

Chapter 16

A REVIEW OF PROCUREMENT PRACTICES IN THE SOUTH AFRICAN PUBLIC SECTOR

Intaher M Ambe and Johanna A Badenhorst-Weiss

INTRODUCTION

Public procurement is a business process with a political system (Wittig, 2007; Watermayer, 2011). In South Africa, procurement is of particular significance in the public sector and has been used as a policy tool due to the discriminatory and unfair practices of the past (Bolton, 2006). Procurement is central to the government service delivery system, and promotes aims which are, arguably, secondary to the primary aim of procurement such as using procurement to promote social, industrial or environmental policies (Cane, 2004). Prior to 1994, public procurement in South Africa was geared towards large and established contractors. It was difficult for new contractors to participate in government procurement procedures. Nevertheless, public procurement in South Africa has been granted constitutional status and is recognised as a means of addressing past discriminatory policies and practices (Bolton, 2006).

Reforms in public procurement were initiated to promote principles of good governance and introduced a preference system to address socio-economic objectives (Ambe, 2009). The reform process was initiated due to inconsistency in policy application; lack of accountability; lack of supportive structures and fragmented processes. Mathee (2006) noted that a uniformed implementation approach to procurement was required owing to the findings of a report on opportunities for reform processes in the South African government conducted by the joint Country Assessment Review (CPAR) and the World Bank in 2001

(National Treasury [NT] Republic of South Africa, 2003]. The deficiencies and fragmentations in governance, interpretation and implementation of the Preferential Procurement Policy Framework Act (PPPFA) (Act No 5 of 2000) resulted in the introduction of supply chain management (SCM) in the public sector as a policy tool (NT, 2005). In 2003, a SCM document named, "Supply Chain Management: A guide for accounting officers/authorities", was developed to give guidance to the adoption of an integrated SCM function and its related managerial responsibilities (NT, 2005). This was the government's attempt to achieve desired strategic policy outcomes through public procurement (McCrudden, 2004).

However, despite the reform processes in public procurement, the employment of SCM as a strategic tool, South Africa faces enormous challenges in its public procurement practices. There is non-compliance to procurement and SCM -related legislation and policies as well as tender irregularities (Smart Procurement, 2011). According to Pretoria News (2011, October 13), "Taxpayers were fleeced of R30 bn." "Corruption, incompetence and negligence by public servants" was to be blamed. The paper further asserted that about 20 per cent of the government's procurement budget alone "went down the drain each year. This was because officials stuck their fingers in the till, overpaid for products and services or failed to monitor how money was spent." Among government entities probed for procurement irregularities was the Tshwane metro where about 65 municipal officials were investigated for striking business deals worth about R185 million with their own council (Pauw, 2011). The Business Day report also affirmed that government spent R26.4 billion in 2010 in ways that contravened laws and regulations. The national and provincial governments and their entities notched up R21 billion in irregular expenditure in 2010, a 62% rise over the previous year (R13 billion) ("Irregular State Expenditure," 2011). The Auditor General highlighted weaknesses in SCM, controls over information technology, human resource management, capital assets and performance reporting during a briefing to Parliament's standing committee on public account (Smart Procurement, 2011). Public procurement is "deteriorating" and "disappointing", especially in light of the considerable efforts to improve matters. It is worrying that the government is not making progress in procurement and supply chain as fast and as good as it would want.

Against this background, the purpose of this paper is to review procurement practices and challenges in the South Africa public sector. The paper employs a conceptual analytical approach and reviews relevant literature sources on public procurement. The paper also uses pertinent policy documents from the National Treasury website as well as other research documents relating to procurement in the South African public sector.

REVIEW OF PUBLIC PROCUREMENT

Definition of Public Procurement

Public procurement refers to the government activity of purchasing the goods and services which it needs to carry out its functions (Arrowsmith, 2010). It is an information intensive function of government (Wittig, 2007). According to Odhiambo and Kamau (2003), public procurement is broadly defined as the purchasing, hiring or obtaining by any other contractual means of goods, construction works and services by the public sector. It involves the purchase of commodities and contracting of construction works and services if such acquisition is effected with resources from state budgets, local authority budgets, state foundation funds, domestic loans or foreign loans guaranteed by the state, foreign aid, as well as revenue received from the economic activity of the state. Hommen and Rolfstam (2009) noted that public procurement is “the acquisition (through buying or purchasing) of goods and services by government or public organizations.” Arrowsmith (2010) concluded that the concept of public procurement can be referred to procurement planning, contract placement and contract administration.

Therefore public procurement based on traditional viewpoints may be formulated as follows:

Public Procurement is the function whereby public sector organizations acquire goods, services and development and construction projects from suppliers in the local and international market, subject to the general principles of **fairness, equitability, transparency, competitiveness and cost-effectiveness**. It includes many activities that support the service delivery of government entities and ranges from acquisition of routine items to complex

development and construction projects. It also supports directly or indirectly the social and political aims of the government.

Objectives and Importance of Public Procurement

The objectives of public procurement are implemented through various means; it must follow legal and regulatory rules on conducting public procurement. Some of the core objectives of procurement are (Arrowsmith, 2010) value for money (efficiency) in the acquisition of required goods, works or services; integrity – avoiding corruption and conflict of interest; accountability; equal opportunities and treatment for providers; fair treatment of providers; efficient implementation of industrial, social and environmental objectives; opening up public markets to international trade; and efficiency in the procurement process. Public procurement is used to achieve social policy objectives – to foster job creation, to promote fair labour practices such as the increased opportunity for the disabled citizens to be employed and as a means to prevent discrimination against minority groups (Uyarra & Flanagan, 2009).

Public procurement has important economic and political implications; ensuring that the process is economical and efficient is crucial. This requires in part that the whole process is well understood by both the actors (the government, the procuring entities, the business community/suppliers) and other stakeholders, including the professional associations, academic entities and the general public (Odhiambo & Kamau, 2003). The public sector can also create standards or promote convergence to a single standard, thus encouraging diffusion. Economies of scale and network externalities on the demand side create advantages for certain industries by allowing dynamic and increasing returns (Uyarra & Flanagan, 2009). Public procurement is increasingly recognized as a profession that plays a significant role in the successful management of public resources and a number of countries have become more aware of the importance of procurement as an area vulnerable to mismanagement and corruption and have thus instituted efforts to integrate procurement in a more strategic view of government efforts (Mahmood, 2010).

Odhiambo and Kamau (2003) asserted that public procurement accounts for a significant amount of national expenditures (domestically generated as well as received from ODA). Globally,

public procurement is estimated at about 15% of the world's GDP, but in some developing countries, it may account for as much as 70% (UNDP, 2010). It is therefore an area that needs attention in the face of increasing non compliance (Odhiambo & Kamau, 2003). Ntayi, Gerrit and Eyaa (2009) observed that lots of money gets wasted due to inefficient and ineffective procurement structures, policies and procedures as well as failure to impose sanctions for violation of procurement rules thus resulting in poor service delivery.

Following the definition and objectives of public procurement, the next section of the paper presents a review of public procurement in the South African public sector.

PUBLIC PROCUREMENT IN THE SOUTH AFRICAN PUBLIC SECTOR

Background

Procurement reforms in the South African public sector started in 1995 and were directed at two broad focus areas, namely the promotion of principles of good governance and the introduction of a preference system to address certain socio-economic objectives (NT, 2003). The procurement reform processes were embedded in section 112 of the Municipal Financial Management Act (MFMA) (Act No 56 of 2003) and section 76(4) (C) of Public Finance Management Act (PFMA) and the PPPFA (Act No 5 of 2000) (NT, 2005). The National Treasury in 2001 completed a joint CPAR, with the World Bank to assess procurement practices throughout the public sector. The CPAR identified certain deficiencies relating to governance, interpretation and implementation of PPPFA and its associated regulations (NT, 2005).

The systems of procurement and provisioning were fragmented owing to the fact that tender boards were responsible for procurement whilst provisioning is largely underwritten by norms and standards within the logistics system driven by the national treasury. Effective and efficient financial management within government was continuously questioned. Similarly the logistics system as a tool for asset management raised concerns due to the lack of proper handling of movable assets within the government environment. Concurrently more emphasis was placed on integrated infrastructure development and the unlocking of government property to contribute to the optimisation of resources (NT, 2003). The aforementioned situation led the provincial treasuries, in conjunction with the national

treasury, over the past years to vigorously embark on a reform initiative to introduce best procurement practices that are efficient and effective. To this end, a strategically powerful concept was pursued, namely, supply chain management (SCM). The tender board causes the systems to be inefficient as far as the method of procurement; logistics management and obsolescence planning are concerned. Since the advent of the PFMA, it has become increasingly important to reassess the aforementioned situation and to develop an integrated approach that largely places the responsibility with the accounting officers of departments and municipalities (Mkhize, 2004).

In 2003, there was the adoption of a SCM document “Policy to guide uniformity in procurement reform processes in government” in conjunction with provincial treasuries to replace the outdated procurement and provisional practices. The “Supply chain management: a guide for accounting officers of municipalities and municipal entities” was also developed to give guidance to the adoption of the integrated SCM function and its related managerial responsibilities assigned to accounting officers in terms of sections 62 and 95 of the MFMA. The guide explains how chapter 11, part 1 of the MFMA, the municipal SCM regulations, and the SCM policy of the council or board of directors can be adopted into an operational process for accounting officers at each step of the SCM cycle. The principle behind the policy guide is based on the fact that managers should be given the flexibility to manage within a framework that satisfies the constitutional requirements of transparency and accountability. There are many obstacles to overcome, most notably, a series of deeply ingrained practices and the cumbersome procurement processes (NT, 2005).

Regulatory Framework for Public Procurement

Hanks, Davies and Perera (2008) asserted that SCM operates within a regulatory framework set by the national government and extended by provinces and local government bodies to specific policies, legislation and regulations. Key legislation influencing this function includes the PFMA (1999), PPPFA (2000), Preferential Procurement Framework Regulations (2001) and the National Treasury Regulations (2005). Moreover, the Black Economic Empowerment Codes of good practice, released by the Department of Trade and Industry (DTI) in 2007, impacts on SCM. Provincial

governments within South Africa have developed and adopted their own preferential procurement policies, which, while aligned with the National Preferential Procurement Act, set out targets for provincial departments and entities. In addition to the legislative framework for government SCM, the National Treasury releases SCM guidelines, practice notes and policies that guide the implementation of SCM in national, provincial and local government departments. All government bodies are required to adhere to the SCM framework. A brief discussion of each of the above mentioned laws, regulations and policies and their implications for SCM follows.

The Constitution

Public procurement in South Africa has been afforded a constitutional status (Bolton, 2008). Section 217 of the Constitution of the Republic of South Africa (Act 108 of 1996) establishes the primary and broad secondary procurement objectives (Bolton, 2006; Watermeyer, 2011) as indicated in Table 1. This section is the cornerstone against which the SCM requirements of the PFMA, 1999 (Act No. 1 of 1999) (as amended by Act No. 29 of 1999) and its supporting legislation is based on as well as the subsequent promulgation of the PPPFA, 2000 (Act No. 5 of 2000) and its supporting regulations issued in August 2001 have been based on. Section 217(3) of the Constitution requires that national legislation prescribe a framework within which the preferential procurement policy must be implemented. The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) was promulgated in response to this constitutional imperative. Procurement by organs of state (national and provincial departments, municipalities,

TABLE 1
Public Procurement Objectives in South Africa as Contained in the Constitution

Objective		Reference
Primary	Procurement system to be fair, equitable, transparent, competitive and cost effective	Section 217(1)
Secondary	Procurement policy may provide for: - Categories of preference in the allocation of contracts; and - The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination	Section 217(2)

Source: Pauw and Wolvaardt (2009); Bolton (2006); Watermeyer (2011).

constitutional entities and public entities) are also governed by a number of other pieces of legislation. Table 1 shows the objective of procurement in South Africa as delineated in the constitution.

The Public Finance Management Act (PFMA) (Act No. 1 of 1999)

The PFMA (Act No. 1 of 1999) (as amended by Act No. 29 of 1999) is one of the most important pieces of legislation passed by the first democratic government in South Africa. The Act promotes the objective of good financial management in order to maximise service delivery through effective and efficient use of the limited resources. The key objectives of the Act may be summarized as follows:

- Modernise the system of financial management in the public sector;
- Enable public sector managers to manage, but at the same time be held more accountable; ensure the timely provision of quality information; and
- Eliminate the waste and corruption in the use of public assets.

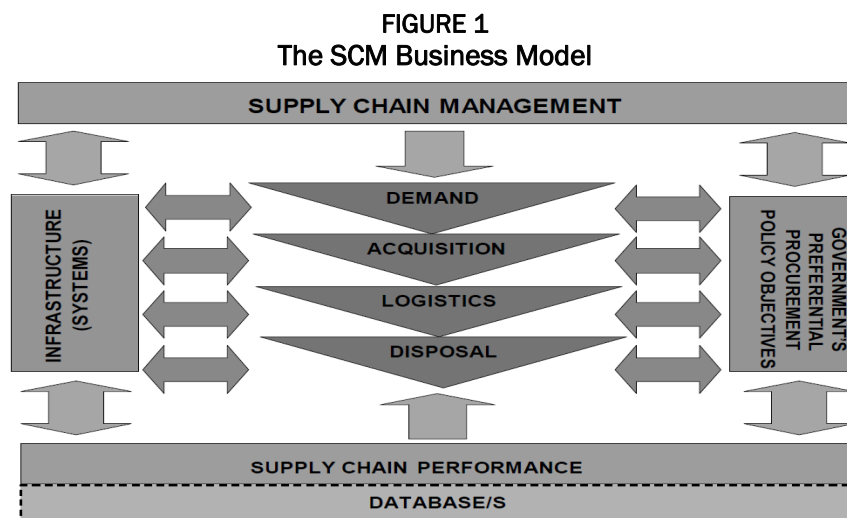
The PFMA provides the overarching framework for SCM in national and provincial government. The Act defines the principles of a procurement system as being fair, equitable, transparent, competitive and cost effective. It assigns overall responsibility for setting up a procurement system to the accounting officers of national departments or provincial government bodies and sets out the responsibilities of the National Treasury (NT, 2005; Hanks, Davies & Perera, 2008).

Municipal Financial Management Act (MFMA) (Act No 56 of 2003)

The procurement provision of the MFMA (Act No 56 of 2003), is similar to the PFMA, but contains more details regarding the system (Watermayer, 2011). The MFMA aims to modernise budget, accounting and financial management practices by ensuring that local government finances are managed in a sustainable manner so as to enable municipalities to deliver the best possible service to communities. It also provides for a sound financial governance framework by clarifying and separating the roles and responsibilities of the council, mayor and officials. Amongst other objectives, it sets out to establish norms and standards for SCM (Hanks et al., 2008).

National Treasury Regulations (2005)

The national treasury regulations reinforce the provisions of the PFMA and MFMA, finalise the devolution of the SCM function to the accounting officer, and formalise the integration of various functions into a single SCM function. The national treasury regulations provide the broad legislative framework for SCM by: defining the various elements of SCM such as demand management, acquisition management, logistics management, disposal management, and SCM performance; institutionalising the creation of a supply chain management unit in the office of the chief financial officer; specifying the roles of the accounting officer in the management of the bidding process; providing for processes and procedures in the case of abuse of the supply chain management system within a department; and requiring the national and provincial treasury and municipal finance department to establish a system to collect and report on the performance of the SCM system within their defined jurisdictions. The legislation and regulations outline minimum requirements in the areas of supply chain and preferential procurement. National departments and provincial and local governments are allowed to extend and develop their policies, systems and structures within the ambit of the national regulatory framework (Hanks et al., 2008). Figure 1 illustrates the SCM business model.



Source: NT (2005, p. 11).

The national treasury regulation stipulates that organs of state should establish three kinds of committees: bid specification, bid adjudication and bid award committees. Through this process of segregation of duties greater efficiency and better risk management is promoted. Some departments have decided to combine the bid specification and adjudication committees (Pauw, 2011). Table 2 shows the bid committees, their constituent and roles.

TABLE 2
Bid Committees, Constituent and Roles

Bid Committee	Constituent of the Committee and Functions
Bid Specification Committee	<p>May comprise one or more official, preferably manager, responsible for function including external specialist advisors (cross functional principle); accounting officer or delegated official to appoint chair person.</p> <p>ROLES: Compile technical specifications, terms of reference, requirements, conditions of contract, evaluation criteria, determine goals, and indicate method of procurement.</p>
Bid Evaluation Committee	<p>Comprised of a SCM practitioner; technical expert from department requiring the good/service.</p> <p>ROLES: Accounting officer must appoint the chair person and members, evaluate bids in accordance with the criteria (PPPFA), Evaluate bidders' tax matters, Submit a report for recommendation regarding the award, check list for restricted bidders, consult the register for tender defaulters.</p>
Bid Adjudication Committee	<p>Comprised of at least 4 senior managers which include the CFO, at least one senior SCM practitioner to ensure compliance and a technical expert who is an official to ensure compliance to the specification.</p> <p>ROLES: Accounting officer must appoint the chairperson and members; A member of the bid evaluation committee may present its case to the bid adjudication committee; neither a member of nor a person assisting the bid evaluation committee, nor any advisor may be a member of this committee.</p>

Source: Adapted from NT (2005); Ambe and Badenhorst-Weiss (2011a).

Preferential Procurement Policy Framework Act (Act No 5 of 2000)

The PPPFA (Act no 5 of 2000) makes provision to the government's priority of empowering historically disadvantaged persons by giving them preferential treatment in procurement activities. Two constitutional provisions that directly impact the use of procurement as a policy tool are equality and value for money (Bolton, 2006). The act entrenches the obligation of government to award preferential procurement points to enterprises owned by historically disadvantaged persons and for certain government priorities. The act also provides for exemptions to preferential procurement in certain sectors and industries. According to Bolton (2006) preferential procurement is used as a wealth redistribution strategy in order to channel funds to discrete categories of economic actors. The aim is to bring regulation in line with the Broad Based Black Economic Empowerment Act (BBBEEA) (Bolton, 2006).

Preferential Procurement Policy Framework Regulations (2001)

The Preferential Procurement Policy Framework Regulations control the implementation of the PPPFA and describe the preferential points system for evaluating tenders (Hanks et al., 2008). Prior to 1994, price was the overriding criterion (Bolton, 2006). The 90/10 point system applies to tenders over R 500 000 in value. This point system allocates 90 percent of the evaluation points to the price and functionality of a product or service and 10 percent to preferential procurement criteria. The 80/20 point system is used for tenders below the threshold of R 500 000 and allocates 80 percent of the evaluation points to the price and functionality of a product or service and 20 percent to preferential procurement criteria. The regulations furthermore define the criteria for awarding the preference points and describe the processes for verification. In addition to the preferential points awarded for procurement from enterprises owned by historically disadvantaged (HDI) persons, preferential points can also be allocated for different criteria (Hanks et al., 2008). Considering the case of 90/10 parameters, (the argument is similar for the other set of parameters), formula (1) is presented in the regulations in precisely this form (Pauw and Wolvaardt, 2009:81). Formulae (2) and (3) provide formal notation for the application of Formula (1). Figure 2 shows an example of the formulae 90/10 parameters.

FIGURE 2
Example of the Formulae for the 90/10 Parameters

$$P_s = 90 \left[1 - \frac{P_t - P_{\min}}{P_{\min}} \right] \quad \text{.....(1)}$$

Where

P_s = Points scored for price of the tender under consideration

P_t = Rand value of tender under consideration

P_{\min} = Rand value of lowest acceptable tender

$$P_f \leq 10 \quad \text{.....(2)}$$

Where

P_f = preference points

$$P_{pr} = P_s + P_f \leq 100 \quad \text{.....(3)}$$

Where

P_{pr} = Adjusted price points

Source: NT, (2005); Pauw and Wolvaardt (2009).

Preference points, P_f , are awarded in the first instance on the grounds of the makeup of persons involved in a bid as individuals, shareholders or managers, to level the playing field. Although the PPPFA Act in Section 2(1)(d) stipulates persons who were made HDIs by apartheid, other categories of preference are also possible. This includes the so-called Reconstruction and Development Programme (RDP) points. Organs of state are free to decide on the composition of the preference points, provided that at least one point is awarded for HDI status. The other goals that may be taken into account in terms of paragraph 2(1)(d)(ii) of the Act, include the promotion of South African-owned enterprises, the promotion of small and medium enterprises and the uplifting of local communities through various

measures. The definition of HDI is interesting from a political point of view. It is not a definition based on race, but on the nature of the discrimination that persons were subject to in the past. The three categories are disenfranchised people, women, and disabled people. The disenfranchised category is delineated to exclude black people who were not subject to apartheid legislation (i.e. non-South Africans). Formulae (1), (2) and (3) enable officials to calculate points in accordance with the provisions of the act. If a bidder offers the lowest price (when the state is buying) and achieves full preference points, the bid will score the maximum of 100 points for price. Other bidders will score fewer points commensurate to their offers in terms of price and their number of preference points. For smaller contracts the affirmative action impact is stronger (20%) than for bigger contracts (10%) (Pauw & Wolvaardt, 2009).

Provincial Preferential Procurement Policies, Regulations or Practice Notes

Certain provinces have developed their own preferential procurement policies, regulations or practice notes or integrated these into their SCM or procurement policies. While these policies are aligned with the PPPFA, they are tailored to the socioeconomic environment of the province. The policy creates the space for the development of a province-wide database of suppliers in contrast to the guideline from national treasury that each department maintain its own database (Hanks et al., 2008).

The Broad-based Black Economic Empowerment Act (BBBEEA) (Act No 53 of 2003)

In 2007, the BBBEEA (Act No 53 of 2003) became the basis of the preference points system that is used to protect or advance certain groups as provided for in the Constitution (Pauw, 2011). This piece of legislation establishes a legislative framework for the promotion of black economic empowerment. It provides for “codes of good practice” that are like regulations. Preferential procurement is included under the definition of broad-based black economic empowerment in the act. It provides for “codes of good practice” that are like regulations. These codes of good practice are taken into account when institutions in the public sphere need to determine their preferential procurement policies (Pauw, 2011). In terms of the

PPPFA (2011), bidders must get their broad-based-black- economic-empowerment (B-BBEE) status level as high as possible: the higher the status level, the more the preference points. The B-BBEE status level is the result of the measurement of a firm's contribution to Black empowerment. It is the sole basis for the allocation of preference points. A firm's contribution is measured by means of a scorecard. A scorecard consists of a number of elements. Each of the elements receives a weight out of a total of 100. Table 3 shows the typical scorecard.

TABLE 3
Sample of a Typical Scorecard

Element	Weight
Ownership	20
Management control	10
Employment equity	15
Skills development	15
Preferential procurement	20
Enterprise development	15
Socio-economic development initiatives	5

Source: Pauw (2011).

The determination of the weights for each one of the elements in the table above is not simple. The system in terms of which this is done is not administered by the national treasury, but by the Department of Trade and Industry (DTI). The DTI provides an overview of the way things work. It should be noted that preference points do not put an end to competition between enterprises. The preference points give bidders a relative and not an absolute advantage. Contracts can be won by firms offering good quality goods and services at competitive prices. Moreover, to an enterprise of previously disadvantaged individuals, the preference points, of course, do not give a competitive edge over similar enterprises.

The Procurement Process

Although the South African procurement policy has moved towards an integrated SCM function, a combination of historical

legacies, the lack of resources and inadequate capacity means that the focus of supply chain managers often remains on the procurement component of SCM. In order to understand the procurement system, it is important to understand the functioning of the current bidding process in the government bodies. The bidding process consists of five stages: compiling the bid documents; inviting the bids; receiving the bids; evaluating the bids; and clearing the bids and awarding the contract. Each of these stages is governed by a standard set of regulations and guidelines from the national treasury, though implementation of these processes is different across different provinces and municipalities and can be different within a province or municipality (NT, 2005). These processes can be explained as follows.

Compiling the Bid Documents

In addition to the standard bidding documents containing the conditions of contracts, price, tax clearances and participation in the National Industrial Programme's declaration, all bid documents must contain the technical specification of the products or service to be procured. The technical specification is usually drafted by the specifications committee, which consists of both responsibility (line) managers and supply chain managers. The technical specification describes the quality of the product, the quantity to be delivered, the timeframe for delivery and any other factors relevant to the purchase and usage of the product such as warranties and after sales maintenance. In the case of a service, the technical specification includes the scope of work and any factors other than price that are relevant to the rendering of the service such as the experience of consulting firms. The bid specifications contain the breakdown of points for price and functionality (Hanks et al., 2008). Specifications can also include pre-qualifying criteria so that bidders complying with the set criteria or standards will be eligible to bid. The responsibility managers draft the technical specifications and hand them over to the bid specification committee for review and approval. Upon receiving an approved specification, the SCM Unit initiates the process of issuing a tender. In addition in certain government bodies, representatives of industry can be invited to comment on draft specifications as part of the bid specification process. This serves two purposes: first to improve the quality of the specifications by taking into account the recommendations of service providers and to capture

the latest innovations in the market and second to inform potential bidders of the needs of government and foster widespread consultation (NT, 2005).

Inviting the Bids

During this stage, supply chain managers decide on the method of procurement depending on the type and value of the contract. For bids of up to a certain value, SCM units need to obtain a minimum of three telephonic or advertised quotations from suppliers (preferably off a database of suppliers). For bids greater than this threshold value, SCM units have to run competitive bidding procedures. Should any of the contracts exceed R30 000, then the provisions of the PPPFA apply. The criteria used to evaluate functionality should be clearly described in cases where additional points for functionality are awarded. Moreover, in instances where environmental standards or scorecards are set as minimum standards, this pre-qualifying requirement needs to be visible in both the tender documents and the adverts (NT, 2005).

Receiving Bids

To ensure transparency and fairness, all bids received are opened at the same time. The SCM units check documentation for completeness. All bidders are checked against the national treasury database of defaulters to ensure that they are still eligible to take part in the bidding process. SCM units summarize the bids and prepare a comparative schedule for the bid adjudication committee. This comparative schedule includes a comparison of the specifications regarding environmental criteria that were included in bid documents. In instances where, for example, suppliers claim to meet the minimum standards in the bid, SCM must verify whether the submissions are complete and include documents supporting the suppliers' claims (NT, 2005).

Evaluating the Bids

The accounting officer delegates the responsibility for evaluating bids to the bid adjudication committees. The adjudication committees sit at regular intervals to evaluate bids in accordance with the criteria set out in the bid documents. All bids are evaluated on the basis of price, functionality (where applicable) and preferential procurement.

In certain cases, the bid evaluation committee can set a minimum threshold for qualification in terms of these three criteria. For example, should a product be required to adhere to a minimum environmental standard, then only those bids meeting this standard should be considered by the bid adjudication committee. If functionality points are awarded, then the adjudication committee should understand the criteria for evaluation clearly (through the use of the scorecards) and score bids again these criteria to remove ambiguity or subjectivity. The scorecards for environmental criteria are included in the evaluation. Since the evaluation process is formulae driven, the bid adjudication committee can apply the price formula and eliminate the bidders scoring below a certain threshold before proceeding to the next round of deliberations. In municipalities, councillors or those who develop financial policies may not sit on bid committees (NT, 2005).

Clearing the Bids and Awarding the Contract

The award of the tender is done by a separate committee from the one who evaluated the bid, called a “bid adjudication committee”. The segregation of duties between this committee and the bid evaluation committee is a risk management arrangement making for a greater degree of objectivity and more views in the final decision (Pauw, 2011). Prior to awarding the contract, the SCM units must clear certain bidders by performing a vendor assessment. The vendor assessment includes establishing the financial standing of the company, assessing its past performance in delivering services, checking the legal compliance of the company with taxation, labour, and corporate laws and inspecting the capacity of the company to deliver where necessary. Upon finalisation of the vendor assessment, a contract and a service level agreement is prepared for sign-off by the accounting officer. Once the contract is awarded, SCM becomes responsible for contract management functions such as monitoring performance and compliance with socio-economic objectives. The process of vendor assessment includes validating the green credentials and past environmental performance of suppliers. Contracts include penalties for not adhering to green minimum standards for suppliers. Having dwelt on the status of public procurement in South Africa; the focus of the paper now turns to the challenges.

CHALLENGES OF PUBLIC PROCUREMENT IN SOUTH AFRICA

This section of the paper presents the challenges that restrain public procurement practices in South Africa. It is important to note that SCM is an integral part of procurement in the South African public sector. Therefore, it is used as a tool for the management of public procurement practices. However, despite the employment of SCM as a strategic tool, public procurement in South Africa still faces enormous predicaments. These include among others: lack of proper knowledge, skills and capacity; non-compliance to SCM policy and regulations; inadequate planning and linking demand to the budget; accountability, fraud and corruption; inadequate monitoring and evaluation of SCM; unethical behaviour; and inequality of wealth. These predicaments are discussed as follows:

Lack of Proper Knowledge, Skills and Capacity

To fully achieve SCM objectives, the national treasury has provided support by facilitating the development of appropriate training materials (NT, 2005). However, there has been a persistent theme in public discussion on the state of skills. According to Sheoraj (2007), skills and capacity shortages have been identified as the single greatest impediment to the success of public procurement in South Africa. Adequate capacity in the form of appropriate structures with fully skilled and professional SCM personnel is a key success factor for proper SCM implementation. In some government entities, the quality of SCM personnel's skills and ability are well below standard. Migiro and Ambe (2008) asserted that many SCM actors in the South African public sphere have attended a number of training workshops on SCM, but they still lack appropriate knowledge for proper implementation. McCarthy (2006) contended that there is a lack of capacity and knowledge by SCM actors to handle procurement processes that have led to bad governance. The South African government has embarked on programmes that educate practitioners, but implementation of its programmes always fall short.

Non-Compliance to Policies and Regulations

SCM is guided by a number of related policies and regulations (NT, 2005). Compliance with these policies and regulations is a problem. As indicated by Matthee (2006), some of the practices relating to non-compliance relate to the tendency not to utilise a

competitive process for both quotations and bids, incorrect utilisation of the preference points system. Van Zyl (2006) also asserted that there is lack of appropriate bid committees, use of unqualified suppliers, passing over of bids for incorrect reasons, utilisation of the incorrect procurement process in respect of the thresholds, extensions of validity periods, incorrect utilisation of the limited bidding process. Furthermore, Ambe and Badenhorst-Weiss (2011b) noted that there are inadequate controls and procedures for the handling of bids, appointment of bid committee members not aligned to policy requirements and insufficient motivation for deviations from SCM procedures.

Inadequate Planning and Linking Demand to the Budget

The demand management is integral to the SCM process. It defines the decision -making process that allows departments to procure at the right time, at the right place and at the right cost. However, many government entities are still faced with the challenges of improper planning and linking demand to budget (Ambe & Badenhorst-Weiss, 2011a). Cost- effective procurement depends on a specialist's skills to ensure that buying requirements are reliably determined, appropriate contract strategies are developed, contracts are well managed and the opportunities are seized to secure the best deal at the right time and at the right price. The importance of drawing up accurate and realistic strategic plans cannot be overestimated. There is at times the absence of coherent plans, some government entities cannot properly quantify the needs of those requiring their services or properly estimate costs, nor can they accurately track, control or report on expenditure (Luyt, 2008). Luyt (2008) indicated that there is a need to properly monitor the delivery of services to ensure the efficient and effective use of scarce public procurement. Poor planning and budgeting have also affected the implementation of SCM. It is therefore vital, that SCM practitioners adequately link demand planning to budget.

Accountability, Fraud and Corruption

Accountability constitutes a central pillar to public procurement (Soudry, 2007). Without transparent and accountable systems, the vast resources channelled through public procurement systems run the danger of being entangled with increased corruption and misuse

of funds (Jeppesen, 2010). According to Mahlaba (2004), fraud and corruption costs the South African tax payers hundreds of millions of Rands each year. The impact of fraud has over the last few years led to the promulgation of special legislation and improvement in existing legislation that led to the creation, amongst others, of the Directorate of Special Operations, commonly known as the Scorpions; Asset Forfeiture Unit; Public Protector; Special Investigation Unit; Commercial Crime Units; Internal Audit Units; Special Investigation Units within departments; and the Appointment of Forensic Consultants (Mahlaba, 2004).

According to Boateng (2009), since 1994 South Africa has enjoyed unprecedented social and infrastructural programmes. Yet, the majority of people who hoped freedom would bring with it relative socio-economic liberation and improvement are feeling increasingly bitter towards government over issues that include a lack of perceived quality of governance, service delivery failure, fraud and corruption in some spheres of the economy and disillusionment with empowerment policies ("Irregular State Expenditure," 2011). The Public Service Commission committee (2011) indicated a total number of 7766 corruption cases were reported through the National Anti-Corruption Hotline since its inception in September 2004 through June 2010. The Pretoria News (2011, October 13) noted that "taxpayers were fleeced of R30 billion" [3.675 billion USD]. "Corruption, incompetence and negligence by public servants" (Pretoria News, 2011, October 13) was to be blamed. The paper further asserted that about 20 per cent of the government's procurement budget alone "went down the drain each year". "This was because "officials stuck their fingers in the till, overpaid for products and services or failed to monitor how money was spent." Among government entities probed for procurement irregularities was the Tshwane metro where about 65 municipal officials were investigated for striking business deals worth about R185 million with their own council (Pauw, 2011). The *Business Day* report (2011) also affirmed that government spent R26.4 billion in 2010 in ways that contravened laws and regulations. The national and provincial governments and their entities notched up R21 billion in irregular expenditure in 2010, a 62% rise (R13 billion) over the previous year ("Irregular State Expenditure," 2011). The Auditor General highlighted weaknesses in SCM, controls over information technology, human resource management, and capital assets and performance reporting

during a briefing to Parliament's standing Committee on Public Account (Smart Procurement, 2011).

Hence, there is an urgent need to rethink innovative ways of curbing corruption and some other administrative malpractices within South African spheres of government. To fight the scourge of maladministration, mismanagement of finances, fraud and corruption, government need to strengthen and review existing internal control systems to detect deficiencies.

Inadequate Measures for Monitoring and Evaluation of SCM

Effective policy making requires information on whether governments are doing things right and whether they achieve the results intended (Acevedo, Rivera, Lima & Hwang, 2010). Strong monitoring and evaluation systems provide the means to compile and integrate this valuable information into the policy cycle, thus providing the basis for sound governance and accountable public policies (Acevedo et al., 2010). Inadequate monitoring and evaluation is linked to the absence or the poor presence of a control environment and the government entities are placed in a difficult position to give effect to or implement SCM as required by the policy. Hence deviations or non-compliance goes undetected or is identified after the fact. According to Business Day reports (2011), procurement actors in government have spent millions of Rand in ways that contravened laws and regulations. The national and provincial governments and their entities have notched irregular, unauthorised, fruitless and wasteful expenditures that contravene laws and regulations. There is lack of proper monitoring and evaluation as required (Stemele, 2009).

Unethical Behaviour

The adopted Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) heralds a new phase in the South African government's transition. Ethics is the study of moral judgements and right and wrong conduct. Ethics and conflict of interest greatly affect SCM implementation. There is enormous power wielded by some chief financial officers but a lack of proper consultation with other senior officials. Whilst the national treasury's guide to accounting officers prescribes a standard approach towards SCM procedure, in many instances, there is lack of compliance and application of the

guidelines. This has resulted in differentiation in approaches and a lack of standardisation. According to McCarthy (2006), the completeness of tender documents in many municipalities is difficult to verify.

Ineffectiveness of the Broad-based Black Economic Empowerment (BBBEE)

The South African Government adopted the provision of black economic empowerment (BEE) to empower all historically disadvantaged people rather than only a small group of black investors. To this end, it adopted the BBBEEA, which calls for expanded opportunities for workers and smaller enterprises as well as more representative ownership and management. Current BEE provisions have, however, in many instances failed to ensure a broad-based approach, instead imposing significant costs on the economy without supporting employment creation or growth. The present BEE model remains excessively focused on transactions that involve existing assets and benefits a relatively small number of individuals. The following shortcomings have emerged in the implementation of BEE. First, ownership and senior management issues receive disproportionate emphasis. The unintended consequences of this trend include “fronting”, speculation and tender abuse. Second, the regulations do not adequately incentivise employment creation, support for small enterprises and local procurement. The preferential procurement regulations aggravate this situation by privileging ownership over local production. Finally, the BBBEE regulations penalise public entities as suppliers. The democratic state owns public entities on behalf of its people yet the regulations do not count them as “black empowered” (Zuma, 2009).

Subsequent to the discussion presented above, it is evident that there are constraints in procurement practices in the South African public sector. These predicaments can be attributed to lack of proper knowledge, skills and capacity. Therefore, the South African government will need to address these dilemmas in order to fully achieve the policy objective of public procurement.

THE WAY FORWARD FOR SOUTH AFRICAN PUBLIC PROCUREMENT

There are a number of issues that could be considered to enhance procurement in the South African public sector. These

include employment of qualified procurement practitioners; training and employment of internship programmes; development of an effective monitoring and evaluation tool; creation of incentive programmes to motivate good performance; tools (Information Communication Technology) and good leadership (Ambe & Badenhorst-Weiss, 2011b). Therefore, institutions of higher learning and other service providers have a critical role to equip learners and practitioners with appropriate skills and knowledge. The capacity for qualified practitioners would only be available when educational institutions contribute to the challenge by way of developing curriculum that meets the needs of the country. Such programmes should provide for an understanding of the knowledge of the South African public sector and its regulations.

Figure 3 illustrates an example of a two model curriculum where learners have a choice to focus in the private or public sector. In this model, the skills required are the general procurement skills and industry specific skills. The private sector- oriented, programme-specific skills require an understanding of the general business environment (enterprise management); while the public sector oriented programme concentrates on the legislative environment (to sensitise learners to an integrated approach in the management of

FIGURE 3
Two Model Teaching Curriculums

Private Sector Oriented Objective: Profit Maximisation		Public Sector Oriented Objective: Quality Service Delivery	
SKILLS NEEDED	Enterprise management	SECTOR SPECIFIC SKILLS	- Public financial management - Public procurement and supply chain management
	- Purchasing and supply management - Purchasing and supply tools - Legal aspects in purchasing - Storage and inventory management	Knowledge on the business environment	SKILLS NEEDED
	Knowledge on the SA public procurement environment	- Purchasing and supply management - Purchasing and supply tools - Legal aspects in purchasing - Storage and inventory management	
	GENERAL PROCUREMENT MANAGEMENT		

procurement within the highly regulated public sector environment). Both programmes require general procurement skills which should include among others the knowledge of, and insight into, the purchasing and supply environment; sourcing strategies; purchasing and supply tasks; integrated supply management; globalisation; and technological advancement. Figure 3 illustrates a framework for a two- model curriculum for procurement in South Africa.

CONCLUSION

The purpose of this paper was to review procurement practices in South Africa's public sector. The paper utilizes a conceptual analytical approach and examines related literature on public procurement and public procurement practices in South Africa. Public procurement is increasingly recognized as a profession that plays a significant role in the successful management of public resources and a number of countries have become more aware of the importance of procurement as an area vulnerable to mismanagement and corruption and have thus instituted efforts to integrate procurement in a more strategic view of government efforts. As part of the efforts to adopt a long-term and strategic view of their procurement needs and management, most countries have resorted to turning to their annual procurement plans as a possible "problem-solver" (Mahmood, 2010).

Public procurement is of particular significance to South Africa and has been used as a policy tool due to the discriminatory and unfair practices of the past. It is central to government service delivery. Prior to 1994, the government procurement system was geared towards large and established contractors. Public procurement in South Africa was granted constitutional status and is recognised as a means of addressing past discriminatory policies and practices (Bolton, 2006). The procurement system promotes aims which are, arguably, secondary to the primary aim of procurement such as using procurement to promote social, industrial or environmental policies. New contractors find it very difficult to participate in government procurement procedures. The primary objective of the procurement system is to be fair, equitable, transparent and cost effective. The secondary objective is to provide categories of preference in the allocation of contracts; and the

protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination. However, this is a challenge!

In South Africa, SCM is an integral part of the procurement process. It is a policy tool and a term used in the management of the procurement process. Despite the importance of procurement as a policy tool, the effort by the government through introduction of programmes such as SCM, procurement remains a challenge in South Africa. These challenges include among others lack of proper knowledge, skills and capacity; non-compliance to national treasury policies and regulations; inadequate planning and linking demand to the budget; lack of proper accountability, fraud and corruption; inadequate response and inconsistency to risk management/irregularities in SCM; inadequate measures for monitoring and evaluation of SCM; unethical behaviour; and ineffectiveness of the BBBEE policy.

Hence, public procurement practitioners in South Africa require specific knowledge about the procurement objective, SCM policy, preference procurement policies and so forth in order to effectively manage the procurement process. Specialised training programmes are therefore required to equip actors with the skills to achieve procurement objectives. Key issues such as employment of qualified procurement practitioners; training and employment of learnership programmes; developing an effective monitoring and evaluation tool; and creating incentive programmes to motivate good performance should be employed. Also, institutions of higher learning and other service providers should equip learners and practitioners with appropriate skills and knowledge through the development of a syllabus that ensure sustainable procurement in South Africa

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