

# KZN BROAD-BASED BLACK ECONOMIC EMPOWERMENT

## Foreword



The debris of Apartheid, like the debris of war is still very evident in our midst.

At some point in our history, it became clear to those who held the reins of political power that the rights of every human being to be treated kindly, guaranteed of advancing only to the limits of their abilities in whatever endeavour they choose to apply themselves, is inalienable.

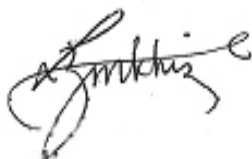
Our nation got it wrong for the better part of about half a century. Colour, creed or gender was the currency by which peoples' lives were traded. The greater portion of our population was consigned to the back alleys of the society simply on the basis of this *currency*.

Alas, the indomitable spirit of a people unjustifiably oppressed for so long prevailed.

Nineteen Ninety-four. A new dawn came upon us and a new platform was hoisted. The platform however did not right the wrongs of the past. Like debris, these *wrongs* are still all around us; lives condemned to the lower rungs of societal ladder, abject poverty and a future leading nowhere. This is the story of the lives of a huge portion of our population.

Ours is a nation of possibilities. Whatever the past has wrought on us, like a bad dream, we ought to wake up from it and approach the future with enthusiasm and commitment; in faith that like we overcame the challenges of the past, we will clear out this *debris* too. Every man, woman and child will take his or her rightful place in our society. Our society will be one where justice, fairness and freedom reign supreme.

We will *reconstruct*, our lives, our communities and *develop* our province. And empower our people for the bright future that has come upon us. We have a *plan* in place to do that. And our strategy is detailed in these pages.



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**KWAZULU-NATAL PROVINCIAL GOVERNMENT**

## DEFINITION OF TERMS

**Affirmative Procurement:** a procurement policy that uses procurement to target companies owned by previously disadvantaged individuals to enable their participation in the provision of goods and services.

**Black Economic Empowerment:** The practice, laws and regulations employed by the state and organs of the state to enhance business opportunities for enterprises that are predominantly owned or operated by previously disadvantaged individuals.

**Black Empowering Enterprise (BEE):** those enterprises in which Black people enjoy ownership and control, and where they participate in the day to day decision making and management of such enterprises. 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.

**Black South Africans:** previously classified as Blacks, Coloureds and Indians.

**Black Women-owned Enterprise (BWO):** 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).

**Broad-based Black Economic Empowerment (B-BBEE):** the economic empowerment of all Black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:

- Increasing the number of Black people that manage, own and control enterprises and productive assets;
  - Facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
  - Human resource and skills development;
  - Achieving equitable representation in all occupational categories and level in the workforce;
  - Preferential procurement; and
  - Investment in enterprises that are owned or managed by Black people.
- 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.

**B-BBEE Ombudsman:** The official charged with the responsibility of monitoring B-BBEE transactions and initiatives to ensure genuineness, transparency and accountability.

**Contract:** means the agreement, which results from the acceptance of a tender.

**Sub-Contract:** means the primary contractor's assigning or leasing or employing another legal person to support such primary contractor in the execution of part of a project in terms of the contract.

**Disability:** means people who have long term or recurring physical or mental impairment that substantially limits their prospects of entering into advancement in business.

**FRONT (or the act of FRONTING):** A supplier is termed a front if:

- Black partners are given shares without any payment or arrangement thereof.
- The "Black" company uses the non-Black surrogate company's infrastructure without making any payment or arrangement thereof.
- 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.
- Large Black Supplier (LBS): 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

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

**OEM:** refers to the Original Equipment Manufacturer.

**Joint Venture:** An association by companies or firms formed with the sole purpose of rendering services or supplying goods in terms of the tender.

**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 the KZN Government; and
- It carries and markets stock supplied by a traditional supplier. The traditional supplier guarantees stock and provide backup.

**Previously Disadvantaged Individual (PDI):** For the purpose of the contract, the refutable presumption shall be made that women and other South African citizens who fall into population groups that had no franchise in national elections prior to the introduction of the 1983 and 1993 constitutions are Previously Disadvantaged Individuals. It is incumbent on individuals to demonstrate their claims to fall into such population groups on the basis of identification and association with and recognition by the members of such group.

**Previously Disadvantaged Community (PDC):** A community or communities made up predominantly of previously disadvantaged individuals.

**Priority Population Group (PPG):** Black Individuals who fall into population groups that were not offered a franchise in the national elections before or after the introduction of the 1984 tri-cameral parliamentary system and only received a franchise during 1994. That exclusion had a major negative bearing on their lives therefore, resulting in them being worse affected in terms of poverty levels, unemployment and/or unfulfilled basic needs (Water, Electricity, Housing & Sanitation)

**Small And Medium Enterprise (SME):** 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 (SBS).

**Supplier database:** is a list of accredited suppliers who may be invited at some time to submit tenders to KwaZulu-Natal Provincial Government, linked to certain areas of supply.

**Tender:** means a public request to do business which has been properly published and to which any enterprise can submit a price, or such price, which is submitted and has been dealt with in accordance with the requirements of the general conditions and procedures contained in the procurement procedure.

**Tenderer:** means any person or enterprise, which has submitted a tender.

**Woman:** A female person who is a South African citizen.

**Black-owned enterprise:**

- A Black-owned enterprise is defined as being a business that is 50.1% owned by Black persons and where there is substantial management control.
- The crucial factor is that ownership refers strictly to economic interest in the relevant business. Black people must be eligible to receive at least 50.1% of the profits. The term substantial management control refers to membership of any board or similar governing body of that business.
- The quantitative measure placed upon the level of Black ownership required in order for a business to be regarded, as a Black-owned enterprise is absolute.
- Should Black ownership amount to anything less than 50.1% the business under scrutiny will not qualify as a Black-owned enterprises.
- At a national level there is no current indication as to the level of management representation that would be considered substantial, although the BEE Commission report suggested that the 10-year target should be in the region of 40%. Given this situation it may be argued that a substantial management control for the KZN Province could be satisfied by as many as 45% of all directors serving on board.

**A Black empowered enterprise:** It is defined in the Strategy document as being one that is at least 25.1% owned by Black persons and where there is substantial management control.

As is the case with a Black-owned enterprise, ownership refers to economic interest.

The National Strategy Document stresses that in the case of a Black-empowered enterprise, management refers exclusively to directors.

**Priority Business Enterprise (PBE):** At least 26% Owned by individuals who are from the Priority Population Group in terms of equity and voting rights/powers, with a corresponding management representation at all levels. See below, for various categories of ownership and management.

**Women Business Enterprise (WBE):** At least 26% Women Owned in terms of equity and voting rights/powers, with a corresponding management representation at all levels. See below, for various categories of ownership and management.

**Disabled Persons Business Enterprise (DPBE):** At least 26% Disabled Owned in terms of equity and voting rights/powers, with a corresponding management representation at all levels. See below, for various categories of ownership and management.

**Disability:** A permanent, or prolonged impairment of physical, intellectual, or sensory structure, or function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

**Disabled Person:** An Individual who has a Disability and as a result suffers from loss, or limitation, of opportunity to take part equally with others in the context of any activity relating to the execution of a contract.

**The Pillars of Empowerment:** Broad Based Black Economic Empowerment as defined in the Act moves away from the sole equity ownership platform, which characterised the original mega BEE deals of the early 1990's. It now includes the following elements:

- Equity Ownership
- Management and Control
- Operational Involvement
- Skills Development
- Skills Transfer
- Enterprise Development
- Preferential Procurement
- Corporate Social Responsibility

Which are defined as follows:

**Equity Ownership:** This refers to the ownership of the Enterprises and Assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends and/or interest payments.

**Management and Control:**

- The right or the ability to direct or otherwise control the majority of the votes attaching to the shareholder's issued shares.
- The right or ability to appoint or remove directors holding a majority of voting rights at meetings of the board of directors of that shareholder.
- The right to control the management of that shareholder.

**Operational Involvement:** Operational involvement entails Black people being involved in the **CORE** operations (not just as security, cleaners, messengers and filing clerks) of a company at senior, middle and lower management levels as well as at line function level

**Skills Development:** The process of engaging in activities that advances the knowledge, experience, attitude, and general ability needed in the work place.

**Skills Transfer:** The process of conveying requisite knowledge, experience, attitude and general abilities needed in the work place to persons or group who previously may not have such work place knowledge, experience, attitude and general abilities

**Enterprise Development:** Enterprise Development means the creation of new BEE (particularly PPG in the case of KZN) Companies and developing and supporting existing BEE Companies through the following initiatives:

- Driving a culture of Entrepreneurship and Innovation in KZN.
- Improving the levels of assistance provided to BEE companies through skills transfer, secondment of staff, infrastructure support, and giving technical and administrative support and assistance.
- Joint Ventures, debt financing and equity investments in BEE companies.
- Substantial and major support of BEE companies through Preferential Procurement.

**Preferential Procurement:** Preferential Procurement provides employment and business opportunities for marginalised/disadvantaged communities referred to as the Target Groups (see definitions for Target Groups).

**Corporate Social Investment:** CSI means projects aimed primarily at Black groups, rural communities, and individuals (especially PPG) that have a strong developmental approach and contribute towards transformation and a better life for the disadvantaged people of KZN.

## LIST OF ACRONYMS

<b>ANC</b>	African National Congress
<b>B-BBEE</b>	Broad Based Black Economic Empowerment
<b>BBSDP</b>	Black Business Supplier Development Programme
<b>BEE</b>	Black Economic Empowerment (BEE)
<b>BEECom</b>	Black Economic Empowerment Commission
<b>BOSMEs</b>	Black-Owned Small and Medium Enterprises
<b>CBO</b>	Community-Based Organisation
<b>CBPWP</b>	Community-Based Public Works Programme
<b>Cosatu</b>	Congress of South African Trade Unions
<b>CPPP</b>	Community Public Private Sector Partnership
<b>CR</b>	Community Reinvestment
<b>CRA</b>	Community Reinvestment Act
<b>CSIR</b>	Council for Scientific and Industrial Research
<b>DED</b>	KwaZulu-Natal Provincial Department of Economic Development
<b>EAP</b>	Economically Active Population
<b>EDSA</b>	Entrepreneurial Development Southern Africa
<b>EIG</b>	Empowerment Investment Grant
<b>EMIA</b>	Export Marketing and Investment Assistance
<b>ESC</b>	Entrepreneurial Support Centre
<b>ESOP</b>	Employee Share Ownership Programme
<b>FIG</b>	Foreign Investment Grant
<b>GDP</b>	Gross Domestic Product
<b>GEAR</b>	Growth, Employment and Redistribution
<b>HBDC</b>	Highveld Business Development Centre
<b>HDI</b>	Historically Disadvantaged Individuals
<b>HDPs</b>	Historically Disadvantaged Persons
<b>HDPs</b>	Historically Disadvantaged Persons
<b>HEDC</b>	Highveld Entrepreneurial Development Centre
<b>HRD</b>	Human Resources Development
<b>ICT</b>	Information and Communication Technology
<b>IDP</b>	Industrial Development Programme
<b>IDC</b>	Industrial Development Corporation
<b>IDRC</b>	Independent Development Research Centre
<b>IDT</b>	Independent Development Trust
<b>IDU</b>	Investment Development Unit
<b>IDZ</b>	Industrial Development Zone
<b>IMS</b>	Integrated Manufacturing Strategy
<b>ISRDS</b>	Integrated Sustainable Rural Development Strategy
<b>ITHALA</b>	Ithala Development Finance Corporation
<b>KZN</b>	KwaZulu-Natal Province
<b>KZN-IDS</b>	KwaZulu-Natal Province Industrial Development Strategy
<b>LBSC</b>	Local Business Service Centre
<b>LED</b>	Local Economic Development
<b>MAC</b>	Manufacturing Advice Centre
<b>MAP</b>	Manufacturing Advice Programme
<b>MEC</b>	Member of Executive Council
<b>MFI</b>	Micro-Finance Industry
<b>MFRC</b>	Micro-Finance Regulatory Council



<b>MTEF</b>	Medium-Term Expenditure Framework
<b>NAFCOC</b>	National African Federated Chamber of Commerce
<b>NEDLAC</b>	National Economic Development and Labour Council
<b>NEF</b>	National Empowerment Fund
<b>NGOs</b>	Non-governmental organizations
<b>PGBS</b>	Provincial Growth and Development Strategy
<b>PEF</b>	Provincial Empowerment Fund
<b>PII</b>	Partnership in Industrial Innovation
<b>PPFA</b>	Preferential Procurement Framework Act
<b>PPP</b>	Public Private Partnerships
<b>R&amp;D</b>	Research and Development
<b>RDP</b>	Reconstruction and Development Programme
<b>RFI</b>	Retail Finance Institutions
<b>RIDP</b>	Regional Industrial Development Programme
<b>SADC</b>	Southern African Development Community
<b>SARS</b>	South African Revenue Service
<b>SETA</b>	Sector Education and Training Authority
<b>SDIs</b>	Spatial Development Initiatives
<b>SICs</b>	Standard Identification Codes
<b>SME</b>	Small and Medium Enterprise
<b>SMEDP</b>	Small and Medium Enterprise Development Programme
<b>SMME</b>	Small, Micro and Medium Enterprise
<b>SOE</b>	State-Owned Enterprise
<b>SPF</b>	Sector Partnership Fund
<b>SPII</b>	Support Programme for Industrial Innovation
<b>SPV</b>	Special Purpose Vehicle
<b>SR</b>	Social Responsibility
<b>TDI</b>	Targeted Development Investment
<b>TEO</b>	The Enterprise Organisation
<b>DTI</b>	The Department of Trade and Industry
<b>TIDP</b>	Trade and Industrial Development Programme
<b>URP</b>	Urban Renewal Programme

## **The KZN B-BBEE Strategy**

### **Outline**

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## **Executive summary**

### **Background**

The Broad-based Black Economic Empowerment (B-BBEE) Act 53 of 2003, which came into force in 2003, followed on the heels of the national strategy framework on Black economic empowerment.

The national strategy framework required provinces to develop their own B-BBEE strategies in line with the national strategy, with the B-BBEE Act 53 of 2003 providing the necessary enabling instrument. The national strategy envisaged that provincial strategies would, in essence, be strategies to implement national B-BBEE policies at provincial levels.

Accordingly, the KwaZulu-Natal Provincial B-BBEE strategy has been crafted to reflect national B-BBEE policies and objectives, in harmony with the letter and spirit of the B-BBEE Act. It thus is well aligned to the national Black Economic Empowerment framework.

However, it is not a *Marquette* of the national strategy, for it takes into account the province's specificities and seeks to support its developmental objectives. Indeed, the proposed B-BBEE strategy is markedly supportive of the province's economic development strategies, namely the Provincial Growth and Development Strategy and the Provincial Spatial Economic Development Strategy.

An implementation strategy *par excellence*, it clearly spells out its strategic goals, policy instruments, sub-strategies, and implementation programs. Furthermore, it embodies a well articulated implementation and coordination mechanism, providing even for a monitoring and evaluation component, and clarifying roles for identified role players.

### **The strategic goals**

The strategy sets itself the following goals:

- *Goal 1:* Substantial increase in the number of Black people who have ownership and control of existing and new enterprises, particularly in the provincial government's priority sectors.
- *Goal 2:* Significant increase in the number of new Black enterprises, Black-empowered enterprises, and Black-engendered enterprises.
- *Goal 3:* Significant increase in the number of Black people who hold senior management and executive positions in enterprises.
- *Goal 4:* Significant increase in the proportion of the ownership and management of economic activities vested in community-based and broad-based associations and enterprises, collective enterprises such as cooperatives, trade unions, and employee trusts.
- *Goal 5:* Significant increase in the number of Black young people, particularly rural young people, who acquire skills.
- *Goal 6:* Significant increase in the number of Black people who own land and other productive assets.

## **The strategy**

The proposed strategy is a six-point strategy, consisting of the following sub-strategies:

- *Sub-strategy 1*: Provision of enterprise development support
- *Sub-strategy 2*: Skills development, mainly for the unemployed youth
- *Sub-strategy 3*: Empowerment of target group enterprises (including Black-engendered and youth-owned enterprises) through preferential procurement
- *Sub-strategy 4*: Empowerment of persons or groups or communities to increase their ownership and control of enterprises and other productive assets such as land
- *Sub-strategy 5*: Enforcement of the Employment Equity Act
- *Sub-strategy 6*: Encouragement of well-established firms to engage in corporate social investment, particularly in the areas of socio-economic development and youth learnership and apprenticeship.

## **Strategy-goal assignment**

The strategy addresses the strategic goals as follows.

- Sub-strategy 1 --- Goals 1, 2, and 4
- Sub-strategy 2 --- Goal 5
- Sub-strategy 3 --- Goals 1, 2, 3, 4, and 5
- Sub-strategy 4 --- Goals 1, 2, 3, 4, and 6
- Sub-strategy 5 --- Goals 3
- Sub-strategy 6 --- Goal 5

## **Cornerstones of the strategy**

As the strategy-goal assignment indicates, sub-strategies 3 and 4 have the broadest sweep, with each of them impacting almost all the goal areas of the BEE strategy. These sub-strategies, which relate to preferential procurement and ownership of productive assets, thus constitute cornerstones of the strategy. Another cornerstone is the skills development sub-strategy (sub-strategy 2). It is a cornerstone for though it *only directly* addresses Goal 5 its impact is pervasive: it is the one sub-strategy whose failure could constrain progress on all the other fronts and render gains made on them untenable and unsustainable in the longer term. The other cornerstone, for obvious reason, is financing.

Thus, the *cornerstones* of the provincial BEE strategy are *skills development, preferential procurement, promoting and enabling ownership and control of productive assets, and financing.*

## **Implementation programs**

The following are programs to implement the B-BBEE strategy:

- Information dissemination, call center, and outreach
- Skills development mainly for the unemployed
- Financing Provincial Empowerment Fund (PEF)
- Preferential procurement
- Enterprise development (sector matrix approach)
- Partnership and stakeholder relations
- BEE monitoring and evaluation

## **Role players**

The role players in the strategy include the following:

- Department of Economic Development
- Provincial Treasury
- Provincial government departments. (Education, Works, Agriculture & Environmental Affairs, etc)
- Ithala Development Finance Corporation/Provincial Empowerment Fund (PEF)
- Funding agencies
- Other provincial State-owned enterprises
- Organized business associations
- Community-based organizations
- BEE Advisory Council
- Ombudsman
- BEE verification agencies
- National departments and agencies

## **Implementation arrangement**

The strategy prescribes the establishment of a BEE Implementation Team to be made up of representatives of provincial departments and agencies that have a role to play in the strategy implementation process. The Team will be chaired by the Head of the Department of Economic Development or his/ her nominee.

The team will:

- Coordinate the implementation of the strategy.
- Monitor and evaluate progress on implementation and obtain feedback.
- Through the Department of Economic Development make recommendations to the BEE Advisory Council regarding the review of the strategy, as well as program or project redesign or adjustment.

The BEE Implementation Team will comprise *four work streams*, namely Preferential Procurement, Sector Matrix Enterprise Development, Finance, and Skills Development work stream, to support the four cornerstones of the strategy.

Appointment to the BEE Implementation Team will be made by individual role-playing departments and agencies.

## Assignment of implementation programs

Implementation program assignment		
Programs	Responsible department/agency	Participating departments/agencies/public entities/organizations/institutions
Information dissemination	Department of Economic Development	Other departments/agencies/public entities/organizations/institutions
Skills development	Department of Economic Development	Departments of Education, Public Works and Labour
Financing (PEF)	Ithala Development Bank	Provincial Treasury Economic Development Department
Sector matrix enterprise development	Department of Economic Development	Provincial Treasury; other departments/agencies/public entities
Partnership and stakeholder relations	Economic Development Department	Other departments/agencies/public entities/organizations/institutions
Preferential procurement	Provincial Treasury	Other departments/agencies/public entities/organizations/institutions
Monitoring and evaluation	Office of the Premier/DED	Advisory Council Economic Development Department

## Measurement of progress

The measurement of progress will rely on the use of two scorecards: a KZN Public Sector Scorecard (to be developed by the Department of Economic Development in consultation with all the province's government departments and agencies, assisted by a Verification Agency) and the Generic Scorecard as contained in the B-BBEE Codes of Good Practice of the 9<sup>th</sup> of February 2007.

## Reporting

The Department of Economic Development will periodically report on progress, based on the scorecard measurements and targets, to the Provincial Legislature, the BEE Advisory Council, and the provincial Cabinet through its Head.

## Recommended and prescribed interventions of the strategy

The strategy prescribes a number of interventions or measures. These are discussed or presented as follows.

1. The provincial government will seek to employ one or more of the above-listed sub-strategies (refer to strategic goal assignment section) whenever it:
  - Engages in any economic activity
  - Sells a state-owned enterprise or alienates its assets
  - Enters into a public-private partnership or grants concession to a private enterprise to operate an enterprise or asset on its behalf
  - Grants a license to engage in a specific regulated economic activity such as gambling and sale of liquor
  - Provides funding for start-up enterprises.
2. The provincial government, as per this strategy, may employ a number of policy instruments, which include the following:
  - Legislation and regulation
  - Preferential procurement
  - Institutional support arrangements
  - Partnerships
  - Enterprise development
  - Financing
3. ***New legislation or policy.*** The provincial government will introduce into the provincial Legislature a new Preferential Procurement Bill crafted to more positively and speedily impact certain goal areas of the strategy or develop a new preferential procurement policy to achieve these goals. In practice, this will require that the Provincial Treasury review its preferential procurement policy, tweaking it to enhance its broad-based BEE impact. The review will, among other things, set clear targets that reflect planned significant increases in the levels of preference to Black-owned and Black-empowered enterprises. The reviewed provincial preferential procurement policy may not conflict in any of its aspects to national policy or piece of legislation.
4. ***Establishment of Black business organizations.*** The Department of Economic Development (DED) will facilitate the creation of business organizations in the small business sphere, as well as community and civil society organizations, where they do not exist. It will assist these organizations to build the requisite capacity to effectively represent Black small business and dialogue with the DED as well as various economic advisory bodies and councils regarding BEE.
5. ***Establishment of the BEE Advisory Council.*** The Provincial Government will establish a BEE Advisory Council. The Council will advise the Premier and the DED regarding the provincial BEE strategy and its implementation.
6. ***Partnerships.*** The Provincial Government may enter into partnerships with selected large firms that operate in the province, with a view to executing specific strategic BEE projects. It may also enter into partnerships with provincial chapters of big business sector organizations to negotiate and agree on *additional* BEE requirements that *address provincial development priorities*. It may also interact with provincial small business and community-based organizations to agree on specific BEE projects and disseminate information and obtain feedback regarding government's BEE programs.



7. ***Establishment of the provincial small industry corporation.*** The provincial government will establish a small industry corporation to provide a range of non-financial business development services *directly* to deserving small enterprises, under the strategy's sector matrix enterprise development program.
8. ***Resourcing of Ithala.*** The provincial government will adequately resource Ithala and ready it to provide financial support services, including BEE equity financing, to Black individuals and emerging Black enterprises.
9. ***Selecting winners.*** The DED will design and implement a new enterprise development program – one that consists in 'selecting winners', selecting promising emerging Black enterprises and hand-holding them until they graduate onto medium or large-size class enterprises.
10. ***Information dissemination.*** The DED will design and implement an information dissemination program. The program will conduct, on a continual and regular basis, information, awareness, and outreach campaigns to improve the knowledge of Black small businesses in the province, as well as public awareness, of available government (national and provincial) incentives and financial enterprise support programs.
11. ***Establishment of a Provincial Empowerment Fund.*** The provincial government will establish a KZN Provincial Empowerment Fund (PEF), and capitalize it adequately. The Fund, which will operate as a division of Ithala, will be mandated to:
  - Focus on start-up and venture capital financing of emerging Black enterprises
  - Finance and administer broad-based BEE equity deals
  - Finance Black small businesses that succeed in being awarded contracts but lack the funds to execute them.
12. The provincial government will establish a Skills Development Fund. To be administered by the DED, the Fund will be responsible for coordinating the province's training voucher schemes, as well as its learnership and apprenticeship programs.
13. The DED will establish an Office of the Ombudsman that will attend to the complaints of individuals and enterprises, as well as enterprise groups regarding fronting and other BEE malpractices.

## **1. Introduction and background**

### **1.1 Reconstruction and development program**

In a very real sense, the national government's Reconstruction and Development Program (RDP) is the forerunner of the country's Black economic empowerment initiative.

Conceived in 1994 and implemented for much of the later half of the 1990s, the RDP pursued a number of socio-economic and developmental goals. The goals included the following:

- Creating opportunities for all South Africans to develop to their full potential
- Boosting production and household incomes through job creation and increased productivity and efficiency
- Improving the living conditions of poor South Africans by providing them better access to basic physical and social services
- Protecting the poor, the disabled, the elderly, and other vulnerable groups by establishing a social security system and safety nets.

In addition, the RDP emphasized the social and economic emancipation of women, and provided for the removal of all forms of policy discrimination that impeded women's access to land. It also gave pride of place to rural development.

The need to more rapidly achieve the goals of the RDP, without weakening the country's macroeconomic and financial fundamentals, led to the development of the national BEE strategy framework. The strategy framework laid the basis for the B-BBEE Act, which came into force in 2003.

### **1.2 BEE Commission**

In 2001, the BEE Commission recommended an integrated national BEE strategy. The strategy, adopted by the national government, was to provide the framework for implementing and coordinating measures and initiatives to achieve meaningful participation of Black people in the economy. It was also, as mentioned, to lay the basis for the B-BBEE Act of 2003.

The BEE Commission, established following a resolution at the Black Management Forum (BMF) national conference held on 14-15 November 1997 in Stellenbosch, pressed home the view that Black people should direct and take charge of implementing a new BEE vision.

### **1.3 National BEE strategy**

The goal of the national BEE strategy, which is reiterated in the B-BBEE Act, is to facilitate broad-based Black economic empowerment by<sup>1</sup>:

- Promoting economic transformation in order to enable meaningful participation of Black people in the economy
- Achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises

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<sup>1</sup> See the Broad-Based Black Economic Empowerment Act, 2003, Government Gazette, Vol. 463 Cape Town, 9 January 2004, pages 4-5.

- Increasing the extent to which communities, workers, cooperatives, and other collective enterprises own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure, and skills training
- Increasing the extent to which Black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure, and skills training
- Promoting investment programs that lead to broad-based and meaningful participation in the economy by Black people in order to achieve sustainable development and general prosperity
- Empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership, and skills
- Promoting access to finance for Black economic empowerment.

As already mentioned, the national BEE strategy framework laid the basis for the B-BBEE Act of 2003.

#### **1.4 B-BBEE Act and Codes of Good Practice: guidelines to formulate provincial strategies and programs**

The B-BBEE Act of 2003 adopts the objectives of the national BEE strategy listed above. Very importantly, it provides the legal framework for promoting Black economic participation and a more equitable redistribution of wealth.

However, the Act is hardly prescriptive; in particular, it does not stipulate policy measures, programs, or targets to guide the implementation of the BEE policy and programs. Much of the implementation guideline is provided in the B-BBEE Codes of Good Practice Gazetted on the 9<sup>th</sup> of February 2007. The Codes thus serve as supporting regulations to the B-BBEE Act.

Clearly, the Act and the Codes are intended for general countrywide application. However, they leave substantial room for provincial governments' efforts in support of the BEE initiative, particularly regarding implementation strategies and programs.

Accordingly, the focus of the new KZN B-BBEE strategy is implementation, not policy development. Nonetheless, legislative or policy development effort may be made *at the margin*, but even so only to the extent that it promotes the pursuit of broad national BEE goals and addresses the province's specificities.

#### **1.5 BEE: present situation and past efforts of the KZN provincial government**

Although the KZN government has supported economic transformation and BEE for about a decade now, BEE implementation in the province still leaves much to be desired.

The achievement of specified objectives in the key goal areas of the national BEE policy remains at highly undesirable levels. The key goal areas are: ownership, management and control, employment equity, skills development, preferential procurement, enterprise development, and corporate social investment.

In the KZN province, as in others, the rather dismal implementation performance may be attributed to:

- The absence of a coherent provincial BEE implementation plan and mechanism
- Poor coordination of the different provincial departments' BEE initiatives [this has resulted in too many ill-conceived BEE initiatives]

Without a doubt, addressing these problems would require the development and single-minded implementation of a coherent and circumspective strategy.

## **1.6 Socio-economy of KZN**

In essence, the main purpose of the provincial B-BBEE initiative should be to transform the socio-economy of the province to a more desirable and wholesome state.

Despite the laudable developmental effort of the provincial government, the socio-economic profile of the KZN province still smacks of under-development. The following facts should make this clear<sup>2</sup>:

In 2003, the unemployment rate (expanded definition) for KwaZulu-Natal was 45.8 percent, significantly higher than the national rate in that year of 42.4 percent.

In 2002, more than 50 percent of KwaZulu-Natal population was living in poverty, as compared to 28.8 percent in the Western Cape and 20 percent in Gauteng – provinces of comparable economic sizes.

Poverty rates tend to be significantly higher in rural areas than in urban centers.

In 2003, KwaZulu-Natal had the second highest poverty gap of all South Africa's provinces, just behind the Eastern Cape. (The poverty gap is the amount of money that would be required to bring all poor households to a minimum accepted standard of living).

'Inequality within the African population has worsened as the gap between the growing African middle-class of high-earning skilled workers and the larger and growing number of jobless and less-skilled workers widens'<sup>3</sup>.

KwaZulu-Natal's HDI – an index measure of human development – is lower than that of the Western Cape and Gauteng, and lower than the national average.

The Black African component of the province's population is the worst affected, in terms of poverty levels, unemployment, and unmet basic needs.

The province's rather appalling socio-economic profile and its relative backwardness, (compared to Gauteng and the Western Cape – provinces of comparable economic sizes) calls for, over and above current development initiatives, a robust and well-considered response from the provincial government. Such a response is the KZN B-BBEE strategy.

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<sup>2</sup> The listed facts are taken from the KwaZulu-Natal Economic Review 2005 (pages 79-82) published by the KZN Department of Economic Development.

<sup>3</sup> Ibid, page 82.

## **1.7 Principles of KZN BEE strategy: alignment to national policy, strategy; and support for provincial government's vision, goals, and strategies**

The new KZN BEE strategy takes its cue from the national BEE policy and strategy framework, and adheres to its principles. For the most part then, it sets itself goals and objectives identical or similar to those of the national strategy framework.

However, the strategy is also meant to take account of regional or provincial conditions and support the province's development goals and objectives, which relate to the development of selected sectors. Accordingly, it adopts a sectoral focus as one of its key approaches and sports prominent rural, women, and youth empowerment features – strategic choices that are in keeping with the basic orientation of the Provincial Growth and Development Strategy (PGDS) and the Provincial Spatial Economic Development Strategy (PSEDS).

Specifically, the KZN BEE strategy will:

Show a marked preference for broad-based empowerment. It will thus encourage 'community ownership, employee ownership, and ownership by representative groups who distribute their returns to specified constituencies'.<sup>4</sup>

Promote an inclusive empowerment process, seeking to benefit all the target groups.

Promote good corporate governance regarding empowerment deals and processes.

Support the province's development strategies (namely the PGDS and the PSEDS) and their objectives, adopting the sectoral approach put forth in these strategies.

Incorporate an implementation structure and mechanism as well as a monitoring and evaluation mechanism.

Be mindful of the need to avoid weakening the competitiveness of firms and sectors that seek to be BEE compliant.

Aim to create new, additional, wealth in the economy, and not just focus on redistributing existing stock of wealth.

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<sup>4</sup> See national BEE strategy framework document

## **2. Vision, strategic goals, and core elements**

### **2.1 Vision and strategic goals**

#### **2.1.1 Vision**

The vision of the KZN BEE strategy is a deracialized provincial economy in whose mainstream a critical mass of Black people participate meaningfully, in terms of control and ownership of private sector enterprises, and hold operational, professional, management, and executive positions in organizations of both the private and public sectors, in proportion to their demographic weight.

#### **2.1.2 Strategic goals**

The main goals of the strategy are the following:

Substantial increase in the number of Black people who have ownership and control of existing and new enterprises, particularly in the provincial government's priority sectors (Goal 1).

Significant increase in the number of new Black enterprises, Black-empowered enterprises, and Black-engendered enterprises (Goal 2).

Significant increase in the number of Black people who hold senior management and executive positions in enterprises (Goal 3).

Significant increase in the proportion of the ownership and management of economic activities vested in community-based and broad-based associations and enterprises, collective enterprises such as cooperatives, trade unions, and employee trusts (Goal 4).

Significant increase in the number of Black young people, particularly rural young people, who acquire skills (Goal 5).

Significant increase in the number of Black people who own land and other productive assets (Goal 6).

### **2.2 A six-point strategy**

The strategic goals listed in section 2.1.2 imply that the strategy will have, or consist in implementing, the following six sub-strategies as core elements<sup>5</sup>:

Provision of enterprise development support

Skills development mainly for the unemployed youth

Empowerment of target group enterprises (including Black-engendered and youth-owned enterprises) through preferential procurement

Empowerment of persons or groups or communities to increase their ownership and control of enterprises and other productive assets such as land

Enforcement of the Employment Equity Act

Encouragement of well established firms to engage in corporate social investment, particularly in the areas of *socio-economic development* and *youth learnership and apprenticeship*.

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<sup>5</sup> The core elements are selected on the basis of the goals of the strategy as stated in section 2.1.2 of this document. They are also in line with the core elements of the national BEE strategy and policy as contained in the national BEE strategy framework document.

In support of the B-BBEE strategy (the set of the above-listed sub-strategies), the provincial government will seek to employ one or more of these sub-strategies whenever it:

Engages in any economic activity

Sells a state-owned enterprise or alienates its assets

Enters into a public-private partnership or grants concession to a private enterprise to operate an enterprise or asset on its behalf

Grants a license to engage in a specific regulated economic activity such as gambling and sale of liquor

Provides funding for start-up enterprises.

To gain a sense of the comprehensiveness of the strategy regarding the pursuit of its stated goals, the following should be noted:

The sub-strategy (core element or goal area) of enterprise development support (sub-strategy 1) aims at achieving Goals 1, 2, and 4.

The skills development sub-strategy (sub-strategy 2) *directly* addresses Goal 5.

The empowerment of target group enterprises through preferential procurement (sub-strategy 3) aims at Goals 1, 2, 3, 4, and 5.

The empowerment of persons or groups or communities to increase their ownership and control of enterprises and other productive assets such as land (sub-strategy 4) directly addresses Goals 1, 2, 3, 4, and 6.

The enforcement of the Employment Equity Act (sub-strategy 5) directly addresses Goal 3.

The encouragement of well-established firms to engage in corporate social investment (sub-strategy 6) addresses Goal 5 and the general welfare of communities.

Thus the strategy pursues all its goals listed in section 2.1.2. However, as can be seen above, part of Goal 6, namely the *significant increase in the number of Black people who own land*, would seem to be a target of *only one* sub-strategy (sub-strategy 4), suggesting insufficient effort of the B-BBEE strategy in this sensitive goal area. The insufficiency is only apparent, as national initiatives, including the agriculture BEE charter, is addressing the goal.

The above strategy-goal assignment merely reflects the relative functional competence of the provincial government vis-à-vis that of the national government in the area of land restitution. Land restitution and redistribution is a national, not a provincial, competence. Provincial effort regarding land restitution or redistribution will consist essentially in *only* providing advice and support regarding profitable and sustainable economic exploitation of restituted or redistributed land.

### **Four cornerstones of the strategy**

As the strategy-goal assignment indicates, sub-strategies 3 and 4 have the broadest sweep, with each of them impacting almost all the goal areas of the BEE strategy. These sub-strategies, which relate to preferential procurement and ownership of productive assets, thus constitute cornerstones of the strategy. Another cornerstone is the skills development sub-strategy (sub-strategy 2). It is a cornerstone for though it *only directly* addresses Goal 5 its impact is pervasive: it is the one sub-strategy whose failure could constrain progress on all the other fronts and render gains made on them untenable and unsustainable in the longer term. The other cornerstone, for obvious reason, is financing.

Thus, the *cornerstones* of the provincial BEE strategy are *skills development, preferential procurement, promoting and enabling ownership and control of productive assets, sector matrix enterprise development and financing*.



### 3. Policy instruments

#### 3.1 Policy instruments<sup>6</sup>

To pursue set goals and targets around each of the above-listed *core elements* (which may also be referred to as *goal areas*) of the BEE strategy, the provincial government will employ a number of policy instruments. They include the following:

- Legislation and regulation
- Preferential procurement
- Institutional support arrangements
- Partnerships
- Enterprise development
- Financing

Although preferential procurement and enterprise development are core elements or goal areas of the KZN B-BBEE strategy (see section 2.2), they are also policy instruments. They are *goal areas* as they each represent program areas for which the implementation plan sets strategic and measurable objectives; they are *policy instruments* as they are used to positively impact other goal areas of the strategy.

The policy instruments listed above are discussed as follows.

#### 3.2 Use of policy instruments

##### 3.2.1 Legislation and regulation

The KZN provincial government already has at its disposal the B-BBEE Act of 2003 and its supporting regulations known as the Codes of Good Practice. Together they provide an enabling framework and guidelines for the provincial government to develop its BEE implementation strategy accompanied by program plans that detail targets and measurable objectives in a number of goal areas, most of which figure in the Codes of Good Practice as BEE balanced scorecard areas.

However, the provincial government, in support of its BEE strategy, may introduce into the provincial Legislature a new Preferential Procurement Bill crafted to more positively and speedily impact certain goal areas of the strategy or review and ‘tweak’ its procurement policy to the same end. The principles of the provincial government’s new preferential procurement policy and measures are outlined later in this document.

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<sup>6</sup> The policy instruments selected for the KZN BEE strategy, although reflecting the choice of policy instruments in the national strategy, take account, in their detail, of the provincial government’s particular circumstances.

### 3.2.2 preferential procurement

As the biggest buyer of goods and services in the province, the provincial government is well placed to use preferential procurement to promote broad-based BEE.

To this end, the provincial government, through the Provincial Treasury, will review its preferential procurement policy to enhance its broad-based BEE impact. The review will, among other things, set clear targets that reflect planned significant increases in the levels of preference to Black-owned and Black-empowered enterprises.

The challenges that such a review will face, as well as prescribed program measures to be executed under the resulting new preferential procurement policy, are set forth in chapter 5 of this document.

### 3.2.3 Institutional support

The national BEE strategy framework document recognizes that ‘strong, coherent, and effective voice of Black business is an important part of ensuring that the strategy meets its objectives’. To develop such a voice, it notes that it would require ‘the development and integration of strong business organizations, especially Black business organizations, as well as *capacity building amongst community and civil society structures*’ (emphasis added).

The role then of the provincial government regarding *institutional support* is two-fold. First, the provincial government will facilitate the creation of business organizations *in the small business sphere*, as well as community and civil society organizations, where they do not exist. Second, it will assist these organizations to build the requisite capacity. The Department of Economic Development will undertake these tasks on behalf of the provincial government.

One purpose of helping build capacity in such organizations and structures is to enable them to represent Black small business effectively by actively and meaningfully participating ‘in the various economic advisory bodies and councils that form part of South Africa’s institutions of social dialogue’, particularly ‘in the National Economic Development and Labor Council, the various Sector Education and Training Authorities, and the Export Councils’.

Another purpose, in the context of the KZN B-BBEE strategy, is to represent Black business in the province’s economic advisory bodies such as the proposed provincial BEE Advisory Council, and to dialogue with the provincial Department of Economic Development regarding the inadequacies and improvement of government’s BEE and integrated business support measures.

Of course, provincial chapters of existing business Chambers would also be represented in the Advisory Council and would be consulted by the Department of Economic Development regarding the B-BBEE strategy and its projects, as well as their implementation.

In addition to facilitating the creation of relevant business organizations, and/or helping them build capacity, the provincial government, as part of its BEE strategy, will establish a provincial BEE Advisory Council.

The Council will advise the Premier on BEE in the province, mainly on issues of *policy* and *grand strategy* such as legislation and regulation, institutional support and partnerships, implications of sector charters for provincial development goals, restructuring of state-owned enterprises, and large-scale BEE equity deals.

To be established by the Office of the Premier in consultation with the provincial Department of Economic Development the Council will<sup>7</sup>:

- Review progress in achieving BEE objectives
- Provide advice, in the light of experience, on new programs and instruments to achieve the agreed objectives
- Advise on sector and enterprise charters, from the province's perspective
- Advise on codes of good practice and guidelines, also from the province's perspective
- Assist potential BEE partners in the province to source the necessary funding for large-scale equity deals.

### 3.2.4 Partnerships

Without involving the private sector in partnerships, private sector firms are not likely to implement BEE beyond government-stipulated minimum levels. In that case, only a perfunctory compliance would be achieved, vitiating the government's BEE effort.

To ensure private sector support and commitment to the objectives of BEE, the national government has entered into partnerships with private sector organizations. The partnerships are concretized in voluntary sector charters. However, many sectoral charters are still being developed, with the recently published Codes of Good Practice serving as a guide.

Developing such partnerships – partnerships that are concretized in sector charters – will remain the preserve of the national government. However, the provincial government, for its part, may enter into partnership agreements with *selected* large firms that operate in the province, with a view to executing specific strategic BEE projects. It may also enter into partnerships with provincial chapters of big business sector organizations to negotiate and agree on *additional* BEE requirements *that address provincial development priorities*. The provincial government after reaching such agreement would expect member firms to meet these additional requirements, over and above those stipulated in nationally developed sector charters, in order to benefit from its preferential procurement policy as *suppliers of special status*<sup>8</sup>.

The provincial government may also 'interact' with provincial small business and community-based organizations, at sector and economy-wide levels, using the interactions to discuss and agree on *specific* BEE projects under government-sponsored programs, and to disseminate information and obtain feedback regarding government's economic development programs.

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<sup>7</sup> Most of the listed functions are the same as those proposed in the national strategy framework document on BEE.

<sup>8</sup> Potential benefits that would accrue to a *supplier of special status* would be specified in the preferential procurement plan to be developed by the Provincial Treasury.

Thus, such engagements will also serve as means for:

- Communication between the provincial government and business
- Negotiating programs with business and community-based organizations, as well as reviewing and modifying them, in the light of experience in implementation
- Setting and adjusting targets and timeframes for programs and projects.

Engaging with sector organizations is particularly useful as they allow BEE programs to take account of industry specificities, especially those that are most likely to significantly affect BEE outcomes.

### **3.2.5 Enterprise development**

Lack of effective business development support poses a major challenge to BEE in the area of small enterprise development. Yet if BEE is to be sustainable and broad-based, Black people should be able to set up and successfully manage small enterprises in large numbers.

Although a number of institutions provide non-financial business development support services to small businesses, they lack the resources to achieve adequate geographical spread. Moreover, they hardly have sufficiently skilled human resources to provide quality service.

Yet non-financial business development support should lend itself very well to a provincial government's BEE initiatives. The range of services required for a non-financial business development support program is such that a provincial government is well placed to deliver, except for regulation. The same is true for financial business development support, for which Ithala could play a critical role.

The provincial government will therefore establish a small industry corporation<sup>9</sup>, to provide a range of non-financial business development support services *directly* to the province's small enterprises that qualify for the BEE strategy's enterprise development program, the *sector matrix enterprise development program* explained further in section 4.2.5 of this document. In addition, it will provide some wholesale services, mainly to secondary cooperatives.

The provincial government will also resource Ithala adequately and thereby ready it to provide financial support services, including BEE equity financing, to Black individuals and emerging Black enterprises.

The traditional kind of enterprise development support is currently being provided, mostly through the *integrated economic development services program* of the Department of Economic Development. This rather 'generic' type of enterprise development plays a manifestly important role in the broad-based empowerment of Black people. Yet, it is advisedly left outside the ambit of the formal provincial BEE strategy. The reason is that it currently exists as a function within the provincial Department of Economic Development; and leaving it out will sharpen the delineation of functions within the Department and hence enhance its focus and effectiveness.

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<sup>9</sup> The decision to establish such an agency, the KZN Small Industry Corporation (KZNSIC), has already been made by the KZN Government following recommendations made by the Government of India National Small Industry Corporation. In essence therefore, what would be required is to resource the agency at levels commensurate with the enterprise development targets set for it in the BEE strategy.

To add value to the existing enterprise development function and avoid the duplication of effort, the provincial BEE strategy envisions an enterprise development program of a somewhat different genre – one that consists in ‘selecting winners’, selecting emerging Black enterprises that have considerable potential, that have shown real promise, and ‘holding their hands’ until they graduate onto medium- or large-size enterprise class status.

### **3.2.6 Financing**

The financing instrument plays the major role of strengthening the BEE instrument of enterprise development. It also plays the crucial role of enabling the transfer of significant levels of equity in parastatals that are privatizing or disposing of non-core assets (Telkom, Transnet, Eskom, etc.) to disadvantaged Black individuals, groups, and businesses, as well as of assisting them to own shares of large private sector firms.

Consequently, financing is often mentioned when discussing BEE instruments. But it deserves a separate and special treatment, being a BEE instrument in its own right and a key one at that. Moreover, ‘Access to finance has been identified as the core problem’<sup>10</sup> facing Black-owned small and medium-size enterprises. And according to the DTI, ‘... in surveys among small enterprises all over the world, access to finance comes out as one of the most urgently felt needs’.<sup>11</sup>

The provincial BEE strategy would not succeed without a credible financing component; at the very least, it would not be broad-based.

However, in prescribing a financing mechanism, the strategy is careful not to exceed the boundaries set by the country’s public finance and debt policies. It is very aware of the need to not impair the country’s hard-won macro-financial stability. Accordingly, the provincial government will not *directly* assume commercial risk; it will only facilitate access to capital and collateral.

The DTI has a range of financial incentive packages and grants for small and medium enterprise development, especially for BEE. Unfortunately, too many Black small and medium enterprises have limited knowledge of government incentive schemes, particularly regarding enterprise support programs. This, of course, hampers their access to finance capital.

*The provincial government, through the Department of Economic Development, will develop and implement an information dissemination program. The program will conduct on a continual and regular basis information, awareness, and outreach campaigns. The campaigns will aim at improving the knowledge of Black small businesses in the province, as well as public awareness, of available government (national and provincial) incentives and financial enterprise support programs. The obvious purpose is to ensure that Black small businesses utilize available opportunities to the fullest.*

*The provincial government will also establish a KZN Provincial Empowerment Fund (PEF), and capitalize it adequately. The Fund, which will be operated as a division of Ithala, will be mandated to:*

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<sup>10</sup> See page 28 of the national BEE strategy framework document.

<sup>11</sup> See DTI, SMME Finance Reference Group Report (2003).

- Focus on start-up and venture capital financing
- Finance and administer broad-based BEE equity deals (for employee, community, women groups, and cooperatives share ownership in historically white controlled large enterprises) within the province
- Finance Black small businesses that succeed in being awarded contracts but lack the funds to execute them.

The PEF will have the latitude to seek additional funds, such as donor funds, from national large enterprises and international sources to support BEE in the province, but it may not incur any foreign debt obligations.

Specifically, and to reiterate, the PEF will provide the following services<sup>12</sup>:

- BEE equity support: creative and appropriate financial structuring of equity deals
- Black SMME support: Micro finance for productive enterprises in the form of guarantees, small loans, and cash flow support and management<sup>13</sup>
- Developing charters with the National Empowerment Fund (NEF) and the Industrial Development Corporation (IDC), for financing specific empowerment projects in the KZN's priority sectors
- Community and broad-band finance and support services
- Accessing international grant and aid funding for distribution to BEE companies
- Liaison with national agencies, development finance institutions, and banks on behalf of BEE applicants.

Ithala is already providing most of the services listed above. The provincial B-BBEE strategy will require that it substantially increase the scale of its operations in these service areas in order to achieve a much greater impact, and that it establish a unit to focus exclusively on providing these services and/or coordinating them.

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<sup>12</sup> The list of services are adapted from the Blueprint Research Associates (2002), Black Economic Empowerment Report, page 115, Report prepared for the KZN Department of Economic Affairs and Tourism.

<sup>13</sup> The SMME Fund is already in existence, and may be more apt at undertaking this function. It could explore alternative models of micro financing such as the Grameen Banking and Nkwe models whose reviews are presented in the Appendix, in case they become options.

## **4. Implementation programs**

### **4.1 List of implementation programs**

A number of programs are necessary to implement the KZN BEE strategy. The programs should emanate from the core elements or goal areas of the strategy as listed in section 2.2; and they should, of course, pursue the strategic goals as listed under sub-section 2.1.2. This way, the programs constitute, as they should be, the implementation mechanism for the BEE sub-strategies. The selected programs are the following:

Information dissemination, call center, and outreach  
Skills development for the unemployed  
Financing (PEF)  
Preferential procurement  
Enterprise development (sector matrix approach)  
Partnership and stakeholder relations  
BEE monitoring and evaluation

### **4.2 Program objectives**

Only the functions and broad objectives of the programs are presented in this chapter. The implementation plans of the programs, detailing program strategic objectives, measurable objectives, and targets and timeframes will be presented in the Annexure of the Cabinet-approved version of this strategy document.

The functions and broad objectives of each of these programs are summarized as follows.

#### **4.2.1 Information dissemination, call center, and outreach program**

The objectives of this program are to:

Improve the knowledge of Black small enterprises of available government (national and provincial) incentive schemes and financial support programs.

Ensure that Black individuals, groups, and enterprises, irrespective of their locations within the province, have access to information that will enable them take advantage of BEE opportunities.

Explain the BEE Codes of Good Practice and the KZN BEE objectives and scorecard to enterprises seeking to be BEE compliant, and advise them.

Provide the following to young persons throughout the province: information regarding employment opportunities; access to newspapers, telephones, and the internet to facilitate job searching; and assistance with preparing CVs and writing job application letters. (This could be done through a province-wide system of help-desks).

#### **4.2.2 Skills development program**

The objectives of this program include the following:

- To ensure better coordination, monitoring and evaluation, and reporting of the initiatives of the organizations involved in skills development in the province, such as the Department of Education and its FET centers, tertiary educational institutions, the Joint Initiative on Priority Skills Acquisition (JIPSA), and the Sector Education and Training Authorities (SETAs).
- To redesign, implement, and coordinate the provincial government's learnership and apprenticeship program, through the Skills Development Fund.<sup>14</sup>

#### **4.2.3 Financing program: the Provincial Empowerment Fund (PEF)**

The objectives of the PEF include the following:

- To coordinate all available BEE funding facilities and ensure that KZN citizens are able to access them.
- To fund empowerment transactions and structure financial arrangements to support BEE equity deals within the province.
- To coordinate, on behalf of the province's BEE applicants, the financing of major BEE projects by private sector banks and public sector development finance institutions such as the NEF, IDC, and the DBSA.
- To access international donor funding to support provincial BEE projects.
- To finance Black small businesses that are awarded contracts but lack the funds to execute them.
- To finance land restitution or acquisition
- To finance Black youth-owned start-up enterprises.

#### **4.2.4 Preferential procurement program<sup>15</sup>**

The role of the preferential procurement program is two-fold. First, it encourages white controlled large enterprises to comply with the BEE Codes of Good Practice by offering them benefits through government preferential procurement when they comply. In this manner, it supports the other goal areas of the KZN B-BBEE strategy, namely: enterprise development; skills development; empowerment of target group enterprises; ownership and control of enterprises and other productive assets such as land; employment equity; corporate social investment, particularly in

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<sup>14</sup> Suggestions of how this could be done are given in chapter 5 of this document.

<sup>15</sup> Suggestions on reforms required to develop a new provincial procurement policy and legislation in support of the KZN BEE strategy are given in chapter 5 of this document.



the areas of socio-economic development and youth learnership and apprenticeship. Second, preferential procurement *directly* supports Black enterprise development by ensuring that government *preferentially* procures from Black enterprises.

Thus the objectives of the preferential procurement program include the following:

- To encourage white controlled large enterprises to comply with the BEE Codes of Good Practice.
- To significantly increase the levels of preference to target group Black-owned and Black-empowered enterprises by setting clear targets.
- To significantly increase the levels of government procurement from Black-owned and Black-empowered enterprises by monitoring the levels and proportions of public sector procurement across provincial government departments and public entities from target group enterprises.

#### **4.2.5 Sector matrix enterprise development program**

As has been pointed out, an enterprise development program already exists in the Department of Economic Development. However, it tends to focus on the traditional or generic approach, which consists in supporting small, emerging Black-owned enterprises, regardless of the sectors in which they operate. The BEE strategy has no intention of replacing it, given its tremendous merit. On the contrary, it seeks to complement it with a somewhat different type of enterprise development.

However, the kind of enterprise development envisaged as part of the BEE strategy is one that focuses on ‘graduating’ *selected* small Black-owned enterprises into medium and large enterprise status within *selected* sectors. The provincial BEE strategy dubs this genre of enterprise development the *sector matrix enterprise development*.

The sector matrix program is a special program. It differs from most of the strategy’s programs in the sense that it directs the activities of a number of other programs toward selected sectors, in keeping with the spirit of the sector approach of the province’s economic development strategies. Specifically, activities in the enterprise development, financing, procurement, and skills development programs are directed toward supporting, *in a much more focused and sustained manner*, selected emerging Black enterprises until they become self-sustaining medium or large-size enterprises. The criteria for selection are: (i) demonstrable potential to grow, and (ii) belonging to an economic sector designated by any of the province’s economic development strategies as a priority sector.

For the purposes of the BEE strategy, the identified priority sectors are:

- Manufacturing (other than Furniture and Clothing & Textile)
- Furniture
- Clothing & Textile
- Entertainment sector/music/film making
- ICT
- Tourism
- Property development
- Agriculture and agro-processing
- Freight and logistics

#### 4.2.6 Partnership and stakeholder relations program

As indicated in section 3.2.4, the objectives of this program will include the following:

- Facilitating the establishment of associations of small Black enterprises (at sectoral and economy-wide levels) and community-based organizations, and/or capacitating them to dialogue with the provincial government regarding its BEE programs and projects.
- Forming partnerships with such associations and organizations, and using the partnerships as forums for:
  - Formulating and implementing *specific* BEE projects under government-sponsored programs.
  - Communication between the provincial government and business.
  - Negotiating programs with business and community-based organizations, as well as reviewing and modifying them, in the light of experience in implementation.
  - Setting and adjusting targets and timeframes for programs and projects.
- Forming partnerships with large enterprises and their associations at sector and economy-wide levels, and using the partnerships to:
  - Obtain big business buy-in into the province's BEE strategy and goals, in particular regarding the need to effect transformation in large firms.
  - Agree with big business on the implementation of specific BEE programs and (mostly large scale) projects.
  - Obtain big business acceptance of additional requirements (over and above those contained in nationally developed sector charters) that address the provincial government's development priorities.

To manage the partnership and stakeholder relations program, the Department of Economic Development will establish a *BEE Implementation Team*. The BEE Implementation Team will be made up of representatives of provincial departments and agencies that have a role to play in the implementation of the BEE strategy. The Team will:

- Coordinate the implementation of the strategy.
- Monitor and evaluate progress on implementation and obtain feedback.
- Through the Department of Economic Development make recommendations to the BEE Advisory Council regarding the review of the strategy, as well as program or project redesign or adjustment.

#### **4.2.7 BEE monitoring and evaluation program**

The objectives of the monitoring and evaluation program will be to:

- Conduct an audit of BEE in the province and, based on the results, establish baselines for targets for the different elements or goal areas of the strategy.
- Adjust KZN BEE scorecards' targets to take account of the baselines through the *Partnership and Stakeholder Relations program* and the *BEE Implementation Team*.
- Monitor, evaluate, and report on the achievement of the targets set for goals and objectives of the strategy, as well as report on implementation problems and suggest remedial actions.
- Conduct an annual review of the strategy as well as its programs and projects, and make recommendations to the Advisory Council *via the Partnership and Stakeholder Relations program* and the *BEE Implementation Team* on how to strengthen them.

## 5. Details on some key implementation programs

### 5.1 Skills Development Fund

Unless the unskilled and therefore unemployable millions of KZN citizens are adequately skilled, the province's unemployment rate will remain at its extremely high levels, even in the face of sustained and robust economic growth. Skills development should therefore be the KZN B-BBEE strategy's *highest priority*. Certainly, the most effective way to effect a broad-based Black economic empowerment is to create sustainable jobs in their millions within a relatively short period of time.

Currently, the most binding constraint to job creation in the South African economy, and for that matter in the KZN economy, is not demand insufficiency. It is mainly the dearth of adequately skilled persons, not even in the professional and high technology fields but in the artisanal spheres. Creating sustainable jobs in the province should then be considered mainly as a function of skills development.

The skills development envisaged should be targeted mostly at disadvantaged individuals in rural, peri-urban, and urban areas. Beneficiaries of the skills development program should therefore be mainly the *unemployed* or the *under-employed disadvantaged individuals, but mostly young persons*. The reason should be obvious. When disadvantaged persons are appropriately skilled, they can either fill available jobs or start their own businesses and create jobs.

Skills development for the employed should continue to take place within the SETA arrangement, the responsibility of which belongs to the national government.

The provincial government will promote skills development by establishing a Skills Development Fund to be administered by the Department of Economic Development.

The Skills Development Fund would then provide training vouchers to school leavers and agricultural training vouchers to the rural unemployed.

Furthermore, the provincial government will institutionalize learnership and apprenticeship programs and make skills development of the *unemployed* a criterion for preferential procurement

The goal of the Skills Development Fund will be to ensure that all unemployed disadvantaged adults aged 35 or less acquire practical or artisanal skills within a period of, say, five years. The Fund will be responsible for coordinating the province's training voucher schemes, as well as its learnership and apprenticeship programs. It would also accredit the programs and ensure that they are of good quality.

*The Fund would not directly run any BEE training programs.* It would have mainly a facilitation and coordination role. To ensure that its services reach grassroot level, it would have at least one office in each district municipality in the province and conduct outreach campaigns, via the BEE information dissemination and outreach program, to ensure that the general public is aware of its programs.

The Fund would call for applications for training voucher schemes, as well as learnership and apprenticeship programs. Applicants need not apply in writing, since this could discourage

illiterate would-be applicants; Fund officials would have to record the requests of illiterate persons for processing. Depending on the applicant's qualifications or 'training readiness', the Fund would approve an application for a particular program. Furthermore, it would identify a qualified artisan, trades person, non-farm enterprise, or farm enterprise nearest the place of residence of the applicant from which the applicant would receive training. A training voucher, worth a fixed amount of money, would only be issued to the qualifying applicant when a willing and qualified trainer has been found.

The applicant on handing over the training voucher to the trainer becomes a trainee. Progress of the trainee would be regularly monitored by the Fund, and on successful completion of the training, the Fund would see to it that an appropriate authority awards the trainee a certificate stating what skills have been acquired. *It would also assist the trainer register as a preferred supplier of services or goods in the provincial procurement supplier database*, if the services or goods of the trainer are such as the government would procure.

*Skills development and preferential procurement.* The Fund would ensure that individuals and enterprises that provide skills training to disadvantaged Black persons through the training voucher schemes get registered as preferred suppliers in the provincial supplier database, if they so desire.

Before a certificate is awarded, the Fund would send the trainee to a qualified trades person or enterprise, not the trainer, for competence assessment, for a fee. A certificate would only be awarded if the assessment report clearly stated that the trainee has acquired the requisite skills.

## **5.2 Literacy and numeracy**

The modern economy is very reliant on sophisticated skills. And without being literate and numerate it is impossible to access the kind of training that imparts such skills. Moreover, persons who are not functionally literate and numerate are hardly in a position to take up available jobs. And it is not easy for such persons to set up and manage their own businesses, not even small businesses.

*The BEE skills development program*, through the provincial Department of Education, *will ensure that literacy and numeracy are emphasized in schools and in ABET programs*. It could do this by getting the provincial government to agree to:

- Making primary schooling compulsory, and schooling compulsory for all, up to age 16;
- Ensuring that ABET programs are available to all functionally illiterate adults; and
- Ensuring that all disadvantaged schools have each at least one qualified English educator and one qualified Mathematics educator. (If necessary the government should encourage retired educators in these subjects to take up teaching again, or employ expatriates on short-term contract basis to teach these subjects. The nation's education authorities should assign greater weight to these subjects for the purpose of determining performance in school leaving examinations).

## **5.3 Public works program**

The provincial government will intensify the use of public works programs to increase work opportunities for unskilled and semi-skilled persons in rural and peri-urban areas, and thus build on the successes of the existing empowerment programs by the Provincial Department

of Transport. In particular the African Renaissance Roads Upgrading Program (ARRUP), Vukuzakhe, and Zibambele. These programs, which are either aimed at maintenance or upgrading of provincial roads, have since inception used local suppliers, emerging (disadvantaged) contractors, and rural female heads of households.

The provincial government will take advantage of the Expanded Public Works Program initiated by the national government to significantly increase the scope of public works programs to create jobs for unskilled and semi-skilled disadvantaged persons. In addition to providing jobs, the program will also enable the disadvantaged workers to acquire skills they can sell at a later stage in the labor market.

## **5.4 Procurement**

The current procurement policies and procedures tend to favor large and well-established enterprises, but create many difficulties for SMMEs, particularly those owned or controlled by previously disadvantaged persons. The existing provincial government's procurement system therefore needs to be reformed, in order to respond to the requirements of the broad-based BEE.

### **5.4.1 Direct procurement**

The reform of the direct procurement system will have to focus on the following areas:

- Tender information and documentation
- Facilitating access to markets
- Period contracts
- Break-out procurement
- Awarding of tenders based on development objectives such as BEE

The provincial Treasury will coordinate the reform of the provincial government's procurement system to make it a suitable instrument for achieving many of the objectives of a broad-based BEE. As part of the reform process, it will coordinate the implementation of the measures outlined as follows.

#### **5.4.1.1 Tender information and documentation.**

**Simplify tender documentation whenever possible (and translate into isiZulu) to make it easy to read and understand, and thus tenderer-friendly.**

To achieve this, the provincial Treasury will ensure that:

- Tender forms will be redesigned to minimize the number of pages and simplify the layout;
- All documents that are relevant to completing a tender will be included in tender packages and made available at tender issuing offices;
- Tenders for similar goods and services will be standardized, by adopting a general format to achieve uniformity;
- If a tender document refers to another document or standard or specification, the document, standard, or specification referred to will be made available or communicated to the tenderer at all tender issuing offices, tender advice centers, and local business centers.

**Collect and disseminate market information.**

To achieve this, the provincial Department of Economic Development will collect and disseminate information on:

- Potential customers in the market, as well as their potential demand for various goods and services;
- Competition conditions for different sectors and products, to help emerging Black SMMEs identify market niches or avoid entering highly competitive or over-traded markets;
- Existing businesses and their procurement needs, as well as the products and services they supply;
- Government contracts, to make (Black) SMMEs aware of what goods and services the government procures, as well as the terms and conditions of procurement contracts;
- Resources, in order to provide information on the availability, quality, quantity, and cost of resources and on how to access them;
- Technology, in order to provide information on the availability of relevant technology and on how to access it; and
- Barriers limiting access to market opportunities, such as economies of scale, product differentiation, capital requirements, switching costs, access to distribution channels, government policies and regulations, and lack of requisite skills

**Foster structured interaction between procurement units in provincial government departments and tenderers to cultivate a healthy relationship between procurement units and tenderers.**

To achieve this, the provincial Treasury will organize workshops and meetings between procurement units and tenderers, and use print and electronic media advertisement as well as information brochures to provide tenderers with general tendering information. The information will aim to explain to tenderers departmental activities, forthcoming tendering opportunities, tendering policies and procedures, and general conditions as well as requirements of tenders.

**Make the tender award process more transparent.**

To achieve this, the provincial Treasury will:

- Ensure that information on adjudication procedures and criteria are included in tender documentation;
- Prepare and make available to all tenderers lists of all adjudicated tenders indicating tender submissions that were considered and those that were disqualified, as well as reasons for disqualifications;
- Ensure that proceedings at adjudication meetings are recorded and the transcripts made available for public scrutiny, or to any interested person or civil society organization;
- Ensure that, in the event of a complaint about the award of a particular contract, the investigations are conducted by independent officials connected neither with the adjudication process nor with those involved in it (This might only require improving the Provincial Treasury's Appeals system); and

- Ensure that, for strategic tenders exceeding the value of R 10 m, a post-contract award de-briefing meeting with tenderers is held to discuss generic shortcomings of submissions.

#### **Use popular and easily accessible media to disseminate tender information.**

To ensure that this happens, the responsible authorities – the provincial Treasury and procurement units in government departments - will, for small value tenders, use small business development organizations' notice boards, local emerging business or contractor organizations, tender advice centers, community papers, and public buildings (such as magistrate courts and post offices), in addition to the government gazette and local newspapers, for tender advertisement.

#### **Publish information booklet on tendering.**

The provincial Treasury will publish a booklet on how to tender for contracts. The booklet will contain excerpts of tender documents, and give examples of obvious and common errors made by tenderers while completing tender documents, and of how to avoid them.

#### **Bring procurement to the people**

The provincial Treasury will ensure that the:

- Number of tender issuing offices and locations is increased significantly;
- Current new suppliers database is fully operational, and that it is linked to an electronic system which will permit tenderers to submit tenders electronically;
- Electronic system used is user-friendly enough to allow even semi-literate persons to use it to find out what tenders are advertised, and to submit tenders;
- Electronic system, as well as computers to access it, is installed at all local business centers and tender advice centers for use by tenderers; and
- Tenders, as much as is possible, are awarded very close to the centers where they are submitted.

#### **5.4.1.2 Facilitating access to markets**

##### **Provide comprehensive training on tendering**

The provincial Treasury will ensure that prospective tenderers – SMMEs, particularly Black SMMEs - receive comprehensive training on tendering. Funding for such training could be sourced from national and international development institutions.

##### **Encourage large businesses to do business with small businesses**

The provincial Treasury will:

- incorporate non-discriminatory rules and incentives in the provincial procurement policy and legislation to encourage big businesses to out-source contracts to Black small businesses, and to enter into partnership arrangements with them;
- the Department of Economic Development in conjunction with the provincial Treasury will try to secure commitment by big business, at senior management and board level, to directly support small businesses by way of outsourcing, sub-contracting, and partnerships.



To this end, they will:

- Hold urgent discussions with senior corporate management - preferably Chief Executive Officers (CEOs) – and the boards of large firms to convince them to work out effective linkage programs with small businesses;
- Secure commitment from the said senior management and boards to build training for small businesses into the partnership arrangements they enter into with them; and
- Organize training workshops for SMMEs and Black enterprises on how to do business with big corporations, with the workshops facilitated by senior managers from the big corporations.

#### **5.4.1.3 Period contracts**

**Use period contracts to assist SMMEs and Black enterprises build capacity and develop the necessary capabilities.**

The provincial Treasury will, whenever the nature of the goods or services to be procured warrants it, ensure that the period of the procurement contract is long enough to permit the supplier to build capacity and acquire the needed capabilities.

To this end, the provincial Treasury will:

- determine for contracts of substantial rand value the *optimum* contract period – a period long enough to allow awarding departments and suppliers to understand one another, and to provide SMMEs and Black enterprises the incentive to invest in costly plants, training, and technology;
- prescribe that contracts be awarded to two or three suppliers or service providers to give awarding departments some degree of flexibility, if circumstances suggest that delay in delivery is likely and would cause the awarding department to incur costs, and that preferred contractor status be accorded to the most favored tenderer, with the second and third contractors standing by to be approached if the preferred contractor is unable to deliver.

#### **5.4.1.4 Break out procurement**

**Break tenders down into smaller contracts that match the capability of SMMEs and emerging Black enterprises to execute.**

The provincial Treasury will ensure that when appropriate:

- areas of supply for contracts are broken down into manageable areas, such as provincial, regional, and local areas;
- contracts involving more than one product or service are unbundled and separately adjudicated and executed by separate contractors;
- breakup contracts into smaller quantities and to low levels of complexity that SMMEs and emerging Black enterprises can handle; and
- large rand-value contracts incorporate a requirement that a specified percentage of the tender value be executed by targeted SMMEs or emerging Black enterprises (the prime contractor can meet such a requirement by: subcontracting portions of the contract to targeted SMMEs; obtaining manufactured articles from targeted SMME manufacturers; obtaining supplies and

- Materials from targeted SMMEs; engaging professionals, or technical or managerial service providers who are targeted SMMEs; and obtaining insurances from targeted SMMEs).

### **Encourage joint ventures between large and small businesses**

The provincial Treasury will ensure that the provincial procurement policy award points, for the purpose of preferential procurement, to large companies who are in a long-standing (say two years old or older) joint-venture arrangements with small businesses. Younger joint-ventures should only attract points if they are contractual and the contract clearly provides for meaningful roles for the Black enterprise, to discourage fronting; and the arrangements should be sufficiently flexible to permit a restructuring of the joint-venture should the joint-venture not perform satisfactorily. The initial arrangement should of course set joint-venture participation goals for each participating enterprise, with the targeted SMME or Black joint-venture partner required to use its own resources to meet its goal).

#### **5.4.1.5 Awarding of tenders based on development objectives**

- **Ensure that value for money is not only measured by rand cost, but also by other criteria such as employment opportunities or human resource development offered by the tenderer, and that tender evaluation criteria allow for the promotion of development objectives by a weighting in favor of emerging Black enterprise and SMME status.**

To this end, the provincial Treasury will prescribe that:

- Tenders are to be awarded on a point scoring system that in addition to price, takes account of a development objective (the scoring system will award points to tenderers firstly for their financial offer and secondly for their offer to meet certain provincially specified development objectives or *exceed* certain national BEE scorecard targets in the interest of the province's development, or for their enterprise status);
- Development objective points be awarded for exceeding targets set in respect of the following:
  - Use of local resources;
  - Use of targeted labor;
  - Use of SMMEs and Black enterprises
  - Potential employment to be created; and
  - The degree to which the tendering enterprise has embraced equity shareholding by previously disadvantaged persons and target groups, especially women, and affirmative action principles.

The socio-economic or development targets set must lend themselves to proper definition, measurement, quantification, verification, and audit.

## **6. Implementation: role players and work streams; and roles and program assignment**

### **6.1 Role players and work streams**

#### **6.1.1 Role players<sup>16</sup>**

The role players in the strategy include the following:

- Provincial government departments
- Ithala/Provincial Empowerment Fund (PEF)
- Funding agencies
- Other provincial State-owned enterprises
- Organized business associations
- Community-based organizations
- BEE Advisory Council
- Ombudsman
- BEE verification agencies
- National departments and agencies

#### **6.1.2 Work streams**

The BEE Implementation Team referred in section 4.2.6 will comprise four work streams, namely Preferential Procurement, Enterprise Development, Finance, and Skills Development work streams.

A member of the BEE Implementation Team may belong to more than one work stream, but not more than two. For example, a member of the procurement work stream may also be a member of the finance work stream. Membership of a work stream will, of course, depend on the expertise and employee function of a prospective member, and the role of her department or agency in the strategy implementation.

Appointment to the BEE Implementation Team will be made by individual role-playing departments and agencies.

## **6.2 Roles**

### **6.2.1 Department of Economic Development**

The main objective of the Department of Economic Development (DED) is to through its Empowerment Unit fast track BEE in the province. To this end, the DED's main task is to identify programs, projects, and mechanisms for fast-tracking BEE in the province, in *consultation* and *partnership* with other role players, and on the advice of the BEE Advisory Council. The role players include certain public entities and agencies, organized business associations, and community-based organizations.

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<sup>16</sup> The list of role players presented is not comprehensive and may be changed or added to in the light of implementation experience.

The DED will be responsible for the:

- Overall coordination of the BEE strategy and its implementation
- Information dissemination and outreach program
- Partnership and stakeholder relations program
- Provincial Empowerment Fund program
- Enterprise development program
- Skills Development Fund program

The DED will rely on the BEE Implementation Team as the principal instrument for coordinating the implementation of the strategy, and will also report and make recommendations through it to the BEE Advisory Council. To facilitate this arrangement, it will establish and operate a separate secretariat to coordinate the activities of the Advisory Council and the Implementation Team, as well as those of an Ombudsman.

The DED will publish an annual KZN BEE Report highlighting the achievements and challenges of the BEE strategy. In essence, the Report will consolidate the individual reports of the various institutions involved in implementing the B-BBEE strategy.

### **6.2.2 Provincial Treasury**

The Provincial Treasury will be responsible for:

- Preferential procurement program
- Budgetary allocations for setting up the PEF and in support of the BEE strategy implementation

### **6.2.3 Ithala**

Ithala will be responsible for the PEF and its management, but will be accountable to the DED to which the necessary budgetary allocations will be made for transfer to the former.

### **6.2.4 Advisory Council**

The BEE Advisory Council to be set up by the Office of the Premier in consultation with the DED and in compliance with the letter and spirit of the B-BBEE Act of 2003 has a central role to play. It will:

- Advise the Premier on BEE in the province.
- *Oversee* the coordination of the implementation of the BEE strategy and policy in the province.
- Review progress in achieving BEE objectives.
- Assist potential BEE partners to source the necessary funding.
- Provide advice to the DED and the Premier (or his representative), in the light of experience, on new programs and instruments to achieve the agreed objectives of BEE.

- Advise the Premier (or his representative) on enterprise, sector, or economy-wide partnerships and charters.
- Advise the DED, in the light of experience and recommendations by the BEE Implementation Team to the Council, on the adjusting and strengthening of the BEE strategy, as well as on the review of its objectives and targets.
- Make recommendations, through the Office of the Premier, to the Presidential BEE Advisory Council.
- Promote provincial partnerships to accelerate the implementation of BEE.
- Review on an ongoing basis the legislative and regulatory instruments that can be utilized to accelerate BEE.

### **6.2.5 BEE Ombudsman**

An Office of the Ombudsman, to be set up within the DED, will attend to the complaints of individuals and enterprises, as well as enterprise groups regarding fronting and other BEE malpractices.

### **6.2.6 BEE verification agencies and BEE verification unit**

BEE verification agencies will issue BEE compliance certificates to potential bidders or suppliers. However, the Small Chain Management unit of the Provincial Treasury will verify the B-BBEE credentials of suppliers who do not have a verification certificate, with the assistance of an independent panel of verification analysts and companies.

## **6.3 Role and program assignment table, and program implementation plans**

The following table indicates which department is responsible for what program, as well as other role players in program implementation.

<b>Implementation program assignment</b>		
<b>Programs</b>	<b>Responsible department/agency</b>	<b>Participating departments/agencies/public entities/organizations/institutions</b>
Information dissemination	Department of Economic Development	Other departments/agencies/public entities/organizations/institutions
Skills development	Department of Economic Development	Departments of Education, Public Works and Labour
Financing (PEF)	Ithala Development Finance	Provincial Treasury
Sector matrix enterprise development	Department of Economic Development	Provincial Treasury; other departments/agencies/public entities
Partnership and stakeholder relations	Department of Economic Development	Other departments/agencies/public entities/organizations/institutions
Preferential procurement	Provincial Treasury	Other departments/agencies/public entities/organizations/institutions
Monitoring and evaluation	Office of Premier	Advisory Council Economic Development Department

This strategy will require the department or agency/entity responsible for a program to develop two implementation plans for that program: the first plan is a three-year plan of a horizon that coincides with the MTEF cycle; the second is a one-year detailed plan. Each implementation plan will however indicate the following for the plan period:

- One and only one strategic objective for the program
- A maximum of four *measurable* objectives, as well as their *targets*, for the entire program
- Program projects
- Milestones and timeframes
- Name of the official responsible for the program (the official must be a member of the B-BBEE Strategy Implementation Team)
- Budget for implementing the program

The two plans are to be tabled at the Implementation Team's meeting, which will be chaired by the Head of the Department of Economic Development, or his/her nominee, for approval. An approval will require a simple majority vote of the Team's membership. In the event of a tie, the Chairperson will have a casting vote. Once approved by the Implementation Team, the plans are sent to the MEC for Finance and Economic Development via the HOD of the Department of Economic Development, who will have the power to modify them, after consultation with the responsible department, before presenting them to the MEC for ratification. After ratification by the MEC, the necessary budgetary allocations are made for the plans when possible, either in the Adjustment Budget or in the Annual Budget, or, depending on the budget structure of the responsible department, by virement.

## **7. Measurement of progress: scorecards**

### **7.1 Use of scorecards**

The KZN B-BBEE strategy will use a 'balanced scorecard' to measure progress made in achieving B-BBEE by enterprises and sectors. The use of a common scorecard by different stakeholders provides a basic framework against which to benchmark the BEE process in different enterprises and sectors. The scorecard will measure the groups of core elements of the B-BBEE strategy, which are:

- Direct empowerment through ownership and control of enterprises and assets.
- Human resource development and employment equity.
- Indirect empowerment through preferential procurement and enterprise development

The scorecard also allows government departments, state-owned enterprises, and other public agencies to align their own procurement practices and individual B-BBEE strategies. The scorecard also facilitates the process of setting measurable objectives and targets for B-BBEE. In particular, the provincial government will apply B-BBEE criteria, as set out in the scorecard, whenever it:

- Grants a license to engage in a specific regulated economic activity, for example gambling or mining.
- Grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state.
- Sells an asset or state-owned enterprise.
- Enters into a public-private partnership.

- Engages in any economic activity.

However, the KZN B-BBEE scorecard will implement a system of two scorecards: the KZN Public Sector Scorecard and the Generic Scorecard as contained in the BEE Codes of Good Practice (2006).

## **7.2 Two scorecards**

### **7.2.1 KZN public sector scorecard**

The KZN public sector scorecard will be used at the level of provincial governments and organs of state to guide their setting of objectives and targets, in the different goal areas of the B-BBEE strategy, for themselves and monitor their achievement.

The KZN public sector scorecard will set targets for public sector role players in the following areas:

- Management
- Employment equity
- Skills development
- Preferential procurement

### **7.2.2 Generic Scorecard**

The Generic Scorecard, which is contained in the BEE Codes of Good Practice contain measures and targets in the following goal areas of the B-BBEE strategy:

- Ownership
- Management and control
- Employment equity
- Skills development
- Preferential procurement
- Enterprise development
- Corporate social investment in socio-economic development

All provincial departments and organs of state will be required to align their preferential procurement to the generic scorecard and to use it, for the first ‘sieving’ exercise, to evaluate suppliers and eliminate non-qualifying bidders or tenderers. Additional requirements to be met by suppliers may, of course, be specified. The additional requirements, which typically would be recommended by the Advisory Council, would seek to stimulate the development of the province’s priority sectors or address other provincial socio-economic priorities.