

AdJASA Special Interest Group on Public Procurement

Terms of Reference

1. Introduction

Government procurement is a burgeoning area of public law. It is difficult to keep abreast with the ever-increasing number of legislative prescripts and judicial decisions in this field of law. Furthermore, the much-anticipated Procurement Bill is likely to have far-reaching implications for the manner in which public procurement will be conducted in future. Public procurement has also come under intense public scrutiny, given its susceptibility to fraud, corruption and other malpractices.

AdJASA has therefore decided to establish a Special Interest Group on Public Procurement ("the SIG") to contribute to the public discourse on procurement law reform in South Africa. AdJASA has a particular interest in public procurement law, given the significant overlap that exists between the right to administrative justice and the right to a fair tender process.

2. Purpose

The purpose of the SIG is to:

- 2.1 serve as a forum to discuss matters relevant to public procurement law;
- 2.2 provide training and awareness to its members on areas of public procurement law;
- 2.3 monitor and analyse key developments in the public procurement regulatory framework;
and
- 2.4 make recommendations for improvements to the regulatory framework, where necessary.

3. Composition

- 3.1 Any member of AdJASA with an interest in public procurement law may be a member of the SIG.
- 3.2 At the inaugural meeting of the SIG, the members present will elect a Chair, Deputy Chair and Secretariat for a term of two years.
- 3.3 In the interim, AdJASA will appoint a suitable person to act as Chair of the SIG until its first inaugural meeting.
- 3.4 Before the end of the term of office of the Chair, Deputy Chair and Secretariat, the SIG will elect a person or persons to the relevant position for a term of two years. Members may serve for more than one term of office.

4. Key Activities

4.1 Bi-Annual seminars. The SIG will conduct seminars biannually on topical issues in procurement law. The seminars will examine current judgments, new legislation as well as proposed changes to the regulatory framework. Members will be invited to share insights and practical experiences on key areas of procurement law.

4.2 Biennial conference. The SIG will host a national conference on a biennial basis to bring together key role players in public procurement, including public representatives, National Treasury, members of the legal profession in both the public and private sector, judges, academics, anti-corruption bodies, members of the forensic and auditing professions as well as procurement practitioners and administrators.

4.3 The key objectives of the conference are the following:

- To assess the effectiveness of the regulatory framework in combatting abuse of the procurement system;
- To identify practical challenges experienced by both public and private bodies in the area of public procurement;
- To assess the impact of key judicial decisions on public procurement;
- To share national and international best practices;
- To make recommendations for the improvement of the procurement system.

4.4 Participation as *Amicus Curiae*. In appropriate cases, AdJASA may decide to participate in certain procurement litigation matters as an *amicus*. The decision to participate in legal proceedings as an *amicus* will be entirely in the discretion of the executive committee of AdJASA.

4.5 The SIG may collaborate with other entities and groups in hosting and implementing the activities set out above.

5 **Meetings**

The SIG will meet twice per year, or at such shorter intervals as the Chair and Secretariat may decide.

6 **Reporting**

The SIG will table an annual report of its activities at the AGM of AdJASA.

7 **Review of the Terms of Reference**

These terms of reference will be reviewed by the SIG on an annual basis.
