



B-BBEE Commission – TRANSNET IVFS

14 October 2025

DIRECTIVE - TRANSNET ISLAND VIEW FUEL STORAGE (IVFS) LEASE EXTENSION

Upon perusing the information shared, the Commission can brief the Portfolio Committees Trade, Industry and Competition as follows:

Statutory Requirements: The B-BBEE Act in **section 10(1)** which requires **every organ of state and public entity must apply** any relevant Codes of Good Practice in respect of :-

- (a) Determining qualification criteria for issuing licences, concessions or other authorisations in respect of economic activity in terms of any law;*
- (b) Developing and implementing a preferential procurement policy;*
- (c) Determining qualification criteria for the sale of state-owned enterprises;*
- (d) Developing criteria for entering into partnerships with the private sector; and*
- (e) Determining criteria for the awarding of incentives, grants and investment schemes in support of B-BBEE*

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- Transnet National Ports Authority (TNPA) as a public entity is required to apply the relevant Codes of Good Practice in terms of section 10(1)(b) and/or (d) of the B-BBEE Act on respect of approving/concluding the initial lease agreements, including their extension, or PPPs. Section 10(1)(b) of the Act would apply because TNPA would have concluded the initial lease agreement after following a competitive tender process in accordance with public procurement rules.
- Seemingly, the application of section 10(1)(a) of the Act ought to also have been considered by the National Energy Regulator of South Africa (NERSA) with regard to the issuance of the licences as part of fulfilling the conditions/provisions to the lease agreements.
- The only time both TNPA and NERSA would not have applied the Codes is:
 - where an exemption/deviation was obtained from the Minister of Trade, Industry and Competition in line with section 10(2) of the Act and Regulation 20 of the B-BBEE Act; Or
 - where there is a law preventing them from doing so, which law will need to be amended to cater for B-BBEE compliance

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- In applying the Codes, each entity seeking to use the Island View Fuel Storage facilities or obtain a licence from NERSA would need to demonstrate B-BBEE compliance by way of providing a valid B-BBEE sworn affidavit or certificate.
- We noted mention of a few companies as benefiting from the lease agreements. However, in the absence information of their B-BBEE status, the Commission is not able to determine the extent of their compliance with B-BBEE, in order to confirm if both TNPA and NERSA have applied the Codes, including whether there is any breach of the Act.
- Subject to provision of further information, the Commission in line with its mandate is available to advise both TNPA and NERSA on how to properly apply the Codes, including in relation to entities involved in this matter.

Thank You!

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