

NATIONAL PROCUREMENT REFORMS

Finance Information Forum

Key Elements of the Procurement Reforms

- The reforms are not to restructure existing supply and tenders boards but to create a new regulatory arrangement.
- Abolition of CSTB, PSTBs, DSTBs and specialized procurement boards.
- All procurement above K500,000 in control of National Procurement Commission (NPC).
- Provincial and District Committees of NPC established by delegation if approved. If so, limits: NPC – unlimited (but after K 10 million NEC awards); Provincial – up to K 5 million; District – up to K 2.5 million; Special – up to K million.
- Procurement focusses on demonstrable agency procurement capacity (certification) and demonstrable supplier capability (registration)
- User-centric and modern system of procurement – more transparency, eProcurement, whole-of-government supply frameworks

National Procurement Act 2018

- A single and comprehensive Act on procurement for the State
- Monitored by the APC Committee which was created by the Public Financial Management Act
- The National Procurement Act:
 - *Creates the National Procurement Commission*
 - *Outlines the system of procurement including standards and thresholds*
 - *Only registered and approved suppliers can now supply to the State*
 - *Uses Procurement Planning as a mechanism to monitor and coordinate what procurement occurs and when*
 - *Embodies the Government's procurement principles*
 - *Introduces a system to certify Government's bodies as having capacity before they can undertake procurement*
- *Has specific penalties for procurement non-compliance*



Procurement Principles

- Non-discrimination
- Transparency, accountability and fairness
- Competition
- Transparency and confidentiality
- Economy and efficiency
- Code of Ethics



PFMA changes

- Abolished all sections related to procurement
- Established the APC Committee and a Secretariat in the Department of Finance
- Set arrangements for meetings
- Set arrangements for Authority to Pre-commit (APC) including multi-year APC

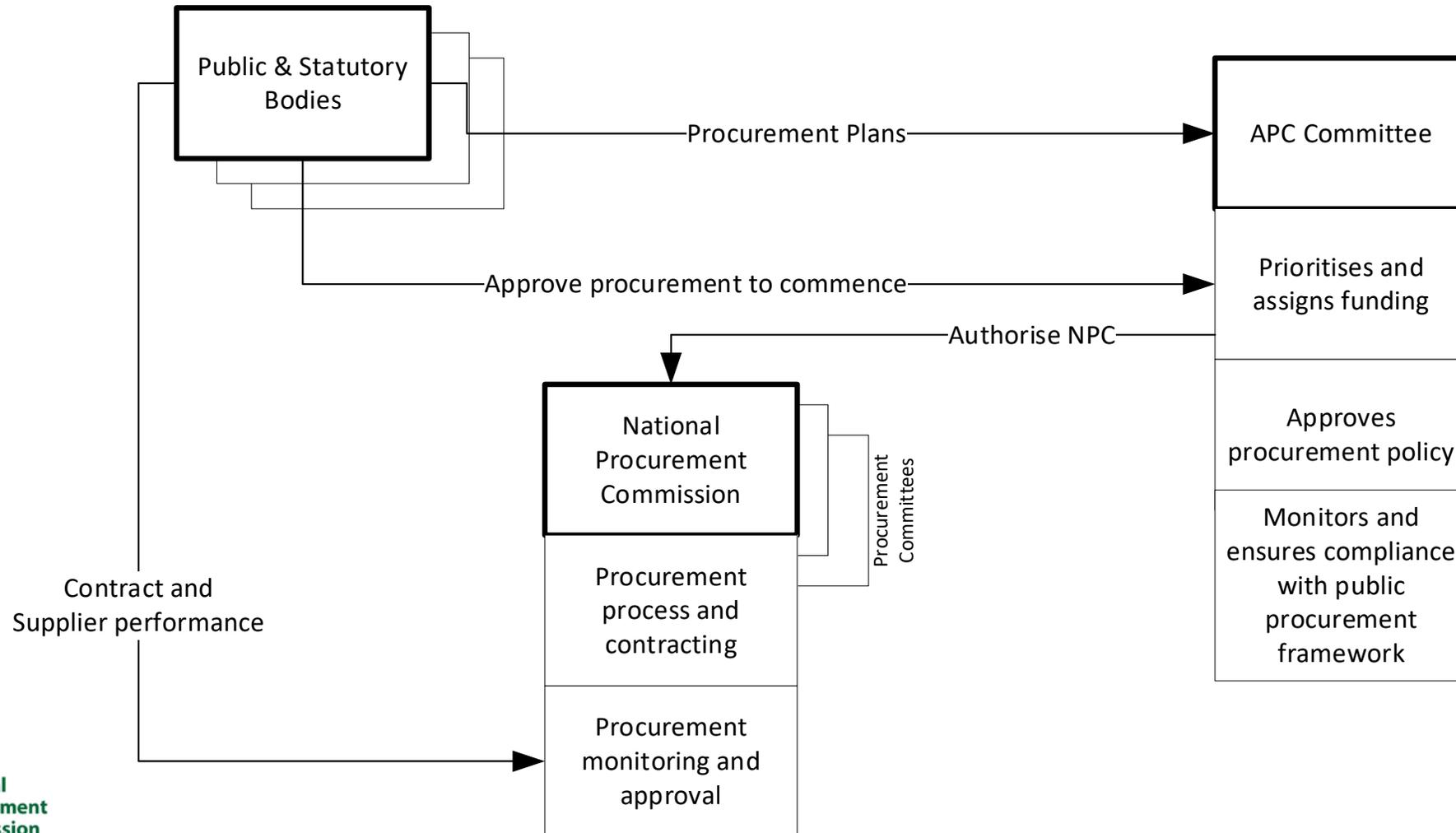


APC Committee

- The Treasury, Finance and the National Planning Secretaries, or their respective delegates, collectively form the APC Committee
- Monitors the public procurement system – ensure it is effective and is being complied with by all public bodies including National Procurement Commission
- Manages the National Budget and Procurement Planning
- Is the public procurement complaints mechanism
- Certifies the capacity of public bodies
- Oversees the funding of Multi-year contracts



Procurement Governance Model



NATIONAL PROCUREMENT ACT

Commencing 1 April 2019



National Procurement Commission

- A single Statutory Authority now operates the States public procurement – replaces ALL supply and tenders boards
- Opportunity to create 1 system for all Government procurement
- Has functions to:
 - *Undertake timely, fair, competitive, transparent, non-discriminatory and value for money procurements for and on behalf of the State including public and statutory bodies; and*
 - *Build procurement capacity in PNG*
 - *Maintain a register of providers of goods, works or services*



Who does it apply too?

- Applies to all public and statutory bodies – not SoEs – irrespective of funding source:
 - *The Independent State of Papua New Guinea*
 - *National Government Departments*
 - *Other National Government Statutory entities including District Development Authorities*
 - *Provincial Governments and any instrumentalities established by the Provincial Government*
 - *Local-level Governments and any instrumentalities established by the Local-level Governments*

The source of funding doesn't matter



Procurement Instructions

- 01/2019 Waiver of National Budget Procurement Planning (scheduled to commence for National Budget 2020)
- 02/2019 Waiver to seek a certification of capacity
- 03/2019 Waiver to use contract management services
- 04/2019 Waiver to require suppliers to be pre-registered
- 05/2019 Delegations from the NPC Board to Provincial, District and Special Committees
- 06/2019 Handling of incomplete procurements from 1 April 2019
- 07/2019 Procurement processes during the transition period
- 08/2019 NCDC Procurement Committee
- 09/2019 Disposals DRAFT
- 10/2019 Clarification of Section 47 National Reservations and Restrictions DRAFT
- 11/2019 Clarification on International Agreements DRAFT

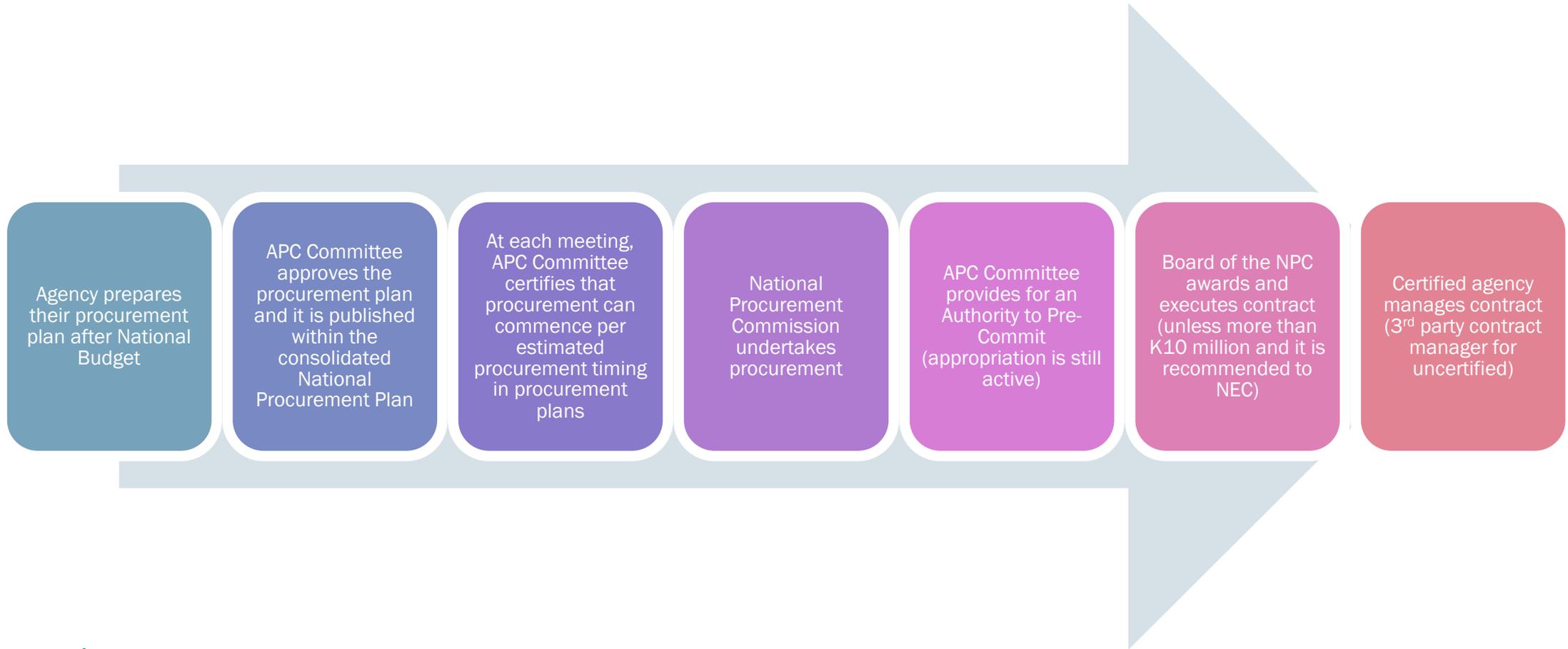


International Agreements

- Where the NPA conflicts with or is inconsistent with an obligation or undertaking of the State arising out of an agreement with one or more states, or with an international organization, the provisions of the agreement shall prevail over the provisions of the NPA in order that the terms of the agreement are given full force and effect.
- Must be an explicit conflict – in most cases, proper procurement planning is required to enable the Act to apply.



GoPNG Public Procurement Steps



National Budget Procurement Planning

- Currently waived but will be required from National Budget 2020.
- Planning guidelines and template will be issued in 2019.
- After the passage of the National Budget by Parliament, public and statutory bodies that have received appropriations in the National Budget, shall, as soon as reasonably practicable, submit to the APC Committee their procurement plans for all procurements within the jurisdiction of the Commission.
- Post National Budget procurement plans shall include details of:
 - *the total amount of funds required for the procurement; and*
 - *a schedule of the dates at which the funds will be required to meet expected contractual obligations; and*
 - *the current state of bid preparedness, including the technical and related specifications and the timing of all procurement steps; and*
 - *such other details as the APC Committee may from time to time require:*
 - Whether it is a national restricted tender or not
 - International Agreement conflicts



APC Committee actions with the National Budget Procurement Plan

- APC Committee shall -
 - *Reject the post National Budget procurement plan, if required details have not been provided; or*
 - *Incorporate the post National Budget procurement plan into a consolidated post National Budget procurement plan*
- The NPC or public and statutory bodies shall not commence or continue any procurement within the jurisdiction of the Commission unless:
 - *a post National Budget procurement plan has been submitted to the APC Committee; and*
 - *the APC Committee has advised and certified to the Commission and the public or statutory body that funds are available for that procurement.*



Procurement Thresholds

- Minor procurements below which a simplified procurement system approved by the NPC is used - *K5,000*
- Standardized procurement system approved by the NPC is from *K5,001 to K500,000*; and
- Exclusive NPC jurisdiction - *above K 500,000*. (No specialised procurement boards).
- Provincial Committee of NPC, *not exceeding K5,000,000* using a standardized procurement system approved by NPC.
- District Committee of NPC, *not exceeding K2,500,000* using a standardized procurement system approved by NPC.

“Any contract entered or purported to be entered into by a public or statutory body contrary to these thresholds is void from the moment of execution of the contract and no damages are payable, at law or in equity.”



Procurement Capacity and Certification

- ❑ Public and statutory bodies shall not engage in any procurement unless they have been certified by the APC Committee, in consultation with the NPC, that they have capacity to engage in procurement processes that is sufficient in order to protect the use of public funds and ensure that good public financial management practices are followed and applied by the public or statutory body.
- ❑ APC Committee shall specify the requirements to be met that establish that a public or statutory body has capacity to engage in procurement processes.

Technical and Finance Evaluation Committee

- ❑ For each procurement the NPC undertakes, the CEO shall appoint a TFEC.
- ❑ TFEC responsible for -
 - approving all technical and financial documentation and ensuring that the technical and financial evaluation is undertaken promptly; &
 - approving compliance with tender documents and procurement procedures; &
 - ensuring that best practices and the NPC Act in relation to procurement are strictly complied with during the technical and financial evaluation of the procurement.
- ❑ TFEC shall, at the conclusion of its technical and financial evaluation, make a report and submit the report to the board of the NPC.



National Preference Allowance

- ❑ Procurement of goods, works or services, shall grant a margin of preference to national companies and citizens with capacity to undertake or provide the goods, works or services -
 - (a) of 15%, in respect of goods; and
 - (b) of 7%, in respect of works or services.



National Restrictions

Below K10M

(Reserved Activities)

- Only Citizens or 100% citizen owned companies may tender

K10M to K30M

- At least 50% of the value to be undertaken by 100% national companies/ citizens; or
- Partnerships held 50% by citizens may tender

Over K30M

- No Restriction



Definition of National Company or Citizen

- ❑ Citizen has the same meaning as is used in the Constitution.
- ❑ National company
 - *means “national company”*
 - *means a company:*
 - *that is registered and operated in Papua New Guinea; and*
 - *the shares of which are wholly owned by a citizen; and*
 - *the capital and assets of the company are owned and located in Papua New Guinea; and*
 - *where the directors and shareholders are all citizens.*



Registration, qualification and pre-qualification of bidders

- ❑ NPC and public and statutory bodies shall not receive a bid from or contract with any person that is not a qualified bidder registered with the NPC.
- ❑ NPC may register, as a qualified bidder, all persons who:
 - Has the legal capacity to enter into a contract; &
 - is not insolvent, in receivership, bankrupt or ever been bankrupt or being wound up; &
 - that the bidder's business activities have not been suspended; &
 - that the bidder has fulfilled all obligations to register and pay taxes and social security obligations; &
 - that the bidder has not less than three years relevant experience prior to the application for registration.



Other key reform elements

- Improving transparency in the procurement framework
- Investigating an eProcurement system to provide a consolidated system of public procurement and the registration of suppliers
- Establishing Whole-of-Government Framework contracts
- Establishing a procurement audit framework



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