

Tracking a Decade of Procurement Reform in the South African Construction Industry

W. Shakantu and K. Kajimo-Shakantu

Department of Construction Economics and Management, University of Cape Town,
Private Bag, Rondebosch 7701, Cape Town South Africa.

Email: Wshakant@ebe.uct.ac.za

Abstract: Since 1994 the South African government has enacted a significant amount of legislation aimed at fulfilling its commitment to the objectives of development and growth emanating from the reconstruction and development programme. The vision has been for a construction industry policy and strategy that promotes economic growth, creates sustainable employment and addresses historic imbalances as it generates new industry capacity for sustainable economic development.

This paper reports on the decade of implementation of procurement reforms to meet the government objectives. It highlights the reforms that took place between 1994 and 2006 and implementation of empowerment protocols in the targeted procurement system. In particular the policy provided for accelerated small and medium enterprise (SME) access to business opportunities through deliberate targeting of affirmable business enterprises.

The paper concludes with recommendations of particularly useful and beneficial lessons that policy developers and construction industry stakeholders could learn from the decade of procurement reform.

Keywords: Affirmable Enterprises, Affirmative Procurement, Procurement Reforms, SMMEs, Social Economic.

1. Introduction

In April 1994, South Africa entered a new stage of non-racial democracy. Following the transition to democracy, the new South African government inherited a well-developed economy characterised by sharp socio-economic inequalities (Gelb, 2003). The advent of democracy created a crisis of expectations among the majority of the previously disadvantaged communities. In an effort to reduce not only socio-economic imbalances but also meet the high expectations among the majority of the population, the government pledged itself to rapid socio-economic development by placing alleviation of poverty and inequality at the centre of its development agenda (ANC, 1994).

To correct the many inherited policies and practices the government embarked on the social and economic transformation of the country. One of the methods that were espoused as having significant potential for socio-economic transformation was procurement reform (Gounden, 2000). Thus between 1994 and 2006 the government has used procurement reform as a method of resolving socio-economic imbalances and addressing problems of unemployment, housing and economic transformation (Watermeyer, 2000). A number of policy documents have thus been developed since 1994 in furtherance of the reform agenda.

This paper reports on development and implementation of procurement reforms to meet the government's objectives of socio economic transformation. In particular the paper highlights the reforms that have taken place between 1994 and 2006 and implementation of empowerment targets and protocols in the targeted procurement system.

2. Procurement Reform: The Highlights

Since 1994, the Department of Public Works has championed a range of initiatives and has co-ordinated the development of a comprehensive construction industry development policy as part of its contribution to the national project of reconstruction, growth and development (CIDB, DPW and CETA 2005). The strategic aim of the construction industry policy is to establish an enabling environment in which the objectives of reconstruction, development and growth are realised in the industry whilst assisting government meet its socio economic objectives (Arrowsmith, 1995). To achieve this aim, the Department of Public Works has moulded programmes to support industry wide transformation including procurement policy and human resource strategies that would increase the participation of the previously disadvantaged people (DPW, 2003).

One such policy developed is affirmative/preferential procurement. The affirmative procurement policy was designed to transform industry practice and to impact on the socio-economic environment. Affirmative procurement, as a lever of change was also expected to achieve improved industry performance and the promotion of standards relating to health and safety, productivity and quality, training, employment practice and environmental protection (CIDB, 2004). The concept of preferential procurement in South Africa stems from the constitution of the Republic of South Africa (RSA) Act 108 of 1996. Section 217 (1) of the constitution provides that when an organ of the state in the national, provincial and local government contracts for goods and services it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective. Section 217 (2) provides for preferencing policies in the allocation of contracts (South Africa, 1996). This is the fundamental premise that allows the development and application of preferential procurement (targeted procurement in construction).

The use of preferential procurement as an instrument to effect socio-economic change formed one of the central strategies of the reconstruction and development programme (RDP). The RDP was formulated by the RSA government as a social re-engineering policy aimed at socio economic change (ANC, 1994).

2.1 Reconstruction and Development Programme

The Reconstruction and Development Programme (RDP) provided an overarching policy for sustainable development, which sought to transform South African society. RDP was expected to engineer growth, through increased public expenditures on social service provision. The RDP put emphasis on programmes to meet basic needs and enhance human resource development (ANC, 1994). It also placed a major emphasis on social infrastructure and development programmes that address poverty and inequality. The goals of the RDP included:

- The creation of 2.5 million jobs over a ten-year period;
- The building of one million houses by the year 2000;

- The connection to the national electricity grid of 2.5 million homes by 2000;
- The provision of running water and sewerage to one million households; and
- The encouragement of massive infrastructural improvements through public works.

The above provisions of the RDP were enshrined in the 1995 RDP White Paper.

2.2 The White Paper on the Reconstruction and Development Programme

The White Paper on the Reconstruction and Development Programme refined the 1994 RDP direction and identified five goals that needed to be addressed in order to achieve socio-economic transformation of South African society (ANC, 1994). The fundamental provisions of the White paper on Reconstruction and Development were as follows:

- To create a strong, dynamic and balanced economy in order to eliminate poverty and meet the basic needs of every South African;
- Develop human resource capacity of all South Africans;
- Ensure that no one suffers racial or gender discrimination in hiring, promotion or training situations;
- Develop a prosperous, balanced regional economy in Southern Africa; and
- Democratise the state and society.

However, there were difficulties in meeting the goals of RDP because of slow economic growth which impacted on elimination of poverty and meeting of basic needs of the population (Gelb, 2003). To resolve the slow economic growth the government had a fundamental rethink of the macro economic policies of the country and introduced a new growth, employment and redistribution strategy (GEAR) (Gelb, 2003).

2.3 Growth Employment and Redistribution Strategy, 1996

The Growth Employment and Redistribution Strategy (GEAR) did not completely depart from the earlier government RDP policy but committed government to accelerating aspects of existing policy, albeit with a very significant compromise to the neo-liberal policy. The GEAR package of policies were designed to achieve high rates of economic growth, expand the private sector, improve output and employment, achieve fiscal reform and encourage trade and investment. Consequently, some of the policies initiated in the RDP were subsequently incorporated in the GEAR strategy which was launched in 1996 (South Africa, 1996; Gelb, 2003). The goals of the GEAR package of policies are:

- a competitive fast-growing economy which creates sufficient jobs for all work-seekers;
- a redistribution of income and opportunities in favour of the poor;
- a society in which sound health, education and other services are available to all; and
- an environment in which homes are secure and places of work are productive.

To ensure that there was clarity in how the new GEAR policies achieved preferential procurement as provided in the constitution the green paper on procurement reform was released.

2.4 The Green Paper on Public Sector Procurement Reform in South Africa, 1997

The fundamental provisions of the green paper on procurement reform were as follows (South Africa, 1997):

- achieving good governance in procurement; and
- achieving the governments socio economic objectives:
 - To make public procurement accessible to all by simplifying the process, and by encouraging fairness and transparency.
 - To encourage greater competition in the public procurement process through the creation of an enabling environment for small, medium and micro enterprises (SMMEs) while retaining quality and standards.
 - To support participation of a broadened range of enterprises with appropriate inland revenue registration and labour practices in order to ensure sustainability.
 - To revise the concept of value-for-money in the procurement process in terms of the new objectives to be applied.
 - To set out targeting policies in order to create opportunities for the broadest possible participation in the public procurement process.
 - To increase the volume of work available to the poor and enhance the income generation of marginalised sectors of society.

The green paper on public sector procurement highlighted the major impact that public sector procurement has on the South African economy, through both consumption and investment spending. It expressed government's intention of using public sector procurement to realise broader development goals (South Africa, 1997). In the green paper, the government also indicated the need to develop an effective and efficient procurement system in order to deliver the quality and quantity of services required in accordance with RDP principles (South Africa, 1997).

To formalise the recommendations of the green paper on public procurement reform with regard to socio economic objectives the Preferential Procurement Policy Framework Act was enacted.

2.5 Preferential Procurement Policy Framework Act 2000

The Preferential Procurement Policy Framework (PPPF) Act 2000 was intended to form the basis through which affirmative action would be implemented. The aim of the act is to provide socio-economic opportunities to enterprises and individuals who either historically or otherwise had been unfairly excluded from equitable participation in the socio-economic life of the country (South Africa, 2000).

The PPPF Act 2000 provides for the creation of categories of preference in the allocation of contracts, and the protection or advancement of persons, or categories or persons, disadvantaged by unfair discrimination. It is one of the government's practical initiatives to stimulate access to the market by historically disadvantaged enterprises (CIDB, 2004).

Public sector procurement interventions while simultaneously enabling government to realise some of its broader socio-economic objectives can be used to promote efficiencies within the construction industry as indicated in the White Paper on Construction.

2.6 White Paper on Construction, 1999

The primary vehicle for implementing preferential procurement in the construction industry was through the Department of Public Works (DPW). The DPW was to achieve preferential procurement through the White Paper on construction. In 1999, a White Paper on *Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry* provided guidelines on how the industry might develop the capacity to meet the country's infrastructural needs (DPW, 1999). In the White Paper, the South African governments' policy towards the industry was expressed as '*a construction industry policy and strategy that promotes stability, fosters economic growth and international competitiveness, creates sustainable employment, and addresses historic imbalances as it generates new industry capacity for industry development*' (DPW, 1999). This statement reflects the government's desire and recognition of the strategic role that the construction industry can play in the reconstruction and development of the country.

Preferential procurement was to be incorporated into infrastructure delivery and procurement of goods and services through an innovative tool known as targeted procurement.

3. Targeted Procurement

Targeted procurement enables preferential procurement policies to be implemented in the construction industry. It is usually carried out within conventional construction procurement systems to enable social objectives to be linked to procurement in a fair, transparent, equitable, competitive and cost effective manner and also allows these social objectives to be quantified, measured, verified and audited (Watermeyer, 2000).

Targeted procurement has been developed since 1995 by the South African Procurement Task Team adopted and piloted by the Department of Public Works as from 1996. Its major aim has been promotion of employment and business opportunities for the previously disadvantaged population.

Targeted procurement as an innovative procurement system enables socio-economic components to be specified, monitored and audited within the contractual environment of the public sector procurement set up. It therefore provides a means to address specific development objectives such as creating employment opportunities to marginalized communities (Gounden, 2000; Watermeyer, 2000). Targeted procurement is an effective tool for preferential procurement policies and results in opening up opportunities to emerging enterprises and to deliver socio-economic benefits to the target groups.

In addition, targeted procurement recognises the role of small medium and micro enterprises (SMMEs) in the economy by insisting that the development of small enterprises should form an integral part of the national economy and economic policy. Therefore, South Africa's public sector procurement reform has focussed on SMMEs in the construction sector to redress skewed patterns of business ownership.

To promote improved procurement and reform and develop methods for monitoring and regulating the performance of targeted procurement in the construction industry, among other things, the Construction Industry Development Board (CIDB) was formed.

4. Construction Industry Development Board

The Construction Industry Development Board (CIDB) was established to stimulate sustainable growth, reform and improvement of the construction sector's role in the country's economy (CIDB, 2004). The CIDB was intended to be a catalyst for change and transformation. The CIDB's mandate is to:

- provide strategic leadership;
- promote sustainable growth;
- promote improved procurement and delivery management;
- promote improved performance and best practice; and
- develop systematic methods for monitoring and regulating the performance of the industry and its stakeholders, including the registration of projects and contractors.

One of the aims of the CIDB therefore was to promote socio economic transformation in public procurement (DPW, 2004; CIDB, 2004). Socio economic transformation within the public sector reform programme was to be achieved through the emerging contractor development programme (ECDP).

4.1 The Emerging Contractor Development Programme

The Emerging Contractor Development Programme (ECDP) was designed to provide direct and comprehensive support to small-scale and emerging construction enterprises. An important role of this programme was to influence construction-industry transformation in a manner that purposefully encourages the emergence of small and emerging enterprises (DPW, 2004; CIDB, 2004).

The role of the ECDP is to:

- provide leadership and promote understanding and support of the emerging sector for growth and development programmes;
- develop a shared vision and act as a catalyst for the organisation and marketing of small and emerging construction enterprises;
- canvas the emerging sector and review strategic issues critical to its development, and identify issues requiring policy intervention;
- develop and prioritise programme objectives, targets and performance indicators;
- provide and co-ordinate structured support to emerging businesses and private-sector initiatives which foster the development of the emerging sector;
- advocate the interests of small and emerging enterprises and ensure that policies and procedures in the industry promote an environment conducive to the development of the small and emerging enterprises; and
- monitor performance of these policies through a database of small and emerging construction-related enterprises.

Another strategy used by government in furtherance of the socio economic objectives is the Expanded Public Works Programme (EPWP).

5. The Expanded Public Works Programme

The Expanded Public Works Programme (EPWP) is one of an array of government strategies aimed at addressing unemployment. The programme involves reorienting line function budgets and conditional grants so that government expenditure results in more work opportunities, particularly for unskilled labour. The EPWP programme is expected to draw significant numbers of the unemployed into productive work, so that workers gain skills while they work, and increase their capacity to earn an income. It is expected that the programme will create additional work opportunities for a minimum of one million people (at least 40% women, 30% youth and 2% disabled) in South Africa between 2004 and 2009 (EPWP, 2003).

It can be seen from the above discussion that since 1994 there have been a number of policy documents that have been developed in furtherance of the government's socio-economic transformation agenda. To encapsulate all the procurement reforms and provide for a single point of reference the government recently enacted a Broad Based Black Economic Empowerment Act (BB BEE Act).

6. Broad Based Black Economic Empowerment Act, 2003

Black economic empowerment is a growth strategy, targeting the South African economy's weakest point: inequality. "Broad-based Black Economic Empowerment (3B 2E)" means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to (South Africa, 2003):

- increasing the number of black people that manage, own and control enterprises and productive assets;
- facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- human resource and skills development;
- achieving equitable representation in all occupational categories and levels in the workforce;
- preferential procurement; and
- investment in enterprises that are owned or managed by black people.

The BB BEE Act is implemented through codes of practice.

6.1 Broad Based Black Economic Empowerment Act (2003) Codes of Practice

The BB BEE Codes of Practice are issued in terms of Section 9 of the Broad Based Black Economic Empowerment Act of 2003, with the aims of:

- transforming South Africa's economy to allow meaningful participation by black people;
- changing the racial profile of companies' owners, managers and skilled professionals;
- increasing the ownership and management of companies by black women, communities, workers, co-operatives and others, and helping them gain access to more economic opportunities;

- promoting investment that leads to broad-based and meaningful participation in the economy by black people;
- helping rural and local communities get access to economic opportunities; and
- promoting access to finance for black economic empowerment.

The Codes of Good Practice provide a standard framework for the measurement of broad-based BEE across all sectors of the economy. This means that no industry will be disadvantaged over another when presenting their BEE credentials. The intention of the Codes of Good Practice is to level the playing field for all by providing clear and comprehensive criteria for the measurement of broad-based BEE. The codes provide a framework for the measurement of BEE, including the generic BEE scorecard, which gives a general weighting to companies' BEE status in terms of ownership, management, employment equity, skills development, preferential procurement, enterprise development and residual elements and guidelines for the development and gazetting of industry charters (South Africa, 2003)..

6.2 Construction Sector Transformation Charter

The Construction Sector Transformation Charter:

- Constitutes a shared approach reflecting targets that are visionary and contain significant stretch to facilitate the rapid transformation of the construction sector, which all sector stakeholders hold, and establishes the principles upon which BB BEE should be implemented in the construction sector;
- Establishes targets and qualitative responsibilities in respect of each principle;
- Lays the basis for the development of a Code of Good Practice for the construction sector, as envisioned in the BB BEE Act; and
- Applies to all stakeholders within the construction sector.

Up to this point the paper has highlighted the legal and socio economic transformation that has taken place in the South African construction industry in furtherance of the government's desire to achieve economic growth and redistribution of wealth. The next section looks at the challenges and lessons policy developers and construction industry stakeholders.

7. Challenges and Lessons for Construction

The RSA government has since 1994 recognised the need to intervene in the economy in order to contribute to growth and equitable redistribution of resources. This it has done through the enactment of various legislations and policies. Central to this has been the recognition that procurement reform measures can be used as a lever of change through the introduction of the affirmative procurement policy in the construction industry (Gounden and Merrifield, 1994; Gounden, 1997). While government efforts have been commendable, there are binding demand and supply side constraints to the realisation of the socio-economic objectives.

The challenges/constraints include the following;

- Access to entrepreneurial training;
- Access to finance;

- Sureties and credit;
- Lack of cash flow and project management skills;
- Capacity constraints of affirmable small businesses;
- Fiscal constraints inhibiting direct government investment;
- Prohibitive regulatory environment; and
- Slow economic growth.

7.1 Lessons for policy developers and construction industry stakeholders

There are several lessons that policy developers and construction industry stakeholders in South Africa and elsewhere can learn from the tracking of procurement reform in the last decade. Some of the more pertinent lessons include that:

- SMMEs play an important role in providing employment and thus can contribute to poverty alleviation;
- The South African government recognises that socio-economic constraints cannot be resolved through normal market forces and private sector action;
- Government's role in construction is in promotion of an enabling environment for greater private sector participation. This it is doing by development of policies such as affirmative procurement and industry wide procurement policy transformation;
- Through the preferential procurement policy, the government has used public procurement as a tool to meet socio-economic development objectives;
- Public procurement, if used as an instrument of policy can have significant impact on the economy as a whole; and
- Targeted procurement enables social economic objectives to be achieved in a fair, equitable and transparent, competitive and cost effective manner.

8. Conclusion

This paper has highlighted procurement reform that has taken place in South Africa in the last decade. Through the preferential procurement policy, the government has used public procurement as a tool to meet socio-economic development objectives. In addition, through targeted procurement, social economic objectives can be achieved in a fair, equitable, transparent, competitive and cost effective manner. In the main, the paper shows that procurement reform; targeted procurement in this case, can be used to deliver wider social economic goals of a country. However, there are binding social, cultural and economic inequalities that need to be addressed in order to achieve the government's socio-economic objectives. If the constraints relating to poor access to entrepreneurial training, finance, sureties and credit can be resolved then the South African government's desire to achieve economic growth and redistribution of wealth through construction procurement reform could be realised.

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