

**SUPPLIERS' PERCEPTION ON TRANSPARENCY OF FREE STATE PUBLIC  
PROCUREMENT**

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## Declaration

I declare that the field study hereby handed in for the qualification of Master's in Business Administration at the University of Free State (UFS) Business School is my own independent work and that I have not previously submitted the same work, either as a whole or in part, for a qualification at/in another university or faculty.

I hereby cede copyright of this product in favour of the University of the Free State.

Signature

A handwritten signature in black ink, appearing to read 'M. van der Merwe', written in a cursive style.

21 November 2022

## **Abstract**

This study evaluates the perception of suppliers on the transparency of the public procurement in the Free State Province paying attention on the pre-tender stage activities. The study further reviews the public procurement legal framework and processes to contextualise relationships between transparency and participation, competition and accountability. Public procurement has been critiqued for its highest levels of non-compliance to ethical standards, a lack of standardisation as well as lack of transparency of processes. The allegations of unethical relationships between suppliers and government officials led to the establishment of the Commission of Inquiry into Allegations of State Capture. The Zondo Commission was tasked with, among others, investigating how public procurement systems were flouted to benefit powerful individuals.

To collect data in respect of this study, a structured interviews were administered to a total of 17 active participants in the supplier database, from planned 25 participants who are conducting their business within the boundaries of the Free State. Again, literature in the form of government reports, public procurement legislation and articles was reviewed to contextualise public procurement processes and concepts.

An analysis of 14 of the 17 participants shows that there is no standardised method of communicating pre-tender information to suppliers. Furthermore, suppliers are not familiar with different sets of documents constituting pre-tender information, such as strategic plans, annual performance plans and procurement plans. For example, only three participants suggest having interacted with pre-tender information before tenders were officially advertised. Measures and platforms used by government to communicate invitations to tender are perceived to be cost effective to an extent that they are adequately utilised by all government departments.

In conclusion, majority of participants perceive the transparency of public procurement in the Free State to be inconsistent in different stages of tendering. Additionally, the current procurement framework and procedure appear to be preoccupied with the dissemination of procurement information at the tender invitation stage than at the pre-tender stage of procurement. Furthermore, the current measures of communicating procurement information do not support pre-tender information dissemination,

automated tendering, evaluation and execution to support the principles of transparency.

**Keywords:** Transparency, information asymmetry, competition, participation, accountability, e-tender, procurement plan, public procurement, pre-tender stage.

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## List of Abbreviations

<b>ACTA</b>	Anti-corruption, Transparency and Accountability
<b>AGDF</b>	Australian Government Department of Finance
<b>AGSA</b>	Auditor General of South Africa
<b>ANA</b>	African News Agency
<b>BAC</b>	Bid Adjudication Committee
<b>BEC</b>	Bid Evaluation Committee
<b>CoGTA</b>	Cooperative Governance and Traditional Affairs
<b>CIPC</b>	Companies and Intellectual Property Commission
<b>CIPS</b>	Chartered Institute of Procurement and Supply
<b>CSD</b>	Central Supplier Database
<b>ECTA</b>	Electronic Communications and Transactions Act
<b>EME</b>	Exempted Micro Enterprise
<b>E-decision</b>	Electronic Decision
<b>E-execution</b>	Electronic Execution
<b>E-notification</b>	Electronic Notification
<b>E-procurement</b>	Electronic Procurement
<b>E-tender</b>	Electronic Tender
<b>E-submission</b>	Electronic Submission
<b>GDP</b>	Gross Domestic Products
<b>IRMA</b>	Information Resources Management Association,
<b>OCPO</b>	Office of the Chief Procuring Officer
<b>OECD</b>	Organization for Economic Co-operation and Development
<b>PAIA</b>	Promotion of Access to Information Act

<b>PAJA</b>	Public Administrative Justice Act
<b>PARI</b>	Public Affairs Research Institute
<b>PFMA</b>	Public Finance Management Act
<b>PPPFA</b>	Preferential Procurement Policy Framework Act
<b>RFQ</b>	Request for Quotation
<b>RSA</b>	Republic of South Africa
<b>SABC</b>	South African Broadcasting Corporation
<b>SARS</b>	South African Receiver of Revenue
<b>SCA</b>	Supreme Court of Appeal
<b>SCM</b>	Supply Chain Management
<b>SMME</b>	Small Medium and Micro Enterprise
<b>SMS</b>	Short Message Service
<b>SOPA</b>	State of Province Address
<b>UNCITRAL</b>	United Nations Commission on International Trade Law
<b>UNDP</b>	United National Development Programme

## **Chapter 1: Introduction and Background**

### **1.1. Introduction**

Public procurement is essential to the economies of many developing countries (Saliola, 2017:13). Saliola (2017:13) further states that public procurement also creates huge markets for goods and services, which presents significant opportunities and developments in low-income countries' economies. Public procurement is also a fundamental instrument for realising the socio-economic goals of a country (Saliola, 2017:5). This is evidenced by the average government spending of 13% on goods, services and infrastructure such as roads, hospitals and schools by countries that belong to the Organisation for Economic Cooperation and Development (OECD 2017:5). As a considerable portion of the economy and government expenditure, procurement can move forward government proficiency, especially in connection to fiscal austerity (OECD, 2017:3). Furthermore, this constantly increasing procurement spending places public procurement at the centre of national politics in terms of patterns of allocations in the broader economy (Brunette & Klaaren, 2020:2).

As a result of this public procurement spending, the OECD reports that public procurement is viewed as one of a government's activities that are open to unethical practices (OECD, 2016:6). A culture of non-compliance associated with the absence of accountability and transparency of public procurement contributes to unethical procurement practices (Mazibuko & Fourie, 2017:108). These unethical practices are perpetuated by the complexity of procurement processes, many stakeholders and close interactions between procurement officials and suppliers (OECD, 2016:6).

Unethical procurement practices emanate from a relationship between the dynamic nature of the supply chain management, within which procurement takes place, exchange of information as well as the existing relationship between the government officials, suppliers and the public (Mashiloane, Mafini & Pooe, 2018:2). Furthermore, unethical procurement practices discourage participation in tender processes, resulting in a small group of suppliers taking part in the procurement process, poor quality of delivery and exorbitant contract prices (Pienaar, 2017:6). These unethical practices also create disparities in information (information asymmetries) between government institutions and suppliers in the procurement process, which in turn give some suppliers an unfair advantage (Saliola, 2017:15). Consequently, procurement

spending and unethical practices intensified public demand for more transparency and accountability in public procurement (Saliola, 2017:5).

In practice, transparency in public procurement goes beyond promoting accountability and access to information, however, it levels the terrain for business and allows suppliers to participate in procurement on equal footing (OECD, 2016:15). Moreover, a transparent procurement system ensures that reasons and principles behind decision-making are informed by the values of fairness, lawfulness and rationality. Again, they must be devoid of venal intent towards suppliers to demonstrate a procurement system that is open to scrutiny (Sewpersadh & Mubangizi, 2017:8). Therefore, understanding transparency as a constitutional imperative is essential in assessing the legislation intended for fighting non-competitive practices in the public sector (Sewpersadh & Mubangizi, 2017:7).

A risk of non-competitive practices and transparency deficiency may arise in every procurement stage, such as pre-tender stage, tendering stage and contract execution stage (OECD, 2016:7). About that risk, the OECD (2018:14) recommends that the principle of transparency should be espoused at all stages of the procurement cycle, including ensuring full access to information, open data as well as responsiveness to requests for information by suppliers. According to Tucker (2016:9), the superseding principles that apply to public procurement are “*fairness, equitability, transparency, competitiveness and cost-effectiveness*” as mandated by the Constitution. Tucker (2016:9) expounds that these principles are standards upon which all procurements by government institutions are measured, stating that transparency requires openness and accountability, in which processes are undertaken publicly, and information relating to these processes is made available to interested suppliers and the general public. Mazibuko & Fourie (2017:107) attest that a procurement system that contains transparency, accountability and suppliers’ participation can be a valuable instrument for implementing effective public procurement.

The South African National Treasury Report (2019:1) states that pre-tender activities in the procurement process are, among others, influenced by a severe lack of transparency as well as collusive and non-competitive bidding processes. Additionally, it is in the pre-tender stage where conflicts of interest relating to government officials are left unmanaged and could lead to bias (United Nations Development Programme

(UNDP), 2017:49). The non-competitive practices that begin in the pre-tender stage further undermine the procurement processes' integrity and render them susceptible to more irregularities in the subsequent stages (UNDP, 2017:50).

Furthermore, weaknesses in public procurement are exacerbated by government institutions' failure to constantly implement good practices in line with legislative provisions, particularly relating to openness, transparency and fairness (National Treasury, 2015:20). These failures include, but are not limited to, observations about the omission of tender documents in tender advertisements and evaluation minutes, which are not made available to people. The Auditor-General of South Africa (AGSA) identifies failures in the South African public procurement as related to a culture of non-compliance to vital legislation, which is found in 92% of municipalities in the country (Choane, 2019:6). The AGSA further attributes some of the public procurement failures to appointments of candidates who are not fit for the work, a lack of skills in government institutions and failure to follow proper tender processes (Magubane, 2018:1).

The role of skill deficiencies in compromising public procurement has also been alluded to by the Minister of Finance as well as the Minister of Cooperative Governance and Traditional Affairs (CoGTA), who called for discharging unqualified finance and procurement officials of their duties across the country (Sidimba, 2018:7). In the 2019/2020 financial year, government lost more than R2.2 billion to non-compliant tenders, and a further R1 billion was wasted on overpriced goods and services due to problematic procurement processes (Wasserman, 2021:4).

Furthermore, in 2019, the AGSA revealed that the most prevalent public procurement findings in South Africa were in relation to uncompetitive and unfair procurement processes (Fourie & Poggenpoel, 2017:174; Ntsaluba, 2019:7). In the following financial year, irregular expenditure stood at R54.34 billion, unauthorised expenditure increased from R1.65 billion to R18.12 billion while fruitless and wasteful expenditure accounted for R2.39 billion (Curson, 2021:2). Again, the Zondo Commission found that a lack of accountability and transparency at SAA and SAA Technical aided state capture and corruption after the former board chairperson of the airline, Dudu Myeni, and its former head of technical operations, Yakhe Kwinana, were found to have run

the state-owned enterprise to the ground, using fear and intimidation (Zeeman, 2022:4).

Similar to the national accountability problem, the lack of accountability in the Free State remains a concern (AGSA, 2019:19), and has culminated in a culture of pervasive non-compliance (AGSA, 2021:11). Such a persisting culture of unaccountability emanates from political and administrative leadership's inability to enforce consequence management in the province (AGSA, 2021:12). For instance, in the financial period 2018/19, the AGSA (2019:19) revealed that the Free State was the only province with no clean audit. In a media statement, the AGSA (2021:11) noted that only three Free State auditees improved their audit outcomes, while one regressed to the same situation they were in the 2016/2017 financial year.

The AGSA (2019:15) attributes the province's concerning audit outcomes to poor planning and execution, and subsequently pleads with the political authority in the province to hold the administrative leadership accountable and ensure that proper planning and budgeting, effective performance management, consequence management for poor performance and non-compliance are decisively implemented (AGSA, 2021:12).

## **1.2 Problem Statement**

Various studies (Naidoo, Naidoo & Ambe, 2018:21; Manyathi, 2019:41; Okubena, 2016:40), have established the extent to which the South African public procurement legislation supports the applications of transparent procurement while other researchers assessed procurement information including rules and practices that are being standardised to ensure access to procurement information in the public sector (Tucker, 2016:9; Volmink, 2012:1; Makube, 2019:1; Shakya, 2015:1). However, minimum governance is not sufficiently practiced in South African public procurement (Mazibuko & Fourie, 2017:114) and ultimately, suppliers end up not satisfied with the government institutions' decisions on procurement (Saliola, 2017:38). Few studies exist that focus on the view of the suppliers about transparent procurement processes, and insignificant research work has been done within the Free State in this regard. The downside of this limited availability of relevant studies is that it creates a geographical research gap to the work of Balsevich, Pivovarova and Podkolzina

(2011:1), Neupane, Vaidya and Yong (2012:1) and Bowra (2020:1) whose research focuses on countries other than South Africa, not to mention the Free State.

In spite of all the financial benefits of transparent procurement and oversight instruments, research on this topic currently remains moderate (Pienaar, 2017:6). Furthermore, global statistics have not been successful in capturing other crucial public procurement dimensions in a systematic and comparable manner, including the regulatory and legal environment, transparency and competition (Saliola, 2017:13). One way to address suppliers' dissatisfaction is to have a well-functioning mechanism to ensure suppliers can count on government institutions' transparency (Saliola, 2017:38). Hence, this study endeavours to make a contribution to the academic debate relating to the transparency of public procurement in the view of suppliers conducting business with the Free State provincial government, including its entities.

Essentially, the study investigates if suppliers perceive the constitutional principle of transparent public procurement in the Free State to be existent or not, particularly at the pre-tender stage of procurement. Theoretically, the study moves from the premise that public procurement allows for more discretion from the government officials wherein pre-tender activities such as criteria for evaluation require considerable judgement (Kochanova, Hasnain & Larson, 2016:11). In consideration of conclusions that public procurement is widely considered to be one of the areas that are most vulnerable to corruption (United Nations Development Program, 2018:1), this study is also based on the argument that a dearth of transparency in public procurement may bring about conditions that discourage suppliers' participation by means of determining tenders and procurement criteria which are impractical or intended at stifling competition (World Bank, 2017:16).

According to the Zondo Commission report, the principal way that money has been extricated from state institutions has been through procurement (Pillay, 2022:4). This agenda was achieved by ensuring that there are no appropriate and functioning competitive procurement processes (Pillay, 2022:5). As a result, the Zondo Commission projected a procurement expenditure by the state which was stained by state capture allegations to be around the figure of R57 billion (Pillay 2022:5).

### **1.3 Research Objectives**

#### **1.3.1. Primary Objective**

The primary objective of this study is to determine the transparency of the Free State Province public procurement.

#### **1.3.2. Secondary Objective**

The secondary objectives of this study are to;

- i. Contextualise public procurement processes;
- ii. Contextualise the South African public procurement framework;
- iii. Review transparency and information asymmetry theories; and
- iv. Test the perceptions of suppliers relating to the transparency of the procurement processes in the Free State Province.

### **1.4 Research Methods**

#### **1.4.1. Research Method**

This study consulted a wide range of journal articles, official reports, internet sources, and textbooks to analyse a transparent system's constitutional requirements within the selected public procurement environment. This was done so as to evaluate literature in Chapter 2 and use primary data to assess suppliers' perceptions of public procurement transparency. Therefore, the study assumed a qualitative research design, which includes the collection, analysis and interpretation of data to facilitate a greater understanding of how best the suppliers draw a link between public procurement processes and activities on one hand, as well as improved participation and competition on the other (refer to section 3.5). The researcher conducted semi-structured interviews with suppliers active in the government Central Supplier Database (CSD), who are registered in the Free State Province (refer to section 3.5.1).

#### **1.4.2. Sampling**

As of 1 March 2022, there were about 44 000 suppliers in the CSD with business addresses in the Free State. The CSD is government suppliers' information database portal administered by the National Treasury, of which access was granted through an application to the supply chain management officials and suppliers upon a formal request. Permission was required to access the CSD portal for research purposes

from any of the government institutions with access to the portal. More details of sampling, in particular inclusion and exclusion of the participants, are discussed in section 3.5.2.

#### **1.4.3. Data Collection**

Data was collected from suppliers using semi-structured interviews. Suppliers will also be selected from CSD following a haphazard sampling method. The participants were selected from a population of about 44 000 suppliers, targeting a maximum of 25 samples or until data saturation has been reached by means of haphazard sampling. This strategy of data collection was adopted to ensure that a minimum number of responses were received for analysis and interpretation, which in turn would guarantee low costs and overcome the study's time limitations (see section 3.5).

#### **1.4.4. Ethical Considerations**

This research project was conducted in compliance with the University of the Free State guidelines and with full compliance to norms and standards set by the University for this purpose. Since the study include collecting primary data from suppliers, it had to live up to high standards of quality and integrity. This assurance was achieved by seeking informed consent and voluntary participation by all participants. Additionally, participants received a detailed purpose of the research project to make a knowledgeable decision to take part.

The study also ensured that the respondents' confidentiality is respected, and that participants are free from harm. Participants always had an opportunity to retract their consent to participation at any time before the conclusion of the research project. Details of ethical considerations are discussed in section 3.7.

### **1.5 Chapter Outline**

The remainder of the research is divided into four (4) chapters. Chapter 2 primarily concerns itself with literature review, which covers the following objectives of the study: contextualisation of public procurement processes, contextualisation of the South African public procurement framework, transparency and information asymmetry theories and testing of the perceptions of suppliers relating to the transparency of the procurement processes in the Free State. The first topic reviews procurement planning about the nature of information required for transparency. In the second topic, the review focuses on transparency, competition, participation and accountability relevant

to procurement activities. Lastly, the review concentrates on the legislative framework relevant to provisions that encourage and underpin a transparent procurement system in South Africa.

Chapter 3 outlines in details, the research method, sampling and data collection techniques. In this chapter, a determination of the research method is made and justified using relevant theories available. Sampling and data collection methods are also selected and justified.

Chapter 4 analyses primary data collected from participating suppliers during interviews. It also discusses findings from different questions responded to by the participants.

Lastly, Chapter 5 discusses the conclusions made from the findings and lays out recommendations for future studies and the results of which serves as a tool for public procurement practitioners and suppliers to improve the public procurement systems.

## **Chapter 2**

### **Literature Review**

#### **2.1. Introduction**

The previous chapter established that government expenditure on goods and services is important to South Africa's Gross Domestic Product (GDP). However, the procurement activities through which government acquires goods and services are perceived to be open to unethical practices. There exists a culture of non-compliance to principles of public procurement, particularly when it comes to transparency and accountability on the part of government institutions. Lack of transparency, accountability and persistent non-compliance is said to be dominant in the Free State (AGSA, 2021:11). A lack of transparency and non-compliance to procurement legislation is also associated with poor planning and the inability to hold government officials accountable.

With all these public procurement challenges, no known studies were conducted in South Africa and the Free State, focusing primarily on transparent procurement processes in the view of suppliers. This is so despite the King IV Report on corporate governance for South Africa that puts more emphasis on ethical leadership characterised by competence, accountability, fairness and transparency (Institute of Directors South Africa 2016:44). There is also a need, according to Sallaudin, Siti, Rahmat and Jimisiah (2015:76) for Supply Chain Management officials to dispense their discretion in a fair and responsible manner and further calls for promotion of transparency and accountability during tendering process.

Fundamentally, this chapter firstly deals with transparency in the public procurement and its relations with participation, competition and accountability. It further outlines the existing information asymmetry between suppliers and the procuring institutions. Again, it discusses how supplier relationship management seeks to address such asymmetry. Secondly, the chapter addresses the advantages of e-procurement and how it manages to improve public procurement transparency in different countries. Lastly, the chapter examines public procurement legislative frameworks and outlines planning and procurement processes focusing mainly on pre-tender stage activities

that may deter the transparency of processes, including participation by and competition between suppliers.

## **2.2. Transparency and Information Asymmetry, Competition and Accountability, E-procurement and Supplier Relationship Management.**

### **2.2.1 Introduction**

Saastamoinen, Reijonen and Tammi (2017:24) present five main variants to public procurement participation, namely, inadequacy of firm resources, cumbersome procurement processes, the absence of skills, lack of awareness of public procurement and lack of partnerships. Saastamoinen *et al.* (2017:24) further argue that public procurement experience seems to influence suppliers' perception of participation barriers. Inexperienced suppliers consider the procurement process as less cumbersome but regard inadequacy of resources as a critical barrier to participating in public procurement (Saastamoinen, *et al.* 2017:24). This view is also shared by the World Bank (2017:24), which attributes failure to pay suppliers at the right time as part of the main contributors to lack of participation in the public procurement processes. An example is found in South Africa where suppliers are not paid within the National Treasury Regulations which stipulate a 30-day payment deadline after an invoice is received (ANA, 2020:4).

However, Loader (2011:293) claims that "*barriers to suppliers' participation in public procurement*" are divided into just two types. The first of them relates to the limitations of the public sector as they manifest in policy uncertainty, organisational culture and procurement processes. According to Loader (2018:48), public procurement processes might as well serve as external impediments to supplier participation. For instance, the centralisation of public procurement processes presents significant savings for government institutions, but the same cannot be said about negative effects it has on suppliers (World Bank, 2017:15). In suppliers' view, centralised procurement is exclusionary in a situation where pre-determined tender evaluation criteria are set relatively high, the World Bank (2017:15) reiterates.

The second type of barrier to participation is linked to the shortcomings emerging from capacity constraints and the attitudes of suppliers towards public procurement (Loader, 2011:293; Akenroye *et al.*, 2020:3). Capacity constraints faced by the suppliers such as high-value contracts, inability to meet pre-determined standards

relating to capacity (economic, professional, and technical), lack of information and insufficient communication with government institutions, including constricted time limit to put up tender applications, further discourage suppliers' participation in public procurement (World Bank, 2017:17).

Furthermore, the World Bank (2017:17) findings state that inadequate and poorly defined specifications often do not encourage suppliers to participate in public procurement, a discouragement arises when suppliers are not certain of what government institutions are procuring and if suppliers can provide or deliver on the contract (World Bank, 2017:17). Another example of suppliers' constraints to participate evolves around the complexity of public procurement procedures, which makes it complicated for the suppliers to understand the procedures themselves (World Bank 2017:14).

However, Saastamoinen *et al.* (2017:2) suggest that the reason for the observed low rate of supplier participation is firstly associated with barriers linked to public procurement characteristics and, secondly, participation in procurement itself. The first set of barriers refers to lack of information and unfair selection criteria, while the second set relates to barriers linked to suppliers' lack of resources and skills needed in the procurement process. Of all these barriers, lack of information is the most significant contributor to a low rate of supplier participation in public procurement (Saastamoinen *et al.*, 2017:6).

The perceived and real degree of transparency in public procurement is low (Awoke & Sign, 2020:2979), and is attributed to the low accessibility of regulations and annual procurement plans, lack of streamlined consultation and insufficient business community engagement. Awoke and Sign (2020:2979) also found that the degree of "*efficiency, accountability, and transparency in public procurement*" to be low. Lack of transparency compels suppliers not to participate since they already deem the process as unfair (Awoke & Singh, 2020:2082).

Irrespective of whether such a perception of lack of information is accurate, Saastamoinen *et al.* (2017:25) maintain that perceptions influence suppliers' behaviour and restrict their public procurement involvement. Nonetheless, Saastamoinen *et al.* (2017:25) concede that there might be other nuances in perceptions of barriers to participation in public procurement that future research could

find interesting to explore further. The position of Saastamoinen *et al.* (2017:25) on the impact of gender in public procurement holds that that women are more prone to perceived barriers even when factors such as size, age and literacy are controlled and taken into consideration. However, Sarakinsky (2015:193) cautions that there are challenges associated with methods measuring perceptions as they hardly mirror reality, thus necessitating a researcher to be more analytical.

### **2.2.2. Transparency**

Transparent procurement is fast becoming a universal concept intended to increase disclosure and public participation in various government procurement stages (Naidoo *et al.*, 2018:18). Transparency in public procurement, asserts Tucker (2016:9), generates appetite for increased openness and accountability. Manyathi (2019:29) describes transparency as a tool for equal access to information and contracting opportunities. In other words, transparency positively correlates with open competition between suppliers (Balsevich *et al.*, 2011:2), whereas transparency and accountability are essential in assuring that government derives maximum value for money through public procurement activities (Soudry, 2007:5)

However, there is not sufficient agreement as to what characterises transparency as different definitions and conceptualisation of transparency are being put forth (Ejiogu, Ejiogu & Ambituuni, 2019:6). Albu and Flyverbom (2016:12) define two overarching concepts of transparency, in which the first concept focuses on “*the role of information and defines transparency as the increased disclosure of information*” in which the primary purpose of transparency is to ensure reliable information is available in order to ascertain clarity, understanding and effectiveness. The second concept maintains a different assumption about transparency, namely, its definitions, conditions and consequences (Albu & Flyverbom, 2016:13). This conceptualisation sees transparency as complicated organisational and social processes preoccupied with pressures and negotiations that disturb the perceived progressive impacts of disclosing information (Albu & Flyverbom, 2016:14).

In addition, the concept of transparency presumes that the information shared with the public is not only valuable, but that members of the public are capable of using that information to monitor government (Oge, 2017:8). In relation to procurement, transparency is defined as the visibility and accessibility of information on public

procurement rules, the characteristics of the goods and services that the government institutions are procuring as well as the results of procurement (Balsevich *et al.*, 2011:5).

Moreover, Kohler and Bowra (2020:4) posit that transparency in government can also be measured by the level of access the public has to information crucial to the procurement process. According to Vian and Kohler (2016:7), there are five approaches under which government makes information accessible to the public, namely:

- Proactive dissemination model. This model is normally underpinned by regulatory requirements and takes the form of press releases and formal government publications;
- Requester model. Through this model, information is made available as a reaction to a formal or informal request made. Regulatory guidelines provide for the government institutions to determine if the request should be granted;
- Open public meetings model. This strategy is linked to democratic processes and exposes government decisions to public scrutiny while government and suppliers might exchange important information affecting their relationship; and
- Whistleblowing and leaks. Whistleblowing and leaks are casual procedures through which information is accessed.

In the situation of the South African public procurement, National Treasury (2018:2) states that transparency takes place when government publishes procurement invitations to the public using electronic, print, traditional and other media channels. Again, the National Treasury prescribes that the contents of the message must have sufficient details to understand the specifications for suppliers to determine their interest and verify their eligibility to compete and which specifically requires the solicitation document to be made available freely and easily. It therefore suffices to say transparency in procurement takes shape in many different applications, which include the publication of procurement laws, regulations and policies, the publication of demand and procurement plans, advertisement of tenders, publication of criteria to evaluate tenders in solicitation documents, disclosure of awarded contracts and values paid, Central Contract Register as well as expenditure and procurement data (National Treasury, 2018:3)

There is a common belief that transparency of public procurement performance is a remedy for the evils of bureaucracy (Balsevich *et al.* 2011:3). Balsevich *et al.* (2011:5) further submit that transparency plays an essential role in making it easy for suppliers in the market, the public as well as government institutions to control the procurement procedures and their respective results. Thus, Balsevich *et al.* (2011:5) consider transparency an essential measure of preventing opportunistic behaviours by suppliers and government institutions.

While public entities that participated in the Shakya's study (2015:19) were of the view that transparency is not necessarily a means to disclose everything related to procurement, a procurement policy must still be developed in the country in accordance with the applicable international best practices. Ngatara and Ayuma (2016:223) maintain that in order to ensure procurement transparency, different economies can increase confidence and promote competition among suppliers. They add that effective and efficient procurement systems are centered on establishing techniques of transparency, which techniques should generate and sustain the confidence and participation of suppliers (Ngatara & Ayuma 2016:223).

Kohler and Dimancesco (2019:4) summarise the manifestations of factors affecting transparency and accountability in three critical stages of procurement, provide examples of Anti-corruption, Transparency and Accountability (ACTA) and offer interventions for every risk identified. In the pre-tender stage, they have identified falsified budgets and types of goods or services, and information regarding procurement as being shared in unequal manner as common. For these manifestations, they recommended the following interventions:

*“Providing clear policies and procedures for the national procurement regulatory agency, regular checks on procurement processes and outcomes by the outside watchdog agency, training of procurement officers on policies and procedures, publicising tender criteria, putting in place integrity pacts and procurement agency issues clear and transparent policies and procedures that are publicly available”* (Kohler & Dimancesco, 2019:4).

Kohler and Dimancesco (2019:4) identified some risks in the tendering process in which suppliers unduly influences government officials by means of bribery, extortions,

and unjustified exclusions of other tenders from the assessment process. In eliminating these risks, they propose the following interventions;

*“Ensuring transparent and competitive bid process through mechanisms such as electronic bidding, creating a conflict of interest policies with appropriate measures to manage them, ensure national public procurement agency monitors the implementation of procurement rules by the procuring entities and introduction of a formal appeals process”* (Kohler & Dimancesco 2019:4).

In the last stage of contract performance, the risks include inflated invoices and contracts, rewritten contract terms and failure to deliver (Kohler & Dimancesco, 2019:4). Factors such as publicising information about the tender and the rationale for decisions are also mentioned. The disclosure of all bidding suppliers that were unsuccessful, public monitoring of contract implementation and formal audits are regarded as remedies to mitigate the risks in the contract stage of tendering (Kohler & Dimancesco, 2019:4).

The World Bank (2017:52) asserts that procedures for improving transparency encapsulate publishing of procurement information which exposes suppliers to *“early visibility of procurement activities”* which governments plan to execute for purposes of competition and participation.

### **2.2.3 Transparency and Information Asymmetry**

Information asymmetry is a condition wherein one party in a relationship has more or better information than another (Bergh, Ketchen, Orlandi, Heugens & Boyd 2019:122). Information asymmetry stems from information gaps such as incomplete information shared between two parties (Information Resources Management Association (IRMA), 2015:2120). It also emerges from the absence or lack of knowledge between the selling and consuming party (Zecca & Rastorgueva, 2016:19), in which a seller has more knowledge about the quality of items for procurement and the consumer has difficulty in interpreting information provided (Zecca & Rastorgueva, 2016:21). A typical case in the literature, according to Vosooghizaji, Taghipour & Canel-Depitre (2019:12), is that one party may enjoy a superior level of information relating to cost, such as production and handling cost in the supply chain.

Information asymmetry is grounded on the following categories of participants in the transaction, namely:

- Unilateral asymmetry – in which “*only one party has superior knowledge of an element affecting decisions*”;
- Bilateral asymmetry – in which two parties have diverse information levels relating to the similar components or different components; and
- Multilateral asymmetry – where there are more than two parties with asymmetric information (Vosooghizaji *et al.*, 2019:12).

Vosooghizaji *et al.* (2019:12) highlight the asymmetric information forms that are generally accepted in the literature as “*cost information asymmetry, demand information asymmetry and capacity asymmetry*”. Moreover, Vosooghizaji *et al.* (2019:12) aver that capacity information asymmetry is within the strategic nature of information impacting the planning capability within supply chain, which is more often withheld in real-life environment. However, National Treasury requires that the information disseminated to interested suppliers at every procurement cycle stage must be the same measure of information to ensure fairness and equity of the bidding process (Republic of South Africa (RSA), 2005:16A).

It further instructs that “*the basic information needed by suppliers in both the planning and execution stage of procurement include details of the goods and services, specifications, quantities, timeframes for delivery, realistic closing dates and time, a place where tender documents can be obtained, a place where tender submissions should be addressed, and non-discriminatory selection and award criteria.*” (National Treasury, 2015:18).

However, Limaa and Cruzb (2019:109) found that ineffective monitoring of the relationship between suppliers and government institutions has led to more significant information asymmetry, which negatively affects negotiations. Limaa and Cruzb (2019:109) also establish that suppliers tend to possess valuable information about the business elements, and such information places suppliers in a more advantaged position during negotiations without suffering from competitive pressure.

A danger of information asymmetry, IRMA (2015:2117) argues, evolves around the potential exploitation of this asymmetry for private gain to the government institutions’ disadvantage. According to the IRMA, this asymmetry further leads to lack of competition in public procurement (IRMA, 2015:2120). Another manifestation of information asymmetry is when technical requirements and specifications could not be

presented or in a case where one supplier has crucial information that other suppliers do not have (IRMA, 2015:2120).

The low level of crucial information transparency may be linked to the inadequacy of standardised rules for the presentation of information on the procurement website and the subsequent lack of uniformity in the shared information, thus leading to information asymmetry (Balsevich *et al.*, 2011:4). Caputo *et al.*, (2016:80) believe that voluntary disclosure of the tender information is essential to improve the relationships between the government institutions and suppliers in procurement markets by employing measures dedicated to reducing information gaps and ultimately exploitation of asymmetry. Parties in procurement should then move towards strengthening long-lasting relationships, acting based on transparency (Caputo *et al.* 2016: 2118).

While Limaa and Cruzb (2019:110) suggest a framework of potential Key Performance Indicators (KPIs) categories to enable government institutions to monitor the relationship between the suppliers and government institutions, Flammer (2018:1302) argue that trust contributes immensely to mitigate the risk of information asymmetries in business relationships. Flammer (2018:1302) conclude that a trust deriving from supplier-government relationship management should determine government purchasing decisions and eliminate deterrents affecting the competition between suppliers.

#### **2.2.4 Transparency and Competition**

Competition occurs within an environment where potential suppliers compete under the same rules to secure the contracts, thus making competition an instrument to accelerate better market efficiency, lower prices, improved quality and fair markets (Komakech, 2016:23). Competition is essential in the marketplace for a country's economy, international competitiveness and a nation's welfare (World Bank, 2016:4). The World Bank (2016:4) elaborates that it is through competition that companies and industries get to be productive, increase local investment, maximise profits, create jobs, stimulate economic growth and benefit society. Competition is also strengthened by transparency which diminishes collusion in public procurement (Georgieva, 2017:15). Furthermore, Balsevich *et al.* (2011:7) allude that there is a correlation between the level to which public procurement is transparent and the level of

competition between suppliers. Transparency, therefore, influences suppliers' behaviour and, consequently, the probability of collusive behaviour.

However, Makube (2019:52) contends that public procurement weaknesses arise when transparency focuses on "*procurement methods and procedures which are institutional*" and based on documents. This narrow focus limits transparency in addressing non-competitive practices specifically related to situations where multiple forms of collusion may exist (Makube, 2019:52). According to the OECD Competition Law and Policy Indicators, which assess the strength of anti-competition regimes and frameworks in 49 jurisdictions similar to what is deemed "*good practice for competition*" regimes, South Africa is ranked high among countries of a similar GDP per capita (World Bank, 2016:4). This ranking places South Africa's authorities at the top of the list of the most active African countries when it comes to tackling anti-competition (World Bank 2016:4). This government achievement directly impacts the country's competition framework that has made considerable progress in nurturing competition in local markets by uncovering and deterring anti-competition practices since its operationalisation in 2000/01 (World Bank, 2016:4).

### **2.2.5 Transparency and Accountability**

In the social sciences, transparency is often considered as an efficient instrument of attaining social ideals such as accountability (Hansen, Christensen & Flyverbom, 2015:2). According to Jashari and Pepaj (2018:68), transparency means being open, able to communicate and able to respond. They opine that public institutions are obliged to disseminate all information about their activities, while on the other hand concerned parties should have the same access to data and the same sources of information (Jashari & Pepaj, 2018: 62). Transparency represents a system of promoting good governance and public trust in a democratic and modern public administration. Therefore, the principle of transparency is a regulatory element against maladministration and corruption and advocacy for good governance and accountability towards the efforts of protecting the interest and rights of the public (Jashari & Pepaj, 2018:61).

Researchers embracing this principle of transparency maintain that enhanced dissemination and disclosure of important information culminates in good governance, higher accountability and increased trust (Wehmeier & Raaz, 2012:348; Kasekende,

Abuka & Sarr, 2016:17; David-Barrett & Okamura, 2013:22). Therefore, the objective of transparency impacts the enrichment of accountability and people participation in process of making decisions in public administrations (Jashari & Pepaj, 2018: 63). Ngatara and Ayuma (2016:223) attest that in an environment where transparency exists, accountability and trust also improve.

In essence, accountability and transparency are so intertwined that each requires the other (Scott 2007:1). Jashari & Pepaj (2018:65) argue that provided accountability stays a contractual obligation for government employees to report for their activities, then transparency becomes a practice. This is so because within the notion of responsibility, government employees have an official obligation towards the general public to report about their decisions and actions. Thus, the principle of transparency demands that administrative actions should be either opened for public analysis or accessible to people (Jashari & Pepaj, 2018:65)

About this existing relationship between accountability and transparency, Scott (2007:1) adds that transparency evolves around citizens being kept in the know about public decisions and why such decisions are taken. Accountability requires information about the processes that were observed and the measures that were employed by policymakers to arrive at decisions. Furthermore, “*accountability requires institutions to justify their results to internal and external stakeholders*” and ensure consequence management in case of performance shortfalls (Vian & Kohler, 2016:6). Moreover, accountability reduces the abuse of government systems and ensures compliance to standards and procedures while enhancing performance and institutional knowledge (Vian & Kohler, 2016:6).

Recently, public sector accountability and transparency have become known as essential concepts in the effort to lower the risks of corruption and improve internal and external monitoring procedures (Carothers & Brechenmacher, 2014:8). Accountability programmes frequently incorporate transparency as a fundamental element, while also relying on public participation, such as support for local groups that seek to demand government institution to be more responsive to public concerns. Equally, attempts to foster greater inclusion certainly connect to enhanced participation by the targeted group (Carothers & Brechenmacher, 2014:12)

Despite all the research on accountability, Vian and Kohler (2016:6) have found that countries do not have a standard explicit definition of accountability. Consequently, Vian and Kohler (2016:6) categorise accountability into four important types: multi-stakeholder consultation, citizen education, civil society capacity building and institutionalisation of information access. These categories are interlinked. For instance, multi-stakeholder consultation arises from the ingenuity of creation of forums through which dialogues on sectoral policies and procedures are regularly conducted (Vian & Kohler, 2016:23). Citizen education is a principal accountability strategy that relies on civil society organisations to drive implementation. Additionally, one of the strategies includes information campaigns on various issues, including but not limited to falsified information and rights to access to quality products (Vian & Kohler, 2016:24). Civil society capacity building includes efforts made to empower civil societies with the requisite expertise and competences to monitor policies and practices and further take part in policy development in their individual areas (Vian & Kohler, 2016:23). Lastly, institutionalisation of information access promotes accountability by openly publicising information regarding procurements and regularly updating data (Vian & Kohler, 2016:28)

In the South African context, the Zondo Commission revealed that *“the system for holding politicians and government officials accountable is ineffective and sometimes inconsistent”* (Sibanda 2022:34) and that there is a lack of confidence in government and the private sector, heightened by discontent at the deficiency of accountability for transgression (Stone, 2022:6). The available disciplinary bodies are not proactive, which creates a strong need for all accountability and oversight institutions in South Africa to be occupied by honest individuals with integrity (Sibanda, 2022:35).

Although Vian and Kohler (2016:7) acknowledge that the manner in which countries define and implement accountability varies, clear goals and tools to measure accountability should nevertheless be put in place. Jashari and Papaj (2018:68) submit that transparency and accountability, among others, enable a seamless evaluation of public officials’ decision-making processes. Meanwhile, *“administrative practice vis-à-vis administrative justice is better harmonised with both domestic and international legal framework”*. Therefore, *“public institutions should act transparently in order to ensure the right of the party or citizen to be informed about stages and the progress of the proceedings, access to the files, and the right to be notified about the appropriate*

*remedies to be used'* (Jashari & Pepaj, 2018: 61). Kohler and Dimancesco (2019:6) add that accountability can be advanced by regularly updating and assessing the suppliers' procurement performance indicators and prices.

### **2.2.6 Transparency and e-Procurement**

One way to achieve transparent, accountable and competitive public procurement is the use of an electronic procurement system (e-procurement). Anthony (2018:45) asserts that by advertising tenders electronically on the internet, e-procurement will guarantee the same level of access to tender opportunities. According to the European Commission (2018:2) e-procurement is different to e-purchasing since e-purchasing is narrowly concerned with determining needs, supplier selection and negotiations, while e-procurement goes further to consist of e-tendering which contains e-noticing, e-submission, e-decision and e-execution.

Again, e-procurement enhances easy access to procurement processes and public procurement information (Shakya, 2015:92). Therefore, when employing electronic tools of communicating, it is obligatory to utilize entirely such information system and technology that guarantee a far and broad access to all suppliers and ensure no restraint of competition or any kind of discrimination of participants (World Bank, 2017:18). Moreover, e-Procurement plays an essential role in disseminating procurement information into a web portal and ensures suppliers can access and evaluate specifications to comply with bid standard requirements (Neupane, 2012:307). According to Knack, Biletska and Kacker (2019:288), "*countries with more transparent procurement systems in which there is public access to adequate, reliable, and timely procurement information are most likely to participate in public procurement markets*". Knack *et al.* (2019:288) have discovered a positive correlation between procurement system quality and suppliers' participation in the procurement markets. The European Commission (2018:6) takes it further to attribute an increase in transparency and competition in public procurement to the e-procurement system.

Developed countries resorted to e-procurement systems to improve competition in public procurement processes (Neupane, Vaidya & Yong, 2012:312). Over 40 countries increased transparency and accountability using e-procurement, and in countries like Nigeria, Singapore, Turkey and India an outcome of increased competition is attributed to the e-procurement system (Neupane *et al.* 2012:312).

Neupane *et al.* (2012:312) consider “*real-time access to procurement information, automation of procurement system, transparency, efficiency, and accountability in public procurement*” as benefits of relying on the e-procurement system.

According to Awoke and Singh (2020:2971), the use of e-procurement has proven to be an efficient mechanism to increase transparency, help increase market access and support public procurement integrity. Similarly, resorting to e-procurement could have many advantages for the South African economy as well (Awoke & Singh 2020:2971). The advantages of the e-procurement system include, but are not limited to, enhancing a country’s contribution to environmental considerations, sustainable development, minimising the human factor in the evaluation processes, curbing corruption and promoting fairness (Anthony 2018:47).

However, Anthony (2018:41) and National Treasury (2015(a):1) differentiate between e-procurement and other electronic portals such as e-tender through which information about tenders is shared with potential suppliers. According to Anthony, over and above standard features of electronically publishing invitations and relevant information about a tender, the e-procurement system incorporates tender evaluation using a mathematical formula to minimise human interference. The National Treasury limits the e-tender portal’s functionality to “*a single platform for the publication of tenders*”, expanding that “*the portal will carry tender notices, tender documents, the publication of awards and the minimum information prescribed by the Office of the Chief Procurement Officer (OCPO)*”. The e-tender portal, National Treasury adds, “*is a first step towards implementing the government’s e-procurement system as part of the Integrated Financial Management System*” (National Treasury (2015(a):1).

However, Kochanova, Hasnain and Larson (2016:3) contend that the effect of e-procurement on public procurement is weak and its implementation, irrespective of system functionality, hardly enhances the competitiveness of public procurement. Evaluated by suppliers’ tendency to submit applications for tenders, Kochanova *et al.* (2016:3) further found that e-procurement does not reduce the prevalence of public procurement malpractices. While in first world countries e-procurement improves the probability that suppliers will participate in public procurement because suppliers with high productivity, state ownership, publicly traded, or web presence tend to participate more often in government tenders, the small-sized and low-productivity firms are more

likely to resort to bribes to obtain government awards (Kochanova *et al.*, 2016:11). Another shortcoming associated with e-procurement, according to Anthony (2018:44), is the threat of collusion in a case where there is a limited pool of suppliers for a commodity that is being procured. Therefore, implementing a relatively unsophisticated or transactional e-procurement system would not be adequate to improve the competitiveness of the public procurement market (Kochanova *et al.* 2016:11).

Another validation of the absence of the strong impact of e-procurement is related to the limited capabilities of e-procurement to automate processes in the same way e-filing and e-payment of taxes do (Kochanova *et al.* 2016:3). Kochanova *et al.* (2016:4) affirm that e-procurement remains susceptible to manipulation as opposed to tax e-filing since in its current form, public procurement still requires officials to evaluate qualitatively different tender submissions and exercise considerable discretion. In addition to invitation and evaluation of tenders, Shakya (2015:101) makes a significant contribution that there is a need to incorporate in the e-procurement system an option of debriefing in which suppliers who failed to get awarded could assess the evaluation reports and identify weaknesses in their applications in order to improve in the future tendering processes.

In a study undertaken by Shakya (2015:110), suppliers identified additional areas for improvement for the e-procurement to become more effective and user-friendly and improve participation and competition, suggesting that the current e-procurement system be incorporated with a Short Message Service (SMS) and email alert to the bidders whenever new tendering opportunities are posted in line with their respective categories of business and commodities they offer. This SMS feature could be used by indicating their area of business at the point of registration. According to Shakya (2015:110), leveraging this feature might encourage access to procurement information and further encourage small and big suppliers to participate in public procurement based on their capacity.

### **2.2.7. Supplier Relationship Management**

The Electronic Communication and Transaction Act (ECTA) (RSA, 2002:27 & 28) intends to provide for “*electronic access to communications and transactions*” by suppliers. Additionally, the ECTA provides for personnel resource development in

electronic transactions and encourages interactions through e-government services between private and public institutions. The quality of interactions alongside trust and transparency between parties in procurement are at the center of relationship drivers (Chartered Institute of Procurement and Supply (CIPS) 2012:2; O'Brien (2018:400). CIPS (2012:2) refers to transparency in supplier relationship as the willingness to share information, since transparency supports a relationship by igniting mutual understanding of two parties and serves as a solid basis for collaboration. Supply chain collaboration involves dissemination of information which covers the system of incorporation within supply chain players (Mathu, 2019:4). This integration takes into consideration information visibility through which Information Technology Systems enhance the supply chain relationship and transparency (Mathu, 2019:4)

Supplier relationship management (SRM) is a pivotal and cross-cutting organisational philosophy that assembles discrete procurement strategies, including performance management, improvement, advancement, as well as collaborative relationships (O'Brien, 2018:1). Supplier Relationship Management encourages improved risk management, collective learning and institutional sustainability (Neumüller, Lasch & Kellner, 2016:195). Supplier Management is also concerned with strategies employed by the buyer to increase suppliers' performance and capacity to respond to supply needs (D'Amico, Mogre, Clarker, Lindgreen & Hingley, 2017:4) and organising optimum flow of high-quality materials from a capable pool of innovative suppliers (Pulles, Veldman & Schiele, 2016:3).

Supplier management consists of procurement, contract development and administration, strategic planning and most importantly, supplier evaluation (National Treasury, 2015:17). It also facilitates the government institutions to monitor the suppliers' actual performance of contract to ensure contract objectives are met, and minimise pre-tender stage violations (National Treasury, 2015:17). The most successful relationships are those where buyers and suppliers cultivate trust and understand their requirements and interests while exchanging good practices to improve on providing the necessary assistance to each other (Laysons & Farrington, 2012:218; O'Brien 2018:346). However, according to Manyathi (2019:90) supplier management is a neglected phase of procurement, and as a result, government is deriving little value from the entirety of the procurement process.

Supplier relationships start with a “*pre-qualification of suppliers in which suppliers are evaluated for their suitability in terms of minimum standards of capacity and capability to be considered for participation in future procurement processes*” (CIPS 2012:169; O’Brien 2018:400). Properly managed pre-qualification processes would eliminate the risk of poor performance when evaluating suppliers’ performance (Laysons & Farrington, 2012:229) and help in achieving superior economic benefits (Neumüller *et al.*, 2016:195).

### **2.2.8 Conclusion on Transparency, Information Asymmetry, Competition, Accountability and Supplier Relationship Management.**

Transparency in procurement is becoming a global concept aimed at increasing the level of information sharing and public participation in different stages of procurement. Transparency is linked with open competition between suppliers and is deemed essential in deriving value for money from public procurement. Competition between suppliers in procurement is made possible if suppliers participate under the same set of rules. Competition is important in public procurement because it accelerates market efficiency, lower prices and improved quality of goods and services. Additionally, competition is strengthened by transparency, which eliminates non-competitive practices such as collusion and lack of participation.

Consulted literature shows that supplier participation increases when the procurement processes are transparent and allow for competition. In developed countries, e-procurement was successfully introduced as a measure to increase competition by ensuring that the information relevant to procurement is made available to suppliers on an equal basis. The real-time access to information that comes as a result of e-procurement and accountability is said to be among essential benefits of employing the e-procurement system. Thus, e-procurement has proved to increase transparency and access to markets while promoting procurement integrity.

Recent studies established factors affecting transparency and accountability as falsification of items for procurement and budget in the pre-tender stage, as well as lack of information regarding procurement during invitation of suppliers. These factors contribute to lack of competition, fairness and transparency in public procurement.

## **2.3 The South African public procurement framework**

### **2.3.1 Introduction**

*“Fairness, equity, transparency, competition and cost-effectiveness”* remain guiding principles in the South African public procurement system (RSA, 1996:271). These fundamental principles are consistent with the 2011 United Nations Commission on International Trade Law (UNCITRA) about public procurement. Again, these principles are essential in the public procurement opening to scrutiny and fortification of *“the legitimacy of the public procurement system”* (Makube, 2019:50).

Although these principles are not inherently contradictory, there might be circumstances where the attainment of one principle is not practical as it may compromise another principle (Tucker, 2016:10). As a result, when evaluating compliance with Section 217 of the Constitution (RSA, 1996:217), the five principles should be assessed as a whole as opposed to in isolation (Tucker, 2016:10). These constitutional principles are further emphasised in the Public Finance Management Act (PFMA) (RSA 1999:51(1), which stipulates that an accounting officer should ensure government institutions uphold a suitable procurement and provisioning system which ensures the attainment of these principles.

For this study, reference will be made to relevant sections of the PFMA which apply to provincial and national government institutions in regulating public procurement in support of the aforementioned constitutional principles. The PFMA is applied using the regulations introduced under it, such as the National Treasury Regulations.

### **2.3.2 The South African Legislative framework**

*“The public procurement laws and regulations cover the entire scope of public procurement, all stages and processes, the methods, ethics and transparency”* (Thai 2009:9). Furthermore, government procurement law in South Africa is implementing constitutional principles of public procurement while positioning procurement as a catalyst for reversing discriminatory policies and practices that are not ethical and transparent (Davey & Gatenby, 2017:212). Hence the Constitution (RSA, 1996:217(2)(b)) encourages government institutions to implement procurement policies that prefer categories of persons previously disadvantaged in gender, age, race and physical disabilities. Thus, the government institutions are obliged to develop

internal organisational procurement policies within which preferential procurement could be implemented (RSA 2000:1).

The Preferential Procurement Policy Framework Act regulations of 2017 were passed to give effect to PPPFA provisions, in particular, to enable public procurement to advance “*socio-economic transformation, empowerment of small and medium enterprises, and designated groups*” (RSA 2017:3). Key amendments introduced by the 2017 regulations include applying the pre-qualification criteria for designated groups at the point of awarding tenders (RSA 2017:4). The pre-qualification criteria imply that when advertising tenders, government institutions must stipulate upfront conditions of subcontracting categories of suppliers such as youth, women, people with disabilities, military veterans and cooperatives, of which 51% or more of the ownership is black (RSA 2017:4).

However, the Supreme Court of Appeal (SCA) in November 2020 declared the 2017 PPPFA Regulations invalid while suspending the order for a period of a year (*Afribusiness v The Minister of Finance*, 2020). The SCA ruled that the powers of the Minister derived from Section 5 of PPPFA are limited to regulations that accomplish the framework’s objectives, and that are also in compliance with Section 217(1) of the Constitution. Section 2 of the PPPFA (RSA, 2000:2) empowers the Minister to out in place a framework for preferential procurement policy implementation. It is on that strength that National Treasury promulgated PPPFA Regulations in 2001, 2011 and later 2017. Nevertheless, SCA established that the 2017 Regulations do not provide state institutions with a guiding framework for the use of their discretionary powers if they choose to introduce pre-qualification requirements. The SCA went further to state that “*any pre-qualification criteria to be imposed must have its objective in advancing Section 217(1) of the Constitution*” and held that the discretionary pre-qualification criteria in the 2017 Regulations constitute a departure from the same requirements. In conclusion, the SCA held that the discretion conferred to state organs without creating a framework for applying the criteria contradicted Section 2 of the PPPFA. The PPPFA, according to the SCA, does not provide for a preliminary disqualification of tender without considering the tender itself.

According to Steyn (2020:7), the court ruling bears profound implications because public procurement in parastatals and state-owned entities totals approximately R2

trillion a year. Even though the ruling of invalidity has been suspended, Steyn (2020:7) adds, any competitive tendering during this suspension period involving pre-qualification criteria is prone to judicial review. Steyn (2020:8) argues that the SCA's decision to suspend the regulations in their entirety created uncertainty to both suppliers and government institutions about preferential procurement implementation.

This decision by the SCA was ratified by the Constitutional Court when it dismissed the Finance Minister's appeal with costs (Constitutional Court, 2022:15). In justifying this ruling, the majority of the bench argued that Section 2(1) of the Procurement Act empowered organs of state to determine their preferential procurement policy and therefore, does not require the Minister to promulgate regulations to that effect (Constitutional Court, 2022:14). As a result, the entire regulations were set aside (Kamukwamba, Mandlana & Tucker, 6:2022). To this effect, the National Treasury issued an advisory note to all organs of state to seek exception relying on Section 3(c) of PPPFA while the process of developing new public procurement regulations unfolds (Kamukwamba *et al.*, 12:2022). When National Treasury approves the application for exceptions made in line with Section 3(c) of PPPFA, it implies that the organ of state is no longer expected to comply with preferential procurement requirements when evaluating tenders.

Nevertheless, public procurement is administered by administrative justice principles, and all unfair decisions such as failure to implement regulations can be subjected to review at the High Court (Tucker, 2016:9). These reviews could be enforced through the Promotion of Administrative Justice Act (PAJA) (RSA, 2020). The PAJA lays out a foundation for codified grounds and applicable remedies available to hold government institutions accountable and ensure that competitive public procurement requirements are enforced.

Although the Constitution directs that the public procurement system must be competitive, Makube (2019:45) argues that existing procurement regulations are not strong enough on procedures to unearth and safeguard against collusive practices that undermine transparency. Moreover, public procurement regulations do not concern a deliberate collusion which deals with illegitimate relations between government officials and suppliers (Mugadza, 2018:48). Another example of regulations supporting public procurement in South Africa is the Promotion of Access

to Information Act (PAIA). PAIA is promulgated specifically to regulate access to information that is in the hands of both private and public bodies, inclusive of information relating to procurement activities (RSA, 2004). Although the PAIA imposes some limitations concerning the rights of accessing information (RSA 2000:4), a study found the legislative system to be too complicated for ordinary persons to apply and force government institutions to make information accessible (Cloete & Auriacombe, 2007:23). Despite government entities' requirement to submit annual reports that are helpful to suppliers in procurement, the legislation lacks provisions to impose a sanction for non-compliance (Cloete and Auriacombe, 2007:23), while some provisions are duplicated and inconsistent (South African Law Reform Commission, 2019:1).

Another weakness identified by a research study is that procurement legislation and supply chain management regulations have been scattered over numerous laws (Mahlati, 2020:4). South Africa has over ten different pieces of legislation regulating public procurement at different spheres of government and created obstacles for effective coordination, implementation and administration of procurement in the country (Mahlati, 2020:4). The problem is exacerbated by multiple procurement legislation, which have given rise to different procurement departments at the national level that appear to be weak in observing sound procurement principles (Mugadza, 2018:2). It has become impractical to use standardised operating procedures relating to procurement systems (Manyathi, 2019:70).

Although the idea of developing a single regulatory framework for public procurement has been touted by many in the procurement legal fraternity, Reyburn (2020:52) is adamant that the proposed public procurement bill would not address a need for a single regulatory framework even if a bill appears to respond to that objective. Furthermore, Reyburn argues that this bill, which is envisaged to be passed by Parliament in 2022 (Mahlati 2020:15), repeals general procurement laws and provisions such as PPPFA and PFMA. Most notably, Reyburn concludes, the procurement bill seeks to remove all procurement-related provisions in the Broad-Based Black Economic Empowerment (BBBEE) Act.

Over and above access to information laws, some researchers problematise non-compliance to relevant rules and public procurement legislation in general (Okubena,

2016; Naidoo *et al.*, 2018). Makube (2019) found that South African legislation is not robust enough to detect and avert practices that deter transparency and competition, while Manyathi (2019) found this public procurement legislation to be fragmented. Public procurement legislation alone would not be adequate to increase transparency and competition, but additional measures are needed to enhance transparency in public procurement (Volmink, 2012:26).

### **2.3.3 Overview on legal framework and the pre-tender stage**

The pre-tender stage has to do with the “*identification of needs, the planning and the budgeting, the preparation*” of the project and description of all requirements, as well as the determination of procedure to be followed in the procurement (European Commission, 2017:8). This stage is deemed essential for the proper managing of procurement processes since planning reduces the risk of contract modification after the procurement process has been concluded (European Commission, 2017:8). However, “*contracting authorities might lack adequate expert knowledge for planning, preparing and managing procurement procedure*” and in their quest for gathering information, these authorities might be unlawfully influenced by informed suppliers (European Commission, 2017:8). The authorities are expected to gather relevant information and ascertain the criteria to award a tender does not present other parties involved unjustified competitive advantage and ultimately create barriers to open competition (European Commission, 2017:8).

There are two means through which relevant information could be gathered for the purposes of preparing procurement in the pre-tender stage: the standard way and market consultation (European Commission, 2017:8). The standard way means that information is drawn from previous own experiences and publicly available sources, while market consultation means “*information is collected by contacting market participants directly*” (European Commission, 2017:8). Contacting marketing participants is considered in a situation where the public procurement committee lacks sufficient information and knowledge in specific areas when preparing technical specifications. In such circumstances, a public procurement committee is permitted to appoint external experts (European Commission, 2017:10). However, there are risks attached to the appointment of external experts, such as the contravention of public procurement law and conflict of interests (European Commission, 2017:10).

International best practices dictate that tenders be awarded to bidders who are deemed to be capable of performing contracts and whose tender applications offer is the most competitive in terms of costs and economic advantages on the part of the procuring entity, which is often identified by means of the application of preferential points scoring system (Civilution, 2016:82) In the South African context, Preferential Procurement Regulations 2001 were issued to carry into effect Section 217(2) of the Constitution (RSA, 1996:217) and to address not only the price preference mechanism which was contemplated in the same section but also the evaluation of other factors like objective criteria in addition to price (RSA 2001). These preferential procurement regulations were repealed by the subsequent regulations of 2011 and recently regulations of 2017.

In respect of the preferential procurement regulations of 2017 (RSA, 2017) two schools of thought have emerged in relation to the manner in which the functionality of tenders is evaluated. Firstly, no points other than those provided and determined at the pre-tender stage in terms of PPPFA may be included later in the evaluation. This means that functionality criteria may only be applied as a pre-qualification criteria in which only tenders that have obtained minimum points could be considered for price and preference points (Civilution, 2016:82).

The second school of thought suggests that the PPPFA is a framework which is aimed at giving effect to the procurement policy embedded in the Constitution and has a narrow application. This thought recognises that there are objective criteria over and above price and preference points which ought to be considered when developing evaluation criteria for tenders (Civilution, 2016:82). Regulation 4 (RSA, 2017:4) allows for evaluation of functionality in the bids provided such criteria are objective and stated in the tender documents.

However, the PPPFA was not promulgated to address procurement procedures relating to any other tenders outside the preference points scoring system and determine best value for money within the South African context (Civilution, 2016:83). But the PPPFA recognises that bidders who scored the highest point for price and preference might still not be awarded should there be other objective criteria determined by the procuring entity at the pre-tender stage (RSA, 2000:2(1)(f)). These objective criteria are those which each organisation has a discretion to determine.

According to National Treasury PPPFA regulation implementation guidelines, a determination for preference points and the applicable objective criteria must be established after accurately estimating the cost for provision of goods and services (2017:4). The guidelines require the accounting officers to stipulate appropriate preferential point system to be applied when evaluating tenders after aligning such provisions with the overall performance plans (National Treasury, 2017:4).

### **2.3.4 Planning for Public Procurement and Process**

Performance management includes planning, budgeting, implementation, reporting, monitoring and evaluation by government institutions, and shows “*the links between different accountability documents*” which government departments are expected to present at different stages of the planning cycle (National Treasury, 2010:1; National Treasury, 2016:2). Planning is essential for the effective management of government resources (National Treasury, 2010:1). Government planning entails the production of strategic plans that indicate sequencing of implementation in the subsequent periods ahead, from which annual performance plans recognise performance indicators and targets that the departments attempt to attain as aligned to budgets and mid-year and annual reports (National Treasury, 2010:1). Most importantly, the annual performance plan must always be linked to the annual budget of the government institutions (National Treasury, 2010:1).

The annual performance makes up a basis for the production and presentation of annual procurement plans, namely, demand and acquisition plans (Manyathi, 2019:83). The demand plan considers the analysis and “*processing of strategic plans, budgets, and preferential procurement objectives*” (Manyathi, 2019:83) (see section 2.3.3). An effective demand plan entails proper stakeholder management and participation in the strategic planning processes to ensure that all the needs identified are adequately budgeted for and duly approved by the executive authority (Manyathi, 2019:83). The subsequent process of public procurement is the development of an acquisition plan (Manyathi, 2019:65). This plan, according to Manyathi (2019:65), sets out processes of determining how to acquire goods and services, from which suppliers and at what price. In their nature and form, Manyathi submits, procurement plans provide “*clarity and direction for the preferential procurement targets and sourcing strategies*”. Acquisition plans also cover critical elements such as the goods and services, the market size from which these items would be sourced and the acquisition

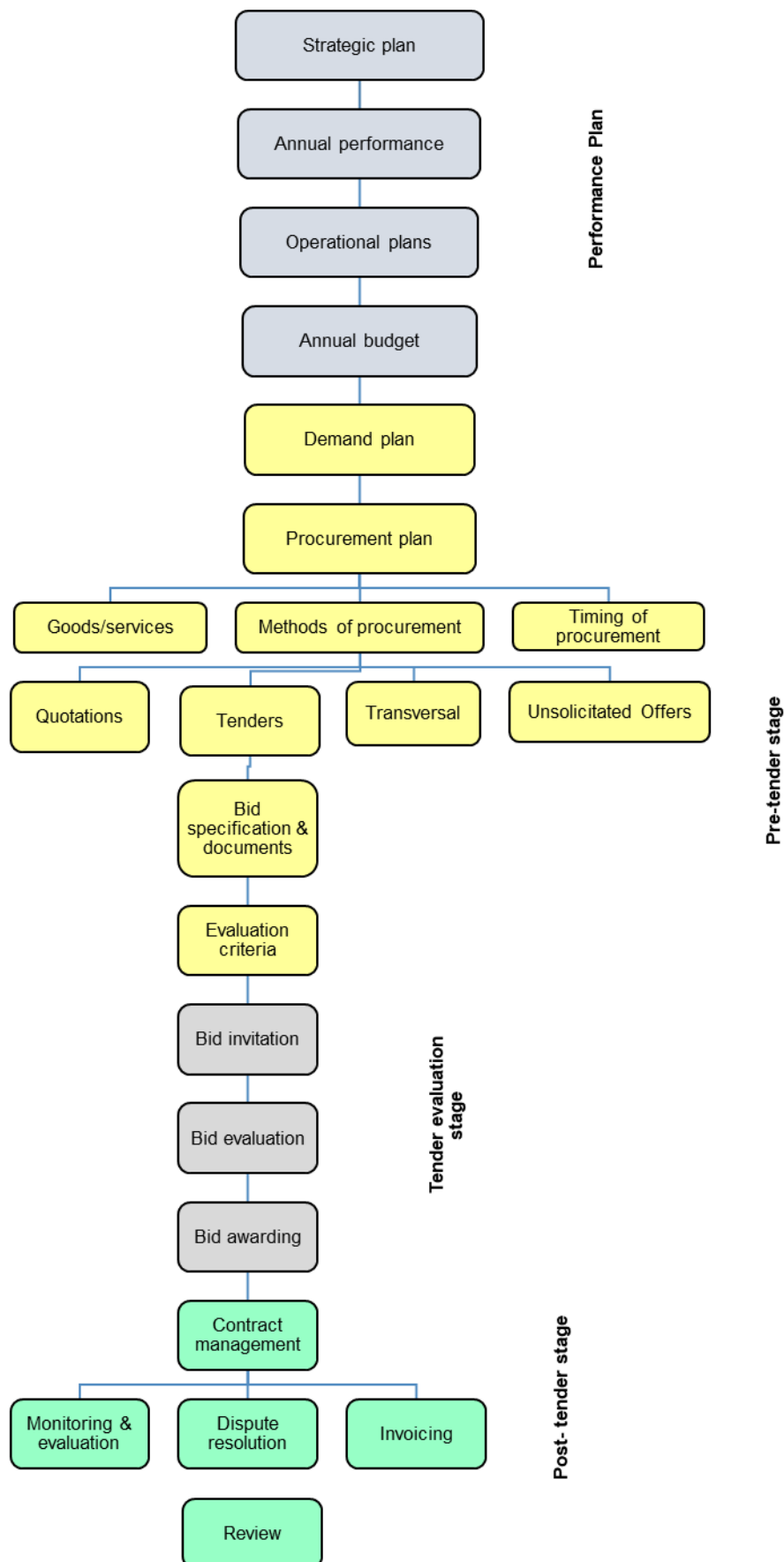
method to be followed (Manyathi, 2019:83). This practice is consistent with first world countries' laws that dictate that *"in order to draw the market's early attention to potential procurement opportunities, each entity must maintain on AusTender a current procurement plan containing a short strategic procurement outlook"* (Australian Government Department of Finance (AGDF), 2021:7). Such annual procurement plans should consist of the content of key planned procurements and the envisaged date of advertisement, and institutions ought to review their plans consistently throughout the financial year (AGDF, 2021:8).

When procuring goods and services, government institutions shall, in terms of PFMA regulations (National Treasury, 20017:6) apply one of the two main methods of procurement, namely, open tendering or invitation of quotation within the threshold determined by the National Treasury. All procurement above the value of R500 000 were subjected to an open tender process as determined by the National Treasury (Regulations 2017:4) and later increased through a practice note to R1 000 000 effective from June 2021 (National Treasury, 2021:1) Therefore, the implementation of *"procurement plans and preferential procurement objectives"* within the agreed budget limits necessitates a strategic procurement of goods and services (Manyathi, 2019:83).

When implementing the procurement plans, accounting officers should make available to suppliers the information of the intended procurement of goods and services, the envisaged process, methodology and criteria for evaluation (Treasury Regulations, 2005:16A) by means of online government publications. The information should cover demand management, acquisition management and contract management phases (National Treasury, 2015(a):23). The primary objective of the publication of government plans is to assist suppliers to access adequate information to make informed decisions about the tender (Awoke & Singh, 2020:2971). This information is extracted from the procurement plan that is made up of demand and acquisition plans developed by government institutions and constitutes what the National Treasury terms *"pre-tender stage activities"* (Treasury Regulations, 2005).

Figure 2.1 below demonstrates a flow of functions and activities from the organisational performance plan to procurement planning.

**Figure 2.1 Performance Plan linked to Procurement Plan and Implementation**



As demonstrated in the flowchart, all procurement activities are drawn from the strategic and procurement plans adopted at the organisational level. The procurement plans coordinate both procurable items and the budget allocated to each activity in the annual plans for the purpose of implementation. This process of aggregating the needs of the organisation results in the determination of tender or quotation-based procurement.

The risks accompanying the procurement activities during the implementation of procurement plans include manipulation of technical specifications in such a manner that compromises competition and discourages the participation of suppliers (Neupane *et al.*, 2012:307). Furthermore, challenges facing the public procurement system about transparency remain in violation of pre-tender stage activities (National Treasury, 2015:17) which consists of the development of procurement plans, determination of procurement strategy and methods, development of evaluation criteria and technical specifications.

The pre-tender stage harbours highly sophisticated preparations of unethical activities in which Supply Chain Management (SCM) officials mostly have a high level of discretionary powers regarding determining tender requirements and their technical specifications, project budget, and the qualification criteria (Fazekas & David-Barret, 2018:8). Fazekas and David-Barret (2018:8) are of the view that technical specifications might be fixed so that they are tailor-made for a specific preferred supplier more often by adding narrow and constricted specifications.

The risk of manipulation is prevalent despite a requirement that competition between, and participation of, suppliers be promoted using access to information (Manyathi, 2016:66). In spite of a number of controls and measures put in place by the National Treasury to curb the manipulation of tenders, the other challenge the public procurement system still encounters relates to the failure to link the strategic plan, procurement plan and budget (Manyathi, 2019:66). Manyathi (2019:66) identifies this lack of coordination in the inadequate planning, discrepancies between budgets and demand plans, non-compliance to regulations, and unsatisfactory monitoring and evaluation characterizing public procurement processes. Moreover, the information included in public procurement plans is often inadequate (Voloder, 2015:10).

Voloder (2015:10) asserts that essential information such as published public procurement plans does not provide procurement procedures below open tender thresholds. He further claims that government institutions are also not legally required to publish notices on the awarding of contracts arising from quotations-based procurements (see section 2.3.4) (Voloder, 2015:10). Notwithstanding those sizeable contracts that are awarded based on quotations, Voloder (2015:10) affirms that public understanding of procurement processes remains significantly restricted. According to Zitha (2016:67) procurement plans remain an essential measure to enhance planning in government yet are often used for malicious compliance rules in which the primary objective is limited to meeting the set timelines.

### **2.3.5 Awarding Tenders**

A tendering process is composed of five stages, that is, “*compilation of tender documents, invitation of tenders, receiving of tenders, evaluation of tenders and awarding of tenders*”, and all these stages are governed by principles as set out by National Treasury (Ambe & Badenhorst-Weiss, 2011:440). A competitive bidding process is administered by way of three-committees system comprising of “*bid specification committee (BSC), bid evaluation committee (BEC), and bid adjudication committee (BAC)*” (PPPFA Regulations, 2017).

Firstly, the BSC is responsible for the compilation of tender specifications and determination of selection and evaluation criteria. Secondly, the BEC evaluates the tenders in terms of the criteria determined by the BSC and in compliance with all relevant regulations, policies and applicable National Treasury instructions. Lastly, the BAC considers the report and the recommendations made by the BEC and makes recommendations to the accounting officer for final decision (PPPFA Regulations, 2017).

When compiling tender documentation, the BSC shall ensure that tender documents are prepared and the general conditions of contracts to meet the criteria determined by the National Treasury and until the recent Constitutional Court ruling of February 2022, the prescriptions of the PPPFA (PPPFA, Regulations 2017). It is also required that the procuring government institution indicates if functionality will be included as an evaluation criteria and further outline the criteria to measure functionality, the weight allocated to each criterion and the minimum points required for functionality, as

well as applicable Broad-Based Black Economic Empowerment scores (Regulations, 2017: 4-5). Only tenders that obtain minimum points on functionality will be assessed at the succeeding stage, on price and preference points (Regulations, 2017). Furthermore, the PPPFA regulations (2017:4(1)) state that on the occasion that *“the organ of state chooses to apply pre-qualification criteria with an intention to advance certain designated groups, that organ of state must state in the tender advertisement a specific tender condition that only one or more of the following categories of bidders may participate, namely, Exempt Micro Enterprises (EMEs), women, youth, military veterans, or people with disabilities.”*

Effective from April 2016, it became compulsory for all tenders to be processed through a centrally managed e-Tender publication portal (Instruction Note, 1:2015/2016) and that all government tenders be advertised in at least Government Tender Bulletin in which the relevant organ of state determined beforehand the criteria that will be used in the process of selection and evaluation of tender. The content of the tender advertisement and the criteria of selection shall not be altered at any time after the tender is closed (National Treasury, 2015:18).

### **2.3.6 Conclusion on South African legislative framework and procurement processes**

The Constitution of South Africa dictates that public procurement promotes the principles of *“fairness, equity, transparency, competition and cost-effectiveness”*. These principles are also adopted globally to ensure public procurement is open to scrutiny and the procurement system is legitimate. The Constitution, through these principles, positions procurement as a tool to address discriminatory policies and practices that are deemed not to be transparent, while preferring categories of persons who were previously disadvantaged.

Public procurement is administered by administrative justice principles in which all violations of the procurement legislation can be challenged at the court through the prescripts of PAJA. PAJA outlines available remedies for aggrieved suppliers to ensure government institutions are accountable and administer procurement processes that promote competition.

In spite of public procurement competition being a constitutional requirement, existing legislation is not effective in uprooting non-competitive practices that undermine

transparency. These legislation are unable to deal with collusive behaviours emanating from relationships between government officials and suppliers. Furthermore, the legislation lacks provisions to impose sanctions for government institutions' failure to make procurement information accessible to suppliers. Studies established that procurement legislation is spread across different laws, making it difficult for government institutions to coordinate, implement and administer procurement properly. As a result, these legislation are not robust to detect and avert practices that deter transparency and competition.

Transparency and competition are normally compromised during the pre-tender phase of procurement, which evolves around the preparation of tenders in which the information deriving from procurement plans and budgets is utilised to spell out descriptions of goods and services and determine the selection criteria for a tender. It has been argued that government institutions manipulate tender specifications, requirements and evaluation criteria because officials have discretion over these specific activities. This manipulation of requirements is made primarily to limit participation and stifle competition among suppliers.

Although planning is said to improve transparency and competition by means of improving the quality of information made available to suppliers in order for them to make informed decisions, the plans produced by the government are misaligned. More often than not, the items in procurement plans and the targets in the annual plans are not adequately budgeted for to ensure a seamless procurement process.

#### **2.4. Chapter Conclusion**

Public procurement in the Free State Province is reported to be infested with a culture of non-compliance to principles of public procurement, in particular transparency on the part of the government institutions. In light of these procurement challenges, no adequate studies were conducted in South Africa and the Free State Province specifically investigating the transparency of the public procurement process from the perspective of suppliers. Consequently, suppliers remain disillusioned with public procurement outcomes, demanding more transparency and accountability.

However, a lack of transparency arises when there are information gaps such as inadequate information and knowledge between the suppliers and the procuring

institutions. This information imbalance relates to costs and production in the supply chain.

Transparency of information is deemed a solution to public procurement challenges, but inadequate access to information continues to find expression from different areas, such as lack of engagement with suppliers and poorly developed procurement plans. Other scholars attribute the phenomenon of asymmetrical information to lack skills, imperfections of procurement markets and inadequate capacity and capabilities. All these shortcomings in the procurement markets have a direct bearing on the level of participation of suppliers.

Information about procurement is critical in the pre-tender stage. In reference to literature discussed in this chapter, researchers have found that there is always a risk of falsification of budget allocation, manipulation of specifications of goods and uneven dissemination of tender information at this stage, given the level of discretion on the part of procurement officials. To respond to this potential human bias, many developed countries adopted e-procurement to increase access to information and subsequently participation and open competition.

To a certain extent, e-procurement ensures equal access to procurement information and automation of procurement systems. South Africa is yet to introduce e-procurement systems that can include the evaluation of tenders and award activities without the risk of human involvement; evidence points to some imperfections and shortcomings of e-procurement as a measure to increase transparency. Additionally, research found that the system does not reduce public procurement malpractices' prevalence, and its impact cannot be visible in developing countries (Kochanova, 2016:3).

Planning, at government institutions level, is essential as it informs the implementation of future procurements. This planning also guides activities in different procurement stages and further prescribes necessary information that should be made public for suppliers to prepare for their participation. This requirement of communicating procurement information improves the level of competition and supplier participation. However, discretionary powers give rise to the manipulation of procurement requirements and specifications, especially at the pre-tender stage. Technical specifications, which generally detail the nature of procurement items and work scope,

are generally fixed to advance other suppliers' interests and ultimately compromise suppliers' competition and participation. Moreover, the quality and relevance of information relating to procurement plans is low. This low-level information is also attributed to information asymmetry in which few suppliers possess the technical knowledge of procurement items more than the procuring government institutions and other potential competing suppliers.

Notwithstanding that competition is crucial to the economy of the country (World Bank, 2016:4) and that it is connected to participation by suppliers (Balsevich *et al.* 2011:17), as well as to accountability of government (Scott 2007:1), other studies found disparities in the manner in which countries define accountability. As an alternative, scholars suggest further legislation to close differences and forge a common interpretation of what constitutes accountability. This suggestion is made despite research finding that South African procurement legislation and supply chain regulations are already fragmented.

## Chapter 3

### Research Methods

#### 3.1 Introduction

This chapter follows on the discussions in Chapter 2 wherein literature focusing on the transparency of public procurement and its relation to participation, competition and accountability of public institutions was reviewed. The preceding chapter also provided a short overview of the legislative framework as it relates to the pre-tender stage.

This chapter starts with a brief description of research methods and also discusses the pros and cons of two different research methods, namely, qualitative and quantitative methods. Data collection instruments in respect of different research methods are also discussed as a build up to a discussion on population and sampling.

Population as well as sampling techniques are further defined. Sampling techniques, namely, probability and non-probability, are differentiated with brief descriptions of each sampling method for aforementioned sampling techniques. A discussion on sampling is concluded with a brief determination of sampling size.

Moreover, population, sampling and data collection instruments relevant for this study are discussed and motivated. This motivation also incorporates a brief discussion on inclusion and exclusion criteria for sampling in this study. To conclude, ethical considerations are discussed to safeguard the integrity of the methods of collecting data and protection of the participants in the research.

#### 3.2 Qualitative and Quantitative Research Methods

Research is defined as a process undertaken in a systematic manner with a purpose of discovery, thereby increasing knowledge (Saunders, Lewis & Thornhill, 2016:5). This systematic approach to research encapsulates a multi-stage process that includes “*formulating a topic, reviewing the literature, designing the research, collecting and analysing data and reporting results*” (Saunders *et al.*, 2016:11). According to Blaxter, Hughes and Tight (2010 :8), a common view is that research is presented as “*a fixed, linear series of stages with a clear start and end*” while on the other hand, research methods simply demonstrate an “*overall plan of how a researcher will go about answering research questions*” (Saunders *et al.*, 2016:163).

For the purposes of this study, focus will be placed only on quantitative and qualitative methods.

Research methods further outline objectives taken from research questions and specify the sources from which data will be collected, and the methods to be used to analyse that data (Saunders *et al.*, 2016:163). The initial decision that a researcher should take is whether to follow a quantitative or qualitative research methodology when conducting research. (Saunders *et al.*, 2016:164).

The quantitative research method is normally explained to mean “*a synonym for any collection technique or analysis procedure that produces or uses numerical data*” (Saunders *et al.*, 2016:164). According to Bryman and Bell (2017:31), the quantitative research method tends to emphasise quantification in the collection of data, adopting a “*deductive approach to the relationship between theory and research*” as well as incorporating the “*practices and norms of the natural sciences model*”. According to Bryman and Bell (2017:39), this method of research also creates a sample that is representative of a population being studied in order to generalise findings beyond the confines of the research.

A quantitative method moves from a premise that there exists an objective reality that is independent of any observations that could be made (Rovai, Baker & Ponton, 2013:4). This reality could be understood as a whole by dividing it into smaller pieces and studying the parts. In its broken parts, observations can be made and relationships between variables can be hypothesised, tested and reproduced (Rovai *et al.*, 2013:4). However, a quantitative approach fails to distinguish people and social institutions from a natural world and is unable to reflect everyday life in research (Bryman & Bell, 2017:50).

Contrary to findings in qualitative methods, quantitative findings are able to be generalised to the entire population (Rahman, 2017:106). Over and above sampling, “*data takes less time to analyse using available statistical software*” (Rahman, 2017:106). Quantitative methods separate the social world into verifiable elements referred to as “*variables which can be represented numerically as frequencies or rates*” (Payne & Payne, 2004:180). An association of these variables with each other can also be explored using statistical skills and acquired by means of an individual researcher’s systematic measurement.

According to Rahman (2017:104), one of the advantages of using a qualitative method is its ability to permit for close interchange between participants and a researcher, in particular when using interviews to elicit feelings and perceptions. Qualitative research is construed as the most flexible method as its design can be altered to a greater extent, thus providing participants with enough discretion to decide what is consistent for them (Rahman, 2017:104). Bryman & Bell (2017:45) assert that qualitative findings are designed for contextual uniqueness and significance of factors of a social world being researched. This argument is also made by Rahman (2017:104) who establishes that qualitative research investigates participants' inner experiences to understand how meanings are shaped while exploring the human experience in a distinct environment.

However, Bryman and Bell (2017:50) found qualitative methods to be subjective. They argue that qualitative researchers are often guilty of putting much emphasis on their close personal relationship with the people studied. Rahman (2017:104) further critiques qualitative approaches as being insensitive to context while focusing on meaning and experiences. Beside these critiques, smaller sample sizes associated with qualitative approaches also affect generalisation of results (Rahman 2017:104).

Table 3.1 below summarises contrasts between qualitative and quantitative research (Bryman & Bell, 2017:51 cited in Hammersley, 1992).

**Table 3.1: Common contrasts between quantitative and qualitative research**

Qualitative	Quantitative
Words and descriptions	Numbers and measurements
Participant's viewpoint	Researcher's viewpoint
Involvement with participants	Detached from subjects
Theory and concepts emergent from data	Testing theory and concepts
Interconnected process between actors	Static image of social reality
Flexible investigation	Structured data collection
Understanding of the context	Generalisation to the population
Rich, deep, thick data	Hard, reliable data
Micro – small scale explanations	Macro – large scale patterns

Meaning of action	Behaviour of people
Natural settings	Artificial settings

*Sourced from Bryman and Bell (2017:51)*

In the table above, Bryman and Bell (2017:51) differentiate between qualitative and quantitative methods as the former being concerned with words and descriptions, and the latter with numbers and measurements. Data collected using qualitative methods are said to allow for the involvement of participants as opposed to quantitative methods that promote a researcher's detachment from subjects. Furthermore, qualitative methods represent the views of participants, while quantitative methods focus on the views of a researcher. While data derived from qualitative methods is deemed to be rich, deep and detailed, Bryman and Bell (2015:51) state that quantitative data is hard and reliable. Most importantly, the qualitative method is more concerned with the meaning of action as opposed to the behaviour of people in the case of quantitative data.

### **3.3. Qualitative Data Collection Instruments**

The most suitable method for collecting qualitative data is by means of interviews, as it provides flexibility for the researcher to elucidate questions to respondents (Brynard, Hanekom, & Brynard, 2014:42). According to Adam, Khan and Raeside (2013: 97), this method is appropriate if the researcher seeks to understand motivations for people's behaviour or feelings. Although this method may be time-consuming, contact or telephonic interviews are often adopted in business and management research for their mass information from a small sample size (Adam *et al.*, 2013:97). Interviews can be separated between unstructured and structured interviews. Unstructured interviews allow a researcher to ask any question they deem necessary to reach a diagnostic conclusion, and these questions can be based on the mood, preference or philosophy of the interviewer (Segal *et al.*, 2006:122).

In contrast, structured interviews follow a standardised list of questions, as well as probing questions, sequence and systematic ratings of interviewee's responses (Segal *et al.*, 2006:122). The primary purpose of the standardisation of questions using structured interviews is to facilitate explicit guidelines for coding responses, eliminate the risk of variability and increase reliability (Segal *et al.*, 2006:122).

Structured interviews can either be fully structured or semi-structured. Fully structured interviews require that questions are posed verbatim and follow up questions are specified, and interviewers are coached to avoid deviations from the pattern (Segal et al 2006:123). In a semi-structured interview, however, the interviewer has a freedom to probe responses differently or modify existing questions (Segal *et al.*, 2006:123).

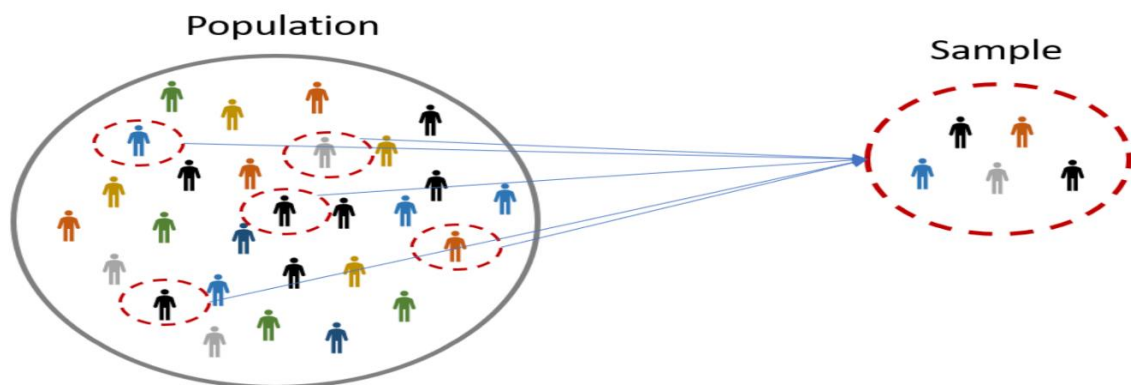
Questionnaires are regarded as inexpensive and quick to administer, and because of the absence of an interviewer, they curtail the effects of the interviewer associated with the interviewer's age, ethnicity or gender (Bryman & Bell, 2017:192). Although a self-administered questionnaire is applauded for eliminating the risk of the interviewer changing the way questions are asked, some of its shortcomings include the inability to prompt and probe the interviewee (Bryman & Bell, 2017:192). Furthermore, when using questionnaires to collect data, a researcher is unable to ask other kinds of questions or more questions. Saunders *et al.* (2016:482) suggest that questionnaires be tested prior to their dissemination to participants to evaluate the validity and reliability of the questions. Over and above not knowing who answered questions, this method poses a risk of missing data where some questions are returned unanswered and have a low rate of response (Bryman & Bell, 2017:193).

### **3.4 Population and Sampling**

A population is described as "*the universe of units like people, nations, cities, firms etc., from which sample is to be selected*" (Bryman & Bell, 2017:170). A sub-group of the population is also referred to as a target population (Saunders *et al.*, 2016:275). Target population is used in a case where it appears to be strenuous to identify or access some of the samples (Saunders *et al.*, 2016:275).

A sample is "*a segment of the population that is selected for investigation*" (Bryman & Bell, 2017:170). A sample that is being selected is related to a population that is hypothesized in the research question or objectives (Saunders *et al.*, 2016:275). The figure below demonstrates the difference between population and sample.

**Figure 3.1. Population and sample**



Source: [www.omniconvert.com](http://www.omniconvert.com)

### **3.4.1 Sampling methods**

A sample is “a segment or subset of the population selected for the purpose of a research” (Bryman & Bell, 2017:71), whereas sampling means “a process or procedure of selecting a suitable sample to determine parameters or features of the whole population” (Adams *et al.*, 2013:72). Sampling allows a researcher to minimise the volume of data they could collect by taking into consideration only data from a subgroup instead of all possible cases (Saunders *et al.*, 2016:272). By using sampling in research, a researcher is able to present an alternative to a survey where it is impractical to test the whole population and where there are financial limitations and time limitations to survey the entire population (Saunders *et al.*, 2016:274).

There are basically two forms of sampling procedures: “*probability and non-probability sampling*” (Adams *et al.*, 2013:72). Probability sampling is a sample in which every element in the population has an equal chance of being selected. There are four methods in which probability sampling techniques can be employed, namely;

- Simple random sampling – is an unconscious exercise with narrow space for human bias in which each unit enjoys an equal probability of inclusion (Bryman & Bell, 2017:173)
- Stratified sampling – is a modified version of random sampling in which the target population is divided into two or more relevant and substantial strata

subject to particular attributes. Random or systematic sampling is then employed in each stratum to select samples. (Saunders *et al.*, 2016:290).

- Cluster sampling (multistage) – is equivalent to stratified sampling since target populations are grouped into clusters or discrete groups before sampling. “*This method is suitable for large sample surveys*” (Saunders *et al.*, 2016:290).
- Systematic sampling – uses a technique of “*selecting samples at regular intervals from the sampling frame*” (Saunders *et al.*, 2016:290).

According to Taherdoost (2016:22), non-probability sampling is normally linked to case studies and qualitative research consisting of small samples to observe a real-life phenomenon without making statistical inferences to a wider population. A sample of participants selected under non-probability sampling need not be representative or random. Nevertheless, a justification is required for decisions relating to inclusions and exclusions of participants (Taherdoost, 2016:22).

Non-probability sampling addresses deficits in probability sampling techniques relating to the likelihood of inclusion and provides an alternative to selection methods with an element of subjective judgement (Saunders *et al.*, 2016:295). Sampling methods in non-probability consist of the following:

- Quota sampling – is a kind of stratified sampling in which the selection of cases within a stratum is not random. It is a much quicker and inexpensive technique compared to probability sampling techniques (Saunders *et al.*, 2016:295).
- Purposive sampling – a researcher uses their judgement to select cases that will help to answer a research question and meet objectives. It is an appropriate method when working on a small sample (Saunders *et al.*, 2016:295).
- Volunteer sampling (also known as snowball sampling) – is a technique in which participants volunteer to partake in research without being selected by a researcher. This practice is susceptible to bias problems as participants tend to recommend respondents who share their sentiments (Saunders *et al.*, 2016:295).
- Haphazard sampling (also known as convenience sampling) – is a technique in which samples are selected without the use of any obvious

criteria in relation to a research question. Normally, selection is based on the respondents' availability (Saunders *et al.*, 2016: 298).

Taherdoost (2016:23) summarises the strengths and weaknesses associated with sampling techniques for both probable and non-probable sampling. Although convenience sampling is affordable and timesaving, this instrument is deemed biased as the selection of a sample relies on the interviewer's discretion. The weakness of subjectivity is also highlighted in using the judgement technique, despite its benefit of low costs. Although the snowballing technique can be time-consuming, Taherdoost (2017:298) found it to be able to provide access to rare characteristics of the sample.

In relation to probability techniques, simple random and systematic sampling are regarded as the simplest techniques. However, there are always disadvantages of reduced representation and difficulty to establish a sample frame. Although a stratified sampling could ensure representation of important sub-populations, there are high costs associated with this technique over and above the difficulty to stratify on the number of variables.

### **3.4.2 Sample Size**

Sampling in qualitative business research, places much reliance on gaining and maintaining access to participants (Saunders & Townsend, 2018:3). Samples under qualitative research are selected because data collected would be adequate to assist in answering a research question. Thus, only participant(s) suitable to research are chosen (Saunders & Townsend, 2018:4). Therefore, non-probability sampling requires that participants are chosen based on a researcher's judgement that may take into consideration the selection of participants that are deemed extreme, unusual, typical or critical (Saunders & Townsend, 2018:6).

As to what number constitutes adequate participants within qualitative research, Saunders and Townsend (2018:11) found the answer to be inconclusive and suggested that collection of data be continuous until saturation is reached. Saunders *et al.* (2016:419) define saturation as a situation where data is no longer producing new information and a full range of ideas are heard. While Guest, Bunce and Johnson (2006:60) found saturation to be a determining factor for establishing an adequate number of participants in qualitative research, others were discontented and declared the logic to be inappropriate (Saunders & Townsend, 2018:7). However, Saunders

and Townsend (2018:7) maintain that in a case where saturation is not reached, an implication is that the phenomenon has not been adequately explored as opposed to findings being invalid. Although Saunders *et al.* (2016:297) argue in respect of all non-probability sampling techniques, with the exception of quota samples, that sample size remains ambiguous, and without rules, they recommended a minimum sample size taking into consideration the nature of the study being conducted. A minimum sample size of 5 to 25 is, therefore, suitable for “*semi-structured or in-depth interviews*” (Saunders *et al.*, 2016:297).

### **3.5 Population, sampling, data collection and analysis for this study**

For the purpose of this study, the most relevant research method is qualitative research since it solicits participants’ views, encourages involvement and interconnectedness. Furthermore, this approach ensures flexibility in the collaboration of rich data (Bryman & Bell, 2017:51 cited in Hammersley, 1992). Qualitative methods also make it easy to understand and capture “*personal experiences and perceptions that would not have been captured using quantitative methods*” (Manyathi, 2019:123).

#### **3.5.1 Population for this study**

The population for this study comprises all suppliers in the CSD with business addresses in the Free State. As of 31 March 2022, there were about 44000 registered suppliers in the CSD of the Free State who met the abovementioned criteria. Before access was granted to the suppliers database for the purpose of this study, a written formal consent was requested from government institution to retrieve the required pool of CSD registered suppliers and their contact details.

#### **3.5.2 Sampling for this study**

This study adopted non-probability as a sampling technique. In selecting a sample, the researcher made use of haphazard sampling. This sampling method allows a researcher to select cases haphazardly subject to their availability and willingness to participate (Saunders *et al.*, 2016:304). Data was collected using semi-structured interviews administered physically and virtually.

Only participants who are registered in the CSD were considered, focusing on all categories of suppliers, namely, SMMEs, QSEs and others. Furthermore, focus was placed on previously disadvantaged groups, namely, blacks, women, youth and

people with disabilities. This allowed the researcher to cover a wide spectrum of categories of suppliers to receive a much balanced views.

### **3.5.3 Ensuring Data Saturation**

The collection of data by means of semi-structured interviews was first planned to a maximum of 25 respondents or until data saturation is reached (see section 3.4.3 above) and analysed for emerging ideas. Sampling, collection of data, and analysis were combined instead of being treated as independent stages of research to test if saturation is realised. Saturation was measured in two different ways: coded theories were analysed until they do not bring anything different or new code or theme, and the additional sample was no longer preferred. Secondly, saturation was also tested on the basis of participants' information where new data became redundant. Data redundancy was established in a case where the interviewer started to find that the participants were repeating the same information or answers provided.

### **3.5.4 Details on Exclusion and Inclusion Criteria and Invitation to Participate**

The sample for this study was limited to suppliers who are registered in the government CSD and located within the boundaries of the Free State Province. The database was sorted alphabetically and an invitation to participate was sent to the first two suppliers under each letter of the alphabet (52 invitations). The first 25 suppliers to respond positively were considered for the interview, and the additional cases who responded later were considered when additional interviews were needed for data saturation.

Participants that accepted an invitation were scheduled for virtual or physical interview. Interviews were conducted at times that are convenient to the participants. Only participants who were willing to sign a consent form were allowed to take interviews.

### **3.6 Data Analysis Methods**

Every interview was recorded and transcribed in an answer sheet for ease of reference. Transcripts were produced manually and where necessary, transcripts were also edited for errors and filed for record purposes. Each answer sheet was allocated a unique participant number to ensure the confidentiality of participants. Online interviews were recorded by making use of the online platform features, and telephonic interviews were recorded by using a phone. It was expected that each interview would last for at least 30 minutes. Interviews were conducted using sets of

questions that were also categorised and linked to research questions and objectives and further discussed in Chapter 2. Moreover, themes were categorised and analysed in terms of the participants' responses to the semi-structured questions.

This data was then reviewed by reading each answer from the transcripts while aligning each response to a question to determine patterns in responses, emerging topics and commonalities. Using notes and concept maps, initial coding was created and later reviewed, revised or integrated where necessary. In the process of reviewing codes, themes and opinion by the respondents were identified for the purpose of presenting the themes cohesively and for purposes of testing data saturation.

### **3.7. Ethical Considerations**

Ethics in the situation of research is defined as the principles that “*guide a researcher’s conduct in relation to the rights of the potential subjects of the research project or those who might be affected by it*” (Saunders *et al.*, 2016:239). For this study, consideration was made to the following key principles: potential harm to the participant, informed consent, invasion of privacy and deception.

In collecting data from the participants, the researcher ensured that the participants were fully informed of the purpose of the research, the manner through which data collected would be used, and any possible risks participants might be exposed to by participating. In relation to informed consent to participate, a signed copy of the consent form was sought from each participant. This consent includes understanding the participants' rights of access to information and the rights to withdraw at any point.

The researcher guaranteed confidentiality by not mentioning the names of participants and also not using identity exposing statements and information. Since the research was conducted through virtual and telephonic interviews, participants' identity remained confidential. Participants were also encouraged to ensure that they answered all questions based on their personal experience and opinion to the best of their ability. For quality and proper recording of data, participants were specifically informed beforehand that the interview would be recorded for future reference by the researcher. Data collected from participants was kept securely in the custody of the researcher until the assessment by the University was concluded. Most importantly, this study was only conducted upon the receipt of an ethical clearance of the General Human Research Ethics Committee at the University of the Free State.

The interviews were conducted within a reasonable time to ensure that the researcher and the participants did not lose much of their valuable time. The interviews were also administered at the convenience of all the participants to make sure that they were not distracted from their normal business routines. Over and above the time required to conduct the interviews for this study, there were also potential risks of victimisation of suppliers/participants by the government institutions in a case that some of the views to be captured in this study could be wrongly or assumably be associated with those of a particular participant—this could be so in a case where such views were raised by the participant in the presence of government officials on a different platform before. However, this study is conducted in such a manner that the identities of the participants were not exposed, and this remained so even at the point of publication and reporting of the results of this study. Participants were guaranteed protection from victimisation that might arise from my position as a government official in the following manner; (i) as the researcher I am bound by the standards of the University that encourage ethical conduct on the part of the researcher, (ii) participants would know upfront of my occupation and further be given an opportunity to evaluate the risk in order to decide on their participation, (iii) the introduction of the topic as well as the purpose of the research was presented in a manner that encourages honest engagements where suppliers viewed this research as one of the instruments to address their plight, especially coming from a researcher who is fully involved in government procurement. Furthermore, this research acknowledged that the researcher's involvement in public procurement might pose a risk of conflict of interest. However, the researcher was bound by the ethical standards of the University and legal obligation not to disclose the identity of the participants and not to use this research for any other reason except what has been approved by the University.

In compliance with the Protection of Personal Information Act (RSA, 4:2013) which seeks to protect people from harm by protecting their personal information, prevent identity theft, and generally protect their privacy, this study requested formal consent to make use of the suppliers' personal information in the CSD from the Free State Legislature. In consideration to Section 5 of POPIA, an organ of state from which the access for personal information is sought is expected to inform the relevant person of such access and the purpose of it (RSA, 5:2013). This should be read with Section 13 of POPIA in relation to the collection of data for a specific purpose.

### **3.8 Conclusion**

This chapter discussed the population of the study, various sampling techniques and different methods of data collection, and further supported reasons for the adoption of the use of interviews to collect qualitative data. Different methods of data collection were also discussed in detail and justification was also made for adoption of qualitative research method using a non-probability method of data collection to conduct interviews with participants selected using haphazard sampling.

In conclusion, the chapter discussed methods of analysing data and reasons for selecting thematic analysis thereafter. Furthermore, the important elements of ethical consideration, including permission to access respondents' information from the CSD administered by the National Treasury, were discussed. In the main, consideration was made to compliance with POPIA, which seeks to protect people from harmful use of their personal data.

The following chapter will specifically and broadly focus on the analysis and interpretation of the data collected by means of the techniques discussed in this chapter.

## **CHAPTER 4**

### **4.1 Introduction**

Public procurement starts with the identification of needs by the internal end-user from different divisions in a public institution. These needs stem from the strategic objectives of the institution as outlined in its five-year strategic plan and broken down into annual plans. It is from annual plans that government institutions develop a procurement plan for the acquisition of goods and services required to function in a particular financial year. Procurement plans are directly linked to the approved budget allocation made by National Treasury to each government institution before the commencement of the financial year.

When implementing procurement plans, government institutions are expected to make public relevant and adequate information for the envisaged procurement of goods and services using various platforms not limited to online publications. The primary purpose of procurement plan publications is to assist suppliers to prepare and align their resources and efforts to respond to invitations to tender or requests for quotations. These are referred to as pre-tender stage activities and are deemed equally important in assessing the extent of transparency of processes and the extent to which such transparency is linked to the participation of, and competition within, the suppliers in the public procurement process.

This chapter focuses on the interpretation and analysis of data collected from suppliers by means of interviews, using a haphazard method of selecting samples from the population (see Chapter 3). A total of 17 suppliers participated in this study and shared their personal experiences on the transparency of the public procurement process and the existing measures in which government publicise procurement information to encourage participation and competition. These views from the participants were coded applying a deductive approach in line with the objectives of the study and relevant discussions relating to procurement legal framework as discussed in Chapter 2.

Moreover, the researcher adopted a thematic analysis approach in reference to themes already established and discussed in Chapter 2 in order to guide how data is analysed and ultimately interpreted, showing the relationships between the theories throughout the presentation. After a total of 14 participants were interviewed, data

saturation was reached and further three participants were interviewed to test if any new themes could be derived from them. As a result of data saturation in line with the themes the research is focusing on, the data collection process was stopped.

The first section of this chapter presents a description of the nature of suppliers or participants who contributed to this study. It further presents an analysis and interpretation of data relating to main topics, namely, transparency of public procurement, participation and competitions as well as accountability. Flowing from these topics, an analysis and interpretation is made on various sub-topics in references to the legislative framework and literature as discussed in Chapter 2.

## **4.2 Analysis and Interpretation of Data**

Data was collected from participants who are currently active in the CSD. These participants are suppliers of different categories of goods and services ranging from catering, information technology, office automation, hospitality, general supplies, construction, printing and event management. The participants in this study included most black suppliers and two companies that are white-owned whose companies are SMMEs and QSEs. The sample also covered youth, women and people with disabilities in order to get a balanced perception on the research question from diverse categories of previously disadvantaged groups.

### **4.2.1 Transparency of public procurement processes**

#### **4.2.1.1 Access to Information at the Pre-tender Stage**

Participants perceive a transparency of the public procurement to evolve around the sharing of relevant information and access to procurement offices. This information, according to participants, should outline the business opportunities available from government institutions. In furtherance of this definition of transparency, Participant 8 argued that such information should reach the suppliers on time, and that it must also be correct. Transparency also means everybody having the same amount of information (Participant 4), improved competition, efficiency and reduced risk of unfairness and corruption (Participant 10).

The suppliers' overall understanding of what constitutes transparency in the public procurement domain is consistent with concepts discussed in Chapter 2 as it relates to access to relevant information, fairness and increased competition.

However, when asked about the relevancy and usefulness of the information made available by government institutions at the pre-tender stage, some participants felt that such information does not exist (Participant 11), the information is not clear and somehow not helpful (Participant 2), and somehow information only comes whenever the tender is advertised (Participant 3). The above discrepancies are attributed to an inadequate training and knowledge on the part of government officials (Participant 8). There is also a view that suppliers in rural areas might be struggling with internet to access the same information made available by the government (Participant 6).

Although about 13 of the participants could not explain the nature of the pre-tender information in specific terms and the method in which such information could be accessed, Participant 7 referred to pre-tender information that is only available on request from the supply chain officials in different government institutions. A limited number of government institutions take the initiative to share pre-tender information of their envisaged procurements three months in advance for suppliers to prepare (Participant 9).

When analysing these submissions, it is evident that participants do not have a clear understanding of what constitutes pre-tender information and activities. Deduced from their responses, it can be concluded that participants are of the view that advertisements of tender specifications and selection criteria are all that they need to prepare for procurement. This is evident in the participants' understanding of where and how the pre-tender information can be accessed. This conclusion can further be attributed to a norm that government tender invitation remains the first form of direct interaction between the government and the suppliers. Whereas planning information is normally directed to public and other oversight institutions during budget votes, these suppliers do not perceive themselves as the targeted audience.

#### **4.2.1.2 Strategic, Annual Plans and Procurement Plans**

According to suppliers, pre-tender information such as procurement plans is made available through a presentation at the State of the Province Address (SOPA) (Participant 2 & 14). One participant explained that in a contract environment, procurement plan will be shared with participants in the contract and where there is no contract, they usually have notice boards in their offices where they display that information. With the type of work suppliers do, they get to visit clients now and then,

and government officials always make that information available to them on request (Participant 7). Another method of accessing pre-tender information was identified in one instance where a particular department had invited a few suppliers informing them about its plan and the period it is planning to advertise a tender for the suppliers to be prepared, ready and up-skill themselves relative to what a department is intending to be procuring this year (Participant 8).

While Participant 4 appreciates the annual financial reports as the primary source of pre-tender information, one participant was of a view that the annual plans from different departments are presented at the budget vote. These submissions are contradicted by several participants who claimed that "*there is not any place where this information (procurement and annual plans) is known. We always just know as per need arises unless maybe it's a contract like a one-year or two-year contract then you get to know*" (Participant 1). The information shared by the department at the annual budget speech are normally not time specific (Participant 1). But otherwise, to the best of participant's knowledge, there is no a platform whereby all the tender plans are communicated before they are advertised (Participant 1). The only information made available comes at the point of advertisement and invitation to quote (Participant 5). In the case of most government instructions, suppliers are expected to physically visit the government offices and enquire about business opportunities (Participant 9).

Whereas it is a requirement for the government institutions to develop procurement plans at the beginning of each financial year, it appears that suppliers are not exposed to the documents and continues to confuse procurement plans which outlines future procurements with annual plan which outlines the overall performance targets of a department. Some suppliers understand that the budget allocation in terms of different class of goods and services provides valuable information for them to align their planning and anticipate a particular volume of work from different departments (Participant 10).

#### **4.2.1.3 Budget Information**

Budget information helps suppliers to trade with knowledge that there are budget guidelines that they should work within (Participant 3) and it also eliminates "*the risk of fly-by-night businesses*" that cannot deliver after being appointed (Participant 7). With budget allocation made for a specific commodity, government institutions would

be able to avoid a situation where they are unable to pay suppliers because of a lack of funds after the service provider had delivered (Participant 8). In the absence of budget-related information, suppliers cannot plan and as a result, they are discouraged to participate in the tender as they may be thinking they lack necessary skills and capacity (Participant 8). Other than that, suppliers are only made to be reactive to invitations to tender or quote (Participant 5). However, being too open with budget information might disadvantage government institutions and expose their market research prices to the suppliers (Participant 7).

It is perceived in line with Chapter 2 theories that budget information helps suppliers to plan for procurement processes. However, the existing structure and the manner in which budget information is presented by government departments appears not to address basic needs of suppliers. Generally, budget information shared by means of annual plans is not detailed enough to explicitly show how government intends to procure certain goods and services, including how much funds are set aside for individual commodity from the overall budget allocation. With an exception to certain commodities that in their nature can be disclosed separately, for an example, traveling and accommodation, it is much easier to estimate government future expenditure.

Albeit the shortcomings in the budget presentations, it is a common knowledge that government departments are compelled by law to publish their annual performance plans of which encompasses budget allocation therein on the official websites. This information is for public consumption including suppliers within the province. Therefore, it borders on unawareness on the part of the suppliers.

#### **4.2.2.4 Measures on Demanding Pre-tender Information**

Considering the perceived absence of proper presentation of budget information in a manner useful to suppliers, 12 participants in this study seem to be aware of measures in place to demand government information for procurement purposes. However, their understanding appears to be limited to information accessible during tender invitation as opposed to information at the pre-tender stage.

This is evident in some participants' explanation that suppliers can make direct enquiries to the contact person mentioned in the tender invitations (Participant 1,2,5,10,12). Some suppliers argued that they never used measures in place despite knowing their rights (Participant 6). *“Although it is a measure that is there and put in*

*place every time suppliers want any information about anything, lot of people get discouraged in terms of submitting letters in demand of information because some of them think they might be victimized for doing that"* (Participant 7). A similar argument was made by Participant 3 who submitted that there is a sense of fear among suppliers to demand information. Other than that, other participants admitted not to be aware of any existing measures to demand procurement-related information from government.

Deduced from the above submissions, there is a general understanding of measures in place to demand procurement information from government departments, which include visiting the government's official website and making direct enquiries with the relevant officials. However, there is an element of fear from some of the participants to demand information and on the part of the government, information useful to suppliers prior to tender invitation is not compiled consistent with international standards as discussed in Section 2.3.4.

#### **4.2.2 Information Asymmetry**

The problem with this common measure of acquiring procurement related information from the government, i.e., enquiring individually with the contact person, according to Participant 1, leads to a risk of information asymmetry. Normally when an individual makes enquiry other people do not even get to know what is being asked. So, there can be a public platform where everybody knows what questions were asked so that the respond goes to everyone (Participant 1).

Another form of information asymmetry prevalent between suppliers and government evolves around the issue of budget. According to Participant 4, it is futile to focus the efforts of a company in the area of government procurement where there are no adequate funds allocated. An example is in a situation where a number of schools acquire services from suppliers only to realise later that they do not have enough budget to honour the contracts. This argument is also echoed by the Participant 4 and 5 who revealed that the information shared at the pre-tender stage is not the same information that is shared when bidders are finally invited. This is evident at the stage of evaluating the tenders, added Participant 5, that the understanding between the procuring institution and suppliers about the product was different. This information asymmetry is also linked to the perception that procurement officials are also not

knowledgeable about the details of the products they intend to procure (Participant 14).

There are instances where procurement officials deviate from their own requirements and specifications (Participant 9). Such discrepancies in the submissions of actual tender documents result in varied price ranges and somehow disadvantages other suppliers and eliminates fair competition, added Participant 9. Some suppliers, based on the relationships they have established with certain government officials, tend to gain access to information that is not readily available to general suppliers (Participant 11). Because of this imbalanced access to information, submitted Participant 14, some suppliers are given competitive advantage to prepare while others get a limited turnaround time to respond to invitations. However, some participants strongly believe that the government e-tendering system, if used sufficiently, can address this problem of information asymmetry.

#### **4.2.3 Participation and Competition**

##### **4.2.3.1 Impact of e-Tender Portal on Information Sharing, Transparency and Participation.**

The government's e-tender portal is very useful because it gives suppliers an access to all government entities without going from one department to another (Participant 1). Moreover, the portal exposes suppliers to many government business opportunities (Participant 3) free of charge (Participant 12). It also improves transparency because it does not share information that is exclusive to certain companies; it makes the playground fair. *"Even if I did not apply for something, it does not mean I didn't have that information"* (Participant 7). Furthermore, the e-tender portal can make public the results of successful bidders and after the tender has been closed, it publicises the total number of service providers who responded to a tender (Participant 3), so that one can have an idea of their competitors (Participant 5). Most importantly, added participant 5, information on a portal is accessible at any given time so one can work on it and then retrieve certain documents instead of every now and then print and then submit. The e-tender portal shares with suppliers open tender advertisements, tender documents (Participant 15) and to a very limited scale, requests for quotations (RFQs) (Participant 9 & 12).

However, according to Participant 9, 10, 11 & 15, some government institutions do not make use of the e-tender portal to advertise their tenders and National Treasury does not enforce the use of the e-tender portal by government institutions. In a case where government institutions decide to use the e-tender portal to advertise procurement information, there is always a discrepancy between the information shared on the e-tender portal and the actual information available from the procuring department itself (Participant 8).

Two participants submit that they have an experience of government institutions sharing tender advertisement on e-tender portal very close to the submission date (Participant 11 & 14). "*Although e-tender portal is our safe net for accessing business opportunities*", delays in making information public works against its intended purpose and the only reason one can think of is that government might be having their preferred supplier (Participant 11). Another weakness associated with the e-tender portal in its current form is that it lacks features that allow suppliers to submit bids (Participant 9). In other words, the e-tender portal is just a bid advertising platform (Participant 6). This is an area, added Participant 9, where transparency is found to be lacking and the integrity of processes questionable. Furthermore, the evaluation of bids is performed manually outside of the e-tender portal (Participant 5).

The views of the participants correspond with the theory relating to e-procurement portals worldwide, which is that they contribute immensely to the transparency of procurement processes. However, shortcomings observed and shared by the participants render the government's efforts towards transparent procurement processes futile. There is a general view from suppliers as supported by theory that there should be less human factor in the submission and evaluation of tenders to improve transparency.

Another element that seeks to defeat the prerequisites of transparency are the facts emerging from the participants themselves that the e-tender portal is mainly providing access to information at the advanced stage of procurement, thus disregarding pre-tender procurement information that suppliers deemed to be valuable for their preparation, participation and competition in a procurement process. Apart from all these shortcomings related to the e-tender portal, majority of participants appreciate

the fact that there are no major costs attached that might hinder their access to information on e-tender portal.

#### **4.2.3.2 Impact of Costs and Company Size on Accessing Government Information**

The costs of accessing government procurement information do not affect participation since they are relatively low (Participant 5,11,12,13,14), except the costs related to the printing of bid documents from the e-tender portal (Participant 2,9,15, 17). The most important part is that suppliers are no longer expected to pay for bid documents from government departments as is the case with municipalities (Participant 6).

But one can also not ignore the fact that it is costly for people that are not getting work but should continue striving to access those opportunities (Participant 7). There are also costs for accessing the internet and physically responding to a bid invitation (Participant 8). Over and above that, there are too many suppliers' documents that government already has access to. Therefore, it becomes too expensive and hinders participation if suppliers should reproduce certain information all the time when there is a tender (Participant 1). Another hindrance relating to costs is the purchasing of the tender document at an exorbitant price (Participant 10).

According to the participants, the impact of the size of a company is significantly mitigated by the introduction and utilisation of the e-tender portal system. The portal managed to reduce the cost of accessing procurement information, thus minimising individual efforts to search for business opportunities. Even the SMMEs that employ a small number of people do not find it hard to search for business opportunities from the comfort of their offices or home using smart phones. However, there will always be costs involved for suppliers to access the internet and as participants already alluded, incurring internet costs become part of business expenses.

#### **4.2.3.3 Impact of Gender, Age and Disabilities on Accessing Data**

A very limited number of participants consider age and gender as hindrances to accessing government information. Information shared by government across different platforms has no regard for a bidder's age or gender (Participant 3, 4, 5, 7 & 15). Even though the older generation is not technologically inclined, and they cannot read and browse the internet like the younger generation (Participant 6). One participant argues that we are the point where everyone is going electronic, young and old. Even now

elders have Facebook and WhatsApp. Furthermore, Participant 1 feels that everyone in this juncture wants paperless which is a superior method of communication for safer environment (Participant 1). The only determining factor in this regard is the experience of an individual supplier in the business (Participant 9). Suppliers need to familiarise themselves with the dynamics of public procurement in order to master the art of accessing and interacting with government information (Participant 10).

However, suppliers who are also living with disabilities are already disadvantaged by the way government publishes procurement information (Participant 15). Many government institutions do not even have readily available sign language interpreters even in a case where people with disabilities are invited to the briefing sessions (Participant 14). Even the e-tender portal is not effective for people who cannot see (Participant 12). Thus, *“individuals with disabilities are still challenged and marginalised they are not getting those opportunities as easy as ordinary able people”* (Participant 3).

In order to cater for this category of suppliers, government should consider establishing partnerships with organisations that organise and advocate for people with disabilities and allow them space to advise government on the most appropriate ways to communicate and engage with people with disability who are in business (Participant 15). Furthermore, government should have disabled people on its payroll who will be able to effectively communicate with people with disabilities to encourage their participation (Participant 5 & 14).

#### **4.2.3.4 Government Measures to Encourage Participation and Competition in Procurement**

Looking into the suppliers' experiences and insight on government measures in place to encourage their participation in procurement processes, one of the participants felt that after the COVID-19 pandemic, government institutions initiated processes to re-establish some new relationships, trying to reach an understanding with suppliers who are operational and can render some of the services (Participant 10). Thus, the Free State Provincial Treasury is also doing a lot of outreach programmes to speak to many suppliers. Frequently, it uses all the available platforms for encouraging people to participate in the CSD (Participant 3). *“Therefore, from where I am sitting, they have done more than enough”* (Participant 7).

However, six of the participants claim that they “do not see what the government is doing” (Participant 12). “Government is doing absolutely nothing. She just submits documents for procurement and ends there” (Participant 13). The degree of the encouragement is very minimal except their constant agitation that youth should open businesses without teaching youth or train youth to understand the dynamics of doing business with government (Participant 8). Other than that, government is currently focusing on publishing tender adverts and there is not much effort of encouraging suppliers to participate (Participant 1). “It is an issue that has to be looked at given the fact that many suppliers who are willing and have potential are currently discouraged to participate” (Participant 1).

According to one participant, an encouragement to participate comes from the supplier’s end. “If there is a request for service, it comes back to me whether I want to participate or not. It’s a personal interest” (Participant 5). Despite a lack of effort on the part of the government, another supplier argues that it is wrong to put a blame on the government because this is work, if suppliers do not want to work there is nothing that the government can do. Participant argues that this has absolutely nothing to do with the government (Participant 6). Apart from the self-encouragement to participate, stated one supplier, are jobs of huge monetary value (Participant 2) and the fact that “the Free State Government Departments are good payers, for that, I think the payment trend plays a very big role in encouraging participation” (Participant 4).

However, there are some trends, according to suppliers, that discourage participation and transparency in procurement processes. Firstly, the perpetual extensions and delays in awarding tenders months after another is not encouraging at all (Participant 14). Waiting and enquiring about a pending awarding of a tender is time consuming and emotionally straining (Participant 14). Secondly, government institutions lack the professional courtesy to communicate the outcomes of tenders, especially with unsuccessful candidates. “If you do not get something for the first time, second time, then third time from the same institution, at least they should just send an e-mail to give you hope that there might be something in future” (Participant 13). Lastly, a lack of transparency and lack of commitment to be seen fighting corruption. “We know that there is corruption happening and that is very discouraging if the institutions that we are dealing with are not even trying to act on it, then we will be discouraged to participate” (Participant 12).

Participants made few recommendations for government to consider encouraging participation of suppliers in the procurement processes. Firstly, government should consider transparency and empowerment by encouraging partnerships among suppliers in the tenders of high value since it is discouraging for emerging SMMEs to compete with companies of R200 million annual turnover (Participant 1). Secondly, there should be some form of tenders set aside for locals and youth (Participant 2). Thirdly, there should be uploaded video to assist newly registered suppliers on how to become reputable suppliers to government because most of these challenges in public procurement can be attributed to suppliers themselves (Participant 8). Lastly, suppliers should establish good relationships with officials in procurement. It is through these relationships that officials can be open and transparent about tender requirements (Participant 10).

Proceeding from that, participants were able to demonstrate a relationship between transparency, participation and competition in the public procurement processes. In the main, participants appreciate that advertisements of tenders in a more transparent manner might be another form of encouragement, but more needs to be done over and above invitations to quote or tender. Other participants perceive jobs of high monetary value as a direct encouragement on the part of the suppliers. For SMMEs to access and benefit from high value contracts, participants strongly feel such opportunities should be ring-enclosed or set aside specifically for previously disadvantaged groups. This submission, nonetheless, demonstrates a lack of adequate awareness of public procurement dispensation. The law that gave rise to preferential procurement, in particular the PPPFA regulations of 2017, was ruled unconstitutional and therefore, no longer in practice. However, the law that promotes open communication of awards remains valid.

Although the publication of awards is a legal requirement, participants feel it is not adequate and not consistent in many government departments. In a case where it is a practice, details on areas for improvement in respect of unsuccessful bidders are currently withheld. Requesting information about bidders' performance is another form of holding government accountable.

## **4.2.4 Accountability**

### **4.2.4.1 Knowledge of Measures in Place for Aggrieved Suppliers.**

A perception of victimisation is also emphasised in relation to suppliers who might be aggrieved by the decision of the government on procurement. *“Government does not communicate such measures adequately and as suppliers, we left it there out of fear because it might be used against you in future”* (Participant 3), as a result, *“I am not interested to show my grievance or share my grievance”* (Participant 14).

Although participants were not able to refer to relevant legislation that gives rise to these measures, majority of participants appear to understand that the first stage of holding government accountable is to seek clarity from the procuring department concerned. Depending on the outcome of that process, an aggrieved bidder shall weigh their options, including litigating the government. However, a key hindrance to considering the legal route other than fear of victimisation are cost implications (Participant 15).

### **4.2.4.2 Setting Aside of Tender Awards**

A very small number of participants claimed to understand their right to set aside the decision of government on matters relating to procurement. This number and the majority of those who are not aware of any procedure to set aside the decisions of government, are discouraged to even consider engaging in that process even when a need arises. *“It is lengthy, time consuming and too expensive for SMME that should channel its money pursuing other business opportunities”* (Participant 5). Over and above costs, there is a perception that if suppliers decided to challenge the government’s decisions, they might be victimised (Participant 7). Participants feel it is better to let the wrong decisions go unchallenged because they do not want to fall victims of government officials (Participant 3, 11, & 12) and be excluded from future procurement (Participant 14). Participants feel legal battles are not healthy for both government and the suppliers (Participant 4).

It flows from the views of the participants that government does not publicise alongside the invitation to tender, information relating to measures in place to report allegations of corruption and irregularities in public procurement. Enquiries relating to technical specifications and tender requirements are part of the bidding processes and suppliers

are currently expected to make use of the same channel to report allegations of irregularities and corrupt activities in a specific tender process.

### **4.3 Conclusion**

This chapter analysed and interpreted data from participants. This analysis has produced key research findings in different focal areas of the study. Firstly, the study found that participants' understanding of the transparency in procurement is consistent with the body of literature already discussed in Chapter 2. Worryingly, the only set of information suppliers are familiar with is information shared during the tender invitation phase., which means, there is a lack of transparency in the pre-tender stage of procurement. Since government does not make public procurement plans, the annual plans that are made public do not have adequate information for procurement as they lack timeframe and are not explicit and detailed on goods and services being procured. Moreover, the findings acknowledge that although both gender and age have no bearing on suppliers' capability to access government information, more still needs to be done to cater for suppliers who happen to be people living with disabilities. Furthermore, there is no difficulty to understand and interpret information shared by government for purposes of procurement.

Participants also applauded the e-tender portal as a convenient system to communicate government business opportunities. However, there are serious limitations on the e-tender platform that call for serious intervention. To begin with, not all departments use the portal to advertise business. Secondly, many departments prioritise open tenders and neglect placing information on the procurement of goods and services that are less than the stipulated tender threshold. Lastly, this important tool of communication does not permit electronic submissions and evaluation of tenders to improve on transparency.

It has been established from this chapter that majority of suppliers perceive government as lacking regarding accountability. There is also a fear of victimisation on the part of suppliers who might want to demand information that is not made available, who are aggrieved by the outcome of a tender and consider setting such a decision aside.

The next chapter will briefly reflect on the objectives of the study and in more details deal with conclusions of the study emanating from both literature review and the data

collected from the participant and present some recommendations on the backdrop of findings and conclusions made by the study.

## **CHAPTER 5 Findings, Conclusions and Recommendations of the Study**

### **5.1 Introduction**

The previous chapters reviewed literature flowing from the research objectives and discussed research methods adopted to select samples, collect data and analyse it. The researcher consulted existing literature to explore the definitions of and correlation between transparency, competition, participation as well as accountability, and discussed the legal framework of South African public procurement. The research adopted a non-probability method and administered interviews from samples within a population of suppliers in the Free State Province. Chapter 4 presented an analysis and interpretation of data from these interviews.

The purpose of this chapter is to present key research findings, conclusions and recommendations of this study solicited from interviews administered to 17 participants within the Free State Province. These findings and conclusions are presented within the ambits of the literature review and research methodology discussed in Chapter 2 and Chapter 3, respectively.

The first part of this chapter will discuss the conclusions of this study flowing from the five research objectives discussed in Chapter 1. The second part of this chapter will discuss the findings made from the analysis and interpretation of data from Chapter 4 under four key discussion areas: transparency, information asymmetry, participation as well as competition and accountability. The third part will present the recommendations and limitations of the study followed by the general conclusion of the entire research.

### **5.2 Findings and Conclusions of the Study**

There were studies conducted in the past in which exploration was made on South African public procurement legislation that seeks to promote transparent procurement. Other studies focused primarily on procurement information and practices. Nevertheless, there was a research gap around the suppliers' perceptions based on their personal experiences and insight when engaging in public procurement in the country, particularly the Free State.

Public procurement is vital to many developing countries' economic growth. Because of the volume and importance of public procurement spending, procurement

processes and activities are perceived to be open to unethical practices. These unethical practices lead to a culture of non-compliance, a lack of transparency, competition, and accountability. These principles of transparency, competition, equity, fairness, and cost-effectiveness are the foundation of South African public procurement and are enshrined in the constitution. Flowing from constitutional prescripts, PFMA requires that government institutions ensure an appropriate procurement system to attain these principles. This study focuses on the principle of transparency. Literature defines transparency as the improved disclosure of information, whose primary purpose is to ensure reliable information is made available to provide clarity, understanding and effectiveness. It also demonstrates a cordial relationship between transparency and competition and how the two impact suppliers' behaviour. Furthermore, the literature presented transparency as prevailing means towards achieving social ends like accountability, since an increased disclosure of relevant information yields good governance and trust.

These research findings are results of the interpretation and analysis of qualitative data administered to 17 samples selected haphazardly from the population of about 44 000 suppliers registered in Free State government's CSD and literature review. Data were collected until saturation was reached. Interviews were also conducted in compliance with the prescripts of POPIA and subject to ethical clearance by the University. Data were analysed thematically in line with stated research objectives and reviewed literature.

### **5.2.1 Findings on Literature Reviews**

#### **(i) The Perceptions of Suppliers Relating to the Transparency of The Procurement Processes in the Free State Province**

A total of 14 suppliers perceives the Free State public procurement process to be transparent only at the advanced stage of procurement as opposed to the pre-tender stage. Government institutions share the procurement information to suppliers using the e-tender portal in which information such as technical specifications, selection criteria and standard tender documents are included. However, there is inconsistency and ambiguity in the manner in which government presents procurement information relevant for the pre-tender stage.

#### **(ii) Contextualisation of Public Procurement Processes**

All public procurement is derived from the 5-year strategic plan, annual performance and ultimately the annual procurement plan comprising of demand and acquisition plans. The strategic plan outlines long term objectives of the government department in question, and the annual performance plan details the short-term objectives of the department. These departmental targets and deliverables can be broken into independent and interdependent programmes and activities from which a need for goods and services can be identified. The consolidation of these needs constitutes a demand plan, and the timing and determination of procurement methods leads to an acquisition plan.

When implementing the procurement plans, accounting officers are expected to make public to suppliers all information detailing the intended procurement of goods and services, envisaged process, methodology and criteria for evaluation by means of online government publications. A public procurement process is divided into 4 distinct stages, namely, performance planning, pre-tender planning, tender evaluation and post-tender stage. There are two main methods of procurement, namely, request for quotation for procurement of less than R1 000 000 and competitive bid for procurement above R1 000 000.

There is organisational discretion on RFQs since a selection of participants is determined by the SCM officials as opposed to a competition where the invitation to participate is not directed to a specific number and group of suppliers. About competitive bids, nevertheless, government institutions manipulate tender specifications, requirements and evaluation criteria to stifle competition.

### **(iii) Contextualisation of the South African Public Procurement Framework**

The Constitution of the Republic of South Africa mandates that public procurement upholds the principles of fairness, equity, transparency, competition and cost-effectiveness. These principles are also embraced globally to ensure public procurement is open to scrutiny, and that the procurement system is legitimate. Public procurement is also administered by administrative justice principles through which all deviations from procurement legislation can be contested relying on the prescripts of PAJA. Government enacted the PFMA for proper management and administration of public funds and procurement processes. The PPPFA was promulgated to guide preferential procurement in the public sector to achieve economic and social

transformation through equity. The PPPFA regulations made it a requirement for the government to give preference in procurement awards to categories of groups previously disadvantaged by awarding preference points and determining preferential criteria for tenders.

However, these legislation are not successful deterrents to collusive behaviour emanating from dodgy relationships between government officials and suppliers. What is more, procurement legislation is spread across different laws, making it difficult for government institutions to coordinate, implement and administer procurement. This therefore calls for these legislation to be more robust to detect and avert practices that deter transparency and competition.

#### **(iv) Review of Transparency and Information Asymmetry**

Information asymmetry arises from information gaps such as incomplete information shared between two parties. Asymmetry of information also manifests from a situation where technical requirements and specifications could not be presented or in a case where one supplier has crucial information that other suppliers do not have. It also arises from the absence or lack of knowledge between the supplying and procuring party. Literature categorises this information asymmetry into cost information, demand information and capacity information.

The low level of transparency is linked to the inadequacy of standardised rules for the presentation of information on available communication platforms and subsequently, a lack of uniformity in the shared information. Two detriments originating from information asymmetry in procurement are the exploitation of this asymmetry by suppliers for personal gain and the suppression of competition. To minimise the negative impact of the risk of information asymmetry, the reviewed literature proposes the establishment of supplier-government long-term relationships in which information is shared voluntarily, and trust is fostered to strengthen these relationships.

### **5.2.2 Findings from Analysis of Primary Data**

#### **5.2.2.1 Transparency of public procurement processes**

There is an acknowledgement that government, through the e-tender portal, disseminates information for invitation of tenders and requests for quotations and proposals. However, this information does not relate to pre-tender information such as strategic planning, annual planning, budgeting and procurement plans, even if the

National Treasury dictates that such information be made available before procurement commences. When strategic plans, annual performance plans and budgets are publicised, it is always outside procurement platforms such as the e-tender portal.

#### **5.2.2.2 Information asymmetry**

Since pre-tender information is not presented uniformly and directly to suppliers using relevant procurement platforms, there is an information asymmetry among suppliers alone, and between suppliers and government departments. However, at the tender invitation stage, government publicises information relating to tenders to all suppliers and provides contact details for further enquiries. Suppliers can also solicit additional information relating to tenders through enquiries with government officials.

#### **5.2.2.3 Participation and competition**

The introduction of an e-tender portal has improved access to procurement information and reduced time and cost implications of collating such information on the part of the suppliers. This has also impacted positively on the number of participants involved in procurement, thus increasing competition. However, there are some departments that do not make use of the e-tender portal adequately and National Treasury seems not to enforce compliance to this requirement.

Factors such as costs, age and gender do not serve as barriers to participation and competition in the procurement process. Measures in place to disseminate information to suppliers are perceived to be cost-effective and easy to be understood by many suppliers. Also, the only costs involved in procurement are limited to printing of tender documents and access to internet. Although the size of a company used to be a barrier to accessing information and participating in public procurement, since the introduction of e-tender portal, companies with very few staff personnel can equally access procurement information using smart phones from anywhere.

Notably, suppliers still find government to not be doing enough to encourage their participation in procurement. Over and above that, there are key blockages to participation established from participants, namely, delays in the payment of invoices for work done, delays in the awarding of tenders, lack of feedback to unsuccessful bidders and failure to address perceived and real corruption in the system.

#### **5.2.2.4 Accountability**

Suppliers are aware of the measures put in place to communicate their dissatisfaction with the procurement process, but in inadequate understanding on applicable laws that promote such administrative action. In the same breath, the study discovered that majority of suppliers are unfamiliar with the avenues for recourse should they wish to set aside decisions of government. There is, moreover, a fear of victimisation among suppliers, which then constrains them from challenging the decision of government legally.

### **5.3 Conclusions of the Study**

About 15 of the participants do not have a clear understanding of what constitutes pre-tender information and activities. There is also inconsistency in how government departments publicise pre-tender information to suppliers, thus making transparency and access to information for procurement purposes inadequate. Government departments, according to the 15 participants, do not publicise procurement plans as required by the National Treasury guidelines.

A total of 14 participants holds the view that there is information asymmetry around the pre-tender related information. Even at the level of the tender invitation stage, suppliers make direct enquiries with government officials, leading to a situation in which there is a risk of other suppliers missing out on crucial information exchanged from questions and answers.

All participants admitted that the current e-tender portal, notwithstanding its major contribution to participation and competition, cost reduction and improved transparency, is still limited to invitation of tenders. The e-tender portal does not have a tender evaluation and execution function in order to eliminate the human factor in the awarding of tenders, so as to increase transparency in the procurement process.

Cost, age and gender is not a factor in whether suppliers have access to government information for procurement. The measures government put in place are sufficient and effective in granting fair access to all suppliers. Nevertheless, the measures are not user-friendly for suppliers who happen to be having some form of disability.

There are conflicting views on the efforts government makes to inspire supplier participation in procurement processes. Few suppliers believe government is doing

enough, and that it remains the responsibility of every businessperson to take initiative and partake in public procurement processes without having to be incentivised. On the contrary, majority of suppliers believe government is not doing enough to ensure participation beyond the invitation to tender. Therefore, encouragement for participation is derived from high valued tenders. However, participation in public procurement is hindered by delays in awarding tenders and paying invoices, as well as the absence of action against allegations of corruption in the procurement system.

Government does not publicise procedures and measures along with tender invitation documents for suppliers to report any allegations of irregularity in procurement and register their grievances beyond the officials who were handling general enquiries relating to tenders.

#### **5.4 Recommendations**

##### **a) Transparency at pre-tender stage of procurement**

Government institutions should develop procurement plans that are detailed enough to show goods and services to be procured, methods of procurement to be used, brief descriptions of technical specifications and timeframes for invitation of tenders. These plans should be uploaded on the e-tender portal immediately after the presentation of the annual budget and be reviewed regularly throughout the financial year.

Communication throughout all stages of tendering should include the use of social media platforms such as Facebook, Twitter and YouTube to take full advantage of their widespread coverage, highest levels of interaction and cost-effectiveness.

##### **b) Information asymmetry and transparency**

Enquiries relating to tender information should be made through the e-tender portal where every interested supplier can follow on the nature of question asked and the clarity provided. Additionally, government should develop a policy framework for the establishment of long-term relationships with suppliers within which expert and technical knowledge can be shared transparently to the same degree that would not negatively affect the integrity of procurement processes and result in the leveraging of information for private gain.

##### **c) Participation and competition**

Government should develop programmes through which categories of suppliers are engaged on standard requirements for tendering and measures to access different types of information for procurement. Furthermore, there should be an exchange of ideas with suppliers on how best their needs can be met to ensure equity and transformation in public procurement. Government should also consider partnerships with organisations that protect and advocate for people living with disabilities in business to share ideas on strategies which government should embark on in incorporating their special needs for inclusivity.

d) Three-tender portal and transparency

National Treasury should make it compulsory for government institutions to advertise not only competitive bids of over R1 000 000, but also include bids that fall under the R1 000 000 threshold in such a manner that does not upsurge the cost of acquisition and administration.

In an attempt to achieve the above recommendation, the government should improve the current e-tender portal to cater for the following specific features:

- (a) Include SMS or email features that alert and sensitise different categories of suppliers whenever there is a tender relevant to their stream of business;
- (b) Include a feature that allows for electronic submissions of tender documents, electronic evaluation and reporting of awards with brief feedback on common pitfalls unsuccessful tenders should improve from. This is to reduce the human involvement in the processes of evaluation of tenders;
- (c) Government should regularly update the portal to remove concluded tenders to archives and make it more user-friendly for suppliers by addressing technical malfunctions;

A portal like CSD should be linked and be compatible with other government portals such as Companies and Intellectual Property Commission (CIPC), for proof of company registration, the South African Revenue Service (SARS) for confirmation of tax compliance, National Treasury for blacklisted directors and suppliers, Home Affairs for citizenship, among others. This is to reduce duplication of information to government during tendering processes and leverage other stakeholders so as to verify the readily available information online and in real time. The Provincial Treasury should monitor the timing of submissions of invitations on the portal to ensure no

invitation to tender is uploaded less than 21 days before the work is expected to commence, as prescribed by procurement regulations.

e) Reporting irregularities and challenging awards

As is the case with South African Broadcasting Corporation (SABC), which regularly informs its viewers to report any suspected violation of the broadcasting code of ethics to the BCCSA, government's invitation to tender and RFQs should always show details of independent oversight institutions such as the Public Protector and Auditor-General. This information should always be visible on procurement documents for suppliers to report anonymously without fear of intimidation any suspicion of irregularity in the procurement process.

f) Accountability

In addition to laws that empower the AGSA to enforce recommendations that circumvent irregularities in procurement, the Free State Provincial Treasury should have consequence management mechanisms for recalcitrant departments and their management.

g) Procurement Legislation Framework

National Treasury should consider, as envisaged in the Procurement Bill, and as recommended by the Zondo Commission, a reduction of many procurement pieces of legislation and speed up the harmonisation of public procurement legislation. It should also set the standards of transparency, ensure compliance with the transformation agenda and establish a professional body for public procurement officials.

Furthermore, the National Treasury should develop a national charter against corruption in public procurement, establish an autonomous anti-corruption agency to act as a supervisory body and enact legislation to protect whistle-blowers against any form of victimisation. In relation to transparency, the legislature should ensure public government entities adopt and incorporate OECD standards of transparency in public procurement.

## **5.5 Limitations of the study**

This study administered interviews from limited number of participants using a non-probability sampling method. Therefore, the results of this study cannot be generalised to the entire population. Furthermore, the sample and population of this study was limited to suppliers within the boundaries of the Free State Province. Therefore, the

findings and the conclusions of this study cannot be generalised beyond the government departments outside of the province.

Although participants were made to comment on measures to access information and their impact on age, gender and physical disabilities, this study did not focus solely on any of the above-mentioned categories. Thus, other future studies, if adopting a narrow approach, might establish more detailed category-based findings.

## **5.6 Conclusions**

Public procurement remains an important instrument for economic growth and transformation imperative in every emerging economy, like South Africa. Given the huge public spend through procurement, the system is infested with non-compliances, irregularities and corruption. As a result, a need for transparency is growing and has become a necessity to ensure equal and timeous dissemination of information.

However, there are areas of improvement in the view of suppliers in which government in the Free State need to consider and ensure that procurement processes are transparent not only at the level of invitation of tenders, but also at different stages of procurement. To increase the level of transparency, participation, competition and accountability in the system, procurement legislation should be streamlined into one comprehensive law for ease of monitoring and implementation. The level of accountability and mechanisms that promote and empower oversight institutions and whistleblowing should be enhanced.

A failure to consider wholly or in part some of the recommendations from this study could result in government institutions and officials taking advantage of weaknesses in the legislation, procedures and processes of procurement in areas of their discretion for personal gain. When these widely reported anomalies continue unabated, the level of confidence on public procurement will continue to deteriorate, business confidence will plunge and our economy will not grow at the desired rate. Adversely, corruption will reach higher levels, with poor people who rely on public facilities such as schools and hospitals bearing the brunt of the decline.

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## **Annexure A: Certificate of Editing**

# ACE MOLOI

In relevance our smartness is born

To whom it may concern

This is to confirm that I, S.J Molo, have language edited the dissertation of:

**Molelekwa Marumo**

*for the degree*

**Master's in Business Administration**

entitled:

**SUPPLIERS' PERCEPTION ON TRANSPARENCY OF FREE STATE PUBLIC  
PROCUREMENT**

The responsibility of implementing the recommended language changes rests with the author of the document.

**Yours truly**

**Ace Molo**

**Senior Editor: Pen Pal (Trading as "The Ace Molo Writing Centre")**

**Reg. 2021/872060/07**

## Annexure B: Ethical Clearance Letter



### GENERAL/HUMAN RESEARCH ETHICS COMMITTEE (GHREC)

12-Oct-2022

Dear Mr Molelekwa Maramo

#### Application Approved

Research Project Title:

**Suppliers' Perception on Transparency of Free State Public Procurement**

Ethical Clearance number:

**UFS-HSD2022/1116/22**

We are pleased to inform you that your application for ethical clearance has been approved. Your ethical clearance is valid for twelve (12) months from the date of issue. We request that any changes that may take place during the course of your study/research project be submitted to the ethics office to ensure ethical transparency. Furthermore, you are requested to submit the final report of your study/research project to the ethics office. Should you require more time to complete this research, please apply for an extension. Thank you for submitting your proposal for ethical clearance; we wish you the best of luck and success with your research.

Yours sincerely

**Dr Adri Du Plessis**

**Chairperson: General/Human Research Ethics Committee**

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Plessis

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## **Annexure C: Consent Form**

### RESEARCH STUDY INFORMATION LEAFLET AND CONSENT FORM

**DATE**

*November 2022*

**TITLE OF THE RESEARCH PROJECT**

*Suppliers' perception on transparency of Free State Public procurement*

**PRINCIPLE INVESTIGATOR / RESEARCHER(S) NAME(S) AND CONTACT NUMBER(S):**

*MOLELEKWA MARUMO*

*2018643516*

*0724164312*

**FACULTY AND DEPARTMENT:**

*Management*

*Business School*

**STUDY LEADER(S) NAME AND CONTACT NUMBER:**

*Dr Cornelia Crous CA(SA)*

*0514019017*

**WHAT IS THE AIM / PURPOSE OF THE STUDY?**

*This study is conducted to acquire MBA qualification at the University of the Free State. The study itself seeks to investigate the perception of the Free State suppliers on the transparency of the public procurement processes to establish factors contributing to the perceived lack of transparency, participation and competition in public procurement by the suppliers.*

#### **WHO IS DOING THE RESEARCH?**

*I am Molelekwa Marumo, an MBA student at the University of the Free State and a full-time employee at the Free State Legislature. I am currently occupying Supply Chain Management Directorship position responsible for procurement of goods and services in the institution. I am doing this project as part of the university requirements for MBA qualification and the research topic is in line with my day to day work as a person working with procurement and suppliers.*

#### **HAS THE STUDY RECEIVED ETHICAL APPROVAL?**

This study has received approval from the Research Ethics Committee of UFS. A copy of the approval letter can be obtained from the researcher.

**Approval number:** *UFS-HSD2022/1116/22*

#### **WHY ARE YOU INVITED TO TAKE PART IN THIS RESEARCH PROJECT?**

*As a participant, you are invited to participate in this research because you are an active supplier within the borders of the Free State Province. Furthermore, the primary purpose of your selection is for you to share your views, based on your experiences, on transparency of the public procurement in the province. Participants are selected using the convenience sampling technique and is based on the alphabetical order of the suppliers in the database, subject to their consent to participate in the study. Participants were selected from the Central Supplier Database of National Treasury.*

#### **WHAT IS THE NATURE OF PARTICIPATION IN THIS STUDY?**

*The role of the participants in this study is to answer semi-structured questions designed to establish the views of the suppliers on the transparency of the procurement system in the Free State Province. The participant's views/perceptions are solicited through interviews conducted virtually, and the questions (see attached) include information relating to the size and nature of the business a*

*supplier/participant is representing. In addition, there are questions relating to suppliers' experiences and views relating to systems of procurement on transparency, competition and accountability. Each interview is expected to take at least 30 minutes.*

#### **CAN THE PARTICIPANT WITHDRAW FROM THE STUDY?**

*Participation in this study is voluntary, and there is no penalty or loss of benefit for non-participation. Being in this study is voluntary, and you are under no obligation to consent to participation. If you decide to take part, you will be given this information sheet to keep and be asked to sign a written consent form. You are free to withdraw at any time and without giving a reason, provided such a decision to withdraw is made before the interview is conducted, recorded and included as part of the research.*

#### **WHAT ARE THE POTENTIAL BENEFITS OF TAKING PART IN THIS STUDY?**

*There are no direct benefits for the participants in this study. However, the outcome of this study would go a long way in contributing to an effort to improve the government procurement system and address some of the systematic factors negatively affecting participation and competition in public procurement. Information about participants would be kept confidential by using codes to reference participants. However, participants' information would be shared with the study supervisor for assessment and to ensure that this study is conducted ethically and properly in terms of the university's rules.*

#### **WHAT IS THE ANTICIPATED INCONVENIENCE OF TAKING PART IN THIS STUDY?**

*Over and above the time required to conduct the interviews for this study, there are potential risks of perceived victimization of suppliers/participants by the government institutions in a case that some of the views to be captured in this study could be wrongly or assumably be associated with those of a particular participant. However, this study is conducted in such a manner that the identity of the participant is not exposed. Participants are guaranteed protection from victimization that might arise from my position as a government official in the following manner; (i) as a researcher, the standards of the university bind me and encourages ethical conduct on the part of the researcher, (ii) participants would know upfront of my occupation and further be allowed to evaluate the risk in order to decide on their participation (iii) the introduction of the topic as well as the purpose of the research will be that encourages honest engagements where suppliers view this research as one of the instruments to address their plight coming from the researcher who is fully involved in government procurement. Furthermore, this research acknowledges the researcher's involvement in public procurement that might pose a risk of conflict of interests. However, a researcher is bound by the ethical standards of the university and legal obligation not to disclose the identity of the participants and not to use this research for any other reason except what has been approved by the university.*

## **WILL WHAT I SAY BE KEPT CONFIDENTIAL?**

*Your name as a participant in this study will not be recorded anywhere, and no one will be able to connect you to the answers you give. Your answers will be given a code, and you will be referred to in this way in the data, any publications, or other research reporting methods such as conference proceedings. Otherwise, records that identify you will be available only to people working on the study unless you give permission for other people to see the records. Furthermore, your anonymous data may be used for other purposes, e.g. research reports, journal articles, conference presentations, etc. Such use of the records would continue to maintain confidentiality and the records of participants' identity or recordings of the interviews would not be disclosed or shared on such platforms and publications.*

## **HOW WILL THE INFORMATION BE STORED AND ULTIMATELY DESTROYED?**

*The researcher will store hard copies of your answers for five years in a locked cupboard/filing cabinet at the researcher's workplace for future research or academic purposes; electronic information will be stored on a password-protected computer. Future use of the stored data will be subject to further Research Ethics Review and approval. Hard copies would shred, and the softcopies would be deleted on all platforms after a period in question. However, there is a potential risk of theft of computer or recording devices in the hands of the researcher that might expose the information of the participants. However, this risk likelihood is low since there has not been any incident of theft of documents and computer equipment at the researcher's workplace. Nevertheless, I undertake to ensure the safety of the devices and files having the confidential information of participants until such time that they have served a purpose and are ultimately destroyed.*

## **WILL I RECEIVE PAYMENT OR ANY INCENTIVES FOR PARTICIPATING IN THIS STUDY?**

*There are no payments that shall accrue from participating in this study. Your participation is voluntary and the costs relating to collection of the data, such as interviews, recording and transcribing shall be the responsibility of the researcher.*

## **HOW WILL THE PARTICIPANT BE INFORMED OF THE FINDINGS / RESULTS OF THE STUDY?**

*If you would like to be informed of the final research findings, please contact Mr Molelekwa Marumo on 0724164312 or molelekwa.marumo@gmail.com. The findings are accessible from 2022. Should you require any further information or want to contact the researcher about any aspect of this study, please contact Mr Molelekwa Marumo. Should you have concerns about the way in which the research has been conducted, you may contact Dr Cornelie Crous at 0514019017 or crousc@ufs.ac.za.*

Thank you for taking the time to read this information sheet and for participating in this study.

**CONSENT TO PARTICIPATE IN THIS STUDY**

I, the undersigned,

\_\_\_\_\_ (*participant's full names to be included*), (the  
"Participant")

confirm that I voluntarily agree to participate in the research study referred to as the

**Suppliers' Perception on the Transparency of the Free State Public Procurement** (the "Study") in relation to Information sharing, planning and implementation of procurement by government institution in the Free State, and which Study is being conducted by

MOLELEKWA MARUMO \_\_\_\_\_

I, the undersigned Participant, further confirm that–

1. the Researcher has explained the nature, procedure, potential benefits and anticipated inconvenience of my participation in the Study;
2. I have read (or had explained to me) and understood the Study as explained in the attached information sheet;
3. I have had sufficient opportunity to ask questions and am prepared to participate in the Study;
4. I understand that my participation in the Study is entirely voluntary and that I am free to withdraw at any time without penalty (if applicable);
5. I voluntarily provide the UFS and the Researcher with my personal information and consent to the UFS and the Researcher collecting, disclosing and processing my personal information in order to conduct the Study and any related activities in relation thereto;
6. I hereby acknowledge and confirm that I understand the purpose for which the UFS and the Researcher may collect, store, use, delete, destroy, outsource, transfer or otherwise process, as the context and circumstances may require and as contemplated in terms of POPIA, my personal information as set out herein;
7. I am aware that the findings of the Study will be anonymously processed into a research report, journal publications and/or conference proceedings and that my personal information will be aggregated and deidentified at such stage;
8. I also give the UFS permission to share, without notification, the collected data with other researchers at the UFS or other Higher Education Institutions. This permission is dependent on the same principles of ethical research practices, anonymity/confidentiality, safekeeping of information, and other issues listed above applying.

I, the Participant, agree to the recording of the interview

Full Name of Participant: \_\_\_\_\_

Signature of Participant: \_\_\_\_\_ Date: \_\_\_\_\_

Full Name(s) of Researcher(s): \_\_\_\_\_

Signature of Researcher: \_\_\_\_\_ Date: \_\_\_\_\_



Our Reference:  
Ons Verwysing:  
Tshupo ya rona:

Office of the Secretary  
Kantoor van die Sekretaris  
Kantoro ya Mogodi

**Date:** 26/09/2022

**To:** Molelekwa Marumo

UFS Student

**Re:** Approval to Access CSD for Research Purpose

Dear Student

Your email dated 26/09/2022 refers.

An approval is hereby granted to access Central Supplier Database for the purpose of conducting a research for your qualification.

This approval is limited to the purpose outlined in the request letter and the attached appendix and subject to university standards a student is expected to observe.

The Free State Legislature does not guarantee that suppliers selected from this approval would participate in the research and it remains the responsibility of the student to seek a formal consent of all participants. The legislature further reserves the right to withdraw its approval should this approval be abused by the applicant.

I hope the above finds you in good order.

Sincerely

Joseph Macfaka

(Secretary to the Free State Legislature)

Tel: 051-407 1239/1200 Fax 051-4071137

Private Bag / Privatsak / Mokotla wa Puso X20561 BLOEMFONTEIN 9301

