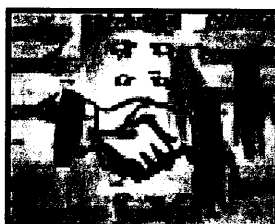




STRATEGIC SOURCING AND PARTNERSHIPS FRAMEWORK



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STRATEGIC SOURCING AND PARTNERSHIPS FRAMEWORK

1. BACKGROUND

The Department of Land Affairs (DLA) is responsible for land reform that will remedy past injustices and promote sustainable growth and development in South Africa by giving people tenure security and a base for economic activities. In their quest to do so, there is a set target of delivering 30% of white owned agricultural land to black people (Africans, Coloureds and Indians), by 2014, and have since delivered only 4% in the past 13 years of delivery.

A National land summit took place in July 2005 and one of its recommendations was the formation of partnerships at a local, provincial and national level where stakeholders namely other government departments, business, labour, commodity groups, organized agriculture and civil society will be given clear roles, responsibilities and mechanisms of accountability in ensuring a sustainable land delivery to land reform beneficiaries.

In the State of the Nation Address, February 2007, President Thabo Mbeki articulated the need to accelerate land redistribution as one of the key programme of action for the government. He noted that the pace of land reform is largely too slow and unacceptable. These sentiments are in synch with the thinking of major stakeholders involved in the land reform space. The demand (beneficiary) led land reform; while it has its advantages will not radically speed up land redistribution and come any where close to achieving the government's 2014 target.

Herein lays the gene and need for an alternative approach and targeted intervention to ensure turn around in the delivery and achievement of land redistribution targets. The political support necessary for a radical review of land

reform implementation exists. In order to contextualize the need for an alternative implementation approach, it is necessary to review what the targets and progress made to date as well as a prognosis of what has worked or hasn't worked in respect of current land reform implementation approach.

In view of the challenges described above, viewed against the 2014 targets that have to be met, it is necessary that an alternative implementation framework be put in place. Such a framework will deal effectively with the constraints and challenges that have bedevilled land reform implementation to-date. The challenges can be summarized into three; capacity, resources and sustainability.

2. RATIONALE FOR STRATEGIC PARTNERSHIPS

The slow pace of land reform has contributed to a huge backlog in terms of delivery. Many newly settled black farmers are worse off after acquiring land due to the lack of sufficient post-settlement support for land reform beneficiaries. In addition, with the implementation of Proactive Land Acquisition Strategy (PLAS), the Department has an obligation to properly manage the assets associated with the acquisition of the land and to ensure state value for investment.

The question is how an enabling and favourable environment can be created where the private sector and government can jointly participate effectively in achieving the goals set out in the National Project on Land Reform. There is therefore an urgent need to adapt innovative and radical approaches to speed up the delivery of land reform, to deal with the backlog and to ensure proper asset and financial management.

Land and tenure reform cannot be undertaken without the strategic partners thus the need to come up with the strategic sourcing strategy that will strengthen and speed up land and tenure reform. These partnerships will therefore give rise to pre-agreed goals, approaches/strategies and certain roles which should be fully

understood by both parties. The partnerships are meant to foster an enabling environment for ease, speed and sustainability of the land reform interventions. Sustainable initiatives will be achieved through strong partnerships.

In light of this being a more proactive action that is being taken and implemented by the Department, procurement turn-around-times will be dramatically improved. Legislative compliance will nonetheless be at the forefront and will guide and drive this framework.

3. TOWARDS THE NEW APPROACH

The Branch: Land and Tenure Reform branch is keen to identify various stakeholders who will assist in achieving the mandate and negotiate the partnerships. There are certain critical functions that these strategic partners are expected to cover. Such functions are, but not limited to the following:

- Land identification
- Beneficiary identification
- Packaging of projects
- Post-settlement support
- Coaching, Mentorship and Advocacy
- Access to markets
- Access to additional finance
- AgriBEE
- Any technical assistance relating to scarce skills
- Any capacity gaps that the Branch: Land and Tenure Reform may deem necessary

Partners skilled in one or more of the above services can emerge from:

- Commodity organisations

- Section 21/not for profit organisations
- Financial institutions
- Non-governmental organisations
- Organized Agriculture model

Generally the following criteria would be used to select partners to the panel but more specific terms of references will be developed:

- Must be an established agricultural/agribusiness entity (They must specify number of years experience, specific skills such as Chartered Accountants or Agricultural economists with at least a Masters or Doctorate.
- Must have annual reports/audited statements (Number of years e.g. 3 years seem to be rule of thumb), with reference to the Public Finance Management Act, 1999 (Section 38).
- Business plan and 'motivation' why we must select them inclusive:
- Role and function of the agency/organisation/entity
- Legislative and Policy context
- Sector analysis and overview
- Organisational structure
- Risk sharing
- Financial profile
- Corporate governance principle – Procurement, Broad-Based Black
- Economic Empowerment
- Company profile with Registration numbers
- Financial management with reference to the Public Finance Management Act, 1999 *inter alia*:

- Transparent and effective systems of financial management
- Appropriate procurement systems which is fair & cost effective etc
- Expertise and capacity to deliver
- Experience in the market access
- Transformation “agenda and principles”
- Accessibility of this agency in terms of geographical spread of services and networking in the industry
- Track record in terms of achieving sustainable projects / service delivery.

4. MANAGEMENT AND IMPLEMENTATION OF THE FRAMEWORK

The following is applicable legislation within which this strategy is blanketed:

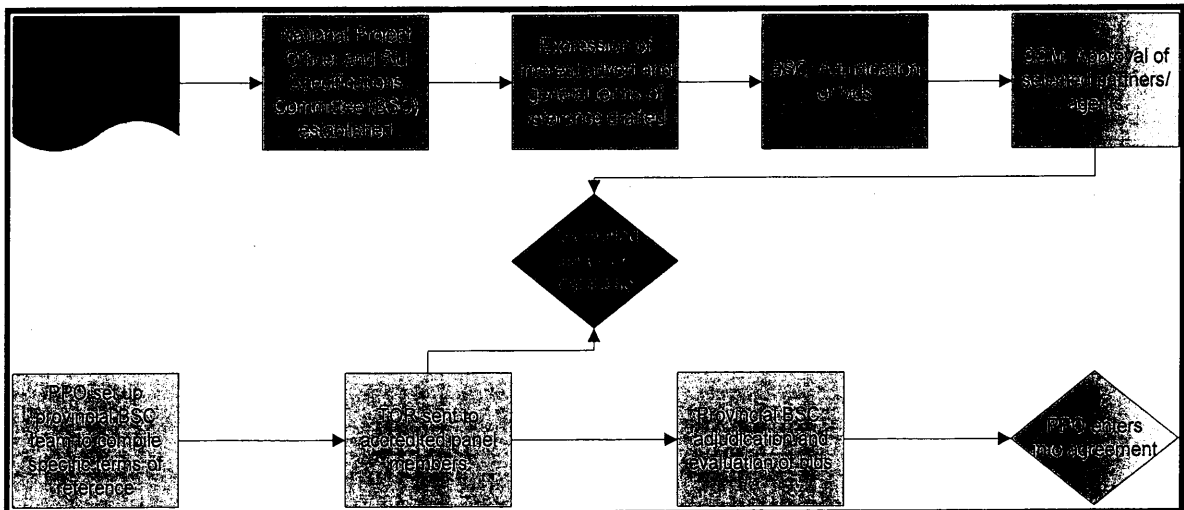
- Constitution of South Africa 1996 (Section 13 clause 217) Act 108 of 1996
- The Public Finance Management Act 1 of 1999 (as amended by Act 29 of 1999)
- Treasury Regulations : March 2005
- The Preferential Procurement Policy Framework Act 5 of 2000
- The Preferential Procurement Policy Framework Act Regulations of August 2001
- Supply Chain Management– A 2003 Guide for Accounting officers/ Authorities
- Broad Based Black economic Empowerment Act 53 of 2003
- National Small Business Act 102 of 1996
- Access to Information Act 2 of 2000
- Treasury Practice Notes

In order to promote government procurement goals and strategies, the procurement framework will enforce that the procurement process is fair,

equitable, transparent, competitive and cost-effective. This process will ensure that all identified strategic partners and other emerging companies that are Black Economic Empowerment (BEE) compliant must obtain a fair opportunity in terms of engaging in partnership agreements with the Department. The proposed Framework and its implementation (See **Diagram 1**) will therefore be defined in the following stages, namely:

- Appointment of Project Officer
- Setting up the panel of partners
- Initiating and finalising the process of engagement:
 - Drafting of Terms of references for all services identified (based on the identified models)
 - Invitation of Bids/proposals from panel (closed bidding)
 - Negotiations and Agreements
 - Exit Strategy

Diagram 1: Strategic Sourcing Framework and its Implementation



4.1 Appointment of a National Project Officer

Once the Framework has been approved by the Accounting Officer (Director-General), in partial fulfilment of Section 16 of the Treasury Regulations issued in

terms of the Public Finance Management Act 1 of 1999, the Accounting Officer must appoint a Project Officer to oversee the implementation of the partnership agreements from inception to end. The National Project Officer (NPO) should have a good understanding of land reform issues and a fair understanding of Supply Chain Management issues so as to drive the land reform issues without compromising procurement processes and procedures. The Chief Directors of the Provincial Land Reform Offices will fulfil this role when initiating provincial agreements and will be referred to as Provincial Project Officers (PPO) in this document.

The role of the NPO/PPO will include, but not limited to profiling and categorization of partners/panellists, drafting of Terms of Reference and associated evaluation criteria as per the identified implementation models and putting in place effective management and control measures.

A covering submission for each anticipated award has to be done by the NPO/PPO together with the proposals forwarded for evaluation and adjudication within Supply Chain Management for approval.

4.2 Setting up the Panel of Partners

A panel of prospective partners will be set up in a database to be managed by the NPO. A steering team has been set up to drive the process comprising of representatives from the Directorates: Redistribution Implementation Systems, Supply Chain Management, Provincial Land Reform Offices, Shared Services Centres and Regional Land Claims Commission. Relevant representatives from other directorates/provincial offices will be co-opted on the committee when specific terms of references are drafted. This steering committee will be known as the Bid Specifications Committee (BSC).

The BSC, chaired by the Director: Redistribution Implementation Systems or her

representative will be responsible for the drafting of the Expression of Interest Advert and the associated pre-qualification criteria. Prospective partners that meet the standard criteria will then be included in the database as panel members that may be used by the Department. Such an inclusion does not guarantee that the panellists will be engaged by the Department as further invitation for proposals will be made and the proposals will also be subjected to evaluation and adjudication. The panel will be valid for a period of three years and may be refreshed annually.

The responses from the expression of interest must be evaluated by the same members of the BSC and comprehensive recommendation/s sent for adjudication to the Departmental Bid Committee for approval.

All partners and companies currently in the database will be approached individually and informed of the new approach and invited to express their interest according to the new approach. The database of accredited partners will be set up and managed by the NPO within the prescripts of the relevant prevailing legislation. PPOs will assist the NPO with stakeholder mapping and analysis with the aim of categorizing and profiling the strategic/private partners. Such a profile will focus mainly on the capacity and expertise required to manage individual agreements. Only accredited partners may be engaged for any activities that will assist in speeding up the land reform programme. Once the panel has been set up, specific terms of references can be drafted to engage these accredited partners.

4.3 Initiating and finalising the process of engagement

4.3.1 Drafting terms of references

The NPO will set up a Bid Specification Committee for drafting generic terms of reference that can be used by provinces. Provincial project

officers will refine these terms of references (TORs) for specific services that they may require. These specific TORs will evolve into the agreements. The provincial committees will also be required to draft the associated evaluation criteria for the proposals.

4.3.2 Inviting bids/proposals from Panel

Proposals will be invited from the panellists for each agency-led land reform models as and when the need arises. The TORs will be used to invite proposals from the accredited panel members that are in the database. Proposals will be subjected to an evaluation and adjudication process.

4.3.3 Negotiations and agreements

Once the proposals have been adjudicated, the preferred panel member/partners will be engaged in negotiations. The PPO and his/her team will be responsible for the negotiations and subsequent agreement. It is necessary for the PPO to include members who are knowledgeable in supply-chain management and drafting legal contracts. Members from the National Project Officer's team can also be included if the PPO deems it necessary.

The agreements will take two forms:

Non-funding: Approval from Accounting Officer or his delegate should none-the-less be sought for this type of partnership. A proposal and justification for the agreement in terms of applicability and any support that may be required should form part of the submission. Despite there be no funding for such an agreement, the amount of risk and risk sharing should be enshrined in the agreement and so should ways in which such risk will

be mitigated.

Funded agreements: Approval should also be sought from the Accounting Officer or his delegate and the submission should include amount of funding sought, nature of the strategic goals to be achieved by the Department of Land Affairs, full details of the activities and timeframes as well as any additional resources that may be required.

The agreement must explicitly spell out how any allocated funds will be utilized and accounted for. As per the PFMA requirements, no prior transfer of funds will be done and funding will be according to the type of agreement that the Department of Land Affairs enters into. Approval of any expenditure in terms of the agreement has to be granted by the Accounting Officer as prescribed in Section 38 (1)(f) and Section 76 (4)(b) of the Public Finance Management Act of 1999.

4.3.4 Exit strategy

The prospective partner should provide the Department of Land Affairs with a feasible exit strategy with regards to the institutional functions assigned to that partner in the agreement, which will also be subjected to an evaluation by a panel of technical experts and Supply Chain Management practitioners. Such an exit strategy should be linked to pre-agreed end-points, which should have an emphasis on sustainability of the land reform programs.

5. CONTROL MEASURES

It is the responsibility of the Project Officer to set up effective control measures for both the tracking of funds usage against activities and progress and impact of the agreement. Each agreement will be subject to a risk assessment as per the

requirements of Section 3.2 of the Treasury Rules and Regulations issued in terms of the Public Finance Management Act of 1999. Other control measures considerations include Section 8.4.1 of the Treasury regulation, which are:

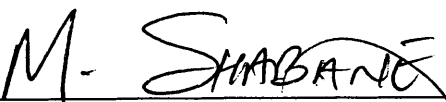
- Internal and external audit requirements and where appropriate the submission of audited statements.
- Regular monitoring procedures.
- Scheduled and unscheduled inspection visits or reviews of performance.
- Any other controls deemed necessary.

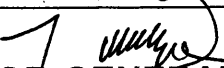
6. REPORTING

As per Section 8.4.1 of the Treasury Regulations issued in terms of the Public Finance Management Act of 1999, regular reporting procedures under the agreement have to be spelt out, partially as a control measure. Depending on the nature and complexity of the agreement, the frequency of the reporting will be determined by the Project Officer and be approved by the Accounting Officer but may not exceed a quarter. Issues to be reported on include compliance and progress in terms of the conditions of the agreement as well as any other BEE and socio-economic goals.

7. MONITORING AND REVIEW

Implementation and management processes and their effectiveness will be reviewed annually. Project teams will be set up nationally and provincially to monitor all agreements entered into.



~~MR T GWANYA~~ 
**ACTING DIRECTOR-GENERAL: DEPARTMENT OF LAND
AFFAIRS**

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