CONCRETE FEATURES

cidb

Construction Industry Development Board

Richard Raphiri

WHERE THERE'S A BILL THERE'S GOOD REASON TO ACT

The Public Procurement Bill is officially a done deal with the President's recent signature making it an act of parliament. The legislation was conceived to address the shortfalls of the Public Preferential Procurement Framework Act (PPPFA), which was deemed unconstitutional in certain provisions.

It was intended as a single, constitutionally sound regulatory framework based on Section 217(1) of the Constitution, which states that when an organ of state or similar entity contracts for goods or services, it must adhere to fair, equitable, transparent, competitive and cost-effective principles.

But will the new approach satisfy these criteria or has controversy simply shifted from one piece of legisation to the next? There are different views about the implications of the new bill, particularly for the construction industry.

In a media statement issued in March, South African Institution of Civil Engineering vice president Vishaal Lutchman contended that the bill will not address the existing dysfunction in South Africa's public procurement system, which is a key objective.

Speaking to Moneyweb, Consulting Engineers South Africa chief executive officer Chris Campbell maintained that the bill would hinder rather than support infrastructure delivery, while Master Builders South Africa executive director Roy Mnisi criticised the unfettered – and unconstitutional – power it affords the Minister of Finance.

Executive member of the Construction Adjudication Association of South Africa, Vaughan Hattingh, quoted in Quarrying Africa, believes that while the bill is a start in addressing shortcomings, a significant paradigm shift is needed in the way in which procurement entities, principal contractors and subcontractors engage.

Currently employers have contractual relationships only with main contractors, who in turn engage subcontractors. This leaves small construction companies vulnerable to practices such as late or non-payment – the enemies of transformation. Will the new bill address this shortcoming?

As with any change, there will be some adjustment needed as its provisions take effect. However, it seems likely that the act will go to the Constitutional Court – indeed the Democratic Alliance is likely to head the procession, brandishing a laundry list of objections. The party has decried the act as 'another disastrous piece of race-based legislation'.

Should it see fit, the court can set aside the act until problem areas are rectified, explains Richard Raphiri, cidb Manager: Procurement and Delivery Management.

There is much to be done in the meantime, he adds, as the regulations that will underpin the act are still to be released for public consultation and debate. It is in these regulations that some of the details that are causing consternation may be fine-tuned and turned around.

As it stands, though, the bill may curtail the cidb's long-held role as as custodian of procurement practices for the construction industry. Certain sections of the Standard for Uniformity in Engineering and Construction Works Contracts may need to be revised and the cidb will work closely with National Treasury in areas such as practice notes and procurement guidelines. The Register of Contractors and Register of Projects – the backbone of the cidb's regulatory role – are not affected.

Chapter 4 of the bill caused particular concern among interested parties. This section, which deals with set-asides, prequalification, mandatory subcontracting and localisation, was not reopened for public comment after initial recommendations from stakeholders were incorporated. It is these key areas that could be addressed and tweaked in the regulations.

Says Richard: 'It's essential that the cidb and industry stakeholders are at the forefront of work on the regulations so that we do not see a repeat of 2017. Then, the 30% subcontracting clause was passed with little objection, only to be misconstrued and manipulated to the point that the site invasion phenomenon that it created persists to this day.

> 'The need for proactivity in this matter cannot be overstated.'

ERWIC masterclass

ERWIC WOMEN: IN A (MASTER)CLASS OF THEIR OWN

When a Ms becomes a master at a tough craft; a leading light in a fiercely competitive industry in which no inch is given in the struggle for lucrative projects, chances are that Ms is an ERWIC woman – a pioneer and an inspiration to her peers.

The cidb Empowerment and Recognition of Women in Construction (ERWIC) movement born five years ago as an awards event is now a multistorey structure that is reinforced year after year through the efforts and energy of driven women sharing their successes and experiences to encourage likeminded go-getters to follow their example.

ERWIC information sessions – appropriately named masterclasses – will now appear on the calendar frequently to keep pace with intel on and insight into topical issues that will enrich the businesses of members of the growing band of women turning the sods of transformative progress in the built environment.

The first ERWIC masterclass was staged in April 2024, with a comprehensive compliance-focused programme kicked off by the aptly acronymed FEM, or Federated Employers Mutual Assurance Company, which stressed the significance of health and safety regulation compliance in the workplace, an essential foundation for any successful construction venture. Not only does compliance lower the risk of injury, with fewer compensation claims, the organisation explained, it improves productivity and creates happier employees.

Delegates were reminded of the nitty-gritty of cidb business, including registration, grading and establishing financial capability to manage a project, and of the importance of remaining compliant to claim their slice of the attractive public sector procurement pie.

The mike then passed to the National Home Builders Registration Council to enlighten the audience on issues such as residential construction requirements, standards that must be upheld and dispute resolution procedures.

> “Says ERWIC community pioneer Thobe Ndlovu of Thobethulani Trading: ‘These sessions are invaluable to our community, which is not only a networking structure, but a lobbying body and a support system for women contractors. We advocate mentorship, with experience and lesson sharing, to enable more women to gain a foothold in this demanding industry.’”

The second masterclass is planned for August 2024 – also the month of the ERWIC awards ceremony – and will zero in on project management, with a touch of tendering also on the table.

Presentations by experts will bring to life textbook concepts such as the secrets of a clearly defined project based on structure, deliverables and strategy; essential team member talents and the invaluable values of organisational alignment, communication, transparency, accountability, risk management and performance measurement.

As Thobe told her construction colleagues at last year's ERWIC networking event: ‘If one person onsite is slacking, the project will never succeed’ and ‘arguments and fights cripple a team’.

This is one no ERWIC contender nor winner can afford to miss!

Date and details will be revealed soon.