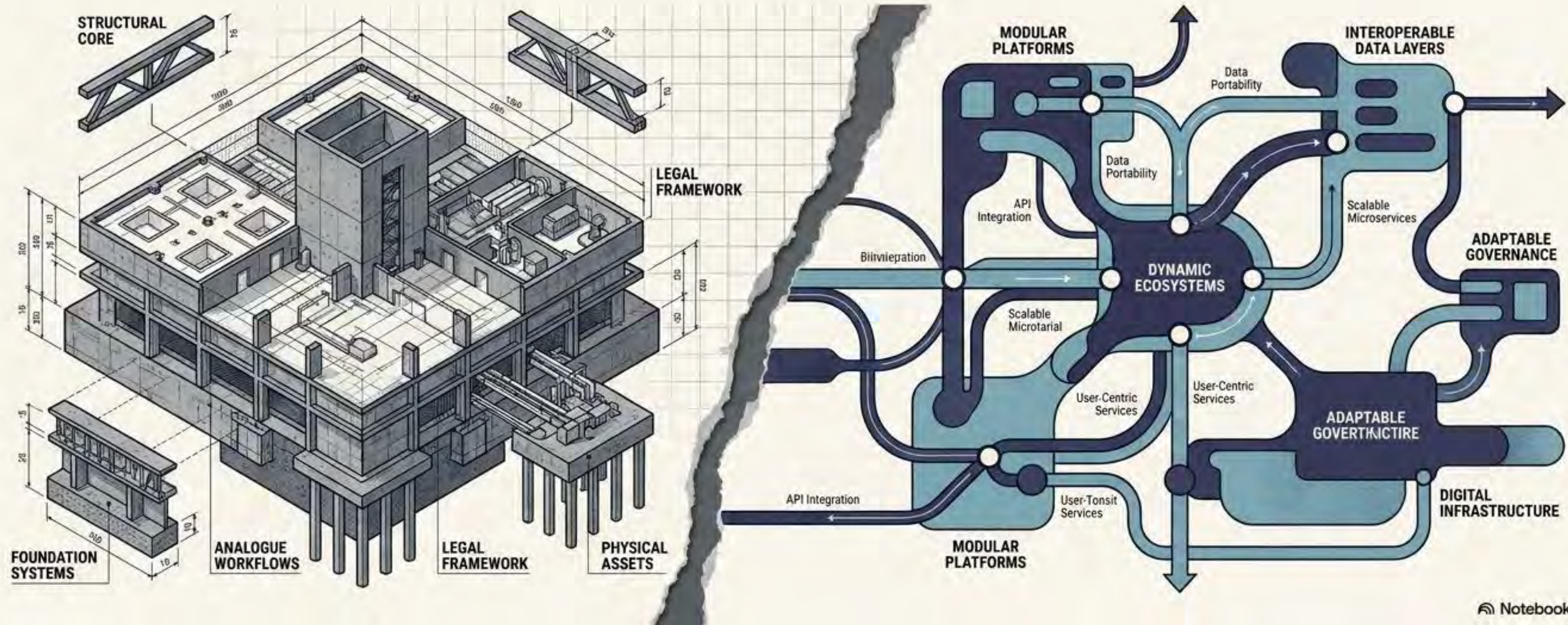


Building a Digital State with Analogue Blueprints

A Methodological Critique of the Draft Public Procurement Regulations (2026) regarding Digital Infrastructure

Joshua Swart,
APLU Research Fellow



The Policy Decision is Made

South Africa has committed to cloud-first service delivery and digital government modernisation via the National Data and Cloud Policy and the Digital Transformation Roadmap.

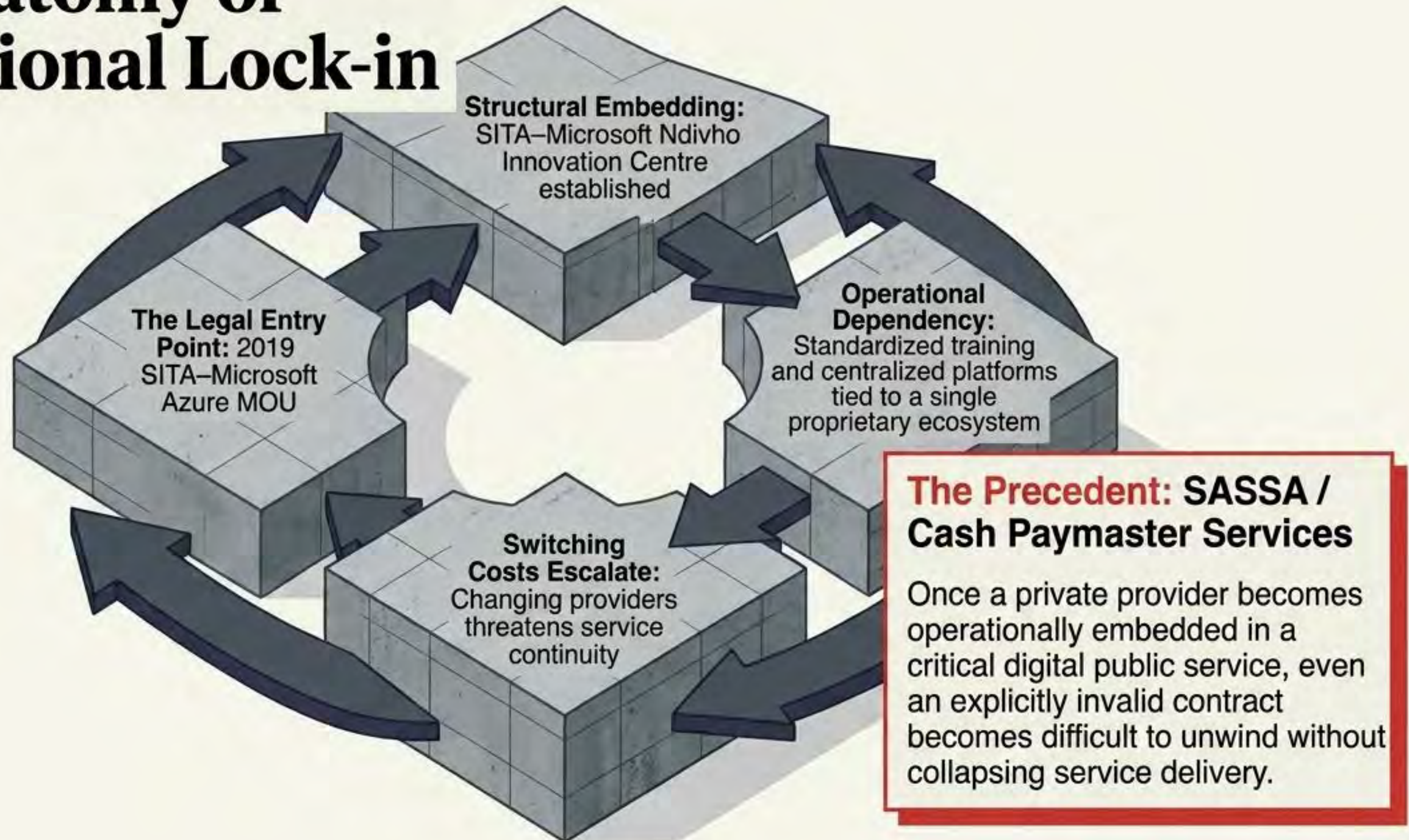
Core Goal: Interoperability, data-driven governance, and seamless citizen services.

The Procurement Friction

The draft Regulations still largely procure digital infrastructure as if it were ordinary goods, works, or conventional physical services.

The Crux: The issue is not whether cloud, DPI, and digital services can be legally bought under the Regulations. The issue is whether officials have a **clear, lawful, and repeatable methodology** to buy them without creating **lock-in**, audit risk, and fragmentation.

The Anatomy of Institutional Lock-in



The Procedural Win: What the Draft Regulations Get Right



The Fatal Omission

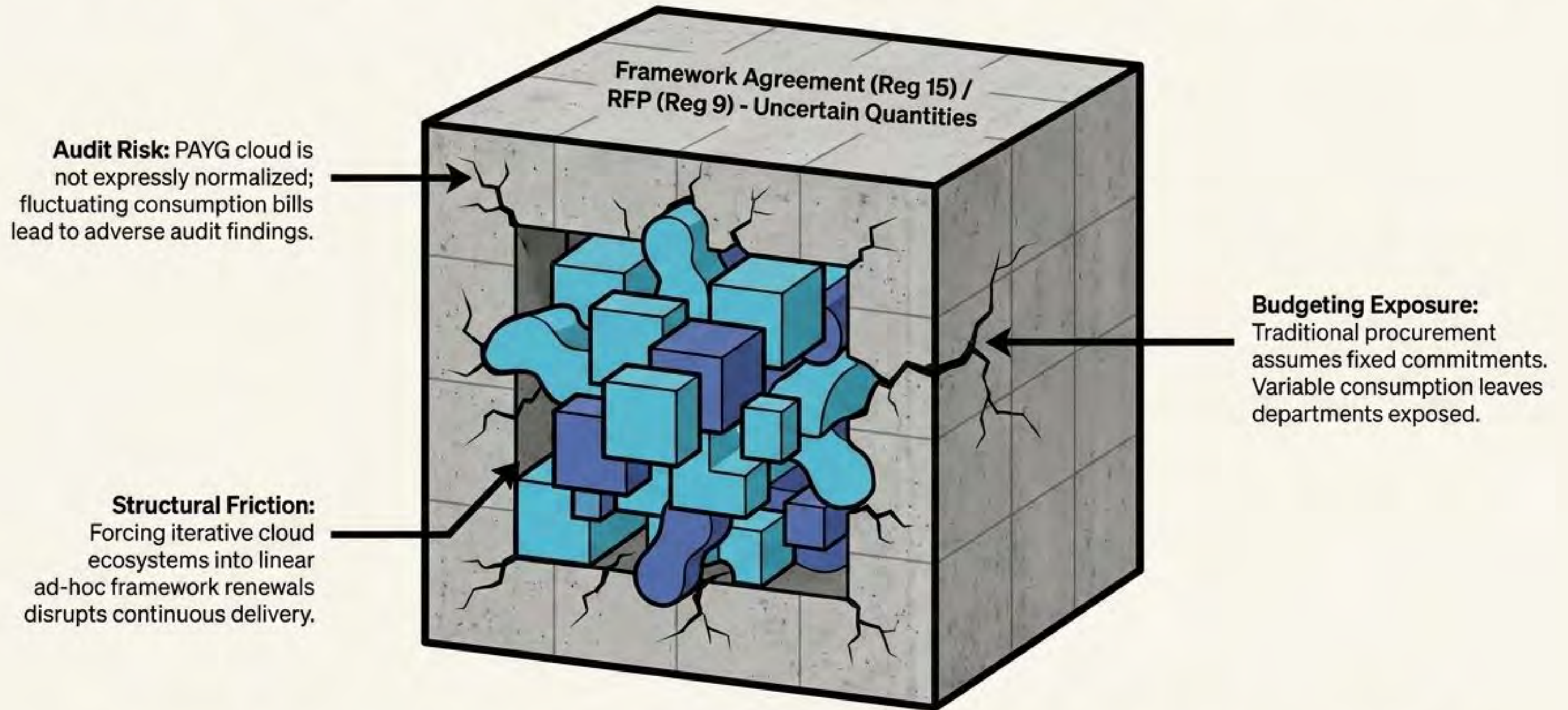


A search of the Draft Regulations shows zero express references to:

- Pay-as-you-go
- Variable usage billing
- Subscription

The Impact: The Regulations are forward-looking in procedure, but statically rooted in traditional commercial architecture.

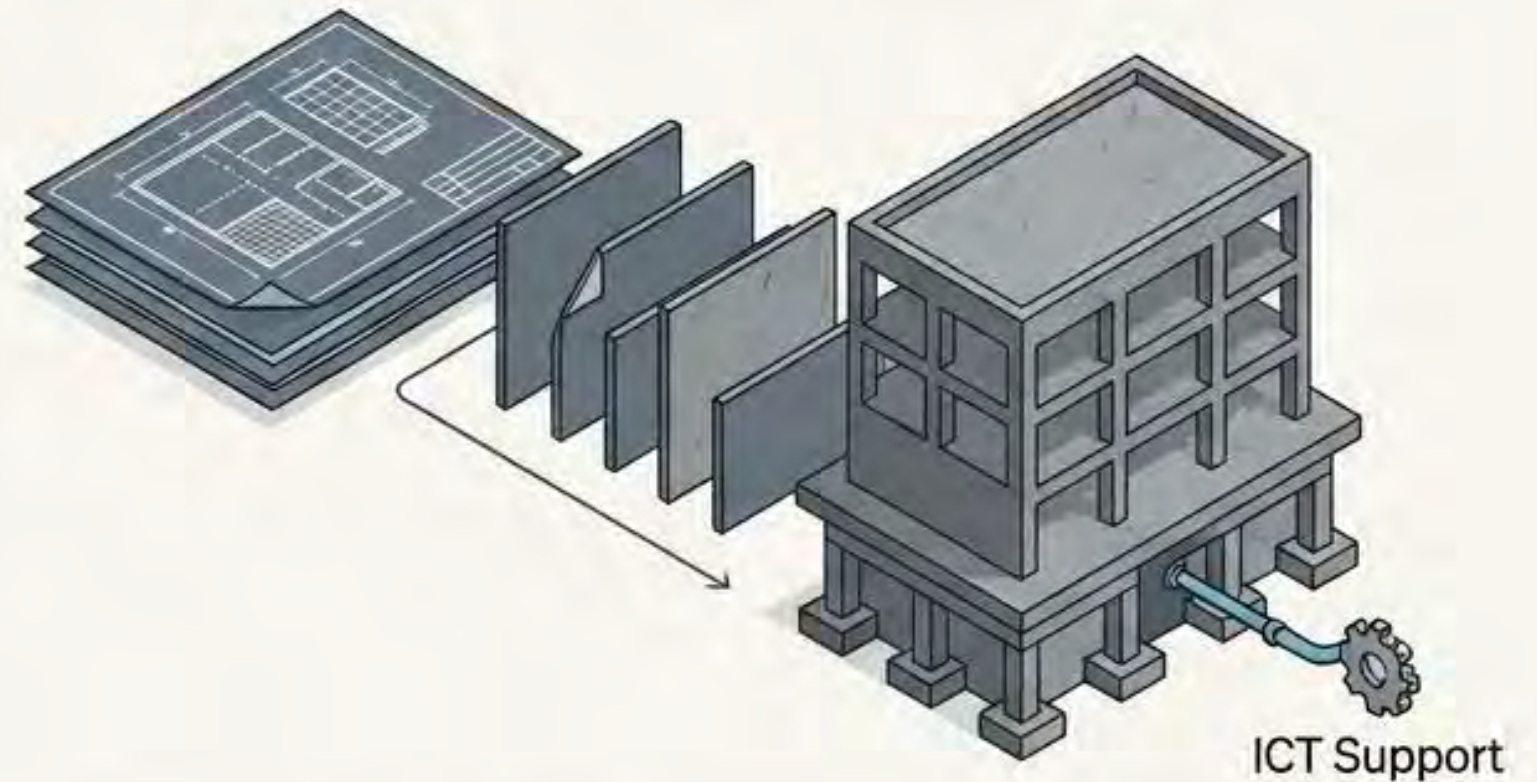
The Danger of Squeezing the Cloud into a Box



We are forcing a fluid commercial model into a rigid legal container.

The Chapter 3 Misclassification: 'Infrastructure' is Still Made of Concrete

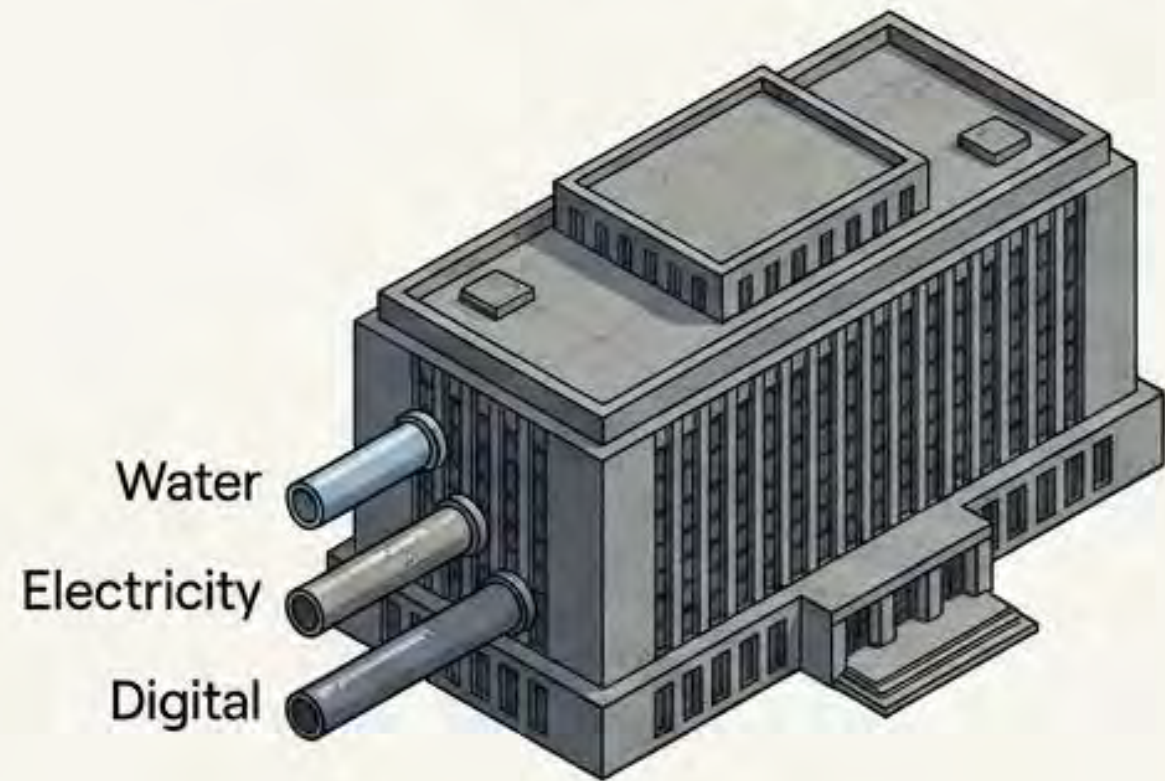
Regulation 37 Definition:
'goods and services related to capital assets' include...
(b) operational inputs such as energy, water, **information and communication technology support**, and facility management.



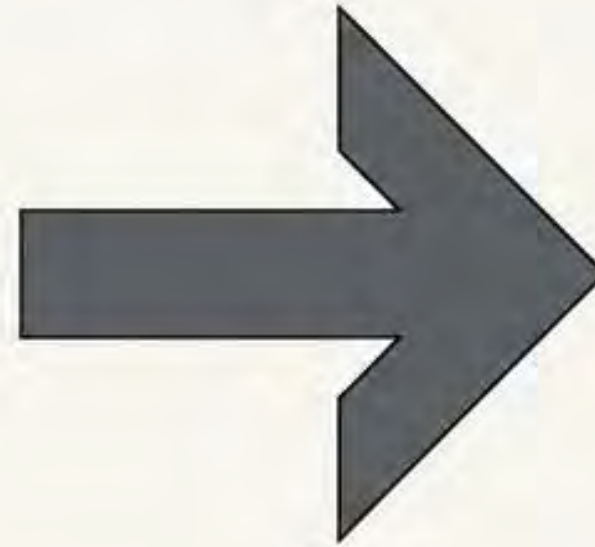
The Critique: The Regulations treat digital as mere "ICT support" plumbing for physical buildings. This architectural assumption is inadequate for procuring Digital Public Infrastructure (DPI).

The Architectural Shift

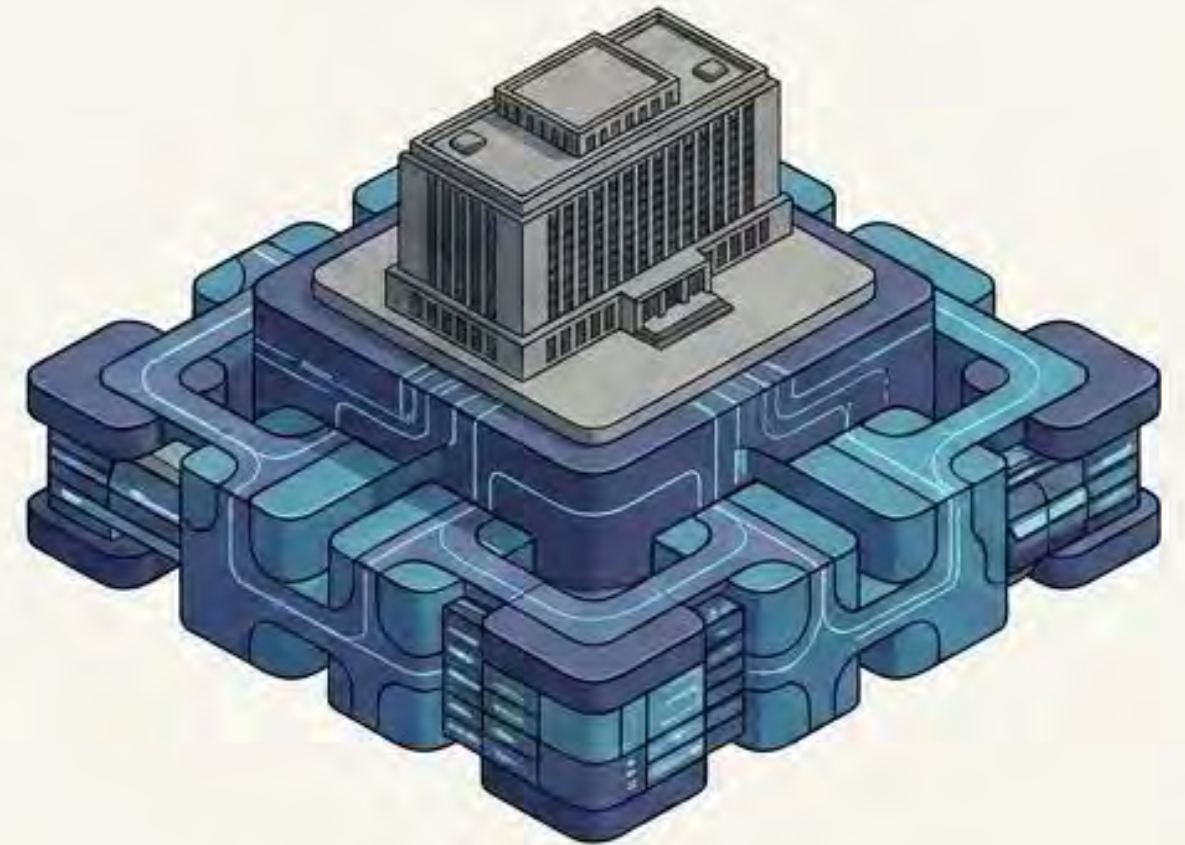
The Procurement Assumption



Digital as an Operational Input



The DPI Reality

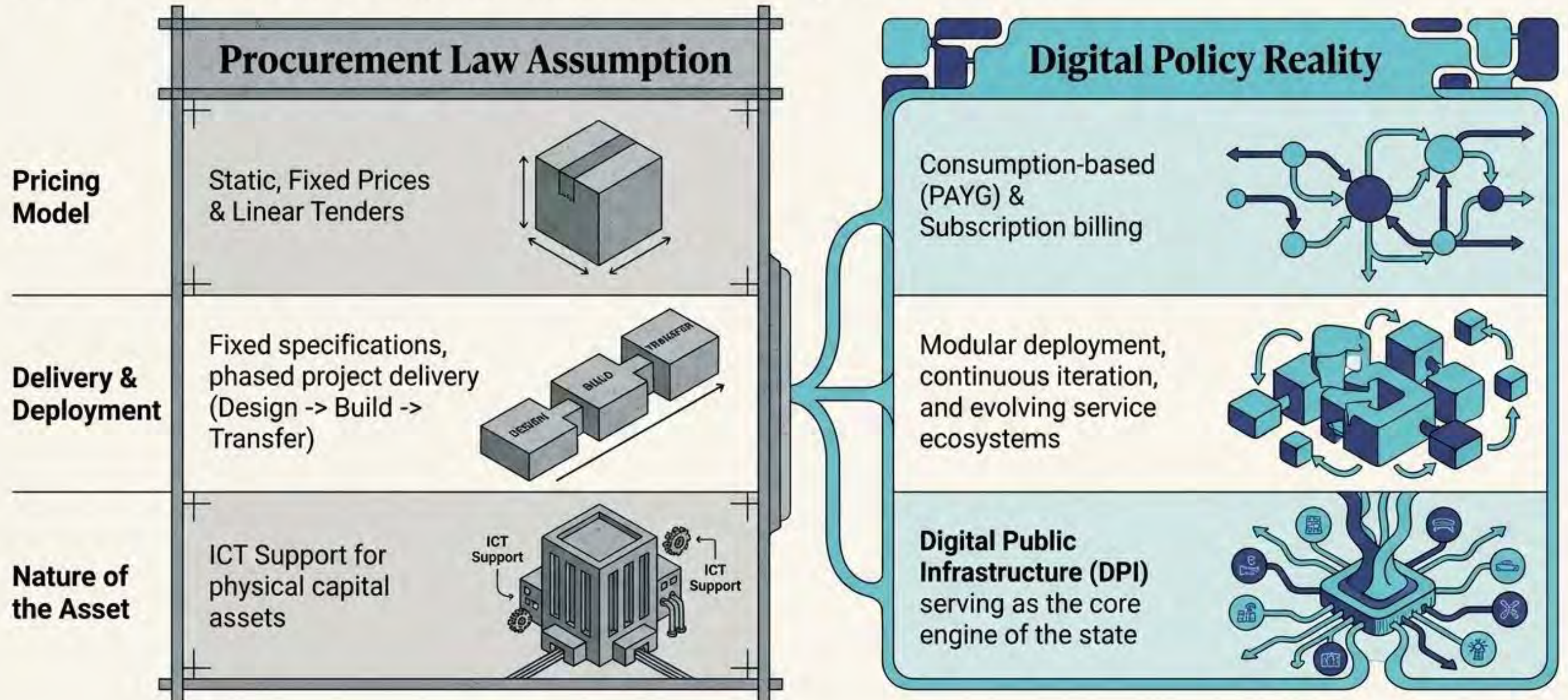


Digital as the Foundation

Digital infrastructure is not just 'ICT support' for physical infrastructure.
It is increasingly the infrastructure of administration itself.

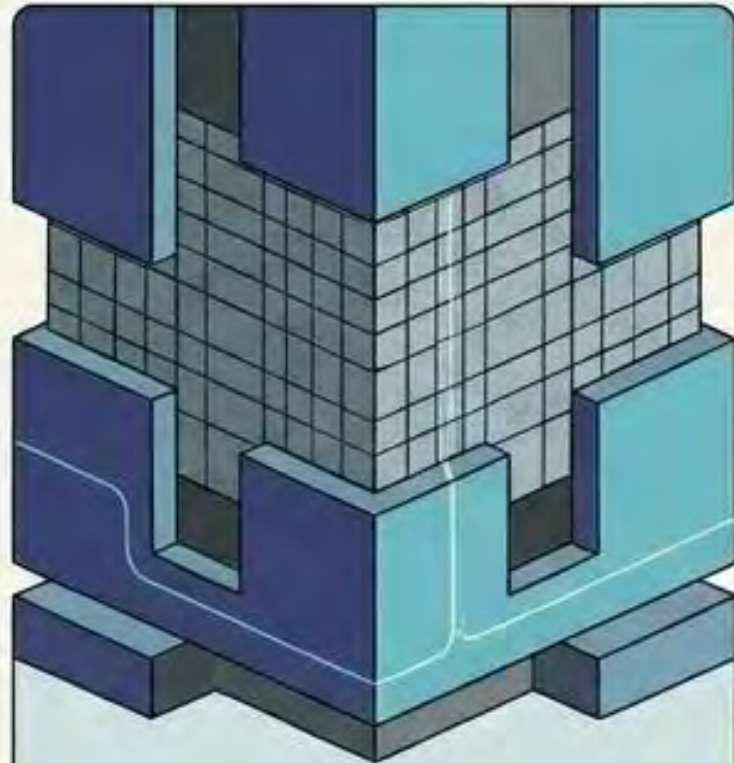
Position Paper Finding: Policy Speed vs. Legal Lag

South Africa's digital policy has moved ahead of its procurement law.



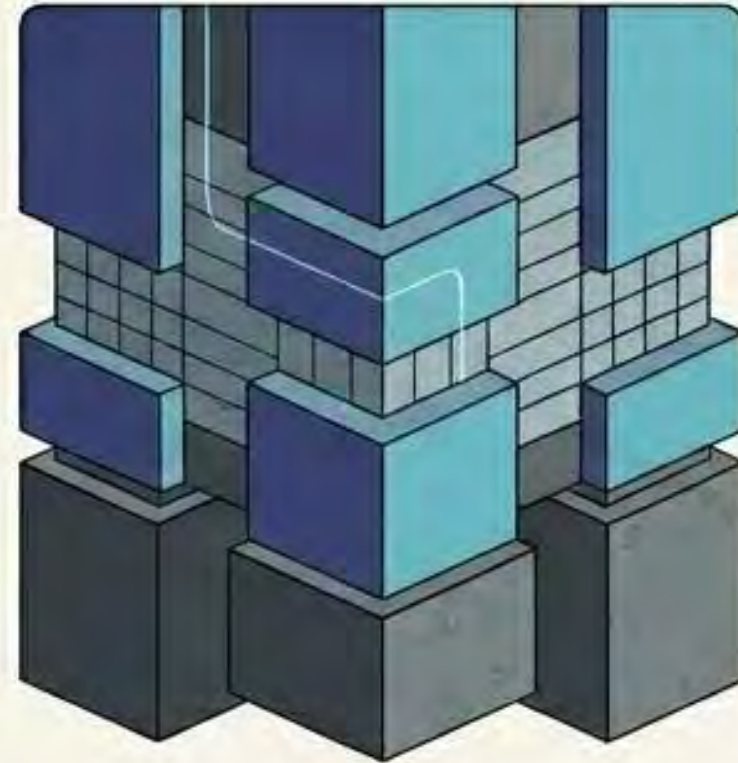
The Proposed Methodology

Actionable Recommendations from the Position Paper



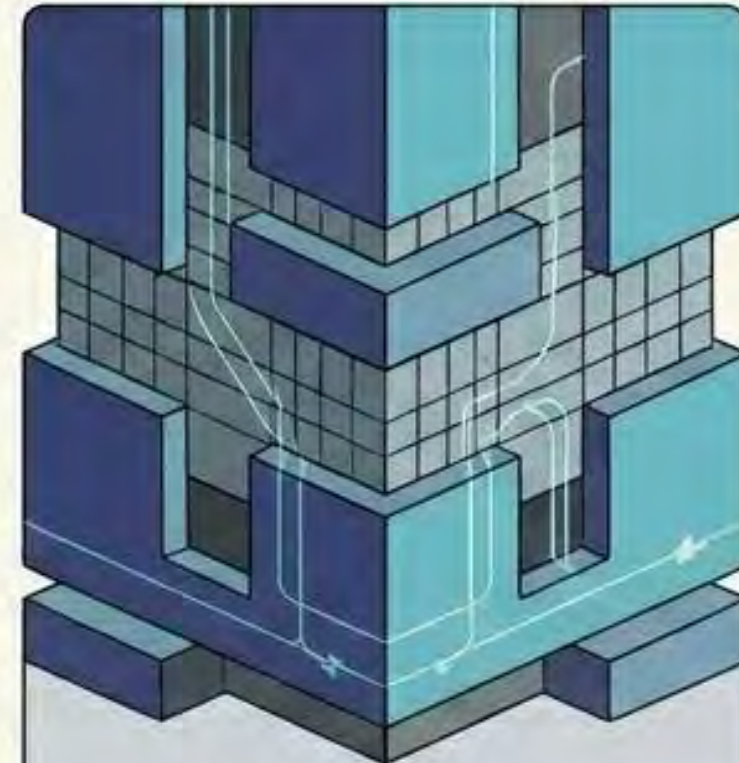
Express Commercial Recognition

Expressly normalize PAYG, variable usage billing, and multi-supplier cloud frameworks within the Regulations to eliminate audit risk.



Modular Procurement

Adopt modular and iterative procurement models that do not penalize scaling or require rigid, linear specifications upfront.



Mandatory Safeguards

Institute binding data classification standards, mandated interoperability, and guaranteed data portability to prevent vendor lock-in.



Institutional Clarity

Define and separate the institutional roles across the National Treasury/PPO, DCDT, DCDT, and SITA to prevent overlapping mandates.

The Architectural Leap

The Draft Regulations are forward-looking in procedure, but not yet forward-looking enough in architecture.

They give us the tools to **buy digital services**, but not yet a **methodology for building a digital state**.

We need to form a **'Community of Practice'** to act as the engine room for reforming public procurement of digital architecture, and to codify and work from the needed Procurement Reference Architecture.