# Efficiency in the procurement cycle of South African public entities

A research report submitted by

Lindani Perceverance Myeza

Student Number: 1021276

Email: lindani.p.myeza@gmail.com

Date submitted: 13 September 2018

In partial fulfilment of the requirements for the degree of

Master of Commerce

University of the Witwatersrand

# Contents

## I. Declaration

I, Lindani Myeza, declare that this research report is my own work except as indicated in the references and acknowledgements. It is submitted in partial fulfilment of the requirements for the degree of Masters of Commerce in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in this or any other University.

## II. Acknowledgements

I would like to thank Professor Warren Maroun for his invaluable supervision of this report. Without his guidance and encouragement, this report would not have been possible. A special thanks also to Lelys Maddock for her invaluable editing of this report.

Finally, I would like to thank Nelly Mthembu for her support and encouragement during the completion of this report as well as my friends and colleagues (Dianne Anyango, Justin Logie and Peter Pitrakkos) for their constant encouragement.

## III. Abstract

A number of South African public entities have been reporting high levels of irregular and fruitless and wasteful expenditures. The Auditor General South Africa has also been issuing qualified audit reports with a material findings relating to non-compliance with procurement regulation and policies.

The procurement process is an important function which drives most of the public entities deliveries on their mandates. What is needed is an understanding of the causes for these inefficiencies currently being reported in procurement in order to enable policy makers to tackle them. A deeper understanding of the root causes of these inefficiencies is especially important in South Africa, given the high social, economic and environmental impact of funds lost in the process.

This thesis uses detailed interviews to better understand the causes of the inefficiencies in the procurement process of South African public entities. In doing so, the report contributes to the general body of procurement process research in the public sectors which has largely neglected Africa and offers first formal examination of what might be contributing to a breakdown in the procurement process in the public sector in South Africa.

**Keywords:** procurement, Irregular expenditure, fruitless and wasteful expenditure, public entities and South Africa.

## IV. List of abbreviations

| | |
|---|---|
| COO | Chief Operations Director |
| PRASA | Passenger Rail Agency of South Africa |
| SABC | South African Broadcasting Corporation |
| SAA | South African Airways |
| AGSA | Auditor General South Africa |
| PFMA | Public Finance Management Act |
| MFMA | Municipal Finance Management Act |
| PWC | Price Waterhouse Coppers |
| SCM | Supply Chain Management |
| OCPO | Office of the Chief Procurement Officer |
| GCEO | Group Chief Executive Officer |
| NGOs | Non-government organisations |

## Chapter 1: Introduction

### 1.1 General background of the study

In South Africa, the unlawful manipulation in the procurement process, including corruption, is a material cause of losses reported by the public sector (SABC 2017). For example, Passenger Rail Agency of South Africa (PRASA) reported accumulated losses of R4.4 billion for 2010/12 financial periods (Madonsela 2015), South African Broadcasting Corporation (SABC) reported deterioration of cash reserves from R1.6 Billion in 2014 to R874.7 Million in 2016 (SABC 2017). There is evidence of lack of consequence management at the SABC as, 33% of the reported cases of misconduct result in disciplinary actions, with only 7% referred to law enforcement (SABC 2017). The Eskom Board also failed to investigate low quality coal from the supplier, instead continuing to accept delivery of coal above the required levels (State capture report 2016).

Resources being lost in the procurement cycle are a problem because those resources could have been used to improve the lives of poor South Africans and contribute to economic growth (Thai 2001). Inefficiencies within the procurement process also impact the quality of goods and services (Adebayo 2016). The Public Protector has investigated some of the public entities where they were concerns with procurement irregularities however such investigations have been few which are as a result of the Public Protector's limited resources.

There have been only two Public Protector reports (in recent years) which revealed the core activities that result in irregular, fruitless wasteful and unauthorised expenditure. At the same time, the financial statements of the public entities cannot be relied on to narrate all the reasons for irregular, fruitless wasteful and unauthorised expenditure, as required by the PFMA and MFMA. This was seen, for example, in the case of SABC material irregular expenditures which went unreported (SABC 2017)[1]. Finally, the annual AGSA reports only report on overall common findings on departments and public entities and this does not provide a detailed explanation of the reasons and the possible motivation for the activities which lead to irregular, fruitless wasteful and unauthorised expenditures (AGSA 2012-13).

Public procurement policies, culture and regulation has changed dramatically from the pre-Apartheid era in effort to enforce efficiency and achieve economic growth (Ambe and Badenhorst-Weiss 2011). Despite these efforts, the problem of high levels of inefficiencies continue to be reported,

[1] The SABC group incurred irregular expenditure of R35.1 Million in supply chain management which was not included in the irregular expenditure note in the 2016 financial statements this is in contravention of S 55(2)(b)(I) of the PFMA.

irregular expenditure increased by 55% in 2015-16 (R16 183 million) from the previous year and had increased by 53% in 2014-15 (R15 739 million) from 2013-14 (AGSA 2015-16).

In terms of the 2015-16 consolidated general report by the Auditor General South Africa (AGSA 2015-16), contracts continue to be awarded on an unfair and uncompetitive basis. Irregular expenditure is reported to have doubled from the 2010-2011 financial period, and the main driver is non-compliance with supply chain management legislation and policies (AGSA 2015-16). The culture of non-compliance with the Supply Chain Management (SCM), in the form of failure to plan for bulk procurement, tests for market appropriate competition, and the hiding of information continues to affect the capacity to offer efficient public procurement to support the delivery of public goods and services (Madonsela 2015). For example, the SABC reported R2.6 billion cumulative irregular expenditure which was largely due to payments made without contracts, over-invoicing, and procurement processes not being followed on contracts (SABC 2017). The non-compliance is a result of gradual erosion of good governance and sound financial management. The erosion of good governance from the officials tasked with oversight of the procurement function has a negative impact on the whole organisation, evident at the SABC as they face a risk of being insolvent (SABC 2017).

The challenge with the manipulations within the procurement cycle is that senior managers who are tasked with overseeing the procurement process are usually the perpetrators, which makes it difficult to detect and act against the manipulation (PWC 2016). Example is PRASA's Head of Corporate Services who improperly authorised a payment for a contract which was not yet appointed for the tender (Madonsela 2015).

Another important consideration is that the goods and services that public entities offer are essential for the social and environmental wellbeing of society (Bolton 2006). For example ,PRASA is an important organ of the state as it handles public finances and procures goods and services which have significant implications on efficient and effective public transport delivery in South Africa (Madonsela 2015). SABC is an important medium for freedom of expression in terms of the Constitution, over the past 10 years SABC has experienced challenges resulting from a collapse of good governance which results in the Constitutional mandate being undermined (SABC 2017). Because public entities have an important mandate in society the government needs to intervene often when public entities find themselves in financial distress.

The South African government continues to make guarantees to public entities which diverts funds which could have been used to foster economic growth, for example, the government has budgeted R17.2 billion to allocate to PRASA for the period 2015/16- 2017/18 (Madonsela 2015). The increased inefficiency of public entities pressures the fiscus because the government has to institute bail outs in an attempt to rescue public entities and keep the entities going, this poses serious threats to the fiscal balance and policy priorities (Business Day 2017). Eskom approached the National Treasury for balance sheet capacity to sign power purchase agreements with Independent Power Producers (Eskom 2017). SAA and SA Express are also in line to get injection of public funds into their balance sheets which can be attributed to inefficiencies as a result of mismanagement (SAA 2017).

## 1.2 Purpose of the study

The purpose of this study is to gain an understanding of the possible causes of irregular, fruitless and wasteful and unauthorised expenditure in the procurement process of public entities in South Africa.

## 1.3 Significance of the study

This study makes three important contributions:

1. It documents possible causes of irregular, wasteful fruitless and unauthorised expenditure. This will be useful for understanding why irregular procurement is a challenge on the local public sector and provides a basis for regulators, Non-government organisations and civil society to tackle problems. The increase in unemployment, social grant beneficiaries and the overall population in South Africa are amongst factors contributing to increased pressure on the public sector. In light of the above, it is important that the issue of inefficiencies be tackled as the public entities have important mandates in line with providing important services for the betterment of society.
2. Theoretical contribution - very little academic research has been done on the topic of inefficiencies in the procurement cycle of public entities. There have been similar studies on procurement challenges in the South African public sector as a whole, focusing on supply chain management and corruption (Ferreira and Bayat 2005, Ambe and Badenhorst-Weiss 2011). This study focuses on the procurement aspect of the supply chain management in order to add rigour to the findings. Others studies have looked at both the effectiveness and efficiency in public procurement (Ambe and Badenhorst-Weiss 2012). This study will only consider efficiency because the AGSA reports have highlighted the issue of increasing inefficiencies in public procurement in recent years (AGSA 2015-16). This study aims to add to the academic research on the inefficiencies in public procurement in South Africa, to extend from the recent studies done by organisations like the Public Protector, Organisation for

Economic Co-operation and Development (OECD) and National Treasury (Treasury 2015, OECD 2016, SABC 2017).

3. The study will provide primary evidence on possible procurement cycle challenges albeit that the work is normative. Interpretive research is more subjective in nature, the study relied on the detailed findings from a rigorous data collection and analysis process (Maroun 2017). This thesis uses detailed interviews with public sector governance and forensics experts to shed a light on the reasons for inefficiencies in public procurement. The study will contribute to the critical body of corporate governance research and is one of the first studies to address the challenges of corporate governance in the public sector in light of new corporate governance frameworks like the COSO (The committee of sponsoring Organizations of the Treadway Commission) framework and King IV.

## 1.4 Defined terms

For the purposes of this study the following terms are defined as indicated below:

| **Terms** | **Meaning** |
|---|---|
| Efficiency | The absence of fruitless wasteful expenditure, irregular expenditure and unauthorised expenditure (AGSA 2015-16) |
| Procurement cycle | Relates to the purchase of goods and services and capital assets ( Thai, 2001) |
| Irregular expenditure | Is expenditure which was not incurred in the manner prescribed by legislation (AGSA 2015-16) |
| Fruitless wasteful expenditure | Is the expenditure which was made in vain and could have been avoided has reasonable care been taken (AGSA 2015-16) |
| Unauthorised expenditure | Is expenditure not spent in accordance with the approved budget of a department (AGSA 2015-16) |

## 1.5 Assumptions, limitations, delimitations

- The study is limited to the procurement process and South African public entities. Evaluating operating cycles or procurement practices in other jurisdictions is deferred for future research.
- This will be a preliminary study which aims to explore the possible causes of irregular, fruitless and wasteful and unauthorised expenditure. The study does not focus on a specific entity and is not a forensic investigation or equivalent. The study does use an exploratory method to highlight possible focus areas for future researchers and investigators.
- The study uses semi-structured interviews as its data collection method. This allows for a detailed analysis of the research question but it will not be possible to quantity the extent of inefficacy or generalize findings (Leedy and Ormrod 2013).

## 1.6 Research structure

Chapter 2 reviews literature on public procurement, providing an overview of the importance of public procurement for economic development and growth. In addition, efficiency in relation to the procurement cycle of public entities and corruption (as it relates to the procurement cycle of public entities) is reviewed. Chapter 2 concludes by reviewing prior literature on measures to increase public procurement efficiency.

Chapter 3 explains the methodology used in the study. Chapter 4 provides the details of results and develops a new understanding of the importance of good corporate governance in terms of King IV and how that links to a healthy internal control environment as envisioned by the COSO framework.

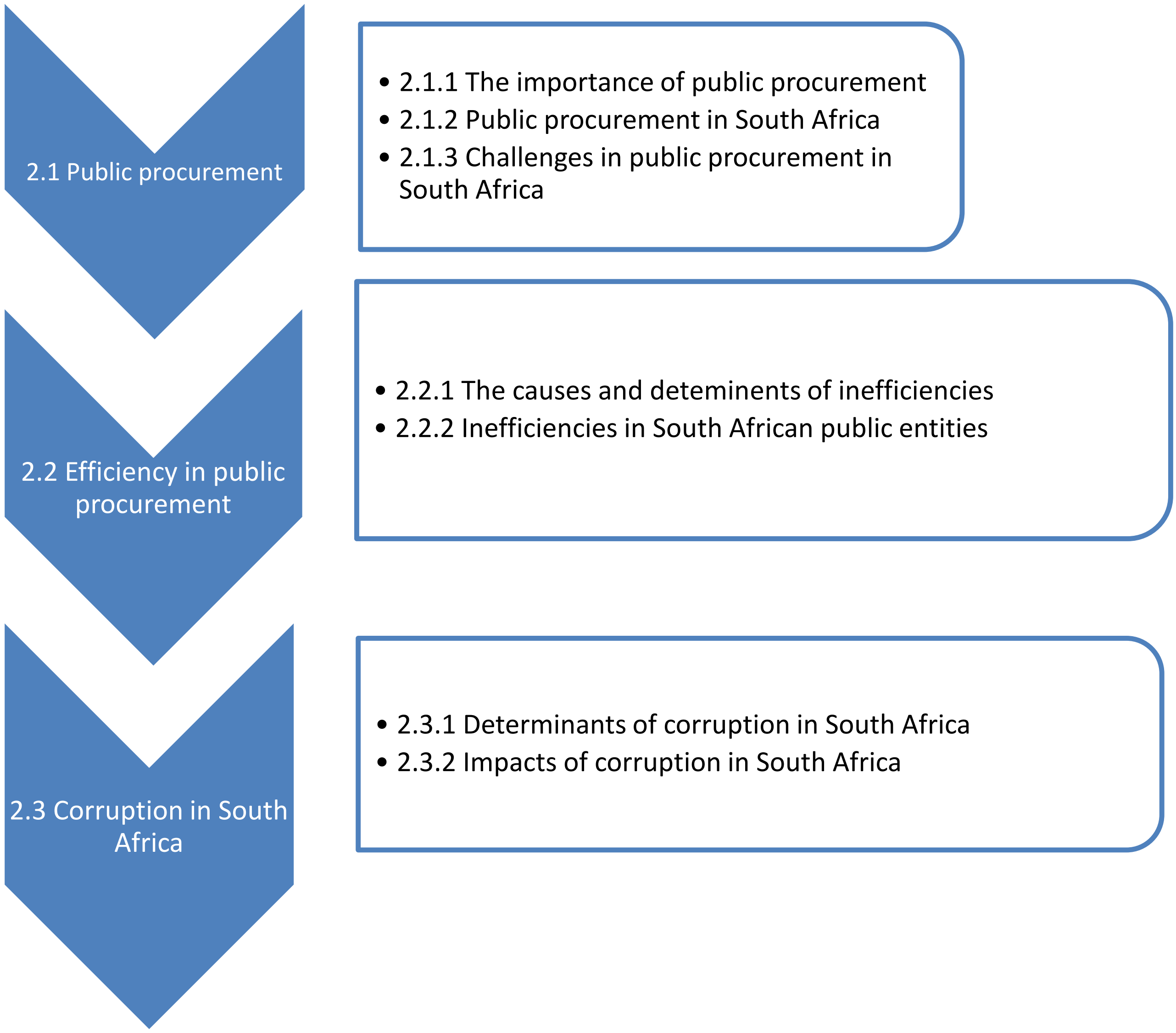
Chapter 5 concludes, offers recommendations and suggests areas for future research.

Appendix A provides the interview agenda points used in the data collection in this study.

## Chapter 2: Literature review

The literature is structured as shown in figure 1 below and concludes by reviewing the measures which can be put in place to increase efficiency in public procurement.

**Figure 1: Literature review structure**

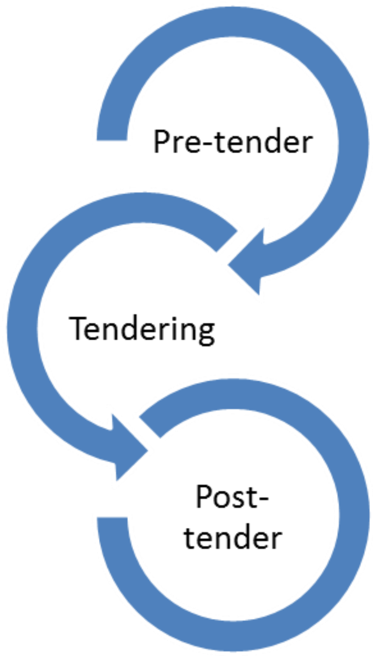


## 2.1 Public procurement

Public procurement is a delivery of inputs and outputs which meets public sector requirements (Ambe and Badenhorst-Weiss 2011). The inputs and outputs are in the form of goods and services delivered by the government to communities as part of the government mandate (Rogerson 2004). Public procurement can also be seen as the creation, management and fulfilment of contracts which the government enters into with the private sector in order to provide goods and services, dispose of property, and acquisition or hiring of rights and property (Watermeyer 2003). In order to meet the public requirements, there needs to be co-ordination of procuring entities, suppliers, the general public and internal government services (Ambe and Badenhorst-Weiss 2012).

Public procurement involves an acquisition of goods and services by the government including the best possible terms with an aim of promoting social, industrial and environmental policies (Bolton 2006). Public procurement can be divided into the purchase of standard products and the purchase of new technology and innovation products which do not currently exist (Aschhoff and Sofka 2009). When the public entity wants to procure goods and services it must undergo the whole of the tendering process from pre tender, tendering and post tendering stages as depicted in figure 2.

**Figure 2: South Africa's public procurement cycle**




The pre-tender stage involves demand and procurement planning which should be done with the aim of ensuring that public goods and services are delivered at the right time, to the right place and at the right price complimented with the right quality and quantity (Treasury 2015).The pre-tendering includes need assessment, planning, development of requirements and choosing a procurement procedure (OECD 2016). Eskom, for example, failed to establish a proper pre-tender process. They were charged a high amount for low quality coal due to political pressures on the Board not to comply with demand and procurement planning (News24 2017).

Proper planning during the pre-tender stage is crucial as it eliminates unnecessary contract extensions and emergency procurement, reduces delivery delays which should, ultimately, result in efficient public delivery (Treasury 2015). There has been evidence of poor procurement planning where procurement is not aligned with the overall investment decision making process and failure to budget realistically (OECD 2016). In terms of the AGSA reports, expenditures which could have been avoided include interest on overdue accounts, late payments and penalties on late payments resulting in fruitless expenditures (AGSA 2012-13).

Proper procurement demand management encompasses a clear specification of what goods and services are needed this is followed by a question about which bidders are reliable and have the technical ability to deliver the required specifications of required quality and durability (Treasury 2015). The problems identified during requirement development include technical specifications being tailored to suit specific suppliers, requesting unnecessary samples of goods and services and selection criteria not objectively defined and not established in advance (OECD 2016). Supplier management during the pre-tender stage is important as it ensures a careful selection of suppliers and enables for a proper negotiation process at best prices which increase the bargaining power of public entities (Treasury 2015). Planned pre-tender stage allows time for the administration of the procurement to be done without any rush which avoids errors and contract development follows terms of the policies and legislation, required and approved (Treasury 2015). Need assessment must not be influenced by external actors or by the use of informal agreements between procurement officials and suppliers (OECD 2016).

During the tendering stage, invitations from suppliers are received and are carefully evaluated and adjudicated, activities include request for proposals or bids, bid submission, bid evaluation and contact awarding (OECD 2016). A proper tendering process avoids lack of completion and conflicts of interest in public contracts, ensuring equal access to uniform and clear information about the tender procedures which does not favour or give an advantage to a particular bidder (Treasury 2015). It has been identified that there is abuse of public notice for invitation to bid, evaluations and that award criteria are not announced and lack proper public discloser of procurement information (OECD 2016).It is important that, during the tendering, the evaluators have a deep understanding of National Treasury norms and standards and that they remain neutral of influences (Treasury 2015). The AGSA reports that there is an increase in procurement contracts issued without competitive bids which impacts the value for money (AGSA 2015-16). Common problems in bid evaluation include procurement evaluators being too familiar with the bidders overtime and having personal interests like future promise of employment (OECD 2016). Upon contract award it has been noted that vendors fail to disclose accurate costs or pricing data in their proposals which ends up increasing contract price (OECD 2016).

During the post-tender stage of the process, it is important that there is sufficient monitoring of the quality of goods and services to ensure that they met the specifications agreed upon during the pre-tender and tendering stage (Treasury 2015).

Contract management is as important aspect of the post-tender stage to ensure that the contracts are not changed to suit the supplier or for fraudulent reasons. Proper contact management avoids the abuse from suppliers in performance of the contract in relation to quality, price and timing of payments. Lack of proper contract management can result in a substantial change in contract conditions to allow for more time and higher prices and product substitution with sub-standard work not as per contract specifications (OECD 2016).  The processing of payments is also important: it should be managed and monitored to ensure that no excess or late payments are made and all payments are made in terms of the structure agreed upon during the pre-tender and tendering stage (Treasury 2015). Lack of supervision can result in false accounting and cost misallocation, late payments of invoices and falsifying or duplication of invoices for goods and services (OECD 2016).

Following the correct public procurement process as discussed above has benefits for not only the public entity but the South African public and the state: it ensures good quality of public goods and services and increases the availability of infrastructure (Treasury 2015). Suppliers are encouraged to increase innovation and create more job opportunities for South Africans and this has a positive effect on economic growth. Ultimately, an application of the proper procurement cycle reduces costs for both the state and the supplier and result in greater levels of efficiency for all parties involved (Treasury 2015).

### 2.1.1 The importance of public procurement

Public procurement is important for departments[2] as it can ensure that they are able to acquire goods and services from reliable suppliers in a cost effective manner (Ambe and Badenhorst-Weiss 2011). It is important that when government enters into partnership agreements, value for money is achieved through planning and governance (Ambe and Badenhorst-Weiss 2011). Achieving the best value for money does not mean choosing the lowest offer from the bidders: price alone is not a reliable indicator of the quality of the goods or services the bidder can offer. Value for money includes a consideration of all the benefits and costs to ensure the best possible outcome is achieved by the public entity. This includes avoiding unnecessary costs and delays and improving internal controls and efficiency which is important for a successful service delivery (Treasury 2016).

When the public sector issues a tender for a government contract, this can contribute towards an increase in competition and innovation in the private sector. Where fair public procedures are in place, the competition may result in efficient delivery of public goods and services (Ambe and Badenhorst-Weiss 2011). Encouraging effective communication and openness of procurement process requires that all the necessary procurement information about policies and procedures be readily accessible to the public. Timely information must be provided to all the bidders without any bias, the cost of bidding and the administration must be reduced to a level which will encourage all the possible bidders to participate (Treasury 2016).

A well administered public procurement process will generally result in contribution to the overall economy of the country (Wittig 1999). This is made possible by the fact that public procurement

[2] Departments means a national or provincial government component

encourages participation of all members of society, including small and medium firms and the previously disadvantaged (Watermeyer 2003). Foreign investors and donors are more likely to invest in a country with proper public legal procurement structures, following legislation, policies and controls which contribute to the country's economic growth (Watermeyer 2003).

### 2.1.2 Public procurement in South Africa

Before 1994, public procurement in South Africa was dominated by a small group of large established entities who were favoured for government contracts (Wittig 1999).[3] After 1994, public procurement was given Constitutional status in line with a few countries in the world, when it was included as s217 of the Constitution (Watermeyer 2003). It emphasises good governance through fairness, equity, transparency, competition and cost effectiveness and preferential procurement when awarding government contracts (Wittig 1999, Bolton 2006). Preferential procurement means that government will give preference to the previously disadvantaged groups to acknowledge that groups are different but equal: the other criteria must be balance this preference (Bolton 2006).

The objective of constitutionalizing public procurement is to maximise economic growth and efficiency through fostering and encouraging participation and promoting competition (Watermeyer 2003). It further aims at achieving the countries socio-economic disempowerment under Apartheid and creating uniformity of procurement policies among the different provinces (Rogerson 2004). A ten points plan was realised in 1997 with an objective of, *inter alia,* improving access to tendering information, developing tender advance centres and simplifying tender requirements (Bolton 2006): a new office was created to specifically deal with public procurement.

There is an Office of the Chief Procurement Officer (OPCO) created to improve efficiency, reduce administrative burden and reduce corruption in public procurement (Treasury 2016). The OPCO aims to achieve this by creating an electronic portal for procurement which will automate and digitalize public procurement through the use of e-Tender[4] and central suppliers database(CSD) (Treasury 2016). The OPCO aims to create relationships with private entities, use external expertise to assist with government contracts and ensure the community benefits from public services.

[3] New start-up companies were not allowed to participate in government tendering due to unfair discrimination Bolton, P. (2006). "Government procurement as a policy tool in South Africa." Journal of public procurement **6**(3): 193.

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Complex procurement procedures were used as a form of discrimination Rogerson, C. M. (2004). Pro-poor local economic development in South Africa: The application of public procurement. Urban Forum, Springer.

[4] eTender is an online portal which provides a single point of access to all the information on tenders made government bodies like public entities, municipalities and departments amongst others.

Currently, the OPCO does not have the authority to investigate and punish cases of noncompliance but it is in the process of increasing its powers in the Public Procurement Bill (Treasury 2016).

The OPCO is aimed at addressing the challenges currently being faced in public procurement like the problem of failure to pay suppliers on time; the OPCO has started a call centre to help companies communicate issues of non-payment (Treasury 2016). The use of technology will reduce administration burden, allow for demand management, enable quick turnaround time and efficient supplier management (Treasury 2016). The issues of people ordering goods they do not need and non-delivery of orders will be addressed by ensuring a price reference system and users have access to all possible suppliers in a certain area close to them (Treasury 2016).

To increase monitoring, compliance and transparency tenders will be published with prices and scores, together with the winning tender. The use of transversal contracts will enable all the common goods to be purchased centrally by the government which will increase the bargaining power and reduce costs (Treasury 2016). The OPCO will reduce costs by negotiating low air travel rates and a travel policy will be generated which will allow for the monitoring of travels of procurement officials (Treasury 2016).

### 2.1.3 Challenges in public procurement in South Africa

Lack of knowledge of the procurement policies and legislation, together with inadequate planning and monitoring, contributes to the challenges: these coupled with the growing culture of fraud, corruption and unethical behaviour continues to undermine the Constitution and public procurement procedures (Ambe and Badenhorst-Weiss 2012).

Procurement officials in the public sector have a lack of understanding of the procurement SCM policies which creates confusion and ultimately results in the fulfilment of the procurement mandate being difficult for them to executes (Treasury 2015). It has also been argued that procurement officials do not have an understanding of the importance of proper contract supply management controls and this attitude has an impact on efficient public procurement. There are possible reasons for this problem, one of them being the complex bid documentation which has duplicated information needed which makes it difficult to complete (Ambe and Badenhorst-Weiss 2012, Treasury 2015, OECD 2016). Procurement regulations in South Africa overlap and duplicate which creates uncertainty and confusion.

The challenge in South African public procurement can also be related to inexperienced and under-skilled leadership. Leadership is critical to the efficiency of any organisation. It appears that the tone is not set by senior officials and this results in a lack of guidance and direction for the SCM staff

(Treasury 2015). The management in public entities offer inadequate motivation for the deviations from approved budgets. The culture results in increased levels of inefficiency. Some of the leadership problems can be a result of the difficulties capacitated leaders face when they have to comply with the standards which might be too onerous for smaller public entities (Treasury 2015). There is a lack of proper justification for the use and abuse of non-competitive procedures on the basis of legal exceptions like contacts splitting[5], abuse of extreme urgency[6] and non-supported modifications (OECD 2016).

Collusion between public sector executive and political leadership have also an impact on the challenges in public procurement (Treasury 2015).

Top management procurement roles and responsibilities are not clear which results in inefficiencies because of the confusion this creates (Treasury 2015). The confusion in leadership has resulted in inefficient management of public procurement labourers and procurement contracts which is not strengthening the fight against procurement inefficiency (Treasury 2015). There is also lack of clarity on roles of technical staff due to the political interferences with the public procurement processes (Treasury 2015).

There is also a lack of staff motivation in the execution of procurement duties and this will have an impact on the efficiency of public entities, when some procurement officials try to execute their mandate in terms of policies and legislation, such behaviour is not encouraged which reduces motivation (Treasury 2015). The SCM data is poorly kept which has a negative impact: when they is a new procurement tender, there is a weak database to trace the reliable suppliers and this can lead to fraud if suppliers misrepresents information in the tender application and the database cannot pick it up from prior engagements (Treasury 2015).

### 2.2 Efficiency in the context of public sector

Efficiency is about how public resources are used and it involves an assessment of whether the use is the best possible to achieve desired results (Chalos and Cherian 1995, Gomez and Padia 2014). Efficiency results when public officials use public funds in such a way that the maximum value for money is achieved within public procurement (Raymond 2008). In the South African context, prior research suggests that inefficiency is indicated by fruitless, irregular, asset theft and unauthorised

[5] Contract splitting refers to an act of dividing contracts into smaller sections and amounts such that they fall below the threshold requiring legislated procurement approval

[6] The PFMA requires the Ministers approval for expenditure of an exceptional nature which is currently not provided for and which cannot be postponed, without serious prejudice to the public interest and as a result the certain aspects of the procurement process may be bypassed.

expenditure (Ferreira and Bayat 2005). Efficiency is very essential in public procurement as it has an impact on all the citizens of the country in the form of client satisfaction, public interest, fair play, honesty, justice and equity (Raymond 2008).

Prior research on efficiency has indicated two types of inefficiency: allocative inefficiency caused by inputs being employed in wrong proportions and technical inefficiency which results from little output for a bundle of inputs (Koma 2010). Public providers must, therefore, focus on public expenditure on labour and capital in order to produce a maximum public service with observable outputs (Curristine, Lonti et al. 2007).

### 2.2.1 The causes and determinates of inefficiency

The key issue in public sector entities is in procurement. Material sums are misappropriated during contracting resulting in inefficiency in the public entities (Adebayo 2016). Prior research indicates that most significant fraud occurs as part of the procurement process because most of the money is used within the procurement cycle which provides loophole for corruption (Bolton 2006).

Corruption has been identified as one of the causes of inefficiency because it reduces innovation as innovators need government permits which create a rent. Innovators are generally credit constrained and for this reason they cannot afford the bribes and this reduces long-term productivity (Mauro 1995).It has also been argued that corruption can increase efficiency when the bribes provide additional pay for public officers which induces them to be more efficient and provides an opportunity for the private sector to by-pass inefficient regulation (Mauro 1995). Corruption in South Africa will be discussed in-depth in section 2.3 below.

Public sector inefficiency may also result from the lack of competition pressures. When a municipality or public entity enjoys a monopoly over the provision of a public servant, it has an opportunity to offer a public service output of low standard for a high level of expenditure input (Afonso and Fernandes 2008). Increased competition is likely to increase efficiency (Pina and Torres 2001). Efficiency is also influenced by the ability of citizens to pressure public officers to exercise good governance. It has been suggested in prior literature that countries with highly skilled citizens have higher levels of activism than those with low skilled citizens like South Africa (Afonso and Fernandes 2008). In countries which generally have lower skills which can translate to the public sector not having sufficiently skilled staff and those few with the skills might not be attracted to the public sector because of lack of incentives.

Low salaries paid to public officers reduce the financial incentive to achieve a level of public service output which creates inefficiency in the public sector (Curristine, Lonti et al. 2007).Shortage in financial management skills and legislation skills and misplacement of skills due to political favours have contributed to inefficiencies (Koma 2010). Restriction to information or higher cost of information about the management of public expenditure and the level of output is also a factor to inefficiency (Curristine, Lonti et al. 2007). In South African  literature has indicated that poor infrastructure, low financial, human and technological resources contributes to inefficiency (Koma 2010).

**Figure 3: Causes of public procurement inefficiency**

### 2.2.2 Examples of Inefficiency in South African Public Entities

This section provides examples of inefficiency in South African public entities to illustrate the points raised in Section 2.2.1. The examples are taken from the former Public Protector's reports, findings made in the interim report of the Ad Hoc Committee on the SABC Board and from the popular press.

The Public Protectors' report on PRASA suggests that the causes of inefficiency are linked to the Group Chief Executive Officer (GCEO) alleged misconduct. The GCEO improperly awarded tenders to his associates and appointed service providers without following proper tender process as depicted in Figure 2 (Madonsela 2015). It appears that the tone of good corporate governance was not created from the top as the GCEO is alleged to have participated in corrupt activities and did not disclose conflicts of interest on contracts, which is in direct contravention of the PFMA (Madonsela 2015).

Another challenge that PRASA faced was the improper handling of whistle-blowers. This indicates a negative attitude which the leadership structures displayed, suggesting a low discipline rate on perpetrators specifically against relatives which could have contributed to the continued inefficiencies (Madonsela 2015).

A forensic report by Deloitte revealed that there were fraudulent transfers amounting to R 8.1 million at PRASA, against which no actions were taken: these practice was largely due to large advances paid to suppliers irregularly. Numerous contracts were awarded without proper advertising in terms of the PFMA and this led to unfair competition and lack of transparency which favoured specific suppliers at the expense of others. Favouritism in issuing contracts can result in reduced quality offering and can affect the value for money.

Poor contract management is suggested to be amongst contributing factors to inefficiencies experienced by PRASA: contracts were issued to suppliers who did not have the necessary skills and experience (Madonsela 2015). The procurement officials and leadership ignored underperforming contracts and in some instances terminated contracts improperly which affected the value for money. Such behaviour was in favour of contracts with close business association to management. Contracts prices were inflated for unsubstantiated reasons; PRASA was overpaying on certain contracts and would not investigate cost overruns which the suppliers were experiencing (Madonsela 2015), Eskom also faced major delays and cost overrun with new power station contracts without any consequence to the supplier, and continued to inflate the prices paid for the coal (News 24 2017). Eskom entered into a bulk purchase agreement with The New-Age newspaper totalling R4, 096 000 without any negotiation for discount (News 24 2017).

There was an instance where PRASA vacated the premises but continued to pay, which is a clear indication of poor planning, and upfront payments were made without any authorisation. There were instances of contravention of the SCM, extensions of the tender scope beyond what was advertised: increasing a scope and price in excess of the advertised terms without approval contravenes S217 of the constitution, S38 of PFMA, National Treasury policies and the SCM policy (Madonsela 2015).

SABC is alleged to have deliberately omitted the inclusion in the financial statements of irregular expenditure as required by the PFMA due to criminal conduct associated with the expenditures (SABC 2017). There was a lack of supporting documentation for some of the transactions which suggests poor financial management and no steps were taken to correct this behaviour.

Irregular expenditure at the SABC was caused by inadequate deviations from the SCM policy, contracts were awarded without the minimum number of written price quotations, and this deviation was not approved as required by the SCM (SABC 2017). In some instances, deviations were approved but would have been prevented had there been compliance from the pre tender stage to the post-tender stage, as such deviation does not warrants emergency clause. SABC had sufficient time and knowledge about the 2015 Rugby World Cup but failed to plan for it and argued the expenditures incurred to be a result of emergency (SABC 2017).

Contract management was also weak as contracts were awarded to family/business associations without a declaration of the conflicts of interest by the affected persons: such contracts increased a risk of fraud and might have contributed to increased inefficiency (SABC 2017). At Eskom it has been suggested that contracts were cancelled with suppliers who offered quality services without reasons in order to give favours to business associates of politicians (News 24 2017). Over-invoicing on contracts above the approved contract amount resulted in unlawful payments which should have been avoided. Unlawful cancellation of already approved contracts resulting in unauthorised deviation was also indicative of poor contract management.

There were also deliberate attempts by procurement officers to avoid compliance with the SCM, for example, officers participated in split ordering in small parts. Senior officials constrained procurement officials from effectively performing their duties as they attempted to make favours for political and business associates: this was evident at Eskom where executives who disagreed with non-competitive and politically influenced contracts were either suspended or removed from their offices (News 24 2017). Amendments were made to policies to enable executive directors the sole rights to facilitate prices without any interference which results in override of controls. Reporting lines were changed to involve the COO in the operational issues in order to facilitate favouritism in the issuing of contracts. Officials were instructed by the board members to appoint service providers even though appropriate procedures were not followed. A number of the examples provided above have elements of corruption, discussed in detail in section 2.3 below.

## 2.3 Corruption in South Africa

Some research has suggested that corruption is part of the maturing process so it can be expected: South Africa is a developing economy in its maturity stage (Lodge 1998). The problem that arises is which developing countries are affected by corruption more than developed countries because they have few resources and need to use these scarce resources efficiently to maximise the value (Pillay 2004).

### 2.3.1 Determinates of corruption in South Africa

Prior research has indicated that South Africa is increasingly experiencing a decline in morals and ethical standards, for example greed and the desire for self-enrichment, and an obsession with personal advancements and all these factors contribute to corruption in government (Lodge 1998). As explained in Section 2.1.1, public procurement is one of the most vulnerable government activities due to the volume and value of transactions, financial interests at stake, complexity of the process and close interaction between public officials and business (OECD 2016). Studies have suggested that more than half of foreign bribery cases occur to obtain a public procurement contract or licensing (OECD 2016).Leaked Gupta e-mails indicate dishonest acts with respect to public funds at the state-owned entities and unlawful enrichments by public officers (News 24 2017).

Some research studies have also indicated inadequate controls and public sector culture of corruption and non-compliance within the South African government public entities and departments (Pillay 2004). In South Africa corruption has become a norm, so much so that government officials commit fraudulent activities because it is culture and it’s a normally thing to do. Such behaviour creates a situation where right behaviour is considered out of the ordinary, and unethical corrupt behaviour is normal (Ferreira and Bayat 2005).

Corruption in South Africa can also be associated with lack of effective leadership and lack of commitment by leaders to supervise staff and act as role models to the junior staff members (Ferreira and Bayat 2005). Poor leadership has been seen as a contributor to the lack of structure in public management and the culture of not reacting to issues of corruption and unethical conduct, despite the magnitude of the corruption problem in South Africa (Habtemichael and Cloete 2010).

There are a number of indicators of exploitation of public office for personal use, these include bribery, extortion, embezzlement and abuse of power (Osei-Tutu, Badu et al. 2010).Within the context of this study, bribery can be understood as accepting money to enter into a procurement contract, extortion can be applied to a demand for money to issue a procurement contract, embezzlement can be identified when public officer takes money meant to be used in a procurement process or misappropriates the asset acquired in the procurement process for personal use (Lodge 1998).

Prior research in the study of procurement corruption has cited the causes of corruption to be; political, which is an abuse of office, economic reasons from a desire to be wealthy and the lack of a future in the public office (Ferreira and Bayat 2005). The above description of corruption indicates financial and job security can contribute to procurement corruption.

The related costs of corruption have been researched and literature has suggested that there are three broad categories of costs public officials consider namely: social costs , psychological costs and financial costs associated with being caught and punished (Leff 1964). Countries with legal structures and law enforcement systems which punishes corrupt activities increase the cost of being caught and reduce corruption (Muterera and Madzima 2012). In a study conducted in Ghana, it was found which the main contributing factors to corruption were the incentive structures, insufficient enforcement of the law and the culture characterised by lack a of self-discipline (Osei-Tutu, Badu et al. 2010). Ghana, like South Africa, is a developing country so the literature can be applied in this research study within the context of procurement corruption.

Political power has been identified as a contributing factor to procurement corruption. For example, the committee report on the SABC Board inquiry found that political interference by the Minister and a disregard of the Broadcasting Act and the Companies Act of 2008 which form part of the formal legislation of governance of the SABC resulted in a misuse of funds and contributed to financial loses (SABC, 2017). At Eskom it has been suggested which political appointments of Board members and Ministers had an impact on bidders that were approved by the technical teams being blocked for political favours to certain bidders (News 24 2017).

Politics have contributed to the corruption in the South African public sector in the form of entrepreneurial politics where appointments are had on the basis that a comrade fought during apartheid, without any consideration a knowledge, qualification and experience (Pillay 2004). Non-meritocratic recruitments and recruitments have impact on monitoring and effective management which results in the employees non-compliance because of the lack of role models and this affects the whole public sector control environment (Lodge 1998).

Strong interrelations between the state and business which result in the state is increased reliance on particular private organisations have increased corruption in South Africa. Political parties have accepted gifts and donations from the private sector for political campaigns which increase the interrelationship (Ferreira and Bayat 2005). The private sector has indicated that it would continue to pay bribes to government officials if that helped to bypass the red tape and speed up the process of entering into business transactions with the public sector (Lodge 1998).

There are factors which indicate corruption in the procurement process such as very short time periods given to respond to a tender and procurement officials living a lifestyle above their income level (PWC 2016). When procurement decisions are influenced by people outside procurement departments and there are restrictions in tender documents which have an effect on competition it can reduce, these factors contribute to corruption (PWC 2016).

### 2.3.2 Impacts of corruption in South Africa

The problem of corruption can affect all South Africans because it constrains sustainable development and discourages investments in the economy especially foreign investments (Pillay 2004, Asongu 2013). Corruption has constrained the quality of governance and distorted governance systems which are factors in direct conflicts with sustainable growth and social development (Pillay 2004).

Corruption has also impacted the relationships amongst South Africans. It has created an even wider gap between the rich and poor (Pillay 2004). Corruption has threatened public trust and ethics between the government and society which has resulted in decreased participations of the citizens in public governance (Pillay 2004, Asongu 2013).

Corruption results in:

- Loss of public funds through misallocation or high expenses and low quality of goods and services (OECD 2016).
- Opportunities amongst South Africans which, again, reduces public interest of many to cooperate in efficient and effective public governance (Asongu 2013)
- Limited market access for many participants who do not engage in corrupt activities (OECD 2016).
- Individualist thinking to benefit a few at the expense of the greater good in South Africa (Habtemichael and Cloete 2010).
- The South African democracy being threatened because it undermines social needs (Asongu 2013).

- Those paying bribes seeking to recover their money by inflating prices, billing for work not performed, failing to meet standards and deliberate reduction of quality by using inferior quality materials (OECD 2016).
- The disruption of businesses and impacts the reputation of both the businesses and public entity involved (PWC 2016).
- Substantial legal and regulation costs when an intervention is required to protect the reputation of the entity (PWC 2016).

## 2.4 Measures to increase public procurement efficiency

Public entities need to take serious measures to improve the skills of the procurement officials so that they can deal with the procurement policies, regulations and the system this can be achieved through programmes of continuous training (Treasury 2015). Public procurement officials need to identify areas which require technical and organisational support and first identify whether the required support can be sourced from inside to avoid duplication of services. There must be a speed up professionalization of public procurement in order to attract and retain skills (Treasury 2015). Procurement officials also need to uphold honesty, professionalism, non-discrimination and to ensure fairness; such values will enhance integrity and curb corruption (OECD 2016). The department must be responsible for ensuring an effective development, updating and diffusion of the code of conduct and provide advice, guidance and support to public entities' integrity standards (OECD 2016).
The internal control environment in procurement must be enhanced and implemented in a case where there are no controls; the effectiveness of the control environment must be continuously managed (Treasury 2015). There must be a culture of controls and risk awareness (PWC 2016). There must be a culture of cooperation between the suppliers, private sector and public entities as such collaboration can reduce costs and increase efficiency for all parties (OECD 2016). There are two parties involved in corruption, therefore, the blame must not always be on public entities, everyone must pay their part in saying no to corruption (PWC 2016).

Monitoring in the public interest is a very important aspect of efficiency: the monitoring must not only be a duty of the leadership, everyone within the public entity must exercise a monitoring duty as part of social awareness. Public entities and National Treasury must empower civil society and the general public to monitor public procurement activities and have proper structures where complaints can be raised and investigated (Treasury 2015). The internal audit function must play a critical role in assessing the risks faced in public procurement and implementing internal controls to mitigate the risks: it is imperative that the internal audit is not influenced by management in order effectively carry out its mandate (Treasury 2015).

The chief procurement officer must report to the board as a whole in cases of significant spending and not just to the CEO or CFO. The role of the government in public procurement must be clear to owner, authority, regulator and policy maker to avoid confusion in oversight duties (review 2013). Clear accountability cannot be achieved without clear responsibility, powers and role of the board, so clear levels of responsibility and accountability should be defined to reduce role confusion (review 2013).

There is a need for clearly defined corporate governance policies which will be consistent in all the public entities to avoid confusion on where to follow governance principles in the PFMA ,MFMA, Companies Act or King IV (review 2013). Good corporate governance is important to the success of the public entity, therefore, application of principles in King IV is pivotal to the enhancement of governance and protecting the interests of the country (King 2016). King IV is accommodates of all organisations, irrespective of size, resources and complexity of activities (King 2016). The board of directors of public entities must be composed of ethical and effective leadership which is exemplified by integrity, competence, responsibility, accountability, fairness and transparency (King 2016). Public entities have a public interest mandate and as a result, corporate citizenship is important more because the funds are provided by taxpayers so public entities must be accountable to the citizens (King 2016).

The control environment needs to have clear and fair objectives which demonstrate managers commitment to integrity; a strategic approach to risk management must be ensured (OECD 2016). Senior managers of public entities must generate an action plan on how they will deal with the control deficiencies, and accounting officers and regulators must monitor the implementation of such plan (AGSA 2012-13). The state must clearly communicate the public entities' purpose, functions and objectives, which will be a base for monitoring of performance (review 2013). The public entity must respond to the mandate as communicated by the state, the state must play an leadership role in enabling for fulfilment of the mandate (review 2013). The public entity must operate sufficiently independently with adequate funding under the leadership of the board of directors with clearly defined roles and functions (review 2013).The board of directors must acknowledge that the public entities core purpose, risks, opportunities, strategy, performance and suitable development are all inseparable elements of the value creation process (review 2013). The board must seek to reconcile entities objectives to state strategic plans for the public entity, the public entity must fulfil their mandate while remaining financially sustainable (King 2016). The key performance measures and targets must be agreed in writing between the public entity and shareholders and accounting authority (King 2016).

There needs to be standardised evaluation criteria in the procurement cycle of public entities, key performance social, economic and political indicators must be established and communicated within and outside of the organisation (review 2013). The evaluation must be based on funding viability, harmonisation and collaboration with other public entities, and the quality and timing of service delivery (review 2013). As part of the evaluation criteria, the capacity and the skills of the governing body must also be evaluated to ensure that the public entity is contributing to the achievement of the developmental state goals (review 2013). Performance measurements must be two dimensional; on an enterprise assessment level focusing on internal systems and the achievement of output efficiency, and on service delivery value chain level (review 2013).

A clear strategy for procurement must be developed for each public entity; an in-depth analysis must be done as the foundation of a sound procurement strategy. The procurement objectives should flow through the shareholders, the business and procurement division. The procurement strategy must be coherent with measurable performance objectives aligned to the overall government objectives (review 2013).

There have to be consequences for those who do not play their part in ensuring efficient public procurement, irrespective of their social or political status. Suppliers who are found to have misrepresented information in the tender process or to have provide low quality goods or services must be removed from the supplier database. Any contact found to have been issued fraudulently or without following due procurement procedures must be cancelled with immediate effects and recovery of any losses suffered by the public entity or the public must follow (Treasury 2015). A register must be kept of all the tender process defaulters and such suppliers should be flagged everything they apply for a tender. The register of delinquent individuals and companies must be publically available (review 2013). Actions must also be taken against procurement officials who are found to have participated in corrupt activities: such actions may include dismissals, civil actions and warnings (PWC 2016).

It has also been recommended that the Board of Public Entities be changed to include candidates who will exercise a greater level of accountability and who will take financial responsibility and are driven by performance management. The board and procurement officials must increase transparency to promote accountability and allow full access to information and open data, active and timely responses to request for information (OECD 2016). Civil society needs to fulfil it is stewardship role by having full access to timely available data, quality data and effective whistleblowing channels. Information about upcoming contacts such as procurement duration, justification of exceptions and overview bidding procedure must be made public. Treasury must however ensure that a balance is achieved between competition and accountability and protection of trade secrets (OECD 2016). Society needs to stop pointing fingers and must demand accountability from the treasury to the governing bodies (PWC 2016) The public entities will need to be reformed by closing all the corruption loopholes and possible privatisation to eliminate monopoly status (Business Day 2017).

## Chapter 3: Research Methodology

This study uses a phenomenological design as the ultimate purpose of the study is to explore the causes of irregular, fruitless and wasteful and unauthorised expenditure (Leedy and Ormrod 2013). The design is also appropriate given the limited South African-specific research on inefficiency in local government procurement cycles (Leedy and Ormrod 2013) and for providing first-hand accounts by individuals' experienced realities in inefficient public sector entities (Baker, Wuest et al. 1992). The study has relied on detailed interviews with preparers of the financial statements of public entities and forensic auditors in South African auditing firms and the AGSA who have experience with auditing public entities.

### 3.1 Research method

The thesis uses the same method as that followed by the Institute for Security Studies (ISS) on the causes of corruption and controls for the effective fight against corruption in South Africa (Camerer 2001).This thesis relied on detailed interviews with accountants and auditors operating in the public sector (The interview agenda consisting of 8 open-ended questions is in Appendix A) Interviews were chosen because the researcher wanted to gain facts and insights into the issues of inefficiency in the procurement cycle of public entities (Rowley 2012).

A pilot test of the questions was done to verify the suitability of the questions and participants were asked for feedback before the questions were used for subsequent data collection. This was done to avoid ambiguous or misleading questions (Leedy and Ormrod 2013). E-mails were used to invite participants for interviews. To avoid rehearsed answers, participates were not provided with the complete agenda before the interviews but they were told the purpose and the nature of the study to allow them to reflect before an interview (Maroun 2017).

Questionnaires were considered as the method of gaining data, however, the disadvantages are associated with it made the researcher not utilise questionnaires. The main disadvantage of questionnaires is that it has a low return rate and the people who end up returning the questionnaire might not be a representation of the initially selected sample which effects on the reliability of the sample and therefore impairs the validity of the study. Another drawback of questionnaires that was considered is that the questionnaires sometimes depend on reading and writing abilities and may result in misinterpretations. Lastly, questionnaires limit the scope of the responses (Leedey and Ormond 2013). For these reasons the questionnaire was rejected. Structured interviews were considered as this is descriptive research, however, they were rejected on the basis of the more formal nature of structured interviews (Leedy and Ormrod 2013). The researcher wanted to maintain a lasting relationship with the participants which lead the researcher to reject structured interviews, as the relationship between the interviewee and the interviewer ends immediately after a structured interview (Leedy and Ormrod 2013).

Unstructured interviews tend to be more informal and friendly and the interviewee and the interviewer build a relationship, after the consideration of the types of interviews the unstructured interviews was chosen by the researcher. The researcher considered that unstructured interviews encourage the interviewee to participate and this allow for more cooperation which will enhance the investigation from the insight provided by the interviewee and might yield more than the researcher had planned to ask about the causes of corrupt, irregular expenditure, fruitless and wasteful expenditure and unauthorised expenditure.

The added advantage of interviews is that it will allow the researcher to possible yield a high response rate and telephonic interviews can ensure that even interviewees are far are reached at a lower cost and less time is consumed (Leedy and Ormrod 2013).The sample interviewed is relatively small, therefore, that factor contributed to the researcher's decision to use semi structured interviews as it would be possible in terms of time constraints to reach the data sources. The researcher considered the use of questionnaires after the main themes were identified after the unstructured interviews: this was done to validate the study and to see whether the themes can be generalized to the whole public sector population.

The semi-structured interview format was used and the interviewees described the experiences and their knowledge obtained from their direct involvement with public entities on irregular expenditure, wasteful and fruitless expenditure and unauthorised expenditure within the procurement cycle (Leedy and Ormrod 2013).The interviews were only limited to the respondents' perceptions on the issue of the causes of improper, fruitless wasteful and unauthorised expenditure (Rowley 2012). The researcher also remained alert during the interviews for side-tracks, pauses, questions and expressions raised by the interviewee which will provide further insight or not contribute to the study.

The researcher was well aware of the time consuming exercise of setting up, holding, transcribing and analysing interviews, as well as researcher bias associated with the abovementioned exercises certain steps were taken to achieve validity and safeguard reliability (Rowley 2012). Steps were taken to ensure that only experienced interviewees were chosen (3.3), that the interview agenda was appropriately designed and tested and this resulted in reasonable assurance on the validity and reliability (Rowley 2012).

As a further validity and reliability safeguard, all the interviews were semi-structured to ensure a thorough examination of the causes while maintaining the focus on the research question (Rowley 2012). The added advantage of using interviews is that the researcher had less pre-knowledge of the causes of the subject matter, so it was easier to design an interview schedule than it would have been to design a questionnaire (Rowley 2012).

### 3.2 Sample

The sample of respondents was purposely selected. This was done to ensure that candidates who could provide detailed and informed accounts of the phenomena were engaged (Rowley 2012).Interviewees were chosen because the researcher wanted to gain facts about and insights into the issues of inefficiency in the procurement cycle of public entities (Rowley 2012, Maroun and Solomon 2014)

The participants were chosen from the audit managers, audit partners, advisors and forensic specialist from Big 5 auditing firms[7] in South Africa and the Auditor General South Africa (AGSA). The study relied on a tentative sample of 18 respondents, detailed in table 1 below, who have direct experience of the procurement cycle of public sector entities in South Africa.

Participant from the AGSA included assistant audit managers and audit mangers who are CA's: there were purposely selected because of their insight and experience in public sector audits which increase the validity of the study.

The sample included 2 participants who are members of the audit and risk committees of public sector entities and have past experience in auditing public entities and advisory on public procurement contracts they have a direct experience for preparation of annual reports in terms of the Public Finance Management Act, and have past experience in auditing public entities at senior audit manager level and advisory experience on public procurement contracts. This was done to include the perspective of public entities on how they experience the phenomenon: this helped to enhance the relevance of the findings (Leedy and Ormrod 2013).

The sample included senior advisors and public sector assurance leaders from the auditing firms, who advise public entities on compliance with the governance principles in King IV, the Companies Act, PFMA, PPP and MFMA. The advisors are also involved with monitoring procurement contracts and the assessments of risks in procurement contracts. The aim was to get expert opinions that are not representative of a particular auditing firm on the issue of causes of improper, wasteful fruitless and unauthorised expenditure to achieve content validity.

Lastly, the sample included 2 forensic investigators who have experience in investigation of public sector procurement contracts: this was to ensure all different perspectives are included in the analysis to enhance content validity.

[7] KPMG, PWC, EY, Deloitte and Sizwe Ntsaluba Gobodo(SNG).

The use of interviews dictated that data be collected from a small sample, however, the appropriate design of the interview and the appropriate selection of participants was to ensure a range of insights and understanding. Keeping in mind the responses were from different participants who have different qualifications, professions and experiences, the researcher did not make any attempt to contrast directly the different views (Maroun 2017) .

It is worth noting that relatively small sample sizes are an inherent characteristic of qualitative research (Rowley 2012). The aim of the study is not to generalize the findings but rather to get detailed expert understanding which will help generate findings which are insightful (Rowley 2012, Leedy and Ormrod 2013). The key to the researcher was to generate key findings to answer the research question, therefore, more weight was given to the detailed expert findings as a trade-off for sample size (Maroun 2012, 2017).

### 3.3 Data collection

Data collection was in terms of the grounded theory approach, as evidenced by the flexibility of data collection and the research agenda was changed during the course of the data collection to respond to differences among the participants (Leedy and Ormrod 2013). Data analysis began almost immediately after the first interview. The researcher developed categories to classify the data and, as more evidence was gathered, it confirmed some of the categories and new categories were created accordingly. The categories which emerged were in line with the literature review, for example, corruption, political influence and poor leadership were amongst the themes which kept reoccurring throughout the interview process.

Interviewees were invited to participate in the study by e-mails attached to the e-mail was the interview procedure which participates were encouraged to read. The interview procedure explained participants' rights to withdraw at any point, to request the final report and assurance of confidentiality; this was done to ensure that participants felt comfortable about participating. In the e-mail participants were informed of the research topic and that they had been selected to participate because if their insight into the subject matter (Maroun 2017).

Most of the interviews were conducted in person which allowed the researcher to establish rapport with the participants, which was key to gaining their cooperation (Leedy and Ormrod 2013). A total of 5 interviews were conducted telephonically because the participants were far from the researcher: this reduced the cost of having the interview (Leedy and Ormrod 2013). For the interviews conducted telephonically the interview procedure was sent in advance for the participant to familiarise himself/herself and send it back signed. Before the interview commenced, the researcher presented the interview procedure and advised the interviewee to read it and sign it and the researcher answered questions raised by participants in this regard. At the request of the participant, the researcher read the research procedure to the participant. The researcher took an opportunity to explain to the participants why he took an interest on the subject matter and asked the participants how they were enjoying working with public entities.

For interviews conducted telephonically or in person, the participants were asked for permission to record the interview (Rowley 2012). The interview structure was based on 8 open-ended questions (Appendix A). The order of the question was driven mainly by the interview from the direction of the conversation the interviewer made sure to redirect the focus to be around the agenda points.

The researcher ensured that at the end of the interview all the questions has been addressed by the, the questions were there for the researcher to maintain the structure of the interview to get the most out of the participant. For the most part ,the questions were used to encourage discussion around the research question, so the interview questions were influenced by the research question (Rowley 2012).

After the interview some participants required a transcribed copy of the interview before it could be used for data analysis, the researcher provided such transcribed copy as requested. This was considered important to the study as it was a mechanism to strengthen the accuracy of the transcribing and help to minimize researcher bias.

The interviews were between 20 and 70 minutes (Rowley 2012). The time was suitable to allow for the themes to emerge. Interviews took place between June and September at the respondents Johannesburg and Pretoria offices.

| **Table 1: Interviews** | | | |
|---|---|---|---|
| Respondent | Occupation | Location | Duration |
| R1 | Senior advisor | Johannesburg | 45 minutes |
| R2 | Senior Accountant | Johannesburg | 40 minutes |
| R3 | Audit manager | Johannesburg | 36 minutes |
| R4 | Audit assistant manager | Johannesburg | 31 minutes |
| R5 | Senior advisor and Audit committee member | Johannesburg | 21 minutes |

| Table 1: Interviews | | | |
|---|---|---|---|
| Respondent | Occupation | Location | Duration |
| R6 | Senior advisor and Audit committee member | Johannesburg | 35 minutes |
| R7 | Audit partner | Johannesburg | 42 minutes |
| R8 | Attorney and senior advisory manager | Johannesburg | 30 minutes |
| R9 | Senior advisory manager | Johannesburg | 57 minutes |
| R10 | Advisory partner | Johannesburg | 36 minutes |
| R11 | Senior manager: Forensics | Pretoria | 65 minutes |
| R12 | Senior manager: Forensics | Pretoria | 65 minutes |
| R13 | Audit manager | Johannesburg | 50 minutes |
| R14 | Accountant | Johannesburg | 30 minutes |
| R15 | Audit manager | Johannesburg | 22 minutes |
| R16 | Partner/ Director | Pretoria | 50 minutes |
| R17 | Senior advisor | Johannesburg | 35 minutes |
| R18 | Audit manager | Johannesburg | 21 minutes |

### 3.4 Data analysis

The transcript from each interview was analysed at least 5 times. The researcher began by having a structured reading of the transcripts in order to become thoroughly acquainted with the data (Rowley 2012). The researcher identified statements which are relevant to the research question and grouped the information in to common themes by categories of the experiences raised by the participants (under headings open codes) (Leedy and Ormrod 2013).The themes were given codes in the words of the interviewee so that the text of similar themes is grouped together (Rowley 2012).The themes was aligned with the research question to ensure that only relevant information were considered and where necessary sub-themes were be used in order to allow for the main themes to be kept minimal (Maroun 2017). The main themes which emerged were political influence, poor internal control environment, lack of consequence management and corruption.

The open coding of main ideas happened during the data collection, after each interview, and it stopped when saturation began that is, when an additional interviewee is not saying anything different from the previous interviewees (Maroun 2017). From the 8$^{th}$ interview analysed it became clear that the main causes were lack of consequence management and corruption: almost all the interviewees were giving examples relating to personal gain, greed and kickbacks.

The interconnections were made among the broad data categories and subcategories ( axial codes) of themes, the identification of interconnections between poor tone of governance at the top, weak control environment and lack of consequence management assisted the researcher in understanding each theme in depth (Leedy and Ormrod 2013). The result is a tabulated summary of all major themes and the contents of each interview were disaggregated to highlight key arguments and counterarguments. Where contradictions emerged on a particular theme, these were included as part of the findings.

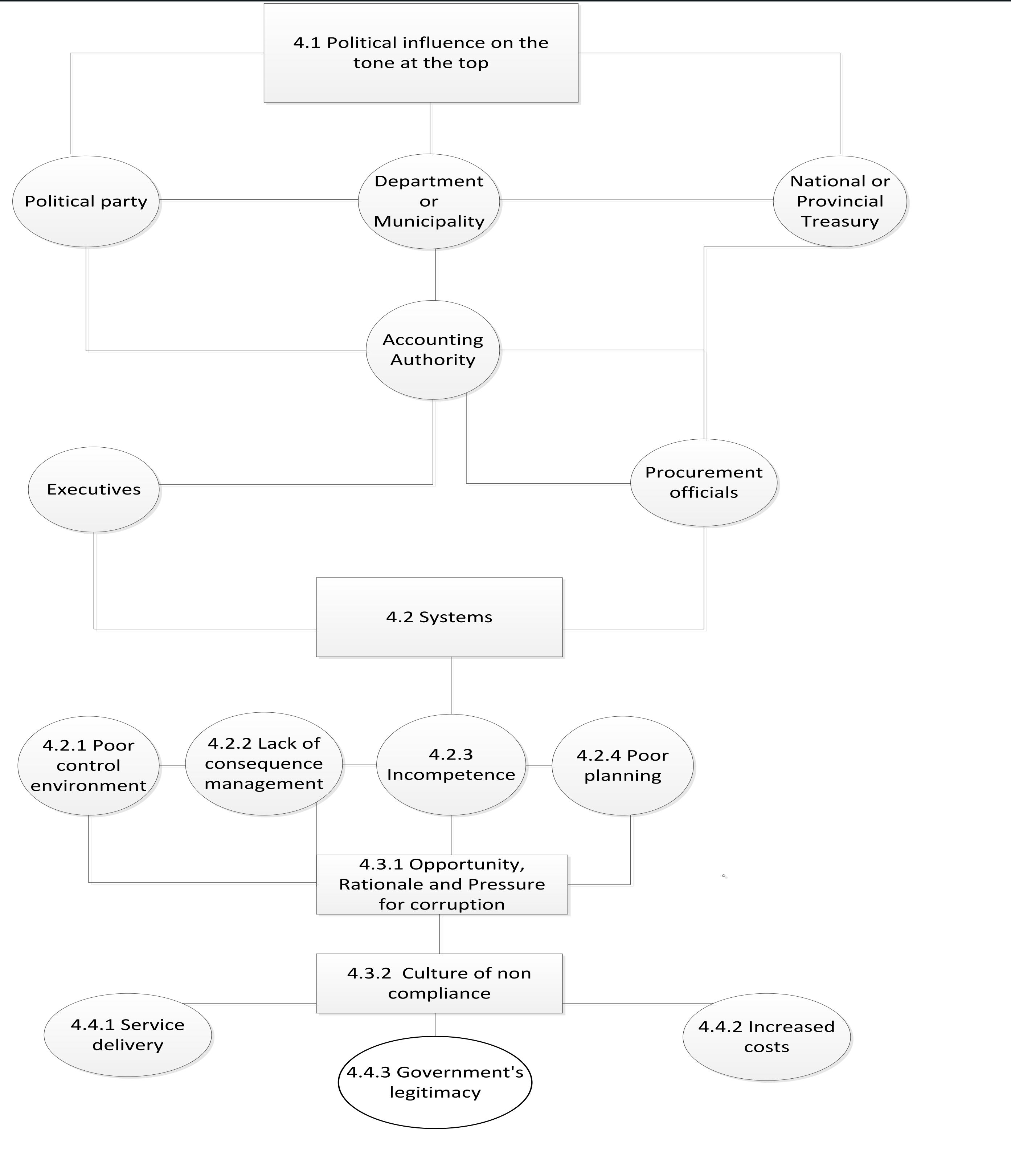
The researcher will consider the different experiences the different groups of participants' have of the phenomenon of the causes of improper, fruitless wasteful and unauthorised expenditure. The researcher will develop the overall description of the phenomenon (Leedy and Ormrod 2013). The researcher will seek to invite other researchers to check the classification and the coding to ensure that the bias is limited and this will help to enhance validity of the research study, and the researcher will be on the lookout for personal assumptions and bias (Rowley 2012).

### 3.5 Limitations

- Interviews carry an inherent risk of rehearsed responses by the participants in the attempt to be politically correct or align with the views of the employer firm. This was addressed by discouraging participants from using direct references to clients where they observed the causes of inefficiencies. Furthermore, interviewee's identity was guaranteed to remain anonymous.
- The interviews can provide highly technical results, which can make it difficult for a person who is not an expert in public sector procurement to interpret the findings. Through consultations with the supervisor, all the detailed technicalities were excluded.
- Due to the time constraints data collection and unavailability of the participants who were willing to participate during that time, some interviews were cancelled. Despite this, difference viewpoints were maintained by the sampled interviews.
- Due to the fact that the study relied on sensitive information participants had obtained in position of trust and participants felt a duty of confidentiality, some ended up rejecting the request to participate. Some interviewees who participate felt more comfortable providing the researcher with more information off the record.

## Chapter 4: Findings

**Figure 5: Findings structure**[8]




[8] The relationship between these major themes presented in this figure is not linear as the structure might be suggesting, there is an interaction progression between the themes which is explained in detail in this chapter.

This chapter documents the findings from the detailed interviews. Section 4.1 examines the context of the public procurement environment. Section 4.2 looks at how systems contribute to the efficiency in public procurement. Section 4.3 examines the impact systems have on efficiency in public procurement. Section 4.4 examines the effect of poor systems caused by poor tone at the top on public goods and services. Chapter 5 concludes by providing the contribution of the study at the theoretical, empirical and practical level.

**Findings overview**

The findings of the study suggest that there is an interactive on the themes shown in Figure 5. The main interaction is between the political influence from political leadership and the internal control systems in public entities in South Africa. The findings suggest that, when there are intense levels of political influence on a public entity with good systems, those internal systems are undermined resulting in inefficiencies. Equally, when the public entity has weak systems (indicated by poor internal controls, lack of consequence management, hiring of incompetence personnel and poor planning) the public entity becomes very vulnerable to political influences which aggravate inefficiencies in procurement processes.

The study also finds that there are interactions between the systems which result in inefficiencies in the procurement processes. For example, when there is a lack of consequence management the internal control environment in undermined resulting in poor planning and hiring of incomplete staff. Equally when incompetent people are hired, they cannot execute their tasks accordingly, resulting in poor planning, poor implementation of internal controls and, ultimately, inefficiencies in the procurement processes. In particular, when incompetence senior management are appointed, they often struggle to ensure effective consequence management resulting in the entire internal control environment being undermined.

The ultimate effect of the interactions described above is that service delivery is negatively impacted, costs of services are increased and the legitimacy of the government is reduced. The findings also suggest that there is an interaction between service delivery, cost of services and legitimacy of the state government.   The interaction between themes in figure 5, are explained in more detail below.

## 4.1 The context of the public procurement environment

All the respondents emphasised how the “tone set at the top” (Ref to King IV) was the main contributor to the inefficiencies in public procurement in South Africa: this supports King IV which also stresses the importance of the correct tone of governance being set by the governing body. There is a governance hierarchy which starts from the political party, Department, National treasury, accounting authority, executives and finally the supply chain managers. Respondents explained how a lack of commitment to good governance at senior levels in the public sector results in the inefficiencies in public procurement. For example, one respondent explained the relationship between senior management and procurement officials as follows: (R7).

> *'I think the real issue is in the public sector. Even in the private sector people are driven by instructions. We all have bosses and in the public sector you get instructions to engage in an irregular expenditure, to engage in unauthorized expenses. The reality is that it becomes difficult for a junior staff member or manager or even a CEO to refuse to execute that particular expenditure when that instruction is coming from the top (R7).*

Similarly, on the effect which a lack of commitment to good governance at the senior level can have on multiple parts of an organisation:

> *If the board instructs the CEO, you find out that the CEO puts pressure on the CFO to engage in the expenditure, the CFO would also pressurize the managers on the ground to participate in the expenditure then the managers also pressure the clerks to engage in that particular* order' (R9);

The governance hierarchy which results in inefficiencies begins from the influence that is exacted by the political party in charge of the political governance of the entity.

**Political party**

Several respondents explained the importance of the role played by political parties, particularly the political influence of the ruling party, on the efficient governance in public procurement. In municipalities which have experienced a change in political party administration, there has been change that has been seen in the governance of public procurement funds which has had both positive and negative impact on efficiencies depending on the attitude of the new leadership (R2; R3).

> *'There is a political agenda to just do things just to prove you are a* man' (R3);

When politicians want to prove that they can turn around a public entity that has been known for experiencing high levels of inefficiencies in the past, this creates an incentive for the politicians to work hard in eliminating the inefficiencies. It has been noted, however, that when some politicians want to prove a point to the public they end up putting pressure on the entities to not follow the regulations and this can result in the expenditure being considered irregular or unauthorised, even when the service was delivered.

The change in political administration can have a good impact on the efficient use of public procurement finds in the situations where a politician has a drive to satisfy a political agenda. Political influence can actually be a catalyst for change where a new political party has made certain promises to the public and when they begin their term of administration making that they deliver goods and services efficiently: this filters down to the public entities (R3).

For an example there were two municipal entities which have been reporting high levels of irregular and fruitless and wasteful expenditure[9]. Following the change in administration in the Metro[10], there has been a change in the tone of governance. This has been evidence by certain procurement officials, including the managing director being dismissed and several investigations being lodged involving senior officials. This sends a message which improves compliance and efficiency (R4).

The change in political administration can also result in inefficiencies, even when there are good intentions from the new political party:

> *'The good could be there is a new administration that comes in the middle of the financial statements when you have already done all your planning and the new leadership wants to take a different direction for the department which filters to the entity and they want this to happen by the end of the year. So with political influence and a drive to satisfy a political agenda then an entity would decide to circumvent processes because it takes too long and the politician has already committed publically that certain houses will be built by the end of this year and you would not go through the whole process but still deliver on what they have promised' (R3);*

Such procurement expenditures can be classified as irregular because the proper procurement processes in terms of the PFMA or the MFMA have not been followed even when the intention was good and the final service or good was enjoyed by the public (R3). Inefficiencies as a result of political agenda can also result from intentions which are not entirely good.

> *'Political leadership places pressure on management resulting in non-compliance…' (R6);*

[9] The example was given by a respondent; the details have been removed for confidentiality.
[10] Metropolitan municipality tasked with executive and legislative authority in its area

Public entities exist because they have a particular mandate which is linked to the delivery of goods or services which are essential for economic growth and social development. In the event that there is political interference on how public entities execute their mandate, public funds end up being spent without authorisation in order to benefit a politician (R7).

Without the right leadership in government, the public entities will not get anywhere in the execution of their mandate (R16). This is because there is often a conflict between a political mandate and the mandate of the public entity. The reason that political interference often results in the inefficiencies in public procurement is because you often find that the political leadership is made up of individuals who are not there to make a positive change in society but are only civil servants for personal gain (R7).

When such conflicts manifest there is a need for good leadership from the government and the public entity. Good leadership is what will push against the boundaries to make public interest as top priority (R7). The conflicts in mandate have been seen to have a big influence on the smaller municipal entities because they become easy targets.

Municipal entities have been identified by a few respondents as more susceptible to inefficiencies in public procurement because the political leaders use the small public entity to commit money laundering (R2). This is because of the small public attention given to municipal entities and so often creates an opportunity for fraud and corruption.

> *'I think it works on all entities I have worked with. In the entities on the municipal side there it is bad, it is even worse, because we are talking about greater political influence. On the side of departments and big entities, it's manageable, you can pinpoint that there is some effort to try and regularise' (R2);*

**Department/Municipality**

Respondents stressed the importance of the right tone being set by the department which the public entity is housed under. In the entities where the Ministers and the MEC have had influence on the public procurement, it has been seen that positive influence resulted in efficiency and negative influence resulted in inefficiencies (R2). This highlights the importance of the directives issued by the Ministers of the Department and the MEC in the province.

> *'Where the MEC would come in and say here is the money. Take this money and give it to this person but the officer would say in terms of the process the money should be going to that particular person. The MEC would say you give it to that*

*particular person and you make it work. Because of things like that you can't always blame the accounting officers because the accounting officer can be overridden by the MEC, which is allowed in terms of the PFMA' (R2);*

*'It depends on their mother department because they get money from their departments then go and carry out their mandate on behalf of that department. More often than not if the tone at the mother department is not ethical, it will definitely filter down to entity level' (R4);*

Most interviews stressed that the influence from the Department and the political parties has great influence in the work of accounting officers. The responsibility of governance in the public entity is shared between the political head which is the Minister in the Department and the Head of the entity which would be the CEO. The Head of the entity is legally supposed to get instructions from the Minister because the entity is contributing to the satisfaction of the mandate of the Department it is under.

It is important that the political head has good intentions and is taking a lead in providing clear and ethical guidance to the entity head. This was outlined by the respondents who raised concerns that sometimes the inefficiencies happen because of unethical instructions given by the political heads to the entity head and often the entity head is left with no choice but to act on these instructions in fear of their lives or jobs (R16). In some instances, when the entity head does not want to execute the instructions from the political head, the political head can execute the instruction himself/herself because the law allows for this. As a result, often the accounting officer of an entity can only watch as the inefficiencies happen because they have been overridden by the Minister.

**Accounting authority**

The PFMA and MFMA places the governance responsibility on the accounting officer[11] to oversee public procurement, however, this was seen by some respondents as unfair because of how their mandate is influenced from the top. At an entity level, the low level staff engage with the accounting authority and look up to them to set an example when it comes to governance. The problem entities encounter is that the accounting authority is often tasked with creating the procurement policies of which they are the very people who are the, main perpetrators of inefficiencies in the procurement cycle (R2:R9).

[11] Accounting officer in terms of the PFMA and MFMA is the CEO.

> *'The challenge that I have noticed with the accounting officers is that their position is very politically influenced. Even with good intentions you find that it is just out of control. I have seen that more than I would like to, you find that as the accounting officer is just almost there as the face, there is the whole body behind that is controlling and running the issues…* because I know the PFMA puts the responsibility on the accounting officer but like I said in most cases you find that the accounting officer is controlled by the powers behind.*' (R2);*

The consideration's made when appointing the board of directors in the public entities is also a contributing factor to the inefficiencies public procurement. There have been instances when individuals who are not aware of governance principles have had been appointed. Such appointments have an immediate effect of diluting the members within the board who respect the law and the governance principles (R9).

There are some public entities in which there are accounting officers who are good at their work, however they have been found to have a mentality of how do I work to make things look right.

As a result, the accounting officer who is believed to be performing is only seen to be good because he/she is good at hiding the inefficiencies and not necessarily eliminating or acting against it (R2).

> *'In terms of the ones that I have dealt with, they appeared to not be tolerant of such expenditures when you looking at irregular and fruitless but their non-tolerance is not to the extent that this can't occur: it is more to say how we regularise it. It is not to say let's avoid it; it's more to say how do we make it look right? So I think that has been the attitude the wanting to make it look right. It's not because you want to comply… In the entities on the municipal side there it is bad, it is even worse, because we are talking about greater political influence' (R2);*

Even without the political influence, it has been seen that the accounting authority struggles with accountability. Accountability is an important element which has been included in the constitution as one of the pillars of good public procurement. Accountability needs to be present in the governing structures, procurement managers need to be accountable for their actions and where they fail to account, the responsibility to account must be elevated to the accounting officers, then the Minister and the MEC and, ultimately, the political party under administration (R4).

For example:

*'So accountability that falls away sometimes, you would hear people say but it was not me that did this it was one of the employees, one of the people on the ground and that were you say yes but you were supposed to oversee that all processes are followed, you can't just say things are going right without monitoring and check on them' (R1);*

**Executives and procurement officials**

Several respondents emphasised how the public entities have people with the skills necessary to achieve efficiency in public procurement but because of the influence from the top, there are often constraints on executives and managers. The influence has been found to result in the executive structures of public entities not taking ownership on how the money is being spent. This influence contributes to the negative attitude from the executives, where they end up saying, we do not care if there are any inefficiencies because it is not of our own doing (R1).

*'There is too much power vested in executives to improve policies, change policies to suit themselves and they actually the same people who are perpetrators of what is called irregular expenditure' (R9);*

*'We have got people that know how to do their jobs, there are people I go and tell how to run their governance and tell me we already doing that. SOEs got the skills but it is that Top down that doesn't always work efficiently' (R1);*

It is always important to assess the tone set at the top when one considers the inefficiencies which happen in public procurement before the blame can be directed to lower level managers and staff. This is because the lower level employees could be getting instructions from the level above and their duties can always be overridden by senior staff. South Africa has a growing problem of unemployment and job security is becoming important for the majority of the working class. This provides an opportunity for the most senior staff to give instructions to the low level staff; out of the fear of losing a job or a promotion the instruction will be executed, even when it is not in terms of the procurement regulations or policies.

*'You could be sitting in your desk, doing your job and your boss comes and says this is the supplier we giving the job to' (R4);*

Political connections play a big role in the inefficiencies in the procurement processes, because the perpetrators often have political protection, even when they are found to have done wrong (R6). The civil servants who are protected stay in their positions for a long time and are the ones who are considered for promotions into senior positions which affords them more power to override junior staff. The extent of funds which are then lost as a result of inefficiencies is increased and the cycle of non-compliance continues which can explain why the irregular expenditures are increasing on a year-on-year basis.

Even though all participants agree that the tone being set at the top contributes to the inefficiencies in public procurement, it was noted that the extent this has on the causes remains unknown (R4).

The political environment has an impact on the procurement systems in public entities. The negative impact on the procurement systems, ultimately, leads to inefficiencies.

## 4.2 The impact on procurement systems

Several participants highlighted that a poor tone being set at the top has an impact on the operating effectiveness of systems of internal controls, consequence management, competence, and planning and performance indicators. Participants felt that an efficient public procurement process is possible when the public is actively holding civil servants to account as this often can have a positive effect on the systems.

Key elements of accountability discussed by the respondents included (1) changes to internal systems (Section4.2.1), consequence management (Section4.2.2.), competency (4.2.3), planning (4.2.4) and proactive society (4.2.5).

### 4.2.1 System of internal controls

This section will analyse the causes of the inefficiencies in public procurement by categorising the challenges, using the COSO internal control framework.

**Poor internal control oversight**

A system of internal control is important for any organisation in the public or private sector, an effective internal control environment can prevent, detect and correct fraud and error (R1). Where the tone at the top is poor, this might impact the control environment because executives and the accounting authority are responsible for ensuring an effective environment:

> *'As a very high level the governance frameworks are very inadequate meaning the way in which they are designed - the designs don't support good governance. Some of the public entities…there is definitely no governance at all. Some of the public entities you find there are governance frameworks but you found they are just not followed' (R9);*

The control design is often seen to be poor in public entities, and pervades the whole organisation because, even if the controls are implemented, they do not work effectively. There is also a complete disregard of controls by the governing bodies as required by King IV. King IV places the responsibility of ensuring and enabling an effective control environment on the governing body of the entity. The governing body can delegate this duty to an independent audit committee and an internal audit and internal forensic examiner must set up by the board:

> *I think it is also undermining governing structures as well because any entities there should be some governing structures like internal audit, audit committee and boards. And those are the main focus areas as an internal auditor there is no ways that I do not look at the 3 things so that I can provide management with insight that this schedule is complete and accurate. If the audit committee itself comprises of people who are corrupt because these days you find audit committee members that are corrupt. This is a chain' (R16);*

The governing body should be independent of management and should exercise oversight at the development and performance of internal controls. In the public sector it appears that the board of directors are not independent in executing their duties, particularly the audit committee (R16).

> *'In terms of the control environment, what you have is that senior officials always override controls, the controls can be so good on paper all policies documents approved on time but they over abuse the clauses that allow for senior official to override '(R3);*

When the audit committee is not independent as required by the COSO framework and King IV it becomes difficult for them to establish and exercise their oversight responsibility in the most efficient and effective manner to enable the entity to achieve its procurement objectives. When effective oversight is lacking, senior officials begin to override controls and this undermines the control environment and restricts the ability of the entity to meet its objectives.

The audit committee is required to have the expertise to exercise the oversight responsibility. In the public entities it has been suggested that the audit committee members do not have the skills of industry knowledge required and this contributes to inefficiencies as the members fail to give a strategic direction (R7).

Often there is an internal audit in the governing structures but because the audit committee has oversight of the internal audit, many inefficiencies are not prioritized. In terms of King IV, internal audit is important to corporate governance as it contributes to effective risk management and control processes. In the public entities it has been noted that the mandate of the internal audit is influenced which reduced the independence of the function and limits the benefit which should have come from having effective internal audit (R16).

Even though the governing body can delegate to the audit committee and the internal audit, there is still a responsibility to the body to monitor and manage controls. Public entities fail to establish responsibility and accountability of the board and management for the execution of the procurement policies and procedures (R1).

Where the accounting authority has failed to execute oversight responsibility, as required by the PFMA and MFMA, they end up shifting the blame to the lower level staff when asked to account for the inefficiencies (R1). This indicates a poor tone that the accounting authority is creating from the top and their attitude towards governance which contributes to the inefficiencies because the accountability is lacking.

**Inadequate internal controls**

There are inadequate controls in the public entities especially around the procurement cycle and often this result in the risk of inefficient procurement practices not being mitigated. With some of the public entities there are no controls at all or the controls are there but are not functioning or they are not achieving the desired objective (R5; R7; R9).

The problem which results from the inadequate controls is that, in most cases, the detection of irregular and fruitless and wasteful expenditure is by chance. This makes it almost impossible to prevent it (R9). For example, one interviewee explained that, in many instances, ‘you find that if someone didn’t complain that irregular or fruitless and wasteful [expenditure occurred], [this] would not have come to the attention of the governing bodies’ (R9). Similarly,

> *‘Something must be done by an institution even if it is something done internally. To ensure there is segregation of duties, if one person does this the other does that, so that there is no undue influence in terms of awarding. Because you find that the same person who is drafting the specs is the same person who is responsible for the award because these people seat in all these committees they have influence’ (R2);*

An important control activity of any control environment is the segregation of duties to mitigate the risk of fraud and management override of controls as discussed in section 4.1. When there is poor segregation of duties in the procurement function, this provides an opportunity for theft and undue influence on the controls.

> *'In terms of the control environment, what you have is that senior officials always override controls, the controls can be so good on paper all policies documents approved on time but they over abuse the clauses that allow for senior official to override '(R3);*

**<u>Poor implementation of internal controls</u>**

It has been identified that some of the public entities have good controls on paper but still experience inefficiencies in public procurement as a result of poor implementation of those controls. There is a decoupling of the controls in the public sector arising from there being good controls on the paper coupled with a lack of technical application of controls. In theory, the system appears fine but it is hindered by the absence of clearly defined targets and measurement standards. This means that, despite controls appearing to be in place, the accounting infrastructure cannot be mobilised to (a) define substandard performance discussed below (b) hold management accountable according to defined benchmarks discussed in section 4.2.1and (c) follow up on corrective action discussed in section 4.2.3.

Each of the public entities is created because of a mandate which is mostly associated with the effective and efficient provision of a public service in order to encourage economic development and economic growth (R1). For example:

> *'For the entity it works both ways, organisations operate within organisational structures and they would have KIPs, when there are irregular expenditure entities end up cutting the budget from one activity to another, and one can end up not meeting your KIPs, so it affects the entity itself on that front when you are not delivering on your mandate' (R5);*

In South Africa it has been noted that there is a lack of performance benchmarks for procurement and, as a result, the public entities end up procuring goods and services without achieving value for money (R1; R5; R6);

> *'The reason that happens is we don't have any targets, we don't have things to measure performance with, without measuring something, and you are never going to fail. It is like going through a math class and writing but there is no pass mark' (R1);*

It is the responsibility of the governing body to ensure that there are performance benchmarks. In the public entities where the board is not executing their duties as required by King IV, it is often found that there are poor performance indicators which ultimately results in inefficiencies in procurement (R2).

Key performance indicators can be used as a consequence management tool discussed in section 4.2.2 and can force the board to execute their monitoring and implementation duties. Public entities have to create KIPs for the procurement officials and seniors which will act as a motivating tool for personal achievements which will result in efficiency in the whole procurement process.

Poor implementation can be seen to start from the government level where the policies made are not implemented at the department and the municipal level and filters down to the public entities. For example, "when you read many of the documents that are created by the National treasury they are sound however the implementation at an entity level is lacking" (R7). Similarly,

> *'Lack of proper internal controls, so execution of controls, a lot of time we have controls in public sector, if you think about the governance in public sector clients and government entities, they are there, they have policies, they have procedures but the execution thereof is not necessarily there. So the implementation of the policies is not proper and monitoring actual adherence to the policies is not there' (R8);*

The poor implementation of policies and controls can be seen as a result of a lack of political will to change from all the levels of procurement management even up to the governing body. Where individual managers have a weak commitment to corporate governance (Section 4.1) it becomes difficult to execute controls at the procurement level. The result is that, irrespective of control design, inefficiency in the procurement process occurs.

The problem of poor implementation of policies can also be associated with the public entities complicating their own procurement policies in such a way that these become difficult to follow. For example, a respondent emphasises this point:

> *'Interestingly for me because schedule 2s have less rules to comply with they make their own internal rules so incredible difficult. So onerous that they almost never comply with their own rules, because their own rules are so difficult they tend to have a lot of irregular expenditure. And I tell them don't make your own rules so complicated, make your rules as easy as possible' (R1);*

The impact of complicating the procurement policies is that the entity ends up not having enough expertise to be able to interpret their own internal policies. Where an entity does not have enough expertise, this often results in inefficiencies as discussed further in section 4.2.3.

**Poor monitoring of internal controls**

The monitoring of the control environment in the procurement process appears to be another area of concern. Monitoring of controls is closely aligned with how accountable and transparent the accounting authority of the public entity is when it comes to procurement spending (R1).

> *'So accountability that falls away sometimes, you would hear people say "but it was not me that did this it was one of the employees, one of the people on the ground" and that is where you say: "yes but you were supposed to oversee that all processes are followed". You can't just say things are going right without monitoring and check on them' (R1);*

The monitoring in the procurement process is important because it helps the entity assess whether it is meeting its performance goals. The main reason for the lack of monitoring is that public entities do not have clear procurement targets; as a result, it becomes impossible to measure the outcomes:

> *'The reason (inefficiencies happen) is **we don't have any targets**: **we don't have things to measure performance with.** Without measuring something, you are never going to fail. It is like going through a math class and writing but there is no pass mark' (R1)*

The governing body is required to assume the responsibility of setting the strategic direction of an organisation in the way which will help the organisation achieve its strategic goals. When the governing body fails to create targets for the public entity, such an entity will lose the core purpose of its existence making it difficult for the controls to be monitored (R1). As noted in King IV there is a need for a holistic view on governance which identifies that the strategic environment is primary to an understanding of risks faced by an organisation and the controls necessary to mitigate such risks. When the strategic environment is weak, as evident in the public entities, the control environment becomes meaning (R1; R2).

The system of monitoring from the beginning of the procurement process is inadequate or non-existent, public entities do not have senior people who monitor the process from needs assessment, contract management, quality controls and timely payments with a holistic view of procurement.

When the procurement process is not monitored there is room for increased level of inefficiencies that goes undetected, uncorrected and cannot be prevented (R1; R3; R6).

The smaller entities rely on the recommendations provided by the AGSA. The AGSA focuses its work on verifying whether the entity has complied with the supply chain policies and the PFMA and MFMA. The weaknesses are that the AGSA sometimes misses most of the problems that happen in procurement because of their narrow focus on statutory audits (R1). Even when the AGSA picks up some irregularities, all they can do is point them out to management and issue the findings but often nothing is done about such findings.

> *'The AGSA sometimes misses the irregular, fruitless and wasteful expenditure… they don't check for an example, if you building a building that meets safety requirement because that is the law that applies and you have spent money on it that's irregular. They focus very much on the PFMA and they don't focus on other regulations that might apply' (R1);*

There is a need for more accountability and transparency in the control environment around the procurement process, and it can be achieved if the tone set from the top down is right. In terms of the COSO framework, the organisation must hold individuals accountable for their internal control responsibilities. The focus needs to be on how performance is evaluated and individuals are rewarded or disciplined.

### 4.2.2 Consequence management

The entity must have performance management controls which should relate to the entities objectives, strategies, plans, targets, incentive and reward and information feedback structures. Everyone within the organisation must be rewarded and reprimanded for failure to meet the above indicators as a mechanism of consequence management.

In the public entities where the department, board of directors and management do not demonstrate integrity and ethical values, it has been noted that consequence management turns to also be poor. The continuing trend of poor consequence management to the perpetrators of irregular or fruitless and wasteful expenditure is one of the contributing factors to the inefficiencies in the procurement cycle (R1; R2; R3; R4; R5; R6; R8; R9).

The problem in the procurement process is that most of the accounting authorities do not want to take accountability as required by the procurement policies and the PFMA/MFMA when objectives and targets are not met. When the top level of authority does not apply any consequence management there is risk that the lower level employees also adopt an attitude of why should I care to do it right? (R1). This results in more inefficiency.

The problem is that there is a lack of incentives to resist corrupt practices especially because no one gets reprimanded for doing wrong and, equally, there are no rewards for efficiencies in the procurement cycle. For example:

> *'This has to do with the ethical leadership as well, if you have your responsibility as the Chief Risk Officer in the organization you need to run workshops to identify the risks and 3 of the risks will be around these expenditures* ***(irregular, fruitless and wasteful and unauthorised expenditure****).*
>
> *Make sure you avoid these things and how you avoid this is by training people vetting people because the other issue for us to end up with irregular expenditure it's also greed sometimes it's done intentional, you know the exchange of brown envelopes so I don't really think someone should be incentivised for doing their work because you are already paid.' (R16);*

As indicated by the above, public officials are already receiving a salary which is a reward for the service they provide to the public entities, therefore there is no need for them to be rewarded for executing a task they were employed to execute. There is, however, a need to reprimand those officials who have failed to execute their duties as mandated by the entity.

The legislation in South Africa has provisions about when how individuals must be reprimanded for financial misconduct but cases of these provisions being enforced by public entity are few and far between.

> *'There haven't been, as far as I know, any cases on financial misconduct, when we talk about these things we need to understand financial misconduct because that is the umbrella for irregular expenditure. If you are found guilty of financial misconduct you can go to jail, I don't know of anyone in the state entities who has ever gone to jail' (R1);*
>
> *'Consequence management, I think whether you incur irregular expenditure or you don't nothing is going to happen to you, yes you will be reported, yay a ya so what. So there is no need for me to do it right, so there is that attitude you can do it right but we all in the same position. It is not like there will be a reward for doing it right or a punishment for doing it wrong' (R2);*

There is also an attitude of “I can always move to another public entity when I have been found to have done something not in terms of legislations” (R9).

Such an attitude is a result of the political protections that some of the perpetrators of irregular and fruitless and wasteful enjoy, when they have conducted themselves in a manner which does not enable the entity to achieve its procurement targets. Political interference again has a strong impact on the consequence management and this can ultimately lead to inefficiencies in public procurement.

> *‘That’s the problem because when they are found guilty normally they are moved to other organisations’ (R1)*

> ‘And something that we are not doing right in the public sector is consequence management. People that do not adhere to the laws or quality governance frameworks they need to be brought to book because if they are not brought to book they will join another entity next door’ (R9).

There is also a problem of transparency in the procurement process, which does not appear to follow policies and legislations which is important to facilitate information feedback. The accounting authorities do not ensure that all the cases of irregular and fruitless and wasteful expenditure are investigated and actions are taken. The reason for this resistance to be transparency is sometimes because board members are the perpetrators. The whistleblowing processes in the public entities does not appear to be functioning appropriately as whistle blowers sometimes have their lives threatened, which results in reduced transparency (R16). A number of senior officials in procurement often do not appreciate that transparency is one of the key objectives of procurement as stated in the constitution (R1). Failure to acknowledge the importance of transparency decreases procurement information availability which creates an opportunity for fraud related inefficiencies.

> *‘Most of it is because there is no consequence management they try to say we will investigate but the investigations take forever and by the time the investigation is done you find the person is no longer there’ (R2)*

> ‘And there are stricter rules but it boils down to if today I award an irregular tender and I disclose it as such, the worse that can happen is to disclose and some entities do investigate but investigations take years. There are no consequences’ (R4)

It has also been evident that in an event which is investigated, nothing comes out of it and as a result perpetrators are never reprimanded for their actions. This is mostly because most of the investigations are done in house and the lack of objectivity and senior management often influence the outcomes of the process and information feedback is not effective. Again the political influence and override control processes by senior management often result in investigations which take forever to finalise and eventually many of them are never completed. In those investigations completed, there are no actions taken (R2, R4, and R16).

> ‘There was an issue with compliance when it comes to one of the tenders and as the head of internal audits it is your responsibility to make them aware of the noncompliance and tell them we will have a problem when it comes to the external auditors. In that meeting they took note of what she was saying and after that meeting she was called by the CEO to say do you know who you are dealing with here? Then the CEO said if I were you I would stay away from this tender because I know you have a very young family you don’t want these people to start threatening your family members’ (R16).

A number of risk management members are frustrated and discouraged by the board or executives to investigate issues relating to procurement (R16). In some circumstances it even leads to personal threats being made (R16). This further highlights the negative impact a poor tone set at the top has on efficient governance of public procurement funds.

### 4.2.3 Incompetence[12] and lack of understanding

Public procurement is a function which required understanding and competency in procurement laws and policies. There is a problem where the key positions, like chief procurement officers[13], are held by individuals who do not have the necessary skills and competence (R1; R3) as this has an impact on the efficient execution of procurement duties. For example,

> *‘Fruitless and wasteful…we have got poorly [trained people]; lack of skills in the public sector in key positions; a lot of incompetence in key positions which causes then public entities to rely a lot on consultants’ (R3).*

The reliance on consultants by the public sector has the benefit of increased skills and insight into the procurement process, according to a respondent who noted that the private sector needs to assist the public sector in creating capacity (R9). The use of consultants can lead to inefficiencies in the procurement process in their duties are duplicate: the consultants does the job which is part of the job description of an employee employed by the entities and there is unnecessary expenditure

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[12] Incompetency is a strong word however it was used in this report because the participants kept using it
[13] Chief procurement officer is an official responsible for the supply chain management of the entity

(R3). When there is lack of proactive direction from the board of directors and objectives are not clearly defined, there is a risk that public funds are spent in vain.

> *'Need to ask the right questions on what we spending money on but again are we attracting the right skills, especially on the SOEs? When you sit in the committees I promise you it's unpleasant you don't know how people end up in these committees they don't ask questions they just accept whatever explanation management gives them they don't challenge, they don't even talk in the meetings. Government must say can we get the boards and committees to have competencies and skills (R7);*

This further reinforces the importance of the correct tone being set at the top by the board and senior executives as it clearly impacts the efficient in the procurement cycle (see Section 4.1). The governing bodies in most public entities lack the professional scepticism which is required for effective management of the entity in ensuring that procurement objectives are met. An incompetent board will result in lack of direction in the procurement functions as the outcomes and strategic instructions might not drive efficiency.

The lack of understanding also has an impact on the control environment because when top management who must ensure an efficient control environment, are incompetent, there is an increased chance that the controls will not be designed appropriately.

> *'Lack of education and training, SCM regulations are technical in nature and thus require a strong team with adequate understanding of these regulations. In our experience major deficiencies in SCM Units were due to the lack of basic understanding of legislation' (R6);*

The lack of competence within the public sector results in reliance on consultants which increases the cost of achieving procurement objectives and can sometimes increase the duplication of duties.

It has been noted that sometimes it is not about incompetence, sometimes it is a matter of attitude, where officials know what they are supposed to do but choose not. If the entity has poor controls, poor consequence management because of the tone being set by the governing body it is easy for the procurement staff to disregard policies and regulations.

### 4.2.4 Poor planning

The majority of irregular expenditure occurs because of emergency expenditure where the entities argue the goods or services need to be procured now and as a result the whole procurement process is not followed to avoid delays (R4). In most situations the entity knew that they would need to procure particular good or service or a contract for a services comes to an end, in such situations the deviation from procurement policies and regulation under the name of emergency is a clear indication of poor planning (R1; R2; R7).

> *'It was actually poor planning, so I think they just need to strict monitoring by whoever is senior, so you SCM officials if they can be stricter with the buyers or whoever is monitoring the process because sometimes people are complacent' (R2);*

The tone at the top is again very important as it has been identified that when the accounting authority fails to plan for the procurement of goods and services and then provide clear instructions to the lower level employees there is an increase in inefficiencies. Planning involves a process in which the governing body must set clearly defined objectives and a mind map of how the entity as a whole will achieve such objectives. Planning is important as it provides structure within an organisation: when there is no structure and direction there is an increase in emergency last-minute procurement increases and the entity ends up not getting value for money.

## 4.3 Impact of poor systems

The poor tone being set at the top as discussed in section 4.1 has a negative impact on the systems in the public entities (section 4.2). Together poor tone at the top and lack of effective and efficient systems perpetuate a culture of non-compliance and corruption in public procurement.

### 4.3.1 Corruption

There is corruption in the procurement process in the public entities in South Africa which results in the inefficiencies (R2). It is very easy to manipulate the procurement process from the top because of the political influence and political protection that most of the board and executive members enjoy (R1; R3; R5; R6; R7).

'There is an element of fraud and top management putting pressure on the junior employees to engage in irregular expenditure more so fruitless but I wouldn't know the extent of that element as a contributing favour' (R5)

Fraud exists where there is an incentive/pressure to commit fraud, an opportunity and a rationale for the act of corruption (ISA 240).

'Some board members and senior management have significant interest (personal, financial and/or political) in some contracts – directly or indirectly' (R6);

Participants all agreed that the incentive for irregular, fruitless and wasteful expenditure is corruption. The political pressure put on the board and the executive to executive some transactions in favour of particular individuals as discussed in Section 4.1 contributes to the corruption.

The board in public entities often do not give proper direction of the strategic objectives for procurement and, as a result there is an added pressure on lower level managers and staff to meet objectives at short notice. Poor planning as discussed in 4.2.4 which results in emergency expenditure also increases the pressure to execute procurement transactions which results in corruption and inefficiencies (R7).

Public officials often have the pressure to live a particular lifestyle, most often procurement individuals in the public entities are living beyond their means, which indicates that there are rewards, to misappropriate procurement funds for personal benefits.

As discussed in 4.2.1 there is a deficiency in the system of internal controls in the procurement cycle of South African public entities. Where there is no system in internal controls and the procurement officials would be aware of this because they deal with the system regularly, they will begin to identify opportunities to award fraudulent contracts.

'Because we are all subject to the same failures, we all like money I guess, if you are presented with an opportunity you have a very strong moral ground but if morality is not forced from the top down (proper governance). It makes it difficult for there to be a culture of compliance that filters down to employees' (R1);

In some entities there is a system of internal controls however such controls are not being implemented effectively, so gaps in internal controls provide an opportunity for corruption. Poor monitoring by the board and the executives as a result of the lack of skills and expertise also contributes to the opportunities for corruption in the procurement cycle.

'There is corruption, especially if you are in a very high position, you can very easily manipulate the process in a way that makes the process go to who you think it should go to. Especially in the very technical stuff because procurement isn't as simple as it sometimes gets put out to be' (R1);

Most of the time the senior executives deliberately override controls in order to do certain favours to political figures or for personal gain.

'It is also to say the people who work in the system they know it so well that they know it so well now that they know how to circumvent' (R4);

In the public entities where there are acquisitions of technical specialised high value good or services a lack of competence and understanding of the procurement process (discussed in 4.2.3) creates an opportunity people to engage on corrupt activities (R1). It comes back to the tone that is set by the political party at the top as that tone filters down to the entity level.

'One has to look at the political space that we operate in because there is that attitude that if I can get R1 for myself I'll get it because the next person is getting R5. What is R1 compared to R5. Unfortunately, we have created that culture and that's where everything starts' (R4);

In the public sector where the ethical values are not forced from the top, the culture of compliance is difficult to achieve at all levels of the public sector and that culture often results, in corruption becoming a norm (R6).

Some public officials have a rationale for corruption when they are in high position where they have influence over the tendering process by making sure that the tenders are given to family members.

‘With irregular the incentives are more of a personal gain whether directly or indirectly so people in key positions in the public sector have relatives or friends who have companies, they would want personal gains either directly by getting a kickback or a reward for giving business or indirectly have my wife, son or father owns the company and I make sure to influence the decision for that contract, indirectly I will gain’ (R7);

The lack of consequence management in all levels in the public sector provides a basis for the procurement officials to engage in corrupt activities because of the attitude that nothing will happen if the transgressions are detected.

Even though participants all agree that there is definitely corruption in public procurement, most of them raised the point that it is often very difficult to prove that there is corruption because of the sophistication of the corruption. There is often a need for a forensic investigation to prove that there is in fact corruption and the public entities are often very resistant to have forensic investigation because the perpetrators are often top management (R2; R4; R5).

By the time a forensic report is concluded the individuals implicated have retired or moved to other entities as discussed in section 4.2.2 above.

### 4.3.2 Culture of non-compliance

There is a culture of non-compliance which has been created in South African politics (R1; R4) one reason for this is the lack of proactive strategies as discussed in Section 4.2.6. Public entities in South Africa operate in a politically influenced environment where most of the decisions made are politically motivated. This has a resulted in an increase in the culture of non-compliance in the public entities as well.

> *‘One has to look at the political space that we operate in because there is that attitude that if I can get R1 for myself I’ll get it because the next person is getting R5. What is R1 compared to R5. Unfortunately, we have created that culture and that’s where everything starts’ (R4);*

If the culture of compliance is not forced from the political party level and the department level, it makes it difficult for the governing bodies and the executive of the public entities to create a culture of compliance within the structures of the public entities because influence comes mainly from the top down (R1).

The organisational culture is affected negatively by political influence that is coming from the top and this ultimately creates a non-ending cycle of inefficiencies in procurement.

South Africa as a country has a culture of non-compliance, which makes it difficult for anyone who is concerned to stand against non-compliance with regulations and policies because the wrong behaviour has become so common that it is almost accepted by society (R1; R7).

This culture is further encouraged by the lack of controls (as discussed in section 4.2.1) in the procurement cycle and, as a result if a person does not comply, there is no system to prevent, detect or correct the non-compliance.

> *'Due to lack of consequence management and politics, a lot of the perpetrators are protected politically… This encourages a culture where non-compliance is the norm' (R6);*

> *'so if we can get the system for more consequence for breaking the law, rules you will see that culture will start to change' (R1);*

The perpetrators of the non-compliance which results in inefficiencies are at times politically protected from losing their jobs or facing legal charges and this political protection is also a contributing factor to the continued increase in the culture of compliance.

### 4.4 Outcomes of poor systems

The section is divided between the outcomes for: the society in a form of service delivery, public entities running costs and legitimacy of state organs.

#### 4.4.1 Service delivery

The purpose of public procurement should be service delivery and achieving the best value for money spent (R6). The problem some of the procurement officers face is which one of these objectives should take priority service delivery is (immediately) needed and there is no time to achieve value for money (R3).

Procurement officers often argue that a service was delivered, even though the procurement process was not followed. This argument is valid in an emergency (R2) but in usual situations where the entity could have reasonable known about the expenditure and had time to plan for it, the whole procurement process should be complied with. The board and executives must ensure that they enforce the culture of compliance because following the laws imperative:

> *'A lot of people that I talk to say what is the point of being upset about irregular expenditure because it doesn't mean losing money, sometimes it's actually a good*

> *deal but following the law is actually a sustainable option. There is a rule for reason maybe organizations buy certain goods and services because of their strategy' (R1);*

In cases where there has been irregular expenditure it is found that the quality of the goods or a service provided is poor and there are continuous repairs by the same supplier (R9). That clearly highlights the importance of following the laws a sustainable option to avoid subsequent repair costs:

> *'Immediately when money exchanges hand it means that the quality of most service will not be as required or that service is completely not offered. The bigger the number of people included in the transaction, the more the quality gets affected, schools, building of roads is a direct impact of service' (R9);*

The quality of the goods and services provided by the public entities are affected because of the lack of knowledge and skills in the public sector. The continued increase in inefficiencies is reducing the human capital in the public sector and this has increases negative effects on the procurement process.

### 4.4.2 Cost of running the public service

There are Billions that are reported as irregular and wasteful expenditure in the public sector and most of it occurs from the procurement process. The poor system in public procurement which is caused by political influence increases the cost of operating the public entities:

> *'The bank is going to say you do not follow proper governance rules, I will give you money but I will charge high interest see that cannot happen with the SOE, they cannot be take over' (R1);*

The cost of capital in the public sector is increased for the public entities which are known to be inefficient in their processes. The increased cost of obtaining capital would affect the sustainability of the entity (R1). Inefficiencies are a problem when they are influenced at high level as this encourages an unending cycle of public funds being lost. Public funds end up diverted from the services to bailing out the public entities when they cannot financially sustain themselves (R1; R9).

The people who occupy high positions in the public sector are often undeserving of such positions (R3), because of the political appointments. Having undeserving personnel in important positions, such as the procurement, results in unnecessary costs being incurred because of incompetence;

> *'If there aren't any irregular and fruitless expenditure being incurred, national treasury wouldn't have to pay out unnecessary amounts to the public entities, because they would be able to function on their own, the amounts that national treasury pay is governed by the law, the Constitution so if all the amounts paid in terms of the constitution were paid to ensure that for an example road infrastructure is of the right quality' (R5);*

When the public sector starts to spend the money of the taxpayers wisely, following the legislations and procurement policies there will be a reduction in the money being spent on bail outs (R5). The results of efficiency will be felt by the whole country in the form of economic growth and development.

### 4.4.3 Legitimacy

The continuing inefficiencies evident in the public entities are beginning to create doubts about the legitimacy of the public entities and the whole government structure. Respondents highlighted how a political change in administration is important in order to gain efficiencies in public procurement (R2). This is an indication that there is a reduced level of public confidence in the current government which is due to the low quality of the service delivery that the citizens are receiving because of inefficient use of public funds.

> *'With the MFMA it gets worse* ***(Irregular, fruitless and wasteful and unauthorised expenditure)*** *there because of the influence but with the political change that we have been seeing there has been improvement because what we seeing now, I don't know whether fortunately or unfortunately with the political change there has been a lot of mention in the audit outcomes to say maybe we need to change the administration.' (R3)*

The legitimacy of government is dependent mainly on quality of the outcomes. With the public entities linked to a department and receiving instructions from the department, when the quality of the goods or service that the public entity provides is of an inferior quality, it undermines the department as well (R9).

> *'The thing that affects that perception* ***(municipalities have experience more inefficiencies than departments)*** *in that local government is closer to the people, they deliver on the ground. If the service is not satisfactory it is easy for the people to tell and start asking questions' (R2);*

It is indicated by the recent change in local government administration in Metros like Johannesburg and Pretoria that citizens are beginning to ask questions and demanding quality service delivery (R4). Political parties have been using their authority to reduce the inefficiencies in public entities under their administration to advance their political legitimacy, at the expense of other political parties (R2).

The reduction in quality service delivery which creates legitimacy concerns for the government might be associated with the loss of skills in the public sector which suggests that the workforce is losing trust in the sector which further impacts government's legitimacy (R16).

## Chapter 5: Conclusion

This chapter summarises the key findings from the detailed interviews. 5.1 provides a summary of the findings. Section 5.2 outlines the implications of the study. Section 5.3 discusses the theoretical, practical and empirical contributions of the study and section 5.4 highlights the inherent limitations in the study and suggests areas for future research.

## 5.1 Summary

### 5.1.1Public sector governance structures

**Independence and ethical leadership**

King IV provides principles which organisations should apply for good corporate governance. These stress the importance of the correct tone being set at the top by the governing body. The study has shown that it is important that the tone of ethical and effective governance is set at the top because it will filter down to the rest of the organisation (R2; R3; R4; R8; R9). There are increasing concerns about the independence of the governing body especially the audit committee members, as it has been highlighted that some of the members are affected by outside influences (R16).

The findings have indicated that the governing bodies and senior management have significant political, financial and personal interests in the procurement contracts and, as a result they lack the integrity required for the efficient running of public procurement (R6; R16). When the governing body is corrupt the whole procurement system is undermined which leads to an unending cycle of inefficiencies: this is evident in the AGSA annual reports on public entities (AGSA 2017).

As the study has indicated, there is a lack of understanding of the PFMA, MFMA and preferential procurement policies which contributes to the inefficiencies in public procurement (Discussed in section 4.2.3). It is also clear from the findings that the board of the public entities need to be educated and trained if the inefficiencies currently experienced are to be reduced (R9).

**Effective leadership**

King IV principle 4 identifies that the governing body should appreciate the organisation's core purpose, its risks, opportunities, strategy, performance and sustainable development as key elements of value creation. The public entities in South Africa are created for a mandate aligned with that of the department it series. The public entities in South Africa sometimes do not obey their own mandate like: "We have seen the minister tell the DG (Director General) to go buy sheep, where it is not even the Ministry of Agriculture, the Minister actually instructs the DG to break the law. This happens more than you would imagine" (R1). This indicates that, because of the political influence in the public entities, the core purpose of the entity is not appreciated by the departments and governing bodies and this contributes to inefficiencies.

The weakening performance of public entities can be associated with the governing bodies failures to take effective responsibility for steering and setting the strategic targets for the entity as required by King IV. The AGSA reports highlighted that SABC and Sapo did not have clearly defined performance indicators and targets and both these entities received unqualified audit reports. This enforces the findings that the governing bodies in the public entities lack the skills to set the strategic direction of the entity and this has a negative impact on the control environment and the ability to achieve defined objectives (R1; R5; R7).

The above analyses indicate that the conventional factors which King IV recommends are not being followed by the public entities.

King IV does not identify that, in addition to the conventional factors of good corporate governance, political influence is very important in understanding the tone at the top. In addition to the general ethics we expect the public entities to apply in terms of King IV principles and practices, the study identifies a need to define political pressure and to develop safeguards to mitigate threats to good governance coming from political pressure.

It is sometimes unfair to place the blame on the governing bodies of the public entities because more often than not their jobs are politically influenced and they are part of the governing body as a face controlled by prominent politicians (R2). Often you find that even when the governing body has good intentions about efficiency in procurement most of the decisions are outside of their control because of pressure from politicians to act in favour of certain individuals or entities (R2). From the department there is sometimes a drive to satisfy a certain political agenda which often undermines the planning and the control environment in the entity as the processes will be circumvented to meet that agenda (R3; R4; R8).

There is a need for a separation between the political leadership and the function of the state which includes the public entities. The political interference negatively affects the function of the public entities as it results in expenditures which benefit only a few members of the public. This emphasises the importance of closing the flow of instructions from the politicians into the functions of the governing bodies.

### 5.1.2 Systems

The fraud risk triangle is well documented in ISA 240, King IV and the COSO framework. It includes incentives, opportunities and rationale as the determinants of fraud (R14). As discussed in Section 4.3.2, one of the contributing factors to the inefficiencies in public procurement is the incentives, opportunities and rationale created by poor systems, lack of consequence management, poor tone at the top and lack of understating of processes and procurement regulations. There is a need to understand how the above factors contribute to the corruption in the procurement cycle in the public entities.

The fraud risk triangle as documented in ISA 240 fails to identify that fraud occurs in a much broader accountability system. As a result of poor planning, poor targets, poor key performance indicators and poor defined outcomes the actual accounting system, as a whole, can facilitate fraud in addition to the opportunities, incentives and rationales per the fraud triangle (R14; R15). The new COSO framework identified that the effects of management override, conflicts of interest, lack of segregation of duties, poor transparency and inefficient board control structures all contribute to dysfunction or irresponsible behaviour (COSO). The irresponsible individuals in the get an opportunity to capture procurement systems and divert these from their intended function resulting in only a few individuals benefiting from the system and not the organisation.

Even though the purpose of this report is not to deal with the current debate about state capture, we might need to consider how the objectives and targets of the public entities are defined to better understand how a state entity gets captured resulting in the capture of the state. It is necessary to understand how political influence on the function of the departments puts pressure on the whole system of service delivery which results in the capture of the entities which fall under the departments affected by political influence.

### 5.2 Implications

**Fraud risk and integrated thinking**

The primary purpose of this study is the acknowledgement that the fraud risk triangle stops at the financial impact level and failing to identify fraud can have an impact at a more integrated level in the organisation and the other 5 capitals.

The financial impact of fraud has been well documented by the Auditor General South Africa in what they refer to as the irregular, fruitless and wasteful and unauthorised expenditure. The financial capital is then affected by overspending and inadequate spending as discussed in section 4.4.2. In the long term the negative effects fraud has on financial capital can translate to the other capitals (ACCA 2013).

Fraud undermines the underlined capacity of the state to create infrastructure development which is the long term effect of financial capital on the manufactured capital. Fraud also reduces investments into research and development which impact intellectual capital. The Social and human capital is also affected by the fraud, as the respondents pointed out that the public sector is losing valuable skills from the people who do not want to associate with the public entities because of the political interference and fraud. Often the environmental issues are deprioritised and the main focus is directed to the financial effects of fraud.

The above provides some analysis of how the fraud risk triangle can provide more in-depth understanding of the inefficiencies in the procurement cycle.

**<u>Fraud risk and Legitimacy of the state</u>**

The problems in the procurement cycle need to be understood, both in terms of the risk they cause in as far as the perception of the state and the risk in terms of service delivery. The findings show that dis-functionality in the procurement process has a big impact on the lives of local communities as it compromises service delivery.

Corruption has become so severe to a point where it is no longer an operating consideration which is what the fraud risk triangle traditionally focuses on. The culture of non-compliance and corruption has become so common that it is now taking a political dimension and compromising the legitimacy of the state. Almost all of the respondents stressed that in addition to the concerns about technical issues like fruitless and irregular expenditures, the public is losing trust in the state and its institutions and this has potential to undermine democracy.

The fraud triangle provides a reasonable basis for identifying and explaining corruption in the public sector context. In addition to this, the findings have identified factors relevant in a South African context which have not been featured in the fraud risk triangle. These are issues like incompetence (Section 4.2.3); the findings are also highlighting that because South Africa is a developing country with a fairly new democracy, there is a shortage of qualified people. Lack of competent personnel is becoming a defining feature which is not explicitly dealt with in the fraud risk triangle.

## 5.3 Contributions

**Theoretical and practical contribution**

This is the first thesis to tackle the issue of breakdown in the procurement process in the public sector. This thesis is a first formal examination of what might be contributing to a breakdown in the procurement process in the public sector in South Africa.

In addition, the conventional fraud risk triangle, the study provides guidance on the function of governance systems in the public sector. There is an enormous amount of research on management control systems in the private sector but, as far as the public sector is concerned, there is very little research.

The research gathers primary evidence, research most done in the public sector terns to focus on what is disclosed in different types of reports. This research is one of the first to engage with public officials and to provide first-hand accounts of what is causing the inefficiencies in the public sector.

**Interpretive contribution**

There is a lack of interpretive research in accounting and corporate governance in general from an African perspective. This study contributes to the critical perspective of the governance codes like King IV and the COSO framework. This study helps in understanding how King IV principles of governance are also equally important in the public sector as with private sector. This study is also indicating the importance of the COSO framework particularly when it states that the board of directors must demonstrate directives and behaviours which are ethical in order to support the function of internal controls.

## 5.3 Limitations and areas for future research

This research does not deal with the impact the inefficiencies have on financial, manufactured, human, intellectual, social and natural capital. The study only identifies in section 5.2 that inefficiencies in public procurement might have an impact on the 6 capitals.

There is a need to develop a framework for how the government can ensure that all the capitals are prioritised, and there is a need to study how government can reprioritise these capitals for the sustainability of the country.

There is a need to understand the capitals which are significantly affected by the inefficiencies which result and there might be a need to quantify the impact for each capital. This area for future research can broaden our understanding of the impact of the inefficiencies further than the financial capital impact that is currently well documented.

The respondents in the study had more experience and exposure to national public entities than municipal and provincial public entities. For this reason, the results predominately reflect challenges in procurement processes of national public entities. There is a need for a more comprehensive study that will consider in detail the procurement process in both national and municipal sectors of government. This is necessary because the government structures in national and municipal entities are essentially different even though the procurement processes are the same.

There is also a need to understand how political influence can be defined and which necessitate a need to generate safeguards for political pressure in the governance of the public entities. The thesis deals to some extent with political influence but it does not deal with this in detail. A more detailed study on political influence in national, provincial and municipal entities is a possible area for future research.

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**Appendix A**

Questions for the methodology adapted from Lala Camerer study on corruption in South Africa.

1. What do you understand irregular, fruitless wasteful and unauthorised expenditure to mean in the procurement process?
2. Can you give examples of irregular, fruitless wasteful and unauthorised expenditure in the procurement processes?
3. What are the causes of irregular, fruitless wasteful and unauthorised expenditure in the procurement processes?
4. Are they any incentives/factors which are likely to contribute to irregular, fruitless wasteful and unauthorised expenditure?
5. Which category/type of public entities experience greater levels of irregular, fruitless wasteful and unauthorised expenditure in the procurement process? Why is this case?
6. What problems, if any, results from irregular, fruitless wasteful and unauthorised expenditure?
7. What are the possible benefits of efficiency in the procurement process of public entities?
8. How should government manage irregular, fruitless wasteful and unauthorised expenditure in the procurement process?