

PROFESSIONAL SKILLS

NETWORK

TRANSFORMATIONAL COMPETITIVE

PROFESSIONAL

SKILLS PROFESSIONAL

COMPETITIVE TRANSFORMATIONAL

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TRANSFORMATIONAL SKILLS

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**How a strategic approach to B-BBEE compliance
can create unsurpassed business value**

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Introduction

Broad-based black economic empowerment (B-BBEE) is a non-negotiable component of any business enterprise that hopes to compete successfully, maintain consistent profitability and achieve sustainable growth in the South African economy.

Based on this widely accepted imperative, B-BBEE is all too often regarded by companies as a compulsory cost of doing business with compliance generally classified as an extremely expensive and complex undertaking that is best handled as an aspect of corporate governance and risk management.

Business Beyond Boundaries (BBB) takes an opposite view and regards B-BBEE not only as a critically important legislative compliance requirement, but also as an opportunity to create commercial value and measurable business benefit for the client organisation. In support of this philosophy BBB has adopted a strong commercial approach to helping clients optimise their B-BBEE rating while at the same time minimising the cost of compliance. And, what's more, BBB does so in a manner that also supports a national policy that is designed to foster transformation and build a better future for all who live in the country.

BBB believes that all expenses incurred by any company in pursuit of B-BBEE compliance must be carefully managed like any other overhead or operational cost within the business and that the best way to implement this principle and guarantee a return on investment is to examine and manage the process using "cost per point" as a principle.

Based on extensive experience built up over several years, BBB has found that many companies make B-BBEE compliance decisions without a complete understanding of what is required or what B-BBEE actually entails. This situation leads to misguided decisions being taken, often resulting in serious disappointment and a waste of unrecoverable expenses.

BBB's strong commercial approach to B-BBEE ensures that the client fully understands what B-BBEE is all about and what they are required to execute in order to achieve very specific compliance and business-driven strategic objectives.

Understanding B-BBEE

The following summarised guidelines provide an overview of what needs to be understood and addressed in the process of developing and implementing a successful B-BBEE compliance plan. The guidelines also provide insights into the approach to B-BBEE adopted by BBB as well as the specialised consultancy and managed services offered by the company to its clients.

B-BBEE elements

B-BBEE must always be approached with all five elements of the scorecard and a targeted rating level constantly in mind. No element should be dealt with in isolation as this can lead to spending more than what is required to achieve the optimum B-BBEE level.

The table below (Fig 1) provides a list of the B-BBEE elements and the score attributed to each element. It is not possible to overachieve in any single element. It is, however, a requirement to do well in each of the elements should a measured entity (company) wish to achieve a competitively acceptable B-BBEE Level in direct support of specific business and financial objectives.

A commercially sound, targeted B-BBEE Level should form the foundation on which any B-BBEE plan is built. The starting point needs to be based on research conducted into the B-BBEE status of direct competitors in the markets addressed by the company.

The ability to compete head-on with rivals based on BEE-related criteria such as preferential procurement policies and BEE Level-to-price ratios - that are often set by customers and other business prospects as a condition of doing business with them - is critical.

Market research and competitive analysis of the BEE rating of the client's major competitors are offered by BBB as part of its consultative support services. This service enables the client to make informed decisions about what their target B-BBEE Level should be and how to plan accordingly.

Fig 1: B-BBEE - Overall points summary per element

ELEMENT	AVAILABLE POINTS	ESSENTIAL ELEMENTS OF TARGETS
Ownership	25	25% Black shareholding of which at least 10% should be Black female.
Management & control	19	50% Black management, at least 25% of which should be black female.
Skills development	25	6% of payroll.
Enterprise & supplier development	46	Buy from BEE compliant companies and spend 3% of NPAT on enterprise and supplier development initiatives to benefit 51% black owned companies.
Socio-economic development	5	Spend 1% of NPAT on socio-economic development initiatives.
TOTAL	120	

Ownership

As a starting point it is vitally important for companies to understand that, in terms of the latest amendments to the B-BBEE Codes of Good Practice, a measured entity without at least a 10% Black shareholding will find it virtually impossible to do better than a Level 7 rating – one level above the lowest possible level of official compliance (8).

In practice, most companies without Black ownership struggle to achieve a Level 8 – despite having spent 6% of payroll and 4% of Net Profit After Tax (NPAT) to achieve the maximum number of points available under various other elements of the scorecard. This situation is an example of striving for compliance at any cost and should be avoided.

Rating levels

The perception that B-BBEE is all about levels and nothing else is misguided. The only exception to this is when dealing with tenders issued by government and certain corporate enterprises that demand minimum levels of B-BBEE compliance based on their own specific procurement policies.

It should always be borne in mind that specific rating levels can only change the quantum of the amount that the company's customers or clients can claim towards their own B-BBEE spend on procurement. The table on page 5 (Fig 2), based on an example of a procurement spend of R 100 000, illustrates how the levels contribute to the B-BBEE spend of a company's customers or clients.

Fig 2: B-BBEE procurement recognition table

Example based on a procurement spend of R100 000

BEE LEVEL	RECOGNITION %	REQUIRED SPEND
1	135%	R135 000
2	125%	R125 000
3	110%	R110 000
4	100%	R100 000
5	80%	R80 000
6	60%	R60 000
7	50%	R50 000
8	10%	R10 000
Non-compliant	0%	0
		Amount to be claimed by customers of the measured entity

It must be noted from the table above that even if a Generic Measured Entity (ME) has an ideal Black ownership structure, its contribution to towards the 5 points available to the client's scorecard will depend on the relative amount the client spends with the ME as a percentage of total spend. A single ME will very seldom contribute more than 10% of a client's total spend making the maximum possible contribution less than 1 point.

In the example illustrated in Fig 2 (which is based on an assumption of a 10% procurement contribution to total spend), a Level 1 status of compliance would therefore contribute only 0.843 points and a Level 7 would contribute only 0.312 points. The difference of 0.531 seems irrelevant. The problem is that many corporate enterprises do not understand this or they simply do not care and expect that transformation must take place within in their supplier base according to their perception and on their terms. Transformation is an imperative in South Africa, but this can be achieved wisely and does not need to be linked exclusively to a specific B-BBEE Level.

It is therefore critically important for a Measured Entity to understand this as its decision making, when it comes to B-BBEE planning and compliance, will be far more rational and well informed.

Commercial value of a B-BBEE certificate

There are two factors about a B-BBEE certificate that need to be clearly understood:

Firstly - there are the initiatives that a company as a Measured Entity has to implement in order to achieve its own targeted B-BBEE score. The sum of the scores allocated to these planned initiatives result in a B-BBEE level which sets the Procurement Recognition Level (as mentioned above).

Secondly (and more importantly) - there is the "Commercial Value" of a company's B-BBEE certificate to its customers and prospective clients. This refers to the number of points that a customer or client can obtain by using the B-BBEE certificate of the Measured Entity as a supplier when calculating its own B-BBEE score. As mentioned above, this can only contribute 5 points. However, the 5 points will increase significantly when the desired percentage and profile of Black ownership is achieved. The table on page 6 (Fig 3) illustrates this point.

These two critical factors should be the cornerstones of a carefully planned B-BBEE compliance strategy that should start with an evaluation of the B-BBEE status of all major competitors in the market and a gap analysis of where the measured entity currently stands and where it should be positioned in terms of an ideal, commercially motivated and justified compliance rating.

Fig 3: Commercial value of a BEE certificate

The following table is based on a Measured Entity's total spend (cost of sales plus overheads, minus salaries and book entries).

DESCRIPTION	TARGET	SCORE
BEE compliant companies	80%	5
51% Black-owned companies	50%	11
30% Black women-owned businesses	12%	4
Procurement spend with Black-owned businesses that have designated group shareholders	2%	2
Spend with QSE companies*	15%	3
Spend with EME companies**	15%	4
TOTAL		29

* Qualifying Small Enterprises (R10-million to less than R59-million annual turnover)

** Exempt Micro Enterprises (< R10-million annual turnover).

It is clear from the above (Fig 3) that a Generic Measured Entity that has a more desirable Black ownership structure can contribute up to 22 points to its clients' B-BBEE scorecard which will establish it as a supplier of choice. So, while B-BBEE can be regarded as a cost of doing business in South Africa, it must also be embraced and managed as an opportunity to create significant business opportunity and competitive advantage in the market.

Black shareholding

If a Measured Entity decides not to implement at least 30% Black Female ownership to increase the commercial value of its certificate, or 51% Black ownership to increase the value even further (see Fig 3 above), it is not necessary to sell more than 10% of the measured entity to Black shareholders. When done astutely, 10% can enable the measured entity to achieve a very acceptable B-BBEE rating of Level 1 to 4.

This fact is underscored by Measured Entities that sell 25% or even 50% of equity to Black shareholders without the correct structuring only to find that they score no more than 16 points, whereas the sale of only 10% done astutely can achieve a score of 15.4 points.

BBB is strongly positioned to assist its clients with the ownership restructuring of their businesses in order to accommodate Black shareholders at equity levels that correspond with strategic business objectives. BBB will manage all aspects of any potential Income Tax risk and other governance issues in a manner that results in the restructuring being tax neutral.

This means no capital gains or other taxes are incurred as a result of the shareholder restructuring based on careful, well-informed strategic planning and astute implementation – and the achievement of a level of B-BBEE compliance that corresponds with the delivery of measurable business benefit and value.

BBB uses the same approach to deliver guaranteed value across all five elements of the scorecard.

Business restructuring based on the need to incorporate Black shareholders is a professional engagement service available to all BBB clients.

Cost of compliance

As specified in legislation governing Measured Entities that need to comply with the general (generic) sector codes, the cost of compliance can be as much as 6% of payroll plus a total of another 4% of net profit after tax (NPAT) - see Fig 1 above. This cost will vary depending on which sector charter is applicable to the measured entity and also according to its size as determined by annual turnover, such as companies that qualify as Qualifying Small Enterprises (QSEs) at less than R50-million but more than R10-million, and Exempt Micro Enterprises (EMEs) at less than R10-million.

BBB has developed the expertise and supporting services that enable its clients to recover up to 95% of this total required spend from SARS via various Income Tax grants and incentives. These cost recovery techniques and services do not rely only on Income Tax deductibility, but are designed and implemented to ensure that any B-BBEE expense is virtually cash neutral.

What's more, the solutions and services provided by BBB in helping to ensure that cost recovery levels of up to 95% are maintained are provided at no cost to the client.

The best example of how effectively and efficiently BBB is able to structure and deliver skills development initiatives can be found in the following actual case study:

Scenario A: A measured entity was required to spend R1.8-million on skills development as determined by the 6% of payroll specification for this priority element. The entity was able to recover only 28% of this compulsory spend through SARS tax relief. This cost translated to an award of 3.92 points on the B-BBEE scorecard. Viewed from another perspective this resulted in a cost per point of R330 612.

Scenario B: A measured entity invested a total of R150 000 in a skills development initiative recommended, set up and managed on a turnkey basis by BBB on the entity's behalf. With support from BBB the entity was able to recover R142 000 from SARS and earn 8.95 points for skills development at a cost per point of only R395.

The comparison between these two actual case studies demonstrates that B-BBEE compliance must never be approached without a clear, in-depth understanding of what needs to be achieved and how to go about maximising the cost-to-benefit ratios for every point on the scorecard..

The primary beneficiaries of skills development investments and cost recovery initiatives recommended and supported by BBB in accordance with the second scenario are Black people with disability across the country. Beneficiaries on this programme are drawn from communities that would otherwise have no access to the country's mainstream economy.

The programme culminates with Black people with disability receiving nationally-recognised NQF qualifications which have obvious long-term benefits for them in the job market and in life generally.

This initiative not only serves the very best interests and true spirit of transformation, it also provides unsurpassed support for achieving the client's ultimate B-BBEE goals.

BBB Consultancy Services

BBB offers a retainer-based consultancy and administrative support service that is designed to provide clients with expert professional counsel on the setting of commercially-driven B-BBEE objectives and administrative support to help ensure full compliance at a targeted beneficial rating level.

The nominal monthly retainer, that is dependent on the size and complexity of the prospective client's requirements and determined by mutual agreement, is deemed to be inclusive of the provision of the following services:

- 1.1. At the outset of the engagement BBB will provide a competitive analysis to help determine what the targeted B-BBEE level should be based on a commercially justified basis. The Client to identify and nominate up to five major competitors in its chosen market as a foundation in which to base the analysis.
- 1.2. A Gap Analysis which will help identify what steps need to be taken by the Client in order to move from its current B-BBEE status to a level that offers measurable business benefit and other quantifiable commercial opportunities.
- 1.3. Development of a B-BBEE strategy and implementation plan designed to maximise the Client's B-BBEE scorecard in accordance with objectives identified by the Gap Analysis and within the confines of the B-BBEE ACT and The Codes of Good Practise.
- 1.4. Guidance on the successful implementation of mutually agreed and accepted strategic initiatives.
- 1.5. Administrative assistance in order to facilitate the recovery of up to 95% of the cost of compliance via SARS by utilising various legitimate additional Income Tax grants and incentives.
- 1.6. Telephonic support on all B-BBEE related issues.
- 1.7. Guidance throughout the measurement period to ensure that the maximum possible scorecard is achieved given the specific circumstances of the Client.
- 1.8. Preparation of the annual Verification file, subject to the Client supplying the information within a prescribed deadline and in the required formats. Note: The Client is responsible for compiling and providing the required information so that it contains all relevant disclosures that could materially affect any of the conclusions to be drawn from the content of such information and to ensure that it is free from material misstatement, whether due to error or otherwise. Failure by the Client to supply BBB with the appropriate information on time and in the required formats could result in additional charges being levied by BBB.
- 1.9. Liaison with the Verification agent responsible for the audit on behalf of the Client to ensure that the required B-BBEE certificate is issued by due date.
- 1.10. BBB will advise on the interpretation of the information to ensure that each element of the Scorecard can be maximised in all material respects in accordance with the B-BBEE Act and related legislation.
- 1.11. Meetings with identified strategic suppliers in an effort to assist them to improve their B-BBEE levels for the benefit of the Client's own Scorecard.
- 1.12. Meetings with identified strategic customers to explain and defend the Client's current B-BBEE position, explain the future strategy and identify any specific requirements the customer may have in order to justify an increased level of procurement from the BBB client.

Retainer-based services are provided within the framework of a formal agreement that provides guarantees of strict confidentiality, service level performance and professional integrity based on a 12-month contract period.

The development and implementation of any shareholding ownership structures will be quoted for separately and are not dependent on the monthly retainer agreement being in place.



About BBB

Business Beyond Boundaries (BBB) is a 51% black-owned company specialising in the provision of independent consultancy and the delivery of turnkey managed services concentrated on key elements of the Broad-based Black Economic Empowerment (B-BBEE) scorecard as a non-negotiable condition of doing business in South Africa.

The company's own B-BBEE credentials as a Level 2 Black-owned company also makes a significant contribution to procurement score of all clients.

Solutions offered are uniquely focused on dramatically reducing the cost of B-BBEE compliance while at the same time creating competitive advantage based on greatly improved business development opportunities at an enhanced level of operational profitability.

Just as importantly, BBB enables its clients to generate a measurable and sustainable contribution towards addressing the imbalances of the past by enhancing the dignity of previously disadvantaged individuals and communities by providing them with career prospects and access to regular income.

BBB brings a strong commercial perspective to BEE rather than striving only for legislative compliance. The focus is not only on assisting clients to achieve the maximum BEE Scorecard points available to them at the lowest possible cost, but also to help ensure that measurable business benefits are quantified so that informed decisions can be made about how to achieve the best and most appropriate B-BBEE scorecard rating.

About the services

The Broad-based Black Economic Empowerment (BEE) consultancy and turnkey managed services offered by Business Beyond Boundaries (BBB) are headed up by the company's Chief Executive Officer, Hansie Fourie.

A qualified Chartered Accountant with a wealth of operational experience based on having held a number of executive management positions in several blue-chip companies in South Africa, he brings an exceptionally strong commercial, benefit-driven approach to B-BBEE as opposed to treating the subject as a pure compliance or risk mitigation issue that is so often adopted by other in-house or external advisors.

He is backed by an experienced team whose focus is to innovatively improve the B-BBEE Scorecards of measured entities in the best interests of genuine transformation and within the parameters of the law while at the same time ensuring that the cost of compliance is driven down to the lowest possible level.

For further information

Contact: Hansie Fourie
Email: hansief@bbb-sa.co.za
Mobile: 010 592 1905
Visit: www.bbb-za.co.za