

**THE IMPACT OF THE CURRENT TACTICAL PUBLIC  
PROCUREMENT PRACTICE IN UGANDA AND ITS  
IMPLICATIONS FOR SOCIO ECONOMIC DEVELOPMENT  
OUTCOMES**

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**ABSTRACT.** Uganda prescribes compulsory competitive tendering (CCT) as the procurement technique (as per PPDA act, 2003) to be utilized by public entities and local government departments in procuring goods, works and services exceeding a given threshold. Establishing the real impact of this procurement process on socio economic objectives is quite essential. This paper specifically assesses how the current tactical level public procurement processes operate and discloses that stakeholders especially the staff involved in executing the procurement planning, preparation of source selection documents and contracting fail to tie together opportunities available for utilizing public procurement as springboard to enhance the realization of growth of SMEs, environmental protection and Empowerment of women, youth and persons with disabilities (PWDs). It also elucidates on a range of issues regarding how the public procuring entities in Uganda and other developing countries can innovatively remodel their tactical level procurement systems to transform them into more reliable instruments of policy capable of enhancing attainment of diverse procurement objectives and long term socioeconomic development goals in a transparent, cost effective and competitive manner.

**INTRODUCTION**

**Background and Context**

Like elsewhere in the world, the government of Uganda and its agencies play multidimensional critical role in the functioning of the

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economy. This role has been made more complex and consequential by prescribing compulsory competitive tendering (CCT) as the preferred technique for sourcing the provision of public works, supplies and services formerly delivered directly by the state or its agencies. Although existing literature (UNICTRAL, 1995; World Bank and Mcrudden, 1995 in Watermayer 2003) depict procurement as capable of serving a wide range of objectives, quite a cross-section of people neither understand nor realize how government actions especially those linked to procurement can impact on attainment of socioeconomic development outcomes. Studies conducted elsewhere nonetheless reveal divergent and somehow conflicting viewpoints regarding the importance and impact of CCT on development generally and socioeconomic development outcomes in particular. Some scholars have outrightly criticized competitive tendering and portrayed it to be neither efficient nor cost-effective; (Knox's, 1993; Whitfield and Escott, 1995; Radford and Kerr, 1995; Ernst et al, 1997) while others give a picture of procurement being a plausible springboard for enhancing development. In Uganda where the government is ,among other things, deemed to foster accelerated growth of SMEs, private sector led economy, poverty eradication, provisioning for old age (through National Social Security Fund & Pay As You Earn ), diminishing regional inequalities, environmental protection , empowerment of women, youth and PWDs and initiating investment projects, such conflicting assertions sounds interesting signals to public procuring entities.

This paper attempts to discern in modest depth whether the prescribed tactical level public procurement processes (specification, selection, and contracting), as currently applied fully interlace to generate enhanced attainment of desired development goals. In particular the focus is on evaluating whether CCT processes in Uganda tie together the would-be opportunities for promoting growth of SMEs, environmental protection and Empowerment of women, youth and PWDs or not. A range of adoptable policy options depicting how public procuring entities in Uganda can use tactical level procurement components to optimize the achievement of desired socioeconomic development outcomes within the current legal framework (PPDA Act, 2003) is also highlighted as the paper progresses towards the end. Specifically, this paper attempts to answer the following research questions:

- How does the current tactical level public procurement processes take into account achievement of socioeconomic development objectives?
- What interventions can be undertaken within the existing public procurement framework to enhance achievement of socioeconomic development objectives?

This paper is arranged as follows: section 2 discusses literature depicting how public procurement has been used as a lever for enhancing the achievement of social economic goals. Section 3 briefly describes the research design while Section 4 details on how the procurement process in Uganda operates and highlights the possible interventions that could boost attainment of socioeconomic development goals within the current legal framework.

## **LITERATURE REVIEW**

### **The Linkages between Public Procurement and Socioeconomic Development Outcomes**

The subject matter of procurement seems undisputable. Various definitions generated by different scholars (Porter, 1985; Practical guide No.6, 2003<sup>1</sup>; PPDA Act, 2003) depict procurement to be a process of acquiring goods, works and services that enable an organization become functionally effective and efficient. Public Procurement on the other hand focuses on acquisition processes whereby the procuring entity is using public funds. World Bank, (1995a) in Organization for Economic Cooperation and Development (OECD) report (2003) indicate that public procurement encompasses purchase of commodities and contracting of construction works and services where acquisition is effected by use of resources obtained from state budgets, local authority budgets, state foundation funds, public loans or foreign aid as well as revenue received from economic activities of the state.

What ideally unfolds from the diverse literature examined is that government actions especially those associated with procurement can directly or indirectly influence economic performance and community

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<sup>1</sup> Practical Guide No.6; (2003): is concerned with the implementation preferential procurement in South Africa.

welfare. Public procurement as such can be used as a reliable lever for enhancing more efficient attainment of several desired developmental happenings and “non happenings” in the economy. There is a move away from prescriptive specifications based on technical or performance detailing towards more focused specifications that integrate output or outcomes ( Smith and Hobbs; 2001). While negotiated procedure is indicated to enable an economically more efficient outcome than a traditional call for competition (COM; 1996), sustainable development has become vital target for public sector buyers and is considered to be one of the overarching goal (Charlotta; in Ecoprocura; 2006). According to the Best practice Guide B1<sup>2</sup> ;( 2004) *preferential treatment can be given to tenderers enjoying targeted enterprise status or structure their proposals to execute a contract in a manner that engages targeted enterprises and labour or both*. This means that procurement is currently playing strategic roles, not only related to obtaining value for money, but also inherently allied with the delivery of strategic goals desired by public procuring entities. The implication of this is that while precise technical and performance specifications remain essential, the scope of procurement specification, selection, contracting and contract execution may be widen to include socioeconomic development components and environment protection. This could be achieved by ensuring that any procurement effort is deliberately aligned, tangled and adapted to help responsible public procuring entities or government departments achieve observable procurement objectives and overall national development goals concurrently. Creative rethinking and innovativeness on the part of personnel involved in execution of the initial procurement functions is therefore extremely essential. Varied critical socioeconomic development constructs depicted in literature that could have amenable linkages with tactical level procurement components seem to be quite numerous (see Table 1).

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<sup>2</sup> Best Practice Guide B1;(2004): Formulating and Implementing preferential procurement policies March, 2004: First edition of CIDB document 1007

**TABLE 1**  
**Socioeconomic Development Constructs Amenable to Tactical Level Procurement**

	Construct(s)	Source/Author(s)
1.	Environment protection and related issues ie issues associated with Green procurement, hazardous materials spills	COM <sup>3</sup> (1996)
2.	Employment opportunities and income creation in regeneration areas.	Erridge and Fee (2001) McCrudden ;( 2004).
3	Business opportunities and or Growth opportunities for small and medium enterprises (SMEs).	Tender ;( 1997).
4	Education and training as well as adult basic skills provision.	EU`s social policy Article 2
5	Innovation and technology transfer eg in case of offsets.	Homer-Dixon (2000)
6	Promotion of Levels of health and safety as well as Local security and quality of life decisions.	Erridge and Fee (2001), EU`s social policy Article 2
7	Attainment Gender equality & affirmative action (such as equal access to opportunities between men and women).	Roussel; (1998), Best practice Guide B1 ; ( 2004).
8	Fostering Labour mobility or labour flow from one place to another.	EU`s social policy Article 2 of EU treaty.
9	Improved Working conditions & greater respect for human rights	EU`s social policy Article 2, McCrudden; ( 2004), PSI <sup>4</sup> ; (2003)
10	Welfare standards of living as well as family issues & Social cohesion.	Morgan; (1996); EU`s social policy Article 2
11	Compliance with Legal requirements	EU`s social policy

<sup>3</sup>COM refers to Commission for European communities: The Green Paper presented by the Commission was titled Public Procurement in the European Union: Exploring the way forward, Brussels COM (96) 583, 1996.

<sup>4</sup>The PSI refers to Public Service International: Publishes series of paper on Policy, Practice and programme.

	and social or old age provisioning eg enforcing NSSF &PAYE	Article 2, Best practice Guide B1;(2004)
12	Poverty Levels and community wellness.	Supperstone; (1997), Best practice Guide B1; (2004) Watermeyer; (2000).
13	Empowerment and integration of persons with disabilities (PWDs) and the disadvantaged poor groups.	EU`s social policy Article 2, Best practice Guide B1; (2004).
14	Indigenization of the economy or promotion of companies owned and controlled by indigenous son of the land.	McCrudden; (2004), Watermeyer; (2000). Best practice Guide B1; (2004)

As indicated in the table above one can firmly assert that public procurement can be used as a multi sector policy instrument that has far reaching implications for a very wide range of socioeconomic development and welfare issues. The entire listing is comprised of constructs having general and specific development connotations. This implies that if the government of Uganda or her agents could directly and indirectly influence all of them through public procurement; it would have gone a long way in accomplishing a major part of her duties and obligations enshrined in the constitution.

Bell (2002) asserts that government's role is to shove society towards attainment of goals indicated and articulated through public policy .It is, in addition, responsible for mobilizing for a common stand based on the country's long term vision and strategy that, in most cases, focus on sustainable development goals. Morgan (1996) portrays public procurement as a means through which both national developments as well as socioeconomic welfare of the citizens can be attained. Telgen (2006) gives a more focused viewpoint by asserting that public procurement is capable of playing a substantial role in delivering state objectives and that reforms associated with public procurement can be a lever for socio-economic development in both the developed and developing countries. In addition Erridge and Fee (2001) re-emphasizes that public procurement has a considerable impact on employment. As such promotion of equal opportunities through contract compliance can

at the same time contribute directly to broader social policy objectives. COM<sup>5</sup>(1996) crowns this by stating that public procurement policy can have positive spin-off effects on community policies and can contribute significantly to realization of social and environment policy objectives.

Impliedly the above seem pinpointing the fact that since public entities are goal setters who must hold close and in focus the vision of its nationals, procurement has huge potential roles for them. Procurement personnel therefore have a lot to do in rethinking the way public procurement processes and activities are organized or handled to ensure effective tapping of these potential roles. As Homer-Dixon (2000) in Bell (2002) puts it if governments wish to develop an economy based on sustainability principles, they have to develop strategies for facilitating the transition. This indeed will require reasonable amount of ingenuity, and innovation. In particular, if they are to deliver cost effective interventions, inventiveness and creativity must be capable of being functionally effective within the framework of the already existing systems and practices. Public procurement therefore apparently offers a very reliable springboard towards enhancing attainment of desired socio economic development outcomes. In Uganda for instance, where central government departments manage the public debts and controls the development budgets (CPAR; 2004<sup>6</sup>), right handling of the procurement tasks becomes not only a necessary condition to welfare improvement but also an essential requisite usable in accelerating achievement of a broader batch of outcomes. Specifications must specify and describe contract participation goals and allotment of resources at tender stage (Best practice Guide B1; 2004). This becomes severely important in the case of developing economies where public expenditure is the driving force towards economic prosperity, improved social transformation, innovation and redirection of investment into vital sectors of the economy.

### **Interface between Tactical Level Procurement And Attainment Of Socioeconomic Development Objectives**

Best practice guide B1; ( 2004) lists provisions of the Preferential Procurement Policy Framework Act in south Africa that offer a variety

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<sup>5</sup>COM refers to Commission for European communities: The Green Paper presented by the Commission was titled Public Procurement in the European Union: Exploring the way forward, Brussels COM (96) 583, 1996.

<sup>6</sup> CPAR refer to Country Procurement Assessment Report.

of options that could be used at tactical level procurement without overtly being unfair though purposively discriminatory. Accordingly the mechanisms that would rectify the imbalances occasioned by the apartheid regime and foster the advancement of disadvantaged persons if implemented are indicated to include:

- Set asides, i.e. allowing only enterprises that have prescribed characteristics to compete for the contracts or portions thereof, which have been reserved for their exclusive execution;
- Contractual conditions i.e. making policy objectives a contractual condition e.g. a fixed percentage of work must be subcontracted out to enterprises that have prescribed characteristics or a joint venture must be entered into;
- Qualification criteria i.e. the exclusion of firms that cannot meet a specified requirement, or norm, relating to the policy objectives from participation in contracts other than those provided for in the Law; and
- Offering back i.e. offering tenderers that satisfy criteria relating to policy objectives an opportunity to undertake the whole or part of the contract if that tenderer is prepared to match the price and quality of the best tender received (Best practice guide B1; 2004:p6).

If appropriately adopted, the methods are perceived not to compromise value for money or bar firms that have the ability and capacity from competing (Best practice guide B1; 2004). Watermeyer (2000) draws attention to bringing targeting of “who ought to benefit” into the procurement process and activating the targeting within the conventional procurement system through the use of resource specifications. He also suggests the option of awarding contracts in terms of development objectives, on top of, price consideration. Such arrangement, it is believed, could enable targeted enterprises and labour to participate in contracting. It could also permit socioeconomic development constructs to be achieved in a fair, equitable, transparent, competitive and cost effective manner. It is further indicated (in The PSI; 2003) that preferencing in form of bid adjustment for local goods, services and small scale suppliers, if undertaken, could maximize the local impact of public spending.

Watermeyer et al (2000) identifies four country specific categories of public sector procurement models that take care of development objectives (See Table 2).

**TABLE 2**  
**Country Specific Procurement Model Tangled with Development Objectives**

Model	Description/narration
Fixed contract participation goals model:	The law prescribes that a fixed proportion in terms of contracts be specifically allotted or contracted to particular desired enterprises.
Price preferencing policy models	Emphases that selected target enterprises be granted direct price preference, over their competitors or tender evaluation points be given to enterprises that undertake to achieve specific development goals in the performance of the contract.
Step-in mechanism models	Suggests that enterprises of interest are invited and granted an opportunity to step in and supply after the cheapest bidder has been established. This is on condition that his terms and conditions encapsulate or equate to those of the initial bid winner.
Set-asides	Where a specific portion, segment or sub segment of the market is declared preserved and reserved for enterprises of interest.

**Tactical level procurement practices in attaining Socio-economic development Policies.**

The idea of enhancing attainment of socioeconomic development outcomes through public procurement is neither a recent phenomena nor outlandish. Some Procurement models have been tried elsewhere for the same purpose and they have yielded beneficial results.

Procurement preference schemes for instance were first utilized in 1930's to assist areas adversely affected by the Great depression and later the second world war victims of 1945 (Watermeyer; 1998). The preference schemes insisted that government departments offer contracts

to firms that operated in development oriented areas as long as their products' quality were equivalent to those provided elsewhere save for price.

Also varied Forms of selective procurement policies have been used in the United States {USA} and South Africa {SA}. In USA the policies compel those involved in the execution of the public procurement function to, for instance, hire minority contractors in public works projects. The different models of procurement used in the United States of America to promote growth of small businesses and in reinforcing the affirmative action in respect to women & the disabled include Set-asides, Procurement breakouts, Prime contracts, and subcontracting assistance (Roussel, 1998). The same policy options are used to foster the implementation of the non-discrimination policy in employment.

In SA the law provides for use selective public procurement contracts in favour of the Black Africans to alleviate social disparities occasioned by the post-Apartheid (McCrudden, 2004). In addition targeted procurement was adopted as a means for enhancing attainment of constitutional objectives geared to redressing institutional discrimination and inequality. The same model is being used to foster growth of small BlackAfrican's business enterprises and tackling poverty& unemployment among the persons formerly disadvantaged by the apartheid regime (Watermeyer 2000).

In Belgium a regulation adopted in 1999 by the Brussels administrative region, provides for a social clause in their public procurement while in Brazil, state of Ceara, a "demand driven" form of preferential procurement where the state buys from small scale enterprises while at the same time providing technical assistance to them is used to promote growth of small enterprises and also as a technique of diminishing transaction costs (Tender, 1997).

As for the United Kingdom, existing literature indicate that public procurement is linked to enhancing a wider range of socioeconomic development goals and implementing regulatory aspects related to issues like tackling unemployment, promotion of fair working conditions and payment of fair wages by private sector employers (McCrudden, 2004).

Hessel et al (2000) reveals how public procurement is used by large Municipal governments in Netherlands not only for social purposes but

also to increase labour participation especially for those that have been unemployed for long periods of time.

In the Botswana republic the law enacted in 2001 provides for reservation and preferencing schemes in public procurement in order to promote citizen contractors or companies wholly owned and controlled by natives while in Malaysia significant effort is made to develop a Malay (local) middle class entrepreneur by granting a margin preference of 2.5 to 10% over the reference price to Malaysian "Bumiputera" companies (i.e. companies owned by indigenous sons of the land) (McCrudden, 2004).

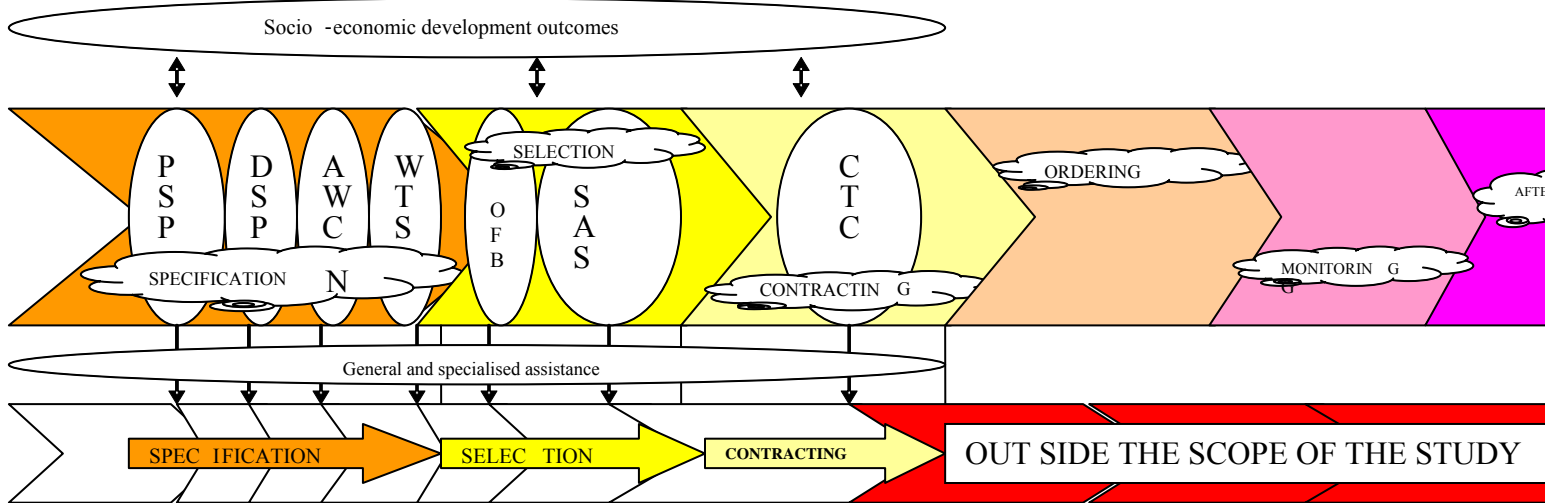
The EU's social policy Article 2 of the EC treaty contributes to promoting a high level of employment and social protection. It also guarantees equality between men & women on top of encouraging stronger social and economic cohesion, high level of health protection, high standard of education & training, free movement of workers as well as integration of the disabled and disadvantaged groups into society.

### **The Perceived wider public Procurement Scope**

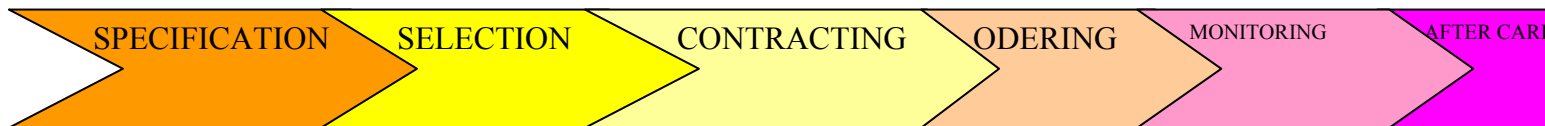
Deducing from literature procurement options that take care of desired development objectives and Superimposing Van Weele (2003) procurement process model, the procurement scope can be widened and depicted as in Diagram 1 hereunder. The desired development constructs must be infused and made part and parcel of the tactical level procurement processes.

**DIAGRAM 1**  
**The Development Tangled Public Procurement Model.**

**DEVELOPMENT TANGLED PROCUREMENT MODEL**



**VAN WEEL MODEL**



**KEY**

**PSP** Product/ service specification  
**DSP** Design specification/ contract condition and process  
**AWC** Award criteria/ Restrictive participation requirement  
**WTS** Weighting scheme

**OFB** Offer back  
**SAS** Set aside  
**CTC** Contractual condition

**METHODOLOGY**

The content of this paper relies on multiple case study approach (4PPEs). Relevant data was obtained through interviews; case based document ally analysis, walk-in visits to evaluation and contract award committee meetings (5); Procurement contracts awarded (53) and

examination of the country's procurement laws & regulations (PPDA Act, 2003).

Face to face and telephone interviews were conducted with public procurement practitioners (24 staff attached procurement units (PUs) in PPEs), political representatives (8) and suppliers drawn from SMEs' entrepreneurs (30), Women (10), Youth (8) and PWDs (4). These were purposively selected to ensure possession of sufficient knowledge and information on happenings in public procurement practice. Women, Youth and disabled respondents had to own registered business enterprises that had participated in execution a public procurement contract or, at least, attempted to compete for public procurement contracts more than once. Practitioners were drawn from two central and two local government departments while political representatives had to be sitting members on contracts committees in the different PPEs. During each interview the responses were recorded and transcribed by the author. After every interview the hand written field notes were examined, analyzed qualitatively and reviewed several times to check for commonality in responses that form the basis of findings reported in this paper. Although the sample respondents and cases are few to extrapolate nationally, the findings reported in section four provide a reliable snapshot on the extent to which the tactical level procurement processes fail to tie together the opportunities available for enhancing achievement of development outcomes through procurement.

### **THE WORKING OF THE PROCUREMENT PRACTICE IN UGANDA**

Overall Uganda government seem to have unwavering commitment on achievement of greater leap forward in development and poverty alleviation by ensuring improved delivery of social services. As indicated in the Public Procurement and Disposal of public Assets (PPDA) Act, 2003 that governs the country's procurement practice, Uganda's immediate procurement goals do not differ from the global objectives. However, the procurement implementation processes seem to put greater emphasis on obtaining maximum competition as a strategy for fighting corruption and ensuring attainment of value for money. Orientation and application in respect to the long term procurement objectives is still extremely limited.

In terms of size and magnitude, the share of public procurement is not infinitesimal but is quite significant on all dimensions. Uganda's procurement spending amounted to approximately 34.8% during the financial year 1999/2000. Effective 2001 the government has been undertaking procurement reforms. As a result of this effort a new system of procurement has been put in place. The system is guided by the Public procurement and disposal of public Assets Act (PPDA act) No1 of 2003 and the Public procurement and disposal of public Assets Regulations No.70 of 2003. These legal instruments ushered in a new procurement practice (CCT) and became functionally effective in 2003.

**TABLE 3**  
**Thresholds and Corresponding Procurement Methods Applicable as per Regulation 106 (4) of the Public Procurement and Disposal of Public Assets Regulations (1/2003)**

Purchase Category	Estimated Threshold Value		Procurement Method Applicable
	Ug Shs	US \$	
Works	≤ 2,000,000	Eq 100 currency points	Micro procurement
	≤ 80,000,000	≤ 40,000	Quotation procurement
	≤ 100,000,000	≤ 50,000	Restricted bidding
	≤ 100,000,000	≤ 50,000	Open bidding
Supplies	≤ 2,000,000	≤ Eq100 currency points	Micro procurement
	≤ 30,000,000	≤ 15,000	Quotation procurement
	≤ 70,000,000	≤ 35,000	Restricted bidding
	≤ 70,000,000	≤ 35,000	Open bidding
Services	≤ 2,000,000	≤ Eq100 currency points	Micro procurement
	≤ 30,000,000	≤ 15,000	Proposals procurement
	≤ 50,000,000	≤ 25,000	Restricted bidding
	≤ 50,000,000	≤ 25,000	Open bidding

The Public Procuring entities (PPEs) which are statutory bodies or departments of the central or local government established and mandated to carry out public functions (PPDA Act sect 3, 2003) execute the procurement function. The PPEs are required to utilize competitive tendering as the technique for purchasing goods, works and services exceeding a certain threshold (see table 5 for threshold details per purchase category). The CCT as prescribed entails putting out to competitive tendering all activities, tasks and services previously performed in-house by the relevant public sector departments or agencies. The Act (articles 80 to 83) also provide mandatory possible procurement methods from which the PPEs have to choose, whenever procuring works, supplies and services corresponding to given thresholds.

As indicated above the choice of the procurement method to be adopted is guided by predetermined thresholds based on the procurement spend value involved. Although the threshold values vary in accordance with the purchase category (ie whether procurement of works, supplies or service) they have critical implications for the rate of participation of the would-be targeted socioeconomic development constructs. This constitutes the initial factor constraining use of procurement as an engine to propel growth of SMEs, and empowerment of Women, Youth as well as PWDs. Most thresholds fall either well above the working capital or equity capital of organizations owned by these category members. Without borrowing it is quite unlikely for SMEs and Women, youth & disabled owned organization to compete comfortably. They even ranked extremely low on financial capability criteria at preliminary evaluation stage.

In addition most specification documents and advertised contracts observed totaling to 90.6% (i.e. 48 out of 53), especially under the works category, spelt out requirements that were considered too high to be affordable by the group category organizations. Size and value of contracts were very high and besides this high contract value, the associated bid and performance securities required (as per articles 232) are prohibitively high. Most SMEs and enterprises owned by Women, Youth and PWDs could not afford given their turnover. Performance bonds are put in order to protect the procuring entity or as an insurance against non performance of contract. Although it is necessary to guard against “faking enterprises” it is quite crippling. This matter is made worse by the condition in section 5 of the same article which stipulates

that “*where a provider is required to provide a performance security, a bid security from the provider shall not be released until a satisfactory performance security is received by the procuring and disposing entity*” from the provider. For an enterprise operating under severe resource constraint, this condition of double bonding is a disincentive. Some level of flexibility is necessary.

It also stretched out that while the bulk of suppliers for goods, works and services are drawn from pre-qualified lists made by Public procurement Authority (PPDA), the schedule when prequalification exercise is undertaken and the list of conditions important for prequalification is hardly put in the gazette or made public. By the time the category group members learn of the public procurement tasks it is too late to enter the lists of pre-qualified firms. This respondents’ complaint only serves to depict the degree of lack of information and inability of some of the category organizations to successfully go through the rigorous documentation procedures involved in competitive tendering in Uganda. This so because while such complaint was from a cross section of respondents 21 out of 30 (70%) SMEs entrepreneurs, and 12 out of 22 (54,5%) of Women, Youth and PWD own, article 124 section 1 subsection (a) through (i) clearly spells out the conditions and criteria regarding evaluation for prequalification.

### **Whether Current Tactical Level Public Procurement Processes In Uganda Take Into Account Attainment Of Socioeconomic Development Outcomes**

The new procurement practice is also expected to promote efficiency, effectiveness and attainment of value for money. This procurement impact has not yet been intensively assessed. The effectiveness of the public procurement system must be assessed on the basis of its impact or capacity to contribute to the wider policy objectives or development goals. This implies that whenever PPEs execute any procurement task or spend public funds the anticipated benefits must reflect the wider community interest and or economic development gains. In Uganda’s context impact can be teased out by examining the extent to which the procurement processes either helps to kick- start the country’s development generally or on the basis of its contribution to fostering implementation of anti-corruption measures, growth of contestable supplier markets (CSMs), SMEs, sustained environmental

protection and empowerment of Women, Youth and PWDs. These are indeed constructs that rank high on the country's development agenda.

***Public Procurement impact on SMEs, Women, Youth and PWDs***

Like in most other developing nations in Africa the procurement impact in Uganda has not yet been intensively investigated. It is, however, noteworthy to say that the way the current tactical level public procurement processes are handled leaves a lot to be desired when evaluated on the basis of contribution to enhancing development constructs cited above. The assertion that government can play multiple roles and that public procurement is big business holds true for Uganda. However the tactical level procurement processes currently applied by the PPEs fail to tie up together or take advantage of the would-be opportunities for enhancing simultaneous achievement of the short term procurement objectives and the over all long term development outcomes. Most (73.2%) of business wielding Women, Youth and PWDs interviewed asserted that the procurement techniques commonly used or adopted by staff of the PPEs either retarded or offered no chance for their businesses to access and grasp government business contracts or opportunities. To them specification and evaluation requirements insisted and attached too much importance on previous experience or a log of similar tasks performed in the previous three to five years. This disadvantages the category firms. This means that while PPEs could cater for several goals simultaneously through procurement; they have not yet held up to this, at least, in respect to constructs studied. The PPEs both at local and central government levels, are not utilizing procurement options as a springboard to efficient resource utilization and cost effective contribution to the overall national development goals.

There is no evidence of any effort being made by the procurement staff and entities themselves to target even the well known disadvantaged category groups (the SMEs, women, youth or PWDs owned organizations). Sourcing for the providers of works services and supplies in the studied PPEs is indeed, in accordance with the prescription of the Act but no specific mention or attention is made to upgrade the competitiveness or visibility of the said category groups. Most respondents (68%) from the category groups (women, youth, PWDs & SMEs) gave the impression that there was lack of a well organized channel of communication to facilitate timely dissemination of procurement information. While 83% of the public procurement

personnel believed that adequate facilities existed to permit complete information dissemination to prospective bidders, none of the PPEs studied issued prior informative notice detailing procurement intentions for the impending period or forthcoming year.

Further although the number of respondents interviewed may not be large enough to extrapolate nationally, majority of respondents (71%) drawn from SMEs, Women, youth & PWDs were not satisfied with the degree of transparency at tactical level processes, especially the post RFP (request for proposal) stage. They insinuated that given the mode of evaluation and corrupt tendencies among the officials attached to the public procurement units (PUs) the likelihood of winning a public contract by the disadvantaged category groups (*unprivileged group*, in their words) was almost non-existent. Conspiracy among officials (procurement staff, political leaders, including Members of Parliament) and “inside trading” was sighted as a common practice especially at local government level. Pseudo (pretentious) transparency existed and applying, to some of them, was tantamount to a waste of time, resources, and effort.

Although all category respondents echoed and agreed that there were a number of lobby organizations and responsibility centres (both Government & non governmental) purportedly championing growth and empowerment issues of SMEs, women, youth and the disabled as well as environmental protection, none of them had explored using the procurement option. The respondents’ held view was that lobby organizations are either very insensitive & unresponsive to the PUs on this aspect or are quite unaware of the untapped potential through accessing public procurement contracts.

The above responses are revealing and raise important credibility issues regarding the trust and confidence the category members have on Uganda’s procurement process itself, the fairness of the manner in which it is executed and the honesty or integrity of the personnel involved in its execution. This seems to tally with the Thai report (2006) that assessed the national public procurement integrity and pointed at existence of influence peddling, pervasiveness and prevalence of high level corruption among officials of most PPEs. This is again sighted to be one of the major constraining factors and source of failure to achievement of value for money and enhanced growth of the studied development constructs.

Other factors raised as inhibiting by respondents drawn from SMEs, Women, Youth and PWDs include:

Language used in source selection processes: English language which is also the official media of communication was used in all source selection documents and extremely few procurement advertisements also appeared news papers using local languages.

Complexity of tender documentation processes. Documentation requirements were considered to be excessive & difficulty. In particular respondents from SMEs (78.7%) suggested that standardized formats of tendering documents be introduced.

Higher contract value: This was cited as one of the most severely constraining variable inhibiting the category group firms from responding to tender invitations. For some contracts the shared view of all categories of respondents was that size and value of the contracts, tended to be beyond the financial reach or capability of the SMEs and enterprises owned by women, youth and PWDs.

The responses from public procurement practitioners & political representatives raised astonishing and shocking issues. Their attitudes regarding the use of public procurement as an instrument for enhancing socioeconomic development outcomes are quite unimpressive. About 75 % ( 18 out of 24) of the procurement staff indicated that it was neither feasible nor permissible for them to take care of over all development outcomes during the procurement process. A good number stated outrightly that *“attempting to deliberately promote participation and involvement of SMEs, women, youth, and PWDs in competing or execution of public procurement contracts at any stage in the procurement process is impossible”* under the prevailing legal framework. 87.5% (ie 21 out of 24) emphatically stated that attempting to promote the specific category members is tantamount to undermining the entire procurement process which they are meant to safeguard. While 12.5% (3 out of 24) sounded non-committal as they said that their duty was to conduct the procurement process as stipulated by the Law (PPDA Act in this case) .Only two respondents of procurement staff (ie 8.3%) demonstrate utter ignorance by firmly stating that there was no way how the procurement process could be linked to the socioeconomic development outcomes. Save for the legal conditional ties eight respondents (33.3%) under this category depicted unreserved readiness and support to the idea of using public procurement as a means for

enhancing growth of SMEs and empowerment of women, youth and PWDs. They were however skeptical of implementation difficulties. They argued that a number of people serving on the evaluation and contract committees, especially at local government levels, lacked the relevant critical skills and knowledge essential for multifaceted evaluation criteria.

The responses above, though, from a limited sample of practitioners tell it all. None of the practitioners depicted familiarity in using procurement as a tool for socioeconomic policy. Not even realizing the existence of some opportunities in the current procurement law that could be exploited. Most of the procurement staff considered the provisions of procurement law to be constraining and left their hands tied.

On the other hand all political representatives (8 out of 8) were not supportive of the idea of using public procurement contracts as an instrument for enhancing growth of SMEs and empowerment of women, youth and PWDs. 75% (6 out of 8) argued that it will provide a leeway and increase opportunities for deceptive procurement personnel to defraud the entire process. 25% (2 out of 8 political representatives) did not see the rationale for giving preferential consideration to any group since fairness and competition were among the paramount objectives. According to them specifications favouring certain categories would make achievement of value for money more unobtainable and worsen the already corrupt practices.

The interviews data presented above depict a lot in as far as the extent to which the working of the current procurement practice take into account attainment of socioeconomic development outcomes. Leaving legal implementation difficulties aside, there seem to be acceptability issues and lack of correct perception among the various stake holders and practitioners. These will need to be addressed. It is certainly clear from this limited sample that very limited or no attention is paid to enabling growth of SMEs and empowerment of Women, Youth and PWDs gain greater access procurement contracts during the source selection processes.

Also going by the data obtained through documentary analysis, it can be said little or nothing is deliberately undertaken by PPEs, regarding the targeting of who ought to benefit from a given procurement process. None of the specification and contract award documents observed clearly

requested Tenderers to state declare and or describe the environmental management arrangements. Not even the measures that are to be undertaken during the execution of the procurement contract in question. In the same way documents requesting for information (RFI) about organizations interested in executing contract on behalf of the PPEs and or Bid proposals did not require the companies to indicate how they had contributed or will contribute to the growth of local SMEs. Not even assessing how empowerment of Women, Youth and PWDs is to be enhanced during the execution of the contract. Astonishingly, of the 75 evaluations and contract committees' reports examined, none had focused on involvement of the category group members or environmental protection issues as a basis decision. This implies that at no single occasion was socioeconomic development constructs considered as an additional award criterion. The evaluation committees tended to over rely on the technical and financial aspects as basis for determining the best evaluated bidder. In almost all contracts no credit or extra points was awarded or given to any firm for taking keen interest in the development constructs. For all solicitation documents examined, no provision in documents emphasized applying in teams or partnering among the category firms (SMEs and firms Owned by Youth, Women and PWDs) themselves or with large experienced firms. Instead of splitting the contracts jobs into small lots manageable by the SMEs and organizations owned by women, youth and PWDs, PPEs for most contracts preferred to bundle the tasks as a strategy to minimize procurement costs. Interestingly execution of a large number of high value public contracts was not sufficiently spread among the 1<sup>st</sup>, 2<sup>nd</sup> and 3 tier suppliers. Where this occurred for example in the case of works contracts, it was not by design or deliberate policy but rather a chance occurrence.

The above findings clearly re-affirm the absence of any deliberate effort on the part of PPEs to offer incentives vital for enhancing the participation of SMEs or empowerment of Women, Youth and PWDs in competing for or execution of government procurement contracts.

***Possibilities Available in the Legal Framework for Enhancing Attainment of Socioeconomic Development Outcomes***

Limited focus on the disadvantaged groups could be attributed or assumed to originate from the existing procurement law ie the PPDA Act, 2003. This law doesn't elaborate on how the tactical level

procurement processes can be matted to take care of the overall development goals without jeopardizing achievement of value for money principle. This notwithstanding, it is important to note that the law does not prohibit creative arrangements geared towards this. In fact article 99, 100 and 101 of the Act provides guidelines on circumstances under which aggregation, unbundling and or dividing requirements into lots of could be allowable. Article 99 section 2 specifically warns that where aggregation is undertaken effort must be made to take account of: nature of the market structure for the item required and optimal size of the contract to permit greatest responsive competition (subsections a & c respectively). Use of preferencing and reservation schemes is also conditionally permitted under article 50 section 2. The PPE wishing to limit participation, on any justifiable grounds such as nationality, is required to obtain prior written permission from the executive director of PPDA.

Interestingly in the entire 53 contracts awarded documents examined, no such request was made to cater or covering the development constructs under study. The most important and relevant legal provision for the inclusion SMEs and empowerment Women Youth & PWD is perhaps article 101, section (1) which allows splitting of requirements allocated to a single procurement process into separate lots. Splitting into different lots size is permitted as long as it is anticipated that dividing the requirements would result into best overall value for the procuring entity. This would perhaps enable the category group organization to tackle the problem of contracts sizes.

Further the PPDA, Act, 2003 also suggests and provides liberty to the procurement personnel to use award criteria that are most advantageous and appropriate to the procuring entity. As such whether the target development constructs are taken into account will depend on the perceptions and orientation of the PPEs as well as the creativity of the procurement personnel.

Basing on the provisions of the law the ball, to reasonable extent, goes and remains in the hands of the PPEs. The personnel engaged in procurement planning, preparation of the solicitation documents and execution of tactical level operations are quite critical this matter. . They have to “aim higher, think deeper and focus broader” while executing the procurement and supply management function. They have the option to creatively design and administer the source selection documents to

adequately take into account constructs like environmental care and protection, promotion of growth SME's and contestable supplier markets as well as empowerment of women, youth and PWDs. Enabling these to access of government contracts permit the PPEs to more effectively contribute to overall national development and community wellness. However the issue that remains unresolved is how to ensure sustained equal treatment, cost effective and high competition on implementation of the development tangled procurement options cited in literature and suggested in section 4.4.

#### ***Discussion of the Findings***

All categories of respondents indicated that there were no deliberately designed working policies in place to enhance participation and empowerment of category organization. SMEs, women, youth, and PWDs continue to be low and disadvantaged participants in accessing and competing for public procurement contracts. Although the PPDA Act permits PPEs to use their discretion to provide for domestic community interest, the PPEs do not make conscious effort to enhance full participation and competitiveness for government procurement contracts by the category enterprises. The ground evidence reveals weak competitiveness and low participation rate of SMEs and Women, Youth and Disabled owned organizations. This is made worse by the negative perception and attitude in trust of the entire source selection process. This according to the respondents is particularly attributed to inflexibility of the procurement law, procedures and also their inability to meet high costs of preparing tenders and accessing vital market procurement information timely. This is compounded by failure in coping with the lengthy waiting time before PPEs pay or make good their invoices for goods or services provided.

Some of these constraints could be remedied through capacity building or hiring own fulltime procurement specialist staff but this again cannot be sustainably afforded. As deduced from real life cases elsewhere and as indicated in existing theory, public procurement processes in Uganda are capable of and have high potential of being utilized to initiate increased growth of SMEs, and empowerment of women, youth and PWDs within the current legal framework. This will nonetheless necessitate fostering acquisition of the badly required operational skills and tackling the major inhibiting factors. Permitting partnering and applying in teams for government contracts could, for

example, be an effective means for enhancing involvement of SMEs, women, youth and PWDs in public sector procurement activities since it would redress constraints associated with size of contracts and associated performance security requirements. Subcontracting method is believed to function in Uganda's (as per the practitioners and suppliers) but it has not been encouraged as it would require putting in place mechanisms to mitigate the associated defects. As it is now subcontracting arrangements though essential is would still be linked with very high risk. As such PPEs require to properly be prepared for such contract award procedures that cushion both the major contract winners and the preferred subcontractors. Simplification of the documentation requirements and contracting arrangements by way of introducing standardized bidding formats would enable category group firms to more effectively participate.

All the above notwithstanding training of procurement staff, tackling integrity issues and exchanging information on good procurement practices remain an essential pre-requisite for making organizations owned by the category groups to more effectively bid for government contracts.

The role of government in this matter is critical and needs to be emphasized, just as it is not possible to absolve it from the responsibility of providing detailed Public procurement guidelines. These Public procurement guidelines would enable PPEs and staff involved in executing the procurement function confidently and decisively prepare development tangled procurement specification and enter preferential contracting arrangements. Since government sets standards, rules and principles, offering working guidelines that carry a compelling effect on all parties involved in procurement business is quite possible. The implication of this is that not only does the government regulate the functioning of all economic agents and companies; it also has capacity to "trim to size or tame" organizations that would distort or derail the economy towards the direction contrary to the desired. Infusing provisions that oblige all persons and firms interested or involved in public procurement transactions to consider socioeconomic development outcomes and environmental protection would therefore be highly feasible.

***Recommended Procurement Interventions Functional in Uganda Within Current Legal Framework***

The interview data obtained from the procurement practitioners and documentary analysis reveal that government and its agencies have a wider spectrum of options within which to operate in order to cater for and take account of development outcomes through procurement. This is, even feasible, without making or occasioning any significant modifications in the current public procurement law. The various procurement policy options generated that could be beneficial tended to revolve around and entail:

- Authorizing and issuing guidelines to procurement practitioners allowing fusing of the development related goals and targets into the early phases of the procurement process (specification, selection and contracting.).
- Instituting instances where large enterprises (bid winners) are conditioned to form five year joint ventures or partnerships with SMEs, and Women, Youth or disabled owned enterprises as a requirement for eligibility to public procurement contracting. This will enable the SMEs and enterprises owned by the disadvantaged groups or individuals to leap forward.
- Incorporating contractual clauses requiring winner's of high value tenders to work with or to engage SMEs, Women, Youth and the disabled as sub contractors.
- Allowing SMEs and enterprises owned by Women, Youth and PWDs to tender and compete collectively in Teams, partnerships, and or consortia for large government contracts. This will enhance affordability and firms' capability as it permits pooling of financial and non-financial resources.
- Putting in place numerous state enhanced tendering information shared centres or mechanisms to facilitate easy dissemination and sharing of public procurement information. The shared Procurement Service Centre could also provide vital technical support in tendering and modern procurement infrastructure.
- Organizing regular training activities aimed at empowering Women, Youth, PWDs and SMEs. The training should not only focus at enhancing understanding of the legal procurement requirements but

rather on fostering the capacity of target categories, to estimate their capabilities , evaluate themselves vis-à-vis any advertised government contract and participate in competing for and executing public procurement contracts.

- Prescribing that some categories contracts within specified contract values be preserved and competed for exclusively by SMEs, and Women, Youth and disabled owned organizations.
- PPEs should adopting a “demand driven empowerment” form of preferential procurement in supplier selection where they buy particular commodity categories or purchase items, from specific SMEs and specified enterprises while at the same time providing technical assistance them. This will generate multiplier benefits for PPEs and facilitate development of the required contestable supplier market.

### **CONCLUSION**

Government impact through procurement actions can be direct and active or indirect but effective when it comes to attainment of the highlighted development outcomes. As it is the procurement law in Uganda does not adequately and elaborately address the issue of how PPEs can use public procurement as tool for enhancing cost-effective attainment of development constructs although it neither prohibits the move to this direction. Focusing on integrating development goals into procurement would enable PPEs to accomplish much more than they would have attained themselves through directly using public funds to implement policy decisions aimed at achieving such development outcomes. This means that the added value obtained through using public procurement processes as policy instruments is extremely higher.

The PPDA has of recent picked up the issue of preferencing and proposed a point system to boost the competitive capacity and chances of targeted groups to win public procurement contracts. The impact this is likely to generate may be extremely limited. Given the rigidity associated with legal reforms in Uganda one can unreservedly say the incorporation of development components into the procurement process is still a long way to come by.

The gist in this paper therefore imply that while the current procurement process is governed and guided by law, the PPDA Act, 2003, which stipulates rules and time frames concerning specification, solicitation for tenders, supplier selection and evaluation as well the basis for contract award; creative interventions tailored towards achieving particular socioeconomic development outcomes still need to be explored. With increased reliance on outsourcing, such creative procurement interventions that are linked to and or embedding the vital development outcomes become an imperative least the government and communities' loose out on the would-be multiplier benefits or vital spiral over effects associated with direct government involvement in provision of goods, services and execution of construction works.

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