Reducing the cost of doing business

2017
THE WORLD BANK REPORTS ON DOING BUSINESS IN SOUTH AFRICA COMPARES THE EASE OF DOING BUSINESS IN SOUTH AFRICA AGAINST AROUND 190 OTHER COUNTRIES. IN THIS REPORT, IN 2016, SOUTH AFRICA WAS RANKED 73 (WITH A RANK OF 1 BEING THE EASIEST TO DO BUSINESS WITH), 74 IN 2017 AND 82 IN 2018. OF CONCERN IS THAT THE WORLD BANK SURVEYS SHOW THAT IT IS BECOMING MORE DIFFICULT TO DO BUSINESS IN SOUTH AFRICA OVER TIME.

CLOSER TO THE CIDB, IT IS RECOGNISED CONTRACTORS AND INFRASTRUCTURE CLIENT DEPARTMENTS HAVE RAISED AT STAKEHOLDER MEETINGS PERCEIVED OR REAL BARRIERS TO ENTRY THAT THE CIDB CREATES.

THE ISSUE OF REDUCING THE COST OF DOING BUSINESS IS RECEIVING ATTENTION ALL AROUND THE WORLD, AND MANY GOVERNMENTS INSTITUTIONS (INCLUDING WITHIN SOUTH AFRICA) ARE EMBARKING ON PROGRAMMES TO REDUCE RED TAPE AND IMPROVE PUBLIC SERVICES AND THE ENVIRONMENT TO DO BUSINESS. MANY OF THESE STUDIES, AND IN PARTICULAR IN SOUTH AFRICA HAVE HIGHLIGHTED THAT THE BIGGEST CONSTRAINTS FACING SMMEs ARE IN FACT NOT REGULATORY CONSTRAINTS, BUT MARKET ACCESS AND GOVERNMENT EFFICIENCY (OR MORE CORRECTLY GOVERNMENT INEFFICIENCY).

LOCAL AND INTERNATIONAL STUDIES ALSO HIGHLIGHTED THAT REGULATORY COSTS DO NOT JUST COME FROM THE DESIGN OF THE REGULATIONS, BUT POORLY ADMINISTERED REGULATION CAN IMPOSE UNNECESSARY COSTS THAT REDUCE PRODUCTIVITY. REGULATORY QUALITY AND REGULATION EFFICIENCY MUST GO HAND IN HAND.

AGAINST THIS CONTEXT AND IN LINE WITH THE NEED FOR ASSESSING THE REGULATORY COST OF DOING BUSINESS IN THE CONSTRUCTION INDUSTRY, THE CIDB UNDERTOOK THIS STUDY ON RED TAPE IN THE PROCUREMENT OF PUBLIC SECTOR CONSTRUCTION. THE SCOPE OF THE STUDY IS BROADER THAN THE CIDB REGULATIONS, AND COVERS ALL REGULATION IMPACTING ON PUBLIC SECTOR PROCUREMENT.

THE STUDY FIRST INVESTIGATES THE GENERAL BUSINESS THAT IMPACT ON CONTRACTORS AND PROFESSIONAL SERVICE PROVIDERS (PSPs), AND HIGHLIGHTS THAT THE LARGEST NEGATIVE GENERAL BUSINESS IMPACTS ON CONTRACTORS AND PSPs ARE

- Public sector capacity and process constraints; and
- General business environment constraints (including lack of access to work opportunities and delayed payments) and corruption.

CONTRACTORS (AND SPECIFICALLY SMALL AND MEDIUM SIZE CONTRACTORS) IDENTIFIED THE CIDB REGISTRATION PROCESS AS HAVING A NEGATIVE IMPACT ON THE CONTRACTING SECTOR, WHILE PSPs IDENTIFIED THE CIDB CONTRACTOR GRADING SYSTEM
(which is based on financial capability and not capacity and performance) as having a negative impact on public sector procurement.

PSPs further identified the guidelines on professional fees, discounted fees and tender awards based on price and not as value as business constraints.

It was however noted that other than B-BBEE requirements and cidb grading requirements, regulation itself was not identified as having a significant negative impact on contractors, PSPs or public sector procurement.

The study concludes that reducing red tape reduction within the construction industry must focus on:

i) public sector capacity and process constraints;
ii) general business environment constraints (including access to work opportunities, fraud and corruption);
iii) a review of the cidb grading criteria; as well as
iv) enhancing the cidb registration process.

The cidb is in fact addressing many of these issues.

Notwithstanding this, this study notes the international experience that suggests that “while governments around the world are increasingly focusing on reducing red tape, there have been very few measurable improvements”. The cidb, and government procurement capacity in South Africa, has to guard against not making a measurable impact in reducing red tape in construction.
RED TAPE IN PUBLIC SECTOR PROCUREMENT OF CONSTRUCTION;
REDUCING THE COST OF DOING BUSINESS

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RED TAPE IN THE PROCUREMENT OF PUBLIC SECTOR CONSTRUCTION;

ASSESSMENT AND RECOMMENDATIONS

1. BACKGROUND AND INTRODUCTION

The South African Government has developed policies, laws and regulations that encourage open markets, innovation and a more competitive economy. However, some of the local business environments can discourage investors (both domestic and foreign) and stands in the way of innovation, growth and the potential creation of jobs. This is exacerbated by the unfavourable regulatory environment, high costs and risks of doing business in these localities.

Reducing the regulatory constraints on small micro and medium enterprises (SMMEs) is one of the key focus areas of the South African Government.

Governments all over the world are embarking on programmes to reduce red tape and improve public services and the environment to do business (see Section 2), and reducing the regulatory cost of doing business is also high on the government agenda in South Africa. Several departments have been driving an initiative specifically to reduce red tape on the local government sphere to improve service delivery and foster economic development.

One such measure of red tape in South Africa is the annual World Bank reports on Doing Business in South Africa\(^1\), which compares the ease of doing business in South Africa against around 190 other countries. In 2016, South Africa was ranked 73 (with a rank of 1 being the easiest to do business with), 74 in 2017 and 82 in 2018.

![World Bank Doing Business Report](image)

Of concern is that the World Bank surveys show that it is becoming more difficult to do business in South Africa over time.

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A more detailed assessment based on the 2018 Doing Business in South Africa report is given below from which it is seen that South Africa is ranked poorly, in particular, in terms of Starting a Business (136) and Enforcing Contracts (115), but relatively highly in terms of Getting Credit (68).

From the perspective of the construction industry, it is also important to reflect on recent stakeholder comments based on the role of the cidb and the perceived or real barriers to entry that the cidb creates. For example, a summary of relevant comments made at the 2016 cidb Provincial Liaison Stakeholder meetings is given below:

i) Implementation of the Register of Contractors benefits white established companies more than the emerging black owned enterprises, which appear to be worst affected by the prevailing difficult market conditions. In comparison to white owned established companies, black owed emerging enterprises are failing to move up or to maintain their grades.

ii) Lack of access to work opportunities by black owned contractors reflects poor market conditions rather than the capability of the emerging sector. Black contractors should not have to face downgrades as a result of market conditions.

iii) There is limited upward movement of contractors in Grades 1 to 6, demonstrating that they tend to get stuck in those grades.

iv) Small emerging contractors perceive the cidb to be aloof.

v) The Register of Contractors does not differentiate good and poor performing contractors. Contractors that have failed on projects and been sanctioned by clients re-surface on the cidb Register under new names and in different provinces, allowing these contractors to continue accessing work opportunities in Government.

vi) The industry needs mechanisms similar to the Register of Contractors, to introduce minimum operating requirements and a regulatory framework for consulting engineers.

vi) The industry needs entry level requirements for contractors.

Against this context and in line with the need for assessing the regulatory cost of doing business in the construction industry, the cidb undertook this study on Red Tape in the Procurement of Public Sector Construction; Assessment and Recommendations.
For the purpose of this study, red tape has been defined and understood as follows:

i) Any non-essential, overly complex procedures, forms, licenses and regulations that add unnecessary costs or complexity to dealing with government and/or has negative unintended consequences / impacts; and

ii) Anything obsolete, or wasteful, redundant or confusing that unnecessarily adds to the cost or complexity of delivering public sector infrastructure with government and thus makes it harder for businesses to operate and/or grow efficiently.

The background research for this study was undertaken by Impact Economix, whose support is gratefully acknowledged. The research included a survey distributed to over 8,000 contractors registered on the cidb Register of Contractors, via email in January 2017. Selected built environment professional Councils and industry associations also distributed the survey participation request directly to their members.

A special acknowledgement is also made to Mr Michael Makhura, cidb Board member, who requested that this study be initiated.

An outline of the resulting study is follows:

i) Section 2 presents a summary of local and international initiatives in reducing red tape, with a specific focus on reducing red tape in construction, together with a summary of key conclusions;

ii) Section 3 presents a summary of the survey results for cidb registered contractors;

iii) Section 4 presents a summary of the survey results for built environment professionals (BEPs); and

iv) Section 5 presents the summary and recommendations of this study.
2. **Key Lessons from Red Tape Reduction Initiatives**

An overview of local and international initiatives in reducing red tape is given below together with a summary of key conclusions, it is noted however that most studies into reducing red tape focus on the regulatory environment – whereas it is highlighted in Section 2 that red tape is far broader than regulation.

### 2.1 Counting the Cost of Red Tape for Business South Africa (2004)

The non-for-profit Partnership for Business Growth (know as SBP) undertook an extensive sector wide study of red tape in South Africa in 2004. The SBP survey and report on the cost of red tape for business are summarised below:

- **i)** Thirty-four per cent of businesses surveyed cited the interface between the state and business as their biggest constraint to expansion and employing more staff.
- **ii)** The most troublesome and time-consuming regulations were VAT (19% of responses), other aspects of tax administration, labour laws, and SETA/RSC levies, in that order.
- **iii)** Seventy-six per cent of respondents said that compliance costs had increased over the past two years; 80% noted an increase over the past ten years; and 83% expected these costs to increase further in the future.
- **iv)** On average, the annual costs of regulatory compliance were R105 000 per firm.
- **v)** Big firms have the largest costs absolutely but, in relation to their size, small firms bear the heaviest burden. Compliance costs represent 8,3% of turnover for enterprises with annual sales of less than R1 million, and 0,2% of turnover for corporations with sales of R1 billion or more.
- **vi)** Informal enterprises are deterred from entering the formal economy because of the higher tax burden, and the red tape they would have to face.
- **vii)** In 2004, South African businesses incurred regulatory compliance costs of about R79 billion, or 6,5% of GDP. This is a significantly higher percentage of GDP than in many developed countries.
- **viii)** New research by the World Bank has shown that an improved regulatory environment could increase economic growth in many developing countries by as much as 1,4% a year.

The SBP recommended the creation of a Regulatory Impact Analysis capacity in government to advise on the costs and benefits of proposed new regulations (which has been established by the Department of Planning Monitoring and Evaluation) as well as a systematic review of the costs and benefits of the existing regulatory environment.

### 2.2 Business Environment Assessment (BEA) for Gauteng (2009)

The 2009 report identified the following challenges to doing business in Gauteng – across all sectors. Of interest is that 68% identified Market Conditions as the most significant challenge to doing business. With regard to specific government related constraints,

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Government Inefficiency was rated as a constraint by 18% of respondents and Accessing Government Tenders at 13%.

Survey respondents were asked to identify the single action by provincial government that would best support economic growth. The results are shown in the figure below.

Improvements to government efficiency accounted for 25 percent of responses across the sample as a whole, and a third of responses among large businesses. As noted in the report:

*This response included improvements to staff efficiency including the need for more efficient, well trained, motivated and capable civil servants, prompt and efficient responses to business’ attempts to engage with government departments, and a demonstrable culture of public service; together with process improvements and reduction of red tape. The latter included the need for approvals processes to be speeded up, improved efficiency and capacity in dealing with EIA processes, and streamlining of procurement procedures and prompt payment by government.*

Other priority areas for improvements included a reduction in crime (13% of respondents), measures to eradicate corruption in government (9%), and improved communication and engagement between government and business (8%).
2.3 **Western Cape Red Tape Reduction Unit (2011)**

The Western Cape Government established the Red Tape Reduction Unit in 2011 to help businesses cut through or get around red tape. It is reported that since its inception, our Red Tape Reduction Unit has identified several issues raised by businesses, including:

i) bureaucratic officials;
ii) a lack of co-ordination between agencies and departments;
iii) a lack of clarity about government’s objectives, processes and timeframes;
iv) not enough transparent decision-making;
v) the inconsistent interpretation of rules;
vI) no connection between the regulator and business; and
vii) a lack of accountability regarding decision-making.

2.4 **Australian Chamber of Commerce and Industry National Red Tape Survey (2012)**

The PWC Productivity Scorecard: Productivity Lens on Red Tape Reduction notes that the Australian Chamber of Commerce and Industry’s 2012 National Red Tape Survey shows:

i) 44% of businesses spend between one and five hours a week complying with government (federal, state or local) regulatory requirements (filling out forms, applying for permits, reporting business activity);
ii) 72% of businesses say the time they’re spending on red tape has increased in the last two years;
iii) 42.2% estimate they spent more than $10,000 complying with government regulations last year
iv) 59.7% say red tape has a moderate to major impact on their business; and
v) 54.3% say that complying with government regulations has prevented them making changes to grow or expand their business.

The report then notes that it is fair to conclude that red tape imposes costs. However, the report notes that not all costs should be classified as red tape as not all are necessarily ‘excess’. The report also notes that regulation too is not costless. However, the expectation is that:

iv) regulation should address a real problem;
v) compliance costs should be minimised; and
vi) the benefits of regulation should be greater than the costs.

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2.5 Guidelines for Reducing Municipal Red Tape, the dti (2013)\(^6\)

In a press release accompanying the dti 2009 report, the Minister of Trade and Industry, Dr Rob Davies stated that “many small, medium and micro enterprises (SMMEs) are unable to survive because of the unnecessary burden placed on them by red tape.” Minister Davies further noted that “Red tape is inappropriate or unduly restrictive legislative and regulative conditions and relate to overlaps and duplication caused by unnecessary or inflexible regulations, where the convenience of bureaucracy overrides the impediment which is imposed on the clients and this is against Batho Pele\(^6\).

The 2013 Guidelines were developed in response to the 2011/2012 National Red Tape Reduction Pilot involving 12 municipalities and funded by the dti and CoGTA and with support from SALGA. The objectives of this initiative were to:

i) determine the most critical Red Tape issues at local government level to provide a starting point for local improvement processes and to identify national policy implications;

ii) enhance the capacity of municipal officials and supporting process facilitators to improve the business environment via Local Red Tape Reduction;

iii) identify areas of improvement and efficiencies to be attained in the said municipalities in order for SMMEs to take advantage of business opportunities in each locality; and

iv) initiate benchmarking, networking and sharing of lessons learnt and best practice on Local Red Tape Reduction.

The Guidelines were written at a generic level, and identified four main types of red tape costs:

<table>
<thead>
<tr>
<th>Category of regulatory costs</th>
<th>Example of Activities involved</th>
<th>Burden on...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance Costs</td>
<td>Time; fees to service providers</td>
<td>Firms; economy; SMMEs</td>
</tr>
<tr>
<td>Efficiency and opportunity costs</td>
<td>Reduced business activity or size</td>
<td>Economy; SMMEs</td>
</tr>
<tr>
<td>Non-compliance costs</td>
<td>Paying fines, bribes</td>
<td>Non-complying firms, economy; SMMEs</td>
</tr>
<tr>
<td>Administrative costs</td>
<td>Government agency activities</td>
<td>Economy; SMMEs</td>
</tr>
</tbody>
</table>

The study recommended that:

i) Municipalities initiate a Red Tape Reduction initiative in their area in partnership with local business structures;

ii) Municipalities become more process aware and begin the journey of becoming process-mature organisations. By adopting business process management approaches, Municipalities can move up the ladder of service delivery excellence as they become more sophisticated at managing key service delivery processes; and

iii) National and Provincial government provide capacity-building support to municipalities to reduce Red Tape, including training on business process management and reviewing national and provincial legislation, which is negatively impacting on small businesses and the business environment.

2.6  Regulator Performance Framework, Australia (2014)

The Regulator Performance Framework was introduced in Australia in 2014, together with the Australian Government Guide to Regulation. The Framework and Guide was introduced as part of the Australian Government’s committed to reducing the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations by at least $1 billion a year.

Significantly, the Framework notes that regulatory costs do not just come from the design of the regulations, but that poorly administered regulation can impose unnecessary costs that reduce productivity.

The Framework introduces key performance indicators (KPIs) to measure the performance of regulators, namely:

i) KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities;
ii) KPI 2: Communication with regulated entities is clear, targeted and effective;
iii) KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed;
iv) KPI 4: Compliance and monitoring approaches are streamlined and co-ordinated;
v) KPI 5: Regulators are open and transparent in their dealings with regulated entities; and
vi) KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks.

Clearly, conceptually, these KPIs form a sound basis to investigate and manage the regulatory burden introduced by organisations.

The Framework requires annual externally validated self-assessment for all regulators against the Framework.

2.7  Industry Canada (2005)

The PWC report undertaken for Industry Canada noted that Governments around the world have been working on improving regulatory efficiency for decades. However, few of them have systematically measured administrative burdens to assess how effective these reforms have been. Those that have attempted to measure administrative burdens have typically only done so recently, so it is not possible to assess performance to date.

Of the few countries that have carried out consistent and repeated assessments, the reductions have not been significant:

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The Netherlands attempted to reduce administrative burdens for companies by 25% over the 1994 to 2002 period, and were successful in reducing burdens by just 7%; and Denmark has set a goal of reducing administrative burdens by 25% in 2010. They monitor burdens annually based on interviews with a large number of representative companies. Administrative burdens were approximately the same in 2002 as they were in 1999.

2.8 Doing Business 2016; Measuring Regulatory Quality and Efficiency, World Bank (2016)

As noted in Section 2.6, the design of regulations, the efficiency of administering regulations both impact on costs and productivity.

Interestingly, the World Bank report Doing Business 2016; Measuring Regulatory Quality and Efficiency shows that efficiency and quality go hand in hand, and that the report observes that economies that have efficient regulatory processes also tend to have good regulatory quality.

Doing Business 2016 also notes that economies can be broadly divided into four groups:

i) economies able to achieve both efficiency and quality in business regulation;

ii) economies where both efficiency and quality are far from ideal—with regulatory transactions that are complex and expensive and that in the end do not accomplish their objectives. In these economies regulation is seen as a rent-seeking activity rather than as something that provides a useful service to citizens and the business community;

iii) economies where regulatory processes are fast and inexpensive but lack quality. These are likely to be economies that started out in the second group and then improved regulatory efficiency but have yet to improve regulatory quality. Most economies are in this group and the first one; and

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economies where the quality of regulation is high but the processes for implementing it remain complex. Very few economies are currently in this group; those with low regulatory efficiency tend to also have low regulatory quality.

2.9 Summary and Conclusions

An overview of local and international initiatives in reducing red tape has been given in the above sections. A synthesis of key conclusions is given below:

i) Not all regulatory costs should be classified as red tape as not all are necessarily ‘excess’ - regulation is not ‘costless’.

ii) It is key that (a) regulation should address a real problem; (b) compliance costs should be minimised; and (c) the benefits of regulation should be greater than the costs.

iii) Regulatory costs do not just come from the design of the regulations, but poorly administered regulation can impose unnecessary costs that reduce productivity. Regulatory quality and regulation efficiency must go hand in hand.

iv) While most red tape reduction activities have focus on the regulatory environment, red tape is far broader than regulation. Studies suggest that market conditions (or access to work) and government efficiencies often result in the largest constraints to the ease of doing business.

v) Finally, it is noted that while governments around the world are increasingly focusing on reducing red tape, there have been very few measurable improvements.
3. **CONSTRAINTS IMPACTING ON CONTRACTORS**

3.1 **Introduction**

This Section begins with identifying general business environment constraints facing contractors, which provides a broader context to understand specific red tape issues. Secondly, legislative, regulatory and administrative themes perceived to be having negative impacts on contractor operations are then identified. Legislation can have negative impacts for two main reasons: either the content of such legislation, and/or the administrative processes involved in the implementation of such legislation, has negative (and generally unintended) impacts on businesses.

3.2 **General Business Environment Constraints Facing Contractors**

Contractors identified a wide range of business environment constraints or challenges facing their business operations (see Appendix A1). Twelve percent of contractor respondents specified that their company faced no business environment challenges – primarily because they were in niche markets.

![Graph showing percentages of constraints](image)

Of those facing constraints, the most frequently mentioned business environment constraints impacting on contractors (in order from most frequently mentioned):

i) Payment processes (29%);
ii) Access to work (22%);
iii) Access to credit (10%);
iv) Corruption (9%);
v) SCM processes (8%);
vi) Skills (8%);
vii) B-BBEE requirements (8%); and
viii) cidb grading (6%).

An analysis of constraints by respondents in terms of cidb grading level shows that access to work, access to credit and cidb grading are identified as higher constraints for contractors in Grades 2 to 6 than for
Grades 7 to 9. On the other hand, contractors in Grades 7 to 9 identify corruption, SCM processes, skills and B-BBEE requirements as higher constraints that that identified by Grades 2 to 6.

3.3 Public Sector Legislation / Regulations Constraints Facing Contractors

Contractors were asked to identify the two main government legislation or regulations that are having significant unintended negative impacts on their business operations. The first questions requested respondents to identify legislation or regulations that are having negative impacts due to the contents of the legislation or regulation, and the second question asked respondents to identify legislation or regulations that are having negative impacts to the way in which the legislation or regulation is being implemented (i.e. there may not be any problem with the contents of the legislation or regulation). However, due to this being an open-ended question, some respondents did not restrict themselves to legislation or regulation, but also included practices.

3.3.1 Legislation or Regulation having Negative Impacts due to Contents

Contractors were asked to identify legislation or regulation that are having negative impacts on business operations due to the contents of the legislation or regulation as well as due to the way in which the regulation or legislation is being implemented (i.e. poor or inefficient implementation processes which may involve unnecessary delays). Significantly, 45% of contractor respondents specified that the contents of legislation or regulation was not having a negative impacts on business operations.

The top themes identified by contractors as having negative effects due to the contents of the legislation, regulation or practices are:

i) B-BBEE requirements (21%);
ii) CIDB grading (8%);
iii) Payment processes (6%);
iv) OHSA / Construction Regulations (4%);
v) CPGs / Community issues (4%); and
vi) SCM processes 93%)
An assessment of these constraints by contractors in Grades 2 to 6 and Grades 7 to 9 is given below. It is notable that both small and large contractors see B-BBEE requirements as a constraint, but this is more pronounced for large contractors.

3.3.2 Legislation or Regulation having Negative Impacts due to Manner of Implementation; Part I

A wide variety of legislation, regulation or practices constraints were identified as having negative impacts on business operations due to the way in which they are being implemented (i.e. either because of inconsistent interpretation and application of the legislation or regulation or because of excessive time-frames involved in implementing the legislation or regulations). Notwithstanding this, 52% of contractor respondents specified that the manner in which the legislation or regulation is being implemented is not having a negative impacts on business operations.

The top themes identified by contractors as having negative impacts on their business operations due to the way in which these are being implemented are (in order from most frequently mentioned):

i) B-BBEE requirements (11%);
ii) SCM processes (6%);
iii) Payment processes (6%);
iv) CIDB grading (6%);
v) OSHA / Construction Regulations (3%);
vi) SARS requirements (3%); and
vii) Tender documentation (3%).

Contractors in Grades 2 to 6 were more likely to identify cidb grading issues as having negative impacts than contractors in Grades 7 to 9. On the other hand, Grade 6 to 9 contractors were more likely to identify B-BBEE requirements as constraints as compared to contractors in Grades 2 to 6.

3.3.3 Legislation or Regulation having Negative Impacts due to Manner of Implementation; Part II

As noted, due to the above being an open-ended question, some respondents did not restrict themselves in 3.3.2 above to legislation or regulation, but also included practices. However, a more detailed assessment on legislation and regulation that were identified as having negative impacts on business operations due to the way in which they are being implemented is given below. For a range of legislative and regulatory requirements, the respondents were asked to rate whether the particular legislation or regulation had negative unintended consequences on the enterprise business operations due to the manner it was being implemented using the following scale:

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Undecided / Don’t Know</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
<th>Not Applicable</th>
</tr>
</thead>
</table>

A summary of the percentage of respondents rating legislation and regulation rated as having the most negative impacts (strongly agree and agree) on business operations is given below, but also including the corresponding rating of not having a negative impact (strongly disagree and agree) on business operations.
It is seen that the cidb registration process is rated by 35% as having a negative impact on business operations, while 33% rate the cidb registration process as not having a negative impact on its business operations. In general, other than the cidb registration process, more respondents rate the implementation of legislation and regulation as having no negative impact greater than that having a negative impact on business operations. This must not however be construed that areas of negative impact should not be improved upon.

A breakdown of legislation, regulation and administrative practices having a negative impact on business operations by contractor grade is given below. Overall (other than for the B-BBEE Charter), the negative impact of the poor implementation of legislation, regulation and administrative practices has a larger negative impact on smaller contractors.

### 3.4 Public Sector Infrastructure Procurement and Delivery

#### 3.4.1 Public Sector Procurement and Delivery; Satisfaction

Respondents were then asked to rate their overall satisfaction with various aspects of public sector procurement and delivery. The following rating scale was used.

<table>
<thead>
<tr>
<th>Very Satisfied</th>
<th>Satisfied</th>
<th>Neither</th>
<th>Unsatisfied</th>
<th>Very Unsatisfied</th>
</tr>
</thead>
</table>
The percentage of respondents that were unsatisfied (i.e. unsatisfied or very unsatisfied) as well as the percentage of respondents that were satisfied (i.e. satisfied and very satisfied) are shown below. It is seen 36% of respondents were dissatisfied with payment of approved invoices, 33% dissatisfied with the communication of outcome of tender adjudication process and 31% were dissatisfied with time to finalise tender adjudication.

<table>
<thead>
<tr>
<th>Area</th>
<th>Satisfied</th>
<th>Not Satisfied</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment of approved invoices</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communication of outcome of tender adjudication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time to finalise tender adjudication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integrity of tender adjudication process</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tender documentation (length, duplication, etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compliance by clients to SCM regulations and policies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time to finalise appointment</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Other areas of dissatisfaction with high levels of dissatisfaction include integrity of tender adjudication process, tender documentation, compliance to national and other SCM regulations and policies and time to finalise the appointment of the contractor.

A breakdown of dissatisfaction by contractor grade is given below. Of significance is that the larger contractors tend to be more dissatisfied with public sector infrastructure procurement and delivery.

3.4.2 Public Sector Procurement and Delivery: Impact of Red Tape

Respondents were asked to rate the impact of red tape in various aspects of public sector procurement and delivery on their business. The following rating scale was used.
No noticeable trends were observed, but rather that around 50% of respondents agreed (i.e. agree or strongly agree) that red tape was significantly impacting on their business, including that red tape could result in a company going out of business next year. It is however likely that the respondents have interpreted red tape here as lack of market access.

3.4.3 Public Sector Procurement and Delivery: Reducing Red Tape

Participants were also asked to identify the single greatest barrier that needs to be addressed to reduce red tape in public sector infrastructure delivery, for which the following stood out clearly (not in any order of priority):

i) corruption;
ii) public sector skills and capacity; and
iii) prompt payment.

3.4.4 Public Sector Procurement and Delivery: Impact of Contract Participation Goals (CPGs)

Respondents were specifically asked to rate the additional cost (as a percentage of the total contract budget) that is incurred as a direct result of implementing Contract Participation Goals (CPGs). Over 50% of respondents had reflected that they were required to implement CPGs on their contracts – at an average increase of around 14% in the project cost.

3.5 Summary and Conclusions

An overview of the perceptions of the impact of red tape on contractors has been given in the preceding sections. Again it is noted that red tape is broader than just legislative, regulatory and administrative
practices, but also anything that unnecessarily adds to the cost or complexity of delivering public sector infrastructure with government and thus makes it harder for businesses to operate and/or grow efficiently.

The preceding sections have highlighted that the most substantive general business environment constraints facing contractors can be categorised as public sector constraints and business environment constraints, namely:

i) public sector constraints; namely payment processes, corruption, and public sector SCM processes; and

ii) business environment constraints; namely access to work opportunities, access to credit and corruption.

In general, access to work and access to credit impact more negatively on small and medium size contractors, while corruption and SCM processes impact more negatively on large contractors.

Of interest, B-BBEE and cidb grading regulation were typically identified as being less of a constraint than public and business environment constraints.

Turning specifically to legislative, regulatory and administrative impacts, 45% of contractor respondents specified that the contents of legislation or regulation was not having a negative impacts on business operations, while 52% of contractor respondents specified that the manner in which the legislation or regulation is being implemented is not having a negative impacts on business operations. This somewhat surprising conclusion, that the quality of the regulation is having more a negative impact than the efficiency with which it is implemented is illustrated further below for the most significant negative regulatory and administrative practices.

B-BBEE requirements were identified as the regulation having the most significant negative impacts, followed by the less significant negative impacts of cidb grading, payment processes, CPG and community requirements and SCM processes.
The B-BBEE requirements were rated as having a higher negative impact by large contractors that by small and medium contractors while the cidb grading requirements was rated as a higher negative impact by small and medium contractors.

Allowing for more open-ended questions, the most significant negative impacts reported by contractors were related to public sector processes – namely payment of approved invoices and tender adjudication issues (i.e. communication of tender adjudication, time to finalise tender adjudication and integrity of the tender adjudication process).

A further view of red tape is given by the overall satisfaction with various aspects of public sector procurement and delivery, the cidb registration process, B-BBEE requirements and Department of Labour H&S inspections were rated poorly.

Finally, it is relevant to note that the increasing use of CPGs is reported to be increasing construction costs by around 14% on average.

In conclusion:

1) The largest negative general business impacts on contractors are public sector capacity and process constraints and general business environment constraints (including lack of access to work, delayed payments and corruption).

2) Other than B-BBEE requirements and cidb grading requirements at a lower level, regulation itself was not identified as having a significant negative impact on contractors. It has to be stressed however that regulation is not cost free, and the cost of regulation must be measured against the regulatory objective – such as the imperative of transformation and the risk management objectives of the cidb grading system.

3) Notwithstanding this, the cidb registration process was clearly identified as having a negative impact on the contracting sector.
4. **Constraints Impacting on Professional Service Providers (PSPs)**

4.1 **Introduction**

This Section first investigates the general business environment constraints facing professional service providers (PSPs), which provides a broader context to understand specific red tape issues. The legislative, regulatory and administrative themes perceived to be having negative impacts on PSP operations are then identified. Again, it is noted that legislation can have negative impacts for two main reasons: either the content of such legislation, and/or the administrative processes involved in the implementation of such legislation, has negative (and generally unintended) impacts on businesses.

4.2 **General Business Environment Constraints Facing Professional Service Providers (PSPs)**

Professional Service Providers (PSPs) identified a wide range of business environment constraints or challenges facing their business operations (see Appendix A2). Eleven percent of PSP respondents specified that their company faced no business environment challenges.

![Bar Chart](chart.png)

Of those facing constraints, the most frequently mentioned business environment constraints impacting on PSPs (in order from most frequently mentioned):

i) Access to work (27%);
ii) Payment processes (20%);
iii) SCM processes (20%);
iv) Project management (by the client) (11%)
v) Skills (9%)
vi) Overall compliance burden (7%)
vii) B-BBEE requirements (6%)
viii) Corruption (6%); and
ix) Discounted professional fees (6%)
An analysis of constraints by respondents in terms of turnover is given below, although the data must be treated with some caution with decreasing importance of constraint. Notwithstanding this, it is seen that small PSPs identify SCM processes, skills shortages and the overall compliance burden as being more significant that do medium and large PSPs. Medium and large PSPs however identify corruption as a significantly more significant constraint than do small PSPs.

4.3 Public Sector Legislation / Regulations Constraints Facing Professional Service Providers (PSPs)

PSPs were asked to identify the two main government legislation and regulations that are having significant unintended negative impacts on their business operations. The first questions requested respondents to identify legislation or regulations that are having negative impacts due to the contents of the legislation or regulation, and the second question asked respondents to identify legislation or regulations that are having negative impacts due to the way the legislation or regulation is being implemented (i.e. there may not be any problem with the contents of the legislation or regulation). However, due to this being an open-ended question, some respondents did not restrict themselves to legislation or regulation, but also included administrative practices.

3.5.1 Legislation or Regulation having Negative Impacts due to Contents

A similar assessment of the top themes identified by PSPs as having negative effects due to the contents of the legislation, regulation or practices is given below. Thirty two percent of PSPs however stated that the contents of legislation, regulation or administrative practices are not having a negative impacts on business operations.

The top theme identified by PSP as having a negative impact due to the content of the legislation, regulation or administrative practices are:

i) B-BBEE requirements (23%)
ii) Discounted professional fees (9%)
iii) Tender awards based on price and not value (7%)
iv) SCM processes (7%);
v) Project management (by the client) (6%); and
vi) Conditions of contract (4%).
An assessment of a negative impact based on the contents of legislation, regulation or practices in terms of the size of the PSP is given below. Of significance is that 16% of medium and large PSPs that have raised the award of tenders based on price alone and not on value as a negative impact. 10% of medium and large PSPs also raise the forms of contract as a concern.

4.3.2 Legislation or Regulation having Negative Impacts due to Manner of Implementation; Part I

Forty four percent of PSP respondents specified that the manner in which the legislation or regulation is being implemented is not having a negative impacts on business operations. The top themes identified by PSPs as having negative impacts on their business operations due to the way in which these are being implemented are highlighted below:

i) B-BBEE requirements (13%);
ii) SCM processes (10%);
iii) CIDB grading (8%);
iv) Project management (6%);
v) SARS: requirements (5%);
vi) Payment processes (4%); and
vii) Tender documentation (4%).
Note that ‘cidb grading’ refers to the views expressed that the cidb grading system does not provide a reliable indicator as to the performance capability of a contractor (but only its financial capability).

An assessment of the constraints identified by small and medium to large PSPs (with an annual turnover of less than R10m pa and greater than R10m pa respectively) is given below. Of interest is that medium and large PSPs identify B-BBEE requirements as a more significant constraint than small PSPs.

4.3.3 Legislation or Regulation having Negative Impacts due to Manner of Implementation; Part II

Respondents were then asked to rate their overall satisfaction with various aspects of public sector procurement and delivery. The following rating scale was used.

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Undecided / Don’t Know</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
<th>Not Applicable</th>
</tr>
</thead>
</table>

The percentage of respondents that were unsatisfied (i.e. unsatisfied or very unsatisfied) as well as the percentage of respondents that were satisfied (i.e. satisfied and very satisfied) are shown below.
The top themes identified by PSP as having negative effects due to the manner in which the legislation, regulation or practices are implemented are:

i) Building plan approval process (43%);
ii) B-BBEE requirements (40%);
iii) Guidelines on professional fees (36%);
iv) SARS Tax certificate requirements (28%);
v) SACPCMP registration requirements (27%);
vi) NHBRC/cidb dual registration requirements (24%);
vii) National Treasury CSD registration requirements (24%); and
viii) Broad SARS requirements (24%).

A breakdown of legislation, regulation and administrative practices having a negative impact on business operations by size of PSP is given below. It is seen that the guidelines on professional fees and SACPCMP registration requirements has a noticeable more negative impact on medium and large PSPs as compared to small PSPs.
4.4 Public Sector Infrastructure Procurement and Delivery

4.4.1 Public Sector Procurement and Delivery: Satisfaction

Respondents were asked to rate their overall satisfaction with various aspects of public sector procurement and delivery. The following rating scale was used:

| Very Satisfied | Satisfied | Neither | Unsatisfied | Very Unsatisfied |

The percentage of respondents that were unsatisfied (i.e. unsatisfied or very unsatisfied) as well as the percentage of respondents that were satisfied (i.e. satisfied and very satisfied) are shown below. It is seen 36% of respondents were dissatisfied with payment of approved invoices, 33% dissatisfied with the communication of outcome of tender adjudication process and 31% were dissatisfied with time to finalise tender adjudication.

Other areas of dissatisfaction with high levels of dissatisfaction include integrity of tender adjudication process, tender documentation, compliance to national and other SCM regulations and policies and time to finalise the appointment of the contractor.

A breakdown of dissatisfaction by contractor grade is given below. Of significance is that the larger contractor tends to be more dissatisfied with public sector infrastructure procurement and delivery.
4.4.2 Public Sector Procurement and Delivery: Impact of Red Tape

Respondents were asked to rate the impact of red tape in various aspects of public sector procurement and delivery on their business. The following rating scale was used:

- Strongly Agree
- Agree
- Undecided / Don’t Know
- Disagree
- Strongly Disagree
- Not Applicable

As for the contractors, no noticeable trends were observed, but rather that over 60% of respondents agreed (i.e. agree or strongly agree) that red tape was significantly impacting on their business, including that red tape could result in a company going out of business next year. It is however likely that the respondents have interpreted red tape here as lack of market access.

4.4.3 Public Sector Procurement and Delivery: Reducing Red Tape

Participants were also asked to identify the single greatest barrier that needs to be addressed to reduce red tape in public sector infrastructure delivery, for which the following stood out clearly (not in any order of priority):
i) corruption;  
ii) public sector skills and capacity; and  
iii) SCM processes.

### 4.5 Summary and Conclusions

An overview of the perceptions of the impact of red tape on PSPs has been given in the preceding sections. Again it is noted that red tape is broader than just legislative, regulatory and administrative practices, but also anything that unnecessarily adds to the cost or complexity of delivering public sector infrastructure with government and thus makes it harder for businesses to operate and/or grow efficiently.

It is noted that there are many similarities in red tape facing contractors and PSPs. The preceding sections have highlighted that the most substantive general business environment constraints facing PSP can be categorised as public sector constraints and business environment constraints, namely:

i) public sector constraints; namely payment processes, corruption, and public sector SCM processes; and  
ii) business environment constraints; namely access to work opportunities, discounted fees, tender awards based on price not value and corruption.

In general, access to work and SCM processes impact slightly more negatively on small PSPs, while corruption and payment processes impact more negatively on large PSPs.

Turning specifically to legislative, regulatory and administrative practices, 32% of PSPs respondents specified that the contents of legislation or regulation was not having a negative impacts on business operations, while 44% of PSPs specified that the manner in which the legislation or regulation is being implemented is not having a negative impacts on business operations. This implies that the efficiency with which the regulation and administrative practices is having less a negative impact than the quality of the regulation and administrative practices with which it is implemented is illustrated further below for the most significant negative regulatory and administrative processes. Note that the negative impact of content vs. efficiency observed for PSPs is consistent to that observed for contractors.
B-BBEE requirements were identified as the regulation having the most significant negative impacts, followed by SCM processes, discounted professional fees, project management by the client, and tender awards based on price not value. Significantly, the cidb grading process (which is based on financial capability and not capacity and performance) was also identified by PSPs as a negative impact on public sector procurement.

Allowing for more open-ended questions, the most significant negative impacts reported by PSPs were related to public sector processes – namely payment of approved invoices and tender adjudication issues (i.e. communication of tender adjudication, time to finalise tender adjudication and integrity of the tender adjudication process).

In conclusion:

i) The largest negative general business impacts on contractors are public sector capacity and process constraints and general business environment constraints (including lack of access to work, discounted fees, delayed payments and corruption).

ii) Other than B-BBEE requirements and cidb contractor grading system at a lower level, regulation itself was not identified as having a significant negative impact on contractors. It has to be stressed however that regulation is not cost free, and the cost of regulation must be measured against the regulatory objective – such as the imperative of transformation and the risk management objectives of the cidb grading system.

iii) Notwithstanding this, the cidb contractor grading system was clearly identified by PSPs as having a negative impact on public sector procurement.
5. **Summary and Recommendations**

The previous sections have examined the local and international initiatives in reducing red tape, together with a survey of cidb registered contractors with regard to the negative impact of legislative, regulatory and administrative factors impacting on their business.

In this regard, the most substantive business issues facing both contractors and PSPs were identified as:

iii) public sector capacity and process constraints; and
iv) general business environment constraints (including lack of access to work opportunities and delayed payments) and corruption.

Furthermore contractors (and specifically small and medium size contractors) identified the cidb registration process as having a negative impact on the contracting sector, while PSPs identified the cidb contractor grading system (which is based on financial capability and not capacity and performance) as having a negative impact on public sector procurement.

Furthermore, PSPs identified the guidelines on professional fees, discounted fees and tender awards based on price and not as value as business constraints.

It was also noted that other than B-BBEE requirements and cidb grading requirements at a lower level, regulation itself was not identified as having a significant negative impact on contractors.

It is recommended therefore that red tape reduction must therefore focus on:

v) public sector capacity and process constraints, general business environment constraints and fraud and corruption;
vii) a review of the cidb grading criteria; as well as
vii) enhancing the cidb registration process.

The issue of guidelines on professional fees and discounted fees needs to be investigated further before a recommendation can be made.

In fact, many of these issues are in fact identified as strategic objectives in the cidb 2015/16 to 2019/20 Strategic Plan and the cidb 2017/18 2019/20 Annual Performance Plan (or business plan in private sector terminology), and the cidb has in fact initiated activities in support of, in particular, the following objectives:

i) to improve the capacity of clients, contractors and PSPs to procure and deliver construction;
ii) to provide business and policy advisory services to the construction industry to SMEs;
iii) ensuring compliance and adherence with the prescripts and combating of fraud and corruption in the construction industry; and
iv) to facilitate accessibility to credit for contractors.

In addition the cidb is embarking on an on-line registration system for contractors, and has also initiated a review of the cidb contractor grading criteria.
However, it is worth reflecting on the observation made in Section 2.9 that “while governments around the world are increasingly focusing on reducing red tape, there have been very few measurable improvements”. The cidb, and government procurement capacity in South Africa has to guard against not making a measurable impact in reducing red tape in construction.
## APPENDIX A1: BUSINESS ENVIRONMENT CONSTRAINTS AND CHALLENGES IMPACTING ON CONTRACTORS

<table>
<thead>
<tr>
<th>Business environment constraint / challenge</th>
<th>Key contractor issues raised</th>
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</table>
| 1. Payment processes                       | Payment process delay issues include the following:  
|                                            | • Clients taking longer than 30 days to pay compliant invoices. This negatively impacts on cash flow and ability of contractors to pay labour and sub-contractors (including payment of suppliers) and job stability/ lay-offs as well as company closures. Many suppliers are now requesting up-front payment before delivery of equipment.  
|                                            | • Main contractors unnecessarily delaying paying sub-contractors and/or keeping retention funds for lengthy periods.  
|                                            | • Administrative issues which include administration of paperwork (for example certificates of completion and delays in issuing order numbers and where work commences before these are issued)  
|                                            | • Corruption. For example, municipal Councillors are alleged to be involved in approval of invoices before payments.  
|                                            | • Delays in receiving payment certificates which delay purchasing of materials.  
|                                            | The trend in payment delays at a municipal level is reported to be at its worst level since 2007.  
|                                            | Payment process delays are linked to lack of skills at client and consultant level, corruption, as well as SARS tax clearance certificate expiry issues. |
|                                            | 2. Access to work  
|                                            | This includes:  
|                                            | • Government’s perceived inability to spend its budgeted funds (which is linked to numerous causal factors including limited skills, poor budget planning etc.).  
|                                            | • Limited expenditure by private companies, due to the low level of confidence and investment in the country.  
|                                            | • Departments preferring to appoint sub-contractors.  
|                                            | • Smaller companies having to compete with bigger companies and bigger companies having to compete with smaller companies and smaller companies having to compete with smaller companies (e.g. too many Grade 2s).  
|                                            | • Housing subsidy approval process delays regarding finalising funding agreements between Department of Human Settlements and Municipalities.  
|                                            | Due to weak demand and high competition, contractors are forced to submit bid prices with little or no profit and which is not necessarily sustainable in the long term. |
|                                            | 3. Access to credit  
|                                            | This includes:  
|                                            | • Access to working capital once a tender has been awarded  
|                                            | • Attracting black investment into publicly listed companies  
|                                            | • Inability to hire or purchase machinery due to lack of finance and as a requirement to tender for projects.  
|                                            | • The need to provide Construction Guarantees (which ties up cash flow) as well as difficulty in obtaining Construction Guarantees, combined with providing retention as well  
|                                            | • Difficulties in obtaining credit due to impaired credit records due to late client payments on previous projects.  
|                                            | • Clients refuse to use cession even when the main contractor is not responsible for paying sub-contractors.  
|                                            | • Requests that government provide further assistance through the provision of guarantees and other up-front payment arrangements.  
|                                            | • Credit lines with suppliers.  
<p>|                                            | • Contractors not assisted with advance payments. |</p>
<table>
<thead>
<tr>
<th>Business environment constraint / challenge</th>
<th>Key contractor issues raised</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Access to fast bridging finance so, for example, contractor have funds to purchase materials and equipment required to start a project.</td>
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<tr>
<td></td>
<td>• Availability of financial statements from accountants required for CIDB upgrading.</td>
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<tr>
<td></td>
<td>• Late payment of invoices results in contractors receiving bad credit ratings which in turn disqualifies them from receiving bank finance.</td>
</tr>
</tbody>
</table>

4. B-BBEE requirements

This includes:

• BBBEE charter requirements too cumbersome. This includes the processes and paperwork concerning the auditing and verification.  
• Having to renew the BBBEE certificate annually.  
• BBBEE complain contractors being appointed for projects for which they are not necessarily qualified. They then sub-contract projects to other contractors and do not always pay these contractors on time resulting in project delays and other business challenges.  
• White owners perceiving the potential profit after sharing with black owners as being very low/ of little incentive.  
• BBBEE companies that win government contracts sub-contract to white owned suppliers but do not necessarily pay for these supplies.

BBBEE is linked to access to work challenges esp. for white owned companies.

5. Corruption

Corruption issues include:

• Tender awards being cancelled, delayed, and/or re-issued.  
• Tenders awarded to companies submitting the lowest price and that are not qualified to deliver the project successfully and these projects are not completed. These projects then need to be re-tendered so that they can be correctly completed and this involves wastage of public funds.  
• Payment of bribes to influence tender award decisions.  
• Municipal corruption widely reported.  
• Expenses incurred during site briefings are not accounted for in the project expenses.

Corruption can result in awards of projects to incompetent contractors which can result in poor quality, or non-delivery, and further wastage of public funds.

6. SCM processes

Tender adjudication process issues raised include:

• The lengthy time-frames (i.e. beyond the tender validity period) to award tenders due to perceived lack of skills, corruption etc. This creates many problems including lack of work in the industry, increases in prices which cannot be reflected in adjusted budgets etc.  
• Advertised tenders being cancelled due to poor client budgeting/ non availability of budget.  
• Challenges in obtaining client feedback on queries regarding advertised tenders (due to a lack of skills to respond to such queries), as well as challenges in obtaining the results of tender adjudication processes.  
• Inconsistencies / differences in functional criteria used to award projects. These are open to interpretation/ can be difficult to apply consistently.  
• Various client requirements that may pose barriers to entry and may not always be appropriate for the project size/ CIDB grading level.  
• Unrealistic tender requirements that small businesses provide proof of registration with provident funds (whereas most small businesses are not members of provident funds).

Delays in finalizing adjudication processes and awarding tenders are linked to Access to Work challenges as well as potentially corruption.

7. Skills

Skills issues include:

• Government/ client capacity to provide oversight and project management of projects, including inexperienced management and inability to follow contracts.
### Business environment constraint / challenge

Key contractor issues raised

- Lack of consultant skills used by clients. Engineering consultants not pricing accurately and over-stretching consulting budgets at the expense of contractors.
- Municipalities not having full time site personnel to monitor operations.
- Difficulty in finding skilled labour including scarce skills and DoL/ DHA restrictions on bringing in skills from overseas.
- Lack of or difficulty in identifying skilled BBBEE partners.
- Labour skills including shortages of artisans.
- Sub-contractor skills.
- Local community labour/ general workers being unfit to work.
- Client capacity skills including consultant skills. This includes senior management inability to answer questions of clarity on tender documents during the proposal formulation stage which undermines the submission of accurate tender proposals and budgets. Client capacity also includes issues such as poor budgeting and/or financial management as well as poor specifications contained in tender documents, as well as deviations from schedules of work
- Poor engineering consulting skills which impacts on poor project design and project execution challenges.

### 8. CIDB grading: process

CIDB grading process issues raised include:

- Inefficient processes when contractor documentation is requested and lengthy time-frames to complete upgrading process (e.g. sometimes over 6 months and not 21 days as per CIDB regulations).
- Dissatisfaction with the three year grading lapse period.
- Lack of integration with CSD e.g. checking Tax Clearance status
- Incorrect CIDB grading requirement being applied to projects by clients in tender documentation and contractors not reporting these cases to the CIDB to investigate.
- Differences in compliance documents required on the CIDB web site as opposed to CIDB staff once assessing an application. CIDB still requires submission of original Tax Clearance documents but the new SARS TC PIN system should not require original TCs to be submitted.
- CIDB requirement that both annual turnover and largest contract be considered, whereas annual turnover may be a sufficient criteria.
- CIDB call centre not answering phone calls.
- Unnecessary imposition of a 21 day waiting period after / for each additional documentation / query is requested.
- CIDB requirement that documents over and above bank statements are required as proof of work completed. Bank statements should be sufficient. Clients take a long time to submit additional documents re proof of work completed and this unnecessarily delays the grading process.

### 9. CIDB grading: barriers to entry

CIDB grading process issues raised include:

- Higher grades being allowed to tender for lower graded projects.
- Growing from CIDB level 1 to 2 because CIDB does not consider the collective value of projects which amounts up to the required threshold to effect an upgrade.

### 10. Tender documentation

Tender documentation issues include:

- Poor quality documents e.g. Technical specifications and Bills of Quantities often contain mistakes and this compromises the ability to submit and evaluate proposals on an equal and cost-competitive footing. Bills of Quantities should include an allowance / contingency to accommodate additional expenses. Base-line pricing guidelines for materials should be provided to consulting engineers to guide their Bill of Quantities. The same average rates from large projects cannot and should not be used for small projects which should have higher margins to allow for a learning curve and unintended mistakes due to challenges in obtaining highly skilled staff to manage small projects.
- Contradictions between CIDB grading requirement and functionality criteria requirements contained in tender documents.
<table>
<thead>
<tr>
<th>Business environment constraint / challenge</th>
<th>Key contractor issues raised</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excessive compliance documentation and information requirements and lack of coordination/ alignment with NT’s Central Supplier Database where all such information should be updated, verified and checked. This is linked to lack of CSD integration/ alignment with tender systems of government spheres and departments.</td>
<td></td>
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<tr>
<td>Poor quality specifications on which to base accurate pricing.</td>
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<tr>
<td>Complexity of documents including terminology.</td>
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<tr>
<td>Costs involved, including requirements to purchase tender documents (often involving long travel distances to collect such documents- although NT CSD is making more documents available online) and to submit multiple copies of lengthy documents.</td>
<td></td>
</tr>
<tr>
<td>Municipal tenders not being advertised in the government gazette or Treasury’s e-tenders system.</td>
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</tbody>
</table>
**APPENDIX A2: BUSINESS ENVIRONMENT CONSTRAINTS AND CHALLENGES IMPACTING ON PSPS**

<table>
<thead>
<tr>
<th>Business environment constraint / challenge</th>
<th>Key PSP issues raised</th>
</tr>
</thead>
</table>
| 1. Access to work                          | • Diminishing public sector budgets and poor public sector budget planning  
                                           | • High levels of competition, and low fees / huge fee discounts that are not sustainable having to be submitted in proposals. |
| 2. Payment process                         | • Delayed payments of contract certificates  
                                           | • Prolonged Implementing Agent’s financial approval to pay PSPs  
                                           | • Constant variation orders  
                                           | • Poor communication by clients as to the requirements of an invoice and the proof required and which is seen to be used as an excuse by clients to delay payments.  
                                           | • Perceived grudges against consultants by public sector officials. |
| 3. SCM processes                           | • Poor budget estimates by clients to cover scope of work. Budgets do not cater for cost escalation over time.  
                                           | • Once consultants work completed, can take up to three years to award project and start on site (mainly Department of Public Works) linked to rigorous requirements hindering the start of projects.  
                                           | • Unwise selection of successful tenderers: awarding of multiple projects to one tenderer that does not have the capacity to fulfil all projects at once.  
                                           | • Poor risk assessment by clients where extremely low fees submitted in proposals and which compromise project quality and/or completion. |
| 4. Project management                      | • Poor client management of principal agent leading to final account not being settled.  
                                           | • Lack of client accountability to complete projects. |
| 5. Skills                                  | • Difficulties faced by small companies in attracting qualified professionals.  
                                           | • Poor public sector skills contributed to poor planning, as well as understanding of and management of projects.  
                                           | • Public sector project management officials with no project management training or qualifications. |
| 6. Overall compliance burden               | • Wide range of compliance costs and requirements have a disproportionate impact on smaller companies. |
| 7. B-BBEE requirements                     | • Not enough registered black Quantity Surveyors to meet BEE ownership requirements. |
| 8. Corruption                              | • No one wants to report corrupt practices for fear of “biting the hand that feeds you”. |
| 9. CIDB                                    | • CIDB offices are sometimes located at great distances. |
| 10. Discounted professional fees            | • Acceptance of what are perceived to be unrealistic professional fee discounts. Non-adherence to Department of Public Works Professional Fee Tariffs. |
| 11. Building plan approval                  | • Delays in building plan approvals. |
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