



IMPLEMENTATION PROTOCOL

Between

THE MINISTER RESPONSIBLE FOR PUBLIC WORKS

And

THE PREMIER OF PROVINCE

And

EXECUTIVE MAYOR / MAYOR OF

MUNICIPALITY

on

PHASE 2 OF THE EXPANDED PUBLIC WORKS PROGRAMME (2009-2014)



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PREAMBLE

WHEREAS the National Department of Public Works', Expanded Public Works Programme involves creating temporary work opportunities for unemployed persons, therefore so allowing them to participate economically and contribute towards the development of their communities and the country as a whole. The implementation of EPWP is a key Policy Priority of the Government of the Republic of South Africa in promoting its objectives of reducing poverty and unemployment.

AND WHEREAS the National Department of Public Works is responsible for leading the EPWP. The success of this Programme depends on concerted efforts, cooperation and implementation across the National, Provincial and Local spheres of Government.

AND WHEREAS the first phase of EPWP was concluded on 31st March 2009. On the 25th June 2008, the Cabinet approved the second phase of EPWP for a period of 5 (five) years commencing in 2009 and lapsing on 2014.

AND WHEREAS the Programme's Business Plan was approved at the Cabinet Lekgotla held in January 2009. The second phase of the EPWP commenced on 1 April 2009.

AND WHEREAS the key principles of second phase of the EPWP are listed chronologically below as follows:

- The Phase 2 of the Programme has targets four times bigger than Phase 1 (one), with an overall target of creating 2 million Full time equivalent work opportunities (4.5 million work opportunities) over the next 5 years (2009 – 2014).
- This overall target for Phase 2 (two) will be distributed across participating Public Bodies in all spheres of Government over the 5 year period with each public body having a clear target for each financial year. Inter - Governmental protocols will be concluded with participating Public Bodies committing them to their targets and enabling better monitoring of implementation progress.
- A fiscal incentive has been introduced through a grant to eligible Public Bodies to meet their EPWP targets, maximise employment creation and assist them to off-set costs that may be incurred in making public body projects and programmes more labour intensive. This incentive will contribute to funding the wage component of projects and in some sectors other project related costs that create employment for unemployed persons. In effect, eligible Public Bodies will be able to claim at least R50 (to be reviewed annually in line with inflation) for every person-day of work created above a set minimum employment threshold.

The Provincial and Local spheres of Government are the main delivery arms of the Government of South Africa and are the primary implementing bodies for the EPWP. Provinces and municipalities are required to make a systematic effort to draw significant numbers of unemployed persons into work.

This protocol further takes into account the State of the Nation Address delivered by President Zuma on the 3 June 2009. The State of the Nation Address and the targets outlined are further given expression in Government's programme of action for the year specify the following; *"The second phase of the programme aims to create about four million job opportunities by 2014."*

The Parties recognise that Inter - Governmental cooperation and coordination are essential to achieve the objectives of the EPWP. To this end, the Parties pledge their cooperation and commitment to the successful implementation of the EPWP and conclude this Implementation Protocol.



PART I: INTRODUCTION

1 Definitions

In this Protocol, unless the context indicates otherwise -

- 1.1 **“the Department”** means the National Department of Public Works;
- 1.2 **“Eligible Public Bodies”** means those Public Bodies to whom an indicative incentive grant amount has been allocated in terms of the Division of Revenue Act;
- 1.3 **“EPWP”** means the Expanded Public Works Programme, as approved by the Cabinet;
- 1.4 **“Executive Mayor or Mayor”** means the Executive Mayor or Mayor of the Metropolitan, District or Local Municipality;
- 1.5 **“Full time equivalent work opportunities”** means 230 person days of work (i.e. 365 days less 104 weekend days, less 10 public holidays and less 21 annual leave days but inclusive of paid sick leave) created by an EPWP project or programme within a financial year. Full time equivalent is the same as person years of work;
- 1.6 **“Minister”** means the Minister responsible for Public Works;
- 1.7 **“Municipality”** means the Metropolitan, District or Local Municipality;
- 1.8 **“Participating Public Bodies”** means Public Bodies across National, Provincial and Local spheres of Government for whom a Full time equivalent work opportunities target has been set under the EPWP, in terms of this Implementation Protocol Agreement;
- 1.9 **“Party”** means a signatory to this Protocol;
- 1.10 **“Premier”** means the Premier of the Province;
- 1.11 **“Protocol”** means this Implementation Protocol and includes the Annexure to this Protocol; and
- 1.12 **“Work opportunity (W.O.)”** means paid work created for an individual on an EPWP project for any period of time, within the employment conditions of the code of good practice for special public works programmes. In the case of social sector projects, learnerships also constitute work opportunities.

2 Parties to Protocol

The parties to this Protocol are:

- 2.1 The Minister of Public Works;
- 2.2 The Premier of XXX Province; and
- 2.3 The Executive Mayor or Mayor of XXX Municipality.

3 Purpose of Protocol

3.1 The purpose of this Protocol is -

- 3.1.1 To establish an agreed framework for cooperation and coordination between the Parties;



- 3.1.2 To promote the objectives of the EPWP by increasing the number of Full time equivalent work opportunities through mainstreaming the use of labour-intensive employment in the delivery of public infrastructure, goods and services in the Municipalities;
 - 3.1.3 To confirm the Municipalities' agreement and commitment to achieving the targeted number of Full time equivalent work opportunities in the Municipality by 2014 as specified in the Annexure to this Protocol;
 - 3.1.4 To promote the EPWP incentive grant and to incentivise eligible Public Bodies in the Province to increase labour-intensive employment through EPWP projects and programmes that maximise job creation;
 - 3.1.5 To confirm the agreement and commitment of each Municipality to -
 - achieve the targeted number of Full time equivalent work opportunities by 2014 as specified in the Annexure to this Protocol;
 - promote the objectives of the EPWP by increasing the number of Full time equivalent work opportunities through mainstreaming the use of labour-intensive employment by municipalities in the delivery of public infrastructure, goods and services; and
 - utilise the EPWP incentive grant to increase labour-intensive employment through EPWP projects and programmes that optimizes job creation;
 - 3.1.6 To specify the institutional structures that will oversee, monitor and report on progress in implementing the EPWP and achieving the EPWP targets; and
 - 3.1.7 To provide for mutual assistance and support in respect of the programmes and initiatives of the EPWP.
- 3.2 This Protocol shall not limit the constitutional and statutory powers and functions of the Parties.

PART II: PRINCIPLES OF COOPERATION

4 Principles of Cooperation

In order to achieve the purposes of this Protocol, the Parties have adopted and undertake to comply with the following principles of cooperation:

- 4.1 The Parties will perform their obligations under this Protocol -
 - 4.1.1 In accordance with applicable laws;
 - 4.1.2 After taking into account the interests and the constitutional and statutory powers and functions of each Party; and
 - 4.1.3 In accordance with the terms and conditions of this Protocol;
- 4.2 The Parties will assist and support one another in the exercise of their powers and the performance of their functions in order to ensure the effective implementation of the EPWP;
- 4.3 The Parties will cooperate with each other in mutual trust and good faith and will take into consideration the impact of their decisions on the other; and
- 4.4 The Parties will adhere to the processes and procedures contained in this Protocol.



PART III: OBLIGATIONS OF PARTIES AND ROLE OF DEPARTMENT

5 Obligations of the Minister

The Minister will -

- 5.1 Provide National Policy leadership and direction on the design, framework and implementation of the EPWP;
- 5.2 Report to the Cabinet on progress in implementing the EPWP and achieving the EPWP targets;
- 5.3 Mobilise political leadership at National, Provincial and Local spheres to ensure the effective implementation of the EPWP in these spheres;
- 5.4 Convene and chair the Public Works Inter - Governmental Forum referred to in clause 9.1 which will oversee the implementation of the EPWP; and
- 5.5 Ensure that the Department receives the resources necessary and sufficient to enable it to provide technical support to participating Public Bodies, monitor the implementation of the EPWP and evaluate the impact of the EPWP.

6 Role of the Department

The Department will be responsible for -

- 6.1 Coordinating and supporting the implementation of the EPWP;
- 6.2 Developing the funding frameworks, conditions and mechanisms for the EPWP;
- 6.3 Advising and reporting to the Minister on all aspects of the EPWP;
- 6.4 Providing technical support to participating Municipalities;
- 6.5 Concluding agreements with –
 - 6.5.1 Participating Municipalities regarding the provision of technical support;
 - 6.5.2 Eligible Municipalities regarding the terms and conditions governing the allocation and disbursement of the incentive grant;
- 6.6 Monitoring the implementation of the EPWP against its targets and evaluating the impact of the EPWP;
- 6.7 Identifying areas for the further expansion of the EPWP and designing programmes for implementation of the EPWP in these areas;
- 6.8 Designing and implementing a National communication strategy for the EPWP; and
- 6.9 Documenting and publicising best practices in the EPWP.

7 Obligations of the Premier

The Premier will -

- 7.1 Provide provincial leadership and direction on the implementation of the EPWP in the Province;
- 7.2 Ensure that the Province meets the targets specified in the Annexure to this Protocol;



- 7.3 Appoint a member of the Provincial Executive Committee to coordinate and lead the EPWP in the Province;
- 7.4 Appoint members of the Provincial Executive Committee to be responsible for promoting the EPWP in the infrastructure, social and environmental sectors;
- 7.5 Ensure the effective coordination of participating public bodies in the Province and monitor the implementation of the EPWP in the Province;
- 7.6 Assist and mobilise municipalities in the Province to meet the targets specified in the Annexure to this Protocol;
- 7.7 Ensure that the EPWP is incorporated in the infrastructure plan or provincial growth and development plan of the Province;
- 7.8 Ensure that the provincial departments incorporates EPWP FTE targets into their programme plans;
- 7.9 Ensure that the Province's EPWP targets are incorporated in the performance agreements of senior officials responsible for implementing the EPWP in the Province;
- 7.10 Report on implementation of the EPWP in the Province and progress in meeting the Province's EPWP targets in the Premier's annual speech at the opening of the Provincial Legislature;
- 7.11 Report on the implementation of the EPWP in the Province to the Presidential Co-ordinating Council;
- 7.12 Ensure that the EPWP is a standing agenda item at meetings of the Provincial Executive Committee and the Extended Provincial Lekgotla; and
- 7.13 Convene the Provincial Inter - Government Forum with Executive Mayors/Mayors of municipalities within Province to assess progress on the implementation of EPWP.
- 7.14 Ensure that the Provincial Treasury complies with the Department's requirements for disbursing the EPWP incentive grant in the Province and in particular, ensure that participating public bodies in the Province cannot draw down any portion of the EPWP incentive grant from the provincial revenue fund, except in accordance with the terms of a disbursement letter provided by the Department.

8 Obligations of Executive Mayor / Mayor

The Executive Mayor/Mayor will -

- 8.1 Provide leadership and direction on the implementation of the EPWP within the Municipality;
- 8.2 Ensure that the Municipality meets the targets specified in the Annexure to this Protocol;
- 8.3 Appoint a member of the Mayoral Committee to coordinate and lead the EPWP within the Municipality;
- 8.4 Appoint members of the Mayoral Committee to be responsible for promoting the EPWP in the infrastructure, social and environmental sectors;
- 8.5 Ensure the effective coordination and monitor the implementation of the EPWP within the Municipality;
- 8.6 Assist and mobilise departments within the Municipality to meet the targets specified in the Annexure to this Protocol;
- 8.7 Ensure that the EPWP is incorporated in the infrastructure plan and development plan of the Municipality;
- 8.8 Ensure that the Municipal departments incorporates EPWP FTE targets into their programme plans;



- 8.9 Ensure that the Municipal's EPWP targets are incorporated in the performance agreements and scorecards of senior officials responsible for implementing the EPWP within Municipality;
- 8.10 Report on implementation of the EPWP by the Municipality and progress in contributing to the Province's EPWP targets in the Premier's annual speech at the opening of the Provincial Legislature;
- 8.11 Report on the implementation of the EPWP within the jurisdiction of the Municipality to the Provincial Steering Committee;
- 8.12 Ensure that the EPWP is a standing agenda item at meetings of the Municipal Executive Committee (Council); and
- 8.13 Ensure that the Municipality complies with the requirements for disbursing the EPWP incentive grant in particularly ensure that Municipality cannot draw down any portion of the EPWP incentive grant from the Provincial revenue fund, except in accordance with the terms of a disbursement letter provided by the Department.

PART IV: INSTITUTIONAL ARRANGEMENTS

9 Institutional arrangements

To facilitate Inter - Governmental relations and to promote cooperation and coordination between the Parties in attaining the objectives of the EPWP, the Parties agree to utilise already existing Inter - Governmental institutions or to establish new institutions, which will include the following:

9.1 Public Works Inter - Governmental Forum

9.1.1 The Minister will convene the Public Works Inter - Governmental Forum.

9.1.2 The Public Works Inter - Governmental Forum will consist of:

- the Minister;
- the Provincial MECs responsible for the EPWP;
- a representative of the South African Local Government Association ("SALGA"); and
- any other person whom the Minister may from time to time invite.

9.1.3 The Public Works Inter - Governmental Forum will -

- coordinate and align the implementation of the EPWP;
- consider the progress towards achieving the EPWP targets, assess performance, detect failures and initiate preventative or corrective measures where necessary;
- consider any policy challenges or programme design issues emanating from the National or sector coordinating committees;
- conduct an annual review of Inter - Governmental protocols concluded by the Minister and Provincial Premiers on the implementation of the EPWP; and
- perform such other functions as the Minister may determine from time to time.



9.2 Premiers Inter - Governmental Forum

9.2.1 The Premier will convene the Premiers Inter - Governmental Forum.

9.2.2 The Premiers Inter - Governmental Forum will consist of:

- the Premier;
- the Provincial MECs responsible for the EPWP;
- the Metropolitan, District and Local Municipalities;
- a representative of the South African Local Government Association (“SALGA”); and
- any other person whom the Premier may from time to time invite.

9.2.3 The Premiers Inter - Governmental Forum will -

- coordinate and align the implementation of the EPWP within the Province;
- consider the progress towards achieving the EPWP targets, assess performance, detect failures and initiate preventative or corrective measures where necessary;
- consider any policy challenges or programme design issues emanating from the Provincial Steering Committees or sector coordinating committees;
- conduct an annual review of Inter - Governmental protocols concluded by the Minister, the Premiers and the Executive Mayors/Mayors on the implementation of the EPWP; and
- perform such other functions as the Premier may determine from time to time.

9.3 Public Works Heads of Departments Committee

9.3.1 The Director - General of the National Department of Public Works will convene the Public Works Heads of Departments Committee.

9.3.2 The Public Works Heads of Department Committee will consist of the Director General of the National Department of Public Works, the Heads of Department of the Provincial departments responsible for the EPWP and any other person whom the Director General may from time to time invite.

9.3.3 The Public Works Heads of Departments Committee will provide technical support and advice to the Public Works Inter - Governmental Forum on the progress and implementation of the EPWP.

9.4 National EPWP Coordinating Committee

9.4.1 The Deputy Director-General responsible for the EPWP in the National Department of Public Works will convene the National EPWP Coordinating Committee.

9.4.2 The National EPWP Coordinating Committee will consist of the Deputy Director-General, the National EPWP Unit, the EPWP National sector co-ordinators, the EPWP Provincial co-ordinators and any other person whom the Deputy Director-General may from time to time invite.

9.4.3 The National EPWP Coordinating Committee will -



- monitor and evaluate the progress of the EPWP across all spheres and sectors of Government;
- identify constraints to the implementation of the EPWP and consider possible solutions;
- identify EPWP best practice examples;
- report to the Minister on the implementation of the EPWP and progress on meeting EPWP targets; and
- any planning, design, implementation and technical support issues raised by a sector or Province.

9.5 Provincial Steering Committee

- 9.5.1 The Head of Department of the Provincial Department or his/her delegate shall be responsible for the coordination of EPWP in a Province will convene the Provincial Steering Committee.
- 9.5.2 The EPWP Provincial Steering Committee will consist of Senior officials from sector coordinating departments in the Province, the EPWP Programme Manager, Senior officials from District and Local Municipals in the Province and any person whom the Head of Department of the coordinating Provincial Department may from time to time invite.
- 9.5.3 The Provincial Steering Committee will -
- monitor and evaluate the progress of the EPWP within a Province at Provincial and Local spheres across the different sectors;
 - identify constraints to the implementation of the EPWP and consider possible solutions;
 - identify EPWP best practice examples;
 - report to the Premier of the Province on the implementation of the EPWP and progress on meeting EPWP targets; and
 - any planning, design, implementation and technical support issues raised by a sector or Province.

9.6 District Municipal Steering Committee

- 9.6.1 The Municipal Manager of the District Municipality or his/her delegate shall be responsible for the coordination of EPWP in at a District Municipal level and will convene the District Municipal Steering Committee.
- 9.6.2 The District Municipal Steering Committee will consist of Senior officials from all the local municipalities within the District, with representation from all the relevant EPWP sector Departments within the municipalities, officials from the lead Coordinating Department within the Province, the Provincial sector coordinating departments in the Province, the EPWP Programme Manager, and any person whom the Municipal Manager of the District Municipality may invite from time to time.
- 9.6.3 The District Municipal Steering Committee will -



- monitor and evaluate the progress of the EPWP within the District Municipality across the different sectors;
- identify constraints to the implementation of the EPWP and consider possible solutions;
- identify EPWP best practice examples;
- report to the Provincial Steering Committee on the implementation of the EPWP and progress on meeting EPWP targets; and
- any planning, design, implementation and technical support issues raised by a sector or Municipality.

PART V: GENERAL

10 Duration of Protocol

This Protocol commences on the 1 April 2009, notwithstanding the date of last signature of the Parties and remains in effect until 31 March 2014, unless extended or terminated by written agreement of the Parties before that date.

11 Dispute resolution

The Parties agree that any disagreement or dispute arising between the Parties with regard to the implementation, application, interpretation or breach of this Protocol will be dealt with in terms of Chapter 4 of the Inter - Governmental Relations Framework Act, 2005.

12 Annual review of Protocol

The Protocol will be reviewed annually by the Public Works Inter - Governmental Forum and by the Parties. The Parties may agree in writing to amend the Protocol to address the conclusions of an annual review, changes in budget allocations, under or over performance by the Province and Municipality in relation to its EPWP targets and policy changes regarding the EPWP.

13 Amendments to Protocol

No amendment, alteration, addition or variation of this Protocol shall be of any force or effect unless reduced to writing and signed by the Parties.

14 Whole agreement

14.1 This Protocol, including the Annexures to the Protocol, constitutes the whole agreement between the Parties relating to the subject matter of this Protocol.

14.2 There are no other conditions, representations, whether oral or written and whether expressed or implied, applicable to this Protocol, save for those contained in this Protocol.

15 Addresses of Parties

15.1 The Parties choose the following as their respective addresses for the purpose of any notices contemplated by this Protocol –

15.1.1 The Minister of Public Works:

Physical Address: _____



Postal Address: _____

Tel: _____
Fax: _____
e-mail: _____

15.1.2 The Premier of the Province: XXX

Physical Address: _____

Postal Address: _____

Tel: _____
Fax: _____
e-mail: _____

15.1.3 The Executive Mayor / Mayor: XXX

Physical Address: _____

Postal Address: _____

Tel: _____
Fax: _____
e-mail: _____

15.2 Notice of change of address must be given in writing by the Party concerned and delivered by registered mail, hand or telefax to the other Party.



16 Signatures of Parties

Signed at on the.....day of..... 2010.

Minister of Public Works

Signed at on the.....day of..... 2010.

Premier of the XXX Province

Signed at on the.....day of..... 2010.

Executive Mayor / Mayor of XXX Municipality



ANNEXURE A

EPWP Phase 2 targets for XXX Municipality

Financial Year	Work opportunities (WO)	Full Time Equivalents (FTEs)
2009/10	303	104
2010/11	346	125
2011/12	445	163
2012/13	579	210
2013/14	729	262
Total	2402	864