APPLICATION OF OPEN CONTRACTING PRINCIPLES IN SOUTH AFRICAN PUBLIC SECTOR PROCUREMENT

by

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October 2016
DECLARATION BY CANDIDATE

“I hereby declare that the dissertation submitted for the degree Masters in Organisational Leadership, at the Tshwane University of Technology, is my own original work and has not previously been submitted to any other institution of higher education. I further declare that all sources cited or quoted are indicated and acknowledged by means of a comprehensive list of references”.

__________________________
Lawson Naidoo
DEDICATION

This work is dedicated to my wife and best friend, Colleen Naidoo,
my sons Cheslen Anthony and Declan Quinn.
My greatest source of inspiration.

Thank you for giving me the space to pursue my intellectual curiosity,
For understanding how much this has meant to me,
For your unconditional love, support, sacrifice and constant encouragement,
Words cannot express the enormity of love I have for you all.

"Family means...no one gets left behind"
ACKNOWLEDGEMENTS

“It seems impossible, until it is done”

Mr. Nelson Mandela

This is never the work of anyone alone. The contributions of many different people, in their different ways, have made this possible. I would like to express my appreciation to the following:

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- Mr. Andre Coetzee and his team from the Chartered Institute of Procurement and Supply (CIPS) for the distribution of the online questionnaire.
- All the respondents without whose input this investigation would not have been possible. Thank you for your valuable time and assistance for completing the questionnaires and participating in the study.
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- My wife Colleen, my sons Cheslen and Declan for the many sacrifices, support and encouragement.
- Malebogo Mocuminyane for the cup of coffee and snack when I needed it the most.
ABSTRACT

The purpose of this study is to investigate the application of Open Contracting (information disclosure and public participation) in procurement processes in the South African public sector.

The study is descriptive in nature, using a quantitative technique of surveys via on-line questionnaires to collect data from members from the Chartered Institute of Procurement and Supply (CIPS), employed in the South African public sector. The sample size of 284 participants was drawn using a simple random sampling technique among the population group of 1200 CIPS members. The SPSS statistical software was used to analyse the data. This study utilised quantitative approaches wherein frequency tables were used to present the percentages and counts for all categorical variables. Pearson chi-square test was used to test for association between any pair of categorical variables. The interpretation was performed at $\alpha = 0.05$. Cronbach’s alpha was applied to test for internal consistency reliability.

A review of the literature indicated a gap within the body of knowledge with respect to Open Contracting in the context of public procurement processes in the South Africa. The findings of the study revealed that disclosure of procurement information and public participation to a certain extent are practiced, but not aligned to the Open Contracting principles. Open Contracting in the South African public sector procurement system is still young and full of promise. The study concludes with the recommendation for the development of a policy framework for the implementation of Open Contracting in the South African public sector procurement system.
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CLARIFICATION OF CONCEPTS

**DISCLOSURE**: means governments, companies, organisations and individuals that are open and transparent of information, rules, plans, processes and actions (Folscher, 2010:41).

**LOCAL SPHERE OF GOVERNMENT**: means all municipalities and municipal entities that were established for the whole of the territory of the Republic. The Municipal Finance Management Act (MFMA) regulates financial management (including procurement) for all institutions at the local sphere of government.

**NATIONAL SPHERE OF GOVERNMENT**: means a national government component (departments and entities) reporting to a cabinet minister. The Public Finance Management Act (PFMA) regulates financial management (including procurement) for all institutions at the national sphere of government.

**OPEN CONTRACTING**: is a growing global concept that aims at increasing disclosure and public participation at all stages of government procurement processes.

**PROVINCIAL SPHERE OF GOVERNMENT**: means a provincial government component (provincial departments and entities) reporting to the respective Member of the Executive Council (MEC) in each of the nine provinces. The Public Finance Management Act (PFMA) regulates financial management (including procurement) for all institutions at the provincial sphere of government.

**PUBLIC PARTICIPATION**: means to involve those who are affected by a decision in the decision-making process (International Association for Public Participation, 2015).

**PUBLIC PROCUREMENT**: means to the acquisition of goods, services and works by a procuring entity using public funds and concerns contracts between the government and the private sector in many different areas such as health services, the military and construction.
SUPPLY CHAIN MANAGEMENT: is viewed in the public sector as a component of financial management that incorporates both the purchasing of goods and services and the disposal and letting of government assets.
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<th>Abbreviation</th>
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<tr>
<td>AFIC</td>
<td>Africa Freedom of Information Centre</td>
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<td>AGSA</td>
<td>Auditor-General South Africa</td>
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<td>APICS</td>
<td>Association for Operations Management</td>
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<td>BBBEEA</td>
<td>Broad Based Black Economic Empowerment Act</td>
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<td>BEC</td>
<td>Bid Evaluation Committee</td>
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<td>CIPS</td>
<td>Chartered Institute of Procurement and Supply</td>
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<td>CoST</td>
<td>Construction Sector Transparency Initiative</td>
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<td>CPAR</td>
<td>Country Procurement Assessment Review</td>
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<td>CSCMP</td>
<td>Council of Supply Chain Management Professional</td>
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<td>CSD</td>
<td>Central Supplier Database</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>GIZ</td>
<td>Deutsche Gesellschaft für Internationale Zusammenarbeit</td>
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<tr>
<td>IAPP</td>
<td>Internal Association for Public Participation</td>
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<td>ICT</td>
<td>Information and Communication Technology</td>
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<td>IDP</td>
<td>Integrated Development Plan</td>
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<td>MAWG</td>
<td>Multi-Agency Working Group</td>
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<td>MFMA</td>
<td>Municipal Finance Management Act 56 of 2003</td>
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<td>MSCM</td>
<td>Municipal Supply Chain Management</td>
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<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>OC</td>
<td>Open Contracting</td>
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<td>OCDS</td>
<td>Open Contracting Data Standards</td>
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<td>OCP</td>
<td>Open Contracting Partnership</td>
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<td>OCPO</td>
<td>Office of the Chief Procurement Officer</td>
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<td>OECD</td>
<td>Organisation for Economic Co-Operation and Development</td>
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<td>PAIA</td>
<td>Promotion of Access to Information Act</td>
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<td>PAJA</td>
<td>Promotion of Administration Justice Act</td>
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<td>PFMA</td>
<td>Public Finance Management Act 1 of 1999</td>
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<td>PPPFA</td>
<td>Preferential Procurement Policy Framework Act 5 of 2000</td>
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<td>PPR</td>
<td>Preferential Procurement Policy Framework Regulations of 2011</td>
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<td>RFP</td>
<td>Request for Proposal</td>
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<td>RSA</td>
<td>Republic of South Africa</td>
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<td>SBD</td>
<td>Standard Bidding Document</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>SCM</td>
<td>Supply Chain Management</td>
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<td>SMME’s</td>
<td>Small, Medium and Micro Enterprises</td>
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<td>SPSS</td>
<td>Statistical Package for Social Sciences</td>
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<td>SRS</td>
<td>Simple Random Sampling</td>
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<tr>
<td>TI</td>
<td>Transparency International</td>
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<td>WBI</td>
<td>World Bank Institute</td>
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CHAPTER ONE
INTRODUCTION

1.1 INTRODUCTION
Throughout the world, public procurement has grown in importance. According to Roodhooft and Abbeele (2006:494), public bodies have always been big purchasers, dealing with huge budgets. Rolfstam (2009:349) also reiterated that public procurement is an area of interest since it amounts to 16%-18% of a country’s gross domestic product. It is estimated that all governments worldwide spend $9.5 trillion each financial year with public procurement while it can be very vulnerable to corruption, inefficiency and mismanagement (Estefan, 2014).

The practice of procurement in the public sector is when government does business with the general public in an open, fair and transparent manner. Governments then need to account to the public that it has given all tenders for government contracts a fair opportunity and that business was awarded to the most appropriate bidder at the best price in expediting taxpayer’s expenditure. In developing countries, public procurement is increasingly recognised as essential in service delivery and it accounts for a high proportion of total expenditure (Davis, 2014:79).

1.1.1 South African public procurement
A democratic South Africa was established in 1994 and this ushered in several changes within national, provincial and local government. The political, institutional and administrative systems had to be changed and a new framework for public financial management, including public sector procurement had to be developed (Fourie, 2009:629). The public sector procurement concept has its roots in the Constitution of South Africa. In terms of section 217 of the Constitution (1996:127), “When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective”.
1.1.2 Transparency and openness in public procurement

Armstrong (2005:1) stated that “transparency refers to the unfettered access by the public to timely and reliable information on decisions and performance in the public sector”. In order to achieve transparency in the public procurement process, the principles of Open Contracting should be included at all stages of the procurement process. Ensuring competition and equal access, probity and accountability, however, depends upon making the public procurement process as transparent as possible (Jones, 2007).

In South Africa, the priority targets of the National Development Plan (National Planning Commission, 2011:39) include a corruption free society, high adherence to ethics and a government that is accountable to its people. With this in mind, the improvement and governance relating to public procurement is explicitly addressed. Since corruption remains an impediment to the progressive development in South Africa, measures must be introduced to support the implementation of anti-corruption policies. These include the principles on openness and transparency in the public sector. There are various challenges facing public procurement and this has a negative impact on service delivery, for example, corruption, fraud, bribery, nepotism, extortion, conflict of interest, embezzlement, tax immorality, challenges in political milieu, communication, infrastructural issues, non-compliance to set policies, lack of links to an inter-departmental database, time of delivery and unauthorized disclosure of confidential information (Fourie, 2009:632-635).

1.1.3 Open Contracting principles

Open Contracting (OC) is a growing global concept that aims at increasing disclosure and public participation at all stages of government contracting. It asserts that contracting that is more open will help ensure that public resources are managed effectively and that citizens receive the services and goods they deserve. OC will help communities understand how government contracts are awarded and inevitably expose any irregularities in the evaluation and award of government contracts (Open Contracting Partnership, 2015).

1.2 MOTIVATION FOR THIS STUDY

No studies have been conducted on assessing the conformity of the South African public procurement system against the global principles of Open Contracting (i.e. disclosure and public participation). This study was therefore motivated by the following reasons:
Firstly, the Auditor-General Report (2012:69) highlighted significant supply chain management (SCM) findings, inter alia, weaknesses in internal SCM control.

Secondly, Ambe and Badenhorst-Weiss (2012:11014) articulate the challenges that restrain SCM implementation in the South African public sector and concluded that “…there is no proper implementation and SCM has not achieved its objectives of good governance”.

Thirdly, some of the major practical challenges of municipal SCM as pointed out by Horn and Raga (2012:71), included “… non-compliance to the SCM policy.”

Fourthly, most studies that have been conducted on this topic focused on the evaluation of SCM implementation only (Migiro & Ambe 2008:241; Sandler 2011:2).

These studies provided the rationale for this study to determine whether the principles of Open Contracting could improve disclosure and public participation in public sector procurement in South Africa. It will further allow recommendations for changes in the procurement openness and transparency implementation strategies.

1.3 PURPOSE OF THE STUDY
To give effect to the problem statement, the purpose of this study was to assess the conformity of the Open Contracting principles to South African public sector procurement.

1.4 SIGNIFICANCE OF THE STUDY
The value of this research primarily lies in the fact that supply chain management, including procurement practices, is still not fully utilised in the public sector (Ambe & Badenhorst-Weiss, 2012:11014). This study assessed the conformity of the existing procurement system in South Africa against the global Open Contracting principles of disclosure and public participation. The belief is that the results can contribute towards addressing some of the current procurement challenges in the South African public procurement system. It will also have immense benefits for the entire public sector, specifically in the area of public procurement disclosure and public participation. Specifically, it will assist senior and middle level procurement managers (as custodians of SCM) to improve their procurement transparency and openness strategies. It will further contribute towards an improved audit outcome with better quality services to communities.
1.5 RESEARCH PROBLEM
A new public sector SCM/procurement framework became effective in December 2003 (Fourie, 2009:629). Both public procurement and the public sector are still experiencing various challenges, including, allegations of fraud and corruption, procurement officials’ ignorance and non-compliance to the SCM policy (Ambe & Badenhorst-Weiss, 2012:11014; Horn & Raga, 2012:71). Although procurement is an important business function in government operations, its objectives are yet to be completely achieved within South African public sector. These challenges are hindering the public sector from achieving successful SCM implementation; as a result, preventing public sector institutions from reaping the maximum benefits of achieving policy objectives (Ambe & Badenhorst-Weiss, 2012:11014).

A possible cause of these problems is the lack of disclosure of procurement information and public participation in all stages of government contracting. Perhaps a study that investigates the application of Open Contracting, i.e. disclosure of procurement information and public participation by conducting a quantitative survey could remedy the situation. Against this backdrop, the research problem for this study is to investigate the conformity of Open Contracting to the South African public procurement system.

1.6 RESEARCH QUESTIONS AND OBJECTIVES
Saunders, Lewis and Thornhill (2012:680) define research objective as “Clear, specific statements that identify what the researcher wishes to accomplish as a result of doing the research”. The main research question that guided this study is:

- Can the procurement system designed for the South African public sector adopt the principles of Open Contracting?

From the main research question, the following sub-questions were researched:

- Is there South African legislation and policies for Open Contracting?
- Is there disclosure of procurement information in the South African public sector?
- How effective is public participation in the procurement system in the South African public sector?
- Are there any benefits for Open Contracting to curb procurement corruption?
1.7 RESEARCH DESIGN AND METHODOLOGY

1.7.1 Research design

Research designs are plans, strategies and procedures for research comprising decisions from the underlying worldviews to the detailed methods of data collection and analysis (Creswell, 2009:3). The research conducted in this study was based on the research undertaken in the social world and is theoretical in nature using the quantitative paradigm. The distinction between quantitative and qualitative research is often proclaimed as using numbers (quantitative) rather than (qualitative) words. Creswell (2009) argues that the quantitative research approach takes scientific explanation to be nomothetic (i.e. based on universal laws). Its main aims are to objectively measure the social world, to test hypothesis and to predict and control human behaviour. For this study quantitative analysis was adopted whereby quantitative information can be summarised through statistical analyses.

Questionnaires were used to collect the data. A simple random sample of 300 procurement practitioners from the public sector, who are members of the Chartered Institute of Procurement and Supply (CIPS), were approached to complete the questionnaire. Descriptive as well as inferential statistical analysis of data, using SPSS was applied to identify common relationships and trends regarding the understanding of Open Contracting in procurement processes. Future recommendations are made based on the collected data.

1.7.2 Population and sampling

Population refers to the group that the researcher is interested in generalising about (Babbie, 2013:134). The population for this study was 1 200 public sector procurement officials. These officials are members of CIPS, employed in national and provincial departments, municipalities, public entities, municipal entities and constitutional institutions. The procurement practitioners are knowledgeable officials who could provide important information with regards to the implementation process of procurement openness and transparency in their institutions.

Babbie and Mouton (2001:202) define a sample as “a special subset of a population observed in order to make inferences about the nature of the total population itself”. According to Leedy and Ormrod (2013:207), the sample should be carefully chosen in order to see the characteristics of the total population. The sample collection technique that was used for this research is the probability sampling known as simple random sampling. The simple random
sampling involves selecting a sampling frame using either a computer or random number tables (Saunders et al. 2012: 273). According to Tustin, Ligthelm, Martins and Van Wyk (2005: 344), “with probability sampling each element in the population has a known, non-zero probability of being included in the sample (i.e. the sample elements are selected by chance and this chance is known for each element that is being selected)”.

1.8 DATA COLLECTION

Leedy and Ormrod (2013:97) describe collecting data for quantitative research as identifying variables to be studied. Data is then collected from a population that specifically relates to those variables, in a way that are easily converted to numbers (Leedy & Ormrod, 2013:97). In this study, both secondary and primary data collection methods were employed.

1.8.1 Primary data

Primary data was collected by means of a self-administered online questionnaire completed by randomly selected procurement practitioners (champions of procurement within the public sector). These procurement practitioners were selected because of their expertise and knowledge of the procurement policy implementation process followed in their respective institutions.

From the 300-targeted respondents, a total of 300 completed questionnaires were returned, resulting in a 100% return rate. Fifty-two (52) of the targeted 300 respondents were found not to be “public procurement champions” and were excluded from the study. These individuals are performing secondary duties relating to public procurement, hence their interest and registration with the CIPS. This would imply that a final total sample size of 248 was employed in this study, thus a realisation of 82.7%.

1.8.2 Secondary data

The main sources of secondary data were various journals, internet articles and textbooks. Documentations that were used include reports from the Auditor-General South Africa, World Bank, Public Service Commission, Public Protector, conference papers, newspaper articles, audio recordings, South Africa Yearbooks and the annual reports of public sector institutions.
Secondary information on the disciplines mentioned above, also included:

- Legislation and procurement prescripts of South Africa accessed on the internet sites of specific departments such as the National Treasury and South African Government online.
- Openness, transparency, disclosure and public participation implementation tools and guidelines used by the World Bank and other governments such as Australia, Canada and the United Kingdom; and
- Research articles, journals and books dealing with procurement, openness, transparency and policy implementation.

From both questionnaires and documentations, certain theories were identified that hamper the effective implementation of disclosure and public participation in South African public procurement practices.

1.9 DATA ANALYSIS AND INTERPRETATION OF THE EMPIRICAL RESULTS

According to Leedy and Ormrod (2013:97), survey research involves acquiring information about one or more groups of people by asking them questions and tabulating their answers. A survey is quite simple in design where a series of questions are being posed to willing participants. Their responses are summarised with percentages, frequency counts or more sophisticated statistical indexes. Lastly conclusions are drawn about a population from the responses of the sample.

Sekaran (2003) defines a questionnaire as a pre-formulated written set of questions to which respondents record their answers, usually within rather closely defined alternatives. Questionnaires are an efficient data collection mechanism when the requirements and measuring of the variables of interest are known. Questionnaires can be administered personally, mailed to respondents or electronically distributed.

For this study an online questionnaire was used as a data collection method, making use of the Survey Monkey website. The main advantage was that a wide geographical area within South Africa was covered in the survey. In addition the respondents could complete the questionnaires at their own convenience and leisure. Sufficient time was given for completion and returns.
The research results were presented using analytical methods such as graphical and descriptive statistics. Bar graphs and frequency tables were calculated using Statistical Package for Social Sciences (SPSS) via descriptive as well as inferential statistical analysis (Dawson & Trapp, 2004). Recommendations for improved openness and transparency in public sector procurement in South Africa were then developed from the findings.

1.10 AN OVERVIEW OF THE CHAPTERS
The following is a preview of the chapters pertaining to this study:

Chapter 1: Introduction to the study
This chapter introduces the background to the study. It provides a rationale, presents the methodological approach and limitations of the study. It concludes with an overview of the chapters.

Chapter 2: Theoretical review of procurement practices
This chapter presents an overview of procurement practices, conceptualising the definition and practices of supply chain management (SCM) and then illustrates the link between procurement and SCM. A perspective of the public sector procurement in general is provided and then the chapter finishes with a focus on public procurement in South Africa.

Chapter 3: The enquiry context: Open Contracting
Chapter 3 offers a critical synthesis of the literature, framing the concept of Open Contracting. It explores the principles of openness and transparency in public procurement processes. The organisation and aims of the Open Contracting Partnership (OCP) is discussed. The conformity of the South African public procurement system and applicable legislation are assessed against the international principles of Open Contracting by a critical review of selected South African laws that support procurement openness and transparency. The chapter concludes with the benefits that can be gained by implementing the principles of the Open Contracting initiative, using local and international examples to demonstrate current implementation practices.

Chapter 4: Research design and methodology
In this chapter a detailed narrative account of the research processes engaged is presented. It
then proceeds to describe the data collection plan, specific research instrument, how validity of the study was established and how the data was processed, analysed and represented.

Chapter 5: Data presentation, data analysis and findings
Here the data collected from the questionnaires are provided an analysed. The results are illustrated in the form of figures and tables, representing the responses from public procurement practitioners that belong to the Chartered Institute of Procurement and Supply (CIPS). The chapter also provides the analysis and interpretation of the findings. The findings are discussed against the background of the research problem, aim of the study, the research objectives and research questions. The discussion provided is supported by the literature presented in Chapters 2 and 3 of the study to validate the views of the researcher.

Chapter 6: Conclusions and recommendations
The final chapter draws on all the previous chapters, striving to pull together the main research concerns of the inquiry. It details a statement of the main points established in Chapter 4. It presents a final conclusion of the research, based on the literature reviewed and all the data collected during the study. Based on the results obtained, appropriate recommendations are suggested for the application of Open Contracting in South African public procurement and also makes suggestions for further research.

1.11 CHAPTER SUMMARY
This chapter set out the general introduction to the study. Also covered were elements such as motivation for the study, problem statement, aims and objectives, limitations and contributions of the study. Chapter 2 and 3 provide an in-depth literature review on procurement practices and Open Contracting, respectively.
CHAPTER TWO
THEORETICAL REVIEW OF PROCUREMENT PRACTICES

2.1 INTRODUCTION
The chapter firstly explains the definition and practices of supply chain management (SCM). Secondly, the term procurement is defined and its link to SCM is established. Thirdly, a perspective of public sector procurement in general, is provided and fourthly, a background on public sector procurement practices in South Africa with focus on procurement transformation, legislation and current trends and developments are discussed. The chapter concludes with a discussion on the pillars of good procurement management and corruption in public sector procurement.

2.2 PROCUREMENT AND SUPPLY CHAIN MANAGEMENT
The terms “procurement” and “supply chain management” are often used interchangeably and sometimes inappropriately. It is, therefore, necessary to clarify these terms and elucidate the linkage between them.

2.2.1 Definition of supply chain management
The term “supply chain management” (SCM) is more than 30 years old and first appeared in the literature in 1982 (Ellaram & Cooper, 2014:8). It generally deals with the supply of materials in the manufacturing of goods. In order for SCM to be effective and efficient, it must be viewed as a strategic business function that contributes to the achievement of organisational strategic objectives and policy outcomes.

There is no commonly accepted definition of SCM – it means many different things to many different people and numerous, overlapping definitions exist (Ambe, 2009:428). Ellaram and Cooper (2014:8) conclude “that there are several different streams of research regarding the way SCM is perceived”.

Van Weele (2010), The Council of Supply Chain Management Professional (CSCMP, 2015) and Chartered Institute of Purchasing and Supply (CIPS, 2015) concur that SCM is the management of various internal activities associated with the transformation of raw materials into finished products in such a way that it satisfies the needs of end-users.
Another SCM definition as provided by the Association for Operations Management’s (APICS, 2015) dictionary is the “design, planning, execution, control, and monitoring of supply chain activities with the objective of creating net value, building a competitive infrastructure, leveraging worldwide logistics, synchronizing supply with demand and measuring performance globally”.

In essence the combination of the different elements of SCM is in agreement and is consistent with the views shared by the authors. It recognises the specific processes from the raw material stage to the final product. Customer satisfaction and added value are taken into consideration as well as the profit generated from demand and supply of a particular product up to the disposal stage. It is evident from the different definitions that SCM, as a concept, has been studied extensively, though a consensus on the universal definition has not been reached. The common views of the different industries still capture similar distinctive features. This leads to the crucial part of this literature study, which explores the SCM theoretically from early disciplines to what it has become in recent years.

Figure 2.1 depicts the important stages that best explain the concept of a supply chain (Hugo, Badenhorst-Weiss & Van Biljon, 2004:7-8) It represents the integration of activities involved in the flow of material and services and shows that the supply chain, as a whole, is focused on customer value creation.

![Supply Chain Model](image)

**Figure 2.1 A supply chain model**

**Source:** Hugo et al. 2004:7
In this model the authors point out that these interdependent upstream (sources of supply) and downstream linkages (distribution and customers), together with processes and activities linked by information flow, will ultimately ensure that value is shared across all functional stages of the chain. It represents a higher-level recognition of the strategic value of managing operational activities and flows within and across a supply chain. In essence, this means that a deeper understanding of customer needs linked directly to one or more of the upstream or downstream flows of products, services, funds and information from a source to the customer. Supply chain management, then, endorses this type of supply chain orientation (i.e. the supply chain model) and involves proactively managing the two-way movement and coordination of goods, services, information and funds (i.e. the various flows) from raw material through to the customer. Naude and Badenhorst-Weiss (2011:280) are of the opinion that the emergence of the concept is indeed due to the realisation that the relationship between customers and suppliers could optimally influence the supply processes for beneficial results.

2.2.2  Procurement and its link to supply chain management

Supply chain management (SCM) is not just a new name for procurement but a more inclusive concept. Procurement is a formal entity on the organisational structure that performs functional activities such as the buying of goods, services or works (Handefield, Monczka, Giunipero & Patterson, 2011:10). Procurement can then be viewed as a component under the SCM umbrella. The procurement function can therefore be defined as the act of obtaining material, equipment and services in exchange for money (Wisner, Tan & Leong, 2012:37; Bolton 2006a:1).

2.3  PUBLIC SECTOR PROCUREMENT

There are three important questions regarding public procurement considered in this study:

1. What is public sector procurement?
2. Why is it important?
3. What are the objectives?

The link between supply chain management and procurement in the South African public sector was also investigated.
2.3.1 Public procurement defined

Procurement is implemented in different industries and sectors. According to Ambe and Badenhorst-Weiss (2012:244), public procurement refers to the business function within public sector institutions that buy goods, services and infrastructure from the private sector. The procurement system is subject to the constitutional outcomes of fairness, equitability, transparency, competitiveness and cost-effectiveness.

Procurement in the private sector deals generally with the supply of raw materials in the manufacturing of specific goods. In the public sector, on the other hand, it deals with acquiring goods and services and the management thereof until such goods or services are no longer required or become obsolete.

Public procurement concerns at least three interest groups, namely the government, the general public and the private enterprises. The government normally fund the activity while the general public benefit from the activity. They also fund the goods and services procured indirectly through the payment of taxes. Private enterprises are those who supply the goods and services (Da La Harpe, 2009:19). According to Ambe (2009:428), the UK, US and Canada have long ago employed SCM in the management of their procurement and logistics.

Ambe and Badenhorst-Weiss (2011:1109) provide a clear differentiation between public procurement and public SCM. “SCM involves the management of all the interlinked activities within a value adding chain [while] procurement management is one of the elements within a supply chain primarily focusing on the sourcing and purchasing of goods”. The term “Public Procurement” \(^1\) refers to the acquisition of goods, services and works by a procuring entity using public funds in a country and concerns contracts between the government and the private entity in many different areas such as health services, the military and construction. Reliable procurement practices will transform public funds, amongst others, into hospitals, schools and roads. Since procurement accounts for such a large part of public resources it is important that the procurement process occurs in an accountable, transparent and well-managed manner (Heggstad, Froystad, & Isaksen, 2010:3). It is intended to benefit the general public and the goods and services so procured are generally provided by private

\(^1\) In this study, “Public Procurement” also refers to “government procurement” and “public sector supply chain management” in South Africa. The link between public sector supply chain and procurement will be explained later in the chapter.
suppliers and service providers. The government, the general public and private suppliers thus have a direct interest in public procurement.

Figure 2.2 illustrates the key stages in the public procurement process. Public procurement starts out with the initial needs and market assessment followed by the budget allocations. It then moves on to the preparation of the tender, evaluation of the applications and the award of contracts. The contract implementation and administration, including the common practice of change orders, as well as auditing and evaluation are also captured within the public procurement process. Major procurements such as water projects or large-scale construction works can involve numerous contract awards, forming a broader project cycle (Transparency International, 2014:6).

![Diagram of public procurement process](image)

**Figure 2.2 The key stages in the public procurement process**


### 2.3.2 Importance of public procurement

According to Roodhooft and Abbeele (2006:494), public bodies have always been big purchasers, dealing with huge budgets. Rolfstam (2009:349) also reiterated that public procurement is an area of interest since it contributes between 16% and 18% to a country’s GDP. All governments worldwide spend approximately 9.5 trillion USD every year on public procurement (Estefan, 2014), which can be very vulnerable to corruption, inefficiency and...
mismanagement. In developing countries, public procurement is increasingly recognised as essential in service delivery (Davis, 2014:79), and it accounts for a high proportion of total expenditure.

Public procurement, for example, accounts for 60% of total government gross domestic product in Kenya, 58% in Angola and 40% in Malawi as cited in Davis (2014:87). This is very high when compared with a global average of 12%-20% (Froystad, Heggstad & Fjeldstad, 2010). Consequently, various developed and developing countries have instituted procurement reforms involving laws and regulations. Due to the vast amount of money involved in government procurement and the fact that such money comes from the public, there is a need for accountability and transparency (Hui, Othman, Omar, Rahmanan & Haron, 2011:568). In agreement, Schapper, Malta and Gilbert (2006:1) stated that “The Organisation for Economic Co-Operation and Development (OECD) Development Assistance Committee (DAC) estimated the volume of global public sector procurement at 8% ($3.2 trillion) of the worldwide GDP of $40 trillion.”

In South Africa, Chipkin, Tshimomola and Brunette (2014) asserted that at least 42% of South Africa’s national budget is spent on the acquisition of goods and services. This is an exorbitant number when compared to the overall national budget of South Africa. Public expenditure nevertheless continues on a large and necessary scale in South Africa. In 2013/14, the South African public sector spent R500 billion on goods, services and construction works. This is an enormous amount of money and if wisely and efficiently spent, it can be a great force for service delivery. It can ensure that citizens receive basic services, such as water, electricity and sanitation. It can also guarantee that infrastructure such as roads and ports are built and maintained, that schools are well equipped and that health services are widely available. It can also spread wealth to hard-working entrepreneurs who successfully tender for government contracts and in doing so, create jobs. Even those not directly involved in the public sector supply chain can benefit, as suppliers to government source their materials from manufacturers, farmers and many others (National Treasury, 2015:3-4).

2.3.3 Objectives of public procurement

Many governments worldwide have, implicitly or explicitly, similar management objectives for public procurement. Common policy objectives are widespread between governments,
notwithstanding the great variances in methodologies and operational practice. The following primary objectives of public procurement have been identified (Schapper et al. 2006:4):

- *Public confidence* – underpinned by attributes of accountability, transparency, equity and fair dealing in the procurement processes;
- *Efficiency and effectiveness* – in the use of public funds to achieve value for money; and
- *Policy compliance and consistency* – of both procurement policy outcomes and processes in relation to other policy objectives of the government such as addressing socio-economic imbalances, environmental issues and training business development.

When focussing on public sector procurement in South Africa, direction is derived from the Constitution of 1996. The manner in which any organ of state may contract for goods and services are described under the heading “procurement”. Section 217 of the Constitution refers to procurement and the terms, procurement and supply chain management, are used interchangeably. For the purpose of clarity and common understanding in this study, procurement is used to describe the process of implementing a decision to buy, flowing from the pre-tendering process of supply chain management.

### 2.4 PUBLIC PROCUREMENT PRACTICES IN SOUTH AFRICA

It is important to gain a grounded perspective of public procurement in South Africa by reflecting upon: procurement practices pre-1994, the procurement transformation period post-1994 and current developments and trends in 2015. The link between supply chain management and procurement will also be clarified while it will be illustrated that procurement is a component of the supply chain system.

#### 2.4.1 Procurement practices pre-1994

According to Hamilton (1980:331), “…government procurement was determined to a very large extent by the constitution of the Union of South Africa of 1910”. The State Tender Board Act 86 of 1968, as amended, was established to provide for the regulation of:

- procurement for supplies and services,
- the disposal of movable property,
- the hiring or letting of anything,
- the acquisition or granting of any right for and on behalf of the State and
• the establishment of the State Tender Board, to provide for the establishment of regional tender boards and to define their functions (Van der Walt, 2012:54).

Van der Walt (2012:23) cites the following pertinent points to describe the starting point of the democratic roadmap for procurement reform: “Due to the legacy of the apartheid years, South Africa writing a “main stream” or first economy that was led by a minority of 13% of the population and an emerging (second) economy of small, medium and micro enterprises owned by historically disadvantaged groups, comprising of the balance of 87% of the population”. Government identified public procurement as a key mechanism to bridge the gap between the first and second economy (Van Vuuren, 2006:2). The process government followed to procure goods and services became vitally important for the profitability, survival and development of specific economic sectors (Doyle, 2001:217). Ambe and Badenhorst-Weiss (2012) critically analysed the key footprints in the democratic roadmap required to initiate budgetary and financial reforms for public procurement.

2.4.2 Public procurement transformation, post-1994
South Africa's first multi-racial elections were held in 1994. The new African National Congress-led Government initiated a series of budgetary and financial reforms. This was an attempt to modernise the management of the public sector to make it more people-friendly and sensitive to meeting the needs of the communities it serves. They found that the previous tendering system denied fair and equitable opportunity for the majority of South African citizens (Bolton, 2006b:193).

The primary intention of government post 1994 was to move away from the previous legacy issues. The government’s initial objective had two broad focus areas, namely the promotion of good governance and the introduction of a preferential system to address socio-economic objectives (Ambe & Badenhorst-Weiss, 2011:1100).

The legislative framework for public procurement has constitutional status. Section 217(1) of the Constitution of the Republic of South Africa mandates every organ of state to procure goods and/or services in a manner that is open, fair, transparent, competitive and cost-effective. Section 217(3) of the Constitution stipulates that national legislation prescribe a framework within which the preferential procurement policy must be implemented.
To accomplish its task of transforming procurement practices, in the 2001/02 financial year, the National Treasury embarked on a Country Procurement Assessment Review (CPAR) with the assistance of the World Bank. One of the issues raised by the CPAR was a need to replace the outdated and inefficient procurement and provisioning practices in government with the supply chain management function (National Treasury, 2003a:2). The CPAR also identified other deficiencies in practices related to governance, interpretation and implementation of the Preferential Procurement Policy Framework Act and associated regulations as cited by Ambe and Badenhorst-Weiss (2012).

On the basis of the recommendations of the CPAR, the government took a firm stand by transforming procurement practices in South Africa. The benchmark was set on international standards so that procurement and broader financial management in government are improved. To this end, the cabinet resolved in 2003 that the concept of supply chain management be introduced within the public sector. The aim was to address the inefficiencies in the procurement method, contract management, inventory/asset control and obsolescence planning (Ambe & Badenhorst-Weiss, 2011:1107).

Subsequently, the reference to public sector procurement in South Africa shifted from loosely used names like “provisioning administration”, “logistics” and “stores” towards supply chain management. The government views supply chain management as an integral part of financial management that seeks to introduce internationally accepted best practice (National Treasury, 2003a:2).

2.4.3 Supply chain management in the South African public sector
The findings of the CPAR research prompted government to replace the outdated and rules driven procurement and provisioning practices. In September 2003, Cabinet adopted an integrated supply chain management ² policy to be implemented across all spheres of government. In addition, a SCM guide for accounting officers and accounting authorities was compiled to provide comprehensive guidelines to mobilise these reform processes at ground level (National Treasury, 2004a). The SCM system that was introduced to national and

² Although section 217 of the Constitution refers to procurement and the terms are used inter-changeably; for the purpose of clarity and common understanding in this study, procurement is used to describe the process of implementing a decision to buy, flowing from the pre-tendering process within the supply chain system. Whereas supply chain management (SCM) refers to all processes, procurement is viewed as a component of the SCM umbrella.
provincial departments, trading entities, constitutional institutions, national and provincial public entities, had the following objectives:

- to transform Government’s outdated procurement and provisioning practices into an integrated supply chain management function;
- to introduce a systematic approach for the appointment of consultants;
- to create a common understanding and interpretation of the preferential procurement policy; and
- to promote the consistent application of best practices throughout Government’s supply chain.

A three-phase implementation strategy was developed to give effect to the supply chain management policy adopted by Cabinet (National Treasury, 2004a:44). These phases can be categorised as:

- Firstly, the pre-tender board abolition or preparation phase.
- Secondly, the immediate post-tender board abolition or full implementation phase.
- Lastly, the monitoring phase.

In addition to the above implementation strategy, a supply chain management business model was adopted. The National Treasury Regulation 16 A (a) dictates that the SCM system must provide for demand management, acquisition management, logistics management and disposal management (National Treasury, 2004a:10-11). These key elements are displayed in Figure 2.3.
**Figure 2.3 Government’s supply chain management model**

Source: National Treasury, 2004a:10

**Demand management**: The objective is to ensure that the resources required to fulfil the needs identified in the strategic plan of an institution are delivered at the right time, price and place and that the quantity and quality will satisfy those needs (Migiro & Ambe, 2008:232).

**Acquisition management**: In acquiring the needs identified in the demand management phase, the strategic sourcing function develops research strategies to keep track of industry developments. Strategies are determined to enable SMME’s and B-BBEE companies to enter the government procurement market. Labour intensive methods are investigated to draw the unemployed into the labour market and to promote black economic development in government contracting (Palama, 2011:38).

**Logistics management**: Once the contract has been awarded, the logistics are managed. This entails the setting of inventory levels, placing of orders, receiving and distribution of goods,
store and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration (Fourie & Opperman, 2011:339).

**Disposal management**: The final process is when an institution needs to do away with unserviceable, redundant or obsolete movable assets. The SCM policy must specify the methods of disposal, including the transferring of assets to another government institution (Fourie & Opperman, 2011:339).

**Supply chain performance**: In relation to performance management, a municipal SCM policy must provide for an effective internal monitoring system. On the basis of retrospective analysis, such a system will determine whether the authorised supply chain management processes are being followed and whether the desired objectives are being achieved (Bent, 2014:37).

2.4.3.1 Key events in the South African procurement transformation

Table 2.1 summarises the key events in procurement transformation in the South African public sector, 1994 - 2016:

<table>
<thead>
<tr>
<th>Year</th>
<th>Key events in the transformation process</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>First <strong>democratic election</strong> of South Africa.</td>
</tr>
</tbody>
</table>
| 1995 | Identification of **broad focus areas** for government procurement reform:  
• the promotion of principles of good governance; and  
• the introduction of a preferential system which would assist in addressing socio-economic objectives. |
| 1996 |  
• Task Force produced a “**10 Point Interim Strategy**” which included principles and policies for equitable and transparent public procurement and a simplification of the procedures.  
• The **Constitution of the Republic of South Africa, 1996** was adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly. It was amended by the Constitution of the Republic of South Africa Amendment Act, 1997 (Act No 35 of 1997). |
<p>| 1997 | <strong>Green Paper on Public Sector Procurement Reform in South Africa</strong> was produced for public discussion. |
| 1999 | <strong>Public Finance Management Act</strong> (No 1 of 1999), as amended by Act No 29 of 1999, was promulgated. |</p>
<table>
<thead>
<tr>
<th>Year</th>
<th>Key events in the transformation process</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>• Preferential Procurement Policy Framework Act, 2000 (No 5 of 2000) was promulgated. &lt;br&gt; • The report on Opportunities for Reform of Government Procurement in South Africa was endorsed for implementation in November 2000.</td>
</tr>
<tr>
<td>2001</td>
<td>Preferential Procurement Regulations, 2001 in terms of Section 5 of the PPPFA was gazetted, which incorporated the 80/20 and 90/10 preference point system.</td>
</tr>
<tr>
<td>2001/2</td>
<td>Joint Country Procurement Assessment Review (CPAR) was undertaken by Government and the World Bank.</td>
</tr>
<tr>
<td>2003</td>
<td>• The CPAR report on Refining the Public Procurement System: A summary of the findings and recommendations was presented in February 2003. &lt;br&gt; • NCOP conducted hearings to assess the success of the PPPFA. &lt;br&gt; • Policy to guide uniformity in Procurement Reform Processes in Government was approved by Cabinet on 10 September 2003. &lt;br&gt; • National Treasury issued “General Procurement Guidelines” or “5 Pillars of Procurement” to serve as the basis for transformation of procurement practices within the public sector. &lt;br&gt; • The Regulatory Framework for SCM was gazetted in December 2003 as part of National Treasury Regulations. &lt;br&gt; • In December 2003, National Treasury issued &lt;br&gt;   o Amendment to Regulations of the State Tender Board Act in terms of Section 13 of the State Tender Board Act, 1968 (Act 86 of 1968); and &lt;br&gt;   o Regulations in terms of the PFMA, 1999: Framework for supply chain management.</td>
</tr>
<tr>
<td>2003/4</td>
<td>• Broad Based Black Economic Empowerment Act (No 53 of 2003) was promulgated. &lt;br&gt; • Municipal Finance Management Act, 2003 (No 56 of 2003) was promulgated.</td>
</tr>
<tr>
<td>2005</td>
<td>• Local Government MFMA: Municipal Supply Chain Management Regulations were gazetted on 30 May 2005. &lt;br&gt; • Supply Chain Management Guidelines for Accounting Officers of Municipalities and Municipal Entities were issued by National Treasury in October 2005.</td>
</tr>
<tr>
<td>2005- to date</td>
<td>Circulars, practice notes and instruction notes were issued on various SCM topics to assist with implementation.</td>
</tr>
<tr>
<td>2013</td>
<td>South Africa’s first Chief Procurement Officer was appointed. The Office of the Chief Procurement Officer (OCPO) will modernise and oversee the South African public procurement system to ensure that the procurement of goods, services and construction works is conducted in a fair, equitable, transparent, competitive and cost effective manner. The OCPO will manage procurement reforms, maintain the procurement system and oversee the way in which government does business with the private sector.</td>
</tr>
<tr>
<td>Year</td>
<td>Key events in the transformation process</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------------------</td>
</tr>
</tbody>
</table>
| 2015 | • Public sector Supply Chain Management Review  
      • The Office of the Chief Procurement Officer (OCPO) has made remarkable progress in South African Public Procurement openness and transparency by introducing the central supplier database and the compulsory implementation of the e-tenders portal. These are important elements towards implementing Open Contracting. |

The next section provides an in-depth interpretation of the relevant and applicable legislation, guidelines or instructions governing public procurement in South Africa as represented by the national, provincial and local government, including constitutional institutions and public sector entities.

2.5 LEGAL FRAMEWORK FOR PUBLIC PROCUREMENT IN SOUTH AFRICA
The regulatory framework governing procurement pertains to all key legislation, which provides the cornerstone for managing the procurement processes. In the South African context, the relevant legislative prescripts are used as a first point of reference in the implementation of procurement and related aspects of openness and transparency in all organs of state. The various pieces of legislation that form the basis of the South African procurement legal framework include, among others:

- the Constitution of the Republic of South Africa Act 108 of 1996 (South Africa, 1996);
- the Public Finance Management Act 1 of 1999 (South Africa, 1999) (PFMA);
- the Preferential Procurement Policy Framework Act 5 of 2000 (South Africa, 2000) (PPPFA);
- Municipal Finance Management Act 56 of 2003 (South Africa, 2003) (MFMA);
- Model Policy Municipal Supply Chain Management of 2005 (South Africa, 2005) and MFMA Municipal Supply Chain Management Regulations of 30 May 2005 (South Africa, 2005);

It also includes the South African National Treasury prescripts, namely Policy to Guide Uniformity in Procurement Reform Processes in Government, Treasury Regulations
The legal landscape on public procurement has seen limited reforms since the concept was introduced by parliament in 2003. It is therefore necessary to discuss further details on the complexity surrounding important legislation that has shaped how procurement should be applied in all organs of state. The following discussion begins with the legislative framework at national level, such as the Constitution, followed by an overview of provincial and local government legal framework.

The management of a public institution’s procurement function is susceptible to a wide variety of real and everyday risks (Fourie & Opperman, 2011). The possibilities of collusion, fraud, bribery and unethical interference are generally prevalent. On the other hand there is also the risk of procurement being done in a manner that does not protect the best interests of the procuring entity, by procuring goods and services that are not suitable for its intended purpose, nor cost-effective. Tukamuhabwa (2012:34) concurs that public procurement has become important to the public and has been subjected to reforms, restructuring, rules and regulations.

The public sector procurement in South Africa is governed by more than 80 different legal instruments (National Treasury, 2015:10). All of these laws and regulations relating to public procurement are implemented through a large number of independent statutory instruments. Some of these instruments cater for specific procurement practices and others for particular sectors or industries.

2.5.1  Key legislation

2.5.1.1  The Constitution of the Republic of South Africa Act 108 of 1996

The Constitution of the Republic of South Africa (South Africa 1996) includes a Bill of Rights. The Bill of Rights encompasses socio-economic rights, as well as rights to dignity, equality and freedom. It is the state’s duty to respect, protect, promote and fulfil these rights.

The public sector procurement concept has its roots in the new Constitution of South Africa, adopted in 1996, section 217(1). Section 217 of the Constitution with the heading “Procurement” states that:
“When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective”.

It is critical that all public procurement processes are tested against the five principles namely,

- fair,
- transparent,
- competitive,
- equitable and
- cost-effective.

Section 217 of the Constitution directs organs of state in the national, provincial or local sphere of government to contract for goods or services in accordance with a system that is fair, transparent, competitive and cost effective. This requires the state to take positive steps to ensure transparency of all public procurement processes. It also includes investigating allegations of corruption or improper conduct in procurement processes.

2.5.1.2 The Public Finance Management Act, Act 1 of 1999

The Public Finance Management Act, Act 1 of 1999, as amended by Act 29 of 1999 (South Africa, 1999) is one of the most important pieces of legislation passed by the first democratic government of South Africa. The PFMA aims to improve accountability by placing responsibility for decisions in the hands of each accounting officer or authority in national and provincial institutions. This enables them to manage their financial affairs within the parameters laid down by prescribed norms and standards. Section 76(4)c of the PFMA mandates the National Treasury to issue guidelines concerning the “determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective”. As much as the PFMA encourages transparency and accountability, the lines of the same accountability and responsibility are clarified. For example, section 38 (1) (a) (iii) clearly outlines the responsibility of accounting officers to maintain an appropriate procurement system that is fair, equitable, transparent, competitive and cost-effective.
2.5.1.3 The Preferential Procurement Policy Framework Act, Act 5 of 2000

Following the enactment of the Constitution and the PFMA, further important and applicable legislation was promulgated that stimulated the public sector procurement reform process. The purpose of The Preferential Procurement Policy Framework Act (PPPFA), No. 5 of 2000 (South Africa, 2000) and its associated Preferential Procurement Regulations (PPR), 2011, is to enhance the participation of black people and the small, medium and micro enterprises (SMMEs) in the public sector procurement system. Despite the constitutional principles and other relevant legislative frameworks, organs of state may still implement procurement policies to give preference in the “allocation of contracts and to protect or advance persons or categories of persons disadvantaged by unfair discrimination”. These policies are regulated by the Procurement Act, with the main objective to provide a framework for the implementation of procurement policies via the guidelines stipulated under the Act, which include a preference point system for the awarding of tenders (South Africa, 2000).

The PPPFA provides the enabling legislation for government institutions or entities to implement a preferential policy and gives effect to section 217(3) of the Constitution. The National Treasury has developed Preferential Procurement Regulations (PPR) that gives effect to section 217(3) of the constitution as published under Government Notice R502 of 06 June 2011 (South Africa, 2011b).

According to the new evaluation system contemplated in the updated PPR of 2011, preferences will be applicable to all tenders, irrespective of the amount. An 80/20-point system is applicable for tenders up to R1 000 000, while a 90/10 point system will be applicable for tenders above R1 000 000. For the first system a maximum of 80 points for price will be allocated to the lowest acceptable tender, while tenderers who tendered higher in price will score a lower number of points. A maximum of 20 points will be awarded to tenderers for achieving specified broad based black economic empowerment (BBBEE) contributor levels. The tender will be awarded to the tenderer who scored the highest number of total points. For tenders with a value above R1 000 000 a similar 90/10 point system is followed during the evaluation process where a maximum of 90 points will be scored by the lowest (price) acceptable tender and a maximum of 10 points can be scored for achieving specified broad based black economic empowerment (BBBEE) contributor levels (South Africa, 2011b:5-7).
2.5.1.4 **Broad-Based Black Economic Empowerment Act, Act 53 of 2003**

By the beginning of 2004 when the Broad Based Black Economic Empowerment Act (BBBEEA), Act 53 of 2003 was broadcasted, numerous sectors had drafted industry charters on black economic empowerment and transformation (South Africa, 2003). The intention of the BBBEEA is therefore to level the playing fields for all entities operating within the South African economy by providing clear and comprehensive criteria for the measurement of Broad-Based BEE. The BBBEE Act and the Codes of Good Practice, which were promulgated in terms of the Preferential Procurement Policy Framework Act, have a significant impact upon government departments and public entities in respect of the evaluation and the adjudication of contracts (South Africa, 2004a).

The objectives of the BBBEE Act are applied in line with the Codes of Good Practice, as published under Government Notice 112 of 09 February 2007. In terms of provisions of section 9(1) (a) to (f) of the codes, guidelines are given in the interpretation of the Act, the qualification criteria for procurement and measuring indicators are provided. The PPPFA’s contribution towards giving equal opportunities to economically disadvantaged individuals, and giving preference by means of specific scoring measurement tools have helped change the legislative landscape regarding procurement processes. While some of the legislative frameworks are applicable to the national and provincial spheres of government, the PPPFA is applicable in all three spheres of government (South Africa, 2007).

2.5.1.5 **The Municipal Finance Management Act, Act 56 of 2003**

Local government is a key part of the reconstruction and development efforts in South Africa. The aims of establishing a democratic society and growing the local economy inclusively can only be realised through a responsive, accountable, effective and efficient local government system that is part of a developmental state (Department of Planning, Monitoring and Evaluation, 2014). The cornerstone of the financial reform initiatives in local government was implemented through the Municipal Finance Management Act (MFMA), which became effective in July 2004 and aims to modernise budget and financial management, and to ensure greater transparency and accountability in the finances of municipalities (South Africa, 2003). The MFMA is the local government version of the PFMA, which regulates financial management in the national and provincial spheres of government. Both are unique to South Africa, and bring uniformity to financial management in all of government.
The level of service delivery to citizens and the degree to which local government’s socio-economic objectives are promoted directly depend on the degree to which supply chain management systems are implemented in municipalities. However, there is increasing concerns about the dysfunctional state of SCM in municipalities in South Africa and its negative impact on service delivery. Davids (2011:3570) outlines that municipalities are often held responsible for the lack of service delivery. This is evident, since municipalities are constantly taken to task due to their inability to achieve their core mandate: the delivery of basic services to the communities they serve. According to Miao, Tang, Xi and Liu (2011:1564), government institutions are pressurised to improve service delivery.

The MFMA specifies that every municipality must adopt and implement a SCM policy (Fourie & Opperman, 2011:332). As a result, the Minister of Finance, acting with the concurrence of the Minister for Provincial and Local Government, has in terms of section 168 of the MFMA, issued the Municipal Supply Chain Management (MSCM) Regulations on 30 May 2005 (National Treasury, 2005a). The MSCM regulations add substance to the framework provided by section 112 of the MFMA and also bring municipal procurement in line with the procurement practices of national and provincial spheres of government.

### 2.5.2 The implementation of procurement

Accounting officers and authorities must develop and implement an effective and efficient supply chain management system. They must also establish a separate supply chain management unit within the chief financial officer’s structure of the department or institution to deal with supply chain management (National Treasury, 2003b). This SCM system must be designed according to the service delivery objectives of the institution, for example, educational material, medical supplies, water, sanitation, refuse removal and electricity, which are fundamental inputs for social well-being.

According to Ambe (2009:430), both the documents “SCM: A Guide for Accounting Officers of Municipalities and Municipal Entities” and “SCM: A Guide for Accounting Officers/Authorities”, prescribed the various role players and structures assigned to implement SCM in their respective institutions. Table 2.2 shows the role players, their roles and responsibilities.
Table 2.2  Key officials and structures and their functions in public procurement in SA.

<table>
<thead>
<tr>
<th>Key roles players</th>
<th>Responsibilities</th>
</tr>
</thead>
</table>
| **National Treasury**  
(Office of the Chief Procurement Officer) | • Manage and maintain the regulatory environment relevant to government procurement practices,  
• effectively manage government transversal contracts so that cost savings and socio-economic objectives are achieved,  
• oversee and monitor government sector procurement practices to ensure compliance with the regulatory framework,  
• provide advisory services and  
• implement initiative that will improve the capability of government procurement practitioners,  
• research, develop and implement strategic procurement practices so that cost savings and socio-economic objectives are achieved. |
| **Provincial Treasuries** | • Procurement policy development,  
• procurement policy compliance,  
• procurement information management,  
• contract management and  
• general procurement support (advisory and training) to all provincial departments and delegated municipalities in the province. |
| **Accounting Officers and Authorities** | • Establish SCM unit in the relevant Chief Finance Officer’s structure,  
• approve SCM policy,  
• monitor policy outcomes,  
• ensure SCM practitioners are trained in accordance with Treasury guidelines,  
• comply with ethical standards,  
• prevent the abuse of the SCM system. |
| **Chief Finance Officer and SCM Units** | • Implement SCM,  
• compile SCM policy,  
• develop SCM procedures and processes,  
• recruitment and selection,  
• building capacity in SCM staff,  
• report to National Treasury and/or respective provincial treasury,  
• prevent abuse of the SCM system,  
• adhere to the highest ethical standards. |

Source: Ambe (2009:430)

A further compliance to the SCM policy is the implementation of a 3-bid committee system. The committees to be created include: the bid specification committee, the bid evaluation committee and the bid adjudication committee. Table 2.3 illustrates the 3-bid committees, their composition and responsibilities.
Table 2.3 Bid committee system and its functions in public procurement in SA

<table>
<thead>
<tr>
<th>Bid committee</th>
<th>Composition</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bid Specification Committee</td>
<td>One or more officials (end user department compulsory) from the procuring institution and may include external specialists; Chairperson to be appointed by Accounting Officer/Authority or delegated official.</td>
<td>• Compile specifications and terms of reference;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• determine preference point system;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• confirm availability of funds;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• determine special conditions of contract.</td>
</tr>
<tr>
<td>Bid Evaluation Committee</td>
<td>Multi-disciplinary team (SCM practitioner, technical expert, end user department); Accounting Officer/Authority or delegate to appoint chairperson and members.</td>
<td>• Evaluate all bid responses in accordance with approved criteria and preference points system;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• confirm preferred bidder’s tax matters are in order;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• check list of restricted bidders and database of tender defaulters;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• submit recommendation to Bid Adjudication Committee.</td>
</tr>
<tr>
<td>Bid Adjudication Committee</td>
<td>Comprises of at least four senior managers, including CFO, SCM practitioner and a technical expert. Appointments made by Accounting Officer/Authority or delegate.</td>
<td>• Consider recommendation from Bid Evaluation Committee;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Scrutinize all bid documentation;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Depending on delegation, may make final award or recommend to Accounting Officer/Authority to make final award or make an alternate recommendation.</td>
</tr>
</tbody>
</table>

Source: Ambe, 2009:430

The General Procurement Guideline issued by the National Treasury, serves as a prescription of standards of behaviour, ethics and accountability which is required from the public service. It further serves as a statement of the government’s commitment to a procurement system which enables the emergence of sustainable small, medium and micro businesses. These businesses will add to the common wealth of the country and the achievement of enhanced economic and social well-being of all South Africans. Proper and successful government procurement rests upon certain core principles of behaviour expected from the key role players. These core principles are best described as the pillars of procurement, because if any one of them is broken the procurement system falls down.

2.6 THE PILLARS OF SOUTH AFRICAN PUBLIC PROCUREMENT

According to Webb (2000:6-8), proper and successful government procurement rests upon certain core principles of behaviour, aptly termed the ‘pillars of procurement’. Figure 2.4 illustrates the pillars of procurement.
Figure 2.4 Pillars of good public sector procurement

The South African government used these pillars as guidelines on standards of behaviour, ethics and accountability which the public service is required to abide to in the procurement process (Horn & Raga, 2012:78). The ‘pillars of procurement’ calls for closer scrutiny, and are elaborated upon.

2.6.1 Value for money

Ambe and Badenhorst-Weiss (2011:1104) are of the opinion that public sector procurement is of strategic importance. It assists in ensuring improved efficiency and value for money when a particular public organisation seeks to perform procurement functions. The real added advantage of procurement, however, is derived from the competitive process. This process contributes to the lowering of costs for the organisation in delivering a service. Such savings can then be diverted to other basic services. By integrating procurement in public services, it plays the critical role of optimal logistical support and improved management of secondary inventory with the ultimate goal of achieving efficient financial management (Essig & Dorobek, 2006 cited in Ambe & Badenhorst-Weiss, 2011:04).

Value for money is an essential test against which a public institution must justify a procurement outcome. Price alone is often not a reliable indicator and procuring entities will not necessarily obtain the best value for money by accepting the lowest price offer that meets mandatory requirements. Best value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered. The procurement
function itself must also provide value for money and must be carried out in a cost-effective way. Procurement entities, whether centrally located or devolved to individual departments, should (i) avoid any unnecessary costs and delays for themselves or suppliers; (ii) monitor the supply arrangements and reconsider them if they cease to provide the expected benefits; and (iii) ensure continuous improvement in the efficiency of internal processes and systems (Munzhedzi, 2016:5).

2.6.2 Open and effective competition
Ericsson (2011:121) states that competition plays an important role in ensuring that the services that are provided by companies, to the end-users, are efficient and also add value. Essentially, competition in procurement should have desirable effects such as accessibility of procurement information to achieve marginal costs, reduced costs over time by competing suppliers and should promote innovation. Therefore, competition in procurement results in efficiency, effectiveness and significant cost reduction in services or goods provided.

Open and effective competition in public procurement requires:

(i) a framework of procurement laws, policies, practices and procedures that are transparent, i.e. they must be readily accessible to all parties;
(ii) openness in the procurement process; and
(iii) encouragement of effective competition through procurement methods suited to market circumstances.

Government institutions should strive to get the best possible outcome from the market. They should firstly ensure that potential suppliers have reasonable access to procurement opportunities. Available opportunities must be notified in the Government Tender Bulletin. Procurement methods should also be used to recognise where market circumstances limit competition and to eliminate favouritism. The adequate and timely information enable suppliers to bid and the costs of bidding should not deter competent suppliers. The costs incurred in promoting competition must at least commensurate with the benefits received (Livhuwani, 2012:18-19).

2.6.3 Ethics and fair dealing
MacDonald (2010:1) defines ethics as “the critical, structured examination of how we should behave – in particular, how we should constrain the pursuit of self-interest when our action affect others”.

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In the public sector, there is a specific ethical standard that clearly demonstrate the roles and responsibilities of each person (Fourie, 2009:631). Such a standard can be defined in a code of conduct. According to a set of best practice guidelines such as the Guide for Accounting Officers in terms of Supply Chain Management and the National Treasury’s Code of Conduct, all procurement practitioners and other key actors must comply with the highest ethical behaviour. If all parties comply with ethical standards, dealings can be done on a basis of mutual trust and respect and business can be conducted with integrity in a fair and reasonable manner (Fourie, 2009:631).

Livhuwani (2012:18-19) points out that all government employees involved in procurement, particularly those dealing directly with suppliers or potential suppliers, are required to:

(i) recognise and deal with conflicts of interest or the potential therefore;
(ii) deal with suppliers even-handedly;
(iii) ensure they do not compromise the standing of the state through acceptance of gifts or hospitality;
(iv) be scrupulous in their use of public property; and
(v) provide all assistance in the elimination of fraud and corruption.

2.6.4 Accountability and reporting

The Transparency Accountability Initiative (2015:1) defines accountability as “ensuring that officials in public, private and voluntary sector organisations are answerable for their actions and that there is redress when duties and commitments are not met”.

Folscher (2010:11) refers to accountability as the process in which actors are held responsible for their actions. More specifically, it is the concept that individuals, agencies and organisations, whether public, private or a civil society, are held responsible for executing their powers according to a certain standard (whether set mutually or not). Accountability is a regular, established and accepted relationship between different actors. One group of people/organisations are held to account (‘accountees’), by other groups (‘accounters’) (Folscher, 2010:41). Accountability in public procurement thus ensures that individuals and organisations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability (Viljoen, 2011:19).
2.6.5 Equity

Essentially procurement management involves making sound decisions in response to customer needs. Bolton (2007:49) is of the view that fairness in decision-making during the different stages, processes and relationships of public procurement is linked to the principle of equity. This implies that the organisations involved in a procurement process should maintain good working relationships that do not seek to discriminate or unfairly justify their actions to achieve a competitive advantage. Therefore, the principle of equity highlights the balancing of measures to prevent discriminatory conditions between the suppliers and service providers in the procurement processes and ensures that government contracting as a whole adds value to those in need.

The preceding discussion clearly illicit the pillars of good procurement management. It thus becomes imperative to highlight the characteristics of good procurement management that support the principles of Open Contracting as illustrated in Table 2.4.

Table 2.4. Characteristics of the pillars of procurement

<table>
<thead>
<tr>
<th>Pillars of good public procurement</th>
<th>Key characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value for money</td>
<td>The right goods or services are bought at the right price, in the right quantity, with the right quality and delivered to the right place at the right time. Value for money does not mean accepting the lowest price, but rather the lowest acceptable price. Avoid unnecessary costs and delays, monitor supply arrangements and reconsider those suppliers if they cease to provide the expected benefits.</td>
</tr>
<tr>
<td>Open and effective competition</td>
<td>A framework of procurement laws, policies, practices and procedures are readily accessible to all parties. There should be openness in the procurement process and effective competition encouraged while observing the provision of the Preferential Procurement Policy Framework Act. All potential suppliers have reasonable access to procurement opportunities; have access to adequate and timely information that enables them to bid. The procurement process should be free of favouritism; bias and the cost of bidding should not deter competent suppliers from bidding. Costs incurred in promoting competition should equal the benefits received.</td>
</tr>
<tr>
<td>Ethics and fair dealing</td>
<td>All procurement dealings are based on mutual trust, respect, and business is conducted in a fair, reasonable manner with integrity. Recognise and deal with conflicts, treat suppliers equally and not comprise the standing of the state by accepting gifts or hospitality. Public officials must be scrupulous in the use of public property and assist in the eradication of fraud and corruption.</td>
</tr>
</tbody>
</table>
### Pillars of good public procurement

<table>
<thead>
<tr>
<th>Key characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accountability and reporting</strong></td>
</tr>
<tr>
<td>Individuals and organisations must be accountable for their plans, actions and outcomes.</td>
</tr>
<tr>
<td>Accountability promotes openness and transparency in administration by external scrutiny through public reporting.</td>
</tr>
<tr>
<td>Heads of departments are accountable to their ministers for the overall management of procurement activities.</td>
</tr>
<tr>
<td>Heads of procurement and procurement directors are accountable to heads of department for various high level management and coordination activities.</td>
</tr>
<tr>
<td>Procurement officers are accountable to heads of procurement and to their clients for the services they provide.</td>
</tr>
<tr>
<td><strong>Equity</strong></td>
</tr>
<tr>
<td>The application and observance of government policies which are put in place to advance persons or categories of persons disadvantaged by historical unfair discrimination.</td>
</tr>
<tr>
<td>It ensures that government is committed to economic growth by implementing measures to support the development of small, medium and micro enterprises (SMME’s) and Broad-based Black Economic Empowerment (BBBEE).</td>
</tr>
<tr>
<td>The Preferential Procurement Policy Framework Act (PPPFA) is the basis of which all procurement activities should advance the development of SMME’s and BBBEE.</td>
</tr>
</tbody>
</table>

The pillars of procurement, also form the foundation of the supply chain management system implemented in Government (Treasury Regulation 16A3.2a), that states that, “a supply chain management system must be fair, equitable, transparent, competitive and cost effective”. These pillars are sometimes compromised because of corruptive practices in public sector procurement.

### 2.7 CORRUPTION IN PUBLIC SECTOR PROCUREMENT

Transparency International (2009) defines corruption as the abuse of entrusted power for private gain. Private gain must be interpreted widely to include gains accruing to the government official, his or her family members, close friends, political party, favourite charity, hometown or a corporate or other entity in which the official or the official’s family or close friends have a financial or social interest.

#### 2.7.1 General overview of corruption in public sector procurement

According to Kalubanga, Kakwezi and Kayiise (2013:17) “Fraud and corruption are a widespread problem in procurement all over the world”. Tamukamoyo (2013:10) reminds us that corruption is not just an occurrence that plagues the public sector but that the private
sector was also found to be guilty of corruptive practices. In June 2013 South Africa’s Competition Commission fined 15 influential construction companies a total of R 1.46 billion for tender rigging (Competition Commission, 2013). According to Tamukamoyo (2013:10), “There is widespread belief that the level of corruption in South Africa has worsened significantly over the past few years”. For example, on Transparency International’s Corruption Perceptions Index, the country dropped 31 places from a ranking of 38 in 2001 to 69 in 2012 (Transparency International, 2012:3).

Open Contracting is key to the fight against corruption. Open Contracting’s premise is that more open and transparent public contracting procedures are more likely to deter corruption and expose mismanagement of public resources. Public contracting is one of the most crucial government functions to deliver public services and fulfil the rights and needs of citizens. When governments buy goods or services efficiently, public services are successfully delivered and all society benefits.

2.7.2 Basic principles to curb corruption in public sector procurement

Global public procurement spend is estimated to be worth 9.5 trillion US dollars, but according to Transparency International (TI) a fifth to a quarter of this is lost to corruption each year (Transparency International, 2014:4). The NGO’s recently published Guidelines on Public Procurement (Transparency International, 2014) suggests five steps for governments to address the risk.

- **Simple transparency** – the greater the secrecy surrounding the tender process, the greater the risk of a corrupt process. Transparency measures allow the public to hold contracting authorities to account. TI recommends that authorities make details public and that it should be available online. Such details include plans, budgets, technical specifications, selection criteria, evaluation process, award decision, the contract, audit reports and dispute settlement mechanisms. Stakeholders should be informed and consulted, while “off the books” accounts should be prohibited (Transparency International, 2014:15).

- **Integrity pacts** – for significant procurements, for instance major construction projects, the contracting authority and bidders should sign integrity pacts, committed to preventing corruption and following transparent procurement processes. The pacts could contain anti-bribery statements, disclosure of payments and agreed sanctions if
the pact is broken. Since 2013 more than 300 contracts in countries such as Pakistan, Colombia and Mexico have included similar pacts (Transparency International, 2014:27).

- **Appeals process** – a robust, independent and effective process for handling complaints from the public and aggrieved bidders should be in place. Its measures must be simple and decisions made quickly. The system should be independent and allow sufficient time for bidders to challenge an award decision. There should also be whistle-blowing procedures, to enable employees to report wrongdoing without fear (Transparency International, 2014:14).

- **Open, competitive bidding** – all contracts should be subject to open and competitive tendering and exceptions should be limited, with any justification made to the public. A blanket policy reduces the need to make decisions on a procurement-by-procurement basis and an open process means no bidders receive special treatment. Standard bidding documents also help to create a level playing field (Transparency International, 2014:17).

- **Use of e-procurement** – technology offers cost and time efficiencies and can also reduce the threat of corruption and enhance competition. Automated systems reduce the opportunity for individuals and personal relationships to influence the process. They also enhance monitoring and improve transparency. TI warns however, that care must be taken with the design and use of such a system to ensure accountability (Transparency International, 2014:28).

### 2.8 TRENDS AND DEVELOPMENTS IN SOUTH AFRICAN PUBLIC SECTOR PROCUREMENT

Dza, Fisher and Gapp (2013) critically discussed procurement reforms in Africa to understand the strides, challenges and improvement opportunities. The authors contended that improvements in public procurement could have a direct and beneficial effect on the overall economic opportunities in developing countries.

In South Africa, public procurement has become a major focus area of the National Treasury, RSA (National Treasury, 2015). The critical procurement review report released in February 2015 represents major changes in the future outlook and a candid acceptance of the key failings experienced in the democratic roadmap. Procurement has been tagged as a red flag
risk area over consecutive multi-year periods requiring a major overhaul across the country. It has been accepted that the public procurement practices in South Africa cannot thread along the same pathway that was walked in previous years.

In order to gain a grounded perspective of the strategic analysis and repositioning of South African public procurement moving forward, it is necessary to articulate the key National Treasury findings. The analysis done in this study, on the procurement practices of the South African public sector, will lack completeness and context if not firmly placed in alignment to National Treasury’s 2015 Public Sector SCM reform process, due to the critical impact of their findings. This study does not support the “business as usual” procurement model nor any failings to deliver basic services to citizens. However, this study understands the importance of leveraging public sector procurement as a key strategic driver for socio-economic growth (National Treasury, 2015:4-5).

According to National Treasury (2015:6) a draft Supply Chain Management Bill is being prepared by the National Treasury to govern the functions of the new Office of the Chief Procurement Officer (OCPO). An OCPO has been set-up within the National Treasury and has identified the six functional areas as follows:

- Functional Area 1: Governance, monitoring and compliance;
- Functional Area 2: SCM client support;
- Functional Area 3: Strategic sourcing;
- Functional Area 4: Policy, norms and standards;
- Functional Area 5: Contract management;
- Functional Area 6: ICT, e-procurement and data management

Aligned to the Section 217 Constitutional mandate, government hopes that the procurement reform process will gain benefit on ground level as follows:

- Good quality service delivery will be increasingly possible with significant improvements of the welfare of South Africa’s citizens and especially the poor who rely heavily on government for support;
- The economy will grow as the economic infrastructure is expanded and efficiently maintained;
- Good, services and infrastructure will be bought at lower costs;
• Innovation to result in different approaches to the SCM processes;
• For suppliers, the cost of doing business with the state should decrease substantially.

The National Treasury identified the need to critically improve transparency within the procurement system as an element to enhance planning, accountability and oversight. Mhlongo (2014) performed a considered procurement analysis of transparency within metropolitan municipalities after expressed concern that only nine out of 278 municipalities received clean audits in the 2011/12 financial years. These findings posed an immense challenge for all municipalities to attain the goals of Operation Clean Audit by 2014. The study findings reflected that transparency is one of the requirements to ensure an effective and efficient procurement system. Lack of transparency was determined to be a root cause of abuse within the identified metropolitan municipality procurement process relating to tender irregularities and failure to disclose conflict of interest when tenders are awarded.

The National Treasury reflects that the 2008 recession created a sharp rise in government debt from R450 billion to R1.4 trillion in 2013/14. Government spending needed to be re-prioritised and ways to improve efficiency considered. Public sector spending for procurement reached R500 billion in the 2013/14 financial year mainly directed towards goods, services and construction works. Procurement is currently in a fragmented state and requires focused intervention to serve the greater good of the country. Government will be aligning their SCM reform process to the National Development Plan.

2.9 CONCLUSION

The Auditor-General South Africa (AGSA) consistently encourages role players to urgently address weaknesses in the procurement processes. The quality of the annual performance, however, did not improve as was evident in the Auditor-General Report (2012:69). It is well known that public sector procurement in South Africa is imperfect. There are constant allegations of corruption and inefficiency. Service delivery protests are a sign that people feel that they are not receiving the quantity or quality of services they need. Schools, for instance, sometimes open at the start of the year without learner support materials (National Treasury, 2015:4). Ambe and Badenhorst-Weiss (2012:11004-11014) concluded that “…there is no proper implementation and supply chain management has not achieved its objectives of good governance…” and that “supply chain management implementation in many government
entities is far from satisfactory”.

The priority targets of the National Development Plan (National Planning Commission, 2011:39) include a corruption free society, high adherence to ethics and a government that is accountable to its people. With this in mind, the improvement and oversight in public procurement is explicitly addressed. Since corruption remains an impediment to the progressive development in South Africa, measures must be introduced to support the implementation of anti-corruption policies. These include the principles on openness and transparency in the public sector.

Against the background to the problem statement of this study, the aim is to seek answers to the main research question: “Can the procurement system, designed for the South African public sector, adopt the principles of Open Contracting?” This study, will therefore, determine whether the principles of Open Contracting could improve disclosure and public participation in public sector procurement in South Africa, resulting in an efficient and effective procurement system.
CHAPTER THREE
THE ENQUIRY CONTEXT: OPEN CONTRACTING

3.1 INTRODUCTION
This chapter explores the concept of Open Contracting in order to understand how it can support governments to achieve good public procurement management. It begins with contextualising the concept of Open Contracting, with a brief overview of disclosure and public participation in the public procurement processes. The organisation and aims of the Open Contracting Partnership (OCP) are then discussed. Next the conformity of the South African public procurement system and applicable legislation are assessed against the international principles of Open Contracting by a critical review of selected South African laws that support disclosure and public participation. The chapter concludes with a theoretical framework and the benefits and that can be gained by implementing the principles of the Open Contracting initiative. Within the framework of this study, Open Contracting refers to the pro-active disclosure of procurement information with open access to the public free-of-charge.

3.2 WHAT IS OPEN CONTRACTING?
Open Contracting (OC) is a growing global concept that aims at increasing disclosure and public participation at all stages of government contracting. It asserts that contracting that is more transparent will help ensure that public resources are managed effectively and that citizens receive the services and goods they deserve. OC will help communities understand how government contracts are awarded and inevitably expose any irregularities in the evaluation and awarding thereof. Gatjen (2014:8) eloquently summarises Open Contracting as “…the proactive publication of government contracts”.

Open Contracting practices can be implemented at all levels of government and can apply to all public contracting, including contracts funded by combinations of public, private and donor sources. It is increasingly recognised that ‘procurement integrity’ is required for governments to be held accountable for the use of public resources (Organisation for Economic Cooperation and Development, 2007:157).
Disclosure and participation are critical tools to improve the management of public resources. OC refers to norms and practices for increased disclosure and participation in public contracting. It covers the entire process, including

- formation,
- award,
- execution,
- performance and completion of public contracts,
- the full range of contract types, from basic procurement to joint ventures,
- licenses and
- production sharing agreements.

Figure 3.1 illustrates the application of Open Contracting Data Standards (OCDS). It indicates regular stand-alone releases of data and documents, provides information about the specific stages of a procurement process, with a snapshot record of the full contracting process and its history.

**Procurement information releases**

Open Contracting Data Standards (OCDS) can be used to share procurement data on:

- Key dates
- Contract values, budget and spending
- Contract line items and their classification
- Buyers, suppliers and organisations involved
- Geographical location of projects
- Milestones and performance of contractors

**Figure 3.1 Application of Open Contracting principles**

Source: Open Contracting Partnership (2015:14-15)
The public procurement process starts with identifying and defining (planning) the need, followed by the compilation of the tender specification (goods) or terms of reference (service). Further, the approved request for proposal (RFP) is publicised in various platforms (i.e. online, print media, notice boards). Prospective bidders are then invited to submit their offers on a stipulated closing date and time. All tenders received on time are evaluated and adjudicated to determine and appoint the winning company. Finally, the contract is implemented and completed with contract records available for audit and verification purposes. OC can therefore be used to improve the entire procurement process from the time the need arises until the contract has been completed (Gatjen, 2014:9).

### 3.2.1 Benefits of Open Contracting

Governments rely on contractual arrangements to provide public goods and achieve development goals. Such contractual arrangements face similar challenges of governance and transparency at all stages of the contract management process. Due to a lack of knowledge, capacity and technical expertise, poor access to information or corrupt individuals operating in their own interest within a weak public and institutional environment often lead to citizens not getting the full value of these deals (Chene, 2008:2).

Against this backdrop, contract transparency and openness is expected to result in better value for money, reduced corruption, increased service delivery and better development outcomes. While this is an emerging area, there are relatively few studies specifically focusing on the impact of Open Contracting on public procurement. According to a World Bank Institute (WBI) review of the disclosure approached in seven countries (the UK, South Africa, Chile, Peru, India, Australia and Brazil), the extent of disclosed information greatly varies across countries (WBI, 2013). While some countries disclose information reactively when requested by the public, others, such as Chile and Peru, have taken critical steps towards full proactive disclosure of contract information with regular publication of contract and implementation details.

### 3.2.1.1 Public interest in accessing contracting information

There is a clear public interest in published contract details, such as information relating to the use of taxpayers’ money, how it is being allocated and distributed. Corruption and the lack of transparency in the procurement processes are detrimental to the taxpayer who ends up paying more for less (Evenett, 2003:2). Contracts specify the exact details of deliveries
and contain critical information. This can then be compared to the original tender documents, implementation data and final outputs, allowing third parties to monitor the contracting process for maximisation of resource use (Kenny, 2010:9). Greater transparency in contracts should increase accountability, by enabling taxpayer’s control over the use of public resources.

### 3.2.1.2 Economic benefits

Research on this topic remains relatively scant. There is anecdotal and micro-evidence of the economic benefits of procurement transparency and oversight mechanisms on corruption. Opaque bidding processes tend to discourage bidders from participating in procurement processes, leaving government dependent on bids from a small group of firms, with a higher contract process, lower quality of goods and services and common delays and cost overruns (Evenett, 2003:9).

In contrast, improved transparency tends to divert government procurement expenditure away from goods and services that could involve bribery. It also increase the number of suppliers involved in the procurement process (Evenett & Hoekman, 2005:180). Open Contracting can thus lead to the more efficient allocation of resources as governments can purchase goods and services of better quality at the lowest acceptable price through increased competition and higher quality procurement. For example, the Guatemala Ministry of Health reports a saving of 43% in purchasing medical supplies through more transparent procurement processes while the Columbian Ministry of Defence generated a 47% saving in the procurement of military goods (OECD, 2003:8).

The benefit for companies is that transparent contracting lowers investment risks and reduces costs of accessing relevant information. This leads to more informed decision making on whether to respond or not. In building companies’ confidence in participating in procurement processes and yielding stronger competition, transparent procurement also help enhance the efficiency of suppliers, foster more innovative approaches to production and promote wider access to more dynamic local markets (OECD, 2003:8). Some further research by Evenett and Hoekman (2005:163) suggests that greater domestic competition on procurement markets and greater transparency is likely to improve economic welfare.
To give effect to the problem statement, this study investigates disclosure and public participation, particularly with regards to the current procurement processes in the public sector in South Africa. The aim is to gain an understanding of the conformity of the South African public procurement system with the global principles of Open Contracting. In the next section of this chapter, the key elements of the concept of Open Contracting is aligned to the South African public procurement system to determine its conformity to Open Contracting principles.

Open Contracting comprises of two key principles, namely, disclosure and public participation (WBI, 2012:1). These principles reflect the belief that contracting will be more competitive and fair, contract performance will increase and that development outcomes will be secured. While recognising that legitimate needs for confidentiality may justify exemptions, these principles are intended to guide governments and other stakeholders to affirmatively disclose documents and information related to public contracting in a manner that enables meaningful understanding. It must further allow effective monitoring, efficient performance and accountability for outcomes. These principles are to be adapted to sector-specific and local contexts and are complementary to sector-based transparency initiatives and global open government movements.

3.3 THE CHALLENGE BEFORE US: DISCLOSURE AND PUBLIC PARTICIPATION IN PUBLIC PROCUREMENT PROCESSES

Contracts are fundamental to how governments generate and spend public funds. Investments and agreements that governments enter into on behalf of citizens, as well as services, goods and projects that governments deliver to citizens, typically involve a procurement process that eventually concludes in a contract. In all countries – whether rich or poor – (procurement) contracts are the nexus of revenue generation, budget planning, resource management and delivery of public goods. It plays a vital role in the financial health of a country and the lives of its citizens by generating revenue and providing essential goods, works and services. Public contracts cover all economic sectors and types of agreements, including procurement, licenses, concessions and the sale of public property.

It is therefore critical that public contracts should be fairly awarded and offer good value-for-money. Open and transparent procedures for the award of public contracts ensure fairness
and reduce corruption (WBI, 2012:30), encourage participation and lead to accountability. As a working definition in this study:

- **Transparency** means the public understands the workings of their government.
- **Participation** means public can influence the workings of government by engaging with public policy processes and public service providers.
- **Accountability** means the public can hold the government to account for its policy and service delivery performance.

In Armstrong (2005:1) “transparency refers to the unfettered access by the public to timely and reliable information on decisions and performance in the public sector”. In order to achieve transparency in the public procurement process, the principles of Open Contracting should be included at all stages of the procurement process. Ensuring competition and equal access, probity and accountability, however, depends upon making the public procurement process as transparent as possible (Jones, 2007).

Kopits (2000) agrees with Jones (2007) in that fiscal transparency should display openness towards the public relating to all aspects of government structure, its functions, its fiscal policy intentions and projections, by having reliable and timely information available. Citizens, media and civil society want to know, for instance, why a school was not built, why medicines are so expensive, why a road is in disrepair after only one year, or how many local workers the new mine will be hiring (Open Government Partnership, 2011:1). To answer this kind of questions requires access to information contained in contracts and documents related to procurement and performance. In many countries, however, there is limited public information on the details of contracts and the responsible parties. Sometimes even parliamentarians and supreme audit institutions are prevented by confidentiality clauses from understanding how the government is allocating public resources. Likewise, there are few chances for citizens to monitor public contracts.

### 3.3.1 Disclosure

The Open Government Partnership (OGP, 2015a) defines disclosure as “the requirement that particular categories of people and organisations report specific information to an agency”. According to Folscher (2010:41), information disclosure is a characteristic of governments, companies, organisations and individuals that are open and transparent in information, rules,
plans, processes and actions. As a principle, public officials and civil servants have a duty to act visibly, predictably and understandably to promote participation and accountability. Simply making information available is not sufficient to achieve transparency. Large amounts of raw information in the public domain may breed opacity rather than transparency. A number of qualifying criteria must therefore be added to the definition (Folscher, 2010:41).

Folscher (2010:41) provides the following guidelines when managing and publishing information:

- **Relevant and accessible:** Information should be presented in plain and readily comprehensible language and formats appropriate for different stakeholders, whilst retaining the detail necessary for analysis, evaluation and participation. Information should be made available in ways appropriate to different audiences and at minimal or no cost.

- **Timely and accurate:** Information should be made available in sufficient time to permit analysis, evaluation and engagement by relevant stakeholders. This means that information needs to be provided while planning as well as during and after the implementation of policies and programmes. Information should be managed so that it is up-to-date, accurate and complete.

The Open Contracting global principles for disclosure in public procurement (OGP, 2015b), are based on the following preamble:

- Governments shall recognise the right of the public to access information related to the formation, award, execution, performance and completion of public contracts.
- Public contracting shall be conducted in a transparent and equitable manner, in accordance with publicly disclosed rules that explain the functioning of the process, including policies regarding disclosure.
- Governments shall require the timely, current and routine publication of enough information about the formation, award, execution, performance and completion of public contracts to enable the public, including media and civil society, to understand and monitor as a safeguard against inefficient, ineffective or corrupt use of public resources.
- Information shall be available concerning contract formation, including the planning process of the procurement; the method of procurement or award and the justification
thereof; the scope and specifications for each contract; the criteria for evaluation and selection; the bidders or participants in the process, their validation documents, and any procedural exemptions for which they qualify; any conflicts of interest uncovered or debarments issued; the results of the evaluation, including the justification for the award; and the identity of the contract recipient and any statements of beneficial ownership provided.

- Information related to performance and completion of public contracts, including information regarding subcontracting arrangements shall be available.
- Governments shall develop systems to collect, manage, simplify and publish contracting data regarding the formation, award, execution, performance and completion of public contracts in an open and structured format, in accordance with the Open Contracting Data Standards as they are developed, in a user-friendly and searchable manner.
- Contracting information made available to the public shall be as complete as possible, with any exceptions or limitations narrowly defined by law, ensuring that citizens have effective access to recourses in instances where access to this information is in dispute.
- Contracting parties, including international financial institutions, shall support disclosure in future contracting by precluding confidentiality clauses, drafting confidentiality narrowly to cover only permissible limited exemptions, or including provisions within the contractual terms and conditions to allow for the contract and related information to be published.

### 3.3.2 Public participation

According to the International Association for Public Participation (IAPP, 2015), public participation means to involve those who are affected by a decision in the decision-making process. It promotes sustainable decisions by providing participants with the information they need to be involved in a meaningful way and it communicates to participants how their input affects the decision. The practice of public participation might involve public meetings, surveys, open houses, workshops, polling, citizen’s advisory committees and other forms of direct involvement with the public.

Folscher (2010:41) suggests public participation is understood generally either as consultative participation or as empowered participation. In the case of consultative
participation, the government provides citizens and their representatives with (or citizens through their activities create) opportunities to be heard, but there is no guarantee that participation will be heeded. Decision-makers have the freedom to agree with citizens or not, though there is normally an obligation to give the reasons for which they agree or disagree.

In the case of empowered participation, the participants are invested with decision-making power and influence, such as having citizen representatives on boards that oversee local public service delivery. Citizens may participate through local associations, social movements and campaigns, formal participatory governance spaces and multiple approaches, which employ several of these strategies. Participation is key to making transparency and accountability directly meaningful to citizens.

The Open Contracting global principles for public participation in public procurement (OGP, 2015b), are based on the following preamble:

- Governments shall recognize the right of the public to participate in the oversight of the formation, award, execution, performance and completion of public contracts.
- Governments shall foster an enabling environment, which may include legislation that recognises, promotes, protects and creates opportunities for public consultation and monitoring of public contracting, from the planning stage to the completion of contractual obligations.
- Governments shall work together with the private sector, donors and civil society to build the capacities of all relevant stakeholders to understand, monitor and improve public contracting and to create sustainable funding mechanisms to support participatory public contracting.
- Governments have a duty to ensure oversight authorities, including parliaments, audit institutions and implementing agencies, to access and utilize disclosed information, acknowledge and act upon citizen feedback and encourage dialogue and consultations between contracting parties and civil society organisations in order to improve the quality of contracting outcomes.
- With regards to individual contracts of significant impact, contracting parties should craft strategies for citizen consultation and engagement in the management of the contract.
In order to address the challenges of disclosure of procurement information and public participating at all stages of public procurement, it became imperative to form an Open Contracting Partnership (OCP).

3.4 THE OPEN CONTRACTING PARTNERSHIP

The main reasons for founding the Open Contracting Partnership was to develop and promote the implementation of the Open Contracting global principles. It further develops open data standards for disclosure of contracting information and advocate the importance of Open Contracting (Gatjen, 2014:8).

The Open Contracting Partnership (OCP) is a collaborative effort, seeking to enhance the promotion of disclosure and participation in public contracting. The main reason for founding the OCP is that wastefulness, mismanagement, inefficiencies and corruption are very likely to occur in public contracting (Beth, 2007; Messick, 2011). According to Gatjen (2014:8), “A lack of information about the way contracts are formed, the contents of the government’s agreements, the progress of the agreements’ performance and knowledge of government oversight mechanisms can reinforce the above-stated negative occurrences”. Therefore, the Open Contracting Partnership develops and promotes the implementation of the Open Contracting global principles and open data standards for disclosure of contracting information. It also supports practitioners with training, resources, seed funding, coaching, coalition and network building, whilst building evidence for Open Contracting (Marchessault, 2013).

The OCP was designed by a diverse collective. Its objectives, progress areas and structure were co-developed over an 18-month process that involved conversation, meetings and working sessions with some 200 stakeholders from around the world. The most recent of these stakeholder gatherings was held in Johannesburg, South Africa in October 2012, and convened 140 representatives from governments, private sectors, civil society and media for the First Global Meeting on Open Contracting (Gatjen, 2014:8).

3.4.1 Involved institutions: Open Contracting steering group

The World Bank Initiative (WBI) is chair of a steering group that runs the Open Contracting Partnership. There are diverse members within the steering group; some have a government
background, whilst others are from non-governmental organisations, representatives of the private sector and civil society.

- **World Bank Institute (WBI)** supports the World Bank’s operational work and its country clients by forging new dynamic approaches to capacity development. WBI offers three areas of support to its developing-country clients: Open Knowledge, Collaborative Governance and Innovative Solutions (Open Contracting Partnership, 2015:11).

- **Transparency International (TI)** has made it their mission to stop corruption and promote transparency, accountability and integrity at all levels and across all sectors of society. TI’s core values are: transparency, accountability, integrity, solidarity, courage, justice and democracy (Open Contracting Partnership, 2015:11).

- **Integrity Action** is an independent non-governmental organisation that works with governments, businesses and civil society. Their aim is practical solutions to implement integrity (Open Contracting Partnership, 2015:11).

- **Deutsche Gesellschaft fur Inernationale Zusammenarbeit (GIZ)** offers customised solutions to complex challenges. GIZ is an experienced service provider and assists the German Government in achieving its objectives in the field of international cooperation. They offer demand-driven, tailor-made and effective services for sustainable development (Open Contracting Partnership, 2015:11).

- **Oxfam America** is a member of the Oxfam International Confederation. There is a total of 17 organisations, networking together in more than 90 countries, to build a future free from injustice and poverty. Oxfam works directly with communities and seeks to influence the powerful regarding the poor, striving to improve their livelihoods and giving them a say in decisions that affect them (Open Contracting Partnership, 2015:11).

- **Colombia Compra Eficiente** is the National Procurement Agency of Colombia. Its main objective is to develop procurement policies and tools oriented to organise public procurement processes to optimise the state’s resources and promote transparency (Open Contracting Partnership, 2015:11).

- **Construction Sector Transparency Initiative (CoST)** is a country centered multi-stakeholder initiative, designed to promote transparency and accountability in publicly financed construction. The core belief is that the process involved in the construction of public infrastructure must become more transparent. The public must
be armed with relevant information in order to hold decision makers accountable and to ensure better value for money in the construction sector (Open Contracting Partnership, 2015:11).

- *The Philippines Government Procurement Policy Board* is the principal body responsible for procurement policy formulation and monitoring of effective public procurement reform. It aims to promote good governance and transparency in government (Open Contracting Partnership, 2015:11).

### 3.4.2 Objectives of the Open Contracting Partnership

One of the main objectives of Open Contracting is to ensure that public sector decision makers can be held accountable for their actions and decisions in the procurement process. The other main objective is for the public sector to be open and transparent in their procurement processes. The third aim is for public procurement processes to be fair and achieve value-for-money. The fourth aim is for government information to be readily available and easily accessible (Gatjen, 2014:9).

### 3.5 OPEN CONTRACTING DEVELOPMENTS IN AFRICA

Innovations are emerging and creativity is being unlocked across the African continent to implement Open Contracting and achieve its core objective of making public contracting more open and transparent. The following are examples of countries where the implementation of Open Contracting is progressing:

**South Africa:** The Office of the Chief Procurement Officer (OCPO) in the National Treasury has introduced the central supplier database (www.csd.gov.za). This reduces the administrative burden on both the supplier and the administrator. The OCPO has also led the compulsory implementation of the e-Tenders portal (www.etender.gov.za), which is expected to save the government ZAR400m (almost US$3m) a year in advertising costs for procurement notices (National Treasury, 2016:6).

**Zambia:** According to Marchessault (2013), the government of Zambia is championing Open Contracting. The World Bank and the Open Contracting Partnership are supporting the development of a new e-procurement system that allows the publication of open procurement data in accordance with the Open Contracting Data Standard.
Nigeria: In Nigeria, civil society is taking the lead in developing powerful analysis tools for public contracts. The Budeshi platform aims to make the processes through which public services are delivered, available for public scrutiny. Budeshi also connects procurement data to the government budget as well as to public services (Nyager, 2016).

Uganda: A MoU has been signed between the Public Procurement Authority and the Uganda Contracts Monitoring Coalition to ensure transparency and accountability in public contracts (Lamech, 2015).


Regional: The Africa Freedom of Information Centre (AFIC) has long been using access to information requests to monitor public contracts and investigate the misappropriation of public funds. Recently it has started working on Open Contracting as a proactive form of disclosure, establishing a working group to promote Open Contracting in Africa (Africa Freedom of Information Centre, 2015:11).

3.6. OPEN CONTRACTING AND ITS CONFORMITY TO THE SOUTH AFRICAN PUBLIC PROCUREMENT SYSTEM

An important objective of reforming South Africa’s system must be to make procurement information accessible to suppliers and purchasers alike. This will enhance planning, accountability and oversight. Open Contracting is a powerful tool that can be used to combat corruption and ensure good governance, value for money and good-quality service delivery (National Treasury, 2015:1).

Legislation supporting public procurement, disclosure of procurement information, public participation in the procurement process and anti-corruptive measures within the procurement environment are important aspects of any public sector procurement system that will support Open Contracting practices and thus are critically discussed below.
3.6.1 Legislations supporting Open Contracting in South African Public Procurement

The legal and policy framework for procurement in South Africa is very complex. There are more than 80 different legal instruments regulating public sector procurement (National Treasury, 2015:12). These laws and regulations are implemented through a large number of independent statutory instruments, with some catering for specific procurement practices and others for particular sectors or industries. Section 217 of the Constitution provides the framework for public procurement. Under the heading, Procurement, Section 217. (1) “When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective”

However, each accounting officer within procuring entities is responsible for developing its own procurement policy in accordance within the applicable procurement framework established by the National Treasury. Over the years, this framework has become increasingly complex (National Treasury, 2015:10-11).

There are specific provisions for the application of disclosure and public participation in some of the legislation. South African laws regulate some aspects on disclosure and public participation. The contents relating to these principles form the basis for this study and will be evaluated in chapter 4 and discussed in the next section and other chapters.

3.6.2 Disclosure

The above discussion relating to applicable procurement legislation sets the regulatory framework for the ensuing discussion on disclosure.

Open Contracting principles call for the timely, current and proactive disclosure of documents and data related to public contracting (Gatjen, 2014:2). The legal framework in South Africa strongly states the right of the public to access state information, including contract information. In the South African Constitution, under the heading Access to Information, Section 32(1) “Everyone has the right of access to (a) any information held by the state; and (b) any information held by any other person that is required for the exercise or protection of any rights.” The law does not prohibit the disclosure of contracting information and furthermore, in many instances, publication of contracts and procurement information is
expressly required, particularly at the municipal level (Constitution, 1996:15; South Africa, 2003:67).

Relevant provisions of the Constitution, the Promotion of Access to Information Act and the Promotion of Administration Justice Act strongly support transparency with specific disclosure (publication) and participation requirements (especially at the municipal level). For example, the treasury procurement guidelines state that open and effective competition requires (a) a framework of procurement laws, policies, practices and procedures that is transparent, i.e. they must be readily accessible to all parties; and (b) openness in the procurement process; and that accountability involves ensuring that individuals and organisations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability (Horn & Raga, 2012:78; Livhuwani, 2012:18-19; Viljoen, 2011:19).

The legal and regulatory framework is very strong on disclosure and participation at the municipal level. On the national and provincial levels, however, other than the publication of the invitation to bid and award requirements, the law is much less prescriptive. In addition, some of the guidance documents, for example the SCM: A Guide for Accounting Officers (National Treasury, 2004:44), aimed at national and provincial departments seem to be somewhat contradictory to the laws and regulations, indicating that bid information be considered sensitive.

In the Management Performance Assessment Tool Report 2013, it was found that 73% of departments are non-compliant with the standard related to the Promotion of Access to Information Act (Planning, Monitoring and Evaluation, 2013:10). This means that departments either do not have the necessary capacity or disregard the requirements to ensure transparency and accountability to citizens as required by the legislation. Specifically regarding contracting information, it is not clear how the PAIA applies to contracting information, for example, whether unit prices qualify as commercially sensitive information that can be justifiably withheld.
3.6.3 Public participation

Open Contracting principles call on governments to enable the public to participate during all stages of the contracting process (Gatjen: 2014:2). In South Africa, the Constitution is very conducive to enabling citizen participation in public contracting. It explicitly states that national, provincial and local legislators may establish rules with regard to participatory democracy. It also requires the encouragement of people in policy development:

- **Participatory democracy** – in terms of Article 116 (1) (b) of the Constitution (1996), a provincial legislator “may make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.”

- **Basic values and principles** – in terms of Article 195 (1) (e) and (g) of the Constitution (1996), people must be encouraged in policy development and the administration must be accountable and transparent and the public must be given information that is timely, accessible and accurate.

While there are some opportunities to engage citizens in public contracting at the municipal level, procurement laws and treasury regulations are largely silent on the role of non-state actors in the public contracting process. The SCM Guide for Accounting Officers (National Treasury, 2004:44) rather tend to limit public participation.

As for the national and provincial sphere, the Public Finance Management Act, Act 1 of 1999 (PFMA) (South Africa, 1999:16) mandates National Treasury to issue regulations and further instructions to determine a procurement framework. Such a framework must be fair, equitable, transparent, competitive and cost-effective. The Treasury Regulations (National Treasury, 2003b:2) determine that the accounting officer of a procuring entity must develop and implement an effective and efficient procurement system which must be consistent with the PFMA, the Preferential Procurement Policy Framework Act (PPPFA) and the Broad-based Black Economic Empowerment Act (BBBEEA). The system should provide for at least demand, acquisition, logistics, disposal and risk management and the regular assessment of supply chain management performance. The Treasury Regulations do not provide any further details or limits with regard to public participation in the different stages of the procurement process. Relevant circulars and the SCM guide for Accounting Officers (which
is a guide and not a legally binding document) is more restrictive as a glance at three typical stages of the procurement process demonstrates:

- **Participation in public bid openings**: Section 112 of the Local Government: Municipal Finance Management Act requires an accounting officer to develop a SCM policy that covers procedures for the opening, registering and recording of bids in the presence of bidders (South Africa, 2003:87). This means that citizens who are not involved in the procurement process, are not permitted to participate in public bid openings.

- **Bid evaluation**: The SCM Guide for Accounting Officers states that after the public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards should not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award. This indicates that the involvement of independent observers is not permitted (National Treasury, 2004a:44).

- **Participation in bid adjudication committees**: Bid adjudication committee members are appointed by the accounting officer to take contract award decisions. A Bid Adjudication Committee must consist of at least four senior officials. Where considered necessary, additional officers or advisors may be co-opted on account of their specialised knowledge (Bolton, 2007:78). It remains unclear if an independent observer would qualify as such an advisor and the SCM Guide is silent on this issue.

In the local sphere, opportunities to engage citizens in public procurement planning and oversight are spelt out more clearly in the legal framework. The Municipal Systems Act ensures citizen participation in integrated development planning (South Africa, 2000:41). The Municipal Finance Management Act (MFMA) also makes explicit reference to the participation in the procurement system of persons, who are not officials of the municipality or municipal entity (South Africa, 2003:90).

Contracts imposing financial obligations beyond three years have to be made public in draft version summarising the municipality's obligations. The local community and other interested persons have to be invited to submit comments which have to be taken into account. Categories of contracts of goods may be excluded and a threshold may be
prescribed. The MFMA stipulates that a contract may be amended only after the local community has been given reasonable notice of the intention to amend the contract and has been invited to submit representations to the municipal entity. It can be assumed that this provision is also subject to certain threshold values (South Africa, 2003:89-90).

There is a separate SCM guide for accounting officers in municipalities and municipal entities. The guidance provided with regard to citizen participation in the bidding process is practically the same as at the national and provincial level: Citizens are not permitted to participate in public bid openings. Municipalities may use consultants or advisors to support them in certain procurement functions. The guide remains silent with regard to the participation of citizens as observers in bid evaluation and adjudication committees (National Treasury, 2005b).

3.6.4 Corruption
The set high priority targets of the National Development Plan (National Planning Commission, 2011:39) include a corruption free society, high adherence to ethics and a government that is accountable to its people. With this in mind, the improvement and oversight in public procurement is explicitly addressed. Since corruption remains an impediment to the progressive development in South Africa, measures must be introduced to support the implementation of anti-corruption policies. These include the principles on openness and transparency in the public sector.

It is well known that public sector procurement in South Africa is imperfect. There are constant allegations of corruption and inefficiency. Service delivery protests are a sign that people feel that they are not receiving the quantity or quality of services they need. An example of such lack of services is schools opening at the beginning of the year without learner support materials (National Treasury, 2015:4).

Corruption is not unique to South Africa but it is one of the country’s major challenges. One reason why it continues is that, although the legal framework is strong, laws have not been adhered to or been implemented to their fullest extent. Wrongdoers can therefore continue without being called to account. According to Tamukamoyo (2013:10), “There is widespread belief that the level of corruption in South Africa has worsened significantly over the past few years”. On the Transparency International’s Corruption Perceptions Index, the country
dropped 31 places from a ranking of 38 in 2001 to 69 in 2012 (Transparency International, 2012:3). Tamukamoyo (2013:11-12) is of the view that South Africa appears to show adherence to various anti-corruption protocols as implemented by 13 different government agencies that have some mandated role to play in addressing corruption.

Among the many laws in place, which can combat corruption, is the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 (South Africa, 2004b). The purpose of the Act is to:

- Strengthen measures to prevent and combat corruption and corrupt activities;
- Create the crime of corruption and related crimes;
- Deal with investigations into corruption;
- Create a register to prevent people who use corruption from getting government contracts or tenders;
- Require people in positions of authority to report corruption over R100 000;
- Prevent the use of corruption to influence contract awarding.

Offences under the Act include accepting gratification to influence the award of a contract; offering a public official any gratification in order to receive a benefit; offering any member of a legislative authority any gratification to act in an illegal or biased manner; and offering gratification to influence the award of a tender.

According to National Treasury (2011a:2), “the South African Government is unswerving in its stance to combat and prevent corruption to the extent that tackling corruption effectively has been elevated as an output in one of the twelve (12) outcomes that the government has agreed on as a key focus of work. The Minister of Finance established a Multi-Agency Working Group (MAWG) to coordinate and investigate corruption related supply chain management practices”.

Open Contracting is key to the fight against corruption (Gatjen, 2014:10). Open Contracting’s premise is that more open and transparent public contracting procedures are likely to deter corruption and expose mismanagement of public resources. Public contracting is one of the most crucial government functions to deliver public services and fulfil the rights
and needs of citizens. When governments buy goods or services efficiently, public services are successfully delivered and all of society benefits.

There is overwhelming evidence from the literature review of South African legislation governing disclosure and public participation, that there is an opportunity for the global principles of Open Contracting to be infused in the current South African public procurement system.

3.7 CURRENT TRENDS IN DISCLOSURE AND PUBLIC PARTICIPATION IN SOUTH AFRICAN PUBLIC PROCUREMENT PRACTICES
The South African public procurement system has undergone substantial reform since the mid-1990s. The Constitution of South Africa and various other enabling legislation mandate a public procurement system, which is fair, equitable, transparent, competitive and cost-effective. Treasury regulations empower the accounting officer of an institution as the sole authority for authorising procurement.

According to National Treasury (2015:22), current procurement practices are not always implemented in line with legislation. Some examples that were cited, include the following:

- Although procurement notices are published, no bid documentation is available online.
- Minutes of the Bid Evaluation Committee (BEC) are not available for public access.
- Standard contracts entered into with winning firms are not available for public scrutiny.
- Procurement good practice requires for the names of bidders and their total bid prices to be read out in public. The current practice is that some bids are not opened in public and the list of bidders are not published.
- The bid evaluation process is not open to public scrutiny.
- Contract progress reports are not publicly available.

The South African Government will enhance disclosure and public participation in the procurement system by:

(i) developing and prescribing a public disclosure framework which governs transparency within the procurement process;
(ii) prescribe that all information in the bid process be disclosed publicly;

(iii) improve the accessibility of information;

(iv) improve the quality of information and encourage its strategic use;

(v) create an environment conducive to stakeholder participation in the different stages of the procurement process; and

(vi) build the capacity of the private sector, civil society and relevant stakeholders to take part effectively in enhancing transparent public sector procurement (National Treasury, 2015:23).

From this it is evident that there is conformity between Open Contracting principles and the South African public procurement practices. A summary of the theoretical framework for the key aspects of Open Contracting juxtaposed against its conformity to the South African public procurement system is provided in Table 3.1.

Table 3.1 Theoretical frameworks for Open Contracting in South African public procurement

<table>
<thead>
<tr>
<th>Aspects of Open Contracting</th>
<th>Conformity of South African Public Sector Procurement to Open Contracting</th>
</tr>
</thead>
</table>
| Legislation                | • Disclosure and public participation in public procurement is firmly established and mandated in the Constitution.  
|                            | • Financial enabling legislation and directives (i.e. Public Finance and Municipal Finance Management Acts) operationalises the application of disclosure and public participation in all procurement activities through the respective sections in the Acts.  
|                            | • Accounting Officers and Accounting Authorities must implement a procurement system that is fair, transparent, open, competitive and cost effective.  
|                            | • Citizen has the right to access any information held by the state.  
|                            | • State actors must include citizens to participate in policy. |
| Disclosure                 | • Bid notices should be advertised for at least 30 days.  
|                            | • Bid notices should be advertised in newspapers, the Government and Provincial Tender Bulletins on the National Treasury and procuring entities’ websites.  
|                            | • Bid number must be advertised in procurement notice.  
|                            | • Closing date and time must be included in the procurement notice.  
|                            | • Details of compulsory briefing session (if applicable) must be contained in the procurement notice.  
|                            | • Bidders and other representatives may be present at public bid openings.  
|                            | • List of all bids received are available for public viewing.  
<p>|                            | • Information of winning company is published, i.e. contract number and description; name/s of the successful bidder(s) and preferences claimed; the contract price(s); and if possible the brand names and dates for completion of contracts. |</p>
<table>
<thead>
<tr>
<th>Aspects of Open Contracting</th>
<th>Conformity of South African Public Sector Procurement to Open Contracting</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public participation</strong></td>
<td>• Constitution allows citizen participation in public contracting.</td>
</tr>
<tr>
<td></td>
<td>• Constitution mandates government actors to establish rules with regard to participatory democracy.</td>
</tr>
<tr>
<td></td>
<td>• Constitution requires the encouragement of people in policy development.</td>
</tr>
<tr>
<td></td>
<td>• Bidders may be present in public bid openings.</td>
</tr>
<tr>
<td></td>
<td>• Bid information should be disclosed to bidders.</td>
</tr>
<tr>
<td></td>
<td>• Independent observers should be allowed at Bid Adjudication Committee meetings.</td>
</tr>
<tr>
<td></td>
<td>• Citizen participation in integrated development planning (IDP).</td>
</tr>
<tr>
<td></td>
<td>• Contracts imposing financial obligations beyond three years have to be made public.</td>
</tr>
<tr>
<td></td>
<td>• Local community and other interested persons have to be invited to submit comments on draft financial obligations.</td>
</tr>
<tr>
<td></td>
<td>• A contract may be amended only after the local community has been consulted.</td>
</tr>
<tr>
<td><strong>Corruption</strong></td>
<td>• Numerous reports indicating that public procurement corruption is out of control.</td>
</tr>
<tr>
<td></td>
<td>• Legal Framework: Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004),</td>
</tr>
<tr>
<td></td>
<td>• The Act regulates offences in respect of corrupt activities relating to contracts.</td>
</tr>
<tr>
<td></td>
<td>• The Act regulates activities pertaining to the acceptance or offering of any gratification.</td>
</tr>
<tr>
<td></td>
<td>• The Act regulates the improper influence of another person.</td>
</tr>
<tr>
<td></td>
<td>• The Act regulates offences in respect of corrupt activities relating to procurement.</td>
</tr>
<tr>
<td></td>
<td>• The Act provides for miscellaneous offences relating to possible conflict of interest and other unacceptable conduct such as the acquisition of private interest in contract, agreement or investment of a public body.</td>
</tr>
<tr>
<td></td>
<td>• It also provides that National Treasury must establish a register for tender defaulters.</td>
</tr>
<tr>
<td></td>
<td>• Standard Bidding Document (SBD 9) – Certificate of Independent Bid Determination.</td>
</tr>
</tbody>
</table>

Open Contracting principles call for the timely, current and proactive disclosure of documents and data related to public contracting. This is to empower the public to understand and monitor public contracting as a safeguard against inefficient, ineffective and corrupt use of public resources. To enable this proactive disclosure, governments are called on to develop systems to collect, manage, simplify and publish relevant data and documents regarding public contracts. These systems should be user-friendly and searchable in a manner that enables meaningful monitoring, performance and accountability for outcomes.

### 3.8 CHAPTER SUMMARY

In this chapter, the concept of Open Contracting and its intricate link to the South African public procurement system was explored. The elements of Open Contracting, benefits and
advantages for implementing Open Contracting principles in an organisation were discussed. Also, an important concept associated with Open Contracting, the Open Contracting Partnership as a critical component for public procurement, was also explored. The chapter concludes with a conceptual framework aligning the conformity of Open Contracting to the South African public procurement practices.
CHAPTER FOUR
RESEARCH DESIGN AND METHODOLOGY

4.1 INTRODUCTION
The purpose of this chapter on the research design and methods, is to provide the methodology adopted for the study. A research design is the general plan of how the researcher went about answering the main research question. It contains clear objectives derived from the research question, specifies the sources from which data was collected, how this was collected and analysed. The ethical considerations and limitations of the study are also discussed.

By way of recollection, this study set out to answer one main research question: “Can the procurement system designed for the South African public sector adopt the principles of Open Contracting?” This was deemed important because citizen’s free access to procurement information could influence the way openness, transparency and accountability are implemented in the contracting (procurement) process. As previously elicited in section 3.2, Open Contracting is a growing global concept that aims at increasing information disclosure and public participation at all stages of government contracting (procurement processes).

4.2 RESEARCH DESIGN
Research designs are plans, strategies and procedures for research comprising decisions from the underlying worldviews to the detailed methods of data collection and analysis (Creswell, 2009:3). The decision of using a specific research design is influenced by the:

- worldview assumptions of the research;
- personal experiences of the researcher;
- audiences of the study;
- nature of the research problem;
- research strategy; and
- methods of data collection, analysis and interpretation (Creswell, 2009:3).

Figure 4.1 illustrates the “research onion” model suggested by Saunders et.al (2012:160) that was adopted for the study.
4.2.1 Two types of research designs
Creswell (2009:3) suggests that qualitative and quantitative research designs should not be viewed as opposite poles, but rather as the different ends in a continuum. “A study tends to be more quantitative than qualitative or vice versa” (Creswell, 2009:3).

The distinction between qualitative and quantitative research is often proclaimed as:
- Using words (qualitative) rather than numbers (quantitative).
- Using close-ended questions (quantitative) rather than open-ended questions (qualitative).

4.2.1.1 Qualitative research
Qualitative research can be defined as “a means for exploring and understanding the meaning individuals or groups ascribe to a social or human problem” (Creswell, 2009:4). The process of qualitative research involves:
- emerging questions and procedures;
• data collection in the particular setting;
• inductive data analysis, building from particular to general themes;
• focus on individual meaning; and
• a description of the complexity of the situation (Creswell, 2009:4).

4.2.1.2 Quantitative research
Quantitative research can be defined as “a means for testing objective theories by examine the relationship among variables” (Creswell, 2009:4). Creswell (2009) argues that the quantitative research approach takes scientific explanation to be nomothetic or based on universal laws. The main aims are to objectively measure the social world, to test hypothesis and to predict and control human behaviour. These variables and numbered data analysis can be measured with the use of statistical instruments. Quantitative research involves:
• assumptions about testing theories deductively;
• the building of protections against bias; and
• generalisation and replications of findings (Creswell, 2009:4).

Leedy and Ormrod (2013:184) define descriptive quantitative research as the type of research that involves either identifying the characteristics of an observed phenomenon or exploring possible correlations among two or more phenomena. In every situation, descriptive research examines a situation as it is. It does not involve changing or modifying the situation under investigation, nor is it intended to determine cause and affect relationships. A descriptive quantitative approach was adopted to assess the conformity of the Open Contracting principles with the current South African public procurement system.

In this quantitative study a positivism philosophy was also implemented. According to Saunders et al. (2012:16) quantitative research is generally linked with positivism, especially in highly structured data collection techniques.

The research approach was deductive, usually associated with quantitative research, where the focus is on using data to test theory (Saunders et al. 2012:162). The research conducted in this study was based on the research undertaken in the social world and was theoretical in nature using the mono method quantitative paradigm. By implementing quantitative analysis, quantitative information was summarised through statistical analyses. The research design
was a survey approach whereby a self-administered online questionnaire was issued to a simple random sample of procurement practitioners from the public sector that are members of the Chartered Institute of Procurement and Supply (CIPS). The research was conducted in a cross-sectional time zone and involved the study of particular phenomena (disclosure and participation) at a particular time.

4.3 POPULATION AND SAMPLING

4.3.1 Population of the study
A study population can best be described as a group of elements from which the sample is selected. A sample is defined as a special subset of a population observed in order to make inferences about the nature of the total population itself (Babbie & Mouton, 2001:135).

This study was conducted in the context of the public sector in South Africa, including national and provincial departments, municipalities, public entities, municipal entities, constitutional institutions and other organs of state. The population for this study comprised 1 200 public sector procurement officials who are members of CIPS. From the perspective of procurement implementation, these procurement practitioners are knowledgeable officials who could provide important information with regard to the process followed in the implementation of procurement openness and transparency in their institutions.

4.3.2 Sampling
According to Leedy and Ormrod (2013:207), the sample should be so carefully chosen that, through it, the researcher is able to see characteristics of the total population. Babbie (2013:144) describes the sampling frame as the list or quasi list of elements from which a probability sample is selected. In line with this, if a sample of members from the Chartered Institute of Procurement and Supply is selected from the total list of members, the membership list is then the sampling frame. Sampling frame entails the inclusion of all the research objectives or units in the population and consequent a probability sample is drawn (Saunder et al. 2012:681). The sample frame of this study consists of members of CIPS employed in the public sector.

The sample collection technique that was used for this research is the probability sampling with the simple random sampling method. According to Tustin et al. (2005: 344) with
probability sampling each element in the population has a known, non-zero probability of being included in the sample.

Probability sampling is most commonly associated with survey strategies where conclusions need to be drawn from the sample about the populations to answer the research questions and meet the objectives (Saunders et al. 2012:262). A simple random sampling involves the selection of the sampling frame through a computer or random number tables (Saunders et al. 2012:273). With this sampling method, sample members are included at random, with every element having an equal chance of being selected. Calculations according to White (2003:78) as cited in Tsharane (2014:43) indicated that a sample size of 300 CIPS members would provide acceptable levels of confidence and accuracy. This produced a participation rate of 16%. The suggested sample size according to the population size can be seen in Table 4.1.

Table 4.1  Determining the sample size

<table>
<thead>
<tr>
<th>Population</th>
<th>Percentage suggested</th>
<th>Number of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>100%</td>
<td>20</td>
</tr>
<tr>
<td>30</td>
<td>80%</td>
<td>24</td>
</tr>
<tr>
<td>50</td>
<td>64%</td>
<td>32</td>
</tr>
<tr>
<td>100</td>
<td>45%</td>
<td>45</td>
</tr>
<tr>
<td>200</td>
<td>32%</td>
<td>64</td>
</tr>
<tr>
<td>500</td>
<td>20%</td>
<td>100</td>
</tr>
<tr>
<td>1 000</td>
<td>14%</td>
<td>140</td>
</tr>
<tr>
<td>10 000</td>
<td>4.50%</td>
<td>450</td>
</tr>
</tbody>
</table>


Simple random sampling (SRS) was used in this research to obtain scientific results that could be used to represent the entirety of the population. Therefore all CIPS members from the South African public sector had an equal and fair chance of being included in the sample. SRS is a type of probability sampling in which the units composing a population are assigned numbers. A set of random numbers is then generated, and the units having those numbers are included in the sample (Babbie, 2013:147).

The following simple random sampling process was employed to determine the 300 responds for this study:
Step 1: A list of membership numbers of only public sector procurement officials was obtained from CIPS.

Step 2: Using the software programme, Microsoft Excel, on a new worksheet and in the first column the entire population’s membership numbers only (i.e. 1 200) was captured.

Step 3: In the second column, a formulae was created, “=Rand()”. This is a function in MS Excel that generates a random value for each membership number. At the end of this step each membership number was allocated a random number.

Step 4: The list of random numbers was then sorted in ascending order and the first 300 random membership numbers were chosen as the sample.

4.4 RESEARCH STRATEGY AND INSTRUMENT

In this section, the focus is on the choice of the research strategy and data collection instrument used for this study. In general terms, a strategy is a plan of action to achieve a goal. A research strategy may therefore be defined as a plan of how a researcher will go about answering the research question. It is a methodical link between the researcher’s philosophy and subsequent choice of methods to collect and analyse data. The choice of research strategy is influenced by the existing knowledge, the timeframe, the researcher’s personal input and other available resources.

According to Leedy and Ormrod (2013:97), survey research involves acquiring information about one or more groups of people by asking them questions and tabulating their answers. A survey is quite simple in design where the researcher poses a series of questions to willing participants, summarises their responses with percentages, frequency counts, or more sophisticated statistical indexes and then draws inferences about a population from the responses of the sample.

This study employed the survey research approach and primary data was collected by means of a self-administered online questionnaire. Sekaran (2003) defines a questionnaire as a pre-formulated written set of questions to which respondents record their answers, usually within rather closely defined alternatives. Questionnaires are an efficient data collection mechanism when the researcher knows what is required and how to measure the variables of interest. Questionnaires can be administered personally, mailed to respondents or electronically distributed. For this study the online option was utilised.
4.5 DATA COLLECTION

Leedy and Ormrod (2013:97) describe collecting data for quantitative research as the selection of one or more variables to be studied and then collect data specifically related to those variables. Data are collected from a population or a large sample in forms that are easily converted to numbers (Leedy & Ormrod, 2013:97). In this study, both secondary and primary data collection methods were employed.

4.5.1 Primary data

Primary data was collected by means of a self-administered online questionnaire completed by randomly selected procurement officials (champions of procurement within the public sector). These procurement practitioners were selected because of their expertise and knowledge of the procurement policy implementation process followed in their respective institutions.

An online software tool, Survey Monkey, was used as a data collection technique. Each respondent received an e-mail containing a web link to access the online questionnaire through the Survey Monkey website. The questionnaire was administered by CIPS and delivered via the internet to each respondent. The e-mail contained instructions on how to access the online questionnaire and also instructions on how to complete the questionnaire. An example of the questionnaire can be seen in Annexure B.

The main advantage of using an online questionnaire is that a wide geographical area within South Africa was covered and in addition, the respondents could complete it at their own convenience and leisure. Sufficient time was given for completion and return. A questionnaire that structured close-ended questions was used to collect data from the sample.

4.5.1.1 The online questionnaire

According to Saunders et al. (2012:677), the online questionnaire enables a respondent to read and answer the same set of questions in a specific order, without an interviewer being present, prior to submitting it electronically. This process to facilitate the responses allowed for real time monitoring and cross tabulations to be performed and for statistical calculations to be computed. The online questionnaire software tool called Survey Monkey was used to
collected data. Survey Monkey is an online survey development, cloud based company. They provide free, customisable surveys, as well as a suite of back-end programmes that include data analysis, sample selection, bias elimination and data representation tools.

Access to the Survey Monkey software was made available through a one month subscription contract. For self-administered questionnaires, data capturing and input is straightforward. It consists of close ended questions where respondents select and mark their answer electronically from a prescribed list. The following features were found to be advantageous and applicable to the study, in comparison to traditional manual surveys: easy applications for cross tabulation, the ability to track responses, real time summary data, survey management applications and e-mail notification reminders. The tracking of responses allowed immediate problem solving, for instance, if it was found that there was a high dropout rate after a specific question. This usually indicated that clarification was needed for such a question.

According to Saunders et al. (2012:498), cross tabulation enables the researcher to examine interdependence between variables. Where there are a large number of categories or values for numerical data, it is recommended that the data be grouped. This is usually done in a table. Most statistical software assists in analysing data in a table. Survey Monkey is set up to facilitate cross tabulation between the variables chosen.

A list of only membership numbers of public sector procurement officials was obtained from the CIPS Africa Office and permission was obtained from the Managing Director: CIPS Africa for assistance in distributing the questionnaire. The e-mail addresses of all participants were uploaded on Survey Monkey and distributed. Survey Monkey offers an application to send out e-mail notifications and reminders to those that do not respond timeously. The reminders serve as a means to ensure that the survey obtained the required responses for the findings to be representative. The online software represented an active, dynamic interface with the survey. The online survey provided the researcher with a quick overview of real time summary data; it offered a rapid view of the percentages for each answer option received and basic graphs, their mean values and how many respondents had completed or had not completed the survey. The participants’ statistics were available immediately.
Summarising the reports was straightforward. Reports may be customised in a specific survey output as required. The researcher found the software compatible with the Microsoft operating system and hence facilitated the transfer of data to spreadsheets for computation and presentation. The applications are used by academics for research subjects and are employed by the research community in general.

4.5.1.2 The questionnaire structure

The questionnaire structure is set out in Table 4.2. The statements which were chosen, were the most relevant to the key aspects of this study, namely; legislation and policies; disclosure; public participation and corruption.

In this study, the instrument was composed of 51 statements in two major sections. Section A seek information about the demographic profile of the respondents while section B on conformity of Open Contracting principles to the South African Public procurement practices. Respondents were requested to indicate the extent to which they agree with the statements that support Open Contracting principles on a five point Likert scale, where:

1 = Strongly agree;
2 = Disagree;
3 = Neither agree or disagree;
4 = Agree and
5 = Strongly disagree.

Table 4.2 Questionnaire structure

<table>
<thead>
<tr>
<th>Key aspects</th>
<th>Scale items</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislation and policies</td>
<td>Procurement operates in a highly regulated environment</td>
</tr>
<tr>
<td></td>
<td>National legislation exists for disclosing procurement information</td>
</tr>
<tr>
<td></td>
<td>National legislation exists for public participation</td>
</tr>
<tr>
<td></td>
<td>We have a policy that promotes Open Contracting</td>
</tr>
<tr>
<td></td>
<td>We have a policy statement for disclosure of procurement information</td>
</tr>
<tr>
<td></td>
<td>We have a policy statement for public participation in procurement</td>
</tr>
<tr>
<td></td>
<td>We have implemented Open Contracting</td>
</tr>
<tr>
<td>Disclosure</td>
<td>Policies exist for public to access procurement information</td>
</tr>
<tr>
<td></td>
<td>Policies on access to information are published online</td>
</tr>
<tr>
<td></td>
<td>Policies on access to information are accessible at no cost</td>
</tr>
<tr>
<td></td>
<td>The policies clearly state which information is disclosable</td>
</tr>
<tr>
<td></td>
<td>Procurement information is available at a central portal</td>
</tr>
<tr>
<td></td>
<td>Disclosure influences our procurement decisions</td>
</tr>
<tr>
<td></td>
<td>We have targets for achieving disclosure practices</td>
</tr>
</tbody>
</table>
Senior management supports disclosure
Disclosure comes with many challenges
Clients understand the need to disclose information

<table>
<thead>
<tr>
<th>Key aspects</th>
<th>Scale items</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Disclosure continues</strong></td>
<td>We received training on disclosure practices</td>
</tr>
<tr>
<td></td>
<td>Suppliers are aware of our disclosure practices</td>
</tr>
<tr>
<td></td>
<td>The general public is aware of our disclosure practices</td>
</tr>
<tr>
<td></td>
<td>The public accesses procurement information</td>
</tr>
<tr>
<td></td>
<td>Procurement information is easily accessible</td>
</tr>
<tr>
<td></td>
<td>Procurement notices are publicly advertised</td>
</tr>
<tr>
<td></td>
<td>A list of bids received is available for public viewing</td>
</tr>
<tr>
<td></td>
<td>Details of the winning company are made available to the public</td>
</tr>
<tr>
<td></td>
<td>Payment information is publicly available</td>
</tr>
<tr>
<td></td>
<td>Details of contract extensions are available for public knowledge</td>
</tr>
<tr>
<td><strong>Public Participation</strong></td>
<td>Public participation influences our procurement decisions</td>
</tr>
<tr>
<td></td>
<td>We have targets for achieving public participation</td>
</tr>
<tr>
<td></td>
<td>Senior management supports public participation</td>
</tr>
<tr>
<td></td>
<td>Public participation comes with many challenges</td>
</tr>
<tr>
<td></td>
<td>Clients understand the importance of public participation</td>
</tr>
<tr>
<td></td>
<td>We received training on implementation of public participation</td>
</tr>
<tr>
<td></td>
<td>The general public is aware of our public participation policy</td>
</tr>
<tr>
<td></td>
<td>It is easy for the public to participate in our procurement processes</td>
</tr>
<tr>
<td></td>
<td>Bidders are present at bid openings</td>
</tr>
<tr>
<td></td>
<td>The general public is present at bid openings</td>
</tr>
<tr>
<td><strong>Corruption</strong></td>
<td>Corruption in public procurement is increasing</td>
</tr>
<tr>
<td></td>
<td>Allegations of corruption are constant</td>
</tr>
<tr>
<td></td>
<td>Corruption impacts service delivery</td>
</tr>
<tr>
<td></td>
<td>Protests are a result of corruption</td>
</tr>
<tr>
<td></td>
<td>Government is committed to curbing corruption</td>
</tr>
<tr>
<td></td>
<td>Policies exist to combat corruption</td>
</tr>
<tr>
<td></td>
<td>There is adequate resources to implement anti-corruption policies</td>
</tr>
<tr>
<td></td>
<td>Open Contracting is key to the fight against corruption</td>
</tr>
</tbody>
</table>

4.5.2 Secondary data

The main sources of secondary data were various journals, internet articles and textbooks. Furthermore, documentation, including reports from the Auditor-General South Africa, World Bank, Public Service Commission, Public Protector; conference papers; newspaper articles, audio recordings, South Africa Yearbooks as well as the annual reports of public sector institutions, were also consulted. Data of this nature provided information about events.

Secondary information on the disciplines mentioned above, also included:
• Legislation and procurement prescripts of South Africa accessed on the internet sites of specific departments as such the National Treasury and South African Government online.
• Openness and transparency implementation tools and guidelines used by the World Bank and other governments such as Australia, Canada and the United Kingdom; and
• Research articles, journals and books dealing with procurement, openness, transparency and policy implementation.

From both questionnaires and documentations, certain theories were identified that hamper the effective implementation of disclosure of information and public participation in public procurement processes in South Africa.

4.6 DATA ANALYSIS AND REPRESENTATION
The data analysis process involves reflection and engagement with the collected raw data through the grouping of concepts and themes. The aim is to identify key themes in the data and to draw a conclusion based on the interpretation of the data. According to Saunders et al. (2012:665), data analysis is the breaking down of data and to shed light on the nature of the elements and the relationship between them.

Statistical methods may vary according to the nature of the research. Quantitative data may be analysed using descriptive statistics employing frequencies, means and medians and inferential statistics (Babbie, 2013:459). Within quantitative analysis, calculations and chart drawing are undertaken using analysis software ranging from spreadsheets such as Excel to more advanced tools such as Minitab, SAS and SPSS (Saunders et al. 2012:473). Since this is a quantitative study, it was apparent that quantitative data analysis techniques should be employed.

In this study, analysis of the collected data was done using the Statistical Package for Social Sciences (SPSS) version 23. Data analysis assistance from a specialist in SPSS was obtained. Bar graphs and frequency tables were calculated using SPSS via cross tab analysis. This provided an overview of the perceptions of the respondents with respect to the disclosure of information and public participation in the public sector procurement in South Africa.
The research results were presented using analytical methods such as graphical and descriptive statistics. These statistics confirmed the results of the graphical statistics and frequency tables. The following techniques were used for analysis:

- **Reliability analysis** – Cronbach’s alpha was used to assess the measure of internal consistency (reliability) of the measurement scales.
- **Descriptive statistics** – was used to describe the sample’s demographic profile and perception on elements of Open Contracting.

During the analysis of data, the essential steps was followed as suggested by Creswell (2009:151 - 153):

- Report information about the number of members in the sample that returned the survey.
- Discuss the method by which the response bias will be determined.
- Response bias: the effect of non-responses on the survey estimates. Bias suggests that if the non-respondents have responded, the responses would have changed the results in general.
- Discuss how a descriptive analysis will be provided for all the dependent and independent variables in the study. This analysis should specify the means, standard deviations and range of scores for the variables.
- If the proposal contains an instrument with scales, identify the statistical procedure (e.g., factor analysis) that was used.
- Name the statistics and statistical programme that was used to test the research questions or hypothesis in the proposed study.
- Present the results in tables and figures and interpret the results from the statistical test.

Bar graphs and statistical tables were used to visually describe the results of the study.

**4.7 ETHICAL CONSIDERATIONS**

Research ethics can be defined as the standards of the researcher’s behaviour in relation to the rights of those who become the subject of a research project, or who are affected by it (Saunders et al. 2012:680). It is of paramount importance that the rights, privacy, dignity and sensitivities of the research participants as well as the integrity of the institution i.e. The Chartered Institute of Procurement and Supply (CIPS), are respected.
During the period of study, the essential ethical considerations were followed as suggested by Saunders *et al.* (2012: 230-232):

- The researcher undertook to focus on the research questions and did not interfere in any manner that may jeopardise the integrity of data and the study as a whole.
- The researcher was the only resource for data collection and the identities of respondents were protected.
- The researcher acknowledged that participation was voluntary and informed consent from respondents was a prerequisite.
- There was no unpleasant or damaging effects on the individual, the team and the workplace.
- The researcher communicated the aim, objectives, nature and future use of the findings to respondents prior to commencement of data collection activities.

Permission to use the membership list was obtained from the CIPS. Written approval was also obtained for CIPS to distribute an online questionnaire to only members from the Public Sector. The importance of the respondent’s promotion of access to information needs was respected at all times and no infringement was tolerated. No unprofessional behaviour was required from the respondents. The researcher will provide the respondents with an opportunity to learn from their participation, therefore the outcome of this study will be made available to respondents.

### 4.8 VALIDITY BIAS AND GENERALISATION

Validity bias and generalisation are two fundamental elements in the evaluation of a measurement instrument. According to Tavakol (2011:53) validity is concerned with the extent to which an instrument measures what it is intended to measure. Generalisation can be described as “the making of more widely applicable propositions based upon the process of deduction from specific cases” (Saunders *et al.* 2012:671).

Questionnaires are subject to bias as they are instruments which are reported by an individual. The impact of this bias nature could result in responses from the sample being over or under reported. This will be mitigated by the size of the sample, which consisted of 300 out of 1 200 public sector procurement professional that are members of CIPS.
This study can be applied to the entire public sector in South Africa, based on the fact that all public sector institutions must comply with the openness and transparency legislative requirements prescribed by Section 217(1) of the Constitution (1996), Section 76(4)c of the Public Finance Management Act (1999) and Section 112(1) of the Municipal Finance Management Act (2004). Further, openness and transparency are policy tools that promote disclosure in any organisation and are not dependent on certain qualifying criteria. The findings will need verification from further research.

4.9 CHAPTER SUMMARY
This chapter presented the research design and methodology and opened the window into the research practices of the study. A single method of data collection was used for quantitative data collection via an online questionnaire. The sample was presented, data collection instruments and procedures for data collection were described in detail, followed by a discussion on ethical considerations, validity and reliability.
CHAPTER FIVE
DATA ANALYSIS AND INTERPRETATION

5.1 INTRODUCTION
The study involved the collection of primary data through an online survey, Survey Monkey, as indicated in Chapter 4. The survey was conducted during the period October to November 2015. This study was conducted in the context of the public sector in South Africa, including national and provincial departments, municipalities, public entities, municipal entities, constitutional institutions and other organs of state. The sample was chosen from the members of CIPS.

The Statistical Package for the Social Science (SPSS) version 23 was used with the assistance of a statistician. In this chapter, the analysis and research results of the application of Open Contracting in South African public procurement is presented according to the 2 sections of the questionnaire, namely:

- Section A: Demographic information
- Section B: Conformity of Open Contracting principles to South African public sector procurement.

5.2 DEMOGRAPHIC CHARACTERISTICS OF THE PARTICIPANTS
In order to protect the identity of the participants and to comply with the ethical considerations of the study, respondents were not required to provide their names. The demographic information was used during the data analysis phase to explore how this information influences the application of OC in the current South African public procurement system.

Table 5.1 depicts the demographic profile of respondents’ own characteristics, background and attributes. The information is represented in five categories: age, organisation, province, designation, years of employment in current organisation and total experience in public procurement. The findings are presented in the graphs that follow.
Table 5.1  Demographic profile of respondents

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Younger than 25</td>
<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>25 to 34 years</td>
<td>69</td>
<td>27.9</td>
</tr>
<tr>
<td>35 to 49 years</td>
<td>129</td>
<td>52.2</td>
</tr>
<tr>
<td>50 to 59 years</td>
<td>38</td>
<td>15.4</td>
</tr>
<tr>
<td>60 years and older</td>
<td>9</td>
<td>3.6</td>
</tr>
<tr>
<td><strong>Organisation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National government department</td>
<td>64</td>
<td>25.9</td>
</tr>
<tr>
<td>Provincial government department</td>
<td>44</td>
<td>17.8</td>
</tr>
<tr>
<td>Public entity (state-owned, state-controlled)</td>
<td>96</td>
<td>38.9</td>
</tr>
<tr>
<td>Municipal entity (state-owned, state controlled)</td>
<td>13</td>
<td>5.3</td>
</tr>
<tr>
<td>Other organ of state (including municipality)</td>
<td>30</td>
<td>12.1</td>
</tr>
<tr>
<td><strong>Province</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gauteng</td>
<td>155</td>
<td>62.8</td>
</tr>
<tr>
<td>Limpopo</td>
<td>11</td>
<td>4.5</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>9</td>
<td>3.6</td>
</tr>
<tr>
<td>Kwazulu-Natal</td>
<td>27</td>
<td>10.9</td>
</tr>
<tr>
<td>Free State</td>
<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>4</td>
<td>1.6</td>
</tr>
<tr>
<td>Western Cape</td>
<td>22</td>
<td>8.9</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>10</td>
<td>4.0</td>
</tr>
<tr>
<td>North West</td>
<td>7</td>
<td>2.8</td>
</tr>
<tr>
<td><strong>Designation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chief finance officer</td>
<td>13</td>
<td>5.3</td>
</tr>
<tr>
<td>Supply chain manager</td>
<td>79</td>
<td>32.0</td>
</tr>
<tr>
<td>Supply chain clerk</td>
<td>13</td>
<td>5.3</td>
</tr>
<tr>
<td>Supply chain practitioner</td>
<td>73</td>
<td>29.6</td>
</tr>
<tr>
<td>Other role player</td>
<td>69</td>
<td>27.9</td>
</tr>
<tr>
<td><strong>Years of employment in current organisation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; 1 year</td>
<td>22</td>
<td>8.9</td>
</tr>
<tr>
<td>1 – 4 years</td>
<td>86</td>
<td>34.8</td>
</tr>
<tr>
<td>5 – 7 years</td>
<td>50</td>
<td>20.2</td>
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<tr>
<td>8 – 10 years</td>
<td>33</td>
<td>13.4</td>
</tr>
<tr>
<td>11 years +</td>
<td>56</td>
<td>22.7</td>
</tr>
<tr>
<td><strong>Total years of experience in public sector procurement</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; 1 year</td>
<td>9</td>
<td>3.6</td>
</tr>
<tr>
<td>1 – 4 years</td>
<td>45</td>
<td>18.2</td>
</tr>
<tr>
<td>5 – 7 years</td>
<td>56</td>
<td>22.7</td>
</tr>
</tbody>
</table>
5.2.1 Age distribution of participants
The age distribution of the respondents can be seen in Figure 5.1. The age group 35 to 49 years accounts for the majority of the respondents at 52.4%. Just more than a quarter, at 27.8% were in the age group 25 to 34 years. Of the respondents 15.3% were 50 to 59 years of age and 3.6% were 60 years and older.

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 – 10 years</td>
<td>50</td>
<td>20.2</td>
</tr>
<tr>
<td>11 years +</td>
<td>87</td>
<td>35.2</td>
</tr>
</tbody>
</table>

Figure 5.1 Age distribution of the respondents

5.2.2 Distribution of participants per organisation
Figure 5.2 illustrates the distribution of respondents based on their organisation. The survey indicated that 25.8% of the respondents were working at a national government department, 17.7% at a provincial government department, 38.7% at a public entity and 5.6% of the respondents worked at a municipal entity, including a municipality. The 12.1% of the respondents who indicated other, specified the type of organisation they work at.
Figure 5.2 Distribution per type of organisation
After re-classification this group according to what the respondents specified, the distribution of the type of organisation looks as follows:

Figure 5.3 Distribution per type of organisation re-classified
Of the respondents 26.6% worked at a national government department, 19.0% worked at a provincial government department. A public entity accounted for 41.5% of the respondents while 8.9% of the respondents worked at a municipal entity (including a municipality). The remaining 4.0% still indicated other organisations of employment.

5.2.3 Province distribution of participants
Figure 5.4 illustrates the distribution of respondents based on the geographical location of their place of work. Most of the respondents were from Gauteng province at 62.5%. The second most were from Kwazulu-Natal at 10.89% and the third most were from the Western
The representation in the other provinces varied between 0.81% in the Free State and 4.44% in Limpopo.

**Figure 5.4 Distribution of respondents per province**

### 5.2.4 Designations of participants

In Figure 5.5 the distribution of the respondents based on their designation can be seen. The designations of chief finance officer and supply chain clerks were equally represented at 5.2% each. The supply chain managers made up 32.3% and 29.4% of the respondents were supply chain practitioners. The 27.8% of the respondents, who indicated other, also specified their designation.

**Figure 5.5 Distribution per designation**

After re-classifying the “other” group according to the specifications of the respondents, the distribution of the designation changed as follows:

The chief finance officers remained at 5.2%, while supply chain managers increased to 45.2%. The supply chain clerks now made up 8.9% and supply chain practitioners increased slightly to 30.2%. The remaining 10.5% of the respondents were still classified as “other”.

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5.2.5 Duration of employment at current organisation

According to the results in Figure 5.7 the majority of the respondents have been employed at their current organisation between 1 and 4 years. This group is followed by the respondents employed for 11 years or longer at 22.6%. The employment time 5-7 years accounted for 20.6%, 8-10 years for 13.3% and 8.9% of the respondents were employed for less than 1 year at their current organisations.

5.2.6 Total years of experience of participants

Figure 5.8 presents the distribution of respondents based on their total years of employment in public sector procurement. The shortest time period, less than 1 year, is also the minority of the respondents at 3.6%. The majority, on the other hand, at 35.1% have been in the
industry for 11 years or longer. The other time periods are represented at 18.1%, 23% and 20.2% respectively.

![Period in public sector procurement](image)

**Figure 5.8 Distribution per period in public sector procurement**

### 5.2.7 Summary of demographic analysis

Section A of the questionnaire revealed the respondent’s age, organisation, province, designation, years in current organisation and total number years of public procurement experience. Most of the respondents were between the ages of 35 to 49 years (52.2%), mostly employed in a public entity (38.9%). The majority were employed as supply chain managers (32%) in the Gauteng Province (62.8%), serving their current organisation between 1 and 4 years (34.8%) and have total public procurement experience of 11 years and more (35.2%).

### 5.3 DESCRIPTIVE RESULTS FOR CONFORMITY OF OPEN CONTRACTING PRINCIPLES TO SOUTH AFRICAN PUBLIC SECTOR PROCUREMENT

This section of the chapter presents the findings of Section B of the questionnaire, which comprised of a list of forty-five statements. The survey statements were derived from the literature study, which were then represented in the research objectives and categorised into the following four elements, namely:

- Legislation and policies
- Disclosure
- Public participation
- Corruption

All the statements were closed items, requiring respondents to reply on a five point Likert Scale: 1=Strongly agree; 2=Disagree; 3=Neither disagree or agree; 4=Agree and 5=Strongly disagree.
5.3.1 Legislation and policies

Research sub-question 1: Is there South African legislation and policies for Open Contracting?

This section of the questionnaire, numbered 2.1, relates to legislation and policies that regulate disclosure and public participation in the procurement processes.

After weighting the 7 items in the “Legislation and policies” measuring instrument according to the degree to which the respondents agreed or disagreed with the statements, the result were sorted for the items. Figure 5.9 highlights the difference in the breakdown trends and provides a number and percentage summary breakdown for each statement.

Figure 5.9 Results for legislation and policies

The following results are presented in the order of which the respondents agreed the most to the least with the items:

- Procurement operates in a highly regulated environment. (93.6% of the respondents agree to strongly agree and 2.8% disagree to strongly disagree.)
- National legislation exists for disclosing procurement information. (86.3% of the respondents agree to strongly agree and 5.6% disagree to strongly disagree.)
- We have a policy that promotes Open Contracting. (82.7% of the respondents agree to strongly agree and 9.7% disagree to strongly disagree.)
• We have a policy statement for disclosure of procurement information. (86.3% of the respondents agree to strongly agree and 8.9% disagree to strongly disagree.)
• National legislation exists for public participation. (77.8% of the respondents agree to strongly agree and 10.1% disagree to strongly disagree.)
• We have a policy statement for public participation in procurement. (73.4% of the respondents agree to strongly agree and 12.1% disagree to strongly disagree.)
• We have implemented Open Contracting. (69.0% of the respondents agree to strongly agree and 12.18% disagree to strongly disagree.)

5.3.2 Disclosure

Research sub-question 2: Is there disclosure of procurement information in the South African public sector?

This section of the questionnaire, numbered 2.2, related to disclosure of procurement information. The 20 items in the “Disclosure” measuring instrument were weighted and sorted according to the degree to which the respondents agreed or disagreed with each statement. The results are displayed in Figure 5.10. It provides a number and percentage summary breakdown in the order of which the respondents agreed the most to the least. The 10 items with the lowest scores for disclosure are presented in Figure 5.9.
The following results are presented in the order of which the respondents agreed from the most to the least with the items. The 10 items with the lowest scores for disclosure are:

- Disclosure influences our procurement decisions. (61.7% of the respondents agree to strongly agree and 20.6% disagree to strongly disagree.)
- Procurement information is easily accessible. (61.3% of the respondents agree to strongly agree and 21.0% disagree to strongly disagree.)
- The public accesses procurement information. (60.9% of the respondents agree to strongly agree and 18.2% disagree to strongly disagree.)
- Clients understand the need to disclose information. (58.9% of the respondents agree to strongly agree and 20.6% disagree to strongly disagree.)
- Suppliers are aware of our disclosure practices. (52.8% of the respondents agree to strongly agree and 24.6% disagree to strongly disagree.)
- We have targets for achieving disclosure practices. (41.1% of the respondents agree to strongly agree and 29.1% disagree to strongly disagree.)
- The general public is aware of our disclosure practices. (37.5% of the respondents agree to strongly agree and 31.8% disagree to strongly disagree.)
- Details of contract extensions are available for public knowledge. (37.1% of the respondents agree to strongly agree and 37.9% disagree to strongly disagree.)
• Payment information is publicly available. (33.9% of the respondents agree to strongly agree and 37.1% disagree to strongly disagree.)
• We received training on disclosure practices. (37.1% of the respondents agree to strongly agree and 40.7% disagree to strongly disagree.)

The remaining statements regarding disclosure received the highest scores and are displayed in Figure 5.11. The results are presented in the order of which the respondents agreed the most to the least with these items:
• Policies exist for public to access procurement information. (86.7% of the respondents agree to strongly agree and 6.0% disagree to strongly disagree.)
• Procurement notices are publicly advertised. (87.9% of the respondents agree to strongly agree and 5.65% disagree to strongly disagree.)
• A list of bids received is available for public viewing. (77.8% of the respondents agree to strongly agree and 13.3% disagree to strongly disagree.)
• Details of the winning company are made available to the public. (77.0% of the respondents agree to strongly agree and 14.5% disagree to strongly disagree.)
• Policies on access to information are disclosable. (69.8% of the respondents agree to strongly agree and 14.5% disagree to strongly disagree.)
• Policies on access to information are published online. (71.4% of the respondents agree to strongly agree and 13.3% disagree to strongly disagree.)
• Disclosure comes with many challenges. (69.8% of the respondents agree to strongly agree and 11.7% disagree to strongly disagree.)
• The policies clearly state which information is disclosable. (70.2% of the respondents agree to strongly agree and 12.9% disagree to strongly disagree.)
• Senior management supports disclosure. (63.7% of the respondents agree to strongly agree and 13.7% disagree to strongly disagree.)
• Procurement information is available at a central portal. (59.7% of the respondents agree to strongly agree and 23.0% disagree to strongly disagree.)
5.3.3 Public participation

Research sub-question 3: How effective is public participation in the procurement system in the South African public sector?

Section 2.3 of the questionnaire relates to public participation in each stage of the public procurement process. After weighting the 10 items in this section, the results were sorted for the items. Figure 5.12 highlights the difference in the breakdown trends with respect to the statements relating to public participation. It provides a number and percentage summary breakdown in the order of which the respondents agreed the most to the least with the items.
Figure 5.12 Public participation

The following results are presented in the order of which the respondents agreed the most to the least with the items for the public participation variable:

- Public participation comes with many challenges. (71.0% of the respondents agree to strongly agree and 10.1% disagree to strongly disagree.)
- Bidders are present at bid openings. (66.9% of the respondents agree to strongly agree and 21.4% disagree to strongly disagree.)
- Senior management supports public participation. (58.1% of the respondents agree to strongly agree and 16.5% disagree to strongly disagree.)
- Public participation influences our procurement decisions. (57.7% of the respondents agree to strongly agree and 24.6% disagree to strongly disagree.)
- It is easy for the public to participate in our procurement processes. (54.8% of the respondents agree to strongly agree and 24.6% disagree to strongly disagree.)
- Clients understand the importance of public participation. (48.0% of the respondents agree to strongly agree and 20.6% disagree to strongly disagree.)
- We have targets for achieving public participation. (39.5% of the respondents agree to strongly agree and 35.1% disagree to strongly disagree.)
- The general public is present at bid openings. (37.9% of the respondents agree to strongly agree and 41.1% disagree to strongly disagree.)
• The general public is aware of our public participation policy. (33.5% of the respondents agree to strongly agree and 32.2% disagree to strongly disagree.)
• We have received training on implementation of public participation. (33.9% of the respondents agree to strongly agree and 39.9% disagree to strongly disagree.)

5.3.4 Corruption

Research sub-question 4: Are there any benefits for Open Contracting to curb procurement corruption?

This section of the questionnaire, numbered 2.4, relates to benefits of Open Contracting to curb corruption in public procurement and consisted of 8 statements. The results were weighted and sorted in the same manner as the previous sections. The breakdown trends can be seen in Figure 5.13.

![Figure 5.13 Corruption](image)

The following results are presented in the order of which the respondents agreed the most to the least with the items for the corruption variable:

• Corruption impacts service delivery. (96.4% of the respondents agree to strongly agree and 1.2% disagree to strongly disagree.)
• Open Contracting is key to the fight against corruption. (78.3% of the respondents agree to strongly agree and 6.8% disagree to strongly disagree.)

• Corruption in public procurement is increasing. (73.4% of the respondents agree to strongly agree and 11.3% disagree to strongly disagree.)

• Policies exist to combat corruption. (81.9% of the respondents agree to strongly agree and 8.9% disagree to strongly disagree.)

• Allegations of corruption are constant. (75.8% of the respondents agree to strongly agree and 7.1% disagree to strongly disagree.)

• Protests are a result of corruption. (63.3% of the respondents agree to strongly agree and 10.9% disagree to strongly disagree.)

• Government is committed to curbing corruption. (46.4% of the respondents agree to strongly agree and 28.6% disagree to strongly disagree.)

• There are adequate resources to implement anti-corruption policies. (38.8% of the respondents agree to strongly agree and 29.4% disagree to strongly disagree.)

5.4 THE CHI-SQUARE TEST
Chi-square tests are used for determining an association between biographical variables. Cross-tabulation and Chi-square-based are measures of association, a technique for comparing two or more classification variables. These tables, constructed for statistical testing are referred to as contingency tables and the test determines whether the classification variables are dependent. Percentages are used for two purposes; firstly to simplify, by reducing all numbers to a range of 0 to 100. Secondly to translate the data into a standard form, with a base of 100, for relative comparisons.

The Chi-square (two-sample) test is probably the most widely used nonparametric test of significance, involving nominal data. It can, however, also be used for higher scales such as cases where persons, events or objects are grouped in two or more nominal categories such as ‘yes-no’ or cases A, B, C or D. The technique is used to test for significant differences between the observed distribution of data among categories and the expected distribution. It has to be calculated with actual counts rather than percentages (Cooper & Schindler, 2011:499).
5.4.1 The p-value

Using the SPSS, a p-value (probability value) that measures statistical significance, is calculated. This value is derived from the chi-square results. Results will be regarded as significant if the p-values are smaller than 0.05, because this value presents an acceptable level on a 95% confidence interval \((p \leq 0.05)\) (Cooper & Schindler, 2011:509).

A difference has statistical significance if there is good reason to believe the difference does not represent random sampling fluctuations only. Results will be regarded as significant if the p-values are smaller than 0.05, because this value is used as cut-off point in most behavioural science research.

5.5 THE PEARSON CHI-SQUARE TEST OF ASSOCIATION

The Pearson chi-square test is used to determine whether there is an association between variables. The tests were performed for all possible pairs of categorical variables:

- **Age** versus type of organisation, province where place of work is situated, designation at organisation, period worked at organisation and period worked in public sector procurement/supply chain management.

- **Type of organisation** versus province where place of work is situated, designation at organisation, period worked at organisation and period worked in public sector procurement/supply chain management.

- **Province where place of work is situated** versus designation at organisation, period worked at organisation and period worked in public sector procurement/supply chain management.

- **Designation at organisation** versus period worked at organisation and period worked in public sector procurement/supply chain management.

- **Period worked at organisation** versus period worked in public sector procurement/supply chain management.

The next section will discuss the categorical variables with a statistical significant association.
5.5.1 Chi-square test of association between age and designation

As depicted in Table 5.2, the p-value for the two variables is less than 0.05. There is thus strong evidence to state that the age and current designation of the respondents are statistically associated.

Table 5.2 Age and designation of respondents

<table>
<thead>
<tr>
<th>Age</th>
<th>Designation</th>
<th>Chief finance officer</th>
<th>Other (please specify)</th>
<th>Supply chain clerk</th>
<th>Supply chain management</th>
<th>Supply chain practitioner</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Younger than 35 years</td>
<td></td>
<td>4</td>
<td>1.61</td>
<td>5</td>
<td>11</td>
<td>18</td>
<td>33</td>
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<tr>
<td>Percent</td>
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<td>5</td>
<td>11</td>
<td>18</td>
<td>33</td>
<td>71</td>
</tr>
<tr>
<td>Row %</td>
<td></td>
<td>5.63</td>
<td>7.04</td>
<td>15.49</td>
<td>25.35</td>
<td>46.48</td>
<td>28.63</td>
</tr>
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<td>Column %</td>
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<td>30.77</td>
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<td>50.00</td>
<td>16.07</td>
<td>44.00</td>
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<td>2.82</td>
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<td>37</td>
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<tr>
<td>Percent</td>
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<td>4.84</td>
<td>3.63</td>
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<td>40.91</td>
<td>58.04</td>
<td>49.33</td>
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<td></td>
<td>2</td>
<td>0.81</td>
<td>9</td>
<td>2</td>
<td>29</td>
<td>5</td>
</tr>
<tr>
<td>Percent</td>
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<td>0.81</td>
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<td>10.64</td>
<td>47</td>
</tr>
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<td>6.67</td>
<td>18.95</td>
</tr>
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</tr>
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<td></td>
<td></td>
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</tr>
</tbody>
</table>

Pearson chi-square (8) = 31.6593 Pr = 0.0001

In order to determine which of these age groups differed with respect to their designation, pairwise tests were performed. An empirical approach was followed and in Figure 5.14 it can be seen that the statistical significant association lies in the fact that more of the older respondents were in the position of supply chain managers. On the other hand, the younger respondents were mostly in the position of supply chain practitioners.

Figure 5.14 Age versus current designation
5.5.2 Chi-Square test of association between age and period worked at current organisation

Table 5.3 indicates that the age of the respondent and the period worked at current organisation are statistically associated since the p-value resulted in 0.001. Age thus has an influence on the period worked at an organisation amongst the respondents.

Table 5.3 Age of respondent and period worked at organisation

<table>
<thead>
<tr>
<th>Age</th>
<th>Less than 1 year</th>
<th>1-4 years</th>
<th>5-7 years</th>
<th>8-10 years</th>
<th>11 years and more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Younger than 35 years</td>
<td>10</td>
<td>38</td>
<td>18</td>
<td>5</td>
<td>0</td>
<td>71</td>
</tr>
<tr>
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<td>15.32</td>
<td>7.26</td>
<td>2.02</td>
<td>0.00</td>
<td>28.63</td>
</tr>
<tr>
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<td>53.52</td>
<td>25.35</td>
<td>7.04</td>
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</tr>
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<td>35.29</td>
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<td>0.0330</td>
<td></td>
</tr>
<tr>
<td>35 to 49 years</td>
<td>11</td>
<td>41</td>
<td>29</td>
<td>23</td>
<td>26</td>
<td>130</td>
</tr>
<tr>
<td>Percent</td>
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<td>11.69</td>
<td>9.27</td>
<td>10.48</td>
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</tr>
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<td>56.86</td>
<td>69.70</td>
<td>46.43</td>
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</tr>
<tr>
<td>50 years and older</td>
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<td>4</td>
<td>5</td>
<td>30</td>
<td>47</td>
</tr>
<tr>
<td>Percent</td>
<td>0.40</td>
<td>2.82</td>
<td>1.61</td>
<td>2.02</td>
<td>12.10</td>
<td>18.95</td>
</tr>
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<td>10.64</td>
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<td>20.56</td>
<td>13.31</td>
<td>22.58</td>
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</tr>
</tbody>
</table>

Pearson chi-square (8) = 77.9133 Pr = 0.0001

As per Figure 5.15 which show that this statistical significant association lies in the fact that more of the older respondents have been working for longer than 10 years for the organisation. More of the younger respondents have been working 1 to 4 years for the organisation.

Figure 5.15 Age versus period worked at organisation
5.5.3 Chi-square test of association between age and period worked in public sector procurement/supply chain management

With a p-value of 0.001 the age and period worked in public sector procurement/supply chain management are statistically associated. Table 5.4 shows that the age of a respondent has an influence on the total period he/she has worked in public sector procurement/supply chain management.

Table 5.4 Age and period worked in public sector procurement/supply chain management

<table>
<thead>
<tr>
<th>Age</th>
<th>Period worked in public sector procurement/supply chain management</th>
<th>Less than 5 years</th>
<th>5-7 years</th>
<th>8-10 years</th>
<th>11 years and more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Younger than 35 years</td>
<td></td>
<td>32</td>
<td>23</td>
<td>10</td>
<td>6</td>
<td>71</td>
</tr>
<tr>
<td>Percent</td>
<td></td>
<td>12.90</td>
<td>9.27</td>
<td>4.03</td>
<td>2.42</td>
<td>28.63</td>
</tr>
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<td>14.08</td>
<td>8.45</td>
<td></td>
</tr>
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<td>20.00</td>
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<td></td>
</tr>
<tr>
<td>35 to 49 years</td>
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<td>19</td>
<td>30</td>
<td>34</td>
<td>47</td>
<td>130</td>
</tr>
<tr>
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<td>12.10</td>
<td>13.71</td>
<td>18.95</td>
<td>52.42</td>
</tr>
<tr>
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<td>36.15</td>
<td></td>
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<td>35.19</td>
<td>52.63</td>
<td>68.00</td>
<td>54.02</td>
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</tr>
<tr>
<td>50 years and older</td>
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<td>4</td>
<td>6</td>
<td>34</td>
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<td>1.61</td>
<td>2.42</td>
<td>13.71</td>
<td>18.95</td>
</tr>
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<td>12.77</td>
<td>72.34</td>
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<td>7.02</td>
<td>12.00</td>
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<td>87</td>
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</tbody>
</table>

Pearson chi-square (6) = 70.7754 Pr = 0.0001

Figure 5.16 shows that the statistical significant association lies in the fact that more of the older respondents have been working for longer than 10 years at public sector procurement/supply chain management. Of the younger respondents the majority have been working for less than 5 years in public sector procurement/supply chain management.
Figure 5.16  Age versus total period worked in public sector procurement/supply chain management

5.5.4 Chi-square test of association between type of organisation and province
As depicted in Table 5.5, the p-value is less than 0.05, there is strong evidence to state that the organisation and province of the respondents are statistically associated. The sample mainly consists out of respondents in Gauteng.

Table 5.5  Type of organisation and province

<table>
<thead>
<tr>
<th>Province</th>
<th>Municipal entity (state-owned, state-controlled)</th>
<th>National government department</th>
<th>Other (please specify)</th>
<th>Provincial government department</th>
<th>Public entity (state-owned, state-controlled)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
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<td>Eastern Cape</td>
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<td>10</td>
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</tr>
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</tr>
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<td>National government department</td>
<td>Other (please specify)</td>
<td>Provincial government department</td>
<td>Public entity (state-owned, state-controlled)</td>
<td>Total</td>
</tr>
<tr>
<td>-----------------</td>
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<td>--------------------------------</td>
<td>------------------------</td>
<td>----------------------------------</td>
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</tr>
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<td>4</td>
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<td>7</td>
</tr>
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</tr>
</tbody>
</table>

Pearson chi-square (32) = 107.3464 Pr = 0.0001

In Figure 5.17 it is apparent that Northern Cape, North West, Limpopo and the Free State have mostly respondents from provincial government departments. In Gauteng respondents are mainly from national and public entities. Western Cape and Kwazulu-Natal have more respondents from public entities than from the other departments.

![Figure 2.17 Province versus type of organisation](image)
5.5.5 Chi-Square test of association between province and designation

As depicted in Table 5.6, the p-value is less than 0.05, there is strong evidence to state that the province and current designation of the respondents are statistically associated. The sample mainly consists out of respondents in Gauteng.

Table 5.6 Province and designation

<table>
<thead>
<tr>
<th>Province</th>
<th>Chief finance officer</th>
<th>Other (please specify)</th>
<th>Supply chain clerk</th>
<th>Supply chain management</th>
<th>Supply chain practitioner</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td></td>
<td></td>
<td>0</td>
<td>0</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Percent</td>
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<td>0.00</td>
<td>0.00</td>
<td>3.23</td>
<td>0.81</td>
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<td>0</td>
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<td>76</td>
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<td>0.81</td>
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<td>Percent</td>
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<td>0.89</td>
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<td>0.81</td>
<td>1.61</td>
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<td>8.87</td>
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<tr>
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<td>15.38</td>
<td>9.09</td>
<td>3.57</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
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<td>26</td>
<td>22</td>
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<td>5.24</td>
<td>10.48</td>
<td>8.87</td>
<td>45.16</td>
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<td>30.24</td>
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<td>100.00</td>
</tr>
</tbody>
</table>

Pearson chi-square (32) = 107.3464 Pr = 0.0001

Figure 5.18 shows that the statistical significant association lies in the fact that Western Cape, Mpumalanga and Kwazulu-Natal consisted mostly out of supply chain practitioners that took
part in the survey. The Gauteng survey consisted mainly out of supply chain managers and secondly out of supply chain practitioners.

**Figure 5.18 Province versus designation**

**5.5.6 Chi-Square test of association between designation and period worked in public sector procurement/supply chain management**

With a p-value of 0.0003 these two variables are statistically associated. Figure 5.19 shows that the statistical significant association lies in the fact that more supply chain managers work for more than 10 years in a Public Sector Procurement/Supply Chain Management environment than the other groups.

**Figure 5.19 Designation versus period worked in public sector procurement/supply chain management**
Table 5.7 shows that the designation of a respondent does influence the total period he/she has worked in public sector procurement/supply chain management.

### Table 5.7 Designation and period worked in public sector procurement/supply chain management

<table>
<thead>
<tr>
<th>Designation</th>
<th>Period worked in public sector procurement/ supply chain management</th>
<th>Less than 5 years</th>
<th>5-7 years</th>
<th>8-10 years</th>
<th>11 years and more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
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<td>Chief Finance Officer</td>
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<td>4</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>13</td>
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<td>1.61</td>
<td>0.81</td>
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<td>Column %</td>
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<td>30.77</td>
<td>15.38</td>
<td>23.08</td>
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<td>5</td>
<td>6</td>
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<td>26</td>
</tr>
<tr>
<td>Percent Row %</td>
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<td>5</td>
<td>6</td>
<td>4</td>
<td>22</td>
</tr>
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<td>Percent Row %</td>
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<td>2.02</td>
<td>2.42</td>
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<td>8.87</td>
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<td>75</td>
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<td>54</td>
<td>57</td>
<td>50</td>
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<td>248</td>
</tr>
<tr>
<td>Percent Row %</td>
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<td>22.98</td>
<td>20.16</td>
<td>35.08</td>
<td>100.00</td>
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<td>23.05</td>
<td>24.27</td>
<td>22.10</td>
<td>29.58</td>
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</tr>
</tbody>
</table>

5.5.7 Chi-square test of association between period at organisation and period worked in public sector procurement/supply chain management

As depicted in Table 5.8, the p-value is less than 0.05, there is strong evidence to state that the period a respondent as worked is statistically associated with his/her total period worked in public sector procurement/supply chain management.
Table 5.8  Period at organisation and period worked in PSP/SCM

<table>
<thead>
<tr>
<th>Period at organisation</th>
<th>Period worked in public sector procurement/supply chain management</th>
<th>Less than 5 years</th>
<th>5-7 years</th>
<th>8-10 years</th>
<th>11 years and more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 year</td>
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<td>2.42</td>
<td>2.02</td>
<td>1.61</td>
<td>8.87</td>
</tr>
<tr>
<td>Row %</td>
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<td>31.82</td>
<td>27.27</td>
<td>22.73</td>
<td>18.18</td>
<td></td>
</tr>
<tr>
<td>Column %</td>
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<td>10.53</td>
<td>10.00</td>
<td>4.60</td>
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</tr>
<tr>
<td>1 – 4 years</td>
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<td>7.26</td>
<td>5.65</td>
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<td>34.68</td>
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<td>16.28</td>
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<td>55.56</td>
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<td>28.00</td>
<td>27.59</td>
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</tr>
<tr>
<td>5 – 7 years</td>
<td>Percent</td>
<td>10.43</td>
<td>1.26</td>
<td>6.02</td>
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<td>12.64</td>
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<tr>
<td>8 – 10 years</td>
<td>Percent</td>
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<td>Row %</td>
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<td>12.12</td>
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<tr>
<td>11 years and more</td>
<td>Percent</td>
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<td>1.61</td>
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</tr>
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</tr>
<tr>
<td></td>
<td>Percent</td>
<td>21.77</td>
<td>22.98</td>
<td>20.16</td>
<td>35.08</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Pearson chi-square (12) = 86.7279 Pr = <0.0001

It shows in Figure 5.20 that this statistical significant association lies in the fact that the longer the respondents are in an organisation the longer period they work in a public sector procurement/supply chain management environment.

Figure 5.20  Period in current organisation versus total period worked in Public sector procurement/supply chain management
5.6 RELIABILITY ANALYSIS OF THE RESEARCH INSTRUMENT

Cronbach’s alpha is one of the most commonly used test, which is based on the average correlation of items within a test if the items are standardised. If the items are not standardised, it is based on the average covariance among the items. The Cronbach’s alpha can range from 0 to 1. Cronbach’s alpha was also calculated as part of the reliability test to assess how consistent the results were and would similar results be obtained in order to generalise if the sample size increased. A value of 0.7 or higher is an indicator that the same results would be derived if the same survey was carried out with a larger sample of respondents. The Cronbach’s alpha was calculated for all the questions that have the same scales in each section (Nunnally, 1978: 245).

Table 5.9  Cronbach’s Alpha range

<table>
<thead>
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<th>SECTION</th>
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</thead>
<tbody>
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<td>2.1. Legislation and policies</td>
<td>0.855</td>
</tr>
<tr>
<td>2.2. Disclosure</td>
<td>0.882</td>
</tr>
<tr>
<td>2.3. Public participation</td>
<td>0.813</td>
</tr>
<tr>
<td>2.4. Corruption</td>
<td>0.703</td>
</tr>
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</table>

Table 5.9 illustrates the Cronbach’s Alpha to be 0.855 for Legislation and policies, 0.882 for disclosure, 0.813 for public participation and 0.703 for corruption. The Cronbach Alpha for all 4 elements is more than the acceptable level of 0.70 and thus the scale is proved to be consistent.

5.7 CHAPTER SUMMARY

This chapter presented the results of the statistical analysis performed on the primary data collected. Descriptive and inferential statistics, including tests for reliability and validity were performed in order to explain the characteristics of the sample. The salient summary of this chapter is:

- National legislation exists for disclosing information and public participation in the procurement processes;
- The public accesses procurement information at most of the organisations in the survey;
- It is easy for the public to participate in the organisation’s procurement processes; and
- Open Contracting is key to the fight against corruption.
CHAPTER SIX
DISCUSSIONS, RECOMMENDATIONS AND CONCLUSIONS

6.1 INTRODUCTION
The goal of this study was to investigate the conformity of the South African public procurement processes to the global principles of Open Contracting, i.e. disclosure and public participation. This chapter focuses on linking the results with the objectives of the research. The chapter begins by revisiting the research questions that were provided in Chapter 1. Subsequently the discussion of the findings is presented and thereafter, the summary and the conclusion that was drawn from the findings. This is followed by stating the research contribution and making recommendations on how the South African public sector can adopt Open Contracting in its current procurement processes. The chapter closes with the limitations of the study and recommendations for future research.

6.2 REVISITING THE RESEARCH QUESTIONS
In Chapter 1.6, the main and secondary research questions that guided this study were presented as follows:

*Can the procurement system designed for the South African public sector adopt the principles of Open Contracting?*

The sub-research questions were:

- Is there South African legislation and policies for Open Contracting?
- Is there disclosure of procurement information in the South African public sector?
- How effective is public participation in the procurement system in the South African public sector?
- Are there any benefits for Open Contracting to curb procurement corruption?

6.3 DISCUSSION OF THE FINDINGS
This section discusses the research findings described in the previous chapter. The discussion is based on the research questions. In order to answer the main research question the secondary questions are addressed first.
The next section discusses how the questionnaire statements were answered under each element as it appears in Section 2 of the questionnaire. The elements are

- Legislation and policies;
- Public participation;
- Disclosure and
- Corruption.

The discussion is based on the responses from participants discussed in Chapter 5. Recommendations are made based on these discussions and conclusions.

6.3.1 Legislation and policies discussion

Research sub-question 1: Did the implementation of procurement in the public sector achieve legislative and policy objectives for disclosure and public participation?

The objective of the sub-research question was to determine whether legislation and policies exist for disclosure and public participation. Part of this research question was addressed in Chapter 2 and 3 of the literature review. The same research question was further challenged in the survey phase of the study. This research question was answered by probing the respondents about the following statements:

6.3.1.1 Procurement operates in a highly regulated environment

The response to the first statement revealed that the majority (93.6%) of the respondents strongly agreed that public procurement activities operate in a highly regulated and rules driven environment in the South African public sector. This finding, therefore, correlates with the current procurement practices as discussed Chapter 2.5, where it was stated that more than 80 different legal instruments govern public sector procurement in South Africa (National Treasury, 2015:10). All of these laws and regulations relating to public procurement are implemented through a large number of independent statutory instruments, with some catering for specific procurement practices and others for particular sectors or industries.

6.3.1.2 National legislation exists for disclosing procurement information

An overwhelming 86.3% of the respondents strongly agreed that national legislation exist for disclosing procurement information. This finding is in agreement with the literature review as
discussed in Chapter 3.6.2 that the legal framework in South Africa strongly states the right of the public to access state information, including contract information. In the South African Constitution, under the heading Access to Information, Section 32(1) “Everyone has the right of access to (a) any information held by the state; and (b) any information held by another person that is required for the exercise or protection of any rights.” The law does not prohibit the disclosure of contracting information and furthermore, in many instances, publication of contracts and procurement information is expressly required, particularly at the municipal level (Constitution, 1996:15; South Africa, 2003:67).

6.3.1.3 National legislation exists for public participation
The respondents who agreed to strongly agreed with this statement measured 77.8%. This is in agreement with the discussion in the literature review in Chapter 3.6.3. Literature states that there are some opportunities to engage citizens in public contracting at the municipal level. However, procurement laws and treasury regulations are largely silent on the role of non-state actors in the public contracting process. The SCM Guide for Accounting Officers tends to also limit public participation (National Treasury, 2004a:44).

6.3.1.4 Policy that promotes Open Contracting
Of the respondents, 82.7% either agreed or strongly agreed that their institutes had a policy that promotes Open Contracting.

6.3.1.5 Policy statement for disclosure of procurement information
A majority of 86.3% of the respondents indicated that the institute has a policy statement regarding the disclosure of the procurement information. Only 8.9% of the respondents do not have a policy statement for such disclosure.

6.3.1.6 Policy statement for public participation in procurement
It was found that 73.4% of the respondents have a policy statement to implement public participation in their procurement processes. On the other hand 12.1% do not have a statement in their supply chain policy that allows the general public to participate in the contracting activities.
6.3.1.7 Implemented Open Contracting
A majority of the respondents, totalling 69% submitted that they have not implemented Open Contracting.

6.3.1.8 Summary of discussion for legislation and policies
The following analogies can be drawn from this research with respect to the discussion on legislation and policies:

- Procurement operates in a highly regulated environment.
- National legislation exists for disclosing procurement information.
- National legislation exists for public participation.
- The organisations has a policy that promotes Open Contracting, which includes a policy statement for disclosure of procurement information as well as a statement for public participation in procurement.
- It seems that Open Contracting is not fully implemented.

6.3.2 Disclosure discussion
Research sub-question 2: Do procurement officials in the South African public sector disclose procurement information?

In order to address the second research objective, the following discussion is presented in the order of which the respondents agreed the most to the least for the 10 items for disclosure with the lowest scores:

It was found that 61.7% agreed that disclosing procurement information influences their procurement decisions. About 61.3% agreed that procurement information is easily accessible by the general public and 60.9% affirmed that the public is accessing procurement information. Of the respondents, 58.9% agreed that clients understand the need to disclose procurement information whilst only 52.8% were of the opinion that their suppliers are aware of their disclosure practices.

A low 41.1% had set targets for achieving the disclosure of their public procurement information. However, only 37.5% indicated that the general public is aware of the disclosure practices. It was found that 37.1% agreed that details of contract extensions, amendments and variation orders are available for public knowledge while 33.9% acknowledged that
information relating to payments to contractors is publicly available. It was also seen that 37.1% of the respondents received training on how to disclose procurement information.

The following discussion is presented in the order of which the respondents agreed the most to the least for the 10 items for disclosure with the highest scores:

An overwhelming 86.7% of the respondents have developed SCM policies to allow the public to access procurement information. Just over 86% advertised their procurement notices publicly while 77.8% had a bids received register for public viewing and 77% made the details of the winning company publicly known. It was noted that 71.4% of the respondents made their access to information policy available online while 69.8% agreed that policies on access to information are disclosable.

Regarding the revealing of procurement information 69.8% admitted that revealing comes with many challenges whilst 70.2% have SCM policies that clearly state which information can be disclosed to the general public. About 63% have indicated that the senior management echelon of their organisations supported the disclosure of procurement information. A total of 59.7% had a view that public procurement information is available at a central portal.

6.3.2.1 **Summary of discussion for disclosure**

The following analogies can be drawn from this research with respect to the discussion on disclosure of information in public procurement processes:

- Policies exist for public to access procurement information.
- Policies on access to information are disclosable.
- Policies on access to information are published online.
- The policies clearly state which information is disclosable.
- Senior management supports disclosure.
- A list of bids received is available for public viewing.
- Procurement notices are publicly advertised.
- Details of the winning company are made available to the public.
- Procurement information is available at a central portal.
- Procurement information is easily accessible most of the times.
• The public accesses procurement information at most of these organisations in the survey.
• Disclosure comes with many challenges.
• Disclosure influences procurement decisions in more of the organisations under question.
• Clients understand the need to disclose information.
• Suppliers are aware of the organisation disclosure practices.
• It is not so clear whether the organisations have targets for achieving disclosure practices as many of the respondents indicate neither.
• In just more than a third of the organisations the general public is aware of their disclosure practices and details of contract extensions are available for public knowledge.
• In just more than a third of the organisations the respondents received training on disclosure practices.
• In a third of the organisations payment information is publicly available.

6.3.3 Public participation discussion

*Research sub-question 3: How effective is public participation in the procurement system in the South African public sector?*

In order to address the third research objective, of determining the effectiveness of public participation in the South African public sector, the results are discussed as follows:

It was found that 71% of the respondents were of the opinion that allowing the general public to participate during the various stages of the procurement process, will come with many challenges. Of the respondents, 66.9% indicated that bidders are in attendance when the bids are opened and recorded in the “bids received” register. Approximately 58% reported that their senior managers support public participation in their procurement processes, while 57.7% indicated that their procurement decisions influence the level of the general public participating in their procurement activities. Easy public participation was specified by 54.8% for different stages of the procurement processes.
Just under half of the respondents, i.e. 48% agreed that client departments within their organisations understand the importance of the general public joining in procurement activities. Targets to achieve public participation were set by 39.5% of the participants. It was found in 37.9% that the general public is present when bids are recorded and opened at the closing date and time for responses while 33.5% indicated that the general public is aware of their public participation policy. A low 33.9% of the respondents have received training on how to implement public participation measures.

6.3.3.1 Summary of discussion for public participation

The following analogies can be drawn from this research with respect to the discussion on public participation in the public procurement processes:

- Public participation comes with many challenges.
- Bidders are present at bid openings.
- Senior management supports public participation.
- Public participation influences the organisation’s procurement decisions.
- It is easy for the public to participate in the organisation’s procurement processes.
- Clients understand the importance of public participation in nearly half of the organisations.
- Just more than a third of the organisations have targets for achieving public participation.
- The general public is present at bid openings.
- Note should be taken that a high percentage of the responses were neutral. This can mean the respondents are unsure about the processes in their organisations.

6.3.4 Corruption discussion

*Research sub-question 4: Are there any benefits for Open Contracting to curb procurement corruption?*

In order to address the last research question, of determining whether Open Contracting will curb procurement corruption in the South African public sector, the results are discussed as follows:
An overwhelming 96.4% of the respondents agreed that corruption in the public procurement has an impact on the delivery of basic services to the communities they serve. The majority at 78.3% were confident that the global principles of Open Contracting is key to the fight against public procurement corruption. It was noted that 73.4% have observed that corrupt practices in public procurement is increasing while 81.9% agreed that there are polices to combat corruptive practices. This is a good indication that corruption in public procurement is viewed as a serious impediment to government achieving its ultimate aim of delivering basic and sometimes essential services to the communities they serve.

Just over 75% agreed that there are constant allegations of corruption in public procurement and 63.3% were of the opinion that service delivery protests are a direct result of corruptive practices in the award of government quotation and tenders. It was found that less than half, i.e. 46.4% of the respondents agreed that the government is committed to reducing corruption in public procurement while only 38.8% agreed that there are adequate resources to implement the various anti-corruption policies.

6.3.4.1 Summary of discussion for corruption
The following analogies can be drawn from this research with respect to the discussion on corruption in public contracting:

- Correlation impacts service delivery.
- Open Contracting is key to the fight against corruption.
- Corruption in public procurement is increasing.
- Policies exist to combat corruption.
- Allegations of corruption are constant.
- Protests are a result of corruption.
- It is unsure whether the government is committed to curbing corruption and whether there are adequate resources to implement anti-corruption policies.

6.3.5 Main research question
*Can the procurement system designed for the South African public sector adopt the principles of Open Contracting?*

Against the background of having discussed the sub-research questions, it can be concluded
that:

- The South African public procurement sector operates in a highly regulated environment and national legislation exists for disclosing procurement information as well as participation in the different stages of procurement. Although a policy that promotes Open Contracting, which includes a policy statement for disclosure of procurement information as well as a statement for public participation in procurement exists, it seems that Open Contracting is not fully implemented.

- Procurement information are publicly advertised, including procurement notices, a list of bids received and details of the winning company. However, disclosure comes with many challenges and influences procurement decisions in some of the organisations under question. It is not clear whether the organisations have targets for achieving disclosure practices.

- It is easy for the public to participate in the organisation’s procurement processes and bidders are present at bid openings. Internal client departments understand the importance of public participation in nearly half of the organisations. Public participation influences the organisation’s procurement decisions. However, a high percentage of the respondents indicated neither agree nor disagree. This can mean the respondents are unsure or do not really know.

- Corruption in public procurement is increasing and impacts service delivery resulting in service delivery protests. Open Contracting is key to the fight against corruption. The respondents, however, are not sure whether the government is committed to curbing corruption and whether there are adequate resources to implement anti-corruption policies.

Therefore, the answer to the **main research question**: The procurement system designed for the South African public sector can adopt the principles of Open Contracting. However, there are opportunities to formalise and standardise the application of Open Contracting.

### 6.4 RECOMMENDATIONS

The legal and policy framework for public procurement in South Africa is very complex. Section 217 of the Constitution provides the framework for public procurement, requiring that when an organ of state contracts for goods or services, it must do so in accordance with a system, which is fair, equitable, transparent, competitive and cost-effective. However, each
accounting officer within procuring entities is responsible for developing its own procurement policy in accordance with the framework established by the national treasury under the Public Finance Management Act, Municipal Finance Management Act and their attendant implementing regulations.

Over the years, this framework has become increasingly complex. There are now dozens of practice notes and circulars in force prescribing how procurement should be conducted. This complexity in the legislative and policy framework, has led to several problems, including differences in understanding and interpreting procurement by procurement staff, bidders and the general public; an emergence of different procurement cultures within the different spheres of government; different policies and precedents being set between the various organs of state when engaging in procurement activities; the erosion of transparency and accountability; and a general lack of predictability in procurement outcomes. A potential bidder currently has a very difficult time to understand the procurement process, including their rights and responsibilities. As a result, potential bidders may be “turned off” from participating in procurement, reducing competition.

In practice, however, interpretation of the legal framework by procurement officials has treated procurement information as highly confidential and has resulted in misapplication of the rules. Despite the constitutional requirement of transparency in public procurement and the protection of the right to information and administrative reasons under the Constitution, the PAIA, and the PAJA, procurement has consistently been treated as ‘confidential’ by default by procuring institutions. In addition, existing transparency requirements are not always adhered to in practice. This indicates a strong need to clarify what should and should not be publicly disclosed regarding public procurement in South Africa.

The recommendations are presented around the sub-research questions. On the basis of this study, it is suggested that:

6.4.1 Recommendations for legislation and policies
To fully implement the Constitution’s mandate of establishing a procurement system which is fair, equitable, transparent, competitive and cost-effective, it is recommended to:

- Simplify the legal and policy framework for procurement.
• Harmonise transparency requirements for all three spheres of government in new legislation.
• Publish SCM policies of all procuring entities and communicate the value of transparency.

There is an opportunity for the custodian of South African public procurement, i.e. the Office of the Chief Procurement Officer to put forward a single coherent, comprehensive and overarching procurement law to standardise and clarify the procurement process to be followed by procuring entities in South Africa. A single law, with attendant implementing regulations, could greatly help bidders and the public to understand public procurement. It could also help SCM officers to understand and fulfil their obligations, particularly if the law simplifies and tailors procurement rules according to the capacity of the procuring institution and the size and strategic significance of the procurement. Examples of single harmonised procurement laws and regulations (that emphasise transparency), include the UNCITRAL Model Procurement Law, Mongolia, Mexico and Mauritius, among others.

The revised legal framework should harmonise transparency requirements for all three spheres of government. In the current situation, there is a different standard of transparency between municipal, national and provincial government departments. These differences should be resolved in favour of basic information about contract opportunities, awards and implementation being publicly disclosed, preferably as open data. At the same time, opportunities for procuring entities to go beyond minimum requirements to disclose more information or to pilot civil society participation in public contracting as observers of procurement processes or monitors of contract implementation should not be prohibited or curtailed by the legal framework.

As a first step, procurement policies should be published and the National Treasury should communicate the value of transparency to procuring entities. Publication of procurement policies by procuring entities would enable potential bidders to better understand their rights and responsibilities and the functioning of the procurement process for each entity. Furthermore, National Treasury could issue a communication to procuring institutions entities emphasising the importance of publishing information about and raising awareness of the importance of public contracting for local stakeholders. It is a great opportunity for
people to learn about how their taxes translate to service delivery and to keep procuring
institutions and contractors accountable for their performance. Likewise, it will help to
empower the private sector with the information they need to determine whether or not to
compete in public contracts and the confidence that procurement processes will be
transparent and fair.

6.4.2 Recommendations for disclosure
The requirements for disclosure in public procurement fall short of international best practice,
particularly at national and provincial level where very little information is required to be
published regarding public procurement (only competitive bids over R500,000 are required to
be publicised). There are also no provisions to enable the public to observe or monitor
procurement processes. This ‘transparency’ gap means that there is no publicly disclosed
information about a major source of public spending and no data for assessing important
economic trends related to public procurement. More information is required to be published
by municipal entities and there should be more opportunities mandated for public comment
and consultation. Hence, the increased transparency requirements at the municipal level must
be brought more in line with Open Contracting principles.

6.4.3 Recommendations for public participation
Open Contracting principles recognise the roles of both state and non-state actors in the
public contracting process. In terms of the participation of non-state actors, the following
three primary examples of participation are recommended:

- During the planning stage, the public can participate through consultation;
- During the formation stage, the public can participate by observing the procurement
  process; and
- During implementation and completion, the public can monitor the performance of
  the contracts and conduct social or participatory audits.

In addition, the public, such as civil society organisations and academic institutions can make
use of contracting information for research, advocacy and policy dialogue purposes.
6.4.4 Recommendations against corruption

- The government of South Africa should introduce appropriate measures to facilitate the voluntary disclosure of information relevant to corruption in public procurement, such as leniency programmes and immunity.
- Obstruction of investigation of corruption in public procurement should be criminalised.
- Whistleblower legislation and a witness protection programme should be adopted, as useful legal measures to detect corruption in public procurement.
- Becoming a party to the United Nations Convention against Corruption should be duly considered in order to utilise it as an effective tool for combating corruption in public procurement.
- Criminal justice authorities should be independent, free of political and improper influence in the detection, investigation, prosecution and trial of corruption in public procurement.

6.5 CONTRIBUTIONS OF THE STUDY

Since no evidence of similar studies on Open Contracting in South Africa was found, this groundbreaking research made a new contribution to the body of knowledge. In addition it makes a contribution by focusing attention on an activity in the public sector, which is constantly under scrutiny, but for all the wrong reasons. If public contracting was more open, it can make a major contribution to efficiency and effectiveness in the functioning of government institutions. This study can make a difference in the public sector by:

- Understanding Open Contracting in public procurement and identifying benefits and opportunities that could help government institutions to achieve better value for public funds.
- Highlighting to government actors and other stakeholders the level at which disclosure and public participation in public procurement operate, in relation to where they could be in terms of procurement practices set out by the principles of Open Contracting.
- Emphasising the value and impact of the procurement function in the efficiency and effectiveness of government institutions.
- Encouraging procurement practitioners to learn and share innovative ideas on implementing Open Contracting. This may later translate to the minimisation of
corruption and an improvement in the delivery of basic services to citizens.

- Focusing attention on good procurement management, as this function accounts for a large portion of government spending.
- Eventually making public procurement more open so that public resources (i.e. public funds) are managed effectively and that citizens receive the services and goods they deserve.

6.6 LIMITATIONS OF THIS STUDY

There are four limitations found in this study:

Firstly, it has to be noted that it was limited to a sample of members from the Chartered Institute of Procurement and Supply (CIPS) only, and therefore will not reflect the views of individuals working in public sector procurement units, who are not members of CIPS.

Secondly, surveys, via questionnaires are subject to bias as they are instruments that are reported by an individual. The impact of this bias nature could result in responses from the sample being over or under reported.

Thirdly, only procurement practitioners’ perceptions on disclosure and public participation were considered in the study. These perceptions were not compared to other primary (public service officials including the Accounting Officer, Managers from other end-user departments, Employees, Community, etc.) and secondary (Auditor General, Provincial Treasuries, National Treasury, etc.) stakeholders to give a balanced view. This could compromise the interpretation of the responses.

Lastly, the study was conducted using quantitative research methods. The questionnaire used could not offer respondents an opportunity to give comments due to the structured nature of the questions.

6.7 RECOMMENDATIONS FOR FUTURE RESEARCH

The research assessed the application of Open Contracting in the South African public sector procurement from a quantitative perspective. In general the concept of Open Contracting in South African public procurement is not completely understood, which makes the field rich
for research in South Africa. The respondents, however, provided a rich pool of information. From it emerged the following themes for further research:

- A qualitative research approach could be used with the existing sample, and expanding the scope of well-structured interviews with not only the procurement practitioners but to other parties such as the accounting officer, managers from end-user departments, employees and community to give a more balanced view.

- This study focused on only members from CIPS, and therefore did not reflect the views of individuals working in public sector procurement units, who are not members of CIPS. Hence a similar study could be conducted expanding the population to include non-members of CIPS.

- A study on the development of a policy framework for the implementation of Open Contracting in the South African public sector procurement system.

6.8 CONCLUSION

The purpose of this study was to investigate the conformity of the Open Contracting principles to current South African public procurement system. A review of the literature indicated a gap within the body of knowledge with respect to Open Contracting in the context of public procurement processes in the South Africa. The objective of the study was to investigate and attempt to answer the main research question: “Can the procurement system designed for the South African public sector adopt the principles of Open Contracting?”

In conclusion, this study confirmed that Open Contracting in the South African public sector procurement is still young and full of promise. The small steps taken thus far by the Government of South Africa now need to be converted into the kind of substantial impact the country requires. There needs to be an accurate targeting of organs of state tasked with the implementation of the public procurement system to implement Open Contracting in a formal and standardised format. Open Contracting, after all, is an important tool to combat corruption and reinstate citizen confidence in the South African public procurement system.
REFERENCE


AUDITOR GENERAL OF SOUTH AFRICA see SOUTH AFRICA. Auditor general of South Africa.


COMPETITION COMMISSION see SOUTH AFRICA. Competition Commission.

CONSTITUTION see SOUTH AFRICA.


DEPARTMENT of Planning, Monitoring and Evaluation see SOUTH AFRICA.


JUSTICE AND CONSTITUTIONAL DEVELOPMENT see SOUTH AFRICA. Justice and constitutional development.


NATIONAL PLANNING COMMISSION see SOUTH AFRICA. National planning commission.

NATIONAL TREASURY see SOUTH AFRICA. National Treasury.


PLANNING, MONITORING AND EVALUATION see SOUTH AFRICA. Planning, monitoring and evaluation.


SA see SOUTH AFRICA.


VAN VUUREN, K. 2006. Achieving economic and social value through procurement professionalism. SAPICS 28th annual conference and exhibition, June 1–8, Sun City.


ANNEXURE A
COVER LETTER

APPLICATION OF OPEN CONTRACTING PRINCIPLES IN SOUTH AFRICAN PUBLIC SECTOR PROCUREMENT

Welcome to My Survey

Thank you for participating in my survey. Your feedback is important.

Governments across the globe are adapting their procurement processes in response to global changes and addressing societal issues that affect all stakeholders.

The public procurement profession is increasingly called upon to contribute to openness, transparency and accountability within all stages of the procurement process.

The purpose of this survey is to assess the conformity of the South African public procurement system against the international principles of Open Contracting. The study specifically focuses on the two (2) principles of Open Contracting, namely:

1. Disclosure of procurement information at all stages of the contracting process; and
2. Public participation in procurement processes at all stages of the contracting process.

The success of this study depends on your honest responses.

It should take no longer than 7 minutes to complete the survey. Your participation is voluntary and you may withdraw at any time. All data will be kept confidential and you will not be asked for any personal details. By completing the survey, you accept voluntary participation in this research.

If you have any concerns, please feel free to contact my Supervisors or me. Our contact details are list below.

Thank you for your time and contribution.

Best Regards,

Lawson

<table>
<thead>
<tr>
<th>Researcher</th>
<th>Lawson Naidoo</th>
<th>082 498 4003</th>
<th><a href="mailto:Lawson.Naidoo@gmail.com">Lawson.Naidoo@gmail.com</a></th>
</tr>
</thead>
<tbody>
<tr>
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<td>012 382 3039</td>
<td><a href="mailto:naidoov@tut.ac.za">naidoov@tut.ac.za</a></td>
</tr>
<tr>
<td>Co-Supervisor</td>
<td>Prof I.M. Ambe</td>
<td>012 429 4500</td>
<td><a href="mailto:ambeim@unisa.ac.za">ambeim@unisa.ac.za</a></td>
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## ANNEXURE B
## QUESTIONNAIRE

**SECTION 1: DEMOGRAPHIC INFORMATION**

1.1 To which age group do you belong?  

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<th>Age Group</th>
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<td>Younger than 25</td>
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<td>25 to 34 years</td>
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<td>35 to 49 years</td>
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<td>50 to 59 years</td>
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<td>60 years and older</td>
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1.2 Indicate the type of your organisation. One option only  

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<thead>
<tr>
<th>Organisation Type</th>
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<tbody>
<tr>
<td>National Government Department</td>
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<tr>
<td>Provincial Government Department</td>
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<tr>
<td>Public Entity (state-owned, state-controlled)</td>
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<tr>
<td>Municipal Entity (state-owned, state-controlled)</td>
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<td>Other organ of state</td>
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1.3 In which province in South Africa is your office/place of work located? One option only  

<table>
<thead>
<tr>
<th>Province</th>
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<tr>
<td>Gauteng</td>
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<td>Limpopo</td>
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<td>Mpumalanga</td>
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<td>Kwazulu-Natal</td>
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<td>Free State</td>
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<td>Northern Cape</td>
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<td>North West</td>
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1.4 What is your designation within your organisation? One option only  

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<thead>
<tr>
<th>Chief Finance Officer</th>
<th>Supply Chain Manager</th>
<th>Supply Chain Clerk</th>
<th>Supply Chain Practitioner</th>
<th>Other Role Player</th>
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1.5 How long have you worked at your organisation? One option only  

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<thead>
<tr>
<th>&lt;1 year</th>
<th>1-4 years</th>
<th>5-7 years</th>
<th>8-10 years</th>
<th>11 years and more</th>
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1.6 How long have you worked in Public Sector Procurement/Supply Chain Management? One option only  

<table>
<thead>
<tr>
<th>&lt;1 year</th>
<th>1-4 years</th>
<th>5-7 years</th>
<th>8-10 years</th>
<th>11 years and more</th>
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</table>
SECTION 2: CONFORMITY OF OPEN CONTRACTING PRINCIPLES TO SOUTH AFRICAN PUBLIC SECTOR PROCUREMENT

2.1 Legislation and Policies

This section of the questionnaire relates to legislation and policies that regulate disclosure and public participation (Open Contracting principles) in South African public sector procurement.

Indicate the extent to which you agree with the following statements relating to laws, regulations and policies that support Open Contracting principles on a five point Likert scale; where 1=strongly agree; 2=disagree; 3=neither agree or disagree; 4=agree and 5=strongly disagree.

<table>
<thead>
<tr>
<th>Statements</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
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<tbody>
<tr>
<td>Procurement operates in a highly regulated environment</td>
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<td>National legislation exists for disclosing procurement information</td>
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<td>National legislation exists for public participation</td>
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<td>We have a policy that promotes Open Contracting</td>
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<td>We have a policy statement for disclosure of procurement information</td>
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<td>We have a policy statement for public participation in procurement</td>
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<td>We have implemented Open Contracting</td>
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</table>
2.2 Disclosure

This section contains statements that relate to the *disclosure* of procurement information in the South African Public sector.

Indicate the extent to which you agree with the following statements relating to laws, regulations and policies that support Open Contracting principles on a five point Likert scale; where 1=strongly agree; 2=disagree; 3=neither agree or disagree; 4=agree and 5=strongly disagree.

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<tr>
<td>Policies exist for public to access procurement information</td>
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<td>Policies on access to information are published online</td>
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<td>Policies on access to information are accessible at no cost</td>
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<td>The policies clearly state which information is disclosable</td>
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<td>Procurement information is available at a central portal</td>
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<td>Disclosure influences our procurement decisions</td>
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<td>We have targets for achieving disclosure practices</td>
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<td>Senior management supports disclosure</td>
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<td>Disclosure comes with many challenges</td>
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<tr>
<td>Clients understand the need to disclose information</td>
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<td>We received training on disclosure practices</td>
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<tr>
<td>Suppliers are aware of our disclosure practices</td>
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<tr>
<td>The general public is aware of our disclosure practices</td>
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<td>The public accesses procurement information</td>
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<td>Procurement information is easily accessible</td>
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<td>Procurement notices are publicly advertised</td>
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<tr>
<td>A list of bids received is available for public viewing</td>
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</table>
Details of the winning company are made available to the public
Payment information is publicly available
Details of contract extensions are available for public knowledge

Provide your personal views on disclosing public procurement information.
2.3 Public Participation

This section contains statements that relate to public participation in the South African public procurement processes.

Indicate the extent to which you agree with the following statements relating to laws, regulations and policies that support Open Contracting principles on a five point Likert scale; where 1=strongly agree; 2=disagree; 3=neither agree or disagree; 4=agree and 5=strongly disagree.

<table>
<thead>
<tr>
<th>Statements</th>
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<tr>
<td>Public participation influences our procurement decisions</td>
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<td>We have targets for achieving public participation</td>
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<td>Senior management supports public participation</td>
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<td>Public participation comes with many challenges</td>
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<td>Clients understand the importance of public participation</td>
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<td>We received training on implementation of public participation</td>
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<td>The general public is aware of our public participation policy</td>
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<tr>
<td>It is easy for the public to participate in our procurement processes</td>
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<td>Bidders are present at bid openings</td>
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<td>The general public is present at bid openings</td>
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Provide your personal views on public participation in public procurement processes.
2.4 Corruption

This section contains statements that relate to corruption in South African public procurement processes.

Indicate the extent to which you agree with the following statements relating to laws, regulations and policies that support Open Contracting principles on a five point Likert scale; where 1=strongly agree; 2=disagree; 3=neither agree or disagree; 4=agree and 5=strongly disagree.

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<tbody>
<tr>
<td>Corruption in public procurement is increasing</td>
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<td>Allegations of corruption are constant</td>
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<td>Corruption impacts service delivery</td>
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<td>Protests are a result of corruption</td>
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<td>Government is committed to curbing corruption</td>
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<td>Policies exist to combat corruption</td>
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<td>There is adequate resources to implement anti-corruption policies</td>
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<td>Open Contracting is key to the fight against corruption</td>
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“End of Survey”