

Reporting Protocol

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“It is also in this way that we seek to establish and entrench the understanding among all our people, for all time, that we are building a system of justice that must define its justness by the extent to which it enriches our humanity”

The Honourable Thabo M. Mbeki

*President of South Africa, at the opening
of the new Constitutional Court Building*

**Department of Justice and
Constitutional Development**



Foreword

It gives me great pleasure to release this *Gender Mainstreaming and Gender Budgeting Package*.

I believe that the information in this package will contribute enormously to our efforts around gender transformation through which we seek to comply with the Constitution and our international human rights obligations in terms of CEDAW and related instruments.

In a way the package is based on looking back at what we did or did not do in the last decade with regard to addressing the gender imbalances that we inherited at the dawn of democracy.

The importance of mainstreaming gender in everything we do as a Department cannot be over-emphasised, otherwise we will continue to fail to meet the needs of some of those we seek to serve, especially women from disadvantaged communities. The National Gender Policy Statement states that the implementation of gender equality is first and foremost the responsibility of all the institutions in government. To achieve gender equality the government must embark on a rigorous gender mainstreaming strategy.

I call all members of the justice community to join me and my Department as we implement the *Gender Mainstreaming and Gender Responsive Budgeting* package. I sincerely hope that the lives of women and other disadvantaged groups will be improved as a result.

Ms Brigitte Mabandla, MP

Minister of Justice and Constitutional Development

Pretoria, August 2005

Acknowledgements

The *Gender Mainstreaming Reporting Protocol* is part of the *Gender Mainstreaming* package developed by the Gender Directorate within the Department of Justice and Constitutional Development (hereafter referred to as the Department or DoJCD).

The Gender Directorate is delighted to finally release the *Gender Mainstreaming* and *Gender Responsive Budgeting* package and believes it will assist all role players within the Department, particularly those in leadership positions, to understand the principles of *Gender Mainstreaming* and *Gender Responsive Budgeting*. This will facilitate the integration of gender considerations into all plans, policies and day to day implementation decisions.

The *Gender Mainstreaming* project was inspired by the Directorate's *Needs Assessment* which identified an immediate need to build capacity in the Department for both *Gender Mainstreaming* and *Gender Responsive Budgeting*. The target group for the package includes other role players who contribute to policy development, interpretation and implementation within the DoJCD.

The Directorate hopes that the application of the information and tools in the *Gender Mainstreaming* and *Gender Responsive Budgeting* package will accelerate the elimination of systematic gender discrimination in the Department, and contribute towards the achievement of gender equality in the Department and the society in general.

Sincere gratitude needs to be extended to the Centre for Reconciliation and Equality Studies (CRES)/ Waweth Agency and DoJCD team for their assistance in the research and writing of the *Assessment Report*, and the development of the *Gender Mainstreaming* and *Gender Responsive Budgeting* materials. The following people need special mention:

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- Mr Dominick Mashishi

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- Ms Thuli Madonsela
- Ms Sury Pillay

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August 2005

Reporting Protocol

August 2005

Gender Mainstreaming in the Ministry/Department of Justice and Constitutional Development

Notice is hereby given that the Minister of Justice and Constitutional Development and the Director General, within the Department of Justice and Constitutional Development have approved the following protocol to be used in the preparation of all periodic reports on progress made with regard to accelerating the mainstreaming of gender into all structures, policy, plans, programmes, projects, processes and decisions in the Ministry and Department.

Advocate M. Simelane

Director General

Department of Justice and

Constitutional Development

Ms B.S. Mabandla

Minister of Justice and Constitutional

Development

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Key Concepts and Acronyms

Key Concepts

Black Economic Empowerment

Black Economic Empowerment refers to the implementation of measures to advance black people in order to equalise economic opportunities between them and white people.

Black Empowerment

Black empowerment refers to measures that seek to advance black people in order to achieve equality between them and white people.

Disaggregate

Disaggregate means subdivide into constituent parts.

Employment Equity

Employment Equity refers to the process and outcomes relating to the equalisation of and enjoyment of all employment opportunities and benefits, and the ending of gender, racial, disability and other forms of disadvantage and (unfair) discrimination.

Equality

Equality refers to the equal enjoyment of all rights and freedoms. It entails the absence of direct or indirect (unfair) discrimination.

Gender

Gender refers to the power relations between women and men. It is a social construct that assigns roles and worth to each sex based on group culture.

Gender Analysis	A gender analysis or gender equality analysis refers to a systematic process which involves assessing the impact of or likelihood that each decision, policy, law, plan, programme, situation, process or activity will impact differently on women and men because of their diverse socio-economic or physical circumstances, with the effect of prejudicing one gender.
Gender Awareness	Gender awareness refers to the state of being conscious of inequality arising from the power relations between women and men.
Gender Balance	Gender balance refers to an equitable distribution of life's opportunities and resources between women and men.
Gender Bias	Gender Bias refers to any act that advantages or perpetuates an existing advantage of one sex over the other.
Gender Budget	A Gender Budget, also referred to as a <i>Gender Responsive Budget</i> , refers to a budget or expenditure arrangement which is structured in a manner that ensures that women and men benefit equitably from financial resources.
Gender Disaggregated Data	Gender disaggregated data means information subdivided in terms of women and men.
Gender Mainstreaming	<i>Gender Mainstreaming</i> refers to the integration of gender equality considerations in all policy, law, plans, programmes, administrative and financial activities, organisational procedures, processes and decision making, in order to effect profound organisational and ultimately, societal transformation, towards the realisation of <i>de jure</i> and <i>de facto</i> equality between women and men.
Gender Management System	A Gender Management System is a network of structures, mechanisms and processes that are put in place within an organisational framework to facilitate <i>Gender Mainstreaming</i> in pursuit of equality between women and men. (<i>Adapted from Common Wealth Gender Management System Handbook</i>).
Gender Responsive Budgeting	<i>Gender Responsive Budgeting</i> refers to the allocation of financial resources in a manner that not only ensures that women and men benefit equally from all resources but also reduces existing patterns of women's systemic inequality. Gender budgeting is one of the mechanisms of an effective Gender Management System.

National Gender Machinery	National Gender Machinery refers to a network of coordinated structures within and outside government which operate cooperatively in facilitating political, social, economic and other forms of transformation to dismantle systemic gender inequality and promote equality between women and men.
Per Capita	<i>Per capita</i> means the average per person. This is worked out by dividing total cost with the number of actual beneficiaries.
Practical Gender Needs	Practical Gender Needs refers to women's day to day needs that result from their subordinate position in society. Addressing Practical Gender Needs does not challenge or transform structural gender inequality but simply helps women cope better with their present position.
Preferential Procurement	Affirmative action in procurement.
Procurement Equity	Procurement Equity refers to the process and outcomes relating to the equalisation of enjoyment in all procurement opportunities and incorporates affirmative procurement.
Pro-women Programmes	Pro-women programmes refers to services and programmes for everyone but that are most likely to respond to the needs of women, for example domestic violence services.
Sex	Refers to the biological difference between women and men.
Sex Disaggregated	Has the same meaning as gender disaggregated. It means broken down according to women and men.
Strategic Gender Needs	Strategic Gender Needs refers to women's long-term needs relating to fundamental social transformation to end their subordination in society.
Unfair Discrimination	Unfair discrimination refers to the direct or indirect unfair denial of opportunities to or imposition of an undue burden on a person or group, on the basis of their gender, race, disability or some other difference, or combination of differences.
Women's Budget	A women's budget has the same meaning as a gender budget or gender responsive budget. 'Women' is used to emphasise the fact that women are the targeted beneficiaries of the budget reform that is entailed in gender budgeting.

Women Empowerment	Women Empowerment means establishing programmes that exclusively target women as a form of affirmative and positive action to empower them in order to equalise opportunities between women and men.
Women's Equal Access	Promoting women's equal access to mainstream services is about mainstreaming gender into all services to ensure that women and men benefit equitably.

Acronyms

ADR	Alternative Dispute Resolution (also referred to as Informal Dispute Resolution)
BBBEEA	Broad Based Black Economic Empowerment Act
BEE	Black Economic Empowerment
BPA	Beijing Platform for Action
CCMA	Commission for Conciliation, Mediation and Arbitration
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CGE	Commission on Gender Equality
DGPS	Departmental Gender Policy Statement
DoJCD	Department of Justice and Constitutional Development
DVA	Domestic Violence Act
EEA	Employment Equity Act
ERC	Equality Review Committee
GFP	Gender Focal Point or Person
GENMACC	Gender Mainstreaming Advisory and Compliance Committee
IDASA	Institute for Democracy in South Africa
IPOA	Integrated Plan of Action
MAGCOM	Magistrate's Commission
MTEC	Medium Term Expenditure Committee
MTEF	Medium Term Expenditure Framework
NGPF	National Gender Policy Framework
OSW	Office of the Status of Women
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act
SADC	Southern African Development Community
SAHRC	South African Human Rights Commission

SALRC	South African Law Review Commission
SMME	Small Medium and Micro Enterprises
UPP	Unfunded Priority Project
VAW	Violence Against Women

Reporting Protocol

1. PURPOSE

The purpose of the *Reporting Protocol* is to provide an accountability framework and set of guidelines for the preparation of reports on progress made in the implementation of *Gender Mainstreaming* in the Department/Ministry of Justice and Constitutional Development (hereafter referred to as the DoJCD or the Department). The reports are to be submitted to the office of the Director General. The same protocol should inform preparation of any reports requested on an ad hoc basis.

The reporting protocol should also be used to integrate gender considerations and accounting on progress in the preparation of reports that are not gender specific. This includes annual reports, Portfolio Committee reports and status reports on matters such as the state of service delivery in the courts, employment equity, Black Economic Empowerment, children, disability, HIV/AIDS, automation of systems, legislation and legislative programmes, and periodic reports to management and governing structures in the Ministry and Department.

2. SCOPE

The protocol applies to all employees, structures, institutions and bodies that fall within the scope of the Ministry and Department.

All employees, structures, institutions and bodies that fall within the scope of the Ministry and Department

should apply the guidelines in preparing their reports, taking into account the specific circumstances of their own Units/Components.

This protocol should be read in conjunction with the *Gender Mainstreaming* and other reporting guidelines applicable to the Ministry and Department, particularly in the preparation of specialised reports required by national or international agencies.

3. OBJECTIVES

The reporting protocol seeks to:

- 3.1 Standardise and regularise accountability with regard to the implementation of *Gender Mainstreaming* in the Ministry and Department;
- 3.2 Provide a framework for monitoring progress regularly and timeously, while providing measures to address weaknesses in the implementation of *Gender Mainstreaming* in the Ministry and Department;
- 3.3 Enhance the capacity of the Ministry and Department and components within, to readily generate professional reports that accurately reflect progress achieved on the advancement of women and promotion of gender equality while strengthening the capacity to manage gender programmes effectively;
- 3.4 Foster institutional and individual accountability for *Gender Mainstreaming* and strengthen the capacity of the Ministry and Department to comply with the National Policy Framework for Women's Empowerment and Gender Equality;
- 3.5 Enhance the Department's meaningful response to the President's call for accelerated progress in the implementation of *Gender Mainstreaming* and the provisions of the National Gender Policy Framework;
- 3.6 Provide a standard matrix for co-ordinating the preparation of compliance reports on international human rights instruments such as the *Convention for the Elimination of All Forms of Discrimination Against Women* (CEDAW), *Beijing Platform for Action* (BPA), *SADC Declaration on Gender and Development*, and the *Addendum on the Prevention and Eradication of Violence Against Women and Children*, *International Covenant on Civil and Political Rights*, the *Convention on the Rights of the Child*, the *International Convention on the Elimination of All Forms of Racial Discrimination* and the *African Charter on Human Rights and the International Covenant on Economic, Social and Cultural Rights*;

- 3.7 Highlight critical areas based on the BPA, CEDAW and other international and national legal or policy frameworks on gender equality that need to be given priority in gender programming and reporting within the Ministry/Department as well as providing guidelines on effective measures to be prioritised in respect of each area; and
- 3.8 Facilitate an integrated approach to gender transformation in and through the work of the Ministry and Department.

4. RELATIONSHIP WITH GENDER MAINSTREAMING GUIDELINES

- 4.1 The protocol constitutes an accountability instrument for reporting on progress achieved in the implementation of the *Gender Mainstreaming Guidelines*;
- 4.2 The protocol should accordingly be read and applied together with the Guidelines; and
- 4.3 Reference should also be made to the *Gender Mainstreaming Assessment Report* in the preparation of reports as envisaged under this protocol.

5. STRUCTURE

- 5.1 The *Gender Mainstreaming* reporting Guidelines outlined in 6 below should be used for preparing periodic reports and on progress made with regard to *Gender Mainstreaming* in the Ministry and Department and Components under them;
- 5.2 As indicated earlier, the protocol is based on and must be read together with the *Gender Mainstreaming Guidelines* and *Assessment Report*; and
- 5.3 All periodic reports should be prepared in accordance with the following reporting guidelines.

Department of Justice and Constitutional Development (DoJCD)

GENDER MAINSTREAMING REPORT

UNIT/COMPONENT:

NAME OF HEAD OF UNIT/COMPONENT:

DETAILS OF CONTACT PERSON:

- Name:
- Position:
- Address:
- Telephone/Fax:
- E-mail:

REPORT PERIOD

DATE OF SUBMISSION

Signature of Head of Department/Unit/Component

Department of Justice and Constitutional Development (DoJCD)

(1) GENERAL MEASURES

This section is general and seeks to facilitate broad accounting on the 9 Point Programme outlined in the *Gender Mainstreaming Guidelines*.

Kindly answer the following questions on leadership, vision and values:

- (i) Have you agreed on a vision and values to underpin *Gender Mainstreaming* in the Unit/Component? (Please indicate the contents.)
- (ii) Has a statement been issued to all that indicates the commitment of the leadership to accelerate efforts on Mainstreaming Gender in the Component? (The President's State of the Nation address provides an example in this regard.)
- (iii) What measures have been implemented to:
 - (a) Provide policy clarity on critical gender issues?
 - (b) Engage in advocacy for gender equality, women's advancement and mainstreaming gender consideration in all aspects of the Unit/Component's work?
 - (c) Enforce accountability?
- (iv) What measures have been implemented to create an enabling environment for *Gender Mainstreaming* and Women's Empowerment?

(2) CLARIFICATION OF CONCEPTS

- (i) Has everyone in the Unit/Component, from the most senior leadership and management level to the lowest rank been familiarised with the key international and national and departmental standard setting instruments on gender equality? What measures were implemented to achieve this?
- (ii) What measures have been implemented to facilitate the process of identifying the Department or Component's obligations in relation to each Critical Area of Concern and gender priority arising from the standard setting instruments?
- (iii) Does every person fully appreciate the nature of compliance required of the Department, their component and themselves as individuals?
- (iv) Has every person in the Unit/Component been provided with a Briefing Pack containing the instruments outlined in the Gender Mainstreaming guidelines? Have summaries been provided as well?

(3) COMPLIANCE AUDIT

- (i) Has a checklist summarising all obligations arising from the standard setting instruments applicable to the Department and Component been prepared?
- (ii) Has everyone in the Unit/Component read and analysed the *Gender Mainstreaming Assessment Report*, identified issues that are applicable to the Unit/individual's sphere of competence, and determined action required? Please elaborate.
- (iii) Has a detailed gender gap analysis been conducted in respect of all aspects of the Unit/Component prioritising:
 - (a) Employment;
 - (b) Decision making processes and structures;
 - (c) Policy, legislation and research; and
 - (d) Procurement?
- (iv) Has the Unit/Component identified obstacles preventing effective Gender Mainstreaming in all its operations? How and when was this done? What obstacles/barriers have been identified?

(4) GENDER MAINSTREAMING FACILITATING STRUCTURE

- (i) Has a Gender Mainstreaming Advisory Compliance Committee (GENMACC) been established?
- (ii) Has a Gender Focal Person/Point (GFP) been established in the Unit/Component?
- (iii) Has the Gender Focal Person/Point (GFP) been empowered with the following:

ACTIVITY	YES/NO	QUANTITY/INDICATOR
Adequate budget		
Human resources		
Space equipment		
Authority		
Support		
Leadership/enabling environment		
Capacity building		
Participation as a technical advisor in GENMACC and other key decision making structures		

- (iii) Is the GENMACC adequately representative in terms of constituent components and in terms of gender, race and disability?

COMPOSITION OF THE GENMACC

NAME	RACE	GENDER	STRUCTURE	DECISION MAKING LEVEL

- (iv) Has adequate authority and resources been assigned to the GENMACC to enable it to operate effectively?
- (v) Is the GENMACC functioning effectively? For example does it:
 - (a) Hold regular meetings? If so, how many meetings have been held in the last year or the period under review?
 - (b) Does the GENMACC have a clear Programme of Action with clear deliverables?
 - (c) Does the GENMACC submit regular reports to the head of the Unit/Component? How many reports have been submitted in the last year or period under review?
 - (d) Has the GENMACC report been integrated into the Unit's mainstream reports to the Executive Committee/Departmental Board or other decision making structure? Please elaborate.
 - (e) Has the GENMACC been cascaded to all key levels of decision making in the Unit/Component?

(5) INTERGRATED PROGRAMME OF ACTION

- (i) Has an Integrated Programme Of Action (IPOA) been developed for the Unit/Component?
- (ii) Is the IPOA Programme of Action aligned with the vision and values?
- (iii) Does the IPOA have clear goals, targets and activities for the next five years, three years, one year, six months, quarter and one month?
- (iv) Are the goals, targets and activities aligned with legal and policy obligations arising from national and international instruments? Please insert the Unit's/Component's Integrated Programme of Action here. Make sure that the (status) column is filled with information indicating progress achieved in respect of each item. (See attached Gender Equality Compliance Map and Gender Planning Matrix.)

- (v) Does the IPOA incorporate measures that address all obstacles outlined in (3) above? Please indicate as directed in the following table.

OBSTACLE	MEASURE	STATUS/PROGRESS MADE

(6) RESONSIBILITY AND ACCOUNTABILITY

- (i) Has the responsibility of each manager/employee been clarified? Please elaborate.
- (ii) Have all members of the Unit been informed about their responsibilities? How?
- (iii) Has the role and responsibility of the Gender Focal Point/ Person been clarified? Please elaborate.
- (iv) Has everyone been informed about the responsibility, powers and accountability of the Gender Focal Point? Please elaborate.
- (v) Has accountability with regard to mainstreaming gender been integrated in all performance contracts and systems?
- (vi) Has the Unit/Component introduced mechanisms for rewarding performance and sanctioning non performance in respect of *Gender Mainstreaming*? Please elaborate.

(7) BUDGET AND OTHER RESOURCES

- (i) Is gender regularly mainstreamed into the Unit/Component's budget, budget processes and expenditure? Please elaborate.
- (ii) Has sufficient budget been allocated to the GFP?
 (a) How much?
 (a) What percentage of the Unit/Component's budget does this constitute?
- (iii) What other resources have been allocated to the GFP?

- (iv) Has a sufficient budget been allocated to GENMACC? Please elaborate as directed below:
 - (a) How much?
 - (a) What percentage of the Unit/Component's budget does this constitute?
- (v) Has an adequate budget been allocated towards reviewing all systems, procedures and processes to mainstream gender? Please elaborate.
- (vi) What budget/resources have been allocated towards the following measures/programmes?

MEASURES/PROGRAMMES	VALUE/AMOUNT ALLOCATED	PERCENTAGE OF TOTAL UNIT/COMPONENT'S BUDGET	TIMEFRAME
Women Empowerment measures/programmes			
Pro-women or programmes/services mainly benefiting women			
Promoting women's equal access to mainstream services			

(8) INCORPORATING THE INTERGRATED PROGRAMME OF ACTION INTO MAINSTREAM PLANS

- (i) Have existing plans and budgets been reviewed and adjusted in line with the contents of the Integrated Programme of Action (IPOA)? Please elaborate.
- (ii) Has the Unit/Component adjusted the targets and indicators in its strategic and other mainstream plans to accommodate contents of the IPOA not covered in existing Unit/Component plans?

Please elaborate and use the following table:

PLAN	GENDER	STATUS

- (iii) Has the content of the IPOA been integrated into mainstream projects? Please provide a list of projects that have been adjusted in the light of the IPOA?

PROJECT	GENDER ADJUSTMENT	STATUS/COMMENTS

- (iv) Have sanctions and rewards within the Unit/Component been aligned with performance against *Gender Mainstreaming* objectives and accountabilities? Please elaborate.
- (v) Have internal reporting and decision making formats including memos, been aligned with national and international obligations on gender? Please elaborate.
- (vi) Are progress reports on *Gender Mainstreaming* regularly submitted and discussed at management meetings? Please elaborate.

(9) MONITORING AND REPORTING

- (i) Has the unit reviewed all its data management systems to determine capacity to capture baseline data and progress indicators on Gender Mainstreaming, and if necessary make adjustments? Please elaborate.
- (ii) What measures have been implemented to ensure that there is adequate capacity to link data management to gender compliance reporting?
- (iii) Has the Unit prepared baseline data disaggregated by gender and its intersection with factors such as race, in respect of all its activities including:

AREA	MEASURES ADOPTED	STATUS
Employment		
Decision making		
Processes and structures		
Procurement		
Systems and procedures		
Communication processes		
Budgets		
Monitoring		
Courts and other service delivery programmes		
Interdepartmental		
Interaction with civil society		

- (iv) Have compliance reports on gender required by appropriate agencies been prepared and submitted timeously?
- (v) What other measures have been implemented to strengthen monitoring, evaluation and reporting?

7. PREFERENTIAL PROCUREMENT AND BLACK EMPOWERMENT

7.1 Kindly provide a gender breakdown of all contracts awarded by the Unit/Component in the past year or period under review.

CLASSIFICATION OF CONTRACTS	TOTAL NO. OF CONTRACTS	TOTAL VALUE OF CONTRACTS	NO. AND VALUE OF CONTRACTS AWARDED TO AFRICAN WOMEN	NO. AND VALUE OF CONTRACTS AWARDED TO COLOURED WOMEN	NO. AND VALUE OF CONTRACTS AWARDED TO INDIAN WOMEN	NO. AND VALUE OF CONTRACTS AWARDED TO WHITE WOMEN	PERCENTAGE OF TOTAL NO. AND VALUE OF CONTRACTS AWARDED TO WOMEN
Under R500,000							
Under R2 million							
Over R2 million							
Total							

7.2 What measures are being implemented to achieve procurement equity or equal access and benefit for women and men in respect of all Unit/Component contracts and black empowerment initiatives?