

Overstrand Municipality



EMERGING CONTRACTOR / SERVICE PROVIDER DEVELOPMENT POLICY & IMPLEMENTATION PLAN

September 2014

“Creating an enabling environment for the development of emerging contractors”

*Approved by Council
23 September 2014*

INTRODUCTION

The Overstrand Municipal area is rated second in the Western Cape in terms of potential for economic growth whilst on the other hand rated amongst the highest in terms of gini-coefficient (measuring levels of inequality) including a high rate of unemployment. Development is considered as a potential primary economic driver that could play a determining role in generating funds for the co-subsidisation of programs aimed at eradicating poverty, unemployment and inequality.

The Emerging Contractor Development Programme is geared to become a flagship development initiative in the Municipality in order to be a catalyst for industry transformation. In an effort to promote social and economic development, the Municipality has developed a tool in line with other development practices in the country taking into consideration the legislative environment and the prevailing conditions in the area.

The Overstrand Municipality wishes to introduce a focused strategy for Broad-Based Black Economic Empowerment with the aim of contributing to the broader priority of economic advancement of all our people. This document seeks to highlight the benefits of the programme to all emerging contractors according to the Construction Industry Development Plan (CIDB) grade 1–3 and unregistered contractors assisting them to progress from being emerging to a well and self-sustainable business enterprises and to give guidance towards their initiatives to achieve the goal of economic independence.

The policy will assist with fast tracking empowerment, ensuring Broad-Based Black Economic Empowerment (BBBEE) and provide a pool of developed contractors who could provide additional capacity in the construction industry thus improving the equitable annual expenditure.

The framework seeks to promote a culture of infrastructure planning and implementation that would **facilitate the growth and sustainability of emerging contractors within the road construction, building sector and maintenance that is not incidental but becomes a priority area driven with integrity and care.** The level of interventions or assistance given to contractors would be decided by the Directorate: Local Economic Development based on the project requirements and in partnership with private sector champions.

The policy will provide a basis for the creation of co-operation between the Directorates of the Municipality and various stakeholders such as;

- The Business Chambers and Forums;
- Target beneficiaries (emerging contractors incorporating women, youth and people with disabilities);
- Financial institutions (government and private)
- The Provincial Departments of Transport and Public works and Economic Development and Tourism;

1. Regulatory Framework

- Constitution of Republic of South Africa Act, 1996;
- Construction Industry Development Board Act, No. 38 of 2000;
- Broad Based Black Economic Empowerment Act, No. 53 of 2003;
- Preferential Procurement Policy Framework Act, No. 5 of 2000;
- Overstrand Municipality Supply Chain Management Policy.

1.1 Constitution of the Republic of South Africa, 1996 (the Constitution)

Section 217 of the constitution defines how procurement matters should be handled. It further provides for the advancement and protection of the Previously Disadvantaged Individuals (PDIs).

1.2 Construction Industry Development Board Act, No.38 of 2000

The Construction Industry Development Board (CIDB) is mandated to provide strategic leadership to stakeholders and stimulate sustainable reform and improvement of the construction sector for effective delivery and the industry's enhanced role in the country's economy.

The CIDB currently keeps and maintains the construction registers of contractors and projects. They play a major role in ensuring that client departments adopt best practices which can be auditable even within the emerging contractor environment. The CIDB is also responsible for the issuing of procurement notes which deals with construction industry projects that are expected to adhere to, in order to ensure standardised procurement across the board.

1.3 Broad-Based Black Economic Empowerment Act, No 53 of 2003 (BBBEE)

BBBEE provides a legal framework for the promotion of Broad Based Black Economic Empowerment. The Act provides for the Gazetting of transformation characters and the issuing of generic and sector Codes of Good Practice which are a vehicle for the advancement of Black Economic Empowerment.

1.4 The Preferential Procurement Policy Framework Act, No 5 of 2000 (PPPFA)

The PPPFA is a legal framework for public sector procurement developed in terms of section 217 of the Constitution. Treasury regulations and practice notes have been developed as tools for the implementation of the act within the three spheres of government. These through the Municipal level who operates own preferential policies. The Act also provides for the advancement of black people, women, youth and people living with disabilities through the awarding of preference points to those tenderers that display advancement of these groups within their firms. However there is currently a lack of substantial progress in the advancement of these groups. The revised PPPFA is envisaged to give rise to improved procurement provisions which will enable delivery of the set targets within the BBBEE codes of good practice.

2. Strategic Framework

The policy support of the Municipality's LED strategy – “creating opportunities and tools to develop small business through procurement, a partnership with relevant partners and the development of a small business programme for the area”. This approach will ensure that the Municipality addresses in a more effective way interrelated objectives of poverty eradication, employment creation and economic growth. This will include the development and use of labour intensive and community based construction measures and affirmative procurement to direct infrastructure to SMMEs.

The policy will enable the Municipality to achieve its Infrastructure Development initiatives by significantly improving the quality of life of its community.

- Availability of technical skills for infrastructure projects within the Municipality;
- Competitiveness and transformation of the construction sector;
- Improve and increase delivery capacity of the Local Labour Promotions Projects (LLPP) and implementation of Expanded Public Works Programme (EPWP);
- Contractor capacity to undertake infrastructure development.

The implementation of the policy must ensure that the list of projects within the infrastructure plan provides for a balanced input between technology and labour intensive based projects. This is to ensure that contractors and skills capacity is developed for both conventional and non-conventional, including EPWP, methods.

3. Scope

This policy shall apply to identified capital and operational budgets which are planned to be spent within the Municipality. **Most of the works will include, but not limited to, construction and maintenance of municipal infrastructure, such as roads, stormwater, sewer, curbing, resealing of roads, construction of buildings and paving.**

The primary beneficiaries will be:

- Local emerging contractors/service providers and suppliers from previously disadvantaged individuals/communities. They will be assisted through the Emerging Service Provider Empowerment Programme (ESPEP) a capacity building programme which will facilitate their full participation in the construction industry. They will be assisted with targeted contract opportunities to propel them to new heights;
- Contractors must be registered with the CIDB when required.

Partnerships

- The potential success gain for this approach will be about promoting a healthy competitive environment for infrastructure projects. Collaboration between the Local Economic Development Directorate (the Directorate) and the other Directorates such as Infrastructure and Planning and Community Services including interest bodies;

- Achieving integration with other Directorates including other industry initiatives.
- Successful implementation of the Vuk'uphile Programme implemented in partnership with National Department of Public Works.
- Collaboration with the Department of Public Works both Provincial and National to leverage on projects in the area i.e. building and renovation of public facilities such as schools, health facilities and roads.

4. Approach

4.1 The planning frameworks

The implementation of this policy shall be in partnership with other Service Providers i.e. SEDA/Enterprise support centre, Training Institutions and Provincial Public Work training programme. The Directorate shall ensure alignment of training approaches, identify specific areas of performance that ensures sustainable development of contractors.

This is geared at facilitating the development of appropriate skills, expand, integrate and implement EPWP guidelines to all projects in construction and maintenance; ensure achievable targets on an annual basis by providing and committing funds and projects.

The Emerging Contractor Development strategy will need to be aligned with the Service Delivery Budget Implementation Plan (SDBIP) (what type and value of current and capital works). The strategy must respond to:-

- Type of work to be performed by the Municipality;
- Operational skills to be developed over the short and medium term; (constructing management, project management, etc.)
- Number of contractors to be developed per CIDB grade;
- BBBEE targets achieved through the development of emerging contractors;
- Financial and other requirements.

Note: In the process of implementing this strategy it is important to consider other work opportunities available within and outside the Municipality to ensure empowerment in general.

4.2 Supply Chain management

Supply Chain Management (SCM) should not only be about advertising tenders at various avenues hoping that there would be a pool of competitive tenderers in the market ready to respond to the advert. It should with the assistance from the Directorate, be about matching opportunities within the available capacity with the industry. Where there is a gap for delivery, this window of opportunity should be used to introduce entrance in the market.

For the Municipality to deliver on its empowerment mandate in respect of the previously disadvantaged communities, it will have to organise its internal capacity to arrange the implementation of the policy and understand the

emerging contractor environment better. In having to contend with frustrations most emerging contractors either **perish**, **front** or **emerge forever**, **this approach will mitigate these factors.**

The following procurement strategies are to be considered and in support of the policy: All necessary requirements, possible measures will be undertaken and weighed based on legislative guidelines and requirements and not as a practice to circumvent the supply chain policy. The policy must be updated as and when necessary.

Contracting Strategy	Advantages	Disadvantages / Risks
<p>1. Unbundling</p> <p>Where contractors have been unbundled it is ideal to have contractors of various levels of capacity working alongside each other because the less experienced contractors have an opportunity to share best practices with those that are experienced.</p>	<ul style="list-style-type: none"> • Offers more opportunities to small contractors; • No huge start-up and bridging finance required; • Protects the smaller contractors as big contractors would not normally tender for small – size tenders; • A good training ground as work of similar nature and size gives confidence for performance and experience; • Less risk of works being uncompleted; 	<ul style="list-style-type: none"> • Increased tender and administration costs; • Increased mentorship costs; • Effective risk management system required for successful completion of contracts; • Risk management to curb current activities;
<p>2. Multi-year [annual] contracts</p> <p>There will be more opportunities for a sustainable environment for emerging contractors through multi-year maintenance projects as they are the most sustainable source for continuous repetitive work opportunities. These projects promote the long-term financing as well as development and retaining of skills.</p>	<ul style="list-style-type: none"> • An enabling environment for skills development programmes such as learnerships; • Skills retention is possible; • Allow for purchasing of plant and equipment by contractors; • Repetitive work gives confidence to contractor and his/her staff. 	<ul style="list-style-type: none"> • No guarantee that emerging contractors would be awarded contracts unless the Municipality facilitates such an environment; • Potential dependency on one client
<p>3. Joint Ventures</p> <p>The selection of activities is done in a way that would enable emerging contractors to develop both their financial and technical capabilities in conjunction with a stronger and more experienced contractor.</p>	<ul style="list-style-type: none"> • Sharing of experience between established and emerging; • Contractor mentoring another contractor with necessary skills; • Integration and long-term relationships are possible; • Troubleshooting mechanisms readily available on site [personnel, plant, credit, facilities] 	<ul style="list-style-type: none"> • Danger of enjoying passive participation by other small contractors • Danger of established contractors promoting passive participation; • Financial capacity and credit worthiness not built within the junior partner as the established firm will tend to take care of all

		financial challenges; • Take-over attitude applies where challenges for performance occur; • Forced marriages may create tension rather than good work environment.
4. Nominated subcontractors This is regarded as a perfect tool for targeted development. The nomination of contractors may be conducted in a manner that targets the empowerment of emerging contractors / local contractors and suppliers as well as taking advantage of capacity requirements within specific CIDB grading designations. A database will be created to be used for this purpose.	<ul style="list-style-type: none"> • Used to target specific outputs mainly on big projects i.e. local contractors, women and youth; • Can be used as an anti-fronting tool; • Municipality can allocate specific work to be performed by nominated sub-contractors upfront; • Some advantages as in joint ventures above can be achieved; 	SAME AS ABOVE (but with reduced disadvantages and risks)

In all the above strategies/approaches, an understanding of the scope of works is very crucial before selecting an appropriate empowerment strategy that will optimise the successful participation of emerging contractors.

4.3 Capacity building

Capacity building must be conducted with all relevant stakeholders e.g. the SETAs and NHBRC and focus on the following main areas to ensure the success of the programme:-

- Technical skills;
- Soft skills;
- Mentorship/Contract Management support;
- Financial and business training support.

4.3.1 Technical Skills

Integrate efforts with organisations such as the Construction Education and Training Authority Colleges, as well as supporting the in – service training for technicians and engineers. Co-ordinate all capacity development initiatives for a targeted approach. This will ensure that the Municipality is able to create technical capacity from a contracts manager level down to the road worker. The Directorate would need to annually prioritise its input into the initiative, based on the skills audit and other priority areas within the Municipality.

4.3.2 Soft skills

Soft skills or life skills training play an important role in ensuring upkeep of the people's well-being therefore attention should be given to this section. These skills range from HIV/AIDS awareness, safety aspects, domestic violence, financial management/budget, etc. and are useful for the well-being of society.

4.3.3 Mentorship/Contract Management support

There are other contract management interventions that should be in place for the successful completion of works. Mentorship should be provided to emerging contractors/suppliers in order to curb contract non-performance. It can be provided by prime contractors **(unless prime contractor is the main contractor on a specific project, the risk of contractors being mentors are that in the current economic situation and climate they might be in competition for the same project]** or independent mentors **[this could be preferred when contractors need practical experience to enhance their technical skills)**. It is therefore imperative that the duties of a mentor are clearly defined and the monitoring mechanisms are put in place to ensure each party adheres to his/her obligation. This is to ensure that when an emerging contractor does not perform, the duties are not taken over by the mentor as is the practice. A tri-partied agreement between the Municipality, emerging contractor and mentor to ensure that roles and responsibilities are clearly agreed upon and documented.

Some of the failures can be attributed to activities outside the contract that is currently being performed. The emerging contractor/supplier must therefore inform the Municipality or the mentor of:

- Other projects that the contractor may be performing during the current contract period;
- Outstanding creditors. This may assist the employer to conduct an age analysis on all outstanding monies;
- Credit facilities available, including bank overdraft facilities, which would be used in the performance of the contract;
- The monies taken out of the contract, other than salaries, which may be used to fund other interests;
- Compliance with statutory requirements such as VAT, UIF, paying industry determined minimum wages etc. and;
- Any other information that would assist the Municipality to manage risks associated with emerging contractor environment and curb non-performance;

Other primary obligations for the mentorship/contract management support are:

- Assist contractors with negotiations with creditors;
- Sourcing of appropriately skilled personnel and development;
- Sourcing of plant and equipment;
- Understanding of the construction sector environment;
- Financial management;
- Contractual obligations;
- Business obligations;
- Successful completion of current contract(s);
- Risk management and other identified areas of development.

4.3.4 Financial and business training and support

Financial and business training is crucial for the sustainability of any business. If emerging contractors have to ensure survival beyond five (5) years of their trading, each emerging contractor within the development programme would need to undergo various awareness trainings about the importance of good financial management within any firm that is striving for success.

The emerging contractors must be aware of capabilities required to manage a business within the construction sector in respect of various CIDB gradings. This would assist contractors to make a right choice in terms of their levels of comfort in relation to work types and values.

The Municipality will facilitate with other stakeholders such as the SEDA/Enterprise support centre/Mthimkhulu/OTI/Learn-to-Earn and others for financial and business support services.

4.3.5 Organisational Development

The Municipality would not conduct its business on a contractor by contractor basis. In order to optimise its capacity building efforts, including information sharing, the Municipality would formalise its relationship with contractors through their associations. The Municipality will enter into a Memorandum of Understanding (MOU) with existing business association and forums as a way of formalising relations.

5. Rules and exit strategy

There must be proven and auditable outcomes for growth of emerging contractors. This is to ensure that emerging contractors/suppliers advance from one level to another and in line with identified interventions. Service Providers will be constantly tracked to ascertain the level of input and advancement in the programme or utilise a tool for tracking beneficiaries used by EPWP. This is important to avoid the creation of an unwarranted influx of capacity, thereby resulting in a saturated market. **Furthermore this approach will guard against creating an environment that will promote the**

contractors/suppliers dependency on the Municipality's work opportunities and support system for survival.

The database to be developed must have the following rules applicable:

- Contractors/suppliers must be residents of the Overstrand;
- Contractors must already comply to a process with statutory requirements i.e. Tax, VAT registered, registered entity with CICP, CIDB, NHBRC or relevant quality assurance bodies;
- Contractors/suppliers must be available for capacity building programmes arranged by the Municipality and its partners at all times;
- Contractors with passive shareholders shall not be permitted;
- Contractors with shareholders who are employed in the public service will not be considered and shall be excluded;
- Inform the Municipality whenever there is a transfer of ownership to a new individual;
- Owners may be required to spend a minimum number of days on site; where works is awarded through this programme;
- Entities must be registered on the local supplier database;
- CIDB Grade 1 and unregistered contractors will only be awarded work within their localities.

The rules must be strictly applied and a transgression of these will result in exclusion. The Municipality may limit the number of contracts that may be awarded to a contracting entity at one time. This will be based on the contractor's provisions record/conduct as well as technical/financial capacity to perform additional work.

6. Human Resources

The Directorate must align the implementation of this policy with other Directorates' budget holders. The practice must also include other partners in the private sector including service providers in the skills development and mentoring sector.

The Directorate must ensure that technical personnel dealing with tenders and the Supply Chain Management Department are capacitated to understand the various forms of empowering emerging contractors. The Directorate: Finance must as is the practice now, ensure an efficient payment system in providing the contractor with improved cash flow i.e. adhering to strict policy implementation of paying emerging businesses with the shortest minimum time as pointed out in the policy.

7. Database Management and Control

The development of an auditable database is crucial to the advancement and tracking of emerging contractors/suppliers. The database must assist the Directorate towards planning to support and sustain the various levels of contractors within the database. Sustainability should focus more on contractors with CIDB grading designation of 1-3 and the unregistered.

The role of the database shall include the:

- Recording of admitted contractors;
- Recording of blacklisted existing contractors and those who exit the programme;
- Analysis of women, youth and people with disabilities [explore setting targets];
- Tracking the growth of contractors;
- Tracking of capacity building interventions to contractors;
- Recording of misconduct such as judgments against contractors;
- Plant and equipment owned by contractors;
- Tracking of improvement/decline of financial/technical capacity.

Emerging contractors/service providers must be advised to belong to an association [of their choice] for them to be easily accessible.

8. Logical framework

Strategic option	Measurable indicator	Means of verification	Assumptions/Risks
<p>Goal To improve and transform local capacity in the construction and supplier entities.</p>	<ul style="list-style-type: none"> • Increases in local contractors across CIDB grading designations; • Increase in local black-owned business registered with CIDB across grading designations; • Increased participation by designated groups such as youth, women and people living with disabilities. 	<ul style="list-style-type: none"> • An increase in the number of enterprises responding and responsive to tender notices; • Statistics of local contractors registered with the CIDB; • An increase in the number of tenders submitted. 	<ul style="list-style-type: none"> • New entrants will win tenders and advance to higher CIDB grading, increase their financial standing and worthiness; • Sustainability and maintenance of current grading (The CIDB categories threshold are periodically revised and may lead to contractors being downgraded if not maintained).
<p>Purpose The Municipality is to create an enabling environment for the development of emerging contractors and suppliers in an agreed systematic approach.</p>	<ul style="list-style-type: none"> • Policy framework for buying and approvals; • Creation of contract opportunities; • Provision of capacity building programmes; • Allocation of appropriate resources to the development programme. 	<ul style="list-style-type: none"> • Approved policy framework including its implementation plan; • Quarterly and annual reports; • Budget allocation and spend against need; • Approved funding proposal and budget allocation. 	<ul style="list-style-type: none"> • Delays in approval process; • Experienced personnel involved; • Contractors attending and taking training seriously; • Dedicated and experienced training partners; • Inadequate budgets.

Output 1 Properly planned work opportunities aimed at emerging contractors/ suppliers.	<ul style="list-style-type: none"> • Work opportunities provided within the annual Supply Chain Management process. 	<ul style="list-style-type: none"> • Periodic SCM report to council. 	<ul style="list-style-type: none"> • Lack of commitment to the agreed empowerment actions; • Lack of monitoring
Output 2 Creation of job opportunities and advancement of local entrepreneurs	<ul style="list-style-type: none"> • Number of planned labour intensive based projects. • Reporting on EPWP job opportunities, • Increase in number of local enterprises benefiting in doing business with the Municipality 	<ul style="list-style-type: none"> • LLPP based project report; • SCM report on tender allocations 	<ul style="list-style-type: none"> • Non-adherence to the agreed list of projects; and • Lack of monitoring.
Output 3 Delivering capacity building programmes with relevant partners.	<ul style="list-style-type: none"> • Appropriate and accredited courses arranged; • Number of people trained. 	<ul style="list-style-type: none"> • Quarterly and annual reports. 	<ul style="list-style-type: none"> • Appropriate timing and planning of capacity building programme.

9. Monitoring and Evaluation

Primarily the monitoring and evaluation for the effectiveness of the policy must be carried out by the Directorate in partnership with Supply Chain Management on an ongoing basis.

This initiative is regarded as a key to service delivery and will need to be monitored constantly to ensure stated objectives are achieved. For a programme of this nature, project implementation is not everything but a more targeted approach to opportunities and support required by the target beneficiaries.

Framework for monitoring and evaluation

The following is of importance:

1. **Provincial and local consensus:** To what extent is there consensus, either formal or informal concerning socio-economic challenges or concerns and how to address these?
2. **Relevance:** To what extent is the programme addressing local challenges and concerns in the sector? Is it consistent with the municipality's development priorities? And is it consistent with strategies of identified partners?
3. **Compatibility:** Does the programme complement or compete with other development practices?
4. **Value add:** To what extent is the programme adding value to what other partners are doing in the sector and what the municipality does in accordance with its own priorities?

5. **Partnerships and participation:** The extent to which emerging contractors and service providers participate in the design and implementation of the programme.

6. **Efficacy:** To what extent do the identified approaches and practices achieve or expected to achieve intended and stated objectives?

10. Policy Alignment

The policy must be aligned with other relevant development initiatives with the CIDB Best Practice Model and other approaches. Other best practices must be derived from other municipalities and government departments and aligned with the LED Strategy and a development continuum for SMMEs in the area.

In order to successfully implement and achieve intended goals, this policy must be read in conjunction with the CIDB **inform practice note** – Practice Note #29, July 2012 and Balancing delivery and development – A discussion document by the CIDB, as amended from time to time.

Policy Section	Local Economic Development
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