

The Puzzle of Procurement continues

LOOK BEYOND THE SPEND



Reona Strydom
Technical Specialist
BEE Chamber

Reona Strydom is a Technical Specialist at the BEE Chamber and is recognised as a competent Technical Signatory. She holds a B.Com Degree in Tourism and Marketing Management from the North-West University, Potchefstroom. She is exceptionally versed in all areas of B-BBEE, from The B-BBEE Act to all published Codes of Good Practice, including all peripheral legislation feeding it. Her career in the B-BBEE space began more than a decade ago as a Verification Analyst. During this time, she has distinguished herself as an analytical thinker with a unique ability to amalgamate each piece of legislation's requirements to support BEE Chamber members in driving their B-BBEE Strategy.

Stella Nolan is the founder and Editor of TFM Magazine. She has unique insight into the B-BBEE space through her direct interaction with corporates, B-BBEE Professionals and government regulators over the last decade. Stella's unique skill lies in simplifying the complexities of the B-BBEE Act, The Codes and peripheral legislation into user-friendly content to expand the knowledge base of the TFM Magazine readership.



Stella Nolan
Founder & Editor
TFM Magazine

In theory, procurement is straightforward. It is any service or product invoiced by a supplier whereby they purchased on behalf of a customer that appears in that supplier's invoice. However, enter Third-party Procurement Spend that must be measured as part of an organisation's Total Measured Procurement Spend (TMPS), and the process becomes more arduous.

The Preferential Procurement criteria in Code Series 400 has the potential to make a significant impact. It is a core instrument to drive economic transformation throughout the economy, as it encourages procurement from suppliers with a favourable B-BBEE Scorecard.

Practice Guide 1 of 2016 was issued as a non-binding guide purely designed to assist organisations with the interpretation of 'Third-party Procurement Spend' to ensure the application is consistent with the requirements of the B-BBEE Act (The Act). However, should circumstances apply, organisations must approach the B-BBEE Commission directly for an advisory opinion.

Although this Practice Guide is not binding on the B-BBEE Commission, it does set out the approach that the B-BBEE Commission is likely to take on any matter relating to the recognition of Third-party Procurement Spend for consistency.

Investopedia defines a third party as "an individual or entity involved in a transaction but is not one of the principals?". Third-party Procurement refers to a middle person who facilitates goods or services between two parties in exchange for a commission payment.

Typical types of organisations that provide third-party procurement services are property managers, travel agents, event co-ordinators, as well as those sourcing and supplying corporate gifts, to name but a few.

The following is a typical example of a third-party procurement transaction and how recognition occurs:

Third-party Procurement recognised as TMPS means that a supplier invoice presented must differentiate and present the B-BBEE credentials for each line item that appears on an invoice. For example, ABC Traders contracts XYZ Promotions with a Status Level 1 to purchase 100 caps, including branding and delivery. The line items for the invoice appear as follows:

Line Item 1

100 caps purchased at R10,00 each – total R1,000.00
XYZ Promotions contracted and paid LMN Clothing (Status Level 5) for the caps.

Line Item 2

Branding of 100 caps @ R3,50 each – R350.00
XYZ Promotions contracted and paid EFG Branding (Status Level 3) to brand the caps.

Line Item 3

Delivery of cap consignment to ABC Traders – R250.00.
XYZ Promotions contracted and paid BEE Couriers (Status Level 6) to deliver the consignment to ABC Traders.

Line Item 4

XYZ Promotions (Status Level 1) charges a 25% service fee for sourcing, branding and delivering 100 caps – R400.00.

Individual B-BBEE Certificates or Affidavits for all purchases made on behalf of the customer per line item must accompany the invoice as per the example laid out below.

Line Item 1

LMN Clothing B-BBEE Certificate or Affidavit for a claim of R1,000.00;

Line Item 2

EFG Branding B-BBEE Certificate or Affidavit for a claim of R350.00;

Line Item 3

BEE Couriers B-BBEE Certificate or Affidavit for a claim of R250.00;

Line Item 4

Although XYZ Promotions were contracted to deliver the consignment of goods, they can only use their B-BBEE Certificate to claim the 25% service fee totalling R400.00.

Therefore, based on the ABC Traders scenario, four separate B-BBEE Certificates or Affidavits should accompany the invoice. To ensure that the collation of these invoices does not eat into already limited ABC Traders resources, collecting the Certificates or Affidavits should form part of XYZ Promotion's mandate for doing the work.

Only the source of the goods or services rendered can recognise the income in their financial statement. In the case of ABC Traders' transaction in terms of section 6.3 of Code Series 400, the line items should appear in the financial statements as follows:

Line Item 1

R1,000,00 transaction to reflect in the financial statements of LMN Clothing only;

Line Item 2

R350,00 transaction to reflect in the financial statements of EFG Branding only;

Line Item 3

R250,00 transaction to reflect in the financial statements of BEE Couriers only;

Line Item 4

R400,00 transaction to reflect in the financial statements of XYZ Promotions only.

Categorising claims in an invoice for third-party procurement benefits EME and QSE suppliers as, more often than not, such purchases drive up revenue. Therefore, an EME or QSE recording an income in their financial statements for the full amount of third-party purchases instead of the commission earned only will see them cross the financial threshold, thus qualifying them to be categorised as a QSE or Large Enterprise, respectively. Consequently, an EME or QSE wishing to remain within this threshold will be able to do so by stating their actual earnings in their financial statements.



"Third-party Procurement refers to a middle person who facilitates goods or services between two parties in exchange for a commission payment."

The same principle applies to credit card purchases. For example, one uses a VISA card for Sasol petrol from a petrol station. The B-BBEE Certificate to support this purchase must be from the petrol station, as VISA only facilitated the purchase on behalf of the petrol station, the real source of the purchase. Therefore, to protect already stretched resources, the people filling their vehicle should present the B-BBEE Certificate or Affidavit for the purchase.

In effect, it does not matter which organisation presents the invoice. However, it is the B-BBEE credentials of the supplier that provided the goods or services that must be used for a claim.

Overlooking Third-party Procurement Spend for either the customer or supplier amounts to a misrepresentation of an organisation's B-BBEE credentials. In terms of section 13O (1)(a) of The Act, this is an offence. By the same token, inaccurately claiming TMPS by not applying Third-party Procurement Spend is an offence. Due to the impact of not accurately reporting on TMPS, the Enterprise and Supplier Development Service Desk at the BEE Chamber is currently training members to guide them to the source of their procurement spend to ensure they are measured on the correct TMPS.

Any verification professional, procurement officer, any official or an organ of state or public entity that becomes aware of the commission of, or attempt to commit, any offence referred to under section 13O(1) and fails to report it is guilty of an offence. In terms of section 13F(1)(d) read with section 13J of The Act, the B-BBEE Commission has the power to investigate, either on its initiative or in response to a complaint received, any matter concerning B-BBEE. If an organisation violates The Act, a fine of up to 10% of its annual turnover could apply. Furthermore, any individuals involved could face imprisonment for up to 10 years and/or be fined.

The issued Practice Guide 1 of 2016 was issued as a guide purely to assist with the interpretation and application of Code Series 400 concerning Third-party Procurement Spend. As indicated, it does not constitute a legal document or ruling of the B-BBEE Commission, but how they are likely to view it.

Source of Reference
<https://www.bbbee.commission.co.za/wp-content/uploads/2016/09/Practice-Guide-01-of-2016-Third-Party-Procurement.pdf>