



Limpopo Legislature

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NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Finance

Name of Bill : Public Procurement Bill

Number of the Bill : [B18B-2023]

Date of Deliberation : 27 March 2024

Vote of the Legislature: Provincial NCOP Permanent Delegates
to negotiate in favour of the Bill with
inputs as per attached report.



HON. K.A PHALA

DATE: 27 MARCH 2024

COMMITTEE CHAIRPERSON

(Consider it signed if submitted electronically)

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NEGOTIATING OF THE PORTFOLIO COMMITTEE ON PROVINCIAL TREASURY ON THE PUBLIC PROCUREMENT BILL [B18B-2023]

1. INTRODUCTION

Public Procurement Bill [B18B-2023] was referred to the Limpopo Provincial Legislature by the National Council of Provinces (NCOP) as a section 76 legislation. The House referred the Bill to the Portfolio Committee on Provincial Treasury for consideration and referral of mandates to the NCOP.

2. PURPOSE OF THE PUBLIC PROCUREMENT BILL

The purpose of this Bill is to regulate public procurement and to prescribe a framework within which preferential procurement must be implemented.

3. CONSIDERATION OF THE BILL

On 08 March 2024, the Committee met with the Permanent Delegate to NCOP and National Treasury for a briefing on Public Procurement Bill. Upon the briefing, the Committee resolved that one provincial public hearing be held on the Bill.

On 15 March 2024, the Committee conducted the public hearing in Capricorn District. Stakeholders from the provincial government and other sectors of the community were invited to the public hearing.

The Committee met on 27 March 2024 to consider and adopt the report on the Bill.

4. FINDINGS ON THE BILL

It was found that **chapter 1 of the Bill** coordinates some provisions set out in both Public Finance Management Act and Municipal Finance Management Act.

Chapter 2 of the Bill sets out the administrative structure of the Bill. In other words, it sets out the establishment of Public Procurement Office in order to thoroughly engage on matters pertaining to procurement issues. The PPO will have a separate

role as empowered by this legislation. It will also assist on dispute related matters arising from procurement issues.

Chapter 3 of the Bill highlights that all prescriptions will be done through the regulations which are yet to be subjected to public scrutiny. The Bill addresses undue influences which might flow from procurement processes. The chapter also sets out behavioral patterns expected between the supplier and government (debarment) and sets out the process that outlines such debarment. The debarment therefore highlights the transparency that is required by law.

Chapter 4 of the Bill included additional information that was previously not available in the Bill that was presented in Parliament. It therefore links subsections 217 (1)(2)(3) of the Constitution by giving effect to those subsections. It stresses that businesses involved in procurement processes should be owned by South Africans. It also highlights empowerment that is necessary for previously disadvantaged groups (e.g women) in society. The chapter encourages that procurement should take place within a sustainable environment. The Chapter also highlights that the Bill will repeal the PPPFA once it comes into operation.

Chapter 5 of the Bill provides a framework through which regulations should be made and prescribes the procedures to be followed when engaging in procurement processes.

Chapter 6 of the Bill deals with dispute resolution. It also establishes a Public Procurement Tribunal, its composition and qualifications of the members of the tribunal.

Chapter 7 of the Bill highlights measures put in place to deal with criminal matters arising from procurement processes. The chapter also highlights that there will be regulations that will be subjected to consultation processes and parliamentary scrutiny.

5. INPUTS BY STAKEHOLDERS

The stakeholders agreed with the contents of the Bill and raised the following:-

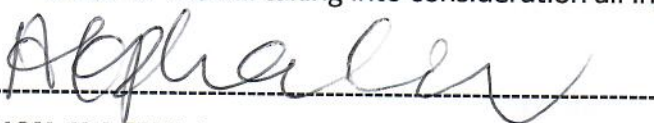
- 5.1 On dispute resolution, stakeholders wanted to establish the person who will be responsible for appointment of the tribunal.
- 5.2 The period for consideration of matters in the tribunal should be clear to

avoid possible long processes which may have the potential of affecting service delivery especially on expenditure of conditional grants.

- 5.3 Whether there was a way to standardize the local content as currently, municipalities were doing different things and that in itself has a tendency of attracting irregular expenditure and causing confusion in the procurement system amongst others. There is also a need to reduce the red tape iro compliance levels and a better way to ensure that issues of thresholds are handled carefully.
- 5.4 There is a need for clarification of the roles of Public Procurement Officer (PPO) and Office of the Chief Procurement Officer (OCPO).
- 5.5 There should be a way in which DTI check compliance or monitoring in Municipalities especially on the local content.
- 5.6 The scope provided by the Bill provides less information for Parliament and Legislatures except in chapter 4 wherein it highlights that it takes into consideration the legislative sector.
- 5.7 There is a need for reconfiguration of clause 20 regarding technology. There is a need for consolidation iro advertising. The seamless integration of the system especially on laws dealing with procurement into the envisaged regulations will be highly appreciated.
- 5.8 Clause 21 – there is a need for reconsideration of the subsections in this clause as they look similar.
- 5.9 Clause 17 (5)(b) should be excluded from the Bill.
- 5.10 Clause 18(3) should be clarified.

5. NEGOTIATING MANDATE

The Portfolio Committee considered the Bill and hereby confers a negotiating mandate to the National Council of Provinces' Permanent Delegates to negotiate in favour of the Bill taking into consideration all inputs made by stakeholders.



HON. K.A PHALA

CHAIRPERSON: PORTFOLIO COMMITTEE ON PROVINCIAL TREASURY