

The **Mail & Guardian TFM Transformer's Forum** on **August 22nd 2019 ...**

Join us for the next **Mail & Guardian TFM Transformer's Forum** will take place on Thursday, August 22, 2019. This Forum will address the amendments published in **Gazette #42496** and will guide organisations in successfully procuring across sectors, otherwise referred to as 'Cross-Sector' Procurement.



What are the expectations of **Gazette #42496**?

On Friday 31st May 2019, the Department of Trade and Industry published **Gazette #42496**, an amendment to Gazette #36928. The amendments herein were published in terms of Section 9 (1) of the Broad-Based 'Black' Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013.

This Gazette, which issued amendments to Code Series 000, 300, 400 and Schedule 1, came into effect upon the date of publication. A six-month transition period is allowed for implementation. Hence, until and including 30th November 2019, an organisation measured against the Generic Codes can elect to be measured against the 2013 provisions held in Gazette #36928. Notwithstanding, an organisation may elect to be measured against the amended provisions immediately, but only before 1st December 2019.

Identify and mitigate the risks of **'Cross Sector Procurement'**

Procuring across sectors is a risk that organisations striving to meet their Preferential Procurement targets must mitigate, especially taking into account the adjustments in **Gazette #42496** Notice 304 of 2019.

In reality 'Cross-Sector Procurement' is a core reason for organisations falling short of their Preferential Procurement targets.

What is 'Cross-Sector Procurement'?

It is when an organisation, measured on either the Generic Codes or a specific Sector Code, procures from an organisation measured on a different Code with different financial thresholds, Weighting Points and targets.

Should an organisation elect to be measured on the amendments of this Gazette, all the amendments in the Gazette are applicable.

Either on or following 1st December 2019, evidence of an organisation's Status Level, whether in the form of a SANAS accredited B-BBEE Certificate, Affidavit or CIPC Certificate, must be measured against the 2019 amended provisions of Gazette #42496. This deadline is non-negotiable. Gazette #36928 will be repealed on 1st December 2019. Consequently, following the repeal, all relevant amendments apply to the Amended Generic Codes; therefore all organisations, irrespective of their threshold, are bound by it.

However, organisations measured on a Sector Code issued in terms of Section 9 (1) of the B-BBEE Act as amended, are measured according to the requirements of that particular Sector Code. Therefore, organisations measured on a Sector Code will not be affected by these amendments. Nevertheless, where matters are silent in the Sector Codes, the amended provisions of Gazette #42496 are applicable. The Sector Councils are, however, encouraged to initiate an alignment process to introduce these amendments into their specific Sector Code.

For Example, ABC Traders is an organisation measured on the Construction Sector Code. They book accommodation at XYZ Hotels. The B-BBEE Certificate presented by XYZ Hotels must have been measured on the Tourism Sector Code and meet the requirements of that Code.

What are the consequences of accepting a B-BBEE Certificate measured on the wrong Code?

If XYZ Hotels presented a B-BBEE Certificate measured on the Generic Codes or if the certificate did not meet the requirements of the Tourism Sector Code, the certificate would be deemed invalid and would not be counted at the time of verification. This consequence is irrelevant to the money spent on XYZ Hotels. As Preferential Procurement forms part an identified Priority Element, there could well be consequences for not mitigating this risk.

In order to meet the targets in the Preferential Procurement scorecard, procuring across sectors must be done in real time, as the overall impact of incorrectly evaluating or accepting a B-BBEE Certificate measured on an incorrect Code only becomes apparent at the time of verification.

These amendments were published in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013. These were published as Notice 303 of 2019 that provided clarification on 'Interpretation & Definitions' pertaining to the Generic Codes. Notice 306 of 2019 that outlined the new versions of the General Principles. Notice 305 of 2019 highlighted amendments to Skills Development and Notice 304 of 2019 addressed the Enterprise & Supplier Development elements.

Issue 17 of TFM Magazine, earmarked for distribution at the end of June, provides an overview of this gazette.

All organisations have two things in common, in that each organisation is both a customer and a supplier. Therefore, it is irrelevant whether you are assessing your organisation from a customer or a supplier perspective when the requirements of the Preferential Procurement scorecard are introduced into the mix. The result is that the customer/supplier relationship shifts from price and service to transformation milestones and the BEE currency, otherwise known as BEE Bucks. These two factors are what drive business decisions and customer/supplier relationships in South Africa today.

The core intent of the **Mail & Guardian TFM Transformer's Forum** is to equip organisations:

1 | Effectively implement the requirements of Gazette # 42496; and

2 | Successfully navigate their 'Cross-sector Procurement', either as the customer or the supplier, to meet targets and/or to make themselves as attractive as possible to increase their value to their customer.

For any further information contact Stella Nolan on 082 815-2216 or on info@readtfm.co.za

DATE

Thursday, August 22nd 2019

TIME	08H30 for 09H00 to 15H00
COST	R1.975.00 per delegate (excluding VAT) <ul style="list-style-type: none"> ✓ TFM subscriber discounts apply. ✓ Multiple delegate discounts apply.
VENUE	Johannesburg venue to be confirmed
	Each delegate will receive : <ul style="list-style-type: none"> ✓ Three issue subscription to TFM Magazine ✓ 'Cross-sector Procurement' at a glance. An A1 laminated poster featuring all Gazetted Codes including their unique features.

