



“Creating BUSINESS sense out of BEE”

25 January, 2012

To whom it may concern

RE: Whether all of an Enterprise Development contribution needs to be consumed within the measurement period

Caird Holdings has been requested to publish an opinion as to whether a contribution made for Enterprise Development (ED) purposes needs to be completely consumed within the measurement period in order to fulfil the requirements to be awarded points under code series 600, statement 600 of the DTI's B-BBEE codes of good practice (gazette number 29617).

This opinion takes it as understood that a measured entity may outsource their ED requirements to a third party for fulfilment of their ED obligations. It is also assumed that all other requirements for an ED contribution are adhered to. The issue that this opinion addresses is that of whether the measured entity may attract the full number of points by making the contribution, be it monetary or non-monetary, during the measurement period, but that contribution is not consumed in that same period.

In addressing this question we were drawn to paragraph 3.2 of code series 600 - *Recognition of Enterprise Development Contributions*. This paragraph states,

3.2.1 Enterprise Development Contributions consist of monetary or non-monetary, recoverable or non-recoverable contributions actually initiated and implemented in favour of beneficiary entities by a Measured Entity

The pertinent phrase here is *“actually initiated and implemented”*. Our reading of this statement is that the contribution must be initiated and at the very least implemented during that period. It does not state that the contribution needs to be consumed during the same period. We believe that the rationale behind this paragraph is to allow beneficiaries to continue benefiting from the contribution on a longer-term basis because this will ultimately contribute to *the development, sustainability and financial and operational independence of those beneficiaries.*¹

Our view is confirmed by Vuyo Jack and Kyle Harris in their book *“Broad-based BEE: the complete guide”*². Jack and Harris write on page 327

Section (3.2.1) includes the words “actually initiated and implemented”, which is further addressed in the statement by confirming that initiatives may not be included in the measurement unless the expenditure has already been incurred. Future commitments may not be included in the measurement. Funds set aside for initiatives not yet implemented are also not measurable as part of the contribution.

We concur with this opinion and would like to add that the measured entity will not be permitted to use the outstanding amounts that have not been consumed within the measurement period as future enterprise development contributions.

It is therefore our considered opinion that measured entity will have fulfilled their ED obligations by initiating the contribution and that there is no requirement under gazette number 29617 that the contribution has to be consumed within the measurement period.



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¹ Schedule 1 of Gazette 29617 page 89 – “enterprise development contributions”

² Fronrunner Publishing, 2007