

**Opening Remarks by the MEC for Economic Development, Tourism and
Environmental Affairs, Michael Mabuyakhulu at the Procurement Indaba held at
the Inkosi Albert Luthuli ICC, 13-14 August 2015**

Programme director;

His Worship, the Mayor of EtheKwini Municipality, Cllr James Nxumalo;

The Premier of the Province of KwaZulu-Natal, Mr Senzo Mchunu;

The Minister for Small Business Development; Ms Lindiwe Zulu;

**The Minister for Cooperative Governance and Traditional Affairs, Mr Pravin
Gordhan;**

The KwaZulu-Natal MEC for Finance, Ms Belinda Scott;

The KwaZulu-Natal MEC for Public Works and Human Settlements, Mr Ravi Pillay;

Your Worships, the Mayors from various municipalities;

The Members of the Provincial Legislature;

Representatives of social partner formations;

Experts and Academics in the procurement sphere;

Developmental formations and activists;

Esteemed entrepreneurs;

Members of the Media;

Ladies and gentlemen

It is indeed an honour for us to be part of this august gathering of compatriots and fellow developmental activists where we are gathered to engage on how we can continue to use procurement of services as one of the leverages and tools to further the goal of creating a society characterized by equality, prosperity and economic justice.

Programme director, it is not an exaggeration to posit that, at times like these, where we are tasked with interrogating our performance and chart a way forward, normally the principle of objectivity and balance becomes a casualty. For some reason, those entrusted with such a task tend to choose one of the two extremes. If it is not blind defense of the status quo; it is disowning all the work that precedes such an evaluation exercise. Unfortunately, there never seems to be a measured and objective approach. This results in exercises of this nature not yielding the desired results.

We must, from the onset, state that this luxury of extremism in our approach, is one that we cannot afford. We cannot afford to come here with either the sole purpose of protecting our respective turfs or to throw out the baby with the bath water for the simple reason that procurement, as a function, is a critical leverage for our radical economic transformation efforts. Therefore, our gathering here for the next two days is not necessarily about the discussion of procurement at a theoretical level but about ensuring that, twenty years one into our democracy, we optimally utilize procurement to breathe life to our hard-won freedom for all of our people.

In this regard, we can ill afford to limit our engagement to the realm of our narrow reality, without opening our minds to the scope of that which exists beyond our own imagination. This conference is, therefore, a call for all of us to reimagine the world.

Programme director, we have been given the task of outlining both the objectives and expected outcomes of this Indaba. But, before we attempt to do so, allow us to share with this gathering why we thought we needed to host an urgent and robust discussion on procurement.

It is now universally-accepted that our society is afflicted with the troika challenge of inequality, poverty and unemployment. It is also an accepted fact that such a state of affairs has the potential to destabilize our country and undermine the gains we have

notched since 1994. Social ills become the order of the day and erode the trust that our people have on our system of government.

In the province of KwaZulu-Natal, for example, the rate of unemployment is 36,1%. This, of course, is true when one considers the expanded definition of unemployment. This means that roughly about four in ten of working age adults in KwaZulu-Natal are unemployed. Further, the province of KwaZulu-Natal is lagging behind the country average when it comes to human development index. Alarming, poverty is rife in most rural municipalities compared to their urban counterparts. While for the period from 2005 to 2014, the national average for those living below the poverty line stands at 40,22%, the average for the province of KwaZulu-Natal stood at 48,39%. Tellingly, it is a widely-accepted fact that poverty generally has a black face.

Programme director, we could go on and tabulate our challenges but it is our view that more of these statistics will emerge as the conference progresses. Without being alarmist, we do need to acknowledge that ours are challenges that must be addressed, and addressed urgently and decisively. To this end, we require a complete revolution in the manner in which we approach the task at hand.

Talking of a revolution, one is reminded of the words of one of the foremost revolutionary theoreticians who once said: **“A revolution is not a dinner party, or writing an essay, or painting a picture, or doing embroidery; it cannot be so refined, so leisurely and gentle, so temperate, kind, courteous, restrained and magnanimous”**.

We cannot, therefore, during this Indaba be shy to push the envelope and re-imagine the world. At the same time, we must avoid populist adventurism which would masquerade as being radical. At all times we must walk the tightrope of building on and strengthening that which advances the course of radical economic transformation within the current procurement setup while not shying away from discarding and changing that which does not work.

Programme director, it is not unfeasible that in a normal society we would not be having this conference. Indeed, our Indaba exists because of the quick wins and low barriers to

entry that, in particular, public procurement provides for the majority of our people to enter mainstream economy. While not all of us can become entrepreneurs, it is true that it is entrepreneurs who create job opportunities. By moulding our procurement approach in a manner that it creates conducive conditions for the creation of entrepreneurs, we would have contributed meaningfully to addressing the troika challenges that afflict our society.

But, we must all admit that the vehicle that is procurement, while it has made a noticeable difference in addressing these challenges over the past twenty one years, it has not delivered on the potential that it holds.

The very fact, for example, that the South African public sector in the year 2013/2014 spent about R500 billion to procure goods and services should make it automatic, given our developmental approach and the attendant battery of developmental and transformational pieces of legislation and policies, that Small, Medium and Micro Enterprises would thrive; that the marginalised majority of our people would be drawn into mainstream economy and that, in a gradual manner, we would see more and more people getting out of the mire of poverty. Sadly, this has not happened at the required rate. It is the task of this conference not only to get at the root causes of this disconnect between the huge public sector investment and the lethargic emergence of successful black entrepreneurs, but also to come with workable and sustainable solutions to deal with this.

Programme director, a lot of stakeholders and roleplayers have sought to define procurement. At their simplest, these definitions describe procurement as nothing more than just an exercise of purchasing goods and services. Nothing could be further from the truth. In our case, we choose to define procurement as the muscle that enables us to lift all of the heavy stuff that stands between ourselves and a better future. At the level of the public sector, it enables us to leverage resources from private players in order to implement our developmental mandate. It enables to deliver services and and build a society that our Constitution promises. It is the lifeblood of our economy, a guarantee for its growth and global-competitiveness.

To us, procurement is much more than just a clerk in the stores department deciding on whether to buy this or that brand of pencils for his or her organization. Procurement is, therefore, a strategic function and a potent tool for empowerment of identified beneficiaries.

In this regard, the 2015 Public Sector Supply Chain Management Review prepared by National Treasury argues that

“The strategic importance of Supply Chain Management (SCM) is not well understood. Those working in the system need to understand the economic and social power of the purchasing decisions that they make. These should not only be of maximum value to the intended beneficiaries....but also give expression to government policies and strategies and support business development.”

Elsewhere, the Review accepts that policies and regulations attendant to this function are, at times, confusing and cumbersome and may impede the survival and growth, particularly of small businesses. However, the Review, in communicating the intention of government, does state that: **“Procedures that stand in the way of this (small business development), and which are also difficult for officials to interpret and implement, must and will be changed.”** Obviously, the question that this conference must respond to is how and when such procedures will be changed in order to unleash the full potential of procurement in addressing the challenges of our times.

Programme director, again without being alarmist, one must say that we need to move with a particular sense of urgency in this regard because history has contrived to put us at the vanguard of this particular revolution and, as we now know:

“A revolution is not a dinner party, or writing an essay, or painting a picture, or doing embroidery; it cannot be so refined, so leisurely and gentle, so temperate, kind, courteous, restrained and magnanimous”.

It is precisely because of our appreciation of the strategic importance of procurement that in the year 2013, as the province of KwaZulu-Natal we commissioned the initial study of procurement and posed, in particular, the difficult question as to who public

sector procurement benefits in KwaZulu-Natal. Obviously, the terms of reference of this study were limited. For example, the study did not take into account non-discretionary procurement and only considered companies that are 100% owned by a particular race group. Nonetheless, the outcome of the analysis began to show us the enormity of the challenge. The study for example showed that in 2013/2014 the province spent

- Just over R1 billion on 100 percent African-owned companies. This equals 30 percent of the total procurement spend
- R1.2 billion on 100 percent White-owned companies or 34 percent and;
- R1.2 billion on 100 percent Indian-owned companies or 30 percent of total discretionary procurement spend.

Among its conclusions the report stated:

When one considers the demographics of KwaZulu-Natal, it does appear that there is no relationship between procurement expenditure of the province and its demographic profile. According to the 2011 Census, Black Africans account for 86.8 percent of the total KZN population, Whites, 4.2 percent; Indians/Asians, 7.4 percent; and Coloured 1.4 percent. In an ideal world one would expect procurement spend to reflect the demographics, but of course given the history of South Africa, the current state of affairs is no surprise. There are fundamental reforms that need be implemented in order to change the status quo.

Further, this process was the genesis of this Procurement Indaba because we wanted procurement Indaba to, among other things, bring together all companies that have and continue to benefit from provincial government procurement across the racial lines to discuss strategies of how African entrepreneurs can be assisted to increase their share of procurement spend.

However, it would be the height of expediency to want to target or blame a certain racial group, particularly among those that were also oppressed, for the status quo. What this Indaba should be seized with, is to devise radical means of ensuring that procurement expenditure is reflective of the demographics of our country and our province, taking into account our sad history. We should be both pragmatic and unflinching in tackling

this disconnect for if we fail, it may be hijacked by those who have other interests, including criminal motives. Recklessness in dealing with this disconnect may threaten the very economy that we are trying to grow at an accelerated pace.

It is understandable, programme director, that an engagement on procurement and, particularly, the complaints about the racial slant that procurement spend continues to take should be put at the door of our government. As the custodians of policy as well as catalysts for socio-economic transformation, government has a responsibility to enforce its policies and strategies to bringing about justice and fairness within the procurement sector. Also as a serious player in procurement space, responsible for billions of rands of public sector expenditure, as allude to earlier, surely the government can and must do more to bring about fairer and more equitable procurement dispensation.

Yet, we would be deluding ourselves if our focus was only public sector procurement. We have long argued that the state is a catalyst; an enabler and where applicable, would become a direct player in the equitable growth and development of our economy. But, the private sector must also meaningfully come to the party. This Indaba needs to focus on success stories and short-comings in the private sector procurement space. We are pleased to note that private sector players are also part of this Indaba and they will also share with us some of the creative and innovative approaches they have adopted to ensure that procurement, in the private sector, also takes forward the objectives of the National Development Plan. In particular, we need to know how SMMEs and businesses owned by the previously-disadvantaged benefit from private sector procurement. This Indaba must consider how our partners in the private sector can also account on how they have utilized procurement to take forward our country's transformation agenda. We are convinced that if we tackle the challenges afflicting procurement and, by extension, challenges that threaten to undermine the gains of our hard-won freedom as social partners, including government, business, civil society and the organized labour, we shall indeed be able to come up with procurement approaches that mirror the aspirations of our people. All of us must move out of our comfort zones.

Programme director, in view of our country's highly skewed economic make-up, there is a need to ensure that the thrust and direction of our empowerment efforts is on the previously marginalized majority in general, and the youth and women in particular.

Therefore, our deliberations over the next two days are essentially guided by the need to provide an environment conducive to government and all stakeholders to discuss various aspects of procurement policy implementation in KwaZulu-Natal.

We are expected to identify key policy barriers and opportunities for procurement policy as an important government tool to advance real radical economic transformation. In this regard, and notwithstanding the reform processes that have been initiated by our government through the establishment of the Office of the Chief Procurement Officer at National Treasury, it is incumbent upon us to also begin to assess the situation in our own backyard in KwaZulu-Natal.

In essence, we should, as a province, seek to address the following important questions:

- What are government procurement challenges in the province?
- How can public procurement in the province be improved; both in terms of service delivery and also facilitating real radical economic transformation?
- How can government assist or make a direct intervention through public procurement for small enterprises (SMMEs and Co-operatives) to advance real radical economic transformation KwaZulu-Natal?

Determining the answers to these questions could be a very complex phenomenon. However, the basis of that would have to be the facilitation of a collaborative forum, and we believe, today's Procurement Indaba is the first step in solving the rigmarole of how we can use procurement as a tool for fostering accelerated radical economic transformation and tackle head on the dearth of empowerment, in a manner that will facilitate economic justice for those that were previously disadvantaged.

Programme director, it is rather disconcerting that when we speak of government using the new B-BBEE Codes of Good Practice as a tool for the realignment of procurement into enterprise development so that there is a perceivable economic empowerment of the previously marginalised, there are those who seek to advance the argument that we are doing so to the exclusion of everyone else. Nothing could be further from the truth.

In fact, there exists a number of regional and international initiatives on public procurement reform aimed at achieving the exact same principles as espoused by ourselves. Examples in this regard include the World Trade Organization (the WTO) Plurilateral Agreement on Government Procurement, and also the United Nations Commission on International Trade Law and Model Law on Procurement of Goods, Construction and Services (the UNCITRAL Model Law), and the Common Market for Southern and Eastern Africa (COMESA) Public Procurement Project.

South Africa is, therefore, not unique in permitting preferences in the allocation of government contracts for goods and services. In general, international instruments regulating public procurement articulate such preference as exceptions to the general rule of non-discrimination and restrict the freedom of member states to apply such preferences, but these are international practices.

The WTO on Government Procurement, for example, imposes limitations on the ability of parties to use procurement as a policy tool. It recognizes, however, that developing countries may have special needs as regard development, finance and trade. It is our view that centuries of subjugation and decades of apartheid misrule puts in a category of countries that have special needs and, therefore, who must use procurement as a policy tool for the equitable growth and development of all of our people. We, therefore, reiterate that far from being a tool of exclusion, the aim of the Preferential Procurement Framework in South Africa is to redress historical imbalances and increase opportunities for those previously prevented from participating in the country's mainstream economy.

On issues surrounding B-BBEE, past experience has shown that black consortiums have little equity to put on the table when discussing deals. Creative financial engineering by merchant bankers, lawyers, stockbrokers and big business must enable black individuals to control significant assets.

Big companies that gain government contracts must be also able to prove that a large percentage of their spend and sourcing of materials comes from our target group. As we said earlier, detailed spend reports should be filed with payment certificates as indirect investments. SMMEs are, therefore, an important contributor to the economy and are considered to be a driver in reducing unemployment, given that the formal sector continues to shed jobs. However, SMMEs in South Africa are faced with a number of challenges. The following are some of the challenges which have been reported by a number of organizations:

- Conflict in key government legislations hinders public procurement on SMMEs;
- Lack of management skills by small enterprises;
- Lack of access to finance;
- Lack of access to markets and developing relationships with customers;
- Lack of appropriate technology and low production capacity;
- Lack of infrastructure for their operations;
- Lack of recognition by large companies and linkages;
- Problem with government bureaucracy/red tape;
- Insufficient support for the role that they play in economic development;
- Fragmented business support by stakeholders towards SMMEs;
- Slow pace of economic transformation.

Our government has embarked upon a comprehensive programme to provide a legislative framework for the transformation of the economic landscape. Government uses the procurement of goods and services as a leverage to support the development of small enterprises and economic transformation in general.

The transformation laws have attempted to restore land and tenure rights; have prescribed against unfair discrimination; and introduced specific active measures to overcome the distortions in the labour market as well as the provision of new economic opportunities to historically disadvantaged group. In addition, government has implemented various policies, strategies and programmes aimed at overcoming economic inequalities and underdevelopment. Every piece of legislation enacted, every policy and programme introduced and implemented since 1994 has sought to redress the legacy of apartheid. Some of the achievements can be summarized as follows:

- Opportunities to provide services to government have been completely opened to all;
- The delivery of services has acquired a particular focus to the most rural and underserved areas of the country;
- The PFMA has placed full accountability on the Accounting Officer to manage the programs of Government;
- The Auditor-General ensures that an independent body assesses the conduct of the Officials in the disbursement of public funds; and
- The PPPFA has created a mechanism to benefit a broader pool of service providers

The achievements detailed above provide an indication that the original objectives have been largely realized. However, certain aspects of the system have not panned out as anticipated. Despite these successes in the reformation of public sector procurement, there are still predicaments that continue to plague the South African Public procurement system. For example, there is still non-compliance with procurement and SCM-related legislation and policies, as well as tender irregularities. Further, aspects of our policies to ensure good governance have, inadvertently ended up locking the very people that we set out to empower. Issues of intellectual property rights and patents for project promoters and innovators are still tricky within the existing public sector procurement regime.

Furthermore, while much has been accomplished in terms of transformation in general and de-racialization of the economy in particular, the inclusion of the designated groups (blacks, women, youth and people with disabilities) to the mainstream economy remains a serious challenge for the State. If we take the issue of set asides, for example, it is a serious indictment on ourselves as the state that it has taken us the better part of eight years before we came to an agreement about set asides for designated groups and businesses when Cabinet had taken such a decision in 2007.

It is clear that there are a number of challenges associated with the implementation of transformation policy as well as the Public Procurement Policy Framework. If the Auditor-General's annual reports are anything to go by, then it is clear that public procurement is currently experiencing serious challenges in the area of compliance with laws and regulations. By far the bulk of irregular expenditure that is reported can be attributed to flawed SCM processes. The root causes of this phenomenon have been summarized to be the lack of skilled personnel and a fragmented regulatory environment.

In turn, this has contributed to an entrenched poor insight and understanding of the strategic importance of SCM. Whilst it is critical that the best value for money be achieved by state organs, equally important is that each purchase decision needs to contribute to the achievement of government's broader economic policies and strategies to support business development. To further compound the problem, the fragmented nature of the existing information systems also hampers the ability to collect information to adequately track the general spend patterns even against the PPPFA itself. This, therefore, requires an efficient public SCM system which is well-resourced (capable of translating budgets and strategic plans into deliverables), functions efficiently and whose central importance is recognized.

SUMMARY OF KEY CHALLENGES

- B-BBEE does not have the intended impact in terms of procurement due to structural nature of public sector viz. 80/20 and 90/10.

- The 80/20 does not have much impact if the price is correct and it's worse for 90/10. Some companies ignore the B-BBEE but enjoy government projects.
- Black people are structurally excluded in the economy as they fail to qualify within the criteria of functionality: Projects are packaged to favour large companies with skills, experience and scale whereas there are elements of a project that can be executed by “smaller” black-owned service providers who are competent and capable. However, as the projects are packaged as single large opportunities, effectively excluding the possibility of “breaking out” smaller project inputs, this space is also closed.
- The further negative impact is that a B-BBEE certificate is optional and not a requirement like tax clearance. This further minimises the impact of B-BBEE.

Public procurement is one of the core government transformation policy that is charged with the responsibility of facilitating the redress process. Promoting local procurement of goods and services is critical to building the local economy and stimulating production and job creation.

Despite these interventions there is still a perception that the provincial government has not yet reached equitable distribution of economic benefits to its citizens. There is a view that transformation policies have not proportionately benefited blacks, in particular, amongst the previously disadvantaged group. Thus, our political will and commitment to transformation has been called into question by some stakeholders. It is therefore in view of these and other challenges that the provincial cabinet resolved to organize the Procurement Indaba. The main aim for the Procurement Indaba is to provide a platform for stakeholders to engage constructively on the key procurement and transformation challenges and provide solutions that will give rise to real economic transformation in the Province.

3. WHY THE PROCUREMENT INDABA?

Our experience in dealing with the triple challenges of poverty, unemployment and inequality has demonstrated that a joint programme of action amongst stakeholders is

always a better strategy to realize the maximum impact. The Procurement Indaba will provide a platform for stakeholders to discuss key challenges, opportunities, and repositioning of Procurement as a tool for radical economic transformation in the Province, and further:

- To discuss the possibility for localization and ring-fencing of certain economic sectors to achieve real economic transformation in KwaZulu-Natal;
- Draw conclusions on the obstacles to meaningful and sustainable participation of black people on procurement opportunities provided by government and the private sector;
- To discuss the possibility of linking procurement to other strategies of government including government strategy for the revitalization of township and village economies.
- To attain stakeholders' commitment on procurement targets as set out in government strategies.
- To discuss the possibility of an integrated procurement system that would link government procurement opportunities with the target group.

Our expectations include, but are not limited to:

- Adoption of resolutions that can achieve real socio-economic transformation in the Province;
- Robust engagement on key procurement policy challenges faced by the Province;
- A thorough engagement on Government Procurement processes and procedures;
- Building of consensus among all social partners and stakeholders regarding a new radical approach to procurement, both in the private and public sector;
- Setting of clear time frames for implementation of the programme of action emanating from this Indaba;
- Stakeholder's commitment on localization and ring-fencing of economic sectors;

- Creation of a platform for ongoing and constructive engagement among all stakeholders and roleplayers on procurement and its impact on our socio-economic transformation agenda;
- Engagement with national and provincial procurement policies and strategies that might have achieved the unintended consequence of impeding the government's stated development and transformation agenda;
- Initiation of a drive to beef up and standardise procurement capacity among all spheres of government

Programme director, we have ahead of us two days of engagement. The subject matter at hand is at the core of our radical economic transformation agenda. How we handle it will determine whether our freedom finds physical expression or whether it is just a hollow victory for the majority of our people. As we engage, there can be no sacred cows. At the same time, as we engage, we must be guided by the culture established by those who liberated us, those who understood that the best chance for one's views to carry the day, is in an environment where there is respect for other views, where it is the strength of our arguments and not the loudness of our shouts or the sharpness of our insults that will lead us to achieve our stated objectives.

This Procurement Indaba is not only a watershed moment in the life of our province, but in the life of our country. It is the clarity, the practicality and innovativeness of its outcomes that will determine whether, as a collective, we have succeeded or have wasted taxpayers' money. There is a lot to do. We are already behind schedule. Let us get to work.

I thank you