

## **2022/2023 FINANCIAL YEAR**

### **TRANSFORMATION COLLABORATIVE COMMITTEE:**

**PROCUREMENT, POLICY, LEGISLATION  
AND SOCIO-ECONOMIC DEVELOPMENT**

### **PROGRESS REPORT**

**JUNE 2022**

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## **ACRONYMS**

**APP** – Annual Performance Plan

**BBBEE** - Broad-Based Black Economic Empowerment

**CBE** - Council for the Built Environment

**DPWI** - Department of Public Works and Infrastructure

**PPPFA** – Preferential Procurement Policy Framework Act

**TCC** - Transformation Collaboration Committee

**ToR** - Terms of Reference

**PPLSED** - Procurement Policy, Legislation and Socio-Economic Development

## 1. Purpose

The purpose of this report is to provide an overview of the activities undertaken by the Procurement, Policy, Legislation and Socio-Economic Development Transformation Collaborative Committee (PPLSED TCC) during Quarter 1 of the 2022/2023 financial year.

## 2. Background

The Council for the Built Environment (CBE) is a statutory body established under the Council for the Built Environment Act (No. 43 of 2000). It is an overarching body that coordinates the following six councils for the built environment professions - Architecture, Landscape Architecture, Engineering, Property Valuation, Project and Construction Management, and Quantity Surveying – and through memoranda of understanding these also include Town and Regional Planning, Land Surveying and Environmental Assessment. Sections 3 (a) and (e) of the CBE Act respectively, mandates the CBE to promote and protect the interests of the public and promote appropriate standards of health, safety and environmental protection within the built environment.

In line with the above, Transformation of the Built Environment Professions is one of the key imperatives of the CBE. As per the CBE Strategic Plan, the CBE is to facilitate participation by the Built Environment Professions in integrated development in the context of national goals, specifically regarding Transformation as a key priority of the sixth term government. The CBE's third Transformation Indaba, hosted in October 2019, produced a number of key resolutions, in relation to challenges impeding Transformation in the sector. The CBE expects to deliver on these resolutions to ensure transformational progress. The main vehicle for driving these activities is the Transformation Collaborative Committees (TCCs), constituted in collaboration with the Department of Public Works and Infrastructure (DPWI) to specifically address these challenges. These TCCs, with support from the DPWI, are commissioned to engage with all relevant departments and industry role players to resolve key challenges identified by stakeholders. These Transformation Collaborative Committees (TCC) comprise of the following:

- i. Health, Safety, Public Protection and Universal Access (HSPPUA)
- ii. Occupation Specific Dispensation (OSD)
- iii. Procurement, Policy, Legislation and Socio-Economic Development (PPLSED)
- iv. Professional Skills and Capacity Development (PSCD)
- v. Women Empowerment and Gender Equality (WEGE)

## **Procurement, Policy, Legislation and Socio-Economic Development (PPLSED) TCC**

The primary task of the PPL TCC is to ensure that procurement systems achieve the transformation goals as set out in the Constitution, sections 217(2) and (3). This TCC investigates and establishes the impact of among others, the Preferential Procurement Policy Framework Regulations in the Built Environment Sector and proposes required procurement reforms. The proposed inputs would also be incorporated in the proposed Procurement Bill yet to be adopted by Cabinet. The working committee is also to look at the challenges relating to legislation impacting transformation in the Built Environment. It will investigate the feasibility of bringing back the Roster system. The socio-economic development aspects were recently moved to the PPL TCC to address going forward.

### **3. Procurement Policy and Legislation TCC Quarter 1 Progress Report**

#### **3.1 Overview**

In order to deliver on the PPLSED TCC's objectives, a number of preliminary investigations needed to be undertaken in the previous financial year to lay the foundation of the TCC's work and establish the baseline information for its point of departure. To that effect, the following reports were finalised in Quarter 1 and tabled at the Built Environment Matters Committee (BEMC) on 16 May 2022:

- a) Review of the previous and current procurement systems (amongst others, the Consultants Roster System) with the purpose of coming up with more transformative systems
- b) Procurement legislation (such as the B-BBEE Act, PPPFA, Competition Commission etc.) to benefit targeted groups
- c) Foreign professional practices appointed by the public sector
- d) Promoting the employment of South African Built Environment nationals, based on the survey of foreign nationals employed by government

Furthermore, the TCC Terms of References (TOR) and list of deliverables were revisited to ensure alignment to the CBE Act objects as well as to incorporate key aspects of the CBE Transformation Strategy. Lastly, the PPLSED developed a workplan for the BEMC's consideration for continuous reference and monitoring against the goals, objectives, tasks set out by the PPLSED TCC.

### **3.1.Quarterly Progress**

The section below provides a status update on progress made by the PPLSED TCC in relation to Quarter 1 (April – June 2022) 2022-2023 financial year.

#### **3.1.1. Quarter 1 (11 April 2022)**

On 11 April 2022 the first PPLSED TCC was hosted. The specific purpose of this engagement was to finalise the refined TORs, approve the respective reports for recommendation at the BEMC and to develop a workplan for the committee's work for the current financial year.

##### **3.1.1.1. Terms of References**

The refined PPLSED TOR was tabled at the meeting of 11 April 2022 for input by committee members. The committee proposed that the PPLSED should be renamed into only Policy and Legislation Transformation Collaborative Committee (PL TCC) as transformation was broadly driven on the two areas of focus but also to help embed issues of procurement and socio-economic development within the work of the committee.

##### **3.1.1.2. Baseline Reports**

***a) Report on the review of the previous and current procurement systems (amongst others, the Consultants Roster System) with the purpose of coming up with more transformative systems.***

The report provides a descriptive analysis of targeted procurement, the Consultants roster, and preferential procurement systems. The report also discusses procurement frameworks, policies, standards, codes, regulations, and legislation that regulate procurement processes. The findings indicated that targeted and preferential procurement systems were not working adequately or satisfactorily. The recommendations are as follows:

- i. The Consultants roster system is employed in the public sector as it promotes procurement that is fair and competitive, proven to be more economical and efficient
- ii. The main tenets and structure of this system be utilised as the backbone in the development of more transformative procurement systems

**b) Report on the realignment of all procurement legislation (such as the B-BBEE Act, PPPFA, Competition Commission etc.) to benefit the targeted groups.**

The report outlines the strengths and shortcomings of procurement legislation together with resolutions of the Transformation Indaba to lay out relevant appropriate recommendations. Some of the key findings were that loopholes in the BEE were identified e.g. level 1 requirements. The recommendations are as follows:

- i. Establish a system which favours contractors who are professionally aligned to certain projects
- ii. Focus more on the Skills Development component of the BEE to drive transformation through partnership with tertiary institutions to increase skills pipeline
- iii. A need to balance all seven components based on what may be strategic component to drive transformation on specific sector or organisations

**c) Report on foreign professional practices appointed by the public sector**

The following key observations were made from the limited information received:

- i. Foreign employees totalled 42. Salary band occupied by foreign employees from highest (Highly skilled supervision (levels 9-12)) with 57% (24) of total foreign employees in all institutions combined, followed by Highly skilled production (levels 6-8) (31%), Skilled (level 3-5) (7%), Lower skilled (Levels 1-2) (2%) and Senior and Top management (levels 13-16) (2%). All the other salary bands have no foreign employees.
- ii. In the annual reports analysed, the information relating to foreign professional service expenditure is not available. The information on foreign individual appointments shows that 57% of foreign employees occupy the Highly skilled supervision (level 9-12) salary band, however on the same salary band, local employees only make 8% of their population. Based on this analysis, it can be concluded that more money is spent on foreign individual appointments.

**d) Report on the promotion of the employment of South African Built Environment nationals based on the survey of foreign nationals employed by government**

The following key observations were made from the limited information received:

- i. South African legislation sway employers towards employing South African citizens. The employment of foreigners is designed to be a short-term measure to bridge the skills shortage within an employer's business and to facilitate the transfer of skills

- ii. Employers should, therefore, ensure that a skills transfer plan is implemented to ensure that the relevant skills are transferred to a South African citizen; and that the necessary time and resources are invested in transferring and retaining the skills in South Africa

### **3.1.1.3. 2022/23 Annual Performance Plan (APP) target**

The following target was presented as part of the PPLSED TCC deliverables to be monitored and reported on a quarterly basis:

#### **a) One research report analysing the implementation of legislation and policies impacting the built environment.**

The objectives of the programme are to:

- i. Identify and examine key policy frameworks impacting the built environment
- ii. Analyse implementation predicaments on key policy frameworks impacting the built environment
- iii. Propose alternatives for effective implementation and alignment of policy frameworks impacting the built environment

The quarterly schedule of the programme would unfold as follows: Quarter 1: Concept Document, Quarter 2 and 3: Draft report and Quarter 4: Final report. There were potential risks identified in the lack of meaningful participation by relevant stakeholders.

### **3.1.2. Quarter 1 (11 April 2022)**

On 7 June 2022 the second PPLSED TCC was hosted. The specific purpose of this engagement was to adopt the finalised TORs and recommend the workplan developed for the current financial year. A summary is provided below on the areas of discussion outlined above.

#### **3.1.2.1. Terms of References**

The finalised PPLSED TOR was tabled at the meeting of 7 June 2022 for adoption by the committee members.



The committee agreed to have the name of the committee revert to Procurement, Policy, Legislation and Socio-Economic Development (PPLSED) to keep issues of procurement elevated as per feedback from the BEMC. It was agreed that all the TCC TORs will be tabled with Council members and TCC Chairpersons in July 2022 to ensure alignment to the CBE objects and standardisation.

### **3.1.2.2. Workplan**

The following deliverables were tabled for the committee's endorsement:

- a) Facilitate BE comments on procurement legislation (such as the B BBEE Act, PPPFA, Competition Commission etc.) to benefit the targeted groups
- b) Monitor proper implementation of empowerment legislation and policies
- c) Workshop Policy on infrastructure procurement (3 webinars)
- d) Assess the impact of the Preferential Procurement Policy Framework Regulations in the Built Environment Sector and propose potentially required reforms. These recommendations should be incorporated into the proposed Procurement Bill currently published for comments
- e) Participate in the public comment process of the National Infrastructure Plan 2050

The activities will be the committee's standing items to be reported on quarterly going forward.

### **3.1.2.3. 2022/23 Annual Performance Plan (APP) target**

#### **a) One research report analysing the implementation of legislation and policies impacting the Built Environment by 31 March 2023**

A concept document has been developed with the following policy frameworks impacting the built environment into consideration:

- i. Public Procurement Bill, 2020
- ii. Broad-Based Black Economic Empowerment (BBBEE): Codes of Good Practice
- iii. Property Sector Charter
- iv. Construction Sector Charter
- v. B-BBEE Advisory Council

Furthermore, an evaluation of B-BBEE Strategy Implementation noted the following:

- i. A substantial increase in the number of black people who have ownership and control of existing and new enterprises
- ii. A substantial increase in the number of black people who have ownership and control of existing and new enterprises in the priority sectors of the economy that government has identified in its microeconomic reform strategy
- iii. A significant increase in the number of new black enterprises, black-empowered enterprises and black-engendered enterprises
- iv. A significant increase in number of black people in executive and senior management of enterprises
- v. An increasing proportion of the ownership and management of economic activities vested in community and broad-based enterprises (such as trade unions, employee trusts, and other collective enterprises) and co-operatives

#### **4. Conclusion and Way Forward**

A recommendation register has been consolidated against the PPLSED TCC held in quarter one for consideration by the BEMC.

It was also emphasised that the committee should prioritise initiating engagements with the infrastructure departments and implementing agents which required further clarities (on policy pronouncements but also in relation to the roster system) with the recent request for the Eastern Cape Provincial Department of Public Works serving as an example. The PPLSED TCC Workplan will serve as a tool for monitoring and reporting progress throughout the financial year going forward.