



# TRANSFORMATION FUND GUIDELINES

## **1. Objectives**

The KwaZulu-Natal Gaming Board has a legislative mandate in terms of Section 6 of the KZN Gaming and Betting Act to “promote opportunities for persons contemplated in the definition of Broad Based Black Economic Empowerment as contained in the BEE Act, Act 53 of 2003, to participate in the gambling industry of the Province in the capacity of licensees or registrants under this Act.

Furthermore to “develop appreciation of knowledge of the horse racing industry amongst all communities, particularly those comprised of historically disadvantaged persons”.

The Board leads the implementation of strategic initiatives directed at promoting development, creating economic development and jobs in various sectors of the gambling industry.

The “Transformation Fund” is defined in Sections 136 and 137 of the Act, and is a funding structure with the aim of ensuring that adequate support is provided for the establishment and promotion of sustainable emerging enterprises which include SMMEs and Cooperatives for any purpose which includes horseracing, breeding, betting purposes and sports development.

Funding support is aimed at achieving **radical economic transformation**, with funding availed to the historically disadvantaged groups within the provincial economy who are able to come up with sustainable and profitable initiatives which create business, wealth and long term sustainable jobs. The purpose of this guideline is to provide applicants with information regarding the application process and requirements for the “Transformation Fund”.

**Definitions:**

“**Act**” means the KZN Gaming and Betting Act of 2017 as amended;

“**Board**” means the KwaZulu-Natal Gaming and Betting Board established in terms of Section 5 of the Act;

“**BBBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black;

“**Black industrialist**” means a juristic person that includes co-operatives, incorporated in terms of the Companies Act (2008), owned by Black South Africans as defined by the B-BBEE Act who creates and owns value-adding industrial capacity and provides long-term strategic and operational leadership to a business. A Black industrialist can also be a natural person;

“**Committee**” means a committee established by the Board in accordance with Section 18;

“**Gazette**” means the official Provincial Gazette of KwaZulu Natal;

“**The Fund**” means the Transformation Fund as contemplated in Section 137 of the KZN Gaming and Betting Act;

“**Transformation Fund Adjudication Committee**” means a committee appointed by the Board in terms of Section 18 of the Act;

## 2. Submission of Funding Applications to the KZN Gaming and Betting Board

Completed applications must be addressed for attention to the “**Transformation Fund Adjudication Committee**” and submitted to the offices of the Board as follows:

| Location                               | Address                                                    |
|----------------------------------------|------------------------------------------------------------|
| Office of the Board - Durban           | 22 Dorothy Nyembe Road, 18th Floor<br>Marine Building, CBD |
| Office of the Board - Pietermaritzburg | 1 George McFarlane Lane, Wembley<br>Pietermaritzburg       |
| Electronic Submissions                 | <b>transfundapps@kzngbb.org.za</b>                         |

Application documents may also be accessed via the dedicated online application platform [www.kzngbb.org.za](http://www.kzngbb.org.za). Only applications submitted via the prescribed means will be considered.

All applications will be vetted in accordance with the compliance checklist which must be completed and signed by the applicant. Incomplete applications will be returned to the applicant before submission to the **Transformation Fund Adjudication Committee**.

The KZNGBB will provide a stamped proof of receipt of the application either in physical or electronic format.

**NO** application documents may be directly handed or submitted to any Board Member, the Chief Executive Officer or any other Board Official other than the Business Development Unit of the Board.

## 3. Funding Tiers

A tiered approach to funding will be implemented to ensure that a competitive process is adhered to for the amount of funding required by the applicant. This process will ensure that applicants with similar funding needs will compete against each other in accordance with the tiers set out below. There are three tiers which are categorized as follows:

### Funding Tier Levels

|               |                          |
|---------------|--------------------------|
| <b>Tier 1</b> | 0 – R200, 000            |
| <b>Tier 2</b> | R200, 000 to R500, 000   |
| <b>Tier 3</b> | R500, 000 to R 2 000 000 |

During the initial phase of applications applicants will be grouped according to a Funding Tier Level and Category

In the second phase these same applicants will be sub-grouped according to the Funding Tier level.

Applicants falling in both the same Category and Funding Tier will compete against each other for funding.

Funding Application dates will be predetermined by the Board in any given financial year. **NO APPLICATIONS WILL BE ACCEPTED OR CONSIDERED AFTER THE DATES PREDETERMINED**

The outcome of the resolution of each application will be communicated both telephonically and in writing to each applicant by an official identified by the Board for this purpose. Where an application is declined the resolution with reasons of that decision taken will be communicated to the applicant.

#### **4. Funding Models**

A project or initiative will be awarded funding in the form of a grant for part of or all of its financial requirements. This will be dependent on the specifications referred to in the submitted business plan and funding request.

A grant is an award of funds from the government that does not need to be repaid by the receiving parties. Furthermore it does not accrue interest (unlike a loan) however it has strict guidelines for the application process. The receiving applicant is obligated to spend the funds in a manner specified by the Board or according to the conditions that are agreed to in the funding contract/ agreement.

Funding will only be considered for business or value chain businesses that are directly linked to the promotion of the objectives as defined in terms of the definition of the "Transformation Fund"

#### **5. Organizations Eligible to Apply For Funding**

- Business enterprises,
- Legally established Non-Governmental Organizations (NGO's) or Non-Profit Organizations (NPOs), and Community Based Organizations (CBO's),
- Co-operatives,
- Informal Enterprises,
- Trusts.

All organizations must be registered with the CIPC at the time of applying for funds. Individual applicants will be dealt with on a case by case basis.

## 6. Individual or Organisation Categories and Minimum Contributions

Funded individual applicants or organizations are to be categorized as follows:

| Category   | Organization                                                 | Employees | Turnover    | Assets     | Required (%) Minimum applicant contribution |
|------------|--------------------------------------------------------------|-----------|-------------|------------|---------------------------------------------|
| Category 1 | Small and Micro/Social Enterprises, Cooperative and Startups | 0-20      | < 1 million | <1 million | 0%                                          |
| Category 2 | Medium Enterprise                                            | >20       | >1 million  | >1 million | 10%                                         |

- Start-ups refer to companies that are newly launched and do not have any prior operating history.
- Micro/Social enterprises will be classified as those that operate with the objective of improving; social wellbeing for communities, environmental sustainability and economic performance.

## 7. Funding Cap

Any funding awarded under the "Transformation Fund" will not exceed, two million rands (R2, 000,000.00) per application. This cap may be periodically reviewed through approval from the Accounting Officer.

## 8. Notification of funding opportunities

Calls for applications will be made announced through the dedicated website [www.kznghb.org.za](http://www.kznghb.org.za) **as well as the Provincial Government Gazette**

Decisions made by the Board in respect of this should be regarded as final. Furthermore, through district engagements local entrepreneurs will be advised about the fund.

## 9. Application and Funding Process Flow

The application and funding work process flow is outlines as follows:

- Notification of funding opportunities made through KZNGBB website and Provincial Government Gazette calls for applications.
- A verification checklist will be completed by the applicant and submitted with any application. Incomplete applications that do not comply with that checklist will be returned to the applicant.

- The application can be submitted either electronically or physically to the Boards Business Development Unit who will assess and conduct due diligence processes on all applications
- Within two (2) weeks from date of resolution of funding allocations, successful applicants shall be notified of the outcome. Names of approved applicants are listed on the official website at [www.kznngbb.org.za](http://www.kznngbb.org.za).
- Respective Funding Agreements contracts for approved proposals **with conditions** are drafted and signed by representatives from the Boards Legal Division and the Applicant.
- Funding is disbursed by the Finance Division appointed to manage this process. Funds will only be disbursed into a **South African Bank Account** held by the applicant. **NO FUNDS WILL BE DISPURSED TO A THIRD PARTY**
- Implementation, business support and monitoring undertaken.

## 10. Funding Exclusions

The following are not eligible for funding under this guideline:

- Pre-feasibility and feasibility;
- Training initiatives except where training is an ancillary component of the application and relates to gambling;
- Research, except action oriented research pertaining to the horseracing industry;
- Proposals from companies not registered in South Africa;
- Proposals from non-South African citizens;
- Persons or companies who have not satisfactorily discharged the contractual obligations on a previously funded project;
- Proposals not accompanied by required documentation;
- Applications which have received grant funding from other government departments, donors or Public entities for the same proposal;
- Applications on initiatives classified as socially undesirable or illegal;
- Initiatives falling outside the mandate of the KZNGBB;
- Applications for loans – these will be referred to the relevant debt providing institutions;
- Proposals from businesses owned by government employees; and
- Proposals for projects/initiatives located outside KZN.

## 11. Eligibility Criteria

### a. Eligibility Compliance

- Only applications submitted in line with the requirements for the funding call will be considered for evaluation.
- Where an application is submitted on behalf of another organisation, the application must be accompanied a document clarifying the

nature of the relationship between the two entities and power of attorney received from the ceding organisation.

### **b. Eligible Applicants**

Only those applicants that are eligible as defined below and are not disqualified may apply and must:

- be directly responsible for the preparation and management of the project,
- demonstrate stable and sufficient financial resources or knowledge to ensure continuity of their organisation throughout the project and, if necessary, to play a part in financing it;
- be able to demonstrate their capacity to manage activities corresponding with the size of the project for which the fund is requested.
- act as the lead individual/organisation and, if selected, be the contracting party and referred to as the beneficiary.
- Applicants with new businesses potentials will be given priority
- Where someone applies on behalf of another - the signed documents showing they are duly authorized must be submitted
- Applicants are responsible for the preparation of the business plans
- They must demonstrate funding resources/ viability of the project or proposal
- Applicants must demonstrate they qualify in line with the transformation fund terms of reference
- Document for the legal entity or personal details must be submitted with the application

### **c. Ineligible Applicants**

Potential applicants may not participate in this funding process or be awarded funds if:

- They are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- They have been convicted of an offence concerning professional conduct by a judgement.;
- They are guilty of grave professional misconduct proven by any means which the KZNGBB can justify;
- They have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes;

- They have been the subject of a judgement, have a judgement pending for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- They have been declared to be in serious breach of contract for failure to comply with their contractual obligations in connection with a procurement procedure or other fund award or managed by the KZNGBB or any public or private entities.
- Applicants that have been convicted for any financial crime defined in terms of the Criminal Procedure Act

Applicants are also excluded from participation in consideration of applications for funding or the award of funds if at the time of the application, they:

- are subject to a conflict of interest;
- are guilty of misrepresentation in supplying the information required or fail to supply this information;
- have attempted to obtain confidential information or influence the Funding Adjudication Panel or the Department during the evaluation process of current or previous funding applications.
- are appointed as long-term contractors within the national, provincial or local spheres of government.
- have been found guilty in terms of Section 218 of the Companies Act, which disqualifies anybody who was jailed for theft, fraud, forgery or perjury, from being a company director, unless a high court sets aside the disqualification.
- In the cases referred to in points (i), (iii), and (iv) above, the exclusion applies for a period of two years from the time when the infringement is established. In the cases referred to in points (ii) and (v), the exclusion applies for a period of four years from the date of notification of the judgement.

NOTE: Applicants must supply with their applications a sworn statement that they do not fall into any of the ineligible categories.

#### **d. Partners' Eligibility**

Where applicants' partners participate in designing and implementing the project, the partners share in the responsibilities of undertaking the project. Hence, partners and applicants have equal responsibility and duty to the KZNGBB and they must, therefore, satisfy the same eligibility criteria as applicants.

#### **e. Principles of Good Partnership Practice**

All partners must be fully conscious of their obligations in accordance with the Memorandum of Agreement or Funding Agreement and understand what



their respective obligations under the contract will be if the fund is awarded. Partners must authorize the lead applicant to sign the contract with the KZNGBB and represent them in all dealings with the KZNGBB in the context of the project's implementation.

Proposals for substantial changes to the project (e.g. activities, partners, etc.) should be agreed to by the partners before being submitted to the KZNGBB. Where no such agreement can be reached, the applicant must indicate this when submitting changes for approval to the KZNGBB.

## **12. Accompanying Documentation**

### **Applications**

All applications should be made on the prescribed application form which should be submitted together with the accompanying documentation. Accompanying documentation is specified on the checklist within the application form.

## **13. Evaluation Process**

The following consideration shall serve as guidelines in evaluating applications:

- Benefit to the economy;
- Have an existing business;
- Viability, innovation and originality;
- Cost effectiveness and sustainability;
- Defined time frames;
- Clear, careful and detailed planning & budgets;
- Quality of delivery of services;
- Specific outcomes in terms of deliverables to assist the Board in the monitoring, evaluation and reporting on the funded projects.

## **14. Assessment Criteria**

### **a. Assessment Framework**

Each application for funding is to be assessed in line with the Transformation Fund Terms of Reference. In conjunction with this the following is to be considered:

- Commercial viability
- The application must comply with all relevant laws and regulations.
- Emerging businesses will be given a priority.
- Minimum percentage of black ownership or interest of 60% is a requirement.
- The business where relevant must create sustainable jobs.
- Geographic location of the business is also important with the focus on rural or economically depressed areas encouraged.

- Meaningful black women and youth participation is viewed more favorably.
- Empowering of the disabled is viewed more favorably.
- Rural and community development projects must have meaningful participation by communities.
- Possibility of co-funding is encouraged in larger projects.

#### **b. Costing within applications**

To be eligible for funding, costing within the application must:

- be aligned with the budget items as listed,
- be necessary for carrying out the project, and comply with the principles of sound financial management, in particular, value for money and cost-effectiveness;
- be incurred by the project during the implementation period (as contained in the contract).
- be recorded in the project's accounts, be identifiable and verifiable, and be backed by relevant originals of supporting documents.

### **15. Confidentiality and Intellectual Property Rights**

The following guidelines apply with regard to confidentiality and intellectual property:

- The KZNGBB and the beneficiary/s together with its agents, employees, members and directors, shall treat all information that they gain access to as a result of communications between the Board and the beneficiary relating to the funding (e.g. application and reports), whether paper or electronic, and which information is not otherwise public knowledge as confidential.
- Confidential information may only be disclosed to any person outside the immediate working environment of the KZNGBB or the beneficiary with the prior written permission of the other. Any information required by the public sector - including public officials - or government agencies or organs, e.g. SARS or CIPRO, in terms of the reporting duties of the KZNGBB may be reported by the KZNGBB without such consent.
- KZNGBB may publish information on approvals or rejections. Information may include, inter alia, the name of the beneficiary, the name and location of the project, and the amount and period of approval.
- Where either the KZNGBB or the beneficiary receives a court order or a subpoena requiring disclosure of confidential information, it must notify the other in writing within seven (7) days. Where the court order or subpoena gives shorter notice than twenty (20) days, written notice must be given as soon as is reasonably possible. The reason for the written notification is so that the KZNGBB or the beneficiary may seek a protective order or waive the provision of this clause in writing.

- The KZNGBB or the beneficiary must take reasonable care to ensure that only the exact information required by the court order or subpoena, is disclosed.
- These guidelines shall apply even after the relationship between the KZNGBB and the beneficiary has ceased.
- These guidelines do not apply to litigation and/or arbitration proceedings between the KZNGBB and the beneficiary.

## **16. Operational Support**

Where recommended by the KZNGBB Transformation Adjudication Committee, operational support will be provided through authorized government structures in the form of training, mentoring services, support and business improvement guidance etc.

## **17. Communication**

The guidelines and subsequent amendments will be made available on the KZNGBB website and may be communicated through various platforms as provided for in the KZNGBB communications policy.

## **18. Ownership of Assets**

- Where assets are procured for the beneficiary, details regarding the ownership of the assets should be submitted to the KZNGBB.
- The KZNGBB reserves the right to repossess assets from beneficiaries in the event that they are not being utilized or utilized for the purpose outlined within the funding agreement.

## **19. Governance Structures**

- 1.1 The Fund will require a governance structure or structures which will attend to the daily operation and to decision making required in respect of utilisation of the funds for the purposes of realising the objects of the Board contemplated in Section 6(1)(c), (d) and (e).
- 1.2 The Governance Structure responsible for the review and resolution on any application **(THE TRANSFORMATION FUND ADJUDICATION COMMITTEE)** is as follows:
  - a) The Chairperson of the Social Ethics and Transformation Committee
  - b) An appointed member from the Department of Economic Development and Tourism
  - c) An appointed member from the KZN Treasury Department
  - d) Ex Officio (in attendance)

- 1.2.1 Appeals against the decision of the Board Sub Committee may be made directly to the Board in terms of Section 140(2)(a) or the High Court.
- 1.2.2 The operation of the internal structure as well as the functioning of the **Transformation Fund Adjudication Committee** must be subject to review by Internal Auditors and should be included in any three year audit plan.
- 1.2.3 The risk and compliance management for the governance structures and their operations will be dealt with as for all Units within the KZNGBB entity.
- 1.2.4 Accounting and other related records of the structures pertaining to the Transformation Fund will be audited by the Auditor General in accordance with Section 137(9) of the Act.

## **20. Terms and Conditions**

- Subject to the resolution of the Transformation Fund Adjudication Committee the contract entered into by the Board and the Applicant shall be subject to the **Terms and Conditions** as defined in the contract.