

# **Western Cape Construction Contact Centre**

## **Supply Chain Management Forum Stellenbosch**

**20 August 2010**

# Compliance

**Regulatory compliance describes the goal that corporations or public agencies aspire to in their efforts to ensure that personnel are aware of and take steps to comply with relevant laws and regulations.**

# **Presentation Content**

- **Legal Framework**
- **Regulations**
  - **Registered Contractors**
  - **Register of Projects**
- **Code of Conduct**

# Legal framework for procurement

- **Public procurement system requirements**
- Primary pieces of legislation that shape the procurement regime

# Basic Requirements

A public procurement system needs to be developed around a set of outcomes or objectives which reflect societal expectations eg:

- Competition
- Integrity (rules of conduct for those engaged in procurement)
- Transparency
- Efficiency (administrative and transactional efficiency)
- Customer satisfaction
- Best value (value for money)
- Wealth distribution
- Risk avoidance
- Uniformity

These objectives in effect establish overarching performance requirements for the system

# Qualitative & Quantitative Requirements

These high level performance requirements need to be interpreted both **qualitatively** and **quantitatively**.

Proper measurement of **quality** and **quantity** must be established and included in Municipal processes

A means of verifying that the established requirements have been satisfied needs to be put in place.

A proper **Measurement** and **Evaluation** process has to be implemented and included in management reports etc.

# Legal framework for procurement

- Public procurement system requirements
- **Primary pieces of legislation that shape the procurement regime**

# Primary legislation governing procurement

## All types of procurement

- Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)
- Public Finance Management Act (Act 1 of 1999)
- Municipal Finance Management Act (Act 56 of 2003)
- The Promotion of Equality and the Prevention of Unfair Discrimination Act (Act 4 of 2000)
- Preferential Procurement Policy Framework Act (Act No 5 of 2000)
- Broad-Based Black Economic Empowerment Act (Act No. 53 of 2003)
- Promotion of Administrative Justice Act (Act 3 of 2000)
- Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004)

## Construction procurement only

- Construction Industry Development Board Act (Act 38 of 2000)



# Basic procurement system requirement

Section 217 of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)

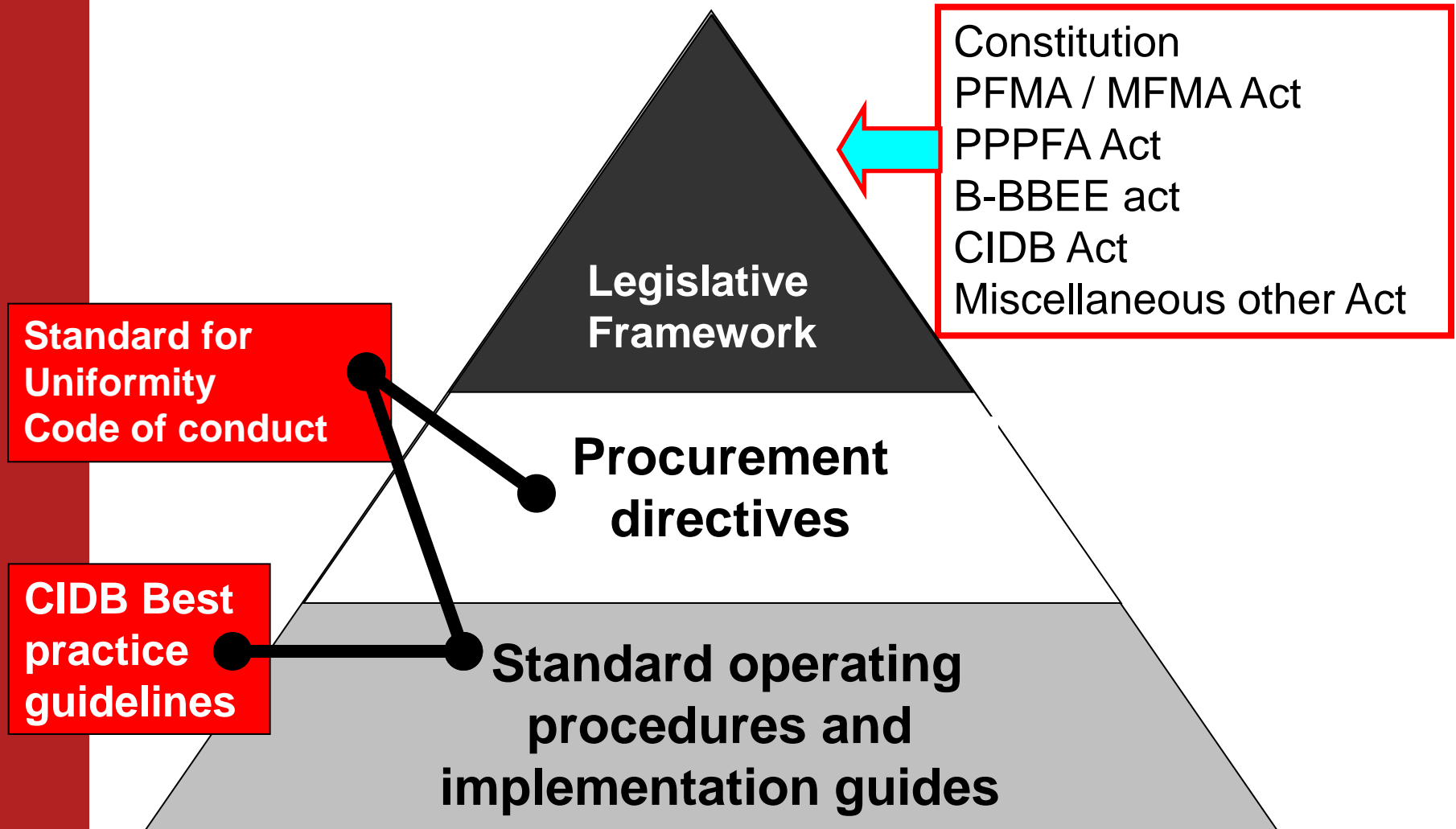
**Primary** Procurement **system is to be fair, equitable, transparent, competitive and cost effective**

**Secondary** Procurement **policy may provide for:**

- categories of preference in the allocation of contracts; and
- the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination

Must be implemented in terms of legislation

# Framework for procurement



Accounting officers and accounting authorities need to develop procurement system around the legislative framework and CIDB prescripts

- **REGULATIONS**

- Register of Contractors
- Register of Projects

- Chapter 3 cidb Act
  - cidb to establish the register to support risk management
  - Minister (via cidb) prescribe manner in which public sector tenders are invited
  - Every organ of State must apply the register of contractors

- Chapter 4 cidb Act
  - cidb to establish the register of projects to record all projects
  - All construction projects above the value must be recorded in the register.

- Lets look at some Municipalities

[Projects Tenders Contracts.xls](#)

- **CODE OF CONDUCT**

- EMPLOYER

- EMPLOYEES

- **Employer**

- Not invite without firm intention to proceed
- Ensure tenders are evaluated in clearly set out conditions
- Employ fair and equitable contracts
- Not accept gifts etc.
- Ensure procurement documents are clear & comprehensive and set out the parties rights
- Not breach confidential information supplied by tenderer's
- Not engage in unfair or unethical practices with subcontractors



## Code of Conduct Cont.

- Ensure tenders are treated fairly and evaluated without bias
- Ensure transparency is maintained
  - Invite wide and publicly
  - State clearly pre qualifications
  - Only consider qualified tenders
  - Public opening and make information available
  - Make known outcomes of evaluations
- Ensure obligations as set out are met
- Ensure legal requirements and principles are upheld

- **Employees**

- Conduct themselves in a manner befitting
- Observe Code of Conduct
- Perform duties in an unbiased manner
- Ensure they do not compromise the employer
- Not allow themselves to be influenced
- Not accept gifts
- Administer contracts in an even handed manner
- Disclose any possible conflict situations

# Questions