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GENERAL NOTICE

Trade and Industry, Department of

General Notice

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GENERAL NOTICE

NOTICE 783 OF 2008

DEPARTMENT OF TRADE AND INDUSTRY

CODES OF GOOD PRACTICE ON BLACK ECONOMIC EMPOWERMENT

I, Mandisi Mphahla, Minister of Trade and Industry, hereby –

- (a) issue for public comment the draft Tourism Sector Code (the draft Code) as provided for in Code 000 Statement 003 of the Codes of Good Practice under Section 9(5) of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003); and
- (b) invite interested persons to submit comments on the draft code within 60 days of the date of this publication.

interested parties are requested to forward their comments to the following address(es)

bee-tourism@thedti.gov.za

OR

the dti Campus
77 Meintjies Street,
Sunnyside, Pretoria,
0001
c/o BEE Unit

OR

Private Bag X84
Pretoria
0001
c/o BEE Unit

A handwritten signature in black ink, appearing to read 'M. Mpaahlwa', written over a horizontal dashed line.

MANDISI MPAHLWA (MP)

MINISTER OF TRADE AND INDUSTRY

Date: 17-03-2008



TOURISM EMPOWERMENT
COUNCIL OF SOUTH AFRICA

5 May 2008

PROPOSED STRATEGY TO RECOGNISE TOURISM'S EXEMPTED MICRO ENTERPRISES (EMEs)

The South African tourism sector is largely made up of Small and Medium Enterprises (SMEs). This configuration impacts on the proposed Tourism Sector Codes, which have been closely aligned to Codes of Good Practice on Broad-based Black Economic Empowerment in exempting businesses below R5 million turnover thresholds. The Tourism Empowerment Council of South Africa (TECSA) is aware of the implications that this exemption will have on the sector, such as, majority of the tourism businesses will be exempted from the principles and objectives of Broad-Based Black Economic Empowerment.

To this end, TECSA will make BEE Recognition Level 3 mandatory for all EMEs doing business with the public sector. Such requirement will be communicated via normal public sector channels, such as the National Treasury, Government Communication Information Systems (GCIS) and other similar platforms.

There are planned national roadshows to communicate the outcomes of the final and gazetted Tourism Sector Codes, and this is where the messaging will be reinforced to the tourism small businesses. The workshops would ensure that EMEs are encouraged to embrace the principles, objectives and spirit of B-BBEE in order to advance transformation in the sector.

Mr. Tami Sokutu
Chairperson: Tourism Empowerment Council of South Africa

TOURISM SECTOR CODES

A Commitment to Furthering Transformation and Broad-Based Black Economic Empowerment in the Tourism Sector

1. PREAMBLE

We, the stakeholders of the Tourism Sector, take this opportunity to state our awareness of the need to align the Tourism BEE Charter with the Department of Trade and Industry's Codes of Good practice on B-BBEE and advance sector initiatives to empower black South Africans, and, in so doing, to make the sector more accessible, more relevant and more beneficial to all South Africans.

The Tourism Sector Codes express the commitment of all stakeholders in the Tourism Sector to the empowerment and transformation of the sector and its commitment to working collectively to ensure that the opportunities and benefits of the Tourism Sector are extended to black South Africans as well. To this end, we have requested the Department of trade and Industry (the dti) to gazette the tourism BEE Charter as a Sector Code in terms of Section 9 of the Broad-Based Black Economic Empowerment Act No 53 of 2003. We have ensured that the Tourism BEE Charter fulfills the requirements set out under Section 9, for gazetting as a Sector Code, namely that the Charter:

- (a) Has no deviations from Codes definitions and principles;
- (b) Is sufficiently comparable to the codes in the order of elements, targets and weightings;
- (c) Has justifiable differences to the Codes.

Lastly, we, the leaders of the Tourism Sector, hereby commit ourselves to ensuring the implementation of this Tourism Sector Codes within the timeframes jointly agreed upon, and as set out in these Codes.

2. OUR COMMITMENT

We acknowledge that two main challenges face the Tourism Sector:

- The need to become more globally competitive; and
- The need to include black people in the Tourism Sector.

We believe that these two challenges are fundamentally linked. For our sector to thrive and grow, we commit to both. The commitment to empowerment and transformation is therefore based not only on our moral obligations with regard to a transforming South Africa, but also upon our fiduciary obligations to our shareholders and employees, and to the growth of our sector within the broader South African economy.

The stakeholders make this commitment fully aware of the fact that empowerment and transformation of the Tourism Sector will contribute to its growth and sustainability. The key areas of focused empowerment and transformation, in the context of this Scorecard, are: Ownership, Management Control, Employment Equity,

Skills Development, Preferential Procurement, Enterprise Development, Socio-Economic Development and Industry Specific Indicators, as set out in the attached Tourism Sector Codes.

3. THE LEGACY

We recognise that our industry, like the rest of South African society, remains characterised by large disparities in access to opportunities and benefits, and in particular, to opportunities and benefits for black people.

We also recognise that our sector is largely white-owned and we are aware of the residual impact of this legacy of inequality and its continuing impact on efforts to ensure that a tourism- and tourist-friendly culture takes root in our country.

Furthermore, we recognise that the legacy of Apartheid remains apparent in some of the Tourism Sector's associations and bodies and we therefore acknowledge the need for transformation within these associations, so that they may become truly representative and reflective of our society.

In addition, we recognise that our sector remains largely inaccessible to the majority of black South African tourists. Since South Africa has so much to offer in terms of tourism, we recognise the need to reverse this legacy and to make tourism in South Africa more adaptable and accessible to black South African tourists.

4. SUSTAINABILITY

We acknowledge that, for our initiatives to be sustainable and meaningfully empowering, they must be based on the identification of strategic opportunities for our enterprises and for our industry. These initiatives must be underpinned by sound commercial logic, and must be well structured and focused, with deliverable growth objectives.

We further acknowledge that the sustainability, competitiveness and growth of our industry require the empowerment and transformation of the sector.

Empowerment and transformation make good business sense as they will introduce innovation into the sector through new players entering the sector. This will attract new markets and stimulate new product development.

5. OBJECTIVES OF THE TOURISM SECTOR CODES

The Codes:

- have been developed to advance the objectives of the Broad-based Black Economic Empowerment Act no. 53 of 2003 (B-BBEE Act);
- constitutes a framework and establishes the principles upon which B-BBEE will be implemented in the Tourism Sector;

- represents a partnership programme as outlined in government's Strategy for Broad-based BEE;
- provides the basis for the sector's engagement with other stakeholders including government and labour;

6. DEVELOPMENT OF THE TOURISM SCORECARD

The Tourism BEE Charter and Scorecard process was launched with the appointment of the BEE Steering Committee by the Minister of Environmental Affairs and Tourism on 13 July 2004. The Steering Committee was requested to accomplish the following, inter alia:

- the development of a BEE Scorecard for the Tourism Sector in order to advance the objectives of the Broad-Based Black Economic Empowerment Act no. 53 of 2003;
- develop and promote the BEE process in the tourism industry;
- be committed to the development of the BEE Scorecard;
- drive the Scorecard development process, particularly in terms of promotion, deliverables and the solicitation of input;
- communicate the process and broader principles of the BEE Scorecard;
- facilitate access to research, input and information in the tourism industry;
- facilitate partnerships between organs of state and the private sector that will advance the objectives of the Scorecard.

Other responsibilities of the Steering Committee included:

- providing recommendations with respect to the amendment of the Tourism Charter to ensure its alignment with the negotiated Tourism BEE Scorecard;
- providing recommendations for the consideration of a BEE Tourism Council and the submission of a recommendation to the Minister of Environmental Affairs and Tourism for his approval.

The process after the launch of the Scorecard process and the appointment of the Steering Committee in July 2004 included:

- Establishment of sub-sector working groups involving Steering Committee members and representatives of major stakeholders in key tourism sub-sectors;
- Consultation with the major stakeholders in key tourism sub-sectors and the collation and moderation of input into the preliminary Scorecard in September 2004;
- Provincial road shows and other communication mechanisms to solicit further input from all major stakeholders, as well as any other existing and potential stakeholders, on the preliminary Scorecard in October 2004;
- Collation and finalisation of the final draft Scorecard by the Steering Committee during November and December 2004; and
- Submission of the draft Scorecard to the Minister of Environmental Affairs and Tourism on 8 December 2004.

The participation of all major stakeholders was encouraged and obtained in the form of submissions from various constituencies, which formed the basis for the drafting of the preliminary and final draft Scorecards.

The final draft was based on the principles of transformation outlined in the BEE Act of 2003. An expansion of these principles also informed the drafting of the final Scorecard.

The Tourism Empowerment Council of South Africa (TECSA) was formally established by the Minister of the Environmental Affairs and Tourism to further the objectives of transformation within the Tourism Sector. To this end, TECSA was mandated to align the Tourism BEE Charter to the Generic Codes of Good Practice on B-BBEE. As a result, TECSA embarked on a nationwide consultative process to solicit views and inputs from various stakeholders in the sector. The consultation process culminated in the development of the draft Tourism Sector Codes which will be gazetted under Section 9 of the B-BBEE Act of 2003. Once gazetted in terms of the said Section, the Tourism Sector Codes will be binding on all tourism entities doing business with the organs of state. Similarly, the Tourism Sector Codes will also be binding on all organs of state. The Tourism Sector Codes will be the only basis for the application and recognition of B-BBEE initiatives undertaken by the tourism sector.

7. SCOPE OF APPLICATION

The Tourism Sector Codes apply to all privately owned enterprises within the Tourism Sector, and to all parts of the value chain in that sector, inter alia:

- **Accommodation**

- Hotels
- Resort properties and timeshare
- Bed and breakfasts
- Guesthouses
- Game lodges
- Backpackers and hostels

- **Hospitality and Related Services**

- Restaurants (not attached to hotels)
- Conference venues (not attached to hotels)
- Professional catering
- Attractions
- Consulting and professional services companies

- **Travel Distribution Systems**

- Tour wholesalers
- Tour operators
- Travel agents
- Tourist guides
- Car rental companies
- Coach operators

In addition, this Charter also applies to all organs of state and public entities, organised labour, and communities involved with or interested in the Tourism Sector.

Generic Tourism Scorecard (applicable to all tourism businesses with a turnover of > R35 million (or other threshold as determined by the sector))

Element	2012 Weighting	2012 Weighting Points	2017 Weighting	2017 Weighting Points	Indicators to Measure BEE Achievement	Milestone Target	
						2012	2017
					Voting Rights:		
		7		3	Exercisable voting rights in the enterprise in the hands of black people	21% + 1 vote	30% + 1 vote
				2	Exercisable voting rights in the enterprise in the hands of black women	10%	
					Economic Interest:		
		8		4	Economic interest of black people in the enterprise	21%	30%
				2	Economic interest of black women in the enterprise	10%	
					Economic interest of the following black natural people in the enterprise:		
					- black designated groups		
				1	- black participants in employee ownership schemes	2.5%	
					- black beneficiaries of Broad-based Ownership Schemes		
					- black participants in co-operatives		
					Realisation Points:		
				1	Ownership fulfilment (<i>black participants are free from 3rd party rights</i>)	Yes	
				7	Net value	refer to CoGP for details	
					Bonus Points:		
				2	<i>Involvement in the ownership of the Enterprise of black new entrants</i>	10%	
					<i>Involvement in the ownership of the enterprise of black participants:</i>		
				1	- <i>in employee ownership schemes</i>	10%	
					- <i>of broad-based ownership schemes</i>		
					- <i>of co-operatives</i>		
					Board Participation:		
		4		3	Exercisable voting rights of black board members using the Adjusted Recognition for Gender	50%	
		4		3	Black executive directors using the Adjusted Recognition for Gender	50%	
					Top Management:		
		4		3	Black senior top management using the Adjusted Recognition for Gender	40%	
		4		3	Black other top management using the Adjusted Recognition for Gender	40%	
					Bonus Points:		
		1		1	<i>Black independent Non-Executive Board Members</i>	40%	
Ownership¹	15		20				
Management Control	14		12				

¹ The Tourism Sector Codes have aligned to Statement 103 of the Generic Codes of Good Practice on Broad-Based Black Economic Empowerment on the Recognition of Equity Equivalents for Multinationals.

Employment equity	14	2	12	1.5	Black Disabled Employees as a percentage of all employees using the Adjusted Recognition for Gender	2.0%	3%								
		4		3.5	Black employees in <u>Senior Management</u> as a percentage of all such employees using the Adjusted Recognition for Gender	43%	60%								
		4		3.5	Black employees in <u>Middle Management</u> as a percentage of all such employees using the Adjusted Recognition for Gender	63%	75%								
		4		3.5	Black employees in <u>Junior Management</u> as a percentage of all such employees using the Adjusted Recognition for Gender	68%	80%								
		3		3	Bonus Points: Bonus Point for meeting or exceeding the EAP targets in each category above										
Skills development	20	18	8	7.5	Skills Development Expenditure on any Programme specified in the Learning Programmes Matrix: Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black employees as a percentage of leviable amount using the Adjusted Recognition for Gender	3.0%									
			2	1.5	Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black employees with <u>disabilities</u> as a percentage of leviable amount using the Adjusted Recognition for Gender	0.3%									
			10	9	Learnerships: Number of black employees participating in Learnerships or Category B, C and D programmes as a percentage of total employees using the Adjusted Recognition for Gender	5.0%									
Preferential procurement	15	20	10	12	B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels as a percentage of total measured procurement spend	50%	70%								
			2	3	B-BBEE procurement spend from <u>Qualifying Small Enterprises</u> or from <u>Exempted Micro Enterprises</u> based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	10%	15%								
			3	5	B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: - suppliers that are more than 50% black owned (60% of points); or - suppliers that are more than 30% black women owned (40% of points)	15%	20%								
Enterprise development	14	14	10	10	Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of target	3% of NPAT									
						Enhanced recognition provided for: - enterprise development spend on black, tourism SMMEs: 1,25 - contributions made towards B-BBEE verification of tourism SMMEs: 1,25									
Socio-Economic development and Industry Specific	8	10	3	6	Average annual value of Socio-Economic Contributions by the measured entity as a percentage of target	1% of NPAT									
			2	1	% of black new recruits with no prior work experience as a percentage of all new recruits, adjusted using the recognition factor for gender	10%									
			3	3	Status of TOMSA levy collector	Yes									
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QSE Tourism Scorecard (applicable to all tourism businesses with a turnover of R5 million to R35 million – or other thresholds as determined by the sector)

Measured entities are to select 4 of the 7 elements for inclusion in the Scorecard

Element	2012 Weighting	2012 Weighting Points	2017 Weighting	2017 Weighting Points	Indicators to Measure BEE Achievement	Milestone Target	
						2012	2017
Ownership	25	12	25	6	Voting Rights:		
					Exercisable voting rights in the enterprise in the hands of black people	21% + 1 vote	30% + 1 vote
					Economic Interest:		
					Economic interest of black people in the enterprise	21%	30%
					Realisation Points:		
					Ownership fulfilment		Yes
Management Control	25	25	25	25	Net equity interest		refer to CoGP for details
					Bonus Points:		
					<i>Involvement in the ownership of the Enterprise by black women</i>		10%
					<i>Involvement in the ownership of enterprise:</i> <i>- by black participants in Employee Ownership Schemes, Co-operatives or Broad-based Ownership Schemes</i>		10%
Employment equity	25	15	25	15	Black representation at Top Management level		50.1%
					Bonus Points:		
					<i>Black women representation as top-management</i>		25%
Skills development	25	10	25	10	Black employees in management as a percentage of all managers adjusted using the Gender Recognition Factor	40%	60%
					Black people as a percentage of total staff adjusted using the Gender Recognition Factor	60%	70%
					Bonus Points:		
Preferential procurement	25	2	25	2	<i>Bonus point for meeting or exceeding the EAP targets for each category above</i>		
					Adjusted Skills Development Spend on Learning Programmes for Black employees as a percentage of leviable amount		2%
Enterprise development	25	25	25	25	B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels as a percentage of total measured procurement spend	40%	50%
					Average annual value of all Qualifying Contributions made by the Measured Entity as a percentage of target		2% of NPAT
Enterprise development	25	25	25	25	Enhanced recognition provided for:		
					- enterprise development spend on black, tourism SMMEs: 1,25		
					- contributions made towards B-BBEE verification of tourism SMMEs: 1,25		

Socio-Economic development and Industry Specific		9.5		15	Average annual value of all Approved Socio-Economic Development Contributions made by the measured entity as a percentage of target	1% of NPAT
	25		25		% of <u>black</u> new recruits with no prior work experience as a percentage of all new recruits, adjusted using the recognition factor for gender	10%
		6		2.5		
		9.5		7.5	Status of TOMSA levy collector	Yes
TOTAL	175	179	175	112		