

South Africa's black economic empowerment The Good, the Bad and the Issues

Windhoek, 26 September 2013

**Paul Janisch
(+2783) 227 1375
paul@caird.co.za**

Blog: http://bbbee.typepad.com/paul_janisch/

Principles of BEE

- It is part of SA's growth strategy
 - this means sustaining existing, and generating new, economic activity
- It should be implemented within the context of sound business principles.
- BEE is a journey

History of BEE

- Preferential Procurement Policy Framework Act 2000
 - 2001 regulations set certain empowerment targets for preference points
- Mining and Liquid Fuels Charters enacted in 2002
 - set equity targets as a condition for granting licences
- BEE Act 2003
- BEE codes of good practice gazetted 2007
- Variety of BEE Charters followed

Codes of Good Practice

- Contemplates three types of entities in South Africa.
 - entity determined by turnover
- Exempt Micro Enterprise (EME) – R0-R5m
- Qualifying Small Enterprise (QSE) - R5m-R35m
- Generic – more than R35m

NEEEF Scorecard

Pillar	Minimum	Maximum	Points
Ownership (mandatory)	25%	100%	20
Management Control and Employment Equity – (mandatory)	50%	100%	20
Human Resources and Skills development	1.5% of gross wages	2% of gross wages	20
Entrepreneurship development	0% of procurement	50% of procurement	Not stated
Community Investment	1% of after-tax profits	2% of after-tax profits	20
Total Score			(100?)

The BEE Generic Scorecard

BEE Elements	Indicators	Target
Equity Ownership	20	25% +1
Management	10	40% to 50%
Employment equity	15	43% to 80%
Skills development	15	3% of payroll
Preferential procurement	20	70%
Enterprise development	15	3 % of NPAT
Socio-Economic Development	5	1% of NPAT
Total Score	100	

B-BBEE score

Measured as a contributor

Contribution Level	Qualification	BEE Recognition Level
Level 1 Contributor	100 points	R1.35 for every R1 spent
Level 2 Contributor	85 points but < 100 points	R1.25 for every R1 spent
Level 3 Contributor	75 points but < 85 points	R1.10 for every R1 spent
Level 4 Contributor	65 points but < 75 points	R1.00 for every R1 spent
Level 5 Contributor	55 points but < 65 points	R0.80 for every R1 spent
Level 6 Contributor	45 points but < 55 points	R0.60 for every R1 spent
Level 7 Contributor	40 points but < 45 points	R0.50 for every R1 spent
Level 8 Contributor	30 points but < 40 points	R0.10 for every R1 spent
Non-Compliant Contributor	< 30 points	R0 for every R1 spent

Six years later

- Trade and industry minister is convinced that BEE has failed
- Proposed a new set of codes that punish poor or non-compliance in certain areas
- Very likely that he has conducted little or no research to support this contention

A few realities

- B-BBEE is still a voluntary process
 - serious constitutional issues if it is made mandatory
- Government adopted BEE scorecards for their procurement in December 2011
- Becoming harder to do business in South Africa without a scorecard
- Professionalisation of verification industry

Why it has worked

- Preferential procurement is the glue
- Larger corporates wanted BEE scorecards before the gazetting of the codes
- The pursuit of points has resulted in companies fast tracking their transformation process
- Industry norms set compliance requirements
 - banks operate between levels 2 and 4

Case Study - Fastell

- Level 3 QSE
- BEE status has resulted in their turnover far exceeding the R35m mark
- Drop to a level 7 under the generic code
- Threat of losing their biggest clients
 - creating a staff trust
 - innovative skills development programme
 - aggressive procurement policy
- Aiming for a level 4 at next rating

The good

- Wide proliferation of BEE scorecards across the economy
 - implies greater awareness of the process
 - companies are measuring their progress across a variety of elements
- Greater emphasis on quality training within a number of companies
- SED contributions estimated to be in excess of R3bn
 - ED 3X this amount

The bad

- Fronting
 - not clear how bad this is
- Compliance vs transformation
- Differing interpretations across the board
- Applicability of Charters
- Over-emphasis on ownership
- No harmony between various pieces of transformation legislation

The issues

- Poorly drafted policies
- Little government understanding and support
 - inconsistency across departments
 - no centre of reference
 - interpretations come from private sector
- Low starting base
 - education system is failing South Africa
- Politics takes precedence over economy

What we've learned so far

- Market forces dictate compliance levels
 - greater uptake each year
 - By implication transformation must be taking place
- BEE has thrived in spite of negative government sentiment
- Poor education system is a stumbling block
- No matter what rules are created people find ways to get around them

Thank you

Paul Janisch

Caird

(+2783) 227-1375

paul@caird.co.za

www.caird.co.za

Blog: [http://bbbee.typepad.com/paul_janisch /](http://bbbee.typepad.com/paul_janisch/)