

# OVERSIGHT OF PUBLIC PROCUREMENT: PRINCIPLES AND COUNTRY EXPERIENCES

SOUTH AFRICA

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# INTRODUCTION

# Introduction

## Public procurement plays a pivotal role in

- government operations,
- allocating resources efficiently and
- promoting economic development.

It is essential to introduce the audience to the core principles that underpin an effective public procurement system, which includes transparency, competition, fairness, accountability, and efficiency. Emphasize that without proper oversight, these principles can be compromised, leading to potential issues such as corruption and mismanagement.

# Principles of public procurement

Section 217 of the Constitution reads:

- (1) When an organ of state in the national, provincial and local sphere of government or any other institution identified in the national legislation , contracts for goods or services , it must do so in accordance with a system which is fair , equitable, transparent, competitive and cost-effective.
- (2) Subsection (1) does not prevent organs of state or institutions referred to in that subsection from implementing procurement policies providing for-
  - a) Categories of preference in the allocation of contract; and
  - b) The protection or advancement of persons, or categories of persons disadvantages by unfair discrimination.
  - c) National legislation must prescribe a framework within which the policy referred in subsection (2) must be implemented

# Principles of public procurement

- Fairness- open and level playing field and impartial evaluation
- Equitability – addressing historical injustices, leveling the playing field and inclusive outcomes
- Transparency - The process should be open, accessible, and easily understandable by all stakeholders
- Competitiveness- fair competition ensures the best value for money and prevents favouritism
- Cost-effectiveness - obtaining the best possible value for public funds spent, not just the lowest price. This requires considering factors such as quality, lifecycle costs, and social impact

# **REGULATORY FRAMEWORK**

# KEY PRIMARY LEGISLATION PROVIDING FOR PROCUREMENT RELATED FUNCTION

- The Constitution of the Republic of South Africa, Act 108 of 1996.
- Public Finance Management Act, Act 1 of 1999.
- Local Government: Municipal Finance Management Act, Act 56 of 2003.
- Preferential Procurement Policy Framework Act, Act 5 of 2000.
- State Information Technology Agency, Act 88 of 1998.
- Construction Industry Development Board, Act 38 of 2000.
- Broad-Based Black Economic Empowerment, Act 53 of 2003



# **TRANSPARENCY AND ACCOUNTABILITY**

# TRANSPARENCY AND ACCOUNTABILITY MEASURES

## Tender Publication:

- The government portal publishes all tender opportunities, ensuring transparency.
- Procurement plan: all planned procurement opportunities published in advance and monitored
- Procurement data: procurement data made available to members of the public in open contracting data standard (OCDS)

## Audits and Reviews:

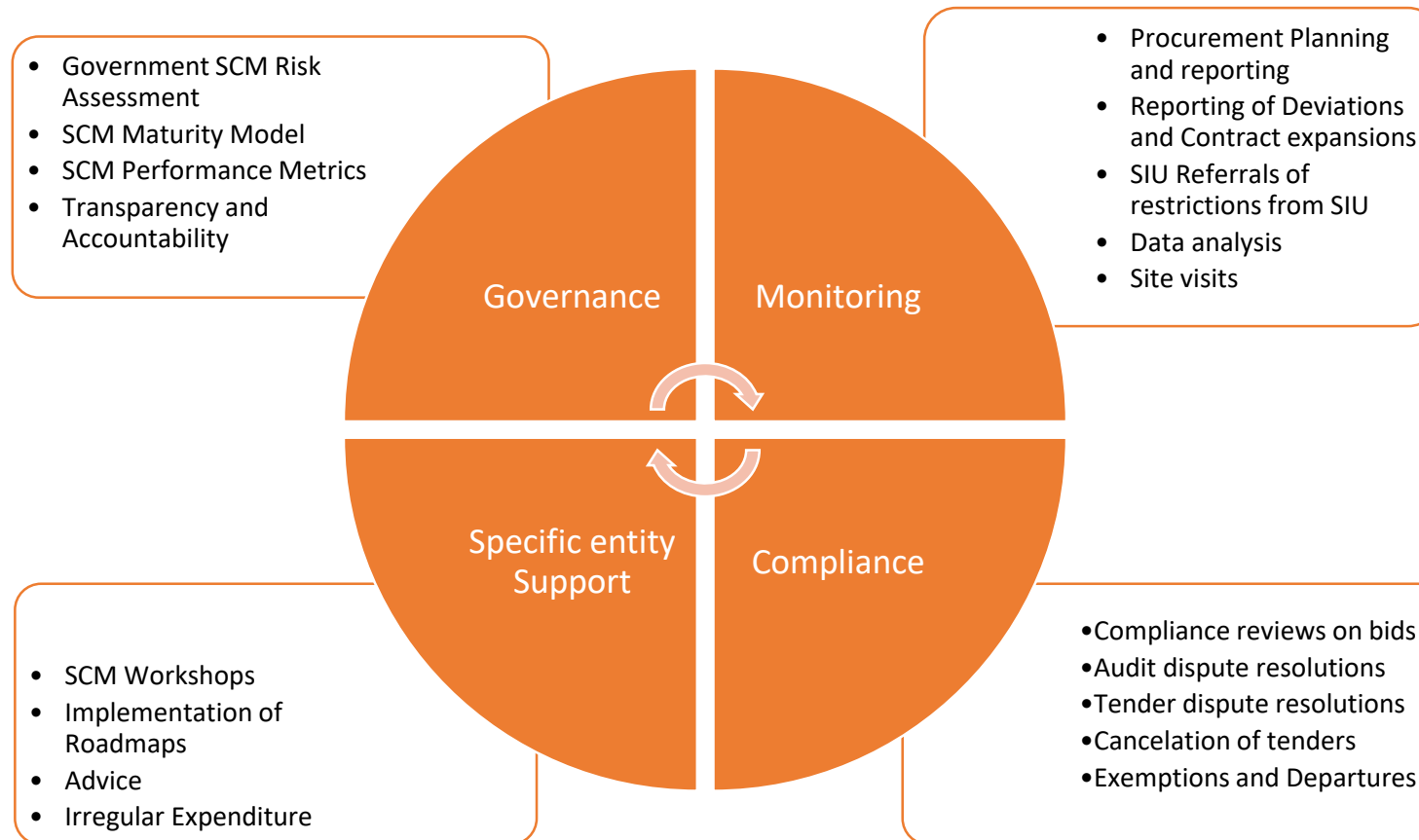
- Regular audits by the Auditor General provide an independent assessment.

# AUDITS AND REVIEWS

The OCPO does not conduct procurement audits.

It is the responsibility of the Internal Audit functions and the Auditor General of South Africa.

The OCPO does, however, have a Governance, Monitoring and Compliance Unit that supports institutions as shown in the diagram



# OVERSIGHT INSTITUTIONS AND RESPONSIBILITIES

## **National Treasury:**

- Responsible for setting policy and regulations, providing guidance, and monitoring compliance.

## **Office of the Chief Procurement Officer:**

Ensures adherence to procurement policies and guidelines.

## **Auditor General:**

- Conducts audits to ensure accountability and compliance with financial regulations.

**COUNTRY EXPERIENCE**

# Public Procurement Bill

## Status of review of the Public Procurement Bill and related regulations.

### OVERALL AIM OF THE BILL

- The Bill aims to create a single regulatory framework for public procurement and eliminate fragmentation in laws which deal with procurement in the public sector by, among others—
  - a) determining general procurement requirements;
  - b) providing for a preferential procurement framework;
  - c) establishing a Public Procurement Office within the National Treasury and defining its functions;
  - d) defining the functions of provincial treasuries and procuring entities;
  - e) providing for measures to ensure the integrity of the procurement process;
  - f) providing for the power to prescribe different methods of procurement and bidding process;
  - g) providing for dispute resolution mechanisms; and
  - h) providing for the repeal and amendment of certain laws.

# MAPS Assessment

- The Objective of the MAPS (Methodology for Assessing Procurement Systems) assessment is to assist the Government of South Africa to develop a **reform plan for its public procurement system** with a focus on the core principles of **transparency, accountability** and **value for money**. The analytical work will assess strengths, weakness and gaps in the system and benchmark it with international practices using the MAPS II tool.
- MAPS is a universal tool and gold standard for assessing public procurement systems. The analytical framework of the core methodology is based on four pillars:
  - i. the existing legal and policy framework regulating procurement in the country;
  - ii. the institutional framework and management capacity;
  - iii. the operation of the system and competitiveness of the national market; and
  - iv. the accountability, integrity and transparency of the procurement system.

# SCM ICT INITIATIVES

- The **e-Tender portal** was developed to enable organs of state to publish tenders, procurement plans and results of tender processes on a central platform. Thereby making it easier for potential bidders including SMMEs, to access government procurement opportunities.
- The **Central Supplier Database (CSD)** was introduced as a centralised tool for the registration of potential bidders/ suppliers to promote transparency in the procurement system. The CSD is linked to CIPC, SARS and the bank details of potential bidders.
- The OCPO established a **Data warehouse** for all government related procurement data with the objective to create a centralised view of procurement activities through the importing of unstructured data from various source systems, enriching the data to make the original source data meaningful for analysis and the visualization of the structured data in a dashboard format for centralised, integrated and automated management reporting. This is done through the development of a standardized classification and codification standard and the establishment of a Data Warehouse with front-end visualization software.



# Transparency Dashboard

- A Transparency Dashboard was also implemented on the eTender Portal in December 2022.
- The dashboard is built in line with the Open Contracting Data Standard (OCDS) which is an international standard on procurement data publication.
- Some functions offered by the dashboard includes the following;
  - **Data Virtualisation** – the dashboards provides several virtualisations of key elements of public procurement. These includes “Largest Suppliers”, Largest Contracts, Largest Procuring Entities etc.
  - **Application Procurement Interface (API)** – this API allows for members of the public, media or any civil society organisation to integrate with the eTenders Portal for the purposes of consuming procurement data.

# Capacity Building and Skills Development

## Ethical Professionalism

**TR16A.8: Compliance with ethical standards**

**TR16A.9: Avoid abuse of SCM System**

- Codes of Conduct
  - Practice Note No. 4 of 2003 - Code of Conduct for SCM Practitioners (5 Dec 2003)
  - PFMA Circular 4 - Code of Conduct for Bid Adjudication Committees (BAC) (24 Mar 2006)
- Declarations
  - All Bid Committees must require the members (and any observers) to complete a “DECLARATION OF INTEREST & CONFIDENTIALITY” and keep record of it for auditing purposes

## Professionalisation of SCM in SA

### Interim Supply Chain Management Council

**The purpose of the Interim Supply Chain Management (SCM) Council is to professionalise SCM in the country**

The Interim SCM Council will lay a foundation for the establishment of SCM as a discipline within the South African educational system; define a national set of SCM norms and standards; develop a framework for career pathing that allows for progression, articulation, portability, transferability and recognition; and develop a framework for ethical professional conduct.

### National School of Government

The National School of Government is tasked with professionalising the Public Sector as outlined in the NATIONAL FRAMEWORK TOWARDS THE PROFESSIONALISATION OF THE PUBLIC SECTOR – OCTOBER 2022.

The OCPO will be working closely with the NSG in matters relating to professionalising the Procurement discipline.

Thank You!