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## Assessing the Efficacy of Public Procurement Policy and Legal Framework To Combat Corruption in Selected Regions in the Western Cape Province, South Africa

### 1. Introduction

Public procurement, as a vital component of government operations, plays a crucial role in allocating resources and delivering public services. However, the susceptibility of this process to corruption poses a significant threat to the effective functioning of governments worldwide. This article aims to delve into the multifaceted nature of corruption in public procurement, drawing on insights from academic journals and books to provide a comprehensive understanding of the effect of corruption.

Public procurement policies play a pivotal role in shaping the transparency and integrity of government transactions. The effectiveness of these policies in combating corruption is of paramount importance for the overall health of a nation's governance. This article focuses on evaluating the efficacy of public procurement policies in the Western Cape Province of South Africa as a case study, drawing insights from relevant academic journals to shed light on the challenges and successes in the region.

The Organisation for Economic Co-operation and Development (OECD), an international organization, played a significant role in formulating and promoting the importance of superior governance in public procurement. The OECD developed a set of principles that are based on four pillars: accountability, transparency, good management, and prevention of misconduct to improve the integrity of public procurement. The purpose of putting these principles

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into practice in public procurement is to support efforts to maintain integrity and improve the effective and efficient use of public funds. According to this study, the national, provincial, and local state institutions in the Western Cape, South Africa, should develop and implement public procurement policies in a way that is consistent with the four OCED pillars to combat corruption. Arguably, suppliers and business rivals offer the chance to bribe public servants to obtain goods and services from the government. Public procurement is rife with opportunities for bribery and other corrupt practices. According to Thai<sup>2</sup>, the South African government implemented the public procurement policy to rectify past injustices, such as the high unemployment rate that hinders certain groups of people from taking advantage of business opportunities and economic disparities that impede economic development.

## 2. Literature Review

South Africa adopted the OECD Anti-Bribery Convention in 2007 to enhance the OECD convention, and so contributed to the worldwide fight against corruption on both local and international levels. Since 1999, public procurement processes have gotten more complex as control mechanisms have been tightened. Control measures include inspecting procurement procedures, signing the code of conduct, barring vendors, and revealing supplier gifts. To cope with issues, like as bribery, procurement manipulation, and anti-competitive behaviours, a balance between socioeconomic interests must be maintained.

To increase competitiveness and create jobs, public procurement policies must be developed<sup>3</sup>. Thai<sup>4</sup> contends that all procurement policies have a political genesis. The South African government's public procurement policy regulates the sourcing of products and services but lacks procedures to prevent or reduce corruption. Maladministration, fraudulent practices, and procurement process manipulation plague national and provincial ministries, especially municipalities in South Africa's Western Cape. This case study offers a methodology for reducing corrupt practices.

The literature on public procurement research in South Africa shows a need for more study into public procurement policy design in a variety of scenarios<sup>5</sup>. According to Knight et al.<sup>6</sup>, there has been limited research con-

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2 K. Thai, *Public Procurement Today – Global View*, p. 20.

3 U. Dadush, *Economic Integration in the Time of Turmoil*, OCP Policy Center 2015.

4 K.V. Thai, *International Handbook of Public Procurement*, Routledge 2017.

5 J. Edler, L. Georghiou, *Public Procurement and Innovation-Resurrecting the Demand Side*, "Research Policy" 2007, vol. 36, no. 7, p. 949.

6 L. Knight and others, *Public Procurement: International Cases and Commentary*, 2012, <http://www.scopus.com/inward/record.url?eid=2-s2.0-84920578540&partnerID=tZotx3y1>

ducted exploring the legal and policy framework to curb corrupt practices in public procurement.

The South African public procurement environment inhibits a policy framework of fragmentation and misalignment, where conflicting policies and laws may impede the anti-corruption agenda. As stated by Pillay and Khan<sup>7</sup>, a harmonized and coherent framework is crucial for preventing corruption loopholes. The study underscores the need for a comprehensive review to eliminate contradictions and overlaps within the Western Cape's procurement policies. Domestic public procurement politics have sped up the development of this organizational form, resulting in a weak, fragmented, and incoherent public procurement regulatory regime that contributes to state incapacity and corruption<sup>8</sup>. South Africa's regulatory framework for public procurement regulations is complicated, fragmented, and inconsistent with the goals of the OECD. The system is tiered, with multiple pieces of law covering various aspects of procurement, as well as legislation that applies at the national, provincial, and municipal levels<sup>9</sup>.

One critical aspect of effective public procurement policy is the clear articulation of roles and responsibilities among key stakeholders. As highlighted by Calvo, Razafindrakoto, and Roubaud<sup>10</sup>, a lack of clarity in this regard can create opportunities for corruption to thrive. In support of Calvo, Razafindrakoto, and Roubaud<sup>9</sup>, Marquette and Peiffer<sup>11</sup> posited that roles and responsibilities in the context of public procurement policy design is a critical element, as it enables the operationalization of clear steps and roles to implement anti-corruption measures. The question is: what are the key characteristics of a dynamic public procurement design and implementation of strategies, systems, and policies to address corrupt practices in the public sector? These realities underpin the rationale of this study. In the Western Cape Province, an examination of the existing policy framework reveals the necessity for enhanced precision in delineating the roles of various actors involved in the procurement process.

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7 P. Pillay, F. Khan, *Public Policy and Corruption in a Globalized World: Case Studies from South Africa and Rwanda*, in: *Public Policymaking in a Globalized World*, ed. R.J. Lewis, 2018.

8 R. Brunette, J. Klaaren, P. Nqaba, *Reform in the Contract State: Embedded Directions in Public Procurement Regulation in South Africa*, "Development Southern Africa" 2019, vol. 36, p. 537.

9 G. Quinot, *Reforming Procurement Law in South Africa*, "African Public Procurement Law Journal" 2020, vol. 7.

10 T. Calvo, M. Razafindrakoto, F. Roubaud, *Fear of the State in Governance Surveys? Empirical Evidence from African Countries*, "World Development" 2019, vol. 123.

11 H. Marquette, C. Peiffer, *Corruption Functionality Framework*, Anti-Corru ACE Global Integrity, 2020, [https://ace.globalintegrity.org/wp-content/uploads/2021/01/GI-ACE\\_Research-Paper-Corruption-Framework-1.pdf](https://ace.globalintegrity.org/wp-content/uploads/2021/01/GI-ACE_Research-Paper-Corruption-Framework-1.pdf)

The link between public procurement policy and socio-economic concerns is integral to the fight against corruption<sup>12</sup>. Arguably, a well-designed policy should not only ensure fair and transparent procurement processes but also contribute to broader socio-economic development. Myeza, Nkhi, and Maroun<sup>13</sup> highlighted various risk management factors contributing to transgression in procurement practices. In the Western Cape, the study observes instances where the lack of clarity in the policy framework has led to inefficiencies in addressing socio-economic concerns, potentially leaving room for corrupt practices. The OECD has issued recommendations to countries to suppress corruption in public procurement. The objective of public procurement policies and anti-corruption strategies is to improve accountability and transparency, as well as stimulate competition and maximize financial efficiency<sup>14</sup>. In conclusion, this research seeks to contribute valuable insights into the efficacy of public procurement policies and legal frameworks in combatting corruption within selected regions of the Western Cape Province. The study aims to inform policy recommendations for a more robust and corruption-resistant procurement system by identifying strengths and weaknesses.

An effective public procurement policy must be adaptable to the evolving landscape of challenges faced by the government. The outdated nature of the policy and legal framework in the Western Cape poses a significant hindrance, echoing the findings of Bhorat et al.<sup>15</sup> To combat corruption effectively, the policy must be dynamic, responsive, and equipped to address contemporary issues in procurement processes.

The Western Cape's policy framework also exhibits signs of fragmentation and misalignment, where conflicting policies and laws may impede the anti-corruption agenda. Mackey, Vian, and Kohler<sup>16</sup> asserted that a harmonized and coherent framework is crucial for preventing corruption loopholes. The study underscores the need for a comprehensive review to eliminate contradictions and overlaps within the Western Cape's procurement policies.

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12 A. Neupane, J. Soar, K. Vaidya, *Evaluating the Anti-Corruption Capabilities of Public Procurement in a Developing Country*, "Electronic Journal of Information Systems in Developing Countries" 2012, vol. 55.

13 L. Myeza, N. Nkhi, W. Maroun, *Risk Management Factors Contributing to Transgressions in the Procurement Practices in South African SOEs*, "Journal of Accounting in Emerging Economies" 2021, vol. 11.

14 I. Georgieva, *Using Transparency Against Corruption in Public Procurement: A Comparative Analysis of the Transparency Rules and Their Failure to Combat Corruption*, vol. 11, 2017.

15 H. Bhorat and others, *Betrayal of the Promise: How South Africa is Being Stolen*, State Capacity Research Project, 2017.

16 T.K. Mackey, T. Vian, J. Kohler, *The Sustainable Development Goals as a Framework to Combat Health-Sector Corruption*, "Bulletin of the World Health Organization" 2018, vol. 96.

Lastly, assessing the effectiveness of the public procurement policy on the ground is imperative. Drawing on insights from Mackey, Vian, and Kohler<sup>17</sup>, the absence of a robust mechanism for evaluation of the procurement legal and policy framework in the Western Cape Province is a notable gap. Establishing mechanisms for ongoing assessment ensures that the legal and policy framework remains a dynamic tool in the fight against corruption, with real-time adjustments based on performance metrics. Arguably, the operationalisation of public procurement policies in the public sector is endowed with the ability of human beings to apply anti-corruption measures, honesty, transparency, and accountability when dealing with suppliers and citizens.

## 2.1. Contextualizing Public Procurement Corruption

Corruption in public procurement encompasses a range of illicit practices that undermine the principles of fairness, competition, and transparency inherent in the procurement process. According to Rose-Ackerman and Soreide<sup>18</sup>, corruption in procurement can take various forms, including bribery, collusion, nepotism, and favouritism. These practices distort the procurement process, leading to inefficient allocation of resources and decreased public trust in government institutions.

In many cases, corruption in public procurement is closely linked to institutional weaknesses within government structures<sup>19</sup>. Arrowsmith<sup>20</sup> argues that inadequate legal frameworks, weak enforcement mechanisms, and lack of oversight contribute to an environment conducive to corrupt practices. This highlights the importance of strengthening institutions to create a robust and accountable procurement system.

To combat corruption in public procurement, enhancing transparency and accountability measures is essential. Johnston<sup>21</sup> suggests that implementing e-procurement systems, ensuring open competition, and establishing independent oversight bodies can contribute to reducing corruption risks. Transparency initiatives, such as publishing procurement information online, empower stakeholders to monitor and scrutinize the procurement process, fostering accountability.

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17 M. Bovens and others, *Accountability and Principal – Agent Theory*, “The Oxford Handbook of Public Accountability” 2014, <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199641253.001.0001/oxfordhb-9780199641253-e-016>

18 *International Handbook on the Economics of Corruption*, eds. S. Rose-Ackerman, T. Søreide, Volume Two, vol. 2, Northampton 2011.

19 S. Pillay, *Development Corruption in South Africa: Governance Matters*, 2014.

20 S. Arrowsmith, *Horizontal Policies in Public Procurement: A Taxonomy*, “Journal of Public Procurement” 2010, vol. 10, no. 2, [http://eprints.nottingham.ac.uk/1682/1/eprints\\_jpp\\_horizontal\\_policies.pdf](http://eprints.nottingham.ac.uk/1682/1/eprints_jpp_horizontal_policies.pdf) (accessed: 6.06.2017).

21 M. Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy*, New York 2005.

Empowering whistleblowers is another crucial aspect of tackling corruption in public procurement. Miceli and Near<sup>22</sup> argue that whistleblowers can significantly expose corrupt practices and promote accountability. Legal protections and support systems for whistleblowers are essential to an effective anti-corruption strategy in public procurement. The increasing significance that the international community accords to whistleblowing as a tool against corruption is evidenced by regional and global protection schemes for informants. Whistleblower protection is emphasized as a weapon against corruption in the Inter-American Convention Against Corruption (IACAC), the first intergovernmental agreement on the subject. It is recommended that Member States enact and enhance policies to protect individuals who expose unethical conduct. It may be deduced that the fundamental reasons for corruption in the context of whistleblowing stem from the ability to provide the security of the whistleblower, which makes them dependent on reporting instances of corruption. Without reporting, corruption may spread across an organization and eventually come to be seen as the standard, with little attention paid to taking remedial action for the corrupt behaviour. We can conclude that the impact and efficacy of laws protecting whistleblowers and policies in reducing corruption is a new and complicated endeavour because there is still work to be done in determining the exact nature of the relationship between whistleblowing and the movement to promote good governance<sup>23</sup>.

Examining corruption in public procurement on an international scale reveals common challenges and varying degrees of success in addressing the issue. International organizations, such as the World Bank and the United Nations, emphasize the need for a coordinated global effort to combat corruption in procurement<sup>24</sup>. Cross-border collaboration and sharing best practices can contribute to a more effective and uniform approach to addressing corruption in public procurement.

It can be argued that corruption in public procurement is a multifaceted challenge that requires a comprehensive and collaborative approach for effective mitigation. Strengthening institutions, promoting transparency and accountability, and empowering whistleblowers are key elements of an anti-corruption strategy. By drawing on insights from academic literature and international perspectives, this article has aimed to shed light on the complex nature of corruption in public procurement and the importance of addressing it to ensure the efficient and equitable allocation of public resources.

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22 M.P. Miceli, J.P. Near, *Blowing the Whistle: The Organizational and Legal Implications for Companies and Employees*, 1992.

23 J. Magakwe, *The Root Causes of Corruption in Public Procurement: A Global Perspective*, in: *Corruption – New Insights*, ed. J. Fahed-Sreih, 2022.

24 D. Acemoglu, J. Robinson, *The Role of Institutions in Growth and Development*, vol. 10, Washington DC 2008.

### 3. Research Methodology and Data Collection

The rationale behind selecting national, provincial and municipalities located in the Western Cape was to address a significant gap in existing research. Much of the prior research on public procurement related to corrupt practices in South Africa had primarily focused on the metro municipalities, neglecting the nuances and peculiarities associated with addressing anti-corrupt measures in all three spheres of government in South Africa and specifically in the Western Cape Province. While limited research was conducted at the municipality, no study in South Africa explored the interconnectedness of all government spheres relating to corrupt practices in public procurement. Based on the latter, this study warranted investigation and contributed to the body of knowledge on anti-corruption practices in public procurement.

Data collection involved three key instruments: document review, interviews, and focus group discussions. The study utilized surveys to collect the quantitative data and semi-structured interviews with twenty-five key informants from the national, provincial and municipalities located in the Western Cape province, South Africa. The study analyzed twenty-five documents, including procurement policies, anti-corruption and fraud plans, and supply chain management strategy and implementation plans.

For the case study on the effectiveness of public procurement policy in combatting corruption in the Western Cape, a convergent parallel mixed-method research design was employed. This approach enriches the depth of understanding of the complexity of public procurement corruption in South Africa. The research focused on understanding how public procurement policies were implemented in the region and their impact on reducing corruption.

Data collection involved document reviews of relevant policy documents, implementation strategies, and other public records related to public procurement. Semi-structured interviews were conducted with key stakeholders, including government officials responsible for procurement, representatives from oversight bodies, and members of civil society organizations focused on anti-corruption efforts.

To analyse the collected data, a data-driven inductive approach using qualitative methods of thematic analysis was employed. The ATLAS.ti 8.4.14™ software package facilitated the extraction, comparison, exploration, and aggregation of data, helping identify patterns and relationships among emerging themes related to the effectiveness of public procurement policies in combatting corruption in the Western Cape. Statistical techniques were employed to analyse the quantitative data. This includes multivariate techniques such as correctional analysis, factor analysis, and descriptive statistics.



## 4. Findings and Discussion

The article discusses the findings of a study on the efficacy of policy and legal frameworks to address the corrupt practices in public procurement in the public sector in South Africa. The study examines the role of local municipalities in partnering with other stakeholders, such as businesses and civil society, to address socio-economic concerns within the municipalities. The key findings of the study are divided into two main areas: policy design issues and poor implementation.

The study revealed several deficiencies in the design of prevailing policies. Primarily, there is a lack of operationalization of public procurement policies and directives in all three spheres of government. The role and responsibilities of key role players are implemented as defined in the National Treasury directives and practices notes. The National Treasury is guiding the public procurement environment in South Africa. This lack of precision can precipitate confusion and inefficacy in the concerted efforts to address operational challenges at the bid phases. Furthermore, the existing policy and legal framework exhibit fragmentation, impeding its efficacy in tackling contemporary challenges. The framework, moreover, manifests fragmentation and misalignment, wherein disparate policies and statutes may contravene or redundantly overlap. Lastly, although procurement policies and directives are in place, it is not implemented as stated in the policy outcomes, contributing to the corrupt practices in the South African public sector.

Fragmentation in the PPP environment is a matter for another area of concern. Because the fragmentation problem makes interpretation difficult, authorities are aware that the discrepancy provides a chance to participate in corrupt actions. PPP development and execution require immediate attention in order to reduce corruption and affect economic growth. More corruption means fewer prospects for investment. With the assessment of outmoded public procurement regulations, a plan for using technology or e-procurement must be devised. Because audit trails on procurement transactions can be tracked in real-time, technology will increase oversight ability and discover fraudulent activities.

Poor implementation is another matter highlighted in the findings. The findings underscore a significant concern regarding the inadequate implementation of public procurement processes. Poor public procurement implementation emerges as a noteworthy issue with implications for governance and resource utilization. This problem could encompass a range of challenges, including inefficiencies, lack of transparency, and potential corruption in the procurement system. Ineffective implementation may compromise the quality of services, hinder infrastructure development, and undermine public trust in governmental procedures. Addressing the highlighted shortcomings in public procurement is imperative for fostering a transparent, accountable, and efficient public administration system, ultimately ensuring optimal use of public



resources for the benefit of the community. The findings underscore the need for strategic reforms and enhanced oversight to rectify deficiencies in public procurement implementation. The study suggests that the policy guidelines for promoting accountability through performance assessment tools, such as Key Performance Areas (KPAs) and Key Performance Indicators (KPIs), hold promise in improving public accountability among government role-players. However, the overall implementation of policies and legal frameworks is lacking, leading to a gap between policy intentions and actual outcomes.

#### 4.1. Policy Implementation

The results from respondents indicated that public knowledge of procedures of bid processes, including the evaluation of bids, is a key factor when corruption occurs in public institutions. Public institutions must inform the public of procurement processes by conducting workshops and awareness campaigns. This implies the e-procurement officer's knowledge and conduct displayed the employer's ethos. When an official engages in corrupt activities, the public may report such an act. Mahmood asserts that a major cause of public procurement problems is the lack of a competent workforce, ethics and professionalism. More importantly, public sector organisations must employ skilful individuals to implement policies and processes aligned with the key objectives and minimize public procurement risks and corrupt practices. Reporting corrupt practices through the whistle-blowing process must be encouraged in the organs of states.

The root cause of corruption in public institutions is a lack of weak internal control measures, as cited by 96% of the participants. During the stages of the procurement process, documents are signed without checks. The procurement official intending to commit fraud and corruption is aware of the lack of internal control measures and uses this divergence or lapse as an opportunity to engage in corrupt activities. This theory can be observed in the ensuing quotes from one of the respondents:

Leading by example is required to address state institutions' challenges and curb corrupt activities. There is a different perception of state leadership.

Ethical standards and leadership are interconnected. Leadership and every action in the state organisation must start from the top. This does not occur in state organisations; therefore, corruption is increasing (D7).

... red tape is one of the risk factors. It is not so easy to effectively procure goods and services. Numerous factors need to be considered. For example, the process flow of goods and services must be followed. Officials must know what processes should be followed; hence, we ensure they are continuously trained and upskilled (D9).

The study found that unethical behaviour occurred as one of the major challenges of limited corruption. Ethics cannot be trained, but a change of moral behaviour in society is required. The human element of greed, living above one's means, also leads to corruption. Anti-corruption capabilities in the procurement policy framework along with implementing control measures and e-procurement help monitor or minimize unethical practices in procuring building works, facilities, and materials/equipment. Various scholars who have researched corruption in construction projects<sup>25</sup>, support the latter finding, identifying it as a critical step in reporting and monitoring corruption in public procurement processes. This can be observed in the following synthesized quote below:

South Africa has the best policies and regulations, but if we cannot enforce implementation or good governance, the policy is ineffective and creates the breeding ground for corrupt practices and unethical conduct (D13).

Political interference, specifically in procuring goods and services in a public institution, is a concern. On the municipal level, local suppliers have a relationship with a member or members of the councillors; therefore, the procurement attentively channels to these suppliers. Should officials in procurement recommend that the particular supplier does not meet the bid requirement, they must encounter disciplinary matters for refusing to execute a lawful instruction.

With the lapses or weaknesses in implementing procurement policy, manipulating specifications by line managers to favour a specific service provider is a challenge, specifically in procuring services of high technical bids; for example, engineering services were mentioned. Procurement officials lack the technical expertise of engineering services, and line managers use it as an opportunity to steer the outcomes of the bidding processes to favour a supplier. Adherence to procurement policies is a challenge. Policies, procurement mechanisms and processes help fight corruption; however, strengthened control mechanisms are required in the procurement space. Contrary to the preceding statement, D15 felt the anti-corruption policies were ineffective and stated:

... not fully effective, anti-corruption policies are formulated and implemented. Once a corrupt case arises, the implementation measures and provision of the anti-corruption policy are not working effectively (D15).

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25 C. Ameyaw, S. Mensah, E. Osei-Tutu, *Curbing Corruption in the Public Procurement Process in Ghana*, "Public Policy and Administration Research" 2013, vol. 3, no. 5, p. 44; A.P.C. Chan, E.K. Owusu, *Corruption Forms in the Construction Industry: Literature Review*, "Journal of Construction Engineering and Management" 2017, vol. 143, p. 4017057.

Solid legislative frameworks for public procurement and anti-corruption are critical for reducing corruption, which is another finding of the study. Both are required for a procurement system that is transparent, competitive, and objective. The rule of law must be respected. This study's finding aligns with the research conducted by Williams-Elegbe<sup>26</sup>, stating that the public procurement policy development process should be strengthened to ensure the public interest is protected and principles of good governance are institutionalized, such as accountability, the rule of law and transparency. However, experience has shown that regulation alone cannot prevent corruption in public procurement. Corruption in public procurement would be almost non-existent in nations with well-developed legislative and prosecutorial capabilities to deal with corrupt activities, such as the UNCITRAL ML or EU Directives.

Examining the correlation between public procurement policies and their impact on socio-economic concerns is a critical aspect highlighted in the findings of this study. It delves into the broader implications of the existing framework on the well-being and development of society within the selected regions of the Western Cape Province. This investigation is integral because public procurement, beyond its immediate transactional nature, is deeply intertwined with socio-economic development, and any shortcomings in addressing societal needs may potentially create fertile ground for corruption risks.

This study scrutinized the extent to which the current public procurement policies align with and address the pressing societal needs within the selected regions. This involves assessing how well the policies contribute to social welfare, economic development, and the equitable distribution of resources. For instance, the procurement of goods and services for critical public sectors such as healthcare, education, and infrastructure should be examined concerning their impact on improving the quality of life and promoting economic growth. Transparency and accountability are the cornerstones of public procurement, since the impact of public procurement on socio-economic concerns is closely tied to the transparency and accountability of the processes. The study assessed the transparency mechanisms in place, such as open bidding processes and disclosure of contract details. Transparent procurement practices not only contribute to the efficient allocation of resources but also enhance public trust in the government. Conversely, opaque processes can create opportunities for corruption by concealing irregularities and favouritism.

The study also found that public procurement practitioners and managers must build capacity at all institutional levels. Kamara and Rabie<sup>27</sup> asserted that training and capacity are key factors in ensuring the implementation of public policy. This finding of the study is supported by the assessment of Edgar and

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26 S. Williams-Elegbe, *A Comparative Analysis of Public Procurement Reforms in Africa: Challenges and Prospects*, "Procurement Law Journal" 2015, vol. 1.

27 R.D. Kamara, B. Rabie, *The Efficacy of Policy and Legal Framework for Cooperative Governance and Local Economic Development (LED) in Small Towns in a Selected Region in South Africa*, "Zarządzanie Publiczne" 2021, vol. 53, no. 1.

Shipman<sup>28</sup>, who state that efforts have been made to improve procurement practices through capacity building, training programs, and professional development. This study proposed that various modules must be created to educate stakeholders on the law and good practices. Higher education institutions have been urged to offer purchasing programs to enhance professionalism, and a national professional body is to be established to regulate the conduct of its members. Extensive research on public procurement reform in developing countries was conducted in Africa, specifically in Uganda. The Ugandan experience highlighted another dimension of the study: investigating whether public procurement policies contribute to capacity building and local development. This includes assessing the extent to which local businesses and communities benefit from procurement activities. Policies encouraging local participation and development can positively impact the broader socio-economic landscape, fostering sustainable growth and reducing corruption risks associated with neglecting local interests.

Mitigating corruption risks is important in the context of public procurement policy. By evaluating the connection between public procurement policies and socio-economic concerns, the study aims to identify any gaps that may inadvertently contribute to corruption risks. For example, if the procurement policies lack clear guidelines on ethical practices, oversight mechanisms, or mechanisms to prevent conflicts of interest, it may create opportunities for corruption to thrive. Understanding these gaps is crucial for proposing targeted recommendations to enhance the effectiveness of the public procurement framework. It is possible to argue that risk management should be considered from the start of the procurement process. All procurement procedures should be scrutinized to see if the risk management technique was used. Risk management is an important component in the acquisition of products and services. Anomalies caused by lax control mechanisms plague the procurement process of products and services<sup>29</sup>.

In essence, examining the correlation between public procurement policies and socio-economic concerns is indispensable for a comprehensive understanding of how these policies impact the overall development and well-being of the society within the selected regions of the Western Cape Province. This investigation will contribute valuable insights into the potential nexus between policy deficiencies, corruption risks, and the achievement of broader societal objectives.

Regarding public procurement policy and guidelines compliance capabilities, it was shown that participants are worried about the increased cases

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28 E. Agaba, N. Shipman, *Public Procurement Reform in Developing Countries: The Ugandan Experience*, in: *Advancing Public Procurement: Practices, Innovation and Knowledge-Sharing*, ed. Khi V. Thai, 2007, p. 373.

29 J. Magakwe, *Curbing Corruption in Public Procurement through Effective Public Procurement Policy in the Public Sector: A Case Study of the Western Cape Province*, University of South Africa Pretoria, South Africa, 2023.

of corrupt practices relating to the procurement of goods and services in South Africa. D5, a respondent during the interviews, made the following comment:

In the context of public procurement, officials who do not adhere to policies in our department will put the system in place (check and balance) so that policy adherence is followed through (D5).

Workshops on policy implementation and implementation must take place. Promotions of procurement personnel to high-level positions, particularly between the three realms of government (national, provincial, and local), represent a danger of lost essential knowledge and skills, affecting the institution's capacity to provide procurement outcomes. Staff rotation schemes in public institutions are one of the PFMA and MFMA compliance issues that have become an essential intervention to combat corruption in public procurement. Implementing anti-corruption laws is a complex and mostly ineffectual process; hence, it must be flexible in educating and upskilling public servants to adapt to changing conditions.

## 5. Future Studies

Further research is needed to explore the relationship between public procurement cycles and corruption among suppliers. The study suggests that more public institutions, specifically state enterprises, should be included in a longitudinal study to establish the extent of corrupt practices and transform these institutions. The study recommends conducting further research exploring different methodologies, such as transformative mixed-method design, to understand the relationship between code of conduct variables, behavioural variables that contributed to corruption, and factors affecting corruption in South Africa. Future studies should also analyze the effectiveness of law enforcement capacity in investigating corruption cases in public procurement.

## 6. Limitations of the Study

The study focused on public sector institutions, and due to resource limitations, future research could include public state enterprises. The researcher took precautions to avoid bias during the study and assured participants that their information would be kept confidential. The sensitive topic of corruption was treated ethically, and participants were presented with the research questions beforehand. The procurement managers freely shared their opinions, indicating a readiness to discuss controversial issues. Although participants provided valuable insight relating to their experience and views, there were concerns about the confidentiality and anonymity of information and respondents.

Procurement policies and procedures relating to the policy design and implementation processes were reviewed to determine the extent of the operationalisation of anti-corruption measures in the affected public sector organisations.

## 7. Conclusion and Recommendations

This paper assesses the efficacy of public procurement design and implementation by reviewing their functions, strategies, and applications to determine what is lacking, aiming to address corrupt practices and maladministration in the public sector. Given the expanded roles and responsibilities of public sector organizations, this assessment of the legal and policy framework, in conjunction with the key role players and stakeholders, aims to improve the responsiveness to risks facing the public procurement environment. This study contends a strong legal and policy framework coupled with training and capacity building of staff and stakeholders can mitigate the risks of corruption practices in public procurement. This study also confirmed that the efficacy of public procurement policies in combating corruption is a multifaceted challenge. The Western Cape Province case study in South Africa highlights the need for a nuanced approach that addresses issues of clarity, adaptability, coherence, and evaluation mechanisms. Insights from academic journals provide a foundation for understanding the intricacies of these challenges and, in turn, contribute to the ongoing discourse on strengthening anti-corruption measures in public procurement policies. Therefore, the paper concludes by providing a few recommendations.

### 7.1. Review of the Public Procurement Legal and Policy Framework

The study confirmed that the legal and policy framework relating to the procurement processes and guidelines are fragmented and outdated in reflecting on the realities and challenges facing the practitioners in the public sector. The existing framework is misaligned with the socio-economic goals of the South African government and, as a result, creates an opportunity for suppliers and appointed officials to exploit the possibilities of corrupt practices and maladministration. The policy framework review must address the roles and responsibilities of the various role players.

### 7.2. Strengthen the Code of Conduct and Lifestyle Audits

This study recommended that fair procurement practices and a code of conduct must be established to ensure mutual expectations and provide guidelines for procurement officials. These standards aim to prevent officials' interests from influencing bid outcomes and job performance. The aforesaid

recommendations of this study are supported by scholarly research<sup>30</sup> stating that lifestyle audit and operationalization of the code of conduct are some of the critical measures to curb corruption. Lifestyle audits must be conducted on all officials and bid committee members to prevent corruption. Such audits are necessary because some corrupt officials lead extravagant lifestyles that exceed their salaries. Lifestyle audits are a preventive measure that can detect and stop potential risks of corruption. Lifestyle audits stand as a preventive measure that holds the potential to detect and preemptively halt risks associated with corruption. By scrutinizing the financial affairs, assets, and overall lifestyle of individuals in positions of public trust, these audits serve as a powerful deterrent against corrupt practices. Furthermore, by fostering transparency and accountability, lifestyle audits contribute to building public confidence in governance and reinforce the commitment to ethical conduct within public institutions, creating a more resilient defence against corruption. They are a strategic tool for routing and combating corruption in South Africa.

### 7.3. Monitoring and Evaluation of the Procurement Policy Framework

This study recommended a need for increased monitoring and evaluation of the effectiveness of the public procurement environment. Public sector institutions and suppliers must provide continuous feedback on how well the policy and legal framework was implemented and what challenges were experienced at operational levels. This is especially true if diverse players, such as development partners or other public institutions, including stakeholders, were engaged in the evaluation's conception and implementation. Best practices during the evaluation phase should be highlighted.

To summarize, public procurement corruption is a concern in South Africa. The government must address the issue by devising novel methods of combating corruption and administrative misconduct inside South African government areas. One of the novel ideas is to improve law enforcement capabilities and the conviction rate in situations of fraud and corruption. Other options include efficiently combating the plague of maladministration, financial mismanagement, fraud, and corruption, avoiding procurement policies and practices for self-gain, and thoroughly analyzing financial and procurement internal control systems to uncover inadequacies. It entails establishing early warning systems to discover and highlight vulnerabilities in South Africa's procurement and finance processes.

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30 J.-L. McIntyre, D. Aslett, N. Buitendag, *Lifestyle Audits in South Africa—Overrated or X-Factor?*, "Journal of Financial Crime" 2023, vol. 30.



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### Assessing the Efficacy of Public Procurement Policy and Legal Framework To Combat Corruption in Selected Regions in the Western Cape Province, South Africa

#### Abstract

Public procurement policies and legal frameworks play a crucial role in shaping the transparency, fairness, and integrity of government transactions. This paper examines and evaluates the effectiveness of public procurement policies and legal structures in addressing and mitigating corruption in selected regions within the Western Cape Province of South Africa. Drawing on a comprehensive review of relevant literature, case studies, and expert opinions, this research aims to provide insights into the existing framework's strengths, weaknesses, and potential improvements. The main emphasis of this research paper is to assess public procurement policy design and the effectiveness of measures including regulations aimed at combating corruption in the Western Cape's public sector in South Africa. Public procurement regulations are widely implemented in various governmental institutions around the world. Data were collected from twenty-five public sector organizations in the Western Cape province, South Africa, using three data collection methods: interviews, surveys, and document analysis of procurement policies and guidelines. The study's key findings demonstrated that a fragmented legal and policy framework is complex and opens avenues of corrupt practices and maladministration. The paper fills the gap in scholarly research by exploring how corrupt practices can be

reduced by implementing and operationalising robust, flexible, and outcome-based legal and policy frameworks. This paper contributed to the body of knowledge by making policymakers and implementers aware of the pitfalls of a fragmented and misaligned policy framework in public procurement.

**Keywords:** public procurement policy, legal framework, corruption, public sector

## Ocena skuteczności polityki zamówień publicznych i ram prawnych w walce z korupcją w wybranych regionach Prowincji Przylądkowej Zachodniej, Republika Południowej Afryki

### Streszczenie

Polityki zamówień publicznych i ramy prawne odgrywają kluczową rolę w kształtowaniu przejrzystości, uczciwości i integralności transakcji rządowych. Niniejszy artykuł analizuje i ocenia skuteczność polityk zamówień publicznych oraz struktur prawnych w zakresie przeciwdziałania i ograniczania korupcji w wybranych regionach Prowincji Przylądkowej Zachodniej w Republice Południowej Afryki. W oparciu o kompleksowy przegląd literatury, studiów przypadków i opinii ekspertów, badanie to ma na celu dostarczenie wglądu w mocne i słabe strony istniejącego systemu oraz wskazanie potencjalnych usprawnień. Głównym celem artykułu jest ocena projektowania polityki zamówień publicznych oraz skuteczności środków, w tym regulacji, ukierunkowanych na walkę z korupcją w sektorze publicznym Prowincji Przylądkowej Zachodniej w Republice Południowej Afryki. Regulacje dotyczące zamówień publicznych są szeroko wdrażane w różnych instytucjach rządowych na całym świecie. Dane zebrano od dwudziestu pięciu organizacji sektora publicznego w Prowincji Przylądkowej Zachodniej w Republice Południowej Afryki, stosując trzy metody zbierania danych: wywiady, ankiety oraz analizę dokumentów dotyczących polityk i wytycznych zamówień publicznych. Kluczowe ustalenia badania wykazały, że fragmentaryczne ramy prawne i polityczne są złożone i stwarzają możliwości dla działań korupcyjnych oraz niewłaściwego zarządzania. Artykuł wypełnia lukę w badaniach naukowych, badając, w jaki sposób można ograniczyć praktyki korupcyjne poprzez wdrażanie i operacjonalizację solidnych, elastycznych i ukierunkowanych na rezultaty ram prawnych i politycznych. Artykuł wnosi wkład w rozwój wiedzy, zwracając uwagę decydentów i wykonawców na pułapki fragmentarycznych i niespójnych ram politycznych w zamówieniach publicznych.

**Słowa kluczowe:** polityka zamówień publicznych, ramy prawne, korupcja, sektor publiczny