

# STANDING COMMITTEE ON APPROPRIATIONS

## Strategic Planning Session of the Committee

OFFICE OF THE CHIEF PROCUREMENT OFFICER  
17-18 August 2021



**national treasury**

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA

# OCPO STRUCTURE

The OCPO is set up as a distinctive Division within the National Treasury headed by the Chief Procurement Officer (CPO). The functional structure is organised into six units, each headed by a Chief Director.

**Chief Procurement Officer**

**(Estelle Setan – Acting)**



**Divisional Support**



**SCM Stakeholder & Client Management**  
**(Rakgadi Motseto)**



To ensure and create appropriate platforms to disseminate the work of the OCPO to different types of stakeholders.

**SCM Policy, Norms & Standards**  
**(Mpho Nxumalo - Acting)**



To manage the development and implementation of state SCM norms and standards for National, Provincial and Local government so as to influence the state SCM transformation agenda

**SCM Governance, Monitoring & Compliance**  
**(Basani Duiker)**



To manage the design, development and implementation of the SCM governance framework, monitoring evaluation and compliance thereto and the management of non-compliance in all three spheres of Government.

**SCM Information & Comms Technology (ICT)**  
**(Tumelo Ntlaba)**



To modernise the state supply chain management system.

**Strategic Procurement**  
**(Balekile Ngalo - Acting)**



To manage the development and provision of strategic procurement services to improve performance and efficiency of the state procurement system in all three spheres of government.

**Transversal Contracting**  
**(Molefe Fani)**



To ensure value for money and quantification of economic and other benefits by managing the contracting of state transversal commodities.

# OCPO MANDATE

## O-CPO Mandate

The mandate of the OCPO is:

- to manage **policy and legislative formulation** for procurement systems in government;
- **reduce wasteful expenditure** and bring about **efficient and cost-effective** procurement across government;
- aims to enable the efficient, economic, effective and transparent use of financial and other resources, including state assets, for **improved service delivery**; that supports and enforces transparent and effective management of state procurement and sound stewardship of government assets and resources.

A red, distressed-style stamp with the word "MANDATE" in bold, uppercase letters, tilted slightly to the right.The word "MANDATE" spelled out using seven light-colored wooden blocks with black letters, arranged in a row on a white surface.A white document with the word "MANDATE" printed in bold, uppercase letters. A silver paperclip is on the left, and a wooden gavel is on the right, resting on the document.

# OCPO STRATEGIC OBJECTIVES

## O-CPO Strategic Objectives

1. **Improve the performance** and efficiency, of the state procurement system
2. Develop and implement a **procurement regulatory environment** that is responsive to the policy goals and objectives of government
3. Improve **compliance** with the procurement legislative environment
4. **Leverage government spending** to contribute to sustainable economic, social, and environmental development
5. Modernise state procurement by leveraging **information technology**
6. Leverage the benefits of **strategic sourcing**
7. Improve supplier and stakeholder relations
8. Improve the performance of state procurement in respect of achieving '**value for money**' and service delivery
9. **Improve governance and increase the accountability and transparency** of the state to stakeholders, particularly civil society
10. Improve the **capability and performance of procurement officials**

# **WHY DOES PUBLIC PROCUREMENT NEED REFORM?**

# WHAT CAUSED THE PROBLEMS?

The South African public procurement system is complex. It is operated by over a thousand organs of state that delegate to tens of thousands of divisions, field offices, schools, hospitals, and so on, with hundreds of thousands of registered suppliers entering into over two million transactions annually. The causes of its problems can, however, be reduced to the following five broad areas:

1. **Increased corruption levels and lack of enforcement.**
2. **A lack of capacity** at both regulatory and operational levels. Lack of sufficiently skilled public procurement personnel employed within poorly designed organisational structures.
3. **Complicated, fragmented, and inconsistent legal prescripts** that results in operational inefficiency, non-compliance and confusion in the application thereof.
4. **Inflexible, incoherent and rigid prescripts** that hamper development and service delivery.
5. **An overburdened procurement system** that causes a mismatch between applying the rules of procurement law and achieving government's commitment to **social and developmental objectives**.

# WHAT IS THE SOLUTION?



1. A **single statute** that coheres and provides for reform of the public procurement legal landscape and system and to incorporate and provide for the repeal of all other statutes that deal with public procurement.
2. A **single regulatory authority** with jurisdiction over the whole public procurement system, including all organs of state currently under the Public Finance Management Act and the Municipal Finance Management Act.
3. **Data and transparency.** The O-CPO has begun to publish reports on various aspects of the public procurement system. The Central Supplier Database and e-tender portal are examples of these. However these initiatives are hampered by the archaic, unintegrated, and deteriorating nature of government's broader information technology systems. Current projects are underway to make public procurement more transparent.
4. **Capacitating and professionalising public procurement.** In regard to capacitation, the O-CPO needs to build the internal capacity it needs to design and drive modernisation, monitor and ensure compliance. In the area of professionalisation, the National Treasury is spearheading a Supply Chain Management (SCM) Interim Council that is responsible for developing a roadmap for public sector supply chain professionalisation and coordinating stakeholders into the effort.



# WHAT IS THE SOLUTION?

- 5. A strategic and differentiated approach to procurement.** Strategic procurement often involves a more pragmatic, flexible and differentiated approach to procurement. The O-CPO has two Chief Directorates (Strategic Procurement and Transversal Contracting) whose mandate it is to recognise the importance of ensuring added value across each stage of the procurement process, from demand management, market research and specification, through purchasing to contract and relationship management and review.
- 6. Enhanced compliance and enforcement mechanisms.** South Africa has no central administrative body tasked with enforcement of public procurement rules. Currently enforcement is done through various law enforcement agencies and a combination of legal mechanisms scattered throughout the administration and remedies enforced in the normal courts. The statute must, therefore, make provision for enhanced compliance measures, a dispute resolution and enforcement mechanisms.





# **GUIDELINES AND REGULATIONS ON DEPARTURES FROM PROCUREMENT PROCESSES**

# Guidelines and Regulations on Departures from Procurement Processes

**TR16A6.4** states that

- “If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means,
- provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.”

Further to this, National Treasury **Practice Note No. 8 of 2007/2008, par. 3.4.3** states that

- “Should it be impractical to invite competitive bids for specific procurement, e.g. in urgent or emergency cases or in case of a sole supplier, the accounting officer / authority may procure the required goods or services by other means, such as price quotations or negotiations in accordance with Treasury Regulation 16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer / authority or his / her delegate. Accounting officers /authorities are required to **report within ten (10) working days** to the relevant treasury and the Auditor-General all cases where goods and services above the value of R1 million (VAT inclusive) were procured in terms of Treasury Regulation 16A6.4. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process.

# Guidelines and Regulations on Departures from Procurement Processes

National Treasury Instruction No. 3 of 2016/17 further elaborates on:

## DEVIATIONS FROM NORMAL BIDDING PROCESSES

### 8. DEVIATIONS FROM NORMAL BIDDING PROCESS

- 8.1 The Accounting Officer/Accounting Authority must only deviate from inviting competitive bids in cases of **emergency** and **sole supplier status**.
- 8.2 An **emergency** procurement may occur when there is a **serious and unexpected situation that poses an immediate risk to health, life, property or environment** which calls an agency to action and there is **insufficient time to invite competitive bids**.
- 8.3 **Sole source** procurement may occur when there is evidence that **only one supplier** possesses the **unique and singularly available capacity** to meet the requirements of the institution.
- 8.4 The Accounting Officer/Accounting Authority must invite as many suppliers as possible and select the preferred supplier using the competitive bid committee system.
- 8.5 **Any other deviation** will be allowed in **exceptional cases** subject to the **prior written approval from the relevant treasury**.

## EXPANSIONS OR VARIATIONS OF ORDERS

### 9. EXPANSIONS OR VARIATION OF ORDERS

- 9.1 The Accounting Officer/Accounting Authority must ensure that contracts are not varied by more than **20% or R 20 million** (including VAT) for **construction related goods, works and or services** and **15% or R15 million** (including VAT) for **all other goods and or services** of the original contract value.
- 9.2 Any **deviation in excess** of the prescribed thresholds will only be allowed in exceptional cases **subject to prior written approval from the relevant treasury**.

# Guidelines and Regulations on Departures from Procurement Processes

- National Treasury periodically provides guidelines and instructions on contract deviations and expansions for state organs.
- National Treasury provides advisory and support services on SCM matters.
- National Treasury also conduct bid reviews of procurement processes and make recommendations thereon. (These bid reviews are NOT forensic investigations. Only if there is prima facie evidence of wrongdoing will it be referred to the NT Special Audit Services in the OAG)
- National Treasury pre-approves deviations and expansions from the state organs.

# DEVIATIONS

- In terms of SCM Instruction Note 3 Of 2016/2017, when the department/entity does not follow the normal procurement process stated in the SCM Legal Framework, they can apply for deviation. Examples of deviation requests:
  - Preferred Method/Single Source
  - Unsolicited bids
  - Closed/Limited bidding
  - Use of RFQ instead of Competitive Bidding
  - Urgent cases etc.
  - Failed bidding processes
  - Expired contracts / Continuation of services
  
- The accounting officer or delegated authority can approve any deviation below R 500 000.00 – **with the increase in RFQ threshold, this threshold will also increase to R1 000 000**

# DEVIATIONS

- Effective 1 May 2016 the Accounting Officer may approve the following deviations:
  - Emergency; and
  - Sole supplier for goods and services.
- Deviations that are above R1 million and approved by AO/AA should be reported to the relevant treasury and AG within 10 working days after approval
- All other deviations from normal procurement procedures, prior approval should be sought from the relevant treasury.
- The following information is critical when applying for a deviation at National Treasury.
  - Description of the service required.
  - Reason(s) for deviating normal process
  - Estimated value and duration of deviation
  - Name of supplier (if applicable)

# VARIATION AND EXPANSION

- According to the instruction note, the AO/AA can approve expansions or variations less 20% or R20M [Including VAT] for construction related goods, works and or services and 15% or R15M [Including VAT] for all other goods and or services of the original contract value
- Any expansions or variations above the prescribed thresholds must be submitted to the relevant treasury for prior approval.
- The relevant treasury may, however, decrease these thresholds for institutions reporting to them.
- Examples of reasons for Expansions and variations
  - Extensions to contract duration due to failed bidding processes
  - Unforeseen circumstances
  - Delays in projects
  - Scope changes



# VARIATION AND EXPANSION – BSC Challenges

- Officials who are involved in BSC should be trained in order to be able to specify requirements that meet the Constitutional requirements of fairness and transparency.
- Specifications that do not meet legislative requirements and other guidelines set by NT could lead to **Non-compliance** and costly litigation.
- Leading to
  - cancellation of bids
  - Contract modifications
  - Deviations
  - Irregular Expenditure

The biggest drivers of increase in contract modifications as well as deviations.

# VARIATION AND EXPANSION – BEC Challenges

- Bid Committees not properly constituted and not understanding their roles.
- Inexperienced committee members or not familiar with SCM regulatory framework.
- Conflict of interest.
- Changing the evaluation criteria advertised during the evaluation.
- Separating physical inspection and presentation from functionality evaluation.
- Incorrect calculations.
- Leading to
  - cancellation of bids
  - Contract modifications
  - Deviations
  - Irregular Expenditure

The biggest drivers of increase in contract modifications as well as deviations.

# VARIATION AND EXPANSION – BAC Challenges

## Bid Adjudication

- BAC not properly constituted.
- BEC members also BAC members creating conflict
- BAC Not understanding their roles.
- Conflict of interest.
- Endorsing unfair disqualifications.
- Endorsing incorrect calculations.
- Changing the BEC scoring.
- Allocating scores to the bidders
- Leading to
  - cancellation of bids
  - Contract modifications
  - Deviations
  - Irregular Expenditure

The biggest drivers of increase in contract modifications as well as deviations.

# Committee to oversee contract deviations and expansions

## Context:

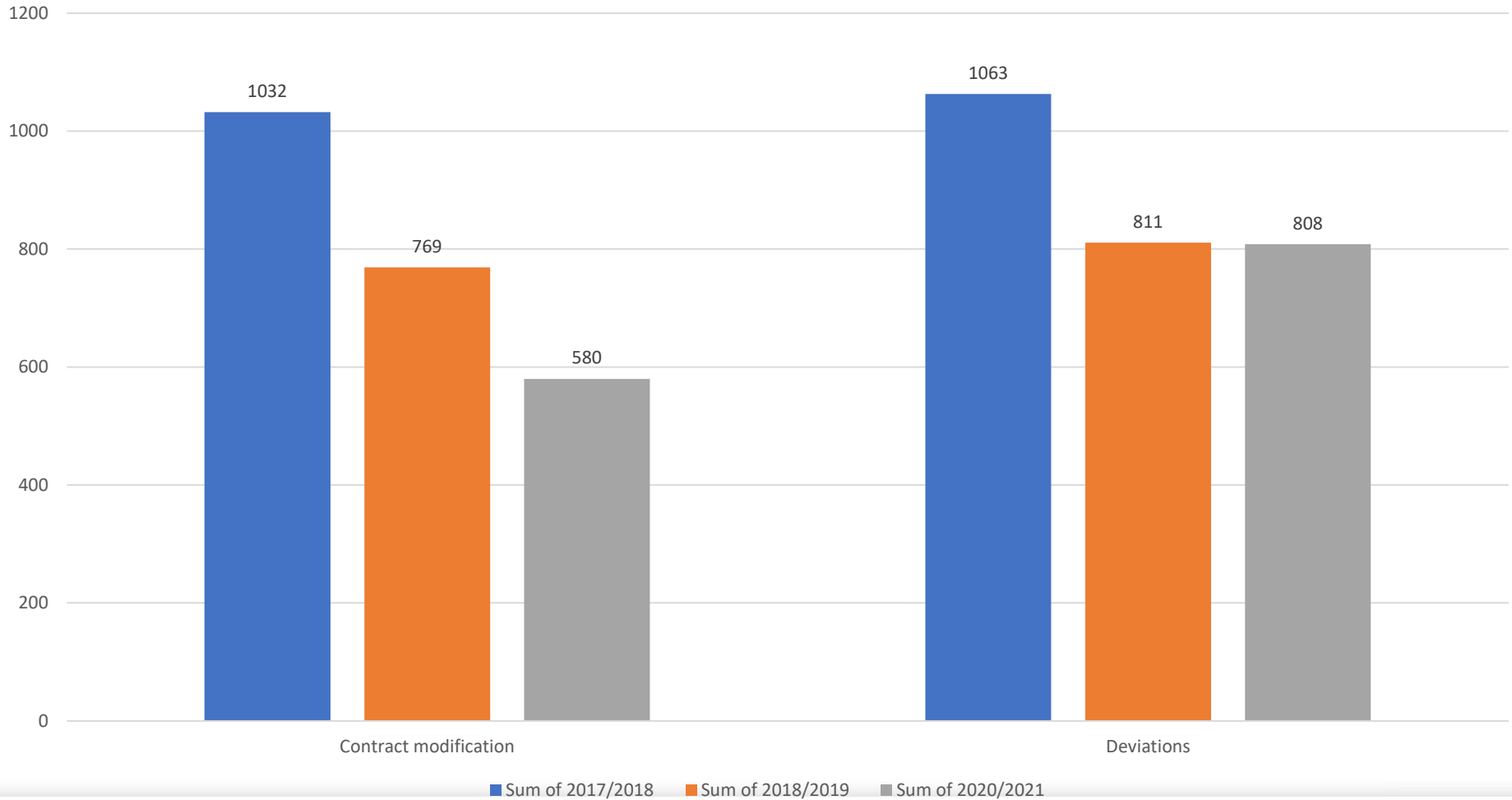
Power relations – delegation of authority to Chief Procurement Officer to grant prior approval. Committee to remedy the power relation and submit applications to the body of experts within NT.

- National Treasury analysed the current applicable legislation, delegations of authority, as well as the current process of Deviations and Contract modifications to consider different options to establish the committee.
- Considerations of a committee with external members vs. internal members
- A number of challenges were identified that relates to the Authority and the role and responsibilities of the committee, capacity of members to be able to process the requests.

## These include:

- High volumes of requests
- High turnaround times – averages around 30 days
- Process currently very involved including meetings with the institutions, site visits/verification, consultation with other divisions of NT such as Public Finance, OAG, IGR, ALM and Legal.
- The process require deep knowledge of history of matters related to the request.

# Committee to oversee contract deviations and expansions



# Committee to oversee contract deviations and expansions

## Exceptional Cases

- Should have reasonable turn around times to deal with urgency to enable service delivery. If prolonged, they directly hamper service delivery, and in case of contracts in build environment attract financial claims for standing time
- Delegation of the function to a body of experts or internal committee will increase the turn around times significantly and frustrate the SCM system.
- it was difficult to establish where accountability rests in terms of the administrative decision.

## Remedy

- National Treasury created a 4 level segregation of duties between the receiving and processing of the requests (Deputy Directors), the reviewing ( 1<sup>st</sup> level review by Directors), recommendation (2<sup>nd</sup> level review by Chief Director) and sign-off ( approval by CPO) of the requests.
- With the publishing on a quarterly basis of the requests, and the agreement with AG to audit all procurement done through deviations and contract modification provides for monitoring of the deviations and contract modifications.
- Periodic reporting to SCOA and SCOPA by NT on the deviations and contract modifications for accountability, as well as the AO/AAs.

# **TRANSVERSAL CONTRACTING**



# Legal Framework on Transversal Term Contracts

- Treasury Regulation 16A6.5

16.A6.5 The accounting officer or accounting authority may opt to participate in transversal term contracts facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.

*This means that participation in any transversal contract facilitated by the relevant treasury is currently discretionary, i.e. at the inception of the contract, AO/AAs have the discretion whether or not to participate. However, once a government institution opts to participate on a transversal contract, they may not enter into another contract for similar goods and services for the tenure of the contract.*

- Transversal contracts are facilitated by:
  - National treasury
  - Provincial Treasuries – other than NT transversal contracts
- Applicable to:
  - All Departments, National and Provincial
  - Constitutional Institutions and public entities as listed in schedule 3 to the PFMA
  - SOE/SOC (Schedule 2) may participate
  - Municipalities may participate (Regulation 32 of MFMA)
- Transversal contracts provides for the following:
  - Voluntary participation in Contracts arranged by relevant Treasuries
  - Prohibition of facilitation of Transversal Term Contracts by other organs of state but the relevant



# Transversal contracting

- Over **R25 Billion spend** per annum under central management
- Currently, the National Treasury manages **68 transversal** contracts for the purchase of goods and service

# ROAD MAP - EASE OF STRATEGY IMPLEMENTATION

Easy ← Ease of Implementation → Difficult

Volume Concentration	Demand Management Actions	Best Price Evaluation	Global Sourcing	Product Specs Improvement	Joint Process Improvement	Relationships Restructuring
<ul style="list-style-type: none"> <li>• Supplier rationalisation</li> <li>• Increase supply base</li> <li>• Reduce Volumes</li> <li>• Volume pooling</li> <li>• Volume redistribution</li> <li>• Category consolidation</li> <li>• Standardisation</li> </ul>	<ul style="list-style-type: none"> <li>• Policy changes that reduce demand for the product/ service or substitute lower price product/ service</li> </ul>	<ul style="list-style-type: none"> <li>• Renegotiate contracts</li> <li>• Bundling/Un-bundling</li> <li>• Current Market</li> <li>• Reverse engineering</li> <li>• Reverse Auctions</li> <li>• Internal price benchmarking</li> <li>• Transportation / packaging</li> <li>• Exchange Rate Indexing or Hedging</li> <li>• Formula Pricing</li> <li>• Fixed Pricing</li> <li>• Lowest quoted price or lowest cost</li> <li>• Competitive bidding</li> <li>• Develop long-term contracts</li> </ul>	<ul style="list-style-type: none"> <li>• Identify global suppliers for the Commodity group</li> <li>• Market protection</li> </ul>	<ul style="list-style-type: none"> <li>• Rationalise / Standardise</li> <li>• Piece part of assembly</li> <li>• Consulting or engineering standards</li> <li>• Product or part substitution</li> <li>• Concurrent production</li> <li>• Value engineering</li> <li>• Examine life cycle cost</li> <li>• Develop long-term contracts</li> </ul>	<ul style="list-style-type: none"> <li>• Supply chain integration</li> <li>• Consignee stock and supplier maintenance</li> <li>• Simplified ordering</li> <li>• Joint improvement opportunities</li> <li>• Outsourcing and Insourcing</li> <li>• Optimize communication</li> <li>• Strategic alliance</li> </ul>	<ul style="list-style-type: none"> <li>• Analyze core competencies</li> <li>• Examine make versus buy decisions</li> </ul>

*Typical Focus for Initial Efforts*



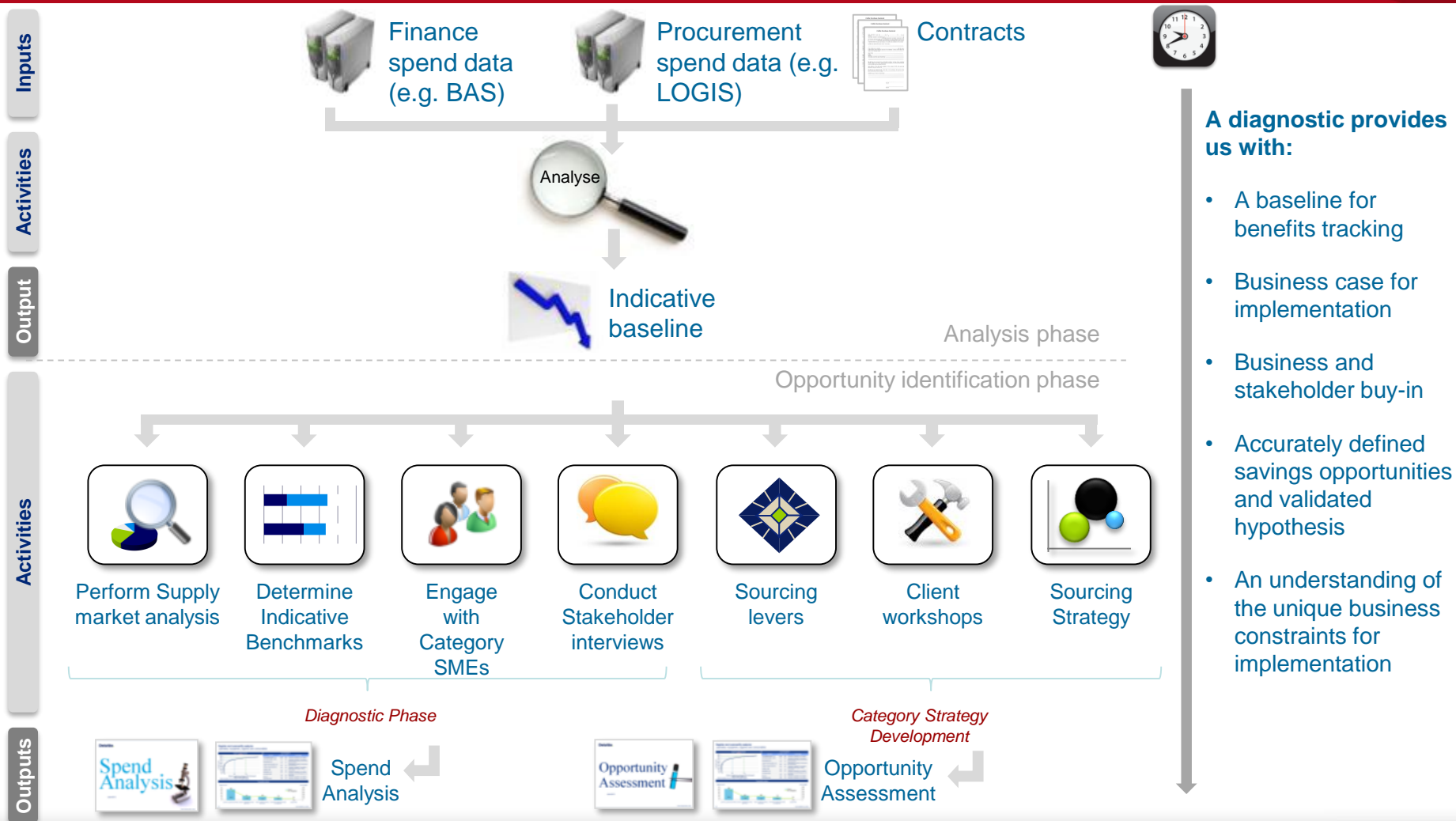
# **STRATEGIC PROCUREMENT**

# Strategic Procurement

Strategic procurement is a differentiated approach to procurement aimed at leveraging sourcing benefits for all parties involved; it includes proper planning, research, consultation and finally the development of a sourcing strategy which can either be a tender, policy directive, commodity guidelines etc.

- Collaborative approach with all stakeholders in the procurement chain to develop the best suitable strategy for a particular commodity (i.e. the establishment of governance structures such as **Project Team, Steering Committee and Cross Functional Sourcing Team**).
- In a strategic sourcing process, the role of the **end-users** (for correct need identification) and that of the **suppliers/ industry** (to ensure that the identified need is not biased towards certain suppliers, there's availability of the product and market response readiness) are extremely important.
- The sourcing interventions previous and current includes the Travel, Correctional Services, Transport, Education and Health sectors of Government.

# Strategic Sourcing Approach



**A diagnostic provides us with:**

- A baseline for benefits tracking
- Business case for implementation
- Business and stakeholder buy-in
- Accurately defined savings opportunities and validated hypothesis
- An understanding of the unique business constraints for implementation

# Sourcing Initiatives: Travel & Education

## TRAVEL

The OCPO has developed cost **containment measures** including guidelines on the travel class and accommodation allocations for officials, this is aimed at reducing the expenditure on this commodity for all spheres of government. The OCPO has also revised the **National Travel Policy Framework** (NTPF) and the policy will be issued in this financial year.

The sourcing strategy of procuring a Government owned **Travel Online Booking** tool has advanced to the Bid Evaluation Committee stages, this will reduce government reliance on travel agencies for some services while also providing real time travel reports for improved decision making purposes.

## EDUCATION

**Department of Basic Education(DBE):** the e-Education Procurement Delivery Management Guide (e-Ed PDM) was developed in the 2018/19FY for DBE to use when procuring eLearning material for the education sector.



# Sourcing Initiatives: Correctional Services and Transport

## Department of Correctional Services (DCS):

During the 2019/20FY, the OCPO collaborated with DCS Head Office and Regions for the development of sourcing strategies for the prison nutrition/ catering services. This was aimed at stabilising the food allocation challenges which resulted in the termination of the former service providers' contract and to ensure that future procurement of this commodity results in value for money.

- ✓ The sourcing strategy provided for a centrally coordinated procurement process at head office but the actual buying of food at a regional or centre level.

## Department of Transport (DoT):

The OCPO is developing a sourcing strategy for bulk fuel with DoT, the aim is to source this commodity as a solution that is inclusive of the procuring of bulk fuel, underground tanks and maintenance. This commodity is utilised by institutions such as SAPS, DoD, DWS and Metropolitan Municipalities with fuel depots and is feeder into the currently running RT70 Transversal Contract which only caters for the supply of bulk fuel.

# Sourcing Initiatives: Health

## Department of Health (DoH):

The development of sourcing strategies for the health sector including (DCS & SAMHS) remains the largest initiative of the OCPO since the inception of the office to date:

- ✓ During the 2016/17 FY; sourcing strategies were developed for the DoH on the **hospital catering, hospital laundry services, hospital cleaning services, hospital linen & laundry services as well as medical waste commodities.**
- ✓ The developed strategies included **price benchmarks, developing and standardising of product specifications, guidelines on regulatory requirements and the appropriate bid socio economic objectives** to be advanced when procuring these commodities.
- ✓ The Strategies were handed over to NDoH and Provincial Departments of Health for implementation.

# Sourcing Initiatives: Health

The development of sourcing strategies for the National Department of Health's Essential Equipment List (EEL) has resulted in the following national Transversal Contracts facilitated by OCPO:

- ✓ RT2- Electro-Medical Equipment
- ✓ RT54- Mental Health Equipment
- ✓ RT55- Rehabilitation Equipment
- ✓ RT286- Dental Equipment

The office also assisted NDoH during the 2019/20 FY with the sourcing initiative of phasing out the Public Private Partnership (PPP) on the **Expanded Programme on Immunisation (EPI) Vaccines**. This process led to the procurement of the EPI vaccines through an open bidding process, stimulating competition, price competition and affording the industry an equal opportunity to participate on the tender.

# Sourcing Initiatives: Health

The office recently finalised in the 2020/21 FY a sourcing strategy for the **Picture Archiving and Communication System (PACS)** which is a network of systems linking to the hospitals IT network for the processing of patient data such as X-rays or scans.

The 2021/22 focus on the sourcing strategies for the broader radiological and imaging equipment category (**oncology, nuclear medicine, radiology and sonography equipment**) which will feed into the above mentioned PACS system so that the health sector procures a complete solution.

A sourcing strategy development for the **hospital equipment maintenance** is also underway, this will address the challenge of equipment that is not repaired and maintained because their warranty/ guarantee period have lapsed.

THANK YOU



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