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UNIVERSITY OF KWAZULU-NATAL

**FACTORS CONTRIBUTING TO NON-COMPLIANCE IN PUBLIC PROCUREMENT-  
A KWAZULU-NATAL LEGISLATURE CASE STUDY**

by

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## DECLARATION

I Sandile Eric Gabela declare that

- (i) The research reported in this dissertation, except where otherwise indicated, is my original research.
- (ii) This dissertation has not been submitted for any degree or examination at any other university.
- (iii) This dissertation does not contain other persons' data, pictures, graphs or other information, unless specifically acknowledged as being sourced from other persons.
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## **ACKNOWLEDGEMENTS**

The completion of this dissertation would have been impossible without the grace and mercy of God and my ancestry.

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## **DEDICATION**

I dedicate this dissertation to my family, my wife Nosipho and our kids, Sthokomele and Senamile.

## **ABSTRACT**

Public procurement processes are central to the development of the particular society in which they operate. Effective government relies on this system to address the fundamental issues of service delivery. Non-compliance in public procurement is a common factor that affects the effectiveness of the system as a whole. Non-compliance issues must be identified and rectified before they can cause further problems in an already complex public procurement system. The South African National Treasury has indicated five important principles that need to be applied. These are delivering value for money, open and effective competition, ethical and fair dealing, accountability and reporting on equity. This study focuses on the factors that contribute to non-compliance in the KwaZulu-Natal Legislature (KZNL) public procurement system.

A qualitative, exploratory case study approach was used to assess the perceptions of KZNL procurement staff. The systems assessing non-compliance and the participants' understanding of the causes of non-compliance were assessed. Their understanding of the legal framework which regulates public procurement and their input into the development of procurement prescripts was investigated. Finally, the steps which have been taken to rectify the extensive non-compliance present in the public procurement system were probed.

Participants differed widely in their understanding of the legislative framework. They also exposed reasons for non-compliance ranging from internal causes such as officials not following procedure to political interference with the procurement process and supplier inadequacies.

Finally, recommendations were generated from the literature and the participants' suggestions to improve the public procurement processes in the Kwazulu-Natal Legislature.

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## **LIST OF ACRONYMS**

BBBEEA: Broad Based Black Economic Empowerment Act

CIPC: Companies and Intellectual Property Commission

CSD: Central Supplier Database

EPMDS: Employee Performance and Development system

FMPPLA: Financial Management of Parliament and Provincial Legislature Act

MPL: Member of Provincial Legislature

GDP: Gross Domestic Product

KZN: KwaZulu Natal

KZNL: KwaZulu Natal Legislature

PFMA: Public Finance Management Act

PPP: Public–Private Partnership

PPPFA: Preferential Procurement Policy Framework Act

PO: Purchase Order

RSA: Republic of South Africa

SARS: South African Revenue Services

SCM: Supply Chain Management

SBD 4: Declaration of Interest Form

UNCITRAL: United Nations Commission on International Trade Law

# **CHAPTER 1: INTRODUCTION**

## **1.1 Introduction**

An effective and efficient public-sector procurement system contributes to the prudent financial management of a country. In order to maintain this effectiveness, any non-compliance with prescribed procurement processes must be identified, understood and action taken to address it. It must be noted that the identification process is retrospective and can be undertaken using internal resources or external agencies. Sustained compliance in the South African public procurement sector will ensure the achievement of the five core principles of behaviour as stated by National Treasury (2009) which are “value for money, open and effective competition, ethics and fair dealing, and accountability and reporting equity”. In the KwaZulu-Natal Legislature (KZNL), procurement is centralised in the Supply Chain Management Unit (SCMU). This unit provides support to other units within the KZNL through the provision of demand management, procurement management, asset management, logistics management, contract management and travel management services. This study examines the activities of the SCMU and assesses its compliance with the procurement prescripts which guide its activities.

This chapter provides an introduction to the study and includes background information on public procurement, the problem statement, the rationale for the study and the aims and objectives. In addition, it describes the significance of the study and an overview of the methodology.

## **1.2 Background to the study**

The Constitution of the Republic of South Africa 1996 clearly articulates the separation of powers which divides the state into three different, but nonetheless inter-reliant arms, namely the Executive, the Legislature and the Judiciary.

Additionally, government is subcategorised into national, provincial and local spheres. The KwaZulu-Natal Legislature is the law-making body in the province of KwaZulu-Natal. These powers are conferred on it by Section 104 of the constitution, which states that

*“the legislative authority of a province is vested in its provincial legislature” (Republic of South Africa, 1996)”.*

The KwaZulu-Natal Legislature is made up of eighty (80) members, commonly known as MPLs, who are elected by means of proportional representation. When elections are held, political parties are assigned seats based on the percentage of votes received for the province in the national elections (KwaZulu-Natal Legislature, 2015).

A further stipulation is that the legislature is accountable for approving provincial laws, revising existing ones and for providing an oversight of the work of the executive and other provincial departments (KwaZulu-Natal Legislature, 2015). It is also mandated to ensure that the public participate in the processes of reviewing the provincial laws.

Public procurement emanates from the Constitution, with Section 217 providing as follows:

“(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.

(2) subsection (1) does not prevent the organs of state or institutions referred to in that section from implementing a procurement policy providing for –

(a) categories of preference in the allocation of contracts; and

(b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

(3) national legislation must prescribe a framework within which the policy referred to in subsection (2) may be implemented.”

Likewise, the clause stipulates that the relevant authorities must develop frameworks to redress the imbalances of the past through a preferential system and ensure the protection of the vulnerable categories of people (Republic of South Africa, 1996).

In order to give effect to Section 217, the Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA) was developed. The PPPFA commands government institutions to consider a procurement method that details the functionality, price and clear developmental goals to be achieved.

Public sector procurement can then be defined as all the government activities associated with obtaining goods or services required to achieve its mandate (Arrowsmith, 2010). Odhiambo and

Kamau (2003) described it as the purchasing, contracting and attaining of goods or services for a government institution. Further, Migiro and Ambe, (2008) stipulated that public procurement deals with the alignment of public sector supply chains and encompasses the private organisations that receive contracts from government.

Public procurement activities were previously completed through the Tender Board in accordance with the State Tender Board Act 86 of 1968. An amendment to the law was affected to provide the accounting officers of government institutions with powers to decide on how to acquire goods and services in accordance with the Public Finance Management Act 1 of 1999 (as amended by Act 29 of 1999). Therefore, a supply chain management (SCM) framework was developed and gazetted and it formed the context of the Treasury Regulations, Section 76 (4) (c) (National Treasury, 2003).

### **1.3 Problem statement**

Accounting Officers of government institutions are expected to submit reports to National Treasury on SCM implementation which must be in accordance with financial management prescripts. National Treasury receives reports from both internal and external auditors. According to National Treasury (2015), the received reports indicated *“nonstop poor policy implementation and operational flaws in institutional SCM oversight. These weaknesses include the inability of staff to interpret and apply SCM policies and standards. However, the underlying problem is that SCM is carried out within a decentralised legal framework, at two distinct levels: operational and regulatory.”*

SCM units within each government institution are given powers to develop their own SCM policies and a procedure manual to operationalise the prescripts. These are largely done in a decentralised model as each entity has powers to decide on what goes into its policy, but the Provincial Treasuries do provide guidelines (National Treasury, 2015).

The findings described above concurred with the Auditor General’s Reports for 2014/2015 and 2015/2016 financial years respectively. In these reports, many SCM inefficiencies were identified and most were recurring. Some of the issues related to an increase in irregular expenditure, no segregation of duties, no effective contract administration, no procurement plans, SCM deviations not properly documented, doing business with prohibited suppliers, failure to receive the required

number of quotations, no supplier database, no price benchmark and inadequate internal controls, to mention but a few.

The Auditor General of South Africa (2016) report recorded a similar theme of SCM nonconformity and irregular expenditure:

*“Appointment of suppliers who are not tax compliant, failure to use competitive processes for quotations and bids, incorrect use of the preference points system, lack of appropriate bid committees, use of unqualified suppliers, passing over of bids for incorrect reasons, use of incorrect procurement processes in relation to threshold values for quotations and competitive bidding, extension of validity periods, incorrect use of the limited bidding process, inadequate controls and procedures for handling bids, appointment of bid committee members not aligned with policy requirements, insufficient motivation for deviations from SCM procedures accordingly.”*

The report further indicated that irregular expenditure had increased by almost 40% in 2013-2014 to about R46 billion. The central cause of this rise in the irregular expenditure was the continual non-compliance with supply chain management statutes.

The origin and causes of the abovementioned areas of non-compliance need to be explored so that policy makers and implementers will understand them better and be able to develop action plans to resolve causes and prevent recurrences. This will ensure better compliance with relevant prescripts and reduce impediments to service delivery.

In South Africa, little research has been conducted on factors contributing to SCM non-compliance in public procurement. Therefore, this study addresses the question: what are the factors contributing to non-compliance in public procurement, using the KwaZulu-Natal Legislature as a case study?

#### **1.4 Research questions**

The research questions posed in the study are:

1. What are the operational factors, including the decentralised nature of SCM operations, contributing to non-compliance in public procurement in the KwaZulu-Natal Legislature?

2. What is the influence of the regulatory environment on non-compliance in public procurement in the KwaZulu-Natal Legislature?
3. What steps have been taken to address non-compliance in public procurement in the KwaZulu-Natal Legislature and what further actions could be taken?

### **1.5 Research objectives**

The purpose of the study was to understand factors contributing to non-compliance in public procurement within the KwaZulu-Natal Legislature and to suggest improvements to the current management of supply chain operations.

The research objectives were:

1. To explore the factors, including the decentralised nature of SCM operations, contributing to non-compliance in public procurement in the KwaZulu-Natal Legislature.
2. To assess the influence of the regulatory environment on non-compliance in public procurement in the KwaZulu-Natal Legislature.
3. To investigate the steps that have been taken to address non-compliance in public procurement in the KwaZulu-Natal Legislature and to suggest further actions that could be taken.

### **1.6 Significance of the study**

Ambe and Badenhorst-Weiss (2012) described how procurement is of importance to the South African government and how this function can be utilised as a policy tool that is central to the government service delivery system. Furthermore, it may encourage further goals subordinate to the prime objectives of procurement. These may include using procurement to advance social, industrial or environmental policies.

This study was aimed at understanding the underlying causes of the SCM non-compliances. The findings of the study serve as a guide for decision makers in policy design and application, to develop proper action plans to solve these issues and prevent non-compliances in the future.

## **1.7 Research methodology overview**

A qualitative research approach was used to explore the research problem. Data was collected through in-depth interviews with SCM practitioners from KZN. This approach assisted in addressing the research objectives. The sampling strategy used was a non-probability purposive sampling technique. This was so that the researcher identified the participants who conform to a specific set of criteria to provide the needed information which will assist in addressing the research question (Volmink, 2014). The findings of the study were analysed using thematic analysis, with themes developed from the research questions and codes emerging from the primary data collected.

Qualitative research is a methodology that permits a scholar to collate data which is useful in describing how a target population is experiencing a phenomenon (Sekaran & Bougie, 2016). Saunders (2009) argues that this method is systematic in discovering and generating comprehensive descriptions about what is being researched in the study. Therefore, the methodology used with the case study design permitted the researcher to produce new perspectives in understanding a phenomenon.

According to Cooper and Schindler (2011) a sample is a quota of the target population and that quota must be prudently nominated to characterise that population. The sample was chosen from KwaZulu-Natal government departments, in particular SCM practitioners from KwaZulu-Natal Legislature. These practitioners are qualified to provide the required information as Provincial Treasury provides support to all government institutions on financial management issues and other areas. They also conduct assessments on implementation of SCM prescripts and workshop officials on newly gazette prescripts, where necessary.

## **1.8 Ethical considerations**

The ethics application form was submitted to the Ethics Committee of the University of KwaZulu-Natal and approval was obtained prior to proceeding with the research. Furthermore, permission to conduct the research was received from KZN. In addition, the objectives of the study were clearly explained to the participants and informed consent forms were signed before the interviews were conducted. The participants were made aware that they were participating voluntarily in the study. Participants were continually advised that privacy, confidentiality and anonymity would be

upheld at all times. This was done before the commencement of data collection, during the interviews and at the end of all the processes.

## **1.9 Dissertation outline**

Chapter 1 introduced the study by highlighting the background information of the study, the aim of the study, the research objectives, as well as the significance of the study.

Chapter 2 reviewed the existing literature on non-compliances in relation to public procurement within the South African context. The discussion pertains to aspects of the theories, models and legal frameworks underpinning public procurement, legislative framework, and the public procurement reforms.

Chapter 3 outlined the research methodology, which includes: the research design, the research method, the target population, sampling, data collection, data analysis, ethical considerations and the limitations of the study.

Chapter 4 reported on the presentation and analysis of the research findings.

Chapter 5 provides a summary of the main research findings, recommendations and emphasising areas for additional research.

## **1.10 Conclusion**

Public procurement management is a critical support function to the KZNL. The KZNL is mandated to pass provincial laws and this must be done through a public participation model. The activities of the KZNL involve the obtaining of goods and services. The acquisition of such requirements involves demand management, procurement, contract management and monitoring. This chapter provides information on the background of the study, the problem statement and purpose of the study, the contribution of the study, the research questions, research objectives and the outline of the study. The next chapter deals with the literature on the research topic.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 Introduction**

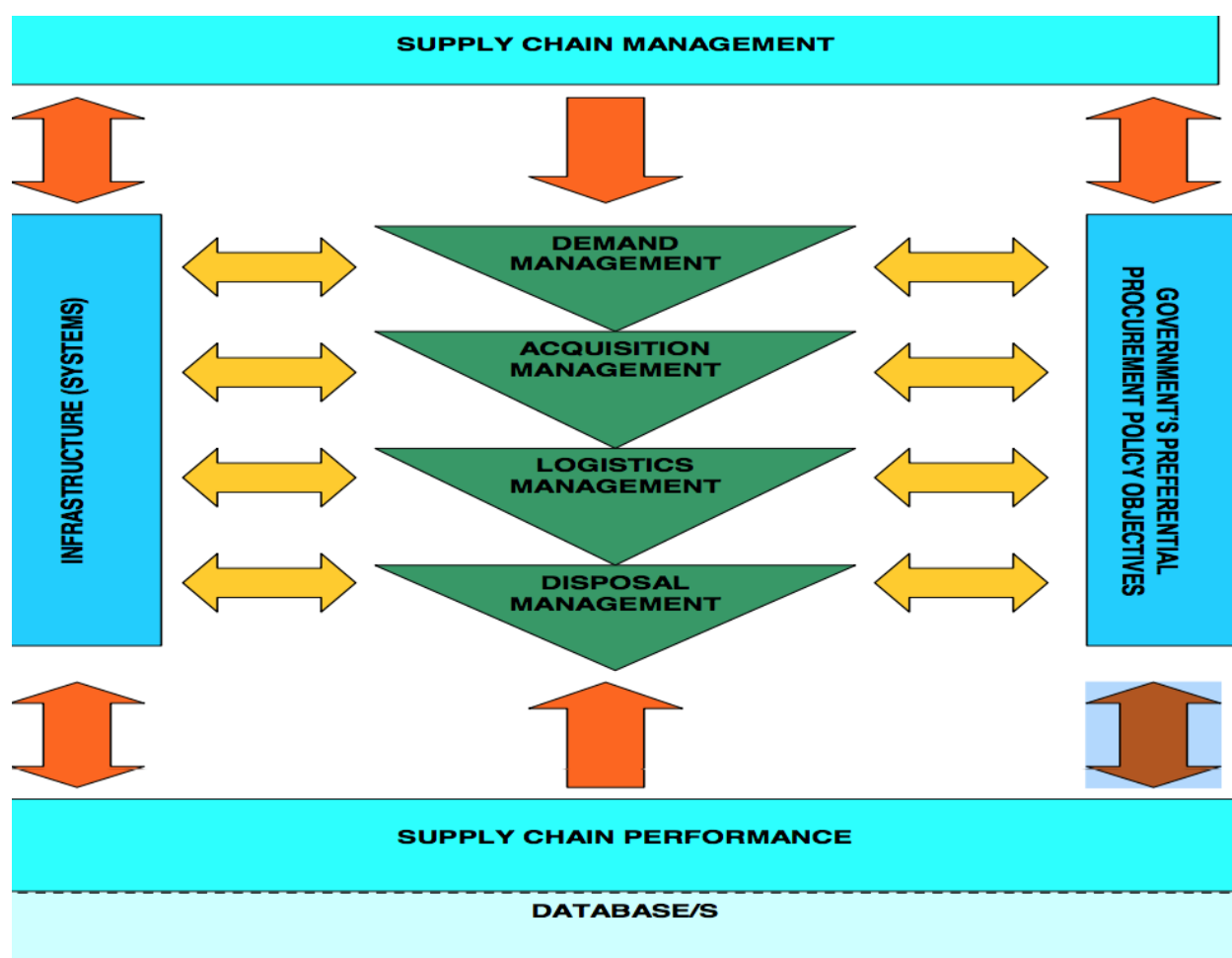
Public procurement includes the process by which governments and regional and local public authorities or bodies governed by public law purchase products, services and public works (Sewpersadh & Mubangizi, 2017, p.3). In South Africa, this process is guided by the supply chain management (SCM) framework which was gazetted in December 2003 (National Treasury, 2015). The South African Government has developed further initiatives aimed at ensuring that small businesses benefit from the government's public procurement spending. These are supported by Section 217(2) of the Constitution which gives powers to the state to develop "categories of preference in the allocation of contracts" (Republic South Africa, 1996). This was viewed by Hugo, Badenhorst-Weiss and Van Rooyen (2004) as a mechanism to empower small business in South Africa and to assist them to penetrate the main stream economy which is dominated by big businesses which are not owned by the majority of the population.

Lysons and Farrington (2012) argued that there is a clear distinction between purchasing and procurement. Purchasing is a process of ensuring that the requested goods or services are procured in the requested quantities, are of the right and acceptable standard, are delivered and available at the determined location, during the specified time and are bought at a market related price. While procurement involves the buying of goods and services, it starts from the identification of needs and encompasses activities up to the disposal stage.

Proper supplier management is often deficient in public procurement systems. Handfield, Monczka, Giunipero and Patterson (2011) argued that supplier performance management should be carried out for each and every appointment. It should, firstly, measure the delivery performance to ensure that the stipulated delivery periods are adhered to. Secondly, the received products should be inspected for quality. This is to ensure that they comply with the initial specification and any sample provided. The results will inform the procurement unit whether the service provider can be engaged for future work and identify any gaps which can be addressed through engagement with the supplier or by recommending a supplier development program.

Once a procurement process is complete, the parties should enter into an agreement. This may be for the short term supply and delivery of goods or for a longer period such as 3 years. These types of contracts are then utilised for future procurement without going out to the market. Organisations, including government institutions, have challenges in the area of managing contracts which cause problems, misunderstandings and poor execution (Handfield et al., 2011, p. 518).

Figure 2.1 depicts the public procurement elements as enshrined in the prescripts of the National Treasury. It assists to ensure proper segregation of duties and development of workflows.



**Figure 2.1: Public Sector Procurement Framework**

(Source: National Treasury, 2015)

The first element is demand management, which deals with planning, conducting market analyses, development of specifications and supplier management (Loura & Oshani, 2014). The second

element is acquisition and this is where the actual procurement takes place. There are different thresholds which determined which procurement method will be used. For goods and services below R500 000 inclusive of VAT, a quotation process is followed, in which service providers registered on the central supplier database (CSD) are requested to submit their quotations. If the estimate is above R500 000, then a competitive bidding process is followed (KwaZulu-Natal Legislature, 2016).

Furthermore, there is a logistics unit which issues purchase orders (PO) to the successful service providers from either of the above procurement methods. This section also receives invoices and prepares them for payment purposes. Additionally, it controls the institution's inventory (National Treasury, 2009). It also administers short and long-term contracts. Additionally, it considers the disposal of assets and other goods requests and action same in accordance to the disposal policy.

There is continuous SCM performance management by end users, auditors and service providers. This is to ensure that SCM performs within the acceptable standards and complies with the relevant prescripts. Also, all risks associated with the activities must be identified and mitigating factors developed in advance. Thus, there is a SCM risk register which feeds into the organisational risk register.

## **2.2 Aim and objectives of public procurement**

The main aim or objective of public procurement is to implement and run a system which brings about the necessary and required results in any particular public setting. However, public procurement is not only about the setting up of a functioning procurement system, but it also involves a number of other aspects (Williams-Elegbe, 2014, p.210). These may include: to develop the administration and governance of public institutions; to bring about a positive response to the world wide forces and raise the involvement of private institutions in public procurement; to alleviate the levels of transparency and address corrupt practices or behaviours; to alleviate action or decision making in public procurement; to ensure that there is coordination in public procurement; to increase the number of competent officials in the procurement systems; to develop service delivery; and, ultimately to bring about development and reduce poverty (Williams-Elegbe, 2014, p.210).

All these reasons seem to indicate that public procurement is important for the development of any society. It has to be pointed out that it is impossible for public procurement to meet the needs of all members of the community (Bolton, 2016, p.2). The satisfaction of the needs of most members in the society alone requires vast financial support (Bolton, 2016, p.2). This implies that public procurement is a very wide and complicated subject which needs to be extensively investigated in order to formulate a working model. The influence of global political and market forces on the application of public procurement makes it a very difficult system to evaluate.

## **2.3 Factors contributing to public procurement non-compliance in South Africa**

There are a wide range of factors that contribute to non-compliance in South Africa. In its Public Sector SCM Review the National Treasury identified a number of issues with regard to the management of suppliers, the staffing of the SCM function, the policy framework in which procurement is carried out and corruption (National Treasury, 2015, p. 5). These issues and further ones identified in the literature will be discussed below.

### **2.3.1 Supplier management**

Poor supplier management has been identified as a key weakness of public sector SCM in South Africa (National Treasury, 2015, p. 5). The focus on short term gain on the part of suppliers results in overpricing of goods, collusion and poor quality delivered to government, while public sector officials fail to recognise the value of long-term supplier relationships. This was noted by Naude, Ambe and King (2013, p. 8) who suggested that supplier relationship management (SRM) is restricted by public sector procurement policies which prohibit the development of relationships between procurement officials and suppliers and which encourage supplier rotation in the interests of fairness. However, these authors did not feel that the principles of SRM are incompatible with public sector procurement and this agrees with the findings of the government review of SCM (National Treasury, 2015, p. 5).

Mantzaris (2014, p. 72) described the process of supplier evaluation which is required for effective procurement. His study emphasised the competitive selection process but did not consider the benefits of long-term relationships. However, the author did allude to the potential for the delivery of sub-standard goods and manipulation of prices post-tender if suppliers are not held accountable through effective contract management.

### 2.3.2 Competence of SCM practitioners

The SCM review identified a lack of motivation and competence among staff (National Treasury, 2015, p. 4). It is very important for those implementing the public procurement processes to be competent in order to improve service delivery and develop the society in general (Hart, 2016, p.41). Munzhedzi (2016, p.2) indicated that in South Africa, the common causes of incompetence include corruption and some of the processes which aim to promote disadvantaged groups. Corruption affects the procedures and processes which are regulated by the constitution and a wide range of other legislation in terms of different processes of public procurement (Sewpersadh & Mubangizi, 2017, p. 2). For instance, the process of appointing an official into the public sector requires that certain rules and guidelines are followed to ensure that a suitable official is appointed. If corruption is present in the selection process this will most likely result in the appointment of an official who is not competent to carry out the duties of that office.

The public sector has been encouraged to promote the previously disadvantaged and people who were discriminated against in the country (Munzhedzi, 2016, p.2). These include, for example, black people, women and disabled people. The major issue with the promotion of such people is that the process may ignore other well capable and competent people for appointment to a particular office or as suppliers, in favour of the previously disadvantaged groups (Munzhedzi, 2016, p. 3). The end result is that the people who may be appointed or chosen to carry out business in terms of public procurement may not be very competent. This will ordinarily hinder or slow down the effective functioning of the public procurement in the society.

National Treasury (2015, p. 4) also identified a lack of resources, such as computer systems and up-to-date databases and factors leading to ineffectiveness and poor motivation among staff. Furthermore, the absence of consequences for poor performance undermines the effectiveness of the SCM function.

### 2.3.3 Corruption

Sewpersadh and Mubangizi (2017, p. 2) indicated that one of the most common and negative characteristics of the post-apartheid era in the public sector is corruption. The Corruption Perception Index ranked RSA 67<sup>th</sup> out of 175 countries (Sewpersadh & Mubangizi, 2017, p. 3).

Ambe and Badenhorst-Weiss (2012, p. 252) described losses of up to 20% of the government's procurement budget as a result of corruption and mismanagement of funds.

Munzhedzi (2016, p. 2) explained that the issue with these allegations and suspicions of such practices is that the officials who are in senior management are rarely investigated or prosecuted. These people have the power to ensure that all the investigations which could lead to prosecution are extinguished (Munzhedzi, 2016, p.2). Ultimately, this becomes the norm in the conduct of business (Sewpersadh and Mubangizi, 2017, p.2). This is a major problem because public procurement is not being administered in accordance with the constitution and other legislation which has been enacted (National Treasury, 2015, p. 20).

Corruption may arise out of political interference in the SCM process (National Treasury, 2015, p. 5). If tenders do not undergo the fair processes prescribed for the award of contracts, those companies contracted to government may not be able to meet their obligations (Sewpersadh & Mubangizi, 2017, p.2). The launch of the Centralised Supplier Database in 2015 was aimed at reducing the scope for corruption while improving efficiency for SCM officials and reducing the administrative burden on business (Ambe, 2016, p. 287). As yet, no study has been published which assesses the success of this initiative.

#### 2.3.4 Poor strategic planning and budgeting

Ambe and Badenhorst-Weiss (2012, p.242) explained that public procurement ordinarily operates in a society where there many spectators with a wide range of expectations. The pressure may come about due to technology, programme reviews and a general expectation from members of the public (Ambe and Badenhorst-Weiss, 2012, p.242). National Treasury (2015, p. 5) noted that balancing the social imperative for development and transformation with effective SCM objectives such as price and quality presents public sector SCM practitioners with a challenging task. Senior officials in the public sector must be prepared to explain to the general public the reason why certain decisions were taken (Hart, 2016, p. 41). This may mean less time doing actual work which can improve or develop the society in accordance with its mandate.

In South Africa procurement has been in the leading role in the public sector and has been utilized in terms of dealing with the consequences which are a result of the apartheid era (Bolton, 2016, p.2). This tends to put additional pressure on the public sector to ensure that it delivers and closes

the gap that was created due to the apartheid era (Bolton, 2016, p.2). Procurement must be seen to favour the majority in contrast with the past when it was geared towards established institutions and a selected minority (Hart, 2016, p. 41).

Budgeting and demand forecasting is a challenging area for public sector SCM (National Treasury, 2015, p. 5). This has been exacerbated by the decentralised nature and poor integration of financial systems in the past (Ambe, 2016, p. 287).

#### 2.3.5 Demands of the regulatory framework

The administrative burden for both SCM practitioners and suppliers which is imposed by the regulations and policies is acknowledged in the review of public sector SCM (National Treasury, 2015, p. 5). While the need to simplify the tender process and make it easier for SMMEs to win contracts was acknowledged as long ago as 1997 when the green paper on public sector procurement reform was released (Bolton, 2006, p. 205) this goal has still not been achieved.

### 2.4 Effects of non-compliance

Non-compliance with public sector procurement prescripts results in negative effects for the country as a whole and particularly for the disadvantaged members of society.

#### 2.4.1 Service delivery in the public sector

Zitha, Sebola, and Mamabolo (2016, p.59) illustrated that generally large amounts of money are required for the public sector to carry out its functions. The primary source of this money is the people who are in the country, who are taxed at various levels in terms of any business transaction they conduct (Munzhedzi, 2016, p.2). The fact that the money is attained from the public adds to the pressure on the public procurement processes operate in favour of the general public. However, non-compliance affects the public sector in its duties of service delivery. For instance, in a situation where the process is corrupt, only the few people who are directly linked to those practices will benefit (Munzhedzi, 2016, p. 3). In the case of an incompetent public procurement system, it will not be able to carry out its duties to the satisfaction of all its citizens in the society (Zitha et al., 2016, p. 59).

#### 2.4.2 Misuse of public funds

Ngcamphalala and Ambe (2016, p.1205) indicated that the public procurement processes usually take up most of the budget of the government. This shows the importance of this sector. For it to function effectively, it has to have the necessary financial backing. The appropriate application and implementation of the public procurement processes should minimise administrative costs and the unproductive use of resources (Ngcamphalala & Ambe, 2016, p. 1205). This serves to highlight the fact that any form of non-compliance in the public procurement system will be deemed to be a misuse of public funds. As long as the public procurement processes are not regulated as it is provided for in Section 195 of the Constitution and any other guiding legislation, these funds will be deemed to be misused. For example, corrupt practices will ordinarily unjustly benefit a few people in a particular environment (Munzhedzi, 2016, p. 3). Incompetent officials are not able to fully utilise the resources of the public to the expected level of competent officials. This indicates that such officials will misuse the resources at hand and this will affect the public procurement processes.

#### 2.4.3 Lack of accountability and transparency

Naude et al. (2013, p.1) indicated that it is very important for public procurement to be transparent and accountable in order for it to function efficiently and to bring about development in society. Public procurement enables the various sectors of the government, for instance health, education, infrastructure, to run smoothly (Munzhedzi, 2016, p.3). This means that a range of public sectors will be significantly affected if public procurement is not effective. The levels of effectiveness are elevated in a public procurement system that is accountable and transparent (Naude et al., 2013, p. 1). Munzhedzi (2016, p. 4) explains that in South Africa the public procurement system is largely unaccountable and lacking in transparency. There is seldom investigation into any misconduct that occurs in the public sector due to the levels of power that the people in such departments possess (Munzhedzi, 2016, p.4). This indicates that no one would be prosecuted for any misconduct and this increases the chances of further misconduct. Officials realise that there is no consequence for any of their actions which are not in compliance with the guiding rules and regulations and are therefore not afraid to be involved in corrupt practices for their own benefit (Naude et al., 2013, p.

2). The other issue is that it is not always easy to identify who exactly is the individual that needs to be penalised in any given case of misconduct (Munzhedzi, 2016, p.4).

## **2.5 Resolving non-compliance**

Both the international and South African literature suggest ways in which public procurement can be improved and instances of non-compliance can be reduced. Promising strategies include innovative procurement, more adaptable procurement practices, harmonisation of regulation and practice, public-private partnerships and outsourcing.

### **2.5.1 Innovative procurement**

Bolton (2016, p. 2) explained that innovation has been introduced into public procurement processes as a way of improving service delivery and achieving socio-economic goals. The general idea is that the public procurement systems integrate and work in partnership with another entity which will carry out research and development, resulting in new products or services (Bolton, 2016, p. 2). These will be the specific goods and services that any given community expects to attain from the public procurement system. This process ordinarily improves the standards of the public services and develops new ways of dealing with challenges that are present in the community (Williams-Elegbe, 2014, p. 209).

The other important feature of innovative procurement is that it brings all the entities in the whole system closer and together and encourages dialogue (Bolton, 2016, p. 3). Such a relationship is vital because all the people involved will be able to understand exactly what the other entity wants or if not can easily enquire and will therefore be able to come up with the desired results in the circumstances. Bolton (2016, p. 3) stated that the use of innovative procurement has been adopted successfully in countries like Canada, China, New Zealand, India and Japan.

Williams-Elegbe (2014, p. 209) explained that in 1994, the United Nations Commission on International Trade Law (UNCITRAL) finalised a model law which can assist a lot of nations in the procurement of goods, services and construction. A bill incorporating the UNCITRAL Model Law on International Commercial Arbitration into the statutes of South Africa was tabled before parliament in 2017. The UNCITRAL Model Law on Procurement of Goods, Construction and Services (1994) has been successfully used by many developing countries and can promote

development in South Africa if it is strictly and appropriately applied (Williams-Elegbe, 2014, p.209).

### 2.5.2 Adaptable procurement methods

Modern procurement methods call for public procurement that encourages and ensures accountability, transparency and efficiency in its operation (Williams-Elegbe, 2014, p.209). The systems of old, for instance in SA, that only catered for a small minority have been superseded by processes that include everyone in the society (Munzhedzi, 2016, p.4). The evolution of public procurement processes must include the development of flexible, adaptable systems if it is to bring about the desired results (Bolton, 2016, p.3). Procurement systems must take into account that public procurement may vary in application from one setting to another. For example, the way that it may be applied in a rural setting will be different to an urban setting (Williams-Elegbe, 2014, p.210). It is not a “one size fits all” system of application or implementation. This requires that public procurement should be applied in a way that would bring about desirable outcomes for society as a whole. Policy formulation and implementation should consider all sorts of characteristics or influences that can alter the way the public procurement system needs to operate.

### 2.5.3 Harmonisation of procurement practices and regulation

Ittmann (2017, p.1) explained that an effective procurement system ordinarily affects the finances utilised, the period of a particular programme and the overall achievement of results. This means that a well administered public procurement system minimises the time and expense of any of its programmes. These factors will largely affect the success rate in the implementation or operation of a public procurement programme. The process of harmonising public procurement calls for the involvement of all the entities that would ordinarily be involved in the operation of the system as a whole (Ittmann, 2017, p. 1). This ensures that most of the important aspects that will be involved in public procurement are considered and ultimately addressed (Ittmann, 2017, p. 2). The involvement of all concerned parties encourages these people to work as a team and influences the levels of commitment. The more people are involved, the more ideas are circulated and the more aspects are covered (Ittmann, 2017, p. 2).

#### 2.5.4 Public-private partnerships

Ittmann (2017, p. 1) stated that the use of public–private partnerships (PPP) has been encouraged in South Africa. Those calling for the extensive use of this strategy include politicians, the Department of Transport and consulting engineers in the country (Ittmann, 2017, p. 2). The consulting engineers indicated that South Africa is not spending the amount of its GDP on infrastructure that was mandated by the National Development Plan (30% of GDP) and that the use of a PPP strategy could remedy this (Ittmann, 2017, p. 2). This could spread the risk of infrastructure creation and speed up the pace of development in the country. However, in order to realise the full potential of this strategy and to take advantage of it, procurement systems must be in place to support it. PPP may even be used as a strategy to overcome the limitations of government in carrying out the more specialised procurement activities. More highly qualified entities can assist in carrying out some of these duties.

#### 2.5.5 Outsourcing

Lacity, Willcocks and Craig (2014, p.45) indicated that an increasingly popular strategy in public procurement is outsourcing. This process involves the gathering of information from the people who will benefit from the public procurement process in terms of their needs, developing working models to meet these needs and engaging non-government organisations and private companies to achieve the goals of public procurement (Lacity et al., 2014, p.45). This means that the public sector can be fully utilised to carry out activities in which government lacks the necessary competence. This model would be effective since it would directly address the needs of the general public through commercial enterprises that are already engaged with consumers. One of the major adverse factors of this process is that the entities involved may sometimes propose unrealistic models which result in the misuse of public finances (Xhala, Nemec & Kajimo-Shakantu, 2017, p. 66)

### 2.6 Conclusion

This section presented and discussed the literature with regards to the common aspects of public procurement in SA. The chapter set out the aim or objectives of public procurement. The chapter also discussed the factors that contribute to public procurement non-compliance in SA, the effects

of non-compliance and ended by discussing how to resolve non-compliance. The next chapter will present the research methodology that was utilized in this study.

## **CHAPTER 3: RESEARCH METHODOLOGY**

### **3.1 Introduction**

Public procurement is viewed as a crucial contributor to poverty alleviation, small business advancement and economic development. There have been a number of negative findings by the auditors of government departments and corruption-related articles in the media. All of these paint a dismal picture of public procurement as a profession. Stakeholders have lost trust in the system, and name it a “get rich quick system, only when you are connected.”

In the previous chapter, literature relating to public procurement was reviewed, as well as the legislative framework. However, in order to understand the root causes of instances of non-compliance, it is critical to engage the officials tasked with performing the procurement-related activities. To this end, qualitative data was collected from the KwaZulu-Natal Legislature (KZNL). This chapter addresses the data collection processes and describes the method of analysis. Research methodology described includes: research design adopted, the population, sampling characteristics, the location of the study, the research tool, data analysis methods and information on ethical clearance.

### **3.2 Research design**

It can be argued that research design is a guide used by researchers to collect, measure and analyse data in pursuit of responding to the research questions (Sekaran & Bougie, 2016). A case study research design was used to explore the factors contributing to non-compliance in public procurement at the KZNL. The chosen research design guided this study and was effective in bringing the researcher to an understanding of multifaceted issues (Myers, 2011). This type of design allowed for an exploration of different sources of data on the causes of non-compliance in public procurement in the KZNL. The data for the study was collected using a qualitative approach.

A descriptive research design was adopted for the study, in order to provide an understanding of the factors contributing to non-compliance at KZNL through a description of the situation as perceived by those engaged in procurement. According to Kumar, Kalib and Ramayah (2013, p. 34), a descriptive research design elucidates a phenomenon or situation, emphasising different

perspectives and reporting on what has occurred and what has been understood. The descriptive research design is consequently appropriate for this study.

### **3.3 Research methods**

A qualitative research approach was used to explore the research problem. Qualitative research is a methodology that permits a scholar to collate data which is useful in describing how a target population is experiencing a phenomenon (Sekaran & Bougie, 2016). Saunders (2009) argued that this method is systematic in discovering and generating comprehensive descriptions about what is being researched in the study. Therefore, the methodology used with the case study design permitted the researcher to produce new perspectives in understanding a phenomenon. Creswell (2013) suggested that qualitative research methods are intended to provide a better understanding of human behaviour. Therefore, this study used a qualitative approach to explore the underlying root causes on SCM non-compliances which result from the behaviour of those responsible for this function.

### **3.4 Research instruments**

Sekaran and Bougie (2016) stated that data can either be gathered from principal participants, which is primary information, or secondary sources, which is from the existing body of knowledge.

#### **3.4.1 Interview guide**

Interviews are research tools employed to collect data in research and they are a guided, purposeful conversation between two or more people (Sekaran & Bougie 2016). This method of collecting data enables the researcher to adapt the questions, provide clarity and ensure that the participant's responses are properly understood. (Sekaran & Bougie, 2016). In this study, semi-structured, in-depth interviews were conducted. This type of interview provided the rich data needed to describe the phenomenon under consideration. Interviews were conducted with SCM practitioners and those in management positions. A predetermined set of questions were used during the interview process but participants were encouraged to elaborate on their answers as they wished to.

The data instrument utilised for this study is an interview guide. This guide was prepared in advance and guided the interview process (see Appendix 3). The interview guide was not pretested.

The questions were categorised using themes suggested by the literature. Each theme addressed an objective(s) of the study. While several of the questions were closed, to guide and ensure that the participants focussed on a particular point, participants were given an opportunity to comment and expand on their answers.

Interviews were conducted at KwaZulu-Natal Legislature offices, situated at number 244 Langalibalele Street, Pietermaritzburg 3201. Emails were sent to participants requesting them to participate in the study and to provide a suitable date, time and venue for the interview session. This was followed by verbal discussions around the objectives of the study. All participants consented to have the interviews recorded. All interviews were recorded with a cellular phone and transcripts of these recordings along with notes taken by the researcher were used in the analysis of the findings of the study.

#### 3.4.2 Secondary data

Secondary data was collected from relevant available literature such as KZNL policies, newsletters, books, journals, auditor general reports and these were reviewed. Secondary data was largely used to strengthen the research findings.

### 3.5 Research population and location

Sekaran and Bougie (2016) suggested that the target population should consist of the elements, geographical location and time which represent the condition under study. In a case study, Saunders (2009) stated that population can be regarded as the whole case, from which a sample is derived. As a result, the target population for the research study encompasses SCM practitioners in KwaZulu-Natal Legislature, especially those in supervisory positions and involved in day-to-day processing of procurement related transactions. There are eleven (11) SCM practitioners in the employ of KwaZulu-Natal Legislature.

The location of the study is the physical place where the study will be conducted to accumulate the anticipated data (Williams, Remenyi, Arthur & Swartz, 2005). The study site was the KwaZulu-Natal Legislature in Pietermaritzburg. KwaZulu-Natal is a coastal South African province.

### **3.6 Sampling strategy and sample size**

Williams et al. (2005) defined sampling as a process of selecting a subset of the overall population on which to conduct the test while Sekaran and Bougie (2016) defined the sample as the complete quantity of components nominated to partake in the study. A non-probability, purposive sampling method was utilised to choose the participants in this study. This allowed the researcher to choose participants based on their expertise and knowledge. This sampling method is used to elicit information from specific target groups who can provide the required information (Sekaran & Bougie, 2016). The reason for selecting this sampling method was that the SCM practitioners are supposed to be experts in their field. Hence, they are in a better position to share genuine concerns encountered when procuring goods and services. Participants were selected purposively from KZNL. Most elements of the sample were SCM officials at management or supervisory level.

According to Cooper and Schindler (2011), a sample is a quota of the target population and that quota must be prudently nominated to characterise that population. The numbers of the participants for the interviews was considered sufficient to provide exhaustive responses to the research questions. The sample size for this study was 8 SCM practitioners in KNZL, approximately 73% of the target population within the study case. These included the Senior Manager SCM, Procurement Supervisor, procurement officials and other SCM officials.

### **3.7 Data analysis**

The collected data for the research study were derived from primary and secondary sources. Primary data were collected through semi-structured, in-depth interviews and research question oriented thematic analysis was used to analyse the collected data (Cooper & Schindler, 2011). This is a strategy for classifying qualitative data using the research questions behind the study to provide themes (Creswell, 2013). After the interview responses were transcribed, the data was organised into patterns, themes and categories which enabled the researcher to group related ideas. Secondary data were used to verify the findings of the study.

### **3.8 Reliability and validity**

According to Bryman and Bell, (2011), reliability is the degree to which a particular study carried out over time produces the same results. In case studies, reliability is principally a measure of how likely different judges are to select the same themes or categories and to allocate the same

information to those categories (Sekaran & Bougie, 2016). In this study, the themes were based on the research questions and these also informed the design of the interview guides so that participants provided responses which were categorised according to the research question being probed. Secondary sources provided further corroboration of the chosen categories.

Validity is achieved when an instrument measures what it is planned to measure with adequate precision (Manyathi, 2014). This can be achieved if the researcher is also a participant in the case being studied and can hence correlate data with their own knowledge (Bryman & Bell, 2015). This researcher is employed by KZNL and brought his own experience to the interviews, allowing him to ensure that participants responded to the issues of concern in this study. Further measures which are used to measure the quality of a qualitative research, such as credibility and trustworthiness, were also enhanced by the researcher's participatory role. External validity, which would allow the findings to be generalised to a wider population, was not considered important since the case study only seeks to probe the situation at KZNL.

### **3.9 Conclusion**

The chapter presented the methods used to collect data from the participants. It further discussed the research design, research methods, study location, target population and sampling. Additionally, the instruments used to collect data and methods of analysis were also discussed. As argued, this research methodology assisted in addressing the research questions and realising the research objectives. The next chapter is the presentation and discussion of the findings of the research study.

## **CHAPTER 4: FINDINGS**

### **4.1 Introduction**

The preceding chapter discussed the research methodology and indicated its purpose and relevance for the study. The relevant methodological issues such as sample size, data collection techniques and process were described. This chapter aims to present the findings from the research and the data collected in respect of the factors contributing to non-compliance. The data was collected through semi-structured, in-depth interviews. The researcher collected data from the KZN Legislature's procurement officials sampled in the study.

The findings are organised under headings relating to the research questions posed in the study which were:

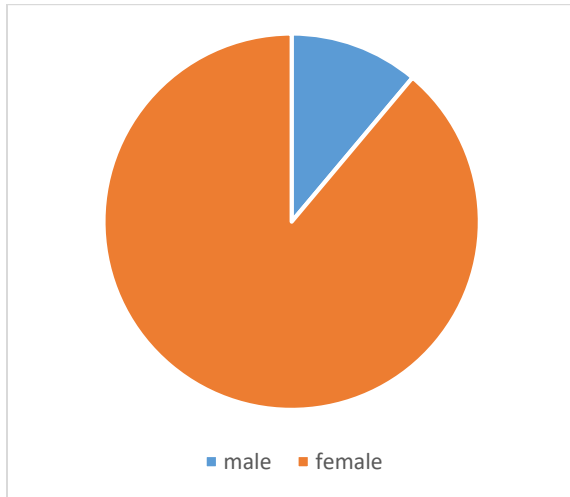
1. What are the operational factors, including the decentralised nature of SCM operations, contributing to non-compliance in public procurement in the KwaZulu-Natal Legislature?
2. What is the influence of the regulatory environment on non-compliance in public procurement in the KwaZulu-Natal Legislature?
3. What steps have been taken to address non-compliance in public procurement in the KwaZulu-Natal Legislature and what further actions could be taken?

### **4.2 Response rate**

Baruch and Holtom (2008) explained that the response rate is the percentage of the people that respond to the research against the sampled number. The aim of this analysis is to give critical information with regards to the solidity and precision of the collected data. In terms of this study, all the participants responded. This means that simply the response rate of this study is 100%.

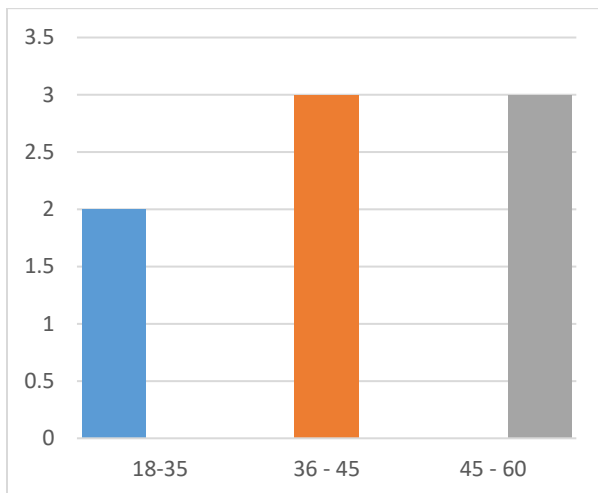
According to Baruch and Holtom (2008), response rates are considered fair and representative of the study when the calculated value is up to 52%. The response rate of this study is 100% meaning that it is appropriate and representative.

### 4.3 Profile of participants



**Figure 4.1: Gender of participants**

As shown in figure 4.1, out of the eight participants, 7 were females and 1 male. A range of age groups was represented in the sample. This can be seen in Figure 4.2.



**Figure 4.2: Age groups of participants**

Table 4.1 illustrates the demographic information of the participants. The participants had experience in government of between 5 and 34 years, with most of this time spent in procurement in KwaZulu-Natal. The participants had a combined experience of over 90 years in government procurement.

**Table 4.1 Demographic information of the participants**

Participant	Years worked in the government	Years worked in public procurement	Have you only worked in the KZN province?
1	33	15	Yes
2	5	2	Yes
3	8	7	No. Gauteng
4	34	34	Yes
5	6	6	Yes
6	10	7	Yes
7	16	16	Yes
8	7	7	Yes

#### **4.4 Operational factors contributing to non-compliance**

The semi-structured interviews with public procurement practitioners probed the instances of non-compliance experienced by the participants in their departments. Table 4.2 summarises the factors relating to suppliers which were identified.

The first participant indicated that the issue was with regards to the local empowerment as enshrined in the Broad-Based Black Economic Empowerment Act (BBBEEA). This participant indicated that in complying with the local empowerment notion, the KZNL utilises taxi services to transport members of the community or delegates to events or various commitments they have in a particular area. The taxi industry is not compliant with the procurement prescripts and other regulations. KZNL should work with companies that are registered with SARS, CIPC and are on the CSD. The taxi associations do not meet these requirements and they restrict each other in terms of routes they may utilise in their business operation. Regardless of this state of affairs, the organisation has no choice but to make use of the taxi services.

Participants also mentioned difficulties encountered when suppliers do not comply with requirements laid down in the prescripts. For example, the prescripts stipulate that payment must be made within 30 days from the date of receipt of a compliant invoice. However, most payments are made late, often due to the discrepancies found on invoices.

**Table 4.2 Areas of non-compliance relating to suppliers**

Participant	Key issues
1	Local empowerment as enshrined in BBBEEA. Forced to utilize unruly service providers .e.g. taxi services; Time periods of payment.
2	Non-compliant suppliers.
3	Lack of the appropriate service providers in most areas
4	Non-compliant suppliers.
5	Irregular departmental expenditure.
6	Absence of supplier database.
7	Poor completion of paperwork by suppliers.
8	The development of specifications is not strictly followed.

Furthermore, suppliers which the department needs to use have often not been registered on the central supplier database (CSD), are blacklisted by treasury, have no tax clearance certificates and lack other required documentation. There is poor compliance with the completion of standard bid document (SBD4) forms, declaration of interest forms are not completed and the stipulated minimum number of quotations are often not received. The sixth participant indicated the issue of having no supplier database. This results in the repeated use of the same suppliers. This means that other suppliers do not get business opportunities with the department and the department may not attain better services from other, unrecognised suppliers.

The issues raised by participants related to those noted in the 2015 Public Sector Supply chain Management Review (National Treasury, 2015, p. 5). Compliance with paperwork required in the procurement process is poor and suppliers meeting the BBBEE requirements may not meet other fiduciary requirements such as tax clearance. Supplier relationship management (SRM) is not well developed and those who succeed in winning contracts do not always deliver as promised. The issue of SCM practitioners being hampered in their work through lack of access to services such

as the supplier database was raised here in the context of SRM but is linked to employee performance in the literature (National Treasury, 2015, p. 4).

Table 4.3 summarises the internal factors that contribute to non-compliance. Internal problems contributing to lack of compliance with the SCM policies include purchase orders which are issued without following the procurement process and other deviations from the prescripts.

**Table 4.3 Internal factors that contribute to non-compliance**

Participant	Factors
1	Political interference and influence in procurement leads to non-compliance; high levels of corruption and incompetent employees
2	Purchase requisitions are usually not submitted in time
3	Lack of internal compliance with the SCM policies Corruption and nepotism; the lack of proper planning and the implementation of the organisation's strategies
4	Incompetency in the processing of the company records
5	Poor planning by the end users
6	Usually slow in reaction to urgent matters
7	Timing and poor planning; overregulation of the public procurement procedures or guidelines; supervisors that usually do not approve requests on time
8	SCM practitioners do not want to adopt and embrace change; officials feeling overpowered

The department incurs irregular expenditure due to last minute requests from end-users, instruction from top leadership and miscommunication within the KZNL.

A key factor is the lack of proper planning and the implementation of the organisation's strategies. The sixth participant stated that the department is usually slow in its reaction to urgent matters. Officials feel overpowered in instances where they are told to process certain transactions as an

emergency and end up not observing the relevant processes. They feel overwhelmed and pressured to get things done in a short period of time. Participants indicated that purchase requisitions are usually not submitted in time due to poor planning by end-users. This compromises the procurement processes.

Often the organisation therefore conducts business with companies without issuing them with the purchase orders (PO). This type of practice is in conflict with the procedures and guidelines of the organisation. Furthermore, the eighth participant indicated that the development of specifications is not strictly followed by the end-users. This leads to service outcomes or delivered products not being what they were intended to be. This then results into non-compliance and the issue of improper record-keeping.

The fourth participant indicated that the incompetency in the processing of the company records results into poor quality data which is ultimately not good enough to be submitted to the necessary departments or the general public.

The seventh participant suggested that overregulation of the public procurement profession occurs, in areas that do not add any value. The interest is more on service delivery than the administrative process. Ultimately, this compromises the levels of compliance. The eighth participant indicated that SCM practitioners do not want to adopt and embrace change, while adaptive SCM requires change.

While the legislature staff may try to comply with the prescripts, influences external to the procurement function affect its application or implementation. These external forces, which are political in nature much of the time, do not consider reasonable time frames for something to be done. Secondly, the level of political interference and influence in procurement leads to non-compliance. The third participant indicated that corruption and nepotism issues affect the organisation's legitimacy in conducting of its business.

These difficulties which SCM staff encountered are not all reflected in the literature on public procurement non-compliance. While ineffective planning and budgeting is a known challenge, as is the failure of separation of authority between technical staff and political powers (National Treasury, 2015, p. 5), the poor specification of requirements by end-users and the last-minute nature of purchase requests has not been widely reported. Overregulation appears to affect both

suppliers and internal staff. Corruption as discussed in the literature (Sewpersadh and Mubangizi 2017, p. 2; Ambe and Badenhorst-Weiss, 2012, p. 252) was mentioned in this section of the interviews as a result of political factors but non-compliance due to a range of issues beyond the control of practitioners was more evident than wilful misuse of funds.

The interviews further investigated how the problems described above are usually identified. Table 4.4 below illustrates the information provided by participants.

**Table 4.4 Methods by which the issues or problems are identified**

Participant	Identification Process
1	Use of the internal auditing unit; External auditors
2	Process in the organisation which keeps the officials under scrutiny
3	The officials can easily ascertain malpractice in the operational processes of the organisation
4	Completed work subject to a review
5	Conducting of an audit
6	The process of auditing
7	The process of a self-audit
8	The process of an internal audit

Most participants indicated that both internal and external audits are conducted which uncover problems. Four also identified operational processes or self-auditing (retrospective assessment of transactions) as providing indications of poor compliance. The third participant indicated that during the processing of a transaction the officials can easily ascertain malpractice for example in the circumstance where there is an invoice submitted but there is no purchase order.

The fourth participant indicated that any work that has been completed is subject to a review in order to ensure that there is no mistake or any form of malpractice in the proceedings. In contrast,

the fifth participant indicated that the procurement team does not check each transaction after processing and hence an audit is required to identify malpractice.

It appears that internal and external auditing procedures are in place and checks and balances appear to be built into the procedures followed by officials. This raises the question of why poor compliance continues.

The interviews continued with an investigation into whether the participant or their departments had compared these issues to other departments within the KZN province. Table 4.5 illustrates the data that was gathered.

**Table 4.5 Comparison of departmental issues within the KZN province**

Participant	Comparison	Explanation
1	Yes	Non-compliance issues
2	No	
3	No	Lack of opportunities to compare
4	Yes	Similar issues
5	No	KZNL is different to other departments
6	Yes	Similar problems
7	No	However, indicated that most of these issues are commonly experienced in all government departments
8	Yes	All departments face similar problems

Most participants felt that issues of non-compliance were common to all government departments. However, the third participant indicated that she had only been exposed to the Gauteng and KZN Legislatures. At the Gauteng legislature, she did not see much non-compliance but she has not spent enough time in KZNL to be able to compare.

The interview further investigated whether the issues or problems were recurring. Table 4.6 illustrates the information that was gathered.

**Table 4.6 Recurrence of problems**

Participant	Recurrence	Explanation
1	Yes	There is improvement
2	Yes	Very worrying to employees
3	Yes	Situation getting better
4	No	New every year
5	Yes	Issues became regular, normal and expected
6	Yes	Consistent
7	Yes	Majority of the issues were regular
8	Yes	

Two of the participants indicated that although the issues were recurring, there was improvement in terms of dealing with them. Of the participants who identified that the same problems recurred, participant five said that they had become normal and expected.

The fourth participant said the issues were new every year.

Section 4.4 probed the operational factors contributing to non-compliance with SCM policies. Participants expressed their frustration with suppliers and end-users in the KZNL. While the literature records the introduction of new policies and systems, such as the Central Supplier Database (Ambe, 2016, p. 287) the interviews did not reflect a corresponding sense of progress among KZNL's SCM practitioners.

#### 4.5 Influence of the regulatory environment

The second theme of the interview questions investigated the understanding of the participants regarding the public procurement prescripts and the ways in which they were engaged in the development and roll-out of procurement reforms.

Table 4.7 illustrates the information that was gathered from the participants regarding their understanding of the regulations governing public procurement.

Some of the participants viewed the prescripts for public procurement as emanating from a wide variety of sources, including laws, regulations and guidelines. Others felt that national legislation such as the Constitution, Financial Management of Parliament and Provincial Legislature Act (FMPPLA) and Public Finance Management Act (PFMA) were the main determinants of public procurement activities.

**Table 4.7 Participant knowledge of the prescripts that govern public procurement**

Participant	Prescripts known to participant
1	The Constitution; Supply Chain Management Act (SCMA) of KZN
2	The Constitution; PFMA; FMPPLA
3	PFMA; FMPPLA
4	PFMA; PPPFA
5	S217 of the constitution; Treasury regulations
6	SCMA; the Constitution; Rules and regulations
7	PFMA; the Constitution; 2017 PPPFA and regulations; BBBEE act and codes; Treasury guidelines and instruction notes
8	PFMA, PPPFA, BBBEE Act and codes, SCM practitioner code of conduct and the Competition act.

The interviews further investigated what the participants understanding was of what the prescripts intend to achieve. Table 4.8 illustrates the information that was gathered. The responses indicated that there was little common ground between participants in their perceptions of the purpose of the regulatory codes governing their activities.

The first participant indicated that the intention was to centralise certain procurement transactions. The second participant did not know. The third participant indicated that it was to ensure competitiveness and transparency. The fourth participant stated that it was to fight poverty. The fifth participant pointed out that it was to fight corruption and assist in avoiding the use of service providers who do not comply with the requirements outlined. The sixth participant stated that it enables the KZNL to have oversight over other departments by having its own financial management act. The seventh participant explained that it helps in achieving efficiency and acquiring trade discounts through bulk trading. The eighth participant indicated that the intention was to empower practitioners and improve compliance.

**Table 4.8 Understanding of the aim of the prescripts**

Participant	Aim
1	To centralise certain procurement transactions
2	No idea
3	To ensure competitiveness and transparency
4	To fight poverty
5	To fight corruption and assist in avoiding the use of service providers who do not comply with the requirements outlined
6	It enables the KZNL to have oversight over other departments
7	It helps in achieving efficiency and acquiring trade discounts through bulk trading
8	To empower practitioners and improve compliance

The findings agreed with the literature which suggests that SCM practitioners are faced with a bewildering array of regulations and that there is not a consistent understanding of which are relevant. Furthermore there is no common sense of purpose when the prescripts are applied by public sector procurement officials.

The interviews continued by investigating whether the participant's respective departments were authorised to develop and implement their own procurement prescripts. Where the answer was in the affirmative, the participants were required to indicate which ones and how the alignment to the provincial or national prescripts was ensured. Table 4.9 summarises the information that was gathered.

All but one of the participants indicated that their departments were empowered to develop policies. How alignment with national and provincial prescripts was achieved was not clarified but participant seven indicated that SCM regulations are developed in accordance with the FMPPLA.

**Table 4.9 Authority to develop and implement departmental procurement prescripts**

Participant	Authority	Name of policy
1	Yes	Procurement guidelines; asset management policy; transport policy not yet approved; the travel management policy
2	Yes	SCM Policy
3	Yes	Asset Management; SCM policies
4	Yes	Procurement Policy
5	Yes	SCM Policy
6	No	
7	Yes	FMPPLA; SCM regulations
8	Yes	SCM; asset management policies

The decentralisation which has been criticised in some previous studies (e.g. Ambe, 2016, p. 280) was evident here. While this may contribute to a sense of ownership, it was not evident how consistency of purpose could be achieved throughout the public sector.

The interviews further investigated whether the participants contributed to the development of provincial or national procurement prescripts and if so, how.

The first to sixth participants stated that they did not contribute to the national or provincial prescripts. The seventh participant answered in the affirmative but pointed out that she did not have time to make a meaningful contribution. The eighth participant indicated that she did contribute to the prescripts and explained that the policy development process does not start from bottom. It is decided and finalised at the top. The low level officials are only expected to understand and implement it.

These results indicate a lack of involvement by implementing officials in the development of policy at national or provincial level, in spite of the inefficiencies of decentralised policy development as mentioned in the literature.

The interviews further probed the understanding of participants in relation to public procurement reforms. Table 4.10 illustrates the findings in terms of what public procurement reforms are.

**Table 4.10 Definitions of public procurement reforms**

Participant	Definition
1	General procurement legislations introduced by the National Treasury
2	The BBBEE amendment Act and codes
3	The introduction of a three quotation process.
4	The empowering of disadvantaged groups in terms of enabling them to do work with the government.
5	The introduction of the Central Supplier Database and amendments on BBBEE act and codes.

<b>6</b>	The adoption of the FMPPLA instead of the continual use of PFMA by the legislatures.
<b>7</b>	The strategic sourcing and benchmarking in order to achieve economies of scale and centralisation of certain procurement transactions.
<b>8</b>	The change in SCM policy thresholds and the introduction of CSD.

The first participant indicated that general procurement legislations introduced by the National Treasury have implemented reforms to the public procurement system. This includes the centralisation of certain critical procurement transactions in order to ensure efficiency and compliance with the relevant prescripts. This introduction has assisted government to stop certain transactions before they are concluded by the government departments. This has had a positive impact on the procurement profession. Two participants indicated that procurement has been impacted by the BBBEE Amendment Act and codes and the fourth participant indicated that this is the empowering of disadvantaged groups in terms of enabling them to do work with the government.

The third participant indicated awareness of the introduction of a three quotation process while the eighth participant mentioned changes in SCM policy thresholds. Previously, there were no issues if only one quotation was received but now the procedure has changed. The sixth participant pointed out that this is the adoption of the FMPPLA instead of the continual use of PFMA by the legislatures. Three participants alluded to the introduction of the Central Supplier Database (CSD) and participant seven further indicated that this allows strategic sourcing and benchmarking in order to achieve economies of scale and centralisation of certain procurement transactions.

Some awareness of the introduction of the CSD was evident, but there are indications that it has not been widely seen as a solution to the problems of excessive paperwork or as providing greater access to previously disadvantaged suppliers.

The interview investigated how the participants were informed of changes to the prescripts. Table 4.11 illustrates the data that was gathered.

**Table 4.11 Process that informed the participants about the prescripts**

Participant	Process
1	Received a notification from the KZN treasury about this and additionally read about it in the newspapers
2	Attended a workshop organised by the Provincial treasury
3	Training
4	Training
5	Informed by the department's managers
6	Workshop
7	News and press briefings
8	Colleagues, consultants and department managers

Only half of the participants attended training workshops which informed them about procurement prescripts. Others received information from various sources: the first participant received a notification from the KZN treasury about this and additionally read about it in the newspapers, the fifth participant was informed by the department's managers and the seventh participant found out through news and press briefings. The eighth participant found out about changes from colleagues, consultants and department managers.

This varied response to the questions about the process by which employees learn of new developments is inconsistent with the positive response by most participants to the question about training or workshops provided to officials. Table 4.12 summarises how a general question about the level of training provision was answered.

Only the seventh participant indicated that there have been no workshops since a procurement indaba in 2015. The other participants indicated that workshops and training on SCM and BBBEE amendments are usually organised.

**Table 4.12 Provision of training or a workshop**

Participant	Training/Workshop
1	Training to ensure that all employees are informed about any new developments
2	Workshops are usually arranged by the Provincial treasury
3	Training is provided
4	Training is provided
5	Provincial treasury provided workshops and training by an external service provider
6	Workshops are organised
7	Procurement indaba in 2015 and no other workshops
8	Workshops and training on SCM and BBBEE amendments are organised

The discrepancy in answers between the two questions suggests that officials may feel that although training is usually provided, some have to obtain important information from other sources.

The interview investigated whether the prescripts have been implemented. Table 4.13 illustrates that while awareness of changes is high, not all changes have been implemented.

**Table 4.13 Implementation of changes to the prescripts**

Participant	Implementation
1	Every company that does business with the KZNL is registered and found on the CSD and be in line with the BBBEEA
2	No knowledge in terms of implementation
3	All requests above R10 000 must have three quotations

<b>4</b>	Changes are being implemented
<b>5</b>	Participant did not show how
<b>6</b>	The department still used treasury prescripts
<b>7</b>	Prescripts were not being implemented
<b>8</b>	Answered in the affirmative but did not show how the implementation was being carried out

Only the first participant indicated that it is a requirement that every company that does business with the KZNLC is registered and found on the CSD and be in line with the BBBEEA, which is used when evaluating the quotations. Three of the remaining participants stated that changes are being implemented but did not explain how. The sixth participant indicated that the department still used treasury prescripts and the two other participants indicated that to their knowledge the changes to the prescripts were not being implemented.

The interviews investigated the challenges and successes encountered when implementing procurement prescripts. Table 4.14 below summarises the data that was acquired.

**Table 4.14 Challenges or successes of the implementation of prescripts**

<b>Participant</b>	<b>Challenges or Successes</b>
<b>1</b>	Major challenge is that the CSD is not readily accessible
<b>2</b>	Not aware of any challenges or successes
<b>3</b>	Issues usually emerge where you have to request for three quotations in rural areas where there are limited service providers
<b>4</b>	Disadvantaged groups usually do not have the required skills and experience
<b>5</b>	The challenge is that the CSD system is not straightforward. However, it assists in checking the compliance of other organisations

<b>6</b>	No challenges
<b>7</b>	No challenges
<b>8</b>	Success was illustrated in terms of the vast opening of opportunities for business

The first participant indicated that the major challenge is that the CSD is not readily accessible. Even those with access to it find it not to be user friendly. It only gives out general information and this does not assist in carrying out a complete evaluation of the organisations the department could be involved in business with. In addition, it does not categorise the services provided by each service provider except for the professional ones. The fifth participant confirmed that the challenge is that the CSD system is not straightforward.

The third participant indicated that there are not many challenges, but issues usually emerge where officers have to request for three quotations in rural areas where there are limited service providers. Similarly, the fourth participant indicated that the challenge is that disadvantaged groups usually do not have the required skills and experience. However, the CSD assists in checking the compliance of other organisations. A positive outcome indicated by the eighth participant was that the newer prescripts are successful in terms of opening opportunities for business.

The three other participants indicated that there are no challenges.

Section 4.5 of the findings summarises the participants' experience of the regulatory framework associated with procurement in the public sector in South Africa. There were indications that the regulatory burden has been substantial in the past. Some participants suggested that the CSD offers some improvements but it has certainly not yet solved the challenges which practitioners face with supplier management.

#### **4.6 Steps taken to address non-compliance**

The third theme of the study investigated what has been done to address non-compliance in the KZN. Under this heading, the interviews firstly investigated how compliance with the legislation guiding the participants' organisation was assessed. Table 4.15 illustrates the data that was gathered.

**Table 4.15 How compliance with legislation is assessed**

Participant	Assessment
1	No response
2	Managers must approve legitimate transactions only
3	Did not know how assessment can be done
4	A review after every transaction is completed
5	Monthly assessments by the deputy manager
6	Checklist to ensure that every procedure followed strictly
7	Checklist to ensure that every procedure followed strictly; monthly reviews which determine whether the necessary guidelines were followed
8	Use of internal auditors

Three participants indicated that there is a checklist that has to be completed by a person processing any transaction and the seventh participant also indicated this is checked and signed by the authorised supervisors. Two participants also mentioned monthly assessments conducted by managers in order to review the organisation's transactions. The second participant stated that the department's high ranking managers need to ensure that all the business transactions are legitimate before approving them. The eighth participant indicated that the organisation makes use of internal auditors. Two participants were unaware of any checks for compliance.

The interview considered if there are any consequences or penalties for non-compliance with any authorizing legislation. Table 4.16 illustrates the data that was gathered.

The majority of the participants stated that non-compliance may result in penalties for the institution. However, there was some disagreement about the consequences to officials involved. Although SCM prescripts do state that employees might be charged with financial misconduct, the first and eighth participants stated that this has not happened at KZNL and the second participant also expressed doubts about consequences to individuals.

**Table 4.16 Consequences of non-compliance with legislation**

Participant	Consequences
1	May be penalised; charged with financial misconduct
2	Penalties can be imposed on the institution but not certain about those on the employees personally
3	Damaging the reputation of the institution
4	Officials may be disciplined and penalised
5	The institution may be penalised
6	The institution may not get high quality auditing services in the future
7	No consequences at present
8	Officials can be charged

The seventh participant stated that there were no consequences at present. The fourth participant, however, stated that the officials may be disciplined and penalised. The participants pointed to difficulties in identifying the person that may be held accountable, for instance where it is not the SCM official processing the transactions that brought about the misconduct but the end-user who submitted the request late. The eighth participant suggested that performance management might provide an opportunity for a supervisor to penalise subordinates who did not comply with the prescripts when processing transactions but did not indicate if this has occurred.

The interviews continued with an investigation in terms of what has been done to resolve the issues or problems. Table 4.17 illustrates the information gathered.

Three participants indicated that staff members in their department have been engaged and informed about the guidelines or standard of practice, and in one case this has included the provision of a booklet to guide staff. The third participant indicated that a planning team has been implemented to take charge of events and hold regular meetings within the SCM which allocate tasks and ensure the smooth running of the organisation, with supplementary meetings scheduled

when necessary. The eighth participant indicated that the information about the issues or problems is made available to the staff to raise awareness and training or means of avoiding them are implemented.

**Table 4.17 Resolving the issues or problems**

Participant	Action	Strategies
<b>1</b>	Nothing	Public procurement prescripts are partly addressing the gaps
<b>2</b>	Staff engagement	Booklet containing all the necessary guidelines and procedures
<b>3</b>	Planning team takes holds regular SCM meetings	Introduced supplementary meetings where planning is done
<b>4</b>	No appointment of service providers who do not have tax and SDB4 forms	Provides assistance to those without tax clearance certificates
<b>5</b>	New and competent Deputy Manager	Deputy Manager in the SCM encourages the department to directly engage with the end users
<b>6</b>	Encourage registration on supplier listing	Ensuring that the end users are well informed
<b>7</b>	Strictly implementation of the auditor general's plan of action	Relax the prescripts and rules
<b>8</b>	Staff awareness raised	Constant training that has to be provided to officials and end users; policies need to be updated; officials need to be held accountable for misconduct

Two participants indicated that there has been some supplier engagement. The fourth participant referred to action on service providers who do not have tax clearance or completed SDB4 forms and indicated that the department provides assistance to those without tax clearance certificates and that this process encourages them to register. The other referred to efforts to encourage more service providers to register on the supplier listing. In terms of strategy, participants suggested that industries like the taxi industry need to be properly regulated.

The fifth participant indicated that the organisation had appointed a new and competent Deputy Manager who has brought about vast improvement. This manager and the manager in the sixth participant's department have embarked on an effort to improve communication with end-users in the legislature.

The seventh participant indicated that the organisation strictly implements the auditor general's plan of action but also suggested that relaxing the prescripts and rules could lead to greater efficiency.

The second participant indicated that the SCM managers provide a booklet to the other managers and staff explaining the processes, timeframes and consequences for non-compliance of the organisation's operation procedures or guidelines. The third participant indicated that the organisation introduced supplementary meetings where planning is done. The fifth participant indicated that the Deputy Manager in the SCM encourages the department to directly engage with the end-users and explain the processes and consequences of non-compliance. The sixth participant indicated that the department ensures that the end users are well informed about the significance of purchasing requisitions in the right manner and at the right time. The seventh participant indicated that there is a need to relax the prescripts and rules. The strictness of most of the procedures is stifling economic growth. The eighth participant indicated that there is a need for constant training that has to be provided to officials and end users. Policies have to be updated to identify and fill up the gaps in procedures or processes. Officials also need to be held accountable for misconduct.

Section 4.6 probed the steps taken to address non-compliance and, as suggested in the literature (National Treasury, 2015, p. 5) there were indications that not all practitioners anticipate that non-compliance will incur penalties for the individuals involved. Clear plans for the resolution of non-

compliance issues are not in place although some initiatives and some particular individuals appear to provide hope of improvement.

The interview ended by asking the participants for any additional remarks or comments. Table 4.18 outlines these findings:

**Table 4.18 Additional Remarks or Comments**

Participant	Additional Remarks or Comments
1	There is no clear separation between the political and administrative duties
2	End users do not plan properly and must submit purchase requisitions on time
3	None
4	The procurement processes operate well
5	Problems occur where there is a breakdown in communication between the members involved
6	Requisitions that are carried out as a matter of urgency usually lead to non-compliance
7	Public procurement is overly regulated
8	Awarding business to other organisations that the department conducts business with is based on corruption or favouritism

The first participant indicated that when one reads the newspapers, one identifies that the level of political interference is very high in the procurement management process. There is no clear separation between the political and administrative duties.

The second participant indicated that end users do not plan properly and must submit purchase requisitions on time so that the procurement process can start early and comply with relevant prescripts. In addition, the organisation has to look for service providers in the areas where they

plan to host an event. This will reduce the delay usually experienced in finalising the supplier capturing process and start with the procurement process timely.

The third participants had no additional remarks or comments. The fourth participant indicated that the procurement processes operate well. The only problem that has been constantly present is with regards to the process of receiving work from the end users.

The fifth participant stated that in the whole SCM processes problems occur where there is a breakdown in communication between the members involved. This may happen for example where the supervisor gives out confusing or unreliable instructions or information.

The sixth participant indicated that requisitions that are carried out as a matter of urgency usually lead to non-compliance. The purchase requisitions for events carried out by the department need to be done in time. The senior management and the planning teams must meet to discuss and ensure that their plans are strictly followed. The seventh participant indicated that public procurement is overly regulated.

The eighth participant indicated that the process of awarding business to other companies in general is based on favouritism. There is a lack of the appropriate business ethics in the public procurement profession.

The concluding remarks showed a marked similarity to the list of issues identified by the National Treasury in their review of supply chain management in the public sector (National Treasury, 2015, p. 4). It is evident that these problems have yet to be resolved.

#### **4.7 Conclusion**

This section presented and discussed the data that was acquired by the researcher while conducting the interviews with the participants making up the sample of this study. It presented the data by describing the participants' responses and discussing them under each theme developed from the research questions. The next chapter will give the recommendations and conclusions of the study.

# CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

## 5.1 Introduction

The purpose of the study was to understand factors contributing to non-compliance in public procurement within the KwaZulu-Natal Legislature. The researcher set out the research objectives in terms of the study. These will be presented in this section and conclusions and recommendations will be made with regards to every objective in terms of the findings of this study.

## 5.2 Conclusions

Conclusions resulting from the findings of the study are discussed below under the research objectives.

### 5.2.1 Objective 1

**To explore the factors, including the decentralised nature of SCM operations, contributing to non-compliance in public procurement in the KwaZulu-Natal Legislature.**

The study found that there are many factors that contribute to non-compliance in public procurement. These include:

- The lack of compliance with the SCM policies;
- The use of suppliers which had not been registered on the CSD, blacklisted by treasury, had no tax clearance certificates and other required documentation;
- The issues of non-submission of tax clearance certificates, declaration of interest forms and the lack of receipt of the stipulated minimum number of quotations;
- The department incurring irregular expenditure; the department forced to utilize non complying service providers .e.g. taxi services;
- Political interference and influence in procurement leading to non-compliance;
- High levels of corruption and incompetent employees;
- Purchase requisitions usually not submitted in time;
- The lack of proper planning and the implementation of the organisation's strategies;

- The lack of the appropriate service providers in most areas;
- Incompetence in the processing of the company records;
- Poor planning by the end users;
- The department is usually slow in reaction to urgent matters;
- Overregulation of the public procurement procedures or guidelines; and,
- SCM practitioners do not want to adopt and embrace change.

From these findings it can be concluded that there is a wide range of factors that contribute to non-compliance in public procurement at different levels. Some of the factors are similar or common but some others are unique to some departments of the government. These factors originate from all the entities that are involved in the procurement processes. These include the public officials, the end-users and the prescripts that govern them.

This study has indicated that the process of decentralisation of SCM operations affects non-compliance in the public procurement in the KwaZulu-Natal Legislature. Some of the positive outcomes include:

- Quicker and much more effective SCM;
- Operates well at the grass root level;
- Easy to manage since it is smaller; and,
- Able to directly address the issues of public procurement in its environment.

However, there are also negative aspects that are experienced in the decentralisation. These include:

- Lack of funding or resources;
- Programmes take too long to get approved by the main body;
- Some other legislatures are preferred and given more attention than others;
- A lot of corruption and nepotism;
- A lack of proper planning and the implementation of the organisation's strategies;
- A lack of the appropriate service providers in most areas; and,
- Incompetency in the processing of the legislature's records.

From these findings it can be concluded that decentralisation has a lot of negative effects on the public procurement in the KwaZulu-Natal Legislature. Some of these effects are unique and some are generally applicable to other provincial legislatures.

### 5.2.3 Objective 2

#### **To assess the influence of the regulatory environment on non-compliance in public procurement in the KwaZulu-Natal Legislature.**

The study indicated that there were a lot of major challenges that resulted from the procedural processes imposed by the procurement prescripts. These include:

- The CSD is not readily accessible and is not straightforward in its use. However, it assists in checking the compliance of other organisations;
- Issues usually emerge where you have to request for three quotations in rural areas where there are limited service providers; and,
- Disadvantaged groups usually do not have the required skills and experience;

Furthermore, it emerged that officials in the KZNL have widely differing ideas of what the critical sources of procurement prescripts are. When these prescripts are revised, some officials learn of the changes through outside news sources and training that is provided does not reach all of those concerned. This is also reflected in a poor awareness of the implementation of new prescripts. Ideas of the goals of the legislation governing procurement also vary widely, suggesting that goal congruence is lacking in the KZNL.

The procurement processes are governed from the top down, with officials feeling that they have little input into the development of the system. Regulations are often imposed that do not take into account the conditions under which implementing officials work.

From these findings it can be concluded that non-compliance results from a lack of coherence in the regulatory environment. This study focused on the Kwa-Zulu Natal Legislature but most of these issues also apply in other provincial legislatures in the country.

#### 5.2.4 Objective 3

**To investigate the steps that have been taken to address non-compliance in public procurement in the KwaZulu-Natal Legislature and to suggest further actions that could be taken.**

Participants indicated that some steps have been taken to address the issues of non-compliance which plague the KZNL. These include:

- Managers approving legitimate transactions only;
- Reviews after every transaction is completed;
- Some departments indicate the significance of monthly assessments by their managers;
- The use of a checklist to ensure that every procedure is followed strictly;
- The effect of utilize internal auditors to check the transaction post facto; and,
- Penalties can be imposed on the institution for non-compliance.

The recommendations below may contribute to further improvements in the procurement management of KZNL.

### **5.3 Recommendations**

These effects can be re-evaluated and analysed strictly in order to come up with solutions which can help assist the KZNL. Once a working model has been developed, the KZNL will be able to function more effectively.

From these findings it can be recommended that it is a good strategy to centralise the procurement duties in the KZNL. The organisation has only one administrative office and this approach assists to monitor the achievement of the organisational objectives and for accountability purposes.

It can also be recommended that some challenges can be dealt with through the revision of the CSD, in order to improve its influence in public procurement. The supplier management processes in public procurement needs to be analysed and re-evaluated in order to identify which procedures work and which do not. Furthermore, government should have clear service provider development strategies. These should be implemented across all spheres of government and officials trained on how to monitor the service providers. In addition, service providers should be encouraged to

specialize so that they become experts in one or two areas, thus opening opportunities for others to enter the mainstream economy.

The strategies that were investigated in the literature review should be considered and implemented in order to deal with the non-compliance that is present in public procurement. These strategies include: outsourcing; the use of private-public partnerships; harmonisation of procurement practices and regulations; evolution of procurement methods; and, the use of innovative procurement models.

In addition, further recommendations can be made from the remarks and comments provided by the participants in this study. These include: ensuring that there is a clear separation between the political and administrative duties in order for the public sector to function effectively. Encouraging and ensuring that the end users plan properly and submit purchase requisitions on time; resolving any conflicts or disagreements that may occur with the officials in order to encourage team work and discourage isolation between operations; and, finding ways to loosen the overregulation of public procurement while ensuring compliance with essential prescripts.

It is very important to regulate non-compliance in public procurement at the provincial or any other level in order to achieve the desired goals in any society. These strategies that have been mentioned in this study can help in this process. Also, training and development of officials involved in the procurement processes is critical. This include on-the-job and external training. The irregular expenditure is on the rise in various government institutions due to non-compliance with the regulations. Some regulations are stringent and cumbersome but don't add value in the procurement process. Therefore, the regulations must be reviewed and relaxed where appropriate. Prescripts shouldn't be punitive in nature but rather transformational and progressive.

This section pointed out that the purpose of this study was to understand the factors contributing to non-compliance in public procurement within the KwaZulu-Natal Legislature. The section went on with a discussion the objectives of the study. It finally ended by giving conclusions and recommendations based on the findings of the study as a whole.

#### **5.4 Limitations of the study**

The case study focused on factors contributing to non-compliance in public procurement at KZNL. Therefore, the findings are not generalizable beyond this organisation. The procurement activity of the KZNL is considerably less than a number of other government departments. Nonetheless insights were obtained into the supply chain activities in the context of the revised public procurement prescripts.

Due to the recent nature of many changes to the prescripts, no books or journal publications were available to provide references for this aspect but this was compatible with the exploratory nature of the study.

Some of the participant may have been reluctant to divulge some information since the researcher is a manager within their unit.

#### **5.5 Recommendations for future research**

The application of the revised public procurement prescripts must be investigated to understand whether they are achieving their progressive and transformational goals. It will be important to understand the challenges encountered by employees, who are mostly not consulted during the prescript development stages, when implementing these prescripts.

Furthermore, a study to explore the influence of corruption within public procurement processes and the impact of such on service delivery and compliance would contribute to an understanding of the impact of changes to the procurement framework on these factors.

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## APPENDIX 1: TURNITIN SIMILARITY REPORT

### Factors contributing to non-compliance in public procurement- a KwaZulu-Natal legislature case study

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## APPENDIX 2: ETHICAL CLEARANCE CERTIFICATE



09 October 2017

Mr Sandile Eric Gabela (203509542)  
School of Management, IT & Governance  
Pietermaritzburg Campus

Dear Mr Gabela,

**Protocol reference number: HSS/1717/017M**

**Project title:** Factors contributing to non-compliance in public procurement – A KwaZulu-Natal Legislature case study

### **Approval Notification – Expedited Approval**

In response to your application received on 12 September 2017, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number.

**PLEASE NOTE:** Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

Dr Shenuka Singh (Chair)

/ms

Cc Supervisor: Dr RH Salisbury  
Cc Academic Leader Research: Professor Isabel Martins  
Cc School Administrator: Ms Debbie Cunynghame

## APPENDIX 3: IN- DEPTH INTERVIEW GUIDE

### Preamble:

- • Introduce myself.
- • Thank the participant for agreeing to the meeting.
- • Briefly describe the purpose of the study. Explain that I am interested in understanding the factors causing non-compliances with public procurement.
- • Explain that it is **their** experiences and opinions I'm seeking and encourage them to express themselves freely.
- • Explain to the participant their right to confidentiality and anonymity. They are allowed **not to** answer all questions and can take a break/leave the interview at any time.
- • Explain the need for tape recording and request to use the recording device.
- • Ask if they have any questions.
- • Request the participant to read and, if willing, to **sign** the informed consent form and indicate if the recording device may be used or not. If, acceptable, to test the device.

### Interview

#### Participants Demographic Information

- • What is your ethnic group?
- • How many years have you worked for Government?
- • How long have you worked for Government in Procurement or SCM section?
- • Have you only worked in KwaZulu-Natal for Government?

## **Public Procurement Legislation**

- • What prescripts govern procurement / SCM?
- • Is your Department delegated to develop and implement its own procurement prescripts?  
If yes, which ones and how is the alignment to the Provincial or National prescripts ensured?
- • Do you contribute to the development of Provincial or National procurement prescripts and if so, how?

## **Non-compliances**

- • What are the procurement non-compliances in your department?
- • Have you been able to compare these to other departments within the Province?
- • How were they identified?
- • Are these consistent? Are they a repeat from other financial years?
- • What has been done to clear them?
- • How is compliance with legislation assessed and how often?
- • Are there any consequences for not complying with the legislation?

## **Factors contributing to non-compliances**

- • What do you believe are the factors contributing to non-compliances?
- • What has been done to close the gaps to ensure compliance with relevant prescripts?

## **Public Procurement Reforms**

- • What are the public procurement reforms?
- • How were you informed of them?
- • Has there been any training or workshop provided to all affected officials in this regard?

- • Have you implemented them?
- • What are the challenges or success stories?
- • What are they intending to achieve?

### **Closing Remarks**

- • Is there anything else in relation to these issues, which I did not cover in this interview, which you would like to add?

Thank you

## APPENDIX 4: INFORMED CONSENT

### UNIVERSITY OF KWAZULU-NATAL School of Management, IT and Governance

Dear Respondent,

#### Research Project

**Researcher:** Sandile E Gabela Telephone number: 076 423 5190 Email: sandile@nosindile.co.za

**Supervisor:** Dr RH Salisbury Telephone number: 033 260 5458 Email: salisbury@ukzn.ac.za

**Research Office:** Humanities & Social Sciences Research Ethics Administration, Govan Mbeki Building, Westville  
Campus, Tel: + 27 (0)31 260 8350, Email: [hssreclms@ukzn.ac.za](mailto:hssreclms@ukzn.ac.za)

I, Sandile Eric Gabela a Masters in Commerce student in the School of Management, IT and Governance, at the University of KwaZulu-Natal. You are invited to participate in a research project entitled **Factors contributing to non-compliance in Public Procurement: A KwaZulu-Natal Legislature case study**

The aim of this study is to understand the factors contributing to non-compliance in public procurement in the KwaZulu-Natal Legislature.

Your participation in this project is voluntary. You may refuse to participate or withdraw from the project at any time with no negative consequence. There will be no monetary gain from participating in this research project. Confidentiality and anonymity of records will be maintained by the researcher and School of Management, IT and Governance, UKZN. All collected data will be used solely for research purposes and will be destroyed after 5 years.

This study has been ethically reviewed and approved by the UKZN Humanities and Social Sciences Research Ethics Committee (approval number HSS/1717/017M).

The interview should take about 40 minutes to complete. Thank you for your time.

Sincerely

Researcher's signature \_\_\_\_\_ Date \_\_\_\_\_

Sandile Eric Gabela

*This page is to be retained by participant*

**UNIVERSITY OF KWAZULU-NATAL**  
**School of Management, IT and Governance**

**Research Project**

**Researcher:** Sandile E Gabela Telephone number: 076 423 5190 Email: sandile@nosindile.co.za

**Supervisor:** Dr RH Salisbury Telephone number: 033 260 5458 Email: salisbury@ukzn.ac.za

Research Office: **Humanities & Social Sciences Research Ethics Administration, Govan Mbeki Building,**  
**Westville Campus, Tel: 27 31 2604557, Email: HSSREC@ukzn.ac.za**

**CONSENT**

I \_\_\_\_\_ (full names of participant) hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project. I understand that I am at liberty to withdraw from the project at any time, should I so desire.

Additional consent, where applicable

I hereby provide consent to:

Audio-record my interview

YES / NO

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

*This page is to be retained by researcher*

## APPENDIX 5: GATEKEEPER'S LETTER



ISISHAYAMTHETHO SAKWAZULU-NATALI

KWAZULU-NATAL PROVINSIALE WETGEWER

### KWAZULU-NATAL PROVINCIAL LEGISLATURE

**Fax:** 033 355 7011

**Isikhwama Seposi:** P/Bag X 9112  
**Private Bag:** **PMBurg**  
**Privaatsak:** 3200

**Tel:** 033-355 7509

**IMIBUZO :**  
**ENQUIRIES:** Z Memela  
**NAVRAE :**

**USUKU :**  
**DATE :** 05/09/2017  
**DATUM:**

**INKOMBA :**  
**REFERENCE:** Research S Gabela  
**VERWYSING:**

To  
Sandile Gabela  
Student Number: 203509542  
University of KwaZulu Natal  
Pietermaritzburg Campus.

Dear Mr Gabela

**RE: REQUEST TO CONDUCT RESEARCH ON FACTORS CONTRIBUTING TO NON-COMPLIANCE IN PUBLIC PROCUREMENT: A KWAZULU NATAL LEGISLATURE CASE STUDY.**

Your correspondence to interview Supply Chain Management officials towards your research project refers.

KwaZulu Natal Legislature doesn't have any objection to your request. Therefore, permission is hereby granted.

Kindly contact Ms Z Buthelezi, Senior Manager Supply Chain Management, for the necessary arrangements.

Yours sincerely

**N Naidoo**

**Secretary: KwaZulu Natal Legislature**

**Date:** 06/09/2017

244 Langelibalele Street, Pietermaritzburg 3201 • Private Bag X9112, Pietermaritzburg 3200  
Tel: +27 (0)33 355 7600 • Fax +27 (0)33 355 7541 / 033 345 2803  
Website: [www.kznlegislature.gov.za](http://www.kznlegislature.gov.za)