

THE RESPONSIBILITIES OF AN INDEPENDENT *Competent Person*

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The Socio-Economic Development element requires an Independent Competent Person (ICP) to present an Independent Competent Person's Report to confirm that the requirements of an organisation's Socio-Economic Development contributions have been met and that a claim is indeed legitimate.

How is an ICP defined?

An ICP must have no conflict of interest when nominated to sign off on an organisation's Socio-Economic Development initiative. Such a person must have sufficient training and the experience or knowledge, as well as other qualities that allow them to assist an organisation in the capacity of an ICP. The level of competence required depends on the complexity of the initiative and the requirements of a particular assessment.

What credentials should an ICP hold?

Although an organisation engages an ICP, they have a duty of care to the investors. The credentials of an ICP should include:

- > Being qualified and in good standing in a Professional Association;
- > Having a minimum of five years of practice in their field of expertise;
- > Being versed in the requirements of the Socio-Economic Development criteria;
- > Being up to date with the B-BBEE Commission's interpretation of Socio-Economic Development; and
- > Being an independent party;

In creating an ICP Report, an ICP performs the same function as a B-BBEE Rating Agency. Therefore, an ICP must have sufficient knowledge about the SANAS B-BBEE Verification requirements. If an ICP does not fulfil their duty in line with a B-BBEE Rating Agency, then the agency may elect not to rely on the ICP Report generated.

If a B-BBEE Rating Agency during a B-BBEE Verification identifies a bogus ICP Report, they can refuse to award the Socio-Economic Development points. Otherwise, they can insist that the report is redone to meet the requirements for this element and then award the points.

What is an ICP Report?

An ICP Report must convey material issues to a B-BBEE Rating Agency in a transparent manner to allow for an informed decision as to the legitimacy of a Socio-Economic Development initiative. The report must demonstrate the competence and outcome of an initiative. The accumulation of information featured in the report must be in real time; in other words as and when the initiative rolls out. The purpose of the report is to provide an independent opinion that a transaction is legitimate. The content should provide:

- > A responsible, unbiased and independent opinion on whether a Socio-Economic Development transaction met all the criteria.
- > No added material amendments that would circumvent the requirements of this element.

An ICP must be independent of the organisation in question, the Beneficiaries thereof, as well as the chosen B-BBEE Rating Agency so that there is no conflict of interest. Most importantly, when claiming the contribution, an ICP must hold the necessary B-BBEE credentials to sign off on a Socio-Economic Development initiative in line with the requirements of this element.

Upon a B-BBEE Rating Agency accepting an ICP Report, it confirms beyond a reasonable doubt that an organisation's Socio-Economic Development claim meets the criteria. If an ICP fraudulently signs off on a Socio-Economic Development initiative that does not meet the criteria, they are at risk of being found guilty of a Fronting Practice.