



How transparent is municipal procurement?

Contents

Introduction	1
Key findings	2
Key steps towards transparent local government procurement	2
The case for open contracting and transparent websites	3
Findings	4
1. Are municipal websites functional with relevant procurement information?	4
2. Does the municipality publish tender notices?	6
3. Does the municipality publish tender specifications for tender notices on its website, and can these be downloaded free of charge?	7
4. Are municipalities publishing the names of companies or individuals who win tenders on their websites? Do municipalities do so on time (i.e. within five working days after the award)?	10
5. Do the tender specifications of the contracts that have been awarded remain accessible on the municipal website for the duration of the contract?	12
6. Do municipalities publish the prices of contracts?	14
7. Do municipalities publish any information on how projects awarded to private contractors will be implemented, e.g. timelines and deliverables, otherwise known as service delivery agreements or implementation plans?	17
8. Does the municipality publish procurement information on both its website and the eTender portal?	18
Conclusion	24
Recommendations	25
Methodology	26
References	28
The project team	29



Introduction

The Dullah Omar Institute (DOI) has partnered with International Budget Partnership South Africa (IBP South Africa) to measure and improve municipal governance in South Africa.

While there is scrutiny of key governance processes at national level, there is often less focus on local government despite evidence suggesting that transparency, participation and oversight, among other things, at municipal level are at serious risk. Moreover, municipalities are at the coalface of the delivery of basic services, and therefore an important part of state delivery. Research and advocacy on transparency, participation and oversight in municipalities remains necessary. Importantly, the lessons that can be drawn from the current practice of transparency, participation and oversight in municipalities provide valuable input for policy reform.



This report, which focuses on transparency in local government procurement, follows on the 2020 report titled How transparent are municipal websites about the goods and services that municipalities procure? In total, 34 municipalities were assessed for the 2020 report. The sample of municipalities was increased to 49 in the 2021 survey.

The 2021 report lists the key findings of the survey, and provides related key steps to enhance transparency in local government procurement. It then makes a case for open contracting and explains why municipal websites are crucial for transparent local government and pro-poor service delivery. This is followed by a discussion of the major findings. Concluding remarks, recommendations, an overview of the methodology, and acknowledgements are given last.



Key findings

- A comparison of the 2020 and 2021 survey results shows that the lack of transparency in municipal procurement has not improved. In fact, it has worsened in some respects.
- Most municipalities have functional websites with a dedicated procurement page but some websites do not have any procurement information.
- 26 of the 45 municipalities with functional websites published tender notices consistently.
- Only 9 of the 45 municipalities with functional websites made tender specifications freely downloadable on their websites.
- Only 6 of the 45 municipalities with functional websites published the names of successful bidders consistently and regularly.
- Only 5 of the surveyed municipalities kept tender specifications available on their websites after the tender had been awarded.
- Only 9 of the 45 municipalities with functional websites consistently published on their websites the prices of all the contracts that were awarded during the survey period.
- Of the 45 municipalities with functional websites, only Knysna Local Municipality published certain information on how projects awarded to private service providers will be implemented.
- The eTender portal is accessible but has not been functioning properly.
- To publish procurement information, municipalities are making more use of their own websites than the eTender portal. This could be due to challenges experienced with the eTender portal.
- Capacity challenges may be inhibiting some municipalities from maintaining a working website and regularly publishing procurement information on it.
- Some municipalities stopped publishing certain procurement information during Covid-19.
- In many municipalities, the commitment to transparency is not followed by action.



Key steps towards transparent local government procurement

- Every municipality must have a functional website with easily accessible information.
- Every municipality must publish all relevant procurement information regularly on its website.
- Municipalities must keep tender specifications on the municipal website and not remove the information once the contract has been awarded.
- There should be consequences for municipalities or officials that fail to publish procurement information regularly.
- There is a need to ensure that the eTender portal functions with fewer or no disruptions.
- The commitment to transparency should be followed by action.

The case for open contracting and transparent websites

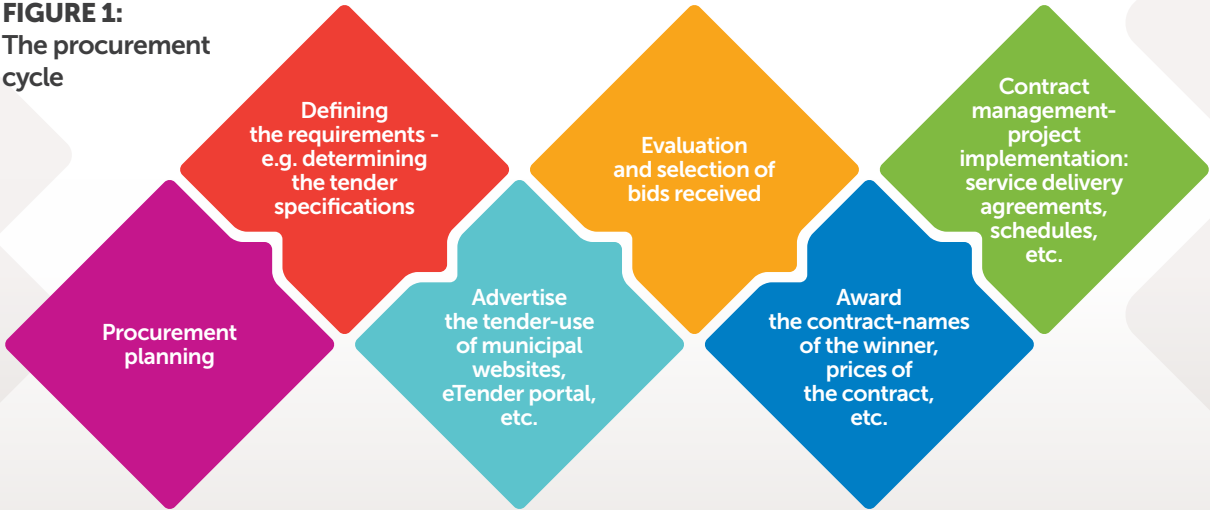
Municipalities procure goods and services all the time. Many of these are critical for service delivery. They range from cutting verges and installing and filling water tanks, to upgrading streets and pavements, filling potholes, maintaining sewer lines and cleaning communal toilets in informal settlements.

Too often, municipal procurement is seen as a matter between the municipality and those who are tendering for contracts. The public eye is on how service providers are appointed and what they charge. But what about the communities who are affected by what the municipality has procured? The services they receive are often delivered by private service providers, appointed by the municipality. This is even more critical when service providers are appointed to deliver basic services, i.e. those services without which public health or safety is endangered. Examples include the delivery of water, sanitation and refuse removal services. The key question is this: Can the communities affected by these contracts find out what services are supposed to be delivered on behalf of the municipalities in their areas?

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

This is underscored by what the law says about community participation, and about municipal websites. Municipal websites are critical vehicles for transparency. The law instructs each municipality to have one. The law also makes it clear that just having a website is not enough. It provides that the municipal manager ‘must maintain and regularly update’ the municipality’s website (s 21B(3) Municipal Systems Act). The National Treasury has issued various guidelines on transparency in procurement (National Treasury, 2016).

FIGURE 1:
The procurement cycle



Findings

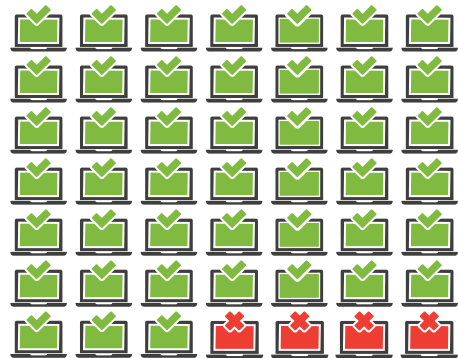
1 Are municipal websites functional with relevant procurement information?

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

Most municipal websites are functional but some do not contain any procurement information

In our survey, a municipality's website was considered functional if its website was accessible at the time the survey was conducted. Of the 49 surveyed municipalities, 45 had functional websites with a dedicated procurement page with procurement information. Inxuba Yethemba Local Municipality (LM) and Ventersdorp LM are the only municipalities that did not have functional websites. While the municipal websites of Indaka LM, Greater Taung LM and Setsoto LM were functional, they did not contain any procurement information. At times, the websites contained only outdated information. For example, the procurement information on the websites of Joe Morolong LM and Dawid Kruiper LM was not updated during the survey period (August 2020 to July 2021).

45|49 Functional websites with a dedicated procurement page.



1|49

Website required registration to access the procurement page:

- City of Cape Town

The website of the City of Cape Town requires registration to access procurement information

Of the 49 municipalities surveyed, the City of Cape Town is the only municipality whose procurement information is accessible upon registration. The provision of company details is one of the minimum requirements to complete the registration process. This suggests that the target audience for the city's tender webpage is companies (and individuals) who bid for tenders. The city's tender webpage does not serve the general public. Therefore, the city's website curtails the level of openness and publicity to which the public is entitled. The 2020 survey recorded the same problem; the City of Cape Town has not made any changes in this regard.

Many municipal websites are not user-friendly

Many municipal websites are not easy to use. While eThekweni has a functional website with procurement information that can be accessed without registration, the information was difficult to find as it was hidden behind the 'Resources' page. Similarly, the City of Johannesburg has a functional website with procurement information that can be accessed without registration, but the information continues to be nestled under the 'Work in Joburg' tab. As observed in the previous survey, this can lead ordinary people to think that they will find vacancies under that tab instead of procurement information. Moqhaka LM also has a functional website and a page dedicated to procurement but the links for Current tenders' and 'Awarded tenders' on the procurement page did not open. Procurement information can only be accessed through the 'Quick links' section of the website.



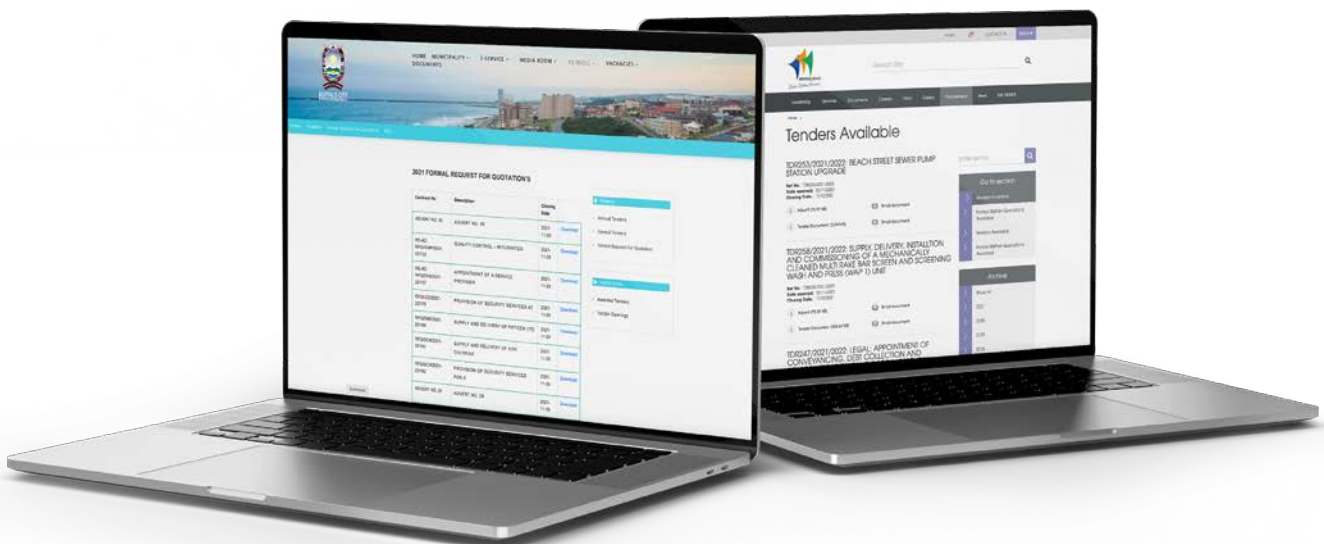
Many municipal websites are not user-friendly.



Some municipalities did have websites that were **easy to navigate** and that **regularly updated** procurement information, e.g.: Buffalo City, Mossel Bay, Knysna and Msukaligwa

Best practices

As with the 2020 survey, Buffalo City, Mossel Bay, Knysna and Msukaligwa are some of the municipalities that clearly stand out in terms of the content, navigability and presentation of their websites. These municipalities regularly publish procurement information that is easily identifiable on their websites. Also, it is easy to identify tenders based on the titles of the tender notices. These municipal websites are easy to navigate. Hence, it is a hassle-free process to find procurement information on these websites. Overall, the procurement information is represented in a neat and accessible fashion, making it easy to find.

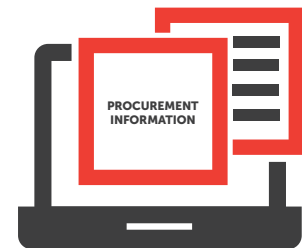


2 Does the municipality publish tender notices?

An important part of the procurement process is the publication of tender notices by a municipality. A tender notice is a document that provides information on a new tender, alerting contractors to submit bids for the tender. It is often called an invitation to bid for a tender advertisement. These notices usually provide important information such as the name of the procuring department or organisation, the tender number, a description of the goods and services requested, whether a briefing session will take place, as well as the full set of bid documents and where these can be obtained. The publication of a tender notice is important as it alerts communities and bidders that a particular tender is open, and that the procurement process for goods and services is underway.

Most municipalities still consistently publish tender notices

Out of the 45 municipalities with functional websites that were assessed, 26 municipalities published a list of tender notices which appeared to be complete. These municipalities include Thulamela, Okhahlamba, Stellenbosch, Moqhaka and Sol Plaatjie. A total of 15 municipalities – including Emfuleni LM, Tswaing LM, Albert Luthuli LM, and the Mangaung Metropolitan Municipality (metro) – published tender notices that seemed incomplete. Joe Morolong LM from the Northern Cape did not publish tender notices on its website. This result mirrors the result of the previous survey: There has been no improvement compared to the year before. Another three municipalities, namely Greater Taung, Ehlanzeni, and Metsimaholo, also did not publish tender notices on their websites. This brings the total number of municipalities that did not publish tender notices to four.



- 26|45 Municipalities published a list of tender notices that **seemed complete**.
- 15|45 Municipalities published a list of tender notices that **seemed incomplete**.
- 4|45 Municipalities **did not publish any** tender notices.

RESULT: There has been no improvement regarding publishing of tender notices compared to last year.



Poor performance **transcended** municipal (sub-) categories. Tender notices were **consistently published** by only:

- 5|8 Metro municipalities
- 5|10 B1 municipalities
- 3|6 B4 municipalities

Good and poor performance transcends municipal (sub-) categories

The 2020 survey established that good and poor performance transcends municipal (sub-) categories. The 2021 survey made a similar finding. For instance, three of the eight metros (Ekurhuleni, Mangaung and City of Cape Town) published a list of tender notices that seemed incomplete while the remaining five consistently published tender notices. Of the 10 category B1 municipalities surveyed, five (Rustenberg, Emalahleni, Stellenbosch, Sol Plaatjie and Polokwane) consistently published tender notices on their websites, three (Emfuleni, Msunduzi and Matjhabeng) published some tender notices while two (Ehlanzeni and Joe Morolong) did not publish tender notices on their websites. Of the six category B4 municipalities surveyed, three (Thulamela, Okhahlamba and Msinga) consistently published tender notices while the other two (Albert Luthuli and Nkomazi) published only some tender notices and Greater Taung did not publish any tender notices on its website for the period under review.

RATING



Overall, how did the 45 municipalities with functional websites rate regarding the publication of tender notices?

26 Municipalities published a list of tender notices on their websites which appeared to be complete.

15 Municipalities published tender notices on their websites, but the list of tender notices seemed incomplete.

4 Municipalities did not publish any tender notices on their websites.



3 Does the municipality publish tender specifications for tender notices on its website, and can these be downloaded free of charge?

Tender or bid specifications are made available when an invitation to tender is issued for a specific good or service. The specifications contain details such as the exact nature of the request, technical specifications, the volume of the goods or scope of the services required, as well as the timing of the delivery of the goods or services. Thus, bid specifications inform the community of the specifics of what to expect in terms of service delivery. The specifications enable members of the community to assess what was specified against what is delivered in practice, and to demand accountability in cases of poor or non-performance. To facilitate public participation, municipalities are encouraged to publish a full set of tender specifications for each tender, accessible free of charge on an online platform. They may impose a reasonable fee to cover basic costs such as printing, if tender specifications are made available at municipal offices.



9|45

Municipalities made tender specifications **freely downloadable** on their websites.

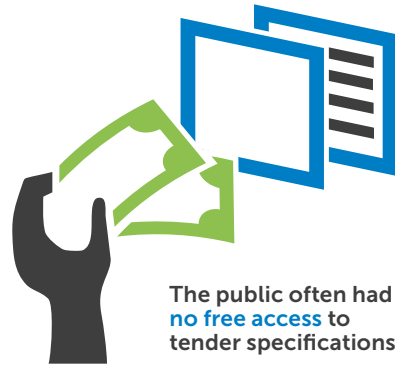
Only a few municipalities are making tender specifications freely available online

Of the 45 municipalities with functional websites, only nine made tender specifications freely downloadable on their websites. These municipalities include Dihlabeng and Tswelopele¹ in the Free State, Polokwane in Limpopo, Dawid Kruiper, Namakwa and Sol Plaatjie in the Northern Cape, as well as Knysna and Mossel Bay in the Western Cape. Dawid Kruiper, Knysna and Polokwane also scored well on this metric in the 2020 survey. By making tender specifications freely available, these municipalities facilitate transparency and enable the public to undertake social auditing of the various projects implemented in their localities.

1. While tender specifications were available on Tswelopele's website when we carried out the survey, another visit to the municipal website in October 2021 revealed that some tender notices were no longer available, or did not have freely accessible tender specifications.

The majority of the municipalities are not publishing freely accessible tender specifications

Another nine of the 45 municipalities with functional websites published specifications for some of the tenders they issued over the survey period, with most of them either not publishing the rest or charging a fee to access tender documents, mostly from their offices. It is not clear how they decided which specifications to publish online, and which specifications should be free and which should attract a fee. Some municipalities, such as the City of Tshwane, expressly stated that those tender specifications that are not available on the internet are available for purchase at their offices. The remaining 27 municipalities, which constituted more than half of the sample, did not publish any tender specifications online. The public, therefore, had no free access to tender specifications for these municipalities as most of the tender documents could only be accessed at municipal offices and upon the payment of a fee.



The public often had **no free access** to tender specifications.

27|45

Municipalities **did not publish any tender specifications** online. At some municipalities tender specifications could only be accessed **at municipal offices** after paying a fee.



At most municipalities the fee for access to tender specifications was **non-refundable**.

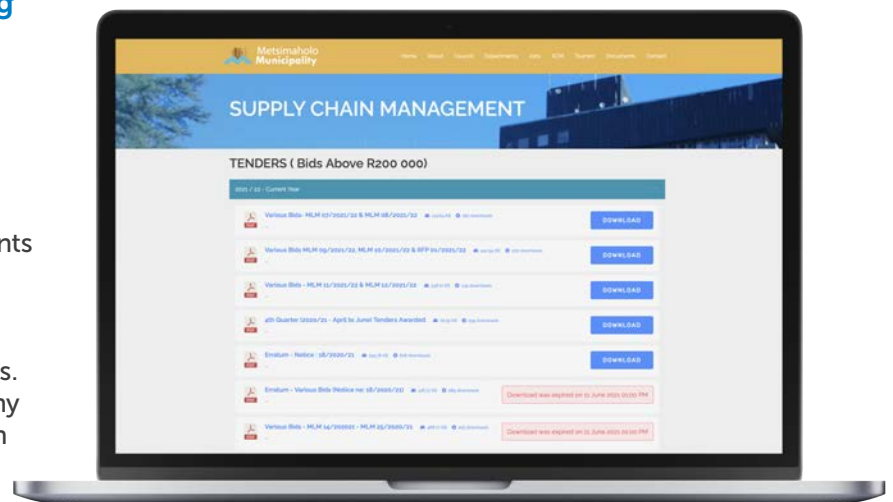
This fee varied between **R100** and **R3 049**.

Accessing tender specifications can be a costly exercise

Most of the municipalities in the sample imposed a non-refundable fee for access to either all or some of their tender documents. This fee ranged from as little as R100 in Buffalo City in the Eastern Cape to as high as R3 049 in Ngaka Modiri Molema in the North West. Although it is fair to charge fees to facilitate incidental expenses such as printing costs for those who prefer to collect physical copies of the tender documents, the costs may be a barrier to access for those who cannot afford to pay the required fees. Exorbitant fees are also an indication that companies, and not the general public, are the target audience.

Emerging issues undermining public access to tender specifications

Public accessibility of tender specifications is being hindered in various ways. For instance, Metsimaholo Municipality added expiry dates for its tender documents (see picture on the right). Hence, it was not possible to tell whether the documents removed were specifications or just tender notices. No rationale was provided as to why these documents could not remain freely available online even if the tenders had been closed.



Emerging issues (continued)

Msunduzi Municipality provided some freely downloadable specifications, but one has to sign in to access other tender documents. eThekweni Metro publishes specifications for tenders issued but also requires one to log in to access the specifications. This requirement to sign in or log in becomes a barrier to transparency, as argued above.

Some municipalities, such as Ugu, did not publish tender specifications online despite indicating in their tender notices that tender documents would be freely available on their websites. Municipalities must ensure that they make tender specifications available when they have promised this in their tender notices.

Barriers to transparency regarding tender specifications were:



Expiry dates on tender documents



Sign-in required to access tender documents



Failure to publish tender specifications online

RATING



Overall, how did the 45 municipalities with functional websites rate regarding the publication of tender specifications?

9 Municipalities published tender specifications on their websites, which were downloadable for free.

9 Municipalities published some tender specifications on their websites, of which some were downloadable free of charge and others at a cost.

27 Municipalities did not publish any tender specifications on their websites.



4 Are municipalities publishing the names of companies or individuals who win tenders on their websites? Do municipalities do so on time (i.e. within five working days after the award)?

Section 23(c) of the Municipal Supply Chain Management Regulations requires that municipalities publish their bid results on their websites. More specifically, MFMA Circular 62 requires that municipalities publish the names and details of companies that were awarded contracts. The names of individuals or companies must be published within five working days after the award. This only applies to bids over R200 000. It goes without saying that publishing the names of appointed contractors on a municipal website is important for transparency and accountability because it enables communities to know who is supposed to deliver the procured services in their area.

Most municipalities either do not publish the names of successful bidders at all, or they do not publish these timeously

Only six of 45 municipalities with functional websites – namely the City of Cape Town, Mossel Bay, Nelson Mandela Bay, Ugu District Municipality (DM), Umsinga LM and Dawid Kruiper – published the names of successful bidders consistently and regularly. Of the six municipalities, we were only able to verify that Dawid Kruiper publishes the names of successful bidders within five working days. The municipality's website has verifiable publication dates as reference points. For the other four, we were unable to verify whether or not they complied with the five-day rule.

A total of 20 municipalities published the names of successful bidders on their websites but not within five working days, as prescribed. These municipalities published the names of successful bidders either monthly, quarterly or annually. Both the City of Mangaung and Ekurhuleni published the list of companies that won tenders on a monthly basis, and Moqhaka on a quarterly basis. For instance, tenders awarded in May 2021 were only published on the City of Manguang's website in June 2021. Of the municipalities that did not publish on time, 9 are local municipalities while one is a district municipality and five are metros. In certain instances, the lists of companies who won tenders seemed incomplete.² Five municipalities' tender awards lists seemed incomplete. As of 16 September 2021, Stellenbosch, for example, is yet to publish tenders awarded between January 2021 and June 2021.

Regrettably, 19 municipalities did not publish the names of successful bidders at all. For example, Thulamela has a dedicated section titled 'Awarded tenders' but without any information on awarded tenders. Of the 19 municipalities that failed to publish the names of successful bidders, one is a metro (City of Johannesburg), two are district municipalities and 16 are local municipalities.



6|45

Municipalities consistently published the names of successful bidders:

- City of Cape Town
- Mossel Bay
- Nelson Mandela Bay
- Ugu District Municipality
- Dawid Kruiper
- Umsinga Local Municipality

20|45

Municipalities published the names of successful bidders but not within five working days as prescribed.

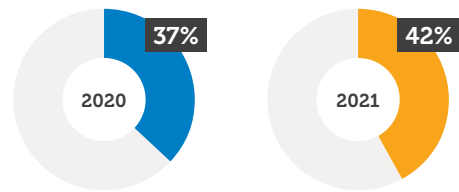
19|45

Municipalities did not publish the names of successful bidders at all.

2. Namakwa District Municipality (C1); Rand West City Local Municipality (Randfontein) (B2); Rustenburg LM (B1); Stellenbosch LM (B1), and West Coast District Municipality (C1).

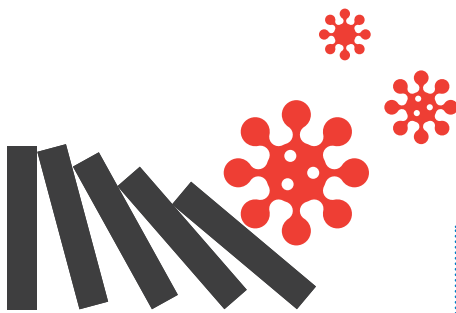
Overall, the 2021 results compared to those of 2020 show that the situation has worsened. For example, the percentage of municipalities that did not publish the lists of companies who won tenders at all increased from 37% in 2020 to 42% in 2021, an overall increase of 5% when compared to the 2020 results.

Percentage of municipalities that **did not** publish lists of successful bidders – 2020 vs 2021



The possible impact of Covid-19 on municipal operations

The day-to-day operations of municipalities were negatively impacted by the Covid-19 pandemic and national lockdowns. For example, while the City of Johannesburg regularly published the names of successful bidders covering the years 2012 to 2019, it failed to do so in 2020 and 2021 (surveyed period). Both Emfuleni LM and Mopani DM last published the names of successful bidders in May 2020 and 2019, respectively. This could be attributed to the Covid-19 pandemic. However, some municipalities – such as Matjhabeng LM and Joe Morolong LM – last published information on tender awards in 2016 and 2017, respectively. Thus, the lapse in transparency in such municipalities cannot be solely attributed to the impact of Covid-19.



RATING



Overall, how did the 45 municipalities with functional websites rate regarding publishing information about who wins tenders on their websites on time (i.e. within five working days after the award)?

6 Municipalities published information about who won tenders on their websites within five working days.

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

19 Municipalities did not publish any information on their websites about who won tenders.



5 Do the tender specifications of the contracts that have been awarded remain accessible on the municipal website for the duration of the contract?

Tender specifications provide the best information on what might be contained in the contract between a municipality and a service provider. In cases where the actual contract or service level agreements are not published, members of the community can compare the expectations detailed in the tender specifications with the actual performance by a contractor, and hold the municipality and/or service provider accountable for poor performance. Thus, the publication of tender specifications, and their continued availability once the contract has been awarded, is critical for enhancing accountability in local government.

Only five municipalities keep tender specifications on their websites after the tender has been awarded

Only five municipalities keep tender specifications available on their websites once the tender has been awarded. These are Polokwane, Knysna, Mossel Bay, Dawid Kruiper, and Sol Plaatjie. Eleven municipalities keep all, or some, of the tender specifications accessible on their websites after the contracts have been awarded, but not for the entire duration of the contract. The 11 are Dhlabeng, Tswelopele, Ngaka Modiri Molema, Rustenburg, Tshwane, Johannesburg, Mopani, Thabazimbi, Thulamela, Msunduzi and Namakwa.

5|45

Municipalities kept tender specifications available after awarding the contract:

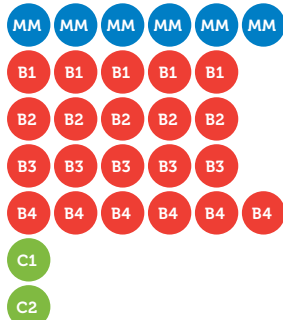
- Polokwane
- Knysna
- Mossel Bay
- Dawid Kruiper
- Sol Plaatjie



29|45

Municipalities removed tender specifications from their websites once the relevant contracts had been awarded, or did not publish tender specifications in the first place.

These 29 municipalities span all the (sub-) categories of municipalities:



Most municipalities do not publish or keep tender specifications on their websites

In total, 29 municipalities remove tender specifications from their respective websites once the relevant contracts have been awarded, or they do not publish tender specifications in the first place. These 29 municipalities span all the (sub-) categories of municipalities: six metros, five B1s, five B2s, five B3s, six B4s, one C1 and one C2 municipality. Rand West and eThekweni Metro remove tender specifications from the municipal website when the tender closes. Ekurhuleni Metro and Metsimaholo LM also removed tender specifications once the tender had been awarded. The City of Cape Town MM also does not keep tender specifications online. Mangaung, Emfuleni, Buffalo City, Beyers Naudé, and Joe Morolong, for example, do not publish tender specifications on their websites at all. None of the sampled municipalities in the Eastern Cape seemed to have published tender specifications on their websites. As stated above, the websites of Ventersdorp, Setsoto, InxubaYethemba and Indaka were not functioning, or did not have relevant procurement information.

Many communities continue to be barred from access to tender specifications after the award of the tender

The results of the 2021 survey show that nothing has changed since the 2020 survey which established that only four of the 32 municipalities with functional websites kept tender specifications on their websites. The latest survey results show that only five municipalities are keeping tender specifications on their websites. Thus, many communities continue to be barred from access to tender specifications after the award of the tender. This removes the opportunity from interested community members and civic organisations to access these tender specifications and compare them with the implementation in order to hold both the municipality and contractors accountable.



RATING



Overall, how did the 45 municipalities with functional websites rate regarding keeping tender specifications on their websites after the contract has been awarded?

5 Municipalities kept tender specifications on their websites for the duration of the contract.

11 Municipalities kept some tender specifications on their websites for a part of the duration of the contract.

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

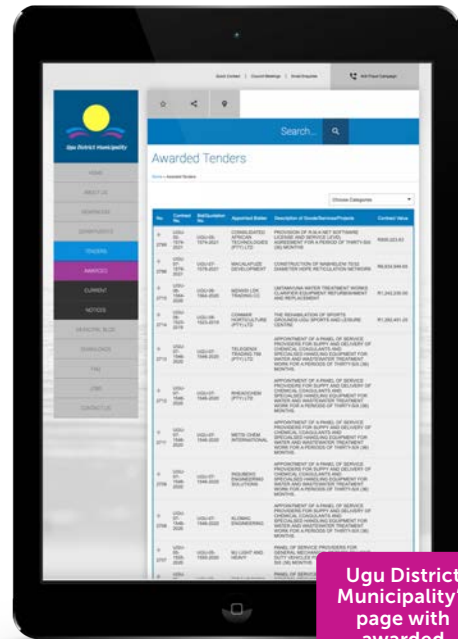


6 Do municipalities publish the prices of contracts?

When a municipality procures goods or services on tender, a price is attached to the goods or services it procures. These goods or services are then paid for in terms of the contract price agreed to between the municipality and the chosen service provider. Often municipalities do not make the price of the tender public when they go on tender, and only publish the contract price once the tendering process has been completed, either before the award of a contract or after the award of a contract. Publication of the contract price informs a community about the costs agreed upon by a municipality and service provider for the delivery of a particular service. Armed with the price of the contract, communities can assess whether the services being provided offer value for money. They will also be able to evaluate whether progress on the ground during the implementation of the project corresponds with the value of the contract.

Only nine municipalities publish contract prices consistently

Only nine of the 45 municipalities with functional websites published the prices of all the contracts that were awarded during the survey period. The nine municipalities include six local municipalities (Makana, Amahlathi, Rustenburg, Tswelopele, Metsimaholo and Polokwane), and one district municipality (Ugu).



Ugu District Municipality's page with awarded tenders and contract prices.

9|45

Municipalities with functional websites published the prices of all the contracts that were awarded.



The lack of transparency from Metropolitan Municipalities is worrying:

ONLY 2|8

Metropolitan municipalities consistently published the prices of contracts that were awarded:

- Mangaung
- Buffalo City

Most metros continue not to publish contract prices

During the survey period, only two of the eight metropolitan municipalities – Mangaung and Buffalo City – consistently published the prices of contracts on their websites. This more or less mirrors the results of the 2020 survey which established that only two metropolitan municipalities published their contract prices. This lack of transparency from metropolitan municipalities is worrying considering that these municipalities are economic hubs and undertake the most procurement at the local level. Metropolitan municipalities have a combined budget of over R195 billion, with the majority of this being revenue generated from own sources such as property rates and user charges. Parts of these budgets are used towards capital expenditure to improve service delivery and transform the urban environment. Metros must be transparent about which service provider is awarded which contract and at what price.

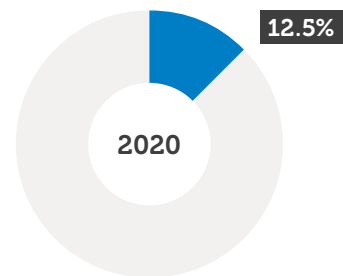
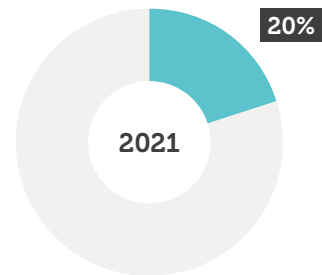
Most municipalities continue to neglect their duty to make contract prices publicly available

The results of the 2020 and 2021 surveys show that little has changed when it comes to the publication of contract prices. The 2020 survey results showed that only four out of 32 (12.5%) did so, while the 2021 survey results show that nine out of 45 (20%) municipalities consistently published contract prices. Thus, most municipalities continue to neglect their duty to make contract prices publicly available.

Many of the municipalities that did not publish tender prices during the survey period, published the prices of contracts for other financial years.³

Where municipalities published contract prices in the 2018/19 or 2019/20 financial year but failed to publish contract prices during the survey period, this could likely be attributed to the disruption brought about by the Covid-19 pandemic. However, this justification is not applicable to municipalities that stopped publishing the prices of contracts in the 2017/18 financial year and prior to this. It is simply about a culture of non-transparency which has engulfed such municipalities.

Percentage of municipalities that consistently published contract prices – 2020 vs 2021



Municipalities often published incomplete information that makes it difficult for members of the public to hold the municipalities and service provider(s) accountable.

Other issues concerning the publication of prices that inhibit transparency and public participation

Municipalities often use terms such as 'as and when', 'rates', 'various', 'rates tenders', and 'estimated budget' instead of actual amounts in their awarded tender lists. No explanations are provided when such terms are used, making it difficult for the public to know how much is really going to be paid for a project.

Msinga LM publishes 'intention to award' notices (left) that set out the prices of the contracts and allow a 14-day objection period for community members to raise concerns/objections. While this is commendable, it is concerning that the municipality does not publish the final price. This leaves community members with incomplete information, inhibiting members of the public from holding the municipality and service provider(s) accountable.

Although Stellenbosch LM publishes the prices of contracts, the lists from January 2021 to June 2021 were no longer available for download as at 16 September 2021. The website says the downloads 'expired' on 1 July 2021 and 1 August 2021 respectively. No explanation has been given for this document expiry period introduced in 2021, which weakens transparency.



Msinga LM published an 'intention to award' notice.

3. For example, Joe Morolong LM last published prices for awards made in 2016, Namakwa DM last published prices for awards made in June 2020 (awards made after this were cancelled), Matjhabeng LM last published prices for awards made in 2015, Tswaing LM last published prices for awards made in 2016, Ngaka Modiri DM last published prices for awards made in 2019, while the City of Tshwane Metro have archived contract prices dating back to 2017.

Best practices

Polokwane LM is a good example of a municipality that publishes contract prices, released monthly. The lists set out the total amount of the tenders, as well as the combined rates amount(s). The municipality also publishes the contract prices for different financial years. If a community member misses or does not find a contract price from the monthly lists, they can check the financial year PDF documents under the tab 'Bids Awarded' published along with the monthly award lists. The increased access and transparency is commendable. Metsimaholo LM publishes contract prices on a quarterly basis, and the lists have actual prices. Rustenburg LM is also exemplary in the information it publishes regarding awarded contracts. The information includes the price; the timeline between the adjudication, recommendation and appointment of the service provider; the number of tenders received (the competition); whether the individual is local or not; gender representation; youth and race stats; the price range of bids received (i.e. lowest and highest); actual price of the bid awarded; and the duration of the contract.



A few municipalities **increased access to information** like contract prices, appointment of service providers, and awarded tenders, and were therefore more transparent.

These municipalities include:

- Polokwane LM
- Metsimaholo LM
- Rustenburg LM

RATING



Overall, how did the 45 municipalities with functional websites rate regarding publishing the prices of contracts that have been awarded?

9 Municipalities published the prices of contracts awarded on their websites.

12 Municipalities published the prices of some contracts awarded on their websites.

24 Municipalities did not publish the prices of contracts awarded on their websites.



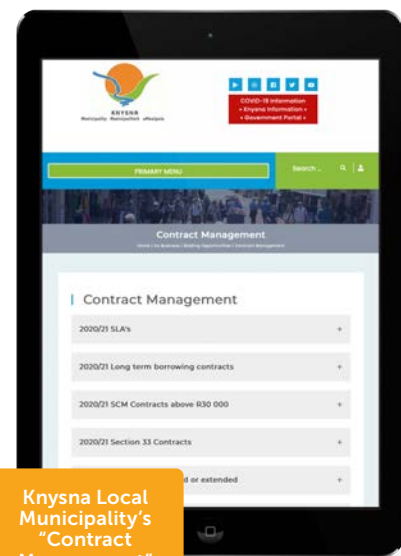
7 Do municipalities publish any information on how projects awarded to private contractors will be implemented, e.g. timelines and deliverables, otherwise known as service delivery agreements or implementation plans?

Municipalities contract private service providers to provide certain services to their communities. Transparency and participation may be enhanced if municipalities publish information showing how these contracts will be implemented. Such information includes service delivery agreements and implementation plans. The tender specifications only include the broad scope of the services to be delivered. However, publishing information on how the project will be implemented enables communities to know exactly who is responsible for delivering which service in their areas, how often this service will be delivered, and more. Thus, the publication of service delivery agreements and implementation plans empowers communities to monitor the delivery of services by private contractors in their areas.

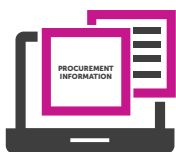
Municipalities are not publishing service delivery agreements or implementation plans

Of the 45 municipalities with functional websites, only Knysna LM published information on how projects awarded to private service providers will be implemented. Knysna publishes service level agreements under the 'Contract management' tab on its website. However, it is evident that the list of service delivery agreements that the municipality publishes is incomplete as only one of the service level agreements was available for download, as shown in the screenshot on the right.

The remaining 44 municipalities did not publish specific service agreements, implementation plans or any other kind of information that shows how projects contracted to private service providers will be implemented. However, three municipalities – Polokwane, Sol Plaatjie and Namakwa – published general specifications and standard contractual terms applicable to all tenders.



Knysna Local Municipality's "Contract Management" page provided information on how projects will be implemented.



The results of the 2021 survey are **consistent** with the results of the 2020 survey:

ONLY 1|45

Municipality published service delivery agreements or implementation plans, but inconsistently.

RESULT: The public cannot access the procurement information that they require to hold the municipality and/or service providers accountable.

There is no improvement when it comes to the publication of service delivery agreements

The results of the 2021 survey are consistent with the results of the 2020 survey when it comes to the non-publication of service delivery agreements or implementation plans by municipalities. The 2020 survey established that none of the surveyed municipalities published such agreements or plans. The 2021 survey has established that only one of the surveyed municipalities publishes this kind of information although the municipality does so inconsistently.

Failure to publish service delivery agreements, implementation plans and related information makes municipalities and contractors less accountable. When this happens, the public cannot access the procurement information that they require to hold the municipality and/or service providers accountable.

RATING



Overall, how did the 45 municipalities with functional websites rate regarding publishing service delivery agreements for the contracts that had been awarded?

0 Municipality published service delivery agreements for contracts awarded on its website.

1 Municipality published incomplete service delivery agreements for contracts awarded on its website.

44 Municipalities did not publish any service delivery agreements for contracts awarded on their websites.



8 Does the municipality publish procurement information on both its website and the eTender portal?

The eTender Publication Portal was launched in 2015 as a modernisation initiative in Supply Chain Management (SCM). The National Treasury Instruction No. 1 of 2015/2016⁴ sets out the mandatory advertisement of bids and the publication of awards on the eTender portal.

An assessment of the portal, as part of the 2020 survey, pointed to a number of challenges with the portal. The assessment established that (1) it was difficult to search for information on the portal, (2) procurement information on the portal was misaligned with procurement information on municipal websites, and (3) a number of municipalities relied solely on the portal as a vehicle to publish procurement information, or municipalities did not make use of the portal at all.⁵

We thus recommended that the National Treasury considers revising the portal to improve the searchability of tender information.

The National Treasury has taken steps to improve the functionality of the eTender portal. However, this process has clearly not been without challenges, as evidenced by news headlines during the first half of 2021, such as: 'Treasury's e-Tender website suffers crash, but procurement process goes ahead';⁶

'No end in sight to eTender portal woes';⁷ and 'National Treasury resolving e-Tender portal crash'.⁸

These headlines are validated by the National Treasury's Supply Chain Management Instruction No.01 of 2021/2022, dated 12 May 2021. Under the instruction, municipalities were given a moratorium from publishing bid awards and related information on the government tender bulletin and the eTender Publication Portal until such a time to be indicated by the National Treasury.⁹

In the meantime, the National Treasury advised accounting officers to utilise their own institutional websites and/or any other means (printed media and/or electronic media) to publish bid advertisements, bid awards and related notifications, until such time that these platforms have been restored. This means that, during the period the portal was down, municipalities that relied on the eTender portal to publish procurement information might have had no options or limited option(s) to publish such information.

The evaluation of the eTender portal must therefore be viewed and understood within the context of a portal that has been undergoing changes and experiencing difficulties from as early as February 2021. With this context in mind, municipalities such as Metsimaholo LM published (on 16 April 2021) notifications on their own websites, advising the public of the technical challenges.

4. <http://www.treasury.gov.za/legislation/pfma/TreasuryInstruction/Treasury%20Instruction%20No.%201%20of%202015%202016%20on%20eTender%20Publication%20Portal.pdf>

5. Dullah Omar Institute. (2020). How transparent are municipal websites about the goods and services that municipalities procure?

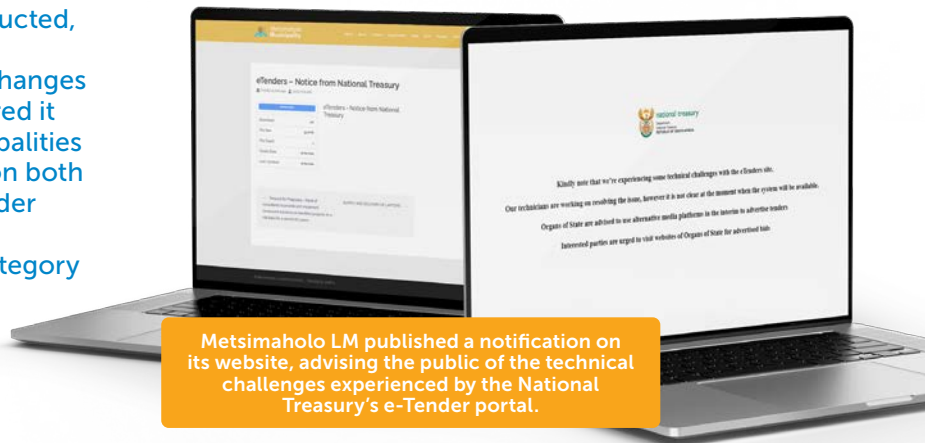
6. Cronje, J. (2021, April 7). Fin24 | Treasury's e-Tender website suffers crash, but procurement process goes ahead. <https://www.news24.com/fin24/companies/ict/treasurys-e-tender-website-suffers-crash-but-procurement-process-goes-ahead-20210407>

7. IT Web. (2021, April 8). No end in sight to eTender portal woes. <https://www.itweb.co.za/content/VgZey7JoXy3MdjX9>

8. SA News. (2021, April 8). National Treasury resolving e-Tender portal crash. <https://www.sanews.gov.za/south-africa/national-treasury-resolving-e-tender-portal-crash>

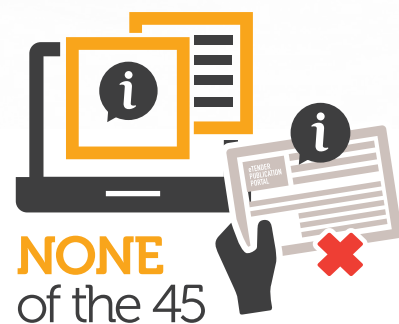
9. The moratorium also applied to other government institutions. See http://ocpo.treasury.gov.za/Resource_Centre/Legislation/SCM%20Instruction%20No.%2001%20of%202021-22%20-%20Departure%20from%20advertisement%20of%20tenders%20on%20GTB%20and%20E-Tenders.pdf

At the time when the survey was conducted, the portal appeared to be functional. Notwithstanding the challenges and changes to the eTender portal, we still considered it useful to ask this question: Are municipalities publishing procurement information on both their websites and the revamped eTender portal? We use the term 'procurement information' loosely to apply to any category of procurement information: tender notices, tender specifications, awarded bids, closed bids, etc.



Municipalities are no longer publishing the same procurement information on both their websites and the eTender portal

The 2021 survey established that none of the surveyed municipalities published the same procurement information on their websites and the eTender portal. The table below compares the 2020 and 2021 survey results, showing that the five municipalities that used to publish similar procurement information both on their websites and the eTender portal are no longer doing so. These are Polokwane, Nelson Mandela Bay, Rustenburg, Ngaka Modiri Molema and Ugu. The procurement information available on their respective websites is no longer aligned with the procurement information on the eTender portal. For example, Nelson Mandela Bay did not have any procurement information available on the eTender portal. While Ngaka Modiri Molema DM uses both platforms to publish procurement information, the information on these platforms is not in alignment. This raises the question: What happened to the best performers of 2020?



NONE of the 45 Municipalities published the same procurement information on both their websites AND the eTender portal during the survey period.

- ? What happened to the best performers of 2020?**
- Polokwane LM
 - Nelson Mandela Bay MM
 - Rustenburg LM
 - Ngaka Modiri Molema DM
 - Ugu DM

Table 1: Publication of procurement information on both the municipal website and the eTender portal: 2020 vs 2021 results

Category	2020		2021	
	Number	% of sample (34)	Number	% of sample (49)
Municipalities that publish procurement information on both their websites and the eTender portal	5	14.7%	0	-
Municipalities that publish procurement information on both their websites and the eTender portal but the information on these two platforms does not correspond	19	55.9%	14	28.6%
Municipalities that only publish procurement information on either their website or the eTender portal	7	20.6%	29*	59.2%
Municipalities that do not publish procurement information on either their website or the eTender portal	3	8.8%	6	12.2%

*The 2021 survey established that none of the 29 municipalities published procurement information on the eTender portal.

Municipalities are publishing procurement information on either their websites or the eTender portal, and not both

The table above also reflects a shift by municipalities from posting different versions of the procurement information on the municipal websites and eTender platform respectively towards the use of either their own websites or the eTender portal. In the 2020 survey, 55,9% of the municipalities in the sample published procurement information on both their websites and the eTender portal but the information on these two platforms did not correspond. The percentage has gone down to 28,6% in the latest (2021) survey. What has drastically increased, from 20,6% in the previous survey to 59,2% in the latest survey, is the number of municipalities that publishes procurement information on either their website or the eTender portal, but not on both platforms.



The percentage of municipalities that published procurement information on either the municipal website or the eTender portal but **not on both portals** has increased:

2020: 20,6% | 2021: 59,2% ▲

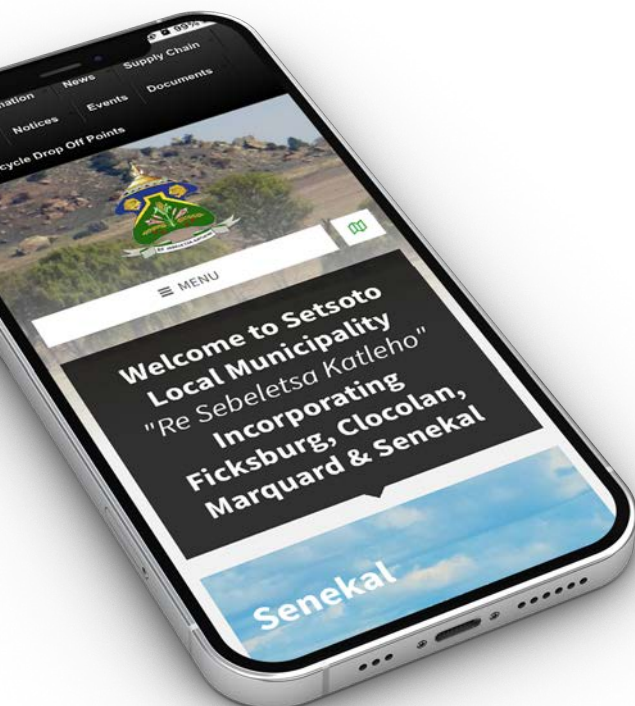
RESULT:

Capacity related challenges might be inhibiting some municipalities from maintaining their websites and regularly publishing procurement information.

There is a correlation between municipalities that do not publish procurement information through the eTender portal and those with limited or no own website functionality

Of the 49 municipalities in the analysis, six were found to either have dysfunctional websites, or their websites were functional but lacked up-to-date procurement information. These are Inxuba Yethemba, Greater Taung, Ventersdorp, Joe Morolong, Indaka and Setsoto. Of the six, the municipal website of Ventersdorp is completely dysfunctional. For the remaining five, the municipal websites exist but contain no procurement information for the period under review (August 2020-July 2021). Given that the eTender portal is freely available for use by the public sector, this suggests that these six municipalities are making no attempt to improve transparency in their procurement. In other words, their challenge cannot only be limited to, for instance, a lack of budget to improve the functionality of their own websites as they could take advantage of the eTender portal.

Also noteworthy is that all six municipalities are either B3 or B4 category municipalities. This category of municipalities tends to be small and/or presiding over rural towns. This points to possible capacity challenges in these municipalities, as they are struggling with the very basics of publishing information. In the previous survey, we established that Greater Taung LM used the eTender portal and not its own website. The 2021 survey reveals that tender notices for this municipality are now only accessible through websites administered by private companies. Also, based on the 2020 analysis, it is clear that three municipalities have not improved: Inxuba Yethemba, Joe Morolong and Indaka.



The remaining analysis will focus on the 43 municipalities that use their own websites or the eTender portal to publish procurement information.

There is no alignment between municipal websites and the eTender portal in 14 municipalities

The survey showed that 14 of the above-mentioned 43 municipalities did not publish the same procurement information on both their own websites and the eTender portal. In other words, when the procurement information that municipalities publish on the eTender portal is compared with the procurement information on their own websites, there is evidence of misalignment. Three of the 14 are metros. In Mangaung, for instance, only tender notices for the month of July 2021 are available on the eTender portal, whereas the municipality’s own website published tender notices for several months over the period of the survey. For the City of Tshwane, active tender notices are clearly displayed on the municipal website, but this is not the case on the eTender portal where only bids categorised as having closed two months ago are displayed. For the City of Cape Town, 35 active tender notices for the month of August could be accessed on the municipality’s website. However, on the eTender portal there were no active tender notices.



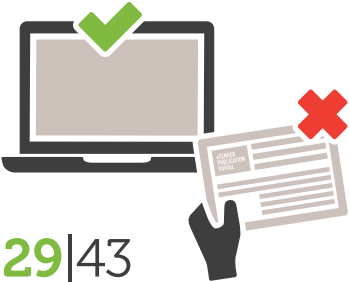
14|43

Municipalities **did not publish the same procurement information** on both their own websites and the eTender portal.

3|14

of these municipalities are Metros:

- Mangaung
- City of Tshwane
- City of Cape Town



29|43

Municipalities **only use their own websites** and not the eTender platform to publish procurement information.

RESULT:
It is evident that the eTender platform is not a preferred publication platform for municipalities.

Municipalities are now making more use of their own websites than the eTender portal

Our analysis reveals that 29 municipalities (of the 43) only use their own websites, with not even a single one of them using the eTender platform as an option. These 29 municipalities represent 59% of our sample of 49 (an increase from 20.6% in 2020), and 67% of those municipalities that do publish procurement information. This provides overwhelming evidence that for whatever reason (e.g. eTender platform poses technical challenges), the eTender platform was not a preferred publication platform for municipalities during the period of analysis.

Some highlights from the 2021 group of municipalities:

- Except for Rand West Municipality, all category B2 municipalities, which are local municipalities with a large town as core, only published procurement information on their own websites.
- All municipalities in Mpumalanga only posted procurement information on their own websites.
- Five metros – Nelson Mandela Bay, Buffalo City, eThekweni, Ekurhuleni and the City of Johannesburg – publish procurement information only on their own websites.

The commitment to transparency is sometimes not followed by action

There are a number of municipalities whose websites indicate that tender specifications are available on the eTender platform, but after assessing the eTender portal, no such information was available on the portal. This was the case for Thabazimbi, Thulamela, Pixley Ka Seme and the City of Johannesburg. Intent to make information available does not equate to transparency. However, this may be yet another indication of the eTender platform not functioning as it should.

SOME

municipalities indicated that tender specifications were available on the eTender platform, but no such information was available on the portal:

- Thabazimbi
- Thulamela
- Pixley Ka Seme
- City of Johannesburg



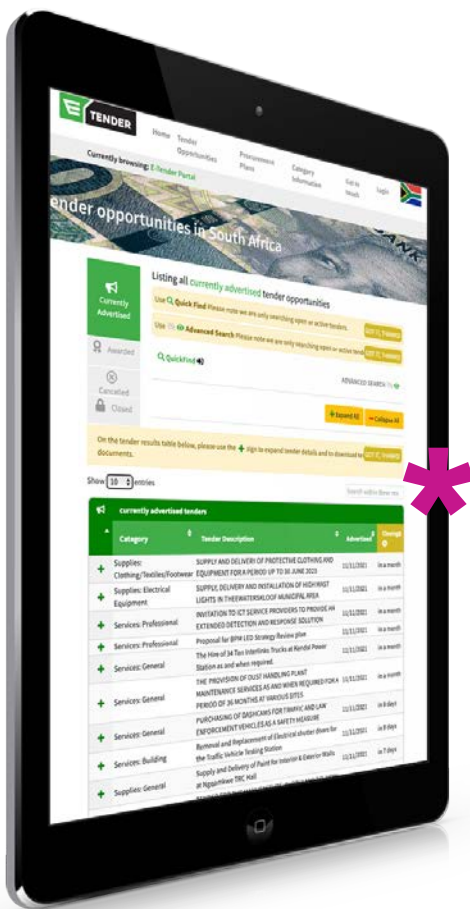
Is the 'new' eTender portal user-friendly?

As stated above, the eTender portal is undergoing changes that are affecting the availability or accessibility of procurement information. However, in light of transparency it is important to answer this question: How easy or difficult it is to find procurement information on the portal in its current state? The eTender portal has improved in many areas. It is now easier to search for the procurement information of municipalities if users already know what they are looking for. As seen in the visual on page 23, a user can simply enter the name of the municipality, and a list of items will appear depending on the search criteria.

However, the challenge is that as the user clicks on any of the listed items, the rest of the pop-up list disappears. An improvement would be that upon clicking on the listed items, a new tab should ideally open up so that the user does not lose the pop-up list. A second challenge observed by researchers is that procurement information for different municipalities is jumbled up, or mixed together, as observed by this researcher:

"When I applied the filters for Nkomazi LM municipality on the eTender portal, two August 2021 tenders for Bushbuckridge Local Municipality and Ehlanzeni District Municipality showed up instead. This shows that the eTender portal is not functioning properly."

Another improvement of the new eTender portal is that the search engine is quite comprehensive, offering various search options. The engine could be improved further through the enlargement of the field 'Search within these results'. In its current form this field is very small (see * on the left) relative to the rest of the page, such that the user could miss the field altogether.



RATING



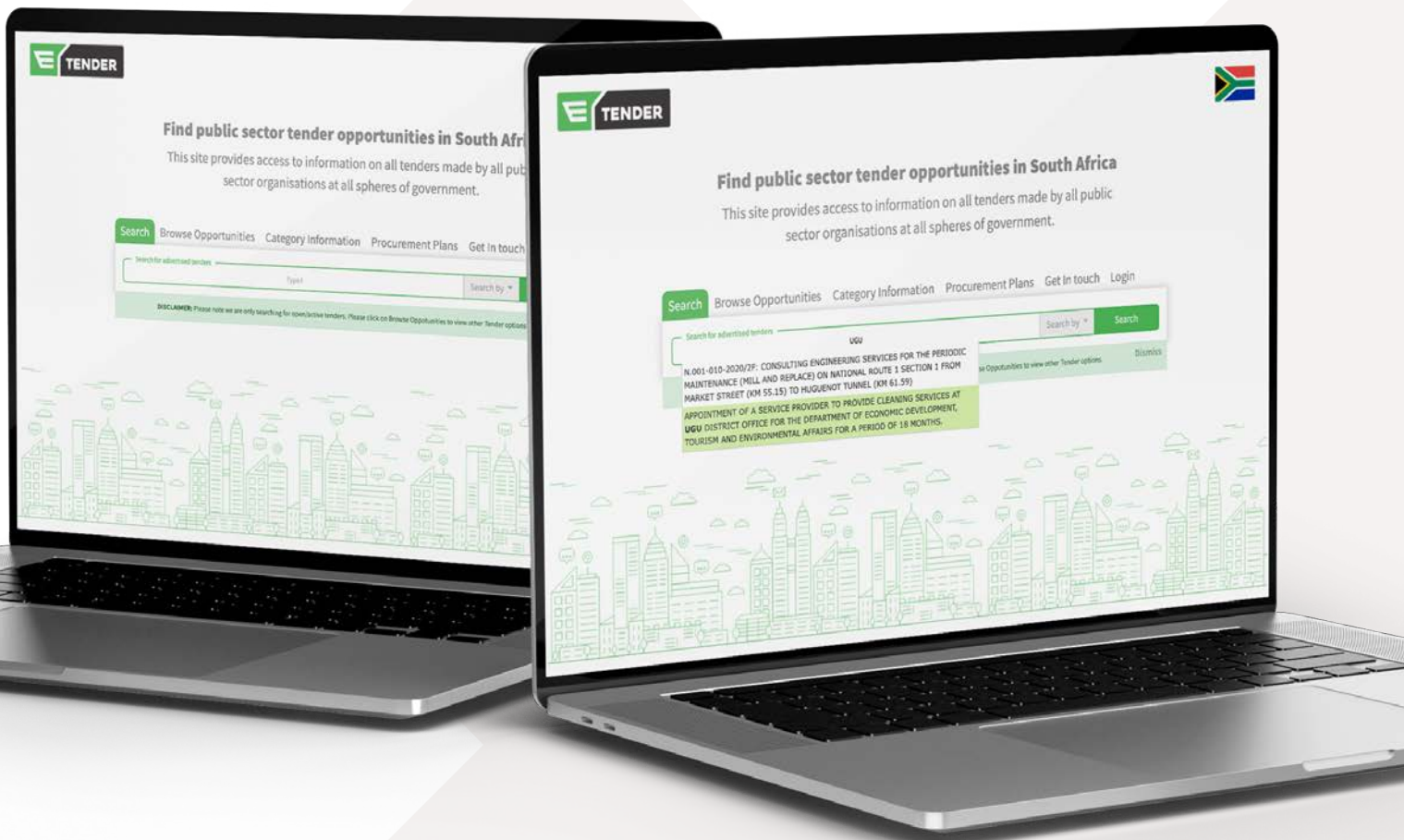
Overall, how did the 49 municipalities rate regarding publishing procurement information on both their websites and the eTender portal?

0 Municipality published procurement information on both its website and the eTender portal.

14 Municipalities published procurement information on their websites and the eTender portal but the information did not correspond.

29 Municipalities published procurement information on either their websites or the eTender portal.

6 Municipalities did not publish procurement information on either their websites or the eTender portal.





Conclusion

The results of the 2021 survey of 49 municipalities show that the state of transparency with respect to local government procurement has not improved. In fact, it has worsened since the 2020 survey.

Tender notices are the most common form of procurement information that is easily available in most municipalities. The picture is gloomy when it comes to the publication and accessibility of other kinds of procurement information: tender specifications, names of successful bidders, prices of contracts, service delivery agreements and implementation plans.

The lack of a culture of transparency transcends municipal categories and subcategories. Capacity limitations could be making it difficult for smaller or poorer municipalities to publish procurement information.

The same cannot be said for municipalities in higher categories, such as metros, which are also not transparent. Covid-19 and the lockdown might have made it difficult for some municipalities to publish procurement information. However, for the majority of municipalities it is simply a culture of lack of transparency that has engulfed local government. Undertaking procurement in secrecy seems to be the preferred choice or way of doing business. For some municipalities, while the intent to publish procurement information might be there, the internal organisation or capacity to make this happen is lacking.

The eTender portal, which is supposed to serve as the main platform where all government procurement information is found, has been undergoing changes and experiencing technical challenges. Our assessment shows that the revamped eTender portal is not yet working well and municipalities are not making use of this platform to publish their procurement information. Many municipalities that used to publish information on the platform no longer do so, perhaps due to technical glitches the platform has been experiencing. We also observed that the new platform is not user-friendly, particularly from the perspective of the public.

Recommendations

In too many municipalities, the quality of governance is far from what the Constitution requires and what the public is entitled to.

Some may call for a radical local government policy reform to address the challenges in municipalities. It is possible that such a shift could make a difference. However, equally important are initiatives, which may appear trivial, such as the publication of up-to-date procurement information on municipal websites. These 'smaller' steps, if combined, could change our local government for the better. It is against this background that we make the following recommendations for consideration and possible implementation:

1 Functionality of municipal websites

It is important that every municipality has a functional website that is properly organised and that makes information easily accessible. This may appear as basic but it is a starting point for making local government transparent. National and provincial governments should render support to municipalities that are failing to maintain functional websites. A functional website is key for transparency and for the facilitation of public participation.

2 Publication of procurement information

Every municipality must publish up-to-date procurement information (tender notices, full set of specifications, names of successful bidders, contract prices, service level agreements and implementation plans) on its website without fail. Accessibility can be enhanced with a dedicated tab or section for procurement information on the website's home page. This information is key for facilitating public participation and accountability. There should be consequences for municipalities, and their officials, that fail to ensure that procurement information is publicly available on the municipal website.

3 Keep procurement information on the municipal website

Municipalities should keep procurement information on their websites even after the award of the relevant contracts. Documents concluded between the municipality and the service provider should be published and remain publicly available for the duration of these contracts. By not keeping procurement information publicly available, communities are left without access to the procurement information that they require to hold municipalities and their service providers accountable.

4 The functionality of the eTender portal

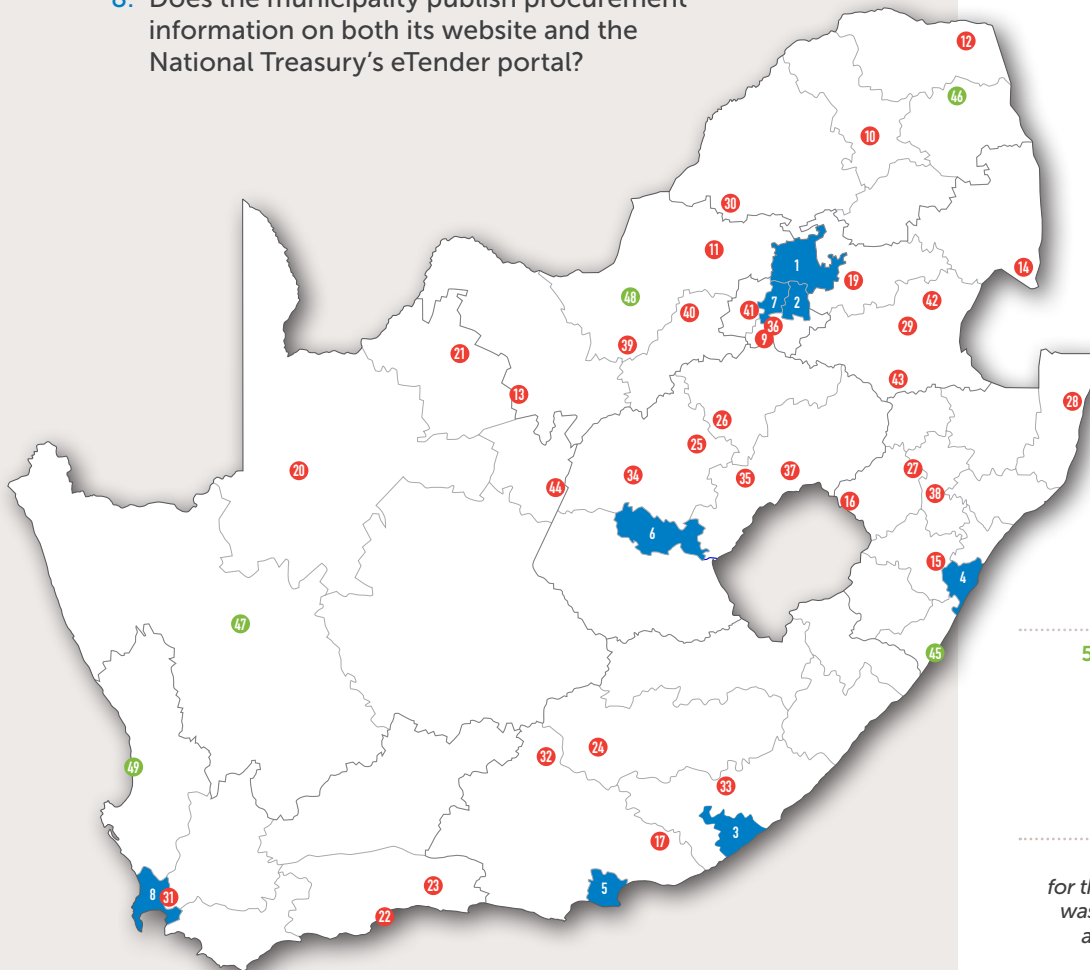
The revamp of the eTender portal is a step in the right direction. However, the National Treasury needs to ensure that the platform functions well and offers easy access to government procurement information. The starting point is to ensure that the platform functions with limited or no interruptions. The National Treasury should also encourage municipalities to use the new eTender platform.



Methodology

The survey considered procurement information that was available from **1 August 2020 to 31 July 2021**. In order to assess the degree of transparency in municipal procurement we sampled **49 municipalities** (listed on the right). We visited their websites and asked eight questions:

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



Surveyed municipalities

8 Metropolitan Municipalities

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

36 Local Municipalities

- 9 Emfuleni
- 10 Polokwane
- 11 Rustenburg
- 12 Thulamela
- 13 Greater Taung
- 14 Nkomazi
- 15 Msunduzi
- 16 Okhahlamba
- 17 Makana
- 18 Nkomazi
- 19 Emalahleni
- 20 Dawid Kruiper
- 21 Joe Morolong
- 22 Mossel Bay
- 23 Knysna
- 24 Inxuba Yethemba
- 25 Matjhabeng
- 26 Moqhaka
- 27 Indaka
- 28 The Big 5 False Bay
- 29 Msukaligwa
- 30 Thabazimbi
- 31 Stellenbosch
- 32 Dr Beyers Naudé
- 33 Amahlathi
- 34 Tswelopele
- 35 Setsoto
- 36 Metsimaholo
- 37 Dihlabeng
- 38 Msinga
- 39 Tswaing
- 40 Ventersdorp
- 41 Randfontein
- 42 Albert Luthuli
- 43 Pixley Ka Seme
- 44 Sol Plaatjie

5 District Municipalities

- 44 Ugu
- 45 Mopani
- 46 Namakwa
- 48 Ngaka Modiri
- 49 West Coast

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

The website of each municipality in the sample was examined based on the eight questions. The municipal websites were all assessed between 2 August and 10 September 2021 so as to ensure an even-handed approach. The data used for analysis was based on procurement information that was accessible on these websites only during the survey period. The sample included municipalities across all nine provinces, in all three municipal categories, as well as across all of the subcategories used by the National Treasury.

The categories are:

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

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

Another important part of the methodology was how we dealt with the fact that there is no public record of all procurement that was actually undertaken by municipalities during the period under review. Therefore, we could not compare the procurement information on municipal websites with reliable data on actual procurement.



Our conclusions in the survey as to whether the procurement information made publicly available is 'complete' or not, is thus based on a realistic assessment, judging the completeness of the data or the lack thereof.

For example, a range of procurement data with significant gaps in time, or a range of procurement data that ended many months ago would not be considered 'complete'. The source data (i.e. completed questionnaires, the tabulated results per question) on which this report is based, is available on the Dullah Omar Institute's website at www.dullahomarinate.org.za/multilevel-govt/publications.

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The project team

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