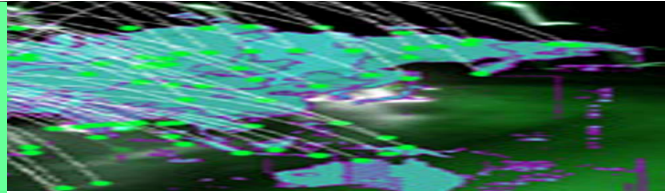


Public Procurement



What is Public Procurement?

Public procurement involves public institutions around the world – from national governments to local authorities – spending billions of dollars every year on the purchase, rental or lease of goods, services and construction. At its best, it provides timely and cost-effective support to the policy and public service-delivery commitments of government. At its worst, it can be a nightmare of conflict of interest, preferential treatment, corruption and waste, requiring constant political and executive oversight and attention.

Why it Matters

Effective public procurement ensures that public funds are well spent for their intended purpose(s). It

- supports the delivery of more needed services to citizens by ensuring that full value is achieved from every expenditure and that funds do not have to be diverted to pay for poor practices;
- contributes to the efficient operation and development of the marketplace by using and building on the real strengths of the business community rather than artificial situations;
- builds credibility for and trust in public authorities; and
- stimulates economic development through increased investor confidence.

The Rules

The basic rules of public procurement are global. In part, this stems from the growth of international trade agreements (such as the World Trade Organization Agreement on Government Procurement), where signatory countries commit to compliance with common inter-jurisdictional rules. It comes also from the international development initiatives of countries such as Canada; collectives such as the European Community; and lending institutions such as the various international development banks that may make compliance with their rules of procurement a pre-condition to financial support.

Open Competition. When a need to buy is identified, the universally preferred approach is for the public authority to call for bids. It specifies what it needs and how it will select its contractor: any supplier that believes it is qualified can generally submit a bid.

Sole-Source/Direct Contracting. Dealing directly with one supplier, while often necessary, is severely limited, essentially to situations where there is no choice (such as emergencies, or when only one possible supplier exists), or the cost of a call for bids outweighs the benefits of competition.

Integrity. It is a common expectation and commitment that, once having set out its rules of process for a call for bids, a public authority will respect them – at all times through staff who have no personal interest in the process or outcome.

Transparency. Public procurement is expected to be carried out publicly – with general rules of procedure and individual calls for bids broadly advertised, and subsequent contract awards publicized equally prominently.

Recourse. Suppliers that believe they have not been treated in accordance with the rules should have access to an independent recourse mechanism.

The Issues

Public procurement can be compromised by a wide range of pressures, including

- a lack of understanding of the complexities of this highly specialized function;
- an initial “what to buy” decision that may give preference to, or unfairly disadvantage, an industry sector;
- improper use of a direct contract with one supplier, rather than a call for bids;



- inadequate understanding and definition of the need to be met that is sometimes compounded by a lack of knowledge/understanding of the marketplace;
- limiting the ability of potential bidders to propose their “best” solutions by over-specifying exactly what the public authority needs to buy;
- exclusion of legitimate potential contractors through unfair or unreasonable qualification criteria;
- contract specifications and/or award decisions influenced by higher authorities with subjective or undisclosed agendas;
- payment to a contractor for services carried out poorly or not at all;
- insufficient qualified procurement staff to support operational requirements in a timely manner;
- inadequately compensated procurement staff, vulnerable to improper incentives;
- insufficient management attention to risk identification and management;
- intense supplier competition for contracts, leading to efforts to seek special advantage; and
- staff seeking personal benefit rather than the public good; decisions made for political gain.

These and other issues can result in contracts that are delivered late, over budget, and with less than anticipated results – with consequent negative effects on program delivery. There may be

- inefficient and ineffective allocation of scarce public resources, as they are directed away from important requirements to pay for waste, mismanagement and corruption;
- diversion of public executive focus away from proactive public policy and service delivery towards reactive crisis management;
- loss of supplier confidence in the procurement process, resulting in the reluctance or refusal of better suppliers to participate;
- loss of citizen confidence in government, leading to underground economic activity such as tax avoidance and political unrest;
- loss of international and investor confidence, with possible financial implications.

The Path to Success

Effective public procurement is characterized by

- recognition that procurement is not an end in itself – that it exists to help operational managers meet their policy and program objectives;
- an effective balance between supporting operational objectives and ensuring an open and trustworthy approach;
- appropriate policies and procedures, with processes and decisions that are easy to follow and understand;
- sufficient qualified and trained staff who can be relied on to conduct procurement properly;
- an appropriate level of oversight;
- clear conflict-of-interest measures, with consistently applied sanctions for non-compliance; and
- full and honest public disclosure of procurement activities, decisions and results, so that the public can see the integrity and effectiveness of the process.

Readings

Business Anti-Corruption Portal, available at: <http://www.business-anti-corruption.com/due-diligence-tools/public-procurement-tool/>.

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Thai, Khi V. *International Handbook of Public Procurement*. Boca Raton, Florida: CRC Press/ Taylor & Francis Group, 2009.



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