OPINION

Construction firms just don't get it

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Socioeconomic contributions are not to blame for poor results

SPECTACLE: Soccer City Stadium, which hosted the main matches of the Fifa World Cup in 2010, lights up against the skyline of Johannesburg. Collusion by builders marred the tournament Picture: HALDEN KROG

ON Wednesday, construction giant WBHO warned shareholders that it was likely to report headline earnings per share up to 42.5% weaker than the previous year's because the company "has recognised the full value of the group's socioeconomic contribution arising from the settlement agreement signed with the Government of South Africa on October 11 2016, along with the corresponding financial liability".

So WBHO is reporting weaker numbers because of its socioeconomic contributions? Nothing could be further from the truth.

In October last year, the government signed a "voluntary" settlement agreement with seven JSE-listed construction companies including WBHO. They were part of the original 15 found guilty of collusion in the building of the 2010 Fifa World Cup infrastructure, and collectively fined a measly R1.46-billion by the Competition Commission in a fast-track settlement agreement.

Fast forward to February 2017, to a media briefing led by four ministers and seven construction company CEOs announcing they had signed an agreement to "promote transformation ... and settle outstanding and potential civil claims between the parties relating to a number of infrastructure projects".

There are three main components to the deal: a financial contribution of R1.5-billion by the companies over seven years for developmental projects; commitments to promote transformation and black South African ownership of the sector, through either equity transactions or by partnering with smaller black-owned companies; and integrity commitments by the CEOs of the rogue companies to take all steps to avoid collusion and corruption.

In summary, the settlement compels the big firms to cut a small piece of the big construction cake they have been unduly, and often unethically, enjoying. They would do that by depositing funds into a trust which will embark on various social infrastructure projects, as well as providing financial support to emerging black construction companies.

Few people are aware that this agreement is, in effect, a product of the hard work and persistence of black business, after the 15 companies were fined by the Competition Commission. Black business wanted to get the established players to pay for years of corrupt and exclusionary behaviour in ways much more impactful than small fines.

The original agreement was signed off by the Black Business Council in the Built Environment and the South African Forum of Civil Engineering Contractors back in 2013. The government decision to finalise the settlement agreement with the established firms, to the effective exclusion of black business, may be a move that will be regretted in time to come.

Some companies have chosen to commit to allocating work to black companies, with financial support, while others would sell equity.

Gregory Mofokeng, secretary-general of the Black Business Council in the Built-Environment, was cautiously optimistic.

"The plan is for these companies to support emerging contractors with working capital and performance guarantees in order to lower the barriers of entry into the industry, and ensure that they are able to implement and execute projects as and when they are awarded.

"Four of the seven companies have committed to allocating 25% of their annual turnover in projects for black companies over the next seven years. The other three companies have opted to rather sell shares to black investors," says Mofokeng.

> Black firms can gain critical mass by executing chunky elements of projects

The idea of guaranteeing a percentage allocation of work to black firms is rather attractive. It is easier to measure and allows for all parties to be accountable. Black firms can gain critical mass by executing chunky elements of projects that allow them to also grow in expertise, and, hopefully, eventually do the high-skilled, high-margin work on projects.

However, it all depends on what is meant by "black construction companies". It has to be those that are 100% black-owned. That is the only way the allocations can flow wholly into black hands and result in transformation that is not diluted by white minority shareholders.

We need to resist the temptation to have a narrow focus on individual businesses being contractors on projects as opposed to a broader outlook that includes other players in the sector, such as black material manufacturers and suppliers, black quantity surveyors, black attorneys and black accountants.

Then there are those who have chosen BBBEE deals over allocating actual work. They need to be reminded the year is 2017, not 1997.

It is now an expectation that your company is at least black-empowered, at a minimum of 25%, or at best black-owned, at a minimum of 51%. So selling shares in your company to black people is not a thing anymore. It is expected of you.

In addition, such companies cannot excuse themselves from enterprise development and allocating actual work to black construction companies. If you are going to do a BBBEE deal, at least ensure you are bringing on partners in the construction industry. Clearly, that is what the settlement agreement intends.

Word on the street is that two of the established firms have ignored the intention of the agreement and opted for a 1990s-style deal of bringing on shareholders who have no track record in the industry, but are "connected".

Which brings me to the real issue I have with this entire deal: the bona fides of the established firms.

A key aspect of the settlement agreement is that it provides for an extension from the anticipated seven-year to a 12-year programme. The established firms are already suggesting that the programme is too tight and the penalties too onerous.

Naturally, black business contends that the R21-billion to R27-billion per annum to be executed by black firms, is achievable. The profits from these allocations are estimated at R600-million to R770-million, which may seem high at face value, but are "peanuts" compared with the billions forfeited by the same black companies as a direct result of collusion and corruption by established firms over the past 20 years or so.

"The companies have only taken this step because they were found guilty. I assure you that without the collusion fines, they would not have had the appetite to ensure that transformation happens at this scale. Had it not been for their collusion, we wouldn't be here," says Mofokeng.

So our construction industry had to break the law, part with almost R3-billion, plus its reputation, before it could move the needle on transformation. Proof again that the turkey will never vote for Thanksgiving.

● *Khumalo is chief investment officer of MSG Afrika Group and presents "Power Business" on Power 98.7 at 5pm, Monday to Thursday*