



Civilution

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Focus on: National Treasury Standard for Infrastructure Procurement and Delivery Management



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The separation of the supply chains for general goods and services from those for infrastructure

The intent of National Treasury Instruction No 4 of 2015/2016 and Municipal Circular 77 is to separate the supply chains for infrastructure procurement and delivery management from those for general goods and services. There is a need to understand the differences between procurement and supply chain management, the different types of procurement, and the major differences between these two different types of supply chains in order to understand the thinking behind this separation.

LEGISLATIVE REQUIREMENTS FOR SUPPLY CHAIN MANAGEMENT

The Public Finance Management Act (PFMA) of 1999 requires accounting officers and accounting authorities to establish and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective. The Supply Chain Management Regulations (March 2005) issued in terms of the PFMA of 1999 establishes, amongst other things, requirements for a supply chain management (SCM) system, the establishment of SCM units, training of SCM officials, procurement of goods and services, disposal and letting of state assets, compliance with ethical standards, avoiding abuse of an SCM system, and reporting of SCM information. These Regulations, which establish high-level requirements, require that the SCM system provides for at least demand management, acquisition management, logistics management, disposal management, risk management and the regular assessment of supply chain

performance. They also require that a committee system comprising bid specification, bid evaluation and bid adjudication be established to deal with procurement through a bidding process. National Treasury instructions and practice notes have been issued over the years to deal with or inform specific issues, mostly those relating to activities associated with tender procedures and requirements from the time that a decision is taken to procure goods or services or any combination thereof up until such time that a contract is awarded.

The Local Government: Municipal Finance Management Act (MFMA) of 2003, on the other hand, requires that each municipality and each municipal entity have and implement an SCM policy which gives effect to the provisions of a prescribed framework, the principles of which are established in the Act and the details of which are contained in the Regulations. The main focus of this framework is on competitive bidding processes. The Act also establishes re-

quirements for contracts and contract management. Regulations are required to prescribe the details to give effect to the framework.

The Supply Chain Management Regulations (2005), issued in terms of the MFMA, regulate a number of aspects of an SCM system, including the framework for SCM policies, demand management, acquisition management (system of acquisition management, range of procurement processes, procedures for procuring goods or services, process for competitive bidding, bid documentation, committee system for competitive bids, appointment of consultants, deviation from and ratification of minor breaches, procurement processes, unsolicited bids, combating of abuse of supply chain management system, etc), logistics, disposal, risk and performance management, and a number of matters such as those relating to tax matters, awards to persons in the service of the state or close family members, ethical standards, etc.

The focus of the SCM regulations issued in terms of the MFMA is on

tendering procedures and requirements leading up to the award of a contract. Approximately 70% of the text of these regulations relates to acquisition management and bidding-related matters. Very high-level requirements are established for demand management, logistics, disposal, risk and performance management. These requirements merely identify the purpose of these systems.

The SCM Regulations issued in terms of both these Acts did, however, establish a requirement for bid documents to comply with the requirements set by the Construction Industry Development Board. This is the only differentiator between requirements for general goods and services, and those for infrastructure.

PROCUREMENT VERSUS SUPPLY CHAIN MANAGEMENT

Procurement is the process which creates, manages and fulfils contracts. Procurement deals with activities surrounding contracts. Such processes focus on establishing what is to be procured, developing a procurement strategy, identifying procurement tactics, producing procurement documentation, soliciting and evaluating tender offers, the awarding of contracts, and administering contracts. Procurement focuses on activities at the project level.

Supply chain management (SCM), on the other hand, is the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods, services or any combination thereof. Supply chains comprise all those public and private entities that are involved in delivering the inputs, outputs and outcomes of projects. Accordingly, SCM is concerned with the oversight, coordination and monitoring of inputs, outputs and outcomes of projects from the various entities within a supply chain, whereas procurement relates to the contracts which are entered into to deliver projects. SCM infrastructure projects focus on portfolio and programme management activities relating to the management of the solutions to the business case and the specific benefits of interrelated projects in terms of cost, schedule and performance objectives.

Section 217 of the Constitution of the Republic of South Africa, 1996, establishes the overarching requirements for the procurement system. Regulations

issued in terms of the Public Finance Management Act of 1999 and the Local Government Finance Management Act of 2003 establish requirements for an SCM system, and further requirements for the procurement system.

Typical responsibilities of an organ of state's SCM unit should include:

- implementation of functions allocated to the unit in terms of SCM policies;
- maintenance of the SCM to ensure its effectiveness and efficiency;
- regular reporting to the accounting officer or accounting authority on the performance of the SCM;
- ensuring compliance with the financial management regulatory framework;
- rendering assistance and administrative support to the line function managers and other employees in the performance of their SCM responsibilities; and
- coordination and management of institutional interfaces and the relevant treasury in implementing the SCM system.

The focus of an SCM unit should be on managing and coordinating the flow of information, and not performing activities associated with the SCM system.

DIFFERENT TYPES OF PROCUREMENT

Public procurement that is unrelated to infrastructure delivery typically concerns goods and services which relate to consumption and operational needs that are standard, well defined and readily scoped and specified. Once purchased, goods invariably need to be taken into storage prior to being issued to employees. Services most often involve routine, repetitive services with well understood interim and final deliverables which do not require strategic inputs or require decisions to be made regarding the fitness for purpose of the service outputs (see Figure 1).

In contrast, procurement relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure covers a wide and diverse range of goods and services, which are required to deliver a product or alter the condition of immovable assets on a site. Accordingly, the procurement process for the delivery of infrastructure involves the initial and subsequent recurring updating of planning processes at a portfolio level,

flowing out of an assessment of public sector service delivery requirements or business needs. Thereafter it involves planning at a project level, and the procurement and management of a network of suppliers, including subcontractors, to produce a product on a site (see Figure 2). There is no need to store and issue materials or equipment unless these are issued to employees responsible for the maintenance or operation of infrastructure, or are issued free of charge to contractors for incorporation into the works.

DIFFERENCES IN APPROACH TO PROCUREMENT DOCUMENTATION

There are also major differences in the approach to procurement documentation. General goods and services typically deal with the direct acquisitions for well-defined standard services, off-the-shelf items and readily available commodities. The business need is commonly achieved through the production of a specification, which then forms a requisition for the procurement of goods or services, hence the "bid specification committee". An immediate choice can generally be made in terms of the cost of goods or services satisfying specified requirements. Limited management inputs are required in administering the contracts.

Procurement documents that are developed for general goods and services are based on the National Treasury General Conditions of Contract (GCC) which may not be amended. Special Conditions of Contract (SCC) relevant to a specific bid, are compiled separately for every bid (if applicable) and supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC prevail. The GCC applies to all bids, contracts and orders, including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents. This GCC:

- deals with aspects of the bidding process, e.g. costs incurred in the preparation of bids, pre-bid testing;
- requires that goods conform to the standards mentioned in the bidding documents and specifications;
- relies on the SCC to provide the method and conditions of payment which are applicable; and
- is used with standard bidding documents which include an invitation to

bid, price schedules, local content, certificate of bid independence, declaration of bidders' past SCM practices, etc. Typically a contract or a service level agreement is entered into after the award of the bid. Frequently the terms of this contract or service level agreement are negotiated between the parties.

The typical general goods and services procurement documents are character-

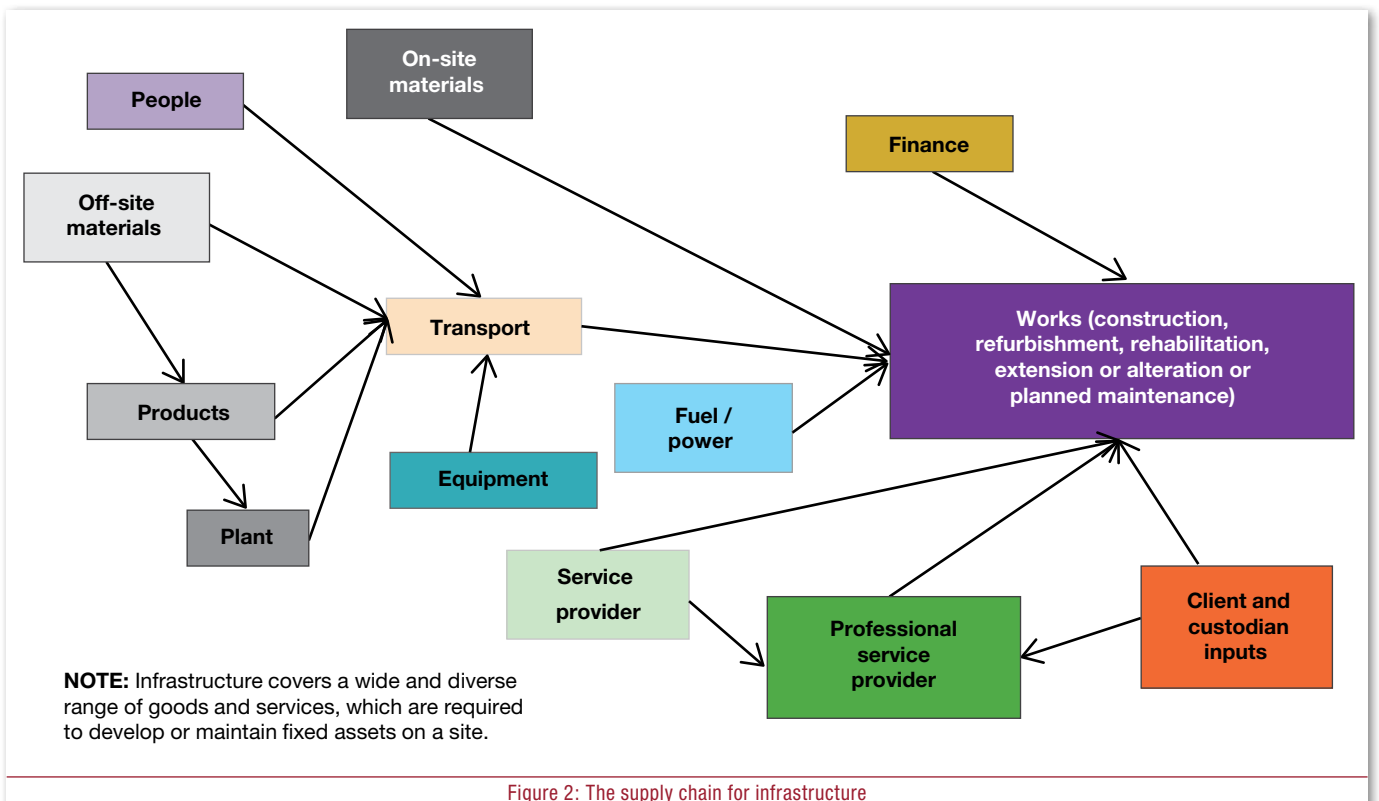
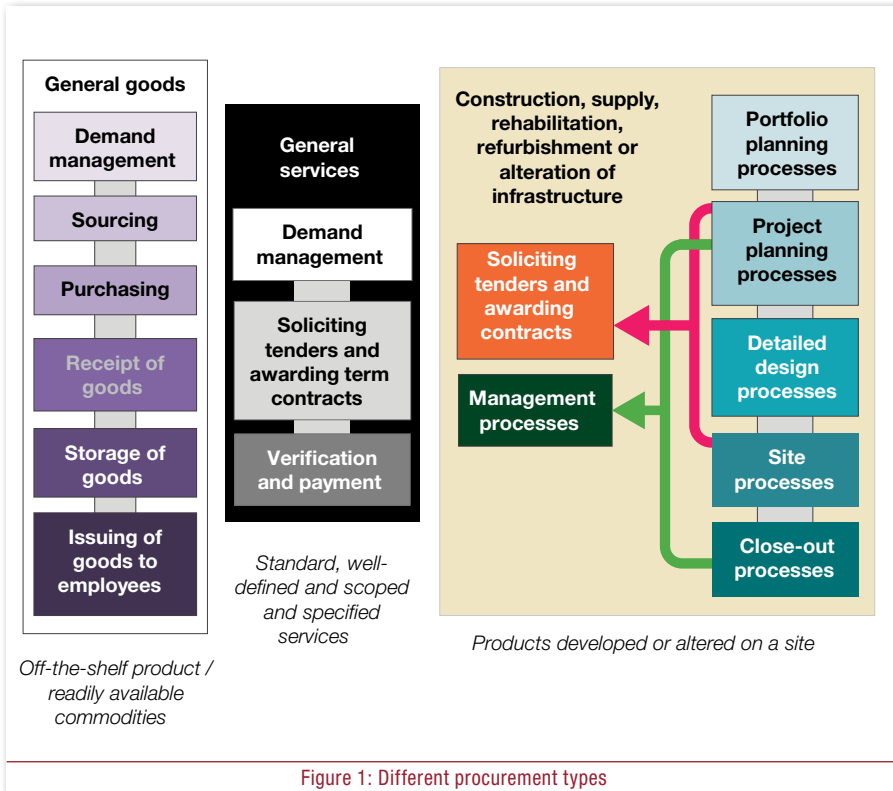
ised by the following:

- tenders are awarded to tenderers on the basis of the lowest price for meeting a minimum standard;
- generic conditions of contracts are applied which only describe the rights and obligations of the parties and lack agreed procedures for the administration or management of the contract;
- no standardised structuring of compo-

nent procurement documents;

- reliance in the evaluation of tenders of a tenderer is placed on completing standard schedules which are applied indiscriminately to procurement transactions; and
- standard, inflexible allocation of risks are made in contracts which require the drafting of extensive special conditions of contract to amend.

The delivery and maintenance of infrastructure differ considerably from those for general goods and services required for consumption or operational needs, in that there cannot be the direct acquisition of infrastructure. Each contract has a supply chain which needs to be managed and programmed to ensure that the project is completed within budget, to the required quality, and in the time available (see Figure 2). Many risks relate to the 'unforeseen' which may occur during the performance of the contract. This could, for example, include unusual weather conditions, changes in owner or end user requirements, ground conditions being different to what were expected, market failure to provide materials, or accidental damage to existing infrastructure. Unlike general goods and services, there can be significant changes in the contract price from the time that a contract is awarded to the time that a contract is completed. Key persons responsible for managing a contract, particularly in complex services



or works, have a major impact on the outcome of these changes. The procurement of supplies and equipment within infrastructure projects is also different, as requirements are frequently established in terms of desired performance. As a result, a range of goods and services (or combinations thereof), with different characteristics, reliability, availability of spares, costs, time for delivery, etc, may satisfy such requirements.

The core business of built environment professionals, who may be employed by either the public or private sector, is to plan, design, manage the execution and control costs of infrastructure projects after a client has decided to implement a project, and to manage the delivery of projects. These professionals, during the planning and design phases of a project, develop production information (information enabling either construction where the constructor is able to build directly from the information prepared or the production of manufacturing and installation information for construction). This information is required by contractors in order for them to price the works.

Infrastructure procurement involves the development or maintenance of a product on a site. A central issue that needs to be dealt with in infrastructure projects is the financial liability related to the uncertainty of future events, who takes the risk for the difference between the actual prices paid in terms of the contract and those estimated at the time of tender, and how are changes to the information used to produce the works assessed and paid for. Failure to do so will result in risk pricing which increases project costs or risk exposure. The selection of a suitable contractor and his team is also a critical factor in the mitigation of risk.

There are a number of procurement strategies (selected packaging, contracting, pricing and targeting strategy and procurement procedure for a particular procurement) and tactics (setting up of the procurement documents to solicit tender offers and to enter into contracts) which impact on procurement outcomes and are likely to yield different outcomes. Standard forms of contract (fixed terms and conditions which are deemed to be agreed and are not subject to further negotiation or amendment when applied to a particular tender), standard conditions for the calling for

expressions of interest, and standard conditions of tender enable a wide range of options to be implemented. The setting up of these documents requires professional judgement if value for money is to be delivered on.

Procurement and contract management form part of the scope of work of built environment professionals. As a result, such professionals have a critical role to play in not only the drafting of the production information, but also the setting up of procurement documents (documentation used to initiate or conclude a contract or the issuing of an order). They also play an important role in the evaluation of tenders, particularly where quality forms part of the tender evaluation criteria.

THE NATIONAL PLANNING COMMISSION'S FINDINGS AND THINKING

South Africa's *National Planning Commission's (NPC) National Development Plan 2030: Our future – make it work* identified a number of shortcomings in the SCM system. The NPC found that the “emphasis on compliance by box-ticking makes the system costly, burdensome, ineffective and prone to fraud” and “procurement systems tend to focus on procedural compliance rather than value for money, and place an excessive burden on weak support functions.” The NPC accordingly proposed that the following five areas be focused on in designing a procurement system that is better able to deliver value for money, while minimising the scope for corruption:

- Differentiate between the different types of procurement which pose different challenges and require different skills sets.
- Adopt a strategic approach to procurement above the project level to balance competing objectives and priorities, rather than viewing each project in isolation.
- Build relationships of trust and understanding with the private sector.
- Develop professional supply chain management capacity through training and accreditation.
- Incorporate oversight functions to assess value for money.

THE DESIGN OF THE SIPDM

The Standard for Infrastructure Procurement and Delivery Management

(SIPDM) either embraces the National Planning Commission's principles or facilitates their implementation. It is also informed by National Treasury's 2015 Public Sector Supply Chain Management Review. It has been designed to be better able to deliver value for money, while minimising the scope for corruption.

One of the unintended consequences of the emphasis on tendering processes in the SCM regulations, instructions and practice notes issued prior to the publication of the SIPDM is that most organs of state have adopted a one-size-fits-all approach to SCM, and established committees with one common policy, and a committee system with standing bid specification and bid evaluation committees which deal with all types of procurement. Many aspects of procurement which were in the past performed by built environment professionals were taken over by 'supply chain management' officials, as the SCM Regulations required that a separate SCM unit be established with the office of the Chief Financial Officer (PFMA) or, where possible, operate under the direct supervision of the Chief Financial Officer (MFMA). This evolved over time as the emphasis in these units shifted from managing SCM systems to performing procurement functions.

The separation of the supply chains for general goods and services from that for infrastructure reverses this trend in order to deliver better value for money. The control frameworks contained in the SIPDM, which cover not only procurement activities, but also those relating to the planning, designing and execution of infrastructure projects, integrate the SCM system for infrastructure. The infrastructure-specific requirements of the SIPDM for procurement documentation, evaluation committees and contract management, linked to professional registration (infrastructure supply chain management practitioners), provide a starting point for delivering value for money.

NOTE

Further insights and information can be obtained from:

Watermeyer, R B, Wall, K & Pirie, G 2013. The case for a separate supply chain for the delivery and maintenance of infrastructure. Available at: www.infrastructurene.ws/wp-content/uploads/2013/02/Technical-Paper-FULL.pdf. ●