

Which procurement information should we publish?

Recommendations for the minimum information related to the procurement of temporary basic services that should be published on a metropolitan municipality's supply chain management website¹

Introduction

Many communities living in informal settlements in metropolitan municipalities (metros) receive basic services such as water, sanitation and refuse removal from outsourced service providers. These services are generally temporary in nature and range, for example, from the delivery of water using water trucks to the servicing and maintenance of chemical portable toilets.

Currently there is very limited or no public engagement by communities in the public procurement of outsourced basic services, from the actual tender process to the delivery and monitoring of the delivery of the services. One of the main reasons for this lack of public engagement is the lack of publicly available information released by metros during the tender process, as well as after the award of a contract. This lack of information means that communities generally do not know the exact nature of the service they should receive and how often the service should be delivered. In addition, they often do not know who to contact when the service is not being delivered, or when they are experiencing problems with the service.

¹This is applicable to all procurement above R200 000

Improving the public availability of procurement information will result in improved public engagement in the supply chain management process, which will benefit both communities and the relevant metro. Equipped with information on the nature and frequency of the service, as well as accurate contact information, communities will be able to inform metros when they are not receiving the service as intended, which the metros will then have the opportunity to address. Communities will receive improved services, which could lead to fewer service delivery protests and a better relationship with metro staff. This could also lead to metros receiving better value for the money spent on these outsourced services, because they will not be paying for a service that is not being monitored and delivered fully.

This document provides a detailed overview of the minimum level of procurement information needed to support public engagement in the supply chain management process². Section A of the document discusses the minimum information needed to enable effective public engagement in the monitoring of the delivery of outsourced services, while Section B discusses the minimum information needed to enable effective engagement in the tender process itself.

For each topic, we firstly provide a comprehensive description of the information we recommend should be publicly released, before we discuss how this information is used or can be used by communities to monitor and ultimately improve service delivery. Where available we provide good practice examples of how government institutions in South Africa are currently making this information available.

² Since 2013, a number of social audits have been conducted by communities living in informal settlements in South Africa, with many of them focusing on the delivery of temporary basic services (such as water and sanitation) by outsourced service providers. A social audit is a community-led process of reviewing official documents (such as bid specifications and contracts) to determine whether the public expenditure and service delivery outcomes reported by the government reflect the public money spent and the services received by the community. Accessing the relevant information, such as the contracts, bid specifications or service delivery schedules, needed by communities to monitor service delivery, was a major challenge in the conduct of all these audits. The specific information we are asking for in this document has to a large extent been informed by the information communities were looking for while conducting social audits.

A. Minimum information needed for effective public engagement in the monitoring of the delivery of outsourced services

A.1 Bid specifications

Recommendation

We recommend that the full set of tender documents including the standard municipal bid documents and the detailed bid specifications should be downloadable free of charge from the National Treasury eTender portal and also from the procuring metro's own supply chain management website³.

The bid specifications serve as the main foundation of the actual contract, and we recommend that this information should remain on the metro's website for the full duration of the contract to ensure that communities have access to this while the service is being delivered⁴. Any additional information, clarifications or corrections released after the initial Tender Notice and bid documents were published should also be added to these original bid documents.

How communities use this information

The bid specifications provide the communities who are the beneficiaries of a specific service with information on the scope of the service, i.e. it tells a community exactly what they can expect to be delivered and when (how often) they can expect the service to be delivered. If applicable, the specifications might also tell them more about their role in ensuring the effective delivery of a service – for example, if they must pour water into the VIP toilet before it can be desludged by the service provider. It might also tell the community how the service will be monitored, how they can go about assisting in monitoring the delivery of the service, as well as how they should go about reporting any problems with the service.

³The MFMA Circular No 83 (<http://mfma.treasury.gov.za/Circulars/Documents/MFMA%20Circular%2083%20-%20eTender%20Portal%20-%202018%20July%202016.pdf>) requires municipalities to post the full set of bid documents on the National Treasury's eTender portal.

⁴We have found that all metros remove the tender documents after the closing date of the tender.

Good practice example

The Gauteng Provincial Government serves as a good practice example in this regard. The full set of bid specifications for each tender is available for download from <http://www.redirect2.gpg.gov.za/e-tenders/advertisedopentenders.aspx>. The bid documentation is retained on their website after the closing date and remains on the website after the award of the tender. See <http://www.redirect2.gpg.gov.za/e-tenders/closedopentenders.aspx> and <http://www.redirect2.gpg.gov.za/e-tenders/awardedopentenders.aspx>.

A.2 Award of contract

Recommendation

We recommend that for all contracts awarded, the following information should be published on the metro's website within five working days after the award of the contract⁵:

- The tender number
- Name of the relevant department/directorate
- Description of goods/services/project
- Names of the successful bidder and their B-BBEE⁶ level of contribution claimed
- The contract price(s)
- Contract start date
- Contract end date
- Brand names (if applicable)
- Names of all subcontractors or joint venture partners mentioned in the bid documents

How communities use this information

This information on the award of the contract informs a community of which contractor(s) has/have been awarded the contract to provide a service, as well as the duration of the contract (including when the delivery of the service is supposed to start). Also publishing the names and contact details of any subcontractors will ensure that the names of all service providers for a specific contract is known.

⁵ With the exception of the names of all sub-contractors or joint venture partners and the contract start date, the MFMA Circular No 62 (<http://mfma.treasury.gov.za/Circulars/Pages/Circular62.aspx>) requires municipalities to publish all information recommended here on their websites. In addition, since 2016, municipalities are also required to publish this information on the eTender portal with two additional requirements, namely the names of directors and the full contract period (<http://mfma.treasury.gov.za/Circulars/Documents/MFMA%20Circular%2083%20-%20eTender%20Portal%20-%202018%20July%202016.pdf>).

⁶ Broad-Based Black Economic Empowerment

A.3 Any additional agreements, such as a delivery schedule or service agreement which did not form part of the original bid specifications.

Recommendation

Many bid specifications explicitly indicate that after the award of the contract a further service agreement will be negotiated, or a service delivery schedule will be drawn up. We recommend that all these additional agreements and schedules be made publicly available on the metropolitan municipality's website before the starting date of the contract, and should remain on the website for the duration of the contract. In cases where a contract is awarded to more than one contractor, all individual agreements or schedules concluded with contractors should be made available.

If these agreements or schedules are amended during the contract period, these amendments should also be made publicly available.

How communities will use this information

Publishing the service delivery schedule(s), including the name of the specific contractor as well as any additional information on how a service should be delivered, as well as how often, will enable communities to know exactly who is responsible for delivering a service in their area and the exact frequency and days of the week the service should be delivered. It should also provide other information about how the service should be delivered that was not initially included in the bid specifications. Armed with this information, communities will be able to play a much more active role in monitoring the delivery of services to their settlement or area.

A.4 Information about the monitoring of the implementation of contracts

Recommendation

For all contracts awarded, we recommend that the following information about the implementation of contracts should be published on the metro's website within five working days after the payment has been made:

- All monitoring reports as required by the relevant bid specifications (e.g. time sheets, job cards, vehicle access control sheets if relevant, etc.)
- Invoices submitted by the contractors
- Any relevant document signed by the metro officials to authorize payments (for example contractor payment sheets)

How communities will use this information

This information will tell communities what information was considered before payment was made to a contractor. Communities can use this information – which tells us what a line department thinks has been delivered – and compare it with what they have been observing on the ground in terms of the actual delivery of the service.

A.5 Information about deviations and extensions

Recommendation

We recommend that for both deviations from the usual procurement processes and extensions/variations to contracts, the following information should be published on the metro's website within seven days of the award⁷:

- Tender number
- Department/directorate
- Description of goods/services/project
- (Original) contract value
- Value of contract extension (if applicable)
- Reason for deviation/extension/variation
- Date of award/recommendation
- Contract start date
- Contract end date

How communities use this information

In many cases the contracts for the delivery of temporary basic services are extended beyond the contract's initial end date, through a deviation or an extension. This information tells a community for how long the contract has been extended and to which contractors. It enables communities to continue to hold the relevant contractor and the municipality accountable for the delivery of the service.

Example

Most metros seem to publish the information on deviations and extensions in the same document as the information on contracts awarded through the usual procurement process. This makes it difficult to find specific deviations or extensions as one must search through all tenders awarded. For example, in their document with the information on awarded tenders, Johannesburg Water (see <https://www.johannesburgwater.co.za/supply-chain/awarded-tenders/>) also publishes the following information for deviations/extensions: the tender number, description, contractor name(s), contract value, B-BBEE level and contract term. The original contract value or the reasons for the deviation/extension/variation are not provided.

⁷ MFMA Circular No 83 (<http://mfma.treasury.gov.za/Circulars/Documents/MFMA%20Circular%2083%20-%20eTender%20Portal%20-%202018%20July%202016.pdf>) requires municipalities to publish notices of all awards to suppliers through deviations, extensions and variations on the eTender portal within seven working days after the award was made. The circular does not specify the exact information to be published, and the information requested here has been informed by the quarterly information published for National and Provincial Departments on the eTender portal (http://ocpo.treasury.gov.za/Resource_Centre/Deviations/Deviations%20-%20Quarter%204%202017.pdf).

B. Minimum information needed for effective public engagement in the procurement of outsourced services

B.1 Procurement plan

Recommendation

A procurement plan (also sometimes referred to as scheduled bid opportunities) is the list of tenders the metros is planning to advertise for the upcoming financial year. We recommend that all metros publish a procurement plan before the start of the financial year⁸. At a minimum, the procurement plan should include the following information:

- Name of the responsible department/office
- Description of goods or services
- Estimated value of contract
- Name and details of contact person
- Envisaged date of advertisement
- Envisaged closing date for submission of tenders
- Envisaged date of award

How communities will use this information

The procurement plan or list of bid opportunities tells us what goods and services the metro is planning to procure in the upcoming financial year. More specifically, this plan will tell a community if and when a metro is planning to publish a tender for the delivery of a service relevant to its area, as well as provide estimates of other relevant dates. This means that the community will have an idea of when the procurement process for a new contract for a specific service should start, and when they should start keeping an eye out for the tender notice (see *B.2 below*). It will also provide them with an indication of the timeframe of the complete tender process and when they should start to look out for additional information.

⁸ MFMA Circular No 62 (<http://mfma.treasury.gov.za/Circulars/Pages/Circular62.aspx>) requires municipalities to compile (but not make publicly available) a procurement plan with all planned procurement for the financial year for procurement exceeding R200 000. Appendix B to the circular shows a template for such a plan.

B.2 Tender notice (Invitation to bid)

Recommendation

The tender notice⁹ is also called the invitation to bid or the tender advertisement and, as these names suggest, it is the document or notice that provides information on a new tender and invites contractors to submit bids for the tender. We recommend that metros publish detailed tender notices for all open tenders and that these notices should include the following information:

- Name of the procuring department
- Tender number
- A description of the goods and services being requested
- Information on whether a briefing session (compulsory or voluntary) is taking place, with the time, date and venue for the meeting
- Closing date and time for submission of bids
- How and where the full set of bid document can be obtained and, if applicable, the fee charged for these documents
- Contact details of relevant persons in the metropolitan municipality (for both general and technical queries)

How communities use this information

The tender notice is the first source of information telling a community that the tender process for the procurement of a service to be delivered to their community has started. And it also provides information on how the process is going to proceed, including the closing date for the submission of bids and information on a possible briefing session. These sessions should be open to the public. Community members can observe these sessions and possibly learn more information about the tender based on questions asked and information provided at these sessions.

Good practice example

The Ekurhuleni Metropolitan Municipality provides comprehensive information in their tender notices (see <http://www.ekurhuleni.gov.za/business/tenders/>).

⁹ The Municipal Supply Chain Management Regulations (<http://mfma.treasury.gov.za/RegulationsandGazettes/Gazette27636/Documents/Supply%20Chain%20Management%20Regulations%20%E2%80%93%20Gazette%2027636,%2030%20May%202005.pdf>) prescribes the publication of a tender notice, and states that a municipality's Supply Chain Management Policy should prescribe the content of the notice.

B.3 Information related to bid briefing sessions

Recommendation

Sometimes additional information is provided at bid briefing sessions. This can range from additional technical information to responses to questions from prospective bidders. We recommend that any additional information supplied at the briefing session should be added to the set of tender documents (available online) after the briefing session (including minutes from the session).

How communities will use this information

This will ensure that affected communities will be aware of any additional information on the delivery of the service which was provided to potential bidders who attended this session. For example, in the case of portable toilets, this might include more information on the specifications for the relevant toilets.

Good practice example

The Gauteng Provincial Government adds the briefing session register (which contains the names of those who attended the briefing) to the sections of its tender website for both closed and awarded tenders. For some tenders it appears as if additional information was distributed at briefings and this was then also added to the website. The minutes of these sessions are not added to the website (see <http://www.redirect2.gpg.gov.za/e-tenders/closedopentenders.aspx> and <http://www.redirect2.gpg.gov.za/e-tenders/awardedopentenders.aspx>).

B.4 Bid register

Recommendation

We recommend that a bid register should be published on the metro's website within 10 working days of the closure of the bid and should include the following information¹⁰:

- The tender number
- Description of goods/services/project
- Names of all bidders, their B-BBEE status
- Total price (where practical) of each bid

How communities use this information

The bid register will tell communities which contractors have submitted bids to provide a service to their communities. It will also show communities whether any contractors who are currently providing a service to them have submitted bids for the new contract.

Good practice example

The City of Cape Town uses a simple, neat template, but only seems to publish the registers once a month and not as bids close (see <http://www.capetown.gov.za/Work%20and%20business/Doing-business-with-the-city/Tenders-RFQs-and-supply/Tenders-received>).

The eThekweni Municipality seems to have a faster turnaround time but does not include B-BBEE status (see http://www.durban.gov.za/Resource_Centre/Tenders/Pages/Tender-Opening.aspx).

¹⁰ The MFMA Circular No 62 (<http://mfma.treasury.gov.za/Circulars/Pages/Circular62.aspx>) requires municipalities to publish this information.

B.5 Information about the bid evaluation and the bid adjudication processes

Recommendation

Many metropolitan municipalities are starting to encourage interested parties to attend their bid adjudication meetings, where the Bid Adjudication Committee reviews the recommendations of the Bid Evaluation Committee and makes the final recommendation on the award of a contract. Currently, most of these metros only publish information on the time, date and venue of the meeting, as well as the list of tenders to be adjudicated.

We recommend that in addition to the publication of the notice and agenda for the bid adjudication meeting, the metropolitan municipality should publish the reports from the Bid Evaluation Committees to be considered at that meeting, as well as the minutes and resolutions from the previous meeting. This should be published at least five working days before the meeting. The notice, agenda and minutes should remain on the website for the duration of the contract.

How communities will use this information

This information will tell communities how these committees came to the decision to award the contract to a specific contractor. It will tell communities how the evaluation criteria were applied and also whether the Bid Adjudication Committee accepted the decision of the Bid Evaluation Committee.

Good practice example

It appears as if the Nelson Mandela Bay Municipality has been providing the information we are asking for since the beginning of 2018. It is unfortunately hidden in the document library section of their website and not in the supply chain management section. It is a little difficult to follow the timelines, but it looks like the documents are put online two days before the meeting. The documents include the agenda for the upcoming meeting, the minutes of the previous meeting and the Bid Evaluation Committee reports to be discussed (see <http://www.nelsonmandelabay.gov.za/Documents.aspx?catID=64&pageID=224>).

Websites and links correct at the time of publication. For more information, please contact:
Carlene van der Westhuizen: cvanderwesthuizen@internationalbudget.org or
Jessica Taylor: jtaylor@internationalbudget.org