



# GLOBAL BUSINESS SOLUTIONS

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## The Empowering Supplier

One of the most significant changes in the amended codes is the requirement that suppliers be Empowering Suppliers to be claimed under Preferential Procurement. When a Verification Agency does the verification they will do the verification of Empowering Supplier first. If the result is that the company is an Empowering Supplier, then the verification will continue, if not, the verification will likely stop. The Preferential Procurement Policy Framework Act which is meant to drive Government Procurement is silent on the matter of Empowering Suppliers as it was promulgated before the new codes. We do not know if companies need to be Empowering Suppliers to do business with Government. In fact, some industries/companies will not be able to qualify as Empowering Suppliers.

For example, let's use a firm of consulting engineers with turnover in excess of R50 million as a test case:

- They will be scored on the Generic scorecard (which requires them to score on 3 of the 4 specific requirements laid out in the amended codes).
- They should be scored as a BEP (Build Environment Professional) under the Construction Sector Code. (The amended Construction Sector Code has not been issued, but Sector Councils have been instructed that their amended Sector Codes cannot be easier to comply with than the amended general codes).

The following table shows their position under each of the requirements:

Requirement	Comment	Empowering Supplier (Y/N)
<b>Overall Requirements</b>		
1. B-BBEE Compliant Entity	This is not defined. However: <ul style="list-style-type: none"> <li>• The company has obtained a B-BBEE certificate for the last 5 years so my argument is this has been met</li> <li>• What if the company has not been verified in the past? Using my argument the company would NOT be B-BBEE compliant, or does taking steps to get a certificate make the company compliant?</li> </ul>	Y
2. Complying with all laws	How do Verification Agencies verify that companies comply with all laws? Do they have knowledge of all laws in force in South Africa, and the capacity to verify compliance? Much will be outsourced, and time and costs of verification will increase. I think it is safe to say that the intention is to check compliance with the major business laws such as Income Tax, VAT, Labour Relations, Basic Conditions of Employment, Employment Equity and such, but we need clarity.	Y
<b>Specific Requirements – Companies must comply with 3 of 4</b>		
1. 25% of Cost of Sales excluding Labour and Depreciation, must be procured from local suppliers or local producers. For the service industry labour costs are included but capped at 15%	This is a measure of local content of the final product or service. Some limited procurement is made on behalf of clients. The majority of the cost of sales in a consulting service industry is salary related, but only 15% can be included as a cost of sales. When labour is excluded, cost of sales will become negative unless only the 15% inclusion is then excluded. 25% of 0 is 0.	N (must comply with ALL remaining conditions)

Requirement	Comment	Empowering Supplier (Y/N)
2. 50% of the jobs created must be for black people provided the number of Black employees since the immediate prior B-BBEE certificate is maintained;	<ul style="list-style-type: none"> <li>In most companies today head count management, if not head count reduction, is a management Key Performance Area.</li> <li>The slowing economy forces companies to watch staffing levels closely.</li> <li>There is a shortage of qualified black engineers, so finding black people to fill positions when they open, may be challenging.</li> <li>Does retaining the same black staff levels from one verification to the next qualify, or must there be job creation?</li> </ul>	Y (For the sake of this exercise)
3. At least 25% transformation of raw material/beneficiation including local manufacturing, production, and/or assembly, and/or packaging;	No-one is certain what this means, but most people believe this is a measure of Value Add to Raw Materials or their beneficiation. Consulting Engineers use their knowledge to assist builders, they do not build themselves. Their knowledge and skill is their raw material. How does one quantify and verify the Value Add through application of their knowledge?	N
4. At least 12 days a year of productivity must be spent on skills transfer to assist Black EME & QSE to increase their operations or financial expertise.	Is this 12 days of the company's productivity, or 12 days of a designated person's or group of peoples' productivity? If the former then it could have a significant impact on profitability. Most people in the B-BBEE industry believe it relates to productivity of a designated person or group of people. This then would fall in with the Enterprise and Supplier Development activities of the company and is more easily attained.	Y
Final Result	Complied with 2 of 4	<b>Not an Empowering Supplier</b>

Is this really the intention of the drafter of the amended codes?

If most consulting engineers cannot become Empowering Suppliers, will they be able to work for government, and what impact will this have on infrastructure development?

How will your company measure up?

**Richard Ryding**  
BEE Divisional Head

*We will be hosting various public workshops nationally on the new BEE Codes. Please contact your local GBS office for more information or e-mail Richard Ryding at [Richard@globalbusiness.co.za](mailto:Richard@globalbusiness.co.za) if you have any enquiries relating to this article.*