



Institute For Economic Justice POLICY BRIEF



THE STATE OF LOCAL CONTENT IN SOUTH AFRICA'S RENEWABLE ENERGY MARKET

Jezri Krinsky and Sinazo Sijovu



Summary of findings

- South Africa has a manufacturing base for renewable energy components.
- Demand for local components comes primarily from public-private partnerships called Independent Power Producer Procurement Programmes (IPPPPs).
- Local content requirements and designations are central localisation policies in the IPPPPs. These play a key role in South Africa's industrial policy framework by creating demand for local industry. However, this demand is overwhelmingly met

through imports rather than local manufacturing.

- Project developers appear to be evading localisation policies (including local content policies and tariffs).
- Both erratic orders and local content evasion have caused massive layoffs, preventing sustained skills development. Even when manufacturers can rehire, they cannot offer job security. This is because they need a stable demand pipeline, not just one or two contracts.
- Purely private projects have also been rapidly growing. However, these may be even more import dependent than the IPPPPs as they have no local content requirements. Tariffs however should still apply to this sector.

Summary of recommendations

- Strengthen monitoring and enforcement mechanisms particularly the SABS local content verification process, and require firms found to have evaded LCRs to deploy local equipment at their own cost or face debarment.

- Ensure waivers are not abused to evade local content requirements.
- Retain local content requirements and designations as prequalification criteria rather than optional points, and extend local content designation to batteries.
- Give local manufacturers fairer contracting terms, including sufficient lead times and significant upfront payments, and enable smaller manufacturers to pool capacity to fulfil larger orders.
- Coordinate LCRs with tariff policy and enforcement to prevent tariff evasion and strengthen demand for locally manufactured goods across government-procured and purely private projects.
- Apply common technical standards to local and imported components so that local manufacturers are not disadvantaged by different specifications.
- Link localisation support to decent work, making continued local content and tariff protection conditional on meaningful commitments by manufacturers to decent work creation.

1. Introduction

This policy brief highlights challenges limiting the effectiveness of local content requirements in South Africa's renewable energy sector. Through understanding the current weaknesses surrounding the use of this policy instrument, the brief seeks to put forward suggestions for improving the design, enforcement, and compliance of local content rules (LCRs). This forms part of a wider research and advocacy programme, Just Energy Transition: Localisation, Decent Work, Small and Medium Enterprise and Sustainable Livelihoods Project.

This policy brief is structured in four sections. The first examines the history of local content requirements and designations, looking at the evolving regulatory framework which has developed around them, including legal and political challenges which have emerged. The second looks more specifically at how these policies have been put into action in the renewable energy sector, through state procurement programmes involving private energy generators. The third examines a number of ways in which these policies appear to have been evaded or undermined. The final section makes a number of recommendations for improving the design and implementation of governance in the sector.

2. South African local content policies

South Africa uses local content requirements in public tenders to provide demand for domestic producers. Local content regulations may take three forms:

1. **Prequalification.** This requires all firms submitting bids for public procurement, including Independent Power Producers (IPPs) supplying renewable energy to Eskom, to comply with local content requirements in their bid proposals.

2. **Evaluation based on points.** Unlike prequalification, this makes local content an optional addition; it may count in the firm's favour but is not mandatory.

3. **Local content designation.** This requires that a specific good, rather than a percentage of the overall bid value, be sourced locally.

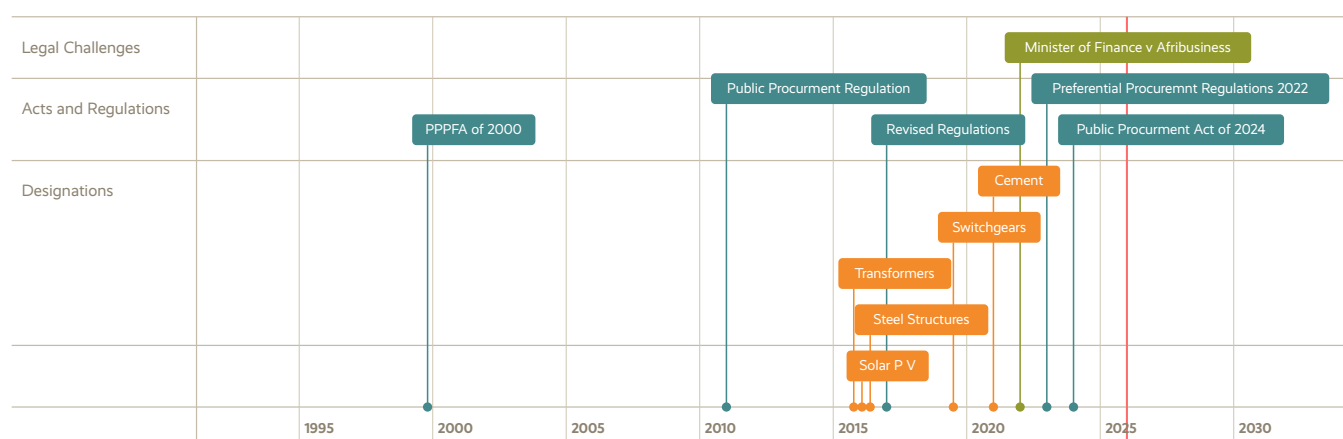
Designations apply to a percentage of solar panels used in IPPs and many steel structural components. The South African Battery Manufacturers Association (SABMA) is seeking a similar designation.¹

Local content designations have been established for a range of goods relevant to the renewable energy sector, including cement, steel structures, transformers, switchgear, electrical cabling, and solar PV components.² Where local content requirements are used without direct designations, IPPs often meet them through simple civil works and standard balance of plant infrastructure, without supporting higher-value locally manufactured products.³

2.1. Timelines

It is helpful to understand the evolution of local content requirements as it demonstrates many of the options available to the state now. A timeline is given in Figure 1.

Figure 1 Local Content Policy Timeline



The Preferential Procurement Policy Framework Act (PPPFA) of 2000 developed early criteria for public procurement. This implemented a points system for contracts that gave preference to specified groups of people. The Act was given effect by regulations promulgated in 2011. The regulation set out minimum local content thresholds and Broad-Based Black Economic Empowerment (BBBEE) criteria.

At the beginning of 2017, the PPPFA regulations were revised, in an attempt to strengthen the socio-economic growth of industries and businesses by using more aggressive mechanisms. Under these new regulations, which came to be known as the Preferential Procurement Regulations 2017,⁴ the then Department of Trade and Industry (DTI) established LCRs. Among many changes, these regulations required organs of state to include mandatory LCRs in their calls for bids. The broader objective of the regulations was to support domestic markets and stimulate local manufacturing.

According to the regulations, there were prequalification criteria that bidders had to meet; if they did not meet these, they would be disqualified from being considered for the bid. The prequalification criteria included local content thresholds and B-BBEE requirements relating to youth, women, people living with disabilities, and people living in townships or underdeveloped areas.

The bid winner verification process under the Preferential Procurement Regulations 2017 involved the South African Bureau of Standards (SABS) sampling winning bidders a year after they had been granted the bid in order to verify the winning project's local content compliance. Should the SABS find that the bid winner does not comply with LCRs, they would be fined, and the bid would be cancelled. Given that this process would only take place a year into the project, the cancelling of non-compliant bids was very costly; this added to the already expensive process of doing the sampling and verification.

There has been a concerted effort to move many aspects of preferential procurement from prequalification criteria to points-based evaluation. In *Minister of Finance v Afribusiness*, Afribusiness argued that prequalification should be entirely replaced by the points system, arguing that this was necessary to promote competition and cost effectiveness. The Supreme Court of Appeal agreed that prequalification should be removed. Although the Constitutional Court upheld the invalidation of the 2017 Regulations, it did so on other grounds and did not rule on whether prequalification itself was permissible. The legal position on prequalification therefore remained unresolved.⁵ Specifically, the court determined that the Minister of Finance had exceeded his legal powers by prescribing a preferential procurement policy that applied across organs of state. It held that individual organs of state, not

the Minister of Finance, were responsible for determining their own procurement policies. This resulted in a far less strict compliance system given that compliance with LCRs was left to the discretion of a disparate range of organs of state.⁶

The new Preferential Procurement Regulations 2022 were promulgated in November, formalising the decentralised approach to LCRs in law, with National Treasury stating that these regulations were intended as a placeholder while the Public Procurement Bill was being finalised.⁷ This did not eliminate LCRs or limit them to points rather than prequalification.

Local content requirements received some important support in the Public Procurement Act 2024. This created a single, uniform procurement framework across state-owned entities, national and provincial governments, and municipalities. The powers to set local production and content requirements were once again centralised, this time with the Minister of Trade, Industry and Competition. The Act reinstates the use of prequalification criteria, as in the 2017 Preferential Procurement Regulations. In addition, section 20 restores a system of local content designation, under which sectors or products can be designated for local production with specified minimum local content thresholds. It also establishes a Public Procurement Office under Treasury and a Public Procurement Tribunal to address irregularities and malpractice.

The Act would only come into force when regulations were agreed. Draft General Public Procurement Regulations, 2026 are currently in the process of public consultation. However, the Act itself has now been invalidated by the Constitutional Court due to limited public consultation.⁸ This poses a significant danger of further weakening LCRs, but leaves open room for public engagement in an updated policy.

Retaining prequalification criteria is crucial to ensure the effectiveness of the local content regime. With a points system, if all bidders fail to include significant local content commitments,

the procurer is forced to choose the bidder with the highest points (as described in Section 25 of the draft Regulations). But the highest points could be achieved without significant local content. Prequalification would prevent this by ensuring that all bids meet a minimum local content threshold before a points-based evaluation is conducted.

Given the reluctance of IPPs and Engineering, Procurement and Construction firms (EPCs) to meet local content requirements (discussed in more detail below), it is possible that firms would simply choose to avoid local content if it is not mandatory. Renewable energy value chains are very integrated so many EPCs have existing relationships with foreign manufacturers increasing their interests in evading local content.⁹

2.2. Development of South African IPPs

A key source of early demand in the renewable energy sector came from the Renewable Energy Independent Power Producer Procurement Programme (REIPPPP), a government programme focused on supplying renewable electricity to the national grid. This was a combined initiative of the Department of Mineral Resources and Energy (DMRE), the Development Bank of South Africa (DBSA), and National Treasury, managed through the Independent Power Producers Office (IPPO). Investments by privately owned IPPs have been expanded through the REIPPPP, through which the state (via Eskom) buys power from private renewable energy generators through long-term stable offtake agreements.

The REIPPPP has commissioned seven bid windows since its launch and has procured around 10GW of power.¹⁰ Two other programmes followed: the Risk Mitigation Independent Power Producer Procurement Programme (RMIPPPP) in 2020 and the Battery Energy Storage Independent Power Producer Procurement Programme (BESIPPPP) in 2023.

3. Impediments to the effectiveness of local content rules

In response to the enforcement of LCRs during bid windows 1 to 3, local South African wind and solar manufacturers and suppliers invested significantly in manufacturing and expanding their factories in anticipation of a boom in local business. Unfortunately, a combination of deliberate non-compliance tactics by project developers, procurement delays, and a lack of LCR enforcement by the responsible organs of state have resulted in the undermining of these local suppliers.

3.1. Weaknesses in local content verification

In spite of the presence of a verification process for local content, there appears to have been systemic evasion of local content requirements.¹¹ The verification process works as follows. As part of the REIPPPP submission process, bidders are required to submit a bill of costs, detailing where local goods and services will be used. It is the responsibility of the tenderer to ensure the accuracy of all such information.¹² The South African Bureau of Standards (SABS) was appointed in 2012 to verify local content declarations and in 2014 it became mandatory for winning bidders of state tenders to seek SABS verification.¹³ SABS is meant to review the scope of required work and produce a quote for the costs of verification to be paid by the winning bidder.¹⁴ Such verification involves both a review of financial documents and a physical examination of the factory floor or construction site. However, an interview with a state official suggests that this documented process is not aligned with the actual operations and funding of SABS.¹⁵ The dtic funded SABS to do the verification, rather than making successful bidders pay. But only limited funding was allocated and the amount was too small to verify every bidder. So SABS used sampling

instead. We suggest that the costs of verification be shifted back to the winning bidder, and that they be required to fund full verification, rather than sampling, given the high likelihood of evasion.

A recent court case involving ARTsolar has raised concerns regarding evasion in REIPPPP bid windows 5 and 6 and the RMIPPPP.¹⁶ The details of compliance with LCRs are not public information and are protected as commercially sensitive information. ArtSolar requested information on the certification of LCRs and any waivers/exemptions granted to companies as a directly interested party. This information was released only to their legal team under conditions of confidentiality.¹⁷ However the missing orders from local manufacturers (including a range of firms in both wind and solar sectors) suggest that the verification process must be strengthened.¹⁸

3.2. Delays and instability in procurement

The erratic nature of public procurement through the various bid windows has deterred a range of local and foreign investors from setting up local manufacturing to meet demand from the REIPPPP programme.¹⁹ Procurement stalled after 2015, when Eskom declined to sign power purchase agreements with projects selected under Bid Window 4. The agreements were eventually signed in April 2018.²⁰ This led to the shutdown of a range of local manufacturers, massive layoffs and the loss of potential investors such as a wind blade manufacturer.²¹ Bid window 5 was only launched in 2021. Since this 2021, regular bid windows have been restored, including REIPPPP Bid Windows 5 and 6, as well as Risk Mitigation IPPs, which combine solar PV, wind, and storage.²² However many local manufacturers have not been given orders.

3.3. Watering down of local content requirements

In Bid Window 5, local content requirements were dropped to 30% to ensure projects came online quickly, to reduce loadshedding.²³ However, they were raised again in Bid Window 6 to 40%.²⁴ In Bid Window 7, the local content requirements were 38%.²⁵ For battery auctions, local content requirements range from 11% to 20%.²⁶

3.4. Waivers and other forms of LCR evasion

The opaque use of waivers has also had a critical impact on local content enforcement. The dtic and the IPP Office are authorised to grant solar and wind projects waivers from LCRs where local suppliers cannot meet demand, deliver components within the required timeframe, or meet the required technical standards. However, the dramatic loss of orders for all local manufacturers suggests that waivers were granted more frequently. This calls into question the criteria used to grant exemptions and the justification required for them. Disputes followed as local manufacturers began to feel consistently undercut by undue waivers.

Systemic evasion of LCRs became prominent as bid winners began deliberately relying on waivers to bypass LCRs.²⁷ Examples include unreasonable technical standards being demanded of local companies, orders being placed with them unnecessarily late, and higher price options being sought from them in quotations in order to deliberately portray them as uncompetitive. Bid winners then apply for a waiver and import components at a cheaper price. This has become a bad faith way to avoid investing in locally sourced components, goods, and services.

In fact, local manufacturers argue that they often meet higher technical standards and produce goods of higher quality than imported alternatives. Reasonable technical standards consistently applied across the board to both local and

imported goods could allow local industry to compete on quality even where they are undercut on price alone.²⁸

This practice of undermining the domestic market has had significantly adverse effects on local manufacturers and the overall local value chain. Several factories have since shut down, unable to sustain themselves in the market without the necessary demand. Imported components, often made in China, have taken preference in many projects.²⁹

The draft 2026 regulations provide an additional mechanism for setting aside LCRs. Even when a procuring organ of state has not obtained a waiver, it may proceed without applying LCRs if it considers that it has sufficient grounds to do so. It need only write to the dtic after it has already decided not to apply the requirements, explaining its reasons. This does not even need to be gazetted. Clearly this significantly weakens LCRs, as well as removing transparency in the enforcement process.

3.5. Other forms of LCR evasion

During interviews, many manufacturers referred to receiving last-minute orders with lead times which could not be reasonably met.³⁰ They believed that this probably constituted an effort to gain waivers or justify the dropping of LCRs by procuring institutions on the pretext that compliance would cause delays, which could have been avoided with timely orders. This occurred in a context of extreme time pressure from the state led by the National Energy Crisis Committee (NECOM) which enforced rigid 18-month grid connection deadlines.³¹

Additionally, local manufacturers argue that contractors appear to have gained waivers by erroneously claiming that local suppliers are unable to meet technical standards. While they do not have access to details of waivers granted, a range of local manufacturers report being asked to give quotes for goods beyond the standard needed in

the IPPO's bid window specifications. These higher specifications considerably increased the costs of their quotations, and required significant additional work to secure certification of new standards. Manufacturers expressed concern that these higher specifications may have been used by IPPs or EPCs to justify applications for waivers. Given the small number of South African manufacturers, the fact that many reported receiving no orders raises questions about whether LCRs were met.³²

All these forms of evasion combined can cause a vicious cycle. Low demand reduces the local industry's capacity to meet requirements for local content to be enforced. Without consistent orders enabling business development, local producers may be unable to meet the lead times, technical requirements, or price points required. These deficiencies could then result in a waiver being granted. State contractors benefiting from cheap imports may be well aware of this weakness and be able to benefit from playing a long game: they avoid using local suppliers, even if they incur some disciplinary measures from the state in the short term. Left unchecked, this could lead to the long-term destruction of South Africa's industrial capacity, opening the door for IPPs and EPCs to import at cheaper prices.

3.6. Tariff evasion and local content requirements

Another factor undermining localisation is tariff evasion. Tariffs can prevent importers undercutting local manufacturers. Thus, effective tariffs should increase incentives to comply with LCRs. LCRs do not apply to purely private-sector investment, but tariffs can still encourage private investors to source locally by making imports more expensive. Used together, tariffs and LCRs could therefore increase demand for locally produced goods across both public and private projects, creating a larger and more stable market for domestic manufacturers. Tariffs have been evaded through the misclassification of components and the use of staged consignment, under which multiple

goods that are part of a single working machine are classified under a single tariff heading. In this way, components which should face high import tariffs are imported under codes for other components or for complete machines which have low or zero tariffs.³³

This reduces the effectiveness of local content requirements in two ways. First, tariff evasion prevents demand from government-procured projects subject to LCRs from being reinforced by demand from purely private projects. Allowing imports to enter at artificially low prices makes it harder for local manufacturers to compete for orders from private projects (which have no LCRs), denying them access to a larger and more stable market. Second, tariff evasion increases the incentive to evade LCRs or seek waivers from them. The more discounted imports are compared to local goods, the greater the incentive to use them anyway, whether or not local content is technically required.

4. Towards change in policy and practice

The IEJ has suggested a range of measures to protect renewable energy localisation. These include:

4.1. Improving the inspection system

- **Strengthen monitoring and enforcement mechanisms, particularly the SABS local content verification process.** Winning bidders should undergo a full verification for local content compliance. These processes should be complete rather than merely based on sampling. The costs of verification should be borne by firms.
- **Require IPPs found to have evaded LCRs to deploy local equipment at their own cost or face debarment.** Current suggested penalties

include fines and contract suspension or cancellation. By contrast, this proposal has a restorative aspect that affects the manufacturer impacted by the malpractice. The mass purchase and deployment of locally manufactured goods is vital to the survival and ongoing development of the local sector. This will allow local manufacturers to benefit not only from fiscal sustainability but also from learning by doing, developing experience on the production line, handling relationships with local procuring firms, and demonstrating their products in actual large-scale deployment.

- **Ensure common technical standards are applied to both local and imported components.** This will allow local manufacturers to compete on quality even when they are undercut on price. It will also ensure greater value for money, durability, and maintenance for components used in public projects.

4.2. Refining the waiver system

- **Ensure gazettement when LCRs are set aside.** A loophole still exists for setting aside LCRs, without a waiver or gazettement. This reduces the effectiveness and transparency of LCRs.
- **Ensure all waivers granted are for legitimate purposes.** This includes equipping procuring committees with skilled personnel who can evaluate technical claims. In addition, before issuing a waiver based on high price differentials between imported and locally manufactured goods, there must first be an investigation into whether that difference has been exaggerated by tariff evasion or differences in the specifications quoted by local and foreign suppliers. If an investigation uncovers local content evasion, a further investigation should examine possible tariff evasion through the mislabelling of goods, and vice versa.

4.3. Building relationships with local suppliers

- **Ensure fair subcontracting terms for local manufacturers.** This includes regulations requiring orders from local manufacturers to be placed with sufficient lead times, so there is no pressure to compromise as IPP projects approach deadlines for completion. It also means ensuring local manufacturers are paid a significant proportion of costs upfront before manufacturing starts.
- **Enable shared orders and capacity pooling for smaller firms.** The IPPO should issue single, multi-gigawatt, bankable anchor contracts specifically structured to allow networks of smaller local component manufacturers to pool production capacity, enabling domestic industry collaboration.

4.4 Strengthening local content and designation policies

- **Retain prequalifications.** Keep local content requirements and designations as pre-qualifications rather than optional points.
- **Designate batteries.** Issue a local designation for batteries in line with SABMA's suggestions.

4.6. Improving cross-government coordination

- **Align local content requirements with tariff protection.** Local content requirements should be coordinated with tariff protection to align public and private sector demand for local goods. SARS and ITAC could deploy inspectors at ports of entry to eliminate 'stage consignment' loopholes and verify tariff codes, which would combat fraud and help level the playing field.

- **Make industry support conditional on decent work commitments.** Local content enforcement and continuation of tariff protection should be linked to local manufacturers making meaningful commitments to decent work creation, as a condition for the continued support of their industries.³⁴

Endnotes

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