




# “Open Contracting: a new frontier for information disclosure in public procurement”

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## Open Contracting: a new frontier for information disclosure in public procurement

### Abstract

This study was prompted by the fact that no research study focused on the application of the Open Contracting principle of disclosure in South African public procurement. The main issue examined in this study pertained to the application of the disclosure principle of Open Contracting in the South African public procurement system. The study population included members of the Chartered Institute of Procurement and Supply Chain (CIPS) employed in the South African public service. This research study used applied, exploratory and non-experimental research in conjunction with descriptive and inferential statistics. The measuring instrument designed for this study included an online survey containing a structured, close-ended questionnaire that measured the disclosure aspect covered in an in-depth literature study. With regard to the results obtained from this study, it is evident that the respondents indicated that there are opportunities to adopt the disclosure principle within South African public procurement. This study provides definite guidelines to procurement practitioners and policy makers concerning the application of proactively disclosing information at the different stages of government procurement. Disclosure in public procurement is rapidly changing and the South African public sector should keep abreast of such changes (e.g., the use of Open Contracting) to ensure that its procurement system is suitably equipped to deliver better deals, minimize fraud and corruption, ensure high quality of performance and a fairer business environment.

**Keywords:** public procurement, transparency, Open Contracting, disclosure, citizen participation, survey, South Africa.

**JEL Classification:** D83, H57, D86.

### Introduction

Throughout the world, public procurement is a big business. According to Roodhooft and Abbeele (2006, p. 494), public bodies have always been big purchasers, dealing with huge budgets. Rolfstam (2009, p. 349) also reiterated that public procurement is an area of interest, since it contributes between 16% and 18% to a country's GDP. All governments worldwide spend approximately 9.5 trillion USD every year on public procurement (Estefan, 2014), which can be very vulnerable to corruption, inefficiency and mismanagement. In South Africa, Chipkin, Tshimomola and Brunette (2014) asserted that at least 42% of South Africa's national budget is spent on the acquirement of goods and services. This is an exorbitant number when compared to the overall national budget of South Africa. Public expenditure nevertheless continues on a large and necessary scale in South Africa. In 2013/14, the South African public sector spent R500 billion on goods, services and construction works. This is an enormous amount of money and if wisely and efficiently spent, it can be a great force for service delivery. It can ensure that citizens receive basic services, such

as water, electricity and sanitation. It can also guarantee that infrastructure such as roads and ports is built and maintained, that schools are well equipped and that health services are widely available. The priority targets of South Africa's National Development Plan (South Africa, 2011, p. 39) include a corruption free society, high adherence to ethics and a government that is accountable to its people. With this in mind, the improvement and oversight in public procurement is explicitly addressed. Since corruption remains an impediment to the progressive development in South Africa, measures must be introduced to support the implementation of anti-corruption policies. These include the principles on openness and transparency in the public sector.

The value of this research primarily lies in the fact that supply chain management, including procurement practices, is still not fully utilized in the South African public sector (Ambe & Badenhorst-Weiss, 2012, p. 11014). This study will, thus, assess the conformity of the existing procurement system in South Africa against the global Open Contracting principles of disclosure. The belief is that the results can contribute towards addressing some of the current procurement challenges in the South African public procurement system. It will also have immense benefits for the entire public sector, specifically in the area of public procurement disclosure and public participation. Specifically, it will assist senior and middle level procurement managers (as custodians of SCM) to improve their procurement transparency and openness strategies. It will further

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contribute towards an improved audit outcome with better quality services to communities. This study contributes to the existing body of knowledge about public procurement transparency, openness and public participation. Since no evidence of similar studies on Open Contracting in South Africa was found, this groundbreaking research study made a new contribution to the body of knowledge.

The Auditor-General Report (South Africa, 2012, p. 69) has highlighted significant supply chain management (SCM) findings, inter alia, weaknesses in internal SCM control. Previous SCM research focused on the challenges that restrain SCM implementation in the South African public sector and concluded that "...there is no proper implementation and SCM has not achieved its objectives of good governance" (Ambe and Badenhorst-Weiss, 2012, p. 11014). Major practical challenges of municipal SCM, as pointed out by Horn and Raga (2012, p. 71), included "...non-compliance to the SCM policy". Most studies that have been conducted on this topic focused on the evaluation of SCM implementation only (Sandler, 2011, p. 2). These studies were focused only on the evaluation of the implementation of SCM, which provides the rationale for this study to determine whether the principles of Open Contracting could improve disclosure in public sector procurement in South Africa.

Past research on SCM has concentrated only on one broad area: evaluation of the implementation of SCM in the South African public sector. The literature is almost silent on the details of applying the Open Contracting principle of disclosure to the current South African public procurement system. Consequently, we have an incomplete picture of the way procurement information is disclosed in the South African public sector.

Against this background, the purpose of this research is to answer the core research question: "*Is there disclosure of procurement information in the South African public sector?*". More specifically, this research has one research objective:

- ◆ To investigate the conformity of the current public procurement system to the Open Contracting principle of disclosure.

The paper has four parts. First, it reviews extant literature relevant to public procurement practices, framing the concept of Open Contracting; it explores the principle of information disclosure in procurement processes. The research methodology is presented and data analysis techniques are discussed. Next, the findings are discussed and

summarized. The paper concludes with a discussion of theoretical and managerial implications and direction for further research.

## 1. Literature review

**1.1. Public procurement defined.** Procurement is implemented in different industries and sectors. According to Arrowsmith (2010), public sector procurement refers to the government activities of purchasing goods, works and services, which it needs in order to carry out its main functions. The procurement system is subject to the constitutional outcomes of fairness, equitability, transparency, competitiveness and cost-effectiveness. The term "public procurement" refers to the acquisition of goods, services and works by a procuring entity using public funds in a country and concerns contracts between the government and the private entity in many different areas such as health services, the military and construction.

**1.2. Public procurement practices in South Africa.** According to Hamilton (1980, p. 331), "...government procurement was determined to a very large extent by the Constitution of the Union of South Africa of 1910". The State Tender Board Act 86 of 1968 (South Africa, 1968), as amended, was established to provide for the regulation of government procurement. Van der Walt (2012, p. 23) cites the following pertinent points to describe the starting point of the democratic roadmap for procurement reform: "Due to the legacy of the apartheid years, South Africa writing a "main stream" or first economy that was led by a minority of 13% of the population and an emerging (second) economy of small, medium and micro enterprises owned by historically disadvantaged groups, comprising of the balance of 87% of the population". Government identified public procurement as a key mechanism to bridge the gap between the first and second economy (Van Vuuren 2006, p. 2).

South Africa's first multi-racial elections were held in 1994. The new African National Congress (ANC)-led government initiated a series of budgetary and financial reforms. This was an attempt to modernize the management of the public sector to make it more people-friendly and sensitive to meeting the needs of the communities it serves. They found that the previous tendering system denied fair and equitable opportunity for the majority of South African citizens (Bolton, 2006b, p. 193). The primary intention of government post 1994 was to move away from the previous legacy issues.

The legislative framework for public procurement has a constitutional status. Section 217(1) of the Constitution of the Republic of South Africa mandates every organ of state to procurement goods

and/or services in a manner that is open, fair, transparent, competitive and cost-effective. Section 217(3) of the Constitution stipulates that national legislation prescribes a framework within which the preferential procurement policy must be implemented. To accomplish its task of transforming procurement practices, in the 2001/02 financial year, the National Treasury embarked on a Country Procurement Assessment Review (CPAR) with the assistance of the World Bank. One of the issues raised by the CPAR was a need to replace the outdated and inefficient procurement and provisioning in government with the supply chain management (SCM) function (National Treasury, 2003a, p. 2).

On the basis of the recommendations of the CPAR, the government took a firm stand by transforming procurement practices in South Africa. The benchmark was set on international standards so that procurement and broader financial management in government are improved. To this end, Cabinet resolved in 2003 that the concept of supply chain management be introduced within the public sector.

Subsequently, the reference to public sector procurement in South Africa shifted from loosely used names like “*provisioning administration*”, “*logistics*”, and “*stores*” towards supply chain management. The government views supply chain management as an integral part of financial management that seeks to introduce internationally accepted best practice (National Treasury, 2003a, p. 2).

*1.2.1. Legal framework for public procurement in South Africa.* The regulatory framework governing procurement pertains to all key legislation, which provides the cornerstone for managing the procurement processes. In the South African context, the relevant legislative prescripts are used as a first point of reference in the implementation of procurement and related aspects of openness and transparency in all organs of state. The various pieces of legislation that form the basis of the South African procurement legal framework include, among others:

- ◆ the Constitution of the Republic of South Africa Act 108 of 1996 (South Africa, 1996);
- ◆ the Public Finance Management Act 1 of 1999 (South Africa, 1999) (**PFMA**);
- ◆ the Preferential Procurement Policy Framework Act 5 of 2000 (South Africa, 2000) (**PPPFA**);
- ◆ Municipal Finance Management Act 56 of 2003 (South Africa, 2003b) (**MFMA**);
- ◆ Model Policy Municipal Supply Chain Management of 2005 (South Africa, 2005); and
- ◆ MFMA Municipal Supply Chain Management Regulations of 30 May 2005 (South Africa, 2005).

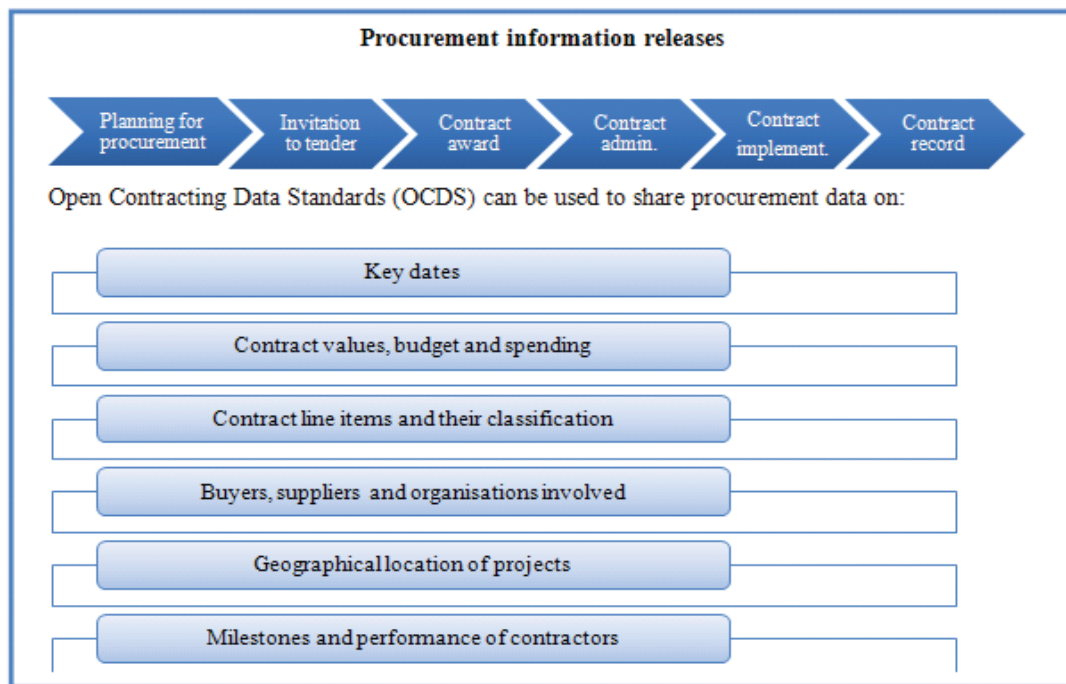
It also includes the South African National Treasury prescripts, namely Policy to Guide Uniformity in Procurement Reform Processes in Government, Treasury Regulations promulgated on 15 March 2005, and Treasury Guidelines, Circulars, Practice and Instruction Notes. The management of a public institution’s procurement function is susceptible to a wide variety of real and everyday risks (Fourie & Opperman, 2011). The possibilities of collusion, fraud, bribery and unethical interference are generally prevalent. On the other hand, there is also the risk of procurement being done in a manner that does not protect the best interests of the procuring entity, by procuring goods and services that are neither suitable for its intended purpose nor cost-effective. Tukamuhabwa (2012, p. 34) concurs that public procurement has become important to the public and has been subjected to reforms, restructuring, rules and regulations.

The public sector procurement in South Africa is governed by more than 80 different legal instruments (National Treasury, 2015, p. 10). All of these laws and regulations relating to public procurement are implemented through a large number of independent statutory instruments. Some of these instruments cater for specific procurement practices and others for particular sectors or industries.

**1.3. What is Open Contracting?** Open Contracting (OC) is a growing global concept that aims at increasing disclosure and public participation at all stages of government contracting. It asserts that contracting that is more transparent will help to ensure that public resources are managed effectively and that citizens receive the services and goods they deserve. OC will help communities to understand how government contracts are awarded and inevitably expose any irregularities in the evaluation and awarding thereof. Gatjen (2014, p. 8), eloquently summarizes Open Contracting as “...the proactive publication of government contracts”.

This article only focus on the disclosure principle of Open Contracting (OC). Disclosure is a critical tool to improve the management of public resources. OC refers to norms and practices for increased disclosure in public contracting. It covers the entire process, including formation; award; execution; performance and completion of public contracts; the full range of contract types, from basic procurement to joint ventures; licenses and production sharing agreements.

Figure 1 illustrates the application of Open Contracting Data Standards (OCDS). It indicates regular stand-alone releases of data and documents, provides information about the specific stages of a procurement process, with a snapshot record of the full contracting process and its history.



**Fig. 1. Application of Open Contracting principles**

Source: adapted from Open Contracting partnership (2013, pp. 14-15).

The public procurement process starts with identifying and defining (planning) the need, followed by the compilation of the tender specification (goods) or terms of reference (service). Further, the approved request for proposal (RFP) is publicised in various platforms (i.e., online, print media, notice boards). Prospective bidders are, then, invited to submit their offers on a stipulated closing date and time. All tenders received on time are evaluated and adjudicated to determine and appoint the winning company. Finally, the contract is implemented and completed with contract records available for audit and verification purposes. OC can, therefore, be used to improve the entire procurement process from the time the need arises until the contract has been completed (Gatjen, 2014, p. 9).

**1.4. The challenge before us: disclosure in public procurement processes.** The Open Government Partnership (Open Government Partnership, 2015a), defines disclosure as “the requirement that particular categories of people and organizations report specific information to an agency”. According to Folscher (2010, p. 41), information disclosure is a characteristic of governments, companies, organizations and individuals that are open and transparent in information, rules, plans, processes and actions. As a principle, public officials and civil servants have a duty to act visibly, predictably and understandably to promote participation and accountability. Simply making information available is not sufficient to achieve transparency. Large amounts of raw information in the public

domain may breed opacity rather than transparency. A number of qualifying criteria must, therefore, be added to the definition (Folscher, 2010, p. 41).

Folscher (2010, p. 41) provides the following guidelines when managing and publishing information:

- ◆ **Relevant and accessible:** Information should be presented in plain and readily comprehensible language and formats appropriate for different stakeholders, whilst retaining the detail necessary for analysis, evaluation and participation. Information should be made available in ways appropriate to different audiences and at minimal or no cost.
- ◆ **Timely and accurate:** Information should be made available in sufficient time to permit analysis, evaluation and engagement by relevant stakeholders. This means that information needs to be provided while planning, as well as during and after the implementation of policies and programmes. Information should be managed so that it is up-to-date, accurate and complete.

The Open Contracting global principles for disclosure in public procurement (Open Government Partnership, 2015b) are based on the following preamble:

- ◆ Governments shall recognize the right of the public to access information related to the formation, award, execution, performance and completion of public contracts.

- ◆ Public contracting shall be conducted in a transparent and equitable manner, in accordance with publicly disclosed rules that explain the functioning of the process, including policies regarding disclosure.
- ◆ Governments shall require the timely, current and routine publication of enough information about the formation, award, execution, performance and completion of public contracts to enable the public, including media and civil society, to understand and monitor as a safeguard against inefficient, ineffective or corrupt use of public resources.
- ◆ Information concerning contract formation, including the planning process of the procurement; the method of procurement or award and the justification thereof; the scope and specifications for each contract; the criteria for evaluation and selection; the bidders or participants in the process, their validation documents, and any procedural exemptions for which they qualify; any conflicts of interest uncovered or debarments issued; the results of the evaluation, including the justification for the award; and the identity of the contract recipient and any statements of beneficial ownership provided.
- ◆ Information related to performance and completion of public contracts, including information regarding subcontracting arrangements.
- ◆ Governments shall develop systems to collect, manage, simplify and publish contracting data regarding the formation, award, execution, performance and completion of public contracts in an open and structured format, in accordance with the Open Contracting Data Standards, as they are developed in a user-friendly and searchable manner.
- ◆ Contracting information made available to the public shall be as complete as possible, with any exceptions or limitations narrowly defined by law, ensuring that citizens have effective access to recourse in instances where access to this information is in dispute.
- ◆ Contracting parties, including international financial institutions, shall support disclosure in future contracting by precluding confidentiality clauses, drafting confidentiality narrowly to cover only permissible limited exemptions, or including provisions within the contractual terms and conditions to allow for the contract and related information to be published.

**1.5. Disclosure and its conformity to the South African public procurement system.** An important objective of reforming South Africa's system must,

therefore, be to make procurement information accessible to suppliers and purchasers alike. This will enhance planning, accountability and oversight. Open Contracting (in particular disclosure) is a powerful tool that can be used to combat corruption and ensure good governance, value for money and good-quality service delivery (National Treasury, 2015, p. 1).

Legislation supporting public procurement and disclosure of procurement information are important aspects of any public sector procurement system that will support Open Contracting practices and, thus, are critically discussed below.

*1.5.1. Legislations supporting disclosure in South African public procurement.* The legal and policy framework for procurement in South Africa is very complex. There are more than 80 different legal instruments regulating public sector procurement (National Treasury, 2015, p. 12). Section 217 of the Constitution provides the framework for public procurement. Under the heading, Procurement, Section 217. (1) "When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system, which is fair, equitable, transparent, competitive and cost-effective".

There are specific provisions for the application of disclosure in some of the legislation. South African laws regulate some aspects on disclosure.

*1.5.2. Disclosure.* The above discussion relating to applicable procurement legislation sets the regulatory framework for the ensuing discussion on disclosure.

Open Contracting principles call for the timely, current and proactive disclosure of documents and data related to public contracting (Gatjen, 2014, p. 2). The legal framework in South Africa strongly states the right of the public to access state information, including contract information. In the South African Constitution, under the heading Access to Information, Section 32(1) "Everyone has the right of access to (a) any information held by the state; and (b) any information held by another person that is required for the exercise or protection of any rights". The law does not prohibit the disclosure of contracting information and furthermore, in many instances, publication of contracts and procurement information is expressly required, particularly at the municipal level (Constitution, 1996, p. 15; South Africa, 2003, p. 67).

Relevant provisions of the Constitution, the Promotion of Access to Information Act and the Promotion of Administration Justice Act strongly support transparency with specific disclosure (publication) and participation requirements (especially at the municipal level). For example, the

treasury procurement guidelines state that open and effective competition requires (a) a framework of procurement laws, policies, practices and procedures that is transparent, i.e., they must be readily accessible to all parties; and (b) openness in the procurement process; and that accountability involves ensuring that individuals and organizations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability (Horn & Raga, 2012, p. 78; Livhuwani, 2012, pp. 18-19).

The legal and regulatory framework is very strong on disclosure at the municipal level. On the national and provincial levels, however, other than the publication of the invitation to bid and award requirements, the law is much less prescriptive. In addition, some of the guidance documents, for example, the SCM: A Guide for Accounting Officers (National Treasury, 2004, p. 44), aimed at national and provincial departments seem to be somewhat contradictory to the laws and regulations, indicating that bid information be considered sensitive.

In the Management Performance Assessment Tool Report 2013, it was found that 73% of departments are non-compliant with the standard related to the Promotion of Access to Information Act (Planning, Monitoring and Evaluation, 2013, p. 10). This means that departments either do not have the necessary capacity or disregard the requirements to ensure transparency and accountability to citizens as required by the legislation. Specifically regarding contracting information, it is not clear how the PAIA applies to contracting information, for example, whether unit prices qualify as commercially sensitive information that can be justifiably withheld.

**1.6. Current trends on disclosure in South African public procurement practices.** The South African public procurement system has undergone substantial reform since the mid-1990s. The Constitution of South Africa and various other enabling legislation mandates a public procurement system, which is fair, equitable, transparent, competitive and cost-effective. Treasury Regulations empower the accounting

officer of an institution as the sole authority for authorizing procurement.

According to National Treasury (South Africa, 2015, p. 22), current procurement practices are not always implemented in line with legislation. Some examples that were cited include the following:

- ◆ Although procurement notices are published, no bid documentation is available online.
- ◆ Minutes of the Bid Evaluation Committee (BEC) are not available for public access.
- ◆ Standard contracts entered into with winning firms are not available for public scrutiny.
- ◆ Procurement good practice requires for the names of bidders and their total bid prices to be read out in public. The current practice is that some bids are not opened in public and the list of bidders is not published.
- ◆ The bid evaluation process is not open to public scrutiny.
- ◆ Contract progress reports are not publicly available.

The South African government will enhance disclosure in the procurement system by: (a) developing and prescribing a public disclosure framework, which governs transparency within the procurement process; (b) prescribe that all information in the bid process be disclosed publicly; (c) improve the accessibility of information; (d) improve the quality of information and encourage its strategic use; (e) create an environment conducive to stakeholder participation in the different stages of the procurement process; and (f) build the capacity of the private sector, civil society and relevant stakeholders to take part effectively in enhancing transparent public sector procurement (National Treasury, 2015, p. 23).

From this, it is evident that there is conformity between Open Contracting principles and the South African public procurement practices. A summary of the theoretical framework for the key aspects of Open Contracting juxtaposed against its conformity to the South African public procurement system is provided in Table 1.

Table 1. Theoretical framework for disclosure in South African public procurement

Aspect of Open Contracting	Conformity of South African public sector procurement to Open Contracting
Disclosure	<ul style="list-style-type: none"> <li>◆ Bid notices should be advertised for at least 30 days.</li> <li>◆ Bid notices should be advertised in newspapers, the Government and Provincial Tender Bulletins on the National Treasury and procuring entities' websites.</li> <li>◆ Bid number must be advertised in procurement notice.</li> <li>◆ Closing date and time must be included in the procurement notice.</li> <li>◆ Details of compulsory briefing session (if applicable) must be contained in the procurement notice.</li> <li>◆ Bidders and other representatives may be present at public bid openings.</li> <li>◆ List of all bids received are available for public viewing.</li> <li>◆ Information of winning company is published, i.e. contract number and description; name/s of the successful bidder(s) and preferences claimed; the contract price(s); and if possible the brand names and dates for completion of contracts.</li> </ul>

Open Contracting principles call for the timely, current and proactive disclosure of documents and data related to public contracting. This is to empower the public to understand and monitor public contracting as a safeguard against inefficient, ineffective and corrupt use of public resources. To enable this proactive disclosure, governments are called on to develop systems to collect, manage, simplify and publish relevant data and documents regarding public contracts. These systems should be user-friendly and searchable in a manner that enables meaningful monitoring, performance and accountability for outcomes.

## 2. Methodology

The population for this study comprised 1 200 public sector procurement officials who are members of Chartered Institute of Procurement and Supply Chain (CIPS). The sampling frame was the list of only CIPS members employed in the South African public sector. The sample collection technique that was used for this research was the probability sampling with the simple random sampling method. Calculations, according to White (2003, p. 78) as cited in Tsharane (2014, p. 43), indicated that a sample size of 300 CIPS members would provide acceptable levels of confidence and accuracy. This produced a participation rate of 16%. An online software tool, Survey Monkey, was used as a data collection technique. Each respondent received an e-mail containing a weblink to access the online questionnaire through the Survey Monkey website. The questionnaire structure is set out in Table 2. The statements which were chosen were the most relevant to the key aspect of this article, namely, disclosure. The instrument was composed of sixteen statements in two major sections. Section A sought information about the demographic profile of the respondents while section B on conformity of disclosure to the South African public procurement practices. Respondents were requested to indicate the extent to which they agree with the statements that support Open Contracting principles on a five point Likert scale, where 1 = strongly agree; 2 = Disagree; 3 = Neither agree or disagree; 4 = Agree and 5 = Strongly disagree.

Table 2. Questionnaire structure

Key aspect of Open Contracting	Scale items
Disclosure	Policies exist for public to access procurement information
	Policies on access to information are published online
	Policies on access to information are accessible at no cost
	The policies clearly state which information is disclosable
	Procurement information is available at a central portal
	Disclosure influences our procurement decisions

We have targets for achieving disclosure practices
Senior management supports disclosure
Disclosure comes with many challenges
Clients understand the need to disclose information
We received training on disclosure practices
Suppliers are aware of our disclosure practices
The general public is aware of our disclosure practices
The public accesses procurement information
Procurement information is easily accessible
Procurement notices are publicly advertised
A list of bids received is available for public viewing
Details of the winning company are made available to the public
Payment information is publicly available
Details of contract extensions are available for public knowledge

Source: own source developed for this study.

The questionnaire was administered during September to October 2015 by CIPS and delivered via the internet to the complete list of 300 public sector procurement practitioners. A total of 300 (100%) completed questionnaires were returned. Fifty-two (52) of the targeted 300 respondents were excluded from the study. They were found not to be “public procurement champions”, but performing secondary duties relating to public procurement, hence, their interest and registration with the CIPS. This would imply that a final total sample size of 248 was employed in this study, thus, a realization of 82.7%.

Table 3 depicts the demographic profile of respondents’ own characteristics, background and attributes. The information is represented in five categories: age, organization, province, designation, years of employment in current organization and total experience in public procurement.

Table 3. Demographic profile of respondents

	Characteristic	Frequency	Percentage
Age	Younger than 25	2	0.8
	25 to 34 years	69	27.9
	35 to 49 years	129	52.2
	50 to 59 years	38	15.4
	60 years and older	9	3.6
Organization	National government department	64	25.9
	Provincial government department	44	17.8
	Public entity (state-owned, state-controlled)	96	38.9
	Municipal entity (state-owned, state controlled)	13	5.3
	Other organ of state (including municipality)	30	12.1
Province	Gauteng	155	62.8
	Limpopo	11	4.5
	Mpumalanga	9	3.6

Table 3 (cont.). Demographic profile of respondents

Province	Kwazulu-Natal	27	10.9
	Free State	2	0.8
	Northern Cape	4	1.6
	Western Cape	22	8.9
	Eastern Cape	10	4.0
	North West	7	2.8
Designation	Chief finance officer	13	5.3
	Supply chain manager	79	32.0
	Supply chain clerk	13	5.3
	Supply chain practitioner	73	29.6
	Other role player	69	27.9
Years of employment in current organization	< 1 year	22	8.9
	1 – 4 years	86	34.8
	5 – 7 years	50	20.2
	8 – 10 years	33	13.4
	11 years +	56	22.7
Total years of experience in public sector procurement	< 1 year	9	3.6
	1 – 4 years	45	18.2
	5 – 7 years	56	22.7
	8 – 10 years	50	20.2
	11 years +	87	35.2

Most of the respondents were between the ages of 35 to 49 years (52.2%), mostly employed in a public entity (38.9%). The majority are employed as supply chain managers (32%) in the Gauteng province (62.8%), serving their current organization between 1 and 4 years (34.8%) and have total public procurement experience of 11 years and more (35.2%).

### 3. Data analysis and interpretation

**3.1. Descriptive results for conformity of the disclosure principle to South African public sector procurement. Research sub-question: Is there disclosure of procurement information in the South African public sector?**

The 20 items in the “Disclosure” measuring instrument were weighted and sorted according to the degree to which the respondents agreed or disagreed with each statement. The results are displayed in Figure 2. It provides a number and percentage summary breakdown in the order of which the respondents agreed from the most to the least. The 10 items with the lowest scores for disclosure are presented.

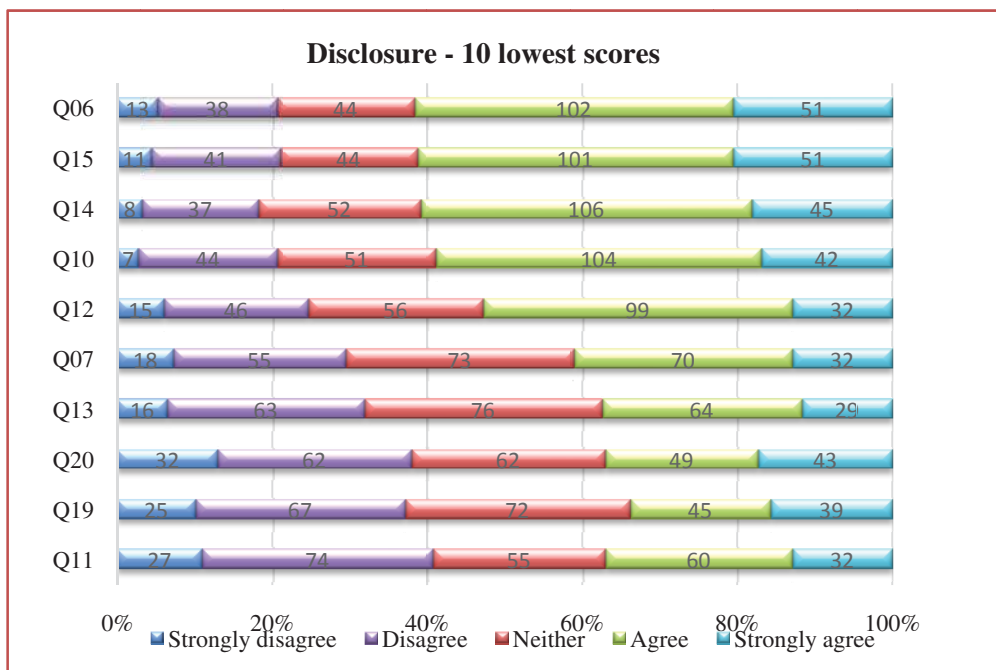


Fig. 2. Ten lowest scores for disclosure

The following results are presented in the order of which the respondents agreed from the most to the least with the items. The 10 items with the lowest scores for disclosure are presented:

- ◆ Disclosure influences our procurement decisions (61.7% of the respondents agree to strongly agree and 20.6% disagree to strongly disagree).
- ◆ Procurement information is easily accessible (61.3% of the respondents agree to strongly agree and 21.0% disagree to strongly disagree).
- ◆ The public accesses procurement information (60.9% of the respondents agree to strongly agree and 18.2% disagree to strongly disagree).
- ◆ Clients understand the need to disclose information (58.9% of the respondents agree to strongly agree and 20.6% disagree to strongly disagree).
- ◆ Suppliers are aware of our disclosure practices (52.8% of the respondents agree to strongly agree and 24.6% disagree to strongly disagree).

- ◆ We have targets for achieving disclosure practices (41.1% of the respondents agree to strongly agree and 29.1% disagree to strongly disagree).
- ◆ The general public is aware of our disclosure practices (37.5% of the respondents agree to strongly agree and 31.8% disagree to strongly disagree).
- ◆ Details of contract extensions are available for public knowledge. (37.1% of the respondents agree to strongly agree and 37.9% disagree to strongly disagree.)
- ◆ Payment information is publicly available (33.9% of the respondents agree to strongly agree and 37.1% disagree to strongly disagree).
- ◆ We received training on disclosure practices (37.1% of the respondents agree to strongly agree and 40.7% disagree to strongly disagree).
- ◆ A list of bids received is available for public viewing (77.8% of the respondents agree to strongly agree and 13.3% disagree to strongly disagree).
- ◆ Details of the winning company are made available to the public (77.0% of the respondents agree to strongly agree and 14.5% disagree to strongly disagree).
- ◆ Policies on access to information are disclosable (69.8% of the respondents agree to strongly agree and 14.5% disagree to strongly disagree).
- ◆ Policies on access to information are published online (71.4% of the respondents agree to strongly agree and 13.3% disagree to strongly disagree).
- ◆ Disclosure comes with many challenges (69.8% of the respondents agree to strongly agree and 11.7% disagree to strongly disagree).

The remaining statements regarding disclosure received the highest scores. The results are presented in the order of which the respondents agreed from the most to the least with these items:

- ◆ Policies exist for public to access procurement information (86.7% of the respondents agree to strongly agree and 6.0% disagree to strongly disagree).
- ◆ Procurement notices are publicly advertised (87.9% of the respondents agree to strongly agree and 5.65% disagree to strongly disagree).
- ◆ The policies clearly state which information is disclosable (70.2% of the respondents agree to strongly agree and 12.9% disagree to strongly disagree).
- ◆ Senior management supports disclosure (63.7% of the respondents agree to strongly agree and 13.7% disagree to strongly disagree).
- ◆ Procurement information is available at a central portal (59.7% of the respondents agree to strongly agree and 23.0% disagree to strongly disagree).

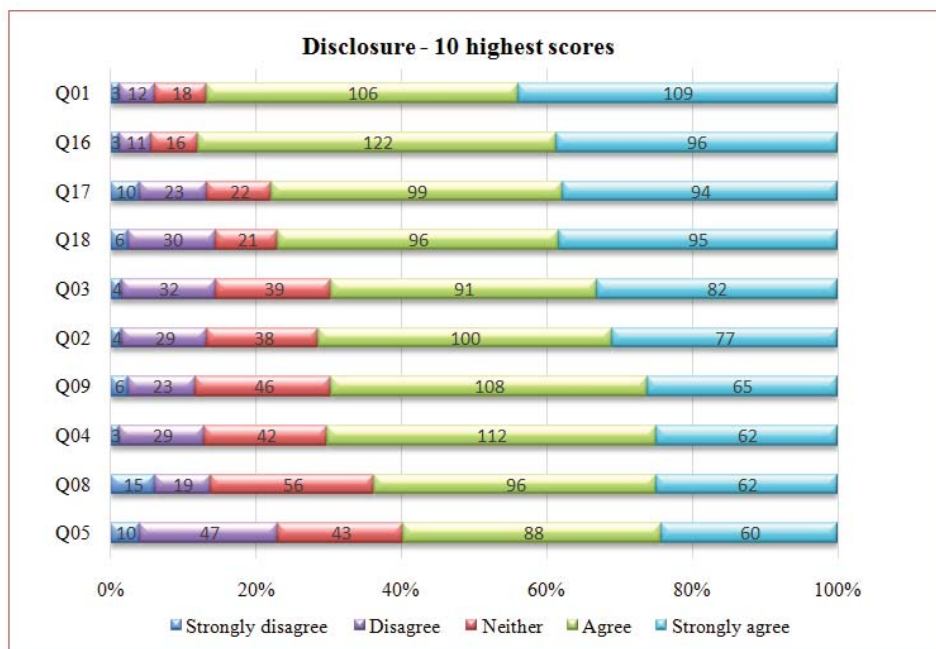


Fig. 3. Ten highest scores for disclosure

**3.2. Reliability analysis of the research instrument.** Cronbach’s alpha is one of the most commonly used tests, which is based on the average correlation of items within a test if the items are standardized. If the items are not standardized, it is

based on the average covariance among the items. The Cronbach’s alpha can range from “0” to “1”. Cronbach’s alpha was also calculated as part of the reliability test to assess how consistent the results were and would similar results be obtained in order

to generalize if the sample size increased. A value of 0.7 or higher is an indicator that the same results would be derived if the same survey was carried out with a larger sample of respondents. The Cronbach's alpha was calculated for all the questions that have the same scales in each section (Nunnally, 1978, p. 245).

Table 4. Cronbach's alpha range

Section	Cronbach's alpha
2.2. Disclosure	0.882

Table 4 illustrates the Cronbach's alpha to be 0.882 for Disclosure. The Cronbach's alpha for all disclosure elements is more than the acceptable level of 0.70 and, thus, the scale is proved to be consistent.

#### 4. Discussions and recommendations

The goal of this study was to investigate the conformity of the South African public procurement processes to one of the global principles of Open Contracting, i.e., disclosure. To our knowledge, it is the first study to determine if the current South African public procurement system can adopt disclosure of procurement information.

**4.1. Revisiting the research question.** *Is there disclosure of procurement information in the South African public sector?*

**4.2. Discussion of the findings.** The discussion in this section is based on the responses from participants discussed in section 3. Recommendations are made based on these discussions and conclusions. In order to address the second research objective, the following discussion is presented in the order of which the respondents agreed from the most to the least with the items for the 10 items for disclosure with the lowest scores.

It was found that 61.7% agreed that disclosing procurement information influences their procurement decisions. About 61.3% agreed that procurement information is easily accessible by the general public and 60.9% affirmed that the public is accessing procurement information. A 58.9% of the respondents agree that clients understand the need to disclose procurement information, whilst only 52.8% are of the opinion that their suppliers are aware of their disclosure practices.

A low 41.1% have set targets for achieving the disclosure of their public procurement information. However, only 37.5% indicated that the general public is aware of the disclosure practices. It was found that 37.1% agreed that details of contract extensions, amendments and variation orders are available for public knowledge, while 33.9% acknowledged that information relating to payments to contractors is publicly available. It was also seen

that 37.1% of the respondents received training on how to disclose procurement information.

The following discussion is presented in the order of which the respondents agreed from the most to the least with the items for the 10 items for disclosure with the highest scores.

An overwhelming 86.7% of the respondents have developed SCM policies to allow the public to access procurement information. Just over 86% advertise their procurement notices publicly, while 77.8% have a bids received register for public viewing and 77% make public the details of the winning company. It was noted that 71.4% of the respondents make their access to information policy available online, while 69.8% agree that policies on access to information are disclosable.

Regarding the revealing of procurement information 69.8% admitted that revealing comes with many challenges, whilst 70.2% have SCM policies that clearly state which information can be disclosed or available to the general public. About 63% have indicated that the senior management echelon of their organizations supports the disclosure of procurement information. A total of 59.7% have a view that public procurement information is available at a central portal.

**4.3. Summary of discussion for disclosure.** The following analogies can be drawn from this research with respect to the discussion on disclosure of information in public procurement processes:

- ◆ Policies exist for public to access procurement information.
- ◆ Policies on access to information are disclosable.
- ◆ Policies on access to information are published online.
- ◆ The policies clearly state which information is disclosable.
- ◆ Senior management supports disclosure.
- ◆ A list of bids received is available for public viewing.
- ◆ Procurement notices are publicly advertised.
- ◆ Details of the winning company are made available to the public.
- ◆ Procurement information is available at a central portal.
- ◆ Procurement information is easily accessible most of the times.
- ◆ The public accesses procurement information at most of these organizations in the survey.
- ◆ Disclosure comes with many challenges.
- ◆ Disclosure influences procurement decisions in more of the organizations under question.
- ◆ Clients understand the need to disclose information.

- ◆ Suppliers are aware of the organization disclosure practices.
- ◆ It is not so clear whether the organizations have targets for achieving disclosure practices as many of the respondents indicate neither.
- ◆ In just more than a third of the organizations, the general public is aware of their disclosure practices and details of contract extensions are available for public knowledge.
- ◆ In just more than a third of the organizations, the respondents received training on disclosure practices.
- ◆ In a third of the organizations, payment information is publicly available.

**4.4. Recommendations for disclosure.** The legal and policy framework for public procurement in South Africa is very complex. Section 217 of the Constitution provides the framework for public procurement, requiring that when an organ of state contracts for goods or services, it must do so in accordance with a system, which is fair, equitable, transparent, competitive and cost-effective. However, each accounting officer within procuring entities is responsible for developing its own procurement policy in accordance with the framework established by the national treasury under the Public Finance Management Act, Municipal Finance Management Act and their attendant implementing regulations.

The requirements for disclosure in public procurement fall short of international best practice, particularly at national and provincial level, where very little information is required to be published regarding public procurement (only competitive bids over R 500,000 are required to be publicized). There are also no provisions to enable the public to observe or monitor procurement processes. This 'transparency' gap means that there is no publicly disclosed information about a major source of public spending and no data for assessing important economic trends related to public procurement. More information is required to be published by municipal entities and there are more opportunities mandated for public comment and consultation. Hence, the increased transparency requirements at the municipal level will be more in line with Open Contracting principles.

**4.5. Research contribution.** This study contributes to the existing body of knowledge about public procurement transparency, openness and public participation. Since no evidence of similar studies on Open Contracting in South Africa was found, this groundbreaking research study made a new

contribution to the body of knowledge. In addition, it makes a contribution by focusing attention on an activity in the public sector, which is constantly the focus of attention, but for all the wrong reasons. If public contracting was more open, it can make a major contribution to efficiency and effectiveness in the functioning of government institutions.

**4.6. Limitations of this study.** This study was limited to a sample of only members from the Chartered Institute of Procurement and Supply Chain (CIPS), and, therefore, will not reflect the views of individuals working in public sector procurement units, who are not members of CIPS.

**4.7. Recommendations for future research.** The research assessed the application of disclosure in the South African public sector procurement from a quantitative perspective. The respondents, however, provided a rich pool of information. From it emerged the following themes for further research:

- ◆ A qualitative research approach could be used with the existing sample, and expanding the scope of well structured interviews with not only the procurement practitioners, but also to the accounting officer, managers from end-user departments, employees, community, etc. to give a balanced view.

## Conclusion

The purpose of this study was to investigate the conformity of the disclosure principle to the current South African public procurement system. A review of the literature indicated a gap within the body of knowledge with respect to disclosure in the context of public procurement processes in the South Africa. The objective of the study was to investigate and attempt to answer the research question: "*Can the procurement system designed for the South African public sector adopt the disclosure principle of Open Contracting?*".

In conclusion, this study confirmed that Open Contracting in the South African public sector procurement is still young and full of promise. The small steps taken thus far by the government of South Africa now need to be converted into the kind of substantial impact the country requires. There needs to be an accurate targeting of organs of state tasked with the implementation of the public procurement system to implement Open Contracting in a formal and standardized format. Open Contracting, after all, is an important tool to combat corruption and reinstate citizen confidence in the South African public procurement system.

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