

CHALLENGES OF BLACK CONTRACTORS WITH THE SOUTH AFRICAN PUBLIC PROCUREMENT SYSTEM

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Public procurement processes still reflect demographic inequalities, particularly regarding the underrepresentation of black contractors in South Africa. This study sought to identify the problems of black contractors with the current procurement system in South Africa and provide strategies to overcome these obstacles. The qualitative research method was employed for primary data collection. Twelve interviews were conducted with black contractors in the construction industry. Data received was analysed using thematic content analysis. The findings show that black contractors face several challenges, including financial capacity issues, human resource capacity issues, stigma issues, and corruption issues. The findings show that despite the various reforms instituted by the South African government to enhance black contractors' participation in procurement systems, there are still many challenges inhibiting black contractors from fully participating in the procurement system. The paper identifies the black contractors' challenges with the current public procurement systems and provides measures that can assist the government in improving the public procurement system to address these challenges.

Keywords: Black; contractors; government; public procurement; South Africa

INTRODUCTION

Procurement concerning construction is purchasing or acquiring products, services, or results from outside the construction project team. This includes setting up a series of complex contracts of complex contracts to procure (Emuze and Adlam, 2013). The South African public procurement processes, before 1994, favoured big, well-established companies. It was challenging for freshly founded companies to participate (Fourie and Malan, 2020). The CIDB annual report of 2019/2020 indicates that 162 579 companies registered with the Construction Industry Development Board (CIDB), within grades 1 to 4 category, with approximately 146 140 (90%) registered in the grade 1 category (CIDB, 2020). The percentage of registered black and female-owned businesses was 95% and 41%, respectively. However, there was no correlation between registrations and the overall built environment industry turnover (Aigbavboa *et al.*, 2014). This shows how, despite the transformation efforts the government has made post-1994, black contractors are still facing challenges of not securing projects because their services are not procured (Swapi, 2019).

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In the South African context, it is a little different as there is a South African public procurement process that is used at present to address issues of demographics to race, gender, etc., so the scope of selection for contractors and subcontractors is much broader than simply being a capable candidate. For instance, contractor the procurement process considers both the tender process and the black or previously disadvantaged people's ownership structure of the bidding firm in arriving at the selected firm to execute the project. Such measures are necessary as they highlight emerging contractors' challenges and seek to address these issues (Saad, 2018). The South African government has made comprehensive changes to procurement law regarding the processes for accessing public contracts. These reforms aimed to enhance the participation of the marginalised citizens in the apartheid era in the government project execution. However, the challenges black contractors face with the public procurement tender processes have not been adequately addressed in the literature. Past studies about emerging contractors and procurement systems have focused on issues such as the impact of the Black Economic Empowerment (BEE) concept in the public procurement systems on black construction professionals (Amoah, 2023), the perceptions of construction professionals on BEE policy as a procurement strategic tool (Amoah, 2023), corruption in the public procurement in South Africa (Klaaren *et al.*, 2022), and Strategic Management for Small and Medium Enterprises (SMEs) (Rambaruth *et al.*, 2021). These studies did not address black contractors' challenges with the current procurement regime, creating a literature gap that needs to be addressed. This study aimed to investigate the obstacles black contractors experience with the current public procurement system in South Africa.

LITERATURE REVIEW

The South African Procurement Policy

The government is aware of the opportunity for cost and scale-savings through procurement to increase public sector productivity. Government agencies of independent countries, multilateral funding organisations, and international aid organisations carry out humane relief and development assistance programs through national procurement procedures to eradicate diseases, reduce poverty, and advance economic and social development (Balogun *et al.*, 2016). The procurement process must be accountable, transparent, and well-managed because it consumes significant public resources. The public interest will be safeguarded, and high-quality service delivery will be ensured. Public procurement remains the government activity most vulnerable to waste, fraud, and corruption due to the enormous amount of money flow (Balogun *et al.*, 2016).

The “South African Construction Industry Development Board (CIDB)”, established to advance small businesses' role, was also given the important responsibility of carrying out SME contractor development. Several problems still prevent the survival of construction SMEs despite the extensive level of government involvement in their development and support (Fourie and Malan, 2020). Efforts have been put in place via these measures to change the environment regarding public procurement in South Africa. Through these measures, the marginalised group, black contractors, have received the necessary assistance to participate in the procurement processes (Kramer, 2016). As much as efforts have been put in place, many issues remain to be addressed, particularly the challenges black contractors face concerning the South African public procurement processes.

Procurement Challenges Faced by Emerging Contractors in South Africa

The National Treasury aids local governments, municipal organisations, and municipalities in creating appropriate training materials to accomplish procurement goals. However, differences in talent have regularly come up in public conversation. According to Fourie and Malan (2020), lack of skills and ability is the single most significant barrier to the success of public procurement in South Africa. Supply Chain Management (SCM) deployment requires sufficient capacity in the form of suitable structures and appropriately qualified and experienced SCM personnel. Some government organisations fall short of expectations regarding SCM personnel's skills and competencies (Saad, 2018). According to Mazibuko and Fourie (2017), insufficient governance results from SCM participants' lack of power over the procurement process.

Capacity in this context can be interpreted as capital or financial resources. For any company to be established or grow when it is already established, it needs capital and to be involved in more projects and developments so that more money goes into the establishment. Emerging contractors find themselves in a predicament where they cannot access funding from financial institutions to obtain the necessary resources to see the company grow and be more equipped to fulfill big projects and contracts (Chakauya, 2023). As a result, the owners of these companies seek this funding from private capital, which demands large stakes in these emerging companies, thus hindering the personal growth of the black owners of these companies (Mtshali *et al.*, 2017). The lack of financial backing from private banks for emerging contractors hinders their progress and chances of being fully integrated into the public procurement system in South Africa. This also hurts the transformation project that is supposed to happen in the industry because established contractors will continue to grow, and emerging contractors will remain stagnant (Kautonen *et al.*, 2020). This implies that the services of established contractors shall continue getting procured by government departments, and emerging contractors will keep getting left out of the procurement processes.

It is a challenge to ensure adherence to these rules and regulations. A few of the behaviours that fall under breaking the laws and regulations include the propensity to avoid using a competitive procedure for quotes and bids and the incorrect use of the preference points system (Famiyeh *et al.*, 2018). There are insufficient controls and procedures for managing bids, bid committee members are picked without considering policy needs, and insufficient motivation to break SCM rules (Panya and Awuor, 2023). The study of moral judgements, suitable behaviour, and inappropriate behaviour is known as ethics. Ethics and potential conflicts of interest significantly impact how SCM is implemented. While some chief financial officers abuse their considerable position, other top officials are not always adequately consulted (Fourie and Malan, 2020). The South African government implemented the BEE provision to empower all historically disadvantaged people, not just a select number of black company owners. To accomplish this, the “Broad-Based Black Economic Empowerment Act (BBBEEA)” was passed, which asks for greater possibilities for workers and smaller businesses as well as more diverse ownership and management (Klaaren *et al.*, 2022).

METHOD

The approach used for this study is a qualitative approach with the use of semi-structured interview questions. This specific method is to get information from

industry professionals on the flaws of the public procurement tender system, black contractors' challenges with the system, and how to improve the public procurement tender system so it better accommodates black contractors. According to Polit and Beck (2017), qualitative studies allow researchers to get participants' life experiences affected by the phenomenon under study. The purpose of gathering the information from the participants was to get their views on experiences that happened with the topic at hand and use that information to make a diagnosis and propose possible solutions. The target population was only black-owned construction firms classified as emerging construction firms by the CIDB grading system. Thus, participants from these construction firms must also have experience with the firm's public procurement aspect. The participants were purposely selected as the researcher only wanted people who knew the procurement system and thus would be capable of giving insightful responses to the interview questions. The purposive sampling method helps the researchers to identify people with in-depth knowledge about the research problem and thus get invaluable data (Creswell and Poth, 2018). The participants were selected from the black emerging construction firms in the Gauteng Province of South Africa. The reason for sampling from Gauteng is that the researcher works there, and the province contains the most significant number of black-owned construction firms listed in the CIDB database. This allowed the researcher to collect data efficiently and at a minimal cost.

The data was collected in two forms. The researcher scheduled face-to-face interviews with the participants using an open-ended interview guide. However, other participants requested that the interview questions be emailed due to their inability to have a face-to-face interview. The interviewees were therefore informed in the emails to seek clarifications from the researcher before answering the interview questions. These helped in resolving ambiguities in the answers received via emails. The researcher completed the interviews within 2 months due to the failure of some participants to respond on time. In all, 12 participants were interviewed, since saturation was reached at the 10th interview. The data collected were analyzed using thematic content analysis to extract themes from the participants' responses. Frequencies and percentages for each theme were then calculated using an Excel statistical tool. The Profile of the participants interviewed is shown in Table 1.

Table 1: Profile of the participants

Participants	Education	Profession	Work experience
P1	Bachelor's Degree	Quantity Surveyor	8 years
P2	Honours Degree	Quantity Surveyor	& years
P3	Honours Degree	Construction manager	2 years
P4	Master's Degree	Quantity Surveyor	10 years
P5	Bachelor's Degree	Procurement officer	3 years
P6	PhD Degree	Quantity Surveyor	13 years
P7	Honours Degree	Architect	7 years
P8	Bachelor's Degree	Contractor	3 years
P9	Master's Degree	Quantity Surveyor	12 years
P10	Honours Degree	Quantity Surveyor	11 years
P11	Diploma Degree	Contractor	6 years
P12	Master's Degree	Construction manager	11 years

Table 1 shows that all participants have tertiary education and relevant qualifications in the built environment. Notably, the majority have Honours degrees, followed by master's and bachelor's degrees. This highlights the participants' expertise in their

fields, making the information they provided credible. Although all the participants deal with the procurement aspect of their organisation, the majority work as Quantity surveyors, followed by construction managers. Again, most of the firm's owners classify themselves as contractors. Likewise, most of the participants have over 6 years of experience in their work environment, thus having invaluable experience in the changes they face with the current procurement process.

FINDINGS AND DISCUSSION

Participants' Views on the Fairness of the Procurement Process

Participants were asked to express their opinions on the fairness of the current procurement process. This question was asked as a premise for the main research question. The researcher did not further prove this question regarding the reasons for their as further proof may duplicate the answers to the main research question. The participant's responses were then analysed and presented in Table 2.

Table 2: Fairness of the procurement process

Responses	Frequency	Percentages
Fair	3	25%
Not fair	7	58%
No comments	2	17%
Total	12	100%

From Table 2, the majority (58%) indicated that the current procurement process is unfair to emerging contractors. However, 25% indicated that the procurement process is fair to the black contractors, whilst 17% decided not to comment. This result clearly shows how black contractors have lost faith in the procurement process despite the existence of the BEE policy aimed to enhance their participation in public procurement in South Africa.

Table 3: Black contractor's challenges with the public procurement system

Themes	Sub-themes	Frequency	percentages	Overall
Financial capacity issues	Lack of financial capacity	8	25%	38%
	Lack of plant and equipment.	4	13%	
	Lack of experience	3	9%	
Human resource capacity issues	Lack of skills	3	9%	30%
	Lack of knowledge	2	6%	
	Lack of qualified personnel	2	6%	
Stigma issues	Perceptions surrounding black contractors	2	6%	15%
	The gap between emerging and established contractors	3	9%	
	Procurement process malpractices	2	6%	
Corruption	Collusion among contractors	2	6%	15%
	Fronting issues	1	3%	
Total		32	100%	100%

Participants View on Challenges with the Current Public Procurement Processes

The participants were then asked to express their views on the challenges they face with the procurement system in public sector projects. Participants identified several challenges they faced in securing government contracts and were allowed to mention more than one response. The responses were thematically analyzed to identify themes. The themes were then grouped under main themes based on their origin as

shown in Table 3. The most common challenge, mentioned by the participants was financial capacity issues (38%). This is followed by issues related to human resources (30%). Stigma and corruption-related issues were mentioned by 15% of the participants, respectively. The findings show that despite the reforms in the public procurement to capacity black contractors, people still face challenges that prevent them from participating in the procurement process.

Challenges Emerging Contractors Face in the Current Public Procurement System

The challenges enumerated by the participants, as indicated in Table 3, are discussed under the following themes.

Theme 1: Financial capacity issues

The financial difficulties hamper their ability to cover operating expenses and transportation costs, hire qualified personnel, and procure necessary equipment. Additionally, participants emphasized that not having access to physical resources, such as plant and equipment, usually inflates their contract prices, as they need to include the hiring cost in the tender amount, making their bids less competitive compared to established contractors. For instance, P3 noted that hiring a Concrete mixer per day is too high, making their prices uncompetitive for concrete works. On the other hand, P5 stressed his frustration with securing funding for their project at the financial institution due to their inability to provide all the required documents, making them lose projects.

P5: "You go to the bank for financial assistance, and they will ask you to submit documents for collateral purposes, which we do not have. The bank will not give you a loan without providing the necessary documentation".

P3: "The cost of hiring construction equipment is very high here, but since we cannot buy our own, there is nothing I can do".

The issue of liquidity challenges for contractors is not a new phenomenon. According to Nobanee (2017), new contractors often struggle to secure the client's construction guarantee, hindering their ability to meet contract requirements and thus folding up their businesses in the process. Mtshali *et al.*, (2017), however, attribute the financial challenges of emerging contractors to the high-interest rate on the loans secured from the banks because of collateral discrimination some of these banks apply on predominantly black emerging contractors in South Africa. These practices hinder the growth of small construction as they cannot submit the collateral to have access to financial help for their project. However, since the government intended to help grow black contractors, one would have expected financial assistance facilitated by the government to be accessed by the upcoming contractors.

Theme 2: Human resource capacity issues

The participants noted a lack of experience as a significant challenge. This lack of experience affects their ability to write competitive tender bids, demonstrate a track record of successful projects, and meet regulatory requirements. A lack of skills was another issue participants stated which correlates with limited experience that hinders the chances of black contractors being selected for project execution. Lack of knowledge and shortage of qualified personnel stated by participants also contribute to mistakes in tender submissions, which can lead to errors in critical tasks, such as pricing tender documents. As P2 and P5 narrate.

P2: "The lack of experience hinders the emerging contractor's ability to write and submit responsive and competitive tender bids, which means that the emerging

contractors have little to no proven track record of running a construction project and completing in on time and on/under budget and hinders their ability to meet all regulatory requirements of the tender enquiry”.

P5: “Lacking knowledge of the public procurement tender processes could result in the emerging contractors making a significant number of mistakes, such as late submissions, arithmetical errors, and errors on their tender documents, which will hinder the chances of their bids being successful”.

These issues are not peculiar to black contractors in South Africa but rather a global issue, especially in the developing world. According to Fourie and Malan (2020), a lack of knowledge and skills prevents small contractors from getting access to projects, as these areas are critical criteria in the procurement processes in many countries. Emerging contractors often are unable to access funding for their projects due to the lack of financial knowledge in coming up with practical proposals suitable for consideration by the financial institutions, making them unable to execute their contracts successfully (Chakauya, 2023)

Theme 3: Stigma issues

Participants also mentioned a stigma surrounding black contractors with concerns that some may take advantage of the unregulated nature of the construction industry, impacting their reputation and trustworthiness. The construction industry is one of the few industries where anyone who wishes to establish a company and claim to be a contractor bids for the tender and takes advantage of the transformation policies put in place to empower contractors of colour. So, black contractors are sometimes associated with being in the industry to make quick money without knowing or caring about their work. One of the participants shared a story of how he has experienced such contractors.

P6: “Some contractors buy luxury cars after they claim payments and end up not paying subcontractors”.

Another challenge highlighted by the participants is the significant gap between emerging and established contractors, with the latter having more resources, personnel, experience, and knowledge. This means procurement officials often favour these established contractors over disadvantaged black emerging contractors during the procurement process.

P7: “Established contractors have more financial resources, experience, personnel, knowledge, etc., which will always put them to an advantage when bidding for big projects. Emerging contractors just cannot compete”.

The stigma surrounding black contractors and the gap between them, and established contractors are new challenges identified by this study as significant challenges to black contractors in the procurement process. However, this stigma issue may not be exactly as it is based on the procurement officials’ assumptions about emerging contractors. This generalisation situation affects contractors who would have done marvellous work if the contract had been awarded to them. Kautonen *et al.*, (2020) suggest that procurement officials often disregard policies associated with projects, thereby defeating policy objectives that might be implemented to support emerging contractors.

Theme 4: Corruption

One participant mentioned corruption in public procurement processes as a challenge, where established contractors with resources and experience can offer bribes to procurement officers, undermining the competitiveness of the process and

disadvantaging black contractors. The surprising rarity of this mention suggests that corruption might be an underreported issue.

P9: "They established contractors with sizeable financial resources and vast experience with public procurement processes are familiar with procurement officers that evaluate tender offers, so they can offer them bribes in exchange for their companies to get recommended to the client for the project".

Although public procurement is based on accountability as prescribed by the laws, many practitioners still find ways to engage in corrupt activities that usually lead to awarding contracts to undeserving people. Famiyeh *et al.*, (2018), found procurement officials' unethical behaviour to be a significant challenge in the public procurement tender processes. Corrupt practices have also been identified as a contributory factor to the unfairness in the tender selection process, leading to the failure of qualified contractors as the selection is not based on merit and the appropriateness of the tender documents (Fourie and Malan, 2020).

Policy Implications of the Finding

The study identified common challenges that incapacitate black construction companies from fully participating in the procurement process. These challenges indicate a lack of understanding among black companies regarding policy requirements. Again, it also gives an insight into a lack of knowledge among policy implementers on how to execute these policies effectively in conjunction with the established companies. There must be a further comprehensive strategy for improving the implementation of transformation policies and initiatives in South Africa's current public procurement processes. Standard solutions included setting clear targets and regularly evaluating progress through statistical analysis or procurement procedures to ensure policy achievement is necessary. The study's findings indicate the need for periodic policy auditing, reducing entry barriers for black contractors, further capacitating them with skills and funding, and recognising transformation as a long-term commitment requiring realistic goal setting. This will help address issues associated with financial capacity, stigma, corruption, and critical challenges of black contractors with the current public procurement process.

CONCLUSIONS

The public procurement process has been used as an effective tool to address peculiar issues that are challenging sections of society in many countries. South African government, having realised failures in the apartheid regime procurement regulations and inability to treat all citizens, reformed the procurement processes to address the past injustices where other citizens were socio-economically excluded. One such reform is the BEE, aimed at bringing emerging contractors, usually black-owned construction firms, to participate in the public procurement process for capacity and economic enhancement. Therefore, this study sought to discover the challenges black contractors face with the current public procurement regime. The study identified that black contractors have issues with the current public procurement tender system in South Africa, which is affecting their growth. These challenges are the inability to access the project due to issues such as lack of experience, corruption in the procurement process, submitting lower tenders to increase their winning chances, and poor cashflows, among others. These challenges are hindering black contractors from fully participating in the public procurement process and enhancing their empowerment as per the procurement reforms post-apartheid rule. Therefore, there is an urgent need for policy intervention and empowering emerging contractors through

funding, skills development, and mentorship strategies to enhance their competence level to navigate the public procurement system successfully. Future studies should check government interventions in addressing black contractors' challenges in South Africa.

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