



Association of Proposal
Management Professionals

Shaping fair tender evaluations

An APMP SA and SOEPF White Paper

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DISCLAIMER

This white paper represents the views of the seventy-seven people who participated in industry workshops. Views are based on the experiences of these delegates in tendering and/or evaluation of tenders in the South African public procurement space. This paper is not a comprehensive view, but rather a sample of the current challenges experienced in the public procurement space. This paper does not claim to be the views of the author, the Association of Proposal Management Professionals (APMP) or the State-Owned Enterprise Procurement Forum (SOEPF).

This paper intends to stimulate conversations to develop solutions to improve South Africa’s supply chain management (SCM) practices.

IMPROVING LIVES THROUGH MEANINGFUL ENGAGEMENTS

The purpose of this white paper is to present the views of the delegates who attended the three industry sector workshops on 22 May 2019 and 23 May 2019. ABSA hosted the workshops on behalf of the Association of Proposal Management Professionals (APMP) SA, and Larissa Cornelius facilitated the sessions.

The workshops were structured as follows:

1. Compliance evaluation
2. Functionality/Technical criteria evaluation
3. Price and B-BBEE evaluation

Of the seventy-seven attendees, 85% represented the APMP SA, and 15% represented the State Owned Enterprises Procurement Forum (SOEPF). Delegates comprised of bid and procurement professionals from the Information and Communication Technology (ICT), Professional Services and Construction Industries.

The purpose of these workshops was to discuss challenges and find possible solutions on how to improve tender evaluation in South Africa's public sector. Also, to find ways to assist the government with transformation, quality of services and delivery of objectives.

Despite dividing the workshops into different industries, most challenges and proposed solutions apply to all sectors.

A partnership to drive positive procurement changes

The APMP SA and SOEPF have a Memorandum of Understanding (MOU) in place. This MOU creates a framework for procurement and tender professionals to explore synergies, foster capability, strengthen capacity and collaborate on projects.

The purpose of this partnership is to drive better procurement engagements while promoting the government's goals of job creation, Broad-Based Black Economic Empowerment (B-BBEE) and economic growth.

An opportunity to influence change

Various bills and acts regulate the Supply Chain Management (SCM) environment in the public sector. Despite this, challenges exist in the consistent application thereof.

Government is in the process of drafting a new Procurement Bill. The National Treasury will make the draft bill available for public comment in the coming months, on their website.

This paper's findings will be submitted to the National Treasury for consideration before the bill is finalised.



Key workshop findings

1

Non-compliance with tender requirements remains the main reason why suppliers are unsuccessful. Most suppliers are unaware of details surrounding non-compliance, as this is often not communicated.

2

The demand exists for public procurement to move towards electronic solutions and away from manual, paper-based solutions. This will save time, money and improve access to market.

3

The Central Supplier Database (CSD) does not yet deliver the proposed value. It is the foundation to better SCM but needs further development and a higher adoption rate.

4

The functional evaluation phase appears to have the highest adoption rate; fewer challenges were listed for this area. There is, however, a need for more objective, evidence-based criteria.

5

Not all organs of state effectively manage the supplier management process. There is a need for more communication and accessibility through better vendor management.

6

Late payment is the biggest barrier to doing business with government. Bid bond and guarantee requirements (pre-bid) add further pressure.

7

Government decision cycles are too slow. Large projects take between nine and eighteen months to be awarded. This impacts pipeline projections and is seen as barrier to doing business with government.

8

Procurement professionals and suppliers noted that skills development in understanding SCM legislation in government, needs urgent attention.

9

Access to working capital and funding is a barrier to doing business with government, particularly for Exempted Micro Enterprises (EMEs) and Qualifying Small Enterprises (QSEs).

10

With regulation changes requiring compulsory partnerships, delegates agreed that insufficient time is given to respond to tenders and follow internal due diligence.

THE CURRENT PUBLIC PROCUREMENT ENVIRONMENT

Tenders taking centre stage

The current economic climate, high rate of unemployment, state-capture and the expanding digital world demand transparency and ethical corporate governance. The strategic importance of tendering and the related governance is taking centre stage in South African businesses and the press. Since SCM plays a critical role in creating jobs and driving the economy, it is under even more scrutiny.

Directors and boards are legally obliged to ensure the legal and ethical health of an organisation. The onus for ethical business is on all businesses that want to remain sustainable, no matter the size. Therefore, governance and sustainability need to be at the forefront of economic and business development strategies for government and businesses alike.

To remain sustainable, businesses need to meet their bottom line and deliver value in an increasingly commoditised world. Procurement systems are becoming more stringent to adequately cover risks, reduce costs, meet governance requirements and enable delivery. Informal procurement processes are starting to fall away, with preference being given to formal tendering approaches. The audit trail of a formal tender process is becoming increasingly important.

Businesses need to gear themselves better to understand the various risks, accountability and business cases before going out to tender or responding to a tender.

As the need for procurement professionals grow, so does the need for professionals capable of responding to tenders.



SME sustainability vital for a thriving economy

In South Africa, Small and Medium Enterprises (SMEs) make up approximately 91% of formalised business and between 28% and 48% of the labour force. They also account for approximately 34% of the GDP according to Business Tech.

Local SME stagnation in turnover and growth is concerning. Given the right conditions, SMEs in South Africa can create jobs, enable transformation and drive the economy.

The South African government is cognisant of the importance of SMEs and has built frameworks for SME development and support.

Public procurement policies have changed to allow for preferential procurement to SMEs and the previously marginalised, in South Africa.

These initiatives have considerable merit in comparison to similar initiatives attempted globally. The results, however, can be improved. Regulations and the application thereof require a thorough review to determine better ways forward.

With more than 660 government departments issuing requests for proposals annually, the government is the largest source of business for SMEs. Due to various challenges, perceived barriers of entry and skills shortages, less than three-quarters of SMEs do business with government. This is concerning, as government tenders will open access to the necessary markets for SMEs.

“90% of the SMEs surveyed conducted less than 10% of their business with government at any level. Some 72% do not deal with the government at all.”

The South African Institute of Chartered Accountants (SAICA)'s 2016 SMME Insight Report

A solid foundation for public procurement

Businesses and government must ensure that they comply with legislation and do business in the right way. This means that supply chain, sales development, procurement and proposal professionals must understand the relevant regulations.

Section 217 of the South African constitution sets the foundation for public procurement in the country. In addition, various bills, acts and policies are in place to regulate the tender environment. Government needs to address the wrongs of the past and provide previously disadvantaged individuals with access to markets and upliftment.

National Treasury's general procurement guidelines state that successful government procurement rests on the following five pillars:

- Value for money
- Open and effective competition
- Ethics and fair dealing
- Accountability and reporting
- Equity

For the public sector, key regulations that form part of the context for public procurement include:

- The South African Constitution
- The Procurement Bill
- The Public Finance Management Act (PFMA)
- Municipal Finance Management Act (MFMA)
- Preferential Procurement Policy Framework Act (PPPFA)
- B-BBEE Codes
- State Information Technology Agency (SITA) Act

The Competition Act (89 of 1998), as well as anti-corruption measures and practices, amongst others, also form part of the context for procurement.

Demanding increased professionalism

According to the workshop delegates, many of the current shortfalls are the result of inconsistent application, lack of understanding and abuse of legislation. Skills development initiatives, roadshows and regulation simplification were proposed as possible solutions.

Another recommendation was that supply chain professionals must be mandated and required to comply with certain levels of professionalism, ethics and standards. Professional associations, certifications and continued education points were listed as the proposed means to achieve this. It was noted that being a member of an association without active participation and professional development, is insufficient.

WORKSHOPS FEEDBACK SECTION 1: COMPLIANCE

Current compliance evaluation process

Compliance checks are usually the first phase of evaluation in the public sector. In this phase, evaluators verify submissions for compliance and completeness, according to a stated set of mandatory requirements.

Evaluators mark potential suppliers' responses using a score/evaluation sheet, typically confirming compliance with:

- All pre-qualification criteria.
- Proper delivery on the bid closing date at the time specified on the invitation.
- Completion, dating and signing of document (in ink), as well as initialling of each page of the tender document.
- Accurate numbering, naming and documenting submissions, as well as compliance with tender requirements. This includes all statutory and supporting documentation (certified where applicable).
- Fully completing and signing standard bidding documents (SBDs) or municipal bidding documents (MBDs).
- Correct authorisations to sign and agree on contract terms.
- Submission of required bid bond and guarantees, if applicable.

Failure to comply with any mandatory requirements may lead to bidder elimination. Any bidders who comply at this stage will progress to the next phase, namely technical evaluation.

Communicate compliance concerns

According to the delegates representing procurement, failure to comply with tender requirements remains the biggest reason why suppliers are unsuccessful. Therefore, most suppliers are unaware of the consequences of non-compliance.

Non-compliant bidders are seldom informed of why they have been unsuccessful. Disqualification letters often only state that the bidder was unsuccessful.

Mechanisms to enable quick, clear and consistent communication to suppliers, especially around non-compliance, are vital in enabling the success of a well-governed procurement system. Current mechanisms for tender non-compliance are inadequate, restrictive to bidders and simply not responsive in driving a synergetic engagement.

Possible solutions recommend during the workshops include:

- Better engagement and communication with suppliers on what they are doing wrong and right. Post-bid briefing sessions and more descriptive letters to bidders.
- Strengthening the capacity and ability for professional associations to play an intermediary role.
- Using Corruption Watch and other anonymous call lines and apps.



The SCM policy review in 2016 (on the National Treasury website) confirms that 75% of suppliers have access to computers and the number is growing daily.

Adopt electronic completion

Most public sector tenders require handwritten forms. This creates several challenges for evaluators and bidders. Handwritten tenders are difficult to read, error-prone, time-consuming and often lack space to provide complete responses.

Although hand-written forms aim to prevent fraud, it has not been effective. Technological innovations provide various solutions the government can consider adopting.

Workshop delegates unanimously agreed on the need for and value of electronic form completion. The delegates did not, however, agree on the use of electronic signatures. They were generally of the opinion that, while convenient, electronic signatures needed more thought. It is proposed that public sector tenders enable electronic completion in the long-term.

Possible solutions include:

- Allowing suppliers to respond to SBDs/MBDs using the PDF fill capability. Immediate application is possible, as most standard forms and tender documents are already in PDF format.
- Sending forms for completion in Word or an editable format. This is a quick solution, but forms would need effective protection.
- Using the eTender site or a central tender platform/system to complete electronic responses. Many such options exist in the market. Preventing security breaches must be a priority.
- SBD/MBD form enablement on the Central Supplier Data Base (CSD), instead of completing these forms for each tender.

Avoid / eliminate unnecessary documents and registrations

The CSD is a centralised database of organisations, institutions and individuals who can provide goods and services to government. Since 2015, it has been the single source of key supplier information for organs of state. It provides procurement officials with consolidated, accurate, up-to-date and verified supplier information.

Since the implementation of the CSD, the need for various documents, have not fallen away but increased. This is unnecessary, time-consuming and expensive for suppliers.

Evaluators need to check all the forms and mandatory documents. Extensive requirements extend response evaluation times and leave room for error.

Proposed removal of requirements already on the CSD include:

- SBD 2/MBD – Tax clearance form. This form is no longer applicable, due to the tax pin and SARS no longer providing original tax clearance certificates.
- Requests to submit original tax clearance certificates or pins as CSD links to SARS showing live update of supplier tax status.
- Company registrations and related CIPC forms.
- Full CSD reports. CSD can be consulted at the time of evaluation.

Organs of state should fix tender document templates with redundant requests and old, irrelevant forms.

Despite registrations on the CSD, suppliers must often register individually at various organs of state.

This requires extra paperwork and regularly updated requests and work to gain access to tenders. Delegates believed this defeats the purpose of the CSD.

By removing the need for additional registrations, supplier buy-in will improve, and SME responses will increase.

Additional technical upgrades can assist in delivering on the CSD's intended purpose. By linking to other systems, the CSD can make the overall tendering process less onerous for evaluators and bidders.

The CSD has additional functionality and integration options. This offers a wealth of opportunity to streamline the supply chain process, vendor rotation and supplier management.

Most delegates welcomed the introduction of the CSD but feel that the system does not yet deliver the proposed value. The platform is the foundation to a better SCM, but one that requires further development and adoption.

Regular document certification uses the time of highly paid staff to commission volumes of documents.

Increase the validity of certified documents

Many tenders request certified documents, with the majority not allowing certified documents older than three months, despite twelve months being the required standard.

For large companies that have in-house legal and accounting teams, with commissioners of oath, this is easier than for SMEs. It does, however, remain unpopular amongst suppliers.

With digitisation, more documents are only being made available electronically. Examples include tax, Compensation for Occupational Injuries and Diseases Act (COIDA) and industry certifications. Unless a commissioner of oath can verify the document via a system, a review of certification is proposed.

Small businesses lose valuable time seeking a commissioner of oath, typically at police stations. This process is onerous, especially when working on multiple bids.

Proposed solutions include:

- Increasing certified documents' validity to twelve months and, where no original is available, obtaining verification details from the source.
- Using CSD to verify tax, company registration and additional documents like COIDA, B-BBEE, and municipal accounts.
- Implementing due diligence or vetting processes once suppliers are shortlisted for sizable bids

Update and enforce the use of the latest SBDs

Several state entities use old SBD/MBD forms and provide the wrong forms in some cases. When queried, these entities insist that the forms be completed and that unnecessary supporting documents be provided.

An example is SBD 6.2 for local content. The old form required auditor sign-off, but the current Treasury form does not. MBD 6.2 still requires this, although DTI confirmed it is not required.

This creates the following bidding challenges:

- Supplier confusion
- Evaluator confusion

- Unnecessary disqualification of tenders
- An increase in contests

Possible solutions:

- Verification of correct/latest forms by procurement teams prior to submission.
- Allow suppliers to complete compliance requirements before tender submission and timelines (except for price and local content), directly off forms from Treasury.
- Electronic submission from a central system that uses the latest Treasury-approved documents.

Increase and expand compulsory briefing sessions

Compulsory briefing sessions are vital, especially for complex bids. Proposed areas of improvement include:

- Communicate date, venue and time changes early to prevent suppliers from missing sessions, as it reduces competitiveness.
- Schedule compulsory briefing sessions for reissued tenders. Educating suppliers on where they went wrong will improve results.
- Provide meeting minutes with enough time for suppliers to address in their responses. This will improve compliance rates.
- Relate information sessions to the scope of work. Many suppliers feel these sessions repeat tender document content instead of providing adequate clarification and guidance.
- Run extended non-compulsory sessions on standard tender forms to educate suppliers who need help with tender compliance.

Tender requirements and pre-tender communication do not always allow for suppliers to have the right partners on board, on time, all the time. This makes the rule for suppliers to not change their bidding name from the name registered at the briefing session very restrictive. It is proposed that this requirement be removed, since many joint ventures (JVs) and partnerships form at these sessions, resulting in possible bidding structure changes.

The inclusion of the original tender advertisement in the tender document will ensure no compliance instructions are missed. In some cases, it was noted that instructions might exist in the advert but not the tender document.

Enable proactive subcontracting

The Preferential Procurement Policy Framework Act (PPPFA) regulates compulsory subcontracting, where reasonable, as prequalification criteria. Where opportunities exceed R30 million, suppliers typically need to subcontract a minimum of 30% of the contract value. Compulsory subcontracting must be to qualifying SMEs that meet specific designations with a minimum percentage of black ownership.

Workshop delegates understood the need to subcontract for transformation and the value it provides to drive necessary socio-economic transformation. Procurement teams encouraged bidders to exceed the requirements, where possible. Bidders can address this with supplier take-on systems and enterprise development programmes. Bidder vendor management systems will allow organisations to be proactive and deliver value.

Delegates raised concerns about tender timelines and the lack of pre-notification of upcoming tenders. Restricted times to partner, result in increased delivery risk, reduced tender submissions and increased opportunities for fraud.

Obtaining documents and adequate due diligence from suppliers take time, but the volatility of the environment necessitates it. Even where vendor systems exist, the required skills, capacity, localisation and designations, are not always available.

Rushed partnerships result in increased disputes and delivery issues, affecting state entities and businesses. It places SMEs at the mercy of large suppliers. It typically takes three to four weeks to find, vet and agree on an amicable partnership. Timelines should consider the formation of partnerships after tender release.

Prescribed timelines in the South African public procurement space have not changed, despite regulation changes demanding more from bidders.

Other concerns raised by the delegates include unrealistic pre-qualification criteria. This could be a result of inadequate market research, uncompetitive practices, or where skills are limited within the given parameters.

By engaging more pre-tender, procurement teams can prepare providers on upcoming opportunities and the required compulsory subcontracting needs.

The requirement to meet 30% of the contract value is not always feasible, especially when most of the contract value consists of hardware, software and/or equipment. The only way for a bidder to meet this requirement, is to procure a portion or all the hardware or software from the subcontractor. SMEs do not get the same discounts as larger partners and do not have the required partnerships or access to funds. This results in uncompetitive pricing, limited responses to tender and/or “creative” bidding.

A solution is to change the requirement to a minimum of 30% of the available contract value that cannot be supplied cost-effectively by SMEs.

Some bids have requested compulsory subcontracting for the bulk of the contract value, which is extremely risky. One such bid required that 80% of the bid be subcontracted to an EME/QSE. This means that the prime bidder needs to agree to absorb all risk, while only getting a minority of the contract benefit. This creates an unviable business case for most.

A solution could be to partner with multiple qualified SMEs, but this increases the risk associated with delivery breakdowns and costs.

Where market research proves the ability of a qualifying SME to deliver 80% of the contract, the bid should pre-qualify a qualified SME to lead and subcontract where required.

The use of a pre-approved panel of service providers has yielded positive results for some State-Owned Entities (SOEs). The entity stated that they had had direct contact with the qualifying SMEs and had paid them directly – even when via a prime bidder.

Delegates did not agree on whether bidders need to submit, as part of the tender submission, subcontractor’s SBD 4, 8 and 9.

Certain situations were cited where EMEs were expected to subcontract (even though they are exempt from doing so), proving the need for skills development. To avoid tender delays and cancellations, the feasibility of mandatory subcontracting for technical delivery must be considered together with market and local conditions.

Limit liability and review GCC terms

There are typically three levels of legal terms in tenders, namely:

- General Conditions of Contract (GCCs)
- The special conditions of tender
- Service level agreements (SLAs)

Terms are often misaligned and not suited to the scope of work. The need to review legal terms on tenders is an inhibitor for SMEs, as it is costly. This often results in SMEs accepting terms that they cannot deliver on or not bidding at all. A form of legal aid or government legal services will help. Delegates proposed a “legal clinic”.

There were multiple concerns around the current GCCs, with unlimited liability being the greatest. No business can take this risk. Other issues include the clauses on penalties (on top of no limitation of liability), guarantees and bonds. These are all considered business risks and form the most common request for deviations to terms.

Despite most tender documents allowing for deviations and comments, bidders have been disqualified for doing so. An example was provided where a tender document had a table for deviations but stated: “Deviations to terms will result in disqualification”. At the briefing session, bidders were informed that the tender was cancelled as no suppliers completely agreed to the terms.

It is proposed that government continues advertising the GCCs and special conditions with bid release. Contract negotiations and comments should be moved to the contract award process. This way, suppliers are not penalised as part of evaluation. This implies the allowance to negotiate terms.

The GCCs need to limit liability to the cost of risk, which should be no more than contract value or a percentage thereof. It is suggested that the balance of terms around liability, penalties, guarantees and bonds, are reconsidered. The combination of these securities should not exceed the overall contract value or a percentage thereof.

Liabilities + penalties + bid bonds + guarantees = increase in price

By engaging more pre-tender, procurement teams can prepare providers on upcoming opportunities and the required compulsory subcontracting needs.

Reconsider bid bonds prior to award

At this stage, bid bonds come up in +-15% of bids.

Industries where there is restricted supply, like fuel, request a bid bond as part of international standards. The request for bid bonds during the bidding process limits market access to smaller businesses. Smaller businesses are more likely, on proof of a purchase order or award letter, to gain the required funding to cover the necessary securities.

Bid bonds also require business to hold back money, impacting cash flow. This creates pressure on sustainability, especially where large reserves do not exist. Bid bonds need to be valid, on average, between 90-120 days. Awards for larger contracts take an average of nine to eighteen months. This becomes an issue when businesses may bid for multiple bids which they may or may not win.

Possible solutions include:

- Stipulating reasons for a bid bond (clearer value/risk/industry) in tender documents, where applicable.
- Limiting bond requirements to after tender award, with timelines limited to get a bid bond or a performance guarantee.
- The need for regulation or guideline regarding bid bonds.
- Providing bid bond qualification criteria to mitigate the prime bidder's risk of exposure.

Delegates also raised the matter of stipulating specific wording in tender documents, for the bid bonds. Banks and insurance companies are unwilling to change the wording. Government should not specify wording or should pre-agree with banks and insurance companies that offer bonds.

BIDDER TIP

The procurement teams raised concerns around how bidders structure their responses. Procurement teams encourage clearly structured submissions using indexes, compliance matrices and well-labelled dividers.

The easier you make a bid response for an evaluator to assess compliance and value, the higher you will score (provided your response complies).

WORKSHOPS FEEDBACK SECTION 2: FUNCTIONALITY/TECHNICAL CRITERIA

Current functionality evaluations context

Functional or technical evaluation criteria is generally the second evaluation phase. The purpose of this phase is to measure the service or commodity according to predetermined criteria. Criteria typically consider capability, capacity, financial capability, expertise and compliance to scope – to deliver the scope of work.

If functional criteria are applicable, the tender document must provide the evaluation criteria for measuring functionality (typically a table) and the weight of each criterion.

Tender documents should clearly state the applicable values and the minimum threshold for functionality. Failing to meet the required threshold results in disqualified bidders. Bidders who meet or exceed the minimum threshold move to the next phase – Price and B-BBEE.

The table on the following page is an example of a typical functional/technical evaluation scorecard.

Bidders Functionality Scorecard: Tender Number: APMPSAXXX– 2019/20

The functionality of the bidders will be determined as per the elements of the Functionality Scorecard set out below. Bidders need to score at least 70 points in terms of overall functionality to move to the next phase of evaluations (Price and Preference).

No.	Functionality criteria	Weighting	Points	Criteria	Score
1	Capacity to delivery to all sites as per SOW	20%	20 60 20	<ul style="list-style-type: none"> • Skills matrix • CVs of available staff • Proof of address of points of presence around delivery sites 	
2	Experience in related services	20%	100	<ul style="list-style-type: none"> • Proof of past projects on at least three customer letterheads of successful delivery of similar services 	
3	Contactable references	20%		<ul style="list-style-type: none"> • At least three contactable references for similar work, not older than two years 	
4	Technical compliance	20%	50 10 40	<ul style="list-style-type: none"> • Compliance matrix to technical specifications • Supporting datasheets • Compliance to terms 	
5	Project management	20%	50 50	<ul style="list-style-type: none"> • CV and valid certified certificate of project management certification with at least five years of project management experience • A detailed Gantt chart project plan for the proposed project 	
Total		100%	400		

Criteria can be technical and non-technical. The evaluation scorecard should relate to the scope of work and industry. This makes it easier for evaluators to compare suppliers through a scoring sheet, and it allows suppliers to self-evaluate.

Attendees commended the improvement seen in evaluation criteria on public sector tender documents. This was the shortest discussion point at the workshops.

Provide clear scopes of work

The biggest concern listed in this phase was the number of badly written, unclear “Copy and Paste” scopes of work. Such scopes of work make it difficult for suppliers to cost and evaluators to compare.

The procurement delegates raised concerns around bidders being equally guilty of “Copy and Paste” proposals. They warned that such proposals are unfavourable during evaluations.

Use market research to ensure fair criteria

Sometimes the points and/or weighting or criteria is restrictive and does not allow for an open competitive process. Inadequate market research before bid submission is a possible cause. Suppliers consider this a sign that a preferred supplier for the contract has been primed. Delegates believe that criteria may still be too subjective, indicating that objective and evidence-based criteria remains an area of improvement.

Criteria should be relevant to tender specifications and requirements. A banking tender should not, for example, include construction industry requirements. Evaluation criteria should not exclude possible viable bidders in the market. Delegates requested that the government consider possible innovations as part of the criteria.

Better vendor interaction vital for technically responsive bids

Suppliers asked that evaluation criteria be fit-for-purpose and clearly explained during briefing sessions. Most felt that briefing sessions do not focus enough on the scope of work. There is a demand for more vendor sessions and pre-bid engagements.

Feedback (if any) generally takes too long, which increases the risk of bidders being non-compliant. Delegates mentioned instances where bids had been cancelled at the tender box, answers had arrived on the submission date, or no responses had been received at all.

Some organs of state are better than others with regards to feedback. There is a need for better response times to supplier questions.

Balancing individual and organisational expertise

The delegates presented several perspectives on the difference between how individuals and companies deliver work. Weighting criteria alignment and adjustment to delivery experience, goods and services are required. Many delegates felt that company credentials should be prioritised, but not to the exclusion of smaller businesses. Individual experience should count for newer businesses.

Delegates mentioned instances where employees were required to sign and confirm

their availability upon contract award. Since the procurement process typically exceeds 120 days, it makes these types of requests difficult to commit to. The time bids take to prepare and be awarded impacts the availability of staff proposed.

A window period is proposed upon award to consider staff changes and allow for the proposal of like-for-like replacements. The use of resources and experience at holding company level requires clarity.

Call to action – Standardise functional criteria

SOEPF encouraged workshop delegates to provide samples of evaluation scorecards that bidders found effective and scorecards that they found ineffective. This request intends to help create a predictable template. At the time of this

white paper's submission, no examples had been provided.

Please send any examples, thoughts and answers to info@apmp.org.za. In your email, clearly state the industry you work in.

BIDDER TIP

Procurement delegates stated a preference for easy-to-read and well-structured documents, using their evaluation criteria. This approach makes it easier to score responses during evaluation.

Bullets, tables, graphics and white space with text makes it easier for evaluators to find key points and evaluate proposal value.

WORKSHOPS FEEDBACK SECTION 3: PRICE AND B-BBEE

The current price and B-BBEE evaluation process

Price and Broad-Based Black Economic Empowerment (B-BBEE) is typically the third phase of evaluation. B-BBEE certificates are key to success in South African tendering. In this phase, points are awarded for B-BBEE Status Level of Contribution. Points calculation depends on whether a bid is 80/20 or 90/10. On the 80/20 system, the bidder's B-BBEE status level will earn a point out of 20, and on the 90/10 system, it will earn a point out of 10.

The 80/20 Preference Point System applies to bids with a Rand value of more than R30,000.00 but not exceeding R50,000,000.00 (all applicable taxes included). The 90/10 Preference Point System applies to bids with a Rand value above R50,000,000.00 (all applicable taxes included).

The higher a bidder's B-BBEE status level, the more points they will score on the Preference Points System.

These scores are calculated as follows:

B-BBEE Status Level of Contributor	80/20 score	90/20 score
Level 1	20	10
Level 2	18	9
Level 3	16	8
Level 4	12	5
Level 5	8	4
Level 6	6	3
Level 7	4	2
Level 8	2	1
Non-compliant contributor	0	0

Bidders can qualify for these B-BBEE points by supplying a valid B-BBEE certificate issued by a SANAS-accredited Verification Agency. EMEs must acquire an affidavit regarding their B-BBEE status. Bidders responding as JVs or consortiums need to supply a joint B-BBEE certificate.

Bidders will lose points if they subcontract more than 25% of the contract value to an enterprise that does not have an equal or higher B-BBEE status than they do. More than 25% can be subcontracted if the subcontractor is a qualifying SME.

The 80 points or 90 points are applied as the maximum score for the price of the overall bid, depending on which is applicable.

The final scoring is calculated as follows:

80 points will be allocated for Price and
20 points will be allocated for BBBEE

$$P_s = 80 \times \left[1 - \left(\frac{P_t - P_{min}}{P_{min}} \right) \right]$$

$$P_s = 90 \times \left[1 - \left(\frac{P_t - P_{min}}{P_{min}} \right) \right]$$

90 points will be allocated for Price and 10
points will be allocated for BBBEE

Where

- P_s = Points scored for comparative price of tender or offer under consideration.
- P_t = Comparative price of tender or offer under consideration.
- P_{min} = Comparative price of lowest acceptable tender or offer.
- Tenders are awarded on a points system. The bidder who obtains the most points will be successful.

Allow electronic pricing completion

Some tenders require pricing to be handwritten in black ink. This results in errors and illegible pricing. Also, there is often not enough space. Pricing should be done electronically via PDF or on a pricing spreadsheet.

Vague scopes of work make it impossible for suppliers to price effectively.

This also impacts the ability for evaluators to compare their pricing with that of other bidders. Where incumbents exist, they have an unfair advantage, restricting access for new providers.

Using a scenario/rate card when shortlisting bidders will help. Once bidders have been shortlisted, additional due diligence and revised pricing submission is recommended.

Tender documents to always state if a tender is 80/20 or 90/10

Delegates noted that there had been instances where tender documents do not stipulate 80/20 and 90/10.

Develop definitive definitions and rules for subcontracting

The National Treasury PPPFA Implementation guide, Section 14.14, discourages subcontracting with subsidiary companies (as it viewed that companies are, technically, subcontracting to themselves). It does, however, state that where a primary contractor will subcontract with a subsidiary, they must declare it on the tender documents. No guidance exists on how or where this should be declared.

Attendees in the session could not agree on the necessary bidding practice where holding

companies respond to bids. Holding companies tend to use multiple subsidiaries within the delivery of a contract.

An implementation guide on non-compulsory subcontracting is required.

SBD/MBD 6.1 is used to allocate preferential procurement points and declaration of subcontracting. The form does not allow enough space for instances where multiple providers need to contribute. Some guidance is required around how this matter should be approached.

Train local content

SBD/MBD 6.2 – local declarations align with the Department of Trade and Industry (DTI) designated sectors. Although considered part of compliance, it should be part of pricing. Final pricing is needed to complete these forms.

The purpose of the form is to encourage and grow local procurement and manufacturing. Most delegates did, however, indicate that they do not understand how to complete or evaluate this form, even with a guideline document.

Roadshows for various sectors, together with more examples per sector and situations, will be very helpful to suppliers. Complexities where a contract requires more than one designated sector requires additional examples to those currently available on the DTI website. Another suggestion is for the DTI website to allow links to specific sectors, instead of suppliers having to find practice papers on Treasury's website.



Increase focus on localisation, skills and supplier development

Evaluators and government are aiming to improve transformation and want to look at more than B-BBEE scores. The current system does not consider this, unless supplier development and localisation (SDL) is specifically added. SDL initiatives, like those Transnet and Eskom, used to provide in tenders, should be included in the price phase. This is due to the associated costs with SDL commitments.

Bidders require time to implement contract-specific commitments. Caution should be given as not to overburden suppliers, since existing investments and initiatives to comply with the B-BBEE codes exists.

The construction industry is currently a volatile environment, demanding a better approach to SDL to avoid civil uprising.

Section 197 and buyouts

Section 197 poses a price risk for bidders and requires more insight once bidders are shortlisted. The cost of a Section 197 should be removed from the cost of bid evaluation. Only an incumbent would understand the true cost – potentially excluding new providers.

Where trade-ins or swap-outs of physical assets is needed, it should be based on certified trade-in value. Comprehensive details in the tender document on these assets are needed or should be excluded as part of the price evaluation.

Other evaluation phases

Shortlisted bidders may undergo additional phases, such as:

- Site visits
- Due diligence processes
- Inspections
- Proofs of concept

- Product demonstrations
- Contract negotiations

These phases were excluded from the workshops. Lack of feedback and transparency around awards and losses remain a challenge and barrier to entry.

GENERAL WORKSHOP FEEDBACK

Review tender timelines

For most large tenders, bidders are generally given twenty-one days to respond. This timeline is restrictive and does not allow suppliers to provide complete and compliant responses or meet their internal due diligence and governance requirements. This timeline remains unchanged even though legislation has become more demanding.

Since the changes to the PPPFA have added additional complexities, the impact on timelines is significant.

Bid timelines should be informed by the extent of supporting documentation. The increase in scope submission requirements; additional requirements, like compulsory subcontracting; contract-specific Quality Assurance (QA); Safety, Health and Environmental (SHE); and SDL requirements all must be considered.

Separate submission of phases, like a two-envelope approach with different timelines per phase, could add value.

The following phases are suggested:

- Phase 1: Compliance (excluding partnering and local content)
- Phase 2: Functional
- Phase 3: B-BBEE and pricing (including partnership and local content compliance)
- Phase 4: Contracting/negotiations to include time for bid bonds/guarantees and contracting

Delegates felt this approach would enable bidders to focus on proposed solutions, increase compliance and allow for better quality submissions. Different phases of evaluation may reduce fraud and the time it takes to award tenders. The timelines and requirements have a larger impact on small businesses that have limited resources, making it a major barrier to market.

APMP best practice offers the following global tender timelines:

- Short responses – 10 days
- Typical responses – 30 days
- Extended – 90 days

APMP International's 2002 global benchmarking survey made the following findings regarding the time it takes to complete certain content:

- A simple graphic – 1-2 hours
- Complex graphic – 2-6 hours
- Content development – 4 pages per day
- Adapting standard content – 20-40 pages per day

These best practices should be considered when applying tender timelines to the bidder. This promotes proposal best practice and enables more quality submissions.

The need for better vendor management and engagement

The current Treasury, CDS, DTI and eTender portals need to be made more accessible. Improved system uptime and reliability is vital in communicating with vendors.

Insufficient communication to suppliers around possible tenders coming out reduces the ability for bidders to be responsive.

Delegates suggested regular interactions and postings with suppliers on upcoming opportunities.

Lack of communication with suppliers after bid submissions, results in suppliers being unaware of whether they had qualified or not, or whether a bid had been awarded or not. Awarded bids are supposed to be advertised on Treasury, but this often does not happen.

A central functional vendor management office could help to address these concerns.

Reduce tender re-issues

Multiple tender reissues frustrate, waste time, delays delivery of critical services and costs money. Delegates indicated that these reissues are often the result of:

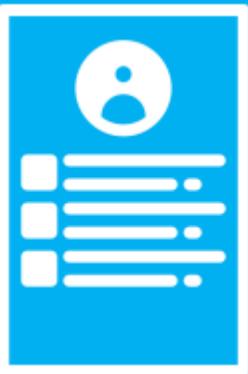
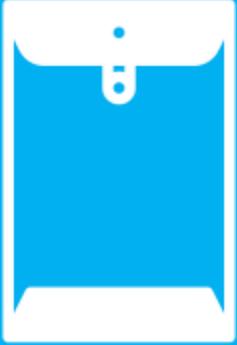
- Inadequate market research before bid release
- Organ of state non-compliance to legislative guidelines
- Bidder non-compliance to tender requirements
- Insufficient bidder submissions to qualify as a competitive bidding process
- Organs of state using the bid process to conduct market research

Skills development and increased and open vendor engagement before bid submission should reduce reissues.

Confidence in the current systems and bodies to adequately protect whistle-blowers is low. A balance of ethical best practice is needed. Possible initiatives include:

- A standardised code of ethics, via the CSD, allowing for annual updates by all supply-chain practitioners.
- Better dispute resolution mechanisms.
- The use of professional associations as intermediaries.

Copy and paste complaints were listed by suppliers and procurement professionals. Skills gaps in procurement and supply are also major barriers to compliance, increasing the need to professionalise this space and offer training. Simplification and e-learning modules are proposed to simplify completion of standard forms for prospective vendors.



CONCLUSION

This whitepaper provides possible solutions to problems commonly experienced in the public procurement process, as it relates to tender evaluation.

More industry engagements are needed to address current procurement challenges. Having a platform where procurement and tender professionals can explore synergies, adds value. This approach will assist in driving procurement engagements that are efficient, well-governed and promotes the government's mandate.

The focus of collaborative initiatives will improve public sector SCM systems, processes and skills. Engagements also aim to improve and align both sides of the table. Partnerships with other procurement forums, councils and related professional bodies have proven to be of great value.



CALL TO ACTION

If you have specific examples of challenges or comments on this document and/or any suggestions, please send them through to info@apmp.org.za.

We will consolidate and send all comments to SOEPF.

RESOURCES

I consulted the following resources for this white paper:

National Treasury

www.treasury.gov.za

The APMP

www.APMP.org.com

www.APMP.org.za

nFold

www.nFold.com

The Department of Trade and Industry

www.thedti.gov.za

South Africa Today

<https://southafricatoday.net/social-tv-news/get-skilled-on-the-art-of-winning-tenders-at-the-apmp-conference/>

Business Tech

<https://businesstech.co.za/news/business/260797/the-alarming-truth-about-the-number-of-small-businesses-in-south-africa/>

Canva

www.canva.com