

GUIDE ON START-UP ENTERPRISES

About the Guide

The guide is developed and distributed by the Broad-Based Black Economic Empowerment Commission (“B-BBEE Commission”) with the aim of providing guidance on how Start-up Enterprises are treated with the B-BBEE Codes of Good Practice issued with accordance with the B-BBEE Act.

Start-up Enterprise and B-BBEE

The Codes of Good Practice defines Start-up Enterprises as recently formed or incorporated entities that have been in operation for less than a year, which is a departure from the norm where entities can claim start-up status for three to five years. A Start-up Enterprise does not include any newly constituted or restructured enterprise which is merely a continuation of a pre-existing enterprise or business.

Eligibility as a Start-up Enterprise

In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation in terms of paragraph 4.5 of Codes Series 000. Start-up Enterprises are measured as Exempted Micro-Enterprise (EME) as per Codes Series 000 for the first year following their formation or incorporation.

Exemption from verification process

EMEs are not required to undergo a verification process with verification agencies but only required to obtain sworn affidavits in accordance with the template provided on www.thedti.gov.za confirming the following:

- Details of the deponent
- Whether management accounts and financial are being used;
- Financial year of the financial information;

- Annual Total Revenue of R10 million or less; and
- Level of black ownership of the entity

EMEs can alternatively also obtain a certificate from the Companies and Intellectual Property Commission confirming that they are a start-up and information can be obtained at www.cipc.co.za.

Any misrepresentation of the above information constitutes a criminal offence as set out in the B-BBEE Act.

Automatic level for Start-up as EME

Further to the exemption from the verification process explained above an EME which is at least 51% Black owned qualifies for elevation to “Level Two Contributor” having a B-BBEE recognition level of 125%, An EME, which is at least 100% black owned qualifies for elevation to “Level Two Contributor” having a B-BBEE recognition level of 135%.

Specific requirements for Start-up Enterprise in tenders/contractors/other economic opportunities

In spite of the above-mentioned exemption from verification and enhanced status for EMEs and by extension Start-up Enterprises, Start-up Enterprises must submit a Qualifying Small Enterprise (“QSE”) scorecard when tendering for any contract, or seeking any other economic activity covered in terms of Section 10 (1) of the B-BBEE Act, which have a value higher than R10 million but less than R50 million, and for contracts of R50 million or more they are required to submit a Generic scorecard applicable to large entities.

This means a Start-up Enterprise will require a verification by accredited verification agency in these circumstances and the presentation of such scorecard must be based on annualised data.

Conclusion

The aim is to reduce the regulatory burden and costs for Start-up Enterprises, so it is important that this be applied carefully for the benefits to be enjoyed by Start-up Enterprises. However, new entities established with a view to circumvent the B-BBEE Act, which are clearly a continuing business will not meet the requirements for Start-up Enterprises.

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