



DHET New Universities Project Management Team

Specification for B-BBEE spend in engineering and construction contracts

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Issued by:

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1 Scope

1.1 This specification establishes a key performance indicator in the form of a Broad-Based Black Economic Empowerment spend goal (B-BBEE SG) where the NEC3 Engineering and Construction Contract is employed and Main Options C (Target contract with activity schedule) is applied.

1.2 This specification sets out the methods by which the key performance indicator is established, measured, quantified and verified in the performance of the contract or the execution of an order.

NOTE: This specification can be applied to contracts or to orders (call-offs) issued in terms of framework agreements. Framework agreements are well suited to situations in which long term relationships are entered into. They offer flexibility in attaining contract goals as requirements can be adjusted from one order to another, thus allowing key performance indicators to be improved upon over time.

2 Terms and definitions

2.1 The terms Contractor, Defined Cost, Equipment, Material, Plant, Provide the Works, Subcontractors and Works Information have the meaning assigned in the latest edition of the NEC3 Engineering and Construction Contract.

2.2 For the purposes of this document, the following terms and definitions apply:

B-BBEE procurement spend

the amount paid to an enterprise multiplied by the applicable B-BBEE recognition level provided in Table 1 divided by 100

Table 1: Values for B-BBEE recognition level

B-BBEE status	B-BBEE recognition level
Non-complaint contributor	0%
Level 8 contributor	10%
Level 7 contributor	50%
Level 6 contributor	60%
Level 5 contributor	80%
Level 4 contributor	100%
Level 3 contributor	110%
Level 2 contributor	125%
Level 1 contributor	135%

B-BBEE status level of contributor

the B-BBEE status received by a measured entity based on the overall performance using the relevant score card contained in the Codes of Good Practice on the Black Economic Empowerment issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act of 2003 (Act No 53 of 2003)

broad-based black economic empowerment

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:

- a) increasing the number of black people that manage, own and control enterprises and productive assets;
- b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- c) human resource and skills development;
- d) achieving equitable representation in all occupational categories and levels in the workforce;
- e) preferential procurement; and
- f) investment in enterprises that are owned or managed by black people:

broad-based black economic empowerment spend goal (B-BBEE SG)

the Contractor's total B-BBEE procurement spend to Provide the Works expressed as a percentage of the Contractor's total procurement spend

framework agreement

agreement between an employer and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

order

the instruction to carry out construction works, services or professional services under a framework agreement

specialist subcontractors

Subcontractors who are awarded subcontracts for work of a specialist nature following a competitive tendering process which is conducted in accordance with provisions of the Works Information

specification data

data, provisions and variations which make this specification applicable to a particular contract or order

3 Requirements

3.1 The contractor shall achieve or exceed the broad-based black economic empowerment spend goal (B-BBEE SG) specified in the specification data in the performance of the contract.

3.2 The B-BBEE SG shall be calculated as the sum of all of the products of A and B divided by C where:

- A is a payment made to an enterprise for Equipment, Plants or Materials or to a Subcontractors other than a specialist subcontractor which is accepted by the Project Manager as forming part of Defined Cost
- B is the appropriate B-BBEE recognition level percentage as stated in Table 1
- C is a payment made to all enterprises for Equipment, Plants or Materials or to Subcontractors other than specialist subcontractors which is accepted by the Project Manager as forming part of Defined Cost

Example

A Contractor in order to Provide the Works purchases all his Materials from a B-BBEE level 6 supplier for R 5,0 million, purchases Plant from a level 8 supplier for R 0,75 m; subcontracts work valued at R 1,5 million to a B-BBEE level 5 Subcontractor and hires Equipment for an amount of R 0,5 million from a level 1 hire company. The Project Manager accepts these amounts as Defined Cost in terms of the contract. The Contractor's B-BBEE SG is:

$$= \frac{\text{sum of the products of expenditure and corresponding B-BBEE recognition level from Table 1}}{\text{sum of expenditure}}$$

$$\frac{= 5,0 \times 60 + 0,75 \times 10 + 1,5 \times 80 + 0,5 \times 135}{5,0 + 0,75 + 1,5 + 0,5} = \frac{495}{7,75} = 63.9\%$$

3.3 Credits towards the B-BBEE SG shall be assessed and granted by the Project Manager based on information provided by the Contractor whenever the amount due to the Contractor in terms of the contract is assessed.

3.4 An enterprise shall be considered to be a non-compliant contributor if insufficient evidence of qualification as a B-BBEE contributor is submitted to the Project Manger by the Contractor when payments to enterprises are assessed as Defined Cost.

4 Sufficient evidence of qualification for B-BBEE status

4.1 Micro enterprise

4.1.1 Sufficient evidence of qualification as an Exempted Micro-Enterprise or qualification as a Level 3 Exempted Micro-Enterprise contributor is an auditor's certificate or similar certificate issued by an accounting officer in respect of the entity's last financial year or a 12 month period which overlaps with its current financial year or a certificate issued by a verification agency and which is valid as at the time of assessment.

4.1.2 Sufficient evidence of qualification of an Exempted Micro-Enterprise for a higher B-BBEE status in terms of the small qualifying scorecard shall be as stated in 4.2.

4.2 Enterprises other than micro exempted enterprises

Sufficient evidence of B-BBEE Status is a certificate issued by a verification agency or registered auditors approved by Independent Regulatory Board for Auditors (IRBA) in terms of National Treasury's Implementation Guide: Preferential Procurement Regulations, 2011, Pertaining to the Preferential Procurement Policy Framework Act, and which is valid as at the time of the submission.