

CHAPTER 1

INTRODUCTION, ORIENTATION AND RESEARCH METHOD

1.1 INTRODUCTION

This chapter gives an exposition of the concept procurement as a means to promoting empowerment of the economically disadvantaged. Problems relating to such means are highlighted. The hypothesis for research is stated, so are the research questions and objectives for the study. Methods of research are explained to involve literature study and empirical survey, and an outline of chapters concludes the discussion.

1.2 ORIENTATION AND BACKGROUND TO STUDY

The 52nd African National Congress held in Polokwane in 2007 noted that the central and most pressing challenges that face South African are unemployment, inequality and poverty. High levels of unemployment cause continued poverty and the campaign to end poverty is a campaign to create employment (Sisulu, 2008:49). Mubangizi (2008:175) concurs with Sisulu and points out that half of South Africa's 46.9 million population is poor.

The cause of poverty lies mainly in the long history of segregation and discrimination that has left a legacy of inequality and poverty on the South African society (Malefane, 2005:1). According to McCrudden (2004:261) it was not surprising after the collapse of apartheid that the new democratic government of South Africa used procurement to redress the effects of discrimination and inequality. Basheka (2009:148) points out that public sector procurement has been singled out as a solution to the drastic poverty levels.

Bolton (2004:619) states that public procurement is 'business' because it is a means for the state to obtain goods and services at reasonable cost but such procurement also has broader social, economic and political implications. It is therefore not uncommon for governments to use procurement as a means to promoting objectives unconnected

with the immediate object of procurement. It is in relation to such secondary objectives that public sector procurement is of particular significance in South Africa.

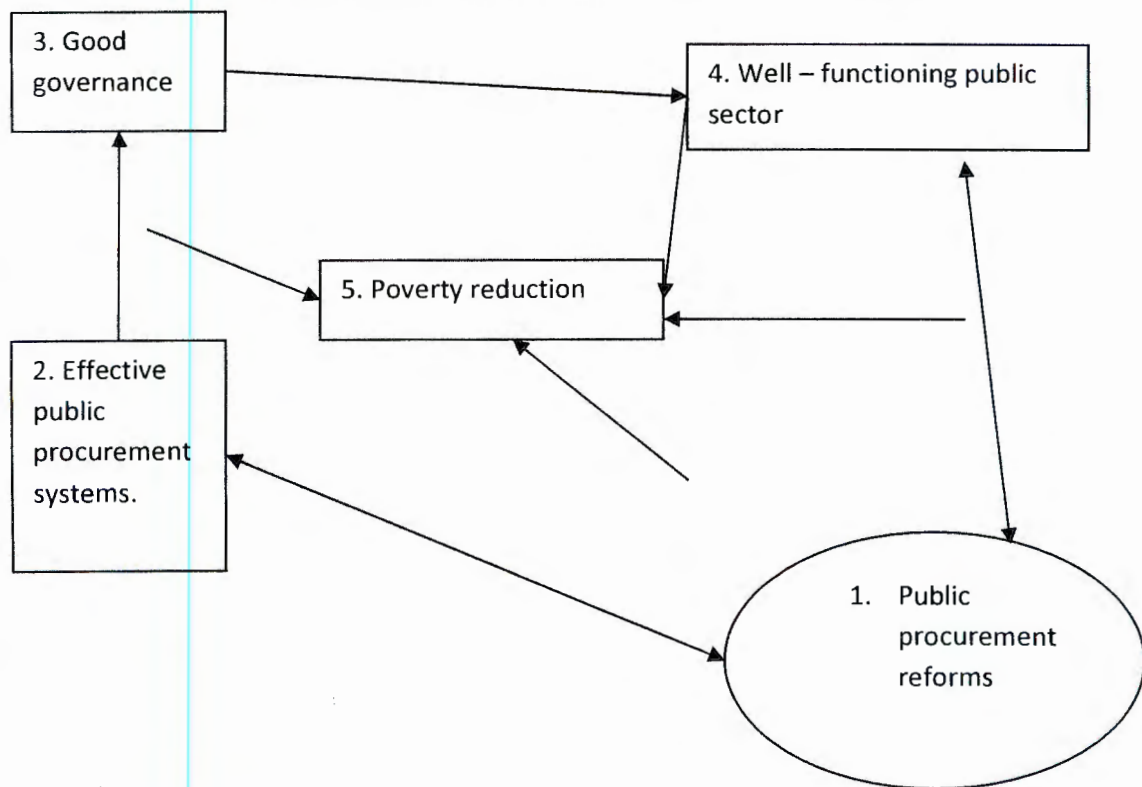
The significance of the use of public sector procurement in South Africa saw the newly elected democratic government embark upon a reform process of the public sector procurement. It is a well-acknowledged fact that efficient and effective public procurement systems contribute to good governance, which is a critical component of a well-functioning public sector and poverty-reduction strategy (Basheka, 2009:151).

Figure 1.1 below illustrates the overall goal of government to reduce the levels of poverty through the use of public sector procurement. According to the diagram, poverty reduction depends on a well-functioning public sector, which offers public goods and services in an efficient and effective manner, and this is possible only if effective governance is in place. To have effective governance in the public sector, public procurement systems have to be efficient due to the critical role procurement plays in the functioning of organizations.

The public sector procurement reform in South Africa led to the constitutionalization of public sector procurement. The reform processes were supported by the introduction of a number of legislative measures, including the adoption of the Public Finance Management Act and the Preferential Procurement Policy Framework Act. Section 217 of the Constitution of South Africa, Act 108 of 1996 provides the basis for public sector procurement.

Research has shown that small, medium and micro-enterprises (SMMEs) represent an important vehicle to address the challenge of job creation, economic growth and equity in the country. What makes SMMEs more relevant in the context of poverty reduction is the fact that they have a remarkable capacity to absorb unskilled labour, which, in turn, can lead to an improvement in the human capital of the poor, since they are the ones who are usually characterized by low skill levels. According to McCutcheon and Watermeyer (*in* Rogerson, 2004:182) the construction industry is viewed widely as an efficient industry for employment generation for a given capital flow and thus is frequently the basis for targeting national employment and poverty alleviation programmes.

Figure 1.1 Public Procurement Reforms and Improved Governance



Source: International Handbook of Public Procurement

1.3 PROBLEM STATEMENT

The strategic mandate of the Gauteng Department of Infrastructure Development previously known as Gauteng Department of Public Transport, Roads and Works (GDPTRW), is ensuring the provisioning of transport infrastructure, ensuring that social infrastructure developed with government's financial investment in the form of capital works is constructed, maintained and upgraded. The Department must also develop and implement the national initiated Expanded Public Works Programme (Gauteng Department of Public Transport Roads and Works, 2008:9).

According to the register of construction contractors of the Construction and Industry Development Board (CIDB), Gauteng Province had a total number of twenty thousand and eighty registered construction companies in May 2009. Eighty seven percent of these companies were on CIDB grading level 1, five percent were on CIDB level 2, one percent on CIDB level 3, two percent on CIDB level 4, one percent on CIDB level 5, one

percent on CIDB level 6, zero point nine percent on CIDB level 7, zero point three percent on CIDB level 8 and zero point four percent on CIDB level 9 (www.cidb.org.za). The CIDB grading level determines the maximum value in rands (R) of a contract that a contractor is capable of performing.

According to Sam Moleshiwa, the President of the National Black Contractors and Allied Trades Forum (Nabcat), black contractors are only allowed to feed on the crumbs. He says that South Africa is experiencing a boom in the construction sector but this does not filter through to the previously disadvantaged contractors. He cites the R25 billion Gautrain project and the 2010 Fifa World Cup Stadia projects as examples saying that even though there is a black empowerment component in the deals, this amounts only to a mere two percent of the deal. He further points out that fourteen years into the dawn of democracy, most black contractors have not been able to go beyond CIDB level six (Molefe, 2008:4).

Mngxitama (2009:12) concurred with the President of the National Black Contractors and Allied Trades Forum saying that government, instead of empowering communities has surrendered the building of houses which according to him is not rocket science, to white construction monopolies that have made shocking profits. He cites the example of Aveng Group, Murray and Roberts, and WBHO which have made profit of billions of rands in housing projects. Mngxitama's words are confirmed by Eamonn, (2007) who reports that the Big Five, Murray and Roberts, Aveng, Basil and Read, and the other big white owned construction companies have experienced huge growth. This situation implies that procurement as implemented currently will not necessarily create employment and empower the poor through construction work.

The primary aim of this study is to establish the effectiveness of the use of public sector procurement as a poverty alleviation mechanism in the construction sector within Gauteng Department of Infrastructure Development.

1.4 HYPOTHESIS

Public sector procurement in Gauteng Department of Infrastructure Development can contribute immensely to poverty alleviation in the construction industry, yet, implementation of it is skewed against the objective.

1.5 RESEARCH QUESTIONS

From the problem statement above, the study would attempt to find answers to the following questions:

- What is public sector procurement?
- What are the processes and procedures used to procure goods and services at Gauteng Department of Infrastructure Development?
- What are the successes or failures of the use of procurement as a poverty alleviation mechanism within the Gauteng Department of Infrastructure Development?
- What recommendations can be offered to enhance the use of procurement as a poverty alleviation mechanism?

1.6 RESEARCH OBJECTIVES

The main objectives of the study are:

- To give a theoretical exposition of the concept public sector procurement.
- To explore the processes and procedures used to procure goods and services at Gauteng Department of Infrastructure Development.
- To determine the success or failure of the use of procurement in the construction industry within the Gauteng Department of Infrastructure Development.
- To give recommendations that will ensure the effective use of public sector procurement by the Gauteng Department of Infrastructure Development to alleviate poverty.

1.7 RESEARCH METHODOLOGY

The research project was conducted through literature review and empirical survey, employing the quantitative method of enquiry. This approach was used so as to enable the researcher to generalize her findings at the end of the study. This approach is also the most appropriate this study because the researcher had to quantify the responses of the participants.

1.7.1 Literature Review

The following databases were consulted to ascertain the availability of study material for the purpose of this research:

- Catalogue of theses and dissertation of South African Universities
- Catalogue of books: NWU Library (Vaal Triangle Campus)
- Nexus
- EBSCO Academic Search Elite

Further literature study was undertaken to determine what public sector procurement entails and how effectively it can be used to alleviate poverty. Books, newspaper articles, journals and government publications were consulted to gather information.

1.7.2 Empirical study

An empirical investigation was conducted through the use of questionnaires and face-to-face interviews. On the basis of the research objectives all relevant information are analysed and evaluated. Empirical approaches were as follows:

1.7.2.1 Interviews

Semi-structured interviews were conducted with four procurement officials of the Gauteng Department of Infrastructure Development and four small micro and medium enterprises in the construction industry. The purpose of the interviews was to bring unknown perspectives to the fore or to confirm or reject the researcher's own views (De Vos et al, 1998:181). Semi-structured interviews were chosen so as to allow participants to provide their own opinion and to enable the interviewer to ask questions which are necessary but might not have been pre-planned.

1.7.2.2 Questionnaires

Questionnaires were sent to 60 emerging construction contractors. The purpose of the questionnaire was to obtain facts and opinions about the empowerment of the historically disadvantaged individuals. The questionnaire comprised of both open-ended and closed-ended questions. This was to allow respondents to further explain their answers or comments.

1.8 OUTLINE OF CHAPTERS

Chapter 1: Introduction, orientation and research method.

This chapter gives an orientation of the study and the problem statement. The objectives of the study are indicated and a hypothesis formulated.

Chapter 2: Theoretical explanation of the concept procurement.

This chapter addresses the theoretical concept of procurement.

Chapter 3: Analysis of public sector procurement processes at Gauteng Department of Infrastructure Development.

This chapter explores the implementation of public sector procurement at Gauteng Department of Infrastructure Development.

Chapter 4: Empirical study.

This chapter presents an analysis of the empirical study.

Chapter 5: Findings, recommendations, conclusion.

This chapter presents a summary of the findings and recommendations.

CHAPTER 2

THE CONTEXT OF PUBLIC SECTOR PROCUREMENT

2.1 INTRODUCTION

Public sector procurement is used by governments throughout the world to provide goods and services to the public. Governments get a chunk of their monies from taxpayers and it is important that government spending through procurement and otherwise, benefit the citizens of the country. Government procurement is of vital importance to a country and must therefore be used effectively to address the economic and socio-economic challenges of a country. Public sector procurement, if not well managed, could lead to inefficiency, fraud and corruption there by rendering the government dysfunctional.

The focus of this chapter is, consequently, to provide an overview of the concept of public sector procurement within the South African context. It looks at the legal framework governing procurement in South Africa, the use of supply chain management function as a new approach that encompasses all aspects of procurement. Other areas of focus include the methods of procurement, the procurement process, the promotion of small, medium and micro enterprises and black economic empowerment. Lastly, the ethics in procurement are examined.

2.2 BACKGROUND TO THE USE OF PROCUREMENT AS A POLICY TOOL

For decades blacks in South Africa (SA) have been excluded from participating in the economy of their country by apartheid laws which prohibited them from self-employment and entrepreneurship. This resulted in blacks being illiterate, unskilled and ultimately poor. SA is therefore currently experiencing high levels of poverty which is an outcome not only of social or political forces but of economic processes. There is currently a huge gap existing between the rich and the poor in SA with most whites being rich and blacks being poor. In order to address this situation, the newly democratically elected

government saw a need to use procurement as a measure to include blacks in participating in the economy of the country for the purposes of poverty alleviation.

According to Mkhize (2004:11), public sector procurement in SA accounts for approximately 14% of the country's gross domestic product (GDP). The former Minister of Finance, Trevor Manuel pointed out that government as the largest buyer in the country has a responsibility of ensuring that its procurement policies support and attain its overall economic objectives. He notes that one of the key elements in government's strategy for employment creation and income generating is the promotion of small, medium, and micro enterprises (SMMEs) (South Africa, 1997:1).

2.3 WHAT PUBLIC SECTOR PROCUREMENT MEANS

Watermeyer (2005:28) describes procurement as a process through which contracts are created, managed and fulfilled. He adds that procurement can be documented as a succession of logically related actions that occur or are performed in a definite manner, culminating in the completion of a major deliverable or the attainment of a milestone. Pauw, *et al* (2002:227) concurs with Watermeyer by defining procurement as the acquisition of goods and services - other than the services of officials - for the people and their administration by means of commercial transactions.

Public or government procurement itself refers to those government administrative activities that concern the purchasing of the goods and services the government needs from the private sector. These range from basic stationery requirements and other consumables through to mainframe computer systems, weapons system and large public buildings (Pauw, *et al*, 2002:227).

Basheka (2009:133) is of the view that public procurement and its management is a core function of public financial management and service delivery. An effective and efficient public procurement system especially in South Africa is essential for the realization of the millennium developmental goals and the promotion of sustainable development. The word 'procurement' as contained in section 217 of the Constitution of the Republic of South Africa, should as a result not be understood in the narrow sense but must be given a broader interpretation to include the selling and letting of assets by government (Bolton, 2007:3). For the purpose of this study however, focus will only be on the acquisition of goods and services.

2.3.1 Objectives for public sector procurement

Watermeyer (2005:28) is of the view that goals associated with government procurement systems relate either to good governance (primary goals) or to the social, national agendas and sustainable development objectives (secondary objectives). He cites that secondary or non-commercial objectives can be categorized in terms of obligations placed on tenderers or successful contractors.

Shezi (1998:3) notes that public sector procurement in South Africa is intended to achieve the two goals stated below:

- to utilize public sector procurement as a vehicle to achieve specific socio-economic objectives such as the promotion of targeted small medium enterprises, enhanced job creation opportunities, skills and technology transfer; and
- the promotion of good governance within the sphere of public sector procurement.

The Green Paper on Public Sector Procurement Reform in South Africa of 1997 suggests that public sector procurement can be used as a tool by government to achieve certain socio-economic objectives which may be described as:

- the development of small, medium and micro enterprises, particularly those owned and operated by previously disadvantaged individuals;
- increasing the volume of work available to the poor and the income generation of marginalized sectors of society; and
- affirmative action to address the deliberate marginalization from economic, political and social power of black people, women and rural communities and to empower communities and individuals from previously disadvantaged sectors of society (South Africa, 1997:18).

2.3.2 Targeted procurement and its use to implement policies

Bolton (2004:625) describes targeted procurement as a system of procurement, which is aimed at providing employment and business opportunities for disadvantaged individuals and communities, which are referred to as 'targeted groups'. He points out that this type of procurement policy aims to provide opportunities to the targeted groups to participate in public procurement even though they may not have the necessary

resources, capacity or expertise to perform contracts. He goes on to explain that the system is used as a vehicle to achieve a number of social objectives, including job creation, increasing the use of local resources, economic empowerment, poverty alleviation, and reducing disparities in employment and business ownership in society thereby attempting to link the achievement of social objectives to procurement with the minimum possible cost to government. Shezi (1998:7) concurs with the view that public sector procurement could be utilised as an effective means of promoting specific socio-economic objectives provided that the use of procurement policy and systems have measurable targets, the process used is verifiable, auditable and transparent and takes place within a competitive environment.

2.3.3 The five pillars of procurement

National Treasury (2008:3) stresses that proper and successful government procurement rests upon certain core principles of behaviour namely the 'Five Pillars of Procurement'. These principles are best described as pillars because if any one of them is broken, then the procurement system falls down. The respective pillars are discussed below.

2.3.3.1 Value for money

National Treasury (2008:5) states that price alone is not often a reliable indicator and departments will not necessarily obtain the best value for money by accepting the lowest price offer that meets mandatory requirements. Best value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered. This principle is an essential test against which a department must justify a procurement outcome.

The Procurement function itself must be carried out in a cost-effective way thereby providing value for money. The procurement organisations should avoid unnecessary costs and delays for themselves and the suppliers, and must monitor the supply arrangements and reconsider them if they cease to provide the expected benefits.

2.3.3.2 Open and effective competition

According to National Treasury (2008:5), all departments need to apply effort and research to get the best possible outcome from the market by ensuring that:

- potential suppliers have reasonable access to procurement opportunities;
- available opportunities are notified at least in the Government Tender Bulletin;
- where market circumstances limit competition, departments recognize that fact and use procurement methods that take account of it;
- adequate and timely information is provided to suppliers in order to enable them to bid;
- bias and favouritism are eliminated; and
- the costs incurred in promoting competition are at least commensurate with the benefits received.

2.3.3.3 Ethics and fair dealing

National Treasury (2003:34) requires that all parties involved in procurement or supply chain management, must comply with the highest ethical standards to promote: mutual trust and respect; and an environment where business can be conducted in a fair and reasonable manner, and with integrity.

National Treasury (2008:6) provides that all procurement officials, particularly those dealing directly with suppliers, are required:

- to recognise and deal with conflicts of interest or the potential thereof;
- to deal with suppliers open-handedly;
- to ensure that they do not compromise the standing of the state through acceptance of gifts or hospitality; and
- to be scrupulous in their use of public property and must provide all assistance in the elimination of fraud-and corruption.

Fairness is a very basic concept in public administration and law. It has a larger scope of application than the other pillars in that not only public procurement but all government action must comply with it. Fairness is, according to Pauw and Wolvaardt (2009:71) much more than a legal requirement, it is the basis of civility. Pauw and Wolvaardt (2009:73) are of the opinion that the concept of 'Fairness' as applied to the Constitutional provision on procurement means that public procurement was not to be

driven by market forces alone under the argument that pure capitalism will ensure the greatest good for the greatest many. It is more important that the system is fair to all, especially to those who have been disadvantaged in the past.

Pauw and Wolvaardt (2009:73) are of the opinion that fairness relates to getting what you deserve, procedural justice and just allocation. They argue that it refers to individuals in relation to the processes to which they are subject; for instance the just and unbiased treatment, free of corruption, of a potential supplier in a tender process. It refers to the benefits that individuals gain or duties required from them in comparison to their fellows, for example the way benefits of procurement processes are distributed in society and the distribution of the tax burden between suppliers.

2.3.3.4 Accountability and reporting

National Treasury (2008:7) provides that accountability and reporting involve ensuring that individuals and organisations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability. One of the mechanisms used to enforce accountability is through the auditing of the institution's financial statement and reports. The Auditor-General must audit the financial statements and reports of a department and report to the relevant minister and treasury. The reports indicate the accountability of deviations from the budget and the extent to which predetermined objectives were achieved (Visser & Erasmus, 2002:145).

Within the procurement framework, heads of departments are accountable to their ministers for the overall management of procurement activities; heads of procurement and senior procurement directors are accountable to heads of departments for various high-level management and co-ordination activities; and individual procurement officers are accountable to heads of procurement and their clients for the services they provide (National Treasury, 2004:7).

The manner in which accounting reflects financial information stems from the responsibility that the person entrusted with funds for a specific purpose has to account for the way in which moneys have been applied and utilized (Visser & Erasmus, 2002:256). A primary purpose of accountability is to prevent abuses of taxpayers' money. A secondary purpose is to let it be seen that abuses have been prevented (Baily *et al.*, 1998:290).

2.3.3.5 Equity

According to Visser and Erasmus (2002:263), 'equity' implies fairness, justice and impartiality. Equity serves as the moral virtue, moderating and reforming the hardness of economic forces and acting as a yardstick for redressing existing mal-administration of income, economic development, and equal opportunities.

The word 'equity' according to the National Treasury (2008:8), means the application and observance of government policies which are designed to advance persons or categories of persons disadvantaged by unfair discrimination. This pillar is vital to the public sector procurement in South Africa. It ensures that government is committed to economic growth by implementing measures to support industry in general, and especially to advance the development of Small, Medium, and Micro Enterprises (SMMEs) and Historically Disadvantaged Individuals (HDIs). No public procurement system should be operated if it is not founded on this pillar. It is noted in the National Treasury (2008:8) that in accordance with the Reconstruction and Development Programme, SMMEs and HDIs need to play a bigger role in the economy.

2.4 LEGAL FRAMEWORK OF PUBLIC SETOR PROCUREMENT IN SOUTH AFRICA

Legislation, policies and regulations discussed below apply to all organs of state as defined in the Public Finance Management Act (Act 1 of 1999), to national and provincial institutions. For the purpose of this study, policies and regulations regulating procurement at local government sphere will not be dealt with.

2.4.1 The Constitution of South Africa

As mentioned in chapter 1, Section 217 of *the Constitution* of the Republic of South Africa 1996, hereafter *the Constitution*, provides that when an organ of the State, in the national, provincial or local sphere of government, or any other institution identified in the national legislation, contracts for goods and services, it must do so in accordance with a system that is fair, equitable, transparent and cost-effective. This requirement does not, however, prevent an organ of State or institution from implementing a procurement policy providing for categories of preference in the allocation of contracts, and the protection or advancement of persons, or categories of persons, disadvantaged

by unfair discrimination. Section 217(3) of the Constitution stipulates that a national legislation in which the Preferential Procurement Policy will be implemented be enacted.

2.4.2 Preferential Procurement Policy

As already mentioned in chapter 1 that the *Preferential Procurement Policy Framework Act* (PPPFA) 5 of 2000 hereafter the *Procurement Act*, was promulgated to give effect to section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in section 217(2) of the Constitution. The Procurement Act provides that an organ of state must determine its preferential procurement policy and implement it within a preference point system. The Procurement Act further stipulates that for contracts with a Rand value above a prescribed amount, a maximum of 10 points may be allocated for specific goals which may include 'contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability' including those activities that may be regarded as contributing to the Reconstruction and Development Programme (RDP) goals, provided that the lowest acceptable tender scores 90 points for price. For contracts with a Rand value equal to or below a prescribed amount, a maximum of 20 points may be allocated for the specific goals mentioned above including the RDP goals provided that the lowest acceptable tender scores 80 points for price. Any specific social policy goal, for which a point is awarded, must be clearly specified in the invitation to submit tender. Such goals must be measurable, quantifiable and monitored for compliance. The contract must be awarded to the tenderer with the highest points unless objective criteria in addition to those contemplated in paragraphs (d) and (e) of section 2(1) of the Procurement Act justify the award to another tenderer.

Those activities that may be regarded as contributing towards the achievement of the RDP goals include, but are not limited to:

- the promotion of South African owned enterprises;
- the promotion of SMMEs;
- the creation of new jobs or the intensification of labour absorption;
- the promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
- the promotion of enterprises located in a specific region for work to be done or services to be rendered in that region; and

- the promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area (South Africa, 1994:8).

The Procurement Policy achieved only limited success in reforming and modernizing procurement practices in the public sector. This was mainly due to difficulties by the various organs of state in interpreting and uniformly applying its provisions and practice (Mkhize, 2004:2). The PPPFA in its current form, has become outdated as it is not aligned with the aims of the Broad Based Black Economic Empowerment Act (Act 53 of 2003) and its related strategy (South Africa, 2008/9:221). It is envisaged that the PPPFA will be repealed and that the framework required by section 217 of the Constitution will be provided for through appropriate amendments to the Public Finance Management Act of 1999. This approach will enable government to utilize its financial resources to make an impact in fighting poverty and fulfill government's commitment to black empowerment and the promotion of the small, medium and micro-enterprises.

2.4.3 Preferential Procurement Regulations

The Preferential Procurement Regulations were promulgated in August 2001 to give substance to the provisions of the Procurement Act. The Regulations clearly outline the formula that must be used when calculating the points for price and the points for the specific goals when using the 80/20 and 90/10 preference point systems. The 80/20 preference point system will be used for contracts with a Rand value equal to, or above R30 000 to a maximum of R500 000. The formula may also be used for contracts of less than R30 000 if and when it is appropriate. In respect of contracts with a Rand value above R500 000, the outlined formula for the 90/10 preference point system will be used.

To ensure alignment of government's preferential procurement procedures with the aims of the BBBEE Act and its related strategy, the draft preferential procurement regulations of 2009 are published. These regulations include new elements to the current regulations and replace some elements.

The following changes were made in the Draft Preferential Procurement Regulations of 2009:

- The new regulations replace the awarding of bids on the basis of HDI status and the promotion of RDP goals with the BEE rating of a bidder whilst the current regulations, determine that the HDI status and the promotion of RDP goals

should be used to determine preferential points in the awarding of bids. For the 80/20 point system the award will be based on table 2.1 below and for the 90/10 point system table 2.2 will apply:

Table 2.1 BEE point allocation for the 80/20 point system

BBBEE Status Level Contributor	Number of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

Source: National Treasury. 2009. Draft Preferential Procurement Regulations

Table 2.2 BEE point allocation for the 90/10 point system

BBBEE Status Level Contributor	Number of Points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

Source: National Treasury. 2009. Draft Preferential Procurement Regulations

- The threshold value to distinguish between the 80/20 and the 90/10 preference points systems, in increased from R500 000 in the current regulations to R1,0

million in the new regulations to strengthen the contribution towards the development of small, medium and micro enterprises.

- The new regulations will apply to all state organs and not only to national and provincial departments, municipalities, Parliament, provincial legislatures and schedule 3A and 3C public entities.

2.4.4 Public Finance Management Act

Section 38(1)(a)(iii) of the Public Finance Management Act (PFMA) 1 of 1999 provides that the accounting officer or accounting authority of every government institution must develop and implement an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective. Section 76(4)(c) empowers National Treasury to make regulations concerning the determination of a framework for an appropriate procurement and provisioning system envisioned by the PFMA. Regulations providing for the Framework of Supply Chain Management were issued in terms of the provision above.

2.4.5 Supply Chain Management Regulations

Procurement reforms in government started in 1995 and were aimed at the promotion of principles of good governance and the introduction of a preference system to address certain socio-economic objectives. The procurement reform process saw a number of legislative measures being introduced and this included the adoption of the PFMA and PPPFA. With the introduction of these legislation, came a number of divergent interpretations from the different organs of state at all levels of government. Another key limitation as Mkhize (2004:2) points out was that procurement legislation in South Africa concentrated almost exclusively on the acquisition phase of the procurement cycle, and did not address the planning, budgeting, asset and risk management aspects to any great extent. To assist National Treasury in guiding a more uniform approach, a supply chain management approach was to be introduced. Supply Chain Management framework would establish a firm link between budgetary and procurement planning processes, and to introduce elements such as cost-analysis, market review, life cycle costing, needs analysis and disposal evaluations.

In 2003, an SCM policy was adopted by Cabinet to replace the outdated procurement and provisioning practices across all spheres of government with a SCM function that will be an integral part of financial management and will conform to international best

practices. The new approach would promote uniformity in SCM processes and also in the interpretation of government's preferential procurement legislation and policies, which should themselves be seen in the context of other related legislative and policy requirements. This approach would enable government to utilize its financial resources to make an impact in fighting poverty and fulfill government's commitment to black empowerment and the promotion of the SMMEs. These arrangements would mean that responsibility and accountability for SCM-related functions will be devolved to accounting officers/authorities (National Treasury, 2004:2).

According to Hugo, Badenhost-Weiss and Van Biljon (2004:5) supply chain management is a management philosophy aimed at integrating a network of upstream linkages, internal linkages inside the organisation and downstream linkages in performing specific processes and activities that will ultimately create and optimise value for the customer in the form of products and services which are specifically aimed at satisfying customer demands. Mkhize (2004:5) defines SCM as an interconnected process of buying, storing, utilizing and disposal. He is of the view that SCM addresses the whole cycle of procurement from demand management, acquisition management, logistical management, disposal management, risk management and assessment of performance. The cycle content is discussed briefly in the following paragraphs.

- *Demand management*

This aspect of the SCM deals with the determination of needs assessment such as: understanding future needs; identification of critical delivery dates; the frequency of the need; doing an expenditure analysis; determining specifications; doing a commodity analysis and an industry analysis.

- *Acquisition management*

Here the preferential procurement policy objectives that could be met through the specific contract are identified; the strategy of how the market is to be approached is determined; applicable depreciation rates are determined; the total cost of ownership principle is applied; the bid document is compiled, attaching the necessary required documents and conditions; the bid evaluation criteria is determined; bids are evaluated and recommendations tabled; contract documents are compiled and signed; contract administration is done and contract information is used to kick-start the logistics management process.

- *Logistics management*

For stock and inventory items are coded; inventory levels are set; orders are placed; material is received and distributed; orders are expedited.

- *Disposal management*

At this stage obsolescent planning or depreciation rates per item needs to be calculated; a database of all redundant material is kept; material is inspected for potential re-use; a strategy on how items are going to be disposed is determined and executing the physical disposal process.

- *Risk Management*

Risk management is also an important aspect of the new SCM. Risk management acknowledges that all activities of an institution involve some element of risk and management should decide what acceptable risk is. In the case of SCM, this will include ensuring that risks such as price or currency fluctuations are allocated to the appropriate party in unambiguous and legally watertight contractual documents.

- *Supply Chain performance*

A monitoring process takes place, undertaking a retrospective analysis to determine whether the proper process is followed and the desired objectives are achieved. Some of the issues reviewed are the achievement of goals; compliance with norms and standards; savings generated; stores efficiency; cost variance per item; contract breach; cost efficiency of the procurement process; whether supply chain objectives are consistent with government's broader policy focus; that the material construction standards become increasingly aligned with those standards that support international best practice; that the principles of co-operative governance as expounded in the Constitution are observed and that the reduction of regional economic disparities are promoted.

National Treasury (49:2005) provide that the accounting officer of a public institution must develop and implement an effective and efficient supply chain management system in his or her institution for the acquisition of goods and services and which will give equal prominence to all elements of the SCM and add value at each stage of the process. The supply chain management system must be consistent with the provisions of PPPFA.

The SCM system must in the case of procurement through a competitive bidding process, provide for: the adjudication of bids through a bid committee; the establishment, composition and functioning of bid committees; the selection of bid committee members; the bidding procedures; and the approval of bid committee recommendations.

2.5 METHODS OF PROCUREMENT

Procurement methods used may be formal (structured) in procedure or informal (less structured). These are discussed in the following sections.

2.5.1 Formal Procurement

According to Bolton (2007:134) formal procurement procedures are generally referred to as 'tendering', 'competitive tendering', 'bidding' or 'competitive bidding'. For the purpose of this study, 'tendering' and 'competitive bidding' will be used. The procedures followed here are more structured than the less structured procurement procedures. Formal procurement can take the form of public advertisement or a call for tenders, and restricted invitation or selective tendering.

- *Public advertisement or a public call for tenders*

In this method tenders are sought in response to procurement documentation setting forth the contract terms and conditions and detailed technical specifications of goods and services. Tendering is open to all interested parties. Detailed specifications of the required goods and services needed are drawn up and advertised in the press or in the Government Tender Bulletin Board inviting prospective contractors to submit written tenders. All necessary information like the closing date of the tender and where tender documents can be obtained are also provided in the advertisement (Bolton, 2007:134).

- *Restricted invitation or selective tendering*

A public call for proposals to tender is sent out where contractors are invited to submit detailed technical and cost proposals by a specified date. The number of proposals received is then reduced and only contractors who are identified as most likely to provide responsive and cost-effective tenders and are most likely to perform in terms of their contractual obligations are then invited to tender. This type of tendering can also

be used when the time and costs required to examine and evaluate a large number of tenders is disproportionate to the actual value of goods and services required (Bolton, 2007:135).

2.5.2 Less structured procurement

Less structured procurement or sometimes known as informal tendering, include requests for proposals, Competitive negotiation and requests for quotations. This type of procurement is generally less costly than formal procurement in both monetary and human resource terms (Arrowsmith, *et al*, 2000: 460). The respective elements of the less structured procurement are discussed below.

- *Request for proposals*

Request for proposal (RFQ) are often used where it is not possible for a state organ to prepare detailed specifications for goods, or in the case of services, to identify their characteristics and to obtain the most acceptable solution to its procurement needs. Detailed technical and cost proposals are therefore solicited from interested parties. Contractors submit proposals which explicitly detail how they plan to perform and at what price. This method permits procuring entities to include broad performance parameters in a request for proposals and to seek for technological or innovative solutions from interested companies. RFP is mostly used for contracts where quality of goods and services is more important than the cost involved (Arrowsmith, *et al*, 2000: 460). Proposals received are evaluated and negotiations or discussions are conducted with prospective providers. This type of procurement seeks technological or innovative solutions from interested parties. This procurement method allows for greater flexibility and discretion than a call for tenders. It may be formal in nature at times and can be used in conjunction with tendering procedures which is then referred to as 'selective tendering' or 'restricted invitation' (Bolton, 2007: 133).

- *Competitive negotiation*

This method is generally used in cases of urgency where there is no time to call for public tenders because of time constraints. An example could be where disaster has struck and there is urgent need for goods or services. An organ of state will then conduct negotiations with a sufficient number of contractors who in most cases are already known. The sufficient number of contractors will depend on the circumstances of the case. The organ of state may then conduct negotiations with those contractors

who have submitted their tenders and on completion of negotiations' contractors may be required to submit 'best and final offers' by a specified date and a final selection will be done. The organ of state may then instead resort to negotiated procurement or single source procurement (Bolton, 2007: 133).

- *Request for quotations*

Request for quotations is generally used for the procurement of goods and services of low financial value and for which there is an established market. The goods and services are readily available and not specifically produced or provided to the exact specifications of the organ of state. The procedures followed are competitive in nature though very informal. Quotes can for example be solicited over the telephone. This method is similar to the kind of 'shopping around' done for private parties (Bolton, 2007: 132).

2.6 THE PROCUREMENT PROCESS

Tender practices are required by legislation to ensure that procurement practices are transparent, fair and that they will acquire the best value for money. The tender process involved is discussed below.

- *Calling for tenders*

This starts with state organs establishing a future need for a high-value good or service. The need will be defined, costed and included in the next budget. Once the budget is approved, the organ of state may then call for tenders by publicising the tender. An advertisement will be placed in the press or the state tender bulletin. This is an invitation for all potential suppliers to submit their offers by completing the tender documents (Pauw et al, 2002:236).

- *Assessing received tenders*

All tenders must be opened in public and all those who submitted tenders should be invited to be present. In the case of construction contracts, the names of tenderers and their prices are called out. Tenders will then be evaluated taking into account all requirements such as quality, price and ability of the bidder.

- *Awarding tenders*

Before awarding the tender, an audit should confirm that the evaluation exercise has not been flawed; open procedures and non-discriminatory criteria were used. The name of the contractor who won the tender must then be made public.

2.6.1 Role players in the procurement process

The role players in the procurement process include the bid specification committee, the bid evaluation committee and the bid adjudication committee. The respective committees must be appointed by the accounting officer or authority. The section below explains the roles of the above mentioned committees.

- *Bid specification committee*

This committee is responsible for the compilation of bid specifications. This committee may be composed of officials of a department (the procurement department or the department requiring the goods or services), a committee appointed by the accounting officer or authority and one or more qualified officials or an external consultant.

- *Bid evaluation committee*

This committee is responsible for the evaluation of bids received which include verification of the capability of the bidder to execute the contract, tax clearance issued by the South African Revenue Services, and the national industrial participation programme requirements if applicable.

- *Bid adjudication committee*

This committee must comprise of at least a supply chain practitioner, the chief financial officer, at least four senior officials. They are responsible for the adjudication of bids (National Treasury, 2004:7).

2.7 PROMOTION OF SMALL, MEDIUM and MICRO ENTERPRISES

Government realises the importance of small, medium and micro enterprise (SMMEs) as part of the macro-economic development of South Africa. The Ministries of Finance and Public Works embarked on the reform of the public sector procurement system to make the tendering system easily accessible to SMMEs. The emphasis is on the

development and stimulation of the SMME sector and using the procurement system as an instrument to achieve certain socio-economic objectives, without forfeiting the principles of good financial management (South Africa, 1997:11).

SMMEs represent an important vehicle to address the challenges of job creation, economic growth and equity in the country. They play a critical role in the absorption of labour and penetrating new markets, which, in turn, can lead to an improvement in human capital of the poor, since they are the ones who are usually characterized by low skill levels (Trade and Industry, 2:2005).

The National Small Business Act of 1996 defines a 'small business' as a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or subsector of the economy as mentioned in the schedule in the Small Business Act and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in the schedule of the Small Business Act.

2.7.1 Challenges faced by SMMEs

Studies conducted show that there are a number of challenges faced by SMMEs. These challenges include:

- lack of effective management;
- lack of financial management;
- lack of entrepreneurial skills;
- lack of proper training;
- lack of resources;
- lack of technical, contractual and managerial skills;
- late payment for work done which is common with government contracts;
- inability to get credit from suppliers; and
- inability of a contractor to market himself or herself among the industry role players (Phaladi & Thwala, 2007:1).

This situation led government to introduce a range of support institutions and initiatives which sought to enable SMMEs to flourish and prosper.

2.7.2 Government support initiatives for SMMEs

To combat the challenges mentioned above, the Department of Trade and Industry (DTI) established a number of institutions to provide financial and non-financial support for SMMEs. The respective institutions are discussed below.

- *Ntsika Enterprise Promotion Agency*

Ntsika Enterprise promotion Agency was established to expand, coordinate and monitor the provision of training, advice, counseling and non-financial services to small businesses by financing service providers to render non-financial support to SMMEs (National Small Business Act). These service providers are classified as: Local Business Services Centers (LBSCs) which provide assistance in business administration and general information; Tender Advice Centers (TACs) which provide training on government tendering processes and information about current tenders; and the Manufacturing Advice Centers (MACs) which provide assistance by facilitating access of small businesses to raw material and other products (Berry, *et al.*, 2002:36).

- *Khula Enterprise Finance*

Khula Enterprise Finance Limited was established in 1996 as an independent agency of the Department of Trade and Industry with the purpose of facilitating access to finance by SMMEs. It provides finance, mentorship services through a network of partnerships. Khula has partnered with major commercial banks in the country to unlock lending finance to small enterprises (www.dti.khula). Khula has since its establishment, initiated a number of loan schemes to increase access to finance for SMMEs through Retail Financial Intermediaries (RFIs) (Berry *et al.*, 2002:37).

- *South African Micro-Finance Apex Fund*

The South African Micro-Finance Apex Fund was established to provide access to micro-loans and support to the social capital mobilization. There are also a number of other initiatives established to support small businesses in the various provinces.

- *Industrial Development Corporation*

The Industrial Development Corporation was established in order to provide financial support to entrepreneurs engaged in competitive industries. According to the Department of Trade and Industry (2008:1) the IDC continues to proactively seek

opportunities aimed at creating an enabling environment for the empowerment process in order to yield high developmental and financial returns.

- *The Small Enterprise Development Agency*

The Small Enterprise Development Agency was established in 2004 in order to merge the small enterprise development agencies Ntsika Enterprise Promotion Agency, NAMAC Trust and the Community Public Private Partnerships (CPPP) into a single small enterprise support agency. SEDA's mandate is to develop and implement a standard national delivery network that must uniformly apply throughout the country and to support and promote co-operatives specifically those in the rural areas (Department of Trade and Industry, 2008:1).

- *Black Business Supplier Development Programme*

The Black Business Supplier Development Programme is a 90:10 cost-sharing grant offering support to black owned enterprises in South Africa. The Department of Trade and Industry contributes 90% of the cost of the project and the approved enterprise contributes 10%. The scheme provides black owned enterprise with access to business development services that assist them to improve their core competencies, upgrade managerial capabilities and restructure their processes to become more competitive (Department of Trade and Industry, 2008:2).

2.8 BLACK ECONOMIC EMPOWERMENT

In an effort to address the deficiencies in the South African society caused by the apartheid policy, Black Economic Empowerment was introduced. The Green Paper of 1997 recognised that public sector procurement could be used by government as a mechanism to also achieve certain broader policy objectives such as BEE, local economic development spin-offs for small and medium sized business, skills transfer and job creation (National Treasury, 2003:11).

The Department of Trade and Industry, as cited by Motsiri (2009:12), is of the view that defining BEE broadly equates BEE with economic development and transformation in general. To define BEE narrowly limits it to a set of transactions transferring corporate assets from white to black ownership. Narrow-based BEE only evaluates ownership and control within an enterprise and does not require enterprises to undertake initiatives

to promote BEE within their industries or through their suppliers and business partners. While broad-based BEE mechanism aims to broaden the beneficiary base to include all black investors, management, employees, suppliers and communities, narrow-based BEE mechanisms limit their beneficiary base to those who have the necessary opportunity, experience and resources to acquire an equity stake or be appointed into senior managerial positions. Furthermore, narrow-based BEE mechanisms result in the prevalence of 'fronting' to circumvent the ownership and management requirements of BEE.

Whiteford (2005:4) defines BEE as the transformation of economic structures in favour of previously disadvantaged people in South Africa. He further says that BEE means creating space and opportunities for black people to play their role in the economy. Whiteford's definition of BEE is in line with government's definition that BEE is an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decrease in income inequalities (Broad-Based Black Economic Empowerment Act, 2003:12). Government saw a need to change its strategy and focus more on broad based empowerment. The essence of the BEE was re-examined. The emphasis was to look at the concept of BEE in a broader and more inclusive context. The BBBEE Act (Act 53 of 2003) hereafter BBBEE Act was introduced to serve as the legal roadmap towards achieving fair and equitable right of participation in the economy. The Act provides various guidelines and a legal foundation for the transformation companies.

The BBBEE Act defines broad-based black economic empowerment as the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies. The purpose of the BBBEE Act is to facilitate black economic empowerment by increasing participation in the economy by all previously disadvantaged people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies. These strategies include affirmative action, skills development, encouragement of small black business through targeted procurement policies, social investment, ownership and management structures (Nihapo, 2008:10).

According to the strategy for BBBEE (2003:12) the BEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets. Woolley (2005:23) notes that the buying power of the state has increasingly been used as a source of promoting empowerment. He says that by insisting on BEE ownership and other elements of empowerment from suppliers of goods and services to the state, the demand for BEE has intensified. He points out that procurement has however, placed emphasis on empowerment ownership enhancing operational black business expertise, as opposed to reinforcing the passive investment approach that characterized the early empowerment transactions.

2.8.1 Balanced scorecard

The Codes of Good Practice and the Generic Scorecard introduced by the Department of Trade and Industry have provided for the verification of the same standard of reporting. The 'balanced scorecard' is a concept developed by Kaplan and Norton in 1992. It is a means of measuring organizational success as key determinant of how successful a company is (Whiteford, 2005:44). A scorecard measures and weighs each element of empowerment to assess progress in meeting the set targets. Based on the total score of the seven elements, the company can be viewed as empowered and classified between level 1-8. SMMEs with a turnover of less than R5 million are exempted from being BBBEE rated, and automatically qualify as BEE level 4. The scorecard is to some extent expected to reduce the problem of 'fronting' and creates a more level playing field. Although there are different sector charters, each industry is required to comply with the Codes of Good Practice. Companies which meet the BEE requirements will be considered for government procurement, public-private partnerships' sale of state owned enterprises, when licenses are applied for, or in any other relevant economic activity (National Treasury, 2003:15).

The balanced scorecard developed by the Department of Trade and Industry will be used to measure compliance in each of the scorecard elements. Each element has a rating to ensure proper and standardised way of reporting compliance.

2.8.2 Elements of BBBEE on the Generic Scorecard

The Generic scorecard comprises the core components of BEE which comprise the seven elements namely: Direct empowerment through ownership and control of

enterprises and assets; Human resource development and employment equity; and indirect empowerment through preferential procurement and enterprise development.

2.8.2.1 Direct empowerment

Direct empowerment focuses on ownership and management of the enterprise and its assets. This process must result in an increase in the ownership and control of the economy by black persons.

- *Ownership*

The ownership element together with preferential procurement in the generic scorecard are considered the most important as they carry the highest weighting of 20% each. The element of ownership in a business is most important element as it is often equated with empowerment because of the way empowerment was viewed in the late 1990s. Another reason why it is regarded as the most important is that it is the criterion most explored from preferential procurement perspective, meaning preferential procurement scoring is based solely on ownership for most charters and for the First Code if you are outside a charter (Woolley, 2005:53).

The element of ownership can be achieved by: selling off shareholding to a group of black people or empowered business s that won't be becoming operationally involved in the business; finding individuals who understand the specific business and who will begin to add value at a senior level, becoming an intrinsic part of the business; by developing employees to such a level that they are able to exercise employee share option; and through employee ownership where employee shares are held jointly by a trust, all employees/owners of the trust vote their shares together thereby maximizing employee information and education and gains total employee commitment (Woolley, 2005:53).

- *Management*

The introduction of the element of management into broad based empowerment will provide previously disadvantaged individuals access to manage and benefit from economic activities/resources of the company. Management control is exercised through the governing bodies of an enterprise and is normally measured at two levels.

Firstly, the board of directors, who determine the strategies, policies and direction of the economic activities and the allocation of resources. According to Codes of Good Practice, companies are expected to have black participation including women at board level appointed by the board.

Secondly, the executive management or the highest executive body after the board of directors or equivalent structure, which is entrusted with the day-to-day management of the entity's economic activities and resources. Previously disadvantaged individuals including women and people with disabilities should be actively involved in carrying out the day-to-day management of a company. The generic scorecard requires companies to have at least 40% of top management (executive and non executive level) being previously disadvantaged individuals (women count for extra 20%). The ownership element weights 20% on the score. Based on the requirement of this element, companies have a challenge of not only transferring shareholding to previously disadvantaged but to involve them in decision making (Woolley, 2005:54).

2.8.2.2 Human resource development and employment equity

Human resource development focuses on skills development and employment equity.

- *Skills Development*

There is a desperate need to develop a broad base of skills in South Africa. Many South Africans are structurally marginalized as a consequence of the lack of basic skills training. There are a number of best practices that can provide the solution to this problem, such as learnerships, mentoring, coaching, performance management (Woolley, 2005:69).

The Skills Development Act (Act 97 of 1998), the National Skills Development Strategy and Skills Development Levies Act (Act 9 of 1999) are some of the legislative frameworks provided by the government to address the skills shortage in the country. The Skills Development Act provides for the establishment of learnerships and for the conclusion of learnership agreements. The Skills Development Levies Act obliges all employers to give attention to the training and education of employees and to contribute 1% of payroll to the Sectoral Education and Training Authority (SETA). All South African institutions are required to comply with these Acts.

- *Employment Equity*

Employment equity is described as a way of getting the labour market to be both non-discriminatory and socially equitable. This will be achieved through fair and equitable representation of all races in all occupational categories and levels within the workplace. The Employment Equity Act (55 of 1998), was implemented with the purpose of promoting equal employment opportunity and the fair treatment of people. The Employment Equity Act should be incorporated into the various transformation charters to work congruently with the BBBEE Act. This commits government institutions and private sector organizations to increase the participation of black South Africans and women in senior, middle and junior management in different employment categories.

2.8.2.3 Indirect empowerment

Woolley (2005:70) points out that indirect empowerment can be achieved through preferential procurement and enterprise development. These concepts are discussed below.

- *Preferential Procurement*

According to the generic scorecard requirements and code of good practice, companies' compliance level on preferential procurement will be measured based on the total amount spend with the BBBEE compliant suppliers. The percentage amount of procurement spends on BBBEE compliant suppliers depends on the BBBEE level of that particular supplier. The BBBEE scorecard rank suppliers according to contribution levels 1-8, which should be verifiable by the broad based BEE verification agencies. Companies procuring from suppliers that are rated level 1-4, will be able to record on the scorecard, preferential procurement spend between 135% -100%. Procuring from suppliers that are rated level 5-8, means companies will only enter a portion (between 80%-10%) of what has been procured. The intention of classifying empowerment through levels is to encourage companies to transform in all levels as much as possible. Preferential procurement is thus considered as the tool to encourage and force business to participate in black economic empowerment initiatives.

- *Enterprise Development*

As mentioned earlier in the chapter, government recognizes the importance of SMMEs in the alleviation of poverty and reducing unemployment. SMMEs in the South African context encompass a very broad range of businesses, from established traditional family businesses and medium sized enterprises (employing over 100 people) down to survivalist self employed from the poorest layers of the population (informal micro-enterprises).

Enterprise development was introduced to look at an investment made by cooperation in SMMEs that are owned and managed by previously disadvantaged individuals, and to ensure that BEE programmes contribute to the growth and therefore are not exclusively about the redistribution of assets and income. The contribution should result in the recipient enterprise becoming a sustainable entity in the long term. Donating companies are therefore able to claim points on the BEE scorecard for both the development and corporate social investment. Support provided to the SMMEs could involve monetary and non-monetary type and as a result does not have to be purely financial. Support could also take the form of skills transfer or a donation of machinery or equipment that will assist the recipient in getting off the ground, including mentoring, preferential credit terms, provision of guarantees, use of infrastructure for free and/or any other initiative to enhance BEE businesses (Woolley, 2005:71).

- *Residual/Corporate Social Investment/Industry Specific*

The corporate social investment element allows other factors that may accelerate BEE to be taken into account and be included at the discretion of the specific sector or entity. Corporate social investment looks at facilitating community and worker ownership of enterprises and productive assets. Unlike the other elements which are generic, corporate social investment is industry specific and varies from one industry charter to the next. It usually includes some form of corporate social investment such as the payment of levies to an industry body to promote sector growth and development of a community.

Sectors and enterprises are encouraged to consider some BEE initiatives such as infrastructure support to suppliers or enterprises; labour-intensive production and construction methods; investment and support to enterprises operating in rural

communities and geographic areas identified in government's integrated sustainable rural development programme and urban renewal programme; and investment in the social wage of employees (for example, housing, transport and health care) (Woolley, 2005:71).

The elements of the generic scorecard are depicted below.

Table 2.3: Generic Scorecard

ELEMENTS	POINTS
Ownership	20
Management control	10
Employment equity	15
Skills development	15
Preferential Procurement	20
Enterprise Development	15
Socio-Economic Development	5
TOTAL	100%

Source: Department of Trade and Industry (2007:4)

2.9 ETHICS AND PROCUREMENT

It is to some extent common knowledge that most fraud and corruption in government occurs in the procurement of goods and services. Arrowsmith, et al, (2000:33) note that there is no country in the world which has escaped the incidence of unethical behavior in the form of fraud and corruption in public procurement. It is for this reason that ethics are very important in the public sector, service delivery and procurement.

Mafunisa (2002:100) is of the view that ethics deal with what is wrong or right, generally and universally, and being ethical involves carrying out socio-professional acts in a manner defined as acceptable. Pauw, et al (2002:329) concur with this view and says that public sector ethics concerns the moral requirements of public servants in the services that they are paid for and expected to offer the people. It concerns the personal morality of officials, codes of conduct and the theory of what is permissible and not in the public life. Unethical behaviour involves corruption and fraud.

Corruption is the abuse of public office for private gain or simply the misuse of public resources for personal profiteering (Basheka, 2009:149). This definition assents to Jos' view as cited by Sing and Ntshangase (2003:108) that corruption suggests the misuse of a public position for the personal advantage and to the detriment of the wider societal goals and the disregard of public trust vested in those public officials. It implies a violation and disregard of the standards, norms and expectations associated with the public role of public representatives and public officials. Corruption can be in the form of: conflict of interest, collusive tendering, kick-backs, bribery, selling of jobs and many more.

Corruption diminishes the confidence that honest contractors and the public at large have in the government. In the procurement context, corruption gives rise to slackening of completion and impacts negatively on the government's ability to obtain value for money and it defeats the attainment of other objectives. As Skweyiya (1999:13) points out, every act of corruption erodes undertakings such as employment creation, poverty alleviation and nation building.

In the South African public sector, corruption occurs in all sectors and its social costs are borne by all citizens. Lubisi and Mapiloko (2010:6) point out how rife corruption is by far pointing out that four out of five public servants in the national government are charged of fraud and corruption, mismanagement and nepotism. Some of the implicated departments are the Department of Correctional Services, Department of Human Settlement, Department of Social Development as well as the Department of Transport.

Arrowsmith, et al (2000:34) point out that it is impossible to discuss corruption in developing countries without taking into account the sociological situation, characterized by economic disparities between the two sides in the procurement transaction. The low salaries paid to civil servants on government's side contrast sharply with the wealth of the large companies competing for business. He points out that this being said does in no way diminish the need to combat corruption and unethical behavior.

The principles of fairness, equity, competition and cost-effectiveness, found in section 217(1) of the Constitution are in addition to ensuring the prudent use of government resources, also aimed at preventing corruption and safeguarding the integrity of the procurement process. It is believed that if government contracts are awarded in a fair,

equitable, competitive, cost-effective and transparent manner, the occurrence of corruption will decline (Bolton, 2009:363).

In an effort to combat corruption and fraud, government has put in place institutions to combat unethical behavior. These are the public service commission, the auditor general, public protector, special investigation unit and the national prosecuting Authority. A number of legislation has also been put in place to reduce the extent of fraud and corruption namely: Public Protector Act of 1998; Corruption Act of 1994; Public Finance Management Act of 1999; Protected Disclosure Act of 2000; Promotion of Administrative Justice Act of 2000; Promotion of Access of Information Act 2000 and many more.

In the supply chain management, all parties are required to comply with the highest ethical standards to promote mutual trust and respect; and an environment where business can be conducted in a fair and reasonable manner and with integrity. All government officials associated with procurement, especially those that deal directly with suppliers, are required to recognize and deal with conflicts of interest or the potential thereof; they must deal even-handedly with suppliers; they must ensure that they do not compromise the good standing of the state by accepting gifts; they must be scrupulous in their use of public resources and provide assistance in the elimination of fraud and corruption (National Treasury, 2003:34).

Arrowsmith, et al (2000:33) note that much corruption is however said to go unchallenged, sometimes because of the lack of evidence, sometimes because corruption takes place at the very highest levels of government and in some cultures because what is corruption to one is an accepted way of life to another. An example of giving gifts to teachers, employers and superiors is one instance. Arrowsmith's view is supported by the findings of Lubisi and Mapiloko (2010:6) as noted above that despite recommendations by the relevant government institutions that disciplinary measures be taken against the departments and its officials implicated in corruption and fraud, no disciplinary measures have been taken.

2.10 CONCLUSION

In the chapter, the context of procurement was discussed at length. Much attention was given to the legislative environment framework of public sector procurement in South

Africa and how it provides for procurement to address socio-economic conditions of this country. The concept of black economic empowerment was explained and how broad-based black economic empowerment will be achieved. The role of small, medium and micro enterprises was examined and the concept of supply chain management was also deliberated on. Lastly focus was also given to ethics in procurement as one cannot discuss procurement without ethics. The next chapter focuses on the analysis of public sector procurement at Gauteng Department of Infrastructure Development.