May 2, 2023

Thousands spent and still not reaching your desired B-BBEE level: how important is transformation monitoring?

Without transformation monitoring you could be left with (i) an Affidavit that expires without the B-BBEE implementation required for a scorecard verification; or (ii) thousands of rands spent but an unsatisfactory B-BBEE level.

Strategic application and adjustments are necessary to achieve a good Broad-Based Black Economic Empowerment (B-BBEE) level and long-term success.

In this article we highlighted some of the B-BBEE or BEE scorecard variables that should be monitored on an ongoing basis.

What are the B-BBEE scorecard variables that should be continuously monitored?

Projections vs. Actual Figures

Your B-BBEE Practitioner (or BEE Consultant) consults on **projected** figures because in terms of the B-BBEE Codes, companies are required to finalise their **B-BBEE Spend** before their financial year-end. The result is that companies are faced with the possibility of discrepancies once their Annual Financial Statements are audited.

This may result in a shortfall or surplus spend on certain B-BBEE elements which, in turn, can cause companies to drop up to two (2) levels.

To curtail or minimise the impact of this, we advise companies to make provision for a 10% – 15% overestimation when providing projected figures (depending on the growth of your company).

Industry Norms and Net Profit After Tax ("NPAT") calculations

The annual value of all Enterprise Development, Supplier Development and Socio-Economic Development contributions made by the Measured Entity (ME) as a percentage of the target should equate to a specified percentage of your NPAT.

To assist companies in these calculations, our *BEE Consultants* use the statistics published by Stats SA (quarterly) as a guideline for the Measured Entity's Industry to ensure that your B-BBEE Spend is calculated in line with the overall performance of your sector.

Changes in industry norms can influence contribution calculations both negatively and positively based on (i) the overall performance of your sector and (ii) whether your company made a profit or loss.

Preferential Procurement

Most of the B-BBEE points that are usually not confirmed during a B-BBEE Verification are those under this element.

Certain industries are limited in their approach to their procurement score as they are forced by their clients to give preference to certain suppliers as opposed to having the freedom of maximising their procurement score by procuring only from black-owned businesses.

Most companies unfortunately only learn of the effect of procuring from white-only or low-level businesses upon finalisation of their first B-BBEE Verification.

Employment Equity Reporting (“EE Reporting”)

*considering the *Employment Equity Amendment Bill signed on 12 April 2023* and *Submission of a Workplace Skills Plan* (“WSP Submission”)

It is **STILL** a legal requirement in terms of the Employment Equity Act to submit an Employment Equity Report in *certain circumstances (refer to the amended definition of ‘Designated Employer’)*, failure of which may result in a company being fined and not being able to claim any B-BBEE points under the Employment Equity element.

Thus, the legal requirement did not fall away in totality; it was simply amended to make the requirement less burdensome to certain companies and absolving others, although the effective date has not yet been proclaimed. Sectoral targets **may** be published by notice in the *Government Gazette* to ensure accurate representation of suitably qualified people based on race, gender and *disability* at all occupation levels as opposed to enforcing a generalised turnover requirement amongst all sectors.

The Employment Equity Amendment Bill certainly did not cause B-BBEE to fall away; it merely addressed and alleviated some of the administrative burdens of ONE element on the B-BBEE Scorecard.

Submitting a Workplace Skills Plan or WSP is not compulsory by law but failure to submit same will also result in a Measured Entity not being able to claim any B-BBEE points under the Skills Development element. The purpose of sumitting a WSP is to outline how organisations will address their training and skills development requirements as a direct link to addressing the unfulfilled social and economic needs of South Africa.

Adopting a rigid approach to business transformation might lead to unfulfilled business potential in the long term. It might not always make financial or business sense to restructure a company or its workforce, but without the necessary transformation monitoring your company will stagnate and/or reach a plateau in terms of its B-BBEE and/or you could be thousands of rands out of pocket.

SERR Synergy provides a comprehensive BEE consultation service to businesses, ranging from basic elementary requests to the most complex and integrated BEE solutions specifically aimed at addressing B-BBEE challenges. We encourage our clients and other businesses to *contact us* for specific guidance in this regard.

About the Author: Annerize Kolbé graduated from the University of Pretoria in 2019 with an LLB and was admitted as an Attorney of the High Court of South Africa in August 2021. She currently holds the title of B-BBEE Professional and specialises in B-BBEE Compliance.