



**CONTESTED TERRAIN:
REFORMING PROCUREMENT SYSTEMS IN SOUTH AFRICA, 2013–2016**

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SYNOPSIS

When he took office as South Africa's finance minister in 2009, Pravin Gordhan found that government officials responsible for purchasing goods and services were wasting billions of dollars every year as a result of inefficiency, errors, and corruption. Gordhan wanted to confront all three problems by consolidating and strengthening control over procurement. In February 2013, he tapped longtime finance ministry official Kenneth Brown to serve as the country's first chief procurement officer. Brown had to restructure systems, tighten procedures and regulations, and build effective oversight. He assembled a skilled team and persuaded skeptical politicians and business interests to support Gordhan's goals. His office reviewed and renegotiated costly contracts, provided crucial market analysis and advice on procurement strategies for other departments, and took first steps toward creating an online system. Brown strengthened funding, built a staff, and put new systems in place. By the time he retired in December 2016, his efforts had sharply reduced opportunities for corruption, increased transparency in the procurement process, and slashed the time required to process tenders. The new office helped South Africa better comply with some of its obligations under the United Nations Convention against Corruption, even though Brown and Gordhan faced opposition from people at some of the highest levels of government.

INTRODUCTION

In 2009, the Department of Roads and Transport in Limpopo, South Africa's northernmost province, awarded a contract for road construction and maintenance to a company called On-Point Engineers. At first glance, the deal looked straightforward. The department had received 16 bids, and On-Point had presented itself as an experienced engineering company with a solid record.

A different story emerged after a 2011 article in the *City Press*, a Sunday newspaper based in Johannesburg, raised questions about government tenders in Limpopo. Three complaints about the On-Point tender soon arrived on the desk of Thuli Madonsela, South Africa's public protector, who had a constitutional mandate to investigate allegations of corruption. Madonsela's subsequent probe found clear evidence that Limpopo officials had manipulated the bidding process to award the contract to On-Point, a company that existed only on paper. The tax clearance certificate On-Point had submitted with its bid documents was that of a five-month-old company it had purchased one month earlier. That company was inactive and lacked the workforce, equipment, and qualifications to do the job. In 2012, Madonsela issued a damning public report that showed the contract had cost taxpayers 43 million rand (US\$5.2 million at the time) by June of that year, with nothing to show for the money spent.¹ "It is mind-boggling that the stark differences between the bid document and the tax clearance certificate did not disqualify On-Point or present a red flag regarding the possibility of tender fraud," Madonsela told the media.²

The situation in Limpopo was far from unique. Across South Africa, the national, provincial, and local governments wasted money through purchases that were either unnecessary, poorly managed, or simply fraudulent. In 2011, the head of the Special Investigating Unit, an anticorruption body with powers to investigate and take civil action against suspected wrongdoers, told the parliament that the country was losing as much as R30 billion (US\$4 billion at the time) per year due to procurement corruption.³ The annual loss represented more than 3% of budgeted national spending. A 2012–13 auditor general's report identified procurement irregularities such as uncompetitive bidding processes and inadequate contract management in 60% of national and provincial government departments and public entities.⁴

The shortcomings in procurement systems meant that South Africa was failing to meet its obligations under the United Nations Convention against Corruption, which the country's legislature had ratified in 2004. Article 9 of the convention required a transparent procurement system with objective decision making and sound financial management. Scandals in Limpopo—and elsewhere in South Africa—underscored the problem.

In 2009, Pravin Gordhan took office as South Africa's minister of finance with a personal commitment to efficient government. A leader in the historic anti-apartheid struggle, Gordhan had won a seat in parliament after

the country's first free elections in 1994. From 1999 to 2009, he led the tax collection agency, where he put in place institutional reforms that greatly increased the country's tax base.⁵

The procurement process was an important target for Gordhan. To achieve the lofty development goals of the National Development Plan for 2030—which were to double per-capita income, achieve universal access to household drinking water, and ensure literacy for all children in grade three or higher—the government had to better monitor and control spending.⁶ The National Treasury, as South Africa called its finance ministry, was uniquely situated to reform procurement because it had the legal authority to monitor and regulate national, provincial, and local government financial management.

Gordhan took his idea for a new procurement oversight unit to the Anti-Corruption Task Team, an interagency coordination group that met monthly to discuss high-level corruption cases. The task team endorsed the plan and prepared an internal memo mapping the basic functions of a new office.

In his May 2012 budget speech, Gordhan unveiled his plan to parliament and pledged sweeping changes in procurement policies and practices.

Next, Gordhan tapped Kenneth Brown, who was head of intergovernmental relations at the finance ministry, to be the nation's first chief procurement officer. Brown had started his career as a teacher but had joined the National Treasury in 1998 after the country's transition to a nonracial democracy. In 2007, Brown became head of the intergovernmental relations division, where he coordinated fiscal relations between the national, provincial, and local governments and worked with provincial and local officials throughout the country in the areas of financial planning, reporting, and management.

During his years in government, Brown had developed relationships with people at all levels and achieved an understanding of how procurement worked in areas of the country far removed from Pretoria, South Africa's urban capital. Brown said he was eager to take up the challenge, and in February 2013, he started work with a daunting goal: to modernize public procurement and save the government R25 billion (US\$2.8 billion at the time) in procurement costs within three years.

Powerful interests in South Africa were wary of Brown's project, however. "When I took this job, I knew there were going to be a lot of conflicts and a lot of pushback," Brown recalled. "We were going to be attacked left, right, and center, but we had a job to do."

THE CHALLENGE

The office Gordhan envisioned would have multiple responsibilities: monitoring the performance of government officials involved in procurement, negotiating contracts at the national level for frequently-procured goods and services, ensuring transparency through an effective data management system, helping procurement practitioners adhere to policies and rules, and taking steps to enforce compliance.

Gordhan's ministry already had the authority to set up a unit with those functions. The National Treasury had the legal power to establish and monitor financial management standards throughout the national, provincial, and local governments. Although the ministry had no direct enforcement powers, it could refer cases to department managers for internal disciplinary proceedings or to law enforcement in cases of criminal misconduct.

Because the treasury controlled implementation of the national budget, it could block expenditures it determined the government could not afford. And as chief procurement officer, Brown could issue binding instructions related to procurement and could review any government contract. Although he lacked the authority to order any unit of government to make a specific purchasing decision, he could constrain the choices available by ordering procurement officers to choose from an approved list of vendors for specific goods and services.

The National Treasury's control over distributing funding to South Africa's nine provinces extended the office's influence across the country. However, the treasury had less direct oversight over the country's more than 250 municipalities, which reported to the provinces.⁷

Although Brown had the powers of the National Treasury at his disposal, he faced several significant management challenges. The first was that South Africa's decentralized procurement processes were difficult to monitor. There were 18,000 government employees who made purchasing decisions throughout the country, and several statutes at the national, provincial, and municipal levels governed their work, including a law that mandated preferential treatment of suppliers owned by underprivileged groups. Procurement officers struggled to interpret and abide by the policies, instructions, and other guidelines issued by different offices.

The lack of clear standard operating procedures and effective oversight wasted money and created ample opportunities for malfeasance. Common forms of fraud included drafting bid documents to favor specific companies, providing bidders with privileged information, and tampering with the final evaluations of bids. "From the very beginning, you had deliberate attempts to exclude certain suppliers in order to have kickbacks" or other benefits from favored vendors, said Leanne Govindsamy, head of the legal and investigations office at Corruption Watch, a South African nongovernmental organization.

A shortage of skills and a generally low regard for the procurement process made solving the management problem more difficult. Every procurement transaction depended on government employees' making informed decisions about how to use taxpayer money. But some managers regarded the positions as unimportant and placed their least-well-performing staff members in the roles. As a result, the responsibility for spending large sums of money sometimes fell to people ill-equipped to handle the task well. "You'll find that someone who runs a multibillion-rand procurement program is a junior official in the department," Brown said. "If you're a problematic individual in a department, they might use [procurement] as a place they can park you."

An additional and critical weakness was reliance on paper documents, which opened the door to all sorts of trouble. Suppliers wasted time entering the same information on multiple forms and on submitting the forms to different offices. Local governments often failed to store paper records properly. Unscrupulous officials could manipulate bid documents and eliminate bidders by simply discarding required submissions. And although many countries had adopted more-transparent and more-efficient online procurement systems, South Africa had fallen behind.

A dearth of data on procurement made Brown's task even more difficult. Before he could diagnose problems and propose detailed solutions, Brown had to have a clear picture of the situation. But even basic information was lacking. For example, Brown's office could not learn the largest categories of expenditure or the names of the suppliers that earned the most from government contracts. "If you asked people, 'Where do you spend money?' or 'Who are your main suppliers?' they wouldn't have that information," he said.

But the implementation challenges did not end there. For both Brown and Gordhan, the centralization of procurement also presented political challenges. Although Gordhan could use the treasury's authority to create a central procurement office, sooner or later he would have to go to parliament for approval of a unified procurement law with a single set of rules that procurers and suppliers around the country could look to for guidance. For that reason, Gordhan had to build support from high-ranking government officials and skeptical interest groups.

It would also take political clout to contain pushback from those who feared they would lose under the new system. "This is contested terrain," Brown said. "Once you organize, there are going to be casualties"—people who lose access to wealth and power. "They will fight back."

The political context was dicey. Some members of the African National Congress Party (ANC), which had dominated government since South Africa's first election under universal suffrage in 1994, benefited both financially and politically from manipulating the government's procurement systems. Moreover, small, black-owned businesses—pillars of political

support for President Jacob Zuma, who was also head of the ANC— benefited from decentralized procurement systems that provided them easy access to contracts with local governments. And some of those small-business owners worried that the consolidation of procurement at the national level would favor larger companies.

Finally, within the national and provincial governments, departments and agencies feared ceding autonomy over how they spent their money. Gordhan and Brown wanted to scrutinize the contracts they negotiated and

Box 1. South Africa’s Procurement Obligations under UNCAC

The UN Convention against Corruption (UNCAC) included public procurement systems as one of the pillars of corruption prevention. Article 9 laid out a set of principles that convention signatories should incorporate into their procurement regimes. The convention did not mandate specific legal or institutional arrangements, but the chief procurement officer helped South Africa make progress on several of those principles.

The convention emphasized transparency in procurement. Article 9(1)(a) called for the “public distribution of information relating to procurement procedures and contracts” and article 9(1)(b) called for the public disclosure of information about the criteria on which a bid will be evaluated and the relevant tendering rules. The Office of the Chief Procurement Officer addressed the issue by creating an e-tender portal on which procurement officers could post tender documents. As of 2017, this was still a work in progress; and civil society groups reported that many documents were still not available online.

Article 9(1)(c) called for the “use of objective and predetermined criteria for public procurement decisions.” This was a concern in South Africa, where incompetence and corruption among procurement officers led to skirting of the rules and awarding of contracts for subjective reasons. Many of the chief procurement officer’s projects worked toward that principle. The office aimed to clearly communicate rules to procurement officers around the country, and the office negotiated more contracts centrally because there was less risk of corruption.

South Africa continued to struggle with article 9(1)(d) of UNCAC, which required an “effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established” are not followed. The office exercised more scrutiny over contracts at the national and provincial levels, but many units of government struggled to issue and enforce sanctions against those who broke the rules.

Article 9(1)(e) of UNCAC called for “measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.” New regulations that went into effect in 2017 required most civil servants to submit declarations of interest. And the Office of the Chief Procurement Officer requested that universities provide better training for future public-sector procurement practitioners.

to set new standards. They had to manage such anxieties as they transformed procurement practices that were out-of-date and well short of international standards.

Brown had limited resources to take on all of those problems. Gordhan, in his 2013 budget speech, stressed the need to control spending because money was scarce as South Africa's economy struggled.⁸ The rand's value had slid 16% that year, and economic growth had fallen to its slowest pace since a 2009 recession. The initial budget would be R38 million, or roughly US\$2.8 million.

FRAMING A RESPONSE

Brown said that when he took the job in 2013, his first priority was outreach. Although he could use the relationships he had fostered in politics and government to engage with critics, it was vital to focus attention on the need to save money—which everyone agreed with—rather than on the desire to eliminate corruption, which would raise the specter of winners and losers. He and Gordhan also had to tailor their message to specific audiences. In meetings with government officials, they emphasized the potential cost savings that could be achieved by more-efficient procurement systems. In meetings with small businesses, they asserted that more-efficient procurement led to more money flowing into more government projects and thus more contract opportunities for suppliers.

As his first priority, Brown decided to create an online system that would link thousands of suppliers and procurement officers across the country. Building such an integrated system would serve as the foundation for efforts to improve government oversight, reduce opportunities for corruption, and save time and money for both government and suppliers. Such an online system also would represent a quick win that would establish the credibility of Brown's new office and build support from government, civil society organizations, and businesses. "A big focus of the office was to really modernize and automate the system," he said. "I chose that because it not only had benefits for governments, but it had huge benefits for the private sector."

The benefits of automation were a "rally point" for many business interests, Brown said. "It was part of a strategy to get them quickly on board to endorse the office. We had everybody excited about it."

Getting the job done well and quickly required an experienced manager and a team of skilled information technology specialists. To head the project, Brown enlisted Acting Accountant General Schalk Human, who brought years of experience at the auditor general's office and the National Treasury.

The next step was more difficult in many ways because it involved changing the way people worked. Computers could do only so much, and Brown knew he had to buttress government workers' capacity to make effective procurement decisions. As he recruited other members of his team

into the Office of the Chief Procurement Officer, he asked each one to contribute to a review of the country's procurement systems. The process helped identify research and knowledge gaps about rules, processes, and capabilities and helped shape priorities and strategy.

Brown set up a new chief directorate to implement the elements of strategic procurement in the forms of long-term planning, supply chain management, group buying, competitive procedures, and negotiation so as to ensure effectiveness and reduce costs. The unit had to conduct detailed research and analysis so it could help government offices understand the markets they worked in. To lead that function, Brown hired Estelle Setan, who had been a researcher in the procurement division of a mining company before joining the National Treasury in 2003 to develop a strategic procurement methodology for the government.

Setan's task was to lead procurement practitioners beyond the mind-set of simple compliance with the rules. She wanted each officer to press suppliers for the best—and most-economical—products and services by asking the right questions and making informed decisions. Because she lacked the power to impose such thinking, she had to encourage behavioral changes by persuading procurement officials that research, analysis, and proper planning could save money and time—and make their work lives easier and more productive.

In framing his implementation strategy, Brown decided to delay any effort to secure new procurement legislation until his new office had established credibility by achievement. But he could immediately start gathering information and brainstorming ideas. He consulted employees of the National Treasury and representatives of government, business, and civil society about what the law should include. Brown inherited an existing National Treasury office—the chief directorate for supply chain management policy, norms, and standards—that could draft that legislation and develop other new rules and regulations.

GETTING DOWN TO WORK

Brown moved quickly to set his plan into motion, aware that early successes could stave off critics and build support both within the government and among citizens. In the initial phase, he worked to build relationships with political and small-business leaders and assembled and organized the staff for his office's six chief directorates: transversal contracting; policy, norms, and standards; governance, monitoring, and compliance; strategic procurement; client support; and information and communications technology. His next moves were to identify weaknesses in government procurement policies and to develop workable solutions to the problems of corruption, inefficiency, and incompetence.

Building staff

Gordhan authorized Brown to recruit 125 people to work in the office. Brown started small and gradually added new employees. In June 2013, he brought on Rakgadi Motseto, an experienced manager he had worked with in the intergovernmental relations division. The office had inherited about 30 people from two existing chief directorates: transversal contracts (referring to contracts centrally negotiated within the National Treasury) and policy, norms, and standards. And Brown had to create four additional chief directorates: strategic procurement, governance monitoring and compliance, supply chain IT management, and client support and capacity building. He focused on building the new units from the top down.

Motseto hired consultants to draft each chief directorate's objectives and to assess inherited staff. She identified skilled employees whom she could move into the new units.

Motseto found it difficult to recruit qualified people who could think about procurement in new ways. She said she needed "someone who is open-minded, who can think strategically." Finding good candidates was also difficult because graduate programs in procurement focused on the private sector rather than on government. Moreover, Motseto struggled to offer qualified candidates salaries that could compete with those in the private sector.

Setan, who was building the strategic procurement unit, also encountered problems in trying to hire people with the right skills and experience. "You need people who are strong in analytics and have an eye for detail," she said. "You need someone with good business acumen and able to interact with people at a very high strategic as well as operational level and ask the right questions." Like Motseto, she found that candidates with those skills could usually find better-paid positions in the private sector. She eventually recruited a team of five to carry out research and analysis.

Staffing would remain a challenge. By May 2016, 80 positions of the 125 authorized had been filled, and as of 2017, just 100.

Gathering support

Because corruption and inefficiency in procurement were contentious issues, Brown wanted to make sure the country's political leaders were behind him. "The most important step . . . is to get political support and buy-in," Brown said. "If you don't get it from the top, everything you do will fall flat." In 2014 he and finance minister Nhlanhla Nene (who replaced Gordhan in a 2014 cabinet reshuffle) held the first of three meetings to present their goals to the president and his cabinet, emphasizing how procurement reform would accelerate service delivery and save money.

Over the course of three cabinet meetings, some ministers expressed concern about how the chief procurement officer would function in a system divided into three levels of government—national, provincial, and local—

each with independent powers and functions. Brown recalled that such concerns centered mostly on whether the new office might force units of government to make specific purchasing decisions. Brown and the finance minister assured those at the meetings that they had no such intentions. “I can’t impose on a province what to buy or not buy,” Brown said. “I can’t go and build a school in a province on behalf of that province.”

He explained to the ministers that his job was to set standards that enabled units of government to make better procurement decisions. “I can say a school building should look like this, this is how it has to be designed, and this is the maximum size; and after having assessed market conditions, I can tell you that you can build at a particular cost per square meter,” he said.

Brown also told the ministers he would help them save money by centrally negotiating contracts for commonly purchased items such as motor vehicles. Rather than having various units of government expend time and money in negotiating their own contracts, “We could put a central contract together, and you could just order from that contract,” he said. “I’m not going to tell you to buy a Mercedes or buy an Audi. The decision to order is entirely up to you. Once you start to explain the dynamics of centralization, people understand.”

Brown also met with representatives of black-owned businesses, many of whom worried that a new procurement system could work against them. Such firms benefited from decentralized decision making that provided them access to local government contracts and from preferential procurement regulations that favored businesses owned by disadvantaged groups. Brown emphasized that the automated online procurement system he planned to develop would ease companies’ burden in complying with bidding requirements and that a national database of suppliers could unlock new opportunities for small businesses. He also told the businesses he had no intention of changing the preferential procurement rules.

Developing strategic guidance

Setan said South African procurement practitioners were taking the wrong approach to their work. “People were unaware that different commodities should have different sourcing strategies,” she said. Government procurement officers tended to treat every tender the same and to disregard the special characteristics of different markets for goods and services. “We needed to move from traditional procurement thinking to strategic procurement thinking.” Procurement officers could make better purchasing decisions by putting more work into research and analysis of commodities, markets, and organizational needs. “The difference is not in the process that is followed,” she said. “The difference is in the effort you put into the process up front.”

Setan drew on her knowledge and experience to develop a methodology for procurement reform projects. The approach required offices to research

the internal need for a commodity and the commodity's impact on the unit of government; analyze the market and industry for the commodity; and evaluate internal information about quantities needed and how often to purchase an item. The next step was to outline specific guidelines for procurement, based on this information. Setan also emphasized the need to develop and manage relationships after a contract award.

Setan's team used spending information provided by the public finance statistics office at the National Treasury to analyze the purchasing behaviors of units of government. The public finance statistics office provided information on how much each unit of government spent on broad categories of goods and services, although some units—especially municipal-level offices and public entities—lacked the information Setan required for developing sourcing strategies in the way she wanted.

Setan initially focused on health and education—two areas in which institutions throughout the country, such as hospitals and schools, procured similar goods and services. Her team approached the departments of education and health and offered to help them save money on contracts and improve service delivery.

The Department of Basic Education spent more than R3.2 billion (around US\$300 million in 2014) for financial years 2012–14 on school materials, including textbooks, but deliveries of crucial supplies were often delayed. The market was complex and diverse, and the provinces made purchasing decisions. Aggregating purchasing would give the government more negotiating power and enable it to create long-term partnerships with qualified suppliers. In addition, Setan wanted to work with the Department of Basic Education to develop a procurement framework that would help schools better plan and execute IT purchases.

Setan's team also developed a new strategy for government travel and accommodation contracts. At the time, national and provincial government departments were spending more than R9 billion (US\$870 million in 2014) yearly on travel and accommodation. There were opportunities to take advantage of economies of scale in a market that had many suppliers and many options. The team recommended measures that included centrally negotiated domestic airline agreements. And it introduced a national travel framework to standardize how government interacted with the travel industry. The Office of the Chief Procurement Officer expected the policy change to save the government R1.6 billion (US\$112 million in 2016) over the medium term.

Setan had a three-year time frame for each procurement strategy project. The first year focused on research and development of the strategy, the second year involved working with the individual department to implement the strategy, and the third year and beyond focused on performance analysis and benefits tracking.

Although the projects cut costs and reduced waste for specific departments, Setan wanted to bolster the capacity of procurement practitioners across South Africa. To do so, she decided to assemble step-by-step good-practices guidelines that procurement practitioners could follow as they conducted research, analyzed spending, drafted bid specifications, put bids out to tender, evaluated submitted bids, awarded contracts, and monitored performance. The guides would serve as road maps for all levels of government so as to determine exactly which products or services they required and decide how to conduct the research and analysis necessary to meet citizens' needs at the lowest cost. "It's really 'strategic sourcing for dummies' written in plain English," Setan said. In 2017, she oversaw the creation of an interactive online version of the good-practices guidelines. She prepared to make the online material public later that year and planned the hosting of one-day workshops to train representatives of the national and provincial governments in using the guides.

Reviewing systems and cutting costs

In 2014, Brown started a broad review of procurement expenditures by using purchasing information from national and provincial government offices. For areas that required technical knowledge, such as procurements related to, say, the electricity or gas industry, Brown recruited people from other departments to help analyze data.

Brown's team used the results to search for suspiciously large contracts. Team members prepared a list of the 100 largest government contracts in such areas as travel, cellular phone service, and software. Brown then contracted with the Chartered Institute of Procurement & Supply—an international professional organization of procurement practitioners based in the United Kingdom—to compare the government's spending in those areas with international industry standards. The team used that information to determine contracts that appeared to be delivering goods and services at above-market costs.

Brown had the authority to cancel inflated contracts but favored renegotiation whenever possible. The renegotiation process started when his office ordered a particular government office to let a suspect contract lapse. Brown's team then compiled market analysis, information on international benchmarks, and research on alternative suppliers. Emphasizing that his priority was to save money, his office would take over negotiation of a contract on the department's behalf and meet with the supplier to agree on new terms.

Brown recalled that suppliers sometimes resisted the renegotiation of existing contracts. "This was natural, because they stood to lose with revised contracts," he said. Brown countered resistance by explaining that if the supplier refused to renegotiate, it might have difficulty in obtaining future government contracts. He said that only a few suppliers resisted the renegotiation and that none initiated legal challenges.

Expanding the use of the so-called transversal contracts, which were negotiated on behalf of the whole government, created the opportunity for quick gains, helped control costs, and helped eliminate opportunities for corruption. The National Treasury negotiated the centralized contracts by bidding out selected goods and services and negotiating agreements with several companies. Treasury officials looked for goods and services for which centrally negotiated contracts could produce especially high-cost savings. Staff in the unit consulted procurement officers and suppliers about their needs, researched the market, and negotiated new deals with suppliers.

Prior to establishment of the Office of the Chief Procurement Officer, the transversal contracts chief directorate had arranged just 30 such deals. With Brown's support, the transversal contracts unit developed centralized contracts for a broad variety of goods and services, focusing on education, information and communications technology, professional services, and property and leasing. For example, the unit began negotiating with vendors of school supplies, including textbooks, after the strategic procurement unit identified those vendors as suitable for centralized contracting. In the past, suppliers had charged provinces different prices for the same items, but the unit successfully negotiated deals capped at R110 (US\$8) per student. The office estimated that government would save R1 billion yearly (US\$70 million in 2016) if all provinces participated. All schools eventually procured their textbooks through a central contract, beginning in January 2016; and Brown ordered all government offices to use centralized contracts when applicable, beginning in April 2016.

Creating the database

Moving procurement processes online was an important step toward both diminishing corruption and saving money: Electronic procurement systems increased transparency and decreased paperwork, thereby reducing opportunities for manipulation and wrongdoing. Government offices could more easily detect forms of fraud, including fraud perpetrated by government employees who awarded contracts to their own businesses. Online procurement lowered governmental overhead costs by eliminating the processing of paper forms for every bid, and it saved suppliers time and money. Further, combining the databases of different government offices into one central system helped decision makers obtain the information they needed to monitor and manage procurement systems.

Building a platform that would link thousands of suppliers and procurement officers across the country required an experienced manager and skilled information technology specialists, and Brown wanted the job done quickly. To run the project, he enlisted Acting Accountant General Human, who had had years of experience at both the auditor general's office and the National Treasury.

In 2014, Human led an assessment of the information technology systems that the national, provincial, and local governments as well as state-owned entities used for managing their purchasing. Although most of the national-level departments used the same system, Human found that provincial-level departments used 17 different systems and local governments used 13, ranging from the sophisticated products of such vendors as Oracle Corp. and SAP SE to processes based on Microsoft Corp.'s Excel spreadsheet program. Such diversity meant that implementing uniform operating procedures was nearly impossible under the status quo.

Human's goal was to create a standard system that left little leeway for error or manipulation. Using research and standards provided by Financial Management Association International, a United States-based professional organization that disseminates knowledge about financial decision making, Human's unit set forth an initial goal: to establish a central database of all suppliers eligible to do business with government. Only after that could the unit move on to the other components of the planned electronic procurement system.

Creation of the supplier database was technically demanding and required coordination between government offices and between government and the private sector. The online listing was to include only companies that met legal requirements for doing business with the government. Suppliers had to provide proof that they had registered with the government and had paid their taxes. They also had to supply other information about their ownership, the goods and services they provided, and whether they qualified for preferential procurement status for businesses owned by disadvantaged groups. The Office of the Chief Procurement Officer could clearly indicate suppliers in the register that it disqualified from contracting with government because those suppliers had previously committed fraud or failed to deliver on government contracts.

The database aimed to reduce time and paperwork for suppliers, which no longer had to register separately with each government office, and for procurement officers, who no longer had to process extra registrations. The proposed system also provided for electronic submission of forms, thereby eliminating the registration paperwork that had been susceptible to forgery or tampering. After meeting the requirements stipulated by the new system, suppliers would become eligible to bid on any government contract. The new database also promised to improve South Africa's place in the World Bank's annual Doing Business rankings, which officials valued as an important metric of the government's international reputation.

After Human and Brown received approval from the finance minister, they had to find an information technology specialist with experience in process automation who could build the new system. In 2015, Human hired Tumelo Ntlaba, who had performed similar work for another government office. Ntlaba said he was excited to take the job because he could leave a

lasting legacy at the new office. “It was the first database of this magnitude the government was going to do,” he said.

Ntlaba’s first step was to contact government agencies that had the information he needed to build the supplier database. The country’s Companies and Intellectual Property Commission held the list of all registered companies in South Africa, and the South African Revenue Service had data on tax compliance for all companies. Both agreed to provide their information and to update it in real time.

The next step was to better understand user needs and negotiate access to each government agency’s procurement data. Ntlaba first contacted procurement practitioners and suppliers across the country—the system’s future users—to learn more about what they wanted to be able to do and what would make their jobs easier. At the same time he tried to show offices the many ways they might benefit from the new platform. For example, he explained to the Revenue Service that the central supplier database would eliminate the need to print paper copies of business tax compliance certificates. “They could save money and focus on their core mandate of assisting people with real tax issues rather than assisting queues and queues of people requiring this paperwork,” Ntlaba said.

With access to the information he needed, Ntlaba began building the software. Because he was the only employee at the Office of the Chief Procurement Officer working on the database, outside help was essential. He hired a private company to supply nine IT technicians to develop the system and provide support. Ntlaba and the technicians created software that allowed any supplier with an Internet connection to file company registration, tax certification, and other identifying information in the database.

When the software was ready, Ntlaba prepared to roll it out. He and about 10 other employees at the Office of the Chief Procurement Officer organized small outreach groups, each of which handled two provinces. The teams spoke with suppliers, and they trained employees in each municipal government office and provincial treasury in using the central supplier database. Suppliers could walk into any local government office to request help with registration or use the office Internet connection to register their companies.

In August 2015, Ntlaba launched his new system by way of a one-month pilot program in the largely rural eastern province of Mpumalanga. The program enabled Ntlaba to test the system’s accessibility in remote areas and reveal any problems with the connectivity and speed of certain components, including a text message confirmation system. Ntlaba’s office fixed the problems and updated the software as needed.

The nearly yearlong national-level rollout began the next month. The government issued an instruction note, which said that after April 2016, offices could contract only with suppliers registered in the database. Ntlaba’s

office then ran a three-month radio, newspaper, and billboard campaign advertising the database.

Although suppliers could create accounts and upload the necessary information in only about a half hour, many waited until near the deadline to register. “In March [2016], a lot of our suppliers started waking up and signing up at the same time,” which slowed the system, he said. “Departments started asking for extensions. . . . We agreed to extend the deadline to the first of July 2016.”

Ntlaba set monthly goals for the number of suppliers registered in the database. His team verified each supplier’s information by checking it against the data held by the Revenue Service and other offices. The initial rollout of the database cost R8 million, or about US\$600,000. Ntlaba anticipated that maintenance would cost around R9 million, or US\$670,000, yearly.

The successful implementation of the database cleared the way for the development of further electronic procurement projects. Ntlaba’s chief directorate also created (1) a g-commerce site that listed the transversal contracts unit’s centrally negotiated contracts and (2) an e-tender portal that hosted procurement documents. Because the government could post tenders online, the portal saved the otherwise substantial expense of advertising in newspapers and other publications. These steps helped pave the way for future work on an integrated online platform that would enable government offices to manage every step of the procurement process electronically.

Enhancing effectiveness through coordination

Brown developed relationships with other agencies to bolster the oversight and monitoring of procurement. One such institution was the auditor general’s office, which analyzed government financial statements and conducted performance audits. Representatives of Brown’s office and the auditor general met quarterly to discuss compliance with procurement rules. “We reviewed the performance of departments and highlighted areas where we think the system is not performing,” Human said.

The meetings provided a forum for discussing the proper interpretation of procurement rules and for suggesting areas on which the auditor general should focus its work. For example, in one instance the agenda focused on the common practice of advertising tenders below certain cost thresholds as a way to avoid the rules that required open, competitive bidding. On another occasion they discussed how to handle a government office’s paying above-market prices for housing, Human said.

Brown valued direct engagement with parliament as well. The Office of the Chief Procurement Officer was based in Pretoria, the country’s administrative capital, but parliament met in Cape Town, more than 1,300 kilometers away. In order to ensure effective communications with legislators, Brown said, he dispatched a chief director to attend every parliamentary hearing involving procurement. His office also provided the

public accounts and appropriations committees with information related to procurement transactions and the performance of procurement systems.

The procurement office also played an important role in providing information for other arms of government such as the public protector, which was the independent agency that investigated corruption and administrative misconduct. In one case, the procurement office executed an order of the public protector by providing information related to all tenders made by the national passenger rail agency over a two-year period, Human said. The information contributed to a high-profile investigation of financial irregularities at the rail agency.

Within the National Treasury, Brown's office worked closely with the public finance division, which assessed budget proposals and reviewed service delivery trends. The office also relied on cooperation with the budget office and the intergovernmental relations division.

Monitoring compliance and sanctions

The office's chief directorate for governance monitoring and compliance, which communicated rules and procedures for procurement officers throughout government, served primarily in an advisory function, Brown said. "All procuring entities get in touch with the compliance unit when people are not too clear on the rules," he said. If an issue came up frequently, the office sent an interpretation note to all units of government. The office also assessed contract compliance in response to complaints or suspicions of corruption. In 2016, Brown ordered departments to investigate alleged procurement abuse matters within 10 days and to issue sanctions within 21 days.

The office's lack of enforcement power left a hole in the procurement system, however. In May 2016, Brown told the parliament's standing committee on finance that the single biggest problem his office faced was its lack of authority to impose consequences for corruption and noncompliance with procurement rules. Although the office could *report* suspected acts of criminal misconduct to the police, Brown had little power to *punish* civil servants directly. He relied on departments to discipline their own employees for most infractions, but departments' internal investigations were often protracted—without resulting in any punishment.

Brown's office depended on the Public Service Commission to manage compliance by public-sector employees with the Code of Conduct for Public Servants, which set forth basic rules on conflicts of interest. The most common conflict of interest relevant to procurement involved government officials' directing contracts to businesses in which they had financial interests. In 2016, the government had introduced regulations that prevented any official from being the registered owner of a business.

Civil service regulations required all director-level national and provincial officials to submit annual financial disclosure forms to the Public

Service Commission. The disclosures reported each official's assets, investments in companies, shares owned, gifts received, and sponsorships. The commission checked each disclosure against relevant databases such as the register of companies and department gift registers in order to spot conflict of interest problems. When the commission identified such a conflict of interest, the official in question had to either dissolve the company or resign from the government post.

New regulations scheduled to take effect in 2017 expanded disclosure requirements to *all* civil servants and required employees below director level to submit their own declarations to the heads of their departments, not directly to the Public Service Commission.

The Public Service Commission lacked the authority to issue sanctions based on the disclosures; it could only bring potential conflicts of interest to the attention of departments' ethics officers and recommend how the departments should respond. The commission recommended internal administrative investigations, but on rare occasions, it called for the involvement of law enforcement. Departments were often late in replying to the commission's recommendations, and internal disciplinary proceedings often dragged far beyond the three-month deadline set by law. The commission investigated the problem and found that civil servants purposely delayed proceedings—for example, by declaring they were too ill to participate in investigations.

Cementing the legal base

In 2015, Brown began work on new procurement legislation. Discussions at the National Treasury led to a set of basic goals for a new law that would consolidate procurement regulations, set tougher standards for reporting and sanctioning wrongdoing, institute a formal dispute resolution process, and incorporate civil society into procurement monitoring. Because Brown's office had only limited experience in drafting legislation, in 2015 the National Treasury hired Geo Quinot, a lawyer who specialized in procurement law and who served as vice dean of the law faculty at Stellenbosch University near Cape Town.

Quinot said that Brown's office presented him with a number of ideas but that as he developed a draft law, he also consulted broadly with other international experts and civil society representatives. His text called for an independent regulatory authority to oversee the procurement system and handle disputes outside the courts. The draft also called for every procurement office to have a liaison whom citizens could contact with questions or concerns about tenders.

In 2016, the National Treasury contracted the Public Affairs Research Institute, an independent research organization in Johannesburg, to host further discussions about the content of the legislation. The draft then returned to the National Treasury for internal review, where it remained in April 2017.

OVERCOMING OBSTACLES

South Africa's volatile politics buffeted the National Treasury team as interest groups pressed the government for greater spending and looser financial controls. Brown said his consistent response was to stay the course. "We are employed by government," he said. "If government wants to get rid of us, they can get rid of us. So we will continue to do our job until further notice."

Publicly, the government supported the chief procurement officer. In April 2014, President Zuma endorsed the office in his annual state of the union address. "Weaknesses in procurement, management, and operations systems that undermine the efficiency and effectiveness of government will be addressed," he said. "One of the key steps, which is already under way, is to centralize procurement under the Office of the Chief Procurement Officer in the National Treasury."⁹

The evolving political situation threw that support into doubt. The treasury, which controlled the public purse strings, became the epicenter of growing tension between rival factions in the ruling African National Congress Party. President Zuma led one faction that lambasted the treasury for its austerity and for its resistance to funding large development projects. That faction was backed by small, black-owned businesses that claimed the treasury was too supportive of big companies and corporations.

The other ANC faction supported the treasury and had doubts about the president's integrity—after years of allegations that he had engaged in various forms of corruption and collusion with wealthy interests. One of the most prominent allegations came in March 2014, when the public protector reported that Zuma had improperly benefited from R236 million (US\$22 million at the time) in state funds used for developing his personal estate just south of the rural town of Nkandla. The supreme court ruled in 2016 that Zuma had failed to uphold the constitution when he ignored the public protector's order to repay a portion of the money to the state, including the costs of a cattle enclosure, a swimming pool, a visitors center, and a chicken run.¹⁰

The relationship between Zuma's supporters in the ANC and the National Treasury leadership soured further as time went on. "The ANC leadership wanted the National Treasury to facilitate its development plans," recalled Ralph Mathekga, a political analyst who had worked on budget issues for the National Treasury. In May 2014, the president moved Gordhan to another government post and appointed Gordhan's deputy, Nhlanhla Nene, as finance minister. Nene continued Gordhan's work to reduce wasteful spending and spoke forcefully against procurement corruption. He gave his full support to Brown's office. "A lot of the reforms accelerated" under Nene, Brown recalled. "He gave us free rein."

But tensions came to a head in December 2015, when Zuma abruptly removed Nene from his post and appointed a loyal but little-known member of parliament to serve as finance minister. Media reports speculated that the

decision was related in part to Nene's reluctance to approve construction of several nuclear power stations that would cost the government as much as US\$100 billion.¹¹

After the shake-up, the value of the rand dropped and the stock market tumbled amid uncertainty about the country's financial leadership.¹² Business and labor leaders, bankers, and ANC leaders met to discuss how to resolve the crisis. The party presented Zuma with two options: to return Nene to the post or to appoint Gordhan to a second stint as finance minister. Zuma chose the latter, returning Gordhan to the job just two days after firing Nene.¹³ "If the president had succeeded in keeping a minister loyal to him in the National Treasury, the chief procurement officer wouldn't matter," Mathekga said of the 2015 events. "It would fall under the control of Zuma's faction."

Although Brown tried to remain above the fray, he was dragged into it in 2016, after a former spokesperson for Zuma's cabinet alleged that Brown had received suspicious payments into his home loan account. Brown dismissed the allegations as politically motivated and stayed in his job with characteristic tenacity. "If it so happens that I am found to be corrupt," he told a reporter, "I must be dealt with."¹⁴

Brown continued his work through 2016 and after nearly four years as chief procurement officer, retired that December to take a job at Standard Bank. He said he had in early 2016 made the decision to retire and had never planned to work more than four years in the office. "After four years, I got something in place," he said. "Now another person can take it to the next level." Brown said the office was in good hands under Human, who took over as acting chief procurement officer.

After Brown retired, tensions between Gordhan and Zuma's supporters grew. The finance minister reportedly accused the Black Business Council, a small business lobby that supported Zuma, of trying to capture the National Treasury.¹⁵ In March 2017, Zuma removed Gordhan from his post and appointed in his place Malusi Gigaba, a former home affairs minister close to the president.

ASSESSING RESULTS

In just under four years as South Africa's first chief procurement officer, Brown reduced opportunities for corruption among purchasers and suppliers. His team made procurement more transparent, reduced opportunities to manipulate bids, and required units of government to use centralized contracts and strategies for certain goods and services instead of negotiating their own deals. The changes, especially electronic procurement measures and the creation of an accessible database of legitimate suppliers, moved South Africa more in line with the principles of the UN Convention against Corruption. Brown's office consulted procurement practitioners and civil society groups in order to develop draft procurement legislation. Brown said in March 2017 that the legislation was nearly ready for submission to parliament.

Gordhan had tasked Brown with saving the state R25 billion (US\$2.8 billion in 2013) in procurement costs within three years, and Brown said in March 2017 that the office would likely achieve that goal within the year. The savings came from renegotiating large contracts, developing new procurement strategies, reducing overhead costs, increasing transparency, and eliminating or reducing opportunities for corruption. The office reviewed contracts with the top 100 suppliers to government and every tender above R10 million (US\$750,000) in order to ensure that deals followed procurement rules. “We could save the government . . . R10 billion [US\$760 million] this financial year” through renegotiation alone, Human said in 2017. Under Brown, the office also added more than 10 centrally negotiated contracts valued at more than R28 billion (US\$21.8 billion in 2016).

It was difficult to assess how much of an impact the Office of the Chief Procurement Officer had on the amount of money lost to corruption. Data on procurement was poor prior to creation of the office, and it was usually impossible to determine whether a wasteful contract was the result of corruption, error, or a combination of the two. In 2017, Human said that internal research and information from auditor general reports suggested that corruption accounted for about 15% of the overall wastage in procurement systems. Fully 21% of audits across national and local government offices found at least one instance of suppliers’ submitting false conflict-of-interest declarations, and auditors detected that more than 2,500 incidents of that violation were detected by auditors.¹⁶

The central supplier database was a pivotal reform that Human and Ntlaba implemented in little more than a year. The database increased in transparency, improved its record keeping, and reduced the amounts of time and money that suppliers and procurement officers spent on tenders and bids. Three hundred thousand small and large South African companies and foreign suppliers had signed on by March 2017.

The chief directorate for governance compliance and monitoring identified suppliers that had defaulted on tenders or were restricted in other ways from doing business with government. Any procurement officer using the database could see whether a supplier was eligible to contract with government. The office also compared the supplier database with government employment records to identify about 9,000 workers who illegally had financial stakes in businesses that contracted with the government, Human said.

The database enabled much easier collection of important information about the recipients of government contracts. When asked, the office could tell members of parliament or other departments information on how much business went to companies owned by nonwhites, women, or youth. “The automation we’ve done has been groundbreaking in South Africa,” Brown said. “We put in place a process for less than R15 million [US\$1.1 million]

compared with IT systems that other parts of government paid R300 million [US\$22 million] for.”

A complete electronic procurement system remained a work in progress, however. “We want to get a full electronic quotation system—the whole process automated—so that people can just submit their quotes online from their cell phones or central supplier database profiles with no manual intervention,” Ntlaba said. Until the office took that next step, though, units of government could still select possible suppliers from the database and manually send requests for quotations. “That still opens us to opportunities for corruption and fraud,” he conceded.

As the office proved its value, Brown became able to obtain more funding. After an initial annual budget of only R38 million (US\$2.8 million), in 2013, the National Treasury allocated R70 million (US\$5.7 million at the time) for the office’s 2015–16 budget. The 2016–17 budget reached R100 million (US\$8.01 million at the time).

REFLECTIONS

The people directly involved in establishing South Africa’s new procurement office offered a number of reflections about steps that had helped or hindered their success: Chief Procurement Officer Kenneth Brown’s team emphasized the importance of consultation through every step of the reform process. Brown strove to make the procurement office resilient by communicating actively with potential critics. His employees organized meetings with any groups that had stakes in the office’s projects and sought those groups’ input and support.

“Consultation is the most important part,” said Tumelo Ntlaba, who oversaw the central supplier database. “If you don’t have buy-in, especially with a scope as big as ours . . . people will make your project fail.”

Finance ministers Pravin Gordhan and Nhlanhla Nene spoke mainly in terms of cost savings rather than corruption fighting when they talked about the office publicly. Brown did the same. The emphasis on saving taxpayer money facilitated cooperation between the procurement office and units of government that might be wary of working with an institution that had a more-explicit anticorruption agenda.

Brown’s team knew that quick wins would help gain support for the project and make it more resilient to pressure from groups that had vested interests in the corrupt status quo. The office heralded those savings in public statements, and news outlets provided favorable coverage.

Gordhan and Brown also made a strategic choice to prioritize prevention over enforcement. The office put more effort into building efficient and transparent systems for the future than into identifying and punishing malfeasance behind existing contracts. “It’s much more constructive to build a system that’s difficult to rig,” said Schalk Human, who became acting chief procurement officer in 2016.

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