

**THE EFFECTIVENESS OF TENDER PRACTISES IN MUNICIPAL SUPPLY CHAIN
MANAGEMENT: AN EXPLORATION OF TWO MUNICIPALITIES IN AMATHOLE
DISTRICT MUNICIPALITY IN THE EASTERN CAPE PROVINCE (2009-2012)**

By

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**A RESEARCH SUBMITTED IN FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ADMINISTRATION (PUBLIC ADMINISTRATION)**

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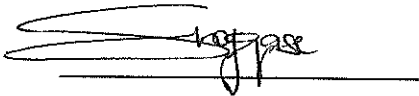
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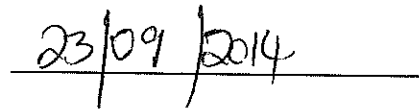
DECLARATION

I Sinazo Abulele Ngqase with a student number 200803746 declare that the work in this study is my original work and sources from other authors is acknowledged and referenced.

Signature

A handwritten signature in black ink, appearing to read 'Sinazo Ngqase', is written over a horizontal line.

Date

A handwritten date '23/09/2014' is written in black ink over a horizontal line.

DEDICATIONS

I would like to dedicate this piece of work to my late sister who has not been able to see me grow academically and otherwise. May your soul rest in peace Mamzangwa.

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LIST OF ABBREVIATIONS AND ACCROYNMS

AG	Auditor General
ADM	Amathole District Municipality
BBBEE	Broad Based Black Economic Empowerment
BCMM	Buffalo City Metropolitan Municipality
CFO	Chief Financial Officer
HDI	Historical Disadvantaged Individual
MFMA	Municipal Financial Management Act
PFMA	Public Financial Management Act
PPPFA	Preferential Procurement Policy Framework Act
SARS	South African Revenue Services
SCM	Supply Chain Management Act
SMME	Small Medium and Micro Enterprises

ABSTRACT

The tendering process is central to acquisition of public services and goods in all over South Africa. Municipalities and government institutions just like any private institution need to buy products and services in order to perform their functions effectively. But the procurement function has not been an easy one for government with the tender process being slow and not transparent which can lead to a process of settling invoices taking up to three months, potentially destroying small businesses. The primary objective of this study therefore, is to find the causes of nepotism, bribery and corruption in tender practises in the two selected municipalities of the Amathole District and the factors that lead to delayed payments in the tender practises and further makes recommendations on how to eliminate such factors. The study used a mixed method approach research methodology which is a combination of qualitative and quantitative methods and included the two municipalities from the Amathole District Municipality, the Buffalo City Metropolitan Municipality and Nkonkobe Municipality and used questionnaires and an interview to collect data.

Findings drawn from the study is that in both municipalities there is non-compliance with the rules stipulated in the legislation that concerns tenders and supply chain management. The process of paying contractors and SMME's requires a lot of documentation which results in the process to be long and time consuming. The study then recommends that a background check must be done, increase in human capital, employment of skilled labour, reviewing of the tender process and development of small business must be done in order to address findings and aims of the study.

CHAPTER ONE

RESEARCH PROBLEM

1.1 Introduction

Van der waldt (2007:204) writes that municipalities in South Africa are at the forefront of development and development requires the provision of goods and services to satisfy the needs of communities. To deliver world class services to communities, municipalities, to some extent, depend on external suppliers such as contractors that have been awarded tenders. Even where most goods and services are provided internally, there is a need for municipalities to procure goods and services externally to support service delivery. Therefore it is important for municipalities to develop a clear strategy on how the externally provided resources are to be procured and how these goods and services are selected, acquired and managed. Municipalities therefore need to develop a procurement and asset disposal system that will enable them to provide goods and services. The process of managing such systems is known as supply chain management.

Moeti (2007:123) notes; "Diverse and plentiful inputs are needed by government before the provision of goods and services to the people can take place. These inputs include, among other things, office space, office furniture, office equipment, stationery and salaries of government workers". All of these inputs with the exception of salaries may be acquired through procurement, the purchasing of goods and services by government from the private sector. Moeti (2007:123) further argues that two management decisions must be made prior to the decision to purchase goods and services. First the management must attach weight to the benefits and costs of producing the desired goods in-house and compare this to the benefits and costs of procuring the desire goods and services through private commercial vendors. Secondly, as the tendering process is a lengthy and complex one, it is not feasible to purchase everything needed by government through tendering.

According to Gildenhuis (2004:325) calling for tenders for the supply of goods and services is standard procedure in the public sector. Legislation compels government

to call for tenders before buying any goods and services. Only in exceptional cases such as emergencies or sole suppliers is government allowed to buy goods and services without first calling for tenders. The objectives of this tender calling policy are to avoid irregularities in the purchasing of goods and services and to enjoy the advantages of competition amongst suppliers. Competition amongst suppliers ensures high quality goods and services at reasonable prices. Any government should be careful not to exclude itself from the advantages offered by a specific supplier of goods and services. A good government should not reject, to its disadvantage a tender from a supplier with a good service record in favour of a tender from an unknown supplier with no record of accomplishment, in other words the lowest tender should not always be accepted.

The process of issuing tenders to contractors has been compromised with fraud and corruption. Fraud in the sense that the officials responsible for issuing tenders give tenders to their friends and relatives, who are not even capable of doing the required job. This results in public finances being spent poorly (Mabula, 2012). For instance, in the Department of Human Settlements, this has resulted in poor quality houses being built. The houses are of poor quality in the sense that they leak when it rains and they are easily damaged by floods. This study, therefore, seeks to find the major causes of fraud corruption in which public servants award tenders to contractors that do not qualify as specified by legislation and delayed payments in tender practices where the winning bidder will be required a lot and the process being long and how such causes can be eliminated.

1.2 Background of the study

Under the legislated system of racial segregation known as apartheid, from 1948 to 1994, all South Africans were classified according to race as White, Coloured, Indian or Black. The best areas, schools and jobs were reserved for Whites, the worst were provided to Blacks, while facilities for Coloureds and Indians were marginally better than those for Blacks. When the new, non-racial government came to power in 1994 under Nelson Mandela, it received a mandate to redress the wrongs of the past. The Broad Based Black Economic Empowerment (BBBEE) procurement policy that governs the procurement of goods and services by the South African state today is

the result of policies and legislation introduced over the past 18 years (Townsend, 2012).

The Amathole District Municipality found on the south eastern seaboard of South Africa was established after the first transformed local government system and the concomittant elections in December 2000. The district stretches from the Indian Ocean coastline in the south to the Amathole Mountains in the north, and from Mbolompo Point in the east to the Great Fish River in the west. The district lies at heart of the Eastern Cape Province, and is presently home to 1.7 million people. The economy of the district is dominated by Buffalo City, which comprises the coastal city of East London as well as King Williams Town and Mdantsane, with the provincial administrative capital at Bisho. The district has eight local municipalities each containing at least one urban service centre. The study focused mainly on the Buffalo City Metropolitan Municipality and the Nkonkobe Municipality so as to determine if there is any difference in their tender practises since the other one is a metropolitan .(<http://led.co.za/municipality/amathole-district-municipality>).

Buffalo city is a metropolitan municipality situated in the east Coast of Eastern Cape Province. It includes towns such as East London, Bisho and King Williams Town, as well as the largest townships of Mdantsane and Zwelitsha. The municipality was established as a local municipality in 2000 after South Africa's recognition of municipal areas and is named after Buffalo River, at whose mouth lies the river pot in South Africa. The municipality has a population of about 724 306 (www.buffalocity.gov) . Nkonkobe is an administrative area in the Amathole District of the Eastern Cape. The municipality is named after the Winterberg mountain range, Nkonkobe in isiXhosa. The seat, as well as most offices of the municipality are found in Fort Beaufort but the Council's chambers in Alice are generally used for council meetings. Other towns served by the municipality are Seymour, Balfour, Hogsback and Middeldrift. The municipality has a population of about 128 664 (www.nkonkobe.gov.za).

The Amathole District Municipality has a Supply Chain Management (SCM) Policy (<http://www.amathole.gov.za/files/documents/010910140335.pdf>) which seeks to promote an innovative form of targeted procurement which will encourage socio-economic transformation within its region. The Supply Chain Management process

assists Black Economic Empowerment by providing a structure, setting procurement targets for the municipality and for heads of departments, giving advice to those who submit tenders and conducting regular workshops. One of its main functions is to manage the tender processes of the municipality and possible procurement risks by verifying and scrutinising the information in tenders and from service providers.

According to Cameron and Stone (1995:67) all spheres of government often use private contractors and suppliers to perform certain services such as building roads or providing stationery. Section 187 of the 1993 Constitution of South Africa deals with the procurement of goods and services at any sphere of government. Section 217 of the 1996 Constitution as amended provides that, 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. In accordance with the Constitution as amended, the Eastern Cape enacted the Provincial Tender Board Act 2 of 1994. This Act established a Board and charged it with the tendering and procurement business of the provincial government. Although there are existing laws in respect of tenders, a major cause of corruption has been tender irregularities. For example, tendering is supposed to be secret, in the sense that competitors should not know what their rivals' bids are, otherwise they will undercut it. Unfortunately the confidentiality of the tendering process has not always been maintained. There have also been examples of public officials being bribed to accept tenders (Botha,2012).

1.3 Statement of the problem

The Amathole District Municipality (hereafter referred to as ADM) has the SCM policy which is to be a guidance on how tender practises should be undertaken but still the tender process is slow and not transparent, which causes the process of settling invoices to take months, potentially destroying small businesses (Mabula,2012). According to an article that was published by *News24*, the process has also been hindered by scandals, with revelations of senior government officials and their families benefiting from well-paying government business (Sapa, 2012). The research problem focused on two core issues that hamper the effectiveness of

the tender process in the two selected municipalities of ADM. These are tender fraud and delayed payments on the two selected municipalities.

1.4 Research questions

In addressing the statement problem of this study the following questions were formulated in order to assist to realize the main issues that hamper the effectiveness of the tender process in the Buffalo City Metropolitan Municipality and Nkonkobe Municipality:-

- a) What are the causes of nepotism, bribery and corruption in tender practices?
- b) What are the factors that lead to delayed payments in the tender process?
- c) What perceptions and concerns do stakeholders and business people have about the methods employed by the two selected municipalities regarding the tender process?

1.5 Research objectives

The research sought to investigate the following in addressing the research questions of the study in order for the study to be able to address the two core issues that hamper the effectiveness of tender practices:

- a) Causes of nepotism, bribery and corruption in tender practices.
- b) Factors that lead to delayed payments in the tender practices.
- c) Perceptions and concerns of stakeholders and business people on the methods employed by the two selected municipalities in the tender process.
- d) Findings and recommendations to which nepotism, bribery, corruption and delayed payments could be eliminated.

1.6 Significance of the study

Municipalities are at the heart of the development process in South Africa. Through its grassroots links, infrastructure investment programmes, local economic development strategies, partnerships with the private sector and integrated development plans, the local sphere of government is the public service agency best able to have a direct and enduring impact on the lives of its citizens. Municipalities have a duty to create job opportunities for their citizens, and fair tender practices are one of the important ways to achieve this. However, this is difficult for municipalities to achieve because many fraudulent activities as well as nepotism occur in the tender process.

This study is important because it has explored some of the challenges in the tender process and made recommendations based on the findings. Where possible the findings will help the municipalities overcome challenges in the tendering process and enable them identify their weaknesses. Dissertations have been done to identify the exact causes of fraud and delayed payments in the process, but little has been achieved yet. This study makes suggestions for overcoming the challenges of tender fraud and delayed payments in the tender process.

1.7 Limitations of the study

The study found that identifying the major causes of nepotism in tender practises was a sensitive undertaking because the senior officials would not give as much information as required because of the fear that they were being investigated. Other senior officials felt that they were being accused of committing such fraudulent activities and, as such, were unwilling to divulge information. Because the study focused mainly on the effectiveness tender process, only officials within the supply chain unit of the municipalities were interviewed which resulted in a small sample for the study. Also, one of the factors that limited the study was the fact that the topic was a sensitive one which resulted in people's reluctance to participate. This made it necessary to use more questionnaires than interviews. Appointments for the interviews were also arranged earlier by means of telephone calls and personal contact and interviews were scheduled to take 30 minutes of the respondent's time but unfortunately due to unforeseen circumstances, the researcher managed to have

the interview with the Compliance Manager from BCMM on behalf of the municipal manager.

1.8 Delimitations of the study

Because of financial and time constraints, it was not possible to conduct the study on the entire Amathole District Municipality. Only two municipalities, the, Nkonkobe Municipality and the Buffalo City Metropolitan Municipality were selected for study.

1.9 Ethical considerations

McNeil and Chapman (2005:12) write that research can have a very powerful impact on people's lives. The researcher must always think very carefully about the impact of the research and he or she ought to behave in such a manner that no harm is done to the subjects of the research or to society in general. In other words, ethics or moral principles must guide research. The word ethical means conduct that is in accordance with the principles that are considered correct, especially those of a given group. It is important to seek permission from participants and their expressed willingness and informed consent to make them aware of the type of information the researcher wants (Kumar, 2005:258). The study was conducted according to the code of ethics prescribed by the University of Fort Hare Ethics Policy 2011. In this study, ethical issues such as confidentiality, informed consent, voluntary participation were strictly observed and adhered to, for the purpose of avoiding harm to the respondents. The dignity of all people involved in the study was protected. Privacy, anonymity and confidentiality were strictly observed, guaranteed and protected, as they were not expected to reveal their names or any personal information that would have identify them as respondents in this study.

1.10 Outline of the study

Chapter one provides an introduction and a background to the study. It also provides the problem statement which is found in section 1.3 of this chapter, research questions found in section 1.4, objectives found in section 1.5, significance found in section 1.6, delimitations of the study found in section 1.8 and ethical considerations (see section 1.9 of this chapter).

Chapter two provides the conceptual framework which describes concepts such as Public administration, Public Finance Management, Public Procurement, Supply Chain Management, tender practise and tender process and how they are different, nepotism, fraud and corruption. The theoretical framework of the study includes the bureaucracy theory of Max Weber and how it has been criticised by other scholars which ultimately led to the formation of the New Public Management concept and the chapter further provides the legislative framework for supply chain management, public procurement and the tender process which are the Constitution, Preferential Procurement Policy Framework Act (5 of 2000), State Tender Board Act 86 of 1968 (as amended by Act of 2003), State Tender Board Regulations, 1 July 1988, State Tender Board Conditions and Procedures, Prevention and Combating of Corruption Activities Act, 12 of 2004 and the significance of the legislative framework.

Chapter three outlines the qualitative and quantitative research design and methodology that has been used in the study, the target population and sampling size, and the methods that were used to gather information from the participants which are the questionnaires and interviews to collect primary data and published printed and electronic sources, government or semi government publications and earlier research to collect secondary data. It concludes by clarifying the data analysis techniques used.

Chapter four deals with data presentation, analysis and interpretation from the data collected from the questionnaires that were distributed and the interview that was conducted in terms of demographic representation. The data collected includes the causes of nepotism, bribery and corruption, factors that lead to delayed payment, stakeholder's and business people's perceptions and concerns on the methods employed by the municipalities.

Chapter five is the final chapter in which the researcher gives an overview of the study, the findings and recommendations thereof. Conclusion from the study comprise of the experience that the top management in municipalities have, non-compliance with the legislation by public servants, in denial of public servants by the fact that municipalities are comprised of nepotism, bribery and corruption, process followed in giving tender can be unfavourable to SMME's. The study further recommends background check, increase in human capital, employment of skilled labour, review of the tender process and the development of small businesses.

CHAPTER TWO

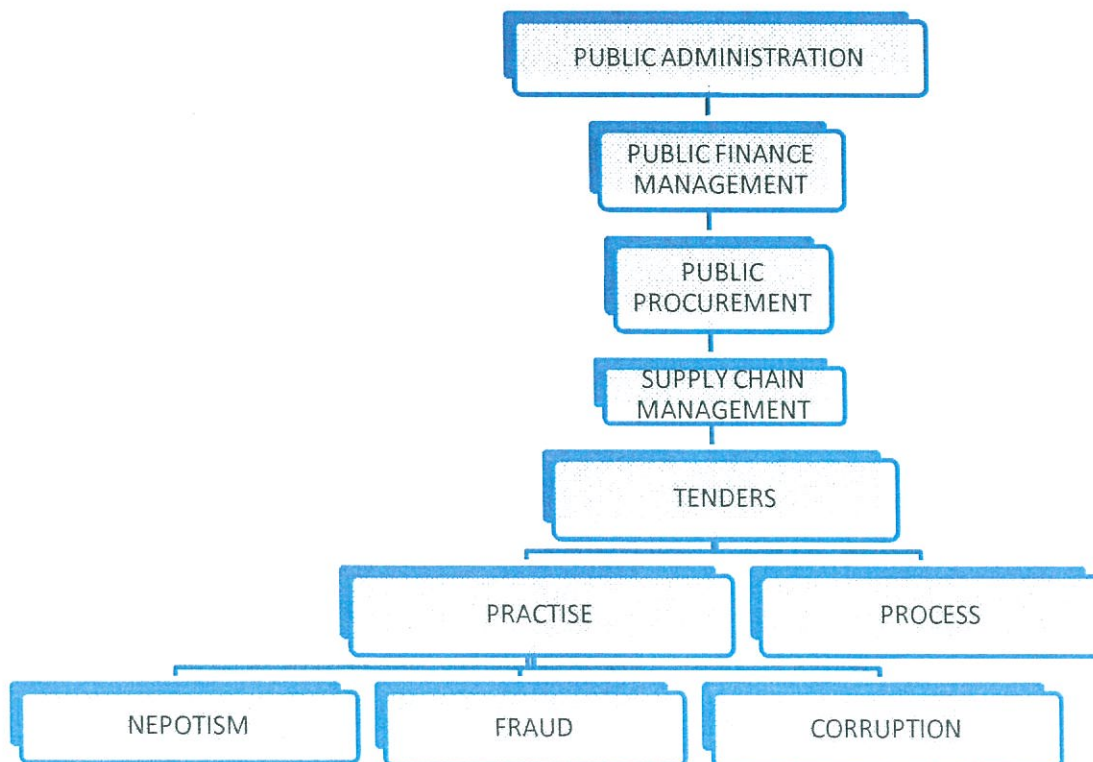
LITERATURE REVIEW

2.1 Introduction.

This chapter deals with the literature and begins by defining *Public Administration*, *Public Procurement*, *Supply Chain Management* and *Tendering*. By defining public administration the study provides how the research topic is related to Public Administration as a study and also provides the definitions of the other three concepts as to provide the reader with the better understanding of the concepts and how they link. The chapter further provides the bureaucracy theory and the New Public Management as to how they are best suited for the study and the legislative framework leading and guiding the study

2.2 Conceptual framework

FIGURE 1: Relationship between different concepts.



Source : Own design

To achieve the objectives of the study, the conceptual framework is provided in order to provide the reader of the study with a clear picture of how the different concepts link and why are they included as part of the study. *Figure 1* provides the relationship between the different concepts. It all starts with public administration as the field in which the study is based. Within public administration, public procurement is one of the functions of public administration which is an integral part of Public Finance Management a study that deals with purchasing which leads to supply chain management function. Supply chain management controls all the materials, funds and related information from the acquisition of raw materials to the delivery of finished products which mainly leads to tender process and tenders practise. Tender processes provide the activities and function that need to be taken to achieve the end result but when it comes to tender practice it is a different story that consists of fraud, corruption and nepotism. Tender practice in this regard refers to actual tender process being done in practicality.

2.2.1 Public administration

Fox, Schwella and Wissink (1987:34) as cited in du Toit *et al* (2002:5), define public administration as that system of structures and processes, operating within a particular society environment with the objective of facilitating the formulation of appropriate government policy and the efficient execution of the formulated policy. Public administration is a distinctive field of activity which consists of all the functions undertaken by officials in public institutions to provide the community with public services and goods (Cloete, 1997:1). In terms of its focus, the traditional approach in South Africa posits that the body of knowledge here referred to as public administration comprises of public institutions and their functions. If this is the case, public procurement is a critical function of public institutions and thus is conceptualised as an integral function of public finance management.

2.2.2 Public Finance Management (PFM)

Every public entity needs financial means to provide its services. Public Finance Management (hereafter referred to as PFM) systems regulate government finances from collecting revenue to allocating funds through the budgetary process, from utilising those funds by procuring goods and services to the auditing of public spending. PFM has an impact in every sector. Corruption in any of these aspects is

devastating for service provision and economic growth. According to Moeti (2007:40-41) public finance management deals with the management of the people's money which has been entrusted to government. It involves decision making on what financial resources are needed to implement governments programmes and projects, where to obtain these resources, how to collect and utilise the resources and how to control all the financial processes within the given frames. PFM is the process wherein a governmental unit or agency employs the means to obtain and allocate resources and money based on implied or articulated priorities and utilizes methods and controls to effectively achieve publicly determined goals (McKinney,2004:2). For the purpose of this study PFM may defined as the management of public finances in order to ensure better service delivery.

2.2.3 Public Procurement

Government organizations require not only money and personnel but they also need accommodation, furniture and all sorts of equipment, machinery and consumable stocks for executing line functions. They therefore need procurement services to support them in their demand for these physical resources. For du Toit *et al* (2002:202) procurement relates to the whole process of acquisition from third parties and covers goods, services and construction projects. This process encompasses the entire life cycle, from the initial concept and definition of business needs, to the life cycle, from the initial concept and definition of business needs to the end of functional life of an asset or the end of a service contract. Both conventionally funded and more innovative types of funded projects are included. This definition is more consistent with modern supply chain management practices and new trends in public procurement management. According to Arrowsmith (2000:182) public procurement is the process by which government departments or agencies purchase goods and services from the private sector. It takes place at both a national and regional level, and the process will usually be subject to specific rules and policies covering how the relevant decisions are made.

Winser, Tan and Leong (2008:66) argue that public procurement refers to the management of the purchasing and supply chain management function of the public sector such as local governments.

For this study public procurement refers to the process in which government departments' purchases goods and services from the private sector which is related to the supply chain management function. It is the management of the purchasing and supply chain management function of the public sector such as local governments. Although public procurement is subjected to political pressure and public scrutiny, the goals of public procurement are basically similar to the private sector. However public procurement is subjected to special rules and regulations that are established by local government.

The 2010-2011 Auditor General Report of the Eastern Cape (AGREC: 2011), shows an increase in the awards to employees and councillors or other state officials from 19% in 2009-2010 report to 53% in 2010-2011 and also an increase in uncompetitive or unfair procurement processes from 67% to 75%. The audit included an assessment of procurement processes, contract management and related controls. To ensure fair, equitable, transparent, competitive and cost effective supply chain management systems, the processes and controls need to comply with legislation and must minimise the likelihood of fraud, corruption, favouritism as well as unfair irregular practices. The assessment was performed at a total of 45 municipalities and 10 municipal entities. 97% of the irregular expenditure incurred by the Province was a result of contravention of SCM legislation which is as high as R1 540 million. The Constitution, MFMA and SCM Regulations prescribe the processes and rules to be followed by municipalities and municipal entities in order to safeguard the process against abuse. Details on the legislation not complied with are as follows:

- Written price quotations not obtained or quotation process not in accordance with legislation and deviations not approved, reasonable or justified. The required number of price quotations was not always obtained and the deviations were not always approved by a properly delegated official or committee. Cases were also noted where deviations were approved for obtaining less than the required number of price quotations even though it was not impractical or impossible to obtain the required number of quotations.
- Competitive bids not invited and deviations not approved, reasonable or justified. Instances were identified where competitive bidding processes were not followed and these deviations were not approved by appropriately delegated officials. Furthermore, deviations from the competitive bidding

process were approved even though it was not impractical or impossible to follow such a process.

- Preference points system not applied or not correctly applied. Procurement legislation requires awards to be adjudicated on the highest number of preference points. Preference points are calculated based on a combination of price and social requirements such as ownership by the historically disadvantaged individuals. Awards were not always based on the submission that scored the highest number of preference points.
- Procurement from suppliers without valid SARS tax clearance certificates. Awards were made to suppliers who failed to provide written proof that their tax matters were in order.

2.2.4 Supply Chain Management

Municipalities in South Africa are at the forefront of development and development requires the provision of goods and services to satisfy the needs of communities. It is therefore important for them to develop clear strategies on how the externally provided resources are to be procured that is how they are going to be selected, acquired and managed. Municipalities therefore need to develop a procurement system that will enable them to provide goods and services. The process of managing such a system is known as supply chain management (Van der Waldt,2007:205). According to Handfield & Nichols (1999:2) in Katzab (2000:220). Supply Chain Management encompasses all the activities associated with the flow and transformation of goods from raw material stage through to the end user as well as the associated information flows. Jacques and Luby (2004:8) define Supply Chain Management (hereafter referred to as SCM) as the management and control of all materials, funds and related information in the logistics process from the acquisition of raw materials to the delivery of finished products to the end user. The calling for tenders to secure supplies of goods and services is an integral part of SCM, as legislation compels public institutions to procure goods and services through this process. A thorough knowledge of the different phases of the tendering process and the accompanying procedures is, therefore, necessary to ensure that public officials procure goods and services timeously and according to their requirements. A Supply Chain Management manual is developed by municipalities, to provide an overview of

the procedure for the procurement of goods and services, through price quotations and competitive bidding which states that:

2.2.4.1 The Municipality must ensure that the tender process is fair, transparent and equitable and cost effective to all parties more specifically it will (www.durban.gov.za):

- a) Clearly separate its role as a purchaser from that of a provider of services;
- b) Produce tender documents, which clearly specify the municipality's required services to allow tenders to bid for and price their work accurately;
- c) Package work put to tender in a manner which encourages competition and the best outcome for residents and ratepayers;
- d) Actively discourage improper tendering practices such as collusion, misrepresentation, and disclosure of confidential information; and
- e) Require any conflict of interest to be disclosed immediately

2.2.4.2 Before commencing it is essential that the official leading the SCM has identified the need and fully assessed any options for meeting those needs (www.durban.gov.za).

2.2.4.3 Before undertaking SCM the official shall

- a) Consider all means of satisfying the need;
- b) Consult the SCM to ascertain whether there is an appropriate existing contract or list/panel of contractors/database list that should be used. If there is no existing contract and there is list inexistence, then the list must be used;
- c) Consider the design of the contract documents in consultation with the Head SCM;
- d) Choose a course of action which should represent best value for money to the municipality;
- e) Consult with users of the service;

f) Establish a written specification for the SCM requirement and seek approval by the Bid Specification Committee; and

h) Ensure that the tender documents are available (www.durban.gov.za).

According to a report by Auditor General on Amathole District Municipality during the financial year ending June 2011, the Municipality incurred irregular expenditure amounting to R546 23800 as the expenditure incurred was in contravention of the supply chain management process. Procurement and contract management awards were made to providers whose members were persons in the service of other state institutions in contravention of the SCM Regulation 44. Despite an adequate risk assessment process, the municipality did not respond to and adequately monitor the risks identified. As a result there were numerous instances of non-compliance with the MFMA, SCM Regulations and Municipal Planning and Performance Management Regulations thus the next topic looks at what Supply Chain Management Risk is.

2.2.5 Supply Chain Management Risk

Some of the irregularities in the supply chain management might be caused by the fact that the risks that may hinder the process are not considered. Colicchia & Strozzi (2012:403) state that few arrears of management interest have raised to prominence in recent years as rapidly as supply chain risk management. Supply chain risk is defined as the variation in the distribution of possible supply chain outcomes, their likelihood and their subjective values. This definition highlights the two dimensions characterising risk, *impact* and *likelihood* of the occurrence. The term risk and uncertainty are often used interchangeably even if they are not the same. Risk is something measurable while uncertainty is not quantifiable and the probabilities of the possible outcomes are not known. It relates to the situation in which there is a total absence of information or awareness of a potential event occurrence, irrespective of whether the outcome is positive or negative.

2.2.6 Tender

One of the key ways in which the public sector buys or procures goods and services is via a tender, a formal document which sets out the proposals and requirements of work to be done (Craythorne, 2003:67). A *tender* may be defined as an offer of

money or service in payment of an obligation. A written offer to contract goods or services at a specified cost or rate which is called a bid (Van der Waldt, 2007:86). The tendering process allows the buyer in this case, the public sector to set out their requirements and allows suppliers to submit offers to the tender, showing how they intend to meet those requirements. Calling for tenders for the supply of goods and services is standard procedure in the public sector. Legislation compels South African government to call for tenders before buying any goods and services. The term tender therefore in this paper comprises of the formality required by a service provider to tender for goods and services and the tendering process comprises of management to the buying of public goods and services.

For the purpose of this study a tender will be looked as a document which sets out requirements of work to be done and how such requirements will be met as one of the objectives of the study is to find out the factors that lead to delayed payments in tender practises and the process as a whole.

2.2.7 Tender Process

When an owner wants to obtain competitive pricing for a construction project, it issues a set of plans and specifications along with instructions to general contractors requesting that the general contractors submit a tender price to the owner to carry out the work. (Cushman, Carter, Gorman and Coppi, 2001:45) .In order to obtain a competitive price for the work, the general work procedures from various sub-trades, prices to perform certain portions of the work that the general contractor is not capable or desirous of performing. An error in the bidding process can give rise to multitude of potential claims both between the owner and the general contractor as well as between the contractor and its sub-contractors. For Seyoum (2000:145) tendering process begins with a purchaser of goods and services inviting potential suppliers for submission of tenders. However, with important projects, bidders are pre-qualified before submitting tenders to ensure that they satisfy the basic criteria that are critical for awarding the contract necessary technical qualification and compliance with local laws in submitting the bid. The invitation to submit bids is usually announced in newspapers, and this guarantees a fair, competitive and transparent tendering process and affords some protection against crime and corruption.

According to Cooke and Williams (1998:187) the process of tendering varies according to the procurement methods chosen by the client or advisors. The tender process is determined by the organisation requesting the tender, the organisation which for the purposes of this study will be the municipality determines the type of tender that will be used as well as what will be involved in the tender process. Request for the tender is prepared by the municipality which outlines what is required, the contractual requirements and how they should respond. Tenders are invited, the value, complexity and business category determine how tenders are invited. The suppliers then respond and should obtain all the relevant documentation. The notification and debriefing when a contract has been awarded takes place and the successful tenderer will be advised in writing of the outcome. Then the contracts will be established and managed.

For Gildenhuis (2010:604) the notice for tenders usually mentions the closing date as well as a closing hour for presenting tenders. Only tenders received on or before the closing date and hour should be considered. Late tenders should never be considered because this may lead to all kinds of irregularities and corruption. Official opening procedures should be prescribed in order to avoid any irregularities. Tenders should be opened in public and in the presence of all competing suppliers who wish to be present. Particulars of each tender should be announced in public and entered into an official tender register which should be kept for auditing purposes. After the awarding of the tenders, written contracts should be entered into between the government and the successful tender. Usually the tender documents and the official letter of acceptance awarding the contract serve the official written contract documents because all the conditions are contained in these documents (Gildenhuis, 2010:604).

2.2.8 Tendering methods

There are three types of tendering that municipalities can use when awarding tenders to bidders in order to get hold of goods and services, namely the open tendering, select tendering and negotiated tendering.

2.2.8.1 Open tendering

Open tendering is one of the methods that can be used to acquire goods and services in municipalities. According to Loosemore (2003:164) open tendering refers

to bidding without restriction. Any suitably qualified bidder may tender for the work. Open tendering is traditionally applied to public projects to ensure fair accountability of public funds and to avoid accusations of favouritism. But in recent years the reliance to open tendering by government clients has diminished while select tendering has gained prominence, for example many government departments and municipalities invite only a limited number of bidders for a tender. Mendoza (1999:481) writes that open tendering is a characteristic of many if not most public procurement system that is unrestricted competition with the selection based on the lowest price or lowest evaluated price as disclosed in advanced bidders. According to Ward (2008:118) open tendering gives transparency to the procurement process so that the whole process is open to public scrutiny. It is this aspect that is important to the public sector. Whereas selective reduces the overall effort involved and the whole process can be shortened.

2.2.8.2 Select tendering

Loosemore (2003:164) writes that as the name implies, select tendering is bidding by a limited number of bidders who are invited to tender. This system has succeeded on reducing the risk of failure of contractors and subcontractors. Contracts by public authorities can be better regulated across the industry. The continuity of work for contractors and subcontractors is improved. For Davenport (2009:37) select tendering refers to bidding by a restricted number of bidders who are invited to tender. It may be approached in two ways, as a single stage tendering or as two stage tendering. A single stage tendering select tendering implies that the principal will select a specific number of bidders who will then be invited to submit their tenders. In a two stage select tendering, the principal will first call for registration of interest from suitably qualified and experienced contractors, after which the principal will invite only a small number of the pre-qualified contractors to submit their tenders. Select tendering can be useful and effective method of tendering for municipalities as it bides only a limited number of bidders as compared to open tendering

2.2.8.3 Negotiated tendering

Municipalities can also choose to use negotiated tendering method. Tang *et al* (2003:41) argues the purpose of this method of selecting a contractor is to decide on acceptable tender after detailed discussions and meetings between the client and

the contractor. There are two ways in which this can be accomplished. First in cases where the scope of the work is uncertain the project has to start at the earliest possible date or the client which in this case will be a municipality will invite a few contractors to submit their proposals and then contractor will be selected after a few rounds of discussions and negotiations. These negotiations will mainly focus on the time, costs and quality aspects of the work. Second, there may be an initial round of competitive tendering and then two or three contractors may be invited by the clients for further negotiations on certain aspects of the project. Final selection will then be made after both parties agree to a mutually beneficial arrangement. According to Smith (2006:87) there are occasions when it would suit the client to dispense with the element of competition altogether and approach only one contractor who is considered to be most suitable under the circumstances and negotiate a price. Negotiation is preferred under the following circumstances:

- When a quick start is required. A contractor can be selected immediately and work can begin whilst the final design and costs are still to be formulated.
- There is an existing business relationship between two the parties which there can be negotiations in minimising the price of doing the project.
- In a continuation of a contract where the client envisages a new project very similar to the one recently completed and there was a good working relationship between the two parties the contractor may be invited for negotiations of the new project (Smith,2006:87).

2.2.9 Invitation of tenders

For Visser and Erasmus (2006:160) tenders are usually invited within the borders of the Republic of South Africa and advertised in the Government Tender Bulletin (GTB) that is published weekly. Provincial governments advertise their tenders in various Provincial Gazettes whilst municipalities use Tender Authorities unless the Board decides otherwise. The use of any other medium of advertising is left to departmental discretion and if occurring is supplementary to the GTB, and is for the account of the department concerned. If these advertisements appear simultaneously with those of the GTB, the information must correspond. All specifications are integral part of the tender invitation. Apart from advertising, tender documents are also sent to identify possible tenders and the departments are

required to provide the office with their particulars. The closing date, time of closure, validity period and address where the tenders must be deposited or posted must be indicated. The selected municipalities often use the newspapers and the internet to invite tenders.

2.2.10 Submissions and consideration of tenders

Tenders usually close at 11:00 am on the indicated date and to ensure consideration by the GTB, prospective tenders must submit their tenders by that time. Tenders where supplies are expected to be stocked in the republic close at least four weeks after the date of publication and in all other cases, five weeks after the date of publication. (Viser and Erasmus, 2006:170) .Tenders must be opened in public in the presence of at least two officers- immediately after the closure and no late tenders must be accepted. Also tenders received by facsimile, email or any other media are accepted and each tender must be given a mark of authenticity as proof of receipt prior to closure. A list of tenders received before the closing time then be drawn up and recorded. On request, the prices of civil, mechanical, electrical and building work tenders are disclosed at the time of opening, while only the name of the tender is revealed in other types. The submission and consideration of tenders is done in order to ensure the effectiveness of tender practises in municipalities. According to a tender advertisement at Buffalo City Municipality's website (*refer to Annexure 1, page 68*) the closing date and time was not specified in the advertisement which is a problem in the effectiveness of tender practises.

2.2.11 Tenders and contracting

Gildehuys (2000:188) notes the following concepts when it comes to tenders and contracting:

- a) Public tenders:** all potential suppliers are invited to tender by way of an official notice in the press.

- b) Limited public tenders:** these are also open invitation for tenders but the notice or the invitation to tender is placed only in a specific technical journal of a specific profession or specific industries specialising in the specific goods or services required.

c) Private tenders: the invitation to tender is limited to a small number of selected suppliers specialising in the specific goods or services.

d) Serial contracts: a series of contract is awarded to one contractor on the basis of a standard bill of quantity and specification for other projects to the same contractor, usually with same price adaptations.

e) Dividends contracts: contracts are awarded to various contractors for different parts of one project or for supplying various components of one final product.

f) Concessions: a right is granted to a contractor for supplying a service on behalf of the local government for fixed price.

Most of tenders that experience fraud and corruption are subcontracting companies. Subcontracting is key characteristic of construction. For up to ninety percent of the total value of construction project, sub-contractors supply labour and material and transform order related drawings and specifications into physical components of the facility.(Hartman & Caerteling, 2012:354-362). Selecting appropriate sub-contractors and managing sub-contractor relationships are essential to project performance but have somewhat surprisingly only received considerable attention in construction in the recent years. Partnering arrangements and integration throughout the construction supply chain often presumes that price based tendering and trusts based procurement is commonly exclusive.

2.2.12 Tender practices

Governments usually have to go through a tendering process in which they advertise for tenders, then study the tender submissions and then make an official decision as to which tender has succeeded and has been contracted to conduct the public works required. However, in most cases the practise is troubled by fraud and corruption which in other cases results in irregular tenders being awarded the contract. Cooke and Williams (1998:180) define irregular tenders as tenders that do not meet the qualitative selection criteria for instance failure to submit a certificate or document regarding the tenderer's personal situation, thus making it impossible to obtain additional information or clarifications or the requirements of the award criteria.

When talking of tender practises in the public sector organisational effectiveness is one of the important variables. Organizational efficiency is the concept of how effective an organization is in achieving the outcomes the organization intends to produce. According to Zammuto (1992:3) judgement of an organisational effectiveness serves an important social function in that they guide social behaviour in much the same way that individual judgement of performance guides individual behaviour. If an organisation is performing effectively it is meeting the demands of its constituencies in terms of what they define as desirable outcomes of performance. If the governments departments could be more effective fraud and corruption in tender practises could not occur thus service delivery will be improved.

Mention the subject of fraud and corruption in government and most people will immediately think of bribes paid, received or demanded for the award of tenders for goods and services. Whether this is really the most common form of public corruption is not certain but without doubt it is disturbingly widespread in most developing countries and South Africa is no exception (www.chilecompra.cl/index.php). Hardly a day goes by without the revelation of another major scandal where fraud has occurred in tender practices. It is a source of excessive waste of public funds. It has led to the dismissal of senior officials yet there is more talked about than acted upon. Taking these views in consideration, tender practises in this paper is conceptualised as those fraudulent and irregular tender practises as well as other governance prerequisites required in the tender process.

2.2.12.1 Corruption

The Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) provides a very specific legal definition of corruption. It can be summarised as where a person gives or offers to give someone in a position of power something, to use that power, illegally and unfairly, to the advantage of a third person. That person would be guilty of the same crime if he or she accepts the offer or the gratification to wrongly use his position. According to an article of the Star Newspaper by Omphitlhetse Mooki on the 13 of December 2012, the recent corruption perception index, which placed South Africa among the world's most corrupt countries, highlighted gross inadequacies of punishments meted out to tender fraudsters and corrupt government officials. A senior researcher at law firm *Edward Nathan*

Sonnenbergs (hereafter referred to as ENS) said that failure to take stringent measures against public servants found guilty of dabbling in corrupt activities such as influencing tender processes had harmed the country's corruption status. The absence of notable convictions under the Public Finance Management Act (1 of 1999) and the Municipal Finance Management Act (56 of 2003) has raised concerns that incidences of corruption, bribery of public officials, kickbacks in public procurement and the embezzlement of public funds have skyrocketed and that efforts to stem the growth have been ineffective. A recent forensic investigation that ENS conducted into the construction of 23 000 pit latrines in the Eastern Cape had uncovered widespread corruption, bribery, kickbacks and the embezzlement of public funds. The investigation also uncovered deviation from the supply chain management policy and inconsistencies in the assessment of proposals. Major construction contracts were irregularly awarded to companies that did not meet standards (www.iol.co.za).

2.2.12.2 Nepotism

According to Lewis and Gilman (2012:72) nepotism is the practice among those with power or influence of favouring relatives or friends, especially by giving them jobs and giving unfair advantages to your own family if you are in a position of power, especially by giving jobs and in this case refers to giving tenders. For the purposes of this research, nepotism is conceptualised as comprising firstly, use of influence or position to garner undue advantage to personal interests (friend, family or own) in tender process and awarding tenders without following the constitutionally correct procedure. According to the Herald newspaper articles on the 17th of August 2012 by Michael Kimberly, Eastern Cape civil servants and their close family scored R1 billion on government tenders during the past financial year. Auditor -General Terence Nombembe made the shocking findings in the 2010/2011 provincial outcome for the Eastern Cape. Legislation does not prohibit officials or family members from securing tenders. But Nombembe found civil servants and their family members often flouted supply chain regulations to scoop government contracts. In six departments, suppliers cashed R891 million. These were irregularly awarded as no declarations of interest were made. They involved spouses, officials and family members. The report, which paints a widespread picture of profiteering and abuse of public money was released to the Eastern Cape Legislature in Bisho. Nombembe

warned the pilfering of public money is getting worse in the Eastern Cape. Evidence gathered by the auditor –general found 637 tenders were awarded to civil servants totalling R924-million. In these, 169 officials were found to be moonlighting with contacts worth R70 million. An additional R55-million was channelled to spouses or family members (www.revz.co.za/phpBB3).

2.2.12.3 Bribery

Gurria (2009:16) define bribery as a specific form of corruption that can be defined as voluntarily giving of something of value to influence performance of official duty either by doing something improper or failing to do something they should do within the authority of their position. Bribery has a very high cost to the public at large. The execution of bribery will lead to substandard performance that means cheaper materials, leaner cement mix, and execution below specification reducing the life expectancy of the project or requiring higher maintenance expenditures. The Mail and Guardian on the 27th of February 2012 published an article about five high ranking government officials that have been arrested after an investigation into fraud and corruption involving R11-million. Five high-ranking government officials in the Eastern Cape and Johannesburg have been arrested after an investigation into fraud and corruption involving R11-million (www.mg.co.za/index.php).

2.3 Theoretical framework.

The study focuses on bureaucracy theory of Max Weber and how it has been criticized. These critics spurred a number of alternative responses to the bureaucracy theory which ultimately led to the New Public Management theory. These two theoretical angles to the study and practice of Public Administration comprise the theoretical framework for this study.

Max Weber was a German sociologist, philosopher and a political economist. He came up with term of bureaucracy which is referred to the power or influence of the heads and staff of government. It is a system of administration so marked by its officialism, red tape and fixed rules and procedures that it sometimes seems to exist for maintenance of the bureaucracy (Hanekom and Thornhill, 1995:117). One of the characteristics of Max Weber's theory of bureaucracy is labour divided by skills and authority and responsibility defined by law and administrative regulation. If the entire

organization was managed by rules, then top management could be sure that the organization would be controlled by their decisions. Top management could be sure that no uninformed judgement was introduced into the operation to make things inconsistent (<http://www.bustingbureaucracy.com/excerpts/redtape.htm>).

It is public knowledge as published in the newspapers and seen on news on the television that there are weaknesses in supply chain processes in the public institutions in the Eastern Cape (George:2013). This newspaper article follows startling revelations by another newspaper article in 2012 (Basson:2012) that Public Works had renovated Presidents Jacob Zuma's Nkandla home at a cost totalling over R200-million. Government functionaries such as the South African Public Works Minister seem to suggest that the weaknesses in government are around the tenders relating to leases and construction. "The main challenge facing his department was that it was run by administrators instead of artisans and project managers. The top executive could decide how things would be done and forever after they would be done that way (Nxesi, 2013). Consistency seemed desirable because the world prior to the industrial revolution was marked by inconsistency. People were discriminated against because of class, education, race, religion or creed. People were given advantages because of wealth, class or education. In a world where people were treated very differently from one another, consistency must have seemed very desirable. Max Weber believes that there are many advantages of using a bureaucratic means of organization, including maximum efficiency, precision in the execution of decisions and functions, stability overtime, high levels of predictability, ease of disciplinary control and an overall greater level of applicability to broader range of tasks (Ritzer,2005:72).

2.3.1 Characteristics of bureaucracy

The bureaucracy theory of Max Weber has a number of characteristics which are as follows:

- a) According to Stillman (2010:54) there is a principle of fixed and official jurisdiction areas, which are generally ordered by rules that is, by laws or administrative regulations. The regular activities required for the purpose of bureaucratically governed structure are distributed in a fixed way as official duties.

- b) The authority to give commands required for the discharge of these duties is distributed in a stable way and is strictly delimited by rules concerning the coercive mean, physical sacerdotal or otherwise which may be placed at the disposal of officials (Stillman, 2010:54).
- c) Methodical provision is made for the regular and continuous fulfilment of these duties and for the execution of the corresponding rights; only persons who have the generally regulated qualifications to serve are employed.

2.3.2 Six major principles of bureaucracy

The bureaucracy theory has principles that can be applied by a municipality in order address the problem of delayed payments in tenders (www.bustingbureaucracy.com).

a) A formal hierarchical structure

Each level controls the level below and is controlled by the level above. A formal hierarchy is the basis of central planning and centralized decision making.

b) Management by rules

Controlling by rules allows decisions made at high levels to be executed consistently by all lower levels.

c) Organization by functional specialty

Work is to be done by specialists, and people are organized into units based on the type of work they do or skills they have.

d) An "up-focused" or "in-focused" mission

If the mission is described as "up-focused," then the organization's purpose is to serve the stockholders, the board, or whatever agency empowered it. If the mission is to serve the organization itself, and those within it, e.g., to produce high profits, to gain market share, or to produce a cash stream, then the mission is described as "in-focused."

e) Purposely impersonal

The idea is to treat all employees equally and customers equally, and not be influenced by individual differences.

f) Employment based on technical qualifications

There may also be protection from arbitrary dismissal. The bureaucratic form has another attribute (www.bustingbureaucracy.com).

2.3.3 Negatives and critiques of the bureaucracy theory.

The Max Weber's theory has been criticised by other authors. Critics of Weber's theory argue that it is characterised by anti-humanist overtones. According to Thompson Notes, Weber is not attentive to the character of the human organism. He gives little attention to the interests, prejudices and fears of an individual as a social being and ignores the social, psychological influences on the behaviour of the people in organizations (Naidu, 1996:85). In this case, each department has its own agenda, and departments don't cooperate to help other departments get the job done. These critiques led to the development of new approaches to the study and practice of Public Administration. Some of these range from human relations approach from scholars like George Elton Mayo to behaviourist like Abraham Maslow and Chester Barnard. However from the 1980s, there was a growing movement towards a public management that is in line with a changing world. This is discussed in detail below.

2.3.4 New Public Management

New Public Management is one of concepts that has shaped how government and municipalities operate at present by out-sourcing services and making the functions of supply chain management significant and essential. Public administration as an academic discipline is changing rapidly under the impact of globalisation, the changing ideology of government and the resultant changes in the agenda of public administration in all parts of the globe (Basu, 2004:39). As the world of administration undergoes change, the discipline of public administration has to prepare for the changes to keep in tune with the changing times. The concept of new public management has entered the dictionary of public administration. For Hood

(1991) in Ferlie *et al* (1996:10) the new public management movement has been shaped by the emergence of body of theories which provide sophisticated ideas which enjoyed rising influence throughout the 1980's by cutting back on wasteful government by splitting up collusive systems and provider cartels, introducing external regulation, downsizing and contracting out and providing stronger incentives for performance. It emphasises the role of public agencies in adopting private sector techniques in providing high quality services to citizens and advocates managerial autonomy in public management (Basu, 2004:47).

2 .3.4.1 Tools of governance under the New Public Management

Government under New Public Management employs a variety of mechanisms for short term contracting in which people will be employed for a specified fixed period. This may assist in the problem of fraud and corruption that is prevailing in tender practises by employing those people who are found to be corrupt for limited period of time. According to Lane (2000:26), Some of the mechanisms are tournament, auctions and leasing.

a) Tournaments.

For Lane (2000:26) governments must be able to know how to run tournaments. Tournaments are all about tendering. Government must be able to tender correctly, otherwise the process would be illegal if it gives a contract to somebody without tournament, then immediately it has violated its own principles.

b) Auctions

Secondly, government uses auctions. If it has infrastructure, it simply auctions out the use of the lines e.g. public water company will only be a bidder for the infrastructure for instance for the lines, but the supplier can also be a private firm. If the water services are tendered and an outsider company wins, it takes over the water lines for a number of years, pays the government for their use and supplies the water. The local government employees then become employees of the outsider firm

c) Leasing

In order to retain say electricity distribution networks, the production and distribution are separated from the transmission. Anyone can use the nets and government does not favour its own productions or distribution company (Lane, 2000:26).

2.4 Legislative framework

A comprehensive and effective legislative framework is essential for the smooth operation of tender practises in municipalities and in the national government as a whole. Below is legislation that guides tender process:

2.4.1 The Constitution

The Constitution as the highest policy in the country, any legislation, policy or strategy must be in compliance and consistent with the Constitution. The principles of good governance must be applied.(Van der Waldt and Doyle, 2002:219). Chapter 10 of the Constitution of 1996 provides for basic values and principles governing public administration. According Section 195 (1)(b) of the Constitution efficient , economic and effective use resources must be promoted. Tender processes must be done in a manner which is fair, equitable, transparent, competitive and cost effective. Section 195(1)(i) of the Constitution 1996 provides that public administration must be broadly representative of the South Africa people, with employment and personnel management practises based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation. This means that preference in tendering should be given to people previously disadvantaged by unfair discrimination. The next section delves deeper into the legal framework that provides for preferential procurement in the South African public service (SA 1996:107).

2.4.2 The Preferential Procurement Policy Framework Act (5 of 2000)

The Preferential Procurement Policy Framework Act (5 of 2000) was passed in South Africa to evaluate the terms of tenders and tender practises. The preference point system introduced by the PPPFA is based on the definition of a Historically Disadvantaged Individual (HDI), any South African citizen who had no franchise in national elections prior to 1994, who is female, or who has a disability. What makes

the system fairly complicated is the fact that not all kinds of disadvantage receive the same number of points, and at present there is a proposal to remove HDI points from white females (www.l2b.co.za).

2.4.3 State Tender Board Act 86 of 1968 (as amended by Act of 2003)

This Act is established to provide for the regulation of the procurement of supplies and services, the disposal of movable property, the hiring and letting of anything, the acquisition or granting of any right or and on behalf of the State, and to establish a state tender board and to define their functions. (Van de Waldt and Doyle,2002:219). The minister of finance has in terms of Section 13 of the State Tender Board Act,1968 (Act no. 86 of 1968) amended Regulation 2 of the State Tender Board Regulations that were published in Government Gazette no.11382 dated July 1988. In terms of this Act the Board may approve any function of government department whereby any power conferred upon the Board by the Act has been exercised. If the Board is of opinion that a person has failed to sign a contract or to provide security within the period stipulated in the conditions of tender or such extended period as the Board may allow when required to do so or has failed to comply with any of the conditions of an agreement or performs or has performed unsatisfactorily the Board can take the necessary measures. If a person has concluded an agreement, has promised, offered or given a bribe or has acted in respect thereof in a fraudulent manner in bad faith or in any other improper manner, the Board may in addition to any other legal remedies it may have resolve that no offer from the person concerned should be considered during such period as the Board may stipulate.

2.4.4 State Tender Board regulations, 1 July 1988

Van der Waldt and Doyle (2002:219) write that subject to the provisions of another act of Parliament, supplies and services for and behalf of the State, the hiring and the letting of anything or the acquisition or the granting of any right for and behalf of the State and the disposal of movable State property may be procured, arranged or disposed of only through the auspices of the State Tender Board. It is important to note that the State Tender Board only sets procedural policies for public sector procurement and that socio economic policies are still set by government. An amendment to Regulations issued in terms of the State Tender Board Act, 1968, (Act No. 86 of 1968), has also been promulgated today in the Government Gazette.

Where before, the Regulations required that procurement of all goods and services must be done only through the State Tender Board, the amended Regulations now allow for accounting officers of national departments to procure goods and services either through the State Tender Board or alternatively in terms of the Public Finance Management Act, No. 1 of 1999 (as amended by Act 29 of 1999) (PFMA).

2.4.5 State Tender Board General Conditions and Procedures.

This document sets out all the general conditions and procedures with regard to tenders, contracts and orders by the State Tender Board. (Van der Waldt and Doyle, 2002:219). These general conditions and procedures have been laid down by the Board and they apply to all tenders, contracts and orders unless otherwise decided by the Board. They have been laid down to cover specific supplies or services. Where special conditions and procedures are in conflict with these general conditions and procedures, the special conditions or procedures shall apply. In terms of these conditions and procedures every written acceptance of a tender shall be posted to the tenderer or contractor concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in tender or the address notified by writing, and such posting shall be deemed to be proper service of such notice.

2.4.6 Prevention and Combating of Corrupt Activities Act, 12 of 2004.

Another piece of legislation of importance for tendering is the Prevention and Combating of Corrupt Activities Act, 12 of 2004. According to this law, both the person who offers a bribe and the official who accepts the bribe are guilty of the offence of corruption. The bribing of foreign public officials is also a crime under this law, as is the offering of inducements for the awarding of a tender. The maximum sentence that can be imposed by a High Court for the offence of corruption is life imprisonment or a fine. Once a person is found guilty of such an offence, his or her details are to be entered in the Register for Tender Defaulters (which is established by the Minister of Finance within the National Treasury). This registry is open to the public, municipalities and government departments in order to prevent those listed in the register from tendering in the future (www.sita.co.za).

2.4.7 Local Government Municipal Finance Management Act 56 of 2003

According to the Local Government Municipal Finance Management Act 56 of 2003 each municipality and each municipal entity must have and implement a supply chain management policy which gives effect to the provisions as found in Section 111 of the Act. Section 112 of the Act provides that the supply chain management policy must be equitable, fair, transparent, competitive and cost effective and comply with a regulatory framework for municipal supply chain management which must cover the range of supply chain management processes that municipalities and municipal entities may use including tenders, quotations, auctions and other types of competitive bidding. It must also cover the open and transparent pre-qualification processes for tenders or other bids, the barring of persons from participating in tendering or other bidding processes including people who were convicted for fraud or corruption during the past five years and who wilfully neglected or failed to comply with a government contract.

2.4.8 Construction Industry Development Board Act 38 of 2000

Municipalities in most cases award tenders to contractors. The registration of contractors is regulated by the Construction Industry Development Board Act 38 of 2000 which provides for the establishment of the Construction Industry Development Board and for the implementation of an integrated strategy for the reconstruction, growth and development of the construction industry (McKenzie, 2009:155). The Construction Industry Development Board must within the first three years of its establishment, establish a national register of contractors, which categorises contractors in a manner that facilitates public sector procurement and promotes contractor development. The register of contractors is developed to support risk management in the tendering process, reduce administrative burden associated with the burden associated with the award of contracts, reduce tendering costs to both parties and contractors (www.cidb.org.za). According to the Construction Industry Development Board Act 38 of 2000 the register of contractors enables effective access by the emerging sector to work and development opportunity, assesses the performance of contractors, regulate the behaviour and promote minimum standards and best practice of contractors. The register provides and stores data on the size

and distribution of contractors operating within the industry and the volume, nature, performance and development of contractors and target group in order to enable access by the private sector procurement (www.cidb.org.za).

2.4.9 Promotion of Administrative Justice Act 3 of 2000.

Promotion of Administrative Justice Act 3 of 2000 gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative actions as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996 which provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair (www.justice.gov.za). According to Strydom (2009:228) the principles of the entrenched right to just administrative action are encapsulated in the Promotion of Administrative Justice Act 3 of 2000. As a general rule, the principles of just administrative action apply to all administrative actions. The purpose of this Act is to regulate or govern the actions of administration and to ensure good administrative practice, by laying down the minimum procedural requirements related to just decision making.

2.4.10 Broad Based Black Economic Empowerment Act No 53 of 2003

The purpose of broad based black economic empowerment is to promote effective participation of black people in the economy in order achieve substantial change in the racial composition of ownership and Management of existing and new enterprises (Okorafor, 2009:1). According to the Broad Based Black Economic Empowerment Act No 53 of 2003, Broad Based Black Economic Empowerment means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio economic strategies that include preferential procurement and investment in enterprises that are owned or managed by black people (www.environment.gov.za). The study makes use of this act as to determine whether it has an influence in the tenders that are awarded by municipalities to black people and whether the principles of this Act are applied by municipalities.

2.4.11 Supply chain management policy

According to Craythorne (2006:347) each municipality and each municipal entity must in terms of Section 112 of Act 56 of 2003 have and implement a supply chain management policy which gives effect to those provisions of the Act dealing with the purchase and sale of goods and services. The supply chain management policy must comply with the prescribed framework. The supply chain management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive and cost effective and comply with a prescribed regulatory framework for municipal supply chain management, which must cover at least the following:

- a) The range of supply chain management processes that municipalities and municipal entities may use, including tenders, quotations, auctions and other type of competitive bidding.
- b) When a municipality may or must use a particular type of process as well as the procedure and mechanisms for each type of process.
- c) Procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount.
- d) Open and transparent pre-qualification process for tenders or other bids.
- e) Bid documentation, advertising and invitation for contracts.
- f) Procedures and mechanisms for the opening, registering and recording of bids in the presence of interested persons, the evaluation of bids to ensure best value for money, negotiating the final terms of contract and the approval of bids.
- g) Screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value.
- h) Compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders or bids.
- i) Participation in the supply chain management system of persons who are officials of the municipality subject to the prohibition of councillors serving on tender committees.

As disclosed in 2008/2009 Annual report, the Amathole District Municipality incurred irregular expenditure of R16, 34 million during the year under review relating to expenditure on contracts in excess of amounts awarded through the approved supply chain management policy. In addition, irregular expenditure of R7,53 million reported in 2007-08 audit report has not yet been written off or recovered as at the date of this report and research. (www.amathole.gov.za).

2.4.12 Five pillars of procurement for Amathole District Municipality Supply Chain Management Policy

The Amathole District Municipality Supply Chain Management Policy 2010/11 has five pillars of procurement which guide the procurement activities of the municipality which are the value for money, open and effective competition, ethics and fair dealing, accountability and reporting and equity which are all meant to strengthen the tender process (www.amathole.gov.za). These pillars are discussed below:

2.4.12.1 Value for money

The term value for money includes the monetary value as well as quality and the utilisation of the procurement system to achieve government's policy objectives. Due consideration, however, be given to the quality of goods required, the time needed to administrate the process and cost effectiveness of the ensuing contracts. This is an essential test against which a municipality or municipal entity must justify procurement outcome (www.amathole.gov.za).

2.4.12.2 Open and effective competition

The public sector procurement requires the following (www.amathole.gov.za):

- a) A framework of procurement laws, policies, practices and procedures that is transparent; in other words they must be readily accessible to all parties;
- b) Openness in the procurement process;
- c) Encouragement of effective competition through procurement methods suited to market circumstances; and
- d) Observance of the provisions of the PPPFA.

2.4.12.3 Ethics and fair dealing

All parties involved in procurement should comply with the following ethical standard:

- a) Deal with each other on a basis of mutual trust and respect.
- b) Conduct their business in a fair and reasonable manner and with integrity.

2.4.12.4 Accountability and reporting

This 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 (www.amathole.gov.za).

2.4.12.5 Equity

The word equity in the context of the five pillars of public sector procurement means the application and observance of government policies that are designed to advance persons or categories of persons disadvantaged by unfair discrimination. This fifth pillar is vital for this study and to public sector procurement in South Africa. It ensures that Government and municipalities are committed to economic growth by implementing measures to support the industry in general. No public procurement system should be operated if it is not founded on this pillar (www.amathole.gov.za).

2.4.13 Significance of legislative framework

One of the objectives of this study is to find the causes of nepotism, bribery and corruption in tender practises. The Prevention and Combating of Corrupt Activities Act 12 of 2004 states that both the person who gives and accept a bribe are guilty of the offence of corruption and the Act is clear as to what happens to the people that have been found guilty. But that has not stopped public servants from committing tender fraud as the Act was passed in 2004 but still today in the newspapers there are articles about public officials accepting fraud and tenders being given to people who do not meet the requirements or have not followed the necessary process as required by the Supply Chain Management Policy and the State Tender Board

General Conditions and Procedures. Thus the study will in Chapter 5 provide recommendations as to what can be done to deal and combat tender fraud activities.

2.5 Conclusion

The South African procurement and supply chain management legislative framework aims at creating the basis for viable local government, making individual municipalities responsible for the delivery of services that the public expect and ensure that taxpayers receive value for money. In order to deliver public services, municipalities will from time to time engage suitable service providers to conduct business on their behalf or to deliver certain goods and services. It is for this reason that municipalities should have sound procurement procedures and systems to deal with issues pertaining to the purchasing and acquiring of goods and other services.

The chapter discussed the different concepts that are important for the sake of the study with regards to tender practises. It has provided how tenders practices come from public administration as a study and how the whole tender process ends up being interfered by fraud and corruption and also provided the theoretical framework and legislative framework of the study. The next chapter deals with the research methodology of the study.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter deals with research methodology of the study in order to provide a detailed description of the methods that have been used to collect data. The study is based on both on qualitative and quantitative methods. Qualitative data describes the nature of answers in terms of their verbal written, word, or other descriptive nature (Laws *et. al*, 2003:458). It is concerned with collecting in-depth data about human social experiences and contexts. Quantitative data on the other hand is expressed in numerical form. Quantitative research is concerned with the collection of data in the form of various measures and indices and its description and analysis by means of statistical methods (Laws *et. al*,2003:458).

This chapter presents the research methods used in the study. It outlines the research approach, target population chosen, sample and tools used to collect data. It also seeks to outline why such methods were deemed appropriate for the study. The chapter concludes by outlining how the collected data was analysed and by highlighting what will be covered in the next chapter (Chapter 4).

3.2 Research design

According to Kumar (2005:84) a research design is a plan, structure and strategy of investigation conceived to obtain answers to research questions or problems. The plan is the complete scheme or program of the research. It includes an outline of what the investigator will do from writing the hypotheses and other operational implications to the final analysis of data. Kumar (2005:84) further provides that a research design is a procedural plan that is adopted by researchers to answer questions validly, objectively, accurately and economically. This study is a descriptive study and has made use of the mixed method approach. It is descriptive because it involves observing and describing the behaviour of the subject without changing it in any way, as the title of the study indicates that the study assesses the effectiveness of tender practises in municipal supply chain management. Osborne (2008:125) writes that mixed methods research is grounded in the discussion that in

order to estimate the relative contributions of trait and method variance, more than one trait as well as more than one method must be employed. In combining methods, it is imperative that methods be chosen that will enhance each other, balancing strengths and weaknesses. Mixed method involves the analysis of both qualitative and quantitative data in a single study in which the data collected is given priority and involves the integration of the data at one or more stages in the process of research (Devaus, 2006:253).

3.2.1 Qualitative research method

According to Brynard and Hanekom (2006:8) qualitative research refers to research that produces descriptive data, generally the participant's own written or spoken words pertaining to their perception. Usually no numbers or counts are assigned to these observations, only the words. Qualitative research is concerned with collecting and analysing information in as many forms, in non-numeric form as possible. Welman, Kruger and Mitchell (2005:213) are of the view that words are "fatter than numbers" and usually have the multiple meaning. Words render more meaning than a set of numbers should be used through the entire data analysis. In this study the data was solicited through open-ended question items on the self-administered questionnaires and the interview conducted. McBurney and White (2007:52) state that qualitative research concerns the questions that are typically asked by the research. It is a non-experimental researcher. For Hantrais and Mangen (2007:20-21) qualitative research is not simply non-numerical. Its central defence lies in its ability to penetrate the experiential social worlds of intentional, self-directing actors, whether through the spoken or written word. The strengths of qualitative approach lie in attempts to reconcile complexity, detail and context. Critical of protagonist is the integration of reflexivity which means the ability of researchers to take stock of their actions and their role in the research process. Qualitative research is typically used to answer questions about the complex nature of phenomena often with the purpose of describing and understanding the phenomena from the participant's point of view.

In achieving the objectives of this study qualitative research method is useful in order to have a better understanding of respondents in terms of their own perceptions and concerns on the methods employed by the two municipalities within the Amathole District Municipality with regards to tender processes and the extent to

which they feel that nepotism, bribery, corruption and delayed payments can be eliminated.

3.2.2 Quantitative research method

According to Bless and Higson (2002:86) quantitative research method uses quantifying data to record aspects of society. It makes collected data to be reduced to some numerical representation of what is being measured. In this approach the raw data will be reorganized into a form which is suitable and will be presented in a chart or graph interpreted to give meaning or results. Blaxter *et al* (2006:64) define quantitative data as empirical research where the data is in the form of numbers. In this quantitative approach the researcher utilized questionnaires, in which closed ended questions were graphically analysed.

For this study quantitative research method is used to get information in terms age, gender, ethnic group, marital status and highest qualification obtained from the respondents.

3.3 Target population

According to Hardman & Hart (1996:254) a population refers to all constituents of any clearly described group of people, events, or objects who for research purposes are designed as being the focus of an investigation. Welman (2005:52) defines population as the study object and consists of individuals, groups, organisations, human products and events or the condition to which they are exposed. A research problem therefore relates to a specific population and the population encompasses the total collection of all units of analysis about which the researcher wishes to make specific conclusions. A population is the full set of cases from which a sample is taken. A research population is generally a large collection of individuals or objects that is the main focus of a scientific query. It is for the benefit of the population that research is done. However due to the large sizes of the population, research population often cannot test every individual in population because it will be expensive and time consuming.

Figure 2: Municipalities within Amathole District Municipality and their populations.

No	Municipality	Population
1.	Minquma	287 770
2.	Mbhashe	253 378
3.	Amahlathi	139 038
4.	Nkonkobe	128 664
5.	Ngqushwa	84 235
6.	Buffalo City	724 306
7.	Great Kei	44 452
8.	Nxuba	24 834

Source: www.amathole.gov.za

The study includes two municipalities from the Amathole District Municipality, the Buffalo City Metropolitan Municipality and Nkonkobe Municipality. The target population of this study are senior managers of the two municipalities in Amathole District Municipality, senior officials in the supply chain management of the municipalities, public procurement officials, contractors who receive tenders, ward councillors of the municipality and the residents within the municipalities.

3.4 Sampling and sampling methods

Brynard and Hanekom (2006:54) write that a sample is a technique employed to select a small group with a view of determining the characteristics of a large group. Kumar (2005:144) asserts that sampling is the process of selecting a few cases from a bigger group to become the basis for estimating or predicting the prevalence of an unknown piece of information, situation or outcome regarding the bigger group, in other words a subgroup of the population in which a researcher is interested in. To select the sample, a non-probability sampling procedure is used. According to De Vos, Strydom, Founche and Delport (2005:201) non-probability sampling is a sampling procedure whereby the odds of selecting a particular individual are known to the researcher because one does not know population size of the members. In this research, the non-probability sampling techniques was used, specifically, purposive/judgemental sampling and snowball sampling. The objective of choosing a sampling procedure is to select a sample that is representative of the population

from which they are drawn. The population for sampling of this study consists of twenty (20) respondents, the municipal manager of Nkonkobe Municipality and Buffalo City Metropolitan Municipality, six (6) senior officials in the supply chain management of the municipality, eight (8) supply chain departmental officials and four (4) contractors who have received tenders from the two municipalities. Because the study focuses mainly on the effectiveness tender process, only officials within the Supply Chain unit of the municipalities were used hence the small sample.

3.5 Data collection techniques

Data collection is a form of collecting information from various sources. This can be done through a number of instruments. In this study, two sources of data will be used that is, primary and secondary sources of data. Layder (1993:54) identifies a number of instruments that can be used to gather data, among these are interviews, documentary analysis, intake forms, questionnaires and surveys and attendance records. In this study, questionnaires and interviews were used to gather and triangulate data from the respondents. Data-collection techniques allows one to systematically collect information about objects of study be it people, objects, phenomena and about the settings in which they occur. According to Thomas (2003:57) when people speak of research methods they often refer to processes and instruments used for gathering information. Three important processes are content analysis, observations and interviews. Three important instruments are factual questionnaires, inventories and tests used in this study.

3.5.1 Primary data sources

Primary data sources are the sources that are used to collect information that has been collected straight from the source and the study is going to use questionnaires and interviews to collect the primary data.

Questionnaires

According to Kumar (2005:126) a questionnaire is a method used for collecting data by means of written questions which calls for responses on the part of the respondent. Thomas (2003:66) defines the word questionnaire as typically used in a very general sense to mean any printed set of questions that participants in a survey or research are asked to answer either by checking one choice from among several

possible answers listed beneath a question or by writing out an answer. Questionnaires were used for collecting two principal types of information that respondents are equipped to furnish facts and opinions. Opinions are expressions of attitudes or preferences. According to Czaja (2005:18) the types of information one need to collect from respondents and how best to elicit that information are two key decisions that must be made early in the research. One needs to know whether one will be asking many open ended questions or mostly closed ended questions. In open ended questionnaires respondents answer in their own words. In closed ended questions respondents choose from a list of provided responses. One should consider whether one will be asking attitude, knowledge or behaviour questions and determine what type of demographic information one needs because these decisions can affect our choice of data collection method. "An important strength of questionnaires is that they enable a researcher to collect a large quantity of data in a relatively short period of time."(Thomas, 2003:69). In addition, the researcher need not be present at the time the information is provided and data can be collected from people in distant places if the questionnaires are sent by regular mail or over the internet.

The questions in the questionnaire used were open questions because they allow the respondents to insert their own views, ideas or suggestions about the questions posed. Questionnaires were sent out which have sections for respondents to give detailed answers. In this study structured self-administered questionnaires were designed by the researcher and completed by the targeted respondents which include the following:

- Supply Chain Management accounts officials
- Managers of contracts and risk management
- Manager of construction
- Contractors
- Chief Financial Officer

Interviews

An interview is a conversation between two or more people where questions are asked to obtain information from the interviewee. Bless, Higson -Smith and Kagee

(2006:98) explains that the interview is a method in which interviewer obtains responses from a subject in a face -to-face encounter or through a telephone call or electronic means. Face to face interviews were used in this study. According to Brink (1996:158-159) structured interviews are formalized so that all respondents hear the same questions in the same order and in the same manner.

The Oxford Dictionary defines interviews as a conversation between two or more people where questions are asked by the interviewer to obtain information from the interviewee. Denscombe (2007: 87) provides that structured interviews involve tight control over the format of the questions and answers. In essence, the structured interview is like a questionnaire which is administered face to face with a respondent. The researcher has a predetermined list of questions, to which the respondent is invited to offer limited option responses.

The structured interviews with municipal managers and supply chain officials was designed to provide qualitative information about the municipal plans. A short interview was arranged with the municipal managers and supply chain officials in the selected municipalities in Buffalo City Metropolitan Municipality and Nkonkobe Municipality. Appointments for the interviews were arranged earlier by means of telephone calls and personal contact and interviews were scheduled to take 30 minutes of the respondent's time but unfortunately due to unforeseen circumstances, the researcher managed to have the interview with the Compliance Manager from BCMM on behalf of the municipal manager.

3.5.2 Secondary data sources

Secondary data sources are sources that have been used collect data that already exist and have been collected from somewhere else. In this study the following methods were used to collect secondary data:

Published printed and electronic sources

Published printed sources include books, journals or periodicals and newspapers and magazines. Published electronic sources include e-journals, websites and weblogs. The researcher made use of both sources and the printed sources provided insight of how much work has been done on the topic and also helped with the literature review.

Government or semi-government publications

Government and semi-government publications such as Publication of Tender Documentation are an useful method for collecting secondary data on a regular basis in a variety of areas in the form of publications, statistics registration, labour force surveys, reports, economic forecasts and demographic information. This study made use of government publications which provide information about tender practises.

Earlier research

For some topics an enormous number of research studies that have already been done by others can provide you with the required information. The study made use of research work which has made by others regarding tender practises in Buffalo City Municipality and Nkonkobe Municipality as found in the University of Fort hare library in order to not to provide findings which have not been useful.

Table 1: Sampling and data collection techniques.

Sampling	Sample size	Data collection technique
Municipal manager	2	Interview
Chief financial officer	1	Questionnaires
Manager of SCM accounts	2	Interviews
Manager of contracts and risk management	1	Questionnaire
SCM departmental officials	8	Questionnaires
Manager of construction	2	Questionnaire
Contractors	4	Questionnaires
TOTAL	20	

Source : Own design

3.6 Data analysis

Vithal and Jansen (2006:27) write that after having collected the data from the field, the purpose of data analysis is to make sense of accumulated information. Data

analyses is conceptualised as an ongoing process that follows data collection. This analysis is conducted so that the researcher can detect consistent pattern with the data, such as two variables (Bless and Smith, 2000:147). Scanning and cleaning data which requires the researcher to prepare the raw data, checking for incomplete, inaccurate, inconsistent or irrelevant data and identifying preliminary trends in the scanned data to facilitate the organisation of the data into meaningful chunks. The second step is organising the data which allows the researcher to make sense of the information by arranging it in a manageable form. And the third step is representing the data in different ways. Often provides meaningful summaries of large amounts of data. Qualitative data is whereby the data is in the form of words and is usually based on interpretative philosophy that is aimed at examining meaningful and symbolic content of qualitative data (Maree, 2007:99). On the other hand quantitative is where by the data are in the form of numbers. In analysis the data the next step is to display it therefore display technique will be used in this study. Kumar (2005:248) states that the main purpose of using data display techniques is to make the findings clear and easily understood.

The study made use of text, tabular and graphs to present both the qualitative and quantitative data .Three analysis were used, the discourse, comparative and swot analysis to analyse the data. The descriptive was used in order to offer a detailed description of the data collected. The comparative analysis was used in order to be able to comparison amongst response of the respondents and the Swot analysis was used in order to identify the strengths, weaknesses, opportunities and threats regarding tender practises. All of these analyses are presented in greater detail in Chapter 4 which deals with data presentation, analysis and interpretation (refer to Section 4.2 of Chapter of 4).

3.7 Ethical considerations

McNeil and Chapman (2005:12) write that a research can have a very powerful impact on people's lives. The researcher must always think very carefully about the impact of the research and he or she ought to behave so that no harm comes to the subject of research or to society in general. In other words, ethics or moral principles must guide research. Ethical means in accordance with the principles of conduct that are considered correct, especially those of a given group. It is important to seek

permission from participants and their expressed willingness and informed consent to make them aware of the type of information the researcher wants (Kumar, 2005:258). The study was abided by the code of ethics prescribed by the University of Fort Hare. Approval of permission to conduct research from the two municipalities was submitted and the ethical issues in this study such as confidentiality, informed consent, voluntary participation were strictly observed and adhered to, for the purpose of avoiding harm to the respondents (*see annexure 2 in page 74*). The dignity of all people involved in the study was protected. Privacy, anonymity and confidentiality was strictly observed, guaranteed and protected, as they were not expected to reveal their names or any personal information that may identify them as respondents in this study.

3.8 Conclusion

This chapter provided how the researcher went about getting information by using the qualitative research method in getting the participants ideas and views and quantitative research method where the details in the form of numbers in order to address the objectives of the study regarding the effectiveness of tender practises. The chapter also provided the techniques that have been used to collect data which include the interviews and questionnaires. An interview was done with the Compliance Manager from Buffalo City Metropolitan Municipality where findings are interpreted in Chapter Four (*see section 4.4.4 and 4.4.5*). It was also outlined how the data is analysed in Chapter 4 by the use of text, tabular and graphs. The next chapter presents analyses and interprets the information that has collected in this chapter.

CHAPTER FOUR

DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 Introduction

In this chapter data is presented, analysed and interpreted using the methodology mentioned in Chapter three. The purpose of data analysis and interpretation sought to transform the collected data in order to facilitate the achievement of the objectives of the study. The research sought to uncover the following:

1. Causes of nepotism, bribery and corruption in the tender process.
2. Factors that cause delayed payment in the tender process.
3. Stakeholders and business people perception and concerns on the methods employed by the two selected municipalities in the tender process.
4. The extent to which nepotism, bribery, corruption and delayed payments can be eliminated.

In order to assess the effectiveness of tender practices in municipal supply chain management in the two selected municipalities, namely, the Buffalo City Municipality and the Nkonkobe Municipality, both qualitative and quantitative methods were used to collect the data (*see Section 3.2.1 and 3.2.2 in Chapter 3*). Questionnaires and interviews were used, as indicated in the previous chapter, in order to achieve the objectives of the study.

4.2 Data Analysis

The researcher made use of questionnaires to collect data from respondents in Nkonkobe Municipality and Buffalo City Metropolitan Municipality. Table 2 in Section 4.2.1 provides a feedback form from the questionnaires that were distributed where below the table there is an explanation and analysis of what is in the table.

4.2.1 Questionnaires

Table 2: Feedback from questionnaires distributed.

Questionnaires distributed	Approached	Received	Percentage
Municipal manager	1	1	100%
Chief Financial Officer	1	1	100%
Manager SCM	2	1	50%
Manager of contracts and risk management	1	1	100%
SCM officials	8	5	62%
Manager of construction	2	1	50%
Contractors	4	4	100%
Total	19	14	73%

Source : Own design

Most of the data in the study were collected through the use of questionnaires rather than interviews. This was because questionnaires allowed respondents more time to think about the answers to the questions. Moreover a large number of respondents from the different selected municipalities were more accessible through the use of questionnaires. This is because, one observed disadvantage of using interviews was that many people were reluctant to commit themselves to telling the truth, especially on a topic that is so sensitive because it deals with fraud and corruption (refer to Section 1.7 of Chapter 1). As a result, the study opted to use more questionnaires than interviews, even in cases where interviews would have afforded deeper discussions. However, the researcher ensured that these were open questions which allowed respondents to insert their own views, ideas or suggestions about the questions posed and had sections for respondents to give detailed answers on the research questions.

From the information given in the table above on questionnaire feedback, it can be argued that the response from the respondents was above average from both Nkonkobe Municipality and Buffalo City Metropolitan Municipality. The table indicates that there was full co-operation from the Municipal Manager, Chief Financial Officer, Manager of contracts and risk management and contractors, who were approached with questionnaires. It is important to note that a short interview, which was arranged by means of telephone calls, was conducted with the Compliance Manager from Municipal Manager's office at the Buffalo City Municipality. The compliance manager was recommended by the municipal manager as the municipal manager himself was too busy to spare the 30 minutes for the interview

Out of the two (2) Supply Chain Managers that were approached one (1) responded who was from Nkonkobe Municipality to the questionnaires distributed. Five (5) out of the eight (8) supply chain officials who were approached responded and the five (5) constitutes three (3) officials from Nkonkobe Municipality and two (2) officials from Buffalo City Metropolitan Municipality, and one (1) out of two (2) managers of construction responded. As can be seen in the table above, in total, out of the nineteen (19) people who were approached, only fourteen (14) responded to the questionnaires distributed.

Because the study focused mainly on the effectiveness of the tender process, only officials within the Supply Chain unit of the municipalities were used, which produced a small sample. As a result, generalising the findings from this research will be difficult. However it was hoped that the research would reveal findings that would be useful for further research in this area.

4.2.2 Demographic representation

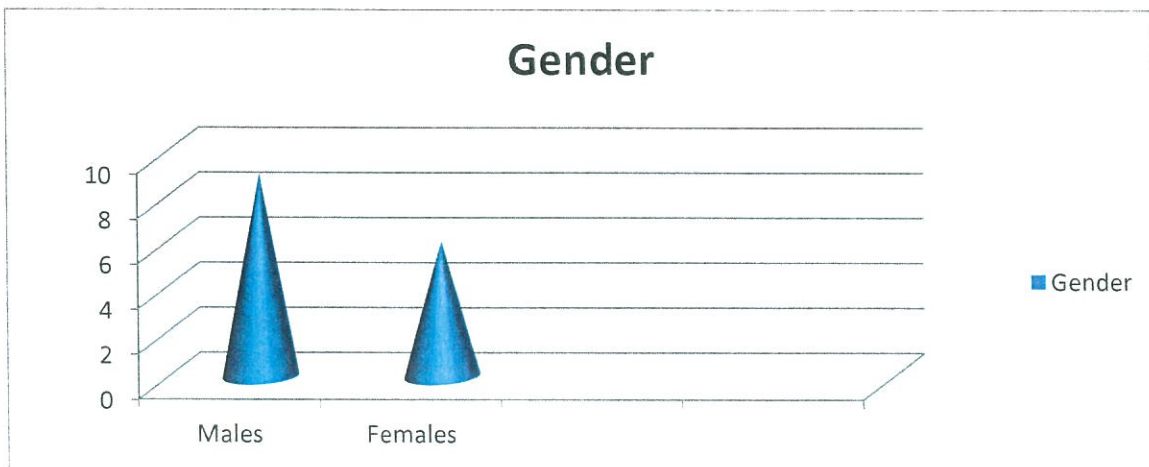
Table 3: Demographic representation

Respondent	Gender	Age	Ethnic Group	Highest Qualification
4 Contractors				
Contractor 1	Female	50-59	Black	Diploma
Contractor 2	Male	30-39	Black	Diploma
Contractor 3	Male	50-59	White	Matric
Contractor 4	Male	50-59	Black	Diploma
6 Municipal Officials				
Municipal Manager	Male	50-59	Black	Masters
Manager SCM	Male	40-49	Black	Masters
Manager of contracts and risk management	Female	40-49	Black	Diploma
Manager of construction	Male	40-49	Black	Diploma
Compliance Manager	Male	40-49	Black	Diploma
CFO	Male	50-59	Black	Masters
5 SCM Officials				
Official 1	Female	21-29	Black	Matric
Official 2	Female	21-29	White	Diploma
Official 3	Female	21-29	Coloured	Matric
Official 4	Female	30-39	Black	Diploma
Official 5	Male	21-29	Black	Diploma

Source: Own design

The demographic data on gender, age, ethnic group and highest qualification obtained of the respondents in the study are represented below. This was done to reveal some of the organisational dynamics affecting the effectiveness of tender practices. The study focused on the gender of the respondents to identify whether there was a gender bias to the problem. Also the study considered the age and race of respondents to identify whether there were patterns of behaviour that could be attributed to age or ethnic group. The last variable, which is also an important demographic is the highest qualification attained by respondents. The aim was to explore whether the process of tendering could be made more effective, simply based on the level of qualification and qualification types of respondents. As shown in table 3, there are SCM officials who only have matric as their highest qualification. This may have had implications for their level of performance at work. The majority of the contractors were black which meant that the aims of the BBBEE were being realised by the municipalities selected.

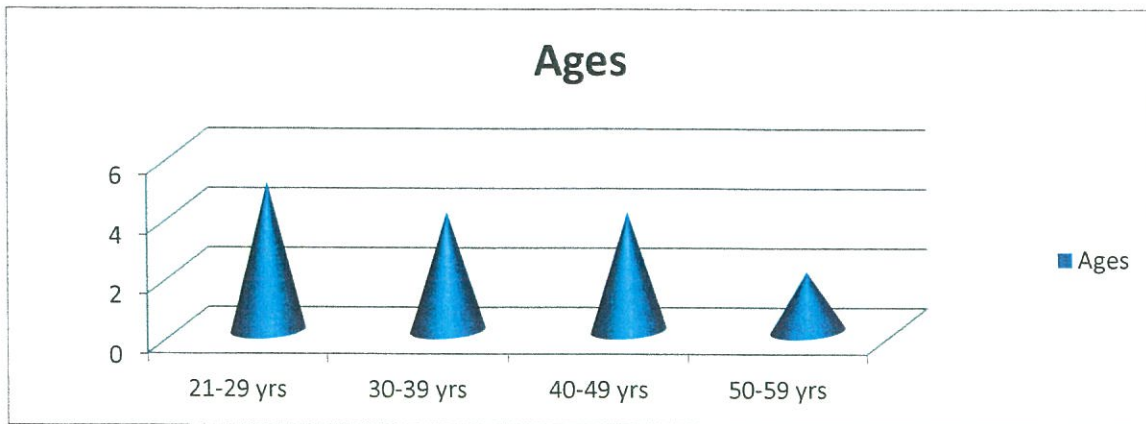
Figure 3: Gender representation



Source: Own design

As shown in figure 1, out of the fifteen (15) respondents who were approached and interviewed, nine (9) were male and six (6) were female. This means that males accounted for sixty percent (60%) and females forty percent (40%) of the sample.

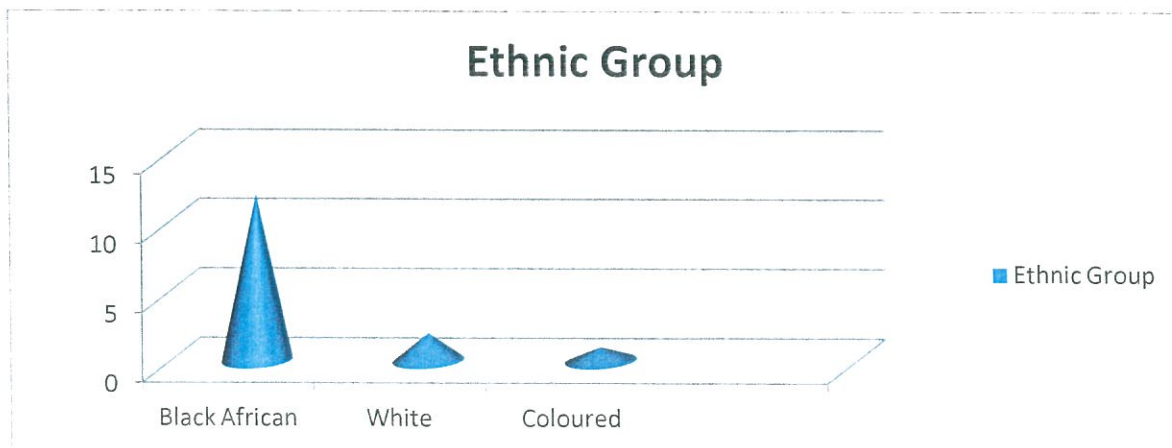
Figure 4: Age



Source: Own design

As shown in figure 2, five (5) respondents were between the ages of 21-29 yrs, four (4) between the ages 30-39 yrs, four (4) between the ages 40-49 yrs and two (2) respondents between the ages 50-59 years. This last group consisted of the contractors. This means that twenty six point six percent (26,6%) were between the ages of 21-29 yrs, thirteen point three percent (13,3%) between the ages 30-39 yrs, twenty six point six percent (26,6%) between the ages 40-49 yrs and thirty three point three percent (13,3%) between the ages of 50-59 yrs. The age representation in both municipalities was fairly evenly distributed as there were many young individuals between the ages of 21-29 years, who could contribute new and fresh ideas.

Figure 5: Ethnic group



Source: Own design

Figure 3 shows that there were 12 black Africans, 2 whites and 1 coloured which means eighty percent (80%) were black Africans, thirteen point three (13,3%) whites and six point seven percent (6,7%) coloureds.

Figure 6: Highest Qualification obtained



Source: Own design

The qualifications of the respondents ranged from matriculation to masters degree as the highest level. Nine (9) people had diplomas, three (3) had masters degrees and three (3) had matric qualifications. No one had a higher qualification than the masters degree. Respondents with diplomas accounted for sixty percent (60%), respondents with masters degrees accounted for the twenty percent (20%) and respondent with matriculation accounted for twenty percent (20%) (fig 6). The respondents with Masters Degrees included senior officials. One can argue that senior officials with higher degrees should have a better understanding of issues. .

The next section examines the main research issues investigated in this work and discusses the findings.

4.3 Causes of nepotism, bribery and corruption in the tender process

One of the objectives of the study is to find the causes of nepotism, bribery and corruption in tender practices (see Section 1.5 in Chapter 1). The points below deal with the facilitation of the tender process and the laws and policies that govern it in order find the main causes of nepotism, bribery and corruption in the process.

4.3.1 Facilitation of the tender process.

When asked who facilitated the tender process in the municipalities, all respondents from both municipalities identified the Supply Chain Manager. It is clear that the

SCM manager must ensure that the tender process is as efficient as possible and that he or she should be held liable for any non-compliance issues that may arise in the tender process within the municipality. The National Treasury Guide of the Republic of South Africa for Accounting Officers stipulates that Supply Chain Performance should be used to monitor the process, undertaking a retrospective analysis to determine whether the proper processes were followed and the desired objectives achieved. Some of the issues that may be reviewed are compliance with norms and standards, cost efficiency of SCM processes and whether supply chain practices are consistent with government's broader policy focus.

4.3.2 Laws or policies within the municipalities that govern the tender process.

In both municipalities, the respondents claimed that there are laws and policies that govern the tender process. The laws include Supply Management Policy, Preferential Procurement Policy Framework Act (Act 3 of 2000), Supply Chain Regulations of 2005, Construction Industry Development Board, Local Government Municipal Finance Management Act (Act 56 of 2003) and Broad Based Black Economic Empowerment initiative, all of which are explained in detail in Section 2.4 of Chapter Two of this study. These laws and policies are meant to ensure sound, sustainable and accountable supply chain management within the municipalities to ensure that all individuals are accountable for their actions and that systems are effective, efficient and transparent.

4.3.3 The tender process committees.

All the respondents at both the Buffalo City Metropolitan Municipality and Nkonkobe Municipality identified three Committees as dealing with the tender process. They are:

4.3.3.1 Bid specification Committee- bid specification details what is required from the suppliers or contractors and the materials to be used to do the required job. It also decides on the evaluation criteria to be used by the Evaluation Committee.

4.3.3.2 Bid evaluation Committee – this committee checks the information submitted by the bidders to ensure compliance with the bid specifications and the submission of all necessary documents.

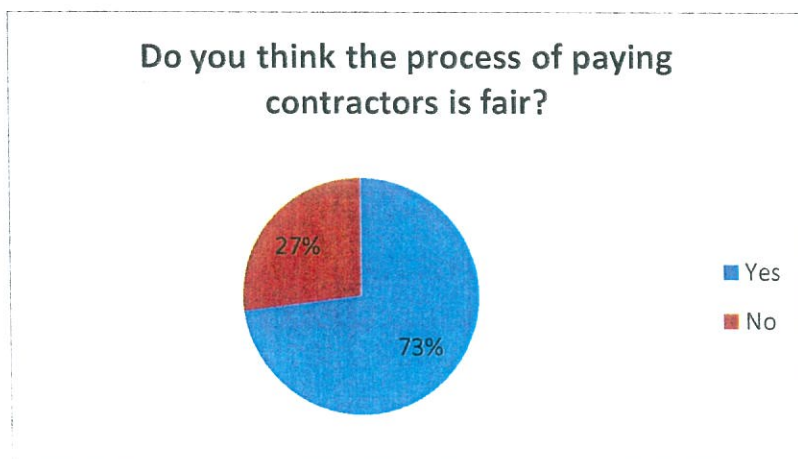
4.3.3.3 Bid adjudication Committee– awards tenders based on the information received from the Bid Evaluation Committee. Should there be any excluded bidders, the committee checks that valid reasons are provided and that the scoring has been done fairly and correctly. Sometimes the committee also checks whether the specifications that have been developed are subjective to others. It consists of four senior officials: the Chairperson, who in most cases is the Chief Financial Officer; the Vice-Chairperson, who is at director level’ the secretary and other members. Any tenders that are above R10 million are approved by Members of the Executive Council.

4.4 Factors that lead to delayed payment.

The study also sought to identify the factors that lead to delayed payments (see *Section 1.5 in Chapter 1*). It looked at the fairness of the process of paying contractors in order to find the factors that lead to delayed payment, challenges in the tender process and the effect of such challenges, meeting the requirements of the bid specification and the process followed in awarding tenders which may be the sources of such factors.

4.4.1 Fairness in the process of paying contractors

Figure 7: Fairness in the process of paying contractors.



For this question, there were different views. Seventy three percent (73%) felt that the process was fair while twenty three percent (23%) of all the respondents felt that it was not fair. The latter comprised contractors, who felt that the process was too long and required a lot from them. They also felt that the process was not fair, as the

law required the job to be completed before payment was made. They claimed that this system was disadvantageous for new small businesses, which may have the liquidity and capacity to complete the required job before being paid. On the other hand, the former which comprised the municipal officials, believed that the process was fair as contractors were paid on the basis of their quotations and invoices and the process did not take more than 30 days to happen. There was also what was called advance payment, where the contractors are paid in advance for bigger projects to enable them service their offices and sites with water and electricity. Looking at the different views from respondents from the municipalities suggests that the process of paying contractors was not fair to contractors mainly because of the procedures and steps that needed to be followed by supply chain officials in paying contractors.

4.4.2 Challenges within the tender process.

According to the views of the respondents, namely, the CFO of the Nkonkobe Municipality and the Manager of Construction in both municipalities, the Small, Medium and Micro Enterprises (SMME's) more often than not, did not manage their cash flows efficiently, as a result, a municipality would award a contract to a company only to realize later that the company was unable to deliver. This results in delays and a bad reputation for the municipality.

The contractors held the view that the process of tendering was highly complex and involved the submission of a lot of paperwork within a short period of time. There was also little help or guidance from seniors, which made it confusing. From the bidder's perspective, the challenges included unclear specifications and their inability to acquire skills and accreditation.

4.4.3 The effect of these challenges on service delivery

The municipal officials held the view that these challenges affected service delivery badly because the targets set by the municipalities were not achieved or were achieved late. In such cases, those who require the services are disappointed, which could be a violation of their rights; for instance, the right to decent houses. According to Section 26(1) of the Constitution of the Republic of South Africa, 1996 (as amended), everyone has the right to have access to adequate housing. According to

the Buffalo City Municipality Mid-term Report review of Municipal Performance (2010) Supply Chain Policy (Revised October 2009) time frames for tenders at the time, stood at 18 months with three committee systems of regulations: Internal Auditor, Auditor Committee and oversight politicians. The municipality is hampering service delivery by seeking compliance at every level, as too much compliance detracts from the work.

4.4.4 Meeting the requirements of bid specification

Project managers work closely with the service providers to ensure that everything is done well and to monitor performance during the implementation. The project manager verifies each payment and invoice. After the project is finished it must be inspected and certified before being handed over to the end user. According to the Compliance Manager at BCMM, *"project managers are responsible for checking whether the houses are in good condition if we are to talk about a tender for building houses and they are appointed by the municipality"* 25th of August 2013.

4.4.5 Process followed in awarding tenders.

SCM officials in both municipalities held the view that specifications were developed for service providers to enable them develop their quotations which were made available through the notice board, municipality website and newspapers. The advertisements were placed for 21 days and the service provider with the highest scoring points according to the specification was awarded the tender by the tender committee. The tender committee awarded tenders according to a report that was submitted to them which clearly specified the contract number and description in the heading of the report together with the introduction which set out the authority to invite tenders as well as a brief background to the tender. The report was also required to have a section on tenders received which set out the date the tenders were advertised and when they were opened. The Council was required to consider all tenders received. Officials preparing tender reports, therefore, had to consider and report on all tenders received. This did not mean that all tenders would be deemed responsive. The report was expected to indicate which tenders were being excluded from further consideration and to document the reasons for such exclusions.

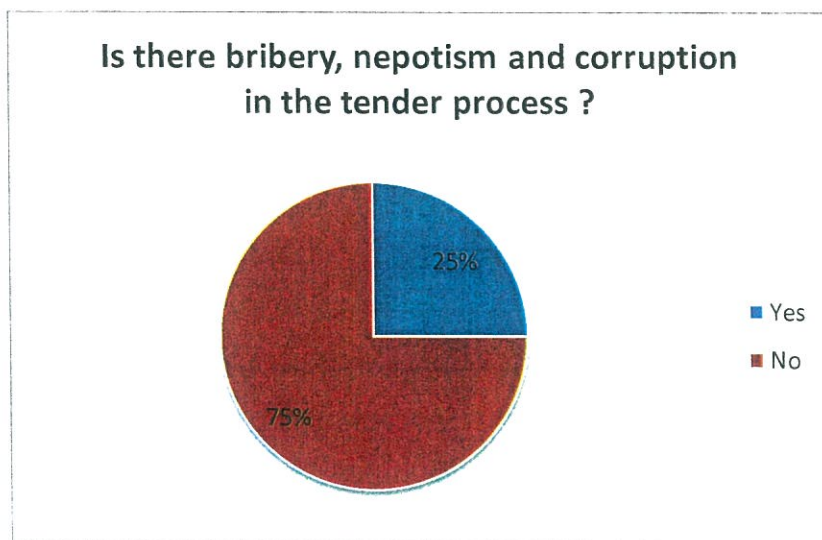
The Compliance Manager at BCMM, noted, “We look at the finances and the capacity of the bidder before the tender is awarded but that is all done as guided by Municipal Finance Management Act and the Supply Chain Management Act.”

4.5 Stakeholders’ and business people’s perceptions and concerns on the methods employed by the municipalities.

The last objective of the study is to consider the perceptions and concerns of stakeholders and business people on the methods employed by the municipality to check bribery, nepotism and corruption in the tender process.

4.5.1 Tender process and bribery, nepotism and corruption

Figure 8: Bribery, nepotism and corruption in the tender process.



Source: Own design

Twenty five percent (25%) of the business people, which in this case, are contractors who have been awarded tenders within the municipalities selected for the study, believes that the process is rife with nepotism, bribery and corruption while seventy five percent (75 %) does not. In terms of the key questions about the tender process and corruption, municipal officials in both municipalities were of the view that the tender process did not involve any nepotism, bribery or corruption. As noted by the official from the Supply Chain unit, “the Committees established eliminate any risks of irregular expenditure that can occur. The people serving in one Committee cannot

serve in another. For example, the people in the Evaluation Committee cannot serve on the Adjudication Committee”.

But this seemed not to be the case in practice. In the findings of the Auditor General in the audit that was done for the financial year that ended on the 30th of June 2012, irregular expenditure was one of the issues that resulted in the municipalities getting a qualified opinion. This was according to a report of the Chairperson of the Audit Committee at Buffalo City Metropolitan Municipality in which the irregular expenditure was caused by the lack of implementation of the municipality’s Supply Chain Management system. “In addition the municipality was unable to provide sufficient appropriate evidence to support their claim of compliance with the SCM requirements”, as quoted from the report (www.buffalocity.gov 12 September 2013).

4.6 Conclusion

The chapter has interpreted the data that was collected from both municipalities, namely, the Nkonkobe Municipality and the Buffalo City Municipality which are within the Amathole District Municipality. From the data collected it is quite evident that the Supply Chain Manager is responsible for the facilitation of the tender process. The tender process is governed by laws and policies in both municipalities. All the respondents at both municipalities identified three committees that are responsible for dealing with the tender process, namely the Bid Specification, Bid Evaluation and Bid Adjudication Committee. One of the factors that led to delayed payments according to contractors was the fact that they had to wait to up to 30 days before they are paid because of the strict measures used by municipalities. The process involves a lot of paperwork which needs to be submitted within a short period of time which at the end of the end of the day can affect how and when they do their work thus compromising service delivery.

The next chapter, Chapter 5 will summarise the study, conclude and make recommendations based on the objectives and findings from the data that have been collected.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In this chapter summarises the study, draws conclusions and makes recommendations will be made based on the findings from the data that were collected in Chapter four in order to address the objectives and research questions of the study.

5.2 Summary

According to the Public Finance Management Act (as amended by Act 29 of 1999) the accounting officer of a municipality must develop and implement, within the municipality, an effective and efficient supply chain management system for acquiring goods and services and for disposing and letting of government assets, including the disposal of goods that are no longer required by the municipality. It is important that municipalities align their supply chain management systems with their Integrated Development Plans.

Supply chain management is responsible for ensuring that the supply chain that promotes black empowerment and local economic development is sound and shows accountability and encourages small businesses as well as joint partnerships. According Section 195 (1)(b) of the Constitution, efficient, economic and effective use of resources must be promoted. Tender processes must occur in a manner which is fair, equitable, transparent, competitive and cost effective.

Governments including the South African government usually have to go through a tendering process in which they advertise for tenders, then study the tender submissions and then make an official decision on which tender has succeeded and has been contracted to conduct the public works required.

Section 217 of the 1996 Constitution provides that 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 (SA 1996:107).

The tender processes at municipalities is slow and not transparent which results in the process of settling invoices taking months, and potentially destroying small businesses. The research problem thus focuses on two core issues that hamper the effectiveness of the tender process. These are tender fraud and delayed payments. The research sought to find the following:

- i) Causes of nepotism, bribery and corruption in tender practices.
- ii) Factors that lead to delayed payments for tenders.
- iii) Stakeholders' and business people's perceptions and concerns on the methods employed by the two selected municipalities in the tender process.
- iv) The extent to which nepotism, bribery, corruption and delayed payments can be eliminated.

The study used a mixed method approach research methodology which is a combination of qualitative and quantitative methods (*see Section 3.2.1 and 3.2.2 in Chapter 3*). The study included two municipalities from the Amathole District Municipality, the Buffalo City Metropolitan Municipality and the Nkonkobe Municipality. The target population of this study was senior managers of the two selected municipalities, senior officials in the supply chain management of the municipalities, public procurement officials, contractors who received tenders, ward councillors of the municipality and the residents within the municipalities.

The population sample for this study consisted of twenty (20) respondents, the municipal managers of the Nkonkobe and Buffalo City Metropolitan Municipalities, six senior officials in the supply chain management of the municipalities, eight supply chain departmental officials and four contractors who have received tenders from the two municipalities but responses were only received from fifteen (15) respondents due to a lack of co-operation from municipal officials (*see Section 3.4 in Chapter 3*).

5.3 Conclusions drawn from the data collected.

- ❖ The people in top management in municipalities hold higher qualifications than their sub-ordinates in the supply chain unit which implies that they are more experienced have a better understanding of all the challenges that come with tender practices.
- ❖ There is a problem of non-compliance with laws and policies that are set by the national government. The committees that should ensure that the process goes smoothly have been put in place and are functional. These are the Bid Specifications, Bid Evaluations and Bid Adjudications committees and tenders are advertised publicly but there is still no full compliance.
- ❖ The majority of respondents from the two municipalities that were selected seemed to believe that the tender process is not comprised of nepotism, bribery and corruption. They consider the process effective. Only a few admitted that the process was built to be effective but there are still gaps within it that hamper the effectiveness of tender practices.
- ❖ The process that is being followed in giving tenders can be unfavourable to SMME's, as it requires the job to be completed before the contractors can be paid. However, it takes up to 3months for contractors to be paid by the municipality for the services that they have rendered, which may result in some contractors not being able to finish in time or at all.
- ❖ Both the municipalities that were selected for the study have predominantly black ethnic group members. Studies show that white managers are likely to be paid more than black managers which results in black managers accepting bribes to supplement their level of wages.
- ❖ It is clear that the tender process in municipal supply chain management still needs to be reviewed. According to the National Treasury's Local Government Revenue and Expenditure report for the period 1 July 2012 – 31 March 2013, supply chain management amongst other things is still one of the challenges that result in low performance of municipalities.
- ❖ The study selected two municipalities from the Amathole District Municipality, Nkonkobe Municipality and Buffalo City Metropolitan Municipality with the aim of finding out whether is there any difference in how they carry out their tender processes since one is metropolitan and the other is a local municipality.

From the data collected, there is no difference in how the process is done and the steps taken. The only difference is in the budget allocated and the number of people employed in the Supply Chain unit, for BCMM the budget is high and many officials are employed as they have a larger population as compared to Nkonkobe Municipality.

5.4 Recommendations

The recommendations are made on the basis of information from the findings in Chapter 4 in order to address some of the issues that have been concluded on as challenges towards the effectiveness of tender practises in municipal supply chain management

- Background check

A background check needs to be done before anyone can be given a tender because, in some instances, it has been found that one of the members of the company that has won the tender is related to an official in the municipality and others may have the reputation of not finishing contracts in the stipulated time. Municipalities need to be aware of such issues before awarding tenders. According to a Herald newspaper article by Phumzile Zuzile, published on the 15 of August 2013, more than 560 tenders worth more than R117 million were awarded to councillors, municipal officials and their families in the Eastern Cape, and BCMM employees benefited from 30 tenders worth R716000. And also the background check could assist in identifying those contractors that have been awarded tenders more than once. Provision needs to be made for first time contractors and companies in order to help them to grow and develop. This can help with the problem of tender fraud.

- Increasing human capital

The government should give more money to the municipalities for supply chain management, as a lot needs to be done for the job to be done well. This concern was raised by the municipal official respondents as one of the constraints that may lead to delayed payments because of the volume of work that needs to be done by one official. This would be a great investment by the government because, not only will the job be done well, but in addition, jobs will be created for

the unemployed; thus, eliminating the problem of unemployment that the South African government is faced with currently.

- Employment of skilled labour

The project managers and the people employed by the contractors should be skilled. For instance in the building of houses, project managers should know what it takes and the best materials to use for good quality houses at reasonable prices. Also the contractors need to make sure that they hire experienced people to prevent any state financial resources being wasted. In an interview with the manager at Buffalo City Municipality he raised the point that there are millions of rands that the municipality has put aside for the renovation of RDP houses that were incorrectly built in the area. This is the result of unskilled people building the houses.

- Reviewing of the tender process

Considering the points raised above, the process of awarding tenders needs to be reviewed so that, it can be user friendly to all: the municipal officials, contractors and the people who are to receive the goods and services. For instance the issue of taking up to 3 months to pay contractors may be fair to municipal officials but it is definitely not fair to small businesses. There is also a need for strict action should be taken against non-compliance to the policies that are in place. Also, the issue of the number of documents needed to apply for a tender, needs to be revisited, as it is time consuming for both the bidder and the people are involved in the process of awarding tenders.

- Developing small businesses

The government should play a big role in empowering small businesses and enterprises by means of workshops and training to enable them grow their businesses. In this way, the government will eliminate the risk of businesses getting involved in any fraudulent activities. This will also be an opportunity for job creation because, as businesses grow, more people are employed. Assisting Small Medium Micro Enterprises development and co-operatives with registering their businesses directing them to the relevant offices is one of the strategies that is found Nkonkobe Municipality Local Economic Development strategy and which is very important if it is done correctly.

- Review of some legislative framework

This recommendation is mainly directed to the Prevention and Combating of Corrupt Activities Act 12 of 2004 as it should provide what must happen to a public official that has been found committing tender fraud. The Act should put a severe punishment to such an extent that a public servant that has been found guilty of tender fraud should never be employed by government in any sphere or in any public institution. This can assist in solving the problem of corruption, nepotism and bribery in tendering process. The Acts should not only be in writing but should also be correctly applied to all those that have been found guilty of corrupt activities.

5.5 Conclusion

In addressing the issues that hamper the effectiveness of tender practises which are tender fraud and delayed payments the chapter summarised the findings which may then be the reasons for the process not to go well. The process is found to have loop holes that may be benefiting to the non-effectiveness of the process. The recommendations mentioned in this chapter which include a thorough background check, increased human capital, employment of skilled labour, reviewal of the tender process and developing small businesses may be quite useful in addressing the objectives of the study (*found in Section 1.5 of Chapter 1*), statement problem and the effectiveness of tender practises in municipalities.

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Annexure 2: Ethical Clearance Certificate



University of Fort Hare
Together in Excellence

ETHICAL CLEARANCE CERTIFICATE

Certificate Reference Number: NZE051SNGQ01

Project title: **Assessing the effectiveness of tender practices in municipal supply chain management: An exploration of two municipalities in the Amathole District Municipality in the Eastern Cape (2009-2012)**

Nature of Project: Masters

Principal Researcher: Sinazo Ngqase

Supervisor: Dr O Nzewi

Co-supervisor:

On behalf of the University of Fort Hare's Research Ethics Committee (UREC) I hereby give ethical approval in respect of the undertakings contained in the above-mentioned project and research instrument(s). Should any other instruments be used, these require separate authorization. The Researcher may therefore commence with the research as from the date of this certificate, using the reference number indicated above.

Please note that the UREC must be informed immediately of

- Any material change in the conditions or undertakings mentioned in the document
- Any material breaches of ethical undertakings or events that impact upon the ethical conduct of the research

The Principal Researcher must report to the UREC in the prescribed format, where applicable, annually, and at the end of the project, in respect of ethical compliance.

Special conditions: Research that includes children as per the official regulations of the act must take the following into account:


Note: The UREC is aware of the provisions of s71 of the National Health Act 61 of 2003 and that matters pertaining to obtaining the Minister's consent are under discussion and remain unresolved. Nonetheless, as was decided at a meeting between the National Health Research Ethics Committee and stakeholders on 6 June 2013, university ethics committees may continue to grant ethical clearance for research involving children without the Minister's consent, provided that the prescripts of the previous rules have been met. This certificate is granted in terms of this agreement.

The UREC retains the right to

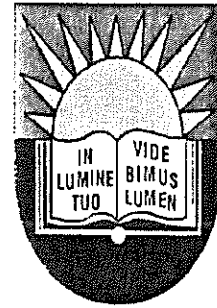
- Withdraw or amend this Ethical Clearance Certificate if
 - Any unethical principal or practices are revealed or suspected
 - Relevant information has been withheld or misrepresented
 - Regulatory changes of whatsoever nature so require
 - The conditions contained in the Certificate have not been adhered to
- Request access to any information or data at any time during the course or after completion of the project.
- In addition to the need to comply with the highest level of ethical conduct principle investigators must report back annually as an evaluation and monitoring mechanism on the progress being made by the research. Such a report must be sent to the Dean of Research's office

The Ethics Committee wished you well in your research.

Yours sincerely


Professor Gideon de Wet
Dean of Research

29 January 2014



University of Fort Hare
Together in Excellence

Annexure 3: Questionnaire distributed to Contractors

FACULTY OF MANAGEMENT AND COMMERCE

SCHOOL OF PUBLIC MANAGEMENT AND DEVELOPMENT

DEPARTMENT OF PUBLIC ADMINISTRATION

My name is SinazoNgqase. I am currently studying towards the attainment of a Masters of Administration degree (Public Administration) in the Department of Public Administration at the University of Fort Hare. As part of the requirements for this degree, I am undertaking a research study on, **“Assessing the effectiveness of tender practises in municipal supply chain management: an exploration of two municipalities in Amathole District Municipality in the Eastern Cape province”**.

I kindly request your cooperation in completing this questionnaire. Your contribution to this academic endeavour will be greatly appreciated as it will assist the researcher in reaching the objectives of this research study.

Please be fully assured that, the information collected through this questionnaire will **ONLY** be used for the purposes of this study. Your privacy, anonymity and confidentiality will be strictly observed, guaranteed and protected, as you are not expected to reveal your names or any personal information that may identify you as a respondent in this study.

Please answer all questions as clearly and honestly as you can.

QUESTIONNAIRE : CONTRACTOR.

General Information

SECTION A.

1. BIOGRAPHICAL DATA

Please tick with the letter **X** in the appropriate box

1.1. Gender

Male		Female	
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1.2. Age

21-29		30-39		40-49		50-59		60+
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1.3. To which ethnic origin group do you most closely belong?

Black African		White		Coloured		Indian		Prefer not to say	
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1.4. Marital status

Single		Married		Divorced		Widow	
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1.5. Highest qualifications obtained

Advanced level		Diploma		Junior degree		Honours		Masters		PhD
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SECTION B.

Causes of nepotism, bribery and corruption in tender practises

1. How did you hear about tender that was to be issued?

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Factors that lead to delayed payment in tender practises

2. Do you, in your personal view think that the process of issuing tenders is effective?

YES		NO	
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(please motivate your answer)

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3. How many contracts\tenders have you been awarded before?

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YES		NO	
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4. Are you currently employed?

If yes, where?

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Stakeholders and business people perception and concerns on the methods employed by the municipality

5. Would you, in your own opinion say that the tender process comprises of bribery, nepotism and corruption?

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6. Do you reside within the area of Nkonkobe municipality?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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7. GENERAL COMMENT

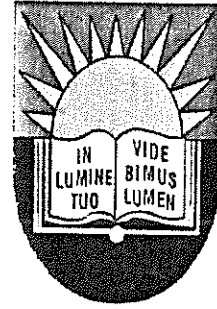
7.1. Any other comment you would like to make regarding tender process?

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Definition of terms.

1. Tender - A tender may be defined as an offer of money or service in payment of an obligation. A written offer to contract goods or services at a specified cost or rate which is called a bid.
2. Corruption—Is where a person gives or offers to give someone in a position of power something, to use that power, illegally and unfairly, to the advantage of a third person.
3. Bribery – Is voluntarily giving of something of value to influence performance of official duty either by doing something improper or failing to do something they should do within the authority of their position.
4. Nepotism - is the practice among those with power or influence of favouring relatives or friends, especially by giving them jobs and giving unfair advantages to your own family if you are in a position of power, especially by giving jobs and in this case refers to giving tenders.

Once more, I thank you for your co-operation



University of Fort Hare
Together in Excellence

Annexure 4 – Questionnaire distributed to SCM Official

FACULTY OF MANAGEMENT AND COMMERCE

SCHOOL OF PUBLIC MANAGEMENT AND DEVELOPMENT

DEPARTMENT OF PUBLIC ADMINISTRATION

My name is SinazoNgqase. I am currently studying towards the attainment of a Masters of Administration degree (Public Administration) in the Department of Public Administration at the University of Fort Hare. As part of the requirements for this degree, I am undertaking a research study on, **“Assessing the effectiveness of tender practises in municipal supply chain management: an exploration of two municipalities in Amathole District Municipality in the Eastern Cape province”**.

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Please answer all questions as clearly and honestly as you can.

QUESTIONNAIRE, 3: SUPPLY CHAIN MANAGEMENT OFFICIALS.

SECTION A

General Information

1. BIOGRAPHICAL DATA

Please tick with the letter X in the appropriate box

1.1. Gender

Male		Female	
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1.2. Age

21-29		30-39		40-49		50-59		60+
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1.3. To which ethnic origin group do you most closely belong?

Black African		White		Coloured		Indian		Prefer not to say	
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1.4. Marital status

Single		Married		Divorced		Widow	
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1.5. Highest qualifications obtained

Advanced level		Diploma		Junior degree		Honours		Masters		PhD
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1.6. Position

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SECTION B

Causes of nepotism, bribery and corruption in tender practises

1. NUMBER OF DIRECTORATES

1.1 How many Supply Chain Management officials does Nkonko behave?

2.

2.1. What is the process that is followed when awarding tenders?

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2.2. Where does an advert for a particular tender be advertised?

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2.3. Time frames in which the advert is placed?

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2.4. Is the organised structure that approves the tenders to be awarded?

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2.5. What is the process in payment of tenders?

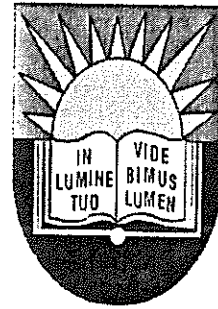
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Definition of terms.

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3. Bribery – Is voluntarily giving of something of value to influence performance of official duty either by doing something improper or failing to do something they should do within the authority of their position.
4. Nepotism - is the practice among those with power or influence of favouring relatives or friends, especially by giving them jobs and giving unfair advantages to your own family if you are in a position of power, especially by giving jobs and in this case refers to giving tenders.

END

Once more, I thank you for your co-operation



University of Fort Hare
Together in Excellence

Annexure 5 – Questionnaire distributed to SCM Manager

FACULTY OF MANAGEMENT AND COMMERCE

SCHOOL OF PUBLIC MANAGEMENT AND DEVELOPMENT

DEPARTMENT OF PUBLIC ADMINISTRATION

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Please answer all questions as clearly and honestly as you can.

SUPPLY CHAIN MANAGEMENT : MANAGER

SECTION A

General Information

1. BIOGRAPHICAL DATA

Please tick with the letter **X** in the appropriate box

1.1. Gender

Male		Female	
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1.2. Age

21-29		30-39		40-49		50-59		60+
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1.3. To which ethnic origin group do you most closely belong?

Black African		White		Coloured		Indian		Prefer not to say	
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1.4. Marital status

Single		Married		Divorced		Widow	
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1.5. Highest qualifications obtained

Advanced level		Diploma		Junior degree		Honours		Masters		PhD
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1.6. Position

(Please specify your job title)

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SECTION B

1. NUMBER OF DIRECTORATES

1.1 How many Supply Chain Directorates does Nkonkobe have?

2.

2.1. Who facilitates tender process?

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2.2. Is there any law or policy within the municipality that governs the tender process?

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2.3. Is there a Committee established that deals with the process on the municipality?

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2.4. How is the tender process monitored?

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Causes of nepotism, bribery and corruption in tender practises

3.

3.1. Do you think that the tender process is comprised of nepotism, bribery and corruption?

Yes		No	
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3.1.1. If yes, please explain

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3.1.2. If no, please give reasons why not

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Factors that lead to delayed payment in tender practises.

3.2. Do you think that the process of paying contractors is fair?

Yes		No	
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3.2.1 If yes, please explain

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3.2.2 If no, please explain

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4. CHALLENGES BCM FACED WITHIN THE TENDER PROCESS.

4.1. What are the challenges faced by Nkonkobe Municipality in awarding tenders?

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4.2. To what extent have these challenges affected the rendering of services to the community?

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The extent to which nepotism, bribery and corruption can be eliminated.

4.3. How can these challenges be minimized?

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4.4 After the project has been finished, is there anyone (structure) from the municipality which ensures that everything is done according to the bid specification?

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4.5 Is a background check done to the people to be awarded the tender?

YES		NO	
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5. GENERAL COMMENT.

5.1. Any other comment you would like to make regarding tender process.

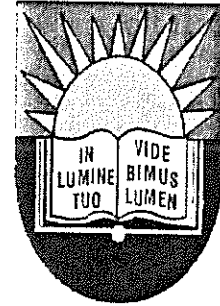
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Definition of terms.

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4. Nepotism - is the practice among those with power or influence of favouring relatives or friends, especially by giving them jobs and giving unfair advantages to your own family if you are in a position of power, especially by giving jobs and in this case refers to giving tenders.

END

Once more, I thank you for your co-operation!



University of Fort Hare
Together in Excellence

Annexure 6 – Questionnaire distributed to CFO

FACULTY OF MANAGEMENT AND COMMERCE

SCHOOL OF PUBLIC MANAGEMENT AND DEVELOPMENT

DEPARTMENT OF PUBLIC ADMINISTRATION

My name is SinazoNgqase. I am currently studying towards the attainment of a Masters of Administration degree (Public Administration) in the Department of Public Administration at the University of Fort Hare. As part of the requirements for this degree, I am undertaking a research study on, **“Assessing the effectiveness of tender practises in municipal supply chain management: an exploration of two municipalities in Amathole District Municipality in the Eastern Cape province”**.

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Please answer all questions as clearly and honestly as you can.

CHIEF FINANCIAL OFFICER

SECTION A

General Information

1. BIOGRAPHICAL DATA

Please tick with the letter X in the appropriate box

1.1. Gender

Male		Female	
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1.2. Age

21-29		30-39		40-49		50-59		60+
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1.3. To which ethnic origin group do you most closely belong?

Black African		White		Coloured		Indian		Prefer not to say	
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1.4. Marital status

Single		Married		Divorced		Widow	
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1.5. Highest qualifications obtained

Advanced level		Diploma		Junior degree		Honours		Masters		PhD
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1.6. Position

(Please specify your job title)

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SECTION B

1. NUMBER OF DIRECTORATES

1.1 How many Supply Chain Directorates does Nkonkobe Municipality have?

2.

2.1. Who facilitates tender process?

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2.2. Is there any law or policy within the municipality that governs the tender process?

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2.3. Is there a Committee established that deals with the process on the municipality?

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2.4. How is the tender process monitored?

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Causes of nepotism, bribery and corruption in tender practises

3.

3.1. Do you think that the tender process is comprised of nepotism, bribery and corruption?

Yes		No	
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3.1.1. If yes, please explain

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3.1.2. If no, please give reasons why not

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Factors that lead to delayed payment in tender practises.

3.2. Do you think that the process of paying contractors is fair?

Yes		No	
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3.2.1 If yes, please explain

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3.2.2 If no, please explain

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4. CHALLENGES NKONKOBE MUNICIPALITY FACED WITHIN THE TENDER PROCESS.

4.1. What are the challenges faced by Nkonkobe Municipality in awarding tenders?

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4.2. To what extent have these challenges affected the rendering of services to the community?

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The extent to which nepotism, bribery and corruption can be eliminated.

4.3. How can these challenges be minimized?

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4.4 After the project has been finished, is there anyone (structure) from the municipality which ensures that everything is done according to the bid specification?

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4.5 Is a background check done to the people to be awarded the tender?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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5. GENERAL COMMENT.

5.1. Any other comment you would like to make regarding tender process.

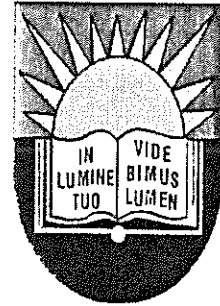
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Definition of terms.

1. Tender - A tender may be defined as an offer of money or service in payment of an obligation. A written offer to contract goods or services at a specified cost or rate which is called a bid.
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4. Nepotism - is the practice among those with power or influence of favouring relatives or friends, especially by giving them jobs and giving unfair advantages to your own family if you are in a position of power, especially by giving jobs and in this case refers to giving tenders.

END

Once more, I thank you for your co-operation!



University of Fort Hare
Together in Excellence

Annexure 7 – Questionnaire distributed to Construction Manager.

FACULTY OF MANAGEMENT AND COMMERCE

SCHOOL OF PUBLIC MANAGEMENT AND DEVELOPMENT

DEPARTMENT OF PUBLIC ADMINISTRATION

My name is SinazoNgqase. I am currently studying towards the attainment of a Masters of Administration degree (Public Administration) in the Department of Public Administration at the University of Fort Hare. As part of the requirements for this degree, I am undertaking a research study on, **“Assessing the effectiveness of tender practises in municipal supply chain management: an exploration of two municipalities in Amathole District Municipality in the Eastern Cape province”**.

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Please answer all questions as clearly and honestly as you can.

QUESTIONNAIRE: MANAGER:CONSTRUCTION

General Information

SECTION A

1. BIOGRAPHICAL DATA

Please tick with the letter X in the appropriate box

1.1. Gender

Male		Female	
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1.2. Age

21-29		30-39		40-49		50-59		60+
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1.3. To which ethnic origin group do you most closely belong?

Black African		White		Coloured		Indian		Prefer not to say	
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1.4. Marital status

Single		Married		Divorced		Widow	
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1.5. Highest qualifications obtained

Advanced level		Diploma		Junior degree		Honours		Masters		PhD
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1.6. Position

(Please specify your job title)

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SECTION B

1. NUMBER OF DIRECTORATES

1.1 How many Construction Directorates does Nkonkobe Municipality have?

2.

2.1. Who facilitates tender process?

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2.2. Is there any law or policy within the municipality that governs the tender process?

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2.3. Is there a Committee established that deals with the process on the municipality?

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2.4. How is the tender process monitored?

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Causes of nepotism, bribery and corruption in tender practises.

3.

3.1. Do you think that the tender process is comprised of nepotism, bribery and corruption?

Yes		No	
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3.1.1. If yes, please explain

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3.1.2. If no, please give reasons why not

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Factors that lead to delayed payment in tender practises

3.2. Do you think that the process of paying contractors is fair?

Yes		No	
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3.2.1 If yes, please explain

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3.2.2 If no, please explain

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4. CHALLENGES NKONKOBÉ MUNICIPALITY FACED WITHIN THE TENDER PROCESS.

4.1. What are the challenges faced by Nkonkobe Municipality in awarding tenders?

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4.2. To what extent have these challenges affected the rendering of services to the community?

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The extent to which nepotism, bribery and corruption can be eliminated

4.3. How can these challenges be minimized?

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4.4 After the project has been finished, is there anyone (structure) from the municipality which ensures that everything is done according to the bid specification?

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4.5 Is a background check done to the people to be awarded the tender?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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5. GENERAL COMMENT.

5.1. Any other comment you would like to make regarding tender process.

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Definition of terms.

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4. Nepotism - is the practice among those with power or influence of favouring relatives or friends, especially by giving them jobs and giving unfair advantages to your own family if you are in a position of power, especially by giving jobs and in this case refers to giving tenders.

END

Once more, I thank you for your co-operation!

Annexure 8

Interview schedule

No	Municipality	Official	Duration
1.	BCMM	Municipal Manager	30 minutes
2.	BCMM	Manager of SCM Accounts	30 minutes
3.	Nkonkobe Municipality	Municipal Manager	30 minutes
4.	Nkonkobe Municipality	Manager of SCM Accounts	30 minutes