

Ref: trans indaba 2019 release 2

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Date of issue: 01 October 2019

Embargo: Nil

## **MEDIA RELEASE**

### **Breaking Regulatory Barriers to transformation in the South African Built Environment**

The Council for the Built Environment will host its third National Transformation Indaba on 9 and 10 October 2019 in Pretoria, Gauteng. The theme for this year's Transformation Indaba 2019 is "**Breaking the Barriers,**" and will focus on various regulatory barriers that impede transformation in the sector, with the view to exploring potential solutions. Indaba attendees will include high-level delegates from government, private sector organisations and companies, developmental organisations, state owned entities, national utilities, non-profit organisations and labour organisations.

The CBE's first Transformation Indaba focused on gaining commitment from all stakeholders in the sector to participate and collaborate in driving transformation. The second Indaba was themed "*igniting the possibilities*" and focused on driving transformation through skills development. This third Indaba will specifically focus on both registered professionals and unregistered practitioners with the pivotal aim of ascertaining how best they could be **pulled** towards built environment professional registration and retaining their status. In other words, the strategy is to attract and retain registered professionals in the sector. This national Transformation Indaba will create a platform for role players and stakeholders to discuss policy constraints and associated processes hindering transformation in the built environment, which predominantly results in the exclusion of the smaller built environment service providers in the economy. The Indaba will advocate for changes in approaches and innovative implementable solutions.

## **Key legislations that impact on the Built Environment**

### **South African Constitution**

The South African Constitution requires government entities to comply with five key principles set out in section 217(1) of the Constitution for any procurement. These five pillars stipulate that the procurement process must be equitable, transparent, fair, competitive and result in cost-effectiveness for that public institution. In section 217(2) of the Constitution there is recognition that compliance with the five principles of procurement does not prevent government entities in their procurement process from giving priority to certain socio-economic goals. This subsection stipulates that government entities, in the implementation of their procurement policies, can give preference to certain categories of persons. They can, during the procurement process, advance and/or protect categories of persons who have been disadvantaged by unfair discrimination in the past. This constitutional basis of preferential procurement may not meet an objective test for treating all tenders equitably, but is condoned given the socio-economic goals advanced by the Constitution.

### **Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)**

To give effect to the overriding socio-economic requirements of the country, the Preferential Procurement Policy Framework Act was promulgated. This Act provides a framework for the implementation of the provisions and requirements laid out in sections 217(2) and 217(3) of the Constitution. A revised preferential procurement policy regulation was effected on 1 April 2017, resulting in the following changes to enhance transformation:

- Tenders can be targeted to empower specific groups, such as black women.
- Bids up to R50 million will be evaluated in terms of the 80/20 preference point system (the previous threshold was R1 million), which will help smaller, black-owned firms to compete.
- Public entities will be allowed to negotiate prices and value for money with preferred service providers.
- Procurement of locally manufactured goods will be supported.
- Preference points will be allocated in line with broad-based black economic empowerment status.
- Compulsory subcontracting of at least 30 per cent for tenders above R30 million will be implemented, where feasible, to advance designated groups.

### **Occupation Specific Dispensation (OSD)**

The OSD is one of the public sector tools to attract and retain requisite skills within the various fields of the public sector. The OSD was introduced through the adoption of a collective agreement (i.e. Resolution 1 of 2007) within the framework of the Public Service Coordinating Bargaining Council (PSCBC). The Minister for the Public Service and Administration has determined, in terms of section 3(3)(c), read with section 5(4) of the Public Service Act, 1994, GPSSBC Resolutions 3, 5, 6, and 9

of 2009, effective from 1 July 2009. The Occupation Specific Dispensation (post and salary structures) for Engineers and related occupations is applicable to employees who are appointed in terms of the Public Service Act, 1994.

### **Strategic Framework on Gender and Women's Economic Empowerment of 2006**

This framework outlines programme initiatives that focus specifically on women enterprise, women in business and other target groups, and addresses gender inequalities with the aim of enhancing resource allocation and paving the way for women's full participation in the economic growth of the country.

### **Council for the Built Environment Act, 43 of 2000 (section 20 of the CBE Act: Identification of Work)**

The CBE Act impels the CBE to, after consultation with the Competition Commission (CC) and in consultation with the Councils for the Built Environment Professions (CBEP), identify the scope of work for each category of registration (section 20 of the CBE Act).

**Ends**

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