
Global Business Solutions

31 March 2017