



## PORTFOLIO COMMITTEE ON PUBLIC ACCOUNTS & FINANCE

### NEGOTIATING MANDATE

To: Chairperson of the Select Committee on Finance

Name of Bill: Public Procurement Bill

Number of Bill: B18B-2023

Date of Deliberation: 22 March 2024

#### VOTE OF THE LEGISLATURE:

The Portfolio Committee on Public Accounts and Finance as designated by the Free State Legislature votes in favour of the Bill:

#### **After presentation on the Bill, the general members of the Public and Stakeholders across the four (4) districts and the Metro Municipality raised the following:**

- a) that under Chapter 3, clause 9(1) and (2) – Code of Conduct, it was suggested that the words “or other official” be explicitly defined on which officials the Bill is referring to.
- b) That the criteria used to dispose of assets for example land, buildings etc, preference must be given to the previously disadvantaged persons.
- c) that tender documents must be translated into all official languages as most emerging businesspeople find it difficult to interpret or comprehend as they may find it too technical.
- d) that the central supply database register must be on a rotational basis to avoid partiality.

#### **The following concerns although not having any bearing or relevance to this Bill, were raised as follows and should be noted:**

- a) that emerging contractors are overlooked and not correctly graded even after being subcontracted under established main contractors.
- b) Contractors from other provinces are still preferred over the locally based contractors.
- c) That application for resumes or “letters of good standing” by contractors are not issued timeously (delayed).

- d) That the enactment of laws or the process of implementation thereof, is slow.
- e) That local authorities must be encouraged prior to disposal of equipment or assets, to rather auction and take the scrapping of those equipment as a last resort (emerging businesspeople may benefit from buying equipment that is not obsolete)
- f) That small and medium-sized businesses in rural areas are being sidelined or overlooked and there is no prospect of growth.
- g) That NHBRC satellite offices be established in all the districts.

### **GENERAL OBSERVATION**

The general members of the public across the four (4) districts and the Metro Municipality, where public hearings were held supports the Bill. Most concerns raised were on the grading of emerging contractors, foreign business owners being preferred and high rate of youth unemployment.

### **RECOMMENDATIONS**

- (a) the Portfolio Committee support the Public Procurement Bill [B18B-2023 subject to consideration of the following:

<b>Item</b>	<b>Clause</b>	<b>Problem Statement</b>	<b>Recommendation</b>
1.	General		The Bill must ensure that the process of debarment is fair and ensuring an efficient and timely sharing of information to ensure that the debarred suppliers do not continue to do business with government
2.	16 and 17	Section 16 empowers the procuring institution to develop their own procurement system while Section 17 empowers the Minister to prescribe the procurement systems for bid committees. Clarity is hereby sought.	The Minister to prescribe appropriate and differentiated framework
3.	Clause 18	Chapter 4 includes a number of procedural measures that do not belong in a primary legislation. For instance Section 18(5)( c) states “a	Consider putting clauses of this nature in the Regulations

		<i>bid must be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation:..."</i>	
4.	Clause 25 and 29	Section 25 and 29 seem to be granting the same powers and or functions to different entities.	The Minister to be empowered to prescribe regulations and/or frameworks

(b) the Portfolio Committee votes in favour of the Public Procurement Bill [B18B- 2023] with the proposed amendments.

The Portfolio Committee votes in favour of the Bill with the proposed amendments.




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**HON VW TSHABALALA**  
 CHAIRPERSON OF PORTFOLIO COMMITTEE ON PUBLIC ACCOUNTS & FINANCE  
 FREE STATE LEGISLATURE  
 22 March 2024