

TARGETED PROCUREMENT IN THE REPUBLIC OF SOUTH AFRICA

AN INDEPENDENT ASSESSMENT



DEPARTMENT OF PUBLIC WORKS
REPUBLIC OF SOUTH AFRICA



International Labour Organisation





Department of Public Works
Republic of South Africa



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DBSA
Development Bank
of Southern Africa

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INDEPENDENT ASSESSMENT
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ABBREVIATIONS AND ACRONYMS

ABE	affirmable business enterprise	ILO	International Labour Organization
ANC	African National Congress	JWB	Johannesburg Western Bypass
APOPS	Asset Procurement and Operating Partnership System	LCSC	Leoboeng Community Safety Centre
APP	Affirmative Procurement Policy	LRG	local resource goal
AusAID	Australian Aid for International Development	M&E	monitoring and evaluation
BOT	build, operate and transfer	MMLC	Midrand Metropolitan Local Council
BOTT	build, operate, train and transfer	NRA	National Roads Agency
CBPWP	Community-based Public Works Programme	PDC	previously disadvantaged company
CEDF	Construction Employment Development Forum	PDE	previously disadvantaged enterprise
CIDB	Construction Industry Development Board	PDI	previously disadvantaged individual
CSIR	Council for Scientific and Industrial Research	PFMA	Public Finance Management Act
DBSA	Development Bank of Southern Africa Limited	PPP	preferential procurement policy
DEAAT	Department of Economic Affairs, Agriculture and Tourism	PPFA	Preferential Procurement Policy Framework Act
DFID	Department for International Development (UK)	PSP	professional services provider
DPW	Department of Public Works	PTB	Provincial Tender Board
DTRPW	Department of Transport, Roads and Public Works	RDP	Reconstruction and Development Programme
DWAF	Department of Water Affairs and Forestry	RSA	Republic of South Africa
EBCON	Emerging Building Contractors	SABS	South African Bureau of Standards
EC	European Commission	SABTACO	South African Black Technical and Allied Careers Organization
ECDP	Emerging Contractor Development Programme	SADC	South African Development Community
EM	Ethekwini Municipality	SAFCEC	South African Federation of Civil Engineering Contractors
EMRD	Ethekwini Municipality Roads Department	SAICE	South African Institute of Civil Engineers
EU	European Union	SANRA	South African National Roads Agency Limited
FIDIC	International Federation of Consulting Engineers	SAR	South African rand (SA rand 11,75 = United States dollar 1,00)
FP	financial premium	SAWiC	South African Women in Construction
GDFI	gross domestic fixed investment	SBE	Small Business Enterprise
GDP	gross domestic product	SDI	Spatial Development Initiative
GIS	geographical information system	SME	small and medium enterprise
GNP	gross national product	SMLC	Southern Metropolitan Local Council
GTPMS	Geographical Targeted Procurement Management System	SMME	small, medium and micro-enterprise
HDI	historically disadvantaged individual	SOE	state-owned enterprise
IDC	Industrial Development Corporation	SPI	Strategic Project Initiative
		TP	targeted procurement
		TPA	targeted procurement assessment
		TRAC	Trans African Concessions
		WEO	Women Equity Ownership

EXECUTIVE SUMMARY

The use of preferential procurement as an instrument to effect socio-economic change is one of the central strategies in the Reconstruction and Development Programme (RDP). The RDP was formulated by the African National Congress and later adopted by the Government of the Republic of South Africa in the form of a White Paper (RSA, 1994) as a social re-engineering policy aimed at redressing the legacy of apartheid. The concept of preferential procurement is also augmented in the Constitution of the Republic of South Africa (Act No. 108 of 1996). When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. Section 217(2) of the Constitution provides for preferencing policies in the allocation of contracts, while Section 217(3) requires that national legislation must prescribe a framework within which procurement policy must be implemented.

The Preferential Procurement Policy Framework Act (Act No. 5 of 2000) (PPPFA) was passed in February 2000 to give effect to this section. The Act requires organs of state to determine their preferential procurement policy (PPP) and to implement it within a framework specified in the Act. Regulations to the PPPFA were issued on 10 August 2001 to establish norms and standards for the application of the framework provided for in the Act. This is the fundamental premise that allows the development of targeted procurement (TP), as an innovative tool applied in the realization of the PPPs of some of the organs of the state, particularly those involved in infrastructure delivery.

TP was initially developed by the Procurement Task Team in 1995 and piloted by the national Department of Public Works (DPW). The DPW realized its Affirmative Procurement Policy (APP) in 1997 (an equivalent of a PPP) after Cabinet approval. Prior to its development, the Procurement Task Team developed an interim strategy for procurement reform commonly known as “the 10-Point Plan”, which was later developed into the current Green Paper on Public Sector Procurement Reform (RSA, 1997a). The 10-Point Plan provided a series of interim interventions applied within the State Tender Board Act of 1968 (Act No. 86 of 1968) while the process of procurement reform was under way.

The Implementation Manual on the Use of Targeted Procurement to Implement an Affirmative Procurement Policy defines TP as “*a system of procurement which provides employment and business opportunities for marginalized individuals and communities, enables procurement to be used as an instrument of social policy in a fair, equitable, competitive, transparent and cost-effective manner and permits social objectives to be quantified, measured, verified and audited*”. As a result, TP is a mechanism through which socio-economic components can be specified, monitored and audited within the contractual environment set by the public sector procurement regime. This provides possibilities to address the skewed employment and business opportunities for marginalized individuals and communities (target groups) created by apartheid.

TP has been designed as a preferential policy instrument to provide employment and business opportunities in a fair, transparent, equitable and cost-effective manner. Unlike other tools, a key factor of TP is the promotion of competition and the provision of a range of contractual opportunities that are realized by specifying the social deliverables. It allows contractors the freedom to decide how these will be attained as part of the tendering process.

The constitutional requirement and the PPPFA limit the preferencing procurement options to the use of direct preferences and direct participation. Direct preferences occur through granting tender adjudication points to businesses that satisfy certain criteria (e.g. PDI equity), while direct participation in contracts occurs through the engagement of targeted groups in the performance of the contract as joint venture partners, suppliers, service providers, subcontractors or labour. TP uses the standard resource specifications commonly known as TP1–6, which are incorporated into the conventional procurement system.

TP is widely used in the construction industry in the procurement of public infrastructure. Given that a significant proportion of public spending is on capital assets (including infrastructure building and civil works) and the great deal of influence the public sector has on the behaviour and performance of the construction industry, this industry presents an ideal vehicle for applying TP.

The pioneers and earliest proponents of targeted procurement in the infrastructure-related public agencies were the national Department of Public Works. TP later expanded to other organs of the state across the three tiers of government. Many public sector entities follow the TP approach. Others do not and have designed procedures and systems that satisfy their own particular requirements, or have adjusted the TP procedures to fit their environment. TP has, however, been defined a best practice by the Interministerial Task Team on Construction Industry Development and still stands out as the tool to give effect to the PPPFA successfully.

Emerging from existing cooperation, the Department of Public Works, the International Labour Office and the Development Bank of Southern Africa Limited launched a joint initiative to assess the impact and effectiveness of targeted procurement. The partners formed a Steering Committee in October 2001 and commissioned an independent Targeted Procurement Assessment (TPA). A team of a national and an international consultant was commissioned to carry out the assessment and this report is the product of their work. In sum, the TPA had to assess the effectiveness of TP as a preferential procurement instrument and to determine whether the anticipated socio-economic benefits it was designed to deliver are being realized. The details of the assignment were described in a set of terms of reference, which is attached to the report.

The TPA was carried out in February 2002. It was preceded by a pre-assessment phase in December 2001 to prepare the ground and identify all the key stakeholders, establish a workable methodology and collect together all the available technical papers and research material. The pre-assessment found that the TP process has not been pursued and implemented in a systematic and uniform manner. It also identified the following factors, which are related to the dynamics of the development, application and practice

of TP:

- Limited reliable and consistent data (often unsubstantiated)
- Different data capture systems are used, making it difficult to compare like with like
- Late introduction of the statutory instruments for assessing socio-economic objectives
- Lack of policy evaluation tools to assess how TP is applied
- Limited information on related supply-side interventions immediately relevant to TP

The pre-assessment also consulted a major study of the impacts of the Affirmative Procurement Policy of the DPW on the participation and growth of affirmable business enterprises (ABEs), published in 2000. This study showed an increased participation of ABEs in their projects. However, it indicated the need to introduce supply intervention mechanisms in order to address their sustainability as per the requirements of public sector reform. The study proved to be a valuable source of information for the TPA.

The dynamics identified in the pre-assessment influenced the choice of methodology for the TPA, in view of the actual status of TP and the lack of supply-side measures. At the commencement of the assignment, various assessment scenarios were investigated with the Steering Committee and a structure based on the following research elements was eventually adopted:

- A review of available literature in TP and related matters
- A limited analysis of projects in the form of case studies covering the three tiers of government and spanning both civil and building projects
- Review of data captured for monitoring TP in three organs of the state within a limited period
- Semi-structured interviews with chosen industry stakeholders
- Structured interviews with emerging contractors

The results of the research, although largely unquantifiable, were modelled to see whether TP has been as an instrument for delivering socio-economic improvements has proved successful and if so, to what degree, and what can be improved in general. In making these judgments the consultants arrived at a number of conclusions and recommendations. They are summarized below and follow the logic and order described in the main report.

TP has been designed as a tool to aid the realization of various preferential procurement policies of the organs of the state. Many of the practical problems currently experienced in its implementation can be traced back to the early development of preferential procurement objectives and strategies for stakeholder involvement at project level.

Preparation and planning

1. A large number of officials in the public sector seem perplexed and do not have a

full understanding of PPP and TP procedures, the standard resource specifications (TP1–6) and monitoring requirements. As a result, there is confusion in many quarters over policy goals and the choice of implementation methodologies, thus resulting in failures. These concern identifying appropriate socio-economic goals during project preparation and planning, sluggishness and a general lack of purpose of TP.

- 1.1 It is recommended that there should be a designated unit in each organ of the state whose line management function responsibilities will be to define preferential procurement policies, implement administrative requirements and guidelines, and support project managers in the use of TP procedures.
 - 1.2 The wide range of socio-economic objectives in various organs of the state operating in similar industries and in certain cases similar geographic areas, was found to lead to a thin spread of the impact of the policy.
 - 1.3 It is recommended that numerous interdepartmental initiatives aimed at strengthening service delivery, especially at community level, be harnessed to support TP processes.
 - 1.4 It is also recommended that the process of uniformity in identifying target groups across organs of the state impacting the construction industry be facilitated through the mandatory responsibilities of the Construction Industry Development Board (CIDB) and the use of standards.
2. The initial creativity associated with TP seems to be on the wane, with evidence of hesitancy to challenge established principles and seek improvements to expand and incorporate TP in other project delivery mechanisms, such as BOTs.
 - 2.1 It is recommended that greater effort be put into exploring new service delivery and contracting strategies in partnership with external consultants and research institutes.

Contracting process

3. The possibility of achieving social goals in project design and contract documentation through the optimization of design to increase labour content and participation of ABEs has not been fully explored.
 - 3.1 It is recommended that the professional service providers (PSPs) become more familiar with “social engineering” and employment-friendly technologies, and match this with the capacity of the target group, in addition to specifying contract participation goals.
4. There are too many documents used in the local construction industry and across each tier of government, which adds to making the process unduly complicated, particularly for target groups (affirmable business enterprises) who are not highly knowledgeable about contractual matters.
 - 4.1 It is recommended that the tendering and contracting process be standardized to address the explicit concerns of emerging contractors and ensure

uniformity across the industry.

5. The TP specifications are currently too complicated. Some contract documents do not incorporate the TP specifications and only refer to them, which results in insufficient protection of the interests of ABEs.
 - 5.1 It is recommended that TP specifications be simplified, focused, use greatly simplified terminology, and be incorporated in the tender enquiry documents.

6. The achievement of PPP objectives is distorted by the problems of “fronting” and lack of commitment to the empowerment objectives addressed through PPPs.
 - 6.1 It is recommended that underperforming and unscrupulous entities be identified by improving the verification process, monitoring on site and blacklisting of such entities where necessary.
7. TP provides contracting opportunities for the target groups, but on the whole there are insufficient and ineffective support mechanisms for addressing their delivery capacity, which impacts on the overall success of TP as a best practice tool.
 - 7.1 It is recommended that the CIDB provide necessary regulatory mechanisms that set minimum standards for implementation by organs of the state, particularly in terms of addressing the supply side. The CIDB should play an active role in regulating the performance of ABEs through registering of contractors.
8. Breaking down large contracts into small parcels capable of execution by ABEs, as called for by the 10-Point Plan, seems inefficient under the current practices and leads to an increased workload in the public sector and economic inefficiency in the execution of projects.
 - 8.1 It is recommended that an evaluation of the real cost of breaking down contracts be carried out and guidelines be developed to increase the efficiency of the industry.

Role of key stakeholders

9. In many instances much of the burden of implementing the TP process, and PPPs in general, results in a financial premium to the public sector. As a result, the private sector is willing to accept the challenge but at a cost to the project.
 - 9.1 It is recommended that, without distorting market competition, employers should acknowledge the role of the private sector in this regard and appropriately devise mechanisms for identifying such premiums accordingly.
10. The established construction industry is not doing enough to assist emerging ABEs, particularly in the area of business and management skills development.
 - 10.1 It is recommended that a long-term mentoring programme, coupled with short-term financial assistance delivered via model forms of subcontract, be introduced, possibly under the auspices of the CIDB.
 - 10.2 It is also recommended that in order to accelerate the PPP process, all private sector clients engaged in the construction industry should be compelled to have clear and measurable PPPs and use these in the award of projects.

Social dimension

11. Too little attempt is currently being made with the applicable legislation and tools to realize the involvement of specific target groups, like women and the disabled, beyond the allocation of points through the direct preference route (that TP provides).
 - 11.1 It is recommended that programmes like Strategic Project Initiatives in the DPW be introduced to positively accelerate the participation of specific target groups. This should be accompanied by a simple system that is able to promote and track the engagement of women and the disabled.
12. The opportunities presented by TP to maximize employment and deliver socio-economic gain in parallel with asset creation are not fully realized.
 - 12.1 It is recommended that, although labour goals are included in the TP specifications and influence contract award, these should be expanded by taking into consideration the already realized economic advantages of labour-friendly technologies, where applicable.

Training provision and needs

13. Training lacks focus. It is project orientated and more concerned with numbers of workers trained than long-term investments in trained workers. To another extent it is too worker focused and currently not enough attention is being given to raising the business and technical skill levels of ABEs.
 - 13.1 It is recommended that project-orientated training be planned, supervised and managed by a qualified training institution approved by the relevant training authority.
 - 13.2 It is also recommended that business and entrepreneurship programmes be implemented in a coordinated and uniform manner – they should be regularly assessed for effectiveness and impact.
14. The project management skill levels of some public sector staff implementing TP require improvement, particularly when it comes to monitoring and evaluating service delivery.
 - 14.1 It is recommended that compulsory and structured training of public sector personnel and consultants involved in TP projects be carried out to ensure a clear understanding of the process.
 - 14.2 It is also recommended that all employers introduce an accreditation process along the lines of the one used by the DPW.
15. Targeted procurement and its relevance in achieving socio-economic betterment are not receiving the prominence it is due in teaching and higher education training curriculums.
 - 15.1 It is recommended that the higher education centres be engaged and a suitable training curriculum designed that promotes the cause of TP and meets the needs of the education establishment. The DPW has commenced

this process.

Monitoring and evaluation

16. There are no time-frames or performance criteria placed on preferential procurement implementation, making it currently impossible to measure or determine its success in the long term.
 - 16.1 It is recommended that a central department, possibly the National Treasury, should prepare and implement a nationwide monitoring and evaluation strategy capable of meeting the statutory requirements defined in the PPPFA and regulations.
 - 16.2 It is also recommended that systems like GTPMS be implemented by all organs of the state and be supported by longitudinal surveys at all times.
17. The current TP monitoring and evaluation systems focus mainly on contract award statistics and not on long-term sustainability of individual ABEs. They do not monitor and evaluate the reasons for entry and exit of ABEs or their growth in the process.
 - 17.1 It is recommended that instruments be developed to track progress on achieving the required socio-economic goals per target group and the sustainability thereof, rather than focusing on contract award.
18. No uniform or coordinated monitoring and evaluation procedures are in place to measure the impacts and effectiveness of TP in the industry.
 - 18.1 It is recommended, building on the work already carried out by the DPW, that a national task team consisting of public and private sector key stakeholders be set up to monitor and evaluate the process and ensure that process delivery is consistent (but not necessarily identical).

Sharing risks and managing the process

19. Risk sharing is currently too one sided (tilted towards the private sector). The responsibility for setting up and trailing new procurement policies like TP should be shared more equally.
 - 19.1 It is recommended that apart from the financial premium paid by the public sector, the public sector should do more to underwrite the risks to consultants, emerging and established contractors associated with the introduction of TP, by introducing the necessary support mechanisms. An analysis should be carried out to identify risks and appropriate management strategies developed to cope with them equitably.

Replication and international dimension

20. Few countries other than South Africa pursue social strategies to reverse inequality and economic deprivation in a well-defined and verifiable manner. The

use of TP, coupled with employment-generation methodologies, can achieve these aims in an efficient and cost-effective manner.

20.1 It is recommended that the lessons and experiences of TP be incorporated into a simple generic approach and exported regionally and internationally as best practice.

As to the determination of the overall impact of TP and its effectiveness in attaining its stated goals, this targeted procurement assessment considers it largely successful. The process has proved a suitable vehicle for preferential procurement policies and undoubtedly opened up the construction industry to emerging enterprises and to deliver socio-economic benefits to the target groups. Furthermore, TP in all its guises is accepted across all tiers of government and is mainstreamed into public sector project management procedures throughout the country. It has had a profound impact on infrastructure service delivery, although this was found to vary widely and was related more to the individual policy of the implementing agency rather than nationally prescribed policies. Whether other socio-economic preferential procurement tools would have had a greater impact is unclear on the basis of the research conditions, but it is considered unlikely.

In the absence of a suitable monitoring and evaluation mechanism the effectiveness of TP as an instrument of social policy was hard to judge. It has certainly been effective in establishing ABEs and in creating employment opportunities, but an unsystematic and fragmented approach to implementation has more than likely reduced the potential benefits. The process would have been much more effective if the statutory instruments had been in place earlier and driven the process rather than the reverse. On balance, targeted procurement has been effective in attaining the goals set out in the Reconstruction and Development Programme, but to prove this point with any certainty would require quantitative information and a direct comparison with other implementation scenarios.

On 14 May 2002 a workshop was held to review the draft TPA report and secure a measure of support and “buy in” from the key stakeholders in the construction industry. A summary of the technical comments emanating from the workshop is attached as Appendix J. A report on the workshop proceedings has been prepared and is issued separately.

CHAPTER 1:

INTRODUCTION

1.1 Background

The use of preferential procurement as an instrument to effect socio-economic change through the promotion of employment and business opportunities to marginalized sectors of the society is commonly employed in both developed and developing countries. Some of the organs of the state in South Africa, particularly those involved in infrastructure delivery, integrate preferential procurement into their procurement of goods, services and works, through an innovative tool commonly known as targeted procurement (TP).

TP has been developed since 1995 by the South African Procurement Task Team, adopted and piloted by the national Department of Public Works (DPW) as from 1996, and has since then been adjusted by various organs of the state to suit their environment. Formulating a practical definition of TP is not an easy task as it has been given several interpretations by various promoters beyond those of its originators. To this end, the TP process was developed and differently applied across the three spheres of government over a period since its inception without a common legislative framework.

The Implementation Manual on the Use of Targeted Procurement to Implement an Affirmative Procurement Policy (APP) defines TP as *“a system of procurement which provides employment and business opportunities for marginalized individuals and communities, enables procurement to be used as an instrument of social policy in a fair, equitable, competitive, transparent and cost-effective manner and permits social objectives to be quantified, measured, verified and audited”* (DPW, 2001). This manual identifies TP as simply a means by which socio-economic deliverables are realized when procurement is used as an instrument of social policy.

The recently drafted SABS 0396 (Code of Practice for Implementing Preferential Procurement Policies using Targeted Procurement Procedures) provides a definition of both TP procedures and preferential procurement policy (PPP). The draft code defines TP procedures as *“the process used to create a demand for the services and supplies from, or to secure the participation of, targeted enterprises and targeted labour in contracts in response to the objectives of a preferential procurement policy.”*

Preferential procurement policy is defined in the draft code as *“procurement policy that promotes objectives additional to those associated with the immediate objective of the procurement itself.”*

Broadly defined for the purpose of this study, TP is an instrument that is used to realize the objectives of preferential procurement by specifying resources, monitoring and auditing socio-economic objectives within a contractual environment set by the procurement regime in response to legislative requirements.

The concept of preferential procurement in South Africa stems from the Constitution of the Republic of South Africa (Act No. 108 of 1996). Section 217(1) of the Constitution states that when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective. Section 217(2) of the Constitution provides for preferencing policies in the allocation of contracts, while Section 217(3) requires that national legislation must prescribe a framework within which procurement policy must be implemented. This is the fundamental premise that allows the development and the application of TP in the realization of PPP and establishes the constitutional basis for preferencing.

Since the inception of preferential procurement in the post-apartheid South Africa, the process of addressing socio-economic requirements through procurement has been inconsistent throughout the three tiers of government. A wide range of policies and tools were developed and applied across the government in realization of PPP, without a common framework, as called for in Section 217(3) of the Constitution. TP is one of the instruments used by several organs of the state, especially those involved in infrastructure delivery, to effect the PPP aimed at addressing the unevenness in employment and business opportunities created by apartheid. While certain organs took the lead from the DPW, others developed their own instruments. The result has been non-uniformity across organs of the state responsible for infrastructure.

The process of establishing uniformity, as required by Section 217(2) of the Constitution, has recently been established in terms of Section 217(3) of the Constitution through the Preferential Procurement Policy Framework Act (Act No. 5 of 2000) (PPPFA), with the regulations issued in August 2001. While this study assesses TP across the three tiers of government, it takes into consideration the fact that TP was developed prior to the promulgation of the PPPFA, as an instrument to address and translate the challenges of social, racial and economic equality into a workable instrument that delivers, among others, infrastructure services at the point of demand within the confinements of time, cost and defined quality.

The DPW provides a wider experience on the application of TP, as the Department was responsible for piloting TP on behalf of the South African Cabinet. Since the adoption of TP as a best practice by the Interministerial Task Team on Construction Industry Development, the instrument has been widely used in the procurement of infrastructure and related services by various organs of the state. Since August 1996 (before the necessary preferential procurement legislation had been drafted and enacted), the DPW implemented TP on all its construction contracts with an annual capital budget of approximately R1,7 billion. The size of this capital budget makes the DPW one of the largest contributors in the construction industry. In addition, the DPW has a mandatory duty to develop the construction industry through various policies, including the assimilation of TP. The contribution of the DPW towards the assimilation of TP as best practice includes the hosting of a website (www.pwdprocure.co.za) where among others, an implementation manual, a learning guide, standard TP resource specifications (TP1–6) and other useful materials that are readily accessible to contractors,

professional service providers and researchers are kept. Other support mechanisms provided by the Department include developing the monitoring instrument, hosting and participating in procurement seminars across the country and, most importantly, developing accreditation courses and initiating the roll-out programmes.

Despite the above-mentioned initiatives and the potential benefits realized through the application of TP to effect preferential procurement within the South African society, especially the construction industry, the use of the instrument also entails proportionately similar challenges. In notable instances, the use of procurement as an instrument of social policy in various countries has not been without reservations. For example, the European Commission (EC) estimated that regional preference schemes in the United Kingdom applied to only 0,02% of government procurement and that there was no evidence that it made significant contribution to attaining its objectives (Gounden, 2000). In addition, there has been limited research or data assembled regarding most programmes to demonstrate the effectiveness of the use of procurement as an instrument of social policy. Similarly questions have been raised about the legitimacy and effectiveness of using TP as a policy instrument to effect preferential procurement in the South Africa, especially in the construction industry.

1.2 Targeted procurement and the RDP

The emergence of TP as an instrument to effect social and economic policy through procurement in South Africa dates back to the Reconstruction and Development Programme (RDP) of the African National Congress (ANC, 1994), later adopted by the first democratic government in 1994 in the form of a White Paper on Reconstruction and Development Programme (RSA, 1994). The RDP is a comprehensive socio-economic policy instrument aimed at eradicating the legacy of apartheid, which had left the country with an economy that was inwardly focused and distorted by inequities, inefficiencies and underdeveloped resources and markets. The four integral strategies of RDP for providing the desired process of transformation are as follows (Hodgson, 1997):

- Meeting basic needs
- Developing the country's human resources
- Building the economy
- Democratizing the economy by providing the framework for the desired process

Besides using procurement to meet the RDP goals, other policy instruments that are not directly related to procurement have also been developed to redress the effects of apartheid and the legacy of inequality. These include the following, among others:

- The South African Qualifications Act to deal with past unfair discrimination in education, training and employment
- The Employment Equity Act to redress past employment practices
- The Small Business Act to promote small business development
- The National Empowerment Act to promote and facilitate income-generating assets and opportunities

The RDP objectives influenced the South African procurement reform process, which was aimed at achieving good governance and socio-economic objectives. The process comprises numerous policies and legislation enacted to guide it and realize the goals set out in the RDP. The chronological development of key policies and legislation that have influenced TP is described in Chapter 2 of this report.

Thus, from the early stages of the development of TP there was a clear link with the objectives of the RDP. TP was designed as a policy instrument to provide employment and business opportunities for marginalized, disadvantaged individuals and communities, commonly referred to as “target groups”. The DPW started to develop and use the instrument to realize the departmental Affirmative Procurement Policy (APP), the equivalent of the PPP policy as called for in the PPPFA. TP later expanded to other organs of state. The thrust of developing TP was to enable social objectives to be linked to procurement in a fair, transparent, equitable, competitive and cost-effective manner, as required by the Constitution of the country (Watermeyer, 2000). The TP resource specifications were developed alongside mechanisms for social goals or “deliverables” to be included in the existing tender enquiry documents and contracts without a major reform in the procurement processes. These resource specifications allow contractors the freedom to decide how the social goals will be attained economically without specifying the resources.

The time lag in the process of developing a preferential procurement framework across the government resulted in some organs realizing their PPP objectives differently, where some were more successful than others. Nevertheless, the overarching principle is clear: in all its implementation manifestations TP is making a significant contribution towards attaining the RDP objectives. However, the extent and the efficiency of the application of various forms of TP across the government are yet largely unknown. This would also be influenced by the fact that TP was designed to realize the demand side through preferential procurement, and it was supposed to be accompanied by various forms of supply-side interventions aimed at developing and supporting the target groups.

A key factor of any form of procurement is the promotion of competition and the provision of a range of contractual opportunities that realize value for money. An assessment of how successful TP has proved in attaining its objectives would therefore have to concentrate on procurement dynamics and the interaction between the public and private sectors.

1.3 Terms of reference

For more than five years the DPW and the International Labour Organization (ILO) have been collaborating intensively on special public works and emerging contractor development programmes. The shared objective of these initiatives is best summarized as contributing towards local commercial growth, employment generation and poverty reduction. The development of local contractors and the promotion of cost-efficient employment-friendly technologies are to be seen within a broader package of instruments for developing a healthy and sustainable construction industry in South Africa. It is within this context that the DPW and the ILO acknowledged TP as a

potential market-driven tool that can help to pursue commonly shared goals.

The Development Bank of South Africa Limited (DBSA) is a key partner in financing and managing infrastructure investment programmes in southern Africa. The Bank's mission is to contribute to development by providing finance and expertise to improve the quality of life of the people of southern Africa, mainly through the provision of infrastructure (DBSA, 2000). The DBSA has a particular interest in procurement issues, including the ways in which preferential procurement would have both social and economic implications in projects it finances. The Bank has also driven the integration of employment-intensive technology and the development of small-scale construction entities in its programmes. Among some of the programmes supported by the DBSA include the secretariat support given to South African Women in Construction (SAWiC) and the Construction Employment Development Forum (CEDF). The ongoing dialogue and collaborations among the DBSA, the DPW and the ILO have resulted in a combination of forces to examine how the TP process has worked and how it can be improved.

The three parties agreed on terms of reference for an independent assessment of TP (TPA) to document the history, policy intent, outputs, impacts and lessons learnt and to assess its effectiveness. The DBSA and the ILO agreed to co-fund the TPA, with the DBSA being the principal funding party. The DPW assisted with the fieldwork coordination and contributed funds for logistical arrangements. The organizations agreed to the ILO being the executing agency to coordinate activities. The arrangement of the three parties was coordinated through a Steering Committee formed in October 2001. The Steering Committee provided the overall guidance to the TPA while the ILO supervised the execution of the TPA.

The Steering Committee appointed a team of consultants comprising an international expert and a senior national consultant to carry out the TPA. Each of the consultants was responsible for a specified number of tasks, broadly divided up into documenting the TP process and history, assessing examples of TP application (with a prime focus on the DPW) assessing the impact and effectiveness of TP and considering its wider application. The terms of reference included a provision to engage a research assistant to collect and compile a database on TP implementation modalities and impacts.

1.4 Implementation process and methodology

In December 2001, the senior national consultant carried out a pre-assessment of TP in order to prepare the groundwork for the TPA (Manchidi, 2001). The primary goals of the pre-assessment were to carry out a preliminary review of the adequacy of existing data and the possibilities of accessing other sources in order to define research variables and develop a methodology that would meet the requirements of the terms of reference. The TPA methodology was based on the information gained during the pre-assessment and in consultation with the Steering Committee.

The chosen methodology for the assessment drew heavily on the findings of the pre-assessment report. At the outset, a number of constraints were identified that would have a bearing on how the TPA would evolve. These were largely corroborated and are as follows:

- Limited reliable and consistent data (often unsubstantiated)
- Different data capture mechanisms, making it difficult to compare like with like
- Late introduction of the statutory instruments for assessing socio-economic objectives
- Lack of policy evaluation tools to assess how TP is applied
- Limited information on related supply-side interventions immediately relevant to TP

The TPA was carried out within these constraints, which had a defining influence on the choice of assessment methodology. At the commencement of the fieldwork, the pre-assessment methodology was reconsidered and discussed with key stakeholders. Various research and data-gathering scenarios were also examined. This consultation process was mainly to confirm the approach set out in the pre-assessment, but also to secure a degree of “buy in” from those with experience of TP. Methodology options that were considered include the following:

- Concentrate on a few specific TP projects (say two) and track them in detail from conception to completion.
- Target DPW projects (as pioneers in the field) exclusively and see how they design, plan and implement TP.
- Focus on the extensive amount of TP literature, supported with detailed interviews and one or two representative case studies.
- Select and concentrate on a number of key issues (contracts, emerging contractors, training, etc.) and extrapolate an overall view of TP.
- Prepare and convene a workshop with clear goals and let the construction industry and stakeholders participate in an inclusive “assessment” of TP.
- Select a number of representative projects implemented with TP at various levels of government, supported by interviews with key stakeholders and a snapshot survey of participating contractors.

Each of the options described above have their advantages and disadvantages – some combination of them all would have been ideal. By concentrating on a few specific projects the whole TP process could have been assessed in detail, but the consultant considered that, given the range of issues that are involved and would come up in the analysis, such an approach would be at the expense of breadth and depth across the wide experiences of the three tiers of government. Equally, by focusing more specifically on the implementation and roll-out of TP at the DPW, more information on the problems the Department has experienced in implementing TP could be identified. However, this option was not favoured because a study in this regard had already been conducted (cf. Gounden, 2000). The combination of a literature review and an analysis of specific key issues was considered too limiting, as would the workshop option. On balance, the last option with its use of wide-ranging case studies supported by interviews and contractor surveys was considered wide enough to satisfy the terms of reference within the given time-frame for conducting the TPA and the confinement identified in the pre-assessment.

The chosen TPA methodology comprised the following activities:

- Preparatory work, including meetings, a literature review, methodology development, process validation and report formatting
- Field case studies in selected provinces and for representative tiers of government
- Interviews with key stakeholders and construction industry representatives
- Emerging contractor survey
- Analysis and verification of case study findings and data synthesization
- Assessment of TP impacts and effectiveness
- Preparation of recommendations and conclusions
- Reporting

The consultants realized that the planned methodology had some limitations:

- Firstly, in certain cases, the available or collected information would not be detailed or specific enough to allow for comparisons between the tiers of governments.
- Secondly, no documented information was always accessible to the consultants; as a result, they relied on the respondents' interpretation of the probed topics and considered this as collected evidence of how TP was implemented.
- Thirdly, the chosen approach would only allow for a detailed evaluation of typical TP contract documentation in cases where sufficient collected data were available.
- Fourthly, the host organs of the state mostly chose projects reviewed for case studies. These case studies covered various types of projects across the three tiers of government but could not be said to be fully representative of the practices.
- Fifthly, the option of dropping cases, which the consultants found to be unsuitable, was not available owing to time constraints.
- Finally, the methodology drew on the experiences of the officers of the organs of the state from the participating jurisdictions, as well as input from some service providers and target groups. An effort was made to place the case studies in the broader context by conducting interviews with the other stakeholders as reported.

The conclusions of this TPA are also applicable in the context of the environment at the time and show how other factors may have affected the implementation process. Where necessary, such limitations are indicated in the text.

A work plan was prepared at the commencement of the TPA, as shown in Appendix F. The work was broadly divided up into mobilization and preparation (Phases I and II – two weeks), field case studies and analysis (Phases III and IV – one-and-a-half weeks), impacts and effectiveness (Phases V and VI – one week), conclusions and recommendations (Phase VII – one week) and reporting (Phase VIII – one week). The time allocated for the TPA was five weeks and many of the work plan activities were run in parallel. The work of the research assistant was carried out in the fifth week.

In presenting data in this report, maximum use has been made of tables and the collected information that is provided in the appendices. The former are used to

summarise the findings at each stage of the TPAs and highlight important facts. Where applicable, reference is made to the appendices to support arguments and emphasize a particular point. The factual findings from the individual case studies have been documented in a standard form and analyzed using a prescriptive performance model. The outcome of the process has been synthesized in a generic TP performance model. A list of the TPA key meetings and points of contact is attached as Appendix D.

1.5 Report structure

The structure of this report is based on the methodology described above and was prepared at an early stage of the TPA. It was circulated to the Steering Committee and refined after their comments.

Chapter 1 sets down the background and theoretical basis of the TPA. It defines TP in the context of preferential procurement policies and the basis on which the assessment was commissioned, including the consultation process and deliverables.

Chapter 2 gives an overview of the legislative and political environment for preferential procurement and relates the basis of the use of procurement as an instrument of socio-economic policy, the goals of which originate from the RDP. The economic contribution of the construction industry is analyzed in the context of how public sector procurement can help influence and achieve social policy objectives. The section further analyzes the possible schemes for implementing preferential procurement and examines them within the South African constitutional requirements.

Chapter 3 gives an overview of targeted procurement. It outlines six TP specifications and indicates how they are incorporated into a traditional contract document. Most importantly, this section explains how socio-economic objectives are managed in the execution of the contract.

Chapter 4 extends the evolution of TP within the DPW. It extends into the experiences of other public sector entities across the three tiers of government, and examines how TP is being implemented in the delivery of public sector infrastructure projects.

Five case studies in different provinces that represent the widest possible implementation of some form of TP on the ground are presented in Chapter 5 of this report and Appendix G. The design of the case study methodology was based on the pre-assessment undertaken before the TPA, and involved field visits, site inspections and interviews. In preparation, data were collected prior to the site visits and cross-checked with filed data. A rapid ABE survey was conducted to learn the views of affirmable business enterprises working on TP-based contracts. Finally, all the available statistical data on TP were collected together and analyzed as reported in this section.

Chapter 6 analyzes the information collected through interviews and case studies based on a prescribed set of criteria. The criteria deal with contractual relationships, project delivery, employment generation, capacity building and training requirements.

Chapter 7 examines the impacts of TP and its effectiveness in delivering various preferential procurement policies and meeting the objectives of the RDP. The examination was carried out using a set of defined criteria where information gained from the interviews and case studies was modelled to see how target groups have been affected. The ethical and technical dimensions, together with the risk sharing between the stakeholders, are examined in this section of the report.

Chapter 8, the last section of this report, draws together all the data and facts (both quantified and unquantified) acquired in the course of the TPA to produce a set of conclusions and recommendations. These recommendations and conclusions cover project preparation and planning, the contracting environment, the role of stakeholders, the social dimension, training, risk management, monitoring and evaluation, including the international dimension. They are mostly a function of a collection of more than one TP impact or consequence.

An executive summary precedes the report and is an account of the main findings of the TPA. It commences with a brief introduction and a summary of the report methodology. The TPA recommendations and conclusions have been graded and presented in a summarized order of perceived magnitude.

CHAPTER 2:

LEGISLATIVE AND POLITICAL CONTEXTS FOR PREFERENTIAL PROCUREMENT

2.1 Procurement as an instrument of policy

2.1.1 History and diversity

The development of contractors from the disadvantaged communities in South Africa commenced in the mid-1980s. Most of these programmes were run in the former homelands and initially focused on housing projects. Some of the identifiable programmes included the Soweto Contractor Development Programme launched in 1987 and the DBSA's Contractor Development Programme launched in 1990.

In 1994, following the first democratic election in South Africa, the government adopted the RDP (the policy programme of the ANC) as a comprehensive socio-economic policy instrument aimed at eradicating the legacy of apartheid. The country had been left with an economy that was inwardly focused and distorted by inequities, inefficiencies and underdeveloped resources and markets. The RDP's four integral strategies were designed to meet basic needs, develop the country's human resources, build and democratize the economy, and provide the framework for the desired process of transformation.

The RDP recognizes the role of small enterprises in the construction industry by insisting that the development of small enterprises should form an integral part of the national economy and economic policy. It identifies four basic constraints to growth in the small business sector: lack of access to markets, lack of access to credit, a skills gap, and inadequate supportive institutional arrangements. Businesses that are owned, managed and controlled by previously disadvantaged individuals (PDIs) face, in addition to the foregoing, impediments to their growth and development arising from factors such as lack of intergenerational transfer of wealth, continuing discrimination along racial lines, substandard educational backgrounds and limited exposure to commercial activities. (PDIs are persons who fall into population groups that were socially and economically disadvantaged by the system of apartheid.)

It is in this context that the government and the construction industry stakeholders recognized that in order to accomplish the RDP goals, a set of effective policy instruments would have to be developed and implemented. The White Paper on Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry (RSA, 1999b) sets out the government's policy for the construction industry in this regard:

The Affirmative Procurement Policy, introduced and tested by the DPW, will be systematically rolled out within the public sector.

The government will establish an Emerging Contractor Development Programme (ECDP) to ensure the development of emerging contractors and to advance their interests within the industry framework.

South Africa's public sector procurement reform has focused on small businesses in the construction industry to redress skewed patterns of business ownership arising from the previous political dispensation and to bring about reductions in levels of poverty by:

Providing access to markets for small businesses and increasing the market share of those businesses that are owned, managed or controlled by PDIs through preferential procurement

Addressing the impediments to effective and profitable participation of such businesses in government procurement through supply-side interventions, such as emerging contractor development programmes

Along with many others that have contributed to this debate, the ILO (cf. ILO, 1987) and Krafchik (1991) have enumerated several potential initiatives for small-scale construction enterprises in developing countries, which can play a key role in achieving local development and employment goals. Among others, they include the promotion of employment-compatible technologies, the establishment of small contractor training programmes and the transfer of selected infrastructure service delivery from the public to the private sector. In 2001, the ILO, together with the Limpopo provincial government and the British Department for International Development (DFID), established a new programme called *Gundulashu*, for the training and development of small emerging contractors to perform road and maintenance works using labour-friendly construction methods.

The Green Paper on Public Sector Procurement Reform in South Africa (RSA, 1997a) similarly acknowledges that such potential was hindered by the past tendering system, which favoured large, established companies.

Given the approach of the White Paper, concurrent to the creation of opportunities through procurement, emerging contractor development programmes were designed to bridge the supply-side gap. These programmes are aimed at creating, among others, access to resources and facilitating accelerated growth of small contractors. In addition, the development of TP and small contractor support programmes fit into a broader portfolio of the small business development framework that precedes the procurement reform measures. It is also a further step in exploring how the necessary transformation of the construction industry can best be pursued and supported, as discussed later in this report.

A variety of programmes have since been developed to address the business requirements of small businesses. Ntsika Enterprise Promotion Agency and Khula Enterprise Finance Limited were established under the Small Business Act to promote and support services of small, medium and micro-enterprises (SMMEs) and to enhance the availability of loans and capital respectively. The government departments involved in infrastructure delivery have also initiated specific programmes for emerging contractors, for example:

Department of Public Works – Sakhasonke Programme
 National Roads Agency – Involvement of SMEs in Lebombo
 KwaZulu-Natal Department of Transport – Community Access Road Programme
 Gauteng Department of Transport and Public Works – Khubakhi Programme
 Former Khayalami Metropolitan Council – Hiaka Muti Programme
 Greater Pretoria Metropolitan Council – Contractor Development Programme

The success of these programmes is not covered in this report as it falls outside the scope of this research; however, well-planned and well-managed implementation can improve such programmes' chances of success.

2.1.2 The impact of public sector procurement on the South African economy

Public sector procurement in both developing and developed countries has been used as an integral part of socio-economic reform owing to its size, significance and impact on the economy. Its full contribution to the economy is difficult to estimate, because in most countries public sector procurement is decentralized across the different spheres of government and among the various departments, utilities and public enterprises.

Arrowsmith (reported by Watermeyer et al., 1998) states that public sector procurement by public bodies and nationalized industries in the United Kingdom was found to account for approximately 22% of the gross domestic product (GDP) in 1984. The national, provincial and local governments in South Africa spent about R56 billion through procurement in the 1995/96 financial year (at 1997 prices). This procurement was estimated to cover goods and services to the value of R44 billion and capital assets costing about R12 billion. Public sector procurement accounted for approximately 13% of the GDP and some 30% of all government expenditure (RSA, 1997a). The Ministry of Public Enterprises (2000) estimates that the overall state-owned enterprises (SOEs) procure goods and services to the value of approximately R40–60 billion per year.

2.1.3 Public sector spending on construction-related services

A significant proportion of public spending is on capital assets, including public infrastructure. A World Bank study reports that infrastructure accounts for more than 40–60% of public investments in developing countries (Ferreira & Khatami, 1994). The World Development Report of 1994 states that developing countries invest US\$200 billion a year in new infrastructure, which amounts to 4% of their national output and a fifth of their national investments (World Bank, 1994). However, while expenditure on public infrastructure in South Africa is below the trends displayed by other developing countries, it is worth noting the following (Manchidi & Merrifield, 2000: 409–422):

Investment in construction-related goods by the public and private sectors has averaged just under 3% of national output for most of the 1990s, with a significant contribution by the organs of the state.

Total gross domestic fixed investment (GDFI) in construction (excluding transport, machinery and equipment) was approximately R41 billion, with the public sector proportion of GDFI being about 43% in 1998.

Public sector contribution to construction-related GDFI amounted to R17,6 billion in 1998

SOEs' contribution to construction-related GDFI amounted to at least R20 billion in 1999.

The construction industry has long been identified as occupying an important place in a country's economy by providing an appreciable share of the GDP and generating a high proportion of the gross fixed capital formation. In most countries, the construction industry accounts for 7–15% of the GDP, and its importance as a source of employment and a provider of capital goods to the economy is clear. However, in South Africa, the construction industry is currently not a major economic force and has been in consistent decline since 1980, with its real value contribution in 1998 being R7,6 billion or 2,7% of the overall gross national product (GNP).

The public sector in South Africa has a great deal of influence on the behaviour and performance of the construction industry and can be used to bring about positive change in the economy. It is a significant source of employment – a recent study estimates that it employs some 300 000 persons, the great majority of them being historically disadvantaged individuals (HDIs) performing largely unskilled tasks (Standish, 2001). In spite of its eroding work base, the construction sector is regarded as one of the most efficient sectors in the economy and employs 15–20 people for every R1 million spent, depending on whether it is for building or civil construction works. This presents opportunities for the use of procurement in the construction sector as an instrument for socio-economic policy, especially in employment creation, poverty alleviation and small business development.

The RDP expressly recognizes the important role of the construction industry and the integral part it plays in the national economy and its potential for developing small enterprises. It is in this context that public sector procurement reform focused on the construction industry as a vehicle for achieving specific socio-economic objectives, such as the promotion of targeted small and medium businesses, enhanced job creation opportunities, skills development and technology transfer.

2.1.4 Models for the use of procurement as an instrument for social policy

The objective of the South African government in using public sector procurement as an instrument for social policy is reflected in the reform of public sector procurement, which has the following two primary objectives:

To utilize public sector procurement as a vehicle for achieving specific socio-economic objectives (i.e. the promotion of targeted small and medium businesses; enhancing job creation opportunities; skills and technology transfer)

To promote good governance within the sphere of public sector procurement

A variety of schemes were possible for using public sector procurement to promote social policies. The draft SABS 0396 (Code of Practice for Implementing Preferential Procurement Policies using Targeted Procurement Procedures) identifies some of the methods, including those listed in Table 2.1.

Table 2.1: Common methods used to implement preferential procurement policies

Method of policy implementation		Remarks
No.	Description	
#1	Product/service specification	Contracting authorities can often give effect to social and economic policies through appropriate specification of the product or service that is to be procured, e.g. to promote employment by specifying construction methods that involve intensive use of labour rather than construction plants.
#2	Set-asides	Contracting authorities can attain policy objectives by setting aside a certain proportion of their procurement requirements and allow only defined enterprises or individuals to compete for the work so reserved.
#3	Qualification criteria	Contracting authorities can attain policy objectives by excluding firms that cannot meet a specified requirement, or norm relating to the policy objective, from participation in contracts. Firms are typically excluded from participation through an inability to attain a legal requirement (e.g. not to discriminate on the basis of gender, race or disability), or to attain a norm enforced in the public sector (e.g. a requirement to implement an affirmative action programme), or to respond to contractual conditions regarding the composition of the tendering entity. In some instances, firms are excluded as a sanction for their failure to comply with policy in the past or to enjoy good standing in respect of their taxes.
#4	Preferences at the shortlisting stage	A contracting authority may decide to limit the number of qualified suppliers or service providers who may participate in contract award procedures to reduce costs relating to procurement and to avoid wasted expenditure by suppliers or service providers. Criteria relating to policy objectives may be taken into account in deciding which of the qualified suppliers should be invited to tender.
#5	Award criteria (tender adjudication criteria)	Contracting authorities give a weighting to policy objectives along with the usual commercial criteria, such as price and quality, at the award stage, i.e. a preference in the form of tender adjudication points is provided.
#6	Offering back	Contracting authorities may achieve their policy objectives by giving targeted enterprises a second chance to make their tenders successful, e.g. the most competitive "preferred" contractor can be given an opportunity to undertake part of the contract if that contractor is prepared to match the price and quality of the best tender received.

#7	Contractual conditions	Contracting authorities may achieve their policy objectives by making such objectives a contractual condition. Conditions, typically, may concern the subject matter of the contract, or the way in which it is delivered, or may relate to the contractor's business as a whole.
#8	Design of specifications, contract conditions and procurement processes for the benefit of particular suppliers	Contracting authorities can design specifications and/or set contract terms to facilitate participation by targeted groups of suppliers. For example, work can be packaged into a number of separate, small contracts rather than one large contract to make it more likely that the work will be attractive to small firms and, possibly, less likely that it will be attractive to larger competitors. They may also conduct the procurement process itself in a way that assists participation by the targeted groups, e.g. by simplifying procedures and setting longer deadlines to enable small firms to participate more easily.
#9	General assistance	Contracting authorities can provide support for targeted groups to compete for business, without giving these parties any favourable treatment in the actual procurement. This may be done, for example, by providing these groups with information on tender opportunities; by actively seeking them out to encourage them to register on lists from which suppliers are chosen; or by providing training on procurement rules and systems.

Source: SABS 0396 (draft).

While these schemes were possible candidates for addressing the socio-economic requirements through procurement in South Africa, the Constitution only limits the choice of implementing preferencing to adherence to the tender adjudication criteria. This is fair, equitable, transparent, competitive and cost-effective (if effectively used) and, as such, excludes all other forms of preferencing such as set-asides. TP is one of the ways in which PPPs can be implemented within such constitutional requirements.

The pioneers of the procurement reform process faced the challenge of creating a cost-effective system of encouraging and promoting the government's socio-economic objectives through procurement in a definable, quantifiable, measurable, verifiable and auditable manner. The preferencing has to be fair, equitable, competitive and transparent without doing the following (Watermeyer et al., 1998):

- Taxing the administrative capacity of the organs of the state
- Creating unfair competition within sectors of the economy
- Abusing or lowering labour standards
- Exposing organs of state to unacceptable risks
- Compromising value for money
- Compromising efficiency and effectiveness of the sectors

Those responsible for framing the PPP were presumably aware of the need to design an implementation framework that met the economic and social objectives of the RDP. The framing took into consideration a need to address the aspects of the enabling

environment as identified in the Green Paper on Public Sector Procurement Reform, including:

- Obtaining the endorsement and support from policy-makers, senior administrators and those responsible for procurement
- Obtaining commitment from the highest level of government
- Developing comprehensive and ambiguous supporting documentation
- Establishing an effective monitoring and reporting system
- Establishing bona fides of targeted groups
- Ensuring business development of targeted groups
- Ensuring the competency of public sector officials implementing the policies

2.2 Legislative provisions for preferential procurement policies and their implementation

2.2.1 Constitutional requirements

Procurement is a subject of the Constitution of the RSA (Act No. 108 of 1996). Section 217(1) of the Act specifies the broad procurement precepts, while Section 217(2) provides for preferencing policies in the allocation of contracts. Section 217(3) requires that national legislation must prescribe a framework within which procurement policy must be implemented. The principles directing procurement in South Africa are therefore captured in Section 217 of the Constitution as follows:

- 217(1) When an organ of the state in the national, provincial or local government, or any institution identified in national legislation, contracts for goods or services it must do so in accordance with a system which is fair, equitable transparent, competitive and cost-effective;*
- 217(2) Subsection (1) does not prevent the organs of the state or institutions referred to in the subsection from implementing a procurement policy providing for categories of preference in the allocation of contracts or the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination, and;*
- 217(3) National legislation must prescribe a framework within which the policy referred to in Subsection (1) may be implemented.*

2.2.2 Development of procurement legislation

Owing to the longevity of the public sector transformation and procurement reform processes aimed at realizing the constitutional procurement requirements, different organs of the state still apply different policies to achieve the constitutional objectives. The process leading to uniformity in procurement, including preferential procurement, is still ongoing. Currently, the procurement of goods and services is influenced by the

various items of legislation (which are not necessarily uniform and still developing), as shown in Table 2.2.

Table 2.2: Chronological development of key policies and legislation

Date	Policy or legislation	Impact on preferential procurement
1968	State Tender Board Act of 1968, (Act No. 86 of 1968, as amended)	The Act formulates a procurement regime that allows a fair procurement process at the national level through the establishment of the State Tender Board with certain procurement powers.
1994	Provincial Tender Board Acts, e.g. Gauteng Provincial Tender Board (Act No. 2 of 1994)	The interim and current Constitution established nine provinces. The Act formulates a procurement regime that allows a fair process in the provinces and is formulated in line with the State Tender Board Act of 1994 (Act No. 86 of 1968, as amended).
Nov. 1995	Public Sector Procurement Reform in South Africa, Interim Strategies (a 10-Point Plan)	Interim strategy aimed at increasing the participation of previously disadvantaged enterprises. It is only applicable for use within the state procurement legislation, i.e. applicable within the ambit of the State Tender Board Act (Act No. 86 of 1968, as amended), and as a guiding framework for the provinces (i.e. not enforceable).
Feb. 1996	Constitution of the Republic of South Africa (Act No. 108 of 1996)	The Constitution requires that national legislation must prescribe a preferential policy framework. The Interim Constitution of RSA (Act No. 200 of 1993) did not cater for preferencing. The final Constitution was therefore influenced by the 10-Point Plan.
Feb. 1999	Public Finance Management Act (Act No. 1 of 1999, as amended by Act No. 29 of 1999)	The Act promotes good financial management at national and provincial levels. It requires accounting officers to have a procurement system that is fair, equitable, transparent, competitive and cost-effective. It also authorizes the National Treasury to issue procurement regulations, which are currently still outstanding.
Feb. 2000	Preferential Procurement Framework Act (Act No. 5 of 2000)	The Act is intended to give effect to Section 217(2) of the Constitution to provide a framework for preferencing. Regulations to this effect were issued in August 2001.

The current Constitution (Act No. 108 of 1996) permits the National Treasury to prescribe measures to ensure, inter alia, expenditure control in each sphere of government. Hence the formulation of the Public Finance Management Act (Act No. 1 of 1999, as amended by Act No. 29 of 1999) (PFMA) for use at both national and provincial levels of government, as well as the Municipal Finance Management Act. The latter is currently at Bill stage for local government.

Provincial tender boards have been playing a key role in administering procurement

policy within their area of jurisdiction, which has in some ways contributed to the lack of uniform specifications. For example, the provincial tender boards that exercised preferential policies did so through the ambit of the tender Acts (which were mostly based on the interim Constitution).

The tender board Acts are currently being repealed to give effect to the PFMA. National Treasury is preparing draft regulations for procurement that will be issued in terms of this Act. The organs of the state will be entrusted with the awarding of contracts after the abolition of the tender boards.

The PPPFA was passed in February 2000 to give effect to Section 217(2) of the Constitution and requires organs of state to determine their preferential procurement policy and to implement it within a framework. Regulations to the PPPFA were issued on 10 August 2001 to establish norms and standards for the application of the framework provided for in the Act. The enactment of procurement legislation is given in chronological order in Table 2.2.

2.2.3 Target groups

Section 2(1)(d) of the PPPFA sets the basis for determining the goals and identifying target groups as follows:

- (1) *An organ of state must determine its preferential procurement policy and implement it within the following framework:*
- (d) *Specific goals may include:*
 - (i) *Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;*
 - (ii) *Implementing the programme of the Reconstruction and Development Programme as published in Government Gazette No. 16085, dated 23 November 1994.*

With respect to the RDP, the White Paper on Reconstruction and Development states:

The government's central goal for reconstruction and development is to meet the social and economic needs of the people and to create a strong, dynamic and balanced economy which will:

- 1. Create jobs that are sustainable, and increase the ability of the economy to absorb new job seekers in both the formal and less formal sectors*
- 2. Alleviate the poverty, low wages and extreme inequalities in wages and wealth generated by the apartheid system to meet basic needs, and thus ensure that every South African has a decent living standard and economic security*
- 3. Address economic imbalances and structural problems in industry, trade,*

commerce, mining, agriculture and in the finance and labour markets

4. *Integrate into the world economy utilizing the growing home base in a manner that sustains a viable and efficient domestic manufacturing capacity, and increases the country's potential to export manufactured products*
5. *Address uneven development within the regions of South Africa and between the countries of southern Africa*
6. *Ensure that no one suffers discrimination in hiring, promoting or training on the basis of race or gender*
7. *Develop the human resource capacity of all South Africans so the economy achieves high skills and wages*

The PPPFA therefore sets the target group as those disadvantaged by unfair discrimination (on the basis of race, gender and disability) and provides a range of specific goals that may be pursued, as set out in the RDP.

2.2.4 Incorporating preferencing into the tendering process

The PPPFA was formulated in accordance with the proposals set out in the Green Paper on Public Sector Procurement Reform, which requires that the preferencing provided for in the Constitution should be implemented solely by means of a process that is fair, equitable, transparent and cost-effective. As indicated in Section 2.1.4, tender adjudication criteria are the only way in which to meet the constitutional requirements and, as such, this excludes all other forms of preferencing, such as set-asides. As mentioned, owing to the longevity of the public sector transformation and procurement reform processes, different organs of the state still apply different policies to achieve the same objectives. The process leading to uniformity in preferential procurement legislation includes the PPPFA and the related regulations.

The constitutional requirement and the PPPFA limit the preferencing procurement options to the use of direct preferences and direct participation. Direct preferences occur through granting tender adjudication points to businesses that satisfy certain criteria (e.g. PDI equity), while direct participation in contracts occurs through the engagement of targeted groups in the performance of the contract as joint venture partners, suppliers, service providers, subcontractors or labour. The process of tender adjudication is explained in Section 3.4 of this report.

Regulation 8 of the PPPFA states that an organ of state must stipulate in the tender documents the preference point system that will be applied in the adjudication of tenders. It further states in Section 8 that tenders must be evaluated on the basis of functionality and price as shown below:

- 8(1) *An organ of state must in the tender documents indicate if in respect of a particular tender invitation tenders will be evaluated on functionality and price;*
- (2) *The total combined points allowed for functionality and price may in respect*

of tenders with an estimated rand value equal to or below R500 000 not exceed 80 points; and,

- (3) *The total combined points allowed for functionality and price may in respect of tenders with an estimated rand value above R500 000 not exceed 90 points.*

Regulation 8 requires a point allocation system to be determined for both functionality and price in addition to the points allocated for preferencing. Accordingly, in the invitation to tender documents, the organ of state must select specific goals and set quantitative targets for the selected goals to the value of either 20 or 10 points, depending on Subsections 8(2) or (3) of the regulations. In addition, it must indicate how the 80 or 90 points (depending on the value of the contract) will be split between functionality and price.

The PPPFA in effect redefines value for money in terms of a balance between commercial factors (price and functionality) to the value of 80 or 90 points and the remainder to social development objectives. The social objectives may be incorporated into the contract using various methods, including the TP resource specifications (TP1–6).

2.2.5 Monitoring and evaluation of PPP

As described earlier in this report, the PPPFA is legislation that prescribes a framework for implementing preferential procurement. It sets out the basic procedural requirements for implementing preferential procurement policy, establishes a basis for determining those disadvantaged by unfair discrimination (based on race, gender and disability) and provides a range of specific goals that may be pursued as described in the RDP. Organs of the state must therefore determine their preferential procurement policy and implement it within the framework stated in Section 2(1) of the PPPFA. Sections 2(1)(d) and 2(2) of the PPPFA require that:

- *Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a tender; and,*
- *Any goals contemplated in Subsection 1(e) must be measurable, quantifiable and monitored for compliance.*

Regulations to the PPPFA were issued on 10 August 2001 to establish norms and standards for the application of the framework provided for in the Act. Since the introduction of the regulations several organs of the state have not yet put in place mechanisms for addressing the monitoring and evaluation requirements of the PPPFA. Even the National Treasury, which is guardian of the PPPFA and PFMA, does not have a comprehensive instrument for monitoring and evaluating performance. The current instrument used by the State Tender Board only records the values of contracts it awards to HDIs and does not capture contracts awarded by departments, provinces, local government and other organs of the state as per delegations. This is shown in Table 2.3.

Table 2.3: Value of contracts awarded by the State Tender Board

Financial year	1998/99	1999 – Dec. 99	2000/01	2001/02
Total value (R)	10 084 215 650	5 732 333 617	7 099 656 340	7 398 445 000
HDI	4 237 188 488	768 540 328	2 210 004 600	1 8117 942 000

Source: Office of the State Tender Board (2002).

The commissioned report by AusAID (2000) found a lack of procedures at both national and provincial levels to enable an accurate assessment of how effective the PPPs are in reaching those for whom they were intended. It also stated that there are no methodologies in place to judge whether the policies need to be adjusted in any way in order to achieve the original objectives. As a result, the study was unable to determine whether the government's objectives in respect of SMMEs and HDIs are being achieved.

The absence of quantitative data on the outcomes of preferencing policies since the introduction of the 10-Point Plan (an interim strategies document) during 1996, is a cause for concern. The only comprehensive data set available to inform policy-makers is that of the DPW up to December 1998. Currently, the Department is in the process of reviving its data collection capability. The City of Durban used the Geographical Targeted Procurement Management System (GTPMS) between 1998 and 1999 and has since then abandoned it owing to transformation.

It appears that at all levels of government there are insufficient procedures in place to enable an accurate assessment of how effectively the PPPs are reaching those for whom they were intended. Neither are systematic methodologies in place to judge whether the policies need to be adjusted in any way to achieve the original objectives.

This complication is also brought up by the current transitional state where tender boards are responsible for awarding tenders and the line function organs of the state are responsible for contract management and compliance. Such fragmentation makes it difficult to determine the responsible authority for monitoring. Section 6 of the PFMA places responsibilities on the National Treasury in terms of monitoring and oversight of expenditure by government departments to see if they fall within the ambits of the PFMA and the PPPFA and their regulations.

2.2.6 Coherence of PPP procedures

This chapter looks at the origin of preferential procurement and other empowerment policies as they originated from the objectives of the RDP. The RDP was required to address the historical socio-economic patterns created by the apartheid era. The chapter further looks at a broader range of support programmes (responding to the RDP objectives), which were initiated at the supply side of the construction sector in conjunction to addressing the demand side through procurement. Various organs of the state have initiated special programmes (with or without support from international institutions) resulting in, for example, contractor development programmes. In addition, support institutions that provide facilitation services to the industry have also contributed to the transfer of technical skills and capacity building.

In view of political realities, e.g. the scale of the industry as an economic sector and the magnitude of the problems in South Africa, the focus shifts to the procurement regime because of its potential impact on the economy. The chapter explores preferential procurement within the context of what the Constitution allows. Different types of preferential procurement models are discussed against the requirements of the Constitution.

Within the reality of how procurement is currently administered in South Africa, the consultants observe that a lack of uniformity in how preferential procurement policies would be received and adopted is almost unavoidable owing to the time lag in policy development from the promulgation of the Constitution in 1996 to the issuance of the PPPFA regulations in August 2001. In other words, the procurement environment has carried the risk of fragmentation in regulations, as has been demonstrated over the past few years.

Related to this development is the apparent lack of incentives to establish adequate performance procedures by which achievements (in terms of goals being definable, quantifiable, measurable, verifiable and auditable, and preferencing being fair, equitable, competitive and transparent) can be monitored. Some efforts to put adequate systems in place were, however, made in certain organs of the state, with the DPW leading the process. The immediate impact of procurement legislation in terms of meeting the RDP goals is yet unknown.

CHAPTER 3:

DEVELOPMENT OF TARGETED PROCUREMENT

3.1 Development of interim procurement policy

The Procurement Task Team developed an interim strategy for procurement reform commonly known as the “10-Point Plan”, which was later developed into the current Green Paper on Public Sector Procurement Reform (RSA, 1997a). The 10-Point Plan provided a series of interim interventions applied within the current legislation to impact on the participation of SMMEs owned by disadvantaged people. It was adopted by the Cabinet for implementation in November 1995 and endorsed by the State Tender Board in August 1996 for application within the State Tender Board Act (Act No. 86 of 1968) while the reform process is under way.

The ten points used as an interim procurement strategy are as follows:

1. Access to tendering information
2. Tender advice centres (TACs)
3. Review of procurement procedures for contracts less than R7500
4. Waiver of security/sureties
5. Break-out procurement (packaging into smaller contracts)
6. Early payment cycles
7. Preferences/targeting
8. Simplification of tender submission requirements
9. Appointment of a procurement ombudsperson
10. Classification of building and engineering contracts

According to Gounden (2000), the interim procurement strategy was developed in consideration of the White Paper on a National Strategy for the Development and Promotion of Small Business in South Africa (1995), which had as its primary objective the creation of an enabling environment for small enterprises, especially with regard to access to finance and training, and development of entrepreneurial and managerial skills. This White Paper was responsible for the supply-side constraints facing SMMEs, while the procurement reform initiative was required to increase procurement opportunities for SMMEs, especially those owned by HDIs.

While the 10-Point Plan provided interim strategies for increasing the participation of the previously marginalized sector of the society, it could not be used within the conventional procurement systems and even the current procurement regime without the necessary specifications to accommodate the strategies, hence the need to develop TP procedures and resource specifications.

3.2 Development of TP resource specifications

Following the 10-Point Plan, the DPW was granted permission by the State Tender Board to pilot the implementation of the preferential procurement policy in all its construction works contracts in August 1996. The implementation of the APP was realized within the conventional procurement systems, which provide technical and management specifications, through the use of the TP system.

TP procedures were developed for use within a PPP to provide employment and business opportunities for marginalized and/or disadvantaged individuals and communities, referred to as the “target groups”, in a fair, transparent, equitable, competitive and cost-effective manner. It also permits the social objectives to be quantified, measured, verified and audited as required by the PPPFA. In addition, standardized TP resource specifications were developed to:

- Define the required socio-economic deliverables (resource goals, e.g. the percentage of the contract price that represents the participation of targeted enterprises and/or targeted labour in the performance of a contract)
- Set out the methods by which deliverables may be obtained and verified
- Determine the means by which progress towards the attainment of the deliverables is to be quantified at discrete intervals
- Measure, quantify, verify and audit the engagement by a contractor of targeted enterprises and/or targeted labour in the performance of a contract

In order to establish a set of procedures for implementing TP within the DPW, a task team was set up in 1995, consisting of in-house staff and external consultants. Using the 10-Point Plan, six standard specifications (TP1–6) were drafted. They provide a range of TP options and address different policy areas that can be available in an APP setting. The specifications are used by many other entities implementing TP infrastructure projects, and provide a structured mechanism for managing the TP process. These specifications are described below.

TP1: Targeting of affirmable business enterprises

TP1 (APP1) establishes procurement specifications for the provision of goods, services and works. It provides for affirmative participation targets to be set by the employer, which a contractor could meet by virtue of being an affirmable business enterprise, entering into a joint business venture with one, or engaging one or more such enterprises to perform sections of the contract. It also gives formulae for the establishment of the credit, in rand value, to be given to the complying firms.

TP2: Structured joint ventures (affirmable partners)

TP2 (APP2) sets the ground rules for facilitating joint ventures in the provision of goods and services. It is primarily targeted at the prime (main) contract level. The specification provides for the setting of joint venture participation targets, the measurement of key performance indicators and auditing participation performance in contract execution.

TP3: Structured joint ventures (targeted partners)

TP3 (APP3) is similar to TP2 (APP2), but applies to joint ventures specifically in building and construction contracts. It defines affirmable business enterprises in construction and establishes the method of calculating credits for participating entities. As in the case of TP1 (APP1), the employer sets joint venture participation goals.

TP4: Targeting of local resources

TP4 (APP4) deals with the setting of affirmative action targets for the procurement of local resources in contracts. It specifies credits to be awarded to contractors if formal contracts were executed with local labour or enterprises, and establishes the method of determining the value of such credit.

TP5: Engagement of targeted labour

This specification deals with the engagement of targeted labour in the general locality and requires the contractor to engage labour in accordance with the contract rules. The value of the engaged labour and related services (expressed in rand) as a percentage of the total contract value (expressed in rand) should not be less than the target goal defined for the engagement of local labour.

TP6: Targeting of affirmable professional service providers

TP6 (APP6) is used for the appointment of professional services providers (PSPs). It sets affirmative participation targets and includes key indicators for evaluating tenders and auditing contract compliance during the execution of the PSP contract.

3.3 Linking TP with RDP objectives

The classification of TP standard resource specifications can also be linked with RDP objectives, as outlined in Section 2.2.3 of this report. This is shown in Table 3.1. The TP specifications then allow the organs of the state to define their own target groups and quantitative targets as per their policies.

Specifications TP1–3 are applicable to goods, services and engineering and construction works contracts. TP4 and TP5 are suitable for use in engineering and construction works and services contracts. Purpose-written specifications are usually drafted for concessionary-type contracts as these contracts frequently have long contract periods and need to cater for socio-economic deliverables during both the construction and operational phases.

3.4 Adjudication mechanism

The TP preference system is being operated via tender adjudication criteria and fits within the legally approved system of awarding bids, whereby bids meet both price and development goals. The general adjudication mechanism works according to the point

Table 3.1: Resource specifications required to enact certain targeting strategies

Socio-economic objectives	Resource specifications required to enact certain targeting strategies	
	Code	Strategy
Development of sectors of an industry, e.g. small business, women-owned business and local industry development	TP1	Targeting of affirmable business enterprises
	TP2	Structured joint ventures (affirmable partners)
Development of subcontractors to prime (main) contractors Development of management capacity of small businesses	TP3	Structured joint ventures (targeted partners)
Local economic development Job creation Poverty alleviation Community-based developments	TP4	Targeting of local resources
Job creation Poverty alleviation	TP5	Engagement of targeted labour

Source: Watermeyer (2000).

system. The PPPFA system calls for adjudication points to be allocated for bids meeting price/development objectives. The application of the point system is in line with the requirements of the Constitution. In this case, the successful tender is the one that is awarded the most points (the bid is composed of both price/quality and development objectives), subject always to technical considerations, previous contractual performance, financial references, unit rates and prices, alternative offers, qualifications, etc., being acceptable.

The price/development objectives point systems can be used in the following ways:

- Direct preference mechanism, e.g. granting tender adjudication points to businesses that satisfy certain criteria
- Direct participation (using contract participation goals) in contracts through the engagement of targeted groups in the performance of the contract as joint venture partners, suppliers, service providers, subcontractors or labour; and the provision of accelerated work opportunities to enterprises in tariff-based appointments or where a limited number of firms are invited to tender.

For example, an organ of the state may allow direct preferences to be accorded in respect of minor contracts, i.e. tenders of estimated tender price not exceeding R2 million. In this case points can be split among equity of PDI (race), women (gender) and disability, collectively called historically disadvantaged individuals, in the proportions shown in Tables 3.2 and 3.3.

Table 3.2: Contracts below R500 000 (use 80/20 point system)

Target group	Maximum points
ABEs	7
Women equity	4
Disabled	3
Local enterprises	4
Total	20

Table 3.3: Contracts above R500 000 but less than R2 million (use 90/10 point system)

Target group	Maximum points
ABEs	4
Women equity	2
Disabled	1
Local enterprises	3
Total	10

Contract participation goals can be set, usually for projects of a value greater than R2 million. In this case objective points are awarded for the resource goal offered in terms of a resource specification (percentage of the bid value representing the participation of targeted enterprises, targeted labour, etc.). A participation goal is a percentage of the monetary value of the contract that is used to represent participation by affirmable business enterprises (ABEs) and is defined as the value of goods and services for which a firm undertakes to engage ABEs in the performance of the contract. Participation goals can be achieved through the use of the following resources:

- Subcontracting parts of the contract to ABEs
- Purchase of supplies through ABEs
- Obtaining manufactured articles from ABE manufacturers
- Engaging ABE professional service providers
- Entering into a joint venture with ABEs

Usually the tender will specify both maximum and minimum contract participation goals. The following example illustrates the ways in which a contractor can meet his or her contract participation goal obligations.

In the example it is assumed that the value of the contract, exclusive of VAT and allowances for escalation and contingencies, is R10 million and involves the construction of a building. Contractors can either meet the minimum contract participation goal, or tender an increased contract participation goal, in a variety of ways, as illustrated below.

The contractor is an ABE who performs 30% of the work with his own resources, but subcontracts 70% of the work out to non-ABEs. For example,

Award value = R10 million

Minimum goal = 15%

Maximum goal = 40%

Step 1: $30\% \times \text{R10 million} = \text{R3 million}$

Step 2: $70\% \times \text{R10 million} = \text{R7 million} \times 10\%$
 $= \text{R700 000}$
 $= \text{R3 million} + \text{R700 000}$
 $= \text{R3,7 million}$
 $= \frac{100 \times 3,7 \text{ million}}{10 \text{ million}}$
 $= 37\%$

The participation goal that the contractor states to achieve, or competes for with this bid, is 37%.

3.5 Monitoring and evaluation

Monitoring, enforcement and evaluation are given significant emphasis under the targeted procurement procedures in order to ensure that real results are achieved. First of all, in the direct participation component of the targeted procurement system, contractors are aware of their obligations because they are actively involved in the definition of their participation goals. The system furthermore makes provision for checking on a comprehensive basis whether obligations are being complied with during execution of the contract. The foundation for an effective evaluation is laid down in the very precise undertakings with contract participation goals written into the contract, which can be readily measured, audited and verified. Contractors' compliance with the contract participation goals that they have offered is enforced mainly by financial sanctions. The remedies for non-compliance are set out in the resource specification documents of each contract. Contractors have to substantiate that any failure to achieve the contract participation goal was due to reasons beyond their control. If they fail to do so, they have to pay penalties in an amount as provided for in the contract.

3.6 Targeted procurement experiences roll-out

The Public Works MINMEC (a structure consisting of the Minister and provincial members of the Executive Council responsible for public works) accepted a business plan for the delivery of TP and undertook to implement the APP at provincial level.

The roll-out of TP was supported by a variety of strategies designed around the 10-Point Plan. These included, among others, breaking down projects into smaller and manageable projects for small contractors, reviewing construction guarantees and introducing direct payment and mentors. To a large extent the roll-out was still

dependent on the procurement regulations. The roll-out process was not coherently persuaded; as a result, the non-uniformity in procurement regulations cannot be the sole hindrance.

One of the initiatives was to ensure that all the DPW's consultants were accredited in the use of the APP and about 1 300 consultants and DPW officials have sat the examination. The examination process was handed over to the South African Institute of Civil Engineering to run on behalf of the Department. Sitting for a TP examination was not acceptable to the South African Black Technical and Allied Careers Organization (SABTACO) as a prerequisite for being awarded a project where TP is used within the DPW. SABTACO, together with the Alliance for Development Professions, were part of the stakeholders consulted in the formulation of DPW consultants' roster policy. The provincial departments responsible for public works did not use the examination as a requirement for inclusion in their roster. The impact of this initiative could not be measured.

The Department also developed the learning materials as per the requirements of the South African Qualifications Authority and has since submitted the module for accreditation. It is the intention of the DPW and the CIDB (described below) to introduce these modules to tertiary institutions as part of the curriculum.

The strategy currently adopted by various organs of the state for training small contractors in TP is mostly based on workshops. Several APP workshops took place, including one sponsored by the DBSA held on 15–16 February 2000 and a joint workshop by the DPW and National Roads Agency (NRA) on implementing a national emerging contractor development programme held on 24–25 January 2000 at the Council for Scientific and Industrial Research (CSIR) in Pretoria.

The DPW, ILO and South African Women in Construction (SAWiC) jointly organized a workshop aimed at developing the role of women in construction. Numerous other conferences were initiated and sponsored by the private sector. It was clear from the conferences and workshops that while TP created a demand for the use of emerging contractors, appropriate supporting mechanisms were required to enable small contractors to access finance, credit, training and other facilities.

While the planned MINMEC roll-out programme did not come off the ground, the initiatives outlined above gave an insight into the need for training as part of the roll-out strategy across all stakeholders, including state officials. The impact of the training programmes had never been assessed before. The view of the consultants is that due to a high turnover in the industry the impact was not felt during the short period in which these initiatives were carried out.

The contribution of the DPW towards the assimilation of TP as best practice through the hosting of a website (www.pwdprocure.co.za) where, among others, an implementation manual, a learning guide, standard TP resource specifications (TP1–6) and other useful materials are kept, still continues as the only active process of distributing the information.

3.7 Rationalizing targeted procurement

TP has been used by the DPW and other organs of the state since 1996. In the absence of a uniform framework, TP procedures have since then been declared by the Interministerial Task Team for Construction Industry Development to be a best practice for use by the construction sector and other sectors. Today, these specifications are used by many other organs of the state to implement preferential procurement in infrastructure projects and provide a structured mechanism for managing it as required by the PPPFA. Other initiatives undertaken to rationalize the use of TP across the country are described below.

The Construction Industry Development Board Act (Act No. 38 of 2000) tasks the Construction Industry Development Board (CIDB) with, inter alia, the determination and establishment of best practices in the field of procurement and delivery management and the promotion, establishment and endorsement of uniform standards. The CIDB was established as a result of the White Paper on Construction Industry Development, and the Interministerial Task Team for Construction Industry Development was an interim structure composed of both government and the industry to develop best practices.

To this end, the CIDB Act empowers the CIDB to promote and implement policies relating to standardization and uniformity in procurement documentation, practices and procedures. The Act also empowers the CIDB to publish best practice within the government procurement policy framework. It allows the CIDB to initiate, promote and implement national programmes and projects aimed at standardizing procurement documentation, practices and procedures. The CIDB is putting forward a proposal to the National Treasury to address best practice in construction procurement, which will also include the application of TP. This is one way of realizing preferential procurement objectives in the construction industry. The CIDB is also tasked with ensuring that public sector capacity and, most importantly, that policies such as TP are applied to the benefit of the industry as a whole. The CIDB has recently appointed the Chief Executive Officer, who is expected to realize this challenge.

The South African Bureau of Standards (SABS) is responsible for standards in South Africa. Recently, the SABS drafted a Code of Practice for Implementing Preferential Procurement Policies using Targeted Procurement Procedures (SABS 0396) and a series for the TP resource specifications (SABS 1914). SABS 0396 is based on the work of the Procurement Reform Task Team and the work displayed at the DPW's website (www.pwdprocure.co.za).

The main difference between the draft standards and the DPW's TP procedures is that the standards do not give a fixed definition of terms. This allows the users to define their targets as per their preferential procurement policies and circumstances prevailing in that particular situation. For example, the definition of an ABE is left to the organ of the state to define without limitations described in terms of turnovers, equity, and so on. Once approved, this specification will allow ease of integration with the envisaged standardized contracts for use in the construction industry and other revised SABS specifications for the industry.

The various initiatives described in this section show evidence of TP as the currently well-developed tool for use in the construction industry. The instrument has been piloted since 1996, and has been accepted by both the private and public sectors in the form of the Interministerial Task Team on Construction Industry Development. The current initiatives undertaken by the CIDB in conjunction with National Treasury and the SABS provide evidence of formalization in the construction industry. The challenges posed by TP as an instrument for realizing PPP have, however, not yet been fully addressed, as is identified in this report.

CHAPTER 4:

EXPERIENCES OF ORGANS OF STATE IN REALIZING TARGETED PROCUREMENT

4.1 Department of Public Works

4.1.1 Background

Prior to the promulgation of the PPPFA and the related regulations, various organs of state adopted different policies to achieve the intention of preferential procurement as called for in the Constitution of South Africa. The implementation of these preferential procurement policies was done outside a prescribed framework but within the applicable legal environment prevailing within the organs of the state (see Section 2.2.2). The basis on which the three distinct tiers of government formulated PPPs was defined in the State Board Act, the various Provincial Tender Board Acts and the Municipal Ordinance Act.

In line with Section 2(1)(d) of the Preferential Procurement Policy Framework Act (Act No. 5 of 2000), the DPW selected specific goals that it wished to pursue. Quantitative targets associated with such goals had to be established, as well as implementation procedures that are consistent with the framework later provided in the Act. The Affirmative Procurement Policy adopted by the DPW is based on work of the Procurement Forum, which developed the 10-Point Plan and the Green Paper.

The DPW's policy mostly targets affirmable business enterprises (ABEs), which are businesses managed and controlled by PDIs and have categorized turnovers. The DPW's Implementation Manual defines the APP as one "*which used procurement as an instrument of social policy in the RSA to affirm the changed environment, government socio-economic objectives and the principles of the RDP*".

Being a national state institution, the DPW has defined its target group to focus almost exclusively on the ABEs and secondarily on targeted labour. In its APP, the DPW defines an ABE as follows:

... a business which adheres to statutory labour practices, is a legal entity, registered with the South African Revenue Services and continuing an independent enterprise for profit, providing a commercially useful function and:

- a. Which is at least two thirds owned by one or more previously disadvantaged individuals, or in the case of a company, at least two thirds of the shares are owned by one or more previously disadvantaged individuals; and*
- b. Whose management and daily business operations are in the control of one or more of the previously disadvantaged individuals who effectively own it: provided, however, that the annual average turnover excluding Value Added Tax (VAT) and any turnover generated in respect of work performed by other parties in a joint venture or a consortium, of the business during the lesser of*

the periods for which the business has been operating, or the previous three financial years, does not exceed:

- c.
 1. *SAR25 million in respect of contractors who generate more than or equal to 75% of their turnover as prime contractors;*
 2. *SAR10 million in respect of contractors who generate less than 75% of their turnover as prime contractors;*
 3. *SAR2,5 million in respect of labour-only subcontractors;*
 4. *SAR10 million in respect of manufacturers*
 5. *SAR15 million in respect of suppliers*
 6. *SAR2,5 million, exclusive of any turnover generated in respect of outsourced activities for which the enterprise does not have the in-house competence and expertise to perform, in respect of professional service providers; and*
 7. *SAR2,5 million in respect of other service providers, e.g. transporters; and*
- d. *that the sum of the average annual turnovers over the same period of all the business concerns which are under the control of previously disadvantaged individuals within the business entity or affiliated entities does not exceed one and a half (1,5) times the maximum allowable annual average turnover for the particular category of enterprise as set out in (b) above.*

The definition of an ABE was modelled around that of SMMEs as contained in the National Small Business Act of 1996. The difference between an SMME as per the said Act and the DPW's APP is that ABEs are managed and controlled by PDIs and have categorized turnovers, as indicated above.

Accordingly an ABE is subsector of an emerging enterprise. The Construction Industry Development Act (Act No. 38 of 2000) defines an emerging enterprise as an enterprise that is owned, managed and controlled by previously disadvantaged persons and that is overcoming business impediments arising from the legacy of apartheid. The definition of an ABE also includes local enterprises that are ABEs coming from a specified geographic area, which is usually defined by the boundaries of the municipal area where the project is being executed. In the case of concession agreements (see Section 4.1.2), a previously disadvantaged enterprise (PDE) was introduced to accommodate those ABE entities that will acquire equity in the tendering entity. A PDE is an ABE but without limitation on turnover. PDI shareholding was reduced from 66% to 51% in order to allow growth in the entities.

4.1.2 Outcomes of the DPW's Affirmative Procurement Policy

The market share of ABE (expressed in terms of the ABE index) was found to be less than 0,5% in 1993 prior to the democratic election, and 2,5% in 1995 prior to the introduction of the APP in all contracts awarded by the national Department of Public

Works. The ABE index measures the estimated total value of work undertaken by ABEs expressed as a percentage of the total value of relevant contracts awarded where ABEs are targeted. The outcomes of the APP were measured for the period August 1996 to December 1998 using the GTPMS, as presented in Table 4.1 (Gounden, 2000). The direct financial premium (the difference in price between the lowest responsive financial offer received and the price of the awarded tender) associated with this period was less than 0,67%.

Table 4.1: Outcomes of the APP obtained on contracts awarded by the DPW

Period	Total value of awarded contracts (R million)	Affirmative Business Enterprise Index (%)	Direct financial premium (%)*
August 96 to June 97	246,6	22,29	0,32
July 97 to December 97	388,9	25,67	0,40
January 98 to July 98	1 017,3	28,39	0,12
July 98 to December 98	416,4	32,4	
Weighted average Aug. 96 to December 98	2 069,9	28,0	0,67

Note: *The direct financial premium measures the difference in price between the bid with the highest number of adjudication points (successful bid) and the most favourable offer (lowest acceptable bid).

The results in Table 4.1 may not show a significant increase in ABE market share but should be interpreted in the light of a declining industry, as shown in Table 4.2, and the market share of ABEs prior to the introduction of the policy in 1996: 0,5% in 1993 and 2,5% in 1995.

Table 4.2: Employment and turnover statistics in the South African construction industry, 1996–2000

Year	Number of people employed (formal and informal)				Turnover (R million) 1999 prices			
	Civil	Building	Total constr.	% change	Civil	Building	Total constr.	% change
1996	42,844	242,780	285,624	-7,3%	9,483	25,865	35,348	4,2%
1997	75,212	234,980	310,192	8,6%	9,530	24,795	34,325	-2,9%
1998	74,467	231,888	306,355	-1,2%	9,367	25,321	34,688	1,1%
1999	66,820	221,845	288,665	-5,8%	7,959	24,445	32,404	-6,6%
2000	58,840	230,718	289,558	0,3%	7,133	24,892	32,025	-1,2%

Source: Snyman (2000).

Secondly, these outcomes were achieved without effective support for the target enterprises during the period of observation (Gounden, 2000). Currently, the Department is in the process of reviving its data collection capability, which was discontinued owing to organizational changes. The emerging contractor development programmes have since then been revitalized to address some of the findings.

Some of the obstacles experienced in the implementation of the process included the following (Mathunyane, 2000):

Fronting

Lack of appreciation by some implementing officials and consultants for the objectives of the government

Dubious contractors who thought that the government would never follow up whether or not they delivered on their offers on socio-economic goals

Target groups and individuals who are unable to interpret information contained in TP documents

The impact of these specifications on other socio-economic objectives, such as local economic development, job creation and poverty alleviation, have not been thoroughly researched, except to an extent of Community-based Public Works Programme.

4.1.3 Use of TP in concession contracts

In 1996 the DPW initiated the Asset Procurement and Operating Partnership Systems (APOPS) as public private partnerships to provide essential infrastructure. By the end of October 1996. Cabinet approved the commencement of a number of pilot projects, of which the Kutama-Sinthumule Maximum Security Prison and the Mangaung Maximum Security Prison near Louis Trichardt and Bloemfontein respectively formed part.

Within the contractual agreements of providing and managing the prison over a 25-year period, various socio-economic requirements were also addressed. These included the emphasis on increasing job opportunities, active participation by the community, training and the integration of PDIs into the mainstream economy. The following milestones were achieved in the case of the Kutama-Sinthumule Maximum Security Prison:

Participation of PDEs in the form of equity in the contracting entity (concessionaire) exceeded the required 40%.

PDE participation goals of at least 25% of the net construction cost were met, i.e. R86,3 million of which just more than R64,7 million (75%) was paid to ABEs and R32,3 million (37,5%) to local enterprises.

The number of local labourers employed was 1 238 out of 1 608, representing almost 77% of the labour force employed.

On-site training exceeded R1 million, resulting in almost 600 certificates issued in bricklaying, plastering, painting, carpentry, steel fixing, plumbing, supervisory and entrepreneurial training.

The involvement of women was a major part of the construction process. Although the PPPFA was not in place when the contract was signed, the degree of natural participation of women from the local community was exceptional. Out of the total of 1 238 local people employed during the construction, more than 25% were women working as bricklayers and plasterers, doing earthworks and excavation, plumbing and casting precast concrete panels. The operations phase includes PDE participation goals of at least 25% of the net yearly operating cost starting at 5% and stepping up over five years to 25% in order to include the necessary training and capacity building.

The inclusion of socio-economic factors in this contract proved to be successful during the design and construction phase as the projects reached both financial and contractual closure and the facilities were erected with penalties being imposed on not achieving the TP targets. This project shows that TP can also be applied in fast-track construction projects and where private finance is involved. The impact of such project has, however, not yet been assessed, especially with respect to its sustainability in long-term contracts in a project environment as risky as these ones.

4.1.4 Strategic Project Initiative

The DPW has had continuous attention for addressing the sustainability of emerging contractors. One such initiative was the introduction of the Strategic Project Initiative (SPI) in 1998 as a subset of TP focusing on developing and reinforcing the sustainable growth of black construction entities. The SPI fast-tracks the graduation of black contractors from the level of subcontractors to becoming prime contractors on projects of more than R5 million. The objectives of the SPI are to nurture the core black construction capacity created through TP in the following manner:

- Amending the TP2 (APP2) specifications to create a preference for black contractors wishing to participate on large-scale public works contracts as prime contractors
- Identifying appropriate projects for inclusion in this programme
- Developing an appropriate mentorship programme to guide the development of the participating black construction enterprises
- Mobilizing appropriate private sector financial resources for initial capitalization
- Facilitating easier access to plant and materials

The DPW assumed direct responsibility for the first two points, facilitated the initial development of the mentorship programme and assisted with capital mobilization and in finding easier access to plant and materials. The amendment of the TP2 (APP2) specifications was necessary to ensure that significant control and management of the tendering construction enterprise rest with the affirmable joint venture partners (the black construction enterprises).

The specifications were also reworked to include the following:

- Promotion of bona fide black construction enterprises and limiting involvement of speculative investors who do not add value to the construction process
- Regulation of outsourcing to ensure that a significant proportion of the works is not

simply outsourced or procured using external resources, thereby limiting the development of capacity

The introduction of an independent enterprise concept to minimize the possibility of fronting and to ensure that joint venture relationships with established construction enterprises are well defined and can be clearly audited

The introduction of a priority enterprise concept to ensure appropriate targeting within the black construction sector

A mentoring programme was introduced to address financial gearing, project resourcing, risk management, and so forth for new ABEs. The mentoring is, however, limited to the project and thus only addresses project and not business requirements. To redress the balance the DPW accordingly mobilized initial seed funding for the SPI projects through the Industrial Development Corporation (IDC). The first projects that were successfully completed and handed over include:

Botshabelo Magistrate's Office (R11 million)

St Albans Prison Production Workshops (R24 million)

Richards Bay Police Complex (R32 million)

While the SPI programme provides an opportunity to accelerate growth of emerging contractors, the impact of this programme has also not been assessed. The Green Paper on Public Sector Procurement Reform acknowledges that the process of preferencing should be measured and audited in order that such measures can be lifted over a period.

4.1.5 Women in construction

The DPW, together with the ILO, commissioned a series of two-day workshops to provide introductory training to SAWiC on targeted procurement. These workshops were held in several provinces in 2000 as part of the "Women in Construction" Campaign. The programme is aimed at improving women-owned and -operated businesses in construction. The lack of participation by women on previously awarded contracts in the Eastern Cape, as presented in the workshops by the Eastern Cape Regional Manager of Public Works, is illustrated in Table 4.3 (Emba Projects, 2000).

Table 4.3: Participation of females in projects

Nationality	Males (participation in R million)	Females (participation in R million)	Totals (R million)	Participation %	
				Race	Women
Blacks	13,8	1,3	15,1	40%	0,34%
Coloureds	22,5	0,04	22,5	59%	0,01%
Indians	0,2	0,14	0,3	1%	0,04%
Totals	36,5	1,48	37,97	0,39%	

In order to create awareness as well as a common understanding of hurdles preventing the success of women within the industry, the following issues were identified in these workshops as key in the effort to address the future of women as equal and competent role-players, rated in the same league as their male counterparts in terms of capacity to deliver:

Lack of access to big projects due to lack of experience and managerial and technical skills in related fields of work tendered for by female contractors

Lack of access to finance/credit. This includes the provision of:

- Construction guarantees or sureties by banking institutions
- Working capital at the beginning of the project
- Insurance required as per the contract

Contracts repeatedly being awarded to known and established contractors

Negative attitude of men on site, which results in constant humiliation of women, e.g. the issuing of dubious and unclear site instructions given to contractors

Intimidation by male counterparts on site, as well as by government officials who expect favours from women in exchange for projects

Inadequate subsidy amount on housing projects – the amount stipulated for RDP housing does not take cognisance of increasing inflation rates and has remained constant throughout the years

Political bias and the consideration of party membership in the awarding of contracts

- certain parties are favoured over others when awarding tenders

Industry bias entails the impression that women naturally expect hand-outs and sympathy and may not endure the harshness of the industry

Delays in payment to contractors, resulting in:

- Projects not completed on time – affects service delivery
- Related problems, which are common for their male counterparts

Corruption by officials who expect favours in exchange for contract awards

Government officials selling contracts

Areas or fields of specialization. This implies the awarding of service contracts in which women feel overlooked as joint venture partners with specialized firms.

The following recommendations were suggested in these workshops as part of the initial measures for addressing the plight of women contractors to be undertaken by the DPW and other government institutions:

Use TP3 to target and empower women.

Target or set aside certain category projects for women tenderers in the form of special project initiatives measured in percentages of the annual budget for projects.

Monitor the empowerment provisions in joint venture projects awarded by their departments.

Include penalty and remedy clauses for failure to comply and for breach of the targeted procurement processes.

Enforce uniform or standard use and adoption of the TP documentation by all government agencies.

Engage in continuous training of women contractors for capacity building.

Actively communicate interventions to empower women.

Encourage the accreditation of government officers in TP.

Regularly monitor and report back in open forums or seminars.

4.1.6 Use of TP in community-based projects

Preferential procurement is also used in the Community-based Public Works Programme (CBPWP) located in the DPW. This programme is aimed at poverty alleviation through job creation, skills training, the delivery of infrastructure assets and capacity building. It is primarily targeted at the rural poor, women, youth and disabled people, with the following aims:

- Creating short-term employment opportunities for community members by means of the construction of public assets

- Creating useful public assets for disadvantaged poor communities

- Creating sustainable employment opportunities by facilitating microbusiness opportunities associated with the community assets created

The CBPWP pursues different categories of preference (i.e. basic goals/socio-economic deliverables) in construction works and in goods and services contracts. In construction works contracts, the categories of preference relate to the employment by the contractor of those South African citizens who have not been employed for a specified period of time and reside in close proximity to the project. In goods and services contracts, the categories of preference relate to the engagement of businesses owned, managed and controlled by individuals from those population groups disadvantaged by the apartheid system.

4.1.7 Supply-side interventions

The Green Paper recognizes emerging contractor support as a key arm of public sector reform in addition to affirmative procurement. The primary objective of the White Paper on the National Strategy for the Development and Promotion of Small Business is the creation of an enabling environment for small enterprises, which are considered the backbone of the construction industry. As a result, Ntsika Enterprise Promotion Agency and Khula Enterprise Finance Ltd were established in accordance with the National Small Business Act (Act No. 102 of 1996). Typically, they provide facilitation, credit services and professional advice for emerging construction businesses.

In response to the challenges facing emerging contractors, the DPW launched an Emerging Contractor Development Programme (ECDP) known as *Sakhasonke* to ensure the development of emerging contractors and to advance their interests within the construction industry. While this initiative supports the small businesses White Paper, it

was also embedded in the DPW White Paper on Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry.

The unmistakable synergy that exists between the ECDP and TP is being developed and exploited to a greater or lesser extent by the DPW in project implementation. How successful this “matching” of aims and ideals has been to date and the ECDP’s long-term impact on TP is hard to judge. It should be significant, as the objectives and social goals set down in the preferential procurement policies are designed around the construction industry and small-scale contractor promotion and development.

4.2 National level

4.2.1 Department of Water Affairs and Forestry

An example of how preferential procurement principles are applied at national level is the Department of Water Affairs and Forestry’s (DWAF) programme of Build, Operate, Train and Transfer (BOTT). The DWAF was one of the earliest national-level government entities to mainstream TP into infrastructure services delivery (DWAF, 1997). Reservation of equity for PDIs and previously disadvantaged companies (PDCs) meant that the programme implementation agent had to reserve 30% of the equity for PDIs. The following was noted in the contract with respect to the reservation of equity:

The PDI equity holding shall be reserved only for PDI/PDC shareholders who form an active part of the programme implementation agent company (e.g. technical, commercial, financial or contracting) in fulfilling the programme implementation agent’s obligation under the contract.

The percentage shareholding shall increase to the full reservation as soon as is reasonably possible.

Failure to meet the above percentage allocations to PDIs results in the application of a maximum penalty of 5% of the contract price on the basis one-14th% per day. For each of the above three stages the penalty is calculated from the latest time for allocation of equity. Other non-BOTT works use similar implementation procedures that are formalized in the DWAF’s procurement manual.

More recently, the DWAF produced new guidelines for professional service providers. Among the reasons given for their introduction was the “recognition of unsatisfactory performance in terms of black economic empowerment and SMME support” (DWAF, 2001). Critical issues include the registration of all ABE firms and joint ventures on the PSP database; the procurement process must adhere to the DWAF’s user manual and fit the benchmark fee structures. In addition, preset criteria will be used to evaluate tenders and will relate to location, ownership, key personnel and the degree of outsourcing. The PSP appointment process must be transparent and continually monitored to ensure compliance. A direct preference system is used for tender adjudication. This allocates 10 points to black economic empowerment (transformation), 10 to black economic empowerment (skills development and transfer), 50 to technical capabilities and, finally, 20 to price. It is too early to see how successful the new PSP guidelines have been but they are comprehensive and will undoubtedly advance the socio-economic reform

process.

4.2.2 South African National Roads Agency

A study into the experiences of targeted procurement in road construction was undertaken by Rogerson (2000). The study focused on the construction of the N4 Maputo Corridor. The N4 Maputo Corridor project is a Build Own Transfer (BOT) concession contract awarded to Trans African Concessions (TRAC). The project falls within the Spatial Development Initiative (SDI), which is an investment-led programme aimed at enhancing the economic activities of the identified corridor. The project involved the empowerment of SMMEs and the creation of as many jobs as possible. The involvement of SMMEs was estimated to be some 18,2% of the contract value in monetary terms (Rogerson, 2000). A number of useful facts have emerged from studies of the Maputo Corridor N4 Project and these are given in Table 4.4.

Table 4.4: Maputo Corridor N4 Project: key issues and lessons

Issue	Lesson
Tenderers were not given sufficient support.	Tender advice and development centres must be carefully sited and their activities monitored.
They had problems learning of impending calls for the tender.	Clear targeted tender information is needed, with maximum use made of newspaper advertizing.
Documents were too complicated, especially for new SMMEs.	Simplified tender documents and technical language are essential.
Women were underrepresented in the process.	There should be more weighting in favour of women and the disabled.
Business skills of SMMEs needed improving.	Too much emphasis was placed on worker training and not enough on SMME development.
SMMEs had poor cash flows and shortfalls.	Better financing is needed, specifically for performance guarantees and retention monies.
Work continuity is threatening sustainability.	The strategy is to be more focused and not simply view numbers of SMMEs as success criteria.
Social development is not being realized.	There should be more emphasis on socio-economic goals rather than simply fostering construction enterprises.
SMMEs were engaged as labour-only contractors.	Opportunities for SMMEs should be widened and linked to specific training initiatives.
Local capacity and community engagement were lacking.	Community participation is the key for building ownership, awareness and capacity.
It was unclear who is the "guardian of empowerment".	SANRA is not equipped to this end, and another entity within the government should assume this role.

A critical observation made with respect to SMME participation in this road

construction project within the objectives of the SDI was a decision on whether to produce PDI construction enterprises that graduate from the emerging phase, or to assist as many emerging enterprises and entrepreneurs as possible. This choice was cited as necessary in order to determine the direction support should take. Given the nature of the construction projects, namely short term and tied to a particular area, the researcher argued in favour of maximizing empowerment and entrepreneurship capacities in general, rather than seeking to foster construction enterprises per se.

4.3 Provincial level

The State Tender Board was set up in 1968 to regulate and implement tender policy for national level entities (see Section 2.2.2). At provincial level responsibility for public procurement rested with the Provincial Tender Board (PTB) until all tender boards will be phased out in favour of the PFMA, which requires the accounting officers to be accountable for their own procurement. Those PTBs that exercised preferences did so through the ambit of the tender Acts (which were mostly based on the interim Constitution) and are now expected to execute TP through the PPPFA regulations. One of these (see Gauteng Provincial Tender Board, 1995) was examined in general terms to see how it actually managed the process, and it is clear that processes vary between PTBs.

At provincial level TP implementation has been explored through the North West and Western Cape case studies. For the former province it was studied at programme level and for the latter at governance level. The experiences of the case studies have been included in Sections 5.2.1 and 5.2.3 and confirm a wide difference in approach and supporting mechanisms. Some examples of these for typical (and comparable) North West (DTRPW, 2000c) and Western Cape (DEAAT, 2001b) projects are described in Table 4.5.

Table 4.5: Provincial-level targeted procurement application

North West Province	Western Cape Province
Direct preferencing and direct participation (contract participation goals) are used to meet contract obligations.	Points are awarded only on a direct participation basis.
Detailed ABE registration and affidavit requirements are used.	There are no formal participation goal-monitoring procedures.
Standard DPW TP methods are used for tendered goal calculation, with penalty clauses included.	The PTB controls the register and penalties are incurred for submitting false information.

The above are just a few of the more obvious differences between how the North West and the Western Cape provinces practise TP. The North West TP is highly based on DPWs while the Western Cape only limits TP to direct preferencing. None of the two have a robust monitoring and evaluation system and are incapable of measuring

PPPPFA-intended outcomes. However, the exercise demonstrates that even within provinces – operating as the middle tier of government – TP is approached and practised differently. Some adopt a “big bang” approach and choose to enact local legislation to guide the process, while others are more conservative and introduce TP gradually using previously tested procedures. Any attempt to apply TP uniformly must consider very carefully how provincial government entities exercise their particular procurement authority.

4.4 Local government level

4.4.1 Midrand Metropolitan Local Council

The preceding Midrand Metropolitan Local Council (MMLC) carried out one of the earliest studies on the application of TP (the MMLC has subsequently been incorporated into the Johannesburg Metropolitan Council). The study covered the period from July 1998 to June 1999. It was simply a quantitative examination of 28 completed construction projects and made no attempt to evaluate the potential impacts and effectiveness of TP. The details of the MMLC study have been very useful in assessing TP. The statistical information has been incorporated into the data capture summary included as Appendix I, and is described in Section 5.4.

Two points of particular note emerging from the MMLC study are that two of the 28 contracts were awarded to ABEs and that in some instances labour maximization was specified over and above “naturally required” labour-based construction operations. Arguably the most significant fact to emerge was that the average contract participation goal was in excess of (or equal to) the average tendered goal, and in most cases (TP percentage being the exception) more than double the minimum tendered participation goal.

Interviews with the Johannesburg Roads Agency, who has assumed the road maintenance responsibility in this area after the new local government structure was established, revealed a number of interesting facts concerning the application of TP procedures:

- No baseline data existed when TP was initially used to measure socio-economic impacts.

- A contractor development programme was run in parallel with TP.

- The TP specifications provided an auditable and measurable means of engaging PDIs and ABEs.

- Initial linking of TP specifications to standard MMLC contract documents was difficult.

- Conscious efforts were made to maximize labour-based technologies.

- Local economic development plans were used to identify target interventions.

- Some three or four quality ABEs have now reached the status of becoming prime contractors through joint venturing with established contractors.

The MMLC work was important and is one of the few studies that has looked at the practicalities of implementing TP and has documented the results. It has identified weaknesses in the system (many have since been corrected) and has moved the “debate” one step further by quantifying the benefits of TP, in terms of both social policies and infrastructure serviced delivery.

4.4.2 Mogale City Local Municipality

A case study carried out by consultants for a TP project implemented by Mogale City Local Municipality examined TP and how the local resource goal (LRG) was managed. This study highlighted a number of interesting facts. Originally set at 20%, the LRG was increased to 30% and then finally reduced to 22% after submissions to the employer by the contractor claiming the LRG could not be attained and was set too high (Wates et al., 2001). The lesson here must be that LRGs should be fixed in line with the ability to accomplish them. The Mogale project consultants recommended that:

Geographical target areas should be broadened to allow ABEs operating outside the immediate locality to participate in the tender process.

Everyone should be familiar with the process at tender stage to avoid the engagement of inexperienced ABEs on complex construction works.

More detail on the ABEs should be submitted by the contractor at tender stage to “weed” out weak ABEs.

Care in evaluation is needed when high resource goals are quoted, to ensure that they are realistic.

If the time-frame is short there is no time for ABE mentoring, making delivery targets hard to meet.

A further point that might be added is that for complex works that require absolute completion dates (e.g. a waste water treatment plant), skilled workers must be identified and mobilized by the contractor and ABEs at the outset. Finally, the LRG must be realistic and meet the prevailing circumstances.

4.4.3 Development of preferential policies

A number of procurement policy papers prepared by some local governments, since the formalization of the new municipal structure and issuing of preferential procurement regulations, were collected during the TP pre-assessment phase and examined. None of the examined policies had a comprehensive strategy for addressing monitoring and evaluation by both the PPPFA and the PFMA. Some of the more apparent differences between three of them are described in Table 4.6.

No firm conclusions can be drawn on how local governments apply TP and it would take an in-depth analysis of the subject to see whether one system could, or should, take precedence over another. What can be said is that they all practise their own “brand” of TP and this is possibly the way it should be, provided it is done in accordance with national procurement policies.

Table 4.6: TP application examples at local government level

Southern District Municipality	Tshwane Metropolitan Municipality	Buffalo City Council
Drafted March 2001 and linked to the PPPFA	Linked to the PPPFA with an emphasis on the Enterprise Development Programme	Drafted December 2001 and linked to PPPFA
Largely descriptive and no reference is made to tender award points or participation goals	PPPFA adjudication points system is applied and sureties waived for goods and services but not construction	PPPFA adjudication points system applied
Mainly deals with tender and contract procedures	Tender risk analysis carried out on ABEs and formal contract compliance is used	Simplified tenders and early payment cycles are used
Uses DPW TP1–5 terminology	No reference to DPW procedures and local resource goal is specified if “appropriate”	No reference is made to participation goals

4.5 Private sector and professional entities

4.5.1 Professional services providers

The elected representatives and office-bearers of two key professional services providers were interviewed and their views on TP sought. These were the South African Institute of Civil Engineers (SAICE) and the South African Black Technical and Allied Careers Organization (SABTACO). The interviews were structured around Checklist 2 (see Appendix C) and were used to find out and understand their experiences of TP implementation – particularly whether the process was proving effective and serving the general interests of their members. It was made quite clear at the outset that the interviews were aimed at securing the viewpoints of their organizations, as well as drawing out any personal observations the interviewees cared to make. Neither organization had a policy statement on TP. Their views are believed to represent those of their membership and were taken at “face value”.

The SAICE has a membership of about 7 300, of which 5% are black. While admitting there are practical problems regarding its implementation, the SAICE is generally supportive of TP and its members mainstream the process into their regular consultancy dealings with public sector clients. Surprisingly, the SAICE does not have any TP employment guidelines, although this failing has been identified and a set of guidelines is currently being drafted. There is no formal in-house TP training programme for members but ad hoc support is provided to members and entities requesting assistance. The SAICE ran a TP training course with the DPW some time ago, which explored the mechanics of TP and assisted in developing a set of implementation procedures.

No excessively strong views on TP are apparently held by the SAICE and if there are

they were certainly not stated at the interviews. The main points regarding TP's imperfections and how it might be improved are as follows:

- Consultants and contractors should be better educated on the implementation detail.
- Prequalification should be used more widely to "weed out" poorly performing ABEs.
- Consultants are required to assume too great a responsibility for making the process work.
- In general, TP does achieve its development goals.
- Consultancy fees should reflect the amount of work needed to overcome the problems in implementing what are government social policies – no matter how well conceived or important.

Membership of SABBACO is difficult to access owing to fluctuations in numbers. SABBACO is a key organization and its membership provides a useful barometer, which could do much for closing the skills gap experienced in the emerging ABE construction industry. Improved support and training of ABEs are a major challenge and many firms simply do not possess the necessary technical expertise to win and execute contracts successfully. SABBACO has a number of concerns in connection with TP implementation:

- PSPs do not monitor projects in sufficient detail.
- Project managers in the DPW do not understand the TP process sufficiently.
- Application of TP should be standard and uniform.
- Contract awards are biased towards established firms because employers do not want the extra work and risk that employing emerging ABEs entails.
- The monitoring and evaluation of outputs should be more structured.

The views of other PSPs active in the construction industry (architects, quantity surveyors, electrical and mechanical engineers, etc.) were not formally canvassed and are believed to reflect broadly those of the SAICE and SABBACO. This observation was confirmed at meetings with key stakeholders during the course of the TPA.

4.5.2 Construction industry

The South African Federation of Civil Engineering Contractors (SAFCEC) represents the interests of the majority of the civil engineering construction firms. Its members' share of the construction market in 1999 was about R6 billion, having dropped significantly in the last 20 years (*Industry Insight*, 2001). In 1980, turnover in the civil engineering industry was about R11 billion and since the mid-1950s it has halved in size (SAFCEC, 2001). Membership of SAFCEC currently stands at some 370, of which about 150 are ABEs. Five have been in business for about four years and the remainder are all firms of less than one year old (Langehoven, 2000). No data are available on the share of work undertaken by ABE members of SAFCEC.

The stated view of SAFCEC is that the government views the construction industry as a "welfare state" – albeit essential – and that the industry is being used as a means of

bringing about socio-economic change. While the industry is committed to equity legislation and social justice, the proliferation of small and largely untrained contractors is viewed as “strangling the business”. Some of the major challenges which SAFCEC believes are facing the industry at present through the application of TP are as follows:

Lack of continuity of work opportunities results in many ABEs collapsing before they are one year old.

Breaking contracts up into small parcels is inefficient.

Tendering and contractual procedures are unnecessarily complicated.

The process increases the workload (of the employer, PSPs and the contractor).

The promotion of labour maximization is too simplistic and takes little account of unionization and investment in plant and machinery.

The proliferation of contracts and contractors has resulted in a dire shortage of trainers.

The restructured training industry does not meet industry needs.

Greater risk sharing between the government and the industry is needed to get the process working effectively.

The mobility of workers and companies is hindered through geographical targeting.

Many of the inherent problems could have been anticipated and corrective measures put in place.

What influence TP may have had on the construction industry was sought from elected and appointed representatives of SAFCEC in an interview structured around the data collection checklist (see Appendix C). SAFCEC has done little work on assessing impacts (direct or indirect) of TP in the construction industry. The organization, however, reports that since 1999 liquidations have outnumbered registrations and in 2001 the former were forecast to be 170 and the latter 900, thus showing a huge disparity. SAFCEC reports that many of these are small firms, not necessarily classified as ABEs. While various reasons might be postulated for the imbalance (612 liquidations were voluntary), a contributing factor may also be the use of PPPs where the newly created firms collapse owing to the very competitive nature of the industry (with profit margins as low as 3%). It is also a very volatile industry suffering from the vagaries of economic cyclical trends and government intervention in the economy.

The construction industry in South Africa is highly developed but it is generally accepted to be undergoing change, not only because of TP but also through the adoption of new practices. There is now a much greater emphasis on subcontracting, which is in line with an international trend. In some countries contractors are becoming little more than “clearing houses” for specialist firms. In a highly litigious environment this spreads the main contractor’s risk and concentrates expertise in specialist companies. Moreover, the trend towards greater use of prefabricated factory build units (e.g. building frame segments and precast units) has reduced site labour employment levels. How changes of this nature impact on TP and the need for labour maximization is unclear. What is clear is that the industry is being redefined as done elsewhere and that SAFCEC as its most powerful proponent would be expected to play a significant role in the transformation

process.

SAFCEC's view is that the fragmentation of projects into a number of smaller contracts to accommodate preferred enterprises as prime contractors has not only placed a severe administrative burden on organs of state and reduced their capacity to spend their capital budgets, but has also reduced the market share of the larger companies. This, in turn, has caused such companies to shed permanent jobs. They believe that there is an increase in construction costs and/or a reduction in the quality of the works owing to contracts being made unattractive to potential contractors. They also consider this to be an exclusion of construction companies from the award of contracts, due to high levels of minimum participation requirements relating to the participation of enterprises targeted in terms of a PPP.

The use of targeted labour is seen to restrict the mobility of construction companies and their employees are becoming restricted owing to impositions in contracts for the substantive use of labour residing in a specific, narrowly defined locality. They view this as hampering trained employees because they cannot be moved from one area to another as they do not qualify as local labour and the training of labour becomes a "consumption" item.

While these arguments need further consideration, SAFCEC does not take into account other factors pertaining to the construction industry, such as:

- The international trend of major companies towards using management contractors and subcontractors
- The impact of changes in the labour laws in this country
- Other opportunities opened up by the broader transformation of society after the demise of apartheid, creating opportunities for all

SAFCEC's observations raise many questions on the current efficiency of the industry in general on both macro- and microlevel. Such inefficiencies have been observed even in developed countries, such as the United Kingdom, hence the South African government tasked the Construction Industry Development Board with the responsibility for improving the industry.

Overall, SAFCEC has adopted a positive stance on TP and many of its members have established fruitful and profitable business links with ABEs – partly through self-interest but mainly because the process will only work through genuine cooperation. They see training as vital for success through both structured programmes and mentoring. However, it is noticeable that SAFCEC has been mainly reactive to change with little attempt apparently being made to see how TP could be more effectively absorbed into the industry. Whether the wider application of BOTT projects, like those used by the DWAF, would prove to be a means of transition has not been explored. One example might be a government entity negotiating a "long-term" contract for a defined amount of work, with a main contractor who would be held responsible for its implementation through a joint venture. The joint venture contract would be performance based and consist of PSPs, contractors, training specialists, etc. (ABEs and non-ABEs). If appropriate, it could be allowed finance-raising powers although PPPs of

this nature are normally limited to major infrastructure initiatives with high revenue-earning potential (e.g. the Maputo Corridor N4 Project).

The other interest group interviewed was South African Women in Construction. In many ways the drop in membership of SAWiC mirrors the experiences of SAFCEC. Set up to represent and promote the interests of women engaged in the construction industry, membership has shrunk from 3 000 in 1999 to about 60 at present. In an interview, a SAFCEC trustee cited the main reason for this drastic reduction as being lack of market penetration, coupled with the general realization that contracting is a high-risk business that requires investment in training and resources. With its *raison d'être* being to establish equality for women engaged in a male-dominated construction industry, SAWiC has not proved as successful as it had hoped. Reasons for this include a lack of structured training, resulting in poor skill levels and an overreliance on others to drive the process forward. However, the main complaint is directed at the government who, it says, led it into contracting without providing the follow-up and support needed to enable SAWiC to compete with male-controlled ABEs on a “level playing field”.

As far as TP project implementation is concerned, SAWiC has the following comments:

Insufficient time is not allowed between the award of a contract and the start-up date.

Problems are experienced in securing the necessary performance guarantees on time.

4.6 International dimension

Many countries operate preferential procurement systems of some sort or other. For example, in the European Union (EU), as part of the Common Agricultural Policy farmers are paid subsidies if they are disadvantaged in terms of geography or competency (e.g. in Wales a farmer is paid for each sheep he keeps above a certain elevation). In the United Kingdom and other countries of the EU, large companies have a legal obligation to employ a minimum percentage of disabled staff. When awarding infrastructure contracts, the European Commission gives a direct preference to “green” projects that favour PSPs and contractors who can demonstrate that their submission minimizes negative environmental impacts and maximizes positive impacts. Furthermore, the World Bank encourages the development of domestic contractors, industries and consultants in its procurement operational policies through domestic preferencing (World Bank, 2001). It is, however, noted that within the World Bank and other international financing institutions, policy sections and sections focusing on procurement and operations remain divided about the pros and cons of domestic preferencing.

The EU states that an effective public procurement policy is feasible only if all the parties involved (purchasers, suppliers and public authorities) have sufficient information on the real operation of the market and on the particular economic impact of the policies pursued (EU, 1998:14). Obviously without suitable monitoring and evaluation procedures in place it is impossible to assess the impact and effectiveness of procurement policies. Targeting aside, the implications of this view are clear and market dynamics (e.g. supply and demand) are paramount.

Vietnam has one of the few remaining centrally planned economies and direct preference is given to many of the state-owned companies (contractors, PSPs, materials industries, etc.) in an attempt to reconcile political differences between the north and south, to thwart competition and to circumvent international free market regulations. Numerous examples can be given where governments implement policy – either directly or indirectly – through binding and preferential procurement policies, such as those in Indonesia, Malaysia and the Philippines. However, the one notable element is the absence of broad quantitative research that shows preferencing is indeed the panacea it purports to be. Whether it provides a “level playing field”, promotes social reform, assists ethnic and economic minorities, or simply skews the industry and protects indigenous business interests is largely unproven.

TP is not applied in other South African Development Community (SADC) countries and the procurement procedures they use are generally designed to accomplish different goals (Country Status Report, 2001). A summary of the main points for some selected SADC countries is given in Table 4.7.

Table 4.7: Southern African procurement policies

Country	Procurement procedures and policies
Botswana	Designed to develop and protect small business but do not apply to TP, which is currently under review
Malawi	Currently use the UK system and intend introducing a preferential system, but without any socio-economic goals
Mozambique	Lack of local opportunities is being addressed, preferences are being introduced and labour-based works maximized
Seychelles	No preferential system is used but local contractors are favoured; contractor development programme to strengthen the industry
Swaziland	Preferential guidelines with points system are used to promote local industry; training is emphasized but no socio-economic goals
Tanzania	Use international conventions and the new Act has introduced preferences for local firms, but not linked to social policies
Zambia	Apply international conventions and preferential policies to support local industry needed, but no socio-economic goals

A brief look at international procurement procedures indicates that no other country practises TP in the manner South Africa does. Infrastructure improvements and the strengthening of the construction industry are not necessarily linked to achieving socio-economic goals. Some countries in South East Asia apply a form of TP similar to the South African model and there have been a number of visits sponsored by the ILO and the DPW to learn from their experiences.

In a preliminary reflection on the policy intent and subsequently the adequacy of TP's

roll-out, the DPW has been most strict in following the TP specifications as formulated by the Task Team for Procurement Reform. It is very promising that the new system of procurement procedures was relatively smoothly integrated into existing procurement regulations at a relatively low average cost premium of around 0,5% (if only awarded contract prices are considered).

It is also noted that other government entities seriously considered using the system but required it to fit in with their own policy objectives. Some agencies wish TP to be compatible with previous experience in carrying out social programmes. In other words, the system – as strictly implemented by the DPW – has apparently not been convincing enough to reorient the forms of preferential procurement policies that relevant agencies had started in the absence of a defined PPPFA framework. The lack of comprehensive operational guidelines for implementation – as currently under development – should, of course, be mentioned in this regard. In addition, the fragmentation in forms of preferential procurement and targeted procurement in particular is presumably also motivated by other reasons, which are mentioned hereafter.

The cases discussed so far call for an entity that monitors all the factors that come into play when TP is applied, if all TP aspects are to be implemented and managed properly. The factors to be monitored vary from organizing the targeting mechanism to monitoring the achievement of social goals. The ideal entity seems to be the government agency or parastatal that issues the TP contracts. However, the question arises whether organs of the state are prepared for this challenging task. If such tasks are subcontracted to commercial entities, additional incentives are necessary, as was seen in the example of concession contracts on the N4 Maputo Corridor.

The discussed examples show that the TP operating procedures are difficult to comprehend, especially for emerging SMMEs. Regarding the development of SMMEs (including ABEs), there is a risk that fostering SMME relations will be at the cost of developing emerging businesses into sustainable companies. This is best illustrated by the fact that authorities started to develop “countervailing” measures immediately after the introduction of TP, in order to weed out unintended side effects (such as fronting practices, irresponsible ABE bids, etc. – see Section 4.1.2). If measured by female participation in contracts, the targeting of specific groups has – based on the discussed experiences – not been successful. The discussed practices are not even promising, since there are a range of general constraining factors preventing emerging groups from gaining better access to markets. Systematic monitoring and evaluation procedures are yet to be developed.

CHAPTER 5:

SURVEY AND DATA COLLECTION INSTRUMENTS

5.1 Field case studies

5.1.1 Data collection and modelling nexus

The consultants undertook field case studies to test and develop the information gathered from the more general TP experiences of stakeholder agencies and government entities. The field case studies were considered necessary to place TP in a practical project context and provide an opportunity to observe its application in the field. It was apparent from the outset that without some semi-structured case study template it would be difficult to assimilate information in a coherent form and carry out a sensible analysis. Without sufficient information in a verifiable form, the impacts and effectiveness of TP could not be assessed with any confidence. The problem was compounded owing to the concentrated time-frame and the wide disparity between how TP was viewed and practised by the various stakeholders.

The case studies were selected from the three tiers of government (national, provincial and local) in five provinces. Within these broad geographical classifications five examples were selected that demonstrated how the organs of state approached and implemented TP. They included a major rural roads programme, an urban road rehabilitation project, macrolevel departmental functions, a long-term routine roads maintenance project and a building works construction project. Careful planning was essential if all the key issues were to be properly addressed. These included the following:

- Targeting of agencies and departments with a verifiable track record
- Relevance and representativeness of the wider situation
- Availability of quantifiable data
- Use of uniform data-recording mechanisms to record information of significance
- Application of data analysis modalities that allowed assessment and effectiveness to be determined
- Limited time-scale

Weaknesses in the plan included a dependence on recommended case studies (i.e. they were not rigorously tested for applicability beforehand), insufficient time to drop a case study in favour of another if found to be unsuitable, incompatible data capture systems and, to a lesser extent, difficulty in getting enough advisers to comment on and allocate sufficient time and resources to the exercise. As a consequence, the projects or organs of state chosen for the case studies were those demonstrating a proactive approach to TP. It would have been enlightening to investigate the reasons why others were less positive in this regard but such an opportunity was not forthcoming. Those local government entities with reportedly less than convincing approaches to TP have been

considered in a more general context in the report.

A simple and descriptive performance assessment model was designed and used to pull together all the data and analyze each case study. It identified objectives and using a prescribed set of performance indicators examined the way TP had influenced service delivery.

While some of the data fed into the model were not always compatible, the exercise provided a useful and reliable description of performance when examined in the context of overall TP objectives. The models for each case study project are included as Appendix G.

5.1.2 Checklists and validation

Two standard data collection checklists were prepared prior to the case study field visits and interviews. In most cases they were issued in advance of the meetings to enable the interviewers to prepare. The checklists were compatible with the assessment model and the information from the interviews was fed straight into it. Checklist 1 captured factual data on TP implementation experiences and Checklist 2 was designed to record non-quantifiable information. The study checklists are summarized below:

Checklist 1

- Description of tendering and contractual procedures
- Information on contractors, joint ventures, ABEs and their relationships
- Contract details including training provision, amount, performance and outputs

Checklist 2

- Experiences and general issues regarding the use of TP
- Key impacts
- Overall effectiveness
- Conclusions and recommendations

Checklist 1 for each of the case studies and Checklist 2 used in the interviews are included as Appendix C. Information acquired from this process has been incorporated into the respective assessment performance models.

While the analysis of selected field case studies illustrates how TP has been addressed and implemented in a particular organ of the state or project, it does not show how the process is performing generally. To do this, a generic TP assessment performance model was developed and is included as Appendix H. The model uses nine parameters to assess TP impacts and ten parameters to assess TP effectiveness. The parameters are reflected in the analysis process and used to arrive at a set of conclusions and recommendations. The weakness in the approach is that it relies almost exclusively on unquantifiable data and hence is open to challenge. However, in many countries the experiences identified in case studies are common to public sector infrastructure project delivery (construction projects to create employment and facilitate poverty alleviation,

small-scale contractor development programmes, etc.) and the solutions are well known. With their combined experience the consultants were able to “cut through” the detail and identify the important issues, and to determine with some confidence TP performance at the macrolevel.

5.2 Case study findings

5.2.1 North West Province

The case study stakeholder in the North West was the Department of Transport, Roads and Public Works (DTRPW) and the project it felt demonstrated its experiences with TP was the Roads 2000 Programme. Commencing in August 2000, this programme was due for completion in May 2002 and is the first major initiative the Department has undertaken using TP. The project was selected as a case study because it typified the complexities and challenges experienced when a large civil engineering infrastructure design and construction programme is broken down into smaller parcels to accommodate TP requirements.

The programme was parcelled into 44 projects and the construction consisted of 139 km of road rehabilitation and upgrading works, as well as the repair of seven bridges throughout the province (DTRPW, 2001b). Of these, 38 were implemented through contractors and six using departmental resources (i.e. force account works). The total estimated cost of the works is R275 million and construction went according to programme. The Roads 2000 Programme contains all the main TP ingredients and thus proved a very suitable case study.

Consultation with the DTRPW and their construction management consultants (AFRICON) comprised field interviews supported by a data search and information gathering. Meetings with key staff contributed significant insight into how TP practices were applied and the lessons they entailed. The interviews were structured around the checklists and the case study statistics are summarized in Checklist 1 (see Appendix C). By appointing construction management consultants the DTRPW had effectively subcontracted management of the programme and a valuable record of progress is contained in the monthly reports. The most recent is for November 2001 and has assisted with the analysis of TP performance (DTRPW, 2001a).

A summary of the key findings of and lessons emanating from the case study is described in Table 5.1.

In the wider development context the DTRPW and its construction management consultants both felt that data on socio-economic benefits flowing from the programme could be gathered and in some cases quantified as part of the TP management process – provided the indicators were clearly identified and some baseline data were collected in advance. The respondents generally acknowledged that breaking down large contracts into smaller parcels, increased management time, greater contractual risks, training requirements, etc. indeed increased implementation costs, but that the gap is closing as the DTRPW and its consultants become more familiar with TP procedures. It was impossible to determine what the cost of implementation might have been if traditional forms of design and construction had been followed.

Table 5.1: North West Province case study key issues

Strengths	Weaknesses/lessons
Consultants and advisers were used to assist in TP strategy formulation.	Sufficient time must be allocated to plan TP project implementation.
TP management was a line function and not allocated to one department.	Sufficient time must be allocated at the tender and evaluation stage.
Consultants were appointed to manage the TP process.	A dedicated training manager is essential to coordinate training.
Dedication by the employer was essential for efficient TP execution.	Simplified and standard tenders and contracts are essential.
Nineteen ABEs were directly employed and 11 in joint venture partnerships.	Managers must be familiar with the process at the outset.
National procurement policies and TP1 guidelines were applied.	Accreditation of PSPs and project managers is advisable.
A departmental training course was held to prepare staff for TP implementation.	Labour-based construction planning must be carried out at the outset.

The Roads 2000 Programme contracting works were divided among five established contractors (R36,82 million), 19 ABEs (R73,12 million) and 11 joint ventures (R99,77 million). In all, 2 460 individuals were employed. In addition, a major training programme was run in parallel with the project and some 688 persons from the participating communities were trained at a cost of R1 624 126.

The data from the case study interviews and the information provided have been used to model overall TP achievements for the Roads 2000 Programme, and are summarized in the case study performance model attached as Appendix G. In all, the assessment model demonstrates a positive application of TP by the DTRPW.

5.2.2 KwaZulu-Natal Province

The case study used in KwaZulu-Natal was the North Coast Road (B56115) Project currently being implemented by the Ethekwini Municipality Roads Department (EMRD). This was the project they felt best demonstrated their experiences with TP and highlighted many of the complications the Ethekwini Municipality (EM) is experiencing in implementing its TP policies. The North Coast Road Project also presented an opportunity to make a site visit and meet all the key role-players, including the employer, contractor and the ABEs.

The EM's TP implementation policy dates back to September 1998 (South/North Central Local Council, 1998), during the time of the former Durban Metro now incorporated into the EM. It was formally mainstreamed into the EM's procurement policy much later and the regulations were only published in December 2001

(Department of Finance, 2001a). This was preceded by the establishment of a procurement task team in August 1999, comprising representatives drawn from the various operational entities, units and departments. The task team was chaired by the Strategic Executive of the City Engineers Unit and reported to the Policy Unit. The task team was charged with the following:

- Developing plans and strategies
- Recommending changes to TP policy
- Communicating advances to stakeholders
- Driving the process forward
- Keeping the Council informed of all developments

The preference points system laid down in the PPPFA is used when calling for tenders and the wording of the EM's regulations is very similar. For contracts in excess of R2 million the TP1–6 model forms of contract apply and for those less than R2 million direct preferences are used for the appointment of Women Equity Ownership (WEO) enterprises and ABEs. Quantifiable data on the application of TP were being collected by the EM, but this recently ceased owing to staff reorganization. Data are therefore limited to only six months. A Strategic Executive staff member has recently been tasked with “pulling all the threads together” and developing a more inclusive electronically based TP management system, in particular as regards the collection of data for performance monitoring and evaluation (M&E).

On a more project-related level, the EM felt that the TP specifications (and the arithmetical procedures in general) are overly complicated and could be simplified. Although some training had been given in-house to prepare staff for the introduction of the new TP procedures, there was no formal training programme for ABEs. The EM does fund the tender advice centres, which it sees as the entry point for ABE, WEO and PDI training. No work has been done on assessing socio-economic impacts flowing from TP but the EM's Economic Development Unit considers this an area for its attention. No geographical targeting per se is carried out and most of the EMRD projects are needs driven.

All capital works implemented by the EM are put out to tender and no financial or programme penalties have been recorded as a direct consequence of TP. During the initial “learning” phase it was judged more than likely that they were incurred but this is impossible to confirm one way or the other. At present, the EM favours assigning responsibility for TP to an individual as a designated line function. This is an extension of the work of the task team and will be accompanied by a continuous practice of in-house training and education.

Data and information collected from the North West Relief Road site visit were extremely useful. As well as inspecting the construction works, extensive interviews were held with the main contractor (Concor Holdings Pty Ltd) and one ABE (Davecon Civils). The road is 1,6 km long and is a complicated single-to-dual carriageway upgrading project in a heavily built-up and trafficked area. The main contract value is R35 million and the value of Davecon Civils' contract is about R3,5 million. It is the

third contract they have carried out. The firm is a single-person company and employs 12 workers on a full-time basis, plus two drivers. Some case study points of note are as follows:

All subcontracts are with 100%-owned and -managed ABEs.

Regular meetings are held between the main contractor and the ABEs.

Detailed records of ABE involvement and performance are maintained as part of the site record.

Most ABEs came up through the main contractor's ranks and worked as leading hands or foremen.

Designs were not simplified to allow ABEs ease of construction.

The construction quality of some ABE work – while approved – was poor.

There is a wide range of ABE performance.

Most ABEs will survive and profit from their involvement in the project.

The main contractor relies exclusively on ABEs for output and spends a great deal of (unpaid) time on mentoring.

Training of ABEs is being undertaken by the main contractor.

National minimum wages are not being applied by ABEs.

Material purchases and lack of cash flow are the main ABE concerns.

A summary of the key findings of and issues arising from the case study field visit and site interviews is given in Table 5.2.

Table 5.2: KwaZulu-Natal Province case study key issues

Positive experiences	Lessons
Detailed policy and working regulations were prepared.	Structured risk taking by the EM was needed to protect and encourage ABEs.
A task team was set up to manage the implementation process.	Contracts must allow ABEs cash for upfront material purchases.
In-house staff were trained in TP to assist with implementation.	Consideration should be given to simplified yet cost-effective ABE-targeted designs.
The contractor accepted the need to improve ABE development.	Main contractors should not be expected to underwrite the TP policy.
TP was successfully incorporated into site construction procedures.	Bridging finance is to be included in ABE contracts (i.e. mobilization payment).
An inclusive M&E system was planned for measuring TP impacts.	Recording of socio-economic data by supervision staff is possible.

The data from the interviews and information provided by the EM, the site staff, the main contractor and the target ABEs have been used to model overall TP achievements

for the North Coast Road Project. All the factual data have been summarized in Checklist 1 (see Appendix C) and its performance has been assessed in the case study model attached as Appendix G. Overall, the assessment model demonstrates a positive application of TP by the EM.

5.2.3 Western Cape Province

In the Western Cape the case study was confined to an examination of TP policies and procedures used by the Department of Economic Affairs, Agriculture and Tourism (DEAAT), which includes the Property Management and Works Branch. No particular project was identified and the case study concentrated on how the Branch assimilated TP into its procurement regime. The Property Management and Works Branch outsources all its works and is currently implementing a building environment empowerment project specifically targeted at ABEs (DEAAT, 2001a). It has a 50% local community employment requirement and a high priority is placed on training.

The provincial administration has drafted and recently published its preferential procurement policy that sets out how TP will be implemented in the Western Cape (Department of Finance, 2001b). It is largely based on national legislation and has been mainstreamed into all provincial government departmental operations. The Provincial Tender Board (PTB) has drafted a set of accompanying regulations that provide guidance in the implementation of TP policy (Department of Finance, 2001b).

Meetings with the DEAAT consisted of interviews supported by a data search and information gathering utilizing its in-house-designed EWorks project management tool. The DPW's GTPMS was not used to track TP operations, as it was found to be too complicated and does not generate the information required. The interviews contributed significant insight into how TP practices were applied and the lessons that have been learnt. Ideally, contractors and beneficiaries should have been included but this was not possible in the time available. The case study therefore relies on selected descriptive information structured around Checklist 2 (see Appendix C).

Some points of note arising from the interviews are as follows:

- There is a keen awareness that the process as applied does not measure socio-economic or empowerment goals, and it is consequently being corrected.
- Problems of corruption early on resulted in a redesign of some management and accountability systems.
- The process should have been introduced more slowly, as some ABEs were bankrupt before they had time to develop sufficient business acumen.
- Tender advice centres are seen as crucial to efficient service delivery.
- The lack of community liaison officers is hampering project implementation.
- There are no formal PSP registration procedures and some providers are unfamiliar with TP and require training.
- Too few ABEs operate in the market and their share needs to be increased.

For the 1996 Olympic Bid submission the DEAAT used TP1 to carry out a multitude of projects in excess of R96 million and it therefore has extensive experience in managing the process. The participation goal was set at 40%; three ABEs in joint venture partnerships failed. Problems (mainly of an administrative nature) are still being experienced and departments had until May 2002 to prepare more detailed working guidelines. Screening of ABEs is a function of the PTB, which maintains a database of registered firms in various work categories and for financial tender limits. There is no dedicated TP unit in the DEAAT and in 1998 staff underwent extensive training in managing the process.

Although the PTB guidelines require TP implementation to be accompanied by a comprehensive M&E programme, there is no system as yet capable of satisfying this requirement. This is a matter of some concern and the DEAAT intends appointing a social development specialist to look at socio-economic impacts flowing from its TP implementation programme.

To provide an M&E capability, the existing EWorks database is currently being linked to MS Project and Excel. Only manual records are kept at present. The latest tender awards summary is for the period 1 April to 31 December 2001, and is presented in Table 5.3.

Table 5.3: Western Cape Province case study tender

Item	Type of contract awarded	Number	Value (rand)
1	Contractors with Women Equity Ownership (WEO) status (included in Item 2)	131	21 007 307
2	Contractors with ABE status	210	57 911 049
3	Contracts to those with PDI status	9	230 000
4	Contracts to others	60	63 150 454
5	Cancellations	6	–
	Total	279	121 291 503

The summary in Table 5.3 yields some remarkable statistics. About 78% of the Property Management and Works Branch contracts were awarded to WEOs, ABEs and PDIs, amounting to 48% of the total value of contracts awarded in the nine-month period. This equates to R58 141 049 out of a total contracts bill of R121 291 503 and demonstrates quite clearly the DEAAT's commitment to TP policies.

The introduction of any new policy is a transitional affair and the DEAAT admits that it is on a steep "learning curve" with TP. Its experiences are important in understanding where the problems lie and in designing procedures to circumvent them. A summary of the key findings of and issues flowing from the case study field investigations is given in Table 5.4.

Table 5.4: Western Cape Province case study key issues

Positive experiences	Lessons
TP policy and implementation guidelines were established.	More care in maintenance contracts is needed to deal with corruption.
National procurement policies and TP1 guidelines were applied.	Better screening of ABEs and PDIs is needed to weed out underperformers.
A departmental training course was held to prepare staff for TP implementation.	Improved consultant registration procedures are needed to target the right firms.
A high priority was placed on ABE and PDI training and skills transfer.	Tender advice centres that can take a more proactive role in the TP process are needed.
The need for M&E to measure TP impacts was acknowledged.	Performance bonds and guarantee requirements for WEOs are too tight.
A social development specialist was appointed to access TP impacts.	A more structured training programme is needed for ABEs and PDIs.
There was early acceptance and inclusion of TP principles in operations.	Community liaison officers should feature in the TP process.

As the DEAAT outsources all consultancy and construction services, it does not maintain a high staff complement and directs TP policies through consultants using the policy guidelines. The DEAAT is acutely aware that M&E form a vital part of TP and acknowledges the importance thereof. Although ABE business failures have been few to date, these are likely to increase as the workload expands and more ABEs and WEOs are employed.

The Western Cape Province seems to have embraced TP with enthusiasm and dedication. TP forms a fundamental cornerstone of its procurement policy and permeates through the management and administrative structures. No specific project or programme was studied in depth and the case study was used to establish how provincial government approached TP. As a consequence, a checklist was not drafted nor a case study performance model prepared.

5.2.4 Gauteng Province

The National Roads Agency (NRA) has earmarked R9 billion for investment in primary roads over the next 10 years (SANRA, 2000). It is clearly a major infrastructure stakeholder and possesses the capacity to influence TP implementation strategies. The “ethos of the NRA TP philosophy is that we can and are contributing to economic growth in our country and the southern Africa region as whole by training people to become economically active by reducing unemployment and by stimulating growth in the small and informal sectors”. For these reasons (i.e. investment levels and philosophy), it seemed appropriate to select an NRA project as a case study to see how it addressed TP and to compare its experiences with those of others.

An examination of NRA operations suggested that a case study, which highlighted its TP implementation process, would be a routine maintenance project – as opposed to safety, periodic, special maintenance or BOT projects. At present, the NRA believes these latter categories do not easily lend themselves to ABEs as they require higher levels of investment in terms of equipment and technical expertise. The case study selected was the Johannesburg Western Bypass (JWB) on Route 1, Sections 20 and 21. The works include verge grass cutting, drain and culvert cleaning and general maintenance along 80 km of road divided into two discrete sections. The value of the contract is R19,7 million; it commenced in July 2001 and is due for completion in March 2003. Case study interviews were conducted with the NRA Head Office, the consultants (AFRICON Engineering International) and the contractor (Superway/Lenong Pty Ltd Joint Venture).

The NRA expresses its TP implementation procedures in terms of the RDP and these are included in the contract documentation (SANRA, n.d.). It does not apply the TP specifications (TP1–6) and uses its own tender evaluation formulae based on the financial proposal (80 points), management proposal (7 points), PDI equity and supervision (6 points) and a mark-up on ABE and SMME works (7 points). For the JWB contract, the contractor must sub-let a minimum of 70% of the works to ABEs and SMMEs. Penalties are imposed on the contractor if the PDI equity and supervision target is not met, but no resource goals are specified. The contract document comprises the following:

- FIDIC (International Federation of Consulting Engineers) Conditions of Contract
- SANRA Standard Specifications for Routine Maintenance
- SANRA Form of Contract

To all intents and purposes the FIDIC conditions have been successfully “welded” onto the NRA specifications and form of contract. The PSP confirmed that contractors generally prefer the FIDIC conditions and the JWB project has proved eminently manageable. There have been no contractual disputes to date and none are expected. How the FIDIC conditions could be applied to the TP specifications is unclear, as none of the case studies used this contractual construction and there was no time to find and analyze a contract that did.

The JWB contractor appointed four ABEs for specific parts of the works. They were asked to provide a schedule of rates at the tender stage and were not appointed through an open tender process. The contractor is required to provide a monthly employment record. Table 5.5 shows the record for November 2001.

Table 5.5 gives an indication of the composition of the ABEs and the proportion of women employed. No disabled persons were employed for the month in question. Whether they are employed on the project and if so, how often, is unclear from the data. Certainly no women and disabled employment goals or target objectives are stated in the contract, which is the NRA’s standard document. This underscores a lack of attention being paid to gender- and disabled-sensitive employment practices.

Table 5.5: Gauteng Province case study contractor employment report, November 2001

Firm	Employment		Person hours		Value (rand)	
	Male	Female	Male	Female	Male	Female
Noshland Developers*	53	6	13 942	1 080	62 965	5 400
PJ Maintenance	30	1	6 282	180	28 183	1 100
Mokgotsi Construction	–	–	2 523	–	27 473	–
Superway/Lenong Joint Venture	–	5	–	858	–	5 650

Note: A different company to that named in the contract.

There is a proposal to use a more comprehensive performance-based routine road works specification rather than a measured bill of quantities in order to reduce supervision and management costs. How this would impact on TP is unclear. As it leaves the contractor to decide what works are needed to achieve the performance targets, the management skill levels of participating ABEs would probably have to rise, which is likely to cause problems in the short term.

One weakness when it comes to expanding TP opportunities seems to be a lack of coordination between the NRA and the provincial Roads and Public Works Departments. Many of the latter carry out routine-type road maintenance by force account and limit the scope for ABEs to expand their businesses. It seems illogical to have one agency promoting TP along a national route and another doing similar work nearby that excludes ABEs. Of course, it may not be as simple as it seems and other factors might be at work that make coordination difficult.

As regards training there was fragility in the way this issue was handled – ranging from how training was priced and included in the contract document to its delivery. Only the minimum of construction training and skills transfer was delivered and the trainers – while accredited – were apparently working in the wrong language and from the wrong ethnic group. There was no follow-up either through the JWB or the NRA to assess how effective the training was in providing ABEs and employees with the skills needed to fulfil their contractual obligations. Key findings of and issues arising from the case study field interview and investigations are summarized in Table 5.6.

Overall, the SANRA and its consultants view TP in a positive light but a number of shortcomings were recognized. Budgetary pressures are forcing contractors and PSPs to cut margins and this is manifested in too little time being spent on planning, supervision and project evaluation. There are no M&E performance procedures in place, nor is there a central data-capturing system. As a result, it would be very difficult for the NRA to establish with any certainty how successfully it is implementing TP and whether the target socio-economic goals are being realized.

Table 5.6: Gauteng Province case study key issues

Positive experience	Challenge
A positive TP implementation policy is used by the NRA.	The contract should specify higher labour-based targets.
Benchmark pricing is used to protect inexperienced ABEs.	The RDP requirement should be stated in the contract.
In some cases targets are waived to support failing ABEs.	Vetting of ABEs should be more structured.
TP implementation currently tends to be selective and concentrates on simple maintenance operations.	The competitive nature of bidding and lowest tender selection leaves PSPs with too little time to mentor the TP process on site.
A local-level committee was formed to manage ABE contract(s).	Training needs to be reassessed to reflect reality and need.

Data provided by the case study interviews have been used to model overall TP achievements. These have been summarized in the case study performance model attached as Appendix G. Factual data gleaned from the interviews are described in Checklist 3 attached as Appendix C.

5.2.5 Limpopo Province

The DPW is a major infrastructure service provider and some 131 prime major contracts consisting of general, civil, mechanical and electrical works were awarded and carried out in the three-year period between 1 August 1996 and 1 July 1998. The DPW's experience of TP is unrivalled and one of its projects has been selected as a case study. Since the case studies discussed earlier are mainly road works, it pointed to the logic of assessing a building works project. After consultation with the DPW the Leoboeng Community Safety Centre (LCSC) was chosen.

The project was managed by Major Projects in the DPW and had just been completed. A joint venture between a traditional architectural practice and an emerging ABE practice was appointed to prepare the designs and supervise construction. The works included a police station, a justice court, housing, infrastructure services (roads, drains, foul sewer system and water supply works) and the refurbishment of an existing health clinic. The value of the works was R16,2 million and the contract period 18 months. Construction commenced on 16 December 1999 and was completed on 12 August 2001 – extensions of time totalled 104 calendar days. The contractors were an ABE joint venture between Boithedo (Mpumalanga) (Pty) Ltd and Ubuntu Home Builders (Pty) Ltd, with the former enjoying financial and managerial support from an established civil engineering contractor, Stocks and Stocks Construction Holdings (Pty) Ltd.

The DPW expresses its TP implementation formalities through some, but not all, of the TP specifications (TP1–6). The specifications offer too many options and are overly complicated for emerging ABEs, who are the target group. The LCSC used the TP4

specification with a modified Method 3. Management of the contract was straightforward and without incident. Numerous subcontractors were employed by the joint venture, some of whom were ABEs. On the whole, the more skilled subcontractors (electrical, mechanical, etc.) were established contractors and the lesser skilled subcontractors (plasterers, earthworks, etc.) were ABEs.

A training expert drafted and managed the training programme, which was included in the contract as a measured bill item (R221 205). In all, 18 persons were trained and a number received small business enterprise (SBE) skills development. There was no follow-up assessment to establish how successful the training was and there are considerable doubts as to how the skills learnt will benefit the participants in the longer term. If the trainees were mobile, there would be no objection to them moving into another area of the province to seek employment, but many are not.

A summary of the key findings of and issues emanating from the case study field interview and investigations is given in Table 5.7.

Table 5.7: Limpopo Province case study key issues

Positive experiences	Lessons
The joint venture comprised two ABEs, with mentoring provided by a large established contractor.	The architects performed many community mobilization services for which they were not reimbursed.
The architects comprised an established firm and an ABE joint venture.	The lack of prequalification procedures resulted in 35 tenders being submitted.
Training provision was successful but a limited number of trainees were produced.	Tenders from R7,5 to R22,1 million and an estimate of R18 million.
The contractor participation goal was exceeded.	Managing TP proved taxing with an increased workload generally.

As the DPW is more experienced with TP than anyone else involved, the implementation of the LCSC proved to be smooth and in the main uneventful. Problems experienced in the early stages included the adoption of new and cumbersome contractual procedures, the additional workload, technical problems, and so forth, and were successfully overcome. There seems to be a genuine enthusiasm for the TP process by its practitioners, who have accepted it as part of their normal duties. No project M&E is being carried out by the DPW other than the normal contract-specific project management procedures. They are aware of the need to measure socio-economic impacts but as yet do not possess the necessary tools to this end. The GTPMS would seem the obvious project M&E vehicle.

Data provided by the case study interviews and the collected information have been used to model overall TP achievements. These have been summarized in the case study performance model attached as Appendix G. Factual data gleaned from the interviews are described in Checklist 4 attached as Appendix C.

5.3 Affirmative business enterprise survey

5.3.1 Methodology

The ABEs are the backbone of the TP process and the TPA would be incomplete without a clear understanding and assessment of their standpoint. The consultants considered a small survey among contractors (ABEs and non-ABEs) necessary to verify and clarify some of the findings from the case studies in order to complete the picture. Although initially included in the sampling, the response from non-ABE contractors proved to be insufficient for inclusion in the survey findings. Hence, for the views of the established construction industry the consultants refer to Section 5.3.2, although they acknowledge that this picture is not fully representative of the non-ABE sector. The information gained from the survey did not result in complete new fields of information, but nevertheless proved very useful in appreciating the current views of ABEs and their concerns with regard to TP.

The instrument selected for the ABE surveys was a questionnaire, which formed the basis of semi-structured telephone interviews. A list was obtained from the DPW of contractors located in the Gauteng region who had previously undertaken work as ABEs under its TP programme. A number of representative contractors were selected at random from the list and the companies' executives were asked to participate in the survey. The majority of contractors were willing to participate but expressed reservations about the likelihood of any positive outcome, given that they had taken part in similar studies in the past, with no discernible effect.

The affirmative business enterprise questionnaire and survey summary are attached as Appendix B. The questionnaires, which were divided into the following three sections, were administered telephonically:

- Details of the contractor

- Extent and experiences of the contractor's involvement in TP

- The contractor's opinion on TP in general

In all, a total of 20 contractors were contacted for their views. Five of the 20 had little or no detailed knowledge of TP. For the others, the questions invariably elicited passionate responses and most respondents had strong opinions on TP.

By their reckoning, the contractors in the sample had fairly large turnovers for ABEs and had been in business for a "long time". Thus, the survey was not weighted towards the contractors at whom TP is mainly directed (i.e. small emerging ABEs). This was counterbalanced by those in the sample with an intimate knowledge of the conditions experienced by the smaller firms. They had passed through the same process and were working within the same general operational climate.

5.3.2 Results

Of the 20 contractors contacted, 15 contractors agreed to an interview. Of these, 11 (73%) were prime contractors and four (27%) subcontractors. One of the prime contractors secured his work mainly through joint ventures with other larger and more

established companies. A brief summary of the major survey facts concerning the contractors' business capacities is given in Table 5.8.

Table 5.8: Contractor response

Contractor	Annual turnover	Years in business
Average-sized firm	R41 million	20 (oldest)
Medium-sized firm	R15 million	9
Small-sized firm	< R1 million	2

All the 11 firms that had been in existence for five years or more exhibited some growth over the period and increased their turnover by, on average, 3,6 times. Most of them attributed this change to reasons other than TP. Indeed, the main reason given for securing construction work was proper pricing, indicating a commercial awareness of this aspect of tendering. The opportunity to carry out quality construction work was also appreciated, although most felt they had the skills to secure work outside the TP process anyway. Seven contractors (50%) had never won a TP contract, possibly because of their small size. Five (33%) had carried out between one and five contracts and three of them (20%) had undertaken more than five contracts.

Contractors saw TP contracts as a simple way of getting work and learning new skills and as a source of security by working with a large, well-established contractor. However, they did not see any of these issues to be of great significance.

5.3.3 Performance of the targeted procurement process

The 15 contractors were familiar with the aims of TP and identified the primary objective as encouraging the establishment and growth of emerging ABE contractors. The majority felt this objective was being achieved but cited the following factors as hampering ABE development:

- Lack of financial support mechanisms and adequate training programmes, especially in management
- Preference sometimes being given to non-ABE firms
- Resistance from PSPs
- The highly individual nature of entrepreneurship, especially in construction

Most contractors acknowledged that targeted procurement resulted in valuable experience for ABEs as they "would never have obtained jobs on larger sites". It helped them gain experience and acquire the resources to carry out larger or more technically challenging projects. In addition, the approach was considered effective in creating jobs for unskilled labour and facilitating business opportunities for HDIs. It was seen as marginally effective in addressing skewed success patterns in the bidding process and in improving the delivery capacity of small ABEs. However, according to 56% of the

respondents, TP was not considered effective in improving joint venturing and subcontractual relationships.

Those contractors critical of TP felt a great deal of the benefits went to firms that were not part of the target group. Insolvency among ABEs was blamed on the lack of follow-up, poor financial management skills and alleged unfair treatment at the hands of the more powerful joint venture partners and main contractors. The suggested measures for helping ABEs achieve the TP objectives were as follows:

- The availability of credit facilities and financing
- The need for technical and managerial training, especially through mentoring
- Allocating projects exclusively to ABEs to aid the transition from emerging to fully fledged contractors
- Monitoring contracts to ensure that only responsible ABEs are selected
- Having more TP contracts

The contractors suggested various remedial measures for addressing these problems. Mentoring by more established contractors is seen as the best way to aid the process, but care needs to be taken to ensure that smaller companies are fully involved in the process. Contractors felt ways should be found to help ABEs access credit facilities and bridging finance. Some contractors highlighted the need to ensure a continuous flow of work through direct spending on the class of jobs ABEs tender for.

One contractor recommended a more sympathetic approach by the government to the execution of small contracts, especially where problems due to poor pricing and cash flow arose. Another suggestion was that contractors themselves should be more aggressive, as there was “no free ride”. Another wanted a reappraisal of the role of PSPs, more stringent supervision of their performance and greater scrutiny of the statistics they produce, which sometimes led to the marginalization of ABEs. Some contractors expressed the fact that success depends on the individual who must be prepared to work hard and, ultimately, all that can be done is to provide people with the necessary skills and “hope for the best”.

Properly structured training programmes were seen as a particularly important component of any attempt to improve the performance of ABEs. These would have to be established in conjunction with measures to ensure a continuous flow of work, otherwise skills acquired would be wasted (i.e. unsustainable). There were those contractors who felt that training was the responsibility of others like the Construction Education and Training Authority, and not ABEs who had done their part by paying training levies. Others felt that training should be a long-term affair as it took years to acquire the necessary skills to be a good contractor. The nature of subcontracting where contractors have few permanent employees meant that ABEs had little interest in training staff who would soon be working for someone else.

Some contractors called for the simplification of the TP documents and better invitations to alert eligible contractors of tender notices. One contractor suggested that an ombudsman should be appointed, based in the DPW as a “hotline” for empowerment and a place where ABEs could take their grievances. Two wanted collateral and

retention demands waived for ABEs and the time taken to award a project shortened to avoid price escalations and to help with planning. One contractor called for a contractor's roster and the use of prequalification – at a recent tender opening there were 70 contractors present.

Perhaps the most interesting comment from the survey was the realization by a number of the contractors that TP was a programme that has a finite life and cannot operate in perpetuity. At some point “the laws of economics and market forces must come into play” and this should be made clear to the construction industry.

5.4 Data capture systems

To enable basic data on ABE contracts and a statistical record on the progress of their PPP to be tracked, the DPW appointed external consultants to design and commission a Geographical Targeted Procurement Management System (GTPMS). As the launch Department for TP the DPW has always allowed free and open access to its experiences. This includes unbridled use of the TP1–6 specifications and access to the GTPMS. Other public sector entities were encouraged to take advantage of the system, with the only requirement being that copies of the TP data were to be made available to the DPW. Some entities have accepted the offer and used the facility with some success (e.g. the MMLC), but in the main the take-up has been poor.

Owing to logistical difficulties and staff changes within the DPW the TP information held on the GTPMS has not been regularly updated and the data are incomplete. Measures are under way to correct the situation and the DPW is confident that the system will be up and running again soon. A summary of the DPW data held in “blocks” on the GTPMS from August 1996 and one manually compiled block from August 2001 to February 2002 are included as Appendix I. The periods covered by the data capture and sources are presented in Table 5.9.

Apart from the data held by the DPW, there are precious few other sources of information available on TP, which is disconcerting. Most of the data referenced above were compiled and analyzed for the previous study and little work has been done since. Apart from the MMLC data, some isolated sources of data were identified during the targeted procurement assessment (TPA). These included the North West Province Roads 2000 Programme and the Western Cape tender summary (see Table 5.3) – no doubt other capture systems exist in other places. The TP data capture compiled during the TPA is included in Appendix I and is summarized in Table 5.10.

Data compiled from the various sources listed in Table 5.10 – but primarily from the DPW – show the composition by value and by number of contracts carried out by ABE contractors over various periods of time. As can be seen from the indices and percentages for ABE participation by number of contracts and by contract value, ABEs account for a significant proportion of the contracts let. In purely numerical terms, the DPW has gradually been awarding more contracts to ABEs during the period of observation.

Table 5.9: Department of Public Works data capture

Period	Data capture	Source
August 1996 to June 1997	Number and value of contracts (minor and major)	Gounden (2000)
July 1997 to December 1997	Number and percentage of contracts awarded to ABEs and non-ABEs	Gounden (2000)
January 1998 to July 1998	Value and percentage of contracts awarded to ABEs and non-ABEs	Gounden (2000)
September 1998 to February 1999	ABE index and Financial Premium (FP) index	Strategic Procurement Systems
August 2001 to February 2002		DPW
August 1996 to December 1998	Total value of contracts: building, civil, mechanical and electrical	Gounden (2000)
	ABE index percentage market share: building, civil, mechanical and electrical plus average	Gounden (2000)

Table 5.10: Minor and major contracts data capture summary

Period	Total contracts	Contracts (ABEs)	Contracts (% ABEs)	Total contracts value (rand m)	Value of contracts (ABEs) (rand m)	Contracts (% ABEs)	ABE index	FP index
August 96 to June 97*	181	18	10	246,7	28,6	11,62	39,52	0,4
July 97 to Dec. 97*	140	12	9	388,8	20,3	5,22	36,05	0,12
January 98 to July 98*	122	18	15	1,017	58,5	5,75	58,98	0,3
Sept. 98 to Feb. 99*	163	73	45	165,6	71,8	43,39	–	–
July 98 to June 99**	26	25	96	19,5	19,1	97,97	–	–
April 2001 to Feb. 02*	109	74	68	1,689,7	551,5	33,27	–	0,3
March 98 to Aug. 99***	154	4	3	107,5	2,304,3	5,73	–	–
Totals	895	224	–	3,636,5	752,2	–	–	–

Notes: *DPW records; **Midrand study; ***Durban experience.

This might mean that more smaller-value contracts are being awarded as part of a conscious attempt to break down larger packages into more manageable sizes, budgeting prerequisites or simply a function of DPW service delivery capacity. Either way, it reinforces the argument that data of this kind are absolutely vital if the performance of a policy like TP is to be shadowed and kept on track.

While the data do not allow statistically valid conclusions to be drawn on the performance of TP, they nevertheless provide information on the number and value of contracts awarded to ABEs. There are inconsistencies in the DPW record (e.g. the four-month overlap between July 1998 and February 1999, a gap of one month in August 1998, and nothing from June 1999 until April 2001), which confuse the picture. Although the data from the MMLC study and the Durban experience only provide brief “snapshots” covering discrete time periods, the information has proved extremely useful.

In spite of the investment put into setting up the GTPMS it may be time for the DPW to reconsider precisely what it is trying to accomplish with this powerful tool. There seems to be little point in running a database network that is not being accessed. With few exceptions, the reasons given were that the GTPMS was too complicated, did not have 24-hour electronic access and generated more data than were really necessary to assess TP implementation. Added to these perceived drawbacks is the fact that most public sector entities practise their own style of TP. If they are not prepared to adopt a national standard, it seems unlikely they will buy into a single GTPMS.

In the PPPFA, Item 2 of Clause 2 states that goals of contracting with an ABE and implementing the RDP are to be “measurable, quantifiable and monitored for compliance” and clearly this is not being done. If the basic data on TP are not being collected it is impossible to say how effective the process is and whether it is compliant. One answer may be to run a simplified “light” version of the GTPMS, which could be easily accessed via the Internet, and to maintain the existing GTPMS for more sophisticated data manipulation.

5.5 Observation from the survey instruments

Several observations can be made.

The experiences of most implementing agencies reveal that they have given preferential procurement and TP a serious thought and, equally most of them have taken action to design and implement such a policy, some in a very detailed manner. This creates the overall impression that TP has been taken on board enthusiastically and proactively. Also, a range of public agencies (across the three tiers of government) have implemented TP as a line function and not as a separate department (examples are the cases in North West Province and the Western Cape). Others have formed task teams to guide the development and implementation of TP (e.g. the case in KwaZulu-Natal).

Many agencies prefer their own taste of TP. The reasons for this differ and are not only related to the absence of a common PPPFA framework in the initial stages, which may have allowed implementing agencies to take advantage of the considerable degree of flexibility. In quite a few cases implementers qualify the TP procedures as “too

complicated”. Some organs of the state select or modify TP specifications to fit a particular policy goal or operational environment. Indeed, a more in-depth analysis of individual TP contracts is required to conclude which pros and cons or gaps between policy intent and outcomes are the reasons for this variety in implementation, before conclusions can be drawn as to whether or how the TP specifications have to be modified.

The targeting and engagement of ABEs, particularly through the joint venture agreements, have to a certain extent worked. Some cases reported a steady increase in the number of ABEs (measured by changes in the ABE and PDI indices). Others confirmed that ABEs are moving up through the ranks of the established contractors. The outcomes of the ABE business survey also confirm the empowerment function of TP, namely facilitating access to the industry and to interesting work opportunities (such as ABEs gaining experience on larger contracts). However, the ABE business survey outcomes call also for modesty, as the best opportunities were taken up by those ABEs that were already in business or had established professional relationships with prime contractors. More than 50% claimed that TP did not make a difference in achieving their current business status; rather, it was through commercial experience, adequate pricing and hard work. Another critical point is that although ABE participation in public contracts seems to have increased during the initial years, the average rand contract value seems to have dropped over the past few years. In sum, the limitations of TP appear to have surfaced indirectly as well, both in case study and in survey data.

The introduction process of TP can be better handled, particularly when applied to the design, planning, preparation and evaluation of contracts. This appears to be crucial for success. There are reported weaknesses, namely that insufficient time is given to the tender evaluation stage and that (simplified) designs are needed to allow ABEs to compete. The risk of ABEs collapsing is greater if TP introduces them to the industry in a rush.

After they introduced TP, certain organs of the state had to come up with countervailing measures to reduce unintended side effects. These include benchmark pricing to protect against inexperienced ABEs (and poor quality work), but on an equal footing, to be flexible about target setting to enable ABEs to compete. It is remarkable that the case studies hardly generated response about efforts to fight corruption, favouritism, or prime contractors in joint ventures using their “muscle power”, aspects about which ABEs in the business survey complain more specifically.

Training is a key weakness and, at the same time, a requirement for achieving success with TP. Training is clearly an aspect that has been passed on to the implementing agent and to the prime contractor in joint ventures. Some agencies found that in-house training is unavoidable if success with their policy was to be expected. Others had to “clean up” because they failed to pay sufficient attention to training. Apart from successes (e.g. the case in the Limpopo Province), training opportunities for ABEs seem to be limited and training as a technical and business aspect is a fragile one. Some ABE contractors in the business survey blamed prime contractors for doing too little. However, the majority saw established contractors as the most important actors for

providing mentor training. In turn, a vast share of the established contractors concluded that they spend a great deal of time on monitoring and mentoring ABEs, which in one case study response was referred to as “an extra tax”.

Some case studies reveal that higher labour rates could be achieved than currently recorded. The lack of technology specifications appears to be a crucial point that has to be taken up in relation to measuring the potential employment impact. Insufficient liaison with communities in the implementation process is another observation, but in some cases local-level committees have been formed to manage ABE contracts.

M&E procedures (or rather the lack thereof) is a critical weakness. The fact that agencies leave their discipline during the usual process of transformation reorganization calls for developing better ideas to tackle the issue. Granting bonuses, rather than “tax premiums” for adequate data records used for planning, might be an option. In sum, the data collection process under the GTPMS is reported to be too complicated.

CHAPTER 6:

TARGETED PROCUREMENT IMPACTS

6.1 Contractual relationships

6.1.1 Subcontracting

Although the targeting and engagement of ABEs, particularly through the joint venture agreements, has worked to quite an extent, arguably a major factor impacting on TP has been the difficulties of *emerging* ABEs to form worthwhile and productive subcontracting relationships. A clause now common in international contracts states something to the effect that “nothing should be construed under this contract to infer or promote a servant or master relationship”. However, subcontracts of any kind nearly always have a ‘stronger’ partner and if the management of the contract is not handled with sensitivity, acrimony quite often results.

The TP specifications are primarily designed to manage the process and provide a mechanism for ensuring that tendering, appointment and the contract participation goals are being monitored and maintained. Although they provide a degree of protection for ABEs, there are numerous ways in which the stronger partner in a relationship can exert pressure on the weaker one. There are arguments for writing into the contract additional practical safeguards that can be supervised. For example, in the United Kingdom, some forms of contract provide payment security by stipulating that the engineer shall not certify the main contractor’s payment unless the subcontractors’ previous invoices have been settled (Institute of Civil Engineers, 2001).

Table 6.1: Key subcontracting factors

Main contractors	Subcontractors
Contractors and subcontractors must share opportunities more equally.	Model subcontract forms are to be included in the contract document.
Contractors must promote and share business and management skills.	There needs to be improved training in management and construction dynamics.
Payments (particularly for materials) are to be made easier for subcontractors.	Payment of the main contractor must be linked to payment of the subcontractors and not simply “pay when paid”.
Contractors are to offer subcontractors more assistance at tender stage.	Improved prequalification procedures are needed to address fronting.
Contractors must pay closer attention to a subcontractor’s skill level and factor any weaknesses into the delivery schedule and construction quality.	Subcontractors should be made more aware of the risks and volatility of contracting and there should be procedures to dissuade weaker ABEs from entering contracting.

Numerous TP subcontracting-related impacts were raised and identified during the TPA. Many of these are simple and can be addressed within the subcontract itself, but many go beyond the management of the contractual relationship and would benefit from some sort of external intervention. A summary of these factors is given in Table 6.1.

Many of the successful contracting alliances address these issues and there is a considerable body of evidence to suggest that some established and more enlightened contractors are actively working to forge genuine subcontracting partnerships with ABEs. As realists, they see it in their own long-term interest and as a strategic move towards more permanent joint ventures and joint company ownerships. However, many are not, and there is clear evidence that relationships become strained. Too often the main contractor sees the subcontractor simply as a means of getting work and little more than a glorified employee.

6.1.2 Joint ventures

The TP3 (APP) specification defines a joint venture as “an association of firms of which at least one of the partners is an emerging partner for which purpose they combine their expertise, property, capital, efforts, skill and knowledge to execute a contract”. For South Africa’s emerging contracting entrepreneurs this must entail empowerment through capacity building based on democratic, participatory and developmental strategies.

In many instances, joint venture partnerships emerged from previous subcontracting relationships that had proved fruitful. The parties get on and are comfortable working together. How TP impacts on this relationship and the dynamics of joint ventures is largely a function of need – of the senior partner to control the process and of the junior partner (normally an ABE) to participate equally in service delivery. Whether this is right or wrong is not necessarily a matter of judging policy, as the market will usually determine this alliance. The dynamics of these relationships are, however, crucial for ABEs in improving their sustainability (technically and business wise). Also, the prime contractor has an interest in cutting cost and reducing the time spent on mentoring, and this is arguably better achieved under “well-oiled” joint venture relations. It is patently clear that TP has provided many more opportunities for joint ventures. There is increased scope for ABEs to be engaged and to develop their skills. Some case studies reported an increase of ABEs’ opportunities to work on larger contracts. This type of value added was exactly one of the key reasons why the TP tool was designed.

Misuse of joint ventures by some established contractors (based on the collected evidence of a minority) was foreseen when the TP specifications were drafted and the documents contain quite detailed advice and guidance on how the relationship must be formed. There can be no absolute rules on structure and the roles of each party will depend on the resources and skill levels they contribute to the joint venture. On a superficial level the engagement of ABEs as labour-only joint venture partners can be viewed as a process that assigns them “second-class” status. It is illustrative in this regard that ABEs in the business survey complain about prime contractors “not doing

enough” to facilitate them into the business. In the short term this may be true, but at a

time when an ABE is entering the market with few resources or management skills it may be the only entry vehicle. What would be more worrying is when emerged ABEs – with some years of experience – were still being used as labour-only joint venture partners. The TPA found no evidence to suggest this is happening on a concerted scale.

The emergence of new contracting methodologies supports the joint venture approach to service delivery and, to a large extent, subcontracting. This typically sees a polarization of skills with small specialist firms joining together (or with larger firms) on a project-by-project basis to provide a whole range of construction services. The impact TP has had on joint ventures is considerable and apart from providing ABEs opportunities, they can:

- Provide a “captive” form of mentoring for emerging and established ABEs
- Allow established firms to reform in line with socio-economic policies
- Supply the means whereby business mergers can be formed
- Provide an opportunity for ABEs to work on challenging projects otherwise denied them
- Impart contemporary construction and management skills

On the negative side, TP policies and procedures may distort the industry by making available many more opportunities for joint ventures, and have the following impacts on relationships:

- Prove transitory and raise the expectations of participating ABEs
- Cause an oversupply of ABEs
- Introduce and create “cut-throat” competition
- Provide a permissive means of beating the system through fronting
- Keep ABEs small and not allow them to grow through real competition

Precisely how TP is influencing and impacting on subcontracting relationships and joint venture operations generally is hard to gauge and would appear to vary enormously across the sector. There is evidence to suggest that joint ventures are simply used by some established contractors to satisfy the tender requirements. This was acknowledged in the ABE survey, but the feedback from interviews and case studies indicates that the problem is not as widespread as might be thought. Whether ABEs move higher and any quicker up the contracting ladder by forming joint ventures cannot be clarified from measures such as the ABE index only. More extensive research and systematic monitoring are required to capture aspects like professional mobility and changes in business status. Logic would indicate that it is more likely that ABEs move on through the ranks of established contractors (as in the case study from KwaZulu-Natal) until possibly a point is reached where they are sufficiently confident to compete in their own right. How joint ventures evolve and develop is a key indicator of the success of TP and would be a helpful M&E indicator. However, modesty is required when drawing conclusions, as more than 50% of the ABEs in the survey claimed TP did not make the difference in achieving their current business status, but rather commercial experience, adequate pricing and hard work.

A number of entities are actively trying to improve the ability of emerging ABEs to participate in TP contracts. A recent initiative by the DPW to review the level of retention monies in lieu of performance guarantees and cash deposits held on ABEs is one example (DPW, 2000). Many of the key impacts and suggestions regarding subcontracting working arrangements apply equally to joint ventures and these have been described in Table 6.1. A more proactive approach by those in a position to influence contracting events would be valuable. In time, many problems currently being experienced will disappear as the industry “shakes down” and a more established pattern of contracting alliances emerge.

6.2 Project delivery

As mentioned, TP implementation procedures need to be “definable, quantifiable, measurable, verifiable and auditable in a fair, equitable, competitive and transparent environment”. Any assessment of TP impacts must reflect these qualifications. Most typical civil engineering and building works projects used the TP specifications (TP1–6) and a general assessment of these, coupled with a more detailed analysis of the case studies, was used to gauge what impacts TP may have had on project delivery. This was done by assessing the impacts of TP on professional services, construction works and functionality.

Arguably the greatest impact on PSPs was the need to provide a much higher level of supervision to ensure that targets were met, ABEs were given the necessary support (design and supervision) and that construction works quality was maintained – often requiring more time and at their expense. Output has undoubtedly suffered through breaking down large projects into smaller packages and more complicated contractual systems have not helped matters. To a degree, these impacts have been reduced as project managers became more familiar with the process and service delivery was streamlined. Although some case studies mentioned that ABEs had difficulties in delivering the required quality, overall there is no evidence to suggest that asset delivery has suffered in terms of construction quality measured against standard “fit for purpose” parameters. Using the three categories noted above, the impacts on project delivery are summarized in Table 6.2.

A large degree of variation was found to exist in how TP has impacted on project delivery. On complex contracts there was clear evidence that ABEs were limited in the role they played owing to their low skill and business levels – the project of the Mogale City Local Municipality illustrates this point perfectly. Here a relatively inexperienced ABE was engaged with a main contractor on the refurbishment of essential public service works (a sewage treatment plant) over a short contract duration period with contractual penalties. As a result, steel fixing was not ready on time and concrete deliveries were turned away, causing cost overruns and placing the programme in jeopardy. It was not the fault of the ABE but a weakness in the system that does not recognize the levels of skill required to run and manage a contract successfully and, most of all, profitably. In addition, there is also a clear linkage with the type of design in projects for which ABE bids are invited.

Table 6.2: Project delivery impacts

Category	Project delivery impact
Professional services	<ul style="list-style-type: none"> • There has been greater pressure on consultants' profitability through the increased workload (tender, contracts, management, etc.). • There has been an increased scope for ABE participation in service delivery through subcontracts or joint ventures. • The fact that more opportunities are available through breaking contracts up has allowed smaller firms to compete and the increased competition has reduced larger firms' market share. • There is greater awareness by some established firms of the need to mentor ABEs and improve training.
Construction	<ul style="list-style-type: none"> • Preconstruction programmes often suffer slippage from ABE registration and contractual formalities. • The main construction programme is largely unaffected by increased TP-driven contractual procedures. • The final construction value is largely unaltered but may be a reflection of current competition levels.
Functionality	<ul style="list-style-type: none"> • Construction quality has suffered in some instances but not to a worrying degree. • Increased use of labour and employment-generation systems by contractors has been inconsistent. • More attention should be paid to designs that accommodate unskilled ABEs and employment generation.

In many instances the relationship between established firms and emerging ABEs was exemplary and had undoubtedly made a significant contribution to efficient and cost-effective public sector service delivery. There are underlying complaints of exploitation, arrogance, ignorance and incompetence, which must be affecting project delivery. To what extent this can be laid squarely at the door of TP is unclear but it would be hard to design and implement a TP strategy that did not evoke some, or all, of these reactions. What is happening in the construction industry at present is a reflection of what is happening throughout South Africa generally, and until social and economic imbalances are redressed they are likely to continue.

6.3 Local economy and business

6.3.1 Targeted development

In the PPPFA regulations under Item 3 (Specific goals), a number of criteria are cited as making a "contribution towards achieving the goals of the RDP". Among other things, they include targeting enterprises in specific provinces, municipalities and rural areas and the upliftment of communities through a range of infrastructure projects. The TPA found no evidence that these criteria have been applied in a determined and regulated

manner although some isolated instances were found – notably the North West case study (see Section 5.2.1). As a result, it was very hard to access with any conviction the impacts of TP on “targeted development”. The case study and stakeholder interviews provided an opportunity to gain a general indication of how and where TP is being used to assess need and select projects that target worthy beneficiaries, and where it is not being used why not.

SAFCEC is concerned about the requirement for geographical targeting, which is considered a hindrance to the mobility of targeted workers. Certain innovations could be necessary in order to deal with this requirement, especially when a particular geographical area does not seem to have enough workers within the targeted category.

There are a number of practical ways in which beneficiaries can be targeted. These will vary from project to project, depend on need and reflect the way in which an entity applies its own particular preferential procurement policies. For example, PTBs use preferencing to favour businesses and companies located in their areas. Some of the more important indicators of targeted development and the assessment of their impact on TP have been development in the generic performance assessment model (see Appendix H).

How the demands of infrastructure service delivery are equated with socio-economic targeting is always very difficult to access. For example, a road rehabilitation project that is needed to connect a new light industrial development to a market may not necessarily target a deprived community in an area of high unemployment. Targeting criteria do not have to be mutually exclusive but quite often are. A successful development strategy must consider and prioritize all the planning issues and execute a programme of works that accommodates the RDP as well as satisfies economic necessity. Main points of note when targeting and selecting development interventions are summarized in Table 6.3.

Table 6.3: Targeted development impacts

Targeted development indicator	Project delivery impact
Needs assessment and interagency coordination	There is no evidence to suggest this happens, other than at the local level via the area development plans.
Community dialogue and participation in the process	It takes place once the project has been selected, but prior consultation was found to be minimal.
Choice of designs, contract types and procedures	Labour maximization is used in some instances but there is no evidence that ABE-friendly designs or procedures are applied (i.e. the technology is not process driven).
Existence of targeting modalities or mechanisms	There is no evidence that socio-economic needs were examined or were a major factor in project selection.
Use of area- or beneficiary-specific award procedures	No such procedures were indicated and projects appear to be selected on straight technical criteria.

Some countries have built up and apply sophisticated approaches when targeting beneficiaries and selecting projects. For example, the whole of India has been mapped and a geographical information system (GIS) allows the physical and socio-economic make-up of an area to be accessed down to commune level with the “click of a mouse”. Information of the most minute detail is held on the GIS down to village level (number of households, water points, access corridors, socio-economic statistics, etc.) and the output can be purchased for about US\$3 000. Few countries possess this facility but targeted development can still be practised, and to some degree it does. For example, when constructing community safety centres the DPW works through a steering committee that coordinates the needs of the various parties at central and local level. However, the TPA found no evidence to suggest either that project targeting and selection are a multi-agency function or that the PPPFA-specific goals feature prominently in the process.

6.3.2 Sustainability

According to the Concise Oxford Dictionary, the literal definition of sustainable is to “keep sound and going continuously”. Whether the TP process can accommodate this goal totally – with or without an external stimulus – depends at what level it is being considered. For example, at policy level it is unclear whether preferential procurement policies will promote the needs of ABEs ad infinitum or be abandoned (or redefined) when their formation and development have progressed as far as is possible. Nobody has attempted to put a time-scale on the evolutionary process and it is much easier at project level to assess the sustainability of the TP implementation process to see whether it is delivering the socio-economic benefits it was designed to do.

Without attempting to predict the impacts on sustainability future PPP changes may have on TP, some of the more obvious ones at the project level can be defined as the capacity of ABEs to:

- Defeat the need for fronting by greater cooperation and skills development with established contractors and joint venture partners
- Find long-, medium- and short-term work opportunities
- Both assess and compete in public and private sector markets
- Be able to sustain a business on the basis of a commercial strategy
- Attract and retain sufficient qualified and competent staff
- Raise the necessary working capital to remain competitive and run their businesses successfully
- Break out and compete over a wider geographical area
- Organize into a representative association to promote their business interests (e.g. certification and accreditation)

It is, however, necessary to note that TP has greatly facilitated and improved access to the business, but for more than half of the respondents in the ABE business survey it is clear that TP did not make the difference in achieving their current business status. As said, it was due rather to their commercial experience, adequate pricing and hard work.

6.3.3 Imbalances and structural inequities

Any improvement in the manner in which public sector infrastructure services are delivered is bound to incur some imbalances or inequities, no matter how well planned or intentioned. These might include oversupply driving down prices or an inability to meet demand because of a lack of trained personnel. An example of the latter is the Maputo Corridor N4 Project, where too much emphasis was placed on worker training and not enough on SMME development.

TP in all its forms has undoubtedly had an impact on local businesses and economic activity – most of it positive. Probably the greatest problem for ABE viability is the lack of sustainability precipitated by the ad hoc nature of the construction industry. “Stop-go” development policies and budgetary constraints make continuity for a local ABE a nightmare, compounded by social prioritization and local tensions. It becomes absurd when an ABE building a road through a community like Soweto has to employ a different team of workers every time the works passes through a new section of town. Better project coordination between the provincial roads and public works departments and the NRA could provide some measure of work continuity for local ABEs. In spite of attempts to solve the problems facing ABEs when trying to move from one area to another, the TPA was repeatedly reminded of the difficulty. The problem is not only linked to roads and building works construction, as a similar constraint was identified in the BOTT water sector external evaluation (I G Harmond Associates, 1999).

A summary of the main impacts TP has had on local business and economic life, and its part in coping with imbalances and structural inequities is presented in Table 6.4.

Table 6.4: Imbalances and structural inequities

Impact	Imbalance	Inequity
Increased availability of contracts for ABEs and greater community engagement	<ul style="list-style-type: none"> • Too ad hoc and lack of continuity of work • Lack of training and management skills • Bias in the selection of the target group 	<ul style="list-style-type: none"> • Little emphasis is placed on engaging women and the disabled • Restricted worker mobility • Process favours alert and better organized groups
Imposition of strictly binding contract conditions	<ul style="list-style-type: none"> • Restricted access to capital and financial resources • Poor cash flow, particularly for material purchases 	<ul style="list-style-type: none"> • Increased level of business failures • Failure to recognize limitations of ABEs
Weaker ABEs allowed to enter the market	<ul style="list-style-type: none"> • Experienced ABEs priced out of the market • ABEs submit (and are held) to unrealistic tenders 	<ul style="list-style-type: none"> • Labour is trained and then forced out of work • Bidding is skewed and the market distorted
Local economic trickle-down	<ul style="list-style-type: none"> • Transitory and lacks “depth” 	<ul style="list-style-type: none"> • New business start-ups prove unsustainable

The impacts described in the table flow from the generic assessment model included as Appendix H and can be substantiated with specific examples from the case study and the ABE business survey. A prime example of imbalance is the Maputo Corridor N4 Project experience where benefits in terms of employment generation and economic uplift were far too localized. Other examples include too much emphasis being placed on project delivery and not enough on community engagement (Western Cape Province) and lack of programme integration to ensure continuity of work (Leoboeng Community Safety Centre).

Some of the imbalances and inequities described above can be challenged. The authors acknowledge that one weakness of the analysis of cases studies is the difficulty in determining how representative they are for all local businesses and the general economy.

6.4 Employment generation

TP specifications can be used to achieve socio-economic objectives such as local economic development, job creation, poverty alleviation and community-based developments. In such a situation, TP4 (Targeting of local resources), TP5 (Engagement of targeted labour) and TP3 (Structured joint ventures: targeted partners) are commonly used. It was noted that weaknesses in designing, monitoring and maintaining adequate data capture systems have limited the ability to adequately judge the employment-generating capacity of TP.

Hence, it is probably most useful to look at one example of a data capture system, that of the Midrand Metropolitan Local Council, now incorporated into the Johannesburg Metropolitan Council. The MMLC adopted a local economic policy in June 1998 in order to realize socio-economic deliverables through the creation and maintenance of public assets and the provision of municipal services using the above-mentioned TP specifications.

The policy defined targeted labour/local labour as South African citizens who permanently reside within the boundaries of the MMLC and earn wages and allowances amounting to less than 1,5 times the statutory minimum hourly wage. In this case low-wage earners residing in the area and local small black-owned businesses were targeted and contractors were required to adhere to minimum statutory wages.

The policy was applied in the 1998/99 financial year to engineering and construction works contracts only and has since been discontinued after the restructuring of the local government structures. Altogether 29 engineering and construction works contracts were awarded during the period 1 July 1998 to 1 May 1999, as shown in Table 6.5 (with the exclusion of one multiple contract). Their TP analysis is shown in Table 6.6.

The MMLC attained a targeted labour index of 23,1% and a targeted enterprise index of 33,0% during the period observed, with the direct financial premium being less than 1,0% in both instances (Watermeyer, 1999).

Table 6.5: Procurement arrangements for the MMLC's capital works, 1998/99 financial year

Procurement arrangement	Contract particulars			
	Number		Value	
	No.	Percentage	Rand (million)	Percentage
Targeted procurement not used	1	3,6	0,4	1,4
Prime (minor) contracts	3	10,7	0,8	3,1
Prime (major) contracts	19	67,9	18,2	65,6
Structured joint ventures	5	17,8	8,3	29,9
Total	28	100,0	2,8	100,0

Table 6.6: Analysis of MMLC tenders received

Number of contracts	Tender value (rand million)	Resource goals (%)		
		Average minimum provided for the tender	Average tendered	Average for successful tenderer
Prime (major) contracts where use is made of the TP4 (APP4) specification (Targeting of local resources)				
14	15,5	18,1	33,3	45,5
Prime (major) contracts where use is made of the TP5 (APP5) specification (Engagement of targeted labour)				
5	2,7	15,4	16,8	25,0
Structured joint venture contracts where use is made of the TP3 (APP3) specification (Targeted partners)				
5	8,3	10,7	27,8	37,4

The TP index is defined as the estimated total value of work undertaken by targeted labour, expressed as a percentage of the total value of relevant contracts awarded where targeted labour can be used, i.e. TP4 (APP4) and TP5 (APP5) specifications:

$$\text{TP index} = \text{Value of targeted labour} / \text{total value of contract}$$

Based on the values given in Table 6.6 above:

$$23\% = \text{Value of targeted labour} / (\text{R15,48} + \text{R2,75 million})$$

$$\text{Value of targeted labour} = \text{R4,19 million}$$

The direct financial premium associated with the attainment of socio-economic objectives through the use of procurement as an instrument of social policy relates to

the increased tender amount to accommodate socio-economic objectives. Where tenders are adjudicated in accordance with a development objective or price mechanism, the direct financial premium is calculated by taking the difference between the prices of the awarded tenders and the lowest responsive tenders, and expressed as a percentage of the sum of all responsive tenders. The outcome, indicated by a percentage value of targeted labour, is not the same for each and every project, as we see in the following examples.

During the 1996/97 financial year, the Southern Metropolitan Local Council (SMLC) of the Greater Johannesburg Metropolitan Council implemented a number of projects, involving the laying of sewer and water pipelines and roads and stormwater drainage, using the TP5 specification as shown in Table 6.7 (Watermeyer et al., 1998). Targeted labour was defined as South African citizens residing within the geographical area over which the SMLC has jurisdiction and who earned less than US\$1,50 per hour.

Table 6.7: Recent tender results of nine municipal capital works projects using the APP5 specification

Contract description	Tender value (rand million)	Targeted labour goal tendered (%)		Cost premium (%)
		Tendered	Minimum specified	
Construction of water mains	3,6	5	5	nil
Construction of roads and stormwater on an "as and when" basis	5,1	20	15	nil
Construction of sewers	1,7	15	5	nil
Construction of sewers	1,2	25	5	8
Construction of sewers	1,7	10	5	nil
Construction of sewers	2,7	10	5	nil
Construction of sewers	1,6	10	5	nil
Improvements to stormwater drainage	1,2	20	7	1
Culvert repair	1,4	4	4	nil
Total	20,2	13	8	(0,5)

The average targeted labour goals of the successful tenderers in the first nine contracts awarded amounted to 13% (R2,636 million) and the associated direct financial premium was 0,5%.

An analysis, undertaken on behalf of the National Housing Forum (Watermeyer & Band, 1994), was made of the Bloekombos Project. This pilot project was undertaken as part of the National Coordinating Committee for Labour Intensive Construction in the

Western Cape, prior to the April 1994 election in South Africa. The project was implemented in terms of the Framework Agreement for Public Works Projects using Labour-Intensive Construction Systems. Prescriptive clauses were incorporated into the contract, which restricted the contractor's use of construction plant and demanded that particular earthwork activities be undertaken using labour-intensive methods of excavation. In this project involving the installation of township services (e.g. water, roads and sewers), it was found that approximately 12% of the construction cost was spent on labour drawn from the targeted group. The accepted cost premium for projects of this nature was relatively high, between 10% and 15% (Watermeyer, 1997).

A simple comparative analysis of the above is shown in Table 6.8.

Table 6.8: Comparative analysis of three projects between 1994 and 1997

Project and year of execution	Average value of project (rand million)	Value and percentage of construction cost spent on labour (rand million)	Financial premium
Bloekombos, before 1994	–	(12%)	10–15%
SMLC, 1996/97	20,2	2,626 (13%)	0,5%
Midrand, 1996/97	18,2	4,2 (23%)	< 1%

The average targeted labour value is significant and provides opportunities for large wage and income transfers to targeted population groups employed on TP contracts such as TP5. If we consider that wage transfers are spent within the locality, it is sensible to refer to the findings of a recent report commissioned by the DPW and ILO about the macroeconomic value of incremental employment in the South African construction industry (see Standish, 2001). The study focuses on the macroeconomic potentials of labour substitution for plant and on local production of machinery. It looks at the impact of such changes on employment, income and expenditure, based on standard multiplier effects. The focus is on poor and very poor households. For example, if household income for those people increased with between R1 and R5 000 a year, such that their income increased to between R5 000 and R10 000 a year, there would be an increase in GDP equal to 1,40 times this increase, indirect household incomes would increase by 0,65 times this, 0,26 indirect jobs would be created and there would be increases in income tax, company tax and imports to the value of R605, R307 and R1 280 respectively.

The multiplier effect does not measure any informal sector activity and regards all expenditure as formal. In reality, much of the expenditure changes will (initially at least) be through the informal sector. In consequence we would expect even higher indirect income and job multipliers than are being reported. An increased use of labour-friendly methods in construction and targeting of local resources can be seen as a wage or income transfer among the lower income scales. Hence, the report concludes that the

macroeconomic advantages of labour substitution are compelling when we use fully imported equipment, and remains so even for locally produced equipment with an import component. However, the overwhelming case that must be made for construction methods that are labour friendly and target local resources is the contribution it will make to economic empowerment. It is not so much the specific focus on how labour can substitute capital in a cost-efficient way that draws the attention, as merely the fact that the indicated materials and resources can be targeted locally. This underscores the importance of TP as a very relevant tool for employment creation and income improvement. The question is whether these potentials have been given full consideration in the application of TP until now.

Regarding the significance of the generated employment, including sustainability of jobs, the targeted labour value does unfortunately not indicate the quantum of employment generated. It has to be further specified by estimated job duration and a wage level, which can be arrived at through a simple calculation:

$$\text{TP employment output} = \text{Targeted labour value/job duration} \times \text{Wage rate}$$

(dependent on level of skills)

Another key issue is the cost associated with the employment generated. Table 6.8 refers to cost premiums of 0,5%, 1% and 10–15%. The presentation of cost premiums sketches a somewhat distorted picture, as the premium cannot be taken as an absolute figure. It is considered a relative extra cost to award the bid that competes on price and quality and on the inclusion of targeted social goals, compared with other bids that happen to be cheaper. However, this does not indicate that the submitted bids reflect the most cost-efficient cost scenario for implementation locally. There are perhaps combinations of materials, labour and supporting equipment that could be sourced (locally) at even lower cost, but for one reason or another, these options are not being mobilized. In other words, a more detailed unit cost analysis of various implementation cost scenarios and options is first necessary to determine the real value of a potential cost premium.

In addition, a direct comparison of the three cases cannot be made as the project was undertaken in different conditions, for example:

An emerging contractor development programme (Hiaka Muti Programme) was implemented by the Midrand Local Council as part of the former Khayalami Metropolitan Council (Oberholzer, 2002).

The employment conditions have changed since 1994.

The geographic location and the nature of projects differ.

The economic conditions also differ.

A further point of difficulty in making employment rationalizations from the average targeted labour value is that some of the TP specifications are a hybrid of business and employment generation, and as such do not give a full picture:

The TP4 specification combines employment with business opportunities. Not all

targeted enterprises will be labour only. Accordingly, it cannot be used to evaluate employment.

The TP4 and TP5 specifications allow weighting factors for different target groups and can distort statistics.

The TP5 specification only measures the quantum of labour falling into the category of targeted labour and not all labour.

The limited data analyzed also does not provide a baseline indicating the situation prior to implementation of TP, but it can be concluded that targeted procurement procedures are able to deliver significant increases in the quantum of employment generated at moderate cost premiums.

The potential to maximize the use of labour, especially unskilled labour, is limited by the fact that specific employment-intensive technologies and methods of construction or manufacture are not considered by the designer or specifier at project inception but only at tender stage. The reported cases in which ABEs complain about the selected designs being too complicated to bid for (in view of their technical capacity), are illustrative in this regard. It is a common phenomenon that in any value management approach, the potential to maximize both economic, functional and social benefits can be realized, without sacrificing quality, at project inception stage rather than construction stage.

The cost associated with employment generated and the quantum of employment generated can be optimized at early stages of the project at forecast cost rather than during adjudication of the bids.

TP has also been successfully used to direct capital flows into underdeveloped or disadvantaged rural communities on conventional construction projects. An excellent example of this is the Malmesbury Prison Complex in South Africa, i.e. the project which gave birth to TP in South Africa in 1996. Malmesbury is a small rural town approximately 70 km from Cape Town. Those involved in the development of the TP procedure were unaware of any target group businesses in Malmesbury and considered that a 10% goal might be achieved if contractors who fell into the target group were drawn from the Cape Town area. Altogether 30% of the value of the two contracts (US\$13 million) was channelled into this community through targeted enterprises. The Malmesbury Prison Contract proved to be more efficient at channelling money into communities than some focused poverty alleviation programmes in South Africa involving the construction of community buildings (Soderlund & Schutte, 1998).

In spite of these requirements there is unquestionably a place for construction systems (building and civil engineering) that employ large numbers of people, or that are by nature more labour conducive than conventional approaches to asset creation. TP can play a major role in applying these systems and achieving employment-generation goals. A labour-conducive approach has also a greater likelihood of seeing women and the disabled targeted through increased employment opportunities. Arguably the biggest drawback to applying labour-based technologies in a developed contracting environment like South Africa is the established firms who have large investments in construction plant and machinery and who seek a quicker return on their capital. It must be remembered that the construction industry serves the private as well as the public

sector (small and large contracts) and, in the case of the former sector, contractors are not constrained by the PPPFA – only the need to stay in business and make a profit.

To air a view from another direction, SAFCEC would prefer an intensive analysis of the dynamics of labour maximization. Its representatives are concerned that the current emphasis on the promotion of labour maximization is too simplistic and takes little account of other factors, such as unionization and investment in plant and machinery.

In sum, it is clear that the gaps in systematic baselines and data capture systems have hindered the ability to judge the impact of TP on employment significantly, even if approached from different angles. South Africa has to make a fundamental choice as to whether it wishes to explore the potentials of various instruments of employment generation to the fullest extent, and subsequently define the procedures and adequacies, or whether it wishes to consider employment-generation effects as the mere add-on benefits of empowerment policies.

6.5 Training and capacity building

Future TP strategies will be shaped by the capacity of the implementation entities and the adeptness of the building construction industry to develop and train ABEs in service delivery. With regard to the former, many TP contracts include a training requirement but the TP specifications (TP1–6) would benefit from the inclusion of specific training incentives. For example, a contractor might gain points if he undertakes to train ABEs against a prescribed set of evaluation criteria (not simple numbers trained) or propose innovative training to accrue participation goal credits.

At present, the stakeholders (entities, contractors and ABEs) see the lack of useful training as a great weakness. Somehow, even when it is delivered, very little creative gain seems to result and this issue was raised throughout the TPA. A summary of the main TP impacts as regards training and capacity building is given in Table 6.9.

Approaches to TP capacity building in the implementation entities was found to vary widely. The DPW, for example, has put a great deal of time and effort into training staff and PSPs through its accreditation programme. Current developments include the design of a certified teaching module, which will be accessed via a recognized teaching institute or the Internet, and the launch of the “roll-out strategy”, which will position TP best practice experiences in the wider national domain. Some entities seem to have been waiting to see how others have addressed TP training and have only recently recognized its importance and value.

Too often training is seen by many as a simple contractual “add-on” and the TPA has clearly established that the impacts of training are not being maximized. Proper needs assessments are rarely done and, more importantly, no follow-up surveys are being carried out to see how effective training has been. A more structured approach to training is required, which rewards good contractors and penalizes those who are not delivering the necessary benefits. Some entities have appointed a training coordinator to manage the process and report on progress, but even in these instances follow-up surveys are not being done to measure effectiveness or assess the applicability of the training.

Table 6.9: Training options and impacts

Item	Challenge	Solution
Employer	Training is often given by the wrong people and in the wrong environment.	There is a need for needs assessment and more care when designing training modules.
	There is no planning or follow-up to assess the effectiveness of training.	Effectiveness must be linked to financial penalties under the contract.
PSPs	There is a lack of knowledge of TP implementation methodologies and options.	TP teaching modules, familiarization and accreditation are required.
	Better knowledge of labour-based employment systems is needed.	Closer attention must be paid to alternative systems and social issues.
	Training is not focused or related to beneficiaries' real needs.	Skilled trainers should manage the process and assess effectiveness.
Contractors	They see training as an "add-on" and not as a serious contract requirement.	The training programme must be made a tender adjudication issue.
	Training is given in short, sharp bursts and is not sustainable.	Delivery should be extended and include structured planning, follow-up and assessment.

Numerous TP implementation and capacity-building strategies are currently being used or under consideration by the implementing entities. Information on some of these was collected for the TPA, including the options listed in Table 6.10.

Table 6.10: Targeted procurement capacity-building options

Option	Disadvantage	Advantage
Set up a single unit to develop the process.	Spread of policy and philosophy contained	Responsibility defined and easily managed
Incorporate the process through osmosis.	Lack of direction and purpose	Everyone is involved in the process
Set up a management task team.	More work and bureaucracy	Unified approach and more easily audited
Place responsibility with a single person.	Too confined and limiting	Focused approach with responsibility defined
Subcontract out to PSPs.	Expensive and too exclusive	Access to best practices and

		experience
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Whether it is sensible or even necessary to have a single, unified approach to TP capacity building and implementation is debatable. National, provincial and local government each have competing interests and their own particular way of applying TP. Perhaps all that is really needed is a set of clear measurable objectives (linked to the PPPFA) that each can interpret and implement as they see fit. What impact TP has on the way national, provincial and local government prepare and structure themselves to meet the challenges of the RDP is hard to determine. Many of those contacted expressed a willingness and enthusiasm for TP, but a lack of planning and resources will more than likely hamper efficient delivery.

The SAICE feels strongly that consultants and contractors are not well educated on the TP implementation detail and would recommend that more should be done in this respect. Furthermore, the SAICE is calling on the authorities responsible for TP to address the current dire shortage of training people, which it considers to be due to the proliferation of contracts and contractors. It argues strongly that the restructured training in the industry does not meet industry needs.

Training is a key weakness and, at the same time, a requirement for achieving success with TP. As mentioned, training is clearly an aspect that has been “passed on” to the implementing agent and to the prime contractor in joint ventures. Some agencies find that staff and in-house training is unavoidable, if success with their PPPFA or TP policy is to be expected. Others had to “clean up” later because they failed to pay sufficient attention to training. Apart from some successes (e.g. the case in Limpopo Province), training opportunities for ABEs seem limited and training as a technical and business aspect is a fragile one. Some of the ABE contractors in the ABE business survey blame prime contractors for doing too little. At the same time, the majority sees established contractors as the most important actor to provide mentor training. In turn, a vast share of the established contractors conclude that they spend a great deal of time on monitoring and mentoring ABEs, which in one case study response was referred to as an “extra tax”. It is clear that for ABEs, contractors and local implementing agents, an effective training policy will create a win-win-win situation.

CHAPTER 7:

TARGETED PROCUREMENT EFFECTIVENESS

7.1 Small business development

The mechanism designed to achieve empowerment and social justice has at its core the establishment and development of ABEs. They are the “engine” of commutation that would see an equitable sharing of the country’s resources and potential. There are no data or information on the number of ABEs set up and operating as a consequence of TP – if there were, it would be interesting to see if any sectoral correlation existed between the numbers of contracts tendered for and won, business failures and employment levels. Some data on ABEs were collected from SAFCEC and during the ABE performance surveys, but no real trends could be discerned or conclusions drawn.

Many problems confront the emerging contractor who sets up business for the first time. Many such contractors do not survive. A recent review of Ireland Aids’ rural access programme in Lesotho showed that in spite of the considerable success of the ILO small contractor training programme, the attrition rate among emerging contractors was high (I G Harmond Associates, 2001). This was in spite of guaranteed contracts and highly structured training delivered at a specially established teaching facility. The programme was planned and set up by arguably the best qualified organization in the world and underscores the need to equip emerging ABEs with the correct mix of technical and business skills. Above all, they must be supplied with work.

Numerous programmes for developing the small-scale contractor sector are being implemented, with the ECDP and the CBPWP being good examples of these. Experience has demonstrated that small businesses “feed off” others and a successful ABE centred in a particular locality will employ workers and purchase goods and services. In northern Somalia, for example, a study of a small business development programme running in Bossaso demonstrated a direct correlation between new project-sponsored business start-ups and subsequent ones – not surprisingly with women proving the most successful proponents (I G Harmond Associates, 1994). The question is whether this process can be sustained, as construction works are by nature transitory and continuity of work is essential.

Numerous complaints were heard of the ineffectiveness of stakeholders to control and propel the small business development process forward and were not exclusively related to TP projects. A common complaint was that the process has become moribund and is in need of a fresh impetus. Some of the more common complaints and solutions concerning ABEs and the effectiveness of TP in addressing their concerns are listed in Table 7.1.

To a lesser or greater extent, all of these points were raised during the TPA and many of them reappear throughout the report. Some challenges are serious while others are simply complaints typical of the private sector. Nevertheless, they are valid and a way should be found to address the problems that face ABEs and the many other SMMEs

that “feed off” them. All things considered, there is little doubt that TP can be (and is) an effective tool in stimulating the private sector, providing SMMEs with the opportunity to start a business. Equally, there are a number of fundamental problems that have become apparent as the process advances and these should be tackled head on. One of these problems, according to the SAICE, is that SMMEs are not better educated on the TP implementation detail.

Table 7.1: Small business challenges and solutions

Challenge	Solution
Too many inappropriate and unqualified ABEs start up in business.	Introduce formal rosters and tender prequalification procedures.
Lack of work continuity makes planning and employment logistics hard.	Without disrupting competition, employers should provide more information on long-term development planning.
ABEs are seen as “tools” and not as part of the subcontracting relationship.	<ul style="list-style-type: none"> • Contractors and PSPs should embrace change with more vigour. • ABEs should seize the initiative and be more proactive.
There is a lack of credible support from the employer.	A more “hands-on” approach in terms of protection and mentoring is needed.
Designs and contract documents are overly complicated.	PSPs must design simpler contracting and construction systems.
Business acumen is poor, particularly where finance is concerned.	Employers should provide better contract conditions and guidance.

SAFCEC is concerned about the sustainability of SMMEs, which is dependent on continuity of work opportunities. It feels strongly that the lack of continuity of work opportunities has contributed greatly to the collapse of many ABEs before they are able to grasp the fundamentals of being full-fledged businesses. On the other hand, SAWiC feels that there are still a number of problems in securing the necessary performance guarantees on time and these problems are not contributing positively to ABEs’ development. Public clients could facilitate the process by providing mobilization funds, which are deductible from interim payments.

7.2 Engagement of target groups

The effectiveness of TP in including and promoting the interests of special target groups is impossible to determine owing to a lack of effectively applied M&E procedures and related information. On one particular issue the TPA can be clear. Women and the disabled have quite rightly been included in the definition of persons “historically disadvantaged by unfair discrimination” and preferential procurement policies must contain suitable mechanisms for their inclusion in the TP process. Reference to them is

often missing from the documentation. In the TP1 specification, for example, the definition of a PDI refers to the “individual”, which presumably includes women as well as the disabled. The sources consulted in the course of this TPA reveal that very limited particular attention is paid to these target groups who are still disadvantaged post 28 April 1994. As seen in the case and literature studies reviewed, the engagement of women and the promotion of their interests (to a reasonable degree), not to mention the impact of TP on improvements in their economic status, have been far too meagre.

Fortunately, there is also positive evidence that these target groups are being included in the TP process. In the Western Cape Province, the engagement of WEO companies is encouraged (see Section 5.2.3) and in the North West Province case study three disabled persons were employed on the Roads 2000 Programme. While some statistics are being collected on women’s participation, they are ad hoc and inconsistent. The question of the inclusion of the disabled is more complicated, mainly because they constitute a small proportion of the population and in many instances are unable to work in the construction sector. It was impossible to get even a slight indication of how many women and disabled persons are engaged in TP and there is no evidence of a concerted attempt to compile a database of information where this could be checked.

Some positive steps that could be taken to ensure that special target groups are included more fairly in TP delivery procedures are as follows:

- Include them in the tender selection process by allowing tender bonus and participation credits.
- Provide special training so that they can perform creative employment functions.
- Set up and maintain a database to track their engagement.
- Mount a campaign to generally raise their profile.

In addition to the above, SABTACO is concerned that contract award is generally biased towards the established firms and not targeted groups, because the employers do not seem to be ready to do extra work and bear the associated risks of employing emerging ABEs. SAWiC, as an important targeted group, is not happy with the time allowed between award of contract and the start-up date, and would like the public clients to insist on sufficient time being allowed.

It would be ridiculous and distasteful for contractors and ABEs to scour the country looking for disabled persons to include in their tender submission in order to boost their bonus credits and participation goals. While the need for inclusion is undeniable, the issue must be handled with sensitivity as the disabled debate is emotive and highly contentious. In the United Kingdom, questions on whether money should be invested in civil works to provide improved access for the disabled at the expense of improved medical care that would save lives, are moral issues of huge proportions. Notwithstanding the difficulties of identifying and employing them the TP process has failed women and the disabled, and apart from some notable examples it has proved ineffective in addressing the requirements of the PPPFA.

7.3 Ethical dimension

7.3.1 Fairness and equality

No quantifiable data exist and the TPA had to rely on the opinions of those engaged in the design and implementation process. There were examples of bitter disputes (e.g. Johannesburg Routine Road Maintenance in Gauteng) and examples of the system working properly (e.g. North Coast Road in KwaZulu-Natal), but whether these examples are truly representative is difficult to say. For example, in the former case it is hard to know whether the disagreement in the joint venture is really serious and in the case of the latter, whether the main contractor is looking after the interests of the ABEs or simply his own.

Interviews with the stakeholders proved a valuable source of information and, although biased in many ways, it was possible to form an opinion on whether TP is proving effective in serving the interests of ABEs. On the whole, most stakeholders consider TP fair and equitable but some aspects were seen to be less so than others. These can be summarized as follows:

- Tender and contract conditions are overly complicated and harsh.
- Payment and bonding conditions are too strict.
- The materials supply industry does not allow enough credit or leniency when it comes to payment.
- Bigger contractors are arrogant and overbearing in their attitude towards ABEs.
- PSPs administer contract procedures unsympathetically.
- Employers are not prepared to underwrite contracting risks.
- Women and the disabled are discriminated against with regard to employment opportunities.
- Employers don't do enough to exclude underperforming or I ABEs from the tender process.
- The lack of qualified and competent ABEs means that fronting is still a common problem.

Although some of the above points can be addressed through the normal TP operating procedures, many cannot and structural changes are needed to redress the balance. For example, the management of the tender and contract award procedures can be redefined to meet many of the concerns expressed by ABEs, but failure by sections of the construction establishment to recognize the importance of engaging the emerging construction industry cannot. The only way this can be accomplished is by waiting to see whether the industry can put its own house in order, or by reverting to the legislative process.

7.3.2 Transparency and competitiveness

On the surface, the TP tender and contracting procedures certainly appear to be transparent and competitive but on another level the process can be manipulated and

abused. This can take the form of cartels, price rigging and market sharing, to name a few. Probably the biggest abuse is fronting, where larger firms simply use ABEs as a means of securing work. In this instance there is usually very little technology transfer and after the contract is completed the future of the ABE is no further advanced.

It is vital for the TP process to be transparent and, above all, competitive. Any suggestion to the contrary throws the whole philosophy of TP into confusion and doubt. Only one example of cheating was found during the TPA and that was on a couple of small service contracts in the Western Cape. The necessary disciplinary action was taken and the matter is now closed. The tender and contract award procedures in South Africa have always been highly structured and there is no indication that TP as currently practised is not wholly transparent and competitive – it must remain that way.

The TP specifications (TP1–6) are well conceived and quite strict in the way the verification rules are applied and participation goal credits calculated. The underlying aim of the specifications is to promote transparency and competitiveness, and it is hard to see what improvements could be made to tighten up these procedures. Unsubstantiated murmuring of unfair practices and exploitation by some stakeholders was revealed during the TPA but not on a concerted scale. It would be surprising if there were not some truth to these allegations, which centred mainly on the relationships between ABEs and the larger established contractors. Nothing was found to suggest that TP reduced transparency and competitiveness in any way, and when the TP specifications are used the opposite is most probably true. Nevertheless, the implementation entities have to remain on their guard to ensure the system remains that way and is not abused.

The construction industry is tough and competitive, especially when there is little work around. This is a costly learning experience for many ABEs. The expected increase in business will relieve some of the pressures and a period of relative stability should allow ABEs to consolidate. Those responsible for TP need to maintain a careful vigil and be prepared to adjust their strategies to ensure that ABEs are supported and that the process remains as transparent and competitive as possible.

In order to enhance competitiveness, the SAICE feels strongly that prequalification should be used more widely to “weed out” poorly performing ABEs.

7.4 Technical dimension

7.4.1 Construction efficiency and value for money

Given that a new ABE industry is evolving, there is every chance that construction efficiency and value for money have been compromised – in spite of the PPPFA demands that they should not. Although no quantifiable data on construction efficiency and value for money vis-à-vis TP implementation were found, common sense indicates that some penalties must have been incurred for the following reasons:

- Unbundling of large contracts into smaller contract packages, which is inefficient
- Inexperienced ABEs working with established PSPs developing new skills
- Inexperienced ABEs working with established contractors and learning new skills

- Employers grappling with new procedures and preferential procurement systems
- Increased maintenance and operational costs associated with labour-based works introduced for socio-economic gain
- Longer project lead in and contract implementation times
- More complicated tender and contractual procedures
- Increased management and bureaucracy required to manage the process
- Costs associated with training and process development

None of these are overly important when viewed in the context of empowerment and the attainment of the wider social goals, but they must be faced – if only to introduce a measure of reality into the TP process. Some of them would certainly be challenged and the DPW, for example, sees the introduction of TP into the daily work of its line managers as an evolutionary step and one that requires no extra time or effort. In the longer term this may be true, but in the shorter term it would be hard to demonstrate that the TP specifications are no more difficult and time-consuming to manage.

SABTACO feels strongly about the role of DPW project managers in contributing to construction efficiency and value for money, in a respective project. According to SABTACO, DPW project managers do not seem to understand the TP process sufficiently, and this needs attention. Another aspect, which SAFCEC considers as contributing to construction inefficiency, is the approach of breaking up contracts into small parcels. Furthermore, SAFCEC is concerned about the tendering and contractual procedures, which it considers to be unnecessarily complicated.

All the evidence suggests that there must have been at least a short-term efficiency and value for money penalty through the introduction of TP. It might by now have been discharged and current project implementation may be as efficient as it was post-TP, but this has been at a price and the fact needs to be acknowledged. In the most basic terms, breaking down a contract worth R20 million into five smaller contracts worth R4 million each may not entail four times as much work and but it would be close. In view of the magnitude of this issue, there are strong arguments for carrying out a study of two similar projects – one implemented with TP (say, a DPW project) and one in a provincial department without TP. A simple baseline study to establish the ground rules and an M&E process would provide data on which sound conclusions could be based.

7.4.2 Delivery capacity

When examining TP delivery capacity, many of the factors are similar to those connected with construction efficiency and value for money. They are all largely project related and reflect not so much the effectiveness of TP but rather how infrastructure services are executed and the roles of the employer and ABEs in the delivery process. However, some are not, and are directly related to the ability of TP to deliver what it is designed to do in an efficient and measurable manner.

The main issues believed to indicate effective TP delivery capacity and how the perceived shortfalls may be addressed in the future are presented in Table 7.2.

Table 7.2: Delivery capacity challenges and solutions

Challenge	Solution
Too few experienced and competent ABEs in the market	Rosters and tender prequalification are needed to weed out poorly performing ABEs.
Time-consuming and bureaucratic tender and contract procedures	Streamline tender and contract procedures and accept compromises.
Absence of a coordinated inter-agency development plan, resulting in “stop-go” project delivery	Plan and advise ABEs of infrastructure development programmes early.
Lack of trained staff in the delivery entities to move the process forward	Train staff and introduce a DPW-type accreditation system.
Lack of trained staff available and working for ABEs	Redouble training efforts and follow up with evaluation or access impacts.
Enough time for ABEs to secure finance and contract guarantees	Make conditions easier for ABEs or have entities underwrite risks.

There is a dearth of competent established ABEs and there seems to be active competition among the established main contractors to sign up with the better firms. Many of the former are altruistically selling off minor companies and going into joint ventures with ABEs to secure work. However, this is not always the case and there are some in the construction industry who express a genuine interest in developing permanent business relationships with ABEs.

Many entities have established their preferential procurement policies or are in the process of doing so. Some are more advanced than others (e.g. the DTRPW in the North West Province) and have ironed out many of the problems associated with TP project implementation. Conversely, there are some stakeholders who seem to be struggling and are only now introducing operational guidelines and endeavouring to catch up with crash training programmes (e.g. the EMRD in KwaZulu-Natal). Any lack of delivery capacity entities experience at present should disappear with time as training becomes more targeted and they are allocated the necessary resources.

7.5 Monitoring and evaluation

Measurement of socio-economic effectiveness as part of assessing project performance is notoriously difficult if the basics are not set right from the beginning and, similarly, if initiated procedures are discontinued following reorganizations, reorientation and transformation of departments, etc. In the first instance, a baseline study is needed to establish a sound starting point and a sound M&E methodology to keep track of events and collect the information on which judgements can be made. An acknowledged weakness with current TP implementation strategies is the inability to monitor the effectiveness of PPPFA goals, which must be “measurable, quantified and monitored for compliance”. After all, the measure of empowerment and socio-economic upliftment is not determined in terms of roads rehabilitated or schools constructed – these are

simply a means to an end.

The absence of suitable M&E procedures should be addressed as soon as possible to comply with the statutory requirements and allow TP effectiveness to be assessed. Guidance is clearly required and some suggestions have been made below on how socio-economic effectiveness might be included in monitoring and evaluating the TP process. These would have to be integrated into the construction management procedures and M&E parameters to provide a single, inclusive system. The importance of M&E to manage and track TP performance cannot be stressed too highly. The GTPMS is not working and there is no deadline for its resurrection. While some entities seem to be grappling with the problem, no unified or coherent approach is being developed. For example, SATABCO is concerned that PSPs do not seem to monitor projects in sufficient detail. It recommends the need for more structured M&E of outputs.

A report recently prepared for the ILO (Standish, 2001) has successfully looked at expenditure patterns of the poor and very poor to determine the macro-effects of income increases from employment. From here it is relatively easy to express construction in terms of social and economic uplift. A process that could be developed to achieve this aim is as follows:

1. Select a few primary construction indices (labour, wage bill, materials purchases, etc.) as key indicators.
2. Identify easily measurable key socio-economic indicators (food prices, new houses, school attendance, health visits, etc.).
3. Construct a model that expresses the construction indices in terms of socio-economic indicators.
4. Carry out a number of representative spot checks in the field to calibrate and confirm the model.

Once the process is up and running it would then only be a matter of “plugging” the construction information into the model to generate the socio-economic information. A central focal point would have to be designated to receive and collate the data and prepare regular report summaries. In the first instance this could be the DPW using the GTPMS.

Comprehensive procedures are regularly used to track compliance and tender resource goals. These are routinely embodied in the contracts and TP specifications – as are the conditions on which the contract has been awarded. Penalties are levied if these are compromised in any way. Construction and project management procedures are widely used to manage contracts and programmes but the TPA found no national, provincial or local government entity with an M&E system capable of tracking TP performance, other than the GTPMS developed by the DPW. Everyone acknowledges its importance – particularly the need for data collection – but M&E rarely reach beyond this point.

Some important measurable M&E criteria and their appropriate key indicators are given in Table 7.3.

Table 7.3: Targeted procurement monitoring and evaluation criteria

Criteria	Key indicators
Management	Details on contracts, numbers, cost, sectors, types, joint ventures, ABEs, WEOs, employment and gender statistics, etc.
Physical	Outputs, lengths of road, material purchases, buildings and general infrastructure construction works
Structural	Programme fairness, equitability, transparency, competitiveness, efficiency, construction quality, etc.
Socio-economic	General wage indices and consumptive indices, new business start-ups, health and educational statistics, new houses built, etc.

The DPW has already put much work and effort into developing the GTPMS and logically this should be the starting point for a combined TP M&E tool – if it can be adapted. Whatever M&E system is eventually used will have to satisfy the following criteria:

- Secure unanimous “buy in”
- Be managed by a representative task team
- Be free of charge at the point of delivery
- Be centred at a convenient location with a dedicated responsible entity
- Allow continuous electronic access
- Be simple and user friendly
- Be flexible and capable of updating as TP develops

The TPA has raised several issues in connection with M&E and provided few concrete solutions. It has made a number of suggestions, which could help policy-makers to design and put in place a system that will allow TP effectiveness to be measured and tracked.

SABTACO feels strongly that something must be done to ensure that the project managers in the DPW understand the TP process sufficiently in order to perform their roles as the clients’ single point of reference when managing projects. SABTACO is of the opinion that DPW project managers understand very little of the dynamics of TP processes.

7.6 Risk sharing and management

One of the first principles in the design and construction of infrastructure schemes is the need to base decisions on the best possible technical information and an analysis of the risks involved (HMSO, 1994). Risk assessment is one of the great challenges in determining development options, particularly those in the infrastructure sector where substantial civil engineering construction works are quite often the norm. The need to identify hazards and their potential consequences, and to weigh up the degree of uncertainty, is paramount. Appropriate action should be based on the precautionary

principle if the balance of likely costs and benefits justifies it. Even so, the action taken and the costs incurred should be proportional to the risk. Decisions based on the precautionary principle can be thought of as an “insurance premium” that everyone pays to protect something of value (Department of the Environment, 1995).

Putting construction risks aside there are general risks associated with TP, which the implementing entities either assume or pass on to the contracting parties (ABEs, PSPs, contractors, etc.). Whether this is fair and equitable depends from which direction one approaches the problem, but certainly in the early stages of a new process the implementation entity could be expected to underwrite much of the risk.

Table 7.4: Risk management

Risk	Management
Lack of empowerment and social development targets	Establish firm targets and decide precisely how success should be measured.
Hesitancy by some entities to adopt TP fully	Mount an awareness campaign and vigorously promote the TP cause.
Absence of comprehensive M&E procedures to manage the process	Design and install an M&E system that allows the process to be managed.
Targeting is not reaching the most needy groups in society	Set targeting criteria and establish a means of reaching the needy (i.e. GIS).
High statutory employment costs threaten labour-based systems	Accept financial penalty in the cause of employment generation.
Inability of some ABEs to understand the contract procedures	Simplify the procedures and provide more management training.
Too few qualified and competent ABEs	Provide mentoring, scholarships and special training programmes.
Lack of continuity of work threatens ABEs' sustainability	Plan programmes better and provide better warning of works.
Lack of trained managers and technical staff available to ABEs	Draw up improved and better coordinated training programmes.
System does not address the employment needs of women and the disabled	Promote TP through the introduction of suitable contract incentives.
Inadequate financial resources available to ABEs	Make contracting conditions easier without compromising management.
Fragmented “buy in” by the established construction industry	Convince the industry they are either part of the system or part of the problem.

During the TPA it was often stated that the employer did not assume a fair proportion of the risk and that PSPs, contractors and ABEs were expected to bear too much of it. Given that the precautionary principle applies as much to management as to construction, some of the risks affecting the success of TP implementation and how they might be

managed are set out in Table 7.4.

Many risks and risk management solutions associated with TP identified during the TPA appear time and again. Most are symptomatic of the way the process is being managed and correcting one quite often corrects another. Although the importance of risk management should not be blown out of all proportion, TP is still a relatively new concept and entails an element of uncertainty. An acknowledgement of risks involved in its application and the development of a strategy whereby they are minimized would seem eminently sensible.

The consultants' responsibility in managing TP-based projects is considered by the SAICE to be burdensome when compared with their roles under those projects outside TP requirements. The SAICE recommends that consultancy fees should be reviewed to reflect the amount of work needed to overcome the problems in implementing what are government social policies, like TP implementation. Like the SAICE, SAFCEC is concerned with the risk involved in TP-based projects. SAFCEC is in favour of greater risk sharing between the government (public clients) and industry (private sector stakeholders), in order to get the process working effectively.

CHAPTER 8:

CONCLUSIONS AND RECOMMENDATIONS

8.1 Preparation and planning

8.1.1 Community engagement and participation

Many of the practical problems currently being experienced in the implementation of TP projects in the field can be traced back to poor targeting and inadequate planning at the community level. There are numerous interdepartmental initiatives aimed at strengthening service delivery at community level and these should be harnessed to support TP. The main findings of the TPA in this regard are presented in Table 8.1.

Table 8.1: Community engagement and participation

Conclusion	Recommendation
Community dialogue and participation in the project process are insufficient.	The Community Development Committee should assist with ABE development, tendering and contract award, and facilitate training.
Worker mobility and ABE sustainability are hindered by geographical targeting.	Needs assessment and improved inter-agency coordination are needed to target projects more carefully.
There is no evidence that socio-economic need or employment generation is a factor in project selection.	The community is to feature more prominently in the project selection and implementation process.

8.1.2 Planning and project management

There is evidence to suggest that some of the problems experienced in the planning and management of TP could have been anticipated at the outset and circumvented with simple corrective measures. The DPW has been pre-eminent in the development of TP and its evolution has been strongly influenced by the Department's particular needs. Numerous lessons have been learnt as implementation has progressed and the process has become much stronger. There are some structural weaknesses and worthwhile improvements that could be made, as shown in Table 8.2.

8.2 Contracting process

8.2.1 Tender and contract documentation

A common criticism encountered during the TPA was directed at the proliferation of specifications and conditions of contract being used in the infrastructure sector. Some

Table 8.2: Planning and project management

Conclusion	Recommendation
Many project managers do not understand the process sufficiently.	Run more departmental training courses to prepare staff better.
Acceptance of principles and dedication across the complete administrative spectrum are lacking.	Management of the process should be a line function and not allocated to a single department or individual.
Confusion exists in many quarters regarding policies and implementation methodologies.	Establish clear administrative policy and implementation guidelines.
Stagnation has occurred in some quarters and a new impetus with fresh ideas is required to rejuvenate the process.	Set up a national task team to manage and supervise the implementation process.
There is a need to explore new delivery mechanisms.	Commission a rolling programme of research and development.

Table 8.3: Tender and contract documentation

Conclusion	Recommendation
There are too many specification types, with many of them not being used.	Rationalize the number of specifications and settle on a select few.
Tendering and contractual procedures are unnecessarily complicated.	<ul style="list-style-type: none"> • Use simple standard tender documents and technical language. • ABEs should become better versed in the implementation detail.
Tendering and contractual procedures vary between implementing entities, which proves confusing particularly for emerging ABEs.	Much clearer and better-targeted tender information is needed in a standard form of language.
Documents do not address or protect ABEs' interests sufficiently.	Model subcontract forms should be included in contract documents.
Linking TP specifications to standard contract documents is difficult.	Forms of contract and specifications should be standardized.

employers use the FIDIC form of contract (e.g. the Johannesburg Western Bypass), while others use their own forms or national contracts. A variety of specifications are also being used, including the SABS 1200 (North Coast Road) and COLTO (Roads 2000 Programme), to name a few. It is not surprising that ABEs are confused! Without exception the contract procedures reflect the implementing entities' own interpretation of the PPPFA. There are moves under way to try and instil some form of order and consistency into the process, which is fractured and probably costly.

Many ABEs claim that the multiplicity of forms of contract and specification types makes tendering more complicated and leads to an increased number of contractual disputes. This may be so in some instances, but evidence suggests that the problem may be overemphasized. By the time ABEs become established they would have accumulated sufficient technical expertise (or buy it in) and emerging ABEs – being predominantly local – would become familiar with the forms of contract. This is a problem that will disappear in time, but in the short term there are ways in which the process can be improved and to some extent standardized. These are set out in Table 8.3.

8.2.2 Tender and contract award

Although difficult to judge, the tender and contract award process used for TP is most probably “clear, unambiguous, competitive and transparent”. Complaints were made that it was tilted too far towards the established contractors and ABEs at a time when new and emerging ABEs should be positively favoured. This may be a logical argument, but to design a system that could do this without serious market distortions would be difficult.

Many of the concerns raised by ABEs are already being dealt with under the various emerging ABE contractor development programmes, like the one being run by the DPW. However, there is little doubt that effort put into drafting and managing the tender process is well rewarded and works to the advantage of responsible firms and employers. Some improvements to the tender and contract award process are possible, as shown in Table 8.4.

Table 8.4: Tender and contract award process

Conclusion	Recommendation
Employers and contractors don't do enough at tender stage to exclude or protect I and underperforming ABEs.	Rosters and vetting should be more structured to weed out poorly performing ABEs and address the problem of fronting.
Benchmark pricing should be used more vigorously to protect inexperienced ABEs and to streamline project delivery.	<ul style="list-style-type: none"> • More detail on ABEs should be submitted by the contractor at tender stage. • More care in evaluation should be taken when high resource goals are quoted.
Insufficient time is allowed between the award of contract and start-up.	Sufficient time must be allocated at the tender and evaluation stage.
Too often ABEs are left to their own devices when grappling with complex tendering and contractual issues.	<ul style="list-style-type: none"> • The contractor should assist ABEs much more at tender stage. • Tender advice centres should take a more proactive role.

8.2.3 Contract management procedures

How contracts are drafted and managed reflects the attitudes of and systems employed by the particular TP implementation entity. Many simply subcontract this role to established PSPs (often in joint ventures with ABEs) and let them manage the process (e.g. the Roads 2000 Programme, which used AFRICON in North West Province). Others do all the work in-house and only use PSPs for the more specialist design tasks (e.g. the North Coast Road in KwaZulu-Natal). Both of these approaches have their proponents and detractors.

In most instances the contract management principles applied through TP are little different than in the post-TP era. There are numerous textural dissimilarities but on the whole the employer identifies a project, appoints a PSP to design and manage the construction, and then goes out to competitive tender to find a contractor to build it. Other models are being applied in some instances (PPPs, BOT, etc.) and in time these will probably become more prevalent as the government realizes it does not command the resources required to implement the RDP with conventional service delivery mechanisms. In most instances TP has been successfully “welded” onto conventional contract management, but the experience has identified numerous weaknesses that need to be addressed (see Table 8.5).

Table 8.5: Contract management procedures

Conclusion	Recommendation
Breaking up large contracts into small parcels, no matter how well-intentioned, is inefficient, costly and increases the workload.	Examine and trial other delivery mechanisms (term contracts, BOT, ABE-nominated subcontracts, build and mentoring contracts, etc.).
In some instances contract management procedures are outstripping the ability of ABEs to keep up and adopt them.	Exercise care when introducing new systems to ensure they keep pace with ABE development (e.g. electronic management tools).
The TP specifications can be used to very good effect to engage ABEs and PDIs while satisfying local politics.	Early contact between beneficiaries and community representatives is essential for smooth project implementation.
Setting contract goals can be counterproductive and lead to a situation where a contractor satisfies them but fails to meet quality standards.	Contract goals should be fixed in line with the likelihood of their practical accomplishment.

8.3 Role of key stakeholders

8.3.1 Consultants

Depending from which side one enters the consultancy debate, PSPs are undoubtedly key stakeholders in the TP process. In KwaZulu-Natal the EMRD does all its work in-

house and the DTRPW in North West Province outsources almost all of it. Many PSPs possess an intimate knowledge of TP and have been responsible for drafting much of the policy and working protocols. The DPW has an accreditation programme for PSPs – one thousand or so have received training to date and are now considered qualified to work on TP projects. The DPW is currently planning to set up and run a similar accreditation programme for its staff. Ultimately, non-accreditation of government staff implementing TP undermines the objectives of the policy and fails the M&E requirements.

Of course, one major advantage of employing PSPs is that the TP process inevitably commences with them. Numerous joint ventures and “buy in” partnerships have been formed between established firms and ABEs at all levels. Alliances of this nature are ideally equipped to design, implement and manage TP systems from the inside. The rules governing the appointment of established PSPs follow similar conventions to those that apply when contracting ABEs. Consequently, PSPs are in a very strong position to influence how TP is applied and managed. A number of improvements in the way PSPs are appointed and function have been identified, as shown in Table 8.6.

Table 8.6: Consultants’ summary

Conclusion	Recommendation
More attention should be given to designs that accommodate unskilled ABEs.	Improve PSP registration procedures to target firms with the right mix of skills.
Too few PSPs are versed in “social engineering” and employment maximization construction technologies.	Emphasize and develop the links between infrastructure service delivery and social development goals.
PSPs are required to assume too great a responsibility for making the process work, often with little extra remuneration.	Standard PSP fee scales are to be restructured to reflect actuality.
Price competition leaves PSPs too little time to mentor the TP process.	Use term contracts to provide PSPs with sustainable work prospects.
The expertise and resources of PSPs are not fully maximized.	Make more use of PSP employers to assist with TP strategy formulation, training, management, etc.

8.3.2 Contractors

In financial terms, the established contracting industry has perhaps the greatest stake in TP and might be expected to play a leading role in framing policy and ensuring its successful application. The TPA could find no structured statement, policy, view or opinion on the industries’ attitude towards TP or how it might contribute to the debate. Rather, for the larger contractors the emphasis seemed to be on expanding their international workload and managing in the depleted home market as best they could. Perhaps the public sector is no longer a major business interest and public-private

partnerships or similar private sector initiatives have greater appeal.

A number of contracting firms that were contacted individually were happy to express their views on TP, some of which were positive but many of them critical. There is clear evidence that the industry is undergoing structural change, partly due to the impacts of TP but more likely as a result of fundamental shifts in the business. Either way, the contracting industry can exert considerable influence on how TP is implemented, especially in the way ABEs are employed and sustained. Some suggestions are given in Table 8.7.

Table 8.7: Contractors’ summary

Conclusion	Recommendation
Contractors are too harsh when enforcing ABEs’ contracts, especially when it comes to payment terms and conditions.	<ul style="list-style-type: none"> • Main contract conditions should be linked to ABEs subcontracts. • Contracts are to allow ABEs advance payments for essential purchases.
Widespread acceptance exists of the need to improve ABEs’ management and business skills.	<ul style="list-style-type: none"> • Greater effort by contractors is needed to train and mentor ABEs. • Contractors must promote and share business and management skills with ABEs, with the cost reflected in the contract.
Main contractors should not be expected to underwrite TP policy.	Additional work (e.g. mentoring) should be identified and costs remunerated under the contract.

8.3.3 Affirmative business enterprises

The “linchpin” of TP is the ABEs – either operating as PSPs, joint venture partners, subcontractors or contractors. Their success is a direct reflection of the applicability and effectiveness of the preferential procurement policies. If the performance of ABEs could be measured, it would give a better idea of the success of the TP programme. This way, the weaknesses and strengths would become apparent and the necessary corrective action could be taken. Apart from data held on particular rosters, there is no information available on ABEs’ performance. Care must be exercised when holding information of this sort to ensure that data protection laws are not infringed upon.

Numerous establishment and operational difficulties of varying levels of importance were noted during the TPA. A few were no more than the typical complaints of contractors, but some reflected an underlying problem in the way the ABEs interact with employers, contractors and other ABEs. The information in Table 8.8 was derived from the ABE surveys and meetings with contractors.

Table 8.8: Affirmative business enterprises' summary

Conclusion	Recommendation
Experienced ABEs are being priced out of the market by unqualified firms who submit (and are held) to unrealistic tenders.	<ul style="list-style-type: none"> • Maintain better roster and tender prequalification procedures. • Organize into a representative association to promote ABE business interests (e.g. certification and accreditation).
Strategies should be focused on sustainability and not view numbers of ABE “start-ups”, contracts and price as valid success criteria.	<ul style="list-style-type: none"> • Monitor the tender process to ensure that responsible ABEs are appointed. • Waiver targets in some cases to support ABEs with potential. • Study successful ABEs, identify attainment characteristics, develop and promote.
Due to lack of continuity of work opportunities many ABEs collapse before they are one year old.	<ul style="list-style-type: none"> • Consider allocating a fixed number of projects to ABEs to aid the transition from emerging to fully fledged contractors.
The proliferation of ABEs has resulted in a shortage of training people.	<ul style="list-style-type: none"> • Concentrate more resources on identifying training needs. • Attract sufficient qualified and competent staff so they can compete in public and private sector markets.
National minimum wages are not being universally applied by ABEs.	<ul style="list-style-type: none"> • Consider implementing a phased cost premium rebate scheme.

8.4 Employment generation

Unlike the minimum RDP water standard (i.e. 25 litres per person per day within a distance of 200 metres) (RSA, 1997b), there are no specific RDP employment-generation standards. Perhaps this is just as well, because the water standard is proving hard to attain and to legislate for employment in anything other than the broadest terms would be impossible. No one doubts the success of employment-generation initiatives in raising living standards and delivering social services. The evaluation of the CBPWP showed that in 1998/99 some 29 184 workers were employed and 4 154 permanent jobs were created on the construction of worthwhile community infrastructure assets.

Apart from local initiatives there seems to be no structured attempt to use employment-generation techniques (e.g. labour-based construction) to meet specific social goals. Arguments against applying labour-based technologies include those of PSPs who feel they are thus unable to deliver construction of a sufficiently high quality, ABEs who do not want to be labour-only contractors, and established contractors who say they have the machines and would rather use them. How far and to what extent one can “legislate” to maximize employment is a matter of policy but some initiatives can be undertaken, as shown in Table 8.9.

Table 8.9: Employment generation

Conclusion	Recommendation
Too little effort is made by stakeholders to maximize labour-based technologies or link infrastructure asset construction to socio-economic goals.	Designs must be able to cater for labour-based construction and contract specifications should specify higher labour-based targets.
Promotion of labour maximization is too simplistic and takes little account of external factors (i.e. lack of skills, unionization, etc.).	Labour-based construction planning must be carried out at the outset and be employer driven.
Labour maximization is used in some instances but there is no evidence of ABE-friendly design procedures (i.e. the technology is not process driven).	Needs assessment and the identification of the target labour group and ABE skill levels are essential.
There is a lack of acceptance that in some instances employment generation may have to take precedence over construction quality.	Construction methodologies are to be chosen that lend themselves to labour-based technology (roads, urban renewal, drainage, etc.).

8.5 Training provision and needs

Arguably the largest amount of information and feedback from the interviews and case studies was concerned with training, particularly with respect to the ABEs. Paradoxically, this is the area that seems to receive the most attention yet fails to address the aspirations of the beneficiaries. The problem with training is that it appears straightforward – the perception is that simply by including a bill item in the contract and running the essential sessions people are somehow trained. Nothing could be further from the truth. The planning, delivery and follow-up of a training programme that really works – as opposed to recording numbers on a list and issuing a certificate at the end – require professional skills and application. It is impractical to impose one central training programme on TP implementers and each entity will quite rightly approach the subject as it sees fit. However, there are some common failings, which need to be addressed, as shown in Table 8.10.

8.6 Monitoring and evaluation

An acknowledgment of the need and importance of assessing empowerment and socio-economic betterment from TP must be matched with an M&E process whereby it can be measured and tracked. As stated earlier, the measure of empowerment and socio-economic upliftment is not a function of asset creation as such, but is expressed in terms of quantifiable variables (income and employment levels, health and education statistics, etc.). An M&E system capable of doing this would have to be “keyed” in and built into normal project management operations and use common data. Whether a unified national system centred in a single department would be the right answer is unclear (i.e. a resurrection or an extension of the GTPMS).

Table 8.10: Training provision and needs

Conclusion	Recommendation
Too much emphasis is placed on worker training and not enough on ABE business skills development.	Training is to be reassessed to reflect reality and the needs of emerging ABEs.
Implementation entities need more training, especially in the M&E of socio-economic deliverables.	Run a training course to thoroughly prepare staff for TP implementation and M&E.
TP (and its various forms) is absent from university and teaching curriculums.	Design a DPW-type certified teaching module, which can be accessed via a recognized teaching institute or the Internet.
Restructured industry training does not meet industry needs and is currently inactive.	Appoint a dedicated training professional to coordinate training with follow-up to assess effectiveness.
The lack of structured training is resulting in poor skill levels and an overreliance on others to drive the process forward.	Make the training programme a tender point scoring and adjudication issue.
Training is too often given in one short, sharp burst and seen as an add on and not a serious contract requirement.	M&E of training outputs should be in terms of effectiveness and not judged on numerical criteria.
Geographic targeting creates no long-term investment in construction worker training.	<ul style="list-style-type: none"> • Closer attention should be paid to the cultural and social dimension. • Improve inter-agency coordination to assist work continuity and ABE development.

There are arguments for pursuing this course of action but given the manner in which national, provincial and local government have gone their separate ways in implementing the PPPFA, it is unlikely to happen. On balance, it would probably be better to have a central coordinating department with a strategy and process that set the general rules and to simply leave others to pursue their individual M&E strategies, with the requirement that some key data must be passed back to the centre to maintain a national database and analysis capability.

Tied up with the need for a comprehensive M&E system is the issue of how long current preferential procurement policies will remain in force. There should be a viable method available for tracking the current PPPFA legislation deliverables, if only to provide convenient times for judging how successful (or not) it has been. Not only are ABEs interested in knowing how long they have before they start competing on equal terms with established contractors, but the industry also needs to know where it is heading and what investment is needed to get there. On another level, the socio-economic and empowerment deliverables flowing from the RDP also need to be assessed and perhaps an inclusive M&E system should be designed to track them both. Whatever M&E system is eventually adopted and wherever it is located, it will have to

be integrated into future TP strategies and be capable of accepting data on physical and socio-economic impacts. The design of the system should pay due cognisance to the aspects mentioned in Table 8.11.

Table 8.11: Monitoring and evaluation

Conclusion	Recommendation
There is no time-frame allocated to the RDP, the preferential procurement policies or TP implementation.	A common decentralized M&E system should be introduced and managed by a representative centre-based task team.
There is currently no M&E system that measures TP socio-economic deliverables and impacts.	An M&E system and guidelines are to be prepared and participants trained in their use.
It is impossible to determine the physical impacts of TP projects even per entity, let alone nationally – with a few exceptions.	The collection of physical and socio-economic data should be mainstreamed into the M&E delivery process.
No baseline data exist to access physical or socio-economic deliverables.	Selected representative baseline surveys should be carried out to establish the M&E starting point.

8.7 Sharing risks and managing the process

One thread running continuously through the TPA concerned the question of who should bear the risk and underwrite the introduction of TP policies. The opinions of those who were consulted varied widely. The entities responsible for implementation felt that the risks were largely commercial and should be born by the private sector, while they queried whether the pioneering of new and untried government policies was really up to them. As usual, the truth is somewhere in-between.

At a minimum there must be a formal acknowledgement of the risks by all the stakeholders and some joint management strategy worked out that compensates those that comply and penalize those who do not. With time, the risks associated with the adoption and development of TP will reduce as stakeholders develop and become more familiar with the procedures. However, there are still risks involved when implementing TP and strong arguments exist for apportioning and possibly compensating risk. This could take the form set out in Table 8.12.

8.8 Replication and international dimension

The TPA has looked at the international dimension and in particular how preferential procurement and TP impact on trade and external relations. The Green Paper's conclusion was that provided they are generally kept in line with international trade agreements no untoward repercussions could be expected. The likelihood of this holding true in the long term as South Africa's export capability is developed and

Table 8.12: Sharing risks and managing the process

Conclusion	Recommendation
Structured risk taking is needed to protect and encourage ABEs.	Risks should be identified and a management strategy for dealing with them should be prepared and implemented.
Employers are not prepared to acknowledge or underwrite project implementation or contractual risks.	Employers must become more alert to the risks in pursuing TP strategies (i.e. assume this burden or pay the private sector to do so).
Employers, PSPs, contractors and ABEs do not share risk and opportunities equally.	Greater risk sharing between the employer, PSPs, ABEs and the construction industry is needed to get TP working more effectively.

international competition becomes fiercer, is debatable. In the meantime TP might be expected to escape serious investigation and international criticism given its laudable socio-economic aims and aspirations.

There are many lessons and positive experiences stemming from the introduction and implementation of TP in South Africa and there is support for the view that these should be made available internationally. How well they might be exported and applied in other situations is unclear, but concerns should not dissuade the exportation of this very successful social engineering tool. Although specifically designed to redress the inequities of apartheid, TP could be developed to correct social injustices in other parts of Africa where the ruling plutocracy in some countries is driving down living standards and causing massive social dislocation. It would be a simple matter to substitute “apartheid” for “military power” or “dictator”, and apply the RDP’s socio-economic goals to achieve social justice. However, this would take willingness by governments, either through the SADC or the wider international forum. Some issues that should be considered when seeing how TP might be replicated and launched internationally are raised in Table 8.13.

Table 8.13: Replication and international dimension

Conclusion	Recommendation
There is a decided absence of social development strategies in many countries suffering inequality and deprivation.	Engage governments, international agencies, the United Nations and the development banks.
Empowerment and social betterment could be promoted through TP and the use of employment-generation technologies.	Form a joint working group and agree on a strategy for wider TP replication.
The success of TP as a tool for redressing historic injustices can easily be replicated and exported.	Draft a set of simple, “light” and easily adaptable generic TP rules, a strategy paper and supporting documents.

APPENDIX A:

REFERENCES

African National Congress (ANC). 1994. *The Reconstruction and Development Programme: a policy framework*. Johannesburg: Umanyano Publications.

AUSAid. 2000. *Report on opportunities for reform of government procurement in South Africa*. A report commissioned under AUSAid and the South African Capacity Building Programme, April.

Country Status Reports. Various, undated.

Department of Economic Affairs, Agriculture and Tourism (DEAAT). 2001a. *The Building Environment Empowerment Project*. Property Management and Works, April.

Department of Economic Affairs, Agriculture and Tourism (DEAAT). 2001b. *Water proofing and minor structural repairs to the Nico Theatre Complex*. Tender document, February.

Department of the Environment, 1995. *A guide to risk assessment and risk management for environmental protection*. Department of the Environment, United Kingdom.

Department of Finance. 2001a. *Regulations in terms of the KwaZulu-Natal Procurement Act 2001*. Provincial Notice, 14 December.

Department of Finance. 2001b. *Treasury Circular 37 of 2001*. Preferential Procurement Policy of the Western Cape Provincial Government, 13 December.

Department of Public Works (DPW). 2000. *Increase in levels of retention monies held in lieu of performance guarantees or cash deposits to serve as security on construction and related contracts*. 15 February.

Department of Public Works. 2001. *Implementation manual on the use of targeted procurement to implement an affirmative procurement policy*. Unpublished document. Available online at: www.pwdprocure.co.za (accessed on 20 December 2001.)

Department of Transport, Roads and Public Works (DTRPW). 2001a. *Roads 2000 Programme*. Quarterly report prepared by AFRICON, November.

Department of Transport, Roads and Public Works (DTPRW). 2001b. *Targeted procurement as a tool towards achieving the government's socio-economic objectives: Roads 2000 Programme*. North West Province DTPRW, 27 November.

Department of Transport, Roads and Public Works (DTRPW). 2000c. *Upgrading and surfacing of Ramatlabane bus and taxi routes*. Tender document, September.

Department of Water Affairs and Forestry (DWAf). 1997. *Build Operate Transfer Train: Eastern Cape Water Supply and Sanitation Tender*, July. Pretoria: DWAf.

Department of Water Affairs and Forestry (DWAf). 2001. *Guidelines and principles for the appointment of professional service providers*, September. Pretoria: DWAf.

- Development Bank of Southern Africa (DBSA). 2000. *Annual report*. Available online at www.dbsa.org (accessed on 8 March 2002).
- Emba Projects. 2000. *A report on targeted procurement workshops for female contractors*. Port Elizabeth.
- European Union. 1998. *Public procurement in the European Union*. 11 March.
- Ferreira, D. & Khatami, K. 1994. *Financing private infrastructure in developing countries*. Discussion Paper No. 343. Washington, DC: World Bank.
- Gauteng Provincial Tender Board. 1995. *General conditions and procedures (GT 36)*. 8 August.
- Gounden, S. 2000. *The impact of the national Department of Public Works' affirmative procurement policy on the participation and growth of affirmable business enterprises in the construction sector*. Unpublished Ph.D. thesis. Pietermaritzburg: University of Natal.
- HMSO (1994). *Sustainable development: the UK strategy*. London: Her Majesty's Stationary Office.
- Hodgson, S. 1997. *Government's response to the challenges facing the construction industry in the process of national transformation*. Proceedings of the First International Conference on Construction Industry Development: Building the Future Together. Singapore, December.
- I G Harmond Associates Ltd. 1994. *Somalia Technical Review Mission*. United Nations Development Programme, September.
- I G Harmond Associates Ltd. 1999. *External evaluation of the BOTT Programme*. World Bank Report, October.
- I G Harmond Associates Ltd. 2001. *Support to the rural access sector, Kingdom of Lesotho*. Ireland Aid, October.
- Industry Insight*. 2001. The South African Construction Statistical Year Book, 2000/01. Bookes Patrick Publications, October.
- Institute of Civil Engineers. 2001. *New Engineering Contract*. United Kingdom.
- International Labour Organization (ILO). 1987. *Guidelines for the development of small-scale construction enterprises*. Geneva: ILO Publications.
- Krafchik, K. 1991. *Small-scale enterprise, inward industrialization and housing: a case study of subcontractors in the Cape Peninsula low-cost housing industry*. Working Paper No. 82. Cape Town: Southern Africa Development Unit.
- Langenhoven, H. 2000. *Structural shifts in the construction industry*. 23 October.
- Manchidi, T.E. 2001. *Pre-assessment of targeted procurement: a report commissioned by the Department of Public Works, Development Bank of Southern Africa and International Labour Organizations*. Unpublished report.

- Manchidi T.E. & Merrifield, A. 2000. Public private partnerships, public infrastructure investments, prospects for economic growth in South Africa. In Khosa, M.M. (Ed.), *Empowerment through economic transformation*. Pretoria: HSRC Publishers and African Millennium Press, 409–422.
- Mathunyane, M. 2000. *CEDF Targeted Procurement Seminar/Workshop*. Held at the Development Bank of Southern Africa, Midrand, 15–16 February.
- Ministry of Finance and Ministry of Public Works. 1995. *Public sector procurement reform: a 10-point plan*. Pretoria: Department of Finance.
- Ministry of Public Enterprises. 2000. *An accelerated agenda towards the restructuring of state-owned enterprises: policy framework*. Pretoria: Department of Public Enterprises.
- Oberholzer, K. 2002. Personal interview. Former engineer of the Midrand Metropolitan Council, now employed by the Johannesburg Roads Agency.
- Republic of South Africa (RSA). 1994. *White Paper on the Reconstruction and Development Programme*. Government Gazette No. 16085, 23 November.
- Republic of South Africa (RSA). 1996. *Constitution of the Republic of South Africa, Act No. 108 of 1996*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 1997a. *Green Paper on Public Sector Procurement Reform in South Africa*. Notice 691. Government Gazette, Vol. 382, No. 17928, 14 April. Ministry of Finance and Ministry of Public Works.
- Republic of South Africa (RSA). 1997b. *White Paper on Water Supply and Sanitation Policy*, November. Department of Water Affairs and Forestry.
- Republic of South Africa (RSA). 1999a. *Public Finance Management Act*. Pretoria: Government Printer.
- Republic of South Africa (RSA). 1999b. *White Paper on Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry*. Notice 1082, Government Gazette, Vol. 407, No. 20095, 21 May. Department of Public Works.
- Republic of South Africa (RSA). 2000a. *Construction Industry Development Act, Act No. 38 of 2000*. Government Gazette, Vol. 425, No. 2021755, 17 November.
- Republic of South Africa (RSA). 2000b. *Preferential Procurement Policy Framework Act, Act No. 5 of 2000*. Pretoria: Government Printer.
- Rogerson, C.M. 2000. *Road construction and small enterprise development: the experiences of the N4 Maputo Corridor*. Unpublished report. Commissioned by Ntsika Enterprise Promotion Agency and the Development Bank of Southern Africa, October.
- Snyman, E. 2000. *State of the construction industry*. Second Quarter Report of the Building Industries Federation of South Africa and the South African Federation of Civil Engineers.

- Soderlund & Schutte. 1998. *Review of the Malmesbury Prison Complex and associated housing estate*. Prepared for the National Department of Public Works, September.
- South African Federation of Civil Engineering Contractors (SAFCEC). 2001. *Annual report, 2000/01*. SAFCEC.
- South African National Roads Agency (SANRA). Undated. Addendum No. 2, Contract No. NRA X100-117-06/1. SANRA.
- South African National Roads Agency (SANRA). 2000. *Annual report*. SANRA.
- South/North Central Local Council. 1998. *Circular to all Metro and South/North Central Local Councils Executive Directors, Chief Executive Officers*. 25 June.
- Standish, B. 2001. *The macro-economic value of incremental employment in the South African construction industry*. A report commissioned by the Department of Public Works and the International Labour Organization. Harare: ASIST-Africa.
- Watermeyer, R.B. 1997. *Mobilising the private sector to engage in labour-based infrastructure works: a South African perspective*. Sixth Regional Seminar for Labour-based Practitioners, International Labour Organization. Jinja, Uganda, September.
- Watermeyer R.B. 1999. *The use of procurement as an instrument of local economic development*. Bi-annual Conference of the Institute of Municipal Engineers of South Africa, Kempton Park, October.
- Watermeyer, R.B. 2000. The use of targeted procurement as an instrument of poverty alleviation and job creation in infrastructure projects. *Public Sector Procurement Law Review*, 5: 201–266.
- Watermeyer, R.B. & Band, N.G. 1994. *The development of small-scale enterprises, skills, entrepreneurship and employment opportunities through the provision of housing*. Working Group 3, National Housing Forum, November.
- Watermeyer R.B., Gounden, S., Letchmiah, D.R. & Shezi, S. 1998. Targeted procurement: a means by which socio-economic objectives can be realized through engineering and construction works contracts. *Journal of the SA Institute of Civil Engineering*, March.
- Wates, Meiring & Barnard. 2001. *A case study of the Mogale City Local Municipality waste water care works: experience, evaluation of targeted procurement*. October.
- World Bank. 1994. *World Development Report 1994: infrastructure for development*. New York: Oxford University Press.
- World Bank. 2001. *The World Bank operational manual: operational policies – procurement*, OP 11.00, July. Washington, DC: World Bank.

APPENDIX B:

AFFIRMATIVE BUSINESS ENTERPRISE QUESTIONNAIRE AND SURVEY SUMMARY

Questions and responses

A total of 20 contractors were contacted for their views. Five of the 20 had little or no detailed knowledge of TP and contributed little to the debate.

1. *Please indicate your major business activity/ies (please tick).*

Eleven (73%) of the contractors interviewed were prime contractors and four (27%) were subcontractors. One of the prime contractors secured his work mainly from joint ventures with other larger and more established companies.

2. *What is the approximate size of your firm (in 2001) in terms of turnover (SAR)?*

According to the respondents the average firm had an average turnover of R41 million annually, with the median turnover of R15 million. Only three of the 15 (20%) contractors consider themselves small contractors (turnover less than R1 million). The contractors could thus be said to be a fairly established sample.

3. *How long has your firm been in business?*

The firms had been in business an average of nine years, with the oldest firm formed 20 years ago and the most recent firm two years old.

4. *What was the approximate size of your firm five years ago in terms of turnover (SAR)?*

All the firms that had been in existence for five or more years exhibited some growth over the period, increasing their turnover by, on average, 3,6 times.

5. *What are the main reasons for change (if any) compared with five years ago?*

Two of the respondents cited increased work from the private sector as the reason for their growth. This work was not, they said, awarded to them based on their affirmable status. The same contractors also said they did not tender for targeted procurement contracts, as they were too large or chose to leave such tenders for smaller contractors.

Four of the respondents quoted affirmative action in the form of targeted procurement as the reason for their growth. Nine described it as natural growth and attributed it to various reasons ranging from hard work and networking to good reputations gained from high-quality work.

6. *What are the reasons for your winning bids on the projects you have tendered for?*

Proper pricing was the main reason given by the contractors (five of them) for their winning bids. A good reputation for quality work, luck, and experience coupled with an established business name were the reasons given by one contractor each.

7. *What reasons account for your unsuccessful bids?*

Unsuccessful bids were credited to not being competitive on price (for eight of the contractors), reluctance on the part of the private sector to employ PDI contractors (one respondent), the “rub of the green” (one respondent) and their unsuitability for the contract (one respondent).

8. *How many tenders has your company won in public sector contracts involving TP specifications (indicate most recent award)?*

Seven contractors had never won a contract under TP conditions. Five had carried out between one and five contracts, while three had undertaken more than five contracts. Only two contractors who had been involved with TP admitted having difficulty in carrying out the contracts, one because of poor pricing and the other because a lack of financial clout in a joint venture contract left him without any say in the contract proceedings.

9. *What advantages does executing contracts under TP have compared with working on non-TP contracts?*

Contractors identified the ease of getting work as the most significant advantage of TP contracts.

10. *Do you think TP has benefited your firm?*

The fact that large established companies are “forced to work with you and transfer skills, which doesn’t happen in the private sector” was a benefit to two contractors, as was the exposure to “big company mentality” and the presence of “a large company with resources to fall on if things go bad”. To most, however, there simply was no difference.

11. *What, in your opinion, are the objectives of TP?*

All respondents mentioned the need to empower emerging contractors and give them an opportunity to grow as the primary objective of targeted procurement. The definition of emerging contractor ranged from black contractors to SMMEs. Only one respondent (a woman) included women in the list of targeted groups.

12. *Is TP achieving those objectives and why, or why not?*

Four of the respondents felt that TP had achieved its objectives to some degree but expressed various reservations. These were the lack of support mechanisms that “left contractors hanging”, the hijacking of the programme by non-ABE firms, the lack of a parallel skills acquisition programme, resistance from consultants, a lack of finance, and

the highly individual nature of entrepreneurship, especially in construction.

Eight of the contractors responded with an unequivocal “yes”, explaining that emerging contractors “would never had gotten jobs on larger sites” and did not have the resources to carry out large or technically challenging projects. Unequivocal “no’s” gave as their reasons the lack of support from consultants, window dressing, the absence of evaluation and post-mortem at the end of each project, and the lack of support mechanisms for contractors.

One respondent ardently argued that many TP contractors walked out of the contracts indebted and without anything to show for them, and challenged for evidence of any contractor who had come through the programme and was still doing well in construction. “Some have lost their houses and property because of debts!” Necessary support mechanisms were cited as being back-up and mentoring for management, especially financial; bridging finance; and assistance with collateral and property so as to obtain loans.

13. Based on your experiences, how would these objectives be best achieved?

Most contractors (seven respondents) suggested that measures to achieve TP objectives should be centred on availing credit facilities and financing to small contractors. There were also calls for technical and managerial training, especially through mentoring (five respondents). In that vein one contractor suggested “giving experienced contractors incentives” to monitor a steady group of subcontractors, using them over and over again until they are proficient, and giving the mentoring contractor some form of compensation for that assistance.

Two respondents suggested setting aside projects exclusively for affirmable contractors, as this would help in the transition from emerging enterprise to fully fledged contractors capable of undertaking projects of technical complexity and demanding of resources. The monitoring of contracts to ensure that only responsible contractors get chosen was proposed by two contractors, with one suggesting that the accrediting of contractors be done through the new organization in the process of formation, namely Emerging Building Contractors (EBCON). Three respondents called for more TP contracts.

14. How important is TP in addressing the following aspects in the South African construction industry?

TP was seen to have been effective in the objectives of “job creation for unskilled labour” and “facilitating business opportunities for historically disadvantaged groups”. It was seen as marginally effective in addressing skewed success patterns in the bidding process and improving the delivery capacity of small black contractors. TP was not effective in improving joint venturing and subcontractual relationships, according to 56% of the respondents.

15. Which factors hinder targeted groups from successfully completing awarded projects?

The lack of finance in the form of bridging finance, credit facilities, capital and access

to guarantees was seen by a majority (80%) of the respondents as being responsible for hindering the performance of targeted groups. The next most quoted factor was the lack of managerial and financial skills (67%). The lack of competent trained staff on site, lack of experience, tendering skills, personal skills in networking for jobs (“don’t know how to get jobs or deal with people who give jobs”), fronting, window dressing and the lack of power in their relationships with large companies were the other factors mentioned. One respondent gave the example of a contractor who was offered a pay-off after tendering for and winning a joint venture project with an established company, and who endured a rocky relationship when he refused.

16. What actions do you think should be taken so that the above problems could be overcome, and why?

Mentoring is the method recommended by six (40%) of the contractors to aid targeted groups in successfully finishing projects. This was especially so in joint ventures but as one contractor pointed out care must be taken to “make sure the small company is fully involved in the process”. To aid this, two contractors suggested a monitoring system from the authorities.

Facilitating financing and collateral were again identified as areas in which emerging contractors needed help. Suggested ways were government support to access credit facilities and set up bridging finance for emerging contractors. Four (27%) of the respondents mentioned that ensuring a continuous flow of work was important.

A more sympathetic government approach in the execution of small contracts, especially where problems arose due to poor pricing and cash flow, was recommended by one contractor.

One respondent suggested that contractors themselves must be more aggressive and take matters into their own hands, as there was “no free ride”. Another wanted a reappraisal of the role of consultants, more stringent supervision of their performance and a scrutiny of the statistics that come from consultants, accusing them of marginalizing emerging contractors.

Other suggestions included making payment schedules easier (e.g. at shorter intervals) for ABEs, setting aside work specifically for them, stronger representative bodies for ABEs, and support, mentoring and training from consultants.

17. In your opinion, what is the best way to ensure the sustainability of ABE contractors?

Ensuring a continuous flow of projects, thus strengthening the small company’s bargaining power, is seen by seven (47%) of the respondents as the best way to sustain ABE contractors. Three respondents mentioned mentoring, and two suggested commissioning more jobs of the class that emerging contractors tender for.

Two respondents did not feel there were any viable measures to safeguard ABEs, saying that success depends on the individual, who must be prepared to work hard. The best that could be done was to just give them the skills and hope for the best.

18. *What effect do you think the practice of allocating a training budget as part of the contract conditions has?*

Four respondents thought such a training programme a good idea, especially to aid project management and quality. For one who had had the experience of working on the Maputo N4 Corridor Project it had beneficial effects, and had resulted in her getting valuable training from the contractor and training consultant. The same contractor was experiencing difficulties with the financial management of a programme already tendered for, which raises the question of how effective the training actually was.

One contractor thought placing the training programme in the context of contracts was a good thing, as “training is the first thing to be cut when there are financial difficulties”. Three agreed with the perception that the training was good but had reservations. These were whether the trainers would really pass on the skills in demand; the necessity of “continuous projects after that or else you will be unemployed”; and the dependence on the aptitude of the trainee.

For others training was not so significant. Six contractors felt it was an ineffective idea, emphasizing that training in the construction industry was a long-term affair and it took years to gather the skills necessary to be a good contractor. Two mentioned that training levies and the CETA were already in place for such a programme and that it was not their responsibility to deliver training or receive it under such conditions.

It was also felt that there was “too much pressure to deliver goods to engage in construction to have time for training” and that because of the fluctuations in workloads and immobility of labour (unless there were long-term development plans) trained personnel would find themselves unemployed when the project was over and would have wasted the training. They would also not be of use to the contractor doing the training, which would reduce his motivation to impart skills.

19. *Which steps should be taken to improve TP in the future?*

There were many suggestions on how to make targeted procurement more effective. These included setting aside projects where only ABEs could tender (three respondents), more mentoring (5), more representation at policy-making bodies such as the CIDB (2), training in management skills, especially financial management (5), and making it easier for ABEs to access credit facilities and financial resources (5).

Respondents also mentioned the difficulty of understanding the TP documents and called for greater clarification of the documents (three respondents). Four respondents said they were never aware when targeted procurement contracts were being put out and wanted targeted procurement jobs publicized better to alert eligible contractors.

One contractor suggested that an ombudsman be based in the DPW for emerging contractors, as well as a hotline for empowerment so that ABEs had a place to take their grievances. Another called for increased spending in construction to let trickle-down take effect, and two called for more government monitoring to make sure the programme benefited those it was intended to.

Two respondents wanted collateral and retention demands waived for affirmable

business enterprises and the time taken to award projects shortened to avoid price escalations and to ease planning. Explaining that at a recent tender opening there were 70 contractors, a respondent called for the categorization of contractors into lists and for selective tendering. Finally, two contractors emphasized that TP was a programme that should have a limited life and not operate in perpetuity. At some point, “the laws of economics must come into play” and that should be made very clear to the public.

APPENDIX C:

CASE STUDY CHECKLISTS

Checklist 1: Case study – North West Province, Department of Transport, Roads and Public Works

Item	Project detail	Description
1	Name:	Roads 2000 Programme
2	Location:	Various
3	Implementing agency:	Department of Transport, Roads and Public Works
4	Model form of contract:	COLTO General Conditions and Standard Specifications
5	Contract category (TP1, TP2, etc.):	TP1
6	Contract class (major, minor, etc.):	Minor
7	Consultants/architects:	AFRICON project management consultants, 24 project consultants (60% of the work), with 11 being ABEs (40% of the work)
8	Tender prequalification:	Shortlists used and no formal prequalification
9	Date tenders called:	14 September 2000
10	Main contractor: Date of start-up: Number of employees:	Five established consultants: value of works R36,82m and 19 ABEs: value of works R73,12m Data not available Data not available
11	Joint venture partners: Date of venture start-up: Number of employees:	Eleven number value of works R99.77m Data not available Data not available
12	Subcontractors: Date of start up:	Not applicable –
13	Affirmable business enterprises engaged: Date of start-up: Previously disadvantaged individual equity: Previously disadvantaged individual supervisory staff: Number of employees: Management and qualifications:	Data on individual firms not available – – – – –

Item	Project detail	Description
14	Tender preference system used (80/20, 90/10, etc.):	Minimum 15% and maximum 50%
15	Labour maximization:	Labour-enhanced construction methods used
16	Training and skills transfer provision:	Department received two days training in TP Programme training implemented
17	Date contracts awarded:	9 November 2000
18	Contract price:	R209 710 000
19	Contract period:	18 months
20	Final contract value/estim.:	R210 000 000 estimated
21	Tender participation goal achieved:	48,5% to date
22	Contract extensions of time:	Nil
23	Contract completion/estimated date:	9 May 2002
24	Financial premium:	Data not available
25	Construction outputs:	Minor roads upgrading and rehabilitation with 38 projects completed to date
26	Health and safety provisions:	Normal contract conditions
27	Environmental provisions:	Normal contract conditions
28	Additional general information:	<ul style="list-style-type: none"> • To date employment has generated 2 460 jobs, of which 1 515 (61,6%) were local, involving 1 939 men, 276 women, 242 youths and 3 disabled persons • Person months are 6 349 and the wages bill R7 565 400. • 688 persons from local communities were trained at a cost of R1 624 126.
29	Lessons learnt:	<ul style="list-style-type: none"> • Sufficient time must be allowed for conceptualizing and planning projects at the outset. • Sufficient time must be allowed for tendering and evaluation. • Strong and experienced project management is essential. • A dedicated training manager, training plan and budget are needed. • A streamlined management structure and information-gathering systems are essential. • Implementation of appropriate departmental procedures at the outset will enhance efficiency. • The use of labour-based systems should form part of

		the project planning process.
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Checklist 2: Case Study – KwaZulu-Natal Province, Ethekewini Municipality

Item	Project detail	Description
1	Name:	North Coast Road, Stage 4 B56115
2	Location:	North Coast/Durban
3	Implementing agency:	Roads Department, Civil Engineer's Unit, Ethekewini Municipality
4	Model form of contract:	SABS 1200 with modifications
5	Contract category (TP1, TP2, etc.):	TP1 and TP5, with provision for priority enterprises
6	Contract class (major, minor, etc.):	Major
7	Consultants/architects:	In-house
8	Tender prequalification procedures:	None
9	Date tenders called:	12 April 2001
10	Main contractor: Date of start-up: Number of employees:	Concor Roads Pty Ltd – –
11	Joint venture partners: Date of venture start-up: Number of employees:	None – –
12	Subcontractors: Date of start-up:	None –
13	Affirmable business enterprises engaged: Date of start-up: Previously disadvantaged individual equity: Previously disadvantaged individual supervisory staff: Number of employees: Management and qualifications:	Duyazi Construction, One 2 One, Mbodla Security, Azo Construction, Chapps Construction, Davecon Civils and Indana Building and Civils (all ABEs) – – – Various Minimum to none
14	Tender preference system used (80/20, 90/10, etc.):	Price (90), ABE (4), PDI (4) and targeted labour (2)
15	Contract participation goal:	20% (R6,8 million to ABEs)
16	Training and skills transfer	None in the contract, but some to be delivered formally by

	provision:	the main contractor and informally by mentoring
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Item	Project detail	Description
17	Date contract awarded:	Various
18	Contract price:	R35 million
19	Contract period:	Four years
20	Final contract value/estimate:	R35 million
21	Contract starting date:	August 2001
22	Contract extensions of time:	None to date
23	Contract completion/ estimated date:	Main contract 14 August 2004
24	Financial premium:	–
25	Construction outputs:	<ul style="list-style-type: none"> • Conversion of some 1,6 km of existing heavily trafficked urban single road into a dual carriageway highway • Railway line diversion and crossings • Foul and surface sewer extensions and diversions, road junctions, specialist retaining walls and earthworks construction
26	Health and safety provisions:	As per contract; no violations were recorded
27	Environmental provisions:	As per contract, and numerous negative impacts were recorded
28	Additional general information:	The City Engineer's Unit considered the project a pilot initiative and will expand the lessons learnt into its future construction implementation policies.

Checklist 3: Case study – Gauteng Province, National Roads Agency

Item	Project detail	Description
1	Name:	Johannesburg Western Bypass Routine Road Maintenance Contract
2	Location:	N1 20 and 21 from Armadale Interchange west of Soweto to Proefplaas Interchange east of Pretoria. Length approximately 80 km of dual carriageway.
3	Implementing agency:	National Roads Agency
4	Model form of contract:	FIDIC Conditions of Contract NRA Standard Specifications for Routine Maintenance NRA Form of Contract
5	Contract category (TP1, TP2, etc.):	Not applicable
6	Contract class (major, minor, etc.):	Not applicable
7	Consultants/architects:	AFRICON
8	Tender prequalification procedures:	None
9	Date tenders called:	April 2001
10	Main contractor: Date of start-up: Number of employees:	Superway/Lenong Joint Venture 13 July 2001 – <i>Note: The main contractor is the management contractor according to contract, and Lenong as an ABE is involved in management.</i>
11	Joint venture partners: Date of venture start-up: Number of employees:	See above
12	Subcontractors: Date of start-up:	Nosh Land Developers – route patrol services 6 December 2001
13	Affirmable business enterprises engaged: Date of start-up: Previously disadvantaged individual equity:	Superway/Lenong Joint Venture approached ABEs at tender stage and asked them to provide rates. They were not appointed through an open tender process. The ABEs are Mokgotsi Construction, Mphalele Fencing and Construction, PJ Maintenance and Senzankokne Cleaning Services. 13 July 2001 –

Item	Project detail	Description
	PDI supervisory staff: Number of employees: Management and qualifications:	– – –
14	Tender preference system used (80/20, 90/10, etc.):	Financial proposal (80 points), management proposal - PDI equity (3), PDI supervisory staff (3) and contractor's mark-up (7)
15	Labour maximization points:	Not applicable
16	Training and skills transfer provision:	In tenders contractors had to submit the following: <ul style="list-style-type: none"> • Company profile • Organogram of the head office and CVs of site personnel • Short description of how the site would be managed • Description of how ABEs and SMEs would be supported (equipment, materials, payments and advances) • The contract provides for structured training arranged by the contractor throughout the contract period. Engineering and entrepreneurial training rates are in the contracts.
17	Date contract awarded:	13 July 2001
18	Contract price:	R19,7 million
19	Contract period:	21 months
20	Final contract value/ estimate:	Estimated as above
21	Contract starting date:	13 July 2001
22	Contract extensions of time:	None to date
23	Contract completion/estimated date:	13 March 2003
24	Financial premium:	Not applicable
25	Construction outputs:	<ul style="list-style-type: none"> • Accommodation of traffic during works • Repair of pavement layers • Repair of potholes, edge breaks and patching • Repair of slope failures and washaways • Construction and maintenance of inlet, outlet and other structure • Cleaning of prefabricated culverts • Cleaning of concrete drains and channels • Cleaning and maintenance of existing earth channels

		<ul style="list-style-type: none"> • Edge build-up removal
Item	Project detail	Description
		<ul style="list-style-type: none"> • Concrete channel construction and maintenance of existing channels • Fencing repair and maintenance • Collection and removal of debris and litter • Shoulder repairs • Erection and repair of permanent road traffic signs • Road sign cleaning and removal of illegal signs • Road studs replacement • Guard rail erection and maintenance • Controlling vegetation growth: mowing and cutting • Control of vegetation and eradication of undesirable vegetation • Removal of undesirable vegetation: physical eradication • Maintenance and establishment of plants, trees and shrubs • Provision of emergency standby team • All emergency normalization • Small repairs of structures • Dayworks • Provision of training
26	Health and safety provisions:	Occupational Health and Safety Act
27	Environmental provisions:	Environmental management plan in place
28	Additional general information:	<ul style="list-style-type: none"> • The Management Team is responsible for the appointment of ABEs and SMMEs (within limits). The team consists of the engineer or his or her representative, the contractor's site agent and the NRA's project engineer. • Current contract documents are still not 100% with regard to labour-intensive construction. However, most routine maintenance is of a labour-intensive nature. Also, RDP requirements are not spelt out in the contract documents. • Most work is done by direct instruction, i.e. consultants' supervisory staff identify the work based on daily inspections, prepare job instruction, issue to the main contractor, who then issues to the subcontractor. A request for inspection is received from the main

		contractor once the work is completed; the work is then assessed for quality compliance and measured for payment by the consultants' staff.
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Item	Project detail	Description
		<ul style="list-style-type: none"> • The NRA only pays the main contractor, who then pays the subcontractors. • In terms of contract, 70% of the work has to be done by ABE/SME-type contractors. • The ABEs and SMEs are in the hands of the main contractor. The consultants' supervision staff do not have regular contact with them except at inspection of their work (if they are invited by the main contractor). More contact would be good. • The current approach of the NRA to the appointment of supervision consultants through a tender process leaves too little time available for proper site management, let alone involvement with ABE and SME subcontractors. This requires a relook.

Checklist 4: Case study – Limpopo Province, Department of Public Works

Item	Project detail	Description
1	Name:	Leoboeng Community Safety Centre
2	Location:	Near Burgersfort
3	Implementing agency:	Department of Public Works
4	Model form of contract:	PW 677 Conditions of Contract
5	Contract category (TP1, TP2, etc.):	T4, with a special Method 3 provision
6	Contract class (major, minor, etc.):	Major
7	Consultants/architects:	Greyvenstein Architects in association with Prism Architects (ABE)
8	Tender prequalification procedures:	None 35 tenders received, including 13 alternatives
9	Date tenders called:	16 January 1999
10	Main contractor: Date of start-up: Number of employees:	Not applicable – –
11	Joint venture partners: Date of venture start-up: Number of employees:	Bolthedo (Mpumalanga) Pty Ltd and Ubuntu Home Builders Pty Ltd – –
12	Subcontractors: Date of start-up:	Numerous, of whom some were ABEs –
13	Affirmable business enterprises engaged: Date of start-up: Affirmable business enterprises engaged: Date of start-up: Previously disadvantaged individual equity: Previously disadvantaged individual supervisory staff: Number of employees: Management and qualifications:	Bolthedo (Mpumalanga) Pty Ltd 1995 Ubuntu Home Builders Pty Ltd 1994 – – – –
14	Tender preference system	90/10

	used (80/20, 90/10, etc.):	
Item	Project detail	Description
15	Contractor participation goal:	40% target achieved, 45% approximately
16	Training and skills transfer provision:	<ul style="list-style-type: none"> • Measured Contract Bill Item R221 205 • Accredited trainer; skills assessment was done; 18 persons were trained; training was not performance based and no follow-up was done to determine effectiveness; some SBE training was included and carried out
17	Date contract awarded:	16 December 1999
18	Contract price:	R16,2 million
19	Contract period:	18 months
20	Final contract value:	R17,6 million
21	Contract starting date:	As Item 17 above
22	Contract extensions of time:	104 calendar days
23	Contract completion/estimated date:	12 August 2001
24	Financial premium:	–
25	Construction outputs:	<ul style="list-style-type: none"> • Police station • Upgraded existing clinic • Justice Court • Housing • Infrastructure services
26	Health and safety provisions:	As per contract; no abnormal events noted
27	Environmental provisions:	As per contract; no abnormal impacts noted
28	Additional general information:	<ul style="list-style-type: none"> • A Community Development Committee was set up to manage the TP process and interface with the local labour force. • The project was targeted (Steering Committee) and needs, opportunity and accessibility were considered. • The tender spread was R7,5 to R22,1 million and the budget was R18 million. • No employment targets were set or included in the documents.

APPENDIX D:

KEY MEETINGS AND CONTACTS LIST

22 January 2002

Initial briefing: J Sakko (ILO), TE Manchidi and I Harmond (TPA).

23 January 2002

Steering Committee meeting: J Govender, L Mabuntana and I Thumbiran (DPW), S Appana and N Lowe (DBSA), SJ Sakko (ILO), TE Manchidi and I Harmond (TPA).

29 January 2002

Data collection and briefing: R Watermeyer (SPS), TE Manchidi and I Harmond (TPA).

31 January 2002

- Arranged field visit schedule: L Mabuntana (DPW), TE Manchidi and I Harmond (TPA).
- Discussed case selection and collected two contract documents from C Koekemoer (DPW), TE Manchidi and I Harmond (TPA).
- Reviewed TPA methodology: PD Rwelamila (SBL), TE Manchidi and I Harmond (TPA).
- Collected data and discussed the DWAF's application of TP: P Smith (DWAF) and I Harmond (TPA).

4 February 2002

Meeting with J Burmeister (SANRA) and reviewed TP policy and practices: E Manchidi and I Harmond (TPA).

5 February 2002

Meeting with DTRPE North West Province: S Pienaar, R More and P Titi (DTRPE), G Fullard (AFRICON) and TE Manchidi and I Harmond (TPA).

6 February 2002

- Ethekwini Municipality to review TP policies and implementation strategies: A Petersen (EM) and TE Manchidi and I Harmond (TPA).
- Site meeting: A Peterson (EM), D Baytopp (EMRE), Agent (main contractor), D Horsley (ABE) and TE Manchidi and I Harmond (TPA).

7 February 2002

- Meeting: J Viktor (AFRICON) and TE Manchidi and IG Harmond (TPA).
- Review of NRA maintenance contract on the N4 with C Kubeka, who is the ABE (SLJV), and TE Manchidi and I Harmond (TPA).

8 February 2002

- Western Cape meeting: M van Leeuwen (DEAAT) of Provincial Administration, TE Manchidi and I Harmond (TPA).
- Data collection and database demonstration: H Bouwer (DEAAT), TE Manchidi and I Harmond (TPA).

13 February 2002

- Steering Committee meeting: I Thumbiran (DPW), S Appana (DBSA), SJ Sakko and B Matlou (ILO), TE Manchidi and I Harmond (TPA).
- Case study meeting: D van Helsdingen (DPW), TE Manchidi and I Harmond (TPA).

14 February 2002

Developed RA policy and questionnaire format: SJ Sakko (ILO), TE Manchidi and I Harmond (TPA).

15 February 2002

Meeting with construction industry: H Langenhoven and H Richardson (SAFCEC), TE Manchidi, G Mbuthia and I Harmond (TPA).

18 February 2002

- Discussion with TT Goba (GMKS and President of SAICE), TE Manchidi and I Harmond (TPA).
- Telephone conversation interview: P Kgole (SABTACO) and TE Manchidi (TPA).

Telephone conversation interview: S Dikgale (SAWiC) and TE Manchidi (TPA).

19 February 2002

Meeting: S Hodgeson (CIDB), TE Manchidi and I Harmond (TPA).

20 February 2002

- Meeting: K Oberholzer (JRA), TE Manchidi and I Harmond (TPA).
- Meeting: I Thumbiran (DPW), TE Manchidi and I Harmond (TPA).
- Telephone conversation interview: P Smith (DWAF) and I Harmond (TPA).

22 February 2002

Presentation of first draft report: I Thumbiran (DPW), S Appana (DBSA), TE Manchidi, G Mbutia and I Harmond (TPA).

18–22 February 2002

Telephone interviews with numerous contractors located in the Gauteng area as part of the ABE survey: TE Manchidi and G Mbutia (TPA).

APPENDIX E:

TERMS OF REFERENCE FOR AN INDEPENDENT ASSESSMENT OF TARGETED PROCUREMENT IN THE REPUBLIC OF SOUTH AFRICA

1. INTRODUCTION

1.1 Targeted procurement

Targeted procurement, an innovative form of procurement, has recently been developed in South Africa to provide employment and business opportunities for marginalized individuals and communities. 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. Targeted procurement allows for the usual competition between tenders and does not guarantee contracts upfront to target enterprises, but it allows social goals to be included in this process. On small contracts, i.e. 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 certain financial threshold, tenders are required to compete on the basis of both the *product* and *process*. Technical specifications are used to define the product and to set out the acceptance criteria relating thereto.

The targeted procurement (TP) approach, which includes social benefits in the criteria relevant to the contract award (price and quality are the usual other criteria), ensures that social benefits can be obtained without any additional cost on top of the tender price. It can also restrict to predetermined limits any potential financial premium paid to achieve social goals. Furthermore, contractors can be given the flexibility to decide exactly how the targeted groups will be involved, rather than the government deciding the way in which those groups should participate (which has been the case with some public procurement policies in other countries). This enables governments to make use of private sector expertise and their knowledge of the relevant markets to involve the targeted groups in the most effective way possible.

1.2 Background to the assessment

In several countries in Africa and Asia long-term national programmes of labour-based infrastructure construction and maintenance have been established. These programmes have resulted in job creation and the delivery of an efficient and appropriate quality product through the construction and maintenance of assets at an affordable cost. The programmes are important for a country's development as they make a significant contribution to local economies. However, the labour-based investment strategy is still limited to certain segments of public sector budgets, which is often a small fraction of the total expenditure on infrastructure investments.

In this process, the TP approach has drawn the attention of several international agencies and development institutions. Recent publications of the International Labour Organization's Employment-Intensive Investment Programme have made clear reference to the procurement "guinea pig". Considerable interest in the system has also been expressed at recent international conferences on public sector procurement, at recent African Regional Seminars for Labour-based Practitioners supported by the ILO/ASIST Programme, and in several ILO in-country workshops in South East Asia, organized upon government request.

Furthermore, in 2001 the Development Bank of Southern Africa (DBSA) attended a conference on the development of the construction industries of southern Africa organized by the Department of Public Works (DPW), at which procurement issues, including TP, were discussed. As part of ongoing talks between the DPW and DBSA management, TP has been raised as a field in which the DBSA and the DPW would like to explore further collaboration. However, to date there has not been an independent assessment of TP. Both the DBSA and the ILO have expressed their interest in collaborating with the DPW to carry out such an assessment.

1.3 Experiences with targeted procurement in South Africa

The DPW has implemented TP on all its construction contracts since August 1996, its primary target groups being small black businesses. This has been done in support of a national strategy to address the skewed racial ownership patterns arising from the system of apartheid. For example, the Midrand Metropolitan Local Council has since 1998 implemented TP on most of its capital works. The Council's primary target group has been small black local businesses and local residents who are relatively unskilled and low wage earners. The Council has applied TP in support of a local economic development policy. Other municipalities, government and semi-government bodies have applied a form of TP on their public contracts, within the context of specific policies.

2. OBJECTIVE OF THE ASSESSMENT

The DPW, the DBSA and the ILO have jointly agreed to carry out an independent assessment of TP. The objective of the assessment is to establish the effectiveness of TP in creating markets for small-scale enterprises, promoting job opportunities for relatively unskilled workers, and in modifying the conventional procurement approach. It should assess what the instrument has delivered, generally in the absence of institutional arrangements or supply-side interventions. At the same time, attention can be paid to differences in application strategies, which are related to the specific reasons why organizations or authorities decided to apply a form of TP on public contracts. In this regard, the assessment must extract and reveal the practical implementation of, and the results achieved with, TP. Finally, the assessment could estimate other potential effects, assuming that appropriate supply-side interventions had been put in place.

3. INSTITUTIONAL ARRANGEMENTS

A Steering Committee has been established to monitor and supervise the implementation of the independent assessment. The assessment will be implemented by a team of qualified consultants. Members of the Steering Committee will comprise representatives of the DPW, DBSA and ILO (ILO/ASIST and the Area Office in Pretoria).

Within the context of the terms of reference for the independent assessment of targeted procurement, the Steering Committee will discuss and endorse important aspects of coordination and implementation, such as issues to be addressed by the terms of reference of the consultants, the identification of data sources, consultant appointments, the plan and time-frame of implementation, progress status of reporting, distribution of draft outputs to the stakeholders, feedback, etc. The detailed tasks and responsibilities of the Steering Committee are explained in a set of terms of reference for the Steering Committee.

4. ACTIVITIES

The assessment team shall, based on a review of documents, raw data, meetings, interviews and outcomes of any fieldwork deemed necessary:

4.1 Document the following:

- 4.1.1 Policy objectives and intent
- 4.1.2 Historical background and current context
- 4.1.3 Target groups
- 4.1.4 The targeting strategy and goal setting that were adopted
- 4.1.5 The process and methodology followed in implementing the policy
- 4.1.6 Outcomes of the policy
- 4.1.7 Lessons learned in implementation
- 4.1.8 Strengths and weaknesses of targeted procurement
- 4.1.9 Effectiveness of TP specification as part of the main procurement document

4.2 Assess the impact of targeted procurement on:

- 4.2.1 Subcontracting arrangements
- 4.2.2 Joint venture relationships between small and large enterprises
- 4.2.3 Project delivery
- 4.2.4 Initial economic and business effects
- 4.2.5 Job creation effects
- 4.2.6 Employment practices, including targeting of labour

4.2.7 Sustainability of targeted businesses

4.2.8 Institutional structures and capacity building (for TP), including training

4.3 Assess the following:

4.3.1 The equitableness, fairness and transparency of the TP system

4.3.2 The competitiveness and cost-effectiveness of the system

4.3.3 The monitoring systems (e.g. systems put in place to monitor implementation of the tenders submitted)

4.4 Estimate the following:

4.4.1 The potential that TP has for facilitating the demand for services from SMEs and unskilled labour, in case of adequate supply-side interventions being put in place

4.4.2 The potential of promoting TP or parts thereof to procurement systems in other (SADC) countries (this matter is also to be discussed with the Steering Committee)

It is understood that the assessment team shall make more detailed inquiries into these aspects where considered appropriate and necessary, to draw adequate conclusions.

5. CONSULTING TASKS AND PROFILES

The consultancy team will comprise two consultants, an international and a national expert. Each of the consultants has their own responsibility. Consultant 1 has the overall leadership of the work. A small budgetary provision can be made available for the hire of additional staff meant to assist in the collection of data and information, as deemed necessary by the team leader and the Steering Committee. With the job descriptions and tasks outlined, the assessment team should be able to respond to the objective of the assignment.

6. TIME-FRAME AND MONITORING

The work of the team shall commence within six weeks of the signing of contract and is estimated to be completed within three months, subject to the time-frame and work plan approved by the Steering Committee. Both consultants (with the team leader as the focal person) are responsible for regular, sufficient and adequate communication between each other, and between the consultant team and the Steering Committee. The ILO, as the implementing agent, shall adequately communicate between the representatives of the DPW and DBSA and the assessment team during implementation of the assignment. ILO/ASIST shall, where appropriate, undertake monitoring and consultative visits during the assessment period.

7. CONSULTANCY OUTPUTS AND PAYMENT

The output of the independent assessment will be a detailed final draft report, including

annexes, which documents the findings and case studies, and contains the conclusions of the assessment as set out under Section 4 of these terms of reference. The report shall briefly elaborate on the methodology used for the assessment. The team leader is responsible for coordinating the various sections of the overall report, but both consultants shall be responsible for their own draft report of findings, containing the information outlined in Section 4 and responding to the requirements outlined in Section 5. The team leader shall submit a final draft report by the date agreed upon with the Steering Committee (in line with the final work plan and time-frame). Both consultants shall submit a draft report with their findings upon completion of the fieldwork, in order to be able to adequately debrief with the Steering Committee.

The consultants' own draft reports, and the final overall draft report, will be discussed between the members of the Steering Committee and comments will be forwarded to the consultants, who are responsible for timely incorporation and finalization. The final overall report, after incorporating the comments of the stakeholders, will be submitted to the ILO within two weeks from completion of the fieldwork. The final report will be submitted in six hard copies and in electronic format (MS Office or Novell's Corel) to the ILO, who will distribute them to the partners. Copyright for the document remains with the ILO. Payment will be made upon completion and to the satisfaction of the ILO.

APPENDIX F:
ASSESSMENT OF TARGETED PROCUREMENT IN
SOUTH AFRICA

(Original documentation is supplied on pages 141, 142 and 143.)

APPENDIX G:

CASE STUDY PERFORMANCE MODELS

General case study performance model

Contract data	Contract outputs	Objectives	Contractual	
Name		IMMEDIATE		
Location		Effective contract service delivery	Tendered on programme	
Contract category		Started on programme		
Contract type		Extensions of time granted		
Implementing agency		Disputes		
Main contractor		Technical audit		
Subcontractors				
Joint venture partners		Efficient construction works delivery	Functionality	
			Quality acceptability	
			To programme	
Date tendered		Competition	Interest in tendering	
Tender preference system				
Labour maximization		Employment generation		
Utilization of ABEs				
PDI equity		Promote gender equality		
PDI supervisory staff				
Training provision		Secure economic uplift		
Date awarded				
Contract price				
Contract period		WIDER		
Final contract value		Needs assessment and targeting	Geographical	
Date commenced				
Date completed				
Financial premium		Promote and strengthen TP systems	Acceptance of concepts	

Performance indicators and achievement assessment				Comments
Financial		Social		
Delivered on budget				
Financial audits				
		Health and safety provisions		
Tender financial spread				
		Labour utilization maximized		
		Equitable distribution of labour		
		Women employment maximized		
		Equitable distribution of labour		
Local through employment				
Local through service purchases				
Business through profit				
Economic deprivation				
		Social deprivation		

Contract data	Contract outputs	Objectives	Contractual	
Financial audits			Streaming of delivery mechanisms	
Technical audits			Flexibility in service delivery	
		Secure business equality		
		Competition and business development	Number of tender documents issued	
			Number of tenders received	
		Secure social equality		
		Promote skills transfer	Mentoring process and procedures	
			Training in business development	
			Training in efficient implementing	
		Develop local economic growth		
		Worker participation in management		

Note: 1. NQ denotes a non-quantifiable assessment and/or lack of data.

Legend for subsequent case study models:

- 1. Yes/no = confirms TP objective attained
- 2. Part = describes partial attainment of TP objective
- 3. NQ = non-quantifiable TP objective
- 4. ND = no data available to make assessment
- 5. High = high level of TP objective obtained

Performance indicators and achievement assessment			Comments
Financial		Social	
Involvement of ABEs			
Expansion in number of ABEs			
Number of failed businesses			
		Labour lay-offs and job insecurity	
Wealth redistribution levels			
		Participation of the disabled	
		Participation of women	
		Training workers	
Creation of service opportunities			
Small business start-ups			
Spin-off from local employment			
		Increased standards of living	
		Health and education improvements	
Equity partnerships			
		Representation in decision-making	

Case study performance model: North West Province

Targeted procurement objectives	Performance indicators and assessment			
	Contractual		Financial	
IMMEDIATE				
Effective contract service delivery	Professional services delivered on time	Yes		
	Tendered on programme	Yes		
	Started on programme	Yes		
	Extensions of time	No		
	Disputes incurred	ND		
	Technical audit carried out	No		
	Control and accountability exercised	Yes		
	Environmental sustainability achieved	NQ		
	Performance M&E	Yes		
	Contractor participation goal	Yes		
			Cost control systems in place	Yes
			Professional services costs on budget	Yes
			Construction costs on budget	Yes
			Payments made on time	Yes
			Financial audits undertaken	No
Efficient construction works delivery	Quality acceptable	Yes		
	Constructed to programme	Yes		
	Data and reporting procedures in place	Yes		
Introduce and support competition	General interest shown in tendering	High		
			Tender financial spread	ND
Employment generation				
Promote gender equality				
Effect economic and social uplift			Local through employment	Yes
			Local through service purchases	NQ
			Local businesses through profit	NQ
WIDER				
Mitigate uneven development	Geographical and social targeting used	No		

Department of Transport, Roads and Public Works

Roads 2000 Programme

		Comments
Social		
		Fast-track procedures meant some systems were not in place in time
		Three-week tender period
		Commenced 8 November 2000, implementation period 18 months
		Five contractors incurred penalties for late completion and three for not achieving their TPGs
		No data evidence that indicates the frequency and depth of disputes were typical +T48 +T191
		Not formally but a project management consultant was appointed
		Project management consultant was appointed to perform this function
		Reflected in design and supervision and most probably positive
		Designated project management function
		Target 50,5%, achieved to date 48,5%
		Project management consultant's function
		Fee scale and 2% for project management
		To date but programme is still running
		Sophisticated electronic payment and management system used
		Not included formally in project management functions
Adequate health and safety provisions	Yes	Specified in contract document
		In most instances and where not, it has since been rectified
		No extensions of time or late completion penalties incurred
		Project management consultant's function
		Used SAACE and SABTACO initially to help set up and guide the TP implementation process
		Understood to be wide and screening process used to eliminate the weakest
Labour utilization maximized	Yes	2 460 jobs created
Equitable distribution of labour	Yes	1 515 local persons employed
Women employment maximized	Yes	276 women employed
		Local wages paid R7 565 400
		Short term and unquantifiable
		Short term and unquantifiable
		Targeting based primarily on engineering requirements

APPENDIX G: CASE STUDY PERFORMANCE MODELS

			Economic need and deprivation	No
Strengthened TP systems	Acceptance of concepts	Yes		
	Streamlining of delivery mechanisms	Yes		
	Flexibility in service delivery	No		
	Training implemented	Yes		
Democratize and promote business equality			Involvement of ABEs	Yes
			Expansion in number of ABEs	Yes
Support long-term entrepreneurship	Tendering opportunities provided	Part		
	Contracting opportunities provided	Yes		
	Increased business start-ups	Yes		
			Any failed businesses	Yes
Democratize and promote social equality			Wealth redistribution facilitated	Part
Skills development and transfer	Mentoring process and procedures used	Part		
	Training in business development	No		
	Training in efficient implementation	Yes		
Local economic growth			Creation of service opportunities	NQ
			Small business start-ups	NQ
			Spin-off from local employment	NQ
Worker participation in management			Equity partnerships formed	Yes
Integration into world economy	Compatible with international procedures	Yes		
			Cost-effective	Yes

APPENDIX G: CASE STUDY PERFORMANCE MODELS

		Targeting based on engineering requirements in support of intersectoral and integrated planning
Social need and deprivation	No	Targeting in support of intersectoral and integrated planning
		Experiences have supported and strengthened TP concepts
		Experiences have identified and addressed earlier weakness
		Straight TP models were applied
		Selected departmental staff training and 688 people from local communities trained
		Eleven consulting ABE firms appointed directly and four appointed in joint ventures
		Increased short-term opportunities made available but long-term sustainability uncertain
		351 tenders received
		30 contracts placed
		Unquantifiable but positive
		One business failed but part of wider main contractor collapse caused by external factors
Job security	No	Limited long-term employment opportunities for unskilled workers
		In the short term through employment and local purchases
Participation of the disabled	Yes	Three employed
Participation of women	Yes	276 employed but did not participate formally in implementation or management
		Not formally in joint ventures but skills transfer effected through site engagement
		An admitted failing in the programme; will be addressed in future
		To a degree but it is acknowledged that this must improve on future programmes
Training and skills development	Yes	688 received formal training and numerous other received on-the-job training
		Hard to access but positive
		Hard to assess and positive but may not be sustainable
		Hard to assess but positive
Increased standards of living	Yes	Hard to assess but positive
Health and education improvements	Yes	Hard to assess but positive
		Joint ventures likely to result in longer-term partnerships
Representation in decision-making	NQ	Joint ventures certainly and no overt evidence of fronting was encountered
		National trading standards compatible with international conventions
		Approach could be used to great advantage
Meets local labour and business laws	Yes	National labour standards are internationally compatible

Case study performance model: KwaZulu-Natal Province

Targeted procurement objectives	Performance indicators and assessment			
	Contractual		Financial	
IMMEDIATE				
Effective contract service delivery	Professional services delivered on time	Yes		
	Tendered on programme	Yes		
	Started on programme	Yes		
	Extensions of time	No		
	Disputes incurred	No		
	Technical audit carried out	No		
	Control and accountability exercised	Yes		
	Environmental sustainability achieved	ND		
	Performance monitoring and evaluation	No		
	Contractor participation goal	Yes		
			Cost control systems in place	Yes
			Professional services costs on budget	Yes
			Construction costs on budget	Yes
			Payments made on time	Yes
			Financial audits undertaken	No
Efficient construction works delivery	Quality acceptable	Part		
	Constructed to programme	Yes		
	Data and reporting procedures in place	Yes		
Introduce and support competition	General interest shown in tendering	ND		
			Tender financial spread	ND
Employment generation				
Promote gender equality				
Effect economic and social uplift			Local through employment	Yes
			Local through service purchases	Yes
			Local businesses through profit	Yes

**Department of Roads, Ethekwini Municipality
North Coast Road B56115 Project**

		Comments
Social		
		In designs and project management
		Database maintained but no ranking of contractors
		Linked to traffic peaks owing to urban environment
		Not yet as contract recently commenced, but due to complexities most probably
		Contract just started
		No internal audits normally carried out by the EM
		Through the EM's RE and usual management procedures
		In the long term but severe short-term negative impacts
		No procedures for the M&E of impacts and socio-economic gains
		20% with ABE content R6,8 million
		Standard EM contract management procedures
		In-house design team with doubtful cost and programme accountability
		To date but complexity indicates claims will ensue
		ABEs' and main contractor's monthly payments are made on time
		Not part of EM procedures but normal project cost management is undertaken
Adequate health and safety provisions	Yes	Contract conditions, and no incidents reported as yet
		All works being constructed by ABEs and the quality of some is poor
		To date but is likely to slip due to complexities
		Part of EM standard procedures and driven by contractor mentoring
		No prequalification procedures are used
		No data available
Labour utilization maximized	No	Contract did not promote labour maximization due to technical complexity
Equitable distribution of labour		Labour figures being compiled but no data to date
Women employment maximized		Unlikely and no evidence of women employed on site as yet
		Minimum due to high construction machine content of the works
		Minimum, but through four-year contract period they will be sustained
		Minimum, but through four-year contract period they will be sustained

WIDER				
Mitigate uneven development	Geographical and social targeting used	No		
			Economic need and deprivation	No
Strengthened TP systems	Acceptance of concepts	Yes		
	Streamlining of delivery mechanisms	Yes		
	Flexibility in service delivery	Yes		
	Training implemented	No		
Democratize and promote business equality			Involvement of ABEs	Yes
			Expansion in the number of ABEs	Yes
Support long-term entrepreneurship	Tendering opportunities provided	Yes		
	Contracting opportunities provided	Yes		
	Increased business start-ups	Part		
			Any failed businesses	No
Democratize and promote social equality			Wealth redistribution facilitated	Yes
Skills development and transfer	Mentoring process and procedures used	Yes		
	Training in business development	No		
	Training in efficient implementation	No		
Local economic growth			Creation of service opportunities	Yes
			Small business start-ups	No
			Spin-off from local employment	Yes
Worker participation in management			Equity partnerships formed	No
Expansion into international arena	Compatible with international procedures	Yes		
			Cost-effective	Yes

		Project driven by technical requirements
		Project driven by technical requirements
Social need and deprivation	No	Project driven by technical requirements
		The EM's policy is to actively promote TP usage
		Task team set up to implement and manage TP process
		Unlikely and maybe external consultants/architects would assist
		None in contract but contractor is to undertake training in self-interest
		Seven ABEs who do all the work and the contractor acts as contract manager
		A number of ABEs came up through the contractor's own ranks
		No prequalification may have proved wasteful in time and resources
		Main contractor has subcontracted all the work to ABEs
		Most of the ABEs are already established
		Contract just started by three ABEs still to perform all registration procedures
Job security	Yes	More likely for ABEs and labour as the project is in an urban environment
		Contractor's margin is 3% and all the work is done by ABEs
Participation of the disabled	ND	No data but unlikely
Participation of women	ND	No data but no positive plans to employ women
		Not structured and the main contractor has assumed this work
		No formal training in contract
		Other than spin-off from main contractor's self-interest in mentoring
Training and skills development	No	Other than spin-off from main contractor's self-interest in mentoring
		Through seven ABE subcontracts
		Not as a result of the contract but existing ABEs that survive will be stronger
		Minimum is due to high construction machine content of the works
Increased standards of living	Yes	Hard to assess but positive
Health and education improvements	Yes	Hard to assess but positive
		Straightforward main contractor to subcontractor arrangements
Representation in decision-making	Yes	Through seven ABE subcontracts
		National trading standards are compatible with international conventions
		Approach could be used to great advantage
Meets local labour and business laws	Yes	National labour standards are internationally compatible

Case study performance model: Gauteng Province

Targeted procurement objectives	Performance indicators and assessment			
	Contractual		Financial	
IMMEDIATE				
Effective contract service delivery	Professional services delivered on time	Yes		
	Tendered on programme	Yes		
	Started on programme	Yes		
	Extensions of time	No		
	Disputes incurred	No		
	Technical audit carried out	No		
	Control and accountability exercised	Yes		
	Environmental sustainability achieved	Yes		
	Performance monitoring and evaluation	No		
	Contractor participation goal	No		
			Cost control systems in place	Yes
			Professional services costs on budget	Yes
			Construction costs on budget	Yes
			Payments made on time	Yes
			Financial audits undertaken	No
Efficient constr. works delivery	Quality acceptable	Yes		
	Constructed to programme	Yes		
	Data and reporting procedures in place	Yes		
Introduce/support competition	General interest shown in tendering	Yes		
			Tender financial spread	ND
Employment generation				
Promote gender equality				
Effect economic and social uplift			Local through employment	Yes
			Local through service purchases	Yes
			Local businesses through profit	Yes
WIDER				
Mitigate uneven development	Geographical and social targeting used	No		

National Roads Agency – Johannesburg
Western Bypass Routine Road Maintenance Contract

		Comments
Social		
		Little technical content, mainly management and supervision systems
		One of a number of routine maintenance contracts
		Measured contract and NRA looking at performance-based contracting options
		Unlikely due to nature of the contract being routine maintenance
		None to date but the joint venture is under pressure internally
		Unnecessary – management consultant supervises
		Through project management consultant, AFRICON
		Positive impacts by nature of the work
		No M&E of socio-economic impacts
		NRA contract procedures do not apply in this case
		Project management function
		Competitive climate has meant lost opportunities for mentoring ABE process
		Measured and no overruns are likely unless works are amended
		No evidence of ABEs being paid late and little material purchases, so cash flow problems are unlikely
		Not in NRA procedures
Adequate health and safety provisions	Yes	Dangerous work on main roads and details are in contract but no accidents have been indicated to date
		Difficult, with high supervision costs and need to be rethought
		Routine nature of the work makes the programme simpler
		Managed by the contract project managers
		No prequalification procedures used
		No data available
Labour utilization maximized	No	No labour maximization requirements in the contract but work has a high labour content
Equitable distribution of labour	Yes	80 km of road means labour is sourced along the route
Women employment maximized	Yes	In a typical month some 1 260 women hours of work were incurred
		80 km of road means labour is sourced along the route
		80 km of road means services are sourced along the route
		80 km of road means businesses along the route profit
		Technical demand drives choice of site and project

APPENDIX G: CASE STUDY PERFORMANCE MODELS

			Economic need and deprivation	No
Strengthened TP systems	Acceptance of concepts	Yes		
	Streamlining of delivery mechanisms	NQ		
	Flexibility in service delivery	Yes		
	Training implemented	Yes		
Democratize and promote business equality			Involvement of ABEs	Yes
			Expansion in number of ABEs	Yes
Support long-term entrepreneurship	Tendering opportunities provided	Yes		
	Contracting opportunities provided	Yes		
	Increased business start-ups	Yes		
			Any failed businesses	No
Democratize and promote social equality			Wealth redistribution facilitated	Yes
Skills development and transfer	Mentoring process and procedures used	No		
	Training in business development	Yes		
	Training in efficient implementation	Yes		
Local economic growth			Creation of service opportunities	NQ
			Small business start-ups	Yes
			Spin-off from local employment	Yes
Worker participation in management			Equity partnerships formed	Yes
Expansion into international arena	Compatible with international procedures	Yes		
			Cost-effective	Yes

APPENDIX G: CASE STUDY PERFORMANCE MODELS

		Technical demand drives choice of site and project
Social need and deprivation		Technical demand drives choice of site and project
		Incorporated into NRA standard procedures
		No data available of wider application to determine this
		Becoming so as process expands and is taken up more widely
		Included in the contract but some ABEs are not convinced of its success or suitability
		Three ABEs and one subcontractor employed
		Many applied but rates are too competitive for many to participate
		No prequalification, thus open to wide participation
		One joint venture, three ABEs and a subcontractor
		Some of the ABEs are new and their first appointment is this contract
		Not yet, as the contract has only just recently commenced
Job security	Part	Short-term employment but long-term sustainability is doubtful for many
		For November 2002, along 80 km of the road route some R130 771 was paid in wages
Participation of the disabled	ND	No data but unlikely
Participation of women	Yes	For November 2002, along 80 km of the road route women were paid some R6 500 in wages
		Not in contract and little scope in project manager's contract to provide for this
		Contract requirement and managed by project management consultants
		Contract requirement and managed by project management consultants
Training and skills development	Yes	Contract requirement and managed by project management consultants
		Hard to assess but positive
		Small work packages suitable for ABE start-up
		Hard to assess but positive
Increased standards of living	Yes	Hard to assess and maybe short term but positive
Health and education improvements	Yes	Hard to assess and maybe short term but positive
		Some problems in the joint venture partnership are causing concerns
Representation in decision-making	Yes	Joint ventures and ABEs certainly but there is discontent regarding traditional contracting practices
		National trading standards are internationally compatible
		With streamlined tender procedures the approach could be used to great advantage
Meets local labour and business laws		National labour standards are internationally compatible

Case study performance model: Limpopo Province

Targeted procurement objectives	Performance indicators and assessment			
	Contractual		Financial	
IMMEDIATE				
Effective contract service delivery	Professional services delivered on time	Yes		
	Tendered on programme	Yes		
	Started on programme	Yes		
	Extensions of time	Yes		
	Disputes incurred	ND		
	Technical audit carried out	No		
	Control and accountability exercised	Yes		
	Environmental sustainability achieved	Yes		
	Performance monitoring and evaluation	No		
	Contractor participation goal	Yes		
			Cost control systems in place	Yes
			Professional services costs on budget	Yes
			Construction costs on budget	No
			Payments made on time	Yes
			Financial audits undertaken	No
Efficient constr. works delivery	Quality acceptable	Yes		
	Constructed to programme	No		
	Data and reporting procedures in place	Yes		
Introduce/support competition	General interest shown in tendering	High		
			Tender financial spread	High
Employment generation				
Promote gender equality				
Effect economic and social uplift			Local through employment	Yes
			Local through service purchases	Part
			Local businesses through profit	Part

**Department of Public Works
Leoboeng Community Safety Centre**

		Comments
Social		
		Architects took on many mentoring functions beyond their brief
		No prequalification procedures meant that 35 tenders were received
		Commenced 16 December 1999 and implementation period was 18 months
		104 calendar days largely due to problems with water supplies and sewage works
		No data evidence, which indicates the frequency and depth of disputes were typical
		Not formally but to an extent in architect's technical brief
		Not formally but to an extent in architect's technical brief
		Cost premium incurred due to higher sewage plant specifications to meet environmental targets
		None other than normal project management functions
		Target 40%, achieved about 45%
		Normal architectural function
		Competitive fee scales indicated poor profit margin
		Overrun due to problems finding a suitable water source and the need for redesigned sewage works
		No evidence that ABEs suffered from cash flow difficulties
		Not a DPW requirement
Adequate health and safety provisions	Yes	Specified in contract documents and no recorded incidents
		No evidence that construction quality was other than normal
		Extensions of time due to problems with water supply source
		Architect's function
		Unnecessarily so and prequalification would have reduced numbers
		From R7,5 to R21,1 million, which is a spread of about 3 and wasteful in time and resources
Labour utilization maximized	NQ	No labour maximization provisions in the contract
Equitable distribution of labour	NQ	No data but labour was sourced from the benefiting community
Women employment maximized	NQ	No data
		Labour was sourced from benefiting community
		Materials and services sourced from benefiting community
		Materials and services sourced from benefiting community

WIDER				
Mitigate uneven development	Geographical and social targeting used	Yes		
			Economic need and deprivation	Part
Strengthened TP systems	Acceptance of concepts	Yes		
	Streamlining of delivery mechanisms	No		
	Flexibility in service delivery	No		
	Training implemented	Yes		
Democratize and promote business equality			Involvement of ABEs	Yes
			Expansion in number of ABEs	No
Support long-term entrepreneurship	Tendering opportunities provided	Yes		
	Contracting opportunities provided	Yes		
	Increased business start-ups	NQ		
			Any failed businesses	No
Democratize and promote social equality			Wealth redistribution facilitated	Part
Skills development and transfer	Mentoring process and procedures used	Yes		
	Training in business development	Yes		
	Training in efficient implementation	NQ		
Local economic growth			Creation of service opportunities	Yes
			Small business start-ups	NQ
			Spin-off from local employment	Yes
Worker particip. in management			Equity partnerships formed	Yes
Expansion into international arena	Compatible with international procedures	Yes		
			Cost-effective	Yes

APPENDIX G: CASE STUDY PERFORMANCE MODELS

		Need assured through consultation and Community Safety Centre Steering Committee
		Social need was the primary priority
Social need and deprivation	Yes	Social need was the primary priority
		TP piloted by the DPW and now standard procedures
		Complicated tender procedures means greater workload and less efficiency
		Complicated and bureaucratic contract and tender procedures
		18 persons trained but there are some doubts regarding sustainability
		Joint venture partners and one architect, and some subcontractors were ABEs
		ABEs were already established in the area
		Too many, and prequalification procedures should have been used to reduce numbers
		Could have been as many as 10, including architects, joint venture partners and subcontractors
		Most, if not all, parties were existing firms
		Participants were established firms and risks of failure were low
Job security	No	Long-term job security in the community unlikely but ABEs should find work in the area
		Short-term labour, materials and services purchases but unsustainable
Participation of the disabled	ND	Data not available but numbers would have been low
Participation of women	ND	Data not available
		Not formally but joint venture partners and architects invested a great deal of time in the process
		Some five persons were trained in business development skills
		To an extent but minimal
Training and skills development	Yes	18 received formal training and many more received on-the-job training
		Hard to assess but some services were purchased locally
		Hard to assess but unlikely, as ABEs were established firms
		Hard to assess but positive
Increased standards of living	Yes	Hard to assess but positive
Health and education improvements	Yes	Hard to assess but positive
		Joint ventures between architects and contractors are likely to continue on a project basis
Representation in decision-making	ND	Joint ventures and architects' association certainly
		National trading standards are internationally compatible
		With streamlined tender procedures the approach could be used to great advantage
Meets local labour and business laws	Yes	National labour standards are internationally compatible

APPENDIX H: GENERIC PERFORMANCE ASSESSMENT MODEL

Parameter	Impacts of targeted procurement	Assessment
Subcontracting	Opportunities established for ABEs	Yes, but heavy reliance on main contractor for technical support
	PDI equity maximized	A tendering rule, and overall ABEs make a significant contribution
	PDI management maximized	A lack of trained PDIs dilutes the contribution they can make
	Training of ABEs and PDIs	Structured training of limited benefit and needs a major rethink
	Equity and responsibility sharing	Many ABEs are seen as inferior partners with little say in operations
	Disputes and disparities	More than in normal subcontracting relationships
	Women and disabled engagement	Apart from some notable instances minimal
Joint ventures	Opportunities established for ABEs	Yes, and established firms actively use this approach to meet goals
	PDI equity maximized	Not always, and a price reduction can match the PDI score and win
	PDI management maximized	More so than subcontracts, as joint ventures are more structured
	Equity and responsibility sharing	Less of a problem than for subcontracts but inequalities still exist
	Training of ABEs and PDIs	Better monitoring to assess gain and to include business skills
	Disputes and disparities	No more than in normal established subcontracting relationships
	Women and disabled engagement	Apart from some notable instances minimal
Project delivery	Opportunities for professional services	Market opened up, causing competition and reduced fee margins
	Construction quality and functionality	Largely unaffected but require greater supervision
	Construction delivered on programme	Largely unaffected but management inputs and costs are higher
	Construction delivered on budget	Yes, but lack of work may be a contributing factor
	Appropriate designs and contract selection	Increased use of labour and employment-generation methodologies
Targeted development	Choice of contract and procedures	Varies widely between emerging and established ABEs
	Tender notification and award procedures	Ad hoc, too many tenderers and roster and prequalification essential
	ABEs' organization and registration	No evidence that ABEs are organized or able to challenge the system
	Community participation in the process	Process has certainly moved community participation forward
	Methodologies applied to project selection	No obvious move to select on socio-economic need, only technical
	Project selection and verification procedures	Evidence suggests no structured project selection method used

APPENDIX H: GENERIC PERFORMANCE ASSESSMENT MODEL

Parameter	Impacts of targeted procurement	Assessment	
Sustainability	Long-, medium- and short-term opportunities	Created, but mainly short with some medium and few long term	
	Integration of programmes	Essential if ABEs are used, and to secure work continuity	
	Movement of ABEs between areas	Almost impossible; more work is needed to allow this	
	Materials purchases	Lack of operating capital poses problems for ABEs and WEOs	
	Financial trickle-down	Most probably but hard to quantify and in many instances temporary	
	ABE linkages and associations	Very loose; no coordination of efforts and goals as yet	
	Imbalances and structural inequalities	Contracts and availability of ABEs	Too ad hoc and the lack of continuity of work is a major problem
Training and skills transfer		The lack of training and management skills is limiting development	
Performance bonds and payment conditions		Restricted access to capital and finance is stifling growth	
Access to financial services and support		Poor cash flow, particularly for materials reducing profitability	
Contracting conditions		Strict contract conditions cause problems for small ABEs	
Management and technical support		Inexperienced ABEs are priced out of the market	
Employment-generation practices		Speed of change away from traditional systems	Projects are selected mainly on technical grounds and not social need
		Targeting of labour resources	General lack of interest by contractors; they would rather use equipment
		Labour resources availability	No reported cases where this was given as a problem
		Employment conditions and contracts	Great difficulty for ABEs to pay social charges, and are of major concern
	Suitability of forms of contract	TP5 is rarely used and there is no evidence of labour-based contract documents	
Institutional and capacity building	Use of appropriate designs and systems	Little interest is shown by PSPs in labour-based construction	
	Resources and availability of project managers	Capability varies widely and some are very skilled and dedicated	
	In-house management capacity	Lack of direction in some cases leads to poor systems and delivery	
	Data collection and recording procedures	Technical data good but socio-economic data almost non-existent	
	Monitoring and evaluation procedures	Importance accepted but no inclusive M&E systems are in place	
Technology transfer/ human resources	Standardizing the delivery process	Great disparity between entities and there is a need for uniformity	
	In house training and accreditation	Some departments lack skills and need accreditation	
	Contractors and accreditation training	Established contractors are skilled but accreditation should be introduced	
	ABEs' management training	Poor business skills hold the programme back and more work is needed	
	PSPs' accreditation and training	Many have been through the DPW process but it needs wider application	
	Higher education curriculum options	Proposals to include TP systems in study modules	

APPENDIX H: GENERIC PERFORMANCE ASSESSMENT MODEL

Parameter	Impacts of targeted procurement	Assessment
	Worker skills development and training	Included in most contracts but often poorly planned with no follow-up
Small business development	Small business opportunities	Substantial in the short term but of doubtful sustainability
	Social and economic uplift	Measurable but other options may have been better (e.g. agriculture)
	Local economic trickle-down	Probably short-term effects but hard to quantify
	New business start-ups	Many new ABEs and some WEOs but few survive more than a year
	Job creation and employment	A small number of permanent jobs are created but many are short term
	Mobility and replication	Problems with ABEs moving outside their own areas
Engagement of women and disabled	Engagement of women	Minimal, and discrimination against women hard to reverse
	Engagement of the disabled	Minimal and unrealistic for the construction industry to effect change
	Involvement in the tender and award procedures	No specific targeting procedures, which is holding back development
	Business options to address social disparity	Poor success rates for WEOs throw doubt on appropriateness
	Role in the management of ABEs and WEOs	Little evidence of historic trends being reversed
	Improved status in the community	Until women and the disabled become more involved there is little change
Social and economic uplift	Increased incomes	Almost certainly but mostly short term
	Increased living standards	Related to income and some worker mobility may sustain increases
	Improvements in education and health	Positive but hard to quantify and may not be sustainable
	Improvements in social services generally	Positive but hard to quantify and may not be sustainable
Fairness and equitability	Shortlisting and the use of rosters	Many inexperienced ABEs tender and win jobs they cannot carry out
	Design of the contract procedures	Many ABEs find financial requirements too harsh and cannot meet them
	Tender and contract award	Sometimes favours established ABEs to the detriment of new ABEs
	Employment and financial reward	Often established contractors have to subsidize ABEs financially
	Management of the contract	Instances where ABEs see themselves as tools in the hands of the established firms
Transparency	Shortlisting and the use of rosters	Not all entities use rosters but those that do have transparent systems
	Design of the contract procedures	Standard systems are open to inspection and scrutiny
	Tender and contract award	Public process and no evidence that it is compromised
	Employment and financial reward	The industry is very competitive and margins are being squeezed
	Management of the contract	ABEs are too often unrepresented and not involved in the decision-making process
Competitiveness	Shortlisting and the use of rosters	ABE failures linked to poor shortlisting and roster use

APPENDIX H: GENERIC PERFORMANCE ASSESSMENT MODEL

Parameter	Impacts of targeted procurement	Assessment
	Design of the contract procedures	Standard and assures competitive bidding
	Tender and contract award	No tender prequalification means that many tenders have wide pricing
	Employment and financial reward	To stay competitive some ABEs accept work with little reward
	Management of the contract	Awareness that efficient management means profit and more work
Constr. efficiency and value for money	Project implementation efficiency	Takes longer, particularly from tender award to contract start
	Technical and design suitability	No evidence that PSPs design to suit ABEs but may be client driven
	Construction quality	Some incidences of lack of quality but overall no serious effects
	Value for money	No quantitative evidence but the process is likely to be more costly
	Implementation time-frame	No evidence to suggest that the time-frame is compromised
	Splitting of projects into parcels	Strong evidence suggests that splitting is inefficient and takes more time
Delivery capacity	Planning and work continuity	ABEs cannot gear up and expand unless work flow is assured
	Ability of entities to manage process	Some entities do not have systems for project through-put
	Ability of ABEs to move between areas	This is stifling progress and communities must be engaged and assisted
	Numbers of competent and qualified ABEs	Huge disparity between experienced and poor ABEs' performance
	Impacts from geographical targeting	Too much attention on technical aspects at the expense of social need
	Lack of training for PDIs and ABE managers	More attention is needed on training and follow-up assessments
Monitoring and evaluation	Data capture and management procedures	Apart from technical data, no serious attempt at M&E of delivery
	Performance indicators used for process	None are used, although most entities agree M&E are needed
	Reporting procedures, style and frequency	Project management of high quality but data collection mainly poor
	Socio-economic data collection	Non-existent, although entities agree monitoring and evaluation of this are necessary
	Technical audit	No evidence of technical audit or quality assurance procedures
	Financial audit	No evidence of financial audit or quality assurance procedures
Risk sharing and management	Implementation	Employer not considered to share risk equally with contractors
	Contractual	No evidence of projects stopped or retendered
	Business	Joint ventures seem to share risk but more of a problem with subcontracting
	Business insolvencies and failures	High for ABEs: do not understand contracting risks
	Management of risk	No evidence of risk management plan or process to minimize risk

APPENDIX I:**TARGETED PROCUREMENT DATA CAPTURE SUMMARY****Post-targeted procurement**

AUGUST 1996 – JUNE 1997	Major contracts	Minor contracts	Total
Total contracts (No.)	157	24	181
Contracts to ABEs (No.)	15	3	18
Contracts to ABEs (%)	0,0955	0,125	0,099447514
Contracts to non-ABEs (No.)	142	21	163
Contracts to non-ABEs (%)	0,9045	0,875	1,7795
Total contracts value (R)	59 623 406	186 849 935	246 473 341
Total contract value ABEs (R)	9 843 729	18 800 303	28 644 032
Contracts ABEs (%)	0,165098401	0,100617124	0,116215538
ABE index	14,86	24,66	39,52
FP index	0,16	0,48	0,40

DPW data source: Gounden (2000).

JULY 1997 – DECEMBER 1997	Major contracts	Minor contracts	Total
Total contracts (No.)	99	41	140
Contracts to ABEs (No.)	8	4	12
Contracts to ABEs (%)	0,0808	0,0976	0,085714286
Contracts to non-ABEs (No.)	91	37	128
Contracts to non-ABEs (%)	0,9192	0,9024	1,8216
Total contracts value (R)	48 226 770	340 592 702	388 819 472
Total contract value ABEs (R)	4 203 980	16 082 929	20 86 909
Contracts ABEs (%)	0,087171088	0,047220416	0,052175651
ABE index	7,85	28,2	36,05
FP index	0	0,7	0,12

DPW data source: Gounden (2000).

JANUARY 1998 – JULY 1998	Major contracts	Minor contracts	Total
Total contracts (No.)	56	66	122
Contracts to ABEs (No.)	11	7	18
Contracts to ABEs (%)	0,1964	0,0909	0,147540984
Contracts to non-ABEs (No.)	45	59	104
Contracts to non-ABEs (%)	0,8036	0,9091	0,852459016
Total contracts value (R)	33 821 754	983 830 208	1 017 651 962
Total contract value ABEs (R)	11 525 417	46 951 603	58 477 020
Contracts ABEs (%)	0,340769346	0,047723278	0,057462691
ABE index	30,67	28,31	58,98
FP index	0,76	0,28	0,30

DPW data source: Gounden (2000).

APPENDIX I: TARGETED PROCUREMENT DATA CAPTURE SUMMARY

SEPT. 1998 – FEB. 1999	Major contracts	Minor contracts	Total
Total contracts (No.)	144	19	163
Contracts to ABEs (No.)	64	9	73
Contracts to ABEs (%)	0,444444444	0,473684211	0,447852761
Contracts to non-ABEs (No.)	80	10	90
Contracts to non-ABEs (%)	0,555555556	0,526315789	0,552147239
Total contracts value (R)	88 002 728	77 626 251	165 628 979
Total contract value ABEs (R)	42 898 167	28 969 701	71 867 868
Contracts ABEs (%)	0,487464059	0,373194643	0,433908779
ABE index			
FP index			

DPW data source: Strategic Procurement Consultants.

JULY 1998 – JUNE 1999	Major contracts	Minor contracts	Joint ventures	Total
Total contracts (No.)	6	20	5	26
Contracts to ABEs (No.)	6	19	5	25
Contracts to ABEs (%)	1	0,95	1	0,961538462
Contracts to non-ABEs (No.)	0	1	0	1
Contracts to non-ABEs (%)	0	0,05	0	0,038461538
Total contracts value (R)	847 495	18 624 58	8 318 698	19 471 653
Total contract value ABEs (R)	847 495	18 229 176	8 318 698	19 076 671
Contracts ABEs (%)	1	0,978791954	1	0,979715025
ABE index				
FP index				

Source: Midrand Metropolitan Council.

APRIL 2001 – FEB. 2002	Major contracts	Minor contracts	Joint ventures	Total
Total contracts (No.)	2	107	1	109
Contracts to ABEs (No.)	0	74		74
Contracts to ABEs (%)	0,1964	0,0909		0,678899083
Contracts to non-ABEs (No.)	2	33		35
Contracts to non-ABEs (%)	0,8036	0,9091		0,321100917
Total contracts value (R)	96 347	1 657 508 288	398 460 879	1 657 604 635
Total contract value ABEs (R)	0	5 515 149 829		5 515 149 829
Contracts ABEs (%)	0	0,332737391		0,332718051
ABE index				
FP index				

Source: DPW records.

Pre-targeted procurement

MARCH 1998 – AUGUST 1999	Major contracts	Minor contracts	Total
Total contracts (No.)	135	19	154
Contracts to ABEs (No.)	4	9	4
Contracts to ABEs (%)	2,96	nil	2,96
Contracts to non-ABEs (No.)	131	16	147
Contracts to non-ABEs (%)	97,04	100	97,04
Total contracts value (R)	40 218 836	67 253 597	107 472 433
Total contract value ABEs (R)	2 304 285	nil	2 304 285
Contracts ABEs (%)	5,73	nil	5,73
ABE index			
FP index			

Durban data source: Strategic Procurement Consultants.

General statistics

Subsector	August 96 to June 97	July 97 to Dec. 97	January 98 to July 98	July 98 to Dec. 98	August 96 to Dec. 96*
ABE index (market share) (%)					
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	17	6,6	14,3
Electrical	5,5	12,3	28,4	0	10,8
Average	22,3	25,7	0,284	32,4	28
Total value contracts (R million)					
Building	207,5	348,2	8,077	403,4	1766,8
Civil	3,8	2,5	1,243	3,8	134,4
Mechanical	17,8	27,2	0,793	6,5	130,8
Electrical	17,5	0,11	6	2,7	37,2
Total	246,6	3,889	1017,3	416,4	2069,2

Note: * Weighted average.

DPW data source: Gounden (2000).

Employment and turnover in the construction industry

	Civil	Building	Total	% change
Employment (formal and informal)				
1996	42 844	242 780	285 624	-7,3
1997	75 212	234 980	310 192	8,6
1998	74 467	231 888	306 355	-1,2
1999	66 820	221 845	288 665	-5,8
2000	58 840	230 718	289 558	0,3
Turnover (R million), 1999 prices				
1996	9 483	25 865	35 348	4,2
1997	9 530	24 795	34 325	-2,9
1998	9 367	25 321	34 688	1,1
1999	7 959	24 445	32 404	-6,6
2000	7 133	24 892	32 025	-1,2

Source: Snyman (2000).

APPENDIX J:

WORKSHOP DISCUSSION: TECHNICAL COMMENTS

General comments

1. It was widely accepted that even with the pre-assessment phase, the period of five weeks was too short a time to carry out a comprehensive and independent assessment of TP.
2. It would have been desirable if some case studies had been examined in more detail to track in-depth the issues that impact on TP and service delivery.
3. The report confirmed many commonly held beliefs, namely that although TP is working its application is disjointed and not consistent throughout the three tiers of government.
4. There is some disjuncture between the recommendations and conclusions in the main body of the report and the executive summary. In addition, the former are too prescriptive and in some instances misleading.
5. It was felt that the PPPFA was not dealt with in sufficient detail and that the report should have been more focused on and/or critical of the legislation and how it is being applied.
6. When considering and making value-for-money judgements, ultimately the lowest price is not necessarily the best value. The price premium being paid for TP is not known and a study should be carried out to determine the real cost and benefits.
7. South Africa's Constitution gives the legal right to every citizen to participate in the TP process.
8. The Treasury has a new preferential procurement draft framework in the consultation stage. It will include a code of conduct, directions for blacklisting, a management information system capability and a training programme. The PPPFA regulations will also be examined as part of this review.

Preparation and planning

Community engagement and participation

9. The proliferation of procurement institutions (the NTB and PTBs) will place a severe strain on the resources of both national and provincial government to implement PPP. There is simply not enough training staff.
10. Policy-makers should be careful when exploring new ideas not to change ones that are already working properly.
11. Conflict exists when ABEs employ local labour and try to maintain a viable skills base and labour force. This contradiction makes it impossible for an ABE to build a sustainable organization.

12. Better coordination between agencies is needed to ensure that socio-economic factors are properly recognized and deliverables are maximized.
13. Local groups and community planning forums must be consulted but should not meddle. They should leave the technical work for the technical people.

Planning and project management

14. Employers and public sector employees working with TP should be accredited in the same way as PSPs.

Contracting process

15. Regarding fronting and underperforming ABEs, the answer is not blacklisting but better management by industry and the use of a prescribed code of conduct.
16. There should be a register of ABEs in some sort of technical (competence and skills) and financial (size) order.
17. There is an inherent clash between the need for efficiency in the construction industry and the need to deliver social policies through infrastructure works.
18. There is far too little ABE capacity in the industry – which, after all, TP was designed to address.

Tender and contract documentation

19. It is acknowledged that the TP process entails much more work for all of the key role-players, but confusion exists over who should pay.
20. While infrastructure delivery procedures are complicated these have existed for a long time and predate TP. The TP process is further complicated because it is being implemented by the various government entities through numerous methodologies.

Tender and contract award

21. It is incorrect to assume that all ABEs want to be subcontractors. Many do not and want to become contractors working for themselves and not others.

Contract management procedures

22. The ABEs have an important responsibility to “emerge” and cannot rely on preferential treatment forever.

Role of key stakeholders

Consultants

23. It was agreed that PSPs working in the TP field should do more to aid the process, but suitable proposals were not described in the report.

24. The black labour organizations were not consulted sufficiently in the preparation of the TPA nor were the Treasury or the Department of Trade and Industry.

Contractors

25. Continuity of work is a real problem and if an ABE fails after being supported and trained, the investment is wasted. One solution to the problem may be the introduction of a dedicated programme of work for ABEs.
26. What is the entry level for an ABE (a wheelbarrow)? If there are too many ABEs in the market, why try and attract more – build up the capacity and skills base of those that exist.
27. How does one include the additional costs in the bill of quantities for contractors mentoring ABEs? Certainly much more should be done but concrete ideas are not described in the report.

Affirmative business enterprises

28. The difficulties in maintaining a credible roster are underestimated as things and situations change so often. ABEs frequently join and leave the industry.
29. There should be a follow-up “feedback” session for unsuccessful ABEs at the post-tender stage so they can be shown how to improve their tendering capability.
30. The issue of the “sunset clause” is one for the government and the industry to resolve – how long does an ABE remain an ABE? Some see it as a never-ending, continuing process for correcting social injustices.

Social dimension: specific targeting

31. Too many rules and initiatives designed to promote specific target groups can in themselves provide the means to circumvent them.

Empowerment and economic betterment

Employment generation

32. More emphasis is being placed on labour-based technologies but this approach to infrastructure service delivery should be more energetically pursued.

Training provision and needs

33. More training of employers and public sector staff in certain aspects of TP is essential (socio-economic policies, M&E, training, etc.). But training is not the panacea it might appear to be, as malicious “compliance” exists.
34. There was no mention in the report of the SAQA and CETA and their potential roles in the training of ABEs, PSPs, public sector employers and contractors.

35. Training of ABEs should not wait until they have been awarded a contract; it should commence at the pre-tender stage

Monitoring and evaluation

36. The TP outcomes should be measured rather than the outputs. In addition, ABE performance should be the focus of M&E and not contract award statistics.
37. Much more work is needed to set up and manage a credible M&E system that can collect and analyze TP statistics and socio-economic uplift.
38. It was generally acknowledged that it is very hard to monitor and evaluate the TP process. It may even prove impossible to design a system capable of delivering the quantifiable data required to manage the process successfully.

Sharing risks and managing the process

39. Much greater risk sharing is needed, with the government – through the public sector – providing the lead.

Replication and international dimension

40. A great deal of political goodwill and social uplift could be exported to other countries through the promotion of TP. This is particularly true of southern Africa.
41. There is an apparent contradiction in that if TP is not working properly (as stated in the TPA), how can it be exported successfully? It would be much better to get our own house in order before attempting to export the concept.



