

# POTENTIAL PROCUREMENT STRATEGIES FOR CONSTRUCTION INDUSTRY DEVELOPMENT IN THE SADC REGION

## Procurement strategies in SADC region

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## ABSTRACT

Procurement, the process that creates, manages and terminates contracts, is increasingly being used by governments in developing countries to promote some aspects of construction industry development. Models which are utilised for such purposes range from the denying of foreign construction companies contractor registration and hence access to procurement opportunities unless they form a joint venture company with a local firm, to the granting of preferences to those foreign firms who engage local firms as joint venture partners or as subcontractors. Mixed results and experiences have been obtained from these models.

In addressing imbalances in business ownership patterns arising from the system of apartheid in the construction sector, South Africa has developed a system of procurement, called targeted procurement, to permit procurement to be used as an instrument of social policy in a measurable, quantifiable, auditable and verifiable manner. At the same time, targeted procurement enables social objectives to be linked to procurement in a fair, transparent, equitable, competitive and cost effective manner. This system of procurement has both facilitated and accelerated growth in the black construction sector. Procurement related constraints to the participation of this emerging sector such as procurement documentation, alternative dispute resolution mechanisms and performance guarantees have also been critically examined in order to improve participation levels. An extensive restructuring of procurement documentation is currently underway, not only to address such constraints, but also to improve performance and delivery in the industry as a whole.

The authors, based on an analysis of the South African experience, identify and present both intervening and enabling strategies that SADC governments may adopt to promote construction industry development in the SADC region.

**Keywords:** indigenous contractors, joint ventures, procurement documentation, targeted procurement, subcontracting

## INTRODUCTION

Governments need to deliver services and to construct and maintain infrastructure for the people they serve. This responsibility often results in the purchase of goods from, and payment to, the private sector to render services and perform works on their behalf. During the past decade there has been a trend amongst governments to privatise services and activities traditionally provided by government. This has increased the use of public sector procurement to secure the services of private contractors who enter into relationships with public bodies to provide these services or to undertake these activities on behalf of such bodies. In this context, the private sector is used as a substitute for government itself. The mechanism for doing so is a contractual relationship whereby government contracts with private organisations to provide services, goods or engineering and construction works or any combination thereof.

Procurement may be defined as the process, which creates, manages and terminates contracts. Procurement is therefore concerned with activities that both precede and follow the signing of a contract. It is common practice in countries to regulate public sector procurement in a legal framework. Thus the manner in which goods, services and works are procured, and the manner in which rights are granted, is controlled. However, it is not common practice, particularly in developed countries, to define the resources, whether individuals or businesses, which must participate in the procurement process. Therefore the beneficiaries of the procurement process are not usually considered in conventional procurement systems.

The construction industry can be regarded as a broad conglomeration of industries and sectors which add value in the creation and maintenance of fixed assets within the built environment. This industry is central to the process of economic and social development in any country and as such may be regarded as an engine of growth. (Gounden, 2000). There are definite relationships between employment opportunities, available skills, entrepreneurship and the use of small scale enterprises in the construction and maintenance of assets ie in the core business of the construction industry (Watermeyer and Band, 1994). The strength of these relationships and links are, however, dependent on the strategies which are adopted in programmes aimed at the provision of such assets; in particular, those strategies associated with construction contracts. The construction and procurement strategies which are adopted can be used to address social and economic concerns and, depending upon how they are structured, to facilitate the economic empowerment of disadvantaged sectors of society and to address unemployment in a focussed manner. Thus the process of constructing assets can be just as important as the provision of the assets themselves.(Watermeyer, 2000)

Procurement policy can be used either to promote efficiencies within the construction industry, or to promote socio-economic objectives. Government utilisation of procurement policy to promote efficiencies and to realise specific socio-economic objectives within the construction industry has potential, especially in developing countries. This view is confirmed by Aziz and Ofori (1996), Masiyiwa (1994), and Abeysekera and Dezyuva, (1997).

### **THE USE OF PROCUREMENT TO PROMOTE THE DEVELOPMENT OF AN INDIGENOUS CONSTRUCTION INDUSTRY.**

The procuring of public infrastructure in developing countries has raised questions regarding the engagement of local industry to execute such works and the role of foreign contractors, for clearly these two industry players have differing objectives (See Table 1). All too often, foreign companies have executed the works, albeit with local labour, without engaging local businesses who had insufficient capacity to execute the works. As a result, governments have played both intervening and enabling roles to address these concerns. Various methods and strategies have been employed to ensure a reasonable market share for the local industry. These range from pre-qualifying contractors in terms of a contractor registration system to the granting of preferences for indigenous contractors.

Table 1: Objectives of foreign contractors versus construction industry development concerns of host countries (Ofori 1996)

<b>International enterprise</b>	<b>Host country</b>
To protect company against cyclical activity by undertaking projects abroad	To develop local construction industry and (often but not always) prepare construction enterprises to eventually undertake projects abroad
To tap new and booming markets offering greater profits despite potential difficulties and risks	To obtain maximum value from its investment and optimum use of indigenous resources, limiting leakage of (often scarce) foreign exchange through imports and remittance of corporate profits
To maintain competitive edge over host-country counterparts and ensure continued availability of work opportunities	To realise technology transfer and general acquisition of construction skills by local contractors, and reduce reliance on foreign enterprises
To take advantage of home-government aid, or service home-country clients investing abroad	To widen sources of imports and beneficial procurement approaches for projects in order to achieve maximum economies, and ensure opportunities for local construction enterprises in home market
To help the poorer countries achieve socio-economic development	To derive lasting benefits from all assistance and co-operation

In the Philippines the Republic Act 4566, otherwise known as the Contractor's Licence Law, gives the Philippine Contractors Accreditation Board (PCAB), *inter alia*, the authority to issue, suspend and revoke licences of contractors. The PCAB registers Filipino contractors, foreign contractors and joint venture contractors who enter into joint venture formation for specific projects provided that at least 75% of the capital in a joint venture is Filipino. Foreign contractors are only permitted to bid on foreign-assisted projects. (Watermeyer, 1999).

In Indonesia, every contractor must register through the relevant Director General at the beginning of a financial year and prequalify for a class of domestically funded contract; the class of contract being based on contract value. Contractors are registered in provinces up to and including Class B. Contractors other than Class A (i.e. contractors who are eligible for the award of contracts in excess of US\$ 150 000) can only

obtain contracts in the provinces in which they are registered. (Indonesia has 27 provinces.) The procurement procedures vary according to the class of contract; direct appointments are made to contractors, with and without quotations for works not exceeding US\$ 7 500, open tenders are called from registered contractors for works in the range US\$ 7 500 to US\$ 150 000, and registered contractors are short listed and invited to tender on works having a value in excess of US\$ 150 000. This provides departments with some latitude in compiling short lists that may or may not include foreign companies. Provision is made in the Presidential Decree governing procurement (No. 16/1994) for large contractors to work with small contractors on the larger contracts. Proposals for subcontracting arrangement are taken into account in the adjudication of tenders (Watermeyer and Cornish, 1999).

Singapore opted, on the other hand, in 1983 for an open market policy with a preference margin scheme. This scheme offered bidding preferences to local construction firms and joint ventures on major public projects and had an underlying aim to provide support technology transfer from foreign to local enterprises. (Ofori, 1996)

The Botswana Central Tender Board provides for a margin of preference in the adjudication of works tenders where the tenderer is a citizen contractor, a joint venture that includes citizen contractors, a foreign contractor optimising the use of citizen subcontractors or is in association with citizen contractors. In joint ventures, citizen contractors are required to execute not less than 25% of the contract sum to qualify for preferences. A recent cabinet decision (MFDP, 2000) has reserved 30% of building work, inclusive of associated mechanical and electrical work, for citizen contractors.

Ofori (1991) has made the observation that it is generally difficult to make joint ventures effective, particularly where such effort is not voluntary where the potential for conflict, crisis and inefficiency is high. He also expresses the view that joint ventures seldom result in the effective transfer of expertise, despite stringent controls such as scrutiny of joint venture agreements (as in Ghana) and monitoring of training programmes (as in Singapore).

## **THE RECENT USE OF PROCUREMENT IN SOUTH AFRICA TO ADDRESS SKEWED BUSINESS OWNERSHIP PATTERNS IN THE CONSTRUCTION INDUSTRY**

### **The Affirmative Procurement Policy**

The democratically elected South African Government of 1994 inherited the political and economic structures of apartheid, designed to protect the interests of the minority and restrict access by the black majority to property, economic opportunity and public service. The South African Government had at its disposal a number of policy instruments to redress the effects of the apartheid system and the legacy of inequality. Legislation has been used to address a range of issues including past unfair discrimination in education training and employment opportunities (South African Qualifications Act), past employment practices (The Employment Equity Act) and the promotion and facilitation of income-generating assets (the National Empowerment Fund Act). Public sector procurement has been used to increase the base of economic activity, address skewed racial ownership patterns and to provide economic opportunity to those previously excluded from the economy (Preferential Procurement Policy Framework Act).

The process of effecting fundamental change in the structure of enterprise participation in an economy is complex. Change at scale, which will have an impact, may result from a market empowerment process operating in the South African economy in terms of the changes in the structure of equity ownership of large firms or the establishment and nurturing of significant numbers of construction related SMEs owned by those disadvantaged by the apartheid system. The Affirmative Procurement Policy (APP), an intervening policy designed to redress skewed business ownership patterns in South Africa along racial lines, used procurement as an instrument of policy to support primarily the growth in the participation of SMEs owned, managed and controlled by those disadvantaged by the apartheid system i.e. black persons. (MF and MPW, 1997).

The national Department of Public Works in August 1996 implemented an APP on all its contracts to address some of the structural problems in the South African construction industry. This policy primarily targeted Affirmable Business Enterprises (ABEs) defined as businesses registered with South African Revenue Services, adhering to labour standards and which are owned, managed and controlled by black

persons with turnovers were within prescribed limits. (refer [www.pwdprocure.co.za](http://www.pwdprocure.co.za)). Targeted procurement, a system which permits procurement to be used as an instrument of social policy and which was developed by the Procurement Reform Task Team in terms of a joint initiative by the Ministries of Finance and Public Works, was used to implement the policy. In support of Targeted Procurement, the White Paper on Creating an Enabling Environment for Reconstruction Growth and Development of the Construction Industry (Department of Public Works, 1999) highlighted the need for an Emerging Contractor Development Programme which underpins the Affirmative Procurement Policy through support measures that address supply-side constraints to consolidate growth of targeted enterprises. (Hodgson and Bici, 2000) (Hodgson and Gwagwa, 1997). This programme is being implemented by the national Department of Public Works.

### **Targeted Procurement**

Targeted Procurement provides employment and business opportunities for marginalised / disadvantaged individuals and communities – referred to as the “Target Groups”. It enables social objectives to be linked to procurement in a fair, transparent, equitable, competitive and cost effective manner. Targeted Procurement also permits these social objectives to be quantified, measured, verified and audited. (Watermeyer, 2000)

Targeted Procurement, through a variety of techniques, provides opportunities for participation by targeted enterprises, even to those who may not have all the necessary resources, capacity or expertise to perform contracts in their own right. This is done in a manner that does not guarantee contracts to such enterprises. On small contracts having a value below a predetermined financial threshold, direct preferences are accorded to targeted enterprises to tip the scales in their favour. On contracts above a financial threshold, bidders are required to compete on the basis of both that which is to be constructed or maintained (the product) and the social benefits which target groups (business for targeted enterprises and / or employment for targeted labour) may derive in the execution of the contract (social deliverables).

Resource specifications are used to define social deliverables and the acceptance criteria relating thereto. These specifications not only define the social deliverables which are to be realised in the process of delivery, but also set out the manner in which they can be achieved, measured and monitored. They accordingly enable bidders to quantify the social deliverables that they are prepared to offer during the bidding stage of the procurement process and allow those who administer contracts to audit and verify that such deliverables were in fact delivered in the performance of the contract. Contracts are usually awarded to the most advantageous offer, based on a balance between the tendered price and the tendered deliverables in respect of targeted groups. Sanctions are applied to contractors who, in the performance of their contracts, fail to deliver their contracted social deliverables.

The Targeted Procurement approach of making the social benefits just one of the criteria relevant to the contract award, which must be balanced against other criteria (such as price and quality) ensures that social benefits are obtained with the minimum possible costs to the government. It can also restrict any potential financial premium to within predetermined limits. Furthermore, contractors can be given the flexibility to decide exactly how the targeted groups will be used, rather than the government deciding itself the way in which those groups should be involved. This enables governments to make use of private sector expertise and knowledge of the markets concerned to use the targeted groups in the most effective way possible.

Targeted Procurement also promotes business linkages between large and small-scale enterprises. Such linkages are not, however, confined to physical construction activities but extend into service provision, materials supply and manufacture, transportation etc.

### **Joint venture and subcontracting arrangements provided for in the Targeted Procurement approach**

In the Targeted Procurement approach resource specifications are used to measure, quantify, verify and audit the engagement by a contractor of targeted enterprises/labour in the performance of a contract. Resource specifications define the required socio-economic deliverables (resource goals i.e. the percentage of the contract price which represents the participation of targeted enterprises / labour in the performance of a contract); set out the methods by which deliverables may be obtained and verified; and determine the means by which progress towards the attainment of the deliverables are to be quantified at discrete intervals. As such they set the framework within which the prime or main contractor structures and marshals his resources in the performance of a contract. They require contractors to “unpack” or “unbundle” their contract into smaller contracts in order to procure the services of targeted enterprises; and / or engage with targeted

enterprises as joint venture partners; and / or structure their resources to provide work for targeted enterprises. (Watermeyer 2000).

The resource specifications require contractors to engage targeted enterprises in terms of fair conditions of contract and require that targeted partners in joint venture formation share meaningfully in the ownership, control, management, responsibilities, risks and profits of the joint venture; be responsible for clearly defined aspects of the contract; and provide some of the resources to execute the contract.

### Outcomes of the policy where Affirmable Business Enterprises are targeted

The outcome of the Department of Public Works' Affirmative procurement policy where Affirmable Business Enterprises (businesses owned, managed and controlled by black persons with turnover within prescribed limits for the period August 1996 to December 1998 are presented in Table 2. The direct financial premium (difference in price between lowest responsive financial offer received and price of awarded tender) associated with this period was less than 0,67%. The results in Table 2 should be interpreted in the light of a declining industry (see Table 3) and the market share of ABEs prior to the introduction of the policy in 1996; viz 0,5% in 1993 and 2,5% in 1995 (Gounden, 2000).

Table 2: National Department of Public Works: Statistics pertaining to the implementation of an Affirmative Procurement Policy where Affirmable Business Enterprises were targeted.

Subsector	Period				Weighted average for period August 96 to Dec 98
	Aug 96 to Jun 97	Jul 97 to Dec 97	Jan 98 to Jun 98	Jul 98 to Dec 98	
<b>ABE Index (market share) %</b>					
Building	24,9	27,5	31,3	33,3	30,3
Civil	0	8,8	20,8	2,4	19,4
Mechanical	12,9	9,0	17,0	6,6	14,3
Electrical	5,5	12,3	28,4	0	10,8
AVERAGE	22,3	25,7	28,4	32,4	28,0
<b>Total value of contracts awarded (R million)</b>					<b>Total</b>
Building	R207,5	R348,2	R807,7	R403,4	R1766,8
Civil	R3,8	R2,5	R124,3	R3,8	R134,4
Mechanical	R17,8	R27,2	R79,3	R6,5	R130,8
Electrical	R17,5	R11,0	R6,0	R2,7	R37,2
TOTAL	R246,6	R388,9	R1017,3	R416,4	R2069,2

Table 3: Employment and turnover statistics in the South African construction industry (1996-1999) (Snyman 2000)

Year	Employment (Formal + Informal)				Turnover, R million 1999 Prices			
	Civil	Building	Total Construction	% Change	Civil	Building	Total Construction	% Change
1996	42844	242780	285624	-7.3%	9483	25865	35348	4.2%
1997	75212	234980	310192	8.6%	9530	24795	34325	-2.9%
1998	74467	231888	306355	-1.2%	9367	25321	34688	1.1%
1999	66820	221845	288665	-5.8%	7959	24445	32404	-6.6%
2000	58840	230718	289558	0.3%	7133	24892	32025	-1.2%

Gounden (2000) has researched the impact of the National Department of Public Works' Affirmative Procurement Policy (APP) on the participation and growth of Affirmable Business Enterprises in the South African construction sector during the period August 1996 to July 1998 i.e. the period before supply side interventions were launched. His findings are as follows:

- 1) There was over the study period an order of magnitude increase in ABE participation at a nominal cost premium. ABE participation was greatest in contracts having a value in excess of R 2 million where ABE participation is predominantly secured as subcontractors. For contracts in the less than R2 million category, where direct preferences for ABEs were provided, noticeable increases in participation were observed, but these were not as significant as in the above R2 million category.
- 2) The participation of ABEs across the different contracting sub sectors indicated significantly higher participation in the building sub sector with limited increases in the civil, electrical and mechanical sub-sectors.

- 3) The APP acted as a catalyst for formalising the ABE subcontracting sector. Many ABE subcontractors registered as formal business during the period under review.
- 4) There was a significant increase in the number of joint ventures formed between ABEs and non-ABEs with the application of the APP. ABE partners were observed to have benefited from these joint ventures via skills transfer and augmentation of their own capacity. ABEs, who participated in these joint ventures, indicated that these relationships were more beneficial to them, than had they acted as subcontractors on these contracts.

## **PROCUREMENT REFORM IN SOUTH AFRICA CONCERNING CONTRACTUAL MATTERS**

### **Standardisation and uniformity in procurement documents**

The Green Paper on Public Sector Procurement Reform in South Africa (1997) identified procurement documentation as being one of the areas that prevent SMEs and emerging businesses from competing freely for public sector contracts. This paper highlights the following in this regard:

- The use of highly technical language, jargon and ‘legalese’ makes documentation incomprehensible to many businesses.
- Documents are often poorly written and difficult to understand.
- The layout and packaging of tender documentation is generally not methodical, and is therefore confusing. Frequently, conditions of tender are mixed with conditions of contract and are interspersed with technical specifications. This lack of discipline in the drafting of documents is very confusing to those who have not had considerable exposure to such documents.
- Frequently, the standard conditions of tender and conditions of contract are drafted to cater for every conceivable eventuality and no attempt is made to present conditions appropriate to relatively simple and straightforward contracts.
- Various public sector procurement units use different tender documentation which requires tenderers to invest time in order to familiarise themselves with differing documents.
- Standard forms of contract or specifications, particularly in the case of building and construction contracts, are often extensively amended by public sector procurement units. Invariably, the list of amendments grows over a period of time as amendments are rarely withdrawn. These documents are extremely confusing and difficult to comprehend.

There is little uniformity in contract documentation and delivery systems in South Africa. In works contracts, the tendency is to follow the recommendations laid down by professional associations and learned societies and to utilise standard industry documents and systems and to adapt them to suite the need, style and culture of the organisation calling for bids. Several public bodies, however, have their own in-house conditions of contract. The artificial division of the construction industry into building and civil engineering components through the use of conditions of contract has further complicated matters. The South African Federation of Civil Engineering Contractors reported in 1996 that their members were faced with approximately 25 different conditions of contract when dealing with public and private sector procurement agencies in South Africa alone. (MOF and MPW, 1997). Frequently those responsible for preparing tender documents have randomly mixed conditions of tenders, conditions of contract, specifications, and measurement and payment terms. This has resulted in documentation being complex and ambiguous and in the allocation of ill-defined and unacceptable risks to contractors.

In order to promote industry development, sector effectiveness and efficiency it is necessary that procurement documents be standardised, simplified and structured to enable tenderers to more accurately price the risks which they are to assume. Uniformity in tender and contract documentation is also seen to promote and /or result in effective participation by SMEs and new entrant / emerging contractors; cost efficiencies, both in financial and human resource terms; the simplification of the documentation process; the mechanisation of administration procedures; and savings in cost and improvement in quality.

The Green Paper on Public Sector Procurement Reform in South Africa (1997) proposed that:

- 1) *There should be complete separation in contract documentation between conditions of tender, conditions of contract specifications and terms of payment (including methods of measurement).*
- 2) *A generic categorisation of contracts should be developed in order to regulate and administer Public Sector Procurement activity in a uniform manner.*
- 3) *A national standards body should publish and distribute both human resource and technical specifications.*

- 4) *Standard conditions of contract, based on the generic categorisation and classification of contracts, should be used by all organs of State with minimal project specific amendments.*
- 5) *Government should play a leading role in the standardisation of contract documentation and contract options and set an example in this regard for the private sector.*
- 6) *Construction standards common to all disciplines should be developed for engineering and construction works contracts.*
- 7) *Engineering and construction works contracts should be drafted in such a way that they cater for a “hierarchy” of projects in terms of complexity and needs.*

Proposal 1 sets the framework for procurement reform in the area of contract documentation. The rest of the proposals, in essence, add substance to this framework. The implications of proposal 1 are that:

- Each subject within a tender and within the subsequent contract can only be addressed once and in only one place;
- Issues relating to the tender will fall away once the contract is in place;
- Changes in conditions of contract should not affect other aspects of the contract such as specifications, measurement and payment;
- The current standardised specifications need to be extensively revised as they make reference to conditions of contract, methods of measurement and / or terms of payment;
- Stand alone systems of measurement, independent of specifications are required;
- Construction specifications need to be written independently from conditions of contract; and
- A standard format for all contracts can be developed.

Both the public and private sector has responded positively to these policy proposals in a pragmatic manner. A National Working Group, comprising officials from the National Department of Public Works, the nine provincial Departments of Public Works, selected key local authorities and the Independent Development Trust, and Focus Group 6 (Procurement and Delivery Management) of the Interministerial Task Team for Construction Industry Development, comprising representatives from all industry based associations, bodies and institutions, have been active in developing documentation to operationalise aspects of these proposals. (see [www.pwdprocure.co.za](http://www.pwdprocure.co.za)). The South African Bureau of Standards has established a new technical committee for Construction Standards to maintain approximately 250 construction related standards and test methods and to develop new standards in this area.

Table 4 sets out the implications of the reform proposals and outlines the response to date in these areas.

### **Performance Guarantees**

Client bodies are exposed to a certain amount of risk particularly in respect of engineering and construction works contracts, to the extent that contractors may fail to perform or provide a defective product. This can have direct financial implications in so far as rectification and completion of the works is concerned, and consequential financial implications resulting from the delayed occupation or possession of the assets that are created. Delayed completion also inevitably results in increased construction costs. As a result, client bodies require contractors to lodge a performance bond and retain an amount from interim certificates in order to cover some of this risk. In so far as small, medium and micro enterprises / emerging construction businesses are concerned, this presents a significant financial hurdle to overcome in the pursuit of being awarded contracts. Furthermore, such enterprises, because of their greater risk factor presented to sureties, usually have to obtain their performance bonds at significantly higher rates than the large well established firms. Accordingly, they not only struggle to secure bonds, but have to do so at a cost premium. (MF and MPW 1997).

Common practice in South Africa, prior to the commencement of the reform initiative, was to set the performance bond at a fixed amount of 10%, irrespective of the risk a client is exposed to. The so called 10 Point Plan (Interim Strategies) for procurement reform adopted by cabinet in 1995 classified contracts in terms of risk exposure, waived performance bond requirements in respect of certain types of contracts and contracts having a value of less than R 100 000, and introduced a performance bond amount varying from 2,5% to 10%, depending upon the risk classification of a contract. More recently, Focus Group 6 of the Inter-ministerial Task Team for Construction Industry Development has refined these levels and re-examined the question of retention amounts.

Table 4 : An overview of reform proposals: implications and actions.

Description of reform proposal	Reform requirements	Actions to date
Generic categorisation of contracts	Definitions are required for goods, services and engineering and construction works	The Construction Industry Development Board Act (2000) defines "construction works" as <i>the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure.</i>
The standard format for procurement documentation	A standard format for the compilation of bidding packages is required. This format should be flexible enough for use in all categories of contract viz goods, services and works, irrespective of any sub categorisation.	The National Working Group developed a standard format for the compilation of bidding packages. This format has been endorsed by the Inter-ministerial Task Team on Construction Industry Development. The format is sufficiently flexible to accommodate all generic types of contracts and different contracting strategies within works contracts including design and build, construction management and develop and construct.
Standard conditions of contract.	The range of documents must be limited in the first instance and thereafter reduced to not more than say two suites of documents.	The National Working Group established the features which a contract should have. Focus Group 6 evaluated all suites of contract in current use in South Africa and shortlisted four contracts, viz: FIDIC, GCC 1990, JBCC 2000 and NEC (two local and two international documents) as documents which satisfy many of the features and should as such be utilised.
Standard system of measurement	There needs to be in place a stand alone system of measurement for building and civil works	The Association of South African Quantity Surveyors has in place a Standard System of measuring Building Works. The South African Institution of Civil Engineering is currently in the process of preparing a Standard System of measuring Civil Works based on SABS 1200 and SABS 0120.
Construction standards.	There needs to be in place a single series of standardised construction specifications for civil and building work.	The Interministerial Task Team on Construction Industry Development has established the requirements for construction specifications in a best practice guide. The SABS technical committee for Construction Standards has taken the decision to align SABS 1200 with the new requirements and to develop standards to cover building work.
Families of general conditions of contract	The conditions of contract should be commensurate with the risk exposure associated with a contract.	All the short listed standard conditions of contract have "minor works" versions which are suitable for low risk contracts..

### Alternative dispute resolutions

The need for alternative dispute resolution (ADR) procedures was recognised in the White Paper on Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry (1999). This paper recommended that the same terms for ADR should apply both to the main contract and the subcontract; there should be no restrictions on the types of issue capable of being referred to ADR, either in the main contract or the subcontracts; and for selected categories of contracts, awards in the ADR process should apply immediately. These recommendations are in the process of being implemented in both main and subcontracts.

### THE POTENTIAL APPLICABILITY OF THE SOUTH AFRICAN CONSTRUCTION PROCUREMENT STRATEGIES IN THE SADC REGION

The Namibian government has already recognised the potential which Targeted Procurement has for realising social objectives in its labour-based works policy where this system of procurement will be used to promote an increase in employment opportunities per unit of expenditure and the participation of small scale enterprises in construction works (MWTC, 1999). Namibia is, however, currently grappling with the question of integrating "racially disadvantaged person" into the economy i.e. Namibian citizens who belong



to a racial or ethnic group which formerly had been, or still is, directly or indirectly disadvantaged as a consequence of social, economic, or educational imbalances arising out of racially discriminating laws or practices before the independence of Namibia. (van Rooyen, 2000) This has obvious parallels to the South African situation. The challenge, however, is to link labour-based works policy with construction industry development through the emergence of businesses owned and controlled by racially disadvantaged persons.

A recent report on Botswana's preferences for citizen contractors has highlighted a number of breaches in the existing preferential windows, particularly in the area of building works contracts. Identified problems relate to the unfair treatment of citizen subcontractors, non-citizen contractors poaching on the 30% reserve for citizen contractors, fronting by citizen for non-citizen contractors, and collusion between citizen and non-citizen contractors, all of which is contrary to due process. (MFDP, 2000). The system of targeted procurement could be utilised to address many of these concerns surrounding the development of a construction industry owned and controlled by indigenous persons.

Masiyiwa (1994) makes the observation that there was no black construction industry in Zimbabwe to speak of when independence was attained in 1980; the activities of black contractors accounted for less than 1% in terms of monetary value of the construction work available despite the allocation of government work to such contractors. This situation remained unchanged for nearly 10 years and then in 1994 rose to 10% of the available work by volume. Masiyiwa attributed this to a number of factors including the restructuring of the national economy, the emergence of experienced black professionals, the emergence of contracting organisations within Zimbabwe that began to address factors such as the capacity enhancement of black contractors and a World Bank Study on the Zimbabwe Construction Industry. Targeted procurement, based on the South African experience may have accelerated the development of black contractor and hence the local industry.

The Namibian Labour Based Works Policy (1999) requires that *"the tendering process must be made accessible to SMEs and be free of unduly onerous requirements and conditions. Tender documentation should accordingly be easy to comprehend, user friendly, standardised and appropriate."* The Ministry of Finance and Development Planning in Botswana (2000) has recently conducted an overall review of the central Government's procurement policies, practices, procedures and institutions with the assistance of the Commonwealth Fund. This review established that the model bidding packages being used were not the latest versions of the agencies that originated them. This according to the review, coupled with the use of a multiplicity of model bidding packages, *"makes it difficult for professional staff in Government to master the technical provisions contained in any single model bidding package and to be able to interpret and to apply them competently. Similarly, the contracting community, particularly citizen contractors, do not have the capacity to work with several model bidding packages and are thus placed at a disadvantage vis-à-vis their foreign counter parts. This practice also poses a problem for contract administration, frequently engendering difficulties enveloping the scarce technical manpower on the ground, in their settlement."*

The problems experienced in states bordering South Africa in the SADC region insofar as procurement documents are concerned appear to be similar to the problems experienced in South Africa. The South African approach to addressing the problem may well provide solutions to similar problems encountered in the SADC region.

## CONCLUSIONS

Four basic constraints to growth in the small business sector; viz: accesses to markets; credit; skills; and supportive institutional arrangements have been identified in South Africa. (ANC 1993). Procurement interventions can provide access to markets and as such addresses constraints relating to demand. This has implications insofar as local / indigenous industry development is concerned. At the same time such interventions can facilitate skills transfer and the capacitation of local / indigenous enterprises through joint venture formation. The South African model for such interventions, namely Targeted Procurement, has potential applications in the SADC region for the development of construction enterprises owned and controlled by indigenous people. The inclusion of this sector in infrastructure projects could lead to growth in the local construction industry within the region, the reduction of reliance on foreign enterprises to provide much needed infrastructure and the increase in the amount of project costs retained in the country in which such projects are executed.

The enabling procurement strategies being pursued in South Africa also have potential applications in the SADC region to improve access to construction opportunities for new entrant / developing enterprises. They may also be used to contribute to improved efficiencies in the process of delivery and the reduction of contractual risk on the part of the contractor.

The South African procurement strategies that have emerged through the reform process have applications in the SADC region to promote aspects of good governance and to achieve industry development objectives.

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