



OBSERVE, RECORD, REPORT

REAL-TIME CITIZEN ENGAGEMENT
WITH PUBLIC PROCUREMENT
IN SOUTH AFRICA

A POSITION PAPER BY THE
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STATE REFORM
POSITION PAPER

SUMMARY



Principles of fairness, equity, transformation, and cost-effectiveness governing state procurement have often been violated in South Africa. The State Capture Commission highlighted how opacity across the procurement chain enables corruption, collusion and overpricing, while conventional oversight often starts only when contracts have been awarded and funds spent.

Provisions in the new Public Procurement Act (2024) seek to address these issues – strengthening conventional government oversight of procurement, complementing this with provision for enhanced transparency and making civil society a partner in accountability.

Section 30 of the Act provides for the public, civil society organisations and the media to access, scrutinise and monitor procurement processes. Section 31 mandates the disclosure of specified categories of procurement information via a free, publicly accessible, central, online portal published in electronic, interoperable form. Together, these provisions create a clear statutory mandate for transparency and for civil society monitoring across tendering and contract implementation. The question is how these mandates should be translated into workable regulatory mechanisms that strengthen civic oversight without unduly impeding procurement processes.

This paper explores how we might go about this. Drawing on comparative international and domestic experience, we propose a set of potentially high impact oversight mechanisms that South Africa can pilot immediately:

- First, we propose **introducing civic observers** for high value, high risk procurement, especially in sectors where there is public interest. Drawn from a register of accredited individuals, these observers should attend, though not participate in, defined stages of procurement, review documents and publish process integrity reports, shifting oversight to immediate risk mitigation.
- Second, we propose **expanding the use of social audits** of procurement processes in the delivery of services that can be monitored at neighbourhood/community level.
- And third, we propose enhancing transparency through the **application of clear open data standards across procurement processes and systems**. The aim is procurement processes that can be followed from start to finish without confusion.

This paper is intended for use by both public sector reformers and civil society actors committed to a more effective and trustworthy public procurement system. It outlines how these oversight mechanisms could be designed, piloted and institutionalised under a new public procurement regime. However, we argue that implementation of a more transparent system should not be deferred to the implementation of a new act. Organs of state keen can proceed under existing regulatory conditions, with Treasury already beginning to support the greater collection and publication of procurement data. And there is well documented local practice from which to draw in the area of social audits. There should be no delay in implementation given the importance of public procurement to state delivery and the integrity challenges besetting the system.

BACKGROUND AND CONTEXT

Section 217 of the Constitution requires organs of state to contract for goods and services in accordance with a fair, equitable, transparent, competitive and cost-effective system. The State Capture Commission's findings showed how these principles have often been violated.

The Commission highlighted how opacity across the procurement chain enables corruption, collusion and overpricing, while conventional oversight often commences only when contracts have been awarded and funds spent.¹ The implication is not that post-hoc oversight is unnecessary, but that delayed visibility reduces the prospects of timely correction and meaningful deterrence, which can have serious implications for public accountability, service delivery and development. Significant provisions in the new Public Procurement Act seek to address these issues, strengthening conventional government oversight of procurement, complementing this with provision for enhanced transparency and making civil society a partner in ensuring accountability across the public procurement system.

South Africa is already moving in this direction. It has built the institutional and civic capacity to pilot, and then embed, such transparent and participatory approaches. There are civil society organisations that have developed experience in social audits and expenditure monitoring, examples of which we explore in the paper; investigative journalism has repeatedly demonstrated the value of analysing procurement disclosures; sector-based monitoring initiatives show how structured government-civil society collaboration, such as the Health Sector Anti-Corruption Forum, can strengthen service-delivery accountability. What has often been missing is a consistent, standardised and legally grounded transparency and participation framework that enables timely access to usable procurement information across institutions and sectors.

The enactment of the Public Procurement Act, 2024 marks a significant shift in this regard. Its key provisions in terms of transparency and civil society access to procurement processes are sections 30 and 31. Section 30 requires regulations to prescribe measures enabling the public, civil society organisations and the media to access, scrutinise and monitor procurement processes.² Section 31 requires regulations mandating the disclosure of specified categories of procurement information via a free, publicly accessible central online portal published in electronic, interoperable form.³ The categories envisaged include bidder identities, beneficial ownership records, award decisions, contracts, invoices and reasons for deviations from open competition. Together, these provisions create a clear statutory mandate for transparency and structured, participatory monitoring across both tendering and contract implementation.

1 State Capture Commission (2022) *Report of the Commission of Inquiry into Allegations of State Capture*. Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State. Part I: pp. 59–67.

2 Public Procurement Act 28 of 2024 s 30.

3 Public Procurement Act 28 of 2024 s 31(2)(b).

The Act also establishes institutional and technical infrastructure intended to support this transparency agenda. The Public Procurement Office (PPO) within National Treasury is tasked with promoting compliance and supporting transparency, while the Act provides for an ICT-based procurement system and contemplates standardised, interoperable data across the procurement cycle. These elements are intended to shape how disclosure duties are implemented and whether procurement information is usable for monitoring, analysis and comparison across institutions.

The transparency and civil society oversight provisions of the Act are not, however, self-executing. In practice, many duties of access and disclosure (particularly those envisaged under sections 30 and 31) will depend on regulations and binding instructions that specify scope, timing, formats and enforcement.⁴ The practical effect of the new regime will therefore depend on the specificity, coherence and enforceability of the framework elaborated under the regulations.

The Act is currently being challenged in court, for reasons beyond the scope of this paper, and we do not engage with broader debates about the Public Procurement Act's overall design.⁵ The focus of this paper is narrower and practical: sections 30 and 31 provide an explicit statutory mandate for public access and disclosure, and the question is how these mandates should be translated into workable regulatory mechanisms that strengthen civic oversight without unduly impeding legitimate procurement processes. The remainder of the paper therefore explores how we might go about this. Drawing on comparative international and domestic experience, we develop three complementary oversight mechanisms that can be piloted in the near term and brought to scale through the regulatory framework.

We argue that even if regulations lag or the Act itself is set aside by court order, the implementation of a more transparent system need not be deferred. National Treasury and the Public Procurement Office can use existing powers under the Public Finance Management Act and Municipal Finance Management Act to issue instructions, practice notes and municipal guidance that set minimum publication timelines and require end-to-end disclosure in open, machine-readable and interoperable formats. National Treasury and the PPO already possess binding authority to issue instructions under these frameworks intended to standardise disclosure and publication requirements, and recent practice demonstrates that these powers can be used to enhance procurement transparency.⁶ This has resulted in the National Treasury launching the publicly accessible Procurement Payments Dashboard.⁷

4 Public Procurement Act 28 of 2024 s 63.

5 Litigation challenging the Act is pending on public participation grounds. In the Constitutional Court, *Premier of the Western Cape v Speaker of the National Assembly and Others* (CCT 103/25) alleges a failure to facilitate meaningful public involvement, and *City of Cape Town v Speaker of the National Assembly and Others* (CCT 144/25) advances an overlapping challenge; the amaBhungane Centre for Investigative Journalism has applied to act as amicus in both matters (CCT 103/25 & CCT 144/25). Separately, in the Western Cape High Court, *Solidarity v President of the Republic of South Africa and Others* (Case 23331/24) challenges aspects of Chapter 4 and s 68. All matters were pending before the courts at the time of writing.

6 A recent example of National Treasury exercising its prescriptive powers to enhance procurement transparency is PFMA SCM Instruction No. 11 of 2025/26 (Enhancing Procurement Information Transparency), issued in terms of s 76(4)(c) of the Public Finance Management Act 1 of 1999. The Instruction (signed 28 January 2026) requires institutions to ensure procurement information is submitted through BAS/LOGIS or the OCPD Data Upload Tool/API; to provide for quarterly publication of consolidated procurement dashboards on the eTenders portal; to report contracts above R1 million within 30 days of signature and variations within 30 days, and to publish annual procurement plans and amendments. See National Treasury, PFMA SCM Instruction No. 11 of 2025/26 (28 January 2026; effective 1 April 2026).

7 Can be accessed at: <https://data.etenders.gov.za>

Why the right kind of regulations are still needed

Sections 30 and 31 of the Act require the Minister to prescribe regulations enabling access to procurement processes and disclosure of procurement information. Failure to meet these mandatory requirements is reviewable by the courts. The obligations, firstly that providing for access to procurement processes and secondly that for disclosure of procurement information, are distinct, since they are set out in two separate sections.

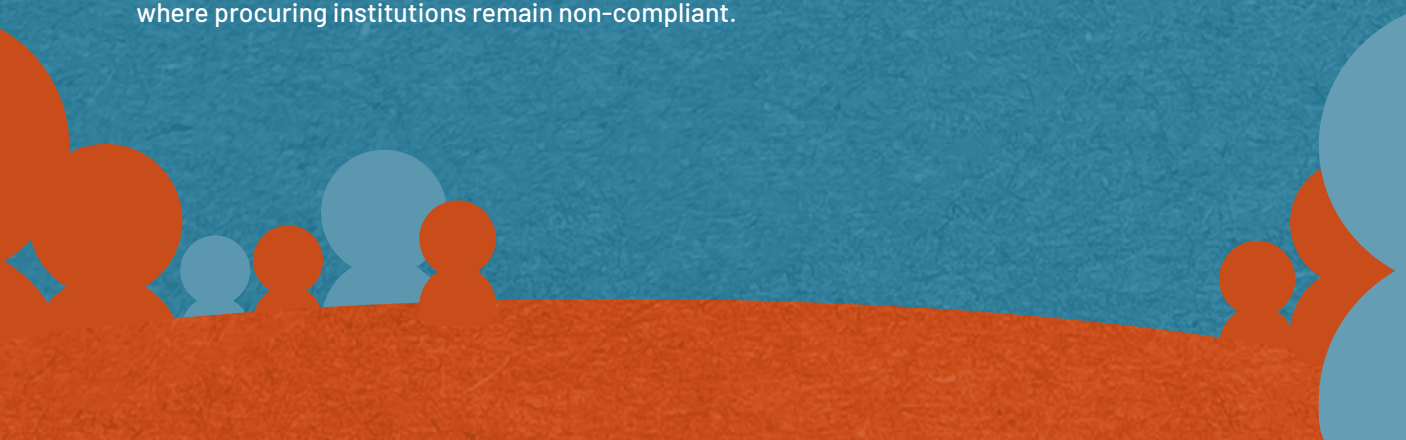
Section 30 states that the Minister must prescribe the means to enable the public, civil society and the media to access, scrutinise and monitor procurement processes. The reference to 'access, scrutiny and monitoring' of the 'procurement process' entails oversight that goes beyond simple disclosure of information, and this interpretation is reinforced by the fact that Section 31 provides for such disclosure separately.

Beyond this distinction, however, the character of the oversight measures that the Minister must prescribe is unspecified. The measures that we propose in this position paper are based on widespread international experience. The first measure is to empower civic 'witnesses' or 'observers' to act as the eyes and ears of the public, civil society and the media within procurement processes. The second is to facilitate social audits of procurement processes at the level of neighbourhood/community service delivery.

Section 31 describes more specifically than the previous section what this regulation must involve, declaring that the Minister must prescribe requirements for the disclosure of information. The regulation must provide for disclosure of certain categories of information. These include among others the reasons for decisions not to follow open competitive bids; bid information; particulars of bidders; details of bid awards and the beneficial ownership information of the winner; details of bids awarded to family members or persons related to people automatically excluded from participating in procurement; contracts and invoices with suppliers, and information regarding bid cancellations. The regulation must also provide that this information be published as quickly as possible, on an easily accessible central online portal in a format that has various technical characteristics.

Furthermore, regulations and related instruments will need to stipulate precisely the datapoints that those categories entail and create additional categories where public interest in transparency demands it. Section 38(2)(a)(ii), for instance, requires regulations to provide for the disclosure of 'all information regarding a bid,' but this category is vague. Specificity will be essential in regard to the datapoints which compose such information. In the Annexure to this position paper, we provide a detailed list of the information we suggest the Minister must require for proactive disclosure.

In framing the regulations and related instruments it will also be necessary to establish the procedures and timeframes whereby procuring institutions report such information to the PPO, and for its publication. Details will be required of the escalating enforcement measures to be imposed where procuring institutions remain non-compliant.



LEARNING FROM INTERNATIONAL AND LOCAL EXPERIENCE

International experience shows how to turn an enabling legal framework into day-to-day oversight by combining participation, transparency and accountability. Participation means, for example, independent observers at key milestones and community social audits of contract delivery (often via third-party monitoring or integrity pacts). Transparency means publishing complete, timely, standardised data across the contracting cycle. Accountability means fast, proportionate remedies when information is not published or when oversight is obstructed. Used together, these measures shift oversight from retrospective audits to contemporaneous ('real-time') checks.

Since 2002, Mexico has embedded independent 'social witnesses' in its highest value procurements,⁸ under rules that specify when these witnesses are used, what they may access, how they report, and who must act. This reduces discretion as to whether and when such an oversight process comes into effect, and ensures consistent application.⁹ In India, the rural works programme mandates regular community 'social audits'.¹⁰ These are statutorily enforced open hearings where spending is reviewed in public and officials must respond.¹¹ Thus, the model reduces delay and strengthens remedies.¹² Colombia's Open Contracting Data Standard (OCDS)-aligned reforms likewise demonstrate how standardised disclosure can strengthen competition and oversight, with documented efficiency and programme-level savings.¹³ In the European Union (EU), integrity pacts have been piloted on major infrastructure projects,¹⁴ with civil society monitoring working alongside contracting authorities and bidders; this has reduced irregularities and driven compliance without unnecessary burdens.¹⁵

Together, these examples suggest a practical oversight package: independent eyes and open information in a process robust enough to be effective but designed to avoid added friction in procurement processes where it is not needed.

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- 8 Transparency International '[Integrity Pacts](#)', Blog post; Secretaría de la Función Pública, Mexico (2004) [Acuerdo por el que se establecen los lineamientos que regulan la participación de los testigos sociales en las contrataciones que realicen las dependencias y entidades de la Administración Pública Federal](#). *Diario Oficial de la Federación*, 16 December 2004; Presidencia de la República, Mexico (2021) [Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público art 26 Ter](#). (PARI used Google Translate for assistance with translation here and elsewhere in the position paper).
- 9 OECD (2013) [Fighting Bid Rigging in Public Procurement in Mexico: A Secretariat Analytical Report on Legislation, Regulations and Practices Relating to Procurement Undertaken by ISSSTE](#): pp. 51-52.
- 10 Mahatma Gandhi National Rural Employment Guarantee Act 42 of 2005 (India) s 17.
- 11 The Mahatma Gandhi National Rural Employment Guarantee Act 42 of 2005 s 17; Government of India, Ministry of Rural Development, [The Mahatma Gandhi National Rural Employment Guarantee Audit of Schemes Rules](#) (notified 30 June 2011).
- 12 Aiyar, Y., S.K. Mehta and S. Samji (2011) [Strengthening Public Accountability: Lessons from Implementing Social Audits in Andhra Pradesh](#). Accountability Initiative Working Paper 4: pp. 23-25, 32-36.
- 13 Gade, I.R., N. Penagos and S. Brown (2020) '[Case Study 6: Open Contracting Reforms in Colombia](#)', in R. Bajpai and B. Myers (eds) *Enhancing Government Effectiveness and Transparency: The Fight Against Corruption*, pp. 84-88. Kuala Lumpur: The World Bank. Discusses SECOP II's standardised disclosure, including publication in OCDS format, and early evidence of increased competition; notes estimates that single-bid contracts are more expensive, implying savings where competition increases; M. Poisson (2021) '[Open Contracting: An illustrative form of open government in education](#)'. IIEP Policy Brief: Open Government in Education No. 3. Paris: UNESCO International Institute for Education Planning. Reports that opening Bogotá's School Meals Programme contracting through SECOP was associated with quadrupled bids and estimated savings of 10-15%.
- 14 Transparency International (2016) [Integrity Pacts: Civil Control Mechanism for Safeguarding EU Funds](#). A Transparency International project.
- 15 Pring, C., S. Mulcahy and J. Olaya (2022) [End-of-Project Evaluation of Transparency International's Integrity Pacts EU Project](#). TI-EU Report. Berlin: Transparency International; [Directive 2014/24/EU](#) of the European Parliament and of the Council on public procurement (2014) OJ L 94/65.

South Africa's starting point

South Africa already has assets to build on. Civil society has decades of social-accountability practice, from budget-transparency advocacy by the International Budget Partnership (IBP)¹⁶ to sanitation and safety audits by the Social Justice Coalition (SJC).¹⁷ IBPSA's Asivikelane initiative elicits regular municipal responses to citizen-reported service failures.¹⁸ The civil society coalition, Imali Yethu, partnered with National Treasury to establish Vulekamali,¹⁹ a budget transparency portal which has made government budgeting transparent and accessible, making South Africa a world leader in open budgeting. The regulatory moment is not about importing models wholesale, but about codifying what already works, locally and abroad, into a coherent framework that is enforceable in practice and suited to our local context. It also requires ongoing commitment to practical implementation.²⁰

From examples to action: near-term pilots

To convert intent into practice, this paper proposes a set of potentially high-impact oversight mechanisms that South Africa can pilot immediately. They have relatively modest funding requirements but are designed to safeguard billions in public spending, drawing on mechanisms tested elsewhere and adapted to South Africa's legal and institutional environment. The PPO should drive such initiatives, which could be positioned as elements in South Africa's next Open Government Partnership (OGP)²¹ National Action Plan. The Public Procurement Act already provides room for these approaches. Even if commencement is staggered or if there are court challenges to the Act, the pilots can proceed on a limited basis, can be independently evaluated, and can be ready to bring to scale once implementation advances. Building on this enabling framework, the remainder of the paper introduces three practical options for near-term piloting:

- Introducing civic observers for high value, high risk procurement, especially in sectors where there is public interest.
- Expanding the use of social audits of procurement processes in the delivery of services that can be monitored at neighbourhood/community level.
- Enhancing transparency through the application of clear open data standards across procurement processes and systems.

16 IBP-SA (2023) [Open Budget Survey](#): pp. 6-9 (South Africa's ranking and open budgeting performance).

17 SJC (2013) [Report of the Khayelitsha Mshengu Toilet Social Audit](#): pp. 4-7.

18 IBP-SA, [Asivikelane: Helping South Africa's informal-settlement residents' voices be heard](#). Blog post; IBP-SA (2025) [Reimagining Procurement Transparency for Basic Services in Informal Settlements](#): pp. 1-2.

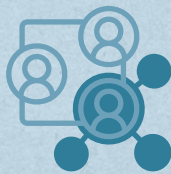
19 National Treasury '[Vulekamali Budget Portal](#)'.

20 While initiatives such as Vulekamali, Municipal Money, and GoMuni are welcome, the Open Government Partnership notes that these sites are not always functional or adequately maintained and that this presents a challenge to implementation. Consistent availability is essential in achieving their transparency aims. Source: Open Government Partnership, [South African Action Plan Review 2024-2026](#), website post.

21 For information about OGP see: <https://www.opengovpartnership.org/about/>

Enabling levers for civil society oversight

Three clusters of provisions in the Public Procurement Act are particularly relevant to civil society oversight:



Public access rules

The Minister must prescribe measures (through regulations) enabling the public, civil society and the media to access and monitor procurement processes, including access to meetings and documents, with appropriate safeguards.²²



Digital transparency and disclosure

The Act mandates an ICT-based procurement system and associated publication obligations.²³ It also requires, for example, disclosure of tenders, awards, contracts, invoices, payments, and beneficial ownership.²⁴



Implementation transparency for social audits

The Act enables publication of contract implementation information and data, which is essential input for social audits.

22 Public Procurement Act of 2024, s 30.

23 Public Procurement Act 28 of 2024, s 28 – 29.

24 Public Procurement Act 28 of 2024, s 31.



OVERSIGHT MECHANISM 1: Civic Observers (Process Monitoring under s.30)

Why this mechanism, and why now?

We propose that government experiments with, in part through regulating for, the use of civic observers in high risk procurement processes. Civic observers are independent individuals drawn from a register of accredited individuals who attend defined stages of procurement, review specified documentation, and publish process integrity reports. There are some lessons to draw from limited local experiments.²⁵

Section 30 of the Public Procurement Act creates the regulatory opportunity for civic process monitoring: the Minister *must* prescribe measures for the public, civil society and the media to 'access, scrutinise and monitor procurement processes'.²⁶ Section 30 does make some qualifications: the Act states that regulations under the Act may be developed to protect candid deliberations and to shield officials from undue influence or threats, that access may be limited to certain categories of procurement or monetary thresholds, and that 'confidential information' is excluded from access.²⁷

This sits alongside the Act's broader transparency architecture: the PPO must develop an ICT-based procurement system and the Minister must prescribe disclosure requirements that support effective monitoring.²⁸ (The requirement to provide access to monitor procurement *processes* in Section 30 is distinct from the requirement to *disclose procurement information* in Section 31).

Against that backdrop, civic observers are best understood as a *structured* form of access and monitoring designed to enhance integrity and contemporaneous oversight without collapsing decision-making space or exposing protected information.

What civic observers do

The mandate of civic observers is observation and documentation only, not scoring bids or making decisions. In performing this role, they generate real-time records of key deliberations, procedural steps, and any deviations from prescribed rules, which are consolidated in a report published within a defined period soon after a procurement process closes.

The value of these records lies in their timing and independence: documentation produced *while deliberations and procedural steps occur* contributes to a clearer audit trail, helps resolve factual disputes at an early stage, and reduces the scope for records being reconstructed after the fact, when incentives to rationalise or sanitise events are strongest. By recording red flags as they arise, civic observers enable early escalation and course-correction, shifting oversight from purely retrospective audit to real-time risk mitigation.

25 Gauteng provincial government, for example, has experimented with probity audits in its procurement processes, introduced under the aegis of the Gauteng Finance Management Supplementary Act. Our model is somewhat different: the Gauteng Act requires reports to be sent to the accounting officer after bid specification and adjudication. Where the accounting officer rejects the report, (s)he must report their reasons to the provincial treasury, which must investigate and determine how the accounting officer must proceed before the tender is awarded. In our view, these provisions offer more scope for delaying the smooth operation of procurement processes than the model we propose for civic observers.

26 Public Procurement Act 28 of 2024, s 30(1).

27 Public Procurement Act 28 of 2024, s 30(2)(a)-(c).

28 Public Procurement Act 28 of 2024, s 31(2).

International lessons (as design features, not templates)

Engagement with international examples provides useful insight into design features. Mexico's *testigos sociales* (social witnesses) and the Philippines' civil society organisation (CSO) observers institutionalise independent visibility at key stages. The EU is now in its second decade of implementing integrity pacts, which similarly provide for the appointment of civil society monitors in procurement processes.²⁹

The common denominator is not a single model, but a set of design choices. Designing a local civic observer system requires consideration, for example, of when it is mandatory to invite such observers, the range of procurement processes they cover, how they are appointed, and consequences, that is, what happens when red flags arise. To translate these lessons into a workable South African model, the proposal below addresses each design choice in turn.

What can observers witness and access?

In the first place, it should be made clear that civic observers are non-participatory observers: they do not deliberate on, score, or attempt to influence outcomes. Given that stipulation, the first design question is what civic observers may observe, what information they may access, and what may lawfully be withheld. In general, where civic observers are used, the basic principle, where a procurement need is identified, should be to involve them from the outset of the procurement process, with involvement continuing from project planning all the way to contract management. Given this broad reach, the strong presumption should be for full access to all deliberations and documentation within that procurement process, with appropriate safeguards for preserving candid internal deliberations, protecting confidential information, and preventing abuse and intimidation.³⁰

These safeguards should not be rolled out ad hoc during procurement processes, giving officials the power to determine when and where they must be applied. Doing so will lead to abuse, often excessively restrict the role of civic observers and be prohibitively burdensome, legally and administratively. Rather, the duty to preserve candid internal deliberations, protect confidential information, and refrain from abuse and intimidation should be written into the code of conduct governing civic observers. There should be defined sanctions available against observers who fail to adhere to these duties. There may be categories of procurement, such as those dealing with core national security interests, where the use of civic observers is simply not appropriate. This brings us to the question of when civic observers should be used.

29 OECD (2016) [Country Case: Social witnesses in Mexico](#) in OECD (2014) [Compendium of Good Practices for Integrity in Public Procurement: Meeting of the Leading Practitioners in Procurement](#); Transparency International (2013) [Integrity Pacts in Public Procurement: An Implementation guide for government officials](#): p9; Government of the Philippines (2009) [Revised Implementing Rules and Regulations of Republic Act No 9184](#) Rule V s 13 (Observers).

30 The model we propose is not as potentially intrusive as those of the probity auditors under the Gauteng Finance Management Supplementary Act. This Act requires reports to be sent to the accounting officer after bid specification and after bid adjudication. Where the accounting officer rejects the latter report, reasons must be sent to the provincial treasury, which must investigate and determine how the accounting officer must proceed before the tender is awarded. These provisions contain far more scope for probity auditors to disrupt the smooth operation of procurement processes compared to the functions envisaged for civic observers.

When civic observers are used

The second design question concerns when civic observers should be mandatory. It is clearly impractical for them to be used everywhere all at once. The Act itself recognises this by allowing the Minister to prescribe that the regulations apply only to certain categories of procurement at certain thresholds.³¹ The Minister is thereby granted significant power to determine the pace and extent of the roll out of civic observers across the South African procurement system. We propose that this power should be exercised carefully and incrementally.

The first set of regulations should define these categories and thresholds narrowly. They should take into account the need to mitigate the especially severe risks of specific categories of procurement, the public interest in doing so, and the capacity available for using civic observers within them. A case in point might be South Africa's urban water crisis. The Minister might recognise that maladministration in procurement processes relevant to the maintenance and construction of urban water infrastructure is likely and liable to produce catastrophic national consequences. The Minister might acknowledge, therefore, the high public interest in ensuring that those risks do not materialise. Moreover, given the high level of public interest, there is substantial potential for civic observers to come forward and capacitate this new integrity measure.

Were the Minister to follow this approach, it would be a simple matter to write a requirement into the regulations that all maintenance and construction projects above a certain value concerned with water issues in urban areas must make use of civic observers.³²

These initial regulations would provide a starting point for capacitating and refining a South African approach to civic witnessing. The Minister should then be prepared to expand the application of the mechanism more broadly, bringing other categories of procurement into the regulations and lowering the value threshold. To guide this work, the Minister could establish a national consultative body, bringing government officials, associated business, organised labour and civil society together to consider extension and adaptation of civic observation measures. The recommendations of this body could then provide the basis for further, limited amendments of the regulations to gradually expand civic observers across the procurement system.

31 Public Procurement Act 28 of 2024 s 30(2)(b).

32 A more flexible approach would be to expand the use of civic observers through PPO instructions. However, according to Section 5(2)(b) of the Act, these will not be binding on municipalities. It may be possible for the regulations to create an alternative mechanism where, according to well-defined regulatory parameters, the PPO can expand application over time, but this could excessively constrain decision-making about implementation, and might involve an illegitimate delegation of ministerial powers.

Appointment of civic observers

This third aspect concerns who may serve as a civic observer, how many are to be appointed, and how they are selected. Because civic observers are granted structured access to sensitive procurement processes and are expected to produce credible outputs, regulations should require that observers be appointed by the PPO from a publicly disclosed register of accredited observers developed by the PPO, with specified levels of competence and conduct required. As a condition of accreditation, prospective observers should demonstrate – through recognised training and assessment – a working grasp of South Africa’s public procurement framework.³³ Completion of a concise introductory course with a competency check – followed by periodic refreshers – should be a condition for initial accreditation and subsequent renewal.³⁴ Such training could be offered by the National School of Government through existing courses on public procurement, or if new courses are needed, with a curriculum co-designed with the PPO. Conflict of interest declarations and adherence to a published code of conduct should be mandatory and renewed at defined intervals.

The register might be open to individuals from civil society organisations, academia, professional bodies, and, for example, retired public servants who are part of a professional association. The registration process could favour individuals with such institutional affiliation, as their own organisations could oversee their conduct, constraining possible malfeasance by civic observers.

As a default safeguard against capture and partiality, at least two civic observers should be appointed to qualifying procurements, preferably drawn from different organisations. Dual observation strengthens reliability, reduces the risk of individual bias, and enhances public confidence in the neutrality of the mechanism. Appointments should take account of relevant subject matter expertise and, where appropriate, local or community interest.

To reinforce credibility, regulations should also address the scenario in which a procurement meets the trigger criteria but no observer expresses interest. In such cases, the absence of civic-observer involvement should be recorded and published,³⁵ and the PPO should retain the discretion to reissue invitations or appoint from the register where feasible. This prevents the mechanism from being neutralised through passive non-participation.

33 This should include (i) core principles, roles and controls, common procurement methods and thresholds, conflicts of interest and debarment; (ii) ethics and professional conduct (including identifying and declaring interests, handling gifts and hospitality, and avoiding undue influence); (iii) lawful information handling (collecting only what is necessary, secure storage and sharing, and compliance with POPIA); (iv) basic monitoring and documentation methods (planning inquiries, keeping contemporaneous notes, interviewing and corroboration, preserving documents and audit trails); and (v) safeguarding and ‘do no harm’ practices for engagement, confidentiality, and digital hygiene.

34 Protection of Personal Information Act 4 of 2013 (for lawful handling of personal information), read with the confidentiality disciplines in Public Procurement Act 28 of 2024 s 31(2)(b)(ii)(cc).

35 Public Procurement Act 28 of 2024 s 31(2)(b) (publication architecture and interoperability requirements, supporting the ‘record and publish’ discipline).

Consequences (what follows when red flags arise)

The fourth design question concerns consequences: the practical effect civic observation will have when irregularities are identified, when access is obstructed, or when prescribed procedures are not followed. Without credible and timely consequences, the mechanism may become ineffective.

The mechanism should therefore be anchored in clear reporting and response obligations. Civic observers should publish concise, standardised process integrity reports within a defined period after each stage observed. These reports should state whether prescribed procedures were followed, note any deviations and the explanations provided, and identify red flags. Procuring institutions should be required to respond in writing within a similarly defined timeframe, setting out corrective steps or reasons for disagreement. Both the report and the institutional response should be published on the central procurement portal and linked to the relevant procurement record, in line with the Act's broader transparency architecture.³⁶

Where reports identify serious procedural irregularities, obstruction of access, persistent non-compliance, or failure to respond, there should be a defined escalation pathway. Escalation should ideally occur through the PPO, which is empowered under the Act to direct steps to stop or prevent non-compliance, require appropriate action against responsible officials, and refer suspected offences to law enforcement authorities.³⁷ This ensures that civic-observer findings are integrated into the existing enforcement framework rather than creating a parallel enforcement structure.

The role of civic observers is not to suspend awards or substitute for formal review mechanisms. Rather, their function is to document process integrity concerns and trigger structured institutional responses within the statutory framework. For example, the Public Procurement Act establishes a Public Procurement Tribunal, the function of which is to review decisions taken by procuring institutions, including decisions to debar a bidder or supplier. Where disputes generated by process integrity concerns fall within the Tribunal's review jurisdiction - they may proceed to the Tribunal. Other forms of non-compliance, including obstruction of access, failures of disclosure, or refusal to cooperate, should be escalated to the PPO for corrective direction. Where appropriate, they should be referred onward to National Treasury, the Auditor General, law enforcement, or other competent bodies.³⁸

Courts remain an important safeguard where unreasonable delay or unlawful secrecy is alleged, but the policy objective is wherever possible to resolve issues early and proportionately through the procurement governance architecture.

Consequences should apply not only to procuring institutions but also to observers. Misconduct on the part of a civic observer should be defined through a prescribed code of conduct, with graduated sanctions - including suspension or removal from the register - applied through a procedurally fair process. This would maintain integrity without deterring good-faith participation.

Properly structured, the consequences framework could ensure that civic observation is neither ornamental nor punitive, but a disciplined component of the broader procurement integrity system - designed to deter misconduct, support timely correction, and strengthen public trust.

³⁶ Public Procurement Act 28 of 2024 s 31(2)(b)(i)-(ii).

³⁷ Public Procurement Act 28 of 2024 s 54(2)(a)-(b) (PPO may instruct steps to stop/prevent non-compliance; direct appropriate action; refer alleged offences under s 60 to law enforcement).

³⁸ In the Public Procurement Act, the Tribunal's review jurisdiction is framed around the specific applications contemplated in ss 47-48 (review by a bidder of a procuring institution's decision made under s 35, and review of a debarment decision), with Tribunal rules and fees expressly linked to those applications (ss 46 and 49). Compliance failures outside those review categories (including access/publication failures) are more directly addressed through the PPO's investigative and enforcement powers, including directing steps to stop/prevent non-compliance and directing action against responsible officials (s 54(2)).



OVERSIGHT MECHANISM 2: Social Audits (Contract Execution under s30)

Social audits are systematic, community-led reviews of whether contracted goods, services and infrastructure have been delivered as promised.³⁹ They combine documentary review with onsite verification of contract delivery.⁴⁰ Social audits typically end with a public meeting where findings are presented and officials are invited - or required where law provides - to respond.⁴¹ Their purpose is not to second guess engineering standards or accounting rules, but to ensure that end-users can verify quantity, quality, location, and functionality. *They are not primarily intended as an anti-corruption mechanism: their main aim is to improve service delivery. If fraud or corruption is uncovered in the course of this work, that is an important additional benefit.*

India's Mahatma Gandhi National Rural Employment Guarantee Act of 2005 (MGNREGA) offers a good example. Under statutory rules, communities can inspect personnel attendance rosters and invoices, organise public hearings, and compel departmental responses within set timelines. Evaluations have found reduced leakage, ghost workers identified, and improved programme responsiveness.⁴² Mexico's *contraloría social* guides communities in monitoring social programmes.⁴³ In Uganda, CSO-led road and clinic monitoring has produced midcourse corrections and improved maintenance outcomes.⁴⁴

South Africa's own practice is rich. The Social Justice Coalition's sanitation audits in Cape Town exposed chronic failures by contractors and compelled changes in supervision.⁴⁵ IBPSA's Asivikelane transformed citizen feedback into municipal action during and after the COVID19 period, with monthly dashboards that made it difficult for officials to ignore.⁴⁶ Building on this, IBPSA's 2025 field study in Ekurhuleni, Johannesburg and Tshwane provides empirical support for this trajectory.⁴⁷ PARI itself piloted community monitoring of water and sanitation infrastructure, illustrating both the demand for and the feasibility of collaboration when officials are willing.⁴⁸ A further example is the scaled-up 2018 sanitation social audit in Ekurhuleni, which flagged the city's insufficient monitoring, vague specifications and non-compliance with contract requirements.⁴⁹

39 IBP-SA (2012) [Social Audits as a Budget Monitoring Tool](#): 6 (defining social audits as community-centred verification against records and reality).

40 GTAC (2016) [A Guide to Conducting Social Audits in South Africa](#): pp. 9-11.

41 GTAC (2016) [A Guide to Conducting Social Audits in South Africa](#): p10.

42 Bhatia, R., S.L. Chinoy, B. Kaushish, J. Puri, V.S. Chahar and H. Waddington (2016) [Examining the Evidence on the Effectiveness of India's Rural Employment Guarantee Act](#). 31e Working Paper 27. New Delhi: International Initiative for Impact Evaluation: pp. 19-20; IBP-SA (2012) [Social Audits as a Budget Monitoring Tool](#): pp. 5-6.

43 Diario Oficial de la Federación, Mexico (2023) [Acuerdo por el que se establecen los Lineamientos para la promoción, operación y seguimiento de la contraloría social en los programas federales de desarrollo social](#): pp. 1-2 (contraloría social as beneficiary organisation for oversight, supervision and vigilance over programme execution and resources).

44 Björkman, M, and J. Svensson (2009) [Power to the people: Evidence from a randomized field experiment on community-based monitoring in Uganda](#). Quarterly Journal of Economics 124 (2): 735-69 (community monitoring effects on service delivery and accountability).

45 SJC (2013) [Report of the Khayelitsha 'Mshengu Toilet' Social Audit](#): p4 (findings on contractor under-performance and monitoring failures).

46 IBP-SA, 'South Africa: Asivikelane Initiative'. Blog post.

47 IBP-SA (2025) [Reimagining Procurement Transparency for Basic Services in Informal Settlements](#): pp. 1-2, 16.

48 PARI (2024) [COMPACT Factsheet 3: Citizen-Based Monitoring](#): p1.

49 Mailovich, C. (2025) 'Fighting corruption in water and sanitation services: A South African perspective', in S. Williams, M.K. Kapardis and L.A. Kihl (eds) Routledge Handbook of Gender and Corruption, p294. Abingdon, U.K.: Routledge; Planact, International Budget Partnership South Africa and Social Audit Network (2018) [Scaled-up sanitation social audit: City of Ekurhuleni - 2018](#).

Regulations should do more than tolerate community monitoring. They ought to formally recognise social audits as part of the public accountability system. Recognition means giving community findings a defined place in oversight, ensuring access to the information needed to check delivery, and creating clear routes for response and follow through. To form part of the accountability system, regulations should have several critical features.

Enabling participation and access to information

Regulations should enable participation and access to information. For higher value or higher risk infrastructure and service contracts, a core set of contract and implementation records should be published proactively on the public procurement portal in open, reusable formats. This should include enough detail for communities to verify what was promised and delivered.

South African experience also suggests that community-led social auditing gains the quickest traction in procurement categories where delivery is frequent, place-specific, and readily observable. Such categories include outsourced basic services in informal settlements (for example, water delivery by tanks and trucks, toilet provision and servicing, desludging, and refuse removal) and local water and sanitation infrastructure projects. In contexts like these residents can verify whether, when and on what schedule services arrived. With adequate technical support and access to project documents, the same approach can also extend to more complex capital projects.

IBP-SA's recent fieldwork usefully underscores that disclosure must be user-centred: residents conducting social audits need easily accessible and contextually relevant information they can use to monitor services, not just documents posted online. Accordingly, the proposed service delivery information should be treated as a practical complement to online transparency tools (including the procurement portal/ITC open-data system), because key delivery details are often hard to locate in standard procurement disclosures and many community monitors face connectivity or device constraints.⁵⁰

We therefore propose that, for each affected contract and settlement, place-specific service delivery information be published and regularly updated. It should set out who delivers what, where and when; the agreed service standards and schedules; the municipal official responsible for contract management and invoice certification; and practical guidance on how residents can raise and if necessary escalate implementation problems. There should be an on-site introduction of the contractor involving the ward councillor or other local interlocutor, and information should be shared proactively at the start of the contract and maintained as a standing reference during delivery. A standard template should be prescribed, and officials trained in its use, to make it easier for municipalities to understand and implement their role. Information required for monitoring should be accessible to communities in the most widely spoken local languages.⁵¹ To ensure usability for community social auditors, this information should be available through simple offline channels such as ward councillor offices and noticeboards, community meetings, local depots and other accessible points, alongside online publication.⁵²

50 IBP-SA (2025) [Reimagining Procurement Transparency for Basic Services in Informal Settlements](#): pp. 1-2, 16.

51 Mailovich, C. (2025) 'Fighting corruption in water and sanitation services: A South African perspective', in S. Williams, M.K. Kapardis and L.A. Kihl (eds) *Routledge Handbook of Gender and Corruption*, pp. 297-298. Abingdon, U.K.: Routledge (guidance to service providers for making servicing and maintenance schedules available to communities and for providing clear arrangements for reporting faults, including expected response times and anonymous reporting options where appropriate).

52 IBP-SA (2025) [Reimagining Procurement Transparency for Basic Services in Informal Settlements](#): pp. 1-2, 16.

Contract and implementation records should clearly identify the prime contractor and any significant subcontractors responsible for on-the-ground delivery, including the service-provider names that residents will see on vehicles, uniforms or site signage.⁵³ Communities and civil society organisations should be able to request social audits of lower-value contracts where credible risk signals exist, as, for example, major cost overruns, repeated extensions, persistent non-delivery, or emergency awards.⁵⁴

Protection

Basic site-visit protocols such as identity verification, safety briefings, and coordination with site managers should be set out to protect both monitors and project staff. Errors in good faith in community reporting should not attract civil or criminal liability.

Response and follow-through

The regulations should ensure response and follow through. Without official responses, social audits become performative. Procuring entities should be required to respond in writing to social audit findings within clearly established and reasonable timeframes, indicating the corrective measures they will take and when they will take them, or explaining reasons for disagreement.

Finally, social audits should support rather than delay delivery. Properly sequenced, they provide timely, practical feedback that helps fix problems early and improve outcomes. The concluding public forum should be framed as a joint problem-solving mechanism, with officials invited, or required where the law provides, to engage and agree on corrective actions and timelines. Social audits should be aligned with key delivery milestones and routine performance reporting cycles, so that problems are corrected early.

53 International Budget Partnership (2025) [Public Procurement: A Guide to Common Risks and How to Address Them](#): pp. 22-23 (guidance on contract-management, specifically on comparing delivery to contract terms and verifying service-provider identity, including where subcontractors may be involved).

54 International Budget Partnership (2012) [Social Audits as a Budget Monitoring Tool](#): pp. 5-6; GTAC (2016) [A Guide to Conducting Social Audits in South Africa](#) (July 2016): pp. 9-11.



OVERSIGHT MECHANISM 3: Transparency and Data Standards (ss. 28 and 31)

Transparency is essential to the public procurement oversight ecosystem. Without timely, standardised, machine-readable data, civic observers and social auditors, and others mandated to or interested in playing a role in procurement oversight, lack the information needed for real-time monitoring. The Act creates the scaffolding for this. Section 28(2)(b) obliges the PPO to develop an ICT-based procurement system with standardised and interoperable open data across the procurement cycle,⁵⁵ while section 31(2)(b) mandates that disclosure requirements be published on a central portal in interoperable formats.⁵⁶ Operational detail can be prescribed through PPO instructions under section 5(2).⁵⁷

Standards to adopt

The PPO must provide a clear framework for public procurement data standards. The Open Contracting Data Standard (OCDS) provides a way to capture and publish standardised data across the planning, tender, award, contract, and implementation stages. This facilitates public oversight of procurement processes. The OCDS could be used as a model for developing this standardised, transparent data system for South Africa. National Treasury already publishes some OCDS-compliant datasets on the transparency portal and recommends expanding the use of an open contracting data standard to engage citizens and businesses throughout the contracting cycle.⁵⁸ National Treasury's own publication policy further commits to use of the open contracting data standard.⁵⁹ The model should be adapted to unique features of South Africa's procurement system.

The PPO should eliminate ambiguity by establishing a clear and open data standard as the governing framework for procurement data across planning, tendering, award, contracting, and implementation. Because it is the internationally recognised approach to publishing comparable, reusable procurement information, OCDS alignment could be treated as the benchmark⁶⁰, but the regulations should also recognise current capacity constraints. Therefore progressive, measurable movement towards a comprehensive open contracting data standard over time is required, starting with a clear minimum dataset that can realistically be implemented and enforced.

55 Public Procurement Act 28 of 2024 s 28(2)(b).

56 Public Procurement Act 28 of 2024 s 31(2)(b).

57 Public Procurement Act 28 of 2024 s 5(2).

58 OECD/World Bank/AfDB (2024) [Assessment of South Africa's National Procurement System](#): pp. 86–88.

59 National Treasury, Office of the Chief Procurement Officer, [Data User Guide – Office of the Chief Procurement Officer eTender Portal](#), eTender Transparency Portal / Publication Policy.

60 Open Contracting Partnership, [The Open Contracting Data Standard](#) (n.d.); National Treasury, Office of the Chief Procurement Officer, [Data User Guide – Office of the Chief Procurement Officer eTender Portal](#) (n.d.); Open Contracting Partnership, [Open Contracting Data Standard v1.1.5 Documentation: Guidance – Assessing Data Quality](#) (n.d.).

What, in practice, does an open data standard mean? In plain terms, it means that each procurement can be followed from start to finish without confusion. At a minimum, from the outset, every process should have a single public identifier that stays with it from planning through delivery, and all related records should be linked to that identifier. As alignment deepens, all key documents, such as plans, notices, clarifications, awards, signed contracts, amendments, invoices, and completion reports, should be connected through the same identifier, creating a coherent record of each contract so that auditors, journalists, communities, and suppliers can see what happened, when, and at what cost.

An open data standard also requires consistent naming of organisations. Buying entities and suppliers, including joint ventures and key subcontractors, must always be identified in the same way, using stable reference numbers. This avoids duplicate or contradictory entries and makes it possible to answer basic oversight questions – such as which companies are awarded most work across departments, or whether a bidder has undisclosed links to another supplier.

Publication must be reader-friendly (by people and machines). Information should appear on simple web pages that the public can read, and it should also be available for download in bulk and through a query service so analysts and oversight bodies can work with it at scale.⁶¹ Crucially, documents and data should have permanent web addresses so that anyone can cite and revisit the same records over time.

Completeness and timeliness are nonnegotiable objectives, but the regulations should implement them through phased, achievable legal requirements sustained throughout the procurement lifecycle. The intention is ideally end-to-end disclosure, not just award information. At minimum, publication should cover the core lifecycle stages – plans, tender documents, evaluation outcomes, awards, and full signed contracts – then expanding to contract variations, payments, and delivery results. Clear service-level timelines should keep information current, for example by posting awards within a few working days and publishing signed contracts shortly thereafter. When disclosure is complete and on time, the data supports oversight and course correction, not just historical reference. Finally, quality should be clearly visible. The PPO should publish simple data-quality dashboards at entity level showing whether required disclosures are complete, timely and internally consistent, using basic automated checks to flag gaps early.⁶² Making quality performance transparent helps institutions improve quickly and gives those overseeing the process confidence that the data can be relied upon. Lastly, the PPO might consider making the procurement of IT systems for public procurement an area in which it promotes the use of civic observers. An IT procurement monitoring initiative, drawing lessons from the success of the Health Sector Anti-Corruption Forum, could be a fruitful initiative.

In summary, the regulatory goal should be steady movement towards a comprehensive, fit for purpose open contracting data standard, such as the OCDS, with enforceable minimum requirements that become progressively more comprehensive. Properly implemented, this would yield traceable contracts, consistent identities, timely lifecycle disclosure and visible quality control.

61 Open Contracting Partnership (2021) [Guide: Defining Open Contracting Data Standard Functional Requirements for Electronic Government Procurement Systems](#) pp. 13, 20, 23–24; see also Open Contracting Partnership, 'Open Contracting Data Standard 1.1.5 Documentation: Guidance – Build: Establish your publication formats and access methods' (version 1.1.5); and Open Contracting Partnership, 'Open Contracting Data Standard 1.1.5 Documentation: Guidance – Build: Data files and APIs'.

62 A. Soyulu et al. (2022) 'Data Quality Barriers for Transparency in Public Procurement'. *Information* 13(2): 99, 104–08.

Transparency, Data Standards and Beneficial Ownership

Full transparency in public procurement involves the contracting record showing the natural persons who ultimately own or control suppliers. To make ownership visible where public money is spent, the regulations should require that beneficial-ownership information is published for prime contractors and for any joint-venture partners or material subcontractors, and that this information is linked to each contracting process using the same consistent identifiers as in the rest of the record.

South Africa is building from an established baseline. The Companies Act has established a beneficial ownership register administered by the CIPC,⁶³ and the Public Procurement Act builds on that foundation by requiring procurement disclosure that includes the identity of each winning bidder, including information relevant to that entity contained in the Companies Act companies register. At the award stage, the bidder's beneficial ownership record, drawn from the Companies Act register, must be published as quickly as possible on a free, central online portal in an electronic, interoperable format that supports end-to-end traceability.⁶⁴

The regulatory task is therefore primarily one of implementation. It must be specified how the procurement system will reference and link to CIPC records through persistent identifiers, how updates and verification status will be handled over time, and how disclosure will be applied to joint-venture partners and significant subcontractors, in a proportionate way that takes account of risk and financial stake.⁶⁵ This should be developed in parallel with the Act's commitment to standardised and interoperable open data across the procurement cycle, so that beneficial ownership information is consistently traceable alongside tender, award, contract and implementation records.

63 Companies Act 71 of 2008 (as amended) s 56(7)(aA) read with s 56(12)(inserted by the General Laws Amendment Act 22 of 2022; Companies and Intellectual Property Commission CIPC (2023) 'Beneficial Ownership Register: Guidance and Notices': 1-3.

64 Public Procurement Act 28 of 2024 s 31(2)(b)(ii)(bb).

65 Public Procurement Act 28 of 2024 s 31(2)(b); CIPC (2023) 'Beneficial Ownership Register: Guidance and Notices': 2-4.

SAFEGUARDS FOR CIVIL SOCIETY OVERSIGHT

There are, of course, risks in opening procurement oversight to community monitors and civil society observers, and in expanding data disclosure. These range through intimidation and retaliation, misuse or misinterpretation of information and inconsistent responses by institutions. To manage these risks, we recommend a set of safeguards that apply across the three oversight mechanisms: civic observers, social audits and transparency and data standards. These safeguards are risk based: less stringent requirements are appropriate where risks are low, and stronger measures where stakes are higher.

Proportionality

A risk-proportionate approach to oversight and disclosure entails defining the parameters of information requests, audit work, reporting obligations, and remedial action in proportion to the assessed risk, and the rand-value at stake. In practice, this translates into high-risk or high-value matters receiving deeper scrutiny and enhanced disclosures, while in low-risk settings there should be simpler processes.

Setting clear timeframes to ensure meaningful and efficient oversight

It is recommended that clear, time-bound standards be adopted across the procurement oversight lifecycle. This includes prompt acknowledgment of reports and disclosures, screening of red flags, initiating and completing social audits within set windows, issuing of reasoned responses to findings, and implementation of remedial actions within defined deadlines. International practice underscores the importance of appropriate and clear timelines,⁶⁶ with a standstill period that enables review before contract signing,⁶⁷ and quick acknowledgment and response to procurement-related complaints within fixed business day limits.⁶⁸

Whistleblowing (safe reporting and support)

The regulations should establish a dedicated channel within the PPO, ideally integrated into the eprocurement system, that accepts anonymous submissions, assigns a case number to each report, triages promptly, tracks progress, and publishes sanitised outcomes.⁶⁹ We understand that the PPO will establish a complaints mechanism under the new Act, that could function as a whistleblower mechanism, noting, however, that there is no constraint on whistleblowers using other hotlines and reporting channels. Robust antiretaliation protections must explicitly cover suppliers, subcontractors, consultants, civic observers and community members acting in good faith.⁷⁰

66 UNCITRAL (2011) [Model Law on Public Procurement](#) art 22(2)(3) (standstill period and notice); European Commission, [‘Remedies Directives’](#) (notes 10-day standstill period).

67 For example, in a high-value award the authority issues a notice of intention to award and observes a minimum 10-day standstill before signing so that unsuccessful bidders can seek review; if a supplier lodges a complaint during this window, World Bank rules for Bank-financed procurements require the authority to acknowledge receipt within three business days and to provide a reasoned response within fifteen business days. Contract signing is paused until the matter is resolved; publishing a simple dashboard recording ‘acknowledged in 3 days/responded in 15 days/signed after standstill elapsed’ makes compliance visible to all stakeholders. See World Bank (2023) [Procurement Regulations for IPF Borrowers](#).

68 UNCITRAL (2011) [Model Law on Public Procurement](#) arts 64–67.

69 Transparency International (2018) [A Best Practice Guide for Whistleblowing Legislation](#): 23–24, 38.

70 Transparency International (2018) [A Best Practice Guide for Whistleblowing Legislation](#): 28 (Principle 29: sanctions for retaliation and interference); 38–39 (follow-up mechanisms and protection duties).

Enforcement

It is recommended that the regulations establish a clear, proportionate and fair enforcement regime for transparency, disclosure and access obligations under the Act.

Minor or technical errors or breaches should trigger structured corrective support to prevent recurrence, such as training or support with process redesign. More serious, repeated or bad-faith non-compliance, including persistent non-publication, unlawful refusal of access, obstruction of authorised civic oversight, or false or misleading disclosure, should attract progressive administrative and legal consequences.⁷¹ There are various options available within the Act and the broader South African administrative and legal framework. Escalation might begin with queries to elicit an explanation for the breach, moving to directives stating the extent of the non-compliance and establishing remedial actions. Failing satisfactory resolution, there would then be enforcement actions. Such actions should lead to Section 60(2)(a) of the Act, which makes it an offense punishable by a fine or imprisonment not exceeding three years to fail unreasonably or to refuse to provide information required under the Act. More generally, where conduct crosses legal thresholds, as also in cases involving fraud, corruption, falsified declarations, or intentional destruction or concealment of records, matters should be referred to the relevant law enforcement authorities for criminal investigation and prosecution.⁷² The PPO should periodically publish transparency compliance scores to encourage adherence to compliance requirements. It can work with the Auditor General to include transparency in Auditor General reports, and with the Treasury, for example to assert transparency obligations in conditional grants.

Due-process guarantees (notice, reasons, right of reply, and access to review or appeal mechanisms) should apply throughout.⁷³

To support proportionality and consistency, enforcement should be underpinned by simple, transparent monitoring. A concise public reporting mechanism - for example a quarterly disclosure compliance scoreboard created by a procuring institution - can identify patterns of under-performance, prioritise corrective support, and provide an objective evidentiary basis for escalation where required.⁷⁴ Regular debriefs with procuring entities and civil society, coupled with periodic light-touch independent review, should ensure that templates, instructions and safeguards are refined as practice matures.

71 Public Procurement Act 28 of 2024 s 5(1)(h)(PPO may intervene to address a material breach); s 15 (debarment framework); s 54 (investigation by PPO)

72 Public Procurement Act 28 of 2024 s 54(2)(b)(PPO may refer alleged offences under s 60 to law enforcement); s 60 (offences)

73 Promotion of Administrative Justice Act 3 of 2000 ss 3-5 (procedurally fair administrative action; reasons).

74 OECD (2017) [Recommendation of the Council on Public Integrity](#) paras II, VII.

CONCLUSION

Our central assumption is that transparency can prevent missteps and abuses when paired with structured oversight, and that civil society can be a valuable partner in this oversight. Civic observers, social audits and transparency and data standards provide a practical package for improving the range and depth of scrutiny while decisions are being made and delivery can still be corrected.

The Public Procurement Act strengthens the statutory basis for public access and lifecycle disclosure through a free, central portal in interoperable form.⁷⁵ Gains in integrity can be realised if regulations and instructions translate high-level statutory duties into clear publication deadlines, minimum datasets, and remedies for when information is withheld, delayed or obstructed.

There should be no delay in implementation given the importance of public procurement to delivery by the state and the integrity challenges besetting the system. We have proposed that government builds on existing domestic practice, borrowing and adapting from other successful country examples, developing empowering regulations, piloting first and progressively institutionalising practice. Organs of state keen to explore these approaches can proceed under existing regulatory conditions, with Treasury already beginning to push the system towards greater collection and publication of procurement data. The Act's express contemplation of phased implementation reinforces the legitimacy of starting now and consolidating later.

This can be done with reasonably limited financial and administrative outlay: prioritise the publication platform and basic accreditation and training, with a simple analytics layer that makes compliance visible, complemented by structured civil society partnerships. The fiscal case is decisive: by March 2025, procurement-related recoveries and enforcement action related to state capture cases included R10.9 billion recovered, R10.6 billion under restraint/preservation, and R4.8 billion in related tax collection.⁷⁶ Even marginal prevention outweighs the administrative cost. The imperative is to implement what the Constitution already requires - consistently, at scale, and without waiting for perfect conditions.

75 Public Procurement Act 28 of 2024 s 28(2)(b); s 30; s 31(2)(b).

76 The Presidency, Republic of South Africa (2025) [Progress Report on Implementation of Actions in the President's Response to the Recommendations of the State Capture Commission as at the end of Quarter 2024/25](#): 6 (reporting SIU/AFU recoveries and SARS tax collections as of March 2025).

ANNEXURE: Proposals for regulations outlining information to be proactively disclosed

The regulations under Section 31 should specify the already enumerated categories of information to be disclosed (i.e. already mentioned in the Act), establish and specify further categories of information to be disclosed, and elaborate procedures for disclosure.

We propose that the categories to be disclosed should include:

The reasons to not follow an open competitive bid process required to be published under section 31(2)(a)(i), which should include the circumstances and market research justifying:

- Emergency procurement
- Sole supplier procurement
- Restricted competitive procurement
- The market research required under section 17(2) showing the number of potential suppliers for set-aside procurement
- The market research required under section 18(2) showing the number of potential suppliers for prequalification procurement
- The market research required under section 19(2)(b) showing the number of potential suppliers for subcontracting as a condition to bid procurement.

Pre-tender information, including:

- Needs assessments of procuring institutions
- Procurement plans of procuring institutions.

The information regarding every specific bid required to be published under section 31(2)(a)(ii), which should include:

- The needs assessment and procurement plan under which the tender is being issued
- The title of a tender
- The project for which it is being undertaken
- The budget line item from which it will be drawn
- The name of the procuring institution
- The advertisement to tender including date, opening and closing dates for tender submission, any restrictions on who can submit bids, anticipated award date, and contact details of the relevant official
- The details regarding any meetings to clarify the opportunity to tender
- The contents of any communication with a bidder to clarify the opportunity to tender
- The value of the tender
- The bid specifications
- The anticipated duration of contract
- The details of the selection method to be used
- Any other conditions including set-aside, prequalification, and subcontracting conditions
- The tender documents.

The identity of each entity that submits a bid according to section 31(2)(a)(iii), including information relevant to that entity contained in the companies register established under section 187(4) of the Companies Act, 2008, if applicable:

- The common name of the entity
- The formal legal name of the entity
- The company registration number of the entity
- The registered address of the entity
- The directors, members, trustees, shareholders of the entity.

In terms of section 31(2)(a)(iv), the date, reasons for and value of an award to a bidder:

- Reasons for rejection before the bid evaluation stage
- The bid evaluation and bid adjudication committee reports
- Allocation criteria and description of how points were scored
- Score-sheets of each bid.

In terms of section 31(2)(a)(iv), the record of the beneficial ownership of the winning bidder in the register maintained in terms of section 56(14) of the Companies Act, 2008.

In terms of section 31(2)(a)(v), the particulars of immediate family members, or related persons, of a person automatically excluded by section 13 from submitting a bid who receives an award above R1-million.

In terms of section 31(2)(a)(vi), contracts entered into with a supplier.

In terms of section 31(2)(a)(vi), invoices submitted by the supplier.

Payments made to a supplier.

In terms of section 31(2)(a)(vii), information regarding procurement processes cancelled and the reasons for the cancellation.

The regulations as they apply to section 31(2)(b) should conform as far as possible to Treasury's commitments under the Open Contracting Partnership to implement an open contracting data model of disclosure.

