

# Procurement methodologies in the commuter bus sector

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This paper investigates procurement methodologies employed within the commuter bus sector in Gauteng. Contemporary procurement practices employed within the commuter bus sector have propagated a number of challenges, including a deficit in the allocated funds and a lack of coordinated relationship between the relevant stakeholders. This paper is descriptive and exploratory in nature and employed a mixed-method research approach. The data was collected from a sample of 18 respondents who are key stakeholders directly involved in the procurement of subsidised commuter bus services in Gauteng by means of a face-to-face interview using a semi-structured questionnaire. The findings of the study revealed that there are three types of procurement practices employed within the commuter bus sector, namely, interim, negotiated and tender contracts. However, all these contracts are now outdated, due to the complex implementation of the policies guiding procurement. Most of the old operators are still in the system, limiting the opportunities for new operators to successfully enter the market. The paper recommends that efficient procurement practices be employed and geared towards job creation and economic growth.

Keywords: Procurement, South Africa, Commuter bus sector, Department of Transport, procurement practices.

## Introduction

Procurement constitutes the biggest part of an organisation's expenses (Dlamini & Ambe, 2013:100). It is seen as a crucial activity, whether it is for a household, an organisation or the government (Choi, 2010:1). Mahmood (2010:107) states that government expenditure constitutes 18.42% of the world's gross domestic product (GDP). This function operates in an environment of increasingly intense scrutiny which is driven by technological developments and high social and political expectations (Eyaa & Oluka, 2011:35). In South Africa (SA), procurement by government constitutes 22% of the GDP (Bolton, 2016:8). According to the National Treasury (2015:3), for the period 2013/2014, the South African public sector spent R500 billion on goods, services and construction work. Similarly, within the South African public transport sector, procurement constitutes 23.4% of the GDP according to the 2014/15 budget (Suka, 2014).

In SA, procurement, seen as a strategic tool for socio-economic development, is guided by the Supply Chain Management Policy Framework developed in 2003 (Ambe, 2016:280). The adoption of the supply chain management (SCM) framework, led to the development of the SCM policy. Hence, each government entity is driven by its own SCM which is unique to its operations. However, the commuter bus sector is complex and its operations are not in line with the recommended regulations. Procurement in the sector is marred by a lot of challenges, such as the fact that to date no new contracts have been concluded since 2001 (Walters & Manamela, 2016:3). In addition, the current practices favour the subsidised (commonly known as the formal) operators over the unsubsidised (informal) ones, with the former benefitting from government contracts. In addition, most of the old operators are still in the system, limiting the opportunities for new operators to successfully enter the market.

Although transport policies have been developed to guide this sector, they have not been fully implemented and have led to the current operational challenges this sector is facing (Walters, 2014:4). For example, stakeholders are disagreeing on the specific procurement practices to apply and this has added to the general dysfunctionality in the sector (Simpson, McKay, Patel, Sithole, Chipp & Mambo, 2012:23). There is a huge gap between the ideal commuter bus sector and the actual operations (Munshi, 2014:1).

Although there are many studies on procurement in the public sector in SA, such as studies by Ambe (2009), Ambe and Badenhorst-Weiss (2012), Mofokeng (2012), as well as Dlamini (2016), there are limited studies on procurement in the commuter bus sector. A few of the existing studies looked at procurement in higher education, SCM in higher education, SCM in municipalities, SCM in national departments, and the implementation of government procurement policy, but none of these studies have been conducted within the commuter bus sector. While many studies have been done on public transport, most of them deal with the policies guiding public transport, and the implementation of policies guiding public transport and the commuter bus sector, little research has been done regarding the procurement aspects of the commuter bus sector. Therefore, there is a research gap, and hence the need for this study.

This paper therefore investigates the types of procurement practices employed in the commuter bus sector in Gauteng? The paper contributes to the body of knowledge in procurement methodologies especially to the commuter bus sector in South Africa. The remaining section of the paper presents the literature review, research methodology, findings and conclusion.

## **Literature review**

This section of the paper provides a review of the relevant literature. It explore procurement in public sector management context as well as procurement methodologies within the commuter bus sector.

### **Procurement in the Public Sector Management**

Procurement refers to the acquisition of goods and services at the best possible total cost of ownership, in the right quantity and quality, at the right time and in the right place, generally through a contract (Munzhedzi, 2016:2). Fourie (2015:38) defines procurement as a business function with an economic activity, a business process in a political system, and as a strategic profession. Procurement also serves as a management function, employed as a value-adding process by a specialised department or unit. It can also be used as a social tool, allowing tax money to be returned to domestic residents, creating more jobs and reducing imports (Arrowsmith, 1996 and Fourie; 2015).

Procurement can be broadly divided into two types: public and private procurement. According to Mwacharo (2015:14), public procurement is the procurement done by or on behalf of ministries, departments of central and local government, and state corporations. Akafia (2007:10) defines public procurement as the way in which government-funded entities contract various types of civil works and procure goods and other services. These goods and services include standard to large expenditures, for example, standard items such as stationery, and larger items such as the construction of roads, and key services like education (Dzuke & Naudé, 2015:1). In addition to fulfilling the welfare of the public, public procurement has also proven to be a successful management tool of public resources (Ambe & Badenhorst-Weiss, 2012:245). It has also been used by governments to achieve socio-economic objectives, such as improving the economy, protection against foreign competition, stimulating competition within industries and various other economic benefits (De La Harpe, 2009:6). According to Akafia (2007), public procurement amounts to approximately 50% to 70% of government expenditure in Africa. However, this function is marred by corruption, because of factors such as the huge amounts of money involved, the presence of unsupervised discretion; budgets that may not be tied to specified goals, and payments that are not related to performance (Bolton, 2006:341).

Under the apartheid government (pre-1994), procurement practices favoured large, established companies and it was difficult for small businesses to partake in business with the government (Ambe, 2016:279). Before the constitutionalisation of government procurement in SA, the State Tender Board Act governed procurement at national and provincial government levels, while procurement at local levels was governed by various other pieces of legislation related to the procurement of goods and services (Jones, 2015:11; Thai, 2009). However, over time the regulations to the State Tender Board Act were amended to allow for flexibility in the procurement processes. When the new government took power in 1994, procurement was given a constitutional status and was put under the management of the National Treasury (Ambe & Badenhorst-Weiss, 2012:245). In 2001, the National Treasury, in combination with the World Bank, conducted an audit assessing the progress on the proper implementation of procurement practices throughout the public sector (National Treasury, 2003:2). A number of inconsistencies were identified within the operations, specifically in terms of the interpretation and implementation of the PPPFA and related policies (Ambe & Badenhorst-Weiss, 2012:243). This joint Country Procurement Assessment Report (CPAR), then led to the adoption of the Regulatory Framework for Supply Chain Management in 2003, entitled “Policy to guide uniformity in procurement reform processes in government” which, in conjunction with provincial treasuries, replaced the outdated procurement practices within provinces and municipalities. Figure 1 shows the elements of the SCM model and how the procurement function fits in the SCM process. (National Treasury, 2015:28).

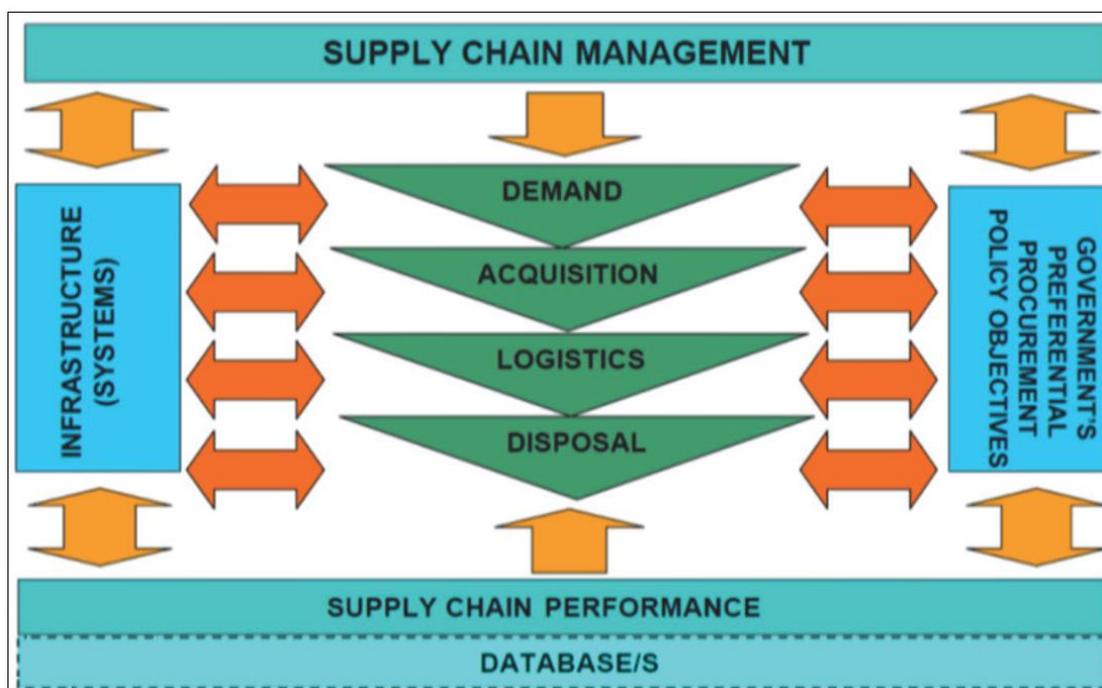


Figure 1: Generic elements of supply chain management

Source: Adapted from: National Treasury, 2015: 2015 Public Sector Supply Chain Management Review

The generic elements of SCM are demand, acquisition, logistics, disposal, risk and supply chain performance management (National Treasury, 2015). The next section that follows provides a brief perspective on the procurement practices employed within the commuter bus sector.

### **Procurement methodologies within the commuter bus sector**

A commuter bus can be defined as a scheduled bus that is assigned for short travel distance of 100 kilometres or less, mainly utilised by the working population as a mode of transport from their places of residence to their places of employment (Public Service Commission, 2017:4).

Commuter buses are used within the commuter bus sector, which falls under the auspices of the Department of Transport (DoT) and forms part of the public transport spectrum (Walters, 2014:1). This section of the DoT is responsible for passenger transport, together with the train and minibus taxis sectors. This sector is then further divided into municipal buses, the new Bus Rapid Transit system and subsidised and unsubsidised buses (DoT, 2013). In 1986 the White Paper on National Transport was introduced. This allowed the minibus taxis to enter the bus industry, which led to intense competition. This competition led to increased subsidy levels per passenger. The White Paper further stipulated that the bus services had to be put out to tender (Walters, 2014:2). In 1987, the bus services were put out on tender, as a pilot to see if the tender system would work in the bus industry. However, this did not last, because the system was severely criticised which eventually led to the subsidy policy being phased out completely. The sector has undergone some major transformation, especially after the introduction of the National Land Transport Transition Act, no. 22 of 2000. This act made provision for the transition from the previous subsidy system, with the introduction of the interim and tender subsidies.

In the commuter bus sector, the standard procurement methods that are used are based on the methods used in the general public procurement in SA, but adapted to the specific needs of this sector (Ngcamphalala & Ambe, 2016:7). As part of the reforms, the White Paper on National Transport Policy of 1996 was introduced, which introduced the procurement of commuter bus services through competitive tendering (Walters, 2014:2). However, there were then labour-related issues between the DoT, the industry association (the Southern African Bus Operators Association) and labour, which then led to the enacting of the National Land Transport Act of 2009, which introduced the contemporary procurement methods, namely, negotiated contracts and competitive contracts (Walters, 2010:362).

#### *Interim contracts*

Interim contracts were concluded in 1997, as an interim measure by the government to allow the existing operators the opportunity to hand back their operating permits, as part of the process to prepare for the tendering system and to help the operators become financially 'fit' (Walters, 2010:362). These were a continuation of the current operations and were a ticket-based subsidy system. Subsidies were paid according to the number of tickets sold and the costs and losses were claimed by the operator (Mosebi & McDonald, 2009:500). The main disadvantage of these contracts was their vulnerability to dishonest activities from some operators and some government officials who were defrauding the system which resulted in the government not getting 'value for money'. This then led to the conversion of these contracts to a kilometre-based system (Walters, 2014:2). Initially, these contracts were intended to last for three years, but due to labour disputes and lack of funds, the department had to extend these and signed an agreement between organised labour and the Southern African Bus Operators. From 2002 (when the moratorium on the tender system was introduced) to 2014, these contracts have been operated on a month-to-month basis (Parliamentary Monitoring Group, 2013:1 & SABOA, 2014:2110). Since April 2015, the month-to-month contracts have been replaced with a three years' contract on the same terms and conditions, which expires in March 2018, as a preparation phase towards the development of an Integrated Public Transport Network Plan (IPTN) in the metros (SABOA, 2015:3; SABOA, 2016:20).

#### *Tender contracts*

This form of procurement is also referred to as the open-tender system. In this form of procurement, operators prepare bids based on Parts Three and Four of the Model Tender Document (MTD) and submit such bids to the relevant authority for adjudication (Walters & Cloete, 2008:3). Within the commuter bus sector, these contracts were concluded in 1997, and they followed on the challenges caused by the Interim contracts (ICs). The government had to introduce these without delay in line the White Paper policy objectives (Walters, 2010:363; Walters, 2014:2). These contracts are government controlled, with the government specifying the required services and inviting operators in an open market to tender for these services. The aims of these contracts were to encourage the participation of new entrants and to empower

small operators and also enable transparent monitoring of the funds for this sector. These are operated on a kilometre-based subsidy, enabling the government to budget way ahead since the travelled kilometres are fixed and these are worked out on an agreed formula. However, they have not grown because of funding constraints. To date, no new contracts have been concluded. The tendering system lasted until 2002, when it was abandoned because of lack of funds. Since then, these contracts have been operated on a month-to-month basis, managed by DoT (Parliamentary Monitoring Group, 2013: 1). Since April 2015, the month-to-month contracts have been replaced with a three years' contract on the same terms and conditions, which will expire in March 2018 as a preparation stage towards the development of IPTN in metros (SABOA, 2015:3; SABOA, 2016:20).

#### *Negotiated contracts*

This form of procurement is also referred to as single-source procurement and is used in instances where the goods or services are obtainable from only one provider. Due to lack of competition in this form of procurement, it is open to abuse, and should therefore only be used in exceptional circumstances (Anthony, 2012:89). This type of procurement is also the least transparent type of procurement since it is not advertised and no tender procedures are conducted where all the tenderers are aware of the tender criteria. It is therefore advisable for organs of state to minimise the use of single-source procurement. It is suggested that this method be used where intellectual property rights are involved. This should be used cautiously and only where there is no alternative.

In the commuter bus sector, this form of procurement was introduced between 1999 and 2000 through the National Land Transport Transition Act (NLTTA). Originally, it was intended to assist government-owned and municipal operators, since they were financially 'unfit' to participate in competitive tendering (Walters & Cloete, 2008:1163). Later on, this Act was amended to make provision for private sector companies, albeit under certain conditions. These included small operators, and previously disadvantaged persons; however, the disadvantaged person had to be a major shareholder in that company. The organisation must be operational within 24 months of the commencement of the contract and the value of the contract should not exceed a prescribed percentage of the total value of the subsidised service contracts in that area or province. This form of contract is flexible and allows bus operators to negotiate contract conditions, before accepting the contractual terms (Simpson et al., 2012:23). In this contract, provision is made for the Model Tender Document (MTD), issued by the DoT. Since April 2015, the month-to-month contracts have been replaced with a three years' contract on the same terms and conditions, which expires in March 2018 as a preparation stage towards the development of IPTN in metros (SABOA, 2015:3 and SABOA, 2016:20).

## **Research Methodology**

The purpose of this chapter is to present the findings on the procurement practices employed within the commuter bus sector in Gauteng. The paper is based on a mixed research design. A face-to-face interview based on semi-structured questionnaire was conducted with procurement officials in the commuter bus sector in Gauteng. The sample comprised of 18 respondents, 6 were senior procurement practitioners within the commuter bus sector, from the national and provincial government departments, as well as 12 commuter bus operators who are involved with the procurement of subsidised commuter bus services. The data from the structured questions was analysed by means of descriptive and inferential analysis, using the SPSS (version 24), a content analysis was used for the open-ended questions.

## **Findings and Discussions**

The section of the paper presents the findings and discussion on procurement methodologies employed in the commuter bus sector in Gauteng. The findings of both the structured and

unstructured questions are presented. The respondents were asked to indicate on a 5-point Likert response format, statements relating to the types of procurement practices employed within the commuter bus sector with end points 1 (no extent) to 5 (very great extent), the extent to which they employ interim contracts, negotiated and tender contracts, as well as the experience they have within the operations. The findings on each procurement practice, respectively are measured using percentages. It begins with interim contacts, and then tender and negotiated contracts.

*Interim contracts*

With regards to interim contracts, Figure 2 indicates the views of the respondents on the application of interim contracts, measured using percentages. The findings are graphically presented below by means of a pie chart.

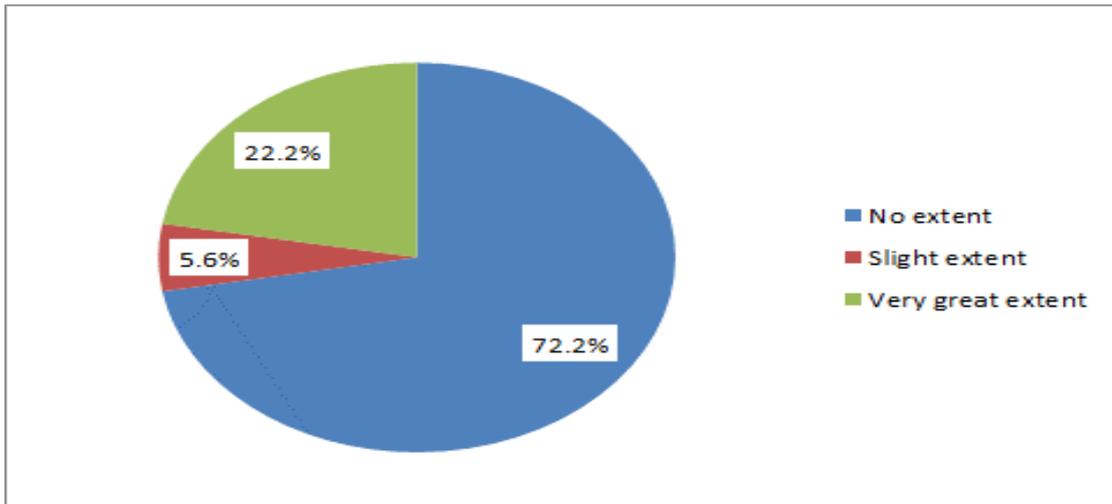
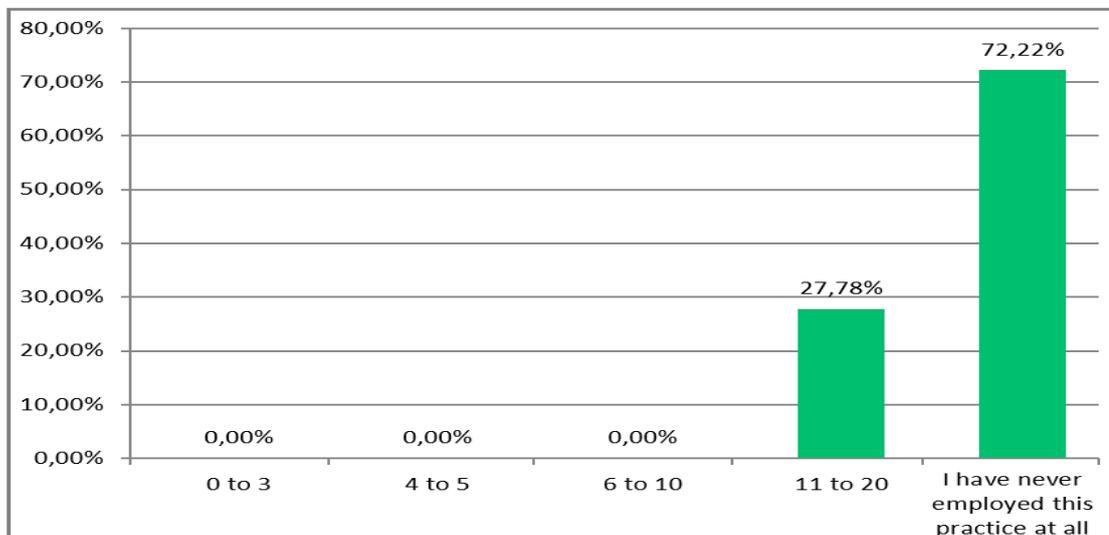


Figure 2: Respondents participating in interim contracts

As shown in Figure 2, 72.2% (13) of the respondents did not participate in interim contracts (no extent), 22.2% (4) to a very great extent and 5.6% (1) to a slight extent. Therefore, a few of the respondents procure bus services by means of this contract. Furthermore, to understand the application of the interim contracts, the respondents were asked to indicate their experience in terms of years that they have been participating in interim contracts.

The respondents' views are indicated in Figure 3.

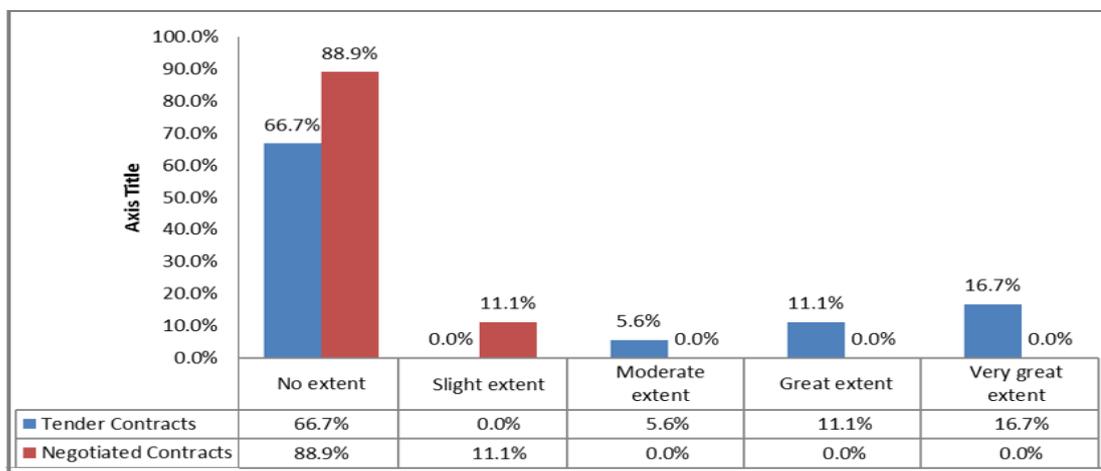


*Figure 3Error! No text of specified style in document.: Experience of respondents in interim contracts*

As shown in the figure, 72.22% (13) of the respondents did not participate (no extent) in interim contracts, 27.78% (5) have 11 to 20 years of experience rendering these contracts, and 0.00% of the respondents have less than ten years of experience. Therefore, most of the respondents do not procure by means of interim contracts, and thus do not have any experience on the negotiated contracts.

*Tender and negotiated contracts*

The tender and negotiated contracts are presented together. This is because these are the formal procurement methods recommended by the National Land Transport Act of 2009 (Ngcamphalala & Ambe, 2016:1214). Figure 6 indicates the views of the respondents on the application of negotiated and tender contracts, measured using percentages. The findings are presented below using percentages.



*Figure 4: Perceptions of the respondents with regards to negotiated and tender contracts*

As shown in Figure 4, 67% (12) of the respondents did not participate in the tender contracts (no extent), 5.6% (1) participate in the contract to a moderate extent, 11.1% (2) to a great extent, and 16.7% (3) to a very great extent. Therefore, most of the respondents do not procure bus services by means of the tender contract. Whilst 88.9% (16) of the respondents did not participate in the negotiated contracts (no extent) and 11.11% (2) to a slight extent. Therefore, most of the respondents do not procure bus services by means of this contract. Furthermore, to understand the application of the tender contracts, the respondents were asked to indicate their experience in terms of years in the tender contracts. The respondents' views are indicated in Figure 5 and 6.

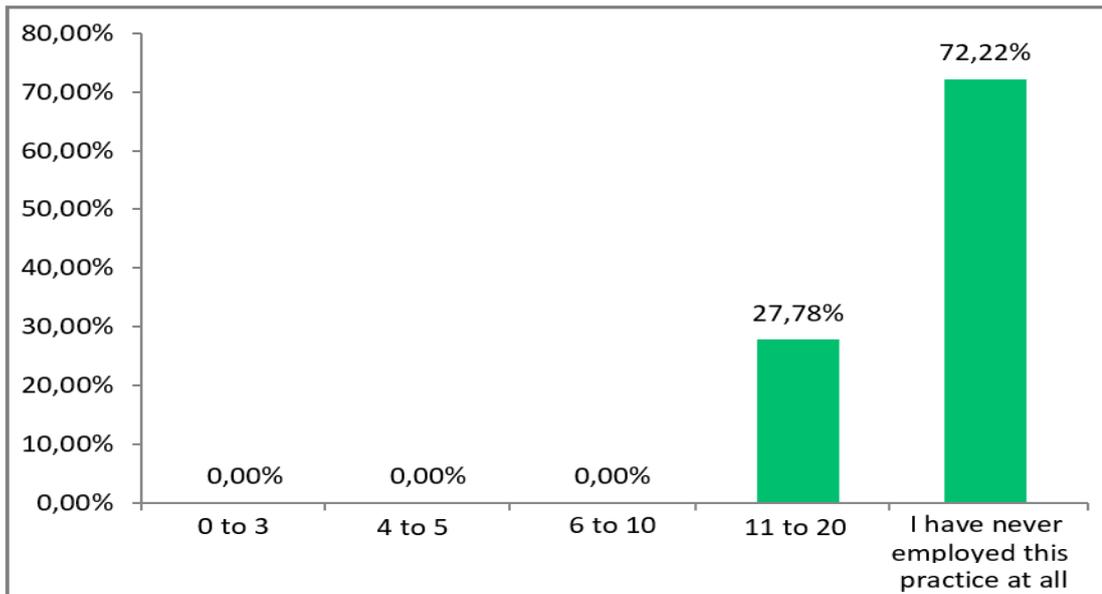


Figure 5: Experience of respondents participating in tender contracts

As shown in the figure, 72.22% (13) of the respondents have never participated in tender contracts, 27.78% (5) have 11 to 20 years of experience rendering these contracts, and 0.00% have less than ten years of experience. Therefore, most of the respondents do not procure by means of tender contracts and thus do not have any experience regarding tender contracts.

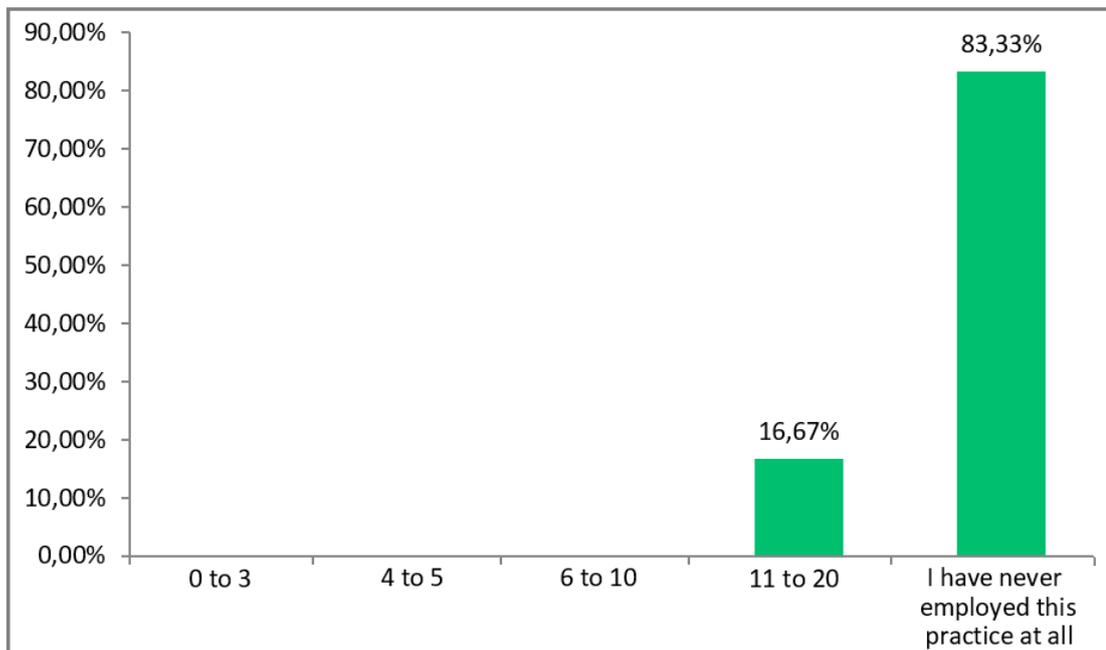


Figure 6: Experience of respondents participating in negotiated contracts

Furthermore, to understand the application of negotiated contracts, the respondents were asked to indicate their experience in terms of years dealing with negotiated contracts. The respondents' views are indicated in Figure 8. As shown in the figure, 83.33% (15) of the respondents have never had any dealings with negotiated contracts, 16.67% (3) have 11 to 20 years of experience rendering negotiated contracts and 0.00% have less than ten years of experience. Therefore, most of the respondents do not procure by means of negotiated contracts,

and thus do not have any experience regarding negotiated contracts. In general, regarding the employment of the different types of procurement practices, a few of the respondents are procuring in terms of these practices. Six of the operators are procuring through tender contracts, five through interim contracts and three through negotiated contracts. However, with regards, to the years of experience related to all the procurement practices, it is evident that all these contracts have been in place for over 20 years and are overdue (Parliamentary Monitoring Group, (2013:1), SABOA, (2014:2110), SABOA, (2015:3); SABOA, (2016:20).

#### *Analysis of responses from Open-ended Questions*

Based on the conducted interviews, it emanated that there were three types of procurement practices employed in the commuter bus sector. The procurement practices are interim, negotiated and tender contracts. However, the majority of the respondents indicated that they procured the commuter bus services by means of interim and tender contracts, whilst a few of the operators procured through negotiated contracts. The respondents, however, mentioned that the interim, tender and negotiated contracts are long overdue and not in line with the enacted policies which state that the commuter bus service should be procured through competitive contracting (Ngcamphalala & Ambe, 2016:1218).

“We have been rendering the tender contracts, since 1996 and to date I am still operating. We were supposed to renew the contracts in 2001, but this was never done”. (Respondent 1)

“We have been operating since 1997. We are the operators from the previous era.”

Following the analysis of the structured and open ended questions, the findings confirmed that which was gathered from the literature, that interim, negotiated and tender contracts are still in full operation. SABOA (2015:3; 2016:20) confirmed that these contracts are still in operation and currently rendered on a month-to-month basis. However, the findings concluded that interim contracts are still the dominant procurement practice within the subsidised commuter bus sector in Gauteng. This then implies that the procurement practices within this sector are still not in line with the set and guiding policies of procuring in the commuter bus services through competition. The procurement practices were further examined by determining the number of years the respondents have been operating within the subsidised commuter bus sector in Gauteng. The findings indicated that in relation to the different procurement practices, (see Figures 6, 7 and 8), most of the respondents have 11 to 20 years of experience within interim, negotiated and tender contracts. The findings confirmed that which was gathered from the literature, namely that changes to the system of interim, negotiated and tender contracts are long overdue. It was confirmed by Walters, (2010:363), Walters, (2014:2), SABOA, (2015:3) and SABOA, (2016:20), that these contracts have been in operation longer than the initial terms of the enacted policies guiding procurement in the sector.

## **Conclusions**

This paper investigated procurement methodologies employed within the commuter bus sector in Gauteng. In South Africa, procurement, seen as a strategic tool for socio-economic development to address past imbalances and promoting socio-economic (Ambe, 2016:280 & Motuba, 2014:12). The aim is to promote the principles of good governance, to enable easy access to tendering information and to provide simplified documentation. The reform practices were embedded in Section 112 of the Municipal Financial Management Act No 56 of 2003 (MFMA) and Section 76 (4) (C) of the Public Finance Management Act No 1 of 1999 (PFMA) and the Preferential Procurement Policy Framework Act No 5 of 2000 (PPFFA). However, the commuter bus sector is complex and its operations are not in line with the recommended regulations. The current practices still favour the formal operators over the unsubsidised (informal) ones, with the former benefitting from government contracts. To-date, most of the old operators are still in the system, limiting the opportunities for new operators to successfully enter the market.

Therefore, the key stakeholders within the sector need to revisit their policy formulation and implementation processes to ensure there is proper consultation between the relevant parties. The government needs to continue working on the relationship with the operators. All operators need to be considered or consulted in all communication or planning, especially the small bus operators, since they are not all the same. Over and above the challenges relating to policy implementation in the sector, the key operational aspects to be given attention include policy direction in the sector (which includes the frequent reshuffling of senior transport personnel in government and funding). With all these in place and efficient procurement practices, procurement can contribute towards job creation and economic growth with this sector and the country at large.

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