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AN EXAMINATION OF THE EFFECTIVENESS OF PREFERENTIAL PROCUREMENT IN THE SOUTH AFRICAN CONSTRUCTION INDUSTRY

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A thesis submitted to the Faculty of Engineering and the Built Environment, University of the Witwatersrand, in fulfillment of the requirements for the degree of Doctor of Philosophy.

Johannesburg, 2012

DECLARATION

I declare that this thesis is my own unaided work, except where otherwise acknowledged. It is being submitted to the Degree of Doctor of Philosophy to the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination to any other University.

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ABSTRACT

In 2000 the South African government enacted the Preferential Procurement Policy Framework Act (PPPFA) to give effect to Section 217 of the Constitution pertaining to the use of public sector procurement to achieve socio-economic objectives. This research examined the effectiveness of the PPPFA in promoting the establishment and development of South African construction enterprises whose shareholders were historically disadvantaged individuals (HDI's).

Both primary and secondary quantitative data sources were used to achieve the research objectives. Procurement data from national and provincial governments covering a period of five years (from April 2006 to March 2011) were sourced from the National Treasury. These were supplemented with primary data collected through a survey questionnaire administered to a stratified sample of HDI-owned construction enterprises.

The findings indicate that the application of the preferential procurement policy contributed to increased participation of HDI-owned construction enterprises in the government tendering process, and greater success in winning government contracts. The findings also show that the financial premiums incurred in implementing the PPPFA were only 2% of cumulative project value, therefore substantially lower than contemplated by government when the preference points scoring formula was originally formulated.

While the analysis of government procurement data indicates that HDI-owned enterprises benefited as a direct result of the PPPFA, the survey results suggest that supply side constraints limited the pace and extent of their business growth. Taking into account the challenges and realities of the SA construction industry, the findings indicate that a strategy of unbundling large value government construction contracts is needed to provide greater business opportunities for small and medium-sized construction enterprises. Given the low premiums incurred as a result of implementing preferential procurement, it is contended

that the application of the 80/20 and 90/10 points scoring system should be reviewed to create more targeted contract opportunities for HDI's and to provide an enabling environment to achieve the socio-economic goals as stipulated in the PPPFA.

This research is the first in-depth investigation into the PPPFA's effectiveness in promoting the establishment and development of HDI-owned construction enterprises. Its findings therefore provide relevant empirical basis to review current preferential procurement practices and inform future national policy decisions.

DEDICATION

TO MY PARENTS

My ever caring Mother, Gungamma (Ray) Letchmiah,
and in memory of my extraordinary late Dad, Ruthensamy Letchmiah,
for sacrificing so much in your lives to provide a loving and learning environment,
and for providing me with the sound education of which you were deprived.

TO MY FAMILY

My dear wife, Bavani, for her continued support, love, understanding and
encouragement - especially for giving me the space and time
to pursue this desire.
My lovely daughters, Serisha and Lishani, for the inspiration and love you
constantly provide in my life - may this inspire you
to achieve and live your dreams.

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LIST OF ACRONYMS

ABE	Affirmable Business Enterprise
ANC	African National Congress
APP	Affirmative Procurement Policy (APP)
BBBEE	Broad-Based Black Economic Empowerment
BBBEEA	BBBEE Act, 2003
BEE	Black Economic Empowerment
BEP	Built Environment Professional
CE	Civil Engineering
CIDB	Construction Industry Development Board
CPAR	Country Procurement Assessment Review
DBE	Disadvantaged Business Enterprise
ECDP	Emerging Contractor Development Programme
EME	Exempted Micro Enterprises
GB	General Building
GDP	Gross Domestic Product
HDI	Historically Disadvantaged Individual
ILO	International Labour Organisation
IPPA	International Public Procurement Association
JV	Joint Venture
MSME	Micro, Small and Medium Enterprise
MBE	Minority Business Enterprise
MFMA	Municipal Finance Management Act
NCDP	National Contractor Development Programme
NDPW	National Department of Public Works
NEP	New Economic Policy
NGO	Non Governmental Organization
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act No. 5 of 2000
QSE	Qualifying Small Enterprises
RDP	Reconstruction and Development Programme
RSA	Republic of South Africa

LIST OF ACRONYMS

SADC	South African Development Community
SANAS	South African National Accreditation System
SANS	South African National Standards
SAPS	South African Police Services
SARS	South African Revenue Service
SBA	Small Business Act
SCA	Special Contracts Arrangements
SME	Small and Medium Enterprise
SMME	Small, Medium and Micro Enterprise
SPSS	Statistical Package for the Social Sciences
SOE	State Owned Enterprise
UNCHS	United Nations Centre for Human Settlements
UNCITRAL	The United Nations Commission on International Trade Law

CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1 BACKGROUND TO THE RESEARCH

The Preferential Procurement Policy Framework Act No. 5 of 2000 (PPPFA) was published in the South African Government Gazette No. 97 on 03 February 2000. The Act was intended to give effect to the Constitutional provisions relating to socio-economic objectives as contemplated in Section 217 of the Constitution (RSA, 1996b) pertaining to public sector procurement policy.

The Act is one of many mechanisms that the democratically elected South African Government, post 1994, established to reverse the discriminatory and unfair practices of the past which prevented a number of groups from accessing government contracts (Bolton, 2004). The Reconstruction and Development Programme (RDP), as published in Government Gazette No. 16085 dated 23 November 1994, identified economic empowerment to be a key focus in the policy framework of the post-1994. It became evident that the continued exclusion of the majority population from the mainstream economy due to centuries of systematic disempowerment was destined to have serious long term consequences (RSA, 1994).

Accordingly, even before the democratic elections were held on 27 April 1994, an urgent need was identified to ensure that the empowerment of the majority kept pace with economic growth. Many strategies and related legislated mechanisms were put in place to ensure that the expected economic growth advanced human development, sustained employment and achieved economic equity in South Africa.

In most countries public sector procurement as a market for business opportunities tends to be substantial in relative terms, regardless of whether a country is industrialized, developing or transitional. It therefore provides

enormous potential in realizing socio-economic gains (Arrowsmith, 1995). The World Bank has estimated that the procurement of goods and services accounts for approximately 25 per cent of a country's gross domestic product (GDP) (Noble, 2010). Within this context public sector procurement as an instrument of policy can make a critical contribution to the transformation and democratization of developing countries.

Although there is widespread recognition of public procurement as a policy tool to achieve socio-economic objectives, a review of the literature shows that there is a lack of research to inform a proper understanding of the effectiveness of preferential procurement in general, and for the purposes of the present study, with particular reference to the construction industry sector in South Africa.

1.2 STATEMENT OF THE PROBLEM

The PPPFA makes provision for organs of state to pursue specific socio-economic goals through public sector procurement. Almost 12 years after the promulgation of the PPPFA there appears to be widespread concern and criticism that the primary objectives and intended outcomes of promoting socio-economic development through public sector procurement, via the Preferential Procurement Policy, have not been achieved in South Africa (Brun, 2011; Mbeki, 2009; Monare, 2006; Siluma, 2009). This perception is clouded by allegations of fraudulent and corrupt procurement practices in the form of fronting by businesses, and the manipulation of the tender processes by government officials (Nkuna, 2011; Mokone, 2010; Pressly, 2010; Ancer, 2005).

According to the World Bank, there is uncertainty and a lack of predictability in the South African procurement system together with potential for abuse of the preferential procurement policy (World Bank, 2003). In its June 2011 Diagnostic Report, South Africa's National Planning Commission cautioned that contributing to the creation of a small, black elite, affirmative action in whatever form could

divert attention from wider policy priorities, and would ultimately result in far greater racial inequalities (RSA, 2011).

Even where justifiable benefits can be achieved through the use of preferential procurement policies the related cost implications may be substantial, which leads to critical questions being raised about the level of financial premium incurred by government when implementing such policies (Bolton, 2004). This is particularly relevant in instances where the lowest financial offer of responsive tenders are rejected in favour of others that meet preferential criteria. As a result, governments that implement preferential procurement must identify and monitor the associated costs involved in implementing these policies, as well as their impact on empowerment and economic growth.

Bolton (2006) contends that costs will always apply when using procurement as a policy tool. Although, the relevant literature discusses the advantages and disadvantages of using public procurement policies to achieve socio-economic objectives, it offers no clear solutions to the perceived problems associated with their practical implementation, particularly regarding the setting of price preference levels and sunset clauses. The literature appears to attribute the cause of the problem to the inadequacies of monitoring, evaluation and reporting systems (Watermeyer, 2004; Gounden, 2000).

The PPPFA specifies that these goals must be:

- measurable;
- quantifiable; and
- monitored for compliance.

The PPPFA makes provision for preference points to be allocated during the tender adjudication process as a basis for the awarding of contracts, as shown in Table 1.1.

Table 1.1: Framework for the Implementation of the Preferential Procurement Policy	
(i)	For contracts with a value exceeding R 500 000.00, a maximum of 10 points may be allocated for specific goals provided that the lowest acceptable tender scores 90 points for price; and
(ii)	For contracts less than or equal to R 500 000.00, a maximum of 20 points may be allocated for specific goals provided that the lowest acceptable tender scores 80 points for price.
The specific goals referred to above may include any one or a combination of the following	
(a)	Contracting with persons or categories of persons historically disadvantaged by unfair discrimination on the basis of race, gender or disability
(b)	Implementing the programmes of the Reconstruction and Development Programme.
Source: (RSA, 2000a)	

The PPPFA includes an implementation framework which allows an organ of state the flexibility to develop its own preferential procurement policy and implementation system in accordance with the broad provisions of the Act. A review of practice has shown that this provision for flexibility to develop policy and systems for implementation of the Act has resulted in varying and unequal forms of application of the PPPFA (Watermeyer, 2003). There appears to be little uniformity in defining these "specific" goals amongst the different organs of state apart from the definition of Historically Disadvantaged Individuals (HDI).

The regulations relating to the Act provide a requirement that all government departments report to the National Treasury, through the Norms and Standard Division, on the attainment of socio-economic goals. Specifically, the information required is related to contracts awarded to historically disadvantaged individuals

on the basis of race and gender. However, in the data submitted by departments to the National Treasury the third category of disability has not been reported in any consistent manner because of the ambiguous definitions regarding disability, and subsequent inconsistent application of preference points for disabled persons.

Specifically, the regulations require that all organs of state submit regular procurement reports to National Treasury that include the following: 1) details of contracts awarded during the reporting period; 2) the extent of HDI participation; and 3) the financial premiums involved, if any. National Treasury captures and sorts this data into the various industry sectors and related categories, and retains it for analysis and reporting purposes.

The present research study examines the effectiveness of preferential procurement in the South African construction industry, with the procurement data collected by National Treasury over the five year period from April 2006 up to March 2011 serving as the primary data resource.

A compelling reason to examine the effectiveness of preferential procurement at this time is that, with effect from 07 December 2011, the South African government has introduced new PPPFA regulations. These revised regulations now allow for preference points to be awarded to tenderers on the basis of their Broad Based Black Economic Empowerment (BBBEE) status level and not on HDI ownership only. This new concept of BBBEE will be discussed in detail in Chapter 2.

It should be noted that the researcher of this study has a particular interest in preferential procurement and its implementation. In his official capacity as the head of the Public Sector Procurement Reform Task Team, appointed jointly by the Minister of Finance and Minister of Public Works in 1994, he was instrumental in driving the reform and development of new procurement

policies on behalf of the newly elected democratic South African government. The work of the Ministerial Task Team emphasised the development of procurement strategies to promote the achievement of broader socio-economic objectives and, in particular, Black Economic Empowerment (BEE). Under the researcher's leadership, the Procurement Reform Task Team initially developed a 10-Point Plan which served as an interim strategy document to guide immediate implementation from 1995. Thereafter, the Task Team produced the Green Paper on Public Sector Procurement Reform and other Affirmative Procurement documents which led directly to the enactment of preferential procurement legislation in the form of PPPFA.

In spite of these achievements in the development of the necessary legislative framework, very little analysis or research has been done that provides empirical evidence on the effectiveness of government efforts to implement the PPPFA. It is considered good practice for governments to be guided by the implementation outcomes of its policies in order to make informed changes and improvements going forward. The present study attempts to address this gap, with a specific focus on the construction industry. It also aims to further the research conducted by Gounden in 2000 on the performance of Affirmable Business Enterprises (ABE's) within the National Department of Public Works. It is noted that the Gounden study was completed prior to the promulgation of the PPPFA in February 2000.

The primary benefits of the present study are:

1) To present to the South African government the findings of an empirical assessment of the effectiveness of the PPPFA in achieving its socio-economic goals; and

2) To use the findings of the study to develop a set of key indicators for consideration in future policy making related to public procurement in general, and preferential procurement in particular.

1.3 AIM AND OBJECTIVES OF THE RESEARCH

The primary aim of the present study is to assess the effectiveness of the PPPFA in achieving its objective of providing economic opportunities to businesses with HDI shareholding as contemplated in Section 217 of the Constitution through the application of a preference scoring mechanism. The study focuses specifically on contractors in the construction industry

The study also attempts to identify the degree to which preferential procurement had a positive impact on the development and growth of HDI owned construction businesses over the five year period 2006/07 – 2010/11, with particular reference to the contractors registered with the Construction Industry Development Board (CIDB) in General Building (GB) Grades 2 to 9.

The following research activities were undertaken in order to achieve the following aim and objectives:

(i) to measure the number and value of contracts awarded to businesses with HDI shareholding in comparison with the total number of contracts awarded;

(ii) to analyse the distribution of contracts awarded to HDI's on the basis of race and gender as provided for in the PPPFA at both national and provincial levels;

(iii) to determine the financial cost premiums incurred through the implementation of the preferential procurement policy, if any,;

(iv) to establish whether or not the preferential procurement policy helped HDI owned enterprises to grow their businesses; and

(v) to assess qualitatively whether or not HDI owned enterprises, as beneficiaries of the policy, understand the application and intention of the preferential procurement policy.

1.4 THE PROPOSITIONS

The statement of the research problem, review of the relevant literature, researcher's first hand involvement in developing the PPPFA and the general public perceptions on preferential procurement provided the background to the formulation of the propositions.

In order to determine whether, during the period under review, the use of preferential procurement was effectively implemented in the construction industry such that measurable outcomes were attained towards achieving the socio-economic goal of promoting HDI-owned businesses, the researcher examined the following propositions:

1. That government policy has contributed to the increased participation of enterprises with HDI shareholding in public sector construction contracts through the application of the preferential procurement policy in terms of the PPPFA of 2000;

2. That the application of preferential procurement resulted in excessive cost premiums in relation to that contemplated in the initial formulation of the policy; and

3. That preferential procurement served as an effective mechanism for construction related enterprises with HDI shareholding to grow their businesses.

1.5 LIMITATIONS OF THE STUDY

There are distinct relationships between preferential procurement opportunities and industry sectors with regard to available capacity and skills, entrepreneurship, and the ability of emerging businesses to achieve socio-economic objectives.

The study was confined to the construction industry to enable the researcher to work with a manageable data set, and because it is an industry with which he is knowledgeable and has strong professional linkages. Therefore, National Treasury data that were selected for this study pertained to the "commodity" type defined as "Building and Construction". It should be noted that the data set obtained from Treasury applied to all national government departments and all nine provincial governments, but excluded local government and state owned enterprises (SOE's). The regulations governing the PPPFA only make provision for national and provincial government departments to report on preferential procurement contracts. According to National Treasury, local governments have preferential procurement frameworks that are location specific and which require them to use a combination of socio-economic factors with outcomes that are not necessarily compatible with data collected by National Treasury.

The present study was limited to HDI contractors from Grades 2 to 9GB who are registered on the CIDB Register of Contractors. The decision to exclude Grade 1 contractors was taken because there are minimal criteria for CIDB registration at this entry level meaning that many of these emerging contractor businesses are unlikely to reflect growth or development. Another compelling reason for the exclusion of Grade 1 contractors is that this category is also commonly used by unemployed work seekers as a mechanism for gaining access to economic opportunities in the construction sector (Gounden, 1997; Watermeyer, 1998).

According to the PPPFA, persons historically disadvantaged by unfair discrimination are categorized on the basis of race, gender and disability. The present study, however, was limited to the categories of race and gender only because the data set obtained from the National Treasury did not record contracts awarded to businesses owned by disabled persons. This omission by Treasury was probably due to the fact that when the PPPFA was promulgated it lacked a clear and consistent definition of "disability". While the South African legal context provides constitutional protection from discrimination for persons with disabilities in the form of the Bill of Rights and the Promotion of Equality and Prohibition of Unfair Discrimination Act, No. 4 of 2000, government does not provide a precise definition of the term "disability" (Beck, 2011).

1.6 MEASURING THE EFFECTIVENESS OF GOVERNMENT'S IMPLEMENTATION OF PREFERENTIAL PROCUREMENT

The primary purpose of the present study was to examine whether the implementation of preferential procurement policy had a positive effect on the South African construction industry. The literature shows that various criteria can be used to measure government effectiveness or performance. The Oxford dictionary defines the term "effective" as "producing a desired or intended result".

While it may be relatively easy to check whether a government has implemented certain policy changes, it is more difficult to establish whether such changes achieved the desired outcomes. According to Nkuna (2011), recent experience of BEE implementation in South Africa shows that while there are many good intentions, the results are often unsatisfactory.

Beryl Radin, in her book Beyond *Marchiavelli: Policy Analysis Comes of Age* stated that the single most important theme that characterizes the public sector is the demand for performance (Radin, 2000).

Research on organizational effectiveness consists of two parts: the development of measurement criteria and studies that predict organizational effectiveness using sets of independent variables (Campbell, 1977). However, while commentators emphasize the need to measure organizational effectiveness, studies have yet to develop clear and concise ways of defining and assessing effectiveness (Rainey, 2003).

Effectiveness is seen as a measure of the quality of output that answers the question of how well the policy implementation achieved the desired outcome (Lee & Whitford, 2008). Accordingly, a government's action is effective when the specific desired end is attained. Lee et al (2008) go on to explain that effectiveness can be used to assess the overall state of an organization seeking to fulfill goals related to its mission, rather than effectiveness with regard to specific performance indicators.

It is proposed that the difference between what are considered "objective" and what are considered "subjective" measures can therefore be used as the distinguishing factor to categorise performance measures. Essentially, it is the source material from which the information is gathered that makes the difference (Lee et al, 2008). Objective measures are usually constructed from records that are considered impartial and independent. In contrast, subjective measures are constructed from survey responses gathered from stakeholders about performance assessment (Andrews, 2006; Parks, 1984). According to Lee et al (2008), subjective measures of effectiveness are generally considered to be perceptual assessments derived from the use of a survey or questionnaire, whereas objective measures are seen as reflecting "reality", based on the analysis of recorded data.

Notwithstanding this, objective measures pose their own challenges. Relevant records or complete data sets are often unavailable or difficult to obtain, as was

experienced by this researcher in his protracted interactions with National Treasury to access a complete data set for the present study.

In this study the definitions provided above regarding objective and subjective measures of effectiveness were used in the following manner:

1. The 5-year dataset from the National Treasury constituted the "objective measures" to assess the effectiveness of the PPPFA in achieving its socio-economic goals; and

2. The survey questionnaire developed by the researcher and administered to stakeholder participants to ascertain their opinions on government's procurement policy constituted the "subjective measures" to assess effectiveness. It was also used to examine the findings of the National Treasury data.

1.7 RELEVANCE OF THE STUDY

The implementation of preferential procurement in South Africa followed the promulgation of the PPPFA in 2000. A review of the literature since 2000 shows that very limited research has been conducted on this topic even though preferential procurement is viewed as playing a pivotal role in efforts by the South African government to achieve its socio-economic objectives.

Kajimo-Shakantu (2007) emphasised a need to conduct more empirical research to gain deeper insights on preferential procurement. The present research was also reinforced by Watermeyer (2000) who noted that there was limited empirical research and data on most policy programmes in general, and on the effectiveness of the use of public sector procurement as an instrument of social policy in particular.

Previous studies confirm that preferences in public sector procurement policies and procedures are being implemented in South Africa as a mechanism to attain government's socio-economic objectives and are underpinned by the principles of the RDP (Gounden, 2000). Gounden (2000) states that preferential procurement policies were first tested by the National Department of Public Works (NDPW) on the Malmesbury Prison infrastructure project in the Western Cape in 1996. The fact that the NDPW did not release a detailed report on the achievements of the pilot project, suggests that the process was not effectively documented. The only available information related to this test project is from Gounden (2000) who conducted extensive research on the impact of the NDPW's Affirmative Procurement Policy on the participation and growth of targeted businesses referred to as Affirmable Business Enterprises (ABE's). ABE is defined as a small business enterprise owned, managed and controlled by black South Africans. Gounden's research, however, was limited because it only considered projects in the South African construction industry during the period August 1996 to July 1998. This preceded the promulgation of the PPPFA in 2000.

Also, Gounden's research focused primarily on the participation of ABE's and was limited to data provided by NDPW. In a subsequent study conducted by Haripersad (2003) on public procurement management in South Africa, the National Ministry of Public Works was used as a case study. The study attempted to establish what management structure, policies and processes were being employed by the Ministry to implement public procurement as a mechanism for promoting socio-economic goals. Thereafter, Kajimo-Shakantu (2007) investigated the responses of contractors to preferential procurement in South Africa to understand how construction firms interpreted the government's preferential procurement policies, and to establish the strategies that construction firms adopted in response to these policies.

The present study attempts to build on and extend the body of knowledge established by previous studies on the application of preferential procurement in

South Africa by examining the effectiveness of the implementation of the Preferential Procurement Policy Framework. The study is considered to be timely and relevant to the country in general, and to the construction industry sector in particular, since as of 07 December 2011 the preferential procurement regulations were amended to utilise a BBBEE scorecard system rather than using only the criteria of HDI shareholding to award preference points.

The research study can benefit both government policymakers and the construction industry in several ways. The study findings offer an analysis of substantive and trustworthy research data that can be used to identify gaps in policy implementation; modify existing processes; and inform decisions on sunset clauses. Sunset clause refers to a predetermined time frame within which specific policies either end or are reviewed for future implementation. A key lesson on strategy implementation that can be learned from business is that nothing much improves until management starts to measure outcomes precisely (Nkuna, 2011). Most importantly, this research contributes to best practice with regard to monitoring, evaluating and reporting on measurable outcomes, and provides a reliable benchmark for measuring the outcomes of future preferential policies and programmes.

1.8 STRUCTURE OF THE THESIS

The thesis is comprised of 7 chapters. The outlines of Chapters 2 - 7 are described below.

Chapter 2: The Role of Public Procurement as a Mechanism to Promote Socio-Economic Objectives

This chapter presents a review of literature relating to the theoretical concepts of preferential procurement and its relationship to affirmative action and black economic empowerment goals. A chronology of the development of preferential procurement legislation in South Africa is included. The chapter also examines

international experiences on preferential procurement from the USA, Malaysia, India and other relevant countries. It shows that although the South African experience can be described as unique in many ways, the outcomes of international experience provide useful insights on key lessons learnt.

Chapter 3: Research Design and Methodology

This chapter describes the research methodology and philosophical paradigm that guided the selection of the research methods and data analysis. The quantitative research paradigm which underpins the research is discussed in detail. This is followed by the research methods and techniques that were used to collect and analyze the data.

Chapter 4: Results and Discussion of Treasury Data

This chapter presents the results and findings of the data analysis of the Treasury data.

Chapter 5: Results and Discussion of Survey Data

This chapter presents the results and findings of the data analysis of the questionnaire survey data.

Chapter 6: Interpretation and Discussion of Results

This chapter interprets the results and empirical findings as they relate to the research objectives.

Chapter 7: Summary, Conclusions and Recommendations

This chapter summarizes the research by revisiting the core research problem described in Chapter 1. It contextualizes the findings in relation to issues discovered in the literature review. The chapter also summarizes the key empirical findings and demonstrates the extent to which the research aim and objectives were met. Conclusions are drawn and the “contribution to knowledge” is highlighted with due consideration given to the research

limitations of the study. Finally, a set of recommendations are proposed as a basis for further research endeavors.

1.9 SUMMARY

In this chapter the background to the research which forms the basis of this thesis was provided. The research problem was identified and the aim and objectives of the research stated. The relevance of the research, together with its contribution to the body of knowledge was also stated. The context of examining effectiveness was presented and the limitations of the study were identified. The structure of the thesis was outlined as an introduction to Chapter 2, which contains a detailed review of the literature that pertains to the research topic.

CHAPTER 2: THE ROLE OF PUBLIC PROCUREMENT AS A MECHANISM TO PROMOTE SOCIO-ECONOMIC OBJECTIVES

2.1 INTRODUCTION

The objective of this chapter is to establish the potential of public procurement as a mechanism to promote socio-economic objectives with particular attention to the construction industry. In addition, it attempts to identify the circumstances and factors that determined specific policies and legislative instruments as applied in other countries and the extent to which these have influenced policy making in South Africa.

The chapter is structured in four parts. The first represents public procurement as an instrument of social policy and discusses social interventions from an international perspective with the particular focus on the experiences of Malaysia and the USA, because of their influence on preferential procurement policy development in South Africa. The second section looks at the evolution and implementation of preferential procurement in South Africa and examines the development of legislation and regulations pertaining to this policy. The third section examines the development and application of preferential procurement policies in the South African construction industry and identifies related legislation and support mechanisms that promote emerging enterprises. The fourth section draws conclusions on potential policy outcomes and discusses a basis to examine effectiveness of preferential procurement policies.

2.2 PUBLIC PROCUREMENT AS AN INSTRUMENT OF SOCIAL POLICY

2.2.1 Background

Governments can influence the direction and structure of the economy through its expenditure on assets and the provision of services, particularly in so far as employment and business opportunities are concerned (Bolton, 2004; McCrudden, 2004; Arrowsmith, 1995).

The role of government in economic growth and development is fundamental to a country's stability and prosperity. In a developing country it is generally accepted that socio-economic goals need to be a focal point in governmental policy framework, especially in countries where the majority of the population are excluded from the mainstream economy (Gounden, 2000; Letchmiah, 1998d; Watermeyer, Gounden, Letchmiah, 1998; RSA, 1997).

In a country like South Africa there is a need for mechanisms that the government can utilise to address the economic inequities of centuries of systematic disempowerment of the majority population. The task of government is to develop and implement policies so that improve economic growth thereby advancing human development, sustained employment and equity amongst its citizens. In commenting on this topic, Dr. Mamphele Ramphele (2001), former Managing Director of the Human Development Unit of the World Bank stated that: "The essential objective is for African nations to leverage their own destiny and build capacity for themselves."

The use of public sector procurement as an instrument of government policy to achieve specific socio-economic objectives can have significant positive outcomes in a variety of areas ranging from the protection and development of national industry, to social policy goals such as the promotion of equal opportunity (McCrudden, 2004). Likewise, the use of procurement as a

regulatory tool to enforce existing legal obligations or to encourage standards of behavior beyond those required by law has the potential to be very effective (World Bank, 2003).

A study undertaken for the European Community cites five principle socio-economic or political functions for which public sector procurement may be used to achieve outcomes in addition to obtaining the required goods and services (McCrudden, 1995). These are:

i. to stimulate economic activity;
ii. to protect national industry against foreign competition;
iii. to improve the competitiveness of certain industrial sectors;
iv. to remedy regional disparities; and
v. to achieve certain more direct social policy functions such as:
    - fostering job creation,
    - promoting fair labour conditions,
    - promoting the use of local labour,
    - prohibiting discrimination against minority groups,
    - improving environmental quality,
    - encouraging equality of opportunity between men and women; and
    - promoting increased employment of the disabled.

2.2.2 Linking Social Outcomes to Public Procurement

A common approach used to achieve socio-economic objectives in developing countries over the past few decades has been to establish special programmes involving construction projects (McCrudden, 2004; Watermeyer, 2000; Letchmiah, 1997). For example, since 1970, the International Labour Organisation (ILO) and the World Bank have engaged in employment programmes for rural road construction with the objective of substituting labour for capital intensive equipment in a cost effective manner (Watermeyer, Hauptfleisch, Jacquet and Letchmiah, 2000a). Special programmes such as these,

however, have a relatively small impact on the economy as a whole because expenditure on them is usually only a small fraction of public sector expenditure (Gounden, 2000).

Many governments have justified the use of procurement as a mechanism for promoting socio-economic objectives, and there are many examples of its use as an instrument of policy (McCrudden, 1995). Bolton (2004) notes that in South Africa procurement is seen as one of the regulatory mechanisms used by government to address institutional gender discrimination and inequality. The use of preferential policies in public procurement has also extended to include the employment and promoting of business opportunities for disabled persons (Arrowsmith, 1995). McCrudden (2004) suggests that, although the use of public procurement as a tool to achieve socio-economic objectives is being increasingly implemented, the use of public procurement for social purposes was still mainly being used in the building sector.

The characteristics of procurement policy to achieve socio-economic objectives may include such areas as gender, race, ethnicity, age, disability, religion, and caste, as well as meeting participation quotas or conditions for target groups (Letchmiah, 1996).

Certain types of prescriptive instruments that are available to government, e.g. legislation, regulations, conditions of contract and set aside schemes (where the whole or part of a contract is set aside for a particular target group) are not necessarily efficient (Watermeyer, 2003; Letchmiah, 2001a). According to Watermeyer (2003), these instruments can constrain the private sector in its ability to deliver and are therefore not without controversy, with questions being raised regarding their legitimacy and effectiveness.

Several schemes for using public procurement as a tool to achieve socio-economic objectives have evolved in different countries and socio-political

contexts (McCrudden, 2004; Watermeyer, 2003; Manchidi and Harmond, 2002; Gounden, 2000). These include reservations, preferencing, and indirect and supply-side interventions. Table 2.1 lists these schemes and outlines the methods used to implement them through preferential procurement policies.

Table 2.1: Types of Public Procurement Interventions

Scheme Type	Methods	Action Associated with the Method
Reservation	Set asides	Allow only enterprises that have prescribed characteristics to compete for the contracts or portions thereof, which have been reserved for their exclusive execution.
	Qualification criteria	Exclude firms that cannot meet a specified requirement, or norm, relating to the policy objective from participation in contracts other than those provided for in the law.
	Contractual conditions	Make policy objectives a contractual condition e.g. a fixed percentage of work must be subcontracted out to enterprises that have prescribed characteristics, or a joint venture must be entered into.
	Offering back	Offer tenderers that satisfy criteria relating to policy objectives an opportunity to undertake the whole or part of the contract if that tenderer is prepared to match the price and quality of the best tender received.
Preferencing	Preferencing at the shortlisting stage	Limit the number of suppliers / service providers who are invited to tender on the basis of qualifications and give a weighting to policy objectives along with the usual commercial criteria, such as quality, at the shortlisting stage.
	Award criteria (tender evaluation)	Give a weighting to policy objectives along with the usual commercial criteria, such as price and quality, at the award stage.
Indirect interventions	Product/service specification	State requirements in terms of product or service specifications, e.g. by specifying the use of labour-based construction methods.
	Design of specifications, contract conditions and procurement processes to benefit particular contractors	Design specifications and/or set contract terms to facilitate participation by targeted groups of suppliers.
Supply side interventions	General assistance	Provide support for targeted groups to compete for business, without giving these parties any favourable treatment in the actual procurement.

Source: Watermeyer (2003)

Historically, attempts to link socio-economic objectives with public procurement originate mostly in the nineteenth century in England, the United States and France (McCrudden, 2004). Many studies indicate that both developed and developing countries continue to use public procurement as a mechanism to achieve a wide range of socio-economic objectives (Govender and Watermeyer, 2001; Arrowsmith, 1995). Examples include the United Kingdom, India, Malaysia, Canada, the United States, Northern Ireland, Spain, Sri Lanka, Nigeria, Namibia, Brazil, Philippines, Thailand, Singapore, Botswana and South Africa (McCrudden, 2004; Watermeyer, 2003; Gounden, 1998; Arrowsmith, 1995; McCrudden, 1995).

In countries where affirmative action is a social and political imperative it is not uncommon to find public procurement being used as a policy mechanism. For example, public procurement has been used to address racial inequality in the United States; ethnic inequality in Malaysia; and unfair treatment of aboriginals in Canada (McCrudden, 2004). In each of these cases a form of preferential procurement policy was utilized.

McCrudden (2004) contends that the combination of public procurement and social policy goes beyond the simple awarding of contracts, and extends to include the definition of the contract, the required qualifications of contractors and the adjudication criteria for the award of the contract, amongst others. He also states that there is relatively little easily accessible information worldwide on the current extent and outcomes of procurement as a social policy mechanism.

At the Eighth International Public Procurement Association (IPPA) Conference in Malaysia (20 - 22 May, 1997) a resolution was passed to recognize the contribution of public procurement towards achieving socio-economic development and to highlight the need for multilateral procurement rules to take cognizance of this based on the progress of economic development of individual nations.

A review of the literature indicates that the appropriate orientation of public sector procurement can enable governments to use its purchasing power to attain specified socio-economic objectives (Bolton, 2004; McCrudden, 2004; Arrowsmith, 1995). Within the South African context, public sector procurement was identified as a mechanism that could make a critical contribution to the transformation and democratization of South African society (RSA, 1997). In striving to meet these objectives governments have a responsibility to ensure that such procurement policies subscribe to international best practice and reinforce the principles of good governance.

Notwithstanding the use of preferential procurement to promote social policies, the concept suffers from a lack of shared understanding (Kajimo-Shakantu, 2007). Depending on the position of various interest groups there can be opposing views based on moral and social grounds (Watermeyer, 2000).

Despite these differing viewpoints many governments continue to implement preferential policies in public procurement to achieve socio-economic goals (McCrudden and Gross, 2006).

2.2.3 Creating Market Access for SME's

Preferences in public procurement are primarily aimed at eliminating barriers to entry with regard to access to business opportunities and are directed at those who have been historically disadvantaged.

One of the key elements in the South African government's strategy for social equality, employment creation and income generation of historically disadvantaged groups was to provide access to markets through government contracts.

2.3 INTERNATIONAL PERSPECTIVE ON SOCIAL INTERVENTIONS THROUGH PUBLIC PROCUREMENT

International experience on the use of public procurement to attain socio-economic objectives indicates that several models have evolved based largely on country specific procurement regimes, socio-economic imperatives and multi-lateral trade agreements. Many of the models are not necessarily efficient and can place constraints on the ability of private sector to deliver optimally (Watermeyer, Jacquet and Letchmiah, 2000c). Accordingly, the use of public procurement as an instrument of social policy is not without controversy and various questions have been raised with regard to its effectiveness, transparency and cost effectiveness.

2.3.1 Historical Background of Preference Policies in Procurement

A review of the literature on the history and use of government procurement as a tool of social regulation indicates that, while its use for achieving social objectives is widespread, detailed operational details are often exiguous and unavailable (Kajimo-Shakantu, 2007; McCrudden, 2004; Gounden, 2000; Watermeyer, 2000; Arrowsmith, 1995). Increasingly, governments are combining their regulatory role with their activities in the market as purchasers of supplies, services and works in order to advance aspects of social justice. McCrudden (2004) has labeled the combining of these two functions as the process of linkage.

An early example of using government procurement to achieve social objectives was the Executive Order issued in 1840 by US President Van Buren which established a 10 hour working day for workers employed under certain government contracts (McCrudden, 2004). Another example is the Special Contracts Arrangements (SCA), a British government scheme aimed at assisting employers of severely disabled people in the European economic area to

compete for contracts from UK government departments and agencies more successfully by requiring procurement authorities to give special consideration to buying from eligible suppliers (McCrudden, 2004). The scheme utilises a procurement method known as "offer back" under which a registered supplier is given an opportunity after tendering to match the best offer received, thereby allowing it to revise its tender in order to make it equally competitive (McCrudden, 2004; Watermeyer, 2003). Government procurement is used in many countries as a tool for reducing unemployment amongst certain categories of workers. According to McCrudden (2004), several large municipal governments in the Netherlands have used public procurement to increase the employment levels of long-term unemployed persons.

The growth of the movement to end discrimination against black Americans, also known as the "civil rights movement", galvanized the development of anti-discrimination principles in the United States and other countries. During this period successive US Presidents issued Executive Orders requiring non-discrimination by contractors on federal government contracts. These types of "affirmative action" measures by the US government from the mid- to late-1960's embodied the various approaches to addressing discrimination that went beyond simply prohibiting the action to include a wide spectrum of proactive measures intended to promote and achieve greater racial equality.

These types of actions and their associated anti-discrimination legislation significantly influenced similar laws in other countries. For example, the American experience appears to have influenced government in the United Kingdom where legislation was enacted to address the problem of racial discrimination against black and Asian immigrants from Commonwealth countries (McCrudden, 2004). In turn, other Commonwealth countries adopted anti-discrimination legislation drawing from British and American legislation, with the Canadian provinces enacting human rights statutes from the early 1960's. In 1986 the Canadian government instituted a Federal Contractors

Programme which, according to McCrudden (2004), complimented Canada's Federal Employment Equity Act. It requires that businesses that wish to bid on Canadian government contracts of a prescribed value commit to implementing employment equity, and demonstrate such commitment by signing a certificate in this regard.

The development of an approach to achieving equality stemming from past discrimination also became closely linked with the movement for de-colonization, which essentially was the movement for independence in countries that were formerly under colonial rule (McCrudden, 2004). The approach taken by the Indian government in its Constitution included both an anti-discrimination principle and the provision of extensive reservations for specific groups. This legislation, in turn, influenced other countries such as the British colony of Malaya which then comprised present day Malaysia and Singapore (McCrudden, 2004).

Following on the enactment of anti-discrimination laws to address racial issues, the development of legislation to deal with gender discrimination was another important milestone. And as this type of legislation expanded so did the use of procurement linkages as an enabling mechanism. Accordingly, by the late 1960's affirmative action requirements were extended to benefit women in US federal government contracts to ensure that businesses owned by women would also participate in government contracts (McCrudden, 2004).

2.3.2 Origins of Affirmative Action

A review of the literature indicates that the term "affirmative action" originated in the United States (Weiner, 1993; Kennedy, 1993). According to Weiner (1993), affirmative action refers to very specific policies and programmes implemented by a government to redress the inequalities that exist within a society based on racial, ethnic, gender, caste and other categories. Kennedy (1993) comments

that affirmative action refers to policies intended to benefit historically disadvantaged racial groups which uses race as a basis for allocating benefits, and that the main triumphs of affirmative action in American society have been the growth of the Black middle class.

The case for affirmative action in most countries is straightforward, with the intention being to benefit historically disadvantaged (subordinated) groups and the nation as a whole (Kennedy, 1993). Affirmative action programmes seek to enable members of such groups to attain occupational and economic advancement in numbers and at a pace that would otherwise be unattainable. Much of the early focus of affirmative action “struggles” centred on educational and employment opportunities for Black Americans, before evolving to include business opportunity and participation objectives.

The phase “affirmative action” has its roots in Executive Order 10925 which was signed into law by US President Kennedy in March 1961. It stated that contractors doing business with the government "will take affirmative action to ensure that applicants are employed, and employees are treated during their employment, without regard to their race, creed, color, or national origin." The order did not promote preferential treatment of specific groups but was intended rather to eliminate discrimination in the traditional sense.

The Civil Rights Act of 1964 solidified the legal status of affirmative action in the US (King, 1998; Weiner, 1993). Title VII of the Act offered a similar understanding of affirmative action as that established by Executive Order 10925 by stating that it was not designed "to grant preferential treatment to any group because of race, color, religion, sex, or national origin." The authors of the Act emphasized this non-preferential interpretation when they wrote: "There is no requirement in Title VII that an employer maintain a racial balance in his workforce. On the contrary, any deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of Title VII, because maintaining such a

balance would require an employer to hire or refuse to hire on the basis of race." (Affirmative Action Law and Legal Definition, 2012)

According to Days (1993), the American experience with affirmative action initially started with race conscious remedies for education and employment opportunities to increase the participation of black Americans and was not supposed to be an economic development programme. As such, it was implemented to break down the intense social structures that excluded minority groups. Over time other countries took the concept of affirmative action as defined by the American experience and adapted it to their own socio-political-cultural context.

The US programmes that were specifically designed to implement affirmative action and address empowerment originated when US federal government adopted targeted approaches to ensure that contractors did not discriminate against blacks in terms of businesses and employment opportunities (Days, 1993). These programmes date back to the early 1940's during the administration of US President Roosevelt and are sometimes referred to as the "Executive Order Programmes" (Noon, 2009; Days, 1993).

Although executive orders embodied an anti-discrimination principle, for many years they lacked meaningful enforcement mechanisms. Then in 1961 Kennedy's Executive Order 10925 went beyond simply prohibiting discrimination and imposed a proactive duty upon contractors to ensure that job applicants from all population groups were employed and treated on an equal basis (Noon, 2009; McCrudden, 2004; Weiner, 1993). In the early 1970's, the Equal Opportunity Employment Commission (which was created by Order 10925) went further by establishing quotas or statistical goals for the employment of certain minority groups (Weiner, 1993).

According to Days (1993), the 1960's were considered the decade for experimentation and innovation is US affirmative action programmes, while the 1970's ushered in a period of legal challenges to such programmes. The outcome of these challenges was that the American courts instructed the US government to re-design its affirmative action programmes to address historic discrimination for so long as was necessary to achieve programme objectives whilst simultaneously minimizing any adverse impact on non-minority groups (Days, 1993). According to Days (1993), these decisions were made, at least in the initial stages, in the absence of reliable data to assess the impact of the programmes.

The origins of affirmative action in South Africa can be linked to the development of the Sullivan Principles which provided a set of non-discrimination and affirmative action principles that, although not legally binding, targeted foreign corporations operating in South Africa. A particular emphasis was placed on American companies.

These principles are considered to be among the earliest attempts to develop norms and standards for human rights in the country (McCrudden, 2004). According to McCrudden (2004), one of the techniques adopted to enforce the application of the Sullivan Principles (often under political pressure from Non Governmental Organizations (NGO's) operating in South Africa) was the threat by the US government that non-conforming companies could be deprived of US government contracts.

South Africa and Malaysia are examples of countries that adopted the concept of affirmative action as originated by the American model. Another example is Northern Ireland, where the American approach was emulated much more closely than in the rest of the United Kingdom in an attempt to tackle the discrimination and inequality that persisted between Catholics and Protestants (McCrudden, 2004).

In Malaysia, affirmative action programmes were introduced during the colonial period to favour Malays, and post-independence affirmative action programmes were a continuation and intensification of these policies (Emsley, 1996). Although some observers might argue that affirmative action programmes are only justified when the targeted beneficiaries are disadvantaged minorities, in the Malaysian context the aim of affirmative action is to benefit the majority group. This is also the case in South Africa.

Evidence from many countries suggests that a broad range of initiatives designed to advance disadvantaged groups (usually minority groups) are often loosely and collectively labeled as affirmative action programmes. However, it is the author's contention that the focus of this discussion should not be on terminology but rather on the types of interventions that can best deal with the socio-economic inequalities of a particular country. Weiner (1993) contends that it is unfortunate that the term "affirmative action" was imported to South Africa since it is a purely American term intended to deal with the problems of specific disadvantaged minorities.

2.3.3 The USA Experience

In the US the construction industry was the first sector targeted by the federal government to implement affirmative action procurement strategies for government projects (McCrudden, 1995). Since infrastructure projects are greatly dependent on public funds, legislation was enacted to provide set-aside programmes that required a portion of the contracts to be awarded to minority owned businesses (Kajimo-Shakantu, 2007; McCrudden, 2004).

In the US set-aside programmes were introduced to ensure that a portion of Public Works funded construction contracts would be secured by black-owned businesses in an attempt to promote the entrepreneurial black middle class (Chatterji, Chay and Fairlie, 2010; Days, 1993). According to Chatterji et al (2010)

and McCrudden (2004), an early example was the Public Works Employment Act of 1997 which provided that at least 10 percent of the budget for local public works projects under the Act were to be allocated to minority business enterprises.

According to Kajimo-Shakantu (2007), the set-aside programme allowed only targeted groups to tender and was not a system open to everyone. In this regard, a waiver of the set-aside requirement could only be obtained if the set-aside could not be fulfilled by minority businesses located within a reasonable trading area (McCrudden, 2004). Similar programmes were created by federal agencies, and by state and local government authorities that implemented public works construction projects.

Under the Act, the targeted beneficiaries are termed Minority Business Enterprises (MBE) (also referred to as Disadvantaged Business Enterprises (DBE)) which are defined as businesses with ownership of 50 percent or more by minority group members defined to include Black Americans (Marion, 2005; McCrudden, 2004). Legislation supporting affirmative action in public procurement in the US is linked to the Small Business Act (SBA) of 1953 which was enacted to allow government contracts to be set aside for small enterprises. Presently, the use of set-aside programmes has been severely curtailed based on Supreme Court rulings stemming from legal and constitutional challenges to set-aside policies (Crosby, Iyer, Clayton and Downing, 2003).

Despite a lack of empirical studies in the literature, some research has contributed to identifying the impact of MBE programmes in the US. A study by Myers and Chan (1996) indicated that despite the number of contracts awarded during the set-aside programme, the success rate of MBE's winning tenders did not increase when compared with white owned firms. The study suggested that MBE programmes did not substantially improve the competitiveness of black owned firms. However, it did indicate that the MBE programmes were effective

in providing access to markets for minority owned businesses and in enabling them to gain a foothold and increase tender opportunities in the construction industry. This view is supported by Blanchflower and Wainwright (2005), who contend that utilization of minorities and women in public procurement declines rapidly where affirmative action programmes are removed and replaced with race or gender-neutral programmes.

Others studies indicate that the US set-aside programmes have resulted in fronts and switches (Lanoue, 1992). Switches occur when ownership is transferred from husband to wife so that the business can qualify as a women owned enterprise or when white males establish front companies with a woman or minority person as the owner to benefit from the set-aside programmes, but where such person has no effective control in the management and running of the business (Kajimo-Shakantu, 2007; Blanchflower and Wainwright, 2005; King, 1998; Lanoue, 1992).

According to Lanoue (1992), a study of the construction industry in Atlanta supports the findings of fronting and “pass through” activities, and confirms that such abuses were rife in MBE programmes. The abuse of the system was mainly attributed to the lack of verification and monitoring of the businesses. The fronting problem was further compounded by the absence of penalties or sanctions being imposed for non-compliance (Bates & Williams, 1995). However, Bates and Williams (1995) also contend that fronting is substantially reduced when MBE certification is applied.

A combination of certification and monitoring effectively required contractors with large government contracts to submit implementation plans that included analysis of minority utilization in all job categories; targets with timeframes to correct the under-representation of minorities; and the development of data collection systems and reporting plans to document progress in achieving the specified affirmation action goals (Days, 1993). Failure by a contractor to meet

the contract goals resulted in financial penalties and sanctions that included de-barring from future government contracts (Days, 1993).

Days (1993) contends that the SBA, although intended to help minority businesses develop to a point of independence at which they would no longer need support, became an entrenched programme in which only a few businesses graduated out while many continued to rely on government assistance. Days (1993) further contends that an affirmative action policy programme should not be limited to creating small businesses, most of which fail after three years, but should facilitate further opportunities where small businesses could gain skills, resources and networks for sustainable success. The objective is to have an enabling environment that creates businesses that can reach a point of take off and thereafter continue on a successful trajectory by effectively competing for contracts in both the public and private sector (Days, 1993).

2.3.4 The Malaysian Experience

The Malaysian experience with preferential procurement over more than 30 years provides a useful case study that addresses key issues on equality and redistribution amongst historically disadvantaged population sectors (Yusof and Bhattasali, 2008). The South African Preferential Procurement Policy appears to mirror the Malaysian experience in using procurement to address economic and social imbalances. Malaysia used a comprehensive system of affirmative action policies designed to benefit the politically dominant, but economically weak, Malay majority (Emsley, 1996).

The formation of Malaysia in 1963 resulted in the broadening of the special rights provisions to new groups and a new term “bumiputra” was introduced to encompass the diverse indigenous groups (Puthucheary, 1993). According to McCrudden, this lead to the incorporation into the independent constitution of provisions which was modeled on the Indian constitution guaranteeing non-

discrimination but at the same time providing for the possibility of reservations in favour of the Bumiputras.

The major thrust of Malaysia's efforts was through the implementation of the New Economic Policy (NEP). The NEP, promulgated in 1971, was an ambitious programme aimed at redistributing wealth, eradicating poverty, and restructuring society with the primary aim of benefiting the majority Malaysian Population (Emsley, 1996; Weiner, 1993; Snodgrass, 1980). The NEP was not only an economic programme, but was also a social political agenda to ensure equitable distribution amongst social groups, to promote national unity and to maintain political stability on the basis of sustained economic growth (Simpson, 2005; Abdullah, 1997; Snodgrass, 1980). The NEP was essentially an affirmative action programme necessitated by the pressing problems of economic inequality between races, which was a byproduct and legacy of colonialism (Emsley, 1996; Puthucheary, 1993). Yusof et al (2008) state that the NEP's main focus was on a major distributional transformation of the Malaysian economy, and that from its inception it was able to make remarkable progress.

The NEP had a two-pronged development programme of which the first was aimed at eliminating poverty by increasing employment opportunities and raising income levels for all Malaysians, irrespective of race. The second was aimed at accelerating the process of restructuring Malaysian society by creating business opportunities to correct economic imbalances, in particular for the Bumiputras (Emsley, 1996; Hart, 1994). The "restructuring" prong of the NEP was comprised of a quota system for Malays in education, employment, and government contracts, along with measures to restructure the ownership of corporate equity holdings.

For example the Industrial Co-ordination Act of 1975 stipulated that 30% of the equity of firms producing for the domestic market had to be set aside for the Malays; employment quotas for Malays in export as well as domestic industries

has to be enforced; and firms were required to use Malay distributors for a minimum of 30% of turnover (Hart, 1994). Hart (1994) concludes that the NEP demonstrates that a highly interventionist state can indeed redefine the conditions of access to resources and opportunities along racial or ethnic lines.

The Malaysian government was both determined and assertive about its targets to restructure the economy. Accordingly, it set a timetable that within a period of 20 years from the inception of the NEP Malays and other indigenous people would manage and own at least 30% of the total commercial and industrial activities in all categories (Abdullah, 1997). In order to achieve this, the Government played a significant interventionist role in implementing its transformation policies. Large companies with capital and employment above certain levels were also required by government to restructure their ownership to ensure Bumiputra participation and shareholding (Puthucheary, 1993).

It is important to note that the NEP's objectives were intended to be achieved in the context of an expanding economy. Snodgrass (1980) contends that Malaysia undertook its redistribution and restructuring drive in the 1970's and 1980's within the context of economic growth which offered increasing opportunities for all Malaysians and therefore created an environment where no particular group experienced any loss or felt any sense of being deprived. Accordingly, Malaysia achieved a high growth rate while at the same time achieving most of its redistributive affirmative action objectives.

Abdullah (1997) concludes that at the end of NEP's 20 year time frame the Bumiputra in the 1990's (especially the Malays) were certainly much better off, socially and economically, than they were in the late 1960's. The number of Malay business establishments also increased which reflected the escalating purchasing power of the Malays. It appears certain that the affirmative action policies implemented under the NEP successfully improved the socio-economic positions of the long neglected and economically backward Bumiputra groups.

Abdulla (1997) further states that despite the NEP not achieving 100% of it targets at the end of its 20 year time frame (1970 – 1990), overall its achievements and impact in relative terms can be described as phenomenal and hugely successful.

According to official estimates, Malay ownership of corporate assets was between 18% - 19% in the late 1980's, well short of the NEP target of 30% (Hart, 1994). At the time of its official conclusion in 1990, spectacular strides had been made towards meeting most targets (Simpson, 2005). As noted above, sustained economic growth played a pivotal role in the successful restructuring of the Malaysian economy and the readdressing of ethnic imbalances (Simpson, 2005).

The NEP led to an expansion of construction activities with the acceleration of public sector development expenditure, mainly in infrastructure projects (Madya, Abdullah, Chiet, Anuar and Shen, 2004). The country's transformation from an agriculture based economy to industrialization contributed to the development of the construction industry. The construction industry was also important in providing the infrastructure required for socio-economic development and contributing directly to economic growth in Malaysia. During the early stages of independence the Malaysian government directed its attention to promoting socio-economic objectives for the target groups by implementing rural development projects, amongst others. An important element in the Malaysian strategy was the use of procurement contracts that were structured in such a way that it would promote an entrepreneurial Malay middle class over time. In terms of planning for procurement of works contracts, at least thirty percent of the annual value of contracts was set aside for Bumiputra contractors (McCrudden, 2004).

At the same time, Puthucheary (1993) notes that many problems persisted, such as conflicts between the dominant Malays and other indigenous groups and underlying tension between the Chinese and Malays despite the political alliance

successfully promoting high economic growth and greater equity. According to Puthucheary (1993), the terms of the constitutional commission that made recommendations for a democratic Malaysia required it to make provision to safeguard the position of the Malays and, in addition, to protect the legitimate interest of other communities so that all citizens of Malaysia would enjoy the fundamental rights of equality. In its recommendations the commission proposed that these special privileges be subjected to review after fifteen years in order to determine whether quota systems should be retained, reduced or discontinued in its entirety (Puthucheary, 1993).

Affirmative action programmes were introduced where wealth was measured in terms of equity ownership and statistical targets were set for economic transformation. The aim was that within a 20 year period Malay ownership of share capital would increase from less than two percent in 1969 to about 30 percent by 1990 (Puthucheary, 1993). The affirmative action programmes accordingly contributed to the establishment of a Malay business community which was one of the stated objectives of the NEP.

One of the strategies employed by the non-Malay business community was to establish joint venture companies with Malay ownership. According to Puthucheary (1993), the willingness and co-operation of the non-targeted groups to give the affirmative action programmes a chance to succeed was a major factor contributing to their success. Puthucheary (1993) goes on to state that because there is a tendency for the benefits of affirmative action programmes to benefit disproportionately those at the upper end of the social spectrum, to avoid this anomaly policy objectives should seek to create a sustainable middle class.

According to Puthucheary (1993), the Malaysian experience showed that disadvantaged groups could not take advantage of those opportunities because they had not attained the skills level or had little experience in an open capitalist

system to make proper use of market opportunities offered by government. This presents an important lesson for South Africa in that it is necessary to identify whether the preferential procurement programmes and supportive policies have been implemented in a way that may have promoted the interest of the more economically developed sectors of the target groups at the expense of economically disadvantaged persons in South Africa.

The Malaysian experience also shows that there is a need to continuously respond to outcomes and results, and to initiate adjustments to policies. According to Yusof et al (2008), the affirmative action policies in the NEP were implemented during a new and uncertain era and that their impact and experiential learning lay in the actual outcomes of the policies. Built into the implementation of the NEP were the mechanisms to monitor, evaluate and, where possible, adjust the linkages between economic growth and distribution (Yusof et al, 2008).

Malaysia provided South Africa with an interesting comparative case for affirmative action since the target group in Malaysia, like in South Africa, was the majority population group. According to Hart (1994), a very different configuration of social forces were applicable in Malaysia during the NEP compared to that confronted by South Africa in that South Africa had a highly organized and mobile working class. It was also very differently situated in an increasing integrated global economy. Hart (1994) argues further that rather than a model, Malaysia serves as a set of lenses which can help to clarify the possibility and limits of transformation in South Africa.

2.3.5 Experiences of Other Countries

India - According to Beteille (1993), the Indian example illustrates a particular form of affirmative action in which reservations are used as the predominant form for achieving equity among social groups. The Indian experience is referred

to as a programme of positive discrimination or a policy of reservations and dates back to colonial times. The constitution of India makes reference to the schedule Tribes and the schedule Castes in the context of positive discrimination (Beteille, 1993). These categories are reasonably well defined and there is a fair amount of consensus about the need for special provisions for these groups. The early positive discrimination (reservations) applied primarily to jobs in government and to access to education opportunities. Procurement regulations in India stipulate that certain products must be purchased exclusively from the small business sector provided that prices are within fifteen percent of that offered by the closest competitors which are intended to promote artisans and small scale firms (Kajimo-Shakantu, 2007; Srivastava, 2003). According to Agarwal (2012), the government of India recently approved a Public Procurement Policy that would require all central ministries and public sector units to procure at least 20 percent of their total annual purchases from the Micro, Small and Medium Enterprises (MSME). This brings India in line with global practices and follows the examples of the European Union, Australia, Brazil and China where similar policies are already put in place (Agarwal, 2012).

Sri Lanka - The Sri Lankan experience according to Weiner (1993) raises a fundamental question as to whether affirmative action programmes intended to achieve greater equality amongst ethnic groups results in the unintended consequence of increasing ethnic conflict. The special affirmative action policies to benefit the Sinhalese community in Sri Lanka intensified the political divisions that led to the civil war that was destructive for the entire country (Weiner, 1993). According to Samarasinghe (1993), Sri Lanka's affirmative action programme and policies originated primarily to help the Sinhalese majority to gain what they considered to be a fair share of the national economy. Affirmative action in Sri Lanka is defined as any public programme or policy that is implemented by either the state or by the private sector in a way that is

designed to help a particular designated group in society to obtain a share of resources that it would not be able to obtain otherwise (Samarasinghe, 1993).

Canada - Procurement measures in Canada were put in place in March 1996 to increase the participation of Aboriginal business in tendering for federal government contracts (McCrudden, 2004). This initiative, according to McCrudden (2004) consisted of the following different elements:

1. Emphasis on Aboriginal economic development in public procurement policy;
2. Mandatory set-asides intended for Aboriginal population groups for contracts above a certain threshold which were; and
3. Selective set-asides on specific contracts to provide sub-contracting opportunities for Aboriginal firms.

These mandatory and selective development activities were aimed to achieve to increased representation of Aboriginal business in contracts awarded by the public sector. In addition, the participation of Aboriginal business through sub-contracting was also encouraged in the procurement review process.

South African Development Community (SADC) countries – Namibia has similar challenges to the South African situation in having to integrate racially disadvantaged persons into the mainstream economy after independence. The Namibian government has recognised the benefits of using some of the preferential procurement strategies that were developed in South Africa to realize socio-economic objectives in its labour-based programmes and in promoting the participation of small scale enterprises in construction projects (Govender et al, 2001). Botswana conducted an overall review of the central government's procurement policies, practices and procedures. (Govender et al, 2001). According to Govender et al (2001), Botswana provides a margin of preference in the adjudication of construction tenders where the tenderer is a citizen (indigenous) contractor, a joint venture with citizen contractors or a

foreign contractor that is in association with citizen contractors and/or maximizes sub-contracting opportunities to citizen contractors. In joint ventures, citizen contractors are required to undertake a minimum of 25% of the contract amount in order for the tendering entity to qualify for preferences (Govender et al, 2001).

2.4 THE EVOLUTION OF PREFERENTIAL PROCUREMENT IN SOUTH AFRICA

2.4.1 The Reconstruction and Development Programme

In 1994, following the first democratic election in the Republic of South Africa, the South African government adopted the Reconstruction and Development Program (RDP), a comprehensive socio-economic policy instrument aimed at eradicating the legacy of apartheid, which had left South Africa with an economy which was inward focused, distorted by growth inequities, inefficiencies and underdeveloped resources and markets.

The RDP can be equated to the Roosevelt New Deal which was designed to pull the US 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 (Gounden, 2000).

The RDP provided the ideological backdrop to discussions about ways of transforming the country's public procurement process. It recognized the challenge of stimulating economic growth by economically empowering the previously marginalized sectors of the South African society. A central objective of the RDP was the de-racialisation of business ownership and control through focused socio-economic interventions. This vision of an equitable economy, which had its roots in the Freedom Charter of 1955, was refined and developed in the contemporary context of the RDP (RSA, 2003a).

The African National Congress (ANC) realised the importance of small, medium and micro enterprises (SMME's) in the macro economic development of South Africa, and understood that they were had been largely ignored in the past (RSA, 1997). It also recognized that historically the tendering system favoured larger and more established businesses, and that it was very difficult for new and emerging enterprises to compete successfully in the existing public sector procurement system (Gounden, 2000; Watermeyer et al, 1998). As a result, policy makers decided to use the public sector procurement system to help eliminate past injustices by making the procurement process easily accessible to new and emerging businesses.

2.4.2 The Public Sector Procurement Reform Task Team

After an initial review of the regulatory environment that impacted upon public sector procurement, the government concluded that procurement reform could not be undertaken on a sector by sector basis, but rather that a fundamental review of the entire public sector procurement system was required (Manchidi and Harmond, 2002; Gounden, 2000; Letchmiah, 1998c). This resulted in the Ministry of Public Works and the Ministry of Finance embarking on a joint initiative in February 1995 to transform public sector procurement policy and systems in South Africa (Letchmiah, 2001b).

A Procurement Reform Task Team consisting of government officials and private sector consultants was appointed to research and draft new policy proposals. The author was appointed Leader of this team. From the outset the transformation of the public sector procurement system had two primary objectives:

(1) The promotion of good governance within the sphere of public sector procurement; and
(2) To utilize public sector procurement as a vehicle to achieve specific socio-economic objectives such as the promotion of targeted small and

medium enterprises, enhanced job creation, business opportunities, skills and technology transfer and other related goals.

Soon after the first democratic elections in April 1994 the new government began investigating international models which could be emulated in post-apartheid South Africa. Malaysia became the leading example because of the many similarities in its history, and political and economic development. At the time, few societies in the world had undertaken as massive an economic redistribution based on racial or ethnic criteria as Malaysia (Puthucheary, 1993; McCrudden, 2004). Because its New Economic Policy (NEP) had successfully achieved many of its goals, South Africans were encouraged to look to Malaysia for solutions (Hart, 1994). As Hart (1994) contends, however, the invocation of "comparative models" and "international experience" is often a means by which allegedly superior knowledge is used to preclude debate.

A preliminary review of South Africa's existing procurement policies and systems identified a tendency for the awarding of public sector contracts to be skewed towards large established companies (Letchmiah, 2001a; Gounden, 2000; Watermeyer et al, 1998). Further, the participation of SMMEs in public sector procurement, particularly enterprises owned and controlled by previously disadvantaged individuals (i.e., persons who did not have political franchise prior to the 1994 elections), was negligible (Manchidi and Harmond, 2002; Gounden, 2000). Accordingly, a decision was made to base the transformation of public sector procurement on two strategies to be implemented concurrently. The first strategy was to develop a substantially new procurement policy for South Africa linked to legislative reform. The outcome of this strategy was the Green Paper on Public Sector Procurement. This strategy was implemented concurrently with a series of interim strategies that were labeled the Interim Strategies: A Ten Point Plan. These were developed to be implemented over the immediate short term, albeit within the ambit of the extant flawed legislation.

The Procurement Reform Task Team undertook various study trips and consulted with many international experts before making recommendations on procurement reform. The experiences of the US and Malaysia in particular provided valuable insight and served as a guide to formulating preferential procurement policies in South Africa (Letchmiah and Manchidi, 2001; Letchmiah, 1997). The work of the Procurement Task Team concluded with the release of the Green Paper on Public Procurement Reform.

2.4.3 Ten Point Plan

One of the urgent outputs of the Procurement Task Team was to develop a set of interim strategies that would make the public sector tendering system immediately accessible to historically disadvantaged target groups within the context of good governance. The outcome of this was termed the "Interim Ten Point Plan on Procurement" which was a series of interim interventions primarily aimed at impacting positively on the participation of small and medium enterprises, in particular those owned by previously disadvantaged persons (Letchmiah, 1999b).

The Ten Point Plan was adopted by the then National Cabinet of Unity in November 1995 as its interim procurement policy. The two key thrusts were the price preference policy and the strategy for breakout procurement (i.e. unbundling of large contracts). The 10 Point Plan provided for an 88/12 points formulation for goods and services and an 85/15 for building and construction works.

The ten interim interventions contained in the plan are listed in Table 2.2.

Table 2.2: 10 Point Plan – Interim Strategies
1. Improving access to tendering information 2. The development of tender advice centres 3. Broadening the participation base for contracts less than R7 500 4. The waiving of security /sureties on construction contracts having a value of less than R100 000 5. The unbundling of large projects into smaller contracts 6. The promotion of early payment cycles by government 7. The development of a preferencing system for small and medium enterprises owned by historically disadvantaged individuals 8. The simplification of tender submission requirements 9. The appointment of a procurement ombudsman 10. The classification of building and engineering contracts
Source: RSA (1995)

2.4.4 Green Paper on Public Sector Procurement Reform in South Africa

The Green Paper on Public Sector Procurement in South Africa was released with the full endorsement of the National Cabinet in April 1997. In his message contained in the forward to the Green Paper, then Minister of Finance, Trevor Manuel, stated: "*In the past, the tendering system favoured larger, established companies, and it was very difficult (if not impossible) for newly established businesses to enter the public tendering system*." (RSA, 1997, p. 7). All the principles contained in the Ten Point Plan on Procurement were incorporated into the Green Paper.

The Green Paper recognized that government, as the largest purchaser of goods and services in the economy, could leverage its purchasing power in support of its socio-economic policy objectives (RSA, 2003a). This view formed the foundation of the procurement reform process and the subsequent development of policies and procedures. The perspective articulated by the Green Paper was that an effective and efficient procurement system would permit Organs of State

to deliver the quality and quantity of services required by its new constituency in accordance with its policies, which were articulated in the RDP.

The Green Paper contained the following two basic themes, *viz*.:

- Achieving good governance in procurement; and
- Achieving socio-economic objectives through procurement

The pillars upon which socio-economic issues were formulated are set out in Table 2.3.

Table 2.3: Pillars of procurement reform in respect of socio-economic issues

(i)	Public sector procurement should be structured in a manner that promotes economic reconciliation and competitiveness.
(ii)	The structuring of contracts should be such that small, medium and micro enterprise participation is maximized without compromising time, cost and quality.
(iii)	Value for money should not be based on least cost alone; it can include well defined socio-economic criteria which can be evaluated in a transparent and measurable manner.
(iv)	Targets should be set and delivery systems designed to facilitate one or more of the following subject to such targets being readily definable, quantifiable, measurable, auditable and verifiable: ▪ the development of small, medium and micro enterprises particularly those owned and operated by previously disadvantaged persons; ▪ increasing of the volume of work available to the poor and the income generation of marginalized sectors of society; and 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 previously disadvantaged sectors of society.
(v)	The procurement process should be made accessible to the target groups and structured in a simplified and user friendly manner.
(vi)	The third tier of government should identify area bound targets and select associated delivery mechanisms.
(vii)	Organs of State should take cognisance of regional and local dynamics when implementing procurement policy and associated practices.
Source: RSA (1997)	

The Green Paper (RSA, 1997), *inter alia,* addressed and provided principles and proposals in respect of:

- Access to tendering information and simplification of tender documents
- Break-out procurement (unbundling)
- Awarding of tenders in terms of a development objective/price mechanism
- An affirmative small, medium and micro enterprise participation programme
- Promoting employment-intensive practices
- Affirming marginalized sectors of society in construction projects; and
- The development of an affirmative procurement policy.

It also set out an affirmative SMME programme which was aimed at:

- reducing disparities in business ownership
- directing some of the flow of commerce to and through those population segments which historically were underutilized and excluded from participation
- engaging SMMEs in public sector procurement activities through prime (main) contractors on medium to large public sector contracts
- providing accessible markets; and
- forging linkages with large scale enterprises (RSA, 1997).

The Green Paper advocated an affirmative small, medium and micro enterprise participation programme that "*should be integrated with development initiatives aimed at enhancing the business capacity and skills of established small, medium and micro enterprises, and would provide work opportunities for those enterprises which had graduated from initiatives aimed at developing new small, medium and micro enterprise capacity*" (RSA, 1997, p70).

It also outlined an Affirmative Procurement Policy needed to enact the vision of the Procurement Reform Process and to facilitate the engagement of previously disadvantaged enterprises and communities. The paper envisaged that the policy

would promote: programmes aimed at the engagement of SMMEs owned by previously disadvantaged persons; an increase in the volume of work available to the poor; and income generation for marginalized sectors of society.

The Green Paper policy proposals attempted to address these issues and proposed strategies that integrated international best practice with South African specificities. The presentation of new concepts such as a targeted procurement policy, life cycle costing, value for money, and appropriate risk management strategies indicated government's commitment to the development of a procurement system that would respond to the needs of South African society (RSA , 1997). The new proposals provided wide ranging and far reaching implications for all stakeholders engaging in the public sector procurement process.

A White Paper represents government's official position on new policy proposals which follows from a process of consultations with various stakeholders. In the absence of a White Paper on South African Public Sector Procurement, several pieces of legislation which either dealt specifically with aspects of procurement or made reference to procurement were promulgated directly from the Green Paper proposals.

According to the World Bank's Country Procurement Assessment Report (CPAR) for South Africa, the non-formalization of the Green Paper created numerous challenges from the outset for implementing policy in a comprehensive and coherent manner. This was due to new legislation and regulations being passed without addressing the significant blockages and problems inherent in the legal and institutional framework (World Bank, 2003).

2.4.5 The Constitutional and Legislative Framework pertaining to Public Procurement

The public procurement system in South Africa is unique in that the principles governing procurement are contained in the South African Constitution (Bolton, 2008). According to McCrudden (2004), due to economic disparities, it was not unexpected that public procurement became one of the regulatory mechanisms used to redress the effects of institutional discrimination and inequality in South Africa after the dismantling of apartheid.

Over time, and in particular from 1994, the South African public sector procurement environment has been influenced by key policies and legislative acts as shown in Table 2.4.

Table 2.4: Chronological development of key procurement policies and legislation

Date	Policy or legislation	Impact on preferential procurement
1968	State Tender Board Act of 1968, (Act No. 66 of 1968, as amended)	The Act formulated a procurement regime to allow the procurement process at the national level to be regulated through the establishment of the State Tender Board.
1994	Provincial Tender Board Acts, e.g. Gauteng Provincial Tender Board (Act No.2 of 1994)	The interim and current Constitution established nine provinces. The Act formulated a procurement regime that allowed for a procurement process in the provinces and was formulated in line with the State Tender Board Act of 1994 (Act No. 86 of 1968, as amended).
November 1995	Public Sector Procurement Reform in South Africa, Interim Strategies (a 10-Point Plan)	Interim strategies aimed at increasing the participation of previously disadvantaged enterprises. It was only applicable for use within the state procurement legislation, i.e., applicable within the ambits of the State Tender Board Act (Act No. 86 of 1968, as amended), and as a guiding framework for the provinces (i.e. not enforceable).

Table 2.4: Chronological development of key procurement policies and legislation

Date	Policy or legislation	Impact on preferential procurement
February 1996	Constitution of the Republic of South Africa (Act No. 108 of 1996)	The Constitution requires the procurement process to be fair, equitable, transparent, competitive and cost effective and that, in addition, national legislation must prescribe a preferential policy framework. The Interim Constitution of RSA (Act No. 200 of 1993) did not cater for preferencing. The final Constitution was therefore influenced by the 10-Point Plan.
February 1999	Public Finance Management Act (Act NO.1 of 1999, as amended by Act No. 29 of 1999)	The Act promotes good financial management at national and provincial levels. It requires accounting officers to have a procurement system that is fair, equitable, transparent, competitive and cost-effective, as required by the Constitution. It also authorizes the National Treasury to issue procurement regulations as and when necessary. The Municipal Finance Management Act (MFMA) applies to local government.
February 2000	Preferential Procurement Framework Act (Act No.5 of 2000)	The Act is intended to give effect to Section 217(2) of the Constitution to provide a framework for preferencing. Regulations to this effect were issued in August 2001 and subsequently changed in December 2011.
January 2004	Broad-based Black Economic Empowerment Act (Act No. 53 of 2003)	The Act provides a legislative framework for the promotion of black economic empowerment. It also enables the Minister of Trade and Industry to issue codes of good practice and to publish transformation charters and, in addition, to establish the Black Economic Empowerment Advisory Council

Source: RSA (2003a); Manchidi and Harmond (2002)

The 1994 Interim Constitution made aspects of procurement a subject of the Constitution. This led to the reform of public sector procurement in South Africa. The Constitution of the Republic of South Africa (Act 108) was subsequently legislated in 1996 and included Section 217 which forms the basis for public

sector procurement legislation. The relevant provisions contained in Section 217 are listed in Table 2.5.

Table 2.5: Constitutional Provisions Pertaining to Procurement
1. Good Governance
When an organ of state in the national provincial or local sphere of government; or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
2. Socio-Economic
Provision (1) above does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy that provides for: a. categories of preference in the allocation of contracts; and b. the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.
3. Framework for Implementation
National legislation must prescribe a framework within which the policy referred to in subsection (2) may be implemented.
Source: RSA (1996b)

The Constitution therefore establishes the primary and secondary procurement objectives. The policy for the "good governance" aspects of procurement which is captured in sub-section (1) of Table 2.5 establishes a framework for procurement that is consistent with international norms and standards. South Africa's preferential procurement policy is derived from sub-section (2) of Table 2.5 in that it proposes a preferencing scheme to protect or advance persons disadvantaged by unfair discrimination. Furthermore, the requirement that national legislation must prescribe a framework within which the preferential procurement policy must be implemented is identified in sub-section (3) in Table 2.5.

Procurement reform commenced in 1995 with the appointment of a Task Team by the Ministries of Finance and Public Works and concluded with the release of the Green Paper on Public Sector Procurement Reform in 1997. Procurement reform focused on the two constitutional requirements, that being (i) good governance in procurement and (ii) the attainment of socio-economic objectives through procurement which resulted in subsequent legislation as summarized in Figure 2.1.

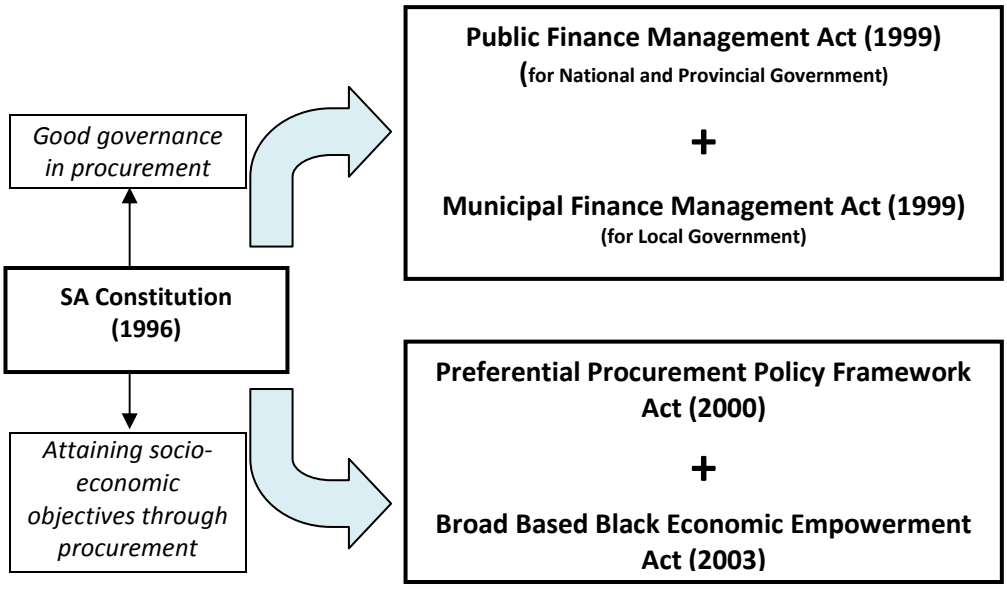


Figure 2.1: Legislative Framework of Procurement

Source: RSA (2003b), RSA (2000a), RSA (1999), RSA (1996b)

In summary, the constitutional and legislative framework facilitates a cost effective procurement system which provides, encourages and promotes the government's socio-economic objectives in a definable, quantifiable, measurable, verifiable and auditable manner, within a fair, equitable, competitive, cost effective and transparent environment, without (RSA, 1997):

- over-taxing the administrative capacity of government;
- creating unfair competition within sectors of the economy;
- abusing or lowering labour standards;

- exposing government to unacceptable risks;
- compromising value for money; or
- compromising the efficiency and effectiveness of the private sector to deliver.

According to Watermeyer (2003), the constitutional requirements for procurement is consistent with the objectives of The United Nations Commission on International Trade Law (UNCITRAL) model laws and as such follows international best practice.

2.4.6 The Preferential Procurement Policy Framework Act

The Preferential Procurement Policy Framework Act (PPPFA) (Act 5 of 2000) was intended to give effect to Section 217(2) of the Constitution and to provide a framework within which procurement policies referred to therein must be implemented. The preferential procurement policy was defined as a procurement policy contemplated in Section 217(2) of the Constitution (RSA, 2000a)

The Act requires Organs of State (through Accounting Officers) to determine their preferential procurement policy and to implement it within a framework. The Framework provided by the Act required a preference points system to be developed as indicated in Table 2.6.

No preferencing outside of the points system provided for in the Act was permitted. This meant in practice that tenderers who obtained the highest number of points could only have their tenders rejected should they:

- had insufficient capacity or capability to deliver; or
- were under suspension from participating in public procurement for prior actions.

Table 2.6: Framework for the Implementation of the Preferential Procurement Policy	
1.	For contracts with a Rand value above a prescribed amount, a maximum of 10 points may be allocated for specific goals provided that the lowest acceptable tender scores 90 points for price.
2.	For contracts with a Rand value equal to or below a prescribed amount, a maximum of 20 points may be allocated for specific goals provided that the lowest acceptable tender scores 80 points for price.
3.	Any other acceptable tenders which are higher in price must score fewer points on a pro rata basis, calculated on their tender prices in relation to the lowest acceptable tender in accordance with a prescribed formula.
4.	The specific goals may include: (i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability and referred to as historically disadvantaged individuals (HDI) (ii) implementing the programmes of the Reconstruction and Development Programme
5.	Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a tender.
6.	The contract must be awarded to the tenderer who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another tenderer.
7.	Any contract awarded on account of false information furnished by a tenderer to secure preference points may be cancelled at the sole discretion of the organ of state.
8.	Any goals for which preference points may be awarded must be measurable, quantifiable and monitored for compliance.
Source: RSA (2000a)	

An historically disadvantaged individual (HDI) was defined as a South African citizen who, due to the apartheid policy before 1994, had no franchise in national elections; or is female; or has a disability (RSA, 2001). Specific goals for which

preference points could be awarded included, inter-alia, the promotion of South African owned enterprises; the creation of new jobs; the promotion of enterprises in a specific region, municipality, or rural area; and the improvement of communities (Bolton, 2008; RSA, 2001).

According to the Preferential Procurement Regulations (RSA, 2001), the following activities as set out in Table 2.7 were permitted to be regarded as a contribution towards achieving the goals of the RDP as envisaged in the preferential procurement policy.

Table 2.7: Socio-economic goals of the RDP

Item	Description
1.	The promotion of South African owned enterprises
2.	The promotion of export orientated production to create jobs
3.	The promotion of SMMEs
4.	The creation of new jobs or the intensification of labour absorption
5.	The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province
6.	The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region
7.	The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area
8.	The promotion of enterprises located in rural areas
9.	The empowerment of the work force by standardising the level of skill and knowledge of workers
10.	The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills
11.	The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organizations

Source: RSA (2001, pp. 13-14)

The PPPFA provided for regulations to be used as necessary to advise the objectives of the policy. These regulations in some instances converted the general framework provided for in the Act into a series of prescriptions (Bolton, 2004; Watermeyer, 2003).

The principles that underpinned the Regulations of the PPPFA stipulated, inter alia, the following:

- Tender adjudication criteria must include preference points for equity ownership by HDI's.
- The equity ownership must be equated to the percentage of an enterprise owned by HDI's, or in respect of a company, the percentage of a company's shares that are owned by HDI's
- HDI's claiming preference points for ownership must be actively involved in the management of the enterprise and exercise control over the business in a way that is commensurate with their degree of ownership as applicable at the tender closing date
- In the event that the percentage of ownership changes during the tender adjudication stage and prior to tender award, the tenderer must notify the relevant organ of state and such tenderer will not be eligible for any preference points
- Preference points may not be awarded to public companies and tertiary institutions
- A declaration and supporting documentation to substantiate HDI ownership must be submitted as specified in the tender
- A 25% maximum restriction on the value of the value that could be sub-contracted to non-HDI's by those HDI's awarded contracts as a result of preference points (RSA, 2001).

The PPPFA and its regulations also provided for penalties. These included that the use of false information by a tenderer to obtain preference points may result in the termination of the awarded contract; the recovery of all costs, losses and

damages incurred by the organ of state; and debarment from future contract awards (RSA, 2001).

2.4.7 Public Finance Management Act

The Public Finance Management Act (PFMA) (Act 1 of 1999) regulates financial management and provides the framework for good governance in procurement at national and provincial government levels. The PFMA is intended to support the principles of good governance as stipulated in Section 217 (1) of the Constitution which is to give effect to a procurement system that is fair, equitable, transparent, competitive and cost effective (RSA, 1996b).

The PFMA applies to all organs of state other than municipalities and municipal entities (municipalities and municipal entities are regulated by the Municipal Finance Management Act (MFMA), Act 56 of 2003). The PFMA requires accounting officers (head of departments / chief executive officers of constitutional institutions) and accounting authorities (board / controlling body / chief executive officer in an entity which has no board or controlling authority) to hav*e* an appropriate procurement and provisioning system in place which is fair, equitable, transparent, competitive and cost effective, together with an effective, efficient and transparent systems of financial and risk management and internal control for procurement, and a system for properly evaluating all major capital projects prior to a final decision on the project (RSA, 1999).

Section 76(4) of the PFMA (RSA, 1999) permits the National Treasury to make regulations or issue instructions applicable to all institutions to which the Act applies with regard to the determination of a framework for an appropriate procurement system which is fair, equitable. transparent; competitive and cost effective as required by the Constitution (RSA, 1996).

Policy guidelines for the issuance of a Supply Chain Management Framework in terms of the PMFA introduce uniform norms and standards within government to ensure transparency and expenditure control measures as required in sections 215 to 219 of the Constitution (RSA, 1996). In essence, these guidelines determine the underlying support structure that sets the parameters for procurement management within government, and consolidates supply chain policy in all spheres of government and for all organs of state.

2.4.8 Promotion of Equality and Unfair Discrimination Act

The Promotion of Equality and the Prevention of Unfair Discrimination Act (Act 4 of 2000) expressly prohibits the state from discriminating unfairly against any person on the grounds of race through the denial of access to contractual opportunities for rendering services or by failing to take steps to reasonably accommodate the needs of such persons. A schedule attached to the Act provides an illustrative list of unfair practices in certain sectors. This list includes, *inter alia*, the unfair restriction of contracts opportunities for the supply of goods and services (RSA, 2000c).

It is important to note that a preference system using a points scoring system, strictly in accordance with the provisions of the Preferential Procurement Policy Framework Act, is not considered to be unfair discrimination as no person is denied an opportunity to tender. According to Gounden (2000), any preferential procurement policy that uses exclusionary mechanisms may be considered as unfair discrimination. The following are examples of such mechanisms:

- set asides, i.e. allowing only enterprises that have prescribed characteristics to compete for the contracts or portions thereof and which accordingly are reserved for their exclusive execution;
- contractual conditions, i.e. making policy objectives an unfair contractual condition e.g. specifying a fixed percentage of work to

be subcontracted to enterprises or joint ventures that have prescribed ownership profiles;

- qualification criteria, i.e. excluding firms that cannot meet a specified requirement relating to the policy objective from participating in contracts, other than those objectives provided for in other forms of legislation, and;
- offering back, i.e. offering tenderers that satisfy criteria relating to policy objectives an opportunity to undertake the whole or part of the contract if that tenderer is prepared to match the price and quality offered by the most responsive tenderer.

2.4.9 Broad-Based Black Economic Empowerment

Black Economic Empowerment (BEE) is defined as "*an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the number of black people who manage, own and control the country's economy, as well as significant decreases in income inequalities*" (RSA, 2003a, p. 12).

The Broad-Based Black Economic Empowerment (BBBEE) Act (Act 53 of 2003) was introduced when government realized that the extent to which black people, a generic term for "Africans, Coloureds and Indians" who are South African citizens, participated meaningfully in the economy had remained limited since 1994, despite some progress being made (Bolton, 2008). The Act addressed the lack of a comprehensive BEE strategy and drew together the various elements of the government's transformation programme in a more coherent and focused way. Most importantly, it attempted to provide a more common definition and understanding of what is meant by black economic empowerment. Critically, it was a shift from a narrow-based BEE policy that focused primarily on ownership by HDI's to a broad-based BEE policy that measures the status of an enterprise using a "balanced scorecard" that takes into

account seven related empowerment elements in evaluating a business enterprise (Letchmiah, 2011). An enterprise's scorecard now forms the basis of awarding preference points during tender adjudication.

The objectives of the Act are, *inter alia,* to facilitate broad-based black economic empowerment by promoting economic transformation; to enable meaningful participation by black people; achieving a substantial change in the racial composition of ownership and management structures of existing and new enterprises; increasing access to economic activities for disadvantaged sectors of society; and promoting investment programmes and access to finance for black economic empowerment in order to achieve sustainable development and investment in general property (RSA, 2003b).

To promote such objectives the BBBEE Act expands the framework provided in the Preferential Procurement Policy Framework Act and enables the Minister of Trade and Industry to issue codes of good practice on black economic empowerment that may include adjudication criteria for preferential purposes in procurement; indicators to measure broad-based black economic empowerment; and the weighting attached to such indicators (RSA, 2003b). The Act also provides for Codes of Good Practice to specify targets that are consistent with the objectives, and to provide sunset clauses that indicate the period within which such targets must be achieved. It furthermore provides for the use of qualification criteria for the issuing of licenses, the sale of state owned assets and the entering into of public private partnerships.

In addition, every organ of state is required to take into account and, as far as is reasonably possible, apply any relevant code of good practice issued in terms of the Act in developing and implementing a preferential procurement policy.

In order to bring its application more in line with the BBBEE Act, 2003 (BBBEEA), the PPPFA regulations were re-drafted to establish a legislative framework for the promotion of black economic empowerment (Bolton, 2008).

2.4.10 Construction Sector Charter

The BBBEE Act requires the Minister of Trade and Industry to publish and promote transformation charters together with codes of good practice for particular sectors of the economy in order to address inequalities specific to a sector, and to thereby unlock that sector's potential and enhance its growth (RSA, 2003b).

The Construction Sector Charter (RSA, 2006) was published under the direction of the National Department of Public Works and provided the basis for the development of a Construction Code of Good Practice as published in the Government Gazette No. 32305 on 05 June 2009. The Code provides a framework for the construction sector to address and implement broad-based transformation, enhance capacity and increase the productivity of the sector. In general, the Construction Code of Good Practice supports all the objectives of the Construction Sector Transformation Charter and in particular sets out to achieve the following objectives as illustrated in Table 2.8.

The Construction Charter applies to all enterprises that are involved in the creation, expansion and/or maintenance of fixed assets related to residential or non-residential buildings, infrastructure or any other form of construction works in South Africa (RSA, 2006).

The scorecard for contractors engaging in the construction sector comprises seven elements which are each measured and weighted to equal a total score of 100 as set out in Table 2.9. This scorecard, with effect from 07 December 2011, forms the basis on which preference points are awarded to tenderers in terms of

the PPPFA. The Built Environment Professionals (BEP's) practising in the construction industry are subject to a scorecard which have differences in the weighting score of two of the elements, i.e. skills development and enterprise development.

Table 2.8: Objectives of the Construction Sector Charter

Item	Description
1.	Achieve a substantial change in the racial and gender composition of ownership, control, and management in the sector
2.	Promote the effective advancement of employment equity in the sector and adherence to principles of non-racialism and non-sexism
3.	Provide to the construction sector the first quantitative method for monitoring and evaluating the progress of an enterprise towards BBBEE and thereby contribute to ending the malpractice of fronting
4.	Expand the employment potential and absorption capacity of the sector using labour-intensive approaches where economically feasible and possible
5.	Address skills development in a manner that accelerates the advancement of black people, black women and designated groups with a particular emphasis on learnerships, technical and management training
6.	Increase the procurement of goods and services from BBBEE enterprises and standardise preferential procurement methodology
7.	Enhance entrepreneurial development and promote the sustainable growth of micro, medium and small BBBEE enterprises

Source RSA (2009, p 7)

Table 2.9: Construction Sector Scorecard for Contractors	
Element	**Weighting**
Ownership	25%
Control	10%
Employment Equity	10%
Skills Development	15%
Procurement	20%
Enterprise Development	15%
Socio-economic development initiatives (Corporate social investment)	5%
Total	100%
Source: RSA (2009)	

The BBBEE status of a construction sector enterprise, after calculating its score in terms of the scorecard, is then classified in terms of the following "contributor" levels as per Table 2.10.

Table 2.10: BBBEE Status of a Construction Sector Enterprise	
BBBEE Level	**Required Score**
Level 1 Contributor	Total score of 100% and above
Level 2 Contributor	Total score of ≥ 85% < 100%
Level 3 Contributor	Total score of ≥ 75% < 85%
Level 4 Contributor	Total score of ≥ 65% < 75%
Level 5 Contributor	Total score of ≥ 55% < 65%
Level 6 Contributor	Total score of ≥ 45% < 55%
Level 7 Contributor	Total score of ≥ 40% < 45%
Level 8 Contributor	Total score of ≥ 30% < 40%
Level 9 Contributor	Total score of less than 30%
Source (RSA, 2006)	

2.4.11 Preferential Procurement Regulations, 2011

The PPPFA enables the Minister of Finance to make regulations as may be necessary to achieve the objectives of the Act (RSA, 2000a). New Preferential Procurement Regulations pertaining to the PPPFA were gazetted on 08 June 2011 and became effective from 07 December 2011, and accordingly replaced the Preferential Procurement Regulations of 2001. These new Regulations became effective after the end of the five year period, i.e. from April 2006 to March 2011, which is the focus of this study. This period was used primarily because it covers the years for which National Treasury data on procurement were made available to this researcher.

The new PPPFA regulations stipulate that preference points must be awarded to a tenderer on the basis of its BBBEE scorecard level and no longer on its HDI ownership status, as was previously applicable. In addition, the threshold value for the 80/20 and 90/10 preference points system was increased from R0.5 million to R1 million.

Currently, preference points are awarded to tenderers on the basis of the BBBEE scorecard as prescribed in the 2011 Regulations as shown in Table 2.11.

Table 2.11: Awarding of Preference Points based on the BBBEE Scorecard

BBBEE Status Level of Contributor	Tenders ≤R1m using the 80/20 points system (maximum = 20 points)	Tenders >R1m using the 90/10 points system (maximum = 10 points)
Level 1	20	10
Level 2	18	9
Level 3	16	8
Level 4	12	5
Level 5	8	4
Level 6	6	3
Level 7	4	2
Level 8	2	1
Non-compliant contributor	0	0

Source: RSA (2011)

Construction based enterprises with annual turnover exceeding R35 million are required to comply with all seven elements of the scorecard, while Qualifying Small Enterprises (QSE) with turnover between R5 million and R35 million may select any four of the seven elements of the scorecard. Those enterprises with an annual turnover less than R5 million are classified as Exempted Micro Enterprises (EME) and such businesses are automatically considered as Level 4 Contributors (RSA, 2009).

Tenderers applying for preference points must submit a valid BBBEE scorecard certificate issued by an approved verification agency that is registered with the South African National Accreditation System (SANAS) to conduct such verification (RSA, 2003b).

Tenderers awarded contracts on the basis of preference points may not, in general, sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher BBBEE status level (RSA, 2011).

2.4.12 International Trade Considerations

A policy of using public procurement to achieve socio-economic objectives must also take into account the impact of international trade considerations. Most South African industries are not yet in a position to compete on a par with their international counter-parts (RSA , 1997). There are a number of reasons for this, including the fact that they have not gone through the full development cycle experienced by other developed economies. Accordingly, many South African industries would find it very difficult to compete both locally and abroad if all forms of preference and support for locally manufactured products were abolished (RSA , 1997).

Whilst State regulatory policy should aim to achieve its goals in an international context, it has to take into consideration the support required for the

development of South African industry, and the creation of local job opportunities. The public procurement policy therefore must respond to key issues of national priority such as the upliftment of previously disadvantaged sections of the community, whilst also reflecting on issues pertinent to international trading, and how these issues will be managed. It is necessary for South African enterprises to become competitive both on the local and international markets.

From an international perspective, the continuation of a procurement preference system should not exclude broader international policies which can yield increased future benefits (RSA , 1997).

According to McCrudden (2004), where public procurement is subject to one of the international trade agreements, the application or specific requirement to incorporate socio-economic objectives may be regarded as inconsistent with those trade agreements. Watchwords such as “governance” and “implementation culture” have come to be associated with concern over the standard of public administration and with efforts to combat corruption (Letchmiah, 1999b).

2.5 THE IMPLEMENTATION OF PREFERENTIAL PROCUREMENT IN SOUTH AFRICA

According to Yusof et al (2008), implementation matters a great deal in the successful execution of economic policies. Even the best policy can be ineffective if it is poorly implemented. Policies must be turned into actions to deliver results that are tangible. The successful implementation of policies requires effective institutions; leadership; and clarity of purpose, processes and mechanisms. Policies must be coordinated and consistent. A good delivery system is therefore essential for the implementation of economic policies. A system of oversight on

implementation is essential and must be developed and maintained at all levels of government.

2.5.1 The Concept of Preferential Procurement

Public sector procurement in South Africa, as in most countries, has a major impact on the macro economy, both in terms of consumption and investment spending (Gounden, 2000). At the same time, an effective and efficient procurement system is necessary for the South African government to deliver the quality and quantity of services demanded by its new constituency (Letchmiah, 2001b). A fundamental requirement for any new procurement policy in a developing country is that it be in line with the national economic growth strategy and relate to both the local and international environment (Emsley, 1996).

Preferential procurement policy is defined by Watermeyer (2003:11) as a "*procurement policy that provides objectives additional to those associated with the immediate objective of procurement itself."* In the South African context, a preferential procurement policy is defined by Kajimo-Shakantu (2007:30) as "*a policy which favours preference in the award of contracts either directly or indirectly to certain categories of people or groups, based on prescribed characteristics, in order to achieve specific secondary objectives of procurement."*

The South African Government has to also ensure that public funds are expended in a way that all segments of the population benefit the expenditure through job creation and commercial opportunities. It must also purposefully direct the flow of commerce to and through those population groups which were historically disadvantaged and excluded from participation. An effective way of doing this is to ensure that participation in procurement activities is achieved through:

- making the tendering process accessible to the target group (without, however, guaranteeing work); and
- linking opportunities to target business enterprises with a concomitant flow of responsibility.

Public procurement interventions are comprised of mechanisms aimed at the engagement of SMMEs owned by previously disadvantaged persons in all types of government contracts and at maximizing job creation. Notwithstanding this, Bolton (2008) argues that sunset provisions should be built into the system to ensure programmes do not continue to protect and advance targeted persons and sectors of society beyond a justifiable period of time.

In the implementation of policies to achieve socio-economic objectives preferential procurement must take into account the elements of good governance. Some of the essential elements that characterize good governance in this context are listed in Table 2.12.

Public procurement policies should in the long term:

- facilitate growth in the numbers and sizes of business enterprises owned and controlled by the target groups, as well as in terms of the efficiency and effectiveness of delivery;
- businesses should compete for the award of contracts; and
- measures which are adopted to secure participation by target group enterprises should fall away once such enterprises reach predetermined turnover milestones (i.e. they should have sunset clauses).

Table 2.12: The Essential Elements of Good Governance and Socio-economic Objectives	
1.	To promote effective and efficient procurement practices and systems to enable government to timeously deliver the quantity and quality of services demanded by its constituents
2.	To achieve continuing improvement in value for money based on whole life cost and quality
3.	To enhance the competitiveness of suppliers through the development of world class procurement systems and practices
4.	To ensure that control and accountability is maintained through comprehensive auditing
5.	To achieve a uniform procurement system with standardized tendering procedures, policies and contract documentation for implementation at national and regional levels
6.	To ensure that public sector procurement complies with the provisions of the Constitution
7.	To ensure consensus within government on the reform of the public procurement process, and to encourage the adoption of the reformed process by all public sector procurement agencies
8.	To seek value for money on behalf of all taxpayers
9.	To eliminate corruption in the procurement process
10.	To make the public procurement process accessible to all by simplifying the process, and by encouraging fairness and transparency
11.	To encourage greater competition in the public procurement process through the creation of an enabling environment for small, medium and micro-enterprises while retaining quality and standards
Source: RSA (1997)	

2.5.2 Adjudication of Tenders on a Points System

In order for a tender to be adjudicated it must first be responsive. A responsive tender is one which conforms to all the terms, conditions and specifications of the contract without material deviation or qualification (Letchmiah, 1999a).

Traditional South African practice provided for a government tender to be awarded to the lowest tenderer, as this was considered to represent value for money. In terms of preferential procurement, it is apparent that value for money is no longer measured by the monetary cost alone, i.e. the lowest price tender does not automatically ensure the best value for money. Depending on tender requirements, value for money could be interpreted to include HDI shareholding of the tendering entity and/or the re-structuring of the contract to provide the most employment opportunities per unit of expenditure, or providing an acceptable technical offer and an exceptional human resource development offer (Watermeyer et al, 2000a).

A point scoring system implies that tenders are awarded in the first instance, for points relating to the financial offer, and in the second instance, for the offer to meet the specified socio-economic objectives or their current enterprises status. This type of system permits human resource / socio-economic objective offers to be considered together with the financial offer.

Tender adjudication points for specific goals in terms of the PPPFA Regulations (RSA, 2001) could be awarded for meeting and/or exceeding targets specified, *inter alia,* in respect of:

- the use of local resources
- the use of labour intensive methods
- the use of small, medium and micro enterprises
- job creation
- equity shareholders
- affirmative action principles
- promotion of local enterprises
- skills training and development; and
- community and social investment.

The above is in addition to awarding points for HDI shareholding in an enterprise.

Tenderers are awarded points out of 100 based on price and preference. According to Bolton (2008), the points system is dual scale in that more preference points are awarded for lower value contracts and less preference points for higher value contracts.

In terms of the 2001 Regulations (RSA, 2001), the 80/20 points system applied for contracts between R30 000 and R500 000 whereby 80 points were awarded for the lowest responsive price and a maximum of 20 points for shareholding by historically disadvantaged individuals; for sub-contracting with HDI owned enterprises; or attaining other specified goals. For contracts exceeding R500 000, the 90/10 points system applied, whereby 90 points were awarded for the lowest responsive price and a maximum of 10 points for shareholding by an HDI; for sub-contracting with HDI owned enterprises; or attaining other specified goals.

According to the PPPFA Regulations (RSA, 2001), the recommended formula for the awarding of points in respect of the financial offer is:

$$P_s = M\ [\ 1 - (\frac{Pt - Pmin}{Pmin})]$$

Where

P_s = number of adjudication points scored for price of tender under consideration

Pmin = the price of the lowest responsive tender

P_t = the price of the tender under consideration

M = maximum number of points allocated for price.

According to Watermeyer et al (1998), the use of this tender adjudication mechanism:

- enables tenderers to use their skill, knowledge and creativity in arriving at a favourable mix between economic and development objectives
- penalises those persons who fall outside the targeted groups, or who offer to meet certain socio-economic objectives to only a limited degree, but does not preclude them from tendering; and
- prevents those who fall within a targeted group from presenting grossly uncompetitive tender prices, as the reward for compliance with socio-economic objectives will be outweighed by the loss off points incurred through uncompetitive tender prices since the maximum number of points which can be scored is 100.

2.5.3 Monitoring and Evaluation

The PPPFA (RSA, 2000a) stipulates all socio-economic goals to be measurable, quantifiable and monitored for compliance.

A prerequisite to the proper application of monitoring systems is an effective control process aimed at ensuring due compliance through all stages of the contract (Letchmiah, 1998a). Such control process must generate adequate records to reflect the current status and performance of all beneficiaries.

Socio-economic undertakings should be set out in a manner which can be readily incorporated as contractual requirements in a contract. According to Watermeyer et al (2000a) this process should, *inter alia*:

- Define the deliverables;
- Set out the method by which the attainment of the deliverables may be met;
- Set out the means by which progress towards the attainment of the deliverables may be quantified at various intervals;

- Set out the method by which the attainment of the deliverables may be audited and verified; and
- Provide for financial penalties to be applied in the event that interim and final deliverables are not achieved.

In the absence of well structured monitoring and evaluation systems, any undertaking to promote socio-economic objectives merely becomes a promise that is dependent on the goodwill of the supplier. Furthermore, a system without checks and balances is prone to abuse and eventual corruption wherein the credibility of the procurement agency comes into question. Gounden (2000) suggests that procurement related failures relating to the promotion of social policies occur when principles of good governance are ignored and where institutional mechanisms are lacking.

A 2000 study in South Africa identified a lack of monitoring procedures and reporting processes at both national and provincial levels which limited an accurate assessment of the effectiveness of preferential procurement in benefitting those for whom it was intended (Aus Aid, 2000). The World Bank arrived at a similar conclusion in their Country Procurement Assessment Report (CPAR) on the South African procurement arrangements and implementation systems (World Bank, 2003).

2.5.4 Anti-Corruption Measures and Contract Compliance

There continues to be widespread criticism of fraud and corruption in the form of fronting by businesses and the manipulation of the tender processes by government officials (Nkuna, 2011; Mokone, 2010). This undermines the objectives of promoting socio-economic development and the process of preferential procurement as envisaged in the PPPFA. In 2005, the National Department of Public works announced its findings of a probe into “fronting” in the construction industry and the consequent blacklisting of companies by the

National Treasury and the Construction Industry development Board (Ancer, 2005). According to Rampedi (2012), another concern is the growing trend of paying "kickbacks" to corrupt politicians and government officials to win contracts even when the most competitive tenders are submitted. According to the World Bank, the lack of institutional mechanisms and proper monitoring is likely to result in the abuse of the preferential procurement policy (World Bank, 2003).

The government's plan to move from a narrow based black economic empowerment policy based primarily on HDI ownership in an enterprise to a broad based black economic empowerment policy based on the balanced scorecard is an attempt to address the issue of fronting. Another effective preventative measure to minimize fraud and corruption in public procurement is to enforce contract compliance by monitoring, verifying and auditing socio-economic deliverables and, where applicable, applying strict sanctions for non-compliance. Transparency regarding the potential and actual distributional consequences of preferential procurement policies can also be an effective anti-corruption measure.

Minority Business Enterprise programmes in the Atlanta (USA) construction industry also experienced the problem of fronting where non-minority owned businesses secured contracts by using minority business enterprises as fronts (Kajimo-Shakantu, 2007). According to Bates and Williams (1995), businesses flourish in the absence of sanctions for fraudulent activities but benefit in an environment in which certification and contract compliance measures are comprehensive. An example of effective monitoring and enforcement, according to McCrudden (2004), was in Northern Ireland where compulsory monitoring and self assessment was introduced. One of the enforcement techniques involved the possibility of barring tenderers from future government contract opportunities if there was consistent failure to comply. Businesses who were in default of the legislation by not submitting monitoring returns faced penalties as

well as economic sanctions such as being excluded from public procurement contracts (McCrudden, 2004).

In South Africa, The Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004) makes corruption and related activities a criminal offence, establishes a Register to identify these persons and enterprises convicted of corrupt tender related activities and also places a duty on organs of state to report corrupt transactions (Watermeyer, 2011).

2.5.5 Financial Premiums and Redefining Value for Money

Historically, South African government tenders were awarded to the lowest priced tender which was reversed only when there was clear evidence that the tenderer did not have the necessary experience or capacity to undertake the work, or was financially unsound (Manchidi et al, 2002; Gounden, 2000). In other words, traditional practice considered the lowest tendered offer to represent best value for money.

In the changed environment within South Africa, the definition of value for money in the public procurement sector cannot be measured by monetary cost alone. It must also take into account the extent to which the offer provides increased business opportunities to targeted groups and/or makes an exceptional commitment to human resource development. If, however, the state moves away from awarding contracts to the lowest priced tenders in order to reward tenderers for the socio-economic components of their tenders, tender evaluation criteria must be clearly defined and communicated in the tender documents to enable tenderers to compete on an equitable basis and in a transparent manner.

A successful tender would, normally, be the one that is awarded the most points, subject to performance capability and financial references being acceptable. The financial premium, if any, which an organ of the state is prepared to pay to meet

the specific socio-economic objectives can be managed in the formulation of the points mechanism.

In competitive tendering, the premium payable for incorporating socio-economic objectives into projects can be minimized, as tenderers would compete on the basis of both price and socio-economic objectives. Market forces will dictate the degree to which contractors can meet socio-economic objectives in the most cost-effective manner.

Even though preference is afforded to tenderers during the adjudication stage, the attainment of value for money still remains the single most important criteria when evaluating tenders. The maximum number of preference points, either 10 or 20, are specified, therefore organs of state have no discretion to award more than that under normal circumstances (Bolton, 2008).

According to Watermeyer et al (2000c), any Preferential Procurement Policy which sets out to achieve socio-economic objectives in South Africa would need to set out clear statements of intent and address issues such as:

- How can historically disadvantaged enterprises and/or other development objectives be given preferential consideration for award of contracts?
- What cost premium is government prepared to bear on contracts in order to correct skewed apartheid influences?

PPPFA provides clear parameters and encourages groups to engage SMMEs, particularly those owned and operated by historically disadvantaged individuals, in order to increase business opportunities and the volume of work available to these groups. The development objective price mechanism (a weighting system) which is provided ensures that price alone is not the only determinant for adjudicating contracts. The system tips the scale in favour of the targeted group in a manner that pre-determines the maximum cost premiums for government.

The direct financial premium associated with the development objective / price mechanism is the difference between the awarded tender price (i.e. tender with the highest number of adjudication points) and the price of the lowest responsive tender and can be expressed as a percentage of the value of the contracts awarded.

The price preferencing formula restricts the theoretical cost premium to a maximum value depending on which formula is used. In terms of the 80/20 formulation, the premium percentage or price advantage cannot be more than 25% (20/80) higher than the comparative lowest responsive tenderer while the maximum premium using the 90/10 formulation is restricted to not more than 11.1% (10/90) higher than the comparative lowest responsive tenderer (Manchidi et al, 2002; Gounden S. , 2000).

2.6 DEVELOPMENT OF PROCUREMENT STRATEGIES FOR THE CONSTRUCTION INDUSTRY IN SOUTH AFRICA

2.6.1 Defining and Quantifying Socio-Economic Deliverables

Any programme used to facilitate the implementation of procurement to achieve socio-economic objectives requires a measurable component to enable the amount of participation by the target group to be quantified. This requires the development of a specific formula that can be used to calculate the value of the contribution in monetary terms, which can then be expressed as a percentage of the total value of goods provided or services performed.

In order to provide a level playing field for all tenderers, socio-economic deliverables and related specifications must be clearly and precisely defined. According to Watermeyer (1998) and Gounden (2000), the key elements associated with socio-economic objects must accordingly:

- Define what constitutes each target group;
- Set goals (targets), measurable in monetary terms, which can be met by engaging the target groups in the pursuit of predetermined socio-economic / development objectives;
- Provide for the measurement of key indicators to ensure that goals may be quantified and audited during the performance of the contract; and
- Set out of the manner in which goals can be achieved, as well as what and how penalties will be applied in the event that a contractor fails to meet his contractual obligations.

As an example, SMMEs can be targeted on either a generic or area bound (localized) basis. In turn, generic targeting can target either all SMMEs within a country, or province, or within demarcated geographic boundaries. Such enterprises can be defined as being owned and controlled by disadvantaged individuals. Disadvantaged individuals can be defined on the basis of race, gender, ethnicity, disability, etc. Labour can be targeted on the basis of gender, race, ethnicity, locality, age, disabilities, period of unemployment, etc. Unskilled / semiskilled labour can be targeted on the basis of wage levels. The increase in employment opportunities per unit of expenditure can be readily measured should targeted labour be defined on this latter basis.

2.6.2 Unbundling Strategies

SMME's can participate in public sector procurement in one of two ways. They can either contract directly with a public body as the prime contractor, or participate as a subcontractor, supplier, manufacturer or service provider to a prime contractor, or at some point in the delivery chain.

A procurement mechanism that can be used to facilitate and increase participation by SMMEs is called unbundling. Unbundling involves breaking down

the tender into work components that are small enough for an SMME to compete as a main contractor, or which are suitable for subcontracting to an SMME by a large business as part of its main contract. Unbundling strategies afford participation opportunities to the full spectrum of SMMEs, from those operating as labour only contractors to those operating as prime contractors.

Based on the unbundling strategy in the 10 Point Plan, Targeted Procurement specifications were developed to provide a range of options to address the different socio-economic policy imperatives (Letchmiah, 1999a)

According to Ofori (1995), the lessons learnt from past contractor development programs in developing countries include the following:

- Large companies can be used to develop smaller enterprises, which makes for stronger intra-industry linkages;
- Management contracting or the development team approach can be used to facilitate skills transfer to emerging contractors;
- Contractor associations can play a key role and contribute to small contractor development;
- Skills training, in particular for technical and managerial skills, can significantly improve the ability of small contractors to function effectively; and
- Programmes should include measures to wean contractors off supporting schemes.

Unfortunately, unbundling is not always justifiable because the nature of some projects and activities often involve complex relationships related to the division of responsibilities, interdependence of activities, programming, duplication of establishment charges and under-utilization of resources. Furthermore, for public bodies and their agents the administration of many small, unbundled contracts adds additional layers of management responsibilities and costs as compared with fewer, but larger contracts.

2.6.3 Targeted Procurement System

According to McCrudden (2004), a system of "targeted procurement" was established in South Africa that was similar to the Malaysian model for the Bumiputras. The similarity was more on intent rather than on implementation since the Malaysian model provided set-asides exclusively for the Bumiputras whereas the South African model promoted the participation of target groups without excluding any enterprise from tendering (Letchmiah, 1999a).

Targeted Procurement, or Affirmative Procurement as it is sometimes called, is an innovative form of public sector procurement which was developed in South Africa by the Procurement Reform Task Team to provide employment and business opportunities for historically disadvantaged businesses, marginalized individuals and poor communities. The system was developed to enable the 10 Point Plan to be implemented and satisfies the framework set out in the PPPFA (Letchmiah, 2000b). Targeted Procurement as such allows preferential procurement policies to be implemented and enables social objectives to be linked to procurement in a fair, transparent, equitable, competitive and cost effective manner. It also permits these objectives to be quantified, measured, verified and audited.

The use of Targeted Procurement enables contracts to be unbundled in a number of ways, *viz.*:

- by procuring works in the smallest practicable quantities
- by obligating prime contractors to engage SMMEs in the performance of their contracts in terms of resource specifications
- by requiring joint venture formation between large businesses and SMMEs (known as Structured Joint Venture); and
- by providing third party management support to enterprises which are not capable of operating as prime contractors (known as Development Contracts).

Targeted Procurement, through a variety of techniques, can provide opportunities for participation by targeted enterprises, even to those who may not have all the necessary resources, capacity or expertise in their own right to perform contracts. However, this is done in a manner which does not guarantee contracts to these enterprises. On small contracts having a value below a predetermined financial threshold, direct preferences are accorded to targeted enterprises to tip the scales in their favour. On contracts above a financial threshold, tenderers are required to compete on the basis of both the product and the process.

Technical specifications are used to define the product and establish compliance criteria. Standardized resource specifications are used to define social objectives and establish compliance criteria. These specifications accordingly define the social deliverables which must be realized through the delivery process, and set out the manner in which they can be achieved, measured and monitored.

Contracts are awarded to the most advantageous offer, based on a balance between the tendered price and the tendered deliverables in respect of targeted groups. Targeted enterprises, depending upon the contracting strategy which is adopted, may participate in contracts as prime contractors, joint venture partners, subcontractors, service providers, manufacturers or suppliers. The preference system for Targeted Procurement is implemented via tender adjudication criteria that complies with the legislative framework of awarding tenders, whereby tenderers are required to meet both price and development goals.

The Targeted Procurement specifications are presently available as South African National Standards (SANS) documents (www.**sans**.org.za) and provide a structured mechanism to achieve various socio-economic objectives in a manner that is measurable, quantifiable and can be monitored for compliance. These specifications are briefly described in Table 2.13.

Table 2.13: Types of Resource Specifications

Resource Specifications	Document Reference	Socio-Economic Objectives
Targeting of Affirmable Business Enterprises (ABE's)	TP1 (APP1)	Development of sectors of an industry, e.g. SMME's, HDI owned business, women owned business and local industry development. The specification provides for affirmative participation targets to be set by the Client which a contractor is required to meet in order for the tender to be responsive.
Structured Joint Ventures (Affirmable Partners)	TP2 (APP2)	Development of sub-contractors to prime (main) contractors and development of management capacity of emerging contractors.
Structured Joint Ventures (Targeted Partners)	TP3 (APP3)	The specifications provide for the setting of joint venture participation targets by the Client which promotes participation of target enterprises in a structured manner.
Targeting of Local Resources	TP4 (APP4)	Local economic development; job creation; poverty alleviation; and community based developments. The specification provides for the setting of participation targets for the procurement of local resources in contracts.
Engagement of Targeted Labour	TP5 (APP5)	Job creation for targeted sectors of the population (based on race, gender, disability, age, period of unemployment, etc.) and poverty alleviation. The specification provides for the setting of targeted labour participation and requires contractors to engage labour in accordance with the specified conditions.
Targeting of Affirmable Professional Service Providers	TP6 (APP6)	Development of sectors of the built environment professions to facilitate skills development and capacity building. The specification is used for the appointment of Affirmable Professional Service Providers.

Source: Manchidi and Harmond (2002); Watermeyer (2000); Letchmiah (1998c)

The classification of contracts based on size, value and complexity enables appropriate targeting strategies to be developed and procurement processes to

be implemented in a systematic and uniform manner (Letchmiah, 1998c; Watermeyer, 2000). This provides a useful means to link together the elements of the Targeted Procurement system in a single descriptor.

Contracts classified as "major" can be used to engage targeted enterprises and/or targeted labour through the use of resource specifications in the performance of the contract with the successful tenderer being selected on the basis of a development objective/price mechanism in terms of a tendered price and tendered resource goal. Alternatively, a "minor" contract can be used to target enterprises with a particular status in terms of a direct price preference system

2.6.4 Affirmative Procurement Policy

At the beginning of the procurement reform process in South Africa in 1995, the National Department of Public Works (NDPW) became actively involved in the conceptualization and development of procurement strategies to achieve socio-economic objectives. One of these is the Affirmable Procurement Policy (APP) which uses the concept of Targeted Procurement to redress the skewed business ownership patterns amongst South Africans. NDPW used this policy to provide access to work opportunities and create a demand for the goods and services of black owned businesses. It also targeted women equity ownership in contracts. The objective was to set out targeting policies in order to create opportunities for the broadest possible participation of historically disadvantaged persons in the public procurement process.

The APP was implemented through the use of resource specifications that targeted prime contractors, joint venture partners, subcontractors, suppliers, manufacturers and service providers, targeted labour, Affirmable Joint Venture Partners together with businesses owned, managed and controlled by previously

disadvantaged persons referred to as Previously Disadvantaged Enterprises in concessionary contracts (private public partnerships).

A resource specification defines the essential characteristics of a deliverable in a comprehensive, precise and verifiable manner. In respect of socio-economic objectives, points were awarded in accordance with the following formula:

$$Nc = \frac{X\ (D - Ds)}{Y - Ds}$$

Where,

Nc	=	number of adjudication points scored by the tenderer under consideration
D	=	the tendered goal percentage in the tender under consideration in respect of socio-economic deliverables
Ds	=	the specified minimum goal percentage in respect of socio-economic deliverables
X	=	maximum number of adjudication points assigned for the socio-economic criteria specified in the tender
Y	=	contract participation goal percentage above which no further tender adjudication points are awarded

Each Affirmative Procurement resource specification had a measurable component which enabled the amount of participation by the target group to be quantified and monitored. In each case, the value of the contribution could be computed, in terms of a prescribed formula, as a monetary value (goal credits) and was expressed as a percentage of the total value of the goods and services provided, or works performed, in terms of the contract.

The goals associated with each specification could be readily audited and verified during the performance of a contract. They included indicators of economic empowerment expressed in terms of employment and/or business opportunities, which permitted the NDPW to report on these key indicators.

The Gounden (2000) study evaluates the application of the APP, via the development of appropriate indices and a diagnostic quadrant comparator, and concludes that the policy has a positive impact on ABE participation. The study also identified that financial premiums, less than 1% across construction sub-sectors, were nominal when compared with the initial projected estimates and the overall benefits achieved (Gounden, 2000).

According to Govender and Watermeyer (2001), the market share of small businesses owned, managed and controlled by black South Africans was found to be less than 0.5% in 1993 and a mere 2.5% in 1995 prior to the introduction of the APP in August 1996. The participation and financial premium indices recorded since the introduction of the APP as per the study by Gounden (2000) are set out in Table 2.14. The APP not only resulted in increased participation by the target groups but also contributed to the formalization of this sector, more structured relationships within the construction industry and an increase in the tax base of the country (Gounden, 2000).

Table 2.14: Outcomes of the Affirmative Procurement Policy obtained on contracts awarded by National Department of Public Works in South Africa

TIME PERIOD	AFFIRMABLE BUSINESS ENTERPRISE INDEX*	DIRECT FINANCIAL PREMIUM**
August 1996 to June 1997	22.29%	0.32%
July 1997 to December 1997	25.67%	0.40%
January 1998 to July 1998	28.39%	0.12%
Study period (August 1996 to July 1998)	26.84%	0.32%

* The Affirmable Business Enterprise Index is defined as the estimated total value of work undertaken by ABE's expressed as a percentage of the total value of contracts awarded, where ABE's are targeted

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

Source: Gounden (2000); Watermeyer (2000); Letchmiah (2000a)

The APP was first used on the Malmesbury prison project in the Western Cape. This resulted in 30% of the total contract value being channeled into the local community of Malmesbury, which is a small rural town approximately 70km from Cape Town. According to the Soderlund and Shuttle (1998) report, this project proved to be more effective in channeling business and labour opportunities into local communities than some focused poverty alleviation programmes involving the construction of community buildings.

2.7 LINKING PUBLIC PROCUREMENT TO CONTRACTOR DEVELOPMENT IN SOUTH AFRICA

2.7.1 Introduction

Marginalized (disadvantaged) people are found in most societies. Marginalisation is often a result of the denial of access to employment and business opportunities based on discriminatory factors such as gender, race, religion, ethnicity, age and disability. Marginalization inevitably results in disparities in employment rates and a skewed distribution of wealth. At the dawn of the democratic South Africa, disparities in income levels and business activity were starkly evident across all sectors of society (RSA, 1994). Studies suggested that this was caused by the direct or indirect denial of access to both employment and business opportunities stemming from discriminatory practices (Watermeyer et al, 2000a).

Economic activity is the primary provider of employment and business opportunities. Such activity may be initiated by either the private or public sector, or by local communities. The private sector may, in response to social concerns, use its funds to pursue social objectives on its capital projects. Governments may offer incentives such as tax breaks as an indirect incentive for the private sector to pursue similar objectives. Alternatively, governments may target social objectives directly by using preferences in public procurement as an

instrument of policy to link the objectives with access to publicly funded contracts.

One of the main approaches to achieving socio-economic objectives in developing countries over the past few decades has been to establish special programmes involving construction projects (Watermeyer et al, 2000a). For example, since 1970 the International Labour Organisation and the World Bank have promoted and funded employment programmes for rural road construction which seek to substitute labour for capital intensive equipment (Watermeyer, 2003).

It is common practice in most countries to regulate public sector procurement, usually within a legal framework, through a system that prescribes the manner in which such procurement must or should be undertaken. The framework generally controls the "how" of procuring goods, services and works but does not commonly define the "who". Stipulating who ought to benefit from public sector procurement is only addressed in a preferential or targeted procurement system (Watermeyer et al, 2000a).

Because of its size, public sector procurement that is used as an instrument of policy can have a significant impact on the economy as a whole. An indication of this impact can be seen from 1996 data which show that public sector procurement (national and provincial departments and local authorities only) for that year constituted 13% of South Africa's Gross Domestic Product (RSA, 1997).

2.7.2 Defining Procurement

According to Watermeyer (2010), ISO 10845-1 defines procurement as the process which creates, manages and fulfills contracts. Procurement is therefore concerned with activities which both precede and continue after the signing of a contract (Watermeyer et al, 2000).

Public sector procurement is concerned with establishing and documenting what is required; inviting the private sector to bid to provide goods or services to construct or maintain infrastructure; awarding contracts to successful bidders; monitoring to ensure that what was contracted is actually provided; and paying contractors for executing their contracts. According to Bolton (2008) in the South African context the word procurement (which heads the procurement clause in the Constitution) has a broader meaning than usual because it refers to both the acquisition and the selling or lending of assets.

Most public sector procurement activities focus on the provision of goods, services and construction works as defined in Table 2.15.

Table 2.15: Definitions of Procurement Categories

Item	Definition
Goods	The supply of raw materials or commodities made available for general sale
Services	The provision of labor and/or knowledge based expertise
Construction Works	The provision of a combination of goods and services including building and engineering infrastructure, arranged for the development and provision of an asset or refurbishment of an existing asset
Other	The disposal of moveable property
	The hiring or letting of anything
	The acquisition or granting of any rights

Source: Watermeyer et al (2000a)

Although the details may vary, the principles of procurement are applicable to all three of the main types of procurement activity.

Because the role of the construction industry in South African public sector procurement is significant this research examines specific aspects of public

procurement in terms of their contribution to the development of the construction industry. Procurement of construction works tends to be more complex than that for goods and services because a construction project usually requires elements of both goods and services to be combined and arranged during the performance of the contract. Construction contracts require assets to be constructed in a specific location and have other requirements which are industry specific.

2.7.3 Using Public Procurement to Develop Sectors of the Construction Industry

According to Watermeyer (2011), construction procurement includes, in addition to engineering and construction works contracts, supply contracts for the purchase of materials and equipment; service contracts for professional services; and contracts for the disposal of surplus materials and demolitions.

Construction industry development can be linked to the development of new entrant small businesses and existing small and medium enterprises. In most countries there are basic constraints to growth, or barriers to entry, in the emerging business sector. The primary constraints and barriers are linked to access to markets, credit, skills and supportive institutional arrangements (Gounden, 2000).

In a report prepared for the United Nations Centre for Human Settlements (UNCHS) on policies and measures for small contractor development, Ofori (1995) identified a range of problems confronting small and medium enterprises (SME's). These included discrimination by financial institutions against SMEs which have little collateral; projects that are not packaged or structured to facilitate SMEs undertaking them; weaknesses in management; lack of entrepreneurship; difficulty in accessing information; a lack of market exposure; and excessive competition.

Procurement interventions can provide direct access to markets and, as such, can address one of the main constraints to contractor development. If applied correctly, appropriate procurement policies can be an effective demand side mechanism for targeted businesses (Watermeyer et al, 2000c). However, for the full enablement of emerging construction businesses specific supply side measures are also required.

If the objective is to grow and develop contractors it must be asked: growth and development to what level? And for how long? Programmes intended to meet socio-economic objectives require clear and measurable milestones and timelines so that they don't continue to operate indefinitely if progress is not being made, or carrying on after the objective has clearly been achieved and the intervention is no longer necessary. International best practice suggests that programmes should continue until such time as there are no discernible differences in performance between those who were targeted and those who were not (Gounden, 2000).

The purposeful flow of public funds directed to and through historically disadvantaged or discriminated population groups can be achieved by making the tender opportunities more accessible to these target groups without guaranteeing work to them by competitive tendering, notwithstanding the preferencing advantages provided to the target groups.

The Green Paper furthermore suggests that the aim of empowering small, medium and micro enterprises is to enable them to access the procurement process which will be directed towards having a spin-off in the formalisation of a previously informal sector of the economy. This in turn will have spin-offs in the form of a broadened tax base, improved labour standards and structured economic growth (RSA, 1997).

The Green Paper (RSA, 1997) also argues that procurement policy should complement the macro-economic strategy and extend into the area of economic development. It suggests that Black economic empowerment needs to be a focal point of this policy. Such a system should comprise of an affirmative enterprise participation programme with easy access to tendering opportunities together with a preference price mechanism that favours targeted enterprises in the award of tenders on construction projects.

2.7.4 Addressing Supply Side Constraints

Businesses which are owned, managed and controlled by HDIs frequently face impediments to their growth and development arising from factors such as lack of inter-generational wealth transfer, continuing discrimination along racial/ethnic/gender lines, substandard educational backgrounds and limited exposure to commercial activities (Watermeyer et al, 2000a; Watermeyer et al, 2000c).

South Africa's preferential procurement policy creates increased access to government contracts for targeted enterprises and provides access to markets for HDI owned businesses. Markets are driven by supply and demand and procurement creates a demand for services and products. In this way, procurement provides access to markets for both targeted enterprises and targeted labour. Supply side interventions are essential to ensure that the demand created by government is balanced by the supply of businesses capable of meeting it. Government can improve this supply by minimizing barriers to small enterprise start up and operation. This is a particularly important consideration if the goal is to encourage emerging SMEs to develop into sustainable enterprises. Supply side measures and the associated institutional arrangements for supply side interventions are, as a result, dependent upon factors such as socio-economic policy choices, and targeting and contracting strategies (Gounden, 2000).

2.7.5 Contractor Development Programmes

In 1997, the National Department of Public Works launched an Emerging Contractor Development Programme (ECDP) to address supply side constraints facing black contractors in the construction industry who wanted to avail themselves of the opportunities created by the Affirmative Procurement Policy (Gounden, 2000). A national ECDP was put in place with the objective of ensuring that appropriate strategies and supply side measures were in place to develop sustainable black owned and controlled businesses. The ECDP was focused on contractors who had the required technical skills, but were unable to source work opportunities from the public sector due to a lack of expertise in submitting quotations and tenders. The ECDP aimed to harness the synergy between three fundamental stakeholder groupings, namely:

- The National Department of Public Works, which could provide work opportunities and had the authority to facilitate an environment in which emerging contractors would have the opportunity to develop themselves into market-competitive contractors.
- Emerging contractors who were technically competent but lacked knowledge of the Department's procedures, competitive estimating techniques, business management skill, and access to finance and suppliers.
- Other organizations that had an interest in the development of emerging contractors and who had resources required by the emerging contractors. These organizations included other government departments, the private sector and NGOs.

In addition to the ECDP, the National Contractor Development Programme (NCDP) was also implemented. The ECDP is a partnership between the CIDB, national and provincial departments of public works and related stakeholders. Its primary objective is to develop previously disadvantaged contractors by enhancing capacity and promoting equity ownership across the different CIDB

categories and grades (CIDB, 2009). To this end, public sector procurement can provide an effective demand-side intervention to develop sustainable contracting capacity and to elevate development of enterprises owned by HDIS in the construction industry.

2.7.6 The Role of the Construction Industry Development Board

Construction is an important contributor to South Africa's economic and social development and is a large-scale provider of employment throughout the downstream supply chain. The construction industry, as a result of the legacy of apartheid, inherited many development and transformation challenges. In 1997, government published the White Paper on Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry (RSA, 1999) which addressed several aspects of construction related procurement. Because it formed the basis of policy on construction industry development it was an integral part of general procurement policy, and of related development within the emerging contractor sector.

The White Paper also set the path for the establishment of the CIDB (CIDB; CIDB, 2009). The CIDB was mandated through the Construction Industry Development Board Act 38 of 2000 to support and promote contractor development. The Act also has specific objectives that relate to procurement and delivery management. These include the determination and establishment of best practice that promotes procurement and delivery management reform, and the promotion, establishment or endorsement of uniform standards and ethical standards that regulate the actions, practices and procedures of parties engaged in construction contracts (RSA, 2000b). The Act requires that the CIDB do this within the framework of the procurement policy of Government. In this regard, the CIDB has published a Code of Conduct for all Parties engaged in Construction Procurement; a Standard for Uniformity in Construction Procurement; and a Library of Construction Procurement Best Practice and Contractor Registration.

The CIDB Act mandates its Board, inter alia, to establish a National register of contractors to systemically regulate, monitor and promote the performance of the construction industry with the objective of achieving sustainable growth, effective delivery and economic empowerment of historically disadvantaged individuals (RSA, 2000b).

The Construction Industry Development Board (Act 38 of 2000) defines an "emerging enterprise" as an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid and the "emerging sector" as that sector of the construction industry which comprises emerging enterprises (RSA, 2000b, p. 4).

One of the essential functions of the CIDB is its Construction Registers Service which consists of two parts, the Register of Contractors and the Register of Projects. The Register of Contractors allows the CIDB to gather and provide data on the size and distribution of contractors that operate in the industry (RSA, 2000b).

Registration with the CIDB is mandatory for any contractor that tenders or contracts for construction works in the public sector. As a result, the register provides data that reflects the status of transformation of the construction industry at a specific point in time, and can therefore be used as an indicator of economic empowerment of HDIs.

The Register of Contractors provides for a grading system of all contractors in terms of their capability to undertake and complete construction contracts by assessing their financial and works capabilities based on past performance. The Register has nine grading levels, with each grade indicating the size of contract that a contractor is capable of undertaking within one or more work categories. The contractor grading consists of alphanumeric characters that represent the

capability of the contractor in a particular class or category of work. Table 2.16 illustrates the nine contractor grades and the contract value range that contractors are considered capable of undertaking. For example, from the table it can be seen that a contractor with a grading of 3 is one that is capable of successfully completing a contract with a maximum value of R 2 million. It should be noted that the CIDB has also established a long list of construction categories which form the "alpha" part of the grading. For example, a grading of 3GB indicates a contract that is capable of successfully completing a contract with a maximum value of R 2 million in a General Building (GB) category.

Table 2.16: CIDB Contractor Grades

Tender Value Range Designation	Range of tender values, inclusive of VAT	
	Greater than	Less than or equal to
1	R 0	R 200 000
2	R 200 000	R 650 000
3	R 650 000	R 2 000 000
4	R 2 000 000	R 4 000 000
5	R 4 000 000	R 6 500 000
6	R 6 500 000	R 13 000 000
7	R 13 000 000	R 40 000 000
8	R 40 000 000	R 130 000 000
9	R 130 000 000	No limit

Source: CIDB, http://www.cidb.org.za/

One of the many benefits of the Register of Contractors is that it enables effective targeting of contractors for development while providing information on size, distribution, capability and population demographics. As a result, the CIDB is able to provide an overview of the structure of the construction industry and the state of contractor development in South Africa (CIDB, 2012). The data obtained from the Register of Contractors is used as input by government

institutions to assist in developing targeted intervention strategies in support of contractor development and, in this research, is used as a basis for assessing the preferential procurement interventions in the construction industry.

However, while trends in the number of registrations and in the number of grading increases or decreases are useful indicators of the level of contractor development, it is important to note that it may not necessarily relate directly to preferential procurement intervention strategies in the public sector since many CIDB registered contractors also tender in the private sector. As an indicator of empowerment, the CIDB uses the annual turnover of black and women owned companies based on the value of contracts awarded in both the public and private sectors (CIDB). CIDB defines black and women owned businesses as those with ownership greater than 50% as recorded in the CIDB Register of Contractors (www.cidb.co.za).

It is significant to note that although the CIDB is able to derive the relative value of public sector contracts awarded to black and women owned businesses from its Register of Projects, it acknowledges that the information recorded on its Register of Projects is incomplete (CIDB, 2012).

2.8 MEASURING EFFECTIVENESS OF PREFERENTIAL PROCUREMENT IN SOUTH AFRICA

Even the best intended policies will be ineffective if they are implemented badly. Accordingly to Yusof et al (2008), policies need to be turned into actions to deliver results that are tangible and successful implementation requires effective institutions, leadership, clarity of purpose, well documented processes and mechanisms. Policies must be coordinated and be consistent. A system of oversight on implementation is essential and should be developed and maintained at all levels of government. Over the last few years there has been a great deal of emphasis on implementation and improving the delivery system of

the government (Watermeyer, 2011) Adapting strategies and policies to changing conditions is a prerequisite for sustaining growth and achieving specified objectives - speedy adaptation is even better. A speedy response is a hallmark of decisive leadership and appropriate mechanism for analysis and implementation, and enhances reputation by improving outcomes. Political and social conditions must also be conducive for implementing change without unproductive opposition. Implementation of policies should also be re-assessed continuously in the context of broader economic performance and specific targets. Sunset clauses are also necessary to review and modify targets as and when necessary (Gounden, 2000). The Malaysian experience over thirty years is an example of how an economy can address its re-distribution imperatives over a relatively short period (Yusof et al, 2008; Puthucheary, 1993)). Built into the implementation of the NEP were the mechanisms to monitor, evaluate, and, where possible, to adjust the linkages between economic growth and distribution.

Transparency regarding the planned and actual distributional consequences of preferential procurement policies is also necessary to demonstrate accountability. Transparency means that the rules and procedures of a procurement system is made available and known to all. Transparency therefore not only responds to the principles of justice but also to efficiency because it makes available to all the information needed in order to make efficient decisions (Trionfetti, 2003). Accountability means that the tendering entity or procuring agency is responsible for the functioning of the system and for the discretional choices made when so required. Therefore, accountability also responds to a principle of justice and therefore improves efficiency because it brings certainty to procurement procedures and thereby develops trust in the system.

According to the Green Paper on Procurement (1997), the achievement of socio-economic objectives is not a simple process, even when a well-developed

instrument guides the implementation thereof. In order to successfully use procurement as an instrument of social policy, it is necessary to consider firstly those external factors over which the procuring entity of the project has no control. These are listed as follows (RSA, 1997):

- Government's commitment to the attainment of stated objectives from the highest levels;
- Endorsement and support from policy makers, senior administrators and those accountable for procurement activities;
- Motivation amongst target groups to take advantage of the opportunities presented; and
- Personnel who are conversant with and competent in implementing policies.

Furthermore, it is also necessary to consider the following factors which are within the control of the procuring entity:

- Comprehensive and unambiguous supporting documentation and implementation procedures to enable specific objectives to be achieved;
- Effective monitoring, auditing and reporting systems; and
- A means by which the bona fides of any target group can readily be established and checked for contract compliance.

In this regard, if the procurement system is to be effective and efficiently implemented it is necessary to:

- systematically measure the achievements towards socio-economic objectives;
- evaluate the cost effectiveness of the measures which are adopted on an ongoing basis;
- ensure that clear and unambiguous deliverables are in fact being achieved;

- strictly monitor outcomes and compliance with stated requirements;
- enforce requirements; and
- provide for remedies for non-compliance which are sufficiently punitive to encourage compliance.

According to Gounden (2000), there were not many programmes where use has been made of procurement as an instrument of social policy which provided both quantitative and qualitative data to support that the intent of a policy had been met. An assessment of the results of affirmative action programmes depends on how success or failure is defined and measured. The experience in Malaysia has shown that quotas are much less acceptable than targets and goals (Yusof et al, 2008) since quotas contribute to ethnic tensions because there are so blatantly discriminatory. Goals and targets by contrast are primarily guidelines. It is argued by Puthucheary (1993), that after its initial twenty year period Malaysia did not reach the goal of thirty percent Bumiputra ownership mainly because this was set as only a goal and not a quota. In the South African scenario, public procurement as the provider of access to tenders and contract opportunities can be used as an indicator of effectiveness in the construction industry if data indicates a trend in the growth of business opportunities for targeted enterprises (Gounden, 2000).

Trionfetti (2003) suggests that in order to assess effectiveness in procurement policies, it is necessary to define “efficient” or “optimal” within the context of the government’s procurement system and policy objectives. An optimal procurement system is one that allows government to achieve its objectives at minimal cost (Trionfetti 2003). For example if the objective of government is to promote socio-economic objectives, then an optimal procurement system is one that procures all goods and services in support of the objective at the minimum possible additional cost. This definition of optimal procurement also corresponds

to the concepts of “efficiency”, “cost effectiveness”, and “value for money” as is required in the SA Constitution (RSA, 1996b).

The method/s used in this study has a number of features and elements worth mentioning. The first one is that it utilizes actual outcomes based on government data rather than making assumptions or interpolating information from limited data. The second is that it is based on recorded data rather than being based on case studies or anecdotal evidence. The third one is that the method captures the quantity together with the cost and price preferences of contract awarded in line with the PPPFA. This allows the researcher to capture the cost of the price preference mechanism since it is based on relevant information that reveals the price margins on which the tenders have been awarded.

2.9 SUMMARY

The chapter examined the development of affirmative action policies and its impact on preferential procurement initiatives. In particular, the experiences of USA and Malaysia were reviewed in terms of its influence on policy development in South Africa. It shows that although the South African experience can be described as unique in many ways, the outcomes of international experience provide useful insights on key lessons learnt.

This chapter documented the concepts of preferential procurement and its relationship to affirmative action and black economic empowerment in South Africa. A chronology of the development of preferential procurement legislation in South Africa was discussed.

CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY

3.1. INTRODUCTION

A research design presents a structured framework that explains how the research process will be conducted to address the research objectives. Key considerations in selecting a compelling and pragmatic research design include the philosophical framework, as well as the integration of the various elements of the design. This includes data gathering methods, data analysis processes and the interpretation of results that shaped the research study (Babbie & Mouton, 2006; Tan, 2007; Creswell, 2009).

This chapter outlines the research context, design and methodology that guided the present study. It then describes and discusses the approach and procedures used to collect and analyze the data.

3.2. RESEARCH DESIGN CONTEXT: IDENTIFYING A WORKABLE RESEARCH PROJECT

The intention of the research study was to examine the effectiveness of the application of preferential procurement in South Africa. Ongoing engagements with National Treasury officials led to the identification of a database of procurement statistics collected since April 2006. These data were gathered by the Directorate: Norms and Standards in the Supply Chain Management Division of National Treasury from national and provincial government departments in compliance with the requirements of the Preferential Procurement Policy Framework Act (PPPFA) of 2000. Written approval from the Minister of Finance was required to access these data for use in the present research study.

In November 2007 the researcher wrote to the then Minister of Finance, Mr. Trevor Manuel, explaining the purpose of the research and requesting access to

the Preferential Procurement Statistics Database collected by National Treasury. (See Appendix 3.1 for the Letter sent to Minister Manuel). In mid-2009 a follow-up inquiry was made to the new Minister of Finance, Mr. Pravin Gordhan, regarding the status of the 2007 letter requesting access to Treasury data. The response from the Minister in December 2009 was positive, albeit conditional. (See Appendix 3.2 for Minister Gordhan's response).

The Minister granted the Chief Directorate: Norms and Standards permission to release the relevant dataset, available as at December 2009, to the researcher for research purposes. The researcher was subsequently able to supplement the original dataset with additional data from the National Treasury, thereby compiling a dataset covering the five-year period from April 2006 to March 2011. The five-year dataset enabled the researcher to support his research objectives more conclusively.

Based on a preliminary review of the data made available by the National Treasury, and coupled with additional desktop research into the subject matter, the focus of the study was streamlined to examine the effectiveness of the Preferential Procurement Policy Framework Act (PPPFA) of 2000 on the construction industry sector in South Africa.

The National Treasury dataset presented a reliable starting point to collect additional primary research data to address the following research objectives:

(1) To measure the number and value of government contracts awarded to businesses with HDI shareholding in comparison with the total number of contracts awarded;
(2) To analyse the distribution of contracts awarded to HDI's on the basis of race and gender as provided for in the PPPFA (2000), at both national and provincial levels;

(3) To determine the financial cost premiums incurred through the implementation of the PPPFA of 2000;
(4) To establish whether the application of the PPPFA of 2000 had helped HDI contractors to grow their businesses; and
(5) To determine whether HDI owned contracting enterprises, as beneficiaries of the policy, understood the intention and application of the PPPFA of 2000.

Moreover, the collection of both primary and secondary data would serve to strengthen the research design and methodology thereby increasing the probability that the research results produced would meaningfully contribute to the existing body of knowledge on the subject being researched.

The relevance of this study is timely given that the regulations governing the application of the PPPFA of 2000 were replaced with a new set of regulations in December 2011. Essentially, the new regulations replaced the previous preferential point scoring mechanism with a Broad Based Black Economic Empowerment (BBBEE) scorecard system for allocating procurement preference points.

3.3. RESEARCH DESIGN FRAMEWORK

Current research design and practice are premised on three dominant methodological paradigms: quantitative, qualitative and participatory action research. According to the literature, the historical antecedents of these research approaches can be traced to particular schools of thought linked to positivism/post-positivism, phenomenology, and critical theory, respectively (Babbie & Mouton, 2006).

The quantitative approach represents a traditional and dominant form of research conducted during the 1940's and 50's. Characterized by a

scientific/empirical or positivistic perspective, the approach is premised on the initial procedural assumptions first made by logical positivists in the 1930's and subsequently refined. Essentially, the positivistic approach recognizes the merits of using statistics in research studies to prove concepts of "truth", "rationality" and "objectivity". Scientific knowledge is defined as a set of statements which experts assess to be "truthful" when thorough scrutiny is applied to prove "rationality", and rigorous methods and techniques are used in gathering the best supporting evidence to prove "objectivity" (Babbie & Mouton, 2006).

According to Babbie and Mouton (2006) and Creswell (2009), the initial operational formulations of logical positivism were later challenged by other researchers resulting in a paradigm shift from narrow assumptions made about knowledge generation. Essentially, there emerged a reformist school of positivists who challenged the traditional knowledge claims of "absolute or positive truth" in relation to human behavior and actions.

The origins of qualitative research can be traced back to the research conducted by sociologists at the University of Chicago in the USA in the first part of the 20th century. Also referred to as naturalistic or causal research, the approach popularized the use of various qualitative data gathering methods, including participant observation used by anthropologists, in-depth interviews and personal documents. Advocates of this approach known as subjectivists, or constructivists, follow an interpretive or qualitative approach to science. In challenging the concept of "the truth", these theorists introduced the notion of "multiple truths" that validate different viewpoints (Creswell, 2009). The approach emphasized that fieldwork be carried out in the natural setting of respondents to gain a deeper understanding of human intentions, and give to meaning to phenomena (Babbie & Mouton, 2006; Creswell, 2009).

From the 1960's onwards, purists in the research field contested the legitimacy of a qualitative approach to research (Babbie & Mouton, 2006). This compelled

supporters of the qualitative perspective to justify the theoretical underpinnings of their approach as a viable and relevant research methodology (Babbie & Mouton, 2006). According to Leedy (1992), each of the approaches can be used to serve particular research purposes. Leedy (1992) describes "the descriptive survey method" (qualitative) which is used to obtain data from observations either by visual or verbal interactions preferably with questionnaires while the "analytical survey methods" (quantitative) is used to obtain data that will provide meaning and trends through statistical/empirical analysis.

In the 1970's and 80's, during a period of ongoing contestation about the respective merits and compatibility of the two dominant paradigms, a third research paradigm called participatory action research, with its antecedents traced to critical theory, emerged (Babbie & Mouton, 2006). This approach, which emphasizes participation and action in conducting research studies, is assumed to have dichotomous roots. The northern tradition is supposedly linked to the action research approach used in development studies. The southern tradition, which is said to have emerged from the particular experiences of emancipation from colonialism, is more concerned with issues of power and social justice (Babbie & Mouton, 2006).

Some purists contend that the various paradigms are essentially incompatible (Bogdan & Biklen, 1982; Guba & Lincoln, 1985). A more conciliatory school of thought proposes that a combination of approaches provides several benefits, and that in some situations a combination of approaches can prove superior to any single approach (Miles & Huberman, 1984; Smith, 1986). In fact, research practice has shown how different techniques can be combined successfully within a single inquiry to complement and provide a greater understanding of the phenomenon being examined (Green & McClintock, 1985; Smith, 1986). The authors of more recent publications on the topic acknowledge that the various approaches are relevant because they serve different, but necessary, purposes in research studies (Creswell, 2009; Tan, 2007; Babbie & Mouton, 2006).

The literature shows that until recently it was accepted that the dominant research paradigm used in the construction management field favoured the rationalistic quantitative approach and its associated methodological assumptions (Seymour & Rooke, 1995; Runeson, 1997; Raftery et al, p. 1997). In 1995, Seymour & Rooke made a compelling argument for researchers in this field to consider the merits of an alternative qualitative approach to achieve particular research objectives, as well as make research more relevant and responsive to the changing culture and practices of the construction industry. This led to robust debate on both sides about the merits of the preferred approach to research, and the weakness of the opposing view (Seymour & Rooke, 1995; Runeson, 1997).

A careful consideration of the different research paradigms described above established that the research design framework should be informed by the specific objectives of a study. This led to the determination that the positivistic approach, that uses quantitative data collection and analysis techniques to validate the research finding, best suited the objectives of this study. This approach offered the most pragmatic research design framework because it permits the researcher to adopt the scientific approach in the collection of primary data on contractors' perceptions of the effectiveness of the PPPFA in the construction industry sector. In turn, the findings of the primary data were used to validate the findings of secondary data provided by the National Treasury and verify the researcher's propositions. A more detailed description of this approach and its relevance to this study is presented below.

Positivists claim to adhere to a deterministic philosophy which advocates that causes most likely determine effects or outcomes (Guba & Lincoln, 1985; Philips & Burbules, 2000; Babbie & Mouton, 2006; Creswell, 2009). Research studies using a positivistic approach usually seek to identify and assess the causes/factors that influence outcomes. This paradigm advocates a reductionist approach whereby testing is only conducted after the research ideas/problem

statement is reduced to a small, discrete set of ideas, such as variables that comprise hypotheses and research questions (Guba & Lincoln, 1985; Babbie & Mouton, 2006; Philips & Burbules, 2000; Creswell, 2009). The intention is to derive knowledge based on empirical observation and the measurement of the objective reality that exists "out there" in the world (Guba & Lincoln, 1985; Creswell, 2009).

Vital components of the positivistic philosophical paradigm include the development of numeric measures of observation, as well as a careful examination of the responses collected from study respondents. Positivists recognise that the world is regulated by laws or theories and contend that these have to be tested in order to better comprehend the world (Creswell, 2009). Therefore, when using the scientific method to conduct research the positivists propose a structured approach that starts with a theory/hypothesis, followed by the collection of objective data to verify the theory (Guba & Lincoln, 1985; Philips & Burbules, 2000; Creswell, 2009).

The primary purpose of conducting quantitative research is to explain the objective relationship among measured variables to test deductively a theory/hypothesis, so that the findings can be generalized and replicated (Philips & Burbules, 2000; Guba & Lincoln, 1985; Babbie & Mouton, 2006; Tan, 2007; Creswell, 2009). In this approach the variables are usually measured by instruments that collect numerical data, which can be statistically analyzed and interpreted.

Table 3.1 below is adapted from Creswell (2009) and provides a checklist of key features of a quantitative research design approach against which the research framework of this study was considered.

Table 3.1: Key Features of a Quantitative Research Design Approach		
Quantitative Approach	**Description**	**Applicability to Study**
Philosophical assumptions	Positivist knowledge claims	√
Strategy of inquiry	Survey	√
Methods employed	Close-ended questions	√
	Pre-determined approach	√
	Numeric data gathered	√
Research practices adopted	Tests or verifies theories or explanations	√
	Identifies variables to study	√
	Relates variables to questions or hypotheses	√
	Uses standards of validity and reliability	√
	Observes, measures and interprets information numerically	√
	Uses unbiased approaches	√
	Employs statistical procedures	√
Source: Creswell (2009)		

The following summary, adapted from Philips and Burbules (2000), aptly outlines the key assumptions of the positivistic position which guided this study:

1) *Knowledge is conjectural and anti-foundational*. This assumption is derived from the refined formulation in positivism that there is no "absolute truth" in scientific research. Based on this premise, adherents to the positivists school of thought contend that researchers should not attempt to prove a hypothesis, but rather fail to reject it;
2) *Research involves a process of making, refining and rejecting claims:* The claims are based on objective evidence that is collected and analyzed for the primary purpose of testing or verifying a theory;

3) *Data, evidence and rational considerations shape knowledge:* The researcher designs appropriate data collection instruments to measure and observe responses;
4) *Research seeks to develop relevant, true statements to explain causal relationship among variables.* This approach enables the researcher to suggest a relationship among variables by presenting them in terms of questions or hypothesis; and
5) *An essential aspect of competent inquiry is objectivity:* The researcher must use standards of validity and reliability to check for bias in the study.

Figure 3.1 below presents a diagrammatic description of the research design framework used in this study. The framework was adapted from Creswell (2009:5).

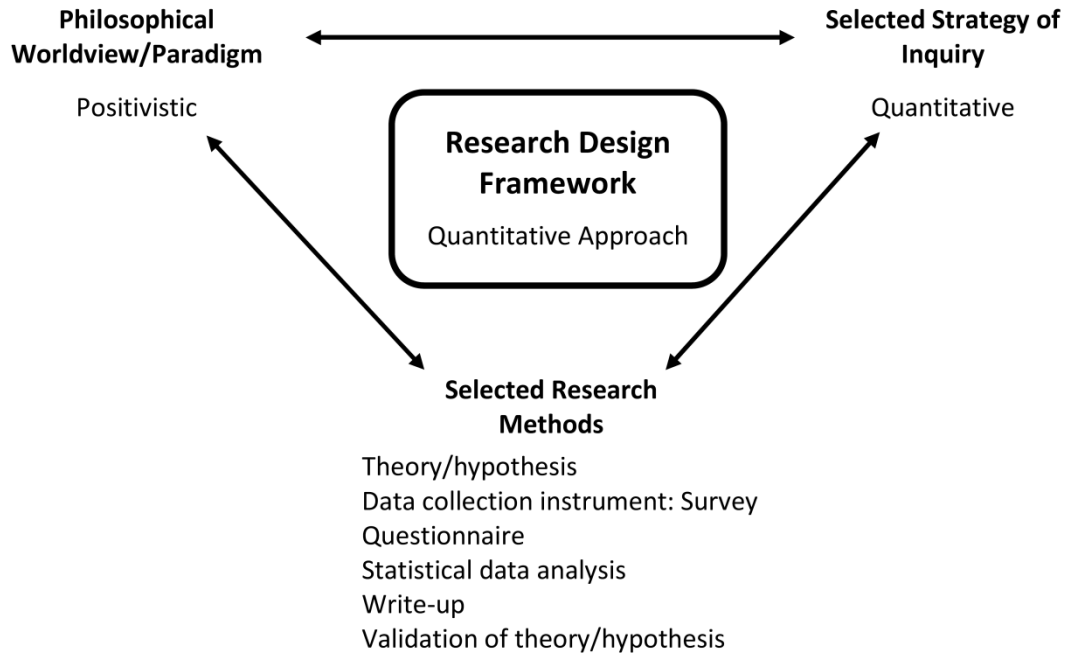


Figure 3.1: Research Design Framework

3.4. RESEARCH METHOD

In conducting social science research, the choice of research methods is guided by what one wants to know about a situation or programme, whilst taking into consideration time and resource constraints that impact on the research activities (Guba & Lincoln, 2000; Babbie & Mouton, 2006; Tan, 2007; Creswell, 2009). Research methods involve the forms of data collection, analysis and interpretation that researchers propose for their studies. In this regard researchers need to consider the full range of possibilities of data collection, as well as the organization of methods to suit the particular purpose of the study (Creswell, 2009).

Because quantitative research studies have remained the dominant research paradigm, there exist carefully worked out procedures and rules for this mode of empirical inquiry. For the purposes of this particular study, a quantitative approach, which offers a systematic and structured guiding framework and procedures, is best suited to determine the following broad research objectives:

i. the effectiveness of an intervention;
ii. the factors that influence a specific outcome;
iii. the best predictors of outcomes; and
iv. the testing of a theory/hypotheses or explanation (Creswell, 2009).

According to the literature, the two organizing principles of empirical research are observation and interpretation. Measurement, a type of observation, is claimed to be more deliberate and rigorous on the basis that *what* is observed is considered to be as important as *how* it is observed or measured (Babbie & Mouton, 2006). The two most common data collection instruments used in quantitative studies are experiments and surveys.

3.5. SELECTION OF DATA COLLECTION METHOD

For this particular cross-sectional study the survey research technique was most appropriate because it enabled the researcher to collect information from a large group of respondents, control for time, and determine associations or establish causes (Creswell, 2009). The statistical findings from a sample of respondents from a population can be used to describe quantitative or numeric trends, attitudes or opinions for a broader research population (Babbie, 1990; Creswell, 2009).This technique also enabled the researcher to determine the breadth, variability and generalizibility of the data (Babbie & Mouton, 2006).

The quantitative technique, using both primary and secondary data sources, allowed the researcher to examine the following propositions:

1. That government has contributed to the increased participation of enterprises with HDI shareholding in public sector construction contracts through the application of the preferential procurement policy in terms of the PPPFA;

2. That the application of preferential procurement results in excessive cost premiums in relation to that provided for in the initial formulation of the policy; and

3. That preferential procurement served as an effective mechanism for HDI contractors to grow their businesses.

The complementary and iterative use of multiple data sources enabled the researcher to fill the information gaps left by one dataset with another more appropriate one, to examine the research propositions convincingly.

3.6. DATA COLLECTION AND PROCESSING

In order to answer the research questions and examine the propositions outlined above, the researcher obtained national and provincial data from the National Treasury covering a period of five years (from April 2006 to March 2011) and supplemented this data with primary data collected through a survey questionnaire. The National Treasury is empowered by the Public Management Finance Act (PFMA) of 1999 to oversee and monitor the implementation of public procurement (also referred to as the supply chain management function) and the achievement of government's socio-economic policy objectives. In support of this, the PPPFA requires that all socio-economic goals be measurable, quantifiable and monitored for compliance (RSA, 2000a).

In order to give effect to this provision, National Treasury issued Practice Note Number SCM 3 of 2004 dated 23rd August 2004 (See Appendix 3.3) which, inter alia, provided a checklist for the implementation of supply chain management and the monthly reporting of supply chain management information. To enable uniformity in reporting, National Treasury developed the "Monthly Reporting Questionnaire" template, (See Appendix 3.4) which became effective from April 2004. The Practice Note states that primary purpose of collecting this monthly information was to provide the Minister of Finance with consolidated reports on the progress made in the public procurement reform process, with particular focus on Black Economic Empowerment.

The practice note stipulated that completed monthly reporting questionnaires had to be submitted to National Treasury within 15 days after the end of each month. In an interview with the Chief Director; Norms and Standards at National Treasury, the researcher learned that this data was only systematically captured onto a computerized system from April 2006. Prior to this date, limited information was recorded and only included the name of the contractor and the value of the awarded contract. The primary purpose of collecting this basic

information was to enable the South African Revenue Service (SARS) to monitor tax compliance. The Chief Director also informed the researcher that the accounting officers of national government departments and heads of provincial treasuries were required, on a six monthly basis, to certify the correctness of the information submitted to National Treasury.

A completed monthly report questionnaire provided information, inter alia, on the percentage equity ownership by black persons, black women and white women; percentage of local content; total contract price; total price of lowest acceptable bid; and the premium paid expressed both in value and as a percentage of the lowest acceptable tender (See Appendix 3.5 for an example of a completed monthly report).

The data obtained from National Treasury for this research was categorized into the commodity type of "building and construction", and included contracts pertaining to the maintenance of buildings and some civil engineering type projects related to building and construction. Contracts awarded to HDI's were summarized into categories of black owned enterprises, black women owned enterprises and white women owned enterprises.

Each of these categories was further separated into sub-categories based on shareholding of ≤25%, >25% & ≤50%, and >50% & ≤100%. This system of categorization, which is used by National Treasury, resulted in contracts being allocated in more than one HDI category, e.g. a contract awarded to an HDI owned enterprise with black male shareholding of 50%; black female shareholding of 30% and white female shareholding of 20% was recorded as being awarded to a black enterprise (>50% and ≤100% shareholding); to a black women owned enterprise (>25% and ≤50% shareholding); and to a white women owned enterprise (≤25% shareholding).

The PPPFA makes provision for preferences to be awarded to HDI's classified in terms of race, gender and disability. The data obtained from the National Treasury provides extensive information on the awarding of contracts to Black and Women business categories. However, the dataset is limited because no data were collected for enterprises with disabled shareholders. In addition, there were no data collected on whether preferences were awarded for the achievement of Reconstruction and Development Programme (RDP) objectives, as proposed in the PPPFA. The likely reason for this particular omission in data collection is the wide variation found in RDP target groups among different organs of state.

Within the context of these limitations, the examination and analysis of the data provided by the National Treasury included the following:

1. The total number of construction related contracts awarded on an annual basis;
2. The total value of the contracts awarded on an annual basis;
3. The number and value of contracts awarded to black owned enterprises to examine effectiveness of the PPPFA, as referred to in the Constitution;
4. The number and value of contracts awarded to women owned enterprises in order to examine the effectiveness of the PPPFA, as referred to in the Constitution;
5. The value of the preference premium and related percentage of procurement spend in order to examine the cost effectiveness of the PPPFA, as required by the Constitution;
6. The annual trends in the awarding of government contracts to HDIs and their associated premiums;
7. A differentiation of contracts awarded between black owned businesses generally and black women owned businesses, specifically;

8. A differentiation of contracts awarded between women owned businesses generally and white women owned businesses, specifically; and
9. A separation of data showing tenders below the value of R500 000 and above the value of R500 000 in order to differentiate between contracts using the 80/20 and 90/10 points scoring systems, respectively.

A preliminary review of the data from the National Treasury showed that the raw data was not arranged in a format that could be used for the types of analysis outlined above. Therefore, a comprehensive process was undertaken firstly to check the various datasets for completeness, accuracy and consistency, and then to reformat and categorize the datasets for the purpose of statistical analyses.

The primary data for this study were collected using a survey questionnaire. This particular method of data collection was selected because it is considered to be the most appropriate technique to conduct a numerical survey. In developing the items for the questionnaire, careful consideration was given to the categories and the type of information required of CIDB graded contractors in order to address the research objectives. The questionnaire was structured to include mostly close-ended responses, which served the requirements of representatively and easily standardized data. However, during the development phase the recognition that close-ended questions confined responses to pre-established parameters led to the inclusion of selected open-ended responses that were intended to elicit the respondent's perceptions and opinions. This is permitted practice in survey questionnaires (Babbie & Mouton, 2006).

The first step in the development of the survey instrument involved the identification of items. For the structured survey questionnaire a comprehensive list of questions were generated using multiple resources that included secondary information gathered from desktop research; the dataset from National Treasury; and the researcher's firsthand knowledge of the PPPFA and

the construction industry sector. Appendix 3.6 presents the draft survey questionnaire that was developed containing 3 sections: *Section 1: Demographic Information, Section 2: Access to preferential Opportunities* and *Section 3: Institutional Arrangements/Supply Side Measures*. Where more information was required for some of the structured questions, provision was made for an open-ended response.

The second step in the development process was to test the instrument. Before the instrument was piloted it was pre-tested with a group of 4 built environment professionals who were knowledgeable about the research focus. The purpose of the pre-test was to assess item and question clarity and the functionality of the instrument. The feedback received from the pre-test group was generally positive in terms of ease of understanding the questions. In general, the pre-test candidates did not find any of the questions to be ambiguous or unclear or confusing. In the area of irrelevance and redundancy, and formatting errors, some suggestions were made to rework and rephrase specific questions. Some concerns were expressed regarding the length of the questionnaire, but additional discussion revealed that this perception was linked to an underlying disinterest by certain respondents in completing the questionnaire. More general comments and suggestions offered by the pre-test group that were determined to be useful were incorporated into the pilot survey questionnaire instrument. (Appendix 3.7 presents a report of the feedback received during the pre-test).

3.7. PILOT SURVEY QUESTIONNAIRE DESIGN AND TESTING

The revised pilot survey questionnaire retained the three sections (A copy of the pilot questionnaire is included as Appendix 3.8). Fourteen contractors were identified on a non-random quota sampling basis in order to ensure representation across various CIDB grades. Of the 14 contractors, 11 agreed to participate. A variety of techniques, including emails, faxes, telephone and face-

to-face interactions, were used in administering the pilot questionnaire to the 11 selected contractors. The purpose of using the telephonic and face-to-face techniques was to observe through personal contact how the respondents dealt with the questionnaire (A detailed report of the finding of the pilot is presented in Appendix 3.9).

The piloting of the questionnaire was conducted in August 2011 and their responses were received by the set deadline date of 02nd September 2011. Initially, the contractors were asked to participate in a personal (face-to-face) interview to complete the questionnaire. Due to a poor response to this approach contractors were then encouraged to e-mail or fax their questionnaire responses to the researcher. Despite this adjustment, some contractors remained reluctant to complete the survey because they perceived it to be too time consuming. As a result they were then offered the option of participating in a telephone survey.

Table 3.2 below presents the CIDB grading of the contractors who participated in the pilot survey.

Table 3.2: CIDB grading of the contractors who participated in the pilot survey

Respondent No.	CIDB Grade: General Building (GB)	CIDB Grade: Civil Engineering (CE)
1	2	1
2	4	N/A
3	4	3
4	5	N/A
5	6	6
6	7	5
7	8	7
8	N/A	3
9	N/A	4
10	N/A	8
11	3	N/A

Source: Pilot Survey

Of the 11 respondents, one completed the questionnaire in a face-to-face interaction with the researcher, one by fax, three by email, and six over the telephone. Following the completion of the questionnaire all respondents were contacted again and asked a standardized set of questions regarding the design, format and content of the instrument. In general, the responses received were positive and most of the respondents found the questions reasonable, straight forward and easy to understand. Additional information on the demographic details was requested from each respondent, with only one person declining to answer. Regarding the length of the questionnaire, respondents felt that while they considered the questionnaire to be lengthy it was manageable because most questions required a yes/no response. Ten respondents found the questionnaire useful and the questions clearly presented, and therefore easy to understand.

The only significant problem identified was with two questions that asked respondents to estimate their turnover and tender award on a yearly basis for a five year period going back to 2006. Although all of the respondents managed to answer this question, many were concerned about the accuracy of the information provided because they could not easily recall it. Also, there was some concern raised about the confidentiality of this information. These specific questions and other issues were addressed during the process of developing and completing the final survey questionnaire. Except for some minor revisions, the final survey instrument remained fundamentally the same as the pilot questionnaire. (See Appendix 3.10)

3.8. SAMPLING OF DATA AND SAMPLE SIZE

The target population for the survey questionnaire was enterprises with majority Historically Disadvantaged Individual (HDI) ownership as categorized in the PPPFA. The designated categories included black females, black males and white females. It was determined that the most accessible and pragmatic approach to

select the respondents was to use the CIDB register of contractors still active as at 31 March 2011. The CIDB register had a total of 1985 “Active” contractors in Grades 2 to 9. For the present study probability sampling, using the population of 1985 of still active contractors were stratified according to ownership on the CIDB Register. For each population cell a sub-sample was randomly selected using an electronic random number generator to select the required sample size of 596. This sample size of 596 was increased by 50% to 877 in order to achieve a meaningful response rate. The total population of contractors were then assigned random identifiers from 1 to 1985 (e.g. BF1026, BM263, WF23). Using the Excel software for generating random numbers (randbetween command), 877 random numbers were obtained. These numbers were then matched with the name of the contractor associated with the specific number allocated to the total population. This method was used to select the survey sample.

In CIDB grade categories where the sample size was large, a proportional stratified sample of respondents was selected. In those grades where the sample size was very small, i.e. Grades 8 and 9, the selected sample proportion of respondents exceeded the calculated proportion in order to ensure at least minimum representivity from those grades. An “eyeballing” exercise was conducted to ensure that there was adequate representation of contractors in the grading categories 2 to 9 and, in addition a representative spread of the 9 provinces. This exercise confirmed that the representation was adequate for the purpose of this research.

In total, 877 copies of the survey questionnaires were sent to randomly selected respondents using electronic response mechanisms including email and fax. In instances where the selected respondents did not have access to these facilities, the questionnaire was administered telephonically. Due to an initial poor response rate the deadline for submission of responses was extended several times. Contractors were contacted telephonically to request completion of the questionnaire and three follow-up e-mail reminders were sent to the selected

respondents in an effort to improve the response rate (Refer to Appendix 3.11 – 3.13).

3.9. DATA CAPTURING AND ANALYSIS

Both the primary and secondary data used in this study were essentially numeric information that was collected using instruments that measure performance, attitudes or perceptions. Therefore, the information was analyzed using statistical procedures.

Using Microsoft Excel software, all data were initially captured separately by two individuals and then matched for discrepancies as a quality control measure to minimize errors. This quality control process included examination of data ranges for implausible values, logic checks for ensuring answer validity and consistency, and incorporation of automated skip patterns. All analyses were done using Statistical Package for the Social Sciences (SPSS) software, version 21.

3.10. SECONDARY DATA ANALYSIS

Data obtained from the National Treasury were analyzed to establish whether the PPPFA had been effective during the period under review in achieving the socio-economic objectives of procurement preferencing in the South African context. The data were distributed over HDI status, as well as the provincial and national distribution of contracts awarded. Using SPSS, the data were verified through a process of quality assurance and quality control by an examination of data ranges for implausible values, logic checks for ensuring answer validity and consistency. Differences between the proportions and percentages of groupings found in the data were compared using standard error and confidence intervals. The z-scores calculated using this analysis informed the p-value or value of significance.

$$SE(P_1 - P_2) = \sqrt{\left(\frac{P_1(100 - P_1)}{n_1} + \frac{P_2(100 - P_2)}{n_2}\right)}$$

SE	=	Standard Error
P_1	=	Proportion Population 1
P_2	=	Proportion Population 2
n_1	=	Number of P_1
n_2	=	Number of P_2

The equation above was used to calculate the Confidence Interval of the proportions or percentages observed in the data. **P** indicates the proportions of each population under review and **n** represents the exact number. The z-scores that indicate the p-value are calculated to indicate the significant difference between the proportions using the figure highlighted below. The p in this equation is amalgamated.

$$SE(\mathrm{d}iff\%) = \sqrt{\frac{P(100 - P)}{n_1} + \frac{P(100 - P)}{n_2}}$$

P = $P_1 + P_2$ (from previous formula)

Proportions among different groups were calculated to evaluate whether the PPPFA was effective in terms of the premiums paid for contracts awarded to HDI's, as well as the number of contracts given to HDI owned enterprises.

T-tests assess whether the averages (means) of two groups of people in a sample are statistically dissimilar from each other. This type of analysis is appropriate for associating the (means) averages of two groups. In this study, t-tests were used to establish significant differences in averages between the different target groups of the PPPFA.

The chi-square (X^2) test for independence (or goodness of fit test) determines whether a relationship exists between categorical variables. This test can also be used as an analysis method that utilizes frequency data from the sample to establish whether a hypothesis applies to the population proportion. In this study, Chi-square analyses were conducted to test differences in frequencies between categorical variables in the data.

Significance testing for both t-tests and Chi-square tests were performed at a 0.05 level of significance (p-values). Significance levels are often indicated with asterisks. However, there is no consistent convention linking a certain number of asterisks to a significance level. In this study the use of asterisks indicating significance levels are defined as follows:

Asterisk Code	Significance	Comment
***	0.001	High significance
**	0.01	Medium significance
*	0.05	Low significance

3.11. PRIMARY DATA ANALYSIS

The primary survey data were analyzed to support the results of the national and provincial Treasury data, and to establish the extent to which derived results represent the occurrences at an individual level. Appendix 3.14 presents the rationale and motivation for proposing the various questions in the survey in order to address the research objectives. Selection criteria for the target population in the study is all CIDB registered contractors in Grades 2 to 9.

After the data collection, data entry, data verification processes were completed, frequency distributions of categorical variables were calculated. Continuous variables included number and value of contracts awarded, average annual turnover, percentage of HDI shareholding and number of years the enterprise had been in business. Categorical variables included race, gender, CIDB grading,

certification, level of understanding of PPPFA, and number of tender submissions. Bar charts, histograms, line diagrams and pi-charts were used to depict frequency distributions for categorical and continuous variables as appropriate. Bi-variate analysis was conducted using the Pearsons chi-squared test for categorical data and the Spearman's Correlation Test was used for continuous data. A $p < 0.05$ was considered as statistically significant. Chi-square (Pearson) was used to highlight differences in frequency within the groups of the data. Correlations were analyzed using Pearson's Correlation figures to establish whether correlations were significant and in which direction.

3.12. PARTICIPANT AND DATA CONFIDENTIALITY

All information obtained during the study from survey and secondary data sources were handled in a strictly confidential manner. In the publication of research results and reports, all data will be treated as grouped, thus no individual will be identified from such documentation.

As part of the agreement to obtain the National Treasury dataset the researcher agreed to keep the raw dataset and data findings strictly confidential. For this reason all the raw data and all finding/analysis based on the National Treasury dataset, including Chapters 4, 6 and 7 of this thesis, will not be made available to any person or organization without prior written approval from the Minister of Finance.

3.13. SUMMARY

This chapter described the research methodology and philosophical paradigm that guided the selection of the research methods and data analysis. The quantitative research paradigm which underpins the research is discussed and is followed by the research methods and techniques that were used to collect and analyze the data. The following two chapters present the results obtained from the Treasury Data and the Questionnaire Survey Data.

CHAPTER 4: RESULTS AND DISCUSSION OF TREASURY DATA

4.1 INTRODUCTION

This chapter presents and discusses the results and findings obtained from the analysis of the National Treasury data collected for this study.

The 5-year data set (April 2006 to March 2011) pertaining to the commodity type described as "Building and Construction" obtained from the Treasury was analysed to address the following research objectives:

i. To measure the number and value of contracts awarded to businesses with HDI shareholding in comparison with the total number and value of contracts awarded;
ii. To analyse the distribution of contracts awarded to HDI's on the basis of race and gender as provided for in the PPPFA at both national and provincial levels; and
iii. To determine what financial cost premiums were incurred through the implementation of the preferential procurement policy.

4.2 TREASURY DATA

The PPPFA (RSA, 2000a) stipulates all socio-economic goals to be measurable, quantifiable and monitored for compliance. The data received from National Treasury provided information on each awarded contract with the name of the successful tenderer; contract date; percentage equity ownership by black persons, black women and white women; contract value; and the amount of premium paid, if applicable. In order to address the research objectives of the study, the raw datasets from National Treasury were reformatted and categorized as was necessary for the purposes of statistical analyses.

For ease of reference, Table 4.1 presents a list of the types of HDI enterprises referred to in this chapter and their definitions.

Table 4.1: Categories of HDI Enterprises

Enterprise Type	Definition
HDI Enterprise	Enterprise with HDI shareholding between >0% and ≤100%
Non-HDI Enterprise	Enterprise with no HDI shareholding
HDI Enterprise with Black Shareholding ≤50%	Enterprise with black (male and female) shareholding less than or equal to 50%
HDI Enterprise with Black Shareholding >50%	Enterprise with black (male and female) shareholding greater than 50%
HDI Enterprise with Black Female Shareholding ≤50%	Enterprise with black female shareholding less than or equal to 50%
HDI Enterprise with Black Female Shareholding >50%	Enterprise with black female shareholding greater than 50%
HDI Enterprise with White Female Shareholding ≤50%	Enterprise with white female shareholding less than or equal to 50%
HDI Enterprise with White Female Shareholding >50%	Enterprise with white female shareholding greater than 50%
HDI Enterprise with Combined HDI Shareholding ≤50%	Enterprise with a combination of black (male and female) and white female shareholding less than or equal to 50%
HDI Enterprise with Combined HDI Shareholding >50%	Enterprise with a combination of black (male and female) and white female shareholding greater than 50%
HDI Enterprise with Combined Female Shareholding ≤50%	Enterprise with a combination of black female and white female shareholding less than or equal to 50%
HDI Enterprise with Combined Female Shareholding >50%	Enterprise with a combination of black female and white female shareholding greater than 50%

4.3 NATIONAL GOVERNMENT DEPARTMENTS

4.3.1 Distribution of contracts awarded over the five-year period 2006/07 – 2010/11

Table 4.2: NATIONAL - Number and value of contracts awarded over the five-year period 2006/07 – 2010/11

Financial Year	All Contracts				≤R500 000 Contracts				>R500 000 Contracts			
	No.	% of 5-year total contracts	Total Value (ZAR 000's)	% of 5-year total value	No.	% of yearly total	Total Value (ZAR 000's)	% of yearly total	No.	% of yearly total	Total Value (ZAR 000's)	% of yearly total
2006/07	318	19.3%	R 1 121 264	5.0%	183	57.5%	R 32 846	2.9%	135	42.5%	R 1 088 417	97.1%
2007/08	262	16.0%	R 2 293 776	10.3%	99	37.8%	R 22 460	1.0%	163	62.2%	R 2 271 317	99.0%
2008/09	291	17.7%	R 14 003 600	63.0%	77	26.5%	R 16 179	0.1%	214	73.5%	R 13 987 421	99.9%
2009/10	229	14.0%	R 1 377 645	6.2%	120	52.4%	R 26 157	1.9%	109	47.6%	R 1 351 488	98.1%
2010/11	541	33.0%	R 3 454 418	15.5%	296	54.7%	R 69 947	2.0%	245	45.3%	R 3 384 472	98.0%
Total	1 641	100.0%	R 22 250 703	100.0%	775		R 167 589		866		R 22 083 115	
				% of Total	47.2%		0.8%		52.8%		99.2%	

Source: Treasury Data (2011)

Table 4.2 presents the number of contracts, and their total value, that were awarded by national government departments between 01 April 2006 and 31 March 2011. These data are then disaggregated into those contracts which had a value ≤R500 000 and those which had a value >R500 000. It should be noted that the contract value refers to the award value, i.e. not necessarily the final amount paid upon completion which might also include price adjustments, variations, etc. The table shows that over this five-year period a total of 1641 contracts with a combined value of R22.3 billion were awarded. The data reveal a wide range in the number of contracts awarded per year and their total value. The fewest number of contracts (n=229) were awarded in 2009/10 and the highest number (n=541) in 2010/11. The 229 contracts awarded in 2009/10 constituted 14.0% of the total number of contracts during the five-year period, while the 541 contracts awarded in 2010/11 accounted for 33% of the contracts during the five-years.

The table shows that although the number of contracts awarded in 2006/07 (n=318) was 19.3% of the total, their total value was the lowest, constituting only 5.0% of the total value over the five-year period. This was due to a large percentage of those contracts being valued at ≤R500 000. The total value of all contracts in a single year was largest in 2008/2009 at just over R14 billion, which was approximately twelve times greater than the lowest yearly value, which occurred in 2006/07.

It can also be noted that over the five-year period the total number of contracts awarded in the ≤R500 000 category (n=775) was only 5.6% less than the total number of contracts awarded in the >R500 000 value category (n=866). Within year variations, however, were sometimes large as occurred in 2008/09 when 73.5% of the contracts awarded were in the >R500 000 value category.

What is particularly striking is a comparison of the total value of the contract categories during this period. The total value of all contracts awarded in the ≤R500 000 category between 01 April 2006 and 31 March 2011 was just under R168 million, whereas the total value for the >R500 000 category was just over R22 billion – which represents 99.2% of total value of all contracts.

The largest spend in the five-year period was in 2008/09 which accounted for 63.0% of the total value of contracts over the five-year period. This significantly higher value can most likely be attributed to the many government projects that were initiated for the 2010 FIFA World Cup soccer tournament that was held in South Africa.

Table 4.3: NATIONAL – Contracts awarded over the five-year period 2006/07 – 2010/11, disaggregated by national government departments

Department	5-year TOTAL				2006/07		2007/08		2008/09		2009/10		2010/11	
	No.	% of 5-year total	Value (ZAR 000's)	% of 5- year total	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
Department of Public Works	1198	73.0%	R20 739 236	93.2%	171	R 1 033 040	188	R 1 932 439	197	R 13 399 862	169	R 1 199 105	473	R 3 174 790
Department of Water and Environmental Affairs	57	3.5%	R 749 340	3.4%	4	R 52 321	8	R 321 331	21	R 169 974	14	R 121 270	10	R 84 444
Department of International Relations and Co-operation	12	0.7%	R 334 385	1.5%	0	R 0	2	R 2 321	7	R 330 337	3	R 1 727	0	R 0
South African Police Services (SAPS)	133	8.1%	R 249 921	1.1%	84	R 19 377	19	R 5 175	15	R 48 641	7	R 2 285	8	R 174 443
Sub Total	**1400**	**85.3%**	**R 22 072 882**	**99.2%**	**259**	**R 1 104 738**	**217**	**R 2 261 266**	**240**	**R 13 948 814**	**193**	**R 1 324 387**	**491**	**R 3 433 677**
All other national departments	241	14.7%	R 177 819	0.8%	59	R 16 528	45	R 32 510	51	R 54 785	36	R 53 256	50	R 20 740
TOTAL	**1 641**	**100.0%**	**R 22 250 701**	**100.0%**	**318**	**R 1 121 266**	**262**	**R 2 293 776**	**291**	**R 14 003 599**	**229**	**R 1 377 643**	**541**	**R 3 454 417**

Note: Data shown in this table are only for those government departments in which accumulative spend exceeded 1% of the total value of all contracts awarded over the 5-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

Table 4.3 presents the number of contracts awarded by national government departments over the five-year period 2006/07 – 2010/11. Data shown are only for those government departments in which accumulative spend exceeded 1% of the total value of all contracts awarded over the 5-year period 2006/07 – 2010/11. The data show that the National Department of Public Works awarded 73% of all contracts during that period (n=1198) with a value equating to 93% of the total. The departments with the next highest total value of contracts were the Department of Water and Environmental Affairs, Department of International Relations and Co-operation and South African Police Services (SAPS). All other national government departments combined made up only 0.8% of the total value of contracts awarded over this period.

Table 4.4: NATIONAL – Number and Total Value of Contracts Awarded to HDI and Non-HDI Enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	318	R 1 121 264	260	R 912 934	58	R 208 330
2007/08	262	R 2 293 777	242	R 2 260 725	20	R 33 052
2008/09	291	R 14 003 600	247	R 13 421 995	44	R 581 605
2009/10	229	R 1 377 646	191	R 1 211 098	38	R 166 548
2010/11	541	R 3 454 418	470	R 2 815 557	71	R 638 861
Total	1641	R 22 250 705	1410	R 20 622 309	231	R 1 628 396

Source: Treasury Data (2011)

Table 4.4 lists the number and total value of contracts awarded to HDI and non-HDI enterprises by national government departments between 2006/07 – 2010/11. Figures 4.1 and 4.2 below take the same data and present it graphically based on percentages. The data reveal that a higher number of contracts were awarded to HDI enterprises than to non-HDI enterprises. For each year during

this period HDI enterprises consistently received more than 80% of the contracts awarded.

On a contract value basis, HDI enterprises always received contracts that equated to more than 80% of the total value for any given year (See Figure 4.2). Over the 5-year period the contracts awarded to HDI enterprises constituted 92.7% of the total value of all contracts awarded.

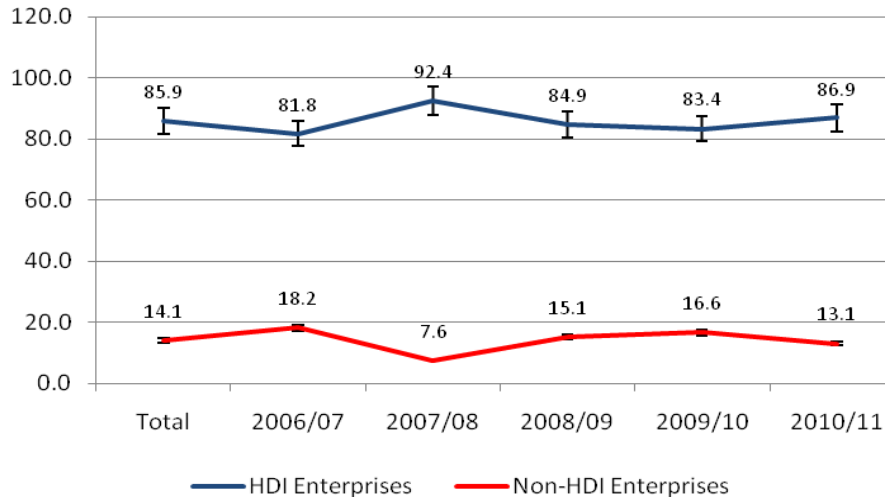


Figure 4.1: NATIONAL - Percentage of the total number of contracts awarded to HDI enterprises compared to non-HDI enterprises over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

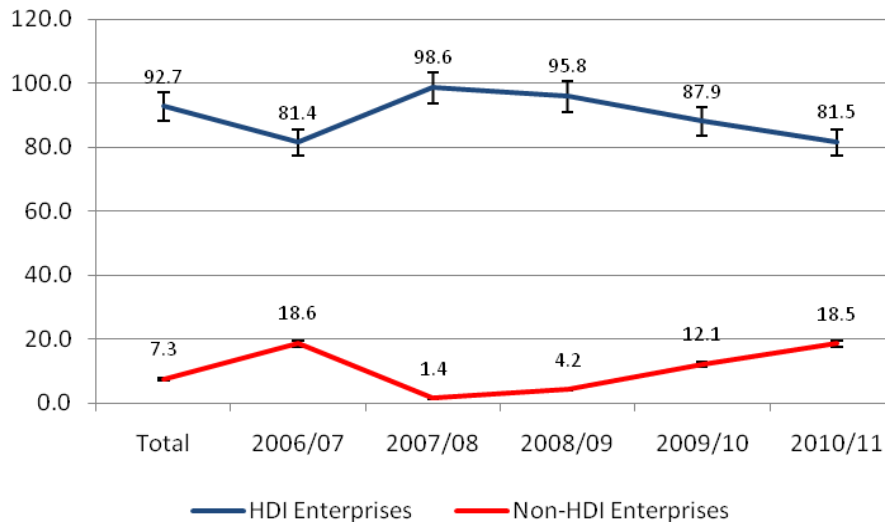


Figure 4.2: NATIONAL - Percentage of the total value of contracts awarded to HDI enterprises compared to non-HDI enterprises over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

TABLE 4.5: NATIONAL – Number and total value of contracts awarded over the five-year period 2006/07 – 2010/11, disaggregated by HDI status

Financial Year	Total		Contracts awarded to enterprises with ≤50 percent HDI shareholding						Contracts awarded to enterprises with >50% HDI shareholding						Contracts awarded to Non-HDI enterprises	
			Black Ownership (male and/or female)		White Female Ownership		Combination of HDI Ownership (black and white)		Black Ownership (male and/or female)		White Female Ownership		Combination of HDI Ownership (black and white)			
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	318	R 1 121 264	26	R 378 250	0	R 0	2	R 7 771	213	R 470 496	5	R 11 991	14	R 44 426	58	R 208 330
2007/08	262	R 2 293 777	24	R 599 747	2	R 9 113	2	R 28 671	195	R 1 295 179	8	R 38 805	11	R 289 210	20	R 33 052
2008/09	291	R 14 003 600	29	R 9 602 222	5	R 20 566	4	R 190 359	197	R 3 499 155	3	R 327	9	R 109 366	44	R 581 605
2009/10	229	R 1 377 646	27	R 358 706	2	R 1 580	3	R 23 485	154	R 790 261	1	R 199	4	R 36 867	38	R 166 548
2010/11	541	R 3 454 418	32	R 588 979	2	R 19 160	4	R 9 830	416	R 2 149 638	9	R 21 088	7	R 26 862	71	R 638 861
Total	1641	R 22 250 705	138	R 11 527 904	11	R 50 419	15	R 260 116	1175	R 8 204 729	26	R 72 410	45	R 506 731	231	R 1 628 396
% of Total	100%	100%	8.4%	51.8%	0.7%	0.2%	0.9%	1.2%	71.6%	36.9%	1.6%	0.3%	2.7%	2.3%	14.1%	7.3%
% of Total No.			10.0%						75.9%						14.1%	
% of Total Value			53.2%						39.5%						7.3%	

Source: Treasury Data (2011)

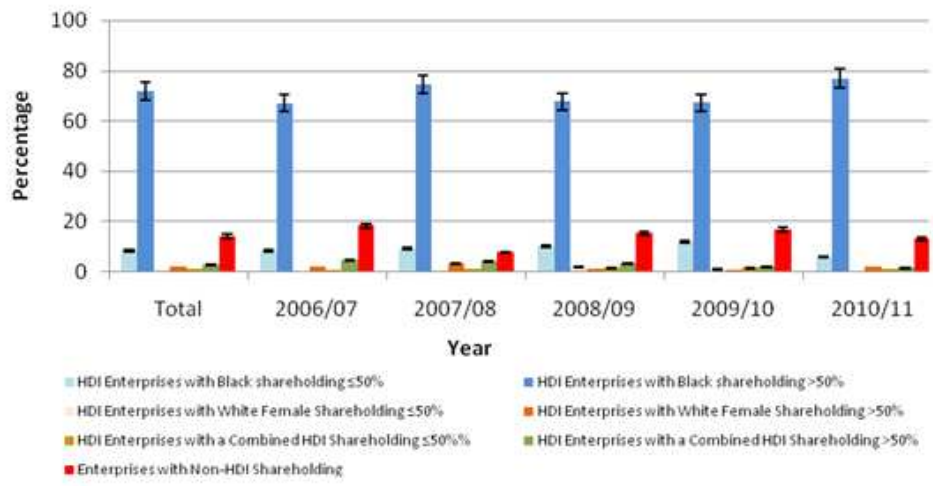


Figure 4.3: NATIONAL - Number of contracts awarded over the five-year period 2006/07 – 2010/11, expressed as a percentage and disaggregated by HDI status

Source: Treasury Data (2011)

Table 4.5 and Figure 4.3 show that enterprises with black shareholding >50% received the highest number of contracts over the five-year period, peaking at nearly 80% in 2010/11. Enterprises with black shareholding (male and female) ≤50% generally received less than 9% of the number of contracts over the five-year period. Enterprises with white female shareholding in both the ≤50% and the >50% categories received a comparatively lower number of contracts. Enterprises with non-HDI shareholding received more contracts than enterprises with white female shareholding.

Over the five-year period across both HDI ownership categories black owned enterprises (black male and/or female ownership) always received the majority of contracts and most of the contract value as compared to enterprises owned by white females, or by a combination of black (male and female) and white female.

When comparing across the three categories for the five-year period it can be seen that enterprises with ≤50% HDI ownership received only 10% of the total 1641 contracts, but these had a combined value equal to 53.2% of the total. In

contrast, enterprises with >50% HDI ownership received 75.9% of the contracts, but their combined value only represented 39.5% of the total. Non-HDI enterprises received 14.1% of the contracts which were worth only 7.3% of the total value.

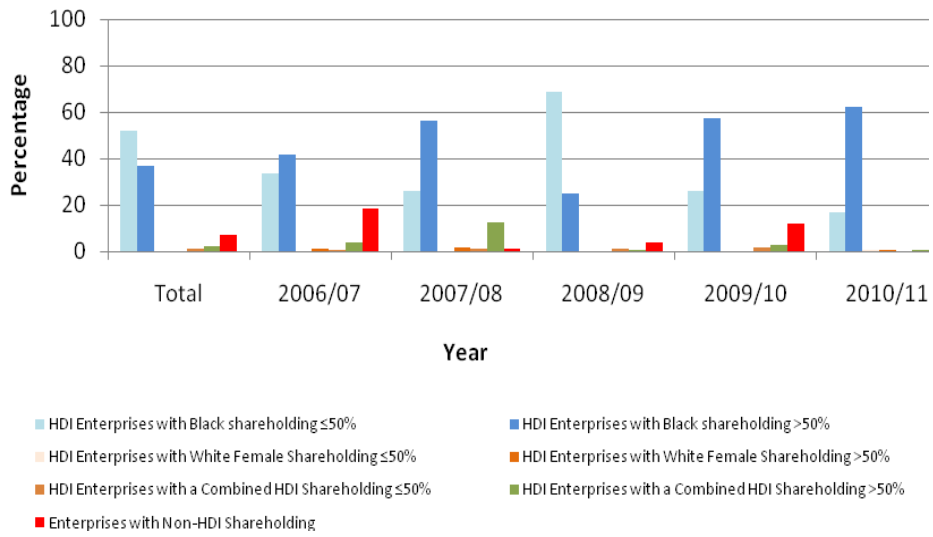


Figure 4.4: NATIONAL - Value of contracts awarded over the five-year period 2006/07 – 2010/11, expressed as a percentage and disaggregated by HDI status

Source: Treasury Data (2011)

Table 4.6 presents the number and total value of all contracts awarded over the five-year period 2006/07 – 2010/11 disaggregated by level of HDI shareholding. The data show that of the 1641 contracts awarded 68.1% went to 100% HDI enterprises, although the value of these contracts represented only 22.9% of the total. Conversely, the 164 contracts awarded to enterprises with ≤50% HDI shareholding represented only 10.0% of the total number but 53.2% of the total value. This was a result of the 38 contracts awarded in this category in 2008/09 with a value that represented 82.9% of the total in that category for the five-year period. Non-HDI enterprises received 14.1% of all contracts, but this equated to only 7.3% of the total value.

TABLE 4.6: NATIONAL – Number and total value of contracts awarded over the five-year period 2006/07 – 2010/11, disaggregated by level of HDI shareholding

Financial Year	Total		Contracts awarded to enterprises with ≤50% HDI shareholding				Contracts awarded to enterprises with >50% and <100% HDI shareholding				Contracts awarded to enterprises with 100% HDI shareholding				Contracts awarded to Non-HDI enterprises			
	No.	Total Value (ZAR 000's)	No.	% of Total No. for ≤50% Ownership Category	Value (ZAR 000's)	% of Total Value for ≤50% Ownership Category	No.	% of Total No. for >50% and <100% Ownership Category	Value (ZAR 000's)	% of Total Value for >50% and <100% Ownership Category	No.	% of Total No. for >100% Ownership Category	Value (ZAR 000's)	% of Total Value for >100% Ownership Category	No.	% of Total No. for Non-HDI Ownership Category	Value (ZAR 000's)	% of Total Value for Non-HDI Ownership Category
2006/07	318	R 1 121 264	28	17.1%	R 386 021	3.3%	33	25.8%	R 199 836	5.4%	199	17.8%	R 327 077	6.4%	58	25.1%	R 208 330	12.8%
2007/08	262	R 2 293 777	28	17.1%	R 637 531	5.4%	30	23.4%	R 577 931	15.7%	184	16.5%	R 1 045 263	20.5%	20	8.7%	R 33 052	2.0%
2008/09	291	R 14 003 600	38	23.2%	R 9 813 147	82.9%	22	17.2%	R 1 828 914	49.6%	187	16.7%	R 1 779 934	34.9%	44	19.0%	R 581 605	35.7%
2009/10	229	R 1 377 646	32	19.5%	R 383 771	3.2%	14	10.9%	R 378 964	10.3%	145	13.0%	R 448 363	8.8%	38	16.5%	R 166 548	10.2%
2010/11	541	R 3 454 418	38	23.2%	R 617 969	5.2%	29	22.7%	R 703 972	19.1%	403	36.0%	R 1 493 616	29.3%	71	30.7%	R 638 861	39.2%
Total	1641	R 22 250 705	164	100.0%	R 11 838 439	100.0%	128	100.0%	R 3 689 617	100.0%	1118	100.0%	R 5 094 253	100.0%	231	100.0%	R 1 628 396	100.0%
% of Total			10.0%		53.2%		7.8%		16.6%		68.1%		22.9%		14.1%		7.3%	

Source: Treasury Data (2011)

TABLE 4.7: NATIONAL – Number and value of contracts awarded to enterprises with 100% HDI shareholding over the five-year period 2006/07 – 2010/11, disaggregated by HDI status

Financial Year	All contracts awarded to 100% HDIs		100% Black Male				100% Black Female				Combined Black Male and Female				100% White Female				Combined Black Female and White Female				Combined Black Female, Black Male and White Female			
	No.	Value	No.	% of Total No.	Value	% of Total Value	No.	% of Total No.	Value	% of Total Value	No.	% of Total No.	Value	% of Total Value	No	% of Total No.	Value	% of Total Value	No.	% of Total No.	Value	% of Total Value	No	% of Total No.	Value	% of Total Value
2006/07	199	R 327 077	76	38.2%	R 151 195	46.2%	54	27.1%	R 82 455	25.2%	57	28.6%	R 85 491	26.1%	4	2.0%	R 2 518	0.8%	3	1.5%	R 4 924	1.5%	5	2.5%	R 494	0.2%
2007/08	184	R 1 045 263	81	44.0%	R 519 508	49.7%	35	19.0%	R 90 167	8.6%	56	30.4%	R 380 979	36.4%	7	3.8%	R 38 688	3.7%	2	1.1%	R 13 092	1.3%	3	1.6%	R 2 829	0.3%
2008/09	187	R 1 779 934	78	41.7%	R 653 968	36.7%	54	28.9%	R 188 831	10.6%	44	23.5%	R 849 533	47.7%	3	1.6%	R 327	0.0%	0	0.0%	R 0	0.0%	8	4.3%	R 87 275	4.9%
2009/10	145	R 448 363	61	42.1%	R 208 404	46.5%	39	26.9%	R 50 135	11.2%	42	29.0%	R 187 522	41.8%	1	0.7%	R 199	0.0%	1	0.7%	R 623	0.1%	1	0.7%	R 1 480	0.3%
2010/11	403	R 1 493 616	262	65.0%	R 866 378	58.0%	88	21.8%	R 308 900	20.7%	39	9.7%	R 284 122	19.0%	9	2.2%	R 21 088	1.4%	2	0.5%	R 11 278	0.8%	3	0.7%	R 1 850	0.1%
Total	1118	R 5 094 253	558	49.9%	R 2 399 453	47.1%	270	24.2%	R 720 488	14.1%	238	21.3%	R 1 787 647	35.1%	24	2.1%	R 62 820	1.2%	8	0.7%	R 29 917	0.6%	20	1.8%	R 93 928	1.8%
Total as a % of contracts awarded to enterprises with 100% HDI shareholding (n=1118)			49.9%		47.1%		24.2%		14.1%		21.3%		35.1%		2.1%		1.2%		0.7%		0.6%		1.8%		1.8%	
Total as a % of all contracts awarded (n=1641)			34.0%		10.8%		16.5%		3.2%		14.5%		8.0%		1.5%		0.3%		0.5%		0.1%		1.2%		0.4%	

Source: Treasury Data (2011)

Table 4.7 presents the number and value of contracts awarded over the five-year period 2006/07 – 2010/11 to enterprises with 100% HDI shareholding only, disaggregated by HDI status. The data show that during this period 1118 contracts with a value of R 5 094 253 were awarded in this category. The data show that enterprises 100% owned by black males received 49.9% of the total number of contracts which equated to 47.1% of the total value. HDI enterprises 100% owned by black females were awarded 24.2% of the contracts worth 14.1% of the total value. HDI enterprises 100% owned through a combination of black males and females were awarded 21.3% of the contracts worth 35.1% of the total value. All other types of ownership (i.e. involving white females, black females and black males) received a combined total of 4.6% of the contracts worth 3.7% of the total value.

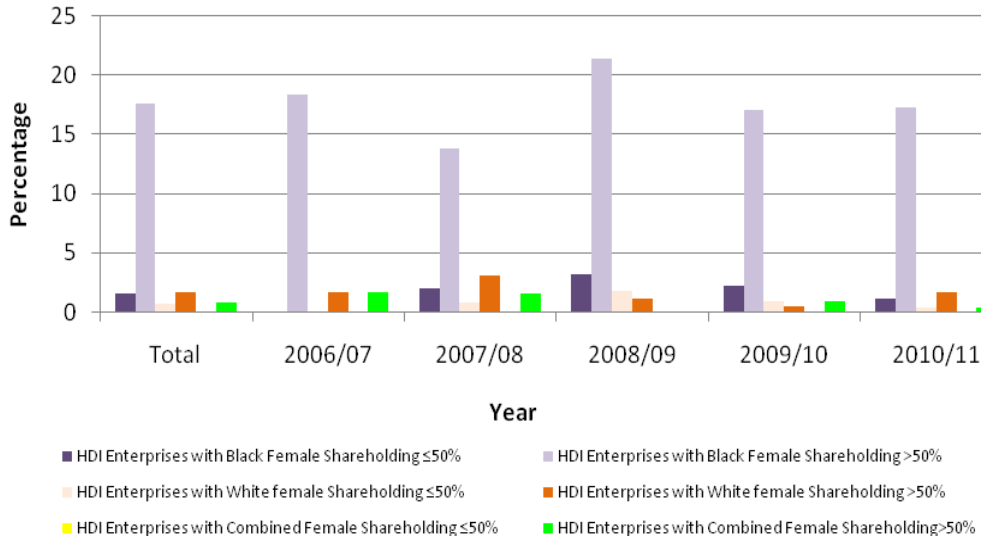


Figure 4.5: NATIONAL - Number of contracts awarded to HDI enterprises with female shareholding over the five-year period 2006/07 – 2010/11, expressed as a percentage

Source: Treasury Data (2011)

Figure 4.5 presents the total number of contracts awarded to HDI enterprises with female shareholding over the five-year period 2006/07 – 2010/11,

expressed as a percentage. The graph indicates that in each of the five-years HDI enterprises with black female shareholding >50% consistently received the highest number of contracts compared to other enterprises with female shareholding. The number of contracts awarded to enterprises with black female shareholding >50% peaked at just over 20% in 2008/09.

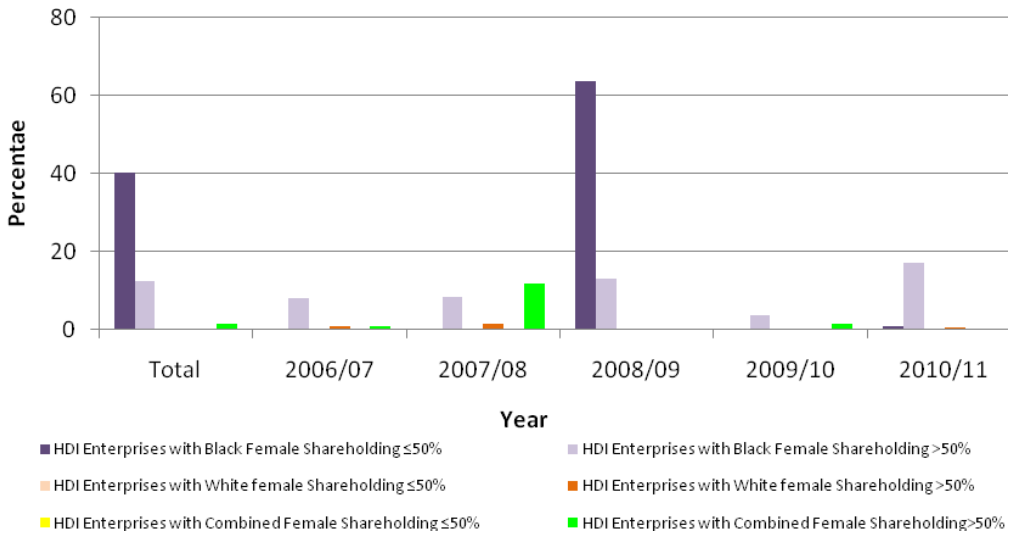


Figure 4.6: NATIONAL - Total value of contracts awarded to HDI enterprises with female shareholding over the five-year period 2006/07 – 2010/11, expressed as a percentage

Source: Treasury Data (2011)

Figure 4.6 presents the total value of contracts awarded to HDI enterprises with female shareholding over the five-year period 2006/07 – 2010/11, expressed as a percentage. The graph shows that during this period HDI enterprises with black female shareholding ≤50% received contracts with a value that represented more than 40% of the total amount awarded to female owned enterprises. Interestingly, this amount peaked in 2008/09 when the value of the contracts received by this group amounted to over 60% of the total for female enterprises in that year, but the category is almost non-existent in all other years.

Table 4.8: NATIONAL – NUMBER and VALUE of contracts awarded over the five-year period 2006/07 – 2010/11, disaggregated by CIDB Grading Categories

Grade	CIDB Value Threshold	Total				2006/07		2007/08		2008/09		2009/10		2010/11	
		Total No.	% of Total No.	Total Value (ZAR 000's)	% of Total Value	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
1	≤ R0.2 m	454	27.7%	R 62 024	0.3%	144	R 19 521	52	R 6 436	45	R 5 323	72	R 10 201	141	R 20 543
2	> R0.2m to ≤ R0.65m	394	24.0%	R 147 492	0.7%	58	R 24 583	60	R 23 297	39	R 14 760	57	R 21 161	180	R 63 691
3	> R0.65m to ≤ R2m	238	14.5%	R 278 682	1.3%	42	R 49 861	53	R 64 078	41	R 45 808	34	R 41 335	68	R 77 600
4	> R2m to ≤ R4m	129	7.9%	R 357 999	1.6%	23	R 65 924	23	R 62 202	38	R 101 296	13	R 33 535	32	R 95 042
5	> R4m to ≤ R6.5m	99	6.0%	R 512 101	2.3%	16	R 83 225	17	R 86 888	32	R 161 880	13	R 69 530	21	R 110 578
6	> R6.5m to ≤ R13m	127	7.7%	R 1 189 498	5.3%	12	R 101 432	18	R 161 223	34	R 308 421	16	R 168 834	47	R 449 588
7	> R13m to ≤ R40m	136	8.3%	R 2 906 605	13.0%	20	R 484 706	29	R 589 006	33	R 744 512	19	R 415 013	35	R 673 368
8	> R40m to ≤ R130m	40	2.4%	R 2 542 201	11.4%	2	R 156 854	7	R 491 812	17	R 963 026	3	R 173 009	11	R 757 500
9	> R130m	24	1.5%	R 14 254 102	64.1%	1	R 135 158	3	R 808 834	12	R 11 658 574	2	R 445 027	6	R 1 206 509
Total		1641	100%	R 22 250 704	100%	318	R1 121 264	262	R2 293 776	291	R 14 003 600	229	R 1 377 645	541	R 3 454 419

Source: Treasury Data (2011)

Table 4.8 presents the number and value of contracts awarded over the five-year period 2006/07 – 2010/11, disaggregated by CIDB Grading Categories. The data show that the highest number of contracts awarded during this period (n=454) were to CIDB Grade 1 contractors. Although this represents 27.7% of the total number of contracts (n=1641), their value equates to only 0.3% of the total. Combining the data for Grades 1 and 2 shows that these categories represented 51.7% of the total number of contracts, but just 1.0% of the total value. In comparison, only 1.5% of all contracts were awarded to Grade 9 contractors but the value of those 24 contracts equated to 64.1% of the total value for all contracts.

Table 4.9: NATIONAL - Number and Total Value of contracts awarded over the five-year period 2006/07 – 2010/11, disaggregated by value categories ≤R1 000 000 and >R1 000 000

Financial Year	All Contracts				Value Category							
					Contracts with a value ≤R1 000 000				Contracts with a value >R1 000 000			
	No.	% of Total No.	Value (ZAR 000's)	% of Total Value	No.	% of No.	Value (ZAR 000's)	% of Value	No.	% of No.	Value (ZAR 000's)	% of Value
2006/07	318	19.4%	R 1 121 264	5.0%	217	23.8%	R 388 185	63.3%	101	13.9%	R 733 079	3.4%
2007/08	262	16.0%	R 2 293 776	10.3%	133	14.6%	R 47 002	7.7%	129	17.7%	R 2 246 774	10.4%
2008/09	291	17.7%	R 14 003 600	62.9%	103	11.3%	R 36 251	5.9%	188	25.8%	R 13 967 349	64.6%
2009/10	229	14.0%	R 1 377 645	6.2%	108	11.8%	R 32 577	5.3%	121	16.6%	R 1 345 068	6.2%
2010/11	541	33.0%	R 3 454 419	15.5%	351	38.5%	R 108 889	17.8%	190	26.1%	R 3 345 530	15.5%
Total	1641	100.0%	R 22 250 704	100.0%	912	100.0%	R 612 904	100.0%	729	100.0%	R 21 637 800	100.0%
				% of Total	55.6%		2.8%		44.4%		97.2%	

Source: Treasury Data (2011)

As from 2011 PPPFA Regulations now set the threshold value for allocating preference points at R1 000 000. For contracts with a value ≤R1 000 000 a maximum of 20 preference points can be given to qualifying tenderers during the tender evaluation stage. For contracts with a value >R1 000 000 a maximum of 10 preference points can be given to qualifying tenderers.

Table 4.9 presents the National Treasury data disaggregated by these threshold values. The data show that 55.6% of the contracts awarded over the five-year period 2006/07 – 2010/11 were for a value ≤R1 000 000 and 44.4% were for contracts values >R1 000 000. However, the value of all the ≤R1 000 000 contracts represented only 2.8% of the total, whereas the value of all the >R1 000 000 contracts equated to 97.2% of the total.

4.3.2 National: Premiums incurred over the five-year period 2006/07 – 2010/11

Table 4.10: NATIONAL - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total Value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premium paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	318	R 1 121 264	41	R 11 609	12.9%	1.0%
2007/08	262	R 2 293 776	33	R 18 480	12.6%	0.8%
2008/09	291	R 14 003 600	38	R 180 052	13.1%	1.3%
2009/10	229	R 1 377 645	15	R 13 112	6.6%	1.0%
2010/11	541	R 3 454 418	19	R 211 854	3.5%	6.5%
Total	1641	R 2 250 703	146	R 435 107		
5-year average					**8.9%**	**2.0%**

Source: Treasury Data (2011)

Table 4.10 shows the number of contracts that incurred premiums and their value for national contracts awarded over the five-year period 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 8.9% for the 5 years, the value of those premiums represented only 2.0% of the total.

The distribution of premiums incurred indicates that the highest value occurred in 2010/11 at 6.5%, whilst in each of the other four years the premium value remained consistently at about the 1% level. In terms of the number of contracts

that incurred premiums, during the first three years under review the percentage remained in the 12.6% – 13.1% range, then dropped significantly in the last 2 years to a low of 3.5% in 2010/11. At the same time as the number of contracts incurring premiums was declining the amount of the premium was increasing to 6.5% in 2010/11. This indicates that the value of premiums during the last year was substantially higher than for the first 4 years under review.

Table 4.11 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The data show little difference between the average premium paid over the 5 years in either the ≤R500 000 category (1.2%) or the >R500 000 category (2.0%).

In 2010/11 the percentage premium incurred for the contracts >R500 000 was 6.7%, which was substantially higher than the percentage premium incurred for the remaining four years, and much higher than the five-year average of 2%. In addition, in 2010/11, the 6.7% premium for contracts >R500 000 was much higher than the 0.3% premium incurred for contracts in the ≤R500 000 category. In terms of value of premiums incurred, the highest amount was incurred in 2010/11 in the >R500 000 category, despite the highest procurement spend being in 2008/09, as shown in Table 4.2. The percentage of the number of contracts awarded with premiums was much higher in the first three years for contracts ≤R500 000 as compared to the last 2 years, as well as being above the five-year average of 6.7%. For contracts >R500 000 awarded in the first four years, the percentage of the number of contracts awarded with premiums was much higher than in the last year (5.7%).

According to the price preference formula the maximum premium that is permitted is 25% above the lowest responsive tender for contracts with a value ≤R500 00, and 11.1% for contracts with a value >R500 000. Looking at Table 4.11

it can be seen that in 2009/10 the actual percent premium paid in the ≤R500 00 category on those 3 contracts that incurred a premium was 42.1%. Similarly, the actual percent premium paid in the >R500 00 category was 17.6% on those 17 contracts awarded in 2006/07 that incurred premiums, while the premium was 20.4% for those 14 contracts awarded in 2010/11 that incurred premiums.

Table 4.12 provides an analysis of the contracts that incurred premiums over the five-year period 2006/07 – 2010/11. To interpret this table it is essential to understand that the PPPFA regulations applicable at the time established a preference point scoring system from which a formula was derived that calculated, among other things, the maximum price premium that could be incurred within the preferencing framework. Contracts with a value ≤R500 000 used the 80/20 points system that set the maximum allowable price premium at 25% of the lowest responsive tender. Contracts with a value >R500 000 used the 90/10 points system that set the maximum allowable price premium at 11.1% of the lowest responsive tender.

The table contains three key elements. Firstly, it presents data on those contracts awarded that incurred premiums during the five-year period. Secondly, it indicates those contracts in which the premium incurred exceeded the maximum percentage allowable. Lastly, it applies the data to derive an estimated value of the excess premium paid on the basis that the price preferencing formula was applied correctly.

The analysis reveals that for contracts ≤R500 000, which should have incurred a maximum premium of 25%, the actual percentage premium incurred ranged from 43% to 882%. For contracts >R500 000, which should have incurred a maximum premium of 11.1%, the actual percentage premium incurred ranged from 15% to 153%. In monetary terms, the estimated value of the excess premiums incurred over the five-year period was R 779 000 for contracts ≤R500 000 and R 177 926 000 for contracts >R500 000.

Table 4.11: NATIONAL - Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contract Values ≤R500 000								Contract Values >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	183	R 32 846	R 805	2.5%	24	13.1%	R 5 175	18.4%	135	R 1 088 417	R 10 805	1.0%	17	12.6%	R 72 057	17.6%
2007/08	99	R 22 460	R 508	2.3%	12	12.1%	R 5 263	10.7%	163	R 2 271 317	R 17 972	0.8%	21	12.9%	R 204 719	9.6%
2008/09	77	R 16 179	R 247	1.6%	8	10.4%	R 2 391	11.5%	214	R 13 987 421	R 179 805	1.3%	30	14.0%	R 2 533 437	7.6%
2009/10	120	R 26 157	R 152	0.6%	3	2.5%	R 513	42.1%	109	R 1 351 488	R 12 960	1.0%	12	11.0%	R 258 328	5.3%
2010/11	296	R 69 947	R 203	0.3%	5	1.7%	R 1 751	13.1%	245	R 3 384 472	R 211 651	6.7%	14	5.7%	R 1 247 455	20.4%
Total	775	R 167 589	R 1 915		52		R 15 093		866	R 22 083 115	R 433 193		94		R 4 315 996	
5-year Average				1.2%		6.7%		14.5%				2.0%		10.9%		11.2%

Source: Treasury Data (2011)

Table 4.12: NATIONAL - Analysis of contracts incurring premiums over the five-year period 2006/07 – 2010/11

Financial Year	Contracts that incurred premiums			Contracts that exceeded the maximum allowable premium					Implication on premiums incurred			
	No. of contracts awarded with premiums	Value of contracts incurring premiums (ZAR 000's)	Total premium incurred (ZAR 000's)	No. of contracts with premiums exceeding maximum allowable	% of Total No.	Value of CONTRACTS with premiums exceeding maximum allowable (ZAR 000's)	% of Total Value	Value of PREMIUMS for those contracts that had premiums exceeding maximum allowable (ZAR 000's)	Estimated value of the lowest priced TENDERS (ZAR 000's)	% premium incurred on the estimated lowest priced TENDERS	Estimated value of maximum allowable premium (ZAR 000's)	Estimated value of excess premium paid (ZAR 000's)
Contracts ≤R500 000 (maximum allowable premium = 25%)												
2006/07	24	R 5 175	R 805	4	16.7%	676	13.1%	R 545	R 131	416%	R 33	R 512
2007/08	12	R 5 263	R 508	0	0.0%	0	0.0%	R -	R -	0.0%	R -	R -
2008/09	8	R 2 391	R 247	1	12.5%	160	6.7%	R 85	R 75	113%	R 19	R 66
2009/10	3	R 513	R 152	1	33.3%	167	32.6%	R 150	R 17	882%	R 4	R 146
2010/11	5	R 1 751	R 203	1	20.0%	430	24.6%	R 130	R 300	43%	R 75	R 55
Total	52	R 15 093	R 1 915	7	13.5%	1433	9.4%	R 910	R 523	174%	R 131	R 779
Contracts >R500 000 (maximum allowable premium = 11.1%)												
2006/07	17	R 72 057	R 10 805	8	47.1%	R 37 518	52.1%	R 9 048	R 28 470	32%	R 3 160	R 5 888
2007/08	21	R 204 719	R 17 972	3	14.3%	R 23 655	11.6%	R 10 585	R 13 070	81%	R 1 451	R 9 134
2008/09	30	R 2 533 437	R 179 805	10	33.3%	R 91 613	3.6%	R 55 425	R 36 188	153%	R 4 017	R 51 408
2009/10	12	R 258 328	R 12 960	5	41.7%	R 34 753	13.5%	R 4 514	R 30 239	15%	R 3 357	R 1 157
2010/11	14	R 1 247 455	R 211 651	3	21.4%	R 354 787	28.4%	R 134 761	R 220 026	61%	R 24 423	R 110 338
Total	94	R 4 315 996	R 433 193	29	31.2%	R 542 326	12.6%	R 214 333	R 327 993	65%	R 36 407	R 177 926

Source: Treasury Data (2011)

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.1

4.4 PROVINCIAL GOVERNMENTS

The data presented in the tables and graph in this section are for the contracts awarded by provincial governments across the nine provinces of South Africa, i.e. Kwa-Zulu Natal, Limpopo, Eastern Cape, Mpumalanga, Free State, Gauteng, Northern Cape, North West and Western Cape.

4.4.1 Distribution of Contracts

Table 4.13: PROVINCIAL - Number and value of contracts awarded over the five-year period 2006/07 – 2010/11

Financial Year	All Contracts				≤R500 000 Contracts				>R500 000 Contracts			
	No.	% of 5-year total	Value (ZAR 000's)	% of 5-year total	No.	% of 5-year total	Value (ZAR 000's)	% of 5-year total	No.	% of 5-year total	Value (ZAR 000's)	% of 5-year total
2006/07	1836	22.1%	R 4 710 057	16.0%	717	39.1%	R 310 436	6.6%	1119	60.9%	R 4 399 621	93.4%
2007/08	1930	23.2%	R 6 340 883	21.5%	987	51.1%	R 209 366	3.3%	943	48.9%	R 6 131 517	96.7%
2008/09	1885	22.7%	R 8 734 286	29.6%	1023	54.3%	R 211 294	2.4%	862	45.7%	R 8 522 992	97.6%
2009/10	1300	15.6%	R 3 087 525	10.5%	831	63.9%	R 161 087	5.2%	469	36.1%	R 2 926 438	94.8%
2010/11	1363	16.4%	R 6 604 905	22.4%	594	43.6%	R 284 807	4.3%	769	56.4%	R 6 320 098	95.7%
Total	8314	100%	R 29 477 656	100%	4152		R 1 176 990		4162		R 28 300 666	
% of Total					49.9%		4.0%		50.1%		96.0%	

Source: Treasury Data (2011)

Table 4.13 presents the number and value of contracts awarded by provincial departments over the five-year period 2006/07 – 2010/11 across the nine provinces of South Africa. A total of 8314 contracts with a total value of R29.4 billion were awarded during this period. These values can be contrasted with

similar data presented in the previous section which showed that during the same period national departments awarded only 1641 contracts, but these had a total value of R22.2 billion. The large difference in the number of contracts awarded indicates that the average value of an individual contract awarded at provincial level was much lower than one awarded at national level.

The table shows there was little difference in the number of contracts awarded during this period between the ≤R500 000 value category (n=4152) and the >R500 000 category (n=4162). There was a large difference, however, in the total value of the contracts with the value of contracts awarded in the ≤R500 000 category representing only 4% of the total value of all contracts whereas those awarded in the >R500 000 category represented 96% of the total.

Overall, the highest number of contracts (23.2%) were awarded in 2007/08 whilst the largest spend (29.6%) occurred in 2008/09. Similar to national government, this higher spend in 2008/09 can probably be attributed to expanded infrastructure investment in preparation for the 2010 FIFA World Cup tournament held in South Africa.

Table 4.14 presents data on the number and value of contracts awarded per province over the five-year period 2006/07 – 2010/11. Figure 4.7 illustrates data on the number of contracts awarded per province (expressed as a percentage) and Figure 4.8 illustrates data on the total value of contracts awarded per province (expressed as a percentage).

Table 4.14: PROVINCIAL - Number and Value of contracts awarded per province over the five-year period 2006/07 – 2010/11

Province	Total				2006/07		2007/08		2008/09		2009/10		2010/11	
	No. of contracts	% of 5-year total	Value (ZAR 000's)	% of 5-year total	No. of contracts	Value (ZAR 000's)	No. of contracts	Value (ZAR 000's)	No. of contracts	Value (ZAR 000's)	No. of contracts	Value (ZAR 000's)	No. of contracts	Value (ZAR 000's)
Kwa-Zulu Natal	2 770	33.3%	R4 173 596	14.2%	665	R 776 004	694	R1 059 182	540	R 1 051 330	502	R 433 737	351	R 853 343
Limpopo	1 040	12.5%	R3 356 302	11.4%	427	R 688 831	360	R339 871	63	R 153 213	41	R 209 506	149	R 1 964 881
Eastern Cape	1 607	19.3%	R 5 563 855	18.9%	142	R 756 191	256	R1 519 129	653	R 2 038 131	297	R 734 874	259	R 515 530
Mpumalanga	748	9.0%	R 4 776 651	16.2%	217	R 843 306	190	R1 665 330	101	R 1 213 586	49	R 409 471	191	R 644 958
Free State	877	10.6%	R 3 346 953	11.3%	83	R 662 012	174	R1 004 829	205	R 1 108 283	179	R 40 630	236	R 531 199
Gauteng	496	6.0%	R 3 740 565	12.7%	21	R 17 873	85	R36 180	230	R 2 105 696	82	R 146 398	78	R 1 434 418
Northern Cape	335	4.0%	R 1 371 488	4.7%	112	R 513 767	84	R353 302	57	R 177 209	30	R 213 279	52	R 113 931
North West	313	3.8%	R 1 877 357	6.3%	152	R 436 374	78	R357 438	34	R 787 077	22	R 172 987	27	R 123 481
Western Cape	128	1.5%	R 1 270 890	4.3%	17	R 15 699	9	R5 622	2	R 99 761	80	R 726 644	20	R 423 164
Total	8 314	100.0%	R 29 477 657	100.0%	1 836	R 4 710 057	1 930	R 6 340 883	1 885	R 8 734 286	1 300	R 3 087 526	1363	R 6 604 905
% of Total					22.1%	16.0%	23.2%	21.5%	22.7%	29.6%	15.6%	10.5%	16.4%	22.4%

Source: Treasury Data (2011)

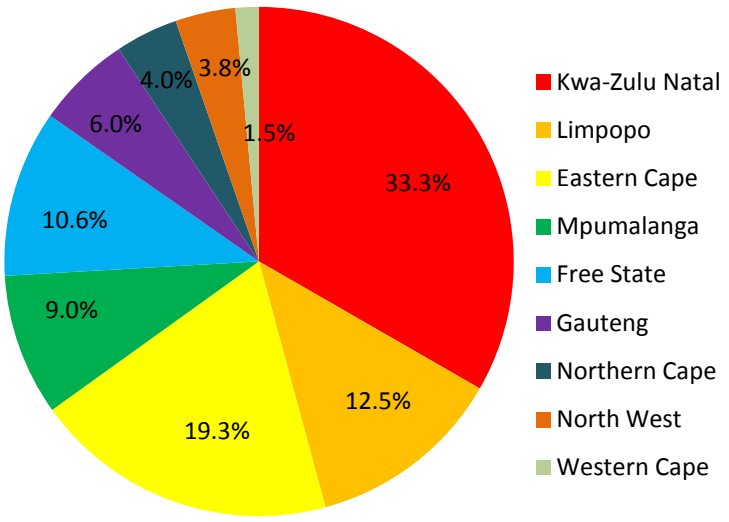


Figure 4.7: PROVINCIAL - Distribution of contracts awarded per province over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

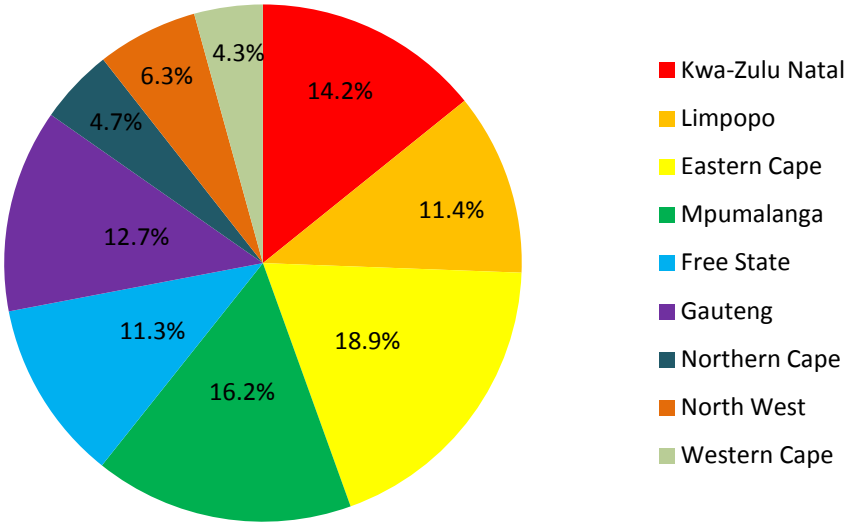


Figure 4.8: PROVINCIAL – Distribution of the value of contracts awarded per province over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

The data show that the highest percentage of contracts awarded over the five-year period were in KwaZulu-Natal (33%), followed by the Eastern Cape (19%) and Limpopo (13%). The lowest percentage of contracts was awarded in the Western Cape (2%). Data on the total value of contracts awarded show that Eastern Cape awarded the highest percentage value (19%) over the five-year period, followed by Mpumalanga (16%). The lowest percentages of contract value were awarded by Western Cape (4%), Northern Cape (6%) and North West (7%).

Table 4.15: PROVINCIAL – Number and Total Value of contracts awarded to HDI and non-HDI enterprises by provincial departments over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No. of Contracts	Value (ZAR 000's)	No. of Contracts	Value (ZAR 000's)	No. of Contracts	Value (ZAR 000's)
2006/07	1836	R 4 710 057	1585	R 4 018 311	251	R 691 746
2007/08	1930	R 6 340 883	1588	R 5 533 962	342	R 806 921
2008/09	1885	R 8 734 286	1510	R 7 418 058	375	R 1 316 228
2009/10	1300	R 3 087 526	1099	R 2 509 603	201	R 577 923
2010/11	1363	R 6 604 905	1231	R 5 852 936	132	R 751 969
Total	8314	R 29 477 657	7013	R 25 332 870	1301	R 4 144 787

Source: Treasury Data (2011)

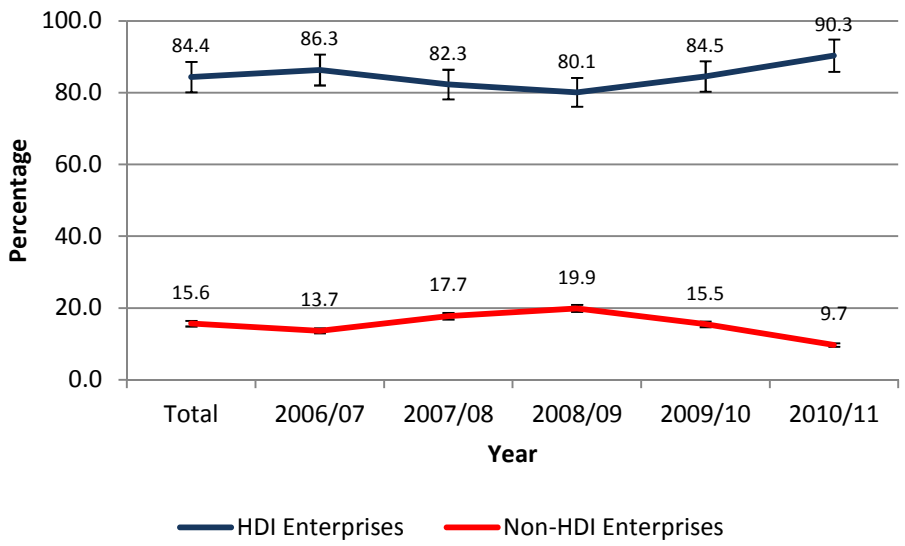


Figure 4.9: PROVINCIAL - Percentage of the total number of contracts awarded by provincial departments to HDI enterprises compared to Non-HDI enterprises over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

Table 4.15 and Figure 4.9 present data that indicate 84.4% of the total number of contracts awarded by provincial departments over the five-year period went to HDI enterprises. These enterprises consistently received over 80% of contracts in each of the five-years with a peak of 90.3% in 2010/11. This provincial distribution follows a trend similar to that of the national departments as was illustrated previously in Figure 4.1, with the noticeable difference being that for provinces the awarding of contracts to HDI enterprises peaked in 2010/11 while for national government departments the peak was in 2007/08.

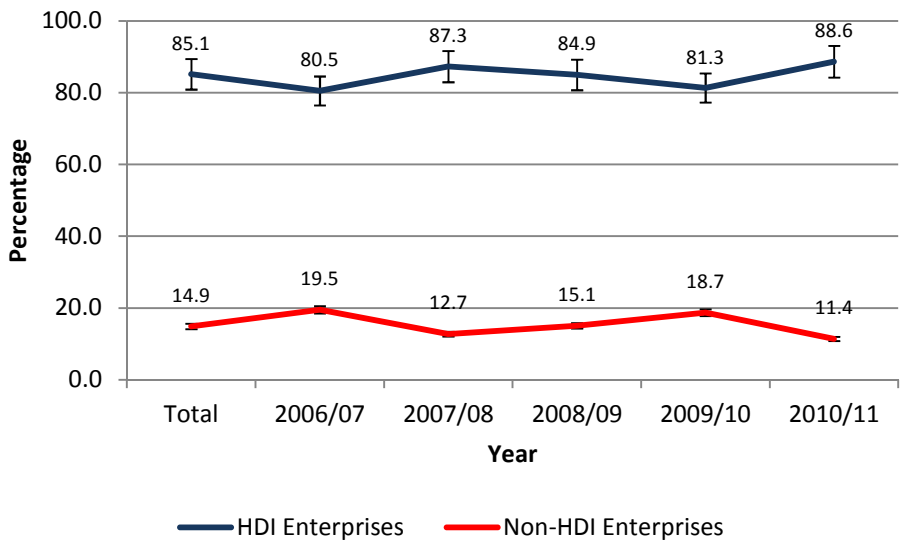


Figure 4.10: PROVINCIAL - Percentage of the total value of contracts awarded by provincial departments to HDI enterprises compared to Non-HDI enterprises over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

Table 4.15 and Figure 4.10 present data that indicate 85.1% of the total value of contracts awarded by provincial departments over the five-year period went to HDI enterprises. Again, these enterprises consistently received contracts equating to over 80% of the total value of all contracts in each of the five-years, with a peak of 88.6% in 2010/11. The data also follow a pattern similar to that of the national departments, as was illustrated previously in Figure 4.2.

Table 4.16: PROVINCIAL – Number and Total Value of contracts awarded by provincial departments over the five-year period 2006/07 – 2010/11 disaggregated by HDI status

Financial Year	Total		Contracts awarded to enterprises with ≤50% HDI shareholding						Contracts awarded to enterprises with >50% HDI shareholding						Contracts awarded to Non-HDI enterprises	
			Black Ownership (male and/or female)		White Female Ownership		Combined HDI Ownership (black and white)		Black Ownership (male and/or female)		White Female Ownership		Combined HDI Ownership (black and white)			
	No. of Contracts	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	1836	R 4 710 057	96	R 460 329	10	R 56 017	9	R 525 322	1436	R 2 834 257	13	R 16 275	21	R 126 111	251	R 691 746
2007/08	1930	R 6 340 883	107	R 1 519 860	1	R 614	2	R 637	1445	R 3 765 371	8	R 2 582	25	R 244 898	342	R 806 921
2008/09	1885	R 8 734 286	187	R 1 185 283	13	R 49 473	4	R 195 320	1261	R 5 645 838	31	R 36 610	14	R 305 534	375	R 1 316 228
2009/10	1300	R 3 087 526	59	R 423 257	3	R 2 270	0	R 0	991	R 1 887 075	27	R 45 066	19	R 151 935	201	R 577 923
2010/11	1363	R 6 604 905	108	R 474 290	6	R 11 308	2	R 2 817	1098	R 5 349 600	12	R 6 084	5	R 8 837	132	R 751 969
Total	8314	R 29 477 657	557	R 4 063 019	33	R 119 682	17	R 724 096	6231	R 19 482 141	91	R 106 617	84	R 837 315	1301	R 4 144 787
		% of Total	6.7%	13.8%	0.4%	0.4%	0.2%	2.5%	74.9%	66.1%	1.1%	0.4%	1.0%	2.8%	15.6%	14.1%
		% of Total No.	7.3%						77.1%						15.6%	
		% of Total Value	16.7%						69.3%						14.1%	

Source: Treasury Data (2011)

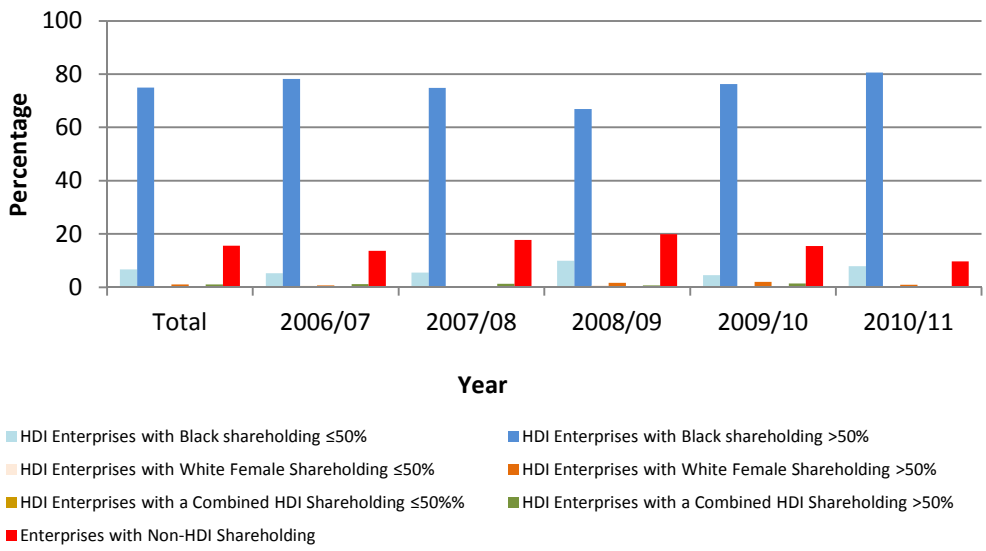


Figure 4.11: PROVINCIAL - Percentage of the total number of contracts awarded by provincial departments to HDI enterprises over the five-year period 2006/07 – 2010/11, disaggregated by HDI status

Source: Treasury Data (2011)

Table 4.16 and Figure 4.11 indicate that enterprises with black shareholding >50% were awarded the highest number of contracts over the five-year period, peaking in 2010/11 at 80% of the total for that category. Enterprises with white female shareholding in both ≤50% and >50% shareholding categories received substantially fewer contracts than either black HDI or non-HDI enterprises, as did enterprises with combined (black and white) HDI ownership.

This pattern is continued when looking at the data from a contract value perspective, as shown in Figure 4.12 below. For the total five-years, amongst enterprises with ≤50% HDI ownership black owned enterprises (black male and/or female ownership) received contracts with a value of just over R4 billion, which equates to 13.8% of the total value of all contracts awarded in all categories. Similarly, during the same period amongst enterprises with >50% HDI ownership black owned enterprises (black male and/or female ownership)

received contracts with a total value of just under R19.5 billion, which equates to 66.1% of the total for all categories.

When comparing across the three categories for the five-year period it can be seen that enterprises with ≤50% HDI ownership received only 7.3% of the total 8314 contracts but these had a combined value equal to 16.7% of the total. In contrast, enterprises with >50% HDI ownership received 77.1% of the contracts with a combined value representing 69.3% of the total. Non-HDI enterprises received 15.6% of the contracts, which were worth 14.1% of the total.

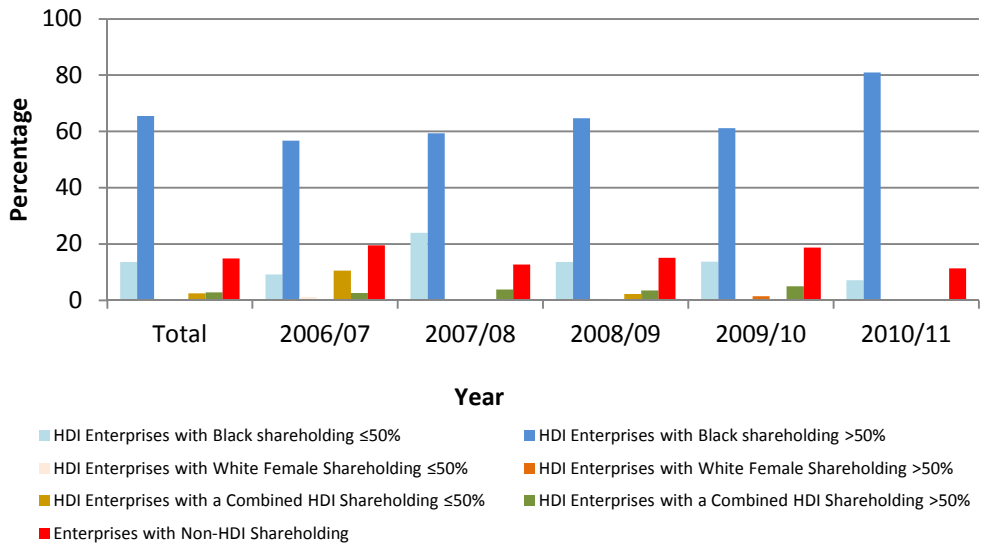


Figure 4.12: PROVINCIAL - Percentage of the total value of contracts awarded by provincial departments to HDI enterprises over the five-year period 2006/07 – 2010/11, disaggregated by HDI status

Source: Treasury Data (2011)

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TABLE 4.17: PROVINCIAL –Number and Total Value of contracts awarded by provincial departments over the five-year period 2006/07 – 2010/11, disaggregated by HDI shareholding categories

Financial Year	All Contracts		Contracts awarded to enterprises with ≤50 percent HDI shareholding				Contracts awarded to enterprises with >50% and <100% HDI shareholding				Contracts awarded to enterprises with 100% HDI shareholding				Contracts awarded to Non-HDI Enterprises			
	No.	Value (ZAR 000's)	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total
2006/07	1 836	R 4 710 057	115	18.9%	R 1 041 668	21.2%	88	26.0%	R 1 018 802	32.6%	1 382	22.8%	R1 957 841	11.3%	251	19.3%	R 691 746	16.7%
2007/08	1 930	R 6 340 883	110	18.1%	R 1 521 111	31.0%	85	25.1%	R 968 934	31.0%	1 393	23.0%	R3 043 917	17.6%	342	26.3%	R 806 921	19.5%
2008/09	1 885	R 8 734 286	204	33.6%	R 1 430 076	29.1%	68	20.1%	R 609 635	19.5%	1 238	20.4%	R5 378 347	31.1%	375	28.8%	R 1 316 228	31.8%
2009/10	1 300	R 3 087 526	62	10.2%	R 425 527	8.7%	60	17.7%	R 392 862	12.6%	977	16.1%	R1 691 214	9.8%	201	15.4%	R 577 923	13.9%
2010/11	1 363	R 6 604 905	116	19.1%	R 488 415	10.0%	38	11.2%	R 136 030	4.4%	1 077	17.8%	R5 228 491	30.2%	132	10.1%	R 751 969	18.1%
Total	8 314	R 29 477 657	607	7.3%	R 4 906 797	16.6%	339	4.1%	R 3 126 263	10.6%	6 067	73.0%	R17 299 810	58.7%	1 301	15.6%	R 4 144 787	14.1%

Source: Treasury Data (2011)

TABLE 4.18: PROVINCIAL – Number and Total Value of contracts awarded by provincial departments over the five-year period 2006/07 – 2010/11 to enterprises with 100% HDI shareholding, disaggregated by HDI status

Financial Year	All Contracts		Black Male				Black Female				Combined Black Male and Female				White Female				Combined Black Female and White Female				Combined Black Female, Black Male and White Female			
	No.	Value (ZAR 000's)	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total	No.	% of Total	Value (ZAR 000's)	% of Total
2006/07	1 836	R 4 710 057	624	34.0%	R 1 109 499	23.6%	539	29.4%	R500 700	10.6%	201	10.9%	R303 791	6.4%	6	0.3%	R 2 826	0.1%	0	0.0%	R 0	0.0%	12	0.7%	R41 025	**0.9%**
2007/08	1 930	R 6 340 883	667	34.6%	R 1 852 078	29.2%	490	25.4%	R503 112	7.9%	220	11.4%	R615 570	9.7%	6	0.3%	R 2 031	0.0%	2	0.1%	R 246	0.0%	8	0.4%	R70 880	**1.1%**
2008/09	1 885	R 8 734 286	773	41.0%	R 3 916 419	44.8%	283	15.0%	R816 695	9.4%	146	7.7%	R322 478	3.7%	30	1.6%	R23 432	0.3%	4	0.2%	R 273 522	3.1%	2	0.1%	R25 801	**0.3%**
2009/10	1 300	R 3 087 526	595	45.8%	R 978 837	31.7%	238	18.3%	R334 571	10.8%	109	8.4%	R242 089	7.8%	24	1.8%	R39 896	1.3%	2	0.2%	R 547	0.0%	9	0.7%	R95 274	**3.1%**
2010/11	1 363	R 6 604 905	550	40.4%	R 2 130 563	32.3%	315	23.1%	R2116 579	32.0%	199	14.6%	R970 907	14.7%	10	0.7%	R5 538	0.1%	2	0.1%	R 2 037	0.0%	1	0.1%	R2 867	**0.0%**
Total	8 314	R29477657	3209	38.6%	R 9 987 396	33.9%	1865	22.4%	R4271657	14.5%	875	10.5%	R2 454 835	8.3%	76	0.9%	R73 723	0.3%	10	0.1%	R 276352	0.9%	32	0.4%	R235 847	**0.8%**

Source: Treasury Data (2011)



Figure 4.13: PROVINCIAL - Number of contracts awarded to HDI enterprises with female shareholding for all nine provinces over the five-year period 2006/07 – 2010/11, expressed as a percentage

Source: Treasury Data (2011)

Figure 4.13 presents the total number of contracts awarded to HDI enterprises with female shareholding for all nine provinces over the five-year period 2006/07 – 2010/11, expressed as a percentage. The graph indicates that HDI enterprises with black female shareholding >50% consistently received the highest number of contracts compared to other enterprises with female shareholding in each of the five-years. The number of contracts awarded to enterprises with black female shareholding >50% peaked at just under 30% in 2006/07.

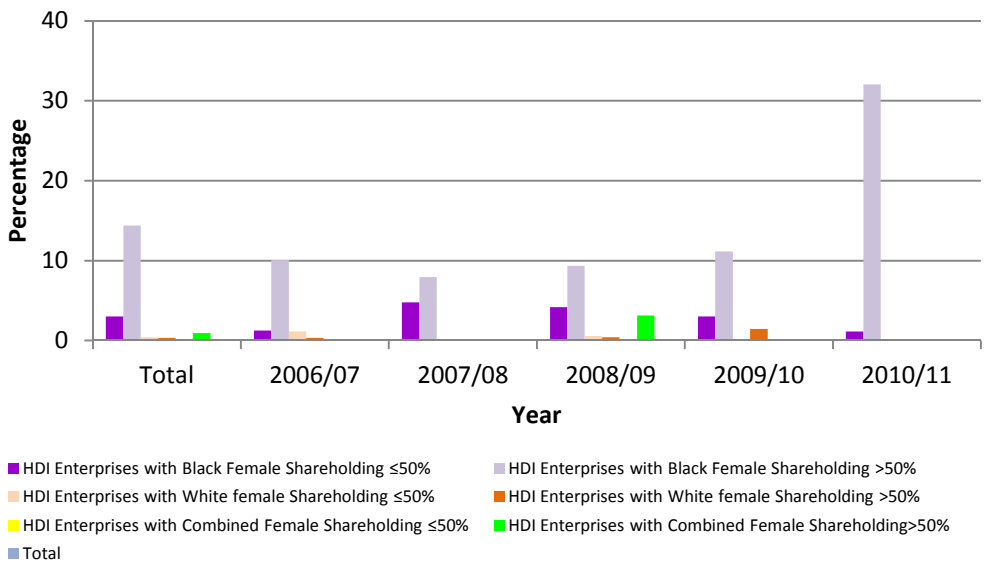


Figure 4.14: PROVINCIAL – Total Value of contracts awarded to HDI enterprises with female shareholding for all nine provinces over the five-year period 2006/07 – 2010/11, expressed as a percentage

Source: Treasury Data (2011)

Figure 4.14 presents the total value of contracts awarded to HDI enterprises with female shareholding for all nine provinces over the five-year period 2006/07 – 2010/11, expressed as a percentage. The graph shows that during this period, HDI enterprises with black female shareholding >50% received contracts with a value that represented just under 15% of the total amount awarded to female owned enterprises. This value peaked sharply in 2010/11 to over 30% of the total for female enterprises in that year.

Table 4.19: PROVINCIAL - NUMBER and VALUE of contracts awarded by all nine provinces over the five-year period 2006/07 – 2010/11, disaggregated by CIDB Grading Categories

Grades	CIDB Value Threshold	All contracts				2006/07		2007/08		2008/09		2009/10		2010/11	
		No.	%	Value (ZAR 000's)	%	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
1	≤R0.2 M	2422	29.1%	R 283 723	1.0%	301	R 30 452	608	R 80 849	602	R 70 861	544	R 61 628	367	R 39 933
2	>R0.2M to ≤ 0.65M	2360	28.4%	R 884 719	3.0%	657	R 218 007	547	R 224 576	514	R 193 232	352	R 132 484	290	R 116 420
3	>R0.65M to ≤ R2M	1647	19.8%	R 1 713 293	5.8%	530	R 459 296	330	R 397 873	290	R 322 839	215	R 210 979	282	R 322 306
4	>R2 M to ≤ R4M	607	7.3%	R 1 677 026	5.7%	134	R 300 666	151	R 429 930	142	R 418 983	53	R 151 412	127	R 376 035
5	>R4 M to ≤ R6.5M	495	6.0%	R 2 466 094	8.3%	80	R 302 898	121	R 607 183	116	R 596 539	50	R 258 923	128	R 700 551
6	>R6.5 M to ≤ R13M	364	4.3%	R 3 199 042	10.9%	73	R 527 505	76	R 671 820	92	R 846 229	34	R 292 367	89	R 861 121
7	>R13 M to ≤ R40 M	307	3.7%	R 7 123 731	24.1%	36	R 641 208	72	R 1770 401	92	R 2 157 268	39	R 798 663	68	R 1 756 191
8	>R40 M to ≤ R130M	89	1.1%	R 7 272 276	24.7%	18	R 839 252	21	R 1 426 803	26	R 1 787 654	12	R 786 219	12	R 2 432 348
9	>R130M	23	0.3%	R 4 857 753	16.5%	7	R 1 390 773	4	R 731 448	11	R 2 340 681	1	R 394 851	0	R 0
Total		8314	100.0%	R 29 477 657	100.0%	1 836	R 4 710 057	1 930	R 6 340 883	1 885	R 8 734 286	1300	R 3 087 526	1363	R6 604 905

Source: Treasury Data (2011)

Table 4.19 presents the number and value of contracts awarded by all nine provinces over the five-year period 2006/07 – 2010/11, disaggregated by CIDB Grading Categories. The data show that the highest number of contracts awarded during this period (n=2422) were to CIDB Grade 1 contractors. Although this represents 29.1% of the total number of contracts (n=8314), their value equates to only 1.0% of the total. Combining the data for Grades 1 and 2 show that these categories represented 57.5% of the total number of contracts, but just 4.0% of the total value. In comparison, only 0.3% of all contracts were awarded to Grade 9 contractors but the value of those 23 contracts equated to 16.5% of the total value for all contracts.

Table 4.20: PROVINCIAL - Number and Total Value of contracts awarded by all nine provinces over the five-year period 2006/07 – 2010/11, disaggregated by value categories ≤R1 000 000 and >R1 000 000

Financial Year	All Contracts				≤R1 000 000 Contracts				>R1 000 000 Contracts			
	No.	%	Value (ZAR 000's)	%	No.	%	Value (ZAR 000's)	%	No.	%	Value (ZAR 000's)	%
2006/07	1836	22.1%	R 4 710 057	16.0%	1176	21.2%	R 384 299	21.9%	660	23.9%	R 4 325 758	15.6%
2007/08	1930	23.2%	R 6 340 883	21.5%	1280	23.1%	R 408 852	23.3%	650	23.5%	R 5 932 031	21.4%
2008/09	1885	22.7%	R 8 734 286	29.6%	1265	22.8%	R 389 399	22.1%	620	22.5%	R 8 344 887	30.1%
2009/10	1300	15.6%	R 3 087 526	10.5%	1030	18.5%	R 298 481	17.0%	270	9.8%	R 2 789 045	10.1%
2010/11	1363	16.4%	R 6 604 905	22.4%	802	14.4%	R 275 400	15.7%	561	20.3%	R 6 329 505	22.8%
Total	8314	100.0%	R 29 477 657	100.0%	5553	100.0%	R 1 756 431	100.0%	2761	100.0%	R 27 721 226	100.0%
% of Total					66.8%		6.0%		33.2%		94.0%	

Source: Treasury Data (2011)

As stated earlier, PPPFA Regulations (2011) now set the threshold value for allocating preference points at R1 000 000. For contracts with a value ≤R1 000 000 a maximum of 20 preference points can be given to qualifying tenderers during the tender evaluation stage. For contracts with a value >R1 000 000 a maximum of 10 preference points can be given to qualifying tenderers.

Table 4.20 presents the National Treasury data for provinces disaggregated by these threshold values. The data show that 66.8% of the contracts awarded over the five-year period 2006/07 – 2010/11 were for a value ≤R1 000 000 and 33.2% were for contracts values >R1 000 000. However, the value of all the ≤R1 000 000 contracts represented only 6.0% of the total, whereas the value of all the >R1 000 000 contracts equated to 94.0% of the total.

4.4.2 Premiums incurred over the five-year period

Table 4.21: PROVINCIAL - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total Value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premium paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	1836	R 4 710 057	207	R 62 785	11.3%	1.4%
2007/08	1930	R 6 340 883	67	R 22 272	3.5%	0.4%
2008/09	1885	R 8 734 286	61	R 94 472	3.2%	1.1%
2009/10	1300	R 3 087 525	40	R 43 201	3.1%	1.4%
2010/11	1363	R 6 604 905	51	R 62 977	3.7%	1.0%
Total	8314	R 29 477 656	426	R 285 707		
5-year Average					5.1%	1.0%

Source: Treasury Data (2011)

Table 4.21 presents the number of contracts that incurred premiums and their value for contracts awarded by all nine provinces over the five-year period 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 5.1% for the 5 years, the value of those premiums represented only 1.0% of the total.

The distribution of premiums incurred indicates that the value ranged from 0.4% to 1.4% over the five-years. In terms of the number of contracts that incurred premiums, during the first year under review the percentage was 11.3%, while in the last four year it remained in the 3.1% – 3.7% range.

Table 4.22: PROVINCIAL - Analysis of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by all nine provinces, disaggregated by contract threshold value categories

Financial Year	Contracts≤R500 000								Contracts>R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% Premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	717	R 310 436	R 2 163	0.7%	94	13.1%	R 29 902	7.8%	1119	R 4 399 621	R 60 622	1.4%	113	10.1%	R 613 019	11.0%
2007/08	987	R 209 366	R 61	0.03%*	9	0.9%	R 188 610	0.03%*	943	R 6 131 517	R 22 211	0.4%	58	6.2%	R 330 201	7.2%
2008/09	1 023	R 211 294	R 9 899	4.9%	13	1.3%	R 143 747	7.4%	862	R 8 522 992	R 84 573	1.0%	48	5.6%	R 714 174	13.4%
2009/10	831	R 161 087	R 148	0.1%	11	1.3%	R 1 735	9.3%	469	R 2 926 438	R 43 053	1.5%	29	6.2%	R 394 314	12.3%
2010/11	594	R 284 807	R 651	0.2%	14	2.4%	R 4 165	18.5%	769	R 6 320 098	R 62 326	1.0%	37	4.8%	R 700 588	9.8%
Total	4152	R 1 176 990	R 12 922		141		R 368 159		4 162	R 28 300 666	R 272 785		285		R 2 752 296	
Average				1.1%		3.4%		3.6%				1.0%		6.9%		11.0%

* This value is shown to 2 decimal places due to the percent premium incurred being very low.

Source: Treasury Data (2011)

Table 4.22 presents the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by all nine provinces, disaggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10).

The key elements of the table are:

- the total number of contracts that incurred a premium (e.g. 141 of the 4152 contracts awarded in the ≤R500 000 category) and expressed as a percentage (in the case above, the % of contracts incurring premiums was 3.4%);
- the total premium incurred (e.g., in the ≤R500 000 category the five-year total premium incurred was R12 922 000);
- the total value of the contracts that incurred a premium (e.g. R 368 159 000 for the 141 contracts mentioned above); and
- the actual premium incurred, expressed as a percentage, on those contracts that incurred a premium. For example, in the ≤R500 000 category the premium incurred was 3.6% based on a premium amount of R12 922 000 and an amount of R 368 159 000 for the total value of contracts that incurred premiums.

The data show that the total number of contracts incurring premiums was 141 of the 4152 contracts awarded in the ≤R500 000 category (3.4%) and 285 of the 4162 contracts awarded in the >R500 000 category (6.9%). There was significant variation across years with 13.1% of the contracts awarded in the ≤R500 000 category incurring a premium in 2006/07, then declining to not more than 2.4% for each of the following four years. The percentage in the >R500 000 category ranged from 4.1% to 10.1%

The total premium incurred was R12 922 000 in the ≤R500 000 category and R272 785 000 in the >R500 000 category. The data show little difference

between the average premium incurred over the 5 years in either the ≤R500 000 category (1.1%) or the >R500 000 category (1.0%). In 2008/09 the percentage premium incurred for contracts ≤R500 000 was 4.9% which was significantly higher than the percentage premium incurred for the remaining four years, and much higher than the five-year average of 1.1%. In addition, in 2007/08 an average premium of only 0.03% was paid for contracts ≤R500 000. There was little variation in the average premium incurred in the >R500 000 category across all five-years.

Table 4.23 provides an analysis of the contracts awarded by all nine provinces that incurred premiums over the five-year period 2006/07 – 2010/11. As with the national data, in order to interpret this table it is essential to understand that the PPPFA regulations applicable at the time established a preference point scoring system from which a formula was derived that calculated, among other things, the maximum price premium that could be incurred within the preferencing framework. Contracts with a value ≤R500 000 used the 80/20 points system that set the maximum allowable price premium at 25% of the lowest responsive tender. Contracts with a value >R500 000 used the 90/10 points system that set the maximum allowable price premium at 11.1% of the lowest responsive tender.

Table 4.23 is similar to Table 4.12 in that it contains three key elements. Firstly, it presents data on those contracts awarded that incurred premiums during the five-year period. Secondly, it indicates those contracts in which the premium incurred exceeded the maximum percentage allowable. Lastly, it applies the data to derive an estimated value of the excess premium paid assuming that the price preferencing formula was applied correctly.

The analysis reveals that for contracts ≤R500 000, which should have incurred a maximum premium of 25%, the actual percentage premium incurred ranged from 52% to 79%. For contracts >R500 000, which should have incurred a

maximum premium of 11.1%, the actual premium incurred ranged from 28% to 95%. In monetary terms the estimated value of the excess premiums incurred over the five-year period was R 1 510 000 for contracts ≤R500 000 and R 112 875 000 for contracts >R500 000.

Table 4.23: PROVINCIAL - Analysis of contracts incurring premiums over the five-year period 2006/07 – 2010/11

Financial Year	Contracts that incurred premiums			Contracts that exceeded the maximum allowable premium					Implication on premiums incurred			
	No. of contracts awarded with premiums	Value of contracts incurring premiums (ZAR 000's)	Total premium incurred (ZAR 000's)	No. of contracts with premiums exceeding maximum allowable	% of Total No.	Value of CONTRACTS with premiums exceeding maximum allowable (ZAR 000's)	% of Total Value	Value of PREMIUMS for those contracts that had premiums exceeding maximum allowable (ZAR 000's)	Estimated value of the lowest priced TENDERS (ZAR 000's)	% premium incurred on the estimated lowest priced TENDERS	Estimated value of maximum allowable premium (ZAR 000's)	Estimated value of excess premium paid (ZAR 000's)
Contracts ≤R500 000 (maximum allowable premium = 25%)												
2006/07	94	R 29 902	R 2 163	8	8.5%	R 2 811	9.4%	R 961	R 1 850	52%	R 205	R 756
2007/08	9	R 188 610	R 61	0	0.0%	R 0	0.0%	R 0	R -	-	R -	R -
2008/09	13	R 143 747	R 9 899	4	30.8%	R 1 823	1.3%	R 806	R 1 017	79%	R 113	R 693
2009/10	11	R 1 735	R 148	1	9.1%	R 171	9.9%	R 72	R 99	73%	R 11	R 61
2010/11	14	R 4 165	R 651	0	0.0%	R 0	0.0%	R 0	R -	-	R -	R -
Total	141	R 368 159	R 12 922	13	9.2%	R 4 805	1.3%	R 1 839	R 2 966	62%	R 329	R 1 510
Contracts >R500 000 (maximum allowable premium = 11.1%)												
2006/07	113	R 613 019	R 60 622	19	16.8%	R 143 032	23.3%	R 31 717	R 111 315	28%	R 12 356	R 19 361
2007/08	58	R 330 201	R 22 211	18	31.0%	R 63 829	19.3%	R 14 477	R 49 352	29%	R 5 478	R 8 999
2008/09	48	R 714 174	R 84 573	15	31.3%	R 116 050	16.2%	R 56 441	R 59 609	95%	R 6 617	R 49 824
2009/10	29	R 394 314	R 43 053	15	51.7%	R 109 213	27.7%	R 31 856	R 77 357	41%	R 8 587	R 23 269
2010/11	37	R 700 588	R 62 326	19	51.4%	R 62 364	8.9%	R 16 511	R 45 853	36%	R 5 090	R 11 421
Total	285	R 2 752 296	R 272 785	86	30.2%	R 494 488	18.0%	R 151 002	R 343 486	44%	R 38 127	R 112 875

Source: Treasury Data (2011)

4.5 DISTRIBUTION OF CONTRACTS PER PROVINCE

The data presented in the tables and graph in this section are for the contracts awarded by provincial governments across the nine provinces of South Africa, i.e. Kwa-Zulu Natal, Limpopo, Eastern Cape, Mpumalanga, Free State, Gauteng, Northern Cape, North West and Western Cape.

The results of the data from the nine provincial governments (consolidated) as discussed in Section 4.3 indicate a general trend of preferential procurement outcomes across provinces, and is useful for comparing outcomes with that of national government. However, it is also useful to ascertain and compare the trends in each province separately due to inherent differences in population demographics, infrastructure budgets and socio-economic disparities between HDI and non-HDI enterprises across provinces. This comparison is done in the following discussion.

4.5.1 Kwa-Zulu Natal

Table 4.24: Kwa-Zulu Natal - Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	All Contracts		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	665	R 776 004	581	R 666 714	84	R 109 290
2007/08	694	R 1 059 182	565	R 950 394	129	R 108 788
2008/09	540	R 1 051 330	472	R 946 109	68	R 105 221
2009/10	520	R 433 737	445	R 370 061	75	R 63 676
2010/11	351	R 853 343	348	R 843 586	3	R 9 757
Total	2770	R 4 173 596	2411	R 3 776 864	359	R 396 732

Source: Treasury Data (2011)

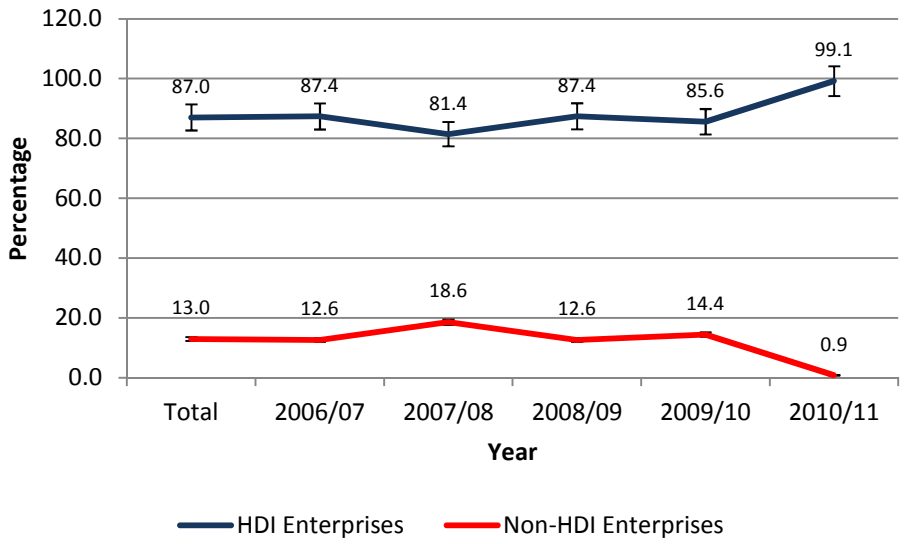


Figure 4.15: KwaZulu-Natal - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.24 and Figure 4.15 present data that indicate 87% of the total number of contracts awarded by the Kwa-Zulu Natal government over the five-year period went to HDI enterprises. These enterprises consistently received over 80% of contracts in each of the five-years with a peak of 99.1% in 2010/11. Non-HDI enterprises received between 10% - 20% of the contracts for the first four years under review, then dropped sharply to 0.9% in 2010/11.

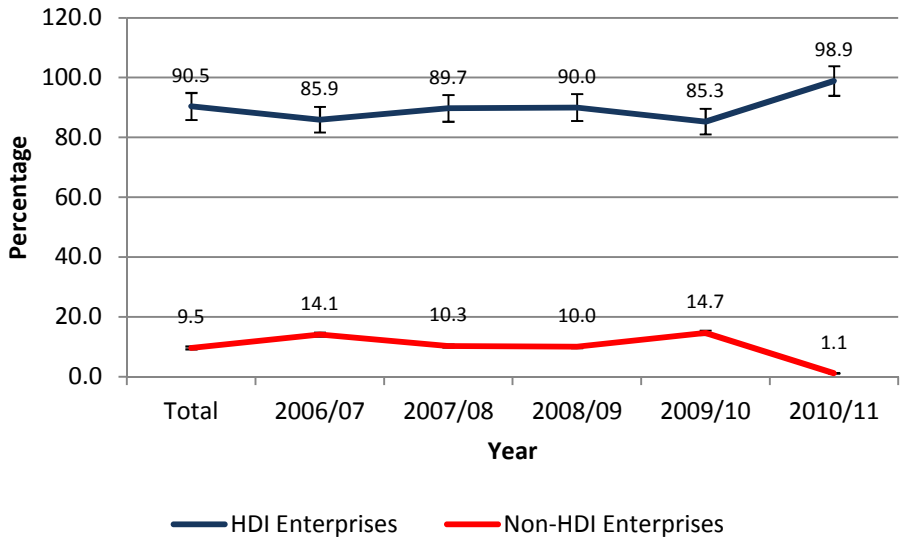


Figure 4.16: KwaZulu-Natal - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.24 and Figure 4.16 present data that indicate that over the five-year period 90.5% of the value of contracts awarded by the Kwa-Zulu Natal government went to HDI enterprises, with a peak of 98.9% in 2010/11. Non-HDI enterprises received between 10% - 15% of the value of contracts for the first four years under review, then dropped substantially to 1.1% in 2010/11.

4.5.2 Limpopo

Table 4.25: Limpopo - Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	All Contracts		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	427	R 688 831	415	R 645 017	12	R 43 814
2007/08	360	R 339 871	347	R 303 537	13	R 36 334
2008/09	63	R 153 213	62	R 152 874	1	R 339
2009/10	41	R 209 506	39	R 209 062	2	R 444
2010/11	149	R 1 964 881	138	R 1 862 529	11	R 102 352
Total	1040	R 3 356 302	1001	R 3 173 019	39	R 183 283

Source: Treasury Data (2011)

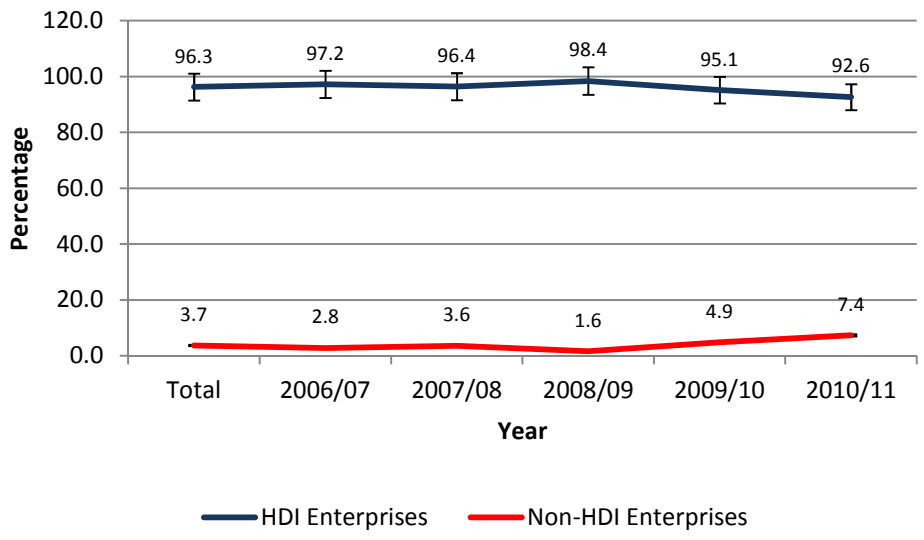


Figure 4.17: Limpopo - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.25 and Figure 4.17 present data that indicate 96.3% of the total number of contracts awarded by the Limpopo government over the five-year period went to HDI enterprises. These enterprises consistently received over 90% of contracts in each of the five-years with a peak of 98.4% in 2008/09. Non-HDI enterprises received 3.7% of the contracts for the five-year period, with a low of 1.6% in 2008/09 and a high of 7.4% in 2010/11.

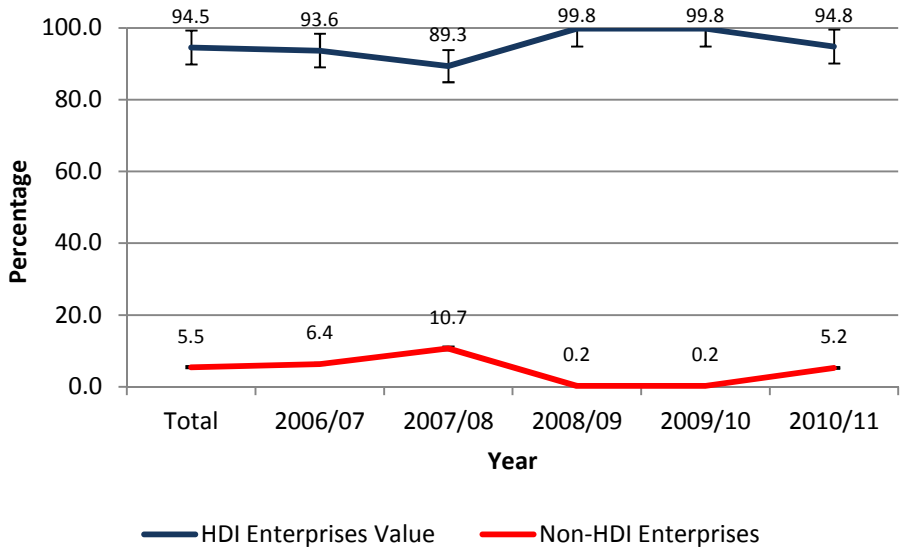


Figure 4.18: Limpopo - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.24 and Figure 4.18 present data indicating that over the five-year period 94.5% of the value of contracts awarded by the Limpopo government went to HDI enterprises, with a peak of 99.8% in both 2008/09 and 2009/2010. The value of contracts received by non-HDI ranged widely from 0.2 to 10.7%.

4.5.3 Eastern Cape

Table 4.26: Eastern Cape - Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	All Contracts		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	142	R 756 191	94	R 623 657	48	R 132 534
2007/08	256	R 1 519 129	188	R 1 347 421	68	R 171 708
2008/09	653	R 2 038 131	524	R 1 209 366	129	R 828 765
2009/10	297	R 734 874	239	R 670 446	58	R 64 428
2010/11	259	R 515 530	190	R 303 369	69	R 212 161
Total	1607	R 5 563 855	1235	R 4 154 259	372	R 1 409 596

Source: Treasury Data (2011)

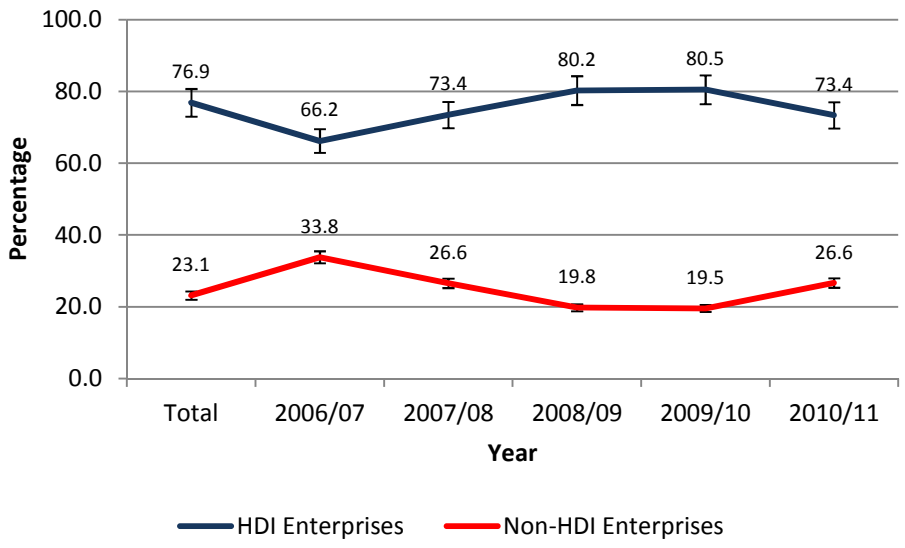


Figure 4.19: Eastern Cape - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.26 and Figure 4.19 present data that indicate 76.9% of the total number of contracts awarded by the Eastern Cape government over the five-year period went to HDI enterprises, with a low of 66.2% in 2006/07 and a high of 80.5% in 2009/10. These values show a much larger percentage of contracts being awarded to non-HDI enterprises in the Eastern Cape as compared to Limpopo and other provinces. For example, non-HDI enterprises received 33.8% of the contracts in 2006/07 and an average of 23.1% for the five-year period.

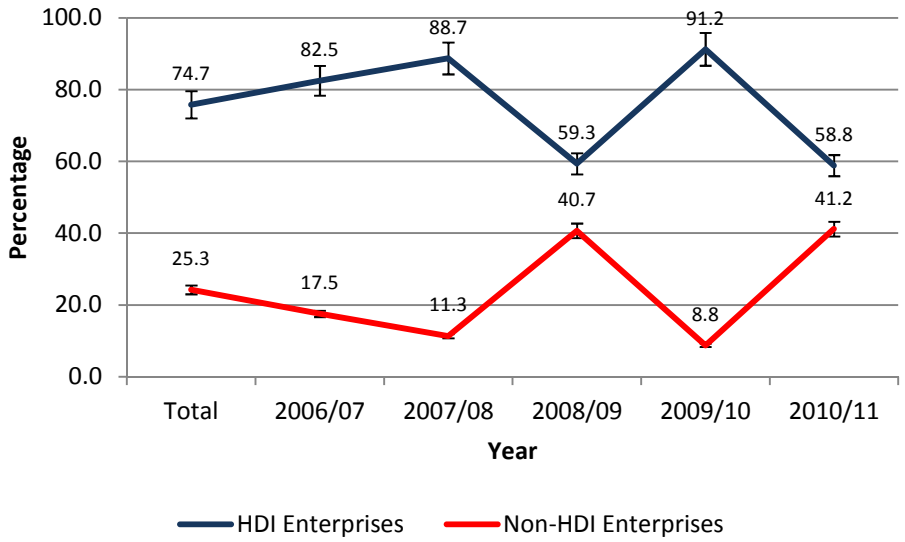


Figure 4.20: Eastern Cape - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Data for the total value of contracts awarded by the Eastern Cape government reveal a widely fluctuating pattern, as shown in Table 4.26 and Figure 4.20. For HDI enterprises the average value of the contracts over the five-year period was 74.7%, although the yearly averages ranged from a low of 58.8% in 2010/11 to a high of 91.2% in 2009/10. This pattern is reflected in the value of contracts

received by non-HDI enterprises which averaged 25.3% over the five-years, but ranged from 8.8% in 2009/2010 to 41.2% in 2010/11.

4.5.4 Mpumalanga

Table 4.27: Mpumalanga – Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	217	R 843 306	182	R 746 107	35	R 97 199
2007/08	190	R 1 665 330	172	R 1 502 547	18	R 162 783
2008/09	101	R 1 213 586	90	R 1 182 613	11	R 30 973
2009/10	49	R 409 471	48	R 405 866	1	R 3 605
2010/11	191	R 644 958	176	R 616 660	15	R 28 298
Total	748	R 4 776 651	668	R 4 453 793	80	R 322 858

Source: Treasury Data (2011)

The data presented in Table 4.27 and Figure 4.21 indicate that 89.3% of the total number of contracts awarded by the Mpumalanga government over the five-year period went to HDI enterprises. These enterprises consistently received over 80% of contracts in each of the five-years with a peak of 98.0% in 2009/10. Although non-HDI enterprises received an average of 10.7% of the contracts for the five-year period, this varied widely by year from a low of 2.0% in 2009/10 to a high of 16.1% in 2006/07.

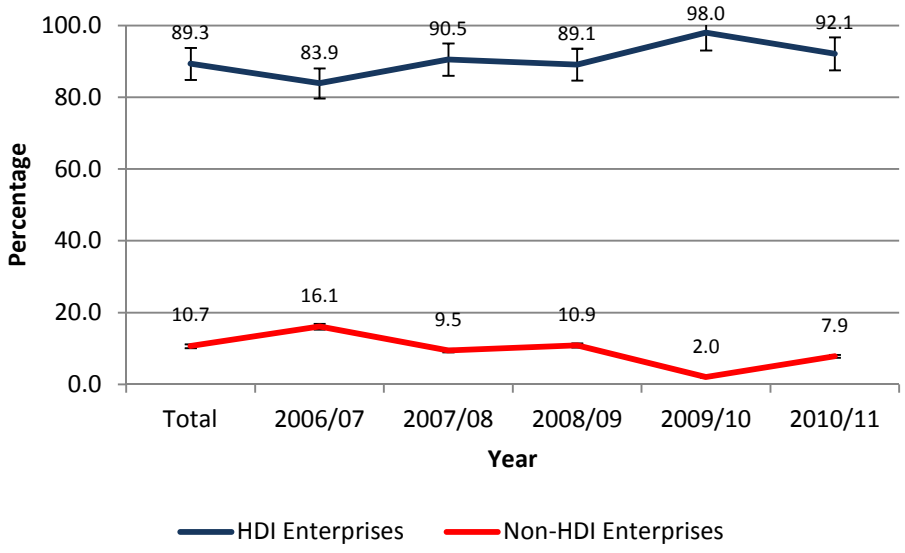


Figure 4.21: Mpumalanga - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

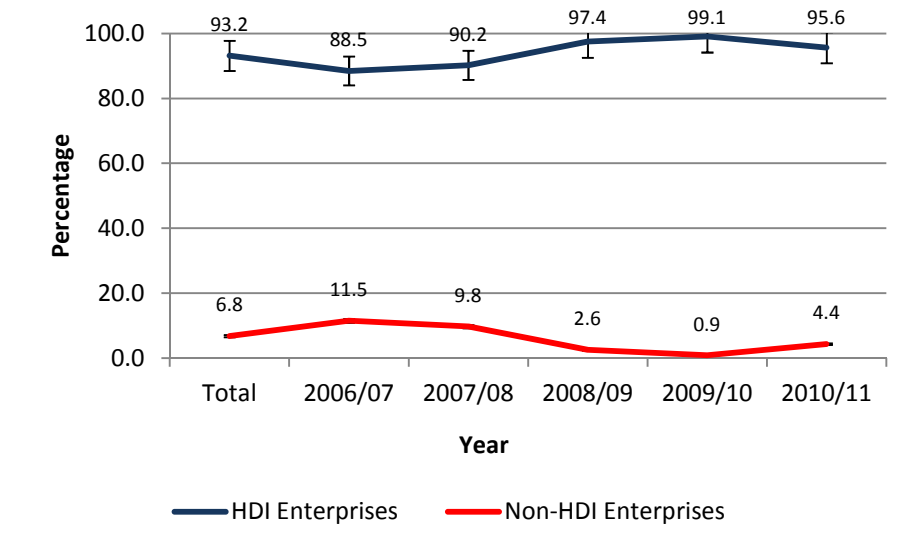


Figure 4.22: Mpumalanga - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.27 and Figure 4.22 present data that indicate that over the five-year period 93.2% of the value of contracts awarded by the Mpumalanga government went to HDI enterprises, with a peak of 99.1% in 2009/2010. The value of contracts received by non-HDI enterprises ranged widely from 0.9 in 2009/10 to 11.5% in 2006/07.

4.5.5 Free State.

Table 4.28: Free State – Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	83	R 662 012	54	R 452 497	29	R 209 515
2007/08	174	R 1 004 829	107	R 998 263	67	R 6 566
2008/09	205	R 1 108 283	84	R 1 039 900	121	R 68 383
2009/10	179	R 40 630	138	R 34 706	41	R 5 924
2010/11	236	R 531 199	235	R 531 044	1	R 155
Total	877	R 3 346 953	618	R 3 056 410	259	R 290 543

Source: Treasury Data (2011)

Data for the number of contracts awarded by the Free State government reveal a widely fluctuating pattern, as shown in Table 4.28 and Figure 4.23. For HDI enterprises the average number of contracts received over the five-year period was 70.5%, although the yearly averages ranged from a low of 41.0% in 2008/09 to a high of 99.6% in 2010/11. This pattern is reflected in the number of contracts received by non-HDI enterprises which averaged 29.5% over the five-years, but ranged from 0.4% in 2010/2011 to 59.9% in 2008/09.

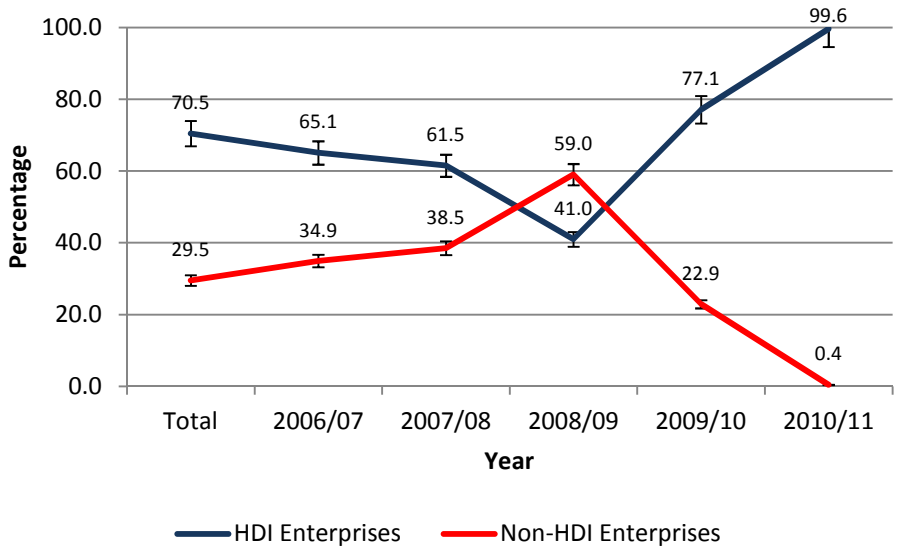


Figure 4.23: Free State - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

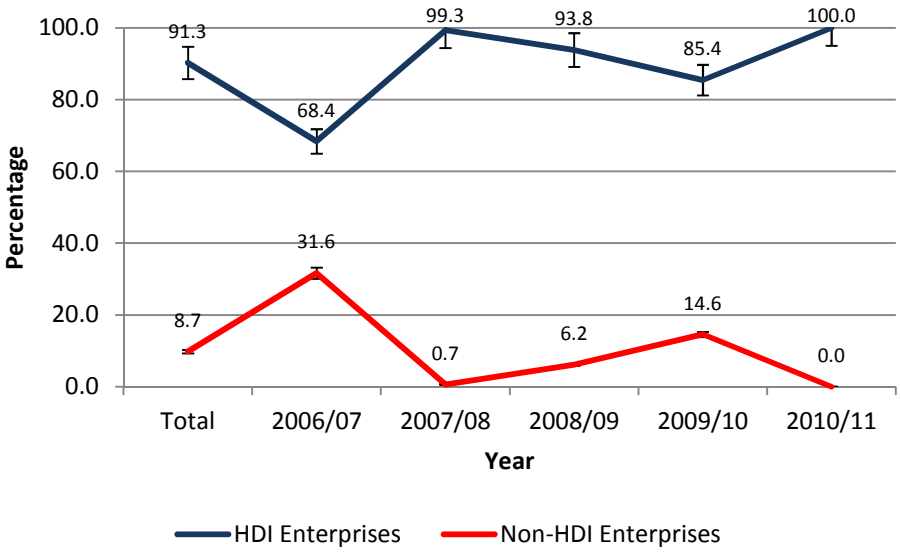


Figure 4.24: Free State - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.28 and Figure 4.24 present data that indicate that the total value of contracts awarded by the Free State government fluctuated considerably over the five-year period. For HDI enterprises the average value of the contracts over the five-year period was 91.3%, although the yearly averages ranged from a low of 68.4% in 2006/07 to a high of 100% in 2010/11. This pattern is reflected in the value of contracts received by non-HDI enterprises which averaged 8.7% over the five-years, but ranged from 0% in 2010/2011 to 31.6% in 2006/07.

4.5.6 Gauteng

Table 4.29: Gauteng – Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	21	R 17 873	20	R 17 431	1	R 442
2007/08	85	R 36 180	67	R 18 702	18	R 17 478
2008/09	230	R 2 105 696	206	R 1 878 299	24	R 227 397
2009/10	82	R 146 398	75	R 116 047	7	R 30 351
2010/11	78	R 1 434 418	67	R 1 081 898	11	R 352 520
Total	496	R 3 740 565	435	R 3 112 377	61	R 628 188

Source: Treasury Data (2011)

Table 4.29 and Figure 4.25 present data that indicate 87.7% of the total number of contracts awarded by the Gauteng government over the five-year period went to HDI enterprises. The yearly averages for these enterprises ranged from 78.8% in 2007/08 to 95.2% in 2006/07. Non-HDI enterprises received an average of 12.3% of the contracts for the five-years, with a range of 4.8% in 2006/07 to 21.2% in 2007/08.

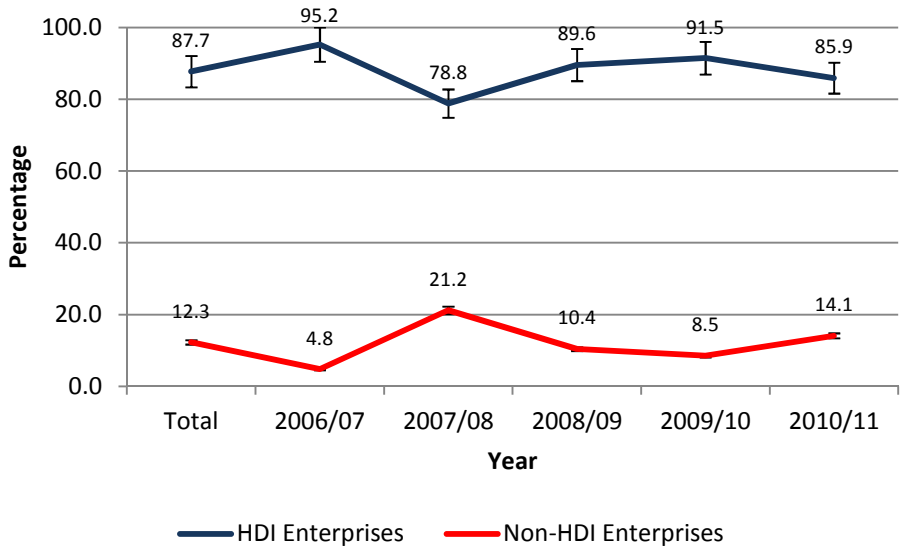


Figure 4.25: Gauteng - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

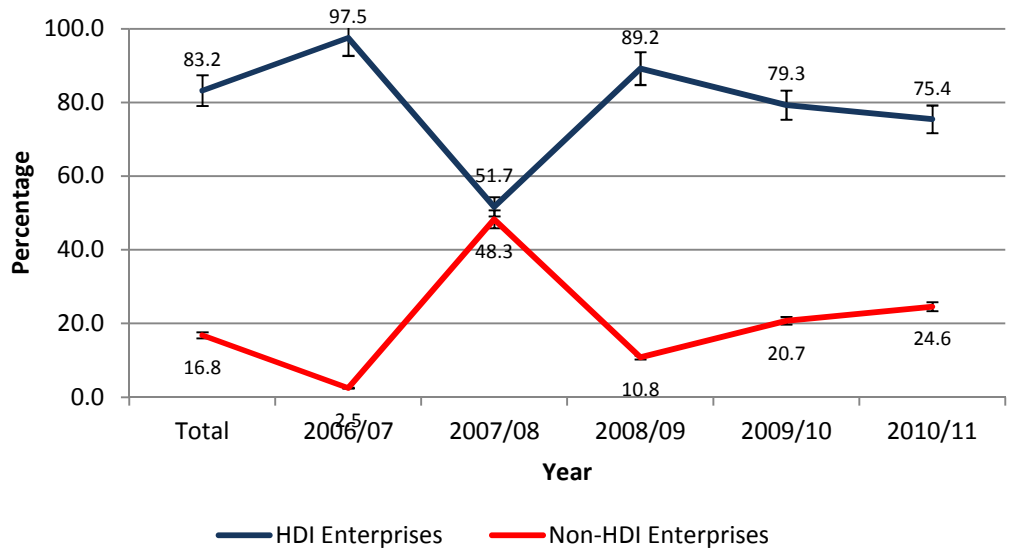


Figure 4.26: Gauteng - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Data for the total value of contracts awarded by the Gauteng government reveal a widely fluctuating pattern, as shown in Table 4.29 and Figure 4.26. For HDI enterprises the average value of the contracts over the five-year period was 83.2%, although the yearly averages ranged from a low of 51.7% in 2007/08 to a high of 97.5% in 2006/07. This pattern is reflected in the value of contracts received by non-HDI enterprises which averaged 16.8% over the five-years, but ranged from 2.5% in 2006/2007 to 48.3% in 2007/08.

4.5.7 Northern Cape

Table 4.30: Northern Cape – Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	112	R 513 767	91	R 508 018	21	R 5 749
2007/08	84	R 353 302	67	R 94 792	17	R 258 510
2008/09	57	R 177 209	39	R 122 669	18	R 54 540
2009/10	30	R 213 279	15	R 198 772	15	R 14 507
2010/11	52	R 113 931	35	R 99 144	17	R 14 787
Total	335	R 1 371 488	247	R 1 023 395	88	R 348 093

Source: Treasury Data (2011)

Data for the number of contracts awarded by the Northern Cape government reveal a fluctuating trend, as shown in Table 4.30 and Figure 4.27. For HDI enterprises the average number of contracts received over the five-year period was 73.7%, although the yearly averages ranged from a low of 50.0% in 2009/10 to a high of 81.3% in 2006/07. This pattern is reflected in the number of contracts received by non-HDI enterprises, which averaged 26.3% over the five-years but ranged from 18.8% in 2006/2007 to 50.0% in 2009/10. These values show a much larger percentage of contracts being awarded to non-HDI enterprises in the Northern Cape, as compared to Limpopo and other provinces.

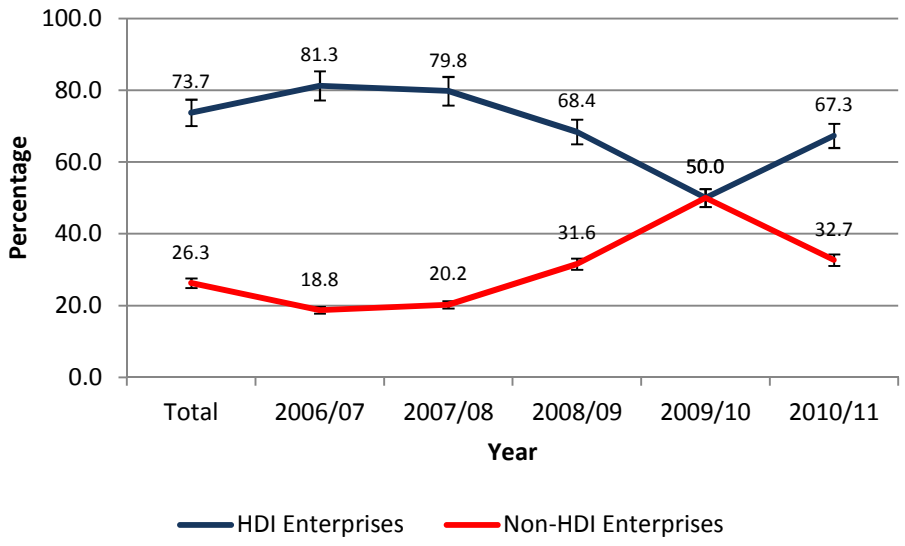


Figure 4.27: Northern Cape - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

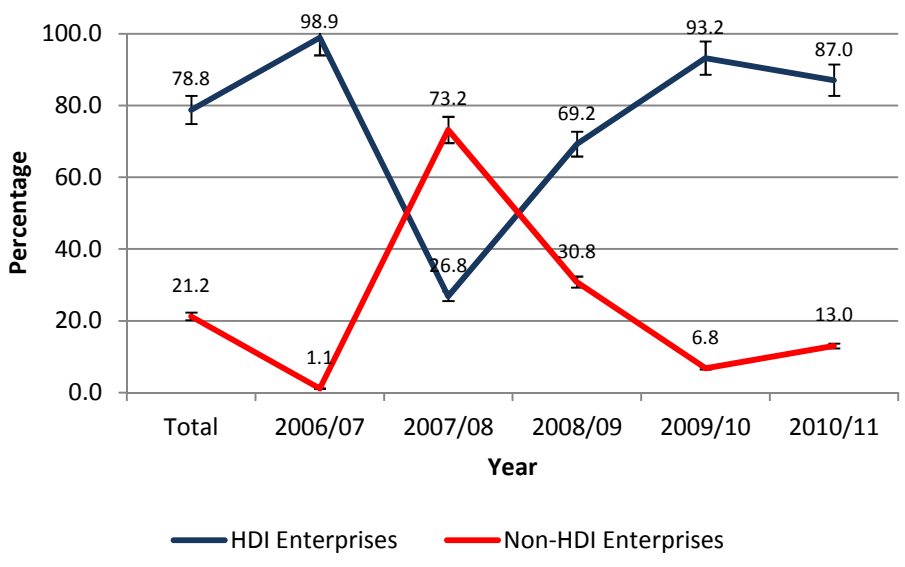


Figure 4.28: Northern Cape - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.30 and Figure 4.28 present data indicating that the total value of contracts awarded by the Northern Cape government fluctuated considerably over the five-year period. For HDI enterprises the average value of the contracts over the five-year period was 78.8%, although the yearly averages ranged from a low of 26.8% in 2007/08 to a high of 98.9% in 2006/07. This pattern is reflected in the value of contracts received by non-HDI enterprises, which averaged 21.2% over the five-years but ranged from 1.1% in 2006/07 to 73.2% in 2007/08.

4.5.8 North West

Table 4.31: North West – Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	152	R 436 374	123	R 303 514	29	R 132 860
2007/08	78	R 357 438	68	R 313 897	10	R 43 541
2008/09	34	R 787 077	33	R 786 483	1	R 594
2009/10	22	R 172 987	22	R 172 987	0	R 0
2010/11	27	R 123 481	26	R 113 260	1	R 10 221
Total	313	R 1 877 357	272	R 1 690 141	41	R 187 216

Source: Treasury Data (2011)

Table 4.31 and Figure 4.29 present data that indicate 86.9% of the total number of contracts awarded by the North West government over the five-year period went to HDI enterprises. These enterprises consistently received over 80% of contracts in each of the five-years, with a peak of 100% in 2009/10. Non-HDI enterprises received 13.1% of the contracts for the five-year period, with a low of 0% in 2009/10 and a high of 19.1% in 2006/07.

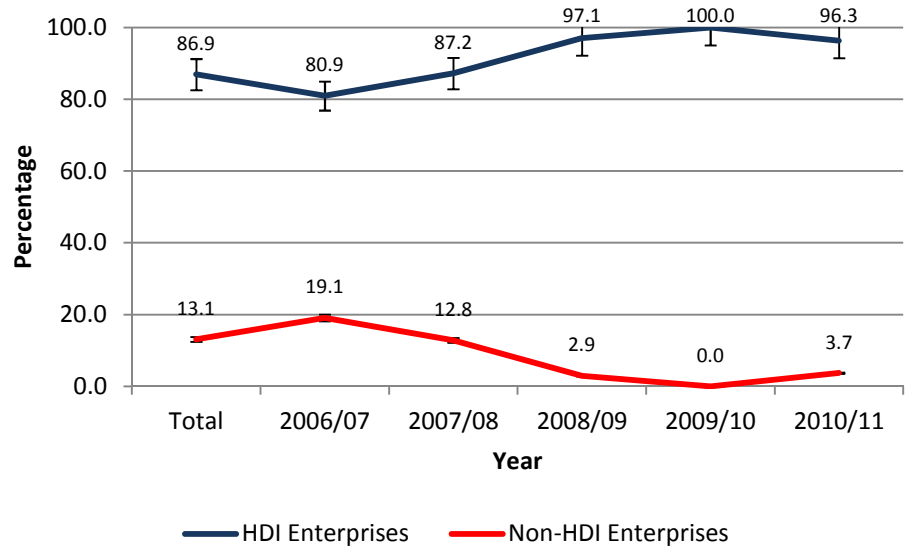


Figure 4.29: North West - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

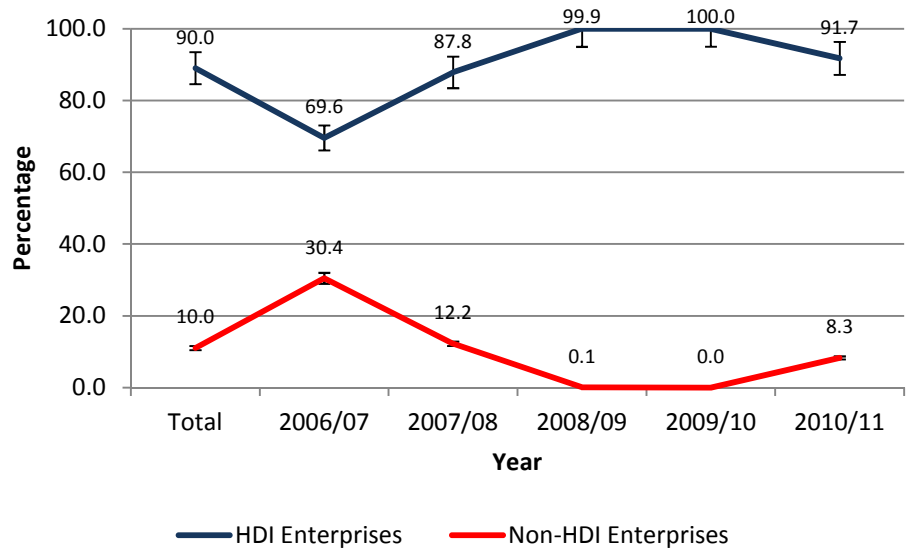


Figure 4.30: North West – Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.31 and Figure 4.30 present data that indicate 90.0% of the total value of contracts awarded by the North West government over the five-year period went to HDI enterprises. In 2006/07 these enterprises received 69.6% of the value contracts, with the percentage growing steadily to a peak of 100% in 2009/10. Non-HDI enterprises received 10.0% of the contracts for the five-year period, with a low of 0% in 2009/10 and a high of 30.4% in 2006/07.

4.5.9 Western Cape

Table 4.32: Western Cape – Number and Total Value of contracts awarded to HDI and non-HDI enterprises over the five-year period 2006/07 – 2010/11

Financial Year	Total		HDI Enterprises		Non-HDI	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	17	R 15 699	12	R 12 076	5	R 3 623
2007/08	9	R 5 622	8	R 4 412	1	R 1 210
2008/09	2	R 99 761	2	R 99 761	0	R 0
2009/10	80	R 726 644	78	R 332 160	2	R 394 484
2010/11	20	R 423 164	16	R 400 276	4	R 22 888
Total	128	R 1 270 890	116	R 848 685	12	R 422205

Source: Treasury Data (2011)

Table 4.32 and Figure 4.31 present data that indicate 90.6% of the total number of contracts awarded by the Western Cape government over the five-year period went to HDI enterprises, with a low of 70.6% in 2006/07 and a high of 100% in 2008/09. Non-HDI enterprises received 9.4% of the contracts for the five-year period, with a low of 0% in 2008/09 and a high of 29.4% in 2006/07.

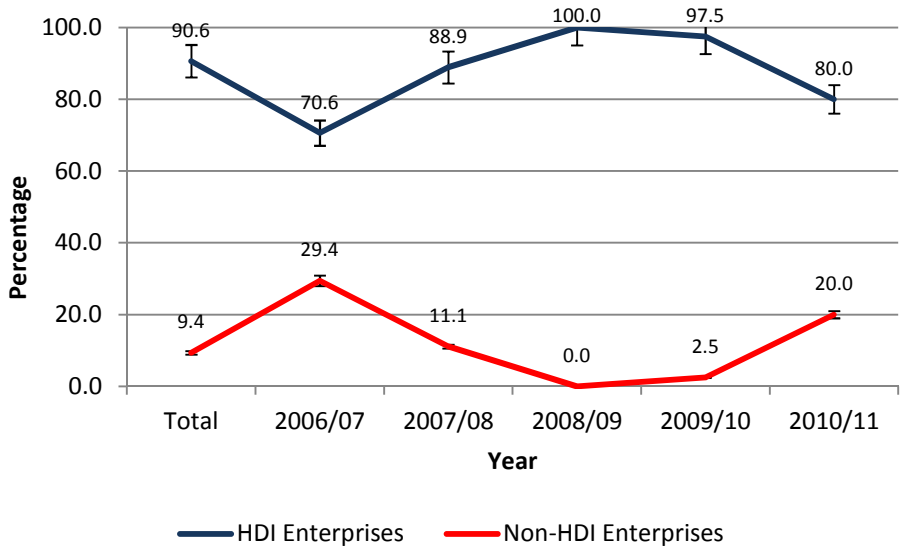


Figure 4.31: Western Cape - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

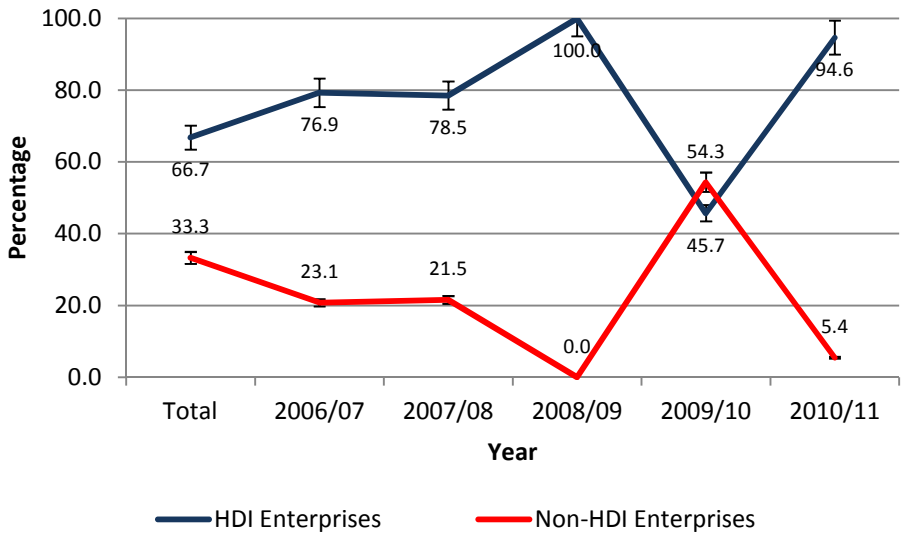


Figure 4.32: Western Cape - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises

Source: Treasury Data (2011)

Table 4.32 and Figure 4.32 present data indicating that the total value of contracts awarded by the Western Cape government fluctuated considerably over the five-year period. For HDI enterprises the average value of the contracts over the five-year period was 66.7%, although the yearly averages ranged from a low of 45.7% in 2009/10 to a high of 100% in 2008/09. This pattern is reflected in the value of contracts received by non-HDI enterprises which averaged 33.3% over the five-years, but ranged from 0% in 2008/09 to 54.3% in 2009/10.

4.6 DISTRIBUTION OF PREMIUMS PER PROVINCE

4.6.1 Kwa-Zulu Natal

Table 4.33: KwaZulu-Natal - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	665	R 776 004	41	R 2 954	6.2%	0.4%
2007/08	694	R 1 059 182	4	R 4 802	0.6%	0.5%
2008/09	540	R 1 051 330	11	R 951	2.0%	0.1%
2009/10	520	R 433 737	12	R 2 553	2.3%	0.6%
2010/11	351	R 853 343	8	R 6 997	2.3%	0.8%
Total	2770	R 4 173 596	76	R 18 257		
Average					2.7%	0.4%

Source: Treasury Data (2011)

Table 4.33 presents the number of contracts that incurred premiums and their values for contracts awarded by the Kwa-Zulu Natal government over the five-year period 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 2.7% for the 5 years, the value of those premiums represented only 0.4% of the total.

The distribution of premiums incurred indicates that the values ranged from 0.1% to 0.8% over the five-years. In terms of the number of contracts that incurred premiums, during the first year under review the percentage was 6.2%, this dropped to 0.6% in 2007/08 while in the last three year it ranged from 2.0% to 2.3%.

Table 4.34: KwaZulu-Natal – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	327	R 171 273	R 613	0.4%	16	4.9%	R 5 685	12.1%	338	R 538 810	R 2 341	0.4%	25	7.4%	R 29 840	8.5%
2007/08	406	R 92 517	R 10	0.01%*	2	0.5%	R 372	2.8%	288	R 966 665	R 4 792	0.5%	2	0.7%	R 10 440	84.8%
2008/09	292	R 62 818	R 5	0.01%*	2	0.7%	R 648	0.8%	248	R 988 512	R 946	0.1%	9	3.6%	R 19 991	5.0%
2009/10	338	R 51 233	R 70	0.1%	7	2.1%	R 1 371	5.4%	182	R 382 581	R 2 483	0.7%	5	2.8%	R 25 521	10.8%
2010/11	204	R 185 633	R 1	0.001%*	1	0.5%	R 468	0.2%	147	R 567 710	R 6 996	1.3%	7	4.8%	R 55 081	14.6%
Total	1 567	R 563 474	R 699		28		R 8 544		1203	R 3 444 278	R 17 558		48		R 140 873	
Average				0.1%		1.8%		8.9%				0.5%		4.0%		14.2%

* This value is shown to 2 (or 3) decimal places due to the premium percentage value being very low.

Source: Treasury Data (2011)

Table 4.34 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Kwa-Zulu Natal government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring premiums was 28 of the 1567 contracts awarded in the ≤R500 000 category (1.8%) and 48 of the 1203 contracts awarded in the >R500 000 category (4.0%). There was variation across years with 4.9% of the contracts awarded in the ≤R500 000 category incurring premiums in 2006/07, then declining to 0.5% in 2010/11. The percentages in the >R500 000 category ranged from 0.7% to 7.4%

The total premium incurred was R690 000 in the ≤R500 000 category and R17 558 000 in the >R500 000 category. The data show that the average premium incurred over the 5 years ranged from 0.1% in the ≤R500 000 category to 0.5% in the >R500 000 category.

According to the price preference formula, the maximum premium that is permitted is 11.1% for contracts with a value >R500 000. Looking at Table 4.34 it can be seen that the average premium for >R500 000 contracts was 14.9%, with a peak of 84.8% in 2007/08.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.2

4.6.2 Limpopo

Table 4.35: Limpopo - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	427	R 688 831	0	R 0	0.0%	0%
2007/08	360	R 339 871	1	R 2	0.3%	0.001%*
2008/09	63	R 153 213	6	R 2 887	9.5%	1.9%
2009/10	41	R 209 506	1	R 319	2.4%	0.2%
2010/11	149	R 1 964 881	6	R 4 986	4.0%	0.3%
Total	1040	R 3 356 302	14	R 8 194		
Average					1.4%	0.2%

* This value is shown to 2 (or 3) decimal places due to the premium percentage value being very low.
Source: Treasury Data (2011)

Table 4.35 presents the number of contracts that incurred premiums and their value for contracts awarded by the Limpopo government between 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 1.4% for the 5 years, the value of those premiums represented only 0.2% of the total.

The distribution of premiums incurred indicates that the values ranged from 0.0% to 1.9% over the five-years. In terms of the number of contracts that incurred premiums, during the first year under review the percentage was 0.0%, followed by 0.3% in 2007/08, then increasing sharply to 9.5% in 2008/09.

Table 4.36: Limpopo – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	105	R 41 810	R 0	0.0%	0	0.0%	R 0	0.0%	322	R 647 021	R 0	0.0%	0	0.0%	R 0	0.0%
2007/08	207	R 35 100	R 2	0.01%*	1	0.5%	R 186 256	0.001%*	153	R 304 771	R 0	0.0%	0	0.0%	R 0	0.0%
2008/09	43	R 14 447	R 456	3.3%	4	9.3%	R 1 654	38.1%	20	R 138 766	R 2 431	1.8%	2	10.0%	R 7 695	46.2%
2009/10	24	R 7 327	R 0	0.0%	0	0.0%	R 0	0.0%	17	R 202 179	R 319	0.2%	1	5.9%	R 8 227	4.0%
2010/11	25	R 3 223	R 0	0.0%	0	0.0%	R 0	0.0%	124	R 1 961 658	R 4 986	0.3%	6	4.8%	R 52 312	10.5%
Total	404	R 101 907	R 458		5		R 187 910		636	R 3 254 395	R 7 736		9		R 68 234	
Average				0.5%		1.2%		0.2%				0.2%		1.4%		12.8%

* This value is shown to 2 (or 3) decimal places due to the premium percentage value being very low.

Source: Treasury Data (2011)

Table 4.36 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Limpopo government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied. The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring premiums was 5 of the 404 contracts awarded in the ≤R500 000 category (1.2%) and 9 of the 636 contracts awarded in the >R500 000 category (1.4%). The largest number of contracts incurring premiums occurred in 2008/09 when 9.3% of the ≤R500 000 contracts and 10.0% of the >R500 000 contracts incurred premiums. In the ≤R500 000 category there were three years in which no contracts incurred premiums and in the >R500 000 category no contracts incurred premiums during the first two years of the period under review.

The total premium incurred over the five-years was R458 000 in the ≤R500 000 category and R7 736 000 in the >R500 000 category. The data show that the average premium incurred over the 5 years ranged from 0.2% in the ≤R500 000 category to 12.8% in the >R500 000 category.

As mentioned above, the maximum premium that is permitted is 25% above the lowest responsive tender for contracts with a value ≤R500 00, and 11.1% for contracts with a value >R500 000. Table 4.36 shows that the 25% limit was exceeded for ≤R500 000 contracts in 2008/09 when the percentage reached 38.1%. For >R500 000 contracts the average premium for the 5 years was 14.9%, with a peak of 46.2% in 2008/09.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.3

4.6.3 Eastern Cape

Table 4.37: Eastern Cape - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	142	R 756 191	4	R 376	2.8%	0.0%
2007/08	256	R 1 519 129	27	R 9 416	10.6%	0.6%
2008/09	653	R 2 038 131	19	R 54 951	2.9%	2.8%
2009/10	297	R 734 874	8	R 11 263	2.7%	1.6%
2010/11	259	R 515 530	15	R 39 997	5.8%	8.4%
Total	1607	R 5 563 855	73	R 116 003		
Average					4.5%	2.1%

Source: Treasury Data (2011)

Table 4.37 presents the number of contracts that incurred premiums and their value for contracts awarded by the Eastern Cape government between 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 4.5% for the 5 years, the value of those premiums represented only 2.1% of the total.

The distribution of premiums incurred indicates that the values ranged from 0.0% to 8.4% over the five-years. In terms of the number of contracts that incurred premiums, during the five-years under review the percentages ranged from 2.7% in 2009/10 to 10.6% in 2007/08.

Table 4.38: Eastern Cape – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	23	R 7 100	R 0	0.0%	0	0.0%	R 0	0.0%	119	R 749 091	R 376	0.1%	4	3.4%	R 10 830	3.6%
2007/08	85	R 23 409	R 5	0.02%*	2	2.4%	R 468	1.1%	171	R 1 495 720	R 9 411	0.6%	25	14.6%	R 141 288	7.1%
2008/09	367	R 92 902	R 9 411	11.3%	5	1.4%	R 141 288	7.1%	286	R 1 945 229	R 45 540	2.4%	14	4.9%	R 101 229	81.8%
2009/10	163	R 31 268	R 0	0.0%	0	0.0%	R 0	0.0%	134	R 703 606	R 11 263	1.6%	8	6.0%	R 46 311	32.1%
2010/11	162	R 47 814	R 44	0.1%	5	3.1%	R 1 675	2.7%	97	R 467 716	R 39 953	9.3%	10	10.3%	R 433 368	10.2%
Total	800	R 202 493	R 9 460		12		R 143 431		807	R 5 361 362	R 106 543		61		R 733 026	
Average				4.9%		1.5%		7.1%				2.0%		7.6%		17.0%

* This value is shown to 2 decimal places due to the premium percentage value being very low.

Source: Treasury Data (2011)

Table 4.38 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Eastern Cape government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied. The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring premiums was 12 of the 800 contracts awarded in the ≤R500 000 category (1.5%) and 61 of the 807 contracts awarded in the >R500 000 category (2.0%). The largest number of contracts incurring premiums occurred in 2010/11 when 3.1% of the ≤R500 000 contracts and 9.3% of the >R500 000 contracts incurred premiums. In the ≤R500 000 category there were two years in which no contracts incurred premiums.

The total premium incurred over the five-years was R1 892 000 in the ≤R500 000 category and R1 072 272 in the >R500 000 category. The data show that the average premium incurred over the 5 years ranged from 7.1% in the ≤R500 000 category to 17.0% in the >R500 000 category.

As mentioned above, the maximum premium that is permitted is 11.1% for contracts with a value >R500 000. Table 4.38 shows that the 11.1% limit was exceeded for >R500 000 contracts in 2008/09 when the percentage reached 81.8% and again in 2009/10 when it was 32.1%. For >R500 000 contracts the average premium for the 5 years was 17.0%.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.4

4.6.4 Mpumalanga

Table 4.39: Mpumalanga - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	217	R 843 306	113	R 35 555	52.1%	4.4%
2007/08	190	R 1 665 330	2	R 526	1.1%	0.03%
2008/09	101	R 1 213 586	17	R 8 714	16.8%	0.7%
2009/10	49	R 409 471	9	R 10 849	18.4%	2.7%
2010/11	191	R 644 958	12	R 9 675	6.3%	1.5%
Total	748	R 4 776 651	153	R 65 319		
Average					20.5%	1.4%

Source: Treasury Data (2011)

Table 4.39 presents the number of contracts that incurred premiums and their value for contracts awarded by the Mpumalanga government between 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 20.5% for the 5 years, the value of those premiums represented only 1.4% of the total.

The distribution of premiums incurred indicates that the values ranged from 0.3% to 4.4% over the five-years. In terms of the number of contracts that incurred premiums, during the five-years under review the percentages ranged from 1.1% in 2007/08 to 52.1% in 20006/07.

Table 4.40: Mpumalanga – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	74	R 21 140	R 914	4.5%	65	87.8%	R 19 778	4.9%	143	R 822 166	R 34 641	4.4%	48	33.6%	R 330 880	11.7%
2007/08	36	R 8 925	R 0.4**	0.004%*	1	2.8%	R 197	0.2%	154	R 1 656 405	R 526	0.0%	1	0.7%	R 11 448	4.8%
2008/09	29	R 6 966	R 20	0.3%	1	3.5%	R 112	21.7%	72	R 1 206 620	R 8 694	0.7%	16	22.2%	R 54 265	19.1%
2009/10	23	R 21 227	R 0	0.0%	0	0.0%	R 0	0.0%	26	R 388 244	R 10 849	2.9%	9	34.6%	R 132 646	8.9%
2010/11	47	R 14 956	R 93	0.6%	2	4.3%	R 952	10.8%	144	R 630 002	R 9 582	1.5%	10	6.9%	R 82 646	13.1%
Total	209	R 73 214	R 1 027		69		R 21 039		539	R 4 703 437	R 64 292		84		R 611 885	
Average				1.4%		33.0%		5.1%				1.4%		15.6%		11.7%

* This value is shown to 3 decimal places due to the premium percentage value being very low.

** This value is shown to 1 decimal place due to the premium value being very low.

Source: Treasury Data (2011)

Table 4.40 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Mpumalanga government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied. The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring premiums was 69 of the 209 contracts awarded in the ≤R500 000 category (33.0%) and 84 of the 539 contracts awarded in the >R500 000 category (15.6%). The largest number of contracts incurring premiums occurred in 2006/07 when 87.8% of the ≤R500 000 contracts and 4.4% of the >R500 000 contracts incurred premiums. In the ≤R500 000 category there was 1 year in which no contracts incurred premiums.

The total premium incurred over the five-years was R73 214 000 in the ≤R500 000 category and R4 703 437 in the >R500 000 category. The data show that the average premium incurred over the 5 years ranged from 19.1% in the >R500 000 category to 21.7% in the ≤R500 000 category.

As mentioned above, the maximum premium that is permitted is 11.1% for contracts with a value >R500 000. Table 4.40 shows that the 11.1% limit was exceeded in three separate years for >R500 000 contracts; in 2006/07 it was 11.7%, in 2008/09 it was 19.1%, and in 2010/11 it was 13.1%. For >R500 000 contracts the average premium incurred for the 5 years was 11.7%.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.5

4.6.5 Free State

Table 4.41: Free State - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	83	R 662 012	10	R 8 075	12.1%	1.2%
2007/08	174	R 1 004 829	14	R 1 771	8.1%	0.2%
2008/09	205	R 1 108 283	4	R 15 281	2.0%	1.4%
2009/10	179	R 40 630	1	R 0	0.6%	0.0%
2010/11	236	R 531 199	4	R 490	1.7%	0.1%
Total	877	R 3 346 953	33	R 25 617		
Average					3.8%	0.8%

Source: Treasury Data (2011)

Table 4.41 presents the number of contracts that incurred premiums and their value for contracts awarded by the Free State government between 2006/07 – 2010/11. The data show that the number of contracts incurring premiums averaged 3.8% for the 5 years, with the value of those premiums representing only 0.8% of the total.

The distribution of premiums incurred indicates that the values ranged from 0% to 1.4% over the five-years. In terms of the number of contracts that incurred premiums, during the five-years under review the percentages ranged from 0.6% in 2009/10 to 12.1% in 20006/07.

Table 4.42: Free State – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

	Contracts ≤R500 000								Contracts >R500 000							
Financial Year	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	30	R 6 350	R 0	0.0%	0	0.0%	R 0	0.0%	53	R 655 662	R 8 075	1.3%	10	18.9%	R 61 019	15.3%
2007/08	87	R 7 223	R 7	0.1%	1	1.2%	R 373	1.9%	87	R 997 606	R 1 764	0.2%	13	14.9%	R 92 390	2.0%
2008/09	169	R 7 215	R 7	0.1%	1	0.5%	R 45	18.4%	36	R 1 101 068	R 15 274	1.4%	3	8.3%	R 400 797	4.0%
2009/10	154	R 15 628	R 0.1**	0.001%*	1	0.7%	R 31	0.3%	25	R 25 002	R 0	0.0%	0	0.0%	R 0	0.0%
2010/11	96	R 22 716	R 490	2.2%	4	4.2%	R 343	-333.3%***	140	R 508 483	R 0	0.0%	0	0.0%	R 0	0.0%
Total	536	R 59 132	R 504***		7		R 792		341	R 3 287 821	R 25 113		26		R 554 206	
Average				0.9%		1.3%		175.0%***				0.8%		7.6%		4.8%

* This value is shown to 3 decimal places due to the premium percentage value being very low.

** This value is shown to 1 decimal place due to the premium value being very low.

*** The table contains certain data (as reported by National Treasury) which appear to be incorrect. Specifically, in 2010/11 the reported value of all contracts in the ≤R500 000 category that incurred penalties was R343 000 (including premiums) yet the reported value of the premiums alone was R490 000. This discrepancy also renders the calculated 5-year average premium incurred (175%) unreliable for contracts in the ≤R500 000 category. In addition, it distorts the 5 year total of the premiums incurred for those contracts. However, the problem does not affect the reliability of other data in the table (including all other yearly data for ≤R500 000 contracts).

Source: Treasury Data (2011)

Table 4.42 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Free State government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

With the exception of the data limitations indicated at the bottom of the table, the other data show that the total number of contracts incurring a premium was 7 of the 536 contracts awarded in the ≤R500 000 category (1.3%) and 26 of the 341 contracts awarded in the >R500 000 category (4.8%). There was variation across years with 4.2% of the contracts awarded in the ≤R500 000 category incurring premiums in 2010/11, but 0% in 2006/07. The percentages in the >R500 000 category ranged from 0% to 15.3%. The total premium incurred was R5 023 000 in the >R500 000 category and the average premium incurred over the 5 years in the >R500 000 category was 0.5%.

According to the price preference formula the maximum premium that is permitted for contracts with a value >R500 000 is 11.1%. Looking at Table 4.42 it can be seen that the percentage premium paid in 2006/07 for >R500 000 contracts was 15.3%.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.6

4.6.6 Gauteng

Table 4.43: Gauteng - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	21	R 17 873	0	R 0	0.0%	0.0%**
2007/08	85	R 36 180	0	R 0	0.0%	0.0%**
2008/09	230	R 2 105 696	0	R 0	0.0%	0.0%**
2009/10	82	R 146 398	0	R 0	0.0%	0.0%**
2010/11	78	R 1 434 418	2	R 391	2.6%	0.03%*
Total	496	R 3 740 565	2	R 391		
Average					0.4%	0.01%*

* This value is shown to 2 decimal places due to the premium percentage value being very low.

** This value is shown to 1 decimal place due to the premium value being very low.

Source: Treasury Data (2011)

Table 4.43 presents the number of contracts that incurred premiums and their value for contracts awarded by the Gauteng government between 2006/07 – 2010/11. The data show that the number of contracts incurring premiums averaged 0.4% for the 5 years, with the value of those premiums representing only 0.01% of the total.

The distribution of premiums incurred indicates that the values ranged from 0% to 0.3% over the five-years. From 2006/07 to 2009/2010 no contracts incurred premiums, and only 2.6% of the contracts awarded in 2010/11 incurred premiums.

Table 4.44: Gauteng – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	20	R 6 173	R 0	0.0%	0	0.0%	R 0	0.0%	1	R 11 700	R 0	0.0%	0	0.0%	R 0	0.0%
2007/08	80	R 20 443	R 0	0.0%	0	0.0%	R 0	0.0%	5	R 15 737	R 0	0.0%	0	0.0%	R 0	0.0%
2008/09	86	R 18 925	R 0	0.0%	0	0.0%	R 0	0.0%	144	R 2 086 771	R 0	0.0%	0	0.0%	R 0	0.0%
2009/10	63	R 15 381	R 0	0.0%	0	0.0%	R 0	0.0%	19	R 131 017	R 0	0.0%	0	0.0%	R 0	0.0%
2010/11	18	R 3 460	R 0	0.0%	0	0.0%	R 0	0.0%	60	R 1 430 958	R 391	0.03%*	2	3.3%	R 4 611	9.3%
Total	267	R 64 382	R 0		0		R 0		229	R 3 676 183	R 391		2		R 4 611	
Average				0.0%		0.0%		0.0%				0.01%*		0.9%		9.3%

* This value is shown to 2 decimal places due to the premium percentage value being very low.

Source: Treasury Data (2011)

Table 4.44 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Gauteng government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that in only one of the five-years under review (2010/11) were contracts awarded that incurred premiums, and only in the >R500 000 category. Of the 229 contracts awarded in that year and that category only 2 (0.9%) incurred premiums. The total premium incurred was R391 000 which equated to 9.3% of the total value of contracts incurring premiums.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.7

4.6.7 Northern Cape

Table 4.45: Northern Cape - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	112	R 513 767	0	R 0	0.0%	0.0%
2007/08	84	R 353 302	1	R 12	1.2%	0.003%*
2008/09	57	R 177 209	0	R 0	0.0%	0.0%
2009/10	30	R 213 278	2	R 6	6.7%	0.003%*
2010/11	52	R 113 931	0	R 0	0.0%	0.0%
Total	335	R 1 371 487	3	R 18		
Average					0.9%	0.001%*

* This value is shown to 3 decimal places due to the premium percentage value being very low.

Source: Treasury Data (2011)

Table 4.45 presents the number of contracts that incurred premiums and their value for contracts awarded by the Northern Cape government between 2006/07 – 2010/11. The data show that the number of contracts incurring premiums was 3 of the 335 contracts awarded for an average of 0.9% for the 5 years. These contracts were awarded in only 2 of the 5 years, 2007/08 and 2009/10, with the value of those premiums representing only 0.001% of the five-year total value. The distribution of premiums incurred indicates that the values ranged from 0% to 6.7% over the five-years.

Table 4.46: Northern Cape – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	77	R 33 490	R 0	0.0%	0	0.0%	R 0	0.0%	35	R 480 277	R 0	0.0%	0	0.0%	R 0	0.0%
2007/08	54	R 14 290	R 0	0.0%	0	0.0%	R 0	0.0%	30	R 339 012	R 12	0.004%*	1	3.3%	R 2 453	0.5%
2008/09	27	R 4 931	R 0	0.0%	0	0.0%	R 0	0.0%	30	R 172 278	R 0	0.0%	0	0.0%	R 0	0.0%
2009/10	19	R 4 178	R 6	0.1%	2	10.5%	R 162	3.9%	11	R 209 100	R 0	0.0%	0	0.0%	R 0	0.0%
2010/11	29	R 3 682	R 0	0.0%	0	0.0%	R 0	0.0%	23	R 110 249	R 0	0.0%	0	0.0%	R 0	0.0%
Total	206	R 60 571	R 6		2		R 162		129	R 1 310 916	R 12		1		R 2 453	
Average				0.01%		1.0%		3.9%				0.001%*		0.8%		0.5%

* This value is shown to 3 decimal places due to the premium percentage value being very low.

Source: Treasury Data (2011)

Table 4.46 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Northern Cape government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring a premium was 2 of the 206 awarded in the ≤R500 000 category and 1 of the 129 contracts awarded in the >R500 000 category. In the ≤R500 000 category the 2 contracts incurring premiums were both awarded in 2009/10 and in the >R500 000 category the 1 contract incurring a premium was awarded in 2007/08. The 2 contracts in the ≤R500 000 category represented 10.5% of the contracts awarded in 2009/10, but only 1.0% of the five-year average. The 1 contract in the >R500 000 category represented 3.3% of the contracts awarded in 2007/08, but only 0.8% of the five-year average.

The total premium incurred was R6 000 in the ≤R500 000 category which represented 3.9% of the value of all contracts incurring premiums. The total premium incurred was R12 000 in the >R500 000 category which represented 0.5% of the value of all contracts incurring premiums.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.8

4.6.8 North West

Table 4.47: North West - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	152	R 436 374	38	R 15 636	25.0%	3.7%
2007/08	78	R 357 438	18	R 5 743	23.1%	1.6%
2008/09	34	R 787 077	3	R 3 278	8.8%	0.4%
2009/10	22	R 172 987	5	R 8 023	22.7%	4.9%
2010/11	27	R 123 481	1	R 3	3.7%	0.0%
Total	313	R 1 877 357	65	R 32 683		
Average					20.8%	1.8%

Source: Treasury Data (2011)

Table 4.47 presents the number of contracts that incurred premiums and their value for contracts awarded by the North West government between 2006/07 – 2010/11. The data show that the number of contracts incurring premiums averaged 20.8% for the 5 years, but the value of those premiums represented only 1.8% of the total.

The distribution of premiums incurred indicates that the values ranged from 0.4% to 4.9% over the five-years. In terms of the number of contracts that incurred premiums, during the five-years under review the percentages ranged from 3.7% in 2010/11 to 25.0% in 20006/07.

Table 4.48: North West – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

Financial Year	Contracts ≤R500 000								Contracts >R500 000							
	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	53	R 16 109	R 447	2.9%	12	22.6%	R 4 224	11.8%	99	R 420 265	R 15 189	3.8%	26	26.3%	R 180 450	9.2%
2007/08	30	R 6 865	R 37	0.5%	2	6.7%	R 944	4.1%	48	R 350 573	R 5 706	1.7%	16	33.3%	R 72 182	8.6%
2008/09	9	R 2 951	R 0	0.0%	0	0.0%	R 0	0.0%	25	R 784 126	R 3 278	0.4%	3	12.0%	R 30 575	12.0%
2009/10	8	R 1 647	R 72	4.6%	1	12.5%	R 171	72.7%	14	R 171 340	R 7 951	4.9%	4	28.6%	R 140 474	6.0%
2010/11	5	R 2 057	R 3	0.2%	1	20.0%	R 287	1.1%	22	R 121 424	R 0	0.0%	0	0.0%	R 0	0.0%
Total	105	R 29 629	R 559		16		R 5 626		208	R 1 847 728	R 32 124		49		R 423 681	
Average				1.9%		15.2%		11.0%				1.8%		23.6%		8.2%

Source: Treasury Data (2011)

Table 4.48 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the North West government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring premiums was 16 of the 105 contracts awarded in the ≤R500 000 category (15.2%) and 49 of the 208 contracts awarded in the >R500 000 category (9.8%). There was variation across years with 0% of the contracts awarded in the ≤R500 000 category incurring a premium in 2008/09, but increasing to 22.6% in 2006/07. In the >R500 000 category the percentages ranged from 0% in 2010/11 to 33.3% in 2007/08.

The total premium incurred was R559 000 in the ≤R500 000 category and R32 124 000 in the >R500 000 category. The data show that the average premium incurred over the 5 years was 11.0% in the ≤R500 000 category and 8.2% in the >R500 000 category.

According to the price preference formula the maximum premium that is permitted is 25% above the lowest responsive tender for contracts with a value ≤R500 000. Looking at Table 4.48 it can be seen that this maximum was exceeded in the ≤R500 000 category in 2009/10 (72.7%).

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.9

4.6.9 Western Cape

Table 4.49: Western Cape - Premiums incurred over the five-year period 2006/07 – 2010/11

Financial Year	Total No. of contracts	Total value of contracts (ZAR 000's)	No. of contracts awarded with premiums	Value of premiums paid (ZAR 000's)	% of contracts awarded with premiums	% premium paid
2006/07	17	R 15 699	1	R 189	5.9%	1.2%
2007/08	9	R 5 622	0	R 0	0.0%	0.0%
2008/09	2	R 99 761	1	R 8 410	50.0%	9.2%
2009/10	80	R 726 644	2	R 10 188	2.5%	1.4%
2010/11	20	R 423 164	3	R 438	15.0%	0.1%
Total	128	R 1 270 890	7	R 19 225		
Average					5.5%	1.5%

Source: Treasury Data (2011)

Table 4.49 presents the number of contracts that incurred premiums and their value for contracts awarded by the Western Cape government between 2006/07 – 2010/11. The data show that the number of contracts incurring premiums averaged 5.5% for the 5 years, with the value of those premiums representing only 1.5% of the total.

The distribution of premiums incurred indicates that the values ranged from 0% to 9.2% over the five-years. In terms of the number of contracts that incurred premiums, during the five-years under review the percentages ranged from 0% in 2007/8 to 50.0% in 20008/09. It should be noted, however, that this high percentage was due to the fact that only 2 contracts were awarded in that year, with 1 of them incurring a premium.

Table 4.50: Western Cape – Analysis of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated by contract threshold value categories

	Contracts ≤R500 000								Contracts >R500 000							
Financial Year	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	8	R 3 915	R 189	5.1%	1	12.5%	R 215	726.9%	9	R 11 784	R 0	0.0%	0	0.0%	R 0	0.0%
2007/08	2	R 594	R 0	0.0%	0	0.0%	R 0	0.0%	7	R 5 028	R 0	0.0%	0	0.0%	R 0	0.0%
2008/09	1	R 139	R 0	0.0%	0	0.0%	R 0	0.0%	1	R 99 622	R 8 410	9.2%	1	100.0%	R 99 622	9.2%
2009/10	39	R 13 198	R 0	0.0%	0	0.0%	R 0	0.0%	41	R 713 446	R 10 188	1.5%	2	4.9%	R 41 135	32.9%
2010/11	8	R 1 266	R 20	1.6%	1	12.5%	R 440	4.8%	12	R 421 898	R 418	0.1%	2	16.7%	R 72 570	0.6%
Total	58	R 19 112	R 209		2		R 655		70	R 1 251 778	R 19 016		5		R213 327	
Average				1.1%		3.5%		46.9%				1.5%		7.1%		9.8%

Source: Treasury Data (2011)

Table 4.50 shows the distribution of premiums incurred over the five-year period 2006/07 – 2010/11 for contracts awarded by the Western Cape government aggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The key elements of the table are described in detail following Table 4.11 and Table 4.22, above.

The data show that the total number of contracts incurring a premium was 2 of the 58 contracts awarded in the ≤R500 000 category (3.5%) and 5 of the 70 contracts awarded in the >R500 000 category (7.1%). The total premium incurred was R209 000 in the ≤R500 000 category and R19 016 000 in the >R500 000 category. The data show that the average premium incurred over the 5 years was 1.1% in the ≤R500 000 category and 1.5% in the >R500 000 category.

According to the price preference formula the maximum premium that is permitted is 25% above the lowest responsive tender for contracts with a value ≤R500 00, and 11.1% for contracts with a value >R500 000. Looking at Table 4.50 it can be seen that the average premium for ≤R500 000 contracts was 46.9%, which resulted from the very high premium percentage of 726.9% incurred by 1 contract in 2006/07. For >R500 000 contracts the five-year average was 9.8%, with a peak of 32.9% in 2009/10.

A list of the contracts that exceeded the maximum allowable premiums is provided in Appendix 4.10

4.7 RESULTS FOR NATIONAL GOVERNMENT DEPARTMENTS AND PROVINCES COMBINED

4.7.1 Distribution of contracts over the five-year period

Table 4.51: COMBINED (National and Provincial) - Number and value of contracts awarded over the five-year period

Financial Year	All Contracts				≤R500 000 Contracts				>R500 000 Contracts			
	No.	%	Value (ZAR 000's)	%	No.	%	Value (ZAR 000's)	%	No.	%	Value (ZAR 000's)	%
2006/07	2154	21.6%	R 5 831 321	11.3%	900	41.8%	R 343 282	5.9%	1254	58.2%	R 5 488 038	94.1%
2007/08	2192	22.0%	R 8 634 659	16.7%	1086	49.5%	R 231 826	2.7%	1106	50.5%	R 8 402 834	97.3%
2008/09	2176	21.9%	R 22 737 886	44.0%	1100	50.6%	R 227 473	1.0%	1076	49.4%	R 22 510 413	99.0%
2009/10	1529	15.4%	R 4 465 170	8.6%	951	62.2%	R 187 244	4.2%	578	37.8%	R 4 277 926	95.8%
2010/11	1904	19.1%	R 10 059 323	19.4%	890	46.7%	R 354 754	3.5%	1014	53.3%	R 9 704 570	96.5%
Total	9955	100.0%	R 51 728 359	100.0%	4927		R 1 344 579		5028		R 50 383 781	
% of Total						49.5%		2.6%		50.5%		97.4%

Source: Treasury Data (2011)

Table 4.5.1 presents the combined number of contracts, and their total value, that were awarded by national and provincial government departments between 01 April 2006 and 31 March 2011. These data are then disaggregated into those contracts which had values ≤R500 000 and those which had values >R500 000. The table shows that over this five-year period a total of 9955 contracts with a combined value of R51.7 billion were awarded. For all contracts the fewest number (n=1529) were awarded in 2009/10 and the highest number (n=2192) in 2007/08. The 1904 contracts awarded in 2009/10 constituted 19.1% of the total number of contracts during the five-year period, while the 2192 contracts awarded in 2007/08 accounted for 22.0%.

The table shows that the value of contracts awarded in 2009/10 was the lowest and represented 8.6% of the five-year total, although the number of contracts constituted 15.4% of the total. This was due to a large percentage (62.2%) of those contracts being valued at ≤R500 000. The total value of all contracts in a

single year was largest in 2008/2009 at just over R22.7 billion, which equated to 44.0% of the value of all contracts awarded for the five-years. This significantly higher value can most likely be attributed to the many government projects that were initiated for the 2010 FIFA World Cup soccer tournament that was held in South Africa.

It can also be noted that over the five-year period the total number of contracts awarded in the ≤R500 000 category (n=4927) was only 1% less than the total number of contracts awarded in the >R500 000 value category (n=5028). What is particularly striking is a comparison of the total value of the contract categories during this period. The total value of all contracts awarded in the ≤R500 000 category was just over R1.3 billion, whereas the total value for the >R500 000 category was just under R50.4 billion – which represents 97.4% of total value of all contracts.

Figure 4.33 displays the combined data for the number of contracts awarded by national and provincial governments. It shows that provincial governments awarded substantially more construction related contracts (83%) than national government. Figure 4.34 displays the combined data for the value of contracts awarded by national and provincial governments. In terms of the value of contracts those awarded by provincial governments equated to 57% of the combined total, whilst those awarded by national government equated to 43%.

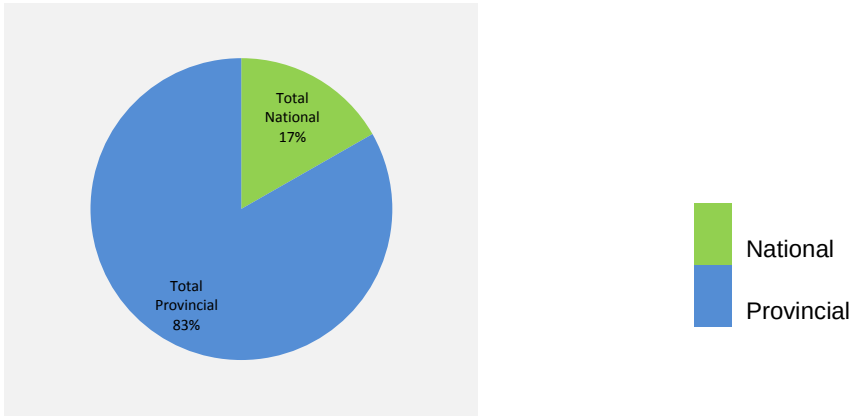


Figure 4.33: COMBINED - Distribution of contracts awarded (national and provincial) over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

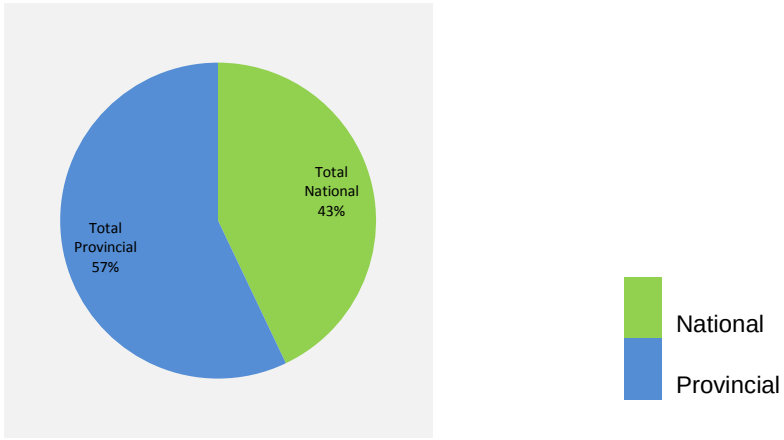


Figure 4.34: COMBINED - Distribution of value of contracts awarded (national and provincial) over the five-year period 2006/07 – 2010/11

Source: Treasury Data (2011)

Table 4.52: COMBINED (National and Provincial) - Number and Value of Contracts Awarded to HDI and Non-HDI Enterprises

Financial Year	Total		HDI Enterprises		Non-HDI Enterprises	
	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)	No.	Value (ZAR 000's)
2006/07	2 154	R 5 831 321	1 845	R 4 931 245	309	R 900 076
2007/08	2 192	R 8 634 660	1 830	R 7 794 687	362	R 839 973
2008/09	2 176	R 22 737 886	1 757	R 20 840 053	419	R 1 897 833
2009/10	1 529	R 4 465 172	1 290	R 3 720 701	239	R 744 471
2010/11	1 904	R 10 059 323	1 701	R 8 668 493	203	R 1 390 830
Total	9 955	R 51 728 362	8 423	R 45 955 179	1 532	R 5 773 183

Source: Treasury Data (2011)

Table 4.52 presents the combined number and total value of contracts awarded to HDI and non-HDI enterprises by national and provincial government departments between 2006/07 – 2010/11. Figures 4.35 and 4.36 below take the same data and present it graphically based on percentages. The data reveal that a significantly higher number of contracts were awarded to HDI enterprises than to non-HDI enterprises. For each year during this period HDI enterprises consistently received more than 80% of the number of contracts awarded.

On a contract value basis, HDI enterprises always received contracts that equated to more than 80% of the total value for any given year. Over the 5-year period the contracts awarded to HDI enterprises constituted 88.8% of the total value of all contracts awarded.

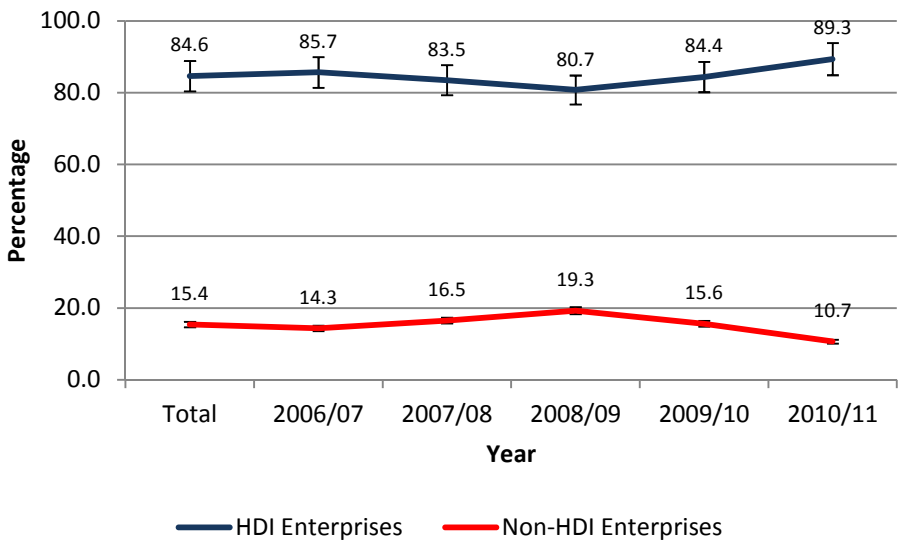


Figure 4.35: COMBINED (National and Provincial) - Percentage of the total number of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises in both National and Provincial Departments

Source: Treasury Data (2011)

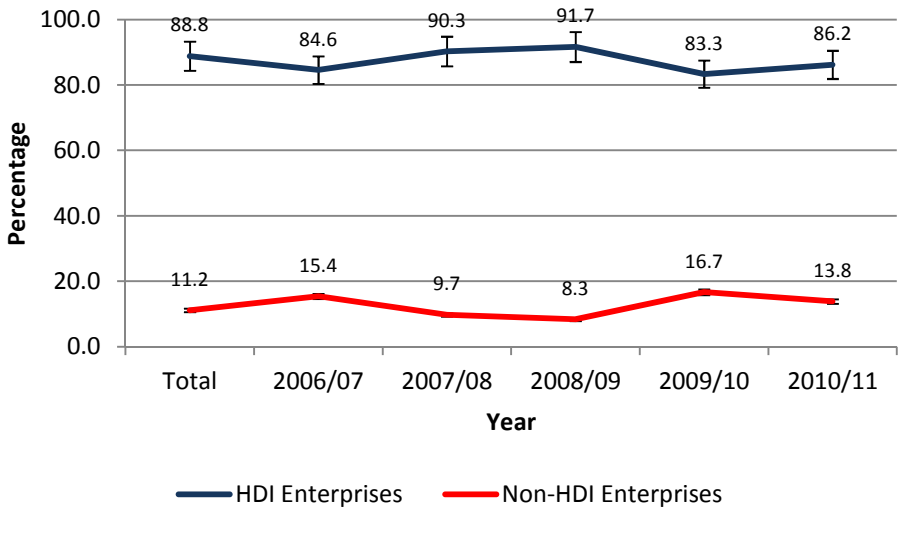


Figure 4.36: COMBINED (National and Provincial) - Percentage of the total value of contracts awarded to HDI Enterprises compared to Non-HDI Enterprises in both National and Provincial Departments

Source: Treasury Data (2011)

4.7.2 Premiums incurred over the five-year period

Table 4.53: COMBINED (National and Provincial) - Premiums incurred over the five-year period 2006/07 – 2010/11

Year	Total No. of contracts	Total Value of contracts (ZAR 000's)	No. of contracts incurring premiums	Value of premium paid (ZAR 000's)	% of contracts incurring premiums	% premium incurred
2006/07	2 154	R 5 831 321	248	R 74 394	11.5%	1.3%
2007/08	2 192	R 8 634 660	100	R 40 752	4.6%	0.5%
2008/09	2 176	R 22 737 886	99	R 274 524	4.6%	1.2%
2009/10	1 529	R 4 465 171	55	R 56 313	3.6%	1.3%
2010/11	1 904	R 10 059 323	70	R 274 831	3.7%	2.8%
Total	9 955	R 51 728 360	572	R 720 814		
Average					5.8%	1.4%

Source: Treasury Data (2011)

Table 4.53 presents combined data for the number of contracts that incurred premiums and their value for national and provincial contracts awarded over the five-year period 2006/07 – 2010/11. The data show that although the number of contracts incurring premiums averaged 5.8% for the 5 years, the value of those premiums represented only 1.4% of the total.

The distribution of premiums incurred indicates that the highest value occurred in 2010/11 at 2.8%, whilst in each of the other four years the premium value remained consistently at about the 1% level. In terms of the number of contracts that incurred premiums, during the first year under review the percentage was 11.5% then decreased and remained in the 3.6% – 4.6% range for the last four years. At the same time as the number of contracts incurring premiums declined and remained constant the amount of the premium of the last four years was increasing to 2.8% in 2010/11. This indicates that the value of premiums during the last year was higher than for the previous 3 years under review.

Table 4.54: COMBINED (National and Provincial) - Distribution of Premiums incurred over the five-year period, disaggregated for the ≤R 500 000 and >R 500 000 value categories

	Contracts ≤R500 000								Contracts >R500 000							
Year	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% Premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums	Total No.	Total value of all contracts (ZAR 000's)	Total premium incurred (ZAR 000's)	% Premium incurred	No. of contracts incurring premiums	% of contracts incurring premiums	Value of contracts that incurred premiums (ZAR 000's)	Actual premium (%) incurred on contracts that incurred premiums
2006/07	900	R 343 282	R 2 968	0.9%	118	13.1%	R 35 077	9.2%	1254	R 5 488 038	R 71 427	1.3%	130	10.4%	R 685 076	11.6%
2007/08	1 086	R 231 826	R 569	0.2%	21	1.9%	R 193 873	0.3%	1106	R 8 402 834	R 40 183	0.5%	79	7.1%	R 534 920	8.1%
2008/09	1 100	R 227 473	R 10 146	4.7%	21	1.9%	R 146 139	7.5%	1076	R 22 510 413	R 264 378	1.2%	78	7.2%	R 3 247 611	8.9%
2009/10	951	R 187 244	R 300	0.2%	14	1.5%	R 2 248	15.4%	578	R 4 277 926	R 56 013	1.3%	41	7.1%	R 652 642	9.4%
2010/11	890	R 354 754	R 854	0.2%	19	2.1%	R 5 916	16.9%	1014	R 9 704 570	R 273 977	2.9%	51	5.0%	R 1 948 043	16.4%
Total	4 927	R 1 344 579	R 14 837		193		R 383 253		5028	R 50 383 781	R 705 978		379		R 7 068 292	
Average				1.1%		3.9%		4.0%				1.4%		7.5%		11.1%

Source: Treasury Data (2011)

Table 4.54 presents the combined data for national and provincial governments and show the distribution of premiums incurred over the five-year period 2006/07 – 2010/11, disaggregated according to the two categories of threshold values where the 80/20 and 90/10 preference point system was applied, i.e. contracts ≤R500 000 (80/20) and >R500 000 (90/10). The data show little difference between the average premium paid over the 5 years in either the ≤R500 000 category (1.1%) or the >R500 000 category (1.4%).

In 2008/09 the percentage premium incurred for ≤R500 000 contracts was 4.7%, which was higher than the percentage premium incurred for the remaining four years, and much higher than the five-year average of 1.1%. The percentage of the number of contracts awarded with premiums was much higher in the first year for contracts ≤R500 000 as compared to the last 4 years, as well as being above the five-year average of 3.9%. For contracts >R500 000 awarded in the first year, the percentage of the number of contracts awarded with premiums was much higher than the five-year average of 7.5%

According to the price preference formula the maximum premium that is permitted is 25% above the lowest responsive tender for contracts with a value ≤R500 00, and 11.1% for contracts with a value >R500 000. Looking at Table 4.54 it can be seen that in the >R500 00 category the actual percent premium paid in 2006/07 was 11.6% and 16.4% in 2010/11.

4.8 SUMMARY

This chapter presented the results and findings of the data analysis of the Treasury data in order to establish the number and value of contracts awarded to businesses with HDI shareholding and the distribution of these contracts on the basis of race and gender as provided for in the PPPFA at both national and provincial levels. In addition, the results also establish the financial cost premiums that were incurred through the implementation of the preferential

procurement policy. The interpretation and discussion of these results in relation to the research objectives are addressed in Chapter 6.

CHAPTER 5: RESULTS AND DISCUSSION OF SURVEY DATA

5.1 INTRODUCTION

This chapter presents and discusses the results and findings from the analysis of the questionnaire survey.

As described in Chapter 3, a sampling methodology was used to determine the survey sample size from a population of 1985 construction enterprises selected from the CIDB Register of Contractors (Grades 2 to 9). The original intention was to stratify the population according to both HDI status and provincial distribution. It was on this basis that a sample size of 596 was derived for a margin of error of 5 percent.

However, in administering the Survey Questionnaire, and in spite of numerous follow up reminders to survey recipients, the response rate was low, with a 0% response rate from some provinces. To ensure credible and acceptable data, a decision was taken to drop provincial distribution as a stratification category and instead use the HDI status of respondent enterprises on a national level. Therefore, based on a population size of 1985, the return rate of 259 responses of a sample size was deemed to be acceptable for a 6% margin of error. The response rate of 259 returns exceeded the number of 236 required for the 6% margin of error. In comparison, the required number for a 5% margin of error is 322. Although efforts were made to achieve a higher response rate, this proved to be unsuccessful.

According to Buys (2004), the response rate from respondents on other studies relating to the construction industry ranged from 7.3%; 16.3%; 19.25%; 25%; 32.2% to 40%. The overall response rate for this study is 44% and is considered acceptable.

The responses from 259 questionnaire responses were analysed to address the following research objectives:

(i) To establish whether the preferential procurement policy helped contractors with HDI shareholding to grow their businesses; and
(ii) To determine whether contractors with HDI shareholding contractors, as beneficiaries of the policy, understood the application (and intention) of the preferential procurement policy.

5.2 RESULTS OF DESCRIPTIVE DATA ANALYSES AND DISCUSSION

5.2.1 General Characteristics of Survey Enterprises

A general description of the characteristics of the survey respondents is presented in Tables 5.1, 5.2, 5.3, 5.4 and 5.5.

For ease of reference the following definition of terms will apply for all data presented in this chapter:

Black Male Enterprises:	having >50% ownership by black males
Black Female Enterprises:	having >50% ownership by black females
White Female Enterprises:	having >50% ownership by white females
Female Enterprises:	having >50% ownership by females.

Table 5.1: HDI and Gender Status of Responding Enterprises

(n = 259)

HDI Status	Number	%
Black Female Enterprises	145	56.0%
Black Male Enterprises	111	42.9%
White Female Enterprises	3	1.2%
Gender	**Number**	**%**
Female Enterprises	148	57.1%
Black Male Enterprises	111	42.9%

Source: Survey Data

Table 5.1 shows that 56% of enterprises that responded were majority owned by black females (n=145), with black males (n=111) constituting 42.9%, and white females (n=3) 1.2%. In total, 98.2% of the responding enterprises were majority black owned, 57.2% were female owned enterprises and 42.9% black male owned. Figure 5.1 illustrates the distribution of HDI status of the responding enterprises.

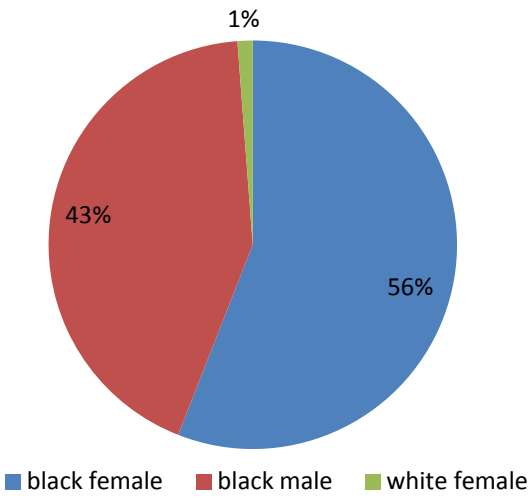


Figure 5.1: Distribution of HDI Status of Responding Enterprises

Source: Survey Data

Table 5.2: HDI Provincial Distribution

Province	White female enterprises (>50% ownership)		Black female enterprises (>50% ownership)		Black male enterprises (>50% ownership)		Total	
	No.	%	No.	%	No.	%	No.	%
Eastern Cape	1	33.3%	22	15.2%	21	18.9%	44	16.99%
Free State	0	0.0%	22	15.2%	27	24.3%	49	18.92%
Gauteng	2	66.7%	19	13.1%	27	24.3%	48	18.53%
KwaZulu-Natal	0	0.0%	39	26.8%	19	17.1%	58	22.39%
Limpopo	0	0.0%	21	14.5%	3	2.7%	24	9.27%
Mpumalanga	0	0.0%	17	11.7%	5	4.5%	22	8.49%
North West	0	0.0%	2	1.4%	2	1.8%	4	1.54%
Northern Cape	0	0.0%	2	1.4%	0	0.0%	2	0.77%
Western Cape	0	0.0%	1	0.7%	7	6.3%	8	3.09%
Total	3	100%	145	100%	111	100%	259	100%

Source: Survey Data

Data from Table 5.2 show that 22.39% of the responding enterprises (n=58) were based in KwaZulu-Natal, while only 0.77% were from Northern Cape (n=2). The largest number of survey responses from female owned enterprises (n=39) came from KwaZulu-Natal and made up 26.8% of the total, while the fewest (n=1) were from the Western Cape. The most survey responses from enterprises owned by black males were from the Free State (n=27) and Gauteng (n=27), each of which constituted 24.3% of the total for black male owned.

Table 5.3: Provincial Distribution of Business Location

(n = 259)

Province	One Province		Two Provinces		Three Provinces	
	No.	%	No.	%	No.	%
Eastern Cape	44	17.0%	2	11.1%	0	0.0%
Free State	49	18.9%	1	5.6%	0	0.0%
Gauteng	48	18.5%	4	22.2%	1	50.0%
KwaZulu-Natal	58	22.4%	3	16.7%	1	50.0%
Limpopo	24	9.3%	1	5.6%	0	0.0%
Mpumalanga	22	8.5%	4	22.2%	0	0.0%
North West	4	1.5%	3	16.7%	0	0.0%
Northern Cape	2	0.8%	0	0.0%	0	0.0%
Western Cape	8	3.1%	0	0.0%	0	0.0%
Total	259	100%	18	100%	2	100%

Source: Survey Data

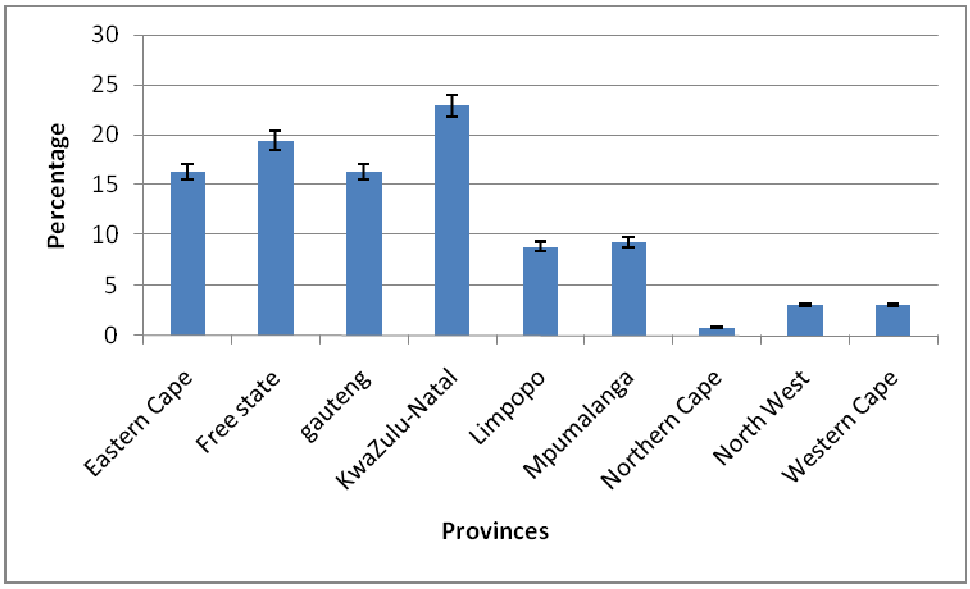


Figure 5.2: Graphic Illustration of Business Location per Province

Source: Survey Data

Table 5.3 and Figure 5.2 present survey data on the distribution of respondents across provinces. Respondents from Kwa-Zulu Natal (58), Free State (49), Gauteng (48) and Eastern Cape (44) comprised 74% of the total number responses. Of the total, 18 enterprises have offices in two provinces and two enterprises reported offices in three provinces.

Table 5.4: Time Period When Company Established

(n = 250)

Time Period	Number	%
Pre-1960	2	0.8%
1961 to 1970	1	0.4%
1971 to 1980	2	0.8%
1981 to 1990	5	2.0%
1991 to 1993	3	1.2%
1994 to 1999	32	12.8%
2000 to 2005	142	56.8%
2006 to 2010	62	24.8%
Post 2010	1	0.4%
Total	250	100%

Source: Survey Data

Table 5.4 presents data on the time period when the enterprises were established. It shows that 95% of the responding enterprises were established post-1994. This suggests that new, emerging HDI owned enterprises began to see business and career opportunities in the construction sector after the election of a democratic government and the dismantling of discriminatory business practices and regulations.

Further analysis reveals that 81.6% of all the enterprises were established between 2000 and 2010, with 57.6% of them being established from 2000 to 2005. This finding indicates that opportunities provided by PPPFA in 2000, via the preferencing system for categories of HDI's in public sector procurement, served as an impetus for emerging HDI contractors in general, to establish construction enterprises to service the public sector.

The results also show a steady decline in the establishment of new businesses from 2006 -2010, with only one new business being established post-2010.

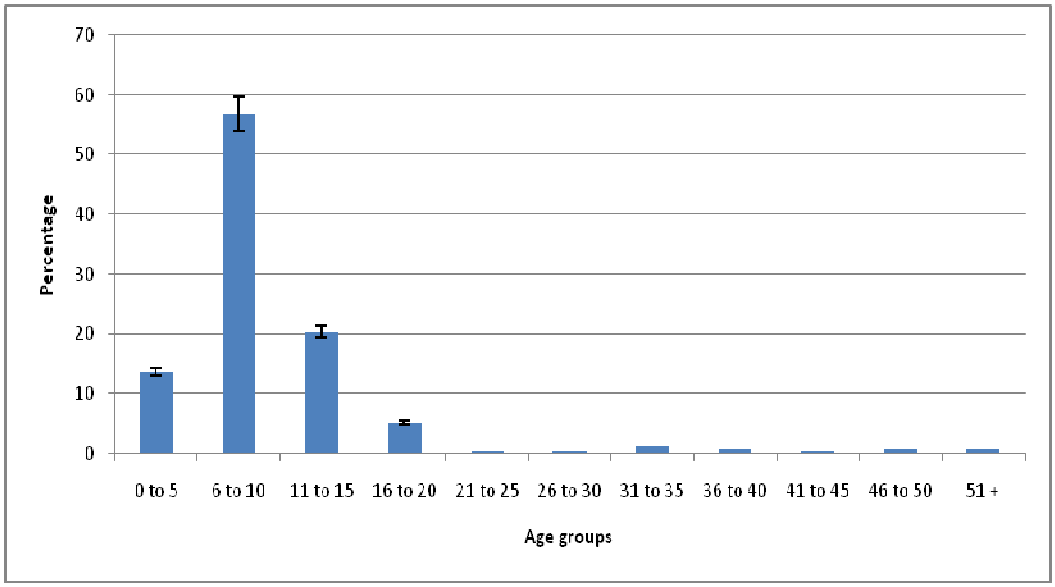


Figure 5.3: Distribution of the number of years that the enterprise was in business

Source: Survey Data

Figure 5.3 graphs the data on the number of years that the enterprise has been in business. It illustrates that most enterprises had been in business 6 to 10 years, followed by the 11 to 15 year category and 0 to 5 years. Very few businesses claimed to be over 20 years old.

Table 5.5: Profile of HDI Shareholding

HDI Category	% HDI Shareholding				Total HDI's Surveyed
	0%	>0 ≤50%	>51 <100%	100%	
Black Male	82	68	27	78	254
Black Female	87	65	28	74	254
White Female	244	10	0	0	254
Disabled	244	10	0	0	254
Non-HDI	235	11	8	0	254

Source: Survey Data

Table 5.5 presents data on the HDI shareholding amongst the enterprises surveyed. The data show that a majority of responding enterprises had 100% ownership by either black males (78) or black females (74), which represents 59.8% of the total. Interestingly, there were no enterprises with 100% ownership by white females.

Table 5.6: Estimated Average Annual Turnover from 2006 to 2010

CIDB Grade	Turnover Threshold*	Year											
		2006		2007		2008		2009		2010		Average	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1	≤R0.2 M	20	17.54%	17	12.98%	19	12.42%	26	15.20%	30	16.22%	22	14.87%
2	>R0.2M to ≤ 0.65M	13	11.40%	17	12.98%	17	11.11%	24	14.04%	23	12.43%	19	12.39%
3	>R0.65M to ≤ R2M	17	14.91%	27	20.61%	32	20.92%	25	14.62%	27	14.59%	26	17.13%
4	>R2 M to ≤ R4M	12	10.53%	9	6.87%	15	9.80%	22	12.87%	21	11.35%	16	10.28%
5	>R4 M to ≤ R6.5M	4	3.51%	6	4.58%	6	3.92%	9	5.26%	10	5.41%	7	4.54%
6	>R6.5 M to ≤ R13M	1	0.88%	6	4.58%	8	5.23%	9	5.26%	12	6.49%	7	4.49%
7	>R13 M to ≤ R40 M	9	7.89%	9	6.87%	9	5.88%	15	8.77%	20	10.81%	12	8.04%
8	>R40 M to ≤ R130M	4	3.51%	3	2.29%	4	2.61%	5	2.92%	5	2.70%	4	2.81%
9	>R130M	1	0.88%	1	0.76%	2	1.31%	3	1.75%	5	2.70%	2	1.48%
Average			28.95%		27.48%		26.80%		19.30%		17.30%		23.97%
Total		114	100%	131	100%	153	100%	171	100%	185	100%	150	100%

* Annual turnover is based on CIDB grading turnover thresholds and refers to calendar year and not public sector financial year in SA

Source: Survey Data

To construct Table 5.6 the researcher asked respondents to indicate their annual turnover in each year between 2006 and 2010. The researcher then correlated the responses with the turnover levels assigned to each CIDB Grade category. The result enabled the researcher to track the transition of enterprises between CIDB Grades based on their estimated average annual turnover over this time period. In a growth development scenario it would be expected that the number of respondents (i.e. enterprises) in the lower grades would decrease over time with a corresponding increase to higher grades as annual turnover increased.

Annual turnover trends based on the threshold levels of Grades 5 to 7 indicate a consistent increase when compared to Grades 2 to 4 over the five year period. A plausible explanation for this is that respondents were able to obtain higher CIDB grading as their turnover increased each year, which presented an opportunity to tender on larger value projects.

Table 5.7: CIDB Grading Category of Surveyed Enterprises

(N=234)

CIDB Grade	CIDB Grading Category					
	GB		CE		Other	
	No.	%	No.	%	No.	%
1	4	1.7%	15	34.9%	4	25.0%
2	86	36.8%	7	16.3%	6	37.5%
3	31	13.3%	4	9.3%	4	25.0%
4	44	18.8%	3	7.0%	0	0.0%
5	28	12.0%	6	14.0%	2	12.5%
6	20	8.6%	4	9.3%	0	0.0%
7	13	5.6%	3	7.0%	0	0.0%
8	6	2.6%	1	2.3%	0	0.0%
9	2	0.9%	0	0.0%	0	0.0%
Total	234	100%	43	100%	16	100%

Source: Survey Data

Table 5.7 presents data on the CIDB Grading of the surveyed enterprises. It should be noted that an enterprise can qualify for a grading in more than one category. The survey questionnaire was targeted at enterprises registered within the General Building (GB) Grades of the CIDB Register, so it was not unexpected that most of the responses (n=234) were from this category. The data show that most of the respondents (37%) were Grade 2 enterprises, followed by Grade 4 (19%) and Grade 3 (13%). The fewest respondents (at <1%) were from Grade 9 enterprises.

Table 5.7 also demonstrates that many enterprises were registered in more than one activity Grade, with Civil Engineering (CE) being the most frequent as it is closely aligned to General Building works thereby providing additional work opportunities to sustain and potentially grow businesses.

Table 5.8: Year of First Registration of Business with the CIDB

(N=207)

Year	Pre - 2004	2004	2005	2006	2007	2008	2009	2010	Post-2010	Total
No.	32	15	30	39	30	23	20	16	2	207
%	15.5%	7.2%	14.5%	18.8%	14.5%	11.1%	9.7%	7.7%	1.0%	100%
Cumulative	15.5%	22.7%	37.2%	56.0%	70.5%	81.6%	91.3%	99.0%	100.0%	

Source: Survey Data

Table 5.8 presents data on the year in which the surveyed enterprises first registered with the CIDB. Since CIDB registration was introduced in 2004 it is presumed that the pre-2004 registrations shown in the table are either incorrect or else the question was simply misunderstood. The data show that from 2004 to 2010 there was a steady annual increase in new CIDB registrations of construction enterprises, peaking in 2006 and declining steadily up to 2010. It seems likely that this initial surge was due, at least in part, to the mandatory

requirement that enterprises be registered with the CIDB in order to qualify for public sector tendering.

Table 5.9: First Grade Designation of Construction Business

(n= 229)

	CIDB Grade									
	1	2	3	4	5	6	7	8	9	Total
No.	133	43	12	13	14	3	8	3	0	229
%	58.1%	18.8%	5.2%	5.7%	6.1%	1.3%	3.5%	1.3%	0.0%	100%

Source: Survey Data

Table 5.9 presents data on the grade designation in which the surveyed enterprises first registered with the CIDB. The data show that the highest percentage of first registrations (58.1%) were in the Grade 1 designation, followed by 18.8% in Grade 2. A plausible explanation for this is that many first time registrants were new (start-up) and emerging enterprises in the construction industry that had little or no track record in the construction sector. Since the primary criteria for a first time registration with CIDB is the level of turnover in the previous year start-up enterprises would initially only qualify for Grade 1. The CIDB's emerging contractor development strategy that promoted HDI new enterprise creation and development in the construction sector might have also been a contributing factor.

5.2.2 Survey Results and Discussion

Table 5.10: Level of Understanding of the Preferencing System

(n=234)

Question	Do not understand at all		Understand somewhat		Understand Very well	
	No.	%	No.	%	No.	%
Question 2.6: Extent of understanding of the use of preference points to promote HDI owned businesses	45	19.2%	87	37.2%	102	43.6%

Source: Survey Data

Table 5.10 presents data on the responses by surveyed enterprises on their level of understanding of the preferencing system. The data show that 37.2% of respondents had some understanding and 43.6% had a very good understanding of the use of preference points in public sector procurement as a means to promoting HDI owned businesses. In total, 79.8% of the respondents had at least some knowledge of the preferencing system. However, 19.8% of respondents reported absolutely no understanding of the system. So another way to look at the data is to say that 56.4% of respondents had no or only limited understanding of preferencing.

Various factors might have contributed to this lack of understanding. Firstly, it could confirm the perception that either the preferential procurement system is overly complicated or that government was ineffective in communicating to the industry how the preference system could be used to benefit HDI owned businesses. More significantly, the lack of understanding on how to use and claim preference points means that 56.4% of these enterprises might not have made proper use of this advantage in tendering for public sector construction contracts.

Table 5.11: Understanding of the BBBEE Scorecard

(n=234)

Question	Do not understand at all		Understand somewhat		Understand very well	
	No.	%	No.	%	No.	%
Question 2.7: Extent of understanding of the use of BBBEE scorecard as it relates to preferential procurement	58	24.8%	86	36.8%	90	38.5%

Source: Survey Data

Table 5.11 presents data on the responses by surveyed enterprises on their level of understanding of how the BBBEE Scorecard relates to preferential

procurement. The results are similar to that for their understanding of preferencing, with somewhat more respondents (24.8%) indicating that they had no understanding of the scorecard at all.

The scorecard system became effective in December 2011 and forms the basis of the new preference points system in public procurement. While it is acknowledged that the very recent introduction of the new preferencing system might have contributed to the reported lack of knowledge, it is notable that 61.6% of respondents have limited understanding of how the system works. As with the previous preferencing system, it is highly likely that HDI enterprises are not making optimal use of this new preferencing arrangement to gain an advantage for their business.

Table 5.12: Results of Responses to Yes or No Questions

Question No.	N=	Question	Response			
			Yes	%	No	%
1.7	256	Is your company your main source of income?	226	88.3%	30	11.7%
2.4	185	Has the grading for your construction business ever gone down after you first registered with the CIDB?	35	18.9%	150	81.1%
2.5	230	Do you think that the government's procurement preference point system has helped your construction business get a higher CIDB grading?	115	50.0%	115	50.0%
2.8	243	Does your construction business have a BBBEE (Broad-Based Black Economic Empowerment) Scorecard rating Certificate?	174	71.6%	69	28.4%
2.8 b	187	Is your Certificate from a SANAS accredited agency?	137	73.3%	50	26.7%
2.9	247	Has your construction business ever submitted a tender for a construction contract with ANY government department?	231	93.5%	16	6.5%
2.10	245	Has your construction business ever submitted a tender for a construction related contract with the NATIONAL government	126	51.4%	119	48.6%
2.10a	124	If yes, did your business claim for any procurement preference points when it submitted the tender?	101	81.5 %	23	18.5%
2.10a.i	149	If yes, do you think the preference points gave you a better chance in the tender?	80	53.7%	69	46.3%
2.11	244	Has your construction business ever submitted a tender for a construction related contract with the PROVINCIAL government?	202	82.8%	42	17.2%
2.11a	197	If yes, did your business claim for any procurement preference points when it submitted the tender?	163	82.7%	34	17.3%
2.11a.i	162	If yes, do you think the procurement preference points gave you a better chance in the tender?	121	74.7%	41	25.3%
2.12	248	Has your construction business ever submitted a tender for a construction related contract with the LOCAL government?	193	77.8%	55	22.2%

Table 5.12: Results of Responses to Yes or No Questions

Question No.	N=	Question	Response			
			Yes	%	No	%
2.12a	188	If yes, did your business claim for any procurement preference points when it submitted the tender?	154	81.9%	34	18.1%
2.12a.i	152	If yes, do you think the procurement preference points gave you a better chance in the tender?	114	75.0%	38	25.0%
2.17	234	Has your construction business been part of a JOINT VENTURE or CONSORTIUM that was AWARDED a construction related tender?	79	33.8%	155	66.2%
2.17a	78	If yes, were any of the contracts total value UNDER R500 000?	18	23.1%	60	76.9%
2.17b	78	Have you been the LEAD PARTNER in a JOINT VENTURE or CONSORTIUM?	49	62.8%	29	37.2%
2.17c	77	Have you been an EQUAL PARTNER in a JOINT VENTURE or CONSORTIUM?	49	63.6%	28	36.4%
2.17d	76	Have you been a MINORITY PARTNER in a JOINT VENTURE or CONSORTIUM?	35	46.1%	41	53.9%
2.18	232	Do you undertake any sub-contracting work?	103	44.4%	129	55.6%
3.1	247	During the last 5 years has your construction business grown?	183	74.1%	64	25.9%
3.1.b	183	If yes, has it grown as big as you wanted it to grow?	61	33.3%	122	66.7%

Source: Survey Data

Table 5.12 presents data on the responses by surveyed enterprises to a series of yes or no questions related to their businesses. Only those results considered by the researcher to be of significance to the research objectives are discussed below.

A majority of respondents (88.3%) reported that their main source of income was derived from their construction enterprises (Question 1.7). This means that the survival of their primary businesses, and therefore livelihoods, are dependent on the state, and vagaries, of the construction industry. It also implies that their success or failure is closely linked to government spend in the construction sector.

A minority of enterprises (18.9%) had their CIDB grading downgraded during the period under review (Question 2.4). The majority, therefore, is assumed to have either maintained their CIDB grading or upgraded their grading. A follow-up question requesting respondents to provide perceived reasons for the

downgrading of enterprises on the CIDB Register of Contracts received 24 responses. Exactly half those respondents (12) attributed their downgrading to not being able to access enough work to meet CIDB's required annual turnover threshold. Other stated reasons included failure to comply with CIDB's financial reporting requirements (5); failure to renew their Grade registration (2); and administrative problems with the CIDB (2). Three respondents did not indicate a reason for their downgrades.

The responses to Question 2.5 show that equal numbers of respondents agreed and disagreed with the statement that the PPPFA contributed to a higher CIDB Grading for their enterprises. This suggests that 50% of respondents acknowledged the benefits of the preferencing system.

A follow-up question asking respondents to explain how the preferential system enabled them to get a higher CIDB grading provided some interesting feedback. The majority (85%) of respondents who answered this question (n=80) felt that the tendering advantage offered through the points system substantially increased their volume of work in the public sector, and was therefore a major contributor to achieving a higher CIDB Grade. Others responses included that: tender submission requirements for the preference points system assisted in meeting criteria for a CIDB upgrade (5); it provided opportunities for joint ventures whereby, collectively, enterprises could undertake larger projects (2); and it provided training and skills transfer opportunities (2). One respondent acknowledged that the system offers benefits, but added that this was mitigated by corruption in the awarding of contacts.

A majority (71.6%) of respondents to Question 2.8 indicated that their enterprise had obtained a BBBEE Certificate. This is noteworthy because in terms of the new regulations governing preference points this certificate is now a tender submission "responsive criteria" requirement.

The new tendering criteria require that a contractor or business obtain a BBBEE certificate approved by the South African National Accreditation System (SANAS) in order to claim preference points. The responses to Question 2.8b indicate that 73.3% of respondents had obtained a SANAS approved BBBEE certificate. This means that the 26.7% who do not have an accredited certificate were not fully compliant with the new requirements for claiming preference points. It is likely that there is a link between the respondents who do not have an accredited certificate and those who lack a good understanding of the new BBBEE scorecard.

The responses to Question 2.9 show that 93.5% of respondents had submitted construction related tenders to a government department. Of these, 51.4% had submitted tenders to a national government department (Question 2.10), with 81.5% reporting that they claimed preference points.

Most respondents to Question 2.10a.i (53.7%) perceived that the preference points system offered their enterprises an advantage in competing and being awarded contracts by national government departments.

While just over half the enterprises tendered for national government contracts, the responses to Question 2.11 indicate that a notably higher percentage (82.8%) of the respondents tendered for provincial government contracts. This might be the result of logistical and/or other constraints faced by provincial enterprises that are based outside the Gauteng province. Not only do national government departments convene compulsory tender briefings in the province (specifically the city of Pretoria), most also require tender documents to be collected and bid submissions to be hand-delivered to their offices. Such conditions pose a challenge to emerging and small businesses operating in other, outlying provinces.

Of those submitting tenders for provincial construction contracts, 82.7% indicated that they claimed preference points (Question 2.11a). Approximately three quarters of the respondents (74.7%) indicated that the preferencing system did provide them with an advantage in their tenders to provincial government departments (Question 2.11a.i).

The responses to Question 2.12 show that 77.8% of respondents submitted tenders to local government departments. Of these, 81.9% indicated that they claimed preference points (Question 2.12a). It is likely that the respondent enterprises who did not claim preference points (17.3% in the case of provincial tenders and 18.1% for local government tenders) do not understand or have limited understanding of how the preferencing system works and its benefits to HDI businesses. The responses to Question 2.12a.i show that 75% of respondents felt that their enterprises were advantaged by the preferencing system.

Just over one-third of respondents (33.8%) indicated they were awarded a tender as part of a joint venture (JV) or consortium (Question 2.17). The majority of those JV or consortium contracts (76.9%) were for a value greater than R500 000 in which case the 90/10 preference point system was applicable (Question 2.17a). Of those enterprises involved in a JV or consortium, 62.8% had been a lead partner, 63.6% had been equal partners and 46.1% had been minority partners (Questions 2.17b, 2.17c and 2.17d).

Question 2.18 indicates that 44.4% of responding enterprises were involved in subcontracting work. This indicates that enterprises do not always submit tenders directly to government departments, but also secure work through other contractors who are awarded the main (i.e. principal) contract.

Most respondents (74.1%) stated that their business had grown over the last five years (Question 3.1). Since most of the responding enterprises indicated that their primary source of annual turnover was derived from government contracts,

it can be speculated that their business growth was closely linked to the opportunities offered through public sector procurement in general, and the advantage offered through the preference scoring system in particular. Despite their businesses growing, 66.7% of respondents indicated that their business had not grown as big as they hoped it would. The reasons for this less than expected growth are discussed in more detail in Chapter 6.

Table 5.13: BBBEE Scorecard Rating of Construction Business
(n = 159)

	BBBEE Scorecard Rating (Level)									
	L1	L2	L3	L4	L5	L6	L7	L8	E*	Total
No. of Respondents	11	19	99	22	3	0	2	1	2	159
%	6.9%	11.9%	62.3%	13.8%	1.9%	0.0%	1.3%	0.6%	1.3%	100.0%

* E = Exempt
Source: Survey Data

Table 5.13 presents data on the BBBEE Level of the enterprises. The data reveal that only 6.7% of the enterprises had a Level 1 BBBEE scorecard rating which allows them to claim the maximum preference points in public sector tenders. Most of the enterprises (62.3%) had a Level 3 BBBEE rating which doesn't allow them to claim the maximum allowable preference points.

It is interesting to note that two enterprises responded that they are exempt from the scorecard requirements. Given that no exemptions are provided for in the new PPPFA Regulations, it would appear that these respondents are strong examples of enterprises that have a mistaken understanding of the BBBEE scorecard rating system.

Table 5.14: Date of First Tender Award from a Government Department
(n = 210)

	Time Period										
	Pre-1994	1994 - 1995	1996 - 1997	1998 - 1999	2000 - 2001	2002 - 2003	2004 - 2005	2006 - 2007	2008 - 2009	2010 - 2011	Total
No. of Respondents	4	0	4	7	12	30	37	65	33	18	210
%	1.9%	0.0%	1.9%	3.3%	5.7%	14.3%	17.6%	31.0%	15.7%	8.6%	100.0%

Source: Survey Data

Table 5.14 presents data on the year in which the enterprise was first awarded a government tender. The data show that a majority of enterprises (92.9%) began tendering for government contracts from 2000. This adds support to the claim that the introduction of the PPPFA in 2000 as well as other related enabling legislative and regulatory environment encouraging HDI owned businesses stimulated their participation in government related construction projects.

Comparing this information with the dates that the enterprises were established, as shown in Table 5.4, suggests that most of the enterprises (82%) were established post-2000 partly as a result of being able to take advantage of the increased opportunities offered by the PPPFA. It can be noted that 31% of the enterprises submitted and were awarded their first tender in 2006/07. This coincides with the fact that the highest number of new businesses (18.8%) was registered with the CIDB in this reporting period as shown in Table 5.8. The data also show a trend towards a consistent increase in the number of enterprises submitting their first tenders from 2000 up until the end of 2007, which is consistent with the growing number of new CIDB registrations as indicated in Table 5.8.

Table 5.15: Average number of Government Tenders Submitted from 2006 to 2010

N=	Year*	No. of Tenders Submitted													
		0		1 - 5		6 - 10		11 - 20		21 - 50		51 - 150		150 +	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
140	2006	36	25.7%	39	27.9%	28	20.0%	19	13.6%	10	7.1%	5	3.6%	3	2.1%
145	2007	30	20.7%	37	25.5%	31	21.4%	18	12.4%	18	12.4%	6	4.1%	5	3.5%
163	2008	19	11.7%	46	28.2%	33	20.2%	29	17.8%	22	13.5%	7	4.3%	7	4.3%
184	2009	16	8.7%	55	29.9%	36	19.6%	30	16.3%	28	15.2%	11	6.0%	8	4.3%
197	2010	21	10.7%	48	24.4%	39	19.8%	37	18.8%	29	14.7%	17	8.6%	6	3.0%

* Refers to calendar year and not to the public sector financial year

Source: Survey Data

Table 5.15 presents data on the average number of tenders submitted by responding enterprises to government departments between 2006 and 2010. What is evident is that the annualized number of tenders submitted to government departments varies significantly over the five year period, and that every year some enterprises chose not to submit any government tenders.

Table 5.16: Average Number of Private Tenders Submitted from 2006 to 2010

N=	Year*	No. of Tenders Submitted													
		0		1 - 5		6 - 10		11 - 20		21 - 50		51 - 150		150 +	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
130	2006	81	62.3%	33	25.4%	7	5.4%	5	3.8%	3	2.3%	1	0.8%	0	0%
131	2007	71	54.2%	41	31.3%	13	9.9%	3	2.3%	3	2.3%	0	0.0%	0	0%
142	2008	77	54.2%	47	33.1%	10	7.0%	4	2.8%	4	2.8%	0	0.0%	0	0%
153	2009	78	51.0%	52	34.0%	13	8.5%	4	2.6%	6	3.9%	0	0.0%	0	0%
162	2010	83	51.2%	42	25.9%	27	16.7%	4	2.5%	6	3.7%	0	0.0%	0	0%

* Refers to calendar year and not to the public8 - 20 sector financial year

Source: Survey Data

Table 5.16 presents data on the average number of tenders submitted by responding enterprises for contracts available in the private sector between 2006 and 2010. The results show that every year over 52% of the respondent enterprises did not submit any tenders to the private sector. This is in contrast to the approximately 8% – 26% that did not submit any tenders to government departments over the various years, as shown in Table 5.15. This preference for pursuing government tenders suggests that respondents were influenced, at least in part, by the preferencing advantage available to them on public sector projects.

The 48.8% of responding enterprises that tendered for at least one contract in the private sector suggests that they made a business decision not to rely solely on work opportunities in the public sector to grow and sustain their business.

Table 5.17: Success in Winning Government Tenders from 2006 to 2010

N=	Year*	No. of Tenders Won													
		0		1 - 5		6 - 10		11 - 20		21 - 50		51 - 150		150 +	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
139	2006	51	36.7%	82	59.0%	4	2.9%	2	1.4%	0	0.0%	0	0.0%	0	0.0%
145	2007	51	35.2%	88	60.7%	4	2.8%	1	0.7%	1	0.7%	0	0.0%	0	0.0%
172	2008	47	27.3%	116	67.4%	6	3.5%	2	1.2%	1	0.6%	0	0.0%	0	0.0%
187	2009	47	25.1%	132	70.6%	7	3.7%	0	0.0%	1	0.5%	0	0.0%	0	0.0%
202	2010	61	30.2%	124	61.4%	13	6.4%	4	2.0%	0	0.0%	0	0.0%	0	0.0%

* Refers to calendar year and not to the public sector financial year

Source: Survey Data

Table 5.17 presents data on the success rate in winning government tenders by responding enterprises between 2006 and 2010. Most of the enterprises (64.1%) won between 1– 5 contracts. The table also shows that every year a minimum of 25% of the enterprises did not win any government contracts.

Table 5.18: Success in Winning Private Sector Tenders from 2006 to 2010

N=	Year*	No. of Tenders Won													
		0		1 - 5		6 - 10		11 - 20		21 - 50		51 - 150		150 +	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
123	2006	87	70.7%	33	26.8%	2	1.6%	1	0.8%	0	0.0%	0	0.0%	0	0.0%
122	2007	83	68.0%	36	29.5%	2	1.6%	1	0.8%	0	0.0%	0	0.0%	0	0.0%
127	2008	84	66.1%	41	32.3%	1	0.8%	1	0.8%	0	0.0%	0	0.0%	0	0.0%
136	2009	84	61.8%	47	34.6%	4	2.9%	0	0.0%	1	0.7%	0	0.0%	0	0.0%
142	2010	85	59.9%	50	35.2%	4	2.8%	3	2.1%	0	0.0%	0	0.0%	0	0.0%

* Refers to calendar year and not to the public sector financial year

Source: Survey Data

Table 5.18 presents data on the success rate by responding enterprises in winning private sector tenders between 2006 and 2010. The results show that every year over 61% of the respondent enterprises did not win any private sector tenders. Of those that were successful, every year at least 26% of enterprises won between 1 and 5 private sector contracts. During each of the five years there was a small, but steady, increase in the success rate.

Comparing the data in this table with that in Table 5.17 shows that the failure rate for responding enterprises was generally lower in the public sector than in the private sector. This was particularly true in the category of 1 - 5 contracts where in the public sector the success rate was usually about double the rate experienced in the private sector.

Table 5.19: Government Tenders ≤R500 000 Awarded to Respondent Enterprises between 2006 to 2010

N=	Year*	No. of Tenders ≤R500 000 Awarded													
		0		1 - 5		6 - 10		11 - 20		21 - 50		51 - 150		150 +	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
116	2006	78	67.2%	37	31.9%	0	0.0%	1	0.9%	0	0.0%	0	0.0%	0	0.0%
120	2007	74	61.7%	44	36.7%	1	0.8%	0	0.0%	1	0.8%	0	0.0%	0	0.0%
129	2008	73	56.6%	52	40.3%	3	2.3%	0	0.0%	1	0.8%	0	0.0%	0	0.0%
138	2009	73	52.9%	60	43.5%	2	1.4%	1	0.7%	2	1.5%	0	0.0%	0	0.0%
142	2010	77	54.2%	56	39.4%	6	4.2%	2	1.4%	1	0.7%	0	0.0%	0	0.0%

* Refers to calendar year and not to the public sector financial year

Source: Survey Data

Table 5.19 presents data on the number of government contracts with a value ≤R500 000 that were won by responding enterprises between 2006 and 2010. The data show that every year a minimum of 53% enterprises did not win any tenders with a value <R500 000 during this period. This result could either be interpreted as pointing to unsuccessful tender bids due to intense tendering competition from the low CIDB registered contractors, or that the enterprises were bidding for higher value projects in excess of R500 000. Of those enterprises awarded tenders valued ≤R500 000 most were awarded between one and five contracts.

Table 5.20: Government Tenders >R500 000 Awarded to Respondent Enterprises between 2006 to 2010

N=	Year*	No. of Tenders >R500 000 Awarded													
		0		1 - 5		6 - 10		11 - 20		21 - 50		51 - 150		150 +	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
118	2006	72	61.0%	40	33.9%	4	3.4%	1	0.9%	1	0.9%	0	0.0%	0	0.0%
119	2007	71	59.7%	43	36.1%	3	2.5%	1	0.8%	1	0.8%	0	0.0%	0	0.0%
132	2008	65	49.2%	60	45.5%	4	3.0%	3	2.3%	0	0.0%	0	0.0%	0	0.0%
132	2009	53	40.2%	71	53.8%	7	5.3%	1	0.8%	0	0.0%	0	0.0%	0	0.0%
148	2010	57	38.5%	81	54.7%	9	6.1%	1	0.7%	0	0.0%	0	0.0%	0	0.0%

* Refers to calendar year and not to the public sector financial year

Source: Survey Data

Table 5.20 presents data on the number of government contracts with a value >R500 000 that were won by responding enterprises between 2006 and 2010. The data show that every year a minimum of 39% of responding enterprises did not win contracts with a value >R500 000 during this period. As mentioned previously, a possible explanation for this is that the enterprises were unsuccessful in their tender bids due to competitive tendering. Of those respondents that were successful in winning tenders in this value category, the majority claimed to have won between one and five contracts. The data show a steady yearly increase in the success rate for contractors being awarded both 1-5 and 6–10 contracts in this value category.

Table 5.21: Estimated Contribution of Sub-contracting Work to Average Annual Turnover

(n = 87)

	% Range							
	0%	1 - 10%	11 - 20%	21 - 30%	31 - 40%	41 -50%	>50%	Total
No of respondents	6	30	10	22	5	9	5	87
% Turnover from Sub-contracting	6.9%	34.5%	11.5%	25.2%	5.8%	10.3%	5.8%	100.0%

Source: Survey Data

Table 5.21 presents data on the impact that sub-contracting work had on the average annual turnover during the period 2006 – 2010 for responding enterprises. The data show that only 5.8% of the enterprises took on sub-contracting work that contributed more than 50% to their average annual turnover. It seems apparent that the 6 respondents who indicated that sub-contracting contributed 0% to their turnover misunderstood the question.

Table 5.22: Reasons Contributing to Business not Growing as Expected

N =	Reasons	Responses					
		True		Partly True		Not True	
		No.	%	No.	%	No.	%
52	Couldn't get construction finance when needed	33	63.5%	1	1.9%	18	34.6%
50	Couldn't get credit from suppliers when needed	23	46.0%	5	10.0%	22	44.0%
46	Couldn't source competent managers when needed	6	13.0%	11	23.9%	29	63.0%
46	Couldn't get competent construction workers when needed	9	19.6%	8	17.4%	29	63.0%
46	Couldn't get suitable training for myself when needed	14	30.4%	6	13.0%	26	56.5%
46	Couldn't get suitable training for my workers when needed	12	25.0%	7	15.9%	27	59.1%

Source: Survey Data

Table 5.22 presents data on the perceptions of responding enterprises as to why their business didn't grow as expected during 2006 - 2010. The most frequently stated reason (63.5%) for the lack of growth was an inability to raise construction finance when required. This reason was followed by a lack of available credit from suppliers, for which 46% of respondents indicated this was true and 10% indicated it was partly true. A lack of suitable training for either the enterprise owner or the staff was also a frequently cited reason, as was the inability to source competent management and construction staff.

Respondents were asked to identify the single most important reason why their business had not grown as they expected during the 5 year period. Table 5.23

presents data for their responses. The results show that the majority of respondents (42.4%) indicated that the inability to access necessary construction financing was their primary constraint. The responses of those respondents who chose to specify other reasons are listed in Table 5.24.

Table 5.23: Single Most Important Reason Why the Business Did Not Grow

Reasons	Responses	
	No.	%
I couldn't get CONSTRUCTION FINANCING when I needed it	81	42.4%
I couldn't get CREDIT FROM MY SUPPLIERS when I needed it	11	5.7%
I couldn't get SUITABLE TRAINING FOR MYSELF when I needed it	4	2.1%
I couldn't source COMPETENT MANAGERS when I needed them	3	1.6%
I couldn't get SUITABLE TRAINING FOR MY WORKERS when I needed it	3	1.6%
I couldn't source COMPETENT CONSTRUCTION WORKERS when I needed them	1	0.5%
Other (Please specify)	88	46.1%
Total	**191**	**100%**

Source: Survey Data

Table 5.24: Single Most Important Reason Why the Business Did Not Grow

Reason	No. of Responses
The lack of tendering opportunities which, when combined with a surplus of competing businesses, resulted in too little work to go around; and price undercutting which adversely affected the business	48
Fraud and corruption	10
Problems with financing due to late payments	8
Lack of capacity/training	5
Business administrative problems	4
Poor economic climate	2
Unable to get CIDB upgraded CIDB registration	2
Finding tendering procedures and requirements not conducive to SMME's	2
All of the reasons were relevant; too difficult to select just one	1
No response	11

Source: Survey Data

5.3 SUMMARY

This chapter presented the results of the questionnaire survey data that was prepared in order to establish whether the preferential procurement policy helped HDI owned enterprises to grow their businesses and whether these enterprises, as beneficiaries of the policy, understood the application and intention of the preferential procurement policy. The interpretation and discussion of these results in relation to the research objectives are explored in the following chapter.

CHAPTER 6: INTERPRETATION AND DISCUSSION OF RESULTS

6.1 INTRODUCTION

This chapter interprets and discusses the results set out in Chapters 4 and 5 in relation to achieving the research objectives and examining the propositions. The objective of this chapter is to summarise and highlight the most important patterns and insights emerging from the results which add to the body of knowledge on how to develop and implement effective preferential procurement policies in South Africa.

6.2 TREASURY DATA

6.2.1 Description of Data

The data provided by National Treasury were collected from national government departments and all nine provincial governments and pertain specifically to building and construction contracts that were awarded over the five-year period from 01 April 2006 to 31 March 2011. According to National Treasury, data were not collected in a uniformed and structured format prior to April 2006, although the PPPFA was introduced in 2000.

6.2.2 Distribution of Contracts in the ≤R500 000 and >R500 000 Value Categories

The combined results for national and provincial government departments in Table 4.51 show that an almost equal number of contracts were awarded in both the ≤R 500 000 (49.5%) and >R500 000 categories (50.5%). However, the value of contracts awarded in the ≤R500 000 constituted only 2.6% of the total value of all contracts awarded over the five-year period.

The individual results for national and provincial governments shown in Table 4.2 and Table 4.13 also reflect a similar trend of an almost 50% distribution in the number of contracts between categories. Likewise, the value of contracts awarded in the ≤R500 000 constituted only a small percentage of the total value (0.8% for national and 4.0% for provincial)

When the PPPFA was enacted the intention of allocating a 25% price preference in the 80/20 preferencing formula for contracts ≤R500 000 was to promote the business development and growth of SMME's and emerging HDI enterprises. If one considers this intention when analysing the data it appears that whilst the number of contracts awarded between the two value categories was almost equal, very little of the value of ≤R500 000 construction contracts was accessible to those enterprises.

6.2.3 Distribution of all contracts awarded to HDI and non-HDI enterprises

Table 6.1 presents a summary of the number of contracts awarded to HDI and non-HDI enterprises during the five-year period. The data indicate that 84.6% of the 9955 contracts awarded by national and provincial governments over the five-year period were awarded to HDI enterprises, with about equal percentages awarded by national (85.9%) and provincial governments (84.4%). Across both national and provincial governments, the trend was for HDI enterprises to receive over 80% of contracts awarded each year.

Table 6.2 presents a summary of the total value of contracts awarded to HDI and non-HDI enterprises during the five-year period. The data indicate that 88.8% of the over R51.7 billion in contracts awarded by national and provincial governments over the five-year period were awarded to HDI enterprises. However, national government awarded a higher percentage of the value (92.7%) to this target group than did provincial governments (85.9%). Again, across both national and provincial governments, the trend was for HDI enterprises to receive over 80% of the value of contracts awarded each year.

The data show that there is no direct relationship between the number of contracts awarded to HDI enterprises and their value. An example of this is seen in 2008/09 when HDI enterprises received the highest value of contracts (91.7%) but the lowest number of contracts (80.7%). Furthermore, it suggests that the average value of the contracts awarded in 2008/09 was much higher than in the other four years. As previously noted, this can most likely be attributed to the high value of government projects initiated for the 2010 FIFA World Cup soccer tournament that was held in South Africa.

A statistical analysis was done of the data and t-tests indicate a statistically significant difference in the contracts awarded to HDI enterprises in comparison to non-HDI enterprises. HDI's received significantly more contracts at both provincial ($p < 0.001$) and national level ($p < 0.001$).

Table 6.1: Summary of the Number of Contracts Awarded to HDI and non-HDI Enterprises

Financial Year	Combined National and Provincial					National					Provincial				
	Total No. of Contracts	HDI		non-HDI		Total No. of Contracts	HDI		non-HDI		Total No. of Contracts	HDI		non-HDI	
		No.	%	No.	%		No.	%	No.	%		No.	%	No.	%
2006/07	2 154	1 845	85.7%	309	14.3%	318	260	81.8%	58	18.2%	1 836	1 585	86.3%	251	13.7%
2007/08	2 192	1 830	83.5%	362	16.5%	262	242	92.4%	20	7.6%	1 930	1 588	82.3%	342	17.7%
2008/09	2 176	1 757	80.7%	419	19.3%	291	247	84.9%	44	15.1%	1 885	1 510	80.1%	375	19.9%
2009/10	1 529	1 290	84.4%	239	15.6%	229	191	83.4%	38	16.6%	1 300	1 099	84.5%	201	15.5%
2010/11	1 904	1 701	89.3%	203	10.7%	541	470	86.9%	71	13.1%	1 363	1 231	90.3%	132	9.7%
Total	9 955	8 423	84.6%	1 532	15.4%	1 641	1 410	85.9%	231	14.1%	8 314	7 013	84.4%	1 301	15.6%

Source: Treasury Data (2011)

Table 6.2: Summary of the Total Value of Contracts Awarded to HDI and non-HDI Enterprises

Financial Year	Combined National and Provincial					National					Provincial				
	Total Value of Contracts	HDI		non-HDI		Total Value of Contracts	HDI		non-HDI		Total Value of Contracts	HDI		non-HDI	
		Value (ZAR 000'S)	%	Value (ZAR 000'S)	%		Value (ZAR 000'S)	%	Value (ZAR 000'S)	%		Value (ZAR 000'S)	%	Value (ZAR 000'S)	%
2006/07	R 5 831 321	R 4 931 245	84.6%	R 900 076	15.4%	R 1 121 264	R 912 934	81.4%	R 208 330	18.6%	R 4 710 057	R 4 018 311	85.3%	R 691 746	14.7%
2007/08	R 8 634 660	R 7 794 687	90.3%	R 839 973	9.7%	R 2 293 777	R 2 260 725	98.6%	R 33 052	1.4%	R 6 340 883	R 5 533 962	87.3%	R 806 921	12.7%
2008/09	R 22 737 886	R 20 840 053	91.7%	R 1 897 833	8.3%	R 14 003 600	R 13 421 995	95.8%	R 581 605	4.2%	R 8 734 286	R 7 418 058	84.9%	R 1 316 228	15.1%
2009/10	R 4 465 172	R 3 720 701	83.3%	R 744 471	16.7%	R 1 377 646	R 1 211 098	87.9%	R 166 548	12.1%	R 3 087 526	R 2 509 603	81.3%	R 577 923	18.7%
2010/11	R 10 059 323	R 8 668 493	86.2%	R 1 390 830	13.8%	R 3 454 418	R 2 815 557	81.5%	R 638 861	18.5%	R 6 604 905	R 5 852 936	88.6%	R 751 969	11.4%
Total	R 51 728 362	R 45 955 179	88.8%	R 5 773 183	11.2%	R 22 250 705	R 20 622 309	92.7%	R 1 628 396	7.3%	R 29 477 657	R 25 332 870	85.9%	R 4 144 787	14.1%

Source: Treasury Data (2011)

6.2.4 Distribution of contracts awarded to HDI and non-HDI enterprises per province

Table 6.3: Summary of provincial contracts awarded to HDI and non-HDI enterprises over the five-year period

Province	HDI Enterprises		Non-HDI Enterprises	
	% Number	% Value	% Number	% Value
All Provinces	84.4%	85.1%	15.6%	14.9%
KwaZulu Natal	87.0%	90.4%	13.0%	9.6%
Limpopo	96.3%	94.5%	3.8%	5.5%
Eastern Cape	76.9%	75.8%	23.1%	24.2%
Mpumalanga	89.3%	93.1%	10.7%	6.9%
Free State	70.5%	90.2%	29.5%	9.8%
Gauteng	87.7%	83.2%	12.3%	16.8%
Northern Cape	73.7%	78.8%	26.3%	21.2%
North West	86.9%	89.0%	13.1%	11.0%
Western Cape	90.6%	66.8%	9.4%	33.2%

Source: Treasury Data (2011)

Table 6.3 summarises the number and value of contracts awarded by provincial governments to HDI and non-HDI enterprises over the five-year period. The number of provincial contracts awarded to HDI enterprises was 84.4%. Six of the provinces (KZN, Limpopo, Mpumalanga, Gauteng, North West and Western Cape) awarded more than the provincial average of 84.4%. Limpopo awarded the highest number of contracts (96.3%) to HDI enterprises of all provinces, followed by Western Cape (90.6%)

In terms of value of contracts awarded, HDI enterprises received 85.1%. Five of the provinces (Kwa-Zulu Natal, Limpopo, Mpumalanga, Free State and North West) were awarded more than the provincial average of 85.1%. Limpopo awarded the highest value of contracts (94.5%) to HDI enterprises of all provinces followed by Mpumalanga (93.1%).

6.2.5 Distribution of all contracts awarded over the five-year period, disaggregated by HDI shareholding categories

Amongst other socio-economic targets, the PPPFA (2000) makes provision for price preferencing on the basis of race and gender. Therefore, in addition to analysing the data on the basis of the number and value of the contracts awarded to HDI enterprises, it is also important to identify and measure the race and gender elements of the data.

6.2.5.1 Contracts awarded and disaggregated by HDI status

Table 6.4 summarises the number and value of contracts awarded, disaggregated by HDI status. The combined data for national and provincial governments show that the majority of contracts, both in number (76.9%) and value (56.5%), were awarded to HDI enterprises with shareholding >50%. Across all enterprise types, black owned HDI enterprises with shareholding >50% were awarded the highest percentage of contracts in both number (74.4%) and value (53.5%).

Looking at the data for national government, Table 6.4 shows the majority of the number of contracts (75.9%) were awarded to HDI enterprises with shareholding >50%, followed by non-HDI enterprises (14.1%) and HDI enterprises with shareholding ≤50% (10%). Furthermore, the highest number of contracts (71.6%) was awarded to black owned enterprises with shareholding >50%. In terms of value, the majority of contracts (53.2%) were awarded to HDI enterprises with a minority shareholding of ≤50%, followed by HDI enterprises with shareholding >50% (39.5%), and non-HDI enterprises (7.3%). Furthermore, in terms of contract value the highest percentage (51.8%) was awarded to black owned HDI enterprises with shareholding ≤50%. It should be noted that although HDI enterprises with shareholding >50% received the highest number of contracts this group did not receive the highest value of contracts awarded by national government. This confirms the importance of

separately analyzing the award of contracts to HDI enterprises in terms of number and value.

With regard to provincial government, Table 6.4 indicates a similar trend to that of national government in that the majority of contracts in number (77.1%) were awarded to HDI enterprises with shareholding >50%, followed by non-HDI enterprises (15.6%) and HDI enterprises with shareholding ≤50% (7.3%). Furthermore, the highest number of contracts (74.9%) were awarded to black owned HDI enterprises with shareholding >50%.

In terms of value, Table 6.4 indicates that the majority of contracts (69.3%) were awarded to HDI enterprises with a shareholding >50%., followed by HDI enterprises with shareholding ≤50% (16.7%) and non-HDI enterprises (14.1%). Furthermore, black owned HDI enterprises with shareholding >50% received the highest value of contracts (66.1%). Unlike awards by the national government, HDI enterprises with shareholding >50% received both the highest number and value of contracts awarded by provincial government.

Table 6.4: Summary of contracts awarded, disaggregated by HDI status

Enterprise Status	Combined National and Provincial				National				Provinces			
	No.	%	Value (ZAR 000'S)	%	No.	%	Value (ZAR 000'S)	%	No.	%	Value (ZAR 000'S)	%
HDI enterprises with ≤50% shareholding												
Black	695	7.0%	R 15,590,923	30.1%	138	8.4%	R 11 527 904	51.8%	557	6.7%	R 4 063 019	13.8%
White Female	44	0.4%	R 170,101	0.3%	11	0.7%	R 50 419	0.2%	33	0.4%	R 119 682	0.4%
Combined	32	0.3%	R 984,212	1.9%	15	0.9%	R 260 116	1.2%	17	0.2%	R 724 096	2.5%
Sub-Total	771	7.7%	R 16,745,236	32.4%	164	10.0%	R 11,838,439	53.2%	607	7.3%	R 4,906,797	16.7%
HDI enterprises with >50% shareholding												
Black	7406	74.4%	R 27,686,870	53.5%	1175	71.6%	R 8 204 729	36.9%	6231	74.9%	R 19 482 141	66.1%
White Female	117	1.2%	R 179,027	0.3%	26	1.6%	R 72 410	0.3%	91	1.1%	R 106 617	0.4%
Combined	129	1.3%	R 1,344,046	2.6%	45	2.7%	R 506 731	2.3%	84	1.0%	R 837 315	2.8%
Sub-Total	7652	76.9%	R 29,209,943	56.5%	1246	75.9%	R 8,783,870	39.5%	6406	77.1%	R 20,426,073	69.3%
Non-HDI enterprises												
Non-HDI	1532	15.4%	R 5,773,183	11.2%	231	14.1%	R 1 628 396	7.3%	1301	15.6%	R 4 144 787	14.1%
Total	9955	100.0%	R 51,728,362	100.0%	1641	100.0%	R 22 250 705	100.0%	8314	100.0%	R 29 477 657	100.0%

Source: Treasury Data (2011)

Table 6.5: Summary of number and value of contracts awarded to enterprises with 100% HDI shareholding in comparison to other HDI and non-HDI enterprises

Enterprise Status	Combined National and Provincial				National				Provinces			
	No.	%	Value (ZAR 000'S)	%	No.	%	Value (ZAR 000'S)	%	No.	%	Value (ZAR 000'S)	%
HDI enterprises with 100% shareholding												
Black Male	3 767	37.8%	R 12 386 849	23.9%	558	34.0%	R 2 399 453	10.8%	3 209	38.6%	R 9 987 396	33.9%
Black Female	2 135	21.4%	R 4 992 145	9.7%	270	16.5%	R 720 488	3.2%	1 865	22.4%	R4271657	14.5%
Combined Black Male and Female	1 113	11.2%	R 4 242 482	8.2%	238	14.5%	R 1 787 647	8.0%	875	10.5%	R2 454 835	8.3%
White Female	100	1.0%	R 136 543	0.3%	24	1.5%	R 62 820	0.3%	76	0.9%	R73 723	0.3%
Combined Black and White Female	18	0.2%	R 306 269	0.6%	8	0.5%	R 29 917	0.1%	10	0.1%	R 276352	0.9%
Combined Black Male, Black Female and White Female	32	0.3%	R 134 953	0.3%	20	1.2%	R 93 928	0.4%	12	0.1%	R41 025	0.1%
Sub-Total	7 185	72.2%	R 22 394 063	43.3%	1 118	68.1%	R5 094 253	22.9%	6 067	73.0%	R17 299 810	58.7%
Other types of HDI enterprises												
HDI enterprises with >50% <100% shareholding	467	4.7%	R 6 815 880	13.2%	128	7.8%	R 3 689 617	16.6%	339	4.1%	R 3 126 263	10.6%
HDI enterprises with ≤50% shareholding	771	7.7%	R 16 745 236	32.4%	164	10.0%	R 11 838 439	53.2%	607	7.3%	R 4 906 797	16.6%
Non-HDI enterprises												
Non-HDI enterprises	1 532	15.4%	R 5 773 183	11.2%	231	14.1%	R 1 628 396	7.3%	1 301	15.6%	R 4 144 787	14.1%
Total	9 955	100.0%	R 51 728 362	100.0%	1 641	100.0%	R 22 250 705	100.0%	8314	100.0%	R 29 477 657	100.0%

Source: Treasury Data (2011)

6.2.5.2 Analysis of contracts awarded on the basis of race and gender to enterprises with 100% HDI shareholding

Table 6.5 summarises the number and value of contracts awarded to enterprises with 100% HDI shareholding in comparison to other types of HDI enterprises and non-HDI enterprises The combined data for national and provincial governments show that the majority of contracts, both in number (72.2%) and value (43.3%), were awarded to HDI enterprises with 100% shareholding.

Within this 100% shareholding group, enterprises owned by black males only were awarded the most contracts by combined national and provincial governments both in number (37.8%) and value (23.9%). This was followed by enterprises owned by black women, which received 21.4% of the number and 9.7% of the value of all contracts awarded. In comparison, non-HDI enterprises were awarded 15.4% of the number and 11.2% of the value of the contracts.

In terms of contracts awarded by national government, Table 6.5 also shows that although HDI enterprises with 100% shareholding were awarded the majority number of contracts (68.1%), these equated to only 22.9% of the value. Enterprises owned by black males were awarded the most national contracts both in number (34%) and value (10.8%) amongst HDI enterprises with 100% shareholding. Collectively, enterprises with 100% black shareholding only (male and female) were awarded the highest number (65%) and value (22%) of national contracts. Enterprises with 100% white female shareholding only received 1.5% of the number and 0.3% of the value of national contracts, whilst non-HDI enterprises were awarded 14.1% of the number and 7.3% of the value.

In terms of contracts awarded by provincial government, Table 6.5 indicates that HDI enterprises with 100% shareholding were awarded the majority number of

contracts (73%) and value (58.7%). As with national government contracts, HDI enterprises with 100% shareholding by black males were awarded the most contracts both in number (38.6%) and value (33.9%). Collectively, enterprises with 100% black shareholding only (male and female) were awarded the majority in number (71.5%) and value (56.7%) of provincial contracts. Enterprises with 100% white female shareholding only received 0.9% of the number and 0.3% of the value of provincial contracts, whereas non-HDI enterprises were awarded 15.6% of the number and 14.1% of the value.

6.2.6 Analysis of contracts awarded based on Female Shareholding

The clause in the PPPFA that makes provision for price preferencing based on gender includes white females in its definition of historically disadvantaged individuals. When the decision was made to include white females as HDIs for allocating preference points, concerns were raised as to whether they might benefit disproportionally in winning government contracts over other HDI groups. In the present study, the data show that over the five-year period the number and value of contracts awarded to enterprises with white female only shareholding were consistently less than those enterprises with black female shareholding. This can be seen in the data presented in Figures 4.5 and 4.6 for national government and Figures 4.13 and 4.14 for provincial government.

6.2.7 Analysis of financial premiums incurred over the five-year period

Data in Table 4.10 show that national government incurred an average financial premium of 2.0% over the five-year period, while data from Table 4.21 show that the premium for provincial governments was 1.0%.

Statistical analysis of the data yielded t-tests showing that the low premium value was significant when compared to the total value of contracts awarded both at a

national ($p < 0.001$) and provincial ($p < 0.001$) level. Another significant outcome from statistical analysis was that although HDI enterprises received the majority of contracts, they did so with minimum assistance of the price preference points that were available to them. This is shown in the analysis of data that was restricted to those contracts awarded to HDI's which yielded $p < 0.001$ at national level and also $p < 0.001$ at provincial level.

Although the average financial premium for the five-year period was low, another dimension of data analysis focused only on those contracts that incurred premiums. This analysis revealed that at both national and provincial level contracts were awarded that exceeded the maximum allowable premium as established in PPPFA regulations.

As discussed in Chapter 4, the PPPFA regulations applicable at the time established a preference point scoring system from which a formula was derived that calculated, among other things, the maximum price premium that could be incurred within the preferencing framework. Contracts with a value ≤R500 000 used the 80/20 points system that set the maximum allowable price premium at 25% of the lowest responsive tender. Contracts with a value >R500 000 used the 90/10 points system that set the maximum allowable price premium at 11.1% of the lowest responsive tender.

Table 4.11 shows the distribution of premiums for contracts awarded by national government over the five-year period. The data show that in 2009/10 a premium of 42.1% was incurred for contracts in the ≤R500 000 category, whilst in the >R500 000 category a premium of 17.6% was incurred in 2006/07 and a premium of 20.4% in 2010/2011. At a provincial level, Table 4.22 shows that for contracts in the >R500 000 category a premium of 13.4% was incurred in 2008/09 and a 12.3% premium in 2009/10.

The fact that the maximum premium levels were exceeded indicates either data error or incorrect application of the PPPFA provisions. Apart from common data reporting or capturing errors, a possible explanation for these results could be that the lowest tendered price which was not considered responsive was still used in the calculation of the price preference points. This would be procedurally incorrect. Policy guidelines and good practice recommend that only the lowest responsive price be used as the basis to calculate the price preference points for all other comparative tenders in order to avoid the situation of skewed price preference points and abnormal premium values. Another possible explanation could be fraudulent activities by government officials, subsequent to the adjudication process and tender recommendation that result in the award of a contract to a tenderer who submitted a much higher priced tender.

It is most likely that if these types of data inconsistencies were corrected or adjusted the result would be a decrease in the premium percentage values obtained in the present study.

6.2.8 Distribution of Premiums incurred per province over the five-year period

Table 6.6 illustrates the premium percentage values across the nine provinces. The premiums range from a negligible 0.001% in the Northern Cape to a maximum of 2.1% in the Eastern Cape. Five of the provinces are below the provincial average of 1%. Of the five, four provinces are below 0.5% and would suggest that these provinces were able to implement preferential procurement at an extremely low cost.

Table 6.6 also indicates a similar trend for contracts in the ≤R500 000 and >R500 000 value categories. An interesting result is that Gauteng did not incur any financial premiums in the ≤R500 000 category and incurred a very low 0.01% premium in the

>R500 000 category. This suggests that most of the HDI enterprises that tendered in Gauteng did not need the price preference policy to compete successfully with non-HDI enterprises. A similar observation applies to the Northern Cape that showed negligible premiums being incurred. The Eastern Cape incurred the highest percentage premium values in both the ≤R500 000 and >R500 000 value categories.

Table 6.6: Summary of Premiums Per Province incurred over the Five-Year Period

Province	All Contracts		Contracts ≤ R500 000		Contracts > R500 000	
	Premium %	% No. of Contracts Awarded with Premiums	Premium %	% No. of Contracts Awarded with Premiums	Premium %	% No. of Contracts Awarded with Premiums
All Provinces	1.0%	5.1%	1.1%	3.4%	1.0%	6.9%
Kwa-Zulu Natal	0.4%	2.7%	0.1%	1.8%	0.5%	4.0%
Limpopo	0.2%	1.4%	0.5%	1.2%	0.2%	1.4%
Eastern Cape	2.1%	4.5%	4.9%	1.5%	2.0%	7.6%
Mpumalanga	1.4%	20.5%	1.4%	33.0%	1.4%	15.6%
Free State	0.8%	3.8%	0.9%	1.3%	0.8%	7.6%
Gauteng	0.01%*	0.4%	0.0%	0.0%	0.01%*	0.9%
Northern Cape	0.001%*	0.9%	0.01%*	1.0%	0.001%*	0.8%
North West	1.8%	20.8%	1.9%	15.2%	1.8%	23.6%
Western Cape	1.5%	5.5%	1.1%	3.5%	1.5%	7.1%

* This value is shown to 2 decimal places due to the percent premium incurred being very low.

Source: Treasury Data (2011)

With regard to the number of contracts awarded with premiums, Table 6.6 indicates that the provincial average was 5.1%, with the North West awarding the highest percentage number (20.8%) followed by Mpumalanga (20.5%). In contrast, the premium value percentages for these two provinces were relatively low at 1.7% and 1.4%, respectively.

Table 6.7 presents data for those contracts that incurred premiums over the five-year period. It shows the actual value of the premium incurred, expressed as a percentage, on those contracts.

According to the price preference formula, the maximum premium that is permitted is 25% above the lowest responsive tender for contracts with a value ≤R500 00, and 11.1% for contracts with a value >R500 000. The data indicate that these maximum premium were exceeded at national level for contracts >R500 000 (11.2%). At the provincial level, the maximum premium in the ≤R500 000 category was exceeded by Free State (175.0%) and Western Cape (46.9%). In the >R500 000 category the maximum premium was exceeded by Kwa-Zulu Natal (14.2%), Limpopo (12.8%), Eastern Cape (17.0%) and Mpumalanga (11.7%).

6.2.9 Distribution of Contracts incurring premiums over the five-year period

To understand the significance of the percentages in Table 6.7 it must be recognised that a percentage of 100% would mean that the value of the premium alone was equal to the value of the lowest priced tender. In the case of the Free State this means that the extremely high premium value was 1.75 times greater than the lowest price tender. If data reported by National Treasury are correct, these excessive premium values imply that the preferential procurement procedures were incorrectly applied. Disregarding the possibility of corruption, the incorrect application of procedures suggests that procurement officials may lack the skills, knowledge, understanding and systems to implement the preferential procurement policy correctly. If government is intent on implementing its policies successfully it must ensure that officials have the required knowledge, experiential training, resources and skills set.

Table 6.7: Summary of contracts incurring premiums over the five-year period

Government Level	≤ R500 000				> R 500 000			
	Number of Contracts Incurring Premiums	Value of Contracts incurring Premiums (ZAR 000's)	Premium Amount (ZAR 000's)	% of Premium on Contracts incurring Premiums	Number of Contracts Incurring Premiums	Value of Contracts incurring Premiums (ZAR 000's)	Premium Amount (ZAR 000's)	% of Premium on Contracts incurring Premiums
National	52	R 15 093	R 1 915	14.5%	94	R 4 315 996	R 433 193	11.2%
Provincial	141	R 368 159	R12 922	3.6%	285	R 2 752 296	R 272 785	11.0%
Per Province								
Kwa-Zulu Natal	28	R 8 544	R 699	8.9%	48	R 140 873	R 17 558	14.2%
Limpopo	5	R 187 910	R 458	0.2%	9	R 68 234	R 7 736	12.8%
Eastern Cape	12	R 143 431	R 9 460	7.1%	61	R 733 026	R 106 543	17.0%
Mpumalanga	69	R 21 039	R 1 027	5.1%	84	R 611 885	R 64 292	11.7%
Free State	7	R 792***	R 504***	175.0%***	26	R 554 206	R 25 113	4.8%
Gauteng	0	R 0	R 0	0.0%	2	R 4 611	R 391	9.3%
Northern Cape	2	R 162	R 6	3.9%	1	R 2 453	R 12	0.5%
North West	16	R 5 626	R 559	11.0%	49	R 423 681	R 32 124	8.2%
Western Cape	2	R 655	R 209	46.9%	5	R 213 327	R 19 016	9.8%

Source: Treasury data (2011)

*** The table contains certain data (as reported by National Treasury) which appear to be incorrect. This discrepancy also renders the calculated 5-year average premium incurred (175%) unreliable for contracts in the ≤R500 000 category. In addition, it distorts the 5 year total of the premiums incurred for those contracts. However, the problem does not affect the reliability of other data in the table (including all other yearly data for ≤R500 000 contracts).

6.3 SURVEY DATA

6.3.1 Sample Size and Response Rate

The researcher observed a low response rate with a 0% response from some provinces despite numerous follow up reminders to respondents. Accordingly, data from the questionnaire survey are based on 259 responses received out of a sample size of 596. The return rate was deemed to be acceptable on a 6% margin of error and 95% confidence level based on a population size of 1985. The overall response rate for the study in relation to the sample size was 44%.

6.3.2 Relationship of Public Procurement and CIDB Grading

More than half of the survey respondents (58.1 %) started as Grade 1 contractors. Of these, 56.4% progressed to Grade 2 and higher. This confirms that these contracting enterprises grew through success achieved in winning tenders. The results presented in Table 5.17 show a steadily increasing success rate by the respondents in winning government tenders between 2006 and 2011.

It is interesting to note, however, that half the respondents did not perceive the PPPFA as the primary contributor to a higher CIDB grading and attributed their success in achieving higher grades to other factors. This finding was not unexpected because the PPPFA is not directly linked to the requirements of the CIDB grading system. This view is supported by results shown in Table 5.10 where more than half of the respondents (56.4%) professed to have no, or very basic, understanding of the workings of the PPPFA.

6.3.3 Knowledge and Understanding of the PPPFA

The survey findings indicate that respondents did not link the opportunities offered by the PPPFA to the growth and development of their enterprises. This is supported by the data presented in Table 5.10 that indicate 56.4% did not have

any, or very little, understanding of the use of preference points to promote HDI owned enterprises.

In terms of the newly revised PPPFA Regulations, the lack of knowledge and understanding of the workings of the BBBEE Scorecard System for awarding preference points is likely to hinder the implementation of newly revised PPPFA Regulations. This view is supported by data presented in Table 5.11 which show that 61.6% of respondents had no, or very basic understanding of how the new system works as it relates to the claiming of preferential points for government contracts.

The survey results demonstrate the importance of government communicating its policies to target groups. This must include raising awareness on the purpose of a specific policy, the process and procedures that must be followed, and the expected benefits. In addition, the intended beneficiaries of a policy must have confidence, firstly, that the policy will benefit them and, secondly, that it will be applied fairly and effectively without any collusion and corruption affecting the process.

6.3.4 Supply Side Constraints and Barriers to Entry

The general findings suggest that HDI owned enterprises benefited and grew as a result of the PPPFA. However, 67% of the respondents indicated that supply side constraints limited the pace of anticipated business growth and expansion in the construction sector.

Table 5.22 presents reasons that contributed to businesses not growing as expected. The most frequently stated reason (63.5%) was the inability to access finance when needed. Another constraint indicated by 56% of the respondents was the difficulty encountered in obtaining credit from suppliers. Other constraints identified by respondents included the lack of suitable training for

business owners and their employees, and in addition, the inability to source competent management and construction staff.

These findings suggest that although increased procurement opportunities are offered by the preferential procurement policy, supply side constraints and related barriers to entry such as access to credit and competent human resources impact negatively on both business growth and the ability to perform successfully. Therefore, appropriate procurement mechanisms are needed to address these constraints in order for government to achieve its socio-economic objectives. This requires government to increase its attention on developing an enabling environment for the construction industry in order to optimise the benefits of preferential procurement.

6.3.5 Relationship between CIDB Grade and number of contracts awarded

Table 6.8: Correlation between CIDB Grades and number of contracts received

CIDB Grading	No. of Contracts	% of Contracts
1	13	0.6%
2	654	29.6%
3	163	7.4%
4	527	23.8%
5	259	11.7%
6	251	11.4%
7	206	9.3%
8	61	2.8%
9	76	3.4%
Total	2210	100%

Source: Treasury data (2011)

Chi square 320.3**
Correlation 0.197**
Linear regression 0.197**

Table 6.8 indicates that CIDB Grade 2 contractors received the highest number of contracts. Correlation tests were applied to identify relationships between the number of contracts received and the CIDB grading of a construction enterprise. Bi-variate tests indicate that there is a statistically significant relationship between the CIDB grading levels and the number of contracts awarded ($p < 0.01$). There was a positive correlation between CIDB grading and number of contracts awarded to contractors ($r = 0.19$; $p < 0.01$). This indicates that as a contractor's grade increases, the enterprise is more likely to be successful in being awarded a contract. Linear regression indicates that for every grade increase there is a 2.5 percent higher probability that the enterprise will be awarded a contract. Therefore, by increasing its CIDB Grade a construction enterprise will increase its chances of being awarded a contract.

6.3.6 Relationship between CIDB Grade and business growth

Chi-squared tests, to determine the relationship between CIDB grading and business growth, showed a statistically significant relationship between CIDB grading and business growth ($p < 0.01$). This highlights that as the CIDB Grade of a contractor increases the enterprise is more likely to grow. There is a positive correlation between CIDB grades and business growth ($r = 0.24$; $p < 0.01$).

6.3.7 Relationship between CIDB Grade and an understanding of the preferential points system

Statistical analysis to determine the relationship between CIDB grading and the respondents understanding of the use of preference points indicate that there is a statistically significant relationship between CIDB grading and understanding the application of preference points ($p < 0.05$). Correlation tests suggest that as the CIDB Grade of an enterprise increases, there is a greater understanding of the application of preference points ($r = 0.17$; $p < 0.05$).

6.3.8 Relationship between age of a business and average turnover per annum

Table 6.9: Statistical tests to determine correlation values					
Year	**2006**	**2007**	**2008**	**2009**	**2010**
Correlation	-0.453***	-0.244***	-0.249***	-0.265***	-0.169

The correlation values from 2006 to 2009 indicate that the longer the enterprise has been operational the higher the annual average turnover. The statistical tests indicate that there was no significant relationship in 2010.

6.3.9 Change in respondent's CIDB Grading

Table 6.10: Movement from first grading to present grading		
Movement in grading	**Frequency**	**Valid Percent**
-4	1	0.5%
-1	7	3.2%
0	32	14.5%
1	85	38.5%
2	37	16.7%
3	34	15.4%
4	18	8.1%
5	6	2.7%
6	1	0.5%
Total	221	100%

The frequency distribution in Table 6.10 indicates the movement from first grading to present grading designation. It shows that 3.7% of the sample dropped in grades and 14.5% showed no movement. This indicates that 81.9% of the respondents obtained a higher CIDB grade compared to their first grading designation.

6.4 Examination of the Propositions

6.4.1 Proposition 1

The first proposition is that government policy has contributed to the increased participation of enterprises with HDI shareholding in public sector construction contracts through the application of the preferential procurement policy in terms of the PPPFA of 2000.

The two research objectives that guided the research methodology and data analysis to examine this proposition were:

i. To measure the number and value of government contracts awarded to construction businesses with HDI shareholding in comparison with the total number of contracts awarded; and
ii. To analyse the distribution of contracts awarded to construction businesses with HDI shareholding on the basis of race and gender as provided for in the PPPFA (2000) at both national and provincial levels.

Data for national government departments and provincial governments obtained from National Treasury were used to examine Proposition 1. The data were categorized into contracts awarded to enterprises with HDI shareholding (i.e. black male; black male and white female).

The objective of the PPPFA (2000) was to increase the participation of enterprises owned by HDI's. As a result, the present study measured both the number and value of contracts that were awarded to enterprises with HDI shareholding and compared the results to the total number of contracts awarded as set out in the first research objective.

It was necessary to measure both the number and the related value of contracts awarded in order to assess increased participation, as well as to identify trends and anomalies between the various HDI groups.

6.4.1.1 Number of contracts awarded to HDI and non-HDI enterprises over the five-year period

Table 6.11 indicates that 8423 contracts (84.6%) of the 9955 construction contracts were awarded to HDI enterprises by both national and provincial governments during the period April 2006 to March 2011. Of these, 1410 (85.9%) out of 1641 contracts were awarded to HDI enterprises by national government departments and 7013 (84.4%) contracts out of 8 314 contracts were awarded to HDI enterprises by provincial government departments.

Table 6.11: Number of Contracts awarded to HDI and non-HDI enterprises over the five-year period

Type of Enterprise	Combined National and Provincial		National		Provincial	
	No. of Contracts	%	No. of Contracts	%	No. of Contracts	%
HDI Enterprises	8 423	84.6%	1 410	85.9%	7 013	84.4%
Non-HDI Enterprises	1 532	15.4%	231	14.1%	1 301	15.6%
Total	9 955	100.0%	1 641	100.0%	8 314	100.0%

Figure 4.1 indicates that more than 80% contracts (in number) were awarded annually to HDI enterprises by national government over the five-year period. The trend appears to be consistent over the review period with contracts awarded to HDI enterprises peaking at 92.4% during 2007/08.

For provincial government, Figure 4.9 indicates a similar trend of more than 80% of contracts (in number) being awarded annually to HDI enterprises over the five-year period, with a peak of 90.3% in 2010/11.

Overall, the data show that construction enterprises with HDI shareholding were awarded a considerably higher number of contracts in each year of the five-year period by both national and provincial governments.

6.4.1.2 Value of contracts awarded to HDI and non-HDI enterprises over the five-year period

Table 6.12 indicates that R46 billion (88.8%) out of a total value of R51.7 billion in construction related contracts were awarded to HDI enterprises by both national and provincial governments during the period April 2006 to March 2011. Of this, R20.6 billion (92.7%) out of a total R22.3 billion were awarded to HDI enterprises by national government departments and R25.3 billion (85.1%) out of a total R29.5 billion were awarded to HDI enterprises by provincial government departments.

Figure 4.2 indicates that more than 90% of the value of contracts was awarded annually to HDI enterprises by national government over the five-year period. The trend appears to be consistent over the review period with contracts awarded to HDI enterprises peaking at 98.6% during 2007/08.

Table 6.12: Value of Contracts awarded to HDI and non-HDI enterprises over the five-year period

Type of Enterprise	Combined National and Provincial		National		Provincial	
	No. of Contracts	%	No. of Contracts	%	No. of Contracts	%
HDI Enterprises	R45 955 179	88.8%	R20 622 309	92.7%	R25 332 870	85.9%
Non-HDI Enterprises	R 5 773 183	11.2%	R1 628 396	7.3%	R4 144 787	14.1%
Total	R51 728 362	100.0%	R22 250 705	100.0%	R29 477 657	100.0%

With regard to provincial government, Figure 4.10 indicates an annual trend of between 80% and 90% of the value of contracts being awarded annually to HDI enterprises over the five-year period.

Overall, the data show that construction enterprises with HDI shareholding were awarded a considerably higher value of contracts in each year of the five-year period by both national and provincial governments.

6.4.1.3 Distribution of contracts awarded over the five-year period, disaggregated by HDI shareholding and HDI status in terms of the PPPFA

Notwithstanding that HDI enterprises did benefit significantly in the award of government contracts, the second research objective was necessary to identify the distribution of contracts awarded to HDI enterprises based on shareholding, and on the basis of race and gender as stipulated in the PPPFA.

Data presented in Table 6.4 show that the majority number of contracts (76.9%) awarded by combined national and provincial governments over the five-year period went to HDI enterprises with >50% shareholding. The highest percentage number of contracts (74.4%) was awarded to black owned HDI enterprises with shareholding >50%. A similar trend is also evident when separating the contracts awarded by national and provincial governments, with black owned HDI enterprises with shareholding >50% being awarded 71.6% of the number of contracts by national government and 74.9% by provincial.

In terms of contract value, data presented in Table 6.4 show that HDI enterprises with >50% shareholding were awarded the majority value of contracts (56.5%) by both national and provincial governments over the five-year period. This is followed by HDI enterprises with ≤50% shareholding (32.4%) and non-HDI enterprises (11.2%). The highest percentage value of contracts (53.5%) was awarded to black owned HDI enterprises with shareholding >50%. National

government awarded the majority value of contracts (53.2%) to HDI enterprises with a shareholding ≤ 50%. Provincial government awarded the majority value of contracts (69.3%) to HDI enterprises with shareholding >50%.

Further analysis of Table 6.4 indicates that black owned HDI enterprises with shareholding >50% were awarded the highest percentage value of contracts (53.5%) from combined national and provincial governments. However, for national government, the highest percentage value of contracts (51.8%) was awarded to black owned HDI enterprises with shareholding ≤50%. Provincial governments awarded the highest percentage value of contracts (66.1%) to black owned HDI enterprises with shareholding >50% .

Data presented in Table 6.5 show that enterprises with 100% shareholding by HDI's were awarded the highest percentage number (72.2%) and the highest percentage value (43.3%) from combined national and provincial governments. HDI enterprises with ≤50% shareholding were awarded the highest percentage value (53.2%) of contracts by national government and followed by HDI enterprises with 100% shareholding (22.9%). The highest percentage value (58.7%) of contracts awarded by provincial governments went to HDI enterprises with >50% shareholding.

Table 6.5 indicates that, collectively, HDI enterprises with 100% shareholding by black persons only (male and female) were awarded 65% of the number of contracts and 22% of the value of contracts by national government. HDI enterprises with 100% shareholding by white females only received 1.5% and 0.3% of contracts in terms of number and value, respectively. Provincial governments awarded 71.5% in number and 56.7% in value of contracts to HDI enterprises with 100% shareholding by black persons only (male and female). In comparison, HDI enterprises with 100% shareholding by white females only received 0.9% and 0.3% of contracts in terms of number and value, respectively, from provincial government.

6.4.1.4 Summary of Results

As shown, the results of the analysis of the five-year dataset for national and provincial government departments collected by the National Treasury confirm that construction enterprises with HDI shareholding benefited significantly in the award of public sector contracts. The results show that the majority of contracts awarded both in number (84.6%) and value (88.8%) went to construction enterprises with some degree of HDI shareholding. Furthermore, the results also show that HDI enterprises were consistently awarded the majority of contracts in both number and value in each year over the five-year period by national and provincial governments.

A more detailed analysis of the data into the three HDI groups used for this study (i.e. black male, black female and white female) reveals that HDI enterprises owned by black persons were awarded the highest number and value of contracts. For national government, the highest percentage number of contracts (75.9%) was awarded to enterprises with >50% HDI shareholding and the highest percentage value of contracts (53.2%) was awarded to enterprises with ≤50% HDI shareholding. For provincial government, both the highest percentage number (77.1%) and highest percentage value (69.3%) of contracts were awarded to enterprises with >50% HDI shareholding.

With regard to the distribution of contracts to HDI enterprises with 100% shareholding, enterprises owned by black males were awarded the most contracts both in number and value from national and provincial governments. Collectively, enterprises with 100% shareholding by black persons only (male and female) were awarded a significantly higher number and value of contracts from both national and provincial government than did enterprises with 100% white female shareholding.

These results also suggest that the award of contracts to the different HDI race groups in terms of percentage number and value is relative to the population

demographics of South Africa, and therefore consistent with the objectives of advancing those persons that were historically disadvantaged by unfair discrimination as envisaged in the constitution (RSA, 1996)

The overall results confirm that construction enterprises with HDI shareholding benefited significantly in terms of winning government tenders through the application of the PPPFA (2000) which therefore contributed to the increased participation of these businesses in public sector construction contracts.

Proposition 1 is true.

6.4.2 Proposition 2

The second proposition was that the application of preferential procurement resulted in excessive cost premiums in relation to that contemplated in the initial formulation of the policy.

The research objective linked to this proposition was to determine the financial cost premiums incurred through the implementation of the PPPFA of 2000.

According to the Oxford dictionary, the term “excessive” means more than is necessary, normal or desirable. However, at the time that the preferential procurement policy was formulated there appears to have been no pre-determined amount as to what would be considered normal or necessary. What the preference price formula did establish was a maximum potential price premium that would be applicable in extreme cases. As explained in the literature review of the present study, the original formulation of the preference points formula set the maximum “theoretical” premium that government deemed to be acceptable at 25% for the ≤R500 000 tender category and 11.1% for >R500 000 tender category.

6.4.2.1 Analysis of premiums incurred for implementing preferential procurement

Table 6.13: Summary of premiums incurred over the five-year period

Data Source	Total		≤R500 000		>R 500 000	
	Premium Value %	% No. of contracts awarded with premiums	Premium Value %	% No. of contracts awarded with premiums	Premium Value %	% No. of contracts awarded with premiums
Combined National and Provincial	1.4%	5.8%	1.1%	3.9%	1.4%	7.5%
National	2.0%	8.9%	1.2%	6.7%	2.0%	10.9%
Provincial	1.0%	5.1%	1.1%	3.4%	1.0%	6.9%

Source: Treasury Data (2011)

Table 6.13 provides a summary of premiums incurred as applicable to the contracts awarded in both number and value at national and provincial levels separately, as well as combined. The analysis of the combined data show the percentage number of contracts incurring premiums was 5.8% and the percentage premium value was 1.4%. In terms of contracts with a value ≤R500 000 the percentage number of contracts incurring premiums was 3.9% and the percentage premium value incurred was 1.1%. For contracts with a value >R500 000, the percentage number of contracts incurring premiums was 7.5% and the percentage premium value incurred was 1.4%.

In the case of national government departments, Table 6.13 indicates that the percentage number of total contracts incurring premiums was 8.9% while the percentage premium value was 2.0%. In terms of contracts ≤R500 000, the percentage number of contracts incurring premiums was 6.7% and the percentage premium value incurred was 1.2%. For contracts with a value >R500 000, the percentage number of contracts incurring premiums was 10.9% and the percentage premium value incurred was 2.0%. The distribution of premiums over the five-year period as shown in Table 4.10 indicates a minimum

percentage premium value of 0.8% during 2007/08 and a maximum of 6.5% during 2010/11. The results in Table 4.11 indicate that the premium incurred in the >R500 000 contract value category was higher (2.0%) than the premium incurred (1.2%) in the ≤R500 000 category, which suggests that HDI enterprises may have been more competitive in the lower value category.

For provincial government departments, Table 6.13 shows that the percentage number of contracts incurring premiums was 5.1% while the percentage premium value was 1.0%. In terms of contracts with a value ≤R500 000, the percentage number of contracts incurring premiums was 3.4% while the percentage premium value incurred was 1.1%. For contracts with a value >R500 000, the percentage number of contracts incurring premiums was 6.9%, while the percentage premium value incurred was 1.0%. The distribution of premiums as shown in Table 4.21 indicates a more consistent trend over the five-year period with premiums ranging between 0.4% and 1.4%. The results in Table 4.22 illustrate a different trend to that of national government in that the premium incurred in the >R500 000 category contract value category is marginally lower (1.0%) than that incurred (1.1%) in the ≤R500 000 category.

6.4.2.2 Analysis of contracts incurring premiums

The results reveal that the proportion of contracts that incurred premiums, together with the percentage premium value in terms of the total number of contracts for both national and provincial departments, was unexpectedly low. Notwithstanding this, it is important to determine the direct premium value on those specific contracts that incurred premiums to understand the actual value of premiums and to identify any anomalies in relation to the maximum "theoretical" premium of 25% for the ≤R500 000 tender category and 11.1% for >R500 000 tender category.

Table 6.14: Summary of contracts incurring premiums over the five-year period

Data Source	≤R500 000			>R 500 000		
	Value of Contracts incurring Premiums (ZAR 000's)	Premium (ZAR 000's)	% of Premium on Contracts incurring Premiums	Value of Contracts incurring Premiums (ZAR 000's)	Premium (ZAR 000's)	% of Premium on Contracts incurring Premiums
Combined National and Provincial	R 383 253	R 14 837	4.0%	R7 068 292	R 705 978	11.1%
National	R 15 093	R 1 915	14.5%	R 4 315 996	R 433 193	11.2%
Provincial	R 368 159	R12 922	3.6%	R 2 752 296	R 272 785	11.0%

Source: Treasury Data (2011)

Table 6.14 presents data that indicates that, at combined national and provincial levels, the premium percentage value applicable to only those contracts that incurred premiums was 4% for contracts ≤R500 000 and 11.1% for contracts >R500 000. In the case of national government departments, the premium percentage value applicable to contracts that incurred premiums was 14.5% for contracts ≤R500 000 and 11.2% for contracts >R500 000. For provincial government departments, Table 6.14 shows that the premium percentage value applicable to only those contracts that incurred premiums was 3.6% for contracts ≤R500 000 and 11.0% for contracts >R500 000.

The results show that for contracts >R500 000, the premium values for combined (11.1%) and provincial (11.0%) levels were equal to or very close respectively to the maximum potential premium of 11.1%. For national government, the premium value (11.2%) exceeded the maximum value of 11.1%. For contracts ≤R500 000, the premium values in the three groups were considerably lower than the 25% maximum premium.

6.4.2.3 Summary of Results

The overall findings show that comparatively few contracts incurred premiums and that very low premiums were incurred across the different analysis categories (combined, national and provincial levels) over the five-year period under review. This proves conclusively that the application of preferential procurement did not result in excessively high cost premiums for government. The findings show that the premiums incurred in implementing the PPPFA were considerably lower than the maximum provided for in the original formulation of the points scoring formula in both ≤R500 000 and >R500 000 value categories.

At the combined level of contracts awarded by both national and provincial governments over the five-year period, the results reveal that the average percentage premium value of 1.1% represents less than 5% of the maximum potential premium of 25% on contracts ≤R500 000 and that the average percentage premium value of 1.4% represents about 12% of the maximum potential premium of 11.1% on contracts >R500 000, both of which are well below the premiums contemplated in the initial formulation of the preferential procurement policy.

Proposition 2 is false.

6.4.3 Proposition 3

The third proposition examined was that preferential procurement served as an effective mechanism for construction related enterprises with HDI shareholding to grow their businesses.

The two research objectives linked to this proposition were:

i. To establish whether the application of the PPPFA of 2000 had helped construction enterprises with HDI shareholding to grow their businesses; and

ii. To assess whether construction enterprises with HDI shareholding, as beneficiaries of the policy, understood the intention and application of the PPPFA (2000).

The results of the survey data in Table 5.4 reveal that most enterprises participating in the survey were established post 1994, when various government programmes were introduced to provide and advance business opportunities for construction enterprises owned by HDI's. Specifically, 82% of enterprises surveyed established their businesses in the decade from 2000 to 2010 as shown in Table 5.4. This finding is important given that the PPPFA was enacted in 2000.

The survey results in Table 5.6 conclusively demonstrate that in the period from 2006 to 2010 turnover levels in enterprises with CIDB Grades 2 to 9, with the exception of Grade 3, were higher than or close to the five-year average. The increased annual turnover enabled these contractors to advance to higher CIDB grading levels, which is a recognised indicator of business growth in the construction industry. It should be noted, however, that the data excluded start-up enterprises registered with the CIDB as Grade 1GB.

Table 5.9 indicates that more than half of the survey respondents (58.1 %) started as Grade 1 contractors. Of these, 56.4% had progressed to Grade 2 and higher at the time of the survey. This suggests that many of these contracting enterprises grew through success achieved in winning government tenders, as shown in Table 5.17.

The results presented in Table 5.17 show a steadily increasing success rate in winning government tenders between 2006 and 2011. Of note, however, is that half the respondents did not perceive the PPPFA as the primary contributor to a higher CIDB grading and attributed other reasons for earning higher grades. This finding is not unexpected, because the PPPFA is not directly linked to the

requirements of the CIDB grading system. This view is supported by the results in Table 5.10 where more than half of the respondents (56.4%) professed to have either limited or no understanding the workings of the PPPFA.

Almost all the respondents (94%) indicated that they submitted a construction related tender to a government department and close to 70% were successful in being awarded such tenders over the five-year period under review. Of the respondents who submitted tenders to national, provincial and local governments, over 80% claimed preference points in these tenders. The fact that respondents were claiming preference points indicates that they recognised the benefits in the adjudication and award processes. Of these respondents, 75% acknowledged that the preferencing system provided them with an advantage.

Although 74% of respondents claimed that their enterprises had grown over the period under review, 67% indicated that the rate of business growth did not meet their expectations. The main reason identified by respondents for this slow growth was the inability to access construction finance when needed.

The overall findings of the questionnaire data confirm that the application of preferential procurement served as an effective mechanism to grow HDI owned construction businesses. The findings also confirm that preferential procurement provided HDI enterprises with accelerated access to business opportunities through a pricing advantage that increased the chances of winning tenders. While the general findings support the premise that HDI enterprises benefited and grew as a result of the PPPFA, evidence also suggests that supply side constraints limited the pace of anticipated business growth and expansion in the construction industry.

Proposition 3 is true.

6.5 OTHER FINDINGS

6.5.1 Distribution of Contracts in the ≤R1 million and >R1 million value categories

The findings on the value threshold distribution of tenders awarded by government in the ≤R500 000 category has significant implications for the new regulations governing the application of the PPPFA that came into effect in December 2012. The new PPPFA regulations increased the ≤R500 000 category threshold to R1million for the application of the 80/20 points scoring formula.

A further analysis of the Treasury Data was conducted to determine the impact this reformulation of the points scoring system would have had on the consolidated results if the R1m value threshold had been applied. The results for national government in Table 4.9 show that 56.6% of the number of contracts awarded were in the ≤R1 million category and 44.4% in the >R1 million category, but that the monetary value of contracts awarded in the lower category was 2.8%. For provincial government the results in Table 4.20 indicate that 66.8% of the number of contracts awarded were in the ≤R1 million category and 33.2% in the >R1 million category, but that the monetary value of contracts awarded in the lower category was 6%.

Although the research findings conclusively indicate that construction enterprises with HDI shareholding benefitted significantly from the application of the PPPFA and were able to grow their businesses, the low percentage monetary value attached to almost half the number of contracts in the ≤R500 000 value category means that an important target group, i.e. SMME's and emerging construction enterprises, benefitted only marginally from the total value of construction contracts that was made available by national and provincial government departments.

This comparatively low percentage monetary values in the ≤R500 000 contracts category, which used the 80/20 points scoring formula in order to provide the highest price preferencing advantage to the SMME and emerging enterprise sector, cannot be ignored. In terms of the new PPPFA Regulations (2011), this category has been increased to ≤R1 million for the use of the 80/20 points scoring formula. In order to establish whether this new value category will address the issue of low monetary value, the awarded contracts were disaggregated into ≤R1 million and >R1 million value categories. Table 4.2 and Table 4.9 indicate that, on this basis, both the percentage number and percentage value of the contracts awarded over the five-year period by national government would increase from 47.2% to 55.6% and 0.8% to 2.8%, respectively. For provincial government, Table 4.13 and Table 4.20 show an improved distribution with the number and value of the contracts awarded over the five-year period increasing from 49.9% to 66.8% and 4.0% to 6.0%, respectively.

6.5.2 Distribution of Contracts Disaggregated into CIDB grading categories

The comparatively low monetary value in the ≤R500 000 contracts category also needs to be analyzed in relation to the CIDB grading categories. This is necessary because contractors are limited to the value of a contract they can tender for in the public sector based on their CIDB grading as shown in Table 4.8.

From data shown in Table 4.8 it is evident that for national government 27.7% of the number of contracts awarded over the five-year period were in the Grade 1 category, although this represented only 0.3% of the total value of contracts. An analysis of the CIDB Grade 2 category indicates a similar trend with 24.0% of the total number of contracts awarded in this category, but the value of those contracts representing only 0.7% of the total value.

For provincial governments Table 4.19 shows that 29.1% of the total number of contracts awarded over the five-year period were in the CIDB Grade 1 category,

but they were worth only 1% of the total value. A slight improvement is evident for the CIDB Grade 2 category with 28.4% of the total number of contracts being awarded which equated to 3% of the total value. The national and provincial results imply that the monetary value of contracts awarded in the ≤R500 000 category has a direct impact on contract opportunities for CIDB Grades 1 and 2 contractors.

The results indicate that over 50% of the total number of contracts were awarded in the CIDB Grades 1 and 2 categories, although they were not necessarily awarded exclusively to CIDB Grades 1 and 2 contractors. However, in terms of contract value this 50% made up only 1% and 4% of the total value of contracts awarded by national and provincial governments, respectively. It is important to note that contractors in Grades 3 to 9 can also compete for tenders in the lower value categories and often do so in tough economic times.

In terms of the revised ≤R1 million category as per the new PPPFA Regulations (2011), which provides for the 80/20 points scoring formula, the distribution of contracts awarded would also include, in part, the CIDB Grade 3 category. As an indicator of potential contracts opportunities for CIDB Grade 1 to 3 contractors, the results for national government presented in Table 4.8 show that 66.2% of the number and 2.3% of the total value of contracts awarded were in this category. For provincial government, the results presented in Table 4.19 indicate that 77.3% of the number and 9.8% of the total value of contracts awarded were in this category.

6.6 SUMMARY

This chapter interprets the results and empirical findings as they relate to the Treasury Data and Questionnaire Survey. The findings relate to the stated research objectives and examine the three propositions in this study. Conclusions and recommendations based on these findings are discussed in Chapter 7.

CHAPTER 7: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

7.1 INTRODUCTION

The present study examined the effectiveness of the application of preferential procurement policy in the South African construction industry. Preferential procurement objectives linked to public sector procurement policy were promulgated by the South African government through the Preferential Procurement Policy Framework Act (PPPFA) No.5 of 2000. The desired outcome of the legislation was to achieve the socio-economic objectives linked to public sector procurement policy, as established in Section 217 of the South African Constitution.

After 1994, the PPPFA was one of several mechanisms introduced by a democratically elected South African government to redress the racial and gender related discriminatory practices of the past. The primary intended beneficiaries of preferential procurement legislation were targeted groups (black males, black females and white females) that were previously prevented or restricted from accessing government contracts (Bolton, 2004).

Although preferential procurement legislation was promulgated almost 12 years ago, a review of the literature shows a lack of research on the effectiveness of the application of preferential procurement legislation in SA in general, and in the construction industry in particular. The lack of empirical analysis of the challenges and achievements in the application of preferential procurement prescripts is particularly noteworthy given that the regulations pertaining to the PPPFA were significantly amended in December 2011. The present study sought to address this gap in empirical data and analysis, and extend the research conducted by Gounden in 2000. Gounden (2000) examined the implementation of the Affirmative Procurement Policy Programme as a precursor to the PPPFA.

Specifically, Gounden (2000) focused on the participation of Affirmable Business Enterprises (ABE's) in contracts awarded by the National Department of Public Works.

The primary aim of the present study was to assess the effectiveness of the PPPFA of 2000 in creating and growing business opportunities for HDI owned contractors in the construction industry through the application of a preference scoring mechanism in public sector procurement. The study focused on the awarding of public sector construction contracts to business enterprises with HDI shareholding.

Primary and secondary research data were obtained and analysed to examine the following propositions:

Proposition 1: That government policy has contributed to the increased participation of enterprises with HDI shareholding in public sector construction contracts through the application of the preferential procurement policy in terms of the PPPFA of 2000;

Proposition 2: That the application of preferential procurement resulted in excessive cost premiums in relation to that contemplated in the initial formulation of the policy; and

Proposition 3: That preferential procurement served as an effective mechanism for construction related enterprises with HDI shareholding to grow their businesses.

A five-year dataset obtained from the National Treasury was used to examine propositions 1 and 2, while data from a survey questionnaire administered to

construction enterprises registered with the Construction Industry Development Board (CIDB) in the General Building (GB) Grades 2 to 9 categories formed the basis for examining proposition 3.

The study was guided by the following research objectives:

(i) To measure the number and value of government contracts awarded to construction businesses with HDI shareholding in comparison with the total number of contracts awarded;

(ii) To analyse on the basis of race and gender the distribution of contracts awarded to construction businesses with HDI shareholding , as provided for in the PPPFA (2000), at both national and provincial levels;

(iii) To determine the financial cost premiums incurred through the implementation of the PPPFA of 2000;

(iv) To establish whether the application of the PPPFA of 2000 helped construction enterprises with HDI shareholding to grow their businesses; and

(v) To assess whether construction enterprises with HDI shareholding, as beneficiaries of the policy, understood the intention and application of the PPPFA of 2000.

7.2 KEY FINDINGS OF THE STUDY

The first proposition examined was:

> ***that government policy has contributed to the increased participation of enterprises with HDI shareholding in public sector construction contracts through the application of the preferential procurement policy in terms of the PPPFA of 2000.***

The first two research objectives guided the research methodology and data analysis to examine this proposition.

The results of the analysis of the five-year dataset for national and provincial government departments collected by the National Treasury clearly demonstrate that construction enterprises with HDI shareholding benefited significantly from the award of construction contracts over the five-year period of this research. The combined results for national and provincial government show that the majority of contracts awarded, both in number (84.6%) and total value (88.8%) went to construction enterprises with some degree of HDI shareholding. The results also indicate that enterprises with majority HDI shareholding >50% were awarded the majority of contracts over the five-year period both in number (76.9%) and total value (56.5%). Looking at the data more closely reveals that the 76.9% was made up of 72.2% enterprises with HDI ownership of 100% and the balance of 4.7% comprised enterprises with HDI ownership between >50% and <100%. In terms of total value, the 56.5% was made up of 43.3% enterprises with HDI ownership of 100% and the balance of 13.2% consisted of enterprises with HDI ownership between >50% and <100%. Within this 100% HDI shareholding group, enterprises owned by black males only were awarded the most contracts by combined national and provincial governments both in number (37.8%) and

value (23.9%). This was followed by 100% black women owned enterprises which received 21.4% in number and 9.7% in value of all contracts.

Overall, the results confirm that the application of the PPPFA (2000) contributed to the increased participation of enterprises with HDI shareholding in terms of winning government construction contracts. Therefore, the first proposition is true.

However, although HDI enterprises were generally successful in winning contracts the percentage monetary value of the ≤R500 000 contracts was comparatively low. The consistently low percentage monetary values attached to almost half the number of contracts awarded in the ≤R500 000 category essentially means that an important targeted beneficiary group of preferential procurement, i.e., SMME and emerging enterprises owned by HDI's, had access to a very low value of the total construction contracts made available by national and provincial government departments.

The second proposition examined was:

> ***that the application of preferential procurement resulted in excessive cost premiums in relation to that contemplated in the initial formulation of the policy***.

The research objective linked to this proposition was to determine the financial cost premiums incurred through the implementation of the PPPFA of 2000.

The combined results for national and provincial governments show that 5.8% of the total number of contracts were awarded with price premiums and incurred a premium percentage value of 1.4% of the total value of contracts awarded. Separate results for national government indicate that 8.9% of the total number

of contracts were awarded with price premiums and incurred a premium percentage value of 2.0% of the total value of contracts awarded. For provincial governments only, the results show that 5.1% of the total number of contracts were awarded with price premiums and incurred a premium percentage value of 1.0% of the total value of contracts awarded.

The results also show that the premiums incurred in implementing the PPPFA were considerably lower than that contemplated in the original formulation of the points scoring formula in both ≤R500 000 and >R500 000 value categories. As discussed in Section 2.5.5, the original formulation of the preference points formula set the maximum "potential" premium that government deemed to be acceptable at 25% for ≤R500 000 priced contracts and 11.1% for >R500 000 priced contracts.

These results suggest that a relatively small number of contracts were awarded with premiums and, more importantly, that they incurred consistently low price premiums across the different analysis categories (i.e. for combined, national and provincial levels) over the five-year period. The overall results confirm that the application of preferential procurement did not result in excessively high cost premiums for government. Therefore, the second proposition is false.

The findings related to cost premiums suggest that HDI enterprises were consistently able to submit competitively priced tenders, particularly in the ≤R500 000 pricing category. This category of enterprises did not necessarily need the advantage of price preference points to obtain the highest adjudicated scores to win government contracts. Other possible explanations for this result are that either there was a decline in the number of non-HDI enterprises that tendered for public sector contracts, or that their tenders were not competitively priced. The findings also suggest that in terms of submitting competitively priced tenders the "playing field" between established and emerging HDI owned

businesses might have been more level than presumed by government when formulating the provisions of the PPPFA of 2000.

In relation to cost premiums for implementing preferential procurement, the findings are consistent with those of Gounden (2000). Gounden reported that the financial premium incurred for the participation of the ABE's in the Affirmative Procurement Policy Programme, as implemented by the National Department of Public Works, was between 0.2% and 0.87% for the period August 1996 through July 1998.

The findings of the present study are also significant because they confirm and extend the earlier findings of the World Bank CPAR of 2002 for South Africa. The World Bank study (2003) reported that in the awarding of construction contracts, the "premium" for the State as a result of preferential policies was less than 1% of the contract value. Even though the World Bank study was based on information gathered in the very early stages of the implementation of the PPPFA in South Africa, and included data from the Affirmative Procurement Policy Programme, it is important to note that the authors deemed the premium to be an acceptable cost in the pursuit of merging the dual economies of a post-apartheid South Africa.

Bolton (2010, 2004) adds to this discussion by presenting a persuasive argument that supports government decisions to incur financial premiums to achieve socio-economic objectives through public procurement. According to Bolton (2004), such premiums should be considered as an integral part of a country's growth and transformation and, in most cases, the question is not whether a country can afford to use procurement as a policy tool, but rather whether it can afford not to use it.

The third proposition examined was:

that preferential procurement served as an effective mechanism for construction related enterprises with HDI shareholding to grow their businesses.

The two research objectives linked to this proposition were:

(1) To establish whether the application of the PPPFA of 2000 helped construction enterprises with HDI shareholding to grow their businesses; and

(2) To assess whether construction enterprises with HDI shareholding, as beneficiaries of the policy, understood the intention and application of the PPPFA (2000).

The results of the survey data reveal that most enterprises participating in the survey were established post-1994 when various government programmes were introduced to provide and advance business opportunities for construction enterprises owned by HDI's. The increased annual turnover enabled these contractors to advance to higher CIDB grading levels which is a recognised indicator of business growth in the construction industry. As explained earlier, the data excluded start-up enterprises registered with the CIDB as Grade 1GB.

The results confirm that construction related enterprises not only grew their businesses through success achieved in winning government tenders, but steadily increased their success rate in winning tenders between 2006 and 2011.

Of the respondents who submitted tenders to national, provincial and local governments, over 80% claimed preference points in their tenders. Of these,

75% acknowledged that the preferencing system provided them with an advantage. The claiming of preference points suggests that HDI owned enterprises recognised that the preferential procurement policy benefited them in the tender award/adjudication process.

The combined overall results of the analysis of the National Treasury dataset and survey questionnaire data confirm that the application of preferential procurement served as an effective mechanism in growing construction related enterprises with HDI shareholding. The results further confirm that preferential procurement provided HDI owned enterprises with accelerated access to business opportunities through a pricing advantage that increased their chances of winning government tenders. Therefore, the third proposition is true.

While the general findings support the premise that HDI owned enterprises benefited and grew as a result of the PPPFA, there is evidence from the survey research results which suggests that supply side constraints limited the pace of anticipated business growth and expansion in the construction industry.

Although 74% of survey respondents claimed that their enterprises had grown over the period under review, 67% felt that the rate of business growth did not meet their expectations. The main reason stated by respondents for the perceived slow growth was the inability to access construction finance when needed. Although the access to finance issue was specifically acknowledged by government at the beginning of the procurement reform process, and explicitly referred to in the Ten Point Plan and subsequent Green Paper, the evidence shows that it persists as the major constraint hindering business growth in the construction industry.

Other notable contributing constraints to slow business growth included the inability of government departments to pay construction enterprises on time,

followed by difficulties encountered in obtaining credit from suppliers, and the lack of suitable training for business owners and their employees.

The list of constraints facing HDI owned enterprises is worthy of attention and further scrutiny because it signals that being awarded a tender is only the first step in running a successful construction business. The second step is to have the competence, capacity and resources to execute a contract. Failure to deliver on the contract within budget and on time reduces the chances of winning future contacts. Effective practices to support enterprise development must therefore include an integrated, supportive and responsive approach to business development in general, and emerging HDI enterprises in particular. The findings of the present study support the view that the benefits of preferential procurement policy cannot be optimized in the absence of an enabling environment that seeks to address and integrate both demand and supply side measures.

Another noteworthy observation is the lack of knowledge and understanding amongst survey respondents of the workings of the new BBBEE scorecard system for awarding preference points. The survey results show that almost two-thirds of respondents reported that they have either no or very basic understanding of how the new system works in relation to the claiming of preferential points for government contracts.

It is likely that this situation is widespread amongst HDI enterprises, not just in construction but across the different economic sectors, and will therefore hinder the implementation of the new PPPFA Regulations (2011).

7.3 LIMITATIONS

The public procurement system in South Africa evolved from a formal tendering system defined in terms of National and Provincial Acts. It was inevitable that the resulting system yielded different interpretations as to what constitutes procurement reform. The analysis of the National Treasury dataset confirms that the adoption of different interpretations and implementation approaches in addressing procurement reform on national and provincial levels resulted in a lack of cohesion and a fragmentary approach. The lack of uniformity in application posed serious data collection challenges to National Treasury and resulted in it limiting its data collection to HDI categories based on race and gender, and excluding disability.

In terms of the National Treasury data any enterprise with black male, black female or white female shareholding was defined as an HDI and preference points were awarded accordingly based on adjudication criteria. This effectively meant that contracts were awarded to two types of enterprises, *viz*. enterprises with any amount of HDI shareholding and non-HDI enterprises with no HDI shareholding. In order to get a more accurate picture of the HDI component of the enterprises, the Treasury data were disaggregated into HDI enterprises with ≤50% and >50% shareholding. Enterprises with 100% HDI shareholding were also identified. Where possible, the results were disaggregated further into enterprises with only black male shareholding, only black female shareholding, only white female shareholding, and a combination of these HDI categories.

The present study acknowledges that provision is made in the PPPFA for organs of state to develop their own preferential procurement frameworks within the broader guiding principles and fundamental requirements and objectives of the Act. However, for practical reasons an assumption was made when analysing the Treasury dataset that all national and provincial government departments

applied a uniform system of price preferencing and allocation of points to HDI groups.

7.4 IMPLICATIONS FOR PREFERENTIAL PROCUREMENT IN THE PUBLIC SECTOR

7.4.1 New PPPFA Regulations (2011) and the BBBEE Scorecard

One of the key observations of the present study was that the mere collection of data without regular analysis and reporting of results precludes government departments from effectively assessing the outcomes of the implementation of government policies, including the PPPFA. It also constrains government from making informed decisions based on empirical results about amendments to policy and associated regulations. Given that the National Treasury dataset had not been analysed nor reported on until the present study was undertaken, it can be assumed that no comprehensive empirical evidence informed the review process of the PPPFA Regulations of 2000 and amended PPFA Regulations of 2011, which replaced the preferential points scoring system with the BBBEE scorecard. The recently introduced scorecard system has already shown serious flaws with regard to adequately addressing the gaps of the previous system and has been criticized for other shortcomings.

The findings on the value threshold distribution of tenders awarded by government in the ≤R500 000 category has significant implications for the new regulations governing the application of the PPPFA that came into effect in December 2011. The new regulations increased the ≤R500 000 category threshold to R1million for the application of the 80/20 points scoring formula. The analysis in this study indicate that, if the R1 million value threshold would apply, the monetary value of contracts awarded in the lower category is still relatively low, being 2.8% of the value of contracts awarded by national

government and 6% of those awarded by provincial governments. This suggests that the newly revised value category of R1 million still fails to address the important issue of low value of contracts that are accessible to SMME and emerging HDI owned enterprises.

In questioning the logic of the upwards adjustment of the ≤R500 000 category to ≤R1million category, it is contended that the decision to double the threshold value after a period of 11 years was most likely based on inflationary considerations rather than reliable empirical data analysis. This study offers a compelling motivation for government to review the R1 million threshold value based on empirical data and other verifiable information in order to increase the possibilities of more effectively achieving the PPPFA objectives. This research also suggests that government should consider the merits of introducing an additional category that uses an 85/15 points scoring system.

This study identifies the lack of knowledge and understanding within the construction sector of the workings of the recently introduced BBBEE scorecard system. The survey results show that almost two thirds of respondents have either very basic or no understanding of how the new system works in relation to claiming preference points for government contracts.

7.4.2 Meeting the Constitutional Provisions pertaining to Procurement

An important question raised by this research is whether the awarding of preference points in terms of the BBBEE scorecard system complies directly with the requirements of the Constitution. The Constitution, as noted in Table 2.6, makes provision, inter alia, for implementing a procurement policy that provides for the protection and advancement of persons disadvantaged by unfair discrimination. Such persons are also referred to as HDI's and are categorized on the basis of race, gender and disability. As illustrated in Table 2.12, the new

PPPFA Regulations (2011) provide for preference points to be awarded on the basis of the tenderer's BBBEE scorecard and, by extension, not strictly on his or her HDI status. If one applies the new regulations to determine the BBBEE status level of an enterprise the outcome suggests the possibility that an enterprise in one of the lower "Contributor" levels, e.g. Levels 7 and 8, could be awarded preference points. This possibility is problematic because it appears to be contrary to the constitutional provisions which stipulate that procurement be used to rectify previously unfair discrimination.

For example, a construction business with an annual turnover of less than R5 million can be classified as an Exempted Micro Enterprise (EME) and is automatically eligible to be a Level 4 Contributor, irrespective of any race, gender or disability considerations regarding its ownership. All EME's qualify for either 12 preference points (out of 20) or 5 points (out of 10) depending on the estimated value of the tender. Accordingly, it seems highly likely that future situations will arise in which non-HDI enterprises, which automatically qualify as EMEs, will claim and receive preference points for their tenders. It also follows that anomalies such as these will likely result in legal challenges regarding their constitutionality.

7.4.3 Meeting the RDP Goals through Public Procurement

Provision was made in the PPPFA (RSA, 2000a) to achieve two specific socio-economic goals: (i) contracting with HDI's, and (ii) implementing the objectives of the RDP. Organs of state were allowed to develop their own preferential procurement frameworks in order to best incorporate these two specific goals. An examination of the data collected by National Treasury strongly suggests that data were captured for only those tenders with provision for HDI preferencing. The new PPPFA Regulations (2011), however, make no provision for

implementing RDP goals and the awarding of preference points on the basis of the BBBEE scorecard is prescriptive.

This research identifies this limitation as a serious impediment towards implementing the procurement strategies needed to increase business opportunities for emerging enterprises on higher value contracts, i.e. those that exceed the R1 million threshold. The results of the data analysis for national government departments show that 55.6% of the number of contracts awarded were in the ≤R1 million value category, while 44.4% were in the >R1 million category. More importantly, the percentage total values in the two categories were 2.8% and 97.2%, respectively. The low value attached to almost half the contracts that were in the ≤R1 million category suggests that the original intended beneficiaries of the preferential procurement policy, i.e. the SMME sector, are likely to be excluded under the new regulations. The lack of flexibility to reward those tenderers that choose to unbundle their contracts to meet the country's socio-economic goals in line with the objectives of the RDP, as provided for in the PPPFA needs, to be addressed.

7.4.4 Legal Framework and Enabling Environment

The findings of the survey data suggest that preferential procurement cannot be implemented in isolation. The successful implementation of policies requires effective institutions, leadership, clarity of purpose and well defined processes and mechanisms. Being awarded a tender is only one component of the procurement process. An integrated approach that creates an enabling environment with appropriate institutional mechanisms which also addresses supply side constraints is required to implement an effective public procurement system that seeks to incorporate socio-economic objectives.

This view is supported by one of the key findings of the World Bank's Country Procurement Assessment Report (2003) for South Africa, which indicated that new legislation and regulations were passed without addressing the significant blockages and problems inherent in the legal and institutional framework. The report identified a conflicting legislative environment which compromised the efficiency of procurement because it weakened procurement practices. The findings of this research confirm the observations and predictions made in the World Bank Study (2003). In particular, this thesis confirms that a coherent legislative and enabling environment is necessary to contribute positively to the effectiveness of preferential procurement. This view is supported by Gounden (2000) who maintained that procurement related failures linked to the promotion of social policies occur when principles of good governance are ignored, and where institutional mechanisms are lacking.

7.4.5 Monitoring and Evaluation of Policy Implementation

A requirement of the PPPFA is that all socio-economic goals be measurable, quantifiable and monitored for compliance (RSA, 2000a). The findings of this thesis suggests that the establishment and implementation of effective systems to monitor, evaluate, report and improve on the application of the PPPFA did not receive the attention it warranted. The evidence shows that prior to this study the National Treasury data were not systematically and comprehensively analyzed or communicated in the public space. This research also found serious limitations and inconsistencies in the data that were collected by National Treasury. It suggests that the extremely important elements that make up the measurable components for effective monitoring, evaluation and reporting were not well defined and established at the conceptual and planning stages of implementation.

This research supports the view that good practice in monitoring and evaluation in government promotes efficient, economic and effective use of public resources. It is recognized that, collectively, procurement personnel in organs of state possess a great deal of knowledge and experience. Ensuring that this is fully shared within and between organs of state is likely to prove mutually beneficial to all roleplayers. The thesis suggests that it is necessary for government to put in place an effective and efficient information management system to collect and process accurate and reliable data to facilitate active exchange of information among public sector procurement officials on the success and failures of implementing preferential procurement, so that lessons learned can lead to improved performance.

Apart from a HDI Declaration Form (Refer to Appendix 7.1 and 7.2 for sample forms) that is submitted in a tender, there does not appear to be any formal verification process to confirm HDI ownership. The study was unable to determine the extent to which HDI status was verified at tender award stage, and whether there was any monitoring to ensure that the claimed HDI status was maintained during the execution of the contract. The development of an effective control process that monitors and ensures compliance through every step of the contracting process should be instituted as a prerequisite to the proper application of a monitoring and evaluation system for the application of the PPPFA. The design of such a control process should include a facility to generate accurate, pertinent and timely records and assessment reports that reflect the current status and performance of all relevant parties and beneficiaries.

A well considered framework for monitoring, evaluating and disseminating results is necessary to inform national, provincial and local government leadership of progress and achievements in the implementation of socio-economic policies in general, and the PPPFA in particular. This framework should

include specific mechanisms for monitoring progress and ensuring contract compliance during implementation. It is important to establish the measurable components for effective monitoring and evaluation. The regular assessment of data is fundamental to identifying the success or otherwise of such policies and to inform policy changes.

The Malaysian experience of over 30 years in implementing procurement reform through a preferencing mechanism demonstrates that a "speedy" but informed response from government, combined with appropriate mechanisms for analysis and implementation, contributes to improved outcomes (Yusof and Bhattasali, 2008) various reform policies. The continuous assessment process included preferential procurement, in the context of Malaysia's broader economic performance and specific targets, that resulted in tangible and measurable benefits.

It will be useful for the SA government to re-visit the general good practice approaches, especially those relating to integrated planning and continuous assessment and improvement, adopted by Malaysia and other countries. These "tried and tested" good practices can inform and improve the implementation of South African government policies in general, and public procurement reform in particular.

Effective monitoring to ensure contract compliance also minimizes the impact of fraud and corruption. Some of the survey respondents in the present study indicated that their businesses did not grow as expected due to fraudulent tender awards and corruption by government officials. This view is possibly influenced by the perception that there is insufficient or no vigilance in the procurement system to prevent and respond to tender fraud and corrupt practices.

On a positive note, the South African government in recent years has observably increased its emphasis on policy implementation, improved service delivery, and monitoring and evaluation by establishing a National Planning Commission located within the Office of the President. This action was based on a recognition that national policies, plans and implementation strategies have to adapt to changing economic and socio-political conditions and imperatives in order to achieve specified national objectives. In its formulation of a National Five-Year Plan, (RSA, 2011a) the Commission acknowledged that a protracted and non-integrated approach to policy implementation hinders economic growth.

7.4.6 Skills Development and Training

The research findings identified gaps in the implementation of preferential procurement which can be linked to inadequate training and skills development among government officials involved in the procurement process. The excessively high premiums incurred on some contracts, in some cases exceeding the maximum theoretical premium in terms of the preferencing policy, suggests a general lack of knowledge and understanding of preferential procurement, and how price preference points are calculated.

In order to optimize the outcomes of preferential procurement and socio-economic policies it is essential to offer suitable education and training programmes to government personnel to ensure they understand the fundamental principles and prescripts of the public procurement system, and the range of strategies which can be adopted for procuring goods, services and works. Such initiatives should provide a comprehensive training and skills development programme to ensure that officials and external service providers who engage in preferential procurement are competent and conversant with all aspects of the policy.

7.5 IMPLICATIONS FOR THE CONSTRUCTION INDUSTRY AND PRACTICE

7.5.1 Introduction

The procurement of Construction Works is generally more complex than that for Goods and Services, as this type of contract requires elements of both Goods and Services to be combined and arranged for the performance of the contract. Construction contracts require assets to be constructed in specific locations, and specify requirements which are very industry specific. For these reasons, and because the construction industry's role in public sector procurement is significant, specific issues which need to be addressed in construction projects are raised in the following discussion.

Having been instrumental in developing the preferential procurement recommendations in the Green Paper on Procurement Reform (RSA, 1997), the researcher maintains that a simplistic and uninformed view was taken when government decided to use a single approach to procure goods, services and works in the public sector. It is widely accepted in the construction sector that the process of procuring construction works is multi-dimensional because it involves a range of considerations and provides for multiple business opportunities through down-streaming activities, commonly referred to as subcontracting or outsourcing.

Latham (1994) in his report on procurement and contractual arrangements in United Kingdom also refers to the complexity and challenges of the construction process, but recognizes the opportunities for structured outsourcing (sub-contracting) arrangements and identifies the importance of fair contractual conditions between the main contractors and sub-contractors in order to improve profitable outcomes throughout the construction supply chain.

7.5.2 Promoting Contractors in the Lower CIDB Grades

As an indicator of potential contracts opportunities for CIDB Grades 1 to 3 contractors, the results for national government show that 66.2% of the number of contracts awarded were in this category, but with a very low monetary value of 2.3% of the total value of awarded contracts. For provincial governments the results indicate that 77.3% of the number of contracts awarded were in this category, but with a low monetary value of 9.8% of the total value of awarded contracts.

To counter one of the biggest barriers of entry (i.e. market access), a powerful mechanism available to support contractor development in the construction industry is public sector procurement as supported by the PPPFA. The distribution of public sector contracts awarded to CIDB registered contractors, in particular, those owned by black persons and women reflects the potential effectiveness of the price preferencing policy. The ability to use public sector procurement to influence contractor development underpins one of the underlying objectives of socio-economic reform. While public sector procurement can be used as a key driver for contractor development, it should also take into account how such development occurs across the various CIDB grades so that the target enterprises are not just isolated in the lower tender grades but have sustainable growth paths over time.

The current practice of accepting a tenderer in terms of price and BBBEE Scorecard status only, is inflexible and will restrict the degree to which smaller enterprises can access the procurement process. For construction projects, it will be beneficial that tenders be awarded on both a direct and indirect points preferencing system. One of the ways of implementing an indirect preferencing system would be to award contracts in terms of a development objective / price mechanism in which tenderers are allocated points in the first instance for their

financial offer and, in the second instance, for their offer to meet specified participation targets for engaging contractors in the lower CIDB grades and also if necessary, on the basis of their HDI enterprise status.

7.5.3 Unbundling of Contracts and Promoting the Goals of the RDP

Although the PPPFA (2000) made provision for implementing socio-economic goals in accordance with RDP objectives, it would appear that preferential procurement focussed primarily on promoting businesses owned by HDI's. This view is supported by the fact that Treasury decided to collect data relating only to contracts awarded to enterprises with HDI ownership.

It is evident from the results of this research (as set out in Table 2.9) that the attainment of socio-economic goals of the RDP through preferential procurement as envisaged were not fully realised. The goals of the RDP can be categorized as follows:

- The promotion of SMME's, in particular, those owned by HDI's
- Job creation and labour intensive methodologies
- Targeting local enterprises and local labour
- Training and skills development; and
- Community based development.

The amended PPPFA Regulations (2011) allocate price preference points to enterprises based exclusively on their BBBEE scorecard status. The apparent underlying rationale for this approach is to counter the prevalence of fronting, fraud and corruption in the procurement process. While some observers may contend that the goals of the RDP are indirectly achieved through the BBBEE scorecard process, others will argue that this is not necessarily so because these goals, if incorporated in the scorecard, are not readily measurable, quantifiable and monitored for compliance, as required in terms of the PPPFA.

Furthermore, the results of the present study confirm that a very low percentage value of contracts were awarded in the ≤ R500 000 value category which was primarily, although not exclusively, intended for the SMME sector. This view is also supported by the result which showed a low value of contracts awarded in terms of the CIDB Grades 1 and 2 contractor categories.

In addition, and despite the new PPPFA Regulations (2011) increasing the ≤R500 000 to ≤R1 million, the results derived from further analysis of the Treasury data reveal that the percentage value of contracts awarded is still likely to remain relatively low for contracts ≤R1 million.

In terms of the revised ≤R1 million category as per the new PPPFA Regulations (2011), which provides for the 80/20 points scoring formula, the distribution of contracts awarded would also include, in part, the CIDB Grade 3 value category.

Data for national government indicate that a low percentage number of contracts (12.2%) accounted for the majority percentage value of contracts (88.6%) based on CIDB Grading categories 7 to 9. This implies that these contracts were only accessible to Grades 7, 8 and 9 contractors unless appropriate voluntary joint ventures were formed. Of note is that Grade 8 and 9 contractors had access to 75.5% of the value of contracts although they accounted for only 3.9% of the number of contracts. This finding is supported by the results for provincial governments that show that 5.1% of the number of contracts account for the majority percentage value (65.4%) in CIDB Grades 7, 8 and 9. Therefore, to achieve the objectives of Section 217 of the Constitution and the goals of the RDP, would require some innovative procurement approaches within the framework of the PPPFA.

The outcomes of the present study indicate that an unbundling strategy of large value contracts is necessary to provide greater business opportunities than are presently available for the SMME and related sectors. In support of this strategy, Kajimo-Shakantu (2007) suggests that the unbundling of contracts into smaller packages through appropriate procurement policies can create many more business and employment opportunities which would not otherwise have occurred through the traditional procurement process. Moreover, the outcomes of implementing the Affirmative Procurement Policy (APP) showed that business opportunities can also be created through subcontracting, joint venture relationships and structured material supply arrangements (Gounden, 2000). The APP encouraged contractors on large projects to commit to a participation parameter that required a certain percentage of the contract value to be outsourced to targeted businesses and/or targeted labour for which price preference points were awarded. The increased access to business opportunities provided the impetus for SMME's to grow and develop. It is useful to note that the unbundling of large contracts into smaller contracts was part of the government's 10 Point Plan developed in 1995. The strategy was successfully implemented by the National Department of Public Works prior to the introduction of the PPPFA through the APP using Targeted Procurement (Manchidi & Harmond, 2002; Gounden, 2000). However, when the PPPFA (2000) was enacted it did not make definitive provision for the unbundling of contracts in the construction sector. The negative consequences of this oversight are evident in the results of the present study.

In light of the research results, it is suggested that Targeted Procurement be re-considered as a mechanism to affect the unbundling of contracts in the construction sector based on an informed understanding of the challenges of the industry and how it operates. The Targeted Procurement specifications which are presently available as SANS documents (www.**sans**.org.za) provide a structured mechanism to achieve the stated socio-economic objectives of the RDP in a

manner that can be measured, quantified and monitored for compliance, as required in the PPPFA.

In support of this, the Gounden (2000) study on the Affirmative Procurement Policy as implemented by the National Department of Public Works found that ABE participation was the highest in contracts exceeding R2 million where business opportunities were predominantly secured through sub-contracting. Ofori (2001) also supports the "distribution of involvement" concept which encourages the formation and growth of targeted enterprises and suggests that local participation in contracts be encouraged and tracked with measurable outcomes.

7.6 RECOMMENDATIONS

In this section of the thesis, recommendations are made based on the research results that could improve the effectiveness, predictability and transparency of the preferential procurement policy. The intention is to address some of the gaps in the current policy that were identified in the present study by suggesting possible improvements to the public procurement system and institutional framework in general, and the application of preferential procurement, in particular.

The following provides a list of key recommendations informed by the results of this research:

(i) To revisit the recommendations of the Green Paper in terms of addressing the fragmentation and lack of coherence in the legal and institutional framework upon which public procurement practice and preferential procurement is premised. This will contribute to improving

procurement policies, documentation procedures, application of preferences, control measures and monitoring within all organs of state.

(ii) To develop an effective monitoring, evaluation and reporting system for public procurement. This system will need to monitor preferential procurement outcomes regularly by collecting, managing and analysing data, and then using it as the basis for communicating relevant and timely information to decision makers in order to inform policy changes and improvements.

(iii) To gather more details on the shareholding profile of the tendering entities when collecting preferential procurement data. This data will enable National Treasury to ascertain whether the PPPFA's primary objective of promoting HDI owned businesses is being met.

(iv) To develop benchmarking criteria with clear performance measurement indicators to assess the extent to which socio-economic objectives are being achieved through preferential procurement. This will facilitate the setting of goals on a short, medium and long term basis.

(v) To reconsider the introduction of Targeted Procurement as a procurement strategy and the unbundling of large construction projects in order to facilitate access to markets and increase work opportunities for emerging contractors and others in the lower CIDB grading categories.

(vi) To revisit the preference points system and consider allocating a portion of the points to SMME's and on CIDB grading levels for the construction sector. This will provide emerging enterprises in the construction sector with an added price advantage when competing with larger and more established contractors, in particular on projects of lower value.

(vii) To identify gaps linked to the inadequate skills and competencies of public procurement officials and then develop needs-based skills development and training programmes that make the implementation of preferential procurement policy more effective. This will ensure that government personnel who engage in preferential procurement are competent and conversant will all aspects of the policy in order to minimize poor decision making.

(viii) To introduce prescribed skills level standards and competencies linked to training programmes and continuous contractor development as part of the CIDB contractor registration requirements in order to ensure that contractors have, at minimum, the necessary management skills, basic contractual knowledge and understanding of PPPFA objectives.

(ix) To consider the aggressive imposition of sanctions for corrupt and fraudulent actions. Such sanctions will deter fraudulent representation regarding issues such as equity ownership and management control which hinder the attainment of socio-economic objectives.

(x) To address the supply side constraints related to access to finance, credit and business development and entrepreneurial training. In addressing the financial constraints faced by contractors, government must ensure prompt payment for work done in accordance with contracts and, where possible, implement a quicker turnaround of payments to SMMEs and HDI owned businesses.

(xi) To review and consider increasing the value of contracts that will be available in the 80/20 points category by increasing the R1 million threshold that differentiates the 80/20 and 90/10 points scoring system. Based on the results of this research, it is suggested that the threshold value be increased to not less than R2 million.

(xii) To record the CIDB Grading Levels of contractors when awarding construction contracts. This will help National Treasury to identify how effective the preferential procurement policy is in distributing contracts to emerging contractors.

(xiii) To set targets for the total number and value of contracts awarded to contractors in CIDB Grades 1 to 3. This information can be used as a performance indicator to measure whether the goal of promoting emerging enterprises in the construction sector is being attained.

7.7 POTENTIAL BENEFITS OF THE STUDY

It is proposed that the empirical results of this study can serve a number of useful purposes, including the following:

- To inform National Treasury and other government departments on the effectiveness of past efforts to implement the PPPFA.

- To interrogate the recent changes made to the PPPFA and the underlying data and assumptions on which the amended regulations were formulated. This interrogation should specifically include issues related to the BBBEE scorecard and the R1 million threshold.

- To emphasise the importance of establishing and implementing effective systems for monitoring, evaluating and reporting which can provide the data and information needed by National Treasury to produce comprehensive, detailed and accurate reports for submission to Parliament. Although a reporting requirement already exists, it appears that to date the reports have been lacking the quantity and quality of information required to make informed decisions.

- To provide empirical data to government which prove that the application of the PPPFA did not result in substantial or excessive cost premiums. This evidence could be used to counter the argument made by detractors of preferential policy that procurement reform measures are unnecessarily expensive.

- To provide empirical evidence that demonstrate that the PPPFA has achieved its constitutional objective of advancing and promoting HDI owned businesses.

7.8 AREAS FOR FURTHER INVESTIGATION

Based on the findings of the present study the following areas of research are proposed as potential topics for further investigation:

1) Extend the present study to investigate the effectiveness of the PPPFA in the local government sphere, and determine whether the present research findings apply to construction contracts awarded by municipal entities.

   In this study, the data set obtained from Treasury applied specifically to national government departments and the nine provincial governments. According to National Treasury, local governments have preferential procurement frameworks that are location specific and which often require them to use a combination of socio-economic factors. Further studies will indicate whether the outcomes at local government level are consistent with or different to the findings of this research.

2) Undertake a more in-depth study on the impact of PPPFA on its intended beneficiaries with regard to business development and sustainability.

The list of constraints facing HDI owned enterprises require a more detailed study because the award of a tender is only the first step towards a successful completion of a construction contract. While the general findings support the premise that HDI owned enterprises benefited and grew as a result of the PPPFA, there is evidence from the survey results which suggests that supply side constraints limited the pace of anticipated business growth and expansion in the construction industry.

3) Conduct a comparative investigation and analysis of how different organs of state used preferential procurement in terms of the provisions of the PPPFA prior to the introduction of the new PPPFA Regulations (2011).

   The present study acknowledges that provision is made in the PPPFA for organs of state to develop their own preferential procurement frameworks within the broader guiding principles of the Act. Provision was made in the PPPFA for an Organ of state to develop its own preferential procurement framework in order to best incorporate the two specific socio-economic goals: (i) contracting with HDI's and (ii) implementing the objectives of the RDP which resulted in different approaches to achieving the aims and objectives of the Act.

4) Examine whether the Construction Sector Charter and BBBEE Scorecard System are being applied effectively to achieve socio-economic objectives in the construction industry as contemplated in the PPPFA.

   Given that the National Treasury dataset had not been analyzed nor reported on until the present study was undertaken, it can be assumed that no comprehensive empirical evidence informed the amended PPFA Regulations of 2011. This study identifies the lack of knowledge and understanding within the construction sector of the workings of this recently introduced

preference scoring system. The survey results show that almost two thirds of respondents have either very basic or no understanding of how the new system works in relation to claiming preference points for government contracts.

7.9 CONTRIBUTION TO KNOWLEDGE

The original PPPFA legislated in 2000 made provision for organs of state to pursue socio-economic goals through public procurement. This legislation included the establishment of a preference point system for the awarding of government contracts. In December 2011 new PPPFA Regulations were issued that fundamentally changed how and to who price preference points are awarded.

Prior to the new regulations price preference points were primarily allocated to enterprises based on HDI ownership. During the 11 years between the implementation of the PPPFA (2001) and this study, no detailed data or rigorous research on the outcomes of the PPPFA were published. This study is the first to analyze and report on the outcomes of the PPPFA as it relates to the construction industry. The research findings provide relevant empirical data that can be used to review current practices and inform future government policy changes. According to Weiner (1993), policy programmes to effect social change should be regarded as experimental and be reviewed regularly to guide government in revising its programmes, re-defining its targets and re-assessing sunset clauses. This view is supported by the present research as it provides important indicators with regard to intended and unintended consequences of the government's preferential procurement policy.

The literature review on promoting socio-economic policy through public procurement showed a general lack of empirical data on the outcomes of this

policy both internationally and in South Africa. To date the only published study on South Africa preferential procurement policy was by Gounden (2000) who conducted research on the impact of NDPW's Affirmative Procurement Policy. However, the Gounden study preceded the promulgation of the PPPFA in 2000 and its new system of price preferencing. This research sought to address this gap by providing empirical evidence based on analyses of a 5-year National Treasury dataset backed by carefully designed field survey in order to gain deeper insights into this topic, and to contribute to the debate on whether public procurement can be used effectively as an instrument of social policy.

In the absence of detailed and verifiable data, there continues to be widespread concern and criticism within South Africa that the main objectives of the preferential procurement policy have not been achieved. In addition, questions have been raised about the costs incurred by government to implement preferential procurement. While it is acknowledged that costs will likely apply when public procurement is used as a social policy tool, it is necessary that these costs be quantified and assessed against the actual benefits of social policy programmes. According to Marion (2007), the evidence regarding the costs, both theoretical and empirical, associated with preferential contracting arrangements is inconclusive. This research provides measurable outcomes of both HDI participation in public procurement, and the associated financial premiums incurred on construction contracts awarded by national and provincial governments.

The benchmarking process is recognised as a powerful tool that can be used by organs of state as a catalyst for change to improve policies and enhance performance. It can be used on an ongoing basis to measure preferential procurement policy objectives against outcomes and to assess any additional financial costs associated with policy. This thesis provides a substantial portion of the initial benchmarking data needed to measure future performance

improvements or otherwise of preferential procurement policies. As a result, benchmarking can contribute to future strategy formulation, policy development and process innovation. In this way government can achieve a dynamic rather than static programme of continuous improvement in achieving socio-economic goals through public procurement.

7.10 SUMMARY

This study indicates that the application of the preferential procurement policy contributed to increased participation of HDI-owned construction enterprises in the government tendering process. In addition, the findings also show that the financial premiums incurred in implementing the PPPFA were low and substantially less than that contemplated by government when the preference points scoring formula was originally formulated. While the study sought to examine the propositions around effectiveness of the application of preferential procurement in the construction industry, a more in-depth consideration of the research findings suggest that gains made by the PPPFA might have been superficial rather than comprehensive. An important finding in this study indicates that a strategy of unbundling large public sector construction contracts is necessary in order to provide greater business opportunities for small and medium-sized construction enterprises. This research provides relevant empirical data to review current preferential procurement practices and inform future policy decisions.

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APPENDIX 3.1

LETTER SENT TO MINISTER MANUEL

LDM CONSULTING
A Division of LETCHMIAH | DAYA | MANDINDI

www.ldm.co.za
SUITE 220
OFFICE TOWER
OVERPORT CITY
430 RIDGE ROAD
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TEL: +27 31 207 1340
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e-mail: ldm@ldm.co.za

Wednesday
28th November 2007

The Minister of Finance
National Treasury
Republic of South Africa

Dear Sir,

RE: RESEARCH STUDY ON PUBLIC SECTOR PROCUREMENT IN SOUTH AFRICA

I am presently registered for a PhD programme at the University of Witwatersrand (Wits). My research topic is on **"THE ROLE OF PUBLIC SECTOR PROCUREMENT IN PROMOTING SOCIO-ECONOMIC DEVELOPMENT IN SOUTH AFRICA".** The primary objective of my study is to establish the degree to which organs of state have monitoring and reporting mechanisms to measure and report on socio-economic outcomes relating to public sector procurement in South Africa with particular reference to the construction industry.

The following hypotheses form part of my research proposal:

- That Pubic Sector Procurement, through appropriate strategies, can promote socio-economic development in South Africa with particular reference to infrastructure projects.
- That socio-economic objectives/deliverables can be attained within the context of good governance, especially with regard to the aspects of fairness and transparency.
- That the measurable components for effective monitoring and evaluation of socio-economic programmes can be identified, defined, quantified and audited.
- That the attainment of well defined and measurable socio-economic objectives does not necessarily result in considerable financial premiums.

However, it has been extremely difficult to obtain relevant information from government departments primarily due to an apparent concern that this study is an attempt to evaluate the performance of the respective persons/departments and is further compounded by frequent personnel changes in these procurement departments. Despite assurances that the purpose is to identify the degree to which organizations of state are monitoring and reporting on socio-economic outcomes relating to procurement, very little empirical data was forthcoming.

2./...

LETCHMIAH DAYA MANDINDI CONSULTING (PTY) LTD
Reg. No.: 2003/000818/07

REGIONAL OFFICES: CAPE TOWN • DURBAN • MIDRAND • NELSPRUIT • PIETERMARITZBURG • PORT ELIZABETH • PRETORIA
DIRECTORS: D R LETCHMIAH • S MUNIAN • T HOTANA • J K R DAYA



www.idm.co.za

Upon further enquiries, I have been informed that the Directorate (Norms and Standards) at National Treasury does have a database of procurement statistics from national, provincial and local government departments in terms of the requirements of the Preferential Procurement Policy Framework Act (PPPFA). Apparently, this information can only become available for study purposes with permission from the Minister of Finance.

Accordingly, I respectfully request such permission to obtain the necessary data as applicable to the construction industry. If required, I am prepared to enter into any confidentiality agreement that may be necessary due to possible sensitivity considerations with regard to the information.

Kindly advise if you require any further details in this regard. My research supervisor (Professor Raymond Nkado) has agreed to also provide a letter of motivation should this be required. I look forward to your positive response and thank you in anticipation.

Yours sincerely,

D.R. LETCHMIAH

APPENDIX 3.2

MINISTER GORDHAN'S RESPONSE

MINISTRY: FINANCE
REPUBLIC OF SOUTH AFRICA
Private Bag X115, Pretoria, 0001 • Tel: +27 12 323 8911 • Fax: +27 12 323 3262
PO Box 29, Cape Town 8000 • Tel: +27 21 464 6100 • Fax: +27 21 461 2934

Mr Deen Letchmiah
Director: LDM Consulting

Per Facsimile:+27 31 209 9441

Dear Mr Letchmia

REQUEST FOR PERMISSION TO OBTAIN RESEARCH DATA FROM NATIONAL TREASURY FOR PURPOSES OF A PHD ENTITLED "THE ROLE OF PUBLIC SECTOR PROCUREMENT IN PROMOTING SOCIO-ECONOMIC DEVELOPMENT IN SOUTH AFRICA".

Your request to obtain research data from National Treasury's (NT) Supply Chain Management division: Chief Directorate: Norms & Standards refers.

Approval is hereby given for you to obtain research data under the following terms and conditions:

1. The research data is to be used for your PhD programme registered at the at the University of Witwatersrand (Wits), with the research topic "The Role of Public Sector Procurement in Promoting Socio-Economic Development in South Africa".
2. The research data you will request from NT will be confined to information relating to the construction industry that is available within, and at the disposal of, the Supply Chain Management Division, Chief Directorate: Norms & Standards.
3. The data referred to in 2 above will be used solely for study and research purposes and not for any other purpose.
4. None of the data provided can be used for any publication without the explicit permission of National Treasury, and with the understanding that this permission may be withheld. The University also agrees that the publication will not be published, unless approval is obtained from NT.
5. If required, NT will be permitted to publish aspects of the research outcomes.
6. You need to take all the necessary steps to ensure that the confidential nature of the data is not compromised in any manner. This should include a confidentiality agreement with NT.

We wish you well with your studies.

Kind regards

PRAVIN J. GORDHAN
MINISTER OF FINANCE
DATE: 18/12/2009

APPENDIX 3.3

PRACTICE NOTE NUMBER SCM 3 OF 2004
DATED 23RD AUGUST 2004

NATIONAL TREASURY
REPUBLIC OF SOUTH AFRICA
Private Bag X115, Pretoria, 0001 Tel: +27 12 315 5111, Fax: +27 12 315 5234

Enquiries: J SOOBRAMANIAN Ref: 3/4/3/2/10 Tel: 315-5336 Fax: 326-5445
e-mail: jeyrel.soobramanian@treasury.gov.za

TO ALL
ACCOUNTING OFFICERS: NATIONAL DEPARTMENTS
HEADS: PROVINCIAL TREASURIES
CHIEF FINANCIAL OFFICERS: PROVINCIAL DEPARTMENTS
CHIEF EXECUTIVE OFFICERS / CHIEF FINANCIAL OFFICERS: CONSTITUTIONAL INSTITUTIONS / PUBLIC ENTITIES

Supply Chain Management Office
Practice Note Number SCM 2 of 2005

SUPPLY CHAIN MANAGEMENT : THRESHOLD VALUES FOR THE PROCUREMENT OF GOODS AND SERVICES BY MEANS OF PETTY CASH, VERBAL / WRITTEN PRICE QUOTATIONS AND COMPETITIVE BIDS

This practice note is applicable to all national and provincial departments, constitutional institutions and public entities as defined in schedule 3A and 3C of the Public Finance Management Act (PFMA). All accounting officers of national departments and heads of provincial treasuries are required to disseminate the contents of this practice note to all chief financial officers of departments and public entities that fall under their jurisdiction.

Treasury Regulation 16A6.1 of the PFMA that was promulgated in Government Gazette Number 27388 on 15 March 2005 prescribes that the National Treasury must determine threshold values for the procurement of goods and services by way of price quotations or through a competitive bidding process.

Accounting officers/authorities should apply the following threshold values when procuring goods or services, hiring or letting anything, acquiring or granting any right or disposing of movable state property:

1. Up to a value of R 2 000 (VAT included)

1.1 Accounting officers / authorities may procure requirements without inviting competitive bids or price quotations by means of petty cash. Accounting officers / authorities must establish their own internal procedures to ensure sound financial management of funds when goods and / or services are obtained by means of petty cash.

2. Above the value of R 2 000 but not exceeding R 10 000 (VAT included)

1.2 Accounting officers / authorities may procure requirements by obtaining at least three (3) verbal or written quotations from, where applicable, a list of prospective suppliers. The order should, however, be placed against written confirmation from the selected supplier if the quotation was submitted verbally.

3. Above the value of R10 000 but not exceeding R 200 000 (VAT included)

3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R200 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.

3.2 Where no suitable suppliers are available from the list of prospective suppliers, quotations may be obtained from other possible suppliers.

3.3 If it is not possible to obtain at least three (3) written price quotations, the reasons should be recorded and approved by the accounting officer / authority or his / her delegate.

3.4. Accounting officers / authorities should apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations for all procurement equal to or above R 30 000 (VAT included). However, these prescripts may be applied for procurement with a value of less than R 30 000, if and when appropriate.

4 Above the value of R 200 000 (VAT included)

4.1 Accounting officers / authorities should invite competitive bids for all procurement above R 200 000.

4.2 Goods, works or services may not deliberately be split into parts or items of lesser value merely to avoid complying with the requirements of the prescribed thresholds. When determining transaction values, a requirement for goods, works or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

4.3 Competitive bids should be advertised in at least the Government Tender Bulletin and in other appropriate media should an accounting officer / authority deem it necessary to ensure greater exposure to potential bidders. The responsibility for advertisement costs will be that of the relevant accounting officer / authority.

4.4 Should it be impractical to invite competitive bids for specific procurement, e.g. in urgent or emergency cases or in case of a sole supplier, the accounting officer / authority may procure the required goods or services, in accordance with Treasury Regulation 16A6.4 by other means, such as price quotations or negotiations. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer / authority or his / her delegate.

4.5 The prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations must be adhered to.

5 Compilation of the list of prospective suppliers per commodity

5.1 Accounting officers / authorities should compile a list of prospective suppliers to be used to procure requirements in terms of paragraphs 1 to 3 above. This list should also be used effectively to promote Black Economic Empowerment through the participation of black owned enterprises, black empowered enterprises, black women-owned enterprises (as defined in the Strategy for Broad-Based Black Economic Empowerment issued by the Department of Trade and Industry) as well as the promotion of businesses owned by other Historically Disadvantaged Individuals (HDIs).

5.2 Accounting officers / authorities should, through local representative newspapers or by any other means, invite prospective suppliers to apply for evaluation and listing as prospective suppliers. The list should be updated at least quarterly in order to accommodate especially newly established black empowered businesses and other newly established HDI suppliers.

5.3 Once the list has been compiled per commodity, price quotations should be invited there from. The invitation of price quotations from the compiled list of prospective suppliers per commodity should be done on a rotation basis in such a manner that ongoing competition amongst suppliers is promoted. Prospective suppliers must be allowed to submit applications for listing at any time.

6. Amendment of the thresholds

6.1 Accounting officers / authorities may lower, but not increase, the different threshold values specified in this practice note.

7. Tax clearance certificates

7.1 The Accounting officer / authority must be in possession of a valid tax clearance certificate for all price quotations/competitive bids over R15 000 (VAT included).

7. Reporting on Supply Chain Management Information

7.1 Accounting officers / authorities must continue to report on their progress in the implementation of Supply Chain Management and on a monthly basis on the award of all bids above the value of R 100 000 (VAT included), as prescribed in Practice Note Number SCM 3 of 2004, issued on 23 August 2004.

8. Repeal of Practice Note Number SCM 2 of 2003

8.1 Practice Note Number SCM 2 of 2003 is hereby repealed.

Jan Breytenbach

JAN BREYTENBACH
CHIEF DIRECTOR: NORMS AND STANDARDS
DATE: 2005/05/10

Jan741b

APPENDIX 3.4

MONTHLY REPORTING QUESTIONNAIRE TEMPLATE

REPORTING OF SUPPLY CHAIN MANAGEMENT INFORMATION

MONTHLY REPORTING QUESTIONNAIRE
(To be completed for each contract awarded)

NB: Reports in respect of each contract awarded for the months of April 2004, to August 2004 must be submitted by 15 September 2004, thereafter, reports must be submitted within 15 days of the end of each month for that month.

1	Name of Department	
2	Contract Number	
3	Contract Date	
4	Contract Description	
5	Name of Contractor	
6	Percentage equity ownership by black persons (no franchise prior to elections) based on information furnished on Standard Bidding Document (SBD) 6.1	
7	Percentage equity ownership by black women based on information furnished on SBD 6.1	
8	Percentage equity ownership by white women based on information furnished on SBD 6.1	
9	Outsourced / subcontracted business to small businesses as a percentage of annual turnover based on information furnished on SBD 6.3, if applicable	
10	% local content of final product in relation to the bid price based on the information furnished on SBD 6.4, if applicable	
11	Total contract price [A]	R
12	Total price of lowest acceptable bid (price of bid scoring the highest points for price) [B]	R
13	Premium paid to promote specified goals [C = (A-B)]	R
14	Percentage premium paid (C/B X 100)	

INFORMATION FURNISHED BY:---------- DATE:----------

SIGNATURE:---------- DESIGNATION:----------

APPENDIX 3.5

EXAMPLE OF A COMPLETED MONTHLY REPORT

From: To:00123155343 20/03/2012 14:55 #031 P.001/014

Dec 22/03/12

DEPARTMENT OF LABOUR: HEAD OFFICE

SUPPLY CHAIN MANAGEMENT

MONTHLY REPORT

1.	**NAME OF DEPARTMENT**	
2.	**CONTRACT NUMBER**	LAB 04/2011
3.	**CONTRACT DATE**	23/11/2011
4.	**CONTRACT DESCRIPTION**	TO APPOINT A SERVICE PROVIDER WHO WILL CONDUCT CLEANING SERVICES TO THE DEPARTMENT OF LABOUR HEAD OFFICE FOR A PERIOD OF 36 MONTHS
5.	**NAME OF CONTRACTOR**	
6.	**Percentage equity ownership by black persons (no franchise prior to elections) based on information furnished on Standard Bidding Document (SBD) 6.1**	100%
7.	**Percentage equity ownership by black women based on information furnished on SBD 6.1**	0%
8.	**Percentage equity ownership by white women based on information furnished on SBD 6.1**	N/A
9.	**Outsourced/subcontracted business to small businesses as a percentage of annual turnover based on information furnished on SBD 6.3, if applicable**	N/A
10.	**% local content of final product in relation to the bid price based on the information furnished on SBD 6.4, if applicable**	N/A
11.	**Total contract price [A]**	R3 788 353.08
12.	**Total price of lowest acceptable bid (price of bid scoring the highest points for price) [B]**	R3 788 353.08
13.	**Premium paid to promote specified goals [C = (A-B)]**	N/A
14.	**Percentage premium paid (C/B X 100)**	N/A

INFORMATION FURNISHED BY: **DATE: 20/03/2012**

SIGNATURE:..... **DESIGNATION: ASD**

APPENDIX 3.6

DRAFT SURVEY QUESTIONNAIRE

Questionnaire Code #: _____

Date of Survey: _____

Survey Questionnaire

The purpose of this questionnaire is to ask the owners of HDI construction businesses how effective government's preferential public procurement policies were in enabling, growing and sustaining their businesses during the period from 2005 – 2010.

Section 1: Demographic Information

1.1 **Surname:** _____ **First name:** _____

1.2 **Business Location:**

- Eastern Cape ☐
- Free State ☐
- Gauteng ☐
- KwaZulu-Natal ☐
- Limpopo ☐
- Mpumalanga ☐
- Northern Cape ☐
- North West ☐
- Western Cape ☐

1.3 **Age:** _____ (Years)

1.4 **Sex:** Male ☐ Female ☐

1.5 **Highest level of formal education COMPLETED:**

- None ☐
- Less than Std 6 (Grade 8) ☐
- Std 6 (Grade 8) ☐
- Std 8 (Grade 10) ☐
- Matric ☐
- Technikon ☐
- University degree ☐
- Post-graduate degree ☐

Other (specify): _____

1

1.5 What is the registered name of your construction business?

1.6 What is the legal status of your construction business?

- Not registered
- Sole Proprietor
- Partnership
- Closed Corporation (cc)
- Pty (Ltd)
- Trust
- Cooperative
- Other (specify):

1.7 In which year was your construction business established?

1.8 Is your construction business your main source of income?

- Yes
- No

1.9 What was your occupation BEFORE you started your construction business?

1.10 Did this occupation have anything to do with the construction industry?

- Yes
- No

1.11 What percentage of your construction business is owned by you OR your spouse? %

1.12 What percentage of your construction business is owned ONLY by you? %

1.13 What is the percent HDI makeup of your construction business?

Black males	%
Black females	%
White female	%
Disabled	%
Non-HDI	%
TOTAL	100%

1.14 What do you estimate was the AVERAGE annual turnover (excluding VAT) in your construction business for each of the last 5 years?

2006	R
2007	R
2008	R
2009	R
2010	R

1.15 How many permanent staff are employed in your construction business TODAY?

1.16 What is the highest number of permanent staff that you have employed in your construction business in the last 5 years?

1.17a During the last 5 years did your construction business ever have to layoff permanent staff?

Yes ☐
No ☐

1.17b If yes, what was the main reason for laying off permanent staff?

Section 2: Access to Preferential Procurement Opportunities

2.1a Is your construction business registered with the CIDB?

Yes ☐
No ☐

2.1b If your construction business is NOT registered with the CIDB, please explain why.

If your construction business is registered with the CIDB, please answer questions 2.3 – 2.8. If not, please go directly to question 2.9 and answer the rest of the questions.

2.2 In what year did you first register your construction business with the CIDB?

2.3 What was the first CIDB grading that your construction business received?

For example, Grade 4 GB

Grade Designation (1 - 9)	Class of Construction Works

2.4 What is the current CIDB grading for your construction business?

For example, Grade 4 GB

Grade Designation (1 - 9)	Class of Construction Works

2.5a **Has the grading for your construction business gone up since you first registered with the CIDB?**

Yes ☐
No ☐

2.5b **If no, why do you think the CIDB grading for your construction business never went up?**

2.6a **Do you think that the government's procurement preference point system has helped your construction business get a higher CIDB grading?**

Yes ☐
No ☐

2.6b **If yes, how do you think it helped?**

2.7 **How well do you understand the way that government uses procurement preference points to promote HDI businesses?**

Do not understand it ☐
Understand very little of it ☐
Understand some of it ☐
Understand most of it ☐
Understand it completely ☐

2.8 **How well do you understand the way that government <u>intends</u> to use the BBBEE scorecard to promote HDI businesses?**

Do not understand it ☐
Understand very little of it ☐
Understand some of it ☐
Understand most of it ☐
Understand it completely ☐

5

2.9a Does your construction business have a BBBEE scorecard rating?

Yes ☐
No ☐

2.9b If yes, what is the BBBEE scorecard rating for your construction business?

Level One Contributor ☐
Level Two Contributor ☐
Level Threee Contributor ☐
Level Four Contributor ☐
Level Five Contributor ☐
Level Six Contributor ☐
Level Seven Contributor ☐
Level Eight Contributor ☐
Non-compliant ☐

2.10a Has your construction business ever submitted a tender for a construction contract with ANY government department or agency?

Yes ☐
No ☐

2.10b If yes, in what year did your construction business submit its FIRST tender for a construction contract with a government department or agency? ☐

2.11a Has your construction business ever submitted a tender for a construction related contract with the NATIONAL government?

Yes ☐
No ☐

2.11b If yes, did your construction business claim for any procurement preference points when it submitted the tender?

Yes ☐
No ☐

2.11c If yes, do you think the procurement preference points gave you a better chance to win the tender?

Yes ☐
No ☐

2.12a **Has your construction business ever submitted a tender for a construction related contract with the PROVINCIAL government?**

Yes ☐
No ☐

2.12b **If yes, did your construction business claim for any procurement preference points when it submitted the tender?**

Yes ☐
No ☐

2.12c **If yes, do you think the procurement preference points gave you a better chance to win the tender?**

Yes ☐
No ☐

2.13a **Has your construction business ever submitted a tender for a construction related contract with the LOCAL government?**

Yes ☐
No ☐

2.13b **If yes, did your construction business claim for any procurement preference points when it submitted the tender?**

Yes ☐
No ☐

2.13c **If yes, do you think the procurement preference points gave you a better chance to win the tender?**

Yes ☐
No ☐

2.14 and 2.15 **What would you estimate is the AVERAGE number of tenders that your business has submitted for construction contracts in each of the last 5 years, either for a government contract or for a private sector contract.**

2.14	Government Tenders
2006	
2007	
2008	
2009	
2010	

2.15	Private Tenders
2006	
2007	
2008	
2009	
2010	

7

2.16 **Of the tenders that you submitted for construction contracts with GOVERNMENT, how many were successful in each of the last 5 years?**

2006	
2007	
2008	
2009	
2010	

2.17 **Of the tenders that you submitted for construction contracts in the PRIVATE SECTOR, how many were successful in each of the last 5 years?**

2006	
2007	
2008	
2009	
2010	

2.18 and 2.19 **Of the construction contracts that you were AWARDED in each of the last 5 years, how many would you estimate had a tender value of <u>less than</u> R500 000 and how many had a value of <u>more than</u> R500 000?**

2.18	Value of less than R500 000
2006	
2007	
2008	
2009	
2010	

2.19	Value of more than R500 000
2006	
2007	
2008	
2009	
2010	

8

2.20a **Has your construction business ever submitted a tender as part of a JOINT VENTURE or CONSORTIUM for a construction related contract?**

Yes ☐
No ☐

If your answer to Question 2.20a was yes, please answer Questions 2.20b, 2.20c and 2.20d.

2.20b **Have you ever been the LEAD PARTNER in a tender that was submitted as part of a JOINT VENTURE or CONSORTIUM?**

Yes ☐
No ☐

2.20c **Have you ever been the EQUAL PARTNER in a tender that was submitted as part of a JOINT VENTURE or CONSORTIUM?**

Yes ☐
No ☐

2.20d **Have you ever been the MINORITY PARTNER in a tender that was submitted as part of a JOINT VENTURE or CONSORTIUM?**

Yes ☐
No ☐

2.21a **Has your construction business ever been part of a JOINT VENTURE or CONSORTIUM that was AWARDED a construction related tender?**

Yes ☐
No ☐

2.21b **If yes, was the TOTAL value of the tender MORE THAN R500 000?**

Yes ☐
No ☐

Section 3: Institutional Arrangements/ Supply Side Measures

3.1a During the last 5 years has your construction business grown?

Yes ☐
No ☐

3.1b If yes, has it grown as big as you wanted it to grow?

Yes ☐
No ☐

If no, please answer questions 3.2 – 3.8 below.
These questions ask why you think your construction business didn't grow as big as you wanted it to grow.
For each question tick the box next to the answer that you agree with most.

3.2 Do you think an important reason your business didn't grow as fast as you wanted was because you couldn't get CONSTRUCTION FINANCING when you needed it?

Yes, that was the ONLY reason ☐
Yes, but it was one of MANY important reasons ☐
Yes, but it was only a SMALL PART of the reason ☐
No, it wasn't a reason at all ☐
I don't know ☐

3.3 Do you think an important reason your business didn't grow as fast as you wanted was because you couldn't get CREDIT FROM YOUR SUPPLIERS when you needed it?

Yes, that was the ONLY reason ☐
Yes, but it was one of MANY important reasons ☐
Yes, but it was only a SMALL PART of the reason ☐
No, it wasn't a reason at all ☐
I don't know ☐

3.4 Do you think an important reason your business didn't grow as fast as you wanted was because you couldn't hire GOOD QUALITY MANAGERS when you needed them?

- Yes, that was the ONLY reason ☐
- Yes, but it was one of MANY important reasons ☐
- Yes, but it was only a SMALL PART of the reason ☐
- No, it wasn't a reason at all ☐
- I don't know ☐

3.5 Do you think an important reason your business didn't grow as fast as you wanted was because you couldn't hire GOOD QUALITY CONSTRUCTION WORKERS when you needed them?

- Yes, that was the ONLY reason ☐
- Yes, but it was one of MANY important reasons ☐
- Yes, but it was only a SMALL PART of the reason ☐
- No, it wasn't a reason at all ☐
- I don't know ☐

3.6 Do you think an important reason your business didn't grow as fast as you wanted was because you couldn't get BUILDING MATERIALS when you needed them?

- Yes, that was the ONLY reason ☐
- Yes, but it was one of MANY important reasons ☐
- Yes, but it was only a SMALL PART of the reason ☐
- No, it wasn't a reason at all ☐
- I don't know ☐

3.7 Do you think an important reason your business didn't grow as fast as you wanted was because you couldn't get GOOD QUALITY TRAINING when you needed it?

- Yes, that was the ONLY reason ☐
- Yes, but it was one of MANY important reasons ☐
- Yes, but it was only a SMALL PART of the reason ☐
- No, it wasn't a reason at all ☐
- I don't know ☐

3.8 What is the SINGLE MOST IMPORTANT reason why your business didn't grow as fast

as you wanted during the last 5 years?

(Please tick only ONE box).

I couldn't get CONSTRUCTION FINANCING when I needed it.	
I couldn't get CREDIT FROM MY SUPPLIERS when I needed it.	
I couldn't hire GOOD QUALITY MANAGERS when I needed them.	
I couldn't hire GOOD QUALITY CONSTRUCTION WORKERS when I needed them.	
I couldn't get BUILDING MATERIALS when I needed them.	
I couldn't get GOOD QUALITY TRAINING when I needed it?	
Other: (Please specify)	

THANK YOU for completing this questionnaire!

Your assistance is very much appreciated.

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APPENDIX 3.7

REPORT OF THE FEEDBACK RECEIVED DURING THE PRE-TEST

Feedback on Contractor Questionnaire Findings Rev. 02

No. of test candidates: 4

1. Ease of Understanding

   1.1. All four test candidates found the questionnaire easy to understand.

2. Ambiguity

   2.1. Three candidates felt that none of the questions were ambiguous. The comment from one candidate was moved to Section 4.

3. Unclear / Confusing

   3.1. All four test candidates felt that none of the questions were unclear / confusing.

4. Irrelevance / Redundancy

   4.1. Questions 1.11 and 1.12 seem to be duplicated. A re-look at the wording is suggested. "What combined percentage of your construction business is owned by you AND your spouse?"
   It was agreed that the Question 1.11. should instead be phrased "What percentage of your construction business is owned by you AND/OR your spouse?"

   4.2. The relevance of Questions 1.5, 1.8, 1.9 and 1.10 was questioned as these are personal questions.
   It was agreed that by allowing an option for the participant to be anonymous this problem would not occur.

   4.3. Questions 2.10a could possibly be consolidated / re-worded as Question 2.10a as it seems to be a repeated in 2.11a, 2.12a, 2.13a.
   It was agreed that the wording should not be changed as the responses can be used as a check for reliability of the questionnaire.

   4.4. Questions 2.20b could instead be presented in a much less complicated way as:

   Select the relevant options to fill in the blank. I have been the _____ in a tender that was submitted as part of a JOINT VENTURE or CONSORTIUM?

Lead Partner	
Equal Partner	
Minority Partner	

Feedback on Contractor Questionnaire Findings Rev. 02

4.4. (continued)
It was agreed that this change/lack of change is to be confirmed as "in a tender" may confuse the participant into thinking the question should be answered for just one tender as opposed to all relevant tenders.

4.5. Questions 3.3 and 3.6 could possibly be redundant as "Suppliers" supply "Building Materials"
It was agreed that the questions are redundant and Question 3.6 should be omitted.

5. Length of Questionnaire

5.1. Three candidates felt that the questionnaire was too long – but this will also depend on the interest of the contractor's completing the questionnaire.

6. Errors

6.1. The numbering of Questions in Section 1, Page 2 (After 1.5) is incorrect.
It was agreed the numbering should be corrected.

6.2. The Formatting and Alignment of Questions on Pages 1, 6, 7, 10, 11 is incorrect / is unclear.
It was agreed that the alignment of the questions on these pages should be corrected in order to maximize the use of the page. Questions 2.11.c, 2.12.c and 2.13c are a continuation of Questions 2.11.b, 2.12.b and 2.13.b respectively.

6.3. The guide on Page 4 should request the participant to answer questions 2.2 -2.8.
It was agreed that this change should be made.

6.4. The introduction of the questionnaire refers to years 2005-2010, while succeeding pages refer to "5 years" and the period "2006-2010" and may cause confusion.
This change/lack of change is to be confirmed.

6.5. Question 1.5 (2) contains an implication error by asking the "registered name of the construction business". It should be re-worded to "name of construction business".
It was agreed that a Question 1.6.a. should now be "What is the trading name of the business?" while Question 1.6.b. should be "What is the registered name of the business (if applicable)?"

7. Comments / Contributions

7.1. Elaborate on the acronyms "HDI" and "BBBEE".
It was agreed that the expanded forms of these words should be included in the relevant questions

Feedback on Contractor Questionnaire Findings Rev. 02

7.2. Change the wording of "BBBEE Scorecard Rating" to "BBBEE Certificate".
It was agreed that the Question should be re-phrased as "Does your construction business have a BBBEE (Broad-Based Black Economic Empowerment) scorecard rating certificate?"

7.3. Also check if the BBBEE Certification was SANAS Approved as that is a requirement now.
It was agreed that a question "Is your certificate from a SANAS accredited agency?" should be included.

7.4. Touching base on the contractor's capacity and what majors they have in place to improve their businesses to be more efficient based on the experience gained from past projects.
It was agreed that this question is not relevant to the data being gathered from the questionnaire.

7.5. Keep the questionnaire anonymous due to the high level of sensitive information or to make Questions 1.1 and 1.5 (2) optional.
It was agreed that the relevant questions should be Optional thereby leaving participants more comfortable to fill in the sensitive information.

7.6. Include a contact person's details in the event of any queries arising from the participants.
It was agreed that a contact person's details should be included in event of the participant having any queries and an optional question requesting the participant's contact details should also be included.

7.7. Section 1 should end at Question 1.5. Questions 1.6 – 1.18 could be under a Section titled "Company Information".
It was agreed that all the questions in Section 1 fall under the sections "Demographic Information"

7.8. Add an option "Exempt" to Question 2.9.
It was agreed that this option should be included.

7.9. Elaborate on Question 2.10b by also asking if the first tender was successful.
It was agreed that this question is not relevant to the data being gathered from the questionnaire.

7.10. Re-word 2.11c, 2.12c, 2.13c as "If yes, do you think the procurement preference points gave you / would have given you a better chance to win the tender" as the Question implies the business won the tender and participants may be biased towards the procurement preference points systems.
It was agreed that the questions should be re-phrased as "If yes, do you think the procurement preference points gave you a better chance in the tender?"

7.11. As an extension to Question 2.11b, is to question why the company did not claim for any procurement preference points as the underlying reason could be that the HDI individuals don't understand the system or don't know how to complete the form.
It was agreed that this question is not relevant to the data being gathered from the questionnaire.

Feedback on Contractor Questionnaire Findings Rev. 02

7.12. Keep Numbering in Numerical Format
It was agreed that the numbering should remain as it appears.

7.13. Change Question 3.2 to read as:

What do you think was an important reason your business didn't grow as fast as you wanted?
Select the relevant options

	Yes, that was the ONLY reason	Yes, but it was one of MANY important reasons	Yes, but it was only a SMALL part of the reason	No, it wasn't a reason at all	Other	I don't know
Couldn't get CONSTRUCTION FINANCING when needed						
Couldn't get CREDIT FROM SUPPLIERS when needed						
Couldn't hire GOOD QUALITY MANAGERS when needed						
Couldn't hire GOOD QUALITY CONSTRUCTION WORKERS when needed						
Couldn't get BUILDING MATERIALS when needed						
Couldn't get GOOD QUALITY TRAINING when needed						

It was agreed that the question should be re-phrased as suggested.

7.14. The date of completion should be added at the end of the questionnaire.

APPENDIX 3.8

PILOT QUESTIONNAIRE

Questionnaire Code #: _____ Date of Survey: _____

SURVEY QUESTIONNAIRE

The purpose of this questionnaire is to ask the owners of HDI (Historically Disadvantaged Individuals) construction businesses how effective government's preferential public procurement policies were in enabling, growing and sustaining their businesses.

NOTE: The answers to **THIS QUESTIONNAIRE** will be kept **CONFIDENTIAL.**
Should you have any queries, kindly contact Atisha Singh on 031-207 1340.

Section 1: Demographic Information

1.1. Surname: _____ **First Name:** _____

1.2. Contact Telephone Number: _____

1.3. Business Location:

Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumulanga	Northern Cape	North West	Western Cape

1.4. Age (Years): _____ **Sex:** Male | Female

1.5.a. What is the trading name of your business? _____

1.5.b What is the registered name of your business (If Applicable)? _____

1.6. What is the legal status of your construction business?

Not Registered	Sole Proprietor	Partnership	Closed Corporation (cc)	Pty (Ltd)	Trust	Cooperative

Other (specify): _____

1.7. In what year was your company established? _____

1.8. Is your construction business your main source of income? Yes | No

1.9. What percentage of your construction business is owned by you AND/OR your spouse? _____ %

SURVEY QUESTIONNAIRE

1.10. What percentage of your construction business is owned by ONLY you? ____ %

1.11. What is the percent HDI makeup of your construction business?

Black Males	Black Females	White Female	Disabled	Non-HDI	Total
%	%	%	%	%	100 %

1.12. Estimate the AVERAGE annual turnover (excluding VAT) of your construction business for each of the last 5 years?

2006		2007		2008		2009		2010	

1.13. How many permanent staff are employed in your construction business TODAY? ____

1.14. What is the highest number of permanent staff that you have employed in your construction business in the last 5 years? ____

1.15. During the last 5 years did your construction business ever have to layoff permanent staff? Yes / No

1.15.a. If yes, what was the main reason for laying off permanent staff?

Section 2: Access to Preferential Procurement Opportunities

2.1. Is your construction business registered with the CIDB? Yes / No

2.1.a. If your construction business is NOT registered with the CIDB, please explain why.

If your construction business is registered with the CIDB, please answer questions 2.2 – 2.8. If not, please go directly to question 2.9 and answer the rest of the questions.

2.2. In what year did you first register your construction business with the CIDB? ____

SURVEY QUESTIONNAIRE

2.3. What was the first CIDB grading that your construction business received? For example, Grade 2 GB

Grade Designation (1-9):		Class of Construction Works:	

2.4. What is the current CIDB grading for your construction business? For example, Grade 4 GB

Grade Designation (1-9)		Class of Construction Works	

2.5. Has the grading for your construction business gone up since you first registered with the CIDB?

Yes	No

2.5.a. If no, why do you think the CIDB grading for your construction business never went up?

2.6. Do you think that the government's procurement preference point system has helped your construction business get a higher CIDB grading?

Yes	No

2.6.a. If yes, how do you think it helped?

2.7. How well do you understand the way that government uses procurement preference points to promote HDI businesses?

Do not understand at all	Understand Somewhat	Understand very well

2.8. How well do you understand the way that government intends to use the BBBEE scorecard to promote HDI businesses?

Do not understand at all	Understand Somewhat	Understand very well

2.9. Does your construction business have a BBBEE (Broad-Based Black Economic Empowerment) Scorecard rating Certificate?

Yes	No

SURVEY QUESTIONNAIRE

2.9.a. If yes, what is the BBBEE Scorecard rating for your construction business?

Level 1 Contributor	Level 2 Contributor	Level 3 Contributor	Level 4 Contributor	Level 5 Contributor
Level 6 Contributor	Level 7 Contributor	Level 8 Contributor	Non-Compliant	Exempt

2.9.b.	**Is your Certificate from a SANAS accredited agency?**	Yes	No
2.10.	**Has your construction business ever submitted a tender for a construction contract with ANY government department or agency?**	Yes	No
2.10.a.	**If yes, in what year did your business submits its FIRST tender for a construction contract with a government department or agency?**		
2.11.	**Has your construction business ever submitted a tender for a construction related contract with the NATIONAL government?**	Yes	No
2.11.a.	**If yes, did your business claim for any procurement preference points when it submitted the tender?**	Yes	No
2.11.a.i.	**If yes, do you think the preference points gave you a better chance in the tender?**	Yes	No
2.12.	**Has your construction business ever submitted a tender for a construction related contract with the PROVINCIAL government?**	Yes	No
2.12.a.	**If yes, did your business claim for any procurement preference points when it submitted the tender?**	Yes	No
2.12.a.i.	**If yes, do you think the procurement preference points gave you a better chance in the tender?**	Yes	No
2.13.	**Has your construction business ever submitted a tender for a construction related contract with the LOCAL government?**	Yes	No
2.13.a.	**If yes, did your business claim for any procurement preference points when it submitted the tender?**	Yes	No
2.13.a.i.	**If yes, do you think the procurement preference points gave you a better chance in the tender?**	Yes	No

SURVEY QUESTIONNAIRE

2.14. **What would you estimate is the AVERAGE number of tenders that your business has submitted for construction contracts in each of the last 5 years, either for a government contract or private sector contract?**

2.14.a	Government Tenders	2006		2007		2008		2009		2010	
2.14.b.	Private Tenders	2006		2007		2008		2009		2010	

2.15. **Of the tenders that you submitted for construction contracts with GOVERNMENT, how many were successful in each of the last 5 years?**

2006		2007		2008		2009		2010	

2.16. **Of the tenders that you submitted for construction contracts in the PRIVATE SECTOR, how many were successful in each of the last 5 years?**

2006		2007		2008		2009		2010	

2.17. **Of the government construction contracts that you were AWARDED in each of the last 5 years, how many would you estimate had a tender value of <u>less than</u> R500 000 and how many had a value of <u>more than</u> R500 000?**

2.17.a.	Value of less than R500 000	2006		2007		2008		2009		2010	
2.17.b.	Value of more than R500 000	2006		2007		2008		2009		2010	

2.18.	**Has your construction business been part of a JOINT VENTURE or CONSORTIUM that was AWARDED a construction related tender?**	Yes	No
2.18.a.	**If yes, were any of the contracts total value UNDER R500 000?**	Yes	No
2.18.b.	**Have you been the LEAD PARTNER in a JOINT VENTURE or CONSORTIUM?**	Yes	No
2.18.c.	**Have you been the EQUAL PARTNER in a JOINT VENTURE or CONSORTIUM?**	Yes	No
2.18.d.	**Have you been the MINORITY PARTNER in a JOINT VENTURE or CONSORTIUM?**	Yes	No
2.19.	**Do you undertake any sub-contracting work?**	Yes	No
2.19.a.	**If yes, what do you estimate this to be as an average percentage of your annual turnover?**		

SURVEY QUESTIONNAIRE

Section 3: Institutional Arrangements/ Supply Side Measures

3.1. During the last 5 years has your construction business grown?

Yes	No

3.1.b. If yes, has it grown as big as you wanted it to grow?

Yes	No

3.1.b.i. If no, which of the following reasons contributed to your business not growing as fast as you would have liked? Select the options that apply to you.

	Couldn't get the CONSTRUCTION FINANCE when needed	Couldn't get the CREDIT FROM SUPPLIERS when needed	Couldn't source COMPETENT MANAGERS when needed	Couldn't source COMPETENT CONSTRUCTION WORKERS when needed	Couldn't get the SUITABLE TRAINING FOR MYSELF when needed	Couldn't get the SUITABLE TRAINING FOR MY WORKERS when needed
True						
Partly True						
Not true						

3.2. What do you think is the SINGLE MOST IMPORTANT reason why your business didn't grow as fast as you would have liked it to during the last 5 years? (Please tick only ONE box).

I couldn't get CONSTRUCTION FINANCING when I needed it.	
I couldn't get CREDIT FROM MY SUPPLIERS when I needed it.	
I couldn't source COMPETENT MANAGERS when I needed them.	
I couldn't source COMPETENT CONSTRUCTION WORKERS when I needed them.	
I couldn't get SUITABLE TRAINING FOR MYSELF when I needed it.	
I couldn't get SUITABLE TRAINING FOR MY WORKERS when I needed it.	
Other: (Please specify)	

Date Completed: _____

THANK YOU for completing the questionnaire!

Your assistance is very much appreciated.

APPENDIX 3.9

DETAILED REPORT OF THE FINDINGS OF THE PILOT CONTRACTOR QUESTIONNAIRE

REPORT ON PILOT CONTRACTOR QUESTIONNAIRE

No. of test candidates: 11

Summary of Responses

Company Name	GB Grading	CE Grading
THE PLUMBING AND ELECTRICAL KING	2	1
MAGUBANE PLANT & CONTRACTORS	4	N/A
PHAKAMANZI FORESTRY & CONSTRUCTION	4	3
SOTOBE PROJECTS	5	N/A
IKHAYA DEVELOPMENT TRUST	6	6
CV PROJECTS	7	5
PAN AFRICAN DEVELOPMENT	8	7
ZIPHIZINDLOVU TRADING	N/A	3
MTITINYWA CONSTRUCTION	N/A	4
VUMANI CIVILS	N/A	8
SAMMYGIRL CONSTRUCTION	3	N/A

Questionnaire Response Avenues	
Personal Survey	9 %
Facsimile Survey	9 %
Telephone Survey	55 %
E-mail Survey	27 %

The pilot stage of the survey began on 17th August 2011. Of the 14 contractors that were contacted to provide feedback, responses from 11 contractors were received by 02nd September 2011.

At first the contractors were asked to conduct a personal survey. Due to a poor response, contractors were encouraged to e-mail or fax the questionnaire responses. Some contractors were still reluctant as the survey can be time consuming, so a telephone survey was also offered as an option. The summary of questionnaire response avenues is provided above.

The summarized report on the responses received from contractors can be found below.

1. **The following comments were received from contractors in response to the question, "How did you find the Questionnaire?"**

   1.1. Three participants found the Questionnaire "Okay".
   1.2. One participant found the questionnaire "Fair"
   1.3. One participant found the questionnaire "not too bad"

REPORT ON PILOT CONTRACTOR QUESTIONNAIRE

Question 1 (Continued)

1.4. One participant found the questionnaire repetitive
1.5. The remaining participants had positive views on the questionnaire. The responses received were "Easy to respond to", "Simple", "Easy and straight forward" and "Reasonable"

2. The following comments were received from contractors in response to the question, "Did you have an issue with providing your personal details?"

2.1. One participant had a slight issue providing personal details and suggested that the Questionnaire be anonymous instead.
2.2. The remaining participants had no issue providing their personal details

3. The following comments were received from contractors in response to the question, "What did you think of the length of the Questionnaire?"

3.1. One participant found the Questionnaire lengthy but manageable.
3.2. The remaining participants had no problems with the length of the questionnaire.

4. The following comments were received from contractors in response to the question, "Did you find the Questionnaire a useful process?"

4.1. One participant felt the Questionnaire was not useful.
4.2. The remaining participants felt the Questionnaire was useful. Four of these participants also elaborated that the Questionnaire would be useful if it was referred to the relevant authorities and help was provided to contractors in the future.

5. The following comments were received from contractors in response to the questions in Section 1

5.1. Did you find any questions confusing / unclear

5.1.1. One participant felt that Question 1.11. could be made more clear by rephrasing as in point 5.2.1 below.
5.1.2. The remaining participants felt that the questions in Section 1 were clear.

5.2. Would you recommend rephrasing any questions

5.2.1. One participant felt that Question 1.11. could be rephrased by providing a breakdown of "Black Males".

REPORT ON PILOT CONTRACTOR QUESTIONNAIRE

Question 5 (Continued)

5.2.2. The remaining participants felt that all questions in Section 1 were phrased effectively.

6. The following comments were received from contractors in response to the questions in Section 2

6.1. Did you find any questions confusing / unclear

6.1.1. One participant was confused as to why Questions 2.14, 2.15, 2.16 and 2.17 referred to 2006 as he had difficulty recalling the responses required.
6.1.2. One participant suggested adding more details on BBBEE and how it could benefit the contractor.
6.1.3. One participant was confused with Question 2.9.b. as he did not understand what SANAS was.
6.1.4. The remaining participants felt that the questions in Section 2 were clear.

6.2. Would you recommend rephrasing any questions

6.2.1. One participant suggested leaving out the Years 2006, 2007 in Questions 2.14, 2.15, 2.16 and 2.17.
6.2.2. One participant suggested adding a Question "If no, explain why" after Questions 2.11.a.i, 2.12.a.i, 2.13.a.i.
6.2.3. The remaining participants felt that all questions in Section 2 were phrased effectively.

7. The following comments were received from contractors in response to the questions in Section 3

7.1. Did you find any questions confusing / unclear

7.1.1. One participant felt that Question 3.1.b.i) was unclear and should be rephrased as discussed in point 7.2.1 below.
7.1.2. One participant felt that Questions 3.1.b.i and 3.2 seem to be repeated.
7.1.3. The remaining participants felt that the questions in Section 3 were clear.

7.2. Would you recommend rephrasing any questions

REPORT ON PILOT CONTRACTOR QUESTIONNAIRE

Question 7 (Continued)

7.2.1. One participant felt that Questions 3.1.b.i) and 3.2 should both have an option for "Lack of work/sales".

7.2.2. The remaining participants felt that all questions in Section 3 were phrased effectively.

8. Nine participants would be interested in participating in a discussion group.

APPENDIX 3.10

FINAL SURVEY INSTRUMENT

Q. Code #: _____ Date of Survey: _____

SURVEY QUESTIONNAIRE

This survey questionnaire is from Mr. Deen Letchmiah (Director of LDM Consulting) as part of his academic research.

The purpose is to ask the owners of HDI (Historically Disadvantaged Individuals) construction businesses how effective government's preferential public procurement policies were in enabling, growing and sustaining their businesses.

NOTE: The answers to **THIS QUESTIONNAIRE** will be kept **CONFIDENTIAL.**
Should you have any queries, kindly contact Atisha Singh on 031-207 1340.

Section 1: Demographic Information

1.1. Surname: _____ **First Name:** _____

1.2. Contact Telephone Number: _____

1.3. Business Location/s:

Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumulanga	Northern Cape	North West	Western Cape

1.4. Position in Company _____

1.5.a. What is the trading name of your business? _____

1.5.b What is the registered name of your business (If Applicable)? _____

1.6. In what year was your company established? _____

1.7. Is your construction business your main source of income?

Yes	No

1.8. What is the percent HDI makeup of your construction business?

Black Males	Black Females	White Female	Disabled	Non-HDI	Total
%	%	%	%	%	100 %

1.9. ESTIMATE the AVERAGE annual turnover (excluding VAT) of your construction business for each of the last 5 years?

2006		2007		2008		2009		2010	

SURVEY QUESTIONNAIRE

Section 2: Access to Preferential Procurement Opportunities

2.1. What is the current CIDB grading for your construction business? For example, Grade 4 GB

Grade Designation (1-9): | Primary Class of Construction Works:

Other Class of Construction Works (if applicable):

2.2. In what year did you first register your construction business with the CIDB?

2.3. What was the first CIDB grading that your construction business received? For example, Grade 2 GB

Grade Designation (1-9): | Class of Construction Works:

2.4. Has the grading for your construction business ever gone down after you first registered with the CIDB? Yes / No

2.4.a. If yes, why do you think the CIDB grading for your construction business went down?

2.5. Do you think that the government's procurement preference point system has helped your construction business get a higher CIDB grading? Yes / No

2.5.a. If yes, how do you think it helped?

2.6. How well do you understand the way that government uses procurement preference points to promote HDI businesses?

Do not understand at all	Understand Somewhat	Understand very well

2.7. How well do you understand the way that government intends to use the BBBEE scorecard to implement preferential procurement?

Do not understand at all	Understand Somewhat	Understand very well

SURVEY QUESTIONNAIRE

2.8.	**Does your construction business have a BBBEE (Broad-Based Black Economic Empowerment) Scorecard rating Certificate?**	Yes / No

2.8.a. If yes, what is the BBBEE Scorecard rating for your construction business?

Level 1 Contributor	Level 2 Contributor	Level 3 Contributor	Level 4 Contributor	Level 5 Contributor
Level 6 Contributor	Level 7 Contributor	Level 8 Contributor	Non-Compliant	Exempt

2.8.b.	**Is your Certificate from a SANAS accredited agency?**	Yes / No
2.9.	**Has your construction business ever submitted a tender for a construction contract with ANY government department?**	Yes / No
2.9.a.	**If yes, in what year did your business submits its FIRST tender for a construction contract with a government department?**	
2.10.	**Has your construction business ever submitted a tender for a construction related contract with the NATIONAL government?**	Yes / No
2.10.a.	**If yes, did your business claim for any procurement preference points when it submitted the tender?**	Yes / No
2.10.a.i.	**If yes, do you think the preference points gave you a better chance in the tender?**	Yes / No
2.11.	**Has your construction business ever submitted a tender for a construction related contract with the PROVINCIAL government?**	Yes / No
2.11.a.	**If yes, did your business claim for any procurement preference points when it submitted the tender?**	Yes / No
2.11.a.i.	**If yes, do you think the procurement preference points gave you a better chance in the tender?**	Yes / No
2.12.	**Has your construction business ever submitted a tender for a construction related contract with the LOCAL government?**	Yes / No
2.12.a.	**If yes, did your business claim for any procurement preference points when it submitted the tender?**	Yes / No
2.12.a.i.	**If yes, do you think the procurement preference points gave you a better chance in the tender?**	Yes / No

SURVEY QUESTIONNAIRE

2.13. **What would you ESTIMATE is the AVERAGE number of tenders that your business has submitted for construction contracts in each of the last 5 years, either for a government contract or private sector contract?**

2.13.a	Government Tenders	2006		2007		2008		2009		2010	
2.13.b.	Private Tenders	2006		2007		2008		2009		2010	

2.14. **Of the tenders that you submitted for construction contracts with GOVERNMENT, how many were successful in each of the last 5 years?**

2006		2007		2008		2009		2010	

2.15. **Of the tenders that you submitted for construction contracts in the PRIVATE SECTOR, how many were successful in each of the last 5 years?**

2006		2007		2008		2009		2010	

2.16. **Of the government construction contracts that you were AWARDED in each of the last 5 years, how many would you ESTIMATE had a tender value of <u>less than</u> R500 000 and how many had a value of <u>more than</u> R500 000?**

2.16.a.	Value of less than R500 000	2006		2007		2008		2009		2010	
2.16.b.	Value of more than R500 000	2006		2007		2008		2009		2010	

2.17. **Has your construction business been part of a JOINT VENTURE or CONSORTIUM that was AWARDED a construction related tender?** Yes / No

2.17.a. **If yes, were any of the contracts total value UNDER R500 000?** Yes / No

2.17.b. **Have you been the LEAD PARTNER in a JOINT VENTURE or CONSORTIUM?** Yes / No

2.17.c. **Have you been an EQUAL PARTNER in a JOINT VENTURE or CONSORTIUM?** Yes / No

2.17.d. **Have you been a MINORITY PARTNER in a JOINT VENTURE or CONSORTIUM?** Yes / No

2.18. **Do you undertake any sub-contracting work?** Yes / No

2.18.a. **If yes, what do you ESTIMATE this to be as an average percentage of your annual turnover?** %

SURVEY QUESTIONNAIRE

Section 3: Institutional Arrangements/ Supply Side Measures

3.1. During the last 5 years has your construction business grown? Yes / No

3.1.b. If yes, has it grown as big as you wanted it to grow? Yes / No

3.1.b.i. If no, which of the following reasons contributed to your business not growing as fast as you would have liked? Select the options that apply to you.

	Couldn't get the CONSTRUCTION FINANCE when needed	Couldn't get the CREDIT FROM SUPPLIERS when needed	Couldn't source COMPETENT MANAGERS when needed	Couldn't source COMPETENT CONSTRUCTION WORKERS when needed	Couldn't get the SUITABLE TRAINING FOR MYSELF when needed	Couldn't get the SUITABLE TRAINING FOR MY WORKERS when needed
True						
Partly True						
Not true						

3.2. What do you think is the SINGLE MOST IMPORTANT reason why your business didn't grow as fast as you would have liked it to during the last 5 years? (Please tick only ONE box).

- ○ I couldn't get CONSTRUCTION FINANCING when I needed it.
- ○ I couldn't get CREDIT FROM MY SUPPLIERS when I needed it.
- ○ I couldn't source COMPETENT MANAGERS when I needed them.
- ○ I couldn't source COMPETENT CONSTRUCTION WORKERS when I needed them.
- ○ I couldn't get SUITABLE TRAINING FOR MYSELF when I needed it.
- ○ I couldn't get SUITABLE TRAINING FOR MY WORKERS when I needed it.
- ○ Other: (Please specify) _____

Date Completed: _____

THANK YOU for completing the questionnaire!

Your assistance is very much appreciated.

PRINT SAVE E-MAIL RESET

APPENDIX 3.11

FIRST FOLLOW-UP REMINDER

Atisha Govender

From: Atisha Singh [atisha@ldm.co.za]
Sent: 10 November 2011 05:37 PM
Subject: Survey Questionnaire - Effectiveness of Preferential Procurement
Attachments: Contractor Questionnaire Ver 2.0.pdf

Dear Colleague in Construction

This is a kind request for you to please spare fifteen minutes to help me determine the effectiveness of the Preferential Procurement Policy Framework Act (PPPFA) on the construction industry

A few weeks ago I sent you a email communication requesting you to take part in a **Survey to examine the Effectiveness of Preferential Procurement legislation** but we have not yet received your response. I would greatly appreciate it if you would take a few minutes to complete the short survey questionnaire electronically. The quickest and simplest way to complete the survey is to open the questionnaire documents (see attached) and click on the answer box to select your responses for each of the questions. There is no need to waste any of your time to print and manually complete the questionnaire, unless that is your preference.

The survey is designed to assist me in my Doctoral research linked to the University Of Witwatersrand's Faculty of Engineering whereby I am collecting information from contractors in the construction industry. As mentioned previously this research study has been endorsed by the CIDB and the National Treasury who is in the process of changing public procurement requirements. It would be worthwhile if the feedback of contractors can inform the work of the CIBD and National Treasury regarding procurement reform and practice. Please be assured that your individual responses will be kept **confidential**.

Completed survey questionnaires may be returned to my Research Assistant, Mrs. Atisha Singh by using the following methods:

- **Electronically** to **Atisha@ldm.co.za** - by filling in or selecting the required information in the blue shaded blocks.
- **Fax** to **031-209 9441** - by printing out the forms and filling in the required information by hand.
- **Telephone** to **031-207 1340.**

If you have any additional questions about this research or if you need assistance filling in the survey you are welcome to contact me by email at dletchmiah@ldm.co.za or Mrs. Atisha Singh by telephone at 031 207 1340.
I thank you in advance for your kind contribution to this research study.

Yours sincerely,

Sent on behalf of
Mr. Deen Letchmiah
DIRECTOR - LDM Consulting

Regards,

Atisha Singh

LDM
Solutions For The Built Environment
ESTABLISHED 1984
Tel: +27 31 207 1340 | Fax: +27 31 209 9441 | Email: atisha@ldm.co.za | Web: www.ldm.co.za
Suite 220 Office Towers, Overport City, 430 Peter Mokaba Ridge (Ridge Road), Durban, 4091 | PO Box 19233, Dormerton, 4015

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GROUP SERVICES: Quantity Surveying, Project Management, Consulting, Property Services, Facilities Management, C

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APPENDIX 3.12

SECOND FOLLOW-UP REMINDER

Atisha Govender

Subject: FW: Survey Questionnaire - Effectiveness of Preferential Procurement
Attachments: Contractor Questionnaire Ver 2.0.pdf

From: Atisha Singh [mailto:atisha@ldm.co.za]
Sent: 21 November 2011 06:00 PM
Subject: Second Reminder - Survey Questionnaire - Effectiveness of Preferential Procurement

Dear Colleague in Construction

This is a kind request for you to please spare fifteen minutes to help me determine the effectiveness of the Preferential Procurement Policy Framework Act (PPPFA) on the construction industry

A few weeks ago I sent you a email communication requesting you to take part in a **Survey to examine the Effectiveness of Preferential Procurement legislation** but we have not yet received your response. I would greatly appreciate it if you would take a few minutes to complete the short survey questionnaire electronically. The quickest and simplest way to complete the survey is to open the questionnaire documents (see attached) and click on the answer box to select your responses for each of the questions. There is no need to waste any of your time to print and manually complete the questionnaire, unless that is your preference.

The survey is designed to assist me in my Doctoral research linked to the University Of Witwatersrand's Faculty of Engineering whereby I am collecting information from contractors in the construction industry. As mentioned previously this research study has been endorsed by the CIDB and the National Treasury who is in the process of changing public procurement requirements. It would be worthwhile if the feedback of contractors can inform the work of the CIBD and National Treasury regarding procurement reform and practice. Please be assured that your individual responses will be kept **confidential**.

Completed survey questionnaires may be returned to my Research Assistant, Mrs. Atisha Singh by using the following methods:

- **Electronically** to **Atisha@ldm.co.za** - by filling in or selecting the required information in the blue shaded blocks.
- **Fax** to **031-209 9441** - by printing out the forms and filling in the required information by hand.
- **Telephone** to **031-207 1340.**

If you have any additional questions about this research or if you need assistance filling in the survey you are welcome to contact me by email at dletchmiah@ldm.co.za or Mrs. Atisha Singh by telephone at 031 207 1340.
I thank you in advance for your kind contribution to this research study.

Yours sincerely,

Sent on behalf of
Mr. Deen Letchmiah
DIRECTOR - LDM Consulting

Regards,

Atisha Singh

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APPENDIX 3.13

THIRD FOLLOW-UP REMINDER

Atisha Govender

Subject: FW: Overdue Survey Questionnaire - Effectiveness of Preferential Procurement - Third Reminder

From: Atisha Singh [mailto:atisha@ldm.co.za]
Sent: 13 December 2011 06:19 PM
Subject: Overdue Survey Questionnaire - Effectiveness of Preferential Procurement - Third Reminder

Dear Colleague in Construction

A further reminder to kindly respond to the questionnaire survey request.

This is a kind request for you to please spare fifteen minutes to help me determine the effectiveness of the Preferential Procurement Policy Framework Act (PPPFA) on the construction industry

During October, I sent you communication requesting you to take part in a **Survey to examine the Effectiveness of Preferential Procurement legislation** which was due for return by 11th November 2011. However, we have not received your response as yet. I would greatly appreciate it if you would take a few minutes to complete the short survey questionnaire. The quickest and simplest way to complete the survey is to open the questionnaire documents (see attached) and click on the answer box to select your responses for each of the questions. There is no need to waste any of your time to print and manually complete the questionnaire, unless that is your preference.

The survey is designed to assist me in my Doctoral research linked to the University Of Witwatersrand's Faculty of Engineering whereby I am collecting information from contractors in the construction industry. As mentioned previously this research study has been endorsed by the CIDB and the National Treasury who is in the process of changing public procurement requirements. It would be worthwhile if the feedback of contractors can inform the work of the CIBD and National Treasury regarding procurement reform and practice. Please be assured that your individual responses will be kept **confidential**.

Completed survey questionnaires may be returned to my Research Assistant, Mrs. Atisha Singh by using the following methods:

- **Electronically** to **Atisha@ldm.co.za** - by filling in or selecting the required information in the blue shaded blocks.
- **Fax** to **031-209 9441**- by printing out the forms and filling in the required information by hand.
- **Telephone** to **031-207 1340**.

If you have already completed and returned the form, thank you for your timely cooperation and please ignore this reminder.

If you have any additional questions about this research or if you need assistance filling in the survey you are welcome to contact me by email at dletchmiah@ldm.co.za
or Mrs. Atisha Singh by telephone at 031 207 1340.
I thank you in advance for your kind contribution to this research study.

Yours sincerely,

Sent on behalf of
Mr. Deen Letchmiah
DIRECTOR - LDM Consulting

Regards,

Atisha Singh

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APPENDIX 3.14

RESEARCHER'S RATIONALE AND MOTIVATION FOR PROPOSING THE VARIOUS QUESTIONS IN THE SURVEY

Date: 13 January 2012
Project: PHD Research

Expected outcomes for Questionnaire

Primary objective: establish from CIDB registered contractors (Grade 2-9) with HDI ownership, how **effective** PPPFA policies were in enabling, growing and sustaining their business.

Effectiveness of PPPFA cannot be measured merely on the allocation of tenders to HDI owned businesses and/or the extent of the cost premium, if applicable, as a result thereof:

Effectiveness of PPPFA has to also include the underlying objective of preferential procurement which is to enable, grow and sustain HDI businesses. Accordingly, the survey sets out to establish whether this objective was achieved during the period under consideration.

Refer attached from RDP, Green paper, etc.

Effectiveness should also indicate how well Government communicates the PPPFA policies to its target beneficiary group (Q2.6 and 2.7 will show this together with 2.10.a, 2.11.a and 2.12.a). This may indicate that contractors are not adequately informed. Effectiveness is also about having support measures in place for successful delivery and hence the availability of appropriate institutional arrangements are investigated.

Question No.	Question	Motivation For Question
Section 1: Demographic Information		
1.1.	Surname:	For information only
	First Name:	For information only
1.2.	Contact Telephone Number:	For information only
1.3.	Business Location/s:	Analysis of Business Location i. Identify one or more locations as applicable. ii. Representation of (i) above in terms of black male, black female and white female. iii. Representation of (i) and (ii) above in terms of relevant CIDB gradings and HDI categories.
1.4.	Position in Company	Pointer of accuracy of information submitted/provided.
1.5.a.	What is the trading name of your business?	May need to link with CIDB register.
1.5.b.	What is the registered name of your business (If Applicable)?	May need to link with CIDB register.
1.6.	In what year was your company established?	Identify respondents in terms of number of years in business and seek to correlate CIDB grade in relation to years in business.
1.7.	Is your construction business your main source of income?	Analyse this in terms of the type of HDI owned business (Black Male, Black Female, and White Female) and also in terms of CIDB grading.
1.8.	What is the percent HDI makeup of your construction business?	Schedule all respondents in terms of this question – differentiates HDI categories.
1.9.	ESTIMATE the AVERAGE annual turnover (excluding VAT) of your construction business for each of the last 5 years?	i. Calculate the average turnover of each respondent and separate into categories as per CIDB grading turnover. ii. Identify respondents that have either grown or shrunk their turnover during the period 2006-2010.
Section 2: Access to Preferential Procurement Opportunities		
2.1.	What is the current CIDB grading for your construction business? For example, Grade 4 GB	Confirmation of CIDB grading.
2.2.	In what year did you first register your construction business with the CIDB?	To establish CIDB track record.

Date: 13 January 2012
Project: PHD Research

Question No.	Question	Motivation For Question
Section 1: Demographic Information		
2.3.	What was the first CIDB grading that your construction business received? For example, Grade 2 GB	Progress of business in terms of CIDB grading.
2.4.	Has the grading for your construction business ever gone down after you first registered with the CIDB?	Identify barriers to growth and sustainability.
2.4.a.	If yes, why do you think the CIDB grading for your construction business went down?	
2.5.	Do you think that the government's procurement preference point system has helped your construction business get a higher CIDB grading?	Gauge effectiveness of preferential procurement to grow businesses.
2.5.a.	If yes, how do you think it helped?	
2.6.	How well do you understand the way that government uses procurement preference points to promote HDI businesses?	Did contractors understand the workings of the preference points system?
2.7.	How well do you understand the way that government intends to use the BBBEE scorecard to implement preferential procurement?	Does government adequately communicate its policy changes?
2.8.	Does your construction business have a BBBEE (Broad-Based Black Economic Empowerment) Scorecard rating Certificate?	Are contractors prepared for the new preference scoring system?
2.8.a.	If yes, what is the BBBEE Scorecard rating for your construction business?	
2.8.b.	Is your Certificate from a SANAS accredited agency?	
2.9.	Has your construction business ever submitted a tender for a construction contract with ANY government department?	Check if doing business with government or not.
2.9.a.	If yes, in what year did your business submits its FIRST tender for a construction contract with a government department?	
2.10.	Has your construction business ever submitted a tender for a construction related contract with the NATIONAL government?	Check if doing business with National government departments and whether claiming for preference points.
2.10.a	If yes, did your business claim for any procurement preference points when it submitted the tender?	
2.10.a.i.	If yes, do you think the preference points gave you a better chance in the tender?	Did PPPFA create an enabling environment?
2.11.	Has your construction business ever submitted a tender for a construction related contract with the PROVINCIAL government?	Check if doing business with Provincial government departments and whether claiming for preference points.
2.11.a.	If yes, did your business claim for any procurement preference points when it submitted the tender?	
2.11.a.i	If yes, do you think the procurement preference points gave you a better chance in the tender?	Did PPPFA create an enabling environment?
2.12.	Has your construction business ever submitted a tender for a construction related contract with the LOCAL government?	Check if doing business with local municipalities and whether claiming for preference points.
2.12.a.	If yes, did your business claim for any procurement preference points when it submitted the tender?	
2.12.a.i	If yes, do you think the procurement preference points gave you a better chance in the tender?	Did PPPFA create an enabling environment?
2.13.	What would you ESTIMATE is the AVERAGE number of tenders that your business has submitted for construction contracts in each of the last 5 years, either for a government contract or private sector contract?	
2.13.a.	Government Tenders	Did PPPFA promote growth and sustainability? (if it shows increase over the years)
2.13.b.	Private Tenders	Is the private sector promoting access to tender opportunities?

Date: 13 January 2012
Project: PHD Research

Question No.	Question	Motivation For Question
Section 1: Demographic Information		
2.14.	Of the tenders that you submitted for construction contracts with GOVERNMENT, how many were successful in each of the last 5 years?	Did PPPFA promote growth and sustainability? (if it shows increase over the years)
2.15.	Of the tenders that you submitted for construction contracts in the PRIVATE SECTOR, how many were successful in each of the last 5 years?	Will indicate to what extent HDI businesses depend on Government tenders (and hence PPPFA) should this question indicate a low success rate in the private sector.
2.16.	Of the government construction contracts that you were AWARDED in each of the last 5 years, how many would you ESTIMATE had a tender value of less than R500 000 and how many had a value of more than R500 000?	Identifies whether respondents, apart from their CIDB grading, preferred to tender on projects < R500 000 to increase their success rate using the 80/20 points system which provides an effective 25% cost advantage compared to Non-HDI tenderers.
2.16.a.	Value of less than R500 000	In support of Question 2.16.
2.16.b.	Value of more than R500 000	In support of Question 2.16.
2.17.	Has your construction business been part of a JOINT VENTURE or CONSORTIUM that was AWARDED a construction related tender?	Growth of Businesses Usually indicated by JV arrangements to win "larger" jobs which indicates growth of businesses.
2.17.a.	If yes, were any of the contracts total value UNDER R500 000?	If 2.17.a shows "YES" response, then there is a question as to why respondents tendered in a JV for projects < R0.5M. Main indicator here is Q3.1.
2.17.b.	Have you been the LEAD PARTNER in a JOINT VENTURE or CONSORTIUM?	To indicate capacity development and leadership.
2.17.c.	Have you been an EQUAL PARTNER in a JOINT VENTURE or CONSORTIUM?	To indicate availability of resources and leadership.
2.17.d.	Have you been a MINORITY PARTNER in a JOINT VENTURE or CONSORTIUM?	May indicate lack of resources and leadership.
2.18.	Do you undertake any sub-contracting work?	Will indicate whether the majority of contracts are at prime contract level or at sub-contract level.
2.18.a	If yes, what do you ESTIMATE this to be as an average percentage of your annual turnover?	
Section 3: Institutional Arrangements/ Supply Side Measures		
3.1.	During the last 5 years has your construction business grown?	This response should correlate responses from Q1.9 and current CIDB grading (Q2.1) and first CIDB grading (Q2.3) and will be the MAIN INDICATOR. Demonstrates growth of business.
3.1.b.	If yes, has it grown as big as you wanted it to grow?	Indicates the impact of institutional arrangements (supply side measures) to create an enabling environment and to achieve successful delivery and promote sustainability.
3.1.b.i.	If no, which of the following reasons contributed to your business not growing as fast as you would have liked? Select the options that apply to you.	
3.2.	What do you think is the SINGLE MOST IMPORTANT reason why your business didn't grow as fast as you would have liked it to during the last 5 years? (Please tick only ONE box).	

APPENDIX 4.1

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS

National – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula				
National Government Department	**Commodity Type**	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000				
2006/07				
National Department of Public Works	B	R 26	R 13	100.0%
National Department of Public Works	M	R 350	R 378	*(i)*
*South African Police Services	M	R 150	R 77	105.5%
*South African Police Services	M	R 150	R 77	105.5%
2007/08				
NIL	NIL	NIL	NIL	NIL
2008/09				
National Department of Public Works	M	R 160	R 85	113.3%
2009/10				
National Department of Public Works	B	R 167	R 150	882.4%
2010/11				
National Department of Public Works	B	R 430	R 130	43.3%
No. of Contracts	**7**			
Contracts > R500 000				
2006/07				
** National Department of Public Works	M	R 677	R 205	43.4%
** National Department of Public Works	M	R 677	R 205	43.4%
National Department of Public Works	M	R 717	R 104	17.0%
National Department of Public Works	M	R 1 314	R 494	60.2%
National Department of Public Works	M	R 1 502	R 340	29.3%
National Department of Public Works	M	R 2 652	R 450	20.4%
National Department of Public Works	B	R 3 737	R 554	17.4%

National – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula				
National Government Department	**Commodity Type**	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
National Department of Public Works	B	R 26 242	R 6 696	34.3%
2007/08				
National Department of Public Works	M	R 802	R 300	59.8%
National Department of Public Works	M	R 4 000	R 3 554	796.9%
National Department of Public Works	M	R 18 853	R 6 731	55.5%
2008/09				
National Department of Public Works	M	R 2 315	R 606	35.5%
National Department of Public Works	B	R 2 380	R 998	72.2%
National Department of Public Works	B	R 2 393	R 968	67.9%
National Department of Public Works	B	R 2 736	R 1 574	135.5%
National Department of Public Works	B	R 3 172	R 441	16.1%
National Department of Public Works	B	R 4 178	R 743	21.6%
National Department of Public Works	M	R 5 947	R 3 480	141.1%
National Department of Public Works	M	R 10 927	R 2 955	37.1%
National Department of Public Works	B	R 15 765	R 5 055	47.2%
National Department of Public Works	B	R 41 800	R 38 605	1208.3%
2009/10				
National Department of Public Works	M	R 1 399	R 191	15.8%
National Department of Public Works	M	R 1 799	R 247	15.9%
National Department of Public Works	M	R 2 035	R 274	15.6%

National – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula				
National Government Department	**Commodity Type**	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
National Department of Public Works	M	R 2 593	R 340	15.1%
National Department of Public Works	M	R 26 927	R 3 462	14.8%
2010/11				
National Department of Public Works	B	R 46 852	R 15 754	50.7%
National Department of Public Works	B	R 135 408	R 67 810	100.3%
National Department of Public Works	B	R 172 527	R 51 197	42.2%
No. of Contracts	**29**			
B= Building and Construction				
M = Maintenance of Buildings				
* Both appear to be awarded to the same entity (either two projects with exactly the same contract value and premium amount or a duplication error in data capturing)				
**Awarded to contracting entities with similar names but having different shareholding structures (either two projects with exactly the same contract value and premium amount or an error in data capturing)				
(i)Indicates a premium amount that is higher than the contract value – In terms of the preference formula, this is not possible and, therefore, is most probably a data capturing error				

APPENDIX 4.2

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – KWAZULU NATAL

Provincial: KwaZulu Natal – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000			
2006/07			
	R 426,926	R 133,074	45.3%
	R 448,494	R 133,782	42.5%
No. of Contracts	**2**		
Contracts > R500 000			
2006/07			
	R 513,507	R 86,493	20.3%
	R 560,513	R 66,588	13.5%
	R 610,000	R 384,699	170.7%
	R 882,037	R 115,963	15.1%
	R 891,211	R 110,211	14.1%
	R 1,295,464	R 454,640	54.1%
	R 1,733,005	R 256,199	17.3%
	R 1,855,000	R 265,000	16.7%
2007/08			
	R 2,939,808	R 839,950	40.0%
	R 7,500,000	R 3,951,678	111.4%
2008/09			
	R 2,685,514	R 832,704	44.9%
2009/10			
	R 6,745,000	R 1,046,533	18.4%
	R 2,557,596	R 468,043	22.4%
2010/11			
	R 1,800,061	R 754,136	72.1%
	R 2,184,000	R 312,891	16.7%
	R 3,903,000	R 902,500	30.1%
	R 4,236,525	R 1,751,311	70.5%
	R 7,422,042	R 1,286,111	21.0%
No. of Contracts	**18**		

APPENDIX 4.3

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – LIMPOPO

Provincial: Limpopo – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000			
2006/07			
	R 426 025	R 161 685	61.2%
	R 485 533	R 241 429	98.9%
No. of Contracts	**2**		
Contracts > R500 000			
2008/09			
	R 3 250 335	R 1 958 282	151.6%
2010/11			
	R 1 957 370	R 233 823	13.6%
	R 2 202 478	R 361 077	19.6%
	R 5 338 775	R 941 847	21.4%
	R 6 192 280	R 2 180 735	54.4%
No. of Contracts	**5**		

APPENDIX 4.4

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – EASTERN CAPE

Provincial: Eastern Cape – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000			
2006/07			
	R 426,926	R 133,074	45.3%
	R 448,494	R 133,782	42.5%
No. of Contracts	**2**		
Contracts > R500 000			
2007/08			
	R 613,502	R 107,052	21.1%
	R 1,181,718	R 167,801	16.5%
	R 1,241,815	R 236,399	23.5%
	R 1,350,520	R 330,607	32.4%
	R 1,400,000	R 351,289	33.5%
	R 1,655,630	R 361,951	28.0%
	R 2,325,543	R 680,295	41.3%
	R 2,593,767	R 844,480	48.3%
	R 2,996,582	R 876,003	41.3%
	R 5,473,002	R 780,062	16.6%
	R 5,756,845	R 1,007,456	21.2%
2008/09			
	R 570,000	R 513,000	900.0%
	R 2,758,768	R 740,228	36.7%
	R 4,366,662	R 2,183,331	100.0%
	R 4,550,034	R 719,932	18.8%
	R 4,890,000	R 803,812	19.7%
	R 6,300,000	R 3,150,000	100.0%
	R 39,537,430	R 35,583,687	900.0%
2009/10			
	R 5,992,182	R 1,032,603	20.8%
	R 6,062,292	R 1,189,419	24.4%
	R 6,731,425	R 1,783,483	36.0%
	R 6,870,669	R 2,244,093	48.5%
	R 7,079,970	R 2,147,122	43.5%
	R 7,456,626	R 2,529,295	51.3%

Provincial: Eastern Cape – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts > R500 000			
2010/11			
	R 806,336	R 200,000	33.0%
	R 2,122,564	R 466,327	28.2%
	R 3,741,192	R 1,047,627	38.9%
	R 5,700,000	R 1,393,627	32.4%
No. of Contracts	**28**		

APPENDIX 4.5

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – MPUMALANGA

Provincial: Mpumalanga – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000			
	NIL	NIL	NIL
No. of Contracts	**0**		
Contracts > R500 000			
2006/07			
	R 1,191,650	R 191,650	19.2%
	R 1,336,766	R 336,766	33.7%
	R 3,512,912	R 541,497	18.2%
	R 42,079,203	R 11,351,231	36.9%
2008/09			
	R 799,619	R 357,108	80.7%
	R 1,781,345	R 446,802	33.5%
	R 5,942,618	R 1,027,618	20.9%
	R 6,167,792	R 2,967,792	92.7%
	R 13,420,916	R 2,720,818	25.4%
2009/10			
	R 3,604,473	R 1,150,982	46.9%
	R 11,695,771	R 3,239,826	38.3%
	R 795,641	R 160,283	25.2%
	R 20,477,297	R 3,890,943	23.5%
2010/11			
	R 1,673,109	R 497,109	42.3%
	R 1,832,962	R 356,740	24.2%
	R 1,836,000	R 1,652,400	900.0%
	R 6,991,677	R 1,412,022	25.3%
No. of Contracts	**17**		

APPENDIX 4.6

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – FREE STATE

Provincial: Free State – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000			
2008/09			
	R 426 025	R 161 685	61.2%
	R 485 533	R 241 429	98.9%
No. of Contracts	**2**		
Contracts > R500 000			
2006/07			
	R 18,492,356	R 4,274,037	30.1%
	R 21,074,637	R 2,507,641	13.5%
2007/08			
	R 1,133,438	R 215,650	23.5%
2010/11			
	R 54,329	R 488,955	-112.5%
No. of Contracts	**4**		

APPENDIX 4.7

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS - GAUTENG

Provincial: Gauteng – Schedule of Contracts Awarded with Premiums that Exceeded the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	Value of Contract incurring Premiums (ZAR 000's)	Premium Value (ZAR 000's)	% Premium on Actual Amounts
Contracts ≤ R500 000			
	NIL	NIL	NIL
No. of Contracts	0		
Contracts > R500 000			
2010/11			
	R 2,369,116	R 271,801	13.0%
No. of Contracts	1		

APPENDIX 4.8

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – NORTHERN CAPE

Provincial: Northern Cape – Schedule of Contracts Awarded with Premiums that Exceed the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	Value of Contract incurring Premiums (ZAR 000's)	Premium Value (ZAR 000's)	% Premium on Actual Amounts
Contracts ≤ R500 000			
	NIL	NIL	NIL
No. of Contracts			
Contracts > R500 000			
	NIL	NIL	NIL
No. of Contracts			

APPENDIX 4.9

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – NORTH WEST

Provincial: North West – Schedule of Contracts Awarded with Premiums that Exceed the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	Value of Contract incurring Premiums (ZAR 000's)	Premium Value (ZAR 000's)	% Premium on Actual Amounts
Contracts ≤ R500 000			
2006/07			
	R 274,885	R 77,243	39.1%
	R 284,943	R 80,259	39.2%
	R 284,943	R 80,259	39.2%
2009/10			
	R 171,051	R 71,672	72.1%
No. of Contracts	**4**		
Contracts > R500 000			
2006/07			
	R 680,231	R 136,396	25.1%
	R 1,266,046	R 325,546	34.6%
	R 11,503,067	R 1,448,901	14.4%
	R 13,504,402	R 3,611,003	36.5%
	R 20,049,800	R 5,252,554	35.5%
2007/08			
	R 1,874,664	R 310,058	19.8%
	R 1,874,664	R 310,058	19.8%
	R 8,794,870	R 1,252,003	16.6%
	R 13,122,152	R 1,854,459	16.5%
2008/09			
	R 19,029,120	R 2,436,000	14.7%
2009/10			
	R 993,213	R 704,554	244.1%
	R 2,856,110	R 621,608	27.8%
No. of Contracts	**12**		

APPENDIX 4.10

LIST OF CONTRACTS THAT EXCEEDED THE MAXIMUM ALLOWABLE PREMIUMS – WESTERN CAPE

Provincial: Western Cape – Schedule of Contracts Awarded with Premiums that Exceed the Maximum Percentage Margins Provided for in Terms of the Price Preference Formula			
Financial Year	**Value of Contract incurring Premiums (ZAR 000's)**	**Premium Value (ZAR 000's)**	**% Premium on Actual Amounts**
Contracts ≤ R500 000			
2006/07			
	R 215,050	R 189,172	731.0%
No. of Contracts	1		
Contracts > R500 000			
2009/10			
	R 19,294,238	R 9,647,119	100.0%
No. of Contracts	1		

APPENDIX 7.1

HDI DECLARATION FORM FROM NATIONAL DEPARTMENT OF PUBLIC WORKS

public works
Department:
Public Works
REPUBLIC OF SOUTH AFRICA

PA-16: PREFERENCE CERTIFICATE

This preference form must form part of all bids invited. It contains general information and serves as a claim form for Historically Disadvantaged Individual (HDI) preference points as well as a summary for preference points claimed for attainment of other specified goals.

NB: **BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF EQUITY OWNERSHIP BY HISTORICALLY DISADVANTAGED INDIVIDUALS (HDIs), AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2001.**

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1. GENERAL CONDITIONS

1.1. The following preference point systems are applicable to all bid s:

- the 80/20 system for requirements with a Rand value of up to R500 000; and
- the 90/10 system for requirements with a Rand value above R500 000.

1.1.1. Where the financial value inclusive of VAT of one or more responsive bid s received equals or is less than R500 000, the 80/20 system shall be applicable.

1.1.2. Where the financial value inclusive of VAT of all responsive bid s received have a value in excess of R500 000, the 90/10 system shall be applicable.

1.2. Preference points for this bid shall be awarded for:

(a) Price / Functionality; and
(b) Specific contract participation goals, as specified in the attached forms.

1.3. The points for this bid are allocated as follows:

	Points:
1.3.1. PRICE / FUNCTIONALITY	90
1.3.2. SPECIFIC CONTRACT PARTICIPATION GOALS	
1.3.2.1. Historically Disadvantaged Individuals (HDI)	
(i) who had no franchise in national elections before the 1983 and 1993 Constitutions	5
(ii) who is a female	3
(iii) persons with a disability	2
1.3.2.2. Other Specific Goals (as prescribed in the PPPFA regulations)	
(i) *insert other specific goals*	
(ii) *insert other specific goals*	
(iii) *insert other specific goals*	
(iv) *insert other specific goals*	

Total points for Price, HDIs and Other Specific Goals must not exceed 100

Separate Preference Points Claim Forms will be used for the promotion of the specific goals for which points have been allocated in paragraph 1.3.2.2. above.

1.4. Failure on the part of a Bidder to fill in and/or to sign this form may be interpreted to mean that preference points are not claimed.

1.5. The Department reserves the right to require of a Bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the Department.

2. GENERAL DEFINITIONS

2.1. **"Acceptable Bid"** means any Bid which, in all respects, complies with the specifications and conditions of Bid as set out in the bid document.

2.2. **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods, works or services.

2.3. **"Comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.

2.4. **"Consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.

2.5. **"Contract"** means the agreement that results from the acceptance of a bid by the Department.

2.6. **"Specific goals"** means the goals as stipulated in the Preferential Procurement Regulations 2001.

2.7. **"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.

2.8. **"Disability"** means, in respect of a person, a permanent impairment of a physical, intellectual, or 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.

2.9. **"Equity Ownership"** means the percentage ownership and control, exercised by individuals within an enterprise.

2.10. **"Historically Disadvantaged Individual (HDI)"** means a South African citizen

2.10.1. 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

2.10.2. who is a female; and/or

2.10.3. who has a disability:

provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI;

2.11. **"Management"** means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.

2.12. **"Owned"** means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

2.13. **"Person"** includes reference to a juristic person.

Any reference to words "Bid" or Bidder" herein and/or in any other documentation shall be construed to have the same meaning as the

2.14. **"Rand value"** means the total estimated value of a contract in Rand denomination that is calculated at the time of bid invitations and includes all applicable taxes and excise duties.

2.15. **"Sub-contracting"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. **ESTABLISHMENT OF HDI EQUITY OWNERSHIP IN AN ENTERPRISE**

3.1. Equity ownership shall be equated to the percentage of an enterprise which is owned by individuals classified as HDIs, or in the case of a company, the percentage shares that are owned by individuals classified as HDIs, who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership.

3.2. Where individuals are not actively involved in the management and daily business operations and do not exercise control over the enterprise commensurate with their degree of ownership, equity ownership may not be claimed.

4. **EVALUATION USING A POINT SYSTEM**

4.1. Responsive bids will be evaluated by the Department using a system which awards points on the basis of:

4.1.1. The bided price

4.1.2. Equity ownership

4.2. The bidder obtaining the highest number of points will usually be awarded the contract.

4.3. Preference points shall be calculated after prices have been brought to a comparative basis.

4.4. Points scored will be rounded off to 2 decimal places.

4.5. In the event of equal points scored, the bid will be awarded to the bidder scoring the highest number of points for specified goals.

5. **POINTS AWARDED FOR PRICE**

5.1. THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20

$$Ps = 80\left(1 - \frac{Pt - P\min}{P\min}\right)$$

or

90/10

$$Ps = 90\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where

Ps = Points allocated for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

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6. **POINTS AWARDED FOR HISTORICALLY DISADVANTAGED INDIVIDUALS**

6.1. In terms of Regulation 13 (2) preference points for HDI's are calculated on their percentage shareholding in a business, provided that they are actively involved in and exercise control over the enterprise. The following formula is prescribed in Regulation 13 (5) (c):

$$NEP = NOP \times \frac{EP}{100}$$

Where

NEP = Points awarded for equity ownership by an HDI

NOP = The maximum number of points awarded for equity ownership by an HDI in that specific category

EP = The percentage of equity ownership by an HDI within the enterprise or business, determined in accordance with the definition of HDI's.

6.2. Equity claims for a trust will only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust.

6.3. Documentation to substantiate the validity of the credentials of the trustees contemplated above must be submitted.

6.4. Listed companies and tertiary institutions do not qualify for HDI preference points.

6.5. A consortium or joint venture may, based on the percentage of the contract value managed or executed by their HDI-members, be entitled to preference points in respect of an HDI.

6.6. A person awarded a contract as a result of preference for contracting with, or providing equity ownership to an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for the same number or more preference for equity ownership.

7. **BID DECLARATION**

7.1. Bidders who claim points in respect of equity ownership must complete the Bid Declaration at the end of this form.

8. **DECLARATION WITH REGARD TO EQUITY**

8.1. **Enterprise details:**

Name of enterprise	
Postal address	
Physical address	
Telephone No.	
Fax No.	
Contact person	
Enterprise income tax reference number	
VAT registration number	
Company registration number	

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8.2. **Type of enterprise:** *(tick applicable box)*

☐ Sole Proprietor ☐ Close Corporation ☐ Partnership ☐ Private Company ☐Public Company

Describe principal business activities:

8.3. **Company classification:**

☐ Manufacturer ☐ Supplier ☐ Professional service provider ☐ other service providers, e.g. transporters, etc.

8.4. **Date on which the enterprise was established:** _____

Table 9

Legal Status of Biding Entity: **If the Biding Entity is:**	**Documentation to be submitted with the bid :**
a. A Close Corporation, incorporated under the Close Corporation Act, 1984, Act 69 of 1984	Certified copies of the Founding Statement – CK1
b. A private Company having share capital, incorporated under the Companies Act, 1973, Act 61 of 1973 [including Companies incorporated under Art 53(b)]	Certified copies of: i. Certificate of Incorporation – CM1, and ii. Shareholders Certificates of all Members of the Company, plus a signed statement of the Company's Auditor, certifying each Member's ownership /shareholding percentage relative to the total.
c. A private Company having share capital, incorporated under the Companies Act, 1973, Act 61 of 1973, in which any, or all, shares are held by another Close Corporation or Company with, or without, share capital	Certified copies of documents referred to in a. and/or b. above in respect of all such Close Corporation(s) and/or Company (ies).
d. A public Company having share capital, incorporated under the Companies Act, 1973, Act 61 of 1973 [including Companies incorporated under Art 21]	A signed statement of the Company's Secretary confirming that the Company is a public Company.
e. A natural person or a Partnership	Certified copy of the Identity Document of: i. such natural person, or ii. each of the Partners to the Partnership

Any reference to words "Bid" or Bidder" herein and/or in

9. **Table 10 - List all shareholders by name, position, identity number, citizenship, HDI status and ownership, as relevant.** *(Information to be used to calculate the points claimed in paragraph 6.1)*

Name	Date/Position occupied in Enterprise	ID Number	Date RSA Citizenship obtained	HDI Status ###			% of business / enterprise owned
				Qualify as HDI by virtue of not having had any franchise in elections prior to 1983 or 1994	Qualify as HDI by virtue of being female	Qualify as HDI by virtue of having a disability	
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%
				☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	%

*If points are claimed for a disability, indicate nature of impairment by including the Medical Certificate for the Confirmation of Permanent Disabled Status (PA-14) with the bid submission

state "Yes" or "No" (refer to definitions contained in the PPPF Act, 2000 (Act 5 of 2000) & the Preferential Procurement Regulations, 2001)

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10. CONSORTIUM / JOINT VENTURE

In the event that preference points are claimed for HDI members by consortia / joint ventures, the following information must be furnished in order to be entitled to the points claimed in respect of the HDI member:

Name of HDI member (to be consistent with table 10)	Percentage (%) of the contract value managed or executed by the HDI member

11. DECISION-MAKING WITHIN ENTERPRISE

11.1. Identify by name, status and length of service, those individuals in the enterprise (including owners) responsible for day-to-day management and business decisions.

	Name	HDI status			Citizenship	Length of service (years)
		No franchise prior to 1994 elections	Female	Disabled		
Financing decisions						
Cheque signing						
Signing & co-signing for loans						
Acquisition of lines of credit						
Sureties						
Major purchase or acquisitions						
Signing Contracts						
Management decision						
Estimating						
Marketing and sales operations						
Hiring and firing of management personnel						
Hiring & firing of non-management personnel						
Supervision of office personnel						
Supervision of field/production activities						

*State Yes or No in column

Any reference to words "Bid" or Bidder" herein and/or in any other documentation shall be construed to have the same meaning as the words "Tender" or "Tenderer"

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11.2. List the personnel or firms who provide the following services :

Service	Name	Contact person	Telephone
Accounting			
Auditing			
Banking			
Insurance			
Legal			

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the firm certify that points claimed, based on the equity ownership, indicated in paragraph 8, qualifies the firm for the preference(s) shown and I / we acknowledge that:

(i) The information furnished is true and correct.

(ii) The Equity ownership claimed is in accordance with the General Conditions as indicated in paragraph 1 of this form.

(iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 8, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.

(iv) If the claims are found to be incorrect, the Department may, in addition to any other remedy it may have -

(a) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid; and

Signature witnesses:

Witness 1:

Name of Witness	**Signature**	**Date**

Witness 2:

Name of Witness	**Signature**	**Date**

Signature Bidder(s):

Name of Bidder	**Signature**	**Date**

Signature Bidder(s):

Name of Bidder	**Signature**	**Date**

Any reference to words "Bid" or Bidder" herein and/or in any other documentation shall be construed to have the same meaning as the words "Tender" or "Tenderer"

APPENDIX 7.2

HDI DECLARATION FORM FROM EASTERN CAPE

J

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2001

PURCHASES

This preference form must form part of all bids invited. It contains general information and serves as a claim form for Historically Disadvantaged Individual (HDI) preference points as well as a summary for preference points claimed for attainment of other specified goals

NB: **BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF EQUITY OWNERSHIP BY HISTORICALLY DISADVANTAGED INDIVIDUALS (HDIs), AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2001.**

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R500 000; and
- the 90/10 system for requirements with a Rand value above R500 000.

1.2 The value of this bid is estimated to exceed/not exceed R500 000 and therefore the.....**90/10**.....system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

(a) Price; and
(b) Specific contract participation goals, as specified in the attached forms.

1.3.1 The points for this bid are allocated as follows:

		POINTS
1.3.1.1	**PRICE**	...63.....
	FUNCTIONALITY	...27.....
1.3.1.2	**SPECIFIC CONTRACT PARTICIPATION GOALS**	
	(a) Historically Disadvantaged Individuals:	
	(i) who had no franchise in national elections before the 1983 and 1993 Constitutions	...4.....
	(ii) who is a female	...2.....
	(iii) who has a disability	...2.....
	(b) Other specific goals (goals of the RDP- plus local manufacture)	
	(i) Youth	...2....
	Total points for Price, HDIs and other RDP-goals must not exceed	**100**

Separate Preference Points Claim Forms will be used for the promotion of the specific goals for which points have been allocated in paragraph 1.3.1.2 (b) above.

1.4 Failure on the part of a bidder to fill in and/or to sign this form may be interpreted to mean that preference points are not claimed.

1.5. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. **GENERAL DEFINITIONS**

2.1 **"Acceptable bid"** means any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document.

2.2 **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods, works or services.

2.3 **"Comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.

2.4 **"Consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.

2.5 **"Contract"** means the agreement that results from the acceptance of a bid by an organ of state.

2.6 **"Specific contract participation goals"** means the goals as stipulated in the Preferential Procurement Regulations 2001.

2.6.1 In addition to above-mentioned goals, the Regulations [12.(1)] also make provision for organs of state to give particular consideration to procuring locally manufactured products.

2.7 **"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.

2.8 **"Disability"** means, in respect of a person, a permanent impairment of a physical, intellectual, or 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.

2.9 **"Equity Ownership"** means the percentage ownership and control, exercised by individuals within an enterprise.

2.10 **"Historically Disadvantaged Individual (HDI)"** means a South African citizen

(1) 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

(2) who is a female; and/or

(3) who has a disability:

provided that a person who obtained South African citizenship on or after the coming to effect of the interim Constitution, is deemed not to be a HDI;

2.11 **"Management"** means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.

2.12 **"Owned"** means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

2.13 **"Person"** includes reference to a juristic person.

2.14 **"Rand value"** means the total estimated value of a contract in Rand denomination that is calculated at the time of bid invitations and includes all applicable taxes and excise duties.

2.15 **"Small, Medium and Micro Enterprises (SMMEs)** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (No 102 of 1996).

2.16 **"Sub-contracting"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

2.17 **"Trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

2.18 **"Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ESTABLISHMENT OF HDI EQUITY OWNERSHIP IN AN ENTERPRISE

3.1 Equity ownership shall be equated to the percentage of an enterprise which is owned by individuals classified as HDIs, or in the case of a company, the percentage shares that are owned by individuals classified as HDIs, who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership.

3.2 Where individuals are not actively involved in the management and daily business operations and do not exercise control over the enterprise commensurate with their degree of ownership, equity ownership may not be claimed.

4. ADJUDICATION USING A POINT SYSTEM

4.1 The bidder obtaining the highest number of points will be awarded the contract.

4.2 Preference points shall be calculated after prices have been brought to a comparative basis.

4.3 Points scored will be rounded off to 2 decimal places.

4.4 In the event of equal points scored, the bid will be awarded to the bidder scoring the highest number of points for specified goals.

5. POINTS AWARDED FOR PRICE

5.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$Ps = 80\left(1 - \frac{Pt - P\min}{P\min}\right) \quad \text{or} \quad Ps = 90\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Pmin = Rand value of lowest acceptable bid

6. Points awarded for historically disadvantaged individuals

6.1 In terms of Regulation 13 (2) preference points for HDI's are calculated on their percentage shareholding in a business, provided that they are actively involved in and exercise control over the enterprise. The following formula is prescribed in Regulation 13 (5) (c):

$$NEP = NOP \times \frac{EP}{100}$$

Where

NEP = Points awarded for equity ownership by an HDI

NOP = The maximum number of points awarded for equity ownership by an HDI in that specific category

EP = The percentage of equity ownership by an HDI within the enterprise or business, determined in accordance with the definition of HDI's.

6.2 Equity claims for a trust will only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust.

6.3 Documentation to substantiate the validity of the credentials of the trustees contemplated above must be submitted.

6.4 Listed companies and tertiary institutions do not qualify for HDI preference points.

6.5 A consortium or joint venture may, based on the percentage of the contract value managed or executed by their HDI-members, be entitled to preference points in respect of an HDI.

6.6 A person awarded a contract as a result of preference for contracting with, or providing equity ownership to an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for the same number or more preference for equity ownership.

7. BID DECLARATION

7.1 Bidders who claim points in respect of equity ownership must complete the Bid Declaration at the end of this form.

8. EQUITY OWNERSHIP CLAIMED IN TERMS OF PARAGRAPH 2.10 ABOVE. POINTS TO BE CALCULATED FROM INFORMATION FURNISHED IN PARAGRAPH 9.8.

	Ownership	Percentage owned	Points claimed
8.1	Equity ownership **by persons who** had no franchise in the national elections	%	.....
8.2	Equity ownership **by women**	%	....
8.3	Equity ownership **by disabled persons***	%	.....
	*If points are claimed for disabled persons, indicate nature of impairment (see paragraph 2.8 above)		
8.4	Points claimed for East Cape Domicilium	%	.....
8.5	Points claimed for Youth	%	.....

9 DECLARATION WITH REGARD TO EQUITY

9.1 Name of firm :.....

9.2 VAT registration number :

9.3 Company registration number :.....

:

9.4 TYPE OF FIRM

- ☐ Partnership
- ☐ One person business/sole trader
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

9.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

9.7 TOTAL NUMBER OF YEARS THE FIRM HAS BEEN IN BUSINESS? .....

9.8 List all Shareholders by Name, Position, Identity Number, Citizenship, HDI status and ownership, as relevant. Information to be used to calculate the points claimed in paragraph 8.

Name	Date/Position occupied in Enterprise	ID Number	Date RSA Citizenship obtained	HDI Status*			% of business / enterprise owned
				No franchise prior to elections	Women	Disabled	

*Indicate YES or NO

9.9 Consortium / Joint Venture

9.9.1 In the event that preference points are claimed for HDI members by consortia / joint ventures, the following information must be furnished in order to be entitled to the points claimed in respect of the HDI member:

Name of HDI member (to be consistent with paragraph 9.8)	Percentage (%) of the contract value managed or executed by the HDI member

9.10 I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the firm certify that points claimed, based on the equity ownership, indicated in paragraph 8 of the foregoing certificate, qualifies the firm for the preference(s) shown and I / we acknowledge that:

(i) The information furnished is true and correct.

(ii) The Equity ownership claimed is in accordance with the General Conditions as indicated in paragraph 1 of this form.

(iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 8, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.

(iv) If the claims are found to be incorrect, the purchaser may, in addition to any other remedy it may have -

(a) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid; and

WITNESSES:

1. .....

2. .....

.....
SIGNATURE(S)OF BIDDER(S)

DATE:.....

ADDRESS:.....

.....
.....

.....