

ICT BEE INDABA

Results of the

Breakaway sessions

ICT BEE CHARTER – 16/17 Sept. 2003

At the recent ICT BEE CHARTER indaba, the way forward for BEE in the ICT sector was discussed in commissioned breakaway rooms. The following key area's formed the basis of discussion

- ?? Ownership
- ?? Management and Control
- ?? Employment Equity
- ?? Skills Development
- ?? SMME Development
- ?? Affirmative/Preferential Procurement
- ?? Corporate Social Investment

The commissions allowed the ICT sector to partake in discussions of the above-mentioned and ultimately forge the 'way forward'.

This was achieved with significant input from delegates who used the DTI scorecard as a framework and point of departure.

The results now mean that the ICT WORKING GROUP will take on phase two and start the drafting process.

The results of the commissions are published in the following pages.

Ownership Commission

Questions:

- 1 What is the current status of ownership in the sector?
- 2 What type of ownership should the sector promote?
- 3 How will it be financed?
- 4 How should broad based ownership (mass based) be accommodated?
- 5 How should the sector address historical transactions?
- 6 Under what circumstances should companies be able to opt out of compliance with ownership provisions of the charter?

Initial remarks

- ?? Want to revisit yesterday's presentation from the Foreign companies. Suggest segment ownership into 2 parts. Discuss the paper and then move on to SA section.
- ?? Why treat multinationals differently? Minister for M&EA made it clear not necessary. Treat everyone the same (hear, hear).
- ?? Clear up the word ownership. Does not mean the same in IT as it does in mining. 3% of world revenue means we are insignificant to multinationals. Intellectual property can be taken out on a CD.
- ?? IBM – be careful of excluding all options – need flexibility in balanced scorecard. Need to encourage multinationals to continue investment.
- ?? Majority want to treat all the same but a few want there to be free debate.
- ?? Ownership definition as per DTI document is related to existing and new companies. Ownership must be dealt with around segmentation in industry – distributors, resellers, SMMEs, etc. Do not want multinationals to dominate discussion.
- ?? Not all companies own IP – many have assets, local materials, components, etc.
- ?? NPI wants employee ownership on the table. Successful overseas.
- ?? EDS say it is a misconception that the multinationals have rejected the ownership portion of the scorecard. Not true. However, do want a flexible approach. It is a SA issue that relates to family owned SA businesses. Governed by articles of association.
- ?? Ownership of telecomms and broadcasting governed by licencing regulations. CellC is black owned. Need to review licences issued prior to 1994.
- ?? Ownership is one of seven criteria – if all other criteria are right, multinationals will be OK. Spirit of BEE is that people who do not have money today are given access.
- ?? DTI is suggested scorecard only – we can develop our own. We must challenge the legacy. There is more to ownership than ownership.
- ?? Structure of industry between service based (low capital) and goods based (high capital). Must link ownership to skills development. Different need for high capital companies.
- ?? Can we pick models from other industries – eg liquid fuels?

- ?? What kind of ICT industry do we want in the country in 10 years time? Weighting of scores will accommodate multinationals.
- ?? 70% white ownership of the sector which one of the most value-adding. SA government has clear goals published every year. All in SA must agree to work towards those goals. Poverty eradication, unemployment at top of agenda.
- ?? Need to bundle IP rights with equity rights
- ?? KR to be the last white SA to head Oracle SA!
- ?? Move debate to investment – only 1% of global FDI comes to SA. Capital moves and jobs follow. Must remember baseline is to grow the economy. Equity equivalent allow the money to continue to flow into the economy.
- ?? Scorecard enables addressing of fundamental issues in SA. If we apply it properly, we will succeed. Need to allow multinationals to work to achieve those goals. Equity ownership in IBM did not work. Debates around transfer pricing.
- ?? Multinationals must “toe the line” and accept national priorities. Siemens have sold equity to BEE companies and other can do the same. Ericsson has done the same. Saudi Arabia requires 51% local ownership. Correction: local sponsor receives annual fee, not ownership. Is the real issue the structure of the company?

Question 1

- ?? Not enough BEE ownership. Ownership is important, need to accelerate ownership but not all can or will achieve it.
- ?? BEEcomm report tabled certain timelines. How do you reverse the 80/20 situation. What is the right number? Is 25.1% enough? Do you carry on to higher targets later?
- ?? Protection of IP rights is important to establishing a stable/growing software industry. Must grow the sector to include more people.
- ?? The real challenge is how much weight to give to ownership. Suggest preamble to the Charter includes national objectives. Empowerment must be broad based. Must include those who are not present. Suggestion that technical expertise is the new apartheid.
- ?? Business has to grow to enable BEE.
- ?? How can small, new BEE companies take on the established suppliers? Must have positive discrimination towards companies that 100% comply.
- ?? Problem of enrichment experience – smoke and mirrors. What about the women?
- ?? Need to decide on how to address 8000 companies. Need asymmetrical regulation if companies do not comply.
- ?? Need research before answering the question.
- ?? Government owns a major portion of 6 major licences and has not done anything to promote BEE in each case.
- ?? Multinationals solved the problem when they disinvested – why not now? Must have link to the mothership.
- ?? Multilayer structure. Multinationals [no BEE], systems integrators who partner with top layer (inc consulting houses) [invite participation], distributors [BEE not attracted], resellers [jv's with existing businesses], SMMEs [black companies with small turnovers, white companies same]. How to target each level?

- ?? Is the transfer of ownership a zero-sum game? Must have growth. New companies supported by established companies has better outcome. Procurement is important.

Question 2

- ?? Investment restrictions affect SA ownership of foreign shares.
- ?? Joint ventures must build capability. No point in just having black investors.
- ?? Need research into the 8000. Cost of capital is high for small companies. High risk.
- ?? How to identify ownership if multiple shareholders. Or investment companies?
- ?? Dell is moving forward in employment equity, procurement and CSI. Ownership is not instant wealth creation.
- ?? Ownership is an important component of the scorecard. Segmentation in terms of size and sub-sector, listed/non-listed?
- ?? If it's OK for foreign companies to own a piece of Telkom, why not have SA owners of those companies?
- ?? Private companies – passive ownership vs control ownership and small structures may not allow management transformation (only one manager).
- ?? Have we identified the problems? Indirect vs direct, must there be 100% SA owned subsidiaries? What is the end point?
- ?? True empowerment is broad based. CSI has to count??? Limpopo scheme. Minister says it demonstrates BEE and we should look at new models. Must look at alternative models for overcoming the ownership issue.
- ?? How can we create new companies (eg community service operators for Vodacom – 1800 entrepreneurs)?
- ?? Ownership is an important component of transformation. Multinationals must contribute to the process. How do “we” create ownership? 50% of channel must be black owned, rest must be empowered. (Veritas).
- ?? SITA says SOE's are not BEE unless they bring a BEE partner. Target 25% to remain below hurdles in Companies Act? Why no mention of local companies (Didata, Comparex...). Research will delay us. Look at 3 to 5 years. Must come here with plans to move forward. Suggest publishing a governance report.

(Tea)

Question 3 - 6

- ?? Concentrate on participative ownership – pay for stake, able to contribute to management, benefit from skills transfer. Not just investors.
- ?? Youth complain that there is no opportunity after matric – bursaries and learnerships – if they cannot afford it. Refer to skills development commission.
- ?? Is the commission not zooming in on the debate around ownership? Too much attention paid to multinationals. Let's highlight the challenges faced to look for solutions.
- ?? Example of imported software value chain 30 – 20 – 50 (vendor, distributor, VAR). Suggest apply ownership to entire chain, instead of elements.

- ?? Are we fixated on FDI? What about using local pension funds? Can the PIC be allowed to take a higher risk? Venture capital? How can we expect foreign investment if we do not take the risk.
- ?? IDC does offer financing into the sector without adopting BEE approach. (Starts at R1 million). Plan to expand BEE support. IDC does not support passive investment – must be operational control.
- ?? Companies Act prevents companies from funding their own shares.
- ?? Can we consider investing in skills as equity, will multinationals give up direct model and only market through the channel?
- ?? Can we consider South Africans instead of Black South Africans?
- ?? Willing buyer, willing seller necessary.
- ?? What are the views of buyers and sellers about the balanced scorecard?
- ?? Suggest a creeping model will make multinationals very nervous.
- ?? Can the Alternate Exchange (JSE) help with funding – but cost of listing seems to be prohibitive.
- ?? Government needs to enable access to finance – team up with the financial services sector?
- ?? Will change of ownership address the digital divide?
- ?? Complying with the scorecard will produce windfall. BEE successes must pass on the benefits.
- ?? Employee ownership through a trust addresses difficulty of access to share capital. American model gives a break on inheritance tax. Self financing encourages external investment. Existing companies should create the new companies – spin off.
- ?? Blue IQ model – invite applications from (potential) black companies and provides initial funding, then decreases share over a period. Stimulates growth and their investment returned.
- ?? IP must be protected. International investors very sensitive to this issue.
- ?? You have a choice as to how you operate your business – the scorecard does not deny you existence, only influences how your potential customers will behave.
- ?? Funding is available for any sound business if you are willing to bring in a partner.
- ?? Way forward – empowerment model of democratic employee ownership is working in Axis and others. Financing is not about selling from VdM to Sithole but about growing the business.
- ?? Companies who cannot comply must give explanation.
- ?? Beware BEE companies partly owned by competitors?
- ?? Problem of global accounts? Loss leaders locally?
- ?? There are costs that may mean that there is no real value left in the local unit.
- ?? Is opting out an option? Ownership is ownership. What is the matrix going to look like?
- ?? Scope of charter: what about investments out of SA into other countries? Exclude from charter. Application of charter: definitions must include women and disabled. Weighting on equity can be low to start and increased over time.

- ?? The Equity Equivalents group made a genuine attempt to satisfy the various models to provide the right solution. They are committed to BEE and have applied their best minds to the issue.
- ?? Must have emphasis on South African companies. Disappointing that so few of the SMMEs were present today. SA companies must address the issue of moving 25-30% of ownership into black hands.
- ?? Reinforce that multinationals are committed to BEE.

COMMISSION: TOP MANAGEMENT AND CONTROL

DEFINITIONS

Management control encompasses the following:

- ?? Effective control
- ?? Supervisory
- ?? Budgetary control
- ?? Executive management
- ?? Determine strategic input
- ?? Authority

Levels of management: control

Target: minimum of 40% over 3 years (incentives to be considered for those that exceed targets)

Gender sub category: 30% of 40

Issue of People with disabilities to be considered

Mechanisms to achieve target

- ?? Mentorship
- ?? Coaching
- ?? Succession planning
- ?? International exposure
- ?? Retention strategies

Strong proposal to consider size of the company when determining the targets

Commission: Employment Equity and Skills Development

Questions and Concerns

- ?? EEA not effective without carrot and stick
- ?? Skills development underpins BEE
- ?? Measurement framework that requires companies to commit to the employment of Blacks
 - Quarterly reporting on E equity
 - Need to build leadership
- ?? Companies provide bursaries but no employment opportunities
- ?? Industry not growing how do we move enterprise development
- ?? Entry level skills in abundance but top level skills are required

Comments towards solutions

- ?? Integration of EE and SD
- ?? Balance scorecard: targets capacity issues has to be addressed
- ?? Linkages between ICASA and the ICT charter
- ?? Large companies not responding to the sector's skills initiatives
- ?? Need to set targets for mentoring and coaching
- ?? Charter to identify key drivers
- ?? Learner ship programmes
- ?? Retention strategies
- ?? SETAs not communicating enough
- ?? Implementation process need to be refined
- ?? Country/ infrastructural capabilities lacking with regards to skills development implementation
- ?? Challenges with enablers for SMME development and entrepreneurial skills
- ?? School curriculum not empowering learners
- ?? Black matriculants without maths and science is a major concern
- ?? Comprehensive strategy to enable exportation of skills

Suggestion on issues raised above

- ?? Subcontracting and entrepreneurship
 - % Of revenue towards development of contractors
- ?? Target setting and mechanisms to assist companies to achieve this
- ?? SETA grants for sector specific SD initiatives
- ?? Need to take advantage of existing legislation to operationalise the charter
- ?? Lobby the dept of labour to enforce EE targets and quotes
- ?? BEE performance indicators required (quantitative and qualitative)
- ?? Definitions need to be clarified (to black, women, rural women, etc.)
- ?? Entrepreneurship and weighting
- ?? Venture creation, incubation
- ?? Bureaucratic processes

Commission: CSI REPORT BACK

CSI DEFINITION

All Initiatives that contribute to bridging digital divide and other initiatives that advance skills development efforts in disadvantaged communities

WHAT IS NOT CSI

License obligation regulatory required

ESTABLISHMENT OF ICT SECTOR CSI CO-ORDINATION BODY

- ?? Not for Profit
- ?? Co-coordinating Body's Role
 - Identify priorities in line with country's broad initiatives
 - Co-coordinating body for industry CSI efforts of criteria (monetary & financial)
 - Set CSI targets for industry against a set of established criteria
 - Monitor Progress
 - Audit industry with help of agreed upon template that takes into account financial and monetary contributions
 - Defines corporate citizenship and corporate responsibility for industry
- ?? Preference for co-coordinating body to be a sub-committee of BEEC Commission
- ?? Body not an implementing body – Industry to implement CSI projects
- ?? Body to co-ordinate with other industry initiatives (mining charter, financial charter etc) for knowledge sharing and lessons

WEIGHTING OF CSI IN SCORECARD

- ?? 10% weighting acceptable
- ?? Breakdown into categories to be done by working group and its technical bodies – how to be measured
- ?? Uniform methodology to be established for evaluation
- ?? Scoring to be determined by working group taking into account monetary and non monetary contributions
- ?? Partnership initiatives measurement technique

TARGET SPENT

- ?? Principle accepted that targets have to be set for CSI spent
- ?? Target to be investigated and established by working group
- ?? Non-monetary spent to be factored in

IDENTIFICATION OF PROJECTS

- ?? Principle: Support/Target projects that promote use of ICT in disadvantaged communities, specifically Bridging the Digital Divide
- ?? Leverage technology use in projects supported by industry
- ?? Breakdown
 - Infrastructure Development
 - Capacity Building

Tax Break Proposal: Propose that working group investigate tax breaks on CSI spending

1.1.1 Commission: AFFIRMATIVE PROCURMENT

STRATEGY:

1. BEE Policy formulation definition – Change mindsets.
2. BEE to be an integral part of the Procurement process.
3. Categorization of the suppliers – multi national vs. national.
4. Develop Synergistic measurement criteria.
5. Driven and develop cross-functionally in each business unit in all companies – Driven objectively by targets and part of executive bonus schemes.
6. Core vs. Non-Core Expenditure

STRUCTURE:

1. Must be firmly entrenched in the procurement practices and policy.
2. Resources must be dedicated to champion affirmative procurement.
3. From a Critical criteria for the award of contracts.
4. Reports – Measure – Corrective Action – Education – Engagement – Elimination.
5. Corporate Governance.
6. Association of procurement practitioners to share best operating practices (BOPS).
7. Create body (national) for multination.

SYSTEMS:

1. Methods and Procedures
2. Work flows between business units
3. Interaction between organizations
4. Central database of accredited BEE Suppliers
5. Independent Audit of BEE Statistics
6. Elimination of fronting

SKILLS:

1. Build competencies with procurement divisions
2. Evaluation of Vendors – BEE Criteria
3. Training of emerging business
 - ?? Tendering
 - ?? Business planning
 - ?? Market Analysis
 - ?? Productivity
4. Assist vendors with skills to address BEE requirements
5. Establish linkages with academic and tertiary institutions – BEE to become part of leadership curricula
6. Create procurement platforms to address BEE best operating practices

INSIGHTS:

1. Corporate amnesia on commitments
2. Ownership
3. Technical specification engineered for preferred suppliers

THE WAY FORWARD:

1. The scorecard (when proposed) should adopt sector standard operating practice (SOP) that have been tried and tested must be broad based and reflect alignment with the DTI broad based scorecard.

2. Incubation of emerging enterprises
 - ?? Set asides
 - ?? Contract Management
 - ?? Preferential payment terms

2. Local Value Add – Intellectual Property (IP) - Local Content Management
 - * Education of all role-players
 - ?? Traditional – White Owned
 - ?? Multinationals
 - ?? Nationals
 - ?? Emerging Enterprises

 - * Capacity Building

NOTES:

2.1.1.1.1 AFFIRMATIVE PROCUREMENT / ENTERPRISE DEVELOPMENT

AFFIRMATIVE PROCUREMENT:

Mtunzi – Work Group

?? Very bad

2.1.1.1.1.1 * *Corporate amnesia*

?? Ownership

* Innovation being stifled

?? Delivery

* Capacity building

?? Core and Non-Core BEE

* Compare Differences

?? Measurement Criteria

?? Skills Development

?? BEE definition

* Policy

?? Determine spend by sector

?? Categorization companies

* International

* Domestic

?? Definition of BEE

?? Global Procurement

* Contractual review

* Set Asides

* Local content

?? Disaggregation of contracts

?? Customer is King

* Do not be apologetic about transformation

?? Set asides

* On contracts

?? Accreditation

* Eliminate fronting

* Not negotiable - Affirmative Procurement

?? Local Value Add

* Software

* Local Content

?? Black listing of fronting companies

- ?? International competitiveness – Intellectual property (I.P)
 - * Strategically position South Africa in ICT
- ?? State owned Enterprises
 - * Not to be considered as BEE spend
- ?? Consulting services
- ?? Enterprise development
- ?? SMME
 - * Significant
 - * Not only for contract award
- ?? Skills Transfer
 - * Capacity to deliver
- ?? BEE licensing body (ICT sector)
- ?? ISETA
 - * Skills development
 - * Accreditation
- ?? Establishment of database for the sector
- ?? Promotion of BEE companies
 - * Success Stories
- ?? Knowledge capital
- ?? Competition
- ?? Corruption
- ?? Scorecard compliance
- ?? Part of professional bodies curriculum
 - * IPSA, etc.
 - * Academic institutes
- ?? Leaner ships
- ?? Code of conduct
 - * Governance
- ?? Establish timelines

2.1.1.2 ENTERPRISE DEVELOPMENT:

- ?? Mentorship
- ?? Contract Management
 - * Sliding scale of value of contract
 - * Skills transfer
 - * Availability to fund
- ?? Demand and market focus
 - * Create opportunity
- ?? Develop guidelines
- ?? Develop distribution layer for multinationals
- ?? Resident in supply chain
- ?? Government agencies
 - * Incubation of SMME's

- ?? Use best operating practices in the industry to inform charter
- ?? Business plan development
- ?? Distribution of Products
- ?? Local Intellectual property (IP) development
- ?? Charter Alignment
- ?? Business imperative
 - * Sectoral
- ?? Resource availability
 - * Budgets, etc.
- ?? Meaningful project opportunities
- ?? Cash flow management
- ?? Scorecard alignment
- ?? Tax benefits
- ?? Mindset change
- ?? ICT spend - Low
- ?? Informal sector

1.7.1) For a private business entity, the Black owner(s) shall hold at least 51% of the ordinary shares; *and*

1.7.2) Where a voting pool arrangement confers control on Black shareholders.

1.7.3) In addition, such ownership shall be real and continuing, and shall go beyond the mere indicia of ownership of the business reflected in the ownership documents (refer to clause 1.5 in this regard); *and*

1.7.4) The Black Supplier shall enjoy the customary incidents of ownership and shall share the risks and profits commensurate with the ownership interests, as demonstrated by an examination of the substance, rather than the form of ownership arrangement.

1.1) Black SME Supplier Owned

Black SME Supplier shall be defined as a black supplier with an annual turnover not exceeding R25 million.

1.2) Large Black Supplier

Shall mean, in addition to 1.8 above, has an annual turnover in excess of R25 million.

1.3) Significant Supplier

Shall be a company that complies with the following criteria:

- a) Black Shareholding = 10 % minimum
- b) Black Management = 10% minimum

- c) Black Staff = 40% minimum
- d) Affirmative Procurement = 10% minimum
- e) Sub-contracting = 10% of contract value
- f) Employment Equity in Place
- g) Economic Empowerment program in place

1.4) Engendered Supplier

Shall be the company with at least 30% **Black** women within the black equity ownership and management portion.

1.5) Black Influenced Company

Shall be the company that is 10-25% owned and managed by Black people.

1.6) Black Empowered Company

Shall be the company which is at least 25,1% owned and managed by Black People

1.7) Traditional Supplier

Shall mean a supplier that provides an organisation with products and services that are core to the organisations business, but does not meet any of the criteria related to black suppliers or black influenced companies.

2) BEE PROPOSED POLICY STATEMENT

To procure technically suitable goods and services from suppliers of previously disadvantaged groups through its Black Economic Empowerment Policy, by enabling previously disadvantaged Suppliers, particularly previously disadvantaged SME Suppliers, to meaningfully participate in the mainstream of the South African economy. Business should be awarded to those suppliers on the basis of merit based on those criteria and conditions as set forth in the evaluation model as set out in this document.

3) ICT- BEE CHARTER OBJECTIVES

The objectives of this ICT Black Economic Empowerment Charter is to:

- 3.1) Facilitate access to an organisations procurement activity by Black Suppliers.
- 3.2) Give recognition to large businesses that support Black Suppliers and implement acceptable BEE programmes.
- 3.3) Encourage the establishment of value-adding joint ventures / subcontracting / partnership both directly and indirectly and between traditional Suppliers and Black Suppliers giving the latter access to the latest technologies and knowledge through matchmaking.

The following guidelines are proposed in establishing value adding Joint Ventures (JV) between traditional suppliers and Black suppliers in order to assist with the transfer of skills and capacity building:

- ?? The JV shall be a legal entity, complying with all statutory requirements.
- ?? The JV shall be a bidding party in any contractual proposal.
- ?? The JV shall present a signed contractual agreement to prove the relationship between parties.
- ?? Each JV shall provide proof of equity shares subscribed in the capital of JV.
- ?? The parties shall enjoy the customary incidents of ownership and shall share the risk and profits commensurate with their ownership interest.
- ?? The purpose and the objective of the JV shall be clearly stated and the value (i.e. contribution), each party will be adding to the JV.

- 3.4) Assist potential Black Suppliers in creating and expanding their capacity to supply. These will include but not be limited to training and the absorption of price preferences.
- 3.5) Proactively create a bias in the adjudication process resulting in increasing the proportion of business being awarded to Black Suppliers.
- 3.6) Relax procurement commercial terms and conditions as well as procedures at the discretion of the organisation where necessary to allow for Black Suppliers to do business with said organisation. An example would be relaxing payment conditions to Black SME Suppliers to assist them with improved cash flows.
- 3.7) In the pursuit of creating opportunities for Black SME Suppliers, an organisation shall consider price preferences as a means of capacity building to them.
- 3.8) Where appropriate contracts will be disaggregated into smaller components, for instance per region or material/service type to enable Black Suppliers to participate.
- 3.9) In appropriate circumstances, an organisation shall set Black Economic Empowerment principles as a precondition to a tender. This will include but not be limited to specifying to the potential Supplier the Rand value or percentage of the tender that should be fulfilled by the participation of Black Suppliers.
- 3.10) Technical specifications set by an organisation should be reviewed to ensure that they are for functional requirements and not positioned in a way so as to disparage black suppliers.
- 3.11) Where appropriate tenders can be *set aside* in part or in whole for the exclusive participation of Black SME Suppliers.

4) **ICT – BEE POLICY REQUIREMENTS**

- 4.1) An enabling environment should be created for the implementation of this Policy.
- 4.2) Resources should be allocated within an organisation for the implementation of charter objectives.
- 4.3) The ICT Charter requirements should be properly communicated in an organisation and as a directive to all stakeholders.

5) RESPONSIBILITIES

With the approval of designated person within an organisation, the custodian of BEE activity within an organisation should be authorised to establish and review an organisations BEE Policy. In addition, this authorised individual shall have the following authority and duties:

- 5.1.1) Facilitate administration and enforcement of the BEE objectives
- 5.1.2) Establish written procedures to implement and enforce BEE Policy as approved by the designated person within an organisation
- 5.1.3) Develop a database of certified Black Suppliers including the maintenance of annual statistical data of availability and utilisation of certified Black Suppliers
- 5.1.4) To determine in writing with reasons thereto, prior to the award of any contract, of whether potential Suppliers are in compliance with BEE programme
- 5.1.5) Informing and advising Suppliers on procedural matters relating to BEE
- 5.1.6) Investigate alleged violations of BEE programme and the issuance of written determination following such investigations stating the reasons thereof
- 5.1.7) Review cases where Suppliers fail to implement previously made BEE Programmes commitments to determine whether there should be further efforts or alternative approaches
- 5.1.8) Certify potential Suppliers as Black Suppliers and Black SMME Suppliers in accordance with the standards set forth in this charter
- 5.1.9) Monitor the organisations BEE programme progress and targets
- 5.1.10) Asserts and implement an appropriate reciprocal certification policy with other corporate in South Africa
- 5.1.11) Develop and co-ordinate capacity building programmes for Black Suppliers; and
- 5.1.12) Liase with SME agencies, business groups, financial institutions and government agencies

6) SUPPLIER COMPLIANCE

6.1) Declaration of Compliance

It should be an organisations policy to encourage its Suppliers to promote the Black Economic Empowerment Programme. In this regard, no Supplier shall be granted a contract unless they demonstrate to the organisation compliance to the BEE programme. As a pre-condition to selection, each potential Supplier including Black Suppliers should submit a completed and signed Declaration of Compliance.

6.1) Fulfilment of Policy

6.2.1) In addition to the Declaration of Compliance, each potential Supplier shall submit a completed and signed questionnaire designed to demonstrate the potential Suppliers' fulfilment of the Company's BEE programme. The questionnaire and any other relevant documents that may be required shall form one of the decisive critical criteria in the evaluation and award of contracts as well as performance measurement criteria of the contract.

6.2.2) In instances where there are BEE programme participation preconditions to a tender, the potential Supplier shall submit, in addition to the requirements of "Declaration of Compliance" and the above paragraph, a BEE programme plan that is designed to meet the applicable BEE programme participation preconditions set for the tender. This BEE programme plan shall form part of the tender evaluation and shall be incorporated into the contract.

As a minimum the BEE programme plan shall include the following:

- a) The list of names, addresses and contact persons of the Black SME Suppliers to be used in the contract
- b) The type of work or service each Black SME Supplier will perform
- c) The value of the work; and
- d) The scope of the work

7. BLACK SMME SUPPLIER DEVELOPMENT PROGRAMME

The objective of the Black SME Supplier Development Programme is to direct organisations efforts to identify, develop and support Black SME Suppliers in the supplying of goods and services to the organisation.

The following development programmes are proposed in term of this charter.

7.1) Price Preference

An organisation may consider a price preference when comparing quotation. The criteria of determining the price preference shall be determined by the organisation.

7.2) Set-Asides

Set-Asides are special conditions, which give preference in the procuring goods and services to Black suppliers either in part or in whole to participate exclusively among them, with the objective of future competitiveness.

The following guidelines shall be used to determine Set-Asides:

- ?? Levels of participation by Black Suppliers in past contracts awarded
- ?? Ability of Black suppliers to provide such goods and services
- ?? Availability of black suppliers for the product/service
- ?? Etc.

7.3) Early Payment cycle

An early payment cycle is a concession granted to Black SMME suppliers that allows them to be paid within a shorter period of time after receipt of valid original invoice and proof of delivery. This should be done after a Black SMME has requested this facility and the organisation has assessed the need and deemed it necessary to apply this facility.

Early payment cycles shall be applicable for a period as deemed appropriate by the organisation.

7.4) Price Matching

Price matching shall mean setting a price that is competitive based on tender submissions or benchmarking and allowing a black supplier an opportunity to match said price. This said price shall be determined in conjunction with a due diligence evaluation to ensure that the said price does not influence supplier sustainability in any regard.

7.5) Performance Guarantees

Performance guarantees are intended ensure completion of assigned work in the event of a black supplier being unable to complete the scope of work. An organisation may award a performance guarantees to Black SME suppliers who are awarded contracts after they are evaluated based on their request for this facility.

7.6) Skills and Technology Transfer

Training may be given in areas such as finance, quality, technical, production and others as deemed necessary that contribute to black SME supplier sustainability.

7.7) Tender Advice

Assistance shall be rendered to suppliers in need of assistance in the tendering process. This initiative should be designed to increase the capacity of Black SME Suppliers in doing business with an organisation. Tendering advise should be confined to generics in terms of the tender process and not include information that gives a supplier a competitive edge over others.

7.8) Certification

An organisation shall determine the eligibility of Black SME Suppliers in line with clauses “Black Supplier” and “Black SME Supplier”

7.9) Term

The certification granted to a Black Supplier shall be valid for a period of twelve months on condition that there is no substantial change in its ownership.

7.10) Re-certification

To remain certified, a Black Supplier will have to submit a new affidavit with required documentation at least two months prior to expiry of its current certificate

7.11) De-certification

The following reasons that are not exhaustive may warrant de-certification:

- a) Entity has changed to the extent that it no longer qualifies to be a Black Supplier; and / or
- b) Failure to submit re-certification affidavit within two months of expiry date of certificate; and / or
- c) Black Supplier ceases to operate as a business; and / or
- d) Proof that the entity operates as a front; and / or
- e) Any other reason determined by the organisation that warrants de-certification.

7.12) Audit

An organisation shall make investigations of Black SME Supplier’s beyond formal documentation submitted if:

- a) Tendering for the first time;
- b) A review of the documentation submitted with the application raises serious concerns regarding ownership or control of the company; and
- c) As and when necessary during the validity period of the certificate/contract
- d) An organisation should reserves the right to conduct interim reviews or random forensic audits to ascertain shareholder status as deemed necessary before the expiry period in order to secure the integrity of its supplier’s information.

8) LARGE BLACK SUPPLIERS

The purpose of the large Black Supplier initiative is to increase their capacity and competitiveness in doing business within the ICT sector as they, like the Black SME Supplier, were historically discriminated against. To this end Suppliers that qualify as large Black Suppliers will benefit from this initiative. Generally, large Black Suppliers should be treated as any other large supplier. However, they will receive support that will include the following:

- a) Price matching with traditional Suppliers will be permitted within the parameters set out by an organisation; and
- b) Post award of contract technical support may be provided

9) SUPPLIER DEVELOPMENT

An organisation should endeavour to select and train black suppliers in areas deemed necessary and based on business needs.

10) PARASTATALS AND ORGANS OF STATE

Parastatals and Organs of States shall not be allocated any scoring in respect of equity ownership, but shall be recognised for other BEE initiative that includes but not limited to Affirmative Procurement and Sub-contracting to black suppliers.

11) CRITERIA FOR EVALUATING BEE STATUS

The following are the proposed criteria for evaluating the status of a BEE company and the weighting that should be applied in this regard.