

**THE PERCEPTIONS OF EMERGING BLACK ENTREPRENEURS ON
THEIR ABILITY TO ACCESS GOVERNMENT TENDERS**

BY

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DECLARATION

I declare that this manuscript, unless it is specifically indicated to the contrary in the text, is mine, both in conception and execution, and that it has never been published before.

ACKNOWLEDGEMENTS

The researcher expresses her gratitude to certain individuals and organizations for the assistance given to complete this study.

A special gratitude is expressed to Professor Elza Thomson, the thesis supervisor for guidance in the execution of this study.

Special appreciation is due to Ms S. Mkhize, the Procurement Officer in the Department of Economic Development and Tourism in the Province of KwaZulu-Natal. Without her assistance the study would never have been completed.

Ms Thandi Mbeje who typed this manuscript deserves special thanks for dedication to the task given.

Finally the author affirms her profound gratitude to her husband Dumisani and her family for understanding and support during the course of the study.

DEDICATION

This work is dedicated to all those who accept that goal setting, hard work and perseverance are avenues to success.

EXECUTIVE SUMMARY

The purpose of the study was to investigate the perceptions of emerging black entrepreneurs on their ability to access government contract work with special reference to that outsourced by the Department of Economic Development and Tourism in the Province of KwaZulu-Natal. The study was based on the assumption that black emerging entrepreneurs are sidelined by the procurement systems and processes of government, despite the fact when the new government took over after the democratic elections of 1994, it formulated legislation and policies and provided institutional framework to ensure that enterprises belonging to entrepreneurs of African descent in particular were brought into the economic mainstream activities of the country.

The study utilized an exploratory description research design owing to publicity of literature on the effectiveness of government's procurement intervention strategies in addressing the needs of emerging black entrepreneurs.

The study used two samples drawn from two research populations. In the first sample the population consisted of thirty-two tender submissions that emerging black entrepreneurs forwarded to the Department of Economic Development and Tourism in the Province of KwaZulu-Natal, in response to contract work or tenders advertised and evaluated by the Tender Evaluation Committee and the Tender Award Committee of the Department during the financial year 2001/2. An instrument was developed to elicit data from the tender documents for the purpose of orders.

In the second sample the research population consisted of sixteen emerging black entrepreneurs whose tender documents submitted in response to the tenders outsourced by the Department during the financial year 2001/2 were evaluated by the Department's Tender Evaluation Committee and Tender Award Committee during the period in question. The questionnaire was used to elicit information on the perceptions of emerging black entrepreneurs with regard to their level of participation in the procurement process of the Department.

The findings of the study are supportive of the guiding questions and assumptions advanced for the purpose of focusing the study. The finding was that black emerging entrepreneurs perceived themselves to be non-participants in the procurement activities of the Department. The study also found the existence of structural problem, which acted as barriers to active participation, of black emerging entrepreneurs, in the outsourcing activities of the Department of Economic Development and Tourism in the Province of KwaZulu-Natal

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CHAPTER ONE

ORIENTATION TO THE PROBLEM

1.1. BACKGROUND TO THE STUDY

The problem of the inability of certain populations and groups to access economic and employment opportunities has attracted the attention of a wide range of interest groups that include non-governmental organizations working with marginalized and deprived communities world wide; political activists such as those associated with anti-apartheid during the years of the existence of discriminatory policies in South Africa; policy makers from the most advanced and industrialized economies of the world; emerging and developing economies; government officials working with communities trapped in the vicious cycle of poverty, economic and social neglect and lastly academics and researchers.

The causes of social and economic inequities are well documented. The World Bank Policy research report entitled “Globalization, Growth and poverty” traces the origin of socio-economic inequities to:

“Incompetent economic policies.... protectionism which lead policy makers to design policies that are inward looking... that slow down economic growth...erase employment opportunities...lead to the reduction in income...as reflected in the per capita income weak institutions and governance...endless wars .unfavourable geographic locations” among others (2002).

Intervention strategies to improve economic and employment prospects of marginalized groups have been instituted and tried in a number of countries.

In South Africa, social and economic imbalances are embedded in the political and economic policies of the previous political regime. South Africa is founded on the principle of social stratification characterized by the differentiation of racial groups. Compartmentalization of different race groups went hand in hand with unequal access to opportunities of all kinds. For black people, being fourth class citizens effectively meant being deprived of all economic opportunities and the right to own productive assets. That therefore meant not being able to afford a decent standard of living (SACOB, 1999).

Green Paper on Public Sector Procurement Reform in South Africa) regards the South African economy before the 1994 general elections as symptomatic of an inefficient economy that failed to incorporate or embrace the values of equal access to resources by all its inhabitants (1997).

Summing up the negative features of apartheid on the economy of South Africa, Black and Dollery describe the policy as:

“The hierarchical ordering of economic, political and social structures on the basis of race, identified by physical characteristics such as the skin colour...discrimination against Africans and to a lesser extent coloureds and Indians who were excluded from many of the civil, political and economic rights enjoyed by Whites such as the vote, freedom of movement and the right to do certain jobs or own property in much of the country” (1992).

In the previous economic dispensation the formal procurement policy in existence favoured the white minority owned businesses and totally excluded blacks that were then left on their own to start and develop their own business in the mist of anti-black laws and regulations (Sethi, 1974). During the years of racial discrimination the white Nationalist government was a key player in aggressively promoting and supporting the entrepreneurial activities and initiatives of white people (Gounden, 2000). The government of the day created various strategies to ensure that white owned businesses were given all the support they needed to ensure that they developed and expanded the South African economy.

Various policies and pieces of legislation were formulated to ensure that whites retained control over all factors of production, that is, land, capital, entrepreneurship skills and labour especially when taking into account that white owned businesses were being offered free and cheap labour. White owned businesses had access to business loans from the banking institutions and government designed business incentives schemes. Further white businesses had access to business licenses and could cross-racial boundaries to access markets all over South Africa.

Kgomo mentions a number of other provisions that were legislated to ensure that blacks did not progress economically beyond a survivalist level. These included the separate amenities Act that provided separate, unequal facilities to various population groups and reserved high quality facilities and infrastructure to the ruling class and to a certain extent to Indians and Coloureds (1997).

The Land Act of 1913 allocated strategic, fertile and the majority of land to the ruling class of the time while Africans had to do with only 13% of the land even though they formed the majority of the population. Influx controls ensured that blacks were kept out of urban areas with the appropriate infrastructure to develop and operate businesses successfully. Group Areas Act also worked in tandem with separate amenities Act and influx controls by ensuring that black people were continuously kept apart from other racial groups, both in terms of residence and in terms of where they were allowed to conduct their economic activities.

On the other hand, black entrepreneurs found themselves severely constrained in terms of being unable to reach their goals and potential in the area of business management and innovation. Blacks experienced severe restrictions when applying for business licenses, as they had no right to own land and therefore applying for a business license proved almost impossible.

Sethi in his article "The Economics of Apartheid" noted that the denial of political rights, excessive regulations and denial of access to financial resources and productive assets prohibited blacks from achieving economic parity with whites. He further noted the high concentration of the South African economy in the hands of a few but large industrial groups. He noted, for instance that, eighty five percent (85%) of the value of shares or market capitalization at the then called Johannesburg Stock Exchange (now called Johannesburg Securities Exchange) was in the hands of six industrial groups (1974). He further noted that Anglo American alone controlled fifty-two percent of the value of shares listed, with the remaining shares controlled by the other five companies (1984).

The excessive regulation of the South African economy offered vast opportunities for the white minority groups and large industrial companies. The excessive regulation of the South African economy, Sethi noted, not only excluded blacks from active participation in the economy but provided the means and framework to exploit their labour to achieve price competitiveness both in domestic and global markets (1974). There is therefore a strong argument that large industrial companies were the willing partners in the apartheid regime as it assured them of economic dominance in the mist of black exclusion.

Commenting on the economic position of blacks during the years of racial discrimination the article entitled Capital Values states that black entrepreneurs could be regarded as illegal operators of business as most of them operated in the informal and unregulated economic sector as traders, street vendors, mechanics, retail outlets, and in the transportation industry as taxi operators (Economist, 1991).

The article Capital Value further cites a number of problems, which black entrepreneurs as “illegal” business operators experienced in developing their businesses. Among them are inability to own property, lack of security, inability to operate profitably and safety as a result of the prevailing crime problems in townships, high insurance rates, lack of business skills and others (Economist, 1991:1).

However, Woodworth on the other hand, in his article entitled Third World Economic Empowerment in the New Millennium Micro-enterprise, Micro Entrepreneurship and Micro Finance, is of the opinion that the informal economic sector characterized by unregistered businesses, and often referred to as the underground economy exists all over the world and is often not well received by the formal sector and governments as it is believed that they conduct their businesses in an clandestine and illegal fashion (SA. M.Advanced Management, 1984).

However, as alluded to elsewhere in this study that the causes of socio-economic inequities are numerous and varied, it should be emphasized that South Africa is founded on the principle of social stratification characterized by differentiation of racial groups. When the Nationalist Party ascended to political power in 1948, it immediately embarked on the policy of racial discrimination. Blacks were regarded as fourth-class citizens. Rigid racial classification went hand in hand with unequal access to wealth, employment opportunities, education and skills acquisition.

In South Africa the social and economic marginalization of communities and groups occurred in the context of inward looking and short-term political ideologies. It could then be said that the economic empowerment of the historically disadvantaged communities and groups does not occur in the vacuum. When the new government assumed political power it immediately took cognizance of the existence of social and economic inequities and adopted bold plans to ensure the mainstreaming of the economic activities of black people.

In South Africa the economic empowerment strategy is meant to correct structural inequities deeply embedded in the forty years of discriminatory policies of the previous regime. The economic empowerment of the historically marginalized is

further aimed at ensuring the meaningful participation of blacks into the mainstream activities of the country. It is further aimed at improving the racial composition in the ownership and control of factors of production (Black Economic Empowerment Final Report, 2002).

1.2. THE VALUE OF THE RESEARCH PROJECT

The study explores the perceptions of emerging entrepreneurs on the effectiveness of government procurement policy as a strategy for developing and expanding the black owned small and medium enterprises. The study was undertaken as a result of observation that despite the existence of affirmative purchasing policies government bids in particular are still largely inaccessible to black entrepreneurs. It is further observed that very little has been done at government level in terms of evaluating the effectiveness on the growth of black owned enterprises taking into account the myriad of pieces of legislation and policies, focusing on affirmative purchasing, that have been passed since the new government's ascensions to power in 1994.

The Black Economic Empowerment Final Report has identified twenty-four of the pieces of legislation and policies clearly indicating government commitment to affirmative purchasing (2002). The review of literature on affirmative procurement on South Africa has revealed lack of coherence in strategy formulation, implementation, monitoring and evaluation.

It is on the context of the above observation that the study was conceived. It was therefore hoped that the study would benefit government officials in all the three levels of its governance, i.e. national, provincial and local, who are given the task of implementing, monitoring and evaluating the effectiveness of government policies including affirmative procurement policies.

The study would further be of significance to local business service centers throughout KwaZulu-Natal who frequently have the deal with the frustration experienced by the black entrepreneurs arising from failure to access government bids. The study would inform government, of structural impediments still inherent in the business community, which inhibit access to economic opportunities.

The study would further be of benefit to policy makers in all the three tiers of government, whose task is to consider and find solutions to problems that impact negatively on the advancement of various groups in the population, more particularly the historically marginalized who constitute the majority of the population in the country and yet still find themselves sidelined when it comes to access to and provision of economic opportunities.

1.3. PROBLEM STATEMENT

The previous political regime which had as its foundation stone, discriminatory practices, excluded blacks from effective participation on the country's economy, more particularly in this context, those associated with access to outsourcing activities of the state and large corporations. As stated earlier, when the new democratically elected government took over political power it made it its priority to address the socio-economic imbalances through the promulgation and the subsequent adoption of a number of legislative frameworks and strategies.

However despite the creation of an enabling legislative environment, the creation of institutional framework in some cases, for the implementation of legislation and policies, the articulations of policy makers at both national and provincial government level on the issue of procurement and economic empowerment, it is argued that black entrepreneurs have not benefited significantly from the outsourcing power of the state. It is argued that despite the existence of legislative framework for the advancement of the previously marginalized entrepreneurs, government bids are still inaccessible to the majority of black entrepreneurs or bidders.

Wallace have identified a number of factors that hinder the effective implementation of affirmative procurement strategies, for example, unavailability of suppliers from the targeted groups, resistance to affirmative purchasing by large corporations and management, the complexity of relationships between suppliers and corporations, poor communication, excessive expectation, negative attitudes and prejudices and others (1999).

Given the above conceptual framework and context, the study seeks to examine the extent to which black emerging entrepreneurs have been able to access government bids. This it is hoped will be revealed through (i) the analysis of tender submissions from the emerging black entrepreneurs or service providers and (ii) the analysis of the perceptions of black entrepreneurs on their ability to access government contract. The study seeks to gain insight into the contribution of the affirmative procurement policy on its ability to develop and sustain the emerging enterprise sector. The study would further investigate the factors that hinder the effective implementation of affirmative procurement policy as a strategy for economic empowerment. It is hoped that the study would suggest a model for the formulation of an effective implementation, monitoring and evaluation of affirmative procurement strategy to benefit black entrepreneurs.

1.4. THE PURPOSE OF THE STUDY

The purpose of the study is to determine the extent to which government outsourcing activities are accessible to black owned enterprises. The study will focus on the extent of the impact of structural barriers as reported in literature and presumably confirmed by black entrepreneurs. The study claims that despite the formulation of affirmative procurement strategies complied with government continuous utterances to the effect that its economic development and/or growth strategy rests on its ability to create and effectively implement an enabling environment to satisfy the economic aspirations of black entrepreneurs, government bids are still difficult to reach by the majority of black bidders.

There is little doubt that the effectiveness of government procurement policy will be greatly enhanced if black owned business are not only incorporated into the government tender database but are also counted as beneficiaries of the system. It is further noted that in the previous economic and political desperation the tremendous growth and sustenance experienced by the now established business depended on the strong association with government through the bidding system.

The study will further seek to discover the extent to which structural problems hinder access to government bids. It is argued that black emerging entrepreneurs are at disadvantaged when it comes to gaining information on tendering when compared with entrepreneurs from the established business sector. Structural problems such as inadequate level of education are often cited as contributory factors.

1.5 TERMINOLOGY

The terms given below are defined in operational terms, that is they are defined in terms of the manner in which they are used in the study.

1.5.1. EMERGING ENTREPRENEURS

Research has revealed that a wide range of characteristics have been used in an attempt to define an entrepreneur. An entrepreneur is defined as:

a person who has decided to take control of his future and become self-employed whether by creating his own unique business or working as a member of a team.....believes that success or failure lies within their personal control or influence” (Tucker, 2003).

In this study emerging entrepreneurs refer to the historically disadvantaged individuals more specifically blacks who due to the apartheid policy were disenfranchised and economically marginalized. In this study the emerging enterprises will therefore refer to those businesses owned and managed by people of African descent irrespective of gender and level of disability.

It is also essential to define and explain the context in which the terms, survivalist, small medium and micro-enterprises will be used in this study. These are the types of enterprises that absorb the majority of the black labour force.

1.5.2. SURVIVILIST, SMALL, MEDIUM AND MICRO-ENTERPRISES

There seems to be a consensus with regard to the features which define small, medium and micro-enterprises. Most organizations working in the field of such businesses define them in terms of size or labour absorption rate and the annual turnover. The European Union for example regard a business as;

- (i) medium size if it has between 51 and 250 employees
- (ii) small , if it has employees between 11 and 50
- (iii) micro, if the business has less than 10 employees (Cyfer, 2003).

A small business is also described in terms of the turn over which is expressed in Euros (Cyfer, 2003).

The White Paper on the National Strategy for the Development of small, medium and micro-enterprises describes:

- (i) micro- enterprises as :

“ very small businesses often involving only the owner, some family member(s) and at most one or two paid employees.... they usually lack formality in terms of business licences, value added tax (VAT) registration, formal business premises, operating permits and accounting procedures.... most of them have limited

capital base and only rudimentary technical business skills among their operators....many,...advance into viable small businesses...”

(ii) small:

“constituting the bulk of the established businesses with employment ranging between five and 50... are usually over-managed or directly controlled by the owner-community....are likely to operate from business or industrial premises:...are tax registered and meet other formal tax requirements.

(iii) medium:

“basically owner/manager-controlled...though the shareholding or community control base could be more complex...employment of 200 and capital assets (excluding property) of about R5 million...

(iv) Survivalist enterprises as referring to:

“ activities by people unable to find a paid job or get into an economic sector of their choice.... income generated from those activities usually falls for short of even the minimum income standard, with little capital invested, virtually no skills training in the particular field and only limited opportunities for growth into a viable business.....poverty and attempts to survive are the main characteristics of the category of enterprises” (1995).

The small, medium and micro-enterprises dealt with in this study are those that are defined in terms of the White Paper on the National Strategy for the Development of small medium and micro-enterprises (1995). It is essential that such enterprises are supported through an effective well co-ordinated government driven strategy. The majority of operators of such businesses or people falling within the definition of historically disadvantaged. A large percentage of operators in this business category are the survivalists. There is evidence that the majority of survivalist enterprise grow and become small and medium size enterprises provided support is given. This study also focuses on preferential procurement for those emerging enterprises that feel constraints that cannot be solved through normal market forces and private-sector action.

In order to gain a better understanding of the variable being investigated it is essential to give a background of the research area, in this case the organization on which the study is based, that is, the Department of Economic Development and Tourism.

1.5.3. KWAZULU-NATAL DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM

The Department of Economic Development and Tourism in KwaZulu-Natal was established in terms of the Public Service Act of 1994 as the Department of Economic Affairs and Tourism. The name, that is, “ Department of Economic Affairs and Tourism” was changed after the restructuring process that took place in 1999. The Department then assumed its present name. The mandate of the Department of Economic Development and Tourism here referred to as the Department as reflected in its vision, mission statement, objective, programmes and activities, focuses on business development and investment promotion, with the overall aim of increasing economic growth in the Province of KwaZulu-Natal (Department of Economic and Development Strategic Plan ,2003).

Some of the Departments’ programmes are executed through its Section 21 companies often referred to as Public Entities or Parastatals. For instance Trade and Investment KwaZulu Natal (TIK), created in the year 2001 through the merger of KwaZulu Natal.. KwaZulu Natal Marketing Initiative (KMI) and Regional Economic Forum, facilitates and promotes fixed and foreign Direct Investment into the Province. Ithala Development Finance previously known as KwaZulu Finance and Investment Corporation , provides funding, in the form of business and other loans. KwaZulu Natal Tourism Authority (KZNTA) facilitates and promotes tourism in the KwaZulu-Natal.

Although the Department’s mandate is extensive and executed through a number of other organizations which could be equated to its subsidiaries, this study however focuses on the procurement activities of the Department. The study does not include the procurement activities of the Public Entities mentioned. The decision to exclude the Public Entities was taken because of the semi-autonomous nature of the institutions mentioned as well as differences in governance.

1.6. GUIDING QUESTIONS

The research design chosen that is the exploratory descriptive research design requires that an investigator formulates guiding question rather than hypothesis. The following broad question will guide the execution of the study.

- (i) Government contracts particularly in the public sector are not accessible to the majority of black entrepreneurs.
- (ii) Contract work outsourced by the KwaZulu Natal Department of Economic Development and Tourism is still inaccessible to emerging black entrepreneurs.
- (iii) Emerging black entrepreneurs are equipped to respond appropriately to the requirement of tenders issued by the Department of Economic Development and Tourism.
- (iv) Emerging black entrepreneurs are now aware of the importance of tender requirements in the evaluation and awarding contracts.
- (v) KwaZulu-Natal procurement system is inadequate in addressing the need of black entrepreneurs.

1.7. RESEARCH METHODOLOGY

Although the literature assessing the impact of government's affirmative procurement is scarce particular in South Africa, there is evidence that researchers active in the field are using a variety of research approaches. Wallace used a case study approach. The research approach used in the study is presented below (1999).

1.7.1. RESEARCH DESIGN

An analysis of procurement practices and policies within government has revealed lack of monitoring and evaluation of their impact on the promotion of small and medium scale enterprises. The research study was therefore exploratory. It was conducted among other things to clarify the nature, scope and extent of the problem, i.e. the extent to which entrepreneurs from the disadvantaged community are excluded from the procurement systems of government. Because of the limited usefulness of

the exploratory research design in decision-making, the study cannot be expected to provide any conclusiveness with regard to the variable being investigated, and should be best considered as a pilot study. However it does give a significant insight into the problem for future investigations in this area.

1.7.1.1. RESEARCH TECHNIQUES

The study used two research instruments. The first instrument used was designed to assess compliance with tender requirements. Non-compliance, it was assumed, would have a greater impact on the entrepreneurs' inability to win a tender. The research instrument used to assess compliance with tender requirements focused on four items which, it was assumed, if not properly addressed would interfere with the respondents ability to win a tender.

- * An instrument to assess compliance with tender requirements.

The research instrument focused on the following:

- * Status of registration with the Provincial Treasury Database.

The KwaZulu Natal Provincial Treasury designed the form ZNT31 for the purpose of having service providers register in the Provincial database of suppliers. This was viewed as necessary in order to establish the legitimacy of service providers. The form to be filled in by applicants seeking registration which require them to indicate among other things (a) particulars related to their businesses (b) banking details (c) previous business information in the case of name change or any other change related to business activities (d) principal business activities which should indicate whether the business is in the field of construction or services sector or wholesale distribution (e) whether in terms of employer absorption rate and turnover, the business is small medium or large (f) ownership of business (g) the business experience and trade record in terms of past projects handled and, (h) the involvement of other parties in the business.

The application form (ZNT31) indicates clearly that failure by an applicant to supply any of the information requested will lead to him/her or the business being disqualified from registration in the database. Further failure by the tenderer to indicate his/her status of registration in the database automatically leads to disqualification. This is therefore the technicality which question in the research instrument attempted to address.

* Compliance with Affirmative Action .

One of the objectives of governments of government's procurement policy is to redress the socio economic imbalances of the previous political regime. For that reason the Regulations specify that applicants for government contract be allocated points for evidence of addressing the affirmative action requirement. Service providers who include black males in the team are allocated 5%. If the team includes 40% females, the company gets additional 5%. If the team includes 30% female with disability, a further 5% is allocated. Local content requirement entitles the company to a further 5% point. In total a company is allocated 20% for addressing equity requirements.

A question was therefore designed and included in the research instrument to assess the tenderers' compliance with equity requirements. In assessing compliance on this issue of equity focused among other things on (i) the owners degree of ownership interest in the business (ii) the level and the capacity of involvement of other people (iii) the status of those involved, eg whether or not they were from the historically disadvantaged community (iv) particulars of all those involved in the business eg whether or not they were South Africans; the capacity of involvement, i.e. whether they were partners, joint ventures, shareholders, trustees or beneficiaries (v) the percentage of ownership; partnership, trustee or other interest, their status i.e. whether they were male, female, handicapped, and percentage of time devoted by cash of the parties involved.

* Compliance with budget limit

The government is tight financially. It stipulates a budget limit on the project outsourced. Any budget proposition beyond what is stipulated leads to the disqualification of a tender. Again if a tenderer omitted an indication of his budget proposal on the tender application form, the tender is disqualified.

Entrepreneurs tendering for government contract work are expected to include proposals as part of tender documents. A proposal would indicate team member's track records or experience in the kind of work they have applied to do. Failure to submit a proposal disqualifies the applicants. The proposal would further reveal the applicants' capacity to execute the project. Knowledge of the subject field, similar projects undertaken in the past would all be revealed in the proposal. Applicants should further display their ability to execute the project. This again is revealed in the presentation of the methodology on how they plan to execute the project. Failure to submit a proposal automatically disqualifies the tender.

The proposal should indicate that (i) the tenderers understand what the project requires, (ii) they have knowledge, skills, experience and capacity to execute and complete the project within the required time frame. If the proposal is not included, does not give evidence of the tenderers' ability to handle the project, the tender is rejected. Other documents which need to be submitted and which are taken into account during the assessment of the tenders include (i) the tax clearance certificate (ii) the preferential claim form (iii) tender application forms and the proposal itself. A tender is automatically rejected if any of these documents is not included.

* Previous experience

All applicants for government work are expected to prove or give evidence of the ability to execute the project being outsourced. For that reason they are required to indicate at least four contracts that were awarded to them. They are also required to indicate previous experience with other businesses related to the type of work they have tendered for. Information that should be indicated include (i) the name of the employer who awarded them the contract (ii) the name of a contact person (iii) the

value of the contract (iv) whether or not the work was successfully completed as well as the year it was completed. A question was therefore designed to elicit this kind of information.

* Capacity to execute the project

Entrepreneurs tendering for government contract work are expected to include proposals as part of tender documents. A proposal would indicate team member's track records or experience in the kind of work they have applied to do. Failure to submit a proposal disqualifies the applicants. The proposal would further reveal the applicants' capacity to execute the project. Knowledge of the subject field, similar projects undertaken in the past would all be revealed in the proposal. Applicants should further display their ability to execute the project. This again is revealed in the presentation of the methodology on how they plan to execute the project. Failure to submit a proposal automatically disqualifies the tender.

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* Tax Clearance Certificate

A questionnaire was also designed to assess the tenderers' compliance with Tax Clearance Certificate requirement. A contract is not awarded if a tenderer failed to submit an original Tax Clearance Certificate issued by the South African Revenue Services. The certificate should indicate that the applicant is in good books of the South African Revenue Services. Contrary there must be proof that the applicant has made arrangements to satisfy his/her liability with the South African Revenue Services.

* The Preferential Claim Form

One of the requirements that a tenderer should comply with is the completion of an application form for preference points (ZNT 30). The form makes provision for the application of preference. It is stipulated in the application form (ZNT 30) that the form should be completed in full and be forwarded together with tender documents. Failure on the part of a tenderer to complete and return the preference claim form is interpreted as an indication that the tenderer has not read and adequately familiarized himself or herself with the contents of the form and its legal implications. A question was therefore included in the research instrument to assess the tenderer's compliance with this requirement. Failure to submit the form immediately disqualifies a tenderer.

* Tender Document

One of the most important documents that tenderers need to submit is the tender form itself. The tender form contains (i) special instructions to renders regarding the completion of tender forms (ii) instructions regarding registration on the Provincial Suppliers Database (iii) the tender form itself which indicates the maximum points claimed (iv) declaration of interest and other information. A question was again included to assess whether or not tenderers have submitted tender forms. Failure to submit tender form also leads to disqualification of a tender

* The Questionnaire

The second research instrument was designed to assess the respondent's opinions on their ability to access government contract work. The questionnaire was administered to 32 emerging black entrepreneurs who had submitted tenders to the Department of Economic Development and Tourism during the financial year 2001/2002. The questionnaire contained two sections. The first section (Section A) contained particulars about the business. It required the respondent to indicate in what sector his/her /their business was. This information was essential in order to determine whether a tenderer was justified in tendering for work advertised, in terms of his speciality. A tenderer was further required to indicate the type of business, that is, whether he was a sole entrepreneur, a 100 percent black owned business or whether

the business was a partnership with other established companies. Again the soliciting of this information was regarded as crucial to establish the strength of emerging black entrepreneurs when seeking to execute government work.

The second section (Section B) focused on the procurement activities of a business. The first question sought to establish a tenderer's track record or experience. This was essential in terms of tender regulations. Technically the chances of a tenderer winning a tender, if he/she/they have never won a tender are slim. A third question required a tenderer to indicate the kind of problems he experiences when preparing a tender submission. It was anticipated that the question would elicit responses related to training. Linked to question 3, was a question on the respondents' opinions with regard to the ability of black entrepreneurs to access government tenders. Again it was hoped that the question would reflect on capabilities skills and training .

1.7.1. THE RESEARCH POPULATION

It was mentioned earlier that a decision was made to choose an exploratory research design because of lack of information with regard to (i) the extent to which government tenders were accessible to emerging black entrepreneurs; and (ii) the reasons associated with perceived failure of emerging black entrepreneurs to access government tenders. An exploratory descriptive research design, focusing on two research populations was therefore chosen.

As mentioned, the first research population consisted of tenders from the emerging black entrepreneurs submitted to the Department, during the financial year 2001/2002 and in response to contract work advertised. A total of 32 tenders from the historically disadvantaged entrepreneurs were received during the period of investigation. The 32 tenders could be regarded as units of analysis in the case of the first research population.

The second research population consisted of emerging black entrepreneurs who submitted tenders during the period of investigation. A total of 21 black emerging entrepreneurs tendered for work advertised by the Department during the financial

year 2001/2002. The 21 emerging black entrepreneurs could be regarded as the units of analysis in the case of the second research population.

1.7.2. SAMPLING AND THE SAMPLE SIZE

Only a small number of tenders (thirty-two) from the emerging black entrepreneurs were received during the period of the study. It should be noted that a total of 18 projects were advertised and went through the tender adjudication process during the financial year 2001/2002. Because of the small number of tender applications received from the target population, and a small number of black emerging entrepreneurs (twenty-one) who submitted tenders, a decision was taken to include all elements of the populations into the study. Thus no sampling was done.

1.7.3. PROCEDURE

The procurement section of the Department was approached to provide a list of (i) tenders the Department advertised during the financial year 2001/ 2002, (ii) a list of tenders received and that went through the tender adjudication process during the period of investigation, and (iii) a list of emerging black entrepreneurs who submitted tenders for the 18 projects advertised during the period of investigation. The list of tenders received and that went through the tender adjudication process as well as the list of emerging black entrepreneurs who submitted tenders for the 18 projects advertised were used as sampling frames. The size of the research populations in both cases made it difficult to select the samples.

Tender applications were analyzed in order to assess the extent to which emerging entrepreneurs complied with tender requirements. A research instrument was developed to capture the required information. The analysis of tender documents was conducted at the beginning of August 2003. A Chi square was used to analyze the data. The Chi Square was chosen because data is nominal. Tables were used to present data.

To assess the perceptions of emerging entrepreneurs on their ability to access government tenders an open ended questionnaire was used. The questionnaire was

first piloted on three respondents who did not form part of the main study. The piloting of the questionnaire allowed the investigator to determine the extent to which the questionnaire elicited the required information. The results of the piloting of the questionnaire indicated a need to include a question to determine whether or not the respondent solicited professional help in the preparation of the tender. The inclusion of the question was viewed as essential in order to determine their utilization of the Local Business Advice Centers and the Tender Advice Centers established to provide professional expertise to small businesses. The open ended questionnaire was finally administered on 18 respondents out of the total of 21 who submitted tenders to the Department and whose bids went through the Tender evaluation processes of the Department during the period of the investigation. The administration of the questionnaire took place telephonically and was completed over a period of two days at the end of August, 2003.

The study was confined to the period indicated in order to allow the investigator to conduct the study in the context of all the pieces of legislation passed including the Preferential Procurement Policy Framework Act No.5 of 2000 and the KwaZulu-Natal Procurement Act No.3 of 2001.

1.7.4. LIMITATION OF THE STUDY

The limitations of this study lie in conceptual definitions. The use of the term entrepreneur is restricted to the emerging black service providers who responded to the tenders advertised by the Department of Economic Development and Tourism during the period under review.

Another limitation of the study lies in the utilization of the exploratory research design. The research approach chosen does not lead to conclusive results with regard to the situation being investigated. It is meant to assist the investigator to gain a better understanding of the variable being investigated, and should be considered as a pilot study. Further research is needed to establish the real nature and extent of the problem

1.8. THE STRUCTURE OF THE RESEARCH

A number of writers have made contribution to a body of literature on procurement system and practices (Gounden, 2000 ; Van Niekerk, 1998; Wallace, 1999). However the review of literature has revealed very limited literature base on the effectiveness of the South African legislation and policies particularly the procurement system, in addressing the needs of black entrepreneurs. The study on the perceptions of emerging black entrepreneurs, on their ability to access government contract work. is an attempt to address the problems alluded to earlier.

The study begins by giving a brief exposition of the problem being investigated. This is done first by taking into account the global practices. Chapter one presents a plan indicating how the study will be executed scientifically. Chapter two is dedicated to literature review. The plight of marginalized communities in general and emerging entrepreneurs in particular is revealed as documented in previous surveys. Interventions and strategies used globally such as subcontracting are reviewed, particularly with regard to emerging entrepreneurs. Chapter two further gives an analysis of procurement systems and practices in South Africa. Chapter three is the analysis and interpretation of data solicited through the use two research instruments. Chapter four presents a model for addressing the constraints in the procurement systems and practices within government that inhibit the accessibility of bids to black entrepreneurs.

1.9. CONCLUSIONS

In Chapter One an attempt was made to give an exposition into the problem that is a focus of this study. An attempt was made to assess the problem in a global context and thereafter to analyze its occurrence in the South African context. Chapter One has shown that efforts have been made internationally to deal with the problems experienced by emerging entrepreneurs more particularly those from the historically disadvantaged communities. As mentioned this study focuses on affirmative or preferential procurement as a strategy of integrating previously marginalized entrepreneurs. Chapter Two presents an extensive review of literature on the issue of preferential procurement as an intervention strategy.

CHAPTER 2

LITERATURE REVIEW

2.1. INTRODUCTION

The purpose of this literature review is to examine issues that were raised in past surveys and which are relevant to this study. In the field of Economic Empowerment and the promotion of enterprises belonging to the historical disadvantaged, these issues relate to (i) the justification for the economic empowerment of the disadvantaged entrepreneurs (ii) strategies governments used worldwide to mainstream informal economies (iii) the use of preferential procurement as the strategy to address the socio economic inequities evident in societies worldwide (iv) South Africa's legislative and policy framework created to address the socio economic imbalances and; Legislative and regulatory framework of the KwaZulu Natal Provincial government aimed at targeting the previously marginalized entrepreneurs.

The review of literature begins with the overview of economic empowerment worldwide and the role of affirmative procurement in promoting emerging enterprises. An analysis of the role of small and medium size businesses in South Africa is presented. The review also focuses on the design of strategies to promote and advance small and medium scale enterprises. Strategies used in South Africa both in the public and private sectors to promote historical disadvantaged enterprises are reviewed. Finally legislative and regulatory framework focusing on affirmative procurement and put in place in Province of KwaZulu Natal is analyzed with specific reference to their impact on satisfying the aspirations of the historical disadvantaged enterprises.

2.2 . ECONOMIC EMPOWERMENT AND THE ROLE OF AFFIRMATIVE PROCUREMENT: A GLOBAL PERSPECTIVE

The review of literature has revealed that affirmative procurement is not unique to South Africa. Affirmative purchasing is widely recognized as one of the strategies for integrating the underground or informal economies with the mainstream economic activities of a country. Confirming the observation, Gounden says:"

“Governments have traditionally used their Extensive powers of procurement to promote a variety of objectives unconnected with the immediate objective of procurement” (2000).

In the United States affirmative purchasing has been employed for decades to assist minority suppliers to benefit from the purchasing power of large corporations and governments (Badenhorst & Hugo, 2001:81). A study by Wallace on the minority procurement activities in Enry country, New York is the classical example in this case (1999:26).

In Japan despite the absence of ethnic diversity, which is often regarded as being at the root cause of the marginalization of certain ethnic groups in certain countries, affirmative purchasing is employed to facilitate small enterprise development (Badenhorst & Hugo, 2001:81).

The United Kingdom displays the same experiences as those found in the United States and South Africa in that the marginalization of certain segments of the population is often racially driven leading to denial of access to economic and other opportunities by certain ethnic groups. Thus in United Kingdom affirmative procurement is used as a strategy to address problems associated with economic marginalization that hinder the development of enterprises belonging to ethnic minorities.

Contrary to the United Kingdom and the United States of America, in the European Union countries such as Italy, Denmark and Finland there is strong support for the

development of small enterprises from the side of large corporation for the reason that about one-third of the economically active labour force is absorbed in small enterprises with less than ten employees (Badenhorst & Hugo, 2001:81).

Countries such as Botswana use affirmative purchasing to ensure that a portion of government work is outsourced to the citizens of Botswana ([WWW.tenderscan,2000](http://WWW.tenderscan.com)).

2.3. JUSTIFICATION FOR ECONOMIC EMPOWERMENT

It has already been alluded to elsewhere in this study that the South African government has used a number of interventions to ensure the active participation of black owned enterprises in its outsourcing activities. In using affirmative purchasing strategy government is convinced of being able to deal with the problem of economic marginalization of the historically disadvantaged. Government further hopes to deal with the endemic problem of poverty and the continually rising rate of unemployment.

The University of Stellenbosch's Bureau for Economic Research, which has focused attention on researching the small and medium size enterprises has cautioned government by saying that its economic policies will fail if focus is made on large and established businesses only, and ignored the small players (Sowetan, 25 October 1997) Governments worldwide and in all their spheres, are generally known as the biggest spenders. In a study on the spending patterns of the governments of the United Kingdom and the European Union Community conducted by Atkins for the European Commission. (Gounden, 2000), it was found that government procurement accounted for 21,8 percent of the gross domestic product of the United Kingdom, whereas in the European Community government spending accounted for 15 percent of the gross domestic product of Union Community countries. On the same token the South African government spends billions of rands annually for developments and improvements in a wide range of services, infrastructure developments and others in an effort to improve the socio-economic lives of millions of South Africans.

In its 2003/4 Fiscal Year for example government has rolled out a record R334 billion for spending through its various arms (Daily News, 26th bruary 2003). A significant

proportion of the work of government in all its structures is outsourced. It is therefore logical to expect government to formulate intervention strategies to ensure that procurement policies of all its agencies favour the historically disadvantaged.

Despite scepticism over the ability of black emerging entrepreneurs in meeting and overcoming the obstacles associated with the complexity of the business environment in which they operate, Badenhorst & Hugo state that the majority of white corporate South Africa continue to embrace the principle of black economic empowerment by implementing a variety of strategies including affirmative purchasing (2001). A typical example in this regard is the formation by Corporate South Africa of Networking Forum aimed at finding and implementing various ways of supporting and co-coordinating the empowerment of the historically disadvantaged businesses (Badenhorst & Hugo, 2001).

The Cape Town International Convention Center Empowerment (conveco)' response to affirmative procurement is another example of the attempt by established business the embrace the concept of economic empowerment. The Cape Town International Convention Center Empowerment's intention is evident in its empowerment policy framework, which focuses amongst other things on affirmative procurement (WWW.tomsa.org.za). Conveco's empowerment strategy in the area of procurement is intended to (i) give a slice of its outsourced work to emerging contractors (ii) apply empowerment strategy in the appointment of consultants and provision of professional services, and (iii) apply empowerment strategy in the procurement of goods and services (www.tomsa.org.za).

Initiatives indicating support of the economic empowerment of historically disadvantaged business through affirmative purchasing are also evident in the tourism sector (The Empowerment and Transformation Review, 2001).

2.3.1. THE ROLE OF EMERGING BUSINESS

The economic empowerment of the previously disadvantaged business is justified when consideration is given to the size of the informal sector estimated at 800 000 in 1994, and thought to employ a quarter of the economically active labour force

(Business Blue Book of South Africa, 2001). The labour absorbing capacity of the small and medium size enterprises cannot be disputed given the fact that in Europe, small and medium size enterprises employ approximately one-third of the economically active labour force.

In South Africa the labour absorption in the small and medium size enterprise sector is estimated at one-quarter of the labour force. The view shared worldwide is that the small businesses play a significant role in the economic growth of a country. Both the public and private sector are justified in supporting emerging businesses as they form a key element in the strategy for employment creation and income generation (Netswera, 1999). The small business sector is seen as a way not only of creating employment but as means to achieve equitable distribution of income, stimulate competition, create access to niche markets, and enhance productivity and economic growth (Vosloo, 1994)

The emerging business further serves as a means of livelihood for the survivalist group such as women in rural areas, female headed household, disabled groups, street vendors and others. The White Paper on the National Strategy for the Development and Promotion of Small Business in South Africa regards emerging enterprises as vehicle for Black Economic Empowerment (1995).

The Economic empowerment of black emerging enterprises is justified when taking into account that black entrepreneurs have for years complained of the hostile business environment they were subjected to and expected to operate in. They had expressed reservations with respect to having to compete with established and large corporations, and no preference at all given to small businesses. They had complained against red tape, which prevented them from realizing their dreams (Coetzee & Visage, 1995).

As a result of discriminatory laws, the majority of black entrepreneurs have been deprived of opportunities to operate successful businesses in the past. They were denied the opportunities to acquire the type of education that would enhance their business skills. Most of them were locked in rural areas with no infrastructure necessary to operate businesses successfully. They were locked in rural areas where

business competition never existed. Government is therefore justified to formulate and implement affirmative policy and legislative framework to turn around the situation, to assist the historically disadvantaged to realize their aspirations (The Growth Employment and Redistribution : a macro-economic strategy, 1996).

Lack of access to markets and lack of mobility to sell products is one of the problems emerging entrepreneur's experience. Problems associated with lack of markets have their origin in (i) the inability of small entrepreneurs to compete in both domestic and international markets (ii) the local authority regulations hindering small entrepreneurial access to markets (iii) established business refusal to assist and open up market opportunities to emerging entrepreneurs (iv) the failure to make the public sector and large corporations to prioritize small entrepreneurs in the awarding of contracts (v) the production of inferior products that fail to compete successfully with domestic and imported products and (vi) the inability to produce on a large scale to satisfy market demands (The White Paper on National Strategy for the Promotion and Development of Small Business in South Africa, 1995).

The problems of emerging businesses are well outlined in a study by Kgomo on the challenges that confront black small and medium enterprises in the industrial sector (1997). The study adopted an integrated approach with regard to micro and macro issues, currently and potentially problematic and that threaten the survival of newly formed black enterprises. The study by Kgomo which used an in-depth case study approach found that (i) access to capital or the lack of it determined the extent of survival of newly formed black owned enterprises (1997).

In one case study Kgomo found that because of lack of access to capital, new black owned enterprises tend to form partnerships with the established white businesses. A partnership involved 50% shareholding by a white owned company and a 50% shareholding by a black partner. However the 50% shareholding in that particular case did not imply 50% share in the profit. In actual fact according to Kgomo's findings the white owned company gained significant savings and increase in profit by purchasing goods in large quantities and at a discount, and selling those in turn to a black partner, who could not benefit in terms of discount by purchasing directly from the wholesale because of the small size of the order (1997).

The study found that because of lack of access to capital the newly formed black enterprises are vulnerable to exploitation by the white owned businesses who are not willing to assist small black business owners in terms of reducing their prices. White owned businesses are more concerned about profit margins as they have shareholders to report to. In the very same case study Kgomo found that the black owned company experienced further financial constraints as a result of the tendering requirements of government, where premium pricing of contract is not accepted, even though there are affirmative action policies in place (1997). The awarding of a contract by government departments takes into account the pricing assessment criteria.

Access to capital is also critical in the case of large and risky contracts that require guarantees in the form of money. Because small and emerging entrepreneurs are regarded by the banking community as more risky, their borrowings often attract high cost of capital. The survival of small black owned entrepreneurs and their subsequent ability to move from subsistence level to large business is often at stake.

Sustainability of emerging business is another critical issue. One of the problems that confront small businesses mentioned earlier is lack of markets. This is one of the reasons why emerging black owned companies tender for government contracts. In most cases black owned companies are in a weaker position to win government contracts, because of lack of confidence in their ability to deliver, inability to understand tender procedures and others. Emerging black owned companies form partnerships and joint ventures with white owned business in order, among other things to win government tenders, which would therefore increase their revenues.

The question is the sustainability of the emerging business if it has to rely on short-term relationships. Sauerman argues that the private sector is not willing to accept the risk associated with contradicting to the emerging black owned companies (1997). Government therefore remains a haven for small black owned companies in terms of soliciting contracts

Although it was stated that government remains the only hope for many emerging entrepreneurs to get work and therefore increase their revenues, however very few black owned businesses are able to tender successfully due to hindrances associated

with tendering procedures. It is argued that tender documents themselves are complicated and therefore prohibit successful participation in the tendering process (Kgomo, 1997:59). There are further indications that the procurement staff in government departments is also not well trained to interpret the tender documents, tender legislation, policies and regulations to the emerging entrepreneurs.

Kgomo believes that the situation outlined has serious implications in cases of litigation and potential loss of contract (1997). Expertise in procurement administration and monitoring is essential in assisting those black owned enterprises that happen to win tenders, but lack business management skills to ensure that they profit from the tender awarded.

It is apparent that there is enough justification for the targeting of black emerging entrepreneurs through a variety of strategies including affirmative purchasing. Further lack of access to business finance is widely reported in literature as hindering the advancement of emerging entrepreneurs. Lack of access to business finance is felt mostly by black entrepreneurs, the survivalist group, black owned businesses in rural areas, and businesses owned by women and the disabled. Other areas of concern and regarded as hindering the advancement of black owned businesses, include the inability to find business premises at affordable rates, lack of access to business information and lack of appropriate technology.

2.3.2. EQUITY CONSIDERATION

Affirmative purchasing in South Africa is justified when one considers the need to achieve social adjustment in the context of the negative impact of the previous discriminatory laws (Coetzee & Visagie, 1995). It is noted that the South African society was previously demarcated along racial and ethnic ground. As a result, until recently, access to a wide range of opportunities, be they educational, economic and others were along racial lines. The resulting marginalization of society led to the vicious cycle of poverty and helplessness. The use of affirmative purchasing represents attempts to address the repercussions of previous discriminatory policies and to achieve social adjustment (Bekwa, 1997).

There are indications that small businesses flourish if given support. The United Kingdom for example experienced tremendous growth of the small business sector during the regime of the then Prime Minister Margaret Thatcher because of the support and incentives given in the form of various government schemes (Sauerman, 1997). Between 1979 and 1987 small businesses grew by an average of 500 every week and by 1997 they were growing by the average of 900 per week (Sauerman, 1999).

Affirmative procurement policies and programmes are justified in South Africa when taking into account that the ability of the black population to access better opportunities has enabled some of them to move to higher income levels. This factor together with the continued increase in black population has increased their purchasing power. Therefore, it is logical to expect government and large corporations to regard black enterprises as counterparts from a business perspective. They deserve a slice of the revenues generated and collected by government as a result of their purchasing power (Theodosiou, 1995).

2.3.3 DEREGULATION AND DOWNSIZING

The World Bank Policy Research Report entitled “Globalization, Growth and Poverty” has dealt at length with what it calls the benefits which the countries of the world have accrued as a result of the integration of economies (2002). Mentioned as some of the benefits of globalization is the reduction in the levels of poverty world wide, which is said to have been reduced by 120 million people who before 1990 were living in poverty, but as a result of globalization were able to access economic and employment opportunities (Globalization, Growth and Poverty, 2002).

In South Africa globalization has had negative impacts on the growth of certain sectors and has nearly wiped out the footwear and textile industries. Globalization has shedded employment opportunities in the industries mentioned. In addition to globalization the strategy of companies to achieve operational effectiveness through downsizing, mergers and unbundling has led to the shedding of thousands of jobs. Affirmative purchasing is therefore justified when companies decide to focus on core-activities and outsource non-core activities.

Downsizing, outsourcing, mergers, unbundling, acquisitions and other strategies large corporations adopt in order to achieve competitiveness, have led to wide scale retrenchments in South Africa. It is generally observed that the competitive strategy companies adopt, often lead to the retrenchment of labour more particularly the unskilled who in most cases are black.

2.4. STRATEGIES FOR ECONOMIC EMPOWERMENT

Numerous impediments to the advancement of black owned businesses have been mentioned. Strategies have been formulated and implemented worldwide to ensure the mainstreaming of informal economic activities of countries. In South Africa the targeted areas for the empowerment of previously disadvantaged include (i) promoting ownership of productive assets (ii) promoting black representation on boards of corporations in the public and private sectors (iii) black representation at managerial level (iv) the development and promotion of small and medium size enterprises (iv) improving the business skills of emerging entrepreneurs (v) improving access to business finance, and (vi) promoting access to business or trade information and marketing opportunities, amongst others.

2.4.1. OWNERSHIP OF PRODUCTIVE ASSETS

Support for black ownership of productive assets is based on the argument that, if blacks own productive assets like small, medium and micro enterprises, the ownership of assets would not only serve as a training ground in areas such as operational management, strategic thinking, risk taking and competitive strategies but would cultivate and build a culture and spirit of entrepreneurship and assist many blacks to enter what is traditionally known as the white business domain.

However, another strongly held view in support of the economic empowerment of the previously disadvantaged businesses is that black ownership of small and medium size enterprises should extend to the ownership of shares to the publicly listed

companies. The proposal by Sethi currently supported by the Black Economic Empowerment Commission (2001) was that:

“ By the year 2000 black owned businesses and or controlled businesses should account for 25 percent or more of South Africans gross domestic product. Furthermore at least 25 percent of the total stock capitalization of companies listed in the Johannesburg should be represented by black owned and controlled businesses” (1984).

An attempt made by white corporate of South Africa to transfer a portion of shareholding to black companies is acknowledged. Sethi is concerned that the proportion of the proposed market capitalization is insignificant when compared with stock ownership by established white corporate sector. He is of the opinion that the proportion suggested would never give blacks the kind of economic parity with whites necessary to influence the direction of the economy of the country (1984).

South Africa Country Report makes the following propositions as far as economic empowerment in the area of ownership of productive assets is concerned.

“ At least 30 % of productive land should be in black hands, black equity participation in each sector of the economy should be increased to at least 25%, black people should hold one quarter of the shares of companies on the Johannesburg Securities Exchange, at least 40% of non executive and executive directors of the Johannesburg Securities Exchange listed companies should be black, 50% of government procurement and 30% of private sector procurement and 30% of private sector procurement should go to black companies, over a seven year period, at least 10% of life and

pension companies' funds must be invested in-as-yet undesignated National priority areas and black people should receive 50% of public lending" (2001).

2.4.2. ACQUISITIONS, JOINT VENTURE AND TAKE OVER STRATEGIES

Sethi makes a further proposition for the empowerment of marginalized enterprises. Supporting acquisitions, joint ventures and take over strategies, he is of the opinion that if such strategies are implemented, the bulk of the traditionally white owned enterprises will fall into the hands of black entrepreneurs. He suggests the formulation of strategies for the identification of suitable white owned businesses for take over and joint venture (1984). There is obviously a need for the identification of multinationals intent on divesting as take over and joint venture targets. Business Map South Africa) suggests the establishment of the special purpose vehicle as a structure to manage Black Economic Empowerment initiatives (2001).

Business Map South Africa is of the view that the establishment of the special purpose vehicle would ensure that contracts awarded are undertaken and completed. It would further ensure skills transfer to black management (2001).

2.4.3. FRANCHISING

Franchising is another strategy proposed for the economic empowerment of the previously disadvantaged businesses. It is argued that franchising has a potential of being an effective method of empowering a number of black owned businesses both small and medium sized. The advantage of franchising, it is argued, is the existence of a business model that has been tried and tested and provides continuous monitoring and support (Bekwa, 1997).

2.4.4. REPRESENTATION ON THE BOARD OF DIRECTORS

Concerns have been raised of an undesirable record of black representation on boards of publicity-listed companies. In a survey done in 1999, it was found that blacks had less than 2 percent directors out of the total of 2,550 directorships. The conclusion reached is that directorship of publicity listed companies is basically in the hands of whites who hold extensive influence on the economy of the country. It could also be concluded that economic power is tightly controlled. It could further be concluded that, if only 2 percent of blacks hold directorship positions it is apparent that their influence in the corporate world and in the economy of the country is drastically curtailed.

Reasons often advanced for lack of representation of black company directorship level is that:

“ Not enough qualified blacks are available ... that blacks lack experience ... that companies need directors with expertise in such areas as banking, finance, law international businesses, technology and corporate management”(Sethi, 1984).

The Suid-Afrikaans of April/May 1992 also noted:

“Poor managerial skills continue to bedevil the effectiveness and impact of small business sector on overall economic performance and this is further complicated by the failure of small operators to acknowledge their deficiencies”

In this context, the economic empowerment of previously disadvantaged blacks owned businesses is justified.

2.5. LEGISLATIVE PROVISION FOR AFFIRMATIVE PROCUREMENT IN SOUTH AFRICA

The review of literature on public procurement in South Africa has shown that “state procurement has traditionally favoured the large, well established companies” (Van Niekerk, 1988:18). There is little evidence to suggest that small and emerging entrepreneurs particularly those from the black community were targeted in anyway by or included in state procurement policies. The ascension to power of the present political regime precipitated the ministries of Finance and Public Works at national level to initiate strategies to respond to the aspirations of historical disadvantaged entrepreneurs.

The initiatives of the two ministries resulted in the publication of the Green Paper on Public Sector Procurement Reform in South Africa in 1977. The objective of the Green Paper was to provide avenues in which the state’s purchasing power could be directed to address the socio-economic imbalances of the past that had become evident in the post apartheid South Africa.

There seems to be a general understanding and acceptance of the view that the procurement activities of government present the best opportunities to develop, support and ensure the growth of the small enterprise sector, particularly those marginalized in the previous political dispensation. Government through its agencies, public entities and national and provincial departments is tasked to render a wide range of services to society. Government and its agencies are not in a position to render those tasks alone. A significant amount of work is outsourced and/or equipment and services are required from appropriate service providers.

The statement by the then Minister for Provincial Government Mr Vali Moosa is indicative of government willingness to support small business when in his address to the National Small Business Council (NBS) that a partnership between NBS and government was essential for the country’s economic growth (Sowetan, 5 November 1997)

Support for the small enterprises was further echoed by the then Deputy-State President Mr Thabo Mbeki during his address to the Small Business Conference in

1998 (Succeed SA, Feb/March 1998). The formulation and implementation of a public procurement policy that is supportive of small and medium size enterprise development is viewed in a strong and positive light in terms of alleviating poverty, unemployment and other socio-economic inequities associated with the previous political dispensation.

In 1996 South Africa's state procurement amounted to 13% of the Gross Domestic Product and 30% of all government expenditure. At national government level outsourcing outsource averages R22 billion annually, whereas in the province it reaches R34 billion annually (Van Niekerk, 1998). This therefore is further evidence of the purchasing power of government at all levels. It is supportive of the view that if procurement is re-directed to develop the small emerging entrepreneurs a turn around in the ordinary lives of black South Africans could be realized.

2.5.1. THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME OF 1994

The Reconstruction and Development Programme (RDP) represents one of the most aggressive policy instruments the new government used following the first democratic elections of 1994. The Reconstruction and Development Programme is of particular significance because of the direct impact it could have had on the growth of black owned enterprises, had the institutional framework for the implementation monitoring and evaluation of the programme been put in place (The Reconstruction and Development Programme: a policy framework, 1994).

Commenting on the intended objectives and expected impact of the RDP on socio-economic growth, Gounden equates the policy instrument to "the Roosevelt New Deal which was designed to pull the United States of America out of the Great Depression and to the Marshall plan which was aimed at rebuilding the war ravaged economies of Europe after the Second World War" (2000:12). The foundation theme which underpins the Reconstruction and Development Programme are of particular significance to the mainstreaming of south Africa's informal economy, most of which is in the hands of the marginalized communities and groups. Gounden presents such themes as:

“The putting in place of a programme of affirmative action, to address the deliberate marginalization from economic, political and social power, of black people, women and rural communities and to empower communities and individuals from the previously disadvantaged sectors of society, the development of small businesses, particularly those owned and operated by black entrepreneurs, the provision of jobs and the addressing of unemployment”.

There is no doubt that the Reconstruction and Development Programme represented bold plans by the new government, at the time, to turn around what could be viewed as an informal economy into the formal one. It is further evident that the new government used the Reconstruction and Development Programme as a policy instrument to mainstream the economic activities of the vast majority of the marginalized and to bring about economic growth in a wide range of economic sectors.

The Reconstruction and Development Programme could therefore be viewed as having set the tone for promoting the economic activities of the historically disadvantaged. The policy instrument stood at the opposite end of the economic growth policies of the previous political regime whose objectives were to disregard the economic aspirations of the majority of the citizens of the country.

2.5.2 THE DEPARTMENT OF PUBLIC WORKS' THE 10-POINT PLAN

When the new government assumed power in 1994, a need was felt to provide an interim strategy to support the small and medium size enterprises in terms of (i) improving access to government procurement and (ii) implementing the objectives of the Reconstruction and Development Programme. The adoption of The 10- Point Plan by the South African national parliament and its subsequent endorsement by the

State Tender Board represented another milestone in an attempt to mainstream the economic activities of the small and medium size enterprises. The adoption of The 10-Point Plan and its implementation by the Department of Public Works highlighted the failure of the previous government to regard the emerging entrepreneurs as significant stakeholders not only in the tender process but in the economic growth of the country as a whole.

Ntsika Enterprise Promotion Agency in its publication entitled SMME Profile: small, medium and micro-sized enterprises in the South African economy: growth, size contributions and trends concurs with the view that existing procurement policies and systems indicated the skewed nature of contracts with the larger more established companies securing most of public sector contracts (2001). Indeed it could not have been in the interest of the State to continue to ignore the economic aspiration of the previously marginalized groups. Thus, the “participation in the tendering process of small and medium enterprises, particularly those owned and controlled by previously disadvantaged individuals could not have been overlooked.

Through the 10-Point Plan government envisaged a procurement system where (i) tendering and related information would be simplified and communicated to all interested parties in an uncomplicated manner, (ii) tender advice centers would be established throughout the country to provide advice to interested parties, (iii) government departments would develop databases of service providers who would be contracted by government to render services with a Rand value of less than R7000, (iv) access to tenders by small entrepreneurs would be promoted among other things by waiving security requirements except in the case of high risk projects with a Rand value above R100 000, (v) ease financial hardships on small entrepreneurs by enforcing a 30-day maximum time for payment (early payment cycles), (vi) would allow government departments to break down government contracts into smaller portions to enable small entrepreneurs to gain access to government contract work, (vii) would enable provinces to formulate affirmative policies to facilitate the participation of the previously disadvantaged in the tendering process, (viii) categorize and restructure construction and related contracts to enable historically disadvantaged entrepreneurs to tender for government work (Van Niekerk, 1998:12).

The adoption of The 10-Point Plan by national cabinet, its subsequent endorsement by the State Tender Board as well as its implementation by the Department of Works represent further evidence of the government commitment to turn around what is internationally regarded as an underground economic sector into a formal one capable of increasing the gross domestic product of the country.

However the 10-Point Plan is criticized for its failure to simplify the tender processes, its proposition of measures that were difficult to implement and its proposal for the affirmative procurement policy that Van Niekerk argues would incur additional expenses (1999).

2.5.3. THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, ACT NO.108 OF 1996

A foundation for legislative and policy framework guiding affirmative procurement in South Africa is provided for in terms of the constitution of the Republic of South Africa, Act No.108 of 1996.

The constitution of the Republic of South Africa Act No. 108 of 1996 provides an equality clause whose objective is to “promote the achievement of equality, and other measures designed to protect or advance persons or categories of persons disenfranchised in the previous political dispensation”. The Constitution goes further to provide a clause contained in Section 217(1) whose aim is to ensure that any organ of the state in any sphere of government...that contracts goods services does so in an equitable, fair, transparent, and cost-effective manner.

Section 217 (2) of the constitution makes a provision for (i) preferential treatment in the allocation of contracts, and (ii) protection or advancement of persons or categories of persons disadvantaged by unfair discrimination. Further section 217 (3) makes provision for national legislation to provide a framework with which section 217 (1) and section 217(2) should be implemented.

The Constitution of the Republic of South Africa No.108 of 1996 is regarded as the only constitution in the world, which includes a clause on preferential procurement. The Constitution makes a provision for:

“a procurement policy providing for categories of preference in the allocation of contracts, and the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination). (The constitution of the Republic of South Africa Act No.108 of 1996, S 217 (2) (a) and (b).

It is noted that the constitution of the Republic of South Africa takes cognizance of the existence of economic and social inequities in existence amongst different races and groups in the country. The Constitution therefore provides a clause to redress the economic and social imbalance in the country. One would therefore expect all organs of the state in the form of government departments in all the tiers of governance, that is, national, provincial and local, all its public entities, semi-state agencies, the private sector and non-governmental organization to ensure that their procurement activities conform to or abide by the stipulations of the Constitution.

It is natural to expect the said organizations to provide clear cut preferential procurement policies clearly targeting the marginalized groups as identified in the relevant clause of the Constitution, that is, groups disadvantaged by unfair discrimination. It would further be logical to expect the organizations referred to above to have clear monitoring mechanism to evaluate progress towards the set targets or goals, as far as preferential procurement is concerned. Further as government has already included a clause in the Constitution, one would expect to find a clear institutional framework guiding the implementation of preferential procurement in all its organs as well as in the private sector. Going hand in hand with institutional framework would be tools for monitoring and evaluating the implementation of affirmative purchasing.

2.5.4. THE WHITE PAPER ON THE NATIONAL STRATEGY FOR THE DEVELOPMENT AND PROMOTION OF SMALL BUSINESS IN SOUTH AFRICA, NOTICE NO. 213 OF 1995

The passing by Parliament of The White Paper on the National Strategy for the Development and Promotion of Small Business in South Africa is a further confirmation of attempts governments makes to focus on and prioritize the needs of emerging enterprises. The development of the small and medium enterprises owned by black people is viewed by government not only as a vehicle for job creation and economic growth but also as a means to ensure the integration of historically disadvantaged into the main stream economy of the country.

The significant role of small medium and micro enterprises in creating jobs opportunities, absorbing labour, penetrating markets, and designing new products, is acknowledged worldwide. It is the significant role of small enterprises in contributing to economic growth that enable the South African government to formulate bold strategies to stimulate, support and ensure their sustainability. Given the size of the small medium and micro- enterprises in South Africa estimated at 800 000 in 1994 and employing a quarter of the labour force, the small enterprises could be regarded as significant participants in economic growth. The passing of the policy is a further indication of a need to use all strategies including procurement to improve the economic situation of the historically disadvantaged.

2.5.5. THE NATIONAL SMALL BUSINES ACT NO.102 OF 1996.

It is noted that the primary purpose of the Act was the creation of Ntsika Enterprise Promotion Agency and the National Small Business Council. However the Act provides an additional evidence of government's attempts to provide a legal and policy framework to use affirmative purchasing as a strategy to develop and strengthen the emerging enterprises. The Black Economic Empowerment Final Report views the Act as extremely united in its ability to develop the small business enterprises (2002)

A number of reasons are advanced which make the stipulations and/or provisions of the Act ineffective in developing the small businesses enterprises. Inability to access business finance is of particular relevance as the ability to submit a tender requires the availability of financial resources necessary to satisfy the requirements of the tender (Black Economic Empowerment Final Report, 2002). Lack of awareness of assistance programs provides another hindrance not only with regard to accessing procurement opportunities, but also with regard to the ability to locate assistance programmes necessary to respond adequately and competitively to tender bids.

2.5.6. THE SMALL BUSINESS ENABLING ACT NO.108 OF 1996

The Act was promulgated in 1996 with an objective of providing a statutory framework within which government efforts to support and promote the development of the small business sector could be provided. It should be noted that the Act did not discriminate the small and medium size enterprises on the basis of race. However it expressed the need to meet the aspiration of small entrepreneurs.

2.5.7. THE NATIONAL EMPOWERMENT FUND ACT NO. 105 OF 1998.

The Act is a further indication of the government's prioritization of the economically marginalized groups and communities, and its intention to use its legislative instruments to facilitate access to economic opportunities offered by both the public and private sector. The primary objective of the Act, that is, the establishment of a Trust and facilitation of ownership by the historically disadvantaged, of income-generally assets of particular relevance to the issue of procurement as an empowerment strategy.

Literature is abound with studies reporting the problems experienced by emerging enterprises in accessing capital. Lack of skills and the associated factors inhibiting the growth of the small and medium size enterprises is well recorded. The financial support to emerging enterprises envisaged through the creation of a fund trend is of particular significance in addressing hindrances or obstacles to affirmative purchasing. Technical expertise such as the ability to scope the project and cost it approximately and/or competitively is the skills, which most entrepreneurs from the

marginalized communities lack. In such cases it becomes essential for the prospective tenderer to have financial resources at his disposal to solicit technical skills required to accurately scope, schedule and cost the project.

2.5.8. THE NATIONAL LOTTERIES Act No.57 of 1997

Provision for the implementation of affirmative purchasing is found further in the National Lotteries Act No.57 of 1997. Gaming in South Africa is state regulated. There is enough reason to believe that government would appreciate to see the implementation of affirmative purchasing in all structures it has direct responsibility in terms of its regulatory activities.

2.5.9. THE SKILLS DEVELOPMENT ACT NO.97 OF 1998

The government commitment to effective affirmative purchasing and the development of the small and medium size enterprises is further evidenced by the passing of the Skills Development Act No.97 of 1998, that makes provision for institutional framework for the training and acquisition of skills. The Act further makes provision for the recognition of skills acquired through the South African Qualification Authority Act No.58 of 1995.

The Act takes cognizance of the inadequate skills base of the country particular in critical areas that are currently economic growth areas. Government further took cognizance of the existing structural problems, emanating from the previous political regime and which have diminished the country's human capital leading to lack of entrepreneurship skills and creativity. The skills development Act No.97 of 1998 is particular relevant to procurement.

2.5.10. THE STATE TENDER BOARD AMENDMENT ACT OF 1997

The Act could be regarded as a foundation for the current procurement system in South Africa, although in its entirety, it is no longer relevant as it has been replaced by many policies and other directives. The significant aspects of the South Africa Tender Board Act related to the provisions it made in (i) regulating the procurement

of goods and services (ii) the establishment of Tender Board (iii) the delegating of powers to the relevant ministries to give preferential treatment in the procurement of goods and services.

However the Act and its Regulation made no provision for appeals although the board was open to or willing to respond to complaints from aggrieved tenders. Commenting in the effectiveness of the Act in using the procurement system to support the small and medium size enterprises, Van Niekerk believes the Act failed to provide for the affirmative action policies to assist the victims of the previous political regime (1999).

Further criticisms of the intervention strategies discussed above relate to their inability to (a) eradicate prohibitions built in the procurement systems such as the requirements for complicated specifications not well understood by the tenderers; complex tendering documentation and the tender size (b) inability to provide the mechanism to disseminate tender information to the previously disadvantaged (c) failure to provide a mechanism to support the recipients of contracts and (d) failure to facilitate access to public procurement system through relaxation of certain requirements.

However, the State Tender Board Act provided an important milestone in the efforts the previous government made, which could be regarded as a departure from its traditional position on the empowerment of the previously disadvantaged.

The new government's commitment to affirmative commitment is further reflected in the development of The 10-Point Plan, which envisaged inter alia the following: A significant development of The 10-Point Plan has been the establishment of the Tender Advice Centers which provide information and advice on tender requirements and procedures to emerging entrepreneurs (Black Economic Empowerment final report, 2002)

2.6. CRITICISMS OF SOUTH AFRICA'S PROCURMENT STRATEGIES

Criticisms of the intervention strategies relate to the observation that although some Provinces have made strides in terms of allocating more contracts to emerging small

and medium size enterprises, in other Provinces small businesses and service providers have received very little attention. The Northern Province for example awarded 30% of contracts to emergency small and medium size enterprises during the period of 1998. Thus on the whole the intervention strategies discussed above have not contributed significantly to opening up tender opportunities to the emerging entrepreneur.

Further the tendering strategy developed has not made provision for the empowering of staff to deal with the tendering problems experienced by the small entrepreneurs. This is regarded as one of the most important stumbling blocks in providing adequate support and guidance to emergency tenderers. An additional hindrance arise from lack of mechanism to provide a programme within which the new entrepreneur are assisted to (i) secure tenders, (ii) grow their businesses and (iii) perfect his tendering skills while within the program till they finally exit the programme.

The failure to provide a programme to assist small businesses to improve their competitiveness give opportunities only to established large businesses to gain greater access to contracts. Van Niekerk is of the view that a procurement policy or strategy whose objective is to provide long term benefits to the emerging entrepreneur should (i) provide preferential treatment to the targeted groups in terms of allocation of contracts. (ii) ensure that those allocated contracts participate in a programme designed to engage or involve them in real empowerment and increase competitiveness (iii) provide a plan for the phasing out of preferences to avoid placing the small entrepreneurs who have benefited from the programme, back to the same disadvantaged position they were before (iv) address procurement procedures which prevent some small businesses from submitting tenders, and. (vi) regard the implementation of the preference principle as an interim measure as it is alleged to be in conflict with commercial principles, best practices and competitiveness.

2.7. LEGISLATIVE AND REGULATORY FRAMEWORK FOR THE PROVISION OF AFFIRMATIVE PROCUREMENT: A CASE FOR KWAZULU-NATAL

In addition to the provisions contained in the Constitution of the Republic of South Africa, other initiatives providing the implementation of preferential procurement in KwaZulu-Natal include the following:

2.7.1. KWAZULU NATAL TENDER BOARD AMENDMENT ACT NO.4 OF 1997

The Act was passed with the aim of (i) creating and enabling environment for the empowerment of small, medium and micro-enterprises (ii) instituting measures to promote the socio-economic aspiration of persons or categories of persons and groups disadvantaged by unfair discriminatory laws of the previous political regime, (iii) establishing a procurement administration system, procedures and processes that are fair, equitable, transparent, competitive and cost effective (iv) establishing uniformity and simplicity in the procurement process (v) establishing an advisory and awareness service to promote access to and knowledge of the procurement administration system and process and establishing an independent and impartial appeal board to consider appeals against tender award decisions of the KwaZulu Natal tender board.

The Act further provided for the establishment of Tender Board for the Province, whose membership was to be constituted in a manner that would enable it to cater for the needs of small and medium size enterprises, the previously marginalized groupings such as women, the disabled, people in rural areas and the youth.

In terms of the Act, the Minister of Finance in the Province is empowered to make decisions on the best procurement policy capable of promoting small and medium size enterprises, affirmative action and job creation.

The purpose of the Tender Board, its duties and functions reflect the intention of the Act to respond to the needs of the previously economically marginalized

communities. For instance the KwaZulu Natal Provincial Tender Board was expected, amongst other things to:

“promote the use of public, fair and open competition in the procurement of goods and services;... eliminate fraud or any other irregularity in the procurement of goods and services;..... achieve greater uniformity and simplicity in the tendering process;.....provide for an advisory service to promote access to and knowledge of the tendering process;... promote fair and transparent dealings with all parties to provincial contracts.... Seek to eliminate collision between companies or persons in the supply of goods and services and encourage sub-contracting to enterprises controlled by persons from disadvantaged groups and to smaller enterprises”(KwaZulu-Natal Tender Board Act, No.4 of 1997).

Sections 13(1) and (2) are further evidence of the intention of the Act to respond to the concerns of emerging businesses from the historically disadvantaged communities. The Act makes provision for the creation of an administrative mechanism to ensure that the funds dispersed through outsourcing are used to address the inequity gaps amongst the various racial groups in the country. The administrative machinery which in terms of the Act is the KwaZulu Natal Provincial Tender Board is empowered to promote the advancement of small and medium scale enterprises through ensuring the businesses mentioned operate in a conducive and friendly business environment, that enable them to access tenders. In other words the Act empowered the Tender Board to ensure that the emerging entrepreneurs from the disadvantaged background were not once more subjected to further frustrations and discriminations in the awarding of tenders.

The Act, as another step towards addressing the previous inequities in the tender system and process, envisaged that the relevant Minister would effect the implementation of a fair, transparent and equitable tendering process through the formulation of an appropriate procurement policy. Cognizance was also taken of the fact that the majority of the previously disadvantaged entrepreneurs had little access to tender information. Provision was made to ensure that information on procurement contracts of the Province was at the disposal of every interested entrepreneur. The Act empowered the KwaZulu Natal Tender Board to provide awareness and information dissemination services to promote access to and knowledge of the procurement process.(KwaZulu-Natal Tender Board Amendment Act No.4 of 1997).

In Section 10(5) the Act ensures that there is objectively fairness, equity and transparency in the awarding of the Provincial contracts. The Act aims to avoid discrimination of certain people or categories of people. Section 10c takes transparency and objectivity a step further by stipulating that the Tender Board should give notice in the Provincial Gazette or any other appropriate, medium of communication of all tenders awarded. The Act requires further that information on all tenders awarded should be publicized through the government gazette. The information publicized in the government gazette should include details of any agreement concluded unless prohibited to do so by certain legislative provisions.

It is the intention of the Act through the said stipulations not only to ensure objectivity and transparency but also to avoid corruption, collision and discrimination. In terms of section 5c of the Act any member of the public may demand that the Tender Board makes its tender or award decision available for public scrutiny. It further stipulates (section 5 (d)) that its tender award decisions be communicated quarterly to parliament. This should be in a form of a list of tenders awarded.

Section 11(1) of the Act provides for fairness in the adjudication of cases by ensuring that members of the Board are not found with vested interest in the tenders. Members of Tender Board are therefore required to disclose their interests. They are required to reveal their interests including those of the members of their families or next of kin. The Act tries to eliminate conflict of interest, necessary to ensure fair adjudication.

Section 14(1) of the Act represents a further attempt to eliminate irregularities in the awarding of Provincial Tender contracts. The clause represents another attempt to protect the voiceless.

The clause prohibits employees involved in the procurement process from:

- (i) accepting donations, rewards or any form of benefit from the tenderer
- (ii) soliciting or accepting employment from any tenderer for a period of one year after the termination of the employee's term of office.

An equally important provision of the Act relates to subsection (16) (1) which establishes an impartial Tender Appeals Tribunal to receive and consider appeals relating to perceived unfairness in the adjudication of Provincial contracts. Members of the public or the aggrieved tenderer is in terms of the Act encouraged to appeal against the decision of the Tender Board if they are of the opinion that (i) the Board or any of its members was involved in some form of irregularity which jeopardized their chances to win tender (ii) tenderers were awarded without following the procedures stipulated in the Act. On receipt of such complaints, the Tender Appeals Tribunal has authority to set aside any decision of the Tender Appeals Board, conduct an investigation or institute corrective measures.

To reach the historically disadvantaged entrepreneurs, the Act provides for (i) the formulation of regulations to allow for the granting of preferential treatment (ii) the use of decentralized offices to disseminate tender information (iii) the instituting of mechanisms to promote the aspirations of the historically disadvantaged (iv) the simplification of tendering processes and documentation and the creation of environment supportive of the aspirations of the historically disadvantaged as far as procurement is concerned.

2.7.2. THE KWAZULU-NATAL INTERNAL AUDIT BILL

The provisions of the Bill are of particular significance in an attempt to monitor and report on the compliance of government departments with respect to the targeting of emerging enterprises when dispersing government bids. Internal audit functions is

concerned with examining financial records of departments and to report on business processes and weaknesses in the implementation of legislative and policy framework. On these bases both the Public Finance Management Act of 1998 and The Internal Audit Bill form a powerful tool for reporting weaknesses related to in effective targeting of small and medium size enterprises when dispersing tenders.

2.7.3. KWAZULU-NATAL PROCUREMENT ACT NO. 3 OF 2001

The Act was created in terms of the Preferential Procurement Policy Framework Act No.5 of 2000. The purpose of the Act was, among other things, to provide a procurement system that would address the inequities of the past by ensuring that people disadvantaged by previous policies have access to public contracts. The Act is in line with its predecessor, the KwaZulu Natal Tender Board Act, as amended. It is designed in such a way as to ensure that the procurement of goods and services is executed in a transparent fair, equitable and cost effective manner.

The Acts' alignment with the KwaZulu Natal Tender Board Act is evident in that it is meant to create appropriate conditions for the empowerment of the historically disadvantaged enterprises. Like its predecessor the Act makes provisions for dealing with nepotism and lack of transparency in the awarding of tenders. The aim is to protect and reach the targeted persons by stipulating that members serving in the procurement committees, tender award, committees and tender evaluating committees execute their functions without favouritism or prejudice. The Act aims at reaching objectively by ensuring that (i) members of the said committees do not use their privileged positions and status in the committees to influence the direction of the adjudication of a tender (ii) disclose their interests or those of their next of kin (iii) they comply with the code of ethics governing members of committees.

An additional measure to ensure transparency, avoidance of nepotism and to address the ultimate intentions or objectives of the Act, provision is made for (i) the establishment of the Central Procurement Committee at Provincial level to adjudicate on tenders not falling within the domain of provincial government departments, on account of the rand value of the contract that is, exceeding R500,000. The Act further provides for the implementation of measures to ensure that members serving in the

Central Procurement Committee are drawn from a wide spectrum within the Province, are representative of a wide stakeholder interest and are qualified technically in terms of experience, personal integrity, honesty to adjudicate on tenders. As a further evidence of an attempt to ensure the integrity of the adjudication process, the Act provides for the appointment of the members of the Tender Award and the Tender Evaluation Committees, within government departments ,to adjudicate and award tenders falling within their jurisdiction in terms of the rand value of contracts, that is, exceeding R500 000.

The Act further makes provision for the creation of measures to safeguard the interests of tenderers by ensuring that those members nominated to serve in the committees represent the interests of all stakeholders in the tender process. It ensures that the members nominated are well qualified to perform the tasks given to them by virtue of their positions, mandate, personal qualities of integrity and honesty. Measures are put in place to ensure that members serving in the committees are not involved in conflict of interests in the process of adjudication. Provision is also made for appeals against what is perceived as irregularity or conflict of interest. The Act makes provision for the promulgation of Regulations to give effect to the Act. In terms of the Act the selection of an appropriate tender is based on: -

- (i) the ability to deliver or perform in terms of the tender
- (ii) price competitiveness
- (iii) successful preferential claim
- (iv) registration in the Provincial Data Base of suppliers
- (v) registration with the South African Revenue Service
- (vi) receipt of highest scores

What follows are the criticisms of the Preferential Procurement Policy Framework Act.

2.8 CRITICISM OF THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

Since the passing of the Act a number of organizations and individuals have voiced their opinions for and against its provisions. The Congress of South African Trade Unions argues that it views the preferential procurement policies as a tool of development and transformation. The organization maintains that the procurement policy of government should be used to advance the economic aspirations of black entrepreneurs and promote job creation. It is argued that a number of countries have applied collective procurement policy of the state to achieve national objectives. The organization argues that the Reconstruction and Development Programme document state that government contracting should be utilized to encourage stakeholder participation in the programme, promote job creation and human resource development (COSATU, 1999).

According to the Congress of South African Trade Unions the procurement policy is central to ensuring that the “political liberation translates into economic emancipation and empowerment. In that way pieces of legislation such as the Employment Equity and the Equality Bill are made more relevant and effective through the implementation of the Preferential Procurement Policy Framework Act (Cosatu, 1999).

Government purchases, it is argued exceed R64 billion per annum. This figure excludes the spending patterns of parastatals. Procurement could therefore be viewed as the most powerful instrument to bring about the deserved socio-economic development in communities. Procurement should be used to transform and challenge South Africa’s current business practices and to advance best business practices in respect of enterprises belonging to the historically disadvantaged. It is argued that the purchasing power of government could be used successfully in South Africa since it is a developing state.

By opening up public procurement to emerging enterprises government could gain immensely. Black enterprises would be mainstreamed and this would contribute greatly to the country’s gross domestic product (GDP). Business ethics would be improved as

well as labour practices and productively. This again would contribute to economic growth. It is further argued that the implementation of the Act would bring in some uniformity in the diverse procurement preferential policy systems used by the different organs of the State. It is noted that various organs of the state were using a wide range of complicated procurement systems.

The preferential procurement policy framework Act of 2000 was an attempt to consolidate the varied practices into a single effective system that addresses Section 217 of the constitution (Cosatu, 1999). It is further argued that the uniform Preferential Procurement Policy Framework Act would ensure that transformation, politically and economically would be facilitated and sped up at all levels of governance. It would further avoid distortions brought in through the use of different systems. It is further noted that by bringing in uniformity in the tendering system, a situation would be avoided where organs of the state may formulate procurement policies that do not address the objectives of the state or apply state policies on a voluntary basis.

On the contrary opponents of the preferential procurement policy argue that : (i) the point system on which contracts are based create automatic advantages based on racial grounds at the expense of essential performance criteria such as track record, and experience in handling council and or government tenders (ii) the system favours African entrepreneurs who are awarded more points thereby disadvantaged entrepreneurs belonging to other racial groups, for example, Indians and Coloureds who are also categorized as disadvantaged. (iii) the preferential procurement system ultimately benefits a few people and enriches those few who are able to access tenders at the expense of the majority who are poor (iv) the implementation of the system is not cost effective as it creates additional expense of about 25%, which is costly in terms of service delivery (v) the system encourages nepotism, corruption and cronyism as very few of the targeted groups could tender successfully (vi) the policy is similar to job reservation that was applied by the previous government, in that it is applied on the basis of colour of the skin and could be regarded as violating the constitution and the rights of others (vii) the granting of powers to heads of procurement to disregard the points accorded to the winner, it is argued, could create nepotism and

cronysm, and that the implementation of the policy will be costly since it will be monitored and measured against racial targets (The Mercury, 30 July 2003).

However those who support the implementation of the policy believe that the Constitution itself in its Section 217 brings in an element of discrimination when it targets the previously disenfranchised. Section 217 of the Constitution allows state agencies to formulate preferential measures to advance persons or categories of persons disadvantaged by unfair discrimination. Those who support the system argue that agencies of the State are required by law to allocate public contracts on preferential basis. In other words government agencies have little option but to implement the policy as required by the law (The Mercury 30 July 2003).

Although the Act stipulates that the tender should go to the service provider who scores the highest, it also does allow for divergence to the ruling buy favouring the previously disenfranchised. It is further argued that the awarding of tenders to businesses belonging to Africans is justified when taking into account the demographic realities of South Africa. For instance more than 80% of the residents in the Province of KwaZulu Natal are people of African descent and are the worse affected by and disadvantaged by unfair discrimination. Further despite the existence of affirmative procurement strategies, still a lot of tenders in terms of numbers and value go to white owned enterprises (The Mercury, 30 July 2003).

Counter arguments against views on the possibility of corruption, nepotism and increase in costs are also noted. For instance it is argued that opportunities for the creation of opportunities for corruption and nepotism are minimized and rendered non-existence if the policy is correctly implemented. On the issue of costs it is argued that although the issue of increase in costs could be a reality, however such costs would be minimized in the long run such as more and more benefits of preferential procurement are realized (The Mercury, 30¹ July 2003).

The Congress of South Africa Trade Unions has added its views on the pros and cons of the implementation of the preferential procurement policy. Although the organization believes strongly in targeted procurement, it does note that if the system is not well implemented and monitoring it could lead to “fronting” by the

untransformed companies. If that happens it could be interpreted as the abuse of the system. To avoid such abuse of the system the Congress of the South African Trade Unions (1999). Union suggested that measures to avoid the abuse of the system should be included in the Regulations. To avoid additional costs associated with the implementation of the system, the Congress of South African Trade Union suggested that a balance be maintained between cost effectiveness and meeting the development objectives by setting a maximum limit with regard to the gain which the tenderer could make from the contract (1999).

The Black Economic Empowerment Commission Report adds to the debate by pointing out that even with the existence of a democratic rule, and government's focus on closing the gap, institutional and systematic racism in South Africa continue to restrict black business access to public and private sector contracts, that are necessary to grow and integrate small and emerging enterprises into the mainstream economy (2000). However it is noted that it is no longer systematic and institutional racism that bars black businesses from benefiting from public and private sector contracts. It is alleged that it is the degree to which an individual or group of persons are close to or distant from the ruling class determines the degree of access to major public sector contracts (The Sunday Tribune, 3rd August, 2003).

The allegation suggests that the people most likely to benefit from the inroads and interventions made in terms of opening public procurement to the historically disadvantaged are the associates of the ruling party. Examples made include the taxi industry that is being recapitalized with the result that, it is alleged, new owners of the multi billion rand industry, in terms of shareholding will be the associates of the ruling party (The Sunday Tribune, 3 August 2003)

In its criticism of the Preferential Procurement Policy Framework Act, the Black Economic Empowerment Commission Report agree with the view that since the government's purchasing power runs into billions of rands annually, this is evidence that governments purchasing power is enormous (2000). For that reason government is in a good position to use its purchasing power to uplift the poorest of the poor by way of outsourcing and promoting black enterprises.

The Black Economic Empowerment Report is of the opinion that the existing procurement legislation and policies are inadequate to support, develop and advance black owned enterprises. It is noted that although policies and regulations have been promulgated their implementation has not been mandatory. No monitoring evaluation and auditing is done to determine what proportion of the multibillion rand contracts go towards black enterprises (2000). It is further noted that the effective monitoring of affirmative purchasing is made difficult because of differences in the definition of black business by government departments and state owned enterprises. Institutional weaknesses in the tender committees, procurement offices and government departments do not contribute to effective implementation of affirmative procurement (Black Economic Empowerment Commission Report, 2000).

Another weakness of the Preferential Procurement Policy Framework Act observed is that it is too rigid to increase the value of government outsourcing to the historically disadvantaged. There is more focus on price (80 points) as opposed to addressing the needs of black enterprises (20 points) in the case of contracts to the value of R500 000 and below and 90/10 in the case of contracts with the Rand value of R500 001 and above. The legislation is also not mandatory although it is said that it is applicable to the three tiers of government.

2.9. CONCLUSION

Governments, worldwide, have used various policy instruments as intervention strategies to achieve social and economic goals. Governments' use of affirmative procurement to address socio-economic inequities is therefore not unique. Chapter Two in this study is devoted to literature review. An attempt was made among other things to establish an international context of the use of procurement as an instrument of policy. An attempt was made to justify South Africa's use of public procurement to address the procurement concerns of emerging black entrepreneurs. Chapter Two has further tried to reflect on a wide range of uncoordinated and ineffective policy instruments formulated since 1994 to address the needs of black entrepreneurs. The review of literature therefore justifies the need to assess the effectiveness of

procurement related policies in meeting the needs of the group with the long history of being on the margins of the South African economy.

CHAPTER 3

DESCRIPTIVE ANALYSIS OF DATA

3.1. INTRODUCTION

This chapter presents the analysis of data using the exploratory descriptive approach. The research approach was employed in order to analyze, interpret and report factual information regarding the ability of emerging black entrepreneurs to access government contract work, particularly that issued by the KwaZulu Natal Department of Economic Development and Tourism.

It should be noted that the descriptive method does not attempt to explain the relationships, test hypothesis or make predictions. The descriptive approach in the exploratory research design describes the situation, as it exists without making any value judgments. The analysis and interpretation of data given in this chapter is based on (i) information gleaned from the tender documents submitted and (ii) the responses of emerging black entrepreneurs on their ability to access government tenders. It describes the situation, as it exists. Chapter 3 begins with the presentation of the approach to analysis.

3.2. COMPLIANCE WITH TENDER REQUIREMENTS: PRESENTATION OF RESULTS

Data analysis followed two patterns, in accordance with the research instruments used. The first instrument used was that designed to assess compliance with the tender requirements. Non-compliance, it was assumed, would have a greater impact on the entrepreneurs' inability to win a tender. The research instrument to assess compliance with tender requirements focused on four items which it was assumed, if not properly addressed would interfere with the respondents' ability to win a tender. These were (i) the tenderer's status of registration in the Provincial Treasury database of suppliers (ii) compliance with affirmative action requirements (iii) compliance with budget limits (iv) track record or possession of experience relevant to the project outsourced (v) capacity to execute the project (vi) methodology and (vii) ability to

respond satisfactorily to the brief. Other assessment criteria on the focus of the research instrument included the submission of (i) tax clearance certificate (ii) tender application forms (iii) proposal, and (iv) preferential claim application. The analysis of data on the entrepreneurs' status of registration in the Provincial Treasury suppliers database reflects the situation that follows:

3.2.1. COMPLIANCE WITH TENDER REQUIREMENTS

TABLE .1. : COMPLIANCE WITH TREASURY DATABASE REGISTRATION REQUIREMENTS

Status of Registration	Frequency	Percentage
Registered	29	90,6
Not registered	03	9,4
No response	-	-
Total	32	100,0

Data presented in Table 3.1. indicates that only a small number (9,4 percent) of emerging entrepreneurs who tendered for the projects outsourced during the period of investigation failed to comply with this requirement. Although the figure appears small, it is a cause for concern that 9,04 percent of the tenders submitted were technically disqualified for failure to have their businesses listed in the Provincial Treasury Suppliers Database. The tender document ZNT31 states clearly that any tenderer who fails to fill in or supply the required information will be disqualified. Failure on the part of tenders to comply with the registration requirement could be attributable to lack of awareness of the importance of this criterion for purposes of tender evaluation.

Although tender information is supplied to all tenderers at the time of application it is apparent that the information contained in the documents is not well absorbed and or interpreted. It should be the responsibility of the organization dishing out the work to ensure that every tenderer is well acquainted with the contents of the tender. The Department as the state agency that is fully cognizant with the overall objectives of the Preferential Procurement Act of 2000 and the KwaZulu Natal Procurement Act No.5 of 2001, should strive to go beyond normal duties and ensure that it meets all the

expectations of the black entrepreneurs as far as the accessibility of tenders is concerned.

TABLE 3.2.2 : COMPLIANCE WITH AFFIRMATIVE ACTION REQUIREMENTS

Affirmative Action Compliance	Frequency	Percent
100% HDI	30	93,8
Joint Venture	2	6.25
No response	-	-
Total	32	100,00

Table 2 shows that a large majority (93,8percent) of tenderers has submitted their tenders a 100 percent black owned companies. Only 6,2% made their submissions as joint ventures. Usually the purpose of submitting as a joint venture is to combine expertise, property, capital, efforts, skills and knowledge in order to successfully execute the project. However, in view of the requirements of the Preferential Procurement Policy Framework Act of 2000, it could be said that white business owners seek black partners in order to increase their chances of winning a tender. In the case of black entrepreneur the objective in addition increasing the chances of obtaining government contract work, would be to improve their skill in the tender process and in the ability to execute a tender. Kgomo also argues that whites go into joint venture in order to maximize their profit (1997). This however, Kgomo argues occur at the expense of blacks who enter in such agreements because of constraints in arranging deals (1997).

TABLE 3.2.3.: COMPLIANCE WITH BUDGET LIMIT

Budget limit compliance	Frequency	Percent
Within limits	27	84,4
Beyond limits	1	3,0
No response	3	9,4
Tender form not submitted	1	3,0
Total	32	100,0

Data on table 3 indicates that only a small portion of tenderers failed to comply with this requirement. Only 3,0percent failed to submit the tender forms, which should indicate the proposed budget for the project. Nine percent (9,4 percent) made no

indication on tender documents on how much they proposed to spend on the project. Three (3,0 percent) was beyond limit. In total sixteen (16percent) of tenderers were disqualified on technicality. The training of tenderers is essential to address the problem.

TABLE 3.2.4 : RELEVANT EXPERIENCE

Experience	Frequency	Percent
Good	6	18,8
Mediocre	1	3,0
Poor	21	66,0
Proposal not submitted	4	12,5
Total	32	100,0

Possession of relevant experience or a track record is one of the requirements for successful tendering. Table 4 shows that a large majority (66%) of the tenders had no relevant experience of, nor track record of the work they were tendering for. Some of the tender submissions (12,5%) had no proposal attached. This observation is a cause for concern. It is indicative of lack of training and knowledge, which then leads tenderers to engage in chance taking.

TABLE 3.2.5:CAPACITY TO EXECUTE PROJECTS

Capacity to execute	Frequency	Percent
Good	6	18,8
Mediocre	1	3,0
Poor	21	66,0
Proposal not submitted	4	12,5
Total	32	100,0

One of the important criteria in the evaluation and awarding of tenders is capacity to execute. A tender is assessed to determine the tenderers' ability to successfully implement and complete the project. Table 5 indicates that sixty-six percent (66%) of the tenders were found wanting on this criterion. Their track record experience and quality of the proposal did not give the assessors confidence that the tenderers if awarded the project, they would be able to implement or execute it successfully. One of the reasons that could be advanced for this observation is the tendency of tenderers

to tender for projects that are not in their field of specialization. Again education is needed to assist tenderers to focus on their areas of specialization.

TABLE 3.2. 6 : METHODOLOGY

Quality	Frequency	Percent
Good	6	18,8
Mediocre	1	3,0
Poor	21	66,0
Proposal not submitted	4	12,5
Total	32	100,0

Ability to execute the project is reflected amongst other things in the proposal. The tender evaluators should have confidence that the tenderer has a grasp of the subject field, that his proposed method of executing the project is sound and acceptable and that it will lead to the successful completion of the project. Table 6 indicates that sixty-six percent (66,0 percent) of the tenders gave no indication of the soundness of the methodology. In 12,5 percent of the cases a proposal was not submitted. Again a reason that could be advanced for the data observed is that tenderers (i) tendered for the subject fields they were not familiar with (ii) are not well gained in the area of project implementation and project management or in executing scientific enquiries. This problem could be well addressed through training.

TABLE 3.2.7: ABILITY TO RESPOND APPROPRIATELY TO THE BRIEF

Level of Response	Frequency	Percent
Good	6	18,8
Mediocre	2	6,0
Poor	20	63,0
Proposal not submitted	4	12,5
Total	32	100,0

The proposal is essential in determining a tenderers' ability to successfully handle a project. Tender evaluators critique the proposal to determine, among other things, whether a tenderer understands what the Department wants to achieve by outsourcing the work. Table 7 shows that 63,0 percent of the tenders showed no understanding of what the intention of the project was. It should be mentioned that when an advert for a

tender goes out, it always advises prospective tenderers to seek clarity from the Department in the areas where information is not clear. This is done to enable them to respond appropriately to the brief. The provision of a training programme is essential to address such problems.

TABLE 3.2.8 : COMPLIANCE WITH TAX CLEARANCE CERTIFICATE REQUIREMENTS

Tax certificate	Frequency	Percent
Submitted	21	63,0
Not submitted	11	37,0
Total	32	100,0

One of the technical requirements for successful tendering is the submission of a tax clearance certificate from the South African Revenue Services. Failure to submit a tax clearance certificate disqualifies a tender. Table 8 shows that 25 percent of tenders submitted ignored this requirement. Training of prospective tenders is essential to address the problem.

TABLE 3.2. 9: COMPLIANCE WITH TENDER APPLICATION FORMS REQUIREMENTS

Tender form	Frequency	Percent
Submitted	24	75
Not submitted	8	25
Total	32	100,0

Tender Regulations states clearly all the documents that need to be completed and submitted in order to avoid being disqualified. Table 9 shows that 25,0% of tenders submitted were not accompanied by tender forms. The importance of this tender evaluation criterion in the adjudicating of tenders need to be communicated to prospective tenders. This could only be done if the training programme was designed to address lack of information and knowledge.

TABLE 3.2.10: SUBMISSION OF PREFERENTIAL CLAIM FORMS

Preference claim	Frequency	Percent
Submitted	21	63
Not submitted	11	37
Total	32	100,0

It was mentioned in Chapter One that compliance with Affirmative Action requirements fetches 20 points. Table 10 shows that 37 percent of the respondents failed to submit a preference claim form. Such tenders are disqualified on technically.

The Preferential Procurement Policy Framework Act No.5 of 2000 and the KwaZulu Natal Procurement Regulation No.3 of 2001 make it clear how tenders are evaluated and how points are allocated to the tenders. An entrepreneur who is not registered with the KwaZulu Natal Provincial Treasury database of suppliers is automatically disqualified. The Department of Economic Development and Tourism has access to the KwaZulu Natal Provincial Treasury database for the verification of information that entrepreneurs supply.

One of the objectives of the governments' procurement policy is to redress the socio-economic imbalances of the previous political ideology. For that reason the Regulations specifies that applicants for government contract work be allocated points for evidence in addressing the affirmative action requirement. Service providers who include black males in the project team qualify to get 5%. If the team includes a woman, the company gets an additional 5%. If it includes a disabled person, a further 5% is given. Local content requirement qualifies for an additional 5% point. In total a company is given 20% for addressing equity requirements.

3.3. PERCEPTIONS OF EMERGING ENTREPRENEURS: PRESENTATION OF RESULTS

The opinions of emerging entrepreneurs of participation in the bidding processes of the Department are presented in the Tables that follow.

TABLE 3.3.1. PUBLIC SECTOR BIDDING

Level of participation	Rarely	Often	Very often	Total
Bids for government work	5 (28 %)	6 (33%)	7 (39%)	18 (100%)
Total	5 (28%)	6 (33%)	7 (39%)	18 (100%)

The question was posed to solicit information on the respondent's level of participation in the public sector bidding process. The assumption was that responding to tender adverts more frequently would improve the entrepreneurs competitiveness in the tender processes, due to the experienced gained.

Table 3.3.1. shows that the majority of respondents frequently tender for government work. Those who seldom tender for government work and instead prefer to tender for work in the private sector have presented the following reasons for the choice they have made. They are of the opinion that information on government tenders is not readily available. The local service business center which government departments often work with fail to provide tender information specific to the needs of individual entrepreneurs. Those who prefer to tender for work in the private sector are of the opinion that the private sector is more engaging and beneficiary to the small entrepreneurs. Once the private sector has outsourced successfully to the small entrepreneur they ensure that the entrepreneur is engaged frequently after that and on a continues basis, something which they feel is not the case in the public sector.

TABLE 3.3.2.PRIVATE SECTOR BIDDING

Level of participation	Never	Rarely	Often	Very often	Total
Bids for private sector contracts	0	5 (27%)	5 (27%)	4 (22%)	14 (83%)
Does not bid for private sector contracts	4 (17%)	0	0	0	4 (17%)
Total	4 (17%)	5 (27%)	5 (27%)	4 (22%)	18 (100%)

It was also assumed that participation in private sector bids would improve one's awareness of the skills required to win a tender.

Table 3.3.2. above shows that the respondents participate actively in the bidding processes regardless of the source of work. A significant of the number of respondents solicit work in both sectors. Respondents are therefore familiar with the process of bidding and or the concept. They could therefore be expected to experience successful bidding.

TABLE 3.3.3.BIDDING STRATEGY

Business status	Frequency	Percentage
100% black owned	15	83%
Joint venture	2	11%
Partnership	1	06%
Other	0	-
Total	18	100%

A question was formulated to elicit information on the respondents strategy for competitive bidding. Noting that the majority of black entrepreneurs are in capacitated in the skills required to execute projects. It was assumed that more black entrepreneurs would be much more strategic in their approach to the bidding processes.

Table 3.3..3 shows that the majority of black entrepreneurs prefer to bid as 100 percent black owned companies. However a small number did indicate that they are ready to get into joint ventures for the purpose of participating in big projects that require a wide range of skills and enough financial resources. Preference for individualism noted with black entrepreneurs is a course for concern. This suggest that small black entrepreneurs engage in businesses to satisfy basic income requirements but have no intention to grow big. The Department has a role to play in educating , motivating and opening up opportunities for small enterprises to aspire and grow big in order to contribute to economic growth.

TABLE 3.3.4.ACCESS TO TENDERS

Levels of success	Frequency	Percentage
Succeeded	7	38,9%
Never succeeded	11	61%
Other	-	-
Total	18	100%

The focus of the questionnaire was on the accessibility of tenders to the previously disadvantaged entrepreneurs. It is essential for government to know where the bulk of its outsourcing budget goes.

The previous tables have shown that the majority of respondents solicit bids in both private and public sector. Therefore they are very active in the tender processes of both sectors. Despite their level of participation in the tender processes sixty-one (61 percent) of them have never been experienced successful bidding. The finding suggests the existence of problems which need to be attended to ensure that the Department delivers on one objectives of the Department.

TABLE 3.3.5.CONTRIBUTARY FACTORS TO SUCCESSFUL BIDDING

Compliance	Frequency	Percentage
Affirmative Action requirement	0	0
Database registration	18	100%
Budget	18	100%
Experience required	18	100%
Capacity to execute	18	100%
Methodology required	18	100%
Ability to respond to brief	18	100%
Tax clearance	18	100%

The assumptions advanced to this study was amongst other things, that a major contributory factor to winning bids would be the entrepreneur's ability to respond appropriately to all the administrative and technical requirements listed above.

Entrepreneurs felt strongly that the requirements listed above were essential to win a tender in the public sector. However those who solicited and won tenders in the private sector felt that, the latter were less rigid, more responsive and helpful than the government departments. They felt that the private was willing to give contracts to small entrepreneurs even if they do have experience. Small entrepreneurs in the private sector are partnered with big business which is more beneficiary and productive.

TABLE 3.3.6. REASON FOR FAILURE TO WIN BIDS

Compliance	Frequency	Percentage
Affirmative Action requirement	0	0
Database registration	2	11
Budget	9	50
Experience required	8	44
Capacity to execute	9	50
Methodology required	10	55
Ability to respond to brief	11	61
Tax clearance	8	44

A question was formulated to assess the respondent's perceptions of the reasons behind their failure to tender competitively. The question focus on the technical and administrative requirements of tenders. However they were also allowed to respond in any other way.

Although most of the entrepreneurs responded to the questions above, there was more concern about the costing of input materials which therefore increases the budget and results in failure to win the bid. The concern of entrepreneurs was that costing expertise rests with established businesses who also control access to input material and prices.. A tendency amongst established businesses was to over cost small entrepreneurs once they became aware of their intention to submit bids. It therefore becomes impossible for small entrepreneurs to engage in price competitive bidding.

TABLE 3.3.7. ACCESSIBILITY OF PUBLIC SECTOR BIDS

Perceptions	Frequency	Percentage
Accessible	8	44
Not accessible	10	66
Total	18	100

Black entrepreneurs were not united on whether or not public sector bids were accessible to them. A number of problems such as those discussed in the previous section were advanced as limiting access to public sector contracts. A number of respondents were of the opinion that the technicalities of preparing and submitting tenders was not well understood by those still entering the area of bidding. A suggestion was therefore made to a training programme that would focus on both new entrance and experienced black entrepreneurs. A consent was raised about a black entrepreneurs having to compete with other races who in terms of the constitution are allowed to claim the status of having been previously disadvantaged. A consent was further raised of the need by the Departments to develop the supplier database if it is not used continually engage with small entrepreneurs in terms of responding to their needs.

TABLE 3.3.8. CAPACITY BUILDING

Training	Frequency	Percentage
Undertaken	10	56
Never	8	44
Total	18	100

It was felt essential to assess the entrepreneurs exposure to the training programmes on tendering processes. A question was therefore included to find out if any training had been undertaken.

It should be noted that the difference between those who attended training and those who have never is not great. However the respondents mentioned the importance of the briefing sessions before tender documents are submitted. The findings of the study do indicate a need for the formulation of a training programme on issues pertaining to tendering processes.

Lastly the respondents were asked to indicate what they feel they need to change in the tendering processes. Their responses are grouped and presented below.

3.4. DISCUSSION

The analysis and interpretation of data presented in this section of chapter 3 is based on information elicited to determine the extent of tenderers' compliance with the technical requirements as specified in the KwaZulu-Natal Procurement Act No.5 of 2001, the Procurement Regulations No.3 of 2001 and the tender documents supplied to tenderers. The eliciting of this information was considered crucial, as it played a role in determining whether or not a tenderer wins a contract. It could be observed that the data presented on the Tables 4 through to Table 7 reflects crucial problems with regard to ability to successfully execute the project. A number of reasons could be advanced for this observation. The tendency of tenderers to tender for work that does not form part of their field of specialization cannot be excluded. The questions can be posed as to the causes of the observed tendencies and how they could be dealt with.

There is also a need to assess the academic qualifications of tenderers. This is essential in order to determine whether or not they fall into the trap of tendering for the work they are not qualified to do. A remedy to this situation seem to be education and training. Tenderers need to be certain with regard to what work they can perform in order that they do not misdirect their energies and resources. Work that is outsourced by the Department is highly specialized and often falls into the areas or subject fields where very few blacks have expertise on. It is essential for black entrepreneurs to have full grasp of their level of expertise and skills and when tendering to solicit additional expertise and skills in the form of partnerships and joint ventures in order to address the areas of the contract they have no expertise on.

Another area of critical importance is compliance with the completion and submission of various documents specified in the Regulations and Tender documents. There is evidence that this requirement is not often taken seriously and yet failure to address it leads to immediate disqualification of a tender. This is another area that needs to be addressed through a training programme.

3.5. CONCLUSION

The analysis and interpretation of data in chapter 3 is based on research instruments used to determine black emerging entrepreneurs compliance with tender requirements. The analysis of data presented shows clearly that the majority of black tenders fail to win tenders because of inability satisfy the requirements of tenders or contracts. It would then be essential to determine what their opinions are on what they feel causes ability to access government tenders.

CHAPTER 4

CONCLUSION AND RECOMMENDATIONS

The obstacles experienced by small and medium size entrepreneurs in accessing markets to increase market share, revenues and profit is well documented. The review of relevant literature indicates that the problem is widespread. It is prevalent in both developed and less developed countries. The review of literature further indicates that in multi-racial and multi-cultural countries economic marginalization of groups and individuals is reflective of ethnic and racial dynamics and demands political solutions or legislative and policy interventions. Research activity on small and medium sized enterprises has focused primarily on the obstacles experienced, for instance, lack of access to market, lack of access to information, problems in accessing entrepreneurial training, finance, etc. The review of literature has revealed paucity of data or information on studies that monitored and evaluated the effectiveness of government initiated strategies in addressing the obstacles indicated.

In this study the research was concerned with the inability of black emerging entrepreneurs to access government contract work, despite a wide range of legislative, policy and institutional framework put in place since the first democratic elections of 1994, to facilitate access to government procurement activities.

An observation on the issue of economic growth and employment creation is that small and medium size enterprises have a higher labour absorption rate when compared to big businesses and that in countries where emerging entrepreneurs are given a wide range of support and incentives, these enterprises make a significant contribution to Gross Domestic Product. A basic belief on the subject of small enterprise development is that access to the procurement activities of government would significantly improve the revenue, sustainability and job creation levels of emerging enterprises.

It should be noted that each chapter has its own specific conclusions and recommendations; however, the objective of Chapter Four is to present conclusion and recommendations based on the synthesis of broader issues, which emerged during

the investigation. The focus is on what could be learned from the analysis of data and the perceptions of emerging entrepreneurs on their ability to access tenders issued by the Department of Economic Development and Tourism in the Province of KwaZulu Natal. Conclusions are made on the research approach and the research instruments chosen. Advantages and limitations of the research approach and the research instruments utilized are given, as well as suggestions for future research in the area of affirmative procurement.

4.1. RESEARCH APPROACH

The study was conceptualized as exploratory as a result of scarcity of information or studies that evaluated the effectiveness of government procurement systems in addressing the concerns of emerging entrepreneurs. The review of literature on government intervention strategies since 1994 revealed a wide range of initiatives i.e. legislative, policy and institutional. However very little has been made to monitor and report on the effectiveness of government intervention in improving access to procurement activities. An exploratory research design was therefore chosen to establish the legitimacy of the assumptions made, noting that further research will need to be conducted in order to reach scientifically accepted conclusions regarding the nature and extent of the problem. An additional reason for using an exploratory descriptive research design was a need to present data and the results of the study, as is, without any attempt to seek relationship, test hypothesis and make any predictions.

The study utilized two research instruments. An instrument to assess the ability of emerging entrepreneurs to comply with tender requirements was utilized on the observation that it was highly unlikely for the tenderer to win government contract work if he/she did not comply with any of the tender requirements stipulated. The assessment instrument allowed for the analysis of tender documents and subsequent extraction of relevant information pertaining to compliance with tender requirements. The second instrument used was the questionnaire whose purpose was to elicit information from emerging entrepreneurs who had tendered for contract work from the Department of Economic Development and Tourism during the period targeted by the investigation. The aim of administering the questionnaire was to gain further insight into the problem. It was felt that the analysis of tender documents alone would

not allow the investigator to gain a full picture of the problem associated with the failure of black service provider to access tenders issued by the Department. Additional information to establish the legitimacy of the assumption was needed.

Thus the advantage of using two research instruments was that the research was able to present and describe systematically data collected and analyzed to support the assumptions that: (i) government bids are largely inaccessible to previously disadvantaged business owners of African descent (ii) contract work outsourced by the KwaZulu-Natal Department of Economic Development and Tourism is inaccessible to emerging black service providers (iii) emerging black entrepreneurs are ill-equipped to respond appropriately to the requirements of tenders issued by the Department of Economic Development and Tourism. (iv) emerging black service providers are not aware of the importance of tender requirements in the evaluation and awarding of contracts and, (v) that the KwaZulu Natal Procurement system is inadequate in addressing the needs of emerging black entrepreneurs.

The general findings of the study have revealed the prevalence of structural problems inhibiting competitive participation of emerging entrepreneurs in the Departments' bidding process. The analysis and interpretation of data on Chapter 4 gives an accurate direction (within the limited nature of the research approach used) of the nature of the problem and what most emerging black entrepreneur think about their failure to participate competitively in the Departments' outsourcing activities. The findings of the study and the recommendations made are summarized below:-

4.2. ISSUES EMERGING

The following are the issues which emerge from the study:

4.2.1. INACCESSIBILITY OF GOVERNMENT CONTRACT WORK

The structural hindrances experienced by emerging entrepreneurs, according to the findings of this study, are those associated with lack of preparedness educationally to compete with established white service providers or businesses. The findings reveal that the bulk of the procurement budget of the Department of Economic Development and Tourism goes to established business. Administrative and technical requirements

of tendering which the majority of black entrepreneurs fail to satisfy serve as stumbling blocks to active participation in the procurement process.

The study noted that enterprises falling into the category of micro, small, medium and survivalist play a crucial role in generating employment opportunities and absorbing much of the labour that big business continually shed. It was noted that although big businesses grow in terms of revenue and profit, that growth is not necessarily translated into and/or suggest a noticable increase in employment. It is therefore of great concern to observe that black emerging entrepreneurs are sidelined by the procurement system of government. It is recommended that the following approach be adopted in finding a solution to procurement problems experienced in the black emerging enterprise sector.

4.2.2. LACK OF HUMAN CAPITAL

The findings of the study revealed a tendency amongst black entrepreneurs to tender as 100 percent black owned companies. The majority do not engage in partnership and joint-venture agreements for the purpose of increasing their competitiveness and addressing lack of skills which hinder their chances of winning government bids. Literature reveals a pattern amongst small and medium size enterprise to have as employee's members of the family and close associates or relatives. The field of operation of the Department and the work that it outsources is highly specialized. Members of the family may not possess specialized skills required to tender successfully for bids in specialized fields of study.

4.2.3. LACK OF ADMINISTRATIVE AND TECHNICAL SUPPORT

The findings of the study indicate crucial lack of administrative and technical support in all paperwork needed in submitting tenders documents. This shows that emerging entrepreneurs do not have the skills and administrative capacity to prepare paperwork required for competitive bidding.

4.3. RECOMMENDATIONS

The following recommendations are made on the bases of the finding presented above and in the previous chapters:

4.3.1 ESTABLISHMENT OF A DATABASE OF EMERGING ENTREPRENEURS

In order to improve the chances of black entrepreneurs winning tender bids, it is suggested that a database reflecting a profile of emerging entrepreneurs be created. The current Provincial Treasury Database of Suppliers maintained by the KwaZulu-Natal Treasury does not address the needs of black emerging entrepreneurs since it was created for a different purpose, that is, to provide a pool of suppliers regardless of size and nature, which government departments had to use to purchase or solicit products and services. A database on emerging black entrepreneurs will have to reflect their profiles. It is essential to determine who the real owner of a business is; qualifications; entrepreneurial training undertaken; skills gap; track record of a business in terms of activities or projects undertaken, etc.

Such information could among other things enable the Department and other Provincial government departments to establish the fields of specialization of emerging enterprises for the purposes of targeting them and the offering of appropriate tender advise and training. The database will also need to reflect the sector or industry in which the business operates. The information is essential to ensure that advise and training is given to help business owners to stay and grow within the sector or industry and learn competitive skills for survival within the industry. The study noted a tendency amongst black emerging entrepreneurs to operate across a number of sectors even though they were lacking training, skills and capacity to do so.

The database will also need to reflect the skills level of emerging entrepreneurs. The findings of the study revealed that black entrepreneurs lacked the skills of preparing proposals. It is essential that the database should reflect a record of businesses skills

acquired and those still lacking. The skills gap is obviously an area that training will have to focus on.

4.3.2. ESTABLISHMENT OF A TRAINING PROGRAMME

The findings of the study indicated the existence of problems associated with the failure to satisfy the administrative and technical requirements of tenders. The failure of emerging black entrepreneurs to compete with established businesses in this area reduces their chances of providing specialized services to government. A training programme is needed to assist prospective black tenders to understand the contents of all tender documents. It is not suffice for the Department to issue tender documents for completion by the tenderers. There is a need to understand the contents and the implication of the documents to be submitted. It should be noted that although a number of tender advice centers have been established across the province, it is apparent that these resources are not fruitfully utilized to improve the level of competitiveness of prospective black tenderers. It is essential for the Department to formulate a training programme based on the needs of prospective emerging entrepreneurs. The Department will have to form strong linkages with the Tender Advise Centers for the implementation of the programme.

4.3.2 CONTRACT BREAK-DOWN

The structural problem inhibiting access to the Department's procurement activities by emerging black entrepreneurs has been discussed. To improve the level of participation in the tender process, the Department could provide a break down of a tender, to create small units which could be outsourced to emerging enterprises.

4.3.4. MENTORING THROUGH PARTNERSHIP AND JOINT VENTURES

The findings of the study revealed that most of the black tenderers had never won any tender before. They also displayed a tendency to tender as black owned enterprises. It should be noted that the work outsourced by the Department is practical work, which is learnt during the process it is undertaken. Since one of the requirements of tenders is that service providers should have a track record on project facilitation and

implementation, it is certain that black emerging entrepreneurs will have limitations in the bidding process.

It is recommended that the Department should utilize the emerging entrepreneur database to establish linkages with big businesses, in the form of partnerships and joint ventures. Linkages will assist emerging entrepreneurs to establish occupational identity and enable them to permeate new fields through interacting with experienced and knowledgeable people.

4.3.5. SET-ASIDE BIDS

The contribution of small business enterprises in the economy has been alluded to. When compared with established business their labour absorption rate is high, labour unit costs are low, most of them use local or recycled material and on the whole play a vital role in providing solutions to government's concern about unemployment. The reasons mentioned above suggest that the Department should increase the competitive advantage of emerging entrepreneurs as bidders. This should take the form of providing set-aside bids to benefit emerging black entrepreneurs. It is recommended that the preferential Procurement Policy Framework Act be amended to include the provision of set aside contracts. This will help to increase the number of emerging entrepreneurs participating in the procurement process.

4.4. SUGGESTION FOR FURTHER RESEARCH

Because of the small size of the samples used the findings cannot be regarded as reflective of the entire population of emerging entrepreneurs. Further the study focused on bids issued by one government department in the Province of KwaZulu Natal. For that reason, the findings cannot be regarded as applicable or reflecting the situation in all government departments in KwaZulu-Natal. It is therefore suggested that a study be undertaken in future on the very same topic but should include a bigger sample of entrepreneurs; should analyze a bigger sample of tender document and should use a population all government departments in the Province of KwaZulu-Natal. Only then shall we be certain about the level of participation of black emerging entrepreneurs in the bid processes of the whole Provincial government.

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ANNEXURE

TENDER EVALUATION INSTRUMENT

AN INSTRUMENT TO ASSESS COMPLIANCE WITH TENDER REQUIREMENTS

Name of the business:.....

SECTION A

1. Status of database registration

1.1. Registered

1

1.2. Not registered

2

2. Compliance with Affirmative Action Requirement

2.1. 100% black owned

1

2.2. Joint venture

2

2.3. Established

3

2.4. No response

4

2.5. Other (preferential claim form not submitted)

5

3. Compliance with Budget limits

3.1. Within limit

1

3.2. Beyond limit

2

3.3. No response

3

3.4. Other (Tender Form not submitted)

4

4. Possession of relevant experience

4.1 Good

1

4.2. Medium (mediocre)

2

4.3. Poor

3

4.5. Other (proposal not submitted)

4

5. Capacity to execute the project

5.1. Good

1

5.2. Medium (mediocre)

2

5.3. Poor

3

5.4. Other (proposal not submitted)

4

6. Methodology

6.1. Good

1

6.2. Medium (mediocre)

2

6.3. Poor

3

4

6.4.Other (proposal not submitted)

7. Response to the brief

7.1.Good

7.2.Medium (mediocre)

7.3.Poor

7.4.Other (proposal not submitted)

1
2
3
4

SECTION B: OTHER ASSESSMENT CRITERIA

8. Tax Clearance certificate

8.1.Submitted

8.2.Not submitted

1
2

9. Tender application forms

9.1.Submitted

9.2.Not submitted

1
2

10. Proposal

10.1.Submitted

10.2.Not submitted

1
2

11. Preferential claim application

11.1.Submitted

11.2.Not submitted

1
2

QUESTIONNAIRE

AN INSTRUMENT DESIGNED TO DETERMINE THE PERCEPTION OF EMERGING BLACK ENTREPRENEURS ON THEIR ABILITY TO ACCESS GOVERNMENT TENDERS

SECTION 1: BUSINESS INFORMATION

1.1. Name of business.....

1.2. In what sector is your business e.g. services, agriculture, tourism,
etc.....

1.3. What is the status of your business ?

1.3.1. 100% black owned

1.3.2. Partnership

1.3.3. Other

1
2
3

SECTION 2: ACCESS TO TENDERS

2.1. How often do you tender for government work

2.1.1. Rarely

2.1.2. Often

2.1.3. Very often

1
2
3

2.2. Have you tendered for work in the private sector ?

2.2.1. Yes

2.2.2. No

1
2

3. If yes, how often do you tender for work in the private sector?

3.1. Rarely

3.2. Often

3.3. Very often

1
2
3

4. When you tender government work do you tender as a:

4.1. 100% black owned company

4.2. Joint venture

4.3. Partnership

4.4. Other

1
2
3
4

5. Have you ever been awarded tenders?

5.1. Yes

5.2. No

1
2

6. If yes what is it you think made your business win a tender. Was it compliance with.

6.1. Affirmative action requires

6.2. Database registration

6.3. Budget

6.4. Experience required

6.5. Required capacity to execute

6.6. Methodology required

6.7. Ability to respond to the brief

6.8. Tax clearance requirements

6.9. Other

1
2
3
4
5
6
7
8
9

7. If not, what is it you think made you fail to win tenders?

7.1. Lack of compliance with affirmative action required

1

7.2. Failure to register in the suppliers database

2

7.3. Failure to comply with budget requirements

3

7.4. Lack of capacity to execute

4

7.5. Lack of relevant experience

5

7.6. Poor methodology

6

7.7. Failure to respond appropriately to the brief

7

7.8. Inability to comply with clearance requirements

8

7.9. Other

9

8. Do you think government tenders are accessible to black emerging entrepreneurs

8.1. Yes

1

8.2. No

2

9.1. If yes what are your reasons

.....
.....
.....

9.2. If not what are your reasons?

.....
.....
.....

10. Have you ever undertaken training on how to tender for government work?

10.1. Yes

1

10.2. No

2

11. What would you like to see change in the tendering system?

.....

Thank you for your participation

11. What would you like to see change in the tendering system?

.....

Thank you for your participation

PROVINCE OF KWAZULU-NATAL

TENDER FORMS

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KWAZULU-NATAL PROCUREMENT OFFICE

SPECIAL INSTRUCTIONS TO TENDERERS REGARDING THE COMPLETION OF TENDER FORMS

1. Under no circumstances whatsoever may the tender forms be retyped or redrafted. Photocopies of the original tender documentation may be used, but original signature must be endorsed on such photocopies.
2. The tenderer is advised to check the number of pages and to satisfy himself/herself that none are missing or duplicated.
3. Tenders submitted must be complete in all respects.
4. Tenders shall be lodged at the address not later than the closing time specified for their receipt, and in accordance with the directives in the tender documents.
5. Each tender shall be addressed in accordance with the directives in the tender documents and shall be lodged in a separate sealed envelope, with the name and address of the Tenderer, the tender number and closing date indicated on the envelope. The envelope shall not contain documents relating to any tender other than that shown on the envelope. If this provision is not complied with, such tenders may be rejected as being invalid.
6. All tenders received in sealed envelopes with the relevant tender numbers on the envelopes are kept unopened in safe custody until the closing time of the tenders. Where, however, a tender is received open, it shall be sealed. If it is received without a tender number on the envelope, it shall be opened, the tender number ascertained, the envelope sealed and the tender number written on the envelope.
7. A specific box is provided for the receipt of tenders, and no tender found in any other box subsequent to the date of tender will be considered.
8. No tender sent through the post will be considered if it is received after the date of tender, and proof of posting will not be accepted as proof of delivery.
9. No tender submitted by telefax, telegraphic or other electronic means will be considered.
10. Tender documents must not be included in packages containing samples. Such tenders may be rejected as being invalid.
11. Any alteration made by the Tenderer must be initialed.

12. Tenders will be opened in public as soon as practicable after the closing.
13. Where practical, prices are made public at the time of opening tenders.
14. If it is desired to make more than one offer against any individual item, such offers should be given on a photocopy of the page in question. Clear indication thereof must be stated on the schedules attached.

REGISTRATION ON THE PROVINCIAL SUPPLIERS DATABASE

1. In terms of Treasury Practice Note No.2 of 2000, all suppliers of goods and services to the Province of KwaZulu-Natal are required to register on the Provincial Suppliers Database.
2. If you wish to apply for registration, forms may be downloaded from the website, <http://kzntreasury.kzntl.gov.za> or obtained by phoning the toll free number 0800201049. This number is also available for general enquiries relating to Provincial procurement.
3. The Treasury Practice Note No. 2 setting out the policy for registration, may also be obtained from the aforementioned website or telephone number.
4. If a business is registered on the Database and it is found subsequently that false or incorrect information has been supplied, then the Province may, without prejudice to any other legal rights or remedies it may have:
 - 4.1. de-register the supplier from the Database,
 - 4.2. cancel a tender or a contract awarded to such supplier,

and the supplier would become liable for any damages if a less favourable tender is accepted or less favourable arrangements are to be made.

5. The same measures as set out in 4.1. and 4.2. above are applicable should the supplier fail to request updating of its information on the Suppliers Database, relating to changed circumstances.

SUMMARY FOR TENDER OPENING PURPOSES ONLY
(To be completed by Tenderer)

CONTRACT NUMBER.....

**PREFERENCE POINTS CLAIMS IN TERMS OF THE KWAZULU-NATAL
PROCUREMENT REGULATION, 2001 (PREFERENCES ARE TO BE
CLAIMED AS INDICATED IN THE GENERAL CONDITIONS AND
PROCEDURES: PAGES 36 TO 38 FOR ANNEXURE A AND PAGES 38 TO 40
FOR ANNEXURE B)**

ANNEXURE A: POTENTIAL MAXIMUM=20 POINTS (*R500 000)

GOAL 1: ADVANCEMENT OF HDI's Maximum points=10

Table 1:

Table 2:

Table 3:

GOAL 2: SMME's Maximum points=5

GOAL 3: PRODUCTS TENDERED ARE SOUTH AFRICAN MANUFACTURED:
Maximum points=5

ANNEXURE B: POTENTIAL MAXIMUM=10 POINTS (* R500 000)

GOAL 1: ADVANCEMENT OF HDI's: Maximum points =5

Table 1:

Table 2:

Table 3:

GOAL 2: SMME's Maximum points=2.5.

GOAL 3: PRODUCT TENDERED ARE SOUTH AFRICAN MANUFACTURED,;
Maximum points=2.5.

TENDER PRICE: R.....

TIME FOR COMPLETION/DELIVERYcalendar days

HAVE ANY ALTERATIONS BEEN MADE? YES/NO (Delete whichever is not applicable)

HAS AN ALTERNATIVE TENDER BEEN SUBMITTED? YES/NO (Delete whichever is not applicable)

IF APPLICABLE: DID THE TENDERER ATTEND THE

OFFICIAL BRIEFING SESSION YES/NO (Delete whichever is not applicable)

NAME OF COMPANY:	SIGNATURE	DATE:
.....

In the event of any conflict between the given information above and the information in the Special Conditions of Tender and/or the Special Conditions of Contract and other relevant portions of the Procurement document, the given information in the Special Conditions of Tender and/or the Special Conditions of Contract and other relevant portions of the Procurement document shall apply.

TENDER FORM

1. I/We hereby tender to supply all or any of the supplies and/or to render all or the services described in the attached documents to the KwaZulu-Natal Provincial Administration/Parliament (hereinafter called the "Province") on the terms and conditions and in accordance with the specifications stipulated in the tender documents (and which shall be taken as part of and incorporated into this tender) at the prices and on the terms regarding time for delivery and/or execution inserted therein.

2. I/We agree that:

- (a) the offer herein shall remain binding upon me/us and open for acceptance by the Province during the validity period indicated and calculated from the closing time of the tender;
- (b) this tender and its acceptance shall be subject to the KwaZulu-Natal Procurement Act, 2001, the Procurement Regulations promulgated in terms of section 47 of the aforementioned Act and the terms and conditions contained in this Tender Document, with which I am/we are fully acquainted;
- (c) If I/we withdraw my/our tender within the period for which I/we have agreed that the tender shall remain open for acceptance, or fail to fulfill the contract when called upon to do so, the Province may, without prejudice to its other rights, agree to the withdrawal of my/our tender or cancel the contract that may have been entered into between me/us and the Province. I/we will then pay to the Province any additional expenses incurred by the Province having either to accept any less favourable tender or, if fresh tenders have to be invited, the additional expenditure incurred by the invitation of fresh tenders and by the subsequent acceptance of any less favourable tender. The Province shall have the right to recover such additional expenditure by set-off against monies which may be due to me/us under this or any other tender or contract or against any guarantee or deposit that may have been furnished by me/us or on my/our behalf for the due fulfillment of this or any other tender or contract and pending the ascertainment of the amount of such additional expenditure to retain such monies, guarantee or deposit as security for any loss the Province may sustain by reason of my/our default;

- (d) If my/our tender is accepted, the acceptance may be communicated to me/us by letter of ordinary post or registered post, and that the South African Post Office Limited shall be treated as delivery agent to me/us;
- (e) The law of the Republic of South Africa shall govern the contract created by the acceptance of my/our tender that I/we choose *domicilium et executandi* in the Republic at (full physical address):

.....

.....

3. I/We furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our tender: that the price(s), rate(s) and preference quoted cover all of the work/item(s) and my/our obligations under a resulting contract, and I/we accept that any mistakes regarding the price(s) and calculations will be at my/our risk.
4. I/We hereby accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me/us under this agreement, as the Principal(s) liable for the due fulfillment of this contract.
5. I/We agree that any action arising from this contract may in all respects be instituted against me/us and I/we hereby undertake to satisfy fully any sentence or judgement, which may be pronounced against me/us as a result of such action.
6. HAS THE "DECLARATION OF INTEREST" FORM BEEN DULY COMPLETED AND INCLUDED WITH THE OTHER TENDER FORMS? *YES/NO

7. CERTIFICATION OF CORRECTNESS OF INFORMATION SUPPLIED
IN THIS DOCUMENT

I/WE, THE UNDERSIGNED, WHO WARRANT THAT I/WE AM/ARE
DULY AUTHORISED TO DO SO ON BEHALF OF THE TENDERER,
CERTIFY THAT THE INFORMATION SUPPLIED IN TERMS OF
THIS DOCUMENT IS CORRECT AND TRUE, THAT THE
SIGNATORY TO THIS DOCUMENT IS DULY AUTHORISED AND
ACKNOWLEDGE THAT:

1. The tenderer will furnish documentary proof regarding any tendering issue
to the satisfaction of the Province, if requested to do so.
2. If the information supplied is found to be incorrect and/or false then the
Province, in addition to any remedies it may have, may:
 - 2.1. Recover from the contractor all costs, losses or damages incurred or
sustained by the Province as a result of the award of the contract,
and/or
 - 2.2. Cancel the contract and claim any damages, which the Province may
suffer by having to make less favourable arrangements after such
cancellation.

SIGNED ON THIS.....DAY OF.....AT.....

.....
SIGNATURE OF TENDERER
OR DULY AUTHORISED
REPRESENTATIVE

.....
NAME IN BLOCK LETTERS

ON BEHALF OF (TENDERERS NAME)

CAPACITY OF SIGNATORY

NAME OF CONTACT PERSON (IN BLOCK LETTERS,
PLEASE).....

.....
POSTAL ADDRESS:.....

TELEPHONE NUMBER:.....FAX NUMBER.....

CELLULAR PHONE NO.....

E-MAIL ADDRESS.....

DECLARATION OF GOOD STANDING REGARDING TAX

IT IS A CONDITION OF TENDER THAT:

1. The taxes of the successful tenderer **MUST** be in order, or that suitable arrangements must have been made with the Receiver of Revenue to satisfy them.
2. This form, Application for Tax Clearance Certificate (in respect of tenders), **MUST** be completed by the tenderer in all respects and submitted to the Receiver of Revenue where the tenderer is registered for income tax purposes. That Receiver of Revenue will then furnish the tenderer with a Tax clearance certificate that will be valid for 6 months from date of issue. This Tax Clearance Certificate must be submitted in the original with the tender that is before the closing time and date of the tender. Failure to submit an original and valid Tax Clearance Certificate **WILL** invalidates your tender.
3. Each party to a Consortium/Sub-contractor must complete a separate Tax Clearance Certificate. Copies of the application for Tax Clearance Certificate are available at any Receiver's Office.

DECLARATION TO BE MADE BY TENDERER

(This form is to be detached and submitted to the SARS for issuing of a Tax Clearance Certificate)

SOUTH AFRICAN REVENUE SERVICE	
DECLARATION OF GOOD STANDING REGARDING TAX	
PARTICULARS	
1. NAME OF TAXPAYER/TENDERER	
2. TRADE NAME:	
3. IDENTIFICATION NO. (if applicable)	
4. COMPANY/CLOSE CORPORATION REGISTRATION NO.	
5. INCOME TAX REFERENCE NO.	
6. VAT REGISTRATION NO. (if applicable)	
7. PAYE EMPLOYER'S REGISTRATION NO. (if applicable)	
NAME:	
TELEPHONE NUMBER:	
ADDRESS:	
DATE:	

PLEASE NOTE THAT THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE (SARS) WILL NOT EXERCISE HIS DISCRETIONARY POWERS IN FAVOUR OF ANY PERSON WITH REGARD TO ANY INTEREST, PENALTIES AND/OR ADDITIONAL TAX LEVIABLE DUE TO THE LATE-OR UNDERPAYMENT OF TAXES, DUTIES OR LEVIES OR THE RENDITION OF RETURNS BY ANY PERSON AS A RESULT OF ANY SYSTEM NOT BEING YEAR 2000 COMPLIANT

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the Province, or persons who act on behalf of the Province of persons having a kinship with persons employed by the Province, including a blood relationship, may make an offer or offers in terms of this tender invitation. In view of the possible allegations of favouritism, should the resulting tender, or part thereof, be awarded to persons employed by the Province, or to persons who act on behalf of the Province, or to persons connected with or related to them, it is required that the TENDERER or his/her/their position vis-à-vis the evaluating authority and/or take an oath declaring his/her/their interest, where
 - 1.1. the tenderer is employed by the Province or acts on behalf of the Province; and/or
 - 1.2. the legal person on whose behalf the tender document is signed, has a relationship with a person/persons who are involved with the evaluation of the tender(s), or where it is known that such a relationship exists between the person or persons for whom or on whose behalf the declarant acts and persons who are involved with the evaluation of the tender.

IN ORDER TO GIVE EFFECT TO THE ABOVE, THE FOLLOWING QUESTIONNAIRE SHALL BE COMPLETED AND SUBMITTED WITH THE TENDER:

2. Are you or any person connected with the tender employed by the Province? *
*YES/NO
 - 2.1. If “YES”, state particulars:.....
.....

3. Do you or any person connected with the tender aware of any relationship (family, friend, other) with a person employed by the Province, concerned with the Central Procurement Administration Office and who may be involved with the evaluation or adjudication of this tender?

*YES/NO

3.1. If “YES”, state particulars:.....
.....

4. Are you or any person connected with the tender aware of any relationship (family, friend, other) between another tenderer any person employed by the Province, concerned with the Central Procurement Committee or the Procurement Administration Office, who may be involved with the evaluation or adjudication of this tender?

*YES/NO

4.1. If “YES”, state particulars:
.....

.....
SIGNATURE OF DECLARANT TENDER NUMBER DATE

.....
POSITION OF DECLARANT NAME OF TENDERER

*Encircle whichever is applicable, please.

SITE INSPECTION CERTIFICATE

Site/building/institution involved:

Tender No:.....

Service:.....

THIS IS TO CERTIFY THAT.....OF (STATE NAME OF
TENDERER).....

.....

VISITED AND INSPECTED THE SITE ON.....(DATE)

AND IS THEREFORE FAMILIAR WITH THE CIRCUMSTANCES AND THE
SCOPE OF THE SERVICE TO BE RENDERED.

.....
(SIGNATURE OF TENDERER OR AUTHORISED REPRESENTATIVE)

DATE:.....

N.B. THIS FORM IS ONLY TO BE COMPLETED WHEN APPLICABLE TO THE
TENDER.

AUTHORITY TO SIGN A TENDER

A.COMPANIES

If a Tenderer is a company, a certified copy of the resolution by the board of directors, personally signed by the chairman of the board, authorizing the person who signs this tender to do so, as well as to sign any contract resulting from this tender and any other documents and correspondence in connection with this tender and/or contract on behalf of the company must be submitted with this tender.

AUTHORITY BY BOARD OF DIRECTORS

Resolution passed by the Board of Directors on.....200....., Mr/ Mrs.....has been duly authorized to sign all documents in connection with tender/contract on behalf of.....

.....

SIGNED ON BEHALF OF COMPANY:.....

IN HIS/HER CAPACITY:.....

SIGNATURE OF SIGNATORY:.....

WITNESSES: 1

2.

B.PARTNERSHIP

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner	Residential address	Signature
.....
.....
.....
.....

We, the undersigned partners in the business trading as.....

.....
 hereby authorize.....

to sign this tender as well as any contract resulting from the tender and any other documents and correspondence in connection with this tender and/or contract on behalf of

.....
SIGNATURE	SIGNATURE	SIGNATURE

C SOLE PROPRIETOR (ONE-MAN BUSINESS)

I, the
 undersigned..... hereby
 confirm that I am the sole owner of the business trading as

.....

.....
SIGNATURE	DATE

D. CLOSE CORPORATION

In this case of a close corporation submitting a tender, a certified copy of the Founding Statement of such corporation shall be included with the tender, together with the resolution by its members authorizing a member or other official of the corporation to sign the documents on their behalf.

By resolution of members at a meeting on.....200.....
At.....Mr/Ms....., whose signature
appears below, has been authorized to sign all documents in connection with
this tender on behalf of

SIGNED ON BEHALF OF CLOSE CORPORATION

.....
IN HIS/HER CAPACITY AS

.....

DATE.....

SIGNATURE OF SIGNATORY.....

WITNESSES: 1

2

SCHEDULE OF VARIATIONS FROM GOODS OR SERVICES INFORMATION

Should the Tenderer wish to make any departure from or modifications in the Special Conditions of Contract, Specifications, Schedule list of Prices/Quantities/Drawings or to qualify his tender in any way, he/she shall indicate his/her proposals clearly hereunder or alternatively make photocopies of the original tender documentation and referred-to hereunder.

SECTION	PAGE	VARIATION: CLAUSE OR ITEM

SIGNATURE OF TENDERER:

DATE:

SCHEDULE OF ALTERNATIVE TENDERS

On condition that the Tenderer also submits a tender strictly in accordance with the tender documents, consideration will be given to alternative offers which he may wish to submit. Such offers shall be described, measured and priced in sufficient detail to enable the Province to evaluate the alternative. He/she shall set out his/her proposal clearly hereunder or alternatively make photocopies of the original tender documentation and referred-to hereunder.

SECTION	PAGE	ITEM

SIGNATURE:

DATE:

**APPLICATION FOR PREFERENCE POINTS
(ZNT 30)**

KwaZulu-Natal

**THIS FORM MUST BE COMPLETED AND SUBMITTED TOGETHER
WITH YOUR TENDER OR QUOTATION**

ENQUIRIES:

Toll free-0800201 049 / Tel. (033) 8974378/8974508/8974509
Tel: 033-897 4243, Fax: 033-897 4217 (Pietermaritzburg)

September 2002

FOR INFORMATION ONLY

Primary Definitions:

- **“Affirmable Business Enterprises”** (ABE) is a business which adheres to statutory labour practices, is a legal entity registered with the South African Revenue Service and a continuing and Independent Enterprises for profit, providing a Commercially Useful Function and whose management and daily business operations are in the control of one or more of the Historically Disadvantaged Individuals who own it.

Supplementary Definitions:

- **Affiliated Entity** is a business entity, which has control of, or the power to control another business entity, albeit indirectly, eg where a third person has control of or has the power to control both entities. Indicators of control shall, without limitation, include interlocking management or ownership, identity of interests among family members, shared facilities and equipment or common use of employees.

NOTE: In order to prevent ABE's from breaking themselves down into smaller entities so as to keep within the prescribed turnover limits and in so doing maintain their ABE status, the annual average turnover of Affiliated Businesses must be considered. A business will be deemed to be an affiliated entity should be ABE under consideration have a 50% or more ownership in such an enterprise, or a HDI who has ownership of 33% or more within the ABE under consideration, also have an ownership of 33% or more in the other entity.

- **“Commercially Useful Function”** refers to the performance of real and actual work, or the provision of services, in the discharge of any contractual obligation, which shall include but not be limited to the performance of a distinct element of work, which the business has the skill and expertise to undertake and the responsibility for management and supervision.
- **“Control”** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual, or a sensory function, which results in restricted, or lack of ability to perform an activity in the manner, or within the range, considered normal for a human being.

- **“Executive Director”** is a partner in a partnership, a sole proprietor, a director of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) or a member of a close corporation registered in terms of the Close Corporation Act, who jointly and severally with his other partners, co-directors or co-members, as the case may be, bears the risk of business and takes responsibility for the management and liabilities of the partnership company or close corporation.
- **Historically Disadvantaged Individuals (HDI)** means a South African citizen:
 - (i) Who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No.110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No.200 of 1993) (the interim Constitution); and/or
 - (ii) who is a female; and/or
 - (iii) who has a disability

provided that a person who obtained South African citizenship on or after (27 April 1994) the coming into effect of the Interim Constitution is deemed not to be an HDI.

(Independent Enterprise) means an enterprise, which is free of any degree of direct or indirect ownership or control by any firm, which engages in activities similar to those in respect of which credit toward the Contract Participation Goal is sought, or by any Executive Director of such a firm, who is not a Historically Disadvantaged Individual.

NOTE: Any enterprise whose owners include firms, which engage in the majority of activities that are performed, by that enterprise cannot claim Affirmable Business Enterprise status. Likewise, any enterprise, which has any non HDI Executive Directors who have interests in such firms, cannot claim Affirmable Business Enterprise status.

- **“Priority Population Groups (PPG)”** means Historically Disadvantaged Individuals who fall into population groups that were not offered a franchise in national elections before or after the introduction of the 1984 tricameral parliamentary system and only received their franchise during 1994.
- **“small business”** means a separate and distinct business entity, including co-operative enterprises and non-governmental organizations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or subsector of the economy mentioned in column 1 of the schedule and which can be classified as a micro, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns

3,4 and 5 of the schedule opposite the smallest relevant size or class as mentioned in column 2 of the schedule.

- **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer that property for the benefit of another person (beneficiary).
- **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for the property to be administered for the benefit of another person (beneficiary).

INTRODUCTION AND GUIDELINES

The ZNT 30 was specifically designed to provide for the application for preference points. In order to ensure that tenderers/suppliers are considered as legitimate tenderers/suppliers, it is imperative that the following guidelines are adhered to.

- **APPLICANTS ARE TO COMPLETE PAGES 5 TO 8, WHERE APPLICABLE. FAILURE BY AN APPLICANT TENDERER/SUPPLIER TO PROVIDE ALL RELEVANT INFORMATION REQUIRED, WILL RESULT IN SUCH A TENDERER/ SUPPLIER NOT BEING CONSIDERED FOR PREFERENCE POINTS ALLOCATION. IF THE INFORMATION REQUIRED IS NOT APPLICABLE TO YOUR BUSINESS, CLEARLY INSERT THE SYMBOLS “N/A” IN THE APPROPRIATE SPACE. IF THE SPACE PROVIDED IS LEFT BLANK, IT WILL BE REGARDED, AS INFORMATION THAT IS STILL OUTSTANDING AND THE ZNT 30 WILL NOT BE PROCESSED FURTHER.**
- Applicants are advised that only original ZNT 30, or PHOTOSTAT copies thereof, will be processed. Any document that has been retyped or redrafted will be disregarded.
- It is imperative that only documents with an original signature be submitted. No photocopies or fax transmissions will be accepted, if they do not bear the original signature/s.
- All signatures to the document must be commissioned by an authorized Commissioner of Oaths. Failure to do so will result in the applicant not qualifying for preference points.
- All terms contained herein shall be interpreted in terms of the KwaZulu-Natal Procurement Act of 2001 and the KwaZulu-Natal Procurement Regulations of 2001.
- This document remains valid for a period of one hundred and eighty (180) days only, calculated from the date of signature on page 8 hereof.

- Tenderers/Suppliers providing information incorrectly or fraudulently in their ZNT 30 submitted for the purpose of preference points, will be disqualified from tendering and removed from the Suppliers Database, in addition to any other action the Province may institute against such a supplier. Further, in the event of the Province being prejudiced financially, it reserves the right to take legal action against the tenderer/supplier.
- For definitions of terminology used in this document, please refer to the definitions set out in regulation 1 of the Procurement Regulations, 2001, obtainable from the Procurement Administration Office.
- Any alterations made by the tenderer must be initialed. The use of correcting fluid is prohibited, and may lead to non-awarding of preference points.
- Submission of a duly signed ZNT 30 indicates that a tenderer/supplier has adequately familiarized himself/herself with the contents and the legal implications thereof. Because tenderer/suppliers are accordingly liable for all information submitted on a ZNT 30, they are urged to seek legal advice where there is uncertainty relating to the terms and conditions contained therein.

APPLICATION FOR PREFERENCE POINTS

(The following information must be filled in by the applicant. Failure to submit all the required information may lead to non-awarding or preference points)

1. BUSINESS PARTICULARS

1.1. Name of business:.....

1.2. Suppliers Database Registration Number:.....

1.3. Postal address:.....

.....

Physical address:.....

.....

Telephone no.:.....Fax no.....

Cell No.....

E-mail address, if available:.....

1.4. Contact person (Print Name).....

1.5. Physical location of Head Office (if applicable).....

.....

.....

2. BUSINESS INFORMATION

THE FOLLOWING TABLE MUST BE COMPLETED IN ORDER TO ESTABLISH WHETHER A BUSINESS CAN BE CLASSIFIED AS AN SMME IN TERMS OF THE NATIONAL SMALL BUSINESS ACT 102 OF 1996. INDICATE THE SECTOR BY TICKING THE APPROPRIATE BLOCK IN COLUMN 2 AND THEN TICK THE CORRESPONDING INFORMATION BLOCKS IN COLUMNS 3,4 AND 5

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Sector or sub-sectors in accordance with the Standard Industrial Council	TICK WHERE APPLICABLE	Total full time equivalent of paid employees	Total annual turnover Less than	Total gross asset value (fixed property excluded) Less than
Agriculture		MORE THAN 100	MORE THAN R4.00M	MORE THAN R4.00M
		LESS THAN 100	LESS THAN R4.00M	LESS THAN R4.00M
Hiring and Quarrying		MORE THAN 200	MORE THAN R30.00M	MORE THAN R18.00M
		LESS THAN 200	LESS THAN R30.00M	LESS THAN R18.00M
Electricity, Gas and Water		MORE THAN 200	MORE THAN R40.00M	MORE THAN R15.00M
		LESS THAN 200	LESS THAN R40.00M	LESS THAN R15.00M
Construction		MORE THAN R200	MORE THAN R20.00M	MORE THAN R4.00M
		LESS THAN 200	LESS THAN R20.00M	LESS THAN R4.00M
Retail and Motor Trade and Repair Services		LESS THAN 100	MORE THAN R30.00M	MORE THAN R5.00M
		LESS THAN 100	LESS THAN R30.00M	LESS THAN R5.00M
Wholesale Trade, Commercial Agents and Allied Services		MORE THAN 100	MORE THAN R50.00M	MORE THAN R8.00M
		LESS THAN 100	LESS THAN R50.00M	LESS THAN R8.00M
Catering, Accommodation and other Trade		MORE THAN 100	MORE THAN R10.00M	MORE THAN R2.00M
		LESS THAN 100	LESS THAN R10.00M	LESS THAN R2.00M
Transport, Storage and Communications		MORE THAN 100	MORE THAN R20.00M	MORE THAN R5.00M
		LESS THAN 100	LESS THAN R20.00M	LESS THAN R5.00M
Finance and Business Services		MORE THAN 100	MORE THAN R20.00M	MORE THAN R4.00M
		LESS THAN 100	LESS THAN R20.00M	LESS THAN R4.00M
Community, Social and Personal Services		MORE THAN 100	MORE THAN R10.00M	MORE THAN R5.00M
		LESS THAN 100	LESS THAN R10.00M	LESS THAN R5.00M

OWNERS/SHAREHOLDERS/PARTNERS/SOLE PROPRIETORS/TRUSTEES/BENEFICIARIES

- 3.1. List all persons who are OWNERS, PARTNERS, SOLE PROPRIETORS, TRUSTEES AND BENEFICIARIES (whichever is/are applicable) in the business/trust who are actively involved in the management thereof and who exercise control over the business/trust commensurate with their degree of ownership/interest.
- 3.2. **PROOF OF DISABILITY PROVIDED BY A RECOGNISED RELATED INSTITUTION IN THE CASE OF HANDICAPPED PERSONS. MUST BE SUPPLIED.**
- 3.3. If insufficient space, kindly attaches a copy/copies of this page to this ZNT 30, signed by the same person who signs on behalf of the business/trust on page 8 hereof.

[illegible]

CERTIFICATION OF CORRECTNESS OF INFORMATION SUPPLIED IN THIS DOCUMENT RELATING TO PREFERENCES THAT THE APPLICANT (BUSINESS) MAY APPLY FOR

I/WE, THE UNDERSIGNED, WHO WARRANTS THAT HE/SHE IS DULY AUTHORISED TO DO SO ON BEHALF OF THE TENDERER/SUPPLIER, CERTIFIES THAT THE INFORMATION SUPPLIED IN TERMS OF THIS DOCUMENT (ZNT 30) INCLUDING THE ANNEXURE/S WITH ADDITIONAL INFORMATION, IS CORRECT AND ACCURATE AND ACKNOWLEDGES THAT:

1. The tenderer/supplier will be required to furnish documentary proof of the information relating to preferences, if requested to do so.
2. If the information supplied is found to be incorrect then the Province may, in addition to any remedies it may have:
 - (i) Disqualify the tenderer/supplier/contractor for a particular tender/contract/project it may be considered for, or which had been awarded to the supplier/contractor,
 - (ii) Recover from the tenderer/supplier/contractor all costs, losses or damages incurred or sustained by the Province as a result of the award of a contract,
 - (iii) Cancel the contract and claim any damages which the Province may suffer by having to make less favourable arrangements after such cancellation; and/or
 - (iv) De-register the supplier registered on the Suppliers Database.

SIGNED ON THIS.....DAY OF.....20.....AT.....

BEFORE, THE COMMISSIONER OF OATHS

.....
SIGNATURE OF TENDERER/SUPPLIER
OF DULY AUTHORISED
REPRESENTATIVE ON BEHALF OF
(TENDERER/SUPPLIER'S NAME).....

.....
NAME IN BLOCK LETTERS

* Signed and affirmed, before me at.....on this.....day of.....year....., by the deponent who has acknowledged that he/she knows and understands, the contents of this document, and he/she has acknowledged that he/she has no objection to affirming, that he/she regards the affirmation to be binding on his/her conscience. **NB: Kindly initial each page in confirmation that the deponent understands the contents of the document and affirms that the information supplied is true and correct.**

.....
COMMISSIONER OF OATHS

FULL NAME:.....

BUSINESS ADDRESS:.....

.....

CAPACITY:.....**AREA:**.....

CRITERIA UTILISED FOR THE AWARDING OF PREFERENCE POINTS
(Attached to the ZNT30 for Information purposes only)

ANNEXURE 1.1

1. APPLICATION OF PREFERENCE POINTS FOR
TENDERS/PROCUREMENT WITH A RAND VALUE EQUAL
TO OR ABOVE R30 000 AND UP TO A VALUE OF R500 000

2. PREFERENCE POINTS ARE CALCULATED AS FOLLOWS:

- Goal 1:
- a) Preference points may be allocated to an HDI, with reference to Tables 1,2 and 3 below.
 - b) The percentage of HDI equity ownership referred to in Table 1 must be determined in relation to total equity ownership of the tenderer under regulation 1 (j)(i) of the Procurement Regulations and with reference to Table 1 Preference points applicable must then be determined.
 - c) The percentage of HDI equity ownership referred to in Table 2, which is not covered by Table 1, must be determined in relation to total equity ownership of the tenderer under regulation 1 (j)(ii) of the Procurement Regulations and with reference to Table 2 preference points applicable must then be determined.
 - d) The percentage of HDI equity ownership referred to in Table 3, which is not covered by Tables 1 and 2, must be determined in relation to total equity ownership of the tenderer under regulation 1 (j)(iii) of the Procurement Regulations and with reference to Table 3. Preference points applicable must then be determined.
 - e) Add the preference points obtained by following procedures (b), (c) and (d) above, together, to obtain the total preference points in respect of HDI equity ownership.

Goal 2: If the tenderer is an SMME, 5 points must be allocated.

Goal 3: If the products tendered are South African manufactured, 5 points must be allocated.

Add the preference points allocated under Goals 1,2 and 3 together, to obtain the total number of preference points to be awarded, with 20 points being the maximum that may be obtained.

Example:	A tenderer has the following composition of equity ownership:		
20%	Males referred to in regulation 1(j)(i)		
40%	Females referred to in regulation 1(j)(i)		
30%	Females with a disability not covered by regulation 1(j)(i)		
<u>10%</u>	Males not covered by regulation 1(j) (i) or 1(j)(iii)		
<u>100%</u>	Total		
Apply Table 1:	20% +40%=60%	=6 points	
Table 2:	30%	=3 points	
Table 3:	0%	=0 points	
		<u>=9 points</u>	

PREFERENCE POINTS THAT MAY BE ALLOCATED: POTENTIAL MAXIMUM=20

Goal 1: Advancement of HDI's=maximum of 10 points

Table 1

Percentage of equity ownership of HDI's referred to in regulation 1(j)(i)

	Points allocated
More than 0% up to 10%	1
More than 10% up to 20%	2
More than 20% up to 30%	3
More than 30% up to 40%	4
More than 40% up to 50%	5
More than 50% up to 60%	6
More than 60% up to 70%	7
More than 70% up to 80%	8
More than 80% up to 90%	9
More than 90% up to 100%	10

Table 2

Percentage of equity ownership of HDI's referred to in regulation 1(j)(ii)

	Points allocated
More than 0% up to 10%	1
More than 10% up to 20%	2
More than 20% up to 30%	3
More than 30% up to 40%	4
More than 40% up to 50%	5
More than 50% up to 60%	6
More than 60% up to 70%	7
More than 70% up to 80%	8
More than 80% up to 90%	9
More than 90% up to 100%	10

Table 3

Percentage of equity ownership of HDI's referred to in regulation 1(j)(iii)

	Points allocated
More than 0% up to 10%	1
More than 10% up to 20%	2
More than 20% up to 30%	3
More than 30% up to 40%	4
More than 40% up to 50%	5
More than 50% up to 60%	6
More than 60% up to 70%	7
More than 70% up to 80%	8
More than 80% up to 90%	9
More than 90% up to 100%	10

Goal 2: Promotion of SMME's =5 points

Goal 3: South African Manufactured=5 points

APPLICATION OF PREFERENCE POINTS FOR TENDER/PROCUREMENT WITH A RAND VALUE ABOVE R500 000

2. PREFERENCE POINTS ARE CALCULATED AS FOLLOWS:

- Goal 1
- a) Preference points may be allocated to an HDI, with reference to Tables 1,2 and 3 below.
 - b) The percentage of HDI equity ownership referred to in Table 1 must be determined in relation to total equity ownership of the tenderer under regulation 1(j)(i) of the Procurement Regulations and with reference to Table 1. Preference points applicable must then be determined.
 - c) The percentage of HDI equity ownership referred to in Table 2, which is not covered by Table 1, must be determined in relation to total equity ownership of the tenderer under regulation 1(j)(ii) of the Procurement Regulations and with reference to Table. Preference points applicable must then be determined.
 - d) The percentage of HDI equity ownership referred to in Table 3, which is not covered by Tables 1 and 2, must be determined in relation to total equity ownership of the tenderer under regulation 1(j)(iii) of the Procurement Regulations and with reference to Table 3. Preference points applicable must then be determined.

- e) Add the preference points obtained by following procedures (b), (c) and (d) above, together, to obtain the total preference points in respect of HDI equity ownership.

Goal 2: If the tenderer is an SMME, 2.5 points must be allocated.

Goal 3: If the products tendered are South African manufactured, 2.5 points must be allocated.

Add the preference points under Goals 1, 2 and 3 together, to obtain the total number of preference points to be awarded, with 10 points being the maximum that may be obtained.

Example: A tenderer has the following composition of equity ownership:

20%	Males referred to in regulation 1(j)(i)
40%	Females referred to in regulation 1(j)(i)
30%	Females with a disability not covered by regulation 1(j)(i)
<u>10%</u>	Males not covered by regulation 1(j)(i) or 1(j)(iii)
<u>100%</u>	Total

Apply Table 1:	20%+40%=60%	=3 points
Table 2:	30%	=1,5 points
Table 3:	0%	= <u>0 points</u>
		=4.5 points

PREFERENCE POINTS THAT MAY BE ALLOCATED: POTENTIAL MAXIMUM=10

Table 1

Percentage of equity ownership of HDI's referred to in regulation 1(j)(i)

	Points allocated
More than 0% up to 10%	0,5
More than 10% up to 20%	1
More than 20% up to 30%	1.5
More than 30% up to 40%	2
More than 40% up to 50%	2.5
More than 50% up to 60%	3
More than 60% up to 70%	3.5
More than 70% up to 80%	4
More than 80% up to 90%	4.5
More than 90% up to 100%	5

Table 2

Percentage of equity ownership of HDI's referred to in regulation 1(j)(ii)

	Points allocated
More than 0% up to 10%	0,5
More than 10% up to 20%	1
More than 20% up to 30%	1.5
More than 30% up to 40%	2
More than 40% up to 50%	2.5
More than 50% up to 60%	3
More than 60% up to 70%	3.5
More than 70% up to 80%	4
More than 80% up to 90%	4.5
More than 90% up to 100%	5

Table 3

Percentage of equity ownership of HDI's referred to in regulation 1(j)(iii)

	Points allocated
More than 0% up to 10%	0,5
More than 10% up to 20%	1
More than 20% up to 30%	1.5
More than 30% up to 40%	2
More than 40% up to 50%	2.5
More than 50% up to 60%	3
More than 60% up to 70%	3.5
More than 70% up to 80%	4
More than 80% up to 90%	4.5
More than 90% up to 100%	5

Goal 2: Promotion of SMME;s=2.5 points

Goal 3: South African Manufacture=2.5 points

**APPLICATION FOR REGISTRATION (ZNT 31)
PROVINCIAL SUPPLIERS DATABASE
KwaZulu-Natal**

THESE FORMS MUST BE COMPLETED AND SUBMITTED TO

**PROCUREMENT ADMINISTRATION OFFICE
GROUND FLOOR
TREASURY HOUSE (NBS BUILDING)
145 COMMERCIAL ROAD (cnr.Church St. & Commercial Rd)
PIETERMARITZBURG**

OR POSTED TO:

**PROCUREMENT ADMINISTRATION OFFICE
PRIVATE BAG X 9082
PIETERMARITZBURG
3200**

ENQUIRIES:

Toll free-0800201049/Tel. (033) 8974378/8974378/8974509
Tel: 033-897 4200, Fax: 033-897 4217 (Pietermaritzburg)

FOR OFFICIAL PURPOSES ONLY

NAME OF SUPPLIER:.....
REGISTRATION NUMBER:.....
PREFERENCE ALLOCATION:..... (excl. S.A. Manufactured)

FOR INFORMATION ONLY

Primary Definitions:

- **“Affirmable Business Enterprises”** a business which adheres to statutory labour practices, is a legal entity registered with the South African Revenue Service and a continuing and Independent Enterprises for profit, providing a Commercially Useful Function and whose management and daily business operations are in the control of one or more of the Historically Disadvantaged Individuals who own it.

Supplementary Definitions:

- **Affiliated Entity** is a business entity, which has control of, or the power to control another business entity, albeit indirectly, eg where a third person has control of or has the power to control both entities. Indicators of control shall, without limitation, include interlocking management or ownership, identity of interests among family members, shared facilities and equipment or common use of employees.

NOTE: In order to prevent ABE's from breaking themselves down into smaller entities so as to keep within the prescribed turnover limits and in so doing maintain their ABE status, the annual average turnover of Affiliated Businesses must be considered. A business will be deemed to be an affiliated entity should be ABE under consideration have a 50% or more ownership in such an enterprise, or a HDI who has ownership of 33% or more within the ABE under consideration, also have an ownership of 33% or more in the other entity.

- **“Commercially Useful Function”** refers to the performance of real and actual work, or the provision of services, in the discharge of any contractual obligation, which shall include but not be limited to the performance of a distinct element of work, which the business has the skill and expertise to undertake and the responsibility for management and supervision.
- **“Control”** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual, or a sensory function, which results in

restricted, or lack of ability to perform an activity in the manner, or within the range, considered normal for a human being.

- **“Executive Director”** is a partner in a partnership, a sole proprietor, a director of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) or a member of a close corporation registered in terms of the Close Corporation Act, who jointly and severally with his other partners, co-directors or co-members, as the case may be, bears the risk of business and takes responsibility for the management and liabilities of the partnership company or close corporation.
- **Historically Disadvantaged Individuals (HDI)** means a South African citizen:
 - (i) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No.110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No.200 of 1993) (the interim Constitution); and/or
 - (ii) who is a female; and/or
 - (iii) who has a disability

provided that a person who obtained South African citizenship on or after (27 April 1994) the coming into effect of the Interim Constitution, is deemed not to be an HDI.

(Independent Enterprise) means an enterprise, which is free of any degree of direct or indirect ownership or control by any firm, which engages in activities similar to those in respect of which credit toward the Contract Participation Goal is sought, or by any Executive Director of such a firm, who is not a Historically Disadvantaged Individual.

NOTE: Any enterprise whose owners include firms which engage in the majority of activities that are performed by that enterprise cannot claim Affirmable Business Enterprise status. Likewise, any enterprise which has any non HDI Executive Directors who have interests in such firms cannot claim Affirmable Business Enterprise status.

- **“Priority Population Groups (PPG)”** means Historically Disadvantaged Individuals who fall into population groups that were not offered a franchise in national elections before or after the introduction of the 1984 tricameral parliamentary system and only received their franchise during 1994.
- **“small business”** means a separate and distinct business entity, including co-operative enterprises and non-governmental organizations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any

sector or subsector of the economy mentioned in column 1 of the schedule and which can be classified as a micro, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3,4 and 5 of the schedule opposite the smallest relevant size or class as mentioned in column 2 of the schedule.

- **“Trust,”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer that property for the benefit of another person (beneficiary).
- **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for the property to be administered for the benefit of another person (beneficiary).

INTRODUCTION AND GUIDELINES

The ZNT 31 was specifically designed to provide for the registration of suppliers on the Provincial Suppliers Database. In order to ensure that suppliers are considered as legitimate tenderers, it is imperative that the following guidelines are adhered to.

- Applicants are advised to read the Guide to the Provincial Suppliers Database (ZNT 32) before completing the ZNT 31, so as to ensure full compliance with the conditions contained therein. This documents serves as an explanation of the purpose and process to be followed in respect of the ZNT 31.
- **APPLICANTS ARE TO COMPLETE PAGES 5 TO 12, WHERE APPLICABLE. FAILURE BY AN APPLICANT TENDERER/SUPPLIER TO PROVIDE ALL RELEVANT INFORMATION REQUIRED, WILL RESULT IN SUCH A TENDERER/ SUPPLIER NOT BEING CONSIDERED FOR PREFERENCE POINTS ALLOCATION. IF THE INFORMATION REQUIRED IS NOT APPLICABLE TO YOUR BUSINESS, CLEARLY INSERT THE SYMBOLS “N/A” IN THE APPROPRIATE SPACE. IF THE SPACE PROVIDED IS LEFT BLANK, IT WILL BE REGARDED AS INFORMATION THAT IS STILL OUTSTANDING AND THE ZNT 31 WILL NOT BE PROCESSED FURTHER.**
- Applicants are advised that only original ZNT 31, or PHOTOSTAT copies thereof, will be processed. Any document that has been retyped or redrafted will be disregarded and returned to the applicant.
- It is imperative that only documents with an original signature be submitted. No photocopies or fax transmissions will be accepted, if they do not bear the original signature/s.
- All signatures to the document must be commissioned by an authorized Commissioner of Oaths. Failure to do so will result in the applicant not qualifying for preference points.

- All terms contained herein shall be interpreted in terms of the KwaZulu-Natal Procurement Act of 2001 and the KwaZulu-Natal Procurement Regulations of 2001.
- A supplier registered on the Suppliers Database MUST notify the Procurement Administration Office of any changes to information provided in the initial ZNT 31 completed by the supplier, when it originally applied for registration on the Suppliers Database. Failure to do so may result in such a supplier being removed from the Suppliers Database and/or the cancellation of contracts awarded to the supplier, on the basis of misrepresentation.
- Suppliers providing information incorrectly or fraudulently in their ZNT 31 submitted for the purpose of registration, will be disqualified from tendering and removed from the Suppliers Database, in addition to any other action the Province may institute against such a supplier. Further, in the event of the Province being prejudiced financially, it reserves the right to take legal action against the supplier.
- For definitions of terminology used in this document, please refer to the definitions set out in regulation 1 of the Procurement Regulations, 2001, obtainable from the Procurement Administration Office.
- Any alterations made by the tenderer must be initialed. The use of correcting fluid is prohibited, and may lead to non-awarding of preference points.
- Submission of a duly signed ZNT 31 indicates that a tenderer/supplier has adequately familiarized himself/herself with the contents and the legal implications thereof. Because tenderer/suppliers are accordingly liable for all information submitted on a ZNT 31, they are urged to seek legal advice where there is uncertainty relating to the terms and conditions contained therein.

APPLICATION FOR PREFERENCE POINTS

Provincial Suppliers Database

(The following information must be filled in by the applicant. Failure to submit all the required information may lead to non-registration of the applicant business)

1. **BUSINESS PARTICULARS**

1.1. Name of business:.....

1.2. Postal address:.....

.....

Physical address:.....

.....

Telephone no.:.....Fax no.....

Cell No.....

E-mail address, if available:.....

1.3. Contact person (Print Name).....

1.4. Physical location of Head Office (if applicable).....

.....

.....

1.5. Unemployment Insurance Fund no. (if applicable):.....

1.6. Compensation Commissioner registration no. (if applicable):.....

1.7. Income Tax Reference Number:.....

N.B. *Insert personal income tax no. if a one person business (sole Tender) and Personal Income Tax Numbers of all partners in a partnership.

1.8. P.A.Y.E. (if applicable):.....

N.B. COPIES OF REGISTRATION CERTIFICATES FOR 1.5 TO 1.8 MUST BE SUPPLIED (If you cannot provide these certificates, please provide an explanation)

2.1. **FINANCIAL DETAILS (BANKING)**

2.1. Name of banking institution:.....

2.2. Branch:.....

- 2.3. Town/City:.....
- 2.4. Banking account number:.....
- 2.5. Name under which account is operated:.....
- 2.6. The business does not have a bank account now, but the required information will be provided to the Procurement Administration Office as soon as a contract is awarded to the business. (Please encircle the appropriate answer below).

Applicable	Not applicable
------------	----------------

N.B.DOCUMENTARY PROOF OF BANKING INSTITUTION MUST BE SUPPLIED I.E. A COPY OR ORIGINAL BANK STATEMENT NOT OLDER THAN 60 DAYS.

(If you cannot open a bank account, because the bank requires a deposit, please indicate that in respect of number 2.6. above. This information must be provided when a contract is awarded to your business).

3. TYPES OF BUSINESS

2. BUSINESS INFORMATION

THE FOLLOWING TABLE MUST BE COMPLETED IN ORDER TO ESTABLISH WHETHER A BUSINESS CAN BE CLASSIFIED AS AN SMME IN TERMS OF THE NATIONAL SMALL BUSINESS ACT 102 OF 1996. INDICATE THE SECTOR BY TICKING THE APPROPRIATE BLOCK IN COLUMN 2 AND THEN TICK THE CORRESPONDING INFORMATION BLOCKS IN COLUMNS 3,4 AND 5

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Sector or sub-sectors in accordance with the Standard Industrial Council	TICK WHERE APPLICABLE	Total full time equivalent of paid employees	Total annual turnover Less than	Total gross asset value (fixed property excluded) Less than
Agriculture		MORE THAN 100	MORE THAN R4.00M	MORE THAN R4.00M
		LESS THAN 100	LESS THAN R4.00M	LESS THAN R4.00M
Hiring and Quarrying		MORE THAN 200	MORE THAN R30.00M	MORE THAN R18.00M
		LESS THAN 200	LESS THAN R30.00M	LESS THAN R18.00M

Electricity, Gas and Water		MORE THAN 200	MORE THAN R40.00M	MORE THAN 15.00M
		LESS THAN 200	LESS THAN R40.00M	LESS THAN R15.00M
Construction		MORE THAN R200	MORE THAN R20.00M	MORE THAN R4.00M
		LESS THAN 200	LESS THAN R20.00M	LESS THAN R4.00M
Retail and Motor Trade and Repair Services		LESS THAN 100	MORE THAN R30.00M	MORE THAN R5.00M
		LESS THAN 100	LESS THAN R30.00M	LESS THAN R5.00M
Wholesale Trade, Commercial Agents and Allied Services		MORE THAN 100	MORE THAN R50.00M	MORE THAN R8.00M
		LESS THAN 100	LESS THAN R50.00M	LESS THAN R8.00M
Catering, Accommodation and other Trade		MORE THAN 100	MORE THAN R10.00M	MORE THAN R2.00M
		LESS THAN 100	LESS THAN R10.00M	LESS THAN R2.00M
Transport, Storage and Communications		MORE THAN 100	MORE THAN R20.00M	MORE THAN R5.00M
		LESS THAN 100	LESS THAN R20.00M	LESS THAN R5.00M
Finance and Business Services		MORE THAN 100	MORE THAN R20.00M	MORE THAN R4.00M
		LESS THAN 100	LESS THAN R20.00M	LESS THAN R4.00M
Community, Social and Personal Services		MORE THAN 100	MORE THAN R10.00M	MORE THAN R5.00M
		LESS THAN 100	LESS THAN R10.00M	LESS THAN R5.00M

OWNERS/SHAREHOLDERS/PARTNERS/SOLE PROPRIETORS/TRUSTEES/BENEFICIARIES

- 3.1. List all persons who are OWNERS, PARTNERS, SOLE PROPRIETORS, TRUSTEES AND BENEFICIARIES (whichever is/are applicable) in the business/trust who are actively involved in the management thereof and who exercise control over the business/trust commensurate with their degree of ownership/interest.
- 3.2. **PROOF OF DISABILITY PROVIDED BY A RECOGNISED RELATED INSTITUTION IN THE CASE OF HANDICAPPED PERSONS. MUST BE SUPPLIED.**
- 3.3. If insufficient space, kindly attach a copy/copies of this page to this ZNT 30, signed by the same person who signs on behalf of the business/trust on page 8 hereof.

[illegible]

CERTIFICATION OF CORRECTNESS OF INFORMATION SUPPLIED IN THIS DOCUMENT RELATING TO PREFERENCES THAT THE APPLICANT (BUSINESS) MAY APPLY FOR

I/WE, THE UNDERSIGNED, WHO WARRANTS THAT HE/SHE IS DULY AUTHORISED TO DO SO ON BEHALF OF THE TENDERER/SUPPLIER, CERTIFIES THAT THE INFORMATION SUPPLIED IN TERMS OF THIS DOCUMENT (ZNT 30) INCLUDING THE ANNEXURE/S WITH ADDITIONAL INFORMATION, IS CORRECT AND ACCURATE AND ACKNOWLEDGES THAT:

1. The tenderer/supplier will be required to furnish documentary proof of the information relating to preferences, if requested to do so.
2. If the information supplied is found to be incorrect then the Province may, in addition to any remedies it may have:
 - (i) Disqualify the tenderer/supplier/contractor for a particular tender/contract/project it may be considered for, or which had been awarded to the supplier/contractor,
 - (ii) Recover from the tenderer/supplier/contractor all costs, losses or damages incurred or sustained by the Province as a result of the award of a contract,
 - (iii) Cancel the contract and claim any damages which the Province may suffer by having to make less favourable arrangements after such cancellation; and/or
 - (iv) De-register the supplier registered on the Suppliers Database.

SIGNED ON THIS.....DAY OF.....20.....AT.....

BEFORE, THE COMMISSIONER OF OATHS

.....
SIGNATURE OF TENDERER/SUPPLIER
OF DULY AUTHORISED
REPRESENTATIVE ON BEHALF OF
(TENDERER/SUPPLIER'S NAME).....

.....
NAME IN BLOCK LETTERS

* Signed and affirmed, before me at.....on this.....day of.....year....., by the deponent who has acknowledged that he/she knows and understands, the contents of this document, and he/she has acknowledged that he/she has no objection to affirming, that he/she regards the affirmation to be binding on his/her conscience. **NB: Kindly initial each page in confirmation that the deponent understands the contents of the document and affirms that the information supplied is true and correct.**

.....
COMMISSIONER OF OATHS

FULL NAME:.....

BUSINESS ADDRESS:.....

.....

CAPACITY:.....**AREA:**.....

CRITERIA UTILISED FOR THE AWARDING OF PREFERENCE POINTS
(Attached to the ZNT30 for Information purposes only)

ANNEXURE 1.1

1. APPLICATION OF PREFERENCE POINTS FOR
TENDERS/PROCUREMENT WITH A RAND VALUE EQUAL
TO OR ABOVE R30 000 AND UP TO A VALUE OF R500 000

2. PREFERENCE POINTS ARE CALCULATED AS FOLLOWS:

- Goal 1:
- a) Preference points may be allocated to an HDI, with reference to Tables 1,2 and 3 below.
 - b) The percentage of HDI equity ownership referred to in Table 1 must be determined in relation to total equity ownership of the tenderer under regulation 1 (j)(i) of the Procurement Regulations and with reference to Table 1 Preference points applicable must then be determined.
 - c) The percentage of HDI equity ownership referred to in Table 2, which is not covered by Table 1, must be determined in relation to total equity ownership of the tenderer under regulation 1 (j)(ii) of the Procurement Regulations and with reference to Table 2 preference points applicable must then be determined.
 - d) The percentage of HDI equity ownership referred to in Table 3, which is not covered by Tables 1 and 2, must be determined in relation to total equity ownership of the tenderer under regulation 1 (j)(iii) of the Procurement Regulations and with reference to Table 3. Preference points applicable must then be determined.
 - e) Add the preference points obtained by following procedures (b), (c) and (d) above, together, to obtain the total preference points in respect of HDI equity ownership.

Goal 2: If the tenderer is an SMME, 5 points must be allocated.

Goal 3: If the products tendered are South African manufactured, 5 points must be allocated.

Add the preference points allocated under Goals 1,2 and 3 together, to obtain the total number of preference points to be awarded, with 20 points being the maximum that may be obtained.

Example:	A tenderer has the following composition of equity ownership:		
20%	Males referred to in regulation 1(j)(i)		
40%	Females referred to in regulation 1(j)(i)		
30%	Females with a disability not covered by regulation 1(j)(i)		
<u>10%</u>	Males not covered by regulation 1(j)(i) or 1(j)(iii)		
<u>100%</u>	Total		
Apply Table 1:	20% +40%=60%	=6 points	
Table 2:	30%	=3 points	
Table 3:	0%	= <u>0 points</u>	
		= <u>9 points</u>	

PREFERENCE POINTS THAT MAY BE ALLOCATED: POTENTIAL MAXIMUM=20

Goal 1: Advancement of HDI's=maximum of 10 points

Table 1

Percentage of equity ownership of HDI's referred to in regulation 1(j)(i)

	Points allocated
More than 0% up to 10%	1
More than 10% up to 20%	2
More than 20% up to 30%	3
More than 30% up to 40%	4
More than 40% up to 50%	5
More than 50% up to 60%	6
More than 60% up to 70%	7
More than 70% up to 80%	8
More than 80% up to 90%	9
More than 90% up to 100%	10

Table 2

Percentage of equity ownership of HDI's referred to in regulation 1(j)(ii)

	Points allocated
More than 0% up to 10%	1
More than 10% up to 20%	2
More than 20% up to 30%	3
More than 30% up to 40%	4
More than 40% up to 50%	5
More than 50% up to 60%	6
More than 60% up to 70%	7
More than 70% up to 80%	8
More than 80% up to 90%	9
More than 90% up to 100%	10

Table 3

Percentage of equity ownership of HDI's referred to in regulation 1(j)(iii)

	Points allocated
More than 0% up to 10%	1
More than 10% up to 20%	2
More than 20% up to 30%	3
More than 30% up to 40%	4
More than 40% up to 50%	5
More than 50% up to 60%	6
More than 60% up to 70%	7
More than 70% up to 80%	8
More than 80% up to 90%	9
More than 90% up to 100%	10

Goal 2: Promotion of SMME's =5 points

Goal 3: South African Manufactured=5 points

APPLICATION OF PREFERENCE POINTS FOR TENDER/PROCUREMENT WITH A RAND VALUE ABOVE R500 000

2. PREFERENCE POINTS ARE CALCULATED AS FOLLOWS:

- Goal 1
- a) Preference points may be allocated to an HDI, with reference to Tables 1,2 and 3 below.
 - b) The percentage of HDI equity ownership referred to in Table 1 must be determined in relation to total equity ownership of the tenderer under regulation 1(j)(i) of the Procurement Regulations and with reference to Table 1. Preference points applicable must then be determined.
 - c) The percentage of HDI equity ownership referred to in Table 2, which is not covered by Table 1, must be determined in relation to total equity ownership of the tenderer under regulation 1(j)(ii) of the Procurement Regulations and with reference to Table. Preference points applicable must then be determined.
 - d) The percentage of HDI equity ownership referred to in Table 3, which is not covered by Tables 1 and 2, must be determined in relation to total equity ownership of the tenderer under regulation 1(j)(iii) of the Procurement Regulations and with reference to Table 3. Preference points applicable must then be determined.

- e) Add the preference points obtained by following procedures (b), (c) and (d) above, together, to obtain the total preference points in respect of HDI equity ownership.

Goal 2: If the tenderer is an SMME, 2.5 points must be allocated.

Goal 3: If the products tendered are South African manufactured, 2.5 points must be allocated.

Add the preference points under Goals 1, 2 and 3 together, to obtain the total number of preference points to be awarded, with 10 points being the maximum that may be obtained.

Example: A tenderer has the following composition of equity ownership:

20%	Males referred to in regulation 1(j)(i)
40%	Females referred to in regulation 1(j)(i)
30%	Females with a disability not covered by regulation 1(j)(i)
10%	Males not covered by regulation 1(j)(i) or 1(j)(iii)
100%	Total

Apply Table 1:	20%+40%=60%	=3 points
Table 2:	30%	=1,5 points
Table 3:	0%	= 0 points
		=4.5 points

PREFERENCE POINTS THAT MAY BE ALLOCATED: POTENTIAL MAXIMUM=10

Table 1

Percentage of equity ownership of HDI's referred to in regulation 1(j)(i)

	Points allocated
More than 0% up to 10%	0,5
More than 10% up to 20%	1
More than 20% up to 30%	1.5
More than 30% up to 40%	2
More than 40% up to 50%	2.5
More than 50% up to 60%	3
More than 60% up to 70%	3.5
More than 70% up to 80%	4
More than 80% up to 90%	4.5
More than 90% up to 100%	5

Table 2

Percentage of equity ownership of HDI's referred to in regulation 1(j)(ii)

	Points allocated
More than 0% up to 10%	0,5
More than 10% up to 20%	1
More than 20% up to 30%	1.5
More than 30% up to 40%	2
More than 40% up to 50%	2.5
More than 50% up to 60%	3
More than 60% up to 70%	3.5
More than 70% up to 80%	4
More than 80% up to 90%	4.5
More than 90% up to 100%	5

Table 3

Percentage of equity ownership of HDI's referred to in regulation 1(j)(iii)

	Points allocated
More than 0% up to 10%	0,5
More than 10% up to 20%	1
More than 20% up to 30%	1.5
More than 30% up to 40%	2
More than 40% up to 50%	2.5
More than 50% up to 60%	3
More than 60% up to 70%	3.5
More than 70% up to 80%	4
More than 80% up to 90%	4.5
More than 90% up to 100%	5

Goal 2: Promotion of SMME;s=2.5 points

Goal 3: South African Manufacture=2.5 points
