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An investigation into the Preferential Procurement practices in South Africa: Impacts on the South African Construction Industry

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A research report submitted to the faculty of Engineering and Built Environment, University of the Witwatersrand, Johannesburg, in partial fulfilment of the requirements for the degree of Masters in Building: Property studies.

Johannesburg

2012

Declaration

I **Miranda Baloyi**, student number **0101001Y,** am a student registered for a Masters degree in Building: Majoring in Property Studies, in the year 2011. I hereby declare the following:

- I am aware that plagiarism (the use of someone else's work without their permission and /or without acknowledging the original source) is wrong;
- I confirm that the work submitted for assessment for the above course is my own unaided work except where I have explicitly indicated otherwise;
- I have followed the required conventions in referencing the thoughts and ideas of others; and
- I understand that the University of the Witwatersrand may take disciplinary action against me if there is a belief that this is not my own, unaided work or that I have failed to acknowledge the source of the ideas or words in my writing.

Signature: _____ Date: _____

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- My husband Simon Baloyi, for his support and help with the whole dissertation.
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Lastly, I would also like to thank the Lord God Almighty for what he is in my life and for creating this time and all the wonderful people who have helped me in successfully completing my research.

Abstract

The study was conducted to investigate the views of the various construction industry stake-holders on Preferential Procurement practices in the various construction phases; and study the impact of these Preferential Procurement practices on the South African construction industry. Based on the political history of the Republic of South Africa, the use of Preferential Procurement is justified. Preferential Procurement is aimed at bridging the economic gap that exists in the country due to the legacy of the Apartheid regime.

The target group for the research report was state personnel in Gauteng Governmental departments and municipalities involved in procurement and tenders for services; the contractors and subcontractors registered with the Gauteng Master Builders Association (GMBA) and the contractors registered with the Construction Industry Development Board (CIDB) The Descriptive Survey method was adopted in the study. This method involves two stages of primary data gathering. Qualitative data was gathered through preliminary interviews and quantitative data through a questionnaire survey. Multi-attribute Analytical method was used to analyse the quantitative data, whilst the test of research hypothesis was done through the Spearman Rank Correlation Analysis.

The research study shows that the target group is not in agreement on critical issues surrounding Preferential Procurement. The Government and the construction industry professionals are in disagreement on the benefits of Preferential Procurement on the construction industry. This was found as evidence that Government procurement decision makers and the construction industry professionals should increase their interaction and engagement on the issue of Preferential Procurement.

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List of Acronyms / Definitions / Abbreviations

AA	Affirmative Action
BBBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
CIDB	Construction Industry Development Board
DTI	Department of Trade and Industry
FIFA	Federation of International Football Association
GDP	Gross Domestic Product
GFCF	Gross Fixed Capital Formation
HDI	Historically Disadvantaged Individuals
PPP	Private Public Partnerships
PPPFA	Preferential Procurement Policy Framework Act
RQ	Research Question
SANS	South African National Standards
SME	Small and Medium Enterprises
SMME	Small, Medium and Micro Enterprises
RDP	Reconstruction and Development Programme

1. Chapter 1: Introduction

1.1. Background

Procurement is defined as the various types of contractual arrangement available when selecting contractors for a specific project (Hauptfleisch and Sigle, 2002: n.p). This term may also refer to the process where the customer (be it Government, private sector or individual) buys a product or services for his/her own use (Keisler and Buehring, 2005: 293). The Construction Industry Development Board (CIDB, 2004: 1) defines procurement as a "process that creates, manages and fulfils contracts relating to the provision of supplies, services or engineering and construction works, the disposal of property, the hiring of anything, and the acquisition or granting of any right and concession". This includes demolitions and minimization of additional materials and equipment (SANS 10396, 2003: 1). Procurement is an ideal use of public expenditure, which has social, economic, and political implications (Bolton, 2006: 195).

The Preferential Procurement Policy Act No: 5 of 2000, is a procurement policy aimed at achieving secondary objectives, simultaneously, with the primary objective of the procurement itself (CIDB, 2004: 1). Most of these secondary objectives are set out by most Governments to achieve socio-economic or political ends (CIDB, 2004: 1).

These objectives, as listed by the (CIDB, 2004: 1), are "the stimulation of economic activity, the protection of domestic industry against foreign competition, the improving of the competitiveness of specific industrial sectors, the remedying of regional disparities and the achieving of social policy functions such as; the fostering of job creation, the involvement of disabled people in the job market, the doing away with any kinds of discrimination, the use of local workers under safe and healthy working conditions and the development of existing skills, while creating more opportunities for everyone".

The South African Government, like many Governments around the world, spend large sums of money in procuring goods and services (Hanks, Davies and Perera, 2008: 3). The Government spends almost 50% of its budget and has a Gross Dosmestic Product (GDP) of between 13% to 17% on procurement (Hanks, Davies and Perera, 2008: 3). Schapper, Veiga

and Gilbert (2006: 2) report a 20% of GDP apportioned to public procurement in developing countries. 20% of GDP for most Governments can equate to substantial amount of money. Thus, it should be realistic for the Government to achieve its socioeconomic targets by conducting the procurement of services in a certain manner.

The Government utilizes procurement in many existing industries in the country, amongst the biggest of which, is the construction industry. The construction industry is utilized by the Government to achieve objectives, such as infrastructure development, socio-economic responsibility, and employment. Watermeyer and Govender (n.d, n.p) refer to the construction industry as "the centre of economic and social development in any country".

It is the responsibility of the Government officials to promote a viable economy comprised of commercial activities, in order for the country to participate in global markets (Cheema et al, 2007: 3). For a country to be competitive and to be recognized by the world, its economic activities should be sound and sustainable. As part of stimulating the economic activities of the country, Governments have to ensure that all individuals, rather than a select few in the country, have a fair chance of participating in the economic activities. Government must be able to use Preferential Procurement in the construction industry as a policy tool to assist those individuals who were particularly previously disadvantaged to obtain Government tenders.

Government can spend between 13% to 20% of their GDP on construction projects; the money should be spent wisely, enhancing the well-being of all who live in the country (Hanks, Davies and Perera, 2008: 3). With such amounts of money spent in the construction projects alone, Governments have a duty to create jobs under favourable conditions for the people and thus, the South African Government utilizes Preferential Procurement in the construction sector in order to increase economic involvement of previously disadvantaged people. The Government also ensures that the private sector is party to involving previously disadvantaged individuals by adopting preferential procurement as a policy (Kaiser Associates, 2003: 5). This ensures that the selected supplier assists Government in fulfilling the responsibilities it has towards its citizens. The money spent by the Government is obtained from the nation via taxation. If a Government is to spend 13% to 20% of its GDP on

construction, the money should be spent wisely, enhancing the well-being of all who live in the country (Hanks, Davies and Perera, 2008: 3).

The purchasing and procurement of goods and services by Government is crucial in supporting and attaining other functions of Government (Islam, 2007: 384). Preferential Procurement used as a policy tool, is recognized as a necessary. However, complications, such as lack of effectiveness, poor quality of the selected contractor/supplier, abuse, slowness in delivery and more, may arise (Hanks, Davies and Perera, 2008: 17).

In the construction industry, the requirements for being a preferred contractor or subcontractor have seen many firms re-arranging their employment strategies in order to be competitive. Most firms in the construction industry rely on Government projects to sustain their businesses. According to Keisler and Buehring (2005: 291), Government agencies have the ability to influence the competitive forces of markets, especially in the case where they are the sole user of the product or service.

Preferential procurement can be seen as a form of standardization of procurement practices in the South African construction industry. As observed by Hughes and Greenwood (1996: 3), If Government relaxes the procedures in which its agents may procure services, the previously disadvantaged individuals will continue to be side-lined from the construction industry and the firms that have been advantaged will continue thriving. This situation will create an unbalanced economy with only a few role players and suppliers for one large buyer in the economy. The imbalances will result in the development of two groups within the construction industry, one group, which is extremely well resourced on the one hand, and an extremely marginalised group on the other hand. The latter will result in an unequal and unbalanced society, which can ultimately lead to social unrest.

1.2. Statement of the Research Problem

The organs of the South African Government are permitted in section 217 of the Constitution to use Procurement policies to advance and protect individuals who were subjected to unfair discrimination (The Republic of South Africa, 1996, 26& 27)). Based on the political history of the Republic of South Africa, the use of Affirmative Action (AA) in the form of

Preferential Procurement, is justified (Bolton, 2006:193). The issue is that it is often hard to quantify and explain the costs involved in affirmative/Preferential Procurement. It is therefore equally difficult to quantify the benefits achieved thereby (Arrowsmith, 1988 quoted by Bolton, 2006: 200).

There have been concerns in other countries regarding procurement policy used as a tool by official bodies, as it has given rise to allegations of corruption and lack of transparency (Lawther, 2007: 282). In South Africa, an 80/10 or 90/10 point system is used to evaluate a supplier on the basis of his compliance with the legislature that fosters Affirmative Action (AA), health and safety regulations, as well as and labour laws (Sabinet Law, 2010, n.p).

Miclause (2010: n.p) argued that Government legislations which are purported to benefit the previously disadvantaged groups, can lead to a stigma of incompetence, low self-esteem, distress and violence against these beneficiary group. Bolton (2006: 201) was of the view that in the South African context, the contentious issue is not the affordability of using procurement as a policy tool, but whether the country can afford not to use it at all. It was found unclear whether or not the use of procurement to achieve policy goals had been successful (Lawther, 2007: 284).

Smallwood, Ncunyana and Emuze (2011:64) found that there was a low level of the public sector awareness of preferential procurement which has led to most of the organisations not "implementing procurement responsibilities as a dedicated function within their organisations". Black people, especially women, are deprived of managerial positions. Ownership inequality is still prevalent in certain sectors in the country. There is limited black participation and ownership of enterprises. Where there is such participation and ownership, the businesses are not sustainable, as there is little financial support for the black-owned enterprises (Construction Sector Broad-Based Black Economic Empowerment Charter Version 6 (2006: 4). Thus, the degree of the impact of Government's preferential procurement strategies is unknown in the South African construction industry.

The aim of this research report was therefore to; examine the views of various stakeholders in the constructions industry on the impact of Preferential Procurement practices in the South African construction industry.

1.3. Research Questions and Objectives

The past injustices that were implemented by the Apartheid Regime are evident in the 'new' democratic South Africa. The chapter of discrimination in the country is perceived to be closed; however, the damage of discrimination can still be seen in the prevalence of poverty in the country. This damage is evident in the large number of destitute black families. The South African economic growth has improved from the last quarter of 2011 (BuaNews, 2012: np) however, the economy is still characterized by 'entrenched inequalities', which are hindering greater success.

The South African Government has devised methods through the legislature to redress the imbalance of economic distribution in the country. These legislature requirements are presented in the following Acts;

- The 1996 Act No 108 of the Constitution of the Republic of South Africa
- The Energy Policy white paper of 1998
- The Department of Minerals and Energy, Employment Equity Act No.55 0f 1998
- The Skills Development Act 1998
- The Labour Department and the Policy Act No.5 of 2000
- The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and certain others discussed elsewhere in this research report.

The current research will focus on the South African construction industry and aim to answer the following research question (RQ):

RQ: How do the different groups of construction industry stakeholders (Contractors, Consultant and Government client bodies) view the impact of Preferential Procurement practices in the construction industry?

By answering the above research question, the objectives of this research study are to:

- Investigate the views of the various construction industry stake-holders on practices in the various construction phases; and

- Study the impact of these Preferential Procurement practices on the South African construction industry.

1.4. Hypothesis

Based on the research questions and objectives in section 1.3, a null and alternate hypothesis has been developed for the research study. The null hypothesis (Ho), which assumes that there is no difference between the various respondents can be stated as follows: "The various stakeholders (contractors, consultants and Government client bodies) in the construction industry are in agreement on the impact of Preferential Procurement practices employed in the construction industry."

The alternative hypothesis (H1) on the other hand assumes that there is no agreement between stakeholders in the construction industry and can be stated as follows: "There is no agreement from the various stakeholders (contractors, consultants and Government client bodies) in the construction industry on the impact of Preferential procurement practices employed in the construction industry."

1.5. Research Assumptions

It is assumed that the construction industry stakeholders are aware of the various legislations set out by the democratic Government of South Africa to include previously disadvantaged groups of people in the construction industries' economic activities.

1.6. Significance of the Research

Preferential Procurement policy implementation methodology seems to be the deciding factor in reducing the risks associated with side-lining small and medium enterprises and certain groups of people in tendering for Government contracts (CIDB, 2004: 6). Using procurement as a policy tool proves useful and valid only when it is "properly employed" (Bolton, 2006: 195). The use of procurement policies as tools should not be denied by Governments as they are reasonable and useful tools for implementing social policies (Arrowsmith, 1988 quoted by Bolton: 247-248). It is a general public perception that the methodology of implementing

Preferential Procurement does not guarantee that the targeted groups benefit from it (CIDB, 2004: 4). While some stakeholders consider the use of Preferential Procurement justifiable, owing to the country's past discrimination against certain groups of people by the Apartheid Government (Bolton, 2006: 193), others see it as prejudicial to the previously advantaged groups (Miclause, 2010, n.p).

The use of procurement as a policy tool should not be viewed as illegitimate (Bolton, 2006 quoting, McCrudden, 1999: 11). Bolton (2006: 193) argues that in most cases Government procurement often aims to achieve the secondary objectives of section 217(2) of the Constitution, as opposed to the primary objectives. Section 9 (1-5) of the Constitution of South Africa deals with the rights to equality of all individuals within the Republic.

Bolton (2006: 198) is of the view that the use of procurement and thus, Preferential Procurement, could be viewed as unconstitutional in accordance with section 9(1) and 9(3) of the Constitution of South Africa. However, in the same paper, Bolton (2006: 198) highlights the cases where the courts ruled that "the right to equality in the Constitution of the country is more a "substantive" conception of equality, as opposed to a "formal" conception of equality".

It is perceived that procurement, as a policy, tool is usually used in a competitive environment (Shezi (1998) & Watermeyer, (2000) quoted by Bolton (2006: 195)). It is not well established whether or not this competitive environment is satisfactory, fair and transparent, as set out by section 217(1) of the Constitution.

Preferential Procurement policies offer advantages in that funds are not directly raised from the public. This has been found to be more effective, compared to some Government initiatives, in which taxes are raised prior to implementation, thereafter rarely reaching the targeted citizens (Martin & Stehmnn, 1991: 238, quoted by Bolton, 2006: 196).
The award of projects to contractors had previously been based on the lowest bid submitted. However, this has changed somewhat since the implementation of Preferential Procurement as a policy tool in South Africa (Hanks, Davies and Perera, 2008: 3). A contractor who does not adhere to the Labour Relations Acts, Health and Safety Acts, and Affirmative Action will be less preferred in the awarding of contracts (Bolton, 2006: 196).

When discussing Section 2(1) of the Procurement Act, Bolton (2006: 204) highlights that the obligatory nature of the section for organs of state to implement Preferential Procurement is significant. The section gives little discretion on whether or not to implement the Preferential Procurement policy, nevertheless makes it obligatory for members of state to implement Preferential Procurement.

Preferential Procurement policies have the potential to reduce innovation and competitiveness, damage the preferred parties, and weaken the global economy (Ding and Chee-Wah, 2006: 33). This raises the question whether Preferential Procurement should be used by the South African Government as a policy tool. The concern regarding in South Africa is that there is no clear evidence that the South African Government is getting value for money on contracts awarded through Preferential Procurement. Value is not to be measured in monetary terms alone, argues the CIDB (2005: 4), but the measure has to combine factors such as cost, number of jobs created and involvement of individuals who would otherwise be discriminated against.

The research sought to investigate the perceptions of the implementation of Preferential Procurement policies in the construction industry and the impact thereof on the industry. The study will assist in ascertaining whether or not the construction industry stakeholders are supportive of the Preferential Procurement policies and strategies; most especially researching their perception on whether there are benefits for such policies in the sector.

1.7. Scope and Limitation of the Study

The research investigations were limited to the Preferential Procurement practices applied in the South African construction industry. The report focuses on the views expressed by the;

- Construction contractors,
- Officials in Government offices involved in procurement of construction work, services and major materials,
- Clients in the construction industry, and the
- Construction subcontractors and consultants.

The above targeted groups are from the Gauteng area. The Gauteng province has had more construction activities in recent years than any of the other provinces. Gauteng has been reported as generating economic growth well above the country's overall development (Mabuza, 2004: n.p).

1.8. Structure of the Report

The research report is composed of five chapters.

The first chapter introduces the research topic by providing background information on the research problem, highlighting the need for the study, the statement of the research problem and objectives of the study. In addition, the chapter presents the research propositions and the scope and limitations of the study.

The second chapter covers the literature review, which entails discussions on Preferential Procurement and other supporting legislature. The literature review examines the need for Preferential Procurement and its effectiveness.

The third chapter contains the methodological approach adopted in the research. The Descriptive Survey method was chosen. In the first stage, preliminary interviews were conducted. The themes highlighted in the interviews were used to design the main questionnaire. The main questionnaire has two sections, the first section asks general questions to elicit the demographics of the respondents. The second section includes questions in which possible answers are given to the respondent to select from, rating the level of agreement on a scale of 1 to 5. Multi-attribute Utility analysis was administered, to investigate the relationship between the respondents; the Spearman Rank Correlation was used to test the research hypothesis.

The fourth chapter includes data presentation, the analysis of the data presented and a discussion of the results.

The fifth chapter draws conclusions and provides recommendations. The report ends of with references and appendices.

2. Chapter 2: Literature Survey

2.1. Introduction

This chapter presents an overview of the South African construction industry. It discusses procurement of services and goods, especially by Government. It furthermore, highlights the various legislature established by Government to achieve secondary objectives, via public procurement. The chapter further highlights how Preferential Procurement is perceived primarily as part of Broad-Based Black Economic Empowerment (BBBEE). The advantages and disadvantages of Preferential Procurement are also discussed in the chapter.

2.2. Overview of the South African Construction Industry

It is generally recognised that the South African construction industry is very large, diverse and complex. Its size and complexity is further complicated by the vast number and range of employees found in the sector and the significant differences in the size and nature of its member organisations. According to the construction Sector Education and Training Authority (CETA) (http://www.ceta.org.za/Mandate/OverviewConstructionSector.asp), it is estimated that there are over 35 000 employers in the construction sector, and approximately 330 120 employees. While the sector has several employers, about 95% of the sector members can be characterised as small and micro enterprises. South African construction industry, like other sectors in the economy, is also project-driven. It has been established, however, that most projects have not been completed on time, nor have they come in under budget with the stipulated quality requirements (Mapatha (2005: 2) quoting Allen (1999) and Smallwood (2000)).

The Government has adopted a procedure of subdividing projects into smaller packages within the main one in order to accommodate emerging organizations and increase the chance of project success. Sennoga (2006: 225) agreed that many states and cities follow a similar approach when making procurement decisions. Although this proved successful in growing small and medium enterprises, it is seen as one of the slowing factors for Government delivery on infrastructure and services (CIDB, 2006 (A): 2).

In his 2003 State of the Nation address, former president Thabo Mbeki emphasized the importance of the construction industry delivering infrastructure to meet the social and

economic responsibilities of Government (Watermeyer, Pautz and Jacque, nd: 3). According to Davenport (2011: 1), the construction industry accounts for a total investment of 10% of the South African GDP. This is expected to decline to 8% by 2012 due to the impact of the global economic slowdown. Snyman (2011) further elucidates that the Gross Fixed Capital Formation (GFCF) will remain flat at 2.1% in residential, non-residential and civil sectors. The latter further affirms that no significant growth is expected from the construction sector in the short to medium term.

2.3. Overview of Public Procurement

Procurement is a process of attaining goods and services from a supplier or contractor (The Institute of Public Procurement, 2006: 12). As budgets become restricted, Government agencies are placed under enormous pressure to reduce the cost of procurement of products and services (Keisler and Buehring, 2005: 293). Keisler and Buehring (2005: 293) suggest that in order for Government to benefit from the efficiencies of the private sector, procurement practices that foster cost reductions should be implemented. Bolton (2006: 193) is of the view that, although procurement for Government is business-like, Government still has social, economic and political agendas to accomplish by means of their procurement policies.

The Government outsource most of its services from organizations that best understand how the service should be delivered. Islam (2007: 382) highlighted that the benefits of contracting out services generally assist the consumer to reduce costs while increasing efficiency or production. Through outsourcing, the service, quality and customer satisfaction may then improve. Opponents of contracting out, however, highlight the rise of corruption by the contracting parties, a decrease in accountability and the minimization of equity and fairness in service delivery (Islam, 2007: 382 quoting Faramand, 2001; Bliss & Ditella, 1997; Elliot, 1997; Donahue, 1989).

Public procurement cannot be upheld unless it is integrated within other public policy environments, most crucial of which is the business policy (Schapper, 2006: 4). Public procurement by Government is a key facilitator for Government operations (Basheka, 2008: 379). The contribution of Governments globally to the construction industry is significant (Pautz, Watermeyer and Jacquet, nd: 1). Public procurement by the Government is seen as the key to promoting the following (Basheka, 2008: 389):

- Procedures that are transparent, promoting fair and equal treatment,
- Recourses linked to public procurement used in accordance with the intended purpose,
- Procurement officials' behaviour and professionalism in line with the public purpose of their organization and
- Systems in place to stimulate public procurement decisions, to ensure accountability and to promote public scrutiny.

Procurement procedures are most often characterized by mismanagement and corruption (Basheka, 2008: 380). This may stem from a lack of knowledge and expertise required from Government agents on ethical governance when procuring goods and services (Schapper, Veiga and Gilbert, 2006: 2). There is no "best way" of procuring services (Frank, 2007:118 and the Institute of Public Procurement, 2006: 13). In order to achieve effectiveness in procurement practices the following should be attained (Frank, 2007: 118);

- Finding the right balance between over- and under-centralization;
- Maintaining an ethical operating environment;
- Benchmarking for success and best practices;
- Maintaining a transparent operation;
- On-going management of relationship with vendors;
- Emphasising the importance of on-going training; and
- Adopting e-procurement whilst understanding its limitations.

The institute of public procurement (2006: 3) depicts a typical procurement process as follows;

Defining the procurement strategy

The public sector organisation defines the aims, decides what is needed, prepares the business circumstance and then decides how the procurement process will be carried out. They will take into account the market legislation and public sector policy.

↓

Inviting tenders

The public sector organisation invites suppliers to put in an offer - often in response to an advertisement in papers or a trade magazines. In some cases suppliers have to prequalify before being invited to tender. They do this by responding to questionnaire or supplying information about their financial status, previous experience, References, etc.

↓

Evaluating tenders

The public sector organisation then evaluates the tenders against set criteria relating to value for money. This process usually includes a period to clarify the tender with the tenderers.

↓

Awarding the contract

The organisation then awards the contract to the supplier whose bid represents value for money .

↓

Managing how the contract is put in place

Everyone involved in the process works together to put operations in place for the forthcoming contract.

↓

Managing the contract

The supplier and the organisation manage the contract and the supplier's performance is checked and monitor by the organisation.

↓

Review and testing

The objective of the contract will be reviewed regularly and after a set period of time the contract may be advertised again if no suitable tenderers have been found.

Figure 2.1: Typical Procurement Process

Source: The Institute of Public Procurement (2006: 3)

When it comes to procurement of services by the Government, all the main state employees involved in the purchasing process should ensure appropriate administrative action for appropriate and effective implementation of the procedure to be followed (Europa Council, 2005: 2).

Public procurement policies are perceived to be ineffective, lacking transparency and accountability and employing misuse of resources both in developing and developed countries (Schapper, Veiga and Gilbert, 2006: 1). Schapper, Veiga and Gilbert (2006: 3) are of the view that public procurement is "subject not only to conflicting political, managerial and regulatory objectives, but also that key performance measures associated with these divergent objectives introduce conflicts between and even within Government agencies themselves".

2.3.1. Procurement in the South African Construction Industry

Public procurement contributes a lot towards construction procurement in most developing countries (Pautz , Watermeyer and Jacque, nd: 1). Schapper, Veiga and Gilbert, (2006: 1) describe public procurement as being vague and therefore, not understood by many, making this area of public administration particularly vulnerable.

Islam (2007: 395) mentions that it is essential for civil servants, who are part of management and monitoring of contracts, to be effective and experienced, so as to properly manage and monitor contracts in order to achieve cost reduction in public procurement. He also emphasised the importance of transparency to avoid corruption in the selection of contractors through public procurement systems.

Government has come to expect a lot from the public sector owing to domestic and global, social and economic pressures to deliver and remain competitive (Gordhan, 2011: n.p and Schapper, Veiga and Gilbert, 2006: 7). With public procurement, Government is hoping to bridge this financial gap by including black people in tendering for jobs and even in holding managerial positions. Gunter (n.d: 8) quoting Booysen (2005) mentioned that in recent years, 93% of top positions in organizations are held by white people, a slight decrease of 2% compared with the 95% reported in 2002. She is also of the view that there is a perception that these top managers are reluctant to share their positions with black people.

Government has therefore gazetted legislation, as discussed in this chapter, to offer training and priority to black people in tenders and in the work places. Thus, companies are made aware of this preference in invitations to tender. Tenders are subsequently awarded according to how compliant a company is with Preferential Procurement. This will ensure that South African citizens are aware of the public procurement strategies used by the Government.

2.4. Broad Based Black Economic Employment (BBBEE)

Broad Based Black Economic Empowerment (BBBEE) means " 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 that include, but are not limited to increasing the number of black people that run, own and manage enterprises and productive assets; facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises; human resource and skills development; achieving equitable representation in all occupational categories and levels in the workforce; and investment in enterprises owned or managed by black people" (Department of Trade and Industry, 2003: 3). The Broad-Based Black Economic Empowerment Bill (BBBEE) of South Africa (2003) was crafted to rectify the imbalances created by the Apartheid Government

The strategy for the BBBEE is that the needs of all South African citizens are to be met in an equitable and sustainable manner (DTI, 2005, n.p). When BBBEE is properly implemented, it has the potential for improving the quality of life of all citizens, improving the economy and creating jobs through skills development (Standard bank, n.d: 2).

The BBBEE Bill of South Africa (2003) has been drafted "to establish and legislate framework for the promotion of black economic empowerment and thus to promote the achievement of the Constitutional right to equality, to increase broad-based and effective participation of black people in the economy and to promote a higher growth rate, increasing employment and more equitable income distribution" (Department of Trade and Industry, 2003: 2).

All Government stakeholders are legally obliged to comply with BBBEE legislations, and therefore they have to issue tenders to suppliers or contractors that can demonstrate adherence to BBBEE (Standard Bank, n.d: 3). This imposes an enormous responsibility on all businesses to ensures that their partners and suppliers are complying, whether they deal privately or with Government. Compliance of organizations with BBBEE legislation is measured through the BBBEE generic scorecards or gazetted sector scorecard and the codes of good practice.

The total points obtained through the BBBEE generic scorecard indicate the level of organization's compliance. According to Standard Bank (n.d: 9), compliance measurement

through the score card is done in three major areas being; direct empowerment, HR Development and Indirect empowerment. The three areas are further broken down to seven sub-indicators, in which an organization is awarded points and assessed based on how close it is to the envisaged target. The total points obtained, indicates the level in which the particular organization is at, highlighting all the BBBEE activities taken by the organization (Standard Bank, n.d: 9).

A Code of Good Practice was gazetted in February 2007. "The purpose of the Codes of Good Practice is to assist and advise both the public and private sectors in their implementation of the objectives of the Broad-based Black Economic Empowerment (Broad-Based BEE) Act. These Codes of Good Practice provide principles and guidelines that would facilitate and accelerate the implementation of Broad-Based BEE in a meaningful and sustainable manner" (Republic of South Africa, n.d, 4). The Codes offer insight on BBBEE and on how an enterprise's contribution should be measured (Standard Bank, n.d : 6).

The range of codes is highlighted by (Standard Bank and Department of Trade and Industry, 2007), as follows:

- Code 000: outlines the general principles of BBBEE which include the generic scorecard and framework for measurement,
- Code 100: measures the level of black ownership of a business,
- Code 200: measures the level of black management and control of a business,
- Code 300: measures general principles for measuring employment equity in the workplace,
- Code 400: measures the extent to which employers develop the skills and competencies of black people,
- Code 500: measures the level of goods and services that a business buys from BBBEE compliant suppliers,
- Code 600: measures the contribution of a business to enterprise development,
- Code 700: measures the extent to which a business promotes access to the economy for black people and contributes to socio-economic development and
- Code 800: contains the general principles for measuring qualifying small enterprises (QSEs) in all aspects of the scorecard.

Code 100 through 700 make up the BBBEE scorecard which is used to assess whether or not a business is adhering to black empowerment legislation (Standard Bank, n.d : 8).

The generic code of conduct is there to assist organizations in implementing and achieving the necessary BEE status. Different industry sectors can therefore formulate their own charter, drawing from the Code of Good Practice; having it endorsed by the Department of Trade and Industry to make it effective (South African Info, 2009: n.p). The construction industry has its own sector charter, which came into effect on the 5th June 2009. This helps the industry as a whole, to implement ways of complying with BEE requirements – this can take place gradually within the given 10-year period. By then the industry should have reached the 30% black ownership target (Department of Trade and Industry, n.d: 1).

Black Economic Empowerment does not imply that wealth is taken from white people and given to black people. However, it is a strategic method to grow and empower all the South Africa citizens economically, the weakest of them being black people (South Africa. info, 2009: 1). Gunter (n.d: 9) reports that corporate business in South Africa has accepted BEE as both "economically and socially necessary". She highlights many obstacles that are delaying the effectiveness and usefulness of BEE. These include:

- Lack of commitment to real change by all parties, opportunistic behaviour and dishonesty,
- Agreement by black people to be used in fronting rent-a-black schemes used to get Government jobs,
- Black companies that secure jobs with Government thereafter selling them; and
- White and black people using each other to obtain work and money.

2.4.1. Employment Equity Act No.55 of 1998 & the Skills Development Act 1998.

The Employment Equity Act is binding for organizations that employ 50 or more employees or those that have an annual turnover of or above R2 million, up to R 25 million (Embassy of Japan in South Africa, 2010: 8). Business organizations have to show how they will ensure a proper working environment, which is fair and undiscriminating. These working conditions allow individuals to be remunerated fairly, taking Affirmative Action into consideration.

The Skills Development Act, as explained by (Standard Bank, n.d: 7) makes a provision for business organizations to develop the skills of black people. This is due to the previously disadvantaged group having no exposure to quality education and skills in the past. The Government has therefore enforced a compulsory levy for certain organizations who must contribute certain amounts of money towards developing their employees' skills (Standard Bank, n.d: 7). This levy has ensured that most employees have benefited from courses and seminars enhancing the quality of their work.

2.5. Preferential Procurement in South Africa

Countries like the United States of America, Brazil and Bangladesh have used Preferential Procurement in order to improve their domestic industries (Ding and Chee-Wah, 2006: iv). One of the fundamental areas where corruption occurs in Uganda is in public procurement (Basheka, 2008: 380).

Government interaction with the private sector requires discipline through management and systematic control. Discipline should be imposed on all parties to ensure that previously disadvantaged individuals benefit from the awarding of contracts to suppliers or service providers that adhere to BEE, health and safety regulations, as well as to the country's labour laws (Quadrem Tradeworld, n.d: 50).

Global public procurement has been utilized by Governments to perform most of their service delivery responsibilities (Pautz, Watermeyer and Jacque, n.d:1). Gunter (n.d: 9) agreed insisting that procurement and any legislation supporting it, should be driven by Government. Some people, however, are not sure about the exact role of Government in Preferential Procurement (Ding and Chee-Wah, 2006: v).

The South African Government has specified procedures in all its nine provinces on how to implement Preferential Procurement. The Provinces may therefore, have different approaches when conducting Preferential Procurement. However, the approach has to be under the overall guidelines prescribed by the Government.

Table 2-1 shows how the Kwa-Zulu Natal Province Government awards points to various groups in order to achieve the objective of including specific groups when procuring professional services.

Table 2-1: Kwa-Zulu Natal Province Governmwnt Point System

Equity Ownership		
	Gender	**Points**
Black Africans	**Female**	**40**
	Male	**20**
Coloured, Asian	**Female**	**10**
	Male	**10**
White	**Female**	**5**
	Male	**0**
Disabled people	**Female**	**5**
Youth		**10**
		100

Source: (Vilakazi: Presentation, 2009):

Based on Table 2-1, black Africans are given preference; more so, the black women. A black African woman receives more points than women of other races. A black man is second on the preference list. Disabled people and white ladies have equal and the lowest points. Young people are allocated points equal to that of coloured and Asian people.

All businesses are affected by BBBEE, except for those businesses that earn less than R 5 million in annual income (Standard Bank, n.d: 3). Standard Bank (n.d: 2) mentions that during tendering for projects, if factors such as the cost and quality of the job are equal, which is part of BBBEE has an enormous impact on the decision made regarding which company will receive the tender.

In South Africa, different industries are allowed to develop their charter differently and have their own scorecard for achieving Black Economic status. This charter can be submitted to the Department of Trade and Industries. If approved by the department, it may be used instead of the generic BBBEE scorecard. The charters are submitted to the Department of Trade and Industry (DTI) to ensure that they adhere to and comply with the generic scorecard established by the Government.

The generic BBBEE scorecard consists of seven sub-indicators. The seven sub-indicators are:

- Ownership (20 points plus 3 bonus points),
- Management and control (10 points, plus 1 bonus point),
- Employment equity (15 points plus 3 bonus points),
- Skills development (15 points),
- Enterprise development (15 points), and
- Socio-economic development (5 points) of black individuals in an organization (Standard Bank, n.d: 9).

A number of points are allocated to other sub-indicators within the major ones. Thus, the total points acquired by an organization in each of the main sub-indicators will indicate how compliant the organization is with BBBEE. The impact of the score-card is that it allows other organisations to procure services from companies that are BEE compliant and thus increases their BEE rating. The Government can, however, leverage its purchasing capability and preferentially procure from companies that are BEE compliant.

The highest points of 20 on the score sheet is awarded for black ownership. Preferential Procurement also counts 20 points. These points and the BEE level owing to Preferential Procurement is attained as tabulated on Table 2-2:

Table 2-2: Preferential Procurement Point System

Description	Weighting	Target (by 2012)	Target (by 2017)
Claimable BBBEE procurement spending as a % of total procurement spending	**12**	**50%**	**70%**
Claimable BBBEE procurement spending from qualifying small enterprises (QSEs) and exempted micro-enterprises (EMEs) as a % of total spending	**3**	**10%**	**15%**
Procurement from suppliers that are majority black-owned (max 3pts), or 30% or more black women-owned (max 2pts)	**5**	**15%**	**20%**
Total	**20**		

Source: Standard Bank-BBBEE explained (n.d: 16)

Table 2-2 indicates that the target envisaged for 2012 on the first item is 50% and has to have increased by 20% in 2017. This means that organizations are given time to improve their BEE status over a period of years, the rate at which the business wishes to reach the target will likely depend on the strategic and business decisions it makes. The company may find itself disadvantaged owing to the slowness of their transformation policies and strategies, especially when tendering for Government projects. Thus, it could be more beneficial for an organization to comply sooner than later, and risk, reducing the chances of winning tenders.

Furthermore, when one analyses the above, one can see that points are targeted at small and medium enterprises and black-owned organizations as well as organizations that empower women, preferably black. Standard Bank (n.d: 17) and Small Capital (2008:1) defined company spending methods that can and cannot be included in the calculation of points. These include:

- Financial services (banks, insurance) ,
- Rentals,
- Legal costs.
- Travel costs,
- Accounting and office supplies,
- Services and raw materials,
- Multinational corporations operating in South Africa (which are also expected to develop BBBEE profiles), and
- Spending where there is a natural monopoly (e.g Telkom)

Costs that should be excluded from the calculation of points are listed below as (Standard Bank, n.d: 17):

- Salaries and wages,
- Spending where the choice of supplier is, for technical reasons, part of a global policy. Done solely for commercial reasons, however, (e.g., awarding contracts to overseas companies when work could be done locally), costs should be included. Certain imports are excluded,
- Charges for services rendered by other departments or suppliers within the same group,
- Social investment or donations, and
- VAT and taxes payable.

Table 2-3 illustrates the percentage of money a business can claim as part of using preferential selection of contractors or suppliers. When a business is procuring services from a BEE level one organization, it can claim 135% of the actual money spent (Standard Bank, n.d: 16).

Table 2-3: Percentage of money to be claimed by organization

Level of supplier	% Claimable	Amount spent (e.g.)	Amount claimable
Level 1 (100pts+)	135%	R 10 000	R 13 500
Level 2 (85-99)	125%	R 10 000	R 12 500
Level 3 (75-84)	110%	R 10 000	R 11 000
Level 4 (65-74)	100%	R 10 000	R 10 000
Level 5 (55-64)	80%	R 10 000	R 8000
Level 6 (45-54)	60%	R 10 000	R 6000
Level 7 (40-44)	50%	R 10 000	R 5000
Level 8 (30-39)	10%	R 10 000	R 1000
Non-compliant (less than 30)	0%	R 10 000	0

Source: Standard Bank-BBBEE explained (n.d: 16)

The same procurement methods are followed even when the business is contracting to other organizations at a lower level. However, the implication would be that the amount claimable would reduce, the less compliant the organization they are contracting out to.

There are no funds claimable for contracting out to an organization that is not compliant with BEE regulations. Thus, most businesses avoid contracting out to such organizations or they do so realizing the negative implications.

2.5.1. The Preferential Procurement Policy Framework Act,

In order for the Preferential Act to be properly effected, black people are given access to tendering for jobs procured by Government. Projects are cut into small packages in order to allow small and medium business enterprises to tender. In addition to seeking the best price offered, a point system is used to identify contractors that adhere to regulations set out by Government in order to achieve the preferential strategies (DTI, n.d: 8).

Through its buying power, the Government is able to introduce new companies into the arena who represent those previously excluded from participating in the economic activities of the country. Black persons in particular were not seen as individuals who could make a sound contribution to the economy by owning and managing a business or an organization. Limited professions were available for women including white women. Women were thus discriminated against as they were not perceived to be equal to men. A similar exclusion was also applied to disabled individuals - they were seen as inadequate, therefore were not hired. The BBBEE is devised to accommodate all individuals regardless of their physical form, gender or colour.

As in the United States of America and many other developed countries (Islam, 2007 quoting Romzke & Johnston, 2005; Savas, 2000: 382); expansion of service delivery has been acquired through procurement by contracts. Islam (2007: 382) suggested that procurement in Bangladesh is normally attained via competitive bidding even through restricted tendering methods or direct procurement methods. It is yet to be discovered whether the practices in the South African construction industry do indeed support competitive tendering.

Section 217(1) of the Constitution of the Republic of South Africa (Act 108 of 1996) set out the primary objective of public procurement as a "procurement system that is to be fair, equitable, transparent and competitive". The secondary objective in section 217(2) highlights that: "sub-section (1) does not prevent [organs of state] from implementing a procurement policy providing for (a) categories of preference in the allocation of contracts; and (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination". Subsection (3) provides that "national legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented" (The Constitution of the Republic of South Africa, No. 108, 1996: 1331(76)).

The provisions of Section 217(2) may differ from what other countries provide for in their procurement policies. Thus, it is unique and designed for the South African procurement owing to the past political influences of the country. The Government prior to 1994 has left an economic gap. Certain groups of people were not allowed to partake in tendering for some Government jobs as owners or managers. This group of black people were mainly used as labourers rather than owners and managers of the tendering organizations (Mokoena, 2006: 17).

Some businesses find it difficult to deal with the pressure that is imposed by the Act; therefore, they resort to ill practices that involve window dressing, benefit diversion and opportunism (Mbaku, 1999:120). Standard Bank (n.d: 5) defines window dressing as a practice in which a business appoints a black person purely because of the benefits it will acquire for hiring the person. This individual has no decision-making power. The institution also describes benefit diversion, as a situation where a company acquires benefits through employing black people who do not share in the benefits acquired; opportunism includes business partnering with a black person simply, to attain the required BBBEE points . Gunder (n.d: 29) agrees that black people have been used as tokens rather than being fully empowered.

2.5.2. Preferential tender evaluation

The CIDB (2006 (B): 6) tabulates the Standard Procurement Procedures for Professional Services as the following:

Table 2-4: The Standard Procurement for Professional Services

Procedure	Description
P1 Negotiated Procedure	Tender offers are solicited from a single tenderer.
P2 Nominated Procedure	Tenders that satisfy prescribed criteria are admitted to an electronic data base. Tenderers are invited to submit tender offers based on search criteria and their position on the data base. Tenderers are repositioned on the data base upon appointment or upon the submission of a tender offer.
P3 Open procedure	Tenders may submit tender offers in response to an advertisement placed by the organization to do so.
P4 Qualified procedure	A call for expressions of interest is advertised and thereafter, only those tenderers, who have expressed interest, satisfy objective criteria and who are selected to submit tenderers offers, are invited to do so.
P5 Quotation procedure	Tender offers are solicited from not fewer than three tenders in any manner the organization chooses, subject to the procedures being fair, equitable,

	transparent, competitive and cost-effective.
P6 Proposal procedure using the two-envelope system	Tenderers submit technical and financial proposals in two envelopes. The financial proposal is only opened should the technical proposal be found acceptable.
P7 Proposal procedure using the two stage system	Non-financial proposal are called for. Tender offers are then invited from those tenderers that submit acceptable proposals based on revised procurement documents. Alternatively, a contract is then negotiated with the tenders with the highest number of evaluation points.
P8 Shopping procedure	Written or verbal offers are solicited in respect of readily available supplies obtained from three sources. The supplies are purchased from the source providing the lowest price after it has been confirmed in writing.

Source: CIDB (2006 (B): 6): Standard for uniformity in construction procurement

Once invitations for tenders are published, tenderers are allowed time to respond to the invitation. They will submit their tenders according to the set dates and requirements. The tender board will then, begin the process of analysing and evaluating the submitted tenders. There are four methods of evaluating tenders once they have been submitted (CIDB, 2006 (B):2). These are:

- Method 1: Dender evaluations are dictated by the price,
- Method 2: Price and preference are the determining factors for the valuation
- Method 3: The valuation is based on the balance between quality and cost, and
- Method 4: The inclusion of all the above three methods, the price, quality and preference.

Method 4 incorporates all the factors considered individually in the other methods. Government or the private sectors have a duty to ensure that value for money is attained when procuring services.

It is evident that despite the tenderer falling within the preferred group of businesses, they still have to demonstrate competence in completing the project within the agreed time, complying

with both cost and quality. Thus, it is practical for state agents involved in the selection of tenders to inspect the document submitted by all tenderers including those that are preferred to ensure that the project will be properly executed (CIDB, 2006 (B): 6).

Any procurement process or method should not ignore the importance of quality and cost reduction. CIDB (2006 (B): 9) mentions that the following are ways in which procedures for attaining sound quality are incorporated in to procurement documents:

- Clear and unambiguous specification of requirements in the scope of work,
- Taking cognizance of whole-life costing in the financial analysis of tender offers,
- Where exceptional quality is required, making use of the qualified procurement strategy, and ensuring that respondents who are invited to submit tender offers are suitably qualified to do so,
- Requiring tenderers to submit plans for monitoring and applying quality management principles in the performance of their contracts,
- Introducing quality into the eligibility criteria,
- Establishing a category of preference for quality in the evaluation of tender, and
- Evaluating selected quality criteria as an integral part of the tender offer, CIDB (2006 (B): 9).

2.6. Preferential Procurement

Preferential Procurement, also known as Affirmative or Targeted Procurement (Gunter, n.d: 37), is one of the cornerstones of the success of Black Economic Empowerment, therefore, is particularly crucial in the South African context (Gunter, n.d: 11 and 26). It may take the form of Government electing to buy certain products from certain suppliers (Ding and Chee-Wah, 2006: iv).

The South African Government implemented the following Acts in order achieve its social, economic and political objectives in the procurement of goods and services:

- Act No 108 of 1996- The Constitution of the Republic of South Africa, 1996
- Act 1 of 1999- Public Finance Management Act, 1999
- Act 4 of 2000- The Promotion of Equality and the Prevention of Unfair Discrimination Act 2000

- Act No 5 of 2000- Policy Framework Act, 2000
- Act No 56 of 2003- Local Government: Municipal Finance Management Act, 2003
- Act No 32 of 2000- Local Government Municipal Systems Act 2000
- Act 38 of 2000- Construction Industry Development Board Act, 2000
- Broad Based Black Economic Empowerment Bill (BBBEE) (2003)

As with any new procedure, the introduction of this legislation has been received with mixed feelings. The private sector is seeking to discover its benefits, whilst Government is continuously determined to spread the benefits to everyone concerned. Empowerdex (2007: 25) explains the thought and the emotional stages that individuals and organizations go through with regards to implementation of this new legislations. These are shown in the figure below:

DENIAL

Organizations believe that BEE and related legislation does not affect them.

↓

ANGER

Individual ask themselves why they must give away their shares/wealth to empower the black elite.

↓

BARGAINING

The individual seeks to find a way of giving a little while scoring highly on the BEE scorecard.

↓

DEPRESSION

The individual feel that they are not compensated enough for all they have done to empower black people.

↓

ACCEPTANCE

Finally, the individual realize that BEE is a reality and that there are sustainable ways of contributing to and complying with it.

↓

CHILDHOOD INNOCENCE

Individual think if they seem compliant all their problems will be solved..

↓

PAIN

Individual feel unfairly treated or that they are not receiving the expected returns.

↓

KNOWLEDGE

Individual return to the drawing board to decide what has gone wrong.

↓

ACTION

The individual then apply all the findings to correct the past and add value to attain returns.

↓

WISDOM

After all the above has been experienced, individuals become wiser and better than before.

Figure 2.2: Emotional stages for accepting Preferential Procurement

Source: Empowerdex (2007: 25)

Procurement can be reduced through procurement practices. However, it is not evident how these costs are reduced (Keisler and Buehring, 2005: 296). Hanks, Davies and Perera (2008:3) quoted a South African Provincial Treasury representative who had said that "new regulations, such as BEE, dominate procurement decisions; they even tend to take priority over quality and price." Some interviewees had concerns that the Preferential Procurement Policy Framework Act (PPPFA) was not furthering BEE to the extent that it should or could.

Preferential Procurement in South Africa also aims to benefit small and medium businesses. However, the Institute of Public Finance (2006:10) and Schapper, Veiga and Gilbert (2006: 12) are of the view that most of these enterprises cannot handle the paperwork essential to prove compliance with regulations of the legislation. Schappers, Veiga and Gilbert (2006: 12) opined that the tendering and bidding nature of Government-procured products and services could be biased against competitive small and medium regional businesses. This situation raises a concern, given that these small and medium enterprises are intended as the beneficiaries of Preferential Procurement in South Africa. The United Kingdom has realized employment growth, owing to empowerment and growth of small and medium enterprises (Ssennoda, 2006: 226). This is the kind of benefit that the South African Government seeks to achieve.

It is not legally binding for the private sector to implement empowerment regulations as policy, but it has been observed that many do comply with the requirements, as they can then earn points and claim higher points than the amount spent for working with BEE suppliers and contractors, see Table 2-3 (Standard Bank, nd :16).

Preferential Procurement is preserved to put white women at a double disadvantaged position whilst their black counterparts are advantaged twice, based on being women and being black (Gunter, n.d: 34). Gunter (n.d: 39) highlights that white women, including those that are disabled are not regarded as being previously disadvantaged in the BBBEE Act. Documents that provide comprehensive guidance on how to apply Preferential Procurement policies as set out and described by CIDB (2006 (B): 12, 21&22) are as follows;

- CIDB Best Practice Guidelines B1 (1007): Formulating and implementing Preferential Procurement policies;
- CIDB Best Practice Guidance B2(1008): Methods and procedures for implementing policies;

- CIDB Best Practice Guidance D2 (1013): Joint venture arrangements;
- SANS 294, Construction Procurement Processes, Methods and Procedures;
- SAICE Practice Manual 1, the use of South African National Standards in construction procurement;
- Labour Department and the Preferential Procurement Policy (Act No.5 of 2000);
- the Policy Framework Act, 2000 (Act No 5 of 2000);
- SANS 10396;
- SANS 1914;
- The Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
- the Energy Policy White Paper 1998 from the Department of Minerals and Energy;
- Broad-Based Black Economic Empowerment Bill (BBBEE); and
- Employment Equity Act no.55 of 1998 & the Skills Development Act, 1998

2.6.1. Types of Preference

Ding and Chee-Wah (2006: 2) discussed the two types of Preferential Procurement, namely, a product-based preference and an outcome-based preference.

a) Product-based preference

A product based preferential policy has to be well formulated and implemented to avoid the outcome that could counteract the initial objective of the policy (Ding and Chee-Wah, 2006:

b) Outcome-based preference

This is the kind of Preferential Procurement aimed at attaining a particular outcome. An outcome-based Preferential Procurement policy is easily achieved in cases where the Government or buyer is the main client or the only purchaser (Ding and Chee-Wah, 2006: 3). Ding and Chee-Wah (2006: 3) explained that this kind of procurement can only be executed appropriately if it is properly planned.

2.6.2. The Preferential Point System

State organs are obliged by the Preferential Procurement Act to make use of the 80:20 and the 90:10 point systems in evaluating tenders for selection. The points systems are formulated as shown below;

80:20 point systems
*The formula: Ps = 80(1-Pt-Pmin / Pmin)
Where:
Ps = Points scored for price
Pt = Rand value of tender under consideration
Pmin = Rand value of lowest acceptable tender

The remaining 20 points may be awarded in total to a tenderer who has members who come from the HDI or one who is subcontracted with HDIs or one that has achieved specific goals (South African Government, 2001: 2).

90:10 point systems
*The formula: Ps = 90 (1-1Pt-Pmin / Pmin)
Where:
Ps = Points scored for price
Pt = Rand value of tender under consideration
Pmin = Rand value of lowest acceptable tender

Similarly to the 80/20 point system, the remaining 10 points may be awarded to a tenderer who has members who come from the Historically Disadvantaged Individuals (HDIs) or one who is subcontracted to HDIs or one who has achieved specific goals.

Empowerdex (2007: 24) reports that the 80:20 point systems in Preferential Procurement have aspects that may divert focus away from SMMEs. Initially, the 80:20 was to be implemented on projects that have values between R30 000 and R 500 000; and the 90:10 system applied to projects valued at above R500 000 (Gunter, n.d: 57).

The Econo BEE website (2010: n.d) reports that the National Treasury and the DTI have made some changes in order to assist Small, Micro and Medium Enterprises (SMMEs), lifting

the 80: 20 formula to projects of between R 30 000 and R1 million and the 90:10 formula to projects exceeding R1 million rand.

This is the preferential points system, in which points are allocated in the tender evaluation process. Of the score of 100, depending on the value of the contract, 80 or 90 points are given for price and 10 or 20 points are allocated according to how supportive the tenderer is to historically-disadvantaged individuals (HDI) and the Reconstruction and Development Programme (RDP) (Econo BEE , 2010: 1).This system generate a score out of 100 where 80 or 90 are the points allocated to the bid price (Parliamentary Monitoring Group, 2009: 1), whilst the 10 or 20 referes to the points allocated to the promotion of the HDIs and RDP goals.

2.7. The Beneficiaries of Preferential Procurement

South Africa, like most developing countries, has a lack of diversity of economic activities (Ssennoga, 2006: 238). Thus, with BEE and Preferential Procurement, Government hopes to include the previously excluded groups in the financial activities of the country. This group is comprised of the local black population, Indians, Chinese and coloured South Africans (Human, 2006: 1). There have, however, been uncertainties and different views with regard to the benefits of Preferential Procurement (Ding and Chee-Wah, 2006: IV).

There is a growing perception that BEE and Preferential Procurement have been steered to benefit the elite that have political affiliations, rather than to the entire previously disadvantaged group (Gunter, n.d: 26). Some of these perpetrators have been exposed in the media. It has been seen as a constant challenge for the South African Government to prevent their employees and politicians from entertaining corrupt practices that will distort the progress the Government has made. The corrupt nature of the way in which BEE and Preferential Procurement has been handled has left Government and the business sector blaming each other for the shortfalls of this legislation (Janisch, 2010: 1). Thus, Janisch (2010: 1) reports that both parties are wrong in doing so. He explains that Government should concentrate on delivery of its promises, whilst the business sector “embraces the idea of doing the right thing just because it is right and not just because they are obliged”.

The overall beneficiary of Preferential Procurement should thus be the country as a whole. Close to 80% of the South African population is black, and they are vastly impoverished

(Leibbrandt et al, 2010:4) . This has led to crime and socio-economic desperaty in the country. If the poor are empowered and are given equal opportunities, the social and economic disparities will be alleviated.

It is not sustainable to keep a minority group holding a large portion of the finances of the country. It will not only alienate some citizens, but will also make the country unable to compete economically in the international market. There has been enormous pressure placed on Government to ensure proper representation of the country in the economic market (Gunter, n.d: 6).

It has been a constant battle on the part of the minority to include black people in managerial positions. There has, however, been a vast improvement since 1994 (Gunter, n.d: 6). Through BEE and affirmative procurement, the majority is now given an opportunity to open up new enterprises and to bid for jobs. The challenge is also shared with the private sector, who should avoid practices that involve fraudulent tendering by placing black people's names in the tender documents of the company in order to obtain the tender (Embassy of Japan in South Africa, 2010: 6).

The private sector has to refrain from aligning themselves with those black individuals who are politically connected (Gunter, n.d: 6). If all citizens are committed to BEE, then Preferential Procurement will be supported. The private sector and the Government have to engage in transparent and ethically-correct contracting, in order to include black people and other previously disadvantaged groups in the financial markets and management of organizations.

In order to assist emerging enterprises to cope with the documentation required for Preferential Procurement, the Ntsika Enterprise Promotion Agencies were formed. Ntsikas's primary role was to offer support to these businesses at no cost (DTI, n.d: n.p). Gunter (n.d: 29) identified eighteen centres, mentioning that they have been part of the formation of R130 million contracts between Government and 300 black suppliers. Gunter (n.d: 35) mentions that organizations can benefit from affirmative procurement which affords them strategic guidance for the level of work to be done. It increases efficiency of the work units; increases customer focus, and can also increase respect and trust among workers.

Small and medium enterprises are amongst the beneficiaries of Preferential Procurement. However, there have been complaints about the shorter time-frame given to these enterprises to comply with BBBEE compared to the bigger organizations. The South Africa Government has explained that bigger organizations have been given a longer period to comply, as it has been deemed difficult to transform a larger organization, as compared to a smaller, newer firm (Gunter, n.d: 42).

2.8. The Perceptions on Preferential Procurement

2.8.1. The Positive Perceptions

Bolton (2006: 194) argued that the use of procurement as policy in the South African context could be seen as the Government's way of re-distributing wealth to the different groups of people in the country. Government had it tough in the 1990s, as there were no procurement systems to cope with the requirements of expansion. However, post 1990s, Government sought to put in place transparent, accountable, non-discriminative methods of procurement, which ensures competitiveness and is geared towards realizing value for money (Basheka, 2008: 380 and Schappers, Veiga and Gilbert, 2006: 7). This is not unique to South Africa: Turkey has set regulations in place to ensure that transparency, competitiveness and non-discriminatory procedures are attained in publicly-procured projects (Europa Council, 2005: 3).

Preferential Procurement can help steer the national economy in the direction that would assist the economy into global competitiveness (Ding and Chee-Wah, 2006: iv). It is estimated that 70% of the top income earners would in the near future be black people due to BEE (Standard Bank, n.d: 3). At an employee level, Gunter (n.d: 35) is of the idea that employees appear to be highly motivated, their personal skills improve, there is increased accountability, increased personal power and pride and they also help individuals reach their personal goals.

Public procurement can benefit the target groups by directly contracting out to them or by contracting out to organizations that will ensure that all matters relating to BEE and Preferential Procurement are adhered to. (CIDB, 2006 (B): 6-7) mentions that these contractors could be required to;

• Jointly select with the Government, suppliers from the targeted groups,

• Offer material and plant support to lower-ranking suppliers or enterprises,

• Enter into a joint venture with a preferred supplier or subcontractor in return for price preference at tender stage, and

• Subcontract a specific percentage of the work to a preferred subcontractor or supplier.

The construction service sector has been best used to include women and to assist in alleviating impoverished communities through affirmative procurement, because it is labour intensive (Ssennoga, 2006: 235).

2.8.2. The Negative Perceptions

Unlike developed countries, developing countries suffer more from corruption because stakeholders in Government stand to gain (Basheka, 2008: 380). Corruption by Government employees affects decision-making, which in turn lead to benefits shifting to the elite instead of the targeted group (Basheka, 2008: 380). A study of Preferential Procurement in Brazil, United Kingdom, India, France and United States of America by Ding and Chee-Wah (2006: iv) uncovered that product-based benefits are short term and have rather gloomy long-term effects due to the following factors:

> "Any advantage in competitiveness that is given to a preferred firm in an insulated market environment is of a transition nature,
>
> • Preference policies create a secure environment where preferred players become inward-looking, complacent and inter nationally uncompetitive,
>
> • Preferred players generally lose their incentive to innovate and to invest in the future, and
>
> •Preferential Procurement, encourages, 'rent-seeking' activities (i.e. efforts to promote a firm's own goals by entrenching or broadening Government preference policies) more than it promotes efficient performance by the preferred industries".

Janisch (2010: 1) agrees that Government policies often have unintended, even harmful consequences. Basheka (2008: 380) mentions that most African countries suffer from lack of accountability when engaging in public affairs. Ssennoga (2006: 238) highlighted that the deficiency is mostly seen in developing countries.

With SMME' s being one of the beneficiaries of Preferential Procurement, it has been found that they grapple with issues such as, how to find information on new contracts, a complete lack of business plans, not being able to determine the appropriate size of contracts they engage in, economic uncertainties that can significantly affect their small enterprises and the nature of documentation and certification required to be considered for contracts (Ssennaga, 2006: 238).

Critics of Preferential Procurement argue that Government handling of the system creates doubts and are error prone (Ding and Chee-Wah; 2006: iv). They also believe that, in most cases, the Preferential Procurement policies have backfired on Government as they reduce innovation, impacting negatively on the economy and having decreasing competitiveness (Ding and Chee-Wah; 2006: iv).

One of the major issues with Governments using Preferential Procurement as a policy is that there seems to be a lack of data collection and follow-up in terms of the effectiveness of the preferential policy after it has been put in to place. Ding and Chee-Wah (2006: 31) are concerned that Government policy makers become reluctant to modify or revoke the need for Preferential Procurement once it has achieved its purpose.
Surely once a policy tool has met its targets, owing to the nature of Preferential Procurement, it should be stopped or amended, to avoid being unfair to groups or suppliers that were not preferred. Thus, policy makers should continuously monitor the effects of the Preferential Procurement policy they have put in place. However, this can be financially demanding. The latter raises another concern in that Government may not be financially ready to monitor these effects. This is why Ding and Chee-Wah (2006: 33) are adamant that markets are most suitable as they would always determine which product or service is excellent at any point in time, rather than through Government intervention.

Janisch (2010: 1) is of the opinion that Preferential Procurement overlooks the spending patterns of individuals as it gently promotes local production. He suggests that it may be advantageous for a Government to relax the Preferential Procurement requirements as soon as it establishes sufficient jobs and skills development.

Schapper, Veiga and Gilbert (2006: 6) cite lack of professionalism by Government officials when involved in procurement. When Government officials refrain from corrupt practices

particularly in procurement, the private sector is afforded a dynamic environment in which to operate (Basheka 2008: 390).

Ding and Chee-Wah (2006, iv) report the following on the results of their case study of ;

> "The case studies reveal that Preferential Procurement policies can and do distort trade efficiencies, increase consumer cost and prevent the development of a competitive and dynamic industry, because rivals are discouraged from being competitive on merit"

Watermeyer (2001: 2) is of the view that in order to ensure the tender process is fair and transparent, those issuing tenders should be advised on the format of submission and how the tenders are processed after they are received.

Public procurement systems will only be beneficial, assisting Governments to meet social targets, if there is sound economic and managerial leadership and no corruption (Pauz, Watermeyer and Jacquet, nd, 3). Either way, Ssennoga (2006: 233) states that most developing countries would do much better with freer procurement markets, than with those controlled or influenced by Government legislature.

Snider and Rendon (2008: 324) highlight 'cronyism and prejudice' that surrounded the award to Betctel by the US agency for international development for the infrastructure reconstruction work in Iraq. Some authors are of the view that BEE and affirmative procurement put a financial burden on organizations that spend a great deal of funds in training employees, while the benefits may never be seen by the organizations (Gunter, n.d: 36).

A conventional procurement tender should be competitive for the client to be able to obtain affordable prices within the envisaged quality. Snider and Rendon (2008: 323) mentioned the criticism surrounding the issuing of tenders to service providers who assisted in reconstructing Iraq, paid by the American Government. They are of the opinion that it appeared as though the contracts were awarded abruptly, owing to time limits. Therefore, there may have been little or no competitiveness between the tenders.

The international community has raised concerns about (CIDB, 2004: 2). Some of these concerns are:

- The risk of decreased efficiency and increased cost in procurement,
- The risk of excluding reputable contractors from tendering,
- Anti-competitiveness,
- Unfair practices that may be supported in the selections of contractors,
- Not achieving the socioeconomic objectives they were set out to achieve, and
- A lack of transparency and integrity.

Ding and Chee-Wah (2006: v) are adamant that Preferential Procurement systems create a heavy financial burden on Governments and that markets are most efficient and effective in selecting products and services. Gunter (n.d: 32) reports that companies are aware that they have not been cooperative and expect to be fined, whilst a few of them believed that non-compliance would have significant impact on their business.

Gunter (n.d: 70) is of the view that when it comes to South African legislature, BEE, the Codes of Good Practice and Preferential Procurement are among the hottest debated in the country. Preferential Procurement involves setting aside work for black-owned and 30% black woman-owned business (Empowerdex, 2007: 19). Thus, in terms of section 217(1) of the Constitution of the Republic of South Africa, that can never be fair and equitable. Janisch (2010:1) explains that settling aside certain types of bidders has a direct impact on the cost effectiveness. He explains that excluding some bidders means that the best price may not be attained. Someone will have to pay the premium of empowerment.

The private sector is put under immense pressure to support SMME's. The pressure leads to ill practices, such as fronting (Empowerdex, 2007: 24). Econo BEE (2010: 1) attributes most of this fronting to some inconsistency between the Preferential Procurement Policy Framework Act (PPPFA) and the Broad-Based Black Economic Empowerment Act (BBBEE Act), as the definition of HDI was too broad.

2.9. Private Public Partnerships (PPP)

A Public-Private Partnership (PPP) is a partnership in which the public sector institutions/municipality enters in to a contract with a private party. Herewith the private sector undertakes enormous risk pertaining to financial, technical, design and operations, as well as the construction of the project (National Treasury PPP Unit: n.d: n.p).

National Treasury PPP Unit (n.d: 1) also highlights the three types of PPPs, one being that in which the private party assumes the role of the public office or municipality by performing its function. The other is that which the private company uses state property to its own advantage. The third one is a hybrid of the two above-mentioned types. Farlam (2005: i) highlights that both parties of the PPP contract benefits from the agreement.

The empowerment objectives of PPPs as stated by Janisch (2010: 1) are; to increase the number of black managers in organizations, as well as ownership thereof, for the development of local skills and to create jobs locally. The private sector works hand-in-hand with the public sector to alleviate the problems faced by the public- be it socially and economically. Farlam (2005: i) deems PPP's useful; because, he is of the view that the private sector may not always be suited for the responsibility and the costs may increase.

2.10. Conclusion of the Literature Review

Preferential Procurement and its supporting legislation has been formulated to increase the participation of previously disadvantaged groups of people in South Africa. When tendering for a job, contractors would be selected based on preferential criteria. This is done usually when the project is advertised by Government through the various departments. It is argued in literature that the lack of transparency and corruption has clouded the progress and the purpose of Preferential Procurement. It has also been found that Preferential Procurement and BEE has been abused in the form of window dressing and fronting. It is a constant battle to follow the procedures of Preferential Procurement to be fair, equitable and transparent as dictated by Section 217 of the South African Constitution.

The literature review reveals that South Africa cannot afford not to introduce and implement Preferential Procurement. Thus, the construction industry finds itself having to comply and work with Government in upholding the vision of Preferential Procurement. This leaves small and medium construction enterprises advantaged and the large companies having to cooperate by assisting in the process. The construction companies have to further accommodate previously disadvantaged people when contracting, not only to Government, but by virtue of the scorecard system of Preferential Procurement, to each other as well.

The Preferential Procurement strategy has been introduced for a while now, thus the construction industry, just like other industries in the country, has a moral obligation to comply. Most companies are finding ways to meet the requirements of Preferential

Procurement. However, the legality of complying has been surrounded by suspicious motives. This is the reason why it is worth investigating how Preferential Procurement is affecting the construction industry from invitation to tender to project close out.

3. Chapter 3: Methodology

3.1. Research Method

The objectives of the research were to investigate the perceptions of the South African construction industry stakeholders on Preferential Procurement practices in the various construction phases, and then study and highlight the impact of these practices on the South African construction industry. The nature of this research was such that results depended on the views and perceptions of the respondents in order to gain greater insight in order to understand how they affect the construction industry.

The research method adopted in this study is the Descriptive Survey. There are four different types of descriptive research designs namely; observation studies, correlation research, developmental design and survey methods.

During observation studies the researcher observes people's behaviour over a period of time in order to achieve a complex, yet unified, view of that behaviour. Correlation research investigates the relationship between variables, whilst the developmental design investigates the changes in variables, as time goes by. The survey method is a non-experimental descriptive method, which seeks to collect views or opinions of people on a particular subject (Leedy and Ormrod, 2005: 179-183). Blumberg, Cooper and Schindler (2008: 10) are of the view that Descriptive Survey methods seek to answer questions as they create a profile of a group of problems, individuals and events.

Leedy and Ormrod (2005: 183) highlight that in Descriptive Survey methods, the researcher will seek to understand a sample of the views and opinions of the population by asking them questions and then tabulating their responses. This type of method may, unlike the case study method, draw key conclusions (Blumberg, Cooper and Schindler, 2008: 10).

Malim and Birch (1996: 36) highlighted the strengths of the survey methods, as follows:

- Many responses may be attained, covering a substantial portion of the population; and
- It is possible to recommend further areas of research.

Survey methods are not without weaknesses. These weaknesses are also highlighted by Malim and Birch (1996: 37) as;

- Analysis of the data may be difficult,
- Responses may not be accurate, owing to the reliance upon the respondent's memory,
- The responses may not reflect the whole truth of the matter, owing to respondent bias,
- Respondents may struggle to comprehend the questions posed by the questionnaire and
- The response rate may not be as desired.

Bearing in mind the above strengths and weaknesses, the questionnaire was formulated in such a way that respondents could easily read, understand and answer. Respondents were asked to contact the writer, if necessary, for clarity on the questions. The questions related to no project in particular, and did not force the respondent to reply in any particular way. At least 816 questionnaires were sent via email, fax and delivered by hand. Multi-attribute analysis method was the preferred method of analyzing the data as the responses were on an ordinance scale of 1 to 5 (Roth, Field and Clark, n.d, n.p).

3.2. The Source of Research Information

Information was gathered to gain more understanding of the research problem. This information was sourced from books, journals, the internet and the South African Acts and legislation that discuss Preferential Procurement.

In order to design the main questionnaire, themes highlighted in the preliminary survey (results in chapter 4:4.1) and the literature review were used. Blumberg, Cooper and Schindler (2006: 192) described this as qualitative because it gathers perceptions and views of the respondents.

For quantitative data gathering, the main questionnaire was designed, tested and administered to the target population.

3.3. Preliminary Surveys

Preliminary interviews were conducted in order to understand Preferential Procurement, how it is implemented and perceived by those it seems to be favouring and those that are obliged to comply with it. Leedy and Ormrod (2005: 143) are of the view that the data source for collecting qualitative data depends on the "mindedness and creativity" of the researcher. They also state that the researcher can never be everywhere at once, and thus, would have to be selective when collecting data to be used (Leedy and Ormrod, 2005: 143).

At the first stage of data collection, the researcher conducted preliminary interviews collecting qualitative data on the subject from a suitable random sample of ten stakeholders. The stakeholders comprised of Government representatives, contractors, consultants and suppliers. Leedy and Ormrod (2005: 134) support qualitative data gathering, and mention that it helps to determine what it is that is crucial, as far as the research is concerned. Themes that are most emphasized in the preliminary survey were included in the main questionnaire design.

Patton (2002: 1) supported the use of qualitative data-gathering methods as it allows the researcher to conduct an in-depth study on the subject matter, collecting rich information not provided by quantitative strategies.

3.4. Compiling and Administering the Main Questionnaire

The research report's main questionnaire was designed using themes that were recurring in the literature review and the preliminary interview. The questionnaire was then pre-tested for clarity and relevance by being administered to colleagues and the research supervisor. Blumberg, Cooper and Schindler (2006: 74) support pre-testing of the questionnaire before sending it out, as this is viewed as a way of fine-tuning the questionnaire, testing its strengths and weaknesses.

In the second stage, the main questionnaire was designed using the constructs gathered during the preliminary interviews, as well as themes highlighted in the literature review. The purpose of the questionnaire was to collect quantitative data and was distributed to the target population in Gauteng.

The main questionnaire comprised of two sections. The first section included general questions asked in order to gain insight into the demographics of the respondents. The second section of the questionnaire contained questions in which possible answers were given for the respondents to select, rating the level of agreement on a scale of 1 to 5. The Descriptive Survey method was thus adopted for the study, in line with the ordinal nature of the research data.

3.5. Target Population and Sampling Frame

The target group for the research report was state personnel in Governmental departments and municipalities involved in procurement and tenders for services; the contractors and

subcontractors registered with the Gauteng Master Builders Association (GMBA) and the contractors registered with the Construction Industry Development Board (CIDB) The subcontractors include suppliers to the construction industry.

Blumberg, Cooper and Schindler (2006: 224) favour sampling because it is "a better way of interviewing, conducting a more thorough investigation, eliminating undesirable or questionable data. There is better supervision and better processing than is possible with full coverage" (Blumberg, Cooper and Schindler, 2006: 224). Leedy and Ormrod (2005: 198) were of the view that a sample is drawn from the overall population with which to conduct the research. When this sample size is representative enough, the researcher can then generalize.

Malim and Birch (1996: 2) warn that researchers should select sampling methods that avoid biasness. The type of sampling may be either probability sampling or non-probability sampling. Probability sampling includes the following:

1. Simple random sampling

Simple random sampling is best used in cases where there is not enough information about the population, or where the cost of sampling is very low and where data collection is more efficient when done on a random basis. This method may be used for large or small populations (Leedy and Ormrod, 2005: 134). Blumberg, Cooper and Schindler (2008: 249) mentioned that this method of sampling gives each member in the population the opportunity to be selected.

2. Stratified random sampling

The sample is divided into portions called strata. Leedy and Ormrod (2005: 202) believe that although each stratum will have a distinct contrast to others, the method is most appropriate when the size of each stratum is equal.
Blumberg, Cooper and Schindler (2006: 244) are of the view that a researcher will opt to use this method of sampling in order to improve the statistical efficiency of the sample, to gather enough information to analyse the various sub-populations or even to be able to apply different methods when dealing with the different strata.

With random sampling, every member of the population has an equal chance of being chosen to participate in the research (Malim and Birch, 1996: 2).

3. Proportional stratified sampling

This method is implemented by first identifying the members of the various groups or strata. Thereafter a random sample is taken within each strata to have a portion of each stratum included in the study (Leedy and Ormrod, 2005: 203).

4. Cluster sampling

This method is employed when there are natural groups that exist, for example, a particular group of children in a class (Malim and Birch, 1996: 5). The population is put into groups of commonalities, forming clusters that will be randomly selected to make up the target group for the study (Leedy and Ormrod, 2005: 203).

5. Quota /Systematic sampling

This is a method that involves selection of the sample by a systematic sequence. The method is most suitable for homogeneous populations or the population that has distinct strata or has similar clusters (Leedy and Ormrod, 2005: 203).

In non-probability sampling, the different methods include the following;

1. Convenience sampling

This sampling method is used when there is a readily available sample which the researcher elects to use for convenience' sake. According to Blumberg, Cooper and Schindler (2008: 252), convenience sampling is used mostly in pilot testing. The results obtained in this sampling type are the least reliable.

2. Purposive sampling

Purposive sampling, as the name suggests, is employed for a purpose. When the research has a specific purpose or objective that needs to be met, the researcher may select a particular sample that will meet these set objectives (Malim and Birch, 1996, 34).

A probability sampling method was found suitable to this research, namely simple random sampling. Simple random sampling gives the members of the sampling frame an equal chance of being selected. The University of Texas' website (see reference section) supports the use of random sampling because it ensures representation of the sample.

The sample size as shown by (Meyer and Meyer: 2005) is calculated as follows;

$$SS= \frac{Z^2(P)(1-P)}{C^2}$$

Where:

Z= value according to level of confidence

P= the worst-case percentage (50%)

C= confidence interval, expressed as a decimal

The computed sample size according to the above equation is 384 at 95% level of significance and 5% confidence interval (See appendix 1).

Meyer and Meyer (2005) stress that the minimum sample size for simple random sampling for large populations is 68 with a design defect of 1. Further requirements of a minimum sample size are that at least 10 responses should be received per variable and at least 30 responses for statistical analysis should be attained (Meyer and Meyer: 2005). Moser and Kalton (1971) quoted by Mapatha (2005: 31) mentioned that a response rate of 30% is sufficient for the research to be unbiased.

The total number of responses received for this research report was 24 out of the 816 questionnaires sent out. This makes for a response rate of around 3%. Numerous attempts were made to try and improve the response rate. In some instances, the questionnaires were personally dropped off at the various offices of the target population. When the researcher went back to fetch the questionnaires, they were still not completed. Participants were encouraged to send back the response. Some cited factors, such as time and the sensitivity of the research topic, as reasons for not returning the questionnaires. A low response rate makes it difficult to generalize the findings of this research. Thus, the results of this research might not be representative of all the construction industry stakeholders in Gauteng.

3.6. Data Analysis Method

3.6.1. Analysis of Quantitative Data

Multi-attribute Analytical Technique Method was used to analyze the gathered quantitative data from the main questionnaires. This technique is used to evaluate alternatives from a group's perspective and observations (Weiss, Weiss and Edwards, 2009). The technique allows respondents to rate alternatives on a scale of 1-5, where 1 means not influential and 5 means very influential (Roth, Field and Clark, n.d, n.p). The responses can then be ranked in terms of which themes are most important in relation to the others.

3.6.2. Test of Research Hypothesis

The mean rating was computed in each section of the questionnaire. This made it possible to rank the responses and utilize Spearman's rank correlation to test the research hypothesis. Bolboaca and Jantschi (2006: 179) confirm that in order to compute the Spearman Rank Correlation Coefficient, the data has to be ranked.

Pearson's correlation and the Kendall Tau Correlation methods could be used as alternatives to test the research hypothesis. However, Kendall Tau method is not popular and the Pearson's Correlation method was found to be suitable when both variables are being tested or measured on an interval or ratio scale and actual values are used for the calculation (University of western England, 2006: n.p). The Pearson's Correlation method also requires that the assumption that the variables are normally distributed be made (Lee, Mackenzie and Chien, 1999: 763).

The Spearman Correlation Coefficient method has to be carefully administered when dealing with research that has neither large samples nor small samples (University of Western England, 2006: n.p). Since the data is ranked, the Spearman Rank Correlation Coefficient (rs) can be substituted with the ranking of the observation, yielding the following equation:

$$r_s = 1 - \frac{6 \sum_{i=1}^{n} D^2}{n(n^2 - 1)}$$

where:

D_i= the difference of rank numbers

N= the data pairs, and should be greater than 4

r_s= correlation coefficient ranges from -1 to +1

A correlation of +1 or -1 means that each variable is a perfect mirror image of the other, with equally matching scores.

To test the research hypotheses, the researcher needs to state both the null and the alternative hypothesis. The null hypothesis is denoted by (Ho) (see Chapter 1) which assumes that there is no difference in the views of the population. The alternative hypothesis (H1) (see Chapter 1) will thus assume the opposite of the null hypothesis, stating that there are differences between the populations views (Lohninger: 1999: 73). The table below shows when the null hypothesis is either accepted or rejected.

Table 3-1: How to Accept or Reject Null Hypothesis

p-value	**Outcome of test**	**Statement**
greater than 0.05	fail to reject H0	no evidence to reject H0
between 0.01 and 0.05	reject H0 (Accept H1)	some evidence to reject H0 (therefore accept H1)
between 0.001 and 0.01	reject H0 (Accept H1)	strong evidence to reject H0 (therefore accept H1)
less than 0.001	reject H0 (Accept H1)	very strong evidence to reject H0 (therefore accept H1)

Source: University of the West of England (2007)

Lohninger (1999: 78) explained that the random observation method always has the probability that results may exceed a certain threshold. He stated that this probability of exceeding the threshold is referred to as the level of significance alpha.

The significance level expresses the likelihood of results' occurring by chance (Creative Research Systems; 2007: n.p): This level of significance is normally expressed in percentages, where, a 5% level of significance means that there is a probability that, under the null hypothesis, the observations could have happened by chance. A 10% level of significance

means that the chances of observation's occurring by chance are much smaller, which yields much stronger evidence to reject the null hypothesis in favour of the alternative hypothesis.

A 5% level of significance is used in this research, meaning that the findings have a 95% chance of being true (Creative Research Systems; 2007:n.p). Malim and Birch (1996: 139) mentioned that a 5% level of significance is "perfectly acceptable" in research reports.

4. Chapter 4: Data Presentation, Analysis and Discussion of Results

4.1. Preliminary survey results

A preliminary survey was conducted prior to designing the main questionnaire as mentioned in chapter 3. This was conducted with 10 randomly selected individuals involved in the construction industry. The responses of the preliminary survey showed that approximately half of the respondents were from private companies holding high positions in their organization. The other half consisted of state employees who have been involved in procurement services, and have thus implemented BBBEE requirement, which includes Preferential Procurement.

Preferential Procurement is perceived as a Government way of involving groups of people who have been excluded by the pre-1994 Government in the economic activities of the country. The system is designed to bridge the gap between previously advantaged and disadvantaged people. Among the disadvantaged are black people, men and women, Indians, coloureds, white women, disabled persons and the Chinese.

Some respondents cite public-private partnerships more when recalling effects of Preferential Procurement. Some highlight the difficulty of dealing with contractors and subcontractors that do not fully understand what Preferential Procurement is all about. The respondents have had difficulties in explaining and administering Preferential Procurement most efficiently and effectively.

Some respondents value the results of Preferential Procurement as they have seen how it benefits the previously disadvantaged groups. They believe that Preferential Procurement undoubtedly will, as envisaged, benefit the targeted groups.

Most respondents view the implementation of Preferential Procurement as fair. It is said to give the previously disadvantaged group a chance in the economic activities of the country through the construction industry. There are sceptics though, who believe the rich continue to exploit the poor through policies, such as Preferential Procurement.

The respondents agree that Preferential Procurement should be applied in the construction industry as it helps the small and emerging companies to develop. The Built Environment has

benefited from the new talent that is entering the industry, closing the gaps that had, for too long, existed. More and more HDIs are participating in the construction industry, leading to the economy's development and growth, owing to extensive numbers of unrestricted skills being showcased in the economy.

There is a consensus of opinion with regard to Preferential Procurement being implemented in other sectors other than the Built Environment. They believe that preferential treatment gives everyone, no matter which colour or religion they are, an opportunity to prove his/her capabilities.

BBBEE and thus Preferential Procurement, in the construction industry has seen greater numbers of women and black people entering the industry. Many still question how tenders are handled and the implementation of Preferential Procurement in tender processes. The Preferential Procurement policy has been seen to be non-effective, as there is no evidence of growth in the black-owned companies in the construction sector.

Some respondents are grateful for Preferential Procurement as it has helped their organization gain exposure and promote their products. It is reported that some organizations started from nothing, now having become well-known organizations in the industry. The respondents admit that their organizations seldom check the BEE status of the companies that they do business with; the reasons for this were not stated.

4.2. Presentation of Results

The total number of responses received for this research report was 24 out of the 816 questionnaires sent out. Table 4-1 shows the segmentation of the various survey respondents. The respondents were divided into two groups, namely, Government stakeholders and construction industry professionals. The Government stakeholders consist of the respondents representing and working for the Government. The construction industry professional group is comprised of the respondents representing the contractors and the consultants within the construction industry.

Table 4-1: Segmentation of Survey Respondents

General contractor (international)	1
General contractor (national/provincial)	3
Quantity Surveyor	2
Architect	1
Project manager	4
Other	13
Total responses	24

4.3. Main Questionnaire Results

4.3.1. Demographic profile presentations

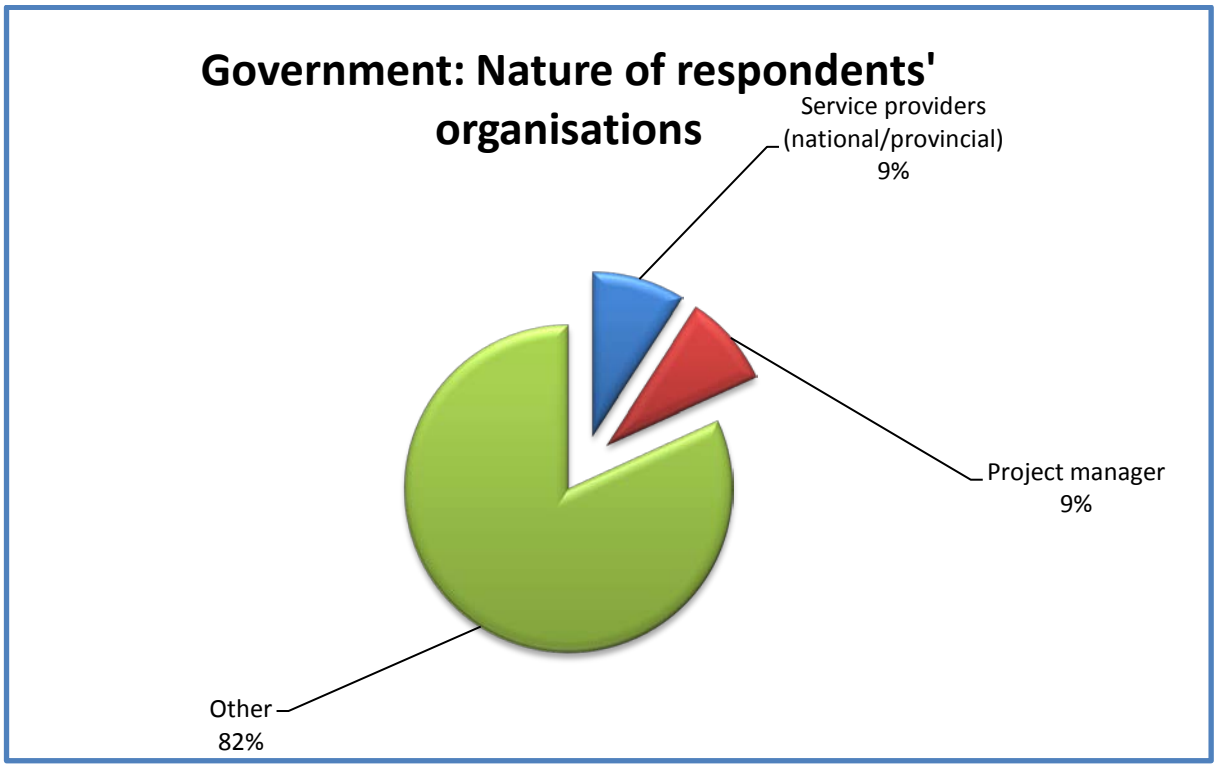

Figure 4.1: Government Respondents' Roles

Figure 4-1 above represents the roles of the Government respondents within their departments. The respondents were requested to indicate if they were contractors, quantity surveyors, architect, project managers or consultants within their organizations. From the data, 9% of the survey respondents indicated that they were project managers within the Government, the other 9% indicated that they were service providers and the remaining 82% indicated that they are involved in projects that require implementation of Preferential Procurement.

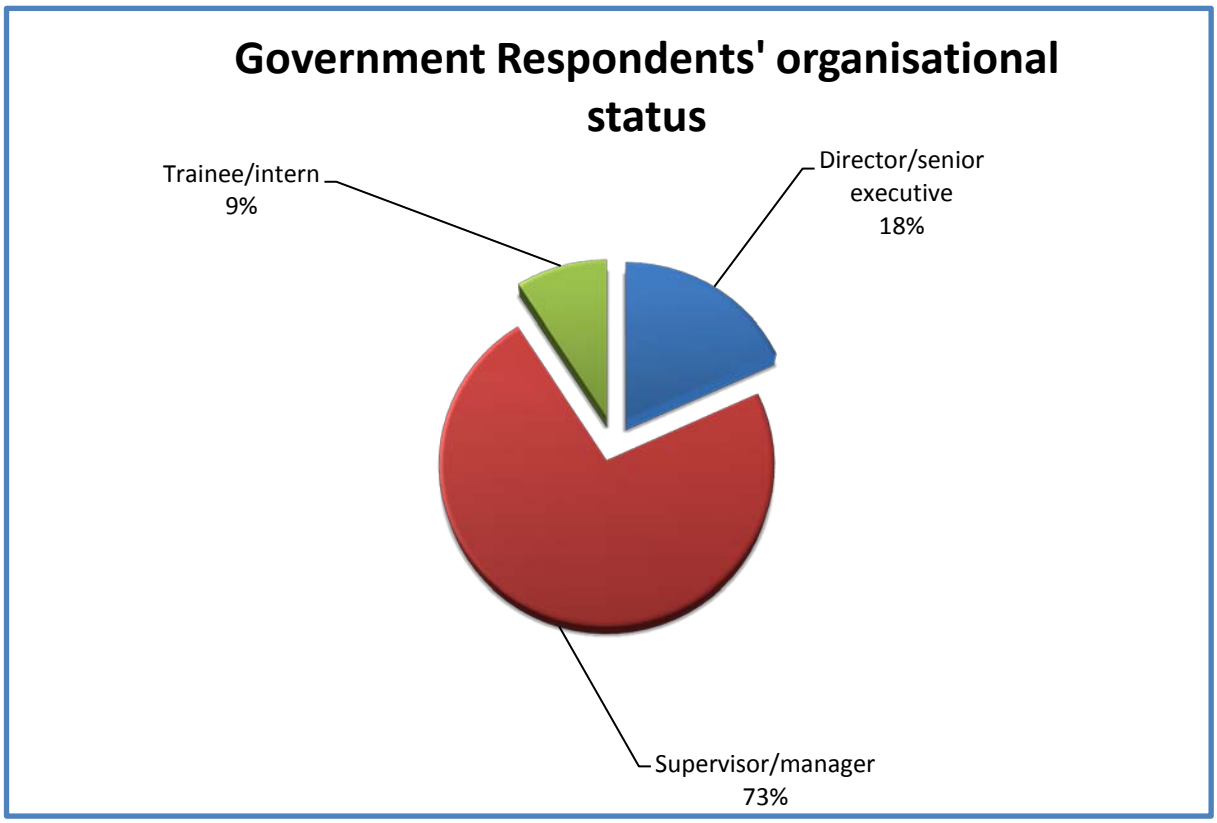

Figure 4-2: Government Respondents' Organisational Status

Figure 4-2 above represents the Government respondent's organisational status. The result shows that the Government respondents have varying status within their departments. Trainees or interns constituted 9%. Those in managerial or supervisory roles constituted 73% and the remaining 18% was made up of those that are directors or in senior executive positions. Figure 4-2 indicates that the majority of Government respondents are at managerial level and thus, it is expected that they will be familiar with the Government procurement practices and legislation.

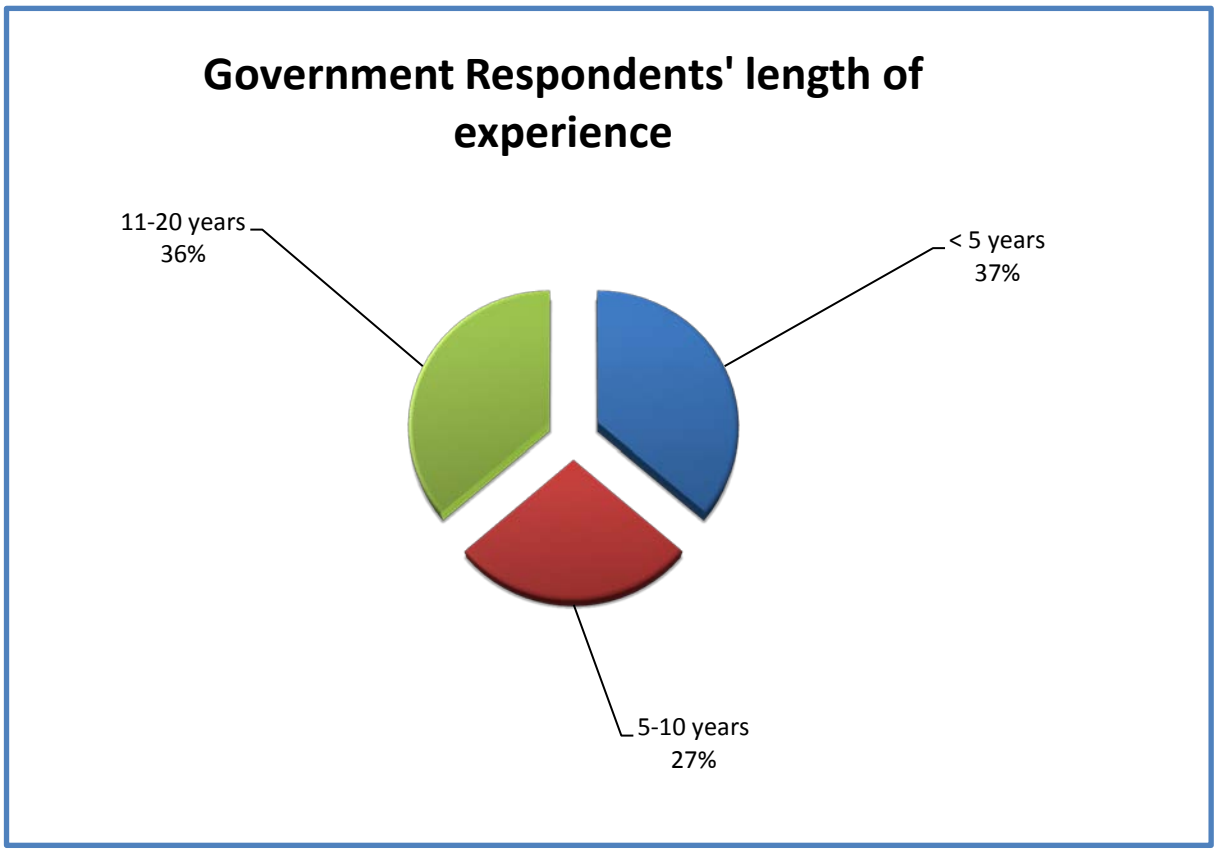

Figure 4-3: Government respondents' length of service

Figure 4.3 shows the length of service of the Government's respondents. The results show that 27% of Government respondents have been employed by the Government for a period of five to ten years, whilst 37% of the respondents have been employed for a period below five years and 36% have between eleven and twenty years experience. The spread of respondents experience allows for a variety of views representing individuals with less experience in their job to those with vast experience.

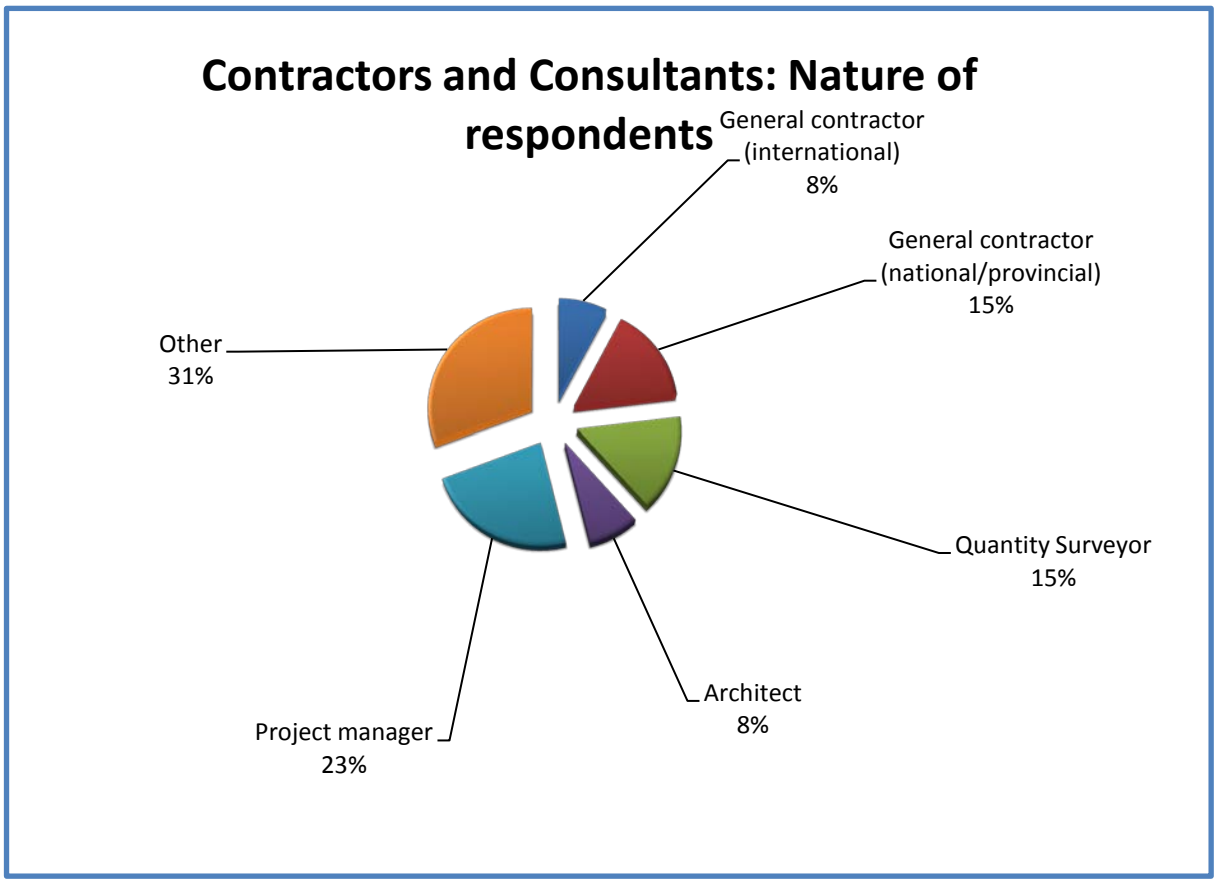

Figure 4-4: Nature of the Contractors' and Consultants' Respondents

Figure 4-4 presents the nature of the contractors' and consultants' respondents. The respondents from the contracting firms and consultants in the construction industry were received from a variety of organizations. The leading response rate was from small organizations at 31% , they are grouped under a section named other, followed closely by project managing organizations with 23%. The general contractors at the provincial/national level make up 15%, Quantity Surveyors also at 15%, architects at 8% and lastly, international contractors 8%. The respondents were a fair representation of the construction industry professional bodies with no significant bias towards any group.

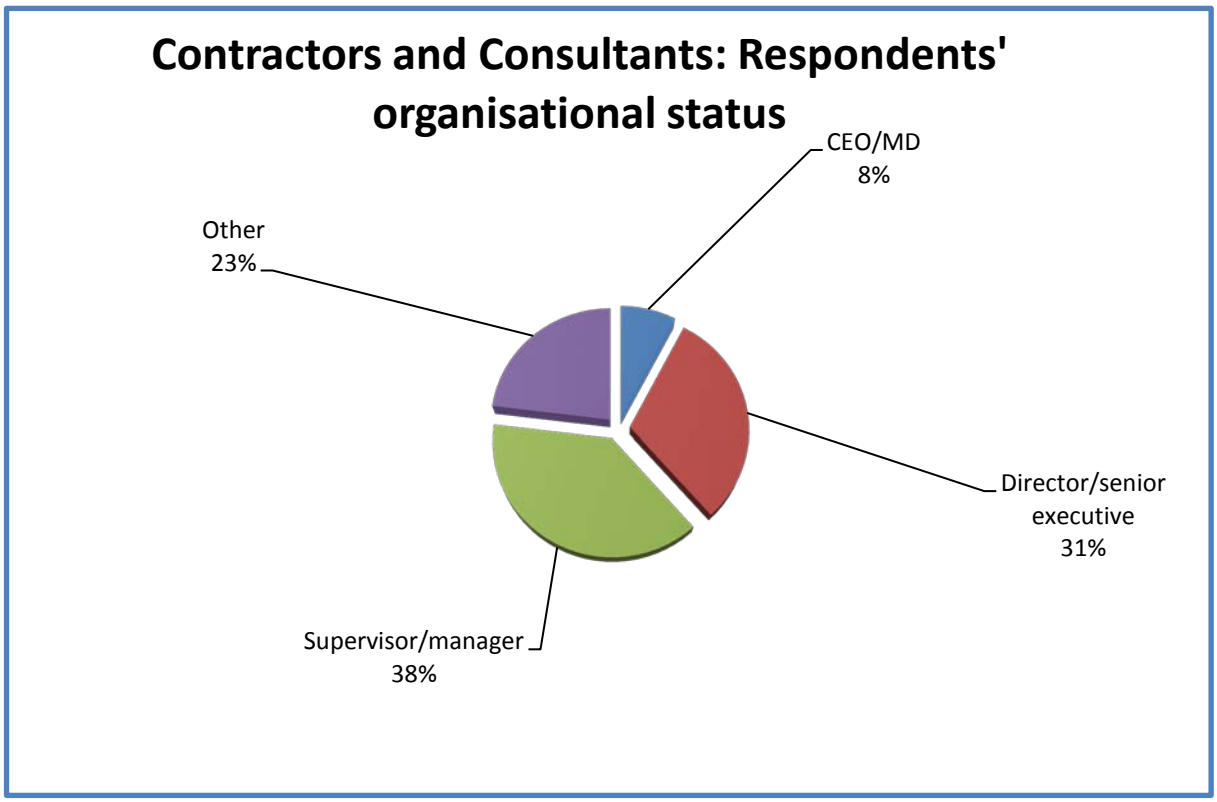

Figure 4-5: Contractors and Consultants: Respondents' Organizational status

Figure 4.5 presents the contractors and consultant organizational status. Figure 4-5 shows that most of the contractors and consultants who responded to the survey are supervisors or managers at 38%, followed closely by directors or senior executives at 31%. Of the survey respondents, 25% indicated that they occupy various other positions and the remaining 8% are managing directors or chief executive officers. About 60% of the respondents from the construction industry professionals are composed of managers and senior executives. The latter engage more with the contracts and procurement issues. Therefore, their views provided essential insight into the benefits and challenges of practices.

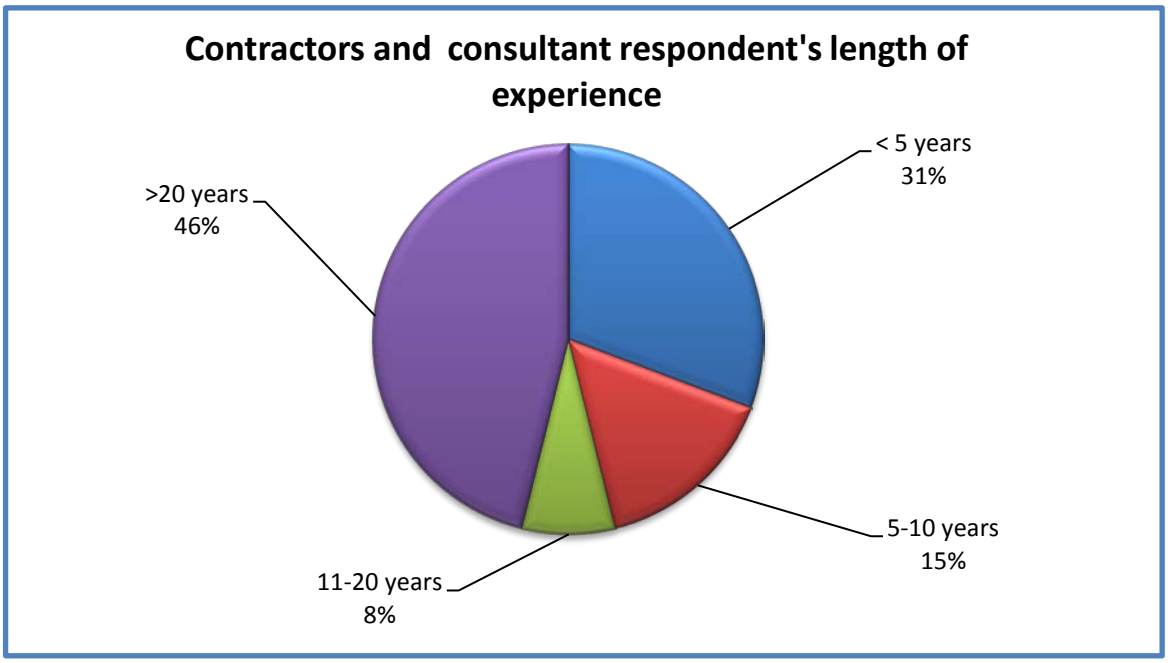

Figure 4.6: Contractors and Consultants: Respondent Length of Experience

Figure 4-6 presents the length of years of the contractor's and consultant's experience. Figure 4.6 above shows that 46% of contractors and consultants who took part in the research survey have more than 20 years' experience in the industry, whilst 31% have less than 5 years' experience in the construction industry. The length of experience of the respondents indicates that the responses are from a population with varying degree of experience with Preferential Procurement.

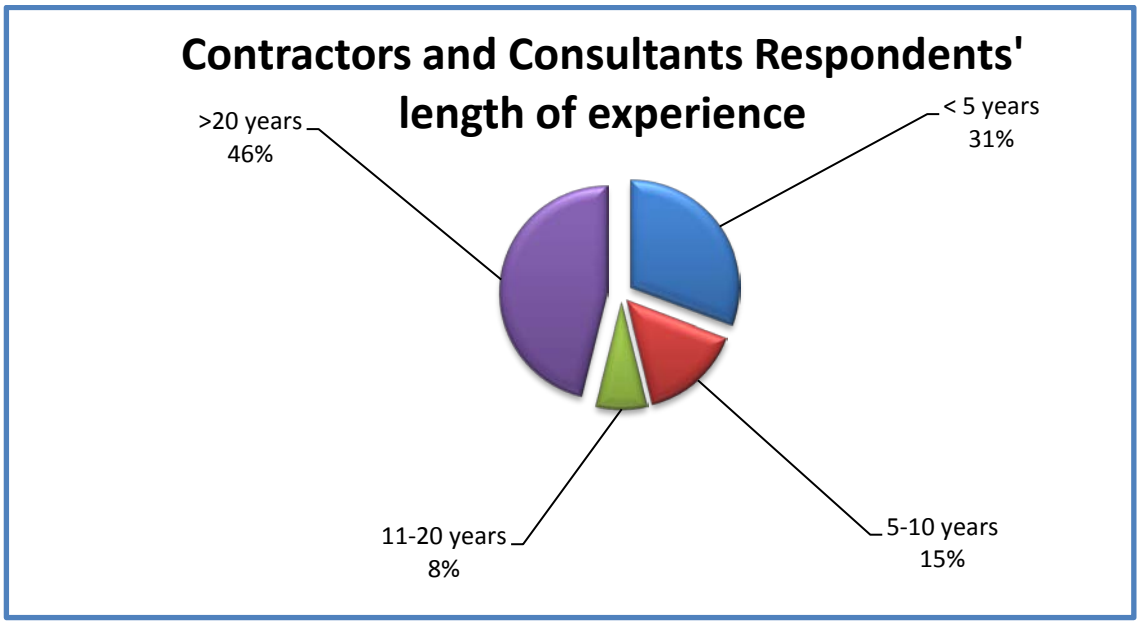

Figure 4-7: Combined Years of Experience of the Respondents

Figure 4.7 presents the combined length of experience in the construction industry of the respondents. The combined experience of the research respondents reveal that 25% of the respondents have more than 20 years of experience, 33% have less than 5 years, 21% have between 11 and 20% years of experience with a further 21% having between 5 and 10 years of experience in the construction industry. From Figure 4-7, it can be deduced that the length of experience of the respondents was fairly spread out, thus, their input and views will provide valuable insight into Preferential Procurement.

4.3.2. Main Body of the Questionnaire

Table 4-2: Invitation for Tenders: Factors overridden by Preferential Procurement

NR- Number of responses ,**TR-**Total responses, **MR-**Mean rating, Impact of : "**SA**" Strongly Agree, "**A**" Agree, "**SMA**" Sometimes Agree,

	overrides the following factors in invitation for tenders	**Impact of Preferential Procurement**										**TR**	**MR**	**Remarks**
		SA		**A**		**SMA**		**D**		**SD**				
		>5		4 to 4.99		3 to 3.99		2 to 2.99		1 to 1.99				
		NR	%	**NR**	%	**NR**	%	**NR**	%	**NR**	%			
1	Technical and managerial competence and experience in the job at hand	7	29.2	5	20.8	2	8.3	5	20.8	5	20.8	24	3.17	A
2	Financial capacity to undertake the job successfully	5	20.8	6	25.0	3	12.5	4	16.7	6	25.0	24	3.00	A
3	Ability to provide own attendance needs and other needs that could reduce main contractor's P&G costs	5	20.8	5	20.8	2	8.3	7	29.2	5	20.8	24	2.92	SMA
4	Size and resources: skills, competence and strength of own workforce	2	8.3	9	37.5	4	16.7	6	25.0	3	12.5	24	3.04	SMA
5	Past records of working relationship with current contractor and/ or reference from previous employers and financiers	6	25.0	4	16.7	3	12.5	6	25.0	5	20.8	24	3.00	SMA
6	Experience with the present contract form, terms and conditions	5	20.8	3	12.5	6	25.0	4	16.7	6	25.0	24	2.88	SMA
7	Location of the subcontractor and knowledge of the project environment	6	25.0	3	12.5	4	16.7	7	29.2	4	16.7	24	3.00	A
8	Current workload and commitment, and ability to mobilise on site when needed	2	8.3	8	33.3	4	16.7	6	25.0	4	16.7	24	2.92	SMA
9	Competitive rates and lowest tender overall	2	8.3	5	20.8	9	37.5	6	25.0	2	8.3	24	2.96	SMA
10	Compliance with statutory	2	16.7	7	29.2	3	12.5	7	29.2	3	12.5	24	3.08	SMA

	regulations: Black Economic Empowerment, Gender Equality, Workman's Compensation Act, tax regulations, etc													
11	Competitive tenders based on price	1	4.2	8	33.3	7	29.2	3	12.5	5	20.8	24	2.88	SMA

Table 4-2 represents the combined views of the respondents of the factors that are overridden by implementing Preferential Procurement practices. When asked to rate their level of agreement on factors that Preferential Procurement overrides when inviting organizations to tender, the construction industry professionals (contractors and consultants) and Government employees agreed that factors that are overlooked during invitations for tenders when is Preferential Procurement used, are as follows:

- The technical and managerial competence and experience of the organization on the job at hand,
- The financial capacity of the invited tenderers to undertake the job successfully, and
- The location of the tendering contractor and whether or not they are familiar with the project environment.

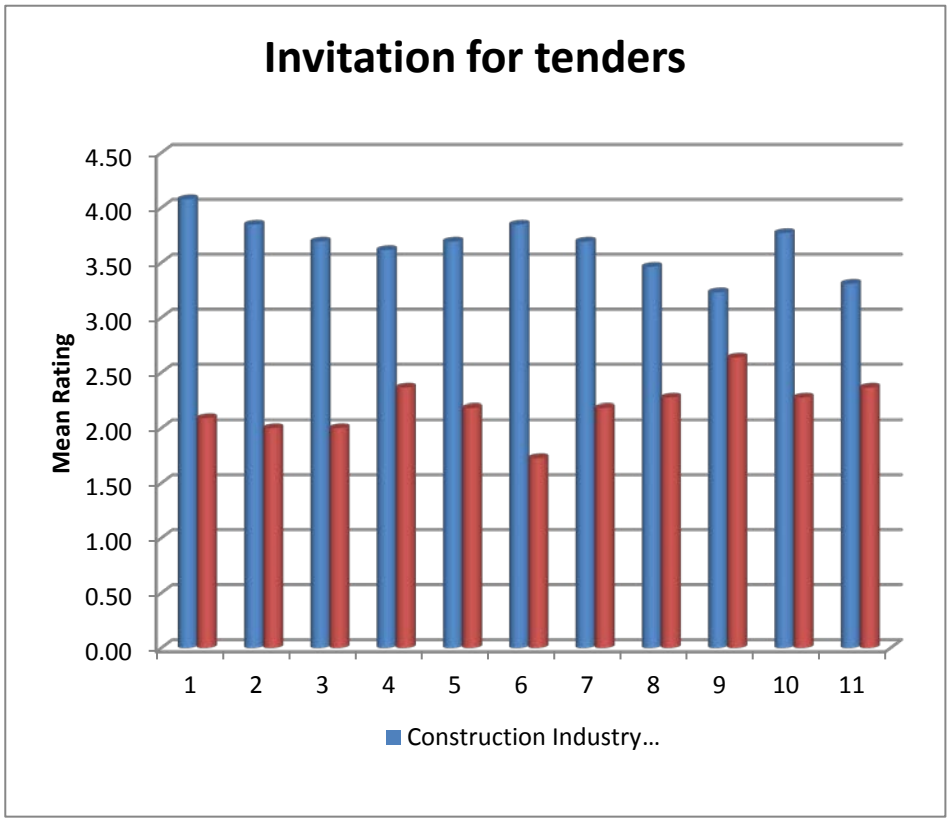

Figure 4.8: Factors Overridden by Preferential Procurement

Figure 4-8 represents the mean ratings of the data presented in Table 4-2. A higher mean rating value indicates a stronger view on the issue by the respondents. From Figure 4.8, it can be seen that the construction industry professionals strongly believe that when implementing Preferential Procurement, the clients tend to ignore technical, managerial competence and experience of the tendering organizations.

The Government employees on the other hand, had an overall mean rating for all the factors presented in Table 4-2. The Government employees are of the view that invitations for tenders using Preferential Procurement do not override the fact that some organizations offer competitive rates and have the lowest tender overall and bidders who mainly compete on the basis of price may not necessarily be the preferred bidder. The respondents also disagree with the notion that invitations for tenders through Preferential Procurement does not factor in the experience of the bidder with the type of contract form and the terms and conditions for the type of contract. Government respondents do not believe that Preferential Procurement actually overrides the factors listed to them. They are of the view that Preferential Procurement incorporates most of the factors and enhances the way in which tenderers are invited, taking all factors into consideration. This is contrary to what Hanks, Davis and Perera (2008:3) mentioned (in the literature review) when quoting one of the South African Provincial Treasury representative; who said that new BEE and related regulations tend to take priority over price and quality offered by the tenderers.

Table 4-3: The fairness of selecting contractors through Preferential Procurement

NR- Number of responses ,**TR-**Total responses, **MR-**Mean rating, Impact of : "**SA**" Strongly Agree, "**A**" Agree, "**SMA**" Sometimes Agree,

	The selection of tenders through is fair since	**Impact of Preferential Procurement**										**TR**	**MR**	**Remarks**
		SA		**A**		**SMA**		**D**		**SD**				
		>5		4 to 4.99		3 to 3.99		2 to 2.99		1 to 1.99				
		NR	%	**NR**	%	**NR**	%	**NR**	%	**NR**	%			
1	Contracts are handled with integrity, ethical conduct, fairness and accountability	5	20.8	9	37.5	6	25	2	8.33	2	8.33	24	3.54	SMA
2	There is proper understanding for all parties obligations associated with inviting tenders, quotations, and expressions of interest	5	20.8	10	41.7	5	20.8	1	4.17	3	12.5	24	3.54	SMA
3	The terms in which the process	6	26.1	8	34.8	6	26.1	1	4.3	2	8.7	23	3.65	A

	of selection is conducted is clearly defined and tenders know the criteria will be applied													
4	It minimises concealment of not just discriminatory behaviour but also corruption and patronage	6	25.0	7	29.2	4	16.7	5	20.8	2	8.3	24	3.42	SMA
5	Everyone involved complies with all applicable legislation and associated regulations	4	16.7	9	37.5	4	16.7	5	20.8	2	8.3	24	3.33	SMA
6	Illegal behaviour like fronting and window dressing get recognized and exposed	4	16.7	8	33.3	3	12.5	5	20.8	4	16.7	24	3.13	SMA
7	There is never conflict of interest with regards to the selecting parties	3	12.5	9	37.5	2	8.3	5	20.8	5	20.8	24	3.00	SMA
8	There exist sound accountability on the part of those in possession of tenders and there exist public confidence that proper procedures are always followed	5	20.8	8	33.3	6	25.0	1	4.2	4	16.7	24	3.38	SMA
9	There are anti-corruption measures in place to ensure fairness and transparency	5	20.8	6	25	4	16.7	6	25.0	3	12.5	24	3.17	SMA
10	The scorecard system is clear and precise which allows proper implementation	3	12.5	9	37.5	8	33.3	1	4.17	3	12.5	24	3.33	SMA

Table 4-3 represents the combined views of the respondents on the fairness on the selection criteria when Preferential Procurement practices are followed. Government stakeholders and consultants who have been involved in the process of selecting contractors adhering to Preferential Procurement seem to agree that the process could be administered fairly. They agree that applicants are made aware of the terms and the criteria upon which the process of selection will be conducted. However, they do not always agree that selection is conducted ethically, legally, with integrity and free from corruption. This supports Gunter's (n.d: 9) view that effectiveness of BEE and related regulations has been delayed by lack of commitment by the parties, opportunistic behaviour, dishonesty and fronting.

From the results tabulated in Table 4-3, it seems that the level of fairness incorporated into the tenders and selection of contractors/subcontractors/suppliers through Preferential Procurement in the construction industry is unknown. Fairness was also investigated in the literature review. It was found that corruption and subjective methods of selecting tenderers have been used in inviting contractors/subcontractors/suppliers to tender ((Gunter, n.d: 26) and (Basheka, 2008: 380)). The survey respondents somewhat confirms some of that

uncertainty that still exists in terms of fairness in tender invitations through Preferential Procurement. Schapper, Veiga and Gilbert (2006: 6) cite lack of professionalism by Government officials when they involved in the procurement process.

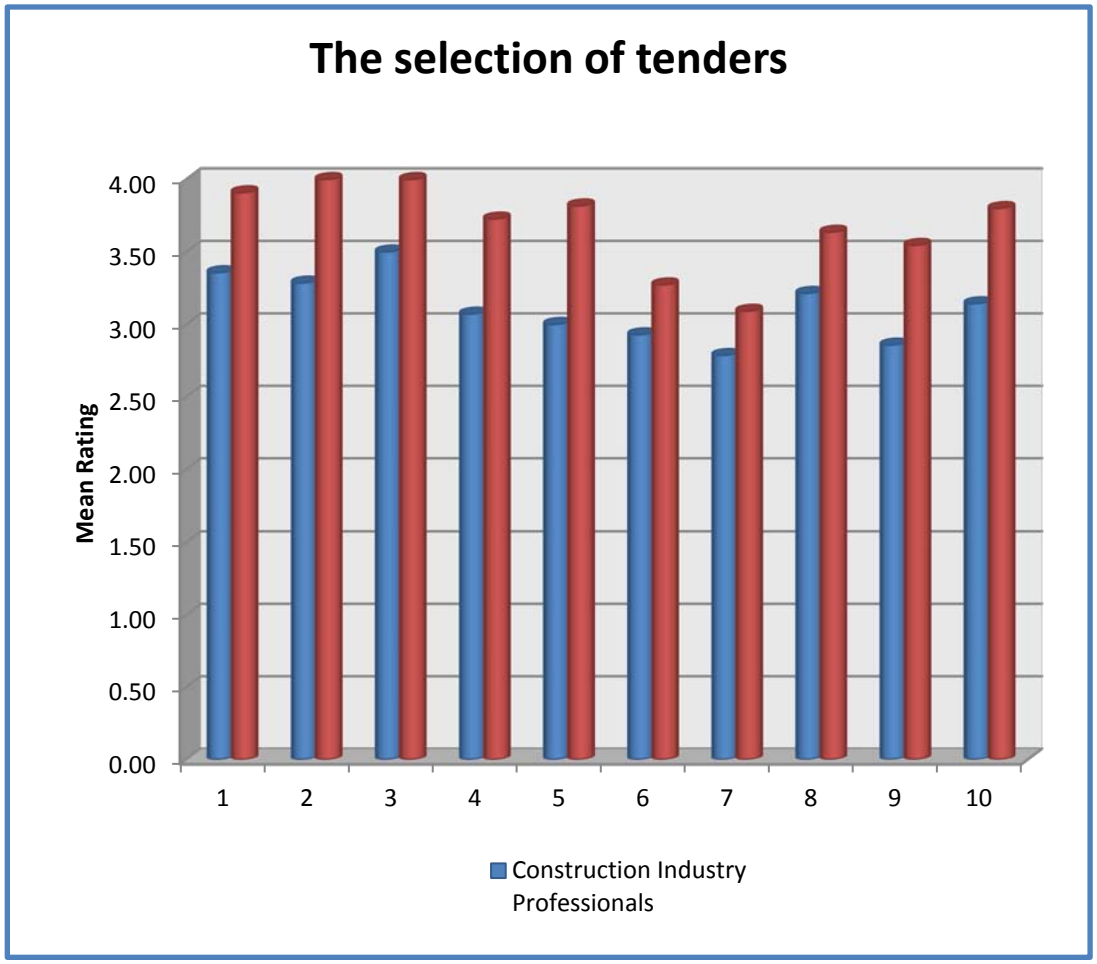

Figure 4.9: The Fairness of Selecting Contractors through Preferential Procurement

Figure 4.9 represents the mean ratings of the data presented in Table 4-3. When asked about the fairness of the system, the construction industry professionals agree that procedures that are followed when selecting tenders are fair; because the terms in which the process of selection is conducted is clearly defined and tenderers know the criteria which will be applied in the selection process. They do not agree that illegal behaviour like fronting and window dressing are recognized and exposed during this stage of the tender award. The professionals are of the view that there are some situations where there seems to be a conflict of interest on the part of those who are on the tender adjudication panel.

The Government stakeholders in the construction industry agree that Preferential Procurement procedures that are followed when selecting tenders are fair because there is proper

understanding by all parties of the obligations associated with inviting tenders, quotations and expressions of interest. They also agree with the construction industry professionals in that fairness exists in the selection of tenders. The Government employees and the construction industry professionals agree that the terms employed by the process of selection are clearly defined and tenderers know the criteria which will be applied in the selection process. Both parties affirm that overall contracts could be handled with integrity, being both ethical and fair.

Table 4-4: Workmanship of the tendering companies

NR- Number of responses ,**TR**-Total responses, **MR**-Mean rating, Impact of : "**SA**" Strongly Agree, "**A**" Agree, "**SMA**" Sometimes Agree,

Subcontractors and suppliers selected through have the following attributes:		**Impact of Preferential Procurement**										**TR**	**MR**	**Remarks**
		SA		**A**		**SMA**		**D**		**SD**				
		>5		4 to 4.99		3 to 3.99		2 to 2.99		1 to 1.99				
		NR	%	**NR**	%	**NR**	%	**NR**	%	**NR**	%			
1	Good quality of work consistent with the general quality level of the main job	1	7.14	7	50.00	5	35.71		0.00	1	7.14	14	3.50	A
2	High productivity level	2	14.29	3	21.43	7	50.00	1	7.14	1	7.14	14	3.29	SMA
3	Zero or minimal defects and rework	1	7.14	1	7.14	7	50.00	3	21.43	2	14.29	14	2.71	SMA
4	Knowledge and adherence to site health and safety practice	4	28.57	4	28.57	4	28.57		0.00	2	14.29	14	3.57	A
5	Have good working relations with main contractor's team; good tolerance, loyalty and zero or minimal adversarial relation	1	7.14	7	50.00	5	35.71		0.00	1	7.14	14	3.50	A
6	Comply with specifications for materials and methods	2	14.29	7	50.00	4	28.57		0.00	1	7.14	14	3.64	A
7	Performed well and on time	1	7.14	4	28.57	7	50.00	1	7.14	1	7.14	14	3.21	SMA
8	Procedures to minimise wastage on site	1	7.14	3	21.43	7	50.00	2	14.29	1	7.14	14	3.07	SMA
9	Efficient management of own workforce	1	7.14	5	35.71	7	50.00		0.00	1	7.14	14	3.36	SMA
10	Fair and minimal claims	4	28.57	2	14.29	6	42.86		0.00	2	14.29	14	3.43	A
11	Good control of own workforce		0.00	7	50.00	6	42.86		0.00	1	7.14	14	3.36	SMA
12	Compliance with contract terms and conditions, labour acts, building regulations, etc	1	7.14	5	35.71	3	21.43	4	28.57	1	7.14	14	3.07	SMA
13	Ability to manage the financial and contractual risks inherent in the subcontract	1	8.33	3	25.00	4	33.33	2	16.67	2	16.67	12	2.92	SMA
14	Good communication network	3	21.43	3	21.43	5	35.71	2	14.29	1	7.14	14	3.36	SMA
15	Capabilities: ability to manage changes without unnecessary claims		0.00	5	35.71	7	50.00	1	7.14	1	7.14	14	3.14	SMA

Table 4-4 represents the combined views of the respondents (Government employees and construction industry professionals) on the workmanship of the tendering companies selected through the Preferential Procurement system. The survey respondents were asked to rate, according to their experience, the workmanship of the contractors selected through the preferential system. The survey respondents agreed that contractors selected through Preferential Procurement have good working relationships with the main contractors and they have positive tolerance, loyalty and zero or minimal adversarial relations. They agree that these contractors comply with specifications for materials and building methods required to complete the projects. They disagreed, however, that these contractors have zero or minimal defects and rework.

The survey respondents did not have strong positive or negative views on some elements in the workmanship criteria. This implies that the parties selected through the Preferential Procurement system may at times fail to do the following;

- Provide good quality of workmanship which is consistent with the general quality level of the work,
- Have good production levels,
- Have knowledge, and adhere to site health and safety practices,
- Perform the job well and on time,
- Have procedures in place to minimize wastage on site,
- Have efficient management of their own workforce,
- Have fair and minimal claims,
- Have good control of their own workforce,
- Comply with the main contractors' team and with conditions of employment of the labour force,
- Have the ability to manage the financial and contractual risks inherent in the contract,
- Have a good communication network and,
- Have capabilities of managing changes without unnecessary claims.

Janisch (2010: 1) agrees that Government policies often have unintended, even harmful consequences.

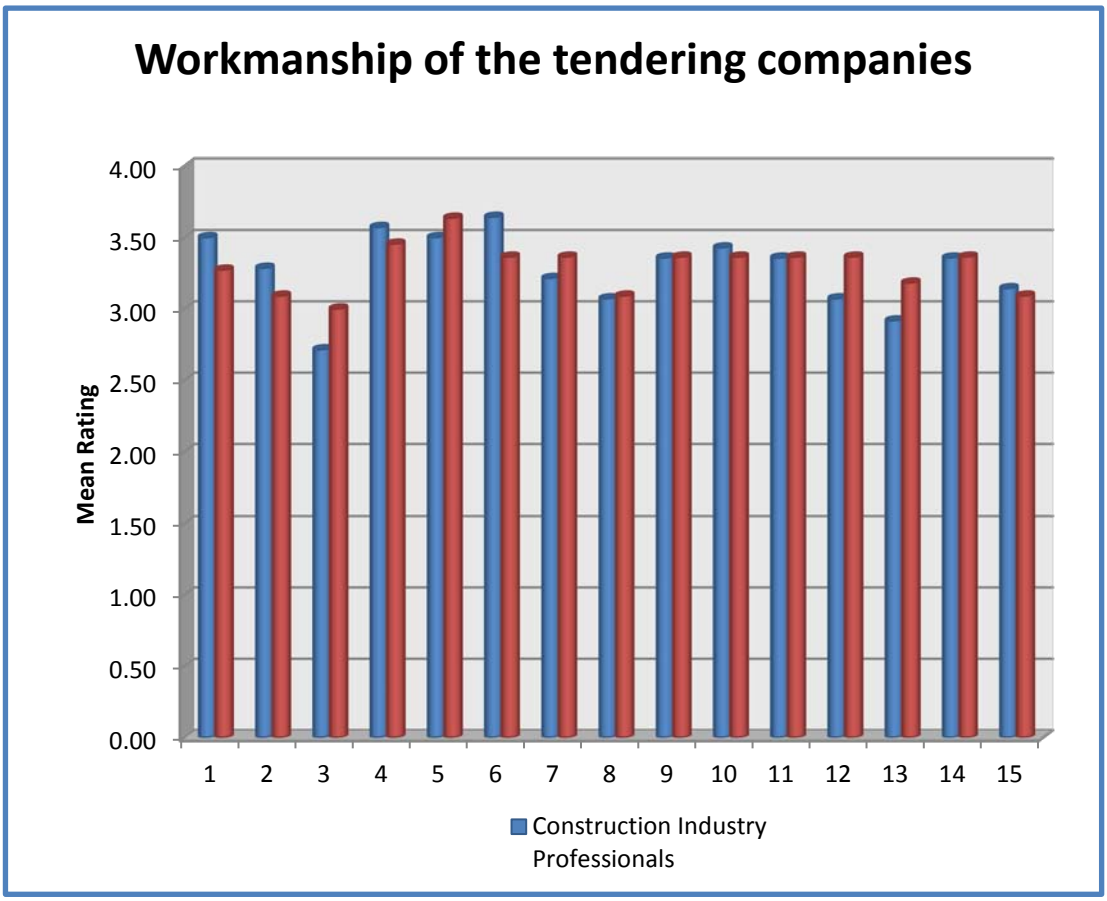

Figure 4.10: Workmanship of the Tendering Companies

Figure 4.10 represents the mean ratings of the data presented in Table 4-4. The figure shows that the groups of professionals in the construction industry agree that contractors, subcontractors or suppliers obtained through Preferential Procurement have the relevant knowledge and adhere to site health and safety practices. This is a positive development for Preferential Procurement because safety has become a huge part of the construction industry and it is an area where Government has zero tolerance. The construction industry professionals also agree that these contractors comply with the specifications for materials and methods of construction that is required on site.

The Government employees are not totally positive about the workmanship of the contractors, subcontractor and suppliers that are employed through Preferential Procurement. They agree that the subcontractors tend to have a good working relationship with the main contractors' team and they are tolerant, loyal and have zero or minimal adversarial relationships with other team members on the job. The Government stakeholders, however, have the perception that these contractors/subcontractors will have defects in their work and at times must repeat the work twice or more.

Table 4-5: Benefits of the Preferential Procurements

NR- Number of responses ,**TR-**Total responses, **MR**-Mean rating, Impact of : "**SA**" Strongly Agree, "**A**" Agree, "**SMA**" Sometimes Agree,														
The construction industry will benefit from the Preferential Procurement Act and its supporting legislation since		**Impact of Preferential Procurement**										**TR**	**MR**	**Remarks**
		SA		**A**		**SMA**		**D**		**SD**				
		>5		4 to 4.99		3 to 3.99		2 to 2.99		1 to 1.99				
		NR	%	**NR**	%	**NR**	%	**NR**	%	**NR**	%			
1	Work is unbundled into smaller contracts accommodating new, small and emerging contractors	2	8.3	11	45.8	5	20.8	4	16.7	2	8.3	24	3.29	SMA
2	Contractors enter into beneficial and useful joint ventures, which bring forth diverse capabilities to the industry	1	4.2	16	66.7	7	29.2	0	0.0	0	0.0	24	3.75	A
3	There are proper monitoring and performance measurement and reporting mechanisms in place	1	4.2	8	33.3	8	33.3	5	20.8	2	8.3	24	3.04	SMA
4	No person or organisation is discriminated against directly or indirectly yielding good quality tenderers	1	4.2	6	25.0	10	41.7	3	12.5	4	16.7	24	2.88	SMA
5	There is a pool of expertise to draw from, since no one is excluded	5	20.8	6	25.0	7	29.2	2	8.3	4	16.7	24	3.25	SMA

Table 4-5 represents the combined views of the survey respondents on the benefits of Preferential Procurement in the construction industry. The benefits of Preferential Procurement seem unclear to the survey respondents. Respondents agree that the construction industry benefits from the joint ventures. Joint ventures are believed to bring diverse capabilities of organisations in the construction industry. The respondents somewhat agree that Preferential Procurement benefits the industry by dividing work into smaller contracts. They do not seem to be fully convinced that there is a proper system to measure and monitor Preferential Procurement's progress in the industry. This justifies (Ding and Chee-Wah, 2006: 31) as their concern is that Government policy makers become reluctant to modify or revoke the need for Preferential Procurement once it has achieved its purpose.

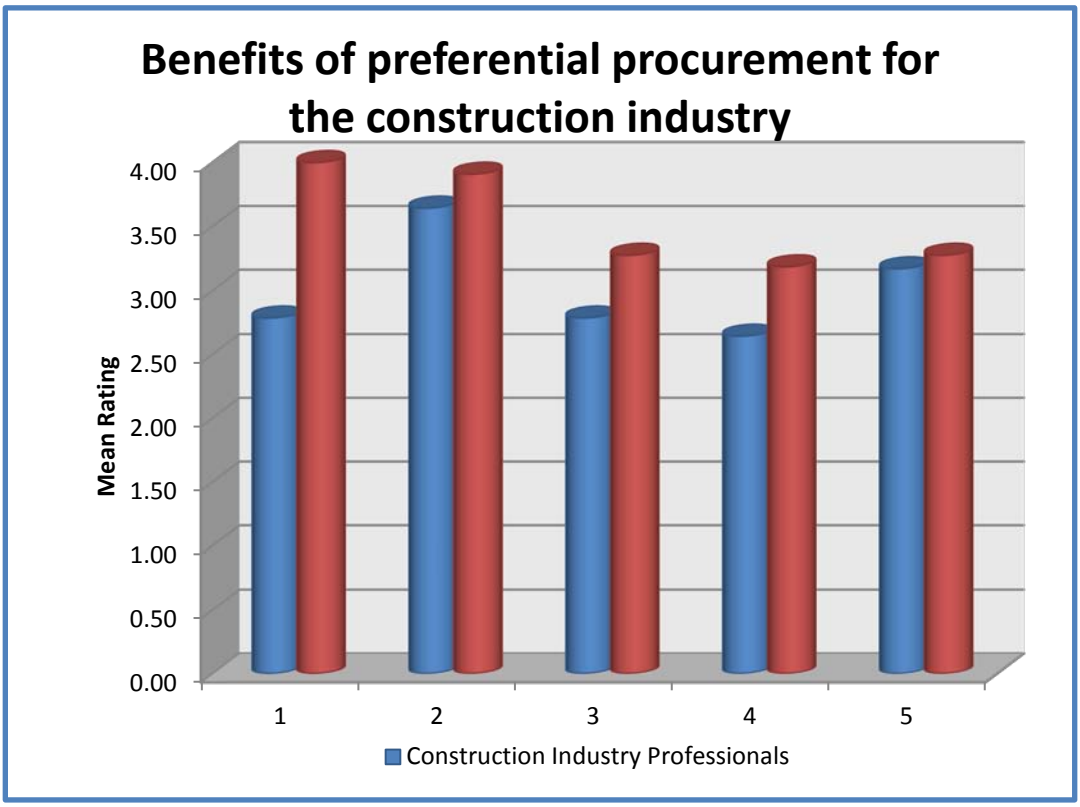

Figure 4.11: Benefits of Preferential Procurement for the Construction Industry

Figure 4.11 represents the mean rating of the data presented in Table 4-5. The construction industry professionals and the Government officials agree that the construction industry is benefiting from Preferential Procurement because organizations can now enter into beneficial and useful joint ventures bringing diverse capabilities to the industry. Farlam (2005: 1) view these partnerships to be useful.

Table 4-6: Best procurement procedure for Preferential Procurement

NR- Number of responses ,**TR**-Total responses, **MR**-Mean rating, Impact of : "**SA**" Strongly Agree, "**A**" Agree, "**SMA**" Sometimes Agree,

	Best procurement procedures	**Impact of Preferential Procurement**										**TR**	**MR**	**Remarks**
		SA		**A**		**SMA**		**D**		**SD**				
		>5		4 to 4.99		3 to 3.99		2 to 2.99		1 to 1.99				
		NR	%	**NR**	%	**NR**	%	**NR**	%	**NR**	%			
1	Negotiated procedure	6	25	10	41.7	3	12.5	2	8.3	3	12.5	24	3.58	A
2	Nominated procedure	1	4.2	10	41.7	6	25.0	4	16.7	3	12.5	24	3.08	SMA
3	Open procedure	5	20.8	10	41.7	6	25.0	3	12.5	0	0.0	24	3.71	A
4	Proposal procedure via two-envelope system/two stage system	1	4.2	8	33.3	14	58.3	0	0.0	1	4.2	24	3.33	SMA
5	Qualified procedure	6	25.0	7	29.2	9	37.5	1	4.2	1	4.2	24	3.67	A
6	Quoted procedure	1	4.2	6	25.0	13	54.2	3	12.5	1	4.2	24	3.13	SMA
7	Shopping procedures	1	4.2	6	25.0	12	50.0	4	16.7	1	4.2	24	3.08	SMA

Table 4-6 presents the combined views of the survey respondents on the best procurement procedures employed in Preferential Procurement. In responding to the questions about which contracting method should be employed in order to attain maximum results from Preferential Procurement, the respondents agreed that the negotiated, the open procedure and the qualified procedures are the best methods in attaining good contractors using Preferential Procurement. The respondents do not believe the nominated, the proposal procedure via the two-stage system, the quoted and the shopping procedure would be the best methods of attaining good contractors/ subcontractors when incorporating Preferential Procurement. Snider and Rendon (2008: 323) support competitive tendering as they believe that Government will attain affordable prices.

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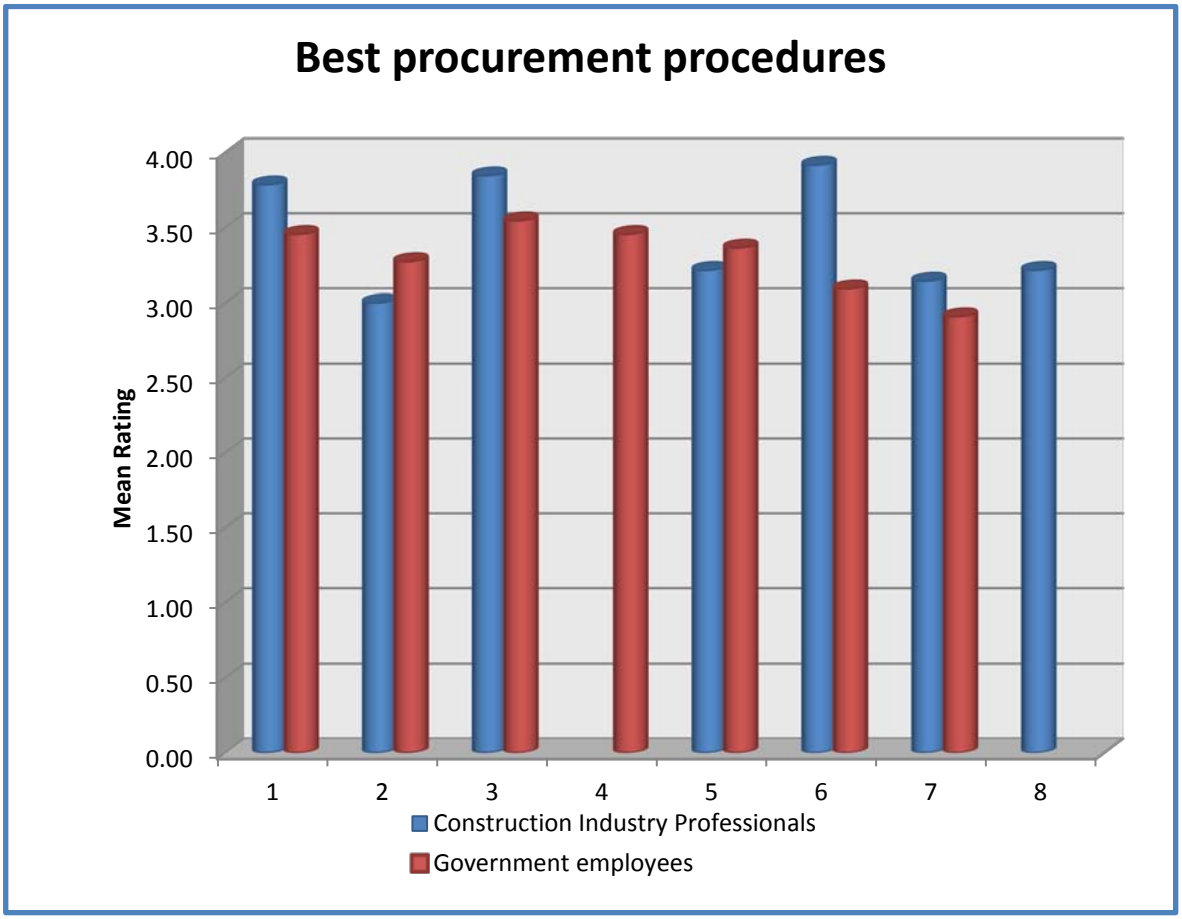

Figure 4.12: Best Procurement Procedure for Preferential Procurement

Figure 4.12 represents the mean rating of the data presented on Table 4-5 on the best procurement procedures. The professionals within the construction industry are of the view that for Preferential Procurement policies to be administered properly, for the purpose intended; the contract procedures that are best are the negotiated, open tender and the qualified procedure. The professionals agree that the three procedures can enhance the implementation of Preferential Procurement during the tender stage of a construction projects.

The Government stakeholders on the other hand favour the open procedure and the negotiated procedure as the two best methods.

Table 4-7: Key to Good practices in Preferential Procurement procedures

NR- Number of responses ,**TR-**Total responses, **MR**-Mean rating, Impact of : "**SA**" Strongly Agree, "**A**" Agree, "**SMA**" Sometimes Agree,

	Key to good practice in Procedures	**Impact of Preferential Procurement**										**TR**	**MR**	**Remarks**
		SA		**A**		**SMA**		**D**		**SD**				
		>5		4 to 4.99		3 to 3.99		2 to 2.99		1 to 1.99				
		NR	%	**NR**	%	**NR**	%	**NR**	%	**NR**	%			
1	Inviting only organisations who have the ability to innovate	5	20.8	8	33.3	7	29.2	3	12.5	1	4.2	24	3.54	SMA
2	Inviting only organisations who have the ability to submit bona fide bids	6	25.0	11	45.8	6	25.0	1	4.2	0	0.0	24	3.92	A
3	Conditions for all tenders should be the same	11	45.8	11	45.8	1	4.2	1	4.2	0	0.0	24	4.33	SA
4	Sufficient time and information should be provided for adequate preparation of tenders	14	58.3	9	37.5	0	0.0	1	4.2	0	0.0	24	4.50	SA
5	Inviting only tenderers with relevant skills and experience appropriate to the type of subcontract	11	45.8	10	41.7	2	8.3	1	4.2	0	0.0	24	4.29	SA
6	Tenders should be assessed and accepted with regard to quality not only on the basis of race	10	41.7	10	41.7	2	8.3	2	8.3	0	0.0	24	4.17	SA
7	Practices that avoid or discourage collusion should be followed	13	54.2	8	33.3	2	8.3	1	4.2	0	0.0	24	4.38	SA
8	Proposed subcontracts should be compatible and consistent with the main contract in a case where the client preferred certain subcontractors	9	37.5	12	50.0	2	8.3	0	0.0	1	4.2	24	4.17	A
9	A suite of contracts and standard unlamented contract forms from recognised bodies should be used where they are available.	8	33.3	10	41.7	4	16.7	1	4.2	1	4.2	24	3.96	A

Table 4-7 represents the combined views of the survey respondents on the keys to good practice on the Preferential Procurement procedures. The survey respondents strongly agree that in order to implement Preferential Procurement in the construction industry from invitations for tenders to completion of projects; conditions for all tenders should be the same, sufficient time and information should be provided for adequate preparation of tenders, only organizations with the relevant skills and experience appropriate to the work should be

invited, tenders should be assessed and accepted on the basis of quality not only on that of race, and that practices that avoid or discourage collusions should be followed.

Construction industry professionals and Government employees also agree that it will be good practice to ensure that invitations are extended to only organizations who have the ability to submit bona fide bids, and that the preferred bidders are compatible and consistent with the main contract. They also agree that suites of contracts and standard un-amended contracts forms from recognized bodies should be used where available.

The respondents did not believe that the ability of the contractor/subcontractor to innovate always has an impact on whether or not the contractor/subcontractor invited or chosen by means of Preferential Procurement can do the job. They therefore partially agree that ensuring that the party invited to tender has the ability to innovate serves as good practice in implementing Preferential Procurement.

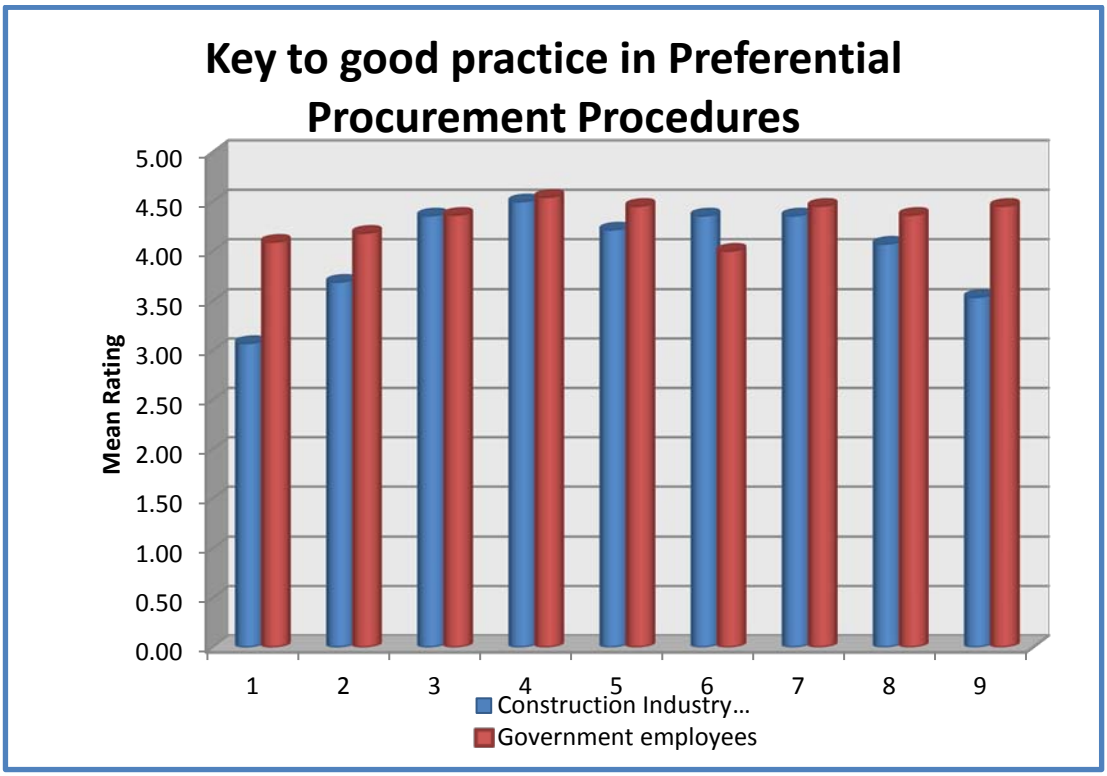

Figure 4.13: Key to Good Practice in Preferential Procurement Procedures

Figure 4.12 presents the mean rating of the data presented in Table 4-7 on the keys to good practice in Preferential Procurement procedures. For Preferential Procurement to work and yield the results for which it was intended for, certain procedures have to be followed. The

construction industry professionals strongly agree that those using Preferential Procurement policies to issue tenders should have sufficient time and information for adequate preparation of tenders. They also agree that these individuals should ensure that the following are used as good practice in implementing Preferential Procurement:

- The invited tenderers should be able to submit a bona fide tender,
- Conditions for all tenders should be the same,
- Only tenderers with the relevant skills and experience appropriate to the type of job should be invited,
- Tenders should be assessed and accepted on the basis of quality, not simply on the basis of race, and
- The proposed contractors'/subcontractors' work ethics should be compatible and consistent with the main contract in a case where the clients preferred a certain subcontractor.

The Government employees strongly agree that proper implementation of Preferential Procurement and its policies in the construction industry includes; sufficient time and information being provided for adequate preparation of tenders; the invited tenderers must possess the relevant skills and experience appropriate to the type of contract and practices that avoid or discourage collusion. The stigma surrounding the beneficiaries of Preferential Procurement as mentioned by Miclause (2010: n.p) can be alleviated by following good procurement practices.

4.4. Test of the Research Hypothesis

The hypothesis of the study can be restated as follows:

- The null hypothesis (Ho) which assumes that there is no difference between the various respondents states that; "The various stakeholders (contractors, consultants and Government client bodies) in the construction industry are in agreement on the impact of Preferential Procurement practices employed in the construction industry."

- The alternate hypothesis (H1) on the other hand assumes that there is no agreement between various populations states that: "There is no agreement from the various stakeholders (contractors, consultants and Government client bodies) in the construction on the impact of Preferential Procurement practices employed in the construction industry."

Table 4-8: The impact of Preferential Procurement in the construction industry

The Impact of Preferential Procurement practices in the Construction Industry		Government employees			Construction industry professionals		
		MR	**Rank**	**Adjusted Rank**	**MR**	**Rank**	**Adjusted Rank**
1	Good quality of work consistent with the general quality level of the main job	3.27	12	13.00	3.46	3	4.5
2	High productivity level	3.09	17	18.00	3.31	9	9.5
3	Zero or minimal defects and rework	3.00	20	20.00	2.69	18	18.5
4	Knowledge and adherence to site health and safety practices	3.45	4	4.00	3.46	3	4.5
5	Have good working relations with main contractor's team; tolerance, loyalty and zero or minimal adversarial relations	3.64	3	3.00	3.46	3	4.5
6	Comply with specifications for materials and methods	3.36	5	8.00	3.62	1	1
7	Performed well and on time	3.36	5	8.00	3.23	11	11.5
8	Procedures to minimise wastage on site	3.09	17	18.00	3.08	14	14.5
9	Efficient management of own workforce	3.36	5	8.00	3.38	7	7.5
10	Fair and minimal claims	3.36	5	8.00	3.46	3	4.5
11	Good control of own workforce	3.36	5	8.00	3.31	9	9.5
12	Compliance with contract terms and conditions, labour acts, building regulations, etc	3.36	5	8.00	3.00	16	16
13	Ability to manage the financial and contractual risks inherent in the subcontract	3.18	15	15.50	3.08	14	14.5
14	Good communication network	3.36	5	8.00	3.38	7	7.5
15	Capabilities: ability to manage changes without unnecessary claims	3.09	17	18.00	3.15	13	13
16	Work is unbundled into smaller contracts accommodating new, small and emerging contractors	4.00	1	1.00	2.69	18	18.5
17	Contractors enter into beneficial and useful joint ventures which bring forth diverse capabilities to the industry	3.91	2	2.00	3.62	1	1
18	There is proper monitoring and performance measurement and reporting mechanisms in place	3.27	12	13.00	2.85	17	17
19	No person or organisation is discriminated against directly or indirectly yielding good quality tenderers	3.18	15	15.50	2.62	20	20
20	There is a pool of expertise to draw from since no one is excluded	3.27	12	13.00	3.23	11	11.5
							Calculated rho: 0.41 Tabulated rho: 0.45 Accept or reject null hypothesis: **Reject**

The hypothesis testing was conducted on a group of questions that addressed the impact of preferential practices in the construction industry and the data is given in Table 4-8. The calculated rho from the data in Table 4-8 was found to be 0.41 and the tabulated rho is 0.45. The tabulated rho was obtained from a table in Appendix 2, for a sample with 20 questions. The tabulated rho is greater than the calculated rho and thus, the null hypothesis is rejected and the alternate hypothesis is accepted. The latter indicates that Government employees and the construction industry professionals are in disagreement with their response to questions about the impacts and benefits of Preferential Procurement in the construction industry. The Government employees had a relatively high rating, indicating their trust in Preferential Procurement and the benefits that it can bring to the construction industry.

5. Chapter 5: Results and Discussion

5.1. Summary of Key Findings from the Research

The objectives of the research study were to:

- Investigate the views of the various construction industry stake-holders on Preferential Procurement practices in the various construction phases.

- Study the impact of these Preferential Procurement practices on the South African construction industry.

In order to meet the objectives, first the preliminary interviews were conducted and secondly a structured questionnaire was sent out. The key findings from the research are summarized below;

Demographic representation

- Most respondents are in senior position in their organization.
- About two-thirds of the respondents have been in the construction industry for periods of between five and twenty years.

The construction industry professionals and the Government employees had few points of agreement. The section below highlights the few areas in which agreement was found.

Table 5-1: Common Agreement – Invitation to Tenders

Invitation to Tenders

overrides the following factors in invitation to tender:	
	Remarks
Technical and managerial competence and experience of the job at hand	Agree
Financial capacity to undertake the job successfully	Agree
Location of the subcontractor and his knowledge of the project environment	Agree

Table 5-2: Common Agreement – Selection of Tenders

Selection of Tenderers

The selection of tenderers through Preferential Procurement is fair because:	
	Remarks
The terms on which the process of selection is conducted are clearly defined and tenderers know the criteria that will be applied	Agree

Table 5-3: Common Agreement – Construction Stage

Construction Stage

Subcontractors and Suppliers selected through Preferential Procurement:	
	Remarks
Have good working relations with main contractor's team: are tolerant, loyal and have a zero or minimal adversarial relationship with the team	Agree
Comply with specifications for materials and methods	Agree

Table 5-4: Common Agreement – Benefits to the Construction Industry

Benefits to the Construction Industry

The construction industry will benefit from the Preferential Procurement Act and its supporting legislation because:	
	Remarks
Contractors enter into beneficial and useful joint-ventures, which bring diverse capabilities to the industry	Agree

Table 5-5: Common Agreement – Best Procurement Practices

Best Procurement Procedures

	Remarks
Negotiated procedure	Agree
Open procedure	Agree
Qualified procedure	Agree

Table 5-6: Key to Good Practice in Preferential Procurement Procedures

Key to Good Practice in Preferential Procurement Procedures	
	Remarks
Inviting only organizations who have the ability to submit bona fide bids	Agree
Proposed subcontracts should be compatible and consistent with the main contractor in a case where the client prefers certain subcontractors	Agree
A suite of contracts and standard un-amended contract forms from recognized bodies should be used where they are available.	Agree

5.2. Conclusions

Based on the findings from the data gathered through preliminary interviews and a structured questionnaire, the following conclusions are drawn:

- The research report suffered one of the weaknesses of a survey research method. The response rate was very low and thus, the results cannot be generalized as representing the general views of Gauteng construction industry stakeholders.

- The questionnaire responses were received from a population that included key stakeholders in Government and in the professional sector. Based on the low response rate, however, it may be concluded that stakeholders in the construction industry are not eager to debate the practices of Preferential Procurement openly or even at all.
- The length of experience of the respondents from both the Government stakeholders and construction industry professionals range from five to over twenty years. Based on this, it can be concluded that, the Preferential Procurement legislation captures the attention of all the employees equally, regardless of their length of experience or service.

- There is no agreement between Government stakeholders and the construction industry professionals on the key factors that should be considered for *tender invitation* when using Preferential Procurement. The Government stakeholders appear to be favouring competitive rates, low overall prices, size and diversity of the

workforce whereas the construction industry professionals appear to be favouring experience of the job at hand, experience with the current contract terms, financial and technical capacity to undertake and complete the job successfully.

- There is agreement between Government stakeholders and the construction industry professionals on the key factors that are considered for the *selection of tenders* using Preferential Procurement practices. The parties are in agreement that standard (fair, ethical and non-discriminatory) commercial practices and principles are adhered to when adjudicating and selecting tenders.

- There is general agreement between Government stakeholders and the construction industry professionals on the performance and workmanship of contractors/subcontractors/suppliers selected through Preferential Procurement for the construction phase. The Government stakeholders and the construction industry professionals both agree that contractors/subcontractors/suppliers selected through Preferential Procurement practices produce similar work to any other contractor.

- There is no agreement between the Government stakeholders and the construction industry professionals on the benefits of Preferential Procurement practices in the construction industry. The Government stakeholders are optimistic, indicating their trust in Preferential Procurement and the benefits that it brings to the construction industry.

- There is no agreement between the Government stakeholders and the construction industry professionals on the best procurement procedures when using Preferential Procurement. The Government stakeholders favoured the open procedure, whereas the construction industry professionals rated the qualified procedure highly.

- There is no agreement between Government stakeholders and the construction industry professionals on the key to good practices in the Preferential Procurement procedure. The Government stakeholders indicated that they are in support of evaluating tenders not on quality only, but also on other qualifiers that indicate historical disadvantage, like race.

The respondents are not in agreement with regard to the practices and implementation of Preferential Procurement when inviting, selecting and working with contractors. This means that there is not enough understanding and support from the construction industry role players for Preferential Procurement. This may lead to misuse of Preferential Procurement or improper implementation thereof. The construction industry stakeholders are not convinced of the need for Preferential Procurement, thus, the objectives of the policy may not be attained as expected. This may be a result of insufficient engagement between the South African Government as the policy maker, and the construction industry key stakeholders.

Those meant to enter the construction industry through Preferential Procurement find it impossible to gain this entrance. Consequently, the construction industry loses potential new innovations and skills that the new entrants could offer. This also leads to no one being able to replace the current workforce.

5.3. Recommendations

The research study clearly shows that the two parties are not in agreement on the critical issues around Preferential Procurement. This situation was anticipated as the interests of these two groups are diverse even though they might share a common goal: economic development of the country. It was disturbing to discover that the Government and the construction industry professionals are in disagreement on the benefits of Preferential Procurement in the construction industry. The engagement of the parties is required to establish a common understanding of this critical issue. The Government is in a strong position as it has the authority and power to draft and pass the legal issues around Preferential Procurement into law. It is recommended that the Government be proactive in engaging the construction industry professionals in the process of reforming this legislation. If the revising of Preferential Procurement legislation is left unresolved, it is anticipated that the goals of Preferential Procurement will not be realized because of key stakeholders' possible disagreement.

It is further recommended that construction industry professionals take a proactive stance, making representations to the Government on reforms that are required to ensure that Preferential Procurement is implemented successfully. The low response rate and disagreement over critical issues as found on the returned questionnaires, is an indication that active dialogue is required, neither party being able to resolve the problem single-handedly.

The parties have few common areas of agreement, i.e. factors considered when selecting tenderers. Such factors could be used as a launch pad to discuss the critical issues where there is no agreement.

5.4. Areas for Further Investigations

This study was conducted on a part-time basis, thus, the same study could be conducted on a full time bases in order to solicit enough responses to be able to generalize the findings.

The current study could be complemented by a comparative study between Preferential Procurement legislation in South Africa and that of countries where Preferential Procurement has been applied successfully.

Further investigation can be done by studying the difference in the interpretation and application of Preferential Procurement legislation in both the construction industry and other industries in the South African economy (i.e. the manufacturing sector).

The study can be expanded to explore the reasons behind the sharp disagreement on critical factors amongst the construction industry stakeholders. The outcome of such a study could form a solid basis for reform that is clearly required in the current legislation to allow it to achieve the intended result.

The study can also be conducted on a case study basis, in order to gain more insight into the topic.

Furthermore, a scenario analysis may be conducted to reveal the possible effects on the construction industry should a credible agreement be reached on the best possible way to implement Preferential Procurement.

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Appendices

Appendix 1: Sampling frame calculations

The target group for the research report was the state personnel who are involved in the procurement of services and tender processes, the contractors and subcontractors who are in the construction industry, as well as consultants working within the construction industry. The subcontractors, include material suppliers in the construction industry.

Since there is a large number of contractors and subcontractors, consultants and state employees involved in procurement in the constructions industry, simple random sampling was used to compute the appropriate sampling size for the research.

The table below shows the confidence intervals and the corresponding confidence levels used to compute the sample size, using simple random sampling.

	Confidence Level		
Confidence Interval	90%	95%	99%
1%	6,765	960400%	16576%
5%	271	384	663
10%	68		166
20%	17	24	41

The table below shows the Z values for every confidence level for computing the sample size for simple random sampling method.

Confidence Level	Z value
90%	1.645
95%	1.96
98%	2.33
99%	2.55

Using the tables above, the equation below was used to compute the sample size required when using simple random sampling method.

$$SS= \frac{Z^2(P)(1-P)}{C^2}$$

Where:
Z= Z value according to level of confidence
P= The worst case percentage (50%)
C= Confidence interval, expressed as decimal
The computed sample size according to the above equation is 384 at 95% level of significance and 5% confidence interval

$$SS= \frac{(1.96)^2(0.5)(1-0.5)}{(0.05)^2}$$

SS=384

Appendix 2: Critical values of rho at various level of probability

Critical values of rho at various levels of probability (Spearman Rank Correlation Coefficient)

For any N the observed value of rho is significant at a given level of significance if it is equal to or larger than the critical values shown in the table. Note: When there is no exact number of subjects, use the next lowest number

	Level of significance for one-tailed test			
	0.5	0.025	0.01	0.005
N (Number of subjects)	Level of significance for two-tailed test			
	0.10	0.05	0.02	0.01
5	0.900	1.000	1.000	
6	0.829	0.886	0.943	1.000
7	0.714	0.786	0.893	0.929
8	0.643	0.738	0.833	0.881
9	0.600	0.683	0.783	0.833
10	0.564	0.648	0.746	0.794
12	0.506	0.591	0.712	0.777
14	0.456	0.544	0.645	0.715
16	0.425	0.506	0.601	0.665
18	0.399	0.475	0.564	0.625
20	0.377	0.450	0.534	0.591
22	0.359	0.428	0.508	0.562
24	0.343	0.409	0.485	0.537
26	0.329	0.392	0.465	0.515
28	0.317	0.377	0.448	0.496
30	0.306	0.364	0.432	0.478

Source: Naoum, 1998, p.196

$\square = 1 - [\{6 \sum d_i^2\}/\{N(N^2-1)\}]$

Appendix 3: Preliminary interview questions

Date:

Dear Participants

Research survey: **An investigation into the practices in South Africa: Impacts on the Construction Industry.**

The South African construction industry has been affected by Government legislature that promotes black economic empowerment. This includes when awarding construction tenders. Organisations have found it both strategic and making economic sense to implement this legislation.

However, the degree of impact of this legislation on conducting business in the construction industry is unknown. Therefore, this study is aimed at Preferential Procurement and the impact it has on the construction industry.

You are kindly requested to participate in this questionnaire which will assist the researcher in gaining insight into and perceptions of the members of the construction industry regarding and supporting legislature.

I wish to assure you that your responses will be used purely for the purposes of this academic research, and they will not be seen by anyone other than my supervisor (Dr Harry Quainoo) and the marking panel.

Please email back your responses to mapatha@gmail.com or fax them to 086 628 1773.

Your participation will be greatly appreciated.

Regards
Mrs Miranda Baloyi
(Researcher)

Research Survey:

An Investigation into Preferential Procurement Practices in South Africa: Impacts on the Construction Industry

By

Miranda Baloyi

SECTION 1: Demographic Background

1. What is the main nature of your organization?

- ☐ General contractor (international)
- ☐ General contractor (national/provincial)
- ☐ General contractor (city/small builder)
- ☐ State Public work
- ☐ Construction subcontractor
- ☐ Construction consultant
- ☐ Construction service provider
- ☐ Construction supplier
- ☐ Other (Please specify) _____

2. What is your status in your organization?

- ☐ CEO/MD
- ☐ Director/senior executive
- ☐ Supervisor / manager
- ☐ Trainee/inter
- ☐ Other (Please specify) _____

3 Have you ever been involved in the contractor/selection of contractor's process of a project?

- ☐ Yes
- ☐ No

4 What is the length of your experience of the construction industry?

- ☐ < 5 yrs
- ☐ 5 - 10 yrs
- ☐ 11 - 15 yrs
- ☐ > 15 yrs

SECTION 2: Research Questions

1. Have you ever been involved in a project where the client was the Government of the Republic of South Africa?

☐

2. If yes, how big was the job?

Greater than R 500 000 ☐

Smaller than R500 000 ☐

3. What do you understand by ?

Elaborate:……...……
……....……
……....……
……...…….....
.....

4. Has Preferential Procurement affected your company?

Yes ☐

No ☐

Elaborate:……...……
……...……
……...……
…….....

5. Would you say Preferential Procurement is fair and equitable?

Yes ☐

No ☐

Elaborate:……
……
……
……

6. Should Preferential Procurement and BEE be applicable to the construction industry?

Yes ☐

No ☐

Elaborate:……..……
……..……
……..……
……

7. Is it necessary to implement Preferential Procurement and BEE in all the country industry sectors?

Yes ☐

No ☐

Elaborate:……..……
……..……
……..……
……

8. Does the requirement of the Broad Based Black Economic Empowerment (BBBEE) affect the construction industry?

Yes ☐

No ☐

Elaborate:……
……
……

9. Has your company benefited from BBBEE?

Yes ☐

No ☐

Appendix 4: The Main Questionnaire

Date:

Dear Participants

Research survey: **An Investigation into the Preferential Procurement Practices in South Africa: Impacts on the Construction Industry.**

The South African construction industry has been affected by Government legislature that promotes black economic empowerment. This includes Preferential Procurement when awarding construction tenders. Organisations have found it both strategic and making economic sense to implement this legislature.

However, the degree of impact of this legislation on conducting business in the construction industry is unknown. Therefore, this study is aimed at Preferential Procurement and the impact it has on the construction industry.

You are kindly requested to participate in this questionnaire which will assist the researcher in gaining insight into perceptions of the members of the construction industry regarding Preferential Procurement and supporting legislature.

I wish to assure you that your responses will be used purely for the purposes of this academic research, and they will not be seen by anyone other than my supervisor (Dr Harry Quainoo) and the marking panel.

Please email back your responses to mapatha@gmail.com or fax them to 086 628 1773.

Your participation will be greatly appreciated.

Regards
Mrs Miranda Baloyi
(Researcher)

Research Survey:

An investigation into the preferential procurement practices in South Africa: impacts on the Construction Industry

By
Miranda Baloyi

School of Construction Economics & Management

University of the Witwatersrand

SECTION 1: Demographic background

1. What is the main nature of your organisation?

- ☐ General contractor (international)
- ☐ General contractor (national/provincial)
- ☐ General contractor (city/small builder)
- ☐ Quantity Surveyor
- ☐ Architect
- ☐ Project manager
- ☐ Other (Please specify) _____

2. What is your status in the organisation?

- ☐ CEO/MD
- ☐ Director/senior executive
- ☐ Supervisor / manager
- ☐ Trainee/intern
- ☐ Other (Please specify) _____

3. What is the length of your experience of the construction industry?

- ☐ < 5 yrs
- ☐ 5 - 10 yrs
- ☐ 11 - 20 yrs
- ☐ > 20 yrs

Section 2: Main Questions

1 Listed below are some of the factors that could affect the Construction industry due to the introduction of Preferential procurement as a policy tool .Kindly indicate your level of agreement with a check (X) under the appropriate box. It will be appreciated if you could add a few more other requirements not covered in the lists.

			Impact of preferential procurement					
			Strongly Agree	Agree	Sometimes Agree	Disagree	Strongly Disagree	No idea
		Preferencial procurement overrides the following factors in invitation for tenders	5	4	3	2	1	
A)	***Invitation for tender***							
	1	Technical and managerial competence and experience in the job at hand						
	2	Financial capacity to undertake the job successfully						
	3	Ability to provide own attendance needs and other needs that could reduce main contractor's P&G costs						
	4	Size and resources: skills, competence and strength of own workforce						
	5	Past records of working relationship with current contractor and/ or reference from previous employers and financiers						
	6	Experience with the present contract form, terms and conditions						
	7	Location of the subcontractor and knowledge of the project environment						
	8	Current workload and commitment, and ability to mobilise on site when needed						
	9	Competitive rates and lowest tender overall						
	10	Compliance with statutory regulations: Black Economic Empowerment, Gender Equality, Workmans Compensation Act, tax regulations, etc						
	11	Competitive tenders based on price						
		Others (please specify):						
	12							
	13							

			Impact of preferential procurement					
		The selection of tenders through preferential procurement is fair since	Strongly Agree 5	Agree 4	Sometimes Agree 3	Disagree 2	Strongly Disagree 1	No idea
B	***Selection of tenderers***							
	1	Contracts are handled with integrity, ethical conduct,fairness and accountability						
	2	There is proper understanding for all parties obligations associated with inviting tenders, quotations, and expressions of interest						
	3	The terms in which the process of selection is conducted is clearly defined and tenders know the criteria will be applied						
	4	It minimises the concealing of not just discriminatory behaviour but also corruption and patronage						
	5	Everyone involved complies with all applicable legislation and associated regulations						
	6	Illegal behaviour like fronting and window dressing get recognized and exposed						
	7	There is never conflict of interest with regards to the selecting parties						
	8	There exist sound accountabilty on the part of those in possession of tenders and there exist public confidence that proper procedures are always followed						
	9	There is anti-corruption measures in place to ensure fairness and transparency						
	10	The scorecard system is clear and precise which allows proper implementation						
		Others (please specify):						
	11							
	12							

			Impact of preferential procurement					
		Subcontractors and suppliers selected through Preferential Procurement have	Strongly Agree 5	Agree 4	Sometimes Agree 3	Disagree 2	Strongly Disagree 1	No idea
C	***Construction stage***							
	1	Good quality of work consistent with the general quality level of the main job						
	2	High productivity level						
	3	Zero or minimal defects and rework						
	4	Knowledge and adhere to site health and safety practice						
	5	Have good working relations with main contractor's team; good tolerance, loyalty and zero or minimal adversarial relation						
	6	Comply with specifications for materials and methods						
	7	Performed well and on time						
	8	Procedures to minimise wastage on site						
	9	Efficient management of own workforce						
	10	Fair and minimal claims						
	11	Good control of own workforce						
	12	Compliance with contract terms and conditions, labour acts, building regulations, etc						
	13	Ability to manage the financial and contractual risks inherent in the subcontract						
	14	Good communication network						
	15	Capabilities: ability to manage changes without unnecessary claims						
		Others (please specify):						
	16							
	17							

		The construction industry will benefit from preferential procurement Act and its supporting legislature since	Impact of preferential procurement					No idea
			Strongly Agree	Agree	Sometimes Agree	Disagree	Strongly Disagree	
			5	4	3	2	1	
D		***Benefit to the construction industry***						
	1	Work is unbundled into smaller contracts accomodating new, small and emerging contractors						
	2	Contractors enter into beneficial and usefull joint ventures which bring forth diverse capabilities to the industry						
	3	There is proper monitoring and performance measurement and reporting						
	4	No person or organisation is discriminated directly or indirectly yielding good quality tenderers						
	5	There is a pool of expertise to draw from since no one is excluded						
		Other (please specify):						
	8							
	9							

2 Given consideration to the contents of the above groups questions, the best procurement procedures that enhance the purpose of preferential procurement are

		Best procurement procedures	Impact of preferential procurement					No idea
			Strongly Agree	Agree	Sometimes Agree	Disagree	Strongly Disagree	
			5	4	3	2	1	
	1	Negotiated procedure						
	2	Nominated procedure						
	3	Open procedure						
	4	Proposal procedure via two-envelope system/two stage system						
	5	Qualified procedure						
	6	Quated procedure						
	7	Shopping procedures						
		Others (kindly specify):						
	8							
	9							

3 The following have been identified as key to good practice in preferential procurement practices.

			*Level of Importance					
			Strongly Agree	Agree	Sometimes Agree	Disagree	Strongly Disagree	No idea
		Key to good practice in Preferential Procurement Procedures	5	4	3	2	1	
	1	Inviting only organisations who have the ability to innovate						
	2	Inviting only organisations who have the ability to submit bona fide bids						
	3	Conditions for all tenders should be the same						
	4	Sufficient time and information should be provided for adequate preparation of tenders						
	5	Inviting only tenderers with relevant skills and experience appropriate to the type of subcontract						
	6	Tenders should be assessed and accepted having regard to quality not only on the basis of race						
	7	Practices that avoid or discourage collusion should be followed						
	8	Proposed subcontracts should be compatible and consistent with the main contract in a case where the client preferred certain subcontractors						
	9	A suite of contracts and standard unamended contract forms from recognised bodies should be used where they are available.						
		Others (kindly specify):						
	10							
	11							

Appreciation

Thank you for your time! Kindly fax the filled questionnaire to: Mrs Miranda Baloyi; Fax: 086 628 1773

If you have any comments in relation to the contents of the questionnaire, you may wish to contact the researcher using any of the following contacts: Tel: (011) 923 5385; 082 880 46 17(cell); Fax: (086) 628 1773; E-mail: mapatha@gmail.com; else please comment below

Appendix 5

5 1: Data Analysis

5. (a). Analysis of the Demographic Profiles of the respondents in the Main Questionnaires.

1.1 Main nature of respondents' organization

	Main nature	Responses	%
1	General contractor (international)	1	4
2	General contractor (national/provincial)	3	13
3	Quantity Surveyor	2	8
4	Architect	1	4
5	Project manager	4	17
6	Other	13	54
7	General contractor (city/small builderl)		0
	Total responses	24	100

1.2 Respondents' organisational status

	Status	Responses	%
1	CEO/MD	1	4
2	Director/senior executive	6	25
3	Supervisor/manager	13	54
4	Trainee/intern	4	17
5	Other	0	0
	Total responses	24	100

1.3 Length of experience of the respondents in the property business

	Length of experience	Responses	%
1	< 5 years	8	33
2	5-10 years	5	21
3	11-20 years	5	21
4	>20 years	6	25
	Total responses	24	100

5.2: Analysis of state (Government) employees responses

1 Listed below are some of the factors that could affect the Construction industry due to the introduction of Preferential procurement as a policy tool .Kindly indicate your level of agreement with a check (X) under the appropriate box. It will be appreciated if you could add a few more other requirements not covered in the lists.

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Preferencial procurement overrides the following factors in invitation for tenders	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
Invitation for tender														
1	Technical and managerial competence and experience in the job at		0.0	2	18.2	1	9.1	4	36.4	4	36.4	11	2.09	SMA
2	Financial capacity to undertake the job successfully		0.0	2	18.2	1	9.1	3	27.3	5	45.5	11	2.00	SMA
3	Ability to provide own attendance needs and other needs that could reduce main contractor's P&G costs		0.0	1	9.1	2	18.2	4	36.4	4	36.4	11	2.00	SMA
4	Size and resources: skills, competence and strength of own workforce		0.0	2	18.2	2	18.2	5	45.5	2	18.2	11	2.36	SMA
5	Past records of working relationship with current contractor and/ or reference from previous employers and financiers	1	9.1	1	9.1		0.0	6	54.5	3	27.3	11	2.18	D
6	Experience with the present contract form, terms and conditions		0.0		0.0	2	18.2	4	36.4	5	45.5	11	1.73	D
7	Location of the subcontractor and knowledge of the project environment	1	9.1		0.0	2	18.2	5	45.5	3	27.3	11	2.18	SMA
8	Current workload and commitment, and ability to mobilise on site when needed		0.0	2	18.2	2	18.2	4	36.4	3	27.3	11	2.27	SMA
9	Competitive rates and lowest tender overall	1	9.1	2	18.2	2	18.2	4	36.4	2	18.2	11	2.64	SMA
10	Compliance with statutory regulations: Black Economic Empowerment, Gender Equality, Workmans Compensation Act, tax regulations, etc	1	9.1	1	9.1	1	9.1	5	45.5	3	27.3	11	2.27	D
11	Competitive tenders based on price		0.0	3	27.3	2	18.2	2	18.2	4	36.4	11	2.36	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	The selection of tenders through preferential procurement is fair since	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
Selection of tenderers														
1	Contracts are handled with integrity, ethical conduct,fairness and accountability	2	18.18	6	54.5	3	27.3		0		0	11	3.91	A
2	There is proper understanding for all parties obligations associated with inviting tenders, quotations, and expressions of interest	2	18.18	7	63.6	2	18.2		0		0	11	4.00	A
3	The terms in which the process of selection is conducted is clearly defined and tenders know the criteria will be applied	3	30.0	4	40	3	30.0		0.0		0.0	10	4.00	A
4	It minimises the concealing of not just discriminatory behaviour but also corruption and patronage	3	27.3	4	36.4	2	18.2	2	18.2		0.0	11	3.73	SMA
5	Everyone involved complies with all applicable legislation and associated regulations	3	27.3	5	45.5	1	9.1	2	18.2		0.0	11	3.82	SMA
6	Illegal behaviour like fronting and window dressing get recognized and exposed	1	9.1	5	45.5	2	18.2	2	18.2	1	9.1	11	3.27	D
7	There is never conflict of interest with regards to the selecting parties		0.0	6	54.5	1	9.1	3	27.3	1	9.1	11	3.09	D
8	There exist sound accountabilty on the part of those in possession of tenders and there exist public confidence that proper procedures are always followed	2	18.2	5	45.5	3	27.3		0.0	1	9.1	11	3.64	SMA
9	There is anti-corruption measures in place to ensure fairness and transparency	3	27.3	4	36.4	1	9.1	2	18.2	1	9.1	11	3.55	SMA
10	The scorecard system is clear and precise which allows proper implementation	2	20.0	4	40.0	4	40.0		0.0		0.0	10	3.80	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Subcontractors and suppliers selected through Preferential Procurement have	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
Construction stage														
1	Good quality of work consistent with the general quality level of the	1	9.091	3	27.3	5	45.5	2	18.2		0	11	3.27	SMA
2	High productivity level		0	5	45.5	3	27.3	2	18.2	1	9.09	11	3.09	D
3	Zero or minimal defects and rework	1	9.091	3	27.3	3	27.3	3	27.3	1	9.09	11	3.00	D
4	Knowledge and adhere to site health and safety practice	1	9.091	4	36.4	5	45.5	1	9.09		0	11	3.45	SMA
5	Have good working relations with main contractor's team; good tolerance, loyalty and zero or minimal adversarial relation	2	18.18	3	27.3	6	54.5		0		0	11	3.64	SMA
6	Comply with specifications for materials and methods		0	4	36.4	7	63.6		0		0	11	3.36	SMA
7	Performed well and on time		0	5	45.5	5	45.5	1	9.09		0	11	3.36	SMA
8	Procedures to minimise wastage on site		0	5	45.5	3	27.3	2	18.2	1	9.09	11	3.09	D
9	Efficient management of own workforce	2	18.18	1	9.09	7	63.6	1	9.09		0	11	3.36	SMA
10	Fair and minimal claims		0	5	45.5	5	45.5	1	9.09		0	11	3.36	SMA
11	Good control of own workforce		0	5	45.5	5	45.5	1	9.09		0	11	3.36	SMA
12	Compliance with contract terms and conditions, labour acts, building regulations, etc	1	9.091	5	45.5	3	27.3	1	9.09	1	9.09	11	3.36	SMA
13	Ability to manage the financial and contractual risks inherent in the subcontract	1	9.091	2	18.2	7	63.6		0	1	9.09	11	3.18	SMA
14	Good communication network	2	18.18	2	18.2	5	45.5	2	18.2		0	11	3.36	SMA
15	Capabilities: ability to manage changes without unnecessary claims		0	3	27.3	6	54.5	2	18.2		0	11	3.09	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	The construction industry will benefit from preferential procurement Act	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
1	Work is unbundled into smaller contracts accomodating new, small and emerging contractors	2	18.2	7	63.6	2	18.2		0.0		0.0	11	4.00	A
2	Contractors enter into beneficial and usefull joint ventures which bring forth diverse capabilities to the industry		0.0	10	90.9	1	9.1		0.0		0.0	11	3.91	A
3	There is proper monitoring and performance measurement and		0.0	4	36.4	6	54.5	1	9.1		0.0	11	3.27	SMA
4	No person or organisation is discriminated directly or indirectly yielding good quality tenderers	1	9.1	3	27.3	5	45.5	1	9.1	1	9.1	11	3.18	SMA
5	There is a pool of expertise to draw from since no one is excluded	2	18.2	3	27.3	3	27.3	2	18.2	1	9.1	11	3.27	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Groups of main contractor requirements from the subcontractors	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
1	Negotiated procedure	1	9.1	6	54.5	2	18.2	1	9.1	1	9.1	11	3.45	SMA
2	Nominated procedure		0.0	5	45.5	4	36.4	2	18.2		0.0	11	3.27	SMA
3	Open procedure		0.0	7	63.6	3	27.3	1	9.1		0.0	11	3.55	SMA
4	Proposal procedure via two-envelope system/two stage system		0.0	5	45.5	6	54.5		0.0		0.0	11	3.45	A
5	Qualified procedure	1	9.1	3	27.3	6	54.5	1	9.1		0.0	11	3.36	A
6	Quated procedure		0.0	3	27.3	6	54.5	2	18.2		0.0	11	3.09	SMA
7	Shopping procedures		0.0	2	18.2	6	54.5	3	27.3		0.0	11	2.91	D

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Key to good practice in Preferential Procurement Procedures	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
1	Inviting only organisations who have the ability to innovate	4	36.4	4	36.4	3	27.3		0.0		0.0	11	4.09	A
2	Inviting only organisations who have the ability to submit bona fide	2	18.2	9	81.8		0.0		0.0		0.0	11	4.18	A
3	Conditions for all tenders should be the same	4	36.4	7	63.6		0.0		0.0		0.0	11	4.36	SA
4	Sufficient time and information should be provided for adequate preparation of tenders	6	54.5	5	45.5		0.0		0.0		0.0	11	4.55	SA
5	Inviting only tenderers with relevant skills and experience appropriate to the type of subcontract	5	45.5	6	54.5		0.0		0.0		0.0	11	4.45	SA
6	Tenders should be assessed and accepted having regard to quality not only on the basis of race	3	27.3	6	54.5	1	9.1	1	9.1		0.0	11	4.00	A
7	Practices that avoid or discourage collusion should be followed	6	54.5	4	36.4	1	9.1		0.0		0.0	11	4.45	SA
8	Proposed subcontracts should be compatible and consistent with the main contract in a case where the client preferred certain	4	36.4	7	63.6		0.0		0.0		0.0	11	4.36	SA
9	A suite of contracts and standard unamended contract forms from recognised bodies should be used where they are available.	6	54.5	4	36.4	1	9.1		0.0		0.0	11	4.45	A

5.3: Analysis of Contractors & Consultants responses.

1 Listed below are some of the factors that could affect the Construction industry due to the introduction of Preferential procurement as a policy tool .Kindly indicate your level of agreement with a check (X) under the appropriate box. It will be appreciated if you could add a few more other requirements not covered in the lists.

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Preferencial procurement overrides the following factors in invitation for tenders	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
	Invitation for tender													
1	Technical and managerial competence and experience in the job at hand	7	53.8	3	23.1	1	7.7	1	7.7	1	7.7	13	4.08	A
2	Financial capacity to undertake the job successfully	5	38.5	4	30.8	2	15.4	1	7.7	1	7.7	13	3.85	A
3	Ability to provide own attendance needs and other needs that could reduce main contractor's P&G costs	5	38.5	4	30.8		0.0	3	23.1	1	7.7	13	3.69	A
4	Size and resources: skills, competence and strength of own workforce	2	15.4	7	53.8	2	15.4	1	7.7	1	7.7	13	3.62	A
5	Past records of working relationship with current contractor and/ or reference from previous employers and financiers	5	38.5	3	23.1	3	23.1		0.0	2	15.4	13	3.69	A
6	Experience with the present contract form, terms and conditions	5	38.5	3	23.1	4	30.8		0.0	1	7.7	13	3.85	A
7	Location of the subcontractor and knowledge of the project environment	5	38.5	3	23.1	2	15.4	2	15.4	1	7.7	13	3.69	A
8	Current workload and commitment, and ability to mobilise on site when needed	2	15.4	6	46.2	2	15.4	2	15.4	1	7.7	13	3.46	A
9	Competitive rates and lowest tender overall	1	7.7	3	23.1	7	53.8	2	15.4		0.0	13	3.23	SMA
10	Compliance with statutory regulations: Black Economic Empowerment, Gender Equality, Workmans Compensation Act, tax regulations, etc	3	23.1	6	46.2	2	15.4	2	15.4		0.0	13	3.77	A
11	Competitive tenders based on price	1	7.7	5	38.5	5	38.5	1	7.7	1	7.7	13	3.31	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	The selection of tenders through preferential procurement is fair since	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
	Selection of tenderers													
1	Contracts are handled with integrity, ethical conduct,fairness and accountability	4	28.571	3	21.43	3	21.43	2	14.29	2	14.29	14	3.36	SMA
2	There is proper understanding for all parties obligations associated with inviting tenders, quotations, and expressions of interest	4	28.571	3	21.43	3	21.43	1	7.143	3	21.43	14	3.29	SMA
3	The terms in which the process of selection is conducted is clearly defined and tenders know the criteria will be applied	4	28.6	4	28.57	3	21.4	1	7.1	2	14.3	14	3.50	A
4	It minimises the concealing of not just discriminatory behaviour but also corruption and patronage	3	21.4	3	21.43	2	14.3	4	28.6	2	14.3	14	3.07	SMA
5	Everyone involved complies with all applicable legislation and associated regulations	1	7.1	5	35.71	3	21.4	3	21.4	2	14.3	14	3.00	SMA
6	Illegal behaviour like fronting and window dressing get recognized and exposed	3	21.4	3	21.43	1	7.1	4	28.6	3	21.4	14	2.93	SMA
7	There is never conflict of interest with regards to the selecting parties	3	21.4	3	21.43	1	7.1	2	14.3	5	35.7	14	2.79	SMA
8	There exist sound accountabilty on the part of those in possession of tenders and there exist public confidence that proper procedures are always followed	3	21.4	4	28.57	3	21.4	1	7.1	3	21.4	14	3.21	SMA
9	There is anti-corruption measures in place to ensure fairness and transparency	2	14.3	2	14.29	4	28.6	4	28.6	2	14.3	14	2.86	SMA
10	The scorecard system is clear and precise which allows proper implementation	1	7.1	5	35.71	5	35.7	1	7.1	2	14.3	14	3.14	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Subcontractors and suppliers selected through Preferential Procurement have	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
	Construction stage													
1	Good quality of work consistent with the general quality level of the main job	1	7.1429	7	50	5	35.71		0	1	7.143	14	3.50	A
2	High productivity level	2	14.2857	3	21.43	7	50	1	7.143	1	7.143	14	3.29	SMA
3	Zero or minimal defects and rework	1	7.14286	1	7.143	7	50	3	21.43	2	14.29	14	2.71	SMA
4	Knowledge and adhere to site health and safety practice	4	28.5714	4	28.57	4	28.57		0	2	14.29	14	3.57	A
5	Have good working relations with main contractor's team; good tolerance, loyalty and zero or minimal adversarial relation	1	7.14286	7	50	5	35.71		0	1	7.143	14	3.50	A
6	Comply with specifications for materials and methods	2	14.2857	7	50	4	28.57		0	1	7.143	14	3.64	A
7	Performed well and on time	1	7.14286	4	28.57	7	50	1	7.143	1	7.143	14	3.21	SMA
8	Procedures to minimise wastage on site	1	7.14286	3	21.43	7	50	2	14.29	1	7.143	14	3.07	SMA
9	Efficient management of own workforce	1	7.14286	5	35.71	7	50		0	1	7.143	14	3.36	SMA
10	Fair and minimal claims	4	28.5714	2	14.29	6	42.86		0	2	14.29	14	3.43	A
11	Good control of own workforce		0	7	50	6	42.86		0	1	7.143	14	3.36	SMA
12	Compliance with contract terms and conditions, labour acts, building regulations, etc	1	7.14286	5	35.71	3	21.43	4	28.57	1	7.143	14	3.07	SMA
13	Ability to manage the financial and contractual risks inherent in the subcontract	1	8.33333	3	25	4	33.33	2	16.67	2	16.67	12	2.92	SMA
14	Good communication network	3	21.4286	3	21.43	5	35.71	2	14.29	1	7.143	14	3.36	SMA
15	Capabilities: ability to manage changes without unnecessary claims		0	5	35.71	7	50	1	7.143	1	7.143	14	3.14	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	The construction industry will benefit from preferential procurement Act and its supporting legislature since	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
1	Work is unbundled into smaller contracts accomodating new, small and emerging contractors		0.0	5	35.7	3	21.4	4	28.6	2	14.3	14	2.79	SMA
2	Contractors enter into beneficial and usefull joint ventures which bring forth diverse capabilities to the industry	1	7.1	7	50.0	6	42.9		0.0		0.0	14	3.64	A
3	There is proper monitoring and performance measurement and reporting	1	7.1	4	28.6	2	14.3	5	35.7	2	14.3	14	2.79	SMA
4	No person or organisation is discriminated directly or indirectly yielding good quality tenderers		0.0	3	21.4	6	42.9	2	14.3	3	21.4	14	2.64	D
5	There is a pool of expertise to draw from since no one is excluded	3	25.0	2	16.7	4	33.3		0.0	3	25.0	12	3.17	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Groups of main contractor requirements from the subcontractors	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
1	Negotiated procedure	6	42.9	4	28.6	1	7.1	1	7.1	2	14.3	14	3.79	A
2	Nominated procedure	1	7.1	6	42.9	2	14.3	2	14.3	3	21.4	14	3.00	SMA
3	Open procedure	5	38.5	3	23.1	3	23.1	2	15.4		0.0	13	3.85	A
4	Proposal procedure via two-envelope system/two stage system	1	7.1	3	21.4	9	64.3		0.0	1	7.1	14	3.21	SMA
5	Qualified procedure	5	41.7	3	25.0	3	25.0		0.0	1	8.3	12	3.92	A
6	Quated procedure	1	7.1	3	21.4	8	57.1	1	7.1	1	7.1	14	3.14	SMA
7	Shopping procedures	1	7.1	4	28.6	7	50.0	1	7.1	1	7.1	14	3.21	SMA

NO-The number of responses ,TR-Total responses, MR-Mean rating, Impact of preferential procurement: "SA" Strongly Agree, "A" Agree, "SMA" Sometimes Agree, "D" Disagree, "SD" Strongly Disagree. Remarks: 1 - 1.8 = SD, 1.81-2.6 = D, 2.61 - 3.4 = SMA, 3.41 - 4.2 = A, 4.21 - 5 = SA.

	Key to good practice in Preferential Procurement Procedures	Impact of preferential procurement										TR	MR	Remarks
		SA		A		SMA		D		SD				
		5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%			
1	Inviting only organisations who have the ability to innovate	1	7.1	4	28.6	5	35.7	3	21.4	1	7.1	14	3.07	SMA
2	Inviting only organisations who have the ability to submit bona fide bids	4	30.8	2	15.4	6	46.2	1	7.7		0.0	13	3.69	A
3	Conditions for all tenders should be the same	8	57.1	4	28.6	1	7.1	1	7.1		0.0	14	4.36	SA
4	Sufficient time and information should be provided for adequate preparation of tenders	9	64.3	4	28.6		0.0	1	7.1		0.0	14	4.50	SA
5	Inviting only tenderers with relevant skills and experience appropriate to the type of subcontract	7	50.0	4	28.6	2	14.3	1	7.1		0.0	14	4.21	SA
6	Tenders should be assessed and accepted having regard to quality not only on the basis of race	8	57.1	4	28.6	1	7.1	1	7.1		0.0	14	4.36	SA
7	Practices that avoid or discourage collusion should be followed	8	57.1	4	28.6	1	7.1	1	7.1		0.0	14	4.36	SA
8	Proposed subcontracts should be compatible and consistent with the main contract in a case where the client preferred certain subcontractors	6	42.9	5	35.7	2	14.3		0.0	1	7.1	14	4.07	A
9	A suite of contracts and standard unamended contract forms from recognised bodies should be used where they are available.	2	15.4	6	46.2	3	23.1	1	7.7	1	7.7	13	3.54	A

5.4: Combined Analysis of all Responses.

	Impact of preferential procurement												
	Strongly Agree		Agree		Sometimes Agree		Disagree		Strongly Disagree				
Preferencial procurement overrides the following factors in invitation for tenders	5		4		3		2		1				
	No	%	No	%	No	%	No	%	No	%	TR	MR	Rank
A) Invitation for tender													
1 Technical and managerial competence and experience in the job at hand	7	29.2	5	20.8	2	8.3	5	20.8	5	20.8	24	3.17	1
2 Financial capacity to undertake the job successfully	5	20.8	6	25.0	3	12.5	4	16.7	6	25.0	24	3.00	4
3 Ability to provide own attendance needs and other needs that could reduce main contractor's P&G costs	5	20.8	5	20.8	2	8.3	7	29.2	5	20.8	24	2.92	9
4 Size and resources: skills, competence and strength of own workforce	2	8.3	9	37.5	4	16.7	6	25.0	3	12.5	24	3.04	3
5 Past records of working relationship with current contractor and/ or reference from previous employers and financiers	6	25.0	4	16.7	3	12.5	6	25.0	5	20.8	24	3.00	4
6 Experience with the present contract form, terms and conditions	5	20.8	3	12.5	6	25.0	4	16.7	6	25.0	24	2.88	10
7 Location of the subcontractor and knowledge of the project environment	6	25.0	3	12.5	4	16.7	7	29.2	4	16.7	24	3.00	4
8 Current workload and commitment, and ability to mobilise on site when needed	2	8.3	8	33.3	4	16.7	6	25.0	4	16.7	24	2.92	8
9 Competitive rates and lowest tender overall	2	8.3	5	20.8	9	37.5	6	25.0	2	8.3	24	2.96	7
10 Compliance with statutory regulations: Black Economic Empowerment, Gender Equality, Workmans Compensation Act, tax regulations, etc	4	16.7	7	29.2	3	12.5	7	29.2	3	12.5	24	3.08	2
11 Competitive tenders based on price	1	4.2	8	33.3	7	29.2	3	12.5	5	20.8	24	2.88	10
12 Compare similar contracts undertaken in the past to see the Pros and cons													
13 Broad based black economic empowerment													
14 For bigger contracts the CIDB system is unfairly applied as CIDB grading is based on one years figures, and for most bigger contracts the contract period exceeds 12 months, and this is not taken into account.													

		Impact of preferential procurement												
		Strongly Agree		Agree		Sometimes Agree		Disagree		Strongly Disagree				
	The selection of tenders through preferential procurement is fair since	5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%	TR	MR	Rank
B	***Selection of tenderers***													
1	Contracts are handled with integrity, ethical conduct,fairness and accountability	5	20.83333	9	37.5	6	25	2	8.333	2	8.333	24	3.54	2
2	There is proper understanding for all parties obligations associated with inviting tenders, quotations, and expressions of interest	5	20.83333	10	41.67	5	20.83	1	4.167	3	12.5	24	3.54	2
3	The terms in which the process of selection is conducted is clearly defined and tenders know the criteria will be applied	6	26.1	8	34.78	6	26.1	1	4.3	2	8.7	23	3.65	1
4	It minimises the concealing of not just discriminatory behaviour but also corruption and patronage	6	25.0	7	29.17	4	16.7	5	20.8	2	8.3	24	3.42	4
5	Everyone involved complies with all applicable legislation and associated regulations	4	16.7	9	37.5	4	16.7	5	20.8	2	8.3	24	3.33	6
6	Illegal behaviour like fronting and window dressing get recognized and exposed	4	16.7	8	33.33	3	12.5	5	20.8	4	16.7	24	3.13	9
7	There is never conflict of interest with regards to the selecting parties	3	12.5	9	37.5	2	8.3	5	20.8	5	20.8	24	3.00	9
8	There exist sound accountabilty on the part of those in possession of tenders and there exist public confidence that proper procedures are always followed	5	20.8	8	33.33	6	25.0	1	4.2	4	16.7	24	3.38	3
9	There is anti-corruption measures in place to ensure fairness and transparency	5	20.8	6	25	4	16.7	6	25.0	3	12.5	24	3.17	5
10	The scorecard system is clear and precise which allows proper implementation	3	12.5	9	37.5	8	33.3	1	4.2	3	12.5	24	3.33	7
11														

		Impact of preferential procurement												
		Strongly Agree		Agree		Sometimes Agree		Disagree		Strongly Disagree				
	Subcontractors and suppliers selected through Preferential Procurement have	5		4		3		2		1				
		No	%	No	%	No	%	No	%	No	%	TR	MR	Rank
C	***Construction stage***													
1	Good quality of work consistent with the general quality level of the main job	2	8.333333	9	37.5	10	41.67	2	8.333	1	4.167	24	3.38	5
2	High productivity level	2	8.333333	8	33.33	9	37.5	3	12.5	2	8.333	24	3.21	10
3	Zero or minimal defects and rework	2	8.333333	4	16.67	9	37.5	6	25	3	12.5	24	2.83	15
4	Knowledge and adhere to site health and safety practice	4	16.66667	8	33.33	9	37.5	1	4.167	2	8.333	24	3.46	3
5	Have good working relations with main contractor's team; good tolerance, loyalty and zero or minimal adversarial relation	3	12.5	9	37.5	11	45.83	0	0	1	4.167	24	3.54	1
6	Comply with specifications for materials and methods	2	8.333333	10	41.67	11	45.83	0	0	1	4.167	24	3.50	2
7	Performed well and on time	1	4.166667	9	37.5	11	45.83	2	8.333	1	4.167	24	3.29	9
8	Procedures to minimise wastage on site	1	4.166667	8	33.33	9	37.5	4	16.67	2	8.333	24	3.08	14
9	Efficient management of own workforce	3	12.5	6	25	13	54.17	1	4.167	1	4.167	24	3.38	6
10	Fair and minimal claims	4	16.66667	7	29.17	10	41.67	1	4.167	2	8.333	24	3.42	4
11	Good control of own workforce	0	0	11	45.83	11	45.83	1	4.167	1	4.167	24	3.33	8
12	Compliance with contract terms and conditions, labour acts, building regulations, etc	2	8.333333	9	37.5	6	25	5	20.83	2	8.333	24	3.17	11
13	Ability to manage the financial and contractual risks inherent in the subcontract	3	12.5	5	20.83	11	45.83	2	8.333	3	12.5	24	3.13	13
14	Good communication network	5	20.83333	5	20.83	9	37.5	4	16.67	1	4.167	24	3.38	6
15	Capabilities: ability to manage changes without unnecessary claims	0	0	8	33.33	12	50	3	12.5	1	4.167	24	3.13	12

The construction industry will benefit from preferential procurement Act and its supporting legislature since	Impact of preferential procurement												
	Strongly Agree		Agree		Sometimes Agree		Disagree		Strongly Disagree				
	5		4		3		2		1				
D *Benefit to the construction industry*	No	%	No	%	No	%	No	%	No	%	TR	MR	Rank
1 Work is unbundled into smaller contracts accomodating new, small and emerging contractors	2	8.3	11	45.8	5	20.8	4	16.7	2	8.3	24	3.29	2
2 Contractors enter into beneficial and usefull joint ventures which bring forth diverse capabilities to the industry	1	4.2	16	66.7	7	29.2	0	0.0	0	0.0	24	3.75	1
3 There is proper monitoring and performance measurement and reporting	1	4.2	8	33.3	8	33.3	5	20.8	2	8.3	24	3.04	4
4 No person or organisation is discriminated directly or indirectly yielding good quality tenderers	1	4.2	6	25.0	10	41.7	3	12.5	4	16.7	24	2.88	5
5 There is a pool of expertise to draw from since no one is excluded	5	20.8	6	25.0	7	29.2	2	8.3	4	16.7	24	3.25	3

2 Given consideration to the contents of the above groups questions, the best procurement procedures that enhance the purpose of preferential procurement are

Best procurement procedures

Groups of main contractor requirements from the subcontractors	Impact of preferential procurement												
	Strongly Agree		Agree		Sometimes Agree		Disagree		Strongly Disagree				
	5		4		3		2		1				
	No	%	No	%	No	%	No	%	No	%	TR	MR	Rank
1 Negotiated procedure	6	25.0	10	41.7	3	12.5	2	8.3	3	12.5	24	3.58	3
2 Nominated procedure	1	4.2	10	41.7	6	25.0	4	16.7	3	12.5	24	3.08	7
3 Open procedure	5	20.8	10	41.7	6	25.0	3	12.5	0	0.0	24	3.71	1
4 Proposal procedure via two-envelope system/two stage system	1	4.2	8	33.3	14	58.3	0	0.0	1	4.2	24	3.33	4
5 Qualified procedure	6	25.0	7	29.2	9	37.5	1	4.2	1	4.2	24	3.67	2
6 Quated procedure	1	4.2	6	25.0	13	54.2	3	12.5	1	4.2	24	3.13	5
7 Shopping procedures	1	4.2	6	25.0	12	50.0	4	16.7	1	4.2	24	3.08	6

3 The following have been identified as key to good practice in preferential procurement practices.

	Impact of preferential procurement												
	Strongly Agree		Agree		Sometimes Agree		Disagree		Strongly Disagree				
Key to good practice in Preferential Procurement Procedures	5		4		3		2		1				
	No	%	No	%	No	%	No	%	No	%	TR	MR	Rank
1 Inviting only organisations who have the ability to innovate	5	20.8	8	33.3	7	29.2	3	12.5	1	4.2	24	3.54	9
2 Inviting only organisations who have the ability to submit bona fide bids	6	25.0	11	45.8	6	25.0	1	4.2	0	0.0	24	3.92	8
3 Conditions for all tenders should be the same	11	45.8	11	45.8	1	4.2	1	4.2	0	0.0	24	4.33	3
4 Sufficient time and information should be provided for adequate preparation of tenders	14	58.3	9	37.5	0	0.0	1	4.2	0	0.0	24	4.50	1
5 Inviting only tenderers with relevant skills and experience appropriate to the type of subcontract	11	45.8	10	41.7	2	8.3	1	4.2	0	0.0	24	4.29	4
6 Tenders should be assessed and accepted having regard to quality not only on the basis of race	10	41.7	10	41.7	2	8.3	2	8.3	0	0.0	24	4.17	5
7 Practices that avoid or discourage collusion should be followed	13	54.2	8	33.3	2	8.3	1	4.2	0	0.0	24	4.38	2
8 Proposed subcontracts should be compatible and consistent with the main contract in a case where the client preferred certain subcontractors	9	37.5	12	50.0	2	8.3	0	0.0	1	4.2	24	4.17	5
9 A suite of contracts and standard unamended contract forms from recognised bodies should be used where they are available.	8	33.3	10	41.7	4	16.7	1	4.2	1	4.2	24	3.96	7