

**IMPROVING ACCOUNTABILITY AND TRANSPARENCY IN THE PUBLIC SECTOR
BY EXAMINING HOW TO DEPOLITICISE EXECUTIVE GOVERNANCE, INCLUDING
PROFESSIONALISATION OF THE PUBLIC SECTOR, STATE OWNED
ENTERPRISES AND PUBLIC PROCUREMENT**

**INPUT BY RICHARD SIZANI THE CHAIRPERSON OF THE PUBLIC SERVICE
COMMISSION TO PUBLIC AFFAIRS RESEARCH INSTITUTE ROUNDTABLE
DISCUSSION**

**10 APRIL 2018
JOHANNESBURG**

Professor Ivor Chipkin, the Executive Director of PARI
The PARI team, in particular Ms Baaitse Nethononda, the Programme Co-ordinator
Dr M Buthelezi, Research Manager at PARI
Members of the Public Sector Network, especially current and former DGs in our Public Service
Dr D Mamphiswana, Director-General of the Public Service Commission and senior officials
Delegates from civil society, government and the private sector
Distinguished guests
Ladies and Gentlemen
All protocol observed

INTRODUCTION

1. It is a pleasure and honour for me to be asked to speak at this Public Service Reform Roundtable Series. I would like to thank Professor Ivor Chipkin and the PARI team for inviting me to this event to address you on issues related to the improvement of transparency and accountability in the Public Service by exploring how to depoliticise Executive Governance within the public sector, including how to professionalise the public service, State Owned Enterprises, and public procurement.
2. I would like to extend my condolences to the Mandela and Madikizela families for the loss of Ms Nomzamo Winifred Madikizela Mandela – a freedom fighter par excellence. We would also wish to remember Mr Chris Thembisile Hani on the 25th anniversary of his death. We hope that their sacrifices will not be in vain.
3. Before I talk to the topic, I would like to congratulate PARI on its research on various drivers of institutional performance in the public sector. The Public Service

Commission has noted that many of your reports, papers and articles address critical contemporary issues that are of public interest. Publications on “State Capture and Revolution in Contemporary South Africa”, the “Machinery of Government Change in South Africa’s Post-democratic Public Administration” and “How will SA tackle corruption?”, to name but a few, certainly captured our interest.

4. The PSC has also noted PARI’s role in the area of public service leadership at the Head of Department-level, especially the establishment of the Public Sector Network, a strategic dialogue group. In this regard, the PSC, together with the DPSA, DPME and the National School of Government are having discussions to utilise the expertise of former Directors General (DGs) and other senior managers. I have had an opportunity to read the Public Sector Network proposals on public service reform. I have found them to be quite profound. I would therefore support probably about 90% of them, with a few quibbles on the last 10%.
5. As our organisations clearly share some interests relating to the Public Service, the PSC is interested in entering into a Memorandum of Understanding with PARI to share our resources and expertise.
6. The PSC is established in terms of Chapter 10 of the South African Constitution of 1996¹. We are established as an independent, impartial body that must exercise its powers and perform its functions without fear, favour or prejudice in the interest of the maintenance of effective and efficient public administration and a high standard of professional ethics in the public service².

WHAT IS MEANT BY ACCOUNTABILITY AND TRANSPARENCY IN THE PUBLIC SERVICE?

7. Accountability refers to the obligation of public servants or an institution to account for their activities, provide information about decisions and actions, explain and justify decisions, accept responsibility for them, and to disclose the results in a transparent manner. Through accountability, public servants are expected to be answerable for their actions, and most importantly that there should be consequences when duties and commitments are not met³.
8. Transparency includes providing information to the public on request and information not requested by the public but which will be to the benefit of the public. A public body (e.g. department) is not necessarily transparent when it is effective and fast in answering requests for information but not providing information upfront

¹ Constitution of the Republic of South Africa, 1996

² Section 196 of the Constitution of the Republic of South Africa.

³ Public Service Commission. Internal documents on CVP Pilot project. 2017.

on the public body such as who is in charge, and the specific services provided⁴.

DEPOLITICISATION OF EXECUTIVE GOVERNANCE, INCLUDING PROFESSIONALISATION OF THE PUBLIC SECTOR, STATE OWNED ENTERPRISES AND PUBLIC PROCUREMENT

Managing Political Administrative Interface

9. A persistent dilemma in modern democratic systems has been the tension concerning the boundaries of the roles of elected politicians and the professional administrators in public policy. There is a continuum of views about resolving this tension, with one extreme advocating for the absolute control of a neutral and professional bureaucracy by the elected politicians and the other extreme contending that “*to the victor go the spoils*” with huge shifts in the senior civil service after a transition of power⁵.
10. Managing political and professional relations at the apex of government is a delicate process which requires an adequate regulatory framework that would define roles and responsibilities and outline the operational context within which these must be discharged. Those operating at this level need to have the **necessary maturity** to ensure that human relations are not an impediment in discharging the defined roles and responsibilities.
11. According to Thornhill (2005) “politicians make political choices, however, these choices have to be considered within the framework of its administrative, managerial and technical feasibility”, which is the domain of public officials appointed as a result of their expertise⁶.
12. Miller and McTavis (2009) define the relationship at the apex of government as the “the intersection of leadership roles within.....a tradition of dichotomous relationship between political and administrative realms”⁷. From these definitions it is clear that there has to be limitations on the role of politicians in order to create sufficient space for administration to run a professional public administration system.
13. The PSC has observed that in the Public Service one of the factors contributing towards tension at the political administrative interface is the discrepancy between the authority/ responsibility dispensations of the Public Finance Management Act

⁴ Ibid.

⁵ United Nations. (Department of Economic and Social Affairs) 11th International Anti-Corruption Conference workshop report. Workshop 3.4 Depoliticising the Civil Service, May 2003.

⁶ Prof. C. Thornhill. (2005). *Journal of Public Administration* • Conference proceedings • 182, October, 2005.

⁷ Miller, K.J. & McTavish, D. (2009). *Leadership and the Political Administrative Change: Case of Scottish Local Authorities*, Political Association Annual Conference, Manchester, 2009.

(PFMA) and the Public Service Act (PSA). The PFMA bestows both the accountability and authority for financial management on the accounting officer (HoD), whilst the PSA confers powers regarding human resources and organisational structures on the Executive Authorities.⁸

14. To address this discrepancy the PSC has repeatedly recommended an amendment to the PSA to assign original HR powers to HoDs, given the unevenness in delegating such functions across the public service.
15. Coupled with these challenges, Chipkin has noted that the South African civil service has never built a sufficiently robust distinction between political and professional appointments. According to Chipkin, politicians are supposed to set policy, while senior administrators implement policy. "But every time there's a new minister, there's a new plan. Departments are in a state of permanent restructuring. This explains why there is a huge breakdown in service delivery."⁹
16. In addressing the challenges related to organisational instability, better ways of managing the political-administrative interface must be found. While democratic accountability calls for HoDs to be accountable to their political principals, professionalism requires a degree of autonomy and stability in the top level of the bureaucracy. In other words, even as we interface, it must be at a professional level and once we have that among principals, we are bound to do things right¹⁰.
17. The National Development Plan, Vision 2030, emphasises the need for clear demarcation between the roles and responsibilities of public servants and their political principals¹¹. The NDP suggests that where the Public Service is insufficiently insulated, standards can be undermined as public servants are recruited on the basis of political connections rather than skills and expertise, or access to state resources and services becomes defined by political affiliation rather than citizenship¹².
18. In order to limit the extent of politicisation in the Public Service, the NDP proposes the creation of an Administrative Head of the Public Service to deal with the career incidents of HODs, including facilitating the appointment, performance management and deployment.

⁸ South Africa. Public Service Commission. Report on role Clarification and relationships at the Executive Interface, 2004.

⁹ The political administrative interface. The key to good public sector governance and effectiveness in Commonwealth Africa, Commonwealth Good Governance, 2010.

¹⁰ South Africa. Public Service Commission. Building a Capable, Career-Oriented and Professional Public Service to Underpin a Capable and Developmental State in South Africa. Conference report, November 2014.

¹¹ South Africa. National Planning Commission. National Development Plan, Vision 2030.

¹² Ibid.

19. In the PSC study on Recruitment, Retention, Career Pathing and Utilisation of Senior Management Service Members' Expertise in the Public Service, public servants who participated in the study were of view that the recruitment and selection of SMS members below the HoD level should be managed through a purely administrative process. However, at the HoD level, there is support for the hybrid approach that provides for the minimal involvement of political heads in the final approval of recommended candidates by the proposed Head of the Public Service and the PSC, as recommended in the NDP. The hybrid approach is perceived to be objective and has the potential to create stability at the HoD level.¹³

PROFESSIONALISATION OF THE PUBLIC SECTOR

20. Part of depoliticisation of executive governance would of necessity include the recruitment and building of a professional and ethical public service. This is essential for developing a Developmental State that has the capacity to deliver on its Constitutional mandates and citizenry needs.
21. The NDP made several recommendations on the professionalisation of the public service, including the following:
- 21.1 Make the public service and local government careers of choice;
 - 21.2 Implement a formalised graduate recruitment scheme for the public service;
 - 21.3 Make adequate experience a prerequisite for senior posts;
 - 21.4 Develop a long-term perspective on training and management; and
 - 21.5 Develop technical and specialist professional skills.
22. According to the NDP, *"this will require a shift from isolated training initiatives to a long-term approach that focuses on recruiting people with the relevant aptitude and developing their skills over the course of their careers."*
23. The professionalisation of the public service should be undertaken in a much more structured and systematic way. This would require a specification of **all** occupations with regard to –
- 23.1 the job content/ scope of work;
 - 23.2 the entry and promotion requirements with regard to the qualification, specified experience (not only number of years), knowledge and skills proficiency and continued professional development requirements; and
 - 23.3 ethical and value-based public service.

¹³ Ibid.

24. The PSC has in its Developmental State Discussion Paper also recommended entry examinations and compulsory induction as some of the mechanisms to professionalise the public service.
25. In addition, there is a need to review the occupational classification system within the Public Service given that the current one is outdated and other new forms of classification (such as (OSD)) have been introduced.
26. As part of professionalization and enhancing meritocracy in recruitment, there is a debate that we are engaged in in the public service as to when can we exit race as a criterion for appointments. The equity percentage on race to redress the imbalances of the past have been achieved. We are still close to addressing the imbalances relating to women and disability. One must express some concern that as we address race, we are also witnessing some reversal in terms of appointments based on regionalism and or ethnicity.
27. Lastly, to professionalize the public service, there is need to address President Ramaphosa's pronouncement on the reorganization and capacity of the state. Part of what needs to be done is to review the size and number of ministries and departments, and also enhance productivity and reduce the wage bill. The impact of such initiatives would require retraining of employees so they can be directed to relevant service delivery functions.

Depoliticisation of State Owned Enterprises

28. State owned enterprises (SOEs) have a pivotal role to play in the socio-economic development of South Africa. Besides being a crucial source of employment, they have a responsibility of delivering critical services to the citizens, stimulate the economy and accelerate growth. According to the National Treasury Budget Review (2017:95), SOEs have, for instance, spent a total of R514 billion on infrastructure since 2011/12, mostly in energy, transport and logistics. This is an enormous amount of money, thus good governance in SOEs is even more imperative.
29. According to the Presidential Review Commission (PRC)¹⁴ on SOEs, they should have a few clear objectives because multiple objectives can set them up to fail. The mandates of SOEs should be reviewed periodically because circumstances change. Over time there may be mission creep and this distracts SOEs from their core purpose. In addition their commercial objectives should be separated from social objectives or Public Service Obligations and how the latter are funded must

¹⁴ Cabinet accepted the Final Report on 30 April 2013.

be made explicit. In South Africa this is sometimes left to circumstance, especially when municipalities or public service departments don't pay for services. This becomes an unplanned diversion of funds. In order for SOEs to achieve their dual mandates, the appointments of CEOs and boards should take both the social and commercial objectives (financial sustainability) into account.

Governance structures

30. While SOEs have an important role to play in service delivery and broader transformation of the state, their performance is often undermined by corruption and mismanagement due to poor governance structures. To address this, it is important to ensure stability at the Chief Executive Officer and Board levels and to ensure clear lines of accountability (National Planning Commission, 2011:366).
31. In particular, government has different roles in relation to SOEs: It is the owner or shareholder, it makes policy and it regulates. Apart from these three roles, other departments and bodies also play a role in the oversight and management of SOEs, especially National Treasury, the Auditor-General and Parliament. This makes the governance lines indeed quite complicated.
32. The PRC report proposes a greater degree of centralisation of the ownership function. This will require careful consideration of the roles and technical skills and capacity of the Department of Public Enterprises, National Treasury and the policy-making Ministries.

Better accountability of SOEs

33. SOEs are required by the Public Finance Management Act to be financially sustainable, but a number of them have battled to maintain profitability as a result of mismanagement, resulting in bailouts from the fiscus. A desk top study on SOEs shows a litany of uncomfortable words such as "*incompetent, corrupt, dysfunctional, looting, patronage, governance failures, weak accountability etc.*" The debate on whether these descriptions are fair and accurate or not is not helpful. Perceptions of corruption are just as damaging as the corruption itself.
34. Objectively viewed, the *pater* or "father" role in relation to SOEs can only be played by a duly appointed political figure such as a Minister or Deputy Minister. These figures are vested with the legal powers to direct the relevant SOE under their department. The political nature of a *pater* figure is important, as it highlights the individuals whom remedial action in the curbing of patronage should be directed at. Patronage therefore implicates political figures who act as champions or support

the achievement of certain objectives within the SOE that will bring financial benefits to them. Therefore, the challenge of uprooting patronage must begin with an attempt to reduce the influence of external, political pater figures, on the operations of the SOEs.

35. In this regard the Minister of Finance recently announced that SOEs have been classified as red, amber and green in a matrix put together by the Treasury. The Minister said he will go public soon on those coded “red” with a view to turning them around. This is indicative of the pressure the SOEs are under from various quarters, because surely the Department of Public Enterprises, the relevant policy departments, the regulator and Parliament may have similar concerns and interventions. *The question is, why not go public about the classification of all of them and the criteria used for such classification to enable other stakeholders to make inputs or to use the instrument to assist in maintaining standards or improving performance.*
36. The PSC has noted some of the work which is underway through the Inter-Ministerial Committee (IMC) on SOEs on:
 - 36.1 The development of an overarching shareholder policy defining criteria for SOEs which should be developed by the Minister of Public Enterprises.
 - 36.2 The determination of the appropriate shareholder ownership model to be led by the Minister of Public Enterprises
 - 36.3 The separation of the functions of shareholder, policy-maker and regulator across SOEs to make them more accountable.
 - 36.4 Enactment of a single overarching act (The State Owned Entities Act).

PUBLIC PROCUREMENT PROFESSIONALISATION

37. In relation to the above, I will firstly provide an overview of the procurement reforms in South Africa and secondly, a summary on professionalisation of public procurement.

Procurement Reforms

38. The Public Sector is the country’s single largest buyer. An incremental improvement in public service delivery positively impacts millions of people - R824 billion was processed through procurement in 2015/2016. Beyond advancing social objectives, public procurement in South Africa is also being leveraged towards generating employment, enhancing domestic manufacturing capacity, and supporting inclusive growth priorities. Public Procurement is therefore a game changer.

39. A well performing and professional procurement function is therefore critical to achieving the strategic objectives and goals of any government institution. However, this has been a sector which is prone to maladministration and corruption. At the same time, public procurement operates in an environment of increasingly intense scrutiny and accelerated changes driven by technology, programme reviews, and political expectations¹⁵.
40. It is only in recent years that serious attention was paid to public procurement. In earnest, reforms in public procurement started during 1995 and 1996 through the introduction of the preferential system to address socio-economic objectives¹⁶. In terms of Section 217 of the Constitution of the Republic of South Africa, every official in the employment of state machinery is required to contract for goods and services in a fair, equitable, transparent, competitive and cost-effective manner. Subsequently, a number of reforms supporting the principles of promoting accountability, transparency and governance in the Public Sector were implemented and these are summarised below:

- 40.1 **The Preferential Procurement Policy Framework Act¹⁷** gives effect to section 217 (3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in the Constitution. The framework outlines in detail the principles and procedures to be followed. While most of them are clear, principles such as the 90/10 preference points system have the potential to disadvantage small and emerging companies. Some improvements have been made in the 2017 Treasury Regulations to address challenges in this regard.

It is also important that such frameworks should be reviewed so that companies **must** be assessed for empowerment *annually or their empowerment status should be revoked as soon as the empowerment relationships change. By the same token the framework should make provision for graduation out of the 'empowerment category' of well established companies owned by previously disadvantaged groups.* (I am aware that the High Court in Gauteng has recently approved, in relation to the Mining Charter, the principle of "once empowered always empowered". This will not necessarily close the debate on this).

- 40.2 **Establishment of the Office of the Chief Procurement Officer (OCPO)** in 2013. Its primary purpose is to modernise and oversee the procurement system to

¹⁵ Bolton, P (2006). "Government procurement and policy promotion and award public tenders", Spectrum Juris 2014(1) and Eyaa, S & Oluka, P.N. (2011). "Explaining noncompliance in public procurement in Uganda", International Journal of Business and Social Science 2(11), June:35-44

¹⁶ Ambe, I.M. (2009). An explanation of supply chain management practices in the central district municipality. Educational Research and Review 4 (9): 427-435

¹⁷ Preferential Procurement Policy Framework Act, Act 5, of 2000

ensure that it is fair, equitable, transparent, competitive, and cost-effective in line with section 217 of the Constitution¹⁸. Most of the other reforms discussed hereafter are managed and coordinated from this office.

- 40.3 **Centrally negotiated contracts** - This provides government with an opportunity to reduce cost and increase value leveraging from economies of scale. As at 2016 40 centrally negotiated contracts were in place, worth R28 billion. While this initiative is commendable, a question can be raised about how transparent central procurement processes are and who guards the guardians? The point is, by design, practice and implementation, this process must be the most transparent in the country by allowing public participation during tender review processes, publishing outcomes of tender processes and etc.
- 40.4 **Review of SOE procurement practices, processes and contracts** - The performance of SOEs forms the backbone of the economy. Their efficiency is paramount for economic growth. In line with the Minister of Finance's 2016 Budget Speech, from 1 April 2016 the OCPO requires SOEs to submit their procurement plans and publish them on their respective websites and on the eTender portal in order to ensure, amongst others, transparency in the acquisition process.
- 40.5 **Central Supplier Database of government**- The National Treasury introduced the Central Supplier Database (CSD) for Government on 1 September 2015. Suppliers are required to register on this database once to do business with government. The CSD automates the verification of tax clearance certificates, company registration information, BEE status and personal identification information. The introduction of the CSD has resulted in the reduction in tender documents required for submission when responding to a tender; has reduced the possibility for corruption; and addresses the administrative failures identified by the Auditor-General¹⁹.
- 40.6 **The eTender Portal**- which was introduced on 1 April 2015. It contains the following information: All bid documents for a particular tender; the list of tenderers and their respective prices; details of the winning bidder; and scores of the rest of the bidders. The portal enhances transparency and over time will reduce corruption and the number of tender disputes. Bid documents are made available to bidders free of charge on a single platform that is searchable and accessible 365 days a year²⁰.

¹⁸ South African National Treasury, (2015). "2015 Public sector supply chain management review", Pretoria, National Treasury, 2015

¹⁹ Ibid

²⁰ Ibid

- 40.7 **Introduction of gCommerce-** which was launched on 1 November 2015 providing a direct transacting platform similar to www.amazon.com²². The platform is designed to transact on centrally negotiated contracts. The platform makes it easy for government buyers to purchase centrally negotiated contracts and will make it easier for the OCPO to track transactions, buying patterns, prices, and the ability to enhance future contracts²³.
- 40.8 **Improved demand management** – It is a legal requirement that all procuring entities prepare and publish procurement plans. These procurement plans must be in line with the strategic plan and appropriation of a procuring entity and be properly costed. To ensure transparency as from 1 April 2016 national and provincial departments must publish their procurement plan on www.etenders.gov.za.
- 40.9 **The Gauteng Provincial Government (GPG) has implemented an Open Tender Process (OTP).** This is meant to improve transparency in government procurement in order to build confidence in the procurement process. It also aims to promote transparency of the procurement process to award bids through fair competition in the Gauteng Province while ensuring compliance with procurement rules and regulations.²⁴

Professionalisation of Procurement

41. Despite the progress made in terms of the procurement reforms, the lack of a skilled corps of procurement officials is a challenge. In a study²⁵ conducted by the National Treasury between 2015 and 2017, the following results were found:
- 41.1 Lack of relevant procurement/ SCM academic qualifications and training.
 - 41.2 Inadequate procurement/ SCM structures in place.
 - 41.3 Insufficient capacity in procurement/ SCM units to execute procurement functions.
 - 41.4 Inadequate opportunities for attending procurement training courses.
 - 41.5 Low awareness of procurement/SCM Professional Bodies and Associations.
42. The study results confirmed that there is a need for appropriately qualified professionals, able to support management in achieving the organisational mandate, strategy and goals as far procurement implementation is concerned. In

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ Gauteng Province, Treasury, GPG Tender Information. <http://www.redirect2.gpg.gov.za/e-tenders/Pages/default.aspx>. Accessed on 4 April 2018

²⁵ South Africa, National Treasury, 2015, Supply Chain Management Baseline Study reports (national, provincial and municipalities)

short, professionalisation of procurement to achieve the objectives of a capable and developmental state is imperative.

43. To this end the following definition of professionalising procurement is recommended:

43.1 Professionalisation is a social process whereby a trade or occupation transforms itself into a true profession of the highest integrity and competence. This process tends to involve establishing acceptable qualifications, a professional body or association to oversee and regulate the affairs and conduct of members of the profession²⁶.

43.2 The task of professionalising public procurement officials will not be an easy one and will require a strong partnership between line function and HR Units in Departments, the National School of Government (NSG) and the DPSA. Institutions of Higher Learning have a critical role to play in this process.

43.3 A professionalised public procurement system will improve service delivery and ensure that we have public servants who are effective, accountable and transparent in their daily activities by adhering to the code of conduct of their profession, whilst ensuring compliance with the Constitutional Values and Principles and other applicable prescripts.

CONCLUSION AND ISSUES FOR FURTHER DISCUSSION

44. To facilitate further discussion, I would like to raise the following questions to guide this roundtable discussion.

44.1 Given that the public sector, including SOEs, is a mirror-image of the society it operates in, what societal and political mechanisms would contribute towards higher levels of accountability and transparency in the public sector and society in general?

44.2 Are academic and research institutions well positioned to proactively shape and influence the adoption of practices and policies that will ensure transparency in government and society in general?

I thank you.

²⁶ South Africa. National Treasury. Concept Note: Development of a Public Financial Management Professionalisation Framework for the Public Service, March 2015