

LRC

Legal Resources Centre

THE ROAD TO PROCUREMENT

and barriers that cause delays

Every learner has the right to basic education. This right includes the right to have all the resources (for example, textbooks and stationery) needed to learn. Poor public procurement results in delays in the delivery of goods and services such as stationery for learners. This means that poor public procurement negatively impacts the constitutional rights of learners.



Public procurement

Government's process of buying of goods and services (resources) from the private sector

The road to procurement

The education procurement process

1 PROCUREMENT PLANNING

Education department identifies schools, resource needs and plans the steps it will take to deliver those resources.

2 BID SPECIFICATION

Education department develops a document outlining the resource needs in detail.

4 SUBMISSION AND OPENING OF BIDS

Suppliers submit their proposals and key supporting and compliance documents (for example, tax compliance certificates and company registration documents).

3 INVITATION TO BID

Education department publishes advert to invite approved suppliers to make proposals on how they will meet the bid specifications.

5 BID EVALUATION AND ADJUDICATION

Education department establishes two independent committees. An evaluation committee to evaluate the bids and make recommendations to the adjudication committee, which appoints the supplier that will deliver the resources.

6 CLEAR BIDDER AND AWARDED CONTRACT

Education department studies the supplier's track record and if satisfied, awards the contract.

7 CONTRACT IMPLEMENTATION

Supplier delivers the resources in terms of the contract with the education department.

Primary role-players

GOVERNMENT DEPARTMENTS

Responsible for:

- Appointing supplier who will deliver goods and services;
- Implementing procurement processes in terms of laws;
- Monitoring delivery of goods and services from supplier;

SUPPLIER

Usually a private company

Responsible for delivering the right goods and services, at the right place, at the right time and at a reasonable price.

Section 217(1) of the Constitution

All procurement processes must be fair, equitable, transparent, competitive, and cost-effective

CAUSES OF DELAYS

Delays in delivery of resources generally occur due to a failure by education departments to properly oversee the implementation of the above steps, and to hold persons who fail to follow the steps accountable. This causes multiple issues that often result in delays.

For example:

A supplier may not be properly qualified to deliver the resources, which schools end up not receiving on time or at all.

Or a supplier is unlawfully appointed, and the appointment is challenged in court, thereby delaying the implementation of the contract and delivery of the resources.


The end result is that learners do not receive the resources they need, and their right to equitable and quality education is placed at risk of infringement.




SOLUTIONS – GENERALLY, MANY OF THESE DELAYS CAN BE RESOLVED IF:



Procuring departments follow the laws and rules for procurement practices



Procuring departments are staffed with more trained professionals who are able to monitor and implement procurement processes and accountability measures



The procurement laws are centralised and simplified so those responsible for implementing them have a simplified set of rules to follow

WHAT CAN YOU DO?

If your school has not received the resources it needs to conduct schooling for the year (such as textbooks or stationery), please contact us for legal assistance at info@lrc.org.za



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