

EC CIGFARO SEMINAR

09 –10 May 2022

Theme: New World-Rethinking

PAPER:

Enhancing Service Delivery through Effective Supply Chain Management & Public Private Partnership Expenditure Management

This paper is developed by ECPT in collaboration with NT- MFIP SCM Advisor, the document is based on the MFMA, Regulations, MFMA Circulars, literature review and the experience on the oversight role by Provincial Treasury.

BACKGROUND

It is essential to note that municipalities exist to provide *basic service* to communities, as they are at the coal face of service delivery and best placed. In order for municipalities to be in a position to *sustainably* and *adequately* provide services, they need to ensure that their *supply chain management units* are established and are *functioning effectively* and *optimally* as there are high range of focused activities to satisfy service delivery.

Furthermore, where a municipality is considering concluding an *agreement* with a *private sector* such as Public Private Partnership (PPP), which is a *contract* between a municipality and a private party in which the private party assumes substantial *financial, technical and operational risk* in the design, *financing, building and operation* of a project. Two types of PPPs are specifically defined: *where the private party performs a municipal function* and *where the private party acquires the use of municipal property for its own commercial purposes*

PROBLEM STATEMENT

Provincial Treasury has observed that municipalities have not been performing well on the *infrastructure spending*, service delivery continues to be negatively affected, this may trigger unrest amongst communities, due to amounts returned to the National Revenue Fund. During 2019/20 financial year when the country mostly affected by the COVID-19 pandemic to such an extent there has been underspending of *R1,522 billion* with *R776,584 million* rejected during roll-over process. Had these funds been retained by the province, more job opportunities could have been created, providing more services to the community would have been created through infrastructure development. SCM processes have been blamed for these delays, municipalities need to improve on *Planning, Procurement, Contract & Project Management*.

Furthermore, AGSA's report for the Province reflects high irregular expenditure and the report reveals a closing balance of *R27.7 billion* in 2019_20 FY, which is the result of non-compliance with SCM prescripts. Municipalities have not sufficiently dealt with the escalating irregular expenditure, other areas of concern included management of procurement processes, contract management, prevention of irregular expenditures and oversight. This continued non-adherence to SCM regulations defer restoration of the public's confidence and deprives citizens of much needed services in all areas of service delivery.

NB: There is no significant doubt that this status quo will not likely to change if we follow business as usual approach, we therefore need to COLLABORATE and do things "differently" as the Province

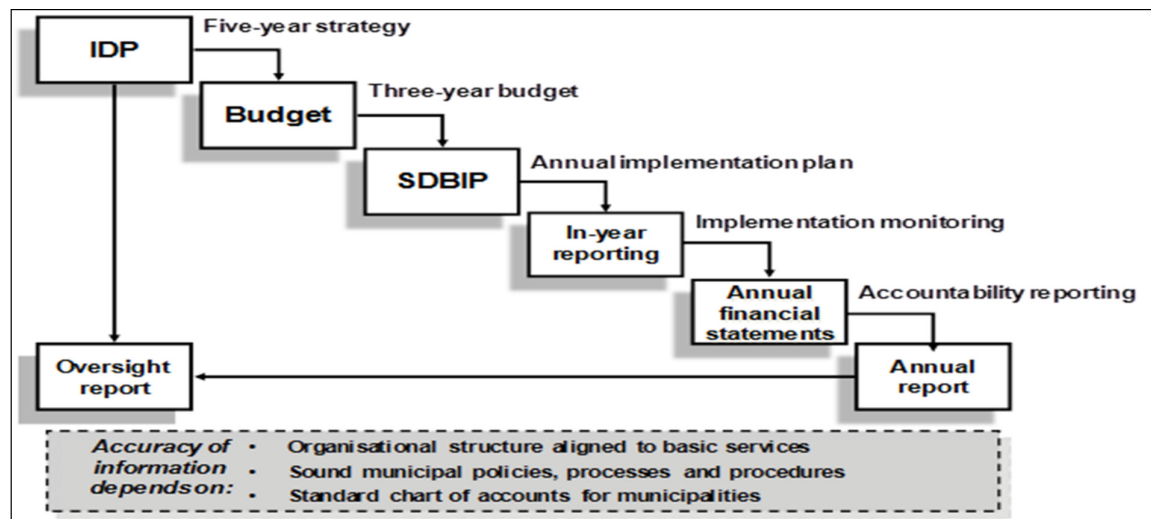
DISCUSSION

SUPPLY CHAIN MANAGEMENT

SCM plays a very crucial role in ensuring that municipalities, through the **demand management system**, *identify the needs* and that there are *adequate resources* in place to provide quality and timely basic services in line with the *strategic objective* as set out by the municipality in the **Integrated Development Plan (IDP)**. Consequently, the programmes and

projects which are identified in the IDP / IDP review are quantified in the budget and the strategic objectives and further consolidated and translated to form the ***Service Delivery and Budget Implementation Plan (SDBIP)*** which serves as monitoring tool for IDP & Budget. The figure below illustrates **Local Government Accountability Cycle** which aims to strengthen municipalities' financial management and budgeting practices:

Fig 1:



It is important to note that SCM function is ***highly legislated***, Section 217 of *The Constitution of the Republic of South Africa* has laid a *primary framework* for all organs of state whenever they contract for goods or services, which requires organs of state to enter, into such in accordance with a system that is *fair, transparent, competitive, cost-effective and equitable*. The framework further allows organs of state to implement *preferential procurement policies* which provide for categories of preference in the allocation of contracts and the protection or advancement of persons disadvantaged by unfair discrimination.

The organs of state have not performed well in terms of *institutionalising the preferential procurement policy* and as a result they have, to a larger extent, there is still room for improvement to advance the interests of previously disadvantaged persons as per the constitutional mandate. The procurement function itself must also provide ***value for money*** and must be carried out in a cost-effective way. **Procurement functions should ensure the:**

- Avoidance of any unnecessary costs and delays;
- Monitoring of the supply arrangements and reconsider them if they cease to provide the expected benefits; and
- Continuous improvement in the efficiency of internal processes and systems.

It is of outmost importance that all parties involved in the procurement process comply with high *ethical standards* to deal with each other on a basis of *mutual trust and respect* and conduct their business in a fair and reasonable manner and with integrity. Employees of the state are required to recognise and deal with conflicts and to provide all assistance in the elimination of fraud and corruption.

In the SCM function, the *Procurement Cycle* plays a vital role in ensuring that policies and procedures are implemented and adhered to when procuring goods and services for the purpose of delivering basic services to communities. The abridged cycle below demonstrates the *flow of procurement activities* to enable each municipality to deliver on their service delivery objectives:

Fig 2:



The summary below elaborates on the flow chart above:

Planning: *Demand planning, procurement planning, items and specification management, and supplier management* are critical phases in the **pre-tendering stage**. This stage ensures that goods, services, construction work and other purchases are properly planned and aligned to the procuring entity's strategy and resource plan. It is at this stage that a *comprehensive*

needs analysis is carried out in line with the strategic planning process. Municipalities are encouraged to *formulate policies and procedures* that would eliminate or minimise pre-tender violations which would also *reduce the risk of incurring irregular expenditure*.

Requirement Definition: This entails *what is to be procured*, and requires effective Demand Management system, which includes, amongst others, a proper needs assessment of required goods, *drafting of specification, industry analysis and determination of availability of funds*. All phases of evaluation should be mentioned in the bid document. To this end, municipalities should avoid overstating the functionality requirements in the specifications. **Pre-tender stage violations** include amongst others: *development of biased specifications; procurement of items not budgeted for; poor procurement plans etc.*

Vendor Selection: *To decide on the manner in which the market will be approached and to evaluate bids* in accordance with published criteria. The improvement of demographics as well as the revenue base of various municipal councils, is largely dependent on this stage. The decisions of our municipalities on selection of vendors have been challenged. This has seen certain projects being stalled. Municipalities must follow *correct processes when awarding tenders* in some instances the tendering violations include: *absence of public notification of invitations to tender; evaluation criteria changed during bid evaluation and adjudication; conflicts of interest not declared; political interference; detailed tender records not kept etc.*

Negotiation & Contracting: This involves *communication between two or more parties* with the desired outcome of reaching a *mutually satisfactory agreement*. There are several reasons for negotiations: *Costs* - to reduce the cost of acquisition by achieving a lower price and to ensure that proper contract documents are signed. Negotiation is also a process of discussing the *final terms* of the contract. At the end, the contract which is concluded must provide *value for money* and must never compromise quality. In order to enable the accounting officer to implement the contract management function, municipal councils should further develop and adopt contract management policies.

Service Delivery & Performance Management: This deals with the *review of vendor performance* and monitoring process to undertake a retrospective analysis to determine whether the proper processes have been followed and whether the *desired objectives were achieved*. Hence the need for the municipalities to prepare, and table to council, reports on implementation of supply chain management policy and its consequential policies. Lack of

performance monitoring by municipalities has resulted in *poor service delivery implementation*, which lead to community protests. Examples of post-tendering stage violations: *inadequate supervision of suppliers; submission and payment of fictitious invoices; quality of products compromised etc.*

Renewal/Contract Closure: This is the process of *completing all tasks* and terms that are mentioned as deliverable and outstanding on the initial drafting of the contract, in order for a contract to be *ultimately and conclusively closed*. The service provider must have completed all components of this deliverable.

The public procurement process is one area where most **SMMEs** in the country find working with some municipalities being challenging due to non-payment of invoices, this can prove detrimental to the survival of SMME's. **The typical reasons for not paying within 30 days (non-compliance with the MFMA), *inter alia*:** challenges on the financial viability of municipalities, no systems in place to monitor adherence to the 30-day payment period, lack of proper systems for expenditure management. This often led to municipalities incurring fruitless and wasteful expenditure in the form of interest paid due to prolonged payments. The MTSF 2019-2024 objective is to reduce Irregular Expenditure by 75% and Fruitless and Wasteful Expenditure by 100 %. Unless municipalities rethink how to effect proper business processes and how the consequence management is implemented in terms of dealing with person(s) who are responsible for incurring UIF&WE then this target will not be achieved.

With regard to mSCOA implementation the SCM Module should as a minimum have the functionality as required by Legislation, mSCOA & Best Practice, currently there are 25/39 municipalities in the Province with functional SCM Module, the procurement module is used to capture requisition on the system however the requests for acquisition are done outside the system. Municipalities are reporting that training on the use of the module is required and in some instances the module is in the process to be installed as funds are needed to implement it fully.

Finally, as we know that there is a Constitutional Court judgement regarding Preferential Procurement:

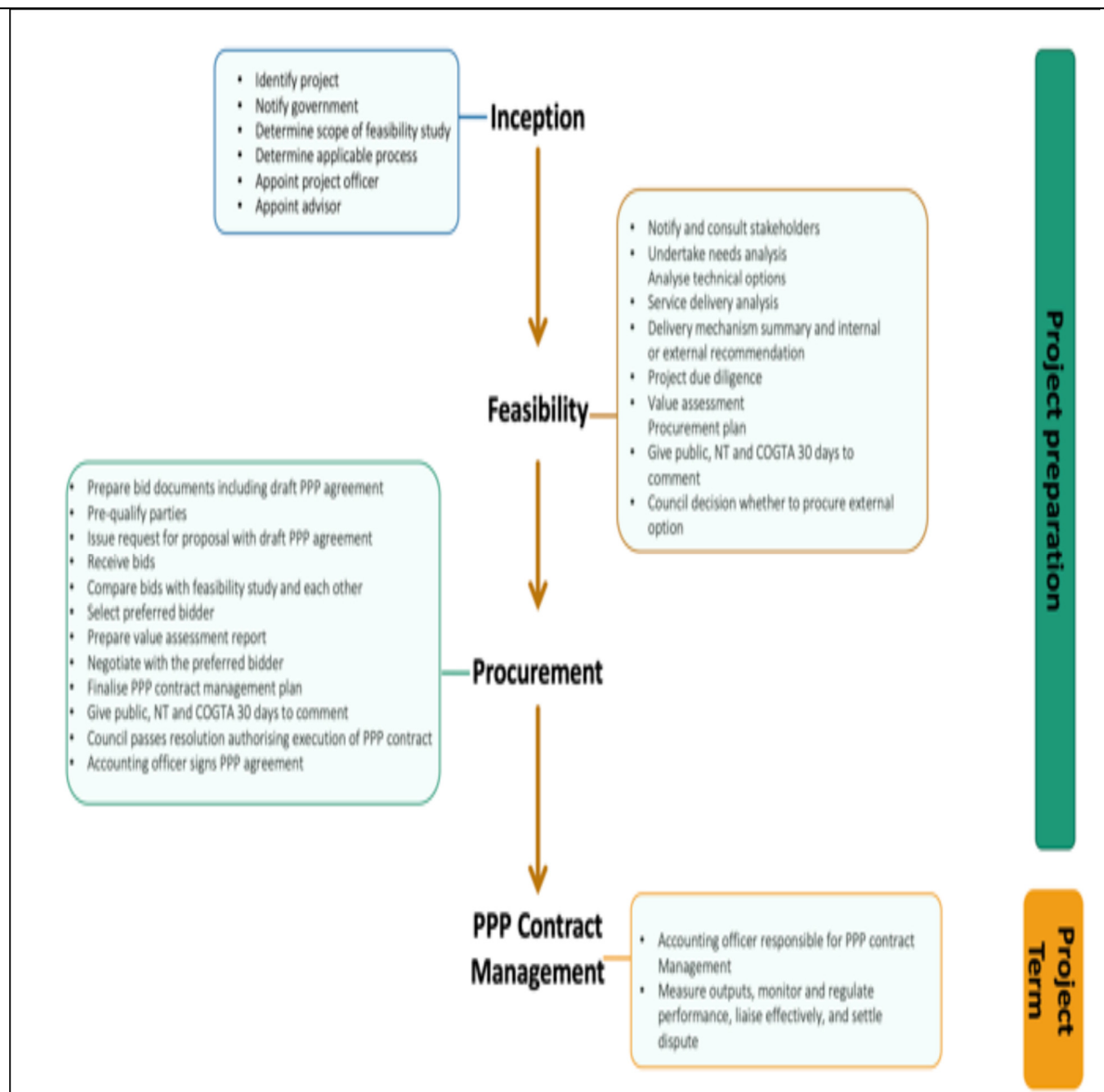
Since there are no new regulations yet and constitutional court has not yet provided clarity on invalidity of 2017 Regulations. As per the latest advisory note from NT dated 3 March 2022, municipalities may request exemption from provision of the Act for specific procurement or category of procurement required and submit to OCPO for the attention of the Minister.

PUBLIC PRIVATE PARTERSHIP

Municipalities should apply *strategic sourcing principles* to determine an ideal manner in which they will acquire the required goods, works or services. This includes the consideration to enter into Public Private Partnerships agreements which are aimed at providing *long-term contracts* between the organ of state and the private sector for a clearly defined project where the *private party collaborates* with the municipality in planning and implementing a particular project.

According to the study conducted by SALGA (2020:16 -17) “The MFMA requires municipalities to provide value for money services. If for whatever reason, the municipality cannot undertake the provision of services internally, the MFMA in chapter 8, part 1, requires municipalities to ensure that they select the most efficient way to provide the service, and this is one of the tests that any proposed PPP must undergo. Chapter 11 of the MFMA addresses supply chain management (in part 1) and PPPs (in part 2).

National Treasury has developed a PPP manual with guidelines for municipal PPPs on the basis of *Regulation 16*, which consists of training modules outlining the process of developing a PPP as well as toolkits for specific sectoral PPPs. The following diagram outlines the process for undertaking a PPP as outlined in National Treasury’s municipal PPP guideline:”



Source: SALGA, August 2020 (17)

According to the study conducted by SALGA (2020:16 -17) on some of the reasons provided by municipalities on using PPPs:

- Sharing of risks and access to skills by partnering with a private sector company.
- PPPs can provide access to funding that a municipality would not otherwise have had. In Nelson Mandela Bay, the municipality did not have a sufficient budget to full Wi-Fi and broadband access roll-out to all communities.

- PPPs can provide Innovation and escaping municipal constraints a method of getting around the constraints of the standard municipal procurement system, in Nelson Mandela Bay's Waste Park PPP also included a long- term landfill gas recovery component.

Some of the challenges (SALGA, 2020:21), municipalities indicated that they had not considered PPPs as a possible means of financing or delivery of infrastructure:

- they believed the PPP process to be too complex,
- time-consuming and expensive.

At the same time, some of them also indicated that they believe there should be better communications and assistance given to municipalities to consider going the PPP route”.

CONCLUSION

In conclusion, time for proper utilisation of Supply Chain Management to effectively provide quality service delivery to our communities and enhance development of our economy is NOW. It is crucial to note that not all municipalities have the skills to manage PPP, therefore technical support and more guidance be provided on PPP to contribute to improved service delivery.

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