

**THE CONTEXTUALIZATION OF DECISION- MAKING PROCESS
IN LIMPOPO PROVINCIAL GOVERNMENT TENDER BOARD**

BY

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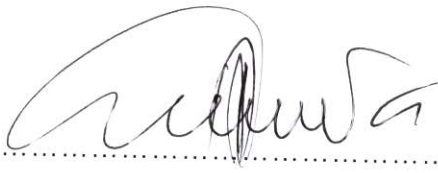
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DECLARATION

I declare that the research paper hereby submitted to the University of Limpopo for the degree of Masters in Public Administration has not previously been submitted by me for a degree at this University or any other university, that it is my own work in design and execution, and that all the materials contained therein have been duly acknowledged.

Signed: 

Date:

ACKNOWLEDGEMENTS

An endeavour of this magnitude, by its scientific imperatives, could never have been attempted without references to the works of others. In the preparation of this study, I have had to consult numerous literatures and I hereby acknowledge my indebtedness to them all.

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EXECUTIVE SUMMARY

The study contextualises the decision making process in terms of procedures and processes in the Limpopo Provincial government Tender Board. It describes the stages in the tendering process that consists of invitation of tenders, evaluation of tenders received and awarding of tenders. The processes are supported by the frameworks in place, viz, policy, legal and institutional. An analysis of the tender process wherein the present researcher is putting his thought on the ignorance of constituted bodies or committees in taking decisions on tenders received.

The constitution of the country together with the PFMA states that procurement practices must be in accordance with a system which is fair, equitable, transparent, competitive, and cost-effective. In complying with these five pillars of procurement, there are eminent problems in existence in that there is inconsistency in the adjudication of tenders. Adjudication of similar tenders is executed differently. Thus, the relationship between the Tender Board and end-user departments is sometimes strained because of mistrust.

Both Tender Board members and government officials often have an interest in tender decisions taken. In most instances, the members as well as the officials are requested to declare their interest before a decision is to be taken on submissions which should serve before the Tender Board. This normally ends up in a corrupt practice because it depends on the individual's inner feeling.

A survey on the tendering process in the Limpopo Provincial government has been conducted and the findings show that the service providers have no trust in the tender system, and that there are high levels of corruption within the Tender Board. Recommendations are made to assist in resolving the problems.

ACRONYMS

| | |
|---------|---|
| LCPC | Limpopo Central Procurement Committee |
| CPC | Central Procurement Committee |
| POs | Procurement Officers |
| MDs | Managing Directors |
| LSCMO | Limpopo Supply Chain Management Office |
| PDs | Previously Disadvantaged Individuals |
| PFMA | Public Finance Management Act |
| PPPFA | Preferential Procurement Policy Framework Act |
| Statcon | Statistical Consultation Services |
| SPSS | Statistical Package of Social Sciences |
| TIL | Trade and Investment Limpopo |
| LIMDEV | Limpopo Economic Development Enterprise |
| SABS | South African Bureau of Standards |
| SITA | State Information Technology Agency |
| SCOPA | Standing Committee on Public Accounts |

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CHAPTER ONE

DESCRIPTION OF TENDERING PROCESS

1.1 INTRODUCTION

It is essential to outline that the underlying theory of seeking competitive tenders or quotations as the method of establishing prices in purchase, is that potential suppliers will prepare their bids knowing that they are competing against others for the business. The government departments constitute the Tender Board/committees that look into bids as lodged and awards according to adjudication criteria contained therein. This chapter will basically reflect the policy, legal and institutional framework guiding procurement and also the categorization of tenders, as well as the measurement thereof, and analyse the application of the systems and framework.

1.2 Stages of Tender Process

The process consists of three stages that shall be discussed below.

1.2.1 Invitation of Tenders

According to Limpopo/Northern Province user manual (1994-1995), the identification of the need for a specific period contract rests with the government organizations by establishing a future need for high value goods or services, while the budget has been prepared and approved, the organizations can thereafter call for tenders. This is done through the appropriate Tender Board, depending on the size and nature of the contract.

In writing tenders, the organization publishes information on the sought after goods or services. The potential tenderers submit their offers by completing the available tender documents. This is normally known as a request for bids process. Late tenders are not accepted since information on the closing time and date for the submissions of tender documents is always shown.

1.2.2 Evaluation of Tenders Received

Tenders are opened in public and the tenderers who submitted their tenders are encouraged to be present. It is only in case of big projects, in particular, construction contracts that, when opening the tenders, the names and prices are read. From there on suitably competent officials, either the departmental tenders committee or the Tender Board, will evaluate the tenders. The quality, suitability, price and abilities of the tenders are taken into account when they choose the winning supplier on evaluation. In addition, the responsible officials score each proposal by comparing it to a predetermined set of benchmarks. All things being equal, the organization selects the tenders that offer the best value for money.

1.2.3 Awarding Tenders

Pauw (2002:237) states that before awarding a tender, an audit should confirm that:

- i) the evaluation exercise has, in every way, been followed; and
- ii) open procedures and non-discriminatory criteria were used.

It should be stressed that this information is necessary in the selection and awarding of all public contracts. This reduces the possibility of tenderers contesting the award.

1.3 POLICY FRAMEWORK

It should be emphasized that in order to implement a procurement policy framework as articulated to give effect to section 217 (3) of the constitution, the procurement policy framework should be introduced as articulated in section 217 (2) of the constitution.

In terms of section 2(1) of the Preferential Procurement Policy Framework Act (Act 97 of 2000), an organ of state must determine its preferential procurement policy and implement it within the following framework:

- a) A preferential point system must be followed;
- b) (i) For contracts with a Rand value above a presented amount a maximum of 10 points may be allocated specific goals provided that the lowest acceptable tender scores 90 points for price.
(ii) For contracts with a Rand value equal to or below a prescribed amount, a maximum of 20 points may be allocated for specific goals provided that the lowest acceptable tender scores 80 points for price;
- c) any other acceptable tenders that are higher in price must score fewer points, calculated on their tender prices in relation to the lowest acceptable tender;
- d) the specific or categories of persons staged by unfair discrimination on the basis of race, gender or disability;
- e) any specific goal for which a point may be awarded, must be clearly specified on the invitation to submit a tender;
- f) the contract must be awarded to the tenderers who score the highest points, unless objective criteria, in addition to those contemplated, justify the award to another tenderer;and
- g) any contract awarded on account of false information, furnished by the tenderer in order to secure preference, may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.

1.4 LEGAL FRAMEWORK

The provisions of Tender Board Act No.2 of 1994, gives the Member of the Executive Council for the Department of Finance and Economic Development the authority to appoint the Board members. The board exercises its authority as contemplated in section 3(1) and 5 of the Tender Board Regulations. It should further be indicated that section 217 (1) of the constitution stipulates that when an organ of state, contracts for goods and services, it must do so in accordance with

a system that is fair, equitable, transparent, competitive and cost effective. It is also emphasized, in section 2 (1) of the Preferential Procurement Policy Framework Act of 2000, that an organ of state must determine its preferential procurement policy and implement it.

The Accounting Officer for a department, trading entity or constitutional institution must, in terms of section 38(1) a (iii) of the Public Finance Management Act 29 of 1999, ensure that their institutions/organizations have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; a system for properly evaluating all major capital projects prior to a final decision on the project.

1.5 INSTITUTIONAL FRAMEWORK

It is very essential that in order for the Tender Board to effectively, efficiently, economically and transparently run its functions, an institutional set up should be reflected/established.

1.5.2 Departments

The departments, through their accounting officers, interact with the Tender Board on acquisition, logistics and disposal management of goods and services. The Tender Board, as reflected in section 5(7) of the Tender Board Act of 1994, delegates functions to departments on financial institutions. As a result, the departments are encouraged to establish their Bid/Tender Committees of which members must include experts in the field of procurement, contract management, financial management and economic analysis. Kanyane (2001:151) stipulates that the department must appoint the Tender Evaluation Committee to scrutinize all tender applications against the requirements and objectives of the participating department.

In case there is absence of such skills, accounting officers may appoint experts from outside the department.

1.5.2.1 Functions of Tender Committee

The functions of a tender committee include the:

- a) adjudications and consideration of bids within the context of the legislative framework and the National Policy Strategy to guide uniformity in the procurement reform process;
- b) making of recommendations to the relevant departmental delegate or accounting officer for approval; and
- c) assistance of accounting officer in the assessment and implementation of the departmental tender management system, provided that it is not inconsistent with legislation.

1.5.3 Tender Board Office

This unit of the Tender Board renders or facilitates the administrative support, to the line function managers and departmental bid/tender committees, with the performance of their duties.

1.5.3.1 Functions of the Tender Board Office

The Tender Board office has functions to:

- a) assist in the checking of bids/tender specifications from the department;
- b) invite tenders on behalf of departments; and
- c) coordinate preparation and presentation of cases to the Tender Board.

1.5.4 Tender Board

The Tender Board consists of 16 members who are appointed by the Members of the Executive Council.

1.5.4.1 Functions of the Tender Board

In terms of the provisions of section 4(1), the Tender Board shall have the sole power to procure supplies and services for the Province, and subject to the provision of any other Act of the Provincial Legislature, to arrange the hiring or letting of anything, or the acquisition, or granting of any input for, or on behalf of the province.

1.5.5 Executive Council

A member of the Executive Council appoint the Tender Board

1.5.6 Tenderers/Suppliers

The tenderers provide or render services after tenders are awarded to them. This process of award obliges the tenderers to complete and the one complying with the requirements accepted. A relationship on service provision to departments and payments effected created.

1.5.7 Parastatals/Public entities

There are organizations or institutions that are not in the government but their activities are linked to certain government departments. Some of these public entities/parastatals, like State Information Technology Agency (SITA), South African Bureau of Standards (SABS), are always involved in guiding the Tender Board on the technical nature of a tender. They are professionals and are specializing. Other participants in the finalised contracts are, namely, Limpopo Economic Enterprise Development (LimDev), Trade and Investment Limpopo (Til) in Limpopo Province in particular.

1.6. CLASSIFICATION OF TENDERS

The Limpopo Province Tender Bulletin number 285 of 05 December 2003 stipulates that the tenders for the procurement of supplies, services and disposals be classified or categorized as follows:

1.6.1 Supplies

These are indicated in the Tender Bulletin of 05 December 2003 (3) and are classified as hereunder:

- i) General;
- ii) Office Equipment: Labor Saving Devices;
- iii) Clothing;
- iv) Transport;
- v) Electronic Equipment; and
- vi) Workshop Equipment.

1.6.2 Services

These entail the following:

- i) General;
- ii) Cleaning;
- iii) Security;
- iv) Professional;
- v) Repair and maintenance of vehicles;
- vi) Building;
- vii) Civil;
- viii) Electrical; and
- ix) Mechanical

1.6.3 Disposals

1.7 MEASUREMENT OF TENDERS

Though the Provincial Tender Board is providing services on different categories as on item 1.6 above, there is no clear classification according to categories and

amounts involved. According to the summary of performance of Limpopo Provincial Tender Board for the period 01 April 2004 to 31 March 2005, the following are shown (see Annexure C):

- 47 contracts were under evaluation during 2004/2005 at a value of R 320 950 474.72
- 39 contracts were awarded to HDIs at the value of R 125 811 752. 77
- 25 awarded to women at the value of R 51 720 116.09

1.8. CRITICAL ANALYSIS OF THE TENDER PROCESS

It has been reflected that the Tender Board and departments are inconsistent in the application of criteria at the time of advertising and adjudication.

The suppliers or successful tenderers are using the lack of expertise of the procurement office to supply or deliver inferior quality products. The SABS can assist in quality control but departments are not utilizing the services of this institution/organization.

Moreover, the departments, when determining requirements, provide insufficient information and resultantly tenderers challenge the authenticity of the tender documents. This ends up taking more than 90 days of the validity period of a tender to be concluded.

The five pillars of procurement, namely, fairness, equitable, transparent, competitive and cost-effective, are not seen to be effective in that, in accepting tenders, budgets of departments do not inform decisions. Due to the conflict of interest shown by members, the system then becomes flawed.

1.9. CONCLUSION

The conclusion that can be drawn in this chapter is that the identification or determination of needs rests with government departments. This could be simply because they are the budget custodian. For these needs to be procured

effectively and economically there should be policy, legal, and institutional frameworks to guide the procedures and processes. In the ensuing chapter, the bidding or tendering processes will be analyzed, which will also reflect the problem statement.

CHAPTER TWO: ANALYSIS OF BIDDING PROCESS

2.1. INTRODUCTION

The democratic government started with procurement reforms that were mainly directed to focus on the promotion of the principles of good governance, and the introduction of a preference system to address certain socio-economic objectives.

The constitution states that procurement practices must be in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. This does not prevent organs of state or institutions from implementing a procurement policy providing for:

- i) categories of preference in the allocation of contracts; and
- ii) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

2.2. FIVE PILLARS OF PROCUREMENT

It should be emphasized that these pillars are intended to reflect the best available outcome as well as the quality in bidding. This is controlled through the available specifications. According to the National Treasury: Supply Chain Management, a guide for accounting officers/authorities 2004: 27, the standards and technical specifications quoted in bidding documents should promote the broadest possible competition, while assuring that critical elements of performance or other requirements for the goods, services and/ or works are being procured or achieved.

2.2.1 VALUE FOR MONEY

Value for money, as one of the five pillars of procurement, reveal that the contracts concluded are found to be very expensive as against the available budget. The performance also is unsatisfactory. Hugo (2002:231) says that the ethics surrounding post-tender negotiations are frequently questioned, in that the point of departure may be that, if it is not unethical for a supplier to tender for the highest possible price, then it may not be unethical for the purchaser to question the tender prices.

The National Treasury (2004: 30) stipulates that quotations for the required goods or services should be obtained from all potential suppliers in the specific category or on a rotation basis from various suppliers.

This exercise basically suggests that institutions should advertise in the local media for business to register as potential suppliers for goods and services to be obtained by means of quotations. Dobler (1996:239) indicates that a process of elimination, a selected list of potential suppliers is developed with whom the buying company may be willing to do business. The suppliers are categorized according to the goods/services they are capable of supplying. It has been depicted that to procure using quotations or out of contracts does not show value for money on inflated quotations due to lack of proper and manageable systems. On the concluded contracts, generally, the procurement officers do not double check whether or not goods are supplied according to specifications. In the context, quality also suffers and organs of state charged exorbitantly.

2.2.2 OPEN AND EFFECTIVENESS/COMPETITION

It is generally proclaimed that everyone has the right of access to:

- (i) any information held by the state; and
- (ii) any information that is held by another and that is required for exercise or protection of any rights.

Most of the service providers do not have access to procurement opportunities. The point scoring system though, has deliberate preferential, the previously disadvantaged lacks capacity in calculating the scores. Only the urban based service providers generally benefit from on the systems in place. According to Saunders (1997:241), the underlying theory of seeking competitive tenders or quotations, as the method of establishing prices in purchasing, is that potential suppliers will prepare their bids, knowing that they are competing against others for the business.

2.2.3 ACCOUNTABILITY AND REPORTING

It has before the adoption of an integrated Supply Chain Management System, been found to be a tendency of the then Tender Boards to exceed the budget of the departments and ultimately the Head of Department/Accounting Officer ended up failing to account properly before the parliament or the public. The Public Finance Management Act, Act 1 of 1999 states that the accounting officer for a department must take effective and appropriate steps to prevent any overspending of the vote of the department or a main division within the vote. Furthermore, the accounting officer must keep full and proper records of the financial affairs of the department, trading entity or constitution in accordance with any prescribed norms and standard. If he is unable to comply with any responsibilities, he must promptly report the inability, together with reasons, to the relevant executive authority and treasury.

2.2.4 ETHICS AND FAIR DEALING

The outcry of most of the service providers reflects unfairness of decision-makers when awarding tenders/bids. Everything considered, it is often found that bids are awarded to the second lowest. Upon questioning, the answer is that the decision is final as determined also by the Act.

The Policy Strategy to Guide Uniformity in Procurement Reform Processes in Government (2003: 33) stipulates that all parties are required to comply with the highest ethical standards to promote:

- i) mutual trust and respect; and
- ii) an environment where business can be conducted in a fair and reasonable manner and with integrity.

Furthermore, government employees associated with procurement, particularly those dealing directly with suppliers are required to:

- i) recognize and deal with conflicts of interest or potential thereof;
- ii) deal with suppliers even-handedly;
- iii) ensure that they do not compromise the good standing of the state through acceptance of gifts or hospitality;
- iv) be scrupulous in their use of public property; and
- v) provide all assistance in the determination of fraud and corruption

The King II Report (2003:34) indicates that a company's ethics refer to the principles, norms and standards that it promotes for the guidance and conduct of its activities, internal relations and interactions with external stakeholders, in accordance with its corporate values.

2.2.5 EQUITY

Pauw et al.,(2002: 7) state that equity means having a fair share or receiving what we deserve. As exemplified in the constitution, everyone shall be equal before the law and has the right to equal protection and benefit from the law. The state or a person may not unfairly discriminate, directly or indirectly, against anyone or more grounds.

2.3 A CASE STUDY ON THE PROCESS IN LIMPOPO DEPARTMENT OF HEALTH AND SOCIAL DEVELOPMENT

The defunct Tender Board (Limpopo Province) has concluded a contract on behalf of Department of Health and Social Development for the implementation of Hospital Information System (HIS) tender NTP 7479 in 2000. The tender was awarded to Ethniks Systems.

There were media reports in the national, local newspapers and SABC on the issue that was described as a “multimillion computer bundle” (Report to MEC: 5)

2.3.1 NATIONAL PROCESS/POLICY

The Information Systems emanated from the National Policy of the Department of Health with the advent of the new dispensation in 1994, to develop a National Health Information System. This was devolved to the provinces, hence the Limpopo Province has procured the HIS through the provincial procedures.

In as far as Information Technology (IT) is concerned, there is a Northern Province IT Committee put in place in the Premier’s Office to facilitate any consultative processes on IT matters and to give guidelines where necessary. There is also a Tender Committee in the Department of Health and Social Development that deals with procurement issues.

All tenders, after being invited and closed (during the then Tender Board), were submitted to the end-user department for evaluation and recommendation. The tenders were evaluated in terms of the tender evaluation criteria.

Upon evaluation of this tender, the Head of Department claimed that he was not a member of the evaluation committee, yet recommendations to the Tender Board show that he was one of the committee members and has signed the submission. The Nolan Commission Report of 1996:6-7, into standards of

conduct in public life, stipulates that a transactional offence that concerns the use or proposed use of inducements or rewards to influence actions or decisions by politicians and public servants to ensure an outcome specifically favourable to the donor. The Head of Department, rather than the Deputy Director for Health Services, steered the deliberations of the final meeting of the evaluation committee, which arrived at the decision to award the tender to Messrs Ethniks Systems. In this instance, the evaluation criteria were determined after the tender was received. It was supposed to have been determined before the tenders were received so as to avoid biasness.

The entire process in this case was flawed. The weights put on evaluation criteria were determined in the evaluation process. This process in itself may be open to bias because a persuasive or authoritative person may influence a decision to favour a tender that is not necessarily the best. Ironically, the successful tenderer, i.e., Ethniks Systems, was found not to be complying with the requirements either.

The Northern Review of 20 September (2005: 3) has also articulated that the Hospital Information System is still not performing as required and might have to be replaced again. Value for money was seriously compromised. Jenkinson et al., (1996:126), in their studies, have stipulated that governments often give preferential treatment to investors who submit quality bids. In practice, quality has a number of dimensions, including:

- Bids that are firm rather than indicative;
- Bids that are submitted early in the offer period;
- Bids that are set at a specific price; and
- Bids that are from investors who are likely to be buyers in the after-market rather than sellers.

The Limpopo Auditor General and Standing Committee on Public Accounts (SCOPA) said that the Department of Health and Social Development has spent R193 million fruitlessly.

2.4. PROBLEM STATEMENT

The major problems are the way in which the Provincial Tender Board takes decisions based on the recommendations of the end-user provincial department for the provision of a given service. The process of considering tenders and the making of recommendations is, however, an administrative act, which should be distinguished from the subsequent conclusion of the contract (Van As, 1999:263).

The department ends up recommending a tender that is not necessarily the best of all the tenders for a particular tender or service. There is no measurement or instrument to measure expertise or experience when a final recommendation is forwarded to the Tender Board. Though there are guidelines on how evaluation or adjudication should be considered, the application is not similar. The guidelines are based on the tender requirements, tender conditions, and preference. The end-user department measures the tender on its own and the Tender Board considers both in order to arrive at a different tender than the one recommended.

According to Angela (1999:1), the practice of awarding tenders to contractors on the basis of the lowest bidder should be revamped. That is why a department and the Tender Board are always differing because one will say the lowest qualifying bidder was accepted and when it reaches the board, the capability or affordability of the recommended tender will be questioned.

Why does the Tender Board not have enough information upon which to take a decision? It should be indicated that the board sits once the office has prepared and sent an agenda to them and as such does not have sufficient time to peruse the tender documents to establish the basic requirements of the tender. The

agenda contains summary of tenders received, closing date, expiry date of the tender as well as the recommended tenderer. The information provided contains the referred tenders and excludes those, which are considered not to be preferred. For instance, if ninety-five (95) tenders have been received, the information provided are for the far many lowest companies, which are preferred and for the others are not provided.

It should further be stated that where a tender should be adjudicated on the basis of the % (percentage) not Rand value, the information is not provided in the recommendation form the department as it is assumed that the Tender Board will go through tender documents. The Tender Board relies on the information from the support office. In this instance, the support staffs are the officials appointed by the Department of Finance and Economic Development on a permanent basis to run the daily administration of the Tender Board Office.

There is also contradictory information provided by the end-user department and the Tender Board support office. The departments recommend tenders on information, which has disqualified the other tenders. For instance, when a tender requires document like Original Tax Clearance Certificate, the departments sometimes indicate that the certificate is a copy, hence the office of the Tender Board declares the document to be original. In this scenario, the Tender Board will request the tender document to establish as to whether at the opening and dispatching to the department, the original or copy was attached or not.

There is inconveniency in adjudication of tenders. It is always detected that adjudication of a similar service is administered/ executed differently. In case estimates are used particularly on the building tenders, the Tender Board sometimes does not use estimates when taking decision, though it was a requirement at the time of tendering. Kiseru (2001:1) indicates that the government is still not ready to deal with the fundamental weaknesses in its procurement systems.

There is lack of trust between the Tender Board and the support office. The relationship between Tender Board and user departments is sometimes strained because of mistrust. This also affects the Tender Board support office in the operational workings. The Tender Board takes decision based solely on the recommendation of the department, thus disregarding information provided by the office. For example, when the Tax Clearance Certificate is indicated not to be attached by department, the Board disregards the information from the office by stating that the Tax Clearance Certificate is attached and is original. On interrogation of the document, the Tender Board ends up saying the certificate was submitted after the closing date of a tender.

2.5 CONCLUSION

Serious conflict of interests is prevalent due to the constitution of bid adjudication bodies. The procurement and provisioning procedures in government are overly rule-driven, where value- for- money is almost always equated to the lowest price tendered. The emphasis almost exclusively focuses on the monitoring of inputs, with little or no regard to the outcomes of procurement and provisioning processes.

The activities pertaining to procurement and provisioning are executed almost as stand-alone processes, where there is little or no linkage to budgetary planning. There is a lack of uniformity in bid documentation, advertising, receipt and adjudication procedures. This causes uncertainty and inefficiencies, not only on the part of bidders, but also within the government.

There is an inadequate provision for capacity building for disadvantaged enterprises to successfully compete for government contracts, in spite of the fact that the 80/20 and 90/10 points system

In addition to the incorrect application of the Preferential Procurement Policy Framework Act (PPPFA) and its associated regulations, in certain cases where set-aside practices are prevalent, instead of applying the prescribed preference

points system, certain departmental policy directives are also in direct conflict with the provisions of the Preferential Procurement Policy Framework Act (PPPFA).

CHAPTER THREE: CONFLICT OF INTEREST IN TAKING BIDS DECISIONS

3.1. INTRODUCTION

This chapter tries to look into all corruption risks in procurement and contract management for the public sector with special reference to Limpopo Provincial government departments. It is imperative for every government to be aware of the consequences of failing to address conflict of interests and /or the corruption risks. These include:

- Failure of the government to deliver expectations of quality of life and value for money;
- Waste of the government resources dealing with perceptions of conflict of interest of investigating corruption allegations;
- Detriment to the government's reputation and good will; and
- The flourishing of corruption which is being borne by government and ultimately ratepayers.

3.2. PURCHASING PROCEDURES FOR EXPENDITURE UNDER THE TENDER THRESHOLD

Generally, the government has procurement policies in place under the tender threshold. However, there are differences between the governments in the type of procedures used.

Requiring three quotations, or similar, is not, in itself a guarantee of ethical procurement outcomes. Cox (1996:247) articulates that departments often rely on competitive tendering as the sole technique to achieve the best result. According to the Guidelines for Managing Corruption Risks in Local Government Procurement and Contract Administration (September 2001:13), the policy asks for three written quotations if the service or goods to be purchased is over \$2,000, therefore, if you quoted, for example, \$3,000 and it was a fair price. it would need another two quotes.

It is argued that if contractors do not go out and quote, which happened on numerous occasions, you could not get them to go out or they just would not go out, they are asked to do that so that the government could get the works done. The purpose, mainly, in doing this was to ensure that they would obtain the work and to, prima facie, meet the policy and procedural requirement so the government's suspicions would not be raised. Having requirements for quotes at different monetary thresholds is no guarantee of corruption resistance; hence Fearon (1980:163) stipulates that there should be proper treatment of such quotations, once received.

3.2.1. Order splitting

In this instance, the monetary threshold can also be open to abuse in the form of order splitting. Order splitting may be motivated by improper purposes calculated to deceive, or it may occur as a result of poor planning. In most cases, the order splitting will never achieve best value for money.

3.2.2. Emergency orders

The government has the tendency of using emergency orders for minor works and this has a potential of abuse. Emergency procurement usually involves bypassing normal procedures, such as obtaining a number of quotations or raising a purchase order prior to ordering.

3.3. EVALUATION OF QUOTATIONS AND TENDERS

It should be stressed here that the evaluation committee must accept the bid that having considered all the circumstances appears to it to be the most advantageous. The committee must decide on the criteria for assessment of each bid based on this principle. According to the National Treasury Guidelines on Supply Chain Management (February 2004), amending the evaluation criteria

after closure of the bids should not be allowed, as this would jeopardize the fairness of the system.

There is a tendency of the Evaluation Committee to rely too much on price as the main criterion when evaluating tenders or quotations. Saunders (1997:265) says the standard criteria of quality, price and delivery are necessary, but not sufficient conditions for considerations. Though this is certainly a crucial factor, it is important to remember that price alone is not always a reliable indicator of value-for-money. Therefore, if price is the sole criterion that is taken into account, the government runs a risk that contracts could be awarded without any guarantee of service or quality. Fearon (1980:165) says selecting the supplier, once the quotations are received is not a simple matter of listing the bidders and picking out the one whose price is apparently low, because the obvious price comparisons may be misleading.

Furthermore, the selection criteria based on all factors that will be taken into account during the evaluation process should always be developed prior to the calling of tenders or quotations and included in the bid documentation.

Selection criteria should also be focused on outcomes as opposed to processes. This will widen a selection field and allow innovative processes to be identified. According to Hugo (1998:25), the nature of the requirements significantly influences the procedure followed in selecting a supplier. If the selection criteria are based on a process, the government may be susceptible to allegations that it is favouring a particular bidder because it may not be able to demonstrate the best value outcome was achieved.

If only one person is responsible for assessing proposals, the potential for corrupt conduct increases. It is also important that processes, such as the recommendation, review and final approval of tenders or quotations, are separated and documented to avoid probity concerns.

3.4. Conflict of interest during evaluation process

The term “conflict of interest” basically refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, an employee’s professional judgement in administration, management, instruction, research and other professional activities. The bias such conflicts could conceivably impart may inappropriately affect the goals of instructional or administrative programs. Dobler (1997:232) further stipulates that a conflict of interest exists when buyers must divide their loyalty between the firm, which employs them, and another firm.

Conflicts of interest have the potential to bias directly or indirectly many procurement activities, particularly when the employees are in position to set policies, manage contract (www.cu.edu/policies). King II Report 2003:53 stipulates that declaration of conflict of interest must be recorded in board minutes. The company must keep a register of interests that is subject to review by an external auditor.

3.4.1. PROCESS OF DISCLOSURE AND REVIEW

Procedures need to be in place for dealing with conflict of interest before undertaking an evaluation process. Full disclosure, followed by monitoring and conflict management, is the key to preventing and resolving conflict situations. Full disclosure of the relevant information and establishment of a public record are in the best interest of both the employee and the institution. It demonstrates good faith on the part of the employee and protects both his or her reputation and that of the government (www.cu.edu/policies). The disclosure will not necessarily restrict or preclude an employee’s activities. In fact, activities that may at first appear questionable may be deemed acceptable and permissible when all facts regarding the activity are examined.

The members of Tender Evaluation Committees are responsible for disclosing potential conflicts of interest or commitment during their sittings.

There is a need to review the disclosures to determine if a conflict of interest appears to exist. If the initial reviewer is unable to assure the elimination of the conflict of interest or commitment, he or she should consult with executive authority of the government.

3.5. CONCLUSION

Conflict of interest generally exists where processes are related to deal with money. In this study, the main interest is on taking bids or tender decisions. The procedures in place are tempered with and result in corruption risks. Ethics in practice ignored. The research methodology and the survey conducted in tendering processes and procedures in Limpopo Provincial Government Tender Board will be outlined in the next chapter.

CHAPTER 4

SURVEY ON TENDERING PROCESS IN LIMPOPO PROVINCIAL GOVERNMENT/RESEARCH METHODOLOGY

4.1 INTRODUCTION

This chapter will basically outline the research methodology pursued to investigate the following with regards to the procedures and processes in Limpopo Central Procurement Committee, formerly know as Limpopo Tender Board:

- Current status of the procedures and processes in the Limpopo Central Procurement Committee
- Conflict of interest in decision making on bids
- Possible strategic role of LCPC in the province.

The investigation involves the use of questionnaires in an empirical survey of the Limpopo government departments' employees as well as the service providers or suppliers. The research survey and the method towards collecting and analyzing the research data are subsequently discussed.

4.2 RESEARCH APPROACH

A research design, according to Bless and Higson-Smith (1995:63), has two meanings, i.e., it can be understood as the planning of any scientific research from the first to the last step. It is a programme to guide a researcher in collecting, analyzing and interpreting observed facts. Very often, this process is described as research management or planning. Another more specific definition of a research design relates directly towards the testing of a hypothesis. Therefore, the selection of the research process and methodology is determined by a researcher's choice between a quantitative and qualitative, or both methods combined (De Vos, Schurink and Strydom, 1998:15).

Research methodology is dictated by the nature of the data and the research problem (Babbie, Halley & Zaino, 2003:16; and Mouton, 2001:48). For example, qualitative methods are suitable for the collection of verbal data, whereas the collection of numerical data requires quantitative methods. The research method applied to this study generally follows a qualitative approach. However, quantitative methods are applied as part of the qualitative research approach. A survey of scientific and technical literature, relevant to the bidding procedures and processes in the government, served as basis in the preceding chapters.

According to Mouton (2001:144-147), empirical research is research derived from or relating to experimentation and observation, rather than theory. It is also a research in which a researcher does not gather data in order to prove or disprove something, but rather to explore and observe.

The methodology employed in the present study is a survey by questionnaire. The data were collected by means of personal interviews. The present researcher carried out structured interviews with the participants in the survey at their workplace. In a structured interview, the interviewer puts a collection of questions from a previously compiled questionnaire, known as a interview schedule, to a respondent, face to face, and records the latter's response (Welman & Kruger, 1999:167).

4.2 CHOICE OF METHODOLOGY

The nature of the research being undertaken was instrumental in determining the methodology applied. Since the objective of the study was to investigate the nature and extent of the Central Procurement Committee (formerly Tender Board) decision making process and identification of possible models that can resolve the problem of awarding tenders, it was advisable that a survey research be used in this study.

Surveys are generally perceived to be excellent vehicles for measuring attitudes in a large population. Surveys are mainly used in studies that have individual people as a unit of analysis. Surveys include the use of a questionnaire; an instrument specifically designed to elicit information that will be useful for analysis (Babbie, 2003:251-255).

The approach followed in this study entails a qualitative method, e.g. a questionnaire survey and a quantitative method, e.g., statistical data analysis of questionnaire results. The main survey methodology consisted of questionnaires which were distributed to a sampled group.

The present research was undertaken in two stages comprising of a literature review and a questionnaire survey. The initial stage involved an extensive review of literature on the bidding procedures and processes in both the government departments and Central Procurement Committee. The next stage involved the collection and evaluation of empirical data to explore the current status of bidding procedures in Limpopo Central Procurement Committee.

According to Luck et al., (1989:112-115), there are three types of media for communicating with respondents, namely: personal, telephone and mail. Three approaches can be used to collect information.

4.2.1 Survey method applied in this study

The questionnaires were used to collect data on the procedures and decision making process on awarding of bids in Limpopo Central Procurement Committee. According to Babbie (2003:253), a questionnaire is a survey instrument or document containing questions and other types of items designed to solicit information appropriate for analysis, and is completed personally by the respondent. This is known as a self-administered survey instrument.

The questionnaire was self-constructed. In the construction of the questionnaire a number of issues had to be taken into account. The questionnaire for the suppliers contained 25 questions (see Annexure B) hence the other one for the government department procurement officers had 22 questions. These were for the sake of easy reporting, were later during data analysis and interpretation grouped by the researcher into sections covering the following aspects relevant to the study: participants' profile, interaction methods, knowledge of procurement procedures as well as the five pillars of procurement on government department procurement officers questionnaire and the suppliers the questions covered the general characteristics of the Central Procurement Committee and the tendering process. Each of these sections consisted of sub-sets of questions.

The questionnaire had multiple-choice questions that required respondents to choose from already listed possible answers. There were also questions that required the respondents to elaborate and bring possible solutions to existing problems. Questions were generally constructed with either fixed alternative items, e.g., the participant has to respond by indicating [Yes] or [No]; or a Likert scale in terms of items to characterize its features and performance, e.g., a score of [1] was considered 'very often', [2] 'often', [3] 'seldom', [4] 'not at all'. The letter of introduction included an explanation of the purpose of the study.

The questionnaire was piloted or pre-tested with 3 government officials and 4 suppliers, representing all levels: 1 representing top management, and 2 for middle management, hence in the suppliers 3 managers and 1 operational member. Based on the pre-test validity, it was concluded that the questionnaire should not take more than 10 minutes to complete. Confidentiality was also guaranteed, as questionnaires were returned anonymously.

During this exercise, the researcher was always available in case of problems that need clarification. Furthermore, the present researcher explained the necessary procedures of the survey clearly to the relevant people and at the

same time ensured their commitment to the exercise (see Annexure A and B). A period of three weeks was allowed for response to the questionnaires before analysis was undertaken.

4.3 POPULATION

Babbie (2003:112) describes a population for a study as that group (usually of people) about whom we want to draw conclusions. However, with limited time and money researchers are unlikely to study the entire body of relevant facts about the whole group of people under investigation. Therefore, the findings and conclusions in survey research are based on information gathered from a limited number of people from whom generalizations can be made about the whole number. Brynard & Hanekom (1997:43) stipulate that for the purposes of sampling ,”population” does not refer to the population of a country but to objects, subjects, phenomena , cases, events or activities, i.e., all the objects , subjects ,events, phenomena, activities or cases which the researcher wishes to research in order to establish new knowledge.

The survey comprised 9 Limpopo provincial government departments. From the 9 departments only 7 departments participated and responded to the questionnaires. The suppliers also represent the population.

In order to figure out what the population parameters are, the researcher needs to make inferences from a subset of the population; that is, statistics must be generated from a sample of people chosen to represent the entire population.

4.4 Research sample

For this study, research participants (sampling population) were randomly selected through their operational level position in the 9 nine departments and suppliers. This resulted in 89 participants representing both the government officials (53) and 36 for the suppliers. Efforts were taken to ensure that the sample covered all the management levels of both the government departments

and suppliers in order that the figure would not bias. These measures were taken in order to provide accurate and unbiased information.

Fouche (1998:154) stipulates that in order to increase the speed of obtaining responses, questionnaires are to be hand delivered personally by the researcher to the participants. Together with this, hand made "mail-boxes" were also delivered for return of the questionnaires to protect the anonymity of respondents.

4.5 DATA ANALYSIS

Once the completed questionnaires were returned, it was necessary for the data to be extracted and collated in some form of analysis, testing and interpretation. Questionnaires were submitted to Statistical Consultation Service (Statcon) at the University of Limpopo for analysis.

The data from the questionnaires was then put into spreadsheets with statistical graphics for a visual presentation of the results by Statcon, who used SPSS (Statistical Package for Social Sciences) software.

4.6 CONCLUSIONS

In this chapter, the research methodology that was used for the empirical survey of the research was discussed. In Chapter five, the findings of the empirical survey will be discussed.

4.8 RESULTS

4.8.1 PARTICIPANTS' PROFILE

Seven out of nine departments responded as indicated in figure 4.1. In overall, as reflected in figure 4.2 below, the order of the majority of the respondents was Procurement Officers/others (25), followed by deputy managers (15) and Managers (13).

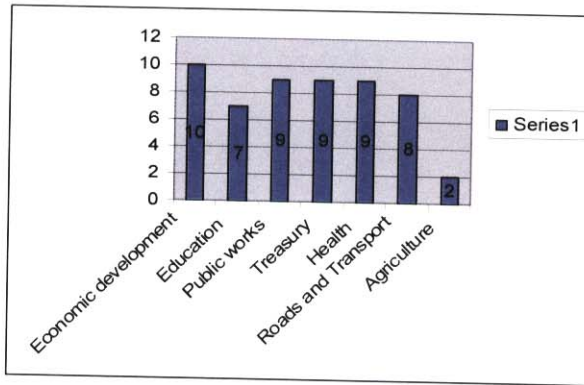


Figure 4.1 Response per departments

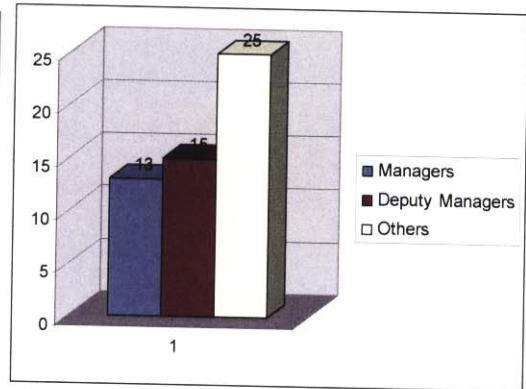


Figure 4.2 Respondents per positions

While 30 of the respondents (service providers) are registered with registrar of companies and receiver of revenue, 3 of the respondents are not registered and two did not indicate (See figure 4.3 below). As indicated in figure 4.4 below, fifteen of the service providers who responded come from Building industry, 13 from other sectors, 10 from cleaning services, 6 from technical services, and 4 from catering services. Twelve of the respondents were Managing Directors (MDs), 10 were Directors, 6 were Managers, and 7 were from various positions below the management.

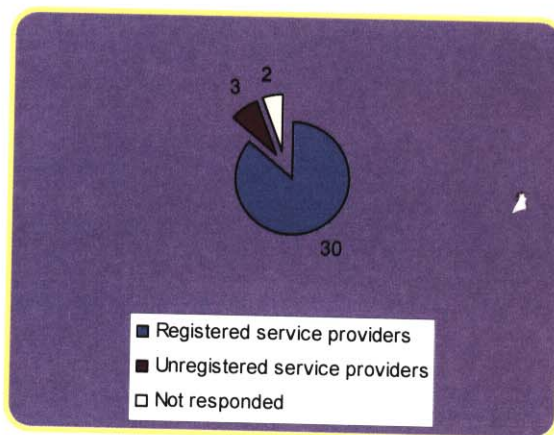


Figure 4.3: Profile of service providers

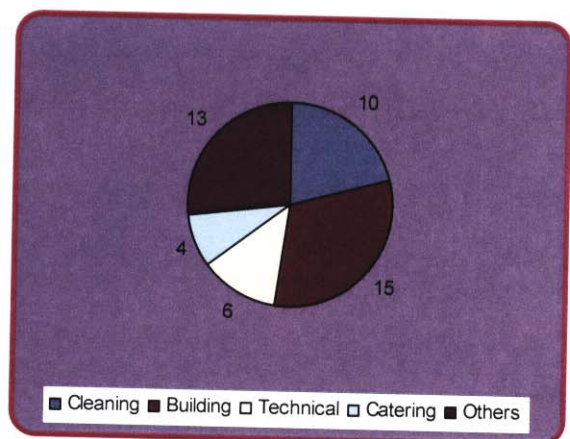


Figure 4.4: Categories of service providers

4.8.2 COMMUNICATION AND GOOD GOVERNANCE

Participants, i.e., Procurement officers (PO), were asked as to how often they interact with service providers. Thirty four percent of the respondents indicated that it very often interact with service providers compared to 13% who does not interact with service providers at all. Further participants (Service providers) were asked how often they make contact with Limpopo Supply Chain Management Office (LSCMO). The majority of the respondents (54%) indicated that it does not communicate with the LSCMO compared to 3% of the respondents who very often interact with LSCMO. Figures 4.5 and 4.6 below demonstrate comparatively the respond rate with regard to communication from procurement officers with suppliers (Figure 4.5) and communication from service providers with LSCMO (Figure 4.6).

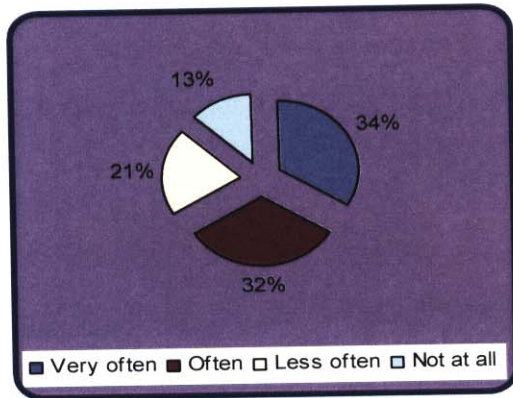


Figure 4.5: Interaction: PO to service providers

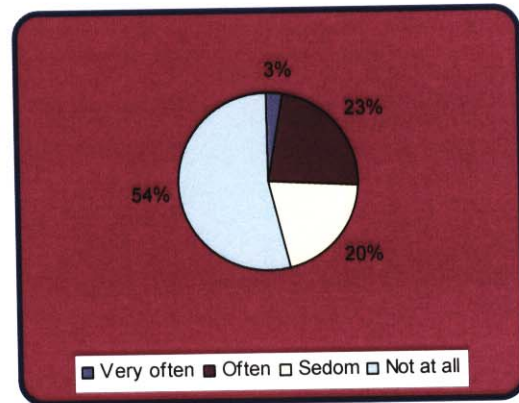


Figure 4.6. Interaction: Service providers to LSCMO

In support of the above given information received, both participants (procurement officers and service providers) were also asked on how they interact with each other, i.e., means of communication. In terms of procurement officers, the majority of the respondents (64%) are using telephone to communicate with service providers compared to 54% of the respondents from Service providers use physical contacts to communicate with Limpopo Supply Chain Management Office (LSCMO). Figures 4.7 and 4.8 below comparatively demonstrate the response with regard to means communication from

Procurement officers to service provider (figure 4.7) and means of communication from service providers to LSCMO (figure 4.8).

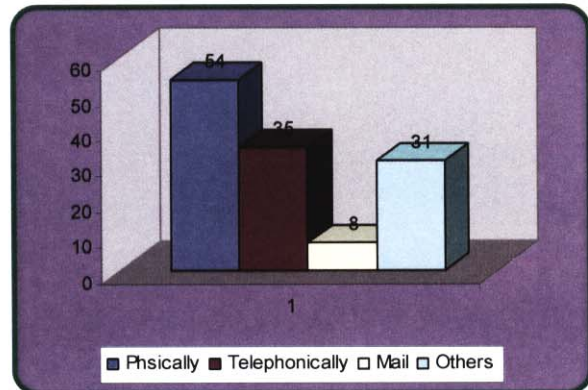
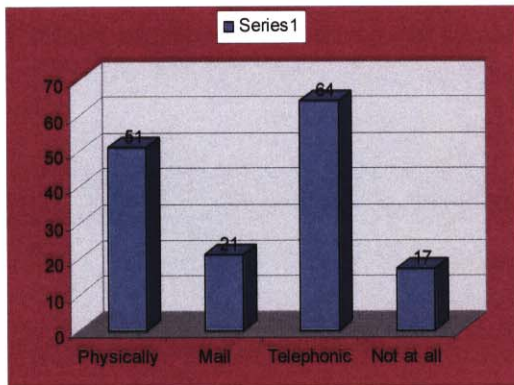


Figure 4.7: Means of comm. with service providers

Figure 4.8: Means of comm. with LSCMO

With reference to figure 4.7 and figure 4.8 above, it can be argued that Information Technology is playing an important role to accelerate the speed of communication between service providers and the government. For example, the length of time taken by use of mail and physical contact may be associated with often or less often in figure 4.5 above.

Furthermore, participants (service providers) were asked if they are satisfied with the method used by the department to invite quotations for goods and services. The majority of the respondents (56%) indicated that it is satisfied with the method used.

Furthermore, participants (Service providers) were asked on how they access information of existing tenders. As reflected in Table 4.1 below, the majority of the respondents (100%) access information of existing tenders through tender bulletins compared to 50% for newspaper.

Table 4.1: Mechanisms of accessing information on existing tenders

| | Percentage |
|------------------|------------|
| Tender bulletins | 100% |
| Newspapers | 50% |
| Officials | 0 |
| Others | 0 |

Participants (Service providers) were asked if they are aware of the existence of Limpopo Central Procurement Committee (LCPC). Forty six percent of the respondents indicated that it knows about the existence of LCPC, compared to 54% who does not know about LCPC.

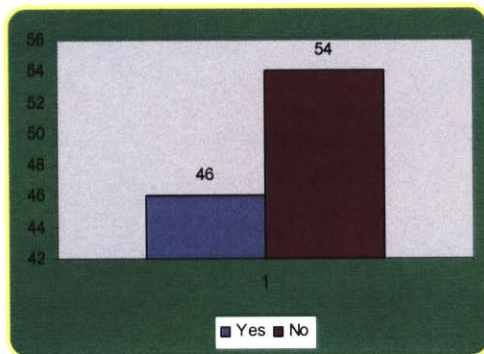


Figure 4.9: Awareness in existence of LCPC

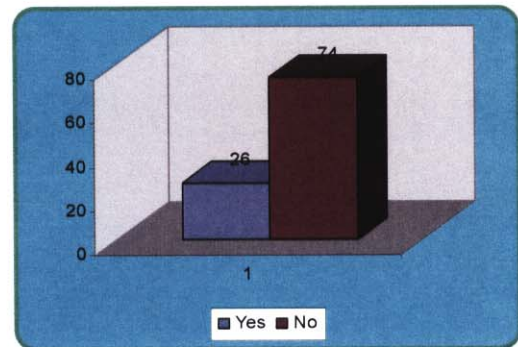


Figure 4.10: Familiarity with the constitution of LCPC

Participants (Service providers) were also asked if they are comfortable with functions performed by Limpopo Central Procurement Committee (LCPC). The majority of the respondents (91%) indicated that it is satisfied, compared to 9% who are not.

4.8.3 CORRUPTION AND CONFLICT OF INTEREST

In order to justify the knowledge of procurement officers with regard to accountability, a question on their familiarity with Public Finance Management Act (PFMA) was asked. As indicated in Table 4.2 below, the majority of the

respondents indicated that it is fully aware of PFMA compared to 2% who do not know anything about PFMA.

Table 4.2: Knowledge with regard to PFMA

| | Percentage |
|------------|------------|
| Good | 58% |
| Fair | 27% |
| Average | 14% |
| Not at all | 2% |

In support of the question on PFMA, participants were also asked about awareness and compliance with regard to procurement procedures. In terms of awareness, ninety four percent (94%), as reflected in figure 4.11., indicated that they are aware of the procurement procedures, compared to 94% who know that goods or services provided to or by government should follow procurement procedures. In addition to information received from procurement officers on procedures, service providers were also asked if rules and procedures in tendering process are applied correctly. The majority of the respondents (83%) indicated that rules and procedures on tendering process are not followed.

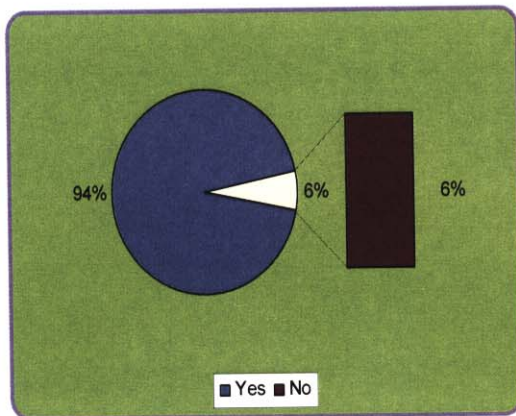


Figure 4.11: Awareness: Procurement procedures

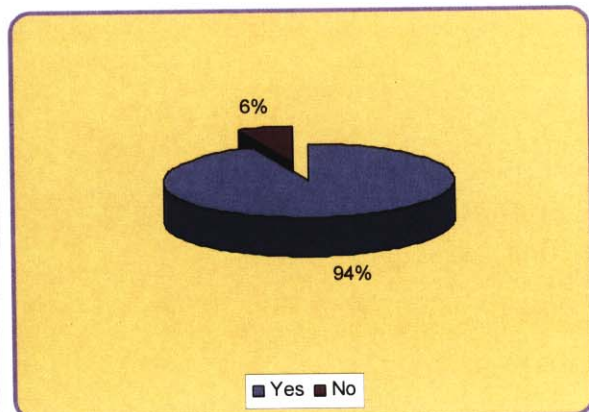


Figure 4.12: Compliance: procurement procedures

Comparatively, six percent of the respondents in figure 4.11 above may be closely associated with 2% of the respondents in Table 4.12 with no knowledge of the PFMA. It is, therefore, likely for procurement officers who are not aware with existence of PFMA not to follow procurement procedures. Corruption is therefore likely to happen. As indicated in figures 4.11 and 4.12 above, it is interesting to note the positive or existing relationship between awareness and compliance in Procure procedures.

In trying to test their accountability, participants were also asked about the number of quotations needed to order the products, the manner in which they receive quotations and authorize bidders before commencement of work. With regard to number of quotations, the majority of the respondents (85%) indicated that three quotations are needed before ordering a product, compared to 13% of the respondents who require more than five quotations before ordering. With regard to the manner in which procurement officers receive quotations, seventy percent (70%) of the respondents preferred to receive quotation in tender box, compared to 30% of the respondents who prefer to receive quotation in envelopes. In terms of authorization a large number of respondents (79%) indicated that they use official orders to authorize bidders, compared to 8% of the respondents who authorize bidders verbally.

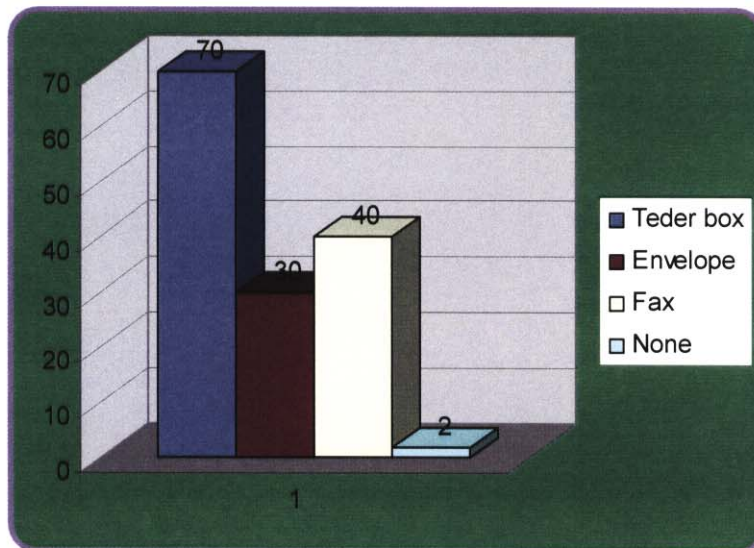


Figure 4.13.Means of keeping or receiving quotations

As indicated in figure 4.13 above, it is a worrying factor to realize that there are procurement officers who prefer receiving quotations through fax (40%) and authorizing them verbally (8%). Having noted the lack of privacy on information received via fax, it can be argued that procurement officers can exchange information or connive with service providers.

In trying to test existing accountability and good governance, participants were also asked whether or not it is risky to communicate with more than one service provider on invitation of quotations. The majority of the respondents (65%) indicated that it is not risky to communicate with more than one service provider on invitation of quotations.

Furthermore, participants were also asked whether the five pillars of procurement system as outlined in the PFMA and constitution are properly followed. Seventy two percent of the respondents (Table 4.3) indicated that the five pillars of procurement system are properly followed.

Table 4. 3: Compliance with regard to five pillars of procurement

| | Percentage |
|-----|------------|
| Yes | 72% |
| No | 28% |

In trying the possibility of fronting, participants were also asked as to whether or not Preferential Procurement Policy Framework Act (PPPFA) is functioning well in previously disadvantaged individuals (PDIs). Sixty percent of the respondents indicated that Preferential Procurement Policy Framework Act (PPPFA) is functioning well, compared to 40% who felt that it is not.

With regard to emergency cases, participants were asked if it were necessary for government to sometimes use emergency orders for minor works. Fifty four

percent of the respondents indicated that it is necessary to use emergency orders, compared to 46% who indicated that it is not necessary.

A question on the level of corruption within the Central Procurement Community (CPC) was asked to both Suppliers and Officers. Seventy percent of the respondents indicated the existence of a high level of corruption within CPC, compared to thirty percent (30%) who indicated that corruption in CPC was at medium level. With regard to Officers, a large number of respondents (49%) was satisfied with the current procure system compared to 33% who were unsatisfied about procurement system.

Table 4.4: Level of corruption

| | Percentage |
|------------|------------|
| High | 70 % |
| Medium | 30 % |
| Low | 0% |
| Not at all | 0% |

Table 4.5: Tendering process with regard to corruption

| | Percentage |
|------------------|------------|
| Unsatisfied | 33 % |
| Satisfied | 49 % |
| Highly satisfied | 19 % |

A question on trust of the tendering process was asked to the suppliers. A Large number of the respondents (67 %) in figure 4.14 below indicated that they don't have trust on the current tendering system compared to 33% of the respondents who reacted positively.

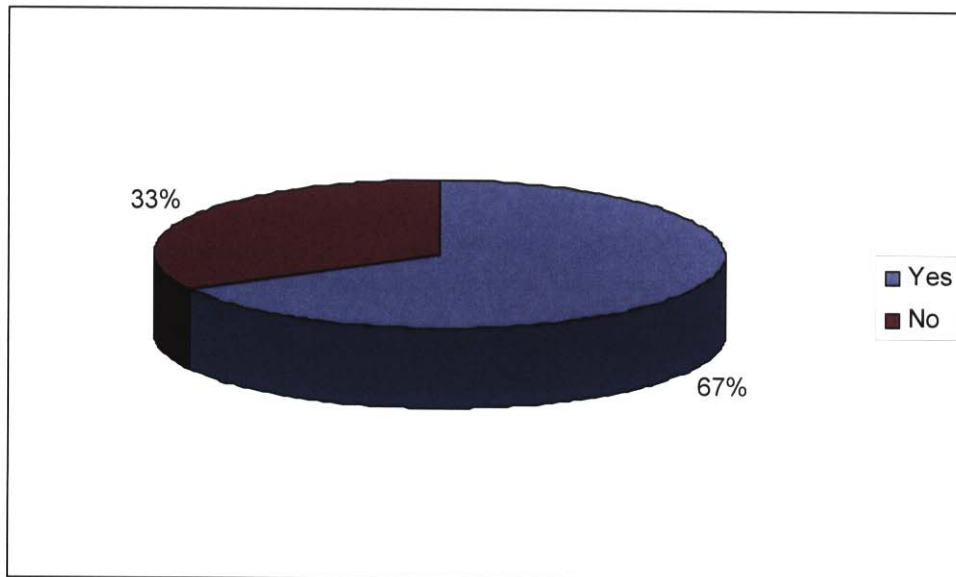


Figure 4.14: Trust on current tendering system

With regard to conflict of interest, respondents from suppliers' side were asked if there are any interests from the government officials who are involved in procurement towards calling or invitation for quotations. Fifty six (56) percent of the respondents indicated that there is interest compared to forty four (44%) percent who responded that there is no interest (Table 4.6 below).

Table 4.6: Interest in invitation of quotations by procurement officers

| | Percentage |
|-----|------------|
| Yes | 56% |
| No | 44% |

A question on disclosure of interest before undertaking tender evaluation process was asked to Procurement Officers. Large number of the respondents (63%) indicated that there is no reliability with disclosure before undertaking tendering process compared to 37% of the respondents who indicated there is no reliability.

Table 4.7: Disclosure of interest before undertaking tender evaluation

| | Percentage |
|-----|------------|
| Yes | 37% |
| No | 63% |

4.8.4 SERVICE DELIVERY

A question on efficiency in the tendering process with regard to service delivery was asked to the Suppliers (figure 4.15) and Procurement officers (figure 4.16). The majority of the service providers (72%) as reflected in figure 4.15 responded negatively by indicating that there is no efficiency in tendering process as compared to 27% of the procurement officers as reflected in figure 4.16 who are not satisfied with the speed at which tendering process is taking place.

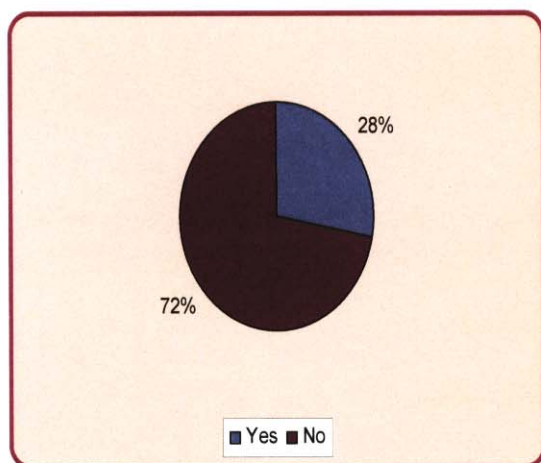


Figure 4.15 Efficiency in tendering process

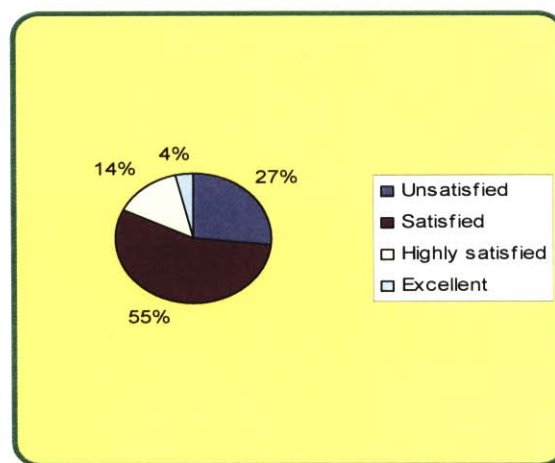


Figure 4.16: Speed on tendering process

As regards the speed or efficiency with regard to the tendering process, procurement officers were also asked as to whether Central Procurement or Departmental Committees conclude bids timeously or effectively. As reflected in figure 4.17 below, the majority of the respondents (62%) indicated that Central Procurement or Departmental Committees conclude bids timeously compared to 38% of the respondents who felt that there is delay in conclusion of bids.

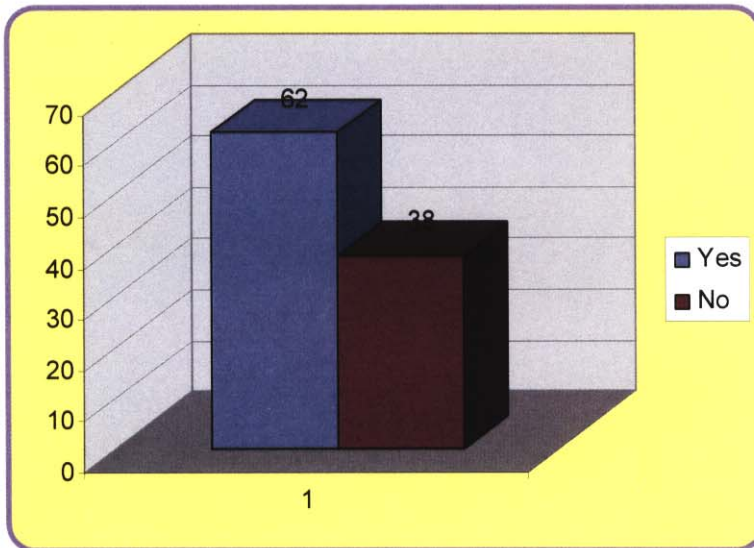


Figure 4.17: Timeous conclusion of bids

With regard to service delivery, participants (service providers) were also asked if the tendering process sometimes causes a delay in service delivery. The majority of the respondents (76%) indicated that tendering process causes delay in service delivery.

QUALITY ASSURANCE

With regard to quality assurance, procurement officers were asked a question on quality of products ordered or delivered from the selected service providers with regard to compliance on specification. A large number of respondents (59%) indicated that products ordered or delivered comply with specifications compared to 41% of the respondents who indicated that products are not in compliance. In support of the above question, participants (service providers) were also asked if the services or goods delivered comply or meet with the specifications contained in the Bid document. Sixty eight percent of the respondents indicated that the services or goods delivered do not comply with specifications. Figures 4.18 and 4.19 below comparatively demonstrate the response with regard to compliance from procurement officer (Figure 4.18) and Service providers (Figure 4.19).

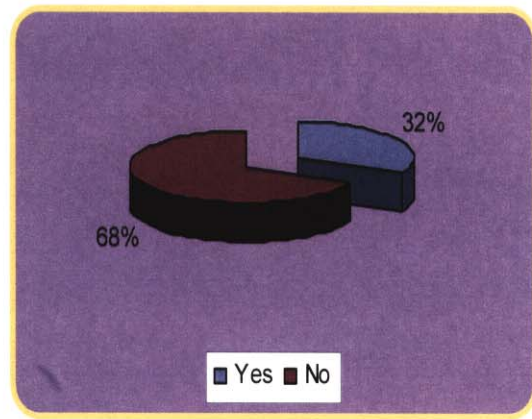
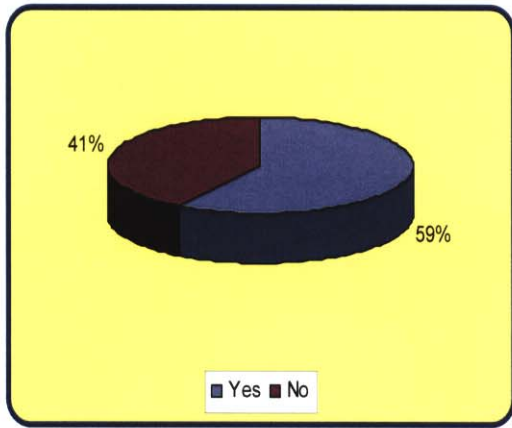


Figure 4.18: Quality of products vs. specifications Figure 4.19: Goods delivered vs. compliance to specs

4.8.6 SELECTION CRITERIA

A question on development of selection criteria during the tender evaluation process was asked to the Procurement Officers. Eighty two percent of the respondents (Table 4.8 below) indicated that there is a need to develop selection criteria during tender evaluation process compared to 18% of the respondents who indicated that there is no need.

Table 4.8: Response rate with regard to selection criteria during tender evaluation process

| | Percentage |
|-----|------------|
| Yes | 82% |
| No | 18% |

Participants (Service providers) were requested to rate the level of their satisfaction with regard to adjudication criteria. As reflected in Table 4.9 below, the majority of the respondents are satisfied with adjudication criteria in place, i.e., beyond 50% level of satisfaction.

Table 4.9: Level of satisfaction on adjudication criteria

| | Unsatisfied | Satisfied | Very satisfied | Percentage |
|----------------------|--------------------|------------------|-----------------------|-------------------|
| Criteria | | | | |
| Fairness | 47% | 53% | 0 | |
| Transparency | 43% | 57 | 0 | |
| Equity | 37% | 63% | 0 | |
| Economical | 38% | 55% | 7% | |
| Value for money | 43% | 53% | 3% | |
| Accountability | 43% | 57% | 0 | |
| Point scoring system | 46% | 54% | 0 | |

In order to justify the level of satisfaction on adjudication criteria, participants (service providers) were asked whether or not they ever receive the result after submission of their completed bid documents. A large number of the respondents (84%) indicated it does they do not receive the results. Furthermore, participants (service providers) were asked as to how long it took them to receive the results. As reflected in Table 4.10 below, it took majority of the respondents either more than three months or never received the results.

Table 4.10: Length with regard to receiving of results

| Period | Percentage |
|-------------------|------------|
| Two Weeks | 4% |
| One Month | 4% |
| Two Months | 8% |
| Three Months | 8% |
| None of the above | 75% |

In support of the length taken to receive the results, participants (service providers) were further asked in which of the identified categories they receive feedback from CPC. As reflected in Table 4.11 below, the majority of the

respondents is either receiving its results only if the tender is successful (45%) or never receives the feedback at all (42%).

Table 4. 11: Category of receiving feedback

| | Percentage |
|-----------------------------|------------|
| If a tender is successful | 45% |
| If a tender is unsuccessful | 7% |
| In both of the above | 7% |
| None of the above | 42% |

Participants (service providers) were further asked to rate the existing tendering process from issuing of tender to final outcome of the results. As reflected in Table 4.12 below, a large number of the respondents (77%) indicated its dissatisfaction with regard to existing tendering process.

Table 4.12: Rating of tendering process in Limpopo

| | Percentage |
|---------------|------------|
| Above average | 3% |
| Average | 10% |
| Below average | 77% |
| Not at all | 10% |

4.9. SUMMARY OF THE FINDINGS

Based on the results received from the participants, the present researcher discovered the following with regard to tendering procedures and processes in Limpopo:

- The procurement officers are using a telephone to communicate with service providers, hence the service providers use physical contacts to communicate with procurement officers;
- New information technology is not used to accelerate the speed of communication between the service providers and the government;

- The service providers do not know of the existence of the Limpopo Central Procurement Committee;
- Majority of the service providers are confirming that rules and procedures on tendering processes are not followed;
- There are procurement officers who are not aware of the existence of PFMA;
- There are procurement officers who authorise the bidders verbally to commence with their work;
- There is a high level of corruption within the LCPC when awarding tenders;
- The service providers don't trust the current tendering system;
- Most of government officials who are involved in inviting bids or quotations are having interests on tendering;
- There is no reliability with disclosure of interest before undertaking tender evaluation;
- There is no efficiency in the tendering process and there are those who also feel that the process delays service delivery;
- Services and goods delivered mostly do not comply with the specifications;
- Most of the respondents indicated that there is a need to develop selection criteria during the tender evaluation process;
- Large number of bidders do not receive the results of the tenders except when awarded a tender; and
- There is eminent dissatisfaction with regard to the existing tendering process from the issuing to the final outcome of the results.

4.10 CONCLUSION

In this chapter, the research methodology that was used for the empirical survey of the research was fully discussed. The results of the survey were analyzed and the findings identified, which lead us to chapter five on conclusion and recommendations. The level of corruption on analysis was found to be at the highest level of 70% and therefore oath of secrecy and declaration of interests should be kept. Furthermore 67% of the respondents do not have trust on the tendering system. It has also been depicted that most of the government officials

has interest on the invited quotations and, as such, service delivery is dismally affected. In this instance there is a need to fully use the available legislations if the government employee is found to be violating them.

CHAPTER 5

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

The previous chapter presented research methodology and results. This chapter intends to conclude the present study and recommend.

5.2 Summary of chapters

Chapter 1 gives for the description of tender process within the Limpopo provincial government. The chapter also alludes to the policy, legal, institutional frameworks that guide the tendering procedures and processes. The classification of tenders is also outlined.

Chapter 2 analyses the bidding process by also elaborating much on the five pillars of procurement practices as justified by the Constitution and Public Finance Management Act. A case study on the processes in the Limpopo's Department of Health and Social Development shows that there are flaws in the adjudication criteria and, in certain areas, Departmental Tender Committee members influence or develop criteria during evaluation of a tender, thereby awarding a tender to a company that was not complying with the requirements. The problem statement therefore emerges.

Chapter 3 covers conflict of interest in taking bids decisions and sensitizes the government to be aware of the consequences of failing to address conflict of interest and corruption risks.

Chapter 4 administers a survey conducted within the Limpopo Provincial Government tendering procedures and processes so as to determine the authenticity of the processes i.e., to determine whether they are followed.

5.3 CONCLUSIONS

The following conclusions may be drawn from this study:

- The committees constituted as well as officials are having an interest in the tenders invited at evaluation level;
- Selection or adjudication criteria must be encompassed in a tender are determined during evaluation of a tender; and
- Tendering process details service delivery.

5.4 Recommendations

The Limpopo Provincial government Central Procurement Committee and the Departmental Bid Committees should embark on a massive on-the-job training and professional development in procurement; contract administration and management; project management; tendering principles; and corruption prevention to all officers involved in procurement.

The external clients/service providers should have access to information and communicate with government officials, procurement officers in particular, through electronic media. This can, moreover, shorten the processes of communication between the service providers and the procurement officers in both the Provincial Supply Chain Management Office and the departments.

There should be a register system whereby the panels of pre-qualified bidders are established for various categories of work, from a public invitation to express interest in carrying out work for the province. Therefore, there is a need of good record-keeping to ensure that the committee panels are up-to-date with the performance of contractors. A contractor performance evaluation system should be in place to ensure that unsatisfactory contractors are not awarded repeat work.

The vastness of categories of supplies and services provided by the government, the Central Procurement Committee and departmental committees, should

consider using the knowledge of technical specifications of the goods or services to be procured is low or where it appears there will be probity concerns about the process (potential conflict of interest).

There is also a need to establish more transversal contracts. In this instance, there will be corruption resistance benefits such as using tender processes for works that would normally be subjected to quotations, fewer procurement transactions as a result, and ultimately more controlled and transparent decision making.

Period contract arrangement should ensure that there are regular opportunities to establish that performance criteria are being met, where possible, such reviews should not be undertaken by the officers involved in the proponent. In both the period contract and pre-qualified contractor arrangements, where possible, the officers selecting the successful proponent should not be involved in the subsequent administration of the contracts or works for which the proponent has been retained.

The Central Procurement Committees (CPC) should identify basic evaluation criteria for all procurement, and should specify this in the procurement policy. The policy should explain how the basic criteria will be assessed and in what circumstances. For example, for expenditure under a certain monetary limit, there may be no need to consider any factors other than price. For purchases approaching the tender threshold, but usually subject to quotations only, the committee might consider requiring assessment of the proponents' ability to meet environmental, probity requirements and even check references, without having the proponent undertake a full tender process.

The CPC should have objective and transparent processes in place to evaluate tenders and quotations. Any evaluation process should be based on the principle of value for money, which includes non-price factors. Non-price factors should

include probity consideration, such as statements from the contractors about their commitment to comply with committee statement of business ethics.

Evaluations for major procurement, or decisions likely to attract significant public interest, should preferably involve an independent expert as a member of the process and issues involved are extremely complex.

There should be regular audit of the tendering process. This requires an audit person or officer to certify things such as the tender evaluation committee being comprised of right people, that the responsible officer opened the tender box, which documents were prepared and public notices posted.

There should be a strict use of Risk Management Approach to determine what resources the committee allocates to bidders during the pre-tender stage of contracts to investigate contingencies and prepare adequate specifications. The methodology of this approach should be formalized as CPC policy and consistently applied. There should also be full disclosure to all tenderers of any conditions that are found.

5.5 Future research direction

The question of getting the selection or adjudication criteria on or before the tender evaluation remains critical. It is generally believed that the key issue is for the selection or adjudication criteria to have a special champion who ensures that on each tender there are clear guidelines.

One may even consider establishing disclosure panels whereby the designed declaration of interests would be signed. Actual audit of declaration regularly checked.

The manual or panel based adjudication process must be replaced by electronic tender assessment system wherein there could be instant outcome results on

actual day of closing of the tender. This system should also deal with potential corruption risks when assessing in-house bids. The system based on the principles given below:

- Transparency: the panel should, from the outset, clearly indicate its intention of allowing in-house bids;
- Impartiality; external competitors should be provided with the same information as is available to internal competitors; and
- Security of bids information: there must be a tight control on the flow of information between the group preparing the in-house bid and those involved in the bid management and evaluation.

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**ANNEXURE A:
SURVEY ON GOVERNMENT DEPARTMENT PROCUREMENT
OFFICERS**

Kindly complete the following questionnaire regarding the tendering system in Limpopo Province by crossing the block corresponding with your answer.

For the purpose of this survey, Procurement Officers are government employees who are in constant contact with service providers or suppliers.

Please do not enter your name on the questionnaire. It remains anonymous. It should not take you more than 10 minutes to complete. Kindly return the questionnaire within 2 days.

1. In which department do you belong?

| | |
|---|--|
| Department of Economic Development, Environment & Tourism | |
| Education | |
| Sport, Arts & Culture | |
| Public Works | |
| Treasury | |
| Health & Social Development | |
| Roads and Transport | |
| Premier | |
| Agriculture | |

2. Which position are you currently occupying?

| | | | |
|----------------|---------|----------------|--------|
| Senior Manager | Manager | Deputy Manager | Others |
| | | | |

3. How often do you interact with service providers?

| | | | |
|------------|-------|------------|------------|
| Very Often | Often | Less Often | Not at all |
| | | | |

4. How do you interact with them?

| | | | |
|------------|------|----------------|------------|
| Physically | Mail | Telephonically | Not at all |
| | | | |

5. How familiar are you with Public Finance Management Act?

| | | | |
|------|------|---------|------------|
| Good | Fair | Average | Not at all |
| | | | |

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

6. Are you aware of procurement procedure?

| | |
|-----|----|
| Yes | No |
| | |

7. How do you rate tendering process in your Dept with regard to the following?

| | unsatisfactory | satisfactory | Highly satisfactory | Excellent |
|------------------|----------------|--------------|---------------------|-----------|
| Speed | | | | |
| Communication | | | | |
| Corruption | | | | |
| Interest | | | | |
| Service Delivery | | | | |

8. Do you know that any goods or services provided by government should follow procurement procedures?

| | |
|-----|----|
| Yes | No |
| | |

9. Does the Tender Board/ Central Procurement or Departmental Procurement Committee conclude bids timeously or effectively?

| | |
|-----|----|
| Yes | No |
| | |

Please motivate:

.....

.....

.....

.....

.....

10. Do you think the products ordered or delivered by your selected service providers are complying with specification?

| | |
|-----|----|
| Yes | NO |
| | |

How can you improve quality on service delivery and the products ordered?

Please provide details:

.....

 11. How many quotations do you need to order your products?

| | | | | |
|---|---|---|---|------------|
| 1 | 2 | 3 | 4 | 5 and more |
| | | | | |

12. How do you invite your quotations?

Please provide details:

13. How do you keep or receive these quotations?

| | | | |
|------------|-------------|-----|------|
| Tender Box | In envelope | Fax | None |
| | | | |

14. How do you authorize a bidder to start with his/her work?

| | | | |
|--------|----------------|----------|-------|
| Letter | Official Order | Verbally | Other |
| | | | |

15. Do you sometimes feel that it is risky to communicate with more than one service provider on invitation of quotations?

| | |
|-----|----|
| Yes | No |
| | |

Please motivate:

.....

16. Do you think the five pillars of procurement, as outlined in PFMA and the constitution, are properly followed?

| | |
|-----|----|
| Yes | NO |
| | |

Please provide details:

.....
.....
.....
.....

17. How do you think conflict of interest could be addressed in tendering process or invitation of quotations?

Please motivate:

.....
.....
.....
.....

18. Do you think it is necessary for the government to sometimes use emergency orders for minor works?

| | |
|-----|----|
| Yes | No |
| | |

What should be done to avoid this type of situation?

Please provide details:

.....
.....
.....
.....

19. Do you think it is important to develop selection criteria during evaluation process?

| | |
|-----|----|
| Yes | No |
| | |

Please motivate:

.....
.....
.....
.....

20. Do you think there is reliability on disclosure of interest before undertaking an evaluation process?

| | |
|-----|----|
| Yes | No |
| | |

Please motivate:

.....

.....

.....

.....

.....

21. In your opinion, do you see Preferential Procurement Policy Framework Act functioning well in the previously disadvantaged individuals?

| | |
|-----|----|
| Yes | No |
| | |

22. Where do you see loopholes and how can you close them?

Please provide details:

.....

.....

.....

.....

.....

**ANNEXURE B:
SURVEY ON QUESTIONNAIRE TO SUPPLIERS**

Kindly complete the following short questionnaire regarding the tendering system in Limpopo by crossing the block corresponding with your answer.

For the purpose of this survey, Suppliers are the service providers that deal with government.

Please do not enter your name on the questionnaire. It remains anonymous. It should not take you more than 10 minutes to complete. Kindly return the questionnaire within two days.

1. GENERAL CHARACTERISTICS OF TENDER BOARD/CENTRAL PROCUREMENT COMMITTEE/DEPARTMENTAL PROCUREMENT COMMITTEE

1.1 Are you a registered service provider?

| | |
|--------------------------|--------------------------|
| Yes | No |
| <input type="checkbox"/> | <input type="checkbox"/> |

1.2 If yes, in which category of service providers do you belong?

| | | | | |
|----------|----------|-----------|----------|-------|
| Cleaning | Building | Technical | Catering | Other |
| 1 | 2 | 3 | 4 | 5 |

1.3 What is your position within your Organization?

| | | | |
|----|----------|---------|-------|
| MD | Director | Manager | Other |
| 1 | 2 | 3 | 4 |

1.4 Are you aware of the existence of Limpopo Central Procurement Committee/Tender Board?

| | |
|--------------------------|--------------------------|
| Yes | No |
| <input type="checkbox"/> | <input type="checkbox"/> |

1.5 If yes in 1.4, are you familiar with how it has been constituted?

| | |
|-----|----|
| Yes | No |
| | |

1.6 How often do you make contacts with Limpopo Supply Chain Management Office?

| | | | |
|------------|-------|--------|------------|
| Very often | Often | Seldom | Not at all |
| 1 | 2 | 3 | 4 |

1.7 If you chose options 1, 2, or 3 in question 1.6., how do you contact them?

| | |
|----------------|--|
| Physically | |
| Telephonically | |
| Mail | |
| Other: Specify | |

1.8 How do you access information of existing tenders?

| | |
|-----------------|--|
| Tender Bulletin | |
| Newspapers | |
| Officials | |
| Other: Specify | |

1.9 Are you comfortable with the functions/services performed by the Limpopo Central Procurement Committee?

| | |
|-----|----|
| Yes | No |
| | |

If not why?

2. TENDERING PROCESS

2.1 The following are normally considered to be adjudication criteria of the Tender Board/Central Procurement Committee when deciding on bids. You requested to mark with an X on the space provided to show your level of satisfaction.

| Criteria | unsatisfactory | satisfactory | Very satisfactory |
|----------------------|----------------|--------------|-------------------|
| Fairness | | | |
| Transparency | | | |
| Equity | | | |
| Economical | | | |
| Value for money | | | |
| Accountability | | | |
| Point Scoring System | | | |

What do you think should be added as criteria?

.....

.....

.....

.....

.....

2.2 Do you have any trust of the tendering process?

| Yes | No |
|-----|----|
| | |

If no, Please motivate,

2.3 Do you ever receive the results after submission of your duly completed bid documents?

| Yes | No |
|-----|----|
| | |

2.4 If yes, how long does it take to receive the results?

| | |
|----------|--|
| 2 weeks | |
| 1 month | |
| 2 months | |
| 3 months | |

| | |
|-------------------|--|
| None of the above | |
|-------------------|--|

2.5 In which of the following category do you often receive feedback from Central Procurement Committee/Tender Board?

| | |
|------------------------------|--|
| If my Tender is successful | |
| If my Tender is unsuccessful | |
| In both of the above | |
| None of the above | |

2.6 How do you rate tendering process? That is, from issuing of tender to outcome of results

| | |
|---------------|--|
| Above average | |
| Average | |
| Below average | |
| | |

2.7 Does the tendering process sometimes cause delay in service delivery?

| | |
|-----|----|
| Yes | No |
| | |

2.8 How can one improve on the process?

Please provide details:

2.9 Are you satisfied with the method used by the departments to invite quotations for goods and services?

| | |
|-----|----|
| Yes | No |
| | |

What do you think should be the best approach for utilisation of quotations?

.....
.....
.....
.....
.....

2.10 Do you anticipate or see any interest of the people on tendering or calling for quotations?

| | |
|-----|----|
| Yes | No |
| | |

How do you think this interest could be removed?

Please provide more details:

.....
.....
.....
.....
.....

2.11 Do you see the services or goods delivered complying or meeting the specification contained in the bid documentation?

| | |
|-----|----|
| Yes | No |
| | |

What should be done to ensure that the goods or services delivered comply with specification?

Please provide more details

.....
.....
.....
.....
.....

2.12 Do you think there is efficiency in the tendering process in terms of service delivery?

| | |
|-----|----|
| Yes | No |
|-----|----|

| | |
|--|--|
| | |
|--|--|

Please motivate:

.....
.....
.....
.....

2.13 There are rules and procedures put in place in tendering to be followed. Do you think they are applied correctly?

| Yes | No |
|-----|----|
| | |

What should be done to ensure that the executing authority follow the guidelines given?

Please motivate:

.....
.....
.....
.....

2.14 In your opinion, how do you rate the level of corruption within Central Procurement Committee/Tender Board?

| | |
|------------|--|
| High | |
| Medium | |
| Low | |
| Not at all | |

2.15 What are your problems with the Limpopo Tendering system?

Please provide details:

.....
.....

2.16 Do you think preferential procurement works?

| Yes | No |
|-----|----|
| | |

If no, where are problems in this?

.....

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ANNEXTURE C: SUMMARY OF LIMPOPO PROVINCIAL TENDER BOARD ANNUAL PERFORMANCE FOR THE PERIOD 01 APRIL 2004 TO 31 MARCH 2005

| ITEM | MONTH | NO.OF CONTRACTS | VALUE OF CONTRACTS | NO.OF CONTRACTS AWARDED TO HDIs | VALUE OF CONTRACTS AWARDED TO HDIs | NO.OF CONTRACTS AWARDED TO WOMEN | VALUE OF CONTRACTS AWARDED TO WOMEN | NO.OF CONTRACTS AWARDED TO DISABLED | VALUE OF CONTRACTS AWARDED TO DISABLED |
|--------------|------------|-----------------|-------------------------|---------------------------------|------------------------------------|----------------------------------|-------------------------------------|-------------------------------------|--|
| 1 | APRIL 2004 | 11 | R158227585.87 | 7 | R15821335.87 | 4 | R4236 634.37 | NONE | NONE |
| 2 | MAY 2004 | 2 | R15492357.00 | 2 | R15492357.00 | NONE | NONE | NONE | NONE |
| 3 | JUNE 2004 | 4 | R9355706.76 | 4 | R9355706.76 | 1 | R3059 928 00 | NONE | NONE |
| 4 | JULY 2004 | 1 | General period contract | | General period contract | | General period contract | NONE | NONE |
| 5 | AUG 2004 | 15 | R46912824.95 | 13 | R44180353.00 | 11 | R16179961.49 | NONE | NONE |
| 6 | SEPT 2004 | 3 | R8184306.25 | 3 | R8184306.25 | 3 | R8187306.25 | NONE | NONE |
| 7 | OCT 2004 | 6 | R64109644.78 | 5 | R14109644.78 | 2 | R9251901.86 | NONE | NONE |
| 8 | NOV 2004 | 1 | R1335067.11 | 1 | R1335067.11 | NONE | NONE | NONE | NONE |
| 9 | DEC 2004 | 4 | R17332982.00 | 4 | 17332982.00 | 4 | R10807384.12 | NONE | NONE |
| 10 | JAN 2005 | NONE | NONE | NONE | NONE | NONE | NONE | NONE | NONE |
| 11 | FEB 2005 | NONE | NONE | NONE | NONE | NONE | NONE | NONE | NONE |
| 12 | MARCH 2005 | NONE | NONE | NONE | NONE | NONE | NONE | NONE | NONE |
| TOTAL | | 47 | R320950474.72 | 39 | R125811752.77 | 25 | R51720116.09 | NONE | NONE |