

**PERCEPTIONS ON FRAUD AND CORRUPTION POLICIES AND STRATEGIES IN PUBLIC
PROCUREMENT WITHIN THE WESTERN CAPE PROVINCIAL TREASURY (WCPT)**

by
SOPHIA KATHLEEN OPPERMAN

*Thesis presented in partial fulfilment of the requirements for the degree
Masters in Public Administration in the faculty of Management Science at
Stellenbosch University*



Supervisor: Prof Gavin Woods

December 2014

Declaration

By submitting this thesis electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the sole author thereof (safe to the extent explicitly otherwise stated), that reproduction and publication thereof by Stellenbosch University will not infringe any third party rights and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

Date:

Copyright © 2014 Stellenbosch University

All rights reserved

Abstract

Corruption affects the lives of everyone in South Africa and can thus be characterised as a common enemy.

Fraud and corruption especially in the procurement systems is one of the major contributors of annual losses the Western Cape Provincial Government incurs. Since the introduction of computerised procurement systems, also known as e-procurement, the occurrence of fraud and corruption has substantially increased as soon as individuals familiarize themselves with the system. The Western Cape Provincial Government will save a huge amount of money if fraud and corruption could be prevented and limited. These funds could be put to better use and result to better service delivery. The Government has therefore developed many policies and strategies to try to combat and prevent corruption in procurement both in the public and private sector.

This study examines the perceptions of key stakeholders on the appropriateness of the strategies in place to prevent fraud and corruption in the provincial procurement system by particularly looking at the achievements and limitations that have been experienced. The focal point is the Western Cape Provincial Treasury since they are currently the owners of the computerised procurement system. The study also includes an assessment of the role of the Western Cape Provincial Treasury in general in fighting fraud and corruption in public procurement.

The research methods utilised include a comprehensive review of documentation published by the provincial government with regard to fraud and corruption as well as perceptions of key stakeholders on the appropriateness of anti-corruption policies and strategies in the Western Cape Provincial Government.

Government has, in its commitment to fight corruption, established various anti-corruption agencies, developed a number of programmes and introduced numerous legislative frameworks. The Western Cape Government in particular has developed a transversal Anti-corruption Strategy to provide a framework within which to combat fraud, corruption and theft in the province. All provincial departments are encouraged to maintain a zero-tolerance against corruption by developing and implementing a Fraud and Corruption policy within their various departments. The proper implementation of the anti-corruption

policy is imperative for the prevention of fraud and corruption. Western Cape Provincial Treasury, as the custodian of the LOGIS procurement system in the Western Cape, plays a vital role in promoting compliance to relevant legislation by implementing anti-corruption strategies.

It is apparent that different anti-corruption strategies to control and manage fraud and corruption in procurement do exist, but its appropriateness differs from department to department. Anti-corruption strategies will only be successful when it eliminates the occurrence of fraud and when perpetrators are caught and executed.

Management should play a vital role in identifying and combating corruption in departments. Employees should be made aware of the consequences if they should commit any fraudulent acts. Furthermore, all officials should be encouraged to report any fraudulent incidents.

Opsomming

Korrupsie beïnvloed die lewens van almal in Suid-Afrika en kan dus gedefinieer word as 'n gemeenskaplike vyand.

Bedrog en korrupsie, veral in die verkryging stelsels is een van die grootste bydraers van die jaarlikse verliese die wat die Wes-Kaapse Provinsiale Regering aangaan. Sedert die bekendstelling van die gerekenariseerde verkryging stelsels, ook bekend as e-verkryging, het die voorkoms van bedrog en korrupsie aansienlik verhoog sodra individue hulself vertrou maak met die stelsel. Die Wes-Kaapse Provinsiale Regering sal 'n groot bedrae geld bespaar as bedrog en korrupsie voorkom en beperk kan word. Hierdie fondse kan op op sy beurt beter aangewend word en kan tot beter dienslewering lei.

Die Regering het baie beleide en strategieë ontwikkel om korrupsie te probeer verhoed en te bestry - beide in die openbare en private sektor.

Hierdie studie ondersoek die persepsies van belanghebbendes oor die toepaslikheid van die strategieë om bedrog en korrupsie in die provinsiale verkryging stelsel te voorkom deur veral te kyk na die prestasies en beperkings wat ondervind is. Die fokuspunt is die Wes-Kaapse Provinsiale Tesourie, aangesien hulle tans die eienaars van die gerekenariseerde verkryging stelsel is. Die studie sluit ook 'n evaluering van die rol wat die Wes-Kaapse Provinsiale Tesourie speel om bedrog en korrupsie in die openbare verkryging stelsel te voorkom.

Die navorsingsmetodes wat gebruik is sluit in 'n omvattende opname van die dokumentasie wat deur die provinsiale regering gepubliseer is met betrekking tot bedrog en korrupsie asook persepsies van belanghebbendes oor die toepaslikheid van anti-korrupsie beleide en strategieë in die Wes-Kaapse Provinsiale Regering.

In sy verbintenis om korrupsie te beveg, het die regering verskeie anti-korrupsie agentskappe ingestel, 'n aantal programme ontwikkel en talle wetgewende raamwerke bekend gestel. Die Wes-Kaapse regering het in die besonder 'n dwarsleggende Anti-korrupsie strategie ontwikkel om 'n raamwerk te voorsien waarbinne bedrog, korrupsie en diefstal in die provinsie bekamp kan word. Alle provinsiale departemente word aangemoedig om 'n “zero tolerance” teen korrupsie te handhaaf deur die

ontwikkeling en implementering van 'n bedrog en korrupsie beleid binne hul onderskeie departemente. Die behoorlike implementering van die anti-korrupsie beleid is noodsaaklik vir die voorkoming van bedrog en korrupsie. Wes-Kaapse Provinsiale Tesourie, as die bewaarder van die LOGIS verkryging stelsel in die Wes-Kaap, speel 'n belangrike rol in die voldoening aan toepaslike wetgewing deur die implementering van anti-korrupsie strategieë.

Dit is duidelik dat verskillende anti-korrupsie strategieë om bedrog en korrupsie te beheer en te voorkom wel bestaan, maar die toepaslikheid verskil van departement tot departement. Anti-korrupsie strategieë sal slegs suksesvol wees wanneer dit die voorkoms van bedrog elimineer en wanneer oortreders gevang en tereggestel word.

Bestuur moet 'n belangrike rol speel in die identifisering en die bekamping van korrupsie in departemente. Werknemers moet bewus gemaak word van die gevolge indien hulle enige bedrieglike dade pleeg.

Verder moet alle amptenare aangemoedig word om enige bedrieglike voorvalle aan te meld.

Acknowledgements

I would like to express my sincere appreciation to the following people, who have assisted me to complete this research successfully:

- To Our Heavenly Father, Jehovah, for his love, guidance and strength, without which I could not have completed the assignment ;
- My husband, Jonathan and my two daughters, Kayla and Kiara, for their love, support and understanding, which motivated me and contributed directly to my success;
- Professor Gavin Woods, my supervisor for your patience, motivation and special care and Mr Sibongile Maputi for the editing of the thesis;
- To my sister, Patricia Lewis and her two daughters, Tanisha and Clarissa for their assistance and support;
- To my late parents, Anthony and Annie Lambo who inspired me throughout my life and who always believed in me;
- To the respondents of my research, especially Ms Debra Liebenberg and Mr Ashley Seale, without their willingness to reply and provide invaluable research information, this study would have been incomplete;
- To Mr John McKay, Ms Hellazeen Laing and Mr Kemal Jackson who assisted me in administering the questionnaires;
- To Ashlene van der Berg-Ross for always assisting, smiling and encouraging

Table of Contents

DECLARATION	I
ABSTRACT	II
OPSOMMING	IV
ACKNOWLEDGEMENTS	VI
TABLE OF CONTENTS	VII
LIST OF TABLES	X
LIST OF FIGURES	X
LIST OF APPENDICES	XI
LIST OF ACRONYMS AND ABBREVIATIONS	XII
CHAPTER 1	1
INTRODUCTION AND RESEARCH PROBLEM	1
1.1 Introduction	1
1.2 Background and Rationale	1
1.3 Research Problem	3
1.4 Aim of the Study	3
1.5 Objectives of the Study	3
1.6 Research Design and Methodology	4
1.6.1 Type of research design	4
1.6.2 Data collection strategies	4
1.6.3 Data Analysis Strategies	6
1.7 Structure of Contents	6
CHAPTER 2	8
THEORY ON FRAUD AND CORRUPTION	8
2.1 Introduction	8
2.2 Definition of fraud and corruption	8
2.3 Difference between fraud and corruption	11
2.4 What is public procurement?	12
2.4 The nature, causes and consequences of corruption	14
2.5 Distinctive categories of procurement corruption (manifestations)	17
2.6 Measures to prevent fraud and corruption in procurement	18
2.7 Financial Management	25
2.8 Summary	26
CHAPTER 3	28
KEY LEGISLATIVE AND POLICY FRAMEWORKS ADDRESSING FRAUD AND CORRUPTION	28
3.1 Introduction	28

3.2	The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)	29
3.3	The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)	30
3.4	The Public Finance Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999)	30
3.5	National Treasury Regulations, 2002	31
3.6	Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)	32
3.7	Protected Disclosure Act (Act 26 Of 2000)	33
3.8	Promotion of Administrative Justice Act, 2000 (Act 3 Of 2000)	33
3.9	Promotion of Access to Information Act, 2000 (Act 2 Of 2000)	33
3.10	Public Service Act – Proclamation 103 (Published in Government Gazette 15791 of 3 June 1994)	34
3.11	Public Service Anti-corruption Strategy, January 2002	34
3.12	Supply Chain Management – A Guide for Accounting Officers / Authorities	34
3.13	Policy to Guide uniformity in Procurement Reform Processes in Government	35
3.14	Western Cape Government Anti-corruption Strategy	35
3.15	Provincial Treasury Fraud and Corruption Prevention Plan	36
3.16	Provincial Treasury Risk Management Policy	36
3.17	Summary	36
CHAPTER 4		38
CASE STUDY – WESTERN CAPE PROVINCIAL TREASURY (WCPT)		38
4.1	Introduction	38
4.2	Background to WCPT	39
4.2.1	History	39
4.2.2	Vision, Mission and Mandate/Core Functions and Responsibilities	39
4.2.2.1	Vision	39
4.2.2.2	Mission	40
4.2.2.3	Core functions and responsibilities	40
4.2.3	Organisational Structure of WCPT	40
4.2.4	Summary of Programmes	41
4.3	Strategies within Western Cape Provincial Treasury to combat fraud and corruption in public procurement	42
4.3.1	Western Cape Provincial Treasury Fraud and Corruption Policy	44
4.3.2	Forensic Investigative Unit (FIU)	46
4.4	Current profile on corruption in the Western Cape Province	50
4.5	Summary	52
CHAPTER 5		53
RESEARCH DESIGN AND METHODOLOGY APPLIED		533
5.1	Introduction	533
5.2	Research Methodology	533
5.2.1	Data Sources	533
5.2.2	Secondary Data	544
5.2.3	Primary Data	544
	Semi-structured interviews	544
	Questionnaires	554
5.3	Sampling Methods	555
	Data Analysis	565
5.4	Limitations of research	566

CHAPTER 6	588
RESEARCH FINDINGS AND ANALYSIS ON FRAUD AND CORRUPTION IN PUBLIC PROCUREMENT	588
6.1 Introduction	588
6.2 Interview results: Forensic Investigative Unit Manager	588
6.3 Interview results: Deputy Director – Supply Chain Management	611
6.4 Questionnaire results	633
6.5 Analysis of results	677
6.6 Summary	69
CHAPTER 7	71
SUMMARIES, CONCLUSIONS AND RECOMMENDATIONS	71
7.1 Introduction	71
7.2 Summaries of Chapters	71
7.3 Conclusion	73
7.4 Recommendations	75
REFERENCES	77
APPENDIX A: INTERVIEW GUIDE	85
APPENDIX B: E-MAIL TO WESTERN CAPE GOVERNMENT EMPLOYEES	86
APPENDIX C: QUESTIONNAIRE ON FRAUD AND CORRUPTION IN PROCUREMENT	87

List of tables

Table 4.1:	Programme and sub-programme plans	41-42
Table 6.1:	Particulars of questionnaire	65

List of figures

Figure 2.1:	Five pillars of procurement	13
Figure 4.1:	Senior Management Structure of WCPT	41
Figure 4.2:	Western Cape Government Anti-Corruption Strategy	46
Figure 4.3:	Western Cape Provincial Treasury Fraud and Corruption Policy	49
Figure 4.4:	Level of compliance with national norms and standards in respect of combating and prevention of corruption	51

List of appendices

Appendix A: Interview Guide	85
Appendix B: E-mail to Western Cape Government employees	86
Appendix C: Questionnaire on fraud and corruption in procurement	87-89

List of acronyms and abbreviations

The following acronyms are used in this document

AFU	Asset Forfeiture Unit
AGSA	Auditor-General of South Africa
ANC	African National Congress
AO	Accounting Officer
BAS	Basic Accounting System
DPSA	Department of Public Service and Administration
FCPP	Fraud and Corruption Prevention Plan
FRMCO	Fraud and Risk Management Committee
FIU	Forensic Investigative Unit
FPIP	Fraud Prevention Implementation Plan
FPP	Fraud Prevention Plan
HOD	Head of Department
HO	Head Office
ICT	Information Communication Technology
ISD	Institution Supporting Democracy
LOGIS	Logistical Information System
MEC	Member of Executive Council
NA	National Assembly
OPSC	Office of the Public Service Commission
NACH	National Anti-corruption Hotline
NGO	Non-Governmental Organisation
NPA	National Prosecuting Authority
NT	National Treasury
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PCCAA	Prevention and Combating of Corrupt Activities Act
PERSAL	Personnel and Salary Administration System

PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act
PSC	Public Service Commission
PT	Provincial Treasury
SAPS	South African Police Service
SC	Select Committee
SCM	Supply Chain Management
SCOPA	Standing Committee on Public Accounts
SIU	Special Investigating Unit
STATS SA	Statistics South Africa
WC	Western Cape
WCG	Western Cape Government
WCPG	Western Cape Provincial Government
WCPT	Western Cape Provincial Treasury
WCSD	Western Cape Supplier Database

Chapter 1

Introduction and Research Problem

1.1 Introduction

The study examines the existing policies and strategies to curb fraud and corruption in procurement with emphasis on the limitations and the implementation thereof. The focal point is Provincial Treasury (PT) since they are managing the electronic procurement system currently utilised by Provincial Departments within the Western Cape (WC). The study also includes an assessment of the role of the Western Cape Provincial Treasury (WCPT) in managing and controlling fraud and corruption in public procurement.

1.2 Background and Rationale

In order to address the inequalities of the apartheid era and to improve service delivery, South Africa is busy transforming and correcting the wrongs and problems of the past. It is therefore crucial that barriers to improvements such as fraud and corruption specifically in the public sector should be eliminated as they hamper service delivery and also damage the public sector. In the Provincial Budget speech (2009) MEC Mr Alan Winde mentioned that increased corruption and poor financial systems have destroyed the capacity of government to deliver.

Fraud and corruption especially in the procurement system is one of the major contributors of losses incurred annually by the Western Cape Provincial Government (WCPG). There is evidence that corruption remains a serious problem in the WC as reported by the Public Protector in 2013 on an investigation into allegations of maladministration, corruption and a potential conflict of interest against the former Minister of Communications Ms Dina Pule in connection with the appointment of service providers to render event management services for the hosting of the Information Communication Technology (ICT) Indaba held in Cape Town (Public Protector Report, 2013). Corruption has a negative effect on people's lives. WCPG will save a huge amount of money if fraud and corruption could be properly managed and controlled. This money can in turn be put to better use and could lead to better service delivery.

South Africa has several well-drafted pieces of legislation enacted to combat corruption and other irregularities. Probably the most pertinent anti-corruption legislation is the Prevention and Combating of Corrupt Activities Act (PCCAA), which aims to provide for:

- the strengthening of measures to prevent and combat corruption;
- provide for the criminalisation of corruption;
- provide for investigative measures; and
- to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts.

If this Act together with all the other Acts and policies as outlined in Chapter three of this paper is properly implemented with the necessary force of will, it should provide effective guidance in combating corruption.

WCPT sometimes referred to as the “backbone of the province” provides its services and support mostly to provincial government departments and not directly to the public. It tries to achieve its objectives and goals via the latter three groupings, hence the department's role as a change agent. This department supervises and manages the existing financial systems (including the LOGIS procurement system) by enhancing compliance with the Public Finance Management Act (PFMA) and other relevant legislation. LOGIS is the Logistical Information System that is currently being utilised by provincial departments in the Western Cape for procuring goods and services. The department should therefore play a key role in promoting compliance to relevant legislation with regard to the implementation of fraud and corruption policies and strategies.

Although there are different strategies available to combat corruption in public procurement, there is evidence that corruption remains a serious problem within the province. Sixteen individuals, including former employees of the Western Cape Department of Health were arrested on charges of fraud and corruption and another employee at a local hospital in Paarl was suspended for defrauding the hospital of almost two million rands. The key research problem is to determine whether the different anti-corruption strategies adopted by the WCPG to deal with corruption are properly implemented within the various departments.

The purpose of this study is to examine perceptions amongst key stakeholders on the appropriateness of anti-corruption policies and strategies and to determine whether there are any limitations as well as the role senior management plays in managing and controlling fraud and corruption.

1.3 Research Problem

“A research problem is an intellectual stimulus calling for an answer” (Frankfort-Nachmias & Nachmias, 1992:51).

The research problem will be formulated in the form of the following research question:

What are the perceptions of key stakeholders on the appropriateness of the current policies and strategies in managing and controlling fraud and corruption in procurement?

In order to answer the above research question the researcher will embark on gathering and analysing existing information as well as draw conclusions which are based on evidence.

1.4 Aim of the Study

The main aim of the research is to investigate perceptions amongst key stakeholders on the appropriateness of the current anti-corruption policies and strategies in public procurement with particular focus on the WCPT.

1.5 Objectives of the Study

The objectives of the study can be grouped into two categories as described below:

General objective

The general objective of the study is to analyse the appropriateness of the current anti-corruption policies and strategies in public procurement.

Specific objectives

- To describe the current situation of fraud and corruption
- To conceptualise the terms fraud and corruption
- To explore the legislative context and policy frameworks addressing fraud and corruption
- To determine the role played by WCPT to manage and control the anti-corruption policies and strategies in procurement within the Western Cape Province
- To measure perceptions amongst key stakeholders on the appropriateness of anti-corruption policies and strategies in the Western Cape Provincial Government
- To provide inputs and recommendations with regard to the appropriateness of the current anti-corruption policies and strategies in public procurement

1.6 Research Design and Methodology

The study is empirical since it addresses a real-life problem and secondary data is utilised. The researcher also made use of non-empirical design by means of a literature review. The purpose of this research is explorative as it described the situation and suggests or recommends solutions to the problem that were identified.

Qualitative research methodologies will be utilised to address the research question. The information sought for this study will basically be qualitative in nature. Qualitative research usually commences with the use of document review to collect information.

According to Hussey and Hussey (1997), a qualitative approach is subjective, value laden, biased and inductive rather than deductive. Qualitative research enables the researcher to gain new insights into a particular phenomenon as well as to evaluate the effectiveness of existing practices (Leedy, 1993:134-135).

1.6.1 Type of research design

Research designs are “blueprints” that consist of a selection of procedures, including general approaches to data collection, information-gathering techniques and ways of interpreting and analysing data (Thomas, 2003:225; O’Sullivan & Rassel, 1989:20).

A case study design will be utilised to conduct an in-depth study of the management and control of anti-corruption policies and strategies within the WCPT. Case study methodology provides a more flexible approach because it does not subscribe to the same mechanistic assumptions and permits a more subtle qualitative evaluation of case material (Edwards, 1996:18).

1.6.2 Data collection strategies

The study will be utilising documentary sources as well as semi-structured interviews and questionnaires. The writer will focus on individual public servants as well as focus groups within and outside the Department that is actively involved in combating fraud and corruption, the current policies and strategies as adopted by the Western Cape Provincial Government and also look at occurrences of fraudulent and corruptive acts or behaviour.

The following data collection strategies were pursued by the researcher to effectively achieve the objectives of the study:

Literature Review / Secondary data

Documentary sources (documents published by Department of Public Service and Administration (DPSA), Public Service Commission (PSC) and the Western Cape Provincial government's anti-corruption agencies etc.) will provide details regarding the current strategies in place as well as information on the functions of anti-corruption agencies in the Western Cape.

Information collected from existing sources (secondary data) which includes books, academic journals, current media reports, internet articles, Departmental reports, policies and strategies will be utilised in this study.

Primary data

According to Leedy (2010:89) primary data are the most valid, informative and generally truth-manifesting data for the researcher. Primary data was generated through semi-structured interviews and questionnaires.

Semi-structured interviews

The purpose of the interviews will be to establish the role played by senior management and the identified focus groups in managing and controlling fraud and corruption as well as to monitor the appropriateness of the current strategies to address the problem of fraud and corruption in procurement. The aim of the interviews will be to obtain information, in particular about matters and questions not covered in the published documents.

Interviews will be conducted with selected middle or senior management within the province which include, a representative from the Forensic Investigative Unit (FIU) within the Department of the Premier and Supply Chain Management (SCM) from WCPT.

Questionnaire

By using questionnaires the researcher will reach a large number of people electronically (via email) which will also in turn eliminate travel and postage costs (Leedy, 2010:189). The disadvantage of questionnaires is that the majority of people who receive them do not return them.

The researcher will distribute the questionnaires to officials specifically working in the SCM or procurement section within PT, Departments of Social Development and Health – Head Office.

1.6.3 Data Analysis Strategies

During the study the researcher will use textual information (existing sources) in the form of books, academic journals (both in written and electronic format) as well as Government policies and Acts. These documentary sources will be scrutinized and analyzed to get the viewpoints of different authors on fraud and corruption, how to effectively manage and control corruption and will also enable the researcher to formulate an overall description of the case that was studied.

1.7 Structure of Contents

This thesis is structured as follows:

Chapter 1: Introduction and Research Problem

This chapter serves as an introduction to the study, and provides an overview of fraud and corruption in procurement and the impact it might have on service delivery within the Western Cape (WC). The role WCPT plays in combating fraud and corruption in procurement as well as relevant anti-corruption legislation are briefly discussed. The aim, problem and objective of the study are explained. This chapter also discusses the research design and methodology that was followed in this study.

Chapter 2: Theory on fraud and corruption

Chapter two provides a comprehensive literature review of this study and will define the main concepts in this study

Chapter 3: Key legislative acts and policy frameworks addressing fraud and corruption in public procurement

Chapter three reviews all the relevant legislation, policies and strategies relating to fraud and corruption in public procurement.

Chapter 4: Case Study - Anti-corruption Strategies adopted by Western Cape Provincial Treasury

Chapter four provides an overview of WCPT and discusses its background in terms of history, vision, mission and core responsibilities. This is followed by a brief discussion of

anti-corruption strategies within WCPT to eliminate fraud and corruption in the public service. The chapter concludes with a discussion of the Forensic Investigative Unit (FIU) in terms of their mandate, reporting lines and core functions.

Chapter 5: Research Design and Methodology Applied

Chapter five provides an explanation of the research design and methodology followed in this study which includes semi-structured interviews and questionnaires as primary data collection methods. This chapter concludes with a description of the data analysis and methods by which the analysis was conducted.

Chapter 6: Research Findings and Analysis on Fraud and Corruption in Public Procurement

Chapter six presents the research findings and analysis, a discussion of the research results well as the shortcomings of this research. This chapter presents the research findings from the in-depth interviews conducted and the questionnaire that was used in the study. The data generated through the interviews and questionnaire addressed objectives 1 to 5 as outlined in Chapter one of this study.

Chapter 7: Summary, Conclusion and Recommendations

Chapter seven presents the summary of all the chapters, as well as the conclusions and recommendations based on the completed research.

Chapter 2

Theory on Fraud and Corruption

2.1 Introduction

Fraud and corruption are extensive problems that affect virtually every organization. Corruption all over the world is a renowned and major problem. The word “corruption” features regularly in news broadcasts and current affairs programmes. Corruption is usually less tangible than fraud. Corruption can lead to fraud which is but one of the effects caused by corruption. From an audit viewpoint, corruption is often more complex than fraud.

The literature review is based mainly on concept analysis where the researcher defines the terms fraud and corruption as well as discuss the difference between the two terms, followed by a brief description of public procurement as well as how fraud and corruption is linked to procurement. The researcher will then make use of content analysis to discuss the nature and consequences of corruption as well as the various types of corruption. We will then look at the measures to prevent corruption in procurement and the impact of fraud and corruption on financial management.

2.2 Definition of fraud and corruption

Fraud is the crime of intentionally and unlawfully making misrepresentation to the actual or potential prejudice of another person (Western Cape Government Anti-corruption Strategy, 2012). Corruption is the offering or accepting of gratification as an inducement or reward for certain improper actions. It differs from fraud in that both parties are involved knowingly, and both benefit in some way from the agreement (Ethics Policy, 2009). Fraud is the crime of deliberately misleading or deceiving someone to cause that person financial loss or other harm (National Anti-Corruption Forum, 2009).

In South Africa fraud is defined as “the unlawful and intentional making of a misrepresentation which causes actual and potential prejudice to another” (National Treasury Fraud Prevention Plan, 2013) and is considered to be an undesirable trend in the public sector in South Africa. In other words, the use to the term refers to all elements of economic crime as well as acts of deceit.

“Fraud is an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage” (Internal Auditing and Assurance Standards Board, 2004).

According to Shah (2007:307):

The term fraud is used to describe deception, bribery, forgery, extortion, *corruption*, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, and collusion. For practical use fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation, or causing loss to another party. Fraud refers to a deliberate act that usually involves the use of deception to obtain some form of financial benefit or advantage from a position of authority or trust that often results in some form of loss to the organization defrauded. It refers to dishonesty in the form of an intentional deception or a wilful misrepresentation of a material fact.

Corruption usually is a very difficult concept to define in view of the fact that so many definitions of corruption exists. In simple terms corruption can be defined as the abuse of public office for private gain. It usually involves an activity where both the public and private sector participate and in most instances it is based on greed and not on need.

The Prevention and Combating of Corrupt Activities Act of 2004, Section 2 (3) (a) and (b), provides us in South Africa with the only legal definition of corruption as discussed in Chapter three. According to Dye (2007:308) the term “corruption”, as derived from the Latin word *corruptus*, meaning *broken object*, signifies a departure from ethics, morality, tradition, law and civic virtue.

The definition of corruption most frequently used by social scientists has been furnished by Harvard political scientist Joseph S Nye who notes that: “Corruption is behaviour which deviates from the normal duties of a public role because of private-regarding (family, close private clique), pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behaviour as bribery (use of rewards to pervert the judgement of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses)” (Nye, 1967:966).

“Corruption is the abuse of public or private office for personal gain” is the definition adapted from a World Bank definition by Huther and Shah (2000) and is the most uncomplicated to be found to apply to the commercial sector. Lyer and Samociuk (2006:3) believe that for practical reasons and to encompass as many forms of inappropriate commercial behaviour as possible, their definition of fraud and corruption includes:

- Any form of theft in the widest sense;
- Deception in reporting;
- Corruption and bribery in the widest sense.

Corruption also includes any other form of dishonest or unethical activity which devours profits or harms the reputation or organizational culture. It is therefore imperative for organizations to deal with the problems by gaining a better understanding of the fraud and corruption risks that they are facing and then developing a greater level of resistance to them.

There have been many efforts at providing apparent and simple definitions of corruption and fraud. Although there are differences amongst these two subjects, what materializes is firstly, the exploitation of position for personal gain and secondly, that it is behaviour which infringes norms and standards. The following are examples of more concise definitions:

- “Corruption is the abuse of position for personal gain or for the benefit of an individual or group to whom one owes allegiance.” (The Parliamentary Centre 2000:29).
- “Corruption is a two-way process, involving members of both the public and private sector, who engage in illegal, illegitimate and unethical actions that diminish a country’s economic prospects and degrade its social and political institutions.” (The Parliamentary Centre 2000:29).
- “Fraud could be regarded as any practice which involves the use of deceit to confer some form of financial benefit upon the perpetrator (either directly or indirectly) and which results in some form of material loss to the entity defrauded.” (Audit Office of New South Wales 1999:5).

The broad characteristics of such circumstances have been acknowledged and are recommended by McKinney (2004) to be:

- a violation of public trust

- a conversion of public benefit to private ends
- a perversion of authority and the commission of an unacceptable act
- a failure to enforce laws, rules, and regulations or to apply sanctions to a given situation
- an intentional or unintentional misapplication or wasteful use of public resources.

While the foregoing describes the behavioural forms of corruption, the next section will provide some examples of government operations that are primarily susceptible to corruption. According to Shah (2007) specific forms of corruptions include travel claims, collection of taxes and customs revenue, administration of procurement contracts, hiring, and administration of personnel; petty cash abuse, e-commerce, privatization processes; concessions of subsidies; permits and licenses. The most common forms of corruptions include misappropriation of assets, patronage, influence peddling and bribery (Shah 2007:307).

Confusion exists amongst individuals whether the terms fraud and corruption relate to the same offences. In the next section the researcher will discuss whether there is indeed a difference between the two terms.

2.3 Difference between fraud and corruption

The term “fraud” is often used as a general concept to include other acts of deceit, such as corruption. According to Koornhof and Du Plessis (2000:6) the managing fraud could include matters such as conflict of interest, or bribery and corruption.

Corruption and fraud are actually different crimes. The most important component of fraud is a type of misrepresentation which causes actual prejudice or which is possibly prejudicial to another party (Snyman 2002:520). Corruption on the other hand is aimed at the unlawful giving or receiving of a benefit with the intention that the receiver should do or omit to do some act, or to compensate the receiver for doing or omitting to do some act (Snyman 2002:376). It is evident that both fraud and corruption are moral issues and constitute deceitful conduct, however the significant difference between the two terms is when legislation refers to fraud, it does not necessarily include the offence of corruption.

2.4 What is public procurement?

Public procurement incorporates the entire process of obtaining goods and services for governmental departments. The whole process starts with an identification of a specific need for an item and service and the decision to procure. Procurement encompasses the following procedures: risk assessment, searching and assessing alternative solutions, awarding contracts, delivery and payment for the goods and services and can even include disposal of assets at the end of its lifespan.

Section 217 of the Constitution of the Republic of South Africa (Act 108 of 1996) prescribes five principles of public procurement, *inter alia* that the public procurement system must be fair, equitable, transparent, cost effective and competitive. According to Pauw, Woods, van der Linde, Fourie & Visser (2009:228) procurement “is the acquisition of goods and services – other than the services of officials – for the People and their administration by means of commercial transactions.”

Pauw *et al.*, (2009:228) further notes that “public procurement refers to those government administrative activities that concern the purchasing of goods and services the government needs from the private sector. These range from basic office cleaning materials and other consumables through to mainframe computer systems, weapons systems and large public buildings.”

Procurement management is fundamentally vital since almost all government activity entails the spending of public monies on goods and services. Any inadequacies or failings in the procurement practices can reveal possibilities for major losses of money and goods through incompetence, waste, fraud and corruption. According to Sørreide (2002:2) “the use of the term *procurement* applies to all kinds of acquisition of public goods and services. However, the problem of corruption is more common in certain categories of public procurement than others.”

Rose-Ackerman (1999) divides procurement into four categories:

- (i) Purchases that require specialised research and development, such as newly designed military aircraft.
- (ii) Purchases of complex, special purpose projects, such as dams or port facilities that do not involve advances in technology but require managerial and organisational skills.

(iii) Purchases of standard products sold in open markets, such as motor vehicles or medical supplies (off the shelf purchase).

(iv) Customised versions of products otherwise available in open markets, such as special purpose computer systems or fleets of police cars.

Proper and successful government procurement rests upon certain core principles of behaviour also known as the Five Pillars of procurement. These pillars are dependent on one another because if any of them is broken the procurement system falls down.

The Five Pillars as depicted in Figure 2.1 are:

- Value for money -
- Open and effective competition -
- Ethics and fair dealing -
- Accountability and reporting -
- Equity -

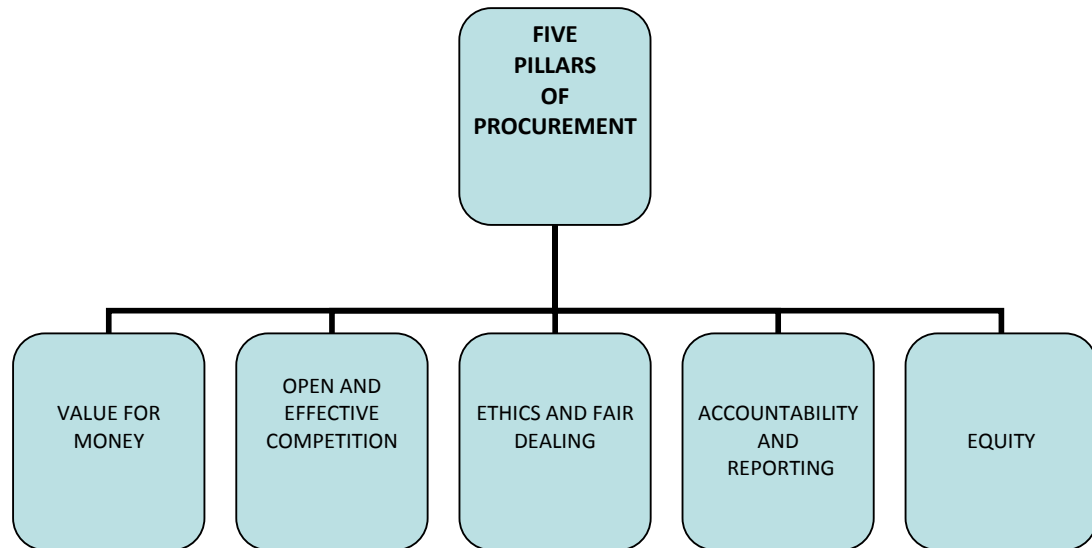


FIGURE 2.1: FIVE PILLARS OF PROCUREMENT

Source: National Treasury – PowerPoint Presentation (2006)

Procurement is one of the divisions in government that is most prone to corruption (Søreide, 2002; Kaufman, 2004). Given the fact that public procurement represents 10-15% of the GDP, the risk and prevention of corruption has become increasingly vital to government. Public procurement opens up possibilities for fraud and corruption as it involves large sums of money.

Corruption and inefficiency in procurement decreases the benefits that public resources otherwise could have delivered to citizens, and also lowers the level of trust and confidence in governments. (Heggstad & Froystad, 2011:2)

2.5 The nature, causes and consequences of corruption

Nature

The fundamental aim of public procurement is to satisfy community or public interest. Good procurement should not only satisfy the immediate needs of individuals, but should also endeavour to save public funds and be fair to companies doing business with the government. In contrast, bad public procurement will increase poverty and inequality since funds will utilize for needs other than social needs, it will provoke bad choices by encouraging competition in bribery rather than in quality and price. Corrupt public procurement will provide an inequitable, unstable and dangerous competitive benefit for those businesses who cannot afford a bribe (Wiehen & Olaya, 2006:29)

According to Bauer (2000) and Spencer (2001) corruption in South Africa originates from values and attitudes. Rautenbach (2000) and Makhanya (2003) on the other hand reveal corruption originates from cultures, experience and political history. The inequalities of the Apartheid era in collaboration with the change of political order of the country as well as the social disruption has been recognised as the major factors that presently influence the nature of corruption in South Africa (Bauer, 2000; Mthombothi, 2000 and Kaunda, 2001).

Causes

The Public Service Anti-corruption Strategy (2002) anticipated that major causes of corruption specifically in the public sector, are (1) inefficient control mechanisms, (2) inadequate training provided to officials tasked to manage corruption, (3) personal greed, (4) poverty and (5) the decay of ethical communal values (Van der Merwe 2006:33). Mbaku (2007) identifies poverty and culture as well as unfairness in the distribution of income and wealth as some of the factors contributing to high levels of corruption in the African countries. Poverty in the African regions is quite high and low-level public workers in these regions are unable to support their families with their wages.

Corruption thrives where:

- the institutions of governance are weak
- a government's policy and regulatory regime provide scope for such dishonesty
- oversight institutions are marginalized
- the organisation's corporate culture is not underpinned by an appropriated work ethic

Corruption usually occurs on various different levels. On one hand, you find clerks who process fraudulent petty cash vouchers and on the other hand, there are suppliers who conspire with government officials to process fraudulent high value invoices or who entice officials to influence the tender processes (Pauw *et al*, 2009:334).

In many instances officials receive rewards which usually include the acceptance of bribes in cash, paid holidays, or even expensive clothes in return for violating the public interest. Corrupt government activities can take various forms, for example officials who diverge from the prescribed standards, discriminately apply laws, or take on a subjective or partisan tactic in dealing with clients, and are neglectful in the performance of official duties. Corruption is also evident in the biased application of rules and the misapplication of political and administrative power, whether directly or indirectly (Webb, 2009:56)

Webb (2009) further notes that:

“Corruption is caused by a number of factors, including psychological, social, economic, and organisational factors. Organisational factors refer to excessive discretion, outdated and inadequate policies and procedures and insufficient supervision, complex legislation, a lack of ethical awareness, and deficient control and accountability. Corruption also has many negative consequences, for example weakened public service delivery, the misdirection of public resources, the inhibition of growth that is necessary to pull people out of poverty and, notably, people's loss of trust in the public service.”

According to Kyambalesa (2006:108-109), corruption is caused by a variety of factors including poor governance, government reshuffles, a weak legislative system, a weak judicial system, bureaucratic red tape, inadequate compensation, greed and moral deficiency, and lack of professional counsel.

In a survey undertaken by the Country Corruption Assessment Report (CCAR) (2003) with regard to the causes of public sector corruption in KwaZulu-Natal (KZN), both public

sector managers and anti-corruption activists agree that the major causes of public sector corruption are poor checks and balances, greed, a lack of ethics, and poor salaries (Van der Merwe, 2006:36).

Consequences

▪ **Economy**

Corruption can interrupt investment, restrict trade, reduce economic growth and distorts the facts and figures associated with government expenditure. Corruption contributes to increase in poverty, income inequality and can even weaken service delivery. It is normally the poor that suffers since they are most dependent on government for support (Corruption Watch, 2014).

Corruption can also damage the chances of success for small and micro-enterprises since small businesses pay twice as much of their earnings compared to larger companies which in turn limit their ability to grow. Procurement corruption can lead to waste of public funds and resources, inferior quality of products and services as well as deter qualified suppliers from doing business with government (Corruption Watch, 2014).

▪ **Government**

Corruption can seriously limit the development of the national economy and prevent good governance in a country. The complex political design of a country such as South Africa can be a contributing factor to the rise in corruption which negatively affects stability and trust in government and can also damage the culture of democratic values and principles (Pillay, 2004:586). Corruption hampers democracy and the rule of law. In a democratic system, public institutions may lose their legitimacy when they abuse their power for private interest. Other consequences of corruption include: weakening structures, reduction in productivity, hindering development, worsening poverty, marginalizing the poor, creating social unrest and can even contribute to the downfall of these governments (Transparency International, 2014)

▪ **Service Delivery**

Corruption in the public sector poses a possible threat to sustainable service delivery. For example, money that is meant for infrastructure and development ends up in the pockets of corrupt officials. Corruption not only increases the cost of public services but also slows down the much-needed service delivery

to those dependent on government for support (Public Service Commission, 2007)

Corruption has a negative effect on service delivery especially within the health, education, housing and social services sectors (Woods, 2012).

- **Business**

Corruption can lead to inefficient use of resources. When corruption occurs, customers tend to lose respect and trust in that specific company, thus requiring the company to spend valuable time and resources to reassure clients of their viability. Companies tend to spend unnecessary funds on legal fees in order to bring perpetrators to book. These funds could have been utilised to focus on the core business of the company (Ray, 2014).

2.6 Distinctive categories of procurement corruption (manifestations)

In order to develop an appropriate anti-corruption strategy it is vital to have a good understanding of the various forms in which corruption manifests itself in the public sector. The following examples exemplify some of the different manifestations: (Pauw *et al*, 2009:345).

- *Bribery* – when a supplier offers an official(s) some personal benefit in exchange for their assistance in securing government business or in particular position of employment for him; this usually involves these officials circumventing the laid-down processes and thus disregarding the requirement of fairness and honesty in government institutions.
- *Kick-backs* – when the supplier who is awarded business gives a sum of money or other gift, usually pre-arrange, from the payment received, to a government official who dishonestly influenced the choice of supplier.
- *Patronage* – when officials, usually in positions of some authority, connive to have business awarded to their families or friends; patronage also sees officials bypassing the required processes in order to award employment positions within government to family members of friends.
- *Cheque payments* – when an official causes a cheque to be issued in favour of a person or business which has, in fact, not given government the required value for that payment.

- *Theft of assets of embezzlement* – when officials find ways of stealing assets or money belonging to the state.
- *Extortion* – when threats, intimidation or even promises are used to encourage a government official to act in a way which enriches a third party at the expense of the state.
- *IT corruption* – when officials manipulate the computerised procurement system (due to lack of proper controls and adequate safeguards) for their own personal gain

2.7 Measures to prevent fraud and corruption in procurement

The risk of fraud, corruption and other indiscretions in the public procurement process is intrinsic in all departments and remains susceptible to risks amid comprehensive existing legislation, regulations, policies and strategies. Continuous awareness is thus required in order to alleviate and managed the possibility of fraud, corruption and other irregularities in the procurement process.

The new democratic government's commitment to fight corruption has been confirmed in a number of ways by *inter alia* the introduction and implementation of a number of programmes, agencies and by developing one of the most ground-breaking and sophisticated legislative frameworks which are explained in chapter three, for combating corruption in all the spheres of government.

Examples of these programmes would be:

In 1994 the newly democratically elected government were faced with the prevalence of corruption, brought about by the apartheid era. The government embarked upon a programme to reconstruct and develop South Africa to the benefit of all its peoples, by becoming more systematic, with greater emphasis on establishing appropriate policy measures in combating corruption.

The Programme of Action which was initiated in 1995, reflected governments commitment to prioritise anti-corruption measures. A Programme Committee specifically focusing on combating corruption was established in March 1997 by Ministers accountable for the South African National Crime Prevention Strategy (National Anti-corruption Forum, 2014).

The Programme Committee introduced the Code of Conduct for the Public Service in June 2007 and also established a National Campaign against Corruption in 1998.

Government realised that the fight against corruption would not be complete without the involvement of the relevant stakeholders and thus coordinated the first National Anti-corruption Summit in April 1999. These stakeholders included government leaders, organised businesses, religious bodies, NGO's, the media, unions, academic bodies and the public sector (Public Service Commission, 2001)

In June 2001, the National Anti-corruption Forum was established as a formal approach to bring all relevant sectors together to fight corruption in all aspects of society. Some of the measures that were established by national government include legislation such as the Protected Disclosures Act, Promotion to Access of Information Act, Financial Intelligence Centre Act, Promotion of Administrative Justice Act and the Prevention and Combating Corrupt Activities Act. In September 2003, all government departments were required to establish minimum anti-corruption capacity within their various departments in order to increase efficiency and impact. In 2004 a 24 hour National Anti-Corruption toll free Hotline were established to report suspected acts of corruption in the public service. (Public Service Commission, 2014)

After being elected in 2008, President Jacob Zuma stated that the fight against corruption will be precedence for government. The government under President Zuma's rule has promised to streamline procedures and provide more efficient and democratic public service agreement to the *Batho Pele* (Putting People First) principle (Business Anti-corruption Portal, 2013). According to a report in *The Economist*, 2010 President Zuma's government had already introduced the following measures:

- (1) "A new law to facilitate efficient and effective prosecution of corrupt officials;
- (2) A review of the ANC's deployment policies to ensure that positions are based on competence and not just personal and political connections;
- (3) A ban on anyone holding public office from having links with companies doing business with the state for at least a year after leaving their posts;
- (4) Tougher rules and much greater openness in the award of public contracts; and
- (5) Better connection for local-authority accounting officers, who are often suspended or dismissed by their employers for conducting investigations".

In an effort to take quicker action to curb corruption, President Zuma ordered an external audit of state companies, after reports of misconduct and political interference had emerged in state-owned enterprises (Business Anti-corruption Portal, 2013).

The following elements of an integrated strategy to prevent corruption can thus be identified:

- The first element is the need to create more awareness with regard to the actual consequences of not dealing with corruption. Frequent anti-corruption awareness programmes should be conducted in order to facilitate early detection and reporting (National Integrity Systems, 2005:117)
- Strong governance structures with suitable legislation must be supported by the relevant oversight bodies. The governance structures need to be supported by appropriate internal structure for example a poorly structured internal audit function with forensic audit ability and an autonomous audit committee, that can encourage oversight (Mahlaba 2004:87).
- The third element relates to sound financial management practices executed in a sound internal environment. According to Pillay (2004:603) the organisational culture of the South African public sector needs a paradigm shift from external sanctions to stronger internal control with preventive management systems to check abnormal behaviour. The internal control environment furthermore needs to be strengthened by good segregation of duties as well as regular rotation of key staff.

Corruption has damaging effects on economic growth and social stability in South Africa and therefore the demand for practical and improved strategies to reduce corruption has dramatically increased. When assessing current programmes and strategies in South Africa, it is useful to consider some international perspectives of what measures might be taken.

International comment suggests that today in the 21st century global economy, institutions need to be more than smart, but fast and also resilient. By being more resilient or flexible, institutions will be able to identify their fraud and corruption risks and deploy strategies for managing those risks proactively.

It also comments that procurement remains the area where most fraud and corruption takes place. Inefficient controls, insufficient contracts and questionable procurement practices,

policies and procedures compound the problem and are often critical enough to cause institutions to experience financial difficulties.

Sørreide (2002:35) suggests the following strategies to reduce the opportunities for corruption in public procurement:

- An independent procurement unit with professional officials should be established.
- Rotation of public officials responsible for procurement within a certain area should be considered in departments with high levels of corruption.
- Performance rating should be part of the procedure in large procurement projects.
- The number of decision-making centres should be reduced. Separating the evaluation of bids into a technical and an economical team should be carefully considered.
- The procurement rules should be clear and simple – so that people know what an honest system is supposed to produce.
- Time limits by which a given request must be rejected or accepted must be strictly respected, still defined wide enough to allow reasonable time for interested suppliers to prepare and submit bids.
- The procurement procedures should include rule for exceptional cases, including a precise definition of the terms “emergency”, “exceptional” and “immediacy”.
- When rules for exceptional cases are applied, the procurement should be subsequently followed up by an evaluation team.
- Access to information should be a number one rule in procurement procedures, while the information still confidential should be treated respectfully according to the given routines.
- Rules and routines for communication during the tender should be carefully respected.
- The request should be announced as early as possible and invitation for tender published in due time in major newspapers.
- Unsuccessful bidders should be provided with an explanation of the rejection and relevant information about the tender.
- A board of contract appeals should be appointed.
- Record keeping is essential to enable inspection.

- Codes of conduct should be central in all forms of bureaucratic activity.
- Rules of disqualification concerning public officials responsible for the acquisition should be included in the procurement procedures.
- Middlemen that have bribed, or tried to bribe, public officials should be excluded from future tenders.

Agencies

Other measures taken by national government to combat fraud and corruption is the establishment of a number of agencies. These agencies have the powers and mandate to investigate, arrest and prosecute corruption cases. They include, amongst others, the Special Investigating Unit (SIU), the Auditor-General, the Public Protector, the Public Service Commission, the South African Police Service (SAPS) and the National Prosecuting Authority (NPA).

Special Investigating Unit (SIU) - Special Investigating Units and Special Tribunal Act, Act No 74 of 1996

The SIU was set up by the President in terms of the Special Investigating Units and Special Tribunal Act, Act No 74 of 1996 (SIU Act). Its primary mandate is to recover and prevent financial losses to the state due to various acts of corruption, fraud and maladministration. This is the only government agency exclusively dedicated to fight corruption. The SIU is an independent statutory body and conducts investigations of any form of corruption in government institutions at the President's request and ultimately reports to him on the outcome. The SIU is not mandated to arrest and prosecute suspects, but in cooperation with the NPA and the Asset Forfeiture Unit (AFU) ensure that prosecutions take place. The status of SIU has been disputed since the agency was left out of the "Arms Deal" investigation.

Auditor-General of South Africa (AGSA) – Constitution of the RSA, Act 108 of 1996

The Auditor-General of South Africa (AGSA) is appointed in terms of Section 181(1) (e) of the Constitution. AGSA is one of the 11 Institutions Supporting Democracy (ISDs) as outlined in Chapter 9, 10 and 13 of the Constitution of the RSA.

Appointed by the National Assembly (NA), the AGSA has its independence guaranteed by the Constitution. The AGSA reports to the NA via the Standing Committee on Public Accounts (SCOPA) and AGSA counterparts at the provincial level. The mandate of the AGSA is to audit and report on the accounts, financial statements and financial management of national and provincial departments and administrations, local government and other institutions legally authorised to receive money for public purposes. The AGSA plays an imperative role in managing economic crime in South Africa, including the prevention of corruption.

Office of the Public Protector (Ombudsman) - Constitution of the RSA, Act 108 of 1996

The Public Protector was established in terms of Chapter 9 Section 18 of the Constitution. The Office of the Public Protector is regulated by national legislation which is found in the Public Protector Act 23 of 1994. The Public Protector has the authority to investigate any suspected misconduct or prejudice in state affairs or in the public administration in any sphere of government. Some of the conduct that the Public Protector ordinarily investigates would constitute corruption. The Public Protector's role in anti-corruption is recognised in key statutes such as the Prevention and Combating of Corrupt Activities Act specifically gives the Public Protector the authority to investigate any improper or dishonest act, or omission or offences referred to the Act, with respect to public money.

Public Service Commission (PSC) - Constitution of the RSA, Act 108 of 1996

The Public Service Commission (PSC) was established in terms of Section 196 of the Constitution of the Republic of South Africa, 1996 and is mandated to investigate, monitor, and evaluate the organisation and administration of the Public Service.

The Public Service Commission manages the Anti-corruption Hotline that was established in 2004. The Commission also serves as a secretariat to the National Anti-corruption Forum.

The Commission has a very specific constitutional mandate which is, *inter alia* to:

- Promote a high standard of professional ethics in the public service;
- Investigate, monitor and evaluate the organisation and administration, and the personnel practices of the public service.

South African Police Service (SAPS) – SA Police Service Act 68 of 1995 (amended by the SA Police Service Amendment Act 83 of 1998)

The National Commissioner of the SAPS is appointed by the President in terms of the SA Police Service Act 68 of 1995 (amended by the SA Police Service Amendment Act 83 of 1998). In terms of this Act, the SAPS investigates crimes including corruption and bribery. South African Police Service (SAPS) was established as a single, nationwide police service under the executive command and control of a presidentially appointed National Commissioner. Besides its general criminal investigative role, the SAPS have a separate division, the Directorate for Priority Crime Investigation. This Directorate is mandated to prevent, combat and investigate national priority offences, in particular, serious commercial crime and serious corruption.

National Prosecuting Authority (NPA) – National Prosecuting Authority Act 32 of 1998

The President appoints the National Director of Public Prosecutions in terms of the National Prosecuting Authority Act 32 of 1998. The National Prosecuting Authority is constitutionally independent and has the power to initiate criminal proceedings on behalf of the state and reports to Parliament. The NPA consists of seven different units, one of which was the most well-known, the Directorate of Special Operations (DSO). The unit succeeded in exposing several high-ranking officials involved in corruption and also had a high prosecution record, with an average of 90% of cases prosecuted resulting in conviction.

However, the unit became the victim of the power struggle within the ruling political party African National Congress (ANC) and was dismantled in July 2009. They have now been replaced by the Directorate for Priority Crime Investigations, known as the “Hawks” and who, subject to executive control, form a unit under the police ministry.

Directorate for Priority Crime Investigation (Hawks) - Section 17C of the South African Police Service Act, 1995

The Directorate for Priority Crime Investigation, also known as the Hawks, has been established as an independent directorate within the South African Police Service in terms of Section 17C of the South African Police Service Act, 1995 as amended by the South

African Police Service Amendment Act, 2008 (Act 57 of 2008). The Hawks are mandated to combat, investigate and prevent national priority crimes such as serious organized crimes, serious commercial crimes and serious corruption in terms of Section 17B and 17D of the South African Police Service Act, 1995 as amended.

The existence of these various institutions makes it apparent that South Africa has made significant efforts to address corruption. However, the existence of so many agencies requires effective cooperation and coordination.

2.8 Financial Management

Public financial management is concerned with the money involved in reaching policy goals and objectives optimally. Financial management can thus be defined as the management of public funds in order to achieve the mission of the department. In other words, financial management is daily cash management

Public financial management according to the National Treasury (2003) is defined as "all decisions and activities of management, as guided by a chief financial officer, that impact on the control and utilisation of limited financial resources entrusted to achieve specified and agreed strategic outputs."

The National Treasury, (2003) also states that the aim of financial management in the public sector is *"to manage limited financial resources with the purpose to ensure economy and efficiency in the delivery of outputs required to achieve desired outcomes (effectiveness) that will serve the needs of the community (appropriateness)"*.

Private sector entities need to manage their finances in order to maximize revenue and minimize cost with the ultimate objective of increasing profits. Since it is not the intention of the public sector to make a profit, the fundamental objective of financial management in government is to ensure the safeguarding and the utilization of available funds and other limited resources in the best interests of the "People" (Pauw *et al.*, 2009:126). Basically, the fundamentals of financial management are also relevant to government.

According to Pauw *et al* (2009) the fundamentals of financial management implies a 'why' (why should we manage finances in government), a 'what' (what comprises "financial management") and a 'how' (how are finances managed).

Since the public sector spends a large proportion of the budget on procurement, it is vital to establish a procurement system with visibly stated goals and policies. In a government department where corruption is prevalent, its procurement system should focus more on procurement integrity and transparency (Thai, 2001)

Financial management is one of the most important themes for measuring good governance and includes financial governance, financial planning, management and budgeting. With these practices in place, it is expected that irregular expenditures be reduced, corruption practically eradicated, audits be unqualified and most importantly, value for money and results based spending (PT Annual Performance Plan, 2012).

2.9 Summary

Various authors have defined the concept of corruption differently, but in simple terms corruption can be define as the abuse of public office for private gain. The literature research further revealed that the Prevention and Combating of Corrupt Activities Act of 2004 provides us with the only legal definition of corruption.

There is indeed a difference between the terms fraud and corruption since they refer to different crimes.

There is a link between public procurement and corruption as any deviation from the procurement processes can constitute corruption. Common causes of corruption as identified by various authors include psychological, social, economical and organisational factors.

Various kinds of corruption exist especially within public procurement, but there are numerous methods available to alleviate and manage corruption. Continuous awareness of the risk of fraud and corruption is required especially from management since they are responsible for managing and controlling public funds.

It is thus vital that appropriate strategies should be developed and implemented to fight fraud and corruption.

The numerous anti-corruption agencies indicate a strong political will and commitment towards combating corruption. However, many of the agencies suffer from overlapping mandates, which alternately affects the operating ability of these initiatives.

The next chapter will look at the legislative frameworks available to combat fraud and corruption in public procurement.

Chapter 3

Key Legislative and Policy frameworks addressing fraud and corruption

3.1 Introduction

Further to the measures introduced by national government to combat corruption and fraud, numerous acts of law, policies and strategies were put in place by government to address the problem of fraud and corruption in procurement. In addition to these measures, this chapter explains the legislative framework for dealing with the problem of fraud and corruption in the public sector.

The following legislation and policy guidelines will be explored to provide a legislative perspective for addressing the problem of fraud and corruption in public procurement:

Acts:

- The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)
- The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)
- The Public Finance Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999)
- National Treasury Regulations, 2002
- Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)
- Protected Disclosure Act, 2000 (Act 26 of 2000)
- Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)
- Promotion of Access to Information Act, 2000 (Act 2 of 2000)
- Public Service Act, 1994 (Act 103 of 1994)

Policies and Strategies

- Public Service Anti-corruption Strategy
- Supply Chain Management - A guide for Accounting Officers / Authorities
- Policy to Guide uniformity in Procurement Reform Processes in Government
- Western Cape Government Anti-corruption Strategy
- Provincial Treasury Fraud Prevention Plan
- Provincial Treasury Risk Management Policy

Acts:

3.2 The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

Section 217(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) provides the basis for procurement and determines that:

“When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.”

Section 217(3) of the Constitution, 1996 further confers an obligation for national legislation to prescribe a framework providing for preferential procurement to address the social and economic imbalances of the past.

Section 215-219 of the Constitution, 1996 further require that the National Treasury introduce uniform norms and standards within government to ensure transparency and expenditure control measures, which should include best practices related to procurement and provisioning systems.

Section 195(1) of *the Constitution of the Republic of South Africa, 1996*, states that public administration must be governed by the democratic values and principles enshrined in the Constitution. Among the basic values included in the principles are, *inter alia*:

- Services must be provided impartially, fairly, equitably, and without bias.
- Transparency must be fostered by providing the public with timely, accessible and accurate information.
- Efficient economic and effective use of resources must be promoted.
- Public administration must be accountable.
- Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

3.3 The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)

The fundamental aim of the Act is to address past discriminatory policies and practices in the government procurement system.

The Preferential Procurement Policy Framework Act (PPPFA), 2000 and its accompanying Regulations were promulgated to prescribe a framework for preferential procurement system. The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) states that an organ of state must determine its preferential policy and implement it within a framework by means of a “Preference point system”.

The Act is used in the tender process to evaluate suppliers for a specific tender contract.

This Act and its Regulations incorporate the 80/20 and 90/10 preference point systems. For procurement deals less than R500 000, the government evaluates the bidder based on the “80/20” principle and for procurement deals that exceeds R500 000, the score of “90/10” is used.

3.4 The Public Finance Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999)

The Public Finance Management Act (hereafter referred to as PFMA), 1999 was promulgated to regulate financial management in the national and provincial spheres of government.

Section 38(1) (a) (iii) states that the accounting officer must ensure an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.

Section 38(1)(g) indicates that the accounting officer for a department must:

“on discovery of any unauthorized , irregular or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services, also to the relevant tender board;”

Section 51(1) (a) further states that the accounting authority for a public entity must ensure that the public entity has and maintains:

(i) “effective, efficient and transparent systems of financial and risk management and internal control;”

The accounting officer should make sure that appropriate systems are in place to maintain effective risk management and internal control to deal with and to prevent corruption.

The Act further denotes in subsections (b) (ii) and (e) (iii) of the above section that the accounting officer should make effective and appropriate steps to prevent losses resulting from criminal conduct (for example fraud and corruption) and should take the necessary disciplinary steps against any employee who is found guilty of such misconduct.

Chapter 10 of the PFMA deals with financial misconduct and the disciplinary and criminal proceedings that can be instituted against an official who commits such an offence. According to Section 81 (1) (a) and (b) an official commits an act of misconduct when he/she fails to comply with certain requirements as set out in Sections 38-42 of the Act and make or permits irregular, unauthorised and wasteful expenditure.

Section 83(4) of the PFMA indicates that the penalty for financial misconduct can either be suspension or even dismissal.

3.5 National Treasury Regulations, 2002

Treasury Regulations (NTR) require all Western Cape Provincial Departments to report all fraud and corrupt activities to the police.

According to Section 3.2.1, the accounting officer should put appropriate risk management and internal control measures in place by facilitating a risk assessment to determine the material risks an institution might be exposed to and evaluate the strategy (fraud prevention plan) for managing these risks.

Section 3.2.2 of the Treasury Regulations states that the accounting officer of a government Department is responsible to provide the relevant Treasury (by no later than 30 June of that specific year) with a certificate indicating the completion of a risk assessment and a fully operational fraud prevention plan

Section 4.1.1 further states that the accounting officer of an institution should ensure that disciplinary proceedings executed in accordance with the appropriate prescripts if an official is alleged to have committed financial misconduct.

Section 9.1.1 requires the accounting officer to implement effective, efficient and transparent processes of financial and risk management in order to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure.

A large proportion of public procurement consists of tenders or tender processes. The latter part of Section 9.1.2 states that a relevant tender board should be informed where irregular expenditure occurred in contravention of tender procedures.

3.6 Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)

The Prevention and Combating of Corrupt Activities Act (PCCA) forms part of the government initiatives to stop corruption and as its name suggests, preventing and fighting corruption in the public as well as the private sector. This Act is known to be the primary legislation dealing with corruption.

The Act was written for the following reasons:

- “Strengthen measures to prevent and combat corruption and corrupt activities
- Create the crime of corruption and related crimes
- Deal with investigations into corruption
- Create a register to prevent people who use corruption from getting government contracts or tenders
- Require people in positions of authority to report corruption over R100 000
- Prevent people in South Africa from using corruption to influence members of the public sector of other countries”

The Act further provides a legal definition of corruption which can be summarised as follows: “Corruption is where a person (A) gives (or offers to give) someone in a position of power (B) something (called ‘gratification’ in the Act) to use that power, illegally and unfairly, to the advantage of A (or a third person). B will also be guilty of the same crime if he/she accepts (or offers to accept) the gratification to wrongly use his position”

Section 34 (1) of the Prevention and Combating of Corrupt Activities Act (hereafter referred to as the PCCA) stipulates that any person in a position of authority who knows, or ought reasonably to have known, that another person has committed: (a) Corruption or (b) The offences of theft, fraud, extortion, forgery or uttering of a forged document, involving R100 000 or more, must report such knowledge or suspicion or cause the same to be reported to a police official.

In terms of Section 34 (2) of the PCCA, failure to comply with this obligation will constitute an offence. Provision is made for a sentence not exceeding 10 years in the case of a High Court, whereas a Magistrate's Court can impose a fine or a period of imprisonment not exceeding 3 years.

3.7 Protected Disclosure Act (Act 26 Of 2000)

The Protected Disclosures Act of 2000, which came into effect in February 2001, was written to protect those who expose or provide information on criminal and other "irregular" behaviour. This Act, commonly known as the "Whistle Blowers Act", was conceded to encourage both public and private sector employees to disclose information about unlawful and irregular conduct within the workplace. This Act protects whistle blowers from being victimised.

The Act however is restricted to misconduct, which includes corruption, within the workplace. It provides procedures to facilitate the reporting of alleged or suspected unlawful activities committed by employers or fellow employees.

3.8 Promotion of Administrative Justice Act, 2000 (Act 3 Of 2000)

This Act requires government to follow fair procedures when taking decisions that affect the public or an individual. It provides individuals the right to request written reasons for decisions they disagree with, which could allow them to observe whether corruption influenced their decisions.

3.9 Promotion of Access to Information Act, 2000 (Act 2 Of 2000)

This act assists individuals to obtain information from government and businesses and can be utilised to verify whether corruption has occurred.

3.10 Public Service Act – Proclamation 103 (Published in Government Gazette 15791 of 3 June 1994)

It is evident that some organisational and human resource arrangements in the Public Service Act (or the lack thereof) directly or indirectly hamper internal efficiency and service delivery.

According to Section 3 (1) (h) of the Act, the Minister is responsible for establishing norms and standards relating to / with regard to integrity, ethics, conduct and anti-corruption in the public service.

Policies and Strategies:

3.11 Public Service Anti-corruption Strategy, January 2002

The Public Service Anti-corruption Strategy, 2002 was developed for the public service in order to give effect to the expressed commitment of government to fight corruption in the public sector. The purpose of the Public Service Anti-corruption Strategy is to prevent and to combat corruption through a multiplicity of supportive actions (Public Service Anti-corruption Strategy, 2002).

In order to root out corruption, the is informed by the need for a holistic and integrated approach to fighting corruption, with a balanced mixture of prevention, investigation, prosecution and public participation as the platform for the strategy.

3.12 Supply Chain Management – A Guide for Accounting Officers / Authorities

According to Section 2.8.1 of the SCM Guidelines (2004) issued by National Treasury, an Accounting Officer (AO) must reject a proposal for a tender award if he/she determines that the supplier, has engaged in corrupt or fraudulent activities in competing for the contract in question. The AO can insist that a provision is included in the contract agreement with the contractor, requiring the contractor to permit the AO to inspect their accounts and records relating to the performance of the contract and to have them audited by auditor appointed by the AO.

3.13 Policy to Guide uniformity in Procurement Reform Processes in Government

According to this Policy all government staff associated with procurement, particularly those dealing directly with suppliers, are required to:

- “Recognise and deal with conflicts of interest or the potential thereof;
- Deal with suppliers even-handedly;
- Ensure that they do not compromise the good standing of the state through acceptance of gifts and hospitality;
- Be scrupulous in their use of public funds; and
- Provide all assistance in the elimination of fraud and corruption.”

In addition to all the measures introduced by national government as explained in the section above, Western Cape Provincial Government has introduced a number of measures including the Western Cape Government Anti-corruption Strategy, the Provincial Treasury Fraud and Corruption Prevention Plan and the Provincial Treasury Risk Management Policy.

3.14 Western Cape Government Anti-corruption Strategy

The aim of this strategy is to provide transparent and concise parameters for management and employees to adopt in their fight against fraud and corruption and to allow and encourage a fraud resistant environment.

This strategy encompasses specific elements aimed at combating fraud, theft and corruption. These elements include:

- ❖ Prevention and detection – Internal control measures should be put in place to detect and prevent fraud, theft and corruption
- ❖ Investigation – when acts of fraud, theft or corruption are detected appropriate action will be taken against the perpetrators of the acts
- ❖ Resolution – An employee who participates in acts involving fraud, theft or corruption will be subjected to a disciplinary hearing.
- ❖ Deterrence - Deterrence is important to ensure that the majority of people do not choose to become involved in crime.

The strategy further identifies the role management plays to ensure a corruption-free environment. Management will be responsible to implement and monitor internal control measures to proactively detect fraud, theft and corruption. According to the strategy every

employee within WCG has a duty to report suspicions and allegations involving fraud, theft and corruption via one of the reporting mechanisms available. (Western Cape Government Anti-corruption Strategy, 2012)

The strategy further provides guidance to employees on reporting methods available when they want to report any incidence of fraud, theft or corruption.

3.15 Provincial Treasury Fraud and Corruption Prevention Plan

WCPT drafted and implemented a Fraud and Corruption Policy in accordance with a Fraud and Corruption Prevention Plan (FCPP) that gives effect to this policy. The FCPP is a critical document which sets out the Department's strategy in the fight against fraud, corruption and theft and falls within the focus area of prevention and detection in the context of the broader Western Cape Anti-corruption Strategy (Western Cape Provincial Treasury Fraud and Corruption Policy, 2012)

The most essential focus of the strategy is to create a culture of zero tolerance in the Department, a high level of awareness and a management and control environment that makes it difficult as reasonable possible to misappropriate assets or to succumb to fraud (Western Cape Provincial Treasury Fraud and Corruption Policy, 2012)

3.16 Provincial Treasury Risk Management Policy

The objective of this policy is to enhance the safety of departmental assets and interests over departmental operations. This policy was developed to mitigate or manage risks and monitor progress on control activities (Provincial Treasury Risk Management Policy, 2010). Provincial Treasury established a Fraud and Risk Management Committee (FRMCO) who is responsible for conducting reviews over the identified risks which should include the risks of fraud faced by the department. The risk committee is responsible for reviewing systems and procedures, identifying and assessing risk and introducing the controls that are best suited to the department. One of the indicators for effective risk management is a strengthened value system (for example less fraud and corruption) (Provincial Treasury Risk Management Policy, 2010).

3.17 Summary

This chapter summarises the legislative and regulatory frameworks governing fraud and corruption in South Africa. Since the introduction of the PFMA in 1999, a number of

legislative and regulatory frameworks were introduced to support the prevention of fraud and corruption. It is evident that in South Africa, the government procurement system is significantly regulated.

The availability of various laws supporting the anti-corruption initiatives indicates a strong political will and commitment towards combating corruption. However, many of these laws suffer from uneven implementation, which alternately affects the enforcement of the anti-corruption legal framework.

The following chapter will examine WCPT as a case study to determine the important role the organisation play to combat fraud and corruption in public procurement.

Chapter 4

Case Study – Western Cape Provincial Treasury (WCPT)

4.1 Introduction

One of the strategic objectives of the Provincial Government is to “build the best-run regional government in the world”. The aim of this objective is to develop an efficient, transparent, responsive and most importantly, a corruption-free government that delivers cost-effective services to its citizens (Department of the Premier Annual Performance Plan, 2012). Western Cape Provincial Treasury (WCPT) plays a major role in achieving this goal by ensuring a corruption-free and financially flawless administration in the Western Cape (PT Annual Report, 2012).

The Public Management Finance Act (Chapter 3) mandates the WCPT to “ensure transparency, accountability and sound financial controls in the management of public finances”. The WCPT plays a significant part in attaining the required socio-economic and governance outcomes by providing strategic financial management to the province and municipalities and increasing the accessibility of monetary funds.

This chapter will present a review of WCPT as a unit of analysis of a case study in order to shed light on the important role the WCPT play to eliminate fraud and corruption in public procurement. WCPT is considered a very significant organisation within the WCPG in terms of its mandate to provide strategic financial leadership to the province and municipalities and to enhance the availability of financial resources.

A brief background of the WCPT in terms of its history, vision and mission, core functions and responsibilities as well as the current organisational structure, is provided below. This is followed by a discussion on what strategies WCPT has in place to combat fraud and corruption in public procurement, which includes a brief discussion of the Provincial Treasury Fraud and Corruption Policy recently approved and adopted by PT as well as role of the FIU to support PT’s efforts to eliminate fraud and corruption.

4.2 Background to WCPT

4.2.1 History

In 1994, after the first democratic election, the Republic of South Africa was divided into nine provinces. The Western Cape Government (WCG) is not only responsible to create laws but also play a major role in providing services to citizens in the Western Cape Province. The WCG in cooperation with the national government and municipalities ensures that the people of the province have access to all the services, amenities and information they require.

The Premier of the Western Cape, Ms Helen Zille, is the head of the provincial government. The Premier selects a cabinet of MEC's to oversee the 13 provincial departments within the province. Mr Alan Winde, the MEC of Finance, Economic Development and Tourism, currently oversees two departments namely, Provincial Treasury and Economic Development and Tourism.

Western Cape Provincial Treasury was established in April 1995 and since its establishment Dr JC Stegmann has been the Head of the Department or Accounting Officer according to Section 36 (2) (a) of the PFMA, 1999.

The Public Finance Management Act (No.1 of 1999 as amended by Act 29 of 1999) encourages the intention of good financial management in order to increase service delivery through effective and efficient utilisation of the limited resources. Chapter three of the PFMA further makes provision for the establishment of provincial treasuries to regulate financial management and to ensure that all revenue, expenditure, assets and liabilities are managed efficiently and effectively.

4.2.2 Vision, Mission and Mandate/Core Functions and Responsibilities

4.2.2.1 Vision

The vision of WCPT subscribes to the vision of the Western Cape Government and captured in the department's Strategic Plan 2010-2014, is to become a **“change agent in resource allocation and utilisation practices in pursuing the systematic reduction of social and economic disparities”**.

4.2.2.2 Mission

In support of the Western Cape Government's mission, "to deliver a clean, efficient, cost effective, transparent and responsive public administration" the WCPT mission statement is as follows:

"To obtain financial supportive means and foster the optimal utilisation of resources by means of sound governance practices"

4.2.2.3 Core functions and responsibilities

The core functions and responsibilities of WCPT include the following:

- To promote the effective and efficient management of physical and financial assets, liabilities and supply chain systems.
- To improve financial governance, budgeting, accountability and performance oriented financial management.
- To ensure accurate, transparent and full reflection of financial and associated transactions and processes (WCPT Annual Report, 2012).

With a total budget allocation of R156 286 million in 2012, WCPT provides support to 13 Provincial Government Departments and since 2000 has extended its responsibility to 28 municipalities.

4.2.3 Organisational Structure of WCPT

The organisational structure of the WCPT has expanded rapidly since its establishment in 1995 and the introduction of the PFMA (1999), the Municipal Finance Management Act (2003) and National Treasury Regulations (2002). This has led to an expansion in the scope of WCPT's functions and the need to extend its capacity in order to enhance financial management delivery.

In line with PT reconfiguration process, a Corporate Relations Unit were established (during the 2011/2012 financial year) within Treasury to deal with high administrative work volumes and processes (WCPT Annual Performance Plan, 2012-2015).

The total establishment of WCPT consists of 324 posts of which 241 post were filled as at 1 February 2012. The organogram below portrays the Senior Management structure of WCPT.

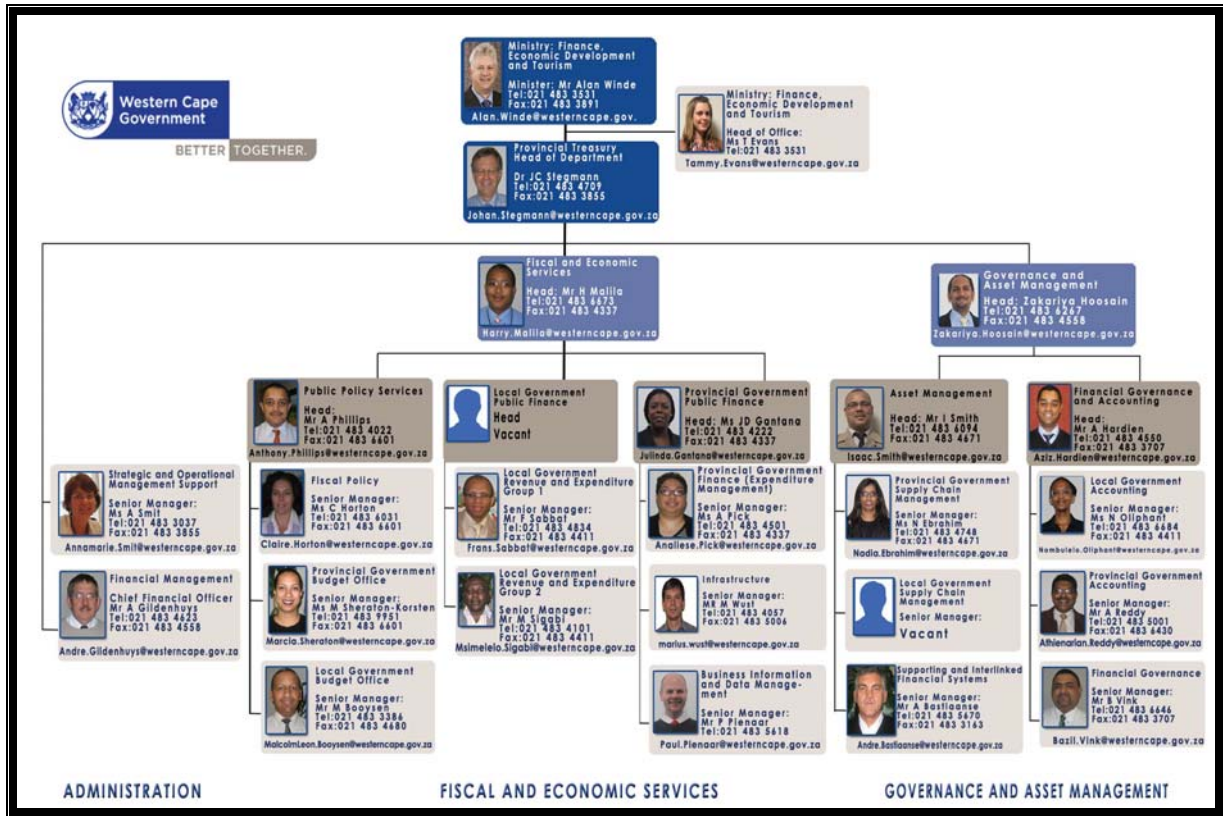


Figure 4.1: Senior Management Structure of Western Cape Provincial Treasury

Source: (<http://www.westerncape.gov.za> [2013-04-21])

4.2.4 Summary of Programmes

The WCPT adopted a programme structure to support the pivotal role they play in improving financial management delivery within the province. The functions of WCPT are organised in four programmes which is further divided into the following sub-programmes, as depicted in the table below:

Programme	Sub-programme
1. Administration	1.1 Office of the Minister 1.2 Management Services 1.3 Financial Management
2. Sustainable Resource Management	2.1 Programme Support 2.2 Fiscal Policy 2.3 Budget Management 2.4 Public Finance
3. Assets and Liabilities	3.1 Programme Support

	3.2 Asset Management 3.3 Supporting and Interlinked Financial Systems
4. Financial Governance	4.1 Programme Support 4.2 Accounting Services 4.3 Corporate Governance

Table 4.1: Programme and Sub-Programme Plans

Source: WCPT Annual Performance Plan 2012-15

The purpose of each Programme:

- **Programme 1: Administration**
Aim: To give strategic direction and to provide quality financial and other support services to the Minister and the Head of Department
- **Programme 2: Sustainable Resource Management**
Aim: To inform financial resource allocation, to manage the provincial budget and to monitor the implementation of provincial, municipal and entity budgets to enhance the effective utilisation of available fiscal resources.
- **Programme 3: Asset and Liabilities**
Aim: To provide policy direction and to facilitate and enforce the effective and the efficient management of financial systems, physical and financial assets, and supply chain management within the provincial and municipal spheres.
- **Programme 4: Financial Governance**
Aim: Development of accounting and financial management practices within provincial and local governments that will contribute towards attaining level 3 and higher auditable organisations.

4.3 Strategies within Western Cape Provincial Treasury to combat fraud and corruption in public procurement

PT plays a pivotal role in enforcing the effective and efficient management of financial systems for example LOGIS (Logistical Information System) to ensure that loopholes for corrupt and fraudulent activities especially in procurement are eliminated (Western Cape Provincial Treasury Budget Speech, 2013).

The Western Cape Province maintains a holistic approach to fraud and corruption prevention as this responsibility is reciprocated between PT and Department of the Premier. The Forensic Investigative Unit (FIU) was established within the Department of the

Premier to investigate matters relating to alleged theft and corruption of state funds. The Department of the Premier is the driver of fraud prevention within the province. The Internal Audit and Risk Management units of all departments in the province were centralised to the Department of the Premier to ensure uniformity across department (SC Finance: National and Provincial Treasuries reports on expenditure, 2011-2012).

During a Select Committee (SC) on Finance meeting held at Parliament on the 12th of August 2012, WCPT presented their strategy on how to prevent fraud and corruption within the provincial departments. Three crucial areas, as discussed below, were identified for combating fraud and corruption:

(a) Strengthening of governance environment

New instructions for supply chain management were issued to strengthen governance as a large number of loopholes were identified in the control environment. Evaluations at all departments were performed to ensure separation of powers. PT initiated transaction checklist to follow-up on all payments made. Reporting tools for monthly reporting were introduced in order for PT to investigate all contracts that were awarded, to check whether these contracts were completed by way of open processes, to identify any deviations and to assess the risks.

(b) Use and introduction of electronic systems

PT has a fully-fledged financial systems section where various transversal systems such as LOGIS, BAS and PERSAL are in place. All departments within the WC are compelled to use LOGIS where access control and user accounts are centralised in order to combat fraud and corruption in procurement. PT is attempting to limit all payments via BAS by enforcing the use of LOGIS for all payments of goods and services.

PT has established a centralised supplier database called the Western Cape Supplier Database (WCSD) and all provincial departments are compelled to do business with suppliers registered on this database. The advantage of centralising the database is to allow departments to focus on the core functions, while compliance will be dealt with at PT level. On a monthly basis, the supplier details on the database are compared with the PERSAL system to ensure that employees are not registered as suppliers. Any mismatched found are reported and investigated.

E-procurement for quotations has been upgraded to limit the contact between officials and suppliers.

(c) Development of provincial training strategy

PT has made it compulsory for all officials utilising the various financial systems, to receive comprehensive training by offering a number of in-house short courses. PT has joined forces with the National Treasury (NT) training component and with universities to provide formal training courses on supply chain management (SC Finance: National and Provincial Treasuries reports on expenditure, 2011-2012).

In order to strengthen its goal to prevent fraud and corruption within the department, PT has developed a Fraud and Corruption Policy which is effective from 1 October 2012. This policy will be discussed in the next section.

4.3.1 Western Cape Provincial Treasury Fraud and Corruption Policy

PT has approved and adopted the Fraud and Corruption Policy which replaces the Fraud and Prevention Policy as the latter only focus on the elements of prevention and detection. The goal of fraud and corruption prevention within PT is to manage the vulnerability to risk with a view to reducing it, and to raise the level of fraud awareness amongst employees and other stakeholders. This policy pertains to any actual or suspected fraud, corruption, theft or irregularities of a similar nature, involving all employees and members of governing structures of the department as well as consultants, contractors, service providers and their employees (Provincial Treasury Fraud and Corruption Policy, 2012).

The fraud and corruption policy was implemented in accordance with the following principles:

(a) Institutionalisation and sustaining an anti-fraud environment

- Crime will not be tolerated within PT or within the organisations with which it interacts.
- A fraud and corruption prevention plan that gives effect to this policy will be implemented throughout PT
- Involvement of employees and stakeholders who assist in the combating of fraud and the prosecution of fraudsters will be acknowledged.
- All employees have a duty to report all suspected or alleged incidents of fraud, corruption and theft through the prescribed reporting channels.

(b) Understanding and managing risks

- The Fraud and Risk Management Committee (FRMCO) which was established by PT review fraud and corruption risks on a regularly basis.
- Internal controls and audit measures are in place to identify and manage fraud risk which includes preventative and detective measures.

(c) PT to be proactive in defending its assets

- PT is actively and continuously exploring for evidence of fraud and corruption via appropriate prevention and detection mechanisms.
- PT supports the practice of well-intentioned whistle blowing

(d) Reacting swiftly when a crime is uncovered

- PT will act speedily and appropriately when a crime is uncovered, demonstrating their complete commitment to zero tolerance on fraud and corruption.

These five principles discussed above, provide the framework for PT's Fraud and Corruption Policy (PT Fraud and Corruption Policy, 2012).

The Fraud Prevention Plan (FPP) is a critical document which sets out PT's strategy in the fight against fraud, corruption and theft. The FPP is aligned to the code of conduct and the disciplinary code and procedures for public servants as well as relevant pieces of legislation.

In the context of the broader Western Cape Anti-corruption Strategy, the FPP falls within the focus area of prevention and detection. It also sets out the Department's approach to the other elements of investigation, resolution and deterrence.

WCPT's Fraud and Corruption Policy is aligned to the Western Cape Government's Anti-corruption Strategy which aims to provide a framework in which to combat fraud, corruption and theft. This strategy has been developed on a provincial level and is a transversal strategy which applies to all WCG Departments.

The diagram below sets out the interaction between the main elements of the strategy and places PT's fraud prevention policy into context in relation to the larger WCG strategy.

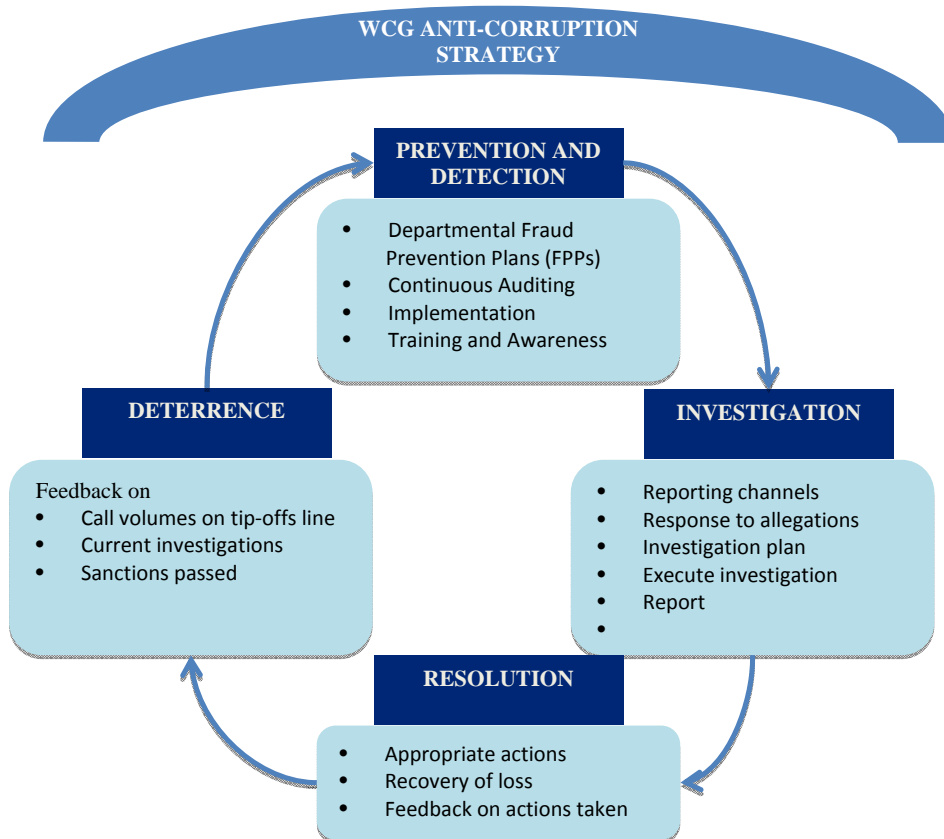


Figure 4.2: Western Cape Government Anti-Corruption Strategy

Source: WCG Anti-Corruption Strategy, 2012

4.3.2 Forensic Investigative Unit (FIU)

Mandate

Despite the fact that the responsibility to fight fraud and corruption is shared amongst all employees of the WCG regardless of rank and position, the Forensic Investigative Unit (FIU) was established within Department of the Premier to continually support this effort. The objective of the FIU is to ensure the prevention, detection and investigation of allegations of fraud and corruption within or against the WCG (WCG Anti-corruption Strategy, 2012).

The FIU is mandated to investigate matters involving alleged conduct, irregularities and offences such as financial misconduct, irregularities causing or that might result in financial losses.

Reporting Lines

Operationally, the FIU reports directly to Heads of Departments (HODs) by means of regular progress meetings and formal reports following each investigation. FIU also report to the various audit committees on progress and control related aspects of cases finalised during a specific quarter. Administratively, in terms of its normal management responsibilities and functioning, the FIU reports to the Director-General of the provincial government (Modernisation Programme FIU, 2009).

Functions of the Forensic Investigate Unit (FIU)

The functions of the FIU are as follows:

- Conduct objective and independent investigations of all matters involving misconduct, irregularities of a financial nature and the commission of economic offences
- Issue reports subsequent to forensic investigations to enable the department to effectively manage incidents and take appropriate steps to prevent recurrences thereof
- Refer transgressions, after consultation with the Accounting Officer, to the South African Police Service for further investigation.
- Testify in disciplinary proceedings if so required and provide evidence and testify in court cases
- Provide training interventions aimed at facilitating awareness of the risks posed by offences such as fraud and corruption, and improve capacity to detect/prevent such offences
- Collate and share data relating to action taken in disciplinary proceedings or criminal charges, the outcome of such action and the recovery of losses
- Communicate risks identified during investigations
- Assist with monitoring the rolling out of fraud prevention plans as required in terms of the PFMA which must include, as minimum, an anti-corruption policy and implementation plan
- Assess all allegations of theft, fraud and corruption, as well as financial misconduct and irregularities of a financial nature
- Enable the process of conducting further investigation, detection and prosecution, in terms of prevailing legislation and procedures (Modernisation Programme FIU, 2009)

Report allegations to the FIU

Suspensions or knowledge of an incident of fraud, theft, corruption or dishonesty can be reported in confidence directly to the FIU. This can be accomplished in a number of ways including the following:

- Telephonically to the FIU
- Personally by meeting with representatives of the FIU
- Email correspondence to representatives of the FIU
- Postal correspondence to the FIU
- Anonymously through the FIU reporting line (WCG Anti-Corruption Strategy, 2012)

There are specific requirements that require consideration before a Department can refer a matter to the FIU for investigation. These have been set out in the diagram below:

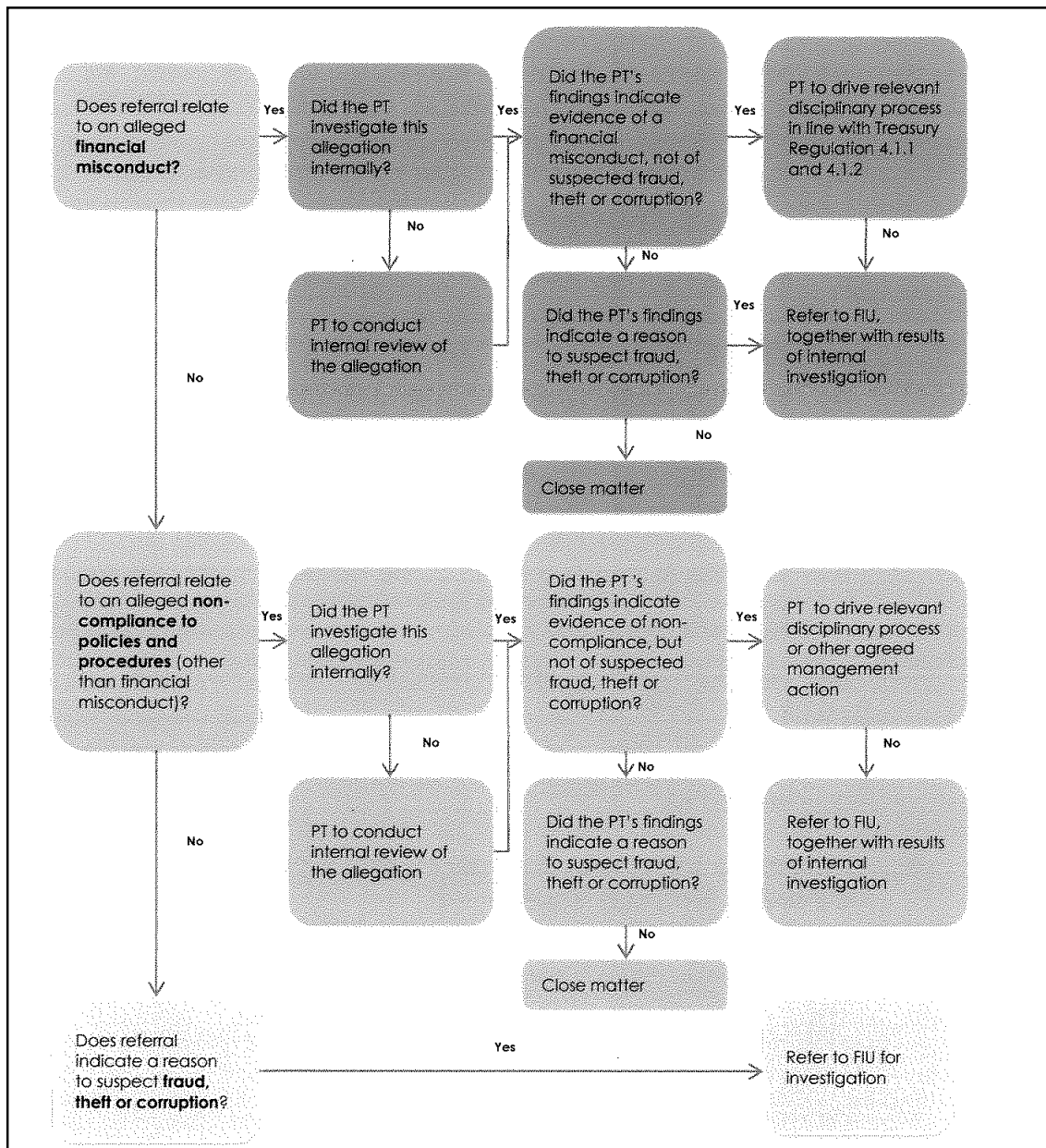


Figure 4.3: Western Cape Provincial Treasury Fraud and Corruption Policy

Source: WCPT Fraud and Corruption Policy, 2012

If an incident of an alleged financial misconduct is reported, PT should investigate this allegation internally. If the results of this investigation indicate evidence of suspected fraud and corruption, this matter should be referred to the FIU. The same process should be followed when reporting incidents of alleged non-compliance to policies and procedures. Employees who choose to report any incident of fraud and corruption directly to the FIU will not be prejudiced. If there is any doubt regarding a potential referral to the FIU, the department is compelled to immediately contact the FIU to clarify the matter and to

document such discussions for future reference and audit purposes. (WCPT Fraud and Corruption Policy, 2012)

4.4 Current profile on corruption in the Western Cape Province

In 2003, a study was conducted to measure the level of corruption in the nine provinces and the Western Cape Province (4 out of 83 cases) was one of the three provinces with the lowest level of corruption at provincial level. (SA Corruption Assessment Report, 2003)

In 2010, PSC assessed Western Cape Provincial Departments on the effectiveness of professional ethics and anti-corruption measures in the public service against the following predetermined indicators: (1) code of conduct for the public service (2) gift register and policy in place (3) monitoring absenteeism from work and (4) promotion of the Prevention and Combating of Corrupt Activities Act. The findings indicated that the code of conduct is regulated and gives the basis for disciplinary action of officials charged with misconduct. The findings further indicated that the Department of the Premier is responsible for the promotion of the code of conduct and accomplish this through workshops and training sessions conducted by PALAMA during induction. The FIU provides training on the Prevention and Combating and Corrupt Activities Act to all the 13 provincial departments within the Western Cape. The findings concluded that the Western Cape Provincial Government performed well in all the indicators as mentioned above and this is largely owing to the centralisation of the management of professional ethics (Public Service Commission Assessment of the State of Professional Ethics, 2010).

The Western Cape Provincial Departments were also assessed against national norms and standards which are aimed at both combating and preventing corruption.

Figure 4.4 below indicates the number of departments that implemented norms and standards with respect of combating and prevention of corruption.

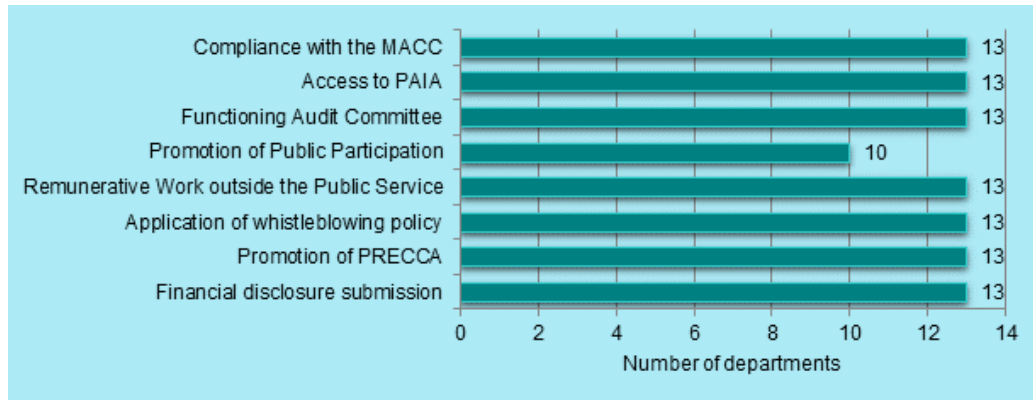


Figure 4.4: Level of compliance with national norms and standards in respect of the combating and prevention of corruption: Western Cape Provincial Departments

The figure above shows that the Western Cape Provincial Departments performed well in all indicators as indicated on the chart, but the province needs to focus on finalising allegations of corruption referred to the National Anti-corruption Hotline.

During the 2011/2012 financial year a total number of 74 (out of 583) cases of financial misconduct were reported by the Western Cape Province (Public Service Commission Fact Sheet, 2012). During the 2012/2013 financial year the total number of cases reported for financial misconduct within the Western Cape Province has increased to 105 cases (Public Service Commission Fact Sheet, 2013). Western Cape Province reported the second highest number of cases for the 2012/2013 financial year. According to the trends contained in the PSC Factsheet 2013, there has been a decrease in the number of finalised cases of financial misconduct reported by provincial departments for the 2012/2013 financial year compared to the previous four financial years. This could be due to either poor or inadequate reporting. The statistics contained in the PSC Factsheet report 2013, indicate that financial misconduct is still a major challenge in the public service. Regardless of the fact that disciplinary action are being taken against the perpetrators, the penalties imposed appear to be too lenient and inconsistent, therefore making it difficult to stop other public servants from committing financial misconduct of a comparable nature in the future (Public Service Commission Factsheet, 2013).

Statistics South Africa (Stats SA) in collaboration with Office of the Public Service Commission (OPSC) has established a cooperative affiliation in the fight against fraud and corruption by encouraging the alleged fraud and corrupt activities via the National Anti-Corruption Hotline. Stats SA keeps a register for all alleged cases of fraud and corruption. During the 2012/2013 financial year, Stats SA received a total of 13 cases which were investigated and successfully resolved. (Stats SA Annual Report, 2013)

4.5 Summary

The chapter has presented WCPT as a case study to examine their role in ensuring a corruption-free government in the Western Cape. A brief background of WCPT was provided which included a brief history of WCPT as well as their vision, mission and mandate. The WCPT, as the custodian of 13 provincial departments and 28 municipalities within the Western Cape, plays a vital role in executing its legislative mandate in terms of the Public Finance Management Act, 1999 and the Municipal Finance Management Act, 2003. WCPT has capacitated and strengthened its organisational structure with the intention of developing a corruption-free province that delivers cost-effective services to its citizens. A review of WCPT current strategies to combat fraud and corruption emphasize their endeavor to eliminate corrupt and fraudulent activities especially in procurement.

The goal of fraud and corruption prevention within WCPT is further enhanced by implementing the Provincial Treasury Fraud and Corruption Policy throughout the organization. This policy was approved and adopted as required by regulations and applies to any actual or suspected fraud, corruption, theft or irregularities of a similar nature involving all employees of WCPT as well as their stakeholders. WCPT strive to establish a zero tolerant environment, which is considered a fundamental aspect of the policy, through appropriate procedures and management support. The Provincial Treasury Fraud and Corruption Policy is aligned to the Western Cape Government's Anti-corruption Strategy which aims to provide a framework within which to combat fraud and corruption.

The WCPT in collaboration with the Department of the Premier maintain a general approach to fraud and corruption prevention in the Western Cape Province. The FIU within the Department of the Premier has been mandated to investigate any irregularities which include corruption and fraud within the Western Cape Province. WCPT refer all matters relating to fraud, theft and corruption to FIU for investigation.

The next chapter will provide an outline of the research design, data gathering methods and the methodology applied for this study.

Chapter 5

Research Design and Methodology Applied

5.1 Introduction

Leedy & Ormrod (2010:137) suggests that a case study may be especially suitable for learning more about a little known or poorly understood situation. In a case study, extensive data are collected on the individual(s), program(s) or event(s) on which the investigation is focused. These data are obtained from observations, interviews and documents. A case study is presented in Chapter four to explore the anti-corruption strategies adopted by WCPT to eliminate fraud and corruption in public procurement (Leedy & Ormrod, 2010:137).

In terms of the case study it is evident that WCPT are determined to eradicate fraud and corruption in procurement. The purpose of this study is therefore to determine whether these strategies implemented by WCPT are appropriate. This chapter will thus outline the research methodology that was pursued to address the research question and objectives. The data sources that was utilised include semi-structured interviews, questionnaires and a review of WCPT's internal documents.

5.2 Research Methodology

5.2.1 Data Sources

There are two types of social research, namely qualitative and quantitative research (Neuman, 2000:16). However, the researcher opted to use a qualitative research design to 'collect' data. Mason (2005:52) suggests that it would be more appropriate to speak of data generation than data collection. Mason further states that data generation entails intellectual, analytical and interpretive activities compelling a researcher to focus on how best to generate data from the chosen data sources.

According to Leedy & Ormrod (2010:135) qualitative research focus on phenomena that occur in natural settings that is in the "real world" and it also involves studying those phenomena in all their complexity.

The data generated for this research can thus be divided into secondary data and primary data, which will be discussed below.

5.2.2 Secondary Data

According to Collis & Hussey (2009:73) secondary data is collected from an existing source, such as publications, databases and internal records, and may be available in hard copy form or on the internet. Secondary data for this research were generated from numerous books, journals, magazine articles and internet articles in order to construct the literature review.

The secondary data found in journals, on the internet and in books were analysed, interpreted and organised in the literature review to ultimately address the research question.

The legislation as discussed in Chapter three was found on the South African Government website and was then organised in a consequential way. The other secondary data was generated through an analysis of documentary sources such as Western Cape Government Anti-corruption strategy, Fraud Prevention plan, PGWC Risk Management Framework etc.

5.2.3 Primary Data

When researchers collect their own data for a particular purpose, such data is called primary data (Bless & Higson-Smith, 1995:99). According to Bless & Higson-Smith (1995) data collected in this way is the most adequate to fulfill the aims of the research, since the gathering of the data is directed towards answering precisely the question raised by the researcher. Collis & Hussey (2009:73) further states that primary data are data generated from an original source, such as your own experiments, questionnaire survey, interviews and focus groups.

The researcher decided to generate primary data by means of semi-structured interviews and questionnaires.

Semi-structured interviews

Semi-structured interviews offer a versatile way of collecting data, by using a pre-determined list of questions (Wellman *et al.*, 2005:167). The semi-structured interviews were conducted with the Forensic Investigative Unit Manager on 2013/10/15 and Deputy Director Supply Chain Management on 2013/11/15 in line with guidance from Wellman *et al.* (2005:167). These two individuals were intentionally selected since it was

believed that they could provide the most relevant responses to address the research question.

Face-to-face interviews were conducted with selected respondents from Department of the Premier and Provincial Treasury within the Western Cape provincial government, with the use of a pre-determined questionnaire for gathering comprehensive qualitative data on identifying the key issues relating to procurement corruption and how it should be combatted in the workplace. The interview guide that was utilised to conduct the semi-structured interviews is included as Appendix A. The interview guide and questionnaire were developed on the basis of current literature and designed to cover the five specific objectives pertaining to this study.

The researcher concluded the face-to-face interviews by allowing the respondents to add any concerns or contributions they might have with regard to procurement corruption.

Questionnaires

Questionnaires were used to analyse the current policies and strategies in terms of the management and control of fraud and corruption in public procurement. The questionnaire consists of qualitative open-ended questions which were derived from the five specific objectives of this research. The questionnaires were emailed to 15 employees currently working in the procurement section of PT, Social Development and Department of Health, with the request to respond electronically via email. Nine of the 15 employees responded, which constituted a sample of 60 percent of the selected sampling of 15 employees.

Chapter six will deal with an analysis of the semi-structured interviews as well as the questionnaires.

5.3 Sampling Methods

The researcher used non-probability sampling in selecting the individuals with whom the semi-structured interviews were conducted. Purposive sampling is a non-probability sampling method which is commonly used in qualitative research. According to Leedy & Ormrod (2010:147) researchers use the purpose sampling method to select those individuals who can provide you with the most important and relevant information. The FIU Manager, who was seconded to FIU within the Department of the Premier, was able to provide information on the role of FIU in combating fraud and corruption within the Western Cape.

The Deputy Director - SCM of WCPT could provide information on the important role PT plays to eliminate fraud and corruption as well as the policies and strategies in place to combat fraud and corruption in procurement.

The questionnaires were e-mailed to employees currently working in the procurement section at the WCPT, Department of Social Development and Department of Health stating the objective of the research and instructions to respond electronically via email. A copy of the e-mail and the questionnaire is attached on pages 99 to 101.

Data Analysis

According to Henning *et al* (2004:127) analysing literally means to take apart words, sentences and paragraphs, in order to make sense of, interpret and theorise that data. This is usually done by organising, reducing and describing the data.

Bogdan & Biklen (2007:159) refer to data analysis as the process of systematically searching and arranging the interview transcripts, field notes, and other materials that you accumulate to enable the researcher to come up with findings. It thus involves working with data, organising it, breaking it into manageable units, coding them, synthesizing them and searching for patterns. In order to analyse the raw field notes, these notes should be converted into write-ups. (Wellman *et al.* 2005:211)

The secondary data as well as the primary data obtained from the semi-structured interviews and existing documentations were analysed in manageable portions to establish links between the data in order to help classify data according to categories.

Chapter five describes how data was collected and analysed for the purpose of this study.

5.4 Limitations of research

The researcher is aware of the fact that more supportive data could have been generated by conducting interviews with the Head of Asset Management in PT and the Head of Corporate Governance within Department of the Premier, but due to their unavailability and busy schedules the researcher could not set up interviews with them. The researcher relied on the analysis of face-to-face interviews with the Deputy Director SCM and the FIU Manager and the questionnaire inputs from officials from PT, Social Development and Health HO to determine the appropriateness of the anti-corruption strategies in public

procurement within the Western Cape Province. Recording equipment was used but the audio quality was poor and the researcher had to rely solely on her notes to transcribe the data.

The questionnaires were emailed to selected employees of PT, Social Development and Health HO with instructions to them to respond electronically via email. The response was very low and the researcher identified one individual from each of the three departments to administer the collection of the questionnaires on her behalf. Nine out of the fifteen officials responded with the cooperation and assistance from the three selected individuals.

The next chapter presents the research findings as well as the analysis of these findings that were derived from the primary and secondary data generated for this research.

CHAPTER 6

RESEARCH FINDINGS AND ANALYSIS ON FRAUD AND CORRUPTION IN PUBLIC PROCUREMENT

6.1 Introduction

This chapter includes an analysis and presentation of the primary and secondary data that was generated. According to Wellman, Kruger and Mitchell (2005:211) the semi-structured interviews have been converted into write-ups. These write-ups have been analysed for recurring themes. The data that were generated through the interviews and questionnaires were to address the research problem as outlined in Chapter one of this study. Face-to-face interviews was conducted with (1) FIU Manager, seconded to FIU within the Department of the Premier, who was able to provide information on the role of FIU in combating fraud and corruption within the Western Cape and (2) Deputy Director: SCM of WCPT who provided information on the role played by the WCPT to eliminate fraud and corruption in procurement. The questionnaires were e-mailed to officials currently working in the procurement section at the WCPT, Department of Social Development and Department of Health.

The interview results will be discussed first and will be followed by the questionnaires. The following section will elaborate on the results of the research study.

6.2. Interview results: Forensic Investigative Unit Manager

Question 1: Does your department have an anti-corruption policy in place?

The FIU Manager indicated that the Department of the Premier has a Fraud Prevention Plan and policy statement in place. She also mentioned that all 13 provincial departments within the Western Cape that falls within the auspices of the Department of the Premier have a generic Fraud Prevention Plan (FPP) in place.

Question 2: If yes, has this policy been implemented?

The FIU Manager stated that the Fraud Prevention plan and policy statement was implemented. She mentioned that the Fraud Prevention Implementation Plan (FPIP), also known as the action plan is an annexure to the main document and that the majority of the departments have taken the FPIP on board.

Question 3: How was the existence of this policy communicated and brought to the attention of all employees?

During the 2012/13 financial year the FIU conducted awareness training (also known as the Fraud Prevention Initiative) across the province. The FIU Manager indicated that the mandate of the FIU is to provide training and to facilitate review and update of the FPP. She believes that communication with regard to the existence of the policy lies with the respective departments.

Question 4: What strategies are in place to manage and control fraud and corruption?

In October 2012, Department of the Premier adopted the Western Cape Anti-Corruption Strategy. This transversal anti-corruption strategy contains specific elements aimed at combating fraud, theft and corruption. This strategy will be implemented through the Fraud Prevention Plan of each Department.

Question 5: How effective are these anti-corruption strategies?

According to the FIU Manager the awareness training conducted by the Department of the Premier during the 2012/2013 financial year was very effective according to the positive feedback they received from the participants. It can also be measured by the percentage successful prosecutions performed per annum.

Question 6: What are the obstacles and limitations of these strategies?

The FIU Manager stated that the strategy document should not just be considered as another document, but should be brought into the language and culture of the organisation. She added that another limitation is that individuals do not know what happen to perpetrators. She mentioned that one of the obstacles of the strategies is how to influence good employees against committing fraud and corruption.

Question 7: What do you think is the main reasons why government officials commit fraud?

The FIU Manager stated that there is little difference between the way government officials and individuals in the private sector commit fraud.

The FIU Manager referred to the Donald Cressey's fraud triangle and indicated that government officials commit fraud because of (1) financial pressure, (2) opportunity and (3) rationalisation.

Question 8: Has corruption in procurement in the WC increased or decreased since 2008? And why?

The FIU Manager did not have the latest statistics to answer this question.

Question 9: What are your achievements and limitations in your endeavour to fight corruption?

The FIU Manager mentioned that the WCG has a simple, clear and understandable anti-corruption strategy in place. Another achievement that was accomplished by the FIU was to reduce the number of investigation days as well as to streamline the process. According to the FIU Manager one of the limitations of the FIU in the WC is the challenge in terms of capacity. There are not enough experienced investigators in the public sector.

Since the forensic investigative function was outsourced in an attempt to strengthen investigative capacity, there was a gradual decrease in investigation backlogs and an increase in the quality of investigations (Department of the Premier Annual Report, 2012)

While only eight functional interventions were planned, the Department of the Premier managed to deliver 37 interventions within limited resources. (Department of the Premier Annual Report, 2012)

Question 10: What role does management play in controlling fraud and corruption in procurement?

According to the FIU Manager all senior staff members are required to conduct an anti-corruption training module online, which are monitored according to a specific timeframe. The FIU Manager stated that managers should maintain a zero tolerance stance against fraud and corruption on a daily basis and should not interfere with investigations.

Question 11: What challenges and constraints have management encountered to curb and control corruption in the province?

The establishment and implementation of Fraud Prevention Plans is a major challenge for management as they do not get the necessary support from staff members.

Question 12: What gaps are currently identified in the anti-corruption strategies?

The FIU Manager stated that she does not envisage any gaps in the current strategy, but anti-corruption seminars and training for all staff members in order to inform them of the existence of these anti-corruption strategies.

Question 13: What remedial steps are in place to narrow the current gaps?

According to the FIU Manager all 13 departments within the WC are required to report on their respective FPIP on a quarterly basis.

6.3. Interview results: Deputy Director – Supply Chain Management

Question 1: Does your department have an anti-corruption policy in place?

The Deputy Director - SCM indicated that WCPT has a fraud and corruption policy in place.

Question 2: If yes, has this policy been implemented?

The respondent stated that this policy was officially implemented

Question 3: How was the existence of this policy communicated and brought to the attention of all employees?

The Deputy Director - SCM indicated that this policy was communicated to all staff members via an internal circular and it is also available on PT's website.

Question 4: What strategies are in place to manage and control fraud and corruption?

According to the Deputy Director – SCM segregation of duties plays a major role to combat corruption in public procurement. He indicated that policy guidelines are also available to guide especially managers to manage and control corruption in public procurement. Other strategies include the whistle blowing policy and procedure that enable officials to report incidents of corruption without fear of being victimized. The respondent mentioned that internal controls are put in place to ensure that authorisation of orders or transactions are limited to one official.

Question 5: How effective are these anti-corruption strategies?

WCPT adopted the strategy that all banking details of suppliers are captured and authorised centrally by Provincial System Controllers within PT and no longer by the departments. This strategy has proven to be effective.

Question 6: What are the obstacles and limitations of these strategies?

The Deputy Director - SCM stated that strategies are implemented but not being verified. For example who verify whether there is coalition with regard to the implementation of the strategy mentioned above?

Another limitation according to the Deputy Director - SCM is that whistle blowers are promised that they will be protected, but there is no protection that is why officials prefer not to report incidents of corruption. Strategies can be implemented but what guarantee is there that this strategy will be properly executed.

Question 7: What do you think is the main reasons why government officials commit fraud?

The need for money is one of the reasons why government officials commit fraud. Another reason is that due to the fact that there are no effective controls in place, officials tend to believe that they will not be caught.

Question 8: Has corruption in procurement in the WC increased or decreased since 2008? And why?

According to the Deputy Director - SCM, corruption has increased in the WC and this is evident in the daily newspaper reports as well as incidents that were reported to PT with regard to fraudulent LOGIS transactions. There are no proper controls in place and the fact that officials have no background with regard to procurement.

Question 9: What are your achievements and limitations in your endeavour to fight corruption?

The Deputy Director - SCM mentioned that WCPT has a fraud and corruption policy in place. Although there are strategies in place, there are officials who will always try to find loopholes in these strategies.

Question 10: What role does management play in controlling fraud and corruption in procurement?

Management should ensure that the fraud and corruption policy are enforced and adhered to by their subordinates. Managers should strive to create a zero tolerance environment within their respective units.

Question 11: What challenges and constraints have management encountered to curb and control corruption in the province?

Although there are clear policies and procedures in place, there are always individuals who find ways to manipulate the processes and systems.

Question 12: What gaps are currently identified in the anti-corruption strategies?

Although there are policies and processes in place, there are always individuals who seek to find loopholes in these policies and processes.

Question 13: What remedial steps are in place to narrow the current gaps?

Once gaps are identified, new instructions are issued to address the problem in the short term. The policy is then reviewed based on the content of this instruction.

In the sections that follow, the questionnaire used in the research is discussed, as outlined in Chapter one of the study.

6.4. Questionnaire results

Overall analysis

Fifteen questionnaires were e-mailed to officials within WCPT, Department of Social Development and Department of Health. Nine out of the fifteen questionnaires were completed and send back for processing. It should be noted that, although the study focused on WCPT, the questionnaire was distributed to other provincial departments since fraud and corruption in procurement affects all departments in the province.

The first part of the survey questionnaire dealt with the demographic details of the respondents in terms of years of working experience in government, age, gender and race. The majority of the respondents have between 6-10 years working experience. Four of the nine respondents are between 40 and 49 years old. In terms of race, coloureds are the majority (6), followed by Whites (2) and one African. None of the respondents was from the Indian race group. In terms of gender, 6 males and 3 females completed the questionnaire.

The respondents represented the categories shown in Table 6.1.

Table 6.1: Particulars of Questionnaire

Category	No of Respondents
Western Cape Provincial Treasury	3 of 5
Department of Social Development	3 of 5
Department of Health – Head Office	3 of 5

Questions 5 to 15 are open-ended questions which address the research problem as outlined in chapter one of the study. The results of the questionnaire are presented in a detailed way.

Question 1: Does your department have an anti-corruption policy in place?

The majority of the respondents affirmed that their departments have an anti-corruption policy, whereas 1 respondent from Department of Health was not sure whether their department has an anti-corruption policy in place.

Question 2: If yes, has this policy been implemented?

The majority (8 of 9 respondents) agreed that the policy was officially implemented.

Question 3: How was the existence of this policy communicated to all employees?

The majority of the respondents stated that the existence of the policy was communicated to them by means of a general email, posters, seminars and information sessions. One of the nine respondents from Provincial Treasury stated that there was no clear communication or road shows with regard to the existence of the policy, but he is aware of the fact that it is available on the departments' website.

Question 4: What strategies are currently in place in your department to manage and control fraud and corruption in procurement?

Seven of the nine respondents described various anti-corruption strategies that are available within their respective departments. Some of these anti-corruption strategies include amongst others, the existence of the Forensic Investigation Unit who investigates allegations of fraud, the introduction of various checks and balances in the procurement system, the existence of various anti-corruption policies, internal controls to monitor and highlight certain risk areas, segregation of duties, limited delegation powers and the establishment of bidding committees to deal with quotations and the bidding process in order to ensure compliance.

Two of the nine respondents (1 from Department of Health and 1 from Department of Social Development) are not aware of any anti-corruption strategies that exist within their respective departments.

Question 5: Do you think that these anti-corruption strategies or approaches are effective. Give reasons for your answer.

Four of the nine respondents concur that the anti-corruption strategies are not effective. They agree that any strategy or policy is only as good as it is enforced and that individuals will always find a way to circumvent these strategies.

Three of the nine respondents answered yes to this question. They believe that these anti-corruption strategies are effective as it eliminates fraud, investigations have been done and staff was duly disciplined and cases of corruption that was referred to the police were followed up and the perpetrators were arrested. Two of the respondents were unsure whether these anti-corruption strategies were effective.

Question 6: In your opinion, what do you think are the obstacles or limitations of these strategies and provide suggestions (if any) as to how it can be improved.

Various opinions were expressed with regards to the limitations of these strategies. It is believed that the anti-corruption strategies are often reactive rather than proactive since they are put in place after fraud and corruption has been committed. Some respondents are of the opinion that managers are not aware of and sometimes do not know when fraud are committed as they are not familiar with the relevant policies and strategies. Other respondents identified staff shortages, high workload and lack of training as obstacles of these strategies.

Suggestions were made for continuous monitoring to adapt to constant changes in the work environment and for management to play an active role and to put more effective control measures in place.

Question 7: What are the main reasons why government officials commit procurement fraud?

The respondents had various views with regard to the reasons why government officials commit procurement fraud. Three of the nine respondents mentioned that greed is the most common reasons why government officials commit procurement fraud as well as the fact that they believe they will never be caught. Other reasons mentioned include high

workloads, expensive lifestyles, debt, gambling, alcohol and drug problems and the fact that delegation powers are given to one person. Since government officials occupy the same position without any change or movement, it gives them opportunity to become experts within their field of work and consequently gives them an advantage to manipulate the system and commit procurement fraud.

Question 8: Has corruption in procurement increased or decreased in the last three years within the Western Cape Province? Give reasons for your answer.

Two of the nine respondents agreed that corruption has decreased because government has put many measures in place to curb and prevent fraud by making the procurement process more transparent. There are various policy guidelines and legislation available to address fraud and corruption in public procurement. Others believe that corruption has increased since there are no proper controls in place.

The majority of the respondents (5) did not know whether corruption has increased or decreased within the last three years since they were not interested in this statistics.

Question 9: If you witness any form of procurement corruption within your department, to whom will you report this incident?

The majority of the respondents indicated that they will report any incident of procurement corruption to the National Anti-corruption hotline 0800 701 701.

Two respondents stated that they will report procurement corruption to the internal control unit within their department. One respondent indicated that he will report any incident of procurement corruption to management.

Question 10: What role should management play in controlling and managing fraud and corruption in procurement?

Respondents believe that managers should play an active role by creating a zero tolerance environment when it comes to fraud. Managers should take responsibility and ensure that policies and procedures with regard to fraud and corruption in procurement are followed and adhered to. Managers should also ensure that there are proper controls and systems in place to mitigate the risk of fraud and corruption in procurement.

Question 11: What remedial steps should the Western Cape government put in place to narrow the gaps identified in the current anti-corruption strategies?

The respondents suggested that processes, systems, policies and procedures for SCM should be reviewed and evaluated to check whether they are effective or not. It was further suggested that Government should monitor and evaluate any department at random to ensure that the anti-corruption policies are properly implemented and adhered to. Government should implement proper control measures to prevent fraud and introduce more capacity building and awareness programmes to educate officials with regard to fraud and corruption in procurement.

6.5. Analysis of results

South Africa's anti-corruption policy is aimed at eradicating corruption in the public and private spheres and particularly within public procurement (Williams-Elegbe, 2012:75).

The primary and secondary data that was generated in terms of objective one suggest that the majority of the departments have a fraud and corruption policy in place. The majority of the data presented in the semi-structured interviews and questionnaires suggest that a fraud and corruption policy has been implemented and its existence was communicated by means of email, internal circulars, training, posters and information sessions.

The majority of the data presented in the semi-structured interviews and questionnaires suggest that various policies and strategies to control fraud and corruption indeed exist and include amongst others:

- Western Cape Anti-corruption Strategy
- Segregation of duties
- Forensic Investigative Unit
- Checks and balances in the procurement system
- Internal controls
- Whistle blowing policy and procedures

It is evident from the data collected that segregation of duties and proper internal controls play a major role to eradicate corruption in public procurement.

It is clear that different approaches exist to control and manage fraud and corruption in procurement, but the effectiveness of these approaches differ among departments as indicated in the data collected. Anti-corruption strategies are only effective when they eliminate occurrence of fraud and when perpetrators are caught and prosecuted. Staff

shortages, high workloads and lack of training are identified as obstacles that might hinder the effectiveness of these anti-corruption strategies.

The data collected suggest that officials commit fraud due to the following reasons:

- Pressure
- Opportunity
- Rationalisation

Officials are often faced with financial pressure due of the fact that their income might be insufficient to maintain their expensive lifestyle and social status. A lack of risk management and segregation of duties within a department can create various opportunities for officials to commit fraud. Officials often justify their fraudulent actions by blaming the organisation for not treating them fairly and not giving them a promotion. Officials often commit procurement fraud because of greed, excessive debts and ineffective internal controls.

There are different opinions with regard to whether corruption in procurement has increased or decreased within the last five years. Government has various policy guidelines and legislation available to address fraud and corruption in procurement. Although measures have been put in place to curb and prevent corruption, according to the 2013 Corruption Perception Index (CPI) perceived levels of corruption remain high. (New24, 2013)

The FIU Manager indicated that although the FIU has managed to reduce the number of investigation days, they are still faced with the challenge in terms of capacity and lack of experienced investigators in the public sector. Corruption incidents should be reported to the National Anti-corruption Hotline (NACH) as indicated by the data collected from the questionnaires. It is evident that officials are aware of the available reporting mechanisms when procurement corruption is committed.

According to Corruption Watch, 2013 the top three types of corruption that have been reported to them since January 2013 are (1) Abuse of power or resources (40%), followed by (2) Bribery (24%) and Procurement corruption (22%). It also reported that the majority of cases are about corruption taking place at provincial level, mostly involving the abuse of resources in procurement processes. Thirty eight percent of the total number of complaints received in the first quarter (January to April 2013) implicates provincial government of the WC.

The primary and secondary data that was generated in terms of objective four suggest that senior managers should be proactive and strive to maintain a zero tolerance stance against fraud and corruption. Managers should take responsibility and ensure that policies and procedures with regards to fraud and corruption are followed and adhered to. The data collected from the semi-structured interviews and questionnaires further suggest that managers put proper controls and systems in place to mitigate the risk of fraud and corruption in procurement. Managers should be unbiased and not interfere with investigations. Although there are clear procurement policies and procedures in place, managers should always be on the lookout for those officials who will find ways to manipulate these policies and processes.

According to the data generated from the semi-structured interviews no gaps are identified in the current anti-corruption strategies, although possibly in the implementation thereof. There are clear and understandable policies and procedures in place, however officials will always find ways to spot loopholes in these policies and procedures.

The data generated from the questionnaires suggest that the remedial steps to eliminate or prevent these gaps is to review the current processes, systems, policies and procedures for SCM and evaluate whether they are effective or not. Other remedial steps include the implementation of proper control measures to prevent fraud and corruption and to introduce awareness programmes to educate officials about fraud and corruption in procurement.

6.6. Summary

This chapter documents the research findings and analysis, and a discussion of the research results, as well as the shortcomings of the research. The data was gathered to address the five objectives as stated in chapter one.

It is evident that a various policies and strategies are in place to combat fraud and corruption in procurement. It is important that these strategies are implemented and that employees are aware of their existence.

Numerous strategies (for example Western Cape Anti-corruption Strategy and Fraud Prevention Plan) and procedures (for example segregation of duties and internal controls)

are in place to manage and control fraud and corruption. These anti-corruption strategies prove to be efficient if they are properly implemented.

Over the years government has put in place various policy guidelines and legislation to address fraud and corruption in procurement. Although many measures have been put in place to curb and prevent fraud, according to the 2013 Corruption Perception Index (CPI) perceived levels of corruption remain high. (New24, 2013)

Although management are faced with challenges to curb the occurrences of fraud in their respective departments, they should strive to be proactive and create a zero tolerance environment for employees.

In order for the anti-corruption strategies to be successful, they should be properly implemented. Remedial steps should be put in place to identify these loopholes once they emerge.

Chapter seven will be the concluding chapter and will provide a summary and make recommendations based on the findings of the study.

CHAPTER 7

SUMMARIES, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

The previous chapter provided the research findings and analysis of the data and the discussion of the research results. Mouton (2008:124) indicated that the concluding chapter is considered the most important in a thesis because it presents the end product of the researcher's endeavour. The researcher will first summarise every chapter, then discuss the main conclusions of the research. The research will then be finalised with recommendations after the conclusions.

7.2 Summaries of Chapters

Chapter One starts off by describing the negative effect fraud and corruption, especially in procurement, has on service delivery within the WCG. Fraud and corruption in procurement contributes significantly to losses incurred annually by the WCPG. However, huge sums of money will be saved if the problem of fraud and corruption are properly managed and controlled and these funds can then be utilised to improve service delivery within the Western Cape. WC has relevant anti-corruption legislation in place to combat corruption and other irregularities. The role of WCPT in terms of promoting compliance to this relevant legislation with regard to fraud and corruption policies and strategies are furthermore discussed.

The researcher then set out to examine the appropriateness of the current anti-corruption policies and strategies, their limitation and implementation drawbacks as well as the role of managers in managing and controlling fraud and corruption. A qualitative case study research design, with WCPT as the unit of analysis, was suggested to answer the research question. Chapter One provided an outline of each chapter in this research in order to guide the reader.

Chapter two developed and outlined a theoretical framework of the key concepts that emanates from the research question. These concepts include:

- Definition of fraud and corruption
- Difference between fraud and corruption
- What is public procurement?
- Financial management

This chapter provided definitions and explanations of key concepts used in the context of analysing the current fraud and corruption policies and strategies in public procurement. This is followed by the nature and consequences of corruption as well as the different manifestations of corruption. This chapter concludes by identifying various methods put in place by government to alleviate and manage corruption.

Chapter three developed and presented a legislative context for procurement corruption in the South African public service context. The legislative context is provided by the South African Constitution (1996), PPPFA (2000), PFMA (1999), and National Treasury Regulations, PCCAA (2004), Protected Disclosure Act (2000), PAJA (2000), PAIA (2000), Public Service Act (1994) as well relevant national and provincial policies and strategies.

The most important outcome of Chapter three is that the South African government procurement system is significantly regulated.

Chapter four, which represents the case study for the research, focuses on the important role WCPT play to eliminate fraud and corruption in public procurement. A brief background of WCPT in terms of its history, vision, mission, and core functions and responsibilities as well as the organisational structure are provided. WCPT identified three focal areas namely (1) strengthening of governance environment (2) use and introduction of electronic systems and (3) development of provincial training policy as part of their strategy to prevent fraud and corruption within the provincial departments. The chapter further discuss the Provincial Treasury Fraud and Corruption policy that was recently implemented by PT as well as the mandate and functions of the FIU, a unit within the Department of the Premier, to which any incidences of fraud and corruption within the Western Cape Province can be reported.

Chapter five outlines the research design and methodology followed in this study which includes semi-structured interviews and questionnaires as primary data collection methods. Secondary data was generated from numerous books, journals, magazines articles, internet articles and existing internal documentation. The data was obtained by means of semi-structured interviews with key individuals of the Department of the Premier and PT and questionnaires were distributed to selected officials in PT, Social Development and Health HO.

Chapter six presents the research findings and analysis, a discussion of the research results as well as the shortcomings of this research. The research findings were derived from a total population of 9 respondents identified for completing the questionnaire. Interviews were conducted with the Manager Fraud Prevention from Department of the Premier and SCM Manager from PT. The data that were generated via the interviews and questionnaires addressed the general objective as outlined in Chapter one of this study. The interview results were discussed first, followed by the questionnaire results.

Chapter seven provides the summaries, conclusions and the recommendations regarding the research question, which is considered as the most important outcome of this research.

7.3 Conclusion

The main conclusions to the study based on the general objective as outlined in Chapter one are as follows:

As mentioned in Chapter two, procurement has been identified as one area of government that is most prone to corruption as it represents 10 – 15 % of the GDP. It opens up possibilities of fraud and corruption as it involves large sums of money. There is a link between public procurement and corruption as any deviation from the procurement processes constitutes corruption. Corruption and inefficiency in procurement hampers service delivery and consequently lowers the level of trust and confidence in government.

In Chapter two of the research, some authors identified the inequalities of the Apartheid era in collaboration with the change in political order, social disruption and lack of transparency in the new government as factors that influence the nature of corruption in South Africa. The major causes of corruption, particularly in the public sector are:

- (1) Inefficient control measures
- (2) Inadequate training provided to officials tasked to manage corruption
- (3) Personal greed
- (4) Poverty
- (5) Unethical values and principles (Public Sector Anti-corruption Policy, 2002)
- (6) Weak management

It is important that departments develop a good understanding of the various forms in which corruption manifest itself, in order to develop an appropriate anti-corruption strategy. The

development of an anti-corruption policy has been identified as one of the measures to combat fraud and corruption in procurement. The Public Service Anti-corruption Strategy 2002 outlines government's holistic and integrated approach to fight and combat corruption in the public sector.

Chapter three outlines the relevant legislation and policy guidelines adopted by government in dealing with the problem of fraud and corruption in procurement. The Prevention and Combating of Corruption Act 2004, also known as the primary legislation dealing with corruption, compels public officials to report corrupt activities. This Act however does not protect whistleblowers against defamation claims and neither does the Protected Disclosure Act provide such protection. The PFMA 1999 holds government officials accountable for unauthorised expenditure and the Promotion of Access to Information Act 2000 ensures that public agencies cannot withhold information that should be available to the public. However, despite the fact that procurement is significantly regulated and pieces of legislation are available to support government's anti-corruption initiatives, it still lacks proper policy implementation.

The main aim of the research was to investigate whether the current policies and strategies in procurement are appropriate with particular focus on the Western Cape Provincial Treasury. WCPT provides for the implementation, management and oversight of provincially operated financial systems which includes the LOGIS procurement system. LOGIS is the procurement system that is currently being utilised by provincial departments within the Western Cape for procuring good and services. WCPT therefore plays a vital role in promoting compliance to relevant legislation by implementing anti-corruption initiatives.

All Provincial Treasuries had to report on strategies to prevent fraud and corruption within their respective provincial departments. WCPT identified three focal areas for combating fraud and corruption. These areas are:

- Strengthening of government environment
- Use and introduction of electronic systems
- Development of provincial training strategy

The goal of fraud and corruption prevention within WCPT was further enhanced by the implementation of the Provincial Treasury Fraud and Corruption Policy throughout the organisation. This policy was approved and adopted as required by legislation and was

communicated to all staff by means of an internal circular. WCPT strive to establish a zero tolerant environment as prescribed by the policy by way of appropriate procedures and management support. A review of WCPT current policies and strategies to combat fraud and corruption emphasize the province's endeavour to eliminate corrupt and fraudulent activities especially in procurement.

The WCPT in partnership with the Department of the Premier maintain a general approach to fraud and corruption prevention within the Western Cape Province. The main objective of the FIU within the Department of the Premier is to detect and prevent fraud and corruption proactively in the Western Cape Government. Specialised forensic investigators from Deloitte has been outsourced to FIU and tasked with assisting to root out corruption and recover money misappropriated or stolen from the public sector. By outsourcing some of the FIU's functions to Deloitte, Department of the Premier has managed to reduce the high backlog of inherited cases. The FIU also performs an annual fraud health check to determine the level of fraud awareness in the province. Government officials can report any suspicions or knowledge of incidents of fraud, theft and corruption in confidence to the FIU. The FIU is committed to root out corruption in the public sector and to ensure clean governance within the Western Cape Province.

It is evident that different approaches exist to control and manage fraud and corruption in public procurement, but the efficacy of these strategies differ from department to department as indicated in the data collected from interviews and questionnaire.

Anti-corruption strategies are only effective when they eliminate the prevalence of fraud and when perpetrators are caught and prosecuted. Barriers such as staff shortages, high workloads and lack of training might hamper the effectiveness of these anti-corruption strategies.

7.4 Recommendations

Having analysed the appropriateness of the current policies and strategies to combat fraud and corruption in public procurement, the recommendations that follow can be considered.

- Anti-corruption agencies should have the necessary resources, independence from political influence, and powers to investigate corruption and their investigations should be acted upon.

- Competent, skilled institutions like the Public Protector and Special Investigating Unit need to be adequately funded and staffed and free from external interference.
- Although thousands of cases are investigated, only a few go to court. It is thus recommended that specialised teams of prosecutors and special courts be established to deal with corruption cases.
- The current procurement policies blur the line in matters of corruption and the procurement system has become overly bureaucratised. Greater central oversight over large and long-term tenders are recommended, making it illegal for public servants to operate certain types of businesses and thereby making individuals liable for losses in proven cases of corruption.
- A centralised electronic register should be created of prohibited businesses, and their respective owners and directors that have participated in acts of corruption. Blacklisting of individuals, businesses and organisations that are proven to be involved in corruption.
- Government Departments should regularly perform surprise procurement audits of selected projects to identify weaknesses and malpractices in procurement processes. The risk management plans and fraud prevention plans of departments must further be updated to address the risks identified.
- Government Departments should take immediate disciplinary action against transgressors and should ensure that there is strict adherence to internal control systems.
- Strengthen accountability and responsibility of public servants. Public servants should be made legally accountable as individuals for their actions, particularly in matters involving public resources. Segregation of duties and rotation of staff especially in the procurement section are highly recommended.
- A comprehensive awareness campaign supported with education and training, needs to be established and implemented, as employees are insufficiently educated on their rights and responsibilities as well as about the mechanisms that exist to fight corruption.
- Good management is the first line of attack on corruption. Management should thus be held accountable for preventing corruption and this must be stipulated in their service agreements.
- Fighting corruption requires an anti-corruption system that is well-resourced, operates freely from political interference, strengthens the protection of whistle-blowers and has the adequate support of citizens.

References

- Audit Office of New South Wales 1999. *Fraud control: developing an effective strategy*. Sydney: AONSW.
- Bauer, C. 2000. Public Sector Corruption and its Control in South Africa. *Corruption and Development in Africa*, Palgrave.
- Bless, C. and Higson-Smith, C. 1995. *Fundamentals of social research methods: An African Perspective*. Kenwyn: Juta & Company Ltd.
- Bogdan, R.C. & Biklen, S.K. 2007. *Qualitative research for education: an introduction to theory and methods*. 5th edition. Boston: Allyn and Bacon.
- Business Anti-corruption portal, 2013. *Public anti-corruption initiatives*. [Online] Available:<http://www.business-anti-corruption.com/country-profiles/sub-saharan-africa/south-africa/initiatives/public-anti-corruption-initiatives.aspx> [2013, 12 March]
- Collis, J. & Hussey, R. 2009. *Business research: A practical guide for undergraduate and post graduate students*. New York: Palgrave Macmillan.
- Corruption in South Africa: Stop that virus. *The Economist*, 04 February 2010
- Corruption Watch, 2014. *Economic implication*. [Online] Available: <http://www.corruptionwatch.org.za/print/127> [2014, 15 January].
- Department of the Premier. 2012. *Annual Performance Plan*. Cape Town.
- Department of the Premier. 2009. *Modernisation Programme Forensic Investigative Unit*. Cape Town.
- Department of the Premier. 2012. *Western Cape Government Anti-corruption Strategy*. Cape Town.
- Department of Public Service and Administration. 2003. *Country Corruption Assessment Report, 2003*. Pretoria: Government Printer

- Department of Public Service and Administration. 2002. *Public Service Anti-corruption Strategy*, 2002. Pretoria: Government Printer.
- Department of Public Service and Administration. 2004. *Supply Chain Management: A Guide for Accounting Officers/Authorities*, 2004. Pretoria: Government Printer.
- Docstoc, 2009. *Ethics Policy*. [Online] Available: <http://www.docstoc.com/docs/18562480/ETHICS-POLICY> [2012, 22 November].
- Dye, K.M. 2007. *Corruption and fraud detection by supreme audit institutions*. Washington D.C.: The World Bank.
- Edwards, D. 1996. *Case study research: The Cornerstone of theory and practice*. Guilford Press, 1:10-37
- Frankfor-Nachmias, C. and Nachmias, D. 1992. *Research methods in social sciences*. 4th edition. New York: St. Martins.
- Gloeck, J.D. & de Jager, H. 2005. Fraud profiles of public sector institutions in South Africa. *Southern African Journal of Accountability and Auditing Research*, 6: 49-65
- Heggstad, K.K. & Froystad, M. 2011. The basics of integrity in procurement, *Chr. Michelsen Institute (CMI)*, 10(4):2-36
- Henning, E., Van Rensburg W. & Smit, B. 2004. *Finding your way in qualitative research*. Pretoria: Van Schaik.
- Hussey, J. and Hussey, R. 1997. *Business Research. A practical guide for undergraduate and postgraduate students*. New York: Palgrave.
- Huther, J & Shah, A. 2000. Anti-corruption policies and programs: a framework for evaluation. *Policy Research Working Paper Series, 2501*. The World Bank.
- Kaufman, D. 2004. *The Costs of Corruption*. [Online] Available: <http://www.worldbank.org/wbi/governance/index.html>. [13 April 2012]
- Kaunda, L. 2001. I-Afrika Entsha Initiative is a beacon of hope, *Natal Witness*, Pietermaritzburg. 07 November.

- Koornhof, C. & Du Plessis, D. 2000. Red flagging as an indicator of financial statement fraud: the perspective of investors and lenders. *Meditari Accountancy Research*, 8:69-93.
- Klitgaard, R. 1998. Combating Corruption, *UN Chronicle*, 35(1)
- Kyambalesa, H. 2006, Corruption: Causes, Effects, and Deterrents. *Africa Insight*, 36(2)
- Labuschagne, H. & Els, G. 2006. Corruption and fraud: any lessons for the auditor. *Meditari Accountancy Research*, 14(1):29-47
- Leedy, P.D. & Ormrod, J.E. 2010. *Practical Research: Planning and design*. 9th edition. New Jersey: Pearson Practice Hall.
- Leedy, P.D. 1993. *Practical research: Planning and design*. 5th edition. New York: Macmillan
- Liebenberg, D. 2013. Interview with Manager: Forensic Investigative Unit on 15 October 2013. Cape Town.
- Lyer, N.K. & Samociuk, M. 2006. *Fraud and corruption: prevention and detection*. England: Gower Publishing Limited.
- Makhanya, M. 2003. A nation on trial. *Mail & Guardian*, 01 August 2003.
- Mahlaba, P.J. 2004. Fraud and corruption in the public sector: an audit perspective. *Service Delivery Review*. 3(2):84 – 87.
- Mason, J. 2005. *Qualitative Researching*. 2nd edition. London: Sage Publications Ltd.
- Mbaku, J.M. 2007, *Corruption in Africa: Causes, Consequences and cleanups*, United Kingdom: Rowman & Littlefield Publishers, Inc.
- McKinney, J.B. 2004. *Effective financial management in public and non-profit agencies*. Westport, USA: Praeger.
- Mouton, J. 2006. *How to succeed in your master's and doctoral studies*. Pretoria: Van Schaik Publishers.
- Mthombothi, B. 2000. Supping With Satan. *Financial Mail*, 23 June.

National Anti-corruption Forum, 2012. *Perspectives on anti-corruption initiatives in South Africa*. [Online]

Available:<http://www.nacf.org.za/government/index.html> [2012, 31 October 31]

National Integrity Systems. 2005. *Transparency International Country Study Report: South Africa 2005*. Berlin.

National Treasury. 2013. *Fraud Prevention Plan*. Pretoria: Government Printer

National Treasury. 2003. *Policy to Guide Uniformity in Procurement Reform Processes in Government*. Pretoria: Government Printer.

National Treasury. 2004. *Supply Chain Management: A Guide for Accounting Officers*. Pretoria: Government Printer.

Neuman, W.L. 2000. *Social Research Methods: Qualitative and Quantitative Approaches*. 4th edition. United States of America: Allyn & Bacon.

Nye, J.S. 1967 Corruption and Political Development: A Cost Benefit Analysis. *American Political Science Review*, 61(2): p 419

O'Sullivan, E. & Rassel, G. R. 1989. *Research methods for public administrators*. New York: Longman.

Pauw, J.C. Woods, G. Van der Linde, G.J.A. Fourie, D. & Visser, C.B. 2009. *Managing public money: A system from the South*. 2nd edition Sandton: Heinemann Publishers

Pauw, J.C. & Wolvaardt, J.S. 2009. 2009, Multi-criteria decision analysis in public procurement: a plan from the South. *Politeia*, 28(1):66-88

Pillay, S. 2004. Corruption the challenge to good governance: a South African perspective. *International Journal of Public Sector Management*, 17(7):586-605

Public Service Commission. 2009. *Evaluation of Supply Chain Management practices within the R200 000 threshold*. Pretoria

Public Service Commission, 2001. *National Anti-corruption Forum*. [Online]
Available: <http://www.psc.gov.za/documents/pubs/newsletter/2001/01-1.asp> [2014, 01 January].

Public Service Commission. 2007. *Report on the Implementation of Fraud Prevention Plans in the public sector*. Pretoria

Public Service Commission. 2012. Factsheet on Finalised Cases of Financial Misconduct for the 2011/2012 financial year. Pretoria

Public Service Commission. 2013. Factsheet on Finalised Cases of Financial Misconduct for the 2012/2013 financial year. Pretoria

Public Protector. 2013. *Unsolicited donation*. Report no. 22 of 2013
Raga, K & Albrecht, W, 2008. Determining an ethical basis for public sector procurement management: the South African local sphere of government. *Journal of Public Administration*, 43(4.1):781-797

Rautenbach, F. 2000. The Real Risk, Mr President. *Financial Mail*, Economic, 02 June.

Rose-Ackerman, S. 1999. *Corruption and Government. Causes, consequences and reform*. Cambridge: Cambridge University Press.

Ray, L. 2014. The effects of corruption on business. *Houston Chronicles*. [Online]
Available: <http://www.smallbusiness.chron.com> [2014, 15 January]

Seale, A. 2013. Interview with Deputy Director Supply Chain Management: Western Cape Provincial Treasury on 15 November 2013. Cape Town.

Fitzpatrick, S. 2003. Controlling fraud and corruption in public procurement, 2. *Quartal*, 2

Shah, A. 2007. *Performance Accountability and combating corruption*. Washington D.C.: The World Bank: 303-321.

Søreide, T. 2002. Corruption in public procurement: Causes, consequences and cures. *Chr. Michelsen Institute*, 1:2-37.

South Africa. 1996. *The Constitution of the Republic of South Africa, Act 108 of 1996*. Pretoria: Government Printer.

South Africa. 2004. *Prevention and Combating of Corrupt Activities Act, Act 12 of 2004*. Pretoria: Government Printer.

South Africa. 1999. *Public Finance management Act, Act 1 of 1999, as amended by Act 29 of 1999*. Pretoria: Government Printer.

South Africa. 1994. *Public Service Act, Act 104 of 1994*. Pretoria: Government Printer.

South Africa. 1995. *South Africa Police Service Act, Act 68 of 1995, as amended by Act 83 of 1998*. Pretoria: Government Printer

South Africa. 1998. *National Prosecuting Authority Act, Act 32 of 1998*. Pretoria: Government Printer

South Africa. 2002. *National Treasury Regulations, 2002*. Pretoria: Government Printer.

South Africa. 2000. *Protected Disclosure Act, Act 26 of 2000*. Pretoria: Government Printer.

South Africa. 2000. *Preferential Procurement Policy Framework Act, Act 5 of 2000*. Pretoria: Government Printer.

South Africa. 2000. *Promotion of Access to Information Act, Act 2 of 2000*. Pretoria: Government Printer.

South Africa. 2000. *Promotion of Administrative Justice Act, Act 3 of 2000*. Pretoria: Government Printer.

South African Press Association, 2013. *Corruption remains high in SA: index*. [Online]. Available: <http://www.news24.com/SouthAfrica/News/Corruption-remains-high-in-SA-index/> [2013, 12 March].

Spencer, S. 2001. We should embrace honour and duty. *Mail & Guardian*, 26 October

Snyman, C.R. 2002. *Criminal Law*. 4th edition. Durban: Butterworths.

Statistics South Africa. 2013 *Annual Report*. Pretoria

Thai, K.V. 2009. *International Handbook of Public Procurement*. USA: Auerbach Publications.

The Parliamentary Centre 2000. *Controlling corruption: parliamentarians handbook*. Ottawa: Canadian International Development Agency and the World Bank Institute.

Thomas, R. M. 2003. *Blending qualitative and quantitative research methods in theses and dissertations*. Thousand Oaks: Corwin.

Transparency International, 2014. *What are the effects of corruption?* [Online] Available: <http://www.transparency.org> [2014, 15 January].

Van der Merwe, A. 2006. The nature and causes of corruption: the perceptions of KwaZulu Natal public service managers and anti-corruption agents. *Journal of Public Administration*, 41(1)

Webb, W. 2009. Prevention is better than cure: Promoting public service integrity. *SA Crime Quarterly*, 27, March: 1-9.

Wellman, J.C., Kruger, S.J. & Mitchell, B.C. 2005. *Research Methodology*. 3rd edition. Cape Town: Oxford University Press Southern Africa.

Western Cape Provincial Treasury. 2013 Western Cape Provincial Treasury Budget Speech. Cape Town.

Western Cape Provincial Treasury. 2012 *Provincial Treasury Annual Report*. Cape Town

Western Cape Provincial Treasury. 2012. *Western Cape Provincial Treasury Fraud and Corruption Policy*. Cape Town.

Western Cape Provincial Treasury. 2012. *Provincial Treasury Fraud and Corruption Prevention Plan*. Cape Town.

Western Cape Provincial Treasury. 2010. *Provincial Treasury Risk Management Policy*. Cape Town.

Western Cape Provincial Treasury. 2013. *Senior Management Organisational structure*. [Online] Available http://www.westerncape.gov.za/Provincial_Treasury [21 April 2013]

Wiehen, M. & Olaya, J. 2006. *Handbook for curbing corruption in public procurement*. Germany: Transparency International.

Winde, A. 2009. *Provincial Budget speech 2009* [Online] Available http://www.info.gov.za/speeches/budget_2009.pdf [24 June 2009]

Winde, A. 2013. *Provincial Budget speech 2013* [Online] Available: http://www.info.gov.za/speeches/budget_20013.pdf [7 March 2013]

Woods, G. 2012. Stakeholder Workshop Unpublished presentation delivered at SPL. 2 August, Bellville

Appendix A: Interview Guide

- Question 1: Does your department have an anti-corruption policy in place?
- Question 2: If yes, has this policy been implemented?
- Question 3: How was the existence of this policy communicated and brought to the attention of all employees?
- Question 4: What strategies are in place to manage and control fraud and corruption in procurement?
- Question 5: How effective are these anti-corruption strategies?
- Question 6: What are the obstacles or limitations of these strategies?
- Question 7: What do you think is the main reasons why government officials commit fraud?
- Question 8: Has corruption in procurement in the WC increased or decreased since 2008? And why?
- Question 9: What are your achievements and limitations in your endeavour to fight corruption?
- Question 10: What role does management play in controlling fraud and corruption in procurement?
- Question 11: What challenges and constraints have management encountered to curb and control corruption in the province?
- Question 12: What gaps is currently identified in the anti-corruption strategies?
- Question 13: What remedial steps are in place to narrow the current gaps?

Appendix B: E-mail to Western Cape Government employees

Good Morning All,

My name is Sophia Opperman and I am currently busy with research on fraud and corruption in public procurement. I need your assistance in completing the attached questionnaire on this topic.

The questionnaire can be completed electronically and forwarded to sopperman@parliament.gov.za. Your cooperation in this regard is highly appreciated.

Thank you for your assistance and support.

Regards,

Sophia Opperman
Administrative Controller
Office of the Speaker: OISD

Tel: 27 (21) 403 3173/3317

Fax: 0866 283 148

Cell: 084 747 1115

Sopperman@parliament.gov.za

Appendix C: Questionnaire on fraud and corruption in procurement

Objective: The objective of this questionnaire is to measure perceptions amongst keys stakeholders on the appropriateness of anti-corruption policies and strategies in the Western Cape Provincial Government

Note:

Please answer all the questions in the questionnaire

Please be as specific as possible in your answers

Your response will be treated as anonymous and confidential and will only be used for research purposes

Demographic Details:

1. Years of service working in government?

0-5	<input type="checkbox"/>
6-10	<input type="checkbox"/>
11-15	<input type="checkbox"/>
16-20	<input type="checkbox"/>
21-25+	<input type="checkbox"/>

2. Age

3. Gender

Male	<input type="checkbox"/>
Female	<input type="checkbox"/>

4. Race

African	<input type="checkbox"/>
Coloured	<input type="checkbox"/>
White	<input type="checkbox"/>
Indian	<input type="checkbox"/>

5. Does your department have an anti-corruption policy in place?

6. If yes, have this policy been implemented?

7. How was the existence of this policy communicated to of all employees?

8. What strategies are currently in place in your department to manage and control fraud and corruption in procurement?

9. Do you think that these anti-corruption strategies or approaches are effective? Give reasons for your answer.

10. In your opinion, what do you think are the obstacles or limitations of these strategies and provide suggestions (if any) as to how it can be improve

11. What is the main reasons why government officials commit procurement fraud?

12. Has corruption in procurement increased or decreased in the last three years within the Western Cape Province? Give reasons for your answer?

13. If you witness any form of procurement corruption within your department, to whom will you report this incident?

14. What role should management play in controlling and managing fraud and corruption in procurement?

15. What remedial steps should the Western Cape government put in place to narrow the gaps identified in the current anti-corruption strategies?
