

Public Procurement Process Design and Small and Medium Enterprises Access to Contracts in Uganda

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Abstract

Small and Medium Enterprises are often excluded from public procurement contracts due to several factors. We need effective public procurement policies, systems and personnel to ensure that the opportunities are scaled up rapidly, transparently and fairly so that SMEs can get access to public procurement contracts. The advocacy for SMEs access to public procurement contracts is largely driven by status discrimination, equality and sustainable development. In this paper, we analytically design a procurement process that can enable SME's access public procurement contracts within the Public Procurement and Disposal Authority legal framework. We take cognizance of the public procurement environment and develop a supportive management framework.

Keywords: Small and Medium Enterprises; Procurement process; Management framework.

1. Introduction

In Uganda a 'Micro Enterprise' is an enterprise employing up to four people, with an annual sales/revenue turnover or total assets not exceeding Uganda shillings 10 million. On the other hand, Small Enterprises employ between 5 and 49 and have total assets between UGX: 10 million but not exceeding 100 million. The Medium Enterprise therefore, employs between 50 and 100 with total assets more than 100 million shilling but not exceeding 360 million (Uganda Investment Authority 2018). Integrating Small and medium Enterprises (SMEs) in public procurement provides clear market opportunities for SMEs, who otherwise are likely to be excluded from public procurement because of administrative requirements for mandatory bidding processes and their inadequate size or capacity to deliver. This is in consonance with Uganda's Vision 2040 that intends to have: "A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years". In Uganda, 60% of government revenue (90.5 trillion shilling) is spent on projects done through public procurement. Poor public procurement management is one of the major factors causing delays in Uganda's economic development (Kisamba Mugerwa 2017). Tumutegyereize (2013) explicitly put it that one of the capacity challenges faced by the Public Procurement and Disposal Authority (PPDA) is the failure to achieve social policies in the public procurement practices (such as ensuring proportions of government contracts go to women, SMEs or economically disadvantaged people or regions). The need to analyze how the government can exercise its procurement economic power and at the same time use it to advance conceptions of social justice is critical. Hence, we examine the tactical procurement process and initiatives that can spur deeper thinking and practice on how SMEs can access to public procurement contracts (A2PPCs) for their empowerment and growth. Subsequent sections in this paper address a review of literature, procurement process design and the management framework.

2. Literature Review

Governments can use public procurement to achieve policy objectives. Although the terms share certain similarities, we have brought together public procurement contracts to go beyond simply getting tenders. We extend it to include the definition of the contract, the qualifications of the contractors, and the criteria for the award of the contract (Mc Crudden

2004). Government can participate in the market as a purchaser and at the same time regulating it through the use of its purchasing power to advance conceptions of social justice. Telgen (2006) in an analysis of literature contends that public procurement can be used for policy delivery. Among others for job creation and employment for example by splitting up purchases in such a way that jobs are created or requiring suppliers to use the unemployed in supplying their goods and services; SME/regional involvement for example by splitting up orders in smaller lots so that smaller companies can participate in competing for these smaller lots; Diversity (social outcomes) i.e. favoring various suppliers (minorities, disabled, women, local firms).

The Organization of Government Commerce (2010) argues that, markets are more efficient where they have multiple suppliers and optimal competition. That drives suppliers to perform better, with benefits for their customers, the economy and ultimately all citizens. Therefore, buyers have an interest in maintaining and encouraging competition and SMEs can play a major role in achieving this one. Furthermore, in a more direct sense, support for SMEs that truly offer competitive advantage-through innovation, cost or service-will benefit the economy and the customer organization. Pertinent is that, SMEs need to have access to, and the opportunity to win government contracts. What must not happen is that the procurement process unintentionally favours large firms in some way and discourages the small ones. In a literature analysis of: McCrudden (2004); Telgen (2006); Procurement Innovation Group (2009); Linthorst and Telgen (2006); Fee et al. (2001); Mont and Leire (2008); Commonwealth Secretariat (2010), the conceptual framework is developed to better understand the conceptual relationships in this study thus:

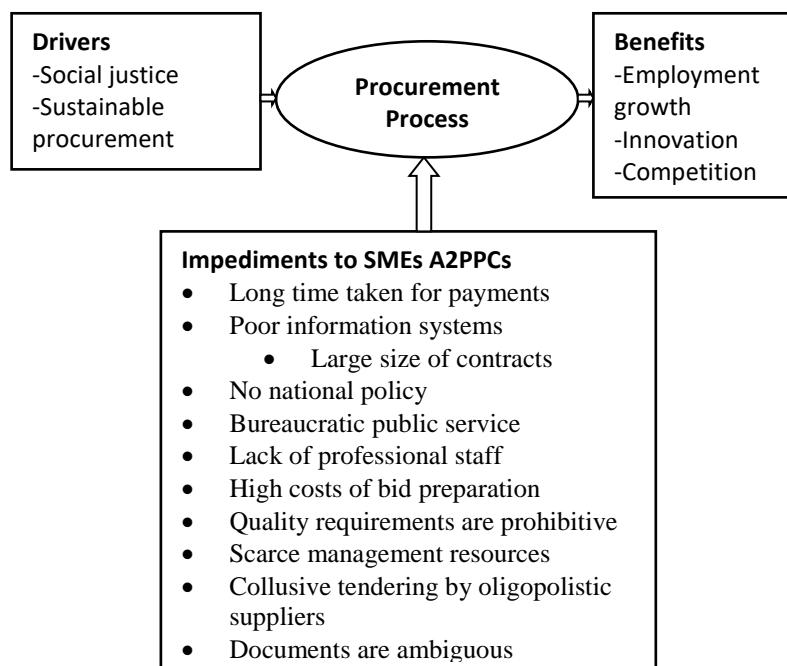


Figure 1. Conceptual framework of SMEs A2PPCs.

There is a need to develop a more SME friendly approach to public procurement. We briefly review the Uganda Governments regulatory reforms in this regard. The new Public Procurement and Disposal of Public Assets Regulations (2014) particularly the insertion of a new section 59 B provides for reservation schemes to promote the use of local expertise and material as well as the participation of local communities or local organizations. However, entities have evidently not taken advantage of this amendment to have SMEs A2PPCs. The procurement process needs to be designed to focus on SMEs. Provision of easy but transparent operational guidelines is critical. Filling this gap is the purpose of this study.

3. Public Procurement process Design

The making of a decision is formed by what is sometimes referred to as a decision making model, or a mental or conceptual model of the decision making situation (Betrand et.al. in De Boer and Van Stekelenborg 1995). In tandem with this, the PPDA has a procurement cycle that delineates the roles and responsibilities of key stakeholders. However, the cycle does not explicitly state or demonstrate the decision making process that can enable SMEs A2PPCs. In our public procurement process design, we adopt the 8-step model for supplier selection in Obanda (2010). In this study, we focus on the first four steps. These constitute:

1. Recognize the need for supplier selection

2. Identify key sourcing requirements
3. Choose evaluation criteria
4. Prequalification.

These steps are analyzed within the PPDA regulatory framework and procurement cycle. We undertake a process perspective of public procurement which McKeivitt and Davis (2013) categorize as what buyers ought to do.

3.1. Recognize the Need for Supplier Selection

The first step of the evaluation and selection process usually involves recognizing there is a requirement to evaluate and select a supplier for an item or service (Monzcka et.al. 2005). This entails recognizing that there is a problem by measuring the gap between the existing goals and current state of affairs. In this context of study, the first step would hence be embedding SMEs' A2PPCs clearly in the procurement plans of the procurement and disposal entities. This unlike unguided and intuitive decision making which is susceptible to many forms of inconsistency would help the entities structure and subsequently better understand the next steps.

3.2 Identify Key Sourcing Requirements

Here, specification would entail stating that SMEs' will be selected basing on their ability to provide the supplied item. This will result in the programme of requirements that will list all the requirements that an SME has to meet. User Departments are mandated to do this but this will need technical support from the Procurement and Disposal Unit staff.

3.3. Choose Evaluation Criteria

Keeping selection criteria proportionate is of core importance for SMEs, since contracting authorities that fix too high capacity and ability levels exclude *de facto* a high proportion of SMEs from participating in tender procedures. All selection criteria should be clear, non-discriminatory and proportionate to the contract in question. Caution should also be taken in wording selection criteria in a way that may not narrow the field of competition by addressing irrelevant matters e.g. a requirement that only experience acquired in dealing with the public sector will be taken into account is, as such, irrelevant and limits competition.

3.4. Prequalification

Pre-qualification is based on the program of requirements developed in step 2. Most evaluations rate suppliers on three primary criteria i.e. cost/price, quality and delivery. This is a first cut or preliminary evaluation of potential SMEs to narrow the list before conducting an in-depth evaluation. The PPDA Regulations (2014) indeed provides that: "The criteria for the evaluation for pre-qualification shall be limited to that necessary for the performance of the intended contract and shall not be unduly restrictive". The requirements should be set proportionately to the requirements of the contract. An integration of other criteria that favour SMEs should be undertaken to compliment these steps described next.

4. Integrating SME criteria into supplier selection practice

The PPDA Act No.1 2003 under Regulation 100 provides for the splitting of requirements and Regulation 101 provides guidelines for the division into lots. Implementing them may hence be neutral in terms of compliance. The sub-division of public purchases into lots clearly facilitates access of SMEs, both quantitatively (the size of the lots may better correspond to the productive capacity of the SME) and qualitatively (the content of the lots may correspond more closely to the specialized sector of the SME). Furthermore, sub-dividing contracts into lots and thereby further opening the way for SMEs to participate, broadens competition, which is beneficial for the contracting authorities provided that it is appropriate and feasible (Commonwealth Secretariat 2010; Linthorst and Telgen (2006). Multiple sourcing offers much in terms of socio-economic goal achievement, but it also requires much in terms of tools and formal methods necessary to handle the added complexity. Indeed De Boer et al. (2006) show that purchasers and stakeholders in the selection process sometimes hold skeptical attitudes towards more advanced formal methods. In such an environment, multiple sourcing may be doomed to fail no matter the promises. Use framework contracts. This is appropriate for SMEs with contracts characterized by: low contract value/volume, local delivery, tailored or innovative product/service and limited economies. When a specific requirement arises, a mini competition can be used to decide on which of the SMEs to use. Alternatively, lots can be used in combination with frameworks. De Boer et. al. (2006) in their conclusion suggest that future research on supplier selection should take the (problematic) existence of formal methods in practice as a starting point, and be of an integrative nature –combining insights from management research. It is in same vein that we develop a supportive management framework.

5. Management Framework

These dimensions in the framework are largely analytically derived from those in Obanda (2012). The dimensions are inextricably linked based on the systems approach.

5.1. Professionalism

A major scope for improving SMEs participation in public tenders is through increasing professionalism in procurement. Professionalism can be defined as the status, methods, or standards within a career. Hence, with regard to the procurement process in procuring and disposal entities in Uganda, public procurement professionals need the requisite combination of skills and competencies to develop into a coordinated, well equipped and informed profession. This entails keeping selection criteria proportionate, so that SMEs who believe that the scope of a framework agreement precludes their involvement and that the bidding procedure is more complex and prolonged, are not deterred. Further, Public Procurement Officers should be able to make use of the possibility to conclude framework agreements with several economic operators and to organize mini competitions for parties to the framework agreement as actual procurement needs arises.

5.2. Implementation

A review of literature from the Procurement Innovation Group (2009) and Choi Jeong-Wook (2010) reveals that ensuring payments are made on time is paramount. A provision to alleviate the financial burden of SMEs by: providing for a 30 days' payment deadline as a default; payment of interest on late payments etc. would be beneficial in this regard. Also: simplify the documents necessary for making payments for example use electronic tools; do not suspend payment without a valid reason; enhance the use of electronic payment; simplify controls; do not postpone payment until the end of the year. The adoption of the measures above would mitigate the time-consuming paperwork which is among the most complaints voiced by SMEs. SMEs' normally do not have large and specialized administrative capacities hence keeping administrative requirements to a minimum is essential.

5.3. Training of stakeholders

Besides the Procurement Officers, the other stakeholders are not mandated to be professionals. They however play crucial roles in the procurement process. The Evaluation Committee and Contracts Committee members particularly need to be conversant with the available formal scoring methods appropriate to offer an added advantage to SMEs as the former conducts the actual scoring while the latter approves the methods to be used. Given the scenario in Uganda, this is a vital prerequisite. User Departments can equally be trained to arrange their work in lots that are content wise and logically friendly to SMEs capacity. Linthorst and Telgen (2006) in an example offer that, content-wise road maintenance may be divided into three sets of tasks: major overhaul, regular maintenance and minor repairs. Meanwhile, a logical division may be into major thoroughways, minor roads and residential areas.

5.4. Information

Adoption of ICT particularly development of websites that may be helpful to SMEs by enabling cheap and quick communication e.g. downloading the contract documents and any supplementary documents without incurring copying or mailing costs. Adopting this would enable publication of public procurement notices online; multi-functional search engines; direct downloading of contract notices and accompanying documentation; electronic tendering facility enabling entities receive bids electronically in conformity with the PPDA regulations. All in all, it boils down to the provision of information in the right form to the right user using the right means as advanced by Okello-Obura and Matovu (2011). Finally, the Procurement and Disposal Units (PDUs) should be the local desks that help SMEs to increase their involvement in public procurement contracts. They should help SMEs familiarize themselves with their respective websites. Coupled with this would be the provision of feedback to unsuccessful tenders.

6. Conclusion

This paper has shown that the costs of facilitating SMEs A2PPCs and integrating SMEs into the supplier selection practice may be enormous. It should however, be undertaken given the socio-economic context of developing countries and the benefits for sustainable and inclusive growth of SMEs.

References

Choi Jeong-Wook. (2010). A study on the role of public procurement. Can public procurement make society better? In proceedings of The 4th International Public Procurement Conference. Seoul: South Korea.

Commission Staff Working Document. (2008). European code of best practices facilitating access by SMEs to public procurement contracts.

Commission of the European Communities Commonwealth Secretariat. (2010). Improving SMEs access to the public market. Trade, Enterprise & Agricultural Department, October, Draft report, Republic of Uganda.

De Boer Luitzen, Linthorst Merijn, Schotanus Fredo and Telgen Jan. (2006). An analysis of some mistakes, miracles and myths in supplier selection.

- De Boer and Van Stekelenborg, H. A. Rob. (1995). Design support for purchasing. 4th International IPSESA Conference. Birmingham.
- Linthorst M. Merijn and Telgen Jan. (2006). Public Purchasing future: Buying from multiple suppliers.
- McCrudden Christopher. (2004). Using public procurement to achieve social outcomes. *Natural Resources Forum* 28, 257-267.
- McKevitt Davis and David Paul. (2013). Microenterprises: how they interact with public procurement processes. *International Journal of Public Sector Management*, Vol.26 (6), pp. 469-480.
- Monczka Robert, Trent Robert and Handfield Robert (2005). Purchasing and supply chain management. South Western. Thomson.
- Mont, O. and Leire, C. (2008). Socially responsible purchasing in the supply Chain: drivers and barriers in Sweden. *Social Responsibility Journal*, Vol. 5 (3), pp. 388-407.
- Obanda, W. Peter. (2012). SMEs and public procurement contracts in developing countries. In proceedings of The 5th International Public Procurement Conference, Seattle: Washington, USA.
- Obanda, W. Peter. (2010). Fighting corruption in tactical procurement. PhD Thesis.
- Okello-Obura C. and Matovu James. (2011). SMEs and Business information provision strategies: Analytical perspective. *Library Philosophy and Practice*.
- Procurement Innovation Group. (2010). Using public procurement to stimulate innovation and SME access to public contracts. Department of Enterprise, Trade and Employment. July.
- Telgen Jan. (2006). Public procurement in perspective in *International Public procurement, Cases and Commentaries*, Knight L.A., Harland C.M., Telgen J., Thai K.V. and McKen K.E. (Eds). Routledge
- Kisamba Mugerwa (2017). Middle Income status far fetched, *The New Vision*, Friday, September 8
- The Organization of Government Commerce (2010). Small supplier big opportunity: Flagging your contracts to SMEs. www.ogc.gov.uk
- The Public Procurement and Disposal of Public Assets Act. No.1 of 2003. Prime Concepts Limited.
- The Public Procurement and Disposal of Public Assets Regulations (2014).Tumutegyereize Milton (2013). Public procurement reforms: Issues and challenges: The case of Uganda. CIPS Pan African Conference. Ghana. National Theatre.
- Uganda Investment Authority (2018). Small and Medium Enterprises. <http://www.ugandainvest.go.ug/sme/>