

Policies and regulations guiding procurement practices in the South African commuter bus sector

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Abstract

The South African government is faced with the challenge of balancing the allocation of limited funds; the appointment of contractors among former government beneficiaries and previously disadvantaged individuals. The challenge stemming from the implementation of procurement policies and regulations is eminent in the commuter bus sector.

This article explores policies and regulations that inform the procurement practices in the commuter bus sector in South Africa. The article is based on a theoretical analytical review. Based on the review, the policies and regulation procurement practices in the sector could be classified into pre- and post-1994. The implications of the policies and regulations have an adverse effect on the socio-economic objective of the country.

Currently, the policies and regulations are not fully implemented and the commuter bus sector continues to face challenges that are a reflection of the current realities in South Africa. The findings of the article suggest that there are inconsistencies in the implementation of procurement policies and regulations in this sector compared to the enacted principles in the key policies.

Key phrases

methods; practices; procurement policies; Republic of South Africa; supply chain management

1. INTRODUCTION

The procurement function constitutes the biggest part of an organisation's expenses (Dlamini & Ambe 2013:100). It is regarded as a crucial activity of any organization, business business, and government (Choi 2010:1). The private sector views it as a means of costs saving and the public sector sees it as a means of meeting the public's needs efficiently, since it is funded with the money of tax payers. The procurement function should be properly regulated to procure in the most economic, transparent and competitive manner (Williams & Quinot 2007:339). According to Dlamini and Ambe (2012:277), procurement takes up a large portion of an organisation's total costs. Mahmood (2010:107) advises that government expenditure constitutes 18.42% of the world's gross domestic product (GDP). The main challenge for the proper regulation of this function is that it operates in an environment of increasingly intense scrutiny; and is driven by technological developments and high social and political expectations (Eyaa & Oluka 2011:35).

Procurement in the public transport sector constitutes 9 to 13%, of the GDP of developing countries; thus, proper regulation is imperative (Eyaa & Oluka 2011:35). Proper regulation reduces administrative costs and the unproductive use of resources (Klun & Setnikar-Cankar 2013:97). According to Garzaro (2016:44), the regulation of procurement practices is important, given the role it plays in developing the economy. These laws aim at levelling the playing field for all interested parties, and bring harmony to the appointment of suppliers; and monitor their services at the same time.

In South Africa, the government introduced the concept of supply chain management (SCM) in 2004 to bring about consistency in the implementation of procurement policy, ensuring the accountability of all parties. The procurement practices during the apartheid era only favoured large, established companies.

Currently procurement is regarded as a means of dealing with past discriminatory imbalances (Bolton 2006:193). Therefore, it was important to regulate policies to meet the socio-economic objectives of government. In the commuter bus sector, the new procurement policies and regulations are aimed at benefiting small bus operators and previously disadvantaged individuals. However, this is currently not the case. Walters and Heyns

(2012:37) states that contracts used in this sector are old and outdated; and are not in line with policies and regulations.

Furthermore, Walters (2014:6) asserted that despite the improvement in implementing procurement policies, the commuter bus sector is not fully transformed and is therefore subject to failure. Mr Vadi Ismail (The Gauteng MEC for roads and transport) confirmed in his speech addressing bus operators at a SABOA conference in 2014 (Munshi 2014) that the existing procurement policies in the commuter bus sector are lacking and require support and patience with government which has to resolve the standing issues. More so, the procurement of commuter bus services is problematic and all stems from the employed policies and their implementation (Walters 2014:4). There is tremendous progress in public transport in the country, but bus operators, to some extent, have been neglected as far as their operations and the implementation of policies related to their operations are concerned (Venter 2015).

This article explores the impact of procurement policies and their regulation on the performance of the commuter bus sector in South Africa. The article is exploratory by nature and reviews relevant public procurement policy documents and public transport policies. The remaining sections of the article present a review of procurement practices; policies and regulations governing commuter bus procurement; and the impact of the policies and regulations on the commuter bus sector.

2. REVIEW OF PROCUREMENT PRACTICES

This section of the article reviews procurement practices. It begins by exploring procurement in a global context and also from a South African government perspective.

2.1 Global context

Globally, public procurement has proven to play a key role in service delivery and the performance of government departments and public entities (Dzuke & Naude 2015:1). Procurement amounts to an estimated 25% of the gross domestic products (GDP) in developing countries (De la Harpe 2009:18 quoting WTO). Government procurement, is

therefore of utmost importance to the economy of a country. Because of the huge amounts involved, this function is a target to fraudsters and thus requires strict regulation.

Most operational challenges stem from procurement practices that are being followed to acquire goods or services be it due to suppliers that are not qualified, buyers that are not consistent with the procurement practices, or the need was not legitimate (Volker 2004:3).

Corrupt practices could be due to personal or political reasons, but are all sensitive, and because public procurement is funded by the tax payers' money, the responsible practitioners should be held accountable for the way in which the money is spent – the country should benefit socially and economically (Volker 2004:4). These challenges resulted in the regulation of the procurement function by public procurement laws and regulatory frameworks.

2.2 The procurement practices in the South African public sector perspective

The procurement function in government organs in South Africa is regarded as a critical socio-economic function. According to National Treasury (2009:2) government sees the procurement function as its commitment to the well-being of South Africans and to building the country's economy. The procurement system in the apartheid era was governed by the State Tender Board on the national and provincial level and at local level it was governed by other legislations (PARI: 2014:7; Thai 2009:358).

The procurement function was conducted independently in the respective provinces through executive committees. The government was of the opinion that centralising procurement in a big country such as South Africa would be time consuming; especially when procuring urgent orders; and that decentralising the procurement process would enable the use of specialised knowledge in the respective provinces or municipalities. The central tender board allowed decentralised flexibility to departments or organs of state under strict circumstances.

From 1981, these powers were reviewed to be accompanied by approval of authority following the state tender boards. To provide discretion regarding the flexibility feature, these

boards were complemented by extensive political and administrative visibility. Also, this system did not have any legal limitations on concluding an offer. The tenders could be concluded in any manner suitable to the board, for instance, an offer from an operator could be accepted without a request from the government, but on discretion.

There were no set rules on finalising contracts, for example; there was no guarantee on the acceptance of a low price bid. An administrative law was introduced in 1981 as a protective measure against the operations to blacklist fraudulent, non-performing operators. In 1987 regional tender boards were introduced to improve uniformity in procurement practices in the place of the state tender boards.

Under the new regime, public procurement was granted constitutional status and is viewed as a means of dealing with past discriminatory policies and practices (Bolton 2006:193). This status meant that procurement would be employed to promote aims secondary to the primary aims of procurement promoting social, industrial or environmental policies. This meant promoting socio-economic aims, as mentioned above, where all organs of state were required to procure goods and services in terms of section 217 of the 1996 Constitution of South Africa (Ambe & Badenhorst-Weiss 2012:256) which stipulates that procurement should be dealt with in a manner that is fair, equitable, transparent, competitive and cost-effective.

The constitution was supported by a number of legislations including the introduction of section 76 (4) (C) of the Public Finance Management Act (PFMA) in 1999, the Preferential Procurement Policy Framework Act No 5 of 2000 (PPPFA), and section 112 the Municipal Financial Management Act No 56 of 2003 (MFMA). However, because this function was performed by various organs of state (local, provincial and national), the interpretation was different. This resulted in the National Treasury auditing the procurement processes in the country in conjunction with the World Bank, which lead to the Country Procurement Assessment Report (CPAR) in 2001. This audit picked up a lot of inconsistencies in the interpretation of policies; and it resulted in the introduction of a Supply Chain Management Framework (SCM) to promote uniformity in the procurement reform processes in government. Figure 1 shows the elements of the SCM framework and how the procurement function fits into the whole picture (National Treasury 2015:28).

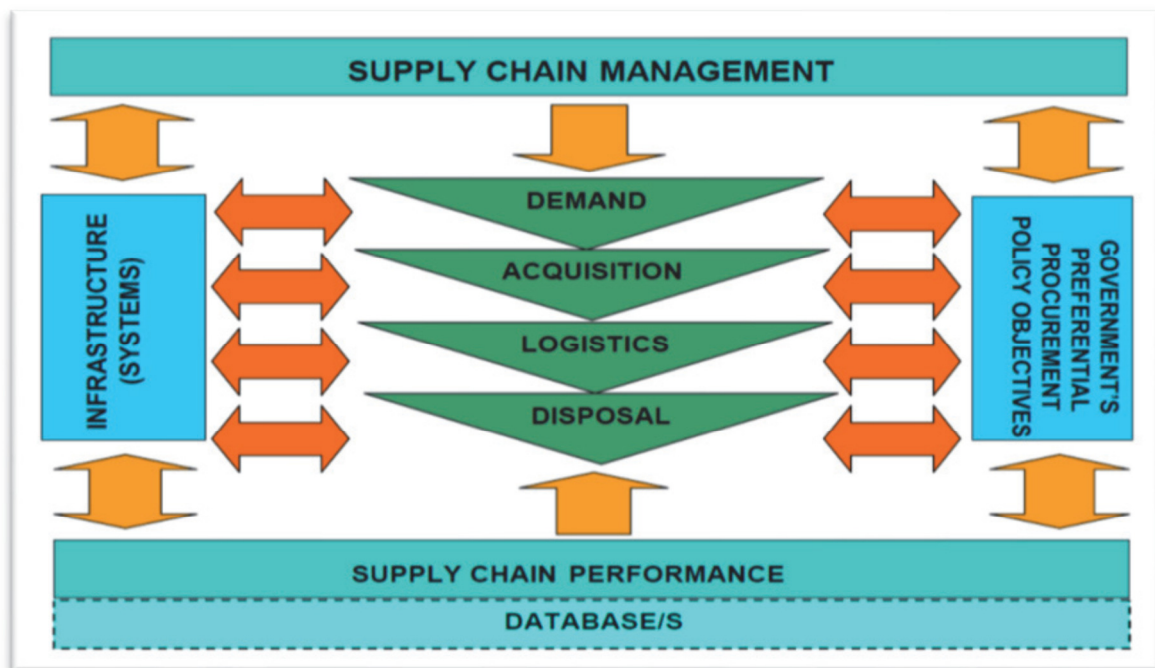


FIGURE 1: The generic elements of supply chain management

Source: Adapted from: National Treasury 2015:28

- **Demand management:** This ensures that the identified needs are met through strategic planning, by ensuring that all the required resources are analysed and attended to. The key processes include bringing the SCM practitioner closer to the end user; a bid specification committee; procurement methods and so forth.
- **Acquisition management:** This involves the management of the actual procurement process including the evaluation of bids (comprising of bid committees; consulting the register for defaulters; a range of procurement systems; the establishment of total cost of ownership of assets; bid adjudication; the appointment of the consultant and so forth).
- **Logistics management:** This deals with the strategic management of the acquisition, movement and storage of materials, cost fulfilment of orders; effective flow of goods; services and related information from the point of origin to consumption.
- **Disposal management:** deals with the management of assets that are no longer needed; considers obsolescence planning, the management of a database of redundant

materials; inspection of materials for reuse; and determination of a disposal strategy and execution methods.

- **Risk management:** This deals with the management of an unintended or unexpected outcome of a decision; considering and avoiding risk as well as providing adequate cover for residual risk; and so forth.
- **Supply chain performance:** Monitors progress and retrospective analysis to determine whether the processes had been followed and if the desired objectives were achieved. The National Treasury template is used to measure the performance.

2.3 Procurement practices in the commuter bus sector

The commuter bus sector is part of the public transport spectrum in the Department of Transport, which in turn forms part of passenger transport, namely trains, busses and minibus taxis (Walters 2014:1). The Department of Transport is one of the departments in the South African government responsible for transport (Walters 2014:1).

The public transport system in South Africa constitutes the following modes: the commuter rail; the minibus taxi industry; and the subsidised and unsubsidised commuter bus industry (Walters 2014:1). Public transport plays an important role in developing countries, in that it reduces congestion on the road, environmental pollution and it also boosts the economy (Walters 2008:98).

One of the ways of improving the economy is through responsible procurement activities. This organ of state's procurement practices is governed and guided by the SCM framework according to the government's objectives of maintaining uniformity in all state procurements, with its own SCM (unique to its operations).

The origins of the commuter bus sector in South Africa can be traced back to the apartheid era (Naude 1999:3; Walters 2014:2). This government formed various states in the country with their own bus operators who took over business from all established small black bus operators. These bus operators were then offered cheap subsidised commuter bus services to ease the financial burden on the communities. This resulted in many challenges including,

but not limited to, tension and disputes over control, management and affordability of commuters.

According to Khosa (1995:171), after the 1929 Le Roux Commission, the state of public transport in South Africa was “one of a great confusion and disorder” because “competition was unrestricted and uncontrollable” before 1930 (as cited on South Africa 1947, para. 390 and 391).

This then led to the state intervening in passenger transport with the assistance of an advisory committee by protecting the bus companies through bus subsidization and the regulatory instrument was the “permit system” administered by the Local Road Bus Transportation Board (LRTBs) under the Road Transportation Act of 1977.

Unfortunately, the subsidised bus operations were then marred with increased transport subsidies for the state and riots against rising transport fares (Khosa 1995:172). This led to a decrease in the use of commuter bus services and commuters using trains, minibus taxis and/or vans (Jakoet & Bester 2001; Khosa 1995:180).

3. POLICIES AND REGULATIONS EMPLOYED IN THE COMMUTER BUS SECTOR

This section of the article discusses the policies and regulations governing procurement practices in the commuter bus sector and concludes with the impact of the policies and regulations on the performance of the sector.

3.1 Legislative framework governing the commuter bus sector

The policies and regulations governing procurement in the commuter bus sector can be classified into two major stages. These are procurement policies before and after 1994 as briefly discussed below.

3.1.1 Before 1994 procurement policies and regulations

With reference to the procurement of bus services, the South African public transport policy developments can be traced back to the previous government era (Walters 2014:2). During

that time, bus services were offered based on tickets sold. This system was marred by fraudulent activities, including indefinite permits, and a lack of transparency to mention but a few.

In 1986, a White Paper on National Transport Policy was introduced, which allowed the entry of the 16-seater minibus taxis into the industry. The bus industry lost business to the taxis, since the taxis could access routes that the buses could not. This White Paper also endorsed the tendering of bus services through competitive tendering. According to Walters (2014:2), the services of operators who were struggling financially and were threatening to withdraw from their routes were put out to tender first as a demonstration.

This project did not do well, since the operators had tendered too low. Following that government intervened by offering financial assistance to operators (Walters 2014:2).

However, this arrangement became a burden to the government, because it was more expensive to maintain and thus government suspended these operations. Flowing from the above history, the operators in this sector were then divided into two categories:

- **Formal operators:** large and established operators that had already been in the system when the new government took over power in 1994. They have been contracting with the government (formally) since 1997, when their existing services were structured into a contract framework as interim contracts; to date and they are still participating (Walters & Heyns 2012:36).
- **Informal operators:** These are small private operators operating with small vehicles outside government regulation (Venter 2013:114). The used small vehicles only benefit the commuter in that the fares were low and the informal operators were always available, but there were too many negatives for the entire sector including poor standard of vehicles and inconvenience to passengers as a result of poor standards – poor road safety records, predatory pricing and significant disruptions in the form of traffic congestion and environmental pollution (Venter 2013:114).

Also, many initiatives had been undertaken to regulate this sector but with no success, since these operators were resistant. They currently provide service on unsubsidised routes, transport scholars and/or private hires.

3.1.2 Post-1994 procurement policies and regulations

The commuter bus sector is a part of public transport and is guided by the same policies and other extras. Policies guiding public transport in South Africa are embedded in the White Paper on National Transport Policy of 1996 (Walters & Heyns 2012:35). The White Paper did not necessarily refer to the commuter bus sector, but to passenger transport as a whole. However, in this part of the paper the policies will be reviewed with reference to the commuter bus sector. These are:

- **White Paper on National transport policy (1996)**

This policy document established the introduction of competition when tendering for the subsidised commuter bus sector (Walters 2013:35). Walters and Cloete (2008:1163), concur that the official policy applicable to the procurement of the commuter bus sector is embedded in the White Paper on National Transport policy of 1996, which stipulates that services should be procured through a competitive tendering system.

However, since this is a complex sector with formal and informal operators, the government had to find a balance between all the available variables to meet the needs of its people and to be financially sound (Venter 2013 & Walters 2013:35).

- **Interim contracts (1997)**

Interim contracts were introduced in 1997 with the existing subsidised operators. This was just a formality of the existing contracts. These contracts were meant to last for three years to give the operators time to prepare themselves for the tendering system to be able to compete in the tendering system with other operators.

However, to date these are still in operation and the escalation factor is updated and implemented on an annual basis (Walters 2013:35). The main reason for the delay is because of the complex process of policy implementation in the sector, due to political implications, political linkages, and the inclusion of previously excluded businesses in the subsidy system. These amongst many other reasons have led to the sector being faced with financial constraints (Walters 2013:34-35).

- **The Moving South Africa strategy (1998)**

According to Walters (2013:39), this strategy is aimed at improving the level of performance in public transport by introducing competition in the various modes of transport through tendering service concessions to private operators (The Moving South Africa 1998:135).

- **Tripartite heads of agreement (1999)**

Due to the complexity of the transition from interim contracts to tendered contracts, leading to jobs losses, organised labour insisted on an agreement to soften the impact of competitive tendering on existing operators.

This was the Tripartite Heads of Agreement between the organised labour, the operators (through their organised bus association – the Southern African Bus Operators Association (SABOA) and the Department of Transport (DoT) (Walters & Heyns 2012:37).

- **National Land Transport Transition Act (2000)**

This act was promulgated to deal with numerous challenges, including the inefficient and poor quality service public transport in South Africa was faced with (Wosiyana 2005:1). This was a necessary intervention to transform the public transport system.

Walters (2013:39) advises that this was the first act to define the roles of the various levels of government managing public transport including the transport authorities and the legislations guiding competitive tendering with the exception of negotiated contracts on certain conditions (companies partly owned by blacks).

- **Public transport strategic documents (2007)**

Part of these documents dealt with the improvement of public transport, like scrapping the taxis, refurbishing commuter rail coaches and the replacing commuter buses in preparation for the tendering system (Walters & Heyns 2012:39).

▪ **National Land Transport Act (2009)**

This act made provision for negotiated and tendered contracts; and also placed the responsibility of public transport with the local authority of government (Walters & Heyns 2012:28).

This act also encouraged the collaboration of rendering public transport services, by means of various types of service providers (buses, rail and taxis) through integrated transport plans (ITPs). This is aimed at saving costs by eliminating the duplication of subsidies, which is a big part of procurement.

▪ **Supply chain management framework**

This framework was enacted in 2003 to ensure uniformity in the procurement of goods and services in various spheres of government, and in the interpretation of the preferential procurement legislation (National Treasury 2003). For the Department of Transport it meant transforming public transport into safe, secure, reliable and affordable services to commuters (Walters 2010:362).

This framework was in support of the regulations in accordance with the Constitution, which requires that goods and services be procured according to a system that is fair, equitable, transparent, competitive and cost-effective. This sector is further guided by a SCM framework adopted by the Department of Transport (DoT 2011). The current status of the impact of the procurement policies employed in the sector is depicted in the table 1.

The procurement policies and regulations were expected to benefit the small operators and previously disadvantaged individuals, but at the moment (from the status quo) it is not the case; therefore, the gap which led to this study. This study aims at investigating which policy would impact and support procurement effectively in this sector.

3.2 Effects of the procurement policies and regulations on the commuter bus sector

The ineffective implementation of the procurement policies employed in the commuter bus sector have led to the following challenges:

TABLE 1: Impact of the procurement policies employed in the sector

Policy regulation	Effect to procurement	Status quo
Constitution of the South Africa (1996)	Procurement should be fair, equitable, competitive, and cost-effective.	Partly implemented thus far. Tendering contracts were last concluded in 2002 due to complex process of policy implementation in the sector, leading to financial constraints.
White Paper on National Transport (1996)	No service may be subsidised outside TC.	Partly implemented thus far. Tendering contracts were last concluded in 2002 due to complex process of policy implementation in the sector, leading to financial constraints.
BEE charter for the bus sub-sector (2009)	Promotes the inclusion of B-BBEE suppliers in the contracts.	Limited number of small operators are a part of these contracts
National Land Transport Act (2009)	Encourages the negotiated contracts for empowerment.	Partly implemented thus far. Tendering contracts were last concluded in 2002 due to complex process of policy implementation in the sector, leading to financial constraints.
Supply Chain Management Framework (2003/2011)	Promote uniformity of the procurement function within a government entity.	Partly implemented thus far. Tendering contracts were last concluded in 2002 due to complex process of policy implementation in the sector, leading to financial constraints.

Source: Compiled by authors

3.2.1 *Various types of procurement methodology employed by the commuter bus sector*

Following the introduction of the current policies and regulations governing procurement in the commuter bus sector, the following procurement practices were employed in line with the new government's policies of promoting socio-economic objectives. However, these are not in line with the main guiding policy which is the Constitution of South Africa section 217(1) stipulating that procurement should be fair, equitable, transparent, competitive and cost-effective.

▪ Interim contracts

These contracts were concluded in 1997, as an interim measure by the government to prepare those operators that are part of the system for the tendering system (Walters 2010:362). They were based on the original services offered by the operators at the time-operated on passenger-based subsidy. They were intended to last for three years; however, due to labour disputes and a lack of funds, the department had to extend these contracts and sign an agreement between the organised labour, and the Southern African Bus.

The main disadvantage of these contracts was that they were open to the corrupt activities of some operators and government officials who were defrauding the system in conjunction with some operators, resulting in the government not getting 'value for their money'. This then led to the conversion of these contracts into kilometre-based contracts. (Walters 2014:2). To date, these contracts are still in effect, but are reviewed on a month-to-month basis until the tendering issues are resolved.

▪ Tender contracts

These contracts were also concluded in 1997, following the challenges of the Interim Contracts; and the government had to introduce them 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; empower small operators and also enable transparent monitoring of the funds for this sector. These contracts were operating on a kilometre-based subsidy, enabling the government to budget way ahead, since the travelled kilometres are fixed and calculated, using an agreed formula.

These contracts brought about many benefits, like enabling the government to monitor and control the rendered services through an independent monitoring firm, and designing the service. However, these contracts have not grown, because of funding constraints. To date, no new contracts have been concluded. The tendering contracts were last concluded in 2002, because of lack of funds, stemming from the complexity of policy implementation.

- **Negotiated contracts**

These were introduced between 1999 and 2000 through the National Land Transport Transition Act (NLTTA). Originally, they were intended to assist government-owned and municipal operators, since they were financially unfit to participate in competitive tendering (Walters 2008:1163). Later on, this Act was amended to make provision for private sector companies, under certain conditions. These included small operators, persons previously disadvantaged by unfair discrimination; however the disadvantaged persons had to be major shareholders in the company within 24 months of the commencement of the contract; and that the value of the contract should not exceed a prescribed percentage of the total value of the subsidised service contracts in the specific area or province.

When looking at these contracts in accordance to today's public transport policies, the above practices are outdated. They then confirmed the need for the reforms in this sector. Walters (2014:2), advises that currently the main forms of procurement applicable to this sector are only with the formal operators (subsidised) and they need to change.

3.2.2 Lack of trust in procurement relationship between partners (government versus operators)

The majority of subsidised operators have shown some animosity towards the government and its initiatives and the industry at large (Walters 2010:366). According to Walters *et al.* (2012:48), some operators are even threatening to surrender their services since the

government is forcing them to share their portion of the business with the taxi industry and small bus operators. There is still a lot to be done when it comes to transforming and restructuring this sector, including but not limited to the complex policies in place (SCM policy); human and political interferences; inadequate understanding of, or attention paid to the implementation phase of policies (Mitchell & Walters 2011:252).

In short, the relationship is strained. Operators do not trust the government (Walters 2008:52). Walters and Heyns (2012:42) concur by saying that the government applies a top-down approach instead of involving the operators in the planning and reforming the industry. These operators are still operating private hires.

3.2.3 Limited contribution of procurement contracts to small bus operators

According to Bolton (2006:167), procurement practices in South Africa only favoured large and established operators. It was difficult (if not impossible) for the small, medium and micro (SMME's) businesses to participate in the government procurement practices.

The Bus Commuter and Coach Services Charter (2009:5) states that government needs to focus on including SMMEs into their procurement contracts. Naude (2003:3) concurs that one of the aims of the democratic government was to include and empower the previously disadvantaged minority. To date, however, despite the newly effected policies under the new government with the aim of promoting socio-economic objectives, SMMEs are still not fully recognised in South Africa (Hlakudi 2012:4). Currently, only a few small bus operators are taking part in the procurement processes (negotiated contracts) (Walters 2013:40).

It is still difficult for a small and/or black-owned company to compete with a large white-owned company. The commuter bus sector is no exception. Small bus operators (SBOs) or informal bus operators, as referred to in most literatures, are still struggling to take part in these operations, because of the large operators are protected (Naude 1999:167). Venter (2013:2) concurs by saying informal or SBOs in the public transport sector are still regarded as 'a problem to be solved'.

These operators are said to be resistant to the proposed policies. However, despite the sector 's slow progress in implementing policies due to stringent legislative requirements and

corruption, many emerging HDI-owned enterprises benefit from preferential procurement opportunities (Hlakudi 2012:i). Hlakudi 2012:i) further confirms that the achievement of the intended objectives can be expedited by reviewing the model of implementation of the policy, improving awareness and accountability of the key stakeholders and providing unconditional support for SMMEs. In agreement with Hlakudi 2012:i), the Green Paper on Public Sector Procurement Reform in South Africa (1997:7) concurs that the inclusion of SMMEs is important to the growth of the South African economy, however the execution of the proposed policies seem to have side-lined this sector

3.2.4 Lack of funding

The challenge of limited funds is not only a problem encountered by public transport and/or the commuter bus sector, but a challenge faced by the South African government as a whole (Walters 2013:34). The government needs to meet so many needs with limited available funds like providing school and health services, accommodation and security and many other public services.

With reference to the commuter bus sector, the lack of funds has negatively affected the policy implementation in this sector; thus the operations as a whole (Walters 2012:44, citing Mitchel 2009). This has led to the suspension of the competitive tender system.

4. CONCLUSION

The objective of the article was to explore policies and regulations guiding procurement practices in the commuter bus sector. A theoretical analytical review was conducted. The procurement practices in a global context, the South African perspective and the commuter bus situation were discussed in this article. Furthermore, relevant policies and regulations in the commuter bus sector were explored.

The article reveals that procurement policies and regulations in the sector can be classified into before and after 1994. Also, there is a huge difference between the implementation of the policies and regulations guiding procurement practices in the commuter bus sector; and those enacted to govern public procurement practices in South Africa. The practical does not

correlate with the set policies. It is therefore important for relevant stakeholders to revisit the enacted policies and regulations in this sector. A number of operators have surrendered some of their bus routes because of the challenges of the policies.

Proper regulation of the procurement function in South Africa is an important and burning issue since there are daily reports in the news media, radio, television and papers on irregularities taking place in the sector. This is evident from the recurrent protestations that are taking place country-wide against service delivery stemming from procurement irregularities and repeated requests for investigations into individuals or organisations over the misuse of public funds when procuring services or goods.

It is suggested that an empirical investigation be conducted into the implications procurement policies and regulations will have for the performance of the commuter bus sector. In the meantime, because of our unique history as a country, the policy implementation process in this sector might take a while and thus stakeholders can consider applying a dual procurement approach of negotiated and tender contracting. This form of practice will accommodate both the established and small operators and building the sector's economy.

With this approach the amount of money spent on subsidies will decrease, the negotiated contracts bring about the opportunity for operators to negotiate their rates and for government to negotiate the best service for money for the public. Tender contracts will allow small operators the opportunity to partake in these operations, by forming consortiums and tender.

LIST OF REFERENCES

- AMBE IM & BADENHORST-WEISS JA.** 2012. Procurement challenges in the South African public sector. *Journal of Transport and Supply Chain Management* 6(1):242–261.
- BOLTON P.** 2006. Government procurement as a policy tool in South Africa. *Journal of Public Procurement* 6 (3):193–217.
- CHOI JW.** 2010. A study of the role of public procurement – can public procurement make society better? *4th International Public Procurement Conference*:26–28.

DEPARTMENT OF TRADE AND INDUSTRY. 2009. Bus commuter and coach services sub-sector code for BBBEE. Department of Transport.

DEPARTMENT OF TRANSPORT. 1996. White Paper on National Transport Policy. Pretoria. South Africa.

DEPARTMENT OF TRANSPORT. 2009. National Land Transport Act, Act No 5 of 2009. Pretoria. South Africa.

DEPARTMENT OF TRANSPORT. 2011. Supply Chain Management Policy. Pretoria. South Africa.

DLAMINI W & AMBE IM. 2012. The influence of public procurement policies on the implementation of procurement best practices in South African the universities. *Journal of Transport and Supply Chain Management* 6(1):277–293.

DLAMINI W & AMBE IM. 2013. An analysis of procurement best practices in the University of South Africa. *Journal of Contemporary Management* 10:100-116.

DoT see **DEPARTMENT OF TRANSPORT**

DZUKE A & NAUDE MJA. 2015. Procurement challenges in the Zimbabwean public sector: a preliminary study. *Journal of Transport and Supply Chain Management* 9(1) 9 pp.

EYAA S & OLUKA PN. 2011. Explaining non-compliance in public procurement in Uganda. *International Journal of Business and Social Science* 2(11):35–45.

GARZARO NA. 2016. Competition within EU public procurement regulation and practice: when EU competition law remains silent, EU competition policy speaks. *Romanian Journal of European Affairs* 16(1):44.

HLAKUDI NJ. 2012. Preferential procurement and emerging enterprises. Johannesburg: University of Witwatersrand. [Master's thesis.]

JAKOET J & BESTER CJ. 2001. Preparing public transport operators for tendering: the Western Cape situation. SATC 2001.

KHOSA MM. 1995. Transport and popular struggles in South Africa. *Antipode* 27(2):167-188.

KLUN M & SETNIKAR-CANKAR S. 2013. Better regulation and public procurement in Slovenian municipalities. *Transylvanian Review of Administrative Sciences* 9(38):96-105.

DE LA HARPE SP. 2009. SPL Public procurement law : a comparative analysis. Pretoria: University of South Africa (unpublished doctoral dissertation).

MAHMOOD SAI. 2010. Public procurement and corruption in Bangladesh confronting the challenges and opportunities. *Journal of Public Administration and Policy Research* 2(6):103–111.

MINISTRY OF FINANCE AND PUBLIC WORKS. 1997. Green paper on public sector procurement reform in South Africa. Pretoria: National Treasury and Department of Public Works (Notice 691 of 1997, Gazette No. 17928). Pretoria. Accessed at http://www.gov.za/sites/www.gov.za/files/17928_gen691_0.pdf.

MITCHELL M & WALTERS J. 2012. Efficacy of recent transport policy making and implementation in South Africa. *Journal of Transport and Supply Chain Management* 5(1):241–263.

- MUNSHI R.** 2014. Subsidies outdated, bus companies told. Business Day Live, 07 March. [Internet: www.pressreader.com/south-africa/business-day/20140307/281535108918661; downloaded 2016-05-09.]
- NATIONAL TREASURY.** 2003. Policy strategy to guide uniformity in procurement reform processes in government. Pretoria: National Treasury.
- NATIONAL TREASURY.** 2009. General procurement guidelines. Pretoria: National Treasury.
- NATIONAL TREASURY.** 2015. 2015 Public sector supply chain management review. Pretoria: National Treasury.
- NAUDE LJ.** 1999. An evaluation of the impact of the South African public transport policy on the restructuring of the commuter bus industry. Johannesburg: Rand Afrikaans University: Department of Transport and Supply Chain Management. [Doctoral thesis.]
- NAUDE LJ.** 2003. The people and customer effects of bus reforms in South Africa. [Manuscript at the 8th Thredbo Conference in Rio de Janeiro.]
- PARI.** 2014. The contract state: outsourcing and decentralisation in contemporary South Africa, Johannesburg: Public Affairs Research Institute.
- SOUTH AFRICA.** 1947. Report of the Commission of inquiry into Road Motor Transport. U.G. 45/1947. Pretoria: Government Printer.
- SOUTH AFRICA.** 1996. Constitution of the Republic of South Africa, Act 108 of 1996. [Internet: <http://www.gov.za/documents/constitution/1996/a108-96.pdf>; downloaded 2014-01-05.]
- THAI KV.** 2009. International handbook of public procurement. New York, NY: Taylor & Francis.
- THE MOVING SOUTH AFRICA TRANSPORT STRATEGY.** 1998. Towards a transport strategy for 2020. *Report and strategic recommendations. Draft for discussion.* Pretoria. South Africa.
- WALTERS J.** 2008. Overview of public transport policy developments in South Africa. *Research in Transport Economics* 22(1):98–108.
- WALTERS J.** 2010. Is the bus transport contracting system in South Africa leading to a trusting relationship between contracted parties? An analysis of funding issues and the impact on relations between government and the operators. *Research in Transportation Economics* 29:362–370.
- WALTERS J.** 2013. Overview of public transport policy developments in South Africa. *Research in Transportation Economics* 39:34–25.
- WALTERS J.** 2014. Public transport policy implementation in South Africa: Quo vadis? *Journal of Transport and Economics* (8)1:1–10.
- WALTERS J & CLOETE D.** 2008. The South African experience with negotiated versus competitively tendered bus contracts. *Transport Research Part A* (42):1163–1175.

- WALTERS J & HEYNS G.** 2012. Problems with the implementation of bus transport contracting in South Africa. *Journal of Transport and Supply Chain Management* 6(1):35-54.
- WOSIYANA M.** 2005. The National Land Transport Transition Act, 2000. How long is the transition? SATC 2005.
- WILLIAMS S & QUINOT G.** 2007. Public procurement and corruption: the South African response. *The South African Journal of Law*:124:339.
- VENTER C.** 2013. The lurch towards formalisation: lessons from the implementation of BRT in Johannesburg, South Africa. *Research in Transportation Economics* 39(1):114-120.
- VENTER I.** 2015. Conventional bus services being 'neglected and strangled'. *Engineering News*, 17 April. [Internet: www.engineeringnews.co.za/print-version/bus-transport-2015-04-17; downloaded on 2016-06-09.]
- VOLKER E.** 2004. Cover quoting – manipulation of the procurement process. *Auditing SA*:41-42. Summer.