



planning, monitoring & evaluation

Department:
Planning, Monitoring and Evaluation
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)

FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)

PUBLIC PROCUREMENT BILL

The Final Impact Assessment [Public Procurement Bill]

The Final Impact Assessment provides a more detailed assessment of the ultimately policy/legislative/ regulations/ other proposal. In addition, it identifies **(a)** mechanisms for monitoring, evaluation and modification as required; and **(b)** a system for managing appeals that could emerge around the implementation process.

SUMMARY OF THE BILL

Introduction:

Section 217 of the Constitution of South Africa states as follows on procurement:-

- (1) When an organ of state in the national, provincial or local sphere of government, or any institution identified in national legislation contract for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- (2) Sub-section (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for-
 - a) Categories of preference in the allocation of contracts; and
 - b) The protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination.
- (3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

Currently, procurement is legislated through the Public Finance Management Act, No.1 of 1999, (PFMA) applicable to National and Provincial spheres of government, however, Chapter 16A of the PFMA Regulations on Supply Chain Management applies to National and Provincial organs of state excluding schedule 2, 3b and 3d public entities listed in the PFMA. The Municipal Finance Management Act No 56 of 2003 further legislate procurement for local spheres of government.

However, there isn't any distinct difference between the PFMA and MFMA on procurement. To give effect to the constitutional requirement of providing for preferential procurement with the aim of addressing socio-economic imbalances of the past, a Preferential Procurement Policy Framework Act, 2000, No 5 of 2000 (PPPFA) was enacted and applied to all organs of state. In addition to the above mentioned legislation, there are 29 other pieces of legislation dealing indirectly with or regulating certain specificities in public procurement. These numerous pieces of procurement regulatory tools have created fragmentation resulting in the following:

- Overlap and duplication between different regulatory instruments;
- uncertainty as to which precedes the other or to follow;
- the legal status
- Inconsistency in the approach to similar issues at the different levels or spheres of government;
- Conflicting prescripts;
- Variation in the scope of application in as far as Supply Chain Management thereby posing challenges in providing uniform guidance;
- Undermines integrated and comprehensive national oversight functions;
- Hampering on capacity development due to the significant differences between the manner in which public procurement is approached in diverse contexts or institutions;
- Low levels of compliance;
- Impacts on service delivery;
- Challenges in addressing government broader socio-economic objectives;
- Increases the levels of corruption.

In South Africa, government has identified public procurement as a lever that will enable improved access for small and medium enterprises to opportunities, thereby promoting local economic activities and creating jobs. Thus, in December 2014, Cabinet directed National Treasury to accelerate modernisation of the public procurement system in South Africa through a legal framework that introduces broader policy reforms. The Public Procurement Bill is thus one of the processes aimed at effecting Cabinet's decision.

The Public Procurement Bill (the Bill) introduces a series of notable governance reforms to the contemporary public procurement / SCM regime. The Bill provides the required governance system between the Constitutional provisions on procurement and organs of state implementing the procurement system. It represents, under the Constitution, the chief legal instrument providing for the statutory regulation of public procurement / SCM across government.

Currently, the Preferential Procurement Policy Framework Act (PPPFA) is the only statutory legislation that explicitly regulates procurement throughout Government. However, consistent with Government and public stakeholder sentiment, the PPPFA is too constrained in its approach to attaining government policy objectives. The points system in particular has been inflexible at statutory level, generating rigidities that have stymied well-conceived local industrialisation and empowerment initiatives. The Bill in its intent elevates and mainstreams preferential procurement into the broader public procurement / SCM regime by enhancing more flexible preferential provisions and repealing the PPPFA.

The Bill envisages governing public procurement across the public sector, carving out and elevating the procurement clauses of the Public Finance Management Act (PFMA) and Municipal Finance Management Act (MFMA), harmonising them with the remaining public finance management provisions of those statutes, and building the procurement function into a professional work-stream within the statute framework of the Bill.

The Bill, intended as the highest statutory legal instrument on public procurement / SCM, is an effort to consolidate and simplify regulation on public procurement across Government. It will be applicable to all 'organs of state', as per the definition provided in Section 239 of the Constitution, including initially those to which the PFMA and the MFMA applies, along with Parliament and the Provincial Legislatures.

The Bill provides for the recasting of the National Treasury OCPO as a Public Procurement Regulator (PPR), a juristic person with jurisdiction throughout the Republic of South Africa on public procurement / SCM. It will have an institutional structure of a national public entity under the Ministry of Finance aligned to Section 216 of the Constitution that reads with Section 217 providing the authority to National Treasury to regulate public procurement. The Bill provides for the appointment of a Chief Executive Officer (Head) of the Public Procurement Authority as the custodian of public procurement / SCM in the Republic to be appointed by the Minister, on recommendation from an appointment panel consisting of members from constitutional entities. The statutory institutional positioning of the PPR within the National Treasury & the appointment procedures of its Head will ensure that the PPR is enabled to exercise its powers independently and impartially, without fear, favour or prejudice, and guarantee the necessary organizational independence to uphold the constitutional principles in Section 217 on procurement.

The Bill retains provincial treasuries as sites of regulation and innovation in the public procurement environment in terms of the PFMA & MFMA, and builds an intergovernmental institutional system of cooperation and coordination between organs of state across national, provincial and local government in terms of the Intergovernmental Relations Framework Act.

The Bill provides for the statutory establishment of the supply chain management function in Government and subjects it to the regulatory authority of the PPR. The PPR will be enabled to prescribe the institutional arrangements, roles and responsibilities of procuring entities' procurement systems, provided that this is consistent with the PFMA and MFMA. The PPR will prescribe a framework for recruitment and retention, continuous capacity building through competency assessments, and professionalization of officials involved in implementing the public procurement / SCM regime. The Bill includes at a statutory level more substantially all stages of the supply chain management process, from procurement planning to disposal management. The Bill provides for the first time at statutory level for a fuller menu of procurement methods to facilitate more efficiency and effectiveness in allowing organs of state procuring entities the room to adjust purchasing method flexibly to suit their requirements. The Bill mainstreams preferential procurement centrally into the public procurement regime by providing for the inclusion of preferences across the stages of the supply chain management process, subject to more flexible elaboration in regulations in

anticipation of green / sustainable procurement approaches, and related innovations around the inclusion of broader government policy objectives in public procurement / SCM decision-making.

The Bill provides to the PPR powers of policy review, audit, investigation, and the establishment of reporting requirements will be granted to the PPR. The PPR may refer investigations to relevant authorities, order procuring entities to comply with the Bill and require the procuring entity to take appropriate actions. The PPR may recommend that public officers be sanctioned. The PPR may initiate criminal proceedings. The PPR may annul, revise and substitute decisions or policies of procuring entities. The PPR may, pending investigations, suspend or terminate procurement processes and activities. The PPR may recommend to the appropriate authority that the exercise of the procurement function by an Accounting Officer or Authority be suspended. Political office-bearers will be prohibited from interfering in the procurement systems of procuring entities, being confined to a policy-setting and oversight role. In terms of the Bill persons in the employ of the State are prohibited from trading with the State.

The Bill determines the statutory framework for a complaints and dispute resolution system, at procuring entity and PPR levels, with the establishment of a Public Procurement Supplier Ombud, to facilitate and recommend the resolution of complaints and disputes, and to promote the public interest in relation to public procurement. The Bill provides for increased scope for public involvement in supporting the PPR in its oversight activities. It does so in part through expanded provision for transparency, including through a publically accessible information platform and a requirement of proactive disclosure of information in terms of the Promotion of Access to Information Act. Further, the PPR will be compelled to establish frameworks for the participation of business, suppliers, civil society and the public in procurement and related processes and systems. The Bill empowers the Minister to determine a framework for appeal and review of any public procurement policy and other decisions and actions by the PPR through the establishment of a Procurement Appeal Tribunal, to keep in check the PPR expanded institutional powers and functions.

The Bill empowers Ministerial and PPR regulations that will be enabled to take account of immense unevenness in the capacities of procuring entities and the nature of the markets that they interact with. The Minister will therefore be allowed to provide for differential regulation in relation to categories of organs of state, accounting authorities and officials. A manual will provide a regularly up-dated and necessary guide to the public procurement/ SCM regime.

Due consideration was given to, amongst others, the Government's Programme of Action and the objectives and the 18 key targets of the National Development Plan (NDP). The Bill expands on the NDP's focus on efficient and effective public procurement system and contextualises the strategic role of SCM in service delivery and social economic objectives.

1. The problem Statement/ Theory of Change

1.1. Give summary of the proposal, identifying the problem to be addressed and the root (causes) of the problem that will be addressed by the new rule.

a) **Summary of the proposal** (Summary Background of the proposed policy/Bill/ regulations/ other)

Firstly, the Bill emanates from the legal requirement to primarily establish the institutional legal framework for the Office of the Chief Procurement Officer (OCPO) to regulate and to exercise oversight over public procurement across all procurement sectors in government;

Secondly, based on the comments from government stakeholders based on annexure 1, a previous consultation version of the 2016Bill, it was advised that the Bill should be principle based and not a process orientated law; with the likely possibility of it being amended as the operations change; such as;

- The impact of automation as processes become modernized,

- considering that the Bill is regulated across different procurement sectors, and
- the amendments to the current affected laws.

It is therefore envisaged that the **regulations** to the Bill will be expansive enough to cater for all technical procurement requirements for supply chain management. Furthermore, the Bill will add to the required modernization of policies as the research framework for the draft regulations benchmarks modernized policies covering international supply chain management and government public procurement laws.

The current SCM Regulations do not provide adequate policy coverage for the legal framework of the Bill and therefore will be modernized at the regulatory level in researching and drafting the regulations for the Bill.

Thirdly, the Bill attempts to principally capture the preferential policy framework as required in the constitution with the flexibility to be regulated on a regulatory level more expansively and operationally.

b) **Problem/s and root causes** that the proposal is trying to address

Identified Problem	Root causes
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<p><i>The current procurement systems across government and organs of state are not uniformly and optimally addressing service delivery needs as well as promoting socio-economic development objectives and good governance.</i></p>	<ul style="list-style-type: none"> • Overlap and duplication between different regulatory instruments creating uncertainty as to which precedes the other or which to follow e.g. CIDB, SIPDM, IDMS • the legal status of the Office of the Chief Procurement Officer • Inconsistency in the approach to similar issues at the different levels or spheres of government • Conflicting prescripts e.g. SOCs and schedule 3A and 3C public entities apply different prescripts • Too many pieces legislation on procurement with no single regulatory body • Variation in the scope of application in as far as Supply Chain Management thereby posing challenges in providing uniform guidance e.g. SOCs can develop their own SCM policies as provided for in the PFMA, however, there is no overarching framework guiding the application of said policies • The SCM Treasury regulations (Chapter 16A) not being applicable to Schedules 2, 3B and 3D public entities listed in the PFMA. The process followed for issuance of guiding prescript to local spheres of government. • Fragmentation of policies undermines integrated and comprehensive national oversight functions • Delegations of authority provided for in the PFMA and MFMA as well as other prescripts not clearly defined • The PPPFA is too constrained in its approach to attaining government policy objectives. The points system in particular has been inflexible at statutory level, generating rigidities that have stymied well-conceived local industrialisation and empowerment initiatives
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	<ul style="list-style-type: none">• Misinterpretation of prescripts• Lack of professional capacity• Poor planning and project management• SCM abuse and lack of consequence management• Lack of legal framework to regulate procurement from another organ of state
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1.2. Describe the intended outcomes of the proposal

The intent of the OCPO within National Treasury is to ensure that public sector organizations in South Africa honour the provisions of section 217 of the Constitution when spending taxpayer's money on procurement of goods, services and works.

Although the OCPO is not directly involved in procurement processes of organs of state, the OCPO is responsible to manage procurement reforms, enhance and maintain the procurement system and oversee how government conducts business with the private sector.

Emanating from the supply chain management (SCM) modernisation strategy that was approved by Cabinet on 12 November 2014, the focus was to accelerate the SCM reforms by:

- Finalising the legal framework aligned to the proposed reforms;
- Simplifying, standardising and automating procurement activities across all spheres of government; and
- Modernise SCM technology and up-scaling the use thereof;

While an enabling procurement legislative framework is key to achieving the objectives of a developmental state as depicted in the National Development Plan (NDP), the current reforms are capitalising on the smarter use of technology. Given the current economic climate, it is now more important than ever to find innovating ways of ensuring government procurement is streamlined and simplified to provide opportunities to as many citizens / suppliers as possible. The introduction of digital technologies in the public procurement and its impact on transparency, oversight and efficiency remains the key objective in enabling the SCM reforms which is implied in the Bill. Although solutions are developed at an unprecedented speed, the agility of organs of state to adopt and integrate these solutions in their current policy and technology environment's, remains a concern.

South Africa was one of the founding members of the Open Government Partnership (OGP) when it was formally launched in 20 September 2011, and has made many commitments that seek to build on existing government and citizen-led initiatives related to OGP in the South African

government. Combating corruption and enhancing transparency and accountability were identified as key challenges to strengthening a capable and democratic state during the feedback process.

Given the subscription of government to the OGP, the challenge South Africa will address through OGP is to seek to increase public confidence by improving integrity in public services, creating safer communities, effectively managing public resources and increasing accountability.

1.3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R 7000 a month or less); for black people, youth or women; for small and emerging enterprise; and /or for rural development. Add more rows if required

Groups that will benefit	How will they benefit?
Citizens	Improved service delivery; Preferential procurement of services from local professionals
Black Businesses (Black persons, women, youth, township and rural)	Preferential access to government business opportunities
Local Businesses	Developmental opportunities for SMMEs
Local Industry	Bill provides for set aside allocation of contracts to for goods manufactured in South Africa and services that are provided by citizens of South Africa

SCM practitioners	Professionalisation and recognition as a specialist discipline
Government	Savings (expenditure reduction) on fiscus, value for money on contracts
Country	Improved credit ratings, investor confidence and corruption rankings

Groups that will bear the cost or lose	How will they incur the costs or lose?
Untransformed businesses	Losing out on government contracts.
Government institutions including NT	Restructuring of SCM functions to align with the new functions

1.4. Describe the behaviour that must be changed, main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision making process systems; changes in procedures; educational work; sanctions; and or incentives. Also identify groups inside or outside government whose behaviour will have to change to implement the proposal. Add more rows if required.

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
SCM practitioners	Not always acting in the best interests of the state by exercising due diligence and care and avoiding conflicts of interest when performing their duties	Modification Changes in procedures, educational work, change management to encourage thinking outside the box, implementing punitive measure and also have incentives for best performers
Accounting Officers (AO) and Accounting Authorities (AA)	Lack of accountability and proper delegations of functions	The Bill outlines clear roles and responsibilities for AO and AA as well as educational mechanism to assist with the implementation of their roles including consequence management for non-compliance
User/ line functionaries	Not undermining the SCM processes and planning their needs in a timely	Change management training, sanctions for users/line

Groups inside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
	manner in order to allow the SCM process to be executed	functionaries who circumvent the SCM process

Groups outside Government	Behaviour that must be changed (Current Behaviour)	Main mechanism to achieve the necessary changes
Suppliers	Jack of all trade mentality, tenderpreneurship, expectation that government will hand work to categories of persons who were previously disadvantaged	Supplier open days by relevant stakeholder to educate suppliers on what is expected of suppliers, robust SCM specification process
Government agencies that are responsible for economic development	Not visible, not providing sufficient support to SMME in relation to how to run profitable and sustainable businesses	Marketing of services provided and how suppliers can access these services
Government agencies that fund small businesses	Not visible, not transparent on offering and requirement for	Marketing of services provided and how

	accessing funding, not investing in capacity buildings	suppliers can access these services
Big Business and Multi Nationals	Unwillingness to transform, transfer skills and investing in local economy.	The Bill provides incentives for local production and operations.

1.5. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose? And have these amendments been incorporated in your proposal?

Annexure 1 highlights these cases

Table on consultations:

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
1. Government Departments and Agencies (National	Benefit: Synergy in SCM prescripts; flexible preferential procurement	Yes, they support the draft thus far.	Will be done once published for comments.	

<p>Treasury; Department of Human Settlement; Water & Sanitation; SITA, Correctional Services, Transport, Trade & Industry, ARMSCOR, SOCs)</p>	<p>as well as the industrial and innovation support.</p>			
<p>2. FOSAD</p>	<p>Benefit: Single piece of SCM legislation governing all spheres of government,</p>	<p>a) All attendees indicated that they were happy with document. They indicated that it is a step in the right direction and that they were looking forward to working with NT on the drafting of the regulations to ensure that what is</p>	<p>1. The name regulator need to be changed as it causes confusion considering that it is the OCPO and not a regulator that would be reporting to Parliament and independent of any organ of state.</p>	<p>No, the amendments will be made during the public consultation stage. Some of the concerns are addressed in the Bill broadly and will be taken up in the drafting of the regulations as it is easier to update regulations than an act.</p>

		<p>captured in the Bill is ultimately implementable through the regulations.</p>	<p>2. Functions of the regulator need to be clarified so that it becomes clear to what extent the regulator interacts with other legislative bodies, e.g. the public protector, in relation to breaches of laws etc. to avoid overstepping its mandate and being player and referee.</p> <p>3. Clarity was required with regard to</p>	
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			<p>practicality of transferring of funds other than to organ of state and how should they comply with the Act when procuring goods and services for the benefit of the organ of state. A need to indicate upfront what the Act covers from the policy specifics concerning transferring of funds e.g. defence procurement,</p>	
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			<p>women and youth, traditional leaders.</p> <p>4. Green procurement should also be looked into intensively.</p> <p>5. The minimum wage is not addressed although there is provision for tax compliance – resolution was made to remove tax compliance from the Bill and include all other applicable legislation that organs of state must comply with in the in the regulations.</p>	
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			<p>6. Rephrase the statement about “no discrimination based on nationality” and rather draft it in line with section 217(1) of the constitution so that there is no emphasis on the facet of nationality as this may be problematic when challenged even though the constitution allows for advancement of designated groups</p> <p>7. Department of Women concern that the Bill does not explicitly mention the</p>	
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			<p>advancement of women whereas women make up more than 51% of the population. Requested that addition of clause 26(2)(c)(vi) in this regard. It was proposed that the categories of persons to be advanced not be indicated specifically but rather be indicated broadly in order to avoid amending the Act. Legal advice would be</p>	
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			<p>sought in terms of making provision of women in the Act as opposed to the other groups and what impact this will have should other groups be identified after the promulgation of the Act.</p> <p>8. In the section dealing with procurement methods- address the issue of government to government procurement</p>	
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			<p>where government has the capacity to provide the goods and services required.</p> <p>9. Remove specific number of days for bid validity period, section 30 (2) and section 33 and move them regulations.</p> <p>10. There is a need to look at supplier development and targeted procurement within the Act in terms of development in</p>	
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			<p>order to see how they get promoted</p> <p>11. A concern was raised with innovations that Departments comes-up with and find that Departments are used to commercialize companies that were used to source innovations and how this can be curbed and protect the copyright/ rights of usage by</p>	
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			<p>government to these innovations.</p> <p>12. NT must look at ways on to what extent the preferential procurement requirements will apply to SOCs or other organs of state that compete with the private sector for provision of goods or services as sometimes this makes them uncompetitive and the state often has</p>	
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			<p>to bail out these organs of state.</p> <p>13. Bill must address the issue of organs of state leasing goods and services that are designated for local production and content e.g. leasing of buses, aircraft etc. to avoid the procurement rules that are applicable to goods and services designated for local production and content. This</p>	
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			<p>erodes the intent of the designation</p> <p>14. What is the jurisdiction of the tribunal, what type of matters will it deal with, and what the appeal process is for where any party is aggrieved by a decision made by the tribunal so that it does not step into the domain of other agencies e.g. the Competition Commission.</p> <p>15. Professionalizing public sector</p>	
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			<p>procurement. It was indicated that it was important to put the practical skill of procurement e.g. training on procurement prescripts in place as there is currently scarcity thereof. It was indicated that OCPO needs to look at its change strategy particularly on the issue of professionalising</p>	
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			<p>the public sector procurement.</p> <p>16. The Bill must address the issue of employees who are alleged to have committed an offence in terms of the Bill, who then resign to avoid the investigation and or that even if the person resigns they can still be “flagged”.</p> <p>17. The Bill must address the capacitation of employees involved in SCM</p>	
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			and what happens when they are not performing at the level that they should.	
3. Business				
4. Organised Labour				
5. Civil Society				
6. The Public				
7. Other groupings (Name them)				

1.6. Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

Undoubtedly disputes or rather disagreements will arise out of the implementation of the Bill. The OCPO intends undertaking a public comment exercise to determine initial disagreements with the introduction of the Bill with the approval of cabinet. A team is set aside to manage the comments and disagreements of which team will escalate the problematic issues to senior management of the OCPO. Furthermore, in conjunction with the DOJ, the OCPO will seek guidance on possible resolve to the impending matters.

Members of the public can address their concerns via email or by letter to a dedicated desk which will be set up on the inception of public comments on the Bill.

2. Impact Assessment

2.1. Describe the costs and benefits of implementing the proposal to the groups identified in point 1.5 above, using the following chart. Add more rows if required

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
National Departments and constitutional institutions	Increase in human resources to cater for new functions; Increase in ICT infrastructure to enable better performance of	Training Change management Organisation Design and processes	Reduction of regulatory and administrative burden thus bringing about efficiencies in delivery of services	Delays in the delivery of departmental objectives due to adaptation to new processes

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	<p>new functions and service delivery;</p> <p>Increase in budget to cater for additional Human resources, ICT, change management & Capacitation of staff through training</p>			
Provincial Departments	<p>Increase in human resources to cater for new functions;</p> <p>Increase in ICT infrastructure to enable better performance of new functions and service delivery;</p> <p>Increase in budget to cater for additional</p>	<p>Training</p> <p>Change management</p> <p>Organisation</p> <p>Design and processes</p>	<p>Reduction of regulatory and administrative burden thus bringing about efficiencies in delivery of services</p>	<p>Delays in the delivery of departmental objectives due to adaptation to new processes</p>

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	Human resources, ICT, change management & Capacitation of staff through training			
Municipalities and Municipal Entities	Increase in human resources to cater for new functions; Increase in ICT infrastructure to enable better performance of new functions and service delivery; Increase in budget to cater for additional Human resources, ICT, change management & Capacitation of	Training Change management Organisation Design and processes	Reduction of regulatory and administrative burden thus bringing about efficiencies in delivery of services	Delays in the delivery of departmental objectives due to adaptation to new processes

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	staff through training			
Public Entities listed in the PFMA	Increase in human resources to cater for new functions; Increase in ICT infrastructure to enable better performance of new functions and service delivery; Increase in budget to cater for additional Human resources, ICT, change management & Capacitation of staff through training	Training Change management Organisation Design and processes	Reduction of regulatory and administrative burden thus bringing about efficiencies in delivery of services	Delays in the delivery of departmental objectives due to adaptation to new processes
National Treasury	Increase in human resources to	Change management training	Uniform understanding and implementation of the new legislation	There may be a need for re-engineering of the current

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	<p>cater for new functions; Increase in ICT infrastructure to enable better performance of new functions and service delivery; Increase in budget to cater for additional Human resources, ICT, change management & Capacitation of staff through training</p> <p>Unique costs relating to additional responsibilities – Tribunal and Ombudsman Roll out and implementation</p>	<p>Consistent publication of new reforms in various media including national, local, regional and local newspapers</p>	<p>Direct contact with affected stakeholders- organs of state, civil society, bidders etc.</p>	<p>OCPO to align with the new functions that will need to be performed in line with the Bill</p>

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	costs e.g. travel and accommodation; training material, media campaigns, venue hire			
Provincial Treasuries	Increase in human resources to cater for new functions; Increase in ICT infrastructure to enable better performance of new functions and service delivery; Increase in budget to cater for additional Human resources, ICT, change management & Capacitation of	Change management training Consistent publication of new reforms in various media including national, local, regional and local newspapers	Uniform understanding and implementation of the new legislation Direct contact with affected stakeholders- organs of state, civil society, bidders etc.	There may be a need for re-engineering of the current SCM transversal support units within provincial treasuries to align with the new functions that will need to be performed in line with the Bill

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
	staff through training Roll out and implementation costs e.g. travel and accommodation; training material, media campaigns, venue hire			
Parliament				

2.2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

- a) The budget and staffing requirements will mainly be at the relevant treasuries with the establishment of dispute resolution mechanism such as the Tribunal and ombudsman.

2.3. Describe how the proposal minimises implementation and compliance costs.

- a) The Bill makes provision for transparency of institutional plans and achievements; enforcement of policies and performance monitoring including consequence management which will therefore minimise implementation cost as well as compliance.

- b) It brings about a single piece of legislation that will govern procurement in all spheres of government, is clear on the roles and responsibilities of accounting officers, accounting authorities and the relevant treasuries.
- c) It is clear on what is expected of bidders, officials and other role players involved in the SCM system in relation to their ethical conduct thus eliminating the uncertainty on how to deal with transgressions that may occur.

3. Managing Risk

3.1. Describe the main risks to the achievement of the desired ends of the policy/Bill/regulations/other and/ or to the national priorities (aims) that could arise from adoption of the proposal. Also describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risk	Mitigation Measures
Delays in effecting amendments of impacted pieces of legislation as a result of resistance to change.	Inter –Ministerial and Governmental intervention fora to expedite the required change to the impacted legislation and to be the champions of the change management required.

3.2. Describe the mechanisms **included in your proposal** for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

- a) The proposed Regulator structure includes a Governance Monitoring and Compliance function which will be replicated in all provincial treasuries to address this.
- b) The monitoring and evaluation of the effectiveness of the Bill will be conducted through an enhanced performance management system that includes submission of reports and institutional SCM plans on a periodic basis.

4. Summary

4.1. Summarise the impact of the proposal on the main national priorities

National Priority	Impact
1. Social Cohesion	Addresses socio-economic imbalances of the past dispensation through preferential treatment of enterprises owned by historically disadvantaged individuals as well as locally produced commodities.
2. Security (Safety, Financial, Food, Energy and etc.)	<p>Adherence to prescribed norms</p> <p>Savings on fiscus through improved and streamlined procurement strategies designed for the various strategic goods and services procured e.g. construction procurement being dealt with differently from normal goods and services</p> <p>Preferential treatment of businesses located in rural areas which could be an incentive to drive rural communities to venture into agri-business thus increasing the country's ability to produce food</p> <p>Legislation encourages differentiated procurement strategies and in therefore it allows opportunity to later decide to provide a regulatory framework for clean energy production through green procurement</p>
3. Economic Growth	Increased levels in local production and content through the preferential treatment of locally produced commodities thus driving the demand for local production up which could lead to economic growth.
4. Economic Inclusion (Job Creation and Equality)	Preferential treatment for designated local business
5. Environmental Sustainability	

4.2. Identify the social and economic groups that would **benefit most** and that would **bear the most cost**. Add more rows if required.

Main Beneficiaries	Main Cost bearers
Citizens	National Treasury and other organs of state
Designated categories of suppliers	OEMs (foreign monopolies), untransformed local businesses
Officials of organs of State	The State

4.3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the policy/Bill/regulations/other. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more lines if required.

- a) Clear communication strategy and targeted awareness campaigns for the groups identified as beneficiaries and cost bearers so that they understand the changes and the implications to them.
- b) Capacitation of implementing agents (officials and Institutions) in terms of what their roles are within the SCM space as well as the role of the client that they are procuring the goods and services on behalf of.

4.4. Please identify areas where additional research would improve understanding of the costs, benefits and/ or risks of the policy/Bill/regulations/other (Dispute Resolution Mechanism)

For the purpose of building SEIAS body of knowledge please complete the following:

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