

Appendix 2

Eskom BEE Procurement Policy: ESKADAAT 6

**15 TABLE1: BEE RATING CRITERIA FOR SUPPLIER AND TENDER EVALUATION
10**

16 ENVISAGED SUPPLIER EVALUATION CRITERIA AS FROM DECEMBER 2002 11

Finalised at MBPC Meeting 8/2002 held on 22 May 2002

1 SCOPE

Eskom's policy is to maximise purchases from Black or Black Empowering Enterprises (BEEs), whether Black Women-owned, Small or Large Black or Black Empowering Suppliers. The purpose is to promote entrepreneurship in Black communities and to give Black businesses access to the mainstream of business opportunity.

While supporting Black Suppliers in any sector of the economy, Eskom will concentrate its developmental efforts on Black Suppliers in the manufacturing, construction and mining/extraction sectors of the economy and providers of professional consulting services.

Each Eskom Group/Division or wholly owned subsidiary will implement and manage a program of procurement from Black Suppliers. These programs are commercially oriented and as such must be differentiated from other Eskom programs for Black Economic Empowerment which have a social upliftment orientation. The primary task of the procurement function in Eskom remains unchanged: to find reliable, cost effective suppliers for the enterprise.

This policy will be expanded in procedures or handbooks providing guidance on implementation.

2 MANAGEMENT COMMITMENT

Eskom's Management, as managers and as individuals, are committed to the direction given by them in this Directive. The Divisional Managing Directors and Senior General Managers personally set the targets for purchases from Black Suppliers and oversee the programs implemented in each Eskom Group/Division to ensure success. These executives must ensure that those involved in the programs have the needed human, financial and other resources. The success of the Black Supplier Procurement Program constitutes an important part of their respective performance compacts.

3 NORMATIVE DOCUMENTS

ESKADAAX1 : SUPPLIER MANAGEMENT IN ESKOM

ESKAVAAZ 6 : GUIDELINE TO SUPPLIER MANAGEMENT IN ESKOM

SAP PROTOCOL : VENDOR MANAGEMENT

ESKADABK 7 : PROCUREMENT BY ESKOM FROM BLACK WOMAN-OWNED SUPPLIERS

ESKAMAAE 8 : PROCUREMENT FROM BLACK SUPPLIERS BY ESKOM HANDBOOK

ESKADAABO PROCUREMENT OF ASSETS, GOODS AND SERVICES

ESKADABD7 SUSPENSION OF SUPPLIERS

4 DEFINITIONS

4.1 Black

South Africans previously classified as Blacks, Coloureds and Indians.

4.2 BWO – Black Women-owned Enterprise

A supplier with an annual turnover of R25 million or less and with Black Women ownership, risk and control of not less than 50% is termed a Black Women-owned Enterprise. It is also a (SME).

4.3 SME – Small and Medium Enterprise

A supplier with an annual turnover of R25 million or less and with Black ownership, risk and control of not less than 50% is termed a Small Black Supplier (SME).

4.4 BEE – Black Empowering Enterprise

A supplier with an annual turnover of more than R25 million and with Black ownership and risk and control of 10% to less than 50% is termed a Black Empowering Enterprise. The supplier must score at least 9 points on Table 1 with mandatory points on each of the following criteria: Ownership, Management, % Skilled Black Personnel and Procurement from Black suppliers.

4.5 Large Black Supplier

A supplier with an annual turnover of more than R25 million and with Black ownership, including investment risk and management control, of not less than 50% is classified as a Large Black Supplier

4.6 Disabled Person

A person who has a long-term or recurring physical or mental impairment that substantially limits his/her prospect of entry into, or advancement in, employment, is termed a disabled person.

4.7 Front

A supplier is termed a front if:

- Black partners are given shares without any payment.
- The “Black” company uses the non-Black surrogate company’s infrastructure without making any payment.
- The Black partner makes no meaningful contribution to the day to day running of the business.
- The Black owners' shareholding is linked to their employment conditions. i.e. Blacks forfeit shareholding when they cease to be employed by the company.
- The supplier’s market is limited to government and parastatals only.

The above definitions are not exclusive, and any other behaviour intended to hide the true nature of ownership and control will be viewed as fronting.

4.8 Non-Value adding

An enterprise is termed a non-value adding supplier if:

- It adds no value to the supply chain except for filling in a tender form, receiving an order and subsequently invoicing Eskom.
- It carry and market stock supplied by a traditional supplier. The traditional supplier guarantee stock and provide backup.

5 ORGANISATION

5.1 Management and co-ordination

The responsibility at corporate level for corporate policy and the management and co-ordination of corporate resources and of interfaces with the outside world, aimed at maximising the award of business to Black Women-owned, Black and Black Empowering (BEE) Suppliers, vests in the manager of the corporate commercial function in Eskom. He/she appoints a Corporate Black Supplier Program Manager to fulfil this function.

5.2 Group/Divisional and regional personnel

The responsibility at Group/Division level for the organisation of Group/Division resources and of interfaces with the outside world, aimed at maximising the award of business to Black and BEE Suppliers vests in the Group/Division. The Group/Division appoints a Group/Divisional Black Supplier Program Manager, functionally responsible to the Corporate Black Supplier Program

Manager, to execute the Group/Divisional Black Supplier Procurement Program. Guidance is found in ESKAMAAE8 "Handbook for Procurement from Black Suppliers by Eskom".

The Divisional Managing Director ensures that personnel responsible for the Group/Divisional Black Supplier Procurement Program, with functional and/or line responsibility to the Group/Divisional Black Supplier Program Manager, are deployed throughout the areas of activity of the Group/Division. These liaise closely with the local procurement offices.

5.3 Performance measurement and reporting

The Divisional Managing Directors ensure that Black Supplier procurement is included in the performance appraisal of all affected personnel (both procurement and operational personnel).

Performance measurement and reporting requirements are *set out in directives* from management from time to time. The flow of information and reports is co-ordinated by the respective Black Supplier Program Managers.

Key Performance Indicators are

- Amounts spent procuring goods or services from Black Women-owned, Black or Black Empowering Suppliers
- Expenditure on the Black Supplier Procurement Program.

6 ORIENTATION AND TRAINING OF PERSONNEL

The Divisional Managing Directors undertake to ensure the orientation of personnel to support the Black Supplier Procurement Program. This is included in normal induction programs for new personnel and in walkabouts and communications by the MDs and senior personnel.

The Divisional Managing Directors undertake to ensure that personnel are trained in the skills needed to execute the Black Supplier Procurement Program.

7 TREATMENT OF BLACK SUPPLIERS

7.1 Annual Expansion of Program

TO MAXIMISE PROCUREMENT OF PRODUCTS AND SERVICES FROM BLACK WOMEN-OWNED, SMALL BLACK AND BEE SUPPLIERS RELEVANT FUNCTIONS MUST ON AN ANNUAL BASIS IDENTIFY AND LIST ALL ITEMS AND SERVICES PROCURED FROM BLACK SUPPLIERS.

The line managers, Black Supplier management and the procurement function must then explore and identify new items and services that can be obtained from Black Women-owned, Black and BEE suppliers, and draw up a program for sourcing such requirements from these suppliers. This may include developing new suppliers in terms of this policy.

The formal purchasing process as set out in this and other commercial directives and procedures must be followed at all times.

7.2 Hierarchy of Procurement

The following hierarchy must be followed in sourcing products and services, with preference given to manufacturers over stockists:

- Drawing from Eskom stores stock.
- Drawing off from existing compulsory Framework Agreements.

- Procurement from within Eskom Groups/Divisions
- Procurement from Eskom Subsidiaries
- Procurement from Black Women-owned Suppliers
- Procurement from Small Black Suppliers
- Procurement from Large Black Suppliers
- Procurement from Black Empowering Suppliers
- Procurement from other South African manufacturers
- Procurement from local stock holders of South African or imported assets and goods
- Direct importation.

Any use of non-value adding agents, Black or other, is avoided.

7.3 Procurement requirements

Black and BEE Suppliers will not be treated differently than the norm with regard to quality, expected service level, delivery, or any technical requirements.

When new business is being developed, however, the normal financial and commercial evaluation requirements may be temporarily relaxed, if this can be done without substantially endangering Eskom's interests.

A small Black business should not be denied listing as a supplier due to lack of a formal environmental policy and quality management system. Where construction, manufacturing or maintenance are involved the supplier will have to be qualified as to capability. In either case development assistance may be required.

7.4 Pre-Registration

Eskom's vendor master records will show the **business** status of suppliers, i.e. BWO (Black Women-owned), SMM (Small Black Supplier), BEE (Large Black or Empowering Supplier), EE (Eskom Subsidiary), OTH (other) and FGN (foreign). Classification as BWO, SMM or BEE testifies to the ownership, control and BEE programme of the firm, but does not imply capability or capacity to do any work or to supply to any standard. The status will be accorded in terms of the Supplier Application Form as submitted by the supplier. The supplier will then be blocked on the VMS. The block will only be lifted after a thorough evaluation by qualified Black Supplier Programme personnel.

Each supplier is linked to one or more class codes, and when buyers need a particular item or service, prospective suppliers will be identified using the class code in the system. Where the class code implies that certain standards need to be met, e.g. quality, safety or environmental standards, the firm must be qualified according to those standards before it is linked to such a class code. Where a buyer searches the database on the class code and does not identify sufficient SMM or BEE suppliers, the buyer should request the Black Supplier Program or Supplier Management personnel to identify, qualify and classify possible Black suppliers.

State and State Owned Enterprises are not Black or BEE suppliers but are registered as OTH. The only exceptions are Universities and Technicons that were previously classified as Black or

Homeland institutions, the list of which is available from the corporate Black Supplier Program manager.

7.5 Determination of ownership and/or control

Regardless of size of an enterprise ownership or control is to be determined first.

7.5.1 Close Corporation

In terms of close corporations percentage ownership is determined by funding (working capital) and not owner's contribution. Black ownership must be accompanied by day to day management decisions and sharing in the risk/gain to the extent of their ownership.

7.5.2 Listed Companies

Where a company is listed on the JSE, the ownership criterion is replaced by percentage of Black directors on the board of directors of the company, not regarding whether they are executive or non-executive.

7.5.3 Public and Private Companies

For a public/private company where Blacks bought a percentage of the shareholding as per Company Act of 1973 as amended at least ten (10) percent of the loan should have been repaid before the company can be assessed for registration as BWO, SME or BEE on Eskom's VMS.

7.5.4 Trusts

Ownership of a trust is determined not by the trustees but by establishing who the beneficiaries are. If the beneficiaries are Black, the ownership criterion is met and two points are given. Regardless of size in terms of turnover, all trusts must be assessed as per Table 1.

7.6 Advantage

In addition to support programs outlined elsewhere in this directive BWO, Black and BEE Suppliers will be afforded an opportunity to match prices within the parameters as set out in every enquiry. The hierarchy followed in price matching is Small before Large, in descending order. BWO businesses may match the prices of SME and BEE suppliers.

If a contracted enterprise no longer qualifies for support as a Black/BEE Supplier due to the changed parameters set out in this document, but not for any other reason, it will retain its status for the remainder of the contract period. The supplier must be blocked for RFQ and not for payment. If the enterprise wishes to tender for new business during this period it must firstly conform to the new parameters for it to be considered Black/BEE.

8 REPORTING

PURCHASES, WITH AN AUDIT TRAIL, FROM BWO, SMM AND BEE SUPPLIERS ARE SEPARATELY RECORDED AS SUCH AND REPORTED MONTHLY TO THE CORPORATE BLACK SUPPLIER PROGRAM MANAGER VIA THE GROUP/DIVISIONAL BLACK SUPPLIER PROGRAM MANAGERS.

BOTH DIRECT AND SECOND TIER PROCUREMENT EXPENDITURES ARE REPORTED. ONLY EXPENDITURE PAID TO ESKOM RATIFIED SUB-CONTRACTORS MAY BE REPORTED AS SECOND TIER PROCUREMENT. SECOND TIER PROCUREMENT

VALUES WILL BE OBTAINED FROM SUPPLIERS. WHERE DOUBTS ARISE AS TO THE ACCURACY OF SECOND TIER VALUES ESKOM MAY REQUIRE A CERTIFICATE FROM THE SUPPLIER'S AUDITORS OR SOME OTHER FORM OF PROOF.

EXPENDITURE INCURRED IN TERMS OF THE BLACK SUPPLIER PROGRAM IS RECORDED AND REPORTED QUARTERLY TO THE CORPORATE BLACK SUPPLIER PROGRAM MANAGER VIA THE GROUP/DIVISIONAL BLACK SUPPLIER PROGRAM MANAGERS OR OTHER RESPONSIBLE PERSONS. THE NATURE OF THE DEVELOPMENT AND EXPENDITURE SHOULD BE DESCRIBED.

All values reported are VAT inclusive.

9 BEE STATUS EVALUATION

When applying for registration as suppliers, and again on every occasion when they submit a tender to Eskom, suppliers provide a statement of their ownership/control and internal Black Empowerment Program, which will be used in supplier assessment and in assessing tenders along with technical and commercial offerings. Table 1 below is used as the basis of this assessment.

Any changes to the make-up of the tenderer or to their Black Empowerment Program that will improve their BEE status but that occur after the tender closing date and time and before order/contract placement will not be taken into consideration in tender evaluation, even if these changes were under consideration at the time of tendering. However, if a supplier loses its BEE status at any time, Eskom must be informed within seven (7) working days.

Areas that will receive specific attention during BEE status evaluation are:

- Black ownership/control
- Black management
- Skilled Black personnel as a percentage of all skilled personnel
- Purchases from Black & BEE Suppliers
- Black Female Management, and
- Employment of the Black disabled.

To establish whether a Large Supplier, that is a supplier with an annual turnover of more than R25m, qualifies as a BEE Supplier, a points rating system is used.

Large Suppliers with a rating of 9 or more will be deemed to be BEE Suppliers. To qualify as a Large BEE Supplier **at least one point** must be scored in the criteria for Black ownership, Black management, percentage of skilled Black personnel, and purchasing from BEE Suppliers.

Small suppliers, with an annual turnover of R25m or less, in manufacturing, construction, mining/extraction or management or professional consulting may request, in writing, that Eskom measure them according to the points system set out in Table 1 rather than by the ownership requirement. This will be at Eskom's discretion.

This rating will be updated with every tender received, and used in evaluating the tenders, taking economic value to Eskom and the economy at large into consideration. This rating will also be used in formal supplier performance appraisal meetings.

Only Black Supplier Program personnel may qualify a supplier as BEE and register it as such on the Eskom Vendor Master.

10 LARGE BLACK SUPPLIERS VERSUS LARGE BLACK EMPOWERING SUPPLIERS

A supplier with an annual turnover of more than R25 million and with Black ownership, including investment risk and management control, of not less than 50% is classified as a Large Black Supplier. This classification will be taken into account only when price matching is considered.

A Large Supplier with a rating of 9 or more points is registered on the vendor management system as BEE, but a Large Black Supplier takes precedence over a Large Black Empowering Supplier in price matching.

11 SMALL BLACK SUPPLIER PROCUREMENT PROGRAM

A supplier with an annual turnover of R25 million or less and with Black ownership and risk and control of not less than 50% is termed a Small Black Supplier (SME).

11.1 Support Program

The support program entails:

- **SETTING ASIDE, FOR BWO AND/OR SMEs ONLY, CERTAIN TENDERS IN PART OR IN WHOLE. LARGE BEE AND OTHER FIRMS WILL NOT BE ALLOWED TO TENDER.**
- **SETTING ASIDE, FOR BEEs ONLY, CERTAIN TENDERS IN PART OR IN WHOLE. OTHER FIRMS WILL NOT BE ALLOWED TO TENDER.**
- Negotiating with BWO or SMEs only, using estimated costs as the basis.
- **PERMITTING PRICE MATCHING AS STIPULATED IN THE ENQUIRY**
- Providing Tender Advice Centres or similar functions to provide assistance and training on how to tender.
- Arranging for expedited payment, i.e. within 15 days of receipt of invoice, to **BWO**, SME and start-up Black Suppliers without deduction of settlement discount and irrespective of what Eskom's standard forms of contract stipulate.

11.2 Development Program

Where Eskom deems it necessary the Corporate and Group/Divisional Black Supplier Program Managers and other supplier development functions will, over and above the support described in the previous paragraph, provide developmental assistance, primarily to Black Suppliers in the manufacturing, construction and mining/extraction industries and professional consulting business. This assistance will be limited to 100% **BWO and** Black owned and managed suppliers.

The developmental assistance will be at Eskom's discretion and may encompass among other things the following:

- **GIVING ADVICE AND GUIDANCE, AND ARRANGING FOR TRAINING, IN AREAS SUCH AS QUALITY, FINANCIAL, PROCUREMENT, MARKETING, ENVIRONMENTAL AND PRODUCTION MANAGEMENT.**
- **ASSISTANCE WITH NEGOTIATING FINANCING ARRANGEMENTS WITH FINANCIAL INSTITUTIONS, THOUGH NOT INVESTING ESKOM FUNDS.**
- **ASSISTING WITH NEGOTIATIONS TO OBTAIN MATERIALS AT COMPETITIVE PRICES FROM SUPPLIERS, OR ALTERNATIVELY TO DRAW FREE-ISSUE MATERIALS FROM ESKOM.**
- **COORDINATING INDUSTRIAL/PRODUCTION ENGINEERING ASSISTANCE TO IMPROVE PRODUCTIVITY.**
- **ASSISTING WITH STRATEGY SETTING TO ENSURE THAT THE SUPPLIER DEVELOPS AND DOES NOT BUILD DEPENDENCY ON ESKOM FOR ITS SURVIVAL.**

- **START-UP FACILITATION IN INDUSTRIES WHERE THERE ARE NO BWO OR BLACK SUPPLIERS, WITHOUT INVESTING ESKOM'S FUNDS.**

11.3 Progression of Small Black Suppliers

DEVELOPMENT ASSISTANCE WILL NOT BE GIVEN TO A BWO OR SMALL BLACK COMPANY FOR MORE THAN TWO YEARS.

IF A SME OR BWO REACHES THE TURNOVER THRESHOLD TO BECOME A LARGE BLACK SUPPLIER DURING THE DEVELOPMENTAL PERIOD, IT WILL AUTOMATICALLY BE REREGISTERED AS A BEE AND LOSE ALL ADDITIONAL BENEFITS AFFORDED TO SMALL BLACK SUPPLIERS. TO PRECLUDE ANY HARDSHIP, A TRANSITIONAL PERIOD OF NOT LONGER THAN SIX MONTHS MAY BE NEGOTIATED WITH THE CORPORATE OR GROUP/DIVISION BLACK SUPPLIER PROGRAM MANAGER.

12 ADDITIONAL PROGRAMS

In cases where the above stated mechanisms for various reasons cannot be applied, the following alternatives may be employed to attain the objectives of this directive.

12.1 Second Tier Black Supplier Procurement

PRIME CONTRACTORS/SUPPLIERS WILL BE REQUIRED TO CONTRACT FOR AND PROCURE A STATED PERCENTAGE OF THE CONTRACT VALUE FROM ESKOM APPROVED BWO, BLACK AND BEE SUPPLIERS BY:

- subcontracting portions of the contract
- procuring manufactured components/subassemblies
- procuring consumables/MRO materials
- procuring services, e.g. transport, insurance
- procuring professional services, e.g. engineering, design, project management.

The enquiry and tender documentation sent out by Eskom will specify the percentage of the contract value that must be spent in line with the above criteria. This will vary from contract to contract according to the characteristics of the items or service procured.

Suppliers who are not willing to comply with this requirement will be eliminated from Eskom tender lists.

Non-compliance with the contractual Black Supplier support requirements may lead to cancellation of the contract and further action.

The percentage of contract value that is specified in the contract will be reported as Black Supplier purchases. Arrangements will be made to provide an audit trail where possible.

12.2 Joint Ventures

Joint ventures conforming to the following requirements may be formed with Black Women-owned, Black or Black Empowering Suppliers:

- An approved contractual relationship is established, i.e. a corporatised joint venture is established.
- The BWO, Black and/or BEE Supplier executes work with its own resources and management, proportional to their participation in the joint venture.

- The BWO, Black and/or BEE Supplier shares in the potential benefits and the potential risks inherent in the contract proportional to their participation in the joint venture.

13 PENALTIES FOR ABUSE OF ESKOM'S BLACK SUPPLIER PROCUREMENT PROGRAM

Any supplier or potential supplier that misrepresents the facts in order to gain some advantage using Eskom's Black Supplier Procurement Program will be penalised by deregistration as a supplier to Eskom according to corporate directive ESKADABD7, and by any other provisions of applicable legislation.

Directors or owners of businesses that have been so deregistered will be listed and Eskom may refuse to register as suppliers any new companies formed by them.

14 PUBLIC RELATIONS

The Corporate and Group/Divisional Black Supplier Program Managers will continue Eskom's participation in and support for the Corporate SMME Development Forum and other organisations that promote development of Black business. They will network with their counterparts in other parastatal, state and public enterprises to obtain inputs to improve Eskom's Black Supplier Procurement Program.

The Corporate and Group/Divisional Black Supplier Program Managers will participate in and support business opportunity fairs, trade shows and the like. This will be done in conjunction with the Eskom Development Foundation to eliminate duplication.

15 TABLE 1: BEE RATING CRITERIA FOR SUPPLIER AND TENDER EVALUATION

| CRITERIA | 1 | 2 | 3 |
|---|--|------------|----------|
| Black Ownership | 10% to <20% | 20% to 50% | >50% |
| Black Management | 10% to <20% | 20% to 50% | >50% |
| Black Skilled Personnel | 10% to <20% | 20% to 50% | >50% |
| Procurement from Black/BEE Suppliers | 5% to <10% | 10% to 20% | >20 % |
| Black Female Management | 1% to <5% | 5% to 10% | >10% |
| Other BEE Initiatives | One point at Eskom's discretion | | |
| Employment of the Black Disabled | One point at Eskom's discretion (see note below) | | |

In order to qualify as a BEE Supplier, a Large Supplier must score at least one point each on Black ownership, Black management, % Black skilled personnel and purchasing from BEE suppliers.

When a Large Supplier earns 9 or more points, it is considered a Black or Black Empowering Supplier, and is permitted to price match for the set-aside portion of the tender concerned, as stipulated in the enquiry. BWO and then SME Suppliers will have first right of refusal, after which Large Black or Black Empowering Suppliers get the opportunity to price match.

In the case of "Other BEE Initiatives", the Black Supplier Manager will decide whether an additional point should be allocated or not.

Purchasing from suppliers that import a substantial amount of their purchases will be done on a normalised base, as prescribed by Eskom for each supplier.

IN ORDER TO QUALIFY FOR A POINT FOR EMPLOYMENT OF THE DISABLED, SUPPLIERS WHO EMPLOY FEWER THAN 50 EMPLOYEES MUST EMPLOY AT LEAST ONE DISABLED PERSON. SUPPLIERS WHO EMPLOY MORE THAN 50 EMPLOYEES MUST EMPLOY AT LEAST TWO PERCENT DISABLED PERSONS (AS A PERCENTAGE OF THEIR ENTIRE LABOUR FORCE) AND HAVE A POLICY DRIVING THE EMPLOYMENT OF DISABLED PERSONS IN PLACE.

16 ENVISAGED SUPPLIER EVALUATION CRITERIA AS FROM DECEMBER 2002

16.1 Table 2 : Bee Rating Criteria for Supplier and Tender Evaluation as from December 2002

| CRITERIA | 1 | 2 | 3 |
|---|--|------------|----------|
| Black Ownership | 10% to <20% | 20% to 50% | >50% |
| Black Management | 20% to <35% | 35% to 50% | >50% |
| Black Skilled Personnel | 20% to <35% | 35% to 50% | >50% |
| Procurement from Black/BEE Suppliers | 10% to <20% | 20% to 25% | >25 % |
| Black Female Management | 1% to <5% | 5% to 10% | >10% |
| Other BEE Initiatives | One point at Eskom's discretion | | |
| Employment of the Black Disabled | One point at Eskom's discretion (see note below) | | |

The same notes as for Table 1 apply.

16.2 Changes to Qualification for SME Suppliers

SME suppliers should note that the requirement of at least 50% ownership will eventually change to at least 50,1% ownership due to Government policy on Black Economic Empowerment.