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Doing business with government

The impact of B-BBEE

The Broad-Based Black Economic Empowerment (B-BBEE) Act does not compel companies to comply with its provisions. Instead it places the legal onus on organs of state to contribute to B-BBEE. Government Entities are required to procure goods and services from companies with a good B-BBEE status. This has a trickle-down effect which requires service providers to Government, and their suppliers, to obtain better B-BBEE certificates.

The B-BBEE Act and draft B-BBEE Regulations require every organ of state or public entity to take into account and, if possible, apply relevant Codes of Good Practice issued in terms of the B-BBEE Act when:

- determining criteria for the issuing of licenses, concessions or other authorisations. B-BBEE certificates are increasingly required when licenses such as liquor licenses are renewed;
- developing and implementing procurement policies;
- determining criteria for the sale of state-owned enterprises; and
- developing criteria for entering into partnerships with the private sector.

Government procurement is ruled by the Preferential Procurement Policy Framework Act and the regulations to this act. These Regulations are briefly summarised in the table below:

Preferential Procurement Points Allocation	Current Procurement Regulations	Proposed Amended Regulations
80 points for price, 20 points for B-BBEE contribution	Tender value between R30 000 and R1 million (including taxes).	Tender value between R10 million and R50 million (including taxes).
90 points for price and 10 points for B-BBEE contribution	Tender value in excess of R1 million (including taxes).	Tender value in excess of R50 million (including taxes).
50 points for price and 50 points for specific goals		<ul style="list-style-type: none"> • 50% for price • 50% for disenfranchised individuals, women and disabled owned, SMME and Local economic development.
In General,	<ul style="list-style-type: none"> • If two/more bidders score equal points, awarded to the one scoring most points for B-BBEE • If two/more bidders score equal in all respects – awarded by drawing of lots 	<ul style="list-style-type: none"> • Bidders who do not submit B-BBEE certificates or who are non-compliant will score 0, but should not be excluded





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B-BBEE documents required are:

Type of Enterprise	Amended Codes of Good Practice, Tourism Sector code, and Marketing Advertising and Communication Sector code	Other Sector codes and certificates based on financial information dated before 30 April 2015
Exempted Micro Enterprise (EME)	<ul style="list-style-type: none"> • Entities with Revenue under R10 million. Sector codes may vary, • Supply an affidavit giving details of revenue and ownership: <ul style="list-style-type: none"> ○ White owned - Level 4 ○ 51% or more black owned companies - Level 2 ○ 100% black owned companies - Level 1 • Certificates issued to such EME are invalid • Government Officials are used to obtaining certificates and often do not accept affidavits. There is a National Treasury notice on this issue 	<ul style="list-style-type: none"> • Entities with Revenue under R5 million. Sector codes may vary, • Supply a certificate or accountants letter confirming Revenue and black ownership: <ul style="list-style-type: none"> ○ White owned companies - Level 4 ○ 50% or more black owned companies - Level 3
Qualifying Small Enterprises (QSE)	<ul style="list-style-type: none"> • Entities with Revenue between R10 and R50 million. Sector codes may vary • Supply an affidavit giving details of Revenue and black ownership: <ul style="list-style-type: none"> ○ 51% or more black owned companies - Level 2 ○ 100% black owned companies - Level 1 • Companies with less than 51% black ownership should obtain a certificate 	<ul style="list-style-type: none"> • Entities with Revenue between R5 and R35 million. Sector codes may vary • Companies should obtain a certificate





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Large Enterprises	<ul style="list-style-type: none">• Entities with Revenue greater than R50 million. Sector codes may vary• Companies should obtain a certificate	<ul style="list-style-type: none">• Entities with Revenue greater than R35 million. Sector codes may vary• Companies should obtain a certificate
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If you need assistance with questions on any B-BBEE related matter, including training courses and strategic sessions on the amended codes, please feel free to contact me on 083 440 2130 or by email on richard@globalbusiness.co.za.

Regards

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