DRAFT PPA REGULATIONS 2026

Infrastructure, Capital Assets and ICT

A public-debate deck on scope, gaps and practical recommendations

Core message

Public assets are service-delivery platforms, not once-off purchases.

Prepared for public discussion
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Why this discussion matters

Large public audience | South Africa | public-sector reform

The debate question

Do the draft regulations create a fit-for-purpose system for infrastructure, capital assets and ICT across the full asset lifecycle?

Why the answer matters

- It affects service delivery, asset reliability and maintenance.
- It influences investor confidence, PPPs and blended finance.
- It determines whether ICT and digital assets are treated strategically.
- It tests whether transformation is planned, funded and measurable.

BOTTOM LINE

The core thesis

Infrastructure, capital assets and ICT should be regulated as lifecycle public-service platforms — not as construction-only procurement.

1 **Built infrastructure**

Roads, clinics, schools, water systems, energy assets, depots, public buildings and construction works.

2 **Capital assets**

Plant, fleet, equipment, medical assets, rolling stock, machinery, software-dependent assets and operational technology.

3 **ICT and digital**

Data centres, cloud, networks, cybersecurity systems, software, digital platforms and electronic communications assets.

Public debate test: does the regulation work across all three asset families?

LEGAL ANCHOR

What the Public Procurement Act requires

Relevant statutory anchors

Act area	What it means for this topic
Definitions	Procurement and infrastructure are broad enough to include assets and systems used for public services.
Section 24(1)(a)	Strategic procurement must cover infrastructure, capital assets and maintenance-related goods or services.
Section 24(3)	The procurement system must include planning, contract management, risk, disposal and reporting.
Sections 28–29	Technology-based procurement and ICT-enabled processes must be reliable, auditable and secure.
Section 63	Regulations may prescribe infrastructure, ICT, competency, methods, variations and records.

The Act gives enough authority to regulate the full asset lifecycle.

Where the draft regulations respond

Key building blocks in the draft

4 **Regulation 4**

Strategic procurement plan, spend analysis, market analysis and category classification.

3 **Chapter 3**

Portfolio, programme and project planning; gateway reviews; feasibility; bidding; contracting and maintenance.

29 **Regulation 29**

Contract management system with execution, milestones, risk and outcome-based evaluation.

73 **Regulation 73**

Competency requirements and a Procurement Technical Competency Dictionary.

84 **Regulations 84–85**

Procurement data retention and ICT-based procurement systems with audit trails and security.

The issue is integration and suitability, not absence of ideas.

The core gap: scope and storyline

Needed reframing

- Infrastructure includes public-service systems, not only works.
- Capital assets require portfolio strategy and whole-life costing.
- ICT and digital platforms require cybersecurity, interoperability and exit planning.
- Maintenance should be part of lifecycle management, not a late add-on.
- Regulation 4 should set strategy; Chapter 3 should manage delivery.

Reframe the regulations around asset lifecycle public value.

Regulation 4 and Chapter 3 must work together

Regulation 4

Strategic framework

Asset portfolio | funding | market strategy | transformation | risk | measurement

Chapter 3

Delivery controls

Gateway reviews | feasibility | bidding | contracting | maintenance | consultation

Regulation 4 sets strategy; Chapter 3 manages delivery.

SCOPE OF THE DEBATE

What must count as infrastructure and capital assets?

1. **Built infrastructure**

   Roads, schools, hospitals, water systems, energy assets and public buildings

2. **Moveable capital assets**

   Fleet, plant, machinery, rolling stock, specialised and medical equipment

3. **Digital infrastructure**

   Cloud, data centres, software platforms, cybersecurity and service-delivery systems

4. **Electronic communications**

   Fibre, towers, radio systems, broadband and public communications networks

5. **Operational technology**

   Smart meters, SCADA, grid controls, traffic systems and water-monitoring systems

KEY MESSAGE

Capital assets: the service-delivery platform view

Capital assets should be treated as a strategic procurement domain in their own right — not as an afterthought to construction or maintenance.

What Regulation 4 should require

Capital-asset strategy element	Practical question
Portfolio analysis	What assets exist, what is needed, what must be replaced or retired?
Whole-life costing	What is the total cost of acquisition, operation, maintenance, renewal and disposal?
Maintenance model	Who maintains the asset, under what SLA, with what spares and warranties?
Funding model	Budget-funded, grant-funded, PPP, borrowing, leasing, concession or blended finance?
Performance indicators	How will the asset's service outcome, uptime, cost and public value be measured?

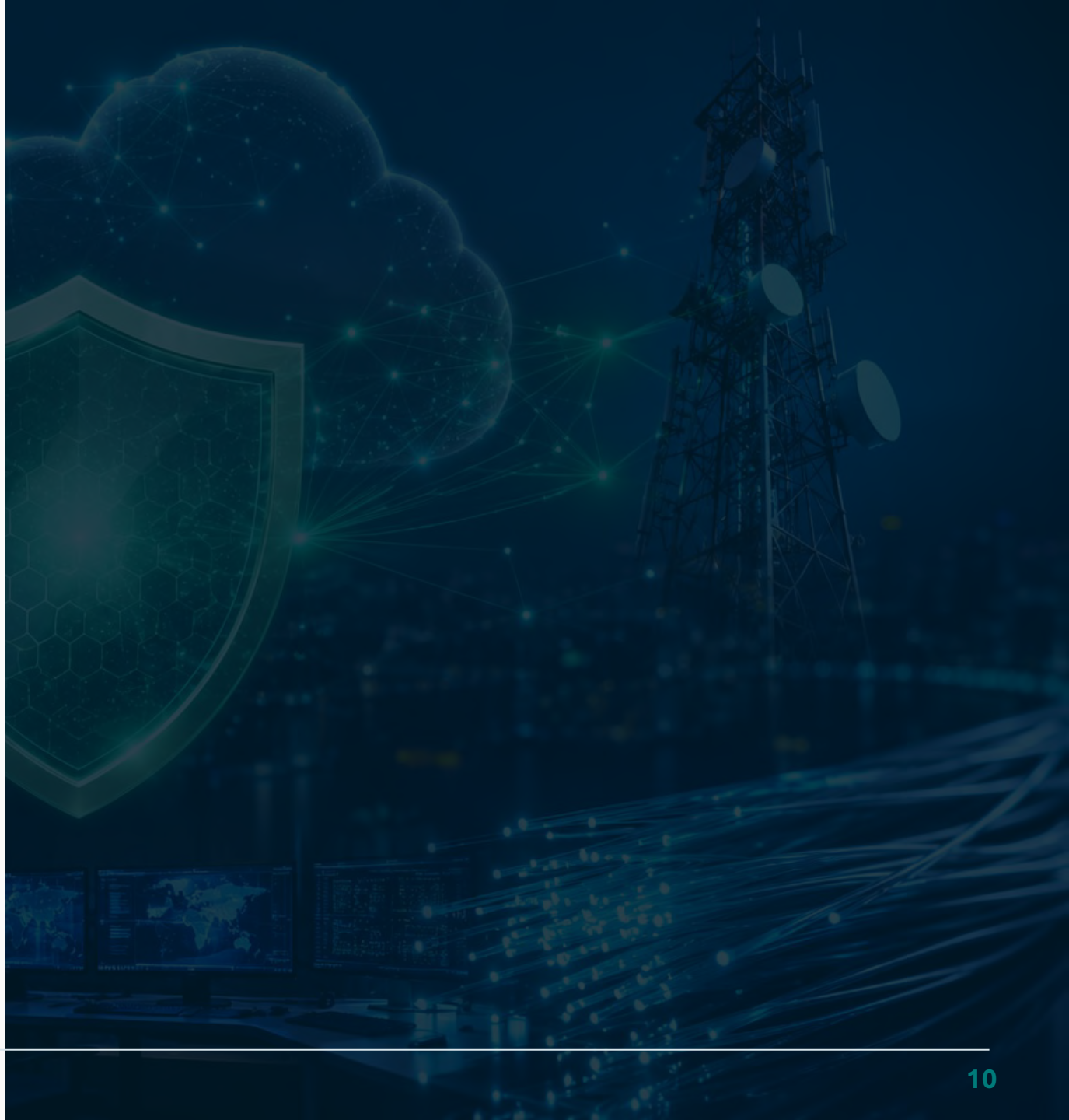
DIGITAL INFRASTRUCTURE LENS

ICT is now part of public infrastructure

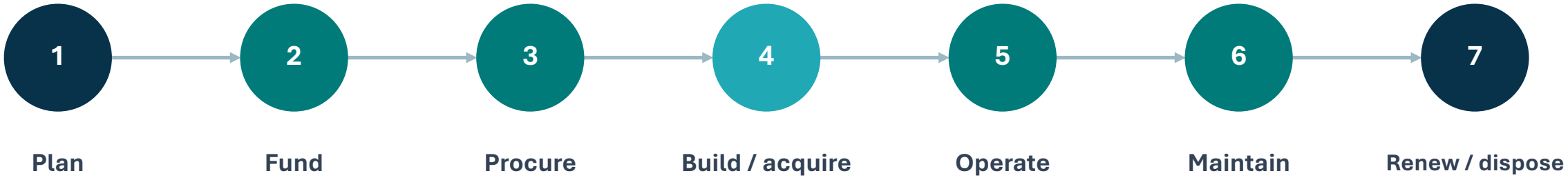
Modern public services rely on data, platforms, networks, cybersecurity, cloud and operational technology. These are not ordinary consumables.

Strategic procurement risks

- Vendor lock-in and exit costs
- Data ownership, sovereignty and POPIA
- Cybersecurity and incident response
- Interoperability and open standards
- Uptime, SLAs and disaster recovery



The organising principle: asset lifecycle



A compliant regulation should test whole-life public value, not only cheapest compliant award.

What is covered — and what remains absent

Area	What is covered	What must be strengthened
Built infrastructure	Lifecycle, gateway reviews, risk, anti-extortion and consultation	CIDB/FIDPM alignment; claims, variations and handover controls
Capital assets	Included in Chapter 3 definitions and procurement planning	Portfolio strategy, replacement cycles, spares and warranties
ICT and digital	ICT support and procurement systems are mentioned	Cloud, cyber, data, interoperability, lock-in and exit plans
Contract management	Regulation 29 creates a contract management system	Dashboards, claims registers, SLA controls and handover evidence
Strategic procurement	Regulation 4 has spend/category methodology	A substantive domain framework and outcome metrics

The draft has building blocks. The public comment should ask for integration, scope and enforceable lifecycle controls.

Kraljic helps, but it is not enough

Public infrastructure also requires

- Service-delivery criticality
- Whole-life cost and maintenance risk
- Transformation and supplier-development opportunities
- Funding model and investor readiness
- Integrity, beneficial ownership and anti-capture controls
- Institutional capability to manage contracts

Use Kraljic as guidance, not as the whole strategic framework.

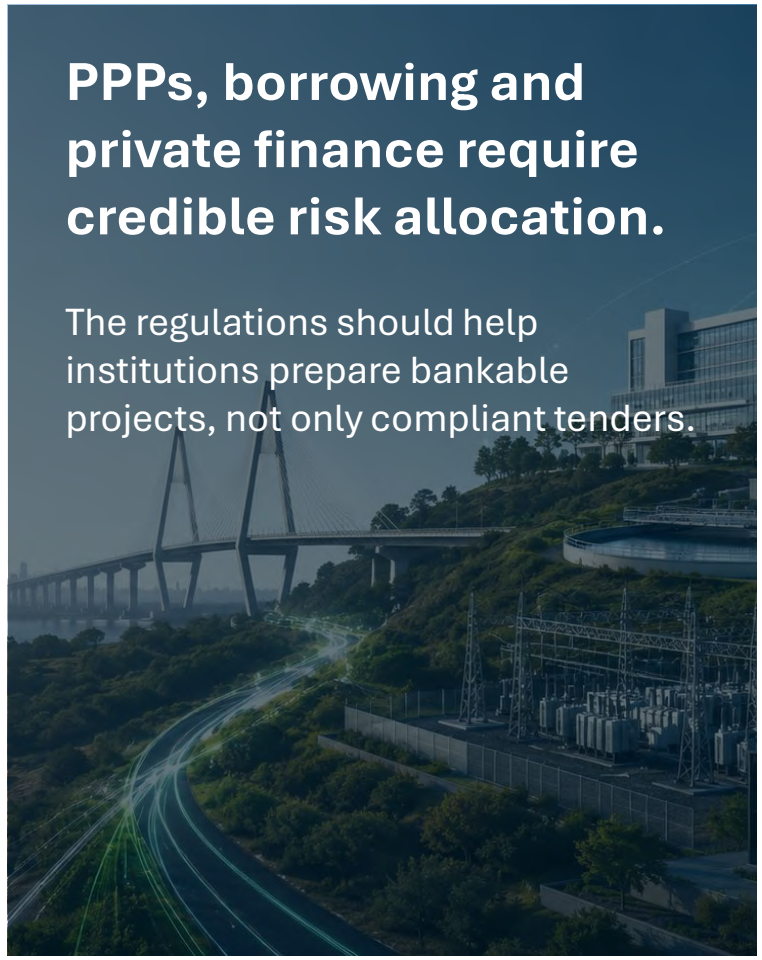
VALUE IS OFTEN WON OR LOST AFTER AWARD

Contract management is strategic procurement

Risk	Strengthened control
Scope creep and variations	Variation register with cumulative impact, technical motivation and approvals
Claims and delays	Claims and extension-of-time register with early warning and cost impact
Poor handover	As-built drawings, O&M manuals, warranties and asset-register update
ICT service failure	SLA dashboard, cyber incident reporting and disaster recovery tests
Transformation failure	Subcontractor payment reporting, performance records and anti-fronting controls

For infrastructure and ICT, contract management must be planned before award.

Investor-ready strategic procurement



PPPs, borrowing and private finance require credible risk allocation.

The regulations should help institutions prepare bankable projects, not only compliant tenders.

1 Pipeline certainty

Clear sequenced asset pipeline linked to plans and budgets

2 Bankable business case

Affordability, demand/offtake, feasibility and risk allocation

3 Payment security

Funding sources, payment mechanisms and dispute resolution

4 Governance

Probity, transparency, beneficial ownership and anti-capture controls

5 Lifecycle performance

Operations, maintenance, handback and service standards

6 Regulatory certainty

Alignment with sector rules, data policy and public interest

Transformation must be planned into the asset strategy

Transformation should not be a late scoring exercise. It should shape packaging, market engagement, subcontracting and performance reporting.

1 Opportunity analysis

Identify suitable work packages, local suppliers, skills pathways and local-content inputs.

2 Contract design

Translate targets into scopes, payment protection, reporting duties and remedies.

3 Performance evidence

Track who performed, who was paid, what skills transferred and whether targets were met.

Strategic element	Evidence to require
Subcontracting	Scope, value, capability and payment tracking
Local content	Designation, feasibility, verification and waiver process
Skills development	Candidate professionals, artisans and supervisors
Supplier development	Mentoring, equipment access and performance record

AVOID A PARALLEL COMPLIANCE UNIVERSE

Use existing frameworks as one integrated system

CIDB / SFU

Construction capability and standard documents

FIDPM / IDMS

Infrastructure delivery gates and project readiness

ISO / SANS 10845

Procurement taxonomy and targeted procurement

B-BBEE / dtic

Transformation, sector codes and local content

ECA / SITA / Data Cloud

Digital infrastructure and ICT governance

POPIA / Cyber / CIPA

Data, cybersecurity and critical asset resilience

The new regulations should integrate, clarify and simplify — not duplicate.

Lessons from African systems and public experience

African design cues

Country	Lesson for South Africa
Zambia	Use explicit methods such as force account, community participation and infrastructure finance/concessions.
Botswana	Pair regulations with an operations manual and practical method-selection guidance.
Kenya	Connect procurement, asset disposal and e-procurement within a public-asset framework.
Nigeria	Use central standard-setting and thresholds, but protect against capture.
Malawi	Reinforce disclosure, oversight and framework maturity.

South African examples

REIPPPP and Gautrain show the value of bankability and lifecycle contracts. Medupi/Kusile, large ICT programmes, digital migration and Transnet locomotives show the need for stong gates, governance, scope control or anti-capture safeguards.

Public-comment recommendations

1. Retitle and reframe Chapter 3 around infrastructure and capital asset lifecycle management.
2. Restructure Regulation 4 around the Act's four strategic procurement domains.
3. Define asset categories: built, movable, ICT, data/cloud, communications and operational technology.
4. Require capital-asset portfolio analysis, whole-life costing and replacement planning.
5. Add ICT safeguards: cloud exit, data ownership, cybersecurity, interoperability and SLAs.
6. Make contract management plans, variation registers and handover evidence mandatory for high-risk assets.
7. Differentiate requirements by institution type, category, value, risk and asset criticality.
8. Require transformation-opportunity analysis and measurable local-development outcomes.

Discussion questions

Should Regulation 4 include a dedicated infrastructure, capital-asset and ICT strategic framework?

Should Chapter 3 be retitled and reframed around lifecycle planning, procurement and management?

How should ICT and digital infrastructure be treated: ordinary goods/services or strategic infrastructure?

What contract-management controls should become mandatory for infrastructure, capital assets and ICT?

How should requirements differ for SOEs, municipalities, provinces, departments and small entities?

> **The public ask: make the regulations asset-lifecycle ready.**