



How transparent are municipal websites about the goods and services that municipalities procure?

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TENDER

The Dullah Omar Institute (DOI) is in partnership with the International Budget Partnership-South Africa (IBP-SA) to measure and improve municipal governance in South Africa.

While there is scrutiny of key governance processes at national level, there is often less focus on local government despite evidence suggesting that transparency, participation and oversight, among other things, at municipal level is at serious risk. Moreover, municipalities are at the coalface of service delivery, and the state's response to the coronavirus pandemic (Covid-19) underscores local government's important role. Municipalities provide essential services to contain the pandemic. These services include the delivery of potable water to underserved areas (such as informal settlements), and the sanitation of public facilities such as taxi ranks. Research and advocacy on transparency, participation and oversight in municipalities are therefore necessary. The lessons that can be drawn from the current practice of transparency, participation and oversight in municipalities are important to inform policy reforms.

This report, which focuses on transparency in local government procurement, presents the findings of a survey of municipal websites. The survey, which targeted 34 selected municipalities, aimed to establish the extent to which municipal websites are transparent about the goods and services municipalities procure.

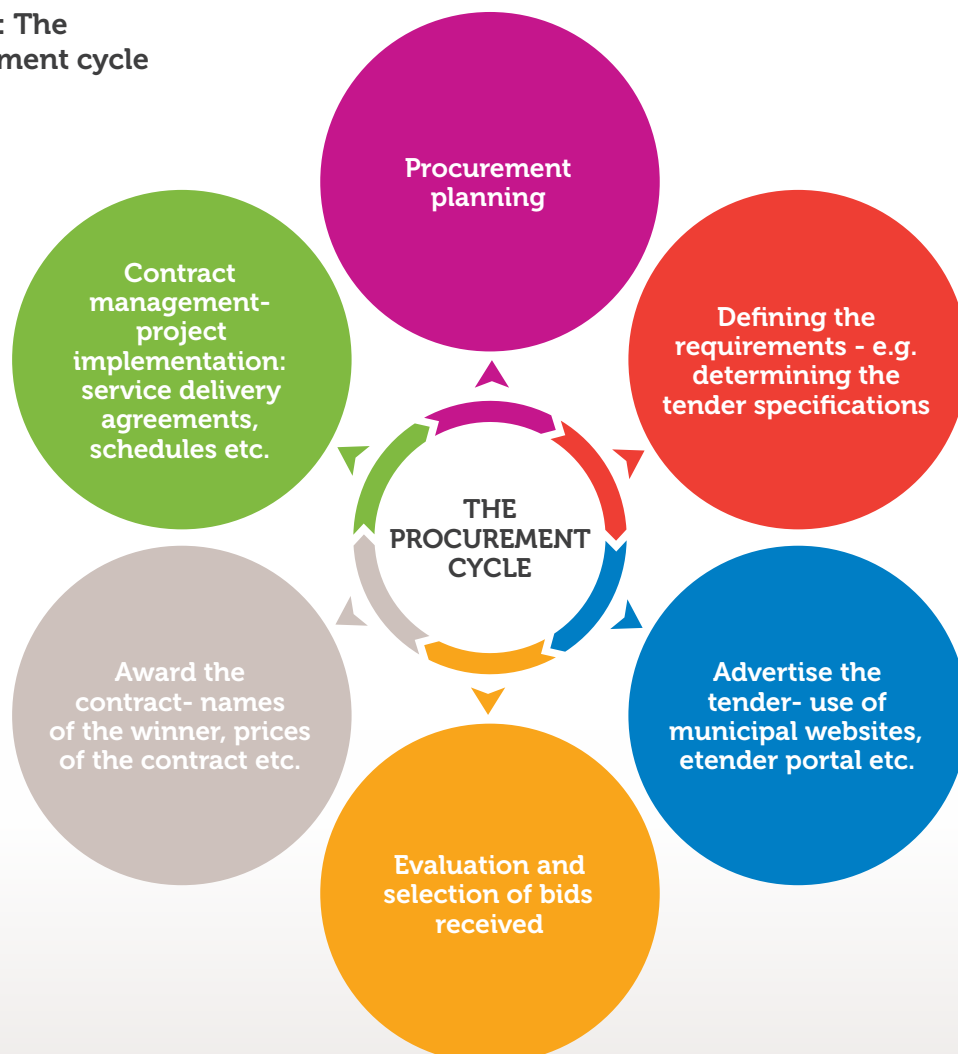
First, the report makes a case for open contracting and explains why municipal websites are crucial for transparent local government and pro-poor service delivery. The report then lists the key findings of the survey followed by a discussion of the major findings. Conclusive remarks, recommendations, an overview of the methodology, and acknowledgements are given last.

1 The case for open contracting and transparent websites

Municipalities procure goods and services all the time. Many of these are critical for service delivery. They range from cutting verges and installing and filling water tanks to upgrading streets and pavements, filling potholes, maintaining sewer lines and cleaning communal toilets in informal settlements. Too often municipal procurement is seen as

a matter between the municipality and those who are tendering for contracts. The public eye is on how service providers are appointed and what they charge. But what about the communities who are affected by what the municipality has procured? The services they receive are often delivered by private service providers, appointed by the municipality. This is even more critical when service providers are appointed to deliver basic services, i.e. those that if not provided would endanger public health or safety. Examples include the delivery of water, sanitation and refuse removal services. The key question is this: Can the communities affected by these contracts find out what services are supposed to be delivered on behalf of the municipalities in their areas?

Figure 1: The procurement cycle



The assessment set out in this report is based on the notion that municipal residents should be able to turn to their municipality's website for information about the procurement affecting them. Procurement information, particularly from the tender advertisement stage up to the contract management stage, as illustrated in Figure 1, is important. Residents must be able to find out, via the municipality's website, who was appointed to cut the verges in their area, keep the water tanks filled, or clean the communal toilets in the area. Furthermore, they must be able to find out what the value of the contract is and what the service delivery standards are that were agreed upon. Having access to this information will enable communities to know exactly what should be delivered and how often it should be delivered.

This is underscored by what the law says about community participation, and about municipal websites. Municipal websites are critical vehicles for transparency. The law instructs each municipality to have one. The only exception is when a municipality decides that a website is too expensive. In that case, it must publish its content on the website of the South African Local Government Association (SALGA) (s 21B(1)(a)

Municipal Systems Act). SALGA's website does not contain any of the specific information that individual municipalities must publish (see below). This suggests that no municipality has decided that a website is too expensive.

The law also makes it clear that just having a website is not enough. It provides that the municipal manager "must maintain and regularly update" the municipality's website (s 21B(3) Municipal Systems Act). National Treasury has issued various guidelines on transparency in procurement (National Treasury, 2016).

2 Key findings

- 32 of the 34 surveyed municipalities have functional websites with a dedicated page for procurement information.
- Tender notices are available on most municipal websites but they are not being published consistently.
- Municipalities are not consistently publishing tender specifications which can be accessed free of charge.
- Only four of the 32 municipalities with functional websites keep tender specifications on their websites after the tender has been awarded.
- Most municipalities are not publishing the names of successful bidders within the required five working days.
- 31 of the 32 municipalities with functional websites either do not publish the prices of contracts or do not consistently do so.
- Almost none of the municipalities are publishing any information on how contracted services will be implemented or delivered.
- Many municipalities are not publishing their procurement information on the National Treasury's eTender Publication Portal.

3 Findings

3.1 Are municipal websites functional? Do they have procurement information?

Transparency in local government procurement is crucial so that the public, and affected communities in particular, can see what their municipality spends the taxpayers' money on. Transparency is enhanced if municipalities establish websites and ensure that they remain functional. Further, municipalities must ensure that they publish procurement information on these websites, and that this information is easily accessible. The relevant information includes tender notices, tender specifications, the names of successful bidders, and prices of contracts.

32 Functional websites



2 Non-functional websites:

Indaka Local Municipality
Inxuba Yethemba Local Municipality

Functionality of websites

A municipality's website was considered functional if its website was accessible at the time the survey was conducted. Of the 34 municipalities surveyed, 32 municipalities had functional websites with a dedicated procurement page during the survey period. The municipalities that did not have functional websites during this time were Indaka Local Municipality and Inxuba Yethemba Local Municipality. While Moqhaka Local Municipality has a page dedicated to procurement information, this information could not be accessed easily. The links for 'current tenders' and 'awarded tenders' on Moqhaka Local Municipality's procurement page did not open, and therefore this procurement information was only accessible through the 'quick links' tab on the website.



1/32 Website requires registration to access the procurement page:
City of Cape Town
Metropolitan Municipality

Requirement for registration to access tenders

Of the 32 municipalities with a functional website, the City of Cape Town is the only one that requires registration to access the City's procurement page. Company details – such as the name of the company – are required to complete this registration process. This suggests that the City's procurement information page is targeting potential tenderers and not the general public. This undermines transparency because the registration requirement makes it difficult for ordinary members of the public to find out what goods and services the City is procuring for their area.



Many websites are not user-friendly

User-friendliness of websites

Many municipal websites are not particularly user-friendly. For instance, the City of Johannesburg's procurement page can be found under the 'Work in Joburg' tab. This may lead members of the public to think that the page relates to employment opportunities, as opposed to procurement-related information. Thabazimbi Local Municipality's procurement information is only accessible via the 'site map' heading. Rustenburg Municipality and Polokwane Municipality do not publish tender information in chronological order (for instance, per month or per year) for ease of identification.



Best practices

Mossel Bay Local Municipality, Knysna, Nelson Mandela Bay Metropolitan Municipality and Msukaligwa Local Municipality regularly publish procurement information that is easily identifiable on a dedicated procurement page of the website. Also, the nature of the tenders is clear from the titles of the tender notices. Their websites are easy to navigate, making it a hassle-free process to find procurement information. Overall, the procurement information is accessible and represented in a neat fashion.

4/32 Websites have a dedicated procurement page with regular and clear updates:

- Mossel Bay Local Municipality
- Knysna Local Municipality
- Nelson Mandela Bay Metropolitan Municipality
- Msukaligwa Local Municipality

RATING

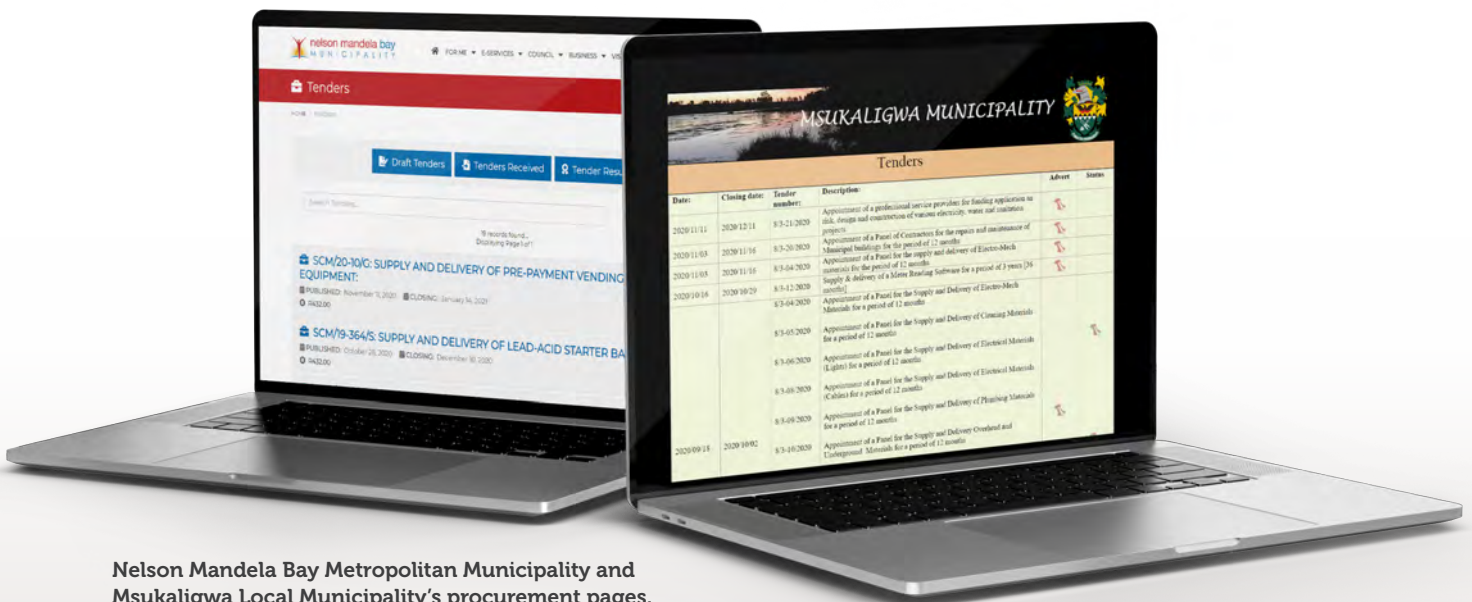


Overall, how did the 34 municipalities rate on functionality and procurement information?

30 Municipalities performed well

2 Municipalities performed moderately well

2 Municipalities performed poorly



Nelson Mandela Bay Metropolitan Municipality and Msukaligwa Local Municipality's procurement pages.

3.2. Are municipalities publishing tender notices?

A key aspect of a procurement process is the publication of a tender notice by a municipality on its website. A tender notice is a document that provides information on a new tender and invites contractors to submit bids for the tender. It is also known as the invitation to bid, or the tender advertisement.



17/32 Published complete tender notices

14/32 Published incomplete tender notices

1/32 Published no tender notices:

Joe Morolong Local Municipality

Most municipalities publish tender notices

In total, 17 of the 32 municipalities with functional websites published a list of tender notices on their websites that seemed complete, while 14 of the municipalities published lists of tender notices that seemed incomplete (see Section 6 below for more information on the methodology used to assess the completeness of these lists). Joe Morolong Local Municipality in the Northern Cape did not publish tender notices on its website.

Good or bad performance on the publication of tender notices transcends (sub)categories

The findings do not reflect a correlation between performance and the municipal category or subcategory. Generally, both good and poor performance on the publication of tender notices on municipal websites was found in all categories and subcategories.



The majority of websites were **transparent** in publishing tender notices before and during lockdown

1/32 Municipality published all their tender notices for the period under review:

Dawid Kruiper Local Municipality

Some municipalities published procurement information during lockdown

The majority of municipal websites examined were reasonably transparent in publishing tender notices not only before, but also during the Covid-19 lockdown. For example, the Makana Local Municipality regularly and extensively published tender notices even before March 2020 (see Makana, 2020). Dawid Kruiper Local Municipality seems to have published all of its tender notices for the period under review (Dawid Kruiper Municipality, 2020).

RATING



Overall, how did the 32 municipalities with functional websites rate regarding publishing of tender notices?

17 Municipalities published tender notices and complete lists on their website

14 Municipalities published tender notices on their website, but the information was incomplete

1 Municipality did not publish any tender notices on their website



3.3. Are municipalities publishing tender specifications?

The tender specifications are made available when an invitation to tender is issued for a specific good or service. It contains details about the exact nature, technical specifications and amount of the goods or service required, as well as the timing of the delivery of the goods or services. For example, when the municipality invites tenders for the cleaning of communal toilets, the tender specifications would spell out issues such as where the cleaning must be done, the frequency of the cleaning, time periods, the applicable quality standards, and the equipment and chemicals to be used. The tender specifications should be clear about the municipality's expectations and the standards against which the service provider will be measured.

Tender or bid specifications are thus important to enable oversight and community-led social audits. Access to bid specifications enables communities to determine whether the service that is actually delivered matches what the municipality had planned, budgeted for and advertised. It informs the community of what to expect in terms of service delivery, and to compare that with what is actually delivered. If the two do not match up, they can demand accountability. To facilitate this, municipalities are encouraged to ensure access, on their websites, to a full set of tender specifications, which are downloadable free of charge, for each tender published. Municipalities can impose a reasonable fee for the public to access hard copies of the tender specifications made available at their offices, allowing them to cater for expenses such as printing.



4/32 Municipalities consistently published tender specifications online:

Dawid Kruiper Local Municipality
Knysna Local Municipality
Polokwane Local Municipality
Ekurhuleni Metropolitan Municipality

11/32 Municipalities published some tender specifications on their website or on the national treasury's eTender publication portal

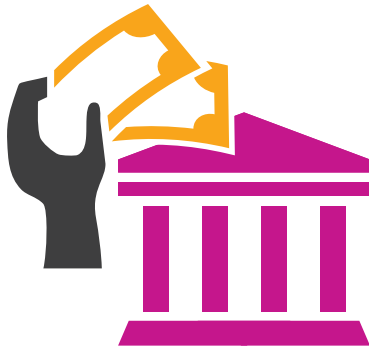
17/32 Municipalities published no tender specifications on their website or on the national treasury's eTender publication portal

Most municipalities are not publishing tender specifications online

Of the 32 municipalities surveyed, only four consistently published tender specifications online, accessible free of charge. They are Dawid Kruiper Local Municipality in the Northern Cape, Knysna Local Municipality in the Western Cape, Polokwane Local Municipality in Limpopo and Ekurhuleni Metropolitan Municipality in Gauteng. These were therefore more transparent and best enabled community-led social auditing of the implementation of the various projects involved.

In total, 11 municipalities published tender specifications either on their website or on the National Treasury's eTender Publication Portal, but only for some of the tender notices they had issued during the period we reviewed. For these municipalities, however, specifications for most tenders were not freely available online for members of the public.

The remaining 17 municipalities did not publish tender specifications for any of the published tender notices on either the municipal website or the eTender Publication Portal. The public therefore had no free access to tender specifications for these municipalities.



32/32 Municipalities offer the option of accessing tender documents from municipal offices for a non-refundable fee



This non-refundable fee varies between R100 and R3,240



Many municipalities did not have any procurement information that was explicitly listed as Covid-19 procurement

Tender specifications and other bid documents can be accessed from the municipal office at a cost

All the municipalities in the sample that had functional websites, provided the option of accessing tender documents, including bid documents, from the municipal offices upon payment of a prescribed non-refundable fee. This fee varied across municipalities, starting from as low as R100 for the City of Johannesburg to as high as R3,240 for Moqhaka Local Municipality in the Free State.

It is not clear what these fees are intended to cover but it is safe to say that it is questionable whether such high amounts are needed to cover administrative costs such as making hard copies. What is clear is that members of the public, who merely want to know what the municipality is procuring in their area, must pay the same as prospective bidders who are assessing their options at winning a contract.

Municipalities that provide access to specifications both online and at their offices usually allow the public to choose the option that is convenient for them. However, the majority of municipalities that only make the specifications available at their offices, deny the public the option of freely accessing them online. The public is hence forced to purchase tender documents from municipal offices so as to access tender specifications. This compromises transparency and accountability. For example, a member of the community whose communal toilets are supposed to be kept clean through a tender, will have to visit the municipality and purchase the tender documents in order to find out what the municipality's expectations are for the service provider that will ultimately do the job.

Covid-19 procurement information still not easily accessible on municipal websites

The municipal websites were reviewed at the end of October 2020. Many of them still did not have any procurement information that was explicitly listed as Covid-19 procurement. While some, such as the Nelson Mandela Bay Municipality, had notices for Covid-19-related tenders, no specifications for these notices could be found online. Even though a substantial part of Covid-19 procurement could have been carried out in terms of contracts that already existed, or in terms of transversal contracts managed by other organs of state, the publication of this procurement information could have enhanced transparency.



Some municipalities said that tender documents were freely available for download either on their websites or on the National Treasury' eTender Publication Portal but it was either not available or only for some tenders.

The commitment to be transparent is sometimes not given practical effect

Some municipalities indicated in their tender notices that tender documents were freely available for download either on their websites or on the National Treasury' eTender Publication Portal. However, a review of these sites during the survey period revealed that these tender documents were not available, either not at all or only for some tenders. The affected municipalities include City of Cape Town, City of Tshwane, City of Johannesburg, Emfuleni Local Municipality, Thabazimbi Local Municipality, Msunduzi Local Municipality, Okhahlamba Local Municipality and Ugu District Municipality. One explanation for this could be that such statements are only intended to serve as a formality. However, it could also mean that the documents were available on the portal when the tenders were still open but were removed soon afterwards. The latter is especially possible for those municipalities that indicated the documents were available on the Treasury's eTender Portal.

Municipalities need to make a greater effort to post tender notices and detailed specifications online in an accessible way

Fees must be reasonable

Make all tender specifications easily available

The findings indicate that most municipalities need to make a greater effort to post tender notices online in an accessible way. Furthermore, greater effort is needed to publish tender documents that contain detailed specifications of what is expected for each project. Lastly, although it is fair to charge fees to facilitate incidental expenses such as printing costs for those who prefer physical copies of tender documents, these fees must be set at a reasonable level so as not to constitute a barrier to public access.

RATING



Overall, how did the 32 municipalities with functional websites rate regarding publishing information about tender specifications?

4 Municipality published tender specifications on their website

11 Municipalities published tender specifications on their website but only for some tender notices

17 Municipalities did not publish tender specifications on their website



3.4. Are municipalities publishing the names of companies that win tenders?

The Municipal Finance Management Act, in particular MFMA Circular 62, requires that all municipalities must publish the names and details of companies that win tenders within five working days after the award (National Treasury, N.d.). Needless to say, the publication of the names of appointed contractors on a municipal website enables communities to know who the contractors are that are supposed to deliver the procured services in their area. For example, members of a community whose communal toilets are to be kept clean by a contractor, will be able to know the name and details of the company that should regularly visit their area to clean the toilets.

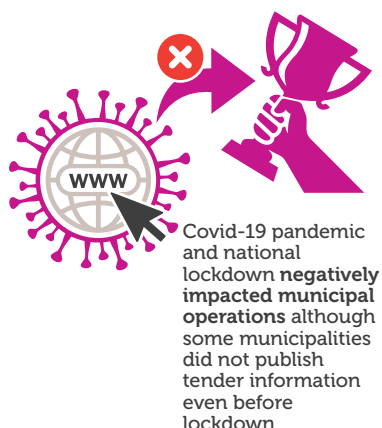


19/32 Did not publish the list of companies who won tenders within 5 working days:
 15 Local/District Municipalities
 6 Metropolitan Municipalities

12/32 Did not publish the list of companies who won tenders at all:
 10 Local Municipalities
 2 District Municipalities

Municipalities are not consistently publishing the winners of tenders timeously

Municipalities are not consistently publishing the names of successful bidders on their websites within five working days, as required. The names of successful bidders are published either monthly, quarterly or annually. Of the 32 municipalities with functional websites, 19 did not publish the names of companies within five working days, or the list of companies who won the tenders published on the website seemed incomplete (see Section 6 below on the methodology used to assess the completeness of these lists). For example, the City of Johannesburg did not publish all tender awards for the period January 2020 to August 2020. It only published tender awards for the months of August to December 2019, which suggests that the list is incomplete given the extent of procurement that a municipality of the City of Johannesburg undertakes (Joburg.org, 2020). The City of Tshwane also did not have information on tenders awarded in July, August and September 2020 on its website (City of Tshwane, 2020). Also, 15 out of the 19 that did not publish the names of successful bidders on time were local or district municipalities, and six were metros, excluding the City of Mangaung. While the City of Mangaung publishes within the required five-day period, it does not do so for all tenders (City of Mangaung, 2020). A total of 12 municipalities did not publish the names of the companies who won tenders at all. Of those 12 municipalities, 10 are local municipalities and two district municipalities. Mossel Bay Local Municipality publishes the names of successful bidders but it could not be established whether the names were published within five working days.



Impact of Covid-19 on publication of names of successful bidders

The Covid-19 pandemic and national lockdown negatively impacted municipal operations. For example, between March and August 2020, Buffalo City Metropolitan Municipality was not consistent in publishing the names of companies. This could be attributed to the Covid-19 pandemic. However, on the websites of municipalities such as Matjhabeng Local Municipality and Namakwa District Municipality, the last published information on tender awards dated back to 2016 and 2017, respectively (Matjhabeng Local Municipality, 2020; Namakwa District Municipality, 2020). This suggests that there is more to the lapse in transparency in these municipalities than can be attributed to lockdown.

Best practices

Greater Taung Local Municipality publishes the reasons why a bidder was appointed and the number of days taken to make the appointment. Obtaining the highest points in terms of the Preferential Procurement Policy Framework Act (PPPFA) is mostly cited by the municipality as the reason why bidders are appointed (Greater Taung LM, 2020). Some municipalities, for instance Big 5 Hlabisa Local Municipality and Okhahlamba Local Municipality, publish the intention to award tenders to a particular bidder. The 'intention to award' is a notice informing the public that the municipality wants to award a particular tender to a chosen bidder.

RATING



Overall, how did the 32 municipalities with functional websites rate regarding publishing information about who wins tenders on time (i.e. within five working days after the award) on their websites?

1 Municipality published information about who won tenders within five working days on their website

19 Municipalities published information about who won tenders but after five working days and/or the information was incomplete

12 Municipalities did not publish any information about who won tenders on their website



3.5. Do bid specifications remain available after the tender has been awarded?



4/32 Municipalities keep tender specifications available after awarding the contract:

Dawid Kruiper Local Municipality
Knysna Local Municipality
Mossel Bay Local Municipality
Rustenburg Local Municipality

5/32 Municipalities keep some tender specifications available after awarding the contract:

Polokwane Local Municipality
Mopani Local Municipality
Thabazimbi Local Municipality
Msukaligwa Local Municipality
eThekweni Metropolitan Municipality

23/32 Municipalities do not keep tender specifications available after awarding the contract

RESULT:

Communities cannot hold municipalities and service providers accountable



Many non-metro municipalities prefer to publish tender specifications on the eTender Publication Portal as opposed to their own websites e.g.:

Thulamela Local Municipality
Greater Taung Local Municipality
Nkomazi Local Municipality
Msunduzi Local Municipality
Okhahlamba Local Municipality
Ugu District Municipality

It is important for municipalities to keep bid specifications available after awarding the tender. Tender specifications contain vital information that enables communities to compare the expected goods or services (scope of work/ specifications) against the actual performance of the contractor, especially if they do not have access to the actual tender contract or implementation agreements.

Only four municipalities keep tender specifications on their website afterwards

Out of the 32 municipalities under review, only four keep tender specifications available after awarding the contract (Dawid Kruiper Local Municipality, Knysna Local Municipality, Mossel Bay Local Municipality and Rustenburg Local Municipality). Another five municipalities keep only some tender specifications available, or their tender specifications do not remain publicly available for the entire duration of the contract. These are Polokwane Local Municipality, Mopani Local Municipality, Thabazimbi Local Municipality, Msukaligwa Local Municipality and eThekweni Metropolitan Municipality. As mentioned above, two municipalities have non-functional websites (Indaka Local Municipality and Inxuba Yethemba Local Municipality). The remaining 23 municipalities do not keep tender specifications available on their website after awarding the contract.

It can thus be concluded that there is no culture of keeping tender specifications publicly available after a tender has closed or after a contract has been awarded. This means that many communities do not have the procurement information they need to hold municipalities and service providers accountable. For example, a member of a community, whose communal toilets are cleaned by a private contractor, will not be able to access the specifications that led to this contractor being appointed.

The preference to publish tender specifications only on the eTender Portal

Many non-metro municipalities in the sample – such as Thulamela Local Municipality, Greater Taung Local Municipality, Nkomazi Local Municipality, Msunduzi Local Municipality, Okhahlamba Local Municipality and Ugu District Municipality – prefer to publish tender specifications on the eTender Publication Portal as opposed to their own websites. The challenge with this approach of publishing tender specifications only on the Portal is that it seems tender documents are removed from the Portal once these tenders have closed. It is therefore difficult for members of the community to retrieve tender documents once the tender has closed or has been awarded. The municipal website is the publication platform that municipalities themselves control. Therefore, keeping tender documents (including specifications) publicly available is likely to be easier with a municipal website than it is with the eTender Publication Portal.

RATING

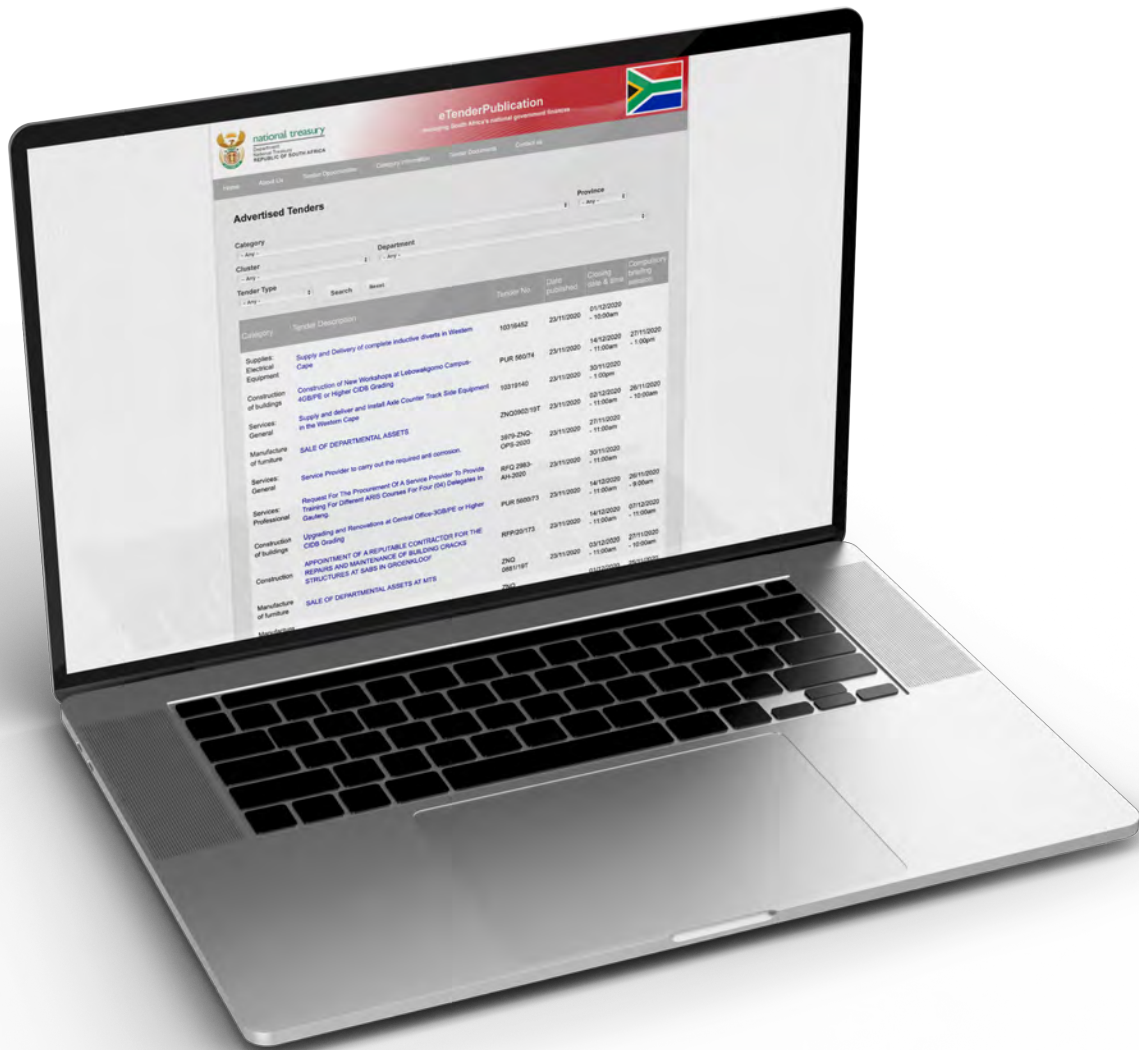


Overall, how did the 32 municipalities with functional websites rate regarding keeping tender specifications on their websites after the contract has been awarded?

4 Municipalities kept tender specifications on their website for the duration of the contract

5 Municipalities kept some tender specifications on their website for a part of the duration of the contract

23 Municipalities removed tender specifications after the contract was awarded or did not publish tender specifications in the first place



The National Treasury's eTender Publication Portal

3.6. Are municipalities publishing the prices of contracts?



4/32

Municipalities published the prices for all the awarded contracts

Dawid Kruiper Local Municipality
Knysna Local Municipality
Mossel Bay Local Municipality
Rustenburg Local Municipality

15/32 Municipalities published the prices of contracts but not for all contracts:

13/32 Municipalities did not publish prices of contracts:

2/8 Metropolitan municipalities consistently published the price of contracts on their websites:

City of Johannesburg Metropolitan Municipality
Nelson Mandela Bay Metropolitan Municipality



7/32

Municipalities stopped consistently publishing the prices of contracts or did not publish them at all, whilst they did so before:

Mopani District Municipality
Makana Local Municipality
Namakwa District Municipality
Ngaka Modiri District Municipality
Nkomazi Local Municipality
Emalahleni Local Municipality
Msunduzi Local Municipality

Some municipalities published comprehensive information about awarded tenders that is vital for the public to track increases in spending:



Nelson Mandela Bay Metropolitan Municipality
Rustenburg Local Municipality
eThekweni Metropolitan Municipality

The publication of the price (or total value) of a contract is important for transparency. It informs communities about the cost at which public services are delivered in their areas by contracted service providers. Armed with the price of the contract, communities can assess whether there is value for money for the services being provided. They will also be able to evaluate whether progress on the ground during the implementation of the project corresponds with the value of the contract.

Only four municipalities consistently publish prices of contracts

Out of the 32 municipalities with functional websites, only four municipalities published the prices for all the awarded contracts during the period under review. Another 15 municipalities published the prices of contracts but not for all contracts awarded during the review period. Of these 15, five are metropolitan municipalities, eight are local municipalities and two are district municipalities. The remaining 13 municipalities (comprising one metropolitan municipality, 10 local municipalities and two district municipalities) did not publish prices of contracts.

Publication of contract prices by metros

Out of the eight metropolitan municipalities, only the City of Johannesburg and Nelson Mandela Bay Metropolitan Municipality consistently published the price of contracts on their websites during the period under review. This is worrying given that metros have the biggest budgets and therefore undertake the largest chunk of local government procurement. In addition, metros are home to roughly 40% of South Africa's population.

Some municipalities have stopped publishing prices of contracts

Some municipalities did not consistently publish the prices of contracts or did not publish them at all, while they appeared to do so before. Mopani District Municipality, Makana Local Municipality, Namakwa District Municipality, Ngaka Modiri District Municipality, Nkomazi Local Municipality, Emalahleni Local Municipality and Msunduzi Local Municipality used to publish them before the 2019/20 financial year. They are now doing so inconsistently or not at all. This suggests a regression in transparency in those municipalities.

Best practices

Nelson Mandela Bay Metropolitan Municipality published a list of companies that won Covid-19 tenders. This list featured the stock items procured, suppliers' names, supplier codes, order numbers, unit prices and total prices (Nelson Mandela Bay Municipality, 2020). Rustenburg Local Municipality published the price of the contract and also indicated the lowest acceptable value, the highest acceptable value, and the actual amount awarded for the contract (Rustenburg Local Municipality, 2020). eThekweni Metropolitan Municipality published the value of extended contracts and also stated the original contract value. This information is vital for the public to track increases in spending.

RATING



Overall, how did the 32 municipalities with functional websites rate regarding publishing the prices of contracts that has been awarded?

4 Municipalities published the prices of contracts awarded on their website

15 Municipalities published the prices of some contracts awarded on their website

13 Municipalities did not publish the prices of contracts awarded on their website



3.7. Are municipalities publishing any information on how contracted services will be implemented?

Municipalities should publish information such as the timelines and deliverables pertaining to the contract. This shows how projects contracted to private service providers will be implemented or delivered. Making this information available on the municipal website enables easy access and helps communities to hold municipalities and service providers accountable for the delivery of contracted services.

32/32
Municipalities do not publish service delivery agreements on its website once a tender has been awarded.

RESULT:
Communities cannot hold municipalities and service providers accountable

This survey revealed that, in practice, once a tender has been awarded, municipalities do not publish service delivery schedules, agreements and plans or any kind of information that shows how the contracted services will be implemented. Municipalities tend to publish the contract period (for instance 3 years) but nothing more. The City of Cape Town used to publish service delivery agreements on its website from as early as 2002 but this seems to have stopped in 2018.

By not making this information available, municipalities make themselves, and the contractors they appoint, less accountable. This is because the public is unable to access the information that they require to hold the municipality and/or service provider accountable. For example, many municipalities appoint outside service providers to clean and service chemical toilets in informal settlements. Often the tender specifications only include the broad scope of the service to be delivered, while the additional service delivery agreements provide detail on which days of the week the services should be delivered, to which settlements, and by which contractor. Without these agreements communities cannot enforce accountability.

RATING



Overall, how did the 32 municipalities with functional websites rate regarding publishing service delivery agreements for the contracts that has been awarded?

0 Municipalities published service delivery agreements for contracts awarded on their website

0 Municipalities published incomplete service delivery agreements for contracts awarded on their website

32 Municipalities did not publish any service delivery agreements for contracts awarded on their website



3.8. Are municipalities publishing information on the eTender Portal of the National Treasury?

A 2015 review of public sector supply chain management (SCM) found that different and inconsistent supply chain management systems, data and business processes were being used in the public sector, resulting in data fragmentation and varying compliance levels (National Treasury, 2015, p. 59). The review recommended, among others, the modernisation of SCM through the smart use of information and communications technology, through automation. This would provide access to a wider range of suppliers, and contribute to fair and transparent competition; reduce red tape and duplication within the state; and improve the use of technology across all spheres of government (National Treasury, 2016). The eTender Publication Portal of the National Treasury was established for this purpose.

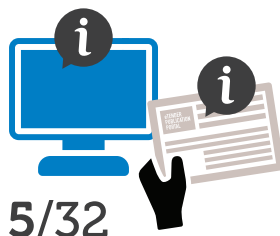
The eTender Publication Portal seeks to '[e]nsure that all potential service providers have easy and free access to advertised bids and are provided with an opportunity to compete in supplying municipalities with goods, services and works' (National Treasury, 2016, p. 2). So the Portal was established, not with the intention to facilitate citizen participation in government procurement, but rather to supply potential service providers with information. However, if municipalities would use the Portal correctly, the Portal still adds considerably to the objective of making municipal procurement information publicly available.

The National Treasury's MFMA Circular No 83 directs municipalities to advertise all their bids and to publish notices about awarded bids, cancelled bids, deviations, variations and extensions of existing contracts on the eTender

Publication Portal, as an additional requirement to SCM Regulation 22(1)(a) on public invitation for competitive bids. We examined whether municipalities are complying with this Circular.



National Treasury's MFMA Circular No 83

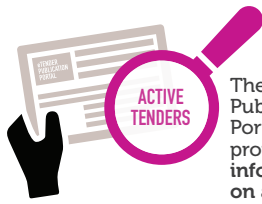


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Municipalities publish similar information on both their website and the eTender Publication Portal:

- Polokwane Local Municipality
- Nelson Mandela Bay Metropolitan Municipality
- Rustenburg Local Municipality
- Ngaka Modiri Molema District Municipality
- Ugu District Municipality

Municipalities are not publishing all procurement information on the eTender Portal

Only five of the 32 municipalities publish information on both their websites and the eTender Publication Portal. These are Polokwane Local Municipality, Nelson Mandela Bay Metropolitan Municipality, Rustenburg Local Municipality, Ngaka Modiri Molema District Municipality and Ugu District Municipality. With respect to these municipalities, there was evidence of congruence of information between the two platforms. In Ngaka Modiri, for example, the two websites mirrored one another regarding advertised tenders.



The eTender Publication Portal only provides information on advertised and awarded tenders

The eTender Publication Portal seems to focus only on active tenders

The eTender Publication Portal only provides comprehensive information on advertised (and therefore active) and awarded tenders. So even though some municipal websites (such as Dawid Kruiper Local Municipality) contain detailed information on closed tenders covering the period under review, the eTender Publication Portal does not. It merely lists them.

The eTender Portal has limited functionality - it does not provide information about closed or cancelled tenders beyond listing them



It is difficult to search for information on the eTender Portal

The eTender Portal only provides a list of cancelled and closed tenders. This list is not searchable electronically nor does it provide for additional documentation; it is merely a list. This makes it difficult to assess the eTender's functionality beyond active tenders.

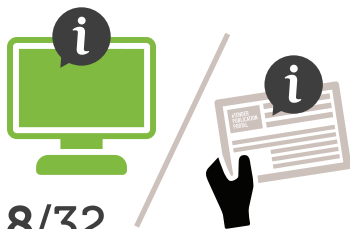


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municipalities use of both their own websites and the eTender platform to publish procurement information but the information does not correspond.

Procurement information on the website and on the eTender Portal do not correspond

A total of 18 municipalities used both their own websites and the eTender platform to publish procurement information. However, the procurement information on these two platforms do not always correspond. For instance, Knysna Local Municipality and Mopani District Municipality appeared to publish information on their websites more frequently than on the eTender Publication Portal, and therefore, the information did not correspond. Some municipalities, such as Moqhaka Local Municipality in the Free State province, appear to rely solely on the eTender Portal for loading bid documentation, as none were accessible from the municipal website. All but one metro (Ekurhuleni) used both platforms, with information inconsistencies on the two platforms.



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Municipalities only published procurement information just on one of the two sites - either their own website, or the eTender Publication Portal - not both

For some municipalities, it is either the municipal website or the eTender Portal

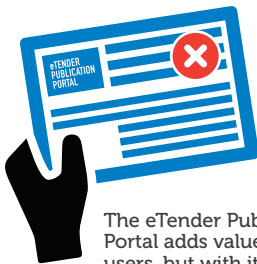
Eight of the 32 municipalities only published procurement information on either their own website, or the eTender Publication Portal, but not on both. Examples are Ekurhuleni Metropolitan Municipality, Buffalo City Metropolitan Municipality and Namakwa District Municipality. For these three municipalities, there was no procurement information on the eTender Publication Portal whereas there was significant procurement information on the municipal websites. Only Joe Morolong Local Municipality in the Northern Cape did not publish procurement information on either its website or the eTender Portal during the review period. However, there is evidence that the municipality did publish procurement information for the period 2013 to 2017 on its website.



For seamless integration of municipal websites and the eTender platform Information should be uploaded by designated official(s) of the municipalities

Best practice: the integration of information of municipal websites and the eTender Publication Portal

Circular 83 states that the uploading of information on the eTender platform will be done by designated official(s) from the municipalities. If this is the case, in theory at least, this should provide for seamless integration between the municipal website and the eTender Publication Portal, as municipalities control the content for both websites. Municipalities such as Rustenburg have taken advantage of this. Information available on the municipal website appears to be a scanned version of the municipality’s procurement information on the eTender Publication Portal. This practice is however not widespread.



The eTender Publication Portal adds value to users, but with its limited functionality cannot replace functional municipal websites

The eTender Publication Portal cannot serve as a replacement for functional municipal websites

It appears that for those municipalities that have taken full advantage of the eTender Publication Portal, information is fully accessible to the public from this platform. However, the functionality of the ePortal can be improved. For instance, the archiving of all information related to closed bids, beyond the currently available list, is necessary. The eTender Publication Portal adds value to users, but cannot serve as a replacement for functional municipal websites. It should rather complement them.

RATING



Overall, how did the 32 municipalities with functional websites rate regarding publishing procurement information on both their websites and the eTender portal?

5 Municipalities published procurement information on their website and the eTender portal

19 Municipalities published procurement information on their website and the eTender portal but the information did not correspond

7 Municipalities only published procurement information on either their website or the eTender portal

1 Municipality did not publish procurement information on either its website or the eTender portal





4 Conclusion

Our findings, across a sample of 34 of the 257 municipal websites, suggest that municipalities must do much more to improve transparency in local government procurement. Key procurement information (tender specifications, prices of contracts, project implementation details, etc.) is often not publicly available. In some instances, some of this information is not published timeously or only made available at municipal offices at a (sometimes high) cost. The lack of transparency in local government procurement cuts across all categories and subcategories of municipalities. The municipalities with the highest capacity levels, such as metros, are not necessarily performing better than smaller municipalities. While Covid-19 significantly affected municipal operations, it did not seem to have had a major impact on transparency in local government procurement. Many municipalities were in any event not publishing procurement information before the pandemic. However, the survey revealed that there are some best practices in some municipalities relating to transparent local government procurement that other municipalities should consider adopting.

5 Recommendations

Transparency in local government procurement is not just a lofty ideal. It must be made a reality. Without transparency, municipalities will not achieve accountability and effective citizen participation that is so central to local government. Municipal websites are essential for transparency, and the law instructs municipalities to use them to provide citizens with information about service delivery. Our survey found that, when it comes to procurement, the information furnished via municipal websites is often insufficient for the public to know what municipalities are procuring with taxpayers' money.

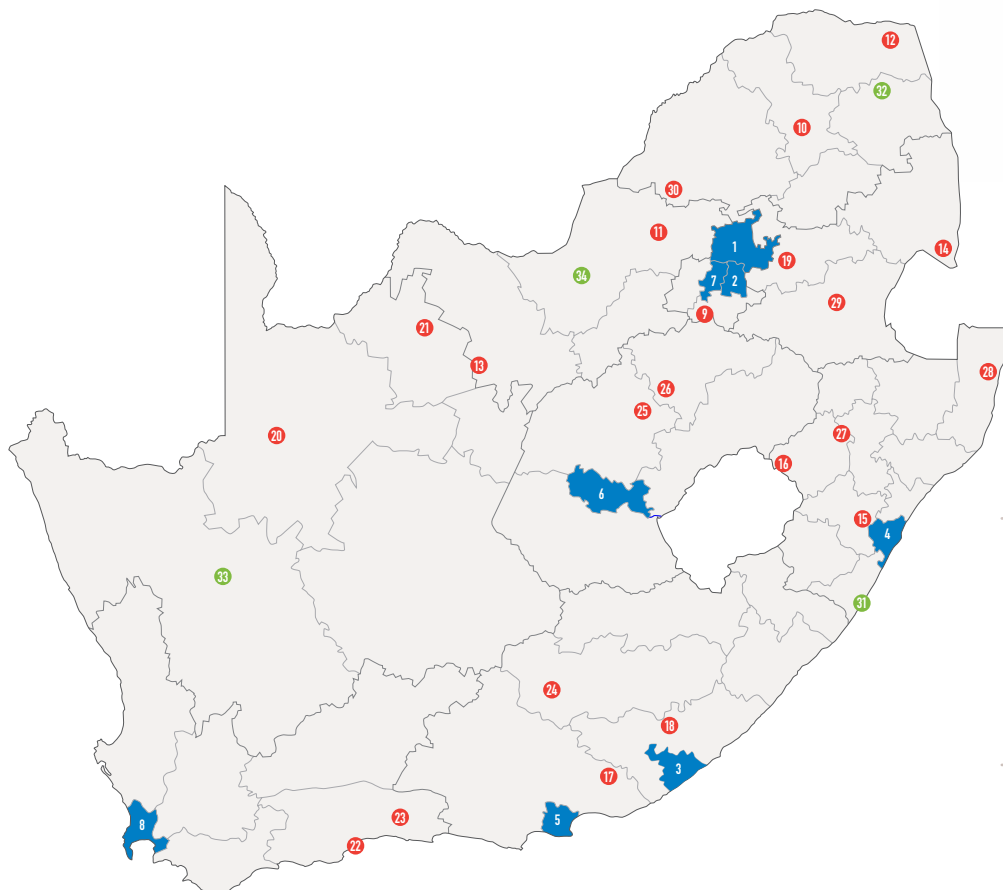
Thus, there is a need for all stakeholders – municipalities, National Treasury, South African Local Government Association (SALGA) and civil society – to explore ways of enhancing transparency in local government procurement. Below is a set of recommendations for consideration:

- Municipalities should maintain functional websites with a dedicated page for procurement information. This page, including tender award registers, should be neatly organised and regularly updated.
- Municipalities should publish tender specifications for all tender notices on their website and these should preferably be downloadable free of charge. These tender specifications should remain on the website after the contract has been awarded, for the duration of the contract.
- Municipalities should publish the prices of all contracts awarded.
- After entering into a contract with a private service provider, municipalities should provide information on how the contracted services will be provided by publishing all service delivery agreements and service delivery schedules drawn up after the award of the contract.
- Municipalities should publish all procurement information on both their websites and the eTender Publication Portal. A commitment to publish is not enough. Steps must be taken to ensure that the categories of procurement information, as discussed in this report, are actually available.
- The eTender Publication Portal should not be seen as a replacement for functional municipal websites. While municipalities may refer the public to the National Treasury's eTender Publication Portal for free access to tender documents and make sure these documents are available there, they ought to be available on the municipality's website to facilitate ease of access, particularly for communities.
- The National Treasury should consider revising the portal to improve the searchability of tender information.
- The National Treasury should consider archiving tender information, particularly tender specifications, so that it remains publicly available after the tender has closed or the contract has been awarded.

6 Methodology

The survey considered procurement information that was available from **1 September 2019 to 31 August 2020**. In order to assess the degree of transparency in municipal procurement we sampled the **34 municipalities** listed on the right. We visited their websites and asked eight questions:

1. Does the municipality have a functional website with a dedicated page for procurement information, which can be accessed without registration?
2. Does the municipality publish tender notices on its website?
3. Does the municipality publish tender specifications for tender notices on its website, free of charge?
4. Does the municipality publish the names of companies or individuals who won tenders on its website?
5. Do tender specifications remain accessible on the website after the contract has been awarded for the duration of the contract?
6. Does the municipality publish the price of the contract?
7. Does the municipality publish any information on how the project will be implemented, for instance, timelines and deliverables, otherwise known as service delivery agreements or implementation plans?
8. Does the municipality publish procurement information on both its website and the National Treasury's eTender Portal?



Surveyed municipalities

Metropolitan Municipalities (8)

- 1 City of Tshwane
- 2 Ekurhuleni
- 3 Buffalo City
- 4 City of eThekweni
- 5 Nelson Mandela Bay
- 6 Mangaung
- 7 City of Johannesburg
- 8 City of Cape Town

Local Municipalities (22)

- 9 Emfuleni
- 10 Polokwane
- 11 Rustenburg
- 12 Thulamela
- 13 Greater Taung
- 14 Nkomazi
- 15 Msunduzi
- 16 Okhahlamba
- 17 Makana
- 18 Amahlathi
- 19 Emalahleni
- 20 Dawid Kruiper
- 21 Joe Morolong
- 22 Mossel Bay
- 23 Knysna
- 24 Inxuba Yethemba
- 25 Matjhabeng
- 26 Moqhaka
- 27 Indaka
- 28 The Big 5 False Bay
- 29 Msukaligwa
- 30 Thabazimbi

District Municipalities (4)

- 31 Ugu
- 32 Mopani
- 33 Namakwa
- 34 Ngaka Modiri

Note: The assessment for the City of Johannesburg was restricted to its website and did not extend to the websites of its entities.

34
municipalities

8
questions

The website of each municipality in the sample was 'examined' based on these eight questions. They were all assessed in the same week (26 – 30 October 2020) so as to ensure an even-handed approach. The sample included municipalities across all nine provinces, in all three municipal categories, as well across all of the 'subcategories' used by the National Treasury. The categories are:

- A – metropolitan municipalities or metros
- B1 – secondary cities, local municipalities with the largest budgets
- B2 – local municipalities with a large town as core
- B3 – local municipalities with small towns, with relatively small population and significant proportion of urban population but with no large town as core
- B4 – local municipalities that are mainly rural with communal tenure and with, at most, one or two small towns in their area
- C1 – district municipalities that are not water services authorities
- C2 – district municipalities that are water services authorities

In cases where relevant procurement information was not available on the municipal websites, procurement information on the National Treasury's e-tender portal was used to assess municipalities. The rationale behind this is that the e-tender portal is a government run platform and that MFMA Circular No 83 requires municipalities to submit procurement information for publication on the portal (National Treasury, 2016).

Another important part of the methodology was how we dealt with the fact that there is no public record of all procurement that was actually undertaken by municipalities during the period under review. Therefore, we could not compare the procurement information on municipal websites with reliable data on actual procurement. Our conclusions in the survey as to whether the procurement information made publicly available is 'complete' or not is thus based on a realistic assessment, judging the completeness of the data or the lack thereof. For example, a range of procurement data with significant gaps in time, or a range of procurement data that ended many months ago, would not be considered 'complete'.

The source data (i.e. completed questionnaires, the tabulated results per question) on which this report is based, is available on the Dullah Omar Institute's website at www.dullahomarinate.org.za/multilevel-govt/publications.





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